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DE LA CROIX-ROUGE

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CONTENTS

	Page
Oscar M. Uhler, <i>Member of the Legal Section of the International Committee of the Red Cross.</i>	
Civilian Hospitals and their Personnel . . .	88
Press Release	
Meeting of Experts at the ICRC	108
A Meeting of Experts at the ICRC Headquarters	109
Urgent Appeal	110

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Editor: Louis Demolis

OSCAR M. UHLER

Member of the Legal Section of the ICRC

CIVILIAN HOSPITALS AND THEIR PERSONNEL¹

(Continued)

ARTICLE 20. — PERSONNEL OF CIVILIAN HOSPITALS

Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases shall be respected and protected.

In occupied territory and in zones of military operations, the above personnel shall be recognisable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armband which they shall wear on the left arm while carrying out their duties. This armband shall be issued by the State and shall bear the emblem provided for in Article 38 of the Geneva Convention of August 12, 1949 for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field.

Other personnel who are engaged in the operation and administration of civilian hospitals shall be entitled to respect and protection and to wear the armband, as provided in and under the conditions prescribed in this Article, while they are employed on such duties. The identity card shall state the duties on which they are employed.

The management of each hospital at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel.

¹ See Supplement, February 1954, page 27.

GENERAL AND HISTORICAL

After dealing with hospital establishments, the Convention goes on to regulate the protection of their personnel. To this end it distinguishes between two different categories of hospital personnel—namely, persons regularly and solely engaged in a hospital (to whom the first two paragraphs relate), and personnel temporarily attached to a hospital (to whom the third paragraph relates). The final paragraph is concerned with the list of names of all the hospital personnel.

The Article underwent numerous and considerable changes in the preparatory stages of its drafting, and did not receive its final form until an advanced period of the 1949 Diplomatic Conference. It originated in a provision drafted by the Conference of Government Experts of 1947. The Experts had wondered whether it was necessary to establish a system of protection applying to the whole body of persons engaged in the treatment of civilian wounded and sick, or whether the protection should be limited to the personnel of civilian hospitals alone. The latter alternative was preferred.

In the following year the International Committee of the Red Cross in Article 18 of the draft convention, which it submitted to the XVII International Conference of the Red Cross, proposed provisions closely in accord with the Experts' views. The first paragraph laid down the principle of the protection of the personnel of civilian hospitals and the provision of an identity card for them. The use of the Red Cross emblem was not proposed in their case, as it was in the case of the hospitals. The second paragraph provided for a list of names of the personnel.

The XVII Red Cross Conference approved the marking of civilian hospitals by the Red Cross emblem, but further decided to adopt a new second paragraph in favour of the use of the distinctive emblem by the personnel of civilian hospitals.

The attention of the Diplomatic Conference was concentrated from the outset almost exclusively on the definition of the civilian medical personnel, to be authorised to use the

distinctive emblem ; but the problem gave rise to very marked differences of opinion. There were two opposing attitudes. The wider view was to go beyond the Stockholm text, and extend the use of the protective emblem to the authorities in charge of the Public Health and Hygiene Services, and to representatives of civilian defence organisations.¹ The other view was on the contrary to restrict the use of the emblem recommended in the Stockholm draft.

The International Committee of the Red Cross for its part had also stated its opinion on the subject, which closely affected its interests. In the memorandum "Remarks and Proposals",² which it published on the eve of the Diplomatic Conference for the consideration of Governments invited to the Conference, it felt bound to point out the dangers of too extensive a use of the Red Cross emblem, writing as follows :

" Any widening of the applicability of the red cross emblem will inevitably entail a far greater risk of misuse and violation ; this in turn might compromise the repute attaching to the emblem and undermine its very great significance and good name. Hitherto, the use of the emblem has been confined to a clearly defined category of persons who are subject to military discipline. Even in these circumstances, the prevention of misuse has met with no small difficulties. If, therefore, the use of the emblem is extended to ill-defined categories of civilians, scattered over the country, who are not subject to discipline, proper registration or strict supervision, the combating of abuse would become impracticable, and the consequences would be borne by those who are legally entitled to the protection of the emblem.

Members of the army medical personnel were authorized to wear the emblem solely because they belong to the category of military personnel, that is to say, those who may lawfully be attacked.

