NOTES ON THE LAWS AND USAGES OF WAR, SO FAR AS THEY RELATE TO THE TREATMENT OF THE SICK, WOUNDED, AND DEAD.¹

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(1) The treatment of the sick and wounded of armies, the privileges of the personnel charged with their care, the special immunities of the establishments and buildings in which they are attended, and the obligations with regard to the dead are dealt with in the International "Convention for the amelioration of the condition of the Wounded and Sick in Armies in the Field" of July 6th, 1906, generally called the "Geneva Convention."

NOTE.

The original Convention of August 22nd, 1864, still holds good between Powers which were signatories of it and have not ratified or adhered to the later Convention. (See Art. 31 of the 1906 Convention.)

(2) The first and most important obligation is that sick and wounded persons belonging to or officially attached to armies must be respected and taken care of by the belligerent in whose power they may be without distinction of nationality.

NOTE...

Geneva Convention, Art. 1 (para. 1).

(3) As this obligation might prove too onerous for a victor left in possession of a battlefield covered with the wounded not only of his own but also of the enemy's army, it has been agreed that a belligerent who is compelled to abandon sick or wounded to his foe must, so far as military exigencies permit, leave behind with them a portion of his medical personnel to take care of them, and the necessary material.

NOTE...

Geneva Convention, Art. 1 (para. 2).

(4) There is no obligation to tend inhabitants or other persons not officially attached to armies who may have been wounded by chance, or accident, as a result of the hostilities in progress.

NOTE.

The absence of any provision for the care of such persons has been regarded as a weak point in the Geneva Convention. During the Russo-Japanese War

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both at Liao-yang and Mukden, the number of inhabitants—men, women and children—who were injured was very considerable. It is desirable that the principles of the Convention should be applied to such cases, although they are not specifically mentioned in it.

(5) Sick and wounded who are captured are prisoners of war; they have no privileges different from those of unwounded and healthy prisoners beyond that of proper medical attendance: in particular they have no right to claim exchange or release because they are unfit for active military service. Exchanges or releases, however, may be made, or sick and wounded may be handed over to a neutral State, by mutual agreement between commanders.

Note.
Geneva Convention, Art. 2.

(6) After an engagement the commander in possession of the field must take measures to have search made for the wounded and to protect them against acts of pillage and maltreatment.

Note.
Geneva Convention, Art. 3.

(7) Measures must also be taken to punish very severely any such acts whether committed by persons subject to military law or by civilians.

Note.
Geneva Convention, Arts. 3 and 28. Although Great Britain signed and ratified the Convention with reserve of Art. 28 (which binds the signatory Governments to undertake the legislation necessary for the purpose), as it was not possible to commit Parliament to any particular course, there is no doubt that the required amendments of existing laws will in the course of time be approved. Commanding officers can meantime deal with offenders as marauders.

(8) A nominal roll of all wounded and sick who have been collected must be sent as early as possible to the authorities of the country or army to which they belong. The proper channel for sending this information to the enemy is the Prisoners of War Bureau.

Note.
Geneva Convention, Art. 4 (para. 2).

For details of the Bureau, see Art. 14 of the Rules annexed to the Hague Convention, No. iv. of 1907, respecting the Laws and Customs of War on land.

(9) Under Article 5 of the Geneva Convention of 1864 inhabitants who assisted the wounded could claim to be treated as neutrals, and those who took wounded into their houses were exempted from having troops quartered on them, as well as from part of the contributions of war. These privileges were not continued by the
Convention of 1906, for it was found that so far from ameliorating
the condition of the wounded they had had the effect of encourag­
ing the inhabitants to withdraw wounded men from proper
medical attendance and to move them when they had best been
undisturbed.

Note.
The article in the old Convention had also led to more serious abuses;
inhabitants took wounded under their charge not only in order to protect their
homes but to save from capture members of their family and others who were
hidden in the house; in some cases these persons acted the part of wounded men.

