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NEUTRALIZATION AND THE PHILIPPINES[1]

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I. Origin and Nature of Neutralization.

Neutralization as a legal status is essentially modern. Its international status came into being at the Congress of Vienna in 1815. Its rise began amid the complicated reconstruction activities made necessary by the passing of Napoleon. Some of the earlier attempts, heretofore, have the semblance of permanent or perpetual neutralization and which paved the way to some extent towards the acceptance of the system by the Congress of Vienna. These are the negotiations directed towards a joint guarantee of Poland in 1791, and the conventional neutrality of the Island of Malta by the Treaty of Amiens in 1802.

The development of the idea of neutralization followed the more general acceptance of the principles of neutrality. Its conditions and requisites, though possessing much in common with the concept of neutrality itself, are nevertheless sharply distinguished. These two terms are frequently used interchangeably. Neutrality exists only in time of war and assumed by deliberate choice of the state concerned, whereas neutralization exists alike in time of war and of peace, and is not necessarily the result of the deliberate choice on the part of the state concerned, but may be imposed by the joint action on the part of other powers. We must turn to light, says one writer, to the accepted characteristics of neutrality and must find in them the guide both for the attitude of the neutralized government as well as for courses to be pursued or avoided in reference to it by all other states.

Neutralization should also be distinguished from demilitarization. The latter, although it may be related to the former,

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implies only an absence of or limitation on the means of war, while neutralization would bar a state of war. Demilitarization may be qualifed, as in the Washington treaty of 1922 limiting the "fortifications and naval bases" in certain areas of the Pacific Ocean to the status quo at the time of the signing of the treaty (Art. XIX); this does not necessarily imply that these areas will be neutral in time of war in which any of the parties may be engaged.

II. Meaning, Conditions and Kinds of Neutralization.

Neutralization signifies the status in which a state is placed under an international agreement for the guarantee of its independence and integrity for all times by the signatory powers with the conditions that the neutralized state binds itself not to enter into war nor take up arms against others except in cases of strict self-defense; and to refrain from entering into any international agreement which might involve it in an unfriendly or hostile relation with the guaranteeing powers.

As observed by Professor Oppenheim, "a neutralized state is one whose independence and integrity are for all the future guaranteed by an international convention of the powers, under the condition that such state binds itself never to take up arms against any other state except for defense against attack, and never to enter into such international obligations as could indirectly drag it into war."[2]

From the above definition, it is evident that the action taken is regarded as perpetual. It also implies the existence of a convention or treaty as a basis. The international relationship thus brought about is purely a contractual one. The status is created, not only for the benefit of the neutralized state, but also for practical purposes by the powers as a means of settling disputed questions among them. It carries reciprocal obligations. It is the duty of the neutralized state to refrain from all offensive alliances, and from entering into treaties which might lead to the use of force for other than defensive purposes. By way of compensation for the restrictions on its freedom of action, its immunity from attack is guaranteed.

Neutralization applies also to parts of a state, or of particular bodies, or streams of water, such as the Suez and Kiel Canals by the Convention of Constantinople of 1888 and by the Treaty of Versailles of 1920, respectively; the Danube river and

[2] I Oppenheim, International Law, 4th ed., (1928), p. 216.

the Black Sea by the Treaty of Paris of 1856; and the Ionian, Samoan and Aaland Islands in 1864, 1889 and 1922, respectively —all of which are neutralized by treaties.

This discussion, however, is limited to neutralized states.

For a proper understanding, I will enumerate briefly the various common types or forms of neutralization.

From the point of view of the sanctions given by the guaranteeing powers, there are two classes: (1) those whose status as such is merely *recognized;* and, (2) those whose status as such is *recognized and guaranteed* by the signatory powers. Both classes are given legal recognition, and occupy a definite place in international law.[3]

The neutralization of the Congo Free State in 1884 was recognized by the powers, but was not guaranteed by them. Hence, it belongs to the first group. On the other hand, the neutralizations of Switzerland, Luxemburg and Belgium fall under the second group as they are fully guaranteed by the conventions which created them. The neutralization of Cracow in 1815 was recognized by France, England, Russia, Prussia and Austria, but was not guaranteed by the first two powers. It should also be observed that while Holland was one of the signatory powers to the London Treaty of April 19, 1839, yet she did not guarantee the neutralization of Belgium but merely recognized it. Hence, Cracow and Belgium are sometimes classified as *hybrid neutralizations.*

From the standpoint of their *creation,* neutralization is classified into: (1) *Voluntary* and (2) *Involuntary.*

The first refers to the voluntary act or observance of a state or group of states of self-neutrality as a permanent line of conduct, without in any way making other states assume the obligations of taking the system as an act of legally binding upon them in view of the absence of their accord to its pronouncement and effectuation. This was done by Switzerland for two centuries prior to its formal recognition by the powers at Vienna; and it has been the professed policy of Holland, Sweden, Norway and Denmark. It may be admirable as a state policy, but it is a political and not a legal status in international affairs. Support has been given by Dr. M. de Martens, the skilled Russian diplomat and publicist, to the validity of this regime. Most writers, however, consider it as without binding significance in international law because it lacks valid-

[3] C. F. Littell, Neutralization of States (1920), p. 94.

ity and could be abandoned at discretion without thereby arousing international complications or without giving cause for offense to any state.[4]

Involuntary or imposed neutralization has for its object the creation of a permanent status, derived from an international convention, made definitely and irrevocably binding, at least in principle, upon the state so placed under such a regime by the joint action of interested powers. Two salient characteristics are noticeable, (1) the status is imposed or forced upon the state concerned; and (2) that the status is irrevocable without the consent of the contracting powers. The neutralization of Belgium in 1831 which was re-affirmed in 1839, is an example.

Based upon the *nature of the guarantee* assumed by the powers, there are two classes, to wit: (1) *joint and several;* and (2) *collective.*

The first places upon all the signatories, individually, the obligation to make good their word, while the second has been loosely interpreted so as to provide for little more than assurance of moral support to the state neutralized.

The neutralizations of Switzerland and Belgium were considered *joint and several,* placed under the guarantee of each of the powers separately, and at the same time under their joint guarantee.

However, the guarantee of the neutralization of Luxemburg was expressly stipulated as *collective,* which implies that there should be joint action on the part of all the guarantors in order to defend the neutralization. Lord Stanley, who, as British Secretary of State for Foreign Affairs, had presided over the London Conference, on being questioned regarding the nature of neutralization of Luxemburg, remarked:

> "The guarantee given is collective only. That is an important distinction; it means this, that in the event of a violation of neutrality, all the powers which have signed the treaty may be called upon for collective action. No one of these powers is liable to be called upon to act singly or separately. It is a case, so to speak, of limited liability."

While this interpretation was supported by some English publicists, other writers, such as Pradier-Fodéré, Sorel, Calvo and Nys, doubted its wisdom.

