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Douglas Owen

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CAPTURE AT SEA: MODERN CONDITIONS AND THE ANCIENT PRIZE LAWS.

By DOUGLAS OWEN, Esq., Barrister-at-Law, Inner Temple,
Author of "Declaration of War: A Survey of the Position of
Belligerents and Neutrals, with Relative Considerations
of Shipping and Marine Insurance, etc."

Thursday, 6th April, 1905.

Colonel Sir H. M. HOZIER, K.C.B., in the Chair.

I SUPPOSE it may safely be said that since history began there has been no century so full of changes as the nineteenth. Changes in territorial possessions, in international law, in the basis of maritime warfare, in methods of communication, in systems of trade. And these changes have acted and re-acted one on the other until there is hardly a direction in which it cannot be truly said that the former things have passed away. In most instances the fact becomes obvious the moment we begin to reflect upon it. But there is one notable instance in which we are at a disadvantage. We know well enough what were the value and extent of the right of capture of the enemy's ships and cargoes in former days; but these days were 90 years ago. From then till now we have been at peace upon the seas. Consequently we can only arrive at a conclusion as to the nature and extent of the changes by comparing the former conditions of maritime warfare with those which the progress and evolution of close upon a century have imposed upon us. What I hope to do this afternoon is to make it clear to you that, in fact, both the ancient right itself and its value and effects have shared in the widespread change; have shared in it, indeed, to an extent which, on a calm review, seems to demand the serious attention of the Empire. The best way to set about the task which I have undertaken is, I think, to carry you back to the times that were; to place before you the conditions as they used to be; and then to indicate the many and important ways in which the former things have passed away. I offer no excuses for repetition of this phrase either now or later on. For my object is to make it clear that the former things have very greatly passed away, and that with this silent and, to a great extent, unnoticed passing, the right and the opportunity of prize-making have entered on a new and very different phase.

THE COLONIAL SYSTEM.

The great discoveries, some three centuries ago, of Vasco de Gama in what we call the Old World, and of Christopher Columbus

in the New, placed Portugal and Spain in possession of sources of wealth as vast as they were new and wonderful. In the distant East and on the long road to it, Portugal gained concessions, established factories, and founded colonies. In the West, Spain occupied new lands, and claimed possession over a prolific archipelago. The rival States of Holland, England, and France were not slow to perceive the advantages which the enterprise of their great navigators had conferred on Portugal and Spain. They hastened to follow the tracks new marked to commerce. As the result, in course of time the several maritime States all found themselves more or less in jealous rivalry in distant seas. Quarrels commencing in Europe were fought out in Eastern seas and on Western shores and isles, and at their conclusion lightly-held territories were not seldom found to have changed their owners. The process was through generations a recurring one. We have only to refer to the history of almost any one of the settlements in question to realise the fact. Take Ceylon in the East. We read of the invasion of the Portuguese in 1505; of the capture of Colombo by the Dutch in 1603, followed by "frequent conflicts"; and then in 1795 of the final seizure of the island by the British. Cape Colony, "the half-way house to India": first Portuguese, then Dutch, then British, next restored to Holland, then again seized by the British and retained. Mauritius: discovered by the Portuguese, occupied and subsequently abandoned by the Dutch, occupied as the rich "Ile de France" by the French in 1715, and seized and retained by England about a century later. The gold-producing territory of Guinea: first Portuguese, then Dutch, now British. Dominica: first Spanish, then British, then French, then again British. Demerara: Dutch, British, Dutch, and again British. Trinidad: Spanish, British, French, and finally British. Hispania, San Domingo or Haiti—the first two names common in the old days of capture: first Spanish at the cost, it is said, of 3,000,000 lives, native men, women, and children, then French, and now a Black Republic. You will recognise the fact that for two centuries colonial possession, as between the European States, was in a condition of unstable equilibrium; it was a case of:—

"The good old rule, the simple plan:
 'He may take who has the power,
 And he may keep who can.'"

"The object of each nation," says Professor Seeley, "was to increase its trade, not by waiting on the wants of mankind, but by getting exclusive possessions of some rich tract in the New World." Colonies or settlements so acquired became, in effect, part and parcel of the parent State. They were supplied and governed from home, and their trade was made a close preserve to the motherland. This was known as the Colonial System, often referred to in prize court judgments as the enemy's "privileged trade." And when war broke out and the enemy sought to escape the pressure which our cruisers exercised on his trade, colonial and coastal, by licensing neutral ships to help him in his difficulty, we seized the neutral ships. We regarded them as enemy transports. To this stringent rule we allowed for a lengthy period no exception, but eventually we modified it only to this extent: that neutral ships might carry cargo from the enemy's colonies to British ports or to the neutral ports at which the carrying ships or their cargoes themselves were owned. Captain

Mahan explains that the war-drain on our sailors compelled us to relax the stringency of our laws in order that we might receive neutral assistance in our immense trade; but any vessel trading between the enemy mother country and its possessions was deemed an enemy vessel and her cargo enemy property. It is easy to see that with the various States engaged in an eager competition for territory, occasion for dispute was ever present; the relation was one in which commerce and hostilities were intermixed. Commerce led to war, and war fostered commerce. War fostered commerce partly because the States supported to the utmost the national trade, and partly because they encouraged the building of ships to be used in war, which ships, when peace was restored, served to swell the fleets of commerce. A ship in those days was available either for peaceful or for warlike uses. In Pepys's Diary, for example, we find the great diarist pressing the owners of half a dozen merchantmen to lend them to the Admiralty to be used as ships of war against the Dutch. Now, the Dutch had been for 80 years at war with Spain—a war which came to end in 1648, with Holland strong upon the seas and the possessor of rich colonial settlements. With her numerous fleets released for commerce, she was free to fetch and carry for all the world. Amsterdam was the world's exchange. The ships of the Dutch outnumbered ours even in the ports of our own colonies. The position was intolerable to us, and in 1651 we set ourselves to wrest from the opulent and commercial Dutch Republic the carrying trade of Europe.

THE BRITISH NAVIGATION ACT.

This great Act of 1651, directed principally against the Dutch, was at the outset, and for very long remained, the Magna Charta of our shipping trade. By it we closed absolutely the ports of all our American and West Indian colonies and our foreign settlements generally to all foreign vessels whatever. Foreign vessels might not "come to, trade in, or traffic with" them. Moreover, we declared that in future many important articles of trade should be imported, wherever from, only in British vessels. Great was the indignation of the Dutch at what they described as "a vile act and order." War ensued between us and Holland. In 1667 we were once more at peace, but the possession of the sea was claimed as ours. In five years' time, however, we were again fighting the Dutch, and presently the French. Between 1700 and 1814 we fought France during 47 years, Spain 46 years, and Holland 11 years—sometimes singly, sometimes two at once, sometimes all together. It was a constant struggle for territory across the seas. At the middle of the 18th century we were regarded by all the world as a maritime despot, aiming at the destruction of the trade of other nations. The Armed Neutrality against us was the outcome of this sentiment. We carried on our trade, so to say, with our knife between our teeth, ever engaged in the defence of our own colonies and shipping and the capture of the enemy's. We captured sometimes a colony, sometimes single ships, sometimes a convoyed fleet. Our war-ships and a venomous brood of privateers were ever bringing prizes to our ports. Privateers were financed and fitted out as speculations. They were the prospective gold mines of the day, and rich sometimes were the veins they struck. Even Pepys and his fellow members of the Naval Board found it not inconsistent with

their position to run, as a financial venture, a "private man-of-war." Said Pepys, referring to her: "I hope we shall do pretty well toward getting a penny." No wonder, then, that when in 1781, as Laughton tells us, war broke out with Holland, on the 2nd January, thirteen days after the declaration of war, 545 letters of marque passed the Stamp Office. The nation tingled with the lust for prizes. And no great wonder at it.

CAPTURE OF ENEMY SHIPS AND GOODS.

One can hardly read of our ancient prizes even to-day without in some degree realising the excitement and enthusiasm which they must have caused. In the short war with Holland (1652-1654) we are said to have taken 1,700 prizes, worth £6,000,000. If this £6,000,000 was the money value of that day, and not its present equivalent, some of these prizes must have been of very great value, for in our following war of 1665-1667 the average value of our prizes was apparently about only £800 apiece. The MS. prize court returns of that date, now in the British Museum, show grand total sale proceeds, £676,248. The total captures were apparently about 800 ships. The cargo of one of them sold for close on £15,000, and some eight or ten ranged in value from £6,000 to £14,000. Many, however, sold for quite paltry sums, the average being, as I have said, about £800 per ship. So that it is easy to imagine what the excitement must have been at captures of ships in cases where the Dutch or Spaniards seem to have put a large proportion of their eggs into one basket. The Spaniards especially, for it was they who, with their almost fabulous shipments from the New World, chiefly made the name of Prize so dear to us. In 1657 they loaded us with treasure. We seized two of their galleons, a portion of the great Mexican silver fleet, so richly laden with gold and jewels that it took 38 wagons to carry the treasure from Portsmouth to London, which it entered, we are told, with great pomp. The Spaniards were a naval bank to us. In 1702 we took from them in Vigo Bay 15 huge galleons, the value of the prize being estimated at not less than £2,000,000 of our money. The great galleon captured by Anson in 1743 contained treasure worth £500,000. It was landed at Portsmouth, sent up to London, and paraded in triumph through the city in a procession of 32 wagons, the ship's company marching with colours flying and band playing. Six years later we made a capture from the French—£300,000 in specie—which also was paraded through the city streets. Then, in 1761, came the great capture—the historic capture—of the "Hermione," the Spanish treasure-ship from Lima. The admiral and captains received as their share £65,000 apiece, the lieutenants £13,000, warrant officers about £4,000, petty officers nearly £2,000, and even the common seamen £500 per man. We all know the story of how the men on arriving at Portsmouth bought up all the watches in the place and fried them over the galley fire. On the outbreak of the war with Holland in 1781, we captured at St. Eustatia, in the West Indies, a fleet of above 150 merchantmen, mostly laden with valuable cargoes. In 1796 two frigates and a privateer captured a Dutch fleet of immense value; out of 72 vessels only 3 escaped. In 1799 four men-of-war captured off Cape Finisterre two Spanish treasure-ships. So vast was the booty that when the prizes reached Plymouth it required 63 artillery wagons to convey

it to the citadel. In 1804 we lay in wait for and captured two more treasure-ships, of which the value was immense. I may remark that we were not actually at war with Spain at the time; but this was a secondary consideration. Then came the "Pallas's" great prizes in 1806. After capturing ship after ship on the way to Spain, freighted with diamonds, dollars, and ingots, the "Pallas" sailed into Plymouth, each of her mastheads decorated with a massive golden candlestick, originally shipped at Mexico for some cathedral of Old Spain. No wonder that the King's Navy and its friends ashore thought much of the possibilities of prize. Owners of privateers, too, and their crews, and the speculators sending them to sea made numerous and splendid hauls. In 1778 the "Two Brothers," of Liverpool, captured a French East Indiaman with a cargo valued at 2,000,000 livres or more. The "Amazon" in the following year captured and brought into Cork a Spanish galleon from Manila, "carrying the King of Spain's gold and silver," valued at above £1,000,000. In 1793 the "Pilgrim" captured a French East Indiaman with a cargo valued at £190,000. And so on. The excitement and the interest were constantly kept at the highest pitch, by captures big and little, whenever we went to war.

