INTERNATIONAL COMMITTEE OF THE RED CROSS

REPORT

on the Meeting of Neutral Members

of the Mixed Medical Commissions

Geneva, September 27 - 28, 1945

Geneva,
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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.

INTRODUCTION

In pursuance of the preparatory work for the revision of the humanitarian Conventions, the International Committee of the Red Cross, following suggestions made by several members of the Mixed Medical Commissions 1)(mainly by Col. A. d'Erlach), convened all neutral members of MMC then in Switzerland, to a study meeting in Geneva. On the grounds of the experience gained by its members, the meeting was to examine the possible revision of the 1929 Convention relative to the Treatment of Prisoners of War, in so far as MMC are concerned.

The International Committee took this welcome opportunity of consulting a number of neutral and qualified members of MMC on the whole Chapter of the 1929 Convention which concerns Direct Repatriation of seriously ill and disabled Prisoners of War (Articles 68 et sqq).

This preliminary and consultative meeting took place in Geneva on September 27 and 28, 1945. The following Swiss practitioners who had been members of MMC in the countries indicated in brackets, were present:

Dr E. Amrein (Germany, Canada and USA);
Dr Th. Brunner (Germany);
Dr Alec Cramer (Germany);
Dr A. d'Erlach (Germany, Italy and North Africa);
Dr H. von Fischer (Germany);
Dr Hans Fuchs (Germany, Italy and North Africa);
Dr Werner Greuter (Italy);
Dr Werner Grüninger (Germany, Canada and USA);
Dr H. Jaeger (Canada and USA);
Dr J.M. Rubli (Germany, Canada and USA);
Dr Hüthishauser (Canada and USA);
Dr E. Stern (Germany);
Dr K.M. Walthard (Germany and USA);
Dr P. D. de Watteville (Germany).

1) Hereinafter called "MMC".
The International Committee also invited the Swiss Federal Political Department, which was represented by M. E. de Haller, Federal Delegate to International Relief Organizations, and by M. Janner, of the Division for Foreign Interests. Col. P. Volkmann, head of the Federal Health Service and former Chief Medical Officer of the Swiss Army, also took part in the debates.

The International Committee delegated those of its members and staff who were particularly interested in the matter.

The Chair was taken by M. Max Huber, Acting President of the International Committee, and by M. J. Pictet, Assistant Secretary-General. Col. A. d'Erlach was elected Vice-Chairman and conducted the professional part of the debates.

The chief data furnished consisted of a detailed Agenda 1), handed to the members a week before the sittings and drawn up by the International Committee on the basis of written opinions supplied by Col. A. d'Erlach, by Lt.-Col. Grüninger and by the Swiss Federal Political Department.

This Agenda, which served as a basis for the debates, also provides the main lines of the present Report. The said Report will be submitted to all former members of MMC who are resident abroad and were unable to attend the meeting of September 27. These members will be asked to submit their written views and suggestions.

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Section I

MIXED MEDICAL COMMISSIONS

Chapter I.- Membership of the Commissions

The 1929 Convention lays down in Art. 69 that "these Commissions shall consist of three members, two of whom shall belong to a neutral country and one appointed by the detaining Power; one of the medical officers of the neutral country shall preside".

1) Hereinafter called "the Agenda".
1.- Number of Members.

The Agenda stated that the composition of MMC as fixed by the Convention (two neutral members and one belligerent) had met with no criticism. It therefore did not appear necessary to amend it.

The meeting adopted this point of view unanimously. 1)

2.- Special Cases.

During the second World War it was sometimes impossible to find on the spot, in distant countries, a sufficient number of neutral practitioners qualified to constitute MMC. In cases of this kind, the belligerent Powers agreed to set up either a Medical Commission of doctors of the detaining Power only, or Commissions consisting of one neutral practitioner having two votes, and one medical officer of the belligerent Power. The Agenda advised against embodiment in the Convention of such an exceptional course, which does not offer the same guarantees of impartiality as the procedure laid down in the Convention.

This view was shared by the meeting.

3.- Selection of Chairmen.

The Agenda stated that the nomination of Chairmen of Commissions had apparently met with no difficulties, but that a clear ruling as to procedure would be advisable.

While confirming the fact that nomination of Chairmen had met with no difficulties, the Meeting recommended that the body responsible for the nomination of Commissions 2) should also designate the Chairmen, due regard being paid to seniority, rank, capacity and to the preferences of the neutral members of each Commission.

Attention was drawn to the fact that seniority and rank should not form the only tests, since younger members may possess, for the particular duties on a Commission, qualifications as great as those of older colleagues.

1) See page 12
2) See page 7
Chapter II.-- Constitution of Commissions

The Convention says practically nothing on this point; it merely states, in Art. 69, that "On the opening of hostilities, belligerents shall come to an understanding as to the appointment of mixed medical commissions".

1.-- Time-limit for Constitution and Functioning.

The Agenda pointed on that as a rule, particularly in distant colonies, belligerents had waited until a large number of wounded and sick PoW were in their hands, before taking any steps to set up Commissions, and that the comparatively long time required delayed matters still further. The Meeting was therefore asked if it did not think advisable that the Convention should name a definite lapse of time within which belligerents should set up a Commission.

The Meeting considered indispensable to lay down in the Convention that the said Commissions shall be appointed and set to work within three to six months after the outbreak of hostilities.

The Meeting rejected a proposal of a member that the Convention should indicate the minimum number of PoW required to determine the functioning of the Commission in a given country. The Meeting thought that, on grounds of humanity, the MMC must be in a position to begin work as soon as PoW request it, irrespective of their number.

2.-- Deputy Members.

