Lecture.

THE GENEVA CONVENTION.1

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The Geneva Convention is an international agreement, adhered to by practically all the civilised States, for the purpose of ameliorating the condition of the sick and wounded in war. The object is essentially humanitarian. The Convention is in fact more a concession to sentiment than a military or other necessity; for the humanitarian principles involved were practised long before it was thought of. Indeed, the fact that these principles have now been reduced to a series of articles in a convention binding upon nations has, in the opinion of many, a tendency to increase rather than to mitigate the horrors of war; because the more lenient war is made, and the more the hands of a commander are tied by international agreements, the more likely is it to become prolonged and to spread broadcast amongst women, children, and other innocent inhabitants of a country, suffering and distress out of all proportion to the suffering and distress to which a fierce, relentless and short war submits the sick and wounded soldiers. The Geneva jurist, M. Moynier, recognised that an opinion existed to the effect that the Geneva Convention might be oppressive and embarrassing without adding to the humanitarian considerations in war, but stated that it was an opinion which existed only amongst the less cultured and less educated military men; but in this, as another writer, Lueder, has stated, he is wrong.2 It is an opinion held by some of the most humane and thoughtful officers in the armies of all nations.

The idea of making war terrible and relentless in order to make it short, and so cause as little distress as possible to a nation, is a form of humanitarianism which has sprung up in recent years amongst civilised powers. On the other hand the desire to mitigate the sufferings of the sick and wounded is as old as humanity itself. There are numerous historical instances in which this sentiment has taken the form of agreements between opposing commanders. Actual treaties similar in intention to the Geneva Convention were even made. An account of four of these will be found in a document presented by the International Red Cross Committee of Geneva to the Conference, which met to draw up the Geneva Convention of 1864. In 1743 a treaty was concluded on behalf of

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2 Lueder, "La Convention de Genève," Erlangen, 1876, p. 239.
sick and wounded at Aschaffenberg after the Battle of Dettingen. In 1755 a similar treaty was made at Sluys in Holland between France and England. Later on in the same year a treaty, remarkably like it in many respects, was made between Frederick the Great and Louis XV. In 1800 Baron Percy, the principal medical officer of Napoleon's Grand Army, drew up a form of agreement for an International Convention respecting the treatment of sick and wounded, which was approved by his immediate chief, General Moreau, and submitted to the Austrian Commander-in-Chief, General Kray. It consisted of five articles, which may almost be regarded as the framework of the Geneva Convention of 1864. In fact, some of the very words and expression of Percy's proposed Convention are introduced into the latter.

Still more noteworthy is the collection of treaties and agreements made by Gürlt and published in Leipzig in 1873. Gürlt cites no fewer than 291 treaties, having the humanitarian treatment of sick and wounded as their object, which were concluded between belligerents in Europe and America between 1581 and 1864. The German Empire, (that is to say Austria and States of the German Confederation) took part in 203 of these, France in 187, Spain in 49, England in 46, and other Powers in lesser number. It is perhaps curious to note that the period displaying the greatest amount of humanitarian sympathy with the victims of war was the middle of the eighteenth century, the period of Voltaire and Frederick the Great, and that of least sympathy the middle of the nineteenth century. In fact, during the nineteenth century, after the Napoleonic wars and up till the propagation of the sentiments leading to the Geneva Convention of 1864, so little was it known that agreements had over and over again been made between commanders regarding sick and wounded, that when the idea of the Geneva Convention was promulgated it was regarded as something novel and unique in the history of warfare. It was only afterwards that writers like Moynier in Switzerland, Löffler, and, above all, Gürlt, in Germany, began to dig into the history of these agreements and bring them to light.

The events which led directly to the Geneva Convention were connected with the Battle of Solferino, in 1859. The name of Dunant is intimately associated with these events. Although at least two other

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1 Zur Geschichte der internationalen und freiwilligen Krankenpflege.
2 Lueder, op. cit., p. 30.
3 Probably the most flagrant instance in history of an infringement of the principles of the Geneva Convention occurred in 1858 during the political revolution in Mexico, when the Republic was a scene of desolating warfare. General Marquez celebrated the triumph of his forces by an abominable massacre at Tacubaza, a suburb of Mexico City, in which "the medical attendants, including an English physician, all of whom had voluntarily given their services to the wounded, were taken out and deliberately shot in cold blood."—Enoch, "Mexico." F. Unwin. 1909, p. 124.
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writers—Palasciano, of Naples, and Arrault, of Paris—raised their voices on behalf of the sick and wounded in war, after the campaign in Italy, earlier than Dunant, the Geneva Convention of 1864 is directly due to the pamphlet, *Un Souvenir de Solferino*, which Dunant wrote at first for private circulation in 1862, but afterwards published in 1863. It created a sensation throughout Europe. Dunant was a private gentleman and witnessed war from the point of view of a humanitarian observer. He had been influenced by reading about Florence Nightingale's work in the Crimean War, and formed the intention of being present at Solferino with a view to emulating her in the war then being raged. Moved by the sentiments, which he himself evoked, he endeavoured with ceaseless energy to realise his ideals, visiting the Courts and War Offices of Europe, with the view of enlisting their sympathies. He was warmly supported by his compatriots, the Swiss General Dufour, the famous jurist Moynier and other members of a Society which existed in Geneva, the Société Génévoise d'utilité publique. Eventually he obtained promises from various States to send delegates to an international conference at Geneva in 1863, to discuss the formation of national volunteer societies for aid to sick and wounded in war. This Conference had no official status, but it adopted certain resolutions, upon which the formation of the so-called Red Cross Societies of the present day has been based. Out of the Committee, which inaugurated this Conference, arose the International Red Cross Committee, which has ever since been engaged in keeping alive the sentiments which were aroused by Dunant's pamphlet. This Committee issues a monthly *Bulletin de la Croix Rouge*, arranges international Conferences of Red Cross Societies, and endeavours generally to maintain the idea of solidarity amongst them. It is composed of gentlemen of Swiss nationality, but retains its designation of "international" by courtesy and in recognition of the work which it initiated.

