

**LAW AND USAGE OF WAR: A
PRACTICAL HANDBOOK OF THE
LAW AND USAGE OF LAND AND
NAVAL WARFARE AND PRIZE**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649220038

Law and usage of war: a practical handbook of the law and usage of land and naval warfare and prize by Sir Thomas Barclay

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NAVAL WARFARE AND PRIZE

BY

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THE
COLLIERIES

LONDON

CONSTABLE AND COMPANY LTD.

1914

JX4511
B2

BY MPD
AUG 11 1963

PREFACE

THIS book was originally prepared as a treatise on the law of maritime war and prize. For the convenience of the reader at a time when nobody has leisure to wade through the historical or theoretical matter with which a systematic treatise is bound to deal, I have selected from my intended book the material needed for immediate reference. Moreover, the present war being even for this country a war on land as much as (if not more than) a naval war, and there being no quite recent treatise, except the official Manual on war on land, it was suggested that the book should deal with war generally, and as such would be welcomed by laymen as well as by those who have to deal with its legal aspects professionally.

Furthermore, to make reference easier, I have broken up the different subjects into short and concise articles, and placed the whole in alphabetical order.

The appendices are as complete as it has been possible to make them without swelling the book to unpractical dimensions. The ample references to them and a full index will enable the reader to find at once the exact text.

The volume has no pretension to dispensing with the use of Colonel Edmonds' and Professor Oppenheim's excellent official manual on land warfare above referred to, which is available to the public, or with the official "Manual of Naval Prize Law" which is a confidential publication for

the guidance of naval officers, though it may serve as a useful supplement to both.

In short, my object has been to produce a volume useful not only for student and layman, but also for those who have to deal promptly with actual cases as they arise.

T. B.

13, OLD SQUARE,
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CONTENTS

PREFACE	PAGE
INTRODUCTION	v
LAW AND USAGE OF WAR	ix
APPENDICES:	
1. Declaration of Paris (1856)	1
2. Convention relating to the Commencement of Hostilities (1907)	145
3. Convention with Respect to the Law and Usage of War on Land and Regulations (1899-1907)	146
4. Convention relating to the Rights and Duties of Neutral Powers and Persons in Case of War on Land (1907)	147
5. Convention relating to the Treatment of Enemy Merchant Ships at the Commencement of Hostilities (1907)	160
6. Convention relating to the Conversion of Merchant Ships into Warships (1907)	162
7. Convention relating to the Employment of Submarine Mines acting automatically by Contact (1907)	165
8. Convention relating to Bombardment by Naval Forces in Time of War (1907)	166
9. Convention relating to Certain Restrictions in the Exercise of the Right of Capture in Maritime War (1907)	168
10. Convention relating to the Rights and Duties of Neutral Powers in Case of Maritime War (1907)	171
11. Convention (Geneva) for the Amelioration of the Condition of the Wounded and Sick in Armies in the Field (1906)	173
12. Convention for the Adaptation to Maritime Warfare of the Principles of the Geneva Convention (1907)	178

APPENDICES—*continued*

13. International Declaration of St. Petersburg (1868)	-	193
14. Declaration relating to Projectiles diffusing Deleterious Gases (1899)	- - - -	194
15. Declaration relative to Expanding Bullets (1899)	-	195
16. Declaration relative to discharging Projectiles and Explosives from Balloons (1899-1907)	- -	195
17. Declaration of London (1909)	- - -	196
18. Declaration of London: Order in Council (August 20, 1914)	- - - -	213
19. Contraband of War Proclamation (August 4, 1914)	-	215
20. Contraband of War Proclamation (August 5, 1914)	-	217
21. Naval Prize Act, 1864	- - - -	218
22. Prize Courts Act, 1894	- - -	235
23. Commissioners for Oaths (Prize Proceedings) Act, 1907	- - - -	237
24. Prize Courts (Procedure) Act, 1914	- -	238
25. British Prisoners of War (War Office Statement, September 18, 1914)	- - -	239
26. Contraband of War Proclamation (September 21, 1914)	- - - -	240
ABBREVIATIONS	- - - -	241
INDEX TO APPENDICES	- - -	243

INTRODUCTION

WAR brings into operation certain rights and duties, as between belligerent States and their citizens, as between the belligerents, and as between belligerents and neutrals, which remain in force from the date of the *commencement of the war* (*q.v.*) until its termination. An *armistice* (*q.v.*) is not a suspension of war, but of hostilities. War ceases only with the conclusion of peace.

The law of war comes into operation as regards citizens of a belligerent State from the day and hour from which it is officially notified to begin.

As between belligerents it dates from receipt of notice of the declaration of war by the enemy State. The hour of receipt of the notice is of importance, but it has not the same effect as in the case of neutrals.¹

A neutral State is only affected by the existence of war from the date of receipt of notice, which may be sent by telegraph, although it is debarred from setting up absence of notice if it can be shown that it was beyond question aware of its existence,² this knowledge being equivalent to notice whose only object is to place the possession of it beyond question.

From these respective dates the law of war is operative against all mankind.

The law of war may be subdivided into (*a*) relations between belligerents in war on land, (*b*) relations between belligerents in naval war, (*c*) relations between belligerents and neutrals in war on land, and (*d*) relations between belligerents and neutrals in naval war.

¹ See Hague Convention, 1907, No. I, Art. 1, and No. VI.

² Hague Convention, No. I., Art. 2.