I. — History

The XVth International Red Cross Conference, which met at Tokio in October 1934, passed a resolution (No. 37, Study of certain laws of war) as follows:

The Conference,

Thanks the Belgian Government for the steps it has taken with a view to submitting to a diplomatic Conference the study of certain laws of war, especially the plan for establishing areas and towns which may provide adequate protection for sick and wounded of the armed forces, and also for the civilian population,

Expresses the hope that the International Committee and the National Red Cross Societies may consult their governments with a view to stimulating their efforts to ensure the rapid execution of such measures as may help to secure the protection of the above classes of the population.

Although the Belgian Government has not found possible to summon the proposed diplomatic Conference, the International Committee has endeavoured to carry out this recommendation.¹

We recall the fact that in February 1934 a Commission of medical and legal experts which met at Monaco, carried out a recommendation voiced by the seventh Congress

¹ See also the International Committee’s Report on the revision of the Geneva Convention, Document No. 11.
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of Military Medicine and Pharmacy held at Madrid in 1933, with a view to establishing a draft International Convention. This draft includes provisions for the establishment of Hospital Towns and Areas to give shelter to sick and wounded members of the forces in time of war. Further, the Standing Committee of the International Congresses of Military Medicine and Pharmacy decided in June 1935, "to forward to the International Red Cross Committee all matters contained in the texts adopted at Monaco which concern the Red Cross". The Secretary General of the Standing Committee informed the International Committee of this decision, adding that it implied "not only the mere communication of the texts and minutes of the Monaco Conference, but also an offer of co-operation in the revision and definitive wording of these texts, which might then be used as a basis for a diplomatic Conference."

In pursuance of the recommendation of the Tokio Conference and of the proposal made by the Standing Committee above mentioned, the International Committee summoned a meeting of experts to examine the question of establishing such Hospital Towns.

This Commission sat on October 15-16, 1936; it included 27 delegates of ten National Societies, of the Standing Committee of the International Congresses of Military Medicine and Pharmacy, of the Save the Children International Union, and of the International Red Cross Committee.

The general sense of the Commission was very largely in favour of establishing such Hospital Towns, but the debates revealed the fact that this problem raised a large number of essentially military questions. The Commission therefore considered that it would be of vital interest to submit the whole question to the consideration of military experts.

Since Resolution 37 of the XVth Conference appointed
the International Committee to study the creation of areas and towns ensuring the adequate protection not only of sick and wounded members of the forces, but also of the civilian population, the question was put to the experts meeting at Geneva in October 1936, whether they considered it desirable to extend the protection proposed for wounded military (Hospital Towns): (a) to sick and invalid civilians, expectant mothers and infants ("lieux de Genève") \(^1\); (b) to the rest of the civilian population (cities of refuge) \(^2\).

Point (b), discussed by the experts at Monaco in 1934 has taken shape in Article 6 of Project No. 4 adopted by that meeting.

The Commission that met in October 1936 was of the opinion that such extension would be highly desirable. Nevertheless, it was found preferable to pursue, firstly, the study of the establishment of hospital towns intended solely to receive sick and wounded members of the forces, since this question belonged more particularly to the domain of the Geneva Convention and was in conformity with the essential aim pursued by the Red Cross. The Commission held that the successful establishment of such localities would enhance the prospect of successfully tackling the wider problem of "cities of refuge", for the protection of all or part of the civilian population.

In consequence of this recommendation, the Inter-

\(^1\) It should be noted that the idea to secure the neutralization in case of hostilities, of places capable of sheltering non-combatants, is not new. We need not go further back than the year 1870 when it was proposed to neutralize the French and German watering places. More recently, i.e. since the Great War, Major-General St. Paul, of the French Medical Service, has suggested the creation of neutralized localities which would bear the name of « Lieux de Genève ».

\(^2\) Interesting attempts in this domain have been made recently at Bilbao, Madrid and Shanghai. In the last case a formal agreement was entered into by the belligerents for the creation of a zone of refuge. (See Document No. 12, General Report, p. 130.)
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national Committee has limited its enquiries, for the time being, to the sick and wounded of forces in the field.

By Circular 336, the International Committee submitted to National Red Cross Societies a number of draft Articles that might serve as the frame-work of a Convention for the establishment of Hospital Towns; in these the Committee summarized the principles laid down by the Commission of October 1936. This Draft will be found in annexe.

At the same time, the International Committee requested National Societies to submit the said Draft to their respective governments, with a view to securing the opinions of the General Staffs.

National Societies were also requested to inform Geneva if their Governments was disposed to send a representative to a Commission of military experts, which the International Committee proposed to summon if the answer received seemed in favour of such a course.

In answer to Circular 336, thirteen National Societies conveyed the opinions expressed by their Governments. Of the latter, two only stated their willingness to send a military representative; one of the Governments was ready to send an observer. The results of this consultation were therefore insufficient to warrant the summoning of the meeting.

On October 19, 1937, a Commission of Experts met with a view to the revision of the Geneva Convention, and the International Committee took advantage of the presence of the delegates of 22 National Societies and of the Standing Committee of the Congresses on Military Medicine and Pharmacy, to inform them briefly of the present position and to ask their opinion as to what further steps should be taken. The members of the Commission recommended that the International Committee once more consult all National Societies who had not yet communicated the opinion of their Governments, with a view to securing a reply.

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This recommendation having been carried out, eight other National Societies informed the International Committee of the opinions held by their Governments with regard to the proposed establishment of Hospital Towns. As regards the Commission of military experts, the renewed steps taken by the International Committee did not produce the expected results. Finally, four Governments only were disposed to appoint expert representatives with voting powers, and the International Committee regretfully decided to abandon the idea of summoning such a Commission, which under these conditions would scarcely have been able to carry out the task suggested by the experts sitting at Geneva in October 1936. For these reasons the International Committee can do no more than to submit to the XVIth Conference a provisional Report which summarizes the present state of the enquiry and the opinions given by military experts in connection with the draft Convention. This Report will allow the Conference to make a decision as to what further steps shall be taken in the matter. The International Committee expresses the hope that it will then be found possible to summon a Commission of military experts, together with a certain number of authorities in matters of international law, and thus draw up a final draft which may be submitted to Governments without further delay.

