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GREAT BRITAIN'S SEA POLICY

A REPLY TO AN AMERICAN CRITIC, REPRINTED FROM "THE ATLANTIC MONTHLY"

BY

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Great Britain's Sea Policy.

I.

An article in the *Atlantic Monthly* for October by Mr. Arthur Bullard has set me thinking. It was hard to classify. It was not exactly pro-German. Most of its general sentiments were unexceptionable. It did not seem to be written in bad faith. Yet it was full of sneers and accusations against Great Britain which almost any candid reader, who knew the facts, must see to be unfair. I did not know what to make of Mr. Bullard till at last there came across my mind an old description of a certain type, the second-best type, of legendary Scotch minister: "In doctrine not vara ootstanding, but a Deevil on the moralities!"

Mr. Bullard's general doctrine is fair enough. There have been two types of foreign policy in Great Britain, one typified, if you like, by Lord North or Castlereagh or Disraeli, a type which concentrated on its country's interests and accepted the ordinary diplomatic traditions of old-world Europe; the other typified by Fox, Gladstone, Campbell-Bannerman, Bryce, which set before itself an ideal of righteousness and even of unselfishness in international politics. Both parties made their mistakes; but on the whole the Liberal movement in British foreign policy is generally felt to point in the right direction, and its record forms certainly a glorious page in the general history of civilization. Mr. Bullard, speaking as an enlightened American, is prepared to befriend, or at least to praise, Great Britain if she walks in Liberal paths, but intends to denounce her if she follows after Lord North. For example: he denounces the policy of the Boer War, but he praises warmly the settlement which followed it in 1906 under the guidance of Campbell-Bannerman, Asquith, and Sir Edward Grey. "The granting of self-government to the defeated Boers will always rank as one of the finest achievements in political history." This is all sound Liberalism, and I accept every word of it.

There is nothing peculiar, then, about Mr. Bullard's doctrine; it is only when he applies it that one discovers his true "deevilishness on the moralities." His method is to ask at once more than human nature can be expected to give, and then pour out a whole commination service of anathemas when his demands are not complied with. He begins, as it were, by saying that all he expects of Mr. X—— in order to love him is common honesty and truthfulness: we all agree and are edified. Then it appears that Mr. X—— once said he was out when he was really at home and busy. The scoundrel! A convicted liar, a man who has used the God-given privilege of speech for the darkening of knowledge! How can Mr. Bullard possibly be friends with such a man?

To take one small but significant point first. Mr. Bullard, like most people, sees the need of continuity in foreign policy, and the great objections to a system in which a new government, or even a new influence at court, may upset a nation's course. But he does not see that such continuity implies some sort of compromise. A continuous foreign policy in a country governed alternately by Foxites and Northites is possible only if both parties abate their extreme pretensions. And Mr. Bullard, if I read him aright, expects it to be continuous Fox. As a matter of fact, we have had lately a continuous foreign policy in Great Britain, because Grey, while moving always as best he could toward arbitration, equity, and a "cordial understanding" with all powers who would agree to it, was felt also to be keenly alive to his duties as the steward of a great inheritance.

But let me begin, as an Englishman, by seeing what Mr. Bullard thinks of us. We have apparently started "a wholesale repudiation of legal restraints." We have "decided that there is to be no sea law." Consequently we "alienated neutral sympathy more gradually, but more surely than the Germans." And this alienation, we are led to suppose, is not mainly because of any selfish

annoyance on the part of neutrals whose interests are crossed; it is just their high-minded disapproval of wickedness. They are all just as deevilish on the moralities as Mr. Bullard is. Naturally, however, they dislike our "brusque denial that nations with smaller navies have any voice in defining the law." "The Sea-Lords have decided what they would like to do, and His Majesty's Privy Council has announced that that is the law." In English opinion and action "Might makes Right"—this phrase is constantly repeated. We are always "hitting below the belt." And lastly and most explicitly, "The scrap of paper on which Great Britain had promised fair play at sea is torn up!"

I leave out certain passing accusations of hypocrisy and proceed to examine the grounds for this invective.

II.

"The scrap of paper on which Great Britain had promised fair play at sea is torn up." By the "scrap of paper" Mr. Bullard means the Declaration of London; and he knows perfectly well that the Declaration of London was never passed into law, never accepted either by Great Britain or by any other nation. It is simply untrue to say that we promised to observe the Declaration, or that that document has in any way been violated, since it never was law. Mr. Bullard himself gives most of the facts; so it is apparently just for fun, or in the joy of rhetoric, that he writes such nonsense as this.

The Declaration of London was an attempt to codify and improve the traditional rules of warfare at sea, which have always been very fluctuating and uncertain. It was due largely to Sir Edward Grey. He summoned the chief maritime nations to a conference on the subject in December, 1908; the conference sat for less than three months, and in February, 1909, made a report which was embodied in the Declaration of London. It was greatly discussed and eventually rejected in the British Parliament. It was not, I believe, even proposed anywhere else. As a matter of fact, the Declaration did not fully satisfy anyone. It was certainly a move in the right direction, but there were two large objections to it. First, many international lawyers—Professor Holland was one of them—considered that it had been drawn too hastily and was not a satisfactory legal code. Secondly, its desirability or undesirability depended partly on certain large political problems which were obscure in 1909. They are anything but obscure now.