Thus viewed, the *Collective guarantee* merely to respect the principle of neutralization is weak, as was proven by the

[4] M. G. Graham, Neutralization as a Movement in International Law, 21 Am. Journal of Int. Law (1929), p. 88.

case of Luxemburg during the World War. On the other hand, a *joint and several guarantee* is very effective, as it is closely associated with a stringent territorial guarantee.

III. Neutralizations of Switzerland, Belgium and Luxemburg Traced.

The question of the neutralization of the Philippines should be considered in the light of existing realities and of the probable future, so far as that future can be discerned from the tendencies and currents of the past and of the present. It is, therefore, essential that a brief reference to the historical development of the leading perpetually neutralized states, such as Switzerland, Belgium and Luxemburg, be made here because the experience of other states might have inestimable value and influence in guiding us in our course of action.

A glance at the map and examination of the protocols, documents and treaty stipulations, will show that the underlying and predominating motive for the creation of the above-mentioned neutralizations is the establishment of a state of equilibrium known as the balance of power in Europe, thereby maintaining weak states as buffer-states between the territories of great powers. Belgium, Luxemburg and Switzerland form barriers between France and other states of Central Europe. France had been feared, and such buffer-states were taught to be serviceable in keeping it within the established territorial limits. The policy of setting up buffer-states is not new in Europe as it was resorted to in the 15th and 16th centuries and became practically common after the Treaty of Westphalia in 1648.[5]

Switzerland, for instance, controls the exclusive and strategic passes through the Alps, connecting the major powers of Europe. From the days of the barbarian invasions of Rome to the defeat of Napoleon, the pages of European history are full of struggles for the control of these passes. Such geographical and ethnological situations of Switzerland are also responsible for its traditional neutral policy.

The neutralization of Switzerland was effected on March 20, 1815, when Austria, Spain, France, Great Britain, Portugal, Prussia, Russia and Sweden united in a declaration that this country as re-made by the Congress of Vienna, and with

[5] Wilson, Neutralization in Theory and Practice, IV Yale Review (1915), p. 480.

the consent given by its Federal Assembly, should be made sacrosanct with a perpetual neutrality guaranteed by the participating governments:—

"The Powers called upon to mediate in the arrangement of the affairs of Switzerland, in order to carry into effect Article VI of the Treaty of Paris of the 30th of May, 1814, having acknowledged that the general interest demands that the Helvetic States should enjoy the benefit of a perpetual Neutrality; and wishing, by territorial restitutions and cessions, to enable it to secure its independence and maintain its neutrality; * * *."[6]

In a companion document subsequently executed, the powers formally recognized Switzerland's perpetual neutrality, and guaranteed its territorial integrity and inviolability.

"The Powers who signed the Declaration of Vienna of March 20 declare, by this present Act, their formal and authentic acknowledgment of the perpetual neutrality of Switzerland; and they guarantee to that country the integrity and inviolability of its territory in its new limits. * * *"

Switzerland is still a neutralized state and the only one having such status in Europe.

We now turn to Belgium. While its geographical features are very different from those of Switzerland, the strategic position of its territory in its relation to France, Germany and Great Britain is no less marked than that of Switzerland to its neighbors. Through Belgium runs the great highway of Europe. More often than Switzerland has its territory served Europe for a battle ground, as evidenced by the last World War. The Belgian people saw their territories for centuries battered away by their neighbors, crossed and recrossed by fighting hosts.

The Treaty of London signed November 15, 1831, providing for the separation of Belgium from Holland contained the following important clauses:—

"ARTICLE VII.—Belgium, within the limits specified in Articles I, II, and IV, shall form an important perpetual neutral state. It shall be bound to observe such neutrality towards all other states."

"ARTICLE XXV.—The Courts of Great Britain, Austria, France, Prussia and Russia guaranteed to his majesty the King of Belgium the execution of all the preceding Articles."[7]

These Articles were re-affirmed in the Treaty of London of April 19, 1839, to which Austria, France, Great Britain, Prussia and Russia were also parties.

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[6] G. E. Sherman, The Permanent Neutrality Treaties, 24 Yale Law Journal (1914-15) p. 224.

[7] Warrin, the Neutrality of Belgium (1918), p. 32.

It should be observed, as already alluded to, that Holland, although one of the contracting parties to the Treaty of 1839, did not guarantee the neutrality of Belgium but merely recognized that fact; therefore, although bound to respect it, she is not under obligation to defend it in case it is violated by others.

But by Article 31 of the Treaty of Versailles the signatories, "recognizing that the treaties of April 19, 1839, no longer correspond to the requirements of the situation", abrogated their stipulations, and deneutralized Belgium. The deneutralization of Belgium has received confirmation in Article 1 of the Belgo-Dutch Treaty of April 3, 1925, and in the Locarno Security Pact of October, 1925.

Luxemberg, while far less important than either Switzerland or Belgium, occupies a territory containing a formidable fortress which points the way straight to the heart of both France and Germany. This fortress, however, was demolished when Luxemburg was neutralized. The dissolution of the German Confederation, of which Luxemberg was a member, precipitated the change of the international status or the future political association of this little country. Napoleon III proposed to the King of Holland that Luxemburg be transferred to France for pecuniary consideration. While neither Holland nor Luxemburg seemed to object, Prussia was not in accord with this agreement, with the result that a Conference of the Powers was called to meet at London in May, 1867, and decreed the perpetual neutrality of the Grand Duchy of Luxemburg, and Article II of that Instrument declares that:

"The Grand Duchy of Luxemburg within the limits determined by the Act annexed to the treaties of 19th April 1839, under the guarantee of the Courts of Great Britain, Austria, France, Prussia and Russia shall henceforth form a perpetually neutral state. It shall be bound to observe the same neutrality towards all other states. The High Contracting Parties engaged to represent the Principle of Neutrality by the present Article.

"That principle is and remains placed under the sanction of the *collective guarantee* of the Powers signing Parties to the present treaty, with the exception of Belgium, which is itself a neutral state."

But by Article 40 of the Treaty of Versailles, the treaties neutralizing Luxemburg were renounced by Germany, while practically all the parties accepted the abrogation of the regime of neutrality.

The present international status of Luxemburg is quite anomalous. When it first applied for admission to the League

of Nations, it expressed a desire to retain its neutralization, but this was withdrawn because of the objection of the League. Its admission was conditional upon the elimination of the neutralization provision from its fundamental law, but up to this time no constitutional change has taken place, and Luxemburg is still a member of the League.[8]

The neutralizations of Cracow and the Congo Free State need not be discussed here because of their short duration and little significance. Suffice it to state that Cracow and the Congo Free State were annexed to Austria and Belgium respectively.

