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The Nature and Scope of the Armistice Agreement

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I. Introduction

For many centuries the armistice agreement has been the method most frequently employed to bring about a cessation of hostilities in international conflict, particularly where the opposing belligerents have reached what might be termed a stalemate. This practice has not only continued but has probably increased, during the present century.

The first World War ended in an extended series of so-called armistice agreements.¹ During the twenty-one years which elapsed before the outbreak of the second World War there were really only two such agreements of any historical importance: that entered into in Shanghai on May 5, 1932, which brought about a cessation of hostilities in the Sino-Japanese conflict of that period;² and that entered into at Buenos Aires on June 12, 1935, which ended hostilities between Bolivia and Paraguay over the Gran Chaco.³

The second World War also ended in an extended series of so-called armistice agreements;⁴ and in the comparatively short period of time since then, there have already been no less than ten major general armistice agreements concluded by belligerents.⁵ This increased importance in modern practice of the general armistice as an instrument leading to the restoration of peace has resulted in it having been likened to the preliminaries of peace⁶ (which it has, in fact, practically superseded), and even to a definitive treaty of peace.⁷ Under the circumstances, it appears appropriate to review the history and development of the general armistice as a major international convention concerned with the non-hostile relations of belligerents, as well as to determine its present status under international law.⁸

II. General Discussion

What is the nature of a general armistice agreement, the war convention which has properly been termed "the most important and most frequently reached agreement between belligerents"?⁹ A general armistice is an agreement

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between belligerents which results in a complete cessation of all hostilities for a specified period of time, usually of some considerable duration, or for an indeterminate period. It applies to all of the forces of the opposing belligerents, wherever they may be located. It may have a political and economic, as well as a military, character.¹⁰

This definition, while adequate to describe the nature of a general armistice, necessarily omits many peripheral but nevertheless important facets of the term defined, facets which it is essential should be borne in mind in any searching analysis of the problem. What is the legal basis of the general armistice? How does it come into being? Does it create a new juridical status between the belligerents? These are but a few of the more important of the many questions relating to this problem.

As has already been noted, the armistice is a war convention. By definition a convention is an agreement; it is a contract; it is consensual. That this is all true of an armistice is fully established by reference to numerous international conventions,¹¹ military manuals,¹² and authors of texts of international law.¹³ Belligerents are free to enter into an armistice or to decline to do so. They are free to include in an armistice any provisions which they may desire, unfettered by either legal restrictions or precedents, guided only by the necessities of war.¹⁴ As one author has aptly stated:

The contractual field for an armistice is completely open. Here again "contracts take the place of law as between those who enter into them."¹⁵

It follows that there is no fixed rule or custom which prescribes what provisions should or should not be included in an armistice agreement.¹⁶ On the other hand, there are certain provisions which, as will be seen, are very generally included by the parties, not because of any legal compulsion, but rather because experience has proven that such provisions are of a nature to facilitate the purpose of the armistice and to insure against violations thereof.¹⁷ And whether the parties specifically provide therefor or not, an armistice does result in a complete cessation of active hostilities; that is, it results in a cease-fire.¹⁸ Without a cease-fire there would, by definition, be no armistice.

Being a contract, it must be negotiated. Because a general armistice results in a cessation of all hostilities, and because it may contain political and economic as well as military provisions, it has political significance. It may, therefore, be made only on behalf of the sovereignty of the state.¹⁹ This sovereignty may be expressed by either of two methods: first, the armistice may contain a specific provision that it is to become effective only after ratification;²⁰ or second, the representatives of the state designated to negotiate the armistice, and they may be military or civilian or both, may be provided with full powers.²¹ Modern

practice appears to prefer the latter method. There were no ratifications of the so-called Armistice Agreements reached during either World War I or World War II.²² All of the armistice agreements reached under the aegis of the United Nations have been negotiated by representatives with full powers. None has required ratification.²³

While it cannot be disputed that a state has complete freedom in determining who will represent it in negotiating an armistice, there have been conflicting expressions of opinion as to the advisability of the selection of military personnel for this purpose. Gentili did not believe that the task of negotiating an armistice should be delegated to the military. He said: "Therefore the leaders in war should handle matters which belong to war and not other matters."²⁴ On the other hand, one modern writer states that "it is clear that, once the decision is made, the actual negotiations should be conducted by the military organs."²⁵

It cannot be said that there is any established modern practice in this regard. The Renville Truce Agreement (Netherlands-Indonesia) and the India-Pakistan Cease-fire Order and Truce Agreement were both negotiated by diplomatic representatives. The four Israeli-Arab Armistice Agreements were negotiated by the military on behalf of each of the Arab countries and by mixed civilian-military delegations on behalf of Israel. The Korean Armistice Agreement was negotiated and signed exclusively by the military on both sides. And the three Agreements on the Cessation of Hostilities in Indochina were negotiated by both military and diplomatic representatives.²⁶ As a matter of fact, with modern methods of communication, the question is no longer of very great importance inasmuch as the decision of the negotiator, whether he be military or civilian, will actually be made in each instance pursuant to instructions received directly from his home capital.²⁷ Perhaps the best solution would be a "mixed team" consisting of members drawn both from the military and from the diplomatic corps, the practice followed by Israel in its negotiations with the Arab states, and by both sides in the Indo-Chinese negotiations.

A matter of major legal interest is that of the juridical status which exists during the period while an armistice is in effect. Is it war, or peace, or some third status? While there has, on occasion, been some rather loose language used with regard to this question, it may be stated as a positive rule that an armistice does *not* terminate the state of war existing between the belligerents, either *de jure* or *de facto*, and that the state of war continues to exist and to control the actions of neutrals as well as belligerents.²⁸

As long ago as the days when Greece and Rome were at the zenith of their power, it became accepted law that, although the *indutiae* (armistice or truce) resulted in a cessation of hostilities, it did not, as did the *foedus* (treaty of peace), result in a termination of the war.²⁹ The early writers on international law concurred in this conclusion.³⁰ The great majority of contemporary writers

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likewise do so.³¹ Both the American and the British military manuals have uniformly taken the position that an armistice is merely a cessation of active hostilities and is not to be described as either a temporary or a partial peace.³²

The rule stated above has received affirmative judicial approval on a number of occasions. Thus, the United States Supreme Court, confronted with the question of whether the 1918 Armistice had brought about a state of peace, ruled that "complete peace, in a legal sense, had not come to pass by the effect of the Armistice and the cessation of hostilities."³³ Similarly, on November 3, 1944, the French Court of Cassation stated that "an armistice convention concluded between two belligerents constitutes only a provisional suspension of hostilities, and cannot itself put an end to the state of war."³⁴

A few years ago an incident occurred in the Security Council of the United Nations which has been misconstrued as indicating a rule contrary to that discussed immediately above. Subsequent to the execution of the Israeli-Egyptian General Armistice Agreement, Egypt continued to maintain its "blockade" of the Suez Canal insofar as Israel was concerned. Israel complained to the Security Council asserting that the four armistice agreements had, in effect, terminated the state of war between all of the belligerent parties. Egypt, on the other hand, contended that the state of war continued despite the armistice agreements and that the blockade was legal. The Security Council on September 1, 1951, passed a resolution calling upon Egypt to lift its blockade.³⁵ This action of the Security Council has been construed as indicating that a general armistice is a kind of *de facto* termination of war.³⁶ It is considered more likely that the Security Council's action was based upon a desire to bring to an end a situation fraught with potential danger to peace than that it was attempting to change a long established rule of international law. By now it has surely become fairly obvious that the Israeli-Arab General Armistice Agreements did not create even a *de facto* termination of the war between those states.³⁷

One of the most frequent problems to arise with regard to the interpretation of a general armistice has been the determination of those acts which are permitted and those which are prohibited. There have been two very definite schools of thought on this problem. One school, long designated as the one with the weight of authority behind it, takes the position that during a general armistice a belligerent cannot legally do anything which the enemy would have wanted to and could have prevented him from doing but for the armistice.³⁸ The other school, long designated as the one with the weight of reasoning as well as the weight of practice behind it, takes the position that during a general armistice the belligerents must refrain from doing only those acts which are expressly prohibited by it.³⁹ This dispute is apparently as old as history,⁴⁰ and is now of historical significance only.⁴¹ Modern discussions of the subject point out the problem of enforcement and the invitation to charge and countercharge

inherent in what might be termed the classical approach.⁴² In recent years the belligerents have been prone to spell out with particularity all those specific acts which are to be renounced during a general armistice.⁴³ Whether or not this is more conducive to an atmosphere which will lead to a restoration of peace is probably debatable, with strong arguments to be made on either side. Nevertheless, the modern rule appears to be that belligerents may be presumed to have the right to do anything which is not specifically forbidden by the terms of the armistice agreement; and, conversely, that the doing of an act not specifically prohibited, even though the other side could have prevented it but for the agreement on the cessation of hostilities, cannot validly be made the basis for a complaint of violation or for the denunciation of the armistice.

III. Provisions of Armistice Agreements

Mention has already been made of the fact that the modern general armistice may, and frequently does, contain military, political, and economic provisions.⁴⁴ An analysis of the various provisions of a number of general armistice agreements, using as models not only the post-World War II agreements of this category, but also a number of older ones, will disclose the direction which the armistice is taking in the dynamics of international law, and will permit the drawing of certain conclusions.⁴⁵

Incorporated within the hundreds of armistice agreements which have been concluded over the course of centuries it is possible to discover provisions covering almost every conceivable topic. Many such provisions are probably no longer relevant under conditions of modern warfare; and many were apt only because of the situation pertaining to a particular conflict. With the foregoing, which are interesting for historical reasons but which have no particular present legal significance, it is not necessary to concern oneself. The present-day student of this problem will be concerned exclusively with the provisions which belligerents have, either consistently over the centuries, or at least in recent times, believed it appropriate to incorporate in armistice agreements concluded by them.

