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DE LA CROIX-ROUGE

ET

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DE LA CROIX-ROUGE

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INTERNATIONAL COMMITTEE OF THE RED CROSS

SEVENTY-FIFTH BIRTHDAY OF M. MAX HUBER

M. Max Huber, Honorary President of the International Committee of the Red Cross, who, during seventeen years active Presidency won so incontestably the right to a recognition and affection not limited by frontiers, will celebrate his seventy-fifth birthday on December 28, 1949.

For the International Committee it will be an opportunity of renewing to the Honorary President, the assurance of its deep respect, its sense of obligation to him, and its gratitude ; its appreciation of the services without number he has rendered to the Red Cross, not only during the course of a most distinguished career, but even since the formal retirement which has in no way lessened the reality and constancy of his interest in everything that concerns the Red Cross.

*A TRIBUTE TO M. JACQUES CHENEVIÈRE,
MEMBER OF THE INTERNATIONAL COMMITTEE
OF THE RED CROSS*

A friendly celebration took place on Monday, November 7, at headquarters, to mark the thirtieth year of M. Jacques Chenevière's membership of the International Committee of the Red Cross.

M. Chenevière was elected member of the Committee of November 6, 1919; he had previously given valuable service in the creation and development of the International Prisoners of War Agency since August 1914, and was later co-director of the Allied Section.

For the last thirty years M. Chenevière has continued to play a leading role in the Committee's activities, and those who have had the good fortune to work under him have appreciated his high ideals, his sincerity and his judgment.

The presence of Mme Chenevière and several other ladies gave an intimate and personal note to the celebration, in which the members and the staff of the Committee and the Agency took part.

The President, M. Paul Ruegger, offered to M. Chenevière, who is now the senior member of the Committee, the congratulations and good wishes of himself and his colleagues. He recalled in eloquent terms the work accomplished by M. Chenevière and paid tribute to his thirty-five years disinterested service for the Red Cross.

He then handed to M. Chenevière the Committee's gold medal as a token of gratitude and admiration.

M. Chenevière, visibly moved, expressed his thanks to the Committee and staff. He recalled many incidents in his long career, speaking in particular of the foundation of the International Agency in 1914 and the resumption of its work in 1949; he expressed gratitude for what he had learned from former chiefs and fellow-workers, and for his good fortune in being able to work now with the President in office, M. Ruegger.

*M. JACQUES CHENEVIÈRE'S
WORK FOR THE INTERNATIONAL COMMITTEE*

On the outbreak of the first World War the Committee was faced with an unprecedented call upon its services. M. Chenevière's aid was enlisted by the President, M. Gustave Ador, in September 1914 and, side by side with his father, the author Adolphe Chenevière, he began his fruitful work in the service of the Red Cross.

With Mme. R. M. Frick (then Mlle. Cramer) and the late Etienne Clouzot, he organized the International Prisoners of War Agency. Here everything, including the methods of work, had to be created out of nothing. It may well be imagined what efforts, work, initiative and discussions were required to organize the Agency and set it in motion, until it became a veritable workshop, with a staff of twelve hundred assistants, immense card indexes, official lists, enquiry files, countless reports from delegates, and endless correspondence with authorities and Red Cross Societies throughout the world.

After five years of intensive work as co-director of the Allied Section, M. Chenevière was appointed Counsellor in July 1919, and on November 6 of the same year became a member of the Committee, continuing to devote to it the greater part of his time.

Then as now, Red Cross activities did not come to an end with the armistice. The Committee had considerable post-war duties, one of the most important of which was the repatriation of prisoners of war of many nationalities. M. Chenevière was elected to the sub-committee which supervised the work of the delegates abroad; he also kept in close touch with the other activities.

In order to amalgamate the administrative services, the Committee appointed M. Chenevière Director-General on June 11, 1923. Dividing his time between his Red Cross activities and his writing, he finally decided to devote the major part of his working day to his literary career. He therefore resigned as Director-General, and an Executive Committee was formed, of which he became a member in February 1925.

After the League of Red Cross Societies had been set up in 1919, M. Chenevière took part, with the late Georges Werner and with Paul Logoz, in studies and negotiations concerning the international organization of the Red Cross ; he was a member of the various Commissions created for this purpose by the International Red Cross Conferences. The matter was taken up again by M. Max Huber, when he became President of the International Committee, and the statutes of the International Red Cross were finally drawn up in 1928.

M. Chenevière became a member of the Commission for the Study of Medical Equipment in 1928 and of the Bureau of the International Committee (for current administration) in 1936. He attended the International Red Cross Conferences and carried out in several countries missions demanding tact and diplomacy.

