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THE TENTH CONVENTION OF THE SECOND HAGUE CONFERENCE  
OF 1907 AND ITS RELATION TO THE EVACUATION  
OF THE WOUNDED IN NAVAL WARFARE.

My predecessors at this College have presented very able lectures dealing with the question of what organization, consistent with fighting requirements, is best adapted to secure an appropriate treatment and disposition of the wounded resulting from a naval engagement?\* The thoroughness with which this question has been exposed in these lectures relieves me of the necessity of addressing you along similar lines, except as an introduction to my main theme, and it is my purpose to dwell chiefly upon that means of relief falling subsequent to an engagement, and embraced within the term, "evacuation of the wounded", by an agency wholly external to the fighting unit, namely, through the intermediary of the floating hospital or hospital ship. I wish particularly to consider the rules that will govern the conduct of this vessel in the exercise of its functions on the high seas, especially those rules enjoined upon a signatory State by the provisions contained in the Xth Convention of the Second Hague Conference of 1907. (Convention for the Adaptation of the Principles of the Geneva Convention to Maritime Warfare.)

The development of a thesis in this direction grew partly out of the conviction that the fleet, in many of the situations imposed by the term of the various Problems studied here this summer, especially in positions far distant from base, was hardly to be considered self-sustaining in the direction of adequate facilities for the care of the sick, and the rescue of the wounded and drowning from possible

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\*Bogert, E.S., Surgeon, U.S.N. "Wounded in Battle on Shipboard". See Archives, Naval War College, 1908.

Beyer, H.G., Med. Inspr., U.S.N. "The Care and Removal of Wounded on Shipboard, etc". See Archives, Naval War College, 1909.



engagement, without the presence of the auxiliary mentioned, but mainly from the belief that there was necessity for a full exposition of the main features of the Convention above mentioned.

The records of peace cruising reveal many instances of diversion of fighting ships to land sick and wounded, a procedure which might well be inadmissible under the conditions of war, without gravely impairing the military value of the fleet, and seriously affecting its integrity for the time being.\*

By freeing the fighting units of their sick, and promptly disembarrassing them of wounded after action, the hospital ship may contribute materially to the maintenance of the fleet's integrity, to the preservation of its efficiency and to its self-sustaining qualities when distant from the permanent base.

Preceding the removal of wounded from a vessel which has been engaged with the enemy, come the various measures comprised under the term "first aid treatment". Since the organization of a system of first aid treatment and its adoption in our service falls somewhat short of full accomplishment, it is desirable to refer briefly to it here. Despite all that has been said and written upon this subject, neither principle nor practice seemed to have reached an exact agreement as to what may be considered necessary.

The reason for this failure of agreement as to the essential features of a first aid organization, both in the direction of materiel and personnel appear to have resided, not so much in any inadequacy of thought or treatment on the part of those concerned with it, as in

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\*See "Annual Report of the Surgeon-General, 1907," pps. 111 - 116.



the difficulties, which have flowed from the attempts to apply the single organization in vogue to the diverse types and classes of ships comprising our fleet, and doubtless, also, at times, from considerations adduced as involving or threatening the military value of the ship.

I believe I am correct in stating that no regulations at present exist in the "Regulations for the Government of the Navy" compelling the organization of first aid to the wounded to be uniformly applied in all the first class units of the fleet, and therefore the question of organization is still an open one, so far as law and regulation governing this matter is concerned. It may be added that without such regulations we cannot hope for uniform practice.

It may be noted, however, as ameliorating the condition indicated in the preceding statement, that the appearance of a new type of ship in the fleet, possessing not only greater uniformity of internal arrangement but also more space behind armor, has contributed to any scheme of first aid treatment projected, an advantage, which, although sought for for many years, was not attainable in any of the previous types. The advantage referred to mainly affects the materiel side of the organization, and is that conferred by the presence, in all new ships, of the protected battle dressing stations. The movement which has resulted in the provision of these stations, had its inception in a resolution\*

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\*"The Conference recommends that in new battleships two action dressing stations for wounded be provided behind heavy armor and adjacent to hatches extending through the decks above, each station to consist of an operating room for segregation of wounded during battle, one of these operating rooms to be habitually fitted as such, the remaining spaces could be used as storerooms or crew spaces during peace times". (Conference of 1908.)



unanimously passed by the Conference at this College in the session of 1908.

It now remains for the service to achieve a completion of this organization especially in relation to the personnel required. To do this we should first be concerned with adopting some uniform method of selecting and instructing the first aid party. It is apparent that this may only be accomplished by appropriate regulation from central authority. This is necessary in order to compel recognition and ensure an invariable practice. Under the conditions now prevailing, it may well happen that no two ships reveal on inspection the same scheme of organization of its first aid parties, particularly as to the number and character of ratings of men selected to compose them, although the ships concerned may be operating in the same division and in the same fleet.†

The importance of this matter is believed to be such as to merit a definite reference in our Naval Regulations, which it fails of having at present.

Most naval services have not only a specially trained first aid party, selected from among certain ratings in the crew and constituting a certain definite percentage of the war complement, but also provide for instruction of a considerable number of the ship's crew in the elementary principles of first aid treatment.\*

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† See "A Review of the Subject of Organization of the Medical Department for Battle". Beyer. Nav. Med. Bull. No. 4. Vol. 2. p. 46.

\* See Admiralty Circular Letter (British) on "Battle Organization", 24 May, 1905. (Office Naval Intelligence. No. 08/116 Also Office Naval Intelligence No. 8937. Jan. 27, 1908. "Battle Organization", German Navy. Also Beyer. Nav. Med. Bull. Oct./ 1908. p. 47. "Battle Organization", French and Italian. Also Suzuki. "Experiences during Russo-Jap<sup>anese</sup> War". Jr. Assoc. Mil Surg. Nov. 1905. p. 420 - 446.







first line of relief, where the wounded collect and receive appropriate treatment, and are then returned to their duties; or, if more seriously injured, arranged for transport below to the protected dressing station. The general arrangement of this organization may be indicated roughly in the accompanying diagrams:- (see page 6 1/2)

The use of a first aid party in the minor protection offered by the usual relief station, and the assembly there of wounded, is believed to be not in accord with the best practice, for experience in actual warfare has tended to show that this arrangement is fraught with much peril to the wounded\*, and to the personnel charged with their care in these situations, and that it is preferable to abandon the elaborate use of such stations during action and rely more upon making a crew self-sustaining in the direction of first aid dressing, extending the active services of the first aid party proper to the wounded only in intervals of fire or after the action is terminated. It is only when the engagement is over that the activities of the first aid party party, as well as those of the medical party, properly begin, and exert their more important functions. Moreover, in the newer ships, it is to be noted that in action, practically all the personnel, except the few individuals on the cage-masts and elsewhere on upper decks, may be divided, with respect to the situations where wounded may collect and whose presence may seriously affect fighting

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\*See Stokes, C.F., Surgeon-General, U.S. Navy, "Naval Surgery", Buck's System of Surgery, 1910.

Also Suzuki, see ante p. 5.

And Semenov, V. Captain, Russian Navy. "The Battle of Tsushima". (May 27, '05)

And "Organization, Naval Sanitary Service". Pasquale. Translated by Beyer. See p. 477 of The Military Surgeon, Oct. 1, 1909. (A Lecture delivered at the Naval War School, Spezia, Italy.)



efficiency, into three main groups, as follows:-

"(1) Those in turrets, conning-tower and protected station; (2) those below decks and behind armor; and (3) those below the protective deck."

It should be observed that the fighting personnel in these situations is under much better protection from shellfire than in most relief stations.

There is substantial agreement of opinion among those concerned with studying this organization that any elaborate application of medical assistance or first aid treatment during action is largely theoretical. This opinion is fortified by the experiences of those who have had to do with the care of the wounded in naval actions of the recent past. When we read the descriptions of these actions and reflect upon the incidents that will probably be characteristic of naval combat in the future, it is not difficult to understand why a further restriction of medical assistance during action is inevitable. Furthermore, as already noted, inasmuch as the fighting force is nowadays practically isolated in their stations by structural arrangements, and the requirements imposed by battle conditions, they are not only inaccessible to any immediate treatment by the first aid party, but are also unable to leave their stations to reach that aid.\* The gun-crews in these places must, in consequence, be trained to largely care for themselves until a lull in or cessation of action occurs.

For reasons already adduced, the principle may also be accepted as well-established, that any considerable

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\* See "Appendix". p. 5. "Fleet Regulations, Atlantic". Art. 176. par. b.



mobility of the medical personnel during action is impossible as well as inadvisable; that is, a mobility of sufficient degree to reach the wounded in the situations previously mentioned. Free movement will ordinarily be accomplished with great difficulty and surrounded with material danger, and all movements will probably be much interfered with by closure of water-tight and bulk-head doors, battle-hatches and the accumulation of the debris of battle.

The trained medical personnel, not being readily replaceable, and not replaceable at all until after battle, and only then perhaps by transfer of officers from a hospital ship, should be required to take all reasonable measures of self-preservation, so that its services may be available when most urgently needed, namely, after the engagement. Then it is expected to exercise its larger and more important duties in the care and transfer of the wounded, in the performance of which it will require the full assistance of the first aid party. A prompt restoration of the ship to a fighting condition may represent an urgent military necessity, and the restoration may <sup>be</sup> largely dependent upon having the medical personnel, upon the completion of battle, in a condition to care for and promptly dispose of the wounded, which, of course, it cannot ~~promptly~~ do if its ranks are depleted by injury or its members exhausted by the excessive strain of labor conducted under adverse conditions. The policy of maintaining this personnel in a condition of safety and well-being during action is prominently enunciated by the French, but finds its most complete expression in



British Regulations, as may be gathered from the following quotation:-

"It is very important that a suitable position should be provided medical officers of the ship. Their lives are of the greatest possible value when regarded from the standpoint of the sick and wounded. For this reason they should be stationed under the best possible protection, due regard being had to the possibility of their being incapacitated if retained during a prolonged action under atmospheric or other conditions likely to prostrate them". x x x  
 "The preservation of the lives of the medical officers is of the utmost importance for their services will be most necessary after an action".#

The amount of professional labor devolving upon the medical and first aid parties subsequent to a naval engagement, even if their efforts are confined simply to the application of necessary first aid dressings, may be accounted considerable, and has of course direct relation to the duration and character of conflict and number of wounded. The views of a recent writer\* upon what may be looked for in this direction in future warfare, largely based upon what has happened in the past, are not without material interest in this connection, and are quoted as follows:-

"Contrary to general expectation there has not been an increase in the loss of life on board ships during recent battles. Gun fire has become enormously more destructive, but means of defense have been to a corresponding degree elaborated, and the range at which battles are fought has been steadily increased, so that the number of casualties necessary to compel acknowledgment of defeat, the number for which we must provide, remains remarkably constant.

In former times, every man was, on occasion a member of a gun crew. In these days of

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\*Surgeon-General Charles F. Stokes, U.S. Navy, "Naval Surgery", in Buck's System of Surgery, 1910.