In general, what matters should one expect to find included in a typical armistice agreement? Probably the most thorough and up-to-date answer to that question is contained in *The Law of Land Warfare*, the new Manual of the United States Army.⁴⁶ Summarized, the provisions suggested therein relate to:

- (1) Effective date and time;
- (2) Duration;
- (3) Line of demarcation and neutral zone;
- (4) Relations with inhabitants;
- (5) Prohibited acts;

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- (6) Prisoners of war;
- (7) Consultative machinery;
- (8) Miscellaneous politico-military matters.

Any discussion of the contents of an armistice agreement must logically begin with a discussion of the suspension of hostilities. That subject disposed of, one may turn to those of the above-enumerated items which are of some particular current interest.

A. Suspension of Hostilities

As has already been remarked, an armistice *per se*, with or without a specific provision, results in a cessation of hostilities.⁴⁷ Nevertheless, only on very rare occasions have the parties failed to include such a provision.

The Truce of Ratisbonne, signed on August 15, 1684, on behalf of Leopold, Emperor of the Holy Roman Empire, and Louis XIV, King of France, did not specifically suspend hostilities. It contained a provision establishing a truce for twenty years from the date of ratification.⁴⁸ For whatever significance it may have, it should be noted that we find the same parties entering into the Truce of Vigevano on October 7, 1696, only twelve years later, and this time with a specific provision for a suspension of hostilities.⁴⁹

In April, 1814, Napoleon abdicated as Emperor and an armistice was entered into between the Allies and the French. While the brother of Louis XVIII had come to France as the representative of the King, there was considerable question as to the extent of control which he would be able to exercise over Napoleon's Grand Army. Accordingly, the armistice provided for a suspension of hostilities but only if "the commanding officers of the French armies and fortified places shall have signified to the allied troops opposed to them that they have recognized the authority of the Lieutenant General of the Kingdom of France."⁵⁰ Although a somewhat similarly confused political situation existed in Italy in 1943, it was apparently considered unnecessary to include such a provision in the Armistice Agreement of September 3, 1943, between the United Nations forces and the government of Marshal Badoglio which had succeeded Mussolini.⁵¹

The Armistice Protocol signed by the Russians and the Japanese at Portsmouth on September 1, 1905, contained a clause prohibiting bombardment of enemy territory by naval forces, but no other provision with regard to the suspension of hostilities.⁵² It directed the two governments to order their military commanders to put the Protocol into effect. On September 13 an agreement was reached by the army commanders in Manchuria which specifically provided for the suspension of hostilities effective on September 16.⁵³ On September 18, a "Naval Protocol of Armistice" was signed by the navy commanders which, while it established a boundary line between the two fleets,

again did not specifically suspend hostilities.⁵⁴ And the two army commanders in Korea were unable to reach an agreement prior to the exchange of ratifications of the peace treaty on September 25.⁵⁵

On a number of occasions the United Nations has adopted, apparently without any reason therefor, terminology new to international law in its actions relating to armistice agreements. The Renville Truce Agreement uses the novel term “stand-fast and cease-fire.”⁵⁶ The India-Pakistan Agreement provides for a “cease-fire.”⁵⁷ The Israeli-Arab General Armistice Agreements adopt the procedure of omitting a specific provision for a suspension of hostilities—perhaps on the theory that this was unnecessary in view of the “truce” which had previously been imposed on the belligerents by the United Nations—and merely established “a general armistice between the armed forces of the two Parties.”⁵⁸ The Korean Armistice Agreement reverted to standard procedure, providing for “a complete cessation of all hostilities” in Korea.⁵⁹

B. Effective Date and Time

It has been stated that

in armistices time is of the first consideration. The time of commencement and the moment of termination should be fixed beyond all possibility of misconception.⁶⁰

In the event that the armistice fails to specify an effective date and time, it is assumed that it is intended to become effective immediately upon signing.⁶¹ Because of difficulties in assuring the receipt of proper notification by all commands, or for other reasons, it has, on occasion, been deemed advisable to have the armistice become effective on a later date.⁶² For the same reason, the suspension of hostilities has on occasion been made effective at different times in different areas.⁶³ In view of the nature of the elaborate communications systems with which the modern army is usually equipped, neither of these situations should any longer occur.

The United States has been involved in at least one controversy with regard to the effective date of an armistice. The Protocol of Washington (United States-Spain), which was signed on August 12, 1898, provided that

upon the conclusion and signing of this protocol hostilities between the two countries shall be suspended, and notice to that effect shall be given as soon as possible by each Government to the commanders of the military and naval forces.⁶⁴

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The effective date of the suspension of hostilities was obviously not stated with sufficient precision. Spain later contended that the protocol had been effective from the date of signature. The United States took the position that this would render meaningless the latter part of the provision and that the suspension of hostilities had become effective only upon receipt of notification by the military and naval commanders in the field. More care in the drafting of the provision would have obviated this dispute, which involved the capitulation of Manila.

The importance of clearly indicating the effective date and time of an armistice agreement appears to be a lesson well learned, for we find that the subject is fully covered in all of the post-World War II armistice agreements.⁶⁵ Continued adherence to this practice will be at least a small step in minimizing the difficulties between belligerents which inevitably arise during any armistice.

C. Duration

Two types of provision with regard to duration are found in armistice agreements. Some specify a definite period. Thus, the Armistice of Nikolsburg and that of Shimonoseki provided for durations of four weeks and twenty-one days, respectively.⁶⁶ The Armistice of Malmoe, concluded by the King of Prussia and the King of Denmark on August 26, 1848, provided for an armistice of seven months with automatic prolongation unless one month's advance notice was given by either party.⁶⁷ And the agreement reached by the French and the Austrians in Vienna on July 13, 1809, provided for an armistice of one month, but with fifteen days advance notice of resumption of hostilities.⁶⁸ Others provide for an indefinite duration or contain no provision whatsoever on this subject. Where this is the situation, the armistice remains effective until due notice of denunciation has been given by one of the belligerent parties.

It has been said that "it is customary to stipulate with exactness the period of time during which hostilities are suspended."⁶⁹ Although, prior to the twentieth century, armistice agreements, more frequently than not, specified an exact duration, modern practice seems to be otherwise. No duration is specified in any of the major armistice agreements concluded since World War II. Thus, for example, the Renville Truce Agreement provides that it shall be considered binding unless, in effect, one party terminates it because of violations by the other party.⁷⁰ The Israeli-Lebanese General Armistice Agreement provides that it "shall remain in effect until a peaceful settlement between the Parties is achieved."⁷¹ The Korean Armistice Agreement provides that it shall remain in effect until superseded by "an appropriate agreement for a peaceful settlement at a political level between both sides."⁷² Of course it may be argued that these two latter agreements are determinate, inasmuch as they remain in effect until an event certain. Perhaps so, but it can scarcely be said that there has been any

stipulation with exactness as to the duration of the armistice under these circumstances. The Israeli-Lebanese General Armistice Agreement is seven years old and no “peaceful settlement” is in sight. And while the Korean Armistice Agreement is only three years old, the “peaceful settlement” mentioned therein looks equally remote.

It has been stated above that where an armistice is of indeterminate duration, it remains effective until “due notice” of denunciation has been given. Sometimes an armistice specifies the period of advance notice of denunciation which is required. Thus, the second Thessaly Armistice entered into by the Greeks and the Turks on June 3, 1897, provided for 24 hours’ notice of resumption of hostilities.⁷³ More often, it does not. Article 47 of the Declaration of Brussels admonished that “proper warning be given to the enemy, in accordance with the conditions of the armistice”;⁷⁴ and Article 36 of both of the Hague Regulations (1899 and 1907) said approximately the same thing.⁷⁵ The practical value of these provisions is dubious.⁷⁶ It is precisely when there is no relevant condition in the armistice agreement that resort must be had to general international law. In this instance, conventional international law being lacking, resort must be had to custom—and custom says that “good faith requires that notice be given of the intention to resume hostilities.”⁷⁷

A number of authors have commented on Sherman’s ire when the armistice which he had concluded with Johnston on April 18, 1865, was disapproved by President Johnson and Secretary Stanton, and upon his honor and fairness in giving 48 hours’ notice of resumption of hostilities to General Johnston.⁷⁸ Of his ire there can be no doubt.⁷⁹ Without attempting to detract from General Sherman’s honor and sense of fairness, it is necessary to point out that the armistice itself provided for 48 hours’ notice of resumption of hostilities.⁸⁰ Actually, Sherman even referred to this provision of the armistice agreement in giving the notice which it required.⁸¹

D. Demarcation Line and Neutral Zone

A demarcation line between the two belligerent forces, frequently accompanied by a neutral zone, has long been a technique employed for the purpose of preventing incidents which, even though inadvertent, might lead to a resumption of hostilities.⁸² The statement that a “neutral zone is actually the only means there is of preventing violations of the armistice”⁸³ is probably too strong and tends to overevaluate the neutral zone. A neutral zone is unquestionably a very great aid in preventing incidents. However, it is definitely not a cure-all.

The last century provides a number of historical examples of the use of the demarcation line and the neutral zone in armistice agreements. In the Armistice

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of Cintra (France–Allies) provision was made for the River Siandre to be the line of demarcation between the two armies with Torres Vidras as “no man’s land.”⁸⁴ The French–Austrian Armistice of Vienna of 1809 plotted a line of demarcation from point to point, but did not provide for a neutral zone.⁸⁵ The Armistice of Nikolsburg required the Austrians to remain 2½ miles from a line of demarcation which had been previously established, thus creating a neutral zone entirely at the expense of the Austrians.⁸⁶ And in the Greco–Turkish War of 1897 both the Armistice of Epirus and that of Thessaly provided for lines of demarcation.⁸⁷

The post–World War II armistice agreements have, in the main, followed the long established tradition. The Renville Truce Agreement provided for both a line of demarcation and a demilitarized zone. Like so many other novelties in this document, the line of demarcation was designated “the status quo line”—a term unique to this agreement!⁸⁸ The Israeli–Lebanese General Armistice Agreement created a demarcation line and provided that only defensive forces would be permitted “in the region” of the line.⁸⁹ This rather unusual arrangement was probably due to the fact that the demarcation line was the international boundary line between Lebanon and Palestine.

