International Committee of the Red Cross

REPORT

on the Meeting of the Sub-Commission for the Revision of the Model Draft Agreement (annex to the PoW Convention of July 27, 1929)

Geneva, May 2 and 3, 1946

Geneva
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Report by the International Committee on the meeting 
of the Sub-Commission for the study of the Revision of the 
Model Draft Agreement, annexed to the Convention 
of July 27, 1929, relative 
to the Treatment of Prisoners of War.

**PART I.- INTRODUCTION**

The Meeting of neutral members of the Mixed Medical Commissions 1) in Geneva, September 27 and 28, 1945 2) for the study of the future amendment of the provisions governing MMC, was unanimous in confirming the necessity of revising the Model Draft Agreement annexed to the 1929 Convention relative to the Treatment of Prisoners of War, and which concerns direct repatriation of PoW and their accommodation in neutral countries for reasons of health. The Meeting had invited the International Committee to nominate a Sub-Commission for the working out of a revised Model Draft Agreement, on the basis of the recommendations made by the Meeting of Sept. 1945 3), which were founded on the experiences acquired by members of MMC during the recent War. This Sub-Commission consisted chiefly of members present at the 1945 Meeting and included specialists of the main branches of medical science.

Acting on a proposal by Col. d'Erlach, who had been appointed chairman of the Sub-Commission, the International Committee nominated this body as follows:

- **Chairman**: Dr A. d'Erlach.
- **Vice-Chairman**: Dr Alec Cramer, member of the International Committee of the Red Cross.
- **Secretary**: Dr F. de Fischer.
- **Members**: Dr G. de Wyttendenbach (surgery), Dr H. Fuchs (internal medicine), Dr J.M. Rubli (internal medicine), Dr K.M. Walthard (neurology), Dr Th. Brunner (psychiatry).

The Sub-Commission sat in Geneva on May 2 and 3, 1946, and in cooperation with members of the Legal and Medical Sections of the International Committee, drew up a Model Draft

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1) Hereinafter called "MMC".

2) See "Report by the International Committee of the Red Cross on the Meeting of neutral members of the Mixed Medical Commissions held in Geneva on September 27 and 28, 1945," Quoted as "No. 1".

3) Hereinafter called "1945 Meeting".
Part I.

Agreement which takes into account the possibility both of direct repatriation and of accommodation in neutral countries. It left to a future date the examination of two Model Draft Agreements recommended by the 1945 Meeting 1), namely:

(1) - Model Draft Agreement concerning direct repatriation only, on the assumption that belligerents abandon, as they did during the recent War, the idea of accommodation in neutral countries.

(2) - Model Draft Agreement, to meet all the new necessities of total warfare.

The main document laid before the Meeting consisted of a Preliminary Draft of a Model Agreement 2), in German, by Drs d'Erlach, de Fischer and Walthard, and translated into French by Dr Walthard. This document was based on a very full first draft by Dr A. d'Erlach, and on suggestions made by Drs de Fischer, Fuchs and de Wyttenbach, after study of Dr d'Erlach's draft 3).

This Preliminary Draft (PD), which was discussed and amended by the Meeting, forms the basis of this Report. The latter will be submitted to all the neutral members who have sat on MMC. They will be asked to communicate their views in writing, to supplement, if necessary, the Draft adopted by the Sub-Commission.

1) See No 1, p. 7.

2) In the present Report, this document is called "Preliminary Draft" (PD); the Model Draft Agreement annexed to the 1929 Convention relative to the Treatment of Prisoners of War is called "the 1929 Model Agreement" (1929 MA).

3) Dr d'Erlach's Preliminary Draft (PD) itself was essentially based on agreements relative to certain categories of diseases which were considered, during the recent War, to justify repatriation, though they were not mentioned in the 1929 Model Agreement. The above arrangements were ratified by Great Britain (Oct. 12, 1944), the United States of America (Jan. 21, 1945) and Germany (March 2, 1945).
PART II.- ANALYSIS OF THE REVISED MODEL DRAFT AGREEMENT.

(In the following analysis, the Final Text adopted by the Sub-Commission is underlined. The whole text is repeated in annex, Amendments due to sub-editing of the former English version are not reckoned as changes. The PD is quoted only where it differs from the Final Text).

Model Agreement relative to Direct Repatriation and Accommodation in Neutral Countries of Wounded and Sick Prisoners of War,

(1929 MA) - "Model Draft Agreement concerning the Direct Repatriation or Accommodation in a Neutral Country of Prisoners of War for Reasons of Health".

The Sub-Commission, adopting the views of the authors of the PD, replaced the terms of the 1929 MA "on grounds of health" by "wounded and sick", which were considered more exact. The Sub-Commission also asked for amendment of Art. 71 of the 1929 Convention, so as to include in the category of wounded all PoW who had undergone any accident, with the exception of self-inflicted injuries. The Sub-Commission therefore recommended that the words "who meet with accidents at work" (Art. 71) be replaced by "who meet with accidents".

CHAPTER I

Leading Principles governing Direct Repatriation and Accommodation in Neutral Countries.

A) - Direct Repatriation.

The following shall be repatriated direct:

(1) - The incurably wounded and sick whose mental or physical powers have been considerably reduced.

(1) - (PD) - "Incurable and transportable wounded and sick etc".

(2) - (1929 MA) - "Incurable sick and wounded whose intellectual or bodily powers appear to have undergone a considerable diminution."
The Sub-Commission was of opinion that Sections 1 and 2 of the 1929 MA should be reversed, and incurable prisoners of war mentioned first.

The Sub-Commission further deleted the ambiguous expression (1929) "appear to have undergone".

The text of the PD was amended by omitting the adjective "transportable". Transport of wounded or sick must obviously be possible to allow repatriation or accommodation in neutral countries.

(2) - Wounded and sick whose mental or physical faculties have considerably decreased and whose recovery within a year from the date of the injury or the onset of the disease appears - in spite of treatment - improbable.

(1) - (1929 MA) - "Sick and wounded whose recovery within one year is not probable according to medical prognosis, whose condition requires treatment, and whose intellectual or bodily powers appear to have undergone a considerable diminution."

The text adopted in 1929 seems hardly clear, and the authors of PD, with the approval of the Sub-Commission, amended the wording. Following the recommendation expressed by the 1945 Meeting, the authors specified the moment from which the time-limit of one year - considered as sufficient - begins to run, as indicated above l).

