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DE LA CROIX-ROUGE

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INTERNATIONAL COMMITTEE OF THE RED CROSS

NEW YEAR'S MESSAGE FROM THE PRESIDENT OF THE ICRC

There is still unfortunately no stable and enduring peace in the world of today. Energy and devotion on the part of men of good will are therefore more necessary than ever. The International Committee of the Red Cross in Geneva must be ready to carry on its work on behalf of the victims of wars and conflicts of all sorts and of their consequences, in accordance with its traditional humanitarian principles.

Whatever the obstacles and difficulties with which it is faced may be, the International Committee will steadfastly continue its efforts to relieve human suffering with all available means. It remains at the post assigned to it by history, continuing to apply and to defend, without compromise of any kind, the principles of impartiality and universality upon which the Red Cross has been founded in Geneva nearly ninety years ago.

It is in this spirit that the Committee wishes all mankind harmony and peace throughout the coming year.

NEW MEMBERS OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

At its Plenary Session of October 23 last, the International Committee of the Red Cross enrolled a new member, Dr. Marcel Junod, who gave valuable service in the Ethiopian and Spanish conflicts and during the Second World War.

It was at Mulhouse in the early autumn of 1935 that Dr. Junod, who was then a resident medical student of the town hospitals, received a call from the International Committee entrusting him with a mission in Ethiopia, where war was in progress. From that moment Dr. Junod helped to organise the Ethiopian Red Cross services, and to look after national and foreign ambulance units.

In 1936 during the civil war in Spain Dr. Junod (in the capacity of General Delegate) established with the two parties in conflict the bases of the International Committee's action.

When the World War broke out in 1939, Dr. Junod once again gave his entire services to the International Committee by carrying out most important missions in numerous countries, such as Germany, Belgium, France, the United Kingdom, Greece, Japan, Norway, Sweden and Turkey.

In a notable book entitled "Warrior without Arms", which has been widely read, Dr. Junod describes some aspects of the work accomplished on fighting fronts, in spite of all obstacles, by Red Cross delegates.

The United Nations had recourse to Dr. Junod's competent services in 1947, when he served as a Liaison Officer at Lake Success, and in 1948 when he was at the head of a UNICEF mission to China. He was obliged to relinquish this latter post through illness.

With his practical knowledge of men and things and of all that concerns the difficult and sometimes distressing problems which come before the Geneva institution and engage its active

consideration, Dr. Junod will in pursuance of his high ideal of justice continue to work with the International Committee for the alleviation of human suffering.

At a meeting held on December 11, 1952, the International Committee of the Red Cross nominated a new Member, M. Ernest Nobs, a former Federal Councillor.

M. Nobs, who was born on July 14, 1886, is a citizen of Seedorf (Berne), Zürich and Grindelwald. After studying at the Berne-Hofwil Training College he followed the teaching profession for six years.

From 1912 to 1913 M. Nobs was engaged in editorial work in Lucerne, and from 1914 to 1915 in Saint-Gall. From 1915 to 1935 he was first on the staff and later Editor of the "Volksrecht", the daily organ of the Social-Democratic Party in Zürich.

After being appointed a Member of the Zürich State Council in 1935, M. Nobs was until 1942 in turn Head of the Department for Legal and Municipal Affairs and Head of the Department of Public Economy. From 1942 to 1943 he was Chairman of the Zürich Town Council.

M. Nobs was a National Councillor from 1919 to 1943; in the following year he was appointed to the Federal Council and was for eight years in charge of the Customs and Finance Department.

He resigned from his high office in 1952 and went to live in Meilen on the shores of Lake Zürich.

M. Nobs, who is a man of extensive culture, wide experience and high principles, will be in a position to make a most valuable contribution to the humanitarian work of the International Committee, in which he has long shown a keen interest.

PRINCIPAL ITEMS OF INTEREST

Greece. — During the last quarter of 1952 the Athens Delegate of the International Committee sent or personally distributed some 6,000 kgs of relief supplies in the following places of detention—Aghios Efstratios Camp, prisons in Amphissia, Averof, Chalkis, Corfu and Aegina, the Korydallos Reformatory in Athens, the Agricultural Centre at Kassavetia, prisons in Karditza, Kastoros, Larissa, Patras, Alpha, Eptapyrgion, Salonika, Trikkala and Vourla, and Trikkeri Camp.

Middle East. — In November and December 1952, M.P. Gaillard went on a mission to several Middle East countries. In Egypt he dealt with the closing down of the ICRC Delegation in Cairo, the Egyptian Red Crescent having agreed to take over the various tasks which had until then made it necessary to have a permanent office there.

It may be of interest to recall the part played by this Delegation, both by its work in Egypt and as a centre for the work which had to be undertaken by the ICRC in several neighbouring countries where it had no representatives. From the time the Delegation opened in 1939 its duty was, in the first place, to assist German and Italian prisoners of war and civilian internees in Egyptian territory. It also had to deal with the repatriation of civilians from these two countries who were in Ethiopia, Eritrea and Somaliland, and with the exchanges of prisoners, the seriously wounded and sick and medical personnel, which took place via Turkey and Spain. From Cairo several missions proceeded to Palestine and Iraq for the purpose of visiting Axis prisoners and internees, and to Eritrea and Kenya to see Jewish political detainees.

The relief action in Cairo was considerable. By purchasing numerous supplies locally and by organising the transit, in particular through the Suez Canal, of parcels from many

different sources, the Delegation made a major contribution to the relief of Allied prisoners of war in Europe and Axis prisoners in the Middle East, and subsequently to that of civilian populations in Europe (1944-1947), also Moslems in Europe and Indonesia. It also served as an important channel for the transmission of family news.

With the outbreak of the Palestine conflict in 1948 the Delegation assumed new duties. It established preliminary contacts with the Arab League, took over the task of assisting Israeli prisoners of war held in Egypt and arranged for their repatriation and that of the Egyptian prisoners in 1949. It undertook, alone or with the co-operation of the Egyptian Red Crescent, relief action in behalf of Palestine civilians and refugees (especially at Gaza) and collaborated in the work of the Commissariat set up by the ICRC for the administration of the relief allocated by the United Nations to Arab refugees (1948-1950).

Apart from representations made jointly with the Egyptian Red Crescent to enable this Society to carry out its humanitarian work in the Suez Canal Zone during the winter of 1951-1952, the current work of the Delegation has, during the past two years, been mainly concerned with the transmission of family news (Civilian Messages), the transmission of enquiries (exchanged between Egypt, including Gaza, and Israel) on missing persons and the issuing of ICRC Travel Documents to refugees and stateless persons for emigration purposes.

It was with a view to facilitating the taking over of these remaining duties by the Egyptian Red Crescent that M. Gaillard recently visited the country.

He took advantage of his stay in Cairo to consider, with several members of the Egyptian Red Crescent and the Arab League, the possibility of establishing, by publications and discussions, closer collaboration with Moslem circles within the actual Red Cross field.

M. Gaillard's mission also took him to Jerusalem where he met the heads of the Jordan Red Crescent, and to Damascus where he and M. Burnier (the International Committee's Delegate for Syria and the Lebanon) visited the Syrian Red Crescent (see under "War Disabled").

War Disabled. — During his mission to the Middle East M. Gaillard saw the authorities and various associations concerned with the war-disabled, in order to acquaint the ICRC with the position of this class of war victims in these different countries. His numerous discussions on the subject were conducted on the basis of a questionnaire made out in Geneva by the Disablement Section. These discussions raised great interest in the circles concerned, especially in Egypt where this particular problem of assistance is under examination at the present time. In Jordan the Delegate of the ICRC got into touch with the Union of Munadeleen Invalids ; he pursued his enquiries in Syria and the Lebanon and collected very full information in Israel on the subject of Government assistance to military and civilian disabled.

It may also be mentioned that the Disablement Section sent a gift of 50 Braille watches to the Algerian Blind Association and 30 to the Polish Red Cross. Five watches donated by a Swiss watchmaking firm were sent to Vienna and will be presented to amputated war-blind. The Section also sent off 50 Braille watches purchased by the Australian Red Cross.

Israel. — In connection with his mission to the authorities and the Magen David Adom the delegate of the International Committee saw several members of this Society's Central Committee. He visited various technical services and regional branches of the Magen David Adom and also a civilian prison where Arab civilians of Palestinian origin who have clandestinely entered Israel are under detention. These persons will be able in future to exchange letters with their families once monthly through the channel of the ICRC (see under War Disabled).

Vietnam. — During November 1952, M. A. Durand, Delegate of the ICRC, continued to visit camps containing prisoners in French hands. In particular he visited four localities in the Saigon area where permanent camps have been installed.

CHRONICLE

THE ORIGINS OF HUMANITARIAN LAW¹

III

THE LAW OF NATIONS

The Reformation in the sixteenth century broke up the unity of Christendom.

A new principle of regulating State relations, other than Pontifical Authority, had to be found ; and the principle adopted was the Law of Nations.

To the traditional claims of Sixtus V, who said : " We have a sovereign power over all Kings and Princes of the earth, and over all peoples, not by human but by divine right " ², Luther replied in his letter to the German nobility : " Let the Bishop of Rome renounce his pretended claim to the Kingdom of Naples and Sicily ! He has no more a right to it than I, Luther... Let the Pope say his prayers, and leave the Princes to govern their Kingdoms ".

Machiavelli's famous work " The Prince ", becoming known at a time when Protestantism was engendering a new enthusiasm in national aspirations ³, sets forth the theory of the complete independence of sovereignties, and gives new legal weight to the ideas proclaimed by the legists of the past. It was thus that that anarchy of sovereignties established itself

¹ See *Revue internationale de la Croix-Rouge*, May 1951, pages 370 ff. ; July 1951, pages 558 ff.

² Quoted by LAURENT, *Etudes sur l'Histoire de l'Humanité*. Vol. VI, page 109.

³ This book, begun in 1513, did not appear until 1532.

which, had it not been moderated by the institution of international law, would have signified the unrestricted reign of force.

But Protestantism, while weakening papal authority, at the same time gave rise to a new form of law. Grotius, and his successors Zouch, Puffendorf, Barbeyrac, Burlamaqui, Wolf and Vattel, all Protestants, "were to make the theory of the law of nations appear as a reformed science for nearly two centuries" ¹.

These jurists differed from the Canonists of the Middle Ages in that they no longer tried to connect the idea of law with that of divine justice, but presented it as a purely human rule of discipline. No doubt they thought it should be inspired by "natural law"—that is to say, by the corpus of moral ideas in conformity with the precepts of the Christian religion: but, according to Suarez, the law of nations is distinguished from natural law in that it is solely "positive human law" ². In accordance with the spirit of the Reformation it was the duty of mankind to lay down new rules and customs and make treaties by an action of their free will. International law from that time on proceeded from nations, which created it in the plenitude of their sovereignty.

That is how ideas progressed as a result of the Reformation. But Christian thought as the life-blood of natural law remained the arbiter of nations. In the abstract form of the law of nations the principle of order between peoples became less tangible than it had been in the concrete form of Pontifical Authority in the Middle Ages; but the essential elements of moral (i.e. Christian) progress were preserved, for according to Montesquieu's famous definition the law of nations is "the law which after victory leaves the conquered the great assets of life, freedom, laws, property and always religion".

These reflections on the law of nations apply to humanitarian law, which is moreover but one aspect of it. It also is drawn

¹ M. BOEGNER, *La Réforme et les Nations*, Lecture at the International Law Academy of The Hague, 6, 1925, I, page 301.

² See L. LE FUR, *op. cit.*, page 292.

from natural law, and becomes positive law in the form of custom and treaties.

It is intended in this third chapter to show the principal stages since the beginning of modern times up to the period when the idea of the Red Cross was conceived on the battlefield of Solferino in 1859.

We shall in this way follow the development of the humanization of war with respect (1) to the wounded and sick in armies in the field, (2) to prisoners of war, and finally (3) to the civilian population.

This era of four hundred years may be divided into two periods. The first concerns the Ancien Regime and lasts until the end of the eighteenth century. The second follows the events of the French Revolution, which so profoundly changed international life, and gave rise to new problems with regard to war victims.

I. — THE ANCIEN REGIME

The law of war.

Needless to say the Reformation had its effects on the law of war.

The scholastic theories of "just war" were adapted by jurists to the new conceptions. From that time, as Mr. Wehberg¹ notes, it was not the just cause which played the decisive rôle, but the ability to make war. The right to make war results from a State's duty to protect itself from threatening dangers. War is a political means of preserving a State. The question whether the cause of war is just becomes one of a moral and political—but not juridical—nature. An Italian professor at Oxford, Gentilis, a Protestant convert, addressed himself in writing at the time to the theologians: "*Silete theologi in munere alieno*" ("Be silent, Theologians, the problem does not concern you")². Such is the opinion of the classic

¹ HANS WEHBERG, *L'interdiction du recours à la force*, Lecture given at the International Law Academy of the Hague — 1951.

² ALBERICUS GENTILIS, *De jure belli ac pacis, libri tres*, 1612.

writers on international law. Ayala, Grotius, and later Moser, Vattel, Wheaton, Rivier and others all reaffirmed this theory, which held its ground in European public law until the founding of the League of Nations.

But, if war is permitted without any consideration of the justice of its cause, international law demands that it should be waged in accordance with certain rules; and these rules have their origin either in custom or in treaties. Their authors draw them up and advocate their adoption by teaching, which in its turn leads to the development of custom and the conclusion of treaties.

Grotius declared that the law of war "must not ignore the generous principles of humanity". Gustavus Adolphus, King of Sweden, who was greatly influenced by the famous juriconsult, always tried to wage "good war", that is, to respect the maxims of the law of nations.

The wounded and sick in armies in the field.

The Medical Services of armies are a recent creation: In the Middle Ages and at the beginning of modern times, the wounded and sick in armies in the field were almost completely dependent on private charity. From the time of the Crusades certain Orders of Knighthood devoted themselves to assisting these unfortunate persons. The Order of the Hospitallers of St. John of Jerusalem¹ cared for the sick and wounded both in peace-time and in war-time without distinction of race or religion. These Knights, followed later by the Knights of Malta, were the first to organise medical treatment on the battlefield; and it has been said that, if their ideal had been accepted by the nations of the world, the condition of the unfortunates who suffer such pain, in peace as in war, would have been far less wretched².

¹ See *Revue internationale de la Croix-Rouge*, July 1951, page 570.

² Edgar Erskin HUME, *Medical Work of the Knights Hospitallers of St. John of Jerusalem*, Baltimore, 1940.

It is known that at the end of the twelfth century the Sultan Saladin allowed the Hospitallers of St. John of Jerusalem to come into his camp to look after the wounded Christians. This chivalrous gesture by a Moslem Prince is not the only one to the credit of Islam. In the conquest of the Portuguese forts in Morocco by the Moroccan Sultans, El Mahdi ordered medical attention to be given to both the Moors and the Christians wounded at the siege of Santa Cruz ¹.

The Europeans were not always so gentle. In one of his plays, "Le Maître de Santiago", H. de Montherlant recalls a tragic anecdote of the Spanish conquest of America, on the historical character of which he insists. "A holy war, do you call it? In a war of that kind the cause that is holy is that of the natives. What is chivalry but the defence of the persecuted? If I went to the Indies, it would be to protect the Indians, which according to you would be 'treachery'. You must surely know the story of the Spanish soldier, who was hanged as a traitor for having given help to a wounded Indian..."

We know from the writings of Ambroise Paré that in the sixteenth century the customs of war were still atrocious, especially in the matter of enemy wounded ².

In 1586 in the Basilica of St. Peter in Rome Camille de Lellis and some of his adepts dedicated themselves to God for the care of the sick. The Congregation of Camillians spread from Italy into Spain, where they were known as "Fathers of the Good Cross" from the distinctive sign of a red cross which they wore on their clothing ³. The Camillians accompanied the armies on numerous occasions. They undertook to collect the wounded from the battlefields and to give them treatment. An engraving of the Romantic period shows some of these

¹ See J. et J. THARAUD in *Revue de Paris*, Nov. 1948.

² M. BOGAIIEWSKI, *Les secours aux militaires malades ou blessés avant le XIX^e siècle*, in the "Revue de Droit international public" 1903, page 207, mentions an article published in this connection by the *Revue de Paris* of 1 September 1901. On being taken prisoner Ambroise Paré gave a false identity to avoid having to pay too high a ransom. He was set free as a reward for having successfully carried out an operation on an officer of the adverse army.

³ See Cecilia OLDMEADOW, *The first Red Cross (Camillus de Lellis, 1550-1640)*, London, 1923.

monks tending a wounded pilgrim. This would seem to be one of the first appearances of the Red Cross sign in modern iconography. In its Almanac for 1948 the Irish Red Cross very rightly recalls the eminent place occupied by the Camillians in the history of humanitarian law, and mentions the fact that several hundreds of them were on the battlefield of Solferino.

From the end of the sixteenth century a number of agreements were concluded between belligerents. "Cartels" for the exchange and ransom of prisoners of war, "capitulations" for the surrender of strongholds, and "armistices" laid down rules for the treatment of wounded and sick. These arrangements for particular occasions cannot be regarded as rules of law: but the continued recurrence of them is interesting as prelude to the formation of law.

The majority of them were collected by Doctor E. Gurlt, Professor of Surgery at Berlin University¹ and published in 1873. In general they stipulate that the wounded and sick are not to be considered prisoners of war, that they are to be looked after at the expense of the Power to whose army they belong, and sent back after recovery with the necessary safe-conduct. No distinction is made between those who can and those who cannot, take up arms again.

One might mention as an example the Capitulation concluded on 30 November 1581 between the town of Tournai and Alessandro Farnese, Prince of Parma, or those of Bois-le-Duc in 1629 and of Turin in 1640. All these three instruments are similar. The same provisions are to be found in the Capitulations of Breda in 1625 and 1637, and of Mainz in 1635. On the other hand, the Capitulation of Bouchain, concluded in 1711 between the Duke of Marlborough and the French garrison, provided for the same treatment of the wounded and sick as for the unwounded soldiers, both becoming prisoners of war.

The four most important agreements are the Cartels of Frankfurt in 1743, of Hadmersleben in 1757, of Sluys in 1759

¹ E. GURLT, *Zur Geschichte der internationalen und freiwilligen Krankenpflege im Kriege*, Leipzig, 1873.

and of Brandenburg in 1759. The English doctor Sir John Pringle has given us some interesting details on the negotiation of the first of these Agreements. A great advance, he says, was made in the late war in the improvement of hospital conditions. The practice up till then had been to move the sick for their greater security (on the approach of the enemy) to a considerable distance from the camp, with the result that many perished before they could receive medical attention. But my distinguished master the Earl of Stair, touched by their distress, made a proposal when the army was encamped at Aschaffenburg to the Duc de Noailles (with whose humanitarian sentiments he was well acquainted) that the hospitals on both sides should be treated as sanctuaries enjoying mutual protection. This proposal was at once accepted by the French General, who took the first opportunity to show his respect for his engagement. After the Battle of Dettingen our hospital was at Frekenheim, a village on the Main, at a certain distance from the camp. The Duc de Noailles had occasion to send a detachment to the opposite bank ; but, on hearing of the presence of the English hospital, he gave express orders to his troops not to interfere with it in any way. This arrangement was strictly observed by both sides during the campaign ; and, though it has since been neglected, it may still be hoped that in future it will be considered by opponents as a precedent ¹.

The humanity of the Duc de Noailles was shared by his sovereign, Louis XV, about whom a German author ² recalls a noble and historic saying at Fontenoy in 1745. He depicts for us the King walking over the battlefield on the evening of his victory. An aide-de-camp runs up to ask how the enemy wounded are to be treated : "Like our own", replied Louis XV. "Henceforward they are no longer our enemies."

The orders of Frederic II, King of Prussia, in 1748, are slightly less generous but nevertheless inspired by Christian

¹ Sir John PRINGLE BART, *Observations of the Diseases of the Army*, London, 1775, Preface page VII.

² Christoph GIRTANNER, *Schilderung des häuslichen Lebens, des Charakters und der Regierung Ludwigs des Sechszehnten*, Berlin, 1793, page 6.

charity: "Let each look after his own first of all", he said, "but not so as to be unmindful of humanity and compassion for the enemy"¹.

The Capitulation of Montreal, concluded in 1760 between the English general Amherst and the French Governor Vandreuil, stipulated in Article VIII that: "The officers, soldiers, militia, sailors and also the Indians, retained by wounds or sickness in the hospital or in private houses, are to enjoy the privileges of the cartel and are to be treated accordingly." In the margin of this text the English General wrote: "The sick and wounded are to be treated in the same way as our own."

The medical personnel, doctors and nurses, nearly always formed the subject of explicit provisions exempting them from captivity. It was the same for chaplains. Gurlt traces this custom back to the exchange treaty of 1673 between France and the States General of the United Provinces, in which it was laid down that the Medical Corps were to be unconditionally set free. The Treaty signed by the same Powers on 21 May 1675 stipulated that "The chaplains, ministers, doctors, intendants of the sick, apothecaries, surgeons and other officers employed by the hospital, and also women in whatever condition they may happen to be, children of 12 years and servants, are to be sent back from both sides without ransom."

Such clauses appeared from this time onwards in the different Cartels and Capitulations. The Cartel of 1780 between France and Great Britain set forth for example that "all surgeons and assistant surgeons of the King's ships and vessels, and even all surgeons of merchant ships, corsairs and other vessels are to be set free without being kept as prisoners".

The immunity of hospitals (which was extended to include their property by certain agreements such as the Capitulation of Cassel of 1 November 1762 between the Maréchal de Diesbach, Commander of the French troops, and Prince Frederick-Augustus

¹ KNOOR, *Entwicklung und Gestaltung des Heeres-Sanitätswesen*, Hanover, 1883.

of Brunswick, in command of the army of Hanover), became an established international usage in the course of the eighteenth century. On 2 December 1799 the French General Clément, besieged in Coni, wrote to the Prince of Liechtenstein : " I have ordered black flags to be hoisted on the hospitals of the town, and I look to your humanity to respect them, as I once caused those of the town of Mantua to be respected ¹".

As early as the seventeenth century figures begin to appear which remind us of the founders of the Red Cross. In an article published by the *Presse médicale* ², M. Roger Vaultier recalls some of his precursors. " Pierre Bachelier de Gentes of Champagne ", he writes, " born at Rheims in 1611, whose odd life has been written by Jadart, busied himself in the fighting which took place near his native town in the middle of the seventeenth century in assisting the unfortunate victims of the combat, who lay crippled and uncared for and abandoned in the open country. With the aid of a few charitable souls he carried them on his back, begging bread for them along the way. On several occasions he scoured the battlefield on foot, distinterring soldiers crushed by dead bodies and relieving the poor wretches as well as he could."

In 1761 Claude Pierron de Chamousset ³ was appointed Intendant General of the fixed army hospitals of the King of France. With remarkable success he managed the war hospitals in Germany during the campaign of 1761-1762. Gurlt recalls that in his " Mémoire sur les hôpitaux militaires ", which was probably written at this time, Chamousset claims the respect of all nations for " these sacred places of refuge where the virtuous defender of his country seeks recovery ". He is unable to understand how " properly governed countries have not yet agreed to regard hospitals as temples of humanity which must be respected and protected by the conqueror ", and he

¹ See BOGAIIEWSKI, article quoted on page 207.

² Roger VAULTIER, *Les ancêtres de la Convention de Genève*, in the " Presse médicale ", 9 May 1951.

³ Martin GÉNOUVRIER, *Un philanthrope méconnu du XVIII^e siècle, Pierron de Chamousset*, 1905.

adds: "In a century, in which so much advance has been made in wit and enlightenment, should it not be demonstrated that this advance has not been accompanied by a loss of sentiment and feeling? Has not the time come to establish among the nations an innovation which humanity demands?"

The same ideas are expressed by Bernard Peyrilhe, Chemistry Professor in Paris, in his "Histoire de la Chirurgie", published in 1780, in which he recalls the Convention of 1743 between the Earl of Stair and the Duc de Noailles.

Gurlt mentions another ancestor of the Red Cross in the person of the Prussian army doctor Johann Lebrecht Schmucker, who wrote in his "Mélanges", which appeared in 1776, that he regarded as deplorable the impossibility of having the wounded near at hand for treatment directly after a battle, since a safe place had first to be found for a field hospital, and it might take four or six days or even longer for all the wounded to be conveyed there. He went on to say: "It is to be hoped belligerents will agree from the beginning of a war to protect hospitals, so that the wounded can be installed as near as possible to the battlefield without being disturbed in any way until they are completely recovered."

Prisoners of war.

The Lateran Council having in 1179 forbidden the enslavement and sale as slaves of prisoners taken in wars between Christians, the custom had arisen of freeing prisoners on payment of a ransom. This sometimes resulted in a trade which interfered with the actual operations of war; and there is a letter of Louis XI recording that he had ordered the prisoners to be taken from the soldiers, so that in the future these latter might kill all enemies and take no more prisoners¹.

Such severe measures however were not the general rule at the beginning of modern times. In 1544 the status of prisoners of war was codified by a statute of Henry VIII. It

¹ MAULDE-LA CLAVIÈRE, *La diplomatie au temps de Machiavel*, I, page 206.

stated that the King and his son, the Lieutenant General and the Grand Constable or Marshal of France belonged to the King of the victorious army, and not to the soldier who captured them, and it decreed the death penalty for anyone who set them free ¹. In 1555 Blaise de Montluc writes in his "Commentaires" of a rich merchant, who was taken prisoner in the hope of extracting from him a ransom of 80,000 écus, which he explains was the average of the prisoner's income for one year. Pasquier ² observes that in France ransoms exceeding 10,000 pounds had to be collected on behalf of the King, who returned 10,000 pounds to the captor ³.

Jurists declared at the time, with Ayala, that in every war between Christians ransom had replaced slavery, but that in wars with infidels slavery continued to be permitted. According to Bynkershoeck ⁴, in 1602 the Dutch still had the custom of selling as slaves to the Spaniards all prisoners they took in Algiers, Tunis or Tripoli. It is true that it was the time of the convict prisons of Algiers where the great Cervantes was held captive, and of which he gives us such a vivid description in "Don Quixote". The Holy War remained open between Islam and Christendom. Thousands of Christians carried off by Barbary pirates served as slaves on galley ships or in the gardens of their captors, until they were ransomed by religious Orders such as the Redemptorists and Fathers of Mercy, who specialised in this charitable work. At the beginning of the seventeenth century St. Vincent de Paul, once a slave himself in Tunis, founded the Order of the Lazarists for the moral and material relief of these captives.

Modern rules for the treatment of prisoners of war find their origin in the Treaty of Munster of 1648, which served as a basis in the formation of European public law.

Article 43 of this Treaty lays down that prisoners are to be set free without ransom on either side, and with no exception or reserve.

¹ Quoted by F. SCHEIDL, *Die Kriegsgefangenschaft*, Berlin, page 32.

² PASQUIER, *Les Recherches de la France*, L. IV, Ch. 12.

³ F. SCHEIDL, *op. cit.*, page 28.

⁴ BYNKERSHOECK, *Questiones juris publici*, L. I, Ch. III.

The political decision was in advance of the juridical ideas of the time: for Grotius, under the influence of Roman law and the Latin poets, still held that prisoners of war automatically became slaves both themselves and their descendants. It is true that he recommended humane treatment of such slaves, and was in favour of their ransom ¹.

Article 101 of the Treaty of the Pyrenees in 1659 seems to show that the custom of sending prisoners of war to the galleys was still in practice. The General commanding the army of William of Orange in Ireland about 1690, threatened to deport prisoners of war to America. To which the Duke of Berwick replied in the name of the King of France that, if this threat was carried out, he would send to the galleys the prisoners he held in France ². Puffendorf, following Grotius, was of the opinion that a conqueror might spare the life of a prisoner of war, if the latter undertook to become a slave ³.

A provision of the "Capitulation" of Namur in 1692 laid down that "the officers of H.M. may not force soldiers after convalescence to abandon the side of the Allies to join that of H.M." ⁴, which proves that such practices were still in use. Voltaire gives us an example in his "Histoire de Russie sous Pierre le Grand". "There was in the Saxon army", he writes, "a French regiment which, having been taken prisoner in its entirety at the famous battle of Hochstedt, was forced to serve with the Saxon troops. These men, struck by the glory of Charles XII and discontented with their service for Saxony, laid down their arms when they sighted the enemy and asked to be received by the Swedes... This was the start and signal of a complete rout." Voltaire also says that the practice of massacring prisoners still prevailed at the beginning of the eighteenth century. After having given an account of the

¹ See BONFILS, *Manuel de Droit international public*, page 792; H. GROTIUS, *De jure belli ac pacis*, L. III, Ch. VII, paragraphs 8-9 and Ch. XI, paragraphs 9-13.

² F. SCHEIDL, *op. cit.*, page 33.

³ PUFFENDORF, *Le Droit de la Nature et des Gens*, VI, 3, VIII, 6.

⁴ GURLT, *op. cit.*, No. 88, page 51.

battle of Fraustadt (12 February 1706), he writes: "They begged the Muscovites for their lives on bended knee, but were cruelly slaughtered more than six hours after the battle, as punishment for the outrages of their compatriots, and to rid the Russians of prisoners with whom they knew not what to do ¹."

Again in Brazil the French, who had gained a footing on the coast under the orders of Captain Duclerc, were all massacred by the Portuguese. A bitter vengeance was exacted by Dugay-Trouin when he took Rio in 1711.

But in the course of the century the prevailing practices were modified, and it was not long before the change was felt in the doctrine and the formation of law.

The various "cartels" and "capitulations" that have been mentioned in connection with the wounded also concerned prisoners of war. As a result, massacres ceased to take place; and the exchange of prisoners was generally effected without ransom. In 1758 Vattel writes in a completely different tone from Grotius ²: "From the moment your enemy is unarmed and has given himself up, you have no longer any right to take his life, unless of course he is deserving of death as punishment for a crime. It must be borne in mind that prisoners are human beings, and unfortunate at that." And he continues: "The voluntary law of nations prohibits the massacring of a surrendered enemy, from whom nothing is to be feared." Vattel goes further and pronounces against the use of poisoned weapons: "When once your enemy is placed *hors de combat*, is it necessary that he should inevitably die of his wounds?" These noble words mark an important evolution in ideas and customs.

At the same time in 1759 the introduction of a Report of the English Committee charged with the Administration of the Funds collected for the Relief of French Citizens at present Prisoners in British Territories wrote: ...What else is succour to one's enemy but bringing humanity to unite in brotherly

¹ VOLTAIRE, *Hist. de Charles XII*, Ch. III, page 90.

² See VATTEL, *Droit des Gens*, III, Ch. VIII, paragraph 153.

friendship, dispelling the ill-will that sets nation against nation, and preparing them to establish relations of friendship and peace? During this time, captivity will become more bearable, and some of the terrible results of war will be alleviated. But, even if alleviated, the fury of war will always fill the world with horror and distress. Let it not be left to spread unavailingly! Let hate and enmity cease, and from henceforth let no man be called enemy, unless he actually threaten us with his sword.

The treaties, which end the period of the last wars of the Ancien Régime all contain a clause—e.g. the Treaty of 1762 between Prussia and Sweden (Article 6), or the Treaty of 1762/3 between France, Great Britain, Spain and Portugal (Article 24)—to the effect that prisoners of war “are to be returned in good faith by both sides without ransom”.

(To be concluded)

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DE LA CROIX-ROUGE

ET

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DES SOCIÉTÉS
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SUPPLEMENT

February, 1953

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INTERNATIONAL COMMITTEE OF THE RED CROSS

PRINCIPAL ITEMS OF INTEREST

Germany. — With the consent of the authorities concerned, the delegate of the ICRC again visited the three prisons where German prisoners judged and sentenced by the Allied Tribunals for war crimes are held. The visits took place on November 7, 1952 (Allied National Prison, Werl, British Zone), December 2, 1952 (War Criminal Prison No. 1, Landsberg, American Zone) and December 9, 1952 (Central Prison, Wittlich, French Zone).

The delegate ascertained that the conditions of internment in these three establishments were satisfactory. He was able to converse freely with the persons under detention who made no complaint with regard to their treatment.

Floods. — The Press has made known throughout the world the seriousness of the floods which simultaneously devastated five of the most flourishing East Anglian counties, the Dutch province of Zeeland, islands situated in the Rhine and Scheldt estuaries, part of Brabant and, to a lesser degree, the Belgian coasts and the French Northern seaboard.

The Press made the point that the floods were due to the rare coincidence of a cyclone reaching its peak at the actual moment when the weakest points of these coasts were threatened by a heavy tide.

Some 2,000 persons lost their lives and enormous damage was caused. It is estimated that 275,000 hectares have been flooded and that the reconstruction in the submerged areas will take many years; some of the destruction caused is even apparently beyond repair.

The Netherlands were the chief sufferers from the catastrophe.

When the first news of this disaster, which has stricken and bereaved so many families, became known, the International Committee of the Red Cross joined in the spontaneous relief action of the National Red Cross Societies in behalf of the suffering populations.

A cable was despatched placing the Committee's services at the disposal of the British Red Cross ; and an offer was made to the Belgian and Netherlands Red Cross Societies to send off immediately a convoy of eight 5 ton lorries for transports in the flood areas, and to carry persons from regions under water to the receiving centres. The Netherlands Red Cross having accepted this offer on February 4, a convoy of lorries left Geneva the same day for Rotterdam, carrying 500 blankets donated by the ICRC and a supply of medicaments offered by a Swiss commercial firm, as well as relief supplies rapidly collected by the Basle Branch of the Swiss Red Cross.

On arrival at Rotterdam on February 6 the lorries and their drivers were at once placed at the disposal of the Netherlands Red Cross in response to the appeals made throughout the world in favour of the flood victims.

Re-uniting of families. — Thanks to the comprehensive attitude of the Yugoslav authorities and the close co-operation of the Yugoslav Red Cross, 1551 children have, since 1949, been able to join their parents in East and West Germany, Austria, France, the United Kingdom, etc. But these transfers of children are incomplete, as they do not fully solve the problem of the re-uniting of families dispersed in numerous countries on account of events of the war.

In Jugoslavia it was a question of gradually proceeding from the re-uniting of children with their parents to the general uniting of adults, which has now been brought to a successful conclusion. After lengthy negotiations and the sending of a special mission to Belgrade in June 1952, an agreement was reached under which some 6,000 persons have so far been able to join members of their families in other lands and to start new homes. This action will be continued in so far as the countries sheltering a part of the dispersed families are prepared

to receive members of these families who have hitherto remained in Jugoslavia.

The number of persons transferred to date from Poland, Czechoslovakia, Jugoslavia, Austria, etc. having reached over 71,000, this action has thus allowed for the uniting of at least 200,000 persons.

Indochina. — During the month of January the International Committee of the Red Cross sent to Indochina from Geneva Dr. Aguet, a doctor-delegate of Swiss nationality. The latter examined about 600 wounded and sick Chinese military internees in Phu-Quoc Camp, whose cases had been made known by a French Medical Commission by which these men had already been examined. The doctor-delegate of the International Committee reported about 400 whose state of health made them unfit to remain in internment.

The delegate of the International Committee also visited wounded and sick prisoners of war held by the French forces who are being cared for in French military hospitals in Saïgon, Hanoï and Haïphong, and also in camp infirmaries Nos. 13 and 71.

Dr. Aguet is now on his way back to Geneva where he will present the Committee with a complete and detailed account of his work.

PUBLICATION:

*THE INTERNATIONAL COMMITTEE
OF THE RED CROSS AND THE
CONFLICT IN KOREA*

The September 1952 number ¹ of the *Revue internationale de la Croix-Rouge* announced the publication of the first volume of a collection of documents entitled " Le Comité international de la Croix-Rouge et le conflit de Corée ", containing the most important and most significant documents with regard to the efforts of the ICRC in connection with the conflict.

A second volume ² has now appeared, covering the period 1 January - 30 June 1952.

After indicating the approaches and activities of a general character on the part of the ICRC during the first half of 1952 vis à vis the two belligerent parties, it contains documents relating to the action taken in South Korea by the ICRC in various connections, such as the Central Prisoner of War Agency, prisoner of war camps, civilian prisons, guerilla camps, repatriation, and alleged breaches of international law.

The second volume concludes with a table recapitulating the documents published in the two volumes.

Study of these documents will show that the International Committee of the Red Cross has not neglected any steps with a view to giving aid and protection to the war victims in Korea.

¹ Page 767.

² *Le Comité international de la Croix-Rouge et le conflit de Corée*, Recueil de Documents No. II, 1 Jan-30 June 1952, Geneva, 1952, 4to (210 x 300), 159 pages.

CHRONICLE

THE ORIGINS OF HUMANITARIAN LAW ¹

III

THE LAW OF NATIONS (Conclusion)

Civilian populations.

The beginning of modern times is marked by two events which well show the contempt of the conquerors for the conquered, even though non-combatants.