The Korean Armistice Agreement contains a rather elaborate series of provisions establishing and regulating both a “Military Demarcation Line” and a “Demilitarized Zone.”⁹⁰ The same may be said of the agreements entered into at Geneva on July 20, 1954, between representatives of the Commanders-in-Chief of the French Union Forces in Indochina and of the People’s Army of Viet-Nam.⁹¹

It will be noted that the foregoing enumeration does not include the India–Pakistan Resolution for a Cease–Fire Order and Truce Agreement. In that agreement it was not necessary to create a demarcation line or a neutral zone, inasmuch as Pakistan agreed to withdraw her forces from the territory of the State of Jammu and Kashmir.⁹²

E. Relations with Inhabitants

A number of different problems arise during an armistice with regard to the relations between the belligerents and the local inhabitants. These problems include the movement of civilians from the territory controlled by one belligerent to that controlled by the other, commercial intercourse between the two territories, etc. However, as will be seen, these problems are all interrelated.

Article 50 of the Declaration of Brussels merely stated that it was within the power of the two belligerents “to define in the clauses of the armistice the relations which shall exist between the populations.”⁹³ Article 39 of both of the Hague Regulations purported to extend the contractual freedom of the parties

by specifically including therein “what communications may be held in the theatre of war with the inhabitants and between the inhabitants of one belligerent State and those of the other.”⁹⁴ Neither of the foregoing provisions included Lieber’s corollary to the effect that “if nothing is stipulated the intercourse remains suspended, as during actual hostilities.”⁹⁵ Both the Rules of Land Warfare and The Law of Land Warfare elaborate somewhat on Lieber, pointing out the necessity for a specific provision in the armistice, and then stating:

Otherwise these relations remain unchanged, each belligerent continuing to exercise the same rights as before, including the right to prevent or control all intercourse between the inhabitants within his lines and persons within the enemy lines.⁹⁶

It is probably also appropriate to point out here that Article 134 of the 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War, directs the belligerents, upon the close of hostilities, “to ensure the return of all internees to their last place of residence, or to facilitate their repatriation.”⁹⁷

From the foregoing it is clear that the official point of view is that the parties may include provisions concerning civilians in the armistice agreement, but that, failing such provisions, the condition of civilians remains unchanged from that existing during hostilities. The writers of texts on the subject are not quite so unanimous. The majority concur with the doctrines set forth above.⁹⁸ At least one author believes that “liberty of movement [for the civilian population] is presumed if the armistice is general and is concluded for a sufficiently long period of time.”⁹⁹ No justification has been found for that statement. Another states that it may be desirable to provide in the armistice for the relaxation of the prohibitions imposed on civilians—but he does not even hint that there is any presumption in the absence of specific provision.¹⁰⁰

What has been the actual practice in this regard? Probably the most unusual suggestion was that made to the Estates General in 1608 by the French and British Ambassadors when they were attempting to use their good offices to terminate the hostilities in which the United Provinces were then engaged with Spain. They proposed armistice provisions which would not only have permitted commerce and communications between the territories controlled by the two belligerents, but also included what could only be characterized as a most-favored-nation clause!¹⁰¹ This proposal, perhaps understandably, was not included in the Truce of Antwerp, which was eventually reached by the parties in 1609.¹⁰²

The Armistice of Ulm, which was concluded on March 14, 1647, between Louis XIV and his allies on one side and the Elector Maximilian and his allies on the other side, authorized a complete resumption of commerce between the citizens of the two sides except for certain specified items such as saltpeter,

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powder, arms, etc.¹⁰³ The Truce of Ratisbonne also reestablished commerce between the two belligerents.¹⁰⁴ Then, two and a half-centuries later, we find a somewhat similar provision in the Renville Truce Agreement, where Article 6 specifies that “trade and intercourse between all areas should be permitted as far as possible.”¹⁰⁵

While the Korean Armistice Agreement contains no provision with regard to commercial intercourse, it does contain elaborate provisions for the movement of civilians who were in territory controlled by one belligerent and who were normally resident in territory controlled by the other.¹⁰⁶ The Vietnamese Agreement went even a step further, permitting *any* civilian to cross over to the territory controlled by the other belligerent if he desired to go there to live, the only restriction being that the move had to be made during the period allocated for troop withdrawals.¹⁰⁷ The latter Agreement also provides for the “liberation and repatriation” of all civilian internees held by either side.¹⁰⁸ This bears some resemblance to the provision of the Geneva Civilian Convention to which reference has already been made.¹⁰⁹

F. Prisoners of War

The problem of prisoners of war has received extremely varied treatment in armistice agreements over the centuries and still remains one which can be most difficult of solution.

The Armistice of Ulm provided for the release of all prisoners of war by both sides without the payment of ransom, this last proviso probably having been the most important feature of that agreement as far as the belligerents themselves were concerned.¹¹⁰ Surprisingly enough, we find that the parties still considered it essential to specify a waiver of ransom in the armistice agreement concluded in 1814 after Napoleon’s first downfall. However, the importance of the latter armistice from our point of view is twofold: It provided that all prisoners of war should be “immediately sent back to their respective countries”; and it provided for the appointment of commissioners by each side “in order to carry this general liberation into effect.”¹¹¹ In the Armistice of Malmoe it was agreed that all prisoners of war would be “set free”; and a supplementary agreement stated where they would be taken for “delivery to their officers.”¹¹²

Article 20 of both of the Hague Regulations provided for the repatriation of prisoners of war only after “the conclusion of peace.”¹¹³ As we have seen, this phrase is not applicable to an armistice. The 1929 Geneva Prisoner of War Convention changed this considerably, providing that an armistice must, in principle, contain stipulations regarding the repatriation of prisoners of war.¹¹⁴ It further provided that, if for some reason, the parties had been unable to include such a provision in their armistice, they would conclude a separate agreement

on the subject as soon as possible and repatriate the prisoners of war with the least possible delay. The 1949 Geneva Prisoner of War Convention went still a step further, providing that prisoners of war should be “released and repatriated without delay after the cessation of active hostilities,” and providing further that, failing such a provision in the armistice, each Detaining Power must establish and execute without delay a unilateral plan of repatriation.¹¹⁵ In view of the foregoing, and because of the experience in Korea, The Law of Land Warfare, unlike Lieber’s Instructions and the Rules of Land Warfare, states that “if it is desired that prisoners of war and civilian internees should be released or exchanged, specific provisions in this regard should be made.”¹¹⁶

Prior to the Diplomatic Conference which drafted the Conventions in Geneva in 1949 most writers on the subject took the position that the final answer to the question of the return of prisoners of war was for the treaty of peace, not for the armistice.¹¹⁷ They reasoned that to act otherwise would be to give an unwarranted advantage to the side which had lost the greater number of soldiers to the enemy and a corresponding disadvantage to the side which had been successful in capturing the larger number of prisoners of war. It was suggested that it would be appropriate to reach a separate agreement, after the armistice had been signed, under which prisoners would be exchanged in equal numbers and corresponding grades, thus avoiding any change in the relative positions of the belligerents.¹¹⁸ This is the procedure normally followed in cartels for the exchange of prisoners of war.¹¹⁹ While there is much to be said for this position, it is not fully supported by history and, in the light of the quoted provisions of the 1949 Geneva Convention, it is not in conformity with the requirements of an international convention which has been so widely accepted as already to be considered as constituting universal international law.¹²⁰ This is not to say that the basic reason for the theory expressed above is not a valid one. When prisoners of war are held by the two belligerent sides in such disproportionate numbers as was the case in Korea, there is no question but that total release and repatriation considerably changes the balance between the two sides, even where there is a provision, as there is in the Korean Armistice Agreement, against the employment in subsequent acts of war of prisoners of war released and repatriated pursuant to an armistice agreement.¹²¹

The Renville Truce Agreement (which, it will be recalled, was signed on January 17, 1948, prior to the drafting of the 1949 Geneva Convention and prior even to the Stockholm Conference where the working draft of the subsequent prisoner of war convention was prepared) contains the following significant provision:

To accept the principle of the release of prisoners by each party and to commence discussions with a view of the most rapid and convenient

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implementation thereof, the release in principle to be without regard to the number of prisoners held by either party.¹²²

The Israeli-Lebanese General Armistice Agreement provided for an immediate exchange of all prisoners of war.¹²³ The provisions of the Korean Armistice Agreement with regard to prisoners of war are too well known to require repetition here.¹²⁴ Article 21 of the Agreement for the Cessation of Hostilities in Viet-Nam provided generally for the “liberation and repatriation of all prisoners of war.”¹²⁵ In elaborating on that provision the agreement states that prisoners of war will be “surrendered” to the other side—which would seem to indicate acceptance of the principle of “forcible repatriation.” However, the agreement further provides that the side to which they have been surrendered will assist them in proceeding to the zone of their choice—which would seem to indicate a right of self-determination by the individual. It is extremely doubtful that any of these unfortunates were among the horde of refugees who moved from the Communist to the non-Communist zone.¹²⁶

The omission of the India-Pakistan Cease-Fire Order and Truce Agreement from the above discussion was not inadvertent. For some reason the United Nations Commission resolution which became the Agreement made no mention of this subject; and apparently neither of the parties ever suggested that it be included.

