

International Law and the Present War.

Until the outbreak of the present European conflict modern wars have been characterized by an ever increasing recognition of the rules of international law, and it has generally been possible at the end of each conflict to register some substantial progress.

In the titanic struggle between Russia and Japan we had a remarkable instance of the homage paid to the usages of civilized warfare by a nation which had but recently been admitted within the pale of international law. The Japanese army and navy were accompanied by distinguished jurists whose duty was to advise the military and naval commanders as to doubtful questions which might arise in the conduct of the war, just as Gustavus Adolphus was said to have kept a copy of Grotius with him in his camp for constant reference.

What distinguishes the present conflict from all modern wars between civilized states is not merely or principally the deliberate disregard by one of the combatants of almost every one of the principal rules of warfare sanctioned by usage and adopted by the conferences at the Hague, but the negation by the most authoritative and influential writers of that nation of the fundamental principles underlying the science of International Law. Indeed the practice is but the logical result of the doctrine.

So firmly were the foundations of the system supposed to be laid that Professor Holland said in 1896, in his work on Jurisprudence, that no one of the States of modern Christendom would venture at the present day expressly to repudiate the duty of conforming to the precepts of International Law in its dealings with the rest. (8th Ed. p. 346).

Contrast with this assurance the answer given in 1914 to another eminent English jurist, Mr. Thomas Barclay, who