The law of nations however rests on the principle that hostilities should be confined to armed forces, and that civil

¹ cf. *Final Record*, II-A, pages 632 and 819.

² See pages 72 and 73.

populations should be generally immune. The whole economy of the new Civilian Convention derives from this acceptance. Since it is illegal to fire upon any civilian, clearly it is inadmissible to fire upon civilians in charge of the sick. Article 13 of the present Convention expressly states, in fact, that the parties to the conflict shall allow medical personnel of all categories to carry out their duties. To seek protection for certain categories of civilians would be an admission, at the outset, that the new Convention would not be respected in the case of other civilians; this would be a confession of poor faith in the new treaty, and would weaken its authority.

No doubt the XVIIth Conference was prevented by want of time from studying all the aspects of the problem and from assessing the full effect of the proposed extension. An exception might perhaps still be made for the use of the emblem by the regular staffs of civilian hospitals, who are a well defined category of persons, duly registered by the State and holding identity documents to this effect. If a protective emblem for all civilian medical personnel is still desired, however, it would be better to examine the possibility of using a special device, entirely distinct from the Red Cross emblem."

It was this prevailing anxiety, on the one hand to avoid a dangerous "inflation" and concomitant depreciation of the value of the distinctive emblem, and on the other hand to establish a reasonable relation between the use of the sign by new categories of persons and the practical possibilities of really effective checking, which finally led the Conference to adopt the solution embodied in the present Article of the Convention, the effect of which is:

- a) to limit the use of the distinctive emblem solely to the personnel of civilian hospitals, i.e. to a clearly defined class of persons, constituting an organised unit, relatively easy to check, and subject to discipline, and
- b) to limit the use of the emblem solely to occupied territories and zones of military operations.

PARAGRAPH I. — THE PERMANENT PERSONNEL

This paragraph relates to the permanent personnel of a civilian hospital, as opposed to the temporary personnel, which is dealt with in the third paragraph.¹

I. *Status and Functions*

To have the benefit of the special protection of Article 20, the personnel must be regularly and solely engaged in the operation and administration of a civilian hospital, as defined in Article 18 of the Convention.

The term "regularly" excludes all occasional personnel, attached to the hospital only temporarily, and consequently not forming an integral part of it.

The term "solely" implies the permanent character of the engagement, i.e. the attachment of the personnel to the hospital to the exclusion of any other occupation.

The two qualifications of "regular" and "sole" engagement are cumulative stipulations. A surgeon for example, working regularly in a hospital but not exclusively because some of his time is given to his private practice, or again laboratory workers or voluntary aids, who work only part of the day at the hospital or are there only for a day or two in the week, would not fulfil the exclusive conditions of the paragraph, or consequently come under its protection.²

The close connection which the Convention establishes between the personnel and the hospital is also a primary factor applicable to the case.

The enumeration of the functions of the personnel of the hospital furnishes some further details. The personnel covered by the paragraph consists of personnel "engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting

¹ See below, page 100.

² See *Final Record*, II-A, pages 705-706 and 819; see also Paragraph 3 below, page 100.

of and caring for wounded and sick civilians, the infirm and maternity cases". This wording, embodying as it does a general idea ("operation and administration"), followed by five particular specifications, is limiting in character. But that does not mean that the personnel must be engaged solely on a single one of these functions. They can be given a number of these functions, provided they exclude occupations not figuring in the list.

It is clear from the text of the paragraph that it covers the personnel, not only when they are in the hospital itself, but also when they are sent out on some duty outside the building. If for example, after there has been bombing from the air, the Management of a hospital sends out relief parties consisting of its personnel to the bombed area, in order to collect and care for the wounded and bring them in to the hospital, such personnel will be covered by Article 20, even when engaged on the work described outside the hospital.

If the outside activities of the personnel of a hospital are subject to certain restrictions, their internal activities (i.e. their work inside the hospital) are subject to no such limitations. Thus the protection extends, not only to the personnel directly in contact with the patients in the hospital, especially the doctors and nurses, but also to all the personnel necessary for the operation and administration of the hospital, including persons working in the laboratories or X-ray services, dispensary, supply department, kitchens, cleaners service and the like.¹ The idea at the base of this rule is that a hospital is a complete organised whole, the mechanism of which cannot work effectively, unless all its parts are operating normally. Individuals, who do not belong to the medical staff properly so-called, are nevertheless an integral part of the hospital, since without their collaboration it cannot render the services which are expected of it.² For this category too therefore the stipulation with regard to regular and exclusive employment in the hospital is applicable.

