

OPIUM AS AN INTERNATIONAL PROBLEM

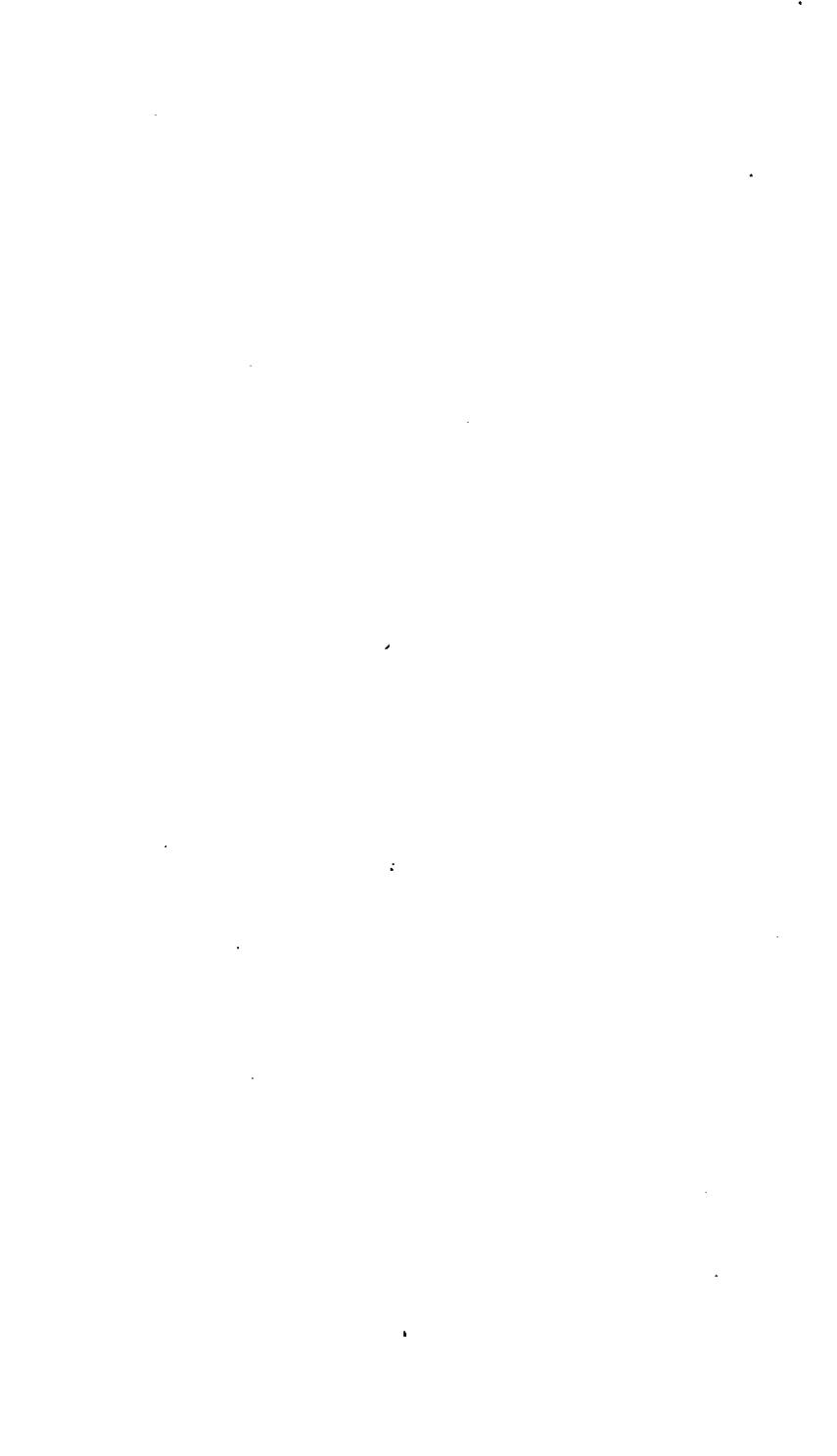
THE GENEVA CONFERENCES

BY

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To

His Excellency Sao-Ke Alfred Sze

*An Advocate of International Justice
and a Defender of the Sovereign
Rights of His Country*

PREFACE

Although not official in character, the present volume is in the nature of a report upon the work of the two Opium Conferences recently held in Geneva, Switzerland. In this respect the volume resembles the one published by the author in 1922 under the title *China at the Conference*, in which an account was given of the work of the Limitation of Armaments Conference at Washington in so far as it related to political conditions in the Far East. In that Conference the author served as Technical Expert to the Chinese Delegation and, therefore, had full opportunity to become acquainted, in detail, with the work of that important international meeting. So, also, in regard to the two Geneva Conferences reported upon in the present volume, the author has been able to study their proceedings from the inside, since he served the Chinese Delegation as Counsellor and Expert.

Being in the nature of a report, the policy has been pursued of reproducing textually the more important statements made by the several Delegations.

Honorable Stephen G. Porter, who had led the fight in the United States for the control of the use of opium and habit-forming drugs, and who so ably represented the United States as its chief delegate at the Second Geneva Conference, has kindly permitted the author to use as an introduction to the present volume portions of an address delivered by him in the House of Representatives.

It is to be noted that many of the quotations from the proceedings of the Geneva Conferences are from the original mimeographed sheets, and not from the printed reports. These latter were not fully available at the time this volume was prepared. However, in one way, the use of mimeographed reports has been of advantage, since they give a more nearly exact statement of what was actually said than do the printed, and somewhat revised, proceedings.

In conclusion it should be said that the author has attempted to incorporate in this volume all the information that is needed for an accurate understanding of the subject. He hopes, therefore, that it will serve as a guide or handbook to all those who may need to know the situation as it now exists. Especially is it hoped that the volume will be found of value in case other Conferences upon the subject are held.

June 1, 1925.

W. W. W.

BIBLIOGRAPHICAL NOTE

By the Treaty of Versailles the supervision of the execution of The Hague Opium Convention of 1912 was transferred from the Netherlands Government to the League of Nations. In pursuance of the task thus imposed upon and assumed by it, the League created a division of its Secretariat, which, together with the matter of the international traffic in women and children, is known as its Social Section. The League has also created an Advisory Committee on Traffic in Opium.

In connection with these agencies the Secretariat of the League has issued, in mimeographed or printed form, a series of documents serially numbered under the initials O. C. In addition the League has printed and distributed Minutes of the meetings and reports of the Advisory Committee and also an abridged report of the work of the Preparatory Committee which was created to draft provisional proposals for consideration by the Conferences. The discussion of the reports of the Advisory Committee and the action taken thereupon by the Assembly and by the Council of the League are of course to be found in the various official publications of the League.

The secretarial work of the two Opium Conferences at Geneva, which proved to be a very heavy task, was performed by the Secretariat of the League. Besides the minutes of the meetings of the First Conference and the verbatim report of proceedings of the Second Conference, the Secretariat issued in mimeographed form two hun-

dred or more documents. These documents were serially numbered. For the First Conference they were issued under the initials C. O. P.; and, for the Second Conference, under the initials O. D. C. They will be so referred to in this volume. Some of these documents also appear as Annexes to the printed Minutes and Records of the Conferences.

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CHAPTER I

INTRODUCTORY: THE PROBLEM

On February 26, 1923, the House of Representatives of the American Congress having before it a Joint Resolution requesting the President of the United States to urge upon the Governments of certain nations the immediate necessity of limiting the production of habit-forming drugs and the raw materials from which they are made to the amounts actually required for strictly medicinal and scientific purposes, Mr. Porter, Chairman of the Committee on Foreign Affairs, said, in part:

“Morphia, codeine, and heroin are obtained from opium, which is the coagulated juice of the opium-producing poppy. It is produced in paying quantities from the poppy cultivated in India, Persia, Turkey, Greece, Yugoslavia, and China. The growth of the plant depends upon peculiarly favorable soil, which is especially found in small areas of India, Persia, Turkey, Greece, Yugoslavia, and China and a very wet and hot climate until the capsule is formed; afterwards a very hot and dry climate during the flowering season. With the exception of the opium produced in China, all the commercial opium produced in the world results from the cultivation of between five and six hundred thousand acres of land in India, Persia, Turkey, Greece, and Yugoslavia. This confines the growing area to small acreage which makes control of production, unlike that of wheat or corn, practicable

and comparatively easy of accomplishment; in fact, the quantity produced in India has been for many years entirely controlled by the officials of the British India Government who administer the affairs of that possession.

“ No effort had ever been made to extract these derivatives by pharmaceutical chemists in the Orient until about two years ago, when a laboratory for this purpose was established in Calcutta and one in the Japanese possession of Formosa.

“ Cocaine is obtained from coca leaves, which are indigenous to Peru, Bolivia, and the Netherlands possession of Java, and the leaves likewise are exported to other countries, where the cocaine is extracted. Recently, however, a laboratory was constructed in Peru for the extraction of crude cocaine, which is shipped to Europe for further refining.

“ Morphia and cocaine are indispensable in the treatment of certain diseases; the former for a century or more has been used almost exclusively for the alleviation of pain, both acute and chronic. They are universally used by the medical profession. It has often been said that without morphia the practice of medicine would be an unhappy calling, indeed. If the object of this resolution were achieved, their use would be restricted exclusively to these humane purposes and continue to be the two greatest boons known to medical science.

“ The production of opium in India, Persia, and Turkey is approximately not less than 1500 tons, of which but a comparatively small amount is required by the peoples of the world for strictly medicinal and scientific purposes. This quantity of 1500 tons is exclusive of from 700 to 900 tons which is retained by these producing countries to

meet the domestic demands of native addicts and for medicinal and scientific purposes. These native addicts consume the product by smoking and eating it. In 1919, according to the report of the British India Government, 741 tons of provision opium were exported from India, and during the same year, through the licensing of opium shops in India, the natives of that country consumed 531 tons of excise opium.

“ Statistical records and the evidence of the witnesses appearing before your committee place the world’s consumption of opium for medicinal and scientific purposes to from 5 to 125 tons per year. The varying opinions of these witnesses prevent an accurate estimate of the amount actually required for these specific purposes, but assuming that the maximum amount of 125 tons is required to fulfill these strictly proper needs, the huge production of raw materials is greatly in excess of these requirements, thus releasing for immoral and illicit use approximately 1350 tons per annum of provision or export opium. If the principle stated in the resolution were concurred in by the producing countries, these proper requirements could be determined through various sources, such as individuals, firms, and corporations duly authorized to dispense them, who are required by a majority of the larger nations to keep an accurate record of the quantity so dispensed under severe penalty for infraction. The hospitals, sanitariums, penal and other institutions would also be very helpful in assisting in determining the amount actually needed for strictly medicinal and scientific purposes.

“ Even the opium producers of Turkey, Persia, and India cannot, in truth, deny that the medicinal and scientific needs of the world are [not!] more than 250 tons per

annum; therefore there would not be the slightest risk, so far as those requirements are concerned, in immediately reducing the production to that amount.

* * * * *

“ It may be of interest to note that all the self-governing dominions of the British Empire—the Dominion of Canada, Australia, New Zealand, and British South African colonies—have stringent antinarcotic laws similar to those in force in Great Britain, Japan, and the United States which require a physician’s prescription before even a grain of opium or its derivatives can be purchased; nevertheless, a citizen of any of these self-governing dominions, in fact, a citizen of any country in the world, may journey to the Orient and buy large quantities at auction in the British possessions of India or in the markets of Persia and Turkey.

“ In strong governments, or wherever self-government exists, habit-forming narcotic drugs are outlawed, except for strictly medicinal and scientific purposes. The failure of certain European nations and Japan to give by law to the people living within their possessions the same protection against these drugs that they give to their own citizens, through antinarcotic drug laws, is largely responsible for the present deplorable conditions, notwithstanding the fact that reliable authorities agree that the oriental suffers the same harmful effects as the occidental from the use of habit-forming narcotic drugs. Professor Cushney, the eminent pharmacologist of the University of Edinburgh, has given his opinion that he is aware of no evidence to prove that orientals have a different reaction to drugs from occidentals, and that until such evidence is brought forward he is not prepared to accept it.

“ The production of coca leaves—from which cocaine is extracted—in Peru, Bolivia, and the Netherlands possession of Java, is likewise vastly in excess of the quantity required from which an adequate supply of cocaine for medicinal and scientific purposes could be obtained.

“ The overgrowth and the resultant overproduction of the opium-producing poppy and coca leaves make possible vast quantities reaching the hands of unscrupulous traffickers, who, by reason of the smallness of bulk of these products and the large financial gains obtained from their illicit handling, easily transport, with minimum risk of detection, and are enabled to smuggle large quantities of morphia, codeine, heroin, and cocaine into the United States, which prohibits their importation, and other countries where they are disposed of to those who engage in the nefarious trade of selling them to the unfortunates who have become addicted to their use.

“ The testimony conclusively shows that habit-forming narcotic drugs, by reason of their extraordinary nature, will overcome all barriers, even the bars of prisons, or, as stated by Sir John Jordan, the noted British authority on the subject and a member of the opium advisory commission appointed by the council of the League of Nations, ‘ Whenever and wherever opium is produced it will reach the consumer.’ This shows the futility of attempting to control the traffic by even the most drastic of domestic laws, which is further confirmed by the statement of Mr. Blanchard, of the Narcotic Division of the Treasury Department, who testified that of all the drugs seized last year in the United States, between 75 per cent and 85 per cent bore the labels of foreign manufacturers. Therefore the purposes of the Harrison Antinarcotics

Act, the Jones-Miller Act,¹ and the prohibition against the importation of these alkaloids have been substantially defeated, as they have not prevented smugglers and peddlers from keeping the supply of these drugs in the United States undiminished.”

Addiction in the United States. In the speech from which the foregoing paragraphs are quoted, Representative Porter went on to quote figures from an investigation made in 1919 by a committee appointed by the Secretary of the Treasury which, as regards the number of narcotic addicts, showed the situation in the United States to be more alarming than later investigations have demonstrated to be the case. In an elaborate discussion of the subject by Lawrence Kolb, Surgeon, and A. G. Du Metz, Pharmacologist in the United States Public Health Service, entitled *The Prevalence and Trend of Drug Addiction in the United States and Factors Influencing It*,² it is shown that the maximum number of addicts in the United States at the present time (1924) is no more than 150,000 and that the probable actual figure is not greater than 110,000. Furthermore, it appears that the number of addicts has decreased steadily since 1900, at which time it was probably in the neighborhood of 264,000. Other conclusions reached in this paper are the following:

“The greater number of addicts in prison at present as compared with former years is due to the rigid enforcement of recently enacted laws and not to an increase in the prevalence of addiction.”³

¹ See Appendix VI.

² Reprint No. 924 from the Public Health Reports, May 23, 1924.

³ As to the anti-narcotic legislation in the United States, and the results reached from their enforcement, see Appendix VI.

“ The average daily addiction dose of the opiates in terms of morphine sulphate or heroin hydrochloride is not less than six grains. The dose of cocaine hydrochloride is practically the same.

“ The quantities of narcotics imported by this country at the present time are believed to be only slightly in excess of the amounts required to supply medicinal needs.

“ While physicians have been credited with being responsible for the creation of many addicts in the past, it is concluded as a result of our studies and observations that very few cases of recent addictions can be so attributed.

“ Before the enactment of restrictive laws in this country, there was much opium smoking and addiction to gum opium and laudanum. Today addicts use the alkaloids or their derivatives almost exclusively. Cocaine hydrochloride was used alone by a large number of addicts prior to 1915, but is now used only in conjunction with the opiates except in a few cases.

“ The proportion of the delinquent type of addict is gradually increasing. This is apparently not due to an increase in the number of this type, but to a gradual elimination of normal types.

CHAPTER II

THE DEVELOPMENT OF THE INTERNATIONAL PROBLEM

The use, or rather abuse, of opium became a matter of international concern during the first half of the nineteenth century when controversies arose between the Chinese authorities and foreign merchants trading with China. Out of these differences arose the first war between China and Great Britain—the “Opium War”—which was terminated in 1842 by the Treaty of Nanking.

China. The poppy plant appears to have been known in China since the eighth century. A. D. The medicinal value of its product, opium, had been known by the Chinese for several centuries, but the habit of smoking it was probably borrowed from abroad. Once introduced, the vice spread rapidly—so rapidly, indeed, that the Chinese political authorities became aroused and sought to prevent it by stringent prohibitory edicts.

The first of these edicts was issued in 1796 and four years later the importation of foreign opium was forbidden. At this time the importation of opium, almost wholly from India, had amounted to over four thousand chests annually.¹ However, notwithstanding this prohibition, the amount of Indian opium annually introduced into China continued to increase, until, by 1838, it had

¹ A chest contains a “picul” or 133 lbs.

reached the enormous quantity of over twenty thousand chests, and it was the drastic attempt of the Chinese authorities to deal with this grave situation that furnished the proximate as well as one of the most substantial of the causes of the war with Great Britain.

The Opium War. Attempt has been made by some writers to show that this war was not properly termed an "Opium War," but the evidence is overwhelming that it was with justice given that name. Not only was the outbreak of hostilities due to the seizure and destruction by the Chinese authorities of certain amounts of opium held by British merchants in Canton, which, in violation of Chinese law, had been brought into China, but one of the conditions imposed upon defeated China was that she should pay an indemnity of six million dollars for the opium thus seized and destroyed. If one has any doubts upon this subject, he need only read the impartial account of the events leading up to, and the results following from, this war as given by S. Wells Williams in his scholarly treatise *The Middle Kingdom*. After hostilities had begun and the question was discussed in the British Parliament as to what action the British Government should take, the debate dealt almost wholly with the opium trade. At that time there seemed to be no question in England as to the causes of the war. Only later was the effort made by British historians and statesmen to show that the opium question was but an incidental, and not a dominating, factor in the situation.

Gladstone had no doubt as to the character of the war that Great Britain had waged. Of this war he said: "A war more unjust in its origin, a war more calculated to

cover this country with permanent disgrace, I do not know and have not read of. The British flag is hoisted to protect an infamous traffic; and if it was never hoisted except as it is now hoisted on the coast of China, we should recoil from its sight with horror." And Gladstone's biographer, Lord Morley, writing years later, summed up his understanding of the nature of the war in the following words: "The Chinese question was of the simplest. British subjects insisted on smuggling opium into China in the teeth of Chinese law. The British agent on the spot began war against China for protecting herself against these malpractices. There was no pretence that China was in the wrong, for, in fact, the British Government had sent out orders that the opium smugglers should not be shielded; but the orders arrived too late, and, war having begun, Great Britain felt compelled to see it through, with the result that China was compelled to open four ports, to cede Hongkong, and to pay an indemnity of six hundred thousand pounds."²

Sir George Staunton, an eminent Chinese scholar, in the British House of Commons, on April 14, 1843, said: "I have never denied that if there had been no opium smuggling, there would have been no war. Even if the opium habit had been permitted to run its natural course, if it had not received an extraordinary impulse from the measures taken by the East India Company to promote the growth, which almost quadrupled the supply, I believe it never would have created that extraordinary alarm in the Chinese authorities which betrayed them into the adoption of a sort of *coup d'état* for its suppression."

² *Life of Gladstone*, vol. I, p. 225.

Importation of Opium Forced Upon China. No mention was made of opium in the Treaty of Nanking and, therefore, the importation of the drug into China remained illegal under the Chinese law. By a treaty supplementary to that of Nanking, signed a year later, the British Government pledged itself to discourage the smuggling.³ This pledge was, however, almost immediately broken, and Hong Kong became a base of operations for the contraband trade in opium. The production and exportation of opium from India, prepared for the Chinese trade, continued to increase, and by 1858, arose to nearly 75,000 chests a year. As a further facilitation to this illegal trade, a British ordinance was passed which enabled Chinese boats, many of which were engaged in this trade, to fly the British flag, and out of this permission arose the "Arrow" incident which led to the second war between Great Britain and China.

During the years immediately following the Opium War the British Government made repeated efforts to induce the Chinese authorities to legitimize the importation of opium into its borders. Lord Palmerston, in 1843, instructed the British representative in China "to endeavor to make some arrangement with the Chinese Government for the admission of opium into China, as an article of lawful commerce";⁴ and advised Sir Henry Pottinger, that he should "avail himself of every possible opportunity strongly to impress upon the Chinese plenipotentiary . . . how much it would be for the interest of that Government to legalize the trade."

Despite the financial temptation to follow this advice, the Government of China for years refused to take this

³ Article XII of Supplementary Treaty of Hoomun Chai, 1843.

⁴ Parl. Papers, 1857.

step. To one of the suggestions that he should do so the Chinese Emperor returned the following reply: "It is true that I cannot prevent the introduction of the poison; gainseeking and corrupt men will, for profit and sensuality, defeat my wishes; but nothing will induce me to derive a revenue from the vice and misery of my people." However, when it became clear that the smuggling of opium into China upon a large scale with the real, if not acknowledged, support of the British authorities, could not be prevented, and there was certainty that China would become involved in further serious disputes with foreign traders should she continue her attempts to punish opium smugglers, the Chinese Government, in 1858, reluctantly abandoned its fight to exclude the drug. The official British report, giving an account of the negotiations that were in progress upon this point said: "China still retains her objection to the use of the drug on moral grounds, but the present generation of smokers, at all events, must and will have opium. To deter the uninitiated from becoming smokers, China would propose a very high duty, but, as opposition was naturally to be expected from us in that case, it should be made as moderate as possible."⁵ The British negotiator suggested a duty from 15 to 20 taels a chest; the Chinese desired that 60 taels should be imposed in order that the duty might have some prohibitive effect. It was finally agreed that 30 taels should be collected,⁶ and thus as

⁵ *China Correspondence*, 1859, p. 401.

⁶ In addition to the 30 taels of customs duty that might be levied it was provided that a likin tax of 80 taels might be imposed. In 1911 permission was granted to China to increase this total of 110 taels a chest to 350. Likin is an internal transit tax.

Roundtree says in his excellent volume *The Imperial Drug Trade* (p. 89), "the drug which the Chinese Government has objected to so tenaciously for so long a time, and at such a costly price, now had its admission legalized at a less duty than England then levied on Chinese silks and teas." The result, thus finally achieved, Roundtree describes in the following words: "Great Britain had at last accomplished its desire, so long worked for, so little avowed. The Government of India was no longer to be the chief accomplice, the unsleeping partner of Chinese smugglers. The great drug trade was regularized by law. China had yielded to a steady continuous pressure, which it had not the strength to resist."⁷

The Sino-British Treaty of Tientsin of 1858, and the Rules of Trade established in pursuance of Articles 26 and 28 of that treaty, were negotiated by Lord Elgin. His *Letters and Journals* show Lord Elgin's strong disapproval of the opium traffic, and his view that the wars between China and Great Britain had been unjustifiable upon the part of Great Britain. In one place he says of the second war: "I have hardly alluded in my ultimatum to that wretched question of the *Arrow* which is a scandal to us, and is so considered, I have reason to know, by all except the few who are personally compromised." In another place he says: "I thought bitterly of those who for the most selfish objects are trampling under foot this ancient civilization." Of the Treaty of Tientsin itself he said: "The concessions obtained in the treaty from the Chinese Government have been extorted from its fears."⁸ Sir Rutherford Alcock who had served the

⁷ *Op. cit.*, p. 93.

⁸ *China Correspondence*, 1859, p. 345.

British Government as Minister Plenipotentiary both at Tokyo and Peking, testifying before the East India Finance Committee of the House of Commons, in 1871 said: "We forced the Chinese Government to enter into a treaty to allow their subjects to take opium."

Years later when the agitation in England against the continued sending of opium from India to China had reached considerable proportions, the attempt was made, despite the facts which have been stated, to show the legalization of the importation of opium had been freely assented to by China. For further evidence of the impropriety, and even absurdity, of such a claim, the reader is referred to Roundtree's already cited volume.

