

INTERNATIONAL COMMITTEE OF THE RED CROSS

REPORT
on the Work of the Preliminary Conference
of National Red Cross Societies for the
study of the Conventions and of various
Problems relative to the Red Cross

Geneva, July 26—August 3, 1946



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**Report on the Work of the Preliminary
Conference of National Red Cross Societies
for the study of the Conventions and of various
Problems relative to the Red Cross**

FOREWORD

Immediately upon the close of hostilities the International Committee of the Red Cross undertook the task, which they considered essential, of preparing the revision of the Geneva Conventions and similar agreements, and of drafting new international agreements. With this end in view they set about assembling the fullest preliminary data available.

The proper execution of this task presupposed the cooperation of National Red Cross Societies, these having acquired during the War much valuable experience as regards the application of the Conventions. The International Committee were also anxious to furnish National Societies with an early opportunity of exchanging views on the problems which face the Red Cross as a whole, and on the principal aspects of the work they had accomplished during the War.

These considerations led the Committee to propose, in their Circular Letter No. 371, of September 10, 1945, to all duly recognized National Red Cross Societies still in operation, the sending of qualified representatives to a meeting which would take place in Geneva at the earliest possible date. This proposal having met with unanimous approval, the Committee hastened to draft a preliminary Agenda, which was submitted on October 22, 1945, to the delegates of National Societies on

the occasion of a Consultative Conference convened in Geneva by the League.

The Preliminary Agenda was approved with but few amendments, and then sent to all National Societies on February 1, 1946 (Circular Letter No. 372). Requesting their views on this matter, the International Committee asked National Societies to inform them of any additions they might wish to have made, and to support such proposed additions with written statements facilitating subsequent discussion.

The majority of National Societies expressed their approval of the Preliminary Agenda and stated their intention of sending full delegations to Geneva. The Committee, in Circular Letter No. 373 of June 14, 1946, definitely fixed the date of the meeting from July 26 to August 3, 1946. The meeting was described as as the "Preliminary Conference of National Red Cross Societies for the Study of the Conventions and of Various Problems relative to the Red Cross".

The Final Agenda comprised two general headings: firstly, the examination, with a view to the assembling of preliminary data for the revision and drafting of welfare Conventions, of all matters which lie particularly within the province of Red Cross Societies, and secondly, the study of specific Red Cross problems in war-time.

As a preliminary to facilitate the meetings, the Committee had devoted several months to the careful scrutiny of the items on the Agenda, and furnished National Societies and their delegations with Reports providing a brief summary of the experiences made in each particular field, and whenever possible, concrete suggestions for the amendment or modification of the present situation. These Reports, of which more is said below, were issued in the shape of four volumes, and constituted the starting-point of the sessions.

Several National Societies also submitted documents furnishing matter for discussion on certain important points. These documents, of which a list will also be found below, were issued to the delegations and proved of considerable value.

LIST OF DELEGATES¹

- Albania :* Dr. Xhavit Gjata, head of the Delegation (I) ; M. Vandush Vincani (III) ; M. Ciril Pistoli (II) ;
- Argentine :* Dr. Heriberto A. Mascheroni, President (III) ; Dr. Luis Boffi, Counsellor (I, II) ;
- Australia :* Dr. J. Newman Morris, Chairman (III, II, I) ; Lady Owen, Liaison Officer of the Australian Red Cross in U.K. (II, III, I) ; Miss Rose Nuttall, Secretary to the Delegation (I, III, II) ;
- Austria :* Dr. Rudolf Bluehdorn, Ministerial Counsellor (I) ; Dr. Hans Popper, delegate of the Austrian Red Cross to the International Committee and the League of Red Cross Societies (II, III) ;
- Belgium :* Dr. Pierre Depage, President (III) ; M. Edmond Dronsart, Director-General (I) ; M. Henry van Leynseele, Chairman of the Special Commission for revision of the Conventions (II) ; Professor Maurice Bourquin (II, III) ; Mlle Simone Vercamer, Head of the International Department (II).
- Brazil :* General Ivo Soares. President (III) ; Mme Isabel W. Gomm (III).
- Bulgaria :* Dr. Lubin Ratcheff, President (III) ; Mme Dr. Vesselina Batchvarova, Vice-President (I) ; Dr. Constantin Koussitaseff, member of the Executive Committee (II) ; Dr. Bratan Bratanoff, member of the Executive Committee (I) ; Dr. Vera Zlatareva, member of the Executive Committee (II) ; Dr. Georges Sotiroff (III) ; M. Lazar Tochkoff, Bulgarian Consul in Geneva (III).
- Canada :* Dr. Frederick W. Routley, National Commissioner (III) ; Col. William Frost, Overseas Commissioner (I) ; Mrs. Fred. W. Routley, Associate Delegate ; Miss E. F. Moir, Secretary to Director (II).
- Chili :* H. E. M. Carlos Morla Lynch, Minister of Chili in Switzerland ; Mlle Amelia Balmaceda, Pre-

¹ The figures in brackets indicate the Commission(s) in whose work the delegates were chiefly interested.

- sident of the Ladies of the Chilian Red Cross (III); Mlle Elena Mora, Secretary to Delegation (III, II).
- China :* Dr. Lan Senn Woo, Secretary-General (II, III).
- Columbia :* Señor Gabriel Giraldo Jaramillo, Consul-General of Columbia in Switzerland (III).
- Cuba :* Dr. Guarino Radillo, President (III); Dr. Eulalio Guerra y Segui (II); Señor Luis Valdès Roig, Acting Chargé d'Affaires in Berne, Assistant Delegate (III).
- Czechoslovakia :* Mme Zdenka Maria Havrankova, Vice-President (III); Major Dr. Peter Simko (III).
- Denmark :* M. Kai Hammerich, President (I, III); M. Sigurd Skibsted, Head of Department (II, I, III); M. Tage Hind, Secretary (III).
- Egypt :* H. E. Tewfik Doss Pasha (I) and Dr. Abdel Halim Mahfooz Bey, Members of the Board of the Egyptian Red Crescent (III).
- Ecuador :* Señora Maria Elvira Yoder, Vice-President (III); Mlle Mercedes Tous (III).
- Finland :* Professor Erik Castren, Member of the Council of the Finnish Red Cross, Professor of Law, Helsinki University (II, III).
- France :* General Adolphe Sicé, French A.M.C., President (III); Professor Louis Milliot, Vice-President (III); Vicomte de Truchis de Varenne, Member of Council (II); Professor Henri Bonnet, Director-General (I, II); General Pierre Oudard, French A.M.C., Head of Hospital Units (I); M. Fernand d'Aillières, Head of Foreign Relations Department (III); M. Charles Guillon, Delegate, and M. Robert Emile Beaufour, Assistant Delegate of the French Red Cross in Switzerland.
- Great Britain :* Major-General Sir John Kennedy, Vice-Chairman of the Executive Committee (III); Major-General Leonard A. Hawes, Secretary-General (II); Miss Esther M. Thornton, P.O.W. Department, Joint War Organisation (II); Miss S. J. Warner, Foreign Relations Department (III); Mr Frederick H. D. Pritchard, Legal Advisor (I).

- Greece :* M. Michel Pesmazoglou, Legal Counsellor (II) ; M. Spyro Marmora, Delegate in Switzerland of the Greek Red Cross (I, III).
- Guatemala :* Señor Oscar Bertholin y Galvez, Permanent Representative in Geneva of the Guatemalan Red Cross to the League of Red Cross Societies (III).
- Hungary :* H. E. M. J. Antall, Minister of Reconstruction, Government Delegate to the Hungarian Red Cross ; Mme Arpad Szakasits, Chief Delegate, Hungarian Red Cross ; M. Jules Vallai, Member of the General Directorate, Hungarian Red Cross ; M. Alexandre Millok, Commissary for Repatriation of the Hungarian Government ; M. Erwin Vladar, Delegate of the Hungarian Red Cross to the International Committee (II).
- India :* Sardar Bahadur Balwant Singh Puri, Secretary-General (III).
- Irak :* Colonel Shaker Wadi, Chargé d'affaires, Irak Delegation in London (III) ; Dr. Edouard Basmadji (II).
- Iran :* Dr. Gholam Hossein Mossadegh, Inspector-General of the Central Committee, Head of the Delegation (III) ; Mme Iran Aalam, M. D., Member of the Central Committee (II) ; Princess Safieh Firouz (III). M. Raphael Aghababian (I, II, III).
- Ireland :* Col. T. J. McKinney, member of Central Council (I) ; Mr. M. McNamara, Secretary of the Irish Red Cross (II) ; Mr. John B. Hamill, Honorary Secretary, Central Council (III).
- Italy :* Marquis Ugo Theodoli, Secretary-General (III) ; Signor Vittorio Minnucci, Chief Secretary to the President (I) ; Signor Carlo Mottironi, Delegate in Switzerland, Italian Red Cross (III) ; Signor Luciano Aillaud, First Secretary, Delegation in Switzerland of the Italian Red Cross.
- Liechtenstein :* Count Ferdinand Wilczek (III).
- Luxemburg :* M. Pierre Knaff, Director, Luxemburg Red Cross (III).

- Mexico :* Senor Alejandro Quijano, President (III) ; Senor Robert Casas Alatrisme, Counsellor, Chairman of the Finance Commission (III) ; Senora Josefa Abril de Rueda, Permanent Representative, Mexican Red Cross (III) ; Senor J. J. G. de Rueda (III).
- Netherlands :* M. Wilhelm Veenstra, Director, Netherlands Red Cross (III) ; M. Johan Van de Vosse, Director, Central Committee (II) ; Jhr. Henry Beelaerts Van Blokland, Head of the Office for Foreign Relations (I, II) ; Dr. Charles Bernard Delegate (III) and M. Carl H. C. Flugé Van Aspermont, Assistant Delegate of the Netherlands Red Cross in Switzerland.
- New Zealand :* Mr. Charles Gilbert White, Chairman (III).
- Norway :* Professor Frede Castberg (II) ; M. Arnold Roerholt, Secretary-General (III, II) ; M. Peter Anker, Delegate of the Norwegian Red Cross to the International Committee (I, II, III).
- Panama :* Mlle Hilda Vallarino, Secretary (III).
- Poland :* Colonel Bronislaw Kostkiewicz, M. D., President (II) ; Colonel Feliks Kaczanowski, M. D., Vice-President (III) ; Mme Sophia Tyszynska, Secretary to the President (II) ; Dr. Stanislas Jurkiewicz, Permanent Delegate of the Polish Red Cross in Geneva (I) ; M. K. Korkozowicz (II) ; Mlle Lucie Schmidt, Secretary-General of the Polish Red Cross in Geneva (II, III) ; M. Niemira, Technical Advisor (II).
- Portugal :* Senhor N. M. Freire de Andrade, Delegate of the Portugese Red Cross (III, II).
- Rumania :* H. E. M. Raoul Bossy, Delegate of the Rumanian Red Cross to the International Committee (III).
- Siam :* Dr. Chaloem Puranananda, Director, Science Department (III) ; Princess Marayat Diskul, Secretary, Central Bureau (II).
- Sweden :* Count Folke Bernadotte, President (III) ; Baron Erik Stjernstedt, former Secretary-General (III) ; Captain Count Eric von Rosen (II) ; M. Gösta J. Th. Streijffert (I).

- Switzerland :* Dr. Gustave A. Bohny, President (III) ; Lt.-Col. Hans Martz, substitute of the Chief Medical Officer of the Red Cross (I) ; Dr. Eric Martin, Member, Central Committee (II) ; Captain Gilbert Luy, Under Secretary-General (II).
- Turkey :* M. Ali Rana Tarhan, President (II) ; M. Nedim Abut, Director, International Department (II).
- Union of South Africa :* Mr. S. J. M. Osborne, Acting President (III).
- United States of America :* Hon. Basil O'Connor, Chairman (III) ; Mr Douglas Poteat, Executive Vice-Chairman (I) ; Mr James Thomas Nicholson, Vice-Chairman in charge of Insular & Foreign Operations (III) ; Mr Harold Starr, Assistant General Council (II) ; Mr Francis B. James, Assistant Director, P.O.W. (II) ; Mr Louis C. Boochever, Director Public Relations (III) ; Dr. G. F. McGinnes, Vice-Chairman for Health Services (II) ; Mr William L. Gower, Aide to the Chairman ; Mr Henry W. Dunning, representative of the American Red Cross (II) ; Mr William Jefferson (I) ; Mr William Giblin, Director for Civilian War Relief in Western Europe (II).
- Venezuela :* Senor Raphael Isava Nunez, President (III) ;
- Yugoslavia :* Colonel Nikola Nikolic, M. D., head of the Delegation, Yugoslav Red Cross (III) ; Professor Peter Guberina, Delegate (III, II) ; Mme Jaroslava Ribnikar, Secretary-General (II) ; Mme Olga Milosevic (I) ; Mme Hélène Kosanovic, Delegate of the Yugoslav Red Cross in Switzerland (III) ; M. Ive Kistic, Secretary to the Delegation (III).
- League of Red Cross Societies :* Hon. Basil O'Connor, Chairman of the Board of Governors (III) ; Count Bonabes de Rougé, Secretary-General (II, III) ; M. George Milsom, Assistant Secretary-General (III) ; M. Pierre Giroy, Counsellor to the Secretariat (I).
- International Committee of the Red Cross :* M. Max Huber, Acting Chairman (III) ; M. E. Chapuisat, Vice-President (III) ; M. F. Barbey (I) ; M. M. Bodmer (II) ; Dr. A. Cramer (I) ; Mlle S. Ferrière (II) ; Mme R. Frick-Cramer (II) ; Mlle L. Odier (II) ; Dr. G. Patry (I) ; Professor D. Schindler (I) ; M. R. van Berchem (III), Members of the International Committee of the Red Cross.

MM. H. Cuchet (III), G. Dunand (II), R. Gallopin (II), J. Pictet (I), Director-Delegates.
M. J. Duchosal, Secretary-General (III).

Furthermore some twenty members or assistants of the International Committee cooperated in the work of the Commissions. The Secretariat was also undertaken by the International Committee.

LIST OF DOCUMENTS SUBMITTED TO THE PRELIMINARY
CONFERENCE OF NATIONAL RED CROSS SOCIETIES

I. *Documents submitted by the International Committee of the Red Cross.*

A. *Documents relative to the Conference.*

Vol. I. Revision of the Geneva Convention and related provisions. 55 p. French and English.

Vol. II. Convention relative to the Treatment of Prisoners of War and Convention relative to Civilians. A. Convention relative to Prisoners of War. 62 p., French and English.

Vol. III. Convention relative to the Treatment of Prisoners of War and Convention relative to Civilians. B. Situation and Protection of Civilians. 36 p., French and English.

Vol. IV. Specific Red Cross Problems. 29 p., French and English.

— Report concerning Hospital and Safety Localities and Zones. Series IV, No. 1. Published by the International Committee, Geneva, May, 1947. 20 p., French and English.

— Legal Assistance to Aliens. Reprint from "Revue internationale de la Croix-Rouge", June 1946. 8vo, 7 p., French and English.

B. *Other Documents.*

— Documents on the Activities of the International Committee of the Red Cross in behalf of Civilians detained in Concentration Camps in Germany. — Published by the International Committee, Series II, No. 1. — Geneva, June 1946, 154 pages. (In French only.)

— State of Public Health among Civilian Population in Countries of Europe most severely affected by the War. Medical Department of the International Committee, 31 and 4 pages. (In French only.)

— Document N. Note relative to the Yugoslav Proposal (Document K), 4 pages, French and English.

II. *Documents submitted by the League of Red Cross Societies.*

— XIXth Meeting of the Board of Governors of the League of Red Cross Societies, Oxford, July 8-20, 1946. Resolutions adopted by the Board of Governors. (Rotograph document, not paginated.) Geneva, Headquarters of the League of Red Cross Societies. (French and English.)

— Articles of Association of the League of Red Cross Societies (Text revised in July 1946), Geneva, Headquarters of the League. 9 p. (French and English.)

III. *Documents submitted by National Red Cross Societies.*

Document A. — *British Red Cross.* Suggested points for consideration by the International Committee at the Preliminary Conference on the re-writing of the International Conventions dealing with (A) the Treatment of Prisoners of War and (B) Amelioration of the conditions of Wounded and Sick of the Armies in the Field, both dated 27th July, 1929. 10 p.

Document B. — *Australian Red Cross.* Suggested Amendments to the Geneva Convention Relative to the Treatment of Prisoners of War (1929). 29 p.

Document C. — *Greek Red Cross.* Reply to Circular No. 368 and subsequent circulars. 6 pages. (In French only.)

Document D. — *Greek Red Cross.* Report by the Greek Red Cross on Government intervention in its management. 4 pages. (In French only.)

Document E. — *Greek Red Cross.* Suggestions by the Greek Red Cross in the event of infringements of the International Conventions. 2 pages. (In French only.)

Document F. — *Netherlands Red Cross.* Draft Resolution concerning the Protection of Funds of National Red Cross Societies (in case of war). 1 page. (In French only.)

Document G. — *Czechoslovak Red Cross.* Memorandum by the Czechoslovak Red Cross on its dissolution during the War, 1939-45. 7 pages. (In French only.)

Document H. — *Bolivian Red Cross.* La Paz Convention for the Protection of Children in case of International War and Civil Disturbances. Draft. 18 pages. Translation. (In French only.)

Document I. — *Swedish Red Cross.* Note to the Preliminary Conference of National Red Cross Societies, Geneva, 1946, by Count Folke

Bernadotte, President of the Swedish Red Cross. 2 pages. French and English.

Document J. — South African Red Cross. Memorandum. Suggested Alterations and Amendments to the Geneva Convention relative to the Treatment of Prisoners of War. 5 pages.

Document K. — Yugoslav Red Cross. Proposal by the Yugoslav Red Cross. 2 pages. French and English.

Document L. — Swiss Red Cross. Reply to Document K of the Yugoslav Red Cross. 1 page. French and English.

Document M. — Austrian Red Cross. Revision of the Convention relative to Prisoners of War. 2 pages. (In French only.)

Belgian Red Cross. — Geneva Convention of July 27, 1929, relative to the Treatment of Prisoners of War. Study by the Belgian Red Cross. 24 pages. (In French only.)

Belgian Red Cross. — International Convention relative to the Treatment of Civilian Internees and of Detainees. Study by the Belgian Red Cross. 4 and 7 pages. (In French only.)

Belgian Red Cross. — Geneva Convention of July 27, 1929 for the Relief of the Wounded and Sick in Armies in the Field. Draft by the Belgian Red Cross. 1 and 8 pages. (In French only.)

Italian Red Cross. — Memorandum relative to the International Social Service of the Italian Red Cross. 6 pages. (In French only.)

Norwegian Red Cross. — Observations submitted by the Norwegian Red Cross on various questions concerning the situation of the Civilian Population in case of War and of Occupation. 5 pages. (In French only.)

Czechoslovak Red Cross. — Czechoslovak Proposal concerning the creation of the Commission suggested by the Yugoslav Delegation. 1 page. French and English.

COMPOSITION OF THE BUREAU AND OF THE COMMISSIONS

On the appointed day, Friday July 26, at 10,30 hours, 141 delegates representing 45 National Red Cross Societies and the League of Red Cross Societies met in the Alabama Chamber of the Town Hall, Geneva. M. Max Huber, Acting President of the International Committee of the Red Cross, delivered the inaugural address, to which the Hon. Basil O'Connor, Chairman

of the American Red Cross and of the Board of Governors of the League replied ¹. The Delegates then proceeded to elect the President of the Conference. Following a proposal of the representative of the Greek Red Cross, M. Max Huber was elected unanimously, on a show of hands. Furthermore, all the Chairmen of National Societies taking part in the Conference were elected Vice-Presidents of the Meeting. The bureau of the Preliminary Conference was set up as follows :

President : M. Max Huber, Acting President of the International Committee ;

Vice-Presidents : Dr. Heriberto A. Mascheroni (Argentina) ; Dr. J. Newman Morris (Australia) ; Dr. Pierre Depage (Belgium) ; General Ivo Soares (Brazil) ; Dr. Lubin Ratcheff (Bulgaria) ; Dr. Guarino Radillo (Cuba) ; M. Kai Hammerich (Denmark) ; General Adolphe Sicé (France) ; Senor Alejandro Quijano (Mexico) ; Mr C. G. White (New Zealand) ; Colonel Bronislaw Kostkiewicz (Poland) ; Count Folke Bernadotte (Sweden) ; Dr. Gustave A. Bohny (Switzerland) ; M. Ali Rana Tarhan (Turkey) ; Mr S. J. M. Osborne (Union of South Africa) ; Hon. Basil O'Connor (United States of America) ; Senor Raphael Isava Nunez (Venezuela).

Secretary-General : M. J. Pictet, Director-Delegate of the International Committee of the Red Cross.

At the plenary sitting on Friday afternoon, July 26, the Conference set up three Commissions, as proposed by the International Committee. These Commissions, whose composition and terms of reference are shown below, were entrusted with : (I) Study of the revision of the Geneva Convention and related provisions ; (II) Revision of the Convention relative to the Treatment of Prisoners of War and drafting of a Convention relative to Civilians ; (III) Study of Specific Red Cross Problems.

The next day, Saturday, July 27, the Commissions began their sittings which lasted till August 1. They had a large volume of work to get through, which they brought to successful conclusion. The Second Commission, found it necessary to

¹ Extensive excerpts from both speeches were published in the "Revue int. de la C.-R.". August 1946, pp. 637-649.

constitute a Sub-Commission for the examination of problems relative to relief to Prisoners of War and to Civilians.

The officers of the Commissions were nominated as follows :

Commission I

Chairman : Professor D. Schindler, Member of the International Committee ;

Vice-Chairmen : M. E. Dronsart (Belgium) ;
M. K. Hammerich (Denmark) ;
H. E. Tewfik Doss Pasha (Egypt).

Rapporteur : M. J. Pictet, Director-Delegate of the I.C.R.C.

Rapporteur to the Assembly : General Oudard (France) ;
M. J. Pictet (I.C.R.C.).

Commission II

Chairman : M. M. Bodmer, Member of the International Committee ;

Vice-Chairmen : Professor L. Milliot (France) ;
M. M. Pesmazoglou (Greece).

Rapporteur : M. C. Pilloud, Director, Legal Section, I.C.R.C.

Rapporteur to the Assembly : M. M. Pesmazoglou (Greece) ;
Miss E. M. Thornton (Great Britain).

Commission III

Chairman : Dr. P. Depage (Belgium) ;

Vice-Chairmen : Dr. F. W. Routley (Canada) ;
Count F. Bernadotte (Sweden).

Rapporteur : M. J. Ch. de Watteville, Director, Legal Section, I.C.R.C.

Rapporteur to the Assembly : Dr. Depage (Belgium).

To save time, the minutes of the sittings were not passed by the Commissions ; each of these nominated a Sub-Commission to draft a brief summary of the work done. These summaries formed the actual Report which each Commission submitted to the Assembly on the last two days of the meetings, Friday, August 2, and Saturday, August 3.

It was late on the evening of Saturday, August 3, before the Preliminary Conference came to an end. Previous to the close

of the proceedings, a large number of delegates again expressed their thanks to the International Committee. M. Max Huber assured all National Societies how greatly the International Committee appreciated their very helpful assistance and wished them all most warmly that, true to principles of the Red Cross, they might see their activities develop and bear further fruit.

Below will be found the summarized Proceedings and the results obtained. For further details, the readers are referred to the shorthand minutes (in French), which have been made available to all National Red Cross Societies.

PART I

REVISION OF THE GENEVA CONVENTION OF JULY 27, 1929, FOR THE RELIEF OF THE WOUNDED AND SICK IN ARMIES IN THE FIELD, AND OF RELATED TREATY PROVISIONS

I. Geneva Convention

I. INTRODUCTION

A proposal for the revision of the Geneva Convention made its appearance in 1937, following the meetings of a Commission of international Experts, convened by the International Committee. This Draft, which had been adopted by the Sixteenth International Red Cross Conference, held in 1938, was placed on the Agenda of the Diplomatic Conference which the Swiss Federal Council had convened for the beginning of 1940, but which had to be adjourned owing to the second World War.

The conflict having come to a close, the International Committee considered it desirable to take up once more the 1937 Draft and to amplify it in view of the experience gained during six years of unprecedented warfare.

Since National Red Cross Societies are closely and historically connected with the application and development of the Geneva Convention, the Committee thought useful to submit the whole problem to the Preliminary Conference of 1946.

2. APPLICATION OF THE CONVENTION TO ALL CASES OF ARMED CONFLICT

The Commission¹ recommends the introduction, at the head of the Geneva Convention, of a new Article which might run as follows:

¹The Commission nominated by the Preliminary Conference for the study of the revision of the Geneva Convention and related treaty provisions.

“The present Convention is applicable between the High Contracting Parties from the moment hostilities have actually broken out, even if no declaration of war has been made and whatever the form that such armed intervention may take.

“In the case of armed conflict within the borders of a State, the Convention shall also be applied by each of the adverse parties, unless one of them announces expressly its intention to the contrary ¹.”

The 1937 Commission, whose views were closely followed by the Sixteenth International Red Cross Conference, recognized unanimously that the Convention must apply to all cases armed conflict between States, even when not preceded by a declaration of war, and that its humanitarian principles must be respected in all circumstances, even when it is not juridically applicable. The Commission of 1937 recommended that this principle should be inserted into the Final Act of the future Diplomatic Conference.

The International Committee further suggested to the Preliminary Conference that, besides this principle, another rule should be inserted in the Convention, namely, that in case of Civil War within the frontiers of a State the adversaries should be invited to declare their readiness to apply the principles of the Convention, subject to reciprocity being observed.

The Conference adopted the text quoted above which stresses the provision relative to Civil War. By laying down that in case of armed conflict within the frontiers of a State, the Convention shall be applied by each of the adversaries, unless one of them refuses explicitly to do so, it is anticipated that no State or insurgent body would venture to proclaim, in the face of world opinion, its intention of disregarding the laws of humanity, whose value and essential character are universally recognized.

¹ At the head of each Chapter will be found, in italics, the text of the Summary Report of the Commission meetings as approved and amended by the Assembly.

3. EXTENSION OF THE CONVENTION TO COVER CIVILIAN SICK AND WOUNDED

The Commission is unanimous in considering that the principles embodied in the Geneva Convention should be extended to wounded and sick Civilians, as also to the staff, buildings and equipment devoted to their care.