II. — Draft articles to constitute the frame-work of a convention concerning the establishment of Hospital Towns and commentary summarizing the opinions of military experts forwarded by National Red Cross Societies.

The American, Austrian, Belgian, Chilian, Dutch, Hungarian, Latvian, Norwegian and Swedish Red Cross Societies as well as the Egyptian Red Crescent, in answer
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to the International Committee's Circular No. 336, communicated the opinions of military experts of their respective countries, mostly those of the General Staff, concerning the Draft that the Committee had prepared on the basis of the discussions of the Commission which sat in Geneva in October 1936. The articles of this Draft and the summary of the opinions received will be found below.

Further, certain services of the Swiss Federal Political and Military Department have kindly furnished the International Committee with detailed opinions, and have authorized the Committee to inform National Societies of the substance of these memoranda. The relevant summary will be found in annexe below, p. 17.

Further, the International Committee received in October 1937, from the Rumanian and Yugoslav Red Cross Societies draft Conventions drawn up in the framework of the Committee's own draft. As these two drafts each constitute a whole, the International Committee has thought better to reproduce them in extenso and not to summarize them in the present commentary. Both these drafts will be found in annexe, as also the chapter of the Monaco draft concerning Hospital Towns.

The great majority of the opinions received approve in principle the International Committee's Draft and consider it a satisfactory basis for further study by experts.

The proposal to establish Hospital Towns has met, as a rule, with the sympathetic consideration of the experts. Two opinions, however, state that in certain countries and in the conditions of modern warfare, practically insurmountable obstacles would prevent the carrying out of this idea. They recommend the removal of the military sick and wounded to hospitals and other similar establishments (hotels, sanatoria, etc.), which would be
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protected by the Convention of Geneva and located at some distance from factories and outside the possible zone of operations.

According to one of the opinions given, the provisions included in the Draft may be applicable to large States, but not to small countries, and should therefore be modified in order to apply equally to the latter.

Title I. — Designation and Notification of Hospital Towns.

Article 1

Subject to the conditions set out below, so-called Hospital Towns, the purpose of which is to receive the sick and wounded of the Forces and to ensure their care in the rear, shall be protected and respected by the belligerent parties.

Although the experts meeting at Geneva on October 15, 1936, did not think it possible to specify exactly the distance which should separate a Hospital Town from the zone of operations proper, they considered that as a general rule this distance should not be less than 100 kilometres roughly.

The opinions forwarded to the International Committee in reply to Circular 336, are almost unanimously against this distance of 100 kilometres; they are even for the most part hostile to any fixed distance which should separate Hospital Towns from the zone of operations. Such a measure would largely restrict or even abolish all possibility of creating Hospital Towns in small countries. It has been remarked in this connection that Article 2 of the Draft allows the enemy to raise objections, if he considers that the Hospital Town is too close to the possible scene of hostilities.

One of the experts consulted is of the opinion that
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the number of hospital towns should be as small as possible, in order not to hamper military operations.

Another opinion expressed asserts that it would be desirable to define in the Convention the protection which Hospital Towns would enjoy, namely, immunity from any kind of bombardment, and a similar status to that granted military hospitals by the Geneva Convention.

Another opinion received objects to the use of the term "Hospital Towns", which should be replaced by "Hospital Areas". In small countries it would often be impossible to find towns answering the suggested requirements, while it would be possible to fix upon certain areas which might include one or more parishes.

A further proposal wishes to substitute the term "rear" by some such expression as "zone intended to remain, at least during the first part of hostilities, out of reach of the main land forces or of the naval forces of the belligerents".

As to the question whether hospital towns should be marked as such, some experts replied in the affirmative, while others answered in the negative.

Article 2

In time of peace (after ratification of the present Convention) each of the Contracting Parties may propose to the other Parties, for their approbation, a general schedule of the towns which, in case of hostilities, it intends to use as Hospital Towns.

One of the memoranda received observes, concerning this article, that such a proposal carried out in time of peace would scarcely take into account the military situation and the ways of communication, since the belligerents will only be known at the outbreak of hostilities.

According to another opinion, small countries should
be authorized to indicate and establish Hospital Towns not only before and at the outbreak of, but also in the course of hostilities. This is owing to the difficulties which small countries will encounter in taking the necessary precautionary measures.

**Article 3**

*The choice of Hospital Towns may be made the subject of a grounded protest within a period of... from the moment when each Contracting Party has submitted its own schedule to the approbation of the other Contracting Parties.*

*The protest shall only carry effect in favour of the Parties from which it has issued.*

It is undesirable, according to one of the opinions received, to foresee for other States the right of protest against the choice of the towns, for this might lead to abuses which would consequently prevent all establishment of Hospital Towns.

Another opinion suggests that in case the designation of certain towns should provoke manifestly unfounded protests, another arbitration procedure should be foreseen which would become obligatory if all the towns proposed by one State should become the object of protests on the part of another State.

**Article 4**

*At the outbreak of hostilities, each belligerent may notify to the enemy the list of Hospital Towns to which the latter has raised no previous objection.*

*Such notification shall then be considered as fully binding for the said enemy.*

One of the opinions received by the International Committee recommends that the legal recognition of the
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Hospital Towns chosen should already be ensured in time of peace.

It has also been suggested that the recognition of Hospital Towns be the duty of duly nominated authorities, and that if the authorities of two countries at war conclude an agreement on this subject, this agreement be duly confirmed under the supervision of a neutral State nominated for the purpose by the belligerents. The country authorized to establish a Hospital Town should then inform its adversary of the date as from which it wishes this town to be recognized, thus leaving the enemy sufficient time to inform his forces and especially his air force of the said recognition.

The opinion has also been expressed that the designation of a Hospital Town should be definite for the whole duration of hostilities. It has been pointed out that the measures taken by the belligerents, based on the existence of certain Hospital Towns in enemy territory, can be entirely upset if the latter, at a given moment, uses one or several of these towns for military purposes.

Lastly, it has been suggested that the notification be made as precisely as possible in the language of the enemy power, and that it be accompanied by a sketch map showing exactly the location of the Hospital Towns.

