INTERNATIONAL RED CROSS COMMITTEE
GENEVA

Report concerning the revision of the "Tenth Hague Convention of 1907 for the adaptation to Maritime Warfare of the principles of the Geneva Convention of 1906".

I. HISTORY OF THE QUESTION

The XVth International Red Cross Conference adopted a Resolution (No. XXXIII) in the following terms:

The XVth International Red Cross Conference,
Having taken cognizance of the report of the International Red Cross Committee,
Taking note of the reasons for the postponement of the summoning of the Commission of Experts contemplated by Resolution No. XXII of the XIVth International Red Cross Conference and expressing the hope that it will be possible to summon that Commission before the meeting of the XVIth International Conference,
Renews the mandate given to the International Red Cross Committee by the XIVth Conference and instructs the Commission of Experts to consider in what respects the modification of the Hague Convention of 1907 would appear to be desirable and possible,
Recommends the National Red Cross Societies concerned to communicate an account of their experience in these matters to the International Red Cross Committee and to the League of Red Cross Societies, and to make any suggestions they may think fit,
And invites the Executive Committee of the International Relief Union and the Permanent Committee of the International Congresses on Military Medicine and Pharmacy to associate themselves with the enquiry to whatever extent they may think desirable.
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In pursuance of its mandate from the XVth International Conference, the International Committee itself embarked on certain preliminary work designed to prepare the ground for the Commission of Experts provided for in the above Resolution. For that purpose it thought it desirable to secure the assistance of an expert on maritime questions and approached the Netherlands Red Cross Society which nominated H.E. Vice-Admiral H. G. Surie. With his technical assistance the International Committee then drew up a detailed questionnaire, together with a draft revised text of the Xth Hague Convention.

Before communicating these documents to all National Societies, however, the International Committee thought it preferable to begin by consulting certain of them which, at an earlier stage, had displayed particular interest in the revision of the Xth Hague Convention; it also consulted the organisations mentioned in the Tokyo Resolution (No. XXXIII). As the result of these consultations the International Committee was able to make various additions to its documentary material, which it then communicated to all National Societies, together with an invitation to send representatives to a Commission of Naval Experts (see the International Committee's Circular No. 337 of April 5, 1937).

The experts met at Geneva, on June 15, 1937, at the headquarters of the International Committee. The following National Red Cross Societies and International Organisations were represented:

German Red Cross: Dr. Curt Eckhardt, Ministerial Councillor.
American Red Cross: Captain Charles M. Oman (U.S. Navy Medical Corps); Colonel Harold W. Jones (U.S. Army Medical Corps).
Belgian Red Cross: M. H. Van LEYNSEELE, Barrister-at-Law, Administrator General of the Belgian Red Cross Society.

French Red Cross: Vice-Admiral G. GRAND-CLÉMENT; Captain J. CUNY, of the French Navy.

Italian Red Cross: Colonel M. PERUZZI; Count G. VINCI, Delegate General of the Italian Red Cross attached to the International Committee.

Japanese Red Cross: M. S. YAMANOUCI, Member of the Governing Body of the League, Delegate of the Japanese Red Cross abroad.

Netherlands Red Cross: M. F. DONKER CURTIUS, Doctor of Laws, Secretary General of the Netherlands Red Cross.

Norwegian Red Cross: M. M. HANSSON, President of the International Refugees Office.

Polish Red Cross: M. C. TEBICKI, First Secretary of Legation.

Permanent Committee of the International Congresses on Military Medicine and Pharmacy: Professor A. DE LA PRADELLE; Colonel J. VONCKEN (A.M.C.).

League of Red Cross Societies: M. B. DE ROUGÉ, Secretary General.

International Red Cross Committee: M. Max HUBER, President; M. P. LOGOZ, and M. P. DES GOUTTES, Members of the Committee.

The Bureau and Secretariat of the Commission of Experts were made up as follows:

M. Max HUBER, Chairman; Vice-Admiral GRAND-CLÉMENT and M. F. DONKER CURTIUS, Vice-Chairmen; MM. R. GALLOPIN and J. PICTET, Secretaries.

The material before the Commission of Experts comprised — in addition to the texts prepared by the
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International Committee — the observations and suggestions communicated to the International Committee by various National Societies in response to Circular No. 337.

The Commission of Naval Experts decided to take the questionnaire prepared by the International Committee as the basis of its work. The earlier meetings were devoted to consideration of the questions falling more particularly within the scope of the Hague Convention and the Geneva Convention. The Experts then examined the suggestions put forward by the American Red Cross for supervision of the transport by sea and landing of hospital stores (see below, Section III, pp. 44 et seq.), and concluded with a study of various subsidiary questions relating to the development of Red Cross work at sea both in time of peace and in time of war, in accordance with the International Committee's mandate from the XIVth International Red Cross Conference, as renewed by the Tokyo Conference in 1934 (see below Section IV, p. 56).

The Commission of Experts concluded its proceedings on June 18, after inviting the International Red Cross Committee to prepare, on the basis of its decisions, a Draft Revised Maritime Convention, the text of which will be found, together with an analysis, under Section III of the present Report (see below, p. 8 and annexe).

The present Report was communicated in proof to the members of the Commission, together with a request to send any observations they might desire to make to the International Committee by September 15th. All the experts approved the Report. The representative of the

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1 It should here be mentioned that just after the completion of the present report, the International Committee received a most interesting publication by Dr. Adolf Schüle on the lawful and unlawful uses of hospital ships (Zulässiger und unzulässiger Gebrauch von Lazarettschiffen — 25 Jahre Kaiser Wilhelm-Gesellschaft zur Förderung der Wissenschaften — Band III: Die Geisteswissenschaften. Berlin, 1937.)
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Netherlands Red Cross, however, made certain comments which are referred to below (See footnote 1 p. 23 and footnote 2 p. 38).

II. General Considerations

Asterisks (*) are used to refer briefly to the views expressed by the National Red Cross Societies and the Permanent Committee of the International Congresses on Military Medicine and Pharmacy, in their written observations communicated to the International Red Cross Committee in preparation for the meeting of the Commission of Naval Experts on June 15, 1937.

Before proceeding with the detailed analysis of the proceedings of the Commission of Naval Experts, certain preliminary remarks of a general character are necessary.

(a) In the very nature of things, the essential purpose of the revision of the Xth Hague Convention is the adaptation to Maritime Warfare of the principles of the Geneva Convention of 1929. As, however, proposals are already on foot for the revision of the Geneva Convention itself, it has been suggested that it might be wiser to defer the modification of the 1907 Convention until this revision has actually been done*.

The International Committee has, however, pointed out in its Circular No. 337 that the revision of the Geneva Convention, if carried out in the near future, is unlikely to lead to a general recasting of its text in the manner of the 1929 Conference; nothing more will probably be required than to amplify the Convention on certain points in the light of recent experience, which may conceivably have no bearing on the peculiar conditions of naval warfare. In any case, the further adaptation of the Maritime Conven-

* This was the view, more particularly, of the British Red Cross.
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tion to the revised Geneva Convention would probably affect only a limited number of points, and could easily be carried out at the time of the revision of the 1929 Convention. Such being the case, and having regard to the International Committee’s mandate from the XVth Conference, there would appear to be no real reason for postponing work on the revision of the Hague Convention until it is known whether, and to what extent, the Geneva Convention is to be revised.

(b) Another suggestion was that it might be well to incorporate the Hague Convention in the Geneva Convention, so that in future there might be a single Red Cross Convention applying to all three forms of warfare: land, maritime, and air warfare.

The material supplied by National Societies in response to the International Committee’s Circular No. 337, and also the discussions in the Commission of Experts, showed that this suggestion met with considerable support*. In its favour it was urged that warlike operations now showed an increasing tendency to take the form of combined operations on land, at sea and in the air, so that the distinction between the three kinds of warfare no longer held good and, further, that the maintenance of the system of three separate conventions, developing independently of each other, must inevitably lead, as at present, to constant disagreement.

The general sense of the Commission, however, was that it was not competent to decide this question, which went beyond the preparatory technical work of the Red Cross organisation and must, therefore, be left to the Governments concerned.

* The Permanent Committee of the International Congresses on Military Medicine and Pharmacy and the American Red Cross were in favour of a single Convention. The Austrian and Swedish Red Crosses took the opposite view.
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(c) In drafting the text of the Revised Maritime Convention which it submitted to National Societies, the International Committee arranged the subject matter under the same heads as those adopted in the 1929 Geneva Convention. The Commission of Experts thus had to consider whether it would do the same. The International Committee had taken the view that, in the matter of form, such a course would have the advantage of greatly facilitating consultation and comparison of the two texts. Those who favoured a single Red Cross Convention also pointed out that, in the matter of contents, the arrangement of both texts under the same heads would make it much easier to combine them, when the time came, into a single instrument. Without in any way prejudging that question — for the reasons indicated under (b) above — the Commission of Experts also considered it advisable to bring the arrangement of the Draft Revised Maritime Convention into line with that of the Geneva Convention of 1929*. As will be seen on reference to the text below, the chapter divisions and headings of the Geneva Convention have, therefore, been reproduced without modification in the Draft Revised Convention, except in the case of the heading of Chapter II, where “Hospital-ships” has been substituted for “Medical Formations and Establishments.”

(d) It should lastly be remarked that the Commission of Naval Experts confined itself to adapting those provisions of the Geneva Convention, the application of which to maritime warfare involved considerations peculiar to such warfare. It, therefore, deliberately left on one side Chapter VIII of the Geneva Convention and the relevant

* The American, Austrian, Greek, Italian, Norwegian, and Swedish Red Crosses and the Permanent Committee of the International Congresses on Military Medicine and Pharmacy all supported this course.

1 The words “and shipwrecked” have also been added to the heading of Chapter I.
provisions of the Hague Convention, considering that the repression of abuses and infringements was a matter falling solely within the scope of the 1929 Convention and that, in the event of its revision, the provisions in question could, in due course, be easily adapted to the Maritime Convention. If it were decided to combine the two Conventions into a single instrument, such adaptation might moreover, become unnecessary.

Similarly, the Experts refrained from examining the Final Provisions of the Hague Convention, considering that these were a matter for the Diplomatic Conference itself and would be governed by the decision taken in regard to the combination of the two Conventions (See (b) above).

III. TEXT AND ANALYSIS OF THE DRAFT REVISED MARITIME CONVENTION ADOPTED BY THE COMMISSION OF NAVAL EXPERTS

CHAPTER I.

Concerning the sick, wounded and shipwrecked

In the draft submitted to the Experts, the International Committee entitled this Chapter "Concerning the sick and wounded," like the corresponding chapter of the Geneva Convention. Though this title did not raise any discussion among the members of the Commission, the International Committee, when preparing the present report, thought it necessary to amend it so as to include the shipwrecked. In the Hague Convention the treatment of the shipwrecked is closely bound up with that of the sick and wounded, as the same provisions apply to both categories. The International Committee, therefore, took the view that the heading, as amended, would convey a more accurate idea of the contents of the Chapter.
Article 1

Sailors and soldiers embarked on board ship, and other persons officially attached to the land, sea or air armed forces, shall be respected and protected in all circumstances when wounded or sick; they shall be treated humanely and cared for, without distinction of nationality, by the belligerent in whose power they may be.

The benefits of the foregoing provisions shall also be extended to the sick, wounded and shipwrecked from any vessel which is the victim of an act or incident of war.

Art. 11 (of the Xth Hague Convention of 1907). — Sailors and soldiers embarked on board ship, and other persons officially attached to naval or military forces, when wounded or sick, whatever their nationality may be, shall be respected and cared for by their captors.

Art. 1 (of the Geneva Convention of 1929). — Officers and men and other persons officially attached to military forces, who are wounded or sick, shall be respected and protected in all circumstances; they shall be treated humanely and cared for medically, without distinction of nationality, by the belligerent in whose power they may be.

However, the belligerent who is obliged to abandon wounded or sick to the enemy shall leave with them, as far as military exigencies allow, part of his own medical personnel and material to assist in caring for them.

Ad paragraph 1. — While favouring the adaptation of the text of Article 11 of the Hague Convention to that of Article 1, paragraph 1 of the Geneva Convention* the Commission of Experts, following a proposal made by the French Red Cross, thought it desirable to substitute the words "land, sea or air armed forces" for the words "naval or military forces" in the present text of the Maritime Convention.**

* The replies of the national Societies to the International Committee are also unanimous on this point.