#"Battle Organization", British Navy. See ante p. 4.



specialization, the proportion of fighting men is necessarily smaller. Few members of the special branches can leave their own duties to replace gunners who have fallen, and we may reckon that, when one-half the ship's complement is disabled, it is no longer possible to fight the ship. Therefore, we may say that when the casualties on a ship amount to one-third or one-half of the complement, she will drop out of action; and that, in the event of greater loss of life, mortality in the medical department, destruction of supplies and local conditions will make the rendering of any aid quite impossible.

Of the total number of casualties we can dismiss almost one-half from our consideration; that is, the dead and slightly wounded require no special provision. We may, then, expect a list of seriously wounded, who will require immediate treatment and subsequent care, comprising one-sixth to one-fourth of the complement".

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 "In the contest of development which is always being actively waged between the offensive and defensive powers bestowed on ships, the offensive qualities have generally been in the lead. This has resulted in a tendency to depend largely on distance for defense and to let the effect of long range gun fire decide the contest. Out of this tendency we have seen the 'all big gun' ship evolved. Combat between ships of this description would be fought at long range and by guns upward of ten inches in calibre.

The duration of battle will depend on many factors. Between ships equally matched in speed and offensive powers, there is no reason to believe that the contest will be short, since the increased destructive powers of the guns is offset by the number of misses and decreased effectiveness of fire at the longer ranges. When, however, by reason of any circumstances, an overwhelming fire is concentrated on one ship, the ensuing carnage and structural damage entail a brief action."

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 "It must be anticipated that accidents may disable one or more officers; and, when it is borne in mind that, allowing an average of ten minutes for a dressing, thirty-three hours of actual work will be required to complete dressing the wounded and that incidental demands will consume much time in the first hours after an engagement, thus delaying further the prompt rendering of assistance, it will be seen that at least three medical officers should be attached to each battleship".\*

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\*Stokes. See ante, p. 6 and 8.



In a paper read before the Conference at this College in 1909, dealing with the question of the time that will probably be required to tranship that portion of the wounded requiring hospital treatment, after a naval engagement in which the fleet (say 16 ships) has participated, some interesting estimates were presented, the figures being based mainly upon the percentages of casualties occurring in the naval actions of the Russo-Japanese War. The writer assumed that the wounded would average 20 per cent. of the total complement, which may be considered a reasonable figure, when we realize that the Gromoboi had 37 per cent. of her complement wounded, the Rossiya 20.7 per cent., and the Mikasa (in the Battle of the Sea of Japan.) 15 per cent. Proceeding upon this basis of 20 per cent. and that one-half of these will need to be transferred, the writer estimates that there will be required, in four hours of time, a total of 66 boats to effect the transhipment of wounded to the hospital ships.\*

These general considerations regarding first aid service in action have been presented as a fitting preliminary to the subject mainly intended to be treated and that indicated in the title of this paper, "The Evacuation of the Wounded in Naval Warfare", for the reason that any organization working toward the accomplishment of a prompt evacuation of the wounded from the fighting unit, must be occupied primarily with first aid measures; in other words, we cannot transfer wounded out of the ship with broken bones unsplinted, bleeding unstanched or wounds exposed. These various procedures

\*Beyer, H.G., Med. Inspr., U.S.N., Jr. Assoc. Mil. Surgeons. 1910. (Jan.) pps. 22 - 24.



are required to be carried out by the labors of the medical and first aid personnel before the project of transportation is undertaken. Should the time required for these preliminaries, however, involve a conflict with the military necessities of the moment, then it will doubtless be necessary to postpone transfer, relying upon the medical party, assisted by the first aids to proceed with the further care of the wounded, until opportunity for the final evacuation is afforded.

The complete evacuation of wounded from the fleet subsequent to naval engagement on the high seas and distant from a base would appear to meet with its best, if not its only solution, in the use of accompanying hospital ships. It may be pointed out, however, that the transfer of wounded <sup>men</sup> after a battle may be difficult or impossible unless the sea is smooth, and other conditions are favorable, "hence the important primary treatment of surgical injuries must, in a great proportion of cases, be carried out on board the ship-of-war, and the hospital ship can in no way replace the necessity for commodious sick-bays (and battle dressing stations F.L.P.) in the fighting vessels. The utility of the hospital ships later as a sick transport needs little comment, but it must be added that, in the absence of a complete command of the sea, naval officers may hesitate in consigning officers and men not hopelessly disabled to a hospital transport, which must run the risk of meeting ships of the enemy with the result of interning valuable material for the remainder of the campaign".\*

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\*Makins, G.H., Member of the Council, British Red Cross Society: Member of Consultative Board, Medical Department of the Navy. "Role of Red Cross Societies during Maritime War". Proc. of 8th Intern. Red. Cross Soc., 1907. p. 236.



The balance of this paper therefore, will be concerned with discussing the question of how far these vessels may furnish adequate relief in this direction, operating with the fleet in time of war, under the conditions imposed by the incidents of a naval battle, and whose conduct, finally, is governed by the articles embraced in the Xth Convention of the Second Hague Peace Conference of 1907.

This Convention deals with the adaptation to naval war of the principles of the Geneva Convention of 1906, just as the First Hague Conference of 1899, in a similar Convention dealt with the adaptation to naval warfare of the principles of the Geneva Conventions of 1864 and 1868. The Geneva Convention of July 6, 1906, although the basis for the Hague revision of its Convention of 1899, relating to this subject, makes no direct allusion to naval warfare.

The United States, in common with the several other naval Powers, is signatory to, and has duly ratified this 1907 Convention, so that it now has the full force and effect of law in any conflict with a State that has signified a similar adherence, and even failing to be ratified by any State will probably govern in the event of war. It should also be observed that the original Convention of 1899 still holds good between Powers which were signatories to it and have not ratified or adhered to the later Convention. (See Article 31, Geneva Convention, 1906. See also Article 25, Xth Hague Convention.)

A brief account of the origin and development of this Convention is not without interest. Up to the year 1864, when delegates to the first Geneva Convention assembled to consider the amelioration of the wounded in



armies in the field, the question of assistance to wounded in naval warfare had not been made the subject of discussion between the Powers, and no effort to remedy this omission from international agreement was seriously made until after the battle of Lissa in 1866. In this engagement, an exceedingly large number of men forming the crews of the Italian ships were lost by drowning, there being no adequate means of rescue at hand other than <sup>m/</sup> could be rendered by the combatant ships. The incidents of this engagement served to invite the attention of the various Powers to the desirability of extending the principles of the Geneva Convention, governing land warfare, to naval warfare. Therefore, in 1868, upon the suggestion of Italy, representatives of the Powers met at Geneva and drew up several articles which sought to supply the necessary requirements. These articles, however, remained a dead letter for twenty-five years, and never achieved ratification by the various States, owing to difficulties inherent in the delicate question of neutralization.

While not officially ratified by the Powers and hence lacking the force of law, they were observed by mutual agreement of the belligerents (excepting Turkey in Russo-Turkish War of 1877-78) in the Crimean, Franco-Prussian, Chili-Peruvian and Spanish-American Wars. In the first commission of the hospital ship *Solace*, for instance, in the United States notification to Spain of its intention to use this ship, there was signified an adherence to the principles of the Geneva Convention of 1868, notwithstanding this Government had not officially ratified the Convention named. At the First Hague Conference in 1899, the substance of these articles, after



substantial modification, were adopted (except Article 10, which was excluded)\* and later ratified by the principal Powers, and are now incorporated with further amplifications and qualifications in the Xth Convention of the Second Hague Conference of 1907, which Convention represents the last word upon this subject. This latter Convention has also achieved ratification by a number of the principal naval Powers, but not by all of them.

This Xth Convention in the Hague Conference of 1907, although the last item on the Russian program was the first to be completed, and as stated by Professor Lawrence in his work on the Hague Conferences, its provisions are "made to be observed", and, he goes on to say, "as an instrument betokening solicitude for the care of the sick and wounded at sea, if it has not outgrown war, it has at least produced workable plans for ameliorating the conditions of the most helpless and sorely stricken among the victims of war."<sup>#</sup>

While the sole principle animating this Convention, as indicated in its preamble, is "to diminish the inevitable evils of war", or in other words, to safeguard the interests of the naval sick, wounded and shipwrecked, and ameliorate their condition as far as is compatible with the conditions prevailing in a state of war on the high seas, it must be realized that no diplomatic agreement between nationals of diverse social traits and customs can be so perfect as to meet all the varying situations of naval combat. In the absence of

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\*Now appearing as Article 15 in Xth Hague Convention, 1907.  
 #Lawrence, T.J., Lectures on Intern. Law, Royal Nay. College. "International Problems and the Hague Conferences". p. 117.



specific provisions, however, to cover peculiar circumstances, not included within the scope of this Convention, much, of necessity, must be left to the humane initiative and discretion of the belligerents. As was stated in the Geneva Convention of 1868, "The appreciation of these circumstances is left to the humanity of all the belligerents", and in that of 1906 that "The Commander-in-Chief of belligerent armies shall arrange the details for carrying out the preceding Articles, as well as for cases not provided for x x x x x in conformity with the general principles of the present Convention". (Geneva Convention, 1906, Article 25.)

In view of the obligation imposed upon Commanders-in-Chief of the belligerent fleets, by Article XIX of this Convention that they "shall arrange the details for carrying out the preceding Articles, as well as for cases not provided for", and further of the requirements contained in Article XX,\* that signatory states "shall take the necessary measures to instruct their naval forces, especially the personnel protected, in the provisions of the present Convention and bring them to the notice of the public", it seems especially appropriate to expose in

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\*With reference to this Article, the General Report states:-

"Article 20 is new. It corresponds to Article 26 of the Convention of 1906. We look upon it as being very important. The best dispositions remain a dead letter if the necessary steps are not taken in advance for instructing those who have to apply them. Particularly as the personnel of hospital ships, both military and private, will often be required to fulfil a very delicate mission. This personnel must be convinced of the necessity of not profiting from the immunities accorded them to commit belligerent acts; to do so would be the ruin of the Convention and of all the humanitarian work of the two Peace Conferences".



some detail here the nature of the provisions contained in this Convention, particularly in their relation to the evacuation of the wounded from the scene of a naval action.

#### Article I.

Military hospital ships, that is to say, ships constructed and assigned by States specially and solely with a view to aiding the wounded, sick and shipwrecked, the names of which have been communicated to the belligerent Powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected, and cannot be captured while hostilities last.

These ships, moreover, are not on the same footing as war-ships as regards their stay in a neutral port.

#### Article II.

Hospital ships, equipped wholly or in part at the expense of private individuals or officially recognized relief societies, shall likewise be respected and exempt from capture, if the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships must be provided with a certificate from the competent authorities declaring that the vessels have been under their control while fitting out and on ~~the~~ final departure.