To take one point only—the one that specially affected Great Britain. We were then in the midst of our long negotiations with Germany for a reduction of armaments and a cessation of naval rivalry. The Liberal policy was, in general, to conciliate Germany by every possible concession that could be made without fatally weakening ourselves or betraying the rest of Europe. For example, we deliberately kept our army very small, to prove that we intended no aggression. On the other hand, we could not give up our naval superiority because we are an island power; and, if we were once defeated at sea and blockaded, we could all be starved to death or submission in a few weeks. The Germans, on the other hand, objected to our naval superiority on a number of vague or inadmissible grounds (e.g. that "the German eagle was lame of one wing so long as her fleet was not as powerful among other fleets as her army among other armies"), and on one that had some shadow of reason. They objected to having their very large mercantile marine at the mercy of Great Britain in case of war. Consequently it was worth our while, if we could thereby avoid war and secure good relations with Germany, both to abandon the right of prize and, in general, to cut down the rights of a power commanding the seas in such matters as blockade and contraband. (When I say "rights," I mean practices claimed as rights by ourselves and others when in command of the sea during war, though often disputed or denied by other powers, or by the same powers in a different situation.)

That is, we, as the power commanding the seas, were arranging to give up certain traditional advantages for the sake of getting a better code of sea-law universally recognized, and in particular for the sake of ensuring the good will of Germany. What happened? In the first place the proposed code turned out to be unsatisfactory, and was not adopted by any single nation. In the second place, instead of responding to our overtures of good will, Germany sprang suddenly at the throat of Belgium and France and drove us into war. And Mr. Bullard coolly assumes that we ought to put in practice against ourselves, in war, the code which no nation had adopted and which had been meant as a concession to avoid war! And not only that. I can conceive a sort of visionary, like Edward Carpenter, arguing that such an angelic example would have softened the heart of all nations and made them hasten—I will not say to help us, but at least to write us some most flattering obituary notices. But Mr. Bullard takes quite another line. He thinks we are thieves and scoundrels and tearers up of treaties, because we did not penalize ourselves!

What we did was to announce at the beginning of the war, as a guide to other nations, that, though we did not of course accept it as a code, we should in general and with some deductions follow the lines of the Declaration. This seems to Mr. Bullard worse than nothing: it seems to me about the best thing that could be done in the circumstances.

III.

But here Mr. Bullard has a very cunning point to make. It has been made also by Professor Liszt. He knows and admits that the Declaration was never ratified and had no legal force. But he points out that, both in inviting the other nations to the conference and in recommending the Declaration when it had been framed, authoritative persons explained that the purpose of the whole proceeding was "not to legislate but to codify." "We obtained recognition of the fact," says Lord Desart, "that, as a body, these rules do amount practically to a statement of what is the essence of the law of nations."

Consequently, argues Mr. Bullard, to repudiate the Declaration, even if it was never ratified, is to repudiate the essence of the law of nations.

A clever piece of trick argument. What is the answer to it?

(1) A very simple point. Mr. Bullard, following Professor Liszt, does not give the whole of Lord Desart's sentence, but stops in the middle of a phrase, where there is not even a comma! The whole phrase is, "amount practically to a statement of what is the essence of the law of nations properly applicable to the questions at issue under present-day conditions of international commerce and warfare." That is, (*a*) it is admitted that the existing rules do not cover the questions at issue under present-day conditions; and therefore (*b*) the Conference has done its best to apply the essence of the law of nations to the solution of these new questions. Lord Desart thought the attempt was successful, and that the Conference really had produced what was "practically" a statement of the essence of the old law as applied to the new problems. This view was not accepted by the British Parliament, nor apparently by any other, since they did not ratify the Declaration.

(2) Codification without alteration is really an impossible achievement. Every person of experience knows that you cannot codify a large mass of floating customs and divergent laws without, by that very fact, introducing changes. I doubt if there has ever been any large work of codification accomplished, which was not both recommended to its admirers as being a great reform, and defended against its opponents on the ground that it was a mere registration of existing practice. Every great codification creates new law.

(3) The Declaration is specially recommended by its authors as being a compromise. The claims and customs of different nations conflict; each one yields here and is recompensed there. The best statement perhaps of the work of the Conference is contained in the General Report of its Drafting Committee.

"The solutions have been extracted from the various views or practices which prevail, and represent what may be called the *media sententia*. They are not always in absolute agreement with the views peculiar to each country, but they shock the essential ideas of none. They must not be examined separately but as a whole, otherwise there is a risk of the most serious misunderstandings. In fact, if one or more isolated rules are examined, either from the belligerent or the neutral point of view, the reader may find that the interests with which he is especially concerned are jeopardized by the adoption of these rules. But they have another side. The work is one of compromise and mutual concessions. Is it as a whole a good one?"