The Agenda stressed the fact that the activity of several Commissions had been hampered by death, absence or resignation of members. It would doubtless be advisable to make a rule of the frequent practise of nominating at the outset, besides titular members, a sufficient number of neutral and belligerent deputies.

This proposal was passed without discussion.

3.-- Nominating Agency.

The Agenda pointed out the serious drawback, during the War, of the Convention giving no indication concerning the body which should nominate neutral members and propose to belligerent States the appointment of MMC. This led to omissions, misunderstandings and unnecessary duplication of work.
The nominating body was sometimes a Protecting Power, sometimes the International Committee of the Red Cross, and sometimes both, acting in agreement.

It therefore appears necessary to provide in the revised Convention for a body entrusted with the nomination of the neutral members of MMC. The International Committee submitted the following four suggestions to the Meeting:

(a) In each case, it shall be incumbent on the Protecting Power acting for the adversary of the country where a Commission is to be set up, to nominate neutral members (e.g. the Protecting Power for the interests of State A on the territory of State B would have to nominate the neutral members of the Commission called upon to examine in State B, PoW who are nationals of State A). This course might encounter difficulties due to the number of Protecting Powers, further to the fact that neutral States may have, in the course of the war, to abandon their neutrality, and lastly, that there is sometimes no recognized Protecting Power for certain States.

(b) In all cases, the nomination shall be incumbent on the International Committee. This course would have the advantage of setting up a single and permanent body, which would fail only if Switzerland was drawn into the conflict. However, the International Committee is not so well placed as a State, as regards the finding of candidates abroad. While submitting this suggestion, the International Committee specified that they had no desire, for their part, to be necessarily charged with additional tasks.

(c) The International Committee would nominate neutral members, on the proposal of the Protecting Power concerned. This course would combine the existence of a single and permanent body with the facilities enjoyed by Protecting Powers in the search for candidates, and in securing for their nationals certain advantages (military rank, pay, immunities, etc).

(d) The Convention might provide for the setting up of an ad hoc agency. A Council might conceivably be created, to include representatives of the Protecting Powers concerned, or even of the belligerents themselves, and to which a representative of the International Committee might be joined.

Whatever scheme might be preferred, the Agenda suggested that an alternative should be provided for in the Convention, in case the political or military situation rendered the main solution impracticable and in particular precluded the International Committee's participation.
One of the members proposed a fifth possibility: the designation of some neutral State chosen by the PoW’s home country. This proposal was, however, rejected by the Meeting as a main solution; it was felt that it would hardly simplify matters and would involve more drawbacks than the other solutions. However, the idea was borne in mind as an alternative (see below).

It was pointed out, furthermore, that the status of neutrality might perhaps no longer preserve its traditional character in the future organization of peace; the procedure for the nomination of members of MMC should therefore envisage the possible existence of an inter-state organization.

The Meeting decided to defer the study of this question, since it was not feasible to prejudge the future, and it as moreover preferable to leave the States to decide matters of this kind.

The Meeting was of the opinion that the Convention should provide for an agency entrusted with the nomination of the neutral members of MMC, and the constitution of the latter.

It was decided, against a single dissentient vote, to adopt solution (c), i.e. that the International Committee should be invited to nominate the neutral members, on the proposal of the Protecting Power concerned.

Furthermore, the Meeting advised the adoption of a two-fold alternative solution: in the absence of any Protecting Power, the International Committee to undertake the whole task; should the International Committee not be in a position to act, the nominating body to be a neutral State selected by the PoW’s home country.

4. - Agrément of Powers concerned.

It was explained in the Agenda that, during the War, the nominating agency chosen by the belligerents (Protecting Power or International Committee) first attempted to find in Switzerland or elsewhere, medical practitioners having the required professional qualifications and offering guarantees of entire impartiality. The nominating agency then submitted their names and a short curriculum vitae, to the agrément of the Detaining Power, and subsequently to that of the PoW’s home country. In some cases, to save time, these two agréments were requested simultaneously. Some belligerents considered however, that agrément by the home country was superfluous when the International Committee had nominated the candidate.
The Committee, however, maintained their view that the custom of twofold agrément should be retained, and even expressly provided for in the Convention. Even if a certain loss of time is caused thereby its advantages are considerable.

The Meeting decided to recommend the introduction of twofold agrément into the Convention.

Chapter III.- Supervisory and Coordinating Body

1.- Definition.

The Agenda stressed the numerous difficulties due to the silence of the Convention regarding the position of neutral members of MMC in respect of belligerent States and the nominating agency. Neutral members were in fact often ignorant to whom they were responsible, from whom they must take instructions, to whom their reports and the lists of men due for repatriation should be sent, and often even who was responsible for the allowances to which they were entitled (pay, insurance, etc.). Moreover, no agency was empowered to coordinate their work in the various countries.

It would therefore be advisable in the future to provide for a supervisory body, to which neutral members of MMC would be solely responsible, and which would receive their reports. This body would, moreover, coordinate the work of the various MMC, centralize the result of their labours and the suggestions made by their members, and control the application by the various MMC of uniform criteria.

The Meeting was of the opinion that the Convention should provide for the existence of such a supervisory and coordinating body, whose functions would be entrusted to the nominating agency recommended in the preceding Chapter, namely the International Committee of the Red Cross.

As suggested by one of the members, this body would also be invited to forward to the states concerned the wishes and complaints of neutral members of MMC.
2.- Autonomy of the Commissions.

The Meeting approved the principle, laid down in the Agenda, that neutral members of MMC should enjoy complete independence as regards belligerent States. On the other hand, the Detaining Power should grant them all facilities in the accomplishment of their duties. 1)

3.- Powers of Investigation.