In the Report submitted to the Conference, the International Committee pointed out that the Convention now applies only, from a strictly legal viewpoint, to members of the armed forces and other persons officially attached to the forces.

During the meetings of the 1937 Commission, several members proposed that the Convention should be expressly extended so as to include civilian sick and wounded. Seeing especially the great development of air warfare, they pointed out that not only the zone where the armies were actually in contact, but the entire territory of belligerents would be subject to military operations, and that civilians are thus quite as liable to suffer injury as are the forces.

Although there was a strong body of opinion in favour of this contention, the majority of the 1937 Commission, whose views were afterwards approved by the Sixteenth International Red Cross Conference, decided not to recommend this extension, since to do so would trespass beyond the limits of the Convention's specific and traditional field. It was considered that civilian wounded and sick could better be dealt with in a separate Convention.

However, the 1937 Commission had introduced two new provisions into the revised Draft Convention. One of these stipulated that the protection to be accorded to medical units and establishments, their staff and equipment would not be withdrawn if their activities extended to the civilian population ; the other stipulated that Aid Societies might be allowed to employ the distinctive emblem while engaged, in time of war, in work of relief for civilian wounded and sick.

After the experience of the second World War, the International Committee considered necessary to examine once more

thoroughly the possible extension of the Geneva Convention to cover civilian wounded and sick, and to find without delay some method of ensuring better protection for civilians. The whole of the Red Cross movements is faced today with an essential problem that must at all costs be solved ; it has to weigh the arguments for and against such a course, while remaining fully conscious of its responsibilities.

From this point of view, the Committee recommended the following three solutions :

(a) The plan to extend the Geneva Convention to cover civilian wounded and sick in time of war would be abandoned, and the question regulated by means of a separate Convention. It may, however, be asked whether drawbacks, both theoretical and practical, may not arise through actually extending the scope of the Geneva Convention, by referring to the said Convention in another Treaty, rather than by frankly amending the Geneva Convention itself. Moreover, conditions of modern warfare lead more and more to civilians and combatants being struck down in the same places and cared for without distinction.

(b) The Geneva Convention might be extended so as to apply fully to civilian wounded and sick in time of war ; this would include the protection of civilian hospitals ¹. Should this be accepted, there would of course be some risk that cases of misuse, or failure to apply the Convention, would multiply in proportion to its wider field of action, and consequently imperil the prestige surrounding the Convention and the Red Cross emblem.

(c) Another solution might be the partial extension of the Convention. Its protection might apply to sick and wounded civilians who are assembled together with combatants, as also to the medical staff caring for them, and to the equipment used

¹ In this case the title of the Convention would have to be altered. It might become "Geneva Convention for the Relief of Wounded and Sick in time of War".

for this purpose. The Geneva Convention would however not be extended so as to cover specifically civilian hospitals. Their protection would be the object of special regulations in a separate Convention. Markings other than the Red Cross would be allotted to them.

The Preliminary Conference noted the absolute necessity in future to give efficacious protection to civilian war-victims. Although fully aware of the difficulties such an extension might engender and the danger of abuses that might ensue, the Conference was opinion that the principles of the Geneva Convention should be extended to wounded and sick civilians, as also to the staff, buildings and equipment at their service.

Certain delegations pointed out, that, having regard to past experience, it had been impossible to draw a clear distinction between members of the armed forces and civilians during the War, and that numerous civilians had been cared for by the Army Medical Services.

The Conference thought, however, that civilian hospitals should be protected in the same manner as military hospitals under the Geneva Convention, and that they should, to this end, be authorized to display the red cross on a white ground ¹.

The Conference did not, however, wish to prejudge the number or form of the Convention, or Conventions, which may eventually regulate the status of Military and Civilian War-Victims ². It was decided, in all further work on the Geneva Convention, not to undertake the examination of each article with a view to its extension to civilian wounded and sick, but to leave this task of adaptation, which demands the most careful scrutiny, to the International Committee.

¹ See below page 50.

² See below page 66.

Chapter I. — Wounded and Sick ¹

Article 1.

Officers and soldiers and other persons officially attached to the armed forces who are wounded or sick shall be respected and protected in all circumstances; they shall be treated with humanity and cared for medically, without distinction of nationality, by the belligerent in whose power they may be.

Nevertheless, the belligerent who is compelled to abandon wounded or sick to the enemy, shall, as far as military exigencies permit, leave with them a portion of his medical personnel and material to help with their treatment.

Re Sec. 1. — The Commission considers that the words “without distinction of nationality” should be replaced by the words “without any distinction whatever, particularly of nationality, race, sex, religion or political opinion” ².

The International Committee had pointed out the advisability of adding, after the words “without distinction of nationality”, the words “of race, religion or political opinion”.

The Belgian Red Cross had proposed to replace the clause “without distinction of nationality” by the words “without any distinction whatever”.

Finally the Conference adopted the above wording which amalgamates and perfects both suggestions.

Re Sec. 2. — The Belgian Red Cross had proposed to delete the words “as far as military exigencies permit”, but the Commission thought preferable to keep the present text.

Article 2.

Except as regards the treatment to be provided for them in virtue of the preceding article, the wounded and sick of an army who fall into the hands of the enemy shall be prisoners of war, and the general provisions of international law concerning prisoners of war shall be applicable to them.

¹ The Articles quoted in small type are those of the Geneva Convention of 1929.

² The Commission noted, moreover, that in the English translation the expression “Officers and soldiers” should be replaced by the more exact term “Members of the Armed Forces”.

Belligerents shall, however, be free to prescribe, for the benefit of wounded or sick prisoners, such arrangements as they may think fit beyond the limits of the existing obligations.

Article 3.

After each engagement the occupant of the field of battle shall take measures to search for the wounded and dead, and to protect them against pillage and maltreatment.

Whenever circumstances permit, a local armistice or a suspension of fire shall be arranged to permit the removal of the wounded remaining between the lines.

Re Sec. 1. — The Commission considers that the words "After each engagement, the occupant of the field of battle shall take measures..." should be replaced by the words "Each belligerent shall, without delay, take measures to search..."

Furthermore, the Commission recommends the insertion in Art. 3 of a new Section, as follows:

"Whenever circumstances permit, belligerents shall grant passage through their lines to the necessary medical staff and equipment bound for a besieged zone, and shall allow the evacuation of the wounded and sick."

Re Sec. 1. — This change of wording, proposed by the Belgian Red Cross, takes into consideration the conditions of modern warfare, and was adopted unanimously.

New Sec. 3. — During the meeting of the Commission of Experts in 1937, the Bulgarian Red Cross proposed the introduction of a new stipulation that belligerents should grant passage through their lines to the necessary medical staff and equipment bound for besieged or blockaded areas, and allow the evacuation of the wounded and sick¹.

The 1937 Commission preferred not to modify the Convention on this point, on the grounds that this was a possible case for *ad hoc* agreements between belligerents, according to Art. 2,

¹ See the following Resolutions of International Red Cross Conferences: No. XII, 1921 (Geneva); No. IX, 1928 (The Hague); No. XXIV, 1930 (Brussels).

Sec. 2. However, the International Committee pointed out that during the second World War certain besieged towns or areas held out for months, and even years. In several cases (Channel Islands and "pockets" occupied by the German forces on the French Atlantic coast and in the Channel, for instance) delegates of the International Committee were able to enter these besieged areas, bring relief and render useful assistance.

The French and German military authorities agreed to evacuate to Germany via Switzerland, the wounded and sick of the forces occupying "pockets" on the French coast, and the fact that this operation did not take place was due solely to fortuitous circumstances.

In this spirit, the Conference adopted the above-mentioned draft Section 3, while specifying that this provision should clearly apply also to the delegates of the International Committee, who should be allowed free passage to besieged or encircled towns.

Article 4.

Belligerents shall communicate to each other reciprocally, as soon as possible, the names of the wounded, sick and dead, collected or discovered, together with any indications which may assist in their identification.

They shall establish and transmit to each other the certificates of death.

They shall likewise collect and transmit to each other all articles of a personal nature found on the field of battle or on the dead, especially one half of their identity discs, the other half to remain attached to the body.

They shall ensure that the burial or cremation of the dead is preceded by a careful, and if possible medical, examination of the bodies, with a view to confirming death, establishing identity and enabling a report to be made.

They shall further ensure that the dead are honourably interred, that their graves are respected and marked so that they may always be found.

To this end, at the commencement of hostilities, they shall organise officially a graves registration service, to render eventual exhumations possible and to ensure the identification of bodies, whatever may be the subsequent site of the grave.

After the cessation of hostilities they shall exchange the list of graves and of dead interred in their cemeteries and elsewhere.

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Re Sec. 1. — The Commission considers it desirable that information concerning wounded and dead shall be centralized by official Information Bureaux (set up in pursuance of Article 77 of the Convention of 1929 on Prisoners of War) and forwarded to the home country by the intermediary of the Central Agency for Prisoners of War (Article 79 of the said Convention).

Re Sec. 2. — The Commission recommends the insertion, at the close of this Section, of the words "if possible by means of a unified form".

Re Sec. 5. — The Commission recommends the insertion after "honourably buried" of the words "if possible according to the rites of the religion to which they belonged".

Re Sec. 7. — The Commission proposes to replace the words "After the cessation of hostilities" by "As soon as circumstances allow and at latest after the cessation of hostilities".

Re Sec. 1. — Whereas the Geneva Convention now provides for the exchange between belligerents of the names of wounded, sick and dead, it does not indicate through what authorities this exchange shall take place. As regards wounded and sick in enemy hands, information is forwarded by the official Information Bureaux, set up in pursuance of Art. 77 of the Prisoners of War Convention, through the intermediary of the Central Agency, such wounded and sick being prisoners of war. The same applies to prisoners deceased in captivity. On the other hand, during the second World War, information concerning casualties on the battlefield was, in fact, conveyed equally by the Official Bureaux and by the Central Agency. The Conference considered it necessary to specify this procedure and to lay down the principle of the centralization of information.

With regard to this Section the International Committee also pointed out that during the recent War certain difficulties arose in connection with the identification of the dead and stressed the fact that military medical experts should decide whether other means of identification (for instance, a kind of Bertillon system, or the measurement or even radiography of skulls of all members of forces) should be adopted.

The Commission of the Conference considered, for its part, that it was not competent to deal with the question, and that measures to this effect should be eventually taken by Governments, independently of the Convention, which already contains general provisions to this effect. It provides, firstly, that the belligerents shall exchange all data to assist in the identification of the dead and, secondly, that burial or cremation shall be preceded by a careful and, if possible, medical examination of the bodies.

Re Sec. 2. — The present text of the Convention does not stipulate the manner in which death certificates shall be established. In fact, belligerents adopted various forms for this purpose; some utilised the unified and detailed form set out by the International Committee, which facilitates the communication to next of kin of numerous details attending the circumstances of decease.

The Conference considered it desirable that belligerents should adopt a unified form of death certificate. It did not recommend, however, to make this an absolute obligation.

Re Sec. 3. — The International Committee had raised the question whether personal belongings left in enemy hands by deceased combatants or prisoners should not be centralized, like the relevant data, by the official Prisoner of War Information Bureau of the detaining Power, and forwarded to the corresponding official bureau of the home country either through the Central Agency or the Protecting Power. The Conference considered that such a practice—which was in fact generally followed during the recent War—should be adopted. It did not however propose to amend the Convention on this point, and the question was left to the appreciation of Governments.

Re Sec. 5. — The above proposal of the Conference was adopted in view of the fact that certain belligerents requested the enemy to inter or cremate their nationals according to the rites of the religion to which they belonged. The Conference considered that such a stipulation might be inserted in the Convention, but should be preceded by the words “if possible”,

as certain religions or sects prescribe rites which it might sometime be difficult to observe, e.g. sacrifice of an animal, or use of certain rare ingredients.

Re Sec. 7. — The above amendment of the present text of the Convention was adopted in view of the fact that lists of graves and of the dead buried therein had often been communicated to the enemy before the close of hostilities, and that this practice should be encouraged.

Article 5.

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The military authorities may appeal to the charitable zeal of the inhabitants to collect and afford medical assistance, under their direction, to the wounded or sick of armies, and may accord to persons who have responded to this appeal special protection and certain facilities.

The Commission is of the opinion that this Article should be placed at the end of Chapter III. It should be completed by the adjunction, at the close of the first paragraph, of the clause: "In case of occupation, the enemy belligerent shall grant these persons the same protection and the same facilities", and by the adjunction of a new section as follows:

"Inhabitants, even in occupied regions, may not be prohibited from giving spontaneous help to the wounded and sick, on condition that the latter shall not be assisted to elude the possible control of the occupying authority".

The Conference was of the opinion that this Article should in future be placed at the end of Chapter III, which deals with Personnel.

The International Committee pointed out that a gap seems to exist in this Article. The latter provides that the military authority which has called upon the inhabitants to assist in caring for the wounded shall grant them special protection and facilities, but does not, however, lay down that other military authorities, especially the enemy, shall do likewise. The spirit of the Geneva Convention certainly requires that this Article

shall be understood in the widest possible sense ¹. In agreement with this view, the Conference advised the supplementing of Article 5 by the statement that in case of occupation the enemy shall grant these persons the same protection and the same facilities.

Following a proposal made by the Belgian Red Cross, the Conference decided to add a further Section to Article 5, to the effect that even in occupied territories, inhabitants may not be forbidden to give spontaneous help to the wounded and sick, on condition that the latter shall not be assisted to elude the possible control of the occupying authority.

The representative of the Belgian Red Cross pointed out that the civilian population should, in all circumstances, be allowed to carry out their humanitarian duty towards the wounded of any nation. He particularly recommended the embodiment of this principle, on the grounds that during the second World War, inhabitants had been prohibited from giving such assistance or, after having done so, had been punished by the occupants and even by their own authorities. In order to reconcile the demands of charity with military necessities, it should be stipulated that the inhabitants may not assist wounded and sick to elude the possible control of the occupying authority. The accommodation and care of wounded military personnel, such as parachutists, should not serve as a pretext to assist tactical operations or espionage.

Chapter II. — Medical Units and Establishments

Article 6.

Mobile medical formations, that is to say, those which are intended to accompany armies in the field, and the fixed establishments of the medical service shall be respected and protected by the belligerents.

The Commission considers that the words "Mobile medical formations, that is to say those which are intended to accompany armies in the field, and the fixed establishments of the medical

¹ The form in which this provision was drafted in the Convention of August 22, 1864, will convince the reader of the fact.

service" should be replaced by the expression "Fixed establishments and mobile formations of the Medical Service".

The amendment proposed by the Conference is only a matter of wording.

Article 7.

0921
The protection to which medical formation and establishments are entitled shall cease if they are made use of to commit acts harmful to the enemy.

The Commission, having agreed that the principles embodied in the Geneva Convention should be extended to cover wounded and sick Civilians, recommended, in case Governments did not share this view, that the following stipulation be introduced into the Convention: "The protection due to medical formations and establishments, their staff and equipment, and to hospital transports, shall not cease when their humanitarian activities are extended to the civilian population".

The Commission which in 1937 set up a revised draft of the Geneva Convention, decided to abandon the idea of deliberately extending the field of the Convention to cover wounded and sick civilians. It nevertheless decided to introduce a provision to the effect that the protection due to medical units and establishments, including their staff and equipment, and to hospital transports, shall not cease when their humanitarian activities extend to the civilian population.

Nine years later, the Preliminary Conference of Red Cross Societies decided that the principles of the Convention should be extended to cover wounded and sick civilians. It was recommended, however, in case Governments did not share this view, to introduce into the Convention the provision already drafted in 1937.

Article 8.

11.5.22
The following conditions are not considered to be of such a nature as to deprive a medical formation or establishment of the protection guaranteed by Article 6 :

(1) — That the personnel of the formation or establishment is armed, and that they use the arms in their own defence or in that of the sick and wounded in charge ;

(2) — That in the absence of armed orderlies the formation or establishment is protected by a piquet or by sentries ;

(3) — That small arms and ammunition taken from the wounded and sick, which have not yet been transferred to the proper service, are found in the formation or establishment ;

(4) — That personnel and material of the veterinary service are found in the formation or establishment, without forming an integral part of the same.

The Commission recommends the insertion, at the close of paragraph 1, of the word "particularly".

The recommendation to insert the word "particularly" at the close of paragraph 1 was made by the Conference following a proposal of the Belgian Red Cross. It is intended to specify that the above list of conditions is not limitative.

The International Committee had suggested to introduce here, among the conditions not regarded as depriving a medical unit or establishment of protection, the fact that the unit or establishment is equipped for air-raid precautions, or that persons trained for such service are among the personnel. The Commission considered that this proviso was self-evident and did not require to be inserted in the Convention.

Chapter III. — Personnel

Article 9.

The personnel engaged exclusively in the collection, transport and treatment of the wounded and sick, and in the administration of medical formations and establishments, and chaplains attached to armies, shall be respected and protected under all circumstances. If they fall into the hands of the enemy they shall not be treated as prisoners of war.

Soldiers specially trained to be employed, in case of necessity, as auxiliary nurses or stretcher-bearers for the collection, transport and treatment of the wounded and sick, and furnished with a proof of identity, shall enjoy the same treatment as the permanent medical personnel if they are taken prisoners while carrying out these functions.

The Commission recommends the insertion of the words "the search" in Section 1, after the words "the personnel engaged exclusively in". The same words should also be added after the following words of Section 2: "as auxiliary nurses or stretcher-bearers for".

The Commission further recommends the adoption of uniform identification papers, so that temporary Medical Personnel may at all times enjoy the benefit of the Convention, should they be captured while carrying out the same functions as the permanent personnel.

Furthermore, after consideration of the passage of the Commission's report relative to the protection of Medical Personnel, the Conference recommends that a Committee of Experts be instructed to study the protection that might be granted to Medical Personnel engaged exclusively in the prevention of disease.

Following the proposal of the Belgian Red Cross, the Conference recommended that the wording of Art. 9 be modified, in order that the personnel employed in the search for wounded and sick may enjoy the same protection as those employed for the collection, transport and care of wounded and sick, and in the administration of medical units and establishments.

The Belgian Red Cross also proposed to omit Sec. 2 of Art. 9, also the word "exclusively" in Sec. 1. The idea was to abolish the distinction at present drawn in the Convention between permanent Medical Personnel—*i.e.* that exclusively attached to the Medical Service—and the temporary medical personnel, set up in certain countries and specially trained for employment, in case of need, as auxiliary orderlies or stretcher-bearers. The delegate of the Belgian Red Cross expounded the view that, while it was desirable to have recourse to personnel trained at short notice, the risk of abuses which might occur under the present wording of Art. 9, Sec. 2 should be avoided.

The Conference Commission, by a large majority, opposed the proposal to delete the word "exclusively" in Sec. 1. The proposal to abandon the distinction between permanent and temporary Medical Personnel met with equal opposition and approval among the members of the Commission. Nevertheless, the

plenary session of the Conference decided by a large majority not to depart from the distinction as now drawn by the Convention.

The Conference further recommended the adoption of uniform identification papers for both temporary and permanent personnel, so that the former may at all times enjoy the benefit of the Convention, should they be captured while performing the same functions as the permanent personnel ¹.

During the plenary session, delegates proposed that Art. 9 be amended in order that medical personnel engaged in the prevention of disease should be protected in the same manner as those employed for the care of wounded and sick. It was pointed out that in all belligerent forces members of the Medical Service are detailed for the prevention of disease. Such personnel is called upon, when there is a risk of epidemics, to vaccinate, administer drugs and supervise the food and hygiene of the troops. The Conference recommended that this question be submitted to a committee of experts, with instructions to study what protection might be granted to Medical Personnel exclusively engaged in the prevention of disease. It was observed that there could be no question of extending protection to all army personnel who may be called upon, in some capacity or other, to care for the health of troops.

Article 10.

The personnel of Voluntary Aid Societies, duly recognised and authorised by their Governments, who may be employed on the same duties as those of the personnel mentioned in the first paragraph of Article 9, are placed on the same footing as the personnel contemplated in that paragraph, provided that the personnel of such societies are subject to military law and regulations.

Each High Contracting Party shall notify to the other, either in time of peace or at the commencement of, or during the course of hostilities, but in every case before actually employing them, the names of the Societies which it has authorised, under its responsibility, to render assistance to the regular medical service of its armed forces.

¹By recommending the adoption of uniform identification papers, the Conference was in no way opposed to the documents for temporary medical personnel being marked "Temporary Personnel".

The Conference, having considered the proposals made on this point by the First and Third Commissions, recommends that Section 1 of this Article be replaced by a new Section, as follows :

“The personnel of National Red Cross (Red Crescent, Red Lion and Sun) Societies, duly recognized by their respective Governments, are placed on the same footing as the personnel contemplated in Section 1 of Article 9, provided that they are employed in the same functions and be subject to military law and regulations”.

The International Committee had observed that the Geneva Convention makes no mention (other than in Art. 24) of National Red Cross Societies as such, but speaks only of “Voluntary Aid Societies”. As Red Cross Societies themselves are Aid Societies *par excellence* and form nearly the whole of the Societies recognised under Art. 10, the International Committee recommended that an end should be put to the present ambiguity, by explicit mention in Art. 10 of “National Red Cross Societies”. The Commission nominated by the Conference to study the revision of the Geneva Convention proposed that besides naming National Red Cross Societies, Art. 10 should continue to refer to other Aid Societies which, although not forming part of the Red Cross Organisation, are recognised by their Governments as auxiliaries to the Army Medical Service¹. However, the Commission thought that the principal Relief or Aid Societies who might be anxious to benefit by Art. 10, must have been approved by National Red Cross Societies, acting in agreement with their Governments.

The plenary assembly decided to omit in their recommendation any reference to Aid Societies other than Red Cross Societies, on the grounds that the Conference should consult principally the interests of the Red Cross, without prejudice to any decisions that might finally be made by the Governments called upon to settle a matter for which they are competent.

¹ These Societies are about ten in number. The most important among them are mentioned in the Final Act of the Diplomatic Conference of 1929 ; they are : the Order of Malta, the Grand Priory of St. John of Jerusalem in Great Britain, the Orders of St. John and of St. George in Germany.

Article 11.

A recognised society of a neutral country can only afford the assistance of its medical personnel and formations to a belligerent with the previous consent of its own Government and the authorisation of the belligerent concerned. C W 527

The belligerent who accepts such assistance is bound to notify the enemy thereof before making any use of it.

The Commission proposes that Section 2 be amended as follows :

“The neutral country which lends the assistance of its Red Cross Society, as also the belligerent who accepts such assistance, shall be bound, before any use is made of it, to notify the adverse party thereof”.

The Commission further recommends the introduction of a third Section as follows :

“Under no circumstances shall such assistance be considered as interference in the conflict”.

By voting the two above amendments, the Conference adopted the proposals made by the Commission in 1937.

Articles 12 and 13 and Status of Retained Medical Personnel.

Article 12. — The persons designated in Articles 9, 10 and 11 may not be retained after they have fallen into the hands of the enemy. C W 528

In the absence of any agreement to the contrary, they shall be sent back to the belligerent to whom they belong as soon as a route for their return shall be open and military considerations permit.

Pending their return they shall continue to carry out their duties under the direction of the enemy ; they shall preferably be engaged in the care of the wounded and sick of the belligerent to whom they belong.

On their departure, they shall take with them the effects, instruments, arms and means of transport belonging to them.

Article 13. — Belligerents shall secure to the personnel mentioned in Articles 9, 10 and 11, while in their hands, the same food, the same lodging, the same allowances and the same pay as are granted to the corresponding personnel of their own armed forces.

At the outbreak of hostilities the belligerents shall notify one another of the grades of their respective medical personnel.

The Conference, having considered the proposals made on this point by the First Commission, and while in favour of the retention of Article 12 of the Geneva Convention, recommends nevertheless that a Committee of Experts (who could be the same as that considered under Article 9) be instructed to draft detailed provisions, which would enable wounded and sick prisoners of war to receive the best possible care under all circumstances.

In the Reports laid before the Conference, the International Committee stated that the principle of repatriating members of Protected Personnel, provided for by Article 12, had been seldom applied during the second World War. The reason for this is, first, that the belligerents, basing their arguments on the words "in the absence of agreements to the contrary" (see Sec. 2 above and Art. 14, Sec. 4 of the Prisoners of War Convention) agreed to hold in the camps a large proportion of medical personnel for the care of their prisoner compatriots. Thus certain States retained for every 1000 prisoners: two doctors, one dentist, one chaplain and six medical orderlies. In some cases, however, supernumerary members of Medical Personnel were retained, in others such members remained idle or were required to perform other duties. The International Committee considered that a clear ruling should, in future, be applicable to the retention of Medical Personnel (percentage, criteria, etc).

In documents laid before the Conference, the Belgian Red Cross also recommended the addition to the Convention of a rule that part of the Medical Personnel may be kept back for the care of compatriot prisoners, but that this faculty must not free the Detaining Power from its obligations.

The International Committee further pointed out the necessity of including, either in the Geneva or in the Prisoner of War Convention, detailed regulations concerning the status and treatment of Retained Medical Personnel. During the second World War, some belligerents claimed that Retained Medical Personnel should be placed on the same footing as prisoners of war, a course which is clearly contrary to the spirit of the Geneva Convention. It is evident, however, that Retained Medical Personnel can only enjoy such freedom as is consistent with

military discipline and camp life. During the War, the International Committee had, in several cases, obtained from belligerents that certain privileges and facilities should be granted to Retained Medical Personnel, allowing them to carry out their professional duties.

The points which the Committee think should be the subject of regulations are particularly the following :

(1) Confirmation that members of the Medical Personnel can never be placed on the same footing as Prisoners of War, but shall enjoy, at the very least, all privileges granted to the latter ;

(2) Medical Personnel shall be exclusively employed for the care of their own nationals ;

(3) They shall be housed in separate quarters, either in the infirmaries, or close by ;

(4) They shall be paid at a fixed rate ;

(5) They shall have additional rations and more relief parcels ;

(6) They shall be allowed to leave camp and take walks at regular intervals.

The Commission set up by the Conference to study the revision of the Geneva Convention proposed, during the plenary meeting, the addition of a series of new Articles to Chapter III of the Geneva Convention, as follows :

Article 12 (amended) — The persons named in Article 9, 10 and 11 may not, subject to the provisions of the following Articles, be retained after they have fallen into enemy hands.

They shall be sent back to the belligerent to whom they belong, as soon as a way for their return shall be open and military necessities permit.

On their departure, they shall take with them the effects, personal property and valuables, instruments, arms and means of transport belonging to them.

