

and Customs of War on Land were drafted at the Hague and contained no reference whatsoever to the Protecting Power.

In many respects the provisions of the 1949 Geneva Conventions relating to the Protecting Power represent compromises. Positions reached solely in order to bring about agreement between opposing viewpoints can rarely be considered perfect and the present case is no exception. However, these provisions unquestionably represent a great step forward in the evolution of international law and would undoubtedly be viewed with amazement by those who drafted the first Red Cross Convention in 1864 or even by those who acted on behalf of the Protecting Powers as recently as in 1914, at the beginning of World War I.

The Protecting Power is now a generally accepted institution of international law. It is the subject of international agreements to which most of the States of the world are parties. There are clear indications that it has been weighed in the balance and not been found wanting, with the result that it has been, and in the future will continue to be, requested to assume numerous new functions on behalf of states at war."

H. C.

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#### THE LEGAL POSITION AND THE RIGHTS OF THE PROTECTING POWER

Mr. Hans Haug, Secretary General of the Swiss Red Cross, has recently published an extremely interesting study on "The legal position and the rights of the Protecting Power".<sup>1</sup>

Pointing out, at the very beginning of his work, that Switzerland's neutrality has encouraged the representation of foreign interests by this country and that in 1944, Switzerland was acting as Protecting Power for thirty five nations, the author notes the experience gained, not only by the authorities, but by Swiss institutions interested in humanitarian law and, first and foremost, the Red Cross.

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<sup>1</sup> *Schweizer Monatshefte*, 41st year, section 8, November 1961.

After analysing the idea of legal protection in the absence of diplomatic or consular representation of the same nationality as the interested parties, and after giving an account of the protection afforded in former times by the Great Powers to the nationals of small nations, Mr. Hans Haug shows what an important innovation in international law, the clause in the Geneva Convention of July 27, 1929 relative to the treatment of prisoners of war (article 86) was, which established " the possibility of collaboration between the Protecting Powers charged with the protection of the interests of the belligerents ".<sup>2</sup>

Mr. Hans Haug then goes on to give a summary of the tasks of the Protecting Power as well as Switzerland's activities in this capacity.

This remarkable study elucidates an important contribution by Switzerland to international mutual aid, and every attention should be given to it.

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#### JAPAN AND THE GENEVA CONVENTIONS

The Japanese Yearbook of International Law (Tokyo, No. 5, 1961) published an important article under this heading by Professor Juji Enomoto, who discusses the Geneva Conventions of 1949, their ratification and their dissemination in Japan.

The author is well known to the ICRC and to our readers, since he took part in the Conference of experts which met in Geneva in May 1956 to examine the question of the legal protection of the civilian population. In the same year he published a most remarkable study of the origin of humanitarian ideas in Japan.<sup>2</sup>

Countering the objection raised by certain legal experts against the ratification of the Geneva Conventions by the Japanese Government, under the pretext that article 9 of the Constitution lays it down that the Japanese people perpetually renounces war as a

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<sup>1</sup> There is an account of the legal system of Protecting Powers in the *commentary on the Geneva Conventions of August 12, 1949*, published by the ICRC, vol. 1, pp. 86 to 95.

<sup>2</sup> See *Revue internationale de la Croix-Rouge*, September-December, 1956.