The Meeting was asked, in the Agenda, whether neutral members of MMC should be given powers of investigation in camps, to verify whether all PoW thereto entitled had been brought up for examination. This point gave rise to prolonged debate.

Some of the members recommended that neutral members of MMC should be invested with such powers and hold enquiries with the support of the spokesman, the Prisoner M.O., and the Camp M.O. 2). To this end, it was proposed to adopt a clause that "Mixed Medical Commissions and their Chairmen are empowered, if necessary, to verify that all PoW due for examination by them appear on the lists drawn up to this effect, and are brought up before the Commissions".

In support of this proposal, it was stressed that in some countries, especially when the MMC had to alter their routes, some of the PoW due for examination were absent from camp at the time of the visit. Some of the members present reported that on entering hospitals, they had themselves discovered men eligible for repatriation whose names were not on the lists, and therefore would not have been examined. As much as a year can elapse before a Commission returns to the same camp. Contrary to the theory, set out more fully below, that powers of investigation should be restricted to delegates of the Protecting Powers and of the International Committee, it was noticed that the visits of MMC to camps sometimes took place very shortly after those of the above delegates. Several months perhaps would therefore elapse before the fact could be remedied that wounded or sick PoW had not been examined by the Commission.

Members present stressed, moreover, that in their opinion States might easily be led to recognise in the Convention the right of members of MMC to such investigation; in some countries, a few words of explanation had persuaded responsible

1) See pages 11 and 13.

2) During the recent War, most belligerent States agreed to detain in camps PoW medical officers for the care of their nationals. It thus became an established custom to entrust one of these detained M.Os (hereinafter called "Prisoner M.O.") with important duties besides the "Camp M.O.", national of the Detaining Power. See pages 24 and 28 regarding the role of "Prisoner M.Os".
military authorities to admit this principle. Sometimes the authorities were not themselves clear which categories of PoW should be included in the lists, and were even grateful for the assistance of members of MMC.

Other members present expressed the contrary view; they considered that the right of investigation should be restricted to delegates of the Protecting Powers and of the International Committee, whose duty it is to supervise the application of the Convention. They pointed out the risk incurred by overburdening the Powers with obligations; should a belligerent State wish to evade Convention provisions, a stipulation such as the above was not likely to prevent it. Moreover, it was difficult to see how the members of MMC could exercise their right of investigation, when many PoW are scattered in labour detachments, many of them far distant from the main camp. In spite of the gap in the Convention, members of MMC were always at liberty to interview the Prisoner M.O. and the spokesman, and thus to ascertain whether all PoW entitled to an examination have appeared.

Finally, by a majority of nine to six, the Meeting decided not to recommend the insertion into the Convention of a provision conferring powers of investigation to the members of MMC.

4.- Lists of Men passed for Repatriation.

The Agenda suggested that the lists of PoW stated by the MMC to be passed for repatriation, drawn up by the Detaining Powers according to a uniform model, should be communicated to the supervisory body, for transmission to the adverse party. It would devolve on the Powers, with the assistance of supervisory body, to ensure that all PoW on such lists should in point of fact be repatriated.

While approving this suggestion, the Meeting held that it should also be provided that Chairman of MMC should receive from the Detaining Power several copies of the lists, and that they should forward one to the Protecting Power concerned, for transmission to the home Government.

The debates having made clear the necessity of drawing up lists of a uniform type, the Meeting was asked to put forward practical suggestions.

A model list, drafted by Col. A. d'Erlach, was approved by the Meeting and will be found in annexe.
5.- Certificates.

Some of the members present considered that PoW passed for repatriation should be given a personal certificate allowing them to secure recognition, in all circumstances, of their rights. The certificate forms, also of a uniform type and showing all necessary data for identification purposes, should be furnished by the Detaining Power to the Chairmen of MMC. The latter would hand them duly filled in and immediately after the Commission's decision, to the PoW entitled to repatriation.

The Meeting approved the above suggestion.

It was particularly recalled that in Italy, at the time of the 1943 Armistice, Allied sick and wounded PoW fell into the hands of the German forces after having been examined by the MMC operating operating in Italy. The German authorities stated their willingness to recognize the decisions of the MMC and to send home the PoW it had selected, provided that documentary evidence of their right to repatriation be produced. The International Committee and the Swiss Government encountered very serious obstacles in dealing with this matter, and repatriation of these PoW was in consequence greatly delayed.

Chapter IV.- Status of Commissions and Organization of their Work

1.- Regulations.

The Agenda drew attention to the fact that the Convention says nothing about the status of MMC and the organization of their work. Serious inconvenience resulted thereby during the War. The Agenda recommended the adoption of clear and precise rules which would allow the application of a uniform system in the various countries. The International Committee left the question open, whether to embody such principles in the Convention or, if this course proved too cumbersome, to draft separate regulations. The latter might either form an annexe to the Convention, for reference, as in the case of the Model Agreement, or merely be communicated by the nominating and supervisory agency to the States concerned and to the members of MMC.

The Meeting considered that it would be necessary to draft detailed regulations, defining the status of MMC and the organization of their work, while leaving the question open whether these rules should be embodied in the Convention, or not.
It was pointed out that such regulations would not only serve as a valuable guide to members of MMC, but would also clearly inform the detaining authorities, especially camp commanders, of the exact functions of MMC, thus facilitating the latter's task.

2. Status of Commissions.

The Meeting thought that it was essential to decide for the future to what body neutral members of MMC should be subordinate, and what agency should ensure their protection abroad and their return home.