Article 13 (new). — When the state of health and the number of prisoners of war justifies such a course, the persons named in Articles

9, 10 and 11 may be retained for the purposes named in Art. 14, but this faculty shall not relieve the Detaining Power of its obligations.

The choice of persons thus retained shall not be influenced by any consideration of race, or of political opinions.

The number retained shall be proportionate to the actual medical needs of the prisoners.

Article 14 (new). — The persons thus retained shall be placed under the authority of the Medical Service of the Detaining Power, and employed, except in cases of urgent necessity, for the care of prisoners of war of their own nationality.

They shall participate in the supervision and execution of health measures required in the places of detention.

Article 15 (new). — The partial relief (or substitution) of retained personnel by similar staff of the same nationality can be mutually agreed upon by the belligerents concerned.

Article 16 (new). — In no case may Retained Medical Personnel, either during detention or when awaiting repatriation, be considered as prisoners of war, though they may enjoy all the rights of the latter. They shall benefit by more favourable treatment, and especially by the following privileges :

(a) Accommodation in quarters separate from the prisoners of war, and either in the infirmaries, or close by.

(b) The right to receive and to send more letters than prisoners of war.

(c) Permission to leave camp or hospital, and to take walks at regular intervals, with or without escort.

(d) The right to elect a representative in each camp or hospital.

In plenary session, the Conference could not see its way to endorsing the conclusions submitted by the Commission, on the grounds that these provisions might compromise the privileged status of members of Medical Personnel and their right to repatriation. It also considered that stipulations of this kind might conceivably permit the Detaining Power to disregard its obligation consequent on the present wording of the Convention, to care for its prisoners of war with the help of its own personnel.

The Conference therefore confined itself to inviting a Commission of Experts to draft detailed proposals, ensuring that wounded and sick prisoners of war shall receive the best possible care, in all circumstances.

Chapter IV. — Buildings and Material

Article 14.

Mobile medical formations, of whatsoever kind, shall retain, if they fall into the hands of the enemy, their equipment and stores, their means of transport and the drivers employed.

Nevertheless, the competent military authority shall be free to use the equipment and stores for the care of the wounded and sick; they shall be restored under the conditions laid down for the medical personnel, and as far as possible at the same time.

Article 15.

The buildings and material of the fixed medical establishments of the army shall be subject to the laws of war, but may not be diverted from their purpose as long as they are necessary for the wounded and the sick.

Nevertheless, the commanders of troops in the field may make use of them, in case of urgent military necessity, provided that they make previous arrangements for the welfare of the wounded and sick who are being treated therein.

Article 16.

The buildings of aid societies which are admitted to the privileges of the Convention shall be regarded as private property.

The material of these societies, wherever it may be shall similarly be considered as private property.

The right of requisition recognised for belligerents by the laws and customs of war, shall only be exercised in case of urgent necessity and only after the welfare of the wounded and sick has been secured.

The Commission recommends that Art. 16, Sec. 2 be amended as follows :

“The material of these Societies, wherever and in whatever conditions it may be, shall also be considered as private property”.

The 1937 Commission while holding that the text of Art. 16 was sufficient to protect equipment belonging to Aid Societies everywhere, consequently even when such equipment was being transported by land, sea or air, decided to add after the words “wherever it may be”, the words “and in whatever conditions”. The Conference endorsed this proposal.

In connexion with this Article, the International Committee asked the representatives of National Societies if they thought

that the said Article needed amendment, seeing that during the War a number of National Societies had occasion to complain of requisitions of equipment by occupying forces.

The Conference Commission considered that the present text of Art. 16 was perfectly clear. If the Convention had sometimes been violated on this point, this was in no way due to the wording of the text, but resulted from the general difficulty of securing the application of the Convention, and of penalties in case of non-application. The representative of the Belgian Red Cross reported that though illicit requisitioning of medical equipment had occurred in his country during the first and last weeks of the occupation, the Belgian Red Cross had, on the strength of this Article, been able during four years successfully to resist attempts of this kind.

Chapter V. — Medical Transport

Article 17.

Vehicles equipped for the evacuation of wounded and sick, proceeding singly or in convoy, shall be treated as mobile medical formations, subject to the following special provisions :

A belligerent intercepting vehicles of medical transport, singly or in convoy, may, if military exigencies demand, stop them, and break up the convoy, provided he takes charge in every case of the wounded and sick who are in it. He can only use the vehicles in the sector where they have been intercepted, and exclusively for medical requirements. These vehicles, as soon as they are no longer required for local use, shall be given up in accordance with the conditions laid down in Article 14.

The military personnel in charge of the transport and furnished for this purpose with authority in due form, shall be sent back in accordance with the conditions prescribed in Article 12 for medical personnel, subject to the condition of the last paragraph of Article 18.

All means of transport specially organised for evacuation and the material used in equipping these means of transport belonging to the medical service shall be restored in accordance with the provisions of Chapter IV. Military means of transport other than those of the medical service may be captured, with their teams.

The civilian personnel and all means of transport obtained by requisition shall be subject to the general rules of international law.

The Commission recommends the insertion of a new Article embodying the following general principle :

Transports of wounded and sick, and the medical staff and equipment employed for that purpose, including the means of conveyance, shall in all circumstances enjoy the protection ensured by the present Convention to hospital establishments. Transports of medical supplies shall enjoy the same facilities, on condition that all steps to ensure strict observance of the principles laid down in the Convention are taken by the belligerents to whom they belong.

The above recommendation was adopted, at the suggestion of the Belgian Red Cross. It was considered advisable to include in this Chapter an introductory Article defining, for Medical Transport as a whole, the general principles granting them immunity, in the case of medical units. It was observed that Art. 17 contained a series of provisions in matters of detail. The Conference held, however, that a new Article could only be introduced after careful scrutiny, so as to ensure perfect concordance between the said Article and the stipulations already embodied in Art. 17. It was therefore decided not to adopt any new wording, but simply to express the general principle.

The Commission set up by the Conference to study the revision of the Geneva Convention made a further recommendation to the International Committee that a popular hand-book on the Red Cross Conventions should be published, for the use of readers unfamiliar with legal questions. The title of this book could be, for instance, "Red Cross Conventions simplified". This recommendation originated through reference made by certain delegations to the last Section of Art. 17 where it is stated that "civilian personnel and all means of transport obtained by requisition shall be subject to the general rules of international law". It was observed in this connexion that most persons called upon to apply the Geneva Conventions were doubtless ignorant of the said general rules, and should know where to find them. In such cases, the proposed hand-book would supply the rules here alluded to.

Article 18.

Aircraft used as means of medical transport shall enjoy the protection of the Convention during the period in which they are reserved

exclusively for the evacuation of wounded and sick and the transport of medical personnel and material.

They shall be painted white and shall bear, clearly marked, the distinctive emblem prescribed in Article 19, side by side with their national colours, on their lower and upper surfaces.

In the absence of special and express permission, flying over the firing line, and over the zone situated in front of clearing or dressing stations, and generally over all enemy territory or territory occupied by the enemy, is prohibited.

Medical aircraft shall obey every summons to land.

In the event of a landing thus imposed, or of an involuntary landing in enemy territory or territory occupied by the enemy, the wounded and sick, as well as the medical personnel and material, including the aircraft, shall enjoy the privileges of the present Convention.

The pilot, mechanics and wireless telegraph operators captured shall be sent back, on condition that they shall be employed until the close of hostilities in the medical service only.

Regulation of hospital transport by air.

The Commission recognizes that the question is not of establishing a new Convention adapting the principles of the Geneva Convention to air warfare, but of regulating hospital transport by air.

The Commission considers that such regulation should be the object of provisions completing Article 18 of the Geneva Convention. It decides to leave to the International Committee of the Red Cross the task of drafting these provisions, with expert advice, and taking into account the following few principles :

In the French text the expression "appareils sanitaires aériens" to be replaced by the term "appareils aériens sanitaires".

The principle of the restitution of hospital airplanes should be maintained.

The provisions relating to air transport should be brought into line with those relating to hospital transport by land (Article 17). Nevertheless, recourse should not be had to planes temporarily detailed for medical purposes, with removable distinctive emblems.

No provisions should be introduced as regards marking, with a view to their immunity, landing grounds employed solely by hospital airplanes.

A provision authorizing free passage for hospital airplanes over territory or territorial waters of non-belligerents should be inserted in conformity with Article 14 of the Fifth Hague Convention of 1907 on the Rights and Duties of Neutral Powers.

Furthermore, the Commission recommends that the question of utilizing hospital airplanes for the purpose of searching for wounded, sick, or shipwrecked persons, by land or sea, be examined.

In connexion with Art. 18, the Conference examined the question of hospital transport by air in its various aspects.

The International Committee, in their Report, recalled the fact that the Diplomatic Conference of 1929 had settled the question of medical aircraft in summary fashion only, by adopting Article 18. In its Final Act, however, the Conference expressed the recommendation that the entire problem of medical aircraft be subsequently regulated.

At the Fourteenth International Red Cross Conference, held in Brussels in 1930, a "Draft Adaptation of the Principles of the Geneva Convention to Aerial Warfare", drawn up by M.M. Ch. Julliot and P. Des Gouttes, was brought forward by the International Committee. This Draft was endorsed by the Conference, and the International Committee were instructed to transmit it to the Swiss Federal Council, which in turn was to lay it before the Diplomatic Conference, due for 1940, but postponed owing to the War.

Believing it necessary now to resume the study of detailed regulations for Medical Aircraft, the International Committee submitted the 1930 Draft to the present Conference, stressing certain points which apparently require adjusting, as follows :

(a) The International Committee believe it indispensable to return to the idea expressed by the Diplomatic Conference of 1929 (approved, moreover, by M. Julliot in 1935), namely, to make provisions for the regulation of medical aircraft and to abandon the project of adapting the principles of the Geneva Convention to aerial warfare. The said provisions could be simply embodied in the Geneva Convention, as an extension of Art. 18. The protection accorded by the Geneva Convention

to the wounded, the buildings which shelter them, to the medical Personnel and equipment devoted to their care, is as clearly valid for air, as for land warfare. Medical aircraft, for which more exact regulations have now to be drafted, are only one means among others for the transport and search of wounded. If, in 1907, it was deemed necessary to adapt the principles of the Geneva Convention to maritime warfare, this was due to the special conditions prevalent at sea, but which do not exist in the air. Speaking quite generally, it may be said that the same rules apply to the air, as to the land or the sea. The Conference unanimously endorsed this view of the question.

(b) Another scheme for the regulation of Medical Aircraft was drafted inofficially in 1935 by MM. Julliot and Schickelé. It differs essentially from the 1930 Draft by introducing the use—(in addition to planes definitely allotted to the Medical Services and governed by Art. 18 of the Geneva Convention)—of planes temporarily engaged in ambulance work and bearing a removable distinctive emblem.

The Preliminary Conference considered that, generally speaking, provisions concerning air transport should agree with those governing medical transport by land (Art. 17), and that recourse should not be had to planes engaged temporarily in ambulance work, bearing the removable distinctive emblem.

(c) The Julliot-Schickelé Draft introduces a clause that landing-strips used solely by Medical Aircraft shall be considered immune from attack and be marked out with the distinctive emblem of the Red Cross. The Julliot-Des Gouttes plan of 1930 merely stipulates that the belligerents shall be free to enact, in the customary manner, the neutralisation of certain landing-grounds. The Conference considered that the idea of marking out landing-strips for medical aircraft, to render them immune from attack, should be abandoned.

(d) The Fourteenth International Red Cross Conference of 1930, which approved the draft submitted by the International Committee, recommended that additional clauses be introduced concerning the immunity of medical aircraft engaged in their

humanitarian task over the seas, and the possibility of allowing them to cross neutral territory.

With regard to the use of neutral aircraft over the seas, it should be noticed that the draft of the revised Maritime Convention (1937) stipulated that the provisions of Art. 18 of the Geneva Convention should be applicable on the seas; special provisions were included regarding medical sea-planes. With regard to the crossing of neutral territory, a gap apparently remains to be filled. MM. Julliot and Schickelé proposed to introduce a clause that medical aircraft should be allowed free passage over the territory or territorial waters of a non-belligerent, subject to the latter having the same right of control as a belligerent over the territory he occupies.

The Conference thought that provision should be made for the free passage of medical aircraft over the territory or territorial waters of non-belligerents, in accordance with Art. 14 of the Fifth Hague Convention of 1907 concerning the rights and duties of Neutral Powers and Persons in case of War on Land.

(e) The Commission of 1937 for the revision of the Tenth Hague Convention had studied the question of the use by belligerents of medical aircraft to assist in the discovery and rescue of war victims on the high seas. The Commission decided the question in the affirmative and admitted that planes could be temporarily used for this purpose. The International Committee think it necessary that such temporary use of medical planes should be studied also in relation to operations on land.

The Conference recommended that the question of search by medical aircraft for wounded, sick and shipwrecked persons on land or sea be thoroughly examined.

Chapter VI. — The Distinctive Emblem

In the Reports submitted to the Conference, the International Committee prefaced the study of each separate Article of this Chapter, by a general statement with regard to the use of the distinctive emblem. The Committee stressed that the red cross on a white ground is, primarily, the emblem of the Geneva Convention, to which it owes its high significance as the symbol

of protection extended to the wounded and sick of armies in the field, to the buildings where they are sheltered, to the staff that nurses them, and to the equipment devoted to their use. The Committee also emphasised that a clear distinction should be drawn between two different uses of the Red Cross Emblem.

In its first use—and here it gains its essential significance—the emblem is, in a manner of speaking a *constitutive* symbol of protection, when it is displayed on buildings, personnel and equipment for which the Convention demands respect. This use is of practical value in time of war and in the zone of military operations. The dimensions of the emblem are then usually large enough to be visible, especially from the air.

In its second use, the emblem is merely *descriptive*, in peacetime and in war-time outside the fighting area, without any protective purpose, to draw public attention to buildings, publications, etc, connected with the Red Cross. The emblem is then usually of small size.

It is certain that the greatest care must be exercised, particularly when the emblem is a practically *constitutive* symbol of protection, that it shall be employed only within the limits fixed by the Conventions, except by special agreement between the Powers concerned. These precautions are essential to ensure respect of the emblem and to safeguard its prestige. The presence in a war zone of buildings or objects improperly bearing the Red Cross Emblem is indeed likely to imperil the safety of those who have the right to bear it.

Incautious extension of the use made of the emblem, even if only in the descriptive manner, is however liable to lessen its prestige and consequently to compromise the good name of the Red Cross itself, the more so as it is sometimes difficult, in practice, for the enemy to distinguish the *descriptive* from the *constitutive* use.

The Committee concluded that the use made of the emblem should be strictly in accordance with the terms of the Geneva Convention, subject to such amendments as may be found necessary in the wording. The views expressed by the National Societies members of the Commission have shown that the Societies fully share the Committee's anxiety on this point.

Article 19.

As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours, is retained as the emblem and distinctive sign of the medical service of armed forces.

Nevertheless, in the case of countries which already use, in place of the Red Cross, the Red Crescent or the Red Lion and Sun on a white ground as a distinctive sign, these emblems are also recognised by the terms of the present Convention.

The International Committee recalled in their Report that the 1937 Commission expressed unanimous regret that Section 2 should have abandoned the unity of the Red Cross Emblem, advising that it would be very desirable to restore it.

The 1937 Commission stressed the fact that the red cross on a white ground is an international emblem, created by the Geneva Convention, and entirely free from any national or religious significance. The substitution of other symbols creates risk of confusion with national flags, of lessening the protection that attaches to the distinctive emblem of the Convention and, generally speaking, of diminishing the influence of the Red Cross as a world-wide institution.

The 1937 Commission recommended that, in any case, the Convention should not be further amended so as to allow any other exceptions to the unity of the emblem, than those now provided for in Art. 19.

The International Committee added that, after the second World War, they remained convinced that attempts should be made to restore the unity of the emblem and title of the Red Cross. They therefore invited National Societies—particularly those using the red crescent and the red lion and sun—to express their views on this matter and give their experiences.

Some delegations members of the Commission set up by the Conference emphasized that it was most important, for the universality and neutrality of the Red Cross, to return to the use of a single emblem, and pointed out that numerous practical reasons could also be quoted in favour of such a course. These delegations recommended that suitable information be spread

amongst Middle East populations, explaining the real significance of the heraldic emblem of the red cross on a white ground.

The representative of the Egyptian Red Crescent, supported by other delegations, stated that it would be impossible at the present time to introduce this emblem into Muslim countries, without deeply offending the religious sentiments of the population. He pointed out that during hostilities in Lybia, the presence of the red cross and the red crescent, side by side, had led to no confusion. He was, however, fully aware of the advantages that would accrue from a return to unity and did not deny at some future day the situation might conceivably allow such a course, which now was impracticable.

The Commission agreed to recommend that the whole question be examined by the Seventeenth International Red Cross Conference, due account being paid to the views expressed during the debate.

The representative of the Egyptian Red Crescent later informed the plenary assembly that further study was useless under present circumstances; should the next International Conference adopt a resolution relative to the unification of the emblem, it would be impossible to apply it. This view was shared by the representatives of the British Red Cross and the Turkish Red Crescent, and the Conference finally decided not to bring the matter before the Seventeenth Conference.

Article 20.

The emblem shall figure on the flags, armllets, and on all material belonging to the medical service, with the permission of the competent military authority.

Article 21.

The personnel protected in pursuance of Article 9 (paragraph 1), 10 and 11, shall wear, affixed to the left arm, an armllet bearing the distinctive sign, issued and stamped by a military authority.

The personnel mentioned in Article 9, paragraphs 1 and 2, shall be provided with a certificate of identity, consisting either of an entry in their small book (paybook) or a special document.

The persons mentioned in Articles 10 and 11 who have no military uniform shall be furnished by the competent military authority with

a certificate of identity, with photograph, certifying their status as medical personnel.

The certificates of identity shall be uniform and of the same pattern in each army.

In no case may the medical personnel be deprived of their armlets or the certificates of identity belonging to them.

In case of loss they have the right to obtain duplicates.

The Commission recommends that the following principles should be considered when amending the text of this Article.

(1) *Unification by all States of the identification papers issued to the various categories of Medical Personnel.*

(2) *Adoption by all States of a uniform type of identity card.*

(3) *Identification papers to be provided with photograph and finger-prints of the bearer.*

Further, the Commission recommends the adoption of a provision urging on States the immediate establishment of duplicates of all identity cards issued to members of Medical Personnel, such duplicates to be preserved with a view to replacing originals in case of loss.

In their Report, the International Committee stressed the fact that during the recent War a large number of Medical Personnel who fell into enemy hands could not prove their right to repatriation, or experienced great difficulty in having their qualification recognised, because they were not in possession of the identity cards prescribed by the Convention. Since the beginning of 1940, the International Committee had instituted an enquiry among all National Red Cross Societies, which showed that the majority of States did not strictly observe the provisions of the Convention concerning identification papers for Medical Personnel. The Committee expressed the hope that the painful experience gained during the recent War would induce States to take immediate steps to provide this personnel with regular documents, and suggested that this necessary precaution should be stressed by a recommendation embodied in the Final Act of a Diplomatic Conference.

Further, to avoid the recurrence of the above difficulties, which affected so many members of the Medical Personnel, the Committee suggested that the Conference should recommend a unified system of identification papers for Medical Personnel of all ranks, in all countries ¹, which would simplify formalities and prevent dispute.

The Committee also stressed how extremely desirable it would be to achieve uniformity by all States of identification papers. If this could not be done, it would at least be desirable that, on the outbreak of hostilities at the latest, belligerents should notify each other of the type in use in their forces.

The Committee's advisors remarked that the army paybook is often too large to be carried in a uniform pocket; medical orderlies are therefore inclined to put it in their packs, which they leave behind when going to pick up the wounded. Moreover, the book is often kept in the base offices. It therefore seems desirable that Medical Personnel should be furnished with identity cards bearing a photograph and small enough to be slipped in the pocket.

The Conference endorsed the proposals of the International Committee, and recommended the issue by all States of uniform identification papers to all categories of Medical Personnel, also the adoption by all States of a uniform type of identity card. It was observed that the uniform identity card could be that recommended by the Commission for the study of Hospital Equipment, whose findings were approved by the International Red Cross Conference ².

The Conference further recommended that identity cards should be provided with the photograph and finger-prints of the bearer.

Lastly, the Conference recommended to all States that identity cards issued to Medical Personnel should be immediately made out in duplicate, such duplicates to be retained to replace originals in case of loss.

It may be observed that the International Committee had already suggested, in peace time, that identity cards for Medical

¹ See above page 27 sqq.

² See "Manuel de la Croix-Rouge internationale". Eighth edition, page 522.

Personnel should be made out in triplicate, one copy to be handed to the person concerned, the second to remain in the Home Power records, and the third to be placed in a card-index kept by the Army Medical Service or by the National Red Cross Society. In case of war, this card-index could immediately be sent to a neutral body, who would then be in a position to certify to any Detaining Power that a particular member of the Medical Personnel held by them, and not in possession of an identity card, was a genuine member, and to supply an authentic duplicate bearing the same date of issue as the original.

The Conference Commission were, however, unable to recommend this proposal, on the grounds that it might cause great practical difficulties and meet with opposition from States who, for military reasons, might not wish to reveal the exact strength of their Medical Personnel, as this would allow a rough estimate of the numbers of their armed forces.

Article 22.

The distinctive flag of the Convention shall be hoisted only over such medical formations and establishments as are entitled to be respected under the Convention, and with the consent of the military authorities. In fixed establishments it shall be, and in mobile formations it may be accompanied by the national flag of the belligerent to whom the formation or establishment belongs.

Nevertheless, medical formations which have fallen into the hands of the enemy, so long as they are in that situation, shall not fly any other flag than that of the Convention.

Belligerents shall take the necessary steps, so far as military exigencies permit, to make clearly visible to the enemy forces, whether land, air, or sea, the distinctive emblems indicating medical formations and establishments, in order to avoid the possibility of any offensive action.

Article 23.

The medical units belonging to neutral countries which shall have been authorised to lend their services under the conditions laid down in Article 11, shall fly, along with the flag of the Convention, the national flag of the belligerent to whose army they are attached.

They shall also have the right, so long as they lend their services to a belligerent, to fly their national flag.

The provisions of the second paragraph of the preceding article are applicable to them.

The Commission recommends that the use of the national flag shall be unified, by providing that mobile units and buildings have simply the right to display it.

The last clause of Sec. 1 should then be deleted and replaced by a new Sec. 2, which might be worded as follows:

“Both in mobile units and in fixed establishments, it may be accompanied by the national flag of the belligerent to whom the unit or establishment belongs”.

Article 23 could then also be amended as follows:

At the close of Section 1 add the words “should the latter make use of the faculty conferred upon him by Article 22”, Furthermore, replace Sections 2 and 3 by the following:

“Unless orders to the contrary are given by the responsible military authority, they may under any circumstances fly their national flag, even should they fall into the hands of the adverse party”.

The adopted amendments to the wording of the Geneva Convention were taken from the proceedings of the 1937 Commission. Their chief purpose is to grant medical units and establishments the *faculty* of displaying the national flag, whether belligerent neutral, whereas the Convention 1929 lays down that fixed establishments *must* display the national flag together with the Red Cross flag, while mobile units *may* do so.

Article 24.

The emblem of the red cross on a white ground and the words “Red Cross” or “Geneva Cross” shall not be used, either in time of peace or in time of war, except to protect or to indicate the medical formations and establishments and the personnel and material protected by the Convention.

The same shall apply, as regards the emblems mentioned in Article 19, paragraph 2, in respect of the countries which use them.

The Voluntary Aid Societies mentioned in Article 10, may, in accordance with their national legislation, use the distinctive emblem in connexion with their humanitarian activities in time of peace.

As an exceptional measure, and with the express authority of one of the National Societies of the Red Cross (Red Crescent, Red Lion and

Sun), use may be made of the emblem of the Convention in time of peace to mark the position of aid stations exclusively reserved for the purpose of giving free treatment to the wounded or the sick.

The Commission recommends that this Article be replaced by the following provisions :

“The emblem of a red cross on a white ground and the words “Red Cross” or “Geneva Cross” shall not be used, except in the cases named in the last three Sections of the present Article, either in time of peace or in time of war, unless to protect or to indicate the medical formations and establishments, personnel and equipment protected by the Convention.

“The same shall apply as regards the emblems mentioned in Article 19, Sec. 2, in respect of the countries which employ them.

“However, the National Red Cross (Red Crescent, Red Lion and Sun) Societies may, in conformity with national legislation, make use of the emblem of the Convention, in time of peace as well as in time of war, for all their humanitarian activities, in so far as this utilisation and the dimensions of the emblem are such that the latter cannot, in time of war, be considered by the enemy as conferring protection in the sense of the present Convention.

“Under similar conditions, the International Committee of the Red Cross, the League of Red Cross Societies, or any other recognised Red Cross organisation, functioning as a neutral intermediary, shall also be authorised to make use at all time of the emblem of the red cross on a white ground.

“As an exceptional measure and with the express authorisation of one of the National Red Cross (Red Crescent, Red Lion and Sun) Societies, the emblem of the Convention may be employed in time of peace to mark the site of First Aid Stations, exclusively reserved for giving gratuitous assistance to wounded and sick persons”.

Re Section 1. — The amendment is here purely formal and indicates that the general principle expressed in this Article is subject, however, to the exceptions mentioned in the last three Sections of Article 24.

Re Section 3. — The 1937 Commission, in confirmation of established and undisputed usage, recommended that the text of this Article should include a clause stipulating that National Red Cross Societies shall be able to employ the Red Cross emblem when carrying out, in war-time, their welfare activities in behalf of the sick and wounded.

The Conference decided that the right of National Societies to use the emblem, in time of peace as in time of war, should cover all their humanitarian activities. It recognised that, for all activities of National Societies other than the care of wounded and sick of the forces, the use and dimensions of the emblem should be such that it may not be considered by the enemy, in war-time, to confer protection in the sense of the present Convention ¹.

Re Section 4. — The International Committee had pointed out an obvious gap in the Geneva Convention which must be filled. Neither the International Committee nor the League of Red Cross Societies is mentioned in the Convention as an institution empowered to display the Red Cross emblem, in time of peace as in time of war. As a matter of fact, the Committee used the emblem, of which they were the first originators, even before the conclusion of the Geneva Convention, and their right has never been questioned to use the emblem and to supply their delegates with a white brassard bearing a red cross.