Thus the Declaration is not a mere declaration of the existing law of nations. It is a compromise in which different parties make concessions, in response to other concessions which are made to them. And Mr. Bullard expects Great Britain, when suddenly involved in war with the most terrible enemy known to history, to make gratuitously all the concessions contained in the proposed compromise, and leave it to chance, or to the mercy of the Germans, whether she should get any of the compensations! And concessions, too, which her Parliament had considered excessive in peace time, even with the compensations guaranteed!

IV.

What then is left if the Declaration of London is not accepted? Is there to be no law of the sea at all? What is left is exactly all that there was before the sittings of that Conference, plus a certain extra lucidity in places due to its reports. The British courts simply continue to administer international law on the basis of precedent adapted to new conditions, exactly as all powers in the world have done. This offends Mr. Bullard, but I find it difficult to make out what other course he would recommend.

To establish an international court *ad hoc*, in the middle of the war, and ask it to settle the new questions as they arise? To submit all cases to the neutral powers, with all the small European neutrals terrified of offending their big military neighbours? Refer all questions to the United States alone? Call another conference to revise the Declaration of London, and keep all prizes waiting till it reported? I doubt if any of these courses would please many people. There may be some course which would have been better than the normal one, but it certainly is not obvious to the ordinary eye. And it seems a little hard to denounce the British Government as lawless tyrants, justly hated by the world, because they do not pursue a better method of settling prize cases than any one has yet practised, or perhaps even devised.

V.

So much for general principles; let us now consider whether in detailed practice the claims of the British Government or the practice of the British courts have been particularly reprehensible. The two questions are of course distinct; and my own impression, given merely for what it may be worth, is that the decisions of the courts will bear the severest scrutiny, while the claims of the Government are closely analogous to the claims advanced by all governments in a similar

situation. They will compare not unfavourably, for instance, with the claims of the United States in the Civil War. It should also be noticed that Great Britain does not act alone; and as compared with the precedents laid down by various nations in previous wars, a policy agreed upon by six of the most important maritime powers in the world has at least a slightly higher claim to validity than one laid down by a single power. Mr. Bullard in one extremely high-principled passage explains that the United States could not in conscience join the Allies in this war because that would be fighting in order "to make British convenience the rule of the seas." But here his moral feelings have evidently intoxicated him. It is obvious that, if the United States had cared to come in,—which I am not for a moment urging,—the law of the seas would, at the very worst, have been interpreted, not for the convenience of Great Britain alone but for the convenience of Great Britain, France, Italy, Russia, Portugal, Japan and the United States.

But let us consider the particular enormities which England is supposed to have committed. And let us be clear about the issue. I do not contend that we have never stretched in our favour the vague body of unwritten rules, based on conflicting precedents and unenforced by normal sanctions, which is called international law. Every belligerent in every war hitherto has done so; and that not always from national selfishness alone. International law, apart from the fundamental misfortune of having at present no sanction behind it, suffers from two great weaknesses. It is not for the most part framed on clear principles, and certainly has not been built up in times of peace by "calm thought and discussion"; it has mostly been built up by precedents and protests and compromises based on immediate pressure. In the second place, the body of precedents is very scanty compared with the importance of the interests involved. It is not like the English common law, so rich in recorded precedents that almost any conceivable new complication between litigant interests can be solved by analogy with some past judgment. Every new war gives birth to new problems and complications which are not covered by any precedents in previous wars, and have to be settled by very imperfect analogies or by the violent stretching of some previous rule. But the present war differs from all its predecessors to a quite unusual degree, both because of its own vast scale and the new methods of warfare it has introduced, and because the whole structure of the world has been transformed since the last great body of available precedents. What would be the condition of private commercial law at the present day if it had nothing to go upon but one or two precedents in 1870, a few more from the time of the American Civil War, and a good number between 1790 and 1815?

Our first great offence is our extension of the doctrine of "continuous voyage." This doctrine was first applied on a large scale by the Government of the United States during the Civil War; it was an extension of previous belligerent rights, was discussed by Great Britain and other powers, and finally accepted as legitimate. The point is a simple one. By the old rule a belligerent has a right to prevent certain ships and cargoes from going to the enemy; he has no right to prevent their going to a neutral port. But suppose he finds them going to a neutral port from which the cargoes are to be taken straight on by a protected road to the enemy? What is the rule to be? The United States argued that the goods were really on a "continuous voyage" or a process of "continuous transportation" to the enemy, and could therefore be treated just as if they were going direct to the enemy port. This argument was generally accepted by publicists, notably by Bluntschli. It was accepted by the International Commission which sat in pursuance to the treaty made at Washington on May 8, 1871; and it was acted upon in the South African War, when stores shipped to Delagoa Bay and clearly intended for Pretoria were treated as contraband.

In the present war the extension became inevitably far wider. Germany's own ports are closed; she proceeds to import whatever she needs by way of Copenhagen or the Dutch ports. We assert the doctrine of continuous voyage and treat all contraband goods shipped for Copenhagen but obviously intended for German use just as if they were shipped for Hamburg. Let me first illustrate this point, and then deal with a difficulty that arises.

