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INTERNATIONAL COMMITTEE OF THE RED CROSS

VISIT OF THE PRESIDENT OF THE ICRC TO THE IRISH RED CROSS SOCIETY

The Irish Red Cross Society, founded in July 1939, and recognised on the international level as from November 1939 by the International Committee of the Red Cross, held last week in Dublin its first General Meeting, which in future will be convened every three years. On the invitation of the Irish Red Cross Society the President of the International Committee and M^{me} Paul Ruegger were present at the Meeting.

In his opening speech of November 12, in presence of the Members of the Government and the Diplomatic Corps in Dublin, the President of the International Committee recalled the generous help given by the Irish Red Cross Society since its foundation, on behalf of victims of the war and its direct consequences. He referred to the Irish people's donation for war victims of which half—seven million pounds in value—had been attributed to the Joint Commission of the International Red Cross, and to the Irish Red Cross Society's contributions towards the Committee's work, especially in Berlin, where it had supplied daily meals to 100,000 inhabitants of the Eastern Zone in Germany. President Ruegger also gave a survey of the extensive work in which the Committee is still involved, both of a general nature and for helping certain categories of war victims.

In their speeches Mr Traynor, Minister of Defence, and Mrs Barry, Chairman of the Irish Red Cross Society, emphasised Ireland's attachment to the founder body of the Red Cross.

During their visit M. and M^{me} Ruegger were received by the President of the Irish Free State (who also presides the Irish Red Cross), and the Prime Minister, Mr. Eamon de Valera, whose unflinching interest in the International Committee's work is well known. At a luncheon to which M. Ruegger was invited

by Mr. Aiken, Foreign Secretary, special reference was made to the bond of friendship between Ireland and the International Committee of the Red Cross.

Before leaving Ireland M. Ruegger spoke of the International Committee's work and duties with the Cardinal, Archbishop of Armagh, Primate of Ireland, and with the Catholic and Protestant Bishops of Dublin.

JEAN-PIERRE SCHOENHOLZER

*Secretary in the Central Management
of the International Committee of the Red Cross*

THE DOCTOR IN THE GENEVA CONVENTIONS OF 1949

A wish has more than once been expressed in certain international medical quarters for the publication of a study summarising and analysing the provisions of the 1949 Geneva Conventions which directly affect doctors, and pointing out both the duties which the Conventions impose and the rights which they confer on them.

This very reasonable expectation met with a kindred response on the part of the International Committee of the Red Cross, which is itself desirous of providing the medical profession as a whole with the fullest possible information on the subject of certain recent developments of international humanitarian law sponsored in some sort by the Committee itself, which have their roots in the physical suffering of the human race.

The Red Cross is in fact closely allied, if not with medicine, at any rate with doctors and with all those whose work it is to treat the wounds of the wounded. Originally its only task was to aid the sick and wounded of armed forces, and so to make good the defects of the Military Medical Services of the period. Its work in this connection was therefore medical; and this aspect of its work has never ceased to be characteristic of all the activities, which it has successively assumed in the extension of its care from the wounded in armed conflicts to all the victims, innocent victims, of social scourges, whether war, sickness or natural catastrophes. Doctors and the Red Cross have the same end in view: it is the alleviation of human suffering, and their collaboration for the purpose can never be too close. The Red Cross without the doctors would be

powerless ; and the doctors are indebted to the Red Cross for having imposed upon the world a principle of which they (the doctors) had been for a long time the sole champions—the principle, namely, of the equality of all men in relation to suffering. The doctors further owe to the Red Cross a legal status which protects them in the exercise of international activities, and an emblem, the Red Cross emblem, which shields them on the battlefield.

The object of the present observations is to meet the aspirations which have been expressed. They represent an attempt to give the reader in as simple a form as possible the various rules of the Conventions, which relate to medical personnel in general and to doctors in particular. The account of these rules will not follow the order adopted by the Conventions ; for the system of the latter as diplomatic instruments is not here applicable. What is here wanted is that the doctor, whether military or civilian, should find a rapid and succinct response to the questions with which he may at any time be confronted in connection with the exercise of his vocation in times of conflict.

At the same time we have been at pains to keep as close as possible to the actual text of the Conventions. It is not a question in this paper of exegesis, but merely of quotation and explanation. The Conventions are clear enough in themselves ; and where there are ambiguities in them, these are most often due to the absence of precision in the subject to which they relate. There are also provisions which have called for criticism in some quarters, where they have been thought too generous or too narrow ; and polemics on the subject are already apparent. We can only refer in this connection to the practice of the International Committee of the Red Cross, and to the legal opinions expressed by it. It is true that the International Committee has no powers to give these legal texts authentic interpretation : such interpretation can only come from the States themselves. The Committee can only express opinions ; and these, as being the product of a competence which no one has hitherto thought of denying, are always expressed in terms consistent with humanitarian needs, which in their turn are bound to be subject

to strategic or political limits, if they are not to be purely utopian ¹.

The following is a brief account of the method we propose to follow. After a few indispensable definitions, a certain number of general principles, which govern and sometimes go beyond the text of the four Conventions, will be discussed. We shall then go into the more detailed obligations, which are already binding on the medical personnel in peacetime, and afterwards consider the regulations applicable in time of war, which form the actual substance of the Conventions. In each of these Chapters there will be two headings, one dealing with the military medical personnel and the other with the civilian personnel. Certain special questions will then be considered, such as the question of "hospital localities and safety zones" and "Mixed Medical Commissions". A brief reference will lastly be made to the repression of abuses and infractions.

I

SOME DEFINITIONS

A. THE GENEVA CONVENTIONS OF 1949

The Geneva Conventions of 12 August 1949 are four in number.