The Conference unanimously agreed that this anomalous situation should be amended. It further considered necessary that the Convention should also empower another recognised Red Cross organisation acting as neutral intermediary, to employ at all times the emblem of a red cross on a white ground. Although no such organisation exists today, the Conference thought useful to provide for its creation if, during any future war, events should prevent the International Committee from pursuing its role of neutral intermediary.

¹ The Conference thus clearly expressed that the emblem must be descriptive only and not constitutive of protection. See above page 18.

Re Section 5. — The 1937 Commission considered it advisable that Art. 24 should provide for the faculty, exceptionally and in conformity with the law of the land, for National Red Cross Societies to allow other organisations to employ the Red Cross emblem in peace time, in the pursuit of their welfare activities. The present text of the Convention does not provide any such faculty, except as a means of marking the site of free First Aid Stations. It is conceivable that there may be a humanitarian interest for the Red Cross emblem being employed, in time of peace, for ambulances having no connection with National Societies, and which undertake the transport of sick civilians. The Conference Commission did not, however, consider it necessary to make any amendment to the wording of the 1929 Convention on this point.

*Chapter VII. — Application and Execution
of the Convention*

Article 25.

The provisions of the present Convention shall be respected by the High Contracting Parties in all circumstances. If, in time of war, a belligerent is not a party to the Convention, its provisions shall, nevertheless, be binding as between all the belligerents who are parties thereto ¹.

Article 26.

The Commanders-in-Chief of belligerent armies shall arrange the details for carrying out the preceding Articles, as well as for cases not provided for, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present Convention.

The Commission recommends the insertion of the following provision:

“In no case may measures of reprisal be taken against the wounded and sick, the buildings, personnel or equipment protected by the Convention”.

¹ As regards application of the Convention to all cases of hostilities, see pages 14-15.

The above adjunction, already suggested by the 1937 Commission, lays down a principle embodied in the Convention on the Treatment of Prisoners of War (1929).

Article 27.

The High Contracting Parties shall take the necessary steps to instruct their troops, and in particular the personnel protected, in the provisions of the present Convention, and to bring them to the notice of the civil population.

*Chapter VIII. — Suppression of Abuses and
Infractions*

Article 28.

The Governments of the High Contracting Parties whose legislation is not at present adequate for the purpose, shall adopt or propose to their legislatures the measures necessary to prevent at all times :

(a) the use of the emblem or designation "Red Cross" or "Geneva Cross" by private individuals or associations, firms or companies, other than those entitled thereto under the present Convention, as well as the use of any sign or designation constituting an imitation, for commercial or any other purposes ;

(b) by reason of the compliment paid to Switzerland by the adoption of the reversed Federal colours, the use by private individuals or associations, firms or companies of the arms of the Swiss Confederation, or marks constituting an imitation, whether as trade-marks or as parts of such marks, or for a purpose contrary to commercial honesty, or in circumstances capable of wounding Swiss national sentiment.

The prohibition indicated in (a) of the use of marks or designation constituting an imitation of the emblem or designation of "Red Cross" or "Geneva Cross", as well as the prohibition in (b) of the use of the arms of the Swiss Confederation or marks constituting an imitation, shall take effect as from the date fixed by each legislature, and not later than five years after the coming into force of the present Convention. From the date of such coming into force it shall no longer be lawful to adopt a trade-mark in contravention of these rules.

The Commission recommends that in Sec. 1 the expression "The Governments of the High Contracting Parties" be replaced by the words "The High Contracting Parties". It further recommends that in the same paragraph the words "or propose to their legislatures" be deleted.

The Commission further suggests that the words "for commercial or any other purposes", at the end of Sec. 1 (a), be replaced by the words "whatever the purpose of such employment".

The Commission also proposes to replace Sec. 2 by a new text which might run as follows :

"States not party to the Geneva Convention of July 27, 1929, and which may later on ratify the present Convention or adhere to it, shall take the necessary measures to prevent at all times the acts indicated under (a) and (b) above, so that the said prohibition shall become effective at latest five years after the said ratification or adhesion.

"The interdiction, already enacted by the Convention of July 27, 1929, of the use of a trade-mark or commercial emblem contrary to the above prohibitions, shall be maintained.

"In States not party to the Convention of 1929, and which may later on ratify or adhere to it, it shall no longer be lawful, as from the date when the act of adhesion is filed, to employ a trade-mark or commercial emblem contrary to these prohibitions. Within a maximum period of five years from the date when the Convention comes into force, the marks, style of commercial firms, and names of associations or establishments which are contrary to those prohibitions shall be altered, whatever the previous date of their adoption."

* * *

The Conference, following a proposal by the United States delegation, unanimously adopted the following resolution :

"The Preliminary Conference of National Red Cross Societies, met at Geneva with a view to recommending amendments to the Geneva Conventions, notes with regret that certain signatories to the Geneva Convention of 1929 have failed to prevent the abuse of the name and emblem of the Red Cross, in the manner laid down in Article 28 of the said Convention.

"In consequence, the Conference unanimously demands that such signatories immediately take the steps required for the implementing of the said Article 28. The Conference stresses parti-

cularly the need of putting an end, as soon as possible, to the abusive employment of the name and emblem of the Red Cross for commercial or any other unauthorized purpose, no account being held of the time during which such abuse may have been committed."

The new wording adopted by the Conference has the chief effect of defining with all due clarity, thus dispelling certain doubts which may still appear to exist—unjustifiably, as the Committee hold—the fact that all trade-marks contrary to the stipulations of the Convention must be abolished within a maximum period of five years, whatever the prior date of introduction.

Furthermore, the Conference, following a proposal of the American Red Cross, noted with regret that certain States have failed to prohibit the abusive employment of the name and emblem of the Red Cross, and decided to address to all States party to the Geneva Convention a request that they should immediately take all steps required for the implementing the prohibitions embodied in Article 28.

Article 29.

The Governments of the High Contracting Parties shall also propose to their legislatures, should their penal laws be inadequate, the necessary measures for the repression in time of war, of any act contrary to the provisions of the present Convention.

They shall communicate to one another, through the Swiss Federal Council, the provisions relative to such repression not later than five years from the ratification of the present Convention.

The Commission recommends that Sec. 1 of this Article be amended in the sense suggested for Sec. 1 of Art. 28.

The first sentence of Art. 29 would therefore be worded as follows: "The High Contracting Parties whose penal laws are inadequate, shall take the necessary steps..."

Article 30.

On the request of a belligerent, an enquiry shall be instituted, in a manner to be decided between the interested parties, concerning any

alleged violation of the Convention ; when such violation has been established the belligerents shall put an end to and repress it as promptly as possible.

The Commission recognizes that this Article should be amplified. It approves the leading principles laid down by the Committee of Experts in 1937 and on which the revision of Art. 30 might be based. These principles, slightly amended by the Commission, might be worded as follows :

(1) *That the procedure of enquiry be opened as rapidly as possible and in a practically automatic fashion.*

(2) *That the enquiry may be demanded by any interested Power party to the Convention, whether the said Power is belligerent or neutral.*

(3) *That a single central and standing agency, provided for by the Convention, be charged with the constitution of the Commission of Enquiry, as a whole or in part.*

(4) *That the Commission of Enquiry be appointed for each particular case, at the time of the demand, in consequence of an alleged violation of the Convention.*

(5) *That the members of the Commission of Enquiry be selected by the above-mentioned agency from lists, kept up to date, of qualified and available persons, whose names shall have been submitted beforehand by Governments.*

(6) *That special bodies be appointed beforehand to undertake, should need be, such urgent investigations as may appear necessary.*

(7) *That the report of the Commission of Enquiry comprise, besides a record of facts, recommendations addressed to the parties concerned.*

Furthermore, the Commission recommends the adoption of the following principle :

“Each belligerent State shall facilitate the investigations of the said agency on the territory of the countries where it exercises authority.”

The Commission is further of opinion that the agency charged with the constitution of the Commission of Enquiry—see (3)—should be the Court of International Justice.

The majority of the above recommendations were taken from the proceedings of the 1937 Commission, which made a very close study of the questions. A few amendments were, however, introduced, following proposals by the Belgian Red Cross.

II. Convention for the Adaptation to Maritime Warfare of the Geneva Convention

In 1937, the International Committee drew up, in co-operation with naval experts delegated by Governments and National Red Cross Societies, a revised draft of the Tenth Hague Convention of 1907 for the adaptation to Maritime Warfare of the principles of the Geneva Convention. This draft was submitted to the Sixteenth International Red Cross Conference, approved and placed on the agenda of the Diplomatic Conference convened by the Swiss Federal Council for 1940, but which was postponed on account of the War.

After the recent War, the International Committee considered opportune to take up once more the preparatory work for the revision of the Tenth Hague Convention. With this end in view, they laid before the Preliminary Conference the major part of the Draft Maritime Convention of 1937, and indicated, in their accompanying Report, the points which, in the light of recent events, apparently required amendment.

The Commission set up by the Conference to study the question, after examination of the Draft Maritime Convention, drawn up by the International Committee in 1937 in co-operation with naval experts, approve this Draft as a whole¹. The Commission further adopts the amendments and recommendations which will be found below.

¹ It should be noticed that the Draft Revised Maritime Convention must be brought into agreement with the amendments introduced into the Geneva Convention itself.

*Chapter I. — Wounded, Sick or Shipwrecked
Persons*¹

Article 1.

Sailors and soldiers on board, as well as other persons officially attached to land, naval, or air forces, who may be sick, wounded or shipwrecked, shall be respected and protected under all circumstances; they shall be treated humanely and nursed, without distinction of nationality, by the belligerent into whose power they have fallen.

The benefit of the foregoing provisions shall also cover sick, wounded or shipwrecked persons of any vessel that is the victim of an incident of war.

Chapter II. — Hospital-Ships

Article 9.

Military hospital-ships, that is to say, ships constructed or assigned by States specially and solely with a view to assisting the wounded, sick and shipwrecked, and the names of which have been communicated to the belligerent Powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected and can not be captured.

Article 10.

Hospital-ships utilized by private individuals or officially recognized Relief Societies, shall be likewise respected and exempt from capture, if the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power, at the commencement of or during hostilities, and in any case before they are employed.

These ships must be provided with a certificate from the responsible authorities, stating that the vessels have been under their control while fitting out and on final departure.

The Commission recommends the following amendment to the beginning of Sec. 1:

“Hospital-ships, employed by the National Red Cross Societies, by Voluntary Aid Societies duly recognised, or by private persons shall be... etc.”

¹ The Articles reprinted below are those of Draft Revised Maritime Convention, drawn up in 1937. Those which call for no remark will be found in the Commentary annexed to the Draft of 1937, and included in the Report submitted to the Sixteenth International Red Cross Conference (London, 1938).

This amendment is intended to make the Maritime Convention agree with an adjunction adopted by the Conference for the Geneva Convention, with regard to the special mention of National Red Cross Societies instead of recognised Voluntary Aid Societies ¹.

Article 11.

Hospital-ships utilized by private individuals or officially recognized relief societies of neutral countries shall be respected and exempt from capture, on condition that they are placed under the control of one of the belligerents, with the previous consent of their own Government and with the authorisation of the belligerent himself, and that the latter has notified their names to his adversary at the commencement of or during hostilities, and in any case before they are employed.

The Commission recommends at the beginning of this Article the amendments specified for Art. 10, Sec. I.

The Commission further recommends that a minimum tonnage for hospital-ships be decided upon. The figure should be fixed by experts.

In their Report to the Conference, the International Committee stated that during the recent War, controversy had arisen between belligerents with regard to the minimum tonnage of hospital-ships. Some belligerents refused to recognise certain hospital-ships as such, on the grounds of insufficient tonnage.

The Conference considered that the question should be settled by naval experts ².

Article 12.

The ships mentioned in Articles 9, 10 and 11 shall afford relief and assistance to the wounded, sick and shipwrecked of the belligerents, without distinction of nationality.

The Governments undertake not to use these ships for any military purpose.

These vessels must in no wise hamper the movements of the combatants.

¹ See pages 29-30.

² One delegation suggested that the minimum tonnage should be fixed at 6000 tons.

During and after an engagement they will act at their own risk and peril.

The belligerents shall have the right to control and search them. They can refuse to help them, order them off, make them take a certain course, and put a commissioner temporarily on board ; they can even provisionally detain them, if important circumstances require it.

As far as possible, the belligerents shall enter in the log of the hospital-ships the orders which they give them.

The Commission recommends that the two following principles be embodied in this Article :

(a) *A hospital-ship is presumed to forego the protection of the Convention if it is convoyed by warships, or included in a convoy of merchant ships.*

(b) *The idea of placing neutral observers on board hospital-ships should be examined.*

It was proposed in 1937 to adopt the principle that a hospital-ship, when it is convoyed by war vessels, presumably renounces the protection of the Convention.

The Conference thought useful to take up this idea again, and to give it more exact expression.

Further, the 1937 Commission had also recommended that States should place neutral observers on board hospital-ships, as was the case in 1917, following a Franco-German agreement. The duty of these observers would be to ensure that no misuse was made of the ships.

The Conference recommended the insertion of this principle in Art. 12 of the Maritime Convention.

Article 14.

Merchant ships which have been transformed into hospital-ships cannot be put to any other use throughout the duration of hostilities.

Article 15.

Hospital-ships and sick-bays of vessels are no longer entitled to protection if they are employed for the purpose of committing acts harmful to the enemy.

Hospital-ships are in particular prohibited from communicating by means of a secret code, either with the aid of signals, or of wireless.

The following shall not be considered as justifying the withdrawal of protection :

(1) The fact that the personnel of the said ships is armed for the maintenance of order, and for the defence of the sick and wounded.

(2) The presence on board of apparatus for wireless telegraphy, of small signal-cannon and cable-guns.

(3) The fact that hospital-ships or sick-bays are furnished with small arms and ammunition taken from wounded, sick and shipwrecked persons, and which have not yet been handed over to the responsible authorities.

The Commission is of opinion that Sec. 2 of this Article should be made the subject of a new Article, which could be worded as follows :

“Hospital ships provided with wireless shall have no secret code. All their communications by signal or by wireless must be in clear.”

Chapter III. — Personnel

Article 16.

The religious, medical, and hospital staff of hospital-ships shall be respected and protected in all circumstances ; their members cannot under any circumstances be taken prisoner ¹.

The same shall apply to the crews of hospital-ships, as also to the crews of aircraft attached to such ships, during the period when they are carrying out their functions.

Article 17.

The religious, medical, and hospital staff of any captured ship shall be respected and protected in all circumstances.

Should they fall into the hands of the enemy, they shall not be treated as prisoners of war.

Military personnel specially trained to act, in case of need, as nurses or auxiliary stretcher-bearers engaged in removing, transporting or caring for the wounded and sick, and furnished with identification papers, shall benefit by the same regime as the regular hospital staff, should they be captured while engaged in performing such duties.

¹ The Conference Commission pointed out that the wording of Art. 16, Sec. 1, and Art. 17, Sec. 1 should be made to agree.

Article 18.

The persons referred to in Article 17 may not be detained after they have fallen into the power of the adverse party. Failing any agreement to the contrary, they shall be landed as speedily as possible, so far as military requirements permit.

While awaiting repatriation, they shall continue to discharge their duties under the direction of the adverse party; they shall be preferably occupied in caring for the wounded and sick of the belligerent Power to whom they belong.

On leaving, they shall take away with them the articles, surgical instruments and arms which are their own property.

Article 19.

The belligerents shall grant the personnel referred to in Article 17, while in their power, the same maintenance and the same accommodation (so far as the installations on board allow), as well as the same allowances and the same pay, as to the personnel of corresponding rank in their own navy. At the outbreak of hostilities, the belligerents shall agree as to what constitutes corresponding rank in the case of hospital personnel.

Chapter V. — Hospital Transports

Article 21.

The provisions of Article 18 of the Geneva Convention of July 27, 1929, are applicable in case of hostilities at sea.

Furthermore, these provisions are completed as follows :

Hospital sea-planes must at once obey any order to alight. In case of their alighting in response to a command, or fortuitously, all wounded and sick, as well as hospital personnel and equipment, including wireless apparatus, shall enjoy the protection of the present Convention.

Chapter VI. — Distinctive Emblem

Article 22.

The emblem of the Red Cross shall be displayed on the flags, brassards and all equipment belonging to the Medical Service, with the consent of the responsible military authority.

Article 23.

The religious, medical, and hospital staff, which is protected under Section 1 of Article 16, and Section 1 of Article 17, shall bear on the left arm a brassard, bearing the distinctive sign, issued and stamped by a military authority.

The religious, medical, and hospital staff of military hospital-ships and the personnel referred to in Section 3 of Article 17 shall be furnished with a certificate, consisting either of an entry in their military pay-book, or a special document.

The religious, medical, and hospital staff on the hospital-ships referred to in Articles 10 and 11, not wearing uniform, shall be provided by the responsible military authority, with an identity card bearing a photograph, attesting their capacity as hospital workers.

Identity cards must be uniform in size and of the same pattern in each fleet.

Hospital staff cannot under any circumstances be deprived of the emblem or identity certificates which are their property.

Should these be lost, the bearers shall have the right to obtain duplicates.

Article 24.

The ships referred to in Articles 9, 10 and 11 shall be distinguished by being painted white outside with a horizontal band of red about a metre and a half in breadth.

The boats of the ships above-mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

The decks, funnels, and superstructure of the ships mentioned in Section 1 of the present Article shall be painted white and shall bear large red crosses, in such a manner as to render their emblems plainly visible to the enemy land, air, or naval forces.

All hospital-ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross, and further, if they belong to a neutral State, by flying at the mainmast the national flag of the belligerent under whose control they are placed.

Hospital-ships which, in accordance with Article 12, are provisionally detained by the enemy, must haul down the national flag of the belligerent to whom they belong.

The above-mentioned ships and boats which wish to ensure by night the freedom from interference to which they are entitled, must, subject to the assent of the belligerent they are accompanying, take the necessary measures to render their special painting and distinctive emblems sufficiently apparent.

The Commission, while approving the principle embodied in this Article and which provides for the unity of the markings of military hospital-ships (green band) and Red Cross or private hospital-ships (red band), makes the following recommendation:

The use of green or red colour should again be examined by experts, who would determine which of these two colours is more easily recognisable, by day and by night.

The Commission further recommends that the use of small speed-boats for medical or ambulance purposes should be examined by experts.

The Commission requests that experts should study the extension of the principles of the Geneva Convention to the mercantile marine.

The Commission recommends that the subjoined technical proposals¹ brought forward by the representative of the French Red Cross, be submitted to the experts who will give the Maritime Convention its definite form.

III. Protection of Civilian Hospitals

The Commission recommends that Civilian Hospitals, i.e. establishments caring for sick and wounded civilians, and authorized by Government, shall be protected by the Geneva Convention under the same conditions as Military Hospitals, and permitted to employ, to this end, the distinctive emblem of the Convention.

In their Report to the Conference, the International Committee pointed out that, under present legislation, civilian hospitals are not protected by the Geneva Convention and may

¹ These proposals are as follows :

(1) The routes and itineraries to be followed by hospital-ships shall be signified to them by the harbour authorities of the port of departure, which reports to its headquarters, who inform the belligerent Powers through the appropriate channels.

All changes of route or of itinerary which the captain of a hospital ship makes on his own responsibility shall be signalled by him to the maritime authorities on land to whom he is accountable, and these shall advise headquarters for transmission to the belligerent Powers.

(2) All hospital ships at sea shall indicate their position in clear on 600 metres wavelength (the wavelength adopted for the security of human life) every six hours.

This position shall be relayed by the maritime authorities on land.

(3) It might be useful to supply hospital ships with Radar reflectors of a special type, allowing identification of these ships by Radar receivers in warships.

not display the emblem of the red cross on a white ground. As regards bombardment, they are covered by the very general and summary provisions of the Regulations annexed to the Fourth Hague Convention of 1907 (Article 27), and of the Ninth Hague Convention (Article 5) of the same date.

The Conference having decided that the principles of the Geneva Convention shall be extended to wounded and sick civilians, as also to the staff, buildings and equipment devoted to their care¹, it follows that the principle of the protection of Civilian Hospital should also be embodied in the framework of the Geneva Convention.

Two additional and secondary points remained however to be settled.

Firstly, may hospitals used for civilians only make use for protective purposes of the red cross on a white ground, or should some other distinguishing sign be adopted? In this connexion, the International Committee stated that during the late War certain belligerents marked their civilian hospitals by means of a red square placed in the centre of a white surface. The Conference considered that civilian hospitals should be empowered to use the emblem of the Geneva Convention, and discountenances the idea of creating a new emblem which might lead to confusion.

The second question referred to the limits of the protection afforded, according to the character of the hospital buildings concerned. What hospitals should be protected? Should the term "Civilian Hospitals" also include dispensaries, maternity hospitals, clinics, orphanages, homes, etc? The Commission thought that the term "Civilian Hospitals" should apply to establishments caring for sick and wounded civilians and duly authorised by Government: thus, these buildings alone would be entitled to protection under the Geneva Convention and could make use of the Red Cross emblem.

In conclusion, the Commission set up by the Conference to study the protection of Civilian Hospitals considered that the latter should be protected, not only against bombardment—for which provisions have already been included—but also in

¹ See page 16 sqq.

respect of enemy authorities, should the hospitals be situated in enemy, or enemy-occupied territory. The Commission considered that Art. 56 of the Regulations annexed to the Fourth Hague Convention of 1907, did not provide sufficient guarantees. New and more detailed regulations than those contained in Art. 56 should be inserted into any future treaty stipulations for the protection of Civilian Hospitals. It is especially desirable that Civilian Hospitals in enemy, or enemy-occupied territory should be able to carry on under certain conditions, that they should be protected against pillage, that the patients should not be liable to expulsion, and that the staff and equipment should have special protection.

IV. Hospital Localities and Zones

The Commission considers that it would be extremely desirable to create hospital zones and localities for the accommodation of the sick and wounded, and recommends that the International Committee of the Red Cross should study, with the co-operation of experts, the insertion into the Geneva Convention of stipulations referring to the protection of such zones.

The Conference stresses the fact that it would be necessary to exclude, in the vicinity of these localities and within a radius to be determined, all military units and all establishments directly related with war operations.

The Report submitted to the Conference consisted of a printed memorandum, published in 1946 by the International Committee¹. This gives an account of their endeavours, since 1934, to obtain the creation of such zones, and includes the text of a Draft Convention for Hospital Localities and Zones adopted by the Commission of Experts of Governments and Red Cross Societies, which met in Geneva in 1938.

¹ See "Report by the International Committee of the Red Cross on Hospital Localities and Safety Zones", Geneva, May 1946, Series IV, No. 1. (English translation)

The Conference did not make any detailed examination of this question, or of the 1938 Draft, but merely expressed the above recommendation.

V. Amalgamation of the above Treaty Stipulations

The Conference recommends the amalgamation to the Geneva Convention of related treaty stipulations, especially the revised Draft Maritime Convention.

The provisions directly relating to Maritime Warfare should be assembled in a distinct Chapter of the Geneva Convention. Further, separate indexes should be established for the use of land, sea and air forces ¹.

In their Report, the International Committee said that in the course of the preliminary studies which, before the recent War, had led to the drawing up of various drafts (Revised Geneva Convention, Revised Maritime Convention, and provisions concerning Air Medical Services and Hospital Localities), the question had been raised of the possible amalgamation of these various provisions into one single Convention. No decision was then reached, and the Committee thought the time had now come that this question should be settled. There is no doubt that the origin of the above treaty stipulations is to be sought in the system of protection instituted under the Geneva Convention; logically, therefore, they should all form part of the Convention. From a practical point of view, the same applies to the provisions relating to Air Medical Services and Hospital Localities, in so far as Governments may agree upon new rulings in this field.

The embodiment of the revised Maritime Convention constitutes the most important problem. In 1937, the Commission of

¹ At the close of the session the Conference made a general survey of the amalgamation of the Conventions for Armed Forces and Civilians. It decided not to prejudge the number or the form of the Convention(s) which might regulate the position of combatant and civilian war-victims.

Experts had prepared a Draft in which the text of the Tenth Hague Convention was adapted as closely as possible to that of the Geneva Convention, to facilitate amalgamation, in case this should be decided upon. A brief survey shows that, out of the twenty-nine Articles composing the Draft Revised Maritime Convention, fourteen could be wholly incorporated into the Geneva Convention, with no important change to the latter, whilst four could be embodied providing certain additions were made to the text of the Geneva Convention. On the other hand, eleven articles which deal with the special circumstances of naval warfare and the use of hospital-ships would have to appear in the Geneva Convention as new stipulations.

The Conference, as has been seen, considered that the advantages of amalgamation and of a single Convention outweighed the drawbacks.

PART II

REVISION OF THE CONVENTION SIGNED AT GENEVA ON JULY 27, 1929, RELATIVE TO THE TREATMENT OF PRISONERS OF WAR

A) General Remarks

I. INTRODUCTION

[*The Commission proposes that future Conventions should comprise a General Part, guaranteeing in all circumstances the essential rights of the individual, as well as the respect of the human dignity of all persons who, for any reason whatever, are in the hands of the enemy or of a Power whose authority they do not recognize. These rights are intangible and recognized to all, without distinction of opinion race, religion, or nationality. The rules contained in this General Part could thus be invoked, even by individuals, in cases where the more detailed provisions of the Conventions should prove ineffectual.*

The Commission also considers that the question of control and of sanctions in the case of violation of treaty stipulations is of particular importance, and that it should be most thoroughly studied.

The Commission is further of opinion that it would be desirable to extend the principle embodied in Art. 83, Sec. 3 of the present Convention, so that belligerents must authorize, at the outset of hostilities, meetings of representatives of the various administrative authorities responsible for Prisoners of War.]

[The Commission set up by the Conference to study the 1929 Convention first considered whether the latter adequately fulfilled its purpose during the recent War. Opinions on the subject were divided, some delegations making reservations as to its practical value, while the majority considered that the Convention, in spite of imperfections, had checked abuses and

ensured better average treatment for prisoners of war than during the War of 1914-1918, thus rendering invaluable service, especially in Europe. The Commission unanimously agreed, however, that the Convention needed revision, in view of the experience gained during the second World War.]

As to the principles which should govern any such revision, several different opinions were expressed. Certain delegations stressed that the provisions of any future Convention should be more detailed and precise, experience having shown that vagueness in the wording led to most varied and sometimes arbitrary interpretations.

The speakers admitted, however, that it would be very difficult, if not impossible, to provide in a convention for all cases that might arise during future wars; furthermore, the implementing of detailed provisions might prove impossible in countries where living conditions are particular, for instance in the Far East.