The Meeting endorsed the view that neutral members of MMC should be subordinate to the nominating and supervisory agency. It recommended that Detaining Powers should grant them all facilities, including diplomatic privileges and immunities. 1) Their speedy return home should always be ensured by the Powers concerned. The protection of neutral members abroad devolves on the diplomatic representatives of their home country. It was recommended that neutral members of MMC should be allowed to use the diplomatic pouch of their country of origin.

During the debates, a proposal was rejected that neutral members of MMC should, when abroad, be subordinate to the military attaché of their home countries.

The former Chief Medical Officer of the Swiss Army stressed the fact that Swiss M.Os serving on MMC were no longer subordinate to the Army, from the time they took up their duties. They should, from then on, be subordinate to the nominating and supervisory agency.

It was suggested that neutral members should have a status sui generis, for example, like the judges of the Permanent International Court at the Hague, conferring diplomatic privileges and immunities.

The speedy return home of neutral members of MMC should always be ensured by the Powers concerned (detaining country, adverse party, transit country), more particularly if they happened to fall into the hands of another belligerent, or if the neutral country of which they are nationals were drawn into the war.

1) See pages 8 and 13.
3. Recruiting of Neutral Members.

(I) The Meeting recommended unanimously that the candidates selected should, as far as possible, be military and not civilian practitioners.

(II) The Meeting further advised the choice, as far as possible, of neutral practitioners resident in their home country, as opposed to those resident on the territory of the Detaining Power.

It was pointed out, in support of this rule, that neutral practitioners resident in their home country were more likely to be impartial than neutral practitioners already resident in the detaining country. It was stressed, moreover, that medical men resident in their own country would find it easier to make direct contact with their colleagues serving on other MMC, as also with the supervisory agency, and that such contact had already proved useful.

The Meeting agreed, however, that this rule might be subject to exceptions in the case of distant countries, or those difficult of access.

(III) The Meeting recommended that one of the neutral doctors serving on each Commission should be, if possible, a surgeon and the other a general practitioner.

After prolonged debate, the Meeting was clearly of opinion that, from the medical point of view, there were as many reasons for desiring the presence of a surgeon on each Commission as of a general practitioner.

(IV) The Meeting considered that the Army Medical Corps of neutral countries could greatly facilitate the recruiting of neutral members by drawing up a preliminary list of qualified doctors prepared to serve on MMC. These lists would be kept available to Protecting Powers and to the International Committee.


(a) Pay. The Meeting was of opinion that the pay to which neutral members are entitled should be issued to them by the supervisory body; the latter would claim reimbursement from the Detaining Powers.

(b) Insurance. The usual insurance policies (life, health, accidents) should be taken out in behalf of neutral members by the supervisory body, who would claim reimbursement of such outlay from the Detaining Powers.
(c) Travelling Expenses.- These should be refunded to neutral members by the Detaining Powers. The supervisory body should ensure that this is done.

(d) Dress.- The Meeting was unanimously in favour of neutral members wearing the military uniform of their home countries.

It was stressed that neutral members, whose work necessitates constant contact with officers of the Detaining Power, would enjoy greater authority in uniform.

The suggestion that neutral members should wear a special badge on their uniform was rejected by a majority.

The supervisory body should notify the Detaining Powers that neutral members will wear uniform.

5.- Facilities to be granted by the Detaining Power.

Besides the privileges mentioned above 1), the Meeting was of the opinion that the Detaining Power should provide accommodation and maintenance for neutral members on its territory.

The Detaining Power should also furnish MMC with the necessary staff to accompany and assist them in the carrying out of their duties.

The Meeting considered it superfluous to specify the composition of this staff. It was suggested that it might include an officer to accompany the Commission, a medical officer as secretary, and an interpreter.

The Meeting was of the opinion that the Detaining Power should, furthermore, furnish all useful medical data to the MMC to assist them in forming an opinion on the candidates brought before them.

It was specified that the Chairman of the MMC should be empowered to insist on fresh clinical examinations (X-ray, etc) being made before the Commission's next visit.

It was recommended that the list of documents which the Detaining Power shall furnish be indicated in any future regulation.

6.- Role of Chairmen.

The following proposal, made by one of the members present, and defining the role of the Chairman, was adopted.

1) See page 11.
The Chairman supervises the work of the Commission. He collects the results of diagnoses and the reports by Camp M.O. and Prisoner M.O. He checks certificates and other documents.

Acting on proposals made by members of the Commission, he makes the final decision in each case. The decision is signified in the following terms - Yes, No or Adjourned. In the last case, the Chairman may require the PoW to be placed under observation in an appropriate clinic. The Chairman and the other members of the Commission shall, at the close of each session, sign the lists and the certificates of repatriation or accommodation in neutral countries.

On the occasion of the final interviews with the representatives of the military and civilian authorities of the Detaining Power, the Chairman shall submit a report on the Commission's proceedings, including any requests or complaints.

The members of the Commission shall examine applicants for repatriation on the basis of lists, medical certificates and other sources of information such as blood and urine analyses, X-ray charts, etc. They shall submit their diagnoses and suggestions to the Chairman, together with their proposals.

7.- General Remarks.

The Meeting considered that the various questions raised in the Agenda (e.g., methods of examination and testing, comparing of reports of the Camp M.O. and Prisoner M.O., the establishment of lists and certificates, final interview with the detaining Authorities and drafting of the final report) have been already outlined in the preceding chapters, but that they should be examined in detail when preparing draft regulations.

Chapter V. Possible Extension of the Competency of Mixed Medical Commissions

1.- PoW Unfit for Work.