Still, it is just as well to remember that the game was not all profit. So little, indeed, was this the case that it seems more than doubtful whether if the individuals who made money over the system had been those who suffered by it, they would have looked upon it favourably at all. Captain Mahan mentions that the French privateer "Bordelais," captured by us in 1799, is reported to have taken in four years 164 prizes, of the net value of £1,000,000 sterling. Between May, 1756, and July, 1757, we took from the French 681 merchantmen and 91 privateers. But there was a set-off: they had taken of our ships 637—637 as against our 772. It was not much satisfaction to our traders that against their own loss of 637 ships other than themselves had taken even more prizes from the French. The American War of Independence began in 1775. As the result of an inquiry before the House of Lords in February, 1778, we read that the value of prizes taken from us had been £1,800,000, against prizes taken by us worth £1,808,000 — only £8,000 more. The stupendous loss to our traders by the stoppage of business through fear of capture was not assessed. Our merchants had, in fact, whenever we were at war, a very bad time. Theirs were the losses but not the prizes. They frequently complained bitterly. In 1814, for example, grievous complaints, as the result of public meetings, were addressed by Liverpool both to the Admiralty and to the Prince Regent personally. In the same year a Glasgow meeting addressed strong representations to the Throne on the neglect of the Admiralty. The losses suffered by the Clyde, it was declared, were injurious to commerce, humbling to our pride, and discreditable to the directors of the nation's naval power. Liverpool and Glasgow were in tears at their losses. I am aware that in these remarks on so sordid a consideration as the losses suffered by our shipowners and merchants I am travelling rather wide; but I feel bound to be just to my subject as a whole. Gold and ingots and diamonds captured from the enemy, with golden candlesticks a-top of the captor's masts, were after all only one side—the bright side—of the shield. Returning, however, to the bright side, let me recall the fact that, vast as was the wealth—his ships and their affreightments—which in the days referred to we

captured from the enemy, we had means of indirectly supplementing it. One of these was by the declaring of blockades.

BLOCKADES.

The history of our maritime wars is more or less a history of blockades. In old days we blockaded the enemy's ports, sometimes this or that, sometimes these or those, for a variety of reasons: To prevent his war-ships from getting out and preying upon our commerce or adding to the strength of his fleets; to prevent supplies from leaving for his colonies; to prevent supplies from his colonies from getting in. We stopped or tried to stop all ocean traffic and all coastal traffic with the port or ports blockaded. The ports were his country's mouths, and by closing them we hoped to occasion him, and no doubt very often did occasion him, a maximum of discomfort or possibly of distress. Neutral vessels which were tempted by the hope of gain to carry on the enemy's trade we seized for breach or contemplated breach of our blockade. The prizes which thus fell into our lap were neither few nor far between. A neutral vessel which sailed with intent to break our blockade was *ipso facto*, with its cargo, prize of war.

ENEMY GOODS IN NEUTRAL SHIPS.

We who have so recently suffered greatly, both commercially and in our *amour-propre*, by the seizure of our vessels suspected of carrying contraband of war, may imagine how great was the exasperation of neutral States in former days when their ships were being continually stopped and searched, and often carried into belligerent ports on suspicion of carrying enemy goods. In numerous instances it was agreed by special international treaty that, as between the contracting States, the character of the vessel should determine that of the cargo, and Great Britain herself was party to several of such compacts. In 1780, as a counter-blast to a pronouncement issued by France insisting on the universal adoption of this principle, we promulgated an order affirming the ancient right. On this was issued by the various Powers the famous declaration which brought us face to face with the great maritime confederacy known as the Armed Neutrality. We would have none of the new pretension, and in 1799, being then at war with France, we made this very clear. So that the practice and the law were this: that if the enemy carried his property under his own flag we condemned both ship and cargo; if he put his property under the neutral flag, enemy property it still remained, the neutral flag notwithstanding. The old prize court decisions indicate clearly enough that this was a right of no mean value, both to our Navy and our privateers.

Putting privateers out of the question, the number of captures by our public ships was very great; so great, indeed, as to call for explanation. Our habitual and systematic practice of sending out independent cruisers had certainly much to do with it.

INDEPENDENT CRUISING.

In the old days, whilst a small warlike fleet or squadron might sail with instructions and an object more or less definite, the con-

ditions required that a good deal of latitude should be left with the commander. Communications were so slow that conditions changed weeks or months before news of the change reached England or the combatants, and commanders had to act for the best in the conditions as they found them. Thus we read of a fleet on the way to lay siege to Pondicherry attempting to surprise Mauritius; and a squadron frustrated at one point in the West Indies promptly sails off and is successful at another. Time was no particular object, and was filled up by cruising in the track of merchant shipping. We were continually sending out expeditions to every part of the world, with more or less of a roving commission, to damage the enemy, ashore or afloat, as opportunity might seem to offer. The seas, too, were swarming with privateers preying on our commerce, and to keep these in check independent cruising was a necessity. Small fleets conveyed convoys out, and were free for prize-making on completion of their mission. Small squadrons were specially told off to lie in wait for particular trading fleets. Single ships were sent out here and there. We sent out reliefs and stores to our colonial naval bases; frigates were sent off with despatches; vessels, one or two at a time, were sent off to cruise in the neighbourhood of the fleet controlling them. Ships came home for repair and sailed again, and always with a lively sense of the possibilities of prize. "The seas about Europe," says Captain Mahan, "were alive with British cruisers, each one of which was wide-awake for prizes." In 1813 the "*Phœbe*," after sharing in an attack on Madagascar, sailed right across the Indian and Pacific Oceans, to cruise off South America. As a special and well-earned compliment to the frigates "*Amethyst*" and "*Emerald*," the admiral of the Biscay Fleet in 1809 gave their captains leave to cruise for a month on their own account away from the fleet; and they took at least a prize a week. We fought and cruised at large from Havannah in the west, to Manila in the east. We blockaded Brest, attacked Cherbourg, bombarded Havre, assaulted Rochefort. We were everywhere at once, in fleets, in detachments, in companion cruisers, and in single ships. So much was this the case that a considerable portion—in Vol. 5, 80 pp.—of each volume of "*James's Naval History*" is devoted to the history of "Light Squadrons and Single Ships," and of their gallant fights and many and valuable prizes. It is stated in that interesting work, "*The Liverpool Privateers*," that in 1807 we possessed 1,060 men-of-war, and in those days there was open to the smallest of these a capital chance of prize.

MERCHANT FLEETS UNDER ARMED CONVOY.

The system of convoy was in former times a special feature of maritime warfare. Whether on the whole it gave greatly increased safety to trade it is difficult to say. I am myself rather inclined to think that while it proved a great protection against privateers, which would naturally avoid trying conclusions with the convoying ship or ships-of-war, a whole fleet of merchantmen would be a strong attraction to war-ships as distinguished from privateers. Over and over again we did, in fact, after overcoming or driving off the sheep-dogs, take possession of the whole flock, and sometimes, notably at the hands of the Dutch in 1665, it was similarly our own fleet to which this happened. The late Admiral Colomb, in an address

delivered in this room in March, 1887, referring to our loss of convoyed ships in 1794, said:—"These gains to the enemy and losses to us showed the futility of the system of convoy," unless with a guard of overwhelming strength; otherwise the convoy was a "mockery of protection." It would be easy to mention many important captures of convoyed fleets by our war-ships, but a reference to the history of our Mediterranean campaign of 1812-1814 shows that the flotillas which we then captured or destroyed were both numerous and valuable.

Whether the capture was of single ship or of a fleet, condemnation was required to validate the prize. The conditions formerly prevailing were such as greatly to assist the captors.

CONDEMNATION OF PRIZES.

In old times the traditional usage was such as to afford considerable facilities for the condemnation of our prizes. The old records mention over and over again that this or that of our vessels had carried a prize or prizes into Leghorn, Madeira, Messina, Naples, and elsewhere in the Mediterranean. The *Gentleman's Magazine*, for example, for November, 1746, mentions that 16 French ships had thus been sent into Leghorn or Messina to be condemned. Lord Stowell pronounced the practice to be bad in international law; but as we had ourselves long been guilty of it, he declined to declare it illegal when exercised against ourselves. It was, of course, the first object of the captor to get his prize safely into port, there to lie until the papers had been sent to England and the order of the prize court had come back. Consequently, a state of the law which enabled captors to carry a prize into a neutral port near at hand, and leave them free to renew their quest for prizes, was a distinct advantage. I mention this subject of facilities of bringing in prizes for condemnation much in the same sense as I referred to the sailing of merchant fleets under convoy—not as being of great moment in itself, but as a condition of maritime warfare which, with many others, has undergone material change. What these changes are we will now consider. The first of them is easy to identify.

THE GREAT GEOGRAPHICAL CHANGE.

Instead of this head I might have said "Our Unquestioned Supremacy at Sea," for in the old days, broadly stated, the degree of a nation's supremacy at sea was largely the measure of its colonial possessions. At the conclusion of the prolonged warfare which came to an end in 1815, our mastery of the seas was beyond dispute, and with this mastery came to us the various foreign possessions for which the several maritime Powers had long contended. If you look at any old list of prizes you will find that the ships were very largely bound to or from this or that foreign possession, though the same possession might chance sometimes to be Spanish, sometimes Dutch, or sometimes French. Let me mention some of those most frequently figuring in the old prize lists:—Ceylon, Mauritius, Cape Colony, Guinea, Dominica, Trinidad, St. Vincent, St. Lucia, Demerara, Granada, French Canada. These now are ours, and their trade is ours. If we were again at war with their former

owners the rich prizes which the hostilities of former times provided for us will have vanished from the seas. When we took possession of the tree we acquired the fruit. And, for the most part, what has not passed into our possession has become independent of its former proprietorship. Buenos Ayres, Chili, Peru and Mexico, Cuba, Porto Rico, San Domingo, the Philippines; in the event of war between us and their former European owners they will, for any purposes of prize-producing trade, practically have disappeared from the map. Those splendid Spanish galleons, laden with gold and silver from Mexico and Chili, Manila, and Peru; the tall Spanish merchantmen, laden with the wealth of the New World, which came staggering home into the arms of our expectant fleets, are gone—for good and all, are gone. Needless, therefore, to enlarge upon the further fact that so far as the West Indies are concerned their glory also long has faded. With the abolition of the slave trade on the one hand, and the development of the American Southern States and of the vast Eastern trade on the other, the importance of the West India trade has greatly paled. Lima, Mexico, and Manila, too—names the bare mention of which seems to evoke from the mists of the past the gleam of gold and silver and the flash of gems—have settled down amongst the have-beens. Gold and diamonds now come from sources formerly unthought of: from South Africa, from Australasia, and from the Great North-West—British possessions all; and in British ships. Truly, when we reflect upon it, the former things have greatly passed away.