I. *First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.*

This Convention is the third version, in developed and modernised form, of the original Convention of 1864, which embodied in actual law the principle underlying the birth of the Red Cross less than a year before—the principle, namely, that wounded and sick combatants have a right to be respected

¹ We may refer in this connection in particular to the "Commentary" on the First of the 1949 Geneva Conventions, published under the direction of M. Jean S. Pictet, Director for General Affairs of the International Committee of the Red Cross. We have been directly indebted to this work on repeated occasions.

and cared for without distinction of nationality, and that in consequence military ambulances and hospitals and the medical personnel attached to them are entitled to protection, the visible sign of this immunity being the red cross on a white background.

In the course of time this principle was extended to other categories of war victims. As embodied in the four Geneva Conventions today, it provides that in time of war persons taking no direct part in hostilities, and persons who are *hors de combat* by reason of sickness, wounds, capture or any other factor, are entitled to be respected and protected against the effects of war, and that those who suffer have a right to succour and treatment without discrimination of any kind.

2. *Second Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked members of Armed Forces at Sea.*

This Convention, sometimes called the Maritime Convention, is an extension of the First Convention, the provisions of which if adapts to war at sea. It has the same objects and the same machinery as the First Convention, and protects the same persons, but introduces a new category of victims in the shape of shipwrecked persons.

It originated in the additional Articles drawn up by the Diplomatic Conference which met at Geneva in 1868. The proposals then made were not ratified, but became in 1899 the Third Hague Convention for the adaptation to maritime warfare of the principles of the Geneva Convention. The Third Hague Convention was revised in 1907.

3. *Third Geneva Convention relative to the Treatment of Prisoners of War.*

The Third Convention determines the duties and rights of Powers in relation to enemy combatants whom they have taken prisoners. The idea, on which the Convention is based, is that, while it is legitimate to prevent captive soldiers from taking up arms again, the captors have no other rights over them. They are entitled therefore to be humanely treated,

clothed, fed and looked after, and to be put in a position where they can communicate with their relations, as well as finally to be liberated on the close of hostilities.

This Convention, which is sometimes called the Prisoners Code, is the second version, embodying the experiences of the last war, of the similarly named Convention of 1929, which itself originated in the seventeen Articles of the Regulations concerning the Laws and Customs of War dealing with prisoners, which were attached to the Fourth Hague Convention of 1907.

4. *Fourth Geneva Convention relative to the Protection of Civilian Persons in time of War.*

This Convention is entirely new, and represents an advance of the utmost importance in the field of international humanitarian law. The advance thus made was vitally needed, for the development of methods of war had in many cases made the position of civilians as precarious as the position of combatants.

A first section deals with the general protection of population from certain effects of war. It extends the legal provisions of the original Genevese conception of wounded and sick combatants to cover the case of those who are particularly unable to fend for themselves, such as wounded, sick and infirm persons, pregnant women, children and old people. It also gives civilian hospitals and their staffs the protection hitherto accorded to military medical establishments and military medical personnel. A second section deals with the protection of civilian nationals of an enemy country, whether individual civilians settled in a belligerent's territory or the entire population of an occupied country.

5. *Application of the Conventions.*

The four Geneva Conventions are applicable in the event of war being declared, or of any other armed conflict arising between two or more of the Contracting Parties, even where a state of war is not recognised by one of them. They are equally applicable in all cases of occupation of the whole or

part of the territory of a Contracting Party, even where such occupation does not encounter any military resistance.

In the case of conflict which is not of an international character, such as civil war or serious internal troubles, the great principles of humanity, on which the law of Geneva is based, must in whatever circumstances be recognised and applied. In particular, the wounded and sick must be collected and cared for without any distinction whatever of an unfavourable character ; and any attempt on life or bodily integrity, including any sort or kind of murder, remains prohibited.

The respect of these principles, which is inculcated in a special Article figuring in all the four Conventions (Article 3), is applicable at all times and in all cases of other than international conflict. It is further stipulated that " the Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention ".

B. THE MEDICAL PERSONNEL

It should be borne in mind that all the Geneva Conventions, with the exception of the Fourth, apply to the protection of members of armed forces—that is to say, to combatants who are wounded, sick, shipwrecked or captive, and to non-combatants who are engaged in relieving the physical or moral sufferings of the former. Such non-combatants may be members of the medical personnel (doctors, surgeons, dentists, chemists, nurses male or female, stretcher-bearers etc.), or they may belong to the administrative staff of medical establishments, or lastly may be chaplains.

It is the First Convention, as we have seen, which determines (in its Chapter IV) the status, nature and protection of members of the medical personnel, as the Second Convention does in the case of armed forces at sea. It distinguishes between (a) the medical personnel properly so-called, whom it describes as " permanent ", i.e. personnel employed exclusively on work explicitly defined in the Convention (namely, the search for,

or the collection, transport or treatment of the wounded or sick, or in the prevention of disease) and as such protected at all times, and (b) the "temporary" personnel (namely, "members of the armed forces specially trained for employment, should the need arise, as hospital orderlies, nurses or auxiliary stretcher-bearers, in the search for or the collection, transport or treatment of the wounded and sick"). As will be seen below, this temporary personnel is protected only when engaged in the performance of its medical duties (First Convention, Articles 24 and 25).

The military medical service as a whole is generally known in most countries as the Medical Service. It includes the personnel of the national Red Cross Societies and other recognised relief bodies, who lend their aid to the Military Medical Service, and enjoy the same protection. These may be relief bodies of the belligerent country itself or bodies of neutral countries. In both cases as a rule the personnel of such societies (doctors, surgeons, specialists, nurses etc.) are in practice attached to the Medical Service, and are subject to its management, though they cannot be said to be thereby members of the Medical Service in question, and as such members of the armed forces (First Convention, Articles 26 and 27).

We have here a characteristic feature of the medical personnel. Other members of the armed forces are, and can only be, "combatants" (*militaires*) in the strict sense of the word; but the medical personnel may include both military and civilian elements. This dates back to the time when Henry Dunant, with an entourage of a few volunteers, showed on the battlefield of Solferino that an army needed civilian assistance. Nor do doctors need an extensive training as combatants in order to be able to treat combatants.