In 1453 Mahomet II, mounted on horseback, entered the Church of Hagia Sophia, which he converted into a mosque. Such was the blood-stained end of the thousand year old Byzantine Empire; and the Mohammedans plundered the Christians unmercifully.

In 1492 the Catholic Kings took Grenada. The Caliph Boabdil gave himself up. The population was spared only on condition of conversion or exile.

The civilian population was then considered in time of war as belligerent and exposed to the same dangers as the military. A manifesto by François I during his fight against Charles V runs as follows: "Let it be known that We have declared the said Emperor, his followers and partisans, and all the subjects of his patrimonial lands to be enemies of Us and of Our Kingdoms, domains and subjects, and We hereby allow and give authority to all Our men to take up arms against the said parties in war, on sea and on land ²."

¹ See *Supplement*, January 1953, p. 9.

² Quoted by REVON, *op. cit.*, page 71.

The jurist Bodin from the moral point of view protests against such contentions. "It is impossible", he writes, "for a republic to flourish in religion, justice, charity, integrity of life and, in short, in all liberal sciences and mechanical arts, if the citizens do not enjoy a true and lasting peace. But such peace is the ruin of warriors, who are useless to themselves and to the community save for their tools in peacetime. Who is more of an enemy to a peace-loving man than the furious soldier, to an easy-going peasant than the bloody warrior, to a philosopher than the captain, to wise men than fools? For the greatest pleasure known to warriors is that of ravaging the countryside, robbing the peasants, burning the villages, besieging, defeating, breaking into and pillaging towns, massacring the good and the wicked, young and old, of all ages and sexes, violating girls, washing in the blood of the slaughtered, polluting holy things, razing the temples, blaspheming the name of God and trampling on every divine and human right¹".

A first attempt to bring the protection of non-belligerents under law was made by Cardinal Bellarmine in 1619². He maintained that those unfit for war such as persons under age, women, old people and others incapable of bearing arms ought not to be molested on grounds of humanity. Humanity, he says, demands that those who cannot fight should not be killed. Priests, monks, clergy, foreigners, merchants and peasants cultivating the land should, he insists, be exempt from capture in virtue of the custom of all nations. But that contention was one of those moral rules which theologians proclaimed in their capacity of "Confessors of Princes" rather than as jurists. Positive contemporary law ignored it, and Grotius wrote: "The massacre of women and children is included in the law of war³." He is followed by Wheaton

¹ BODIN, *République*, V, 5, quoted by André GARDOT, *Jean Bodin se place parmi les fondateurs du droit international*, course of lectures given at the International Law Academy of the Hague, Vol. 50, page 670.

Another study by M. André GARDOT, *Le droit de guerre dans l'œuvre des capitaines français du XVI^e siècle*, same course, Vol. 72, pages 397 ff., is especially interesting for reference.

² Cardinal BELLARMINE, *De officio principis christiani*, Ch. XXI.

³ French translation by Pradier Fodéré, I. III. Ch. 4-9.

who states that "all members of the enemy State may legally be treated as enemies in a public war"¹, while Klüber is of the opinion that "violence against individuals is justified for the sole reason that they form part of the hostile State"².

Such was the doctrine. It is not surprising that the practice was barbarous. The horrors of the Thirty Years War have remained notorious. Callot's extremely realistic engravings have served as reminders of it. Scheidl writes that after the death of Gustavus Adolphus all remains of humanity disappeared, and war became "a butchery". He quotes a German historian according to whom during the Thirty Years War "the human beast was aroused on both sides. Against the civilian population, friend or foe, there were crimes committed that only the most savage madness could invent. Peasants and townsmen were pillaged, flogged and tortured. Crushed thumbs, sewn up tongues, liquid manure poured down throats by force, torture by fire and many other kinds of brutality were inflicted to cause the hiding places of treasure to be disclosed. Men, women and children were massacred for sheer diversion. Women were carried off to act as servants to the soldiers (a regiment of 3000 men, for example, carried off 2000)"³. He adds that during this terrible war the population of Bohemia was reduced from 3 millions to 750,000 persons, that of Würtemberg from 400,000 to 48,000, and that of Augsburg from 80,000 to 18,000⁴.

The law of nations at first recognised a State's right to retain enemy foreigners at the beginning of a war. Grotius, once again influenced by Roman law, endorsed this view⁵.

But ideas evolved quickly. The former practice was never so strict in observance as in doctrine; and even in the Hundred Years War there were edicts proclaimed by English sovereigns and by King Charles V of France, according a truce of forty

¹ WHEATON, *Eléments de droit international*, II, 4.

² KLÜBER, *Droit des gens moderne*, No. 232.

³ HENNE AM RHYN, *Geschichte der deutschen Kultur*, Vol. II, page 132.

⁴ SCHEIDL, *op. cit.*, page 33.

⁵ GROTIUS, *De jure belli ac pacis*, Vol. III, Ch. IX, paragraph 4.

days in which enemy foreigners could leave the country. In 1666 Louis XIV in similar fashion accorded the English a period of three months in which to leave the kingdom with their goods.

A century later, in 1758, Vattel wrote: "The Sovereign who declares war may not retain enemy subjects." Since then this principle has been generally accepted in modern doctrine ¹.

The evolution of ideas and customs in favour of the protection of civilian populations was the same in occupied countries. Voltaire, describing the capture of Copenhagen by Charles XII in 1700 says: "Provisions were brought to the King of Sweden; for he had to be obeyed. But it was hardly expected that the conquerors would condescend to pay for them. Those who brought them were certainly surprised to be generously paid without delay by the lowest ranks of the army. The discipline which had reigned for a long time in the Swedish army had contributed not a little to their victory; and the young King increased its severity still further. A soldier would not have dared to refuse to pay for his purchases: still less would he have dared to go looting, or even to leave the camp ²."

The practice of reprisals however made its appearance from time to time as a form of sanction for shortcomings in a branch of public law which was not yet firmly established, and was in any case difficult to observe for troops traditionally trained to live on the country.

Voltaire again gives us an example in connection with the burning of Altona by the Swedish General Stenbock on 9 January 1713: "The inhabitants had not all left the town when the Swedes set fire to it. Altona burned from midnight until ten o'clock the next morning. Nearly all the houses being of wood, everything was burnt up. The next day it seemed as if there had never been a town on the site. The old people, the sick and the most delicate of the women, who had taken refuge

¹ See BONFILS, *op. cit.*, page 746.

² VOLTAIRE, *Histoire de Charles XII*, II, page 42.

on the ice while their houses were burning, dragged themselves to the gates of Hamburg and begged to be let in to save their lives. They were turned away however, for in Altona there were several contagious diseases and the people of Hamburg were not so fond of the people of Altona as to risk exposing their own town to infection by receiving them. So most of the poor wretches died under the walls of Hamburg, calling the heavens to witness the barbarity alike of the Swedes and of the Hamburgers, who seemed no less inhuman. All Germany protested against this outrage ; and the Generals of Poland and Denmark wrote to Count Stenbock reproaching him for such unnecessary and inexcusable cruelty against which (they said) heaven and earth alike protested. Stenbock replied that his only motive in resorting to such extreme measures was to teach the enemies of his master the King to cease waging a war of barbarism and to respect the law of nations. They had filled Pomerania, he said, with their acts of cruelty, laid waste that beautiful province and sold nearly one hundred thousand of its inhabitants to the Turks. The torches which had reduced Altona to ashes were reprisals for the 'red' (incendiary) bullets by which Stade had been consumed¹."

In spite of such excesses, certain rules for the protection of civilians made headway in the middle of the century, as for example the Convention of 1759 between Prussia and Austria, drawn up with a view to neutralising the health resorts of Teplitz, Carlsbad, Landeck and Warmbrunnen for the benefit of soldiers under treatment there, and above all the Letters of Safe-Conduct by which the Prince of Soubise, for the French army, and the Duke of Brunswick, for the Prussian army, in 1762 recognised the town of Pymont as neutral and inviolable territory. The last-named instrument being unreserved operated for the benefit of the civilian population as well as for the military receiving treatment.

This is the first example of "hospital and safety zones", the principle of which was recently introduced into positive

¹ VOLTAIRE, *Histoire de Charles XII*, VII, page 200.

law by the Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons in Time of War.

The progress of the humanitarian spirit of the eighteenth century marks an epoch in history.

Thus there came into being, after the disturbances of the wars of religion and the ensuing territorial changes in Europe a new Christendom, divided in dogma but united in respect for a law of nations inspired by Christianity.

This monarchic rule of the different sovereigns favoured a patriarchal conception of the relations between man and man and the humanization of war. Louis XV's words at Fontenoy have already been quoted. This same King ordered the inventor of an explosive, judged by him to be too deadly, to be thrown into the Bastille ¹.

His grandson Louis XVI, receiving the embassy of the Grand Moghul in splendour at Versailles in 1788, asked for the liberation of all the English soldiers retained as prisoners by Tippoo Sahib ².

Other European sovereigns, such as Frederick of Prussia, Maria-Theresa of Austria, and Catherine of Russia, only to mention the three most famous, were inspired with the same feelings. It was the period of "enlightened despotism". Armies were few and were composed of mercenaries, whose upkeep was costly and who were treated with as much consideration as possible. All Princes were "cousins"; and, although war was one of the arguments of their policy ("ultima ratio regum" was what they engraved on their cannons), they did not hate each other. Fighting was not furious; and, as M. Gillouin, and Ferrero before him, observes, "this limitation and humanization of war" remains to the credit of the eighteenth century.

It was at this time that the voice was heard of Jean-Jacques Rousseau, whose intervention was of the first importance in the formation of humanitarian law.

¹ See R. GILLOUIN, article published in the *Ecrits de Paris*, March 1951, page 86.

² See Ch. GIRTANNER, *op. cit.*, page 160.

Expressing for the first time as a principle of the law of nations an idea which was itself the product of the evolution of custom, he writes in the "Contrat social" in 1762: "War does not involve man to man relations, but State to State relations in which individuals are but accidentally enemies, not as men, not even as citizens, but as soldiers¹." This statement was bound to have considerable effect on the science of law and on political practice. The same words are found again under the pen of Portalis on 14 Floreal in the year VIII (1801) on the occasion of the institution of the Prize Court by the First Consul, and are again used by Talleyrand on 20 September 1806 in a despatch to Napoleon.

Jean-Jacques Rousseau, commenting on his own formula, thenceforth famous, says further in the "Contrat social": "The end of war being the destruction of the enemy State, one has the right to kill its defenders while they still bear arms; but, as soon as they lay them down and give themselves up, thus ceasing to be enemies or instruments of the enemy, they simply become men once again, and one has no longer the right to take their lives." The Geneva philosopher is justified in adding: "These principles are not those of Grotius", and he concludes: "they arise from the nature of things and are based on reason."

New words heralding new times! In the name of an ideology which claimed to draw inspiration from sources other than those of Religion, the Encyclopedia was soon to state that "the law of nature imposes limits on the law of war". It added: "*Inter arma*, we are told, *silent leges*. Laws must be silent amid the clash of arms. I reply that, if civil laws, and the laws of the Courts of this or that State, which operate only in peacetime, are to be silenced, the same does not hold true of the immutable laws which are made for all times and all peoples and are embodied in nature itself²."

This universalism was to become the law of the French Revolution.

¹ J.-J. ROUSSEAU, *Le Contrat Social*, I, 4. Ed. Dalibon, page 14.

² *Encyclopédie "ou Dictionnaire raisonné des sciences, des arts et des métiers"*, see the article "Guerre", Vol. XVI, page 775.

The Deputies of the French Constituent Assembly of 1789, following the example of their elders, the American Insurgents, considered that, as human nature was everywhere and always identical, the rights which Man derived from his nature could never change with times or climates. In the preamble of their Constitution they set forth that they were resolved solemnly to declare "the natural, inalienable, sacred laws of Man. "You have demanded", exclaimed Duport on 18 August 1789, "a Declaration applicable to all peoples and all nations... Let there be no fear to state here the truths of all times and of all countries." Dupont de Nemours said: "It is a question of the fundamental law of the laws of our nation and those of other nations, which must last with the centuries¹." This "cosmopolitan side", this "humanitarian side", of the French Revolution has been dwelt on by numerous jurists who think with Holzendorff that "the idea of justice, the equality of all men in face of the law, freedom of thought, the abolition of slavery, the individual freedom of the citizen, in short, all the great principles proclaimed by the French Revolution, which have become the common inheritance of civilised nations, make the Revolution of primary importance in the history of the law of nations"².

The Constituent Assembly thought that the corollary of these great principles would be universal peace. Unfortunately, this idealistic and optimistic pacifism came up against realities; before which it broke up into a bellicosity far more dangerous than the conception of the "guerre en dentelles", towards which the Ancien Régime in its last days had been drifting.

The whole nation was mobilized to save the Revolution. "Conscription, compulsory service, *levée en masse*, requisitioning of all material, moral, intellectual, and emotional resources"—no stone was left unturned; and "these means proved so

¹ Texts quoted by René BRUNET, *La Garantie internationale des droits de l'Homme*, Geneva 1947, page 25.

² From HOLZENDORFF, *Eléments de Droit international*, paragraph 8, page 26.

efficient, and were later to secure such triumphs for France that the other Powers in self-preservation were compelled, pending recovery of their lost advantage, to follow and imitate her on all fronts. Thus began the era of wars "aux allures déchaînées", to use the words of Maréchal Foch, which were to tear the modern world to its very bowels¹,"

The wars of the Revolution and the Empire had lasting consequences. The ancient monarchies, reestablished for a time after the defeat of Napoleon, maintained national armies in the name of the Holy Alliance. Combats of handfuls of mercenaries were from that time on replaced by conflicts of masses ; and this extension of war was to create needs that could no longer be met by private charity alone. Governments themselves were to have to take over this responsibility ; and the Army Medical Services in their turn were so soon to be found inadequate that private charity was again to be called upon to step into the breach. Here was to be the origin of the Red Cross.

Before dealing with the progress of this great organization, it remains to mark the stages of humanitarian law in the first half-century of the new times.

The wounded and sick in armies in the field.

In his " Etudes sur le Service de santé militaire en France ", published in Paris in 1849, Bégin makes the following remark : " The soldiers of the King could accept tokens of royal kindness, one might almost say of royal charity ; but citizens called upon by the law to defend thier land and their liberty had an infeasible right to medical care, if in the course of their service they were wounded or fell sick." This " right " had in fact been proclaimed by the National Assembly on 21 and 27 April 1792. The Convention, in accordance with its universalist principles, decreed on 25 May 1793 the institution, of " compulsory and equal treatment of enemy and national soldiers

¹ R. GILLOUIN, *art. cit., passim.*

in military hospitals" ¹. Thus that which for so long had only been done by States in virtue of special conventions, or had depended on the orders of an army leader, was raised to the level of a general rule. But this decree of the Convention was subject to reciprocal treatment by the other party or parties to the conflict, which hardly represented any improvement on the previous legal position.

In 1800 Percy, Head of the Medical Service of the French Army, induced General Moreau to approve a very precise draft convention in five Articles, establishing the neutrality and protection of military hospitals considered "as inviolable refuges, where unlucky valour is to be respected, assisted and always free, no matter to what army the hospitals belong or on what ground they may stand". This draft, which was not approved by the Head of the adverse Austrian army, ended with the following clause: "The present convention, applicable only to military wounded, will be published in the Orders of the two armies, and read in each corps twice a month. The execution of these Articles is recommended to the fairness and humanity of all the brave; and each army undertakes to inflict exemplary punishment on whosoever contravenes these regulations."

Gurlt quotes the famous German doctor Bernhard Christoph Faust, writing in a newspaper article of 10 October 1805 to propose the adoption of a convention to alleviate the sufferings of war wounded, with particular attention to the refutation of possible arguments against the suggestion. He also notes that in 1807 after the Stralsund engagement, when the Swedes took prisoner all the wounded that were fit to be removed from a French military hospital, Doctor Johann-Philipp Graffenauer made the following remarks: "It is desirable that hospitals should be declared neutral by a mutual Convention between the belligerent Powers. The unfortunate sick and wounded persons who find themselves in the hands of doctors and surgeons, especially those who find themselves in the hands of the latter, should not be regarded as prisoners of war. The

¹ See BASDEVANT, *La Révolution française et le droit de la guerre continentale*, Paris, 1901, page 109.

refuge of the wretched war victims should be considered a sacred place, and respected by all nations. But unfortunately we have not yet reached that degree of humanity ! ”

Again according to Gurlt, Doctor August Ferdinand Wasserfuhr of the Prussian army urged in 1820 that nations should agree to declare wounded and sick prisoners neutral, and should undertake not only to give full freedom to hospitals but also to assist them in every way.

This period of history is dominated by Napoleon, who missed nothing and did much for the condition of the wounded. An engraving of the time depicts him saluting the enemy wounded “ to honour their misfortune ”. In Saint Helena on 23 August 1821 a few days before his death he had a long conversation with the English Doctor Arnott. As usual, he plied his interlocutor with a number of specific questions. Here are the main passages of this curious conversation, which the Grand Maréchal Bertrand has recorded for us in his “ Journal ” :

“ Do many people ask you for news of me ? ”

“ No, although everyone knows that I see you.” (A moment’s silence.)

“ Which of the two nations tended the wounded on the battlefield the best ? ”

“ I believe that the French removed and evacuated them better than we did.”

“ Ah, that comes from habit. Which nation lost the most wounded ? ”

“ France, I believe.”

“ Why ? ”

“ Because we do amputations better than you, I think.”

“ Who cried most on the battlefields, the English or the French ? ”

“ Both about the same, I think.”

“ Did the English cry much when being operated ? ”

“ Some terribly ; others were silent.”

“ Were you satisfied with the organization of our first aid units and our army medical service ? ”

“ Very much so.”

“ Is it as good as yours? ”

“ I think so.”

“ Were you satisfied with our hospitals? ”

“ Yes.”

“ Did you find them well kept? ”

“ Yes.”

“ Are yours kept better? ”

“ No.”

“ Did your wounded complain of the way they were looked after and treated? ”

“ No.”

Several months earlier on 26 November 1820, in the course of a particularly bloody war in which both parties were guilty of reprisals of indescribable barbarity, Bolivar, another great figure of the period, had signed a Convention at Truxillo with General Morillo, in which it was said :

“ The Governments of Spain and Colombia, desiring to make known to the world their abhorrence of the war of extermination, which up till now has laid waste this territory and has turned it into a slaughter-house, and desiring to take advantage of the first moment of calm to regulate the war, which still exists between the two Governments, according to the laws followed by the most civilized nations and the most worthy and humane principles, have agreed to appoint commissaries to conclude a treaty setting forth the way to wage war.

.....

“ IV. The military or other individuals in the trail of an army corps, who have been taken wounded or sick from hospitals or elsewhere, are no longer to be prisoners of war, but are to be free to return under their own flag as soon as they have recovered. As humanity speaks highly in favour of these unfortunate persons who have sacrificed themselves for their country and their Government, they are to be treated as prisoners of war, but with even greater consideration, and are to be given the same assistance and care as the wounded and sick of the party who took them prisoner.”

Aulic Councillor Kaspar Lehmann, citing this Convention as an example in the Austrian Military Gazette in 1836, suggested that the European Powers should take advantage of the prevailing peace to draw up an international convention on behalf of the wounded in war-time. A similar proposal had been made in 1826 in the same Gazette by Count Cancrin, Intendant General of the Russian army.

Meanwhile the obligation to treat enemy wounded and nationals alike was not everywhere respected.

Among the pioneers, who preceded the Société d'utilité publique de Genève in the dissemination of this noble idea, a special place is due to an Italian surgeon, one Ferdinand Palasciano.

Born at Capua in 1815, he was on the medical staff of the Neapolitan army of the Bourbons. At the siege of Messina in the Revolution of 1848, in spite of the military authorities' orders to spare no enemy, even wounded, Palasciano gave the same treatment to the enemy wounded as to those of the army to which he belonged. He was arrested on this account, and owed his deliverance solely to the personal intervention of King Ferdinand. Convinced of the value of his idea, he immediately did his utmost to spread it throughout Italy, France, Switzerland and Germany. Everywhere he preached the doctrine of "the neutrality of wounded and seriously sick combatants".

The Crimean War in 1854 brought to light in Florence Nightingale a benefactress of humanity, whose example, self-sacrifice, courage and success in the amelioration of the condition of the wounded makes her one of the principal leaders of the humanitarian movement.

One of her biographers wrote: "Henry Dunant, the founder of the Red Cross, professed that all credit for the Geneva Convention fell to Miss Nightingale. It was, he said, her work in the Crimea that inspired him to go to Italy during the war of 1859¹." Struck by the inferiority of English first aid units compared with those of the French, which had the advantage

¹ Mme. KREBS-JAPY, *Florence Nightingale: sa vie, son œuvre*, Paris, 1932.

of the assistance of sisters of charity, Florence Nightingale succeeded in training a body of nurses who also worked with religious devotion.

Another source of inspiration in connection with the Crimean War was the work of Prince Anatole Démidoff, Attaché to the Russian Embassy in Vienna who made use of his many friends and his great fortune to assist the wounded, whether Russians or foreigners, who were tended in the first aid units of his country. His work in this connection has been described as follows ¹: " Prince Démidoff appealed to all his acquaintances ; and the most aristocratic Russian, Austrian and Italian ladies in Vienna and Florence vied with one another in enthusiasm to make lint, which he arranged to have regularly sent to Russian hospitals, where the wounded, friend or foe, were promiscuously treated. Even on his estates in Siberia the many children in the Homes which he maintained were kept busy making lint, and funds were raised among the population on behalf of the wounded."

The Prisoners of War.

The theories of Jean-Jacques Rousseau had a marked influence on the condition of prisoners of war.

War being an " inter-State relation ", belligerents are only enemies by accident ; and the right to kill one's adversary exists only when he is armed, and ceases when he surrenders. The only action which can be taken in regard to an unarmed enemy is to deprive him of his liberty ; and, when the war is over, the prisoners on both sides are entitled to have their liberty back.

The Treaty of Friendship and Commerce, concluded in 1785 between Prussia and the United States under the signatures of no less illustrious personages than Frederick II and Benjamin Franklin, both of them notable exponents of the

¹ Octave JAUNEZ-SPONVILLE, *Les prisonniers de guerre des Puissances belligérantes pendant la guerre de Crimée*, Paris, 1870, Avant-propos.

current "philosophic" ideas, is based on this conception, and is of the utmost theoretical importance for the purposes of the present study. Article 24 of the Treaty lays down¹ that :

"in order to alleviate the lot of the prisoners of war, and to save them from the risk of being sent to distant and rigorous climates, or immured in confined or insanitary quarters, the two Contracting Parties solemnly undertake to one another and before the world that they will not adopt any such practices... The cantonments shall be as spacious and as convenient as those of the troops of the Power in whose hands the prisoners are... The rations shall be the same as those issued to the enemy's own troops... Each of the two Powers shall be entitled to maintain a Commissioner of its own choice in every cantonment of prisoners held captive by the other Power. The said Commissioners shall be free to visit the prisoners as often as they please : they may receive and distribute the gifts which the relations or friends of the prisoners send them : and they may make their reports by open letters to those by whom they are employed. The two Contracting Parties have furthermore declared that neither the pretext that war supersedes treaties nor any other similar pretext shall cancel or suspend this or the preceding Article, and that on the contrary it is for the case of war that the said Articles provide, and are accordingly to be observed during the same no less than any such other articles as are most universally recognized by the law of nature and the law of nations."

Too much emphasis cannot be laid on the humanitarian character of these provisions. They were far in advance of the practice of the time, and constitute already a prisoners of war statute, the guiding principles of which reappear in the Geneva Convention of 1929. But the provisions of this 1785 Treaty were valid only between two contracting Powers, who were not at the time at war with one another. They afforded none the less a striking example for the future both in respect of their contents and in respect of the fact that they were drafted with a view to war, and were intended to come into force automatically in the event of war. That certainly was an advance on the previous usage, which did not go beyond the conclusion of *ad hoc* agreements of limited duration, applicable to particular conflicts.

¹ The text is reproduced in Article XII of the revised Treaty of 1828 between the two countries.

Towards the end of the century the custom of belligerents sending envoys to one another to look after the interests of their captive compatriots became established. There are references to the practice in the Anglo-French Cartel of 13 September 1796, in the Washington Cartel of 12 May 1813 between the United States and Great Britain, and in the Convention, which has been already cited, of Truxillo between Colombia and Spain.

It would not however be true to say that prisoners were in practice always treated in accordance with such generous principles.

In the insurrection of San Domingo in 1803 Rochambeau put 500 prisoners to death. The native leader Dessalines had 500 Frenchmen hanged by way of reprisals. Many similar incidents occurred in the wars of independence of the Spanish colonies. In 1823 in spite of the Truxillo Convention the entire garrison of Porto Cabello was put to the sword. Elsewhere we find the English hulks, the mines of Siberia and the atrocities of the Spanish war.

Nor did the exchange of prisoners always proceed without obstacle. "Even today"; we read in Wheaton in 1836, "this usage is not obligatory among nations. They prefer to insist on the ransom of the prisoners they take, or to leave their fellow citizens in the enemy's hands until the end of the war".

Nevertheless the internal legislation of civilized States made more and more concessions to humanitarian ideas. In France for example a Navy Ordinance of 1832 ordered naval officers to instruct their men "to show themselves generous to prisoners, and to treat each prisoner with the respect due to his rank".

Prince Démidoff in the Crimean War did not confine his solicitude to the lot of the wounded. "Under his interesting direction", says the biographer from whom we have already quoted, "an Association was formed with the object of giving aid of every sort to prisoners of war, studying their requirements, and taking all necessary steps to supply anything

lacking to their comfort. The Association was to send news of them to their families, and to convey news from their families to them. It was to see that they received the money which their relatives wished to send them. It was to furnish them with the means of celebrating happily the national holidays, which they had been accustomed to observe in their own homes. It was in a word to alleviate the tedium and the privations of their captivity. Furthermore—and this was perhaps entirely unprecedented¹—the Association displayed as much zeal for the comfort of the prisoners of nations at war with its own country as for its own compatriots. Thanks to Heaven and to the progress of civilization we are no longer living in an age when prisoners of war were treated like wild animals on exhibition to the public curiosity, or were parked in hulks or insanitary hovels, where private charity was almost the only agency to cope with their needs. Today in all the civilised nations of Europe prisoners of war are treated with humanity, and assimilated in the matter of pay and rations to national troops of the same rank.”

In striking illustration of his point the writer quotes a letter, in which the Archpriest Iosif Vassilieff, who had been authorised to look after Russian prisoners in France, wrote as follows: “I forgot to tell you that I invited the French authorities, both at Ile d’Aix and at Tours, to come to the evening reception of the officer prisoners, and they all made a point of coming, and were in general on excellent terms with the prisoners.”

The Civilian Populations.

In the nineteenth century the distinction, which Jean-Jacques Rousseau had made between combatants and non-

¹ The Report published in 1759 by the President of the English Committee for the Maintenance of the French Prisoners in England, to which reference has been made above, is evidence in refutation of this claim, but does nothing thereby to detract from the merits of Prince D mido ff’s action.

combatants, definitively became a part of European Public Law.

“ The only enemies in the true sense of the word are the belligerent States. The citizen subjects of a belligerent State, are not, in their capacity as human beings, enemies either of the subjects of the enemy State or of the enemy State itself. They are not, as individuals, belligerents¹.”

Such was the principle, on which the Capitulations of Flushing (1809) and Pampeluna (1813) were based. The former of these instruments provided that “... any Frenchman, who was not an inhabitant of Flushing before 1807, shall be sent to England, and shall be subject there to such treatment as the two Governments may agree to lay down for non-combatants. Their private and personal property shall be respected, and they shall be permitted to retain any papers which may relate to the statements of their accounts, or be of use thereto.” The other agreement provided that “... French non-combatants at present in Pampeluna shall not be deemed to be prisoners of war, and shall be free to return to France ”.

In principle therefore the civilians were not exposed to the same dangers as the armed forces. But there were exceptions to the rule, e.g. in the case of civil wars, where the laws of war were not held to be applicable to such conflicts. In international conflicts on the other hand the principle was in general respected. Moreover weapons of war had not yet attained such a measure of potency as to constitute a serious menace to the civilian populations outside the immediate proximity of the fields of battle.

Accordingly the last days of the Ancien Régime and the beginnings of the new age witnessed a continuous development of humanitarian ideas in the formation of the law of nations and in the elaboration of the laws of war. But it could not be said that this congeries of legislation amounted to a corpus of what could be called “ Law ”.

The numerous agreements, cartels, capitulations and other conventions determining the lot of wounded, prisoners and

¹ BONFILS, *op. cit.*, page 742.

civilians were always, with a few exceptions, episodic parts of treaties relating to particular wars. When the wars were over, the Contracting States were no longer bound by these instruments in relation to one another. Even where, as in the case of the Treaty of 1785 between Prussia and the United States, there were provisions specially relating to the eventuality of war, which were of unspecified duration, it was only the two signatories of the treaty who were bound by them. The other nations knew nothing of these treaty provisions. There were no doubt certain pioneers, to whose memory we have paid tribute in passing, who argued in favour of an international Convention, applicable to all times and to all countries, for the purpose of determining in anticipation of war the status of war victims. But nothing of the sort had been negotiated by the Governments. Humanitarian lessons had been given by certain heads of States or army chieftains, by doctors or philanthropists, which the legislators could take as a source of inspiration; but nothing had yet been put into the form of positive international law.

It was left to the promoters of the First Geneva Convention to lay the foundations of humanitarian law; and we shall see the extent of the triumph they achieved in the sketch which the next Chapter will contain of certain particulars in the history of the Red Cross.

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INTERNATIONAL COMMITTEE OF THE RED CROSS

PRINCIPAL ITEMS OF INTEREST

Austria. — On February 25 last the Delegate of the International Committee of the Red Cross distributed to needy aged persons in Vienna 304 parcels containing blankets, sheets and tonics, also tea and coffee. The distribution of these relief supplies, presented by the International Committee, took place in the presence of His Eminence the Cardinal Innitzer who paid the Committee's work a tribute in which he was joined by the representatives of the World Council of Churches and Caritas.

The ICRC Delegation also supplied medicaments, tonics and in particular iso-nicotinyl hydrazide (sufficient for the complete treatment of over 1,000 cases) to two sanatoria where tuberculous children are accommodated one of which, in Scheiffling (Styria), is reserved for refugee children, and also to the Austrian Red Cross sanatorium in Grimmstein. The value of these products, also donated by the International Committee, amounted to 12,500 Swiss francs.

Greece. — During 1952 the relief supplies given out by the Athens Delegation of the ICRC amounted to some 53 tons in weight. The value of these supplies, consisting of foodstuffs, clothing, pharmaceutical products and surgical equipment, was about 300,000 Swiss francs. The Committee's share in this amount, about 60,000 Swiss francs, principally covered the medical relief despatched.

It will be remembered that the beneficiaries of these relief supplies are chosen among persons interned or exiled, refugees (of whom the majority are Albanian), disabled persons and the civilian population.

The figures above-mentioned are not connected with the anti-tuberculosis campaign carried on by the Delegation on behalf of the civilian population and interned or exiled persons. This work of detection, which was mentioned under the same heading in September 1952, has allowed for the treatment of over 300 cases. It represents an outlay by the International Committee of 100,000 Swiss francs.

Vietnam. — In December the International Committee's Delegate in Vietnam visited two camps for prisoners in French hands in the North of the country.

South Korea. — The ICRC Delegation handed over to the South Korean Red Cross, in February, medicaments and a small supply of dressings. These relief supplies, worth 16,000 Swiss francs, will be used in particular in the mobile dispensaries which are being set up by the South Korean Red Cross to give medical treatment to civilians outside the great centres. It is planned to provide a dispensary of this nature for each province.

Japan. — The ICRC Delegation in Japan, in January last, presented the Japanese Red Cross with a quantity of vaccines, serums and antibiotics, valued at slightly over 7,000 Swiss francs. These drugs were immediately distributed to the various Japanese Red Cross Hospitals.

HENRI COURSIER

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“ UNCLE TOM’S CABIN ” AND THE ABOLITION OF SLAVERY

In 1852 a book published in the United States, “ Uncle Tom’s Cabin ” by Harriet Beecher Stowe, caused a great sensation.

The book, a stirring plea for the abolition of slavery, greatly contributed to the success of the great cause ; it preceded by a few years only the amendment to the American Constitution which brought the inhuman system to an end. Its influence may be compared to that of “ Un Souvenir de Solférino ”, which also drew a vivid picture of human suffering, and enabled Henry Dunant to prepare the way for the work of the Red Cross.

By recalling in these pages the centenary of “ Uncle Tom’s Cabin ” we are extolling one of the grandest figures and one of the principal episodes of humanitarian history.

* * *

It may be said that before the discovery of America slavery had died out in Christian countries. Vicquefort stated that, according to French jurists, “ the air in France is so good and so fair that as soon as a slave enters the kingdom, even with an ambassador’s suite, he draws a breath of freedom and regains his liberty ” ; and we know that Bodin¹, in commenting the decisions taken by the Toulouse Parliament, in the beginning

¹ BODIN, *Les six livres de la République*, Tit. 1, Chap. V.

of the XV Century, gave authority to the principle that even the slave of a foreigner was free immediately he set foot on French soil. For Great Britain the jurist Blackstone declared in the reign of Elizabeth that " the air of England is too pure for a slave to breathe therein ". Hence the rule, always affirmed in the same terms as in France, that " as soon as a man put foot on English ground he is free " ¹.

The discovery of the New World was unfortunately to bring this progress of civilisation once more into question.

This does not imply that the conquerors, in spite of their superiority of arms, succeeded in reducing the West Indian natives to slavery. The courage of the Indians and the protests of the Church had been opposed to the brutal action of the first settlers. In the first place it was necessary to do battle with (sometimes even to exterminate) a proud and vigorous race, and secondly, under the influence of religion, to allow them to receive baptism as free men. " Although they are ignorant of the Christian faith ", Pope Paul III wrote in 1537, " they are not, and should not, for that reason be deprived of their liberty and their property or be reduced to slavery. They are men like us ". This doctrine, proclaimed with such authority by the jurists of the Salamanca school, was sanctioned by the " Laws of the Indies ", which are a monument of humane inspiration.

But, while proclaiming this generous legislation, Charles the Fifth yielded to pressure by the settlers who, being unable to find the necessary man-power on the spot, had conceived the idea of importing labour from Africa. The negroes were men also ; yet from time beyond all memory the slave-trade had existed on the African continent. Until the XVI Century it had been more particularly directed towards the Eastern Mediterranean area ; but from the previous century slave traffic, handled by Portuguese traders, had been set up in the Canary Islands and on the Guinea Coast.

¹ See Cino VILLA, *La défense internationale de la liberté et de la moralité individuelles*, Recueil des cours professés à l'Académie de Droit international de La Haye. Vol. 45, page 563.

This trade considerably increased with the opening up of the Western lands beyond the Ocean. The King of Spain had already authorised in 1528 the transportation of slaves to America against payment to the Crown. The import of this labour, considered as a commodity, was also subject to the payment of customs duties. This was the *Assiento* system, whereby the States concluded formal contracts with the slave-traders, which brought in considerable revenue to the Treasury. After first being reserved for the Spanish only, the Assiento was later granted to foreign companies, and was the subject of actual diplomatic transactions. With the accession to the Spanish throne of the grandson of Louis XIV, a French company was licensed; later the English (who had joined in the Spanish war of Succession) negotiated with their allies the Dutch in order to make certain of enjoying the privilege of carrying on the slave-trade in peace-time. In 1713 the Queen of England concluded with the King of Spain a new Assiento, which was confirmed in the same year by the Treaties of Utrecht. A company appointed by the British Government was to supply 4,800 "pièces d'Inde" per year for thirty years. Nys¹ estimates that from 1680 to 1700 the privileged English company had shipped 140,000 negroes, and private traders 160,000, making a total of 300,000. This traffic continued to increase. During the year 1786 England supplied the American colonies with 38,000 negroes, while France furnished 20,000, Portugal 10,000, the United Provinces 4,000 and Denmark 2,000².

It was at this time that international opposition to the slave-trade first set in.

The following year the Abolition Society was founded in England, of which body the moving spirit was Wilberforce, who led an energetic campaign in the name of public morals for the abolition of slavery. The success of this campaign was not entirely due to its moral aspect.

¹ Nys, *L'Esclavage noir devant les jurisconsultes et les Cours de Justice*. Revue de Droit international et législation comparée. Vol. XXII, pages 60-61.

² See Cino VILLA, *op. cit.*, page 572.