Whenever armed conflicts, from 1933 onwards, required the Committee's intervention in fresh fields, M. Chenevière played a leading part : to mention three, the wars in the Gran Chaco, Abyssinia and Spain. The war in Spain called for numerous interventions on the part of the Committee, and special departments had to be set up. M. Chenevière was a regular member of the Commission which directed this work, and which for three years met for some hours each day.

Still greater danger threatened the peace of the world, and the Committee, wishing to be prepared for any emergency, set up in September 1938, a " Commission for War Activities " with M. Chenevière as chairman. This Commission prepared, in detail, a war-time organization for the I.C.R.C. Arrangements for staff and premises were made, should the opening of a Prisoners of War Agency become necessary. The Commission continued preparations during the following year. Its work was unfortunately not in vain ; humanity was to experience its second World War.

The International Committee was now faced with problems even greater than in 1914. From the first day of the war, the organization, general control and planning were placed in the hands of a Central Commission with authority over all departments. This body replaced the Commission for War Activities and M. Chenevière was its chairman for over a year. The

Comimssion later became the Co-ordinating Commission, and afterwards the "Bureau". M. Max Huber was chairman of both, M. Chenevière remaining as member.

In September 1939, and once again with Mme Frick-Cramer, M. Chenevière was called upon to re-open and direct the new Agency. At various periods he was chairman of the Prisoner of War, Internee and Civilian Commission, member of the Executive Committee, and chairman of the Delegations Commission.

If it be remembered that the Committee during the second World War had a staff of over four thousand, that eleven thousand visits to prisoner of war camps were made by delegates, that forty million index-cards were made out and twenty-five million civilian messages transmitted, it may well be imagined how, during six arduous years, M. Chenevière had to give himself up entirely to a task which demanded unceasing attention. The armistice has not lessened the weight of his obligations, for the Committee is still heavily engaged in post-war activities and must at the same time cope with new problems in the many countries where fresh difficulties have arisen, which M. Chenevière handles with unabated energy. Member of the "Bureau" without break of service, Vice-President of the Committee in 1945, later member of the Relief Commission, he has now taken over, amongst his other duties, the chair of the Delegations Commission. This is one of the Committee's busiest departments and his great experience and judgment are here invaluable.

M. Chenevière has published several studies on the work of the Red Cross ; on many occasions he has delivered important addresses.

This brief account can give only a vague outline of the labour, the anxiety, the responsibility and the initiative which were called for by an organization always in evolution, and forever adapting itself to new demands, urgent as they are unforeseeable. It gives the chapter-headings only of the thirty-five years continuous effort of one who has devoted his strength, his intelligence and his human sympathy to the service of the Red Cross.

Jean S. PICTET

Director-Delegate of the International Committee of the Red Cross

THE NEW GENEVA CONVENTIONS

RETENTION OF MEMBERS OF THE ARMY MEDICAL SERVICES WHO HAVE FALLEN INTO THE HANDS OF THE ENEMY

I. HISTORICAL BACKGROUND

In revising the Geneva Convention for the Relief of the Wounded and Sick in Armed Forces in the Field (1929), the Diplomatic Conference of 1949 certainly found its greatest problem in that of the retention of the medical and religious personnel of land forces¹ who fall into enemy hands. The history of this problem should therefore first be studied.

The *Geneva Convention of 1864* began by laying down the invariable legal principle that members of the medical and religious personnel who fell into the hands of the enemy when

¹ The present account will deal only with the medical and religious personnel attached to land forces; it will ignore civilian personnel or the personnel at sea.

For the sake of brevity the term "medical and religious personnel", "protected personnel", or "medical personnel" alone, will be used to denote all members of the personnel protected under the First Geneva Convention. These are, by the terms of the 1949 text:

(1) — Medical personnel exclusively engaged in the search for, or the collection, transport or treatment of the wounded or sick, or in the prevention of disease.

(2) — Military staff exclusively engaged in the administration of medical units and establishments.

(3) — The staff of National Red Cross Societies and that of other duly recognized Voluntary Aid Societies, employed on the same duties as the personnel named above.

(4) — Members of the armed forces trained for employment, should the need arise, as hospital orderlies, nurses or auxiliary stretcherbearers;

(5) — Chaplains attached to the armed forces.

in the discharge of their duties¹, should be returned to their own lines. Under Article 3 they had in fact the choice, either of continuing their duties in the dressing-station or hospital to which they were attached, or of returning immediately. If they decided to continue their duties, they were to be taken back to their own lines as soon as their work was completed. Whilst there is no outright statement that they might not be made prisoner, the principle is implicit in the text. The view at the time was that they shared the neutrality of hospitals and ambulances.