The Fourth Geneva Convention deals only with medical personnel attached to civilian hospitals recognised as such by the State. It will be convenient however for the purposes of this account to describe them as "civilian medical personnel".

The Fourth Convention (Article 20) divides this personnel into two categories, namely (1) persons regularly and solely engaged in the operation and administration of civilian hospitals,

who are protected at all times, and (2) persons employed incidentally in the operation of hospitals, who are protected only when in the performance of these duties.

C. THE DUTIES AND RIGHTS OF THE DOCTOR

It rests with the agents of the State in their various official positions to observe and implement the rules arising out of the Geneva Conventions. The State by adhering to the Conventions involved them as a body in this obligation. It was a very serious obligation which the State incurred, when it adhered to the Conventions; and it rests in consequence with the State to require all its subordinates to act in accordance with the law it has promised to observe. The subordinates in question by their compliance are in the first place fulfilling their duty to the State; but they are also complying with an international law. Any breach of this law is a violation both of national and of international law; and we shall see below that penalties are attached to it. A full knowledge of the provisions of the Geneva Conventions by those who may at any moment be called upon to apply them at short notice, when it may be too late to inform themselves on the subject, is therefore essential.

The *duties* imposed by the Conventions, which are now to be discussed, are absolute in character, and admit of no exceptions. They come before any other considerations. A doctor, for whom it is materially impossible to refer to any other source, will do well to apply to his superior officer.

The *rights* which the Conventions confer on the medical personnel may be considered from two standpoints. Certain of them are of a positive character, and are conferred directly on the individual members of the medical personnel, such as the right to show the emblem or to carry a weapon in self-defence. Other rights — and these are more numerous — are in the form rather of obligations on the enemy Power. Where for example the Convention stipulates that the medical personnel is to be respected and protected, a right of the medical personnel

is obviously involved ; but, instead of an academic announcement of the fact, it was preferable to give it the form of an obligation on those from whom the respect and protection are to come.

But, however couched, the doctors' rights are conferred on them solely with a view to facilitating the work they are there to do, and to the extent that they do it.

What action can a doctor take, when one of his rights is denied him ? He is no doubt free to have recourse to any direct or official approaches with a view to recognition of his claim : but, should these approaches fail, the wrong incurred does not absolve him from the duty, which is incumbent on him, to see that nothing is done which can in any way hurt those persons in his care, whether enemy nationals or even compatriots of those who are responsible for the violation of his rights under the law. His professional obligations and medical ethics come in such a case before any other purely personal consideration.

II

SOME GENERAL PRINCIPLES

The Geneva Conventions are dominated by a small number of general principles, which are the logical consequence of the great humanitarian law, which gave birth to both the first Geneva Convention of 1864 and the Red Cross—the law namely of the sacredness of man's suffering. These principles were taken up again in each of the Conventions and adapted to the activities of each. It seems logical to group them together at this point, with the addition of certain rules derived from the provisions common to the four Conventions, which primarily concern the medical personnel and in general the members of the medical profession.

These general principles apply equally to military medical personnel and to civilian doctors.

- I. *Any man, who is rendered hors de combat or is not a participant in a conflict, has a right to respect for his personality, whether physical or moral.*

This great law of civilisation, which is the very substance and foundation of the Geneva Conventions, may appear abundantly self-evident ; but it has by no means always or everywhere been so regarded. For the doctor even more than others it ought to be sacrosanct, since it postulates the value of the individual, which it is the passionate desire of the doctor to study and to serve.

But is it not also the case that it is none other than the doctor who at times is sorely tempted to violate this law? Under the stimulus of scientific research and the craving for knowledge a surgeon or psychiatrist may conceivably wish to pass the barriers, which normally clear thinking would have opposed to his investigations. There is a danger here of which, let it be said at once, the members of the medical profession are themselves conscious ; and the great principle, which is the corner-stone of the arch of international humanitarian law, is also one of the bases of medical ethics.

The Conventions for their part have given a precise form to the law. They have been at pains to enumerate the gravest breaches of the law which can be committed in relation to the persons whom the Conventions protect, by which direct references they hope to prevent any repetition of the atrocious crimes which the world saw perpetrated during the Second World War. This enumeration of breaches of the law is so important that it is reproduced here in the form in which it appears in the First Convention (Article 12) with reference to the wounded and sick of armed forces : ¹

Any attempts upon their lives, or violence to their persons, shall be strictly prohibited ; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments ; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.

¹ It will be found, sometimes in slightly different form, in the Second Convention in Article 12, in the Third Convention in Article 13, and in the Fourth Convention in Article 32.

The above enumeration calls for certain observations.

The prohibition to make biological experiments on protected persons was intended to prevent for all time the criminal practices, of which certain captured persons were the victims. It was further intended to preclude the use of anyone as "guinea-pigs" for medical experiments.

But this provision only applies to "biological experiments". It does not prevent practising doctors from having recourse to new forms of therapeutics, which are justified on medical grounds and are inspired solely by the desire to improve the state of the patient. It must be possible to resort to the new medicaments which science offers, provided it has been shown beforehand, and has been shown conclusively, that they are harmless, and that they are administered solely for curative purposes. This interpretation is clearly in accordance with the corresponding provisions of the three other Conventions, and in particular with that of the Third Convention (Article 13), which is the most explicit on the subject. It lays down that "no prisoner of war may be subjected to... medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interests". This provision is closely akin to that which prohibits the exposure of wounded or sick persons to contagion or infection risks created for the purpose.