The resolutions of the Conference of 1863 were ten in number; they were concerned mainly with the formation of national committees for organising groups of volunteer nurses who should succour wounded on the fields of battle, maintain themselves out of their own resources, act independently, and be distinguished by wearing a white brassard with a red cross. Three additions in the form of *vœux* were made to the formal resolutions, expressing a desire that governments would afford encouragement and protection to the national aid committees, that ambulances, hospitals, and army medical and voluntary aid *personnel* should be made neutral in time of war, and be protected by a distinctive sign and flag.

The International Red Cross Committee, immediately after the Conference of 1863, commenced to work, through the Swiss Federal Government and diplomatic channels, to bring about an official Conference to consider the drafting of a treaty which would be binding on belligerents in time of war. Thanks to the interest taken in the movement by certain royal families and Courts of Europe, notably those of Prussia, Saxony,
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and France, the Swiss Federal Government was able to obtain the consent of sixteen of the twenty-five States, to whom invitations had been sent, to meet and draft the convention known as the Geneva Convention of 1864.

Such, briefly, is the history of the events and sentiments which led to this, the first Geneva Convention, for there have been three Geneva Conventions, those of the years 1864, 1868, and 1906, although only the first and last were ratified. The Convention which we are specially interested in to-day is of course the last. But the first is still in force for those powers which adhered to it, but have not yet ratified the Convention of 1906.

Although the idea of the Convention, as has just been pointed out, originated in Dunant's desire to have independent groups of voluntary workers organised for succouring wounded on the field of battle, and the International Conference of 1863, which was the preliminary step towards the Conference which drafted the Convention of 1864, dealt with the formation of national Red Cross Societies for this purpose, the Convention of 1864 purposely omits all mention of voluntary aid on behalf of the sick and wounded. At the opening meeting it was made clear to the delegates that the object of the Convention was to draw up an agreement by which the regular organized medical services of armies would be enabled to carry on their work under the most favourable conditions, and that certain Powers had only consented to take part in the negotiations on the understanding that the Conference would have nothing to do with the resolutions of the International Conference of 1863. This is a dominating feature of the Convention. It is a feature which has been modified under considerable safeguards in the more recent Convention for reasons which will be mentioned later on.

The Convention of 1864 contains ten articles, of which seven only lay down the principles upon which unnecessary suffering may be spared the wounded. Military hospitals and ambulances are declared to be neutral, so long as there are sick and wounded in them. All necessary personnel connected with the work of hospitals and ambulances are also considered neutral under the same conditions, and are entitled to rejoin their own army after capture by the enemy. In certain circumstances material of ambulances and property of personnel are also restored after capture. Privileges are granted to the inhabitants of a country who aid sick and wounded. Wounded may be sent back to their own army, and other provisions regarding their disposal are introduced. Finally, a distinctive flag and brassard, containing a red cross on a white ground, are adopted as the sign of neutrality for hospitals, ambulances, convoys of sick and wounded, and personnel.

The wars of 1866 and 1870-71, which took place before this Convention was fully understood either by the army or the people and when Dunant's sentiments and the International Conference resolutions of 1863
had much greater hold on the public mind, brought the Convention into discredit. It was criticised almost immediately, and many proposals for its revision were put forward by individuals and International Conferences. The mere enumeration of these will explain the extent of this criticism.

In 1867 proposals for revision were made at an army medical conference in Berlin, at a meeting of the German National Aid Societies at Würzburg, and at an International Conference of Red Cross Societies in Paris. In 1868, an official Conference at Geneva drafted five articles to be added to the Convention of 1864, and ten applying it to naval warfare. These articles were never ratified by the Powers because a prolonged series of negotiations was commenced in connection with the articles relating to naval warfare, and the Franco-German War broke out before the negotiations were completed. At the International Conference on the Laws of War held in Brussels in 1874, the Russian Government submitted proposals for additions to the Geneva Convention; the Belgian Government, the chief delegate of the German Government, General von Voigts-Rhetz, a sub-committee, and the special committee, appointed to consider the proposals for revision of the Geneva Convention, also drew up proposals of modifications and additions at the same time. In 1876 Professor Lueder, of Erlangen, published a carefully considered proposal in a critical treatise on the Geneva Convention, which was awarded a prize given by the Empress of Germany for the best work on the subject. In 1880 the Institute of International Law at Oxford adopted a series of articles relating to sick and wounded, which covered the whole ground of the Geneva Convention; in 1892, Colonel Ziegler, of the Swiss Army Medical Service, submitted proposals for revision to a conference of Swiss officers at Olten. M. Moynier made similar proposals in 1898, the Hague Conference of 1899 also considered matters relating to the Geneva Convention and its application to naval warfare. An International Conference on aid in time of war held at Paris in 1902 adopted a series of resolutions for the revision of the Convention, and finally a work was published in the same year by M. Gillot, of Paris, on its revision.

This exceptional amount of criticism and proposals for revision was due to the experiences of the war between Prussia and Austria in 1866, and the Franco-German War of 1870-71. In fact, with the exception of our recent campaign in South Africa and the Russo-Japanese War, no other wars of any importance have taken place in which the Geneva Convention has been in force. In any case it is apparent that the Convention of 1864 displayed many defects when it was put to practical test. Briefly, these defects were vagueness, want of definition, and lack of completeness with regard to the military medical units and personnel protected by the Convention; the use of the word “neutral,” the enormous opportunities for abuse of the Convention given by Article 6, which granted immunities to the inhabitants of a country who succoured wounded; its inadequacy to protect the wounded from pillage and
mal-treatment by prowlers and marauders; the want of safeguards for the unauthorised use of the Red Cross emblem; the impossibility of commanders adhering strictly to the provision which entitled captured medical personnel to be sent back to the outposts of their own army; and the complicated conditions involved in applying the articles of the Convention to convoys of sick and wounded. The Red Cross Societies also felt acutely the fact that they were not recognised in any way in the Convention.

Eminent international jurists, such as the late Professor Martens, of St. Petersburg, M. Louis Renault, of Paris, Professor Ariga, of Japan, and others, were active members of their national Red Cross Societies almost from their inception; and it is not surprising, therefore, that projects for revision of the Convention were an attractive subject of study at the meetings of these Societies. They soon felt, however, that to discuss these projects or pass resolutions upon the subject of the Geneva Convention at the periodical International Conferences of Red Cross Societies was unwise and likely to interfere with the steps which they were anxious to see taken through diplomatic channels to revise the old and draft a new Convention, which should not only remedy the defects of the former but also recognise in a specific form the status of the organised national Red Cross Societies.