IV. The World War and Neutralization.

Before the World War, there was a strong current of opinion among international law writers that neutralization has been regarded as one of the greatest stabilizing factors in maintaining world peace. There has been a feeling that treaties of neutralization, whether or not accompanied by a guarantee, would be more strictly observed than other international agreements. Since the preamble of these treaties usually affirm that the undertaking is for the purpose of securing "the general peace", "lasting welfare", or similar worthy ends, it is certainly reasonable to expect that such purposes may be enduring ones. It was a strong belief that peace in Europe would be secured by maintaining a balance of power; this was particularly emphasized in the 18th century when it was affirmed that the occupation of any of these buffer-states by a great power would imperil the peace of Europe by giving to that power advantageous positions which the other powers were reluctant to see in the hands of a possible rival.

We have seen, therefore, how the countries of Europe settled their problems by the use of the formula of neutralization. Neutralization has often been regarded as a panacea for all diplomatic ills or troubles. When other solutions failed, it was always possible to tow it on as a last resort. But the violations of the neutralizations of Belgium and Luxemburg during the World War on the ground that "military necessity knows no law", upset and placed in quandary the minds of many people, including the fervent advocates of neutralization, as to its effectiveness or practical utility. Dr. Von Bethmann-Hollweg,

[8] I Oppenheim, Int. Law, *supra*, p. 224.

war-time Chancellor, remarked to Sir E. Goschen, British Ambassador to Berlin: "Just for a word 'neutrality', a word which in war time had so often been disregarded—just for a scrap of paper—Great Britain was going to make war on a kindred nation." [9]

Even before the World War, history is replete with instances of violations of neutralization. Cracow, which was neutralized in 1815, was annexed in 1848 by one of the guaranteeing powers.

An eminent writer characterized the concept of neutralization as "an outworn stage in the evolution of international society which will disappear altogether and which will be replaced by a regime more suited to the structure of a Society of Nations."

In citing these instances of violations of neutrality, it is not my aim to convey the idea that neutralization treaty or any other international agreement is useless, because most treaties are generally followed and observed by states.

The most significant fact is that the violations of neutralized states during the World War, and the resulting abrogation and fundamental modification of several important treaties of neutrality in the course of the peace settlements have brought to the fore the need for a thorough re-appraisal of neutralization as a practical guarantee or security for the political independence and territorial integrity of small states.

V. The League of Nations and Neutralization.

Neutralization as a movement in international law assumed a new aspect at the end of the World War. That it has been and is considered a panacea for diplomatic troubles and an effective guarantee for the security of small states, is now seriously doubted.

The creation of the League of Nations destined by its Covenant to set up general restrictions against resort to war as instrument of general policy would, in itself, affect neutralization. Under the terms of its Covenant, neutralization is virtually reduced to impotency. Obviously, neutralization of states is incompatible with the obligations incurred by the members of the League. Since any violation of the neutrality of a state would constitute an act of external aggression, it would

[9] T. P. Ion, Belgium in Relation to the Present European War, 13 Michigan Law Review, p. 368.

seem that membership in the League gives to any state a guarantee of protection, which would make permanent neutrality unnecessary.

It is for this reason that Belgium and Luxemburg abandoned their old regime or status as neutralized states because their neutralization would be inconsistent with their membership and participation in the League. Even Switzerland,—the creation of the League brought no less obvious difficulties. Its admission into the League was one of the most complicated problems to be solved in the early days of the Council's existence. The Council took into account the "unique situation" of Switzerland as evidenced by the language of its resolution, dated February 13, 1920, on its admission, which reads as follows:

"The Council of the League of Nations, while affirming that the conception of neutrality of the members of the League is incompatible with the principle that all members will be obliged to co-operate in enforcing respect for their engagements, recognizes that Switzerland is in a unique situation, based on a tradition of several centuries which has been explicitly incorporated in the Law of Nations, and that the members of the League of Nations, signatories of the Treaty of Versailles, have rightly recognized by Article 435 that the guaranties stipulated in favor of Switzerland by the Treaties of 1815, constitute international engagements for the maintenance of peace.

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"In accepting these declarations the Council recognizes that the perpetual neutrality of Switzerland and the guaranty of the inviolability of her territory as incorporated in the Law of Nations, particularly in the Treaties and in the Act of 1815, are justified by the interests of general peace, and as such are compatible with the Covenant."[10]

Article X of the Covenant of the League of Nations provides that "the members of the League undertake to respect and to preserve as against external aggression the territorial integrity and existing political independence of all members of the League." The phrase "to respect and to preserve against external aggression" contained in the quoted Article is practically the same as the phrase "to respect and cause to be respected" generally embodied in neutralization treaties.

It is worthy of observation that this Article X has been and is one of the stumbling blocks, or grounds of opposition of the United States against joining the League.

Furthermore, should an injured member appeal to the League for protection or redress the members are, by the terms of the Covenant, bound to assist the injured party as directed by the Council. (*Art. XVI*).

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[10] III League of Nations, (1920), pp. 59-60.

If we desire to join the League of Nations in the future, we should weigh and consider carefully these observations. A great number of Filipinos and even some of our responsible leaders have expressed their opinion that it would be better for the Philippines to join the League. We cannot be a neutralized state and at the same time a member of this international organization. For obvious reasons, we cannot invoke the case of Switzerland.

VI. Can Members of the League of Nations Join Philippine Neutralization Treaty?

The next important question to be considered is whether the President of the United States, in carrying out the provisions of Section 11 of the Tydings-McDuffie Law, regarding the negotiations for the neutralization of the Philippines, will succeed in securing the approval of the great powers or states having special interests in the Far East, such as England, France, Russia, Holland, China, etc., to sign a treaty of neutralization guaranteeing the political independence and territorial integrity of the Philippine Republic in view of the fact that these states are members of the League of Nations. In other words, can members of the League act as guarantors for the security of a state not a member of the organization without violating their obligations toward the League? At this juncture, it may be mentioned that upon his arrival in the United States last month, President Quezon was reported to have stated that the Philippines would probably not join the League of Nations despite previous report to that effect.

There is no express provision in the Covenant or Constitution of the League expressly prohibiting state-members from taking such step. On the contrary, Article 21 which provides that, "Nothing in this Covenant shall be deemed to affect the validity of international engagements, such as treaties of arbitration or regional understandings like the Monroe Doctrine for securing the maintenance of peace" impliedly sanctions the execution of neutralization treaties as they might be considered as regional understanding and an instrument for the maintenance of world peace.

However, a close analysis of the conferences and deliberations leading to the creation of the League will reveal the fact that the members cannot take such action because the League was intended to concentrate the strength, the experience, and the conscience of the world is one *comprehensive society*, of

which all states would be members. The theory of the League has always been that it shall include all nations.

Furthermore, as indicated above, many are of the opinion that neutralization of states seems to be incompatible with the obligations assumed by the members of the League under its Covenant. By Article 10, the members undertake to respect and preserve, as against external aggression, the territorial integrity and independence of the members of the League.

This Article has given rise to more heated arguments, or resulted in greater confusion of opinion than any other provision of the Covenant. Its meaning has been discussed extensively by international law societies and by the League itself.

The Institute of International Law, at its Fiftieth Anniversary held at Brussels, interpreted Article 10 as follows:

"* * * Each of the states which are members remains the judge of the question whether, and in what measure, it is obliged to assure the question of its duty of guarantee by the employment of the military forces at its disposal * * *."