The United States did not, under the Most Favored Nation right, take advantage of the permission granted to British subjects, and thus, for American citizens, the importation of opium into China continued to be illegal. In 1880 China and the United States entered into a treaty according to the provisions of which the citizens or subjects of each country were prohibited from importing opium into the other country. In 1887 the American Congress passed a law to carry this treaty into effect.*

Production and Consumption of Opium Prohibited by China. By 1906 the evil of opium smoking in China had become so great that it became recognized that it was practically a matter of life or death to the Chinese people that the practice should be checked and, if possible, wholly suppressed. To this Herculean task the Chinese Government addressed itself, and, in that year, the Emperor issued the following edict:

It is hereby commanded that within a period of ten years the evils arising from foreign and native opium be equally and com-

*See *post*, p. 435.

pletely eradicated. Let the Government Council frame such measures as may be suitable and necessary for strictly forbidding the consumption of the drug and the cultivation of the poppy.

In this crusade against the smoking of opium China asked the aid of Great Britain from whose Indian possessions came almost all of the opium that was imported. In May of 1906 the persons in Great Britain who were opposed to the continuance of the Indian trade in opium secured the passage, in the British House of Commons, of a Resolution condemning in unqualified terms the opium traffic. This resolution which was adopted by a unanimous vote, on May 30, declared: "That this House reaffirms its conviction that the Indo-Chinese opium traffic is morally indefensible, and requests His Majesty's Government to take such steps as may be necessary for bringing it to a speedy close."

In 1907 China succeeded in obtaining Great Britain's consent to an agreement according to which the Government of India was to reduce each year the export of opium from India by an amount equal to 10 per cent of the then total amount exported, provided that China should reduce in equal proportion the amount of home produced opium. The result of this agreement, if successfully carried out by both parties, would be to bring to an end in 1917 the consumption of opium in China, since there would then be no available supply of the drug.¹⁰

¹⁰ The British House of Commons on May 6, 1908, passed unanimously a Resolution which declared: "This House, having regard to the Resolution unanimously adopted on 30th May, 1906, that the Indo-Chinese opium trade is morally indefensible, welcomes this action of His Majesty's Government diminishing the sale of opium for export, and thus responding to the action of the Chinese Government in their arrangement for the suppression of the consumption of the drug in that Empire, and this House also urges His Majesty's Government to take steps to bring to a speedy close the system of licensing opium dens, now prevailing in some of the Crown Colonies, more particularly Hong Kong, the Straits Settlements, and Ceylon."

At this time there was little expectation upon the part of foreigners that China would be able to fulfill her part of the bargain. As to the difficulty of this task, Sir John Jordan, British Minister to China, who had taken an active interest in the problem, wrote: "It is true that the Chinese Government have in recent years effected some far-reaching changes of which the abolition of the old examination system is perhaps the most striking instance, but to sweep away in a decade habits which have been the growth of at least a century and which have gained a firm hold upon 8,000,000 of the adult population of the Empire is a task which has, I imagine, been rarely attempted with success in the course of history; and the attempt, it must be remembered, is to be made at a time when the Central Government has largely lost the power to impose its will upon the provinces."¹¹

By an additional agreement of May 8, 1911, the Agreement of 1907 was somewhat modified. Recognizing the sincerity with which China had carried on her efforts to suppress the cultivation of the poppy in China, Great Britain agreed that the export of opium from India should cease before 1917 if clear proof could be given of the complete suppression of the production of native opium in China; that Indian opium should not be carried into any province of China in which it appeared by clear evidence that the introduction of opium had been completely suppressed; that China, during the period of the agreement should permit Great Britain to make local investigation conducted by British officials, accompanied, if desired by China, by a Chinese official, of the extent to

¹¹ *China Papers*, No. I, 1908, No. 3. Quoted by W. T. Dunn, *The Opium Traffic in its International Aspects*, Columbia University, New York, 1920.

which the production of opium was being suppressed by China; that China might send to India an official to watch, but not to interfere with, opium sales; that the Chinese Government should levy a uniform tax on all opium produced in the Chinese Empire, and the British Government would consent to increase the then import duty on Indian opium to 350 taels per chest of 100 catties—such an increase to take effect as soon as the Chinese Government should levy an equivalent excise tax on all native opium; that, in order to assist China in the suppression of opium, the British Government would issue export permits consecutively numbered for all chests of Indian opium declared for shipment to, or consumption in, China; that, during the year 1916, these permits should not exceed 30,000, and should be progressively reduced annually by 5100 during the remaining six years ending 1917, and that the chests for which such permits were issued, should be sealed by an Indian Government official in the presence of the Chinese official, if so requested.

To the surprise of nearly all foreigners, China was able to carry out her part of the agreement of 1907. The British Government carried out its part, and thus, in 1917, China found herself substantially freed from the curse which had so grievously afflicted her: opium production in China had come practically to an end, and she was no longer obliged to receive opium within her borders.¹²

¹² China's hands with regard to the prohibition of the importation of Turkish and Persian opium had not been tied by treaty provisions as had been the case with reference to Indian opium.

The failure of the Shanghai Municipal Council which is the governing body of the International Settlement in Shanghai, to cooperate with China in her struggle to eradicate the opium evil, is strikingly set forth in a pamphlet by Arnold Foster entitled *Municipal Ethics. Some Facts and*

The Philippine Opium Commission. While China was suppressing the production and use of opium within her territories the United States was also seeking to secure the same result in the Philippine Islands.

Prior to the annexation of the islands by the United States in 1898, considerable public revenue had been obtained by "farming" out the right to sell opium. This practice was discontinued when the islands came under American control, but for several years thereafter opium figured among the imports upon which high customs duties were levied. In 1903 the official proposal was made that the system of opium farming should be reestablished. The Insular Government was, however, deterred from taking this step by the opposition it aroused, especially among the Americans in the islands, and in order to have a firm foundation upon which to base its future policy regarding opium, a commission was appointed to visit other countries "in order to collect information that would be likely to aid the Commission in determining the best kind of law to be passed in the islands for reducing and restraining the use of opium by the inhabitants."¹²

Figures from the Municipal Gazette, 1907-1914, published by Kelly and Walsh, Shanghai. Mr. Foster, who was for more than forty years a missionary to the Chinese, and a man who enjoyed the high esteem of all who knew him, points out in this pamphlet that, although the Council (the body representing the rate-payers of the International Settlement in Shanghai) had, in 1907, expressed to the Chinese authorities its sincere sympathy with their efforts to suppress the use of opium, and had assured them of the active cooperation of the authorities of the Settlement, in fact, within the six years from 1907 to 1913, the number of licensed opium shops in the Settlement increased from 87 to 560 and the revenue from licenses from 4290 taels to 86,356 taels.

¹²As to the work of this Commission, see the speech of the Right Reverend Charles H. Brent before the Opium Advisory Committee of the League of Nations, on May 29, 1923, and republished in House Document No. 380, 68th Cong., 1st Sess., p. 91. See also Senate Document 135, 58th Cong., 3d Sess.

The Commission visited Formosa, Japan, China, Hong Kong, French Indo-China, the Straits Settlements, Upper and Lower Burma, and Java, and made the following recommendations:

(1) Immediate government monopoly.

(2) Prohibition, except for medical purposes, after three years.

(3) Only licensees, who should be males and over 21 years of age, to be allowed to use opium until prohibition shall go into effect.

(4) All vendors or dispensers of opium, except for medical purposes to be salaried officials of the government.

(5) Every effort to be made: (a) To deter the young from contracting the habit by pointing out its evil effects and by legislation; (b) to aid in caring for and curing those who manifest a desire to give up the habit; and (c) to punish and if necessary to remove from the islands, incorrigible offenders.

In working out the details of the plan the committee recommended:

(1) A head office or depot in Manila where opium might be supplied to licensed consumers in Manila and two sub-offices in such places as the commission might select.

(2) These entrepôts to supply the licensed consumers in their vicinities.

(3) A system of entry, registration, and bookkeeping to be devised to keep accurate account of the quantity of opium sold to each licensed habitué.

(4) The licensee to be licensed to buy at one depot or entrepôt only, and to be required to show the vendor his license, a copy of which, together with a photograph of said licensee, to be furnished to the vendor.

The United States Congress did not adopt the recommendation for a Government monopoly, but, by Act of 1905, imposed absolute prohibition of the use of the drug except for medicinal purposes, to take effect in March, 1908.¹⁴

The Shanghai Opium Commission. The United States showed its concern at this time not only with its own opium problem as presented in its Philippine possessions, but also with the problem in its broader and international aspects. Especially were the efforts of China to rid herself from the opium curse watched with sympathy by the American people and their Government.¹⁵

¹⁴ The importation of opium into the Philippines is now governed by Philippine Act No. 1761, passed in pursuance of authority given by Act of Congress of March 3, 1905. This latter act provides: "That the Philippine Commission or any subsequent Philippine legislature shall have power to enact legislation to prohibit the importation or sale of opium, or to limit or restrict its importation and sale, or adopt such other measures as may be required for the suppression of the evils resulting from such sale and use of the drug; And provided further, That after March first, 1908, it shall be unlawful to import into the Philippine Islands opium, in whatever form, except by the Government, and for medical purposes only, and at no time shall it be lawful to sell opium to any native of the Philippine Islands except for medicinal purposes. (33 Stat. L., 944.)

Philippine Act No. 1761 provides: "Sec. 32. On and after March 1, 1908, it shall be unlawful for any person in the Philippine Islands to inhale, smoke, chew, swallow, inject, or otherwise use or permit to be used in or on his body any opium, except for medicinal purposes, and then only upon the prescription of a duly licensed and practicing physician."

For violators of this prohibition, fine or imprisonment, in the discretion of the court, is provided, and deportation of persons not citizens of the United States or of the Philippine Islands, in case of a second conviction. (See also Sec. 4, Act of 1910.)

¹⁵ It is to be noted that the United States had also, at this time, an opium and drug problem of considerable dimensions in its own borders. In 1907 there was imported into the United States 728,530 pounds of opium. The extent of this American domestic problem is described in the report of Mr. Hamilton Wright on the Shanghai Opium Conference. Sen. Doc. 377, 61st Cong., 2d Sess.

In 1906, the Right Reverend Charles H. Brent, then Bishop of the Philippine Islands, wrote a personal letter to President Roosevelt, in which he said: "From the earliest days of our diplomatic relation with the East, the course of the United States of America has been so manifestly high in relation to the traffic in opium that it seems to me almost the duty of our government, now that we have the responsibility of actually handling the matter in our possessions, to promote some movement that would gather in its embrace representatives from all countries where the traffic in and use of opium is a matter of moment."

This letter was referred to, and endorsed by, Mr. Taft, then Secretary of War, who sent it to the Department of State. Mr. Root, who was then Secretary of State, thereupon initiated a correspondence with the Powers having possessions in the Far East, with a view to the creation of an international commission to study the opium problem throughout the Far East, and to report upon the best methods for its solution.

Out of the movement thus initiated, grew the International Opium Commission, which, at the instance of the United States, held its meetings at Shanghai, China, from February 1 to February 26, 1909.

The American delegates were the Right Reverend Charles H. Brent, Mr. Hamilton Wright, and Mr. Charles D. Tenney, then Chinese Secretary of the American Legation at Peking.

The following extract from the report of Mr. Hamilton Wright will give a sufficient account of the work and results of this Commission:

The powers originally invited to the commission were those having territorial possessions in the Far East, namely, China,

France, Germany, Great Britain, Japan, the Netherlands, Portugal, Russia, and Siam. Further consideration of the subject showed that the opium question could not be thoroughly studied and reported unless the large opium-producing countries were represented in the commission, even though they had no territorial possessions in the Far East. Therefore, an invitation was extended to Persia and Turkey, and, finally, because of their large commercial interests in the Far East, to Austria-Hungary and Italy. It followed that, including the United States, thirteen countries sent delegates to the International Opium Commission. Turkey was not represented, owing to the political upheaval that had just occurred in that country.

Before the international commission met it had developed that the opium problem was not confined to the Far East, but that, through the misuse of morphine and other opium preparations, several of the large western countries, including the United States, had become contaminated. It was agreed, therefore, on the suggestion of this Government, that the opium problem, in all of its moral, economic, scientific, and political aspects, not only as seen in the Far East but also in the home territories of those participating, should be brought under discussion in the commission.

The commission unanimously adopted the following resolutions:

“ Be it resolved:

“ 1. That the International Opium Commission recognizes the unswerving sincerity of the Government of China in their efforts to eradicate the production and consumption of opium throughout the Empire; the increasing body of public opinion among their own subjects by which these efforts are being supported; and the real, though unequal, progress already made in a task which is one of the greatest magnitude.

“ 2. That in view of the action taken by the Government of China in suppressing the practice of opium smoking, and by other Governments to the same end, the International Opium Commission recommends that each delegation concerned move its own Government to take measures for the gradual suppression of the practice of opium smoking in its own territories and possessions, with due regard to the varying circumstances of each country concerned.

“ 3. That the International Opium Commission finds that the use of opium in any form otherwise than for medical purposes is held by

almost every participating country to be matter for prohibition or for careful regulation; and that each country in the administration of its system of regulation purports to be aiming, as opportunity offers, at progressively increasing stringency. In recording these conclusions the International Opium Commission recognizes the wide variations between the conditions prevailing in the different countries, but it would urge on the attention of the Governments concerned the desirability of a reexamination of their systems of regulation in the light of the experience of other countries dealing with the same problem.

“ 4. That the International Opium Commission finds that each Government represented has strict laws, which are aimed directly or indirectly to prevent the smuggling of opium, its alkaloids, derivatives, and preparations into their respective territories; in the judgment of the International Opium Commission it is also the duty of all countries to adopt reasonable measures to prevent at ports of departure the shipment of opium, its alkaloids, derivatives, and preparations, to any country which prohibits the entry of any opium, its alkaloids, derivatives, and preparations.

“ 5. That the International Opium Commission finds that the unrestricted manufacture, sale, and distribution of morphine already constitute a grave danger, and that the morphine habit shows signs of spreading; the International Opium Commission therefore desires to urge strongly on all governments that it is highly important that drastic measures should be taken by each government in its own territories and possessions to control the manufacture, sale and distribution of this drug, and also of such other derivatives of opium as may appear on scientific inquiry to be liable to similar abuse and productive of like ill effects.

“ 6. That the International Opium Commission is not constituted in such a manner as to permit the investigation from a scientific point of view of anti-opium remedies and of the properties and effects of opium and its products, but deems such investigation to be of the highest importance, the International Opium Commission desires that each delegation shall recommend this branch of the subject to its own government for such action as that government may think necessary.

“ 7. That the International Opium Commission strongly urges all governments possessing concessions or settlements in China, which have not yet taken effective action toward the closing of opium divans in the said concessions and settlements, to take steps to that end as soon as they may deem it possible, on the lines already adopted by several governments.

“ 8. That the International Opium Commission recommends strongly that each delegation move its government to enter into negotiations with the Chinese Government with a view to effective and prompt measures being taken in the various foreign concessions and settlements in China for the prohibition of the trade and manufacture of such antiopium remedies as contain opium or its derivatives.

“ 9. That the International Opium Commission recommends that each delegation move its government to apply its pharmacy laws to its subjects in the consular districts, concessions, and settlements in China.”

After summarizing the various reports made by the delegations on the Commission, and setting forth the measures that their respective Governments had taken in their several possessions to control the opium evil, Mr. Wright, in his report, gives an analysis of the scope and purposes of the resolutions that the Commission had adopted. Limitations of space prevent the inclusion here of these observations, valuable as they are.¹⁶

As to the recommendations made by the Shanghai Commission it is to be observed that but two of the Powers—China and the United States—made any serious attempt to carry them into effect. As has already appeared, China absolutely forbade the production and use of opium, except for medicinal purposes, within her territories. The action taken by the United States will be described in another place.¹⁷

¹⁶ For Mr. Wright's report see Senate Document 377, 61st Cong. 2d Sess.

¹⁷ See Appendix VI.

The First Hague Opium Conference. It will have been seen that the Commission which held its meetings at Shanghai had had no further purpose than an exchange of views of the Governments represented as to the opium problem and the making of recommendations as to the future action to be taken by those Governments. However, the Resolutions adopted by the Commission led to the call, by President Taft, of a Conference, composed of delegates with plenipotentiary powers, which met at The Hague on December 1, 1911, and adopted on January 23, 1912, the agreement since known as The Hague International Opium Convention.

Previously to the meeting of the Conference the United States Government sent to the other Governments which were invited to attend the following tentative list of topics which it was proposed should be considered by the Conference:

(a) The advisability of uniform national laws and regulations to control the production, manufacture, and distribution of opium, its derivatives, and preparations.

(b) The advisability of restricting the number of ports through which opium may be shipped by opium-producing countries.

(c) The means to be taken to prevent at the port of departure the shipment of opium, its derivatives, and preparations to countries that prohibit or wish to prohibit or control their entry.

(d) The advisability of reciprocal notification of the amount of opium, its derivatives, and preparations shipped from one country to another.

(e) Regulation by the Universal Postal Union of the transmission of opium, its derivatives, and preparations through the mails.

(f) The restriction or control of the cultivation of the poppy so that the production of opium will not be undertaken by countries which at present do not produce it, to compensate for the reduction being made in British India and China.

(g) The application of the pharmacy laws of the governments concerned to their subjects in the consular districts, concessions, and settlements in China.

(h) The propriety of restudying treaty obligations and international agreements under which the opium traffic is at present conducted.

(i) The advisability of uniform provisions of penal laws concerning offenses against any agreements that the powers may make in regard to opium production and traffic.

(j) The advisability of uniform marks of identification of packages containing opium in international transit.

(k) The advisability of permits to be granted to exporters of opium, its derivatives, and preparations.

(l) The advisability of reciprocal right of search of vessels suspected of carrying contraband opium.

(m) The advisability of measures to prevent the unlawful use of a flag by vessels engaged in the opium traffic.

(n) The advisability of an international commission to be intrusted with the carrying out of any international agreement concluded.

The Governments thus addressed made various suggestions by way of amendment of this proposed agenda, the most important of which was that of Great Britain, which the United States and the other Powers accepted. This was that the Powers should agree to consider the question of the manufacture of and traffic in morphine and cocaine, and pledge themselves in advance to legislation against such production and traffic that would be as drastic and effective as the measures which Great Britain had taken or proposed to take for the ultimate suppression of the Indo-Chinese opium trade.¹⁸ In the instructions

¹⁸ The various replies of the Governments to the American proposed program are summarized in the Instructions of the American Government to its representatives to the Conference, Charles H. Brent, Hamilton Wright, and H. J. Finger. The text of these Instructions can be found in Senate Doc. 157, 63d Cong., 1st Sess., p. 73. They can also be found in the January, 1913, issue of the *American Journal of International Law*.

given by the British Government to its delegates it was declared that the Government was not prepared to discuss items (h), (l), (m), and (n) of the American programme, and also that the following subjects "should be excluded from consideration by the Conference":

"1. The arrangements made between His Majesty's Government and China respecting the progressive restriction of the importation and production of opium in China.

"2. All other existing treaties between the two countries.

"3. Any resolution specifically affecting the domestic regulation of the production and use of opium and cognate questions of internal administration in India, or any other portion of the British dominions."

"You should," the delegates were instructed, "therefore refuse to enter into discussion at the Conference of any of the above subjects, though this proviso does not preclude your communicating to the Conference, if desired, any information in regard to systems of regulations in India or the colonies that might be of assistance to the labors of the delegates."¹⁹

The following Powers participated in the Conference: United States of America, China, France, Germany, Great Britain, Italy, Japan, the Netherlands, Persia, Portugal, Russia, and Siam.²⁰

¹⁹ Misc. No. 3 (1913). Cd. 6605.

²⁰ Austria-Hungary and Turkey were invited to attend, but found themselves unable to do so. Austria-Hungary declared, however, that she would watch with sympathy the proceedings of the Conference. Invitations to attend were limited to those Powers which had been invited to participate in the Shanghai Commission. Turkey had been asked to participate in this Commission but had been unable to do so because it had no diplomatic representative in the Far East.

The purpose of the present volume does not make it necessary to consider the course of the discussion in The Hague Conference. It will be sufficient to state and analyze the results reached.

Under the rules adopted by the Conference its deliberations were kept secret, and such information as was supplied to the press was through the Press Committee of the Conference.²¹

Observations Upon The Hague Opium Convention. The text of The Hague Opium Convention will be found in Appendix I. Though, for the most part, the provisions of this Convention speak for themselves, it will not be without profit to call attention to some of their features.

Preamble. It will be noticed that, in the Preamble, it is expressly recognized that the Convention is an outgrowth from the work of the International Commission which had met at Shanghai three years earlier. The purpose of the Convention is declared to be, not the immediate, but the gradual, suppression of the "abuse" not

²¹ As to this feature of work of the Conference we have the following statement of Mr. Hamilton Wright: "It may be observed that this rule was not fully respected, and at one of the plenary sessions the President called the attention of the Conference to the fact. Some adverse comment has been made because the Conference chose to deliberate *in camera*. It should be stated in this connection that the American delegation was one of those opposed to a day-to-day publication of the proceedings of the Conference, for it recognized that the Conference was dealing with the production and traffic in commodities the present and the future value of which would be largely determined by the definite conclusions of the Conference. It was therefore the desire of the American, as well as the other delegations, that nothing should go forth during the sitting of the Conference that would lead to a speculative activity in the production of and trade in opium, morphine, and cocaine. This proved to be a wise view, for the Convention signed at The Hague had no sooner been published than there was a large increase in the market price of the drugs, part of which was undoubtedly speculative." Sen. Doc. 157, 63d Cong., 1st Sess., p. 79.

only of opium, but of "morphine and cocaine, as also of the drugs prepared or derived from these substances, which give rise or might give rise to similar abuses."

It is, of course, a principle of construction, applicable to all formal legal instruments, that rights or obligations cannot be derived directly from their Preambles, if they have any. Such introductory statements are, however, often of great value since they can be resorted to as a means of interpreting the scope and application of the substantive provisions of the instruments to which they are prefixed. It is, therefore, of significance that in the Preamble of The Hague Convention, the purpose of the Signatory Powers is declared to include the gradual suppression of all drugs which may give rise to abuses similar to those which are now recognized to attach themselves to the use of morphine and cocaine.

Chapter I—Raw Opium. The first five Articles of the Convention deal with what is known as "raw" opium. This is defined to be "the spontaneously coagulated juice obtained from the capsules of the *papaver somniferum* (the poppy plant), which has only been submitted to the necessary manipulations for packing and transport."

With regard to opium in this form the Signatory Powers enter into no definite obligations as to limiting the amount to be produced and distributed. All that they undertake to do is, unless they already have such in operation, to enact effective laws or regulations for controlling this matter. Apparently, this was intended to mean that, in the future, those countries producing opium should bring under direct governmental control or supervision, the cultivation of the poppy, and the distribution of its product opium.

Regarding international trade in opium, however, certain important and specific undertakings are entered into. Due regard being had to differences in commercial conditions, the Contracting Powers agree to limit the number of places through which the export or import of raw opium is to be permitted; to provide that this exportation and importation may be carried on only by duly authorized persons; that packages containing raw opium to an amount exceeding five kilograms and intended for export shall be marked in such a way as to indicate their contents; and, most important of all, that measures will be taken by each country to prevent the export of raw opium to such countries as may prohibit its entry, and to control such export to countries which restrict its import. The significance of this undertaking, and especially with reference to British India, will later appear.