(3) - Wounded and sick who have recovered, but whose mental or physical faculties have been considerably and permanently impaired.

(3) - (PD) - As above, but without "and permanently."

(3) - (1929 MA) - "Convalescent sick and wounded, whose intellectual or bodily powers appear to have undergone a considerable diminution."

The proposal made by the authors of PD to replace the words "appear to have" by the more affirmative "have" was accepted by the Sub-Commission. The latter also considered that it was not enough that reduction of mental or physical faculties should be "considerable", but that it should also be "permanent".

The adverb "permanently" was inserted in the text of PD in order to allow a wider view of the three groups of sick and wounded entitled to repatriation :

1) See No 1, page 18.
(1) Incurables;
(2) Wounded and sick whose recovery is not possible within one year from the date of the injury or of the onset of the disease;
(3) Sick and wounded who have recovered, but whose faculties are permanently reduced.

B) Accommodation in Neutral Countries.

(1929 MA) - "Guiding Principles for Accommodation in a Neutral Country."

The following shall be accommodated in neutral countries:

(1) Wounded and sick whose recovery may be expected within the year following the date of the injury or the appearance of the disease, if treatment in a neutral country seems likely to lead to a more certain and quicker recovery.

(1) (PD) - "Wounded and sick whose recovery may be expected within the year following the date of the injury or the appearance of the disease, when such recovery appears more certain and quicker by treatment in a neutral country than by that in captivity."

(1) (1929 MA) - "Sick and wounded whose recovery is presumable within the period of one year, when it appears that such recovery would be more certain and more rapid if the sick and wounded were given the benefit of the resources offered by the neutral country than if their captivity, properly so called, were prolonged."

The Meeting was of opinion that if the text of the 1929 MA was not clear, the wording of the PD also required amending. They drafted the above text, which states the moment when the period of one year begins to run.

(2) Prisoners of War whose mental or physical health is, according to medical opinion, seriously menaced by continued captivity, whereas accommodation in a neutral country might preserve them from this risk.

(2) (1929 MA) - "Prisoners of War whose intellectual or physical health appears, according to medical opinion, to be seriously threatened by continuance in captivity, while accommodation in a neutral country would probably diminish that risk."
The Meeting considered it necessary to make the wording of the 1929 MA more affirmative.

C) - Repatriation of PoW accommodated in Neutral Countries.

(1929 MA) - "Guiding Principles for the Repatriation of Prisoners in a Neutral Country."

The following shall be repatriated from neutral countries,

(1929 MA) - "Prisoners of War who have been accommodated in a neutral country, and belong to the following categories shall be repatriated."

(1) - Prisoners of War whose state of health has deteriorated so as to fulfill the conditions laid down for direct repatriation.

(1) - (PD) - As above, except the words "been modified" for "deteriorated".

(1) - (1929 MA) - "Those whose state of health appears to be, or likely to become such that they would fall into the categories of those to be repatriated for reasons of health."

(2) - Prisoners of War whose mental or physical powers remain, even after treatment, considerably impaired.

(2) - (PD) - As above, except the words "after recovery" instead of "after treatment".

(2) - (1929 MA) - "Those who are convalescent, whose intellectual or physical powers appear to have undergone a considerable diminution."

The Meeting was of opinion that the moment when PoW should be repatriated must be specified. The word "recovery" inserted in PD did not seem sufficiently explicit; the PoW has not, in point of fact, really recovered, since his state of health still qualifies him for repatriation. The Sub-Commission therefore preferred the words "after treatment".

Furthermore, the new wording allowed repatriation both of PoW whose state of health has deteriorated, and of those whose recovery is incomplete.
CHAPTER II

Special Principles governing Direct Repatriation or Accommodation in Neutral Countries

A) - Direct Repatriation.

The following shall be repatriated direct.

(1929 MA) - "The following shall be repatriated:" (1)

(1) - All wounded Prisoners of War suffering from definite lesions equivalent to, at least, the loss of one hand or one foot, as for instance:

(a) - Loss of one hand, or of all the fingers or of the thumb and forefinger of one hand; loss of one foot, or of all the toes and of the metatarsal bones of one foot.

(b) - Ankylosis, loss of bony tissue, contracture due to scar, abolishing the functions of one of the large articulations, or of all the finger-joints of one hand.

(c) - Pseudarthrosis of the long bones.

(d) - Shortening of one leg by more than 5 centimetres.

(1) - (PD) - As above, except "amputation" instead of "loss".

(1) - (1929 MA) - "All Prisoners of War suffering the following effective or functional disabilities as the result of organic injuries: Loss of a limb, paralysis, articular or other disabilities, when the defect is at least the loss of a foot or a hand, or the equivalent of the loss of a foot or a hand."

The authors of the PD thought necessary to make this clause more precise by specifying which injuries, in their opinion and according to agreements made between belligerents during the War 1), are equivalent to the loss of one hand or one foot. The Sub-Commission, after hearing the surgeon member, endorsed his view. The more general term of "loss" was preferred to that of "amputation", used in the PD.

Re (a) - The Sub-Commission thought that the loss of the toes and of the metatarsal bones constitutes, from

1) See page 2, footnote 3.
the medical point of view, as serious a lesion as the loss of
one foot, since the latter can be largely compensated by a
prosthesis.

One of the members quoted the case of a well-known
pilot having lost both feet, but who was able to fly a fighter
plane during the War. The Meeting held this to be an exception­
al case, which should not be taken into account in a general
Model Agreement.

(2) - All wounded Prisoners of War whose condition
has become chronic, in so far as medical prognosis appears -
in spite of treatment - to preclude recovery within one year
from the date of injury, for instance cases of :-

(2) - (1929 MA) - "All wounded or injured Prisoners
of War whose condition is such as to render them invalids,
whose cure within a year cannot be medically foreseen."

The Sub-Commission avoided the term "infirmity",
as this precludes the idea of a cure, whereas the Section
treats of wounds which cannot be cured during the year follow­
ing injury. It was further decided to adopt the list of types
of lesions contained in the PD 1) and drawn up on the basis
of intergovernmental agreements concluded during the War.

(a) - Projectile in the heart, even if the Mixed
Medical Commission should fail, at the time of their examina­
tion, to notice any serious disorder.

(a) - (PD) - "Projectiles in the walls of the heart,
even if the Mixed Medical Commission should fail, at the time
of their examination, to notice any serious lesion."

