

3rd Day.]

DECLARATION OF LONDON.

[1 June, 1911.]

Dr. FINDLAY—*cont.*

under the protection of the fleet of Great Britain! This provision is not one-sided. These gentlemen say it would be a bogus transfer to permit our supplies to come to a port in France and be conveyed protected from France here, and that would not be recognised by Germany, but treated as a breach of the spirit of this Declaration, and consequently the neutral ships would be seized. That seems to be quite inconsistent and quite erroneous. I take it—and I should like to know whether Sir Edward Grey agrees with this very vital point—the Declaration of London contemplates as a right and proper thing the delivery of food supplies at a neutral port with the admitted intention of transferring them to belligerent territory if they can be got there. It is not a bogus transfer at all, but a transfer within the spirit and meaning of the Declaration, and would, I take it, be quite valid; and Germany or any other country can only escape that conclusion if she violated the plain good faith which should lie below this Declaration. The point which is made there and made on a mere superficial criticism of this Declaration, is that a nation will not recognise the true spirit, meaning, and intent of the Declaration, that it will be violated in the interests of each particular nation, and, consequently, is of no use. Very well, if that is so, there is an end of the question. If that is to be the attitude in which each nation is to deal with a matter of honour, you might give up treaty-making altogether. This treaty rests, as every treaty must rest, upon the honourable obligation of each party to it, and it seems to me to beg the whole question when critics in one breath declare that a different treaty should be made, and in the next breath declare that a treaty so made will be ignored by those who signed it.

That brings me to the point of the splendid advance made under the Declaration, in the securing of an impartial tribunal. No student of international law can deny that the present system of adjudication by a prize court of the nation claimed against is utterly unsatisfactory, if it does not deserve a stronger adjective. You have here a great stride towards that international arbitration which Sir Edward Grey is doing so much to promote in connection with that proposed treaty with the United States. This is a great step in that direction—the erection of an impartial and international tribunal, on which we and any other nation at war with us would be represented, and in which, with a membership of not less than nine and not more than fifteen, there must in practice always be a majority of neutrals.

The further point I desire to make in answer to the objection raised by Mr. Batchelor is with regard to the destruction of merchantmen. It seems to me that a good deal of his argument proceeded upon a misconception. First of all, Great Britain has not consistently said that it is improper to destroy ships in those cases.

Mr. BATCHELOR : I did not say so. I quoted Sir Edward Grey.

Dr. FINDLAY : I know, but I point out that both Lord Stowell, and later Dr. Lushington, said explicitly, that circumstances might justify the destruction so long as the owner was compensated. But that is not an important point.

The PRESIDENT : I think they laid it down that the owner must be compensated although the vessel was really liable to condemnation.

Dr. FINDLAY : Just so; but that does not seem to me to be the important point. The point is, what do the other nations do? I think it was said that the United States do not recognise the right of destruction. The present regulations of the United States do recognise it. The present prize regulations of France, Russia and Japan—although Japan has since indicated a disposition to take our view—and the United States, permit destruction in these cases. While you have such a large amount of international support to destruction, it seems to me a little idle to complain that we have not been able to secure a thing which we ourselves have never done consistently, and secondly a thing which