G. Consultative Machinery

Provisions in an armistice agreement for the establishment of commissions with various functions have a long history. Under the circumstances, it is somewhat strange to find that the subject had not been mentioned in the literature on the subject prior to the inclusion of a provision with regard thereto in The Law of Land Warfare. That provision reads as follows:

Consultative machinery. It is generally desirable to provide for the establishment of a commission, composed of representatives of the opposing forces, to supervise the implementation of the armistice agreement. Additional commissions, composed of representatives of the belligerents or of neutral powers or both, may be constituted to deal with such matters as the repatriation of prisoners of war.¹²⁷

The armistice proposed by the ambassadors of France and Great Britain in 1608 has already been mentioned in another connection.¹²⁸ That document also contained a provision to the effect that in the event the parties were unable to agree concerning the continued occupation of certain villages and hamlets, some “notable persons” would be selected to decide the question. This provision

was among those which the parties omitted from the Truce of Antwerp. However, the Truce of Ratisbonne established a commission to delimit frontiers

so that in the future there may be no dispute to the prejudice of the truce herein agree upon. The said Commissioners shall work together to the end that if either party fails to make the promised restitutions, or to comply with any provision of this agreement, it will be entirely his own act.¹²⁹

Similarly, the 1809 Vienna agreement provided for commissioners to be named by both sides for the purpose of supervising the execution of the agreement.¹³⁰ And the Finnish-Russian Armistice of 1940 called for special representatives of the two sides to decide problems arising in the implementation of the agreement.¹³¹

All of the post-World War II armistice agreements establish commissions of one type or another for the purpose of either implementing or supervising the implementation of various provisions of the agreements. Thus, the Renville Truce Agreement made use of the Committee of Good Offices created by the United Nations and the Committee's military assistants for the investigation of incidents, supervision of the withdrawal of troops, etc.¹³² The India-Pakistan Agreement availed itself of the services of the United Nations Commission.¹³³ The Israeli-Lebanese Agreement created a Mixed Armistice Commission and also provided for the use of the personnel of the United Nations Truce Supervision Organization.¹³⁴ The Korean Armistice Agreement created a variety of organs, including a Military Armistice Commission, a Neutral Nations Supervisory Commission, a Committee for the Repatriation of Prisoners of War, Joint Red Cross Teams, a Committee for Assisting the Return of Displaced Civilians, and a Neutral Nations Repatriation Commission.¹³⁵ Similarly, the Viet-Nam Agreement created a Joint Commission and an International Commission.¹³⁶

It is believed that on the basis of the foregoing consistent experience of recent years it may be assumed that the device of commissions made up of members of the belligerent forces and commissions made up of representatives of neutral nations, to which is assigned the mission of implementing and of supervising the implementation of the provisions of an armistice agreement, has become an accepted feature of such agreements.

H. Political

It has already been pointed out that one of the characteristics of an armistice is that it may contain political and economic, as well as military, clauses.¹³⁷ The Law of Land Warfare enumerates a number of categories of such clauses which may be contained in an armistice, including disposition of aircraft and shipping;

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co-operation in the punishment of war crimes; restitution of captured or looted property; shipping, communications facilities and public utilities; civil administration; displaced persons; and the dissolution of organizations which may subvert public order.¹³⁸ It is obvious that a number of these subjects would only be appropriate in an armistice such as most of those which were concluded during or at the end of the two world wars where the victors were dictating terms to the vanquished. Some, such as those relating to displaced persons, movement of civilians, commercial intercourse, etc., have already been discussed. Generally speaking, it may be stated that the scope of this type of provision is limited only by the ability of the belligerents to reach agreement with regard thereto. Numerous examples of such provisions may be found in the armistice agreements of the past decade which we have been examining herein.¹³⁹

I. Violations

The question of denunciations has already been discussed in connection with armistice agreements of indefinite duration.¹⁴⁰ Now it is appropriate to examine the problem of violations of an armistice agreement and denunciations in connection therewith.

In his Instructions, Lieber stated that "if either party violates any express condition, the armistice may be declared null and void by the other."¹⁴¹ Article 51 of the Declaration of Brussels also included a statement to the effect that a violation of an armistice gave the other party the right to terminate it ("le denoncer").¹⁴² It will be noted that under either of these rules a belligerent had the right to denounce an armistice for a violation of even a minor condition. An attempt was made to remedy this situation by Article 40 of both of the Hague Regulations which authorized a denunciation for a "serious violation," with the additional proviso that in cases of "urgency" the violation might warrant the recommencing of hostilities immediately.¹⁴³ Clearly, the failure to define the term "serious violation" and the indefiniteness of the term "urgency" left a great deal to the discretion of the aggrieved party.¹⁴⁴ After analyzing the applicable international conventions and the writers on the subject, one eminent author arrives at this conclusion:

. . . Three rules may be formulated from this—(1) violations which are not serious do not even give a right to denounce an armistice; (2) serious violations empower the other party to denounce the armistice, but not, as a rule, to recommence hostilities at once without giving notice; (3) only in case of urgency is a party justified in recommencing hostilities without notice.¹⁴⁵

Parties negotiating armistice agreements have apparently been loathe to include any reference therein with regard to the possibility of denunciation for violation, perhaps because they have preferred to rely on the rather vague rule of international law.¹⁴⁶ It is suggested that in these days of extremely detailed agreements it might be well to consider the advisability of specifying in the agreement which of its provisions are considered by the parties to be of such importance that a violation would be considered either “serious” or “urgent.”

One of the important problems with regard to violations is that of the violation of a provision of an armistice by an individual acting independently. Grotius stated that “private acts do not break a truce unless in addition there is a public act, that is, through command or approval.”¹⁴⁷ This is the basic tenor of Article 52 of the Declaration of Brussels and Article 41 of both of the Hague Regulations, all of which, in substance, provide that a violation by a private act only entitles the aggrieved side to demand that the individual offender be punished and, in an appropriate case, to demand compensation for damages.¹⁴⁸

The Rules of Land Warfare defined the term “private individuals” as excluding members of the armed forces.¹⁴⁹ The Law of Land Warfare reverses that position, stating that in the sense of Article 41 of the 1907 Hague Regulations a private individual is *any* person, including a member of the armed forces, who acts on his own responsibility.¹⁵⁰ It is believed that the Hague Regulation intended, like Grotius, to distinguish between official and unofficial acts, and that the definition appearing in the later manual is fully consonant with that distinction. The Law of Land Warfare states further that violations by individuals do not justify denunciation unless they are proved to have been committed with the knowledge and consent of their government or commander—and that consent may be inferred from a persistent failure to punish the offenders.¹⁵¹

As far back as the Armistice of Ulm in 1647 we find a provision to the effect that officers of either side who violated any provision of the armistice agreement would be severely punished.¹⁵² Paragraph 13e of the Korean Armistice Agreement requires the commanders of the two sides to “insure that personnel of their respective commands who violate any of the provisions of this Armistice Agreement are adequately punished”; and Article 22 of the Viet-Nam Agreement is identical, except for minor differences which probably resulted during the course of translating from English to French and then back into English.¹⁵³ It can logically be assumed that if the parties provide for the punishment of individual violators, they do not contemplate that such violations constitute a basis for denunciation.

The emergence of the guerrilla or partisan as a potent force in modern warfare has emphasized this problem. Irregular forces are frequently difficult to control; but it is not unusual to find them specifically included, with the regular forces,

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within the restrictions contained in the armistice.¹⁵⁴ While this procedure is obviously appropriate, their frequent disregard of the orders of the commander of the organized military forces, who is responsible for insuring compliance with the provisions of the armistice, can become an acute problem insofar as violations of the armistice are concerned.¹⁵⁵

J. Naval

Authorities writing on the war conventions have, with rare exception, devoted little more than a sentence or two to the subject of the effect of a general armistice on naval warfare.¹⁵⁶ They are, however, practically unanimous with regard to the few rules which they do enunciate.

Naturally, a general armistice would impliedly include a prohibition against a naval bombardment or a naval battle, inasmuch as every general armistice includes a complete suspension of active hostilities. However, the problem is more difficult when the question involved is the maintenance of a naval blockade with its concomitant factors such as the right of visit and search, control over neutral vessels, seizure of contraband, taking of prizes, etc.

One of the more recent works on this subject states:

... During a general armistice, belligerents probably also have the right to capture vessels belonging to the enemy and to stop and visit neutral ships as well as to prevent them from breaking a blockade and from carrying contraband, unless otherwise agreed upon. The question is not, however, settled and the taking of prize in particular may be considered as a hostile act.¹⁵⁷

As a practical matter, it is difficult to see how a belligerent who continues the maintenance of a blockade during an armistice can avoid committing hostile acts. However, most writers are far more positive than the above quotation would indicate concerning the right of a belligerent to continue during a general armistice a naval blockade which had been previously established and concerning which the armistice agreement makes no provision.¹⁵⁸ There is some indication that modern thinking in this direction is premised on the equally modern doctrine which permits a naval blockade even in time of peace—the so-called “pacific blockade.”¹⁵⁹ The limitation with regard to prizes noted above is undoubtedly based upon the statement made by one writer to the effect that such an act “is irreconcilable with a state of suspension of hostilities.”¹⁶⁰ It is apparent that the failure, in an appropriate case, to include within an armistice a clear provision with regard to naval blockade, and naval warfare generally, can be the cause of serious difficulties and, perhaps, even of the resumption of hostilities.¹⁶¹ Let us review some of the armistice agreements in which an

attempt has been made to cover the subject and weigh the sufficiency or insufficiency of the provisions drafted for that purpose.