The Sub-Commission remarked that the word "projectile"
should not be in the plural, a single projectile or splinter
being sufficient to cause serious disorders. It rejected the
words "in the walls of the heart" and replaced it by the more
general "in the heart". Experience having shown that these le­
sions have a lasting and serious effect, even if a disorder
is not immediately apparent, the Sub-Commission thought that
men suffering from such injuries should be entitled to repa­
atriation, whatever their functional state at the time of exami­
nation. It also thought that the word "lesion" was too re­
strictive and replaced it by "disorder". The confirmation of
the words "at the time of their examination", inserted in the
PD, is intentional; their purpose is to fix the moment of diag­
nosis.

1) This list is not contained in the 1929 MA; the Sub-Commis­
sion therefore based its discussion solely on the PD.
(b) - Metallic splinters in the brain or lungs, even if the Mixed Medical Commission, should be unable, at the time of their examination, to discover any local or general reaction.

(c) - Osteomyelitis, when recovery cannot be expected in the course of the year following the injury and which will probably lead to ankylosis of a joint, or to other impairments equivalent to the loss of one hand or one foot.

(d) - Penetrating and suppurating injury to the large joints.

(d) - (PD) - As above, but with "injuries".

The Meeting held that a single penetrating and suppurating injury of the large joints was sufficient to justify repatriation.

(e) - Injury to the skull, with loss or displacement of bone.

(e) - (PD) - As above, without "or displacement".

A member proposed to specify the type of wound by the words "injury to skull by projectile", but this was not accepted. The word "displacement" was then inserted, in order to cover all cranial injuries, including displacement of bone.

(f) - Injury or burn of face with loss of tissue and impairment of functions.

(g) - Injury to the spinal cord.

(h) - Injury to the peripheral nerves, resulting in disablement equivalent to the loss of a hand or foot, and the cure of which will require more than a year from the date of injury, e.g.: injury to the brachial or lumbo-sacral plexus, to the median or sciatic nerves, as also the combined injury to the radial and cubital nerves or to the lateral and medial popliteal nerves (N. peronaeus communis and N. tibialis). The isolated injury of the radial (musculo-spiral), cubital, lateral or medial popliteal nerves do not, however, justify repatriation except in cases of contracture or serious trophoneurotic disturbance.

(PD) - As above, except that the words "resulting in disablement" are replaced by "resulting in paralysis".

A discussion took place on whether isolated injury of the N. peronaeus communis, which was accepted during the War by belligerents as justifying repatriation, should not be explicitly mentioned. A member, with whose opinion the Sub-Commission concurred, maintained that isolated lesion of this
nerve could not be considered equivalent to the loss of one foot.

(1) - Injury to the urinary apparatus: fistula, loss of vesical tissue.

(3) - All sick Prisoners of War whose condition has become chronic in so far as prognosis appears, - in spite of treatment - to preclude recovery within one year following the onset of the disease, for instance:

(3) - (1929 MA) - "All sick Prisoners of War whose condition is such as to render them invalids whose cure within a year cannot be medically foreseen."

"The following in particular belong to this category:"

The Sub-Commission were of opinion that the wording of the PD (adopted) was more exact than of the 1929 MA, as it fixes the time limit when the period of one year begins to run.

(a) - All forms of progressive tuberculosis which, whatever the organ affected, can neither be cured nor improved by treatment in a neutral country; all cases of pulmonary tuberculosis having shown active symptoms during captivity.

(a) - (1929 MA) - "Progressive tuberculosis of any organ which, according to medical prognosis, cannot be cured or at least considerably improved by treatment in a neutral country."

Basing their criticisms on the intergovernmental agreements concluded during the War, the Meeting considered it necessary to make explicit mention of forms of pulmonary tuberculosis which seem to be inactive at the time of examination, but which have shown active symptoms during captivity.

(b) - Pleurisy with effusion occurring during captivity.

The 1929 MA does not contain this clause. The SubCommission discussed at length the problem raised by the listing of this disease under a special heading of the revised MA. In Germany, pleurisy with effusion was not as a rule considered to be a tubercular affection, and the German doctors did not always agree to repatriation of men suffering from this disease.

The Meeting therefore hesitated to quote it under the heading of tubercular complaints sub (a). Finally, the Sub-Commission decided unanimously that pleurisy should be
mentioned in a separate section; this view was confirmed by the statement of a member to the effect that the American authorities always agreed to repatriate men suffering from pleurisy with effusion, whatever the source of the illness.

(c) - Non-tubercular diseases of the respiratory organs, regarded as incurable, or recurring: advanced pulmonary emphysema, with or without bronchitis; chronic asthma, chronic bronchitis having lasted over one year in captivity, bronchiectasis, etc.

The Sub-Commission considered it necessary, from the medical point of view, to repatriate Pows suffering from chronic bronchitis lasting more than one year.

The Meeting further recommended the addition of an explanatory note, indicating that the MMC could form its own opinion, based on the observations of the doctors in charge, whether the case was sufficiently serious to justify repatriation. This provision had already been recommended by the 1945 Meeting 1) for patients suffering from affections such as asthma and epilepsy. The Sub-Commission decided, to facilitate understanding of the text, to mark with an asterisk all the types of diseases which might give rise to applications for repatriation, applications that must be endorsed by qualified testimony. The explanatory note referred to by the asterisk runs as follows:

"The decision of the MMC shall be based, to a large extent, on the records kept by Camp Doctors and Prisoner Doctors of the same nationality, or on the examinations made by specialists of the Detaining Power." 2)

(d) - Serious chronic diseases of the circulatory system; valvular lesions and myocarditis having shown signs of circulatory failure during captivity, even if the MMC should be unable to detect any of these symptoms at the time of their examination; diseases of the pericardium and blood-vessels (Buerger's disease, aneurism of the large blood-vessels)

(c) - (1929 MA) - "Grave chronic affections of the circulatory organs (for example: valvular affections with a

1) No 1, p. 19.
2) All diseases needing such an explanatory note are marked with an asterisk in this Report.
tendency to compensatory troubles, relatively grave affec-
tions of the myocardium, pericardium or the vessels, in par-
ticular, aneurism of the larger vessels which cannot be operat-
ed on, etc.
"

The authors of the PD considered that the wording
of the present section is clearer than the corresponding text
of the 1929 MA, as it takes into account, to a large extent,
of the special case of patients suffering from circulatory
failure, but showing no obvious symptoms at the time of examin-
ation.