Title II. — Conditions governing the Utilisation of Hospital Towns.

Article 5

From their entry into service, Hospital Towns shall be used solely for the special needs of the Army Medical Service, excluding any kind of utilization for military purposes or for purposes likely to facilitate the conduct of operations of war.
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Cases provided for under Article 8 of the Geneva Convention do not fall within this exclusion.

The majority of the opinions communicated to the International Committee approved this provision.

It was, however, proposed to provide for the exclusion only of those undertakings and factories which could be directly serviceable to the needs of war, whilst allowing those which are only capable of serving such needs indirectly, to continue (motor power, textile industries, food-stuff factories, etc.).

It has been observed that this Article forbade the choice of thickly populated centres as Hospital Towns, but, on the contrary, prescribed the choice of villages situated away from the main roads and railways of strategic importance, or, in default of a built-up area answering to these conditions, it was agreed that hutsments and buildings lightly constructed and away from the large towns would suffice.

One of the experts who think that the establishment of Hospital Towns is a matter of insurmountable difficulty, has objected that, in a civilized State, no town answering to the conditions of Article 5 will be found, but only villages of inadequate capacity.

The question as to what extent ways of communication traversing Hospital Towns could be used for military transport was considered by the experts, but opinions on this point differed.

One of the observations submitted suggests the addition to Article 5 of conditions (a) and (b) of Article 2 of the Monaco text, viz. the utilization in transit of the ways of communication and of transport by military convoys, and the presence of soldiers on leave who are natives of the Town.
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**Article 6**

*The protection afforded to Hospital Towns shall cease if they are used for the commission of acts harmful to the enemy.*

The nature of the connection between this article and the preceding one has been stressed, in the same way as has been the difficulty that existed in laying down the extent to which an industrial activity and the use of means of communication might be tolerated in Hospital Towns without being considered as furthering operations of war and, consequently, as constituting an act which is harmful to the enemy.

It was proposed that Articles 5 and 6 be of the Draft be combined into a single article; a new provision which would become Article 6, would define "military utilization" or "acts harmful to the enemy" as being:

(1) the fact of causing, or allowing, any military unit whatsoever (troops, service detachment, establishment, etc.) to be stationed in or to remain in a Hospital Town, medical units always excepted;

(2) the fact of placing there even temporarily, or of keeping there any organization or organism working either directly or indirectly for the benefit of the army;

(3) the fact of causing, or allowing, any military formation or supplies whatsoever, of possible use to the army, to pass through it.

Another opinion suggests that it would be advisable to enumerate acts harmful to the enemy, such as: the presence of war industries; the billeting of troops; or the preparation of fortifications.
Article 7

Should proximity to the front lines threaten to include a Hospital Town in the zone of operations, the Town shall be evacuated as quickly as possible.

The experts meeting at Geneva on October 15, 1936, had suggested that in order to prevent any abuse, either intentional or unintentional, which might result in the handicapping of military operations, one should envisage the possibility, in case of the non-evacuation of a Hospital Town, of a protest on the part of the enemy — a protest which would result, after a certain fixed time, in depriving such Hospital Town of the protection of the Convention.

Some of the experts whose opinions have been forwarded by the National Red Cross Societies to the International Committee, approve this suggestion, but it has equally given rise to criticism. According to the latter, this procedure ought to be rejected for two reasons: firstly, because, even in the case envisaged, the protection due, under the Geneva Convention, to the sick and wounded applies also to those who ensure their care, and, secondly, because evacuation may be made impossible by the military operations. It will be sufficient, then, to stipulate that, in the case envisaged, efforts shall be made to evacuate Hospital Towns in so far as military necessities permit.

It has also been observed that in the case of small countries having only a limited number of Hospital Towns, evacuation could be attained only with difficulty.

Article 8

In case of occupation by the enemy, a Hospital Town may continue to be utilized as such by the occupying force,
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unless the latter notify to the contrary or the opposing force enter a protest.

The occupying force shall, in conformity with the provisions of the Geneva Convention, ensure the safety of persons entitled to protection under the said Convention.

The position of the civilian population of a Hospital Town shall be governed by the general principles of international law.

This provision was not subjected to any comment, except that the presence of the native civilian population constituted an obstacle.

Title III. — Control of Hospital Towns.

Article 9

From the moment of their entry into service, Hospital Towns shall be compulsorily placed under the control of a Commission composed of neutral nationals, nominated by the protecting Powers, and agreed to by the belligerent to whom they are to be accredited.

A desire has been expressed that the Convention should stipulate exactly what are to be the functions and duties of the Commission of Control. According to one opinion submitted, the Commission should limit itself to seeing that the rights of the Army Medical Service are respected, the administration of Hospital Towns being reserved to the military authorities.

It has been proposed that provision should be made for the constitution of a single neutral commission to ensure control and enquiry in cases of breach, as it is objected that the procedure envisaged in the Draft is

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too precise and that it does not allow for the necessities of war.

The question was also raised, what means the Commissions of Control and Enquiry will have at their disposal to ensure respect for observance of the Convention, especially in the case of occupation of a Hospital Town by the enemy.

**ARTICLE 10**

*The belligerents shall facilitate the task of the Commissions of Control to the fullest possible extent.*

It was suggested that the members of the Commission of Control should have placed at their disposal such resources—personal and material—as are necessary for the carrying out of their task.

**Title IV.—Application and Carrying out of the Convention.**

**ARTICLE 11**

*An International Commission of Enquiry, composed of neutrals agreed upon by the Contracting Parties (by the belligerents) shall be set up in time of peace (from the outbreak of hostilities).*

*On the request of a belligerent or of the Commission of Control of a Hospital Town, this International Commission shall open an enquiry with reference to any alleged violation of the Convention. Once a violation has been established, the belligerents shall put an end to it in the quickest way possible.*

It is advisable to point out firstly that the experts who met at Geneva on October 15, 1936, envisaged two possible moments for the setting up of the Commission of Enquiry:
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in time of peace, or at the outbreak of hostilities. In the former case, it would be a matter of a Commission in some sort of permanency, which would hear all complaints relative to alleged breaches of the Convention; in the second case, it would be a matter of ad hoc Commissions called upon to function for the duration of a specified conflict only.