In view of these difficulties, a large majority of the Commission considered that any future agreement must include, besides detailed regulations, a brief general chapter which would guarantee in every case the respect of essential rights and of the dignity of persons held by the enemy.

A suggestion made by the Austrian Delegation should be noted: instead of a Draft Agreement—which the International Committee suggested in their Report as a possible form to be given to the special provisions of the Convention—unified military regulations might be adopted, to be embodied in the national regulations of the States signatory to the Convention. Thus the fundamental principles on which treaty stipulations are founded would be embodied in the training of armed forces.

Similarly, the Yugoslav Delegation recommended that the treaty provisions should be made better known among the public than in the past. The Conventions should be “popularized” in peacetime, so that public opinion in all civilized countries may be aroused and condemn any violation of these rules during hostilities.

A further suggestion made by the Yugoslav Delegation was noted by the Commission, who recommended that the means to

secure the best possible supervision of the implementing of treaty stipulations, and the question of sanctions in case of their violation should both be carefully studied.

On the proposal of the International Committee, the Commission expressed the opinion that the principle embodied in Art. 83, Sec. 3, of the present Convention should be made obligatory. It will be recalled that this clause concerns the faculty for belligerents, at the commencement of hostilities, "to authorise meetings of representatives of the respective authorities charged with the administration of prisoners of war".

2. FIELD OF APPLICATION OF THE CONVENTION

The discussion showed the unanimous desire of the Commission that the future Convention on Prisoners of War should uphold the principle of the inviolability of the rights recognized to Prisoners of War, and that it should establish in a more precise manner that its application must remain unchanged until the complete and final release of all Prisoners.

The Commission also considers that the provisions embodied in the Convention must become automatically effective as from the outset of any armed conflict, whether the parties concerned recognize it as a state of war or not. These provisions must be applied similarly in case of any form of occupation and, in principle, in case of civil war.

Following a proposal by the British Red Cross, the Commission examined the problems raised by the peculiar situation of prisoners of war who are nationals of a State that has been definitely or temporarily placed *hors de combat*, while their status has not been clarified in armistice or peace treaties. On the basis of the remarks made by the International Committee in their Report, the Commission declared that the provisions of the 1929 Convention in this respect were not sufficiently precise, and that their application during and after the second World War was incomplete, and remains thus. In some cases, large numbers of prisoners of war escape supervision by neutral delegates ;

after nominal discharge, they are employed by the Detaining Power as civilian workers, or interned as "political detainees", or they are considered as "Surrendered Enemy Personnel" (case of Axis Forces captured by the Allies during or after capitulation).

In order to improve the deficiencies of the Convention in this field, the Commission considered that future provisions should establish the principle that unconditional surrender does not imply any renunciation of the protection granted under the Geneva and Hague Conventions.

Further, while advocating the maintenance of the principle embodied in Art. 96, Sec. 3, of the 1929 Convention, concerning denunciation of the Convention during hostilities, the Commission recommended that the words "and in any case until operations of repatriation shall have terminated" should be defined, in order that all prisoners may continue to benefit by treaty stipulations until their actual discharge.

As the discussion of Chapter I (Introduction) already showed, the Commission unanimously recommended that the rights conferred by the Convention on prisoners of war should have a personal and intangible character, allowing the latter to claim them irrespective of the attitude adopted by their home country.

With regard to the implementing of treaty stipulations during Civil War, the plenary Assembly of the Conference, following a proposal already adopted¹, agreed to the request of the Norwegian Delegation that the words "on principle" should be inserted.

3. POSSIBLE MENTION IN THE CONVENTION OF NATIONAL RED CROSS SOCIETIES AND OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS, INSTEAD OF MERE REFERENCE TO "DULY RECOGNISED VOLUNTARY AID SOCIETIES" (ART. 78)

With regard to Art. 78 of the Prisoners of War Convention, the Commission recommends that, as far as possible, relief should be supplied by recognized Red Cross (Red Crescent, Red Lion and

¹ See above, page 70.

Sun) Societies. Where the services of other organizations are required, the Commission considers that these institutions should work only under the supervision of the above mentioned National Societies, or of a neutral intermediary such as the International Committee of the Red Cross.

The same principle should be embodied in Art. 39 and other relevant Articles.

The question whether National Red Cross Societies and the International Committee of the Red Cross should be mentioned by name in the Convention arose particularly with regard to Art. 78 of the 1929 Convention, reproduced without amendment from the Fourth Hague Convention of 1907. As the International Committee pointed out in their Report, the purpose of this Article is apparently to give relief societies, duly recognized by Government, the right to assist prisoners of war. It does not, however, mention whether such relief activities can be carried out only in the home countries of such Societies and in behalf of enemy prisoners of war, or whether they may also be extended to nationals of these countries, held as prisoners by the adversary.

In this connexion, it should be mentioned that the Draft Convention drawn up by the Belgian Red Cross allows National Red Cross Societies to carry out certain activities in enemy territory, in behalf of prisoners of war of their own nationality. The French Delegation pointed out, however, that it was extremely unlikely that any belligerent State would countenance any such activities.

The discussion on this subject showed that the majority of Red Cross Societies consider that such work is fully consistent with Red Cross aims and ideals, and that they are willing to carry out the tasks which they are free to pursue according to Art. 78.

The Commission expressed no definite opinion as to the question raised by the International Committee, whether future treaty stipulations should make special mention of National Red Cross Societies and of the International Committee.

It was recalled in plenary session that the Conference had previously recommended that reference should be made to National Red Cross Societies, in Art. 10 of the Geneva Convention for the Relief of the Wounded and Sick; a similar course should be adopted as regards Art. 78 of the Convention on Prisoners of War. This proposal was however not adopted, on the grounds that the Articles did not refer to the same subjects and consequently were not analogous.

4. MENTION OF THE ROLE OF THE DELEGATES OF THE INTERNATIONAL COMMITTEE

Discussion on the role of the Delegates brought forward the following opinions:

(a) *Future treaty stipulations should state expressly how the control of their application will be ensured;*

(b) *The status of delegates entrusted with this duty should no longer depend, as hitherto, on arrangements between the Committee and each of the belligerent or neutral States, but on a provision in the Convention which would be binding on all signatory States.*

The Delegation of the International Committee expressed the recommendation that National Societies should study the means of making the visits to the camps by delegates, whoever these may be, more effective than they have been in the past.

As the International Committee of the Red Cross recalled in their Report with regard to the work of their delegations in belligerent States, the only treaty stipulation to which they could refer was Art. 88 of the 1929 Convention. This gives them the right to pursue their humanitarian task in behalf of prisoners of war, subject to the consent of the belligerent concerned.

In the absence of a broader juridical basis, the appointment of the Committee's delegates had, in every case, to be the subject of special agreements between the Committee and the Power upon whose territory they considered necessary to be represented. Practice has shown that this procedure is most inconvenient

on account of administrative delays, changes of Government and other unfavourable circumstances.

The question thus arose whether the status of the Committee's delegates should not be expressly defined in any revised Convention. The large majority of the delegations were in favour of this course. While paying tribute in a general way to the manner in which the Committee's delegates carried out their duties (particularly in supervising the application of the Conventions during and after the recent War), the members of the Conference recommended that the future Convention should define the precise juridical status of the delegates, following the provision made by the 1929 Convention regarding the representatives of the Protecting Power.

Opinions differed somewhat with regard to the extent of the prerogatives to be conferred upon the Committee's delegates. While most speakers considered that they should have the same, or even more extensive rights and duties as the delegates of the Protecting Powers, others were of opinion that the Committee's delegates should be invested only with like privileges to those of the representatives of the Protecting Power, when the latter does not exist. Furthermore, it was considered imprudent to define these privileges in any restrictive fashion, a certain vagueness in this respect allowing the International Committee to take action in cases not mentioned in treaty stipulations.

Following a proposal by the French Delegation, the Commission recommended that, in a general way, any future treaty stipulations should definitely state how the implementing of any Convention should be verified. Pursuing a similar idea, the International Committee stressed the advisability for National Societies to study by what means camp visits could be made more effective than they had been in the past.

5. OFFICIAL PRISONER OF WAR INFORMATION BUREAUX

The majority of the Commission considered that it was incumbent on National Societies to transmit, until repatriation is concluded, information concerning all persons covered by the

terms of the Convention, and expressed their desire that their Governments should appoint them to undertake the work defined in Article 77 of the Convention relative to Prisoners of War. Some delegates were, however, of the opinion that it would be advisable to envisage the case of certain National Societies being unable to undertake this task. Furthermore, one of the delegations suggested that a specialized body should be set up in peace-time, which would constitute the nucleus of a National Information Bureau on the outbreak of hostilities.

Finally, several delegations thought that the parallel activities of a Government Information Bureau and a Red Cross Information Bureau might usefully supplement one another.

Though the matter was outside the agenda, the Commission took up the question of the headquarters of the Central Prisoner of War Agency. The Commission recommended that, following the example of what had already been partly done by the International Committee, branch offices of the Agency should be set up whenever the remoteness of certain countries involved in a conflict might render this course necessary.

Art. 77 of the 1929 Convention lays down the obligation for belligerent Powers, as also for neutral Powers having belligerents in their care, to establish official bureaux for the transmission to States concerned, through the intermediary of the Central Prisoner of War Agency and of the Protecting Powers, of information concerning prisoners of war on their territory.

In regard to the duties outlined in Art. 77, the Commission was invited to state whether these duties should be undertaken by a single organisation in each country and, in this case, whether they should be entrusted to National Red Cross Societies.

Several delegations observed that this question was directly related to the fundamental principle of the Red Cross, *i.e.* to relieve those in distress, whatever their nationality.

The discussion confirmed the view that National Societies, having regard to their ideal, should make no distinction between nationals and enemies in the pursuit of their humanitarian task. It appears that in spite of the heavy supplementary charges incurred thereby, National Societies are anxious to be

called upon by their Governments to ensure the proper working of the official information bureaux, as was the case for some of them during the last War.

In this connexion, a proposal was made by the Italian Delegation, and taken up again by the Iranian Delegation, for the setting up, as soon as circumstances permit, of a permanent Social Service—(similar to the International Private Information Service instituted by the Italian Red Cross)—which, in time of war, would constitute the nucleus of an official information bureau. An agency of this kind, having a staff already familiar with the technical aspects of an Information Bureau, would be in a position, on the outbreak of hostilities, to deal with the numerous problems which face all such offices when they begin to function.

Some delegations, particularly the British, stressed the usefulness of a twofold source of information, one governmental and the other Red Cross. The British Delegation also observed that certain Governments might possibly be disinclined to relinquish a task which they might consider to be of their peculiar competency.

By adopting the above recommendations, the Commission did not wish them to constitute an obligation on Governments ; it desired rather to stress the anxiety of National Red Cross Societies to undertake this work, so that no amendment to the wording of Art. 77 is required.

6. UNIFICATION OF METHODS OF COMMUNICATING INFORMATION ABOUT PRISONERS OF WAR

The Commission recommended, as far as possible, uniform methods of communicating applications and information relative to prisoners of war.

The Commission was also in favour of having recourse, in future, to the possibilities offered by wireless. In any case, the progress that will certainly be made in this field in the next few years makes it advisable to adopt forms of notification easily adaptable to new methods of communication.

The Commission recognises the value of a broadcasting station attached to the Central Prisoner of War Agency, and recommends that the international agencies on which devolves the assignment of wavelengths, should allot to this station a wavelength enjoying the same protection as the distinctive emblem of the Red Cross.

Several Delegations emphasized the necessity that all other technical means likely to accelerate the transmission of information should be studied.

In the Report submitted to the Conference, the International Committee pointed out that the methods hitherto employed of forwarding information to the Central Agency could be much improved. To allow the Agency to work with more rapidity, the International Committee proposed that information should be sent to Geneva in the form of an easily handled *Identity Card*, of a uniform size, and made out in triplicate.

The Committee's suggestion for a uniform method of notification was favourably received. As regards the proposed solution, certain delegations (while admitting the necessity of supplying the Agency with the fullest data possible) expressed some doubt as to the practical nature of the scheme, and considered that standardisation should not be carried too far.

In order to reduce the time required for transmitting information regarding prisoners, several delegations recommended more general use of the wireless, particularly radiotelegraphy, as being more reliable at present than radiotelephony. In view of the fact that it will doubtless be possible, in the future, to employ other more precise and accurate means the delegates asked that treaty stipulations should allow for the use of any future improvements in this particular field.

In order to remedy as far as possible, the inherent drawbacks of wireless transmission, some delegations recommended that all data forwarded by this channel should as far as possible be confirmed in writing. Others suggested that broadcasts of this kind, when made by a belligerent, should be checked by the representative of a neutral agency, such as the International Committee.

It should be noted that the Draft Convention submitted by the Austrian Red Cross proposed that to accelerate the transmission of information by the Central Agency, the latter should have a special wavelength, recognised by international agreements concerning wireless.

The Commission endorsed this suggestion and considered that the matter should be at once taken up with the international organisations concerned.

7. CAPTURE CARDS FORWARDED TO THE CENTRAL PRISONERS OF WAR AGENCY

The Commission agreed to the International Committee's proposal to embody in the revised Convention the right of the prisoner to send a "capture card" to the Central Prisoners of War Agency, immediately after capture.

The Commission recommended that this card should be made available to detainees whose state of health necessitates more or less prolonged hospital treatment before their transfer.

The Commission also suggested that the "capture card" be employed every time that a Prisoner of War is transferred to a new place of internment (camp, labour detachment, hospital, prison, etc).

Art. 36, Sec. 2 of the 1929 Convention prescribes that "not later than a week after his arrival in camp, and similarly in case of sickness, each prisoner shall be enabled to send a postcard to his family informing them of his capture and the state of his health". In their Report, the International Committee recalled the steps they took during the last War to obtain permission for each prisoner to send, besides the card to his next-of-kin, a "capture card" to the Central Agency, giving all data necessary for his identification. This system was adopted by most of the countries holding prisoners and proved most useful. The fact that the cards were filled in by the men themselves was a guarantee of authenticity and accuracy, and the information given often allowed gaps in official documents to be filled.

Further, these cards often reached the Central Agency some considerable time before the official lists—especially when one of the belligerents had captured large numbers of prisoners—and allowed earlier notification of captures to the official bureaux of the home country and to next-of-kin.]

The Commission endorsed the proposal by the International Committee that the use of the capture card should be approved by treaty stipulation. Following a suggestion made by the British Red Cross, the Commission recommended that similar cards should be used by prisoners to notify their transfer to another place of detention, and should also be issued to prisoners admitted to hospital.

8. PRISONER OF WAR MAIL

The Commission agreed in principle with the conclusions submitted by the International Committee in its report on Prisoner of War mail.

The following points were particularly discussed :

(1) *The recommendation was expressed, firstly, that the forwarding of Prisoner of War mail should be accelerated by all possible means, and further, that censorship by the Detaining Power should not unduly delay the delivery of this mail to the addressees.*

(2) *The Commission expressed the hope that all telegraphic communications made or received by the Central Prisoner of War Agency would be exempted from any charges.*

(3) *The Commission also recommended that Camp Leaders should be permitted to communicate freely by telegram with the Central Prisoner of War Agency and the International Committee and that these Representatives should also be allowed to correspond by ordinary mail with their National Red Cross Societies.*

Chapter IV of the 1929 Convention, which refers to prisoner of war mail, provides that letters should be sent “by the shortest route” and that the censoring shall be done “as quickly as possible”. It recognises the prisoners’ right to advise next-of-

kin of their capture, and to send telegrams in cases of admitted urgency. These are the only treaty stipulations dealing with the subject.

The delegates of National Red Cross Societies stressed that during the recent War, prisoners' mail often gave rise to complaints. The Committee's delegation pointed out that this was due, in most cases, to delay in censorship and that it would be advisable, in consequence, to confirm the principle by which censorship should not be the source of unusual delay. Further, the Central Agency should be empowered by treaty to adapt prisoner of war mail to circumstances, by proposing to belligerents any scheme that it might consider most expedient.

The Austrian Delegation recalled the amendment proposed in the Draft Convention submitted by the Australian Red Cross, namely, to insert in Art. 36, Sec. 1, the following clause :

“The regulation number should not vary in particular cases according to orders by the camp commander. The latter shall not be empowered to modify the number of letters a prisoner is permitted to send.”

The Commission adopted without debate, following the proposal of the International Committee, a recommendation that future treaty stipulations should exempt the Central Agency from cable charges.

With regard to the correspondence of Prisoners' Representatives, Art. 44, Sec. 2 of the 1929 Convention gives them the right to communicate freely with the military authorities of the Detaining Power and with the Protecting Power. On the basis of the Draft Conventions submitted by the Belgian and British Red Cross Societies, the Commission recommended that Art. 44, Sect. 2, should also mention the Central Agency, the International Committee and the National Red Cross Societies. Further, the Commission endorsed the amendment proposed by the British Delegation, for Representatives to be authorised to communicate by cable with the Central Agency and the International Committee.

9. INTERNMENT IN NEUTRAL COUNTRIES

The majority of the delegations recognized the moral duty of neutral States to receive on their territory, as far as possible, forces belonging to belligerent armies, escaped prisoners of war, and civilian refugees.

Some delegations proposed to transform this moral duty into an obligation strictly defined by the Convention. The purpose would be to give support to neutral countries receiving such members of armed forces, or civilians, in view of the objections which might be raised by belligerent States.

In their Report, the International Committee recalled that the only actual ruling in treaty law concerning the internment of nationals of belligerent States (except Art. 77 of the Prisoner of War Convention) is contained in a few vaguely worded Articles of the Fifth Hague Convention of 1907 concerning the rights and duties of Neutral Powers. During the recent War, experience showed that present treaty stipulations are wholly inadequate.

Five classes of persons are involved :

(1) *Interned belligerents, i.e.* armed forces which take refuge on the territory of a neutral State. According to the Fifth Hague Convention, neutral Powers are apparently not under obligation to admit such forces to their territory. With regard to their treatment, Art. 12 of the said Convention merely provides that the neutral Power shall provide them with "food, clothing and humanitarian relief". Art. 77 of the Prisoner of War Convention merely stipulates that neutral Powers accommodating belligerents shall establish an official information bureau. The International Committee endeavoured to obtain that such internees should benefit as a minimum by the same treatment as that prescribed by the Prisoner of War Convention. The Committee stated that it was apparently necessary to give a precise definition of the term "belligerents", and that the treatment of internees should be fully and precisely defined in international law.

The Norwegian Delegate, voicing the opinion of the majority, stated that in his opinion the Conventions should declare the moral duty of neutral States to admit as far as possible into their territory all forces asking to be interned. The minimum treatment to be afforded to these internees should be that provided for prisoners of war.

(2) *Escaped Prisoners of War.* To this category should be added the prisoners held by belligerents who are themselves interned.

The Hague Convention (Art. 13) provides that they may leave the country where they have been accommodated, but that if the said country allows them to stay, they may be "assigned a residence".

This category gives occasion for several questions, for instance: — Should neutral Powers be under the obligation to receive escaped prisoners? Should the latter enjoy the same treatment as military internees, or be granted more favourable living conditions?

The Committee concluded that the experience of the recent War had shown that their status should be defined by more precise treaty stipulations.

The Norwegian Delegation was of opinion that the Convention should declare that neutral countries are under moral obligation not to refuse their entry.

(3) and (4). — *Wounded and Sick Combatants. — Medical Personnel.*

The Commission did not discuss these two categories.

(5) *Civilian Refugees, i.e.* civilians seeking refuge in neutral territory on account of hostilities, or from political motives.

In their Report, the International Committee recalled that the Hague Convention contains no ruling relative to these persons. During the last War, mass arrivals of refugees often compelled neutral States to intern them, or confine them to fixed areas, and the Committee requested such States not to give them, in any case, treatment less favourable than to military internees. The Committee pointed out that the duties of neutral States towards these persons, especially in the case of civil war, should be clearly defined in international law.

The Greek Delegation was of opinion that neutral States should be under the obligation—except when consequent difficulties affecting internal affairs are to be feared—to receive indiscriminately military and civilian refugees in their territory. The insertion of this obligation into the Convention would assist the States concerned, should opposition be shown by belligerent Powers to the admittance of refugees.

The Iranian Delegation supported this view. Detailed treaty stipulations would prevent arbitrary action by certain local authorities, and would enable the public authorities of a neutral State to justify themselves in face of public opinion, which might be alarmed by mass arrivals of refugees and the inconvenience caused thereby.

Preference was given, however, to the opinion voiced by the Norwegian and Belgian Delegations that neutral States should be free to make their own decisions.

Further, several delegations expressed the opinion that, in all cases where a neutral State decides to intern military and civilian refugees, the treatment of these persons should not, if possible, be less favourable than that provided by the 1929 Convention for prisoners of war.

B) Questions of Relief ¹

I. — TRANSIT AND DISTRIBUTION OF INDIVIDUALLY ADDRESSED PARCELS

The Commission expresses the recommendation:

(a) *That the principle of Article 37, granting to prisoners of war the right to receive individually addressed relief parcels be*

¹ The Sub-Commission for the study of this question sat on July 29 and 30, 1946. It was attended by a comparatively small number of delegates, representing the Red Cross Societies of Belgium, Canada, France, Iran, Italy, Jugoslavia, Netherlands, Rumania and the United States. The delegates of the Iranian, Rumanian and Jugoslav Societies being members of other Commissions were unable to attend the meeting regularly. However, Red Cross Societies having gathered the most experience in the field of relief during the recent War were constantly represented on the Sub-Commission.

firmly maintained, and that prisoners should, moreover, benefit by collective relief supplies ;

(b) That it be provided that Detaining Powers shall abstain from forbidding and limiting, on their own authority, the issue of individually addressed parcels ;

(c) That if limitations and certain modes of application of Article 37 appear necessary, they should be in due time the subject of special agreements between the parties concerned ;

(d) That the home country should fix, according to circumstances, the proportion of both individual and collective relief supplies.

While upholding and stressing the principle whereby the Detaining Power is first responsible for the maintenance of prisoners of war, the Commission considered that individual consignments, provided for by Art. 37, should continue to be authorised, since bulk relief may be unavailable, impracticable or inadequate. The Commission therefore agreed that prisoners should be authorised to receive individual parcels, which bring great moral comfort to the majority, as they often represent the only link between the captive and his next-of-kin.

If circumstances necessitate any restriction in the forwarding and issue of individual parcels, such restriction should not be decided by the Detaining Power. The Commission admitted that in some particular cases restrictions might be necessary to ensure the proper functioning of relief schemes, and agreed that such measures should be the subject of special agreements, or decided by the senders.

As regards specifying any fixed proportion of individual to collective relief, the Commission considered that the home country could, on the ground of proposals of a neutral intermediary and reports received from spokesmen, introduce regulations to limit the export of individual relief parcels sent to prisoners of war by next-of-kin.

2. TRANSIT AND ISSUE OF COLLECTIVE RELIEF SUPPLIES

The Commission is of opinion that the Convention should provide for the possibility of appointing a Head Spokesman in Base Camps, and subordinate Spokesmen in Branch Camps and Labour Detachments. The Commission concurred, moreover, with the proposal of the International Committee to extend the rights of Spokesmen, particularly by giving them the right to visit reception centres of supplies, to check quantities and quality, and to build up stocks of collective relief. Likewise, the Convention should confer on Senior Medical Officers of hospitals the right to make use freely of medicaments contained in relief consignments. As regards the issue of relief, the Commission recommends that a neutral intermediary, such as the International Committee, be authorized in certain cases to act as substitute for Spokesmen.

The experience of the recent War has shown that the nomination of Representatives, as provided for by Art. 43, should be adapted to modern war conditions. The latter imply especially the existence of great masses of prisoners of war and of numerous camps, each holding very large numbers of men, for whom collective relief is of vital importance. Effective relief to men in captivity can only be secured by adequate and highly organised issues of collective relief supplies. The Convention should provide for a more developed system of Camp Representatives.

The Camp Representative should be seconded by several assistants, and supervise the issue and checking of relief supplies. Such control should even be possible outside camps, on the arrival of consignments at railway stations, store-houses, etc.

The constitution and maintenance of adequate stocks of collective relief supplies were shown to be essential for assistance to prisoners at all times and in all circumstances.

By recommending that Senior medical Officers in hospitals should have free disposal of medical supplies contained in collective or individual relief consignments, the Commission aimed at having these supplies pooled, in order to prevent

prisoners making personal use of drugs which might be injurious to their health.

In order to ensure the issue of relief supplies to prisoners in working detachments having no representatives, the Commission recommended the insertion of a new stipulation empowering neutral delegates themselves to issue such supplies.

3. POSSIBLE FIXING OF MINIMUM AND MAXIMUM RELIEF QUANTITIES

While upholding the principle that Detaining Powers are obliged to provide maintenance for prisoners of war, the Commission was of opinion that it should be incumbent on such Powers to allow distribution of relief supplies, in so far as they are unable to feed and clothe their prisoners of war in conformity with the stipulations of the Convention.

Without entering on detailed study of the problem, of which the solution might be found in technical regulations, the Commission endorsed the principle that the Detaining Power is bound, in the first place, to provide food and clothing for the prisoners in its hands. By refraining from any statement regarding details of application, the Commission was anxious to avoid fixing minimum quantities of foodstuffs necessary for the maintenance of prisoners. Several systems have been proposed, based on medical considerations, but no satisfactory solution could be found. The Commission considered, however, that food and clothing for prisoners of war should be suited to the climate, to their manner of living and, if possible, their religious customs. In case the Detaining Power is not in a position to furnish the necessary supplies, the Convention should stipulate the obligation to allow food and clothing to be supplemented by collective relief consignments. The Detaining Power would then be formally bound to allow supplementary shipments of relief in the shape of food and clothing, and could not elude this obligation on administrative or other grounds.

4. FORWARDING OF UNIFORMS BY THE HOME COUNTRY

The Commission arrived at the conclusion that Art. 6 of the Convention should provide that prisoners have the right to keep all parts of uniform which they are wearing when captured. The obligation of the Detaining Power to supply sufficient sets of garments, appropriate to the climate, should be emphasized and maintained. Moreover, the Detaining Power should be bound to permit the forwarding of consignments of uniforms, and the allotment to combatants of uniforms already earmarked for prisoners of war, should be forbidden.

In support of the principle that a prisoner of war should be able to continue wearing his country's uniform, the Commission allowed that the Detaining Power, although obliged to permit parts of uniforms being sent to prisoners in their hands, could insist upon precautions being taken to prevent the use of such uniforms, except by men in captivity. This military clothing would thus, in a sense, be neutralized.