It followed that the capturing Power had no right to retain member of the medical services. At the same time, in the very interest of the wounded who might be in their care at the approach of the enemy, it was ensured that they should be free to remain with the wounded as long as was necessary—that is, until medical treatment could be provided by the capturing forces. The intention of the 1864 delegates therefore was to leave the actual time of return to the professional judgment of the medical officers themselves. However, it was very soon found that so very liberal an arrangement hardly concurred with military necessities. It is not practicable for the captured medical officer or orderly to decide on his own fate: he is subject to military authority and must obey orders. He will also lack the broad knowledge of the medical situation that is in the possession of the military command².

The First International Red Cross Conference, which met in Paris in 1867 to revise, even at that early date, the Geneva Convention, proposed that “medical personnel should not be retained for longer than the period essential for assistance to the wounded”, and that “the commander-in-chief of the victorious forces should decide on the time of their return”.

The following year (1868) a further Diplomatic Conference drew up an Annex to the Geneva Convention, containing the following formula: Medical personnel shall, as long as is neces-

¹ The 1864 Convention gave protection to the medical personnel only so long as they were engaged in their duties.

² See Paul Des Gouttes: *Commentaire de la Convention de Genève du 27 juillet 1929*. Geneva, 1930, p. 79.

sary, continue to give aid to the sick and wounded of the dressing-station to which they are attached ; on their applying for return, the commandant of the occupying troops shall determine the moment at which this shall take place ; in any case their return shall not be delayed—and then only for military reasons—for more than a short period. This annex was signed in 1868, but was never ratified.

The *Geneva Convention of 1906* provided for considerable general changes in the treatment of medical personnel. These were now to be protected at all times, and not only when in the discharge of their duties. The Convention also prescribed that “ any belligerent compelled to leave sick or wounded to the enemy, shall, as far as military considerations permit, leave with them a portion of his medical personnel and equipment to aid in their treatment ”.

As to the ultimate disposal of medical personnel who fall into enemy hands—the main subject of this paper—the Convention expressly stated that they should not be made prisoners of war, that they should continue to carry out their duties under the direction of the enemy and that, as soon as their services could be dispensed with, they were to be returned to their own forces, or to their own country.

This formula was not in any way intended to invalidate the principle of the unconditional return of protected personnel, once the wounded and sick in their charge at the time of capture had been assured of continued treatment. The sole purpose—as confirmed by the two previous drafts—was to award to the capturing Power the decision as to when the retained members might best be returned, a decision which had hitherto been made by the medical personnel themselves. Under the 1906 Convention, it was lawful to retain medical staff only in so far as they were required to deal with the sick and wounded till then in their charge : “ this effect can only prevail so long as the corresponding cause exists ; after that, restitution must follow immediately ”¹.

¹ See Paul Des Gouttes : *loc. cit.* p. 75.

However, it must be conceded that the text adopted was not altogether free from imperfections. Very often a belligerent has insufficient medical staff in a given locality ; will he not therefore always find it necessary to keep those of the enemy who fall into his hands ? It might, therefore, be feared that the moment might never arrive at which the capturing Power would consider that the services of the detained members could be "dispensed with". When put to the test in war-time, the text did in fact give rise to various abuses and controversies requiring mediation by the International Committee.

In the *First World War* a definite practice emerged.

At the end of 1914, some hundreds of medical officers and several thousand orderlies had fallen into the hands of the opposing sides. Germany announced her intention of keeping them. Arguing that the purpose of the Convention was to prevent medical personnel being assigned to other duties, the Germans stated that it was necessary to send medical staff to the rear to treat prisoner compatriots, and if need arose, her own wounded.

None the less a large proportion of the personnel thus retained were left idle, whilst they might have rendered valuable service in their own army. The reason given was that, in the event of an epidemic, the care of prisoners might require the attendance of a proportionate number of medical staff, at a time when the state of war had reduced to a minimum the number of doctors available in Germany. As will be seen later, exactly the same arguments were used in the Second World War. This view was, however, opposed by the Allies in 1914.

On December 7 of that year¹, the International Committee addressed an appeal on the subject to the belligerents, remarking *inter alia* that :

In accepting this Article (Article 12 of the 1906 Convention), the representatives of the Contracting Powers certainly had in mind that a member of the medical services should be released as soon

¹ See *Bulletin international des Sociétés de la Croix-Rouge*. Geneva, 1915, p. 45.

as he was no longer required for the treatment of the wounded in his care at the time of capture, or of those who fell in the fighting then in progress. In respect of these, he must *continue* his care, but the wounded in question can only be those brought into the dressing-stations on the battlefield itself, or to base hospitals close to the combat area. On the other hand, medical personnel cannot be retained to serve in base hospitals far behind the lines, in the interior of the country, to which wounded men may later be sent by regular ambulance units. . . . *A fortiori*, it is contrary to the terms of Article 12 to retain enemy medical personnel when these are no longer needed, and are consequently left idle, or at least without urgent duties over a period of many weeks, whereas highly urgent needs exist in the army and in the combat area.