The cases of four ships, the *Kim*, *Alfred Nobel*, *Björnstjerne Björnsen*, and *Friedland*, were considered between July and September, 1915, when judgment was given on all four together.

The cargoes had been seized and there were numerous claims against the British Government for compensation. Some of these were allowed by the High Court on various grounds, but most were rejected. The main facts were as follows. Certain exporters, mostly American, sent to Copenhagen enormous quantities of lard and "fat backs," which were in great demand in Germany. They contain glycerine, which is the basis of various explosives. There is no beast so charged with potential explosive as a fat hog. More lard was thus sent to Copenhagen in three weeks than had entered the whole of Denmark in the previous eight years. There are differences of detail in the various transactions, but one company, for instance, consigned its goods to an anonymous agent in Copenhagen, who had no address beyond a hotel where he happened to be staying, and who proved to be their permanent representative in Hamburg. The company a little later received a telegram from this Hamburg agent saying, "Don't ship lard Copenhagen, export prohibited" (i.e. export to Germany was prohibited by the Danish Government). In other cases there were misleading descriptions o£ goods and deceptive consignments. There was not the remotest possibility of question that the fat backs and lard were in the main meant for German explosives. Our High Court gave the benefit of the doubt to those claimants whose case seemed really doubtful.

So far can anyone blame us? Can any reasonable person argue that Germany ought, by international law, to be free to import all the explosives she liked, under the nose of the Allied fleets, by simply making them land at Copenhagen instead of Hamburg?

But now difficulties begin. I will not spend time on the curious argument that continuous voyage, though it applies to absolute contraband, should not apply to conditional contraband. A compromise on these lines had been proposed in the Declaration of London, but is obviously illogical. Neither will I discuss the point, dear to technical lawyers, that the doctrine of continuous voyage, though sound for contraband, perhaps does not apply to blockade, on the ground that the cargo may continue its journey by land and a blockade by land is not a blockade but a siege. Such an objection, if correct, can hardly be said to "apply the essence of international law to present-day questions."

The real difficulties of the situation lay in sifting the goods intended for Germany from the *bona fide* imports of Denmark and the other border countries. Denmark, Holland, Switzerland, Norway, Sweden all had their normal needs. They used butter and dynamite and rubber and copper and lard and fat backs themselves, and we had no right, and certainly no wish, to interfere with them. What were we to do? Were we to examine every ship and sift the whole of her cargo? That would involve immense labour, infinite waste of time, and the certainty of many mistakes. We discussed with the various parties concerned all kinds of arrangements by which our legitimate suppression of supplies to the enemy might be carried out with the minimum of inconvenience to neutrals. The exact arrangements vary in different countries, and none can be entirely without friction, though of course our natural object is to reduce friction to a minimum. I only wish I could make Mr. Bullard realize the enormous amount of work and ingenuity which our officials devote to the task of preventing incidental injustices and appeasing injured susceptibilities.

The main methods are twofold. (1) We invite those merchants and corporations in neutral countries who are importing goods *bona fide* for their own country's consumption, and not for re-export to our enemies, to sign an agreement to that effect. In most countries there is a large union or trust which has collectively made such an undertaking, and which endeavours to prevent breaches of the agreement by its members. (2) We try to ascertain the *bona fide* imports of each country by taking the average imports of some ten previous years, and allowing some extra amount—varying in different cases—to replace such imports from enemy countries as may have disappeared. If these averages are greatly exceeded—and they sometimes have multiplied themselves by ten or twelve—we become suspicious, make further searches, and generally find some enterprising smugglers who have broken their undertaking to us and are consequently added to a black list. They are people who prefer to supply the enemy; and we do not willingly,

in war time, allow people to supply the enemy, any more than the enemy, when he can help it, allows them to supply us.

These two methods applied in conjunction are the best instruments that we have discovered for carrying out without undue friction our necessary, although somewhat oppressive, task. The war does impose on neutrals a considerable amount of hardship; there is no use denying it. And the enormous opportunities for money-making which it also affords to a good number of traders in each country is only a poor excuse for the general inconvenience. Still, I doubt if much improvement is reasonably possible upon these measures which "Great Britain in concert with all her Allies" has taken to prevent trading with the enemy through our lines, so long as neutral states meet us in a neutral and conciliatory spirit. When they do not, of course there is trouble. The absolute refusal of the Swedish Government to sanction any agreement for the purpose of determining what imports were going to the enemy and what not, has led to much friction and mutual reprisals. And similarly in Greece, the perpetual series of frauds and secret hostilities which have followed the King's unconstitutional dismissal of Venizelos, his trick upon us at Salonica, and his breach of treaty with our ally Serbia, has produced a policy of pressure on the part of the Allies, which can be justified only as preferable to actual war. For there is no doubt that from the original breach of treaty onward the Greek Government has provided us with abundant *casus belli*. But these painful controversies are not the result of our trade policy: they are incidents of natural friction with Germanizing courts or governments. But Mr. Bullard is for some strange reason speechless with horror over the first of our instruments. It seems to him a "humiliating surrender of sovereignty" that the Dutch Government should sanction the existence of the Overseas Trust, which undertakes, so far as overseas imports are concerned, to trade only with one side in the war. It is a purely business arrangement, by which certain firms who want for themselves goods passing through the hands of one belligerent, undertake, if they receive the goods, not to hand them on to the other.