The Agenda stated that, in addition to their specific duties, MMC could usefully constitute a court of appeal for PoW

\[1\] Some of the members present considered that the Chairman alone should be obliged to sign certificates, since this formality involves great loss of time.
who consider themselves physically unfit for the work allotted to them by the Detaining Power, and those health has apparently been affected thereby. The International Committee, however, were of the opinion that great caution should be shown in dealing with a question which would lead to considerable extension of the present powers of MMC.

The Meeting voted against any extension of the competency of MMC to deal with unfit PoW, as such an extension would lie outside the scope of their specific duties. The Meeting recommended, however, that provisions be inserted into the Convention with regard to the physical fitness of working PoW.

The members thought that such provisions could be founded on the following principles:

(a) PoW engaged on compulsory work, especially in Labour Detachments, shall be medically examined twice yearly, to ascertain their general state of health and aptitude for work.

(b) To this effect, the belligerents shall set up, through the intermediary of the Protecting Powers, ad hoc Medical Commissions composed of two neutral practitioners.

(c) The Detaining Power shall ensure that the arrival of these Medical Commissions is notified beforehand in Labour Detachments.

(d) Commanders of Camps and Labour Detachments shall have lists made out of such PoW who are considered by the Camp M.O. or the Spokesman to be unfit for work. Lists may also be submitted by the Protecting Power.

(e) The completed lists shall be handed by the Detaining Power to the ad hoc Commission and to the Protecting Power.

(f) The decisions made by the ad hoc Commission shall be either positive or negative.

(g) PoW passed by the ad hoc Commission as unfit for work shall be transferred to PoW camps or camp hospitals, for thorough medical examination and any necessary treatment.

(h) Such PoW shall be put on a separate list and shall appear before the MMC on their next visit, with a view to possible repatriation or accommodation in a neutral country.
2. Examination of Repatriated PoW.

The Meeting unanimously recommended that the Convention should state the right of MMC to examine, for their information, repatriated PoW in their home countries.

Chapter VI.- Revision of the Model Draft Agreement

1. Amendment of Article 68, Section 2.

Art. 68, Sec. 2, of the 1929 Convention reads as follows: "Agreements between the belligerents shall therefore determine, as soon as possible, the forms of disablement or sickness requiring direct repatriation and cases which may necessitate accommodation in a neutral country. Pending the conclusion of such agreements, the belligerents may refer to the model draft agreement annexed to the present Convention."

The Agenda stated that during the War, belligerents concluded no agreements as to what cases of disablement or sickness were eligible for repatriation or accommodation. They were content simply to adopt the Model Draft Agreement, with the stipulation that cases eligible for accommodation should also be qualified for repatriation.

It was pointed out that if such special agreements could not be concluded, this was doubtless partly due to the impossibility, at the outbreak of war, of assembling qualified representatives of the belligerents concerned, to decide upon the principles governing such agreements.

The Meeting therefore recommended that the Convention should lay down that, in the absence of special agreements between belligerents, the Model Draft Agreement should become ipso facto effective.

2. Necessary Revision of the Model Draft Agreement.

The Agenda called attention to the fact that the Model Draft Agreement no longer corresponded entirely to the conditions of modern warfare; in particular, a great many men who were disabled and liable to repatriation under the Agreement could still continue to contribute to the war effort. On the other hand, the constant progress of modern therapeutics now permits quick recovery in cases formerly considered incurable.
The Meeting unanimously agreed that revision of the Model Draft Agreement was necessary. The International Committee were requested to appoint a Sub-Commission to draft such an amended Agreement.

The Sub-Commission, to be selected chiefly among the medical officers present at the Meeting, including Col. A. d'Erlach, should include, if possible, a surgeon, specialists for internal and nervous diseases, and an oculist. Their work would be based on the proposals put forward by the present Meeting, and on the answers to a questionnaire, to be sent to all neutral members of MMC.

3.- Principles of Revision.

Some of the members present supported the theory that the work of revising the Model Draft Agreement should be entirely subject to the new necessities of modern warfare. In this connexion, it was recalled that during the War, some belligerents enlisted men suffering from diseases which already made them eligible for repatriation, according to the Model Draft Agreement. Further, certain Powers had, despite the Convention, recalled to the forces PoW who had been repatriated on grounds of ill-health.

After a lengthy discussion the Meeting decided that it was beyond its actual powers thus to abandon deliberately the framework of the 1929 Convention. It therefore recommended the establishment of three Draft Agreements, as follows:

(a) Model Draft Agreement allowing both for direct repatriation and for accommodation in neutral countries.

(b) Model Draft Agreement providing for repatriation only, on the supposition that belligerents continue the practice followed during the War, of abandoning accommodation in neutral countries.

(c) Model Draft Agreement to meet all the new necessities of total warfare.

In the event of hostilities and according to the nature thereof, belligerents would have recourse to one or other of the above Agreements.

The Meeting considered that it was impossible, at the present time, to foresee which course would be adopted during future conflicts. It may be that the Powers who sometimes suffered serious drawbacks by abandoning accommodation in neutral countries, will in future desire this measure to be made
obligatory. It is difficult to foresee today what methods will be employed in any future war, especially as recent discoveries in the field of atomic energy do not allow any sure forecast as to the wounds caused thereby.

The members present held that the Meeting could not itself undertake the study of the possible three Draft Agreements, and left these to be dealt with by the Sub-Commission.

4. Medical Recommendations concerning the Revision.

(a) The Meeting considered that the time-limit of one year, mentioned in Section 1 of the Model Agreement as the term for recovery from wounds or illness, was usually sufficient, but that longer periods should be allowed for certain diseases. For the wounded, the period should run from the date when the injury was sustained.

Several members of MMC stressed the difficulties they had encountered in determining which wounded and sick were capable of recovering within one year, according to Section 1 of the Draft Agreement, and especially in cases of disease (especially paralysis). While admitting that one year may be considered as a rule sufficient, longer periods, to be specified by the Sub-Commission, should be named for certain diseases such as osteomyelitis.