The German, French and British Governments declared themselves in agreement with the Committee's interpretation of the Article ; they acknowledged the principle that medical personnel should be returned within a brief period and should not be given duties other than those on which they were engaged at the time of capture.

In practice, the restitution of protected personnel on the Western Front was attended by numerous difficulties and lengthy delays, and was always incomplete. One of these difficulties, encountered by a number of the personnel, was that of proving their medical status, as their identity papers were either lost or of doubtful validity. Nevertheless, large numbers were repatriated in July 1915, November 1916 and December 1917. Only on the later date was a final agreement reached between France and Germany. A number of the repatriates at that time had been in captivity since 1914.

On the Eastern Front, an agreement was concluded between Austria-Hungary and Russia for the retention on both sides of one doctor for each 1,500 prisoners. Austria-Hungary had emphasized that prisoners must, in their own interest, be attended by doctors and orderlies of their own nationality. A similar agreement between Germany and Russia fixed the ratio at one doctor and ten orderlies for every 2,500 prisoners of war, and arrangements of the same nature were made by Italy and the Central Powers, in their mutual relations.

Whilst maintaining that the letter of the 1906 Convention

should be strictly obeyed, the International Committee acknowledged that the new point of view might usefully be examined when the Convention later came to be revised. Subsequently, the Committee even conceded that on the Eastern Front, where very large numbers of prisoners were taken from the outset, the arrangement might, owing to the language difficulties, be considered justifiable ¹. It will be seen that this system prevailed during the Second World War.

The *1929 Convention* abandoned the unsatisfactory formula of the earlier treaty. After reiterating, in Article 9, the rule that medical personnel should not be treated as prisoners of war ², the Diplomatic Conference laid down, at the beginning of Article 12, the fundamental prescription that members of the medical corps might not be retained after falling into the hands of the enemy.

In the second paragraph, stipulating that members of the medical personnel should be sent back to their own forces as soon as military considerations permit, a condition is attached in the words "In the absence of any agreement to the contrary" ³. This was a concession demanded by humanity. The International Committee had itself been obliged to admit that the medical personnel's right to repatriation might be qualified: the primary need is in fact that the wounded prisoner of war should be tended. Although the initial responsibility lies on the Detaining Power, in cases where that State cannot provide treatment, either for the duration of, or at the beginning of captivity, the medical personnel taken at the same time as their wounded should assume this duty. This view was carried by a small majority at the 1929 Diplomatic Conference.

However, this arrangement implies a previous agreement,

¹ See *Bulletin*, Geneva, 1915, pp. 144, 314, 469, 507; 1916, pp. 70, 309; 1917, pp. 38, 52; 1918, pp. 77, 223.

² The British delegation alone voted against this principle in 1929. The same occurred in 1949.

³ This reservation was proposed by the New Zealand delegation speaking on behalf also of the British delegation.

for the capturing State may not be left sole judge of the desirability of retaining the medical personnel, nor the only arbiter as to whether they should in fact be kept ¹. Such an agreement would be in line with the retreating belligerent's duty to leave behind enough medical personnel to tend the abandoned wounded and also with the provision in Article 14, paragraph 4, of the 1929 Convention on Prisoners of War, that belligerents might make special agreements for the retention in camps of doctors and medical orderlies to care for their prisoner compatriots.

The Convention explicitly awarded to belligerents this right to make special agreements, since departure by mutual consent from the absolute and fundamental principle laid down might otherwise have been justly contested.

The third paragraph of the Article provides that " pending their return ", the medical personnel should continue to carry out their duties under the direction of the enemy and should be engaged preferably in the care of the wounded and sick of the belligerent to whom they belonged.

None the less, it is today rather difficult to understand the attitude of the delegates in 1929, who, after laying down in all gravity a fundamental rule, immediately nullified it by the words " in the absence of any agreement to the contrary "—so inserted, furthermore, as almost to appear a mere embroidery of the main statement. Yet this short phrase decided the fate of the many members of the medical services in the recent War, who were retained with their prisoner compatriots.

One cannot resist the thought that it would have been perhaps better to confront the problem squarely and to attempt to solve it as a whole. The first World War had shown that it was necessary to retain medical personnel, and nothing could be achieved by further blinking the fact.