The Sub-Commission approved this course, and endors-
ed the recommendation made by the 1945 Meeting 1).

(e) - Serious chronic diseases of the digestive
organs; gastric or duodenal ulcer confirmed clinically or by
X-ray examination; sequelae of gastric operations performed
during captivity; chronic gastritis, enteritis or colitis,
having lasted over one year and seriously affecting the
patient's general health; cirrhosis of the liver; chronic
cholecystopathy.

(e) - (PD) - As above, slightly amended.

(d) - (1929 MA) - "Grave chronic affection of the
digestive organs."

To prevent cases of ulcer, whose presence cannot be
confirmed "by X-ray examination", from suffering by a too re-
strictive wording, the Sub-Commission supplemented the PD by
deciding that the ulcer must be confirmed "clinically or by
X-ray examination".

(f) - Serious chronic diseases of the genito-urinary
organs: chronic nephritis having lasted over one year with
secondary results; nephrectomy for tubercular kidney; chronic
pyelitis and cystitis; hydronephrosis and pyonephrosis.

(e) - (1929 MA) - "Grave chronic affections of the
urinary and sexual organs, in particular, for example: any
case of chronic nephritis, confirmed by symptoms, and espe-
cially when cardiac and vascular deterioration already exists;
the same applies to chronic pyelitis and cystitis, etc.
"

The Sub-Commission adopted the wording proposed by
the authors of the PD as an improvement on that of the 1929 MA.

1) See No 1, page 19.
(g) - Serious chronic diseases of the central and peripheral nervous systems*, such as all obvious mental diseases duly diagnosed by a specialist; cerebral arteriosclerosis; all forms of idiopathic or traumatic epilepsy duly diagnosed by the camp doctor; severe hysteria; captivity psychosis; chronic neuritis of more than one year's duration.

(f) - (1929 MA) - "Grave chronic diseases of the central and peripheral nervous system, in particular grave neurasthenia and hysteria, any indisputable case of epilepsy; grave Basedow's disease, etc."

(l) - (1929 MA) - "Any indisputable case of mental affection."

Some members, on studying the proposed text, wondered if the expression "serious chronic diseases of the central and peripheral nervous system" might not be a sufficient definition of the whole of the diseases covered by the present section. The Sub-Commission however considered that, in view of observations made during the War, it was preferable to list certain diseases. Moreover, considering the terms of the 1929 MA, the Sub-Commission thought that the use of the adjective "severe" would allow some cases of hysteria to be sent home. Experience has shown, as a member pointed out, that "severe hysteria" cannot be cured in a neutral country.

Taking into account the recommendation of the 1945 Meeting l), the Sub-Commission considered the insertion in the MA of a clause allowing repatriation of older PoW on medical grounds. The idea was abandoned as the Sub-Commission considered that age is not a disease, and that this question should be solved either on revision of the Convention or by Government agreements. To provide for the failure of such a contingency, the words "cerebral-arterio-sclerosis" were inserted in the text merely to allow PoW showing symptoms of disease due to age to become eligible for repatriation.

Finally, the Sub-Commission rejected the proposed term "neurosis" and kept only "captivity psychosis". The Meeting thought necessary to take such cases into account, but it was felt that MMC should have to diagnose a psychosis, to

1) See No 1, page 19.
entitle a PoW to repatriation. As will be specified below 1), cases of neurosis shall be, as a rule, accommodated in neutral countries.

(h) - Serious chronic disturbances of the vegetative nervous system, with considerable diminution of mental or physical powers, appreciable loss of weight and general asthenia.

These types of disease were not specified in the 1929 MA. The Sub-Commission held that they should be mentioned, as they are frequent.

(i) - Diseases of the eye, e.g. unilateral amaurosis, even if the vision of the other eye remains normal; diminution of visual acuity which is impossible of correction to one-half, for at least one eye #; glaucoma; iritis; choroiditis; trachoma.

(g) - (1929 MA) - "Blindness of both eyes, or of one eye when the vision of the other is less than 1 in spite of the use of corrective glasses. Diminution of visual acuteness in cases where it is impossible to restore it by correction to an acuteness of \( \frac{1}{2} \) in at least one eye. The other ocular affections falling within the present category (glaucoma, iritis, choroiditis, etc.)"

(k) - Diseases of the ear, such as complete deafness and total unilateral deafness in cases where the ear which is not completely deaf cannot hear an ordinary speaking voice at a distance of one metre. #.

(h) - (1929 MA) - "Total bilateral deafness and total unilateral deafness in cases where the ear which is not completely deaf cannot hear an ordinary speaking voice at a distance of one metre."

(l) - Serious disorders of metabolism, such as diabetes mellitus requiring insulin treatment.

The insertion of the above clause had been recommended by the 1945 Meeting 2).

(m) - Serious disorders of the endocrine glands, e.g. thyrotoxicosis, hypothyroidism, Addison's disease, Simmonds' cachexia, tetany.

(m) (PD) - As above, less "tetany".

The insertion of this heading was also recommended by the 1945 Meeting 2).

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1) See page 19.
2) See No 1, page 19.
(n) - Chronic diseases of the blood.

"Diseases of the blood, not yielding to treatment, e.g. pernicious anaemia; leukaemia."

The Sub-Commission considered that a separate clause should be devoted to this type of chronic affections, but that they should not be listed, so as to avoid restrictive interpretation.

(o) - Serious forms of chronic intoxication, e.g., lead poisoning, mercury poisoning, morphinism, cocainism, alcoholism, etc., poisoning by gas or by radiations.

(1929 MA) - "Grave cases of chronic poisoning by metals or other causes (lead poisoning, mercury poisoning, morphinism, cocainism, alcoholism, gas poisoning, etc.)"

The Meeting made a point of putting the abbreviation "etc." after the term "alcoholism", in order not to give a limitative sense to the list of serious chronic intoxications quoted as examples in this clause. Further, in view of the progress of science, it was decided to include intoxication by radiations.

(p) - Chronic diseases of the locomotor organs, with obvious impairment of their functions; arthritis deformans; chronic progressive polyarthritis (primary and secondary); rheumatism with marked clinical symptoms.

(0) - As above, but with "gout".

(1) - "Chronic affections of the locomotive organs (arthritis deformans, gout or rheumatism with impairment, which can be ascertained clinically), provided that they are serious."