5. OWNERSHIP OF PARCELS

The Commission came to the following conclusions:

(a) *Individual parcels are the absolute property of the addressees.*

(b) *Collective parcels are the absolute property of the addressees, once they have been issued to them.*

(c) *In case of illness, the issue of both individual and collective parcels shall be at the discretion of the Camp Medical Officer.*

(e) *Community kit is the property of the community, as represented by the Spokesman, who shall be guided, where appropriate in his scheme of distribution by his superior Medical Officer.*

(e) *Relief supplies in transit or in store, not issued to camps, shall remain at the free disposal of the donors, through the agency of the neutral intermediary.*

Art. 37 implies, although in a somewhat vague manner, that prisoners of war have the absolute property of individual parcels received by post. The Commission thought proper to confirm this principle, which has been laid down for other relief supplies. Collective relief parcels become the man's property from the time they are handed to him by the spokesman. In cases of illness, it was recommended that the camp doctor, and not the spokesman, should direct the issue of parcels and consumption of contents, in the men's own interest, and without prejudice to their possible right of ownership, which, as a general rule, would leave them the free disposal of parcels.

With regard to community supplies, *i.e.* relief supplies belonging to the camp as a whole, the Commission took for granted that the spokesman should be empowered to distribute them amongst the prisoners when the camp is shut down. As these supplies generally consist of articles for the sick or convalescent, or those used in the camp infirmary, the spokesman should be guided in his scheme of distribution by his superior Medical Officer.

The Commission also wished to stress the principle that relief supplies not yet issued to camps remain the property of the donors, for disposal through a neutral intermediary. Here again, the Commission made no comment on the details embodied in the Report of the International Committee, but merely confirmed a few general rules.

6. RECOGNITION OF THE RIGHT OF DELEGATES TO CHECK UP STOCKS AND ISSUES, AND TO MAKE PURCHASES FOR PRISONERS

The Commission pays tribute to the activities and efforts of the delegates of the International Committee in this connection, but considers that the proposals made in this part of the documents submitted should not be embodied in any revised or new Convention.

The Commission considered that the proposals made by the International Committee in their preliminary Report, were of a too technical and detailed nature to be embodied in the

Convention. The Commission agreed, however, with the Committee that it would often be necessary, in the prisoners' own interest, to build up sufficient relief stocks to meet eventual lapses in supplies, and to have enough goods on hand when fresh prisoners arrive.

The Commission did not, on the other hand, think possible to grant neutral delegates the right, in cases of great distress, of distributing among the most necessitous, without any distinction as to nationality, etc., stocks accumulated in behalf of certain categories of prisoners of war.

With regard to the protection of such relief stores against air attack, the experience of the War showed that it was almost impossible to find any practical solution.

7. FRANCHISE (EXEMPTION FROM CHARGES) AND PRIORITY FOR RELIEF TRANSPORT

The Commission recommends that complete franchise should be granted to all transports of relief supplies for prisoners of war, and suggests that the financial charges resulting thereby be shared between belligerent, allied, non-belligerent and neutral countries, by special agreements. Should it prove impossible to provide for complete franchise in the Convention, consignments for prisoners of war should, in any case, benefit by the most advantageous rate for all means of transport. Moreover, the Commission considers it necessary that certain transport priorities be stipulated in favour of relief consignments for prisoners of war.

The Commission commented only on the general principles which in its opinion should be applied to all Red Cross transport. Such transport should be free of charge.

In practice, however, and particularly as regards shipping agencies which are not State-owned, such exemption involves most delicate technical questions. The Commission therefore considered that it would be incumbent upon Governments to find appropriate solutions, but stressed the extreme importance of this question in securing efficient handling of relief supplies.

The Commission was also of opinion that the scope of Art. 38 should be enlarged to include all means of transport, and to determine the question of charges.

8. EXTENSION OF FRANCHISE (EXEMPTION FROM CHARGES)
TO ALL MODES OF TRANSPORT ; EXTENSION OF CUSTOMS
FACILITIES AND EXEMPTION FROM CUSTOMS
DUTIES

The Commission is not in favour of amending Art. 38 of the Convention, as proposed by the International Committee.

The International Committee had suggested that Governments should be invited to give detailed instructions on these points to the official departments concerned, also that the reimbursement of all charges collected owing to lack of adequate instructions, or to mistakes should be asked for. The Commission considered unlikely that such proposals would be favourably met by Governments, who might look upon them as a mark of distrust.

The Commission made no objections, however, with regard to the other points raised by the International Committee under this heading, especially as regards free transport and the extension of customs facilities to all relief consignments intended for prisoners and other war victims.

9. RED CROSS SHIPS ; LAND AND AIR TRANSPORT FACILITIES
FOR RELIEF CONSIGNMENTS

In the assumption that there will be two Conventions, one for Prisoners of War and one for Civilians, the Commission recommends the inclusion in both Conventions of an Article authorizing the employment of Red Cross ships, duly marked, registered and operated according to existing regulations, for the transport of persons and stores coming within the scope of the Conventions dealing with Prisoners of War and/or Civilians. A similar solution should be sought for transports by land and air.

While taking due note of the concrete technical proposals put forward by the International Committee in their Report, the Commission thought fit to limit their suggestions as regards the conveyance of relief intended for prisoners or other war victims, to the inclusion in the Convention of the principle of Red Cross ships. The protection of such ships is all the more advisable as relief for war victims can frequently come from overseas only and, without this additional stipulation, the protection extended by the Convention would be inadequate. When making this general rule, the Commission presumed that ships bearing the Red Cross emblem would be duly notified to belligerents, registered in accordance with the national regulations concerned, and utilised in obedience to strictest neutrality. The Commission considered that Red Cross ships should also be allowed to carry wounded, sick, children and other war victims for evacuation purposes. The above remarks apply particularly to land and air transport.

PART III

SITUATION AND PROTECTION OF CIVILIANS

I. INTRODUCTION

The Commission recommends that Governments should as soon as possible come to an understanding for the adoption of treaty stipulations relative to the protection of Civilians.

The Commission is, as a whole, in favour of one convention only, covering both Civilians and Prisoners of War.

The part dealing with Civilians should in any case be drafted on the basis, firstly, of the Tokyo Draft (Chapter II), and of the proposals of the Belgian and Jugoslav Red Cross Societies (particularly with regard to Chapter III), and of the Memorandum of the Norwegian Red Cross.

As regards the question of sanctions, the Commission is of opinion that violation of treaty provisions should constitute a "war crime", and be punished as such.

With regard to the question of control, one delegation proposed that each National Red Cross Society should set up an independent Legal Section which would be responsible, in addition to the activities in this respect of the International Committee and the Protecting Power, for supervising the implementing of the treaty stipulations.

Following the proposal of the delegation of the International Committee, the Commission were unanimous in recommending that the protection of Civilians should be regulated as soon as possible by international treaty stipulations. In their Report, the International Committee stressed how important it was that the regulation of the civilian problem should not be overlooked when preparing the revision of the Prisoner of War Convention. The question of protection for Civilians might otherwise be adjourned, which might lead to even worse consequences than during the second World War.

The Commission also evinced their anxiety to treat military and civilian problems as a whole, by requesting the plenary Assembly to recommend the drafting of a single diplomatic instrument for the protection both of combatants and of civilians in enemy hands, or held by an authority they do not recognize.

The plenary Assembly did not think opportune, at the present stage of preparation work, to make such a recommendation and preferred to leave the question to the appreciation of Governments and of the Diplomatic Conference which will study the Draft Conventions ¹.

Whatever general form may be adopted, the Commission considered that the new treaty stipulations relative to Civilians should be based on the principles embodied in the Tokyo Draft, the Belgian Red Cross Draft, the proposals of the Yugoslav Red Cross, and the Memorandum submitted by the Norwegian Red Cross.

The Commission discussed the definition of the categories of Civilians to whom the Convention should apply. The Tokyo Draft speaks of "nationals of an *enemy* country". The Belgian Red Cross proposed the extension of the principle to all civilians not nationals of belligerent Powers. Several delegates, however, observed that this principle would not apply to the case of an occupying Power, having annexed a country or the conquered portion thereof, and considering the nationals of such country or territory as their own subjects (e.g. the case of Western Poland at the end of 1939). The Commission was prevented through lack of time from establishing a new draft, which was left to the care of the International Committee.

Entering upon the question of sanctions for disregard of treaty stipulations, the Commission endorsed the principle embodied in Art. 26 of the Belgian Draft and Art. 8 of the proposals of the Yugoslav Red Cross, to the effect that violations of treaty provisions should be regarded as a "war crime" and

¹ At the close of its sessions, the Conference made a general review of the question of amalgamating the conventions for combatants and civilians. It decided not to prejudge the number and form of the convention, or conventions, which will regulate the status of combatants and civilian war victims. (See p. 66).

be liable to the consequent penalties. The delegation of the International Committee recalled, in this connexion, that this principle has already been introduced in their preliminary Draft Prisoner of War Convention in 1921, but had unfortunately not been approved by experts and Governments.

Mention should also be made of the suggestions presented by the Red Lion and Sun Society of Iran, recommending that National Red Cross Societies should establish independent Legal Sections. Such Sections, comprising representatives of the Red Cross and of the national authorities, would be called upon to superintend in each country the implementing of treaty provisions, and to take independent steps with the authorities concerned, in case of violation of the Convention. According to the author of this proposal, such an institution would by no means replace the Protecting Power or the International Committee, but would constitute an accessory organ, to support, whenever required, the steps taken by the Protecting Power and the International Committee.

2. STATUS OF ENEMY ALIENS IN BELLIGERENT TERRITORY

The Commission demands that the principle of non-internment of civilians in enemy territory be maintained, except in the few limitative cases named in the Tokyo Draft. With regard to the question whether the rules for internment and the status of Civilian Internees should be dealt with simply by reference to the provisions made for Prisoners of War, applied by analogy, or whether it would be better to draw up rules relating to Civilian Internees only, discussion showed that both suggestions had a number of supporters.

The difficult question of the financial position of Civilian Internees, whether detained in the territory of a belligerent or in occupied territory, was examined. The recommendation was expressed that the possibility should be envisaged of making the Detaining Power responsible for a monthly allowance to these internees, sufficient to cover their most urgent needs.

In this connexion, mention must be made of the suggestion of one delegation, that the property of Enemy Aliens be supervised by the Legal Section referred to in Point 1.

The Commission further recommended that the financial situation of non-interned Enemy Aliens be given careful consideration.

In regard to this category of civilians, the Commission reaffirmed that the principle of the application of the Convention should be extended in the sense indicated by the Belgian Draft (extension to Alien as well as Enemy Civilians), and further asked that, as a general rule, civilian in belligerent territory should not be subject to internment. The three exceptions to this rule, which already appear in Art. 15 of the Tokyo Draft, should be as follows :

- (a) Civilians eligible for enlistment, immediately or within one year ;
- (b) When the security of the State is involved ;
- (c) When the situation of civilians renders their internment necessary.

Several delegations stressed the practical importance of this last exception and quoted examples drawn from the experience of the recent War.

Furthermore, the Commission unanimously declared that when civilians are exceptionally interned, as in the above cases, the conditions of their internment should at least be as favourable as those granted to prisoners of war. In this connexion, the International Committee put the question whether it would be sufficient to presume (as indicated in Art. 17 of the Tokyo Draft) that the Prisoner of War Convention is applicable by analogy to Civilian Internees, or should regulations relative to Civilians only be drafted. The Committee recalled experiences gathered during the last War, showing that the application by analogy of several clauses of the Prisoner of War Convention gave rise to serious difficulties. This referred particularly to the clauses relative to work, financial resources and repatriation of Civilian Internees.

For these reasons, the Committee thought right to give their preference to the second solution. The Commission was somewhat divided on this point ; one delegation pointed out that the

course adopted would partly depend on the decision ultimately taken with regard to the amalgamation of treaty stipulations regarding Prisoners of War and Civilians.

The Commission heard certain references to the financial situation of Civilian Internees. Whereas, among Prisoners of War, officers have their pay, and men receive some wages when at work, Civilian Internees are in a most critical situation. During the last War, home countries sometimes sent allowances through the Protecting Power, to their nationals interned in enemy territory. A solution might eventually be found by rendering it obligatory for the Detaining Power to make monthly allowances to all Civilian Internees in their hands, to satisfy their most urgent needs.

Even admitting that States would agree to such an obligation, it scarcely seems that this measure could be extended to non-interned civilians in belligerent territory. The Conference shared this point of view, and merely expressed a recommendation that this important matter should be given careful consideration.

3. SITUATION OF CIVILIAN POPULATIONS IN ENEMY-OCCUPIED TERRITORY

The Commission agreed unanimously that the taking of hostages must be absolutely prohibited in the new Conventions. Reprisals against, or collective punishment of a civilian population, following acts attributed to nationals of the occupied State, must also be strictly prohibited.

In case of internment for reasons of security, the Commission demands unanimously that internees should have the benefit of treatment at least as favourable as that granted to Prisoners of War. It considers indispensable that the future Conventions should contain stipulations absolutely prohibiting all forms of torture.

Certain delegations expressed the desire that the supervision of legal proceedings against internees should be entrusted either to the Legal Section of the National Society mentioned in Point 1, or to the delegates of the Protecting Power, or if there be no Protecting

Power, to the delegates of the International Committee of the Red Cross.

The Commission is of opinion that any prosecution or sanction should be forbidden, if referring to acts committed prior to military occupation, or during its temporary interruption.

Endorsing the views expressed by the International Committee in their Report, the Commission unanimously agreed in favour of absolute prohibition of the taking of hostages. The Fourth Hague Convention does not expressly forbid the practice. It is prohibited by the Tokyo Draft in regard to Enemy Aliens in belligerent territory (Art. 11). The said Draft, however, only provides that Enemy Civilians in territory occupied by a belligerent shall receive humane treatment and under no pretext be put to death or submitted to corporal punishment (Art. 19, Sec. a).

Following the suggestion of the Norwegian Red Cross, the Commission endorsed the additional prohibition of all reprisals or collective punishment of civilian populations in occupied territory.

The discussion of the problem of "political detainees"—by which the International Committee designate in their Report other detained civilians than those serving a sentence or awaiting judgment—gave several delegations opportunity to declare that, since the principles embodied in the preamble to the United Nations Charter (basic human rights, dignity and worth of man) were now recognized internationally, it was logical to prohibit arbitrary detention of civilians on account of their political opinions.

The Commission submitted the following text for approval by the Conference: "The Commission affirms the principle that all prosecutions or sanctions for political convictions (délit d'opinion) shall be prohibited."

The large majority of the Conference voted the omission of this clause. Most of the delegations appeared to prefer leaving the matter in the hands of Governments.

However, the Conference unanimously agreed that all civilians interned for security reasons should benefit by treatment at

least as favourable as that granted to prisoners of war. This principle was already embodied in Art. 17, Sec. 2 of the Tokyo Draft.

Adopting a proposal by the Norwegian Red Cross, the Commission recognised the necessity to forbid any prosecution or sanction relating to acts committed prior to military occupation, or during temporary interruption thereof.

4. RELIEF TO CIVILIAN INTERNEES

The Commission adopted the following principles:

(a) *Right of all Civilians of enemy and ex-enemy nationality to receive addressed parcels;*

(b) *Right of Civilians of enemy and ex-enemy nationality, whether interned or in assigned residence (including political detainees, civilians held in prison, etc.) to receive individually addressed parcels and collective relief consignments, through the agency of a neutral intermediary, in the same spirit as Prisoners of War.*

The Commission endorsed the principles recommended by the International Committee in their Report, which aim at granting Civilian Internees the same right to relief as Prisoners of War. They refer to (a) individual parcels addressed to internees by next-of-kin and (b) individually addressed and collective consignments from relief organisations.

The expression "ex-enemy nationality" applies to nationals of a country whose Government has concluded an armistice or a peace treaty with the enemy. The Commission attached great importance to the clear enunciation of the principle that all enemy internees and all enemy nationals in assigned residence, to whatever category they may belong, should be entitled to relief; further, that political detainees and civilians confined in prisons should be particularly included. In making this recommendation, the Commission started from the idea that no issue of relief consignments could take place without supervision by neutral delegates, who would thus be able to ascertain general living conditions of detainees in camps or prisons.

5. CIVILIAN WORKERS

In view of the great importance of this question during the recent War, the International Committee thought opportune to bring it before the assembled representatives of National Red Cross Societies. The number of important statements made during the debates of the Commission showed the interest taken by delegates in the matter.

The following recommendation was drafted and submitted for the approval of the Conference, in plenary session :

The Commission considered that no coercive measures should be taken in respect of the civilian populations of an occupied country, to compel them to do forced labour, in excess of the right of requisition provided by Article 52 of the Fourth Hague Convention, or in contradiction to the principles of the 1929 Convention relative to the Treatment of Prisoners of War.

Some delegations have proposed that voluntary workers in enemy territory should benefit by the same guarantees as civilians resident in the territory on the opening of hostilities.

On consideration of this text in plenary session, the Belgian Red Cross observed that the first paragraph did no more than reaffirm the principles contained in the Fourth Hague Convention, and the second, relative to voluntary workers, appeared to be somewhat risky, since civilians volunteering to work for the enemy would be guaranteed similar treatment to civilians already resident in enemy territory at the outbreak of hostilities. For these reasons, the Belgian Delegation asked for the present Section (5) to be omitted.

The Conference unanimously endorsed this view. The said Section (5) consequently does not appear in the Summary Report on the work of the Preliminary Conference.

6. RELIEF TO NON-INTERNEED CIVILIANS

The Commission recognizes :

(1) *The obligation for the occupying Power to ensure the food-supply to all persons living in the territory under their control, and to take all measures necessary for combating epidemics.*

(2) *The obligation for the occupying Power to allow the carrying out of relief schemes in behalf of the civilian population in occupied territories.*

The majority of the Commission recommended that Blockade Authorities should permit the import of relief goods into the blockaded zones, irrespective of military or political considerations.

Section (1) embodies a principle stated in the Committee's Report and in certain drafts submitted by National Red Cross Societies. It reaffirms in part, certain provisions of the Fourth Hague Convention.

Section (2) emphasises the duty of the occupying Power to facilitate, in every way, relief activities similar to those carried out during the last war by the International Committee, the Joint Relief Commission of the International Red Cross and a number of National Red Cross Societies.

It should be recalled that most of these undertakings did not aim at giving relief to entire populations, but rather at lightening the distress of certain specially affected categories, such as children, women, aged persons, sick and invalids. The relief furnished to Greece, however, proved that in some cases an entire population requires assistance. The wording should therefore be comprehensive enough to allow for all activities which circumstances may demand.

In conclusion, the majority of the Commission considered that States which might be led to take blockade measures against a belligerent should agree that such measures shall not prevent the undertaking of relief activities within the blockaded zone.

7. CIVILIAN MESSAGES (POSTAL MESSAGE SCHEME)

The Commission approved without comment the conclusions set out in the Report submitted by the International Committee, thus confirming the great services rendered by this means of correspondence between civilians, when hostilities make it impossible for them to write through normal channels.

As National Red Cross Societies had been called upon to give their constant and invaluable co-operation in assisting the International Committee to carry out this scheme, their opinions were invited in this matter.

With the exception of one delegation which furnished interesting criticism on a technical point, National Societies made no suggestions for improvement of the Postal Message Scheme, or as to the advisability of mentioning the system in new treaty stipulations.

The International Committee pointed out in their Report that the necessary adaptability could be preserved by inserting an allusion to the scheme in an Article dealing with civilian correspondence in general. It would in any case be desirable that these messages should be conveyed postage free, the reimbursement of charges having often proved most difficult during the course of hostilities.

8. PROTECTION OF CHILDREN IN TIME OF WAR

The Commission was unanimous in recommending that all means should be employed in order to guarantee adequate protection to children in time of war. It further recognized that it was the duty of the Red Cross to assume such a task. Most of the delegations also expressed the view that the protection afforded by the Conventions should be extended to expectant mothers and to the mothers of infants.

With regard to the question whether these principles of protection should be embodied in a separate Convention or incorporated in a future single Convention for the protection of Prisoners of War and Civilians, the majority of the Commission were in favour of the latter course.

This important question was placed on the agenda of the Conference at the request of the Bolivian Red Cross, which prepared in 1945 a "Draft Convention for the Protection of Children in the event of International Conflict or Civil War". Copies of this draft were sent by the Bolivian Red Cross to all

Societies and to the Committee. The latter handed the document to all delegations at the Preliminary Conference.

The Commission paid tribute to the valuable work done by the Bolivian Red Cross, and noted a very interesting declaration of the Bulgarian Red Cross summarizing certain points relative to the protection of children, expectant mothers and mothers with infant children.

The two following questions were submitted by the International Committee for particular consideration by the Red Cross Societies :

1. — Should the preparatory work on the drafting of a Convention for the protection of children be undertaken by the Red Cross, or left to specialised organizations such as the S.C.I.U., which has recently become the "International Union for Child Welfare" ?

2. — Should a separate Convention relative to children be adopted, or is it preferable to insert relevant provisions into the Convention for Civilians ?

With regard to the first question, the Commission unanimously agreed that it was incumbent upon the Red Cross to draft appropriate regulations to ensure efficient protection for children in wartime.

As for the second question, a minority of delegates stressed the complex nature of the problem and spoke in favour of a separate Convention, whereas a clear majority suggested the embodiment of all regulations concerning children either into the new Civilian Convention, or into the unified version of both Conventions. The reasons adduced in favour of the latter course were, in particular, the following : it is difficult to disjoin two questions which are in practice so closely related, since children in wartime share the fate of the civilian population, particularly of their mothers. Further, it seems hardly wise, when efforts are being made to secure amalgamation of all principles relative to Prisoners of War and Civilians, to set up outside this general framework a separate Convention, which might not be signed by all States party to the general Convention.

9. PROTECTION OF THE CIVILIAN POPULATION AGAINST BOMBARDEMENTS

The Commission took note of the report by the International Committee on this matter, but did not express an opinion, as it considered that this question was outside its terms of reference.

This point not having been discussed by the Commission, it seems unnecessary to reproduce the conclusions drawn by the International Committee in their Report.

10. STATELESS PERSONS AND REFUGEES

The Commission notes that the urgent problem of Refugees and Displaced Persons is now being studied in all its aspects by the responsible departments of the United Nations.

The Commission recommends that, within the framework of the principles and regulations adopted in this matter by the United Nations, the Red Cross should immediately prepare to afford assistance, particularly in legal matters, to the above mentioned persons, without awaiting the final solution of the problem, to be found by the United Nations.

Following a proposal made by the representative of the Portuguese Red Cross, the Conference is further of opinion that private organizations, especially Red Cross Societies, must persevere in their endeavours and even intensify their relief activities in behalf of refugees of all categories, the more so since UNRRA is contemplating to cease working as from the close of 1946.

The delegate of the Red Lion and Sun Society of Iran spoke at length in the Commission on the distressing situation of refugees and stateless persons, and the help the Red Cross should give them, particularly in legal matters.

Some delegations called the Commission's attention to the fact that this question had been fully discussed by the Nineteenth Meeting of the Board of Governors of the League, held in Oxford in July 1946, and that the following resolution had then been rejected :

The Conference recommends that National Societies shall give legal and social assistance to aliens, whenever such assistance is not conferred by government services of the country concerned, or by consular authorities or missions set up to this effect and in agreement, whenever possible with the National Society of the said country. In this respect, National Red Cross Societies shall act only as auxiliaries of such services, authorities or missions.

The delegation of the Belgian Red Cross recalled that this matter was under discussion by the Economic and Social Council of U.N.O., and that a decision would probably be made at the General Assembly of U.N.O. in October 1946. It therefore hardly seemed necessary to provide, as suggested by the Iranian Delegation, for the setting up of a new Red Cross organization for legal assistance to refugees and stateless persons before knowing what steps would be taken by U.N.O.

The Conference considered, however, that in view of the great distress of a large number of refugees of all categories, it was the duty of all private organisations, and particularly of National Red Cross Societies, to give immediate assistance to these persons, the more so as UNRRA proposed to close down at the end of 1946.

PART IV

SPECIFIC RED CROSS PROBLEMS

I. National Societies in Time of War

I. FIELD OF ACTION OF NATIONAL SOCIETIES

I. — *The Commission, having heard the reports of the various National Red Cross Societies on their work during the recent War: Notes that these activities have often extended beyond the framework of the Conventions now in force;*

Considers that the wording of the Geneva Conventions should be extended so as to determine the sphere in which National Red Cross Societies can function, and desires to see embodied in the Convention, in addition to the care and relief of the wounded and sick of belligerent forces, the following activities:

(a) *Care and relief of Civilian War-victims and of Prisoners of War;*

(b) *Care and relief of Alien Refugees who may be resident on the territory of one of the National Societies during hostilities;*

(c) *In case of the occupation of a country, or in case of civil war, the Red Cross shall be authorized to extend its care to all wounded, without distinction of the party to which they may belong.*

National Red Cross Societies shall further undertake all activities specified in their Statutes, on the understanding that if these activities go beyond the limits fixed by the Conventions, they shall not enjoy the protection afforded by these agreements.

The International Committee placed this very general heading at the beginning of the chapter of the agenda devoted to specific Red Cross problems, to allow representatives of the National Societies themselves to bring forward the problems relative to

their wartime work which they considered should be discussed, apart from the items already on the agenda.

The Committee had therefore collected no general introductory data, since National Red Cross Societies were in a much better position to set forth these problems and to voice their desires. The Committee were content to allude to the fact that Red Cross work has constantly widened its scope since its inception, including more and more activities till it reached its present vast development which touches upon practically all forms of human distress.

Originally, the Red Cross was concerned only with the care of the wounded or sick members of the armed forces ; it was led, in the course of two World Wars, to extend its help to all persons who, in some manner or other, had been adversely affected by the war.

During the recent conflict, National Red Cross Societies found a new field for their activities, namely, work in behalf of combatant members of the national forces, who were neither prisoners, nor wounded, nor sick. In illustration of this fact the Committee mentioned the dispatch of food-parcels and clothing to forces at the front, the organization of welfare and recreation centres for combatant members of the forces, social welfare and aid to the next-of-kin of men on active service, etc.

This was therefore the first time, in the history of its war work, that the Red Cross extended help to persons who were not war-victims.