ANNULMENT OF THE NAVIGATION LAWS.

I say "Laws," generally, because it is evident that though our Act of 1651 was far-reaching and compelling, the other Powers had laws which either we adopted as our model in 1651 or which they later copied from our statutes. When or why the other States repealed their Acts, so far as they have repealed them, matters little; the point is that they have mostly gone. Our own Act went in 1849, and a prodigious stir there was about it. It was the time of the Free Trade movement. Shipowners and shipbuilders were wild with indignation at the outrageousness of the proposal. Three-fourths of the male population of Liverpool—47,000 signatories—petitioned Parliament against it. The *Times*, however, was dead against them. Lord Carlisle, in the House of Lords—he had evidently been reading Adam Smith—declared that to the Navigation Laws we owed two protracted and sanguinary wars. Ultimately—in 1849—the 1651 Act was repealed, and in 1854 our coasting trade was similarly declared open. Practically nothing now remains of the great European system which in our former wars played so important a part in enhancing the value and extent of our right to make prize at sea. In early days the struggle was for the lands across the sea, and we eventually secured them. In the struggles of the future these possessions will remain, as in the past, with the Power supreme at sea. But, as it stands, no nation or coalition of nations is likely even to think of annexing our colonies so long as we shall retain command of the seas. From which it seems to follow as an inevitable corollary that so long as we retain such command the colonial wars of former times can never be revived.

COASTAL TRADE: COASTAL BLOCKADE.

I have already remarked that the enemy's domestic trade was formerly dependent on the coastwise traffic, and that to create for him a maximum of discomfort we resorted largely to blockades, which incidentally brought us a good many prizes. To-day, in peace, coastal traffic is conducted on a scale of vast magnitude, because of the convenience, and especially of the cheapness, of the method; no carriage so cheap as sea-carriage. The outbreak of war to-day would summarily stop the coastal traffic of the navally weaker of two belligerents, and would more or less seriously affect that of the stronger. The risk of capture and its attendant costliness would turn the scale in favour of inland communications—inland communications which in ancient times were non-existent. Since those times, railways have been introduced and so developed as to link together city, town, and port, whilst inland water-ways have on the Continent been created and developed to an extent of which most Englishmen have no conception. Even if it were possible for us to close absolutely our adversary's ports, his trade would go on with little interruption. His ships he will be able, or indeed compelled, to lay up in port. Of course, the inland traffic will be costly; but in old days traffic had perforce to be kept up coastwise, no matter what the risks of capture. To-day France can supply herself through Belgium; Germany, through Holland and Belgium; Holland, through Belgium and Germany; Russia, through Germany and the Low Countries. What occurred, even in 1854, when inland communications were insignificant compared with what they are this half a century later? In August, 1854, Mr. Cobden, as I gather, had been painting gloomy pictures of what would happen to certain of our industries as the result of stoppage of the Russian trade. But what did happen? Said the *Manchester Guardian* of that date:—"Our view was that with all the modern appliances of internal traffic which now cover the face of Europe, with the new systems of canals, internal river navigation by steam, and above all with the railways which, after covering Belgium, Germany, Austria, and France, have thrust forward into Russia, it would be impossible for any state of things which could arise to deprive us of anything that Russia could give and which we required. Now to the proof. The Russian ports in the north have been blockaded since last November. For some months they were ice-bound. Before the ice cleared away the English fleet took its place as sentinel to prevent the escape of a single ship. But, notwithstanding all this, the official accounts of the export of tallow over the land frontier show that 26,000 casks had been exported in the present year against 27,600 last year, a difference which is quite immaterial. Through the other Baltic ports our supplies promise to be quite adequate to our wants." On the 23rd December, 1854, the *Times*, in a leading article, said:—"The Allies are not compelled at present to exact from the King of Prussia so great a sacrifice (*c.g.*, joining in the war), but they may in justice require that he may cease to allow a trade to be carried on through the Prussian ports, which is one of the principal means of sustaining the resources of the enemy. We may, in a word require of Prussia as the first proof of her desire to regain her position in the councils of Europe, that she hermetically seal the Russian land frontier to the transit trade." Evidently, from contemporary writings, the discovery of the ineffectiveness of mari-

time blockade, owing to development of inland communications, had come upon us with astonishment and disgust. We had failed to recognise that the things of our former wars had passed away. The days for coastal blockade, in the case of European States, with any thought of starving out the enemy, or with any idea of making prizes of his coastal traffic, have gone for ever. Islands we can blockade, as the United States blockaded Porto Rico, or fortresses we can blockade which are also invested by land, as Japan blockaded Port Arthur; but seaboard which has inland communications at the back of it can, with the object of old days, no longer be blockaded. The immense possibilities of railway communication, even with only a single line, and that some 8,000 miles in length, are eloquently testified by Manchurian experiences. And the practicability even of blockade itself, on anything like the old lines seems very doubtful. In these days of long-range shore guns, of swift torpedo-boats, of floating mines, and of possibly deadly submarines, blockades may have to be carried on at such a distance from the territory blockaded that to make the blockade effective a greater force will be necessary than can be spared for the purpose. Mr. Pretyman, when recently introducing the Naval Estimates, remarked that "the use of the submarine extends the range of the defence far beyond the guns of the forts defending any harbour"; while we are further told that the radius of action of submarines now approaching completion in this country is no less than 500 miles; and probably the same will be pretty much the case as regards the submarines of other countries. But, changes in the conditions as affecting blockade apart, it is obvious that the altered conditions of inland traffic have greatly modified, even if they have not annihilated, the enemy's former necessity for coastal traffic. And in like manner they seem calculated to affect his traffic overseas.

INLAND COMMUNICATIONS: THE ENEMY'S OVERSEAS TRADE.

With our knowledge of the potentialities of inland communications, as in course of the past century gradually evolved, let us imagine ourselves at war with Continental Power A, Powers B, C, and D remaining neutral. Power A knows that any of the national merchant-ships sailing out or home will be liable to be captured and condemned. What happens? A's shipowners will lay up their ships, and the national trade will be carried on under the neutral flag. Goods neutral-owned will be taken direct to or from the belligerent non-blockaded ports, the rest will be shipped to or from the nearest port of neutral Powers B, C, or D. It will plainly be cheaper for the enemy to trade through the neighbouring neutral ports than, with the heavy burden of war premiums on ship and cargo, and war freights, to trade direct, in his own ships. It is reasonable to believe that what happened in 1854, with the scanty inland communications then available, will repeat itself on a very large scale under the conditions which will prevail when next we are at war. For trade will and must always follow the cheapest channel, and with the risk of capture active in even a moderate degree, neutral ships and neutral ports, with inland communications to the belligerent centres, will cut out by reason of greater cheapness, direct trade saddled with the burdens incidental to risk of capture. I will refer to the Declaration of Paris presently, but meantime the following quotation from a speech of

Lord Salisbury in 1871 will not be out of place:—"We are too apt," said his lordship, "to be misled by the great things the fleet did during the great Revolutionary War. . . . I believe that since the Declaration of Paris the fleet, valuable as it is for preventing an invasion of these shores, is almost valueless for any other purpose."

Conditions having also changed as regards sailing under convoy, the obligations of prize crews, and the necessity for, or propriety of independent cruising, let me briefly refer to these considerations, even though, perhaps, no great importance attaches to them.

ANTIQUATION OF CONVOY SYSTEM.

It is a common notion that it was the condition of war which created the system of sailing in fleets shepherded by men-of-war. The armed convoys were, of course, the product of ocean warfare, but the protection was largely evolved to meet the needs of conditions long existing. From the earliest days it was the mercantile habit to put to sea in fleets. Let me go back to the ages for an illustration. I will not apologise for the quotation, for the words are a poem in themselves:—"And king Solomon made a navy of ships in Ezion-geber, which is beside Eloth; on the shore of the Red sea, in the land of Edom. And Hiram sent in the navy his servants, shipmen that had knowledge of the sea, with the servants of Solomon. And they came to Ophir, and fetched from thence gold, four hundred and twenty talents, and brought it to king Solomon." And ever since, till old conditions came to an end, ships sailed in fleets or company. Says De Foe, in "Robinson Crusoe," in 1719: "The Brasil ships come all in fleets," and he might have said the same of many other trades. Often the ships and their cargoes were of one ownership, or the trade was a monopoly. When war occurred, the State provided them with armed protection, and the system was extended to the point that outgoing ships were obliged to sail for a safe rendezvous, there to join the fleet of merchantmen waiting to be convoyed beyond the danger zone. The Act 6 Anne, cap. 13 (1707), provided that 43 ships of war should be told off to act as convoys in proper stations. In 1803 was passed a Statute of 18 Sections (43 Geo. III., cap. 57), with stringent regulations for the convoy of ships during the war with France. In 1872 this legislation was "scrapped" with a lot of other legislative lumber which time and altered conditions had rendered obsolete and useless. The Naval Prize Act and the Naval Discipline Act provide punishment for breach of convoy obligations; but so far as I know there have been since the repeal in 1872, no laws or regulations on the subject. The whole thing is dead as the Act of 6 Anne. Said Sir John Colomb, M.P., in the course of an address delivered in the city in 1902:—"The primary business of our war fleet is to destroy, capture, or contain in ports, the enemy's war-ships. Until this is done, all thought of applying the Navy to the direct protection of commerce must be abandoned." And can anybody doubt, by the light of modern experiences and views of naval strategy, the soundness of this view? Altered conditions have thrown on Time's high-piled scrap-heap both the sailing of ships in fleets and the occasion for convoy. With privileged trades no longer existent, and with sailing-ships and steamers—these last a purely modern creation—and neutral