The English were in favour of abolition for many political and economical reasons. The United States having become independent, they were no longer concerned with the success of plantations in the American tropical regions. On the other hand, as they had in the Indies an abundant source of non-servile labour, they could even conceive the idea of using this labour to enter into competition with their former colonies. Further, the "right of search", which is the inevitable accompaniment of any practical scheme for the repression of the slave-trade, was a most tempting advantage for a commercial nation possessing the strongest navy in the world. Without contesting the sincerity of Wilberforce and his followers, it must be admitted that these motives served as arguments for the opponents of the diplomatic action carried on by the Cabinet of Saint James in favour of abolition both at the Vienna Congress and at subsequent European Conferences. As for the British Parliament it first prohibited the slave-trade in 1807, and slavery in British Colonies in 1838.

In France the "Société des amis des Noirs" was constituted in 1788 under the guidance of Mirabeau and the Abbé Grégoire. The Revolution, as a faithful consequence of its principles of equality between men, abolished slavery; but Bonaparte, following protests by settlers in the French West Indies, repealed this measure, thus causing the Santo Domingo rebellion.

In the United States the Law of March 22, 1794 prohibited citizens from engaging in the slave traffic. In 1808 Congress prohibited the import of slaves, and in 1819 attached to this measure the death penalty. Slavery nevertheless continued to exist, and even to flourish by the mere fact of the birth-rate.

The Southern States, where the climate made land cultivation arduous for white people, were greatly in favour of slavery, which was there referred to as their own "domestic institution". The tobacco plantations, which throughout the XVIII Century were Virginia's great source of wealth (so much so that there was no National Debt), and subsequently the cultivation of cotton, which became the more important industry, called for

a number of workers, and the number increased with the development of the cotton mills in Europe, which in turn depended upon supplies of raw material from America.

Slave labour was not however necessary in the Northern States, where the climate was suitable for white man-power. Furthermore, the population was continually being increased by the arrival of immigrants from Europe. Anti-slavery propaganda therefore expanded in those States without opposition. It did not clash with any interests, and was in keeping with the Puritanism of the people.

The prosperous economy of the South however ensured its political preponderance within the Union, so long as the Northern States had not asserted their industrial capacity.

Even when the Republican Party came into power with Jefferson as President in the United States (and within a short period had completely eliminated the Federal Party with its far more aristocratic tendencies) slavery was not seriously threatened. Jefferson, who had formerly been Minister in Paris and was imbued with the principles of the French Revolution, doubtless blamed the practice in his heart : he even said : " I fear for my country when I think of a just God ". But, as a rich Virginian planter, he could hardly fight against traditions so firmly implanted.

This exceptional situation was maintained, when the Democrats took the place of the Republicans. In order to remain in power they were also obliged to consider the essential interests of the slave States.

Nevertheless the opposition between the North and the South in regard to slavery broke out on each admission of a new State to the Union. To meet these difficulties compromises were arranged. The compromise in the case of Missouri in 1820 confined slavery to the South of the thirty-sixth parallel. In the case of Kansas in 1850 it was decided that there should be no slaves in California (although it was situated to the South of the line), whereas slaves were allowed above the line in Kansas. At the same time a law was passed whereby the owners of runaway slaves could recover their property, even in the free States, with the help of the authorities.

This arrangement merely increased competition between the North and the South. In the free States societies were instituted to assist needy emigrants to settle in Kansas, whereas from the South armed adventurers were to make the territory a slave State. Each of the two parties fought to enforce its Constitution.

It was in these troubled times that Harriet Beecher Stowe wrote "Uncle Tom's Cabin".

* * *

Harriet Beecher, born in a Puritan New England family, a pastor's daughter, was the wife of the Reverend Stowe, Professor of Bible History at Cincinnati University. She left her home in her youth and lived for several years in the immediate proximity of a slave State, Kentucky. At the age of fifty she published "Uncle Tom's Cabin". The book is not therefore the fruit of a brief survey; it proceeds from a close study of the subject. It is the expression of free thought, entirely independent of material interests.

The portrait of the author (reproduced in the frontispiece) figures in one of her other works. It is to be presumed therefore that she approved of it. "The first remark that people usually make on seeing me", she states with humour in "Sunny Memories"¹, "is that I am not as ill-looking as they thought I would be, and I assure you that, since having seen the things displayed in shopwindows here, with my name below, I have a singular admiration for the stupendous kind-heartedness of my friends in England and Scotland in keeping so much affection in their hearts for such a Gorgon. I should think that the Sphinx of the British Museum must have served as a model for the majority of my portraits. I am going to make a collection to take home with me. There are a great many varieties, and they will be of as much use as the Irishman's signpost showing where the road did not lead!" Let us hope that our likeness is better. We should like to think so in any case, for this face is instinct with benevolence and even with compassion; and

¹ *Sunny Memories* — A Travel Book, published in 1853.

one finds in it real distress at the thought of the sufferings of others. According to a graphologist the analysis of her writing confirms these characteristics.

With regard to her moral nature, it may be thought that Harriet Beecher-Stowe drew her own portrait in one of the characters of her book, Miss Ophelia, who came from the North to look after the household of her cousin, St. Clare, in New Orleans. "Nowhere is conscience so dominant and all absorbing as with New England women. It is the granite formation which lies deepest, and rises out, even to the tops of the highest mountains."

She made an effort nevertheless to put aside established ideas, and to pursue in the light of experience a wholly objective line of thought. In her "Memories" she says "I have tried to get rid of the prejudices—if you like to call them thus—of my Puritan education". For instance, when travelling in England and discussing house-keeping with the people she met, she tried to understand the other persons' views. These persons, without upholding slavery in so far as it conflicted with conscience, were at pains nevertheless to point out the advantages of a hierarchic society, where the interests of all are served by a tolerant and accepted patriarchial rule. When questioned as to the condition of servants in America, she said that one of the principal difficulties in American housekeeping was caused by the numerous well-paid careers open to everybody, so that very few men or women were prepared to work as servants, unless as a temporary expedient. At bottom, she added, the idea of domestic service was radically different to what she had seen in Europe: it was regarded as a temporary engagement, and did not essentially differ from the contract between a workman and a manufacturer. Her listeners were of the opinion that in these conditions servants could not be imbued with affection for the families in which they worked. She agreed, and said that old family servants were a great exception in free America.

Although her ideas were formed on such objective lines, they were nevertheless firm and often in advance of her time.

We shall see that she condemned slavery with peremptory

force, and exposed its dire consequences, but with constant regard for absolute veracity.

With regard to equal rights for men and women, so much in dispute at the time, she remarked casually that one of her characters was "only a weak woman as her husband said", which is sufficient to show her scepticism in regard to the privileges of the male sex ¹.

As regards social progress, she had already (in 1853) declared herself to be in favour of the "Saturday half-holiday". During her visit to England the Great Exhibition was in full swing in London. It was a question whether the Crystal Palace should be opened on the Lord's Day in order that it might be seen by workmen and shop people. "I asked", she said, "why the philanthropists did not go to the employers and urge them to give their workers part of Saturday; it seemed rather un-Christian for working people to be allowed intellectual and social recreation on Sundays only. It was agreed that my advice was the best means of solving the difficulty; but will it be followed by the British people? That is another matter."

On the great question of war and peace, the author of "Uncle Tom's Cabin" had long recommended pacific settlement of conflicts, pointing out that "modern society in general is equally opposed to war and to slavery; but a time will certainly come when a more rational and humane means will be found of solving differences between nations".

Finally, in regard to her religious beliefs, it will be observed that this daughter, sister and wife of Protestant ministers was most favourably disposed towards her Catholic brethren. In this she is akin to Florence Nightingale, another great humanitarian character of the same period, who for some time lived among the Sisters of Saint Vincent of Paul in Paris.

It was therefore in a purely Christian spirit that Harriet Beecher Stowe opposed slavery in her thoughts and in her writings. The words of Saint Paul to the first Christians, when slavery was still one of the foundations of society, remained

¹ In 1855 she published *The Chimney Corner*, a work in favour of sex-equality.

in her mind (" There is neither Jew nor Greek, there is neither bond nor free, there is neither male or female ; for ye are all one in Christ Jesus ".) It was in the name of this doctrine of fundamental equality between men that she rose in judgment against the customs of her time and relentlessly condemned slavery.

* * *

" Uncle Tom's Cabin " is taken from life. It closely follows actual facts, and this was doubtless the principal reason for its success.

We have not the slightest intention of criticising the literary talent of Harriet Beecher Stowe. As a professional writer she, and several of her brothers, had been endowed with the family art of writing ; but of her numerous works only this one became famous. When commenting upon this book herself, Harriet Beecher Stowe informs us in fact that " This work has been made up of a carefully chosen mixture of *real* incidents, of *actual* facts and of words *really* spoken, which were merely grouped together as need for the result in view—just as the mosaicist assembles his stone fragments according to the pattern he wishes to compose. His mosaic is of stones, ours is of facts."

Tom was a slave who was resigned to his fate. He was as gentle as he was strong, both intelligent and honest ; and he was in fact the overseer of the farming estate of his master in Kentucky. Faithful to the principles of the Christian faith, he lived happily with his wife and children in his humble dwelling—" Uncle Tom's Cabin was a small log building, close adjoining to " *the house* " as the negro, *par excellence*, designates his master's dwelling. In front it had a neat garden-patch where, every summer, strawberries, raspberries and a variety of fruits and vegetables, flourished under careful tending. The whole front of it was covered by a large scarlet begonia and a native multi-flora rose which, entwisting and interlacing, left scarce a vestige of the rough logs to be seen. Here also, in summer, various brilliant annuals such as marigolds, petunias, four o'clocks

found an indulgent corner in which to unfold their splendours, and were the delight and pride of Aunt Chloe's heart."

Tom was liked by everybody, particularly his master's small son who, proud of his new learning, taught him to write. All called him "Uncle Tom".

But all of a sudden this blissful existence suffered a dramatic change. Having run into debt the master, being hard pressed by his creditors, had no other means of meeting his obligations than to sell his best slave. Tom was sold; and the slave-merchant also insisted upon taking a small child, the son of another slave, to be harshly separated from his mother.

Having learned of the sale, the mother escaped with her child, warning the other victim before her departure; but, whereas she succeeded after many perils in reaching the free soil of Canada, Tom, resigned to his lot, and in deference to his master's decision, with some faint hope of being bought back in a happier future, let himself be chained and led away to meet his fate.

On the ship sailing southwards he met a charming little girl of about ten years of age, Eva, the fair-haired daughter of a wealthy New Orleans cotton-planter. The little girl, drawn by Tom's gentle manner and pleased with the little figures he made with cherry stones, persuaded her father to buy him. St. Clare, an easy-going but kind gentleman, bought Tom to be in his daughter's service.

From that time our hero's life might be termed delightful, had he not been homesick for his cabin and bereft of his family. St. Clare's palace in New Orleans and his country house were luxurious residences surrounded by gardens where tropical plants grew in beautiful profusion. Eva was an angelic child. She was deeply moved by the sufferings of others; she sought to comfort, to heal, to teach and to improve the morals of her father's slaves. Unfortunately, within a few years she died, worn out by phtisis and her sorrow for the negroes' unhappy condition. Before her death however she made her father promise to set Tom free in order that he might return to his home.

St. Clare was quite desirous of keeping his promise; but he nevertheless delayed in taking the necessary steps. He said

one day to his slave : “ Why, Tom, you couldn’t possibly have earned by your work such clothes and such living as I have given you.” “ Knows all that, Mas’r St. Clare, replied Tom, masr’s been too good ; but, mas’r, I’d rather have poor clothes, poor house, poor everything, and have ’em *mine*, than have the best, and have ’em any man’s else. I think its natur, mas’r ! ”

This was in fact sound reasoning, for death came to St. Clare before he could accomplish the emancipation formalities ; and Tom was sold once more, to a cruel master this time who shamelessly robbed him. “ He took Tom’s trunk, which contained a very neat and abundant wardrobe, to the fore-castle, where it was soon surrounded by various hands of the boat. With much laughing at the expense of niggers who tried to be gentlemen, the articles very readily were sold to one another, and the empty trunk finally put up at auction. It was a good joke, they all thought, especially to see how Tom looked after his things, as they were going this way and that.”

The poor man gave up his belongings and accepted his destitution in the most Christian spirit. Would he at least benefit by his renunciation—would he be able to work in peace in this new master’s service ? No, for the man was a foul, brutal drunkard, who inhumanly exploited his slaves’ labour. He was asked the question “ And how long do they generally last ? ” to which he replied “ Well dunno, ’cordin as their constitution is. Stout fellers last six or seven years ; trashy ones get worked up in two or three. I used to, when I fust begun, have considerable trouble fussing with ’em and trying to make ’em hold out—doctorin’ on ’em when they’s sick, and givin’ on ’em clothes and blankets, and what not, tryin’ to keep ’em all sort ’o decent and comfortable. Law, ’twasn’t no sort o’ use ; I lost money on ’em and ’twas heaps of trouble. Now you see I just put ’em straight through, sick or well. When one nigger’s dead, I buy another, and I find it comes cheaper and easier every way.”

This unworthy master had supposed that his new recruit would second him in wielding the lash to force other negroes to work beyond their strength ; but Uncle Tom was too good to play such a part. On the contrary, he helped the weakest of the slaves to make up the quantity of cotton representing

their day's task in order to avoid their being punished. He was harshly flogged himself for his charitable action.

One evening two negro women brought him a hatchet, telling him that he could strike his master, who was in a drunken slumber, and be free. He refused to kill, but helped them to escape.

This escape brought the tormentor's fury to a pitch ; he made Tom bear the responsibility, and illtreated him until he died from his sufferings, his last words being to pardon his torturer.

This work contains numerous digressions by other characters. Mr. and Mrs. Shelby gave fair treatment to their slaves, until the day arrived when the husband was obliged to sell two of them. When Mrs. Shelby objected that Tom was married and had children, saying " I have taught my people that their marriages are as sacred as ours ", her husband replied : " It's a pity, wife, that you have burdened them with a morality above their condition and prospects." However desirous these masters were to treat their servants well, they did not go so far as to deprive themselves of the benefits of an established social condition. St. Clare was undecided on the question. " There is no doubt that slavery is a very bad thing ", he said, " a great many people think so ; I do myself. I heartily wish there were not a slave in the land, but then I don't know what is to be done about it." And we know that his negligence was fatal to poor Tom.

If the good admitted their inability to fight a social evil, of whose far-reaching effects they were perfectly well aware, what could be said of those whose attitude was one of complacent callousness. Mary St. Clare, an imaginary invalid, accustomed from infancy to the submission and adulation of absolute human cattle, had only misunderstanding or cruelty for these beings' yearnings towards a better life. She followed the same line of thought as one of her relatives, who on seeing a slave beaten merely declared : " No amount of whipping can hurt him ", to which somebody replied with irony " By way of teaching the first verse of a republican's catechism—all men are born free and equal " and received the answer " Poh !

One of Tom Jefferson's pieces of French sentiment and humbug ! It is perfectly ridiculous to have that going the rounds among us to this day."

This was the attitude of the well-born. The commoners were not much better. A farmer, who had hired out one of his slaves to a mill-owner, made the spiteful decision to take his slave back in order to humiliate him by giving him the most degrading work. When an attempt was made to dissuade him, he gave the tragic answer : " It's a free country sir ; the man's *mine* to do what I please with him—that's it."

Nevertheless, among those who were disgusted by such remarks, the Quakers were the first to give shelter to escaping slaves. On being warned that the law gave the master the right to recover them with police assistance, one Quaker exclaimed " Its a shameful law. I'll break it for one the first time I get a chance."

There was also the senator who, yielding to his wife's arguments on the subject, agreed to favour a slave's escape in spite of the law which he had personally approved and voted. " What a situation for a patriotic senator, that had been all the week before spurring up the legislature of his native state to pass more stringent resolutions against escaping fugitives, their harbourers and abettors ! "

By stigmatizing the egoism and hypocrisy of people who tolerated slavery, Harriet Beecher Stowe also revealed the fact that the system was likely to be degrading for the slaves themselves. In his abnegation and self-immolation Tom was animated by super-natural thoughts, which others of his kind rarely possessed. The advanced slave George Harris, a mulatto who could easily pass for a white person to the unaccustomed eye, a worker who had been torn from a mechanical invention which all approved by a spiteful and ignorant master, was also an exception. " On the whole, treated as they were like brute beasts, these wretched people fell as low as human nature could fall."

We are shown how old Prue drank to forget her child's death. Her breasts had run dry, and her mistress would not buy milk for her. In the end she died under the whip for repeated

drunkenness. Topsy the young slave, sly and a thief, deceived all those who were good to her. On being severely scolded she explained "I'so wicked. Laws! I's nothing but a nigger nowadays." She knew nothing of her father or mother, having been abandoned too young to understand. She cried one day in despair: "I jist wish I hadn't never been born. I didn't want to be born nowadays; and I don't see no use on't."

The spectacle of such distress evoked the reflections, which the author attributes to Augustine St. Clare and to his brother, thus giving the problem of abolition its full value. "I tell you", said Augustine, "if there is anything that is revealed with the strength of a divine law in our times, it is that the masses are to rise, and that the under class become the upper one." His brother replied: "Well, I hope I shall be dead before this millenium of your greasy masses comes on." "Greasy or not greasy, they will govern *you* when their time comes", said Augustine, "and they will be just such rulers as you make them."

Harriet Beecher Stowe for her part earnestly hoped for the reform to take place without disturbance. In referring to a resolution of the Presbyterian Assembly of 1818 for "the complete abolition of slavery in America and the Christian World", she stated that the Church should make a resolute approach to the task, and that for the Church it was a question of honour. Further, only the Church could undertake this great work by pacific means. If the terrible problem were some day to enter the arena where the political parties were in conflict, what disturbance and discord it would cause! And how great the peril would be for the Union ¹!

* * *

These words proved to be a true prophecy. Harriet Beecher Stowe's book was read with avidity, because passion was then at its height. In the year it was published, three hundred and

¹ *La Clef de la Case de l'Oncle Tom*, page 393.

five thousand copies were printed and sold. Sales soon reached the figure (unheard of at that time) of a million and a half. It had the same success in Europe. In 1853, the year following the publishing of "Uncle Tom's Cabin", the author travelled to England, Scotland, France, Switzerland and Germany. She was warmly received everywhere. When relating her arrival in Glasgow, Harriet Beecher Stowe said she found so many letters awaiting her that "C" had spent five hours reading and answering them as briefly as possible. The letters came from all classes of the population, persons of distinction and men of the people, rich and poor, in all forms and all styles of composition, in verse and in prose, simple outbursts of sentiments, invitations, advice, questions, requests. Some were accompanied by gifts of flowers and fruit. In England 40 editions of "Uncle Tom's Cabin" were published. In Paris M. "C" said he had never had an experience of this description during his 35 years' career as a bookseller. The book's success was far greater than that of any modern author.

After visiting Scotland, England and France, the author of "Uncle Tom's Cabin" arrived at Saint-Cergue. The Swiss innkeeper greeted her with the words "Courage, the sacred cause of freedom will finally be victorious in this world". Harriet Beecher Stowe in turn wrote (in the "Memories") "Ah! these noble Swiss breathe sweet air on their mountain heights! May their simple words be a divine prophecy!" In Geneva Henry Dunant, who was then twenty-five years of age and full of enthusiasm for all noble causes, sought an introduction to Harriet Beecher Stowe, which took place at the house of the Fazy-Meyer, his friends. One of his biographers¹ states: "He trembled with emotion. The meeting only lasted half an hour; but Jean-Henry was always to remember the gentle, lined face, the vibrant voice and her unpretentiousness as marked as her success."

In America however a fresh political conflict had arisen in regard to slavery. The Republican Party, which had been out of power since 1828, reorganised in 1854 and took as its

¹ See *Revue internationale de la Croix-Rouge*, May, 1952, page 406.

watchword the opposing of the extension of slavery to territories destined to form new States. The Democrats were again victorious in the presidential election of 1856 ; but the Republican Party then obtained 114 votes against 174. The Democratic Party in the North, alive to the agitation among the public, gave but reluctant support to the interests of Southern partisans of slavery. To quote a characteristic instance, the Secretary of State Cass who, when Ambassador in Paris in 1842, had contributed to the non-ratification by France of the treaty of the five great European Powers for the repression of slavery, admitted in 1859 that " if the United States continued to maintain that for their flag to be flying at the mast of any vessel conferred upon it the immunity to which American vessels are entitled, they would be adopting an attitude which would justly deserve censure as tending to prevent the rightful punishment of crimes committed on the high seas." This embarrassed declaration seemed to indicate an uneasy conscience. Did it not appear to be the announcement of an early agreement with Great Britain for the repression of the slave-trade ?

By the 1860 elections the candidate of the Republican Party was a new man, Abraham Lincoln. He became famous during the Convention of the Republican Party of his State (Illinois) by stating that " This Government cannot indefinitely continue to be half for slavery and half for freedom ". The hesitations and divisions of his adversaries were to his advantage. As they were not able to agree upon a programme, the Democrats nominated two candidates, and Lincoln was elected.

This memorable election was the signal for the catastrophe which Harriet Beecher Stowe had predicted would be a peril for the Union.

The South, having been accustomed from the outset to lead the country, could not admit its defeat. It seceded, and Lincoln was forced to go to war to save the unity of the country.

His victory, dearly bought in four years, after a million men had perished in more than a hundred battles, at least resulted in the abolition of slavery.

At the outset the President had only in mind the territorial integrity of the United States. In 1862 he stated in one of his

writings that, if he could save the Union without setting one single slave free, he would do so. But events followed their course, Northern troops having captured slaves enrolled in the Southern Army declared them to be war contraband, confiscated them as such and then set them free. Their adversaries retaliated by seizing the property of Northern citizens in their territory, to which Congress in Washington replied by abolishing slavery in all the Secession States. After the re-election of Lincoln in 1865, the measure was completed by the 13th Amendment to the United States Constitution, which definitely abolished slavery in all the Union territory.

By 1862 the ancient quarrels between Great Britain and the United States had come to an end, the two Powers having agreed by treaty upon the right of search for the repression of slave-running.

The War of Secession led to the codification of the laws of war by the Lincoln Government. The statute adopted, drawn up by Lieber, is a great credit to the humanitarian spirit of the American jurists.

A few months after the hostilities the head of the Secession movement was granted a free pardon, which showed the wise policy of the victorious party.

Thus from this long and bloody conflict America emerged more humane and more closely united "drawing strength from its own injury".

* * *

The epilogue of Harriet Beecher Stowe's book has shown us how freedom was attained through death.

It was at Uncle Tom's grave that young George Shelby vowed he would never again possess slaves. Not having arrived in time to save Tom he returned to Kentucky, and freed all his slaves saying: "My friends, when you rejoice in your freedom, think that you owe it to that good old soul. Think of your freedom every time you see Uncle Tom's Cabin."

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INTERNATIONAL COMMITTEE OF THE RED CROSS

PLENARY MEETING OF THE ICRC

Geneva, April 17, 1953

At its Plenary Meeting of Thursday, April 16, the International Committee of the Red Cross (ICRC) took note of the present stage of the negotiations under way for the application of Article 16 of the Peace Treaty of San Francisco, by virtue of which the International Committee in Geneva has been requested to distribute certain funds ceded by Japan for the benefit of specific categories of prisoners of war who were captives in Japanese hands during the Second World War. A mission from the ICRC under the direction of Professor Paul Carry, Member of the Committee, recently participated in a conference on the subject convened by the Ministry of Foreign Affairs of the United Kingdom and the Department of State (USA) which was attended by the representatives of the numerous Powers concerned.

It is proposed to carry out the new work entrusted to the ICRC without engaging new staff members.

The ICRC has on the other hand sanctioned the setting up of a Supervisory Council, whose function will be to advise the Committee in administrative and budgetary questions and in general on questions concerning the Committee's resources. For this Council the ICRC has called upon MM. Arnold Muggli, Dr. H. c. and Dr. E. Froelich, Zurich, MM. Victor Gautier and André Fatio, Geneva, and M. Hans Bachmann, Winterthur.

With a view to extending the application of humanitarian principles to situations arising from civil wars and disturbances within countries, the International Committee has decided to

call a small committee of experts, composed of jurists and other well-known persons of various nationalities to advise the Committee in the pursuit of its studies.

The ICRC took note of the studies undertaken by its services concerned and by its Medical Commission to encourage the work of National Red Cross Societies and the Army Medical Services on national and international grounds, and the co-ordination of their efforts in conformity with the traditional competence of the ICRC in such matters.

Considering the news transmitted by its Korea Delegation, the International Committee has noted with deep satisfaction that the repatriation of the wounded and sick, for which it has unceasingly pleaded for some long time and already, in particular, by its appeal of May 8, 1951, seemed to be taking shape.

It also welcomed the initiative proposing the accommodation in a neutral country or territory of other categories of prisoners of war. This initiative corresponds in fact to the suggestions put forward by its representative in Korea.

The International Committee took note of the report of one of its doctor-delegates in Indochina, who has made several visits to camps for prisoners of war of the Democratic Republic of Vietnam in French hands, giving special attention to those among them who are wounded or sick.

*A TRIBUTE TO HENRY DUNANT
ON THE 125th ANNIVERSARY OF HIS BIRTHDAY
(MAY 8, 1828 - MAY 8, 1953)*

With the passage of time Henry Dunant's personality has become greater and his glory shines with deeper radiance.

Charitable feelings towards the afflicted, and the wounded combatant fallen on the battle-field in particular, belong to every era as shown by the many works of mercy which were founded in ancient times by charitable associations, according to customs reflecting the sensibility of the humanitarian ideas of the period.

Throughout the centuries however it was not until the Battle of Solferino in 1859, which was closely followed by the horrors of the Crimean War in 1854 (at a time when conflicts were bitter and army medical services inexpressibly inefficient) and the publication of Henry Dunant's book "Un Souvenir de Solférino" in 1862 that the humane principle emerged of giving aid to wounded combatants which was a few years later (1864) to become the object of a Convention based on law.

Henry Dunant has for a long time past been a legendary figure.

He was a great introducer of ideas, a visionary all through his private and public life as a leader or a worker in the rank and file, a forerunner so amazing as to be fully appreciated only in retrospect ; a generous and courageous man who was endowed with the gift of foresight.

But in history he remains the "man of Solferino", who in the shambles of the battle-field approached suffering men

in great distress, who spoke to the wounded, sick and dying, listening to their lamentations, their hopes and their despair, not questioning the unfortunate sufferer as to his opinions or religion, but saying "What ails thee?" so that in the midst of human suffering the gentle light of brotherly love took on greater radiance.

In history he is also the author of an unforgettable book "Un Souvenir de Solferino", for which interest has never flagged. It was to make a great stir and to give rise to a vast movement of human conscience; a book with but slight regard for literary style, in which Henry Dunant (so distant himself from literature or politics) gives us a lesson in sound humanity.

Edmond de Goncourt said that after reading this book one could but anathematize war.

It is, let us say, a book for our sons. It excites pity and we close it with emotion after reading the many pathetic accounts of suffering endured at Brescia and Chiesa Maggiore, where nevertheless men fought with death against all odds, with compassion for those whose last moments were not soothed by any appeasing or consoling presence.

In the human drama and throughout violent upheavals this book shed a ray of hope for the future by suggesting noble ideas, such as unconditional aid to the wounded of armies in the field, the founding of voluntary relief societies to meet the deficiencies of army medical services and an international Convention on this humane theme. The actual form of Henry Dunant's thought was to be found in these ideas for collaboration, mutual assistance and community of peoples—ideas which were a lesson in optimism and a call for action, the fundamental ideas in fact of the great humanitarian movement of 1864, from which there emerged in succession the International Committee of the Red Cross, the Geneva Convention and the National Red Cross, Red Crescent and Red Lion and Sun Societies.

For history Henry Dunant is the originator of the Red Cross, and for a great many he personifies its foundation.

He also remains in history as the most popular of the five Genevese who founded the International Committee of the

Red Cross, this " ICRC " bereft of material power and with charity as its only weapon, which assumes so many humanitarian tasks to relieve the endless suffering caused by war.

* * *

By his humanitarian action Henry Dunant made for human thought in every century a generous contribution towards goodwill, and thus instigated a spiritual awakening which has never ceased.

In laying the basis of the unconditional neutralization of the wounded combatant (thus detaching him from the effects of human passions) on the foundation of respect for human dignity, Henry Dunant has earned the essential merit of having put forward in the humanitarian movement the defence of a certain degree of civilisation and a superior form of humanity.

It is by this action and this idea, which glorify human freedom through love and respect for the injured, that he has never been so near to us nor had so many admirers.

We may venture to make this claim especially at the present time, when the brutal contemporary reality of the persecution of men for ideological reasons, practically all over the five continents, casts a shadow over the spiritual world.

* * *

But why repeat these facts which are now universally known? What more can be said that we do not already know, except to recall the starting point and the issue of the genial ideas which make Henry Dunant one of the great moral figures of humanity, " a figure-head to be placed at the prow of the ship of man's destiny ".

Ever since, on Henry Dunant's birthday, who could not think of this man whose life was so richly blessed by his gift of himself to others, this apostle of fellowship who sponsored a great humane idea, an idea which obliges us to look beyond

us, to forget ourselves, our backgrounds and our feelings, to join in thought the community of mankind and for our actions to be directed towards other aims than our own—the idea which uplifts our hearts and schools our minds—an idea which gives us back our personal values.

This is, in its widest sense, the profound idea of the Red Cross.

It has germinated: it has passed the test of time: and there is nobody who would deny its greatness and the need for it “ that the world may not perish in hatred ”.

On the 125th anniversary of his birthday, let us pay a tribute to Henry Dunant’s memory and be ever faithful to his humane doctrine.

Louis Demolis.

CHRONICLE

THE ORIGINS OF HUMANITARIAN LAW¹

IV

THE RED CROSS

The Geneva Convention of 22 August 1864, which gave the Red Cross its legal foundation, was the origin of contemporary humanitarian law.

Apart from the Declaration of the Treaty of Vienna on the abolition of slavery, a most emphatic declaration indeed, but without executory provisions attached to it, the Geneva Convention was the first systematic attempt to introduce into positive International Law regulations for the alleviation of relations between man and man.

There is therefore every reason for placing this fourth and last chapter of our study of the origins of humanitarian law under the sign of the red cross.

It is proposed first to consider the origin, purport and principal characteristics of the Geneva Convention. This all-important instrument, dedicated to "the amelioration of the condition of wounded soldiers of armies in the field", deserves close study, as the principles on which it was founded are in fact those of all international humanitarian legislation.

The next step will be to review the extension given to the legal position of the Red Cross proper as constituted by the successive revisions of this original Convention, and by the later Conventions for the protection of other war victims

¹ See *Revue internationale de la Croix-Rouge*, May 1951, pages 370 ff., July 1951, pages 558 ff., December 1951, pages 937 ff.

—wounded, sick or shipwrecked of armed forces at sea, prisoners of war and civilian populations ; and a brief account will be given of the resulting organisation of the Red Cross world.

Reference will then be made to the laws of war as codified by the Conferences of St. Petersburg (1868) and The Hague (1899 and 1907).

Lastly it is proposed to enumerate the principal international conventions having for their object a more humane contemporary society, and constituting in conjunction with the legal position of the Red Cross and the laws of war the whole body of international humanitarian law.

We shall see that the Red Cross, directly associated with the implementation of certain of these regulations, is also connected with the others, for all have the same object in view—namely, the respect of human dignity.

I. THE FIRST GENEVA CONVENTION (22 August 1864)

It has already been shown how the conscription imposed after the French Revolution launched masses of men on the battlefields, and thereby rendered international conflicts far more deadly. In the course of the 19th century this new aspect of war developed further, while the army medical services failed to keep pace with its development. “ I will quote one example out of a thousand ”, wrote Maxime du Camp¹, “ to show how the Intendance understood its work. During the war with Italy in 1859 the first battle took place at Palestro. Our men’s wounds were dressed with moss, because the ambulance kits did not even contain lint ; and at this time the army medical service was directly responsible to the military Intendance ”.

Solferino.

A few days later at Solferino the two strongest armies in Europe came into conflict. On the Franco-Sardinian side there

¹ *Souvenirs d'un demi-siècle*, Volume II, page 4.

were one hundred and fifty thousand men and four hundred pieces of ordnance ; on the Austrian side there were one hundred and seventy thousand men supported by five hundred cannon. The whole day of 24 June 1859 was a terrible massacre. The Emperor Napoleon III remained the victor on the battlefield, on which lay forty thousand dead and wounded. The Franco-Sardinian Army Medical Service was no doubt better organised than as described by Maxime du Camp ; but it could only cope with eight thousand wounded at the most. That is to say, thousands and thousands of men would have been doomed to atrocious suffering, if private charity had not come forward to make good as best it could the deficiencies of the army services.

It is widely known that on this battlefield the Genevese, Henry Dunant, conceived the idea of the Red Cross. As the moving spirit among the groups of voluntary orderlies and country-women who collected the wounded, dressed their wounds and helped them to the best of their ability, he was deeply touched by the humane attitude of the Lombardy women, who gave their care indiscriminately to compatriots, allies and enemies, saying simply that they were all brothers (" tutti fratelli "). In his mind the fundamental idea became fixed that, unarmed, the wounded soldier once more becomes an individual, to whom other men owe respect and assistance, whatever uniform he may bear. This notion was expressed by Dunant in pathetic terms in his famous book " Un souvenir de Solférino ", published in 1862, where he suggested " formulating some international principle, embodied in treaties and inviolable, which when adopted and ratified would serve as a basis for Relief Societies for the Wounded in the various countries of Europe ".

Geneva.

Today, nearly one hundred years since this suggestion of genius was put forth, the Red Cross has conquered the world, giving assistance to victims of over twenty international conflicts including two World Wars, so that the idea seems elementary, and it can hardly be imagined that it should have met with

resistance at first. But it did. Even among philanthropists with the best knowledge of the problem Dunant's wish raised some objections. Florence Nightingale, who had done so much during the Crimean War towards the reorganisation of the British army medical services, was of the opinion that, once these reforms became effective, there was no occasion to associate private initiative with the responsibilities of armies in the field. In fact she thought that to do so would in some measure relieve the public authorities of the responsibilities incumbent upon them and so favour bellicose undertakings¹. Fernando Palasciano, the renowned military surgeon, who had risked his life at Messina in 1848 by caring for the rebels as well as for the wounded of the regular forces in defiance of inhuman orders to the contrary, also opposed Dunant's idea—"not", he wrote, "that I fail to admire anybody who has the generous impulse to help his fellowmen without distinction of nationality, but because one is thus to some extent relieving Governments of one of the principal burdens of war, making them accessories to a conflict instead of servants of the cause of peace"². At Paris in 1861 the Military Intendant Arrault put forward a plan for "the official recognition of moral fellowship between military surgeons of all nations", who (he suggested) should wear white sashes and exchange wounded on battlefields³. George Sand later wrote to Geneva to urge that Arrault should be included in the list of distinguished forerunners of the Red Cross movement⁴; but it is evident that Arrault's proposals diverged considerably from the idea to which Dunant, encouraged by his actual experience on the battlefield, was passionately attached, the idea which he served with tireless zeal

¹ See letter from Florence Nightingale's secretary to Mlle. Gausson (who had been requested by Henry Dunant to present his book), published by M. G. GAGNEBIN (*Revue internationale de la Croix-Rouge*, June 1950, page 428).

² *La Croix-Rouge*, monthly review of the Swiss Red Cross, August 1937, page 225. Translation of an article by Professor César BADUEL, which appeared in the review *La Croix-Rouge italienne* in 1927.

³ BOGAŃEWSKI, *Bulletin international de la Croix-Rouge*, 1902, page 79.

⁴ The letter from George Sand, from a private collection, was published by the *Journal des Débats* of 6 August 1939.

and for which he made incessant approaches to publicity agents, statesmen, Princes and Kings.

The literary success of "Un Souvenir de Solférino", as a masterly and terrible chronicle of a bitter conflict provided the psychological shock which was essential for the success of the Red Cross idea; but it is doubtful whether Dunant's undertaking would have met with a successful issue, if he had not found at Geneva in the person of Gustave Moynier a man who possessed to a perfect degree all that was lacking in himself.

It was indeed a lucky meeting of these two men so totally different in character and worth—Dunant, the philanthropist and visionary, teeming with ideas, restless and enthusiastic, and Moynier, the jurist, scholarly and precise, carefully calculating the limits of the possible, and anxious to avoid any false step. While equally eloquent in the service of the same faith and a common humanitarian ideal, their methods were entirely different. By strenuous efforts, each according to his tastes and abilities, one in Geneva, the other in Paris, Berlin and other capitals of the Germany of those days, they got together the Conference of 1863, followed by the Diplomatic Conference, from which came forth, only two years after the publication of "Un Souvenir de Solférino", the first Geneva Convention. The two pioneers of the Red Cross, united in this successful issue, were soon afterwards to be estranged for life, and to harbour great resentment over many years, while Moynier guided the progress of the International Red Cross¹ with increasing success, and Dunant lived in retirement and poverty. Today, once more united in the glory bestowed upon them by grateful generations, they remind us of the "enemy brothers" in the Tharaud story, who fought one another for the same cause. They represent the conflicting elements of the Geneva spirit, recalling on the one hand the peaceful waters of the lake and on the other hand the rushing torrent of the Rhone².