¹ See *Final Record*, II-A, page 819.

² See *Commentary*, pages 219-220.

There are numerous hospitals with auxiliary undertakings such as farms for the production of milk or kitchen-gardens for the supply of vegetables. What is the legal status of the personnel employed on these undertakings? Can they be regarded as "persons engaged in the operation and administration of civilian hospitals"? In our opinion they can not. There is none of the close connection, which the Convention requires, between such personnel and the hospital patients, as there is between the latter and the medical and administrative staff. The medical and administrative staff generally live under the same roof as the patients, and perform functions there which are of vital importance in the treatment of the latter, so that they constitute a community with them united by a common bond. It is accordingly desirable on this point to interpret Article 20 in a restrictive sense, and to admit that the expressions "operation" and "administration" refer only to the hospitals themselves, and not to auxiliary undertakings. Consequently the personnel of auxiliary undertakings attached to civilian hospitals are not covered by Article 20, and do *not* enjoy the special protection symbolized by the Red Cross sign.

2. *Respect and Protection*

The permanent personnel of a civilian hospital must be "respected and protected". It is the classic wording, which has been in use since 1906 in the First Geneva Convention. We have met it already in Article 18 in connection with the protection of civilian hospitals. Its force and carefully graded significance have already been pointed out in the commentary on Article 18.

To benefit by the immunity, the personnel of a hospital must of course abstain from taking any part, even indirectly, in any hostile action. We have already seen in connection with Article 19 that the protection due to civilian hospitals would cease, if they were used to commit "acts harmful to the enemy". It is obvious that this provision is also applicable to hospital personnels.

The fact of a hospital personnel enjoying special protection is not to be interpreted *a contrario* i.e. as meaning that civilian medical personnel not attached to a hospital are deprived of protection. Such persons are an element of the population, and enjoy as such the general immunity accorded to the latter. Moreover their humanitarian tasks single them out as specially worthy of respect. If Article 20 only provides explicitly for the protection of hospital personnel, that is (as we have seen) because of the use of the distinctive emblem, as regulated in the following paragraph.

PARAGRAPH 2. — IDENTIFICATION OF PERMANENT PERSONNEL

Having defined the permanent personnel of civilian hospitals, specifying their functions and proclaiming their inviolability, the Convention proceeds to enumerate measures for their practical protection.

I. *The Identity Card*

In proof of its right to immunity and legitimate use of the armlet bearing the protective emblem (which, it is proposed, should constitute the second means of identification) the personnel of a civilian hospital is to be recognised by an identity card.

The identity card is to attest the holder's status by giving at the least his name, first names and date of birth, with the specification of the hospital to which he is attached, and a statement as to whether he belongs to the medical staff properly so called or to the administrative personnel. It may well go further, and specify the holder's professional qualifications, e.g. as doctor, surgeon, nurse, chemist, secretary, cook etc.

Another essential element of identification is the photograph of the holder, which has to be attached to the card.

On the other hand the use of finger-prints, as contemplated by the Stockholm Conference, was rejected by the Diplomatic Conference for reasons of convenience.¹

¹ See *Final Record*, II-A, pages 633 and 705.

Another condition imposed by the Convention is for the affixing of a stamp by the responsible authority. It is the stamp which gives the card its authentic quality. It was thought necessary to specify that the stamp should be "embossed" by pressing, experience having shown that rubber ("pad") stamps can be obliterated, and are relatively easy to imitate.

Who is to be the "responsible authority"? The Conference purposely refrained from saying. The system had to be given all requisite flexibility. It is for each State as a matter of its internal competence to determine by national legislation who the competent authority is. What is important is that the use of the card should be regulated by the State with a full sense of its responsibility.

2. *The Armlet*

The permanent personnel of civilian hospitals is to be recognised by an armlet which "shall bear the emblem provided for in Article 38 of the Geneva Convention of August 12, 1949 for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field". The emblem in question is the red cross on a white field.