One of the opinions received in reply to Circular No. 336 proposes to give to the first paragraph of Article 11 the following wording: "An International Commission of Enquiry, composed of neutral persons agreed upon by the belligerents, shall be set up on the outbreak of hostilities ".

Another observation recommends that the Convention should provide that breaches of its provisions be taken before an international court, such as that of the Hague.

Further, reference may be made to the opinion formulated in Article 9, viz., that it would be desirable to provide that a single commission only should be responsible for control and enquiries.

**Article 12**

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

If, in time of war, a belligerent is not a party to the Convention, the provisions of the Convention continue, none the less, to bind all parties who participate in the war._

This article, which constitutes a renunciation of the clausula si omnes, led to no observation.
ANNEXE

I. — Summary of opinions given to the International Red Cross Committee by Services of the Swiss Federal Political and Military Departments, upon the plan for the establishment of Hospital Towns and Areas.

March 1938.

I. — Introduction

The question of the possibility of establishing Hospital Towns in time of war is now fairly well advanced, inasmuch as Circular No. 336 issued by the International Committee is accompanied by draft articles which could serve as the basis of a Convention in the matter. Extremely interesting as these draft articles in their present shape may be, they call, none the less, for numerous observations. The Draft is, in fact, far from perfect and ought to be very carefully revised before being submitted to the Governments as a basis of discussion. As the International Committee points out, it is desirable that the Draft should be examined carefully by military experts, but it appears quite as important that the question should also be studied from the juridical point of view.

Generally speaking, one can say that Switzerland is disposed to support every attempt tending to mitigate the sufferings of war, although, by reason of actual conditions peculiar to this country, doubts might arise as to the necessity of such an institution and as to the possibilities of its realization. However, whatever may be the position as regards Switzerland, the establishment of Hospital Towns or Areas could render invaluable services to the victims of war. It goes without saying that, it should be a matter of prime importance that such an attempt should not imperil the provisions already in force, and especially the principles of the Geneva Convention.
2. — Definition of Hospital Towns

The general principle stated in Article 1 of the Draft appears satisfactory. It is actually modelled on the principles laid down in Articles 1 and 6 of the Geneva Convention of 1929, both of which present this twofold idea of respect and protection. To define a Hospital Town by means of a periphrasis seems to be somewhat difficult undertaking, though not an altogether impossible one.

From the military point of view, Hospital Towns can in some sense be envisaged as an extension of hospitals set up within the meaning of Article 6 of the Geneva Convention—always, however, with the difference that the protection afforded by that Convention would be extended to the civilian population living in those towns in the same way as it would be to their property and means of subsistence.

A senior officer of the General Staff of the Rumanian Army proposes that a Hospital Town be provided for each two millions of the population; its area would be some 10 kilometres square and its necessary distance from the field of operations about 100 kilometres. For Switzerland, with its mountains and 4 million inhabitants, such a solution would be unacceptable.

Hospital Towns, which would be more like convalescent than first aid stations, must be situated as far as possible from the front line. Their position will vary, then, according to the region in which hostilities take place.

As far as military objectives within the meaning of this survey are concerned, the following ought to be considered as such: fortifications; headquarters of troops and of the General Staffs; depots and factories of arms, munitions and other war material; sources of motor energy and central power stations; railways; ways of communications, and technical and engineering works of strategic
importance; airports; anti-aircraft units; wireless stations; etc. It is impossible to settle upon a definite distance which would have to separate Hospital Towns from military objectives, for this is a matter of local circumstances. In any case the distance ought to be sufficient to prevent a Hospital Town from being imperilled by the bombardment of a military objective.

As far as concerns the notification of Hospital Towns—as a protection against aerial attack—this procedure should be regulated in the same way as it is for hospitals.

3. — Designation and notification

Articles 2, 3, and 4 of the Draft relate to the designation of Hospital Towns. Circular No. 336, issued by the International Committee, points out that the procedure recommended in this matter by the experts differs from that contained in the Monaco plan. It is fairly obvious that, upon this point, the Monaco plan left something to be desired, and that amendments of the conditions therein set out were called for. But it is questionable whether the new formula is preferable to the earlier one.

To begin with, the terminology employed both by Monaco and Geneva is clearly unsatisfactory. One does not “notify” a town, and if a State formulates objections regarding the designation of a Hospital Town, it is hard to see why this opposition should be termed a “protest”. As a matter of fact, protests are made against the violation of a right, and not against the application of a right. It is thus a question of proposals that are subject to observations or even to rejection on the part of the other contracting parties.

On the other hand if, in a general way, recourse is had to the procedure of notification for the designation of Hospital Towns, it would be proper to observe that, in
practice, this procedure will be scarcely applicable in time of peace. In normal times, it is somewhat difficult to imagine one State disputing with another the right to establish a particular town as a Hospital Town for time of war. Such opposition would, without doubt, be considered as unfriendly, and more than one State would prefer to violate the Convention at the appropriate moment rather than embitter its relations with a neighbouring State at a time when the idea of war would seem premature.

For Switzerland, in particular, it would not be possible to designate Hospital Areas actually in times of peace. It is, in fact, axiomatic that Hospital Towns should be situated outside the zone of military operations; but in a country of small dimensions, these will be differently situated according to the war which arises.

The most reasonable method would be to define a Hospital Town more accurately from the point of view of the conditions which it must fulfil to bring it within that category (distance from the front; sufficient distance from military objectives; absence of factories manufacturing supplies for the forces, etc.), and to request the belligerent parties to the Convention to inform one another reciprocally, through the intermediary of neutral Governments or even through the International Red Cross Committee, of the position of their Hospital Towns at the outbreak, or, even at any moment during the course of hostilities. The setting up of a Hospital Town may depend upon circumstances, and many countries which would be averse to setting up Towns of this kind at the outbreak of a war may well be induced to modify their attitude in the course of events. For the same reasons, States should be given the chance of ceasing to use former Hospital Towns and of designating, in their stead, new ones at a time when the course of hostilities leads to a change in the situation.
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It goes without saying that no belligerent could, without good reason, be expected to regard as "hospital" every town which its opponent might care to designate as such. It would have a right of opposition (not of protest), but such right would have to be exercised within a definite period (fourteen days or a month at the most), as from the date of the notification. The opposition would have to be based either upon a clear breach of the Convention or upon an improper interpretation of it; that is why it would be wise to specify, as clearly as possible, within what limits and subject to what conditions a town could enjoy the régime governing hospital areas.