Chapter II—Prepared Opium. Prepared opium has come to be the term applied to opium that is used for smoking. This mode of using the drug is employed by the Chinese in China and in the other territories of the Far East to which they have emigrated in large numbers. Since 1906 the consumption, as well as the production, of opium in China has been forbidden by Chinese law, but, of recent years, due to the loss of effective control by the central Government over the Provinces, opium has been produced and smoked in China in large quantities. This phase of the opium problem will later receive further consideration. Though thus forbidden by law in China, the smoking of opium, that is, the use of prepared opium, continues to be legalized by the British Government in Hong Kong, Burma, Malaya, North Borneo, and in Ceylon; by the Portuguese Government in Macao; by the

Netherlands Government in the Dutch East Indies; by the Japanese Government in Formosa; by the French Government in Indo-China; and by the Siamese Government in Siam. It was to these Governments that Chapter II of The Hague Convention was primarily, though not exclusively, directed.²²

After defining "prepared opium" as "the product of raw opium obtained by dissolving, boiling, roasting, and fermentation, designed to transform it into an extract suitable for consumption" and declaring that, within this term are included "dross" and all other residues remaining when opium has been smoked, there follows Article 6 which is the heart of the Chapter, and which reads as follows:

The Contracting Powers shall take measures for the gradual and effective suppression of the manufacture of, internal trade in, and use of, prepared opium, with due regard to the varying circumstances of each country concerned, unless regulations on the subject are already in existence.

In Article 7, the Powers agree to prohibit the import and export of prepared opium, but qualify this undertaking as to exportation by the proviso that "those Powers, however, which are not yet ready to prohibit immediately the export of prepared opium shall prohibit it as soon as possible," and that those Powers, which are thus not ready immediately to prohibit the export, shall (a) restrict the number of ports or places through which prepared opium may be exported, (b) prohibit the export to countries which forbid its importation, (c) prohibit the export to countries which desire to restrict its

²² See *post*, p. 290, statement of Mr. Porter in the Second Conference as to the steps taken by the United States to carry out its obligations under Chapter II of The Hague Convention.

importation, unless the exporter complies with the regulations of the importing country, (d) take measures to ensure that every package exported shall bear a special mark indicating its contents, and (e) shall not permit the export of prepared opium except by specially authorized persons.

All of these provisions, it is to be observed, apply only to the export of prepared opium. The obligation to prohibit the importation of prepared opium is assumed in an unqualified manner by the Powers signing or adhering to the Convention.

Chapter III—Medicinal Opium, Morphine Cocaine, Heroin, etc. Chapter III of The Hague Convention is concerned with the derivatives of opium, morphine, and heroin, and the derivative of the coca leaf, cocaine. After defining these drugs by their chemical formulæ, Article 9 of the Convention declares that:

The Contracting Powers shall enact pharmacy laws or regulations to limit exclusively to medical and legitimate purposes the manufacture, sale and use of morphine, cocaine, and their respective salts unless laws or regulations on the subject are already in existence. They shall cooperate with one another to prevent the use of these drugs for any other purpose.

There then follow three Articles (nos. 10, 11, and 12) which enumerate various specific measures which the contracting Powers agree to take for the purpose of carrying into effect the obligation assumed by them in Article 9. It is however, to be observed that, except as to the prohibition regarding their internal trade, and the delivery of morphine, cocaine and their respective salts to any but authorized persons, the obligation assumed by the Powers as to these measures is stated, not in direct and absolute terms, but merely that they "shall use their best endeavors" so to do.

The specific measures indicated in Articles 10, 11, and 12 will be later spoken of when the whole matter of drug regulation is considered, and do not need to be here enumerated.

By Article 13, the Powers obligated themselves to "use their best endeavors to adopt, or cause to be adopted, measures to ensure that morphine, cocaine, and their respective salts shall not be exported from their countries, possessions, colonies, and leased territories to the countries, possessions, colonies, and leased territories of the other Contracting Powers except when consigned to persons furnished with the licenses or permits provided for by the laws or regulations of the importing country."

By Article 14 the Powers agree to apply the laws respecting the manufacture, import, sale or export of morphine, cocaine, etc., to medicinal opium,²³ and to "all preparations (official and non-official, including the so-called anti-opium remedies) containing more more than 0.2 per cent of morphine, or more than 0.1 per cent of cocaine; to heroin, its salts and preparations containing more than 0.1 per cent of heroin; to all new derivatives of morphine, of cocaine, or of their respective salts, and to every other alkaloid of opium, which may be shown by scientific research, generally recognized, to be liable to similar abuse and productive of like ill-effects."

Chapter IV.—Provisions Applicable to China. This chapter contains five Articles (Nos. 15 to 19) which obligate the Contracting Powers to take specific action in order to meet the special conditions prevailing in China

²³"Medicinal opium is defined in the preamble to Chapter III as "Raw opium which has been heated to 60° centigrade and contains not less than 10 per cent of morphine, whether or not it be powdered, granulated or mixed with indifferent materials."

by reason of the existence in that country of foreign settlements, concessions and leased areas, and of extra-territorial rights in general. The provisions of these Articles will be later considered in the chapter entitled "Chapter IV of The Hague Convention."

Chapter V. Chapter V of the Convention contains but two articles: one (No. 20) which provides that the Contracting Powers "shall examine the possibility of enacting laws or regulations making it a penal offence to be in illegal possession of raw opium, morphine, cocaine, and their respective salts, unless laws or regulations on the subject are already in existence"; and the other (No. 21) which provides that the Contracting Powers shall communicate to one another through the Ministry of Foreign Affairs of the Netherlands, their several laws and statistics regarding the matters and substances dealt with in the Convention.

Chapter VI.—Final Provision. This Chapter deals with the manner in which the Convention is to be signed and ratified. The provisions here made are of a peculiar character, the necessity for the peculiarity arising out of the special conditions of the problems dealt with by the Convention.

It was recognized by those who drafted the Convention that it would be futile for only a portion of the Powers of the world to attempt to regulate the problems dealt with, and it was therefore provided, by Article 22, that Powers not represented at the Conference were to be invited to sign the Convention, the Netherlands Government being asked to act as agent for obtaining these acceptances. Article 23 then goes on to provide that only after all the Powers, as well on their own behalf as on behalf of their possessions, colonies, protectorates, and

leased territories, have signed the Convention, shall those Powers, as well as those represented in the Conference, be asked to ratify the Convention; and that, in the event that the signature of all the Powers invited²⁴ has not been obtained by December 31, 1912, the Government of the Netherlands shall invite the Powers which have signed by that date to appoint delegates to examine at The Hague the possibility of depositing their ratifications notwithstanding the fact that some Powers have not signed.

Article 24 provides that the Convention shall come into force three months after all the Signatory Powers have deposited their ratifications, and that, not later than six months thereafter, the Signatory Powers are to prepare the laws, regulations and other measures contemplated by the Convention, and submit them to their several legislative bodies within that period or in any case at the first session of such legislative bodies following the expiration of this period. Article 24 further provides: "In the event of questions arising relative to the ratification of the present Convention, or to the enforcement either of the Convention or of the laws, regulations, or measures resulting therefrom, the Government of the Netherlands will, if these questions cannot be settled by other means, invite all the Contracting Parties to appoint delegates to meet at The Hague in order to arrive at an immediate agreement on the questions."

Article 25 provides that any one of the Contracting Powers may denounce the treaty by sending notification to that effect to the Government of the Netherlands, and

²⁴ Thirty-four Powers are enumerated in Article 22 as the ones to which invitations to sign are to be addressed.

that the denunciation thus made shall take effect only as regards the Power so notifying and one year after the notification has reached the government of the Netherlands.

Reservations. The following reservations to the Convention were made by the Powers participating in the Conference.

Persia and Siam made reservations with regard to Articles 15, 16, 17, 18, and 19, since, having no treaties with China, they were not concerned with the provisions embodied in them.

Persia also excepted to paragraph (a) of Article 3. This was a very important reservation since the paragraph referred to is one by which the Contracting Powers agree to take measures "to prevent the export of raw opium to countries which shall have prohibited its entry."

France signed with the reservation that a separate and special ratification or denunciation might be obtained from her protectorates.

Great Britain signed with the reservation embodied in the following declaration: "The articles of the present Convention, if ratified by His Britannic Majesty's Government, shall apply to the Government of British India, Ceylon, the Straits Settlements, Hongkong, and Wei-hai-wei in every respect in the same way as they shall apply to the United Kingdom of Great Britain and Ireland, but His Britannic Majesty's Government reserve the right of signing or denouncing separately the said Convention in the name of any dominion, colony, dependency, or protectorate of His Majesty other than those which have been specified."

The Protocol. In the Protocol annexed to the Convention the Powers expressed the following *voeux*:

“ I. The Conference considers it desirable to direct the attention of the Universal Postal Union: (1) To the urgency of regulating the transmission through the post of raw opium; (2) to the urgency of regulating as far as possible the transmission through the post of morphine, cocaine, and their respective salts and other substances referred to in Article 14 of the Convention; (3) to the necessity of prohibiting the transmission of prepared opium through the post.

“ II. The Conference considers it desirable to study the question of Indian hemp from the statistical and scientific point of view, with the object of regulating its abuses, should the necessity thereof be felt, by legislation or by an international agreement.”

The Second Hague Opium Conference Protocol. The adherence to the Convention drawn up by the First Opium Conference by all the nations mentioned in Article 22 of that instrument not having been obtained by December 31, 1912, the Government of the Netherlands, as provided for in Article 23, called a Conference at The Hague of the Powers that had signed in order that they might examine as to the possibility of depositing their ratifications even though there were some Powers which had not signified their intention of adhering to the Convention. As a result of this Second Opium Conference, which met July 1, 1913, a Protocol was signed on July 9, 1913, by the 24 participating Powers, according to which it was agreed that the deposit of ratifications might take place.

This Protocol also went on to make certain declarations which would serve as explanations to certain gov-

ernments which, apparently, had not fully understood the four separate steps—signature, ratification, preparation of legislative measures, and enforcement of the convention—that were to be taken. The Protocol also asked that the Government of the Netherlands should communicate to the Governments of Bulgaria, Greece, Montenegro, Peru, Roumania, Serbia, Turkey and Uruguay the following resolution:

“The Conference regrets that certain Governments have as yet declined or failed to sign the Convention. The Conference is of opinion that the abstention of those Powers would prejudice most seriously the humanitarian ends sought by the Convention. The Conference expresses the firm hope that these Powers will alter their negative or dilatory attitude.”

By a separate resolution of the Protocol, the Swiss Government was informed that it was mistaken in its belief that its cooperation would be almost valueless.

Finally, the Protocol provided that, should the signatures to the Convention of 1912 not have been obtained from the Governments which still had not signed by December 31, 1913, a third Conference should be convened.

The Third Hague Opium Conference. Signatures to the Convention of 1912 of all the remaining Governments not having been obtained by the end of the year 1913, a third Conference was convened at The Hague in June, 1914. The Powers there represented, in a Protocol signed June 25, 1914, expressed the opinion that the Convention of 1912 might be brought into force, as between the Powers ratifying it, notwithstanding that certain powers had not signed or given their adherence to it. Accordingly it was decided that a Protocol should be opened at The

Hague which might be signed by Powers desirous of putting the Convention into force as between themselves.

Results Reached as to Signatures to and Ratifications of The Hague Convention of 1912. "At the close of the First Conference 12 Powers had signed the Convention which they had participated in drafting, and 34 other Powers were invited to attach their signatures.

"At the close of the Second Conference 34 out of the total of 46 Powers had signed the Convention, and 12 had not then done so, while eight Powers had either ratified it or were disposed to do so.

"At the close of the Third Conference, 44 out of the total 46 Powers have signed the Convention, eleven have ratified it, and 14 more are disposed to do so, while not one of the remaining 19 signatures has expressed any intention of not proceeding to put the Convention in force."²⁵

Treaty of Versailles: Article 295. Soon after the meeting of the Third Conference came the outbreak of the Great War. During the course of that struggle little progress could be made with regard to the ratification of the Convention. However, in the Treaty of Peace with Germany, signed June 28, 1919, the following Article (No. 295) was inserted, the effect of which was to secure the ratification of the Convention by all the Powers signatory to the treaty.

Those of the High Contracting Parties who have not yet signed, or who have signed, but not yet ratified, the Opium Convention signed at The Hague on January 23, 1912, agree to bring the said Con-

²⁵ This summary is taken from the report of the British Delegation to the Third Conference. (Cd. 7813, 1915, p. 13.)

vention into force, and for this purpose to enact the necessary legislation without delay and in any case within a period of twelve months from the coming into force of the present Treaty.

Furthermore, they agree that ratification of the present Treaty should, in the case of Powers which have not yet ratified the Opium Convention, be deemed in all respects equivalent to the ratifications of that Convention and to the signature of the Special Protocol which was opened at The Hague in accordance with the resolutions adopted by the Third Opium Conference in 1914 for bringing the said Convention into force.

For this purpose the Government of the French Republic will communicate to the Government of the Netherlands a certified copy of the Protocol of the Deposit of Ratifications of the present Treaty, and will invite the Government of the Netherlands to accept and deposit the said certified copy as if it were a deposit of ratifications of the Opium Convention and a Signature of the Additional Protocol of 1914.²⁶

Present Status of The Hague Opium Convention as to Signatures and Ratifications. Under date of August 4, 1924, the Advisory Opium Committee of the League of Nations circulated the following list of countries which had signed or ratified The Hague Opium Convention.²⁷

OPIUM CONVENTION OF 1912

MEMBERS OF THE LEAGUE OF NATIONS

Signatures	Ratifications	Signatures of the Protocol putting the Convention into force
Argentina		
Australia	Australia	Australia
Austria	Austria	Austria
Belgium	Belgium	Belgium

²⁶ Article 247 of the Treaty of Peace with Austria of September 10, 1919; Article 174 of the Treaty of Peace with Bulgaria of November 27, 1919; Article 230 of the Treaty of Peace with Hungary of June 4, 1920; and Article 280 of the Treaty of Peace with Turkey of August 10, 1920, are to the same effect as Article 295 of the Treaty of Peace with Germany.

²⁷ Document O. C. 209.

Signatures	Ratifications	Signatures of the Protocol putting the Convention into force
Bolivia	Bolivia	Bolivia
Brazil	Brazil	Brazil
Bulgaria	Bulgaria	Bulgaria
Canada	Canada	Canada
Chile	Chile	Chile
China	China	China
Colombia	Colombia	Colombia
Costa Rica	Costa Rica *	
Cuba	Cuba	Cuba
Czecho-Slovakia	Czecho-Slovakia	Czecho-Slovakia
Danzig	Danzig †	Danzig †
Denmark	Denmark	Denmark
Esthonia	Esthonia	
Finland	Finland	Finland
France	France	France
Great Britain	Great Britain	Great Britain
Greece	Greece	Greece
Guatemala	Guatemala	Guatemala
Haiti	Haiti	Haiti
Honduras	Honduras	Honduras
Hungary	Hungary	Hungary
India	India	India
Italy	Italy	Italy
Japan	Japan	Japan
Latvia	Latvia	
Liberia	Liberia	Liberia
Lithuania		
Luxemburg	Luxemburg	Luxemburg
Netherlands	Netherlands	Netherlands
New Zealand	New Zealand	New Zealand

* The Secretariat has been informed by the Costa Rican Legation Paris that the Convention was ratified by this Government on September 6, 1923, but no notification of the deposit of this ratification at The Hague has been received from the Netherlands Government.

† Danzig is not a member of the League of Nations but is under its special protection.

Signatures	Ratifications	Signatures of the Protocol putting the Convention into force
Nicaragua	Nicaragua	Nicaragua
Norway	Norway	Norway
Panama	Panama	Panama
Paraguay		
Persia		
Peru	Peru	Peru
Poland	Poland	Poland
Portugal	Portugal	Portugal
Roumania	Roumania	Roumania
Salvador	Salvador	
Serbs, Croats and Slovenes, Kingdom of Siam	Serbs, Croats and Slovenes, Kingdom of Siam	Serbs, Croats and Slovenes, Kingdom of Siam
Spain	Spain	Spain
Sweden	Sweden	Sweden
Switzerland *	Switzerland *	
Uruguay	Uruguay	Uruguay
Venezuela	Venezuela	
Union of S. Africa	Union of S. Africa	Union of S. Africa

NON-MEMBERS OF THE LEAGUE

Signatures	Ratifications	Signatures of the Protocol putting the Convention into force
Dominican Republic	Dominican Republic	
Ecuador	Ecuador	Ecuador
Germany	Germany	Germany
Iceland	Iceland	Iceland
Mexico		
Monaco		
Russia		
United States of America	United States of America	United States of America

* The Swiss Council of States has approved the ratification of the Opium Convention but according to Swiss law, three months must elapse before the instruments of ratification are deposited.

The following States have neither signed nor ratified the Convention:

MEMBERS OF THE LEAGUE

Abyssinia
Albania

NON-MEMBERS OF THE LEAGUE

Afghanistan
Lichtenstein
Turkey

The League of Nations and Opium. By Article 23 of the Covenant of the League of Nations it is provided:

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League: (c) Will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children and the traffic in opium and other dangerous drugs.

Under the operation of this provision the League has assumed that supervision over the execution of The Hague Convention of 1912 which had been previously the task of the Government of the Netherlands.

It was, of course, not competent for the Powers to make this transfer except as to themselves, that is, as to Members of the League. Thus, the United States, which has remained outside of the League, asserts that, without its consent, as signatory to The Hague Convention, the terms of that instrument cannot be changed, and that, therefore, it is still entitled, if it desires to do so, to look to the Netherlands Government for the performance of those administrative or supervisory duties with which

it was invested by, and which it assumed under, The Hague Convention.²⁸

The United States has, however, cooperated in a "consultative" capacity with the Advisory Committee on Traffic in opium which the League has established to aid it in the performance of the duties laid upon it by Article 23 of the Covenant.

The Advisory Committee. This Committee, entitled "Advisory Committee on Traffic in Opium," which, for the sake of brevity, will hereafter be referred to simply as the "Advisory Committee," was established in accordance with a vote of the Assembly of the League on December 15, 1920. The following countries were invited to nominate members for the Committee: China, France, Great Britain, Netherlands, India, Japan, Portugal and Siam. In addition to the eight members thus provided for, three Assessors—Sir John Jordan, Mrs. Hamilton

²⁸ At the tenth plenary meeting of the Second Opium Conference at Geneva, Mr. Porter, the chief delegate of the United States, in the course of a speech said: "The International Opium Convention concluded at The Hague on January 23, 1912 . . . delegated certain administrative functions to the Netherlands Government. . . . Prior to the establishment of the League of Nations, it is perhaps accurate to state that the Netherlands Government was generally recognized by the Signatory Powers as the agent for the execution of a number of the provisions of that Convention. Subsequently, however, certain Powers signatory to the Convention of 1912, through acceptance of the Covenant of the League of Nations agreed in Article 23 of that instrument as follows: (quoting) . . . The League has since assumed, with respect to its Members, to exercise the duties entrusted to the Netherlands Government by the International Opium Convention of 1912. It is unnecessary to mention that the United States is not a Member of the League of Nations, and therefore looks to the Netherlands Government for the discharge of the administrative functions entrusted to that Government by the Convention of 1912."

It may be noted that all communications with countries not Members of the League still go through the Netherlands Government.

Wright, and M. Brenier—were appointed because of their special knowledge of the subjects to be dealt with. Later, representatives of the United States,²⁹ Germany and Yugo-Slavia were added to the Committee.

The work of this Committee has been summarized by the Information Section of the League of Nations in a small pamphlet entitled *Social and Humanitarian Work*, issued in March, 1924. From that pamphlet the following paragraphs are quoted:

“ The Advisory Committee has held five sessions and has obtained important results. These may be usefully divided into: (a) Steps taken to secure the effective execution of the provisions of the International Opium Convention of 1912, and (b) Steps taken to prepare a more comprehensive policy designed to supplement the provisions of that Convention in such a way as to lead to a more rapid suppression of the traffic.

“ The Advisory Committee has repeatedly called the attention of the Council and the Assembly, and, through them, of the Governments of the Members of the League, to the importance of securing the ratification of the 1912 Convention by all the States of the world. At the date of the First Assembly, some forty States had signed, many of them having done so as signatories to the Treaty of Versailles. Today there are 56 signatories, including 51 out of 54 Members of the League, and the majority of those signatories have already ratified their signatures; among those which have ratified are 46 Members of the League. In addition to the formal ratification, many of the Members of the League have already passed the necessary legislation.

²⁹The United States representatives were authorized by the American Government to act in a “consultative capacity.”

“ The Advisory Committee at its first meeting prepared and sent to all States a questionnaire on the cultivation, production and manufacture of opium and other dangerous drugs. A summary of the answers received from the Governments formed a basis for discussion at the second meeting of the Committee. It was realized by the Committee that such information, coupled with the information received in the Annual Reports which the Governments undertook to send to the Secretariat, was a necessary preliminary to any satisfactory international policy for the limitation of the production of raw materials from which the drugs are manufactured, or for the limitation and the control of the drugs themselves.

“ An essential element in the system contemplated by the Convention of 1912 is the establishment of extremely strict control over the international traffic in dangerous drugs, and such control can best be secured by the establishment of a system of licenses by all the Signatory Powers. To this end, the Committee prepared a model for an import certificate. It recommended that no Government should allow the export of any dangerous drugs except on the production by the exporter of a license from the importing State certifying that the drugs in question were required for legitimate purposes.

“ This system, which was first recommended by the Committee in 1922, has already been adopted by 38 Governments, 23 of which have actually put it into force.

“ The Committee has suggested to the Council that it would be useful if Governments were to institute more severe penalties for the internal traffic in and consumption of dangerous drugs. The Assembly and the Council, having declared themselves in agreement, a letter has

been sent out to the Governments asking them to put the recommendations into effect. More than one country, without waiting for this step, has acted upon the Committee's suggestion.

“ The Governments of the Members of the League have used the Secretariat as a centre for the exchange of information concerning any seizures of drugs within their territories, and important results have already been achieved by this system. This greatly facilitates the task of the Governments in arresting illicit traffic. The Secretariat has been able, on more than one occasion, when receiving news of some seizure of illicit drugs in one country, to report the matter immediately to the Government of the country from which the drugs have emanated.

“ The question of the traffic in drugs through Free Ports was discussed at the second session of the Advisory Committee. It was felt that these ports provide a means whereby illicit traffic can easily be carried on, as they do not come under Governmental control. It was suggested that measures might be taken by the Governments enabling them to assume full control over consignments of drugs entering or leaving a free port, but as these measures involved a technical enquiry into the regime of free ports, the Advisory Committee for Communications and Transit was approached with a view to ascertaining what practical measures could be taken in these ports or in free zones to prevent illicit traffic, and what technical proposals could be made to Governments to that effect. A Sub-Committee was formed by the Advisory Committee for Communications and Transit to which members of the Advisory Committee on Traffic in Opium were invited,

and the following measures for the control of dangerous drugs in free ports were proposed:

Opium should not be despatched from the country of origin to a free port except in the two following cases:

(a) If the consignment is sent with a through bill of lading made out to a final destination via the free port, the country of origin must not, in such a case, despatch the opium unless the country of destination shown in the through bill of lading has given the necessary guarantees mentioned in the Opium Convention.

(b) If, according to the bill of lading, the free port is the final destination of the consignment, the consignment should not be despatched by the country origin unless the sovereign State of the port has given the same guarantees. In such a case, the free port is considered, in respect of these guarantees alone, as being on exactly the same footing as any other part of the territory of that State.

“ These proposals were incorporated in the Report of the Advisory Committee to the Council in January, 1923, and were adopted by the Council at its meeting on February 1, 1923. The possibility of enacting them was expressly safeguarded in the Convention of the International Regime of Maritime Ports concluded at the Second General Transit Conference held at Geneva, November–December, 1923. Article 17 of this Convention stipulates that none of its provisions shall effect the measures which one of the Contracting States may feel called upon to take in pursuance of general international conventions, particularly conventions concluded under the auspices of the League, relating to the export or import of “ particular kinds of articles, such as opium or other dangerous drugs.”

“ At a League Conference last autumn, an International Convention for the Simplification of Customs Formalities was drawn up and signed on November 3, 1923.