** This change was favoured by the American, Austrian, French, and Swedish Red Crosses and by the Permanent Committee of the International Congresses on Military Medicine and Pharmacy.
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In making this change, the Commission had no intention of committing itself in any way to the system of a single convention embracing all three forms of warfare; its sole object was to remove all doubt as to the scope of the Maritime Convention, which is intended to protect sick and wounded members of all the armed forces without exception serving on board vessels at sea.

It should further be pointed out that paragraph (1) of the present Article provides for the protection of the wounded, sick and shipwrecked, whereas the corresponding provision of the Hague Convention mentions the first two categories only. Obviously, those responsible for the 1907 Convention never contemplated any difference in the treatment of the wounded and sick, and of the shipwrecked. It has, indeed, never been denied that the shipwrecked, whose position is at least as precarious as that of the sick and wounded, are entitled to similar protection.

Ad paragraph 2. — This paragraph, which embodies a principle put forward by the Permanent Committee of the International Congresses on Military Medicine and Pharmacy, is a new provision and has no counterpart in the Geneva Convention. At present the Hague Convention only applies to wounded, sick and shipwrecked who are members of the armed forces.

This provision of the new Draft, on the other hand, extends the protection of the Convention to all sick and wounded persons on board a vessel which is the victim of an act or incident of war, and to all persons shipwrecked in consequence of such act or incident *.

It is not necessary, therefore, that there should be any causal relationship between the act or incident of war and the condition of the wounded and sick concerned: once

* A provision on these lines was also favoured by the American, Austrian and Swedish Red Crosses.
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A vessel suffers any mishap brought about by hostilities all the sick and wounded on board are placed under the protection of the Convention; and the same will apply to all persons shipwrecked as the result of an act or incident of war.

In the course of the discussion, the representative of the Belgian Red Cross argued that the protection of the civilian victims of maritime warfare was merely one aspect of the more general problem of the protection of the whole civil population in time of war, and that as this problem was to be examined on the occasion of the revision of the Geneva Convention ¹ consideration of the new provision should, for the time being, be deferred.

Finding, however, that the naval experts were unanimously in favour of the proposal of the Permanent Committee of the International Congresses on Military Medicine and Pharmacy and realising that the provision of relief for civilians was much more highly developed on land than at sea,—where, indeed, it is virtually non-existent—the Commission as a whole decided to adopt without further delay the principle laid down in paragraph 2 of the present Article.

**Article 2.**

The wounded, sick or shipwrecked of one belligerent who fall into the power of the other, shall be prisoners of war. It lies with the captor to decide, in accordance with circumstances whether, to hold them or to send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus returned to their own country shall not serve again throughout the duration of the war.

Art. 14 (1907). — The shipwrecked, wounded or sick of one belligerent, who fall into the power of the other, are prisoners of war. It lies with the captor, to decide, in accordance with

¹ See the International Committee's Circular No. 328, of July 31, 1936, p. 7,1.
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circumstances, whether to hold them or to send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus returned to their own country shall not serve again throughout the duration of the war.

ART. 2 (1929). — Except as regards the treatment to be provided under the terms of the foregoing Article, the wounded and sick of an army who fall into the power of the enemy shall be prisoners of war, and the general rules of international law concerning prisoners of war shall be applied to them.

Belligerents shall, however, remain free to make such arrangements as they may think fit for the benefit of wounded or sick prisoners beyond the limits of existing obligations.

With the exception of certain slight drafting changes this Article is a reproduction of Article 14 of the Hague Convention of 1907 *. In its preliminary draft, the International Committee had incorporated in this Article paragraph 2 of Article 2 of the Geneva Convention. While in favour of the inclusion of this provision, however, the Commission took the view that its scope should be extended and that it should be cast in the form of a separate article ** appearing under Chapter VII of the Convention (Application and Execution of the Convention) 2. In this way the ad hoc agreements which the belligerents will be at liberty to conclude over and above their obligations under the Convention may cover not only the

1 The text of Art. 14 of the 1907 Convention begins, with the words: "Sont prisonniers de guerre les naufragés, blessés ou malades d’un belligérant..." As the words "blessés ou malades" might be regarded as adjectives qualifying the noun "naufragés" instead of as nouns themselves, the text has, on the proposal of the French Red Cross been re-drafted, as follows: "Seront prisonniers de guerre les blessés, les malades ou les naufragés d’un belligérant..." A similar course has been followed in regard to all the other articles of the Draft.

* The Austrian Red Cross proposed the omission of the last sentence of this Article.

** This was proposed by the French Red Cross, supported by the American Red Cross. The Austrian and Swedish Red Crosses took the opposite view.

2 See below, Article 29, p. 56.
cases contemplated by Article 2 of the Geneva Convention, but also any other cases which may arise, and more particularly those matters which the Commission of Experts considered should be left to the discretion of the belligerents (Neutral observers, see below p. 28 et seq.; American suggestions, see below, p. 44 et seq.)

Article 3.

Any war vessel belonging to a belligerent may demand the surrender of the wounded, sick or shipwrecked men on board naval hospital-ships, hospital-ships belonging to relief societies or to private individuals, merchant ships, yachts and other boats, whatever the nationality of such vessels may be.

ART. 12 (1907). — Any war vessel belonging to a belligerent may demand the surrender of the wounded, sick or shipwrecked men on board naval hospital-ships, hospital-ships belonging to relief societies or to private individuals, merchant vessels, yachts and other boats, whatever the nationality of such vessels may be.

Apart from slight drafting changes ¹ this Article reproduces the terms of Article 12 of the Hague Convention. In the course of the discussion, the representative of the Permanent Committee of the International Congresses on Military Medicine and Pharmacy suggested that the right of any war vessel to demand the surrender of wounded and sick should be limited, as through its exercise such persons might find themselves worse off in the matter of treatment and care*.

¹ On the proposal of the French Red Cross the word “bâtiment” has been replaced by the word “vaisseau” to avoid possible confusion. A similar change has been made in any other articles where this was necessary.

As regards the discarding of the term “navires hospitaliers” as used in the Maritime Convention, the matter is discussed on page 23, particularly in footnote 1.

* A similar opinion was expressed by the Austrian Red Cross; the Swedish Red Cross took the opposite view. The American Red Cross would favour the limitation of the right of war vessels to demand the surrender of wounded and sick, except in regard to their own nationals.
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In support of this view it was pointed out that a small destroyer stopping a large hospital-ship would not itself be in a position to provide proper care for the sick and wounded off such a ship, were it to take them on board; similarly, it would be inconceivable that a war vessel should be able to remove badly wounded men from a hospital-ship in exchange for less serious cases from among its own crews.

The naval experts, however, argued that, in practice, the limitation of this right of war vessels would be virtually impossible. They further pointed out that, in actual fact, the consequences mentioned by the Permanent Committee of the International Congresses on Military Medicine and Pharmacy should not arise; the wounded and sick being invariably a serious encumbrance, the captain of a war vessel would never willingly grant them part of the limited accommodation on board his ship unless he had reasons for so doing. Moreover, the improper exchange of sick and wounded should be precluded by the very explicit terms of Article 1 of the Draft, which requires belligerents to provide similar treatment for all sick and wounded, without distinction of nationality.

Recognising the force of these arguments, the Commission accepted the opinion of its naval experts and decided, therefore, to keep unchanged the principle laid down in the 1907 Convention.

Article 4.

Should wounded, sick or shipwrecked persons be embarked on a neutral warship, steps must be taken to prevent their further participation in operations of war.

Art. 13 (1907). Should wounded, sick or shipwrecked persons be embarked on a neutral war ship, steps must, as far as possible, be taken to prevent their further participation in operations of war.
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This Article reproduces the terms of Article 13 of the Hague Convention except that the words "so far as possible" have been omitted*. The Commission was of opinion that the principle embodied in this Article should be stated in a more categorical form.

Article 5.

The wounded, sick or shipwrecked persons landed by belligerent war vessels at a neutral port with the consent of the local authorities, shall be detained by the neutral State concerned, so as to prevent their taking further part in operations of war, failing any contrary arrangement between the neutral and the belligerent States.

The costs of their maintenance and internment shall be borne by the State to which such shipwrecked, wounded or sick persons belong.

Should these wounded, sick or shipwrecked men be landed in a neutral port by private and neutral merchant ships, boats, yachts or aircraft which have assumed no obligation whatever towards one of the belligerent powers, such wounded, sick or shipwrecked men shall be free.

War vessels arriving in a neutral port shall be free, subject to the consent of the neutral State, to land any wounded, sick or shipwrecked they may have on board.

Art. 15 (1907). — The shipwrecked, wounded or sick persons landed by belligerent war vessels at a neutral port with the consent of the local authorities shall be detained by the neutral State concerned, so as to prevent their taking further part in operations of war, failing any contrary arrangement between the neutral and the belligerent States.

The costs of their maintenance and internment shall be borne by the State to which such shipwrecked, wounded or sick persons belong.

* This omission was urged by the Permanent Committee of the International Congresses on Military Medicine and Pharmacy.

1 The representatives of the Netherlands and Norwegian Red Crosses expressly reserved their attitude on this point.
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Ad paragraph 1. — This paragraph is an improved version of Article 15, paragraph 1, of the Hague Convention. The Commission thought it advisable to make it clear that the paragraph applies exclusively to the wounded, sick and shipwrecked landed by war vessels of the belligerents, the rules in regard to the wounded, sick and shipwrecked landed by neutral war or merchant vessels being laid down elsewhere (see Article 4 and Article 5, paragraph 3). The term "war vessels", it would seem, must be taken to include all vessels flying the flag of a belligerent, with the exception of hospital-ships, the position of which is dealt with below (see remarks on Article 5, paragraph 3). The Commission, it is true, expressed no opinion on this point, but it would seem obvious that, in the present instance, the term "war vessels" must include all vessels subject to capture. The merchant vessels and other craft of the belligerents would thus come within this category, and any wounded, sick or shipwrecked they might take on board would be interned on their landing them in a neutral port. The International Committee considers it preferable, however, that this idea should be clearly stated in the text of the Convention.

Ad paragraph 2. — This paragraph, which reproduces Article 15, paragraph 2, of the Hague Convention, was adopted by the Commission as it stood.

Ad paragraph 3. — This paragraph is new, but it merely codifies a rule which was already implicitly recognized in 1907. The report submitted by M. Louis Renault to the Third Committee of the Second Hague Conference contained the following passage:

"Should a neutral merchant vessel which has by chance taken on board sick or wounded, or even shipwrecked persons arrive in a neutral port without having met a cruiser and without having given any undertaking, the persons it lands do not fall within
the scope of the provision (Article 15 of the 1907 Convention); they are free.

On the other hand, both the report and the Hague Convention itself are silent as to the rules to be applied to the wounded, sick and shipwrecked landed in a neutral port by hospital-ships.

On this matter the Commission was divided. The representatives of the American, Belgian, Italian, Japanese, Norwegian and Polish Red Crosses and of the Permanent Committee of the International Congresses on Military Medicine and Pharmacy thought that persons landed by a hospital-ship were subject to internment, and that consequently such vessels should be mentioned in Article 5, paragraph 1, dealing with the war vessels of the belligerents. On the other hand, the naval experts of the French and German Red Crosses, together with the representative of the Netherlands Red Cross—the latter basing his argument on historical precedents—considered that the wounded, sick or shipwrecked landed by hospital-ships should be treated as if they had been landed by neutral merchant vessels and that, in their case, it was Article 5, paragraph 3 of the Draft that would apply.

According to the view adopted, it will therefore be advisable, either to insert the words “or hospital-ships” after the words “belligerent war vessels” in Article 5, paragraph 1, or to insert “by hospital-ships” after the words “in a neutral port” in paragraph 3.

*Ad paragraph 4.* — This paragraph is based on a proposal of the Permanent Committee of the International Congresses on Military Medicine and Pharmacy. On the assumption that hospital facilities in a port will be better than those available for the wounded on board a war

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1 Actes et Documents de la IIe Conférence de la Paix, Vol. I, p. 76.
vessel, the Permanent Committee suggested the introduction here of a new provision under which war vessels arriving in a neutral port would be under the obligation of declaring and landing any sick and wounded they had on board, with a corresponding obligation on the part of neutrals to receive such vessels and their wounded.