In the event, this attitude had serious consequences. The additional brief phrase had given broad latitude for the retention of medical personnel, yet it was entirely unaccompanied by prescriptions as to the procedure to be followed, and to the

¹ See Paul Des Gouttes : *loc. cit.*, p. 78.

status, treatment and conditions of work of men to be retained in camp for a period of years. At the most, the 1929 Convention briefly defined the treatment of medical personnel "while in the hands" of the enemy, and then only in regard to their maintenance and pay.

It is therefore very much to be regretted that the 1929 Conference did not decide to make a systematic and thorough settlement of the problem in all its aspects. The reason for the Government representatives' choice of action was no doubt that they wished clearly to convey their view that retention should be an exceptional measure ¹.

During the *second World War*, repatriation of medical personnel was on a much reduced scale. Taking their authority from the phrase "in the absence of an agreement to the contrary" in the above-mentioned Article and from a similar provision in Article 14 of the Prisoners of War Convention, the belligerent Powers agreed to keep back a large proportion of the protected personnel in their hands, to attend the prisoners of war. Most belligerents made agreements to this effect, and the ratio of those retained varied according to the circumstances; for instance, in Great Britain and Italy, two doctors, two dentists, two chaplains and twelve orderlies were retained for every thousand prisoners.

The International Committee did everything in its power to ensure the return of the remainder. Repatriation of these persons, as of the severely wounded, met with great transport difficulties and was impeded by the existence of forbidden

¹ We feel we should compare this with another, much more general, but wholly superficial view, which is periodically advanced in some quarters, that the preparation of Conventions for the protection of war-victims is in itself to admit the possibility of war and, in consequence, to condone it. Without dwelling uselessly on an obviously absurd submission, we can briefly reply that, so long as the nations show, by their maintenance and continual development of large armed forces, that they believe war to be possible, the inescapable duty of all who seek to alleviate the sufferings caused by fighting must be to provide for the timely adoption of protective measures. Their responsibility does not vary with the element of risk existing at a given time, but is concerned always and solely with the worst foreseeable eventuality, however distant that may be.

military zones ; such repatriation was therefore infrequent, incomplete and extremely dilatory.

Medical effectives of occupied countries were nearly all retained in Germany and were often assigned to duties outside their proper sphere. In defence of this measure it was alleged that a " reserve " was essential, if such eventualities as air raids, sudden influxes of prisoners, and epidemics in the camps were to be adequately dealt with.

After the armistice, the same inclination to retain a large proportion of protected personnel was noted amongst the victorious nations. The proportion was eventually reduced to one doctor and ten orderlies for every thousand prisoners, but the repatriation of the remainder was too often delayed.

With regard to treatment, the lack of any provision in the Convention in general led to the belligerents' subjecting the personnel to the same conditions of captivity as the prisoners of war, and indeed sometimes to considering them as such.

The International Committee protested against this uniformity of treatment, declaring that it was improper under the prevailing international law. It pointed out furthermore that while this personnel should enjoy all the rights of prisoners of war, they should also have privileged status, in order to be the better able to carry out their duties. The Committee's efforts to secure such treatment were very often successful.

Among the Committee's demands were that the members of the medical services should be separately housed, either in the infirmary or in the immediate neighbourhood of the camp, that they should be authorised to leave the camp, and to receive double the normal quantity of mail.

As soon as the war was over, the International Committee began to prepare a revised text of the 1929 Conventions. In so doing, it devoted no little attention to the present problem.

At the *Preliminary Conference of National Red Cross Societies* in 1946—the first meeting of experts called at Geneva for this purpose—the Committee appointed to study this Convention drew up, at the proposal of the Belgian Red Cross, a group

of new Articles which authorised the retention of medical personnel in proportion to the general state of health and the numbers of the prisoners. It was specifically laid down that this concession did not release the Detaining Power from its own obligations, and that the choice of persons for retention should not proceed from racial or political considerations. In defining the status of retained members, the Articles stipulated that they should in no case be deemed prisoners of war, but that they should nevertheless enjoy all the rights of prisoners. Provision was made for other advantages whereby they would be enabled to perform their duties with the best effect. The remaining personnel was to be repatriated forthwith¹.

However, when in plenary session, the Conference, at the proposal of the American delegation, did not adopt these Articles, fearing that they might compromise the privileged position and right to repatriation of medical personnel, and might enable the Detaining Power to evade its own obligation to assign personnel to the care of the prisoners. In calling for the maintenance of Article 12 of the 1929 Convention, the Conference recommended that a committee of experts should be appointed to prepare detailed proposals on the best possible care and treatment of sick and wounded prisoners of war.