"* * * Each state which is a member shall decide concerning the circumstances which effect the obligation of guarantee, but it is for the Council, in virtue of Art. 10 of the Covenant, to decide, by a majority vote whether or not there is occasion for the guarantee to be made effective. * * *"[11]

It will be observed that if Article 10 be construed by the League as to deny to its members the signing of a neutralization treaty, then the only possible guaranteeing powers for Philippine neutralization will be Japan and the United States. I do not think this is the treaty contemplated in Section 11. Neither is it the treaty desired by the Filipinos in case they prefer to have neutralization. What is such a neutrality but a snare and a delusion if it is signed by the United States and Japan but not by the other world powers having special interests in the Orient!

On account of the strong opposition of the United States and other states not members of the League against Article X, the Canadian delegation submitted to the First Assembly the entire abrogation or elimination of said Article.

The 4th Assembly of the League adopted an interpretation by 29 against 1 vote, a resolution which reads as follows:

"It is in conformity with the spirit of Article X that, in the event of the Council considering it to be its duty to recommend the application

[11] J. B. Scott, Interpretation of Article X of the Covenant of the League of Nations, 18 Am. Journal of Int. Law (1924) p. 108.

of military measures in consequence of an aggression or danger or threat of aggression, the Council shall be bound to take into account, more particularly, of the geographical situation and of the special conditions of each state.

"*It is for the constitutional authorities of each member to decide.* in reference to the obligation of preserving the independence and the integrity of the territory of the members, in what degree, the member is bound to assure the execution of this obligation by employment of its military forces." [12]

The above resolution was not considered approved because of the unanimity rule.

It seems that by virtue of the above interpretation, there can be no legal objection on the part of the members of the League to sign a neutralization treaty if such engagement or agreement will promote the peace of the world. The right of the members of the League to remain neutral and to act as neutralizing powers cannot, therefore, be affected by Article X.

The fact remains that on account of the conflict between Sweden and Finland over the Aaland Islands, which was neutralized by the Convention of March 20, 1856, the Council of the League of Nations negotiated the execution of a revised neutralization treaty in 1921 for the said Islands by the terms of which, the sovereignty of the Islands should belong to Finland, but new guarantees in the form of neutrality on land, sea and in the air, in peace and war, was concluded by ten states, including Sweden, Finland, Great Britain, Germany and other Baltic States,—the majority of which are all members of the League.

The signing of the Locarno and the Kellogg-Briand Pacts, and other recent multilateral treaties is a clear evidence of the desire of the League to recognize that it is not an all-inclusive instrument for the maintenance and preservation of the peace of the world. The United States is a signatory party to the Kellogg Pact, notwithstanding the fact that it is not a member of the League of Nations.

Setting aside any possible objection, and even assuming that the states who are members of the League, having special interests in the Far East, will sign such neutralization treaty, what would be the probable stand to be taken by such guaranteeing powers in case of conflict or war between the Philippines and another member of the League, not a signatory to the treaty? Will the neutralizing states come to the aid of the

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[12] Scott, 18 Am. Journal of Int. Law, *supra*, p. 108.

Philippines and defend the treaty, or will they defend the Covenant of the League? By Article 16, the members agree to lend each other mutual support.

The Covenant provides that if a dispute arises between a member and a state which is not a member, the latter will be invited to become a member for the purpose of dispute, on conditions which have to be decided by the Council. If the invitation is accepted, all the provisions of the Covenant regarding disputes of members, hold good. But if the invitation is refused and a war results, the measures under the heading "Breach of Covenant", will be applied. (*Art. XVII*).

The difficulty becomes more apparent if we take into account the fact that the two states, Japan and United States, which we hope will sign the neutralization of the Philippines, are not members of the League. Japan has recently withdrawn from the League. Suppose these two states happen to take a contrary stand as against the state-members of the League, what will be the practical utility of such treaty? This is within the realm of possibility.

VII. Neutralization as a Movement in International Law.

At first, it was thought that with the creation of the League of Nations destined by its basic charter to set up general procedural restrictions, neutralization will disappear as a movement in international law. But the League, in dealing with political matters, suffers from defects of its Covenant, and has been found wanting in several instances in preventing or in solving disputes between states, specially if some of the parties involved are world powers.

The renewed interest in general treaties of guarantee as the new basis of the security of Europe has produced a new attitude towards neutralization.

With all its defects, in spite of the criticism which was to be expected and welcomed, neutralization will remain as a movement in international law and as a stablizing factor in checking the jealous ambitions of some of the neutralizing states. It is founded upon conceptions of law and ideals of peace. It stands today as an accepted principle of the public law of Europe. Switzerland's perpetual neutrality is so firmly embedded in the World's treaty law that its disappearance would involve a revolution in international affairs.

VIII. Philippine Conditions and Neutralization.

From an examination of the various classes of neutralized states, can we deduce that the Philippines possesses the necessary conditions or qualities for the successful creation or implantation of this regime in this part of the globe?

We must not overlook the fact that the idea of neutralization is essentially European for reasons peculiar to European powers themselves. The neutralized states of Switzerland, Belgium and Luxemburg were contiguous with their guaranteeing neighbors. Their neutralizations were effected because they were not in a position to cope with the great powers surrounding them. Their essential relation to the map of Europe and to the many conflicting interests have made necessary their withdrawal from plans of rivalry or territorial ambition, and the creation in this manner of certain inter-spaces destined for peace whatever may be the fate of their powerful neighbors.

While it may be truly said that the Philippines is by nature surrounded by a wide span of endless seas, and is not contiguous to any country, and does not possess a mountain range that pierces the sky as the Alps of Switzerland, yet it cannot be denied that the Philippines has not only a strategic position in the Far East for military purposes, but has also a dominating position in the trade routes of the Orient. A look at the map of the Pacific will readily show that the Philippines will be of great, potential and military value to Japan, for its possession would make almost impregnable Japanese position in the Far East. As remarked by Acting Governor Hayden, "the Philippines occupies a strategic relationship to the southern and eastern flanks of Japan and China which is comparable with that of Manchuria to the north and west. In any major struggle between Oriental and Occidental powers an independent Philippines would be in a position comparable with that of Belgium in August, 1914."[13]

With the development of aircraft as a potential military weapon; with the belief of many military experts that the operation of war in the future will be more in the air than in the sea; with the tremendous increase in the speed of the modern battleships making the Pacific smaller than it used to be; and with its geographical position, surrounded by the Hawaiian Islands,

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[13] R. Hayden, China, Japan and the Philippines, XI Foreign Affairs (1933) p. 715.

Japan, China, French Indo-China, Dutch East Indies and the English possession in Hongkong, and the Commonwealth of Australia, the Philippines will be within the ambit in the control and direction of the international affairs and world politics in this part of the globe.

