THE

BRITISH BLOCKADE.

BY

The Rt. Hon. A. J. BALFOUR.

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Great interest had naturally been excited in America over the threatened blockade of Germany by the Allied Fleets ; and many criticisms have been directed against the Governments responsible for this policy. This is most natural and legitimate. The Order in Council affects both neutral interests and international law. And the United States of America—the greatest of all neutrals and a leader of reform in international procedure—has a double interest in the discussion.

Let me say, before I go further, that I am in no sense personally responsible for the policy which has been adopted. I was not consulted upon it; and I view with the greatest dislike any course which seems in the smallest degree to violate the rules of international warfare. But those who will consent to consider the present case on its

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merits will, I think, be persuaded that the policy of the Allies has a conclusive moral justification.

Put shortly, the case is this. The Germans declare that they will sink every merchant ship which they believe to be British, without regard to life, without regard to the ownership of the cargo, without any assurance that the vessel is not neutral, and without even the pretence of legal investigation. The British reply that if these are to be the methods of warfare employed by the enemy the Allies will retaliate by enforcing a blockade designed to prevent all foreign goods from entering Germany and all German goods from going abroad.

Whether such a policy be, or be not, in harmony with the accepted rules of international law is a point to which I shall refer in a moment. But this, at least, may be said in its favour. It cannot cause the death of a single innocent civilian ; it cannot destroy neutral lives and neutral property without legal process ; it cannot inflict injury upon neutral commerce comparable in character or extent to that

which would be produced by a blockade whose legality was beyond question.

But this contention, however true, is in the eyes of some critics quite immaterial. Law (they say) is law. Those who break it are guilty of a wrong which does not become a right because others have broken it in a manner yet more deserving of condemnation. The German practice may be brutal to belligerents and reckless towards neutrals; the British practice may be careful of human life and tender towards the interests of non-combatants. No matter. Neither can find justification in the accepted rules of war; both, therefore, fall under the same condemnation.

But such a mode of reasoning applies the most rigid technical standards in a case where technical standards must be used with caution. It appeals to the letter of international law, but it ignores the spirit.

The Meaning of Discrimination.

What, in the eyes of the objector, is the defect of the British Order in Council? It is that the blockade of which notice is there

given does not possess all the characteristics of a blockade as defined in authoritative text-books ; and that, in particular, it violates the rule which forbids "discrimination" in favour of one neutral as against another.

Now the object of this rule seems clear. It is designed to prevent the blockading Power using its privileges in order to mete out different treatment to different countries ; as for instance, by letting ships of one nationality pass the blockading cordon while it captures the ships of another. Such a procedure is, on the face of it, fair. It could have no object but to assist the trade of one neutral as against the trade of another, and arbitrarily to redistribute the burden which war unhappily inflicts on neutrals as well as on belligerents. Now I submit that if there be "discrimination" inflicted by the British blockade, it is not discrimination of this kind. It does no doubt leave the German trade with Sweden and Norway in the same position as the German trade with Holland and Denmark, and in a different position from the German trade with America or

Africa. But the "discrimination" (if it is to be so described) is not the result of a deliberate policy, but of a geographical accident. It is not due to any desire to favour Scandinavian exporters as compared with American exporters; and in practice it will have no such effect. They are not, nor to any important extent can they be, competing rivals in the German markets.

If any man be in doubt whether this point be technical or substantial, let him weigh the following considerations. The rule against discrimination was devised (as we have seen) in the interests of neutrals. But which is best for neutrals—that there should be a blockade conducted in the ordinary way, or that there should be a blockade of the new pattern described in the Order in Council? The latter may indeed ignore the Baltic, and treat Scandinavia as if, like Holland, it were divided from Germany only by a land frontier. But while the discrimination so produced can inflict no substantial injury on any neutral, the blockade to which it is due, unlike its more orthodox predecessors, forbids the capture either of neutral shipping or

neutral goods (other than contraband of war) and so relieves the neutral importer of his most serious anxieties.

International Law and Morality.

But after all it is the equity of the Allied case rather than the law which mainly interests the thinking public in America and elsewhere. The question which presses most insistently for an answer is not directly connected with legal definitions of blockade, but with problems of international morality. There are German thinkers of distinction who deny that any such morality exists ; but this happily is not a doctrine which has any chance of acceptance among English-speaking peoples. What then does international morality require of one belligerent when the other belligerent tramples international law in the dust ?

To some persons the answer to this question seems easy. Why, they ask, should the crime of one party modify the policy of the other ? International rules should be obeyed by both sides, but their

repudiation by one side leaves the obligation of the other unimpaired.

Such an answer, however, confounds international morality with international law; and though doubtless the two are closely related they are not identical. The obligation of the first is absolute, that of the second is conditional; and one of its conditions is reciprocity.

If any feel inclined to quarrel with the word "conditional" let them consider what would happen if ordinary law were deprived of all its sanctions, if the state lost all power to enforce obligations, to protect the innocent, or to punish the guilty. A community so situated might prosper so long as there was a general agreement to obey the laws and the agreement were maintained. But if the criminals broke it whenever it suited them, ought the innocent tamely to submit? Ought they to entrust their security to police who could afford no protection, and to Courts which could inflict no penalties? Ought they, in short, to behave precisely as they would if social conditions were normal? Few, I believe, would think so.

Now, the relation between States under international law most closely resembles the relation between individuals in such a community as I have described. International law has no sanctions ; no penalties are inflicted on those who violate its rules ; and if a State makes use of forbidden weapons the neutrals, who blame its policy, do nothing to protect its victims. Nor is this surprising. In the present unorganized condition of international relations it could not well be otherwise. But let them remember that impotence, like power, has duties as well as privileges ; and if they cannot enforce the law on those who violate both its spirit and its letter let them not make haste to criticize belligerents who may thereby be compelled in self-defence to violate its letter, while carefully regarding its spirit. For otherwise the injury to the future development of international law may be serious indeed. If the rules of warfare are to bind one belligerent and leave the other free, they cease to mitigate suffering ; they only load the dice in favour of the unscrupulous ; and those countries will most readily agree

to changes in the law of nations who do not mean to be bound by them.

Retaliation, but not in Kind.

But though, as I think, international law can hardly be literally obeyed, unless both sides are prepared to obey it, we must not conclude that the absence of reciprocity justifies the injured party in acting as if international law and international morality had thereby been abrogated. This would be a monstrous doctrine. The Germans, who began the war by tearing up a treaty, continued it by inflicting the worst horrors of war upon a people they had sworn to defend. Could we therefore argue that because the obligations of international law are reciprocal, the Allies, when the opportunity occurs, would be justified in plundering private property, shooting innocent civilians, outraging women, and wantonly destroying works of art? Could they rightly do to Germany all that Germany has done to Belgium?

Assuredly not. I preach no such doctrine. These things were brutal and barbarous before the law of nations took

formal shape; they would remain brutal and barbarous if the law of nations fell into desuetude. Germany would indeed have no right to complain of retaliation in kind; but this would not justify us in descending to her level. The policy which I am defending has no resemblance to this. It violates no deep ethical instincts; it is in harmony with the spirit of international law; it is more regardful of neutral interests than the accepted rules of blockade; nor is the injury which it is designed to inflict on the enemy of a different character from that inflicted by an ordinary blockade. And, lastly, it is a reply to an attack which is not only illegal, but immoral; and if some reply be legitimate and necessary, can a better one be devised?