Throughout the Conference there had been a lively debate between those who stood for retention and those who upheld the old system under which repatriation was the primary rule. The latter gained the final decision.

At the next large study meeting the *Conference of Government Experts*, called by the International Committee in 1947, the discussions were more extensive and lively even than before and revolved about a different solution. The retention of some members of the protected personnel was not opposed; on the other hand, a new proposal, supported mainly by the British and American delegations, came to the fore. This was that members of the medical personnel should, on falling into enemy hands, be considered and treated as prisoners of war.

¹ Records of the Conference, p. 33.

The advocates of this new, and indeed revolutionary, principle adduced arguments which may be summarised as follows¹:

(a) The special treatment of medical personnel was justifiable in 1864, when wars consisted in a series of isolated engagements and where the principal duty of the medical services was to tend the wounded on the battlefield. On the other hand, it is not warranted in modern warfare, which gives rise to lengthy and continuous operations and to the large-scale capture of prisoners, and in which the main role of the medical services, now incorporated into the armed forces, is to keep the troops in good health. As much attention should be given to men in captivity as to the fighting forces.

(b) Prisoners of war are no longer at the mercy of their captors: they now have effective protection and an honourable status. Medical personnel could only benefit by being admitted to this protection and status.

(c) As an army is an integral whole, the preservation of its unity and military discipline demands that all captured men should receive the same treatment. Moreover, the prisoners of war would not be content to see their comrades in the medical services released, whilst their own captivity continued. A similar view would be taken by the population of the country of origin.

(d) The Detaining Power is never in possession of adequate medical effectives to attend to the prisoners of war. These, moreover, much prefer to be looked after by their own doctors, who speak the same language, share the same ways of thought and use methods to which their patients are accustomed. It has also been established that medical attention of this sort secures better results.

(e) Endless difficulties would attend the repatriation of medical personnel; furthermore, as it would usually take place some time after capture, there would be a danger of espionage.

¹ For the sake of clarity, we have thought it best to give an account at this point of all the arguments presented in support of both proposals, although some of these were not expressed until later Conferences.

(f) The members themselves of the protected personnel have the wellbeing of their charges at heart and are most anxious to remain with them until the end of hostilities.

(g) The protection conferred on prisoners of war would be enhanced in value if extended to the medical personnel.

Those who advocated the maintenance of the traditional principle made in their turn the submissions summarised below.

(a) It would be inadvisable to abandon one of the great humanitarian achievements of the Geneva Convention ; the Convention would moreover be thrown out of balance by such a change.

(b) Good care of the prisoners in no way requires that the medical personnel should enjoy the same status. So far from this being so, doctors and orderlies, if they are to accomplish their duties effectively, must have adequate freedom of movement, certain special privileges and above all, the degree of personal prestige which will enable them to press their views with the detaining authorities, and the prisoners also. The special and, as was described, " sacrosanct " nature of humane activities must be preserved : as a non-combatant, knowing neither friend nor foe in his work, the medical officer or orderly remains outside the fighting, whether he is on the battlefield itself or in the power of the enemy. The expression " prisoner of war " can only apply to men who have laid down their arms, and cannot therefore refer to the medical personnel, who are not armed. In contrast to the legitimate right of prisoners of war, members of the medical services are also not expected to attempt escape.

(c) If medical personnel were placed in the same conditions of confinement as prisoners of war, the Detaining Power might conceivably impose upon them the whole duty of attending the captives, and divest itself of its own obligations ; it would also be encouraged to keep the personnel unoccupied over long periods, or to assign them to duties outside their proper functions.

(d) If medical personnel could be made prisoners, the enemy would endeavour to capture them, and would be assisted in this by the fact that they are non-combatants. As a result, belligerents would cease to send qualified doctors to the front line. Doctors, and above all the subordinate ranks, would hesitate to expose themselves, to the consequent detriment of the wounded, and the Red Cross Societies would have much greater difficulty in recruiting volunteers.

The propounders of the new arrangement were at first largely successful. The Conference of Government Experts adopted by a majority vote a series of Articles having the following purport¹: members of the medical personnel falling into enemy hands should be treated as prisoners of war, subject to the provisions of a following Article which prescribed that members of the medical and religious personnel should be retained in captivity only as far as the health, the spiritual needs and the numbers of the men required. This provision was not to release the Detaining Power from its own obligations in the matter. Medical personnel should have the necessary privileges for the best possible performance of their duties, in respect particularly of accommodation, food, correspondence and freedom of movement. Those members of the medical personnel whose presence in captivity was not required, were to be repatriated as soon as possible, regardless of any consideration of race or political opinion, and preferably according to the chronological order of their capture.