The Commission as a whole, however, considered that to make such a rule compulsory would be going too far, and that the better course would be to give it a merely permissive character, leaving the final decision in such matters to the discretion of the captains of war vessels and the neutral authorities. In this connection it may be pointed out, moreover, that if war vessels arriving in neutral ports were bound to land their wounded, sick and shipwrecked, they would be at pains to avoid such ports whenever they had wounded nationals on board, whereas, when in charge of prisoners, they would be only too anxious to land them and have them interned—which, indeed, would be a convenient way of disposing of them.

Article 6.

After every engagement the two belligerents shall, in so far as military considerations allow, take steps to search for the shipwrecked, wounded and sick, and to protect them, together with the dead, from pillage and maltreatment.

Art. 16 (1907). — After every engagement, both belligerents shall, in so far as military considerations allow, take steps to search for the shipwrecked, wounded and sick, and to protect them, together with the dead, from pillage and maltreatment.

They shall take care that burial or cremation on land or at sea is preceded by careful examination of the bodies.

* The Austrian Red Cross declared itself in favour of such a provision.

** This was also the view of the American Red Cross, which further urged that the right of the war vessels of belligerents to enter neutral ports for the purpose of landing their wounded, sick and shipwrecked should be expressly recognized.
ART. 3 (1929). — After every engagement the occupant of the battlefield shall take steps to collect the wounded and dead, and to protect them against pillage and maltreatment.

Whenever circumstances allow, a local armistice or suspension of fire shall be arranged to allow the removal of the wounded remaining between the lines.

This Article, which reproduces the terms of Article 16, paragraph 1, of the Hague Convention, was adopted without discussion. The Commission preferred, however, to introduce paragraph 2 of that Article into Article 7 of the present Draft, so as to bring the arrangement of the provisions of the Hague Convention more closely into line with that of the Geneva Convention.

In its questionnaire, the International Committee enquired whether a clause should be introduced into Article 6 corresponding to Article 3, paragraph 2, of the Geneva Convention, which provides for a local armistice or suspension of fire to permit of the removal of the wounded remaining between the lines *.

The Commission, however, was of opinion that such a provision would not be applicable in maritime warfare.

** Article 7.**

The belligerents shall advise each other, as soon as possible, of the names of the wounded, sick and dead collected or discovered, together with any indications which may assist their identification.

They shall establish and transmit to each other the certificates of death.

They shall likewise collect and send to each other all articles of a personal nature found in captured vessels or on the dead, especially the one half of their identity disks, the other half to remain attached to the body **.

* With the exception of the Austrian Red Cross, the National Societies were opposed to such an addition.

** The Swedish Red Cross proposed the addition of the words "if still existing" after the words "identity disks".

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They shall ensure that burial on land or at sea, or cremation, is preceded by a careful and if possible medical examination of the bodies, with a view to confirming death and establishing identity for purposes of record.

Whenever wounded, sick or dead are collected by neutrals the latter shall assume as towards the belligerents the obligations laid down in the foregoing paragraphs.

Art. 17 (1907). — Each belligerent shall forward as soon as possible, to the national, naval or military authorities the identity marks or military identity papers found on the dead, and a list of the names of the wounded or sick found by him.

The belligerents shall keep each other advised of the internments and transfers, admissions to hospital, and deaths occurring among the wounded and sick in their hands. They shall collect all articles of a personal nature, valuables, letters etc. found in captured vessels or left by wounded or sick who have died in hospital, for their transmission to those concerned by the authorities of their own country.

Art. 4 (1929). — Belligerents shall advise each other, as soon as possible, of the names of the wounded, sick and dead collected or discovered, together with any indications which may assist their identification.

They shall establish and transmit to each other the certificates of death.

They shall likewise collect and send to each other any articles of a personal nature found on the battlefield or on the dead, especially one half of their identity disks, the other half to remain attached to the body.

They shall ensure that the burial or cremation of the dead is preceded by a careful and if possible medical examination of the bodies, with a view to confirming death and establishing identity for purposes of record.

They shall further ensure that the dead are honourably buried and that their graves are respected and can always be identified. For this purpose, at the outbreak of hostilities, they shall organize an official graves registration service, to render eventual exhumations possible and to ensure the identification of bodies, wherever the graves may successively be removed.

On the conclusion of hostilities, they shall exchange the list of graves and of the dead buried in their cemeteries and elsewhere.
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Ad paragraph 1-4. — Drafted on the model of paragraphs 1-4 of the Geneva Convention, these paragraphs re-state in a clearer and fuller form the provisions of Article 16, paragraph 2, and Article 17 of the Hague Convention *. At the request of the German Red Cross, another question was also raised, namely, whether Article 4, paragraphs 5, 6 and 7 of the Geneva Convention should not also be incorporated in the Maritime Convention, to cover cases in which the dead are brought to land **. The Commission decided against this suggestion on the grounds that the Geneva and Hague Conventions are to be regarded as complementary, and that their respective fields of application are determined ratione loci, and not ratione personae. At sea, that is to say, all wounded, sick and dead are protected by the Maritime Convention; but as soon as they are landed they come automatically under the protection of the Geneva Convention ***.

This is, moreover, expressly provided in Article 26 of the present Draft 1.

Ad paragraph 5. — This paragraph is new. The Commission was unanimous in recognising that the obligations deriving from paragraphs 1, 2, 3 and 4 of the present Article must also be binding on neutrals ****.

Article 8.

Belligerents may appeal to the humanity of the captains of neutral merchant ships, yachts, or boats, to take on board and care for wounded, sick or shipwrecked men.

* The National Societies were unanimously in favour of this adaptation.
** This course was favoured by the Austrian, German and Norwegian Red Crosses. The American, French, Greek and Italian Red Crosses, on the contrary, take the view that the provisions of paragraphs 1-4 are sufficient.
*** This view was urged by the French Red Cross.
1 See below, page 54.
**** Such was the view of the Austrian Red Cross.
Revision of the Xth Hague Convention of 1907.

Vessels responding to such an appeal, and those having of their own accord rescued wounded men, shall enjoy special protection and certain facilities.

They shall in no case be captured for having undertaken such transports; nevertheless, failing assurances to the contrary, they remain subject to capture for any violations of neutrality they may have committed.

Art. 9 (1907). — Belligerents may appeal to the humanity of the captains of neutral merchant ships, yachts or boats to take on board, and care for wounded or sick men.

Vessels responding to such an appeal, and those having of their own accord rescued wounded men, shall enjoy special protection and certain immunities. They shall in no circumstances be captured for having undertaken such transports; nevertheless failing assurances to the contrary, they remain subject to capture for any violations of neutrality they may have committed.

Art. 5 (1929). — The military authorities may appeal to the humanity of the population to collect and care for, under their direction, the wounded or sick of the army, and may grant persons having responded to such an appeal special protection and certain facilities.

This Article reproduces the provisions of Article 9 of the Hague Convention, except that the word "facilities", which is that used in the text of Article 5 of the Geneva Convention, has been substituted for "immunities" *.

In the draft submitted to the experts, the International Red Cross Committee had proposed that neutral merchant vessels, yachts and boats which pick up wounded, either of their own accord or at the request of a belligerent, should not, on that account, be diverted from their course **. While recognizing the generosity of the motives underlying this proposal, the Commission, never-

* With the exception of the Swedish Red Cross, all National Societies were in favour of this change.

** The French Red Cross was in favour of such a rule.
theless, considered that, in certain circumstances, a war vessel might legitimately divert neutral merchant vessels carrying wounded, if only for preventing their supplying information, for example of its presence in the vicinity.

**Chapter II.**

*Concerning Hospital-Ships.*

It should be pointed out that in the draft which was used by the experts as the basis of their work the International Committee had—in accordance with the terminology used in Articles 1, 2 and 3 of the Hague Convention—entitled this Chapter "Concerning Hospital-Ships and Floating Hospitals". As both categories of vessels are governed by the same rules of law, the Commission thought it advisable to use the generic term "Hospital-Ships" to designate both the naval hospital-ships of the belligerents and those belonging to private individuals or relief societies in either neutral or belligerent countries ¹.

In view of the fact that hospital-ships are now accompanied by various auxiliary vessels such as colliers, tankers etc., the representatives of the French and Italian Red Crosses proposed that this Chapter be entitled "Hospital-transports". The proposal was, however, rejected by the Commission on the grounds that the essential purpose of hospital-ships was not transport ², but to take off wounded from vessels of war and provide the necessary medical care.

¹ The International Committee has also replaced the term 'floating hospitals' as employed more particularly in Articles 2 and 3 of the Hague Convention, by the expression "hospital-ships". Had the old terminology been retained there would, indeed, have been a risk—as the delegate of the Netherlands Red Cross pointed out—that the generic, though nowhere defined, expression "hospital-ships" would come to be identified with naval and military hospital ships, to the exclusion of the hospital-ships belonging to private individuals or relief societies in belligerent or neutral countries.

² See below, remarks ad Art. 9.
Revision of the Xth Hague Convention of 1907.

Article 9.

Naval hospital ships, that is to say, ships built or fitted out by Governments specially and solely for the purpose of succouring the wounded, sick and shipwrecked, the names of which have been communicated to the belligerent Powers on the outbreak of or during hostilities, and in any case before they are brought into use, shall be respected and immune from capture.

Art. 1 (1907). — Naval hospital-ships, that is to say, ships built or fitted out by Governments specially and solely for the purpose of succouring the wounded, sick and shipwrecked, the names of which have been communicated to the belligerent Powers on the outbreak, of or during hostilities, and in any case before they are brought into use, shall be respected and immune from capture during hostilities.

Such ships are likewise not assimilated to warships as regards their stay in a neutral port.

Art. 6 (1929). — Mobile units, i.e. those which are intended to accompany armies in the field, and the permanent establishments of the medical service, shall be respected and protected by the belligerents.

This article reproduces the terms of Article 1, paragraph 1, of the Hague Convention, with the exception of the words "during the period of hostilities", which were considered superfluous, the exercise of the right of capture presupposing a state of hostilities*. In the draft submitted to the experts, the International Committee had completed the definition of hospital-ships given in Article 1 of the Hague Convention by adding the words "to transporting them, or to evacuating the wounded and sick of military forces" after the words "sick and shipwrecked"**. The Commission unanimously agreed that hospital-ships

* The omission of this expression was favoured by the American, Austrian, French, and Swedish Red Crosses.

** The American, Austrian, French, Greek, Italian, Norwegian and Swedish Red Crosses were in favour of such an addition.
Revision of the Xth Hague Convention of 1907.

may be used for the transport or evacuation of the wounded of the land armies from one territory to another, the majority of its members, however, thought it unnecessary to specify this in the text of Article 9, as the practice was generally recognized.

It should also be noted that the Permanent Committee of the International Congresses on Military Medicine and Pharmacy proposed that Articles 1, 2 and 3 of the Hague Convention should be combined into a single article, on the grounds that naval hospital-ships and those of relief societies and private individual being governed by the same rules, separate provisions were unnecessary. It has already been stated that, from the legal standpoint, this opinion was unanimously upheld by the Commission; for the sake of clarity, however, the latter thought it desirable that the provisions of Articles 1, 2 and 3 of the Hague Convention should be kept separate, because, though their purport was the same, they made it possible to distinguish between the origins of the various categories of hospital-ships.

**Article 10.**

*Hospital-ships operated by individuals or officially recognized relief societies shall likewise be respected and exempt from capture, provided that the belligerent Power to which they are subject has given them an official commission and has notified their names to the enemy Power, on the outbreak of or during hostilities, and in any case before they are brought into use.*

*Such ships must carry a document from the competent authority certifying that they have been under its supervision both while equipping and on final departure.*

Art. 2 (1907). — Floating hospitals wholly or partially equipped at the expense of individuals or officially recognized relief societies, are also respected and exempt from capture, provided that the
Revision of the Xth Hague Convention of 1907.

belligerent Power to which they are subject has given them an official commission and has notified their names to the enemy Power on the outbreak of or during hostilities, and in any case before they are brought into use.

Such ships must carry a document from the competent authority certifying that they have been under its supervision while equipping and on their final departure.

While maintaining Article 2 of the Hague Convention, the Commission decided, on the proposal of the French Red Cross, to replace the words "wholly or partially equipped at the expense of" in the first paragraph by the words "operated by" *. The experts were unanimous in recognising that the question at whose expense hospital-ships were fitted out, was of no importance. Similarly, it was immaterial, for the purposes of the Convention, whether the relief societies and individuals mentioned in Article 10 were, or were not, the owners of the hospital-ships; all that mattered was that the ships should be in their service and in their possession, and this seemed to be clearly brought out by the word "operated".