¹ See G. MOYNIER, *Activité déployée par le Comité international de la Croix-Rouge à Genève de 1865 à 1904-1905*.

² See Jérôme and Jean THARAUD, *Chronique des Frères ennemis*, in *Cahiers de la Quinzaine*, 1906, 7^e série

The Geneva Convention.

An association of this nature was indeed necessary for the successful issue of the task of convincing governments, and of inducing them to conclude a convention, which curtailed even to a slight degree their freedom of action, and involved private associations up to a point in operations of war.

In official circles it was doubtless difficult to show opposition to a humanitarian movement which had become general¹; but when Charles Jagerschmidt, who was to represent France at the Geneva Conference, approached his Minister, Drouyn de Luys, for instructions, the latter merely replied "Look pleasant!", which was not a good omen. Fortunately Jagerschmidt did not share his Minister's scepticism, and his personal action in Geneva exercised a determining influence.²

In his anxiety to be of use he had obtained authority to enter into contact with the International Committee of Geneva³. He made a confidential request for a draft copy of an international convention, on which he could consult the French War Ministry, the principal opponent to the signature of any such agreement. He obtained the draft, and saw the Ministry, so that on arriving in Geneva he was fully informed both as to the demands but also as to the concessions which would be made by

¹ The codification of the laws of war in the United States (1863) on the highly humane lines laid down by Dr. Lieber was a proof of the strength of the movement.

² The following details have been gathered from the interesting thesis of M. Jacques CAILLÉ (just published by the Institut des Hautes Etudes marocaines) on *Charles Jagerschmidt, chargé d'affaires de France au Maroc, 1820-1894*, Librairie Larose, Paris, 1952.

³ A "Committee of Five", an emanation of the "Société genevoise d'utilité publique", had been set up by Moynier in order to put Dunant's idea into practice. This was the founder body of the Red Cross. It included, besides Moynier and Dunant, General Dufour who was its first President, Louis Appia (another volunteer orderly in the Italian campaign) and Dr. Th. Maunoir. This Committee convened the Conference of October 1863, which founded the Red Cross, and prepared the first Geneva Convention, concluded in the following year. It then adopted the title "International Committee for Relief to Wounded Soldiers"; which was in turn altered in 1880 to "International Committee of the Red Cross", the title by which it is known today.

an administration, whose attitude would be preponderant amongst its peers.

The Conference, convened by the Swiss Government, met in Geneva. A few hours before the opening session it was found that only the Delegates for France and Switzerland had been given full powers to sign a convention. Their colleagues were to act as Observers only! Next day in plenary session Jagerschmidt had his credentials read out. He contended that, if his colleagues were unprovided with a similar document, this could only be due to a misunderstanding, and he suggested that they should apply to their Governments immediately for similar credentials. In the interval the Conference could discuss the articles put forward by the International Committee, and at the conclusion of the discussions those who had received the necessary powers could sign the text, while the others would abstain; but one of the clauses of the Convention would stipulate that it remained open for the adhesion of the non-signatory Powers.

This programme was adopted. It ensured the success of the Conference, and the first Geneva Convention was signed on 22 August 1864 by the representatives of twelve countries—Baden, Belgium, Denmark, France, Hesse, Holland, Italy, Portugal, Prussia, Spain, Switzerland and Wurtemberg.

The first Geneva Convention today seems very brief. It nevertheless contains the substance of future texts of a much more abundant nature; and it is well to recall the principles it included, which were to be of such importance in the evolution of humanitarian law.

Articles 1, 2, 3 and 4 provided for the safeguard and respect of ambulances and military hospitals, as well as the personnel and the material of these formations. (Article 2 specifies that this immunity is extended to the chaplains, who are thus on the same footing as the medical personnel.)

According to *Article 5* “the inhabitants of the country who afford assistance to the wounded shall be respected and remain free... All wounded collected and nursed in a house shall serve

as its safeguard. An inhabitant who has given shelter to the wounded shall not be required to accommodate troops..."

Article 6 is of capital importance. It embodies the essential principle of the Convention: "Wounded or sick combatants, to whatever nation they may belong, shall be collected and cared for." No distinction is allowed. The same protection is extended to every wounded or sick combatant, who owing to his wounds or sickness has given up the combat. Henceforth he is merely a suffering individual and entitled as such to the assistance of his fellowmen.

Article 7 institutes the protective emblem, "distinctive and uniform", intended to ensure this protection—a flag for hospitals, an armlet for persons. "Both flag and armlet shall bear a red cross on a white ground." During the discussions of the 1863 Conference Dr. Appia, a member of the International Committee, suggested that doctors should be distinguished on the battlefield by a white armlet; and somebody, very probably General Dufour (who had formerly been instrumental in the adoption of the emblem of a white cross on a red ground as the flag of the Swiss Confederation), suggested putting a red cross on a white armlet¹.

Article 8 provides that "The implementing of the present Convention shall be ensured by the Commanders-in-Chief of the belligerent armies, following the instructions of their respective Governments and in accordance with the general principles set forth in this Convention." From its origin therefore it was laid down that the law of Geneva was an instrument which had, and was intended to have, practical effect. While respecting the necessities of battle, it was nevertheless an appeal to the conscience of the responsible authority. But as an offset to this concession to the inevitable there remained the idea that humanitarian effort can never be held up by a legal text. Anything

¹ Dr. Appia was the first to make use of the emblem thus created, during the Schleswig-Holstein conflict in February 1864, before the Geneva Conference was held.

that humanity can obtain it should demand. Such is the fundamental right of initiative, which the Red Cross was in future unfailingly to practise, and to which later Conventions¹ gave recognition.

Articles 9 and 10 concerned the adhesion of non-signatory Powers, and the exchange of ratifications in Berne, which instituted the Swiss Government as the guardian (*gérant*) of the Geneva Convention.

(To be continued).

Henri Coursier.

¹ *Convention de Genève relative aux prisonniers de guerre du 27 juillet 1929, Article 88, and Geneva Conventions of 12 August 1949, I, II, III, Article 9, IV, Article 10.*

REVUE INTERNATIONALE
DE LA CROIX-ROUGE
ET
BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

May, 1953

Vol. VI, No. 5

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INTERNATIONAL COMMITTEE OF THE RED CROSS

PRINCIPAL ITEMS OF INTEREST

Korea. — The International Committee of the Red Cross has noted with the keenest interest the agreement signed on April 11, 1953, at Pan Mun Jom for the repatriation of the seriously wounded and sick prisoners of war, in whose favour, moreover, the Third Geneva Convention of 1949 contains explicit provisions. It is particularly pleased that it has been possible to find for this distressing problem a humanitarian solution which truly conforms to the Red Cross ideal.

The International Committee's delegates in South Korea, MM. O. Lehner, N. Burckhardt, G. Hoffmann and J. Rubli, who regularly visit the prisoner of war camps in that country, have taken an active share in the repatriation operations. They have been present at the formation of the convoys in camps and hospitals and have accompanied them to Munsan, the last point in the hands of the United Nations forces, taking every care for the welfare of the prisoners of war being repatriated.

Greece. — During the first quarter of the year the Athens Delegation of the ICRC continued its relief action for persons deprived of their liberty, in particular by visiting numerous prisons, exilee' camps and penitentiaries, and by distributing over 11 tons of relief supplies. The Delegation has further extended the campaign for the detection of tuberculosis to the persons held at Averof Prison, Athens, and Chalkis Prison.

At the end of March the Committee's Delegate in Athens learned that on account of the very bad weather the inhabitants of six villages of Mount Pelion district were in an alarming state of distress and famine. In view of these persons' desperate

plight and the extreme urgency for their relief, the Delegation drew from ICRC stocks 3 tons of clothing and foodstuffs and raised the necessary funds for the purchase of 800 loaves of fresh bread. These relief supplies were loaded on a truck, kindly lent by the Greek Red Cross, which set out for the Mount Pelion district, accompanied by the head nurse of the Delegation. The Greek Government thanked the ICRC for its action and the great speed in carrying it out. Thanks to the Committee about 800 persons were able to hold out until the arrival of the relief supplied by the authorities.

Greek Children. — A seventh convoy taking displaced Greek children in Jugoslavia back to Greece arrived on April 27 in Salonika. The 40 children of the convoy were handed over to their parents in the presence of the special Delegate for the International Committee and the League of Red Cross Societies

Disabled. — The ICRC sent to its Delegate in Vietnam a dozen Braille watches intended for blind prisoners of war. It also shared in the purchase of an encephalographic apparatus for German wounded.

INTERNATIONAL COMMITTEE

EXPENDITURE GENERAL INCOME AND EXPENDITURE ACCOUNT

	To 1952 Sw. Fr.	To previous years Sw. Fr.	Total Sw. Fr.
OVERHEAD EXPENSES AT GENEVA HEADQUARTERS			
Salaries and wages	2,086,647.50	375.—	2,087,022.50
Social charges (insurance, family allowances, etc.)	527,091.22	324.50	527,415.72
Postage, telegrams, telephone	77,303.46	269.05	77,572.51
Equipment and general supplies	160,854.35	6,065.38	166,919.73
Upkeep of cars and lorries.	48,576.53	—	48,576.53
Reception of visitors and travelling expenses in Switzerland	42,251.20	5,089.50	47,340.70
Sundry Expenditure (allowances for various surveys, audits, revisions, consultations, insurance premiums, etc.) . .	89,520.90	379.75	89,900.65
SPECIAL EXPENSES			
Publications, information	197,113.44	1,666.50	198,779.94
Allowance for expenses, Members of the Presidency Council	54,561.—	—	54,561.—
Red Cross Conferences and Meetings	28,332.10	105.—	28,437.10
Missions from Geneva and study courses for foreign visitors	92,137.74	—	92,137.74
MISSIONS ABROAD			
Salaries and insurance of delegates	236,659.45	—	236,659.45
Travelling and maintenance expenses	202,011.08	—	202,011.08
Overhead expenses	271,801.26	—	271,801.26
<i>Total Expenses.</i>	<u>4,114,861.23</u>	<u>14,274.68</u>	<u>4,129,135.91</u>
Transfer to the Reserve for general risks of surplus receipts in 1952 concerning previous years.	—	356,568.84	356,568.84
Deficit for 1951, carried forward (written off at the end of 1952)	—	<u>3,129,097.31</u>	<u>3,129,097.31</u>
Grand total.	<u>4,114,861.23</u>	<u>3,499,940.83</u>	<u>7,614,802.06</u>

OF THE RED CROSS

AS ON 31 DECEMBER 1952

RECEIPTS

CONTRIBUTIONS AND GIFTS TOWARDS FINANCING OF THE GENERAL WORK	To 1952 Sw. Fr.	To previous years Sw. Fr.	Total Sw. Fr.
CONTRIBUTIONS BY NATIONAL RED CROSS SOCIETIES	297,990.50	21,700.12	319,690.62
Contributions by Governments	966,404.52	235,882.45	1,202,286.97
Sundry gifts	68,381.56	757.70	69,139.26
 INCOME FROM INVESTMENTS			
Interest from Public Securities and Banks	66,915.55	19,787.80	86,703.35
ICRC Foundation	27,903.05	—	27,903.05
 SUMS RECOVERED AND SUNDRY RECEIPTS			
Sums recovered	53,973.42	75,810.—	129,783.42
Sundry receipts	54,044.09	16,905.45	70,949.54
<i>Total Receipts</i>	<u>1,535,612.69</u>	<u>370,843.52</u>	<u>1,906,456.21</u>
Withdrawals from Guarantee Fund and Reserve for general risks for :			
Writing off the deficit for 1951		3,129,097.31	} 5,708,345.85
Writing off the deficit for 1952	2,579,248.54		
 Grand Total	 <u>4,114,861.23</u>	 <u>3,499,940.83</u>	 <u>7,614,802.06</u>

We certify that the General Income and Expenditure Account of the International Committee of the Red Cross as shown above has been drawn up on the basis of the Annual Accounts for 1952, which have been audited by us and found true.

Geneva, March 4, 1953.

SOCIÉTÉ FIDUCIAIRE ROMANDE
OFOR S.A.

INTERNATIONAL COMMITTEE

BALANCE SHEET

ASSETS

AVAILABLE AND REALISABLE	Sw. Fr.	Sw. Fr.
Cash in hand	25,547.61	
Postal Cheque Account	41,496.13	
Balance at Swiss Banks	1,492,984.31	
Foreign currency holdings	17,519.18	
Public Securities and other deposits at the Swiss National Bank	<u>11,534,224.35</u>	13,111,771.58
EARMARKED		
Advances to ICRC Delegations and Delegates abroad	336,225.30	
National Red Cross Societies, Governments and official organisations	777,404.29	
Sundry debtors, advances and repayable costs	211,888.37	
Temporary assets (advances costs)	157,194.93	
Pharmaceutical stock for relief purposes	<u>47,984.33</u>	1,530,607.22
RESERVE STOCKS		242,538.50
OTHER ASSETS (nominal)		
Capital shares in "Foundation for the Organisation of Red Cross Transports"	1.—	
Furniture and office equipment	<u>1.—</u>	2.—
MEMO-ACCOUNT		
Allocation to ICRC Personnel Provident Fund (redeemable in 19 years)		<u>1,256,766.24</u>
Grand total		<u>16,141,685.54</u>
Debtors for security		<u>400,000.—</u>

OF THE RED CROSS

OF THE ICRC AS ON 31 DECEMBER 1952

LIABILITIES

COMMITMENTS	Sw. Fr.	Sw. Fr.
General account for relief work	1,158,082.45	
Collection in Switzerland (temporary figure)	846,610.39	
ICRC Delegations and Delegates abroad	18,117.35	
National Red Cross Societies, Governments and official organisations.	173,271.79	
Sundry creditors and temporary liabilities :	640,242.29	
Swiss Confederation Loan	<u>3,000,000.—</u>	5,836,324.27
RESERVES AND PROVISIONS		
Reserve for action in case of conflict	5,000,000.—	
Guarantee Fund	3,000,000.—	
Reserve for general risks	806,056.53	
Provision for amortization of reserve stocks	<u>242,538.50</u>	9,048,595.03
MEMO-ACCOUNT		
Allocations to ICRC Personnel Provident Fund (to be refunded to the Reserve for general risks)		1,256,766.24
	<u>Grand total</u>	<u>16,141,685.54</u>
Guarantee " Foundation for the Organisation of Red Cross Transports "		<u>400,000.—</u>

On the basis of the vouchers, books and supporting documents placed at our disposal, we have found the entries to be in conformity with the Balance Sheet on December 31, 1952 as shown above, which is an accurate record of the financial situation of the International Committee of the Red Cross on the date above-mentioned. The existence of the asset figures recorded has been verified.

Geneva, March 4, 1953.

SOCIÉTÉ FIDUCIAIRE ROMANDE
OFOR S.A.

CHRONICLE

THE ORIGINS OF HUMANITARIAN LAW¹

IV

THE RED CROSS

Characteristics of the Geneva Convention.

The renowned French jurist, Louis Renault, in his report to the Conference for the revision of the Geneva Convention in 1906² said: "That which gives merit and originality to the Geneva Convention is that it set itself to adjust in a general and definitive manner a situation which had up till then only given rise to occasional measures."

As we have seen, numerous "cartels" or special arrangements had been made between the heads of opposing armies, especially in the 18th Century, on behalf of the wounded and sick of either side, granting them immunities similar to those provided by the Geneva Convention. But these agreements were of a temporary nature only. When their time-limit came to an end, and in any case on the close of hostilities, they ceased to be effective. Moreover, they only involved the Contracting Parties, and that on a strictly reciprocal basis. There was no obligation to renew the agreements in the event of a fresh conflict between them. The Geneva Convention on the contrary laid down a general principle, valid for all men and at all times, not only as a moral postulate but as an actual law. For this reason it has become a part of positive international law,

¹ See *Supplement*, April 1953, page 74.

² *Actes de la Conférence de Genève 1906*, page 243.

the ratification of Powers or their adhesion having for effect its incorporation in the national legislation of the countries concerned.

The negotiators in Geneva had with great discernment left the Convention open for the adhesion of the non-signatory Powers ; and before the year was out Great Britain had already adhered to it.

Some Catholic States such as Austria and Bavaria, who had held aloof in 1864 from a Conference held in the metropolis of Protestantism, soon realised the interest of the new legislation. The Austro-Prussian War drew attention to the need for the extension of Red Cross action, and these two Powers adhered to the Convention in 1866. The adhesion of the Holy See in 1868 finally removed all prejudice there might be in Catholic circles in regard to the Geneva instrument ¹.

Turkey had already adhered to the Geneva Convention in 1865. That was doubtless a corollary to the recent admission of the Sublime Porte to the Concert of Europe ² ; but the action also had a general significance. Moynier was fully entitled to refer to it with gratification a few years later when proposing a toast on the occasion of the twenty-fifth anniversary of the Red Cross. " Turkey's adhesion ", he said, " to the Geneva Convention means that the Moslem world has for the first time associated itself with an initiative of the Christian community". When it is borne in mind that an endless struggle had been carried on for centuries between the Crescent and the Cross, that in the law of both camps the struggle had in practice assumed the aspect of a Holy War, and that until the early nineteenth century certain Christian Powers had no scruple in allowing Moslem captives to be sold, while the Barbary pirates had made the capture and ransom of Christian slaves into a

¹ A letter addressed by Henry Dunant to Mgr Egger, Catholic Bishop of St. Gallen on 4 April 1896, and published in the Fribourg newspaper *La Liberté* of 18 February 1952, would, if it were necessary, dissipate any supposition as to the founder of the Red Cross having been animated by ulterior motives on grounds of Protestantism.

² Article 7 of the Treaty of 30 March 1856, drawn up by the Congress of Paris, stated that the Sublime Porte was admitted to participate in the advantages of the common law and Concert of Europe.

veritable industry, one can measure the progress thus reached in the history of civilisation. Islam had not however lost all memory of the Crusades. The Relief Society for the Wounded, which was constituted in Turkey in 1868, adopted the Red Crescent as its emblem ; and this led indirectly to the choice of the Red Lion and Sun emblem by Iran, when that country also adhered to the Geneva Convention in 1874¹. While admitting the highly estimable sentiments which inspired these exceptions to the unity of the emblem, one may nevertheless regret their tendency to perpetuate confusion which is detrimental to the international value of the Red Cross emblem. The latter has neither in fact nor in law any religious significance whatever. True believers under the Cross, the Crescent or the Lion and Sun have a perfect right to give the emblems a meaning consistent with their faith, and thereby to further strengthen their devotion to the cause of universal charity ; but non-believers are equally entitled to reject any semblance of adhesion to particular theological tenets.

In fact, as stated by Paul Des Gouttes², " The Red Cross is neither Protestant nor Catholic. It is above all religious distinctions. It is human, and that is all ! " Des Gouttes adds that during the revision of the Geneva Convention in 1906 the question was in fact settled by a vote of the Fourth Commission asserting the non-religious nature of the emblem³.

The Red Cross emblem is the symbol of non-violence, the symbol of peace, of peace within war, the irremovable stamp of human dignity.

Though set up by Christians, there was no reason why it should not be admitted by Moslems : for, as once stated by the Sultan of Morocco⁴, " Islam is, and has always been, opposed to ill-feeling and violence. It exhorts to good relations and recommends a conciliatory spirit. It is a religion of high morality, of civility and of tolerance ". It is a fact that, when

¹ As Moslems, but of a different sect to the Turks (Shiahs, not Sunnites) the Iranians had thus wished to show their particularism.

² *Revue internationale de la Croix-Rouge*, October 1923, page 1004.

³ *Compte rendu de la Conférence, 1906*, page 162.

⁴ Proclamation of H. M. Sidi Mohamed, February 1951.

the Indian continent became independent and divided into two States, India and Pakistan, the latter, although of the Moslem faith, adopted the Red Cross as the emblem of its national Relief Society. As for India, imbued for many thousand years with the precepts of the laws of Manu, according to which " a warrior must not slay an enemy who surrenders, a prisoner of war, an enemy asleep or unarmed, a peaceful non-combatant or an enemy at grips with another adversary " ¹, it also saw no difficulty in adopting an emblem unrelated to its religious traditions.

Finding in their principles of honour and wisdom similar reasons for adhering to the Red Cross movement, Japan in 1886, Siam in 1895 and China in 1904 became parties to the Geneva Convention, and also adopted the Red Cross emblem for their national Relief Societies.

Russia had adhered to the Geneva Convention in 1867. In its vast territory the population was so varied as to comprise both Red Cross and Red Crescent Societies. Today it is the " Alliance of Red Cross and Red Crescent Societies of the USSR " which groups Red Cross activities in this part of the world.

The United States were represented by a diplomat at the Geneva Conference of 1864. It may be said that they were forerunners in the matter of humanitarian law. The codification of the laws of war at the instigation of Lincoln for the use of their armies in 1863 was a humanitarian act deserving of the highest eulogy. The American codification was to prefigure to a considerable extent similar work in international legislation. Nevertheless the Americans hesitated for some years before ratifying the Geneva Convention. They finally adhered in 1882, thus making their formal entry into the Red Cross world.

The various countries of Latin America adhered to the Geneva Convention at different dates between 1874 and 1907.

Thus by the successive adhesion of all Powers the universality of this Convention became a reality.

¹ *Loi des Prophètes hindous*, VII, 91, 92, quoted by BLUNTSCHLI, *Beuterecht*, page 14.

The Red Cross is, by virtue of its non-religious and universal nature, animated by an international spirit. In conformity with Article 6 (already cited) of the Geneva Convention, Relief Societies for the Wounded are in duty bound to assist the enemy as well as the compatriot or friend. This principle may at time have been lost to view in respect to relief for prisoners of war, Red Cross Societies, influenced by donors, having a tendency to care first of all (if not exclusively) for their own nationals ; but any such tendency is a departure from the original principles. A reminder to that effect was placed on record by the Preliminary Conference of National Red Cross Societies which met in Geneva in 1946, and by the XVIIth International Red Cross Conference at Stockholm, 1948¹. The International Committee of the Red Cross, which, like its predecessor the original Geneva Committee, was composed of Swiss citizens only, was concerned to show by the choice of its title the international character of its activities. In view of the neutrality of Switzerland, it is doubtless easier for it than for National Societies to play an international rôle ; but it is none the less anxious at all times to have their assistance in behalf of all war victims. It is by safeguarding this international spirit that the Red Cross can pursue the humanitarian action which its founders had in mind. Such was Dunant's idea as conceived on the battlefield ; and one may cite in that connection a saying as generous as the " tutti fratelli " of the Lombardy countrywomen. Another Italian woman, who had lost her only son in the Crimean war, was also one of those who tended the wounded of Solferino. Replying to those who remarked upon her courageous action, she said simply : " Sono madre " (I am a mother).

Noble words, vibrant with human feeling, and expressing the essential character of the Red Cross. The word " human " is more exact than " humanitarian ". The latter term has its place in international law, and should not be discarded ; but its use may sometimes evoke a certain patriarchal conception of

¹ Recommendation of the Preliminary Conference II, 1 adopted 3 August 1946, and Resolutions XXV and XXVI of the Stockholm Conference, 1948, *Report*, page 97.

life which is unacceptable to modern times¹. "Human" signifies for us today something without which life would no longer be consistent with men's dignity.

We have enlarged upon the subject of the first Geneva Convention because, as the first text of positive humanitarian law, it governs to some extent the subsequent evolution of that law as embodied in:

(a) the law of the Red Cross proper, as constituted by the first Geneva Convention (revised in 1906), and the two Geneva Conventions of 27 July 1929, and finally the four Geneva Conventions of 12 August 1949,

(b) the international codification of the laws of war and the texts relative to the limitation of armaments,

(c) the work of the League of Nations, and that of the United Nations Organization concerning the rights of man.

2. THE LAW OF THE RED CROSS

In spite of its importance the Geneva Convention was no more than a starting point.

The experience of successive wars was to show at once how beneficial it was and at the same time how incomplete. No doubt the wounded and sick of land forces in the field were protected; but their protection still had its gaps, and there were all the other war victims who did not come under any international convention—the wounded and sick of armed forces at sea, the prisoners of war, and lastly the civilians who, with the increasing frequency of armed conflicts and the progress in the development of armaments were more and more exposed to the dangers of war.

¹ For this distinction between "human" and "humanitarian" see Max HUBER, *Principes, tâches et problèmes de la Croix-Rouge dans le droit des gens*, Geneva, 1944, page 49.

The progressive introduction into international law of rules for the protection of these various categories of victims today constitutes a branch of humanitarian law which may be called the "law of the Red Cross". Its most recent codification is provided by the four Geneva Conventions of 12 August 1949—the First Convention for the Amelioration of the Condition of Wounded and Sick in Armed Forces in the field, the Second Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, the Third Convention relative to the Treatment of Prisoners of War, and the Fourth Convention for the Protection of Civilian Persons in Time of War.

Although this international legislation was the work of Governments, the various Red Cross bodies by their work, their experience and their prestige (both with public opinion and with the authorities) gave them considerable help in their task.

The International Red Cross.

We have seen that the "Committee of Five", the initial cell of the Red Cross, adopted the title of "International Committee" when it called the first Conference in October 1863.

Such was the origin of the *International Committee of the Red Cross* (ICRC) which still has its headquarters in Geneva.

It continued to play its part as initiator of this humanitarian work by helping to set up Relief Societies, the future National Red Cross (Red Crescent, Red Lion and Sun) Societies, according to the definitive term adopted in 1882. Dunant himself founded in 1864 the Société de Secours aux blessés militaires in Paris, which became the French Red Cross.

The International Committee took the initiative of convening delegates of National Societies, and also government experts, in order to study in the light of experience the expediency of proposing new international rules. The first of these meetings was held at Geneva in 1863, and the second sat at the same time

as the Geneva Diplomatic Conference in 1864. This was the origin of the *International Red Cross Conferences*, the periodical meetings, held on the invitation of the National Society of the country chosen for the meeting, which constitute the deliberative assembly of the Red Cross world. The last Conference but one, held at Stockholm in 1948, approved the drafts prepared by the ICRC for the revision of the Geneva Conventions and the drawing up of the new Convention relative to the protection of civilians ; and it was these texts for which the Swiss Government, acting in its capacity as guardian of the Geneva Conventions, secured approval as the basis of the discussions of the Geneva Diplomatic Conference which established the four Conventions.

The founders of the Red Cross had conceived the Relief Societies as operative only in war-time. Their work in peacetime was to consist merely in preparation for their action in the event of a conflict. But towards the end of the century the valuable work done by the Russian Red Cross in mitigating the consequences of public disasters such as the famine in the Province of Samara, the bubonic plague in Astrakhan, and the diphtheria in Poltava, opened up new prospects. After the first World War, in 1919, the Chairman of the War Committee of the American Red Cross, Henry P. Davison, suggested that the Red Cross Societies of the United States, France, Great Britain, Italy and Japan should form a *League of Red Cross Societies* to do work in connection mainly with matters concerning public health. The idea was carried out, and gradually all other Red Cross Societies adhered to the League.

At The Hague in 1928 the XIIIth International Red Cross Conference brought about the amalgamation of the International Committee, the League and the National Societies by adopting the *International Red Cross Statutes*. These Statutes included a provision for a *Standing Commission of the International Red Cross Conference*, which in the intervals between conferences acts as a connecting agent for co-ordinating the work of the several International Red Cross institutions.

Formation of the law of the Red Cross.

In 1868 a first draft for the revision of the 1864 Convention extended to the wounded and sick of armed forces at sea the system provided under the Convention for the land forces. This text was not ratified and remained inoperative; but in 1899 it was again put forward on the occasion of the First Peace Conference, and became the Hague Convention of 29 July 1899 for the adaptation to maritime warfare of the principles of the Geneva Convention.

The Geneva Convention was revised in 1906, in order to take into particular account the experience of the Russo-Japanese War of 1904-5. In consequence the Hague Convention of 29 July 1899 was modified by the Second Peace Conference. It became the Tenth Hague Convention of 18 October 1907 for the adaptation to maritime warfare of the principles of the Geneva Convention of 6 July 1906¹.

During the first World War the ICRC, acting on the basis of the principles set forth by the Regulations concerning the laws and customs of war on land (annexed to the Fourth Hague Convention of 18 October 1907), played a useful, though onerous, part by organising the Prisoners of War Agency. Through this Agency prisoners were able to correspond with their families and to receive relief. In order to consolidate the benefits of the experience thus acquired, the Geneva Convention was revised once more, and a new Convention relative to prisoners of war was adopted. These were the two Geneva Conventions of 27 July 1929. But, whereas the Convention relative to the wounded and sick had been ratified by all the great Powers, that concerning prisoners of war had not on the eve of the Second World War been adopted either by the USSR or by Japan; and the fact that this was so worsened appreciably the position of the prisoners of war concerned.

¹ The two Conventions above-mentioned, which circumstances caused to be established at The Hague, were (with the consent of the Netherlands Government) given their place in the law of Geneva, when the Geneva Conventions were last revised, and became the Second Geneva Convention of 12 August 1949.

During the discussions of the Geneva Conference of 1929, the Italian Senator Ciralo¹ raised a question, which had already arisen at the Second Peace Conference at the Hague in 1907, in regard to the protection of non-combatant civilians. "We are", he said, "confronted with a problem which has not been included in the draft projects submitted to us—I mean, the problem of the fate of civilians. The time has come when the civilian population may be equally, if not more, exposed to danger than the armed forces. The blows of war may strike beyond the frontiers defended by the armed forces, and fall within the interior of the country attacked upon a harmless population which will thus have to support, unarmed and unaided, the consequences of the conflict between the belligerents"².

But these remarks remained without effect until twenty years later, when a second World War of far more hideous consequences for civilians than the first had made mankind again conscious of the problem. The Fourth Geneva Convention of 12 August 1949 relative to the protection of civilian persons applies to this vast category of war victims. As a result, new and considerable tasks are incumbent upon the various Red Cross agencies.

(To be continued)

Henri Coursier
Member of the Legal Service
of the International Committee
of the Red Cross

¹ Placed by the League of Nations at the head of the International Relief Union set up by the Convention of 12 July 1927.

² *Actes de la Conférence de 1929*, page 60.

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INTERNATIONAL RED CROSS

STANDING COMMISSION OF THE INTERNATIONAL RED CROSS

The Standing Commission of the International Red Cross held its regular meeting on May 21, 1953, in Geneva. It examined and settled questions of common interest for the International Committee of the Red Cross and the League of Red Cross Societies.

Recalling the representations made to the Delegates for North Korea at the Toronto Conference, the Standing Commission expressed its satisfaction on the return to their countries of a certain number of civilian internees held in North Korea, several of whom belonged to the Diplomatic Corps and religious institutions, and of whom no news had been received for some long time.

The Standing Commission of the International Red Cross hopes that the operations for the liberation of civilian internees will be pursued and brought to a conclusion. It has also received with satisfaction the news of the exchange of wounded and sick prisoners of war between belligerents in Korea. It expresses the hope that this action will be extended and amplified in the near future, and that the difficulties which still oppose the conclusion of an armistice in Korea may soon be overcome, in the interest of Peace.

The Standing Commission continues to follow with the keenest interest the discussion being carried on by the League Executive Board with a view to better co-ordination of international relief actions undertaken on the occasion of heavy disasters.

INTERNATIONAL COMMITTEE OF THE RED CROSS

PRINCIPAL ITEMS OF INTEREST

Germany. — On May 15 last the Delegation in Bad Kreuznach, which had been the only permanent ICRC Delegation in Western Germany since 1949, was closed. This measure was decided upon for both economical and practical reasons. The work of this agency had greatly decreased, mainly on account of a number of its activities having been taken over by the German Red Cross. Those which are exclusively connected with the ICRC will in future be assumed by missions sent periodically from Geneva to Germany.

It is interesting to recall here the various fields covered by this Delegation in post-war and more recent periods. It was a valuable auxiliary at the time when the ICRC, the only institution accepted by the occupying Powers, had the responsibility of carrying on both its own work and that of other humanitarian organisations, to which it gave its support until such time as they were allowed to do their own work. In the same way the Bad Kreuznach Delegation played an important part in the efforts which resulted in the reconstitution of the German Red Cross.

The Delegation was also associated with the International Committee's considerable activity in favour of the civilian population, which had the benefit of receiving from the autumn of 1945 until the end of 1947 some 26,000 tons of relief supplies representing 32 million Swiss francs in value.

Its work also included relief to former prisoners of war and civilian internees, and assistance to prisoners tried and sentenced by Allied Tribunals, whom the representative of the ICRC visited in Werl, Landsberg and Wittlich. In conjunction

with the Paris Delegation, it joined in representations for establishing the status of German prisoners who had become civilian workers in France.

The Delegation also gave its services in the actions undertaken on behalf of military and civilian war-disabled, and in assistance to refugees, displaced or stateless persons in Germany.

It further made a very useful contribution to the action started five years ago by the ICRC for the reunion of families belonging to ethnical minorities of German origin in countries of East and South East Europe. For this action, which has so far enabled over 75,000 persons to join their relatives, principally in Western Germany and Austria, its services were mainly those of a liaison agent with the German authorities, while it had also to provide a certain amount of relief in the form of foodstuffs and clothing, and apparatus for the disabled.

Korea. — It is common knowledge that the four Delegates of the International Committee of the Red Cross in South Korea were allowed to co-operate in the recent operations for the repatriation of wounded and sick prisoners of war. In particular they accompanied convoys of prisoners coming from the South, and assisted them during their journey.

As a result of representations made by the Delegates of the ICRC, the United Nations Command decided to include 85 members of the Chinese and 600 members of the North Korean forces in the transport of prisoners to be repatriated.

The International Committee's Delegates, not having been admitted to North Korea, were not able to carry on similar action there or to assist the wounded and sick prisoners of South Korean origin, or members of the United Nations forces, during their transfer.

Central Prisoners of War Agency. — Since last autumn the Agency has received over 3,000 requests from former Lybian prisoners, who fought with the Italian forces. The object of their applications was to obtain certificates of captivity, which are essential to enable them to obtain a war bonus granted by the Italian Government.

The compiling of these documents entails much preliminary work. The particulars of the applicants, collected at the time by the Agency and inserted in its card indexes, were taken from capture cards and lists which the British authorities, who were the holders of the prisoners in question, had made out phonetically according to their declarations. This method of transcription, made necessary by the difficulties of the Arab script and the fact that the majority of the captives were illiterate, led to numerous errors caused by the distortion of family names and often in addition by the lack of accuracy in declarations made by the prisoners themselves.

To fill the gaps in these particulars and to enable researches to be made with all the necessary precision, the Italian Section of the Agency submitted questionnaires to the persons concerned. The replies of the latter greatly facilitated checking in the card indexes and made it possible to issue the certificates with more speed. It was found necessary to have recourse to the services of an Arabic-speaking helper to bring this delicate task to a satisfactory conclusion.

The work of the Agency was alluded to on May 6 during the visit to the ICRC of Dr. Clément Noger, Acting Director General of the Public Health Services of the Federal Kingdom of Lybia. At the special request of His Excellency Mohammed Osman, Minister of Health, Dr. Noger discussed with the International Red Cross agencies in Geneva the problems raised by the accession of Lybia to the Geneva Conventions of 1949, and by the possible creation of a National Society in that State. During a visit last year one of the Committee's Delegates had already discussed these questions with the Lybian authorities.

ASSISTANCE TO POLITICAL DETAINEES

A Commission of Experts, formed of jurists and persons of various nationalities, known for their legal science and humanitarian feelings, has just met for three days in Geneva to give its opinion on problems submitted to it by the International Committee of the Red Cross. The object was to examine the means of assisting certain political prisoners, particularly those detained as a result of events of war, civil war or internal disturbances.

The Members of the Commission were MM. Maurice Bourquin, Professor at Geneva University, Roberto Cordova, Ambassador for Mexico, Professor Nihat Erim, former Minister of State in Ankara, Professor G. Gidel, Paris, Jean Graven, Professor at Geneva University, Max Huber, Honorary President of the International Committee of the Red Cross, Zürich, Carraciolo Parra-Perez, Ambassador for Venezuela in Paris, Judge Emil Sandström, Chairman of the Board of Governors of the League of Red Cross Societies, Stockholm, Giuseppe Saragat, Member of Parliament, Roma, Professor Carlo Schmid, Vice-President of the Bundestag, Bonn.

MM. Sandström, Cordova and Saragat were unfortunately unable, on account of their state of health or their personal commitments, to attend the meetings of the Commission.

As on frequent occasions in the past, the International Committee welcomes outside assistance in examining such complex problems.

The International Red Cross Conference have been concerned with this question for a long time past. On many occasions the International Committee of the Red Cross has received appeals which show that in various countries internal disturbances in particular have led to the arrest of persons who have been placed in solitary confinement, deprived of

all contact with their families and all relief, without any humanitarian organisation being allowed to visit them.