vessels generally in free competition with those of belligerents, how is it possible that any system of convoy can be evolved which would be approved by shipowners? To make swift steamers keep down their pace to that of 9 or 10-knot tramps; or, still more, to make steamers of both sorts adopt the speed—or slowness—and follow the track of sailing-vessels; or to make sailing-vessels bear up for the steamers' coaling ports, would be alike impracticable. Equally impracticable to provide all three classes of traders with separate convoy. Fast steamers would probably lose more by demurrage than they would save in insurance premium. The late Vice-Admiral Colomb, in an interesting and valuable address already referred to, dealt especially with the subject of convoy; but neither he nor those who subsequently took part in the discussion seem to have recognised how greatly the old conditions have been altered by the repeal of our Navigation Acts. In the old days our trade was strictly closed to neutral vessels; there was no neutral competition to consider. "Having no rivals who could step in and take the carrying trade out of their hands," said the lecturer, "British shipowners, merchants, and underwriters accepted the leisurely and closely ordered methods by which the Government thought fit to conduct the carrying trade of the country." Admiral Colomb recognised, as a retrospective explanation, the conditions which formerly made the convoy system acceptable to the shipping community, but he failed, I think, to recognise how greatly the alteration of these conditions will militate against any renewal or revival of it. With neutrals free—under the Declaration of Paris, doubly free—to engage in our trade, and therefore to compete keenly with our shipowners, our merchants will not employ, if they can possibly help it, vessels tied to a tardy convoy system. I agree with the late admiral, that the convoy system will not be impossible of revival; but I also agree with him that, unless shipowners cry out for it, it will not be revived. And I feel pretty confident that the conflicting interests of owners of fast steamers, of slow steamers, and of sailing vessels, together with the fact that neutral vessels not under convoy will certainly be preferred to any of them, will be fatal to any hope or thought of an agreement of the shipping community to petition for revival of the convoy system. The conditions of our commerce, too, have so greatly changed that I agree with the late admiral in his definite conclusion that "it is a human impossibility to put that commerce, without paralysing it, into a position applicable to the condition of naval convoy." That the declaration of naval war would be, as he says, "the signal for the abrupt cessation of the sailing trade all over the world," I am, however, less confident. It seems to me, indeed at least possible that the cost of coal and the difficulties of replenishing, together with the greater safety of the long-sea route to and from the East and Australasia, might temporarily create for the owners of sailing tonnage a demand to which they have long been strangers.

CAPTURE AND ADJUDICATION, TO-DAY.

In the old days, as already mentioned, prizes might be carried into the nearest safe or trustworthy neutral port, and there allowed to remain while their case was being adjudicated in the prize court of the captors. On condemnation they could be sold in a neutral port. It is hardly necessary to point out that under the obligations of

neutrality as now understood, no neutral State will be likely to assent to such a belligerent misuse of its hospitality. Prizes must be taken, at whatever inconvenience, within the territorial jurisdiction of the captors. To what extent, in the conditions of modern scientific fighting, with every man a valuable and highly trained unit, we shall be able to spare crews for the manning of prizes I make no attempt to say.

INDEPENDENT CRUISING, TO-DAY.

The history of our prize-making in the past is largely the history of independent cruising. Without independent cruising our prizes would have been comparatively few. We have already reviewed the circumstances in which such cruising was formerly a necessity. These circumstances have now so greatly changed as to support the opinion that independent cruising should be regarded as obsolete—at any rate, at the outset of war. Later it may be found possible to spare vessels for the patrol of trade routes, though here again unless the enemy shall be dissipating his forces for independent cruising, independent cruisers apparently will not be called for by ourselves. The modern scientific conception of naval warfare is to assemble your forces, to give them the strength of combination, to seek out the enemy wherever he may be, and to use the mighty war-engine thus created as a war-hammer against his fleet and forts. This was the main object of America in her recent war with Spain, and it has equally been the tactics of Japan. And I apprehend that it will be ours. When victory has been gained upon the seas, cruisers may be detached in search of prize; but so far as we are concerned, if I rightly read the logic of altered conditions, the game will hardly pay the candle. In the Franco-Prussian war, the total captures of the French were, according to information which I have received from a trustworthy source in Paris, 80 vessels—not 2 per cent. of the total German shipping. In the Spanish-American War the American captures were but few; perhaps a score. The Japanese have captured, it would seem, very few Russian merchantmen—presumably most, if not all of them, near the Japanese naval base. True, the Russian merchant fleet is small; but if it had been large, does anyone suppose that Japan would have ever given it a serious thought? I think Japan would say that, in times of national danger, she has something better to do with her mighty ships and patriotic and glory-seeking sons than to set them to scour the seas for the enemy's trading vessels. And I shall not be surprised if, when war comes upon us, this is what we shall say ourselves.

Before concluding with a reference to the important new conditions which have arisen, let us briefly recall the alterations in the old.

THE CHANGES IN THE OLD CONDITIONS SUMMARISED.

First, then, the trade which used to be the object of our attack has almost entirely become our own. The foreign possessions, at one time perpetually the sport of war, have become either ours or independent, with, in the latter case, their trade mainly carried on by us. In the very few and unimportant cases where the possessions remain with their former European proprietors, the abolition of the Colonial System has thrown the trade open, and therefore also largely into our

hands. The coasting trade of Europe, on which in times of war we used to place a heavy toll, will, on the outbreak of war, pass into the hands of the inland traffic systems, or alternatively to neutral carriers, the national coasters being superseded. As the enemy will be able to trade through neighbouring neutral ports, it will be useless, with any thought of making prize, to blockade his coast; and the vessels which formerly became our prize for attempting the blockade will no longer swell our captures. For trade must follow the cheapest channel, and if it can be more cheaply carried on through neutral ports and by inland conveyances than in the national vessels, burdened with war premiums and freights, the national vessels will be run or taken off the road. No system of convoy would affect the result, and in any case the convoy system must be looked upon as dead. Prizes which were once ours if we could get them to a neutral port have now to be brought direct to British jurisdiction. And whereas the former conditions were such as to involve the sending out of independent cruisers broadcast, with the result of prizes made galore, on the one hand the conditions now prevailing will make small demand for such a use of war-ships, while on the other the modern view of naval force insists on concentration. You will see, then, how greatly the former things have passed away. And we have conditions altogether new, of such a nature as still more to whittle down the chance of prize. First of these is the prompt intelligence of war.

CONDITIONS NEW: TELEGRAPHIC NEWS OF WAR.

In the old days ships loaded at and sailed from distant ports long after war had broken out, they having themselves no news of it. We captured all we could, and those which came into our ports in ignorance sailed into the lion's mouth, which promptly closed upon them. To-day the electric cable enfolds the world in all directions; a shipowner can communicate with the ship's agents wherever the ship may be, or be expected. The outbreak of war and the holding-up of the enemy's vessels by their owners will be simultaneous. Vessels on the high seas will be at risk, but very many even of these will learn the news from passing vessels or at an early coaling port, and will cable to their owners for instructions. Vice-Admiral Colomb, in his "Naval Warfare," states that "Prussia in 1870 prohibited her merchant vessels all over the world from putting to sea lest they should fall into the hands of France." We have already seen how short was the list of the Frenchmen's prizes. In the *Times* of 19th July, 1870, it was stated that about 100 North German vessels were detained in the north-east ports of Great Britain, and that none of them were likely to leave until the termination of hostilities unless sold to neutrals. I need not enlarge upon the subject. It must be obvious to all that in the future the electric cable will save from risk of seizure many ships which in former days would have sailed unsuspectingly into the capture zone. Moreover, in the case of enemy vessels bound to or from our own ports when war breaks out, a special grace will almost certainly be given to them.

DAYS OF GRACE.

Professor Lawrence in his recently published work well expresses the shortness of the shrift given to "the enemy within our gates" in

early days. "Until about a century ago," he says, "the custom obtained of levying, in anticipation of hostilities, an embargo on vessels of the prospective enemy. That is to say, his merchantmen lying in the ports of the State which contemplated a rupture were detained in order that there might be a rich harvest of prizes as soon as the expected war broke out." In such a case we snapped up everything. It sounds to-day like an outrage on the laws of hospitality, but in earlier days the view was different. And *a fortiori* we seized enemy property arriving in our ports after war had broken out. In 1665, in order to remove what were referred to as the doubts due to "the long intermission of any war at-sea," it was publicly declared that all vessels belonging to enemies coming into any port of the realm were forfeit to the Lord High Admiral. The doubts referred to were not as to the propriety of seizure, but as to the parties entitled to the property seized. But all this has been altered since 1854. On declaring war against Russia we allowed six weeks to Russian vessels in our ports to depart in safety. Later, thirty additional days to the enemy's vessels in our Indian or Colonial waters, while all Russian vessels on the way to British ports were to be free from capture. In every war since then this notable example has more or less been followed. In the Franco-Prussian war of 1870, in the Græco-Turkish war of 1897, in the Spanish-American war of 1898, in the Russo-Japanese war now in progress. The United States not only allowed to Spanish vessels in American ports until the 21st May—viz., 30 days—to depart in peace, but exempted from capture all vessels which had left American ports or had sailed for American ports previous to the 21st April. The unbroken experience of half a century forbids us to doubt that in all future wars we shall allow enemy's ships sailing to any of our ports to complete their voyage and depart in safety; with similar grace to vessels loading or discharging in our ports. If, in the same spirit of honouring or justifying a universal credit of British good faith and hospitality we should similarly give grace to the enemy's vessels at or bound to our coaling ports, the possibility of captures on the outbreak of war will thus be still further diminished.

THE DECLARATION OF PARIS.

The Declaration enunciated two new principles of the first importance, briefly known as the Rules of:—

1. No Privateering; and
2. Free Ships, Free Goods.

Before reviewing these important pronouncements of international law—or treaty—, let us shortly consider the preliminary question often asked: What is the certainty or probability of the future observance of the Declaration? In this consideration there are three highly important factors to be borne in mind, viz.:—

1. That the principles laid down are in harmony with modern ideas of civilisation and enlightenment;
2. That all the world has expressed accord with them; and
3. That since their formulation, half a century ago, they have stood unquestioned.

It must be admitted that these facts provide strong argument in favour of the permanence of the Declaration. The only two Powers which have not formally ratified it by their signature are the United States and Spain. In their recent war, however, the United States announced the intention to adhere to its conditions, while Spain declared the conclusion of the Government that "the fact of not having adhered to the Declaration did not exempt Spain from the duty of respecting the principles which it enunciated." The right to commission privateers was reserved by Spain; but, as we know, a proposal to resort to privateering was never seriously discussed. In dealing with the two rules separately I will submit special reasons for believing in the continuity, the permanence, of the Declaration; but meantime I submit that the three considerations just mentioned afford ample ground for believing that no Power is likely to incur the odium, even if willing to encounter the possible risks, of going counter to principles which are humane and reasonable in themselves, and on which the whole world has set the seal of approval. Let us take these rules or principles in order.