Such, then, were the influences and motives which led to the new Convention of 1906. The later wars—namely, the South African War and the Russo-Japanese War—did not produce many instances which demanded any serious revision of the 1864 Convention. By the time these wars were waged the idea of the Convention was better known, and its principles acted upon in the spirit more than in the letter, and by a mutual unexpressed understanding, justified by precedents, that when the provisions were unworkable they would be ignored.

In the provisions of the Convention of 1906 these influences and motives are clearly seen.

The 1906 Convention is now the Convention under which civilised Powers will wage war in the future, although there are some Powers, such as France, who have not as yet ratified it. Strictly speaking, such Powers are bound by the 1864 Convention only, if they have already adhered to it.

It is in examining the 1906 Convention, therefore, that the practical questions which are likely to arise in connection with the application in war of the principles underlying the Geneva Conventions as a whole may best be considered.

Forty-one States were represented at the Conference which drafted this treaty. This is a remarkable instance of the extent to which the ideas of the 1864 Convention had taken hold of nations. With much difficulty and persistent efforts of a few individuals, sixteen nations were induced to consider the drafting of the Convention of 1864; while only
fourteen were represented at the Conference which drafted the additional unratified Articles in 1868. Turkey alone of the more important powers abstained from taking part in the Conference for the Convention of 1906. The Peace Conference at the Hague in 1899, the South African War, and the Russo-Japanese War were, no doubt, mainly responsible for this widespread interest, although some of the States represented could not have been in a position to consider the technical questions involved because of the fact that they possessed no definitely organised army medical service. The two influences which predominated most were those represented first by the great international jurists who had already taken part in the deliberations of the Peace Conference of the Hague, and, secondly, by the Red Cross Societies, which were especially strongly represented in the delegations of the French, Italian, Russian, and United States Governments. From the purely military side very little had been expressed to show that the military authorities had any particular desire or interest in revising the Convention of 1864, or in having a Convention at all. The smaller States followed, as a rule, the lead of the jurists and the representatives of the voluntary aid societies. Military points were not always accepted, chiefly because they were not understood.

Some light is thus thrown on the practical points which international jurists in the future will probably be called upon to consider.

The revision of the 1864 Convention was sketched out in changes suggested by a Questionnaire, submitted by the Swiss Federal Government. It was simple, and did not go beyond the requirements of the case. The British delegates, however, had gone further and submitted a complete draft of a new Convention, the form of which was more or less the basis of the form in which the new Convention has appeared.

The various provisions are dealt with under different headings or chapters, of which there are eight, followed by the customary general dispositions for the ratification of the Convention and for putting it into force. In all there are eight chapters and thirty-three articles.

The first chapter deals with the sick and wounded of armies. Four Articles are devoted to them. They are given the first place because the Convention is for their benefit and not for that of the medical services or Red Cross Societies. The first Article is an expansion of what was the sixth Article in the Convention of 1864. The only practical addition is that it imposes an obligation on belligerents to give the same care and attention to civilians who are officially attached to armies as are given to soldiers. This addition to the categories of sick and wounded who are to be protected and taken care of is in one sense unfortunate, because it implies by omission no obligation on the part of belligerents to make provision for the non-combatant inhabitants of a country over which war is being waged. These unfortunates frequently suffer severely from sickness and wounds in consequence of the military operations, and their case is then particularly distressing, because they are generally without
medical personnel or material for their proper treatment. This was specially marked in the case of the Chinese in Liaoyang and Mukden, during and after the great battles there in 1904 and 1905. Had it not been for the Scotch medical missions in these places, who, it should be mentioned, were given every support by both the Russian and Japanese military authorities in their work, the conditions would have been far more painful and distressing than any which could have prevailed amongst the soldiers.

The first article also introduces an obligation on the part of a belligerent, who leaves wounded behind on retreating before the enemy, to leave also a sufficient medical personnel and material for their care. This provision will not impose much hardship or difficulty in the case of the great armies of the Continent; in the organisation of the British Army it may. The Continental armies have a very large medical personnel with regiments in the fighting line. In the case of Germany, France, Russia, Austria, and Italy, for example, there are as many as five to seven medical officers with each regiment of three or four battalions and a proportionate number of trained subordinate medical personnel. In the British organisation there is only one medical officer with each battalion, and, speaking strictly in the sense of Continental armies, no subordinate medical personnel. In the case of Great Britain, therefore, to leave medical personnel behind means leaving battalions without medical assistance, or drawing on the purely medical units which are working two or three miles farther back, and which may not be in a position to send medical personnel forward when the army to which they belong is retreating. This is a difficulty which is only one example of the difficulties in which the endeavour to enter too much into definitions and details has involved the new Convention. The expression “so far as military necessities permit” has fortunately been introduced here as elsewhere in the Convention to modify some of these practical difficulties. Still, the failure on the part of a belligerent to leave personnel behind in charge of wounded, no matter what good reason there may be, is certain to lead to inquiry and recrimination. As a matter of actual practice in war there is no real necessity for leaving medical personnel or material behind with wounded left on the field. But in the case of whole ambulances and hospitals filled with wounded, who cannot be moved before a retreat takes place, the complete unit would be left behind. In the case of the greater Powers their extremely well-equipped and organised field medical units are quite capable of taking over any other wounded of the enemy who may be left on the field of battle and not yet collected into its own ambulances and field hospitals.

The second Article of the Convention is intended to make precise what was formerly uncertain—namely, that wounded captured by the enemy are prisoners of war and on recovery will be treated as such. There was a tendency under the old Convention to regard them as entitled to pro-
tection and so-called neutrality at all times. Article 5 of the unratified Convention of 1868 even went so far as to state that even though wounded are not incapable of further service they should be sent back to their own country after recovery, on condition that they do not take further part in the fighting.