We have already pointed out¹ the importance of this change in the previous legal position, in that it extends to an entirely new category of persons the benefits of an emblem hitherto reserved exclusively for the medical personnel of armed forces. It thus supplements Article 18, which by its provision for the marking of civilian hospitals by the red cross had already taken a first step in this direction.

A. *Characteristics of the Armlet.* — The distinctive emblem being the red cross on a white field, it is not theoretically essential that the armlet itself should be white.

It appears however eminently desirable for a hospital personnel to bear a white armlet with a red cross in accordance with a practice which has become general in the case of military

¹ See above, page 90.

medical personnel.¹ It is only such an armband with its contrast of colours, which will be clearly visible.

The Convention provides that the armband is to be "water-resistant". This provision, the purpose of which is to preserve the condition of the armband, should be regarded as in the nature of a recommendation. Obviously, the protective character of a non-waterproof armband could hardly be contested!

As in the case of the red cross emblem in general, the form and size of the armband have not been fixed. A rigid definition would be liable to open the door to dangerous abuses: what is there to prevent attacks on persons protected by the armband being "justified" on the ground that the armbands are not of the prescribed proportions?

As in the case of the provision with regard to military medical personnel, it is laid down that the armband is to be worn on the left arm,² it being desirable that it should have a specified place, so that it is known where to look for it. But here again it would be wrong of a belligerent to attempt to deny protection to a medical unit wearing for some plausible reason his armband on his right arm.

B. *Issue of armbands — The Stamp.* — The Convention lays down that it is the "State" which has to issue the armbands. This provision was intended to reflect the importance which the Conference attached to the point.³ The competence, and with it the responsibility, of the State being thus settled, it rests with the national legislatures to determine the manner in which they intend to exercise their competence and act on their responsibility.

As the armbands will not be able to be worn except in occupied territory or in zones of military operations,⁴ it seems essential

¹ See *Commentary*, pages 310-311.

² The corresponding Article of the First Convention goes further, and stipulates that the armband should be "affixed" to the left arm, so as to prevent its being removed and placed anywhere. The argument is less cogent in the case of civilian hospital personnel, and especially temporary personnel, who need to be in a position to remove the armband when not performing hospital functions. See below, page 102.

³ See *Final Record*, II-B, page 396.

⁴ See below, page 99.

that the States should delegate their powers for the issue of the armlets. A tract of country may today be transformed into a zone of military operations in a manner wholly unforeseen, rendering the distribution of armlets particularly urgent. It is important therefore that the armlets should always and everywhere be at the disposal of the hospital personnel; and that does not seem possible except by an extensive decentralisation of the system of distribution. No doubt the hospital Managements will serve in the first instance as agents.

Decentralisation on these lines in the issue of armlets is hardly, it is true, calculated to lessen the risks of abuse; but it appears to be necessary, if the system embodied in the Conventions is to be put rapidly into operation. The hospital Managements must be conscious of their responsibility, and must exercise rigorous and continuous control of their personnel.

But the most important thing of all is to make sure of correct assignment of the armlet. It must not be worn by anyone except those who are entitled to wear it under the Convention.

Nor is the armlet in itself sufficient. As has already been said, nothing is easier than to make an armlet, and put it on. Even if worn with good reason in a relief action for wounded persons, the wearer may be liable to penalties. The belligerents must have effective safeguards against abuse.

The armlet will not therefore be valid, and will not be entitled to be worn, unless it has been stamped and issued by the State. This is an obligatory and absolute condition. Issue alone is not enough. It must be accompanied by an official mark. The Convention does not say who is the authority entitled to stamp the armlets. It will probably be whoever issues them.

C. *Conditions for the wearing of the Armlet.* — The wearing of the armlet, as also the carriage of the identity card, is only proposed in occupied territories and zones of military operations.

An "occupied territory" must be understood to mean an enemy territory, on which one of the belligerents has been able to repel his adversary, and to establish his authority. The

occupation may cover either the whole of the territory of a country or only a part of it.

“Zones of military operations” must be taken to mean primarily the scene of the combats. But the expression applies also to the regions, in which there are movements of troops, without active combats.