(10) To soften the apparent harshness of this change it has
been agreed that if a competent military authority finds it neces­
sary to appeal to the charitable zeal of the inhabitants, he should
grant to those who respond to his call special protection and such
immunities as are possible; but he must secure that any assistance
that is rendered is given under military supervision. As a rule,
however, the collection and removal of wounded are best performed
by requisitioned rather than by voluntary labour, for it can be more
easily regulated and controlled. Wherever there is plenty of
voluntary labour there must also be abundance of local resources
available for requisition, so that no wrong is done to the wounded
by restricting voluntary help on the part of the local inhabitants.

Note.
Geneva Convention, Art. 5.

(11) Personnel.—In order that the sick and wounded may
receive proper attention with as little disturbance as possible, all
the units and establishments of the medical service, whether mobile
or fixed, and their personnel and army chaplains, must be protected
and respected in all circumstances by the belligerent forces; and
the personnel, if it falls into the hands of the enemy, must not be
held as prisoners of war. There is, however, no just cause for
complaint of the violation of the Convention if in the execution
of their duty members of the medical personnel and army chaplains
are accidentally killed or wounded; they are only protected from
deliberate attack.

Note.
Geneva Convention, Arts. 6 and 9.

The words "neutral," "neutrality," and "neutralised," which were used in
the 1864 Convention in connection with the medical personnel, are not employed
in the 1906 Convention, by which the personnel is only entitled to be "respected
and protected."
(12) To obtain the above privileges the personnel must be engaged exclusively in the collection, transport, and treatment of the wounded and sick, or in the administration of the units and establishments.

Note.
Geneva Convention, Art. 9. Drivers of the Army Service Corps who are on the establishment of field ambulances and thus "exclusively engaged" on the transport of sick and wounded are entitled to protection under this Article. The fact that they are "exclusively engaged" is indicated by the wearing of the Red Cross brassard referred to in para. (37) below.

(13) The privileges accorded naturally cease if medical units and establishments are made use of to commit acts harmful to the enemy: for instance, to shelter combatants, to conceal guns, to carry on espionage, or if the personnel take part in a combat.

Certain acts referred to in the following paragraphs, which in the past were considered to be of a harmful nature, do not now, however, deprive a medical unit of the protection guaranteed by the Convention.

Note.
Geneva Convention, Art. 7.
Members of the medical personnel who take part in a combat (and instances of their doing so have occurred, through excitement, or through a medical officer taking command in the absence or on account of the disablement of other officers) should remove the Red Cross badge referred to in para. (41). Otherwise, if captured their conduct may be made the subject of enquiry as an abuse of the Emblem under Art. 28 of the Rules annexed to the Hague Convention, No. iv. of 1907, respecting the Laws and Customs of War on Land. Permission to resume the badge should usually be accorded if it is asked for.
* e.g., in the South African War.

(14) It is expressly permitted that the medical personnel and medical orderlies may be armed and may use their arms for their own defence, or for that of the patients under their charge, against marauders and such like.

Note.
Geneva Convention, Art. 8 (I).

(15) In some armies it is the custom to use trained soldiers as medical orderlies, while in others it is not; it is therefore expressly permitted that a piquet or sentinels taken from a combatant army may be used as a guard to a medical unit; but this guard must be furnished with an authority in due form, so as to ensure that the privileges of the guard of a medical unit, which are, while it is so employed, identically the same as those of the medical personnel, are not obtained improperly.
NOTE.
Geneva Convention, Art. 8 (3) and Art. 9 (para. 2).
* i.e., a written statement signed by a responsible authority. The members of such a guard need not wear the badge referred to in para. 41.

(16) The fact that the arms and ammunition belonging to wounded men are found in a medical unit or hospital must not be construed to constitute an act harmful to the enemy; but every endeavour should be made to hand over such articles to the proper department as early as possible.

NOTE.
Geneva Convention, Art. 8 (3).

(17) **Voluntary Aid Societies.**—Under certain conditions the personnel of Voluntary Aid Societies, which may be employed in the units and establishments of armies, is assimilated to, and placed on the same footing as, that of the Army Medical Service.

NOTE.
Voluntary Aid Societies are popularly called Red Cross Societies.

(18) These conditions are that the Societies may be duly recognised and authorised by their Governments, that the names of the Societies must be notified to the enemy before any of their personnel is employed, and that the personnel must be subject to military law.