The International Committee's initiative is by no means intended to form conclusions as to the motives for the deprivation of liberty, but merely to obtain humane treatment for these persons in conformity with the general principles of law and civilisation.

The experts, whose discussions were followed by some Members of the ICRC, including the President, M. P. Ruegger, and M. L. Boissier, Chairman of the Legal Commission, drafted a report which was unanimously approved by the Members present, and of which the findings will shortly be made known to the public.

Geneva, June 12, 1953.

MAX HUBER

*Honorary President of the International Committee
of the Red Cross*

THE IDEA OF THE RED CROSS ¹

In the life of individuals, as in the life of institutions, there are certain anniversaries which are of special significance. They serve on the one hand as an occasion for contemporaries and their followers to express their thanks to the parties commemorated for the work they have done, and at the same time they enable the latter to look back over a period, long or short, and to criticise themselves, think what their life was for, and attach a value to the aim which it pursued.

In the same way, as it seems to me, it is possible to recall what is essential and permanent in the movement, which owes its existence to Henry Dunant, and to deduce from the past our lessons for the future.

The realisation of what an institution was, and was thought to be, in the past is the point we have always to remember, if in speaking of it we are concerned to recognise its primitive origin and essential character. That is a rule which holds good both of individuals and of institutions, and even of States. No life is truly authentic, except in so far as it remains true to itself and to its origins over the course of years.

* * *

Historically the Red Cross has two origins—the first, Solferino and the battle which was fought there in 1859, the

¹ Speech made at the ceremony organised by the Swiss Red Cross at Berne on 8 May 1953 to celebrate the 125th anniversary of the birth of Henry Dunant.

French translation by Jean-G. Lossier.

second, Geneva, where the first Red Cross Conference met in 1863, and was followed by the Diplomatic Conference of 1864.

What then was the inspiration of Dunant at Solferino, and what is the essential element of that inspiration even today for the Red Cross? How can it be defined?

It was an improvisation, a bold improvisation, an act in which the manifestation of a resolute attitude and a pioneering spirit were apparent.

It was a gesture of relief, of voluntary relief as when each gives what he can.

The defects of the Army Medical Services had already been shown in the Crimean War by the work of Florence Nightingale. Solferino was another proof of this inefficiency; and it is from this point that we should date the whole story of the development of Red Cross work in connection with the care of the sick, medicine, and hygiene.

Most important of all, on the battlefield of Solferino the sick and wounded of both sides lay after the combats indiscriminately together. Dunant and the local population at his instigation brought improvised relief to all the wounded without distinction of nationality. Help to anyone suffering, without distinctions of any kind, wherever they came from — that was the keynote.

Ninety years ago a number of persons representing (though not officially) their respective countries met in Geneva to consider together the measures proposed by Dunant. The meeting was of particular importance because of the fact that it was a case of private initiative proposing action on an international scale. National committees had been set up, which were the nucleus of the present national Societies; and this initiative induced the States to enter into treaty obligations with one another, and thus to give the Red Cross movement a basis in international law, and a special protection in time of war.

In the following year this object was attained by the signature of the Geneva Convention of 22 August 1864, under which the four fundamental principles of the Red Cross found complete and official expression:

- (1) Friends and enemies were treated equally.
- (2) The Medical Service in the field was given special protection.
- (3) The principle of voluntary medical aid was recognised in international law.
- (4) A red cross on a white field was adopted as a protective emblem, and the whole movement took its name from this fine symbol.

* * *

From the first the national Societies realised that their activities could not be limited to the wartime work assigned to them by the Geneva Convention. They had to prepare, with a view to war, for the new work of caring for the sick ; and in preparation for this work, they had to make a beginning with it in peacetime. Accordingly their intervention was found equally necessary when in peacetime immediate relief was required, e.g. in case of natural disasters. Dunant had been one of the first to foresee this work, the immense importance of which was brought home to us Swiss on the occasion of our avalanches, and again to all nations in the superb united effort in favour of the victims of the floods in Holland, England and Belgium during the present year, as also to the unhappy victims of the inundations in the year 1951 in the valley of the Po. The success of these efforts of the Red Cross was due to the fact that they were popularly regarded as the natural fulfilment of a duty.

A comparison of the Red Cross of the present day with the Red Cross of ninety years ago reveals two different lines of development. There is first what may be called the horizontal development, which now covers the whole world ; and secondly there is a vertical development in the form of a multiplication of tasks, of which it would hardly be possible here to give even a summary account. The tasks in question are very varied in character ; and the different national Societies deal with them in different ways, some with more and some with less activity, not only in connection with the care of the sick or the administration of relief in national disasters, but also on a very large scale in the matter of public health and social service.

As a part of the general body of the work of the Red Cross at the present time, the activities of the volunteer auxiliaries, as defined in the First Geneva Convention and its successive revisions, no longer bulk as largely as they did, partly because the Army Medical Services have greatly developed, and modern war leaves much less scope for volunteer action, and partly because in wartime the special aid to soldiers and prisoners of war absorbs a great part of the efforts of the national Societies. But, apart from this, the appalling evolution of war from the air, and the terrible destruction of mass centres of population which it carries in its train, constitute a menace to the civilian population which was not formerly conceivable, the menace namely of total annihilation. The Red Cross is faced today with situations, with which it is infinitely more difficult to cope, and with deficiencies which it is infinitely more difficult to make good, than in the early days, when it intervened in favour of combatants in the field.

A closer view of the great expansion of the work of the Red Cross in the last ninety years, and particularly during and after the First World War, clearly shows that the changes have been mainly in connection with peacetime work. The functions in question are no longer connected except remotely or indirectly with the functions envisaged at the beginning. The national Societies are the gainers by the process. Their own strength and their vitality as viewed by others are thereby increased ; and this alone enables them to face better the vast body of work, which they are now called upon to do, nationally and internationally, without previous preparation, as in the Second World War.

But this shift of functions from one branch to another involves the danger of losing sight to a certain extent of the original purpose of the Red Cross, and ceasing to bear in mind its specific characteristics. For there are besides the Red Cross a large number of national organisations, as for example in our own country the Pro Juventute, the Pro Senectute and the Pro Infirmis Societies, whose work, if they did not exist, would perhaps have had to be taken over by the national Red Cross Societies of the countries concerned with their not dissimilar activities. Internationally again there are private organisations

which do work, and have purposes, similar to those of the Red Cross, such as the International Union for Child Welfare, the World Health Organisation founded by the different States, or the Nansen Office, the creation of which was suggested by the International Committee of the Red Cross after the First World War.

If we are to go further in the analysis of the work of the Red Cross and of its specific characteristics, we must endeavour to grasp its underlying features, and with that end in view to approach the problem from two angles—the first in connection with the nature of suffering, and the second in connection with the conditions precedent to our sympathy with suffering.

* * *

It is not necessary for our purpose to consider the nature or significance of suffering from a religious, metaphysical or psychological standpoint. The Red Cross is conscious of a call to alleviate and, if possible, to eliminate human suffering, which it regards as a plain fact, a fact which it does not approach as a spectator, but as a combatant, not merely on grounds of social utility, but on the basis of an impulse of human pity. To regard one's neighbour's interests as one would regard one's own is the first consequence of the altruistic outlook. Suffering therefore induces pity. That is the origin of the action, which Dunant and those who were with him took at Solferino; and that is the foundation accordingly of the spiritual and moral Red Cross movement.

* * *

Suffering is a consequence of a break in biological equilibrium in the sick or wounded man. But for the Red Cross mental suffering is as important as physical suffering, since it is often induced in the victim by separation or removal from those whom he holds dear, or again by the absence of news from them, or by the fact that the victim has had to quit his country, or has been compelled to do so. The active sympathy which Dunant and his assistants showed to the wounded and dying at Solferino

must have been much more valuable in their eyes than all the medical aid they were able to give them.

* * *

There are three fundamental causes of human suffering.

- (1) Disease or disaster. These are natural causes.
- (2) Inadequacy of the conditions of existence in respect of food, housing or welfare.
- (3) Violence, hatred, ill will on the part of other humans.

In the first of these cases, where Nature is alone responsible for the suffering, the possibilities of affective aid depend only on the numbers of men and the amount of material and technical equipment available. In the second case relief work cannot as a rule produce results, except where it is undertaken by the State and communes concerned as a whole, and is given practical form as such. It is in principle too big a problem for the forces of the Red Cross to handle.

In the third case, where the suffering is the consequence of the violence or ill will of man, those who seek to give relief are at once limited by the means at their disposal. They are also perpetually confronted by obstacles inherent in the conditions of the combats concerned, and by the ill will of those who are in the last resort the authors of the suffering. The case may arise in wars which whole peoples wage against one another. But these melancholy conditions may be reproduced, where single peoples are torn by political struggles and persecutions.

The Red Cross was instituted in order to help those whose sufferings are aggravated by the circumstances of war. Its mission is to intervene in just those cases where many of us cannot, or will not, bring relief. It is amidst an environment of indifference, of aversion, of hostility even (which is alien to it) that the Red Cross is called upon to act, inspired and fortified by nothing but its own charitable spirit.

This work of aid in time of war or similar circumstances has two motive causes behind it. In the first place, it has always been done by the Red Cross from the beginning, and since then

has been expressly assigned to it by agreements in international law, especially the Geneva Conventions of 1949 in favour of prisoners of war and civilians ; and secondly, it is pioneering work and, as such, is congenial to the nature of the Red Cross. The texts of the Conventions of 1929 and 1949 represent for the most part affirmations and (so to say) codifications of Red Cross initiatives, and in particular of initiatives by the International Committee. But in presence of the violence of man the pioneers of humanity never fail to have opportunities of displaying their zeal.

* * *

Human suffering always imposes on us two duties. We have (1) to give immediate relief to the sufferers, and (2) to put an end to the reasons for the suffering. The first of these duties, the aid of man to man, is the proper mission of the Red Cross, whether in case of war, natural disasters, or evils arising out of bad social conditions. This duty cannot be abandoned for other functions, however important they may be and whatever the case that may be made out in their favour. No abatement of this duty, no encroachments on it by recently developed permanent activities calling for all the resources at the disposal of the Red Cross, can be allowed. The one *mot d'ordre* of the Red Cross is, and in the nature of things must be, " Ready ! Aye ! Ready ! "

Preventive measures to cope with the danger of natural disasters, in so far as such measures are possible (e.g. the erection of obstacles on slopes exposed to avalanches, the construction of dykes, and the like), have never been considered as coming within the competence of the Red Cross. Similarly with remedies for social evils, which themselves involve the intervention of the Red Cross. But the Red Cross can nevertheless play a very important part in urging the State or the public bodies concerned to take suitable social action : for no one is in a better position than the Red Cross, which itself steps in to alleviate the sufferings in question, to call for social reforms on the strength of its higher moral authority and its far wider experience.

The same thing is true in our opinion in times of war or any other forms of human violence or hate. When in the true Red Cross spirit—that is to say, in the spirit of compassion—relief is given to the sufferings of war victims, the party giving relief is at the same time showing himself a valiant combatant for peace. The Red Cross Conferences have again and again proclaimed the close connection between the Red Cross and international peace. Soon after 1864 Dunant had already grasped the connection between the two. The relief activities for which the Geneva Convention provides have a dual significance. Their significance is not confined to the actual aid which they give to the wounded and sick : they represent also in an inhuman age the permanence of the idea of humanity, and thus become a moral bridge towards peace at a time when so many human relations are in process of dissolution or conflict.

Practical measures for the organisation of peace are of course necessary ; but there is another factor, which is even more important, and that is the attitude towards other peoples, not only of Governments, but also of each individual of the popular masses. Such a transformation of human conduct from within in the true spirit of the Red Cross may have decisive results, if once it penetrates the masses.

This brings us to the capital problem of the Red Cross—namely, to the foundations of all sympathy with suffering.

* * *

When the Geneva Convention provided for the inclusion of volunteers in national armies in time of war, it was thought in the first instance that this was in the interest of all the armies and all the peoples. The preparatory work of the Red Cross, and its increasing peacetime activities in connection with public health and social services, all on a national basis, is quite natural. Why ? Because in the first place the Red Cross is led to exercise these internal functions by external considerations, and the activities of the national Societies are limited by their resources in men and material : and in the second place because the pity

for compatriots is ultimately an expression of the fellow-feeling which all men have for their common home.

Side by side with this—in itself important—national fellow-feeling there is another fellow-feeling of an ideological character which has its origin primarily in the sense of religious and confessional community, and community of race and political conceptions. In this second form of fellow-feeling there is however an admixture of the feeling of pity in the shape of a sense of collective interest. The suffering are aided, but only those who belong to certain circles.

* * *

But it is of the first importance that from the very beginning—as the Geneva Convention attests—the Red Cross idea has been that help in war must be given, not only to compatriots, but to every individual, including adversaries, who whether wounded and as such *hors de combat* or sick are in need of treatment. The Geneva Convention is one of the decisive turning—points in the history of international law. It is the individual it is desired to protect, not because he is a national of this or that State, but because he is an individual. I have had occasion to speak on this subject a year ago ¹.

This assertion of the individual as a human being, and of his dignity as such, is at the origin of our Western civilisation, of Christianity, and of its secular form, Humanism, which draws its inspiration from the philosophy of Illumination and Idealism. But the importance of the individual is not by any means a conception of the Red Cross alone. It is confirmed, not only by purely humanitarian organisations, but even by religious or confessional relief bodies, such as the Quakers or the Y.M.C.A., who do admirable work in the same field. On the battlefield of Solferino it seemed perfectly natural to give relief to any and everybody who had need of it. That is a capital element in the thought and spirit of the Red Cross, which finds expression in three forms.

¹ *Das Völkerrecht und der Mensch*, Tschudy Verlag, St. Gallen, 1952. Published in the « *Annuaire suisse de droit international* », Vol. VIII, 1951. French translation by Jean-G. Lossier in the *Revue internationale de la Croix-Rouge*, August 1952, page 646.

1. The Red Cross is concerned with hundreds of thousands, and even with millions, of human beings, who suffer or are threatened with suffering; but it never becomes a pure mass organisation or an anonymous collective organisation. It feels the need for vital contact with each individual, and makes every effort to maintain such contact. Thanks to the International Committee of the Red Cross the lists of prisoners have become dozens of millions of index-cards. These index-cards are at the disposal of the national Red Cross Societies. They are not merely a colossal effort of bureaucracy: they are a turn-table of human relations, because they allow of the transmission of news and presents between prisoners of every sort and their families. A Delegate of the International Committee of the Red Cross, M. Georges Dunand, has published a fine book entitled "Ne perdez pas leur trace"¹, in which he describes his own experiences. What sufferings there are for an unfortunate, separated from his own relations, with whom it is not possible to prove definitely that he is a war victim or a victim of political persecution! Anyone, who is opposed to relief efforts to alleviate such sufferings, is incurring a grave and terrible responsibility.

2. It is the individual as a human being, and not a particular individual in whom for some reason or another one has a special interest, that one assists. There are two principles which derive from this—first, the principle of universality, and secondly, the principle of impartiality. These two principles are of primary, indeed of vital, importance for the Red Cross.

The Red Cross endeavoured from the first to be universal; and the whole earth is now covered with an uninterrupted series of national Red Cross Societies, formed one after the other in the course of years. The Geneva Convention for its part is one of the oldest international agreements open to ratification by all the States.

But this "universality" of the Red Cross is not purely "spatial" or "territorial". It is a phenomenon of actual fact. It is no doubt important for the Red Cross to have its work recognised, and so facilitated and protected, in national and

¹ Editions de la Baconnière, Neuchâtel, 1950.

international law, though not necessarily by means of rigid legal formulas. Like other pioneers, the Red Cross is always on the look-out for action where there is need of relief, which no one else is in a position to provide. It was in this way that in the First World War, and even more in the Second World War, the Red Cross found and explored many sources of activity up till then unknown. It was faced with situations, which were novel if not abnormal and unknown in international law. But for suffering let there be an equal and equivalent mass of relief! That is the idea underlying the new Conventions of 1949, to which it should be possible to evolve practical implementation, so far of course as that has been found possible to provide in international agreements.

Another consequence of universality for the national Red Cross Societies is the extension of their activities to foreign countries in distress, or their intervention in favour of foreigners, as for example when the Swiss Red Cross welcomes underfed or weakly children in Switzerland.

To handle the manifold problems of public health and social services—even in foreign countries and in favour of foreign populations—necessarily involves a risk of the Red Cross wasting its energies. Its institutions, national or international, should always keep in view the lessons of experience. It is not the quantity, but the quality, of its activities which it should endeavour to develop to the utmost, for it is in this way that it will be able to give valuable and truly effective aid. In any moral or spiritual effort—and it is from these that the Red Cross draws its sustenance—moderation is necessary, if action is to be permanent and effective, just as it is essential to assess the relative importance of the various undertakings on which one embarks or proposes to embark. One should not for a moment allow oneself to be deflected from a purpose one has conceived by ill-founded criticism urging the impossible, or again the union of irreconcilables.

The universality of the Red Cross has been interpreted from the first as symbolising the principle that all in need of aid should receive it without political, religious or racial considerations. But it has been conceived as a universality addressed to peoples

as a whole and to all social classes ; and the workers and directors of the Red Cross are taken from all groups and all layers of the population. The world unfortunately is divided today in ever-increasing measure. The divisions occur, not only between individuals, but also between peoples, and are due to ideological differences, or to the antagonism in colonies or former colonies between Whites and coloured races. All of which makes it more and more difficult for many organisations to give practical effect to the universality, which the Red Cross regards as a principle of action so vital that it can never be abandoned.

3. But there is another principle of equal importance for the Red Cross—deriving, as it does, from the fundamental conception of the individual—and that is the principle of impartiality, which used once to be described in somewhat more precise language as “ neutrality ”. It means that the Red Cross cannot favour one set of groups against another, where two adversaries are in conflict. In civil war or in internal dissensions the Red Cross can never favour one party to the detriment of the other. Nor again can it be diverted from its work, where (as in the case of political persecutions) it is confronted on the one hand with a powerful State, which has its police and its troops and needs no Red Cross aid, and on the other hand with a feeble body, perhaps a quite small group of persecuted people. The principle of impartiality should never be allowed in actual practice to become a partiality from which the weaker side suffers.

* * *

A last and most important consequence of the principles of universality and impartiality is that we should be prepared to assist the adversary. And this would seem to have been the rallying cry on the Solferino battlefield. As a matter of fact one can hardly imagine a more contemptible or less charitable attitude than to make a distinction in the care of the wounded, sick and dying in so far as they are akin to or remote from us in political, racial or other connections. The first Geneva Convention of 1864 already deemed it quite natural for the Medical Service of an army in the field, and the voluntary

auxiliaries attached thereto, to prove their impartiality. At the same time this Convention did not consider it necessary to provide special guarantees for the practice of equal treatment. Nevertheless, as from the war in 1864, representatives of the International Committee made their appearance in army hospitals.

It would be absurd to deny however that the fact of asking for the adversary himself to be assisted with such total goodwill constitutes an extraordinarily exacting and almost superhuman demand. It would be unwise and even dangerous for the Red Cross cause to lay too strict an emphasis upon the need for National Societies to extend their services to the adversary also, and to assist prisoners of war or the civilian population in a region occupied by their own national troops. It is already noticeable that national feeling and animosity become overstrained in time of peace. Total war moreover, by methodically creating an unwholesome psychological atmosphere, renders doubtful the possibility of the Red Cross (in conformity with its spirit) being able to pursue an activity in favour of the adversary, for this assistance, however well-intentioned it may be, is likely to be received with suspicion and resented as being a humiliation.

Experience shows that psychological tension between two nations at war makes the intervention of a third party necessary. By this should be understood neutrals, whether the Protecting Power, National Red Cross Societies of neutral countries or the International Committee of the Red Cross. As those to whom one party to the conflict wishes to give assistance are, through captivity or occupation, in the power of the opposite party, the necessity arises for the intervention of a third and impartial party who can cross the barrier separating the two sides in conflict. Without neutrality the Red Cross could not accomplish a great and essential part of its work. A former Delegate of the International Committee, and a very distinguished one, Dr. Marcel Junod, gave to his book relating his ten years' experience the eminently apt title of "Warrior without Weapons?"¹. The warrior in question does not of course engage

¹ Dr. Marcel JUNOD *Warrior without Weapons*, Jonathan Cape, 1951.

in work of destruction like the others but, on the contrary, brings relief to war victims.

A neutral has the advantage of being able to intervene with greater facility and in the same manner on behalf of men of one or the other side ; and he is entitled to hope that both parties will place sufficient trust in him by allowing him to pass from one front to another and to act as a go-between for the two adversaries. He should have the wish and the means for identifying himself entirely with every suffering being, without regard to his own personal feelings.

The greater the abnegation required for relief work, the more fully will the earnest desire of the Red Cross be realised. The Red Cross should give practical proof of this abnegation, even when its work is questioned and it is the object of attack. The Red Cross is prepared to intervene wherever its services are called upon, whenever it is again given the means of doing so. For itself, it can only ask for one thing—the opportunity of giving its unbiassed and total assistance.

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INTERNATIONAL COMMITTEE OF THE RED CROSS

COMMISSION OF EXPERTS FOR THE EXAMINATION OF THE QUESTION OF ASSISTANCE TO POLITICAL DETAINEES

The International Committee of the Red Cross decided to form a small Commission of Experts, composed of jurists and other persons of various nationalities, to give its opinion on the extension, as far as possible, of the application of the humanitarian principles common to civilised nations for political detainees who are not explicitly covered by the Conventions in force.

The Commission ¹ met at the headquarters of the International Committee of the Red Cross in Geneva from June 9 to 11, 1953.

¹ The composition of the Commission was the following :

M. Maurice Bourquin, Professor at the University and the University Institute for Higher International Studies, Geneva.

M. Roberto Cordova, Ambassador for Mexico, Mexico.

Professor Nihat Erim, former Vice-President of the Council and Minister of State, Ankara.

Professor Gilbert Gidel, Paris.

M. Jean Graven, Professor at Geneva University, Judge of the Court of Appeal.

Professor Max Huber, Honorary President of the International Committee of the Red Cross, Zürich.

M. Caracciolo Parra-Pérez, Ambassador for Venezuela, Permanent Delegate for Venezuela with UNESCO.

Judge Emil Sandström, Chairman of the Board of Governors of the League of Red Cross Societies, Stockholm.

M. Giuseppe Saragat, Member of Parliament, Rome.

Professor Carlo Schmid, Vice-President of the Bundestag, Bonn.

MM. Cordova and Saragat were not able, on account of personal commitments, to proceed to Geneva to attend the meeting of the Commission. M. Juan G. de Rueda, Delegate for Europe of the Mexican Red Cross kindly lent his services in deputising for M. Cordova.

The present Report, drafted by the Commission and unanimously approved by the Members who took part in its work¹ set forth the ideas which inspired it and the conclusions which it thinks fit to submit to the International Committee of the Red Cross.

* * *

The Commission was constantly guided by the essential idea that the vocation of the Red Cross is to alleviate human suffering. This rôle falls to it, not only in the case of international warfare, but also in that of civil war or disturbances, and in all instances where men must suffer through international or national political causes. It esteemed that it should not take into account the origin of the sufferings endured but merely record them and seek the means for their alleviation, in accordance with the hypotheses which have already been set forth for some long time by several International Red Cross Conferences.

In 1921 the Xth International Red Cross Conference held in Geneva stated—

“ 1. The Red Cross, which stands apart from all political and social distinctions, and from differences of creed, race, class or nation, affirms its right and duty of offering relief in case of civil war and social and revolutionary disturbances.

The Red Cross recognises that all victims of civil war or of such disturbances are, without any exception whatsoever, entitled to relief, in conformity with the general principles of the Red Cross.

“ 2. In every country in which civil war breaks out, it is the National Red Cross Society of the country, which in the first place is responsible for dealing, in the most complete manner, with the relief needs of the victims; for this purpose, it is indispensable that the Society shall be left free to aid all victims with complete impartiality.”

¹ Judge Sandström, who was present in Geneva but unable to share in the discussion on account of his health, has read the report and entirely agrees with the contents.

Under Paragraph 1 of the XIVth Resolution

“ The Xth International Red Cross Conference approves the above proposals and recommends them for study to all National Red Cross Societies.”

Under Paragraph 3 of the same Resolution

“ The Xth International Red Cross Conference entrusts the International Committee of the Red Cross with the mandate to engage in relief in the event of civil war, in accordance with the above prescriptions.”

Under Paragraph 6 of the same Resolution

“ The Xth International Red Cross Conference deplors the unlimited suffering to which prisoners and internees are sometimes subjected in countries engaged in civil war and is of opinion that political detainees in time of civil war should be considered and treated in accordance with the principles which inspired those who drew up the 1907 Hague Convention.”

In 1938 the XVIth International Red Cross Conference which met in London “ recalling the resolution relating to civil war adopted by the Xth Conference in 1921,

pays tribute to the work spontaneously undertaken by the International Committee of the Red Cross in hostilities of the nature of civil war and relies upon the Committee to continue its activity in this connection with the co-operation of National Societies, with a view to ensuring on such occasions respect for the high principles which are at the basis of the Red Cross movement,

requests the International Committee and the National Red Cross Societies to endeavour to obtain,

- (a) the application of the humanitarian principles which were formulated in the Geneva Convention of 1929 and the Xth Hague Convention of 1907, especially as regards the treatment of the wounded, the sick and prisoners of war, and the safety of medical personnel and medical stores,

- (b) human treatment for all political prisoners, their exchange and, as far as possible, their release,
- (c) respect of life and liberty of non-combatants,
- (d) facilities for the transmission of news of a personal nature and for the re-union of families,
- (e) effective measures for the protection of children, requests the International Committee, making use of its practical experience, to continue the general study of the problems raised by civil war as regards the Red Cross, and to submit the results of its study to the next International Red Cross Conference."

The XVIIth International Red Cross Conference, the first to be held after the War (Stockholm, 1948), followed the same lines and made a step forward by adopting Resolution No. XX, reading thus—

"The XVIIth International Red Cross Conference, wishes to draw the attention of the Diplomatic Conference, which will be called upon to study the revised or new Conventions for the protection of war victims, to the importance of applying humanitarian principles to persons prosecuted or detained for political reasons,

expresses the hope that the Governments of the High Contracting Parties ensure to such persons the protection afforded by the said principles."

Lastly, Article 3 common to the four Geneva Conventions of August 12, 1949, includes the prohibition of various acts apt to be prejudicial to personal dignity. Its provisions refer to :

- "(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture,
- (b) taking of hostages,
- (c) outrages upon personal dignity, in particular, humiliating and degrading treatment,
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial

guarantees which are recognised as indispensable by civilised peoples.”

This same Article provides for the possible intervention of the International Committee of the Red Cross in support of the provisions above-mentioned by stating :

“ An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.”

It is important to note the wish expressed by this Article to the effect that 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 ” (last sentence but one of Article 3). The signatories to the Convention thus affirm their desire to consider these provisions as a minimum only, to be exceeded whenever circumstances may allow.

The Commission considered the possibility of these ideas being developed and put into practice in circumstances which have not been provided for by the stipulations in force.

* * *

The Commission first placed in evidence the general principles which would be likely to give support to possible intervention by the International Committee of the Red Cross.

It noted the fundamental developments which have taken place in connection with respect for the human being thanks to the Universal Declaration for Human Rights proclaimed by the United Nations on December 10, 1948.

The Commission was also of the opinion that the successful protection of these rights in the particular field open to its survey depended upon the action of relief organisations taking place on strictly humanitarian lines. While it appeared to be lawful, and also necessary, for an impartial agency such as the International Committee to give its charitable services in circumstances where the respect of the human being was likely to be prejudiced, the Commission esteemed that it was not the role of such an agency to appreciate whether the measures taken

were well-founded, but merely to see that these measures, however strict, were nevertheless accompanied by a minimum of material and moral guarantees in conformity with the principles of the Universal Declaration for Human Rights. For the Commission it appeared essential to ensure, in all circumstances, humane treatment of persons against whom Governments have thought fit to take severe measures of some description for political reasons.

What should be understood by humane treatment ?

The Commission had no difficulty in finding the answer to this question in the texts already existing. In this connection reference has already been made above to the provisions of Article 3 common to the four Geneva Conventions of August 12, 1949 (No. 1, Items *(a)*, *(b)*, *(c)*, *(d)*). The Universal Declaration for Human Rights prohibits, in Article 5, "cruel, inhuman or degrading treatment or punishment". The text adopted by the Human Rights Commission in May 1953, referring to this idea of humanity as being without doubt, merely stated in consequence that any person deprived of his liberty is to be treated with humanity. This development is comparable to that which in the case of the laws of war, finally resulted in placing beyond belligerents' power "the laws of humanity and the dictates of the public conscience", and prohibiting in principle all discriminatory treatment. The Commission considers that similar extension can, and should, be recognised in circumstances which do not concern the conflict between States.

The Commission esteems that the consequence of humanitarian action is not in any case to transform the legal relations existing between the individual or individuals, considered to be disturbers of the peace, and the Detaining Power. These legal relations remain exactly the same and are unchanged, whatever the relief given to those who suffer and the assistance in order to ensure their humane treatment may be.

The Commission is of the opinion that no valid objection could be raised by the Detaining Power to efforts which tend to reserve humane treatment for the persons to whom it has applied severe measures, if the essential distinction is made between humanitarian and legal aspects of the case. In this connection

the Commission affirms the extreme importance of the principle set forth in the following terms in the last paragraph of Article 3 above-mentioned of the Geneva Conventions of August 12, 1949 :

“ The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.”

* * *

When dealing with the question of the practical realisation of the humanitarian improvement of conditions for persons detained for political reasons, the Commission had the benefit of most interesting information contained in existing and draft texts—first, certain regulations of the Geneva Conventions of August 12, 1949, secondly the “ Standard Minimum Rules for the Treatment of Prisoners ”, approved on December 1, 1950, by the European Regional Consultative Group on the Prevention of Crime and the Treatment of Offenders, created in accordance with Resolution 415 (V) of the United Nations General Assembly of December 1, 1950. These two series of provisions provide most valuable chapter headings on the subject.

The Commission was guided by these documents when examining in succession the questions of detainees' identification, the commencement of the detention period, possible contacts with the outside world and the physical, intellectual and moral condition of detainees.

The Commission thought it desirable, in particular, for the fact of the person's detention to be communicated to his family at an early date, either directly or through a relief organisation. There could be no question of objecting to solitary confinement of the detainee by the Detaining Power. But solitary confinement is not incompatible with visits from duly authorised delegates of relief organisations, if necessary in the presence of an official of the Detaining Power, provided such visits are strictly confined to the conditions of detention and do not concern the motives for confinement.

The detainee's correspondence with his family or relief organisations could be arranged in conditions similar to those which prevailed during the Second World War, to which the Detaining Powers raised no objection.

The question of assistance by the provision of relief in various forms (spiritual, intellectual or material) might usefully be considered, on the basis of regulations (with the necessary adaptations) inspired by the provisions of the Geneva Conventions.

The Commission does not think fit to make a more detailed study in this report of these points which, even if essential, could no doubt find a satisfactory solution in the light of the provisions for a similar purpose which are to be found in the texts above-mentioned.

Such is the general outline of the Commission's discussions in connection with the substance of the questions submitted for its examination.

* * *

The Commission studied the question of giving practical effect to the suggestions it thought fit to recommend.

The Commission had no hesitation in view of the present state of affairs, in rejecting the idea of an international Convention; it was also not in favour of a "Declaration" by Governments.

The Commission considered in consequence that the conclusions of the results of its work should be submitted to the International Committee of the Red Cross, who had honoured it by seeking its views on the subject.

It remains for the International Committee to judge how far these conclusions can be taken into account and made effective in conformity with its statutes and its traditional activity.

* * *

The Commission ventures to hope for further developments of the humanitarian work of the Red Cross in the field it has just surveyed. It hopes that the conclusion of this report will be a step towards future progress, and that the application of these principles for the alleviation of other suffering may some day be considered over a wider range.

STATEMENT MADE BY AMBASSADOR CORDOVA

The following is the text of a statement made by His Excellency Roberto Cordova, Ambassador for Mexico and Member of the United Nations International Law Commission on the subject. Ambassador Cordova could unfortunately not attend the meetings of the Commission. He, however, fully agreed with its findings. In a statement made to the International Committee of the Red Cross on July 3, 1953, Ambassador Cordova said:

The International Committee of the Red Cross paid me the honour of requesting me to participate in the work of the Experts Commission for the study of the question of assistance to political detainees. I was unfortunately not able to be present during the discussions of this Commission composed of such highly qualified persons.

The President has also paid me the honour of asking my opinion on the Commission's report of which I may at once say I fully approve.

I have the privilege of being with you today in order to pay tribute to the work of the Red Cross.

The question placed before the Commission is not in reality a new problem : it is a logical sequence to the conceptions of Henry Dunant. Here, at the headquarters of the International Committee of the Red Cross, we are at the living source of international law, since it is a question of justice, of charity, of altruism, the fundamental notions of all law.

One cannot conceive law founded on injustice, on cruelty, or selfishness. As in all generous and charitable work, the Red Cross brings forth law.

The Red Cross does not require Conventions or declarations for the extension of its humanitarian task to political detainees. As in the past, this humanitarian effort will impose itself on the legal conscience of mankind and on the States themselves.

The President has said that this Experts Commission represented the conscience of mankind. I may add that if it represents the juridical conscience of mankind, the International

Committee is taking action of the kind which practically always precedes and creates law. In fact you have no need of our advice, since the work of the Red Cross is more fruitful, more transcendent and more worthy than any legal opinions.

Nevertheless, the work of the Commission has been most useful. It has, very rightly, made clear that the evolution of international law is inspired by the notion of the protection of the individual, not only against inhuman acts which the Red Cross has in mind, but also against all violation of human rights as contained in the Declaration for Human Rights, that universal, constitutional Charter which makes every man a true world citizen.

I agree with the Members of the Commission that there is nothing to prevent the International Committee extending its protective action to political detainees, including (as the Commission also recommended) detainees prosecuted or sentenced for common law offences, whether they are innocent or guilty. There can be no distinction in regard to the charitable functions of the Red Cross ; these unfortunate people are human beings in distress.

The Commission's report clearly shows that the Committee's future action on behalf of political prisoners will have the help of international law, which will also help to lay the foundations of the notion of ideal neutrality with which the work of your splendid institution should be animated.

The efforts of the International Committee will probably clash with selfish interests, of a political or other nature, of States or of Governments ; but it should indubitably pursue its work in its innumerable developments.

When I consider the great work of the Red Cross in the past, and that reserved for it in the future, it seems to me that, like Christopher Columbus discovering a New World, Henry Dunant, the initiator of the Red Cross, also laid open a vast world of ideas and facts, the realisation of which should lead to better human relations and to Peace among all men.

It is for you, Gentlemen of the Red Cross, to make this marvellous dream come true.

PRESS RELEASE

*GIFT OF THE SOVEREIGN PONTIFF TO THE
INTERNATIONAL COMMITTEE OF THE RED CROSS*

Geneva, June 26, 1953.

On June 16, 1953 His Excellency Mgr. Montini, Pro-Secretary of State to the Holy See, informed M. Paul Ruegger, President of the International Committee of the Red Cross, that the Sovereign Pontiff, in spite of the innumerable burdens laid upon the Holy See, wished to give tangible token of his good-will towards the International Committee. In consequence the Holy See has presented the Committee with a gift of 10,000 dollars.

The Holy See, one of the first Powers to sign the Geneva Convention of 1864, and one of the first to ratify the revised and new Conventions of 1949, has thus given generous effect to the Resolution of the 1949 Diplomatic Conference, recommending the signatories to the Conventions to support the International Committee in its activities old and new.

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INTERNATIONAL COMMITTEE OF THE RED CROSS

PRINCIPAL ITEMS OF INTEREST

Korea. — (See Page 150)

Indochina. — During the months of April and May the Delegate of the ICRC in Indochina continued visiting military prisoners and internees of the "Vietnam Democratic Republic" in French hands. He visited eleven camps in North Vietnam and Laos and distributed some relief supplies.

In July the International Committee's representative visited Cambodia, where he had interviews with the Cambodian and French authorities. He also visited camps where prisoners having served in the "Vietnam Democratic" Forces are held.

Greece. — The statistics for the relief supplies distributed or transmitted by the ICRC Delegation in Athens for the first six months of the present year show a total of 27,551 Kgs. representing 181,386 Swiss francs in value. It will be recalled that these relief supplies come from various donors including the ICRC and, as hitherto, the beneficiaries were chosen among interned and exiled persons, the disabled, refugees and the civilian population.

Refugees. — Miss Marion Rothenbach, a social worker, sent by the ICRC on a mission to Trieste on behalf of tuberculous refugees, left Geneva to take up her post on July 20. Swiss Relief to Europe made a most generous contribution to the cost of this action.