Four paragraphs added to the first paragraph of Article 2 of the 1906 Convention, which permit a commander to act as in Article 5 of the 1868 Convention, were added to mitigate the apparent harshness of the bald statement that wounded were prisoners of war; but they impose no obligations on belligerents and are really unnecessary so far as a Convention is concerned.

The third Article is intended to impose upon belligerents the duty of searching the battlefield and protecting the wounded and the dead from pillage and marauders. This provision is the outcome of the experience of the War of 1870-71, when large numbers of wounded were missing and never again traced and when grave atrocities were committed by prowlers on both living and dead for the purpose of pillage. The same article requires that belligerents should take care that the dead are carefully examined before burial; because in war it occasionally happens that wounded are buried alive. The fear that this may happen is very great amongst some nations. In practice it would be impossible to apply exact examination of the killed, and the mention of it in the Geneva Convention is more of the nature of a memento than a legal provision.

In Article 4 an attempt is made to prevent in future wars all trace being lost of men who are missing, and to relieve and console the relatives of those who are left wounded in the hands of the enemy, or who are killed. The duties laid upon an army by this Article are onerous, and will require a considerable amount of attention on the part of commanders in the field, and on the part of the medical units. In the first place, commanders will have to make provision for the collection of the various effects, personal possessions, articles of value, letters, &c., found on the field, for putting them into separate packages, each carefully labelled with the name of the owner if possible, for making out lists of these articles, for forwarding them to the base, to the home territory, and eventually to the country of the enemy, with all necessary safeguards in the way of delivery and receipt vouchers, &c. They will have to prepare nominal rolls of sick and wounded of the enemy, and collect marks of identity found on the dead. If all this is not satisfactorily carried out, the belligerent concerned will lay itself open to recrimination by the other belligerent and by its sympathisers in other countries. The relatives will be the first to complain of the non-receipt of information and of articles belonging to their dead or wounded. The largest amount of extra work will be thrown on units in the field, already overloaded with duties and clerical work of a necessary character. The provisions of the Article are not therefore likely to be carried out without some special unit or office
being added to the field army for the purpose. On the whole the Article is inconvenient and awkward. There is no saving phrase "as far as possible," or "so far as military necessities permit" in it; it is a definite obligation. Further, it has no real bearing on the actual care of the sick and wounded, and will not make their lot any better. By taking up the time of medical personnel it may even make it worse. It is one of the new ideas which has been introduced into the Convention by Article 14 of the Règlement of the Hague Convention of 1899. The Article is also somewhat ambiguous. It does not state clearly whether it is intended to cover the dead and wounded of the enemy only, as regards articles of value, letters, &c., or the dead and wounded of both belligerents. On this point there are likely to be misinterpretations.

The fifth Article of the 1906 Convention is intended to modify the harshness of the withdrawal of the terms of the fifth Article of the Convention of 1864. It was the latter Article, more than any other, which led to the widest possible condemnation of the original Geneva Convention by the military authorities. The 1864 Convention was simply made use of by the civil inhabitants to avoid their homes being used as quarters for soldiers, and to avoid rigorous measures being taken against them by commanders to prevent them performing acts of hostility, or aiding in saving important officers and other combatants from capture. Every inhabitant, who could, hoisted a Red Cross flag over his house on the pretence that he had one or more wounded under his charge. This abuse of the Convention was so apparent and so general that the article has been invariably ignored, and if there was any military incentive to the revision of the 1864 Convention it was to have this Article suppressed.1

Yet, at the Conference for the 1906 Convention, many delegates would not abandon the idea that the inhabitants of a country should be encouraged to aid in the care of sick and wounded, and consequently the new Article 5 was introduced to draw the attention of commanders to the advisability of granting special privileges to individuals who help under their control in the collection and care of sick and wounded. If one were to offer any comment on the practical working of this Article, it would be to say that a commander has full power to requisition the

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1 Professor Kättner, who had charge of an ambulance sent by the Central Committee of the German Red Cross Societies to the aid of sick and wounded Boers in South Africa, reported that: "When the capture of Jacobsdal by the British was considered imminent, the inhabitants of the town prepared Red Cross brassards in bulk; and, in fact, one scarcely met an individual without a Red Cross brassard. Moreover, amongst all these ambulance men and hospital attendants, sprung, as it were, unexpectedly and suddenly from the ground, there was quite a large number of individuals who, the evening before, were in the firing line and had fired on the British, and who did not hesitate to take up their rifles again when the enemy evacuated the place."—Report to Seventh International Conference of Red Cross Societies, St. Petersburg, 1902.
services of such inhabitants and such resources as he may think fit. Requisition of this kind is better than charitable zeal, because only suitable persons and material would then be employed; whereas indiscriminate handling of wounded on the part of ignorant inhabitants is likely to make the subsequent fate of the wounded worse instead of better. The provision that they should care for the wounded under the control of the military authorities is intended to obviate this risk to some extent.

Articles 6, 7, and 8 of the Convention form the second chapter, and deal with the medical units and establishments as a whole. The expression Formations et établissements sanitaires here takes the place of the technically limited expression Ambulances et hôpitaux militaires of the 1864 Convention. The organised medical services of modern armies have a series of medical units or formations at intervals from the fighting line back to the fixed hospitals in the home territory. The number, name, and nature of these vary in different armies, and the Continental organisations differ very considerably from the British, mainly because our medical units have been evolved out of the necessities of war in tropical and unpopulated countries, whereas the Continental organisations are intended for war in countries densely populated, with large modern towns and villages, where there are ample resources in the way of shelter for wounded, and with networks of railways and means of conveyance of wounded back from the area of field operations.

A distinction is made in the Convention between the mobile formations and the fixed establishments. The mobile formations are the medical units organised so as to be rapidly transported to various parts of the area of operations at will; the fixed establishments are the more or less permanent hospitals in the home territory, utilized for the reception of sick and wounded from the mobile units. Roughly this is the only definition which can be applied to the terms used in the Convention for the purpose of distinguishing between the two classes of medical units or formations. The meaning of this distinction will be explained under the Articles dealing with material, as it is only the material which is affected by it, not only in the 1906, but also in the 1864, Convention.

The object of these three Articles is also to expand and define the protection afforded under Article 6 of the Convention of 1864. In the latter, medical units were protected only when there were wounded in them. Under the new Convention they are protected at all times, except when they are used for committing acts with a view to injuring the enemy.