In order to prevent the inclusion in this Convention of any provisions which might prejudice the application of obligations by which the Contracting Parties to this Convention might be bound by the International Opium Convention of 1912, a clause was inserted in the Protocol to the following effect:

It is understood that the obligations of the Contracting States under the Convention referred to above do not in any way affect those which they have contracted or may in future contract under international treaties or agreements relating to the preservation of the health of human beings, animals or plants (particularly the International Opium Convention), the protection of public morals or international security.

“ As a further safeguard for the provisions of the International Opium Convention, an Article was inserted in the Convention and Statute on the International Regime of Railways concluded at Geneva in December, 1923, which reads as follows :

Nothing in this Statute shall affect the measures which one of the Contracting States is or may feel called upon to take in pursuance of general international conventions to which it is a party, or which may be concluded hereafter, particularly conventions concluded under the auspices of the League of Nations, relating to the transit, export or import of particular kinds of articles such as opium or other dangerous drugs, arms, or the produce of fisheries, or in pursuance of general conventions intended to prevent any infringement of industrial, literary, or artistic property, or relating to false marks, false indications of origin or other methods of unfair competition.

The measures taken by the Advisory Committee for supplementing the Convention of 1912, and which, in result, led to the convening of the two Opium Conferences at Geneva will appear in Chapter IV.

CHAPTER III

THE OPIUM SITUATION IN 1924

In order to understand the work of the two Geneva Opium Conferences, it will be necessary to know the situation in the more important countries as regards the problems with which these Conferences had to deal. The facts upon these points which are stated in this Chapter have for the most part been taken from communications made by the Governments concerned to the League of Nations or to the Conferences. Most of these communications have been issued by the Secretariat of the League as separate documents. In some cases, however, they appear in the Minutes of the First Conference or in the Verbatim Records of the Proceedings of the Second Conference. Credit should also be given, however, to the two volumes of Miss Ellen La Motte entitled respectively, *The Opium Monopoly*, published in 1920, and the *Ethics of Opium*, published in 1924, and also to the report entitled *The War Against Opium*, issued in 1922 by the International Anti-Opium Association of Peking.

China. Considerable is said elsewhere in this volume regarding opium conditions in China, and what further needs to be said in this Chapter can be told in comparatively few words.

Chinese opium has never been used to a significant extent for the manufacture of morphine, heroin, or other narcotic drugs. Almost its entire use has always been for

smoking in the form of what is known as "prepared opium."

Since 1906 the cultivation of the poppy, the production and exportation of opium, and the use of opium for other than strictly medicinal and scientific purposes, have been absolutely forbidden by law. At present, then, conditions in China affect the international situation only to the extent to which opium, illegally produced in China, illegally escapes out of China into those Far Eastern territories where the use of prepared opium is still permitted by law, and thereby complicates their problem of regulating or gradually suppressing this use.

Just how much opium is now being illegally produced in China, it is impossible to say, although, from time to time, attempts have been made to make approximate estimates. These estimates have, however, been little more than guesses.

As will later, appear, but which deserves emphasis at this place, the official policy of the Chinese Government despite its inability under existing conditions of political disorder to enforce it, has not changed from one of total prohibition of the production and the consumption of opium except for strictly medicinal and scientific purposes, and, as will be seen, that Government, through its Delegation at the Geneva Conferences has given most explicit assurance that it will not, in the future, depart from this policy, and will at all times, to the extent of its administrative and executive power, endeavor to enforce it.

India (Including Burma). The crux of the opium situation in the Far East is, and for many years has been, India.

As has been earlier pointed out, the export of Indian opium during the latter part of the nineteenth century and the early years of the present century rose to enormous amounts, and this importation the Chinese Government by reason of treaty obligations that had been imposed upon it by Great Britain, was not able to prevent. In 1907, however, after many years of effort, China was able to obtain from the British Government an agreement by the terms of which the Government of India was to reduce each year for three years the total amount of its opium exported by an amount equal to 10 per cent of the amount of opium then being exported to China, provided that China should, *pari passu*, reduce in a proportionate amount the opium produced within her own borders; and that, should it appear that, at the end of these three years, China was successfully carrying out her part of the bargain, and would continue to do so, the arrangement should be continued to the end that in 1917 the export of Indian opium to China and the production of opium in China should come wholly to an end. In 1911, investigation having shown that the Chinese Government was effectively and in good faith carrying out its part of the agreement, a new agreement was entered into between China and Great Britain which continued the agreement of 1907 and added certain supplementary provisions to it, which, among others, permitted China wholly to exclude Indian opium from those of its Provinces in which the cultivation of opium had been wholly suppressed.

The Chinese Government continued to demonstrate its ability to suppress the cultivation of the poppy within its borders, with the result that, in 1917, it was finally able

to declare that the importation of opium from India or elsewhere¹ should henceforth be illegal.²

Although, since 1913, India has ceased to produce opium for exportation to China, she has continued to produce opium in great quantities for domestic consumption and for export to countries other than China. However, as regards the exportation of opium, the Indian Government has carried out the provisions of The Hague Convention according to which the exportation of raw opium to countries which restrict its importation is to be correspondingly restricted.³ Furthermore, as also required by The Hague Convention, the Indian Government has in force "effective laws or regulations for the control of the production and distribution of raw opium."

Although not required so to do by The Hague Convention, the Indian Government has, during recent years, pursued the policy, when possible, of selling its opium directly to those Governments of the Far East which desire to import raw opium in order to manufacture from it prepared opium for use within their several jurisdictions, which use, under Chapter II of The Hague Convention, they are permitted temporarily to legalize. As to this policy or practice, the following paragraphs may be

¹ China was not bound by any treaties with Persia or Turkey to admit opium from those countries, and, these being the only other countries which were producing opium for export, with the ending of the importation of Indian opium, all importation of opium into China came legally to an end.

² In fact, for reasons which it is not necessary here to explain, the exportation of Indian opium to China came to an end in 1913.

³ And, also, that packages of raw opium intended for export, and exceeding five kilograms in weight shall be so marked as to indicate their contents; and the exportation and importation permitted only by duly authorized persons and from specific ports.

quoted from an official document issued by the India office in 1923 and entitled *The Truth About Indian Opium*:

In 1915 the Government of India embarked upon a policy of entering into agreements with the Governments of importing countries for the direct supply of the bulk of the opium requirements of those countries. Those Governments are thus made publicly responsible for limiting their imports to the legitimate requirements of the territories under their control and for the prevention of re-export. The system has the further advantage of eliminating the possibility of smuggling in respect to the greater part of Indian exports. Agreements of this kind are now in force with Hongkong, the Straits Settlements (whose requirements include the Federated Malay States), the State of North Borneo, Ceylon, the Dutch East Indies and Siam. Efforts are at present being made to extend the system to the remaining importers of Indian opium, Japan, French Indo-China and Portugal (for Macao), and, if these attempts are successful, the disposal of opium by public auction at Calcutta will in all probability cease. The agreements contain a clause that the importing Government is not bound to take a minimum quantity of opium. Exports to the Portuguese Colony of Macao are at present regulated by a treaty of 1913 with Portugal, prescribing maximum limits for the amount of Indian opium which may be imported by the opium farmer at Macao, but this treaty was denounced on behalf of His Majesty's Government by the British Minister at Lisbon on the 4th of February, 1922. The denunciation takes effect one year from that date, when the amount of Indian opium which may be actually exported to Macao will be subjected to a lower limit than the present one of 500 chests.

More than three-quarters of the total exports are now sent direct to the responsible Governments, and the amount of opium sold by auction at Calcutta, which was 48,000 chests in 1901, fell to 19,840 in 1912, and in 1921 amounted to 705 chests only. Even in respect of this small quantity importing Governments have full power of control, and the Government of India would willingly coöperate in any measures suggested by those Governments in order to make that control more effective.

The Government of India have decided to introduce, with effect from 1st January, 1923, the certificate system recommended by the

League of Nations whereby all exports of opium must be covered by certificates from the Government of the importing country that its consignment is approved and is required for legitimate purposes. . . . No Indian Opium has been exported to China proper since 1913. . . . No opium is exported from India to the United States of America or to Great Britain. . . .

As it has been asserted that India is administered on the proceeds of opium, and that the policy of the Government of India is biased by consideration for the opium revenues, a table is appended which shows the gross revenue derived from sales of opium for export during the period 1910-1921:

Year	£	Year	£
1910-1911.....	7,240,407	1916-1917.....	2,455,442
1911-1912.....	4,898,151	1917-1918.....	2,135,810
1912-1913.....	3,320,349	1918-1919.....	2,454,321
1913-1914.....	1,279,478	1919-1920.....	2,386,305
1914-1915.....	1,230,486	1920-1921.....	1,953,167
1915-1916.....	1,500,215		

The effect of the cessation of the China trade in 1913 is strikingly shown by these figures, which effectively prove that the policy of the Government of India in opium matters is not swayed by considerations of revenue. The increase in revenue since 1915-1916 is due to the rise in the price of opium.

The revenue obtained from license fees and the excise duty on opium is under the control of Provincial Governments, but for the purpose of comparison the excise revenue figures, may be added to those given above, and the total may be compared with the gross revenue of British India. In every case rupees are converted into sterling at the rate of 15 to the pound.

Year	Excise revenue plus sale for export	Gross revenue of British India
1910-1911.....	£8,216,540	£80,682,473
1911-1912.....	5,908,284	82,835,750
1912-1913.....	4,470,815	86,862,598
1913-1914.....	2,635,444	85,207,175
1914-1915.....	2,603,152	81,157,666
1915-1916.....	2,924,815	84,413,537
1916-1917.....	3,828,508	98,050,430
1917-1918.....	3,593,010	112,662,347
1918-1919.....	4,042,054	123,257,744

Having fulfilled the requirements of The Hague Convention, the Indian Government has washed its hands of all responsibility for any evil results that may flow from the use of the opium exported by it.* The official position, in this respect, was repeatedly declared by the Indian Delegate in the Advisory Committee and was several times reiterated in the two Opium Conferences. Thus, as reported in the minutes of the fifth session of the Committee, held in 1923, Mr. Campbell, the Indian representative, said: †

In India, the Government was concerned both with internal consumption and with export. The quantities used for these two purposes might be taken very roughly as equal. The Government controlled the production, distribution, sale, possession—every possible practical question which could arise in connection with opium—in the strictest possible manner, and had done so for over sixty years. They had built up a complicated and highly efficient administrative system which started from the time the poppy seed was put into the ground, and did not relinquish control of the drug until it was finally in the hands of the consumers, or till it was actually exported. As a result of many years of steady export and of sound administration, the Indian Government had been able to hold the consumption in India steady at a figure which compared favorably with the official figures recorded for various European and other countries. That, in his view, demonstrated conclusively the honesty and sincerity of

*It should be said that the Indian opium, being of relatively low morphine content as compared with that of Persia, Turkey and Jugoslavia, is little used for the manufacture of such narcotic drugs as morphine, heroin, and the like. In this respect, the opium produced in China is like that produced in India. Both Chinese and Indian opium are used, when "prepared," for smoking, but the Indian opium is much preferred for this purpose by Chinese smokers, who are willing, when financially able to do so, to pay a higher price for it. It would appear that the morphine content of Indian opium can be increased by adopting a different method of extracting the juice of the poppy. During the war morphine was manufactured from Indian opium.

† *Minutes*, pp. 17-18.

purpose with which the Government of India had addressed itself to its extremely difficult task. . . .

The Government of India had at no time, either as regards its internal or external consumption, allowed revenue considerations to determine its policy. He desired to lay stress on that point.

As regarded internal consumption, when the Indian Government had taken over Burma—which was about the year 1886—it had at once prohibited the consumption of opium throughout Upper Burma. As regards Lower Burma, it had a very complete system of registration, which still continued in force, and which practically prevented Burmans from obtaining the drug. Out of thirteen million inhabitants, he thought only five thousand registered smokers existed. The policy of prohibition and restriction in Burma had been carried out regardless of the cost involved, various circumstances rendered that cost very heavy. The Government of India's internal policy had, in fact, been framed solely in the interests of the people in their charge. It had prohibited opium in Burma because it had considered it bad for Burmans; it allowed opium in India, and would continue to allow it, because it was firmly convinced—having formed its opinion after the most exhaustive enquiry—that it would be unfair, unwise and unjust to do otherwise. He quoted the official opinion of his Government that “to prevent the sale of opium, except under regular medical prescription, would be a mockery; to many millions it would be sheer inhumanity.” These were strong words, but they represented the considered opinion of the Government of India on the subject. As regarded the Indian Government's external trade, that Government did not allow financial considerations to dictate its policy in that case either. When it became a question of making arrangements with China, the Government of India had voluntarily sacrificed their revenue from the Chinese traffic. The amount had been approximately £4,000,000 a year—a recurring sum, which constituted about 8½ per cent of the total net revenue of India at the time. That amount was sacrificed in the hope that China's efforts would be successful; and in estimating the importance of this sacrifice it should be added that, to the best of his knowl-

edge, no one in India believed that the effort made by China could possibly succeed as a permanent measure.⁶

Grossly exaggerated statements had been made on the subject of the revenue derived by the Government of India from opium. The facts, which were easily verified, as the Government of India had for very many years published all statistics relating to the opium traffic, were that the revenue from the export of opium was approximately £2,000,000 a year. The revenue derived by the Government of India from the internal consumption of opium was less than 2d. per head per annum of the population of India. The annual revenue derived from the export of opium was, again, under 2d. per head of the population. . . . The total revenue of India for the last year for which Mr. Campbell had figures before him was something over £126,000,000. The opium revenue he had quoted represented something like 3 per cent of that sum.⁷

In another official report of the Indian Government communicated to the Secretariat of the League of Nations,⁸ occurs the following statement of the attitude of the Indian Government toward the use of prepared opium:

The use of prepared opium for smoking is discountenanced in every possible way by the Government of India. The sale of such preparations is forbidden and so is the manufacture except in the case of an individual who prepares them for his own use from opium lawfully in his possession. This exception is clearly necessary so long as lawful possession of raw opium can exist, as a decision to the contrary would be incapable of enforcement without intolerable inter-

⁶The logic of this sentence is rather peculiar. The only inference that one could properly draw from the universal disbelief of persons in India that China would be able to fulfil her part of the bargain, would be that, when those responsible for the policy of the Indian Government made the arrangement with China, they had no expectation of being obliged to carry it out.

⁷For another statement of India's opium policy, see the note supplied by the Indian representative to Sub-Committee "D" of the Second Conference (O. D. C./S. C. D./2).

⁸O. C. 23 (y), October 22, 1924.

ference with the private lives of the people; but the fact that smoking is wasteful of the drug and that the limits of private possession are fixed on a low scale is a deterrent to the use of lawfully possessed opium for this purpose.

Here again the case of Burma offers special features owing to the fact that registered Burman consumers and the considerable Chinese element in the province were more accustomed to smoking than eating the drug. The import of prepared opium into Burma is prohibited, but its manufacture and use are not forbidden. With a view to discourage its use, the manufacture and sale of prepared opium was discontinued in the licensed shops from the 1st of April, 1921, and those who desire to smoke opium are now required to prepare it themselves. Further than this it seems impossible to go without incurring prodigious expense in a country so large and so sparsely populated as Burma and without resorting to inquisitorial methods which would be justly resented by consumers, particularly by the large number of respectable Chinamen who do smoke opium. As consumers are left to cook their own preparations for smoking, it is obvious that no statistics can be supplied showing how much of the raw opium consumed in Burma takes the form of prepared opium. For the same reason no registration of smokers as such is possible.

The number of Chinese immigrants in the whole of India was recorded by the census of 1921 as 108,945 of whom 102,344 were in Burma. The number of Chinese residents in Burma, including those born in Burma, was 149,060 of whom 47,183 were females and the number of Chinese Consumers of Opium in that province is estimated to be 17,229. Except for the rapidly dwindling number of registered Burman consumers (the number was 14,049 in 1912 and ten years later had fallen to 5,405), the habit of smoking cannot be said to be prevalent amongst persons of any other nationality than Chinese.*

Indian States. The foregoing statements with regard to the policy of the Indian Government have had no reference to the several hundreds of so-called "Indian"

* For additional information regarding the opium situation in Burma, see Document C. O. P. 22.

or "Native States" which are scattered throughout the Indian Empire. As to these States the *Indian Year Book* for 1924 says:¹⁰

The area enclosed within the boundaries of India is 1,773,168 square miles with a population of 315,132,537 of people—nearly one-fifth of the human race. But of this total a very large part is not under British Administration. The area covered in the Indian States is 675,267 square miles with a population of 70,000,000. The Indian States embrace the widest variety of country and jurisdiction. They vary in size from petty states like Lawa, in Rajputana, with an area of nineteen square miles, and the Simla Hill States, which are little more than small holdings, to States like Hyderabad, as large as Italy, with a population of 13,000,000.

After the Indian Mutiny, in an historic proclamation issued by Queen Victoria, the British Government declared: "We desire no extension of our present territorial possession, and while we will permit no aggressions on our dominions or our rights to be attempted with impunity, we shall allow no encroachments on those of others. We shall respect the rights, dignity and honor of the Native Princes as our own."

Since the issuance of this Proclamation, nearly 70 years ago, there has been no extension of British Indian dominion over the areas included within the Indian States. The contrary has been the case. However, upon numerous occasions the Indian Government has not hesitated to intervene in the Indian States when this has been deemed necessary to prevent gross misgovernment, or to take general charge of public affairs during minorities of ruling princes.

The political rights and obligations of the Native Princes *vis à vis* the British Indian Government vary so

¹⁰ *Op. cit.*, p. 131.

greatly that it is difficult even to summarize them. Upon this point the *Indian Year Book*, quoting from *The Imperial Gazetteer*, says:

The Chiefs have, without exception, gained protection against dangers from without and a guarantee that the protector will respect their rights as rulers. The Paramount Power acts for them in relation to Foreign Powers and other Indian States. The inhabitants of the Indian States are the subjects of their rulers, and, except in case of personal jurisdiction over British subjects, these rulers and their subjects are free from the control of the laws of British India. . . . Except in rare cases, applied to maritime States, they have freedom of trade with British India, although they levy their own customs, and their subjects are admitted to most of the public offices of the British Government. On the other hand, the Indian States are under an obligation not to enter into relations with foreign nations or other States. . . . Where foreign interests are concerned, the Paramount Power must act so that no just cause of offence is given by its subordinate allies. . . . The powers of the British Government are exercised through Political Officers who, as a rule, reside in the States themselves. . . . These Officers form the sole channel of communication between the Indian States and the Government of India and its Foreign Department with the officials of British India and with other Indian States. They are expected to advise and assist the Ruling Chiefs in any administrative or other matters on which they may be consulted.

It has been necessary to state the foregoing facts in order to understand the character of the control that it is possible for the British Indian Government to exercise with regard to the production, sale, and exportation of the large amounts of opium produced in the Indian States.

Over the production of opium in these States the Indian Government attempts practically no control, and it has

no means of ascertaining the amount of "Malwa" opium that is produced and consumed.¹¹

In a memorandum furnished to the Advisory Committee by the Indian Government and dated August 4, 1924,¹² stating the measures that had been taken in India to give effect to The Hague Convention, it is said with reference to the Indian States:

By negotiation, certain Indian States have been brought into line with Government policy regarding the production of opium; but while no opium produced within their territory can pass into British India except under permit, the Government of India can exercise no effective regulation regarding their production of opium for internal consumption. To attempt to enforce any policy of suppressing or restricting the cultivation of opium in Indian States, apart from any arrangements which may be entered into under Treaty obligations, would mean an interference with their internal administration such as the Government of India have no power to exercise either by prescriptive or by Treaty rights. Progress in the desired direction is none the less steady. During the year under review the legislative measures necessary to give effect to the provisions of the International Opium Convention were completed by all the Central Indian States. The majority have legislated on uniform lines and the standardization of their regulations should prove conducive to the convenience both of State officials and of the public. The quanti-

¹¹ The opium produced in the Indian States is known as Malwa opium. *The Indian Year Book for 1924* (p. 823) says: "The poppy from which Malwa opium is manufactured is grown chiefly in the Native States of Indore, Gwalior, Bhopal, Jaora, Dhar, Rutlam, Mewar and Kotah. The British Government has no concern with the cultivation of the poppy, or manufacture of the opium: but it used to regulate, before exports to China were stopped, the import of Malwa opium into, and the transport through, its territories. As the chief market for Malwa was China, and as the States in which the drug is produced had no access to the sea, except through British territory, the British Government were able to impose a duty on the importation of the drug on its way to Bombay for exportation by sea. No statistics of cultivation or production are available."

¹² O. C. 207.

ties which may be possessed by a single person without license have been generally reduced to three tolas for ordinary opium and half a tola for opium smoking preparations: while an appreciable number of States have absolutely prohibited the possession of the latter form of drug.¹⁸

Opium Control under Government of India Act of 1919.

Since the going into force, in 1921, of the Government of India Act of 1919, the situation in India with reference to the control of the production and consumption of opium has been somewhat changed. Prior to this time the whole matter had lain within the direct control of the central British authorities in India. Since 1921, however, there has been a division of immediate jurisdiction between the central and the provincial authorities, although an ultimate right of control over provincial subjects still lies with the Governor-General which, when the need manifests itself, he can exercise.

Under the Act of 1919 provision is made for a division of functions between the central and provincial authorities; and, furthermore, a division of the matters subject to provincial control into "reserved" and "transferred" subjects, and the "transferred" subjects placed under the control of Indian Ministers who are "responsible," in a parliamentary sense, to the provincial legislatures, the majority of the members of which are elected by the Indians.

Among the subjects expressly declared to be subject to the control of the Central or All Indian authorities are: External relations, relations of the Indian States with the Indian Government, customs, and "control of cul-

¹⁸ This paragraph is quoted from the 1922-1923 issue of the annual volume entitled *Moral and Material Progress and Condition of India*.

tivation and manufacture of opium, and sale of opium for export.”¹⁴ Among the provincial subjects which are declared to be “transferred” is the following: “Excise, that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture, and sale for export.”

Among the revenues reserved to the provinces is included excise on spirits and drugs.

From the foregoing it appears that, generally speaking, the British Indian Government being alone competent, necessarily holds itself responsible to other Powers for all that relates to the foreign affairs of the Native States of India, and, of course, for all that is done by its own provincial authorities. The fact that Great Britain, or the Indian Government, has seen fit to place certain subjects within the direct and immediate control of the provincial authorities is of constitutional significance to itself, but it cannot be relied upon, either by Great Britain or by the Indian Government, as a reason why it should be excused from an obligation to fulfill any of its international obligations, for it is an accepted principle of international law that no sovereign State can plead a constitutional *non possumus*, in order to be relieved from an international obligation assumed by itself, or imposed upon it by the generally recognized principles of international

¹⁴ Also there is included within central control the “production, supply and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor-General in Council or by or under legislation by the Indian Legislature to be essential in the public interest.”

jurisprudence. In other words, when one State claims for itself the exclusive right to control the foreign relations of subordinate political areas, be they administrative sub-divisions of its own territory, or colonies, protectorates, or even "dominions," that State thereby is implied to assert that it has both the legal right and the actual power to act with plenary power with reference to those subordinate political areas.¹⁵

"This matter is here referred to because, in the Second Opium Conference, statements were made by the Indian Delegate which seemed to indicate that the Government which he represented had not the constitutional power to obtain certain information with regard to conditions in the Indian provinces, and also that his Government, before it could take certain action, would have to consult with the provincial Governments and obtain instructions from them.

In the report of the twelfth meeting of the Fifth Committee to the Assembly of the League of Nations, made September 26, 1923, Lord Hardinge, the Delegate from India, said:

"In consequence of observations that have reached me in connection with my remarks the other day on the subject of opium, I would like to make the following statement:

"My words on that occasion were: 'Opium is now, and has for three years been, a matter dealt with by the Provincial Governments, and in all Provinces, except Assam, it is administered by Indian Ministers.'

