

The Register
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INTERNATIONAL LAW IN TIME OF WAR

Blockade.

[III.—By W. Jethro Brown, LL.D.,
Litt.D.]

A belligerent "occupies" enemy territory, "besieges" enemy towns, "bombards" enemy forts, and "blockades" enemy ports. The term blockade is thus limited to maritime operations. It means the prevention of access to, or egress from, enemy ports. While its object is to bring pressure to bear on the enemy, it also directly affects neutral subjects. Enemy ships would be liable to capture in any case. But, where a blockade exists, the object is to exclude neutral trade as well. British policy, which has played a conspicuous part in the development of international law on the subject, has been affected by curiously divided interests. On the one hand, as Great Britain has about one-half of the carrying trade of the world, she is greatly concerned when a neutral to maintain the rights of neutral subjects. On the other hand, as her chief weapon is the navy, she is no less concerned when a belligerent to maintain the rights of belligerents with respect to blockade. Although the conflict of interests has been neither so great nor so apparent in the case of other countries, it has been also in evidence. The general result is expressible in terms of a compromise which, like compromises in general, leaves very much undefined and uncertain.

—When a Blockade Exists.—

Belligerents in the past have sometimes endeavoured to gain the advantages of a blockade by a bare announcement to the effect that the enemy's coasts were blockaded. This easy way of justifying a raid upon neutral property could not be endured by neutral States. After considerable controversy, "paper blockades" were finally forbidden by the Declaration of Paris of 1856. According to this declaration, a blockade, in order to be binding, must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy. This may seem clear. In reality it is very indefinite. What is meant, however, is that the belligerent squadron must be so situated strategically as to make entrance or egress extremely difficult and dangerous.

—Present Conditions.—

The subject is greatly complicated by changing conditions of maritime warfare. It was once maintained that a blockading squadron must include vessels of war occupying a virtually stationary position near the enemy ports. In view of long-range coastal ordnance, mines, submarines, torpedoes, and aircraft, a blockading squadron to-day must necessarily be far away from the enemy coast, probably out of sight. "The 21-in. torpedo has a range of over 7,000 yards, a speed of 40 knots, and astonishing accuracy. The submarine has, when submerged, a speed of 10 knots and a range of over 2,500 miles. The aviator, capable of moving by day or night, can drop explosives over battleships in the vicinity of blockaded ports." I quote from an expert on international law writing in 1910. The figures to-day would be even more conclusive as regards the impossibility of maintaining a blockade at close range. On the other hand, the increased speed of war vessels and the installation of wireless telegraph apparatus will enable a blockading squadron to be reasonably effective over a vast maritime area and at a considerable distance from the coast. Moreover, mines might be distributed by a belligerent along the enemy coast, if not with the object of interrupting commercial navigation, at any rate, on the plea of military operations. At the Hague Conference in 1907 the British representative proposed to prohibit the use of mines for commercial blockades and elsewhere than before naval ports. It was also proposed that mines should be employed only for coast defence, and only within the maximum of cannon range. Both proposals were rejected. I think that we may safely conclude that a blockading squadron may employ mines as auxiliary to its general scheme for making the blockade effective.

—The Menace of the Submarine.—

The use of submarines for blockading purposes is a matter about which it is difficult to be dogmatic. In my article in Wednesday's issue I referred to the suggestion

that submarines might be employed generally for the purpose of destroying all ships engaged in the carriage of foodstuffs to the mother country. I pointed out that the suggestion was chimerical. I did not deal, however, with the possibility that a belligerent, with a very large fleet of submarines, might claim a right to declare a blockade of enemy coast by a judicious distribution of submarines although the main fleet of the belligerent was safely ensconced within its own harbours. This possibility has been the subject of a furious controversy in *The Times*. Lord Sydenham maintains that such action would be essentially piratical, and that it would not be resorted to by a modern State. Sir Percy Scott, in *The Weekly Times* for July 14, 1914, retorts:—"I will quote the following extract from a letter written by a foreign naval officer:—"If we went to war with an insular country, depending for its food on supplies from overseas, it would be our business to stop that supply. On the declaration of war we should notify the enemy that she should warn those of her merchant ships coming home not to approach the island, as we were establishing a blockade of mines and submarines. Similarly we should notify all neutrals that such a blockade had been established, and that if any of their vessels approached the island they would be liable to destruction either by mines or submarines, and therefore would do so at their own risk." Such a proclamation would, in my opinion, be perfectly in order, and, once it had been made, if any British or neutral ships disregarded it and attempted to run the blockade, they could not be held to be engaged in the peaceful avocations referred to by Lord Sydenham, and if they were sunk in the attempt, it could not be described as a relapse into savagery or piracy in its blackest form." Sir Percy Scott may be an eminent authority on warfare at sea. He is not an expert on international law. I do not think for a moment that neutral countries in the present war would tolerate a claim on the part of Germany to exercise the rights incidental to blockade when that right was solely based on the conditions which Sir Percy Scott postulates. The first country to make a fuss would probably be the United States. To suppose that that country would tamely acquiesce in the exercise of rights of blockade by a mere fleet of submarines is to expect too much of human nature. As Lord Sydenham points out, capture of vessels at sea is an established right of war. "The right to kill unresisting non-combatants, engaged in peaceful avocations, has never been recognised. The submarine cannot capture, and must destroy."