#### Article III.

Hospital ships, equipped wholly or in part at the expense of private individuals or officially recognized societies of neutral countries, shall be respected and exempt from capture, on condition that they are placed under the control 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 has notified their name to his adversary at the commencement of or during hostilities and in any case, before they are employed. (Cp. Geneva Convention, 1906, Article 11.)\*

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\*In these articles, new matter in the Convention of 1907, as compared with that of 1899, is italicized.



The first three Articles of this Convention define the objects to be achieved in the use of hospital ships in naval warfare and indicate the different classes of these vessels which are entitled to be respected.

Briefly these may be described as follows:-

1st. Military or governmental hospital ships, i.e. public vessels of an official character fitted out by the belligerent states; and.-

2nd. Non-official hospital ships either from belligerent or from neutral states, i.e. ships of a private or semi-private character, furnished, equipped and fitted out by private individuals or officially recognized relief (i.e., Red Cross) societies.

Under the terms of the Convention all these ships are to be respected, and in the exercise of their functions are exempt from capture, provided that they comply with certain conditions. Prior to their employment, those of an official character must have their names conveyed to the belligerent powers. This is done through the intermediary of a friendly State, since the notification will usually fall after the declaration of war, when diplomatic representation between the belligerents is terminated. In framing this article originally it was suggested that the notification should be made "before the opening of hostilities", but as this disposition would prevent belligerents from developing any hospital ship service after war/<sup>had</sup> once commenced, it was deemed too exacting, and the words "before they are employed", were substituted.

Hospital ships of the non-official class, fitted out from a belligerent state, must have an official commission, and their names must likewise be notified "to the hostile power at the commencement of, or during



hostilities, and in any case before they are employed".  
 In addition they "must be provided with a document from the proper authorities stating that they have been under the control of the authorities while fitting out and on final departure".

When we come to consider the requirements imposed upon the class of hospital ships comprising those from neutral states we find a slightly different treatment accorded them. Their names must <sup>also</sup> be notified to the adversary under the conditions already stated for the official and non-official ships of a belligerent power, but in addition, it is provided (in Article 3) that this class of hospital ship shall be respected and exempt from capture only "on condition that they are placed under the control of one of the belligerents, with the previous consent of their own government, and with the authorization of the belligerent himself". This modification is based upon in Article 11 of the Geneva Convention,\* applying to land warfare, in which neutral ambulances on land are required to be placed under the control of one of the belligerents. No mention is made of the necessity of having this class of hospital ships supplied with an official commission since their status is sufficiently guaranteed by the requirements above stated.

In these preliminary articles, as well as in Article 4, it is also stipulated that hospital ships must extend aid and relief to the wounded, sick and shipwrecked of the belligerents irrespective of their nationality, and that while they are public vessels or

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\*Unless otherwise stated "Geneva Convention" will mean the Convention of 1906, which has superseded former Geneva Conventions.



partaking of the nature of public vessels, they do not fall under the usual rules of international law applying to war ships as regards a stay in a neutral port. This exemption is also implied in Article 14 of the XIIIth Hague Convention\*, which states that the rules applying to a belligerent's stay in a neutral port, do not apply to war ships devoted exclusively to religious, scientific or philanthropic purposes.

It may here be mentioned that in 1904 a Convention was concluded at the Hague by the chief Powers, whereby hospital ships were to be exempted, during war, from the payment in the ports of the contracting parties, from all dues and taxes imposed on vessels for the benefit of the State. The only naval Power not a party to the latter Convention is Great Britain, owing to the fact that dues are levied by different authorities in the United Kingdom and legislation would be necessary to give effect to a convention of this sort, which the home government naturally cannot assure. With reference to this matter, Dr. Makins states, "I may add that the British Red Cross Society has corresponded with every port authority in the United Kingdom, enquiring whether hospital ships would be admitted free of port dues in the event of war. The replies received in practically every instance, are to the effect that the authorities would make every concession which the law permits them to make".\*\*

With respect to the material modifications found in Article 3, of the Convention of 1907, as compared with a similar Article in the Convention of 1899, it is

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\*\*Makins; see ante p. 12. (p. 241.)

\*Convention concerning the Rights and Duties of Neutral Powers in Naval War.



apparent that they seek to settle more thoroughly the relations that should exist between hospital ships and belligerents. As stated by Prof. Higgins in his work on the Hague Conferences,\*

"the difference in the circumstances under which aid is rendered by a neutral ambulance in land warfare and a neutral hospital ship, calls for different treatment, as the latter enjoys a greater freedom of action than the neutral ambulance can claim in land warfare. It was considered inadvisable, for reasons of military necessity, to allow neutral hospital ships to operate apart from the special authorization of one of the belligerents, the view that such ships might desire to aid both belligerents indiscriminately being unacceptable on the ground that to allow complete independence of action to such neutral ships would leave the way open to serious abuses. x x x x x x x x x x Such ships will henceforth form part of the sanitary service of the belligerent and be placed under his direction".

The General Report states: "The text prepared by the German Delegation was modified because it was thought to exact too much that the neutral hospital ship should place itself at the service of the belligerent; it is sufficient that it place itself under its direction".

#### Article 4.

The ships mentioned in Articles 1, 2, and 3 shall afford relief and assistance to the wounded, sick and shipwrecked of the belligerents without distinction of nationality.

The Governments undertake not to use these ships for any military purpose.

These vessels must 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 have the right to control and search them; they may decline their assistance, order them off, make them take a certain course, and put a Commissioner on board; they can even detain them, if important circumstances require it.

As far as possible, the belligerents shall enter in the log of the hospital ship the orders which they gave them.

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\*Higgins, A. P., "The Hague Peace Conferences". 1909. p.383.



The opening paragraph of Article 4 prescribes the duties devolving upon hospital ships, which are in brief that they shall "afford relief and assistance to the wounded, sick and shipwrecked\* of the belligerents without distinction of nationality". It also states that belligerents shall have the right of control and search over them, even to the extent of detaining them, ordering them off, declining their assistance#, putting a Commissioner on board them, or making them take a certain course, but they may not be captured as long as they observe the conditions imposed. A failure to observe these conditions, however, or the use of the ship for any military purposes, will give a belligerent good ground for detention or seizure.

In Article 8 of this Convention it is likewise stipulated that hospital ships lose their inviolability if they are employed for purposes of injuring the enemy. An instance of this character occurred during the Russo-Japanese war. The Japanese seized and condemned by prize court procedure the Russian hospital ship Orel, because of the commission of certain acts construed to be of a military nature. There was evidence showing that this ship had been used to carry official messages, to make purchases of military material and once there had been placed aboard her members of the crew of a captured prize, the Oldhamia\*\* and finally because

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\*"shipwrecked". The French word used is "naufragés", the nearest translation of which is "shipwrecked", but it implies, not sailors wrecked by storm, but those who are in danger of drowning as a result of naval action. #The original French text is "ils pourront refuser leur concours". This is translated in the British Blue Book and by the U.S. State Dept., as "they can refuse to help them". It is believed that the real meaning is that conveyed above in the text of this paper, which is taken from Prof. Higgins' work on the Hague Conferences.

\*\*In this connection it should be noted that Art. 50 of the Declaration of London stipulates that all persons removed from a prize vessel which is to be destroyed, must be placed in safety and while this safety might well be considered secure if they are placed in a hospital ship, to do so would expose this vessel to capture, as in the case of the Orel.



there was evidence that the Orel, in common with the Kostroma, a hospital ship accompanying Admiral Nebogatoff's Division, had been assigned a place in advance of the Russian main body, a position which, being ordinarily assumed by a scouting vessel, fairly created a presumption against the hospital ships named of being used for military purposes, and resulted in confiscation and condemnation of one of them.

The requirement placed in the final paragraph of Article 4, that "belligerents shall enter in the log-book the orders which they gave them" provides a means of establishing the fact of visitation and whether or not orders are complied with, but necessarily implies the privilege on the part of the belligerent of fully scrutinizing the log. It is not unlikely that this privilege, under certain conditions, may constitute a decided military advantage to the belligerent so acting. For example, if the hospital ship visited has just come from the fleet of her own side, her log may contain entries revealing to the visiting belligerent the position of the fleet, or giving him even more important military information. The advisability of restricting hospital log-book entries so as to exclude anything that might be of military value to the enemy, is obvious. We know that the log-book of the Russian hospital ship Orel was produced before the prize court at Sasebo, and appears to have been the source of condemnatory evidence.

The obligation placed in Article 4 that, "such vessels must in no wise hamper the movements of the combatants", and further that, "during and after an engagement they will act at their own risk and peril", raises several important questions:-



How far, for instance, may these vessels find a place in the main body, during war, having due regard to military requirements?

If with the fleet, what position shall be assigned them in a cruising formation?

During engagement, what shall be their position with respect to the combatants, and when may they be considered free to venture upon the scene of battle for the purposes of rescue? c/

There appears to be little question that the chief naval powers, in any plan of operations that involves an oversea movement of possible naval action upon the high seas, will, in future, assign a material value to the services that may be rendered by military hospital ships, and will be prepared to employ them in the care, treatment, and evacuation and transport of the sick and wounded from the fleets during war. r/

The history of naval and military warfare in the recent past has recorded much valuable service by these vessels. During the recent Russo-Japanese War, for instance, twenty of these vessels aggregating nearly 6000 beds, both Army and Navy, official and private, transported the major portion of the 329,000 sick and wounded carried from the fleet and the shores of Korea and Manchuria, to the home bases in Japan.\* Similarly, during the siege of Port Arthur the Russian hospital ship Mongolia# in that port, although repeatedly exposed to shell fire, successfully shared in the care of the diseased

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\*See "Reports of Military Observers, Russo-Japanese War". Lynch. p. 81.

#Nojine, E.K., "The truth about Port Arthur", p. 193.  
Also Politovsky, E.S., "From Libau to Tsushima", p. 31. u/



and wounded, as did also the hospital ship Angara until sunk by shellfire during the bombardment of the fortress. While there appears to be little question of the value of these ships in connection with the care of the sick and the evacuation and transport of the wounded, subsequent to an engagement, in what concerns their exact duties in relation to a fleet in action, and their position and movements with reference to the fleet during an engagement, great indecision still prevails. There is a tendency to look upon active intervention on the part of these vessels, except after an engagement, as a movement whose propriety is still wholly conjectural. Their activities during action are necessarily largely dependent upon circumstances that cannot be foreseen, and their use in this situation will have to be a matter for the decision of the Commanders-in-Chief of the belligerent fleets. The views of a British writer may be quoted on this point:-

"Many conceptions as to the functions of hospital ships exist, and, in fact, these vessels have a very wide range of utility.

Their most successful work up to the present time has been - (a) in the transport of sick and wounded men either to base hospitals or home; (b) in acting as stationary floating hospitals in port.

These uses of hospital ships have been amply demonstrated in the wars of Great Britain and of other nations, and need little comment, but it must be noted that the experience gained by them has been mainly in land campaigns in connection with the army; hence it in no sense fully covers the important problem of the hospital ship in maritime warfare. In the experience gained by Great Britain, such ships have been employed in connection with wars during which an absolute command of the sea has been enjoyed; hence the difficulties of transport and the risk of losing valuable officers and men by neutralization or as prisoners of war as a result of capture by the enemy, have had no practical existence".