Article 11.

Hospital-ships operated by individuals or officially recognized relief societies in neutral countries shall be respected and exempt from capture, provided that they are placed under the orders of one of the belligerents with the previous consent of their own Government and with the authorization of the belligerent himself, and that the latter notifies their names to the enemy at the outbreak of or during hostilities, and in any case before any use is made of them.

Art. 3 (1907). — Floating hospitals wholly or partially equipped at the expense of individuals or officially recognized relief societies in neutral countries shall be respected and exempt from capture,

* The American, Austrian and Swedish Red Crosses would have preferred to retain the previous wording.
Revision of the Xth Hague Convention of 1907.

provided that they are placed under the orders of one of the belligerents, with the previous consent of their own Government and with the authorization of the belligerent himself, and that the latter notifies their names to the enemy at the outbreak of or during hostilities, and in any case before any use is made of them.

The remarks ad Article 10 also apply here.

Article 12.

The ships mentioned in Articles 9, 10 and 11 shall afford aid and assistance to the wounded, sick and shipwrecked of the belligerents without distinction of nationality.

The Governments undertake not to use such ships for any warlike purpose.

Such ships shall in no wise hamper the movements of the combatants.

During and after an engagement they shall act at their own risk and peril.

The belligerents shall be entitled to supervise and search such vessels. They may refuse their assistance, order them to withdraw, give them sailing orders and temporarily place a commissioner on board, or even provisionally detain them, should the gravity of the circumstances warrant this course.

As far as possible, belligerents shall enter in the log-books of hospital-ships any orders they may give them.

Art. 4 (1907). — The ships mentioned in Articles 1, 2 and 3 shall afford aid and assistance to the wounded, sick and shipwrecked of the belligerents without distinction of nationality.

The Governments undertake not to use such ships for any warlike purpose.

Such ships shall in no wise hamper the movements of the combatants.

During and after an engagement they will act at their own risk and peril.

The belligerents shall be entitled to supervise and search such vessels. They may refuse their assistance, order them to withdraw, give them sailing orders and place a commissioner on board, or
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even detain them should the gravity of the circumstances warrant this course.

As far as possible, belligerents shall enter in the log-books of hospital ships the orders they may give them.

a) This Article reproduces the terms of Article 4 of the Hague Convention, except that the words: "place a commissioner on board or may even detain them", have been replaced by the words: "and temporarily place a commissioner on board or even provisionally detain them"*. This change, which was proposed by the French Red Cross and unanimously adopted by the Commission, is designed to make it clear that the right of supervision and search is of a strictly temporary character, so as to avoid the disguised capture of hospital-ships.

b) The Permanent Committee of the International Congresses on Military Medicine and Pharmacy had further proposed the introduction into this Article of a clause providing for the presence on board hospital-ships of a non-belligerent commissioner to ensure that the Convention was strictly observed; this, it was urged, would make it possible to limit the belligerents' right of supervision and search **. The Commission considered the matter with the greatest care. It refused to entertain the idea of placing control officers on hospital-ships with power to give orders to their captains, as it considered that the latter should retain entire freedom of action. It thought,

* This change was favoured by the Austrian and Swedish Red Crosses. The American Red Cross, while in general of the same opinion, suggested that it might be as well to define the limits of the commissioner's powers, otherwise his presence might be used to interfere with the operations of the belligerent to whose forces the hospital-ships were attached.

** This proposal was opposed by the Austrian, Greek and Italian Red Crosses and supported by the Norwegian and Swedish Red Crosses. The delegate of the Japanese Red Cross expressly reserved his opinion.
however, that provision might be made for the presence on hospital-ships of neutral observers 1 whose duty it would be to note, and, if required, to report on facts; their testimony would serve to establish any infringements of the Convention that might take place or, conversely, to clear the captains of hospital-ships of unfounded charges, and thus avoid reprisals. Such observers would also be competent to advise the captains of the proper course to adopt in certain circumstances, or at least to draw their attention to the possible consequences of any action they might be taking. It was pointed out that, thus understood, the appointment of neutral observers need not necessarily involve the conclusion of bi-lateral agreements, but could be unilaterally resorted to by each belligerent as a warrant of good faith.

In the end, it was in the form not of a provision to be inserted in the Convention but of a recommendation, that the Commission decided to suggest to the Governments the possibility of setting up some supervisory agency, perhaps through the medium of ad hoc agreements under Article 29 of the Draft.

c) The German Red Cross also raised the question whether hospital-ships should not be required to maintain a certain distance between themselves and the combatant forces, and whether a distinction ought not to be drawn between cases in which hospital-ships are to be regarded as

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1 In support of this proposal it was recalled that, during the Great War, both sides accused each other of making improper use of hospital-ships. Under an agreement concluded in 1917 between France and Germany Spanish officers were taken on board certain hospital-ships as observers, so as to be in a position to testify from constant, first-hand observation that the ships were not being put to any improper use. This system had the effect of putting an end to the torpedoing of hospital-ships and consequent reprisals. (See Bulletin International de la Croix-Rouge, October 1917, pp. 389 and 390).
accompanying war vessels with a view to the performance of their proper functions, and cases in which they are clearly being convoyed by such vessels *. The German Red Cross urged that such a distinction was justified by the fact that when a hospital-ship was being convoyed by war vessels it must be presumed to have waived the protection of the Convention, as in such cases it was no longer possible to stop and visit it. According to the German Red Cross, the convoying of hospital-ships could only regarded as legitimate when its purpose was to protect them from floating mines.

As regards the first question, the Commission considered that it was neither possible nor desirable to fix the distance which must separate hospital-ships and vessels of war, such distance being primarily determined by circumstances and by the orders given to the hospital-ships by the belligerents.

As regards the distinction suggested by the German Red Cross, it was pointed out that in practice this would be impossible to draw, as the question whether a hospital-ship was accompanying war vessels or was being convoyed by them could never be objectively decided, particularly by the enemy.

Generally speaking, the Commission laid down the principle that whatever the relative positions of hospital-ships and war vessels, the former never cease to enjoy the protection of the Convention. If they draw near to war vessels they may in fact expose themselves to danger; but in so doing they would be acting at their own risk and peril, according to the principle laid down in paragraph 4 of the present Article.

* The proposal of the German Red Cross was supported by the Greek Red Cross and resisted by the American, French, Italian, Norwegian and Swedish Red Crosses and by the Permanent Committee of the International Congresses on Military Medicine and Pharmacy.
Revision of the Xth Hague Convention of 1907.

Article 13.

The vessels mentioned in Articles 9, 10 and 11 shall not be assimilated to war vessels as regards their stay in neutral ports.

(See 1907, Article 1, paragraph 2, p. 24 above.)

This Article reproduces Article 1, paragraph 2, of the Hague Convention. The Commission's intention, in making this provision into a separate Article, was to indicate that it applies not only to naval hospital-ships, but also to the hospital-ships of private persons and relief societies in belligerent and neutral countries.

Article 14.

Merchant vessels which have been transformed into hospital-ships shall not be put to any other use throughout the duration of the hostilities.

This new provision was adopted on the proposal of the German Red Cross. The Commission unanimously recognized that the transformation of merchant vessels into hospital-ships was permissible under the present Convention, and it was pointed out that, during the Great War, the belligerents had frequently availed themselves of this possibility. The retransformation of hospital-ships into merchant-vessels might, however, be open to certain objections and might even lead to abuses; the majority of the Commission, therefore, thought it advisable to provide that a vessel transformed into a hospital-ship must keep its characters throughout the duration of hostilities, even though such a rule might have the effect of somewhat reducing the number of hospital-ships.

Article 15

The protection to which hospital ships and the sick-bays of vessels are entitled shall cease if they are used for the purpose of committing acts harmful to the enemy.
Revision of the Xth Hague Convention of 1907.

It shall, in particular, be forbidden for hospital-ships to use any secret code for communications, either by signals or by wireless telegraphy.

The following circumstances shall not be held to justify the withdrawal of protection:

1) The fact that the personnel of such vessels is armed for the maintenance of order and the defence of the wounded and sick.

2) The existence on board of wireless-telegraphy apparatus, small signal guns or line-carrying guns.

3) The fact of finding on board hospital-ships or in sick-bays small arms and ammunition taken from the wounded, sick or shipwrecked and not yet handed over to the proper authority.

Art. 8 (1907). — The protection to which hospital ships and the sick-bays of vessels are entitled shall cease if they are used for the purpose of committing acts harmful to the enemy.

The fact that the personnel of such vessels and sick-bays is armed for the maintenance of order and the defence of the wounded and sick, and the existence of a wireless apparatus on board, shall not be held to justify the withdrawal of protection.

Art. 7 (1929). — The protection to which medical units and establishments are entitled shall cease if they are used to commit acts harmful to the enemy.

Art. 8 (1929). — The following conditions shall not be held of such nature as to deprive a medical unit or establishment of the protection ensured by Article 6:

1) that the personnel of the unit or establishment is armed, and that it uses its arms in self-defence or to defend the wounded or sick in its charge;

2) that failing armed medical orderlies, the unit or establishment is guarded by a piquet or by sentries;

3) that small arms and ammunition taken from the wounded and sick and not yet handed over to the proper service are found in the unit or establishment;

4) that personnel and material of the veterinary service are found in the unit or establishment without being an integral part thereof.
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Ad paragraph 1. — This paragraph is identical with Article 8, paragraph 1 of the Hague Convention. In the corresponding provision of the Draft it submitted to the experts, the International Committee deliberately omitted the words “and sick-bays of vessels” *

It is quite clear from the terms of Article 7 of the Hague Convention which, in the 1907 text, immediately precedes paragraph 1 of the present Article, that the obligation to protect the sick-bays of vessels merely arises in the event of fighting on board. In modern warfare, however, boarding is highly improbable.

Though sharing this view, the Commission thought it preferable to retain the provision regarding the protection of the sick-bays of vessels, as it had never given rise to any discussion and as its disappearance might be regarded as evidence of retrogression as compared with the present text of the Maritime Convention.

Ad paragraph 2. — This new clause, which was proposed by the French Red Cross, was adopted by the Commission without discussion **.

Ad paragraph 3, Nos 1 and 2. — These clauses merely reproduce, in a different form, Article 8, paragraph 2 of the Hague Convention, with the addition after the words “wireless telegraphy apparatus” of the words “small signal guns and line-carrying guns”. The addition, * This omission, which was opposed by the Permanent Committee of the International Congresses on Military Medicine and Pharmacy, was urged by the American, Austrian, French, Greek, Italian, Norwegian and Swedish Red Crosses.

** The introduction of this provision into the Hague Convention was opposed by the Swedish Red Cross and also by the American Red Cross, which pointed out that the use of generally intelligible codes by hospital-ships would enable the enemy to obtain information of naval value.
which was proposed by the French Red Cross, was adopted without discussion *.

* The addition was supported by the American and Swedish Red Crosses.

Ad paragraph 3, No. 3. — This clause, which is new, is based upon Article 8, No. 3, of the Geneva Convention, the Commission being unanimously in favour of its adaptation to the Hague Convention.

Chapter III.

Concerning Personnel.

Article 16.

The religious, medical and hospital personnel of hospital-ships shall be respected and protected in all circumstances; in no case shall they be taken prisoners.

The same rule shall apply to the crews of hospital-ships and to those of any aircraft attached to them, during the time they are thus employed.

Ad paragraph 1. — This provision embodies an idea implicit in the Hague Convention. It is obvious, and has, indeed, never been denied, that the protection and immunity from capture enjoyed by hospital-ships under Articles 1, 2 and 3 of the Hague Convention also extends to their personnel who, as it were, form an integral part of them. Now, however, that the revised Maritime Convention has been arranged under the same heads as the Geneva Convention, it is necessary to state this principle explicitly. It would, indeed, be inconceivable that a special Chapter dealing with the protection of personnel should not begin by mentioning the medical and nursing staff of hospital-ships.
Revision of the Xth Hague Convention of 1907

Ad paragraph 2. — This provision, which follows from the preceding paragraph, also embodies a principle which, though not expressly laid down in the Hague Convention, has never been questioned*. If hospital-ships are to be immune from capture, obviously their crews must be so too; otherwise the protection enjoyed by the ships would be entirely illusory. The Commission thought it necessary to specify, however, that the protection extended to the crews is limited to the time during which they are responsible for manning the ships or the aircraft attached to them, and thus, in a way, form an integral part of them.