The opposition may, however, be altogether arbitrary and, in that case, it would be right that the veto set up by a belligerent could be submitted by the other to an impartial commission, whose functions would be more that of an organ of conciliation than that of a court. This Commission would be empowered to issue an opinion only, which would be in no way binding upon the belligerents.

It will be admitted that the possibility of recourse to such an authority would lead States to avoid wilfully opposing the establishment of Hospital Towns set up in conformity with the Convention. It is not at all likely that such a Commission, which would be identical with that envisaged under Article 11 of the Draft, could be invested with more extensive powers; it would hardly be qualified to undertake the work of a court of arbitration. Formal judicial procedure would, in addition, involve too many delays and meet with too many difficulties (obstruction, for example, by the accused belligerent or his refusal to appear before the court; etc.) to entitle it to serious consideration. We should have to remain content with some such half-measure such as conciliation, which would in itself be better than the absence of any opinion as to the legitimate character of the opposition. If procedure
of this kind were decided upon, Articles 2, 3, and 4 of the Draft would have to be completely rewritten. But such amendment would be an easy matter.

Finally, it may be pointed out that the notification of Hospital Towns is a type of procedure which would in certain circumstances, be equally well applied to large fixed hospitals.

4. — Conditions of utilization

In the editing of Article 5 of the Draft, the Commission of experts has repeated, more or less verbatim, paragraph of Article 2 of the Monaco draft, but it has thought fit to complete it by adding the words: “or... of such a nature as may facilitate the conduct of operations of the war”. This addition does not appear to be happily chosen. It is too vague to have the full import of the terms of the Monaco draft: “excluding any kind of utilization for military purposes”, and as it is vague, it could furnish a beligerent with all kinds of pretexts to contend that the Hospital Town had not fulfilled its purpose. In what circumstances will it be possible to certify that a town has not been used in a way “to facilitate the conduct of operations of the war”? The mere concentration of children, old people, and the sick at some spot away from shell fire is, in a sense, of itself facilitating the conduct of military operations. If we do not wish to see the Convention a dead-letter from the start, we must perforce define the role of the Hospital Town in such a way as to prevent, as far as possible, uncertainty and misunderstanding.

The introduction in the Convention of the reservations contained in Article 8 of the Geneva Convention of 1929 may be excellent, but it will be advisable to consider very carefully whether some other reservations or limitations would not more aptly fit the circumstances. In any case,
the words "excluding any kind of utilization for military purposes" should be amended.

From the practical point of view, there will not be found, above all in the small countries, a single town in which, in case of war, some article or other will not be manufactured for the needs of the army. According to the Draft the whole of the town ought to enjoy the protection of the Convention, including the civilian population residing there. Now, this population will not be able to live apart, but will, in the first place, have to be authorized to work. It will, in fact, be impossible to evacuate this population, for it will be necessary to the life of the locality, and further, it is inconceivable that a State could undertake the expense of maintaining a civilian population doing nothing. Such a population will, from this fact, find itself part and parcel of the economic life of the country, for it is obvious that such production will not be exclusively intended for the sick and wounded of the military forces, but that a part of it will, on the contrary, be exported to other areas. Moreover, in case of war, it is impossible that a part of the industrial production of the Hospital Town may not serve, more or less directly, to support the conduct of the operations. That is why we should avoid formulating too strictly the conditions to be fulfilled by Hospital Towns, so as not to run the risk of their non-observance.

Further, the Hospital Town will naturally receive goods, (food-stuffs, fuel, etc.) coming from other parts of the country. Provision will have also to be made to ensure that the importations that are indispensable for a Hospital Town are not interrupted, for otherwise the protection of the town itself would become quite illusory.

Because of the difficulties just mentioned we might, in the case of Switzerland, envisage the choice as Hospital Towns of health resorts usually situated far from industrial
development and military centres, and which necessitate large hotels and sanatoria and have only a small native population.

Article 6 of the Draft recalls the principle laid down in Article 7 of the Geneva Convention. The idea which it expresses is self-evident; none the less it is useful to state it.

The hypothesis envisaged by Article 7 of the Draft is too normal to allow of its exclusion from the Convention. Nevertheless, it would gain by being clearly specified. The expression given to the principle may suffice for the defending force, which, realizing that the Hospital Town is in danger of being included in the zone of front line operations, will have to "evacuate it as quickly as possible", and to declare implicitly thereby that it no longer possesses a "hospital" character. But this principle would not be good enough for the attacking force, which, in such a case, must have its say. It may be that, in spite of its nearness to the front line, the State which owns the Hospital Town may continue to claim for it the protection of the Convention. Such a demand may be unjustifiable. Therefore the enemy must have the right of notifying that such a town, in consequence of the course of operations, is no longer entitled to be "respected and protected" as a Hospital Town.

Upon this point controversy is possible and the wiser course would again be to provide for a reference of the dispute to the international Commission mentioned above.

As to Article 8 of the Draft, its retention seems desirable. When a Hospital Town falls into the power of the enemy, all its medical personnel and stores ought to be treated in the same way as if it were a question of a medical institution. Civilians and their property will be protected according to the provisions of the Hague Convention, as in the case of an unfortified town.
Hospital Towns.

Turning to the first paragraph of Article 8 of the Draft, the question arises whether its importance would not be more academic than real. So that a captured Hospital Town might still retain the attribute "hospital", with all the immunities and privileges associated with that term, it would be necessary, under the definition, that the occupying force abstain from deriving any benefit whatever from it for the needs of its army. And, yet, is such a course possible? And if it is possible, how will the fact be authenticated soon enough that the dispossessed belligerent, anxious to inflict as much damage as possible on the victorious attacking force, may yet give immediate orders to his troops to "respect" the town as a "Hospital Town"? Here again, it would be advisable to look at realities closely and not unthinkingly to state principles which, in spite of their logic, reflect nothing but opinions and have, therefore, no more concrete value than an equation in algebra.