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"Discussions have dealt with the provision of relief to sufferers in naval battles under two conditions - (a) during or after combats on the high seas; (b) during or after combats in proximity to the shore.

The second condition is the more simple; previous experience in the use of hospital ships is available, and any general provisions made by Red Cross Societies for shore work can be utilized. The subject therefore calls less urgently for consideration on this occasion than the first.

The problem of hospital ships on the high seas is vastly more complicated and difficult, while the various propositions made upon the subject at these Conferences\* and elsewhere have in recent wars, especially that between Russia and Japan, had the opportunity of some practical trial".

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"To the hospital ship on the high seas two functions have been assigned:-

(a) To act as "Vessels of Succor" to rescue shipwrecked men from death by drowning or by fire.

(b) To act as Floating Hospitals and as Sick Transports.

Ships destined to function in the first category may be dealt with briefly, since experience appears to indicate that the use of such vessels is chimerical, and the duties assigned to them can only be undertaken by sister vessels of war, and by these latter often only at great risk to themselves.

The difficulties attendant on the employment of such vessels commence before the battle since great speed and an ample supply of coal would be necessary for extended cruises".

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"In view of the great range of modern artillery, they could never be near enough to help the crew of a sinking or burning ship without incurring a grave risk of being disabled or sent to the bottom by a shell; moreover, the rapidity with which a seriously damaged man-of-war becomes submerged has been demonstrated to be often a matter of few minutes# while during action so many ships are burning more or less, that few commanders could bring themselves to signal for assistance and thus practically strike their flag in time.

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\*i.e., International Red Cross Conferences.

#The Petropavlovsk is said to have disappeared in one minute and a half. In the Victoria-Camperdown collision, the Victoria only remained afloat a few minutes. (10½ minutes; 22 officers and 336 men were lost.) Only 300 men were saved from the Hatsuse, sinking from contact with a mine, and only 90 from the Yeshino, sunk in collision. (See also "footnote" p. 34.)







e/ In announcing any principle of guidance for these vessels, while humanitarian motives should control as far as possible, the military necessities of war should not be subordinated or overlooked. The importance and bearing of this consideration has been so well stated by Admiral Paschen\* of the German service, that I will quote him as follows:-

"One should not lose sight of the supreme issue, namely, the success of the flag, and in all that concerns an engagement and its consequences, it should be realized that the only decisive means of forcing ultimate peace is through the very consequences of battle. Therefore all that tends to interfere with, prevent, or retard this issue may in the end cause a much greater loss of life and increased suffering. The commander-in-chief's concern is to engage the enemy and fight to the last extremity. He reasons that the precepts of humanity, are, in military situations, incompatible with military success. Undoubtedly there are superfluous cruelties to be avoided, in the interests of humanity, and one of these would seem to be terrible loss of life that follows the destruction of a ship by mines or torpedoes. It would as well subserve the military end to place a ship out of action as to blow her to fragments, which, with no means of rescue at hand is equivalent to an almost total loss of her complement".

In seeking further for a complete answer to the question, is it justifiable for a hospital ship to venture into the area of naval combat for the purpose of rescue, or whether such action should be deferred until after the engagement, we naturally turn for information to the history of the most recent conflict, and upon this question, Professor Takahashi of Japan# speaking of events in the Russo-Japanese war, may aptly be quoted as follows:-

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\*Paschen, D., Vice-Admiral. Deutsche Revue, Stuttgart, April, 1904, appearing in Archives de Médecine Navale, September, 1904.

#Takahashi, S., Prof. Intern. Law Imp. Univ., Tokio. "International Law applied to the Russo-Japanese War". 1908. p. 382.



"Even though we are aware of the fitness of relieving the discomfited either in the course of hostilities or after x x x x x according to the express provision of Article 4 of this Convention, still uncertainty exists as to the sphere in which they (i.e. hospital ships) may lawfully move about, or in other words, whether they are allowed in the line of hostilities to rescue/wounded/and sick and those who are drowning. For instance, suppose an Admiral of the enemy's squadron is drowning, then it is lawful for a neutral hospital ship or a neutral ship not hospital to try to rescue him, venturing into the line of hostilities, say within range of fire, or should such an action be condemned as prejudicial to the opposite ship for taking away an important prisoner of war thereby? A practical problem met with even in the course of the late war. Some insist on limiting such a rescue to the post bellum, while others are prone to sanction it, on the ground that the admiral thus rescued should naturally be placed under the power of the belligerent together with that neutral ship in which the rescued admiral was, as the victor's warship can control that neutral ship".

We know that under the provision of Article 12 of the 1907 Convention any belligerent warship may demand the surrender of the wounded found in other ships, whatever the nationality or nature of such vessels.

A number of inquiries directed by Professor Takahashi to the surgeons in charge of Japanese hospital ships, upon this question of the proper time of rescue by hospital ships, revealed a variety of opinions. Of the ten officers consulted five were of the opinion that rescue should only be attempted after combat. Four considered it feasible to attempt rescue during action, but of these several qualified their opinion by stating that they considered intervention justified only in so far as it did not interfere in any way with the movements of the combatants, or act as an impediment to them. One officer refrained from expressing an opinion, owing to lack of



personal experience.\* Of the number stating a belief in post bellum intervention, one qualifiedly held that in special instances when a ship was burning or on the point of sinking, and had therefore ceased to be of any moment to the engagement, active intervention was indicated as soon as possible.

Unfortunately past experiences in naval engagements may not be largely drawn upon to settle many of the mooted points connected with the operations of a ship of this class with a fleet, for while the hospital ship Mongolia followed in the rear of the Russians in the Battle of the 10th of August and the hospital ships "Orel" and "Kostroma" are stated to have been in the rear of the Russian fleet at Tsushima, and the Japanese hospital ships "Saikio Maru" and "Kobe Maru" which were at a safe distance during that engagement, came up later, and were in a position to perform useful work, none of these vessels appear to have been in close association with the belligerents during the height of action.# Hence any dispositions adopted for governing such vessels under the circumstances of battle must be tentative only, based mainly upon theoretical grounds, and subject to such changes as may be dictated by the events of future naval wars.

In cruising formations of the fleet not accompanied by the train, the positions assigned a hospital ship is usually well in the rear of column or line of the main body. With two or more columns as the formation, such a ship may take position in the rear of the columns on

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Suzuki, Fleet Surgeon in Mikasa, flagship, has stated (p. 446. Jr. Assoc. of Mil. Surg. Nov. 1905) that "Except at the Battle of the Yellow Sea, we had no need to send our wounded directly from warships to hospital ships. Our hospital ships were always stationed at the base, during action; the Russians allowed theirs to accompany their squadrons but unfortunately had little opportunity of availing themselves of their services".  
#See No. 70 of 'Bibliography'.



an alignment intermediate between the two or several columns, say at a distance of sixteen hundred yards. With the fleet in line abreast a position in the rear of the right or left flank of the line, or in the rear of its center may be the one assigned, the general principle involved being to have such ships so placed with reference to the main body that they may not be in the way of the fighting units in any manoeuvres to be undertaken, and especially not be an embarrassment to any movement preliminary to or during engagement, and at the same time be where they may readily take any position assigned by signal or wireless or respond to a call for assistance in the shortest possible time. They should, of course, keep well away from lines of fire, and if they do enter the field of engagement, as stipulated by Article 4 of the Xth Hague Convention, "they act at their own risk and peril".

Should the fleet be accompanied by the train, hospital ships will be assigned a position well within the formation of the latter body.

"If, for example, the approach of opposing fleets, which intend to fight, is always made from opposite directions, the position of the hospital ship will be easily arranged in advance and appropriate orders issued, but in the case of a hospital ship attached to the weaker fleet, which might ~~try~~ seek to escape the stronger, care should be taken to see that the hospital ship in the rear of the escaping fleet is not left in a position of danger between two fires".

A hospital ship should not, of course, leave the position assigned without permission, unless the circumstances make that difficult to obtain and unless its



security is plainly menaced.

Since a wireless outfit is now recognized as an essential feature in these vessels, and a comparatively high rate of speed will enable them to assume readily any position assigned, it might be considered preferable to place them simply within wireless call well to the rear and not in the close relation to the fleet previously mentioned, but if this matter is considered solely from a military viewpoint a position distant from the fleet would appear to be open to several objections. In a position distant from the fleet and in its rear, possible detection by an enemy's scout that had just missed sighting the main body would have to be considered. The heading, course and, as previously mentioned, possible entries in the log of the hospital ship might well indicate to the enemy the general location of the fleet.\*

The distinctive painting of these ships enhancing their visibility at night is of course an objection to their taking up a position in the fleet but they will be required when it is in force to conform strictly to the order of "lights out". Only in circumstances of extreme danger when the integrity of the vessel may be threatened at night by impending gunfire or torpedo attack, will it become necessary for her to reveal her identity in order to safeguard neutrality. The exact methods to be employed in rendering her special marks sufficiently plain at night will be the subject of discussion somewhat later in this paper.

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\*See "Hospital Ships". Pickthorn, E. B., Fleet Surgeon, R. N. Jr. R. A. M. C., May, 1908. p.463.



The plenary power conveyed to a belligerent by Article 4 of this Convention, especially with respect to detention by the belligerent should the gravity of circumstances in his opinion require it, is additional reason against assigning a position to these vessels out of support of the fighting force, if the latter, with engagement impending, is to have the services of its hospital ships when it most needs them, and not run the risk of having them diverted or held by the enemy, and, except for the objection previously noted, there appears to be every advantage in having them maintain a position comparatively near the main body.

It is established that no position of a hospital ship in advance of the main body or in the van of the fleet may be considered without taint of suspicion. The incident of the Orel in the Russo-Japanese war, already cited, illustrates what penalty would attach to such position should it become known to an adversary, who through circumstances is free to exercise the right of seizure. a/

Should ships of this character once find a place with the fleet on the high seas and be in relation to the combatants during an engagement, the question then arises, with what duty shall they be charged, and what motives shall actuate their movements? There is substantial agreement to the effect that they should endeavor first of all to rescue those who are in imminent danger of drowning.