The Truce of Antwerp (Spain–United Provinces) stated that “all acts of hostility of all nature on sea and on land shall cease.”¹⁶² Such a clause would prohibit a pitched battle at sea or a naval bombardment of an enemy shore—but would it prohibit a blockade? The Armistice of Paris which followed Napoleon’s abdication in 1814 was more specific.¹⁶³ It provided that the blockade of France would be lifted and that all prizes taken after various dates (which allowed for the time necessary for the news to reach different areas) would be restored. No difficulties should arise under such an armistice; nor under the somewhat similar provisions of the Armistice of Malmoe, which even went so far as to require the return of prizes legitimately taken and to provide for indemnification if prizes and their cargoes could not be returned in kind.¹⁶⁴

The Armistice of Versailles of 1871 (France–Germany) created a naval line of demarcation and provided for the restoration of all captures made after the conclusion of the armistice and before its notification.¹⁶⁵ Again, this would seem to meet the requirements of precision and completeness essential to prevent disputes.

The Armistice of Shimonoseki (Japan–China) adopted the opposite approach, specifically authorizing the seizure of any military sea movements.¹⁶⁶ While this is, of course, entirely within the power of the parties, some act pursuant thereto may cause such a public reaction as to practically compel a government to resume hostilities—and, also, a government which is looking for an excuse to do so can avail itself of an incident thereunder as a basis for the resumption of hostilities.

Neither the two original armistice agreements entered into on May 19, 1897 (Epirus), and May 20, 1897 (Thessaly), in the Greco–Turkish War of that period, nor the amended agreements reached on June 3, contained any provisions relating to the naval situation.¹⁶⁷ On June 4 a supplementary agreement was concluded which lifted the Greek blockade, but prohibited Turkey from reinforcing her armies in Greece or bringing in any munitions, limiting her to revictualing her troops twice a week through designated Greek ports. These, and certain other naval provisions of the supplementary agreement were so indefinite as to be calculated to encourage disputes—which they did.

It has already been noted that the Protocol of Portsmouth (Russia–Japan) prohibited bombardment of enemy territory by naval forces and that the subsequent “Naval Protocol of Armistice” established a boundary line between the two fleets.¹⁶⁸ The Protocol of Portsmouth also provided that “maritime captures will not be suspended by the armistice.” It is to be assumed that the Japanese were following the precedent which they had established in the Armistice of Shimonoseki.

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The early post-World War II armistice agreements tended to follow the irregular pattern indicated above. The Renville Truce Agreement contains no reference to naval warfare or the sea—a strange situation for an armistice relating to an island area.¹⁶⁹ The Israeli-Lebanese General Armistice Agreement provided that “a general armistice between the armed forces of the two parties—land, sea and air—is hereby established” and that “no element of the land, sea or air military or para-military forces of either Party . . . shall commit any warlike or hostile acts.”¹⁷⁰ We have already seen how identical provisions have caused grave disputes between Israel and Egypt with regard to their effect on Egypt’s naval blockade.¹⁷¹

In the Korean Armistice Agreement the required precision and completeness on this subject were almost reached. Paragraph 12 of that Agreement called for a complete cessation of *all* hostilities, including naval hostilities; and paragraph 15 provides:

This Armistice Agreement shall apply to all opposing naval forces, which naval forces shall respect the waters contiguous to the Demilitarized Zone and to the land area of Korea under the military control of the opposing side, and shall not engage in blockade of any kind of Korea.¹⁷²

This is probably one of the most complete naval provisions ever included in an armistice agreement. However, the general descriptive statement concerning this armistice is qualified in view of the fact that in negotiating it an attempt to reach an agreement on the extent of the territorial waters was unsuccessful because the United Nations Command proposed the traditional three-mile limit, the Communists insisted on the twelve-mile limit, and the Republic of Korea had established the arbitrary “Rhee Line” which extends anywhere from 60 to 200 miles from shore. According to unofficial accounts the United Nations Command has voluntarily imposed a twelve-mile limit on its personnel in order to avoid incidents. However, this has not been entirely successful.

Finally, the Agreement on the Cessation of Hostilities in Viet-Nam is almost, though not quite, as complete as the Korean Armistice Agreement. Article 24 provides that the agreement applies to all of the armed forces of either party and states that such armed forces “shall commit no act and undertake no operation against the other party and shall not engage in blockade of any kind in Viet-Nam.”¹⁷³ It also defines the territory of a party as including “territorial waters.” France supports the three-mile definition of territorial waters and it is to be assumed that the state of Viet-Nam does likewise. It is equally to be assumed that the Viet-Minh will subscribe to the twelve-mile limit of territorial waters supported by the U.S.S.R. Accordingly, here, too, there is a possibility of dispute.

The foregoing discussion has, it is believed, indicated the necessity of including in an armistice agreement specific and precise provisions with regard to naval warfare, blockades, etc. It should also have indicated that progress in the right direction has been made in recent years and that care on the part of the negotiators of future armistice agreements can quickly and simply eliminate the naval problem as a source of irritation during the often uneasy period of armistice.

IV. Conclusion

The general armistice is a living, dynamic war convention which, despite centuries of use, is still continuing in each decade to expand its scope and to increase the importance of its position among the agreements concerning the non-hostile relations of belligerents. The elaborate armistice agreements of recent years have, in effect, rendered the preliminaries of peace obsolete. It is not inconceivable that the formal treaty of peace will suffer the same fate and that wars will one day end at the armistice table.

Notes

1. All of these agreements may be found in Maurice, *The Armistices of 1918, Appendices* (London, 1943). They are referred to in the text as "so-called armistice agreements" because each one was actually what one author has called a "capitulatory armistice, in which the victor imposes upon the vanquished conditions which are normally reserved for the treaty of peace." Burgos, *Nociones de Derecho de Guerra* 144 (Madrid, 1955).

2. U. S. Foreign Relations, Japan: 1931-1941 (Washington, 1943), Vol. I, p. 217.

3. U. S. Foreign Relations, The American Republics: 1935 (Washington, 1953), Vol. IV, p. 73. This was termed a "Peace Protocol" and, in many respects, went beyond the normal scope of even a modern armistice. Neither of these two armistice agreements had any particular significance in the development of the general armistice as an important war convention.

4. See comment in note 1 above. These agreements may be found in 39 A.J.I.L. Supp. (1945) 88 (Rumania); 93 (Bulgaria); and 97 (Hungary); 40 *ibid.* 1 (1946) (two with Italy). A number of other such agreements were entered into during the course of the war (Finland-U.S.S.R., 34 *ibid.* 127 (1940); France-Germany, 34 *ibid.* 173 (1940); France-Italy, 34 *ibid.* 178 (1940), etc.). The surrenders of Germany on May 7, 1945 (Exec. Agr. Ser., No. 502), and of Japan on Sept. 2, 1945 (Exec. Agr. Ser., No. 493) do not fall within this category. See Zemanek, "Unconditional Surrender and International Law," in 26 *The Annual, Journal of the A.A.A.* 29 (1956).

5. The Renville Truce Agreement (Netherlands-Indonesia), U.N. Doc. S/649, Jan. 17, 1948; Resolution for a Cease-fire Order and Truce Agreement (India-Pakistan), U.N. Doc. S/995, Sept. 13, 1948; the four Israeli-Arab General Armistice Agreements: U.N. Doc. S/1264/Rev. 1, Feb. 23, 1949 (Egypt); U.N. Doc. S/1296/Rev. 1, March 23, 1949 (Lebanon); U.N. Doc. S/1302/Rev. 1, April 3, 1949 (Jordan); and U.N. Doc. S/1353/Rev. 1, July 20, 1949 (Syria); the Korean Armistice Agreement, U.N. Doc. S/3079, Aug. 7, 1953; and the three Agreements on the Cessation of Hostilities in Indochina: IC/42/Rev. 2, July 20, 1954 (Viet-Nam); IC/51/Rev. 1, July 20, 1954 (Laos); and IC/52, July 21, 1954 (Cambodia). The Korean Armistice Agreement may also be found in 47 A.J.I.L. Supp. 186 (1953), and the three Indochinese agreements in Report on Indochina, U. S. Senate Committee on Foreign Relations, 83d Cong., 2d Sess., 1954, Committee Print, pp. 16-41.

6. Rosenne, *Israel's Armistice Agreements with the Arab States* 27 (Tel Aviv, 1951); Zemanek, *loc. cit.* 30.

7. Phleger, *Proceedings of Annual Meeting of the American Society of International Law*, 1955, p. 98; Sibert, "L'armistice dans le droit des gens," in 40 *Revue générale de droit international public* 714 (1933).

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8. While any review of the historical development of the general armistice will necessitate some discussion, however limited, of the general armistice agreement over the centuries, emphasis will be placed on those of the last decade.

9. Monaco, "Les conventions entre belligérents," in 75 *Recueil des Cours de l'Académie de Droit International de La Haye* 323 (1949, II).

10. We are not here concerned with the local, or partial, armistice, the agreement between belligerents which has only a military character and which results only in a temporary armistice of limited scope. All references in the text to an "armistice" refer to a general armistice agreement.

11. Art. 50, Declaration of Brussels of 1874, *Recueil général des lois et coutumes de la guerre* (Brussels, 1943), p. 595; Art. 36, Regulations respecting the Laws and Customs of War on Land, annexed to Hague Convention No. II, July 29, 1899 (32 Stat. 1811, 2 Malloy, Treaties 2042); Art. 36, Regulations respecting the Laws and Customs of War on Land, annexed to Hague Convention No. IV, Oct. 18, 1907 (36 Stat. 2277; Malloy, *op. cit.* 2269).

12. Par. 253, Rules of Land Warfare, U. S. Army, Basic Field Manual 27-10 (Washington, 1940); par. 479, The Law of Land Warfare, U.S. Army, Basic Field Manual 27-10 (The Law of Land Warfare superseded the Rules of Land Warfare in July 1956); pars. 256, 258, and 270, British Army Manual of Military Law, 1929, Amendments No. 12 (1936), Ch. XIV, The Laws and Usages of War on Land; pars. 256, 258, and 270, British Army Manual of Military Law, 1951, Draft Section XIV, The Laws of War on Land (when published, The Laws of War on Land will supersede The Laws and Usages of War on Land).