—Notification.—

The Declaration of London of 1909 requires notification of the blockade to neutral Powers. The declaration, however, has not been formally ratified by Great Britain. It is, therefore, possible that in the present war Great Britain will claim the right to establish a *de facto* blockade without public declaration. The effect of notification to neutral Governments is to create a *prima facie*, if not conclusive presumption that neutral subjects know of the existence of the blockade. The knowledge will in general be held a ground for capture of a neutral ship at any point of her voyage to the blockaded port. On the other hand, in the absence of notification to neutral Governments, the British practice has been to give a warning to neutral shipmasters approaching the blockaded port unless the blockade has been continued so long as to be notorious. As a general rule, attempted breach of blockade is a ground for confiscation both of the ship and the cargo. But where the ship and cargo belong to different owners, and the owner of the cargo cannot be charged with actual or constructive knowledge of the existence of the blockade, the ship alone will be condemned. While on subject of penalties, I wish to make an addendum to my article in Wednesday's issue. I then referred to the British practice of awarding the profits accruing from the capture of a prize at sea to the officers and crew of the vessel which makes the capture. A friend informs me that the Admiralty a month or two ago recommended the discontinuance of this practice, and that His Majesty's Government has since expressed its intention to adopt the recommendation of the Admiralty.

—General Conclusions.—

In the present war the Triple Entente is opposed to Germany and Austria. From the point of view of Great Britain, despite her superiority on the seas, belligerent rights of blockade are to be dreaded rather than relied upon. To realize the position we must bear in mind that article 19 of the Declaration of London affirms that, whatever may be the ulterior destination of a vessel or her cargo, she cannot be captured for breach of blockade if at the moment

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**"UNFIT FOR THEIR
JOBS."**

THE UNIVERSITY MAN.

SCIENTIST HITS OUT.

Sydney, August 21.

Professor John Perry delivered an address on the science of education at the Science Congress. It would be easy to show, he said, that since the sixteenth century the classical pedant had done little but to spoil the rich English language of the Bible. What was now wanted was a man like Bishop Peacock to delatinise the language. For the average pupil schoolwork was a terrible uphill grind all the time, a soul-destroying, stupefying business. He felt that he was a failure, learning nothing that could be of spiritual or material value to him in his future life. Of course he could pass examinations. Anybody could be crammed to pass an examination, but after the examination he forgot what he had learned. The present system of education was to be condemned for other reasons. It was exasperating that all the most important, the most brilliant, the most expensively educated people in England were quite ignorant of natural science, and it might almost be said that in spite of these clever, ignorant men, and men like them in other countries, through the agency of scientific men, all the conditions of civilisation were being transformed.

"The University man," he said, "ignorant of science becomes a ruler of our great nation, his duty during war and peace being that of a scientific administrator, and without turning a hair he fraudulently accepts this important duty for which he is utterly unfit. The gods must surely laugh when they see these rulers of ours gibing at scientific things, giving important posts to non-scientific men, who scorn and obstruct the scientific men who are under their orders. It is extraordinary that a man can have been so educated as to be a good debater, to be able to make a fine speech, that he may have taken a degree at Oxford, that he may have passed examinations in classics, in philosophy and mathematics, and yet be exceedingly ignorant, illogical, and unscientific. Unfortunately the Oxford hermits have by a series of accidents become the rulers of the greatest Empire that the earth has ever seen, and it is very obvious indeed through many other things than the starting of the South African war, that they are unfit for their jobs."

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Sir Douglas and Lady Mawson returned from England by the Omrah on Saturday. Sir Douglas was met by Mr. Hodge, of the Adelaide University. Sir Douglas and Lady Mawson disembarked at the Outer Harbor and caught the afternoon's train to the eastern States.