But the important point in this chapter is the latitude permitted in the possession and use of weapons without infringing the right to

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1 The Japanese in Manchuria adhered so strictly to the Convention of 1864 that they did not hoist the Red Cross flag over medical units which were closed and ready to move on elsewhere, even though they remained for prolonged periods in one place.
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protection, provided the weapons are used for the defence of the medical unit and sick and wounded in it. In the Convention of 1864 no provision of this kind was made, and apart from numerous minor misunderstandings, there were occasions when the lives of medical officers were actually jeopardised by the fact that weapons were found in ambulances and military hospitals. It is recognised in all armies that the weapons and other property of wounded soldiers must accompany them when they are brought into the ambulances and field hospitals, and, in fact, wherever they go, until the opportunity occurs of sending these articles to stores established for the purpose. It is also recognised that the personnel for medical services must be armed, because occasions may and have arisen when they have been attacked by prowlers while searching the battlefield and attending to wounded during the night. In some instances, as, for example, in the case of the British hospital in Candia during the rising in Crete in 1899, and in at least one instance recorded officially in the Russo-Japanese War, military hospitals have been attacked and have had to be put into a state of defence by the medical personnel. For these reasons the Geneva Convention of 1906 specifically states that the use of arms in self-defence, the guarding of a medical unit by armed men of the medical corps or by picquet or sentinels provided with authority to act as hospital guard, and the presence of weapons and ammunition of wounded, do not deprive the medical unit of the protection afforded by the Convention.

The next chapter on the Convention contains Articles 9 to 13, and deals with the conditions under which personnel is protected by the Convention. The personnel for medical services in the field is now numerous and composed of various elements. Not only are there medical officers, but in most cases there is an organised corps of non-commissioned officers and men enlisted and trained exclusively for medical purposes. In addition, there are officers, non-commissioned officers and men of the units organised for transport, detachments of whom are attached during war to medical units. Again, in Continental armies for example, there are officers and men for so-called administration services, for keeping accounts and registers, and for obtaining and distributing supplies, who are also attached to medical units. Finally, there are the nursing sisters, who in Great Britain and Russia, (though not so much so in other countries), form a considerable proportion of the personnel for medical services. All these are entitled to the protection of the Convention, and provided they perform no acts of hostility must not be treated as prisoners

1 During the South African War, Captain Longhurst, R.A.M.C., ran the risk of being shot at Lindley because the arms and ammunition of his patients were found in his hospital pack-store.—“Report on the Medical Arrangements in the South African War,” p. 269.

of war. At the Battle of Mukden, for example, the personnel for medical services with the Russian army in the field amounted to almost one-seventh of the total fighting force. The Convention, therefore, may protect a very considerable proportion of an army in the field. It should however, be realised that the Convention does not protect the personnel from risk of being hit. It is impossible to distinguish in modern wars between men wearing the Red Cross brassard and others. The former must take the same chances as combatants when under fire.

This protection of personnel will probably give rise in practice to some misinterpretation, possibly, too, to some abuse of the Convention, because certain of the personnel, notably those connected with transport services, may at one time be employed with medical units, at another with combatant units. The decision regarding protection in the case of capture will have to be determined by the circumstances.

With regard to chaplains, the Convention of 1864 granted protection only to chaplains who were on the establishment of medical units. The 1906 Convention grants protection to all chaplains. The chaplains of most Continental armies do actually belong to the medical units, those of the British Army do not; so that the new Convention in this respect is favourable to our chaplains. How far chaplains should be protected is a matter which has led to some discussion, because it is recognised that the personnel for religious purposes may not always be present with an army for the sick and wounded so much as for preaching a holy war, encouraging and inciting men to patriotic sacrifice of life. This is likely to be the case in Mahomedan countries; it was said to be the case in the Russian army during the Manchurian campaign. Professor Renault, in reporting on the final draft of the Convention, had himself apparently some misgivings on this point, for he goes out of his way to say that no chaplain would be attached to an army except officially and would therefore be under control. It is difficult to follow Professor Renault’s train of ideas on this point., but he was probably thinking of the French and Continental armies only.

An important point in the protection of personnel is the protection now afforded to armed picquets and sentinels who may be guarding medical units. They are specifically mentioned as being under the protection of the Convention and cannot be made prisoners of war. Commanders will be in a curious dilemma in consequence of this, because such persons are combatants, and will join the fighting ranks on release. It is quite possible that the small amount of humane work which they

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1 According to Dr. Follenfant, the French military medical attaché, there were with the 2nd Russian Army at Mukden an approximate strength of 110,523 combatants, and 444 medical officers, 102 other officers for medical services, 2,450 stretcher-bearers, and 14,048 others connected with medical services, who would be protected by the Convention.
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may be called upon to perform in guarding a medical unit may be more than counterbalanced by the wounds which they may subsequently cause.

A class of personnel which may claim protection in one army and not in another is the personnel known technically as the personnel for regimental medical services. In war each combatant unit has a definite number of men belonging to the unit told off to act as stretcher-bearers. In some armies these stretcher-bearers are used only for medical duties at all times; in others they are employed in such duties only in time of war, or even only during an action. Formerly, most armies considered that such personnel had no claim to protection under the Geneva Convention, and they were not provided with a Red Cross brassard, but with a distinguishing brassard which varied in character according to the regulations of different armies. Now the armies of France, Germany, and Austria at any rate have abolished the special stretcher-bearer brassard and place the whole of the regimental medical service under the protection of the Convention, because their stretcher-bearers will not be employed at any time in combatant duties. We have not yet done so, because the wording of Article 9 precludes protection being claimed for such personnel unless they are exclusively used for the collection, transport and treatment of wounded.

Two articles have been introduced into the chapter on personnel solely for the purpose of satisfying the demands of the voluntary aid societies. So far as the protection of personnel of voluntary aid societies is concerned, these Articles—namely Articles 10 and 11—are unnecessary, because such personnel would be protected under Article 9 as being an integral part of the service employed for collecting, transporting, and treating sick and wounded. The Convention of 1864, although not specifically mentioning voluntary aid personnel, invariably extended its protection to it under a similar article. Still, as I have already mentioned, the spokesmen of the societies at the Conference desired that the wishes of the societies to be mentioned in the Convention should be met; such recognition, they said, would encourage and stimulate them to greater effort.