2. *The doctor is required to treat anyone who needs his services without distinction of any kind.*

The principle of a doctor treating whoever has need of his treatment is a humanitarian law, and is also one of the bases of medical deontology. The Geneva Conventions in their turn all indicate that the persons they protect are entitled to the care which their condition requires, and are to be treated humanely. But the Conventions further include an emphatic prohibition of making such treatment, or the quality of such treatment, dependent on arbitrary distinctions. Each Convention lays down that the persons it protects, whether the wounded and sick of armed forces (First Convention, Article 3), shipwrecked persons (Second Convention, Article 12), prisoners of

war (Third Convention, Article 16) or civilians of enemy nationality (Fourth Convention, Article 27), are to be treated “without any adverse distinction founded on sex, race, nationality, political opinions or any other similar criteria”. To make it even clearer that there is only one admissible form of adverse distinction, the First Convention adds (Article 12) that “Only urgent medical reasons will authorise priority in the order of treatment to be administered”.

This provision is fundamental, indicating as it does the line of conduct of the doctors. Whatever the man may be who has need of his treatment, whatever the colour of his skin or the nature of his opinions, even if he is a spy or a *franc-tireur*, the doctor is to treat him as conscientiously as he can: he is even to take him before others, if his condition so requires.

But the Conventions do not prohibit discrimination except in cases where its effect is unfavourable: they do not prohibit discrimination where it operates in favour of the protected persons, for instance in order to take their physical constitution or origin into account, e.g. by ordering special food, additional blankets for patients from tropical countries and the like. Again, women are to be treated with all consideration due to their sex (First Convention, Article 12).

3. *Members of medical personnel, whether military or civilian, are to be respected and protected.*

This principle follows logically as a corollary of the principle which dominates all the Conventions—namely the principle of the sacredness of man’s suffering. If it is desired to safeguard the wounded and sick, those who are to treat them must be allowed to do so in the best possible conditions. To that extent the principle is absolute, and only the form of the conditions can vary. It is thus that the medical personnel properly so-called, that is to say, the permanent military personnel and the personnel exclusively engaged in the operation of civilian hospitals (First Convention, Article 24, and Fourth Convention, Article 20) are to be respected and protected “in all circumstances”, i.e. at all times and in all places. Temporary military

personnel (who do not include doctors¹ and civilian personnel who only perform occasional duties in hospitals are not protected except in the performance of their duties.

But what of individual doctors, who are not attached to any hospital, or country doctors? These have no right to the special protection conferred by the Geneva Conventions or to the emblem of the Red Cross, though they remain of course covered by the general protection which the Fourth Convention accords to every civilian.

Why is this? It is for the following reason.

The sole object of the Conventions is to protect from the effects of war certain categories of persons, whose lot is specially pitiable. They consequently protect at the same time those whose business it is to alleviate their lot, such as doctors, nurses and chaplains. But they do not protect these people except in so far as they are fulfilling these duties or except in so far as special protection is necessary to enable them to fulfil them. Failing their compliance with these two conditions, the Conventions cannot protect them. Furthermore, the protection involves the carrying of a special identity card and the right to display the red cross emblem. But it is of paramount importance that this emblem, before which arms are lowered and violence ceases, should retain its protective force and tutelary value. If it were to be multiplied in numbers, and to be displayed by anyone who is connected, even distantly, with the medical profession, it would soon lose its suggestive power, and would become no more than a badge like that of a corporation or club. If the emblem had been conferred on all doctors, whatever their duties and whatever their particular branches of work, would it have been possible in that case to refuse it to other persons, whose profession is also to relieve suffering, or even to those who are associated with the art of medicine, such as pharmaceutical chemists, midwives, masseurs, chiroprodists, dental mechanics and the like? There would then have been a plethora of red crosses everywhere, and it would not have been long before the emblem lost all force and all

¹ See above, page 196, "The Medical Personnel".

value. All official control of its use would then have been made impossible ; and it is important to note in this connection that it is only in so far as the enemy is assured that its use is strictly supervised by the other side that he will himself be encouraged to respect the Red Cross in all circumstances. Consequently the right to the emblem can only be given to individuals belonging to an association with someone at the head who sees to the strict performance of the duties arising out of the Conventions.

What meaning is to be attached to the words “ respect and protect ” (in French, “ respecter et protéger ”)? To begin with, we have to remember that they do not apply only to the wounded, but also—and that prominently—to the military medical personnel, that is, to persons who in time of war will be working on or near the battlefield. For such persons the essential meaning of the words is that the enemy is forbidden to attack them, or use his arms against them, or do anything to prevent them from fulfilling their duties. The enemy is further required to “ protect ” them. To “ respect ” (“ respecter”) according to the definition of the Dictionary of the French Academy means to “ spare and not attack ” (“ épargner, ne point attaquer ”); but the word may also have a more positive sense and include actions necessary to ensure respect, in which case it approaches the meaning of “ protect ”. To “ protect ” (“ protéger ”) according to the same Dictionary means to “ act in defence of someone, to lend relief and support ” (“ prendre la défense de quelqu’un, prêter secours et appui ”). In the case of civilian personnel these two terms will be of wider application than in the case of military personnel, because they will hold good, not only in relation to enemy military authorities, but also—e.g. in the event of occupation—in relation to civilian authorities.

But respect and protection are not conferred without countervailing conditions. These countervailing stipulations are that the doctors and the medical personnel must abstain from any sort of hostile action vis-à-vis the enemy ¹. They are protected

¹ A reservation is made in cases where the medical personnel has to make use of its arms in self-defence or in order to defend the wounded committed to its care, as we shall see below.

because they are neutrals, and cease to be protected the moment they abandon their neutrality.

The medical personnel must also, to prove its character, carry an identity card and wear an armlet with the red cross emblem on it. But these two conditions do not in themselves constitute protection. No doubt a military doctor, who does not display the red cross, will run the risk of being taken for a combatant and treated as such ; but, once his medical status is recognized by the enemy, he is to enjoy at once the respect and protection which are his due. If on the other hand it is his identity card which he has not upon him, it will be very much more difficult for him in the event of capture to prove his status. Accordingly all doctors, who are entitled to an identity card, are strongly recommended always to carry it with them ¹.