The possible extension of bombing from the air (which is obviously a military operation) might point to the interpretation of zones of military operations as covering the entire territory of the belligerent concerned. But such a wide interpretation would not be in accordance with the idea underlying this provision. The armlet with its distinctive emblem in small dimensions is not recognisable except at short distances, and not at all from the air. It would thus be without any practical value for the purposes of war from the air. Accordingly the fact of being bombed from the air is not in itself a sufficient reason for making a territory a “zone of military operations” within the meaning of the present provision. On the contrary, contact with the land forces of the enemy must have been established, or at least be imminent; and it is only then that the wearing of the armlet is justified, and can exercise effective protection, enabling the wearer to circulate freely without being arrested by the invader etc. In that respect the armlet differs from the emblems on civilian hospitals, which (as we have seen) are mainly intended to preserve such buildings from the effects of war from the air.

In addition to this territorial restriction, the Convention imposes a second condition: the armlet may not be worn by the permanent hospital personnel except “while carrying out their duties”. This means that members of the personnel in question are not entitled to wear the armlet when on leave (e.g. on holidays), or when they have an evening out, but only when they are actually working in the hospital, or are engaged on one of the special missions to which paragraph 1 relates.¹

The basis of this restriction in the wearing of the armlet is the idea that there should be a close connection between

¹ For the exact meaning of the words “while carrying out their duties” see also below, page 103.

the distinctive emblem and the functions it is intended to protect. It is not for themselves that the hospital personnel have special protection, but because of the essentially humanitarian work that they do for the wounded and sick. The restriction is moreover calculated to diminish the risks of abuse, since the wearing of the armband out of service hours is difficult, if not impossible, to control.

The restriction (it may be repeated) relates only to the armband, and not to the identity card: the latter may always be carried by the members of the hospital personnel, even when on leave.

PARAGRAPH 3. — THE TEMPORARY PERSONNEL

I. *Status and functions*

Whereas the characteristic of the permanent personnel is exclusive attachment to a hospital, we now come to a special category of hospital personnel, whose attachment to the hospital is not exclusive but partial. The Convention speaks of "other personnel", meaning by that the whole body of persons working in a hospital without being regularly and solely attached to it. This category accordingly includes such individuals as surgeons who (apart from their private practice) come regularly to operate at the hospital, nursing aids who come on two afternoons a week to make themselves useful to the hospital, and the night watchman who has other work of his own in the day. The characteristic common to all these persons is that they are not engaged exclusively at the hospital, and for that reason are not covered by paragraph 1, even when working at the hospital. It was in order to give greater flexibility to this strictly limited interpretation of the personal applicability of paragraph 1 that paragraph 3 was inserted with its omission of any reference to "regular" and "sole" employment.

It is a *sine qua non* for this category of personnel, as for the permanent personnel, that it should belong to the organised and hierarchic unit which we call a hospital. Medical personnel who are not attached, even temporarily, to a hospital are not,

as we have shown,¹ covered by Article 20. Here again the decisive criterion is the attachment to a hospital. Consequently the temporary personnel must be in a position of subjection to the Management of the hospital. The latter must be in a position to give orders of an administrative character to temporary personnel when at work in the hospital.

It would not seem to follow from the fact of paragraph 3 repeating the wording "engaged in the operation and administration of... hospitals" of paragraph 1 *without* the enumeration of the four specified duties that the protection covers only personnel on duty inside the hospital. The enumeration of the four specified duties merely develops and defines the meaning of the words "administration and operation of the hospital", and is tacitly assumed to apply equally to paragraph 3. The only criterion which the Diplomatic Conference wished to set up between the two categories of personnel was the connection between the hospital and its personnel, and not the nature of the personnel's duties.² It is thus immaterial in the application of paragraph 3 whether the temporary personnel is working in the hospital itself or is engaged on one of the duties specified in paragraph 1, viz. search for, removal, and transporting of and caring for wounded and sick civilians, the infirm and maternity cases outside the hospital. In either case the temporary personnel will be protected.

2. *Respect and Protection*

Temporary personnel are to be respected and protected on the same footing as permanent personnel.³ The fact of their devoting themselves to hospital work raises them to the same rank as the permanent personnel, and renders them equally worthy of special protection.

Such immunity will not however be accorded them except for the period during which they are employed at the hospital :

¹ See above, page 92.

² See *Final Record*, II-B, pages 395-397.

³ See above, page 95.

it will cease when they revert to their regular profession, but will be revived if they again do hospital work.