The proposals of the Conference of Government Experts met with a lively reaction, especially in the medical circles of some countries. In the year which elapsed before the XVIIth International Red Cross Conference, the International Committee devoted further thought to the question and sought advice from many other authoritative sources.

Supported by the National Red Cross Societies, the Committee decided to make some changes in these Articles when

¹ Records of the Conference, p. 31.

embodying them in the Draft Conventions to be submitted to the coming Conference. Whilst making its study, the Committee had noted that the experts from the different countries were in agreement on certain essential principles; these were that members of the medical personnel might be retained by the adverse party insofar as the numbers and the health of the prisoners demanded it; that they should have all the rights of prisoners of war and have further privileges and a freedom of movement, which would enable them to carry out their duties in the best possible fashion; that all those whose presence in the camps was not indispensable should be repatriated as soon as possible. There was therefore concurrence on the crux of the problem: — retained personnel should have a status very close to that of prisoners of war, but they should also enjoy certain important privileges. The sole point on which there had been a divergence of view was whether the retained medical personnel were in fact to be regarded as prisoners of war or not. It was indeed little more than a question of form.

The International Committee did not feel it should stipulate in the Draft that retained medical personnel must be treated as prisoners of war, as their status was, in a series of Articles, defined closely enough to have independent force. Besides this, the Committee felt that the designation "prisoner of war" should be reserved to those combatant forces which, even in captivity, retain their character as enemies, whilst of course the medical personnel are at all times outside the fighting. The Committee therefore merely stated in the Draft that the medical personnel should enjoy all the rights granted to prisoners of war.

The opposing parties clashed again at the *XVIIth International Red Cross Conference* held in Stockholm in 1948. After long debates, however, an appreciable majority voted for the principle of non-captivity. The Conference, in fact, went beyond the Draft submitted to it and inserted an express provision to the effect that medical personnel should not be treated as prisoners of war.

The problem was for the last time examined by the *Diplomatic Conference* which produced the text of the Geneva Convention of August 12, 1949. Divergencies of view were still to be noted. Almost all the delegates were this time united against the principle of captivity, but at the same time were eager to conciliate their opponents as far as possible. For this reason the Stockholm Draft was adopted in broad outline. The decisive provision of the text reads¹:

“ Personnel thus retained shall not be deemed prisoners of war. Nevertheless they shall at least benefit by all the provisions of the Geneva Convention of August 12, 1949, relative to the Treatment of Prisoners of War ”.

In a later account we propose to make a detailed analysis of the provisions adopted by the Diplomatic Conference in this connection, as embodied in the new Geneva Convention.

¹ This provision applies only to the permanent personnel. Members of the auxiliary personnel will be regarded as prisoners of war and will not be eligible for repatriation. At the most, they will be employed on medical duties, insofar as the need arises.

ICRC RELIEF TO THE GERMAN CIVIL POPULATION¹

Ten years ago, it could hardly have been imagined that an appreciable part of the work of the International Committee of the Red Cross would one day have to be devoted to the relief of populations which had been involved in the War. The protection of civilians lay naturally within the Committee's scope, but its field of action seemed confined to that prescribed by the humanitarian Conventions ; the protection of military victims of war, and prisoners of war in particular, was its special responsibility.

The Committee's preoccupation with relief was born out of total warfare, which spares civilians no more than it does combatants. It is an unexpected imposition which the Committee has tried to shoulder without in the beginning having any assets to hand beyond the strength of its moral position. The innovation of coming to the relief both of captives and civil populations met with serious obstacles. Strategic considerations made blockade regulations imperative and any relaxation a sacrifice the enemy might use to his benefit.

After long negotiations, the principle of neutral intervention by the International Committee for relief purposes was accepted by the belligerents. Relief to the civil population, which the Committee was almost alone in being able to initiate, was made in collaboration with the League of Red Cross Societies from autumn 1940, when the Joint Relief Commission of the International Red Cross was set up ; the Commission went into liquidation only towards the end of 1946. One after another, Poland, Greece and other countries under German occupation, and finally Germany herself and her former allies were assisted.

The events of May 1945 profoundly changed the Committee's policy and work in Germany ; its Berlin Delegation, which

¹ See " *Revue internationale de la Croix-Rouge* ", Geneva, Feb 1948, p. 101 ; April 1948, p. 251 ; July 1948, p. 467 ; March 1949, p. 202

throughout the War had been operating for the benefit of Allied prisoners held by the Reich, was closed down. Some months later the Delegation was re-opened, this time mainly for the purpose of giving, not individual help, but collective relief to the German population, in accordance with the agreements concluded between the International Committee and each of the Occupying Authorities. Six auxiliary Delegations were also opened.