Article 17.

The religious, medical and hospital personnel of all captured vessels shall be respected and protected in all circumstances.

Should they fall into the hands of the enemy, they shall not be treated as prisoners of war.

Naval ratings specially trained for employment, when necessary, as auxiliary orderlies or stretcher-bearers for the removal, transport and treatment of the wounded and sick, and duly provided with a document of identity, shall enjoy the same treatment as regular medical personnel, if they are captured while carrying out these duties.

Art. 10, paragraph 1 (1907). — The religious, medical and hospital personnel of any captured ship are inviolable and cannot be taken prisoners of war. On leaving ship, such personnel may take with them articles and surgical instruments which are their private property.

Art. 9 (1929). — The personnel engaged exclusively in the collection, transport and treatment of the sick and wounded, or in the administration of medical units and establishments, as well as army chaplains, shall be respected and protected under all circumstances.

* The Austrian, French and Italian Red Crosses were in favour of the introduction of such a provision into the Draft.
Revision of the Xth Hague Convention of 1907.

If they fall into the hands of the enemy they shall not be treated as prisoners of war.

Soldiers specially trained for employment in case of need, as auxiliary orderlies or stretcher-bearers for the collection, transport and treatment of the wounded and sick, and duly furnished with a certificate of identity, shall enjoy the same treatment as the regular medical personnel if they are taken prisoners while carrying out these duties.

Ad paragraphs 1 and 2. — These paragraphs reproduce the provisions of the first sentence of Article 10 of the Hague Convention, the text of which has been adapted to that of Article 9, paragraphs 1 and 2, of the Geneva Convention.

In the draft submitted to the experts, the International Committee had introduced the words "without distinction between warships and other vessels" after the words "all captured vessels". The Commission, however, considered that the present terms of the Hague Convention being sufficiently clear in themselves no such addition was necessary.

Another question raised was whether religious, medical and hospital personnel travelling on hospital-ships as passengers would also enjoy the protection of the Convention.

The Commission was unanimously of opinion that they would, but the majority of its members considered it unnecessary to state this explicitly in the text, in view of the inclusion in Article 16, paragraph 1, of the Draft of the words "in all circumstances".

Ad paragraph 3. — This new provision reproduces Article 9, paragraph 3, of the Geneva Convention, which

1 It should be pointed out that the provisions of the second sentence of Article 10, paragraph 1, of the Hague Convention have been transferred to Article 18, paragraph 3, of the Draft for the sake of uniformity with the Geneva Convention.

* The National Societies were all of the same opinion.

** The American, Austrian and French Red Crosses replied in the affirmative.
Revision of the Xth Hague Convention of 1907.

is also in place in the Maritime Convention. The French Red Cross, indeed, pointed out that in the French Navy, bandsmen are specially trained in first-aid work; during and after an engagement it is they who collect the wounded and remove them to the sick-bays.

* * *

In the draft submitted to the experts, the International Committee had at this point introduced two articles reproducing the provisions of Articles 10 and 11 of the Geneva Convention. The Commission of Experts was also in favour of this course *. When it came to draw up the present report the International Committee, after further consideration of the matter, came to the conclusion that modification of the Maritime Convention in this particular was unjustified and might even lead to confusion.

Articles 10 and 11 of the Geneva Convention deal, in the first place, with the protection of the personnel of relief societies of belligerent or neutral countries (such personnel being assimilated to the personnel of the regular Army Medical Services whose position is defined in Article 9) and, in the second place, with the notification to the enemy of the names of such societies. The protection of the personnel of relief societies is already provided for by Article 16 of the Draft which applies to the personnel of all hospital-ships—a generic term which, as stated above, covers both naval hospital-ships and those of private societies. Though the distinction between the personnel of the Army Medical Services and that of the relief societies may be quite appropriate in the Convention relating to land warfare, it has no raison d'ètre in the Maritime Convention, in which the medical personnel is treated as constituting an integral part of the hospital-

* The same view was expressed by the Austrian, French, Italian, Norwegian and Swedish Red Crosses.
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ships. It is for this reason that, as has been shown above, the protection of the medical personnel of the hospitalships was nowhere expressly provided for in the Hague Convention.

It should further be noted that Articles 10 and 11 of the Draft, like the corresponding provisions of the present Maritime Convention contemplate the participation in these activities of hospital-ships operated by private individuals. Such being the case, the introduction into the revised Maritime Convention of Articles 10 and 11 of the Geneva Convention, which only apply to the personnel of relief societies, would seem to exclude the personnel of hospital-ships operated by private individuals from the protection of the Convention.

As regards the notification of the names of relief societies to the enemy, which is the second matter dealt with in Articles 10 and 11 of the Geneva Convention, its counterpart is already to be found in Articles 10 and 11 of the Draft, which expressly provide that belligerents shall notify the enemy of the names of any hospital-ships whose assistance they may have accepted.

For various reasons the International Committee took the view that Articles 10 and 11 of the Geneva Convention duplicated certain provisions already in the Maritime Convention* and therefore decided not to incorporate them in the present Draft.

In conclusion, it should be remarked that during the discussion on Article 11 of the Geneva Convention, the Permanent Committee of the International Congresses on Military Medicine and Pharmacy suggested that it might perhaps be appropriate to provide for the possibility

* This was pointed out by the French and Greek Red Crosses.
1 The delegate of the Netherlands Red Cross spoke in favour of the retention of these Articles.
of neutral States lending belligerents the assistance of their medical services which, in maritime warfare, might take the form of the co-operation of neutral hospitalships*.

The Commission, however, took the view that naval and military medical services of neutral States should not be concerned in assistance to belligerents, for though such assistance might conceivably not be incompatible with neutrality from the strictly legal point of view, it would, in fact, involve such great political risks that it could not safely be contemplated.

Article 18.

The persons designated in Article 17 may not be held after falling into the hands of the enemy. In the absence of any agreement to the contrary, they shall be landed as soon as possible, in so far as naval considerations permit.

Pending their return they shall continue to carry out their duties under the direction of the enemy; they shall preferably be detailed to care for the wounded and sick of the belligerent to whom they belong.

On their departure, they shall take with them the effects, instruments and arms belonging to them.

Art. 10, paragraph 2 (1907). — Such personnel shall continue to carry out its duties as long as is necessary and shall be allowed to return when the commander-in-chief judges its departure possible.

Art. 12 (1929). — The persons designated in Articles 9, 10 and 11 may not be held after falling into the hands of the enemy.

In the absence of any agreement to the contrary, they shall be returned to the belligerent in whose service they are, as soon as a route is open for their return and military considerations permit.

* This proposal was supported by the Austrian Red Cross and opposed by the Swedish Red Cross.
Pending their return, they shall continue to carry out their
duties under the direction of the enemy; they shall preferably
be detailed to care for the wounded and sick of the belligerent
to whom they belong.

This Article was adopted by the Commission without
discussion; it is merely an adaptation of Article 10, para­
graph 1 (second sentence) and paragraph 2, of the Hague
Convention to Article 12 of the Geneva Convention, the
wording of which is clearer and more detailed *.

Article 19.

Belligerents shall see that the personnel mentioned in
Article 17, while in their hands, receive the same rations,
the same quarters, in so far as accommodation on board
permits, the same allowances, and the same pay as the cor­
responding personnel of their own navy. On the outbreak
of hostilities they shall agree as to the corresponding ranks
in their respective medical services.

Art. 10, paragraph 3 (1907). — Belligerents shall grant such
personnel, while in their hands, the same allowances and the same
pay as the corresponding personnel in their own navy.

Art. 13 (1929). — Belligerents shall grant the personnel re­
ferred to in Articles 9, 10 and 11, while in their hands, the same
rations, the same quarters, the same allowances and the same pay,
as the corresponding personnel of their own army.

On the outbreak of hostilities, they shall agree as to the corres­
ponding ranks in their respective medical services.

The text of this Article, which corresponds to Article
10, paragraph 3 of the Hague Convention has been taken
from Article 13 of the Geneva Convention *. On the
proposal of the French Red Cross, however, the words
"in so far as the accommodation on board permits" were inserted after the words "the same quarters" *. In practice, indeed, it will not always be possible, space on

* The National Societies were all in favour of this adaptation.
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board a war vessel being limited, to give captured medical personnel the same quarters as the corresponding personnel of the captor.

Chapter IV.

Concerning Material**.

Article 20.

In the event of fighting on board war vessels, the sick-bays shall be respected and spared as far as possible. Such sick-bays and their material shall remain subject to the laws of war, but may not be diverted from their purpose so long as they are required for the wounded and the sick. Nevertheless, commanders into whose power they may fall shall have the right, in case of urgent military need, to make use of them, provided always that they first make provision for the welfare of the wounded and sick who are being treated therein.

Art. 7 (1907). — In the event of fighting on board warships, the sick-bays shall be respected and spared as far as possible.

Such sick-bays and their material shall be subjected to the laws of war, but may not be diverted from their purpose so long as they are required for the wounded and the sick.

Nevertheless, commanders into whose power they may fall have the right, in case of important military need, to make use of them, provided always that they first make provision for the welfare of the wounded and sick who are in such sick-bays.

Art. 15 (1929). — The buildings and material of the permanent army medical establishments shall be subject to the laws of war, but may not be diverted from their purpose as long as they are needed for the wounded and sick.

Nevertheless, the commanders of troops in the field may make use of them, in case of urgent military necessity, after making provision for the welfare of the wounded and sick who are being nursed.

* This addition was supported by the American, Austrian and Swedish Red Crosses.

** The Swedish Red Cross proposed that this Chapter be entitled "Concerning Material on board".

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This Article reproduces the terms of Article 7 of the Hague Convention almost word for word. The only changes are the substitution of the words "urgent military necessity" for "important military necessity", and of the words "being treated therein" for "in such sick-bays", for the sake of uniformity with the corresponding provisions of the Geneva Convention *.

In the course of the discussion, it was suggested that modern methods of naval warfare excluded the possibility of fighting on board war vessels, and that Article 7 of the Hague Convention might therefore be omitted as obsolete. For the reasons stated above 1, however, the Commission decided to retain this provision, which in any case can do no harm. On the other hand, the Commission rejected the suggestion of the Permanent Committee of the International Congresses on Military Medicine and Pharmacy that the protection provided for in the present Article should be extended to the sick-bays of all vessels **.

Chapter V.

Concerning Medical Transport ***.

Article 21.


* The National Societies were unanimously in favour of these changes.

1 See remarks ad Art. 15, para. 1, p. 33.

** This proposal was supported by the Austrian Red Cross; the French and Swedish Red Crosses were of the contrary opinion. The American Red Cross considers that such protection should be extended not only to the sick-bays of all vessels, but also to all the material used for the treatment of the wounded and sick on board.

*** The French Red Cross proposed the introduction into this Chapter of a provision to the effect that hospital-ships may be
To those provisions shall be added the following: Medical hydroplanes shall obey every summons to alight. In the event of such compulsory descent, or of involuntary descent, the wounded and sick together with the medical personnel and material, including the aircraft, shall remain entitled to the protection provided for by the present Convention.

Art. 18 (1929). — Aircraft employed for medical transport shall enjoy the protection of the Convention as long as they are used exclusively for the removal of sick and wounded.

They shall be painted white and display clearly on their lower and upper surfaces the distinctive emblem referred to in Article 19, besides the national colours.

Unless specially and expressly authorized, flying over the firing line, or over the area situated in advance of the main casualty clearing stations, and in general over all enemy territory or territories occupied by the enemy, shall be forbidden.

Medical aircraft shall obey every summons to land.

In case of such aircraft landing when summoned, or accidentally, on enemy territory, or territory occupied by the enemy, the wounded and sick, as well as the medical personnel and material, including the aircraft, shall be subject to the provisions of the present Convention.

The pilot, the crew and the wireless operators taken prisoner shall be returned, provided that they be not employed, until the close of hostilities, on other than medical duties.

This Article is new, as it was not until 1929 that general provisions governing the use of medical aircraft were introduced into the Geneva Convention. In the draft submitted to the experts, the International Committee reproduced Article 18 of the Geneva Convention, para-
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graphs 4 and 5 being adapted to the special case of the alighting of hydroplanes *

The Commission took the view that Article 18 of the Geneva Convention applied, in any case, to maritime operations as well as to land operations, and consequently that all that was necessary was a special provision bringing medical hydroplanes under the same rules.