ABANDONMENT OF PRIVATEERING.

I have already mentioned that in their recent war, neither Spain nor the United States, both of them being free to do so if they had pleased, resorted to privateering. It is a barbarous right, and if both the United States and Spain had used it, grievous injury would have resulted to both. Whether the reluctance of both Powers to resort, in the face of public opinion, to an obsolete and discredited weapon, or the sense of each of its two-edgedness, or a doubt as to the practicability of employing privateers, which sooner or later would have to try conclusions with a modern ship of war; whether, I say, it was any one or all three of these considerations which decided the combatants, the fact remains that, neither Power being a signatory to the Declaration of Paris, both abstained from resort to privateering. Civilisation has greatly advanced, no doubt, and also an increased sense of its obligations. But it is not only civilisation which has advanced, naval science has advanced still more, and in my opinion the fact is fatal to privateering. In the old days of wooden sailing-vessels, the difference between ships of war and merchantmen was largely one of equipment. We have already seen how Pepys borrowed merchantmen for the public service. And when in 1804 the gallant *Dance* with his merchant fleet put to flight the armed squadron of Admiral *Linois*, the fact was largely due to the French admiral's mistaking the big Indiamen for ships of war, thereby, as Mahan remarks, "making himself for a brief period the laughing stock of both hemispheres." In those days smooth-bore guns were used, battles even between war-ships were fought at close quarters, and boarding was the ordinary conclusion of the fight. There was, in those days, in build and armament, no vital distinction between ship of war and privateer, and not infrequently the privateer proved herself as good as the war-ship. In 1780, for example, the Liverpool privateer "*Vengeance*" surrendered to two French frigates only after fighting them both for two hours. Nowadays the fighting ship is heavily armoured, and, besides the deadly torpedo, carries guns throwing shells of tremendously explosive force; and one well-aimed shot from

a distance of several miles would wreck the best-built merchant-ship afloat. And the crew of a privateer could hardly count on much sympathy if they were allowed to share the fate of the ship. The opportunities of making prize would have to be great indeed to induce either speculators to expose their property, or officers and crews to risk their lives in such a venture. And if my conclusions, to be presently set forth, are generally correct, I think it will be recognised that these opportunities will be greatly lessened. For the former things, in privateering also, have passed away. And I think it will be recognised by future reviewers of the history of maritime warfare, that the sinking of the "Alabama" by the "Kearsarge" in 1864 set once for all a seal upon the fact. You will remember that the Alabama was specially built for the Confederate States to make war on Federal commerce, and that she was sunk by the shot of the "Kearsarge," which vessel had been protected by being wrapped over her vitals in a 6-foot belt of chain-cable, planked over. Against a modern war-ship with her defensive armour, powerful rifled ordnance and torpedoes, the unprotected private ship of war would not keep afloat for a quarter of an hour. If any doubt be entertained as to the maintenance of Rule I. of the Declaration of Paris, it will, I think, not survive an impartial consideration of the fearful risks—porcelain against pot—which will now await the privateer.

Lest it should be supposed that I have overlooked the point, let me remark that subsidised or other large and costly merchant vessels placed under the State flag and commission will be public vessels and not privateers. Any such vessels, are, however, much more likely to be used for transport or for coaling and equipment purposes, under naval protection, than employed as privateers. But if so employed, their structural defences will remain those of a merchant vessel, with all its warlike imperfections.

Let us now consider the second in order, but, in point of its immense importance, the first and greatest of the Declaration clauses.

FREE SHIPS, FREE GOODS.

The effect of the No Privateering clause in the Declaration is to relieve the enemy's property from capture by other than a public or national vessel. The effect of the Free Ships, Free Goods clause is to relieve altogether from capture all (innocent) property of the enemy carried under the neutral flag—a change of transcendental importance. You will remember that we noticed under the head "Enemy Goods in Neutral Ships" that this principle is a concession, both to belligerents and neutrals, which has in the past frequently been the subject of international treaty, and that so strong and general was the feeling in favour of it that a century ago we had to face an armed Coalition formed to maintain it in the teeth of our relentless opposition. But in 1854, on declaring war against Russia, without, so far as I know, one word of explanation, we announced our intention not to seize Russian property under the neutral flag. And not only this, but on conclusion of the war we invited all the world to join us in signing at Paris an international treaty or declaration in the same general sense. In the matter of civilised enlightenment the treaty was, as all must admit, a forward step. All the nations except ourselves had for two centuries contended for the Free Ships, Free Goods

principle, and with the single exceptions of the United States and Spain all have now pledged themselves to its observance. The United States, though they have not signed the treaty, are strongly desirous to go further; to grant immunity to innocent private property without exception. As to the "Free Ships" principle, so far back as 1796 they had publicly declared approval of it. In their recent war both the United States and Spain voluntarily decided to respect the principles of the Paris treaty. Let it be borne in mind that it was always Great Britain—I think I may say, Great Britain only—which had stood out for the ancient right. Well, in 1856 Great Britain said, in effect, "We abandon, once for all, our old contention: we will give the world, if the world pleases to sign agreement, what the world has so long contended for." And practically all the world agreed. Why then should it be doubted that this provision of the Declaration, long so ardently desired by all the world, will any the less hold good in future wars than it held good in the Franco-Prussian war, the Spanish-American war, and the Russo-Japanese war? And, indeed, it is difficult to imagine any foreign nation, plunged into the horrors and uncertainties of war, willing to add to its difficulties by needlessly exasperating neutrals, who would bitterly resent interference with their ships on the ground that they were carrying—not contraband; a subject outside the scope of my paper; but—merely enemy goods. There is amongst neutral Powers to-day a solidarity not to be ignored, and no belligerent is likely to be willing to affront the *amour-propre* of neutrals. You will remember how, in the late Boer war, we paid compensation to the owners of the German mail steamers which we detained and searched for contraband. We were apparently under no liability to pay anything at all, and I imagine that our only reason for giving compensation was our desire to remove any occasion for neutral anger and dislike. For all these reasons, then, the supposition that any foreign belligerent Power will set at naught the Free Ships, Free Goods rule seems quite unreasonable. There remains Great Britain. It may be that we acted hastily and improvidently in signing the treaty at all; but sign it we did. It was we, indeed, who engineered it; at any rate it would never have seen the light unless we had approved it; and the national honour is pledged to it. No doubt we can withdraw from it while peace prevails, but we have never intimated the least intention or desire to do so. To withdraw from it suddenly in war or on the imminence of war at our own initiative seems to me, if the national good faith is to be considered, a thing impossible. Our prominent part in promoting the Declaration, our no less prominence in the advance of civilised enlightenment, and the unquestioned fact that all the world approves the principle which we voluntarily went out of our way to ratify, alike forbid the supposition that in this important matter Great Britain will ever be reactionary.

WHAT IS LEFT FOR US TO CAPTURE?

If you ask me what, then, under the conditions as I have sketched them, remains for us to capture, I can but answer, "Very little." Other considerations apart, how can one reflect on the Free Ships, Free Goods clause of the Declaration of Paris, on the development of inland traffic, on the world-wide availability of the electric cable,

on the modern and honourable rule of Days of Grace; how, I ask, can any reasonable and unbiassed intelligence reflect on the scope and effect of these great changes without recognising that what remains for us to capture must needs be very little? Such of the enemy's domestic trade as may be left to coastal carriage will, on the inexorable law of the cheapest, be carried on in neutral bottoms. For precisely the same compelling reason, his overseas traffic will similarly be entrusted to neutral carriers. This being so, needless to enlarge upon the fact that our possession of or command over the coaling stations will of itself close the distant seas to the enemy's steam shipping. Nothing will remain for us to capture but his vessels caught unprepared at sea when war breaks out. These the rule of days of grace and the telegraphic cable will reduce to few. And when these few have been snapped up or have managed to get safely into some neutral port or national port of the enemy, nothing will remain. France in 1870 captured, I am informed, only 80 German vessels, the United States in 1898 only, so far as I can ascertain, about a score of Spanish vessels. The captures of the other's vessels by Russia and Japan in their present war have been very few. I cannot affirm it as a fact, but I have reason to believe that, just as the Spanish vessels captured by the United States were mostly snapped up at the outbreak of the war, so the German vessels captured by the French were similarly seized. Belligerents find it vastly cheaper to lay up their own vessels and to trade under the neutral flag. Wherefore—and let it be well remembered—the Declaration of Paris is, so far as its principal clause is concerned, a "Declaration of Transfer of Belligerent Trade to Neutral Flags."

THE CONSEQUENCES TO BRITISH TRADE AND SHIPPING.

The consequences of the transfer of belligerent trade to neutral vessels may be for us, as belligerents, most serious. We have seen how the enemy, under pressure of war charges, will have to lay up his ships and let neutrals do his trade for him. Such a course may matter little to a nation having but a small carrying trade. To us, as the Pickfords of the sea, it may prove to be most serious. You may say that no nation is strong enough at sea to produce on us any such effect. I do not know how this may be; but we may find in the future, as we have found in the past, not merely a nation but a coalition of nations to oppose us. At any rate, we have no right to assume the best that can happen. But it by no means follows that because our naval strength is immensely superior to that of our adversary the fact of hostilities will not seriously hit our merchant shipping and our trade. The moment we go to war, underwriters will begin to charge war premiums, and these, in view of possible extensions of the war, may, and probably will, be a good deal heavier than the facts may seem to justify. Naval reservists will be called from our merchant-ships; many of their crews will join the forces; and of the many foreign seamen in our employ not a few will leave our Service. The demand for crews will greatly send up wages, and war premiums and heavy wages will necessitate high rates of freight. In addition, British merchants will have to pay heavy war premiums on their goods, while neutral shippers by our vessels will also have to pay stiffly for insurance, for the capture of the ship will involve heavy