From that time and until the beginning of 1947, the International Committee was the only one of the major relief organisations authorised to operate freely in Germany. Under its auspices, other charitable bodies which did or did not belong to the Red Cross, joined in contributing to the humanitarian work, whilst the Committee endeavoured to have them independently recognised by the authorities. Gradually they were allowed to work autonomously in the three Western zones.

Another step was taken in Western Germany, with which the Committee was equally concerned, namely, the gradual reconstitution of the German Red Cross on a "Land", or provincial basis. The general chaos which followed after the Armistice had come to a close; the Committee's intervention for relief purposes thus became superfluous, at least in Western Germany. The ICRC Delegates were consequently nearly all withdrawn from Western Germany and, from the beginning of 1948, Geneva concentrated its efforts on work in Greater Berlin and the Soviet Zone of Occupation.

Conditions in these two sectors were quite different. The absence of a German Red Cross and, in particular, the fact that the Committee alone was recognised by the Soviet authorities for the transmission of relief supplies, enhanced the significance of its mediation.

From September 1945 to September 1949, the International Committee forwarded to Germany and distributed a total of 33,534 tons of relief supplies, valued at 52,032,000 Swiss francs; the share of Greater Berlin and the Soviet Zone in these figures was 7,534 tons (16,032,000 Swiss francs) ¹.

¹ It is interesting to note that, of this sum, 10,500,000 francs were given by Swiss donors.

Relief supplies have always been contributed from various sources ; several Governments, numerous National Red Cross Societies, religious and secular charitable organisations, in particular the Swiss Relief Fund (*Don Suisse*) and Save Europe Now, responded to appeals launched by the Committee. German colonies overseas and German prisoners in the United States also assisted in relieving the distress of their countrymen. As a rule, shipments are made direct to Germany by the donors themselves ; in some cases they travel first to Geneva, where the International Centre for Relief to Civilian Populations (which from 1947 took over part of the work of the Joint Relief Commission) assembles the goods, reconditions packing, makes purchases with donations in cash and arranges for further transport. As soon as they have arrived in Germany, the supplies are stored in suitable warehouses, ready for use.

For relief work, the Committee's Delegation in Berlin comprises three Delegates with special qualifications, the same number of secretaries from Switzerland and ten German employees. The Delegation still works on the conditions laid down in the 1945/46 Agreements, referred to above. These agreements, opening the way for the Committee's relief work in the various Occupation Zones, made provision for close co-operation between the Delegates, the local German authorities and several recognised relief agencies. At present, two such agencies work hand in hand with the ICRC : The " Committee for the Distribution in the Soviet Zone of Relief Supplies from Abroad " and the " People's Relief ". Both include representatives of the political parties, religious bodies, and Public Health experts.

The first joint task is the establishment of relief plans, drawn up on the basis of the collected data. Bearing in mind the nature and the relative importance of the needs, the ICRC then gets in touch with donors. Once the assurance of the donors has been obtained, the Delegation, acting in agreement with the co-operating agencies and the local authorities, prepares the distribution schedules. In Greater Berlin, the practical work of distribution falls to the Town Councils, while in the Soviet Zone, the " People's Relief " is responsible. A carefully balanced

system operates, passing from the central organization through the "Land" (Province) and the District, to the smallest village. The distribution completed, written reports come back in the opposite direction, and are handed over to the Berlin Delegation; the latter has, incidentally, the opportunity of checking the accuracy of the reports by investigation on the spot. Thus, the technical work, which is considerable, is divided, but the ICRC, responsible to the donors for the correctness of the distribution, takes, as one can see, a very active part and can effectively supervise the whole.

The first recipients, in order of priority, are children, adolescents, expectant and nursing mothers, and aged persons. For this year relief valued at 3,000,000 Swiss francs has been shared between over 100,000 necessitous aged persons in Greater Berlin and close on 140,000 children in the Soviet Zone. The latter relief action was continued during the school holidays for the benefit of 58,000 pupils. Plans for next year aim at giving special assistance to the tuberculous and pre-tuberculous, but the scope of these schemes will depend upon the response to the Committee's appeal.

The possibilities of assistance from the International Committee are naturally in direct relation to the means placed at its disposal. The Committee knows only too well that donors have many other calls to meet. It is for this reason that, faced with unlimited requests itself, it is forced to adopt the only possible course—to confine its assistance to those who are most in need, and to submit to donors limited but precise plans, which can guarantee the maximum benefit from the funds it hopes effectively to collect.

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