4. *Reprisals against wounded and sick, medical personnel or the buildings or equipment of the latter, are forbidden.*

The four Geneva Conventions forbid any form of reprisals in relation to persons or property they protect (First Convention, Article 45, Second Convention, Article 47, Third Convention, Article 13 and Fourth Convention, Article 33). In particular, reprisals are forbidden in the case of wounded, sick or shipwrecked persons, military medical personnel and their buildings or equipment, prisoners of war, civilians of enemy nationality and the personnel of civilian hospitals and the hospitals themselves.

The medical personnel, both military and civilian, is consequently entitled to oppose, by such means as they have at their disposal and to the extent to which such means are lawful, any reprisals affecting them or the wounded and sick in their charge.

“ Reprisals ” in international law are understood to be acts of one State to the prejudice of another State with a view to

¹ For the question of the armlet and the identity cards see below, page 209.

putting a stop to violations inflicted by the latter on itself, or with a view to obtaining reparation for them. They must be distinguished from measures of "retortion", which do not violate international law. It would be retortion for example, if a belligerent were to withdraw from retained medical personnel particular benefits accorded over and above the treatment prescribed in the Conventions, on the ground of the adverse party having withdrawn benefits from such personnel engaged on the same work or on other work.

Although the prohibition of reprisals does not apply to retortionary measures, it would no doubt be very desirable if the latter also were barred.

5. *The rights conferred by the Conventions are inalienable.*

The provisions common to all four Conventions lay down that protected persons may not in any case renounce in whole or in part the rights which they have under the Conventions, or under the special agreements concluded between belligerents under Article 7 of the first three Conventions and Article 8 of the Fourth Convention.

Consequently, neither the medical personnel, military or civilian, nor the wounded or sick, can renounce their various rights under the Conventions, whether of their own initiative or otherwise.

The object of this provision is to protect those who have the benefit of the Conventions, not only against the enemy, but also against themselves—that is to say, against decisions they may make of their own free will while in the enemy's hands but may find ultimately to be to their disadvantage.

It must be admitted that in a conflict the protected persons, who have fallen into the power of the enemy, are not effectively in a position of moral independence and impartiality, sufficient to enable them to form a judgment in full knowledge of the facts as to the effects of renunciation of their rights under the Conventions. To speak of freedom in this connection would be an abuse of language.

6. *Special agreements may not prejudice the position of wounded, sick or shipwrecked persons or the medical or religious personnel.*

The provisions common to the four Conventions stipulate, as we have seen, that the High Contracting Parties may conclude special agreements, over and above those for which express provision is made, on any question on which a special settlement appears to them to be indicated. But such special agreements may not prejudice the position of wounded, sick or shipwrecked persons, or members of the medical and religious personnel, as regulated by the Conventions, or limit the rights which the latter accord (First Convention, Article 6, Second Convention, Article 6).

When concluded by the High Contracting Parties, that is to say, by superior authority, these special agreements will no doubt be accepted as a rule by the parties concerned, as soon as they hear of them. But in view of the conditions which the High Contracting Parties are compelled to respect, it may happen that the parties concerned will be consulted, or at any rate will be given an opportunity of expressing their opinion. It will then devolve on the medical personnel, not only to maintain their own rights, but also—and above all—to champion those of the wounded and sick for whom they are directly responsible, and to make sure that the proposed agreements cannot adversely affect them.

The parties concerned are to continue to enjoy the benefit of the special agreements so long as the Conventions themselves remain applicable to them, except of course in so far as provisions to the contrary are explicitly stipulated in the agreements, or more favourable treatment is provided for them.

III

RULES APPLYING IN PEACETIME

Although the Geneva Conventions in general are only applicable in wartime, they contain nevertheless a certain number of provisions which must be observed in peacetime.

Most of these refer to measures of material preparation, and their application comes essentially within the competence of high authorities. They therefore directly concern members of the medical, military or civilian personnel who are authorised by their official position to take the necessary decisions.

It is proposed to deal separately with the provisions relative to military medical personnel and those relative to civilian personnel.

A. MILITARY MEDICAL PERSONNEL

I. *Identity disc.*

The custom of providing each soldier with an identity disc has spread since the First World War, and seems today to be universally admitted. But very soon also the need arose to standardize the disc. The International Commission for Medical Equipment, set up under the auspices of the International Committee of the Red Cross, submitted in 1928 a standard model made in two halves, one of which was to be sent back to the Power of origin in case of death. Needless to say, the two separate halves contained the same indications. This model was approved by the International Red Cross Conference, and was already admitted by the 1929 Conventions.

The First Convention of 1949 in turn admitted it. In Articles 16 and 17 it stipulated that one half of the double identity disc, or the identity disc itself, if a single disc, should remain on the body so that the body could always be identified.

As identification is a task which often falls upon the medical personnel, they have an interest in its use becoming more widespread, preferably in its double form. The half of the disc sent back to the Power of Origin often serves as a very useful extra proof of identity.

It is therefore the duty of doctors and medical personnel to take all steps within their power to see that every soldier without exception, including members of the medical personnel themselves, is provided in time with, if possible, a double identity disc.

2. *The armlet and identity card.*

The permanent medical personnel, if they wish to benefit by the immediate protection of the Convention, must, as we have seen, be able to be recognised as such at first sight. The most visible sign of their medical capacity is the red cross armlet. The armlet which is to be white and, if possible, water-resistant, is to be worn on the left arm ; it is to be issued and stamped by the military authority (First Convention, Article 40, Second Convention, Article 42).

But however useful the armlet may be, it does not provide the perfect means of rapid identification. Owing to its small size it will sometimes not be visible at a distance. Another practice often used by medical personnel is to carry a white flag with a red cross on it. No provision in the Convention prohibits this.

The best means of ensuring the safety of medical personnel would undoubtedly be to clothe them in special uniform, the same for all armies, which could be distinguished by its colour from uniforms worn by combatants. This idea, which was already put forward at the time of the founding of the Red Cross, has not yet been accepted, but may come up for consideration again...