Miss Rothenbach will be attached to Prosecco Hospital, where about one hundred refugees are now under treatment, and her principal work will be the promoting of functional re-training of these patients to facilitate their return to normal life, as well as assistance with the formalities necessary for

their emigration by submitting their applications to the various specialized organisations concerned.

Before her departure Miss Rothenbach followed a preparatory course at the ICRC headquarters and visited the various centres for the tuberculous in Leysin, Montana, Evian and Männedorf.

The Social Service of the Italian Red Cross sent to the ICRC a report on the use made of a large portion of the 2,700,000 lire which the latter made available some months ago for the benefit of refugees in Italy.

In the course of three distributions, the last of which was terminated at the end of March, the refugees in Frascette di Alatri and Farfa Sabina Camps, and a few isolated refugees, were given relief supplies to a total value of about 1,500,000 lire out of this donation, in the form of articles of every-day use (handkerchiefs, towels, footwear, etc.) cigarettes, postage stamps, some foodstuffs and medicaments and small amounts in cash.

Disabled. — In July the ICRC sent several Braille watches to France, Berlin and Finland. The watches sent to the last-mentioned country were purchased by means of the Australian Pridham legacy. The total number despatched was 261.

In Germany the action for providing apparatus for disabled refugees of German-speaking ethnical minorities is being regularly pursued.

CHRONICLE

THE ORIGINS OF HUMANITARIAN LAW

IV

*THE RED CROSS*¹

3. THE LAWS OF WAR

In "Un Souvenir de Solférino" Henry Dunant did not merely put forward the ideas which form the basis of the law of the Red Cross. Besides advocating respect for the wounded and the organisation of relief societies, he said: "At a time when we hear so much about progress and civilisation, is it not important, since wars can unfortunately not be avoided, to look in a humanitarian and truly civilised spirit for means of preventing or at least alleviating their terrible consequences?"

It was just this question which the codification of the laws of war, helped by the concomitant progress of contemporary thought on the subject, was shortly to answer. But this was the work of Governments. The Governments insisted on treating the matter as a political issue, independent of any technical participation by humanitarian institutions.

The St. Petersburg Conference (1868).

Russia, under the influence of the philanthropic Tsar Alexander II headed the movement. In 1868 this Sovereign called an international conference in St. Petersburg for the prohibition of explosive bullets. The Conference resulted in definite engagements, and a resolution was passed to the effect that "the progress of civilisation should lead to the attenuation

¹ See *Supplement*, May 1953, page 90.

as far as possible of the disasters of war". By this text the signatories also pledged themselves to consult one another in future, whenever the progress of science was likely to promote armaments of a more deadly nature.

The Hague Conferences (1899 and 1907).

Encouraged by this first success, the Tsar proposed in 1874 that a conference should meet in Brussels in order to codify the laws of war. The proposal was based on the idea that, war (and accordingly violence) being permissible, all unnecessary violence was unjust and to be avoided. At the same time the Powers were invited to establish a convention "to lay down regulations which, unanimously adopted by all civilised countries, would serve to lessen as far as possible the disasters of international conflicts by specifying the rights and duties of governments and of armies in war-time". The undertaking was not however a complete success. Two opposite opinions were voiced at the Conference. The representatives of heavily armed States such as Prussia urged the necessity of eliminating partisan movements, whereas the small Powers, sponsored by Great Britain, maintained the right of populations to rise against the invader. This scission nearly caused the failure of the Tsar's generous efforts. The Conference having failed in its aim, the Russian Government suggested that the question should again be discussed in St. Petersburg; but the Foreign Office refused to be associated with any arrangement which would have as its object the facilitating of aggressive wars and the stifling of patriotic resistance on the part of a people suffering invasion ¹.

The International Committee had the honour to reopen the question at the instigation of Gustave Moynier, who published in 1895 his "Essai sur les caractères généraux des lois de la guerre".

¹ Letter from Lord Derby to the British Ambassador in St. Petersburg 20 January 1875, quoted by the *Revue des Deux Mondes* of 15 March 1875, page 465.

In legal circles however interest was shown in the effort of the Brussels Conference: At its Oxford meeting in 1880 the Institute of International Law submitted to the Governments a Manual of the laws of war on land containing 15 articles.

In 1898 the Cabinet in St. Petersburg once more took the lead in the proceedings it had initiated twenty-five years earlier, and suggested a new meeting of the Powers for the " maintenance of general peace and a possible reduction of excessive armaments ".

The Conference was held at The Hague in the following year, and led with other resolutions to the establishment of the Regulations for the Laws and Customs of War on Land. This text did not however formally commit the Powers signatory to the Final Act of the Conference.

In 1904 the President of the United States proposed the meeting at The Hague of a second Peace Conference. The Russo-Japanese War caused him to put aside his plan. On the close of hostilities however the Emperor of Russia, pursuing his former policy, requested the Netherlands Government to convene the Conference. It was this Second Hague Conference, which in 1907 finally produced a series of international conventions of an executory nature. These included the well-known *Hague Regulations for the Laws and Customs of War on Land*. This text settled the difficult question of partisans by assimilating them to regular combatants, provided they were commanded by a person responsible for his subordinates, had a fixed distinctive emblem recognisable at a distance, carried arms openly, and conducted their operations in accordance with the laws and customs of war. In addition general principles of very great importance were established :

Article 46: Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

Article 47: Pillage is formally forbidden.

Article 56: The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property...

In regard to maritime law, the Declaration of Paris of 1856 had established certain rules to be applied in time of war.

Shortly after the adoption of the Hague Regulations the laws of war at sea were codified by the Declaration of London of 26 February 1909¹; and the London Procès-verbal of 1936 codified the laws of submarine warfare.

The Limitation of Armaments.

After the First World War the League of Nations adopted, on the instigation apparently of the American Observer, the *Geneva Protocol of 17 June 1925* concerning prohibition of the war-time use of asphyxiating, poisonous or similar gases and of bacterial weapons². It failed however in its attempt to limit armaments. The United Nations Organization, its successor, is to-day contending with the same problem, which is essentially political in nature and is particularly aggravated by atomic discoveries.

This question, so ominous for the future of mankind, was raised by the Soviet Union Delegation at the Geneva Conference, which met for the drawing up of the four Geneva Conventions of 12 August 1949; but the majority of the plenipotentiaries declared that they were not competent to deal with it, in view of the limits prescribed for the application of the Geneva Conventions and the discussions pending between Governments for the settlement of this fundamentally political question.

Nevertheless, in view of the deadlock which the Powers had apparently reached in their discussions concerning atomic weapons, the International Committee had no hesitation in offering its services in the attempt to reach a settlement on purely humanitarian lines. Just as the Hague Conferences have in several instances furnished occasion for the extension of Geneva law—various provisions of the 1907 Regulations served for example as a theme for the Geneva Conventions of 1929 and 1949 relative to prisoners of war and the protection of

¹ At its meeting in Oxford in 1913 the Institute of International Law adopted a manual of the laws of maritime warfare.

² The First Hague Conference (1899) had made a declaration relative to abstention from "the use of projectiles, the sole object of which is the diffusion of asphyxiating or deleterious gases": but, as we have seen, this declaration was not an agreement of an executory nature. The Protocol of 1925 was in fact put into effect, no use of gases having been made during the Second World War.

civilians—so it was natural to suppose that the Geneva spirit might assist in solving a problem on which depends in the last resort the future of mankind. The argument was based moreover on the provision of the Hague Regulations to the effect that “in cases for which the Regulations do not provide . . . the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilised peoples, from the laws of humanity and the dictates of the public conscience”.

We have now to examine a part of humanitarian law which although unconnected with war is nevertheless closely related to the law of the Red Cross—namely the rights of man.

THE RIGHTS OF MAN

The essential rights of man—his right to life, to freedom and to security—are based on the dignity of the human person, and are proclaimed as applicable to all men in all times and in all countries.

The origin of this notion dates back to Christianity. The English Magna Carta of the 13th Century, the United States Constitution and the Declaration of the Rights of Man and of the Citizen in France at the close of the 18th Century, were the first systematic declarations on the subject. But it remained for the 19th Century to introduce into positive international law these findings of the “philosophical” doctrine until then embodied separately in certain national constitutions.

This movement, of which the first Geneva Convention was the origin, developed to some degree before the First World War, expanded in connection with the social work of the League of Nations, and was later taken over by the United Nations Organization.

Thus Geneva, already an international capital by virtue of the Convention which created the Red Cross, became the centre within which a body of universal legislation, based on multi-lateral conventions ratified by all Powers, has spread over the globe a network of regulations proclaimed in the name of human

dignity. The principal agreements concern the prohibition and repression of slavery, the traffic in women and children, the drug traffic, pornographic literature, the protection of ethnical minorities, assistance to refugees, and the Universal Declaration of Human Rights.

The Abolition of Slavery.

Before the Christian era slavery was considered to be in conformity with natural law ¹. It is true that the Stoics doubted whether it conformed to nature and to reason ; and we have already seen how under the influence of Christianity this fundamental institution of antiquity gradually fell into disuse, to be replaced by serfdom, which in its turn was abolished more or less belatedly in the different European States ².

Certain forms of slavery continued nevertheless, by right of conquest in the case of prisoners of war, and by the so-called "droit d'épave" in the case of the shipwrecked. In 1199 the Lateran Council denounced such practices with excommunication. But the Rôles d'Oleron, the Ordinance of Charles the Fifth in 1522, decreed severe penalties against these practices, which proves that they had not entirely ceased.

In spite of these relics of the past the public law of Europe had almost completely eliminated slavery.

Guy Coquille wrote that "France knows no slavery" ; and a decree of the Toulouse Courts may be cited to the effect that "Slavery has no place in all the kingdom, so that even the slave of a foreigner is emancipated as soon as he sets foot in France, according to a former judgment of the Court against an ambassador ; and I recall being in Toulouse when a Genevese passing through the city was obliged to emancipate a slave he

¹ Bodin, in the 16th century, quoted Aristotle to the effect that the servitude of slaves was a natural law. See A. GARDOT *Recueil des Cours de l'Académie de droit international de la Haye*, 50, pages 549 ff.

² In his History of Charles XII Voltaire states that in 1700 the King of Denmark promised their freedom to all of his subjects who would take up arms against the Swedish invader. He adds : " This declaration was of great consequence in a country, which had been free in the past, and where today all the peasants and even many of the bourgeois are slaves " (*Histoire de Charles XII*, II, 43.)

had bought in Spain, seeing that the magistrates were about to declare him a free man, not only by virtue of the general custom of the Realm but also under a special privilege accorded to them by the Emperor Theodosius the Great " 1.

The law in this matter spread progressively to the different countries of Europe, all of which abolished slavery in their territory, with the consequence that any slave entering therein became *ipso facto* a free man.

All this while Moslem pirates were filling the gaols of Salé, Tunis and Algiers with Christian slaves 2.

After the discovery of the New World, slavery was not confined to the Moslems : for the Christian Powers engaged in the traffic of African negroes, in order to obtain the necessary man-power for exploiting their American colonies. This practice, sanctioned to some extent by international instruments such as the Treaty of Utrecht in 1713, began to encounter opposition in the early 19th Century. The famous declaration of the Treaty of Vienna remained, it is true, inoperative, though it was repeated in the Additional Act of the Second Treaty of Paris of 20 November 1815, as well as at the Congress of Aix-la-Chapelle in 1818 and the Congress of Verona in 1822. But the adversaries of England, which posed as the champion of the abolition of slavery, only saw therein a pretext for this Power to secure a political advantage through its claim of search of merchant vessels 3. All these declarations remained therefore without effect ; and nothing more could be done but to wait until each State had on its own initiative abolished slavery in the

1 Judgment of the Toulouse Courts against the Seigneur de Roche-Blanche of Gascony (1558) quoted by A. GARDOT, *op. cit.*, page 643.

2 The Crusades of St. Louis and the bombardment of Algiers by Louis XIV had for their object the freeing of the captives. Religious orders such as the Trinitarians, the Brothers of Mercy and the Lazarists made every endeavour for centuries to trace these unfortunate people and to help them, in particular by establishing some contact between them and their families. When Algiers was taken by the French forces in 1830, the city prisons still contained 122 slaves, most of whom were French.

3 This claim would have enabled Great Britain, on account of the superiority of its battle-fleet, to obtain absolute control of the world's navigation.

colonial territories it occupied¹. This result was attained in the first half of the century in every country except the United States. A violent anti-slavery campaign was launched with Harriet Beecher Stowe's book "Uncle Tom's Cabin" as its evangel². This campaign was the cause of the War of Secession (1860-1865) between the slave States in the South and the anti-slave States of the North. It ended by the victory of the Northern States, whereby the abolition of slavery was maintained, and the constitutional links between the several States of the U.S.A. were strengthened.

Nevertheless it was not until the passing of the Berlin Geneva Act in 1885, and the General Act of the Brussels Declaration in 1890, that an international agreement could be recorded for the complete suppression of slavery in all its forms, and of the slave traffic by land and on sea.

In 1924 the League of Nations Council nominated a temporary Commission on Slavery. Its Report was sanctioned by the Convention relative to Slavery, which was opened to signature in Geneva on 25 September 1926³.

This Convention defines "slavery" as the state or condition of an individual who is subjected to a right of ownership or particular attributions thereof, and the "slave traffic" as any act of capture, acquisition or cession of an individual. It further adds that recourse to forced or compulsory labour may have serious consequences, and contains an obligation to take steps to prevent forced or compulsory work leading to conditions similar to those of slavery.

Repression of the traffic in women and children.

The traffic in women and children was prohibited by the terms of an agreement signed in Paris on 18 May 1904, and

¹ Portugal under the rule of Pombal had legislated to this effect at the end of the 18th Century; and Bolivar, when establishing the independence of the Spanish colonies in America, made the abolition of slavery one of the articles of his Constitution (1821).

² This book was published in 1852. The author passed through Geneva in the following year; and Henry Dunant, then aged 25, made her acquaintance.

³ This Convention has to date been ratified by all the great Powers, with the exception of the USSR.

by a Convention also signed in Paris on 4 May 1910. The Convention for the Suppression of the Traffic in Women and Children, opened for signature in Geneva on 30 September 1921, confirmed both texts and added a few provisions. It provides for instance for the posting up in railway stations and ports of notices warning women and children of the dangers of this traffic and indicating places where they may find shelter and assistance¹. A Protocol signed at Lake Success, New York, on 12 November 1947 amends the text by conferring upon the Secretary General of the United Nations Organization the functions previously assumed by the Secretary General of the League of Nations.

Prohibition of Pornographic Publications.

The Convention for the repression of the circulation and sale of pornographic publications, concluded in Geneva under the auspices of the League of Nations, was amended for the same purpose by a Protocol signed at Lake Success on 12 November 1947.

Repression of the Drug Traffic.

The traffic in drugs was prohibited by the International Opium Convention signed at The Hague on 23 January 1912. In the days of the League of Nations a number of agreements, of which the last was dated 26 June 1936, were passed to supplement this Convention. A Protocol signed at Lake Success on 11 December 1946 conferred upon the Secretary General of the United Nations Organization the functions previously exercised by the Secretary General of the League of Nations in succession to the Netherlands Government.

The Protection of Ethnical Minorities.

The Convention on the Prevention and Punishment of the Crime of Genocide was signed on 9 December 1948 at the

¹ See on this subject R. BEYER, *Aspects de l'activité sociale de la SDN, la Traite des femmes*, Montpellier, 1926.

General Assembly of the United Nations in Paris. The object of this Convention is to prohibit mass executions of ethnical groups of different race to that of the majority of the inhabitants of any particular country. It prohibits collective massacres and racial persecution of all descriptions.

The Status of Refugees.

International legislation for refugees has not by any means met with similar approval by Governments. The Conventions passed between the two World Wars for the purpose of ensuring for refugees conditions similar to those of the nationals of the countries of resettlement were ratified only by a few States. The refugee problem having grown to considerable proportions after the Second World War, a suggestion was placed before the United Nations General Assembly for the recognition of joint responsibility by the States forming the international community for the assistance of these persons, where their support was beyond the means of the country of resettlement. This general principle was not admitted ; but the United Nations Organization to some extent recognised the obligation to assist in the settlement of this problem. At the instance of the High Commissioner appointed by the United Nations for the protection of refugees a new International Convention (which reproduces the principal points of the conventions passed between the two wars) was signed in Geneva by 18 Powers on 28 July 1951.

*Universal Declaration of Human Rights*¹.

The Universal Declaration of Human Rights adopted and proclaimed in Paris by the General Assembly of the United Nations on 10 December 1948 sets forth the guiding principles of civilisation. It is partly an enumeration of the rights recognised by the various Conventions mentioned above, and partly a definition of rights not yet established by existing texts.

¹ See *Revue Internationale de la Croix-Rouge*, April 1949, pages 244 to 264.

But, as opposed to multilateral conventions, this simple declaration has no executory effect. To give it effect, a Convention between the Powers will be needed ; and such a Convention is in fact now in course of preparation. Nevertheless the Declaration of Human Rights is an outstanding feature in the history of humanitarian law, of which it constitutes, so to speak, a synthesis. " Respect for the personality and dignity of human beings constitutes a universal principle, which is binding even in the absence of any contractual undertaking." This formula, proposed by the International Committee of the Red Cross to serve as a common preamble for the four Geneva Conventions of 1949, might also be applied to the Universal Declaration of Human Rights as an expression of the juridical force of this text, and indeed (it is to be hoped) as the preamble of all future international law.

* * *

From this brief outline of the growth of humanitarian law we have seen the outcome of centuries of effort founded on the dignity of the human being. This law has as its two elementary concepts the *universal* and the *human*.

We have seen how these two concepts finally emerged from the vicissitudes of history until they reached the height of their present radiance.

Antique civilisations, opposed to the formation of international law on account of the narrow limits of their municipal conception of citizenship, were unable to rise to universal ideas ; and, although the worship of the gods had to its credit a merciful attitude towards humanity in general, no protective measures for men as men were recognised by Roman Law, although it created the State system and was a bulwark of peace for generations.

In founding the dignity of the human person upon the creation of man in the image of God, and his redemption by the blood of Christ, Christianity established the universal concept which the Papacy has never ceased to assert.¹ But the Christian

¹ The etymological meaning of " Catholic " is " universal ".

World, compelled by the struggle against Islam, limited the scope of these principles in fact. Mankind was once again saved by religion thanks to the Scholastic philosophy, which created the laws of war and was an obstacle to man exploiting man in the colonising of the New World.

The Reformation called in question the theological bases of law. Under its influence the law of nations came into being which, though conceived as an element of natural law (which was not in itself inconsistent with Christian principles) was built up in the sole name of human reason. This was a definite triumph of the principle of human dignity independent of all theological considerations ; but the universal note, which was thereby again embodied in the conception of law, was not always conspicuous in the new world issuing from the French Revolution in so far as respect for the human person was concerned.

It is to the great honour of the Red Cross that the human concept is again restored in the relations between man and man. The first Geneva Convention, the foundation of the law of the Red Cross, set an example for multilateral conventions on the laws of war, the limitation of armaments and the social organisation of the world—that corpus in fact of texts, which at the present day determine the standards of the law of nations in the humanitarian field.

Henri Coursier

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of the International Committee
of the Red Cross.*

PRESS RELEASE

*SUSPENSION OF THE WORK
OF THE INTERNATIONAL COMMITTEE
OF THE RED CROSS IN KOREA*

Geneva, August 7, 1951.

The happy circumstance of the signature of an Armistice in Korea has enabled the International Committee of the Red Cross in Geneva to instruct its Delegation in South Korea to suspend the work it has been carrying on since the outbreak of the conflict. The cessation of hostilities will allow National Red Cross Societies, under the Armistice, to deal with the work of assisting prisoners of war being repatriated.

For the last three years the International Committee, whose action was sanctioned in South Korea only, has regularly visited prisoner of war camps, carrying out its traditional work on behalf of prisoners and other victims of the conflict and giving them assistance. Further, its Central Prisoners of War Agency in Geneva made periodical transmissions to North Korea of the lists of prisoners held in South Korea.

Although it is now in a position to suspend the work of its Delegation, the International Committee nevertheless remains ready and willing to give its services for the welfare of war victims, wherever its help may be considered necessary.

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ET
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DES SOCIÉTÉS
DE LA CROIX-ROUGE

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INTERNATIONAL COMMITTEE OF THE RED CROSS

THE LORD MAYOR OF LONDON VISITS THE INTERNATIONAL COMMITTEE OF THE RED CROSS

The Lord Mayor of London and Lady Rupert de la Bère, accompanied by their son and daughter, Valerie and Cameron de la Bère, Colonel J. Hulme Taylor, O.B.E., City Marshal and Mr. William T. Boston, O.B.E., Sword-Bearer, visited the International Committee of the Red Cross on Tuesday, September 15.

In the absence of M. P. Ruegger, President of the International Committee, at present abroad, M. Léopold Boissier, Vice-President, with Members of the Committee and the General Directorate, recalled in his welcoming address that Henry Dunant spent several years of his life in London and that, from the outset, Great Britain had adhered to the humanitarian movement of 1853 which finally led to the signature on August 22, 1864, of the first Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.

M. Boissier also recalled the magnificent welcome received by the International Committee's Delegates in London on the occasion of the XVIth International Red Cross Conference.

In his reply the Lord Mayor said he was very happy personally to thank the great Geneva institution, and to express his gratitude for its immense humanitarian work during the War, particularly on behalf of the British held in prisoner of war camps.

COMMENTARY
ON THE FIRST GENEVA CONVENTION
FOR THE AMELIORATION OF THE CONDITION
OF THE WOUNDED AND SICK
IN ARMED FORCES IN THE FIELD,
OF AUGUST 12, 1949

It will be recalled that in October last we referred in these pages¹ to the useful purpose of the Commentary on the First Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

The English version of this important work has just been published.

The Commentary, which is mainly due to the pen of M. Jean S. Pictet, Director for General Affairs of the International Committee of the Red Cross, and those of his collaborators who participated in the discussions of the Diplomatic Conference of Geneva in 1949, is a large volume of 466 pages.

It gives a comprehensive analysis—based on observation and practical experience prior to 1949 and in particular during the second world conflict—of the regulations which are today embodied in positive international law, and of which the adoption constitutes a fundamental advance in connection with the humanization of war.

The provisions surveyed are mostly those concerning the protection of the wounded and sick of armed forces, their treatment, respect for the dead, the status of the medical personnel of armies and of Red Cross Societies and their possible retention by the adversary, the fate of medical material, vehicles and aircraft, the use of the distinctive emblem of the Red Cross and its protection from abusive use, the application of the

¹ See *Supplement*, October 1952, p. 270.

Conventions in the various cases of conflict, the scrutiny exercised by the Protecting Powers, the penalties for abuses and infractions, etc.

This work will render service to all those who wish to make a deeper study of the Geneva law. It will be an essential instrument for those who will have to apply the provisions of the Convention, which has now been ratified by 26 States. It will also be of the greatest help to jurists and professors, who will find ample documentation in this wide survey on questions of international law.

The Commentary ¹, which has been published under the moral authority of the International Committee is in all respects worthy of the humanitarian tradition of the latter. It follows the generous course which has characterised the action of the International Committee since the Red Cross was promoted by Henry Dunant, and it makes a useful contribution towards the diffusion of Red Cross principles throughout the world.

¹ Copies in English may be obtained from the International Committee's headquarters at the cost of Sw. Fr. 15 each (bound) and Fr. 12 (unbound).

HENRI COURSIER

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of the International Committee of the Red Cross*

*FRANCIS LIEBER
AND THE LAWS OF WAR*

It may seem paradoxical that war, of which the object is the triumph of force, recognises other laws than those of force itself and develops within the framework of law. Civilisation has nevertheless led to certain regulations being set forth which belligerents are bound to respect.

Although from the Middle Ages onwards theologians had established the principles of war, the laws of war were not generally followed until the 18th Century, when they became an element of morality, and were enunciated by jurists in their modern form.

Occasional conventions between war chiefs for example then frequently regulated the exchange of prisoners, the treatment of the wounded or the protection of hospitals; and the first international instrument which gave force of execution to an extensive set of regulations in the event of conflict was the treaty concluded in 1785 between Prussia and the United States, bearing the illustrious signatures of Franklin and Frederick II. It is however evident that this bilateral Convention remained without legal effect in regard to States other than those of the contracting parties.

It is curious to note that this essential notion of the laws of war was introduced into international public law through the medium of civil war. During the War of Secession the President of the United States called upon an American jurist of Prussian origin, Francis Lieber, to draw up a code of rules for armies in the field, and this code was promulgated in 1863.

These "Lieber Laws" preceded both Bluntschli's "International Law Code" and the recommendations of the Brussels

Diplomatic Conference of 1874, which constitute the legal and the practical basis of the modern law of war.

The laws laid down by the two Peace Conferences held at The Hague in 1899 and 1907 are today in force throughout the whole world in the form of Regulations annexed to the Second Hague Convention of 1899 concerning the Laws and Customs of War on Land, adopted by 46 States (including all the great Powers), or the Regulations annexed to the Fourth Hague Convention of 1907 on the same subject (which moreover follows, practically word by word, the provisions of the 1899 Regulations), adopted by 31 Powers.

In his book "Paix et Guerre" Frédéric de Martens, commenting upon the contemporary codification of the laws of war, bestows deserving praise upon the Lieber Laws by stating that honour is due to the United States, and to President Lincoln, for having taken the initiative of making a precise definition of the customs and laws of war.

As the promulgation of the American Code¹ preceded by one year the Geneva Convention of August 26, 1864, which instituted the Red Cross and laid the basis of humanitarian law, one can gauge the value of the study of the Lieber Laws, in which the Laws of War of today are incorporated.

Lieber was born in Berlin in 1800. On October 27, 1806, he witnessed the triumphal entry of Napoléon, the conqueror of his country. Brought up in hatred of the French at the age of fifteen he enlisted in order to fight against them. On June 18, 1815 he was marching in the rain in the ranks of the Prussian forces. When he reached Waterloo, Napoléon's defeat had already taken place. That night the moon shone over the dead and wounded on the battlefield—26,000 French, 21,000 English, Dutch, Belgians, Germans and Prussians, as related by Henry Houssaye. He heard the groans of the dying, and saw the looting of dead bodies, while solitary shots were still being fired. It was a harsh lesson for a boy of fifteen. Five days later he joined

¹ We refer the reader to this principal text, namely the *Code of War for the Government and Armies of the United States in the Field*. For the sake of clarity, we are adding a few details of the life and work of Francis Lieber, together with a brief commentary on some of the provisions of the Code, in order to draw attention to its humane character.

in the fighting. He was wounded in the neck and became unconscious. Shortly afterwards he was again wounded, this time seriously, and was removed to a temporary field hospital at Namur. There he contracted typhoid fever, and suffered distress and solitude, receiving no news of his parents for months.

On his recovery, in the joy of victory, was he to receive the reward of his youthful courage?

Unfortunately he suffered bitter disappointment. Like many of his comrades, filled with energy and hope he plunged into his studies; but their professors, imbued with Liberal ideas, on the strength of which they had led them to the fray, were no longer in favour with the Governments, distrustful of the abhorred heritage of the French Revolution. The "Burschenschaft" Movement, enthusiastically followed by so many youths like Lieber who were intoxicated with patriotism and liberty, was a cause of disquiet to those in power. The Austrian Chancellor Metternich, then all-powerful in Europe, wrote to Hardenberg, the Chancellor of Prussia, asserting that a central government composed of deputies chosen by the people would mean the dissolution of the Prussian State and adding that the Burschenschaften were a disorderly element.

For having joined a "Burschenschaft" and for having written a few verses to the glory of liberty Lieber was (like his masters Follen and Jahn) prosecuted and arrested. After five months' detention he was discharged, but was forbidden to attend university courses in Prussia or to seek official employment. Having been thus practically excluded from the intellectual centres of his country, Lieber drifted from one university to another in the neighbouring States—to Iéna (from which he was however expelled after acquiring the degree of Doctor of Philosophy), to Halle and to Dresden.

The appeal of the Philhellenists, made him think he had found his vocation. Greece rose against Turkey. As a champion once more of culture and liberty he set out for Greece accompanied by about thirty comrades as courageous but also as poor as himself. On arriving at Navarino after the battle, they realised how vain was their quest, and saw that their efforts

would do more harm than good to the Greek cause. After two idle months they disbanded. Lieber was stranded in Rome, where for the first time in his life he met with good fortune in the person of the savant Niebuhr, then representative of the King of Prussia with the Holy See. The Ambassador took an interest in him and engaged him as tutor for his son. From that time he was under the Ambassador's patronage, which was unailing and in many instances his salvation.

Lieber had not yet finished with the tribulations of his impetuous and studious youth. Imprisoned on his return to Berlin for refusing to bear witness against Follen, he had once again to appear before a commission of enquiry after having spent some time in Mecklenburg as tutor with the Bernstorff family. This was too much. Irritated by police supervision, incapable of renouncing the ideal of liberty which he had set up as his sole guide, he embarked on May 22, 1826 in order to put the ocean between him and his persecutors. After vegetating for a few months in London, where Niebuhr's recommendation would nevertheless have given him the possibility of a teaching post in a newly founded university, he decided to sail for America.

In Boston this same recommendation enabled him to obtain a professorship in the college which Follen had just left ; and from that time he enjoyed a peaceful life, fruitful study, and within a short time fame.

He became an American citizen, and on the next Fourth of July he took part, at the invitation of the Governor of Massachusetts, in the commemoration of American Independence. During his long career as a professor in the United States, first in Boston, then in Columbia (South Carolina) and finally at the Columbia University, New York, he edited the *Encyclopedia Americana* in 13 volumes (1829/1832), and published a *Manual of Political Ethics* in 2 volumes (1838/1839), a miscellany entitled "Legal and political hermeneutics of principles of interpretation and construction of law and politics with remarks on precedents and authorities" (1839), and a work on "Civil liberty and self-government", (1853), not to mention a great many notes and consultations which made him stand out as a jurisconsult of world renown.

Ideas having advanced in Prussia, in 1844 he was asked to return and even to teach there, but refused out of loyalty to his new fatherland.

During the War of Secession his three sons were mobilised in the ranks of the Federal Army. The eldest, Oscar, was killed in 1861.

Thus in the autumn of his life Lieber relived the thrills of his youth in seeing his sons experiencing the dangers he himself had met in his fifteenth year.

The civil war threatened to be particularly bitter. The Confederates were waging a war of partisans, and in the name of the Union the Federal Generals had taken severe measures against them. General Grant had announced that persons acting as guerillas, without organisation or uniforms to distinguish them from private citizens, would have no right to be treated as prisoners of war, should they be captured, and would not receive such treatment. On May 19, 1862, in view of the serious nature of the situation the United States Government was obliged to accord full powers to the Generals.

But in his generous soul President Lincoln, the Quaker who had only become resigned to war through the impossibility of saving the Union without taking up arms, was distressed by this strife between brothers. The memory of civil wars which had followed the upheavals of the French Revolution, the repression of the Vendée outbreak, the brutal conflict for the independence of the Spanish colonies, and the bloody revolutions of Paris, Naples, Budapest and Warsaw made internal conflicts appear a more terrible danger for civilisation than war itself. War could be moderated by "cartels" between the heads of armies; but did not the fact that the Union Generals were confronted by rebels and not by enemies, according to the classical definitions of the law, present the danger of their using their full powers to inaugurate a war of extermination of a more atrocious nature than had ever been known? Continuous reprisals on both sides in obstinate desperation could not but lead to inexpiable crimes, all the more odious because the aim in view was none other than the combatants' final reconciliation within the Union.

It was then that Lincoln turned to Lieber, in the desire that limits should be placed in the name of Law upon partisan feelings. Lieber had just published a note on "Guerillas considered in relation to the Laws and Customs of War"; and the idea of applying the laws and customs of war to an internal conflict such as the War of Secession seemed precisely to fill the purpose which the President had in mind. It would be sufficient to declare that such application in no way affected the juridical capacity of the rebels, and that it was purely and simply a humanitarian act.

* * *

Lieber's promptitude in carrying out the task entrusted to him clearly showed his familiarity with the subject. His studies, his experience and his long years' practice in teaching law had given him frequent opportunities of studying the precepts to be set forth.

His work was complete and perfect from the outset. The authorities concerned made practically no changes in the text.

With the exception of a few original provisions or points relevant to the occasion, this statement of clear and concise regulations for armies in the field is in general in accordance with the doctrine and practice of the laws of war as they existed at the end of the previous century.

Vattel of Neuchâtel, the renowned juriconsult, who in 1756 had embodied the customs for the humanization of war as then practised in regular armies as principles of law, no doubt inspired Lieber's work as a whole. The ideas of the French Encyclopedists still prevailed in the liberal notions on which the American Professor based his work. For them the "law of nature" limited the strict laws of war. Under the title "War" in the "Grande Encyclopédie"¹ it is stated that hostile acts against an enemy should be reviewed in the

¹ *Encyclopédie ou dictionnaire raisonné des sciences, des arts et des métiers*, volume XVI, page 775.

light of the Law of Nature in a humane or even generous light. In so far as the necessities of defence and future security allow therefore, the harm inflicted upon an enemy should always be mitigated by these most natural and just sentiments. If it be said that the voice of law should not be raised amid the tumult of war, it should be replied that, while the Laws of Man may be silent, the eternal Laws of Nature, made for all times and for all peoples, must always be heard.

This doctrine was followed by Lieber in his various works, and particularly in his *Encyclopedia Americana*, which was practically a translation and adaptation of the *Konversations Lexicon* of Brockhaus. It may be recalled that the Treaty of 1885 between Prussia and the United States, which Lieber certainly had in mind, interpreted the main points of this liberal doctrine in terms of positive law.

With regard to the application of these principles, the American Professor found a certain number of examples in the legislation of the French Revolution. For instance, the Convention decreed in 1793 that equal treatment for enemy or national soldiers in military hospitals should be compulsory. Again he found inspiration in the attitude of General Dufour, who had repressed the Sonderbund revolt against the Swiss Confederation with humanity in 1847. In his "Recommendations" to his divisional commanders the General wrote: "If the enemy troops are repulsed, care for their wounded as for our own; give them all the respect due to their misfortune", and in another passage: "He who lifts his hand against a harmless being is a disgrace to himself and to his flag. Prisoners, and wounded especially, are all the more deserving of your respect and sympathy since you have often been in the same camps with them".

The question for the United States in 1863 was much the same as for Switzerland in 1847. It is to these two countries' credit that the voice of humanity should have been raised and heard in both.

The principle admitted by Lieber is therefore to apply even to rebels, "that branch of the Law of nature and nations which is called the law and usages of law on land" (Art. 40).

He also states :

“ The Law of Nations... admits of no rules or laws different from those of regular warfare regarding the treatment of prisoners of war, although they may belong to the army of a Government which the captor may consider as a wanton and unjust assailant ” (Art. 67).

The sole exception to this rule concerns the juridical aspect of the problem, for he goes on to say in Article 152 :

When humanity induces the adoption of the rules of regular war toward rebels, whether the adoption is partial or entire, it does in no way whatever imply a partial or complete acknowledgment of their government, if they have set up one, or of them, as an independent and sovereign power.

This reservation removes any pretext for the opposing of humanitarian needs on the grounds of State requirements.

When the Geneva Convention in 1864 set up the first elements of the right of the Red Cross on behalf of the wounded and sick of armies in the field, the precepts thus laid down by Lieber were of great importance ; for it was by referring to them that a claim could be put forward for the application of the Geneva Convention in the case of civil war. The occasion first arose in 1873 during the Carlist Rising in Spain. Another author of a work on the laws of war, Dr. Landa,¹ who was instrumental in placing the Red Cross on a firm basis in Spain made use of the precedent in American law to urge that the protection of the Geneva Convention should be extended to the rebels. “ Consider ”, he said, “ the horrible position of a wounded man, who is obliged to keep in hiding, and for fear of the police dares not ask for medical treatment since the doctors are obliged to notify all wounded suspects to the authorities.” We see from this quotation the benefits of Lieber’s ideas for the application of the laws of war to civilian conflicts.

¹ DR. LANDA, “ *La charité dans les guerres civiles* ”. Article published by the “ *Gaceta popular* ”, Madrid, August 25, 1873. See in this connection the *Revue internationale de la Croix-Rouge*, March 1953, page 20.

In this connection one of the most difficult questions to be solved is that of the treatment applicable for "partisans".

Lieber gives it a definite solution by supporting the measures taken by the Union Generals during the War of Secession :

"Men, or squads of men", he writes "who commit hostilities, whether by fighting or inroads for destruction or plunder, or by raids of any kind, without commission, without being part and portion of the organised hostile army... are not public enemies and, therefore, if captured... shall be treated summarily as highway robbers or pirates" (Art. 82). "Armed prowlers, by whatever names they may be called... are not entitled to the privileges of the prisoners of war" (Art. 84).