In Great Britain we do not realise the extent to which voluntary aid societies, the so-called Red Cross Societies, have become national institutions in countries where there is national military service. The organisation for relief of sick and wounded in such countries is very extensive, and the money subscribed voluntarily is very great. In Japan, for example, about one in thirty-eight of the total population of the country is a member of the National Red Cross Society, which has thus an income of about £300,000 a year. In Austria there are about 55,000 subscribers, and the money so obtained is a kind of voluntary taxation, to add to the Government grants for providing material for medical services. In Russia the National Red Cross Society has become practically a State institution, and part of the compulsory taxation of the
people, such as stamps on telegrams, railways tickets, and taxes on public entertainments, go to its coffers. In all these States the official military regulations for the organisation and employment of voluntary aid in war are as carefully elaborated and as comprehensive as those for the organisation and employment of the regular medical services. The whole organisation is under military medical inspection and counsel in peace, and entirely under military control in war.

These facts help one to understand what is implied in Articles 10 and 11, where only the personnel of those societies which are duly recognised and authorised by their Governments is assimilated as regards the protection of the Convention to the personnel for medical services. Such personnel must be subject to military laws and regulations, and employed in medical units and establishments. Further, each State is required to notify to the other the name of the societies which are authorised, under its responsibility, to assist the regular army medical service.

It will be seen that the conditions under which voluntary aid personnel is recognised by the Convention are very stringent. They are necessarily so because of the experiences of the Franco-German War. These experiences have never been forgotten in Europe; at one time they threatened to wreck the existence of Red Cross Societies, and the ideas promulgated by Dunant. In Guelle's work on the "Laws of War" a concise account is given of the abuses which were committed by Red Cross Societies in the field, and the inconveniences caused by them. He states that they became the hotbeds of rivalries and jealousies on account of their conflicting interests; they caused situations embarrassing to the tactical operations; they interfered with the healing of wounds from the fact that men and women, ignorant of the principles of surgery, handled them; and they were the refuge of people animated by other motives than a desire to help the sick and wounded.1 We had similar experiences in the South African War, two of which were notorious,—namely, the International Red Cross detachment organised and sent out from Antwerp, and an American Red Cross detachment from Chicago. Both were composed of men who had no other intention than that of obtaining admission into the Transvaal under the guise of the Red Cross, with the object of joining the combatant ranks of the Boers. It is on account of incidents such as these that the Convention of 1906 grants protection only to personnel of societies for which Governments make themselves responsible.

The Article is curiously worded in one respect. It says: "each State shall notify to the other either in time of peace, &c., the names of the societies authorised, &c." As M. Moynier pointedly asks, Which is the other State to whom a State is to notify in time of peace?2

The right of voluntary aid societies of neutral countries to assist in the care of sick and wounded is also restricted by Article 11 of the Convention. No such society is permitted to assist a belligerent, except with the previous consent of the Government of its own State and with the consent of the belligerent, who, in accepting such aid, must notify the fact to the enemy. In interpreting this Article it is important to assume that the consent of a Government involves that the application to assist a belligerent will be transmitted by official channels, and that in giving consent the Government assumes responsibility for the bona fides of the society concerned. The British proposal for revision of the Convention expressly stated the responsibility, but the framers of the Article have left the question of Government responsibility unsettled.

The remaining two Articles of Chapter III. define the manner of dealing with the personnel protected by the Convention, when they fall into the hands of the enemy. Under the old Convention they were entitled to be restored to their army by being sent back to the outposts. This provision, as already noted, was unworkable, and has been ignored in all subsequent wars. In the Russo-Japanese War the Japanese did send some of the personnel back to their own outposts, but as a rule they were handed over to the French Consul at Niuchuang or Chefoo, who made arrangements for their returning to Russia from these ports. This method of disposing of personnel protected by the Geneva Convention is now clearly sanctioned by Article 12. They will be sent back to their army or to their country by such route and at such time as are compatible with military necessity. Commanders have thus the very greatest latitude in disposing of them. In the meantime they must carry on their medical duties under the direction of the enemy so long as their services are required.

As compensation for their services, Article 13 provides that they shall receive from the enemy the same pay and allowances as the similar ranks and grades of personnel belonging to the enemy's army. When they are sent back to their own army or country they may take with them their private property, including surgical instruments, weapons, and horses. The granting of pay and allowances is a development of one of the Articles of the Convention of 1868. In that Convention the pay was to be the pay of the army to which the personnel belonged. In the present Convention it is the pay of the army which captures the personnel. This is likely to have some curious results because of the very different rates which prevail in different armies. It will, in fact, be difficult to adjust the financial questions involved, and the Article permits of possible harsh treatment, although intended to have the opposite effect; because pay and allowances in money may at times be valueless in the field. What the captured personnel requires most is food and shelter suitable to the rank of the individual. A harsh commander, strictly complying with the letter of the Convention might grant the money, for which Article 13
makes provision, might even state that it will be paid in arrears months afterwards, and at a time when it could purchase neither food nor lodging, and leave the medical personnel without either. Such action is perhaps not probable, but there are instances in which the letter of the Convention has been made the excuse for purposely harsh treatment, and the letter of the Convention does admit of harsh treatment in this way.

In his official report on the Article, Professor Renault states that it does not apply to the personnel of voluntary aid societies; in other words, such personnel when captured is not entitled to pay and allowances. It is true that the Article specifically states that it is the personnel referred to in Article 9 to which it applies, but then that personnel as defined there cannot well exclude the personnel of voluntary aid societies employed for the purpose stated in the Article. M. Renault’s opinion can scarcely be regarded as decisive in this respect, and ought not to apply to voluntary personnel employed and paid in war by the British military authorities, as for example the members of the St. John Ambulance Brigade, of whom very many were employed in South Africa at rates of pay fixed by the Government. They would clearly come under the category of personnel designated in Article 9, even although they are also personnel of the voluntary aid societies referred to in Article 10.