It must be borne in mind that if Japan finds no markets for its increasing stock of manufactured goods or products, on account of the growth of protectionism aided by quotas, subsidies, heavy tariff walls, and other restrictions manifested in all the other parts of the world, which indirectly affects its foreign trade, it would not be strange if it should be forced to conquer other colonies or territories. It is commonplace to state that Japanese policy is dictated by economic needs.

It may be truly observed that the underlying theory,—the so-called equilibrium of forces,—which prompted the establishment of neutralized states in Europe, is just as urgent and vital in the Philippines because it constitutes the vortex around which gravitates all the diverse forces of Oriental and Occidental influences. The Pacific is fast becoming the center of world affairs.

With the rapid succession of important events that are now taking place in the Far East, such as the establishment of the Japanese protectorate in Manchukuo, the denunciation by Japan of the Washington and London Naval Treaties, the alleged fortifications of the mandated Islands in the Pacific, certainly we cannot help but think seriously on this all-important problem.

IX. Neutralization of the Philippines is the Best Solution.

Under the present trend of world events, neutralization of the Philippines will be the best guarantee for its security. Notwithstanding its shortcomings and limitations, neutralization creates among the guarantors and other states, a feeling of respect for the integrity of the neutralized state, which could not be maintained under any other arrangement. The smaller and weaker states are now demanding, for themselves, the privileges of similar agreements, as that embodied in Article X of the Covenant of the League of Nations, thereby securing for themselves relief from the dangers of aggression, intimidation or annexation by some power, and from the heavy burdens of militarism.

It cannot be denied that the Philippines is not in a position to organize and maintain an adequate standing army and a navy, powerful enough to resist foreign aggression. The

tragedy of our present position is that the moment the United States withdraws from the Islands, the security of the newborn Philippine Republic would be uncertain.

The nations have never been so heavily armed in peace times as in this year, the 17th year after the signing of the Armistice. Hence, the need for neutralization. As Sir John Simon, British Secretary of State for Foreign Affairs has aptly put it, "Rearmament is going on all over the world". National frontiers in many instances are in effect battle-fronts. Today, Europe is divided into hostile camps and is being threatened with serious conflicts. Its vigorous reaction to this threat has taken the form of incessant and feverish diplomatic negotiations; a new grouping of European forces is consequently being prepared. Europe therefore lives in a continued atmosphere of hatred and uneasiness which makes hope of durable peace unsubstantial and visionary. In the Pacific, we see two world powers, arming themselves to the limit. Everywhere we notice increased appropriations for land, air and sea forces. Under these circumstances the happiest solution to this Philippine problem is neutralization.

While I am in favor of the neutralization of the Philippines in order to temper the conflicting international interests of the powers in this part of the globe, and to curb the jealous ambitions, if there be any, of some nations, yet it should be clearly understood that the *guaranty of neutralization is supplementary to the force maintained.* We cannot solely rely on the neutralization treaty for our security. The establishment of an adequate national defense might discourage foreign aggression.

It should be a real, perpetual neutralization treaty wherein the guaranteeing powers would be the United States, Japan, England, Australia, China, France, Russia and Holland,—a treaty in which the Philippine nation will be permitted, with its limited resources, to have its own national defense. It has been observed that the success of a perpetual neutrality lies also in the capacity to resist foreign aggression.

X. Early Attempts to Neutralize the Philippines.

As early as January 4, 1906, the Honorable Samuel W. McCall introduced a joint resolution in Congress for the neutralization of the Philippines. In his speech before the Committee on Insular Affairs of the House of Representatives, Judge Moorfield Story, former President of the Anti-Imperialist League, in indorsing the McCall bill, among other things, said:

"We can not let the Philippine Islands go because some other power would take them. This resolution aims to remove that obstacle from our path. * * *.

"That it is possible to obtain such an agreement is, I think, hardly doubtful. In the first place, if we ask the powers of the world to make this agreement with us, we are not asking them to give us anything. * * * Probably if England should be assured that France would not get them they would be glad to agree that those Islands should become independent. They would be protected by an international agreement against their being absorbed by any rival.""

Similar resolutions were submitted by Representative George F. Burgess of Texas, and by Representative J. S. Williams and by Senator W. M. Crane of Massachusetts. Senator Stone also incorporated the plan of neutralization in a resolution introduced on February 5, 1908.

Even before the presentation of these various resolutions, several Americans advocated the neutralization of the Philippines. Some of the members of the New England Anti-Imperialist League broached a similar plan. As a matter of fact, Mr. Edwin B. Smith urged the neutralization of the Philippines in the early days of our struggle for independence. Mr. John Foreman, who has made many valuable contributions to the discussion of Philippine affairs, declared that the world would hail Philippine neutralization "as unprecedented mutual self-abnegation of America."

In 1908, Mr. Erving Winslow, writing in the January number of the American Journal of International Law, among other things, said:

"The rehearsal of the conditions in the Philippine Islands and some comment thereupon is not inappropriate, however, to the discussion of neutralization. A great nation, having obtained sovereignty over an alien race, has distinctly declared through its executive officials its purpose to prepare that race for self-government and entire independence. When that preparation is accomplished, *neutralization of the territory of the people would seem to be only a proper complement to the grant of self-government and independence*, and would be necessary indeed to make it effective."

In 1912, Mr. Cyrus French Wicker, writing in the Atlantic Monthly in favor of the neutralization, remarked:

"Neutralization offers greater protection to the Philippine Islands than this nation can give. Once the Philippines is neutralized, it will pave the way to friendly relations with the Orient."

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[11] E. Winslow, Neutralization, 2 Am. Journal of Int. Law, (1908) p. 366.

In 1916, the original Clarke amendment to the Jones Bill contained a clause providing for the neutralization of the Philippines in the following manner:

"Immediately upon the passage of the act, the President shall invite the cooperation of the principal nations interested in the affairs of that part of the world in which the Philippines are located, in the form of a treaty or other character of binding agreement, whereby the cooperating nations shall mutually pledge themselves *to recognize and respect the sovereignty and independence of the said Philippines,* and likewise mutually obligating themselves, equally and not one primarily nor to any greater extent than another, to maintain as against external force the sovereignty of said Philippines for the period of five years from the taking effect of such treaty or agreement. If any of the nations so invited to join in such undertaking shall decline to do so, then the President shall include as parties to such convention or agreement such nations as may be willing to join therein and to assume such obligations; and if none are willing to so unite therein, then, the President is authorized to give such guaranty on behalf of the United States alone." [15]

Practically all bills introduced in Congress having in view the granting of Philippine Independence proposed the neutralization of the Islands. This question has been discussed in and outside Congress.

It will be noted that the neutralization provision of the Clarke amendment is considered by many as even more liberal than that of the Tydings-McDuffie Law. The amendment contains a mandatory provision requiring the President to take all the necessary steps towards the neutralization of the Philippines. Moreover, if the President fails to secure a joint guarantee for the Philippine Republic, he is authorized to give such guaranty on behalf of the United States alone.