As a naval vessel is now rarely provided with an adequate number of boats to float the full complement, and since all boats will in war be reduced to the lowest minimum, it would seem as if special means of rescue



must be provided, if at all, from accompanying hospital ships. Beginning with the Battle of Lissa\*, in 1866, when many men were lost from the Italian ships by drowning, then again in the Battle of Yalu, when a large proportion of the Chinese squadron went down, and finally in the action in the Sea of Japan, when the loss of men from the sinking Russian ships was enormous, the total mortality in naval battles has received its largest contribution from this cause, either from among those lost overboard and left floating or those carried down in a foundering ship. In fact, as before stated, this preponderating cause of mortality in naval actions operated originally to determine international agreement upon the means of rescue now afforded by the provisions regarding hospital ships in the Hague Convention. Of course it is apparent that if a ship succumbs rapidly to torpedo or mine impact, or collision, no means of rescue will be adequate except possibly to save those few who may get clear of the sinking ship and support themselves by such adventitious means as may be at hand until picked up by a nearby hospital/<sup>ship</sup> or other craft. Ships-of-war, should, if possible, have an adequate number of life rafts or individual life-preservers disposed about the upper decks, and, if practicable, of such a nature as to be non-inflammable, or other devices should be at hand that give some chance of sustaining men afloat until they can be rescued. As ~~already~~ stated, in the

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\*In the Battle of Lissa, out of 650 men on the Re d'Italia, over 500 were drowned. In the Battle of the Yalu (on Hai-yang Island) the Chinese lost about 600, fully one-half of these being drowned. In the Battle of Tsushima Straits, it is estimated that between 5-8000 Russians were lost, mainly from drowning. (See also "footnote", p. 26.)



Battle of the Sea of Japan numbers of Russians were saved from drowning by the use of mattresses filled with cork which were placed about the upper decks.

"Canvas bands were sewn on these mattresses in such a manner that a man can slip one of them on and be in possession of an excellent life-preserver".\*

No certain dependence may be placed upon combatant ships for rescue under the circumstances of action, pre-occupied as they are with fighting, and it still remains to be seen how far hospital ships may achieve success in this direction under the conditions imposed in this field of battle.

The rescue, care, treatment, and transport of the sick and wounded embracing the second class of duties devolving upon hospital ships, which may properly be designated under the military term, "evacuation of the wounded", in view of the extremely unfavorable conditions usually surrounding naval warfare, are scarcely to be executed without overcoming great technical difficulties, but since the military importance of evacuation, whether on land or sea, is a paramount one, it must be undertaken if possible. To disembarrass the fighting unit of its wounded after battle may constitute an urgent military necessity which seems to be adequately met only by the presence in the fleet of these auxiliaries. The difficulties inherent in this situation which may impede or greatly limit the activities of this specialized ship are those comprised in

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\*See Spear, R., Surgeon, U.S.N., "Sanitary Features of the Russo Japanese War", p. 79.  
See also Makaroff, S.J., Vice-Admiral (Russian Navy) "Discussion of Questions in Naval Tactics", p. 183. par. 246 (Office of Naval Intelligence.)



adverse weather or sea conditions preventing safe transfer of wounded and in those conditions peculiar to battle in this situation.

Some of the difficulties surrounding this question have already been mentioned, and additional ones are indicated in the following quotation:-

"Between adversaries of equal strength, and considering the perfection achieved in gun practice, should two fleets engage at short range, we might reason that the action would be brief and violent, and a rescuing ship with a prospect of engagement at manoeuvring range, the area of combat will be extensive and neutral ships will of necessity be well without the danger zone, and readily enter it should they attempt to reach a vessel badly damaged or about to sink. It seems extremely probable that a commander-in-chief will scarcely be able to assign a position to a hospital ship, with action impending, that will enable it to be at one and the same time out of danger and within reach of a ship requiring its services. When, therefore, will it be permissible for a hospital ship to commence its activities? One might say toward the end of the action. But what marks the end of an action? The hauling down of the flag, and the complete surrender to the adversary seems to be the only criterion of this situation. Certainly as long as the flag flies, the adversary will not allow the approach of a succoring vessel. With surrender, the defeated are neutralized and a hospital ship might approach, but there is always the question of a renewal of engagement by other ships in the attempt to retake the captured ship. Considering all these points, it seems impossible to lay down hard and fast rules by which the movements of this ship may be governed, and it may well happen that its activities may be required to be held in abeyance until the engagement is well over. One thing is certain, there is no more inappropriate place for a hospital ship than in the *melee* of a naval battle".#

*could be within easy reaching distance but*

\*In the International Red Cross Conference of 1869, the suggestion was made that the hoisting of the yellow flag might be considered a signal for assistance, but it has failed of any official recognition.

#See Paschen, *ante* p. 26.



## Article 5.

Military hospital ships shall be designated by being painted white outside with a horizontal band of green about a metre and a half in breadth.

The ships mentioned in Articles 2 and 3 shall be designated by being painted white outside with a horizontal band of red about a metre and a-half in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be designated by similar painting.

All hospital ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross provided by the Geneva Convention, and further, if they belong to a neutral state, by flying at the mainmast the national flag of the belligerent under whose control they are placed.

Hospital ships which, in the terms of Article 4, are detained by the enemy, must haul down the national flag of the belligerent to whom they belong.

The ships and boats above mentioned which wish to ensure by night the freedom from interference to which they are entitled, must subject to the assent of the belligerent they are accompanying, take the necessary measures to render their special painting sufficiently plain.

Article 5 of the Xth Convention deals with the distinctive marks of a hospital ship. It provides that those of the military variety shall be painted white outside with a horizontal band of green one metre and one-half wide, other hospital ships having a red band in place of the green, these bands to extend from stem to stern at about the height of the main deck. Distinctive marks of this character are essential to enable belligerents to clearly discern the nature of this vessel from a distance. This Article also prescribes that the boats and small craft of a hospital ship shall be distinguished by similar painting. Here is also finally settled the question of the flag or flags which ships of this character shall fly. They must, of course, hoist the



red-cross flag of the Geneva Convention, which is the national flag of Switzerland, with the colors reversed. (See Article 18, Geneva Convention, 1906.) This flag usually appears at the main, although it may be hoisted at the fore\*, and in the case of non-official hospital ships from a neutral State, this is where it should appear, leaving the main for the national flag of the belligerent under whose control it (the ship) is placed. The flag of the nation to which a hospital ship belongs always appears in the usual place, at the ensign staff aft. If a neutral hospital ship is detained by the enemy it must haul down from the main the flag of the nation under whose control it may be, retaining, however, its own national flag at the ensign staff, while other hospital craft detained by the enemy are required to haul down the national flag of the belligerent to whom they belong. It will be noted that when neutral hospital ships are detained by the enemy they retain their own national flag, and it is apparent that this disposition is not in complete harmony with Articles 21 and 22 of the Geneva Convention, upon which this Article respecting hospital ship flags is based. Neutral ambulances or hospitals on shore, under similar circumstances, when in the enemy's lines, may fly the flag of the Geneva Convention only. However, the peculiar conditions at sea may be alleged as a basis for somewhat different treatment. A hospital ship detained by the enemy is hardly comparable to a shore hospital included within the lines of the enemy.

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\*When the U.S. Hospital Ship Relief was commissioned, the red-cross flag was flown from the fore, but later under instructions from the Navy Department, it was shifted to the main, replacing the commission pennant in the latter situation. (Report of the Surgeon-General, U.S. Navy. 1908. p. 116.)



The Turkish and Persian delegates to the Convention reserved the right of replacing the Red Cross on the flag by the Red Crescent and the Red Lion (or the Red Sun) respectively. Their appeal for reciprocity in this direction was accepted by the several delegations, but not by the Conference as a whole. In the Convention of 1889, the representative from Siam likewise stated that his government places beside the Red Cross, an emblem sacred in the Buddhist religion, also in red, and called "The Flame". During the Russo-Japanese war, the Japanese in addition to flying the distinctive flag of the Geneva Convention, painted the red cross on the smoke-stacks of their hospital ships.\* The Russian hospital ships adopted the same device.

The final paragraph of Article 5 refers to the measures that may be taken to ensure that a hospital ship shall be recognizable at night, but does not definitely indicate how this shall be done, simply stating that they must "take the necessary measures to render their painting sufficiently plain". The novel suggestion was made that this might be done by the use of phosphorescent paint#, but it is hardly conceivable that this method would be acceptable from a military point of view even if effective. A more practicable suggestion is that in case of attack such a ship may readily reveal its neutral identity by means of reflectors or search-lights

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\*See illustrations pps. 9, 14 and 16, in "Report on the Japanese Naval Medical and Sanitary Features of the Russo-Japanese War". Braisted, W.C., Surgeon, U.S.N., and also opp. p. 123, "The Great Siege" (Port Arthur). B.W. Norregard, Correspondent, Daily Mail, Russo-Japanese War; and p. 1068, "Naval Surgery". P.M. Rixey. Keen's System of Surgery, Vol. IV.

#See London Times, 15 July, 1907.



playing on its distinctive painting, or upon the red cross device on smokestack or flag.

A proposition emanated from the German delegation in the Hague Conference that all hospital ships should carry three lights - green, white, green - placed vertically one above the other and separated by at least three metres.

This point of special lights on hospital ships had been raised by the Russians during the Russo-Japanese war, they having notified Japan through the intermediary of the French Government that they (the Russians)

"Propose to use by night three vertical lights for her hospital ships, - white, red, white - but the Japanese Government declined to accept these distinguishing marks, as conferring special privileges being apprehensive of various possible dangers which might arise as the result of such a contrivance being availed of by an unprincipled enemy. Objections were also raised in Committee to the German proposal which made the carrying of distinctive lights obligatory and it failed of acceptance. A light on a hospital ship may betray the presence of the fleet, and hospital ships must conform to the order for "lights out" in the same way as ships under a belligerent's command x x x x x "A warship might also make illicit use of the lights to effect its escape".\*

Upon this question of how to make a hospital ship recognizable by night, the opinions of the surgeons of the Japanese hospital ships, formulated after the full experience of the Russo-Japanese war, are of considerable interest in this connection, even if they are not conclusive, and are quoted as elicited by the inquiries of Professor Takahashi. Sixteen different officers from as many ships expressed the following opinions as to the best methods of making a hospital ship distinguishable

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\*Takahashi. See ante p. 27.



at night. All except two voiced their preference for some system of lights. One considered the throwing of a beam of light from a searchlight on the name of the vessel, or upon the red-cross flag, or the red cross device on the smokestack to be preferred to lights. One surgeon stated that, "In the face of the enemy, a light on a hospital ship betrays the anchorage of the fleet. To recall an instance, while our ship was off Gensan, Korea, even the slightest sign of light was prohibited by the naval authorities. Though almost intolerable for the sick and wounded, especially in the hot season, to have windows and apertures shut up, yet under such circumstances the directions of the authorities should be observed". Another stated that, "No special light will be necessary, for whenever a warship happens to meet another vessel it throws over it a blaze of searchlight".\*

In settling this question the Commission finally adopted a text which met the various objections, by providing, "that these ships may take such precautions to ensure their recognition and safety at night as will reveal their special marks and be subject to the approval of their military authorities". (General Report.)

#### Article 6.

The distinguishing signs referred to in Article 5 can only be used whether in time of peace or war, for protecting or indicating the ships therein mentioned.

Article 6, which aims to restrict the irregular use of the Red Cross emblem, arises out of Article 25 of the Geneva Convention. As this Article as well as Article 21 imply the power to bring about legislative enactment.

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\*Takahashi. See ante, pps. 27 - 28/



Great Britain made a reservation against them to the extent of not engaging to promise a complete fulfilment on the part of the United Kingdom. (See Articles 19, 20, 27, 28, Geneva Convention, 1906.)