The International Committee believed that such an important extension of Red Cross work should be the subject of an exchange of views and of careful scrutiny. The Committee wondered whether these new tasks should be undertaken by the Red Cross rather than by other organizations, and whether it would be advisable to draw a distinction between those tasks which are still in accordance with the fundamental ideas of the Red Cross and with the spirit of the Geneva Convention, and those which are not. The Committee further questioned whether National Societies should be entitled to use the Red Cross emblem in this new work. Two different uses of the emblem should be borne in mind in this connexion. In the first case the emblem, generally

of large dimensions, confers the protection of the Geneva Convention. In the second, the emblem, usually of a small size, has a merely descriptive value ; Such is the case for signs drawing public attention to buildings, publications, articles etc., belonging to Red Cross institutions ¹.

Relating their experiences in this field, some Red Cross Societies, the Australian Red Cross for instance, stated that during the War, in obedience to the Geneva Convention, they limited their activities to relieving the wounded and sick. Other Societies declared that they could not have worked usefully, had they adhered strictly to the Convention ; such was, for instance, the case of the Swedish Red Cross, which presented the experiences of a National Society of a neutral country. The same remark applied to the Canadian and Rumanian Societies. The Polish and Jugoslav Red Cross Societies also had to make certain concessions which conditions prevalent in an occupied country were alleged to justify.

Speaking generally, the majority of Societies were of opinion that the scope of Article 24 of the Geneva Convention should be extended. The American Red Cross in particular spoke in favour of this view. The American delegation was convinced that the Red Cross could not remain static. It would be impossible for Red Cross Societies as a whole to carry on their work, or even to ensure their further existence, if the limits placed on the use of the distinctive emblem, as laid down in the Convention, were retained.

The Swiss Red Cross further drew attention to the fact that the scope of Article 24 had actually been extended during the recent War. Such was the case as regards the numerous undertakings set on foot by National Societies, following agreements concluded with responsible civil and military authorities, as also with the blockade authorities.

The President of the International Committee then expressed the opinion that future Red Cross activities must rest on a firmer basis than agreements concluded for each particular case. International law must be brought into line with actual facts.

¹ For further details see Part I, Chapter VI — The Distinctive Emblem, p. 41 sqq.

Invited to express its views as to what activities should be included in the future programme of National Societies, the Commission declared that these should comprise the protection of Civilian War Victims and of Prisoners of War, relief to Refugees who, in the course of hostilities, might be found on the territory of a National Red Cross Society, and care of all Wounded and Sick, of whatever party, in the case of occupation or of civil war.

As regards so-called "welfare work", that is to say, the supply of comforts etc., to able-bodied members of the National Forces, a lengthy debate took place in Commission, and was further pursued in plenary assembly. Some Societies, e.g. that of Australia, considered that the Red Cross institution should devote itself exclusively to the care of wounded and sick, whether national or enemy. These Societies thought that the Red Cross should resist a certain pressure, whether exercised by Governments or by public opinion. The latter is sometimes surprised that a distinction should be drawn between the able-bodied and the wounded or captive combatant. Such a distinction is however, necessary if it is desired to safeguard Red Cross neutrality. It would be incompatible with this neutrality to reinforce the morale of combatant forces, and thus to increase their fighting capacity. Red Cross prestige demands strict adherence to the fundamental principles so often proclaimed, and also that its work should be exclusively done in behalf of Army Medical Services. In any case, should the "welfare" principle be embodied in the Convention—a course that is scarcely desirable—it should be clearly specified that the name and emblem of the Red Cross cannot cover and protect any such activity.

The views thus summarized gave rise to lively criticism, mainly by the delegates of the American Red Cross. Welfare activities have been very widely extended in the United States, where the Red Cross is governed by a charter and must serve as a link between the American people and the armed forces. The American delegation was urgent in its demand that no negative decision be taken concerning "welfare". Such a decision would set an end to undertakings which have become essential in peace as in war, and would reduce Red Cross work

to its original conception of assistance exclusively given on the field of battle. This would be equal to a death sentence for the Red Cross, as nowadays Governments are themselves in a position to carry out the above essential task.

The Conference finally agreed on the wording quoted at the head of the present chapter, namely that National Red Cross Societies are free to pursue all the activities specified in their statutes, on the understanding that if some of these activities outstep the limits fixed by the Conventions, they shall not enjoy the protection afforded by these agreements.

2. ACTIVITIES OF NATIONAL SOCIETIES IN BEHALF OF ENEMY PRISONERS OF WAR DETAINED IN THEIR TERRITORY

The Commission adopted the following recommendation:

“National Societies shall contribute to the relief of enemy prisoners of war and internees on their territory, and this relief shall be granted on the basis of the most complete impartiality.”

The Commission convened in Geneva by the International Committee and the League in January 1939, to study the cooperation of National Societies in case of war, had “drawn the attention of National Societies to the work they might undertake in behalf of enemy prisoners”, and “invited them to assume this task, which is essentially in accordance with the Red Cross spirit”.

As the International Committee pointed out in their Report, it had been observed already before the recent conflict that in wartime National Societies were as a rule wholly absorbed by their duties as auxiliaries of the Medical Service; they devoted their energies above all to helping their nationals in enemy hands, and evinced little concern for enemy prisoners of war on their own territory. The Committee held it important that this matter should be studied anew by the Conference. National Societies should give an account of their experiences in this field during the recent War and submit their proposals. It was further recalled that, in the light of information collected by the Committee, National Societies seem to have done comparatively

little during the last six years in behalf of enemy prisoners. This is, however, an essential task for National Societies, and is in entire accordance with the Red Cross spirit and ideal, which demand that war victims be assisted without distinction of nationality. Such activities would give National Societies the opportunity of duplicating their principal work on the national plane by activity in the international field and the latter, through the effect of reciprocity, would doubtless benefit their own nationals. The Committee pointed out that their proximity to the prisoners in need of relief and their close relations with their own Governments would place National Societies in a favourable position to undertake this type of work in behalf of prisoners and civilian internees.

The Commission then heard the experiences in this field of several Societies (Australia, Bulgaria, France, Italy and Poland) who were able to do a limited amount of relief work in behalf of enemy prisoners of war (gifts of clothing, foodstuffs, medicaments ; nursing of wounded and sick in hospitals). The Commission thought it incumbent on Red Cross Societies to *contribute* towards the relief of prisoners of war and of civilian internees, without, however, substituting in any way the Detaining Powers, on which the Convention imposes the duty of caring for these persons. The Commission then adopted the above recommendation, as proposed by its chairman.

3. INDEPENDENCE OF NATIONAL SOCIETIES WITH REGARD TO THE PUBLIC AUTHORITIES

The Commission supported the resolution voted at the Nineteenth Session of the Board of Governors of the League, as follows:

“A Red Cross Society should maintain its position as an independent voluntary organization, as recognised by the Government, Local Authorities and other voluntary organizations engaged in similar work. The privileged status of the Red Cross in war may be jeopardised if the Society does not retain its independence and maintain the integrity of its aims, in accordance with Red Cross principles.”

During the War, certain National Societies requested the International Committee to support them in maintaining their status as private institutions. In their Report to the meeting the Committee pointed out that the independence of National Societies and their relations with Government authorities raise a vast problem, whose importance to Societies is great, and which varies according to national conditions. The close relations between National Societies and Governments, though usually very favourable to the former's work may create the danger of their becoming mere cogs in the machinery of public administration and thereby losing their peculiar character as private institutions, that is of Voluntary Aid Societies, which has marked them since the foundation of the Red Cross.

The fact that no international Convention mentions the autonomy of National Red Cross Societies may be ascribed to the private nature of their constitution, which is based chiefly on tradition. The independence of National Red Cross Societies is, however, in full accordance with the spirit of the Geneva Convention ; it is moreover implicitly embodied in the terms of recognition drafted by the Committee for the use of National Societies in process of formation. Finally, the Committee recalled that particular weight should be given to the resolutions of the International Conference which took place in 1863 in Geneva. These are by tradition looked upon as the constitutive Charter of the Red Cross, and serve National Societies, in the absence of other treaty stipulations, as the leading principles of their own organization. This Conference laid down explicitly that the Society nominated in each country to cooperate with the Army Medical Service shall set up its own organization, as it thinks best.

The Chairman of the League recalled that in Oxford, National Societies discussed the question of the independence of the Red Cross and passed two resolutions on this question. According to the "Fundamental Principles" adopted by the Board of Governors, National Societies shall maintain their independence, draw up their Statutes themselves, undertake, in the Red Cross spirit, those humanitarian activities which they consider the most useful according to conditions prevailing in their country.

Art. 4 of the "Application of Principles" states that a National Society should maintain its position as an independent voluntary organization, as recognised by the Government.

The President of the International Committee drew attention to the fact that even if Red Cross Societies, despite their close relations with the Army Medical Services in time of war, are to remain as independent as possible, the principle of universality should not however be lost sight of. If too detailed conditions are placed on the recognition of National Societies, there might be a risk that certain societies might be excluded, or that the principles laid down would be impossible to apply.

The Commission decided to endorse the resolution voted by the Nineteenth Meeting of the Board of Governors of the League.

II. Co-operation of National Societies in Time of War

I. RELATIONS BETWEEN NATIONAL SOCIETIES OF ENEMY COUNTRIES

The Commission adopted, with an amendment, the text drafted in 1939 by the Study Commission appointed by the Sixteenth International Red Cross Conference:

"The Commission considers essential that relations between National Societies of friendly or adverse States be developed, and that, in any case where such relations cannot take place direct, the International Committee of the Red Cross shall continue to act as intermediary.

"The Commission urges that the League and each of the National Societies, according to their means, shall give whole-hearted support to this measure."

In their Report, the International Committee recalled that they had been instructed, conjointly with the League, by the Sixteenth International Red Cross Conference (London, 1938), to convene a small Commission, to study the possibility of co-operation between National Red Cross Societies in time of war. This Commission sat in Geneva from January 17 to 19, 1939, and

expressed the view that "it is highly desirable that relations between National Societies of friendly or adverse States be developed, and that, in any case where such relations cannot take place direct, the International Committee of the Red Cross shall continue to act as intermediary".

During the War of 1914/1918 relations between National Societies of enemy States were few, but during the second War, despite the hopes expressed in 1939, they were even fewer. The International Committee thought nevertheless that, while it appears difficult to institute direct cooperation between Societies of enemy States, the idea of summoning Conferences between representatives of these Societies (by the intermediary of a belligerent or neutral Society, or of the International Committee) might be taken up anew.

After discussing the role which the League, the National Societies and the International Committee might be called upon to play, either conjointly or independently, in order to facilitate cooperation between National Societies, the Conference endorsed the text established in 1939 by the Study Commission, with the substitution of the word "essential", instead of "highly desirable". The following clause was added: "The Commission urges that the League and each of the National Societies, according to their means, shall give whole-hearted support to this measure."

2. POSSIBILITY FOR NEUTRAL NATIONAL SOCIETIES TO FACILITATE RELATIONS BETWEEN THE RED CROSS SOCIETIES OF BELLIGERENT COUNTRIES

The text, established in 1939, by the above Study Commission, was endorsed by the Third Commission, with a slight amendment, as follows:

"The Commission considers that it is the duty of National Societies of neutral countries to facilitate the relations of Red Cross Societies of belligerent countries among themselves, at the request of such Societies.

"The International Committee of the Red Cross shall be kept

informed of action undertaken in this field. The League's assistance in such circumstances is available to the International Committee, if required."

Furthermore, the Commission recommends that the League should create a special Committee during war-time, which shall maintain contact between National Red Cross Societies.

The Study Commission made the following recommendation in 1939 :

"The Commission considers that it is the duty of a neutral National Society to facilitate the relations of Red Cross Societies among themselves, at the request of such Societies and with the permission of the Governments concerned, and after consulting the International Committee of the Red Cross. The League's assistance in such circumstances is available to the International Committee, if required."

This recommendation, which had been thoroughly discussed by the Study Commission, formed the basis of the debates in the Conference. The Swedish Delegation expressed reservations concerning the words "after consulting the International Committee of the Red Cross", and pointed out that, owing to the difficulties of communication in time of war, it might sometimes be impossible to consult the said Committee. Consequently, this Delegation suggested that the clause be replaced by "The International Committee of the Red Cross shall be kept informed of action undertaken". The delegation also stressed that the necessity of obtaining Government authorisation—though desirable—might cause practical difficulties and useless administrative complications.

The Yugoslav Delegation, basing their remarks on a resolution adopted by the Board of Governors of the League, asked that a commission should be set up, consisting of members of the League, with the object of strengthening the links between all National Societies.

The proposal of the Swedish Delegation and that of the Yugoslav Delegation having been put to the vote, the above text was adopted by the Conference.

3. RED CROSS BRANCHES REMAINING ON TERRITORY OCCUPIED
BY THE ENEMY

(a) *The Commission endorses the resolution voted at the Nineteenth Meeting of the Board of Governors of the League, as follows:*

“If an Occupying Power abolishes a duly recognized National Red Cross Society, the Executive Committee of the League shall meet forthwith to examine the circumstances of this dissolution, and shall take every possible and appropriate step in the matter and issue an appeal to the conscience of the world.”

“The same procedure shall be followed if, in consequence of the total or partial occupation of a country, the Occupying Power interferes in the administration of the Red Cross of the occupied country, or in any way impedes the Society in the pursuit of its aims, or replaces it by a puppet Society.”

(b) *The Commission further draws the attention of the League to the necessity of studying, in cooperation with the International Committee of the Red Cross, the best means of safeguarding the funds belonging to National Societies in occupied countries.*

(c) *The Commission recommends that the International Committee of the Red Cross, either independently or, if circumstances require, in consultation with those members of the League who are accessible, shall take all steps considered possible and useful in order to respond to the appeal of a National Red Cross Society in occupied territory, both in view of safeguarding its funds and of protecting its staff.*

(d) *The Commission affirms that it is the duty of the Red Cross of the occupying Power to intervene with its own Government to ensure the existence and activities of the Red Cross of the occupied country.*

The 1939 Study Commission recommended that “the Red Cross of the occupying country should use all its influence with its Government to safeguard the existence and work of local branches remaining in the occupied country, and to facilitate the pursuit of their humanitarian task, the identity of these branches

being determined at the moment of occupation according to the statutes of their Society”.

At Oxford, in July 1946, the Board of Governors of the League passed the above resolution (*a*), which appears to provide a satisfactory answer to the question before the Conference.

Several Delegations considered, however, that the Oxford resolution did not envisage all the aspects of the problem. While safeguarding the practical management of National Societies, it contained no reference to the protection of their financial resources.

Furthermore, the resolution did not appear to foresee the case where the Executive Committee of the League might, in wartime, be incapable of action. The Board, consisting of twelve members from as many countries, will find difficult to meet in certain circumstances. Would it therefore not be preferable to nominate a neutral body, invested with unquestioned authority, to make the necessary decisions ?

It thus seemed advisable that the Commission should first draw the League's attention to the necessity of examining, conjointly with the International Committee, the best means of safeguarding the funds of National Societies, and furthermore propose that it should be incumbent on the Committee, either independently or in consultation with accessible members of the League, to take all possible and effective steps to answer the call of any National Red Cross Society in occupied territory, in order to safeguard its funds and protect its staff.

Finally, the Oxford resolution does not allude to the case of a National Red Cross Society not being recognized by the occupying Power. Thus it seemed desirable to endorse the resolution of the 1939 Study Commission, stressing the duty of the Red Cross of the occupying Power to take steps its own Government in behalf of Red Cross branches in occupied territory, in order to allow them to pursue their welfare activities.

After discussing the above points, the Commission endorsed the resolution voted at the Nineteenth Meeting of the Board of Governors of the League, with the addition of clauses (*b*), (*c*) and (*d*), as above.

4. RELIEF ACTIVITIES BY NEUTRAL NATIONAL SOCIETIES IN BEHALF OF RED CROSS SOCIETIES OF BELLIGERENT STATES

The Commission endorses the recommendation of the Study Commission of 1939, as follows :

“The Commission, while paying tribute to the relief work undertaken on many occasions by National Societies in favour of belligerent countries, expresses the hope that this solidarity will develop, and that such mutual assistance shall be provided for, more particularly by the creation of special funds for that purpose ¹.”

The 1939 Study Commission had considered three different methods by which National Societies might assist those of belligerents States, as follows :

- (a) Dispatch of medical units or other particular missions ;
- (b) Forwarding of medical supplies, funds and relief in kind ;
- (c) Exemption from transport dues and other facilities in respect of transport and communications.

In their Report, the International Committee recalled the Commission's recommendation that a Committee of legal experts should study the cooperation of neutral Red Cross Societies in sending medical units to belligerent States. The outbreak of war prevented these studies. The International Committee asked if National Societies thought it necessary to take up the matter once more and to examine the question more thoroughly.

The Conference simply endorsed the recommendation of the 1939 Commission, while specifying that the term “special funds” was to be taken to mean several special funds, and not one single fund.

¹ It is understood that the expression “special funds” is to be taken to mean that there are several special funds, and not one single fund.

5. COORDINATION OF RELIEF ACTIVITIES OF NEUTRAL RED CROSS SOCIETIES IN BEHALF OF BELLIGERENTS

The Commission endorses the proposal drafted by the 1939 Study Commission:

“The Commission is of opinion that the coordination of relief activities is highly desirable, and that the International Red Cross institutions, acting in agreement in each particular case, should play the part of information and coordination agencies, without trespassing upon the liberty of action of National Societies.”

In their Report the International Committee recalled that, in the spirit of this recommendation, the International Committee and the League had founded conjointly the “Joint Relief Commission of the International Red Cross”. This body endeavoured to play the part of information and co-ordination agency, in connection with relief schemes in behalf of civilian populations, and to give practical shape to various relief schemes.

The Conference endorsed without discussion the proposal voted by the Study Commission.

III. Role of the International Committee and its Finances

I. ROLE OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Following the proposal of the Third Commission, the Conference makes the following decisions:

I. The Standing Committee of the International Conference is invited to nominate a Commission for the purpose of studying methods to reinforce the efficacy of the work of the International Committee of the Red Cross.

“The results of this Commission’s work shall be communicated to all National Red Cross Societies in due time, so that all delegates to the next International Red Cross Conference may have a perfect

view of the situation, when it is discussed at the said Conference.

“The Conference adopts the following composition of the said Committee, which shall include twelve members, namely:

Eight representatives of National Societies, representing all parts of the world;

Two representatives of the International Committee of the Red Cross;

Two representatives of the League of Red Cross Societies.

“The Conference endorses the principle that a Red Crescent Society shall be represented in this Commission.”

At the request of the Swedish Red Cross, the role of the International Committee in wartime, and the support which National Societies, in particular those of neutral countries, might afford with a view to strengthening its authority, were placed on the agenda.

The International Committee considered that this question might lead to a preliminary debate on the possible revision of the Statutes of the International Red Cross, and of the International Committee itself.

As stated in the Committee's Report, the revision of the International Red Cross Statutes, adopted by the Thirteenth International Red Cross Conference in 1928, after careful study and protracted negotiations, is a matter depending wholly on the International Red Cross Conference. Moreover, a question of such importance and complexity, before being submitted to the International Red Cross Conference, should no doubt be the object of scrutiny and of particular negotiations between the National Societies specially interested, the International Committee, and the League. A Commission might be nominated, as suggested by the Swedish Red Cross, to examine the question, pending the next International Red Cross Conference.

With regard to a possible amendment of the Statutes of the International Committee, there was no doubt that this step is one within the latter's own competency, just as it is for National Societies and for the League in respect of their own Statutes.

The International Committee was nevertheless of opinion that a first debate on these problems might be extremely useful.

In his address to the Third Commission, the President of the Swedish Red Cross stated that it might be desirable, after the recent War, to make certain changes in the managing Red Cross bodies, as regards their composition, methods of work and purpose. He specified that, though the Preliminary Conference had no competency to amend the statutes of the International Red Cross, of the International Committee of the Red Cross or of the League, a debate preliminary to a thorough study of the question appeared desirable.

When the League of Red Cross Societies was founded after the first World War, it was often felt superfluous to have two managing bodies, whose parallel activities, it was thought, could only lead to mutual hindrance and even harm. The task of the International Red Cross, was, however, so carefully divided between the Committee and the League that their work has developed without creating any marked difficulties.

The President of the Swedish Red Cross went on to say that, after the experience of the recent War, and while deeply appreciative of what the International Committee had accomplished, we might ask whether the latter could not secure better results if they enjoyed wider authority, by representing directly in peacetime other Red Cross Societies than that of Switzerland, and in wartime, the Societies of neutral countries. The speaker asked whether the present method of recruiting the Committee, namely by co-optation, could not be replaced by a more general and modern method, which would strengthen the authority of the Committee, whose headquarters would of course remain at Geneva.

The President himself still being a Swiss, some of the Committee might belong to other nations and be elected, for instance, by the International Red Cross, that is, by the International Conferences. In case of war, all members belonging to belligerent countries might be replaced by citizens of neutral countries, if there should be any. These structural changes would place the Committee in as strong and representative a position as possible.

The speaker concluded by saying that it would be useful to open a discussion on the managing bodies of the Red Cross ; should these proposals be favourably received, a Commission might be nominated for the preliminary study of this question in view of the next International Conference.

A debate followed on the issue raised by the President of the Swedish Red Cross. The Canadian, Greek, Indian, and Swiss Delegations pointed out the danger to which structural changes might expose the work of the Red Cross, and stressed the advantages of the present system. The latter had proved its value during two World Wars, and rests on the permanent neutrality of Switzerland, which remains probable in the future. This system has enabled the Committee to carry out its duties ; changes in its composition would deprive the Red Cross of an organization ready for service the moment a war breaks out and it becomes necessary to take energetic and effective action.

The Swedish delegate's point of view was, on the other hand, supported by the Delegations of Bulgaria, Denmark, France, Great Britain, Italy, New Zealand, Poland, United States and Jugoslavia, who thought that it was impossible to abide by the *status quo*. Swiss neutrality might be infringed, in which case nothing would remain of Red Cross headquarters ; whereas, if other representatives sat on the Committee, there might be hope of saving something and a Committee would continue in being. As the Swedish delegate remarked in his proposal, there would be no objection to the Committee's various departments remaining in Switzerland, or that the President of the Committee should be a Swiss citizen, as well as part of the members. The Swedish proposal had no other object, for the present, than to nominate a Commission for the study of the question.

On a proposal that the said Commission should be empowered to conduct an inquiry into the International Committee's work during the recent War, following certain criticisms voiced regarding this work, the President stated that his Committee, whose impartiality had never wavered, and who are willing to entertain all criticisms which can be freely made, supported the nomination of a Commission entrusted, not with an inquiry into the Committee's work, but with the study of the means of

strengthening its effectiveness. National Societies who may have complaints to make concerning the Committee's work, were invited by the latter to specify them, to send representatives to Geneva to clear up these matters and to examine the written evidence relative thereto.

The Assembly then adopted the principle that the Commission should be nominated. It still had to be settled by whom it should be elected. A suggestion by the Yugoslav Delegation to have it nominated by the Preliminary Conference itself was not approved by the meeting, which supported the Swedish Delegation's proposal, amended at the Committee's request as follows: the Standing Commission of the International Conference—and not the International Committee—should be instructed to nominate the said Commission.

At the plenary meeting it was decided to increase the number of members of this Commission to twelve, and it was agreed that a Red Crescent Society should, as a matter of principle, be represented on this body.

2. FINANCIAL RESOURCES OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

The Commission, having heard the report made by the Financial Advisor to the International Committee of the Red Cross, notes the fact that, without awaiting the decision to be made by the next International Red Cross Conference, immediate steps must be taken in order to place the finances of the International Committee on a sound footing; that for this purpose funds estimated at fifteen million Swiss francs must be put at the disposal of the International Committee before the close of the year 1950, in order to cover the present deficit of its war work and to allow it usefully to pursue its traditional activities.

Consequently, National Red Cross Societies are invited to furnish to the International Committee of the Red Cross, by all means at their disposal, and if need be with the support of their Governments and their peoples, an extraordinary contribution of

fifteen million Swiss francs, of which ten million before the close of 1947.

National Red Cross Societies shall themselves fix their respective participation in this extraordinary contribution.

In the Report submitted by the Committee to the Conference, reference is made to Circular No. 374 sent to National Red Cross Societies and setting forth the Committee's financial situation ¹.

After hearing the report of the Financial Advisor to the International Committee, recalling the latter's work during the war and how it was paid for, and indicating the immediate needs of the Committee in view of their post-war tasks, the meeting agreed that the Committee's work must go on as long as there are people in the world who need it—as long, in particular, as there are Prisoners of War who cannot return home—and that the funds necessary should consequently be put at the Committee's disposal.

The resolution to this effect brought forward by the Chairman of the American Red Cross was passed unanimously.

IV. Foundations of the Red Cross in International Law

1. *The Conference notes the recommendation of the Third Commission relative to the wording of Articles 10 and 24 of the Geneva Convention, and records the fact that these texts are in agreement with those recommended by the First Commission.*

2. *The Commission unanimously endorses the recommendation adopted by the Nineteenth Meeting of the Board of Governors of the League concerning relations with the United Nations Organization, as follows:*

“The Board of Governors decides to recommend to the General Assembly to draw the attention of the Members of the United Nations Organization to the fact that it is of special and particular interest:

¹ See “*Revue int. de la C.-R.*”, July 1946, p. 555.

(a) *That the Members should encourage and promote the establishment and cooperation of the voluntary national Red Cross and Red Crescent organizations duly authorised ;*

(b) *That the independent and voluntary character of the National Red Cross and Red Crescent Societies should be respected in all and every circumstance, provided that such Societies are recognised by their Governments and exercise their action in conformity with the principles of the Geneva and Hague Conventions and in the humanitarian spirit of the Red Cross ;*

(c) *That the necessary measures should be taken to maintain contact in all circumstances between the National Red Cross and Red Crescent Societies of all countries, in order to secure the carrying out of their humanitarian work."*

At the Committee pointed out in their Report, the Red Cross, regarded as a relief undertaking, rests on comparatively slender foundations in treaty law. The Geneva Convention refers to National Red Cross Societies as "recognised Voluntary Aid Societies" ; the same is the case in the Convention relative to the treatment of Prisoners of War.

National Red Cross Societies are expressly named in the League of Nations Covenant and in the Convention of July 12, 1927, instituting an International Relief Union in case of Natural Calamities.

The International Committee of the Red Cross is not mentioned in the Geneva Convention, but was officially recognized in the 1929 Convention relative to Prisoners of War, where Art. 79 specifies the Committee's role in view of the establishment of a Central Prisoner of War Agency. Art. 87 mentions the part it may be called upon to play with regard to the application of the Convention, when belligerents fail to agree on this point.