* * *

The discussion of the present Chapter on medical transport naturally led the Commission to examine the suggestions of the American Red Cross for facilitating the transport of medical supplies in time of war at sea. It will be recalled that the question of the immunities to be granted in respect of such transport was raised by the International Committee in its Circular No. 328. The International Committee's attention had been drawn to the fact that, at the beginning of the World War, when the United States were still neutral, the American Red Cross had attempted to send medical supplies, including articles made of cotton and rubber, to certain belligerents, and that difficulties had arisen as to whether such supplies were not to be regarded as contraband of war and, therefore, subject to capture.

Considering that this problem, as one primarily concerning maritime warfare, might usefully be discussed at the meeting of naval experts, the International Committee requested the American Red Cross to suggest to the Commission, in the light of its own experience, a possible basis for dealing with the matter.

* The National Societies were unanimously in favour of such adaptation, pending the adoption of a special Convention on medical aircraft.

The following are the proposals which, in response to this invitation, the American Red Cross submitted to the Commission of Experts:

1) That the belligerents mutually agree to the placing on all hospital ships being used for the transportation of sick and wounded and for the transportation of agreed, upon hospital supplies a neutral observer acceptable to the belligerents concerned; such observer to attest to the fact that the ship is being used for no military purposes other than the transportation of the sick and wounded and an agreed-upon list of hospital supplies.

2) That the neutral observer shall be responsible on any debarkation of the hospital supplies to see that such supplies are consigned only to recognized agents of a neutral commission established by treaty agreement.

3) That an agreement concerning the creation of such a neutral commission be enacted in the Treaty of the Hague to provide for a safe, neutral consignee to whom hospital supplies may be entrusted.

4) The neutral commission or agency must be acceptable to all belligerents. Such a commission is to function in countries whose ports may be blockaded, or under conditions when the transportation of supplies for certain belligerents are subject to confiscation at sea as contraband of war. This commission to whom hospital supplies should be consigned for distribution must have the further obligation to keep careful record of the distribution of supplies such as cotton, rubber, etc., that might be used for military purposes; and shall obtain from the hospitals receiving the supplies a permit to see that when no longer suitable for hospital use the donated supplies are destroyed.

It will be recalled that the placing of non-belligerent commissioners on hospital-ships to ensure the strict observation of the Convention was discussed in connection with Article 12 of the Draft and that the Commission while rejecting control proper, adopted in principle the idea of placing neutral observers on such ships. After taking cognisance of the proposals of the American Red

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1 See page 28 of the present Report.
Cross, the Commission decided that it was highly desirable that the duties of such neutral observers should include the surveillance of the medical supplies transported by hospital-ships ¹; in that case, it would be sufficient to provide for a neutral auxiliary agency on land, whose duty it would be to check and supervise the reception and distribution of such supplies and to see that, after use, they are destroyed, so as to prevent their being employed for warlike purposes.

In the course of the discussion, it was further suggested that it might be appropriate to consider the possibility of some form of supervision for the medical supplies transported by merchant vessels exclusively engaged in such work, and even of the medical supplies carried as part of their cargo by vessels belonging to the merchant marine. It was pointed out that merchant vessels engaged exclusively in the transport of medical supplies might be more or less assimilated to hospital-ships, and that when merchant vessels are carrying medical supplies as part of their cargo, it might be possible to place a commissioner on board to accompany such material and see that it reached its proper destination.

The Commission decided, however, to leave this question on one side, on the grounds that it went beyond the scope of the proposals submitted to it and appeared, moreover, to affect the problem of neutrality.

Finally, the American proposals were adopted in principle and in the same spirit as the suggestion for the placing of neutral observers on board hospital-ships. Maintaining the attitude it had previous adopted in the matter, the Commission decided that these suggestions should not

¹ In this connection, the Commission laid down the principle that hospital-ships have the right to transport medical supplies and that they remain entitled to the protection of the Convention even when they are being used for that purpose alone—as, indeed, are aircraft (Geneva Convention of 1929, Art. 18, para. 1).
be incorporated in the Draft Revised Maritime Convention but recommended to the consideration of the Governments, as suitable subjects for the conclusion of ad hoc agreements under Article 29 below.

Chapter VI.

Concerning the Distinctive Emblem.

In the draft submitted to the experts, the International Committee had reproduced, at the beginning of this Chapter, Article 19, paragraph 1 of the Geneva Convention*.

The Commission considered, however, that this provision belonged exclusively to the Geneva Convention and that its reproduction in the Maritime Convention was unnecessary.

Article 22.

The Red Cross emblem shall figure on the flags, armlets and on all material belonging to the Medical Service, with the permission of the competent naval authority.

Art. 20 (1929). — The emblem shall figure on the flags and armlets, and on all material belonging to the Medical Service, with the permission of the competent military authority.

This Article merely reproduces the terms of Article 20 of the Geneva Convention; the Commission thought its introduction into the Maritime Convention desirable and adopted it without discussion.

* The National Societies, unlike the Permanent Committee of the International Congresses on Military Medicine and Pharmacy, were all in favour of this. The Austrian, French, and Italian Red Crosses further proposed the introduction of Article 19, paragraph 2 of the Geneva Convention, which the International Committee had deliberately refrained from including in its draft for the revised Maritime Convention. Reference may be made, on this subject to the "Projet de revision de la Convention de Genève présenté aux Sociétés nationales de la Croix-Rouge par le Comité international de la Croix-Rouge ". (May 1937, page 13, ad Art. 19. para. 2).
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Article 23.

The medical, religious and hospital personnel protected under Article 16, paragraph 1, and Article 17, paragraph 1, shall wear, affixed to the left arm, an armlet bearing the distinctive emblem, issued and stamped by a naval authority.

The medical, religious and hospital personnel of naval hospital-ships and the personnel mentioned in Article 17, paragraph 3, shall be provided with a certificate of identity, in the shape either of an entry in their service pay-book or of a special document.

The medical, religious and hospital personnel of the ships mentioned in Articles 10 and 11 who have no service uniform, shall be provided by the competent naval authority with a certificate of identity, with photograph attesting their status as medical personnel.

The certificates of identity shall be uniform and of the same pattern in each navy.

In no case shall the medical personnel be deprived of the badges or certificates of identity belonging to them.

In case of loss, they shall be entitled to obtain duplicates.

Art. 21 (1929). — The personnel protected under Article 9 (paragraph 1), 10 and 11 shall wear on the left arm an armlet bearing the distinctive emblem issued and stamped by a military authority.

The personnel referred to in Article 9 (paragraphs 1 and 2) shall be provided with a certificate of identity, in the shape either of an entry in their service pay-book, or of a special document.

The persons referred to in Articles 10 and 11 who have no service uniform, shall be provided by the competent military authority with a certificate of identity, with photograph, attesting their status as medical personnel.

The certificates of identity shall be uniform and of the same pattern in each army.

In no case shall the medical personnel be deprived of their badges or of the certificates belonging to them.

In case of loss, they shall be entitled to obtain duplicates.
This new Article is based on the principles laid down in Article 21 of the Geneva Convention. The medical personnel of naval hospital-ships (Art. 9) and of hospital-ships operated by private individuals or officially recognised relief societies (Art. 10 and 11)—with the exception of temporary personnel—is entitled to wear the armlet. Of the medical personnel, those wearing service uniform (including the medical personnel of naval hospital-ships and ratings specially trained to act, in case of need, as auxiliary sick-bay orderlies and stretcher-bearers) must be provided with an identity document which, as a rule will take the form of an entry in the service pay-book. Personnel not wearing service uniform (medical personnel of hospital-ships operated by private individuals or officially recognised relief societies) must be provided with an identity certificates, with photograph, issued by the naval authorities and attesting the holders' status as medical personnel.

Article 24.

The ships mentioned in Articles 9, 10 and 11 shall, to distinguish them, be painted white, with a horizontal red band approximately one metre and a half in width.

The boats of such ships, together with any small craft used for hospital work, shall be similarly painted.

The deck and the funnels and other superstructures of the ships mentioned in paragraph 1 of the present Article shall be painted white and shall display large red crosses, so that their distinctive emblems may be clearly visible to the land, air and naval forces of the enemy.

All hospital-ships shall make themselves known by hoisting, with their national flag, a white flag with the red cross and, also, if they possess the nationality of a neutral State, by flying at the mainmast the national flag of the belligerent under whose direction they are placed.
Hospital-ships provisionally detained by the enemy under Article 12, shall haul down the national flag of the belligerent to whom they are attached.

Should the ships and boats above-mentioned desire to ensure by night the respect to which they are entitled they shall, subject to the consent of the belligerent they are accompanying, take the necessary steps to render the painting and the distinctive emblems by which they are characterized sufficiently apparent.

ART. 5 (1907). — Hospital ships shall, to distinguish them, be painted white with a horizontal green band about one and a half metres wide.

The ships mentioned in Articles 2 and 3 shall, to distinguish them, be painted white, with a horizontal red band about one and a half metres wide.

The boats of such ships, and such small craft used for hospital duties, shall be similarly painted.

All hospital ships shall ensure their identification by hoisting, with their national flag, a white flag with the red cross prescribed by the Geneva Convention, and also, if they belong to a neutral State, by flying at the mainmast the national flag of the belligerent under whose orders they are placed.

Hospital ships which, under Article 4, are detained by the enemy, shall haul down the national flag of the belligerent to whom they are attached.

The ships and boats above-mentioned which wish to ensure at night the respect to which they are entitled, shall take the necessary steps, with the consent of the belligerent they are accompanying, that the painting which characterizes them is sufficiently apparent.

ART. 22 (1929). — The distinctive flag of the Convention may only be flown over such medical units and establishments as are entitled to respect, and with the consent of the military authorities. In permanent establishments, it shall be, and in mobile units it may be, accompanied by the national flag of the belligerent to whom the unit or establishment belongs.

Nevertheless, medical units which have fallen into the hands of the enemy shall fly only the flag of the Convention as long as they are in that situation.

Belligerents shall, so far as military exigencies allow, take the necessary steps to make clearly visible to the enemy forces on land.
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in the air and at sea, the distinctive emblems indicating medical units and establishments, so as to preclude the possibility of any offensive action.

Art. 23 (1929). — The medical units of neutral countries which have been authorized to lend their services under the conditions laid down in Article 11 shall fly, with the flag of the Convention, the national flag of the belligerent to whom they are attached.

They shall be entitled, as long as they lend their services to a belligerent, to fly their national flag.

The provisions of paragraph 2 of the preceding Article are applicable to them.

Ad paragraph 1. — This paragraph is a combination of paragraphs 1 and 2 of Article 5 of the Hague Convention. The Commission unanimously decided that henceforward the distinctive colours of all hospital-ships should be the same, that is to say, that all the categories mentioned in Articles 9, 10 and 11 should display the red band *.

It should be noted that the rule distinguishing between naval hospital-ships—which were to show a green band—and private hospital-ships—which were to display a red band—first made its appearance in 1868 in the Articles Additional to the Geneva Convention of 1864 (Article 12, paragraph 3, and Article 13, paragraph 3). These Articles were never ratified, but in his report to the Hague Conference of 1899 M. Louis Renault said that he had taken them as a basis for Article 5. At the time, the distinction made by the Additional Articles of 1868 was fully justified, as it was therein provided that naval hospital-ships were subject to capture, whereas private hospital-ships were not. Furthermore, the wounded, sick and shipwrecked on board a naval hospital-ship could be made prisoners, whereas those on board a private hospital-ship could not.

* The National Societies were unanimously in favour of this change.
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It will thus be seen that while there was every reason for distinguishing between the colours of naval and private hospital-ships respectively in the Additional Articles of 1868, such was not the case under the Hague Convention, and this distinction might therefore have been abolished as long ago as 1899. Such being the case the Commission rightly decided to put an end to the anomaly and to adopt the same distinctive signs for all hospital-ships.

Ad paragraph 2. — This paragraph merely reproduces Article 5, paragraph 3, of the Hague Convention.