NOTE.
Geneva Convention, Art. 10.

(19) So many irregularities and even acts of hostility have been committed in past wars by members of Voluntary Aid Societies that commanders should always take considerable care to ensure that all the above conditions have been complied with before permitting such persons to assist the medical service.

(20) The offers of assistance from the Voluntary Aid Societies of neutral States may be accepted, provided that the Societies obtain the consent of their own Government before offering their services and the authorisation of the belligerent Government which they wish to assist, and the latter Government notifies the fact of the authorisation to its adversary before making any use of them. In these circumstances the personnel of the medical units of Voluntary Aid Societies of neutral States must be granted all the privileges accorded to the Voluntary Aid Societies of the belligerent concerned. It is not necessary to obtain the consent of the adversary to utilise their services.

NOTE.
Geneva Convention, Art. 11.
Captured Personnel.—Although the personnel of medical units and establishments may not be treated as prisoners of war, yet it is not free to act or move without let or hindrance should it fall into the hands of the enemy. If called upon it must continue to carry on its duties under his directions, attending to such sick and wounded as require its services. Only when its assistance is no longer indispensable must it be sent back to its own army or its own country.

Geneva Convention, Art. 12.

Thus the medical personnel of a force which capitulates may be detained to attend to the sick and wounded included in the surrender, and may be sent back gradually.

Further, it is not left to the captured personnel to choose the time or route of its return, which is settled by the captor and must depend on military exigencies.

Geneva Convention, Art. 12. This clause was introduced into the Convention of 1906 to justify the usual practice in war. Under the Convention of 1864 captured personnel could, and did, demand to be sent back at once to the outposts of its own army. The inconvenience of this from a military point of view was so serious that the request was rarely complied with. Thus, during the South African War members of the medical personnel captured by the forces of the Republics were at once returned via Delagoa Bay, and in the Russo-Japanese War some captured by the Japanese were handed over to the Russian Consul at Chefoo.

The personnel on being returned is entitled to take with it such effects, instruments, arms, and horses as are the private property of its members.

Geneva Convention, Art. 12 (para. 3).

In interpreting the above obligations it must be borne in mind that they are designed to secure that members of medical units shall not be in a position to take back useful information to their army; they are not meant to afford a loophole for depriving the enemy of the services of his medical personnel for an indefinite length of time.

The fact that they may be detained and not permitted to return when and how they wish is sufficient penalty to prevent members of the medical personnel and medical units proceeding anywhere that they please in a theatre of war to collect, succour, or remove wounded and sick. If they persist in approaching when their presence is not desired, and refuse to halt when summoned to stop, it would be lawful to fire on them.
NOTE.

Nothing in the Geneva Convention gives medical units immunity from search. A Red Cross train or any other unit may therefore, just like a ship, be summoned to halt by firing a shot across its course.

(27) While members of the enemy's medical personnel are in his hands, a belligerent must grant them the same allowances and the same pay as are given to persons holding the same rank and status in his own army.

NOTE.


(28) Although all the medical personnel must be released, in case of capture a distinction is drawn between the treatment of the material of mobile medical units, of fixed medical establishments accommodated in buildings, and of convoys for the evacuation of sick and wounded.

NOTE.

That is to say, those which are intended to accompany armies into the field (Geneva Convention, Art. 6).

Under this term are included,—besides the usual wheeled vehicles,—railway trains and boats used in internal navigation, which are specially fitted up for removing the sick and wounded, as well as any material belonging to the medical service for fitting up ordinary vehicles, trains, and boats. Geneva Convention, Art. 17 (2).

(29) Mobile medical units must be released complete with their material, including their teams, whether their means of transport and drivers belong to the army or are requisitioned. The conditions of release are the same as those laid down for the medical personnel, and so far as possible the personnel and material should be restored at the same time. They should not indeed be separated unless the circumstances are such that the return of the personnel is feasible; but delay must occur on account of physical or other difficulties before the material can be sent off.

NOTE.