It is particularly difficult to define the status of partisans. The attitude of commanders of strong, disciplined troops, dedicated to the offensive and anxious to occupy conquered territory without resistance, will always be restrictive in comparison with the feeling of populations who have suffered unexpected aggression and are inclined to favour resistance by all means. How can the standards of good faith be fixed between these two conceptions? The strong man no doubt has less incentive to break the law than the weak man, and so may be thought to have less merit than the weak man in observing it. This was clearly in evidence when the Brussels Conference met in 1874 to codify the laws of war. The Conference was a failure precisely on account of the impossibility of agreement on the question of partisans. Representatives of heavily armed States such as Prussia insisted upon the elimination of partisan warfare whereas the small Powers, supported by England, maintained the right for the population to rise against the invader. This difficult question was only solved by the Hague Regulations which, though less strict than Lieber's text, nevertheless only assimilated partisans to regular combatants on condition that they were commanded by a responsible person, had a fixed distinctive emblem recognisable at a distance, carried arms openly and conformed to the laws and customs of war. These conceptions were confirmed in 1949 by the Geneva Conventions.

It is not our intention to comment or to enlarge upon the American Code of 1863 for armies in the field. We merely cite a few passages which show the moral aspect and humane nature of Lieber's laws.

Article 4 states: "Martial Law is simply military authority exercised in accordance with the laws and usages of war... As Martial Law is executed by military force, it is incumbent upon those who administer it to be strictly guided by the principles of justice, honour and humanity—virtues adorning a soldier even more than other men, for the very reason that he possesses the power of his arms against the unarmed."

In Article 11 we read that: "The law of war does not only disclaim all cruelty and bad faith... It disclaims all extortions and other transactions for individual gain; all acts of private revenge, or connivance at such acts."

And in Article 12: "...sentences of death shall be executed only with the approval of the chief executive, provided the urgency of the case does not require a speedier execution, and then only with the approval of the chief commander."

Article 15 has a fine ending, namely: "Men who take up arms against one another in public war do not cease on this account to be moral beings, responsible to one another and to God."

This last thought is characteristic of Lieber's work, not only because it expresses his faith in God, but because it is related to one of the themes of his *Manual of Political Ethics*, in which he says: "Great liberty gives great rights and therefore duties". This notion of the responsibility of the free man towards his fellowman was familiar to him. He summarized it himself by the French expression "Droit oblige".

The Instructions of 1863 prohibited, in the name of these noble sentiments, all unnecessary cruelty and dishonourable acts. Article 148 concerning "Assassination" is particularly characteristic:

The law of war does not allow proclaiming either an individual belonging to the hostile army, or a citizen, or a subject of the hostile government, an outlaw, who may be slain without trial by any captor, any more than the modern law of peace allows such intentional outlawry; on the contrary, it abhors such outrage. The sternest retaliation should follow the murder committed in consequence of such proclamation, made by whatever authority. Civilised nations look with horror upon offers of rewards for the assassination of enemies as relapses into barbarism.

With regard to the protection of populations, particular mention should be made of Article 23 which prohibits mass deportations, and Article 25 which favours the maintenance of family ties.

But Lieber was not only concerned with the protection of individuals. He also sought to keep intact, so far as possible, the enemy's artistic and scientific possessions, which rightly speaking are part of the common capital of mankind.

Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places whilst besieged or bombarded (Art. 35).

Ans this rule is emphasised by the following remark in Article 118:

The besieging belligerent has sometimes requested the besieged to designate the buildings containing collections of works of art, scientific museums, astronomical observatories, or precious libraries, so that their destructions may be avoided as much as possible.

These few examples give an understanding of the generous nature and humane purpose of Lieber's Laws, and lay stress on the high degree of civilisation which emerges from them.

If, after reading the whole of the 1863 Instructions, we attempt to summarize the general notions which they embody, we may also find useful directives with a view to the reestablish-

ment of certain fundamental ideas which current events have made obsolete.

* * *

For Lieber war is lawful, provided it is concluded according to the rules of civilisation—that is to say, the strict and fully legal rules of the laws and customs of war. According to these rules, as expounded by Bluntschli ¹, who owes so much to Lieber, international law entirely rejects the right to determine arbitrarily the lot of private individuals. It does not allow them to be subjected to harsh treatment or violence. Personal safety, honour and liberty are individual rights, which war does not allow to be impinged upon. The enemy may only take the measures required for military operations or the policy of the State. War with its devastating consequences can never serve a purpose in itself. It is always a means of enforcing respect of the law or of realising the purposes of a State. The forces at issue in war are not therefore of an absolute nature. War should be limited, and should cease when it is no longer subservient to the realisation of the State's purpose.

This theory of war is both realistic and moral. While one may, and should, hate war or even on the practical side agree with Franklin that there has never been a good war or a bad peace, we are obliged to admit that war remains in fact one of the laws of mankind. Noble attempts to exclude war for ever have never prevailed over actual facts, and the United Nations Charter itself refers to cases where war is legitimate.

The experience of centuries, which is still ruling today, continues therefore to oppose justice and force, as outlined by Pascal in his famous saying that justice without force is powerless, that force without justice is tyrannous and, as there are no means of giving power to justice, let force at least be just. Lieber's work finishes on this note.

Nevertheless he placed this justice—plus—force on such a high level, with a sense of the humane which is an honour to civilisation, that events have not always ratified his judgment.

¹ BLUNTSCHLI, *Droit international codifié*, Introduction, pages 35 ff.

No doubt the Hague Regulations, which (as we have said) still constitute today the law in force, closely followed the 1863 Instructions. But the experience of two World Wars and the ensuing events have revealed many infringements of the principles of the Hague Regulations ; and the question arises today whether some adjustment could be made for their application. This question was in fact recently raised by the International Law Institute ¹.

In attempting to solve this serious problem one cannot do better than to turn to Lieber himself.

His works clearly show the fundamental causes of misunderstanding between men. In his *Juridical and Political Miscellany* he wrote that men had no direct communion of spirit. Whatever the thoughts, emotions, conceptions, joyful or sorrowful ideas, we may wish to convey to other persons, we cannot do this without having recourse to the external manifestation of our most intimate feelings, that is by signs... the true meaning of every sign is that which corresponds to the wishes of the person using it... the result is that the total exclusion of any misunderstanding imaginable is, in the majority of cases, absolutely impossible.

In such a serious matter as war, where passions have so wide a range as to obscure reason, there must really be a community of very strong ideas to conceive "laws", that is to say, to subordinate the will to reason.

Lieber recognised this on several occasions in his Instructions. Article 14 speaks of "*Military necessity, as understood by modern civilised nations...*" and Article 24 says that: "The almost universal rule in remote time was, *and continues to be with barbarous armies*, that the private individual of the hostile country is destined to suffer every privation of liberty and protection, and every disruption of family ties. Protection was, *and still is with uncivilised people*, the exception."

But this difference of the intellectual and moral level between civilised and uncivilised peoples is not, unfortunately, the only cause of misunderstanding between men. Conflicts of such

¹ See *Revue internationale de la Croix-Rouge*, February 1953, page 132.

violence have arisen between civilised peoples that since the Hague Conferences mankind has experienced several cases of "total warfare", a new conception which tends to abolish the laws of war. How many infringements have been made to Lieber's Laws and the Hague Regulations by the conduct of people at war! The theory of natural law as set forth by Lieber should help humanity to emerge from this chaos. He wrote "I live as a human being, for that very reason I have the right to live as a human being". His words find their echo today in the appeals of the Red Cross. Since the promulgation of Lieber's Laws the latter has given a new element to this conception of the humane. The Geneva Conventions of 1864, 1906, 1929 and 1949, while reaffirming in part the laws of war, have defined the regulations for the protection of the wounded and sick, and subsequently for prisoners of war and for the civilian population in times of war. It would appear necessary to go still further, and in the same spirit (with due recognition of the exigences of humanity) to adapt to present-day needs those clauses of the Hague Regulations which require to be revised, defined or completed. It may no doubt be admitted that the laws of war establish a fair compromise between the notions of necessity and humanity; but an idea may serve as a guide in the arduous search for such a compromise, and such an idea is set forth in Article 16 of the 1863 Instructions: "... in general, military necessity does not include any act of hostility which makes the return to peace unnecessarily difficult."

This is the safe and humane path of justice. It had already been found in the fifth Century by the first theorist of the laws of war, Saint Augustine, the inheritor of ancient wisdom and the ancestor of the theologians, when he wrote to Bonifacius, Prefect of Africa: "Even in war, shouldst thou again be therein, seek for Peace."

PRESS RELEASE

*TWO MEMBERS
OF THE EGYPTIAN RED CRESCENT DIRECTORATE
VISIT THE INTERNATIONAL COMMITTEE
OF THE RED CROSS*

September 9, 1953

During the first week of September, M^{mes} Chawarby and El Far, Vice-Presidents of the Egyptian Red Crescent, made a short study-visit to the International Committee of the Red Cross in Geneva. They made a special study of the question of assistance to Palestine Arab refugees, and the training of medical personnel and its work in time of war or disturbances.

Thanks to this visit the International Committee had the opportunity of collecting valuable information on the work of the Red Crescent in Egypt.

During their stay in Switzerland Mmes. Chawarby and El Far were also in contact with the Secretariat of the League of Red Cross Societies in Geneva, and paid a visit to the Swiss Red Cross services in Berne, in particular those concerned with blood transfusion and the campaign against tuberculosis.

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DE LA CROIX-ROUGE

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INTERNATIONAL COMMITTEE OF THE RED CROSS

PRINCIPAL ITEMS OF INTEREST

During October the work of the International Committee of the Red Cross had for its principal objects :

Greece. — On being informed of the catastrophe which devastated the islands of the Ionian Archipelago, the International Committee, through its Athens Delegation, immediately placed at the disposal of the Greek authorities and Greek Red Cross, for emergency relief on behalf of the stricken populations, 500 blankets, twelve tons of foodstuffs, a ton of clothing and half a ton of medical supplies, drawn from its stocks in Athens. At the same time 2,250 doses of anti-tetanic serum, antibiotics and dressings were sent from Geneva. This consignment was forwarded by the most rapid means available thanks to the kind offices of the League of Red Cross Societies which shipped it by the aircraft allocated for its own relief action.

It is common knowledge that the International Committee of the Red Cross has since 1947 been carrying on a relief action for the victims of disturbances in Greece, whether military personnel, civilians accused of various offences or men and women interned on account of their political beliefs. Of these persons, 550 were among the victims of the destruction of prisons in Zante and Cephalonia, who had to be transferred to other places of detention in Greece. Thanks to the permanent stock of relief supplies held by the ICRC in Athens for such emergencies (which had been built up from gifts in kind from abroad or by supplies sent by the International Committee itself) it was possible to give each detained person thus transferred a parcel of clothing and a blanket from the quantity placed at the Committee's disposal by the Greek Red Cross.

In addition a head-nurse of the International Committee, sent from Geneva to Greece, proceeded to the stricken areas accompanied by members of the ICRC Delegation in Athens. This mission was requested by the authorities in command of the devastated islands to organise the setting up in Zante of a vast camp for sheltering 1,500 persons. This camp, consisting of over 80 tents and a dispensary for first aid, was set up within a very short time. The army undertook to provide food supplies for the camp ; and a medical officer arrived to help the Committee's nurse, who had set up an assembly and welfare centre for about a hundred children next to the main camp.

When conveying their gratitude for this relief action in favour of the Greek people in their great distress, the Greek authorities and Greek Red Cross, as well as the Military Command of the devastated islands, expressed the hope that the International Committee of the Red Cross would continue to carry out its relief action in Zante for as long as possible.

Disabled. — The Disablement Section has continued its work of collective and individual relief.

The last action referred to on behalf of amputated "Volksdeutsche" in camps in the German Federal Republic was terminated in Bavaria by a further gift of prostheses.

In Greece prostheses have been obtained for amputated persons under detention.

Reuniting of families. — Eight years after the close of hostilities in Europe the consequences of the war are still felt. It is well known how many civilians, in addition to the armed forces, were the innocent victims of the combats, and how many families were broken up and scattered.

In order to remedy these individual and collective misfortunes as far as possible, the International Committee of the Red Cross has for some years past undertaken work on a vast scale for the reuniting of families. It is now in a position to announce that the Yugoslav Red Cross in effective contribution to this work has just organised its eighth transport of *Volksdeutsche* children, which has recently arrived at the Austrian frontier. The convoy

consisted of 34 children who will remain in Austria, 3 others who will go to England, one who will go to France, one to Venezuela and 160 to Western and Eastern Germany.

This convoy brings up to 75,217 the total number of persons "reunited" in connection with this humanitarian work of the International Committee of the Red Cross, carried out in cooperation with a number of different National Red Cross Societies and with the understanding and support of the authorities of the countries from and to which the transports take place.

LUCIE ODIER

*Member of the International
Committee of the Red Cross*

MEDICAL PERSONNEL ASSIGNED TO THE CARE
OF THE WOUNDED AND SICK IN THE ARMED
FORCES

(Training, Duties, Status and Terms of Enrolment)

INTRODUCTION

The International Committee of the Red Cross submitted to the Health, Medical Personnel and Social Aid Commission of the XVIIIth International Red Cross Conference (Toronto, July-August 1952) a Report entitled Training, Duties, Status and Terms of Enrolment of the Medical Personnel Assigned to the Care of the Wounded and Sick in the Armed Forces.

The findings of this Report, after being discussed point by point, were unanimously approved.

Nevertheless, all National Societies not having been represented on the various Commissions, the International Committee thinks it proper to recall to the Central Committees of National Red Cross Societies, and more particularly their Nursing Sections, certain conclusions of this Report and to comment thereon.

I. DUTIES OF RED CROSS MEDICAL PERSONNEL IN WARTIME

The general work of assistance to military war victims concerns the competent authorities of each State ; but these authorities usually entrust part of this work to relief agencies and especially to their National Red Cross Society which, according to the Geneva Conventions, becomes an auxiliary of the Army Medical Services in wartime.

In order to organise its relief sections each National Red Cross Society should be informed as to what its future duties will be as an auxiliary of the Army or the Civilian Medical Services in a national or international conflict. It is therefore essential that, prior to any organisation, it should come to an arrangement on this subject with the competent official services of its Government. The duties entrusted to Red Cross Societies by Governments vary greatly in the different States. In some countries the number of military hospitals is not sufficient to meet war-time needs, and the Red Cross is responsible for the preparation and operation of complete hospital units. In other countries it has more limited duties such as the training and enrolment of medical or auxiliary personnel for the military hospitals. In other cases it is in charge of the blood transfusion service, or organises occupational therapy for convalescent patients. Sometimes it is also in charge of a special category of military or civilian sufferers such as the tuberculous, the blind, amputees or paralytics.

It should be borne in mind that social and moral assistance to hospital inmates has become an indispensable complement to modern therapy, and that in the tragic circumstances of war this form of assistance is of most particular importance for the military wounded and sick who suffer constant anxiety not only for their health but also for their families, who may be far away and in difficult circumstances. When in military medical units this social assistance and intellectual and moral solace is not supplied by the Army Medical Services, there is a specific demand for Red Cross work, which National Societies should keep in mind.

But physical or moral assistance to the wounded and sick are not the only duties which may be entrusted to National Societies in war time : they may also be called upon by their Governments to set up official information bureaux as advocated by the Conventions, or to undertake certain relief action for prisoners of war and civilians of enemy nationality interned in their own territory. On many occasions they have also been entrusted with the preparation of relief parcels for their own troops in enemy hands.

These few examples, and many others could be given, prove that the activities of National Societies as the auxiliaries of Medical Services are most varied in nature ; and the carrying out of each of the duties mentioned calls for careful planning beforehand, efficient management, a numerous and qualified personnel and important stocks of all medical or other equipment essential for the successful issue of the undertakings concerned.

It should also be recalled that the setting up and functioning of relief sections, especially where National Societies assume wide-spread activities, will need considerable financial support, which should be immediately available in case of emergency. National Societies would be well advised to make the necessary arrangements beforehand. Some National Societies do not have sufficient financial reserves for financing out of their own means the duties they may be called upon to perform in the event of war. In most cases they solicit grants from their State for this purpose. This means of financing is justifiable ; but it must not affect the moral independence that National Societies should always retain, even in relation to their own Governments. In the case of a conflict in particular they have to apply the essential and primordial principles of impartial assistance to suffering persons, whether friends or foes, without any distinction of a national, racial, political, religious or economic nature.

II. TRAINING OF MEDICAL PERSONNEL

I. *Male and female nurses.* — Modern therapy requires that nursing personnel should be given full training, both in theory

and in practice, for the care of the wounded and sick. Whereas in the past hospital establishments had to make shift in wartime with a more or less improvised voluntary personnel, this is not the case today. Well-organised Medical Services make certain of the collaboration of the best specialists and of highly qualified professional nurses and orderlies. If the country has not sufficient numbers of qualified personnel for the Red Cross to enrol a proper quota of nurses and orderlies in the hospital services, the Red Cross should take the necessary measures to meet this deficiency in good time. In case of need it may be called upon to set up and manage a school, or schools, for nurses male or female. In assuming such responsibility the Red Cross should take care that the training of personnel in such schools is on the highest possible professional level, for it is in duty bound to set an example in this connection. It is constantly reminded of this by the International Red Cross Conferences.

In time of war medical personnel have to assume heavy responsibilities; and the men or women who hold important posts in hospital establishments should not only have received excellent technical and practical training in the care of the sick, but should also have capacities for leadership.

In order to develop their training and to improve their knowledge, it is desirable that in the course of their work nurses should from time to time take refresher courses in the various branches of medicine and surgery. When moreover the Red Cross enrolls nurses in its emergency services, who have worked for many years in hospitals or clinics endowed with all modern improvements, it would be advisable for such nurses to take regular courses in practical first aid with a view to developing their initiative and aptitude for organisation. In time of war these nurses may not always have at their disposal the instruments, utensils or apparatus which are available in well-equipped clinics, and it will be necessary for them to be capable of giving the best treatment with improvised means.

2. *Voluntary Aids.* — In countries engaged in a conflict there is sometimes a sudden influx of a large number of wounded and sick. In such tragic moments the professional medical

personnel will be overwhelmed with work, and should be assisted by voluntary aids, who take over part of their work and in particular the small daily duties of such great importance for the well-being of the wounded and sick. In order to give the valuable help which nurses expect from voluntary aids, the latter should have elementary theoretical and practical training in the care of the sick; they must however be aware of their limited knowledge, and of the dangers to which their patients would be exposed, should they attempt too much. Voluntary aids must be prepared to submit to the hierarchical and very strict discipline which is essential to the efficient work of Red Cross services in time of war. The training of voluntary aids varies greatly in the different countries. It is usually compressed and of short duration, in order that it may be followed by a great number of persons of different professions who have little spare time available.

If National Societies have large numbers of certified nurses at their disposal it is evident that the role of the voluntary aids will in proportion be of less importance, and that their training will be of a somewhat more elementary nature. But in countries where a shortage of professional nurses already exists in normal times, provision must be made for training large numbers of voluntary aids. The latter will perforce be called upon to give more complicated treatments, and their training should therefore be less elementary and of longer duration. No standard syllabus of training courses would therefore be suitable for voluntary aids of several nationalities. It is however highly desirable that the Red Cross in every country should, after consultation with professional nurses, set up training courses for practical and theoretical care of the sick, and social assistance, embracing all the specific tasks which would fall to the voluntary aids in the event of a conflict. It is most desirable that nurses should take an active part in training voluntary aids. These two groups of medical personnel, whose respective spheres should be clearly defined, will be called upon to work together in time of emergency and to give equal devotion to their duties. In the difficult and tragic moments of a conflict, the efforts of the medical personnel (which may be most arduous) are greatly

facilitated by the spirit of mutual help and goodwill which prevails among all members of a well-organised medical unit.

3. *Social Workers.* — The personnel, who will be called upon to give social and moral assistance to victims of conflicts, should also have previous training in work which entails so much responsibility. In order to assume functions which may sometimes be of a very delicate nature, National Societies would be wise to secure the services of professional social workers, at least as regards important posts and for the direction of these sections. If the country has not sufficient numbers of fully trained social workers, provision should be made for the enrolment and training of auxiliary personnel to assist them. It is vital that social, moral and spiritual aid to war-wounded should be dispensed by persons of high moral value, who are open-minded and fully aware of the difficulties of life. Such persons should also be well informed of the social laws of their country and the relief agencies to which the wounded and sick can turn in case of need.

4. *Teaching of Red Cross principles.* — All members of a Red Cross unit, employed as doctors, orderlies, nurses, voluntary aids, social workers or for other duties, should be duly taught the principles of the Red Cross whose emblem they wear. They must pledge themselves to respect these principles and to assume the obligations they imply. At the Toronto Conference the Delegates placed emphasis on the importance of teaching Red Cross principles, which they judged to be essential for all persons enrolled by National Societies. In time of war the fundamental Red Cross principles, to which the Conventions make ample reference, require that medical personnel under Red Cross protection should remain as it were detached from the conflict, and that all their efforts should be devoted to the care of the victims (whether friends or enemies) with equal solicitude and without distinction as to nationality, race, religion or political opinions. This, the most noble task of National Societies, draws direct inspiration from the highest of Red Cross ideals. This principle of humanitarian and impartial aid predominates over national interests and animosities; but it must be said

that in total warfare it is sometimes misunderstood by public opinion, and both courage and abnegation are required to defend it and to give it prevalence. All Red Cross personnel should be aware of these difficulties and of the moral responsibility they assume on their enrolment.

In addition, medical personnel assigned to the care of military wounded and sick are subject to military laws and regulations. Members of medical units must therefore be informed of these laws in order to comply with them, as any infraction might involve them in very serious difficulties.

The personnel under Red Cross protection in time of war is also under the obligation to conform to the provisions of the First Geneva Convention, signed and ratified by its own Government. For this reason members of units are subject to rights and duties which they must strictly observe, to avoid compromising the full protection which the enemy is under obligation to grant to wounded and sick of armed forces.

These Red Cross principles, and also the contents of the Laws and Conventions which are applicable in time of war, are often quite unknown to Red Cross workers themselves. This gap should be filled; and this could be done by interesting courses, which should form the basis of all training of medical personnel.

III. STATUS OF MEDICAL PERSONNEL

The results of the International Committee's survey among National Societies and Army Medical Services show that the status of nurses in wartime varies considerably from one country to another, and that these differences are harmful to international collaboration, and to cohesion in medical teams formed of nurses and voluntary aids of different nationalities. As however the status of women in the medical personnel incorporated with Army Medical Services concerns the military authorities, the International Committee of the Red Cross proposed to the XVIIIth International Red Cross Conference (Toronto) that the question should be submitted to them, in order that personnel of equivalent formations may have practi-

cally the same status in all armies. This proposal having been unanimously accepted by the delegates present, the International Committee referred the recommendation to the Chairman of the International Congress of Military Medicine and Pharmacy, which includes representatives of the Medical Services of various countries, and is pleased to state that this organisation immediately took up the study of the question.

As regards the status of Red Cross Voluntary Aids in wartime, it has been ascertained that these voluntary workers usually come under the supreme authority of their National Society, which assigns to them the status and living conditions which their position requires. However, as this question is also being examined by the International Congress of Military Medicine and Pharmacy, it should be held over until the results of the survey are known.

IV. TERMS OF ENROLMENT OF RED CROSS PERSONNEL

In order that National Societies may carry out the work which may possibly be assigned to them in wartime, it is essential for them to make sure of the collaboration of nurses and voluntary aids in sufficient numbers, and with technical and moral qualifications of the highest order. The methods of enrolment greatly differ according to the country concerned. In some Societies the services of the entire staff are voluntary : in others certain allowances are given : in others again National Societies pay standard rates to the professional staff, and give allowances to voluntary aids. As a general rule the method of enrolment reflects the economic conditions prevailing in each country ; and it appears advisable for National Societies to retain the faculty of remunerating, or of not remunerating, their personnel, whichever method may be more appropriate, provided they are able to enrol qualified helpers in sufficient numbers, this being of course the most important point.

In countries where unpaid workers only are employed, it would be regrettable if persons possessing all the necessary qualities for giving useful Red Cross service should be prevented

from so doing, because their financial position does not allow them to take unpaid employment. The Red Cross services cannot be reserved for the privileged ; they should be open to all who can give efficient service in the Red Cross spirit, irrespective of their social standing.

National Societies have an obligation, at least on moral grounds, towards men or women who have contracted diseases or sustained accidents or wounds while in their service. Every Society should, if this has not already been done, examine the means of providing its personnel with whatever treatment may be required. If an infirmity resulting in disablement is the consequence of an illness or accident of an individual engaged in Red Cross duties, the unfortunate victim must be assured of decent living conditions without having to resort to public charity.

During a discussion on this special point at the XVIIIth International Red Cross Conference, one of the delegates said that the best means of helping a disabled person who can no longer ply his trade is to give him the possibility of taking up other remunerative employment compatible with his infirmity, and in that connection dwelt on the necessity for professional readaptation of disabled medical personnel, in order to enable them to revert to as normal and independent life as possible.

* * *

In the conclusion of its Report to the Health, Medical Personnel and Social Aid Commission of the XVIIIth International Red Cross Conference, the International Committee drew the particular attention of National Societies to the great dangers threatening the civilian populations of war-stricken countries. So long as war is not abolished and the use of atomic or blind weapons is contemplated, civilian populations in all countries are in danger. With this great peril in view National Societies cannot remain silent or inactive. In agreement with their Governments they should firstly take all practical steps for giving effective assistance to war victims, and secondly use all unpolitical means available to them for promoting goodwill among peoples and preventing future conflicts.

BIBLIOGRAPHY

Ellen HART : *Man born to live*. Victor Gollancz, London, 1953.

For many years to come there will be works on Henry Dunant, promoter of the Red Cross movement and initiator of the Geneva Convention. With such rich material available to them, historians are being drawn in increasing numbers to the study of this noble life, of which some aspects were so romantic ¹.

Now an Englishwoman, Miss Ellen Hart, has in turn brought a stone to the monument. Miss Hart took advantage of her stay in Geneva to consult the documents of the International Committee of the Red Cross. She made a patient search among the letters and manuscripts of Henry Dunant donated to the Geneva Library by his heirs in 1937. Continuing her search outside Switzerland, she studied the archives of private collections in England and the United States. From the information thus collected Miss Ellen Hart has written an excellent book which gives a most touching picture of Henry Dunant. The prefaces are by Her Royal Highness the Princess Royal and M. Paul Ruegger, former Swiss Minister to the United Kingdom, President of the International Committee of the Red Cross,

The description of Dunant's childhood and youth, from May 8, 1828, the day of his birth, until his first departure from Geneva in 1852, gives an attractive picture of a happy life on the shores of Lake Léman with the Alps as a background. Later Henry Dunant has wistful memories of "the view of Mont Blanc rising in majesty opposite the balcony of the villa and the magnificent sunsets over the glorious glaciers which then belonged to the Kings of Sardinia". His home circle, that of a good and ancient family living quietly and unostentatiously in a

¹ See *Revue internationale de la Croix-Rouge*, January and April 1952.

Geneva governed by the Calvinist Reformation and old civic traditions, coupled with an edifice of ideas based on the humanitarian movement which took shape in Europe with the birth of Romanticism, incited Henry Dunant to love his fellowmen.

After this period, which seems to be suffused with a poetical light, Dunant left for Algeria, where he dreamed of setting up important undertakings on behalf of Genevese business men. On reaching the shores of Africa where he found an exotic world, he soon imagined vast schemes for the exploitation of agricultural concessions, and sought for their successful conclusion the personal support of Napoleon III. To this end he left for Italy, where the Emperor was at the head of the French Army fighting against Austria.

On the battle-field Dunant was deeply affected by the sight of the wounded and dying. Moved by a powerful sentiment of compassion he gave rapid and direct assistance to the wounded. His book, "Un Souvenir de Solférino", which he launched with stirring effect in 1862, is at the same time a summary of his recent tragic experience and a lesson. This booklet had such a great success that at the youthful age of thirty four (the age of Renan who at that time was writing his "Vie de Jésus") Henry Dunant came into history as the apostle of peace and charity.

From that time this man of fervent soul had found his true vocation. He wished to substitute for the law of murder the law of love and goodwill.

The consciousness of his mission gave him new vigour in creating the life-saving work of the Red Cross. He successfully undertook to win the approval of sovereigns and governments to the notion of convening in his native city an international conference; and this confirmed his views by adopting the Geneva Convention of 1864 for the Amelioration of the Condition of the Wounded and Sick in the Armed Forces in the Field. Many millions of wounded owe Henry Dunant their lives and their health as a result.

By his imagination and his action this genial visionary, the disciple of Pasteur Gaussen, resembles another prominent figure of the XIXth Century, his contemporary Ferdinand de

Lesseps, an adept of Saint-Simonism. Both left their mark on the sands of Time.

After success came failure. His African undertaking involved him in inextricable financial problems. Laden with debts he had to give up Geneva, and to take up residence first in Paris and then in London. He carried on the fight from abroad. For another twenty years he advanced abundant proposals for the relief of suffering and the improvement of man's condition. No humanitarian question failed to touch this great promoter of ideas, who interested himself in the conditions for prisoners of war and the victims of maritime warfare, who aroused public opinion in favour of the campaign against slavery, the return of the Jews to Palestine, disarmament and international arbitration.

Fatigue, illness and resentment against those who did not give credit to his generous intentions turned his thoughts to bitterness. In July 1887 Henry Dunant returned to Switzerland. He passed weary days in the solitary retreat of his old age at Heiden, a small town of Appenzell, on the border of the forest and the mountain. It was here that as an octogenarian he received the first tokens of admiration from a new generation. He was awarded the Nobel Prize ; and the flow of messages of gratitude from all parts of the world did not cease until October 30, 1910, when he passed away shortly after 10 p.m.

Miss Ellen Hart has the art of bringing her characters to life. She fully reveals the heroic aspect of the life of Henry Dunant, who tried to mould his destiny in line with his principles. She makes us aware of the crisis in the existence of this apostle, who was completely bound up with his work. If civilisation can be saved and humanity preserved from destruction, this will be due to men like Dunant, who have bequeathed to the world a noble and generous message of charity and salvation, which should be heard by the youth of all countries.

Roger Boppe.

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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 retaliatory 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.

REVUE INTERNATIONALE
DE LA CROIX-ROUGE
ET
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DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

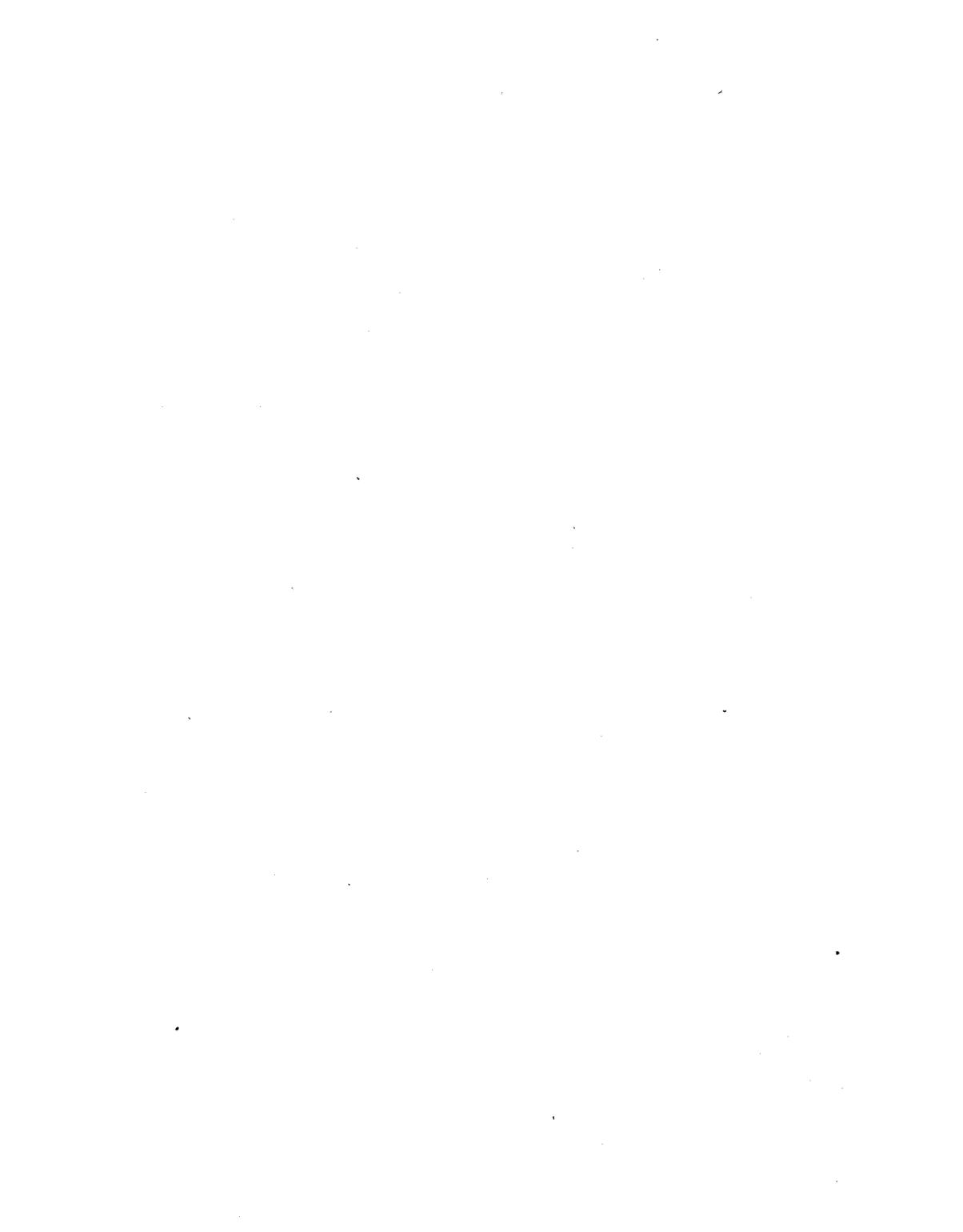
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*Secretary in the Central Management
of the International Committee of the Red Cross*

*THE DOCTOR
IN THE GENEVA CONVENTIONS OF 1949
(continuation)*

Maritime Warfare

As we have already seen, the Second Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked members of Armed Forces at Sea is an adaptation to the conditions reigning for maritime warfare of the principles laid down by the First Convention. Thus the majority of our comments on the subject of the First Convention concerning war on land may also apply in the case of the Second. This is especially true of the general principles, and of all that has been said on the subject of the wounded and sick (to which it will suffice to add "shipwrecked"). There is an exception however with regard to the regulations for the medical personnel of hospital and other ships, which fall into enemy hands. These regulations differ from those concerning the personnel of land forces. They will be considered later in the chapter dealing with the retaining of medical personnel.

It should moreover be noted that maritime medical personnel will always be more "specialized" than the personnel of medical services of land forces, in which civilian doctors can be more easily incorporated after a minimum of military training. We do not think it necessary therefore to enlarge upon all the provisions of this Second Convention, as the extensive training given to naval medical officers nearly always includes the study of these provisions.

We propose therefore to confine ourselves to a rapid survey of the special provisions of this Convention which may possibly concern military or civilian medical personnel.

1. *Application of the Convention in the Mercantile Marine and Civilian Aviation.*

The Convention applies in principle to the shipwrecked, wounded and sick at sea belonging to the various branches of armed forces. But it also extends its protection to the crews of the mercantile marine and civilian aviation, in so far as the latter do not benefit by more favourable treatment under other provisions of international law (First Convention, Article 13).

2. *Handing over of wounded, sick or shipwrecked to a warship.*

All warships of a belligerent have the right to demand the surrender of the wounded, sick or shipwrecked on board military hospital ships or those belonging to relief societies or private individuals, as well as merchant vessels, yachts and other craft, whatever their nationality, provided that the wounded and sick are in a fit state to be moved, and that the warship can provide adequate facilities for necessary medical treatment (Second Convention, Article 14).

This provision is essentially the concern of naval medical officers, as it is for them to decide if the patients can support trans-shipment, and if they are in a fit state to support the conditions, very often of a less satisfactory nature, prevailing on board a warship. The medical officers of the warship should bear in mind that by accepting the wounded they assume the responsibility of making these victims (who are entitled to the most ample protection) share the inevitable, and often very great, risks attaching to every belligerent warship.

3. *Appeals for assistance to neutral vessels.*

In Article 21 the Second Convention authorises the Parties to the conflict to appeal to the charity of commanders of neutral merchant vessels, yachts or other craft to take on board and care for wounded, sick or shipwrecked persons and to collect the dead.

These neutral vessels are not of course obliged to respond to this appeal ; but charitable feeling will impel them to do so.

The medical officers of these vessels in particular may have a favourable influence in such cases.