charges on the cargo. The inexorable law of the cheapest seems destined to lay up our ships and cause the transfer of our trade to neutrals. If the result should include the steamers which carry our mails and passengers, the consequences to the Empire will be calamitous, for, in a sense, communications are more important than trade itself, for trade is dependent on them. I grant the possibility that there may not be sufficient neutral ships for trade at large, and that the rate of freight by them may be in consequence forced to a point at which our ships will be able to compete; but in any case, the necessary preference to neutral carriers will hit our shipping hard. Many of our ships will be laid up, and probably many will be sold to neutrals—an alternative less disastrous for their owners than the loss and deterioration otherwise to be faced. If such sales should take place to any considerable extent, the neutral tonnage will be proportionately increased. Neutrals will more or less get possession of our trade, a good deal of which we hold now by but a slender thread, and it does not follow that we shall eventually recover it. Anyone conversant with shipping will confirm me when I say that a very small difference between freights will give the trade to the cheaper, though possibly less desirable vessel; and in case of war, belligerent vessels, burdened with war premiums and war freights, will be put out of the running. Perhaps you may think that I am unduly pessimistic. Let me, then, quote the views of some great Englishmen in the past. You will find their speeches at more length in Mr. Gibson Bowles's book, "The Declaration of Paris." Richard Cobden asked in 1856: "Have you ever thought of the effects that would be produced on English shipping property in case of a war with any maritime Power? All our carrying trade would, of course, be in the hands of neutrals. Who would carry goods in an English bottom and pay 20 per cent. against capture when ships under other flags would sail without any such burden?" Sir Stafford Northcote, in 1862:—"Neutral vessels would now be the safest in the event of war, and the effect of war would infallibly be to throw out of employment a large amount of British shipping, which would be bought up and pass over to other nations." Mr. John Bright, referring in 1862 to the possibility of our being at war with another country, said:—"We should have the mercantile navy of both countries shut up, to the absolute ruin, for a time and permanency, of some of the shipowners of both countries." Mr. Disraeli, in the same year, said that the effect of our acknowledgment of the new principle "must divert the commerce of the country in time of war into neutral bottoms." As a practical comment on this view, let me here quote from the late Admiral Colomb's lecture of 1887. He said that in the four years of the Civil War between the Northern and Southern States 715 American ships were transferred to the British flag, and in the first three years of the war about 38 per cent. of the carrying trade of New York disappeared. 715 ships. The grand total of the prizes made by both adversaries in the Civil War between the Northern and the Confederate States, in the Franco-Prussian War, in the Spanish-American war, and in (to date) the Russo-Japanese war fell far, very far, short of this loss. True, the Northern owners were paid for their ships transferred; but I ask you to consider what the loss meant then and has meant since to the earning power of the United States as a trading nation. It has, I know, been said that the United States lost their

trade owing to the introduction of iron ships, with which they were unable to provide themselves. Perhaps there is a modicum of truth — only a modicum, I think — In this explanation; but, be the explanation what it may, the United States lost 715 of their ships by transfer to neutrals. Supposing that we, as the result of a maritime war, should suffer even half such a loss, what do you imagine should be our fair equivalent in captures, over and above our own losses by capture, to set against it? Said John Stuart Mill in 1867:—"If our cargoes would be safe in neutral bottoms but unsafe in our own, then, if the war was of any duration, our whole export and import trade would pass to the neutral flags; most of our merchant shipping would be thrown out of employment and would be sold to neutral countries, as happened to so much of the shipping of the United States from the pressure of two or three, it might almost be said, of a single cruiser. . . . A protracted war on such terms must end in national disaster."

"End in national disaster." - I feel almost culpable, in compressing into a few lines at the conclusion of a long lecture, a reference to contingencies so grave. My explanation must be that the subject of my lecture is the taking of enemy property, as such, by our Navy, and not the dire effects of modern conditions on our shipowners. Still, the two subjects are so bound up together that I felt compelled to make some reference, however brief and inadequate, to the danger which threatens us. For it is as great at this moment as at the time when Cobden and Bright, Disraeli, Mill, and Stafford Northcote so strongly emphasised it. The slender hair of peace has safely suspended, for half a century, the sword which threatens us; but, sooner or later, this slender hair must snap. It will be too late then to cry aloud at the short-sightedness which hung disaster over us; futile to inquire whether Liberals or Conservatives have been most to blame.

Even if, as regards the possibilities of prize, you are not prepared, without more study of the subject, to accept all my conclusions on the great changes which have taken place, you will, I think, recognise at any rate that, in the matter of captures from the enemy, the attractive possibilities of former days have passed away; but if they be double, if they be ten times as great as I have represented them, I still submit that any consideration of our ability to make prize sinks into nothingness in comparison with the danger to which the Free Ships, Free Goods clause exposes our shipowners and our trade. It would be interesting to know whether the consideration of this matter is within the province of the Committee of Imperial Defence, and, if not, to whom the nation should look for its consideration. In giving evidence last year before the Royal Commission on the Supply of Food and Raw Materials during War, I dealt with this subject, and, in conjunction with a scheme of national indemnity or insurance, I advocated one or two methods by which this danger might at any rate be mitigated. I doubt, however, whether such considerations were within the scope of the Commission's reference. We are an optimistic or an apathetic race; the charge of meeting our prospective troubles half-way we avoid by ignoring them—greatly sometimes to our eventual cost and sorrow. What I want to bring home to all of us is that if in this matter we elect to leave ourselves indefinitely in the hands of fortune, fortune may treat us as our

improvidence deserves. We may find some day our shipowners, incapacitated by war charges, helpless spectators of a neutral competition impossible to resist; find that, whilst a few of the enemy's merchantmen are being captured by our ships of war, our great national carrying trade is being bled to death by neutrals.

The Rev. T. J. LAWRENCE, M.A. LL.D. (Lecturer on Maritime Law at the Royal Naval College, Greenwich) :—I think, Sir, I may express the debt of gratitude felt by the whole meeting; to the lecturer for the most important paper he has just read to us. The historical and legal research that it contains, and the perception of the effect of the changed conditions of warfare on commerce, are most valuable. As he has said at the end of his paper, we are apt to go on in the old way without noticing that the world is changing round us and without adapting ourselves to the new conditions. On the whole, I absolutely agree with his conclusions. These changed conditions have so altered warfare that the old prize rules are no longer applicable in many instances, and therefore it seems to me, as it does to him, perfectly clear that we shall not be able to make prizes from any possible enemies as we did in the old days. I would go very much further, and say, that as things stand at present, we run the risk of dangers that were comparatively small a hundred years ago. With regard to the Declaration of Paris, we must look facts in the face, and even if we wished, I do not think we could go back from that Declaration. Morally, we are bound by it. We have prospered enormously as neutrals under it. Through it we have largely obtained that great share of the carrying trade of the world that we enjoy at the present day. Then we have to remember that sea-borne commerce has greatly increased, that nation after nation has given itself to the development of its trade, and that no neutral nation of any power—and certainly no group of neutral nations of any power—will consent that we or any other maritime State should tear up that Declaration. It is all very well to say that we can fight a Power or any combination of Powers; but when we are engaged in a life or death struggle with one or two great naval rivals, we cannot in common prudence afford to bring down upon our backs in our time of need any revival of the ancient armed neutralities. And in these days, when great and powerful Emperors go to small States, and pay special visits in order to develop a commerce that is exceedingly minute, can we believe that when a very great commerce is threatened such rulers would stand supine, while we tore up the Declaration, and resumed our old right of seizing enemy's property, even under a neutral flag? I do not think for a moment it is in any way possible. But there are one or two points of detail on which I do not feel in exact agreement with our lecturer, and I am sure he will excuse me if I refer to some of them. It seems to me that the great increase in sea-borne commerce does, to some extent, counteract the influence of the changes which have given us the possessions whose trade we used to attack in the old days, when they belonged to one or other of our enemies. There is much more freighting at sea than there used to be a hundred years ago, and consequently we might find something to pick up even under present conditions. Many States still keep the coasting trade in their own hands. Supposing, in the event of being at war with us, they threw it open to neutrals—certainly, if they only threw it open for the war—I fancy our Prize Courts would at once apply an old rule, and deem the neutral vessels engaged in that coasting trade under special licence from the enemy as being the enemy's

transports, and capture them accordingly. Not long ago, I was talking to a distinguished naval officer, who had just returned from the Far East, and he told me that when the Japanese, at the beginning of the war, opened their coasting trade to neutral vessels, and gave licence to a good many British ships to engage in it, those British ships clearly understood that they were rendering themselves liable to Russian capture; and that when Admiral Jessen made some of his famous raids from Vladivostok, those ships of ours discreetly kept in harbour until the Vladivostok Squadron had returned. That shows there is the possibility of picking up a few unconsidered trifles in the way of vessels engaged in the enemy's coasting trade. As to the question of blockade, I agree entirely with the lecturer that the palmy days of blockade are over, partly because the changed conditions of warfare make it, I will not say impossible, but only possible under comparatively rare circumstances, and partly because, as the paper we have just listened to says, when you blockade, not for the reduction of the place, but in order to cut off its trade, you get very little by it. The game is not worth the candle if the blockading Power has land means of communication. But, of course, it has not always land means of communication. Forty or more years ago, we saw the immense effect of the blockade of the ports of the Southern Confederacy, which marched by land with the North, its enemy, for the time being, and towards the South with Mexico a very undeveloped State at that time. There was very little land communication possible, and to cut off its sea-borne trade meant its gradual bleeding to death by commercial inanition. Not long ago, when we, with Germany, blockaded that extremely truculent little State, Venezuela, I believe the screw we gave them was very effective. And when somewhere about the year 1886, we had what was called a Pacific Blockade of Greece, to make her refrain from war with Turkey, and setting the East in a blaze; that blockade was effective. Under some, but rare, circumstances we could, no doubt, if we were at war with an island State, or a State that had very little means of communication by land, make a great many prizes and bring great pressure to bear on our enemy; but generally, we could do nothing of the kind, and the utmost effect would be to raise somewhat the price of what the enemy obtained from without. He would have to get it all by land carriage from the nearest neutral port, instead of having it brought direct to his own wharfs. I will not talk about the possibility, under some circumstances, of independent cruising. My chief fear is, that it might be carried on against ourselves, and I will mention that in a minute or two. But I may say now, that there seems to me to be only one conclusion that we can draw. Mr. Douglas Owen gave us a long series of facts and arguments, and I waited for something that did not come. I dare say it was in his mind, but perhaps he was not bold enough to say it. I am going to rush in where an angel has feared to tread. I say boldly that it seems to me the conclusion to be drawn is, that Great Britain ought to give up championing extreme belligerent rights, and go in for the exemption of private property from capture at sea, except in the cases of contraband, blockade, or unneutral service. I came to that conclusion, and published it more than 20 years ago. Nobody listened then. People are alive to these matters now, and possibly the question will be very seriously considered. It seems to have been proved this afternoon that we stand to gain very little under present circumstances. There is another side to the question: Do not we stand to lose enormously? Remember, that our sea-borne trade—I am speaking from memory—is something like 1,600