5. — Control

The principle that Hospital Towns should be placed under international control is too natural to admit of any long discussion. What remains, is to know how this control shall work. Will one commission for each Hospital Town be necessary, or will a single commission for all Hospital Towns in the same country be sufficient? Article 9 of the Draft does not state this clearly; it seems to favour the second hypothesis, whilst paragraph 2 of Article 11 speaks of the "Commission of Control of a Hospital Town"—a statement which proves clearly that, according to the Draft, each Hospital Town would have a corresponding Commission of Control. This latter solution seems to go too far, and it seems that one neutral commission ought to be sufficient to ensure the control of several Hospital Towns.
On the other hand, the Draft says hardly anything about the competence of each Commission of Control. That is an omission, the importance of which it is unnecessary to stress.

Article 10 of the Draft states clearly that "the belligerents shall facilitate the task of the Commissions of Control to the fullest possible extent.", but how can a government facilitate a task if it does not know exactly what that task was? The Commission of Control will clearly have as its mandate the task of watching the town to see that it strictly observes its status as a Hospital Town, but that duty should be expressly mentioned.

It would scarcely be possible to nominate Commissions of Control except after the outbreak of hostilities.

The Draft provides that the Commissioners shall be nominated by the "protecting Powers", and agreed to, moreover, by the "belligerent to whom they will be accredited". Here again, there is a serious omission. Which are to be the "protecting Powers"? That will only be known at the moment when hostilities break out, and even then no one can say who will take the initiative of getting into touch with them. If it is the protecting Power of the country desirous of establishing a Hospital Town, the Draft should say so. We must not, however, lose sight of the fact that a country may perhaps have several "protecting Powers". If State A is fighting States X, Y, and Z, it may entrust to State B the protection of its interests with State X; to C the safeguarding of its interests with State Y; and to State C the defence of these same interests with State Z. In such an hypothesis, will the duty of getting into touch with States C and D for the designation of the Commission of Control fall upon State B? The Draft is silent in this matter, and this silence would probably prevent the whole scheme from functioning properly.

The method indicated by the Commission of Experts
is much too vague to be capable of being put into practice. When the Disarmament Conference was sitting, a similar problem arose with regard to the setting up of Committees of Control to verify the carrying out of the general Convention by the contracting States. It had been provided that these Committees would be nominated by the Permanent Disarmament Commission. Any other procedure would have met with great practical difficulties. In the case of the Draft Convention as to Hospital Towns, it may be asked whether it would not be wise to benefit by this precedent and entrust to the International Red Cross Committee the duty of itself nominating the members of each Commission of Control. It would make such nominations on its own responsibility clearly subject in each case to the agreement of the country to be inspected. Entire impartiality would be thus ensured.

Certainly, other solutions could be envisaged; the main thing is that the controlling authorities be thoroughly neutral and impartial; that they should be able to commence work speedily; and that they have the necessary authority.

6. — Application and carrying out of the Convention

According to Article 11 of the Draft, there would be above the Commissions of Control an International Commission of Enquiry which would be called upon to investigate “every alleged violation of the Convention”. One does not yet know whether this Commission would have to be permanent, or whether it would be constituted for each case; and, it is absolutely necessary to avoid any hesitation on this point.

The system of a Permanent Commission would appear to be superior to that of temporary Commissions. It would allow of the speedy handling of disputes which
might arise with regard to Hospital Towns. A Commis-
sion nominated at the commencement of hostilities would
be able to intervene immediately at the request of any
belligerent. But other systems could also be envisaged,
and it is probable that, with the help of an adequate
organization, satisfactory results with temporary Com-
missions would also be obtained. Furthermore the ques-
tion of enquiries with regard to breaches of the Convention
will arise equally in connection with the revision of the
Geneva Convention of 1929, of which Article 30 has been
considered inadequate. The solution arrived at would also
serve with regard to the draft scheme for Hospital Towns.

Article 12 does not call for any special remarks. None
the less it is necessary. It dissipates any possible doubt,
and that is important, so far as concerns the application
of the clause *si omnes.*

7. — Cities of Refuge

The Draft of the International Red Cross Committee
avoids any mention of the establishment of Cities of
Refuge for the benefit of the civilian population. It seems
perhaps, preferable for the moment to be satisfied with an
unpretentious plan. The fact that in the establishment
of Hospital Towns the civilian population residing there
will enjoy the same protection as the hospital personnel
and the wounded of the forces is in itself a great step in
the direction of an extension of the rights of the Red
Cross. This extension involves the danger, which will have
to be guarded against by very strict supervisory measures,
of an invasion of the Hospital Town by civilians from
other parts of the country and seeking refuge there.
By attempting to extend the field of protection still fur-
ther, there is a risk that the efficacy of the existing human-
itarian provisions might be weakened.
Hospital Towns.

Nevertheless, it should not follow that the study of the question of Cities of Refuge—"lieux de Genève", as they are often called—must be forthwith dismissed. From the humanitarian point of view, it would indeed be most valuable that a part of the civilian population (invalids, women, children, old people) might be able to find, in case of need, a refuge from the horrors of war. We can discuss to what extent it would be possible to extend to particular urban areas, even to a limited number of towns, the protection due to military hospitals.

We still have to decide the question whether the provisions relating to Hospital Towns require a special Convention, or whether they may be incorporated in the Geneva Convention.

It would seem that, if the Draft remained limited to the establishment of Hospital Towns and if it were, consequently, merely a question of institutions intended for the "sick and wounded of the forces" (Article 1), it would be preferable to introduce it, as a special chapter, in the revised Geneva Convention.

The usefulness of a special Convention would appear if it were decided to abandon total revision of the Geneva Convention, or if the Draft relating to Hospital Towns had the scope of the Monaco plan and covered, in particular, the setting up of Cities of Refuge.

II. — Draft Articles to serve as basis of a Convention relating to the establishment of Hospital Zones (Towns and Localities), submitted by the Rumanian Red Cross.

