INTERNATIONAL LAW IN TIME OF WAR.

Territory Occupied by the Enemy.

[VIII.—By W. Jethro Brown, M.A., Late D.]

The Register
September 5th, 1914

The ceremony associated with the visit of Dr. William Barlow with friends and guests, and the Governor-General was made the occasion of a reception at Government House last evening. The Military Secretary (Capt. Parry) escorted Dr. Barlow to the house, and his sponsors were Sir John Downer and Professor Stirling, C.M.G. All who were present occupied positions to the left of the house. Capt. Peacock read the proclamation, after which Sir Ronald Munro-Ferguson pinned the decoration upon Dr. Barlow. The guests were received by His Excellency the Governor and Lady Galway and His Excellency the Governor-General and Lady Helen Munro-Ferguson. The Bion, Mr. and Mrs. McWilliam, and Mr. Bentley Con- nor were in attendance.
Just as a blockade to be real must be effective, so occupation, if it is to be effectual, must involve the substitution of belligerent for the rightful government. The belligerent power has the right to the occupation of territory, and it has no right to exercise sovereignty over it unless the government is in a condition to be dispossessed. This is true whatever the right of force may be, and the belligerent power has no right to exact obedience from the population if he is not able to establish his supremacy. The occupation must be such as to enable the belligerent power to exercise control over the population and its resources, and to prevent all laws from being obeyed which would be contrary to the interests of the occupying power. The occupying power must have the right to maintain law and order, and to protect its own interests, and to prevent the perpetration of crimes against its own citizens, and to prevent the perpetration of crimes against the population of the country, and to prevent the perpetration of crimes against the population of the country.

Duties of an Occupant.

Frederick the Great taught that the best means of an invading army is to raise recruits from among the citizens of the invaded territory by compulsion. This is in accordance with the principles of the Declaration of Independence and the Seven Years' War. But existing usage cannot and must not be set aside, whether under compulsion or otherwise. The honour and rights of the family, the lives of individuals, and private property, as well as the public worship, must be respected. Private property cannot be confiscated, as was done in the English invasion of the United States in 1812. This is a principle of the law of nations, and it must be observed while respecting, unless absolutely prevented, the laws in force in the country.

An occupant is not given notice prohibiting all offences against the army in occupation, and it is not possible for the occupant to have the security of his troops. The rules laid down by the occupant are rules of martial law, and the occupant has the power over the military tribunals. They are set up in the same way as in the United States, and the courts must act in accordance with the courts of the United States, and must be conducted by persons who have the power of arrest as guides to the troops of their own country or of who destroy telegraphs, roads, or to prevent the occupation of the country.

The occupant shall, on demand of the owner, indemnify him for all losses suffered or expenses incurred.

The occupant shall be subject to the laws of the country, and shall be answerable for all injuries to persons or property.

The occupant shall not commit any act of war, or of any other act that may be defined as an act of war.

The occupant shall be answerable for all injuries to persons or property, and for all losses suffered or expenses incurred.

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Seizure of Property.

By Art. LIII. of the Hague Convention an army (1) can only seize casa, furna, and furniture belonging to French, and (2) can seize depots of armor, means of transport, stores, supplies, and other public property for the purpose of preparing for the operations of war. Most of the items mentioned in the Convention are not possessed by the army belonging to the invading forces, but in this case these items must be restored and indemnified when they are released. This article involves the exemption of certain items from the prohibition on seizure by the army, and does not allow the State falling under the description of a State in the Convention of Private Property in Cases of a naval or military occupation of territory.

Conclusion.

From the foregoing brief summary it will be seen that the Convention, as far as it goes, is only a temporary restriction of the right of a State to seize property belonging to private persons, but in this case these items must be restored and indemnified when they are released. This article involves the exemption of certain items from the prohibition on seizure by the army, and does not allow the State falling under the description of a State in the Convention of Private Property in Cases of a naval or military occupation of territory.

ARTICLES PREVIOUSLY PUBLISHED.

Arts. LI. - LIV. of the Treaty of Peace, 1878, dated February 9th, 1884, at the Hague, between France and Germany, for the purpose of preventing the reproduction of disputes and complications of the past, and for the establishment of friendly relations between the two States. The Convention of Private Property in Cases of a naval or military occupation of territory, as far as it goes, is only a temporary restriction of the right of a State to seize property belonging to private persons, and does not allow the State falling under the description of a State in the Convention of Private Property in Cases of a naval or military occupation of territory. But I think it can be shown that France was not properly indemnified in the case of the invasion of Belgium, and that the indemnification awarded by the Convention of Private Property in Cases of a naval or military occupation of territory was not sufficient to cover the loss sustained by Belgium.