According to a specialist, chronic progressive polyarthritis is said to be "primary" when its initial progress is such as to cause deformed joints; it is termed "secondary", when after the acute and serious initial phase, it becomes slow, progressive and chronic.

The Sub-Commission abandoned the idea of including cases of gout. These are very rare among PoW and, when of a serious nature, come under the heading of "rheumatism with marked clinical symptoms".

(q) - Chronic and serious skin diseases, not amenable to treatment.
(q) - (PD) - "Chronic and serious skin diseases not amenable to treatment, such as chronic eczema, recurring allergic skin affections."

(o) - (1929 MA) - "Grave chronic cutaneous affection, when their nature does not constitute a medical reason for treatment in a neutral country."

The Sub-Commission considered unnecessary to specify the various diseases which come under this heading.

(r) - All malignant growths.

(m) - (1929 MA) - "Malignant growths, if they are not amenable to relatively mild operations without danger to the life of the person operated upon."

The Sub-Commission did not think useful to endorse the terms of the 1929 MA, but preferred a wording that should not debar from repatriation PoW suffering from malignant growths. During the War, experience has shown that this clause of the MA led doctors of the Detaining Power to refuse the repatriation of all PoW suffering from a cutaneous neoplasm, if they had undergone an operation.

(s) - Serious chronic infections diseases, having lasted one year after onset, e.g, malaria with chronic blood-changes and marked cachexia; amoebic and bacillary dysentery with serious symptoms; tertiary syphilis; leprosy.

(n) - (1929 MA) - "All cases of malaria with appreciable organic deterioration (serious chronic enlargement of the liver or spleen, cachexy, etc.)."

In view of the progress in modern medical science, the authors of the PD had considered only cases of malaria with chronic blood-changes and marked cachexia; while they added other chronic diseases not quoted in the 1929 MA. The Sub-Commission endorsed this view and considered that the proposed text was, in this respect, more general and more precise than that of the 1929 MA.

(t) - Serious avitaminosis.

(p) - (1929 MA) - "Serious avitaminosis (beri-beri, pellagra, chronic scurvy)"
B) - Accommodation in Neutral Countries.

(1929 MA) - B) - "Special Principles for Accommodation in a Neutral Country."

The following shall be accommodated in neutral countries.

(1929 MA) - "Prisoners of War shall be accommodated in a neutral country if they suffer from the following affections:"

(1) - All wounded Prisoners of War who have better prospects of recovery in a neutral country than in captivity.

(1) - (PD) - "All Prisoners of War suffering from wounds or their sequelae who have better prospects of recovery in a neutral country than in captivity, provided that they are not eligible for direct repatriation."

(3) - (1929 MA) - "All cases of wounds or injuries or their consequences which offer better prospects of cure in a neutral country than in captivity, provided that such cases are neither such as justify direct repatriation, nor insignificant cases."

With a view to observing the same order in all Chapters of the Model Agreement, it was decided to invert the paragraphs, putting wounded PoW under Sec. 1, and sick PoW in the following Sections.

The amendments made in the text of the PD concerned the wording only.

(2) - Prisoners of War suffering from any form of tuberculosis of any organ and whose treatment in a neutral country might, according to present medical knowledge, lead to recovery, or at least to considerable improvement, Excluded are all cases of primary tuberculosis cured before captivity.

(2) - (PD) - As above, without the last sentence.

(1) - (1929 MA) - "All forms of tuberculosis of any organ if, according to present medical knowledge, they can be cured or their condition considerably improved by treatment in a neutral country (altitude, treatment in sanatoria, etc.)"

The text of the 1929 MA and of the PD are the same in substance. The last sentence was added to make clear that the Section applies only to cases of progressive tuberculosis, and to prevent abuses.
(3) - Prisoners of War suffering from diseases requiring treatment of the respiratory, circulatory, digestive, nervous, sensory, genito-urinary, cutaneous or locomotor organs, if such treatment is likely to give better results in a neutral country than in captivity.

(2) - (1929 MA) - "All forms necessitating treatment of affections of the respiratory, circulatory, digestive, genito-urinary or nervous organs, of the organs of the senses, or of the locomotive or cutaneous functions, provided that such forms of affection do not belong to the categories necessitating direct repatriation or that they are not acute maladies (properly so called) susceptible of complete cure. The affections referred to in this paragraph are such as admit, by the application of methods of treatment available in the neutral country, of really better chances of the patient's recovery than if he were treated in captivity."

The PD aimed at making the list of diseases more precise than in the 1929 MA, and at not assembling too many diseases in a single Section. The Sub-Commission approved the suggestion, and the revision of the 1929 MA gave rise to new sub-sections (2), (3), (4) and (5).

The beginning of sub-sec. (2) of the 1929 MA, is thus replaced by (3) as above.

(4) - Prisoners of War having undergone nephrectomy during captivity for a non-tubercular kidney disease; those suffering from osteomyelitis, either on the way to recovery or stationary; diabetes mellitus not requiring insulin treatment; exanthematic typhus acquired during captivity.

(4) - (PD) - As above, without the last clause.

These cases were not mentioned in the 1929 MA, and the list in the PD presented to the Sub-Commission was based on the intergovernmental agreements 1) made during the War. These provided for direct repatriation of such patients, since the States had abandoned the idea of accommodation in neutral countries. The Sub-Commission also thought necessary to include "exanthematic typhus acquired during captivity", which the American authorities had considered sufficient grounds for repatriation.

(5) - Prisoners of War suffering from war or captivity neuroses. Cases of captivity neurosis which have not

1) See page 2, note 3).
(5) - (PD) - "Prisoners of War suffering from nervous disorders caused by war or captivity, e.g. the disorder called "barbed wire disease", captivity psychoses or neuroses. All duly certified cases of this kind shall be accommodated in neutral countries, unless their gravity or their constitutional nature makes them eligible for direct repatriation. All cases of captivity psychosis or neurosis which have not recovered after three months' treatment in a neutral country, or which after that time are not clearly on the way to recovery, shall be repatriated."

(2) - (1929 MA) - "Special consideration should be given to nervous troubles, the effective or determining causes of which are the effects of the war or of captivity, such as psychasthenia of Prisoners of War or other analogous cases.

"All duly established cases of this nature must be treated in neutral countries when their gravity or their constitutional character does not render them cases for direct repatriation."