In short it is obvious that strict abstention from any participation, direct or indirect, in hostile actions is imperative in the case of temporary personnel just as it is in the case of permanent personnel.

3. *Identification*

Having laid down the principle of respect and protection, the Convention goes on to determine the practical measures for its application, keeping closely to the system provided in the case of the permanent personnel. It is proposed, following the order of Article 20, to discuss first the armlet and then the identity card.

I. The Armlet

A. *The conditions for the use of the armlet.* — The temporary personnel are to be entitled to wear the armlet “as provided in and under the conditions prescribed in this Article, while they are employed on such duties”.

What does this phrase mean? It means in the first place that the armlet can only be worn in occupied territory and in zones of military operations.¹ Temporary personnel cannot have more rights than permanent personnel.

It also means that the armlets of temporary personnel will be the same as those of permanent personnel—that is to say, they are to be issued and stamped by the State, to be water-resistant, and to show the emblem of the red cross on a white ground. They are to be worn on the left arm.²

It is then laid down that the armlet may not be worn except during the performance of one or other of the duties enumerated in paragraph 1. This restriction recalls the similar limitation in the preceding paragraph to the effect that the armlet is not to be worn by the permanent personnel except “while

¹ For the meaning of these terms see above, page 99.

² For further details on the subject of these particulars see above, page 97.

carrying out their duties".¹ The meaning of this restriction is readily comprehensible: temporary personnel cannot reasonably claim to wear the armband except during the performance of hospital duties, i.e. not in the course of other occupations, which may have nothing to do with the care of sick and wounded. But it is more difficult to establish a definite distinction between the restriction imposed on permanent personnel and that which is imposed on temporary personnel.

B. *The differences between the wearing of the armband by permanent personnel and temporary personnel.* — The two expressions used by the Convention are not the same: one says "while carrying out their duties", while the other says "while they are employed on such duties". In this particular case it is difficult to see a difference of meaning between the two wordings. This is confirmed by the wording in the French text of the Article,² where the same resemblance is found between the two clauses. The first of the two clauses ("while carrying out their duties") corresponds to the French "pendant qu'il est au service"; the second ("while they are employed on such duties") corresponds to the French "pendant l'exercice de ces fonctions", the former applying to permanent and the latter to temporary personnel.

Grammatically there hardly seems to be any substantial difference between the two clauses. It is not easy therefore to see why any distinction should be made between them.

Reference should be made to the labours of the Diplomatic Conference, in order to ascertain the intentions of the authors of the Article, and to determine—if not its exact meaning—at any rate the considerations by which its drafting was governed.

The Third Committee of the Conference submitted to the Plenary Assembly a text in the following terms:

Persons regularly engaged in the operation and administration of civil hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases shall be respected and protected.

¹ See above, page 100.

² The French and English texts of the Convention are both of course authentic.

In occupied territory and in zones of military operations, the above personnel shall be recognizable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armlet which they shall wear on their left arm while carrying out their duties. This armlet shall be issued by the responsible authorities and shall bear the emblem provided for in Article ... of the Geneva Convention of 1949 for the Relief of the Wounded and Sick in Armed Forces in the Field.

The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel.¹

The draft was logical. It allowed the wearing of the armlet in the case of *all* personnel, permanent or temporary, in civilian hospitals, while restricting its wear to the time of the personnel being on duty.

In the Plenary Assembly amendments to the Article were proposed, being submitted jointly by a number of different Delegations. The Assembly passed them by a small majority, the effect of which was to give the Article its present form.² The amendments were accompanied by a written statement of reasons, which ran as follows :

In the case of hospital personnel the protection of the Red Cross, etc., emblems is at present extended by Article 18 (now Article 20) to all personnel regularly engaged in hospital duties. This would cover all part-time employees, e.g. persons who devote a few hours a day to work in hospitals but who engage in other activities, such as work in munition factories, during the rest of the day. It is clearly wrong that such persons should wear Red Cross, etc., armlets and receive full protection while engaged in factory work, and it is therefore proposed that the full protection of the Article should be restricted to persons " regularly and solely " engaged in hospital work.

To cover other hospital employees, e.g. part-time workers, it is proposed to add a new paragraph affording them full protection and entitlement to wear the armlet while they are actually engaged in hospital work.³

¹ See *Final Record*, II-A, page 851.