The next three Articles—14, 15, and 16—form Chapter IV. and deal with the material of medical units. Here a very sharp distinction in the manner of treatment is made between the material of mobile units, that of fixed establishments, and that of voluntary aid societies.

All material must be used on behalf of the sick and wounded so long as it is required for that purpose; but in the case of mobile units, the material, including ambulance wagons, other transport material, and their teams, must be restored in the same way as the personnel. The reason of this is that mobile medical units are specially organised formations for the express purpose of bringing medical aid to the wounded as near as possible to the place where and the time when they fall. They are of little use except as an organised whole, with personnel, material, and transport. On the other hand the fixed establishments are, in Continental phraseology at any rate, the permanent hospitals or temporarily organised hospitals in fixed localities in the home territory. To give the personnel of these establishments power to remove the hospital equipment would be to render the hospital for the time being useless. On that account the Geneva Convention provides that the material of fixed establishments becomes subject to the laws of war, but states that it may not be diverted from its legitimate use as material for treating the sick and wounded, so long as there is need of it for this purpose.

In case of military necessity hospital buildings may be destroyed or
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dealt with in any manner a commander may think fit, provided he makes provision beforehand for the sick and wounded in it.

These provisions are simple enough, but it will be somewhat difficult to determine, in the organisation of different armies, what units come under the definition "mobile," and what under the definition "fixed." In the Austrian regulations the difference is more or less defined, in other regulations the definition is not so clear, although generally the establishments regarded as fixed are those in the area described technically in military language as the home territory. In France, Germany, and Japan these establishments are called reserve hospitals. The classification of the British units will be much more difficult, as we use the expression stationary hospital to describe a class of hospital which in Continental armies would come under the category of mobile. Similarly our large base or general hospitals, as organised for oversea warfare, are of a distinctly mobile character, although the same class of hospital as organised for use in the home territory is a distinctly fixed establishment. Our stationary and general hospitals for oversea expeditions are in fact a sort of movable camp, like a nomad village, and on that account should be regarded as mobile.

But the greatest difficulty of all will arise in putting into practice the provision in Article 16, which regards the material of the voluntary societies protected by Article 10 as private property. As such it may be requisitioned but it cannot be confiscated. The article was introduced because Continental Red Cross Societies own a large amount of property in the form of permanent buildings and stores full of hospital and other equipment. It will be difficult, however, to distinguish in many cases between the property of Red Cross Societies and the property of the State, unless the societies adopt some distinctive sign other than that of the Red Cross, or in addition to it, because in some armies, notably in the Austro-Hungarian Army, material belonging to the Red Cross Societies is an integral part of many of the field units of the regular army medical service. Another complication arises from the fact that in some States, such as Russia and Switzerland, the Red Cross Societies receive State subsidies. Can material bought and maintained by such subsidies be regarded as private property? The Convention undoubtedly says "Yes," and a State which wished to save the confiscation of its material for medical services has only to make Red Cross Societies responsible for its provision and subsidise them for that purpose. In Austria, in fact, much of the essential medical equipment, such as the first field dressings and most of the ambulance wagons of field medical units, as well as the uniform and equipment of some 4,000 reservists and other soldiers and the harness of Government horses required for the wagons, are provided by the Red Cross Societies.

In practice commanders would be justified in regarding as material belonging to the State all material marked with the red cross, and only
such as is marked with some additional distinctive sign as material belonging to Red Cross Societies. The Continental Red Cross Societies and Orders of Knighthood do fix their badges, in addition to the red cross, at any rate on the transport material provided by them.

Chapter V. has one article only and deals with convoys of sick and wounded. It is somewhat complicated and not readily understood without technical knowledge of the meaning of the Continental expression *evacuation*. In the heading of the Chapter the expression *convoys of evacuation* is used. In army medical organisation the zones of medical work are divided into the zone of collection of sick and wounded, which corresponds with the area of active operations immediately in front of the enemy, the zone of evacuation or removal of wounded from this area to the fixed establishments in the home territory, corresponding generally with the lines of communication, and the zone of distribution or home territory. Convoys of evacuation of wounded refer in this system to the medical units employed for the purpose of carrying sick and wounded by road, rail, or water in any of these zones, but especially in the zone of evacuation. They are of a very varied character and include hospital trains and ships. By road they may be made up of regular ambulance wagons, empty supply or ammunition wagons, requisitioned country carts, or any other suitable transport material.

The Geneva Convention gives such convoys the same protection as is given to the mobile medical units; that is to say the personnel, including any military escort for protecting the convoy, cannot on capture be treated as prisoners of war; and the material must be restored. The only special condition made is that military vehicles other than those specially belonging to the Army Medical Service may be confiscated and that the convoys may be broken up if necessary, provided the sick and wounded in them are taken care of.

Hospital trains and hospital ships and boats for internal navigation, it will be observed, must be restored. There will be many practical difficulties in carrying out the conditions imposed upon commanders by this, especially as regards the restoration of railway rolling stock. If a hospital train is left behind, the chances are that the locomotive will first have steamed away. Is the capturing commander to place a locomotive at its disposal? Is he to keep a line uninjured or a gauge unnarrowed to fulfil the obligations of the Convention? Otherwise, how is a train to be restored? As the conditions regarding restoration are those applicable to mobile medical units commanders have power to select the time and place of restoration according to military necessity, and the difficulties may thus be surmounted.

Another question is involved in connection with hospital trains. Can a belligerent stop a hospital train? If so, how? The question has been raised in connection with an incident in the Russo-Japanese War. A
hospital train steamed away from Port Arthur, when the Japanese threatened to cut off communications from the fortress, and it was supposed that important officers, such as the Viceroy, Admiral Alexeieff, escaped in it. Would the Japanese have been justified in taking measures to stop the train? Article 17 of the 1906 Convention makes no distinction between intercepting a convoy by road or a convoy by rail, and if one may be intercepted so may the other. The accepted solution now is that a hospital train may have a shot fired across its line of movement as a signal to stop. Commanders will in any case demand the right to stop hospital trains for the purpose of examination, just as they have the right to stop hospital ships in naval warfare. The difference in the two cases is that the hospital ship is obliged to stop on being signalled, a hospital train is not. But, if it ignores the signal, it would probably have a shot fired into it.