"Cases of psychasthenia of Prisoners of War who are not cured after three months' sojourn in a neutral country, or which after that period are not manifestly on the way to complete recovery, shall be repatriated."

The Sub-Commission recommended the accommodation in neutral countries of all captivity neuroses, but also approved the principle that, as stated above I), all such cases should be eligible for repatriation. This decision was the outcome of prolonged discussion, during which the members considered the drafting of a short and exact definition of captivity psychosis, which gave rise during the War to great divergence of opinion between neutral and national members of MMC.

Asked to give their opinion, the nerve specialists present stated that the idea expressed by the term "barbed-wire psychosis" lacks precision, since this disorder is not caused by isolation from the outside world, but by the necessity of living in community. The specialists stated that a distinction should be made between major and minor cases of captivity psychosis. In the first instance, the patient is in a catatonic condition and must not be left alone. In minor cases, when the patient's state is not likely to improve rapidly, repatriation should be granted to avoid catatonia.

1) See page 14.
The specialists considered that it was comparatively easy for a doctor who had already examined a few cases of this kind to determine the precise nature of the disorder from which the patient is suffering.

In view of these explanations and the fact that cases of captivity neurosis were relatively few (32 cases out of 200,000 PoW in America, for instance), the Sub-Commission decided not to attempt a detailed definition of captivity psychosis and to recommend accommodation in a neutral country for all PoW suffering from nervous disorders due to captivity and which are not psychoses.

(6) - All Prisoners of War suffering from chronic intoxication (by gases, metals, alkaloids, etc.), for whom the prospects of cure in a neutral country are especially favourable.

Sub-section (4) of the Model Agreement, namely:

(4) - "All duly established cases of malaria which do not show organic deterioration clinically ascertainable (chronic enlargement of the liver or spleen, cachexy, etc.), if sojourn in a neutral country offers particularly favourable prospects of final cure" was deleted for the same reasons as those mentioned with regard to malaria 1).

The following shall not be accommodated in neutral countries.

(1929 MA) - "The following are excluded from accommodation in a neutral country."

(1) - All cases of duly established mental disorder.

(1) - (1929 MA) - As above.

(2) - All cases of organic or functional nervous disease considered to be incurable.

(2) - (1929 MA) - "All organic or functional nervous affections which are reputed to be incurable. (These two categories belong to those which entitle to direct repatriation)."

The Sub-Commission omitted the last clause of the Model Agreement, since this repetition seems unnecessary.

1) See above, p. 16.
(3) - Cases of serious chronic alcoholism.

(3) - (1929 MA) - "Grave chronic alcoholism."

Although cases of PoW suffering from alcoholism are rare, the Sub-Commission decided to keep this clause, so as to avoid the inconvenience caused to neutral countries by the accommodation of serious cases of this nature.

(4) - All cases of contagious disease during the period in which the disease is transmissible, with the exception of tuberculosis.

(4) - (PD) - "All cases of contagious disease during the period in which the disease is transmissible: acute contagious diseases except tuberculosis, primary and secondary syphilis, exanthematic typhus, leprosy."

(4) - (1929 MA) - "All contagious affections during the period when they are transmissible (acute infectious diseases, primary and secondary syphilis, trachoma, leprosy, etc.)"

The Sub-Commission amended the wording of this Sub-section so as to avoid unnecessary enumeration. It confirmed the exception made in the case of tuberculosis, and made this point clearer in the text.

CHAPTER III

General Observations.

(1929 MA) - As above.

(1) - The conditions laid down above shall, in general, be interpreted and applied in the broadest possible spirit. Neuropathic and psychopathic conditions caused by war and captivity, furthermore, cases of tuberculosis of any degree shall benefit particularly by such liberal interpretation. Prisoners of War having sustained several injuries, none of which considered singly would justify repatriation, shall be examined in the same spirit, account being taken of the mental trauma due to the number of injuries.
Part II, chap. III.

(2) - All undisputed cases giving the right to direct repatriation (amputation, total blindness or deafness, active pulmonary tuberculosis, mental disease, malignant growths) shall be examined and repatriated as a matter of course by the Camp Doctors or by Military Medical Commissions appointed by the Detaining Power.

(3) - Injuries or diseases acquired before the war which have not become worse, and also war injuries which have not prevented subsequent military service, do not entitle to direct repatriation.

(4) - The above stipulations shall be interpreted and applied in a similar manner in all belligerent countries. To this end, the Mixed Medical Commissions must be able to rely on the support of the responsible authorities and departments.

(5) - The examples given above in Chapter II represent typical cases only. Those not corresponding exactly to these stipulations shall be judged in the spirit of, and in accordance with the guiding principles embodied in the present Agreement.

(1) - (PD) - "The conditions laid down above shall, in general, be interpreted and applied in the broadest possible spirit. The Mixed Medical Commissions shall endeavour to secure their identical application in all belligerent states.

"Neuropathic and psychopathic conditions caused by war and captivity (prisoner of war psychosis or neurosis), furthermore cases of tuberculosis of any degree (except primary tuberculosis already cured) shall benefit particularly by such liberal interpretation. PoW having sustained several injuries, none of which, considered singly, justify repatriation, shall be examined in the same spirit, account being taken of the mental trauma due to the number of injuries.

"All undisputed cases (amputation, total blindness or deafness, active pulmonary tuberculosis, mental disease, malignant growths) shall be examined and repatriated directly by the Camp Doctors or by Military Medical Commissions appointed by the Detaining Power. All injuries or diseases acquired before the war, and also war injuries which have not prevented PoW, after recovery, from performing military service of any description, do not make him eligible for repatriation.

"Final Provisions - The examples given above in Chapter II represent typical cases only. Those not corresponding exactly to these stipulations shall be judged in the spirit of, and in accordance with the guiding principles embodied in the present Agreement."
"The conditions stated above must, in a general way, be interpreted and applied in as broad a spirit as possible.

"This breadth of interpretation must especially be applied in neuropathic or psychopathic cases, caused or aggravated by the effects of war or captivity (psychasthenia of prisoners of war), and in cases of tuberculosis of all degrees.

"It is obvious that Camp Doctors and Mixed Medical Commissions may find themselves faced with many cases not mentioned amongst the examples given under Section II above, or with cases that cannot be assimilated to these examples. The above-mentioned examples are only given as typical examples; a similar list of surgical disabilities has not been drawn up because, apart from cases which are indisputable on account of their very nature (amputations), it is difficult to draw up a list of specified types; experience has shown that a list of such specified cases was not without inconvenience in practice.