XI. Neutralization under the Tydings-McDuffie Law Analyzed.

The original Hare bill (H.R. 7233), providing for the independence of the Philippines did not contain a provision for neutralization. Neither the Hawes nor the Hawes-Cutting bill provided for one. All the bills approved before the amended Hare-Hawes-Cutting bill provides that the President of the United States shall, upon the proclamation and recognition of the Philippine Republic, notify the governments with which the United States is in diplomatic correspondence and invite said governments to recognize the independence of the Philippine Islands. Similar provision is embodied in Section 12 of the Tydings-McDuffic Law.

[15] 53 Cong. Record, Part I, p. 846, 64th Congress, 1st Session, 1916.

Upon the suggestion of Senator Hawes, Senator Reed of Pennsylvania presented an amendment which was finally adopted as Section 11 of the Hare-Hawes-Cutting Bill. The said provision reads as follows:

"The President is requested, at the earliest practicable date, to enter into negotiations with foreign powers with a view to the conclusion of a treaty for the perpetual neutralization of the Philippine Islands, if and when independence shall have been achieved."[16]

The same provision was incorporated in the Tydings-McDuffie Law.

It will be observed that the above-quoted provision contemplates action on the part of the President of the United States. Although in the language of Section 11, the President is not legally bound to work for Philippine neutralization, it is believed that he will carry out the intention of Congress by negotiation for neutralization. This neutralization, if agreed upon, is not regarded as impairing in any degree the independence of the Philippines, nor its independence conditioned or dependent on neutralization.[17]

XII. Are Naval Reservations and Coaling Stations Compatible with Neutralization?

The next question is whether the other provisions embodied in the Tydings-McDuffie Law are compatible with neutralization.

Section 10-b of the Act provides:

"The President of the United States is hereby authorized and empowered to enter into negotiations with the Government of the Philippines not later than two years after his proclamation recognizing the independence of the Philippine Islands for the adjustment and settlement of all questions relating to *naval reservations and fueling stations* of the United States in the Philippine Islands, and pending such adjustment and settlement the matter of naval reservations and fueling stations shall remain in its present status."

International law writers are not unanimous in their opinions on the question as to whether one of the guaranteeing powers could be permitted to retain military or naval reservations in the territory of the neutralized state. The law in this matter is still in the formative stage.

Some maintain that unless prohibited by the treaty, one of the powers could retain such reservations if they were con-

[16] 76 Cong. Rec., Part I, p. 264 (Dec. 9, 1932).

[17] Wilson, Philippine Neutralization, 29 Am. J. of Int. Law (Jan. 1935), p. 82.

structed before neutralization. Mr. Albert E. Pillsbury, formerly Attorney-General of Massachusetts, in discussing the subject of neutralization of the Philippine Islands, said:

"It will be objected that neutralization will deprive us of any naval base or military station in the Philippines. *This does not necessarily follow*, but if it should, neutralization will avoid the necessity of defending the Islands themselves, and for any other legitimate purpose we probably need a naval base in the Philippines no more than we need one at the north pole."[13]

Others believe that the very nature and essence of neutralization imply equal rights and privileges to be enjoyed by the powers in the neutralized state, as they assume corresponding mutual and equal obligations. Hence, no special privilege, such as the retention of military or naval reservations should be granted to one of the powers. It is for this reason that the formidable fortress at the City of Luxemburg, garrisoned by Prussia, was demolished when Luxemburg was neutralized, because of the opposition of France. Precisely, the main purpose of creating a neutralized state is the maintenance of the balance of power among the neutralizing states.

In this connection, it may be stated that, while the establishment of a balance of power among the neutralizing states is one of the principal aims of neutralization, yet these two terms have different meanings. Balance of power is a political concept, while neutralization is an international concept. Neutralization can only exist by virtue of an international agreement, but balance of power exists without the necessity of a treaty.

It is unlikely that Japan, Great Britain, France, Russia, Holland, and China, will join or sign the treaty of perpetual neutralization, if the said naval reservations will be retained by the United States during the lifetime of the international agreement.

President Hoover, in vetoing the original Philippine Independence Bill stated, among other things, that there was an inconsistency in the bill, in that, on the one hand, it authorized him to enter into neutralization agreement with other nations concerning the Philippine Islands, but on the other hand, it gave the United States the option of maintaining military and naval bases after the independence. His words are as follows:

"* * * The bill makes no effective provision for the maintenance of their independence thereafter from outside pressure, except a promise

[13] E. Winslow, Neutralization, 2 Am. Journal of Int. Law (1908) *supra*, p. 385.

of effort on our part toward neutralization. We have the option to continue the maintenance of military and naval bases. *Other nations are unlikely to become parties to neutralization if we continue such bases,* and neutralization is a feeble assurance of independence in any event unless we guarantee it. That again is the perpetual engagement of the United States in their affairs. * * *"[19]

Senator Cutting of New Mexico answered very well the said observation in the following manner:

"I do not think there is any inconsistency in the option given the President of entering into a neutralization agreement, or of maintaining military and naval bases. He does not have to do either one. Obviously, he cannot do both. If, at any time, the United States should enter into a neutralization agreement with other nations about the Philippines, one of the terms for such agreement would certainly be our withdrawal from our military and naval bases. It is impossible to argue the contrary."[20]

From the remarks of Senator Cutting and other members of Congress, it may be gathered that the continuance of American naval bases or reservations and coaling stations in the Islands after independence, would be incompatible with the neutralization of the Philippines. But it is significant to note, judged from the utterances of several leading members of Congress, that the existence of these American naval bases and coaling stations might serve as an effective, diplomatic weapon on the part of the United States in securing better terms for Philippine neutrality. In this respect, it must be remembered that in the game of diplomacy, the policy of give-and-take plays an important rôle.

It might be to our advantage if we suggest that the negotiations for neutralization should precede the adjustment and settlement of all questions relating to naval reservations and coaling stations. This is necessary as no fixed period is provided for in the law within which the President might negotiate for the neutralization of the Islands after independence has been achieved. As stated above, it is not even mandatory on his part to perform this delicate but important task. In case the neutralization negotiations fail, the retention of these naval bases and coaling stations might be considered if the United States so desires, until another adequate arrangement may be worked out for the security of the Islands against possible foreign aggression.

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[19] 76 Cong. Record, Part 2, *supra*, p. 1820.

[20] 76 Cong. Record, Part 2, *supra*, p. 1821.

XIII. American-Philippine Trade Relations and Neutralization.

Section 3 of the Tydings-McDuffie Law provides, among other things, that one year prior to the date of the inauguration of the independence of the Islands, a conference will take place between the representives of the United States and the Philippine Commonwealth for the purpose of formulating recommendations as to the future trade relations between the two governments.

From the foregoing it may be inferred that new trade relations between the two countries might be established immediately after the proclamation of independence. This arrangement may entitle American goods to either equal or preferential treatment as against other foreign goods that enter the Islands.