"I would like to amplify that statement by saying that the administration of the control of opium in all but one province is in the hands of an Indian Minister and the power to deal with the question rests with bodies which contain an effective majority of members elected by the people. If, therefore, popular demand exists for a modification of the policy hitherto followed, and if a Provincial Council wishes to restrict still further the sale of opium for eating in India or to prohibit the sale of opium except for medical and scientific purposes, it is, in all provinces but one, open to the Indian Minister to initiate legislation in that sense. In Assam, the one province referred to, I understand that the Government has concerted, in consultation with Indian Members of the Legislature, a scheme for further progressive restrictions.

"I would further add that, in the event of any such legislation being initiated in any province, it would undoubtedly receive support from the Government of India." But see *post*, pp. 67 note, 445.

The writer of the present volume has not been able to obtain more precise information than is contained in the paragraphs that have gone before, but, from them, it would appear that an attempt has been made by the British authorities to magnify the extent to which the control of the manufacture and use of opium in India now lies in the hands of "responsible" Indian officials in the provinces; that is, in the hands of the Indian people themselves rather than in the British Indian authorities. It would seem to be the fact that the Indian peoples themselves are allowed to exercise no control whatever over the cultivation and manufacture of opium, nor over its sale for exportation. Its domestic consumption, however, they, may control, with, however, these two qualifications, one of a constitutional and the other of a fiscal character.

As to the constitutional qualification it is to be observed that there still is vested in the Central Authorities the legal right to nullify any action that the provincial authorities may take if this nullification is deemed to be essential to the public interest. Indeed, the possible central control can go further than this, since the Central Government can, if it be deemed essential to the public interest, impose a policy of its own upon the provincial authorities.

As regards the fiscal qualification upon the powers of the electorates of the provinces to regulate the domestic sale and consumption of opium, there is the fact that the sources of revenue assigned to the provinces are extremely limited, with the result that, in order to balance their budgets, it is practically imperative upon them to obtain considerable sums from the licenses and excise taxes that they levy upon the sale of opium. Therefore,

whatever may be their wishes in the matter, the peoples of the provinces, acting through their elected representatives in the provincial councils and through their "responsible" Ministers, are, in fact, obliged to continue to legalize the sale and consumption of opium, and, from this practical necessity, they cannot be relieved until the British Indian Government is willing to assign additional sources of revenue to them.¹⁶

The Domestic Consumption of Opium in India. Neither Great Britain nor the British Indian Government has ever entered into any international agreement with reference to the manner in which the consumption of opium in India shall be controlled. This, the British Government has been repeatedly asserted, is a matter of purely domestic concern, and, therefore, one for the regulation of which Great Britain or its British Indian Government is in no wise obligated to other Powers. For this reason the British Government has repeatedly asserted that this matter is not a proper subject even for discussion by

¹⁶ In an article entitled "India and Opium" contributed to the January, 1925, issue of the *International Review of Missions*, Mr. William Paton, a well-informed authority says: "Nor is it to be marvelled at that little has been done in the Provincial Legislative Councils to cope with consumption. Excise is one of the main props of the Transferred Subjects, speaking financially; India has been through difficult years, and it is asking a great deal of a Minister who sees no immediate prospect of a diminution of the tribute the provincial exchequer pays to the Central Government, to do away with one of the main sources of revenue. Moreover, there is undoubtedly a belief prevalent (and whether it is well founded or not does not affect the fact that it is there) that the Central Government will not approve any tampering with the opium question. It is a case where a strong new lead by the Government of India might have a far-reaching effect. It would, among other things, do something to bridge the gulf between the Government and some at least of the popular leaders, men who do not believe that Government cares for the moral welfare of the people."

other than British authorities. Thus, for example, in the official instructions given by the British Government to its Delegates to The Hague Opium Conference of 1912, it was declared that "His Majesty's Government . . . consider that the following matters should be excluded from consideration by the Conference. . . . (3) Any resolution specifically affecting the domestic regulation of the production and use of opium and cognate questions of internal administration in India, or any other portion of the British dominions."¹⁷

As has previously been stated, the amount of opium domestically consumed in India is approximately equal to that now exported. The cultivators of the poppy, to whom advances of money for the purpose are made by the Government free of interest, are required to sell all of their opium to the Government opium factory at Ghazipur at a rate fixed by the Government. At this factory two classes of opium are manufactured: the first class, known as "provision" opium is for export, and, for this purpose is packed into "chests" of 140½ pounds each. The other class, known as "excise" opium, is for domestic consumption. With reference to the control of this domestic consumption, the following may be quoted from an official statement of the Indian Government furnished to the League of Nations:¹⁸

A policy has been developed under which cultivation of the poppy is confined, except for a few wild and inaccessible regions, to the area which supplies the Government Opium Factory at Ghazipur in the United Provinces, while importation from the Indian States is kept under control by a prohibition of imports as well as by agree-

¹⁷ Cd. 6605 (1913), p. 3. India was not separately represented at The Hague Opium Conferences.

¹⁸ O. C. 23 (y), October 22, 1924.

ments with such states that they will not allow exports except by arrangement. Production having been subjected to this supervision distribution has been carefully checked by a continuous enhancement of prices and by limiting the amount of opium which any individual may possess at any one time. Local conditions have led to there being some variety in the practice of different provinces in this respect. There is substantial uniformity as to system; a limited number of shops is licensed for the various localities, the right to sell in these shops is sold by public auction or given to approved persons against payment of fixed fees or a sliding-scale of fees dependent on consumption, the licensed vendors are required to take their supplies from Government depots and the amount which a customer may have in his possession is strictly limited. In the provinces of mainland India (excluding Burma) the rates at which supplies are issued to the shops vary between Rs. 50 and Rs. 60 per seer (of 235 lbs.) and the limits of personal possession from one to three tolas (a tola being = $\frac{2}{3}$ oz.) In Burma the conditions are peculiar. The consumption of the drug has no root in the traditional habits of the Burmese people. Determined efforts therefore are made to put a complete stop to the consumption of opium by Burmans. Except for strictly medicinal purposes, persons of this race may not possess opium with the exception of the survivors of those inhabitants of Lower Burma who had become accustomed to the use of the drug before the present policy was decided upon. There is a large community of Chinese and Indians in the province and such persons may possess the drug subject to a limit of three tolas at a time. In this province moreover the price at which supplies are issued to licensed vendors is much higher than elsewhere, ranging from Rs. 100 to Rs. 122 $\frac{1}{2}$ per seer.

Close supervision is maintained over the licensed vendors in all parts of India and Burma; the conditions of their licences requiring that the shops shall be always open to inspection, that no opium shall be sold to children or bad characters, that sales shall only be made on the licensed premises and during the particular hours prescribed, that only unadulterated Government opium shall be sold, that credit shall not be allowed, that no consumption shall be permitted on the premises and that full accounts shall be maintained, together with the names and addresses of purchasers of more than one or two tolas.

The conditions are effectively enforced by the Excise departments of the various provinces.

As regards the control of the sale of opium in India, the following statement is taken from the pamphlet *The Truth About Indian Opium*, issued by the India office at London:

Government or "excise" opium is issued only to licensed wholesale or retail vendors. The wholesale vendor may sell such opium, or opium obtained from a licensed cultivator, only to other licensed vendors or to licensed druggists; the retail vendor and the licensed druggist may sell to individuals. Thus the individual can obtain opium produced in India only from a licensed retail vendor or a licensed druggist. Each stage of the distribution down to the retail vendor is safeguarded by an elaborate system of transport passes, while conditions governing the license of a retail vendor are most stringent. He may not sell to any person at one time more than the quantity of opium which an individual may lawfully possess;¹⁹ he may sell only for cash and only on the premises for which he is licensed; he must not allow consumption on such premises, and he must keep correct daily account of his sales, which shall be open at all times to inspection by excise officers. The number of licensed shops in an area is fixed so as not to exceed what is necessary to satisfy the moderate needs of legitimate consumers, and is constantly being reduced as improvements in communications and other changes in local circumstances render centralization of supply more easy. In the year 1892-1893 there were 9531 opium shops in British India. By 1907-1908 these had been reduced to 8136; and the figure now stands at 6394. The amount of opium of which an individual may be in possession varies according to circumstances in the different provinces, but in most places it is either 360 or 540 grains.²⁰ Equally strict control is maintained over the supply of Indian grown opium obtainable from a licensed druggist and the supply of imported opium.

¹⁹ Apparently, however, the individual may purchase this amount as often as he pleases and from as many shops as he desires.

²⁰ Most of these regulations would seem to have for their purpose fiscal considerations rather than the limitation of the consumption of opium.

The report (O. P. 23 (y)) gives 674,421 pounds as the total amount of opium consumed in India during the year 1921-1922.²¹ The population of British India (census of 1922) being 247,003,293, this gives about one twenty-fifth of an ounce as the per capita consumption.

From the same document from which the foregoing figures have been obtained, the following statistics have been taken :

STATEMENT SHOWING THE NET REVENUE FROM OPIUM

Name of Provinces	1919	1920	1921	1922
	Rs.	Rs.	Rs.	Rs.
Bombay	3,224,739*	3,252,088*	3,451,376	3,761,103
Bengal	13,248,820*	3,400,913*	3,293,963*	3,163,034*
Madras	2,257,044*	2,344,189*	2,520,283	2,487,121
United Provinces	1,779,845*	1,917,657*	1,895,665	1,672,505
Punjab	4,139,238†	4,234,821†	4,385,793†	4,112,272†
Burma	3,957,513	3,582,754	3,357,380	4,023,365
Central Provinces	2,332,000*	2,381,000*	2,027,000	2,466,000
Assam	4,564,208*	5,230,507*	4,781,782	3,897,185
Bihar and Orissa .....	....	1,834,873*	1,787,789	1,958,430
Northwest Frontier Province	323,168	365,754	312,664	310,947
Ajmer-Merwara .....	....	24,200*	25,600	31,200
Delhi	128,155	127,079	105,476	122,739
Coorg .....	....	1,018	845	998
Baluchistan	52,980	63,200	63,539	68,822
	26,007,760	28,760,053	28,009,155	28,075,722

* The figures relate to fiscal years.

† Figures include revenue derived from hemp drugs also.

‡ Includes revenue from morphia also.

The figures of poppy cultivation for British India (excluding the small quantities grown in wild and inacces-

²¹ It is admitted that there is in addition some smuggling of opium into British India from the Indian States.

sible parts where the production can no more be recorded than it can be effectively prevented) are as follows. It will be understood that the produce is that of the year indicated, while the acreage represents the area sown in the previous year.

	Acreage	Produce lbs.
1920	154,621	1,886,647
1921	116,055	1,159,159
1922	117,931	1,506,651

At the twenty-seventh meeting of the Conference, Mr. Clayton, regarding the amount of opium consumed in India, said: ²²

If delegates will turn to the statement of the summary of information supplied to this Conference, they will see that the consumption per head has fallen to 1.14 grammes, 17.72 grains. Now, the morphine content of Indian opium is about 8 per cent as against 12, 14, or 16 per cent in the case of opium used in western countries. For the purposes of comparison one may reduce it by one-third, which gives an Indian figure of about 0.74 grammes, that is, nearly 5 grammes less than Switzerland, and less also than several other countries, in none of which last-named countries has there been any suggestion that a drug problem exists.

This is not all. India is predominantly an agricultural country. Her stock of cattle is enormous. The Government regularly takes a cattle census, a thing which, I think, is not done in most European countries. We know therefore that there are in India to every two of the human population one head of cattle or horses.

Opium is the main veterinary drug used by the Indian people. The dose in the case of horses or cattle, which in India are liable to colic and other diseases is larger than in the case of human beings. It is fair, therefore to make a further reduction, and if we put that

²² Mr. Clayton's speech upon this occasion was an elaborate defense of India's opium policy. In connection with it should be read the reply by M. Chodzko of the Polish Delegation.

reduction at one-third we get the figure of actual human consumption of approximately half a gramme per head per annum.

I do not want to make any invidious comparisons, but it is worth noting that this figure is less than the figures reported in the statements referred to by the United States, for England, Sweden, Canada, Finland, or New Zealand, and it is only a few hundredths of a gramme more than the figure fixed the other day by Sub-Committee F of this Conference for the legitimate needs of European countries possessing a highly developed system of medical assistance.

The export of opium from India is permitted only through the ports of Calcutta and Bombay and, in practice, is confined to Calcutta, except for negligible amounts sent by sea to foreign States on the Bombay coast. The following statement shows amounts exported and the destinations of consignment in 1920, 1921, and 1922:

	1920 chests	1921 chests	1922 chests
Straits Settlements	3,090	3,010	1,820
Netherlands East Indies.	2,900	2,300	1,800
Siam	1,700	1,700	1,650
British North Borneo	176	240	60
Ceylon	60	70	60
Hongkong	180 *	120	150
Macao	531 *	440	500
French Indo-China	950	1,655	1,700
Bushire . . . . .	....	85	283
Japan	900	150	50
Sarawak . . . . .	....	....	55
Mauritius	35	....	....
Total	10,522	9,770	8,128

* In the statement V forwarded to the India Office with the Finance Department letter No. 2544, dated 8th December, 1921, 74,340 lbs. (531 chests) exported to Macao were included in the figures of exports to Hongkong.

Attempted Defence of Opium Eating in India. Despite world-wide scientific and medical opinion that the eating or swallowing of opium, as practiced in India, is highly deleterious from the physiological point of view and debasing from the moral point of view,²³ the Indian Government still asserts that, given the conditions prevailing in India, it is neither desirable nor feasible to restrict the use of the drug to what, in other parts of the world, are considered to be proper medicinal purposes. This determination and the policy based upon it is founded upon conclusions declared by a Royal Commission which made an elaborate report upon the subject in 1895.²⁴ There is, however, abundant evidence that that Commission did not make an impartial investigation of the subject,²⁵ and even in Great Britain it has been admitted by some of the highest authorities that the report was not one that deserved high respect.

However, the British Indian Government has continued to rely upon the report of this Commission in support of its opium policy. Thus, in its official defence of this policy, issued in 1923,²⁶ it is said: "The findings of the Commission still stand as a complete justification of the Government's policy."

That Commission, in its majority report, declared that opium was universally believed in as a common domestic

²³ The weight of scientific opinion is that the eating of opium is more injurious than the smoking of the same amount.

²⁴ Cd. 7313, 7397, 7419, 7471, 7473, 7723.

²⁵ As to this see especially the minority opinion of Mr. H. J. Wilson; the *Life of J. Gundry Alexander*, by his son Horace G. Alexander, published in 1920, and Roundtree's, *The Imperial Drug Trade*.

²⁶ *The Truth About Indian Opium*, by P. Graham Dixon, printed and issued by the Industries and Overseas Department of the India Office.

medicine, especially in cases of fever and as a protection against malaria; that, as a stimulant, it was esteemed as a specific against old age; that it was habitually used for the purpose of resisting fatigue in cases of long journeys or exhausting physical labor; that, in some cases, it was used in connection with social and ceremonial functions, and, as thus used, had a quasi-religious sanction; that its use was consistent with the maintenance of energy and thrift and that the largest Indian life insurance companies had not found it necessary to require extra premiums from moderate consumers; that the opium habit did not lead to insanity, crime or suicide, and that, in fact, excess in its use was exceptional. Based upon these findings, the Commission declared that the monopoly of manufacture and wholesale supply by the Government constituted the most restrictive policy that it was feasible or desirable for the Government to adopt, and that, in fact, so convinced were the masses of India of their need of opium that, should the attempt be made to restrict its use to amounts obtainable on prescriptions by medical practitioners, they would resent the attempt as an unnecessary restriction upon their individual liberty, and an unwarranted interference with their established customs and habits, and that, therefore, such a policy of restriction, if adopted by the Government, would lead to social discontent and possibly to social disorder.

In a Despatch addressed to the Secretary of State by the British Indian Government in 1911, and quoted with approval in the pamphlet *The Truth About Indian Opium*, it is said:

The prohibition of opium-eating in India we regard as impossible, and any attempt at it is fraught with the most serious consequences

to the people and the Government. We take our stand unhesitatingly on the conclusion of the Royal Commission which reported in 1895. . . . Whatever may be the case in other countries, centuries of inherited experience have taught the people of India discretion in the use of the drug, and its misuse is a negligible feature in Indian life. Even if it were possible to suppress the cultivation of opium in India, geographical and political limitations would place it beyond our power to prevent illicit import and consumption on a serious scale. . . . Opium is in virtually universal use throughout India as the commonest and most treasured of the household remedies accessible to the people. It is taken to avert or lessen fatigue, as a specific in bowel complaints, as a prophylactic against malaria (for which its relatively high narcotine content makes it specially valuable), to lessen the quantity of sugar in diabetes, and generally to allay pain in sufferers of all ages. The vast bulk of the Indian population, it must be remembered, are strangers to the ministrations of qualified doctors or druggists. They are dependent almost entirely on the herbal simples of the country; distance and the patient acceptance of hardships standing in the way of prompt access to skilled medical relief. In these circumstances the use of opium in small quantities is one of the most important aids in the treatment of children's sufferings. It is also a frequent help to the aged and infirm, and an alleviation in diseases and accidents which are accepted as incurable. To prevent the sale of opium except under regular medical prescription would be sheer inhumanity.

How far unofficial opinion regarding the effect of the consumption of opium in India differs from the official opinion as exhibited in the statements that have been quoted is strikingly shown in a pamphlet entitled *Opium in India*, recently issued by the National Christian Council of India, Burma and Ceylon.²⁷

This pamphlet is in the nature of a report by the National Christian Council of an investigation made by it at the instance of the International Missionary Council.

²⁷ Published in 1924 in Calcutta, India.

This investigation dealt with two points: (1) The *facts* as to the use of opium in India, and (2) the opinion of Indians with regard to this use. The conclusions reached by the National Council have been summarized by Mr. William Paton in an article contributed to the *International Review of Missions*.²⁸ He says:

We have not had the powers and advantages of a Royal Commission but we have drawn upon the experiences of many men and women, Indian, British, American and Continental, who are in intimate touch with the life of the common people, and there is no other evidence which is worth anything at all.

One thing which stands out with ghastly clearness in the letters of almost all of those who have written to us is the prevalence of giving opium to children. One writer after another gives the estimate of 75, 80, or even 90 per cent of the children under two or three years as being regularly doped with opium. It is done for very many reasons: because the mother has to go out to work and wishes the child to sleep in her absence; to cure ailments such as diarrhoea; to make up for a lack of food; or simply because tradition has arisen that opium is good for babies, makes them strong and keeps them warm in the cold weather. Most mothers who give the drug to their babies do so in good faith. But there is no doubt of the evil nature of the practice or the seriousness of its effects. Not only does it tend to afflict a child with chronic gastric troubles, but it has a deleterious effect on the brain development and produces lethargy, inattention and irritability. An opium-fed child is an easy prey to other diseases, and responds badly to regular treatment and to medicine. There is a general testimony to the stunting of the frame which results from the practice, and doctors say that it is an unquestionable factor in the terribly high infantile death-rate of India. That it is not economically inevitable is shown by the work of such devoted people as Dr. Mistri of Bombay. . . . But so long as opium is available in opium shops, it is certain as anything can be that this infant holocaust will go on.

The medical use, by which I mean the use of opium not on medical advice (which is not questioned), but as a cure for disease or de-

* "India and Opium," January, 1925.

bility, is undoubtedly widespread. . . . But when we examine the evidence closely we find that the medical use of opium in the main comes down to one thing—the removal of pain. It is easy to understand how, to a population like the Indian, disease and pain appear identical. Remove the pain, and it is supposed you have removed the disease. The cause of the trouble remains. . . . A glance at the enormous variety of the diseases for which opium is used will show how little of curative medicine there is in this practice. . . .

As for the semi-medical use, we find little validity in it. It has no ground in fact, for it is not really a preventive of fatigue or a protection against damp. . . .

For the addict, pure and simple, no one will make any defence, whatever compassion may be felt for him. They are not numerous in India, but in some parts, notably in Assam, they are now so many as to constitute a problem of the first magnitude. In Assam whole villages are dying out through the opium curse.”

Indian Opinion Regarding Opium. There have been no large national or popular movements in India against the non-medical and non-scientific use of opium, but there are indications that such a feeling is rapidly spreading among the more intelligent of the Indians. Gandhi and Rabindranath Tagore are among those who have declared their belief in the great harm that their people are suffering as a result of the eating of opium, and in June, 1924,

“The Conference of Missionary Societies in Great Britain and Ireland, representing practically all of the Protestant missionary societies in Great Britain and Ireland, in a letter addressed to the Secretary-General of the League of Nations called attention to the results of the inquiry undertaken by the National Christian Council of India, and said: “The Conference of Missionary Societies expresses the view that the consumption of raw opium in India, apart from medical and scientific purposes, is not a legitimate use, and hopes that the forthcoming Conference will adopt such a programme as will, within a limited period, restrict the use of opium . . . medical and scientific purposes. The Conference believes that such a course would be in entire accordance with the best Indian opinion, and it feels sure that the whole missionary body in India would be prepared to give assistance to the Government in every way possible in any efforts that may be made in that direction.”

the All India Congress Committee, consisting of more than 60 national leaders, unanimously adopted the following Resolution:

In the opinion of the All India Congress Committee the opium policy of the Government of India is altogether contrary to the moral welfare of the people of India and other countries. The All India Congress Committee is further of the opinion that the people of India would welcome the total abolition of the opium traffic for purposes of revenue and is also of the opinion that the production of opium is out of all proportion to the medical requirements of India.

At the sixth meeting of the Second Opium Conference, which was devoted to the reading of addresses by representatives of private organizations, Rev. E. J. Dukes, who spoke in behalf of the British Society for the Suppression of the Opium Trade, dwelt especially upon the rising tide of Indian opinion against the existing opium policy of the British Indian Government. He presented to the Conference a petition on behalf of societies and organizations in India with a membership of over two hundred thousand people which were in favor of stopping the opium trade. This petition began with the following statement:

“ The undersigned, viewing in the growing addiction to narcotic drugs a deadly menace to individuals and to nations, an insidious rapidly spreading poisoning of the human race, which can be overcome only by coöperation among all nations, respectfully petition the International Opium Conference, assembling in November, 1924, to adopt measures adequate for the total extirpation of the plants from which they originate except as found necessary for medicine and science in the judgment of the best medical opinion of the world.”

Dealing with this matter of Indian public opinion with reference to opium, the National Christian Council of

India, Burma and Ceylon, in the report of its inquiry into the opium situation in India, had the following to say:

“ We would sum up the state of public feeling by saying first, that mass public opinion on the subject does not exist; secondly, that enlightened people increasingly dislike and are conscious of the evil of opium-eating; third, that the reforming minds of India are giving their attention to the problem more and more with every month that passes; and fourth, that the restrictions which in our view the facts demand would not be followed by any outcry, if only because those who have shown themselves most able to sway the masses of the people have definitely ranged themselves in favor of such restrictions.”²⁰

British Malaya. British Malaya includes the Straits Settlements, the Federated, and the Unfederated Malay States.

Straits Settlements. In the Straits Settlements consisting of Singapore, Penang and Malacca and Labuan with a population of about 900,000 nearly half of which are Chinese, the manufacture, sale and distribution of prepared opium has been a government monopoly since 1910. In order to discourage the smoking of the drug, the number of opium dens or divans has been reduced from 503 in 1919 to 211 in 1922, and the wholesale and retail price of opium has been successively raised until, in 1920, it stood at \$12.00 a tael.²¹ Beginning with 1920 the further attempt to reduce consumption was made by introducing a system of rationing whereby retailers were to be supplied with only 90 per cent of the amounts previously

²⁰ *Opium in India*, p. 18.

²¹ That is, Singapore silver dollars.

purchased by them, but this created so much discontent, owing to alleged hoarding and profiting, the plan was later abandoned.

