

**THE DECLARATION OF
LONDON; WITH AN
INTRODUCTION AND
NOTES AND APPENDICES**

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The Declaration of London; with an introduction and notes and appendices by Norman Bentwich

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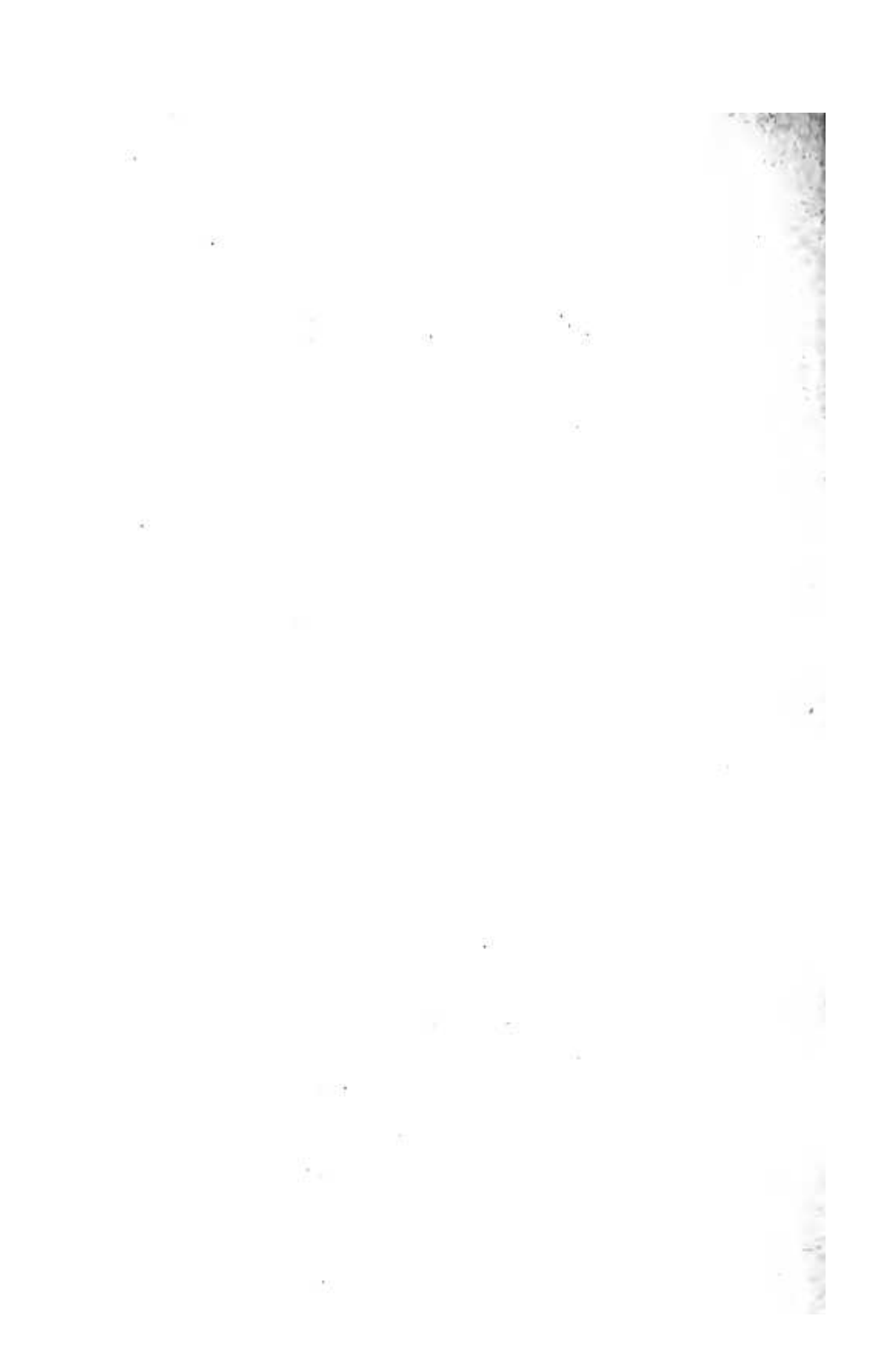
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1911



TO
JOHN WESTLAKE, ESQ., K.C., LL.D., D.C.L.