In this connection, Senator Sumulong, one of our far-sighted statesmen, made these observations:

"Ten years hence, the Philippines will be turned adrift in the family of nations and it is the avowed purpose of these 10 years of adjustment to give us an opportunity to find our economic as well as political place in the family of nations. Let us negotiate with America if and when this seems wise. * * * *A similar policy should be pursued with other nations with whom we trade.*"

Even prior to the formal inauguration of the Commonwealth, we hear discussions, both in the press and in the forum, regarding the establishment of trade reciprocity between the two countries. That the Philippine Mission, now in Washington, headed by President Quezon and ably assisted by Governor Murphy, is repeatedly reported in several dispatches from Washington, as working towards trade reciprocity between the United States and the Philippines.

Does this new trade arrangement apply only during the Commonwealth regime, or will it continue even after the Independence of the Islands?

It may therefore be asked: Is neutralization compatible with trade reciprocity or with preferential trade relations between a neutralized state and one of its guaranteeing powers?

On this question, there is a diversity of opinion. It is advanced that trade reciprocity is absolutely an economic arrangement. It is similar to the most favored nation clause. It is unconnected with a political or military alliance. Hence, there could be no legal objection, as it does not violate the obligations assumed by either the neutralized state or the guaranteeing power that signed such treaty of reciprocity.

On the other hand, it is argued that once a country is neutralized, it should be opened to the trade of all the nations on equal terms, particularly to the neutralizing states. This is true nowadays when the economic rivalry for commercial markets between states is manifest and keen. Trade reciprocity or a customs union between the neutralized state and one of its guarantors might be condemned now on political grounds, although it is obvious that this adjustment is purely economic in nature. It has no relation to warlike alliances which are legally interdicted to neutralized states.

At this point, it may be recalled that the proposed customs union between Belgium and France in 1842, which was almost on the process of realization, failed because of the objection of England and Prussia, signatories to the perpetual neutrality treaty of Belgium.[21] A similar customs union was entered into between Luxemburg and Prussia without any objection or opposition on the part of any of the neutralizing powers. This was made possible, however, because of the fact that Luxemburg had been a member of the *Zollverein* of Prussia since 1842.

It may be well to mention in this connection that on September 5, 1931, the Permanent Court of International Justice, by a close vote (8 to 7), ruled as illegal the Austro-German Customs Union or Regime created by the Vienna Protocol of March 19, 1931, on the ground that it violated Article 80 of the Treaty of Saint-Germain which prohibits Austria from entering into any negotiation, or economic engagement calculated to compromise her independence, without the consent of the Council of the League of Nations. The said questioned treaty provides, among others, that "there are to be no import or export duties on goods exchanged between the two countries, except as may be agreed in the proposed treaty" (Art. III).[22]

The dissenting judges, including the American representative, Mr. Justice Kellogg, maintained that the said Customs Union could not be regarded as incompatible with the treaty obligations of Austria, because it was within its sovereign right as a separate and independent state to conclude any agreement which would be beneficial to its commerce.

The instances cited above involve customs unions which are similar to trade reciprocities. It cannot, however, be safely deduced that a neutralized state cannot conclude a reciprocity

[21] Warrin, the Neutrality of Belgium, *supra*, p. 36.
[22] Advisory Opinion, No. 20, Series A/B No. 40.

treaty with one of the guaranteeing powers. On the contrary, history records several instances in which by neutralized states executed such agreements with one or some of their neutralizing powers.

It is worthy of note that in 1891 and 1892, Switzerland adopted a bargaining tariff with some of the powers which guaranteed its perpetual neutrality. It signed a reciprocity treaty with France in 1905 as a result of the promulgation of the maximum and minimum tariff by the French government. A similar treaty was concluded between Switzerland and Italy.

It seems that in the last analysis, the question as to whether or not a treaty of reciprocity or a customs union between a neutralized state and one of the neutralizing powers becomes incompatible with a perpetual neutralization, depends to a large extent upon the terms and provisions of the treaty.

It is unlikely that the United States will give preferential treatment to our goods, as against foreign goods, when independence has already been achieved, unless we are in a position to give similar advantages to American goods. As Senator Tydings aptly puts it,—"when a nation asks for independence, it assumes the responsibilities as well as the benefits thereof."

Whether or not neutralization may exist side by side with a treaty of reciprocity, or free trade between the Philippines and the United States, it is almost certain that Japan, which we hope will be one of the signatory parties to the perpetual neutralization treaty, will demand equal and the same privileges for its expanding commercial interests in the Islands as those granted to other countries, including the United States.

XIV. Objections to Philippine Neutralization Answered.

It has been said that the United States will sign a neutralization treaty which would pledge only to respect but not to guarantee and protect the territorial integrity of the Philippine Republic. This statement is based upon the premise that the United States could not consent to delegate the power granted to Congress by the Constitution to declare war against any group of states.

Senator Borah, for many years Chairman of the Committee on Foreign Relations, and one of the leading statesmen of America, made these observations:

"I desire to say now that any treaty of neutrality which may be negotiated will have to be very limited in its terms before I shall be bound to support it."[23]

It could not have been the intention of Congress to recognize Philippine neutrality without guaranteeing the territorial integrity and political independence of said state because that would be contrary to the very spirit and purpose of Section 11. In the discussion of this question, the international security of the Philippines was the paramount consideration. Representative Hare, one of the authors of the independence bill, significantly remarked as follows:

"The provisions of Sections 11 and 13, if carried out to the purposes and intention of the act, should relieve any apprehension as to the relationship between the Philippine Islands and other countries, including the United States."[24]

Others believe that Section 11 of the Tydings-McDuffie law might automatically drag the United States into war. There is no foundation for this misgiving. The aforesaid Section 11 does not take away the power of Congress to declare war nor automatically drag the United States into war because a perpetual neutrality treaty that will be negotiated by the President as contemplated in said section, requires the consent and ratification of the American Senate before it becomes internationally binding upon the United States. Once the said treaty is ratified, it forms part of the fundamental law of the American people.[25]

Is it not a fact that some of the constitutions of the guaranteeing powers which signed the neutralization treaties of Switzerland, Belgium, and Luxemburg, contained provisions similar to that embodied in the American Constitution to the effect that the power to declare war need the sanction of the legislative branch? The House of Commons of England and the Chamber of Deputies of France have always maintained that they possess such power. And is it not also a fact that most of the state-members of the League now contain similar provisions in their constitutions? Do we understand now that the statesmen of these countries violated their constitutions by signing neutralization treaties and the Covenant of the League of Nations? Certainly not.

[23] 76 Cong. Rec. Part 2, *supra*, p. 2005.

[24] 76 Cong. Rec. Part 2, *supra*, p. 1825.

[25] I Willoughby on the Constitution, p. 463.

As a passing observation, it may be stated that the United States took active part in the Conference of Berlin of 1884 which decided the neutralization of the Congo Free State. Mr. Kasson, the United States minister at the Court of Berlin was one of the American delegates. In 1889, an agreement was also entered into by the representatives of the United States, Great Britain and Germany, by which a regime or status somewhat similar to a permanent neutrality was established in the Samoan Islands.