The figures for the manufacture and consumption of opium in Straits Settlements during recent years have been as follows:

Year	Manufactured lbs.	Consumed lbs.
1916	353,938	121,551
1917	293,444	108,524
1918	335,038	131,255
1919	359,848	141,728
1920	370,688	151,322

The disparity between the amounts manufactured and the amounts consumed is explained by the fact that the prepared opium used in the Federated and Non-Federated Malay States is supplied to them by the Straits Settlements. Brunei in North Borneo also obtains opium from the Straits. It is to be noted that the figures for both manufacture and consumption show a steady increase since 1917 despite the fact that Great Britain, by her ratification of The Hague Convention has pledged herself to a gradual and effective suppression of the traffic.

As regards revenue derived from opium, the annual reports for the Colony show that in 1918, 60 per cent of the total income of the Colony was from opium; in 1919, 51 per cent; in 1920, 47 per cent; and in 1921, 38 per cent. Commenting upon these figures, Miss La Motte says: "The Colony is not running at a loss: the revenue is well over the expenditure. There is not the excuse that a large deficit must be made up. In 1918 the opium revenue practically equalled the entire expenditure. When a large population falls victim to the drug habit, the business is a paying one."²²

²² *The Ethics of Opium*, p. 53.

The Federated Malay States of Perak, Selangor, Negri, Sembilan and Pahang which are native States under British protection, contain a large Chinese population. Opium smoking is permitted under a system of government monopoly which yields a considerable public revenue.

The Unfederated Malay States Kedah, Perlis, Kelantan, Trengganu and Jahore, are also under British protection, and also derive considerable public revenues from a governmentally controlled traffic in opium.

Supplies of opium to both the Federated and Unfederated States are obtained from the Straits Settlements. Smokers are not registered and the *per capita* consumption of opium is very large.

The paragraphs that follow are taken from a report supplied by the British Government to the First Opium Conference.³⁸

The "Farm" system of control over the consumption of opium was abolished and replaced by the Government Monopoly System in the various territories of British Malaya on the following dates: In the Colony of the Straits Settlements, and in the States of Johore and Kedah on the 1st of January 1910, in the State of Perlis, on the 12th of April 1910, in the Federated Malay States on the 1st of January 1911, in Brunei on the 1st of January 1913 in Trengganu on the 2nd of March 1917.

The manufacture of all supplies of prepared opium for all these States is carried out by the Government Monopolies Department at the Factory in Singapore. The preparation of opium for smoking by any other person is illegal. Prepared opium is supplied by the various Governments to licensed retailers, who are permitted to sell it to the public at a price fixed by the Government at an artificially high figure (at present \$12 per tahl) with a view to discouraging consumption. There are two forms of license—retail licenses admit-

³⁸ C. O. P. 5. October 31, 1924.

ting of sale only for consumption off the premises and Smoking Room licenses allowing sale for consumption either "off" or "on." Stringent conditions are attached to both "on" and "off" licenses and all licensed premises are subject to supervision and inspection. In the Federated Malay States, Kedah and Trengganu there are also Government retail shops, and the policy of the Malayan Governments is to extend this system, in place of the licensed retailer system. Considerable progress has already been made.

The regulations regarding the sale of prepared opium, are generally similar in the various territories. Prepared opium is only allowed to be sold for current coin, in the unbroken packets or receptacles in which it is packed in the Government factory. The amount of opium (or dross) which may be in the possession of any person at any one time is strictly limited (at present this amount differs slightly in the various States). No females or children are allowed to enter licensed premises, and only adult male Chinese are allowed to smoke in licensed Smoking Rooms.

In the Federated Malay States and Johore the possession of prepared opium and of opium smoking apparatus by other than adult male Chinese, is prohibited.

Dross produced by smoking chandu is purchased by Government and destroyed, and licensees of smoking rooms are required to produce for sale to the Government a certain amount of dross expressed as a proportion of the amount of chandu consumed. It is an offence to re-prepare dross for smoking.

It is an offence for any person to be in possession of any prepared opium other than that supplied by the Government, or of dross obtained from any other opium. Identification is rendered possible by the addition of a minute quantity of a secret and harmless ingredient to all opium prepared at the Government factory.

At the beginning of the year 1920 an attempt was made in the Straits Settlements and in certain parts of the Federated Malay States to reduce the consumption of prepared opium by introducing a system of rationing whereby retailers were supplied with only 90 per cent of their former average purchases. Great dissatisfaction was caused owing to hoarding and profiteering, which occurred. The attempt was abandoned after a few months' trial.

Statistics of consumption of opium in the various Territories of British Malaya are given in the accompanying Tables. In the whole of British Malaya in the year 1923, 112,027 kilos of chandu were sold, representing a consumption of 95 gms. per head of the total Chinese population, as compared with 162,669 kilos sold in 1919, representing a consumption of 140 gms. per head of the total Chinese population. In the same year 6887 tahils (260 kilos) of illicit raw opium, and 29,438 tahils (1113 kilos) of illicit prepared opium were seized. Nearly the whole of this illicit opium came from South China.

The latest official information regarding all of the British Malayan possessions or protectorates, is to be obtained from a bulky volume entitled *Proceedings of the Committee Appointed by His Excellency the Governor and High Commissioner to Enquire Into Matters Relating to the Use of Opium in British Malaya*.²⁴

The total population of British Malaya according to the census of 1921 was 3,385,054. Of these 1,174,777, or 35 per cent, were Chinese. The manner in which the opium traffic is controlled varies in the different States, but in all of them a Government monopoly exists. In practice, however, this monopolistic control does not extend, in most instances, beyond the wholesale sale of the opium. Thus, the great proportion of the retail sale of prepared opium in the whole of British Malaya is in the hands of licensed retailers who are allowed by law to sell the opium for a price somewhat higher than that at which it is sold to them by the Government. The restrictions as to the persons who may purchase varies in the different States. In some cases the smoking of prepared opium in public resorts is prohibited.

From figures reported by the Committee it would appear that, in the Straits Settlements, the average amount

²⁴ Printed at the Government Printing Office, Singapore, 1924.

of opium consumed per adult male Chinese has decreased since 1911, as well as the total amount of opium consumed. The same appears to be true with regard to the Federated Malay States. Of the Unfederated Malay States, reliable statistics were available only for Johore. These showed a reduction of 53 per cent in *per capita* consumption for the decade from 1911 to 1921.

Regarding the feasibility of introducing into British Malaya a system of registration and licensing of opium smokers, the Committee declared that in all other countries where the system had been tried the conditions were so dissimilar from those prevailing in Malaya that no sound conclusions for Malaya could be drawn. Because of the special conditions existing in Malaya, the Committee declared that, in its opinion, an attempt to introduce the system would inevitably bring many grave evils in its train, and therefore, the attempt should not be made, at any rate not until the retail distribution of prepared opium had been taken wholly into the hands of the Governments, and that, even then, the success of the system would be highly problematical. It is however, interesting to note that, among the grave consequences which the committee feared might result from the restriction upon the sale and use of opium under a system of registration and licensing, the following is included:

We cannot avoid reflecting, says the Committee, upon possible disturbance of the free influx of Chinese labor which might result from restrictions of this nature, unless this system were applied universally wherever the Chinese can earn a livelihood. Any check on a free flow of labor from China would have disastrous effects on the economic position of British Malaya, and these territories would be faced with a steadily dwindling revenue and a steadily increasing

expenditure, owing to costly preventive services and establishments required to make the system effective.⁵⁵

It is not always that one finds the economic and financial element in the opium problem so frankly announced.

Regarding the benefits to be derived from a system of registration of smokers, divorced from licensing and rationing, the Committee was also doubtful but not wholly sceptical. It thought that, after certain preliminary observations had been made, a registration might be required of smokers.

The Committee summarized its conclusions and recommendations under 24 heads, from which the following, as the more important, may be quoted:

1. We have satisfied ourselves that the consumption of prepared opium in British Malaya has diminished very appreciably in recent years.

2. We have doubts, however, as to whether, under existing measures of control, a further steady reduction of consumption of prepared opium may be anticipated.

7. We hold that the primary step is for the Governments to take charge of the entire retailing of prepared opium whether sold for consumption on or off the premises.

12. We think that further increases in the price of prepared opium, although it might cause some further reduction of consumption of prepared opium, would certainly cause an increase in the swallowing of dross, and we hold that such a result should at all costs be avoided. We recommend therefore, that no change be made in the price except in so far as is necessary to make it uniform throughout British Malaya.

15. We have not been able to avoid adverse comment on the number of licensed shops for the sale of prepared opium in some of the territories of British Malaya. We consider that in some administrations drastic reduction in the number is possible even before the assumption of control of retail sale by the Governments in question.

⁵⁵ *Op. cit.*, p. A 54.

21. We recommend that the system of registration of smokers (without any rationing provisions) should be given an exhaustive trial before any further steps are taken.

23. We have examined the proposal to fix a maximum limit to the amount of prepared opium placed on sale on the basis of tahils per head of the adult Chinese male population, and we hold that the variation in degree of indulgence amongst the various tribes included in that population renders such a formula inappropriate to British Malaya.²⁶

One important finding of fact by this Committee, which is elsewhere referred to,²⁷ is that large majorities of the Chinese opium smokers reported that they had acquired the habit after leaving China and arriving in the Malay peninsula.

The percentages of the total revenues of the various Malayan Governments which were derived from the opium traffic for the year 1922 reported by the Committee were as follows:

Country	Revenue derived from opium	Percentage of total revenue
Straits Settlements	\$14,730,724	42.9
Federated Malay States ...	8,840,168	16.8
Johore	3,451,541	40.0
Kedah	1,691,850	33.3
Perlis	155,543	39.2
Kelantan	309,697	23.6
Trengganu	252,550	37.4
Brunei	40,001	18.6
British Malaya	29,472,074 *	28.6

* £3,438,409.

In this same report it is said: Recognising that the consumption of gross opium is more deleterious than that of chandu the Hong-

²⁶ *Op. cit.*, pp. A 63-65.

²⁷ P. 171.

kong Government (prior the year 1919) adopted the practice of buying up (and destroying) opium dross at a price which left no inducement for its re-preparation and sale. The recrudescence of the cultivation of the poppy in China, however, led to the smuggling of large quantities of illicit opium into the Colony so that the continued purchase of dross became in reality a subsidy to the dealers in illicit opium and for this reason the policy was abandoned.

Prior to the year 1924 the retail sale of Government chandu was in the hands of licensed retailers who were allowed to make a profit, at a fixed rate, on chandu sold by them. This system has been discontinued, and Government opium is now sold by agents who are paid a fixed salary.

In the year 1923 384,125 taels (14,520 kilos) of Government chandu were consumed. The Chinese population of the Colony is estimated at 1,000,000 giving a consumption of .38 taels (14.36 gms.) of chandu *per caput* per annum. It is estimated that of the Chinese population about 50 per cent are adult males.

An intensive campaign is being carried on by the Hong-kong Government against the illicit traffic in opium. In 1923 1561 persons were convicted of offences under the opium ordinance, and 300,596 taels (11,363 kilos) of illicit opium were seized. Of this amount 233,941 taels (8843 kilos) were raw Persian opium and 38,146 taels (1442 kilos) were raw Chinese opium. The penalties for offences against the Opium ordinance are heavy.

It is estimated that in spite of the efforts of a large preventive service, which is specially detailed for this particular duty, approximately equal quantities of Government and illicit opium are consumed in the Colony.

Hongkong. The British possession of Hongkong figures largely in the opium traffic of the Far East not only by reason of the amount of opium that is consumed in the island, but also because the port, being a free port, and centrally located as regards international trade and commerce, is the point at which great quantities of opium both from Persia and Turkey, as well as from India are transshipped and re-exported.

The information which follows regarding the opium situation in Hongkong is taken from a note supplied in 1923 to the Opium Advisory Committee of the League;³⁸ the Report, made in 1924, of a Committee appointed by the Governor of Hongkong to consider the Colony's position with regard to the obligations incurred under The Hague Convention of 1912; and the Summary of the information received by the League of Nations from Governments with regard to prepared opium in the European possessions and countries of the Far East.³⁹

The smoking of opium is permitted by law. In 1910, however, public smoking resorts known as "dens" or "divans" were closed, and, in 1914, the importation of raw opium and the manufacture and sale of prepared opium were monopolized by the Government.

In conformity with the obligation assumed by the British Government in its behalf at The Hague Convention to bring about the gradual and effective suppression of the use of prepared opium, the Hongkong Government reports that it had raised the selling price of opium from \$6.00 a tael in 1916 to \$14.50 a tael in 1918 (which is the present price); that it has limited purchases to one tael (1½ ounces) at a time, except in the case of certain registered persons who are permitted to buy three taels; that it has limited the amount that any individual may have in his possession to five taels; that it has imposed heavy penalties for trafficking in or use of other than Government opium, and maintained a large force of revenue officers to prevent such illegal trafficking or use.⁴⁰

³⁸ *Minutes of fifth session*, Appendix 6, pp. 166-169.

³⁹ C. O. P. 1 (July 22, 1924). See also C. O. P. 5 (October 31, 1924).

⁴⁰ Here, as in other cases, the measures adopted seem to have had fiscal considerations primarily in view.

Apart from the foregoing there is in Hongkong no check upon the consumption of opium, and, as is said in the report of the committee appointed by the Governor of Hongkong, "it is obvious that the continuance of the present policy cannot lead to the suppression of the use of opium in the Colony. The most that that policy can effect under existing conditions is to keep the opium habit within bounds."

The amounts of raw opium imported by Hongkong from India, by the Government monopoly, and, as thus prepared, sold by it, are shown in the following table:

Year	No. chests imported	Chests boiled by Government monopoly	Prepared opium sold (taels)
1916	360	365	459,682
1917	420	352	469,668
1918	450	539	639,684
1919	540	377	457,968
1920	180	228	294,376
1921	120	211½	262,805
1922	150	311½	370,332

In addition to the amounts above indicated the Hongkong Government uses a certain amount of confiscated contraband opium. How much this amounts to the writer has not been able to learn.

In 1923 the Government of Hongkong asked permission to import 20 chests a month from India instead of the 10 chests a month which it was then importing. In support of this request, the Government argued that the sudden reduction from 45 chests a month to 10 chests in 1920 had been proved to be too great "and it had been found that the greatly reduced sales which then justified it were due (though partly to decreased consumption) in the main

to the smuggling of illicit opium into Hongkong on a scale which was not sufficiently realized." "This illicit traffic," the argument continued, "was now less prevalent owing partly to the unsettled conditions in the neighboring provinces of China, and the temporary interruption of communications caused by strikes, but also to the greater success of the Government's preventive measures, including an increase of staff and a vigorous system of banishment for smugglers. As a consequence of the reduction of the facilities for obtaining smuggled opium, the sales of Government opium had of late increased."⁴¹

It was also pointed out that the Chinese population of Hongkong which furnished the smokers of opium was increasing. It did not appear, however, that this increase was proportionate to the increased amounts of prepared opium sold by the Hongkong Government monopoly. In effect, then, it appeared that recent years had seen an increase in the use of prepared opium in Hongkong rather than that gradual and effective suppression which had been promised in The Hague Convention.

The Committee appointed by the Government of Hongkong to consider the position of the colony with reference to the obligations incurred under The Hague Convention, in its report dated March 1, 1924, declared that it found that from 20 to 25 per cent of the adult Chinese population either smoked or swallowed opium, and that from 1 to 2 per cent of the adult female population were slightly similarly addicted, and that it appeared that this percentage had slightly increased during the preceding six or seven years. The Committee further estimated that an amount of illicit opium approximately equal to the licit in

⁴¹ *Minutes, Advisory Committee, fifth session, Annex 6, p. 166.*

the Colony was consumed, and that any increase in the price of Government opium would almost certainly lead to a substitution of smuggled opium in place of Government opium. Upon the other hand, any substantial decrease in the price of licit opium would result in an increase in consumption since, the Government opium being superior in quality to the smuggled article, it would be preferred, if available at the same price, to the smuggled opium.⁴²

The Committee did not think that it was feasible to increase the number of revenue officers for the prevention of smuggling, or to render more drastic the already severe penalties legally imposable for smuggling.

Any attempt to fix a maximum limit to the amount of prepared opium to be placed on sale, calculated according to the number of the adult male Chinese population, the Committee thought would lead to the buying up and hoarding of stocks by speculators who would re-sell at enhanced prices. "It would be preferable to limit sales by raising the price rather than by restricting the quantity on the market, but neither expedient would diminish consumption, as illicit opium would take the place of government opium."

As regards the introduction of a system of registering and licensing of smokers, the Committee declared that this would not be possible in a Chinese community of the size and character of that of Hongkong. "It would not be possible to keep a check upon licenses, if they were issued in any considerable number. Licenses would be

⁴² This argument that the total consumption of opium would be increased by a substantial decrease in the price of Government opium is not very clear. Such a decrease in price might lead to an increase in the consumption of Government opium, but not necessarily to an increase of the total consumption, that is of the licit and illicit opium taken together.

bought and sold, impersonation would be rife, and licensees would corner stocks and profiteer. It has been suggested that licenses should be confined to persons permanently resident in the Colony. Some ten or twelve thousand Chinese pass daily between Hongkong and China, a large part of the population, having permanent homes in China, is in the Colony for a longer or shorter period according to the prospects of remunerative work; and there are periodical in-rushes of refugees who escape from disorder in China and dribble back at varying intervals as quiet is restored to their individual village or district. This large unstable population would bring in the opium to which it is accustomed in China, and its more wealthy members would purchase the much superior Hongkong brand from the licensed permanent residents; which permanent residents would probably be men of the coolie class put forward as figure-heads by profiteering syndicates. It has been put before the Committee that smokers are already registered and licensed in the Netherlands East Indies. The Netherlands East Indies are a considerable distance from China, reached only after a long sea voyage. The Chinese are there an alien and not an indigenous race, and they form a very small fraction of the total population. Hongkong is geographically and racially an integral part of China, and, with the exception of a mere handful, the whole of its population is Chinese."

North Borneo.⁴³ North Borneo, a British possession, has a population of about 250,000 including not far from

⁴³ The neighboring island of Labuan is now a part of the Straits Settlements, and Brunei is administered under the High Commissioner for the Malay States.

40,000 Chinese. A Government monopoly for the purchase, preparation, and sale of prepared opium has existed since 1914. Since that time the consumption of opium has increased 27 per cent, that is, from an average of 6600 kilos per annum for the years 1914 to 1916, to an average of 8400 kilos per annum for the years 1918 to 1920. During this time, the Chinese male population, which furnishes most of the smokers, has increased a little more than 21 per cent. This increase in consumption per head has taken place notwithstanding the fact that the sale price of opium has been, from time to time, increased.

The foregoing figures have been taken from a document, published July 22, 1924, by the Secretariat of the League of Nations and circulated to the First Opium Conference.⁴⁴ However, in a document⁴⁵ bearing date October 31, 1924, supplied by the British Government to the Secretary of the Conference, with the explanation that the information contained in it had been received too late to be incorporated in document C.O.P. 1. It is said:

“In 1923, 4209 kilos of prepared opium were consumed, or 105 gms. per head of the total Chinese population (estimated at about 40,000). This is the lowest recorded figure since 1914, the greatest recorded consumption being 9056 kilos in 1919, since which year consumption has steadily declined.”

In a memorandum furnished by the Court of Directors of the British North Borneo (Chartered) Company, published in October, 1924, by the British Colonial Office are given the conclusions of the Court with regard to the

⁴⁴This document (C. O. P. 1) is entitled “Summary of Information Received from Governments with Regard to Prepared Opium in the European Possessions and Countries of the Far East.”

⁴⁵Document C. O. P. 5.

measures suggested by the Opium Advisory Committee of the League of Nations with reference to the traffic in opium. It is declared that it would be feasible to apply only partially the suggestions of the Advisory Committee that prepared opium should be sold only from Government shops, and that the persons in charge of these shops should be paid fixed salaries without commissions on the amounts of opium sold. This arrangement, it is declared, would be feasible only in the larger settlements and as regards the European owned estates. This however, would cover approximately four-fifths of the total amount of opium consumed. Nor did the Court think that it would be feasible to provide for a maximum amount of opium to be imported and sold, such maximum to be determined by allowing certain number of taels of opium for each ten thousand of Chinese males in the territory. As for introducing a system of registering and licensing smokers, the Court held that, for various reasons, this would not be desirable, and that therefore, all that the Court was prepared to do was to watch the results of registration in neighboring territories with a view to its possible ultimate adoption in North Borneo. Among the reasons given for holding that a system of registration and licensing would be inadvisable was urged the fact that a free inflow of Chinese laborers and settlers is vital to the progress and development of North Borneo, and Government would hesitate to introduce measures which, in the present state of Chinese feeling must necessarily restrict immigration and have a disturbing effect on the resident Chinese population.

Mr. Owen Rutter, in his recent volume *British North Borneo, An Account of Its History, Resources and Native*

Tribes,⁴⁶ places the population of North Borneo at about 258,000 of which 400 are Europeans and 38,000 Chinese. These Chinese he speaks of as the backbone, industrially and financially speaking, of the non-European population, and from them, by catering to their love of gambling and opium smoking, the governing company obtains a considerable portion of its revenues. He says: "The Company derives its revenue from gambling by giving the gaming rights throughout the State to one Chinese 'farmer' who sub-leases them in turn. In 1920 the amount paid for these rights was £36,000. . . . If Licensed gambling were to be abolished, the resulting loss in revenue would have to be made up somehow, and the only way to do that would be by raising the customs dues."⁴⁷

As to smoking opium, Mr. Rutter says: "In 1915, the Chartered Company, at the request of the Colonial Office, took over the opium traffic which had been previously farmed out, and now buys direct from India, selling at the same rates laid down in Labuan and the Straits Settlements to licensed dealers. . . . The traffic is carefully supervised and *the opium is sold only to the Chinese population*,⁴⁸ among whom the annual consumption averages 15.2 ounces (7200 grains)." In an appendix Mr. Rutter shows that for the year 1920 the total revenue of the Company amounted to £425,333 of which the excise taxes on opium, gambling and pawnbroking produced £193,954, and customs £105,179. "It will be seen at a glance," says Mr. Rutter, "that 70 per cent of the total revenue of the territory comes under the heading of cus-

⁴⁶ Published in 1922 with an introduction by Sir West Ridgway, President of the North Borneo Chartered Company. I am indebted to Miss La Motte's *The Ethics of Opium* for the reference to this valuable work.

⁴⁷ *Op. cit.*, p. 174.

⁴⁸ Italics not in the original.

toms and excise. . . . It is, from the shareholders' point of view, the most important branch of the Service, without it there would be no dividends." ⁴⁹

In connection with North Borneo it may be added that one of the chief difficulties which the authorities of the Philippine Islands have had to meet in the enforcement of its policy of prohibition of the use of prepared opium has been the smuggling into the Islands from British North Borneo.

Sarawak and Brunei. Great Britain, besides North Borneo, has two other possessions in the island of Borneo—Sarawak, a protectorate with a population of about 600,000, and Brunei, with a population of about 25,000. Quoting from the British *Colonial Office List* for 1923, Miss La Motte shows that in Sarawak the principal sources of revenue are the governmental monopolies of opium sales, gambling, arrack ⁵⁰ and pawnbroking. In Brunei also it appears that a considerable part of the revenues is obtained from opium and other governmental monopolies.

In Document C.O.P. 5, furnished by the British Government we find the following stated regarding the opium situation in Sarawak:

Up to the 30th of June 1924 the supply of prepared opium for consumption in Sarawak was in the hands of a "Farms Syndicate," the operations of which were under the strict control of the Government, there being two representatives of the Government on the Board. The quality of the chandu manufactured was fixed in accordance with the standard quality prepared by the Straits Settlements Monopolies Department. The sale of chandu was confined to agents duly licensed by the Syndicate, and the Police were responsible for the orderly conduct of retail shops.