13. Basdevant, *Cours de droit international public* 176 (Paris, 1946); Calvo, *Le droit international*, Vol. IV, #2436 (5th ed., Paris, 1896); Clunet, "Suspension d'armes, armistice, préliminaires de paix," in 46 *Journal du droit international privé* 173 (1919); Fauchille, *Traité de droit international public*, Vol. II, p. 326 (8th ed. by Bonfils, Paris, 1921); Phillipson, *Termination of War and Treaties of Peace* 74 (New York, 1916); Robert, *Des effets de l'armistice général* 28 (Paris, 1906); Sibert, *loc. cit.* 662.

14. Calvo, *op. cit.* But see Art. 75 of the 1929 Geneva Convention relative to the Treatment of Prisoners of War (47 Stat. 2021; Treaty Series, No. 846; 4 Malloy, Treaties 5224).

15. Clunet, *loc. cit.* 174.

16. Fauchille, *op. cit.* 326; Robert, *op. cit.*; Sibert, *loc. cit.* 685.

17. The more important provisions of the "usual" armistice agreement, if such there be, are discussed in detail in Part III hereof.

18. Art. 136, Lieber, *Instructions for the Government of Armies of the United States in the Field* (General Orders No. 100, April 24, 1863); Politis, "La guerre grécoturque," in 5 *Revue de droit international public* 116, 135 (1898); Spaight, *War Rights on Land* 238 (London, 1911).

19. Bernard, *L'armistice dans les guerres internationales* 53 (Geneva, 1947); Calvo, *op. cit.* #2437; Castrén, *The Present Law of War and Neutrality* 129 (Helsinki 1954); Halleck, *International Law* Vol. II, p. 312 (3d ed. by Baker, London, 1893); Kluber, *Droit des gens moderne de l'Europe* # 277 (2d Ott ed. in French, Paris, 1874); Sibert, *loc. cit.* 669; Vattel, *The Law of Nations*, iii, XVI, 237 (Text of 1758, *Classics of International Law*, Washington 1916). Vattel states that "the conclusion of a general armistice is a matter of such importance that the sovereign is always presumed to have reserved it to himself." This undoubtedly refers to ratification, rather than negotiation. One of the few armistice agreements actually signed by sovereigns personally in modern times was that of Villafranca, which was signed by the Emperors Napoleon III of France and Francis Joseph of Austria on July 11, 1859.

20. Lawrence, *The Principles of International Law* 565 (6th ed., New York, 1915), but see the 7th ed., 1927, p. 556; 2 Oppenheim, *International Law* 550 (7th ed. by Lauterpacht, London, 1952). While par. 259 of the Rules of Land Warfare stated categorically that a general armistice is *always* subject to ratification, par. 483 of *The Law of Land Warfare* states that "if an armistice contains political terms, it must be made under authorization from the governments concerned or subject to approval by them."

21. Clunet, *loc. cit.* 173; Fauchille, *op. cit.* 326; Wheaton, *International Law* 222 (7th ed. by Keith, London, 1944). Each of the four Israeli-Arab General Armistice Agreements (note 5 above) states in the preamble that the Parties have "appointed representatives empowered to negotiate and conclude an Armistice Agreement."

22. Notes 1 and 4 above. However, the Protocol of Buenos Aires (note 3 above) suspending the Gran Chaco hostilities did require ratification. This was one of its numerous variations from the usual armistice of modern times.

23. The four Israeli-Arab General Armistice Agreements specifically provided that they were not subject to ratification. The others were completely silent on the subject.

24. *De Jure Belli*, ii, X, 292 (Text of 1612, *Classics of International Law*, Oxford, 1933). This was apparently the feeling of at least a part of the British press during the Korean negotiations. See Frankenstein, *L'Organisation des Nations Unies devant de Conflit Coréen* 323 (Paris, 1952).

25. Monaco, *loc. cit.* 326. In discussing the preparations for the Armistice of Rethonde which brought World War I hostilities to an end on November 11, 1918, Maurice (*op. cit.* 34) makes the following amusing comment: "This latest American note did much to clear the air, but it did not entirely satisfy Marshal Foch, and there followed some interesting correspondence between him and his Government on the respective responsibility of statesmen and soldiers in making terms of armistice."

26. Note 5 above. It is probable that the Arab states did not use diplomatic representatives because of their refusal to take any action which might, even remotely, imply recognition of the existence *de jure* of the state of Israel.

27. Of course, this was not the case prior to the invention of wireless telegraphy. In August, 1808, Lt. General Sir Arthur Wellesley (later Lord Wellington) was successful in several engagements with the French in Portugal. The French Commander then approached Sir Arthur and his superiors with a request for an armistice. Agreement on an armistice extremely favorable to the French was reached at Cintra on Aug. 22, 1808. Later, a "Definitive Convention for the Evacuation of Portugal by the French Army" was agreed upon. "Violent public clamour" ensued when the news reached England, where on the facts known, no justification could be perceived for having entered into a truly consensual agreement with what appeared to have been a defeated foe. As a result, Sir Arthur and his two superiors were subsequently compelled to face a Board of Enquiry. Stockdale, *The Proceedings on the Enquiry into the Armistice and Convention of Cintra* (London, 1809).

28. Oppenheim (*op. cit.* 546) states that during a general armistice "the condition of war remains between the belligerents themselves, and between the belligerents and neutrals, on all points beyond the mere cessation of hostilities." And in his *International Law Codified* (Trans. of 5th Ital. ed. by Borchard, New York, 1918), note, #1775, Fiore goes even further, cautioning that "both in the relations of public international law and in those of international law, during an armistice, however long protracted, the law of war, not the law of peace, must be applied."

29. 2 Phillipson, *The International Law and Customs of Ancient Greece and Rome* 287, 289-290 (London, 1911).

30. Gentili, *op. cit.* ii, XII, 302-303; Grotius, *De Jure Belli ac Pacis* iii, XXI, I-II (Text of 1646, *Classics of International Law*, Oxford, 1925); Pufendorf, *Of the Law of Nature and Nations* viii, VII, 3 (Text of 1688, *Classics of International Law*, Oxford, 1934).

31. Benton, *International Law and Diplomacy of the Spanish-American War* 226 (Baltimore, 1908); Calvo, *op. cit.* #2339; Clunet, *loc. cit.* 72; Fenwick, *International Law* 580 (3d ed., New York, 1952); McNair, *Legal Effects of War* 5 (Cambridge, 1948); Sibert, *loc. cit.* 658; Spaight, *op. cit.* 245; Zemanek, *loc. cit.* 31.

32. Lieber, *op. cit.* Art. 142; par. 253, *Rules of Land Warfare*; par. 479, *The Law of Land Warfare*; par. 266, *Laws and Usages of War on Land*; par. 266, *Laws of War on Land* (note 12 above).

33. *Kahn v. Anderson*, *Warden*, 255 U.S. 1, 9 (1921).

34. In *re Suarez*, *Annual Digest of Public International Law Cases, 1943-1945* (ed. by Lauterpacht, London, 1949), p. 412. Suarez, a French newspaperman, was charged with "communicating with the enemy" during the German occupation of France. He contended that after the Armistice of Compiègne (June 22, 1940) relations with German nationals no longer fell within the meaning of that term. The Court of Cassation disagreed with this contention and Suarez died before a French firing squad. In the editorial comments on this case Lauterpacht says: "This judgment is in full conformity with the classical theory of international law regarding the juridical nature of an armistice. . . . An armistice is only a provisional suspension by treaty of hostilities, a temporary pause in military operations between belligerents, leaving, moreover, the state of war, with all its juridical consequences, still in existence."

35. Security Council, Sixth Year, Official Records, 558th Meeting, pars. 1-7. The resolution made no mention of the Treaty of Constantinople of 1888.

36. Stone, *Legal Controls of International Conflict* 641, 644 (New York, 1954).

37. On April 13, 1956, while Mr. Dag Hammarskjöld, Secretary General of the United Nations, was in the Middle East pursuant to a Security Council Resolution of April 4, 1956, attempting to secure compliance with the General Armistice Agreements, Mr. David Ben-Gurion, Prime Minister of Israel, requested him to "ascertain whether their [Egypt's] readiness to undertake the full implementation of the General Armistice Agreement signifies that they no longer consider Egypt to be at war with Israel." *New York Times*, April 17, 1956. For a further discussion of the problem of the naval blockade during an armistice, see section III J below.

38. Bluntschli, *Le droit international codifié* #691 (Trans. from German into French, Paris, 1870); Calvo, *op. cit.* #2339; Fiore, *op. cit.* #1774; Hall, *A Treatise on International Law* 583 (7th ed. by Higgins, Oxford, 1917); Vattel, *op. cit.* iii, XVI, 246; 2 Westlake, *International Law* 92 (2d ed., Cambridge, 1913); Wheaton, *op. cit.* 224; Winthrop, *Military Law and Precedents* 787 (2d ed. rev., Washington, 1920).

39. Castrén, *op. cit.* 130; Fauchille, *op. cit.* 330; Fenwick, *op. cit.* 580; Grotius, *op. cit.* iii, XXI, VII; 2 Hyde, *International Law Chiefly as Interpreted and Applied by the United States* 283 (Boston, 1922);

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Lawrence, *op. cit.* 558; Phillipson, *op. cit.* 63 (note 13 above); Spaight, *op. cit.* 235; par. 256, Rules of Land Warfare; par. 287e, The Law of Land Warfare; par. 282, Laws and Usages of War on Land; par. 282, Laws of War on Land (note 12 above). It is interesting to note that Spaight (*op. cit.*) criticized a statement in Lawrence (apparently in the latter's 5th edition) to the effect that "it is universally agreed that during an armistice a belligerent may do in the actual theatre of war only such things as the enemy could not have prevented him from doing at the moment when actual hostilities ceased"; and that, perhaps as a salutary effect of Spaight's criticism, the next edition of Lawrence's work (the 6th), published in 1915, four years after Spaight's book appeared, stated (at p. 566): "There is a controversy whether during an armistice a belligerent may do, in the actual theatre of war, only such things as the enemy could not have prevented him from doing at the moment when active hostilities ceased, or whether he may do whatever is not forbidden expressly, except, of course, attack the enemy or advance further into his territory. The weight of authority is in favor of the former alternative; but the weight of reasoning seems on the side of the latter, which has the decisive support of recent practices." The latest (1927) edition of Lawrence is consistent with its immediate predecessor (p. 558).