VI.

I pass to a real difficulty, where I do not feel at all sure that our policy was wise, though on the whole the balance of well-informed opinion seems to approve of it. I mean the so-called total "blockade" of Germany, including the shutting out of foodstuffs. The history of this policy is as follows.

On February 4, 1915, the Germans announced that all the seas round Great Britain were a "war-area" in which they would sink without warning all ships whatsoever. (Neutrals might be spared on occasion, but could not complain if they were sunk.) This was a proposed blockade by submarine, which has hitherto proved to be impracticable. If Germany had commanded the seas she would, of course, have proclaimed a real blockade and prevented any ship from reaching Great Britain.

Now we made no objection to the enemy's wishing to blockade us. We objected to the submarine blockade on its own special demerits, because it could not be, or at any rate was not, carried out with any respect for humanity. A regular blockade may be compared with putting a line of policemen across a street to turn back intruders. A submarine blockade was as though a man, having no police at his disposal, were to make occasional dashes into the street with a revolver and shoot passers-by. But this point need not be laboured, since American opinion was quite in agreement with ours. The point to consider is the retort that we made.

Up to February we had allowed, not only foodstuffs but important articles for munition-making, like cotton, to proceed freely to Germany. On February 4 Germany announced that no ship would be allowed to sail to or from Great Britain and that all our shipping, including even fishing

boats, would be sunk at sea by submarines. We replied on March 11 that, if they chose to put the war on that footing, we took up the challenge. After a certain date we would allow no ship to carry goods to or from Germany, and, as for their murderous submarines, our fishermen should have arms and fight them. The submarine war has been at times extremely dangerous to us, and may be so again: but, as far as we can at present judge, we have won it. By unheard-of efforts of daring and invention our sea-faring men have baffled and destroyed the submarines, and we have turned the tables of the blockade completely against the enemy.

Our action, however, has been criticized on several grounds. (1) On grounds of international law. Here I must stand aside and allow the lawyers to speak. It is no part of my case to argue that in all the innumerable controversies produced by the war England has always been technically in the right. But it seems pretty clear that in this matter a condition has arisen which has no precedent in previous wars and is not covered by any of the existing rules. If our action is to be described as a "blockade," there has certainly never been any blockade like it before, either in vastness of scale or, I think, in efficiency, or in the leniency with which it is exercised. Neither has any government of a belligerent nation before commandeered all foodstuffs for its own use, as Germany has, and thus brought them under the category of contraband. Nor again, so far as I know, has there been a parallel to the curious position in the Baltic, where our command of the sea suddenly ceases, not from any lack of strength or vigilance on our part, but because the neutral powers who own the narrow entrances to the Baltic have closed them to our warships. We seem here again to be creating a precedent, but not, I think, a precedent that is repugnant to the "essence of international law properly applicable to questions at issue under present-day conditions." Mr. Asquith seems to have accepted some such view when he explained that our policy was to exclude supplies from Germany, and at the same time refused to use the term "blockade" in order "not to be entangled in legal subtleties." The gravest objection to the whole policy is, no doubt, the hardship which it inflicts on neutrals. All blockading, all stopping of contraband, all interference with shipping, inflicts hardship on neutrals; and the immense scale of the Allied operations in this world-war makes the total hardship inflicted very large.

I sometimes doubt whether the Allies would have taken this drastic step had they not felt that, on the main issue of the war, neutral feeling was so overwhelmingly on our side that it would probably accept a good deal of inconvenience in order to have the war finished more rapidly and successfully. And I do think that the general attitude of most neutral nations, and most especially of America, has shown a high standard of generosity and of what I may call world-patriotism.

(2) Secondly, on ground of humanity. We are said to be "starving the women and children of Germany." The answer is, first, that such a blockade is a normal measure of war in all sieges and was practised, e.g. by the Germans in the siege of Paris. It has always been understood that the siege process would be applied to Great Britain by any enemy who should command the sea. It was attempted by Napoleon, and it has been applied already by Germany, though with complete lack of success. We are doing to Germany what they are trying to do to us. Secondly, while we are a nation vitally dependent on sea-borne imports for our food, Germany is almost completely self-supporting. She can live for an indefinite time on her own produce; and the most that our "blockade" can do is to make life less comfortable, and the supplying of the army vastly more difficult. No human being in Germany need starve because of our "blockade."