Members stated that, for the wounded, the period was usually reckoned from the actual date of the injury, and not that of the examination by the MMC, and that this practice should be explicitly confirmed.

(b) The Meeting considered it advisable to provide in the Convention or in the Model Draft Agreement, for the case of PoW repatriated for health reasons, who are recaptured and come again before the MMC; further, of PoW suffering from affections developed before enlistment. Such PoW should not be eligible for repatriation.

Some members submitted that some MMC had been called upon to deal a second time with PoW who had been repatriated, following a first decision of the MMC. These men had rejoined their national forces, thus violating Art. 74 of the Convention, and had been recaptured. Further, PoW had sometimes applied for repatriation on the grounds of disorders from which they were suffering on enlistment.

The Meeting considered that special provision for the above two cases should be made in the Convention or in the Model Draft Agreement, confirming the practice usually applied during
the War, of not repatriating such PoW. It may be assumed that men considered fit for service by their home authorities should be a fortiori able to endure captivity.

(c) The Meeting instructed the Sub-Commission to revise the list of diseases mentioned in the Model Draft Agreement, in view of the principles of modern science.

Members held that, especially for diabetes, a distinction should be drawn between minor and major cases, the latter alone entailing repatriation or accommodation. Further, the Model Draft Agreement should include a new category, namely the group "metabolism and internal secretion glands".

(d) The Meeting considered that application for repatriation for diseases such as asthma or epilepsy should be supported by evidence furnished by qualified eye-witnesses of attacks.

A provision to this effect could be included in the regulations recommended by the Meeting concerning the status of MMC and the organization of their work. The above-mentioned evidence could be included in the data to be supplied by the Detaining Power, allowing the MMC to judge of such cases. 1)

(e) The Meeting recommended that when revising the Model Draft Agreement, or drafting the regulations for the status of MMC and the organization of their work, provision should be made for patients suffering from circulatory failure, since these cases may not, at the time of medical examination, present visible symptoms of disease.

(f) The Meeting recommended that criteria of discrimination be more lenient in the case of women PoW.

(g) The Meeting suggested the possibility of introducing the heading "senility" into the Model Draft Agreement.

It was observed that the embodiment of this principle would allow older PoW to enjoy forthwith the benefit of the provisions of the Convention as regards repatriation or accommodation.

(h) The Meeting recommended that the expression "in as broad a spirit as possible" (Section III, paragraph 1) be worded as exactly as may be.

1) See page 13.
(i) The Meeting recommended that the Sub-Commission should take as a basis for their work the proposals for amending the Model Draft Agreement made by Col. A. d'Erlach during the War and approved by the belligerent Powers.

Section II

DIRECT REPATRIATION AND ACCOMMODATION IN NEUTRAL COUNTRIES

Chapter I.- Carrying out of Repatriation

Article 68 of the 1929 Convention provides that "belligerents shall be required to send back to their own country, without regard to rank or numbers, after rendering them in a fit condition for transport, prisoners of war who are seriously ill or seriously wounded".

1.- Time-Limits.

The Agenda mentioned that, during the War, experience had shown that a very long time usually elapsed before the actual repatriation of the sick and wounded could take place. As such delays are extremely prejudicial to PoW's physical and moral welfare, improvement should be sought by stipulating, for instance, a fixed time-limit in the Convention.

The members present/in complete agreement with this proposal and it was decided to recommend a time-limit of three months; further, to state that if, for reasons beyond control, repatriation could not be carried out within this lapse of time, PoW due for repatriation should have special facilities and medical treatment. They should, in particular, be freed from work, and have temporary artificial limbs, if required.
2. - Repatriation against a Prisoner's Will.

The Agenda recalled that PoW due for repatriation on grounds of bad health sometimes objected, for political or personal reasons, to being sent home. It was proposed that the Convention should exclude from repatriation all PoW who have valid objections thereto.

The Meeting approved this principle, with the reservation of a possible stipulation to the effect that PoW refusing to be sent home should be accommodated in neutral countries.

3. - Voluntary Repatriation by the Detaining Power.

The International Committee asked the Meeting whether it did not consider that action by MMC was superfluous when the Detaining Power voluntarily agreed to the repatriation of PoW for health reasons. The adoption of this principle would reduce the task of the MMC.

The Meeting recognized that it was advisable that no action be taken by MMC in cases where the Detaining Power voluntarily agreed to send PoW home. The manner in which this principle could be embodied in the Convention was left to the International Committee to decide.

4.- Obligation for the Home Country to receive PoW due for Repatriation.

The International Committee stated that cases had apparently occurred where the Home Country had refused the repatriation of certain PoW nationals, doubtless for security or political reasons.

The Meeting did not consider that the Convention should be amended in this respect.

It was pointed out that this question rested on fundamental legal principles. Further, the Home Country was entirely free to take in respect of repatriated nationals, any measures it might consider necessary for security reasons.

5.- Exclusion of "Man for Man" Exchanges.

The Agenda had stressed the fact that, during the War, certain belligerents were in favour of "Man for Man" exchanges of PoW eligible for repatriation on grounds of ill health.
This course is expressly banned by the Convention, and rightly so, as it would perforce lead to a reduction of the number of PoW entitled to repatriation.

The Meeting unanimously decided to ban the principle of "Man for Man" exchanges.

6.- Practical Organization of Repatriations.

The Agenda recommended that a precise statement should be made as to which neutral organizations should undertake the negotiation and practical organization of repatriations. This task would naturally appear to come within the scope of the Protecting Powers. In their absence, the International Committee would be prepared to offer their assistance.