Moreover, Congress composed of many able constitutional lawyers, could not have overlooked this question before it approved Section 11 of the Tydings-McDuffie Law.

It is significant that in the discussion of the Hare-Hawes-Cutting and the Tydings-McDuffie Laws, this constitutional question, unlike the power of Congress to alienate territory or to give the Philippines its independence, was not raised or discussed. It is probable that the members of Congress took it for granted that the United States could sign such a neutralization treaty.

It is also advanced by Professor Pio Duran of the University of the Philippines that the Philippines should reject a neutralization treaty because her independence would be confined "to the administration of her internal affairs, and her foreign policies will be dominated by meddlesome Occidental powers." This is a far-fetched interpretation on the position of a neutralized state before international law. Even those who maintain that neutralized states are part-sovereign states do not conclude that their foreign policies or affairs are dominated by other powers. Switzerland, Belgium and Luxemburg signed the Hague Conference of 1907.

In this respect, Professor Oppenheim, one of the leading authorities in International Law, in discussing the nature of the neutralized state, said:

"The reason why a state asks or consents to become neutralized is that it is a weak state and does not want an active part in international politics, being exclusively devoted to peaceful development of welfare. * * * Since a neutralized state is under the obligation not to make war against any other state, except when attacked, and not to conclude treaties of alliance, guarantee, and the like, it is frequently maintained that neutralized states are part sovereign only, and not international persons of the same position within the family of nations as other states. This opinion has, however, no basis if the real facts and conditions of their neutralization are taken into consideration."[*]

[*] I Oppenheim, Int. Law, *supra*, p. 216.

Professor George G. Wilson of Harvard University, writing in the January number (1935) of the American Journal of International Law, remarked:

"It is evident from Section 12 of the Act (Tyding-McDuffie) that this neutralization, if agreed upon, is not regarded as impairing in any degree the independence of the Philippine Islands."

XV. Difficulties incident to the negotiation for neutralization.

There is no doubt that we shall encounter great and innumerable difficulties in obtaining effective neutralization for the Philippines. Even if the President of the United States should succeed in securing a neutralization treaty, still the Senate might interpose certain objections because of the so-called American reverred policy—"entangling alliances with none." Furthermore, we can never foretell definitely what the future foreign policy of the United States may be ten years hence.

Article 10 of the Covenant of the League of Nations might be used as an argument by some state-members of the League to refuse to act as guaranteeing powers for Philippine neutralization.

The uncertainty of the withdrawal of American naval reservations and coaling stations after Philippine Independence has been achieved, might be a stumbling-block in the successful negotiation of Philippine neutrality. In this connection, it is worthy of note that the recommendations of the Committee on the Philippines sponsored by the Foreign Policy Association and the World Peace Foundation state the following:

"From the strategic standpoint, the majority of the Committee regards the possession of the Philippines by the United States as a definite liability."

Another difficulty is the recent announcement by the Japanese government of the creation or application of the so-called "Asiatic Monroe Doctrine". Mr. Hirota, Japanese Minister for Foreign Affairs, aptly described this principle in the following tenor:

"If the United States desires an amicable solution of the pending problems * * * the United States should keep her hands off the Far Eastern affairs and place implicit confidence in Japan's efforts to maintain peace and order in Asia. The world would be divided into three parts under the influence of America, Europe and Asiatic Monroe Doctrines."

There is no doubt, however, that we should exert our supreme efforts in obtaining effective Philippine neutralization

treaty. The international security of the Philippines presents an acid test to our leaders and statesmen. I have a firm conviction that they will not be found wanting.

XVI. Recapitulation and Conclusion.

We should strive to see to it that the wording of the treaty should be clear, definite and specific, and for this purpose the clause *"that the parties engaged to respect and cause to be always respected"* should be preferred. The nature of the guaranty assumed by the powers should be *joint and several,* similar to that of Switzerland and Belgium, placed under the guaranty of each of the guarantors seperately, and at the same time under the guaranty of them all. Otherwise, the treaty will not be serviceable unless there is some provision in accordance with which the guarantors can be called upon to fulfill the obligation which they assumed, either of their own volition, or under the strength of the obligation. In other words, if Philippine neutralization treaty will have the force which would produce the desired and beneficient results, there must be provided definite and effective sanctions.

There could be no violation of international law in allowing the Philippine state to establish and maintain an army or navy of its own within its limited resources, as long as it is not prohibited to do so in the treaty. In the case of Switzerland, the treaty shows that it was permitted, not only to retain its fortifications, but also to maintain an adequate military force. The Swiss plan of military service is well known throughout the world. Belgium was also allowed to have its own standing army and certain fortifications. An implication is that the neutralized state has to take care to preserve its neutrality as far as it is able to do so even by the use of force.

One of our first lines of defense is diplomacy. We would be helping the President of the United States in carrying out the provisions of Section 11 of the Tydings-McDuffie Law, if we should keep our equanimity in the intelligent discussion and analysis of this important question, and not try to picture one nation or another as a land grabber, as unreasonbly imperialistic or selfish, because these emotional remarks are not only detrimental to the cultivation and promotion of goodwill and friendship towards other countries, but also make the negotiations for Philippine neutrality difficult to obtain. Even those who are opposed to Philippine neutrality, I believe, will agree with me that this question can be discussed dispassionately

and intelligently without resorting to or uttering unnecessary and uncalled-for criticisms against foreign nations. We should guard ourselves by avoiding the nebulous commitments and legal uncertainties that so readily contribute to senseless and destructive conflicts or wars.

At this period of our country's history, we need more than ever the ties of friendship and international goodwill of all the nations of the world. Located as we are in the center of the conflicting interests of the powers, we find ourselves in such a situation that we are forced to depend on the goodwill, not only of the United States, but also of the other leading powers.

It seems to be a wise and farsighted policy if we should start to take the necessary, preliminary steps or measures during the Commonwealth for an effective Philippine neutralization. The negotiations which the President is requested to enter into with foreign powers need not wait upon the termination of the ten-year Commonwealth period.

It would be reasonable and proper if the Philippines would be represented in the international conference, if there be any, that will consider and decide upon the perpetual neutralization of the Philippines. It is, therefore, gratifying to hear that the Philippine Mission now in Washington is making an arrangement with Secretary Hull of the State Department whereby some Filipinos might acquire training in the School of Foreign Service of the said Department, and practical experience in the art of diplomacy. Ten years hence, when the Philippine neutralization questions will be made the subject of formal diplomatic negotiations, or possibly international conference, these Filipinos might be valuable assets in the discussion or solution of this important problem, or similar questions affecting the Philippines.

We have every reason to hope that the determined efforts to surmount the many difficulties for the attainment of an effective neutralization treaty will be crowned with success, and that in a not too far distant future we shall witness the establishment of the first Republic in the Far East.