⁴⁹ *Op. cit.*, p. 172.

⁵⁰ Arrack is the term used for distilled liquors.

On the 1st July 1924 the importation, preparation and distribution of opium was taken over by the Government and a system of registration of opium smokers was introduced. The "Opium Monopoly Order" provides that no persons other than registered smokers may purchase opium, who are only supplied on production of their "Opium Passbooks" at a retail shop licensed or controlled by the Government. Provision is made for penalties in connection with the possession and consumption by unlicensed persons and with the possession of a greater quantity than can reasonably be accounted for.

It is the policy of the Government as far as possible to prevent those who have never smoked opium from acquiring the habit.

The price of prepared opium was raised by Government order to \$5.40 per tahl in December 1919 and to \$8 per tahl in February 1920. It is not proposed at present to raise the price further as the Government considers that any further increase would be accompanied by a corresponding increase in the consumption of dross, which it is desired to discourage.

The consumption of opium is confined to the Chinese. The estimated number of adult male Chinese in the State is 30,000, and the estimated number of consumers is 5,000.

In the year 1922, 5262 kilos of chandu were consumed. In 1923, 115 chests (7935 kilos) of raw opium were imported, and 6451 kilos of chandu were consumed. On the basis of the estimates in the preceding paragraph, the consumption per head of the Chinese adult male population was in the year 1923, 215 grammes, and the consumption per head of the consumers is 1.29 kilos.

Ceylon. In Ceylon, with a population of between four and five million, but with practically no Chinese, the importation of raw, and the sale of both raw and prepared opium are sanctioned and controlled by the Government: that is, both the smoking and eating of opium is permitted. The authorities have, however, sought to limit this consumption, and, as a result of their efforts, it would appear that, during recent years, the number of registered persons entitled to purchase opium for eating has been reduced until, in 1921, as reported by the Opium Advisory

Committee of the League,⁵¹ it stood at 10,645. The Summary of the Information Received from Governments with Regard to Prepared Opium in European Possessions and Countries of the Far East, issued by the League of Nations, July 22, 1924,⁵² gives the following information regarding Ceylon:

A decrease in sales both of eating and of prepared opium occurred in 1921, sales of the former having decreased from 2,705 kilos (5,950 lbs.) in the preceding year to 2,437 kilos (3,362 lbs.) in 1921; whilst the sales of prepared opium fell from a total of 819 kilos (1807 lbs.) in 1914 and 323 kilos (713 lbs.) in 1920 to 306 kilos (675 lbs.) in 1921, and 256 kilos (566 lbs.) in 1923. Decrease in consumption has followed upon the reduction of consumers and through the death of a certain number of them, revision of the register of consumers and the reduction of the amount allowed to be purchased.

As regards the system of control of the use of prepared opium, document C.O.P. 5, gives the following information:

The control of opium was taken over by the Ceylon Government in 1910. All private opium shops were closed and Government depots were established in charge of Government officers, who are paid a fixed salary.

The sale of smoking opium is confined to registered smokers, the quantities allowed to them being fixed by officers of the Medical Department. In 1914 it was decided (1) not to admit any further persons to the register of consumers of smoking opium, (2) to discourage its use by the dissemination of literature on the subject and (3) ultimately to prohibit the purchase of both smoking and eating opium by the same consumer. In 1921 there was a general revision of the amounts of opium allowed to registered consumers.

The habit of using opium is confined to the national population of the Island, none of the Chinese residents in the Island having registered themselves as consumers.

⁵¹ *Minutes*, fifth session, p. 145.

⁵² C. O. P. 1.

It appears that considerable smuggling of opium into Ceylon goes on, but energetic steps are taken to control, as far as possible, this illegal traffic.⁵³

Siam. Siam, with a population approaching ten millions, like China, has her freedom of action circumscribed by treaties with other nations which limit her power to obtain a revenue from her maritime customs, and which give to the Nationals of those other Powers living within Siam exemption, in most matters, from the control of Siamese laws and courts.

Since 1908 the control of the importation and sale of opium has been in the hands of the Government. The sales, however, are made through contractors, but the wholesale and retail prices are fixed by the Government. The use of prepared opium except by licensed smokers is forbidden. During recent years the number of licensed opium shops has been considerably reduced (from 3000 to 946), but the profits to the Government from the opium traffic continues to be considerable, and amount to nearly one-fifth of the entire public revenue. *The Statesman's Year Book for 1924*⁵⁴ gives the total revenue of Siam for 1922-1923 as £7,049,176, of which £1,380,396 is credited to opium.

Based upon information supplied to it by Siam the League of Nations reports⁵⁵ that the recorded amount of prepared opium available for internal consumption in Siam during the years 1920-1921 amounted to 70,054 Kilos

⁵³ For a fuller discussion of the opium problem in Ceylon see the publication of the International Anti-Opium Association entitled *The War Against Opium*.

⁵⁴ P. 1278.

⁵⁵ Document C. O. P. 1, July 22, 1924.

which was in excess of the amounts actually consumed in 1911, 1915, and 1919. The number of smokers was estimated to be 200,000 in a population of 9,121,000. The average consumption of opium for the whole population appeared to be 120 grains *per capita*.

From a memorandum supplied by the Siamese Delegation to the First Opium Conference the following information regarding the control of the opium traffic is taken.

In 1921 the new Opium law of B.E. 2464 was promulgated. This law contains three sets of provisions which were intended to operate in three distinct and separate periods. The provisions which became immediately operative were those which enforced the then existing provisions of the law modified and brought up to date. There is a provision making it illegal for any person to be in possession of any amount of opium other than the retailers and home smokers. The second set of provisions came into force in 1922 and since then it is illegal for any one except licensees of an opium shop or home smokers to be in possession of an opium pipe. There is yet a third set of provisions which will come into force only at a future date to be subsequently notified in the Government Gazette. These provisions deal with registration of smokers. . . . In regard to raw opium imported into the country, the only supplies now being procured are those imported from India under an arrangement with the Government of that country. This arrangement commenced with the year 1918 and the following is the number of chests the purchase of which has been provided for in the years 1918 to 1924."

Year	Chests
1918.....	1700
1919.....	1700
1920.....	1700
1921.....	1700
1922.....	1650
1923.....	1600
1924.....	1500

Supplementing the information contained in this Memorandum, the Chief of the Siamese Delegation to the First Opium Conference, Prince Charoon, with reference to the system ultimately to be introduced said: ⁶⁶

The essence of this system is that smokers must apply for registration and smoking licences within a certain date and that after that date no more registration and smoking licences will be issued. No licence will then be issued unless the applicant can prove that he is an addict. The quantity of opium that such registered smokers may purchase daily will be fixed annually by the Government and, should any smoker be found to have purchased less than the amount fixed, endeavor will be made to cut down his daily dose. All registered smokers (apart from home smokers, who will continue to be very few in number) must obtain their daily allowance from, and smoke it in, a public licensed shop, from which they may not take away any opium.

Persons who are not registered and do not hold licences will not be allowed in opium-shops (*vide* Opium Law, Sec. 32D) and are liable to punishment if found, the danger of re-sale being thus practically done away with. There will be complete control over the retail sale of opium, for the registered smoker will be supplied with a pass-book, which he must present to the retailer on making his purchase. The retailer will be required to enter in the pass-book and in his own statement of sales the quantity taken. A smoker may purchase less, but not more, than the daily amount that has been fixed for him.

From this brief statement it will be seen that the principle underlying this system of registration is that those already addicted to the drug will have an opportunity gradually to give up the habit, and other persons will be prevented from becoming opium-smokers. As these registered smokers finally give up the habit or die out, there will be no more opium smoking in the country.

For registration to be successful, it must be done once and for all, that is to say, after the date on which registration is begun, no newcomers will be registered. In Siam, this would be the case. Immigrants who are addicted to the drug will, therefore, enter the country

⁶⁶ *Minutes*, fifth meeting.

at their peril when once registration is begun, for any application for registration and licence will be refused.

In this connection, I am very glad to learn from my honourable colleague from Japan that the practice in Formosa is that no immigrants who are addicted to the drug are allowed in the country, for the Siamese Government is contemplating measures of the same nature when the system of registration has come into force in the country.

In the opinion of my Government, the system of registration as outlined above is the only effective means by which the opium habit can be suppressed. My Government is glad to learn that this system is already in force in certain countries and it sincerely hopes that the practice will extend to the neighbouring territories, for the Siamese Government can hope for very little success unless it has the collaboration of the neighbouring Powers and of the Powers still enjoying extra-territorial jurisdiction in Siam, that is to say, unless similar measures are adopted in the neighbouring territories *pari passu* with Siam, and the Powers with extra-territorial jurisdiction agree to apply our law in its totality to their own subjects in the country.

At another time, Prince Charoon said: " I would make an earnest appeal to the representatives of our neighbouring territories to urge upon their respective Governments the necessity of adopting the system of registration in order to enable us in our turn to put into force the only effective measure by which the opium habit can be successfully suppressed." ⁵⁷

In the First Opium Conference, the Siamese Delegation gave the further information that the majority of smokers were Siamese; that the price of opium in Siam was fairly high and that it was not practicable to increase it; that the penalties which included fines and imprisonment, for violation of the opium laws, were fairly severe, but that, in view of the extraterritorial rights enjoyed by for-

⁵⁷ *Minutes*, fifth meeting.

eigners in Siam, the Government was greatly handicapped in enforcing its laws, since the punishments for offenses against the traffic in, and use of, opium were thus not uniform, and that the Siamese Government hoped that the Powers would adopt in their consular courts the penalties provided for in the Siamese courts.⁵⁸

Macao. The Portuguese Colony of Macao, consisting of the peninsula of Macao and two small islands lying off the mouth of the Canton or Pearl River, has an area of hardly more than 4 square kilometers. The latest census, which appeared to be that of 1910, gives the population as 74,866, of which 71,021 are Chinese, 3298 Portuguese, and 244 foreigners.

Macao has for years had an unenviable reputation in the Far East, since its revenues have been derived from its gambling and opium monopolies.⁵⁹

⁵⁸ *Minutes, tenth meeting.* It was pointed out that, in some of the consular courts, the maximum fine for offenses against the opium regulation was the wholly inadequate sum of 100 francs. At another meeting of the Conference (the fifth), as an illustration of the difficulties which beset the Siamese Government by reason of the existence of extraterritorial jurisdictions within its borders, the chief of the Siamese Delegation referred to a case in which a considerable amount of seized contraband opium was given into the hands of a foreign consular court which never returned or accounted for it, and the Siamese Government never was able to find what became of it. As an example of the audacity of smugglers he also referred to an instance in which a large amount of illicit opium was found in a baggage of the Consul of a Great Power.

⁵⁹ In the First Conference (seventh meeting) the statement was made by the Portuguese delegation that a part of these revenues were set aside for financing philanthropic establishments for the bettering of the health conditions of the Chinese population, etc. However, no figures or specific details as to this policy of the Macao Government were supplied. In another declaration made at the First Conference by the Portuguese Delegation (fifth meeting) it was declared that "the Portuguese authorities were firmly resolved to devote the revenues from opium to applying social measures calculated to combat the evils of this drug. At present, part of

In Macao the right to sell opium is still "farmed out" by the Government to private individuals, and as high as \$3,950,000 (Mexican) has been paid for a year's right to control the traffic.⁶⁰

Portugal obtains its opium from India *via* Hongkong, under an agreement entered into in 1913⁶¹ between Great Britain and Portugal which permitted the importation of 260 chests a year for domestic consumption and 240 chests for re-exportation. This agreement has, however, now come to an end, although a new one is under discussion.

According to figures reported to the League of Nations in 1924,⁶² 20,500 kilos of prepared opium were manufactured in the Colony, of which 9500 were exported to Chile,⁶³ leaving available for internal consumption some

these revenues was being used on harbor works." This last sentence would seem to indicate that, in fact, no part of the revenues derived from opium is being now devoted to measures directly combatting the evils resulting from the use of opium.

⁶⁰ The War Against Opium, p. 112.

⁶¹ Cd. 7052.

⁶² Document C. O. P. 1, July 22, 1924.

⁶³ It does not appear that this export actually reached, or that there had been a *bona fide* intention that it should reach, Chile. In the volume prepared by the International Anti-Opium Association entitled *The War Against Opium* (p. 112) it is said: "The 240 chests for re-export are presumably for the benefit of the South American Republic, but it is doubtful whether any large amount ever reaches that continent from Macao. The Anti-Opium Supplement of the *Peking and Tientsin Times* for September 6, 1920, says: "It is notorious that on one occasion certain chests of opium re-exported by the Macao farmer from Macao for Mexico fell into the hands of the Chinese customs and were found to contain molasses instead of opium which had without doubt been smuggled by the farmer into China. This is part of abundant proof that the re-export of opium from Macao is lawful only in the sense that there is no international law to prohibit it. Again, on the 17th of May, 1919, the steamship *Amherst* cleared from Hong Kong for Java. On the 4th of June the Macao Government supplied the customary export return showing that 153,600 taels of prepared opium had been shipped in this vessel for Chile on the 17th of

10,900 kilos. Of this amount 10,622 kilos were actually consumed during the year in the Colony, which showed an average *per capita* consumption of over 2200 grams.

The excuse of the Portuguese Government for refusing to introduce a system of registration and rationing for the control and progressive suppression of the use of prepared opium in Macao has been that the local conditions are such, especially as regards the rapid changes in the Chinese population,⁶⁴ as to render such a system impracticable.

In defense of the "farming" system employed in Macao, the Portuguese Delegation to the First Opium Conference, in the Memorandum which has already been quoted,⁶⁵ says:

May. Three days later the *Amherst* was compelled to put back to Hong Kong for repairs to the engine, and a careful examination then showed that there was no opium on board. The amount equal to 9600 lbs. that should have been sent to Java had found some other destination, most certainly the nearest ports in China into which attendant junks could enter."

In a Memorandum (C. O. P. 28) supplied to the First Opium Conference the Portuguese Delegation said: "As the Government has been informed from reliable sources that, under shelter of these authorizations (granted, moreover, in accordance with the provisions of the (Hague) Convention) abuses have taken place—the opium dispatched to certain localities not always arriving there—it is proposed in future not to authorize any exportation in doubtful cases."

"In a Memorandum supplied by the Portuguese Delegation to the First Opium Conference (C. O. P. 28) it is said: "The numbers of the Chinese population undergo serious and rapid oscillations in consequence of the necessities of economic and political life in Southern China and in the neighboring islands, which, so to speak, surround Macao, of the proximity of the Chinese continent and of the very close relations between the two populations. Without employing any means of transport, a person can go several times in the same day from Macao into Chinese territory and back again (the area of Macao not exceeding four square kilometers). The geographical and demographic situation of this Portuguese colony is very special and, indeed, unique."

⁶⁴ C. O. P. 28.

In 1918 the Government tried the experiment of running this industry directly as a State concern. From the point of view of revenue the results were exceedingly unfortunate in consequence of smuggling, which increased considerably owing to the geographical and demographical conditions to which reference has already been made. Even a whole army of inspectors whose only business it was to prevent illicit trade, would never succeed in putting down smuggling. The experience of these few months necessitated a return to the former system, the only one which the Government considers practical in this Colony, since the material interests of the contractor constitute the best guarantee against illicit traffic. It is easier for the State to control a single contractor, as in this case, than to prevent smuggling. As we have just said, an effective control in case of direct administration by the State would call for so large a staff that it would be impossible for the Colony to maintain it. The system at present in force is not strictly speaking one of contracting out. It is really a compromise between this and direct Government administration. In view of the special conditions prevailing in the Colony any excessive limitation of the opium trade, as for example too sudden suppression, would not only be contrary to the spirit of wisdom and prudence which dictated the provisions of Article 6 of Chapter II of the Convention but, far from producing a favourable effect, would only aggravate the evil, for it would lead to smuggling on such a scale as would render suppression impossible. Measures of this kind would entail other disadvantages; the danger of corruption among the officials, the appearance of vice in another much more dangerous form, namely, the use of alkaloids, from which vice the Portuguese Colony has fortunately hitherto been free. In addition to what has just been said, a further drawback, and a serious one, would consist in the disturbance to the commercial life of our Colony through the probable exodus of the inhabitants into the neighbouring territories. A labour crisis would thus arise attended by a host of misfortunes for the population inhabiting our territory, whose welfare it is our aim to ensure, without, however, adopting radical measures of restriction or suppression incapable of guaranteeing effective results. On the contrary, such measures would inevitably lead to the growth of illicit traffic and smuggling. The reduction would be purely fictitious and the aggravation of the evil would be in inverse

proportion to such reduction. Only a gradual and progressive diminution can give effective results.*

Indo-China (French). At the First Opium Conference, M. Clinchant, the chief of the French Delegation made a statement as to opium conditions in Indo-China from which the following paragraphs are quoted:

I am only going to speak about French Indo-China. As regards the French settlements in India, the total annual consumption of opium is fixed by Franco-Indian agreements at 940 kilos, a figure which in point of fact has not been reached. It should be added that in the other French settlements, colonies, protectorates and mandated territories there is no consumption of opium at all.

There are two points with regard to the situation in French Indo-China which ought to be emphasized. On the one hand, it is not an opium-producing country; the poppy is only cultivated in certain districts in Laos and Upper Tonkin. The average production does not exceed five tons. Indo-China borders, however, on countries in which the poppy is extensively cultivated, being separated from them by a long mountainous frontier.

For this reason it has been impossible to prohibit the use of opium in Indo-China. The average consumption is about 65 tons a year—which for a population of twenty millions means three grammes per inhabitant. The number of smokers only amounts to three-thousandths of the total population.**

Long before the Shanghai Conference, namely since 1883, France has taken part in the campaign against opium. She has persevered in it, redoubling her efforts when the Imperial Decree was issued

* *The Statesman's Year Book* for 1924 (p. 1220) estimates the revenue of Macao for the year 1923-1924 at 4,963,763 escudos. As has been earlier quoted from the *War Against Opium*, the Macao Government has received as much as approximately four million dollars (Mexican) a year from the sale of opium rights to a "farmer."

** This means that the per capita consumption of the smokers is very large. During the year 1921, 73,211 kilos of prepared opium was consumed, the number of smokers being 110,000. See League document C. O. P. 1, July 22, 1924.

providing for the suppression of the cultivation of the poppy in China within a period of ten years.

The struggle was characterised by the adoption of the following measures :

1. The raising of the sale price of opium ;
2. The diminution of the sale of opium in the shops.
3. The prohibition of the sale of dross ;
4. The gradual closing of public smoking dens ;
5. Propaganda by means of placards and lectures.

The campaign has been carried on methodically and stage by stage so as not to give rise to any unrest. From 1884 to 1922, more than 26 decrees and ordinances have been issued for dealing with the question.

The Customs administration is entrusted with the monopolies for the purchase, manufacture and sale of opium. A very rigorous system of repression has been organised.

The combined result of these financial, administrative and legislative measures has been to reduce consumption by 45 per cent. To-day, the evil is not spreading among the native population.

There is no longer any smoking den in existence at Annam or Tonkin. Fifty-four smoking dens were suppressed last year in Indo-China. The price of the drug has risen from 88 piastres to 187 piastres, and consumption has fallen from 128 tons in 1916 to 73 tons in 1923.

The geographical situation of our Colony prevents us from putting a stop to the illicit importation of the drug. The contraband which is carried on cannot possibly be suppressed. With a view to reducing the number of opium consumers, the Government only supplies small quantities of the drug, but then the consumers have recourse to contraband opium. If the Government attempts to raise prices, contraband becomes more active by reason of its being more profitable.

At a later meeting of the Conference—the twelfth—M. Kircher, another member of the French Delegation, gave further details regarding the system of opium control maintained by France in Indo-China. Speaking of the impracticability of providing, in such a large country as Indo-China, that the opium should be sold only by Gov-

ernment officials who would be paid fixed salaries and without commissions on sales made by them, he said that the system in force gave every desirable guarantee. He said:

The authorities considered that their monopoly was complete, and the French delegation claimed to have given in Article 1st of its draft a definition such as might be adopted by all nations.

The Government of Indo-China had the absolute monopoly of importation. Only the Director of Customs and Excise might import opium, and he alone might correspond with the Government of India, which was the sole source of supply for the opium imported.

The manufacture took place in one of the Government factories, and the distribution of the manufactured article to the consumers was made through the Receivers of Customs and Excise, who were officials of a fairly high rank. These officials received direct from the factory the quantities of opium which they needed for the monopoly, and they themselves distributed to the licensed shopkeepers the quantities to be put on sale. The shopkeepers were chosen exclusively by the Director of Customs and Excise or by his delegates. These shopkeepers must present satisfactory guarantees of morality and honesty, so that it might be assumed that they would not have any dealings with the smugglers. This was an important point. The system at the same time enabled the French authorities to undertake humanitarian work. They chose as licensed shopkeepers widows and orphans, whom they were thus able to save from destitution thanks to the small remuneration which they were able in this way to earn.

As he had just said, the authorities required from the shopkeepers moral guarantees, but they also placed them under continuous supervision. They could not conduct a single purchase or sale without coming under official supervision. Each shopkeeper was provided with an official book in which the Receiver of Customs and Excise himself inscribed the quantities distributed. What higher guarantee

^a This French proposal ran: "In countries where the use of opium is still permitted an administrative department of the Government shall alone be competent to fix the supply and to distribute to consumers their necessary requirements in respect of opium; the system of contracts shall be prohibited." C. O. P. 34.

could be required? Moreover, the Customs agents, the agents of the administrative services, the police and gendarmerie were all provided with sufficient authority and had access night and day to all the licensed shops. They might conduct any investigations which they considered necessary.

Netherlands East Indies. The Dutch East Indies consist of a considerable number of islands of which the most important is Java with an area of 50,745 square miles and a population, according to the census of 1920, of 34,984,171. As reported by the *Statesman's Year Book* for 1924 the total public revenue of the Dutch Indies for 1924 was 635,290,000 guilders, and the expenditure 711,105,000 guilders. The receipts from the sales of opium are given as 37,500,000 guilders.⁶⁹

Coca leaves in considerable quantities, as will be later referred to,⁷⁰ are produced in Java, but no opium is produced there. The conditions under which opium is imported and consumed, as given in a Memorandum supplied by the Netherlands Government,⁷¹ are as follows:

The Opium-Régie is based on the principle that the sale should be entrusted to persons (officials) salaried by the Government, who are not interested in the turnover.

At the opium selling shops opium is only for sale and cannot be smoked. If necessary, licenses are granted to establish public smoking places (divans), which must come up to certain requirements and are subject to a strict supervision. Women and persons under eighteen have no access to the divans; the keepers are not allowed to provide their customers with opium, and it is prohibited to offer the public an opportunity for the consumption of opium outside these licensed divans.

⁶⁹ A guilder normally equals one shilling and eight pence.

⁷⁰ Chapter XVIII.

⁷¹ Document C. O. P. 19 (also designated as O. C. 126), November 5, 1924. See also Minutes of the fifth and tenth meeting of the First Opium Conference.

The quantities of opium required by the Régie are exclusively drawn from British India. Of late, supplies have been obtained by virtue of a contract with the British Indian Government, so that opium is no longer bought at the auctions, as was formerly the case. The drug is prepared and packed at a central Government factory established at Batavia.

The memorandum goes on to describe in detail the measures that have been taken by the Netherlands Government to control the traffic in, and consumption of prepared opium. Interesting and valuable as these details are, limitations of space prevent their presentation in the present work. As regards the general results obtained from these measures the following paragraphs may, however, be quoted:

Locally, good results have occasionally been achieved with the measures adopted to fight the opium habit. . . . The aggregate quantity, however, consumed in the Netherlands Indies, has not fallen off to such an extent as had been anticipated. In 1914 (the first year when the Régie was in operation throughout the Netherlands Indies) it amounted to 2,559,832 tahils, then showed several fluctuations until 1920, without ever being in excess of the above quantity, but grew in 1920 to 2,607,840 tahils. In 1921, however, the total sales had again fallen off to 2,194,729 tahils and will no doubt show a considerable decline for 1922.