There is a further development of this argument which causes many people, myself included, grave searchings of heart. It is connected with the treatment of conquered territories, such as Poland, Serbia, and to a lesser degree, Belgium. By every canon of law and humanity, as well as by the express stipulations of the Hague Convention, a nation which holds conquered territory assumes serious responsibilities towards the inhabitants. All these the German Government has repudiated. It appears certain that the German Government has not only destroyed during its military operations practically all the food-supplies of Serbia, and much of the food-supplies of Poland: it has further, during its occupation of those territories, carried off into Germany, with or

without pretext, almost all the food that remained in them. It has produced famine of a ghastly description, and excused itself by attributing all to the British blockade.

This is bad enough, but worse remains. Appeals were made to us to do for Poland and Serbia what we did for Belgium: to admit food for the starving natives and of course also contribute to the food-fund ourselves. This we were willing and anxious to do if we had the same guarantee as in Belgium, that the Germans would not take the food, native or imported, for their own use. They were not to take the imported food themselves; nor were they to sweep the country bare of all the native-grown crops and cattle, and leave us to support entirely the whole population of their conquered provinces. To the surprise of most people concerned they refused to give this guarantee. By starving these territories, it appeared, they gained two advantages. First, they forced large numbers of Poles, and perhaps a few Serbs, to seek work in Germany and set free so many Germans for the fighting line. Secondly, they could use the famine to stir up hatred against the British. Mr. Bullard assures us that even in America the starvation of Poland is generally attributed to our blockade, and if writers of his tone have much influence, I have no doubt that what he says is true. As for the unfortunate Poles themselves in their misery and isolation, who can tell what they believe?

This is a hideous state of things, and if our blockade is at all an effective element in causing it, I would be in favour of dropping the blockade forthwith. But it does not seem to be so. If Germany did not wish to starve these people she need not do it. We are willing, both to admit food and to send food, so long as she will promise not to steal it. If it be argued that Germany cannot be expected to look on at a crowd of conquered Poles and Serbs enjoying themselves while good sound Germans are short of pork and butter and bread, the answer is that, even at the best, we should hardly be able to bring the food-supply of two utterly ravaged and devitalized countries, like Poland and Serbia, to a level approaching that of Germany. Germany is living on her own resources and those of her allies, true; but the territories in question are both vast and fertile, and scarcely the extreme fringe of them has been touched by the war. On the whole, it does not look as if Poland or Serbia would appreciably benefit by our admission of food to Germany.

VII.

The extension of the doctrine of continuous voyage, and the prevention of all sea-borne trade to or from Germany: those are the two main problems. The remainder are smaller things, although in many ways interesting and important. In all of them, I think, the central fact is that we have extended some existing doctrine of international law to meet the special situations produced by this war. I do not say that in all cases we have decided rightly. Sir Edward Grey has definitely offered to submit to a convention after the war the whole question of what is called "The Freedom of the Seas," and such a convention will probably settle some of these points in our favour and some against us. At present there is no convention either existing or possible. There is no fixed code of the sea and never has been. We have to use our own tribunals, which administer international law to the best of their ability according to precedent. They have on certain occasions decided that our government has gone wrong and can be compelled to pay damages; they have decided that certain orders in council were against international law and have disallowed them. They have, I may note in passing, declined to admit the plea of the Crown that it was following an American precedent which was afterwards embodied in an act of the United States Congress, on the ground that the said precedent and act were too oppressive. The United States claimed that the government could requisition any goods or ships which had been captured by their fleet, without previous trial.[1] When the convention comes to sit on these questions which we have tried to settle, they will probably, as I said before, decide some for and some against us; but I am confident that they will not find that our courts have acted with

either levity or rapacity.

I mention summarily the chief remaining points. We treat "bunker coal of enemy origin" as contraband; and Mr. Bullard considers this as absolutely the very worst thing we have done. He quotes ancient precedents to show that "things needful for the working of the ship or comfort of the crew" are not to be treated as contraband. But the rulings in question all date from before the time of steam and refer to sailing ships. Coal is admittedly in a special position, and international law has not yet pronounced upon it.

Thus far, then, our "very worst" offence is not so serious. But perhaps it is our motive that is so infamous? Our motive is simple. As explained above, we do not allow traders to carry through our lines goods intended for the enemy, and we ask all traders for an assurance that they are not doing so. If they refuse to give this assurance, and if further we find them buying enemy coal, we treat them as if they had been buying any other enemy goods. What does the enemy do to ships from England or Russia in the Baltic? And do we ever think of complaining?

We examine neutral mails. This seems a bad case. We have actually a rule of the Hague Convention against us, just as all the belligerents have—or have only just missed having—in the matter of aeroplanes. The Convention maintains the inviolability of all mail-bags, and used to forbid all dropping of explosives from the air. Yet I feel some confidence that any future conference will recognize that both these rules are "unemployable," and will justify our action about the mails. The old precedents do not apply at all. There has never been in any previous war anything approaching the present network of commercial and political correspondence across the Atlantic. Suppose in the Civil War there had been large settlements of Confederates in Mexico and in Canada, who were engaged in plots against the United States: Is it to be believed that President Lincoln would have refrained from opening the captured mail-bags passing between Canada and Mexico? A German in Denmark or Sweden arranges for an Indian in San Francisco to come to England with a false American passport in order to murder Sir Edward Grey: is he to have the right of sending and receiving letters, unhindered, under the eyes of the British fleet? Plots about contraband are of course much commoner. Are we to be allowed to search ships for nickel and rubber, but forbidden to interfere with these plotters' mail-bags? The rules and the precedents of other wars are here against us, but I must say that such a complete change in conditions seems absolutely to demand a change of rules.