millions a year, 1,600 millions carried a year under the British flag. The exports and imports of the Power which comes nearest amount to little over 500 millions a year. That Power is Germany, and no one knows exactly, I believe, how much of Germany's 500 millions of external trade goes over its land frontier—certainly a great deal does—and how much goes over the sea. But all ours must, of necessity, seeing we are an island Power, come and go over the sea. Now what a target that 1,600 millions' worth of goods would be to a few independent cruisers of an enemy! Personally, I have not the slightest fear of attacks by a great naval Power, or a combination of naval Powers, upon the fighting Navy. I think it would be a match for them. But what will happen if a State, possibly with a very little fighting Navy, does succeed in making use of one or two fast and well-armed cruisers, under the command of some born sailor, some new Captain Semmes, who was the captain of the "Alabama," which worked such havoc on the United States ships? You say they will be caught in time. Of course they will, and the enemy probably by that time would have all its ports blockaded, and would not be able to send out others. That is possible, although perhaps not quite certain. But security is the very life-blood of commerce. If a few captures are made, away goes our carrying trade immediately. If a few more are made, trade of any sort would be enormously diminished. We should suffer greatly. We are like a rich man with an acre or two under glass, who has a neighbour with a little greenhouse. But that neighbour has a small boy with a catapult, and that small boy with the catapult, having an acre or two of conservatories to aim at, can do an enormous amount of damage; whereas, if the irate sufferer in return goes and smashes up the little greenhouse, he has not done very much damage to the neighbour who owns the small boy. I take it we are very much in that condition amongst the nations of the world, and not merely from humanitarian motives—although I confess they do weigh with me—but from regard to our country's safety and her commercial pre-eminence, I say again that all the indications of these changed conditions point to the wisdom of endeavouring to gain from other Powers—fifty years ago, it was only our opposition which prevented it—Powers which might come into a second Hague Conference, after the close of the present war, a general agreement to exempt private property, with the exceptions I have mentioned, from capture at sea in time of war.

Professor T. E. HOLLAND, K.C., D.C.L., LL.D. (Professor of International Law and Diplomacy at the University of Oxford): — I propose to add a very few words to those to which you have been already listening; and first, I wish to join in the thanks to the lecturer for the extremely interesting lecture which he has addressed to us. I also desire to express my general concurrence with his views, especially with reference to blockade and belligerent convoy having seen their day. As to neutral convoy, I should have liked to have heard something said. That is a very burning question at the present moment, and it is one that ought to be discussed, because I conceive that Great Britain stands nearly alone amongst the nations in maintaining, so far, the right of seizing vessels that are under neutral convoy. With regard to the Declaration of Paris, I quite agree that that is International Law now. I think, since the Spanish War, and the conduct of both parties then, it is quite clear that the nations that have stood out have come in, and it may be regarded as fixed International Law, and therefore, I am quite certain we cannot properly back out of it if we wished to do so. One point on which I am not quite clear

that I can concur with the lecturer is with regard to the probable loss of our trade by transfer to a neutral flag. Transfer to a neutral flag is by no means so easy as is sometimes supposed. Our enemies would look uncommonly closely into such transfer. First of all, the enemy recognises no transfers that take place while the ship is at sea, *in transitu*, until she has been taken possession of by the vendee; and, in the second place, he looks very closely into all the papers on board, and satisfies himself that the sale is a perfectly genuine one, or he will not recognise it, and will seize the property. So that I do not rate quite so highly as the lecturer the danger of property passing to a neutral flag during war; it is not so easy to hand over the property. As to the moral drawn by the lecturer, I was not very clear. Perhaps he can tell us what is the practical step he wishes us to take, in order to improve our position? I do not quite gather what he would do. Does he want us to go back on the Declaration of Paris? To my mind, he was not so clear on that as on the rest of the topics he touched; but, no doubt, he will clear up the point in his reply. Dr. Lawrence, who has just addressed us, has gone into a wider topic, not touched upon by the lecturer: the exemption of private property at sea. It is a topic which, as far as I know, was first started in English literature, and argued carefully by my dear friend Mr. Hall, 30 years ago, in the *Contemporary Review*. He thought that it was for the interest of the British nation to get rid of the capture of private property. The discussion has smouldered ever since. What is the real interest of this nation, I for one have never been able to convince myself. I think it is probably a question more for naval men than for lawyers. But there is this difficulty about it, which I think is a very serious one, that even supposing it is in our interest to get rid of capture of private property at sea, and supposing that the other nations come into the arrangement, which, I think, is more than doubtful nowadays, after the writings of such persons as Admiral Aube and others, in France, who, I think, indicate a somewhat unscrupulous policy of sinking and destroying everything belonging to the enemy which they come across; but that supposing the nations come into it nowadays, and that they all sign a new Declaration of Paris on the point, can we quite trust to it, when it comes to the pinch? Can we trust to a paper document in contravention of general usage and unsanctified by prescription? I do not feel sure that we can; and that is an additional scruple I have in adhering to the view that we ought to get rid of the capture of private property at sea. I doubt now if Continental opinion is so much in favour of it as it was 20 years ago, and if it were, I do not know whether it is at all for the interest of this country. Further than that, I do not know whether we can wholly trust forthwith to a paper contract, even were it signed by all the Powers, resigning the right of such capture. When I look at some of the literature on the subject, some of the expressions of the French admirals—Admiral Aube became Minister of Marine afterwards, and his words therefore, must carry some weight—when one finds such reckless expressions as even used by responsible Continental authorities, I begin to wonder whether we can trust to a piece of paper upon such a subject at all.

Major STEWART L. MURRAY (Res. of Off., late Gordon Highlanders):—I do not presume to criticise in any way the able and interesting lecture to which we have just listened. But there is another point of view from which the subject should also be regarded, and to which I would like to draw attention. The first point I should like to emphasise is this: The

lecturer appeared to think that the progress of civilisation will lead to a greater respect for treaties. I submit, however, that the opposite conclusion is more probable. For civilisation tends to draw all nations, who are connected by blood, into great Empires or Confederations. When, in the future, war breaks out between two such mighty Empires or Confederations, the interests at stake will be so enormous, the dislocation of trade and industry, the ruin and misery, caused by the prolongation of the war will be so gigantic, that it will become the supreme duty of each belligerent Government to strive to bring the war to a victorious conclusion *in the shortest possible space of time*. To this end it will be necessary to deal the enemy the heaviest possible blows in the shortest possible space of time. Before this supreme duty, all other minor duties, among which I would class that of adhering to the dead letter of fossil treaties, must give place. If such treaties stand in the way of inflicting the greatest possible damage upon the enemy in the shortest possible time, either by battle or by the destruction of resources, then such treaties will not be, and should not be, regarded. I submit that this is the practical view of the matter which we should always keep before us in all consideration of, or preparation for, future warfare, and that we should not omit any single precaution because of any old treaty which can any day be torn up and thrown into the waste-paper basket. As regards International Law, we cannot depend on that, for, strictly speaking, there is no such thing as International Law. The thing so-called is merely a collection of historical customs and precedents, and any nation powerful enough can, at any time, add a fresh custom or set a fresh precedent. For us, therefore, to in any way depend upon a thing which our adversaries can at any time alter, so as to suit themselves, will be an act of palpable weakness and folly, of which we ought never to be guilty. War, properly conducted, is, as Clausewitz says, "the application of Force in its utmost extreme," tempered only by considerations of humanity in so far as they do not interfere with the most rapid attainment of the object, and the quickest conclusion of the war. In matters of war, the only questions which the practical statesmen of the Continent will consider are those of power and expediency: "Have we power to do this, and if so, is it expedient to do it?" If they have the power, and they consider it expedient, not all the treaties that ever were written and torn up, not all the International Law that ever was theoretically discussed, and practically ignored, will prevent them. Expediency only will be their rule. This brings me to the second point which I wish to make. It relates to food as contraband. In war, whether it is, or is not, expedient to take a certain strong and advantageous measure, depends only upon the probability of such action bringing about, or not bringing about, the armed opposition of a strong neutral Power or Powers. For instance, during the present Russo-Japanese War, the Russians have given up their attempt to make food unconditional contraband, because great Britain and the United States were as one in opposition. From which event, many people rashly argue: "Oh, food can *never* be declared unconditional contraband, because the United States will *never* allow it." That argument, however, though it holds good for the present and the immediate future, will not hold good in the near future. The United States at present export about one-third of their crop, and therefore have, indeed, a present pecuniary interest in the immunity of food-stuffs. That interest is, however, only ephemeral, and will grow less every year. For, as I have been informed by M. Snow, the well-known Chicago corn expert (who spoke in this theatre

3 years ago), in 25 years the United States will require all the food they produce for their own consumption, owing to the rapid increase of their population. In 25 years, the United States will cease to export food-stuffs, which will have to come from the Argentine and Canada instead. Consequently, in 25 years, the United States will no longer have any commercial interest in upholding our doctrine, that food shall not be declared unconditional contraband. There will then be no strong neutral interested to secure the freedom of our food-supply in its transit across the ocean. And a belligerent will then have no reason of expediency to prevent him declaring our food-supply unconditional contraband. This, I consider, a most important point of view, of which we should never lose sight in our preparation for future warfare. Our food-supply in time of war is to us absolutely vital, and I maintain that we must make our count with this fact: that if we are engaged in warfare in the near future, say 20 or 25 years hence at most, it will be expedient for, and indeed the manifest duty of, our adversaries to declare all food-stuffs unconditional contraband of war—treaties or no treaties. And the third point which I wish to make is this, that the same liberty of advantageous action, bounded only by expediency, which our adversaries will claim in the future, will apply equally to ourselves.

