

INTERNATIONAL LAW AND THE WORLD WAR

by
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CONTRIBUTIONS TO INTERNATIONAL LAW
AND DIPLOMACY

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AND THE WORLD WAR

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TO MY FORMER TEACHER
JOHN BASSETT MOORE

PRE-EMINENT AUTHORITY
WISE COUNSELLOR OF STUDENT DAYS

PREFACE

THE preparation of this treatise was undertaken by me at the request of the late Dr. L. Oppenheim, Whewell Professor of International Law at Cambridge University. Like most international jurists, he was deeply stirred by the numerous and shocking violations of that law which he justly regarded as one of the most notable achievements of modern civilization and to the understanding of which he had contributed so much by his researches and writings. It was his desire that I should review the conduct of the belligerents in respect to their interpretation and application of the rules of international law, compare it with the opinion of the authorities and the practice in former wars and wherever infractions appeared, to endeavor to determine the responsibility and to place it where it properly belonged. I fully shared his view that the latter task was one which jurists and text writers, who are in a sense the guardians and defenders of the law of nations, could not neglect without ignoring their duty to the law and to the cause of justice which it was designed to promote. With this view of my duty I have made a conscientious effort to evaluate the evidence so far as it was available, and wherever possible to arrive at conclusions as to the truth or falsity of the charges and counter-charges in respect to infractions.

Naturally, the task of preparing a work of this kind during the progress of the war was beset by many difficulties. With the archives of foreign offices closed to historians and investigators, and with newspapers and books published in enemy countries shut out by blockades and censorship, important sources of information were necessarily inaccessible to me. After the United States became a belligerent not even technical and scientific publications were admitted from enemy countries. In consequence of this, the German defence to many charges made against them for violating the law was not always known to me, or was known only through newspaper

despatches from neutral countries. Nevertheless, the views of the German jurists on all questions of international law the rules of which the Germans were charged with disregarding were so distorted and colored by partisanship that it may be doubted whether their inaccessibility was a loss of any real consequence, and I may add that Professor Oppenheim shared with me this view as to the untrustworthiness of German authority. Fortunately, the desire of the various belligerent governments that their cases should be submitted to the neutral world in the hope of a favorable verdict and that even their own peoples should be kept fully informed regarding the measures of their governments, caused them to publish and distribute the more important of their diplomatic documents and other material, such as in former wars were never made public at all or only after a long interval. A great mass of parliamentary papers, reports, despatches and the like was, therefore, rendered available, and to the greater part of this I have had access. In addition, there is an extensive literature of varying value in the form of books and pamphlets the more important of which I have listed in a bibliography at the end of volume two. It is hardly necessary to say that it has been quite impossible within the limits of this treatise either to deal fully with all the multifarious questions of international law, old and new, that arose during the late world-wide war, or to discuss the practice and interpretation of all the thirty belligerent governments involved, to say nothing of the varying policies and measures of neutral powers. I have been obliged, therefore, to limit my treatment, for the most part, to the more important questions raised, and to the policies and conduct of the principal belligerent and neutral powers.

Professor Oppenheim, to whom I was deeply indebted, died soon after the manuscript of the book had gone to the printer. In his untimely death the science of international law was deprived of one of its most pre-eminent authorities and I, of a wise and sympathetic counsellor. He had, however, completed the reading of the manuscript and had, before laying down his burden, given me the benefit of many valuable suggestions all of which I was glad to adopt.

JAMES W. GARNER

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