² See *Final Record*, II-B, page 397.

³ See *Final Record*, III, page 109.

As will be apparent from the written statement of their attitude, the authors of the amendments were concerned to establish two categories of personnel—on the one hand the permanent personnel with the right to wear the armlet at all times, and on the other hand the temporary personnel to have the protection of the armlet only when actually employed on their duties in a civilian hospital. In the light of the above account the interpretation of the Article is quite satisfactory; and, if there were no other text involved, the intentions of the authors of the Article would be relatively easy to establish. But one of the Delegations, which had proposed the amendments, made observations to the Plenary Assembly, which appear to run counter to the statement of reasons, as follows :

In the Geneva Convention the protection of medical personnel rests on the early conception of Henry Dunant that they are outside the fight ; they take no part in the actual fighting, and their position is that of looking after the victims of the battle. In the same way if we are to maintain effective protection for those who look after civilian sick and wounded we must secure that the persons protected are not, in fact, actually fighting in the war against the enemy.

Now it is perfectly possible—may be it did indeed happen—that doctors or other staff of hospitals engaged during part of the day, or even during the full day, in looking after wounded and sick felt their patriotism demanded that in their spare time they should take a more active role in resisting the enemy. If medical personnel in a hospital become involved in that kind of military operation, then the difficulty of protecting them while occupied with their hospital duties will be tremendously increased. Therefore we propose that in the first paragraph of the Article the words “ and solely ” should be added after “ regularly ” so that the full-time staff of hospitals shall be precluded from taking part in activities incompatible with their hospital duties.¹

The above observations show that it was clearly intended by the authors of these amendments to prevent members, even permanent members, of the personnel of civilian hospitals from engaging in their leisure time outside the hospital in acts of resistance to the Occupying Power. One does not see how these wishes can be satisfied except by restricting the wearing of the armlet to the time when the personnel in question

¹ See *Final Record*, II-B, pages 395-396.

are engaged on hospital duties, whether inside or outside the hospital.

The Final Record of the Diplomatic Conference does not therefore make it possible to determine with certainty the intentions of the authors of the Article. There remains something of obscurity as to the exact extent of the distinction between the two categories of personnel.¹ It does not however seem impossible in the light of study of the text and origin of the Article to draw conclusions as to its interpretation. Thus it may be said generally that the intention of the Diplomatic Conference in contemplating two categories of personnel was undoubtedly to create a different status for each of them. As a result of the expressions employed the Conference did not succeed in making the difference clear. It is therefore for national legislation to make the distinction. The following are the principles, which in our opinion may contribute to a satisfactory solution of the problem, taking into account the presumptive wish of the authors of the Article, and at the same time not conflicting with the Article's text.

1. *Temporary personnel* may not wear the armlet, except when actually performing hospital duties, either inside the hospital or outside when they are engaged on one of the duties specified in paragraph 1.

2. *Permanent personnel* seem to be entitled to a more liberal use of the armlet. It may therefore be assumed that, where they do not live in the hospital, they are entitled to wear the armlet when going directly from their homes to the hospital and back. On a more extended view it may even be held that the journeys to and fro are covered by the words "while carrying out their duties". That interpretation would appear to be in accordance both with the logic and with the common sense, which should govern the implementation of any legal provision.

¹ It is certain that the distinction made in the First Geneva Convention of 1949 between permanent and temporary medical personnel (see *Commentary*, pages 218 to 224) was not without its influence in inducing the Conference to decide to adopt the same solution in the case of the Civilians Convention. See in this connection *Final Record*, II-B, page 390

II. The Identity Card

Temporary personnel are, like permanent personnel, to carry an identity card proving that they are attached to a civilian hospital and justifying their right to wear the armlet.

Their identity card is to be the same as the identity card of the permanent personnel.

It has therefore to contain the following particulars and markings—status of the holder, his photograph, and the embossed stamp of the authority.¹ It is further laid down that the identity card of the temporary personnel must specify the holder's duties.

PARAGRAPH 4. — LIST OF NAMES OF HOSPITAL PERSONNEL

The Management of each civilian hospital has regularly to keep up-to-date a list of names of all its personnel, permanent and temporary, specifying the duties of each.