The Meeting considered that it was incumbent upon Protecting Powers, in the first place, to undertake the practical organization of repatriation and, should they desist, upon the International Committee of the Red Cross.

Further, during the recent War, certain belligerents requested the International Committee to instruct their delegates to accompany repatriation convoys throughout their journey by land or sea. It appears advantageous to bring this practice into general use.

Chapter II.- Accommodation in Neutral Countries

Art. 68, Sec. 2, of the Convention states that "agreements between the belligerents shall determine, as soon as possible, the forms of disablement or sickness requiring direct repatriation and cases which may necessitate accommodation in a neutral country".

1.- Obligatory Nature of Accommodation.

The Agenda pointed out that the Convention states that accommodation in neutral countries is optional. During the War, the Powers did not take advantage of this faculty. The practice of accommodation offers, however, great humanitarian advantages, since it allows recoveries from illness that would be impossible in captivity; it guarantees that the PoW will
no longer participate in the war effort, and it had excellent results during the War of 1914-1918. Should it not therefore be rendered obligatory in the Convention, in so far as circumstances allow? Accommodation in neutral countries could at least be made compulsory in the case of POW due for repatriation, but who cannot be sent home owing to a break-down in transport facilities, or because of the men's disinclination to return to their home country.

The Meeting recommended by a majority vote that the revised Convention should make accommodation in neutral countries obligatory, whenever this course is really possible.

It was suggested by some members that the Convention could mention, besides neutral countries, the creation of neutralized zones for the accommodation of wounded and sick.

2. Obligations of Neutral Powers.

Members present raised the question whether the Convention should oblige signatory neutral Powers to accommodate belligerent wounded and sick on their territory, or whether such accommodation should not rather be subordinate to their consent. It was pointed out that lack of medical staff and equipment, or insufficiency in food supplies might make it extremely difficult for a neutral Power to accommodate large numbers of wounded or sick.

The Meeting thought that this question lay outside its terms of reference and should be left to the judgment of the Powers concerned.

Other members raised the question of the status of POW admitted to a neutral country, if the said country were drawn into the conflict. This question also was considered to lie beyond the scope of the Meeting.

Certain members thought, however, that the POW should retain their privileged status and, if possible, be transferred to another neutral country. It was further observed that, even if some of the POW accommodated by a neutral country were nationals of the State now at war with the receiving country, the latter would assume in their behalf the obligations stipulated by the Convention with regard to repatriation or accommodation.
Chapter III. - Revision of Article 70

Article 70 of the PoW Convention reads as follows:
"In addition to those prisoners of war selected by the medical officer of the camp, the following shall be inspected by the mixed medical Commission mentioned in Article 69, with a view to their direct repatriation or accommodation in a neutral country:

(a) prisoners who make a direct request to that effect to the medical officer of the camp;

(b) prisoners presented by the prisoners' representatives mentioned in Article 43, the latter acting on their own initiative or on the request of the prisoners themselves;

(c) prisoners nominated by the Power in whose armed forces they served or by a relief society duly recognised and authorised by that Power."

1. Need for Revision.

The Meeting confirmed the view expressed in the Agenda to the effect that MMC are overburdened and seriously hampered owing to the large numbers of PoW who come up for examination. It was said that the best course would be to provide for a sufficient number of MMC in each country. The Meeting considered, however, that it would be advisable to amend Art. 70, and attempt to reduce the crowds of PoW who wish to be examined.

2. Right of all PoW to Examination.

The Meeting discussed at length the advisability of abolishing the right conferred by the present Convention to all PoW to go before the MMC, by substituting some method of preliminary selection.

The majority of the Meeting decided not to suggest abandoning the said fundamental principle.

The Meeting nevertheless recommended that an attempt be made to express clearly that the words "on the request of the prisoners themselves" apply to PoW who are definitely in bad health, or who feel ill.

Further, some members having observed that, in practice, Prisoner M. O. exercised a good influence by inducing PoW whose health was not really affected, not to go before the MMC,
the Meeting recommended that it be examined whether the Convention should not mention this role of Prisoner M.0s and/or Spokesmen. 1)

3.- Reduction of the Number of PoW presented. 2)

(a) Posting of the Model Agreement. The International Committee stated that, during the War, they had induced belligerents to allow the Model Agreement to be posted in all PoW Camps. This practice which makes PoW better acquainted with the diseases that can make them eligible for repatriation, might be expressly mentioned in the Convention.

The Meeting agreed to the above suggestion.

(b) Time-limit for rejected candidates. The Agenda alluded to unsuccessful candidates for repatriation and the advisability of setting a time-limit during which they could not again come up before MMC, taking into account the possibility of other diseases or of a serious aggravation in their condition.

The Meeting agreed to this suggestion and fixed a time-limit of three months.

4.- Previous Notice of Passing of Commissions.

The Meeting considered that previous notice of passage of MMC should be given in due time to PoW Camps and Labour Detachments.

The Meeting abandoned the idea of naming an exact time-limit in this connexion.

5.- Examination of Senior Officers.

Members recalled that in certain belligerent countries, Senior Officers had apparently been prevented from going before the MMC. The members therefore proposed that the Convention should recognize to MMC the right of spontaneous examination of Senior Officers.

The Meeting considered that if such incidents actually did occur, they were obvious violations of the Convention. However, embodiment of stipulations which contemplate violations of more general provisions are not possible without diminishing the value of a treaty as a whole.

1) See page 28.
2) See page 21.
Chapter IV.- Extension to other Categories of Repatriation and Accommodation in Neutral Countries

1.- Extension to Civilian Internees.