"Cases not conforming exactly with the example quoted shall be determined in the spirit of the guiding principles given above."

The authors of the PD had redrafted Chapter III of the Model Agreement on the basis of the amendments suggested during the 1945 Meeting. The proposed text did not, however, entirely satisfy the Sub-Commission, who placed under the heading "General Observations" five important points which, in accordance with the recommendations made by the 1945 Meeting, and founded on experience gained during the War, should in any case be added.

When taking up these five points, the Meeting took into account the following:

Re (1) - The 1945 Meeting had recommended that the idea expressed by the terms of the 1929 MA, "in as broad a spirit as possible" should be as clearly defined as might be. 1) Although not giving an exact description of "broadness of spirit", the wording now adopted clarifies the idea by quoting as a practical example the case of PoW who have sustained several injuries, none of which, taken singly, make them eligible for repatriation.

1) See No. 1, p. 19.
Re (2) - Wounded and sick who are manifestly eligible for direct repatriation, may be subjected to harmful delays, e.g. by having perhaps to await the arrival of a MMC before being sent home. To avoid this contingency the meeting considered it advisable to state that this class of PoW shall be examined and repatriated automatically by Camp Doctors or by Military Medical Commissions appointed by the Detaining Power. This clause follows indirectly a recommendation of the 1945 Meeting to the effect that it is advisable to exclude action by Mixed Medical Commissions in cases where the Detaining Power voluntarily agrees to send PoW Home. 1)

Re (3) - In confirmation of a recommendation of the 1945 Meeting 2), the Sub-Commission considered it necessary to provide in the Model Agreement for the case of PoW suffering from disorders acquired before enlistment. Such PoW shall not be repatriated as long as their injuries or diseases have not grown worse.

Re (4) - This new Section was introduced by the authors of the FD in order to obviate the numerous difficulties encountered during the War by the Chairmen of MMC, who were unable to exchange views as regards the application of the Model Agreement. The Sub-Commission, for purely medical reasons, preferred to insert this clause into Chapter III of the Model Agreement, rather than, as first contemplated, embody it in a recommendation for the revision of Art. 83, Section 3, and Art. 87 of the PoW Convention.

In order to facilitate the identical application and interpretation of the Agreement in all countries, the Meeting thought it indispensable to mention the support which must be granted to Mixed Medical Commissions by all responsible authorities.

1) See No. 1, p. 21.
2) See No. 1, p. 18.
PART III

REVISED MODEL DRAFT AGREEMENT
RELATIVE TO DIRECT REPATRIATION AND ACCOMMODATION IN
NEUTRAL COUNTRIES OF WOUNDED AND SICK PRISONERS OF WAR.

CHAPTER I

Leading Principles governing Direct Repatriation
and Accommodation in Neutral Countries.

A) - Direct Repatriation.

The following shall be repatriated direct:

(1) - The incurably wounded and sick whose mental or physical
powers have been considerably reduced.

(2) - Wounded and sick whose mental or physical faculties have
considerably decreased and whose recovery within a year
from the date of the injury or the onset of the disease
appears - in spite of treatment - improbable.

(3) - Wounded and sick who have recovered, but whose mental
or physical faculties have been considerably and permanent­
ly impaired.

B) - Accommodation in Neutral Countries.

The following shall be accommodated in neutral
countries:

(1) - Wounded and sick whose recovery may be expected within
the year following the date of the injury or by the ap­
pearance of the disease, if treatment in a neutral coun­
try seems likely to lead to a more certain and quicker
recovery.

(2) - Prisoners of War whose mental and physical health is,
according to medical opinion, seriously menaced by con­
tinued captivity, whereas accommodation in a neutral
country might preserve them from this risk.
C) - Repatriation of Prisoners of War accommodated in Neutral Countries.

The following shall be repatriated from neutral countries:

(1) - Prisoners of War whose state of health has deteriorated, so as to fulfil the conditions laid down for direct repatriation.

(2) - Prisoners of War whose mental or physical powers remain, even after treatment, considerably impaired.

CHAPTER II

Special Principles governing Direct Repatriation or Accommodation in Neutral Countries.

A) - Direct Repatriation.

The following shall be repatriated directly:

(1) - All wounded Prisoners of War suffering from definite lesions, equivalent to, at least, the loss of one hand or one foot, as for instance:
   (a) loss of one hand, or of all the fingers, or of the thumb and forefinger of one hand;
   loss of one foot, or of all the toes and metatarsal bones of one foot.
   (b) Ankylosis, loss of bony tissue, contracture due to scar, abolishing the functions of one of the large articulations or of all the finger-joints of one hand;
   (c) Pseudarthrosis of the long bones.
   (d) Shortening of a leg by more than 5 centimetres

(2) - All wounded Prisoners of War whose condition has become chronic in so far as medical prognosis appears to preclude recovery - in spite of treatment - within a year from the date of injury, for instance cases of:
   (a) Projectile in the heart, even if the Mixed Medical Commission should fail, at the time of their examination, to notice any serious disorder;
(b) Metallic splinters in the brain or lungs, even if the Mixed Medical Commission should be unable, at the time of their examination, to discover any local or general reaction;

(c) Osteomyelitis, when recovery cannot be expected in the course of the year following the injury, and which will probably lead to ankylosis of a joint, or to other impairments equal to the loss of a hand or a foot;

(d) Penetrating and suppurating injury to the large joints;

(e) Injury to the skull, with loss or displacement of bone;

(f) Injury or burn of the face with loss of tissue and impairment of function;

(g) Injury to the spinal cord;

(h) Injury to the peripheral nerves, resulting in disablement equivalent to the loss of a hand or foot, and the cure of which will require more than a year from the date of injury, e.g., injury to the brachial or lumbo-sacral plexus; to the median or sciatic nerves, as also combined injury to the radial and cubital nerves or to the lateral popliteal nerve (N. peronaeus communis) and medial popliteal nerve (N. tibialis). The isolated injury of the radial (musculo-spiral), cubital, lateral or medial popliteal nerves do not, however, justify repatriation except in cases of contracture or of serious trophoneurotic disturbance;

(i) Injury to the urinary apparatus; fistula, loss of vesical tissue.