While stressing this anomaly, the International Committee noted that though treaty law scarcely mentions the Red Cross, it contains nothing which is contrary to its development. The Committee's widespread activities during the War developed outside the framework of treaty law. Being bound by no man-

date, its action is not governed by treaties and is thus not subordinate to their implementing by Governments.

The Committee was therefore of opinion that caution must be observed when making proposals for broadening the foundations of the Red Cross in international law, and for amending the present situation, which has the advantage of being extremely elastic.

The International Committee summarized as follows the chief cases where the Red Cross might be mentioned more specifically :

(a) In the Geneva Convention, explicit mention of National Red Cross Societies among the recognized Aid Societies, and mention of National Societies, the International Committee, and the League in connection with the use of the Red Cross emblem.

(b) In the Convention on Prisoners of War, likewise mention of National Societies and of the International Committee among the recognized Aid Societies, and mention of the role of the International Committee's delegates ; the financing of the International Committee, and particularly of the Central Prisoner of War Agency, should doubtless be provided for, and likewise the organization of a regular mail service.

(c) Outside these Conventions, the questions arises of a reference to the Red Cross in the texts governing the United Nations Organization, replacing Article 25 of the Covenant of the League of Nations.

The question of expressly mentioning National Red Cross Societies in the Geneva Convention brought to light opposing views among National Societies. Some favoured maintenance of the *status quo*, arguing that the expression "recognized Aid Societies" refers also to National Red Cross Societies. These delegations thought that in countries where associations other than the Red Cross cooperated with the military authorities—as was the case, for example, in the United States—the insertion of the name of National Red Cross Societies would probably induce the said associations to ask to be named also. Any ex-

PLICIT reference to Red Cross Societies might lose them the priority they in fact possess.

Other delegations stressed, on the contrary, that explicit mention might assist Red Cross Societies to fulfil their work, and that steps should be taken to draw Governments' attention to the importance of the task of National Societies. The speakers moved that the words "National Red Cross Societies" be added to "Voluntary Aid Societies".

A third course was suggested, namely to amend not Art. 10, but Art. 24, reserving to National Societies the use of the emblem, outside the cases covered by Art. 10.

The Third Commission then unanimously endorsed the resolution adopted by the Nineteenth Meeting of the Board of Governors of the League, concerning the relations of the Red Cross with the United Nations Organization. It then examined the revision of Art. 10 as proposed by the First Commission, as follows: "The personnel of National Red Cross (Red Crescent, Red Lion and Sun) Societies, duly recognized and authorized by their respective Governments, are placed on the same footing as the personnel contemplated in Art. 9, Sec. 1, provided that they are employed in the same functions and are subject to military laws and regulations".

Various amendments to this text were moved, aiming at omission of any reference to other Aid Societies, deletion of the words "and authorized", and adjunction of the word "respective" to the words "by their Governments".

The Commission then passed Art. 24 as drafted by the First Commission.

The plenary Assembly, after examining the proposals of the two Commissions relative to Art. 10, decided to omit in its recommendation any mention of Societies other than Red Cross Societies. The meeting was of opinion that the Conference should primarily concern itself with Red Cross interests, without prejudice to the final decision made by the Governments, on whom it is incumbent to decide this matter.

V. Relations of National Societies with the International Committee of the Red Cross

I. FACILITIES TO BE GRANTED TO THE RED CROSS

The Commission notes the immensity of the tasks which war imposes upon National Red Cross Societies, as on the International Committee, and which implies a considerable increase in their mutual relations. These have been hampered up till now by countless and sometimes almost insurmountable material difficulties.

In consequence, the Commission endorses unanimously the decisions taken in this field by the Nineteenth Meeting of the Board of Governors of the League, as follows:

“The Board of Governors,

Considering that the humanitarian work of the Red Cross would be greatly facilitated, especially during epidemics, natural calamities and war, by:

(a) Special travel facilities for Red Cross personnel when engaged in their official duties, and expeditious granting of travel visas to them ;

(b) Special facilities for the transmission of Red Cross correspondence ;

(c) Special facilities for the rapid transfer from one country to another of funds to be expended in Red Cross activities ;

(d) Special facilities for the rapid movement of Red Cross medical and other relief supplies to stricken and needy peoples ;

(e) Special facilities for the exemption of customs duties on Red Cross relief supplies.

“All the above in complete agreement with the Red Cross Society of the country concerned.

“Directs the Secretariat of the League to :

(i) Transmit to the International Committee of the Red Cross a request that provisions for these special facilities be incorporated in amendments to existing treaties and/or proposed new international Conventions ; and

(2) *Urge National Societies to endeavour to obtain adherence of their respective governments to the above stated principles*".

The Commission further endorses the following recommendation adopted by the Nineteenth Meeting of the Board of Governors of the League:

"The Board of Governors;

Recommends to all Governments that all material of any kind used for Red Cross work, imported for, or exported by a Red Cross Society, should be free of customs duties".

The recent War witnessed the creation of a comparatively vast network of relations of various kinds between National Societies and the International Committee, which was extremely profitable to common Red Cross endeavours in behalf of war-victims.

These relations were not, however, in many cases, as close and constant as the International Committee and National Societies could have desired, since they were hampered by sometimes insurmountable material difficulties.

In consequence, the Committee declared that all possible steps should be taken now to avoid the recurrence of similar difficulties, and to ensure in time of war the establishment of free and regular contact between national and international Red Cross organs. It would be desirable to obtain from all States guarantees that, in all circumstances, rapid, sure and permanent postal and telegraphic communications will be maintained, and that facilities will be granted to Red Cross delegates, to make with all speed the journeys necessary to establish direct contacts between Geneva and the National Societies of the world.

The Commission, having noted the duties which war lays upon National Societies and on the International Committee, and the consequent great increase in their mutual relations, endorsed unanimously the recommendations of the Nineteenth Meeting of the Board of Governors of League, quoted above.

2. ACTIVITIES OF THE INTERNATIONAL COMMITTEE IN VARIOUS COUNTRIES

The Commission unanimously adopted the following resolution:

“It is the opinion of the Commission—in which the International Committee of the Red Cross joins—that to the extent proper and possible, the International Committee should act in countries first only through the National Red Cross Societies, and in any event should inform each National Society direct of all their activities in its country, including their dealings with the Government or any agency thereof.”

In the course of the War, the International Committee was led to make, side by side with its relations with National Societies, direct and regular contact with their Governments. This was inevitable in some cases, as the International Committee exercises, outside the field of action proper to National Societies certain activities which are specifically within the competency of Governments and which arise from the implementing of International Conventions—especially those concerning the treatment of Prisoners of War. The Committee fulfils, moreover, in respect of Governments certain treaty obligations relative to the working of the Central Prisoner of War Agency. Moreover, as the International Committee is chiefly concerned with the positive relief it can give to war-victims, it is obliged to make application direct to the responsible authorities. Finally, Governments have recourse to the International Committee as a neutral intermediary, for the purpose of negotiating proposals of a humanitarian nature with the adversary.

The International Committee considered that it could best serve the interests of the Red Cross as a whole by conducting these various tasks to a successful conclusion. It has, as far as possible, kept National Societies informed of its relations with Governments, and the establishment of such relations was very often due to support given by the Societies.

While recognizing the reasons which, in some cases, may render desirable to negotiate direct with Governments, when it is a matter of securing positive results with greater rapidity,

or of handling questions outside the scope of national organisations (e.g. Red Cross maritime transport), the Commission thought that to the extent proper and possible, the International Committee should act in countries first only through the National Red Cross Societies, and in any event that it should inform each National Society direct of all its activities in the country concerned, including its relations or negotiations with the Government or any agency thereof. The International Committee shared this opinion, with the reservation of cases where a Government might have contrary views on the matter.

3. RELATIONS BETWEEN THE INTERNATIONAL COMMITTEE OF THE RED CROSS AND NATIONAL RED CROSS SOCIETIES IN OCCUPIED COUNTRIES

The Commission further endorsed the principle of the proposal made by the International Committee in this connexion.

Like the International Committee, the Commission is of opinion that a solution must in the first place be sought in the improvement of relations between Red Cross Societies of occupying and occupied countries.

A difficult problem arose out of the occupation of a large number of countries at an early stage of the war. The Red Cross Societies of the occupying countries insisted that all communications and correspondence between the International Committee and the Red Cross Societies of occupied territories should pass through their hands. This procedure gave rise to considerable delays, and the Red Cross Societies of occupied territories complained that the Red Cross of the occupying Power held up all communications in both directions, and prevented the Societies from sending their representatives to Geneva. The International Committee firmly reacted against this interference, first by making representations to the Red Cross Societies of the occupying Powers, and afterwards by deliberately circumventing the conditions they imposed. It succeeded in sending temporary or permanent delegates into certain occupied territories. It

appeared to the Committee that the solution of the problem must in the first place, be sought in better contact between Red Cross Societies of occupying Powers and those of occupied territories. It may be added, as regards relations with representations of National Societies abroad, that these were effected through the intermediary of the British Red Cross. This system seems to have worked to the satisfaction of all parties.

The Commission endorsed without discussion the International Committee's point of view.

4. DELEGATIONS OF THE INTERNATIONAL COMMITTEE ABROAD, AND DELEGATIONS OF NATIONAL SOCIETIES TO THE COMMITTEE

The Commission further endorsed the opinion expressed by the International Committee in its Report concerning the value of delegations of National Societies to the International Committee of the Red Cross, and of the latter's delegations abroad.

From the very outset of the war, the Committee was obliged, with a view to the fulfilment of its duties, either to send delegates or appoint them off-hand on the spot—often in times of emergency—in almost all the countries in the world. Such appointments were made chiefly in the belligerent States, but also in many neutral countries. The part these delegates played, more especially in supervising the implementing of the Convention relative to the treatment of Prisoners of War, and also in the distribution of relief, has been mentioned in connexion with Part II of this Report. The Committee thought sufficient to point out here that, over and above this role, their delegates remained in close contact with National Red Cross Societies. By keeping the Committee and National Red Cross Societies informed regarding each other's work, and by studying many problems with them, the delegates contributed very largely to the multiplication of contacts between Geneva and the various Red Cross Societies. In spite of pressing requests from National Societies and despite its own endeavours, the Committee was not

always able to send delegates into occupied countries, owing to opposition by the occupying Power. The Committee also sent a few special missions from Geneva to establish direct and personal contact with certain National Societies.

The Committee's Report pointed out further that, as laid down in its Statutes, it had much pleasure in receiving during the War, a number of delegates of National Societies who were permanently accredited. Thus, on the cessation of hostilities, there were in Geneva sixteen delegations from National Red Cross Societies. The presence of these delegations proved to be of particular value when certain Societies, owing to war conditions, found themselves completely cut off from the International Committee. The latter requested these Societies to preserve the informal character of these delegations, as they considered preferable not to create a sort of "diplomatic corps", little in keeping with the character of the Red Cross and which might have involved the meeting of representatives of enemy nationalities. In full agreement with National Societies, the Committee furthermore reserved its right to correspond direct with them, should it think fit. The Committee being essentially a private organization, these delegations enjoyed no diplomatic immunity or privileges. The entry into Swiss territory of Red Cross delegates was a matter for which the Swiss authorities alone were competent.

Resolution VII of the Sixteenth International Conference recommended National Red Cross Societies not to establish delegations in foreign territory without the consent of the Red Cross of the country concerned. This resolution did not, however, refer to delegations from National Societies to the International Committee, in so far as their duties concern solely the latter. Certain delegations, however—some of them calling themselves "Delegations in Switzerland"—extended their activities to practical work on Swiss territory, with which the Committee itself was in no way concerned. The Committee desired to state clearly that in such cases developments of this kind depended entirely on the consent of the Swiss Red Cross.

European communications permitting, many National Societies also sent special missions to Geneva, which were highly

appreciated. Contacts of this nature often allowed the rapid solution of difficult questions, far more easily than by lengthy correspondence. Some National Societies, in view of their proximity, instructed their Chairman or their Head of Foreign Relations to visit Geneva periodically.

Certain National Societies having expressed their regret that, as a result of various misunderstandings, they had been unable to send delegates to Geneva, the Commission approved without further comment Sections 2 and 3 of the Report furnished by the International Committee.

VI. Constitution and Recognition of National Red Cross Societies

I. POLICY ADOPTED BY THE INTERNATIONAL COMMITTEE DURING THE SECOND WORLD WAR

The Commission approves the policy adopted by the International Committee in postponing, for the duration of hostilities, all recognition of National Societies, until the international situation should have again become normal.

The Commission expressed its approval of the only exceptions made by the International Committee to the principle of suspending further recognitions in time of war, namely the Irish Red Cross and the Red Cross of Liechtenstein, since these two Societies were founded outside of any situation connected with the war.

The Commission also endorses the policy of the International Committee concerning National Red Cross Societies returning, at the close of hostilities, to their own liberated and independent territories, and recognized by their respective Governments, who had also returned to their country.

The Commission considers that there was no need to effect a renewed recognition of these Societies, subject only to their statutes still fulfilling the conditions of recognition laid down in 1887.

The Committee recalled in its Report that it was instructed by the International Red Cross Conference, held at Karlsruhe in

1887, to notify existing National Societies of the constitution of new Societies, after examining the foundations on which they rest. The investigation carried out by the Committee, by virtue of its mandate, with a view to recognizing National Societies, does not as a rule present any difficulties in normal times of peace ; in war-time, however, it is no easy matter to recognize a new Society, or record the disappearance of an existing one. War may have far-reaching consequences for the status of a country. The International Committee is then faced with *de facto* situations in which it is not competent, and on which it can form no opinion on account of their political nature.

The upheavals caused by the second World War had a profound effect on the conditions under which several National Societies were called upon to exist. In some occupied countries, branches of the National Society survived, sometimes undergoing compulsory modification, while other departments went abroad and constituted themselves anew as a National Society under the auspices of an *émigré* Government, recognized by some States and considered as non-existent by others. On some occasions, countries divided into several States, each anxious to found an independent Red Cross Society. Faced with this situation, the only policy which the Committee could adopt was, first, to postpone all recognition during the War and until a return to normal international conditions and, secondly, to keep up all *de facto* relations, essential for the carrying out their welfare work, with all Red Cross Societies or groups, recognized or not.

This policy was outlined by the Committee in their 365th Circular of September 17, 1941¹, to all National Red Cross Societies, none of whom expressed the slightest objection.

The Commission, too, abstained from any criticism. It approved the policy followed by the International Committee during the war in postponing, for the duration of hostilities, all recognition of National Red Cross Societies, the only exceptions to this principle being the recognition of the Irish Red Cross and of the Red Cross of Liechtenstein, since these two Societies were founded outside of any situation connected with the war. The

¹ See "Revue int. de la C.-R.", Sept. 1941, p. 763.

Commission also expressed its approval of the Committee's policy since the close of hostilities, according to which only Red Cross Societies having returned to their own territory and recognized by their Governments can lay claim to this status, whereas groups constituted outside the national territory become foreign branches, dependent in the first place on the National Society of their home country and secondly, on the consent of the Red Cross of their country of residence.

2. CONDITIONS OF RECOGNITION OF NATIONAL RED CROSS SOCIETIES

The Commission suggests that a Joint Commission of the International Committee and the League should study anew the wording of the twelve conditions hitherto laid down, in order to adapt them to present circumstances.

As mentioned above, the Fourth International Red Cross Conference entrusted the International Committee with the task of recognizing National Red Cross Societies. Shortly after the year 1887, the Committee published twelve conditions to which newly founded National Societies are required to conform, if they wish to obtain its recognition. The majority of these principles have been confirmed implicitly by resolutions adopted by subsequent International Conferences.

These twelve conditions have appeared in the various editions of the "Manuel de la Croix-Rouge internationale". When referring to them, the Committee pointed out that in view of their date, they perhaps no longer always meet the complex conditions obtaining at the present time. In 1938 already, the International Committee therefore added a note in the "Manuel" stating that "given especially the complex international juridical status of various groups of nations, the International Committee are obliged to give a rather liberal interpretation to these principles, taking into account the circumstances of each particular case". The Committee stated that they would be glad to know if, in the opinion of Red Cross representatives, the wording of the conditions of recognition should be amended. It might be, for

example, advisable to insert a clause relative to the status of National Societies as private institutions, and to their independence of public authorities¹. The Committee considered, however, that we must bear in mind the risk that might arise from too precise stipulations. In this case, either the stipulations might remain a dead letter, or the universal character of the Red Cross might be impaired by National Societies withdrawing from the International Red Cross.

In view of this problem, the Commission heard the President of the International Committee make a statement on the present position of the Committee, in the light of the decision made in Oxford regarding the recognition of newly-founded National Societies. It will devolve on the next International Red Cross Conference to decide whether, as a matter of principle, this mandate should continue in the Committee's keeping or be conferred on the League, or whether it should become a conjoint function of the Committee and the League.

As regards the conditions of recognition, these were carefully studied at Oxford, and it therefore did not appear useful that the Commission should reopen the debate.

The proposal moved by the United States delegation and supported by the delegation of Canada that a Joint Commission of the International Committee and the League study anew the wording of the twelve conditions of recognition, was then adopted by the Commission.

VII. Protests of National Red Cross Societies against alleged Violations of the Humanitarian Conventions

The Commission is of opinion that the International Committee of the Red Cross should continue to undertake the transmission of the protests it may receive concerning violations of the law of nations or of humanity.

The Commission approves the preliminary conditions expressed by the International Committee in its Report.

¹ See above, page 110 sqq.

In obedience to the statutes of the International Red Cross (Art. VII), the International Committee is entrusted with reception of all complaints relative to alleged infringements of the international Conventions. Such communications include two wholly distinct categories. The first, which is by far the larger, covers the many complaints—some from National Societies, but mostly from Government authorities, next-of-kin, prisoners of war, etc.—relative to the disregard of some particular stipulation of the Conventions, especially in respect of the treatment of Prisoners of War, and usually referring to a durable state of affairs. These complaints, which the Committee receives in large numbers, are the object of constant attention. By suitable steps, including camp visits, the Committee is able, thanks to the principle of reciprocity, to secure in most cases improvement of the unsatisfactory conditions brought to its notice. This appears indubitably to be one of the functions which the International Committee is in a general way best qualified to discharge, and for which it possesses very often real and effective means of action.

Another type of complaint, which is comparatively infrequent, consists of protests against the violation of the fundamental principles of the law of nations or of humanity. These refer almost invariably to past events, about which the International Committee is not in a position to make the required verifications. Such protests are usually raised by National Red Cross Societies, but also by Governments and private persons or associations. It was this category alone to which the Committee proposed to refer, in placing the matter on the Agenda of the present meeting.

During the recent War, the Committee received protests concerning bombardments of hospitals and ambulances, sinking of hospital-ships, and air-bombardment of civilian populations.

Protests submitted by National Red Cross Societies were at once forwarded by the Committee to the National Society of the country concerned. National Societies sometimes ask that their protests be brought to the knowledge of all the other Societies, and sometimes even of the world at large. As a general rule, the Committee cannot adopt this course, since it is unable itself to form a considered opinion regarding allegations which it

is unable to test by local investigation. The question arises how far the Committee can itself participate in a factual enquiry relative to violations, or in arbitration proceedings. The Committee's views on this matter were communicated to belligerent States in its Memorandum of September 12, 1939¹. Briefly, the International Committee cannot agree to take in any inter-state proceedings whatever, unless with the formal consent of all the countries concerned. It cannot adopt an attitude which one of the belligerents might consider hostile to its position under international law.

In its Report, the International Committee noted that the procedure of transmitting protests from one Red Cross Society to another has had but slender positive results ; furthermore, the Committee had no really effective means of following up protests of this kind. It is unable to assume the role of a tribunal, or of an arbitrator. It has asked itself whether protests relative to the law of nations really fall within its specific terms of reference, its chief duty, in time of war, being to act as a relief agency. Its humanitarian work must not be imperilled by action which scarcely ever leads to any tangible result.

If the desire should be expressed, however, that the Committee pursue its attempts in this field, or that it should even multiply them, the following preliminary conditions would have to be met :

- (1) such enterprises must remain compatible with the principle of the impartiality and neutrality of the Red Cross ;
- (2) they must not hamper or endanger the Committee's practical work ;
- (3) the Committee must receive the assurance that National Societies and their Governments will place it in a position to discharge this duty, by submitting each protest to careful scrutiny and furnishing a detailed reply.

Such a role laid upon the Committee can have no real significance unless the parties concerned discharge the obligations that are incumbent upon them.

¹ See "Revue int. de la C.-R.", Sept. 1939, p. 766.

After examination of the Report submitted, the Commission was of opinion that the International Committee should continue to carry out the task entrusted to it, of transmitting protests it may receive concerning violations of the law of nations or of humanity. The Commission also endorsed the conditions laid down by the Committee, and which are summarized above.

VIII. The Red Cross and New Methods of Warfare

The Commission endorses the text of the International Committee's Circular No. 370 of Sept. 5, 1945. It further adopts, with a view to forwarding to the International Committee for discussion by the International Conference, the following resolution:

"The Conference recommends the prohibition of the use of all means of chemical and bacteriological warfare, as well as the employment of atomic energy for purposes of war."

In its Circular No. 370 of Sept. 5, 1945, the Committee emphasized some of the most immediate problems placed before the Red Cross by new methods of warfare, concerning which it was important that it should express an opinion ¹.

The Commission approved the text of Circular No. 370 and a resolution recommending the prohibition of chemical, bacteriological and atomic weapons of war.

IX. Preparation of the Seventeenth International Red Cross Conference

The Conference accepts with great pleasure the proposal of the Swedish Red Cross to hold the Seventeenth International Conference at Stockholm, at the end of August 1948.

The Conference draws the attention of the National Red Cross organizing this meeting to matters of procedure, and especially to the following:

¹ See "Revue int. de la C.-R.", Sept. 1945, p. 657.

(a) *All documentary material to be sent at least six months in advance, in both official languages.*

(b) *National Red Cross Societies to be advised beforehand of the number of Commission foreseen, to allow them to nominate their delegations.*

The last International Red Cross Conference, which met in London in 1938, accepted the kind suggestion of the Swedish Red Cross, and arranged for the Seventeenth International Red Cross Conference to take place in Stockholm. Owing to the War, the Conference could not be held in 1942, as it would have been under normal conditions.

The President of the Swedish Red Cross informed the Conference, in his capacity as Chairman of the Standing Committee, that this body envisaged the holding of the Seventeenth International Conference in 1948, so that National Societies might receive the documents relative to the Agenda at least six months in advance, in accordance with the regulations of the International Red Cross. For this reason the year 1947 appeared too close. He also informed the meeting that the Standing Committee had accepted the invitation of the Swedish Red Cross to convene the Conference at Stockholm towards the end of August 1948, which will enable it to be held in the Houses of Parliament, which sit till July.

After a short debate on the procedure to be followed by the Conference, the Commission recognized the difficulty of deciding at once upon the Agenda, which will be studied conjointly by the International Committee and the League, and adopted the above resolution.

X. Special Commission for the Study of New Draft Conventions

The Conference decides to appoint a Commission which shall remain in close touch with the International Committee of the Red Cross, and to which the latter shall submit the texts it has drafted, before sending them to other National Societies. This

Commission shall be appointed by the Executive Committee of the League.

The above decision is based on a proposal made by the Yugoslav Red Cross to the Second Commission (for the study of problems relative to prisoners of war and civilians). This proposal invited the Preliminary Conference to nominate a special Commission of National Red Cross Societies, comprising also delegates of the International Committee, to cooperate in the drafting of the future Convention, or Conventions, for the protection of prisoners of war and civilians. The Yugoslav Red Cross stressed the fact that these preparatory studies would be of primary importance, and that account should be taken of the experiences of the National Societies most directly concerned.

The Commission, seeing that it lacked time to enter upon a detailed examination of the Conventions due for amendment or drafting, expressed the opinion, to be submitted to the plenary Assembly, that it was indispensable to constitute a special Commission entrusted with the drafting, conjointly with the International Committee, of new Conventions, and to request the said Assembly to nominate members.

The entire question was studied anew in the course of a lengthy debate at the plenary session of the Conference. The above proposal was supported by a large number of delegations, including that of the United States. The latter recommended that National Societies should share in the responsibility of drafting the Conventions, and that the special Commission contemplated should be appointed by the Executive Committee of the League.

The President of the International Committee explained that hitherto it was the International Committee who prepared the draft conventions, always in cooperation with experts delegated by National Societies and by Governments, sitting in Commissions summoned by the Committee. The latter of course claimed no monopoly in the work of revising the Conventions; it had no objection that the experts should, if the National Societies so desire it, be nominated by the Executive Committee of the League. The International Committee would

continue to undertake the preparatory work and to draw up the preliminary drafts as it has done successfully for the past eighty-four years. This thankless task requires a sustained effort of several years and the whole-time assistance of specialists. The International Committee would submit its drafts to the proposed special Commission contemplated, before presenting them to the International Red Cross Conference. The Committee, however, obviously reserved its entire liberty to express its views at the International Conference, should they differ from those of the Special Commission, and to submit its own drafts to the Conference.

After a debate, the decision quoted above was passed by a majority vote.

XI. Proposal of the Czechoslovak Red Cross concerning the dissolution of National Societies by an Occupying Power

Following a proposal by the Czechoslovak Red Cross, the Conference adopts the following resolution:

“In case of dissolution or modification in the executive of a National Red Cross Society recognized by the International Committee of the Red Cross, the International Red Cross shall be previously notified and informed of the reasons leading to this step. No dissolution can take effect except after final decision by the International Red Cross.”

The initial proposal of the Czechoslovak Red Cross covered only dissolution of a National Red Cross Society by an Occupying Power. It was warmly supported by several Delegations, and in particular by the delegate of the Italian Red Cross. During the war this Society was in a very similar situation to that of Czechoslovakia. The delegate pointed out that besides the case of dissolution, it would be advisable to provide for the possibility that the Occupying Power might make changes in the executive of the National Red Cross Society. If the dissolu-

tion of the Red Cross is a radical measure, the imposition of a managing executive corresponds in practice to dissolution, by the setting up of a puppet Society.

The Czechoslovak proposal, amended in this sense, was endorsed unanimously by the Commission and adopted by the Conference at the plenary session ¹.

¹ See above, page 115, the Resolution adopted concerning Red Cross Branches remaining in territory occupied by the enemy. This Resolution is somewhat similar to that adopted on the proposal of the Czechoslovak Red Cross.