

**A TREATISE OF THE RELATIVE RIGHTS AND  
DUTIES OF BELLIGERENT AND NEUTRAL  
POWERS IN MARITIME AFFAIRS: IN WHICH  
THE PRINCIPLES OF ARMED NEUTRALITIES  
AND THE OPINIONS OF HUBNER AND  
SCHLEGEL ARE FULLY DISCUSSED**

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A Treatise of the Relative Rights and Duties of Belligerent and Neutral Powers in Maritime Affairs: In Which the Principles of Armed Neutralities and the Opinions of Hubner and Schlegel Are Fully Discussed by Robert Ward

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THE LAW OF NATIONS IN EUROPE TO THE AGE OF GROTIUS.

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## PREFACE.

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MR. WARD'S\* Treatise on Maritime Law—a work which, according to Kent, has “exhausted all the law and learning applicable to the question” †—is now reprinted because it is entirely forgotten and unknown; having disappeared within late years from those libraries where it is known to have existed. This disappearance is so singular that it might be more exact to say that it has been removed by careful management. At any rate, such disappearance has been coincident with the renewal of those attempts to put down Maritime power which began towards the close of the last century, and then ended in failure. It was to be found in the British Museum, where the title may still be seen in the catalogue, with the stroke of a pen drawn through it. It was in Hookham's library, among the very complete set of pamphlets which rendered that old collection so valuable; but this Treatise of Ward's had disappeared from it before the period of the Crimean War. That copy had a peculiar interest; for through its perusal the attention of one Englishman, whilst still a youth, ‡ was awakened to the subject of Maritime Law, and its connexion with Naval power: and it is to the labours of the same individual, that must be attributed the change from ignorance and

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\* Mr. Ward was the father of the late Sir Henry Ward.

† Kent's Commentaries, vol. i. p. 128.

‡ Mr. David Urquhart.

indifference in those matters, to anxiety and intelligence, which have lately been displayed both in England and in France. The public attention is now awakened to the peril to which these two countries are exposed by the Declaration of Paris against Privateering and the Right of Search. To those who are struggling to restore the power of England and to combat the prejudices raised against Privateering, this Treatise is now offered as being peculiarly appropriate to meet the fallacies they have to encounter. It is to be observed that it is not written without a definite purpose, but is the answer, and at the time the most authoritative one, to the arguments put forward by the projectors of the Armed Neutrality. It is still more remarkable, as we learn from the preface, that a Commission was appointed by the Government of that time to report upon the subject, and Mr. Ward was a member of that Commission. The Ministers who resisted the Armed Neutrality, and who, by doing so, raised England to the height of her fame and power, were therefore as anxious to conform their conduct to the Law of Nations as to provide for the safety of their country.

Mr. Edmund Phipps, in a memoir on Mr. Ward, says that this Treatise was written at the solicitation of Lord Grenville, and that it was on the eve of completion when a change took place in the Ministry (1801). In the meantime, so great had been the pressure on the author to get at least a portion of his  
his



his arguments on the great question of Armed Neutrality before the public, that he determined to publish the first part before the rest, leaving the whole subject to be completed in an after publication. The part now extant was accordingly published in 1801. When it came out, he received the following letter from Lord Grenville :—

“DEAR SIR,

“*Dropmore, April 2, 1801.*

“I waited only till the circuit was over (not knowing where to direct you) to express how much I have been gratified by the manner in which you have executed the work which you had the goodness to undertake at my suggestion. I knew before that it could not be in any hands more able to do justice to the subject, and I can with great sincerity assure you that my expectations have been fully justified by the result. I earnestly hope that you will have time and leisure to complete it, though I should be very sorry if you had delayed the publication of this part, which in the present moment is the most important.”

As far as can at present be ascertained, Mr. Ward never completed the rest of his work : though he continued it so far, and so far only, as to deal with one of the propositions he proposed to discuss ; namely, “that contraband is confined to articles of exclusive and immediate service in war.”

But if in 1801 it were desirable to meet the proceedings of England's enemies by an exposition of the Law, how much more is it so now, when their tactics are so far changed that instead of forming a league against England, and thus attempting to gain their point by open violence, all their care is directed to induce England herself to put forward the new doctrines as something beneficial to herself as well as to mankind ? The success that has already attended their  
 b efforts,

efforts, is certainly negatively due to the entire ignorance that came to prevail on the subject of Maritime Law, and the almost universal blindness that existed at the time of the Crimean War on the connexion between it and naval power. Had it been otherwise, never would the country have been induced, whilst going to war with Russia, at the same time to resign the very means by which England could act against her and coerce her.

The signing of the Declaration of Paris was a mere corollary of the act by which the principles embodied in it were announced at the opening of the war. But that the country should have submitted to it is a still further proof of the change that had taken place during the interval of peace since 1814. For it was the resignation of the means that had made England great and powerful, at the moment of terminating a war, the course of which afforded ample proof, if such were needed, that those means were necessary to England as a naval Power, as it showed that the finest navy becomes almost useless when cruisers are given up and neutrals are suffered to carry on the commerce of the belligerents.

The prejudice against privateers arises partly from ignorance of the safeguards provided by the Law for the protection of vessels which are not lawful prize, and partly from the writings of officers of Royal Navies who have been unconsciously biassed by a prejudice similar to that which is felt by regimental officers  
against

against militiamen, volunteers, and irregular troops. The following is a passage taken at random, which may serve as a specimen of this kind of writing :

“There is but a slight step from the privateersman to the pirate ; both fight for the love of plunder ; only that the latter is the bravest, as he dares both the enemy and the gallows.”

It was only after such sentences had been written, and the nation prepared by a course of such romance reading, that Lord Aberdeen told the people of Aberdeen that privateering was the last shred of barbarism, and that the only difference between a pirate and a privateer was that the latter bore the Queen's Commission. A similar comparison might be made between brigands and soldiers. If the subject had been studied in law books and not in novels, Lord Clarendon could not have based his attempted defence of the Declaration of Paris on the proposition that England obtained a valuable consideration for the acknowledged loss incurred by the giving up of her right to seize enemies' property in neutral vessels, by the abolition of privateering !

The paragraph from a novel above quoted is followed by another, which shows how the false notions generally entertained on the subject of privateers, have been fostered by confounding the deeds done in former times with those done in the days of our grandfathers : “But in whatever school they had been taught, the Buccaneers who kept about the English colonies were