(30) A belligerent is, however, permitted to use the material in captured mobile medical units for the treatment of the sick and wounded of his own army, or those of the enemy's army who are in his power.

NOTE.


(31) There is no obligation to provide teams to facilitate the return of the material should a captured unit have lost all or part of its own animals by casualties, but, if military exigencies permit,
for the sake of the sick and wounded every assistance should be rendered.

(32) The buildings of fixed medical establishments, hospitals, and depôts remain in the power of the captor, for from their nature they cannot be sent back to the enemy. They may not, however, be diverted from their purpose so long as they are necessary for the wounded and sick, unless in case of urgent military necessity, and only then provided arrangements are previously made for the welfare of the wounded and sick found in them.

Note.

Geneva Convention, Art. 15.

(33) As a hospital or other fixed medical establishment would be useless without its material, this follows the fate of the buildings and becomes the property of the captor.

Note.

Geneva Convention, Art. 15.

(34) Convoys used for evacuating sick and wounded must be treated in the same way as mobile medical units—that is, their personnel and material must be restored, subject to the following special provisions:

(a) A belligerent intercepting a convoy may, if military exigencies demand, break it up and take the military vehicles in it (other than those of the medical service, which must be restored) with their teams. (See Para. 29.) He may also take and use, subject to the general laws of war, any requisitioned transport with it, including railway material and boats. He may also, as circumstances require, detain, requisition the labour of, or release any civilian personnel accompanying it.

(b) If he thus breaks up a convoy he must take charge of the sick and wounded in it. They are, as previously stated, liable to be made prisoners of war.

(c) He must treat as if it were medical personnel the whole of the military personnel detailed for the purpose of transport or guard of the convoy, provided it is furnished with an authority in due form.

Note.

Geneva Convention, Art. 17. The personnel or guard referred to under (c) above need not wear the Red Cross Badge referred to in para. 41.

(35) Army medical material found elsewhere than in mobile medical units, fixed medical establishments, or convoys of evacuation, is liable to capture.
(36) The material belonging to Voluntary Aid Societies which are admitted to the privileges of the Geneva Convention is not completely assimilated to the material of the Army Medical Service, but in all circumstances must be regarded as private property; but whether found in a mobile medical unit, or in a convoy of evacuation, or in a fixed medical establishment, or captured anywhere in the theatre of war, it can always be requisitioned, and in this case, unless it is paid for in cash, a receipt must be given for it.

Note.
Geneva Convention, Art. 16. No exception is made as regards the material in mobile medical units, which, if it belongs to the medical service and not to a Voluntary Aid Society, must be returned (Art. 14). See paras. 28 and 29. M. Renault, the Rapporteur of the Comité de rédaction of the text of the Convention, however, holds the opposite view and considers that Art. 16 does not override Art. 14. No decision was, however, given on the matter by the Conference, at which M. Renault's report was neither read nor discussed.

The difficulties of applying this clause will be great, for in some armies, notably the Austro-Hungarian, the Red Cross Societies provide a considerable proportion of the transport and other material of the regular field medical units (See Note to Section 42). Although not so stated in the Convention, the medical material of Voluntary Aid Societies should only be requisitioned for the needs of the medical service.

(37) The Emblem.—The mark which has been adopted to indicate the medical service of armies is a red cross on a white ground.* This sign, by the provisions of the Geneva Convention, must not be used except to protect and indicate the medical units and establishments and the personnel and material accorded privileges by the Geneva Convention.

Note.
Geneva Convention, Arts. 18, 23, and 27. Arts. 23 and 27, which forbid the use of the Red Cross emblem except to indicate the Army Medical Service, have not yet been signed and ratified by Great Britain. These articles, therefore, would not be valid in the case of a war between Great Britain and any other Power which has accepted the whole Convention. At present there is no municipal law in Great Britain to prevent the use of the Red Cross on white ground as a trade mark, a merchandise mark, or as a badge of a sisterhood or friendly society, or by any individual who chooses to do so, although in practically all other civilised countries laws to the effect are on the Statute Book. In order to secure the rights and privileges conferred by the Convention for the medical service, if legislation has not previously been obtained, it will be advisable in war to issue the necessary prohibitions and provide penalties under martial law or by proclamation, and to inform the enemy of this action.