(3) All sick Prisoners of War whose condition has become chronic in so far as prognosis appears - in spite of treatment - to preclude recovery within one year following the onset of the disease, for instance:

(a) All forms of progressive tuberculosis which, whatever the organ affected, can neither be cured nor improved by treatment in a neutral country; all cases of pulmonary tuberculosis having shown active symptoms during captivity;

(b) Pleurisy with effusion, occurring during captivity;

(c) Non-tubercular diseases of the respiratory organs, regarded as incurable, or recurring; advanced pulmonary emphysema, with or without bronchitis; chronic asthma *; chronic bronchitis * having lasted more than one year in captivity; bronchiectasis *; etc.
(d) Serious chronic diseases of the circulatory system; valvular lesions and myocarditis *, having shown symptoms of circulatory failure during captivity, even if the Mixed Medical Commission should be unable to detect any of these symptoms at the time of their examination; diseases of the pericardium and blood-vessels (Buerger's disease, aneurism of the large blood-vessels);

(e) Serious chronic diseases of the digestive organs; gastric or duodenal ulcer confirmed clinically or by X-ray examination; sequelae of gastric operations performed during captivity; chronic gastritis, enteritis, or colitis, having lasted over one year and seriously affecting the patient's general health; cirrhosis of the liver; chronic cholecystopathy *

(f) Serious chronic diseases of the genito-urinary organs; cases of chronic nephritis having lasted over one year with secondary results; nephrectomy for tubercular kidney; chronic pyelitis and cystitis; hydronephrosis and pyonephrosis;

(g) Serious chronic diseases of the central and peripheral nervous systems *; such as all obvious mental diseases duly diagnosed by a specialist *; cerebral arteriosclerosis; all forms of idiopathic or traumatic epilepsy duly diagnosed by the Camp Doctor *; severe hysteria; captivity psychosis; chronic neuritis of more than one year's duration,

(h) Serious chronic disturbances of the vegetative nervous system, with considerable diminution of mental or physical powers, appreciable loss of weight, and general asthenia;

(i) Diseases of the eye, e.g. unilateral amaurosis, even if the vision of the other eye remains normal; diminution of visual acuity which is incapable of correction to one-half, for at least one eye *; glaucoma; iritis; choroiditis; trachoma;

(k) Diseases of the ear, such as: complete deafness of one ear, if the other ear cannot hear ordinary speaking voice at a distance of one metre *

(l) Serious disorders of metabolism, such as diabetes mellitus requiring insulin treatment;

(m) Serious disorders of the endocrine glands, e.g. thyreotoxicosis, hypothyroidism, Addison's disease, Simmonds' cachexia, tetany, etc.;

(n) Chronic diseases of the blood;

(o) Serious forms of chronic intoxication, e.g. lead poisoning, mercury poisoning, morphinism, cocaïnism, alcoholism, etc.; poisoning by gas or by radiations;
(p) Chronic diseases of the locomotor organs, with obvious impairment of their functions; arthritis deformans; chronic progressive polyarthritis (primary and secondary); rheumatism with marked clinical symptoms;

(q) Chronic and serious skin diseases, not amenable to treatment;

(r) All malignant growths;

(s) Serious chronic infectious diseases, having lasted one year after onset, e.g. malaria with chronic blood-changes and marked cachexia; amoebic and bacillary dysentery with serious symptoms; tertiary syphilis; leprosy;

(t) Serious avitaminosis.

B) - Accommodation in Neutral Countries.

The following shall be accommodated in neutral countries:

(1) - All wounded Prisoners of War who have better prospects of recovery in a neutral country than in captivity;

(2) - Prisoners of War suffering from any form of tuberculosis of any organ, and whose treatment in a neutral country might - according to present medical knowledge - lead to recovery, or at least to considerable improvement. Excluded are all cases of primary tuberculosis cured before captivity;

(3) - Prisoners of War suffering from diseases requiring treatment of the respiratory, circulatory, digestive, nervous, sensory, genito-urinary, cutaneous, or locomotor organs, if such treatment is likely to give better results in a neutral country than in captivity;

(4) - Prisoners of War having undergone nephrectomy during captivity for a non-tubercular kidney disease; those suffering from osteomyelitis, either on the way to recovery or stationary; diabetes mellitus not requiring insulin treatment; exanthematic typhus acquired during captivity;

(5) - Prisoners of War suffering from war or captivity neuroses. Cases of captivity neurosis which have not recovered after three months' treatment in a neutral country, or which after that time are not clearly on the way to recovery, shall be repatriated.
(6) - All Prisoners of War suffering from chronic intoxication (by gases, metals, alkaloids, etc.), for whom the prospects of recovery in a neutral country are particularly favourable.

The following shall not be accommodated in neutral countries:

(1) - All cases of duly established mental disorder;

(2) - All cases of organic or functional nervous disease considered to be incurable;

(3) - Cases of serious chronic alcoholism;

(4) - All cases of contagious disease during the period in which the disease is transmissible, with the exception of tuberculosis.

CHAPTER III

General Observations.

(1) The conditions laid down above shall, in general, be interpreted and applied in the broadest possible spirit. Neuropathic and psychopathic conditions caused by war and captivity, furthermore, cases of tuberculosis of any degree, shall benefit particularly by such liberal interpretation. Prisoners of War having sustained several injuries, none of which considered singly would justify repatriation, shall be examined in the same spirit, account being taken of the mental trauma due to the number of injuries.

(2) All undisputed cases giving the right to direct repatriation (amputation, total blindness or deafness, active pulmonary tuberculosis, mental disease, malignant growths) shall be examined and repatriated as a matter of course by the Camp Doctors or by Military Medical Commissions appointed by the Detaining Power.

(3) Injuries and diseases acquired before the war and which have not become worse, and also war injuries which have
not prevented subsequent military service, do not entitle to direct repatriation.

(4) The above stipulations shall be interpreted and applied in a similar manner in all belligerent countries. To this end, the Mixed Medical Commissions must be able to rely upon the support of the responsible authorities and departments.

(5) The examples given above under (II) represent typical cases only. Those not corresponding exactly to these stipulations shall be judged in the spirit of, and in accordance with the guiding principles embodied in the present Agreement.

*Foot-note.*

In respect of these cases, the Commission's decision shall be based, to a large extent, on the records kept by Camp Doctors and Prisoner Doctors of the same nationality, or on the examinations by specialists of the Detaining Power.