A. Designation and notification of Hospital Zones (Towns and Localities)

Article 1. — Subject to the conditions set out below, zones called "Hospital Zones", comprising Hospital Towns and Localities, intended to shelter the sick and wounded of the Forces, and
Draft Conventions.

to ensure their care in the rear, shall be respected and protected by the belligerents in accordance with the following rules:

Article 2. — In time of peace, after ratification of the present Convention, each of the Contracting Parties may propose to the agreement of the other Contracting Parties a general list of Zones (Towns and Localities), which the said Party intends in case of hostilities, to use as Hospital Zones (Towns and Localities), in the proportion of one zone per million inhabitants, or per fraction of every additional million.

The surface of a Zone (including localities or Towns) shall be about 10 square kilometres as a maximum.

As far as possible, the zone shall be widely visible and bounded by water, hills, forests, etc., and clearly marked on the map.

It is desirable that they contain sources of drinking water.

In cases of unions of States, Colonies and Dominions, zones on the surface of these countries, Colonies or Dominions shall correspond proportionately to the number of the inhabitants of such zones.

Each contracting Party shall, in time of peace, propose to the International Red Cross Committee (Permanent International Committee of Hospital Zones or International Committee of Hospital Zones) a general list of Hospital Zones (Towns and Localities) having the surface indicated above. This list shall be communicated in duplicate, as soon as possible, to each State interested.

Article 3. — The choice of Hospital Zones (Towns and Localities) may be made the subject of a grounded protest within a period of three months, commencing from the moment when each Contracting Party has submitted its own list for the agreement of the other Contracting Parties from which it emanates.

Article 4. — The final list, with a map of the Hospital Zones (Towns and Localities) shall be notified to the belligerents by the International Red Cross Committee (P.I.C.H.Z. or I.C.H.Z.), every possible means of doing so being employed, so that the parties interested may be warned immediately.

B. Conditions of utilisation of Hospital Zones

Article 5. — From their entry into service, Hospital Zones (Towns and Localities) shall be used solely for the needs of the Army Medical Service, excluding any kind of utilization for military
purposes or for purposes likely to facilitate the conduct of operations of war.

Cases provided for under Article 8 of the Geneva Convention do not fall within this exclusion.

ARTICLE 6. — The protection due to hospital zones shall cease if they are employed for the commission of acts harmful to the enemy.

The control of final Hospital Zones (Towns and Localities) shall be effected through representatives of the International Red Cross Committee (P.I.C.H.Z. or I.C.H.Z.) at the rate of one representative for each Zone.

The expenses of the representative shall be borne by the respective Zone.

ARTICLE 7. — Where a Hospital Zone (Town or Locality), if not evacuated, finds itself in danger of being included in the zone of hostilities, the belligerents shall be bound to take all measures for its protection.

ARTICLE 8. — In case of occupation by the enemy, the Hospital Zone may continue to be utilized as such by the occupying force and controlled by the same Commissioner of the International Red Cross Committee (P.I.C.H.Z. or I.C.H.Z.).

The occupying force shall receive, up to the full capacity of the zone, the sick and the wounded of the two parties who have fallen in its neighbourhood.

The occupying force shall, in conformity with the provisions of the Geneva Convention, ensure the safety of persons entitled to the protection of the said Convention.

The position of the civilian population shall be governed by the general rules of international law.

C. Control of Hospital Zones (Towns and Localities).

ARTICLE 9. — From the moment of their entry into service, Hospital Zones (Towns and Localities) shall be compulsorily placed under the control mentioned in Article 6.

The Commissioners appointed by the International Red Cross Committee (P.I.C.H.Z. or I.C.H.Z.) must be agreed to by the Party to whom they are to be accredited.

ARTICLE 10. — The belligerents shall facilitate the task of the Commissioners of Control to the fullest possible extent.
Draft Conventions.

D. Application and carrying out of the Convention

ARTICLE 11. — An International Committee of Control of Hospital Zones, composed of delegates of the National Red Cross and of the Army General Staff of each contracting country, shall be constituted as soon as possible by the International Red Cross Committee.

On the request of a belligerent or of a Commissioner of Control of a Hospital Zone, the International Committee of Control shall open an enquiry with reference to any alleged violation of the Convention.

Once a violation has been established, the belligerents shall put an end to it in the quickest way possible.

ARTICLE 12. — The provisions of this Convention shall be respected by the Contracting Parties in all circumstances.

If, in time of war, a belligerent is not a party to the Convention, the provisions of the Convention continue, none the less, to bind all the belligerents who participate in the war.

A contracting State which, being in a state of war, commits a breach of the clauses of the Convention in respect of a single Hospital Town or Locality, shall lose the benefit of protection for every town upon its territory.

In order to ensure this provision the Committee of Control shall give a final decision.

III. — Plan for establishment of Hospital Zones in time of war, submitted by the Yugoslav Red Cross.

A. Designation and notification of Hospital Towns and Zones

ARTICLE 1. — Hospital Zones are inhabited places designated in time of peace to serve in time of war as concentration centres for the sick and wounded.

A Hospital Zone is formed of an expanse of 10 square kilometres, including either a town or a group of inhabited places.

The number of Hospital Zones shall be determined by the number of inhabitants of each country, in the proportion of one zone per two million inhabitants or per additional fraction above one million.

ARTICLE 2. — States signatories shall draw up in time of peace the list of their Hospital Zones and shall forward it under sealed
Hospital Towns.

cover to the International Red Cross Committee, whilst taking all measures necessary to preserve its secrecy.

The list of each State, drawn up to meet every possible conflict, shall include a number of Hospital Zones three times as large as that to which it is entitled. States signatories, in indicating and describing their zones, are free to do so in the way they think is best.

**ARTICLE 3.** — The selection of the Hospital Zones shall be made at Geneva, at the outbreak of hostilities, by the President of the International Red Cross Committee, who will be assisted by two or four General Staff Officers. Decision shall be made by vote.

The selection made shall be communicated within a short time to the belligerents, with a view to securing their assent. A protest shall be valid only on behalf of the States signatories which make it. Such protest shall be made within a maximum period of a fortnight.

**ARTICLE 4.** — The final list shall be communicated to the belligerents by the International Red Cross Committee as quickly as possible.