Article 7.

In the case of a fight on board a war-ship, the sick-bays shall be respected and spared as far as possible.

The said sick-bays and the materiel belonging to them remain subject to the laws of war; they cannot, however, be used for any purpose other than that for which they were originally intended, so long as they are required for the sick and wounded.

The commander into whose power they have fallen may, however, if the military situation requires it, apply them to other purposes after first seeing that the sick and wounded on board are properly provided for.

Article 7 provides that "in case of a fight on board a warship the sick-bays are to be respected and spared as much as possible". As Professor Higgins states, "This recalls a condition of warfare much more common a century ago than now, when hand-to-hand fighting on board a vessel is an extremely rare occurrence in naval engagements. It is not to be expected that in engagements where <sup>the</sup> combatants remain at a distance from each other the sick-bays can be respected, and the text of the Article makes it clear that it only refers to conflict taking place on board the ships themselves".

As a matter of fact the sick-bays in recent ships-of war, being placed on the upper decks so as to have in peace time the advantage of light and air, are more vulnerable than were sick-bays in former types, and they are for this reason vacated and abandoned during war, certainly upon the prospect of action, personnel



and material being shifted to the protected battle dressing stations.

The materiel of sick-bays mentioned in the second paragraph of Article 7, if it is to be assimilated to the medical materiel of establishments on shore in order to secure exemption from use by an enemy, should be appropriately marked with the red-cross emblem on a white ground. (See Article 19, Geneva Convention, 1906) Doubtless also materiel designed for the use of the sick and wounded on hospital ships or other medical units should be similarly marked, but in the case of the medical materiel of non-official ships fitted out either by individuals or relief societies an exact assimilation to the materiel of military hospital ships is not allowable. The latter materiel may be regarded as private property, and whenever found is subject to requisition, and if not paid for in cash, should be properly receipted for. It should also be marked, in addition to the Geneva Cross, with the name of the society or individuals who fitted out the ship, as a means of identification. "In no case can the sign or emblem of the Geneva Convention be recognized unless it is used with the permission of competent military authorities. The permission is signified either by a written authorization or by an official stamp on the sign".\*

With respect to the second paragraph of Article 7 stating that "the said sick-bays and the materiel belonging to them remain subject to the laws of war", it is to be noted that under the provisions of Article 29

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\*See "Notes on the Laws and Usages of War". *ante p.*  
*Edmonds and Macpherson. J. R. A. M. C., Sept., 1909.*



of the Declaration of London,\* articles serving exclusively to aid the sick and wounded are not contraband and shall not be confiscated; but it is also provided that they may be requisitioned, upon payment of compensation, if required by urgent military necessity, provided they are destined for the enemy or enemy territory.

Article 8.

The protection to which hospital ships and sick-bays of vessels are entitled ceases if they are made use of to commit acts harmful to the enemy.  
(Op. G. C., 1906, Art. 7.)

The fact of the staff of the said ships and sick-bays being armed for maintaining order and for defending the sick and wounded, and the presence of wireless telegraphy apparatus on board, are not sufficient reasons for withdrawing protection.

The import and bearing of the first paragraph of this Article has already been sufficiently dwelt upon. (See ante p. 21.) The second paragraph of Article 8 grows out of a similar provision in Article 8 of the Geneva Convention.#

"The fact that the staff of the hospital ship or sick-bay are armed for maintaining order or defending the sick and wounded, and the presence of wireless telegraph apparatus on board are not sufficient reasons

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\*Article 29. x x x x "the following may not be treated as contraband of war:- (1) Articles serving exclusively to aid the sick and wounded. They can, however, in case of urgent military necessity and subject to the payment of compensation, be requisitioned, if their destination is that specified in Article 30."

Article 30. Absolute contraband is liable to capture if it is shown to be destined to territory belonging to, or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails transshipment or a subsequent transport by land. (Declaration of London.)

#Article 8, G. C., 1906, provides that "in default of armed orderlies, a piquet or sentinels taken from a combatant army and used to a guard to the medical unit is entitled to be considered medical personnel; but such guard should be furnished with a certificate or statement from responsible authority. They need not wear the Red Cross badge". Arms and ammunition received from the sick should not be held in the medical unit longer than necessary, but should be handed over to the proper department.



for withdrawing the protection accorded to such ships or sick-bays.

The German draft proposed to allow hospital ships to carry light pieces of artillery as a protection against the dangers of navigation and particularly of piracy, but the Committee considered that there was no necessity for the arming of such ships, especially as merchant ships which run no greater risks are unarmed". (Higgins, p. 386.)

This does not apply however, as pointed out by Admiral Sperry, that they may not have a signalling gun for use in emergency and firing only blank charges, and this is mentioned in the General Report as being entirely admissable. t/

The General Report on this Article also points out that if a commissioner is placed on board a hospital ship agreeably to Article 4, in the event of the ship being detained by the enemy, the latter must refrain from considering such a commissioner in the light of a prisoner of war.

"The paragraph regarding the presence of wireless telegraph apparatus on board was inserted on the proposition of the Dutch delegate. The apparatus may often be of great value in enabling hospital ships to communicate either with ships of their own squadron or with land. Any abuse of it can easily be prevented by agents being placed on board, and, if necessary, the apparatus may be removed temporarily under the general powers of control conferred on belligerent commanders by Article 4". (Higgins, p. 386.)

With regard to the use of wireless on board hospital ships it may be affirmed that it should be permitted in the interest of efficiency, and that if suspicion should attach to its presence there, it would be an easy matter say to restrict its use purely to the receipt of messages.



## Article 9.

Belligerents may appeal to the charity of the commanders of neutral merchant-ships, yachts, or boats to take on board and tend the sick and wounded.

Vessels responding to this appeal, and also vessels which have of their own accord rescued sick, wounded, or shipwrecked men, shall enjoy special protection and certain immunities. In no case can they be captured for the sole reason of having such persons on board; but, subject to any undertaking that has been given to them, they remain liable to capture for any violation of neutrality they may have committed.

Article 9 is based on Article 5 of the Geneva Convention. Under its provisions belligerents may appeal to the charitable zeal of neutral merchantmen to take on board and care for sick and wounded, but a belligerent cannot compel a neutral to perform the services and assistance thus rendered is purely voluntary. Such ships rescuing the disabled, either upon appeal or of their own accord are to enjoy "special protection and certain immunities".

Professor Higgins states with reference to these expressions, which are borrowed from the Geneva Convention, that they

"are vague, but as the General Report of the Committee remarks: 'it is scarcely possible to proceed otherwise, everything depends upon the circumstances. A warship may call upon a ship possibly from a distance, promising, for instance, not to search it. It is obvious that the advantages of the immunities are not so great in naval as in land warfare in which the inhabitants to whom such an appeal is made are exposed to a series of rigorous measures on the part of the invader or occupant. It is before all a question of good faith. A belligerent should keep the promise which he has made to obtain a service, and the neutral ought not by any appearance of zeal to be able to escape the risk to which his conduct may have rendered him liable. It is, however, certain on the one hand that the ships in question may not be captured for the transport of shipwrecked, wounded, or sick of the belligerent, and on the other hand, as is expressly stated by Article 6 of the Convention of 1899, they remain subject to capture for violations of neutrality which they may have committed. (i. e. contraband of war,



breach of blockade.) There is no immunity accorded to a merchantman belonging to one of the belligerents conveying sick and wounded'".

That such neutral ships are to be entitled equally to "special protection and certain immunities" both when they act upon their own initiative and also when they act upon appeal from a belligerent appears plain from the text of this Article but a somewhat different interpretation has been placed upon <sup>it by</sup> at least one writer. Professor Higgins, just quoted, makes plain his belief in the idea that it makes no difference in the immunities to be extended whether these vessels act on their own accord or upon request from the belligerent, but the following statement taken from Professor Hull's work on the Hague Conferences\* may be quoted as representing a different view, as follows:-

"that only in case they (i.e., neutral non-official vessels) acted upon such request (of the belligerent), and not on their own initiative, were they to be given 'special protection and certain immunities'. This restriction of the charitable activity of neutral vessels was defended on the ground that such rescue work is not a right conceded to neutral ships by international law, or by logic or humanity; but that to request it should be a right conceded to belligerents which they would not be slow to exercise, and that humanity would dictate compliance with the request on the part of the neutral vessel".

It may be stated that this latter view of Professor Hull is in agreement with the phraseology of Article (5) in the Geneva Convention, upon which this Article 9 of the Hague Convention is based, but the

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\*Hull. "The Two Hague Conferences", p. 116.



language of the latter Article is not at all ambiguous on this point, and the intention is apparent from its context, not only that both these neutrals who respond to an appeal but also those who offer their services spontaneously are to be entitled to the "special protection and certain immunities" specified. As a rule however, services of this character will probably be better performed and be more easily regulated and controlled if they are rendered upon request of the belligerent rather than voluntarily.

#### Article 10.

The religious, medical and hospital staff of any captured ship is inviolable, and its members cannot be made prisoners of war. On leaving the ship they take away with them the objects and surgical instruments which are their own private property.

The staff shall continue to discharge its duties while necessary, and can afterwards leave, when the commander-in-chief considers it possible.

The belligerents must guarantee to the said staff, when it has fallen into their hands, the same allowances and the same pay as are granted to the persons holding the same rank in their own navy.

Article 10 deals with the inviolability of the staff of a hospital ship, and the payment of salaries to be made to the staff when detained by the enemy. The Conference of 1899 required that belligerents must guarantee to the staff that has fallen into their hands the enjoyment of their emoluments intact, and in the debate upon this Article the delegate from Japan asked if the emoluments referred to were meant to be those awarded by the government of the captured or the captor ship, and urged that they should be those of the captor ship, but upon its being pointed



out that in certain cases this would be nothing at all. It was agreed that it would be simpler and more just to assure to the captured staff its accustomed emoluments. In the Conference of 1907, however, this was changed, and now the belligerent must guarantee "the same allowance and the same pay as are granted to the persons holding the same rank in their own navy".\* In this matter of pay and emoluments only the staff of an official hospital ship is involved, "that of a relief society having no claim to receive a salary".

While the first paragraph of Article 10 holds that the medical and religious staff are inviolable and cannot be made prisoners of war, there is no just cause for complaint of the violation of the Convention if in the execution of their duties members of the medical personnel or chaplains are accidentally killed or wounded; they are only protected from deliberate attack, and to obtain the privileges mentioned the personnel must be engaged exclusively in the care of the sick and wounded, or in the administration of medical units or establishments. (See Geneva Convention, Articles 6 and 9.)

Should the staff of these vessels, religious, medical and hospital be governed by the principles of the Geneva Convention or should they be detailed for shore service (and this would also apply to the medical staff landed from a man-of-war) they should wear on the left arm an armband or brassard bearing the red cross emblem, which should be delivered and stamped by competent authority.

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\*Article 17. "The Laws and Customs of War on Land" states:- "Officers taken prisoners shall receive the same pay as officers of corresponding rank in the country where they are detained; the amount shall be repaid by their government". (IVth Convention, Hague Conference, 1907.)