In the Agenda, the International Committee stated that, in view of the fact that Civilian Internees are not protected by any Convention, they had suggested to belligerent States to give these Internees the benefit of the protection afforded by the 1929 Convention relative to Prisoners of War. The majority of the States agreed to this course. As a general rule, however, Civilian Internees did not have the benefit of the provisions contained in Articles 68 and following.

Towards the close of the War, the International Committee proposed that sick and wounded Civilian Internees should be examined by ad hoc MMC, and these should decide upon:

(a) the discharge of Internees already resident in the country of detention before the War;
(b) the transfer of sick Internees to suitable medical establishments where they might have proper medical care;
(c) the accommodation of Internees in neutral countries;
(d) the repatriation of Internees.

As regards (d), the ad hoc MMC could doubtless only make recommendations, owing to the fact that Civilians of enemy nationality are often interned for security reasons.

Several Powers agreed in principle to these proposals, which seemed, however, to have been rarely followed. It should be noted that, at the outbreak of the War, Egypt set up an ad hoc MMC for the Civilian Internees in that country. This Commission was particularly concerned with the supervision of the Internees' health and the conditions of their internment.

The International Committee stressed that, in their opinion, the whole problem should be handled in connexion with the studies undertaken in view of a Convention relative to the status and treatment of Enemy Civilians. A Model Agreement for Civilians should also be considered.

The Meeting considered that it would be highly desirable, when drafting the Convention relative to Enemy Civilians, to contemplate the application of provisions similar to those in Articles 68 and following of the 1929 P.W Convention.

Members present thought that means should especially be sought of accommodating Civilians in neutral countries. It is, in reality, hardly likely that Detaining Powers would
consent to send home large numbers of Enemy Civilians, owing
to the information of a military nature they might possess.
Further, many cases have been noted where discharged Civilian
Internees have asked to return to camp, the police regulations
to which they had to conform making living conditions too onerous.

2. - Extension to older PoW or to those having
been long in captivity.

Art. 72 of the Convention provides that "during the
continuance of hostilities, and for humanitarian reasons, belli-
gerents may conclude agreements with a view to the direct re-
patriation or accommodation in a neutral country of prisoners
of war in good health who have been in captivity for a long
time".

Belligerents did not make use of the opportunity
given by this Article, despite the efforts of the International
Committee, who also suggested the repatriation of older PoW,
but without success.

The Agenda asked the views of the Meeting on the ad-
visability of introducing obligatory provisions to this effect
into the Convention, naming a minimum length of captivity
(three years, for instance), and an age limit (e.g. sixty or
sixty-five).

The Meeting recommended that direct repatria-
tion or accommodation in neutral countries should be made
obligatory for PoW who have been captive for a long time,
and for the older men.

It was, however, decided not to stipulate a minimum
duration of captivity, nor an age limit, on the grounds that
such decisions should be left to the Powers concerned.

Members present pointed out that, in view of the
trend of modern warfare, it would perhaps be difficult to in-
duce the Powers to agree to repatriation of older PoW or of
those who have long been captive, since they might contribute
indirectly to the national war effort after their return home.
It was therefore recommended to aim particularly at their ac-
commodation in neutral countries.

It was further observed that, even if the Convention
contained no provisions in behalf of older PoW, their repatria-
tion might be certified necessary for medical reasons and secur-
ed by adding "senility" to the list of diseases included in the
Model Agreement. 1)

1) See page 19.
Chapter V.- Eventual Revision of Article 74

Art. 74 reads as follows: "No repatriated person shall be employed on active military service".

The Agenda recalled various opinions which have been expressed concerning this Article, some advising its complete suppression in the Revised Convention, owing to the new conditions of modern warfare, others wishing its scope to be enlarged in order to cover not only active military service, but any activity contributing to the national war effort. Others, lastly, considered that the term "active military service" should be exactly defined.

After some discussion, the majority of the Meeting considered that Article 74 should be retained, but more clearly worded.

Members observed that, whereas Article 74 had not been strictly applied by some belligerents, it had been carefully observed by others.

Chapter VI.- Additional Points

1.- National Prisoner M.Os and their Duties.

The Agenda stressed the fact that M.Os retained in camps in accordance with the faculty provided by Art. 14, Sec. 4, have played an important part during the War, although their status is not defined by the Convention. This gap should be filled.

The Meeting recommended that the role of national Prisoner M.Os should be stated in the Revised Convention and that, as already observed, they should be allowed to assist the MMC in their work. 1)

Further, the Meeting recommended that Detaining Powers should in future allot the retained Medical Personnel equally among the camps, so that each P.O.W camp may have at least one Prisoner M.O for each nationality.

The Meeting noted further, that, in accordance with the spirit of the Convention, medical staff and orderlies retained in camps have the right to come before MMC. Since their

1) See pages 8 and 24.
status is privileged, they should at least enjoy the same rights as PoWs.

2.- Revision of Article 71.

Article 71 reads as follows:
"Prisoners of war who meet with accidents at work, unless the injury is self-inflicted, shall have the benefit of the same provisions as regards repatriation or accommodation in a neutral country."

It was observed that Detaining Powers should supply MMC with all useful information on the circumstances of an accident.

3.- Revision of Article 73.

Article 73 reads thus:
"The expenses of repatriation or transport to a neutral country of prisoners of war shall be borne, as from the frontier of the Detaining Power, by the Power in whose armed forces such prisoners served."

The Meeting decided that no amendment of this Article was necessary.
ANNEXE

A model list of PoW passed for repatriation by MMC will be found below. This list was drafted by Col. A. d'Erlach and approved by the 1945 Meeting.

List of Decisions made by the Mixed Medical Commission

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