Colonel F. N. MAUDE, C.B. (late R.E., O.C. 1st Hants R.E. Vols.):—Perhaps the Chairman, when he sums up, will tell us what Moltke would have said during the siege of Paris in 1870, if our people in London, having trade communications with the inhabitants of Paris, had claimed the doctrine that free railway trucks made free goods. I cannot myself see where the legal distinction comes in. If we are at war with any great nation, which is powerful enough to interfere with our food-supply, I fancy they would say exactly what Moltke, under those conditions, would have said. The foreign attitude, that of the German Staff in particular, on this question of International Law, is opposed to our own. I do not think any Staff in Paris or Berlin or St. Petersburg take the slightest notice of what we call International Law except for the purpose of seeing how they can get the best of us. We go into the Peace Conference at the Hague, and the only outcome is, that we are committed to abolishing the one great advantage we possessed over all other Armies in Europe—the Dum-dum bullet, which could be counted on to stop every man or horse that it hit. I do not know how long the want of it tended to protract the decision in the Boer War, but that it had some effect there can be no doubt. Perhaps you will allow me to quote what I think fairly represents the views of Clausewitz, on the whole question of the conduct of war. He arrived at these after 25 years of about the most serious war experience that a nation could ever have, and his book is in essence the gospel of the Prussian Staff:—"War is an act of violence as natural and legitimate, as all other acts resulting from International relationship, such as those pertaining to commerce, industry, etc." Then:—"War has but one means of action—force. Its use is absolute. He who uses physical force to the fullest extent without sparing blood will always acquire superiority over the adversary who does not act with similar vigour, and impose his law upon the latter. To introduce the principle of moderation into the philosophy of war is to commit an absurdity." It is not said that war is moral or immoral, but simply unmoral. It comes to this, that expediency always governs what a nation will do when hard pressed. It was expediency that took us.

to Copenhagen and led to the destruction of the Danish Fleet in 1807, and expediency in the same way will influence French or foreign efforts on our coast and commerce when the time comes, in defiance of all International etiquette that we may lay down. I was brought up with many men in those countries who now hold very responsible positions, and I know that it is as impossible for the leopard to change its spots as it is for these men to go back on the training that they have received. Only recently *à propos* of the Boer ultimatum von der Goltz reminded us that "the statesman who, seeing war inevitable and being himself ready, hesitated to strike, would be guilty of a crime against his country."

Professor HOLLAND :—May I correct one little statement in the speech of the last speaker? It had reference to the Dum-dum bullet. The Hague Conference does not touch the Dum-dum bullet at all. The topic was discussed in the discussions, but the Convention ultimately signed has nothing whatever to do with the point.

Colonel C. B. MAYNE, R.E. : — I am speaking as a soldier, as two other soldiers have spoken already, and I must say that like them, I cannot follow the wide differences in the procedures of war on land and sea, as laid down on paper. In the 18th century, the traditions of which have not quite died down as yet in this country, war was looked on as a contest between two armies, and those armies were, at the time, often compared to two fencers, and war was considered more or less as a fencing bout, at which spectators—the civilians of the nations at war—looked on, and the private individuals of each country expected their property to be more or less respected. Napoleon came like a shock, and practically said that this was all humbug; that by war he meant that he was going to make the other nations give way to his will, and that to make them give in to him he would do all that lay in his power to injure them. And that is the school in which Clausewitz grew up, and which has practically educated all the Armies of Europe in the view that war is undertaken in order to compel the other opposing nations to give in by whatever means possible, by attacking them or injuring them in their commerce, or in any other manner. The result has been that in war on land, full use is made of the enemy's property wherever it is found. Napoleon took property wherever he found it. In the Peninsular War, we found it paid better, as a mere matter of expediency, to pay the people for what we wanted, as then they brought it forward more readily; but we were a rich nation who could afford to pay. But that was a mere matter of expediency. The Germans, during the Franco-German War, paid or not as they found it more convenient or expedient. There was no idea of goods coming in in neutral trains to feed French troops because they were non-contraband goods on neutral rail bottoms. I do not see why the rule should apply otherwise in naval war. It is said, that coal for private consumption should not be contraband, because it is for private individual use. Similarly as regards food. Why should it be? One side wants to ruin the other as far as possible, in order to make the latter give in. If it makes distress very keen in the other country, so much the better for compelling it to give in sooner than it otherwise would do. That is the conclusion, I believe, of the lecturer, although we have been a little mystified by the way in which he has expressed himself. I think he rightly wants to put us in a position in which we can injure other nations to a greater extent than

they can injure us. It has been admitted by Dr. Lawrence that under present conditions we have very little to gain, and an enormous amount to lose, and I think that is a very unfortunate position for us to be in, and may, to some extent, rather account for the amusing instance he noticed of a great personage visiting a small country, to back up a minute trade, because he knows the false sentiment we have about certain matters would probably prevent us putting our foot down. Dr. Lawrence, after his instructive lecture here the other day, had a letter from me which I daresay he can remember.

Rev. Dr. LAWRENCE :—Quite well.

Colonel C. B. MAYNE, R.E. :—In that letter I rather backed up the Russian action in the East in seizing certain vessels, and I said she would continue to do it until some powerful nation practically cried :—“Stop, please, I shall join in if you do not.” Russia took the hint evidently given, and only gave up when there was a chance of a superior Power stepping in. As Professor Holland has pointed out, these so-called International rules are paper rules, and I think that most nations in a hard tight place will not be bound by any paper rules whatever, when they find that by ignoring them they can compel the other nation, with whom they are at war, to give in, which is the whole purpose of war. The same principle probably accounts for the action, already alluded to, proposed in the writings of certain responsible French naval authorities. The French have been brought up in exactly the same school of thought I have alluded to; that war means making the other side give in, and therefore, they are prepared to go to any extent to try and do that. That is what war means. It seems to us landsmen that the fact that there should be one rule for war at sea and another rule for war on land is rather puzzling.¹

Mr. DOUGLAS OWEN, in reply, said :—I have listened with great interest and pleasure to the remarks that have been made, more especially the remarks of Dr. Lawrence and Professor Holland, because their opinions carry such weight that I could not but feel complimented that they agreed with me in principle. So far as Dr. Lawrence and myself are concerned, the points between us are merely of detail. With regard to coastal traffic, I think he rather over-estimates the amount of privileged coastal traffic existing now. Very little remains. But as far as it does exist, I agree with the conclusions he has drawn. With reference to his remarks on the United States, and what took place 40 years ago, I would point out that it is 40 years ago, and if he has followed the progress of railway events in the United States since then, he will know what immense changes have taken place in the United States, and the effect on our general argument. Both Dr. Lawrence and Professor Holland complain that I have made certain statements of facts without drawing from them any conclusion as to what we should do. That criticism is perfectly just; but, as Dr. Lawrence was kind enough to suggest, it is not because I

¹ If certain notable generals have devastated large areas of theatres of war, in order to bring pressure to bear on their opponent's will, and to enforce on him the desirability of giving in, and as they have been considered right in doing so—war being an appeal to the arbitration of brute force, skilfully used, if possible—then there is no military reason why the same principle should not be applied to sea warfare, as it is applied to land warfare.—C.B.M.

have not got an opinion. I have a very strong opinion; but I did not think it advisable to express it in my paper. I hold strongly with him, and I think with Professor Holland, that we ought to declare all private property at sea, all innocent private property at sea, exempt from capture, in the same way as private property on land.

Professor HOLLAND :—I do not hold that.

Mr. OWEN :—I beg your pardon; it was Dr. Lawrence.

Professor HOLLAND :—I do not mean to commit myself to that.

Mr. OWEN :—Anyhow, I think I may claim the Rev. Dr. Lawrence.

Rev. Dr. LAWRENCE :—Certainly, I am with you there.

Mr. OWEN :—It was a slip of mine. I thought if I were to come here and read a paper expressing a view which I imagine is not very popular with naval men, I might weaken the general effect of my paper. I thought I would rather state the facts as they present themselves to me, and let others draw their own conclusions. But if I am asked to say what is my own opinion, I do not hesitate to say it is that of Dr. Lawrence. I go further, and say, that I have myself no doubt whatever, that the time will come when that opinion will prevail. The United States, as we know, are strongly in favour of it already; there is a Bill before the United States Senate at the present time absolutely proposing a law in that sense. When war was declared between France and Germany in 1870, Germany proposed to respect all private property; that may easily have been, because Germany knew France was much stronger; but when France declined to adopt the German view, I think the Germans said they would not follow the principles they proposed. But Germany did propose it, and there is, no doubt, a growing opinion that private property at sea, the private property of innocent persons, should be as exempt from seizure and destruction as innocent private property of persons on land. If it is asked why there should be any difference between warfare on sea and warfare on land, I am not prepared to answer the question; I can only point to the fact there has been always a distinction, and I believe there always will be. It may be that we only exempt private property on land from expedience, but still expedience is a powerful force, perhaps even more powerful than International Law, and I think it is expedience rather than a sense of moral rectitude which will prompt other nations at war to observe International Law as it stands. Time after time International Law has been observed only through the sense of expediency, which is another form of expressing the neutral conscience; it is a method by which the neutral conscience expresses itself. One of the speakers said that Russia started by saying she was going to seize everything, and did not care about International Law. Doubtless, this was so; but as soon as England said :—"No, but we care, and you must stop these illegal actions"; Russia recognised the force of, as my friend called it, expediency, and as I call it, International Law. Professor Holland I understood to ask what was my conclusion as regards the Declaration of Paris, and what did I recommend. Well, we are in this position: that if we go to war, with the Declaration of Paris as it is now, we shall lose a great part of our trade. I do not know whether I misunderstood Professor Holland, or whether he, to some extent, misapprehended me, but I was not referring so much to the transfer of British property. I quite recognise all the Professor says as

to the difficulty of selling ships; ~~I am~~ quite alive to that, and in accord with him. I was referring to the driving of our trade into neutral hands. So long as we have the Declaration of Paris in its present form, that is to say, so long as we hold ourselves bound, as, I think, we are, we are between the devil and the deep sea, the hammer and the anvil. We ought to do one of ~~no~~ things. We ought either to stipulate, as a condition of our maintaining the Treaty of Paris, that all private property at sea shall be declared exempt from capture, or else we should strike ourselves off the Declaration of Paris, and go back to things as they were. As it is, others are in a position to play fast and loose with us. With regard to the other criticisms, I have given my reasons why I did not express a conclusion. I do hold strong reasons, and I am prepared whenever the time comes to express them in the best way I can; but I did not think it advisable to express them in this paper. I do not know that there is anything special that I need further refer to, except, perhaps, this:—One of the speakers seemed to imply a doubt as to whether the Declaration would stand when we actually got to war, whether it would not be regarded as waste paper and torn up. I believe that we and the United States and Japan are strong enough, so long as we behave reasonably, to make what reasonable law we like at sea, with every belief that it will be respected. As regards the French, I should have felt inclined to say the same thing for them; but then Professor Holland reminded us of the wild words of Admiral Aube, and it shakes our confidence. I hope we need not take Admiral Aube seriously.

The CHAIRMAN (Colonel Sir H. M. Hozier, K.C.B.): — We have had a most interesting and instructive lecture, and I feel that after such an interesting lecture, and the criticisms we have heard from some of those most distinguished for their knowledge of International Law in this country, it would be quite a work of supererogation on my part to make any remarks on the subject. I shall, therefore, confine myself to the very pleasing duty of asking you to accord a very hearty vote of thanks to Mr. Douglas Owen for the great care he has taken in preparing this most interesting paper, which is interesting to me, not only historically, but also from the conclusions he draws, and from what he foreshadows as to the results on this country of the Declaration of Paris.