If any persons are attached to the medical service, who do not have a military uniform, they shall have in addition to the brassard, a certificate of identity. With respect to the latter, it may be stated that, "no fixed form of certificate is prescribed. It may well happen that the use of certificates may lead to frauds unless they are marks on them by which the bearer can be recognized as the rightful owner. A certificate without such mark of recognition must be carefully scrutinized and steps taken to verify the rights of the bearer to be in possession of it. x x x r x x x x x x x Efforts are being made to obtain some definite international understanding with regard to the details which should be noted on a certificate of identity".\* This matter of a certificate of identity is of course of more importance to a medical organization on shore which may include civilian teamsters, cooks, etc., who wear no distinctive military uniform. (See Articles 19 and 20, Geneva Convention, 1906.)

If members of the medical personnel take part in a combat (and instances of their doing so have occurred, through excitement, or through a medical officer taking command in the absence or on account of the disablement of other officers) they should remove the Red Cross badge. Otherwise, if captured, their conduct may be the subject of inquiry as an abuse of this emblem under Article 23 of the IVth Hague Convention of 1907.† Permission to resume the badge is usually accorded if it is asked for.

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\*See "Notes on the Laws and Usages of War". Edmonds and MacPherson, Jr. R. A. M. C., September, 1909.  
 †Article 23. x x x x "It is specially forbidden (f) to make improper use of a flag of truce x x x as well as the distinctive badges of the Geneva Convention". (IVth Convention. Laws and Customs of War on Land.)



Sick and wounded soldiers in a hospital ship are entitled to be treated by belligerents in accordance with the provisions of the Hague Convention, while sick and wounded sailors on shore fall under the Geneva Convention. This ruling is made plain from the following remarks of M. Renault, made before the 8th International Red Cross Conference in London in 1907:- "While there are two Conventions dealing with the sick and the wounded, it must not be considered that one of them may only be applied to an army and the other to a navy. This would be in error".\*

#### Article 11.

Sailors and soldiers and other persons officially attached to fleets or armies who are taken on board when sick or wounded, whatever their nationality, shall be respected and tended by the captors.

"Article 11 reproduces Article 8 of the Convention of 1899, with the additional words intended to bring under the shelter of inviolability not only wounded and sick sailors on board but also other persons officially attached to fleets or armies. Their addition is in harmony with Article 1 of the Geneva Convention of 1906". (Higgins.)

The persons mentioned may be taken to be correspondents, Red Cross officers, foreign observers, etc.

#### Article 12.

Any warship belonging to a belligerent may demand the surrender of the wounded, sick or shipwrecked who are on board military hospital ships, ships belonging to relief societies, or to private individuals, merchant ships, yachts, and boats, whatever the nationality of such vessels.

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\*See p. 180. Archives de Médecine Navale, Oct., 1907. M. Renault was the Reporter of the Committee which prepared the Hague Convention under discussion.)



With respect to the history and evolution of Article 12, and the reasons determining its final adoption by the Conference, I cannot do better than quote the observations of Professor Higgins and the remarks submitted in the General Report on this Convention. Professor Higgins says with reference to this Article:-

"At the First Hague Peace Conference, Captain Mahan, endeavored to obtain the insertion of Articles to meet the case of men who by any accident connected with a naval engagement were picked up by a neutral vessel. The commander and some of the crew of the Confederate cruiser Alabama, after her last fight with the Kearsarge off Cherbourg, were picked up by the British yacht Deerhound, the captain of which claimed for the rescued seamen the inviolability of the neutral flag and their surrender was refused. Captain Mahan's proposal was that in such cases the neutral vessel must surrender the rescued persons, if demand is made by the other belligerent, or in case no demand was made, that they should not be allowed to serve again during the war. The attempt of the United States delegate was unsuccessful and the Convention of 1899 is silent on this point. Under the new Article a belligerent cruiser meeting a hospital ship of any description, or a merchant ship, yacht or boat of any nationality may demand the surrender of the wounded, sick or shipwrecked men on board".

The conclusions represented in the statement just quoted, which were supported by the German and French delegations were at first combatted by the British delegation but were finally acceded to by that delegation, with the reservation that the Article should apply only in the case of combatants rescued during or after a naval engagement in which they have taken part, and would not apply, for instance, to rescues by British merchant ships at a distance from the scene of a naval engagement, as in the case of men from a ship which had been in a storm, or as a result of contact with a floating mine.



The General Report contains the following comment on this Article:-

"A belligerent cruiser meets a military hospital ship, a hospital ship or a merchant ship; whatever be the nationality of these vessels, it has, either by virtue of Article 4 of the Convention, or by virtue of the common law of nations, the right to visit them. It exercises it and finds on board shipwrecked, wounded or sick; it has the right to have them delivered up to it, because they are its prisoners, as is stated in Article 9 of the Convention of 1899, reproduced in Article 14 of our draft. This is only an application of a general principle, by virtue of which the combatants of one belligerent who fall into the power of the other are by that fact its prisoners. Obviously it will not always be to the interest of the belligerent to make use of this right. It will often be to his advantage to leave the wounded and sick where they are and not to take charge of them. But in such a case, it will be indispensable not to allow wounded or sick to go free who are still in a condition to grant services to their country; and this applies even more strongly in the case of shipwrecked men who are able-bodied. It has been said that it would be inhuman to force a neutral vessel to deliver up wounded which it had charitably picked up. To meet this objection, it is only necessary to reflect on what would be the position in the absence of a convention. The positive law of nations would permit not only the seizure of individuals who are enemy combatants, found on board a neutral vessel, but the seizure and confiscation of the vessel for having rendered unneutral service. We may add that if the shipwrecked men, were, for example, permitted to escape captivity by the sole fact that they had been taken on board a neutral vessel, the belligerent would disregard the philanthropic action of the neutral the moment such action might have the result of causing them an irreparable injury. Humanity would not be the gainer".

To continue with Professor Higgins's remarks:-

"A strict application of the principles of neutrality would imply, apart from a Convention, that belligerents taken on board neutral ships should not be allowed to take part again in hostilities during the course of the war; but the statement of M. Renault (in the General Report just quoted) that the mere fact of picking up shipwrecked or wounded men would render a neutral merchant ship liable to seizure for unneutral service seems



incapable of being substantiated as a rule of international law. x x x x x x x x x x x x x x  
 The solution of the difficulty provided by this Article, is, however, one which may be justified by practical considerations. Among those on board a hospital or merchant ship may be found the brain of one of the belligerent navies, and 'military necessity' might be appealed to as a justification for his removal. A belligerent would take the risk of complications with the neutral Power. Moreover the neutral captain might from unforeseen circumstances be unable to land the sick, wounded or shipwrecked at a neutral port where they would be interned. Although a belligerent may under this Article remove wounded, sick or shipwrecked combatants, he cannot change the course of a neutral merchant ship or impose any definite course on it; such orders can only be given to the commanders of hospital ships".

The observations of another English writer, Professor Westlake, are especially lucid and illuminating on this Article, and may be quoted with benefit, as follows:-

"The argument of M. Renault was that in the absence of a convention, international law would allow a belligerent not only to seize/<sup>enemy</sup>combatants found on board a neutral vessel, but also to capture and confiscate the vessel as having rendered an unneutral service to the enemy; and that if shipwrecked combatants, for example, escaped captivity by finding refuge on board a neutral vessel, belligerents would fend off the charitable action of neutrals which threatened them with irreparable damage". x x x x x x x x x x x x x x  
 "It is however scarcely the less necessary to form a judgment on this question of principle on which a difference of opinion between such authorities was expressed. To do so we must first remember one point on which the principles of neutral duty allow no controversy. If a neutral ship does not surrender to their enemy the combatants in a condition to fight again whom she has saved, she must carry them to her own country and they must there be interned. And this must equally be understood of those who may be expected to be again in a condition for fighting when their wounds have been healed. The real question is therefore, whether the choice between the surrender and the internment of the person concerned is to rest with the belligerent or the neutral. In favor of the neutral it may be urged that those who are under his flag at sea are constructively already in his country, and that their surrender can therefore no



more be demanded than if they were physically in it. The belligerent may reply that the constructive identification of a ship with its country has not been admitted by the laws of war, as is proved by the right to take contraband goods, and formerly enemy's goods from under the neutral flag; and that in the treaties stipulating the rule "free ships free goods", it is common to find it laid down that the freedom of the flag covers all persons on board except those in the enemy's military service. To this it must be added that the belligerent commander cannot fairly be expected to trust the promise of a private shipmaster to carry his passengers to a port where they will be safely interned, especially since the performance of that promise might be defeated by other causes than bad faith. The conclusion is that the reply is sufficient and that Article 12 requires from a neutral no more than in its absence, belligerents would insist upon with good warrant. But we cannot argue that in the absence of the article a neutral shipmaster who had taken the persons in question on board would render his ship liable to confiscation for rendering unneutral service to the enemy. There would be no ground for presuming that he intended to restore them to the military service of their own side. If he had the correct intention to see to their safe internment, it is not clear what benefit the enemy would derive from internment being substituted for capture, and there would be no room for suggesting the existence of an improper arrangement between him and the enemy".\*

With reference to Article 12, Professor Lawrence of the Royal Naval War College, has the following to say:-

If neutral merchantmen, yachts or boats rescue sick, wounded, or shipwrecked men, they cannot be captured for having such persons on board, though they remain liable to seizure for ordinary violations of neutrality. A belligerent man-of-war may take these persons out of any hospital ship, or any neutral yacht or merchantman, which has rescued them, but not out of a neutral man-of-war. Those who have found asylum on board a vessel of the latter kind must be prevented from taking part again in the operations of war, which will generally mean in practice that they are interned in

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Vestlake, J., Prof. Intern. Law, Cambridge University.  
"International Law". Part II., p. 277.



the neutral country. Internment might with advantage have been decreed for all who are rescued by neutrals. Under the Convention, those of them who are succored by private vessels, will, if they are taken from the custody of their rescuers by a warship of their own side, be put back into the fighting line when fit for service; while on the other hand, if the vessel which demands them is an enemy, they will be made prisoners of war. Each fate seems inconsistent with the fundamental principle that no proceedings of neutrals should assist either side in a war. The British representatives at the Conference opposed the action of Germany and France<sup>11</sup> pressing forward the solution we have ventured to criticize, but gave way at last to ensure unanimity. The difficulty of restraining a victorious officer from seizing a beaten admiral found on board a neutral vessel, and the possibility that a neutral ship laden with rescued men might not obtain permission to land them in the port of another neutral, were the great arguments used in defense of the provisions of the Convention as they stand.\*

#### Article 13.

If wounded, sick, or shipwrecked persons are taken on board a neutral warship, precaution must be taken as far as possible that they do not again take part in the operations of war.