Six articles are devoted to a chapter on the distinctive sign by which medical units and establishments, personnel, and material protected by the Convention are to be recognised in the field. The sign is a red cross on a white ground, and it is declared to be the emblem of the Army Medical Services. This declaration is important, because it is generally regarded as the emblem of the Red Cross Societies. It is important specially in connection with material and with legislation for preventing abuse of the sign. Personnel will wear it in the form of a brassard or arm band, which must be fixed to the left arm, and be delivered and stamped by competent military authority. In the case of individuals, such as voluntary aid personnel, who do not wear a military uniform, the wearer of the brassard must be in possession of a certificate of identity entitling him to wear it. No mention of certificates of identity was made in the Convention of 1864, and the form of certificate of identity is likely to vary much in different armies, unless some uniform form is agreed to.

Medical units will show the distinctive sign on a flag, which must also be accompanied by the national flag of the belligerent to which the unit belongs, or, in the case of a unit from a neutral power, to which it is attached. During the South African War a Dutch ambulance floated the Netherlands flag alongside the National flag, and by order of Lord Kitchener the former was removed on the ambulance falling into our hands. The incident led to diplomatic notes being exchanged as to Lord Kitchener’s right to haul down the Netherlands national flag, which is the term used in the Convention of 1864 then in force. Most inter-

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1 The intention in inserting the word “fixed” into the provisions regarding wearing the brassard is to impress those wearing the brassard with the fact that it must not be worn in such a way as to be easily removed and put on again at will. In future, persons wearing the brassard loose will run considerable risk of being regarded as wearing it without proper authority, or of having no protection under the Convention.
national jurists considered the action justified, as the national flag could mean only that of one or other of the belligerents. In the Convention of 1906 all doubt on this point is removed. Further, the Red Cross flag may only be hoisted with the consent of competent military authority, and only on units protected by the Convention.

A concession to the amour propre of medical units which fall into the enemy’s hands is made in the 1906 Convention. The Red Cross flag only will then be flown. Under the Convention of 1864 it was the custom to haul down the national flag of the captured belligerent and hoist that of the capturer alongside the Red Cross. The wisdom of the 1906 article is doubtful, because it can readily be conceived that greater protection might be afforded by the flag of the belligerent who occupies the territory in which the captured medical unit is placed, than by a Red Cross flag without any national flag.

The distinctive sign, and the expressions “Red Cross” or “Geneva Cross” are not to be used in peace or in war, except as the mark of protection of units, personnel, and material designated in the Convention.

All these articles are clear, and are not likely to lead to misinterpretation. One point of interest may, however, be mentioned. Much trouble was taken at the Conference to declare the fact that the red cross had no religious significance; and the wording in Article 18, “as a compliment to Switzerland,” and “heraldic emblem,” are used purposely to give point to this. Japan, China, and Siam, which may be regarded as non-Christian powers, stated that they attached no religious significance to the emblem and accepted it; the Persian representatives signed with reserve on this article; and Turkey was not represented. In my opinion it would be difficult to induce Mohammedan powers to regard the red cross on a white ground as other than an emblem derived from the time of the Crusades. One has only to visit the gallery of the Crusades in the palace at Versailles to understand this. In the pictures there the Geneva Cross appears everywhere on white pennants, shields, and cloaks of Christian knights. In the picture of the capture of Jerusalem it floats proudly on the highest fortress of the city above a drooping green flag bearing the emblem of a white crescent. One cannot therefore be surprised at the attitude of Turkey in refusing to use, as she has done in the past, the red cross as the emblem of protection of her army medical units and personnel, or in Persia signing the Convention with reserve. Turkey now uses a red crescent and Persia a red sun; but it is unfortunate that some sign could not have been sought which would satisfy all. The suggestion was made, but sentiment was too strongly in favour of the red cross. In this connection it may be noted that in the Napoleonic Wars an orange-coloured flag was used as a distinguishing

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1 In any case the Netherlands ambulance had no rights under the Convention of 1864 at all, because voluntary aid units are not recognised in it.
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sign for dressing stations; in the Civil War in America a yellow flag was similarly used. There are precedents, therefore, for the use of other signs than the red cross.

Chapter VII. has three Articles defining the conditions under which the Convention comes into force, and imposing on commanders into the field the duty of carrying out its provisions, and on signatory Governments the duty of taking steps to instruct the Army in its provisions and to bring them to the notice of the people.

The final chapter contains two Articles, specially introduced with a view to checking the abuse of the red cross emblem in war, and the misuse of it in time of peace. A signatory power undertakes to introduce legislation on the latter point within five years of its ratifying the Convention. Great Britain signed the Convention with reserve on these Articles, and on Article 23, which could not hold good without legislation. France has delayed ratifying the Convention until the legislation it undertook to introduce in signing these articles is in progress. Many of the other signatory Powers had already legislated on the subject. The object is to prevent the red cross being used as a trade mark, merchandise mark, badge of a sisterhood or friendly society, or by any individual who chooses to use it. It is obvious that in time of war much inconvenience would be caused by all kinds of houses and articles being labelled with the red cross. There is at present no municipal law in Great Britain preventing this use of the emblem or words.

With regard to the general dispositions there is no time-limit fixed for ratifying the Convention, although a time-limit of four months after signing was fixed in the case of the 1864 Convention. The 1864 Convention holds good between belligerents who have ratified that Convention only, even though one of them may have ratified the Convention of 1906. When both belligerents have adhered to the latter Convention, that of 1864 ceases to be in force between them. Other general dispositions do not affect the practical application of the Convention in war.

I have laboured too much, perhaps, over the details of this Convention, but you will find in it many other points which will require interpretation by experts, and which only practical experience will bring to light, as happened in the case of its predecessor. Even a comparatively long lecture such as I have detained you with does not admit of all the points being considered. The 1906 Convention is the better Convention of the two, as it has endeavoured to meet all the practical difficulties experienced in applying the Convention of 1864, and to remedy its defects. But it has at the same time introduced new matter, and in some instances complicated details, which no doubt will also produce their crop of experiences in the future. In actual war, commanders and armies generally will welcome what is good in it; what proves unworkable will probably be ignored.