40. Several hundred years before the birth of Christ the famous Philip of Macedon took advantage of a "truce" (we would call it a suspension of arms), which he had requested for the purpose of burying his dead, and withdrew to a more advantageous position. Gentili (*op. cit.* ii, XIII, 313) says "Philip did wrong"; Grotius (*op. cit.* iii, XXI, VII) maintains that "it is not inconsistent with a truce to withdraw with the army inland as we read in Livy that Philip did"; Vattel (*op. cit.* iii, XVI, 250) also sees no bad faith in such an act, though warning that it gives the enemy the right to renew the attack despite the suspension of hostilities; Winthrop (*op. cit.* 787) concurs in Gentili's position; while Maurice (*op. cit.* 32) points out that in October, 1918, the British and French felt it necessary to call President Wilson's attention to the fact that the mere evacuation of occupied territory by the Germans (which had been suggested as a provision of the armistice which was then under discussion) would not suffice, inasmuch as the enemy would then have the opportunity, among other things, of "retiring without loss on to new positions which he would have time to choose and fortify"—clear acceptance of the validity of Phillip's act.

41. The last reported incidents involving this problem occurred during the latter half of the 19th century. They clearly indicate that, as a matter of practice, belligerents have frequently taken actions during an armistice which were not specifically forbidden and which the enemy could have prevented at the moment when actual hostilities ceased. One of these incidents occurred during the Seven Weeks' War between Prussia and Austria. After the Armistice of Nikolsburg had been signed (July 26, 1866), Prince Frederick Charles, the Prussian commander, massed his troops in such a manner as to facilitate an attack on Pressburg, should the negotiations for peace fail, an action which the Austrians could, at least, have rendered difficult. This action brought no protest from the Austrians—and the Treaty of Prague (August 23, 1866) brought the war to an end. Similarly, after the Armistice of Adrianople had been signed (Jan. 31, 1878), bringing to a halt hostilities between the Russians and the Turks, the Russian commander, General Totleben, ordered his troops to erect a number of high observation posts from which a full view of the Turkish entrenchments could be obtained, an act which the Russians certainly could not have accomplished prior to the cessation of hostilities. The Turkish commander demanded that they be removed and threatened to open fire on them if this was not done. General Totleben refused to comply with this demand and complained to the Turkish Government which overruled its military commander and never questioned the right of the Russians to do as they had done. And again, during the Boer War, after the signing of the Armistice of Tugela Heights (Feb. 25, 1900), British artillery was moved to new positions and the British took other actions which the Boers had been in a position to prevent at the time the armistice was signed. All this was apparently done with no protest on the part of the Boers.

42. Bordwell, *The Law of War between Belligerents* 295 (Chicago, 1908); Phillipson, *op. cit.* 63-64 (note 13 above); Spaight, *op. cit.* 235.

43. For an example of this practice, see sub-pars. 13c and 13d of the Korean Armistice Agreement. The three Agreements on the Cessation of Hostilities in Indochina have many restrictive provisions identical with, or closely parallel to, those contained in the Korean Armistice Agreement. They also have additional provisions in this regard, such as those relating to "foreign troops," "military bases," and "military alliances."

44. See discussion above.

45. A number of the armistice agreements to which reference will be made were studied in somewhat esoteric documents which were approximately contemporaneous with the particular armistice itself. These documents, many of which are probably unique, are located in the Library of the International Court of Justice at The Hague. Where this is so it will be indicated by a footnote stating "I.C.J. Library."

46. Pars. 487-488, *The Law of Land Warfare* (note 12 above).

47. See discussion above.

48. *Traité de Trêve entre Le Serenissime et Très-Puissant Prince Leopold, Empereur des Romains et L'Empire, d'une Part ET Le Serenissime et Très-Puissant Prince Louis XIV Roy Très-Chrestien de France et de Navarre d'autre Part*, I.C.J. Library.

49. *Traité de Suspension d'Armes en Italie Conclu à Vigevano le Septième Octobre 1696 (Paris, 1697)*, I.C.J. Library.

50. I.C.J. Library.

51. T.I.A.S., No. 1604; 40 A.J.I.L. Supp. 1 (1946); Dept. of State Bulletin, Nov. 11, 1945, p. 748.

52. Takahashi, *International Law Applied to the Russo-Japanese War* 219 (New York, 1908).

53. *Ibid.* 220.

54. *Ibid.* 224.

55. *Ibid.* 225.

56. Par. 1, Renville Truce Agreement (note 5 above).

57. Part IA, Resolution for a Cease-Fire Order and Truce Agreement (note 5 above).

58. See, for example, Art. III(1), Israeli-Lebanese General Armistice Agreement. In view of the basic similarity between the four Israeli-Arab General Armistice Agreements all subsequent references to this group of agreements will be restricted to the Israeli-Lebanese General Armistice Agreement, which was drafted by eliminating unnecessary provisions from the prior Israeli-Egyptian agreement and which served as the model for the agreements later negotiated between Israel and its other Arab neighbors, Jordan and Syria.

59. Par. 12, Korean Armistice Agreement (note 5 above). So, likewise, do the three Agreements on the Cessation of Hostilities in Indochina, which, in many instances, adopted verbatim the phraseology of the Korean Armistice Agreement. In view of the basic similarity between the three Agreements on the Cessation of Hostilities in Indochina, all subsequent references to this group of agreements will be restricted to the Agreement on the Cessation of Hostilities in Viet-Nam.

60. Spaight, *op. cit.* 234.

61. Oppenheim, *op. cit.* 554.

62. The Armistice of Nikolsburg (Austria-Prussia) was signed on July 6, 1866, to be effective one week later, on Aug. 2 (Phillipson, *op. cit.* 65). The Truce of Brussels (Spain-United Provinces) was signed on March 13, 1607, and did not take effect until May 5, 1607 (Discours, Paris, 1609, I.C.J. Library).

63. The Armistice of Versailles, signed by France and Germany on Jan. 28, 1871, provided for a cessation of hostilities on the date of the signing in the Paris area and three days later in the more remote areas of France (Clercq, *Recueil des traités de la France (Paris, 1864-1872)*, Vol. X, pp. 410-414). Art. 11 of the Agreement on the Cessation of Hostilities in Viet-Nam (note 5 above), provides for a cessation of hostilities simultaneously throughout all of Viet-Nam and then, paradoxically, specifies different effective dates in different areas of the country because of the difficulty of transmitting orders down to the lowest combat echelons. Because of the comparatively primitive conditions existing in Indochina, a number of the provisions of these three agreements are throwbacks in history.

64. Benton, *op. cit.* 228. Another instance of difficulties arising because of insufficient attention being paid to armistice provisions regarding time occurred during the Second Balkan War (1913). An armistice agreement was entered into while peace negotiations were being conducted. It became necessary to extend the duration of the armistice and, by error, an armistice which expired at noon was renewed only as of 1:00 P.M. The threat of a resumption of hostilities for one hour was only overcome by direct appeal to the peace conference!

65. Par. 1, Renville Truce Agreement; Art. VIII(1), Israeli-Lebanese General Armistice Agreement (notes 5 and 58 above); pars. 12 and 63, Korean Armistice Agreement; Arts. 11 and 47, Agreement on the Cessation of Hostilities in Viet-Nam (notes 5 and 59 above). Because the India-Pakistan Resolution for a Cease-Fire Order and Truce Agreement was actually only a resolution of the United Nations Commission, it was necessary for the parties to reach a supplementary agreement as to the effective date and time of the cessation of hostilities. This they did (par. 14, U.N. Doc. S/1196, Jan. 10, 1949).

66. Note 62 above, and Ariga, *La Guerre sino-japonaise* 251 (Paris, 1896).

67. *Actenstücke zur Schleswig-Holstein'schen Frage. Waffenstillstand von Malmoe vom 26 August 1848 (Frankfurt am Main, 1848)*, I.C.J. Library.