Ad paragraph 3. — This paragraph is new. The development of modern instruments of war (aviation and long-range artillery) has had the effect of making the distinctive signs provided for in the Hague Convention insufficient. Hence the Commission's decision to introduce the new requirement that, in addition to the red band on a white ground, hospital-ships shall display red crosses on a white ground, visible from every point of the compass, on their decks and superstructures *. In its draft for the revised Maritime Convention, the International Committee had also included a provision to the effect that the hulls of hospital-ships should carry some distinctive sign both fore and aft. This suggestion was, however, rejected by the Commission on the grounds that such signs would detract from the visibility of the red band.

Ad paragraphs 4, 5 and 6. — These paragraphs reproduce Article 5, paragraphs 4, 5 and 6, of the Hague Convention with the addition made necessary by the adoption of paragraph 3 of the new Draft (distinctive signs on the decks and superstructures of hospital-ships).

* This proposal was supported by the American, French, Italian and Swedish Red Crosses.
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In the draft submitted to the experts, the International Committee had here inserted a provision adapting Article 6 of the Hague Convention to Article 24 of the Geneva Convention, the terms of which were largely recast in 1929. The Commission decided to omit this Article from the Draft Maritime Convention, on the grounds that the rules governing the use of the distinctive emblem were essentially a matter for the Geneva Convention itself.

Art. 6 (1907). — The distinctive signs specified in Article 5 can only be used, either in time of peace or of war, to protect or distinguish the ships mentioned therein.

Chapter VII.

Concerning the Application and Execution of the Convention.

Article 25.

The provisions of the present Convention shall be respected by the High Contracting Parties in all circumstances.

If, in time of war, any belligerent should not be a party to the Convention, its provisions shall nevertheless be binding as between all the belligerents who are parties thereto.

Art. 18 (1907). — The provisions of the present Convention are applicable only as between the contracting Powers, and only if the belligerents are all parties to the Convention.

Art. 25 (1929). — The provisions of the present Convention shall be respected by the High Contracting Parties in all circumstances.

If, in time of war, a belligerent is not a party to the Convention its provisions shall nevertheless be binding as between all the belligerents who are parties thereto.

This Article, which reproduces the terms of Article 25 of the Geneva Convention, was unanimously adopted by
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the Commission*. The *clausula si omnes*, the grave drawbacks of which are well known, was happily removed from the Geneva Convention in 1929, and the adaptation of the Maritime Convention on this point is of particular importance.

**Article 26.**

*In the case of operations of war between the land and sea forces of the belligerents, the provisions of the present Convention shall only apply to the forces actually on board ship. Any forces landed shall at once become subject to the provisions of the Geneva Convention of July 27th, 1929.*

Art. 22 (1907). — In the case of operations of war between the land and sea forces of the belligerents, the provisions of the present Convention shall only apply to the forces actually on board ship.

The text of this Article is taken from Article 22 of the Hague Convention, with the addition of a new paragraph the purpose of which is to define the sphere of application of the Geneva Convention in relation to the Hague Convention**. In this connection reference may be made to the remarks ad Article 7, p. 21 above.

**Article 27.**

*It shall be the duty of the commanders-in-chief of the belligerent fleets to provide, in detail, for the execution of the foregoing Articles and also to deal with cases not therein provided for, in accordance with the instructions of their respective Governments and in conformity with the general provisions of the present Convention.*

* Both the National Societies and the Permanent Committee of the International Congresses on Military Medicine and Pharmacy were in favour of this provision.

** The National Societies were unanimously in favour of this addition.
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Art. 19 (1907). — It shall be the duty of the commanders-in-chief of the belligerent fleets to provide, in detail, for the execution of the foregoing Articles, and also to deal with cases not therein provided for, in accordance with the instructions of their respective Governments and in conformity with the general provisions of the present Convention.

Art. 26 (1929). — The commanders-in-chief of belligerent armies shall arrange for the carrying out of the preceding Articles, and for cases not provided for, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present Convention.

This Article exactly reproduces the terms of Article 19 of the Hague Convention and was maintained by the Commission without discussion. It is virtually identical with Article 26 of the Geneva Convention.

Article 28.

The High Contracting Parties shall take the necessary steps to instruct their navies, and especially the personnel protected, in the provisions of the present Convention, and to bring them to the knowledge of the general public.

Art. 20 (1907). — The signatory Powers shall take the necessary steps to instruct their navies, and especially the personnel protected, in the provisions of the present Convention, and to bring them to the knowledge of the general public.

Art. 27 (1929). — The High Contracting Parties shall take the necessary steps to instruct their troops, and especially the personnel protected, in the provisions of the present Convention, and to bring them to the knowledge of the general public.

This Article reproduces the terms of Article 20 of the Hague Convention and Article 27 of the Geneva Convention. It too was adopted by the Commission without discussion.
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Article 29.

Belligerents shall remain free to enter into any ad hoc agreements, over and above their obligations under the present Convention, which they may think fit.

(See 1929, Article 2, paragraph 2, p. 12 above.)

This Article, which was proposed by the French Red Cross, is based upon, and extends the scope of Article 2, paragraph 2, of the Geneva Convention. The matter is discussed on page 12 of the present report.

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In the draft submitted to the experts the International Committee had here introduced a Chapter VIII entitled: Concerning the Repression of Abuses and Infringements of the Convention, which reproduced the corresponding provisions of the Geneva Convention (Articles 28, 29, and 30). This Chapter was followed by Final Provisions taken from the Hague Convention and adapted to those of the Geneva Convention. For the reasons indicated above 1 the Commission considered that these two questions were not within its competence and therefore preferred not to examine them. The present report can thus do no more than refer those interested to the present texts of the Hague and Geneva Conventions.

IV. Subsidiary Questions.

The XVth International Red Cross Conference, while instructing the International Committee to summon a Commission of Experts to consider on what points it might be desirable and possible to modify the Xth Hague Convention, also renewed the Committee's mandate under

1 See pages 7 and 8 of the present report.
Resolution No. XXII of the XIVth International Conference. By that mandate the International Committee had been instructed to obtain the opinion of a Commission of Experts, drawn from different countries, on eight questions relating more especially to the action of the Red Cross at sea in time both of peace and of war. Although these questions are not strictly germane to the adaptation of the Xth Hague Convention to the Geneva Convention of 1929, the International Committee nevertheless thought it appropriate to submit them to the Commission of Experts for the revision of the Maritime Convention.

The preliminary consultations carried out by the International Committee before communicating its material to all National Societies had, moreover, produced certain suggestions which went beyond the present scope of the Maritime Convention. These suggestions, together with the eight points of Resolution No. XXII of the XIVth International Conference, were set out in the form of Subsidiary Questions in the Questionnaire prepared by the International Committee as the basis for the meetings of the Experts. In the following pages the opinion expressed by the Commission is set out under each of the questions:

Question 1. — Do you consider that the terms of the Hague Convention of December 21st, 1904, should be incorporated in a revised Convention dealing with warfare at sea?

To this question, which was raised at the request of the German Red Cross, the Commission replied in the
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negative *. It considered that the Hague Convention of December 21st, 1904, which provides for the exemption of hospital-ships from State taxes and dues in the ports of the Contracting Parties, dealt with a subject too far removed from the provisions of the 1907 Convention for it to be desirable to combine them in a single instrument.

Question 2. — Do you consider it desirable and possible to contemplate that vessels protected by the Red Cross may serve to bring humanitarian relief to certain categories of the civil population, or do you consider that this can only be achieved by special agreements ad hoc?

It should, in the first place, be noted that this question has in part been settled by the adoption of Article 1, paragraph 2 of the Draft, under which the protection of the Convention is extended to civilian victims of maritime warfare. As regards humanitarian aid to the civil population—for example by replenishing food supplies—the Commission took the view that the only means of achieving such a purpose would be the conclusion of ad hoc agreements between the belligerents, under Article 29 of the Draft **.

Question 3. — Would it be possible and valuable that agreements should be entered into between National Red Cross Societies and their respective Governments regarding the acquisition, equipment, utilization, etc. of hospital-ships calculated to serve in peace time and war time?

The Commission considered that such agreements would be both useful and desirable ***. The number of hospital-ships owned by the National Societies is, indeed,

* The Austrian Red Cross also replied in the negative.
** This was also the view unanimously expressed by the National Societies.
*** A similar view was expressed by the National Societies.

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very small, owing to the high cost of equipping and staffing such vessels. In time of peace, more particularly, the equipment and operation of a permanent hospital unit would involve expenditure which National Societies could not meet unaided. It would therefore be highly desirable that some form of Government assistance should be forthcoming, e.g. through the transfer to National Societies of naval vessels taken out of commission.

The Commission considered, however, that, in this matter each National Society should be left to act as it thought best; while deciding, therefore, to recommend this question to the attention of Governments, it thought it unnecessary to introduce new provisions on the subject into the Draft Revised Convention.

Question 4. — Do you consider possible the utilization by the Red Cross, occasionally and in an emergency, of high-speed launches, vedettes, etc. for the purpose of bringing relief to the victims of warfare at sea when practicable?

The Commission replied to this question in the affirmative *. It nevertheless thought it important to emphasize that though high-speed launches might be brought into use as occasion required, they must then be permanently assigned to Red Cross work for the duration of the hostilities. Such a view was based on the fact that high-speed launches are, as a rule, instruments of war; their use sometimes for medical purposes and sometimes for warlike purposes might lead to abuses which the above-stated rule would prevent. It should, moreover, be noted that a similar rule applies to motor lorries in land warfare; once used for medical purposes they cannot be employed for other purposes throughout the duration of the hostilities.

* The same opinion was expressed by the National Societies.
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Question 5. — Do you consider possible the utilization by the Red Cross of aircraft for the purpose of identifying, and if possible relieving, war victims at sea?

The Commission replied to this question in the affirmative *. Distinguishing this case from that raised in the previous question, moreover, it took the view that aircraft might be used by the Red Cross on a temporary basis, under the provisions of Article 18, paragraph 1 of the Geneva Convention, on condition naturally that they were duly provided with the distinctive emblems.

Question 6. — Do you consider that arrangements between National Red Cross Societies and rescue and lifesaving organizations would be possible?

The Commission found that such agreements were possible and already existed in France. As in the case of Question 3, however, it considered that this was a matter for the discretion of National Societies, which could themselves decide how far co-operation with rescue and life-saving organizations was desirable and what form it should take; particularly as the humanitarian activities of these organizations were not always conducted on quite the same lines as those of the Red Cross.

Question 7. — Do you consider that agreements between the National Red Cross Societies concerned inter se, or between these Societies and other bodies, would be valuable and possible, with a view to providing assistance for fishermen in certain areas frequented by fishing boats from different countries (the Newfoundland Banks, the Iceland coast, etc.)?

It should first be remarked that there are already relief societies engaged in such work. These societies,

* The same view was taken by the National Societies.
which are of long standing and well organized, are obviously those best qualified for the work of assisting fishermen. The only support they are likely to require is of a financial character and that the Red Cross is unable to provide. Finding, therefore, that agreements between such relief Societies and the Red Cross organizations would be of no practical value, the Commission decided to recommend the Governments to grant the societies such financial support as they were able.

Question 8. — Do you consider possible an agreement between the National Societies and the Naval Medical Services of their countries with a view to the training in peace time of an adequate number of male and female nurses who would be immediately mobilisable in case of war, for naval service either at sea or on land (possibility of arranging for generally uniform training in all countries)?

As the essential purpose of the Red Cross is to co-operate in time of war with the Medical Services of the armed forces, the Commission considered it desirable that the National Societies should come to an agreement with the Naval Medical Services of their respective countries with a view to the training, in peace time, of an adequate number of immediately mobilisable nurses of both sexes.

As, on the other hand, the introduction of uniform training in all countries would raise considerable difficulties, the Commission decided to leave this matter to the discretion of the National Societies and to confine itself to recommending this question to the attention of Governments.

Question 9. — What are, in your view, the points in relation to which the plan for forming an international flotilla can, with possibilities as they are at present, make it possible to attain practically some of the objectives of the Red Cross in peace time or war time?
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Convention of 1907

The scheme for the formation of an international Red Cross flotilla put forward by Dr. G. W. Boland in 1913, was the subject of a report submitted by the International Committee to the XIVth International Red Cross Conference. In that report the International Committee drew attention to the legal, practical and financial difficulties standing in the way of such a scheme.

The Commission was of opinion that these difficulties still subsisted and that the scheme would not at present appear to be practicable.*

Question 10. — What are, in your view, the points in relation to which it appears desirable and possible to modify the Hague Convention of 1907 so as to facilitate the work of relief societies, in the light of the proposals made under Questions 3 to 9 above, and especially Question 4?