* Turkey, however, uses a Red Crescent, and Persia a Red Sun.

(38) In no case can the sign be recognised unless it is used with the permission of competent military authority. The permission is
signified either by a written authorisation, or by an official stamp
on the sign.

Note.

(39) Medical units and establishments must hoist the Red Cross
flag. It must be accompanied by the national flag of the belligerent
to whom the unit or establishment belongs, unless the unit falls
into the hands of the enemy; in which situation the Red Cross flag
only will be flown.

Note.
Geneva Convention, Art. 21. There is no indication how the two flags
are to be associated. In most armies the two flags are flown on separate poles
which are sometimes crossed. When both flags are hoisted on the same pole,
it is desirable to fly the Red Cross uppermost.

(40) The medical units belonging to neutral countries which
have been authorised to afford their services under conditions
already mentioned are not permitted to fly their own national flag,
but must fly the flag of the belligerent to whose armies they are
attached; and they must, in other respects, conform to the instruc­
tions in the last paragraph.

Note.
Geneva Convention, Art. 22.

(41) The persons protected by the Geneva Convention,* in order
to secure the privileges conferred by it, must wear fixed perma­
nently to the left arm an armlet (brassard) with the Red Cross on
a white ground, delivered and stamped by competent military
authority. Such persons must, if they do not wear a military
uniform, be in possession of a certificate of identity.

Note.
Geneva Convention, Art. 23. There is no fixed form for certificates of
identity. The use of certificates may lead to frauds unless there are marks on
them by which the bearer can be recognised as the rightful owner. A certificate
without such mark of recognition must be carefully scrutinized and steps taken
to verify the rights of the bearer to be in possession of it. Finger-prints, photo­
graphs, signatures, are the most suitable recognition marks; but there may be
difficulty as regards entering finger-print records or photographs; and in some
countries signatures may not always be obtainable. There should, however, be
no difficulty in noting distinguishable marks, such as scars on the face, loss of
fingers or portions of fingers, &c., and the apparent age, height, colour of eyes
and hair. Efforts are being made to obtain some definite international under­
standing with regard to the details which should be noted on a certificate of
identity.
* That is to say, those engaged exclusively in the collection, transport, and
treatment of the wounded and the sick, in the administration of medical units and
establishments and the personnel of Voluntary Aid Societies of the belligerents
and neutrals who fulfil the conditions laid down in paras. 17 to 20.

(42) The material of the medical service must, in order to
obtain the benefits under this Convention, be marked with the Red
Cross on a white ground.

**NOTE.**

If the material is marked with the Geneva Cross only it cannot be accepted
as the private property belonging to a Voluntary Aid Society, as this is the dis­
tinctive mark of the medical service of armies (Geneva Convention, Arts. 18 and 19). To obtain the extra privileges referred to in para. 36 the material of Voluntary Aid Societies should be marked, in addition to the Geneva Cross, with the name of the Society or some other means of identification.

(43) Cases with regard to the treatment of sick and wounded
which have not been specifically provided for or mentioned in this
section must be dealt with in conformity with the general principles
enunciated in it.

**NOTE.**

*See Geneva Convention, Art. 26.*

(44) The Dead.—The dead must be protected against pillage and
maltreatment.

**NOTE.**

*Geneva Convention, Art. 3.*

(45) The military identification marks or tokens found on the
dead must be sent to the authorities of the army or country to
which they belong as early as possible.

**NOTE.**

*Geneva Convention, Art. 4. The Prisoners of War Bureau is the proper
channel for the transmission. *See note to para. 8.*

(46) Before the dead are buried or cremated they must be
carefully examined to ensure that life is extinct.

**NOTE.**

*Geneva Convention, Art. 3. There is, however, no obligation to bury or
cremate them.*

(47) The articles of personal use, valuables, letters, &c., found
on a field of battle or left by wounded or sick who die in medical
establishments or units must be collected and transmitted to the
persons interested through the authorities of their own country.

**NOTE.**

*Geneva Convention, Art. 4.*