The armlet is not sufficient to establish the capacity. The bearer must be able to prove his right to wear it. He must also be able to prove that he belongs to the medical personnel, in order to benefit by the status conferred on him by the Convention, and to assert his rights to repatriation. A special identity card is therefore called for. The Conventions make the following provisions in this connection (First Convention, Article 40, Second Convention, Article 42) :

Permanent medical personnel shall also carry a special identity card bearing the distinctive emblem. This card shall be water-resistant and of such size that it can be carried in the pocket. It shall be worded in the national language, shall mention at least the full name, the date of birth, the rank and the service number of the bearer, and shall state in what capacity he is entitled to the protection of the present Convention. The card shall bear the photograph of the owner and also either his signature or his finger-prints or both. It shall be embossed with the stamp of the military authority.

The identity card shall be uniform throughout the same armed forces and, as far as possible, of a similar type in the armed forces of the Contracting Parties. The Parties to the conflict may be guided by the model which is annexed, by way of example, to the present Convention. They shall inform each other, at the outbreak of hostilities, of the model they are using. Identity cards should be made out, if possible, at least in duplicate, one copy being kept by the home country.

In no circumstances may the said personnel be deprived of their insignia or identity cards nor of the right to wear the armlet. In case of loss they shall be entitled to receive duplicates of the cards and to have the insignia replaced.

The model identity card annexed to the First Convention complies with all the provisions of this Article, and is entirely satisfactory. As a large number of countries have not yet drawn up the cards they intend to use, one cannot too warmly urge all military doctors to use their influence, not only to have the cards drawn up and distributed without delay, but also to see that they take the provisions of the present Article into account and conform as far as possible to the model supplied. The International Bureau for Military Medical Documentation has recently been making enquiries of its members with a view to a comparison of the different identity cards already drawn up or projected with a view, if possible, to greater uniformity. A number of members of the Office have urged in this connection the reconsideration of a proposal, which was put forward at the Diplomatic Conference of 1949, but was then rejected, for appending to the identity card the professional qualifications of its bearer. It is a proposal which we for our part cannot but support. It would make possible a distinction, not only between doctors, dentists, nurses, etc., but also in the case of doctors between surgeons, neurologists, oculists, anaesthetists, etc.

3. *Use of the red cross emblem.*

The red cross emblem has admittedly two meanings.

On the one hand it is the distinctive sign of the Medical Service of an army, whose members, buildings, equipment and vehicles it protects in time of war. This is when the sign is *protective*. Again in war it also covers the formations of national

Red Cross Societies and other recognised relief societies assisting the Medical Service of an army.

On the other hand the sign is conferred on national Red Cross Societies in the exercise of their other humanitarian activities. This entitles them, in peace as well as in war, to mark their persons and properties with the sign. But in this case the emblem does not confer the protection of the Conventions, to which the societies as such have no right. It merely marks them as what they are—namely, as Red Cross Societies. It is in short purely *indicative*. In time of war it is to be of small size, so as not to cause confusion.

Exceptionally, the First Convention also under certain circumstances allows the use of the emblem in peacetime to mark vehicles used as ambulances and to indicate the position of free aid centres.

These different uses of the emblem are fixed by Article 44 of the First Conventions.

Any other use of the emblem is wrong and contravenes the provisions of the Conventions. A number of countries have complied with a provision of the latter, which dates from 1906, by issuing national laws imposing the provisions of the Conventions for national purposes. Other countries have not taken adequate action in this connection; and doctors can play a useful part by helping the national Red Cross Societies in their struggle for adequate national legislation on the point, and the repression of the ubiquitous abuses of the emblem by pharmaceutical chemists, sanitary articles, trade marks, etc.

Attention may be drawn in this connection to the fact that doctors as such are not entitled to use the emblem, as some of them do, to mark their vehicles or the places where they exercise their profession. Various medical associations have dealt with this problem, and have tried to establish a sign to be used in all countries to indicate that the wearer belongs to the medical profession. But any such sign, it must be repeated, must not include the red cross in any form whatsoever. The art of medicine is in any case sufficiently rich in antique symbols to make it easy with their aid to evolve a clear and pleasing emblem.

B. CIVILIAN MEDICAL PERSONNEL

I. *Armband and identity cards.*

The Fourth Convention (Article 20) confers on persons regularly and solely engaged in the operation and administration of civilian hospitals the same protection as that which the military medical personnel enjoys. They are to be respected and protected, and are accordingly entitled to the armband, by which they will be distinguished, and to a special identity card, by which they will be recognised. Slight differences have however been introduced in this connection, in order to diminish the risk of abuses.

The armband, which is also to be stamped by authority, is only to be worn by the person entitled to it while carrying out his duties. Furthermore, like the identity card, it is only to be used in occupied territories or in zones of military operations.

There is nothing however to prevent the identity cards being drawn up, or at the very least prepared, in peacetime. It is indeed very desirable that this should be done; for a territory may be abruptly occupied by an enemy Power, and military operations may approach at short notice. The cards cannot be improvised in haste. They should be got ready in advance; and those in charge of hospitals and doctors will be well advised to make representations to this effect to the proper authorities. The Convention does not specify who the proper authorities are. They may be the Military Health Service, or the Ministry of Public Health or that of the Interior, or even by a delegation of powers the Managements of the Hospitals concerned.

The identity cards of the civilian personnel are simpler than those which the First Convention provides for members of the Health Service. They are to state the duties on which the holder is employed, to show his photograph, and to be embossed with the stamp of the responsible authority. But this list of specifications is not exclusive of other particulars which may be added, for example provisions similar to those required in the case of the military personnel.

Doctors and members of the civilian medical personnel, who are only occasionally assigned to a civilian hospital, will also have the right to wear the armlet " during the performance of their duties ". Their identity cards will show the duties on which they are employed when working in the hospital. These cards may be the same as those issued to the regular personnel.