It is obvious that here again no distinction whatever may be made among the victims for whom help is requested, and that their nationality in particular should play no part in the decision to accommodate them or not.

4. *The protection of sick-bays on warships.*

Should fighting occur on board a warship, the sick-bays are to be respected and spared as far as possible (Second Convention, Article 28).

It will be the duty of medical officers and the persons responsible for such sick-bays to see that they are respected and, in case of need, to organise their defence. Such defence (it is important to note) cannot be considered as a hostile act towards the attacker and cannot in consequence deprive the sick-bay of its right to protection.

5. *Conditions which do, or do not, deprive sick-bays of protection.*

The protection to which hospitals and sick-bays are entitled (Second Convention, Article 34) being similar to the protection granted to medical establishments, we refer to our comments on the latter.

There should be added to the conditions considered as acts harmful to the enemy, liable to cause the lapse of protection, the fact of hospital ships possessing or making use of a secret code for their wireless or other means of communications (Second Convention, Article 34, second paragraph).

To the conditions which are not liable to cause lapse of protection there should, on the other hand, be added :

- (a) the fact of the presence on board of apparatus exclusively intended to facilitate navigation or communications,
- (b) the fact of hospital ships having transport equipment and personnel exclusively intended for medical duties, over and above their normal complements.

Captivity

I. *Regulations concerning enemy prisoners of war.*

A Power, which has captured prisoners of war, is responsible for their treatment (Third Convention, Article 12). It is in particular bound to give them, free of charge, the medical care required by their state of health (Third Convention, Article 15), without prejudice to the provision that prisoners of war should preferably be treated by medical personnel of their own nationality (Third Convention, Article 30, third paragraph).

As a general rule, prisoners held by military authorities will be given the necessary treatment by military medical personnel. It may however occur that, the latter not being sufficient in number, the military authorities will call upon civilian doctors for this purpose. It is therefore necessary for these doctors to be acquainted with the regulations with which they must comply.

Such doctors will of course devote to the work all their professional attributes, and conscientiously give their patients the benefit of all their knowledge. They will not let themselves be influenced by any feeling of antagonism towards the new patients.

- (a) Medical officers will ensure that all sanitary measures are taken for the cleanliness of camps and to prevent epidemics (Third Convention, Article 29).
- (b) Adequate infirmaries are to be set up. Patients suffering from contagious or mental diseases are, if necessary, to be isolated (Third Convention, Article 30, first paragraph).
- (c) Prisoners suffering from serious diseases, or whose condition necessitates special treatment, are to be admitted to any military or civil unit qualified to give such treatment (Third Convention, Article 30, second paragraph).
- (d) Prisoners may not be prevented from presenting themselves to the medical authorities for examination.

They may request to be issued with an official certificate indicating the nature of their illness, its duration and the kind of treatment received (Third Convention, Article 30, fourth paragraph).

- (e) At least once a month all prisoners are to be given a thorough medical inspection (checking and recording of weight, examination of the general state of health, nutrition and cleanliness, and detection of contagious diseases, etc.). The most efficient methods are to be employed, e.g. mass periodic miniature photography for the detection of tuberculosis (Third Convention, Article 31).
- (f) The Detaining Power, in utilizing the labour of prisoners, is to ensure that national legislation for the protection of labour, and national regulations for the safety of workers, are applied. Prisoners so employed are to receive training, and to be provided with proper means of protection for their work, similar to those provided in similar cases for nationals of the Detaining Power (Third Convention, Article 51).
- (g) Prisoners who sustain working accidents, or who contract a disease in consequence of their work, are to receive all the care their condition may require. The Detaining Power is to deliver to them a medical certificate to enable them to submit their claims to the Power on which they depend (Third Convention, Article 54).
- (h) Prisoners' fitness for work is to be verified by medical examinations at least once a month, during which particular regard should be paid to the nature of the work they are required to do. The medical authorities must receive for this examination any prisoner who so requests. Medical officers may recommend prisoners, whom they consider unfit for work, for exemption therefrom (Third Convention, Article 55).

- (i) Independently of the work carried out by the Mixed Medical Commissions, the medical authorities should examine seriously wounded or seriously sick prisoners with a view to their repatriation or their accommodation in a neutral country (Third Convention, Articles 109 and 110).

2. *Retaining of medical personnel.*

(a) Retained personnel.

The question of the retaining of medical personnel, who fall into the hands of the adverse party, is the most important that the Diplomatic Conference of 1949 had to resolve in connection with the First Geneva Convention. The solution which it found has indeed raised sharp controversy, particularly in medical circles ; and the storms thus raised have not yet entirely subsided. We think therefore that this question should be viewed here from a closer angle.

For this it seems necessary to quote the entire Article 28 of the First Convention which deals with retained personnel and then to make a detailed analysis of the subject.

Personnel designated in Articles 24 and 26 who fall into the hands of the adverse Party, shall be retained only in so far as the state of health, the spiritual needs and the number of prisoners of war require.

Personnel thus retained shall not be deemed prisoners of war. Nevertheless they shall at least benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949. Within the framework of the military laws and regulations of the Detaining Power, and under the authority of its competent service, they shall continue to carry out, in accordance with their professional ethics, their medical and spiritual duties on behalf of prisoners of war, preferably those of the armed forces to which they themselves belong. They shall further enjoy the following facilities for carrying out their medical or spiritual duties :

- (a) They shall be authorized to visit periodically the prisoners of war in labour units or hospitals outside the camp. The Detaining Power shall put at their disposal the means of transport required.

- (b) In each camp the senior medical officer of the highest rank shall be responsible to the military authorities of the camp for the professional activity of the retained medical personnel. For this purpose, from the outbreak of hostilities, the Parties to the conflict shall agree regarding the corresponding seniority of the ranks of their medical personnel, including those of the societies designated in Article 26. In all questions arising out of their duties, this medical officer, and the chaplains, shall have direct access to the military and medical authorities of the camp who shall grant them the facilities they may require for correspondence relating to these questions.
- (c) Although retained personnel in a camp shall be subject to its internal discipline, they shall not, however, be required to perform any work outside their medical or religious duties.

During hostilities the Parties to the conflict shall make arrangements for relieving where possible retained personnel, and shall settle the procedure of such relief.

None of the preceding provisions shall relieve the Detaining Power of the obligations imposed upon it with regard to the medical and spiritual welfare of the prisoners of war.

First Paragraph. — Retained Personnel.

This provision allows of medical personnel being retained, on such terms however as to show that retaining is subsidiary, and dependent upon the principle of repatriation.

According to the 1929 Convention, the retaining of medical personnel was only possible through an agreement. Under the 1949 Convention on the other hand the practice is fully legalised. But for a belligerent to hold back part of the medical and religious personnel fallen into his hands, he must hold prisoners, whose state of health or spiritual needs makes the retaining of the personnel in question necessary or essential for their requirements. The action must be justified by real and imperative needs.

It is not possible to deduce from the text of the Convention that the retaining of personnel is conditional on the adverse Party holding prisoners of the same nationality. Paragraph 2 of Article 28 stipulates that retained medical personnel are to carry out their duties "on behalf of prisoners of war, *pre-*

ferably those of the armed forces to which they themselves belong". Thus a belligerent holding more personnel than required of any particular nationality would be justified, if circumstances so required, in retaining such personnel to look after prisoners of another nationality. A solution of this nature, which obviously appears to be irregular, should remain exceptional and temporary.

Besides the condition arising out of the prisoners' medical and spiritual needs, there is a reference to the number of prisoners. It is only included to enable the proportion of retained personnel to be determined. Article 31, paragraph 2, stipulates that Powers may determine by special agreement the percentage of personnel to be retained in proportion to the number of prisoners.

In the absence of an agreement the Detaining Power will determine the percentage on the basis of reason, equity and experience. The maximum number is that which is sufficient to meet the exact needs of a camp without having recourse to the personnel of the armed forces of the captor.

The wording of this paragraph reflects the idea that the capture of medical personnel is bound to be fortuitous. It is inconceivable that any belligerent would deliberately try to capture them.

Paragraph 2. — Status of, and regulations for, detained medical personnel.

A. First and Second sentences — Status.

The Convention provides that retained medical personnel "shall not be deemed prisoners of war" and adds that "nevertheless they shall benefit by all the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949". At first sight this wording is not perfectly clear. The object of the word "benefit" is to specify that the provisions of the Convention on prisoners of war are not all applicable to retained medical personnel, but merely those which constitute an advantage for the latter. This is sufficiently

proved by the wording of the corresponding article in the Convention on the Treatment of Prisoners of War (Article 33), which states that " they [the retained medical personnel] shall, however, receive as a minimum *the benefits and protection* of the present Convention ". Moreover, the minutes of the Conference definitely show that the legislators fully intended to lay down that the Detaining Power could only apply to retained medical personnel such provisions of the Convention on Prisoners of War as may be considered an advantage for them.

The Diplomatic Conference therefore wished, firstly not to treat retained medical and religious personnel as being in the same position as prisoners of war, but at the same time to ensure for them the advantages and protection which the Convention confers upon prisoners of war. It thus intended to give them the means of carrying out their medical or spiritual duties on behalf of the captured in the best possible conditions.

The Conference judged, on the one hand, that it was necessary to assert the universal (and in a way " neutral ") character of personnel, whom the nature of their functions placed outside the conflict. It should also be borne in mind that this personnel should normally have been repatriated, and that, if they are retained, it is only as an exceptional measure in the exercise of a charitable mission with the consent, and in some degree even for the account, of the Home Power.

On the other hand the Conference recognised that the guarantees afforded by international law to prisoners of war were efficacious, that they had proved their worth, and that in general they constituted the best protection that could be given to persons in the enemy's power.

During the time passed in enemy hands medical personnel, though legally not prisoners of war, will in fact find their liberty restricted to a certain extent. This situation will inevitably arise from the fact itself of their being " retained personnel ", from their enemy nationality and from the Detaining Power's need to ensure its military and political security. Moreover Article 28 provides that they are to be subject to the discipline of the camp where they are retained. The restrictions placed on their liberty will vary according to circumstances ; and it is

to be hoped that belligerents will show particular goodwill in this respect, by resorting to measures of control and of assigned residence, rather than actual internment, whenever possible. But one can hardly imagine that a Power would ever grant retained medical personnel full liberty of movement, and be willing for them to move about in a country at war, with all the risk of espionage which would result therefrom.

B. Third Sentence. — Exercise of functions.

Retained medical personnel and chaplains *continue* to exercise their medical and spiritual functions for the benefit of the prisoners. The words clearly show that, whereas capture followed by retention places medical personnel in a new position and under a different authority, the functions for which they are there—the care of military wounded and sick—remain unchanged; and it should be possible for these functions to continue without obstruction or solution of continuity.

These functions will henceforth be carried on within the scope of the military laws and regulations of the Detaining Power and under the control of its competent services.

The Convention nevertheless tempers these requirements by a provision to the effect that members of the medical and religious personnel are to exercise their functions “in accordance with their professional etiquette”. Though they are under the administrative control of the captor authorities, their subordination is not unlimited. The restraint of the Detaining Power should not go beyond the bounds of the sphere which, both for ministers of religion and for doctors, is governed by the dictates of their profession and their conscience. For instance, a doctor could not be forbidden to give treatment to a sick person who would otherwise remain without attention, or be forced to give treatment which would be injurious to the patient’s health.

The text further states that retained personnel are to exercise their functions for the benefit of prisoners of war “preferably those belonging to the armed forces upon which they depend”.

C. Fourth Sentence and items (a), (b) and (c). — Facilities.

This sentence enumerates the further facilities which are to be granted to members of this personnel. It is specified at the outset (and is repeated in the detailed provisions) that these facilities are granted to them for " the exercise of their medical or spiritual functions ".

The facilities expressly specified in the Convention are thus of an imperative nature, and are always to take precedence over any other provisions of the Convention which may be cited in this connection.

D. Provisions of the Convention for Prisoners of War applicable to the retained personnel.

In connection with matters governed solely by the provisions prescribed for prisoners of war, consideration should be given to the factors arising out of the special position of the members of retained personnel and the nature of their duties, which may be summarized as follows :

- (a) the performance of medical or religious functions for the benefit of prisoners should be the decisive factor. Should there be any doubt, the most favourable interpretation on the point is to be adopted ;
- (b) the retained personnel are in fact in a state of restricted freedom ;
- (c) the personnel are subject to the military discipline of the camp where they are retained.

It follows that a great majority of the provisions of the Convention for prisoners of war are applicable to retained medical and religious personnel. It is to be hoped the Powers will take steps to clarify by agreements points on which the meaning is not clear.

E. Conclusions.

The various factors for determining the status and conditions peculiar to medical and religious personnel fallen into the

hands of the adversary and retained to care for their prisoner compatriots may be summarized as follows :

1. They are not prisoners of war, but enjoy the special immunity belonging to their profession.
2. Owing to their status of "retained personnel", their enemy nationality and the need for a Detaining Power to ensure its own security, they in practice only enjoy restricted freedom.
3. They are subject to the laws and regulations of the Detaining Power and to the internal discipline of the camp in which they are retained.
4. They exercise their functions in accordance with their professional etiquette.
5. They may not be compelled to carry out any work other than that concerned with their duties.
6. They may visit working detachments and hospitals.
7. The doctor in charge and the chaplains have access to the authorities and correspondence facilities.
8. They receive as a minimum all the benefits and protection of the Convention for Prisoners of War, except in so far as special arrangements are made on their behalf (items 3 to 7 above).

Paragraph 3. — Possible relief of medical personnel.

During the last world conflict belligerent countries considered instituting "relief" of medical officers retained in enemy camps by personnel sent from the home country to take their place, the former being repatriated.

The Diplomatic Conference did not think fit to make such a system compulsory ; it confined itself to making it an optional measure for agreement between the belligerents concerned.

In its Third Resolution however, the Conference requested the International Committee of the Red Cross to prepare a model agreement for the organising of relief of this nature¹.

Paragraph 4. — General obligations of the Detaining Power.

In conclusion the Article says that none of its provisions are to relieve the Detaining Power of its obligations with regard to prisoners of war in medical or religious matters.

Retention, as it is understood by the new Convention, should remain a loan of assistance, an additional benefit for the prisoners of war. The Detaining Power remains entirely responsible for the welfare of the prisoners of war in its power.

On the other hand, the Detaining Power is finally responsible for the work of the retained medical personnel, and may take whatever measures of guidance and control it may consider necessary, in conformity always with paragraph 2 of the Article in point.

(b) The return of non-retained medical personnel.

In Article 30 the First Convention stipulates that medical personnel, who are not retained by virtue of Article 28, are to be returned as soon as a road is open for their return and military requirements permit.

Pending their return they are not to be deemed prisoners of war but are to benefit at least by all the provisions of the Third Convention. They are to continue to fulfil their duties under the orders of the adverse Party, and preferably to be engaged in the care of the wounded and sick of the Party to the conflict to which they themselves belong.

On their departure they take with them the effects, personal belongings, valuables and instruments belonging to them.

It may be observed in this connection that, should the repatriation of these members of the medical personnel be

¹ The International Committee of the Red Cross is now preparing this model agreement, for which the basic information has been supplied after an enquiry made among its members by the International Committee of Military Medicine and Pharmacy.

delayed, and the exercise of their duties make it justifiable, they would certainly be entitled to request a more extensive application of this provision. Moreover, by the sheer force of circumstances they should even be considered, within a fairly short delay, as having joined the ranks of the retained personnel, at least as regards their privileges, and so obtain the full benefit of the provisions of Article 28.

(c) Selection of personnel to be returned.

The selection is to be made irrespective of any consideration of race, religion or political opinion, preferably according to the chronological order of capture and the personnel's state of health (First Convention, Article 31).

It is also provided that Parties to the conflict may determine by special agreement the percentage of personnel to be retained in proportion to the number of prisoners, and the distribution of the personnel in the camps. In a final Resolution the Diplomatic Conference requested the International Committee of the Red Cross to prepare a model agreement for this purpose ¹.

(d) Return of the personnel of neutral countries.

The medical personnel lent to a belligerent by a recognized Relief Society of a neutral country, if they fall into the hands of the adverse Party, are in no circumstances to be considered as prisoners of war and may not be retained.

Unless otherwise agreed, these persons are to be allowed to return to their country as soon as possible or, if this is not feasible, to the territory of the belligerent to whom they were lent. Pending their return, they are to continue their work under the direction of the adverse Party, preferably in favour of the wounded and sick of the belligerent to whom their services were lent. They are to be granted the same food, lodging, allowances and pay as the corresponding personnel of the Power into whose hands they have fallen.

¹ This model agreement is now being prepared and the basic information was again supplied to the ICRC by the International Committee of Military Medicine and Pharmacy, following a detailed enquiry recently made among its members.

On their departure they take with them all the effects, personal articles, valuables, instruments, arms and, if possible, the means of transport belonging to them (First Convention, Article 32).

(e) Members of the Medical profession who, as combatants, may have become prisoners of war.

It may occur that doctors, dentists, medical orderlies or nurses are not enrolled in the Medical Services of their own armed forces but in a fighting unit. If captured, they will then of course become prisoners of war.

In this case Article 32 of the Third Convention allows the Power holding them to call upon them to exercise their professional functions on behalf of such of their compatriots as are also prisoners. Consequently, it is the duty of members of any of these four professions thus detained to make themselves known to the authorities upon whom they depend and to offer their services.

It should be observed that according to the terms of Article 32, the captor Power is not obliged to make use of the services of these doctors, dentists or medical orderlies ; but, if it does, the latter are obliged to give their services. It need hardly be emphasised that their services should always be given conscientiously and without compulsion. They are in such case to receive the same treatment as corresponding retained medical personnel and in particular to be exempted from any other work.

(f) Medical personnel of hospital ships and other craft.

We have seen that for the medical personnel of the land forces the retention of part of this personnel to assist in the care of prisoners of war is fully authorised.

At sea a different solution is adopted, especially with regard to the personnel of hospital ships. In this case the liberal conception which prevailed in the 1864 and 1907 Conventions is entirely predominant. Thus, the religious, medical and nursing personnel of a hospital ship and its crew cannot be captured or retained (Second Convention, Article 36). This difference in treatment is fully justified ; without its personnel and its crew,

a hospital ship could not longer fulfil its purpose ; for they are, as it were, an integral part of it. As has been pointed out, the ship would merely become derelict.

The protection to which members of the personnel and crew are entitled is enhanced by two further provisions. It is to prevail for the entire duration of their services on board the hospital ship ; and in addition they cannot be retained if they have been temporarily obliged to leave their ship or to go on land. Again the momentary absence of wounded and sick on board cannot cause their immunity to be withdrawn : for a hospital ship must have freedom of movement even if empty, and be able to put to sea at any moment.

This provision only applies to the personnel necessary for the operation of a floating hospital. It does not cover the extra medical personnel which the ship is allowed to transport. The position for this personnel is stated in the following Article (Second Convention, Article 37) which concerns the religious, medical or nursing personnel, apart from that of hospital ships, which may fall into enemy hands. It has a fairly extensive scope. In practice nevertheless it will in most cases apply to the medical personnel of captured vessels. These may be vessels of the Naval Forces or the Merchant Navy. As for the personnel, it belongs to the Army Medical or Chaplain Services and will be respected and protected in the same way as the corresponding personnel of the land forces.

What will be the outcome, if the personnel falls into the power of the adverse Party ?

For the reason stated above, the Diplomatic Conference of 1949 did not adopt for this personnel the solution decided upon for the personnel of the land forces. They will benefit by more liberal treatment, but still not such favourable treatment as that enjoyed by the personnel and crew of hospital ships (Second Convention, Articles 36 and 37).

The Convention prescribes that this personnel may continue to exercise their functions so long as this is necessary for the care of the wounded and sick. This does not mean that the personnel might dispense with such duties, but rather that they cannot be prevented from carrying them out. The wounded

and sick referred to are those only who happen to be on board the captor or captive vessel where the personnel was found.

When the presence of medical personnel on board is no longer essential, they are to be sent back as soon as the Commander-in-chief, under whose authority they are, considers it practicable. They may take with them, on leaving the ship, their personal property.

Such is the ruling. It is different to that which has prevailed for the land forces, and is in conformity rather with the traditional ideas of 1864 and 1907. But the wording is no longer so absolute; it is liable to an exception.

The Convention now gives the captor Power the right to retain part of this personnel, if this is proved necessary for the medical and religious needs of prisoners of war.

This personnel should be landed with all possible speed. On landing they will be subject to the provisions of the First Geneva Convention, which we have examined above.

It remains to consider the position of medical and nursing personnel of the Mercantile Marine who fall into the hands of the adverse Party. It has been seen that the Conference also applies to wounded, sick or shipwrecked members of crews of the Mercantile Marine, in so far as they do not benefit by more favourable treatment under other provisions in international law. With this reservation, all that has been said in connection with the medical personnel of warships is also applicable for the medical personnel of the Mercantile Marine. It is however inconceivable that medical personnel belonging to the Mercantile Marine would ever be retained to care for prisoners of war in general, though their retention to care for merchant seamen in the hands of the adverse Party would be justified.

B. CIVILIAN MEDICAL PERSONNEL

1. *Right to treat patients.*

With one exception, all treaty stipulations which directly concern the civilian doctor in wartime are to be found in the Fourth Convention for the Protection of Civilian Persons.

The exception is contained in Article 18 of the First Convention. In view of its importance we quote it in full :

The military authorities may appeal to the charity of the inhabitants voluntarily to collect and care for, under their direction, the wounded and sick, granting persons who have responded to this appeal the necessary protection and facilities. Should the adverse Party take or retake control of the area, he shall likewise grant these persons the same protection and the same facilities.

The military authorities shall permit the inhabitants and relief societies, even in invaded or occupied areas, spontaneously to collect and care for wounded and sick of whatever nationality. The civilian population shall respect these wounded and sick, and in particular abstain from offering them violence.

No one may ever be molested or convicted for having nursed the wounded or sick.

The provisions of the present Article do not relieve the occupying Power of its obligation to give both physical and moral care to the wounded and sick.

The principle expressed here is certainly one of the greatest achievements of the Geneva Convention, and was directly inspired by the events of Solferino. The wounded combatant should not only be respected. He should also be given treatment without delay, whatever his nationality may be. This task is of such urgency that, if the Army Medical Services are not available, an appeal for help should be made to the civilian inhabitants of the countries where conflicts are in progress. These civilians, if they respond to the appeal, are to be protected while engaged in this charitable work.

This appeal to civilians obviously concerns the doctors in the first place. Whereas it is optional for the inhabitants to respond or not, doctors are morally obliged to do so. They will be still more inclined to respond, as they now know they will receive greater protection while engaged in their duties. The sentences which have in the past been incurred by doctors and nurses for having cared for wounded enemies or friends would today be contrary to the letter of the Convention, and to paragraph 3 of this Article in particular.

It may also be observed that the Diplomatic Conference, which drafted these Conventions, refused to link the authority

thus granted to civilian inhabitants to give spontaneous aid with the acceptance of military control or any sort of compulsory declaration which might be tantamount to delation and might lead in the case of the doctors, to a breach of professional ethics. A military authority might no doubt issue orders of this description ; but, as the Rapporteur of the First Committee of the Diplomatic Conference observed, " It would be extremely undesirable that this should be mentioned in a humanitarian Conference ".

On the other hand, what are the protection and facilities mentioned in the first paragraph? They will depend upon circumstances, and cannot be enumerated. It should merely be remembered that it would not be in order for such protection to involve the right to display the red cross emblem, either on the premises sheltering the wounded person, or on the armband worn by the voluntary nursing orderly, even should he be a doctor. The premises could not be treated like a medical establishment, or the doctor be considered a member of the medical (or even the auxiliary) personnel of the armed forces.

We now come to the provisions of the Fourth Convention. We have already referred to several under Section II, which deals with general principles, and Section III, which deals with times of peace. There remain the provisions concerning times of war.

2. *Protection and respect due to the wounded, sick, infirm and expectant mothers.*

This is purely and simply the application to civilians of the great principle concerning military wounded and sick which dominates the First Geneva Convention (Fourth Convention, Article 16).

3. *Protection of the transport of wounded and sick civilians by convoys of vehicles ; right to display the distinctive emblem.*

It should be emphasised here that only transports by convoys or by two or more vehicles are protected and have the right to bear the emblem. There can be no question, for

instance, of displaying the flag with a red cross on a white ground on a private automobile taking a person to hospital. If such use had been authorised, all control of the use of the sign would have been impossible (Fourth Convention, Article 21).

In this connection it may be recalled that in time of peace the distinctive emblem may, with the authority of the Red Cross Society, be used for marking ambulances (First Convention, Article 44). In war-time this use would not be possible; it is only when these ambulances are used for transports by convoys that they may, with the authority of the State, display the protective sign. If they were assigned to the Army Medical Services, they would be protected individually as such.

4. *Lifting of blockades for the passage of medicaments, medical equipment, etc.*

In Article 23 the Fourth Convention stipulates that the contracting Parties are to allow free passage, firstly for consignments of medicaments, medical equipment and objects for religious worship intended only for the civilian population of another contracting Party, even though an enemy, and secondly for consignments of foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases. These consignments may not be diverted from their destination.

Civilian doctors who undertake to look after the general state of health of a population will have the right, and will in fact be in duty bound, to notify requirements which appear necessary to them. They would also be well-advised to take all possible steps in order that such consignments intended for other States are granted equally free passage through their own country. Moreover, it will be their particular duty to see that these consignments are in no instance diverted from their destination.

5. *The right for aliens in a neutral territory to receive medical attention.*

The Fourth Convention prescribes that aliens, who in time of war may be in the territory of a Party to the conflict, should

in general come under the provisions concerning the treatment of aliens in time of peace (Article 38). In any case they are, if their state of health so requires, to receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.

6. *Maintenance, in the event of occupation, of preferential measures in favour of certain members of the population.*

In Section III of Part III, which concerns occupied territories, the Convention stipulates (Article 50) that "the Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years".

This is an essentially humanitarian prescription and its application should have the particular attention of doctors. It is their right, if not their duty, to intervene by all means, in case of need, with the occupation authorities to secure complete respect for this provision.

7. *Maintenance of hospital, hygiene and public health establishments.*

The Fourth Convention entrusts civilian doctors in occupied territories with important duties and responsibilities. They are to lend their services to the Occupying Power in order to ensure the maintenance of public health by all means. In its first and third paragraphs Article 56 specifies :

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the co-operation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.

.....
In adopting measures of health and hygiene and in their implementation, the Occupying Power shall take into consideration the

moral and ethical susceptibilities of the population of the occupied territory.

In its second paragraph Article 56 lays the obligation upon the Occupying Power to authorise and to grant recognition, if the competent organs of the occupied State are no longer operating, in regard to new hospitals set up in occupied territory, and their personnel and vehicles. It is the Occupying Power which will grant them the right to display the Red Cross emblem.

8. *Requisition of civilian hospitals.*

The personnel of a civilian hospital in an occupied country, which is requisitioned, have the right to ask for suitable arrangements to be made in due time for the care and treatment of the patients, and in general for the needs of the civilian population. Moreover, civilian hospitals may only be requisitioned temporarily and in cases of extreme urgency.

The said personnel may also ask for the material and stores of these hospitals not to be requisitioned, so long as they are necessary for the needs of the population. (Fourth Convention, Article 57.)

9. *Regulations concerning the treatment of civilian internees.*

These regulations are similar to those concerning the treatment of prisoners of war, set forth in the Third Geneva Convention. Reference is therefore made to our comments on this subject. The provisions concerning military doctors in prisoners of war camps are applicable *mutatis mutandis* to civilian doctors who are entrusted with medical care in civilian internee camps.

V

SOME SPECIAL CASES

A. MIXED MEDICAL COMMISSIONS

Article 112 of the Third Geneva Convention makes provision for the creation of "Mixed Medical Commissions", to visit

prisoners of war and decide which of them should, by reason of their state of health, be directly repatriated or accommodated in a neutral country.

The appointment, duties and operation of these Commissions are set down in special Regulations annexed to the Convention (Annex II), which should be regarded as part of it.

A detailed analysis of these Regulations would go beyond the scope of this study. In any case it hardly seems necessary, for doctors who might in the future be called upon to serve in one of these Commissions will always be thoroughly informed beforehand of the way in which they are run and the special nature of their tasks. We shall limit ourselves here to giving a general outline of them and their salient characteristics.

In accordance with the Regulations, Mixed Medical Commissions are to be composed of three members, one of whom is to be appointed by the Power detaining the prisoners to be visited, and the other two by the International Committee of the Red Cross, in agreement with the Power protecting the interests of the prisoners. These two members, who are also to be approved by the Parties to the conflict concerned, are to belong to a neutral country ; failing this arrangement, they are also to be appointed by the Detaining Power (in which case the Commission will be no more than a " Medical Commission "). One of these two members is, if possible, to be a surgeon and the other a physician. Deputy members in sufficient number are also to be appointed in the same way.

The neutral members are to be entirely independent of the Parties to the conflict, which are to grant them all facilities in the accomplishment of their duties.

The Commissions are to examine all the prisoners designated in Article 113 of the Third Convention. They are to propose repatriation, rejection, or reference to a later examination. Their decisions are to be made by a majority vote. They are to function permanently and to visit each camp at intervals of not more than six months.

Under Article 113 of the Convention, wounded or sick prisoners of war belonging to the following categories are

entitled to present themselves for examination by the Commissions :

1. Those proposed by a physician or surgeon who is of the same nationality and who exercises his functions in the camp.
2. Those proposed by the prisoners' representative.
3. Those proposed by the Power on which they depend, or by an organisation duly recognised by the said Power and giving assistance to the prisoners.
4. All prisoners of war who so desire.

Furthermore, under Article 110 of the Convention, special agreements may be concluded between the belligerents to determine the cases of disablement or sickness entailing either repatriation or accommodation in a neutral country. In order to facilitate the drawing up of such agreements, a " Model Agreement " in Annex I of the Convention gives a detailed list of the different cases of disablement or sickness justifying repatriation or accommodation. This Model Agreement forms the essential basis of the work of the Medical Commissions.

B. HOSPITAL AND SAFETY ZONES AND LOCALITIES. NEUTRALIZED ZONES

For a long time now, the Red Cross world, as also the world of medicine ¹, has been concerned with the setting up in war time of zones of protection where the wounded and sick, as well as certain categories of the population, can find shelter from the dangers of war and especially from bombing. Various plans were successively put forward, and the idea was finally

¹ In particular, the International Congress of Military Medicine and Pharmacy voted in 1933 a Resolution which gave birth to a Committee of doctors and jurists. This Committee drew up in Monaco in 1934 a rough draft Convention known as the " Projet de Monaco ". It might also be mentioned that the initiative taken in 1930 by the French Doctor-General Saint-Paul gave rise to the creation of the international agency known as the " Lieux de Genève ".

introduced into the Geneva Conventions of 1949, though only in an optional form, as Governments considered that they could not be bound by imperative provisions on this point.

Article 23 of the First Convention provides for the creation of *hospital zones and localities* intended to protect the wounded and sick in armies as well as the necessary medical and administrative personnel. When certain conditions have been fulfilled, these zones are to be respected and protected and to be placed under the protection of the red cross emblem.

For this purpose, agreements may be concluded between the belligerents. The text of a Model Agreement, which can be used as a pattern, will be found in Annex I of the First Convention.

The Fourth Convention moreover, in Article 14, makes very similar provisions: *hospital and safety zones or localities* may be established to protect the following categories of the population: wounded, sick, disabled, aged persons, children under fifteen, expectant mothers and mothers of children under seven. These zones are also to be respected and protected when certain conditions have been fulfilled. In distinction however from the zones known as "hospital zones", provided for in the First Convention, which are marked by means of red crosses, safety zones are to be marked by means of a special sign of oblique red bands on a white ground.

Agreements may also be concluded between belligerents for the protection of these zones. The text of a Model Agreement, identical to that of the First Convention on many points, will be found in Annex I of the Fourth Convention.

No doubt, the Powers bound by the Geneva Conventions are not under an obligation to arrange for such zones to be established; but the problem remains, and the wording of these two Articles and the Model Agreements indicates implicitly the utility of these zones.

The two Articles mentioned give no particulars on the ways of setting up and recognising hospital and safety zones. The draft agreements annexed are however sufficiently detailed, and might be used in many cases as they stand without alteration.

The creation of hospital or safety zones presents considerable interest for doctors, but also gives rise to numerous problems. Where only hospital zones intended for the sick and wounded in armies are established, military doctors will probably have sole charge of them, and these will have the powerful organisation of the army behind them, whereas in the case of civilian zones the number and variety of categories having a right to protection will almost always involve a considerable hospital, administrative and social staff. A new form of field activity will thus arise, not only for doctors, but also for National Red Cross Societies.

Before concluding the subject, it might also be mentioned that the Fourth Convention, besides safety zones and localities, also makes provision, in Article 15, for *neutralized zones*.

These zones are of a slightly different nature. They are sheltered areas set up in regions where fighting is taking place to protect those not taking part in the hostilities, namely wounded and sick combatants or non-combatants and civilian persons who take no part in hostilities, and perform no work of a military character while in the zones. The temporary nature of these zones is far more apparent; for, when fighting has ceased in the region where they are situated, they will no longer have any reason to exist.

VI

REPRESSION OF ABUSES AND INFRACTIONS

The Geneva Conventions form part of what are generally termed the laws and customs of war, violations of which are commonly known as "war crimes" and those responsible for them as "war criminals".

It was mainly during the Second World War and the years following it that the problem arose of punishing war criminals. The great number of violations committed during the war had given a topical aspect to the question, which deeply affected public opinion and the authorities of different countries.

It was the Geneva Conventions of 1949 which were the first of the laws and customs of war to be provided with a coherent system of rules repressing the violation of their provisions. These rules are embodied in four Articles which appear in all four Conventions (in the First in Articles 49-52, in the Second in Articles 50-53, in the Third in Articles 129-132, and in the Fourth in Articles 146-149).

It seems unnecessary to go into these provisions in detail here: it is the main features alone which are of interest to doctors.

The Conventions make a distinction between "grave breaches", which are listed, and "other breaches".

Grave breaches are those involving any of the following acts, if committed against persons or property protected by the Convention: "wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing of great suffering or serious injury to body or health... taking of hostages, and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly".

The High Contracting Parties are under the obligation to search for persons "committing, or ordering to be committed" any of these grave breaches, and are to bring them, regardless of their nationality, before their own courts. They may also hand them over for trial to another Party concerned.

This provision establishes the joint responsibility of the author of an act and the person who has ordered it: they can both be prosecuted as co-authors.

With regard to the penal sanctions to be applied to these persons, the High Contracting Parties are bound to provide them in their penal laws and to enact any legislation necessary for the purpose. The accused persons are to have the benefit of safeguards of proper trial and defence, which are not to be less favourable than those provided by the Third Convention for prosecuted prisoners of war.

With regard to "other breaches", namely, all acts contrary to the provisions of the Conventions which have not just been mentioned, the High Contracting Parties are to take measures

necessary to suppress them. This means that legislative measures must be taken by each Party, and that the national laws must at least include several clauses or a single general clause providing punishment for such breaches.

It should also be noted that the fourth of these common Articles states that in case of alleged violation of the Conventions, and at the request of a Party to the Conflict concerned, an enquiry is to be instituted, in a manner to be decided upon. If agreement cannot be reached on this question, the Parties are to agree on the choice of an umpire, who will decide upon the procedure to be followed.

Once the violation has been established, the Parties concerned are to put an end to it and repress it without delay.

Two other Articles (Articles 53 and 54) have been added by the First Convention to the four common Articles. The first is intended to repress various abuses of the red cross emblem and the Swiss Federal colours; the second imposes upon Contracting Parties the obligation to adapt their penal legislation so as to prevent or repress these abuses.

CONCLUSIONS

Having arrived at the end of our report, we venture in concluding to make a few remarks.

The Geneva Conventions were not drawn up so as to confer privileges on medical personnel in war time, or in this way to pay tribute to the medical profession. The persons they intend to protect everywhere from war and from men and their indifference, their malice or their cruelty, are the fallen, the suffering, the weak and the innocent. If doctors and nurses are also accorded respect and protection it is only to the extent to which respect and protection are necessary for these persons. It is not the man who is protected as such, but the healer, and that is the finest tribute that can be paid to him.

Wherever the Conventions speak of rights, the doctor should substitute the word "duty". Has he the right not to be a prisoner of war? Most certainly, but only so that he can

better look after his sick compatriots, and that is a duty. Has he the right to be repatriated? Yes, but only so that he can take up his post again.

If man must suffer, let that suffering be as light as possible. The doctor and the Convention strive towards the same goal; they work alongside one another in trying to reach it. By recognising this principle and obeying it, the doctor will be doing no more than applying the Conventions, and by so doing he will help to make them universal, to impose them on every conscience as one of the evident acquisitions of civilisation. In this sense, the doctor is a peacemaker.

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