THE DOYEN OF ENGLISH INTERNATIONAL LAWYERS

IN SINCERE RESPECT

FROM

A GRATEFUL PUPIL

PREFACE.

"THE Declaration of London" has become a burning question for the general public, which usually leaves discussions of International Law to professors and academical persons. As, however, the Declaration, on the one hand, is a very complex document, not easily intelligible by the layman, and, on the other hand, the general notions as to the present state of the laws and usages of maritime war are very vague, there has been not a little misunderstanding of the purport and effect of the international agreement. In this edition of the Declaration I have endeavoured to explain its contents as a whole and in detail, and to correct some erroneous opinions about the changes which it would introduce into our Prize Law. I have based my commentary partly upon the material in the Blue-Book containing the Correspondence and Documents respecting the London Naval Conference, which drew up the Declaration (Misc. No. 4, 1909); and I have also made use of legal articles on the Declaration in *The Law Quarterly Review*, *The Journal of Comparative Legislation*, *The American Journal of International Law*, and *The Law Magazine and Review*, by the Rt. Hon. Arthur Cohen, K.O., Professor Oppenheim, Sir John Macdonell, Mr. Denys Myers, and Dr. Baty. Of the many criticisms published during the last two months in the press, the three letters of Dr. Westlake, which appeared in *The Times* while my book was in proof, seemed to me to contain the most weighty and the best considered appreciation of the Declaration, and I could not forbear from adopting some of the points there made.

I am under obligations of a different kind to Mr. Gibson Bowles' book on "Sea-Law and Sea-Power," a considerable part

of which deals with the Declaration of London and the International Prize Court Convention. It has provided me with arguments to controvert rather than with material to embody. Mr. Bowles is the Rupert of the battle which is being fought about the Declaration ; and in his fierce charges against any supposed derogation of our old belligerent rights at sea, and his headlong opposition to any kind of international agreement, he is often carried in a cloud of rhetoric far away from the true facts of that Prize Law of which he claims to be the champion. With the criticism of the Declaration advanced by another class of writers who regard it as "an instrument of national destruction," and declare that "its provisions are absolutely certain to produce universal starvation in this country in the event of a war with Germany," I have not thought it necessary to deal in detail. These writers suffer from a kind of national neurasthenia, and can never be happy unless they are themselves in a panic, and are doing their best to bring their countrymen into the same condition. But their notions of International Law are as strange as their complete distrust of the ability of the English fleet to protect our commerce ; and their appalling prophecies of the effects of ratifying the Declaration are not more striking than their ingenuous faith that, if there were no Declaration, our enemy would adopt, or the neutral powers would compel him to adopt, just those provisions of our Prize Laws which would suit our interests.

At the same time I recognise the force of the criticisms made by the great commercial bodies of this country, to which certain features of the Declaration have given rise, more especially the articles dealing with Conditional Contraband and the Sinking of Neutral Prizes, and the omission of an article to settle the question of Conversion of Merchantmen into Warships. I have dealt briefly in the Introduction and more fully in the Commentary with these objections, and I have tried to elucidate how the Declaration as a whole affects our position for the better.

In conclusion, I have to thank the editor of the *Fortnightly Review* for permission to reproduce part of an article on the Declaration which I wrote for that Review ; Dr. Ernest Schuster, who has discussed the Declaration with me many a day, and who,

out of his wide knowledge and experience has given me a number of valuable suggestions ; and my father, Mr. Herbert Bentwich, and a friend, who would be nameless, for reading the proof sheets and improving them.

NORMAN BENTWICH.

LINCOLN'S INN,

February, 1911.