As has already been stated, the Commission took the view that these matters—when not falling within the exclusive competence of National Societies—should form the subject of recommendations to Governments; hence its decision to refrain from any attempt to modify the Hague Convention within the meaning of the present question.

Question 11. — If, in general, the principle of the establishment of hospital areas should be admitted for land warfare, should provision be made for special conditions to govern the application of this principle to warfare at sea (hospital islands)?

To this question, which was raised by the Permanent Committee of the International Congresses on Military

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* This was also the view of the National Societies.
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Medicine and Pharmacy, the Commission replied in the negative. It took the view that, as regards the creation of hospital areas the same principles applied on sea as on land and that, as the matter had long been under consideration¹, it would be wiser to await the results of the enquiries at present on foot. It noted however that islands were almost always of strategic value and that their conversion into hospital areas would raise difficulties which could probably only be overcome by internationalisation.

¹ Cf. the International Committee’s Circulars Nos. 327 of August 4th 1936 and 336 of April 3rd 1937.
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ANNEXE


Chapter I.

Concerning the Sick, Wounded and Shipwrecked.

Article 1.

Sailors and soldiers embarked on board ship, and other persons officially attached to the land, sea or air armed forces, shall be respected and protected in all circumstances when wounded or sick; they shall be treated humanely and cared for, without distinction of nationality, by the belligerent in whose power they may be.

The benefits of the foregoing provisions shall also be extended to the sick, wounded and shipwrecked from any vessel which is the victim of an act or incident of war.

Article 2.

The wounded, sick or shipwrecked of one belligerent, who fall into the power of the other, shall be prisoners of war. It lies with the captor to decide, in accordance with circumstances, whether to hold them or to send them to a port of his own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus returned to their own country shall not serve again throughout the duration of the war.
Revision of the Xth Hague
Convention of 1907

Article 3.

Any war vessel belonging to a belligerent may demand the surrender of the wounded, sick or shipwrecked men on board naval hospital-ships, hospital-ships belonging to relief societies or to private individuals merchant, ships, yachts and other boats, whatever the nationality of such vessels may be.

Article 4.

Should wounded, sick or shipwrecked persons be embarked on a neutral warship, steps must be taken to prevent their further participation in operations of war.

Article 5.

The wounded, sick or shipwrecked persons landed by belligerent war vessels at a neutral port with the consent of the local authorities, shall be detained by the neutral State concerned, so as to prevent their taking further part in operations of war, failing any contrary arrangement between the neutral and the belligerent States.

The costs of their maintenance and internment shall be borne by the State to which such shipwrecked, wounded or sick persons belong.

Should these wounded, sick or shipwrecked men be landed in a neutral port by private and neutral merchant ships, boats, yachts or aircraft which have assumed no obligation whatever towards one of the belligerent powers, such wounded, sick or shipwrecked men shall be free.

War vessels arriving in a neutral port shall be free, subject to the consent of the neutral State, to land any wounded, sick or shipwrecked they may have on board.
Revision of the Xth Hague
Convention of 1907

Article 6.

After every engagement the two belligerents shall, in so far as military considerations allow, take steps to search for the shipwrecked, wounded and sick, and to protect them, together with the dead, from pillage and maltreatment.

Article 7.

The belligerents shall advise each other, as soon as possible, of the names of the wounded, sick and dead collected or discovered, together with any indications which may assist their identification.

They shall establish and transmit to each other the certificates of death.

They shall likewise collect and send to each other all articles of a personal nature found in captured vessels or on the dead, especially the one half of their identity disks, the other half to remain attached to the body.

They shall ensure that burial on land or at sea, or cremation, is preceded by a careful and if possible medical examination of the bodies, with a view to confirming death and establishing identity for purposes of record.

Whenever wounded, sick or dead are collected by neutrals the latter shall assume as towards the belligerents the obligations laid down in the foregoing paragraphs.

Article 8.

Belligerents may appeal to the humanity of the captains of neutral merchant ships, yachts, or boats, to take on board and care for wounded, sick or shipwrecked men.

Vessels responding to such an appeal, and those having of their own accord rescued wounded men, shall enjoy special protection and certain facilities.
Revision of the Xth Hague Convention of 1907.

They shall in no case be captured for having undertaken such transports; nevertheless, failing assurances to the contrary, they remain subject to capture for any violations of neutrality they may have committed.

Chapter II.

Concerning Hospital-Ships.

Article 9.

Naval hospital ships, that is to say, ships built or fitted out by Governments specially and solely for the purpose of succouring the wounded, sick and shipwrecked, the names of which have been communicated to the belligerent Powers on the outbreak of or during hostilities, and in any case before they are brought into use, shall be respected and immune from capture.

Article 10.

Hospital-ships operated by individuals or officially recognized relief societies shall likewise be respected and exempt from capture, provided that the belligerent Power to which they are subject has given them an official commission and has notified their names to the enemy Power, on the outbreak of or during hostilities, and in any case before they are brought into use.

Such ships must carry a document from the competent authority certifying that they have been under its supervision both while equipping and on final departure.

Article 11.

Hospital-ships operated by individuals or officially recognized relief societies in neutral countries shall be
respected and exempt from capture, provided that they are placed under the orders of one of the belligerents with the previous consent of their own Government, and with the authorization of the belligerent himself and that the latter notifies their names to the enemy at the outbreak of or during hostilities, and in any case before any use is made of them.

Article 12.

The ships mentioned in Articles 9, 10 and 11 shall afford aid and assistance to the wounded, sick and shipwrecked of the belligerents without distinction of nationality.

The Governments undertake not to use such ships for any warlike purpose.

Such ships shall in no wise hamper the movements of the combatants.

During and after an engagement they shall act at their own risk and peril.

The belligerents shall be entitled to supervise and search such vessels. They may refuse their assistance, order them to withdraw, give them sailing orders and temporarily place a commissionner on board, or even provisionally detain them, should the gravity of the circumstances warrant this course.

As far as possible, belligerents shall enter in the log-books of hospital-ships any orders they may give them.

Article 13.

The vessels mentioned in Articles 9, 10 and 11 shall not be assimilated to war vessels as regards their stay in neutral ports.

Article 14.

Merchant vessels which have been transformed into hospital-ships shall not be put to any other use throughout the duration of the hostilities.
Revision of the Xth Hague Convention of 1907.

Article 15.

The protection to which hospital ships and the sick-bays of vessels are entitled shall cease if they are used for the purpose of committing acts harmful to the enemy.

It shall, in particular, be forbidden for hospital-ships to use any secret code for communications, either by signals or by wireless telegraphy.

The following circumstances shall not be held to justify the withdrawal of protection:

1) The fact that the personnel of such vessels is armed for the maintenance of order and the defence of the wounded and sick.

2) The existence on board of wireless-telegraphy apparatus, small signal guns or line-carrying guns.

3) The fact of finding on board hospital-ships or in sick-bays small arms and ammunition taken from the wounded, sick or shipwrecked and not yet handed over to the proper authority.

Chapter III.

Concerning Personnel.

Article 16.

The religious, medical and hospital personnel of hospital-ships shall be respected and protected in all circumstances; in no case shall they be taken prisoners.

The same rule shall apply to the crews of hospital-ships and to those of any aircraft attached to them, during the time they are thus employed.
Revision of the Xth Hague Convention of 1907.

**Article 17.**

The religious, medical and hospital personnel of all captured vessels shall be respected and protected in all circumstances.

Should they fall into the hands of the enemy, they shall not be treated as prisoners of war.

Naval ratings specially trained for employment, when necessary, as auxiliary orderlies or stretcher-bearers for the removal, transport and treatment of the wounded and sick, and duly provided with a document of identity, shall enjoy the same treatment as regular medical personnel if they are captured while carrying out these duties.

**Article 18.**

The persons designated in Article 17 may not be held after falling into the hands of the enemy. In the absence of any agreement to the contrary, they shall be landed as soon as possible, in so far as naval considerations permit.

Pending their return they shall continue to carry out their duties under the direction of the enemy; they shall preferably be detailed to care for the wounded and sick of the belligerent to whom they belong.

On their departure, they shall take with them the effects, instruments and arms belonging to them.

**Article 19.**

Belligerents shall see that the personnel mentioned in Article 17, while in their hands, receive the same rations, the same quarters, in so far as accommodation on board permits, the same allowances, and the same pay as the corresponding personnel of their own navy. On the outbreak of hostilities they shall agree as to the corresponding ranks in their respective medical services.
Revision of the Xth Hague
Convention of 1907.

CHAPITRE IV.

Concerning Material.

ARTICLE 20.

In the event of fighting on board war vessels, the sick-bay shall be respected and spared as far as possible. Such sick-bays and their material shall remain subject to the laws of war, but may not be diverted from their purpose so long as they are required for the wounded and the sick. Nevertheless, commanders into whose power they may fall shall have the right, in case of urgent military need, to make use of them, provided always that they first make provision for the welfare of the wounded and sick who are being treated therein.

CHAPTER V.

Concerning Medical Transport.

ARTICLE 21.


To those provisions shall be added the following: Medical hydroplanes shall obey every summons to alight. In the event of such compulsory descent, or of involuntary descent, the wounded and sick together with the medical personnel and material, including the aircraft, shall remain entitled to the protection provided for by the present Convention.
Concerning the Distinctive Emblem.

Article 22.

The Red Cross emblem shall figure on the flags, armlets and on all material belonging to the Medical Service, with the permission of the competent naval authority.

Article 23.

The medical, religious and hospital personnel protected under Article 16, paragraph 1 and Article 17, paragraph 1 shall wear, affixed to the left arm, an armlet bearing the distinctive emblem, issued and stamped by a naval authority.

The medical, religious and hospital personnel of naval hospital-ships and the personnel mentioned in Article 17, paragraph 3 shall be provided with a certificate of identity, in the shape either of an entry in their service pay-book or of a special document.

The medical, religious and hospital personnel of the ships mentioned in Articles 10 and 11 who have no service uniform, shall be provided by the competent naval authority with a certificate of identity, with photograph attesting their status as medical personnel.

The certificates of identity shall be uniform and of the same pattern in each navy.

In no case shall the medical personnel be deprived of the badges or certificates of identity belonging to them.

In case of loss, they shall be entitled to obtain duplicates.

Article 24.

The ships mentioned in Articles 9, 10 and 11 shall, to distinguish them, be painted white, with a horizontal red band approximately one metre and a half in width.
The boats of such ships, together with any small craft used for hospital work, shall be similarly painted. The deck and the funnels and other superstructures of the ships mentioned in paragraph 1 of the present Article shall be painted white and shall display large red crosses, so that their distinctive emblems may be clearly visible to the land, air and naval forces of the enemy.

All hospital-ships shall make themselves known by hoisting, with their national flag, a white flag with the red cross and, also, if they possess the nationality of a neutral State, by flying at the mainmast the national flag of the belligerent under whose direction they are placed.

Hospital-ships provisionally detained by the enemy under Article 12, shall haul down the national flag of the belligerent to whom they are attached.

Should the ships and boats above-mentioned desire to ensure by night the respect to which they are entitled they shall, subject to the consent of the belligerent they are accompanying, take the necessary steps to render the painting and the distinctive emblems by which they are characterized sufficiently apparent.

Chapter VII.

Concerning the Application and Execution of the Convention.

Article 25.

The provisions of the present Convention shall be respected by the High Contracting Parties in all circumstances.

If, in time of war, any belligerent should not be a party to the Convention, its provisions shall nevertheless be binding as between all the belligerents who are parties thereto.
Revision of the Xth Hague Convention of 1907.

Article 26.

In the case of operations of war between the land and sea forces of the belligerents, the provisions of the present Convention shall only apply to the forces actually on board ship.

Any forces landed shall at once become subject to the provisions of the Geneva Convention of July 27th, 1929.

Article 27.

It shall be the duty of the commanders-in-chief of the belligerent fleets to provide, in detail, for the execution of the foregoing Articles and also to deal with cases not therein provided for, in accordance with the instructions of their respective Governments and in conformity with the general provisions of the present Convention.

Article 28.

The High Contracting Parties shall take the necessary steps to instruct their navies, and especially the personnel protected, in the provisions of the present Convention, and to bring them to the knowledge of the general public.

Article 29.

Belligerents shall remain free to enter into any ad hoc agreements, over and above their obligations under the present Convention, which they may think fit.
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