2. *Marking of civilian hospitals.*

The Fourth Convention attaches certain conditions (Article 18) to the right of hospitals to place themselves under the protection of the red cross.

The hospitals must be organised to give care to the wounded and sick, the infirm and maternity cases.

They are to receive from the State a certificate showing that they are civilian hospitals, and that the buildings which they occupy are not used for any purpose which might deprive them of protection (acts harmful to the enemy: see Fourth Convention, Article 19).

They are also to be authorised by the State itself to display the emblem.

The Convention further recommends, though without imposing any obligation or condition, that the hospitals should be situated as far as possible from military objectives.

These various conditions involve taking a certain number of measures in good time, such as obtaining recognition of the hospital by the responsible authority, issue of the certificates, emplacement of the emblem etc. Such measures cannot well be improvised at the last minute. It is therefore important that the responsible administration of each hospital should concern itself with these matters in peacetime, and approach the proper authorities on the subject.

3. *Use of the red cross emblem.*

The doctors and other members of the civilian medical personnel—unlike the members of the Army Medical Service—may not display the protective sign except in time of war.

IV

RULES APPLYING IN WARTIME

A. MILITARY MEDICAL PERSONNEL

War on land

1. *Wounded or sick abandoned to the enemy.*

The last paragraph of Article 12 of the First Convention lays down that the Party to the conflict which is compelled to abandon wounded or sick to the enemy is, as far as military considerations permit, to leave with them a part of its medical personnel and material to assist in their care.

Although a belligerent may have a right to see his wounded cared for by the enemy, he must nevertheless assist in their care. The problem which arises for the military commander might then be difficult to solve in certain cases ; it has therefore been modified by the reservation : " as far as military considerations permit ".

Though this provision may not be imperative, it constitutes an obvious moral duty for the medical personnel itself, who should accept all risks of capture rather than leave the wounded or sick uncared for, as well as for the responsible authority which can never be entitled to shirk this duty except in extreme emergency.

2. *Search for and protection of the wounded and dead.*

Article 15 of the First Convention lays down that the wounded are to be searched for and collected, protected against pillage and ill-treatment, and are to receive adequate care. The dead are also to be searched for and protected from spoliation.

Which indeed may be said to be a résumé in brief of the work of Medical Services !

3. *Local armistices or suspensions of fire.*

In this same Article 15, paragraph 2, the Convention stipulates that a suspension of fire can be arranged to permit

the removal, exchange and transport of the wounded fallen between the lines.

This is a valuable provision for the military doctor who often finds it impossible under heavy fire to collect his wounded. It will then be his duty to ask his superior officer in charge of operations to try and obtain a suspension of fire. Experiments made in the last World War proved that this was possible.

It should be mentioned that these local arrangements can also allow for the exchange of wounded. This measure, if it appears realizable, should always be attempted in view of its highly humanitarian character. The word "exchange" does not necessarily mean that an equal number of persons are to be handed over from both sides. A belligerent might even unilaterally hand over his wounded to the enemy.

4. *Evacuation of wounded from a besieged area and the passage of medical personnel.*

Article 15 of the First Convention, in the last paragraph, provides that local arrangements may be concluded for the removal or exchange of wounded and sick from a besieged or encircled area, and for the passage of medical and religious personnel and equipment on their way to that area.

To the remarks made under 3, which also apply here, might be added the following:

The commander of a besieged area may ask for the evacuation of his wounded and sick (who will then under the terms of the agreement become prisoners of war or be sent back across the lines to their own army), or alternatively may ask the besieger for the free passage of medical personnel and equipment to the area.

The medical personnel is under the moral obligation to go there, whatever the risks may be. It is just as well that the nationality of this personnel is not specified. The besieging Power must either allow for the passage of enemy personnel through its lines or, if this is not possible, send its own personnel to the area, if circumstances render such a course more convenient, in accordance with the general principles of the

Convention. The status of this personnel and the conditions of their stay must be specified in the agreement.

5. *Medical examination of bodies.*

Bodies picked up on the battle-fields must be examined before burial with a view to confirming death. Article 17 of the First Convention states that it should be "a careful examination, if possible"... "a medical examination".

The need for such an examination is obvious. War weapons of the present day, as has been noted many times, can, even without hitting directly, cause shocks whose apparent effects are often similar to those of death. Furthermore, for such an examination to be convincing, it must be a medical one. That is a military doctor's job and one which he must never overlook.

6. *Activity of a captured medical unit.*

Article 19 of the First Convention states that when a fixed establishment or mobile medical unit—which incidentally must be respected and protected at all times—falls into the hands of the enemy' their personnel are to be free to pursue their duties as long as the capturing Power has not itself arranged for the necessary care of the wounded in the establishment or unit.

After capture, the various elements forming the medical unit will in the end have different destinies according to their character and the circumstances. There is however a period when these elements cannot be split up—namely, when the wounded and sick in the unit, or those in the neighbourhood, have need of their assistance. Apart from the change of authority, the establishment will continue to function as before capture. This period will not end until the capturing Power is in a position to make complete arrangements for the necessary care of the wounded and sick.

The medical personnel of these units must be aware of the right conferred on them in this connection, and it will be their duty to assert it, should the occasion arise, before the enemy military authorities.

It might be mentioned in connection with medical units that in the last paragraph of Article 19 the Convention invites belligerents to avoid placing their units anywhere near military objectives. It will be essentially the duty of medical personnel to see that this order is complied with as far as is possible.

7. *The protection of medical establishments lapses, if they are used to commit "acts harmful to the enemy".*

Members of the medical personnel must observe, with regard to the enemy, the neutrality which they claim for their own benefit and are allowed under the Convention. Situated as they are in a position outside the combat, they must faithfully abstain from any direct or indirect hostile act in military operations. Any such interference would not only be treacherous, but might have serious consequences for the safety of the wounded, and in general for the future respect due to Medical Services and the emblem protecting them (First Convention, Article 21).