**B. Conditions of utilisation of Hospital Towns and Zones**

**ARTICLE 5.** — From the moment of their entry into service Hospital Towns and Zones shall be used solely for the special needs of the Army Medical Service, excluding military purposes, or purposes likely to facilitate the operations of war. Cases covered by Article 8 of the Geneva Convention do not fall within this exclusion.

**ARTICLE 6.** — The protection which Hospital Towns enjoy shall cease, if they are used for the purpose of inflicting damage on the enemy.

Such facts shall be verified by an International Commission of Enquiry, which shall complete the enquiry started by the Commission of Control.

**ARTICLE 7.** — Should the front line of operations reach to within a distance of less than 100 kilometres from a Hospital Town, the said Town shall automatically lose its particular status. The hospitals of such a Town are, from that moment, protected by the Geneva Convention.
Draft Conventions.

Article 8. — If a Hospital Town falls into the power of the enemy, the latter shall have the right of using it as such only when it is again 100 kilometres distant from the front line of military operations, in conformity with the preceding Article.

In this case the Zone shall continue to function under the supervision of the same Commission, whilst receiving, as far as its capacity allows, the sick and wounded of the two belligerents who have fallen in its neighbourhood.

The belligerent who has occupied a Hospital Town shall afford protection, in accordance with the provisions of the Geneva Convention, to such persons as are protected by the said Convention. The position of the civilian population shall be governed in accordance with the general principles of international law.

C. Control of Hospital Zones

Article 9. — Hospital Zones are placed compulsorily under the supervision of a Commission of Control, composed of nationals of neutral States nominated by the International Red Cross Committee; they shall be accepted by the belligerent countries where they are to carry out their task.

The nomination of the Chairman and Members of the Commission shall take place in time of peace.

No Zone can function unless one Member at least of the Commission of Control is actually within it.

Article 10. — The belligerents shall facilitate the work of the Commissions of Control to the fullest possible extent.

The Commissions shall carry out their work in accordance with Regulations to be drawn up by the International Red Cross Committee and submitted to the States signatories for their approval.

The Regulations may have the same wording, or a special wording for two or more States which adopt it.

The Regulations shall be drawn up as rapidly as possible.

The Commission of Control shall include at least one member of the Commission of Enquiry, who shall be appointed in time of peace and in accordance with the same procedure.

The salaries of the members of the Commission of Control and of the member of the Commission of Enquiry shall be paid by the communes in which the Hospital Zone is situated, and shall enjoy free office accommodation.
D. Application and carrying out of the Convention

**Article 11.** — An International Commission of Enquiry, composed of nationals of neutral States agreed to by the States signatories shall be set up in time of peace.

The International Commission of Enquiry shall, at the request of a belligerent or of the Commission of Control of a Hospital Zone, conduct an enquiry into any alleged breach of the Convention.

As soon as the breach has been proved, the belligerents shall, as rapidly as possible, take steps to stop it and to prevent its repetition.

The Commission shall take into account the enquiry started by the Commission of Control and by its first representative.

**Article 12.** — The provisions of this Convention and of the Regulations to be drawn up shall be respected by the States signatories in all circumstances.

IV. — Extract from the Preliminary Draft of Monaco concerning Hospital Towns and Areas.

**Article 1.** — Special protection is guaranteed by the belligerents to Hospital Towns in accordance with the following conditions.

**Article 2.** — The town shall be used solely for the special needs of the Army Medical Service, excluding any kind of military utilization whatever.

The following do not fall within this exclusion:

(a) Utilization of the ways of communication and of transport for transit by military convoys;

(b) The presence of officers and men on leave who are natives of the town;

(c) Cases provided for in Article 8 of the Geneva Convention.

(d) The working of industrial establishments other than those which are important and well-known centres employed in the manufacture of arms, munitions, or supplies which are clearly of a military nature.
Draft Conventions.

**Article 3.** — The town shall be notified either in time of peace, or on the outbreak or during the course of hostilities.

Such notification shall be made:

(a) in time of peace, by diplomatic communication to all Governments;

(b) on the outbreak and during the course of hostilities, as between the belligerents, by the intermediary of the protecting Powers.

Alternatively: . . . both in time of peace and in time of war, through the intermediary of some international body (to be defined).

**Article 4.** — The choice of the town may be the subject of a properly grounded protest, made within a reasonable period.

Examination of the grounds of such protest shall be made at the request of the complainant, in time of peace within a reasonable period, and in time of war immediately, by:

(a) in time of peace: the Permanent Court of International Justice;

(b) in time of war: the Special Committee appointed on the outbreak of hostilities by the non-belligerent Powers signatories to the Convention.

Or better: in both cases, by the international body mentioned above.

**Article 5.** — The town shall be bound to receive, in time of war, a Commission of Control of which the Members, appointed by one of the above-mentioned authorities, shall be agreed to by the Government concerned.

The Members shall act under the supervision of the protecting Power.

Or better: of the international body above-mentioned.

**Article 6.** — The Commission of Control consisting of non-belligerents shall not interfere in matters concerning the exercise of territorial sovereignty. On the other hand, the local authority must afford the Commission every facility for the fulfilment of its task.

**Article 7.** — The procedure applicable to the choice of Hospital Towns is equally applicable to their abandonment.
Hospital Towns.

In case of occupation by the enemy, the choice is upheld, unless the occupying force makes a notification to the contrary.

Article 8. — The protection afforded to Hospital Towns may be extended to places where mobile or fixed hospital units are stationed and working in close contact with the battle front, on the following conditions:

(1) No military units, other than those belonging as constituent parts of the Army Medical Service, including the cases covered by Article 8 of the Geneva Convention, shall be admitted into the locality, nor into a surrounding zone of 500 metres.

(2) The emblems of the Red Cross shall be placed at the exits of the locality. Such placing shall take the place of notification and be legally binding on the opponent, unless the latter contest the legality of the notification according to the procedure of common law (flags of truce, wireless telephone, dropped messages).

(3) Control shall, unless it be otherwise decided, be exercised according to Article 30 of the Geneva Convention.

The Parties concerned are advised on all occasions to make use, as far as possible, of the good offices of controlling bodies composed of non-belligerents.

Article 9. — None of the above provisions may be interpreted in any manner restrictive of rights conferred on humanity by any previous Convention.
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