68. I.C.J. Library.

69. Politis, *loc. cit.* 130.

70. Par. 10, Renville Truce Agreement.

71. Art. VIII (2), Israeli-Lebanese General Armistice Agreement.

72. Par. 62, Korean Armistice Agreement.

73. Politis, *loc. cit.*

74. Note 11 above.

75. *Ibid.*

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76. They appear to do no more than to reiterate the principles of *Pacta sunt servanda*.
77. Spaight, *op. cit.* 234; Wheaton, *op. cit.* 225. Both par. 265*b* of the Rules of Land Warfare and par. 487*b* of The Law of Land Warfare (note 12 above) state that if the duration of an armistice is indefinite, "a belligerent may resume operations at any time after notice."
78. See, for example, Spaight, *op. cit.*
79. War of the Rebellion, Vol. XLVII, pp. 302, 334, 345.
80. *Ibid.* 243 (Sherman to Grant and to Halleck).
81. *Ibid.* 293 (Sherman to Johnston).
82. Politis, *loc. cit.* 136; Spaight, *op. cit.* 244. See also par. 265*c*, Rules of Land Warfare; par. 487*c*, The Law of Land Warfare; par. 289, Laws and Usages of War on Land; and par. 289, Laws of War on Land (note 12 above).
83. Robert, *op. cit.* 36.
84. Note 27 above.
85. Note 68 above.
86. Note 62 above.
87. Politis, *loc. cit.* 130. Phillipson, *op. cit.* 69, says that these two armistice agreements omitted demarcation lines. However, that of Epirus provided for the Turks to occupy the right bank of the Arachthos River and for the Greeks to retire to the left bank; and that of Thessaly specified that a line of demarcation was thereafter to be plotted. This was done and a neutral zone 5 km. wide was established (Politis, *loc. cit.* 136).
88. Pars. 1 and 2, Renville Truce Agreement (note 5 above).
89. Arts. 4 and 5, Israeli-Lebanese General Armistice Agreement (notes 5 and 58 above).
90. Pars. 1-4, Korean Armistice Agreement.
91. Art. 1, Agreement on the Cessation of Hostilities in Viet-Nam.
92. Part IIA 1, India-Pakistan Resolution for a Cease-Fire Order and Truce Agreement.
93. Note 11 above.
94. *Ibid.* For a dispute as to the correctness of the above official translation of this article, see Spaight, *op. cit.* 232, note.
95. Lieber, *op. cit.* Art. 141.
96. Par. 265*d*, Rules of Land Warfare; par. 487*d*, The Law of Land Warfare, *loc. cit.*
97. T.I.A.S., No. 3365; 50 A.J.I.L. 724 (1956).
98. Robert, *op. cit.* 28; Sibert, *loc. cit.* 700; Spaight, *op. cit.* 245. Sibert states that "civilians remain under the protection—extremely imperfect—of the laws of war." It is to be hoped that the Civilian Convention (note 97 above) will prove to have mitigated this criticism.
99. Bluntschli, *op. cit.* #693.
100. Hyde, *op. cit.* 285.
101. ARTICLES de la TREFUE proposée par les Ambassadeurs des Roys de France, & de la grand Bretagne, en l'affemblée des Estats Generaux (Paris, 1608), I.C.J. Library.
102. DISCOURS de ce qui s'est passé au Royaume D'Hongrie, sur le traité de la paix, avec le Roy d'Espagne, & les serenissimes Princes Archiducs, & les Estats généraux des prouvinces vries dudict pays (Paris, 1609), I.C.J. Library.
103. Traité entre Le Roy Louis XIV, La Reyne de Suede, etc., d'une Part ET L'Electeur Maximilian, etc., d'autre Part (Paris, 1689), I.C.J. Library.
104. Note 48 above.
105. Note 5 above. Strangely enough, this subject of commercial intercourse probably received more attention in former days than it does now.
106. Par. 59, Korean Armistice Agreement.
107. Art. 14(d), Agreement on the Cessation of Hostilities in Viet-Nam, *loc. cit.* For some statistics on the huge number of persons who took advantage of this provision, see Report on Indochina 8-9 (note 5 above).
108. *Ibid.* Art. 21.
109. Note 97 above.
110. Note 103 above.
111. Note 50 above.
112. Note 67 above.
113. Note 11 above.
114. Note 14 above.
115. Art. 118, 1949 Geneva Convention relative to the Treatment of Prisoners of War, T.I.A.S., No. 3364; 47 A.J.I.L. Supp. 119 (1953).

116. Par. 487*f*, The Law of Land Warfare. The details of the dispute with regard to the release and repatriation of prisoners of war which bogged down the Korean armistice negotiations for well over a year after agreement had been reached on all other matters is beyond the scope of this paper. It is suggested that, while the definitive discussion of that problem remains to be written, basic materials with regard thereto may be found in Charnatz & Wit, "Repatriation of Prisoners of War and the 1949 Geneva Convention," in 62 Yale Law Journal 391 (1953); Gutteridge, "The Repatriation of Prisoners of War," in 2 International and Comparative Law Quarterly 207 (1953); Mayda, "The Korean Repatriation Problem and International Law," in 47 A.J.I.L. 414 (1953); Lundin, "Repatriation of Prisoners of War: The Legal and Political Aspects," in 39 American Bar Association Journal 559 (1953); British White Paper, The Legal Aspects of the Repatriation of Prisoners of War, Cmd. 8793 (March, 1953); Department of State, Memorandum of Legal Considerations Underlying the Position of the United Nations Command Regarding the Issue of Forced Repatriation of Prisoners of War (1953); Baxter, "Asylum to Prisoners of War," in 30 British Year Book of International Law 489 (1953); and Stone, *op. cit.* 661-665, 680-683. See also Garcia-Mora, International Law and Asylum as a Human Right, Ch. VII (Washington, 1956).

117. Bernand, *op. cit.* 92; Politis, *loc. cit.* 142; Robert, *op. cit.* 97.

118. Robert, *ibid.* 99.

119. Pars. 157-159, Rules of Land Warfare.

120. The Final Act of the 1949 Geneva Conference had 59 signatories. Up to July 1, 1956, there had been notification of 42 ratifications and 10 adherences. The U. S. ratification became effective on February 2, 1956. See 50 A.J.I.L. 724 (1956).

121. Par. 52, Korean Armistice Agreement (note 5 above).

122. Par. 7*f*, Renville Truce Agreement.

123. Art. VI, Israeli-Lebanese General Armistice Agreement (notes 5 and 58 above).

124. Pars. 51-58 and Annex, Korean Armistice Agreement.

125. Notes 5 and 59 above.

126. Note 107 above.

127. Par. 487*g*, the Law of Land Warfare (note 12 above).

128. Note 101 above.

129. Note 48 above.

130. Note 68 above.

131. 34 A.J.I.L. Supp. 127, 131 (1940); Dept. of State Bulletin, April 27, 1940, p. 453.

132. Arts. 4, 8, and 9, and par. 3 of the Annex, Renville Truce Agreement.

133. Part ID, Resolution for a Cease-Fire Order and Truce Agreement.

134. Art. VII, Israeli-Lebanese General Armistice Agreement (notes 5 and 58 above).

135. Pars. 19-35, 36-50, 56, 57, and Annex, Korean Armistice Agreement (note 5 above).

136. Pars. 30-33 and 34-36, Agreement on the Cessation of Hostilities in Viet-Nam (notes 5 and 59 above).

137. See discussion above.

138. Par. 488, The Law of Land Warfare (note 12 above).

139. Prohibition of sabotage, restrictions on propaganda radio broadcasts: par. 7, Renville Truce Agreement; local administration, guarantee of human and political rights, consultation on means of self-determination: Parts IIA3, IIB3, and III, India-Pakistan Resolution for a Cease-Fire Order and Truce Agreement; civil administration and relief in demilitarized zone, displaced persons, recommendation for the convening of a political conference: pars. 10, 59, and 60, Korean Armistice Agreement (note 5 above); civil administration and relief in demilitarized zone, political and administrative measures in regrouping zones, prohibition of foreign military bases, prohibition of military alliances: para. 8, 14, and 19, Agreement on the Cessation of Hostilities in Viet-Nam (notes 5 and 59 above). The Israeli-Arab General Armistice Agreements contain no such provisions, probably for the reason mentioned in note 26 above.

140. See p. 8 above.

141. Lieber, *op. cit.* Art. 136. For some reason, Art. 145 provides further that a "clear" breach of an armistice by one party releases the other.

142. Note 11 above.

143. *Ibid.*

144. Wheaton, *op. cit.* 229.

145. Oppenheim, *op. cit.* 556.

146. An exception to this statement is par. 10 of the Renville Truce Agreement, which provides: "This agreement shall be considered binding unless one party notifies the Committee of Good Offices and the other party that it considers the truce regulations are not being observed by the other party and that this agreement should therefore be terminated."

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147. Grotius, *op. cit.* iii, XXI, XIII.
148. Note 11 above.
149. Par. 269, Rules of Land Warfare (note 12 above).
150. Par. 494*b*, The Law of Land Warfare (note 12 above).
151. *Ibid.* par. 494*c*. In general accord on this problem, see pars. 299 and 300, Laws and Usages of War on Land; and pars. 299 and 300, Laws of War on Land.
152. Note 103 above.
153. Note 5 above.
154. The India-Pakistan Resolution for a Cease-Fire Order and Truce Agreement is stated to be applicable to "all forces, organized and unorganized." The Israeli-Lebanese General Armistice Agreement refers to "military or para-military forces of either Party, including non-regular forces." The Korean Armistice Agreement uses the more general term "all armed forces under their control, including all units and personnel of the ground, naval, and air forces." So does the Agreement on the Cessation of Hostilities in Viet-Nam.
155. Rosenne, *op. cit.* 45.
156. The exception is Rolin, *Le droit moderne de la guerre* (Brussels, 1920), in which an entire chapter (Vol. II, Ch. XVII, ##801-810) is devoted to "The application of the rules of armistice in maritime warfare."
157. Castrén, *op. cit.* 130.
158. Oppenheim, *op. cit.* 547; Politis, *loc. cit.* 134; Robert, *op. cit.* 52; Wheaton, *op. cit.* 229. Rolin (*op. cit.* #805) quotes Art. 72 of the *Manuel des lois de la guerre maritime*, drafted by the Institut de Droit International, as stating that "in the absence of a specific provision in the agreement, blockades in being at the time of an armistice need not be lifted." Rolin asserts, however, that no new blockades may be established, as the establishment of a blockade is an act of war.
159. Oppenheim, *op. cit.* 144; Politis, *loc. cit.*
160. Pillet, *Les lois actuelles de la guerre* 368 (Paris, 1901).
161. For a discussion of the problem arising from the indefiniteness of the provision of the Israeli-Egyptian General Armistice Agreement in this regard, see above.
162. Note 102 above.
163. Note 50 above.
164. Note 67 above.
165. Clercq, *op. cit.*
166. Note 66 above.
167. Politis, *loc. cit.* 116.
168. See discussion and notes 52 and 54 above.
169. Note 5 above.
170. Notes 5 and 58 above.
171. See discussion above.
172. Note 5 above.
173. Notes 5 and 59 above.