This Article covers the question of the disposition to be accorded those who may find asylum on board a neutral man-of-war. The Convention of 1899 was silent upon this point, and during the Russo-Japanese War the Chemulpo incident raised this important question. At the outbreak of the Russo-Japanese War on the 8th of February, 1904, the captains of the British, French, and Italian cruisers at Chemulpo rescued or received the men of the Russian vessels *Koriets* and *Variag*, and refused to surrender them to the Japanese. Ultimately after negotiation, the rescued sailors in the possession of the British authorities were, with the consent of the

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\*Lawrence, T.J., Lecturer on International Law at the Royal Naval War College. "International Problems and Hague Conferences". Dent & Co., London, 1908. p. 115.



Japanese government handed over to the Russians at a neutral port. Article 13 now provides such persons so rescued are in the same position as that of combatants who take refuge in neutral territory. They are not to be given up to the adversary, but they should be detained by the neutral State so that they cannot again take part in the military operations of the war. (See Takahashi, page 462.)

Article 14.

The shipwrecked, wounded, or sick of one of the belligerents who fall into the power of the other belligerent are prisoners of war. The captor must decide, according to the circumstances, whether to keep them, 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 repatriated cannot serve again while the war lasts.

Article 14 reproduces Article 9 of the Convention of 1899, and requires no special observations other than those already made with reference to it. Amendments proposed to it by the German and Netherlands delegations were withdrawn when it was apparent that the amendments proposed were to be included in Article 10 of the Convention. The bearing of Article 14 is largely determined by the provisions of Article 12 preceding. It deals with the disposition of persons, ships being considered elsewhere. "As prisoners of war the sick and wounded have no privileges different from those of unwounded and healthy prisoners beyond that of proper medical attendance; in particular they have no right to claim exchange or release because they are unfit for active military service. Exchanges or releases, however, may be made, or sick or wounded may be handed



over to a neutral State, by mutual agreement between commanders". (See, "Notes on the Laws and Usages of War". pages 276-5.\* See Article 2, Geneva Convention, 1906.)

#### Article 15.

The shipwrecked, sick, or wounded, who are landed at a neutral port with the consent of the local authorities, must, unless an arrangement is made to the contrary between the neutral State and the belligerent States, be guarded by the neutral State so as to prevent their again taking part in the operations of the war.

The expenses of tending them in hospital and interning them shall be borne by the State to which the shipwrecked, sick, or wounded persons belong.

"Under this Article where shipwrecked, wounded, or sick are landed at a neutral port with the consent of the naval authorities, they must in default of arrangements to the contrary between the neutral and belligerent States, be guarded by the neutral State so as to prevent them from again taking part in the war. The expenses are to be borne by the State to which such persons belong". (Higgins)

The General Report states that if a neutral merchant vessel, having occasionally picked up wounded or sick, or even shipwrecked persons, arrives at a neutral port without having met a cruiser or without having entered into any agreement, the persons which it lands do not fall under the provisions of this Article; they are free.

#### Article 16.

After each engagement, the two belligerents shall, so far as military interests permit, take steps to search for the shipwrecked, sick, or wounded, and to ensure them, as also the dead, against pillage and maltreatment.

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\*"Notes on the Laws and Usages of War". Edmonds and Macpherson. Jr. Royal Army Med. Corps. Sept. 1909.



They shall see that the burial, whether by land or sea, or cremation of the dead shall be preceded by a careful examination of the corpses.

Article 6 is based on Article 3 of the Geneva Convention. The provisions as to burial or cremation of the dead on land will apply to cases where engagements have taken place near land. There is, however, no obligation to bury or cremate the remains of the dead. Before the dead are buried or cremated they must be carefully examined to ensure that life is extinct.

Article 17.

Each belligerent shall send, as early as possible, to the authorities of their country, navy, or army the military marks or documents of identity found on the dead and the description of the sick and wounded picked up by him.

The belligerents shall keep each other informed as to the internments and transfers as well as to the admissions into hospitals and deaths which have occurred among the sick and wounded in their hands. They shall collect all the objects of personal use, valuables, letters, &c., which are found in the captured ships, or which have been left by the sick or wounded who died in hospital, in order to have them forwarded to the persons concerned by the authorities of their own country.

Article 17 reproduces the provisions of Article 4 of the Geneva Convention. The military identification marks or tokens found on the dead must be sent to the authorities of the army, navy, or country to which they belong as early as possible, the Prisoners of War Bureau being the proper channel of transmission. Likewise the articles of personal use, valuables, letters, &c., found on captured ships or left by wounded or sick who die on hospital ships must be collected and transmitted to the persons interested through the authorities of their own country.



The remaining Articles of the Convention call for no special observations other than those already made.

This Convention was signed by all the Powers represented at the Conference except Nicaragua, and there were no reservations made to its provisions by any Powers that might be regarded as seriously effecting its application in any war between signatory States. This Convention had been ratified, up to August 2nd, 1910, by the following Powers:- Germany, United States, Austria, China, Denmark, Mexico, Netherlands, Haiti, Switzerland and Russia. By that date it had not been ratified by Great Britain, France or Japan. It may be stated, however, that ratification by these Powers will probably be effected in due course of time, inasmuch as they have made no material reservations to its provisions, and it should be noted that they have all duly ratified the previous Convention of 1899. In closing this paper I desire to quote the final paragraph of the General Report on this Convention, which Report, I may state, was drawn up by a Committee composed, in great majority, <sup>of</sup> naval officers:- "Such is the project which we submit for your approval, in preparing which we have been guided by the previous Conventions of 1899 and 1906. We do not consider it to be less beneficial than those Conventions, and we think that the transformation of the project into a diplomatic Convention should make for a *real* advance toward the codification of the law of nations".



EXTRACTS FROM THE KING'S REGULATIONS AND ADMIRALTY  
INSTRUCTIONS, 1906, AND ADDENDA, 1908, RELATING  
TO FIRST AID INSTRUCTION. (DUTIES OF  
MEDICAL OFFICERS.)

Article 1292. (Section III, Chapter XXXV.)

2. He (i.e. the Surgeon-in-Charge) is to arrange for the instruction of the undermentioned Officers and men in the principles of First Aid to the Injured, and is responsible that the necessary appliances for use by those instructed are readily available in those parts of the Ship where they will be needed in action:--

All Officers of the Non-Military Branch.  
Midshipmen.  
Naval Cadets.  
Master-at-Arms and ship's Police.  
Light Q.F. and Machine Guns' Crews not utilised in a Ship's action.  
Coxswains and Bowmen of Boats.  
Markers of Companies and Field Guns.  
Non-Commissioned Officers of the Royal Marines not stationed at guns, and Royal Marine Band ranks.  
Writers, Ship's Stewards, Cooks, Officers' Stewards and Cooks, and other daymen, including Band ratings (old system).  
A proportion of Engine-Room Artificers, Mechanicians, Chief Stokers, Stoker Petty Officers, and Leading Stokers who are to be given special instruction in the treatment of burns and scalds, and the removal of wounded from the bunkers, stoke-holds, and Engine-Room.

3. Officers and men detailed to assist the Medical Staff in action and afterwards, are, in addition to First Aid, to be given instructions in some of the simple nursing rules.

4. Officers qualified in First Aid are to be given a certificate, and in the case of men the fact is to be noted in their Service Certificates.



EXTRACT FROM GERMAN REGULATIONS GOVERNING FIRST  
AID ORGANIZATION. (MARCH 4, 1908, REPLYING TO  
OFFICE OF NAVAL INTELLIGENCE, NO. 8937.

January 27, 1908.

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Besides the Sick Carriers, however, all men, as far as possible, but especially the gun crews and other men employed on upper decks x x xx are instructed in the principles of the careful transportation of the wounded and rendering first aid. For this purpose they are divided into groups, and successively at certain periods, are turned over for instruction, to the Sanitary Officers, until their training is complete.

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In general in peace time, battleships and large cruisers have on board 2 sanitary officers and 3 sanitary men x x x x in war an additional medical assistant is assigned.

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The number of sick carriers for ships of a complement of more than 600 men is at least 16 men. x x x Their rating is that of seamen or leading seamen. As regards the selection of these men, it is required that, if possible, one-half of them be professional seamen. Ammunition men, cooks, waiters, buglers, men of the administration personnel, etc., who during intervals of action or after action is over, are indispensable at other points, should not be detailed as sick carriers.



CARRYING THE WOUNDED (JAPANESE NAVY).

It is the practice of the Japanese Navy during time of peace to divide the ship's complement into two parties for instruction in first aid and ambulance work.

The first division comprises clerks, riggers, servants and fire brigade men (also the bandsmen on board the flagship), and receives instructions from the ship's surgeons, in bandaging wounds, prevention and stopping of bleeding, and carrying of wounded men, for several hours per week. These men therefore, are well qualified assistants in the work of tending the wounded with first aid. The second division consists of the rest of the crew, and receives instruction as time and opportunity allow. e/

("Notes on Experiences During the Russo-Japanese Naval War, 1904-1905", Surgeon-General Shigemichi Suzuki, Imperial Japanese Navy, (Fleet Surgeon in Mikasa). Jr. Assoc. Mil. Surgeons, Nov. 1905).



EXTARCT FROM MINISTERIAL CIRCULAR (FRENCH) OF  
MARCH 1, 1906, RELATING TO STRETCHER BEARER  
PERSONNEL. (ARCH. de MÉD. NAV.  
JUN, 1906, p. 474).

"x x x x The men designated x x x x if they  
prove apt in fulfilling their duties as stretcher-  
bearers x x x x a supplementary mark will be as-  
signed them. x x x x These marks will be in-  
scribed on the enlistment records of those affect-  
ed. Upon transfer to another ship, such men will  
be chosen by preference to form a part of the first  
aid party".



EXTRACT FROM "FLEET REGULATIONS, UNITED  
STATES ATLANTIC FLEET, MAY 8, 1910".

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Article 176.

(a) Commanding officers will require that daily instruction be given by medical officers to the men, when circumstances permit it to be done, in the first aid to the wounded, resuscitation of the drowned, and also in hygiene and sanitation, pointing out briefly to the men their duty to the ship in maintaining absolute cleanliness; the necessity of keeping their persons and clothes clean, and the danger of venereal diseases not only to themselves but to their shipmates; how to avoid cholera, dysentery, etc.; in fact all subjects that will tend to preserve health and maintain them in good physical condition. A regular program for such instruction should be arranged so that too great a number of men shall not be under instruction at the same time, and so that all members of the crew will receive instruction. Such instruction shall be considered <sup>as</sup> a regular drill.

(b) Independently of the provisions of paragraph (a), officers of gun divisions will be instructed in the use of aseptic dressings and first aid measures; and they will give a few minutes' instruction at least once a week to the gun crews. Persons stationed in turrets and isolated compartments are cut off from surgical assistance not only in battle but to a serious extent during drills, and in the event



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of injury are dependent upon their immediate comrades. In order to more fully provide for possible emergencies, packages of first-aid dressings will be kept at all times in turrets, handling rooms and other not easily accessible compartments where men are stationed for battle or battle exercises.



"Evacuation of Wounded in Naval  
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