The following are some examples of harmful acts : sheltering unwounded combatants or fugitives in a hospital, making it a depot for arms or ammunition, setting up a military observation post in it, deliberately placing a medical unit in such a position as to prevent an enemy attack.

One of the strictest duties of medical personnel is not only to abstain from any harmful act, but also to see that no one in the establishment commits such an act, and furthermore that the establishment itself is not used for treacherous purposes unknown to its managers:

8. *Conditions not depriving medical establishments of protection.*

In Article 22 the Convention gives a list of five acts which are not considered as depriving a medical unit or establishment of protection, and are not therefore acts harmful to the enemy, in spite of appearances which might suggest the contrary or at least give rise to doubt. That is indeed the reason why the Convention expressly mentions them.

The acts in question concern the following cases :

- (a) Where the personnel of the unit or establishment are armed, and use the arms in their own defence, or in that of the wounded and sick in their charge.
 - (b) Where in the absence of armed orderlies, the unit or establishment is protected by a picket or by sentries or by an escort.
 - (c) Where small arms or ammunition taken from the wounded and sick, which have not yet been handed to the proper service, are found in the unit or establishment.
 - (d) Where personnel and material of the veterinary service are found in the unit or establishment, without forming an integral part thereof.
 - (e) Where the humanitarian activities of medical units and establishments or of their personnel extend to the care of civilian wounded or sick.
9. *Medical personnel lent by a recognized relief Society of a neutral country.*

Under Article 27 of the First Convention, a relief society of a neutral country (more often than not the National Red Cross Society) can lend a belligerent the assistance of its medical personnel and units, which will be placed under the belligerent's control. Such medical staff will be subject to the military laws and regulations of the country to which they are lent : they will be actually assimilated to its Health Service, and will carry out the same tasks as the permanent medical personnel of the country, whose protection they will share.

Before leaving their own country for the country to which they are lent, the neutral personnel concerned are to be furnished with special identity cards by the military authority of the belligerent. This requirement must be complied with, although it does not make the process easier. The least complicated way

of proceeding would appear to be for the neutral personnel to send their photographs and any other marks of identity to the belligerent, and for the military authority of the latter to stick the photos onto cards and stamp them, the card being then sent back to the medical personnel for the addition of their fingerprints or signature.

10. *Buildings and material of medical units fallen into enemy hands.*

The material of captured mobile medical units is to be reserved for the care of wounded and sick (First Convention, Article 33, first paragraph).

By "wounded and sick" should first be understood those in the captured formation. Failing this, the material will be reserved for other wounded and sick. It is only just to maintain that it should preferably be used for wounded of the same nationality as the unit to which it belongs, who are prisoners of war.

As regards *fixed* medical establishments and their material, these become war booty if captured, but may not be diverted from their purpose, so long as they are required for the wounded and sick of the establishment. It is only in case of emergency that they may be immediately diverted, and only when the necessary arrangements have been made for the welfare of the wounded and sick.

The medical personnel of these establishments may, and should, intervene in connection with these provisions to ensure the welfare of the wounded and sick in their charge in the best possible circumstances.

11. *Regulations concerning medical aircraft.*

Medical aircraft exclusively employed for the removal of the wounded and sick, as well as for the transport of medical personnel and equipment are to fly, in order to be respected, at heights and times and on routes specifically agreed upon between the belligerents.

They are to bear, clearly marked, the distinctive emblem together with their national colours on their lower, upper and lateral surfaces.

Unless agreed otherwise, flights over enemy or enemy-occupied territory are prohibited.

In the event of an imposed landing, the aircraft with its occupants may continue its flight, after examination if any.

In the event of involuntary landing in enemy or enemy-occupied territory, the wounded and sick and the crew are to be prisoners of war. The medical personnel are to be treated in accordance with the regulations concerning them.

Aircraft may, after giving previous notice to which there is no objection, fly over neutral territory. They may disembark their wounded and sick there with the consent of the local authorities. The wounded and sick are then to be detained by the neutral State until the close of hostilities, unless an agreement to the contrary has been made between the neutral State and the belligerents (First Convention, Articles 36 and 37).

12. *Marking of medical units and establishments.*

In Articles 42 and 43 the First Convention specifies the marking to which medical units or establishments are entitled. The medical personnel are required to know these regulations.

The medical units and establishments, for which the Convention requires respect, may not display the white flag with the red cross, also called the Convention Flag, except with the consent of the military authorities.

Both in mobile units and in fixed establishments this flag may be accompanied by the national colours.

Medical units, which have fallen into the hands of the enemy, are to display the Convention Flag only.

Medical units of neutral countries are to fly, along with the flag of the Convention, that of the belligerent to whom they are lending their services, but only with the latter's approval. Further, in the absence of orders to the contrary by the responsible military authorities, they may on all occasions fly their

national flag, even if they fall into the hands of the adverse Party.

As a general rule, the authorities concerned are, in so far as military considerations permit, to take the necessary steps for the distinctive emblem to be made clearly visible to enemy land, air or naval forces. (First Convention, Article 42, fourth paragraph.)

(To be continued)

PRESS RELEASE

FOR THE PROTECTION OF MANKIND

Numerous representatives of National Red Cross Societies present in Geneva for the sessions of the League Executive Committee also participated in the meeting organised by the International Committee of the Red Cross at its headquarters, on Friday October 30.

During this meeting much anxiety was expressed that a great many States, and the majority of the great Powers in particular, had not yet ratified the Geneva Conventions of August 12, 1949, for the protection of war victims and especially civilians. These Conventions are of the highest importance; they represent an essential element of protection for the human being in the unfortunate event of new conflicts breaking out.

It was unanimously recommended that this situation should be brought to an issue, and that a general ratification of the Conventions should take place in the early future. This ratification appears to be the most adequate guarantee of the protection which, it must be said, may some day be necessary.

The formal recognition of the binding force of these Conventions would in present circumstances be a first step towards appeasement, and would greatly contribute in restoring humanity's confidence in its future security.