"The closing of the Suez Canal to neutrals is a measure for which no military necessity has been shown." Mr. Bullard does not seem to question its legality, and I have not tried to find out exactly what the rights of either Egypt or Great Britain or the Suez Canal shareholders may be. But as for the military necessity, surely a child can see it. To block the Canal would be worth some millions of dollars to the enemy. A much smaller sum would suffice to induce a dozen Greeks, or Swedish, or even unprejudiced Dutch skippers to play certain tricks which I need not name, but which might make the Canal unusable for several weeks.

Mr. Bullard ends with a number of vaguely prejudicial statements, largely in the form of innuendo or parenthesis. He seems really unable to understand the conditions produced by war. He says we regard it as "moral for neutrals to help England but a deadly sin to trade with Germany." Of course it has nothing to do with sin. We do not fire at German men-of-war because we think them immoral, but because they are our enemies. We do not confiscate cargoes of rubber consigned to Germany because it is essentially immoral for Germans to use rubber. We only say to every neutral trader, "If you trade with Germany we will not trade with you." Or rather that is the extreme limit of what we say. The opposite conduct was once considered possible, but seems to us of the present generation a little dishonourable. It makes us a little ashamed when we learn that Napoleon's armies were often clad in cloth from Yorkshire and boots made in Northampton. The view of the British Government at that time was that it was good business to make money by supplying the enemy and use the proceeds for defeating him. It is a possible view, and apparently is the view that appeals to Mr. Bullard. And doubtless it would enable both ourselves and certain neutrals to make more money. But—well, we do not

like it, and do not believe that in the end it pays.

VIII.

And then the article tails off into vague horrors about the British censorship and the Defence of the Realm Act and the deplorable profits made by British shippers, and the "party of Lord North which is installed at the Foreign Office!"

Everybody knows that in war censorship is necessary; every nation employs it, Great Britain rather more leniently than the rest. It is a pure myth to suppose that in England we are kept in the dark about important sides of the war which are well known to neutrals. I have been in four different neutral countries since the war began, and have read their newspapers; so I speak with confidence. But it is just the sort of myth that Mr. Bullard accepts without question. As to the Defence of the Realm Act: of course the act gives the executive tremendous powers, and would, if continued in normal times, be incompatible with civil liberty. But everybody knows that some such special laws are necessary in war time; there is no nation in Europe which attempts to do without such laws, and Mr. Bullard makes no attempt to show that any other nation applies them more leniently than England does. As to the fortunes made by shippers, why drag in the word "British"? With the German merchant ships out of use, with Allied and neutral ships sunk to the number of some hundreds by submarines and extensively commandeered by the various governments for war purposes, there is an extreme shortage of ships together with an immense demand. Every tub that will float, of whatever nationality, is bringing its owner fortune. And we dare not discourage them, for we want every ship we can get. Mr. Bullard, dropping for a moment his lofty idealism, complains simply that the British are getting too large a share of the swag, an unproved and to me extremely doubtful statement. Naturally ships belonging to the Allied powers are less open to suspicion than neutrals are, and consequently are less harassed by certain restrictions. But the British, at any rate, are not only subjected to enormous war-taxation, but have in addition fifty per cent. of their war-profits confiscated. And Lord North at the Foreign Office! Really one smiles at Mr. Bullard's innocence. "The visitor thought we were naughty, papa; but of course he has never seen us when we are really naughty!" In every country engaged in war there is somewhere below the surface a growling mass of passion, brutality, lawlessness, hatred of foreign nations, contempt for reason and humanity. In Great Britain, thank heaven, the brute is kept cowed and well chained, though at times his voice is heard in the more violent newspapers. The brute knows the hands that hold him down and hates almost all the present Cabinet, but most of all, perhaps, he hates two men: the great and moderate Liberal who presides over the government, the great and moderate Liberal who guides the Foreign Office.—And Mr. Bullard, in his innocence, would like to turn them out!

It is all rather pitiable. Nothing verified, nothing exact, nothing impartially stated, not much that is even approximately true. Mr. Bullard seems to mean well; I have no doubt that he means well. But his present tone will not serve the ends of Liberalism. It will only serve to foster prejudice, to make bad blood, to stir up that evil old spirit of slander between nations, which every decent Liberal and certainly every good internationalist would like to see buried for ever.

It is false to say that Great Britain has broken the Declaration of London, because the Declaration was never accepted as law. It is false to say that Great Britain is alone responsible for every unpopular act committed at sea by the Allied navies; she is acting in concert with nearly all the great maritime powers of the world. It is idle to complain that Great Britain administers international law by means of her own courts; that is the only method ever followed by other belligerent nations, the United States included, nor has any better practical method, so far as I know, been even proposed to her. And lastly, I believe it is profoundly false to say that

the British courts have acted in heat and passion or at all fallen below the level of scrupulous care which is expected from the best judicial bodies in the world.