This is a necessary form of check. It will enable civilian hospital Managements to guard against abuse of the armlet.

The list has moreover to be held at the disposal of the competent national or occupying authorities on demand, so that the latter can verify at any time whether the armlet is in fact being worn only by those who are entitled to it. The list of names, kept continually up-to-date, is thus seen to be an indispensable means of checking in the hands of those to whom the national legislation in application of the Article has entrusted the task of seeing that there is no abuse of the armlet—a task which is frequently beset with difficulties and heavy responsibilities, but is a necessary corollary of the extension of the red cross emblem to new categories of persons.

¹ For further particulars of the identity card see above, page 96.

PRESS RELEASE

MEETING OF EXPERTS AT THE I.C.R.C.

Geneva, April 6th, 1954.

This morning, April 6, saw the opening at the headquarters of the International Committee of the Red Cross in Geneva and under its auspices of a private meeting of persons well-known for their profound and extensive knowledge of law, military practice or civilian defence. These personalities have been invited by the ICRC to take part in their personal and private capacity in a Commission of Experts, the object of which is to study the legal protection, in time of war, of civilian populations and victims of war in general against the danger of bombardments and the use of blind weapons.

The International Committee has, indeed, for some time now viewed with concern the effect which the development of aerial warfare, and the appearance on the scene of blind weapons, might have on the practical application of the humanitarian Conventions. In April 1950 it had already drawn the attention of Governments to this serious problem.

The prescribed aim of the present meeting is, therefore, to ascertain, by a preliminary study, the restrictive rules, inspired in particular by the essential laws of humanity, which apply or should be applied to aerial bombardments which are liable to affect non-combatants.

The Commission includes American, British, Dutch, Finnish, French, Indian, Italian, Japanese, Norwegian and Jugoslav personalities as well as from the Federal Republic of Germany. The International Committee has also made representations, but so far without success, in order to secure the participation of experts from the German Democratic Republic, Poland and the USSR.

*A MEETING OF EXPERTS
AT THE ICRC HEADQUARTERS*

Geneva, April 3, 1954.

The Commission of Experts which opened on April 6, 1954, at the headquarters of the International Committee of the Red Cross, came to an end on April 13. It will be recalled that the Experts, who were invited in their private and personal capacity, were to be consulted by the ICRC on the question of the legal protection of the civilian population and war victims in general from the dangers of aerial warfare and blind weapons.

The Experts have supplied information and particularly authoritative opinions which will be of great value to the ICRC when pursuing its work in this field. On the conclusion of their deliberations the Experts made the following unanimous declaration :

This Commission of Experts having thoroughly discussed and deliberated upon the problem of the legal protection of populations and war victims from the dangers of aerial warfare and blind weapons, and having considered all the opinions expressed, particularly by the Experts connected with the armed forces,

comes to the conclusion that if the destructive power of the weapons of war remains unlimited, and their use unrestricted, as would be the case with atomic and various nuclear weapons, selective bombing of targets in order to distinguish between combatants and non-combatants or legitimate military targets and protected areas would be virtually impossible.

The Commission is therefore definitely of the opinion that if the population is to be adequately protected the primary condition is the limitation of the destructive power of the weapons of war.

The Commission is of the opinion that it would be failing in its responsibilities to present and future generations if it did

not reaffirm the general principles of humanity accepted in the past by way of laws of war or minimum humanitarian standards which belligerents would be expected to follow in case of hostilities, in order to eliminate unnecessary suffering both to combatants and non-combatants.

URGENT APPEAL

Geneva, April 12, 1954.

The International Committee of the Red Cross at Geneva, greatly alarmed by the news that both medical units and convoys of the Peoples' Army of Viet-Nam, and medical air transports of the Franco-Viet-Nam Forces, would appear to have suffered seriously in the battle of Dien-Bien-Phu, has just addressed an urgent appeal to both belligerents to grant immunity to persons who are placed legitimately under the protection of the Red Cross emblem.

The International Committee requests both sides to take all appropriate steps to allow the wounded who have remained in the front line to be evacuated, and to guarantee that medical establishments, units and means of transport, marked with the Red Cross emblem, will be fully respected. It further suggests that consideration should be given to the possibility of setting up neutralized zones for the accommodation of the wounded and sick as provided by the Geneva Conventions.