It is not likely that their decisions are in every case exactly right. It is to be hoped that after the war, if we can get some fair security of future peace and establish some permanent and effective international tribunal, we may reach a definite code of international law which all nations can agree to uphold. Whatever meaning there is in the catch phrase "Freedom of the Seas" will then come up for serious discussion, and Sir Edward Grey has officially announced our willingness to take part in such discussion. In the meantime the great group of powers which is, as Mr. Bullard admits, on the whole fighting for the maintenance of public right and for honesty between nations, cannot be expected, in the midst of its mortal struggle, to divest itself of its normal sources of strength, to satisfy an ideal which has never been demanded of other belligerents.

There is another tale, by the way, about that minister who was such "a deevil at the moralities." He once found a respectable citizen being attacked by two thieves. He first thought of helping the citizen, but eventually put his stick between the man's legs and tripped him up. "The man was never a good churchgoer," he explained, "and his language at the time was a most sinful example." The analogy to Mr. Bullard is closer than I thought. But I am certain he does not speak for his countrymen.

[1] Judicial Committee of Privy Council, in the *Zamora* case, April 7, 1916.

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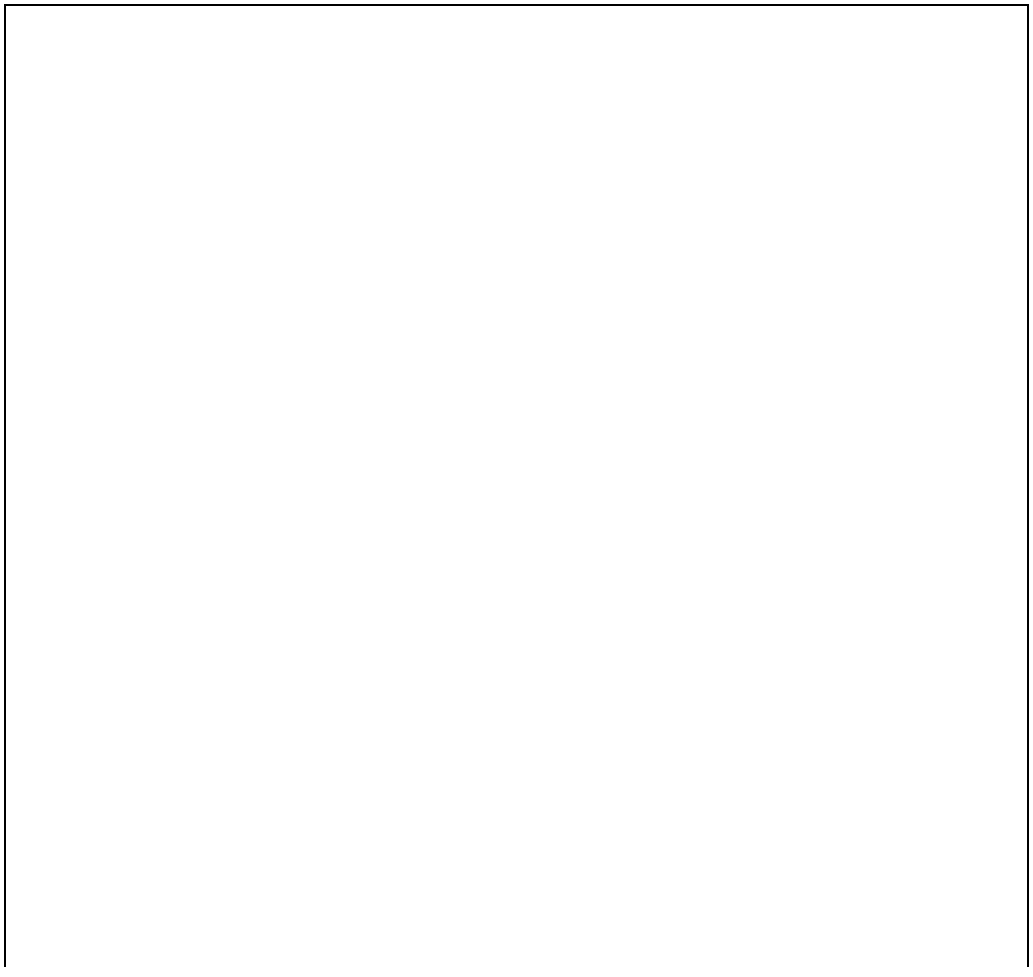

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Transcriber's Notes:--

Page 8 "under present-day conditons" changed to "under present-day conditions"

Page 14 "What would be the conditon" changed to "What would be the condition"

Page 27 "interesting and imporant." changed to "interesting and important."

In the original, the Chapter heading VI is omitted. Comparison with the equivalent chapter in Murray's collection of essays "Faith, War and Policy" has been made and the chapter heading inserted in the equivalent place.

[The end of Great Britain's Sea Policy by Gilbert Murray]