According to the late census (in November, 1920), the number of inhabitants in the Netherlands Indies was 49,350,834, so that in 1921 the consumption per capita averaged 4.44 mata or about 26 grains.

The treasury is still deriving considerable revenues from the consumption of opium. The gross proceeds, influenced by the steady increase of the selling price, amounted in 1921 to f. 53,264,761.—, being 7.52 per cent of the receipts of the Government, which in that year totalled f. 708,592,111.

The receipts aggregated in 1914 f. 281,403,431.—, the gross proceeds of the monopoly f. 34,987,868.—, or 12.43 per cent of the total. For various reasons, however, this comparison does not altogether hold good. The following is a more reliable one. The net revenues of

the Netherlands Indies (by which is understood the revenues decreased by the expenditure standing direct over against same) amounted in the first mentioned year to f. 383,396,606.—, while the net proceeds of the monopoly were f. 44,209,371.—, which is 11.53 per cent.

For 1914 the net revenues totalled f. 175,537,695.—, inclusive of the net proceeds of opium at f. 28,814,637 or 16.42 per cent.

It should be remembered that, in order to calculate the net receipts of opium, the gross receipts have been decreased by the direct expenditure only. Indirect expenditure, among which the cost of reinforcement and extension of the police takes a prominent place, has not been taken into account.

It is worthy of note that the relatively small number of Chinese (according to the census of November, 1920 over 400,000 compared with a total population of about 35 million souls) consumes 40 per cent of the total quantity of opium. Accordingly, calculated separately for the Chinese and the natives, the consumption per capita in 1920 averages for the former 120.4 mata, as against 2 mata for the latter.

Japan. The following facts concerning the opium situation in Japan and her possessions are taken from the pamphlet entitled, *Opium Policy of Japan*, by M. Sagataro Kaku, former Civil Governor of Formosa, supplied to the members of the First Opium Conference by the Japanese Delegation to that Conference.¹²

The importation and use of opium, except for medicinal and scientific purposes in Japan has been forbidden by law for many years—indeed, since before the “Restoration” of 1868. In the Criminal Code of 1880 there were inserted provisions which provide penalties for the importation, manufacture and sale of prepared opium, and for establishing “divans” or inducing others to smoke opium. “The effect of these stringent measures,” it is

¹² The pamphlet is dated November, 1924.

declared, " has resulted in freeing Japan entirely from the vicious habit of opium smoking among her people."

Since 1878 there have been regulations (amended in 1897) which provide that the manufacture and sale of opium shall be a government monopoly, and that the opium shall be sold and delivered only for the purpose of manufacturing medicinal drugs.

" The sale, distribution and possession of opium other than that of the government monopoly is prohibited. The cultivation of poppy is permitted to limited areas in certain localities only and the provincial governor is vested with authority to supervise the production of raw opium, which is to be delivered entirely to the Government. The exportation of raw opium is absolutely prohibited.

" The raw opium used for pharmaceutical purposes is sold by the Government to certain manufacturing firms which are designated by the Minister for Home Affairs. Morphia and its salts and derivatives are manufactured by those licensed firms under the direct supervision of the Government. The control of the manufacture, import and export of morphine, heroine and cocaine and their derivatives come under Ordinance No. 18, issued by the Department for Home Affairs, dated 1914, while under Ordinance No. 41, issued by the Department for Home Affairs, dated December, 1920, a report must be made to the provincial government of the manufacture of narcotic drugs. Not only the importers and manufacturers, but also the wholesalers and retailers, are required to keep books recording the reception and distribution of raw materials and manufactured drugs. For the exportation and importation of the drugs permission of the Minister for Home Affairs is required. For exportation, not only the permission of the Minister of the Home Affairs but also a

certificate from the authority of the importing country is required.

“ By an agreement with Great Britain, which became effective during the Great War, the import certificate system for the control of the traffic in narcotic drugs was put into force, and, when the League of Nations adopted the import certificate system, it was at once accepted by the Japanese Government. Narcotic drugs may only be handled by pharmacists and by drug stores which employ pharmacists and may only be sold under a medical prescription or to those who are recognized by their occupation as requiring such drugs. The Government drug inspectors inspect the drug factories and the dealers in drugs and examine the books periodically. A strict control of the customs houses, railways and post offices, in coöperation with the local authorities, is enforced in order to suppress illicit traffic.”

Korea (Chosen). “ The opium control in Chosen (Korea) is practically the same as in Japan proper and the results have been satisfactory. The penal Code of 1912 provides for the suppression of opium smoking. In the same year regulations were issued as to the handling of narcotic drugs and the supervision of the drug dealers, which control the reception and distribution of medical opium. Later, in 1919, the opium law was promulgated, whereby opium became Government monopoly, and the exportation and importation of opium was prohibited. Strict limitations are placed on the sale, reception, distribution and use of opium. Furthermore, the cultivation of the poppy is permitted only within limited areas, to a certain appointed person, under strict supervision, and the raw opium is delivered exclusively to the Government.

“ The raw opium is sold by the Government to a certain firm appointed for the manufacture of narcotic drugs. This firm is required to keep books, recording the quantities of raw opium received and the prepared drugs distributed. In 1920, regulations were issued for controlling morphine, cocaine and their respective salts, and strict supervision was enforced over the sale, reception, distribution, export and import of narcotic drugs. Thus the regulation and control of opium and other narcotic drugs in Chosen were practically the same as in Japan.

“ It was no mean task for the Chosen Government to control and suppress the illicit cultivation of poppies and opium smoking in localities adjacent to China, especially in the forest regions. But strict control has finally achieved desired results.”

Kwantung Leased Territory. “ The government of Kwantung leased territory prohibited strictly the cultivation of the poppy from the very beginning, and opium smoking was permitted only to addicts of persistent habit. The government specially appointed a Social Welfare Society which was permitted to import raw opium. Furthermore, by enforcing the criminal law of Japan in this territory the Government has endeavored to exert a general control. After repeated failures it attempted to carry out a policy to attain absolute suppression at the end of a five years' period, but the result was not satisfactory, the reason being that the territory with the Chinese subjects is adjacent to that of China and that police control could not therefore be effectively carried out.

“ Consequently the authorities, after various fruitless attempts at the complete suppression, decided to adopt a preparatory measure for the progressive suppression

with a view to absolute prohibition at the end, and for this purpose, on September 1, 1924, the Government promulgated the opium law. Under this law, the Government officially designated a Social Welfare Society to import raw opium and manufacture and sell prepared opium under strict Government supervision. Only opium addicts, who are licensed by the Government are allowed to smoke opium. Persons who infringe this regulation are severely punished, and at present, in order to make the control effective, the Government is numbering the addicts and is perfecting the system of registration.

“ The control of addicts among the Chinese laborers who come and go every year is a very difficult problem, as in the territories of the Powers which border China.

“ As to the control of medicinal opium and other narcotic drugs for medicinal use the Government issued the regulation relating to the trade in drugs and the handling of drugs, dated 1909; ordinance relating to the control of morphine and cocaine, dated 1915; ordinance relating to the confiscation of opium, morphine and cocaine, dated 1916; in order to control the import, export, manufacture, sale, handling and consumption of these drugs.’’

Formosa (Japanese). The island of Formosa, lying off the southern coast of China with an area of nearly fourteen thousand square miles and a population (census of 1919) of 3,714,899, was ceded in 1895 to Japan by China by the Treaty of Shimonoseki. The public revenues and expenditures in 1922-1923 were approximately 100,000,000 yen. According to the *Stateman's Year Book* of 1924, opium to the value of 1,505,571 yen, was imported in 1921.

From the time that Formosa came into Japanese possession, the Japanese Government has been concerned

with the opium problems there, and almost immediately a progressive suppression with a view to the absolute prohibition of opium smoking was adopted. Opium laws and regulations were issued which became effective April 1, 1897. In September, 1900, an enumeration of smokers was completed and 169,064 addicts were found. Later, more addicts were discovered with the result that in 1908 there were 215,476 addicts registered and permitted to smoke. No license to smoke has been issued since that time, with the result that, through death or other causes, the number of registered smokers declined until, in 1923, there were only 40,165, and, in 1924, 38,000.⁷³

The system of registration now in force in Formosa, as stated by M. Sugimura of the Japanese Delegation, is reported in the Minutes of the First Opium Conference⁷⁴ as follows:

M. Sugimura (Japan) desired to comment on the paragraphs in the report referring to the Japanese administration in Formosa.

In Formosa no smuggling existed. This was due to various causes, such as the geographical situation of the territory, the efficient police organization and the ingenious methods of surveillance and investigation, the relatively low price of opium and, above all, the system of registration and strict rationing. Out of a population of about 3,700,000 people there were only 38,000 smokers. Further, only smokers stated by competent medical authorities to be incurable possessed the right to continue their habits of smoking. They were rationed in such a manner as to ensure that they could obtain the necessary quantity of opium for their daily use.

The price of opium was very low—only a quarter of what it was in Hongkong. Smokers could thus obtain what they needed, but

⁷³ See statement of M. Sugimura in First Opium Conference, tenth meeting.

⁷⁴ Tenth Meeting.

only the exact amount, and smuggling was discouraged because it was not profitable.

The Government also closely controlled access to the territory. Whoever informed the Government officials of the contraband received half the price of each seizure of contraband opium. This information came even from Chinese ports, and the work was so efficiently done that the Formosan Government was frequently advised of attempts to smuggle even before the vessels containing the contraband left China. Further, the coast of Formosa was difficult of access and possessed but few ports.

For more than twenty years past the Japanese Government had known exactly the number of smokers and the quantity of opium consumed in Formosa. The system in force was as follows:

" 1. The Government's authority was enforced by administrative officials and police. The work of these persons was very effective, and conditions in the island were therefore stable and secure.

" 2. The Government had entire control of prepared opium and could import raw opium with a view to manufacturing it. It also controlled the manufacture and sale of prepared opium.

" 3. A licence to smoke was only granted to habitual smokers, and that only after a severe medical examination, conducted by a Government doctor acting under strict regulations.

" 4. A certificate delivered by the authorities to smokers legally recognised as such established the identity of the holder beyond doubt or question. Each legally recognised smoker could only obtain opium on the presentation of a personal ration-book. When he purchased the quantity of opium allowed for in his daily ration, the seller of the drug was required by law to note the amount so purchased in the opium ration-book and this prevented any extra amount being obtained.

" 5. The officials of the opium monopoly were divided into two separate classes: those who manufactured opium and those who sold it. By this means any temptation to carry on exaggerated manufacture and illicit trade was prevented.

" 6. The sale of opium to retail dealers was carried out by the police authorities themselves, who thus had direct and strict control."

With regard to the question of registration and rationing, the Japanese delegation was firmly convinced that the adoption of the

system of the registration and the daily rationing of incurable *habitues* would result in the complete disappearance of the opium scourge. It was the only efficient method of executing faithfully the principles of gradual suppression laid down in The Hague Convention of 1912. By adopting this system the Japanese Government had reduced the number of smokers in Formosa from 210,000 to 38,000 in a little over 20 years. When the 38,000 smokers at present in Formosa died or abandoned their habits there would be no more opium-smoking in that territory. Further, the strict application of these measures entirely prevented millions of persons from acquiring the habit. Smuggling became useless, because there were no more smokers. Those authorised to smoke obtained their opium cheaply from the Government. From the measures described the Conference could realise that the day on which the island of Formosa would be entirely free from opium was at hand.

With regard to dross, M. Sugimura explained that in Formosa the only smokers were incurable *habitues* registered by the Government. The general population had no need of opium and consequently still less need of dross. As registered smokers were certain to be able to obtain the quantities necessary for their daily consumption, there was no need for them to have recourse to smoking dross. The question of dross therefore did not arise in regard to Formosa.

With regard to the question of the price of opium, the policy pursued in Formosa was based entirely on humanitarian considerations and on the necessities of public health. It was for this reason that the Japanese Government sold opium to the 38,000 smokers at a price within their means. In the experience of the Japanese Government, the high price of opium meant smuggling and illicit smoking.

In this difficult question it was, above all, necessary to have regard to the duty of curing and saving persons who had acquired the opium habit. In the opinion of the Japanese delegation the price of opium ought to be within the financial reach of the smoker. Too high a price meant the smuggling of opium and its illicit smoking. This contention was proved by facts. In Hongkong, for example, the price of opium was four times higher than in Formosa, and the smuggling which went on in that port was on a very large scale.

At this same meeting of the Conference, with reference to Chinese immigrants to Formosa, M. Sugimura said: "8000 Chinese coolies passing to and fro between Formosa and China. Before their departure for Formosa, they were kept two days in the port of embarkation and were very strictly examined. Only non-smokers were allowed to enter Formosa.

With regard to those returned to China, the Chinese Government could be assured of the fact that they had not acquired the habit of smoking during their sojourn in Formosa.

After 1918, when the Chinese Government had entirely abolished the smoking of opium the Formosan Government had taken the strictest measures to prevent Chinese established in Formosa who were incurable smokers from returning to China, in order that the Chinese Government should not encounter difficulties in applying the measures of prohibition which it had adopted. The question was a complex one, but the Chinese Government could be certain that the Government of Japan would continue to co-operate with it in this respect.

In the pamphlet by former Governor Kaku the following statistics are given with reference to opium smoking in Formosa.

"In 1900, when the first enumeration was completed the number of the licensed addicts was 169,064. In other words, there were 6.2 addicts per 100 Formosan population. . . . At the end of the year 1923, the number fell to 40,165 addicts or 1.1 per 100 population. The decrease of consumption of prepared opium is also in proportion to the rate of decrease of the number of addicts. In 1900, it was 209,737 kilograms, which fell in 1923, to 48,613 kilograms, in spite of the fact that over 46,000 addicts were added to the initial number by the subsequent enumeration. The total net profit of the Government from the opium monopoly in 23 years is 54,101,059 yen.

During the course of 23 years of enforcement of the opium policy in Formosa the total number of the licensed opium smokers and the quantity of the prepared opium consumed were reduced approximately to one-fifth. The majority of opium addicts at present are over 50 years old. If, therefore, the recruiting of new addicts is prevented, it is clear that there will be no opium addicts in Formosa after a certain period of time.

CHAPTER IV

THE CALLING OF THE GENEVA CONFERENCES.

The calling, as well as the scope, of the two Geneva Conferences was in no small measure due to the efforts of the United States Government. It will therefore be appropriate to state with some degree of particularity, the various steps taken in the matter by that Government.

The Porter Resolution. By a Joint Resolution unanimously adopted by both Houses of Congress, and approved by the President of the United States on March 2, 1923,¹ after various recitals, by way of a Preamble, it was declared:

That it is the imperative duty of the United States Government to safeguard its people from the persistent ravages of habit-forming narcotic drugs.

SEC. 2. That the effective control of these drugs can be obtained only by limiting the production thereof to the quantity required for strictly medicinal and scientific purposes, thus eradicating the source or root of the present conditions, which are solely due to production many times greater than is necessary for such purposes.

SEC. 3. That, in the hope of accomplishing this end, the President be, and he hereby is, requested to urge upon the Governments of Great Britain, Persia, and Turkey the immediate necessity of limiting the growth of the poppy (*papaver somniferum*) and the production of opium and its derivatives exclusively to the amount actually required for strictly medicinal and scientific purposes.

¹ For this resolution known as the "Porter Resolution," see 42 U. S. Stat. L., 1431.

SEC. 4. That the President be, and he hereby is, requested to urge upon the Governments of Peru, Bolivia, and the Netherlands the immediate necessity of limiting the production of cocoa leaves (*Erythroxylum coca*) and their derivatives to the quantity exclusively required for strictly medicinal and scientific purposes.

SEC. 5. That the President be, and he hereby is, requested to report to Congress on the first Monday in December, 1923, the result of his action.

Letter of Instructions. Largely as a result of this legislative declaration, the Government of the United States decided to participate more actively than it had previously done in the matter of securing a more effective execution of the provisions of The Hague Convention of which it was itself a Signatory Power. Accordingly, by a Letter of Instructions, dated May 10, 1923, Secretary of State Hughes authorized Hon. Stephen G. Porter of the House of Representatives, the Right Rev. Charles H. Brent, and Dr. Rupert Blue,² to attend, "in a consultative capacity" the meetings of the Advisory Committee of the League to be held in May of that year.³

The following paragraphs from this Letter of Instructions deserve to be quoted:

The United States is convinced that, in interpreting The Hague Convention, there should be no misunderstanding of its position. For this reason it can not be a party to any interpretation of The

² Mr. Porter had for years been active in securing legislation in the United States for the control of the traffic in and use of narcotics; Bishop Brent, as has been earlier pointed out, had been chiefly instrumental in having the Shanghai Commission called, and had represented the United States at The Hague Opium Conference, of which Conference he had been made the President; Dr. Blue is a Surgeon-General of the United States Army and had had close contact with the problems arising out of the abuse of narcotics.

³ This action was in response to a specific invitation from the League.

Hague Convention which weakens the force of that instrument as a means for controlling the traffic in narcotic drugs. The statement which you are to present to the committee represents, it is felt, the attitude of this Government, and it is quite certain that American public opinion will be satisfied with no weaker interpretation of The Hague Convention than is contained in that statement. Further, if The Hague Convention is limited, or if for any reason it can not be made an adequate instrument for the purposes in question, it should be properly supplemented in order to make it effective.

In regard to the resolutions which it is suggested to introduce, if opportunity is offered to you, this Government is convinced that no effective cooperation can be expected unless the first two are accepted. Resolution No 1 declares the use of opium products for nonmedicinal or nonscientific purposes to be illegitimate. Resolution No. 2 contemplates the reduction of their production to a point where there is no surplus available for export for non-medicinal or non-scientific purposes.

You should take every occasion to assure the representatives of other Governments that the United States is deeply concerned in the problem of narcotic control; that we desire to cooperate with other nations in obtaining adherence to The Hague Opium Convention and urging legislation to make that instrument effective. As instances of this interest you may cite the resolution which was adopted by the Pan American Conference at the initiative of the Government, and you may state that this Government has also been indefatigable in its efforts to induce opium growing or narcotic producing States not members of The Hague Convention to join in the work of narcotic suppression. It would also be proper, in the view of this Government, to draw attention to our legislation and to resolutions of Congress bearing on the subject of the traffic in narcotic drugs.

This Government understands that two subjects of primary importance will be discussed. One, the question of the legitimate use of opium, and the other the question of refusing to import narcotics from those countries which are not party to the convention and its final protocol of 1914. In regard to the first question the attitude of the United States is unmistakable and is discussed in the statement which you are requested to present to the committee. In regard to the second question the United States is of the opinion

that it would be better to obtain the adherence of producing countries to the convention than to attempt a boycott.

The United States believes that a better method of control is by reducing the traffic to its lowest terms, and for that reason suggests that all nations who can do so should absolutely prohibit the importation of opium or coca-leaf products, leaving only the raw drugs as proper subjects for international commerce. This is the principle laid down in our own narcotics import and export act. It is realized, of course, that many nations are not in a position, because of the undeveloped state of their pharmaceutical industries, to adopt this policy. They should, however, permit importations of this character only upon license and for medical and scientific purposes. On the export side nations should prevent the exportation of any narcotic drug except for medical and kindred legitimate purposes, and permit it only to those countries that have effective means for controlling distribution in accordance with The Hague Convention.

American Resolutions. In the foregoing instructions it will be noted that, as regards the legitimate use of opium, it was declared that the attitude of the United States Government was to be made manifest in the statement which the American Delegation was to present to the Committee. In his statement delivered May 25, 1923, Bishop Brent asserted that any non-medical or non-scientific use of opium (that is, smoking or eating it), whether by those in temperate or tropical zones, is morally and physically debauching. In support of this assertion he cited the public declaration of 5000 medical men in Great Britain, and the emphatic statement of the Medical Committee of the League. However, with evident reference to British India, Bishop Brent said that it was within the sovereign right of any people, if it so saw fit to do, to disregard the proofs and warnings of science.

Mr. Porter, also speaking for the American Government, said:

The United States condemns, and understands The Hague Opium Convention to bind the contracting powers to suppress, the traffic in and use of prepared or smoking opium in any form. . . . In regard to raw opium, the production, distribution, importation and exportation of which the Convention binds the adhering powers to control, the attitude of the United States as shown by its legislation is that it is a dangerous drug and that its use for other than strictly medicinal or scientific purposes is unlawful. . . . The United States believes . . . that the cultivation of the opium poppy should be limited to a point where there is no danger that the product will be available for other than medicinal and scientific purposes.

The American Delegation thereupon presented the two following proposals:

1. If the purpose of The Hague Opium Convention is to be achieved according to its spirit and true intent, it must be recognized that the use of opium products for other than medicinal and scientific purposes is an abuse and not legitimate.

2. In order to prevent the abuse of these drugs, it is necessary to exercise the control of the production of raw opium in such a manner that there will be no surplus available for non-medicinal and non-scientific purposes.⁴

Report of Advisory Committee. In its report to the Council of the League, the Advisory Committee said:

These proposals were amplified by the United States representatives, who, in commenting on them, showed that they were in full accordance with both the letter and the spirit of the International Opium Conference of 1912.

After a long discussion, the Advisory Committee unanimously adopted the following Resolution:

⁴ *Minutes of the Advisory Committee, 5th Sess., p. 15.*

The Advisory Committee accepts and recommends to the League of Nations the proposals of the United States representatives as embodying the general principles by which the Governments should be guided in dealing with the question of the abuse of dangerous drugs, and on which, in fact, the International Convention of 1912 is based, subject to the fact that the following reservation has been made by the representatives of the Governments of France, Germany, Great Britain, Japan, the Netherlands, Portugal and Siam.

“The use of prepared opium and the production, export, and import of raw opium for that purpose is legitimate so long as that use is subject to and in accordance with the provisions of Chapter II of the [Hague] Convention!”

It is clear that, in this reservation, it is not declared that the use of prepared opium is legitimate *per se* (that is, in a moral, economic, or medicinal sense), but that it is legitimate in simply the technical sense as permitted by the Convention as a temporary matter until such use is progressively or gradually and effectively put an end to.

The Advisory Committee further resolved:

As a means of giving effect to the principles submitted by the representatives of the United States and the policy which the League, on the recommendation of the Committee has adopted, and having regard to the information now available, the Advisory Committee recommends to the Council the advisability of inviting:

(a) The Governments of the States in which morphine, heroin or cocaine and their respective salts are manufactured and the Governments of the States in which raw opium or the coca leaf is produced for export for the purpose of such manufacture;

(b) The Governments having territories in which the use of prepared opium is temporarily continued under the provisions of Chapter II of the Convention, and the Government of the Republic of China

to enter into immediate negotiations (by nominating representatives to form a committee or committees, or otherwise) to consider whether, with a view to giving the fullest possible effect to the Convention of 1912, agreements could not now be reached between them:

(a) As to a limitation of the amounts of morphine, heroin or cocaine and their respective salts to be manufactured; as to a limitation of the amounts of raw opium and the coca leaf to be imported for that purpose and for other medicinal and scientific purposes; and as to a limitation of the production of raw opium and the coca leaf for export to the amount required for such medicinal and scientific purposes. The latter limitation is not to be deemed to apply to the production and export of raw opium for the purpose of smoking in those territories where that practice is temporarily continued, under the provisions of Chapter II of the Convention.

(b) As to a reduction of the amount of raw opium to be imported for the purpose of smoking in those territories where it is temporarily continued, and as to the measures which should be taken by the Government of the Republic of China to bring about a suppression of the illegal production and use of opium in China.

The Representative of the Government of India associated himself with the foregoing Resolution, subject to the following reservation regarding Paragraph 1:

The use of raw opium, according to established practice in India, and its production for such use, are not illegitimate under the Convention.

The Advisory Committee further resolved that

Having regard to the large amount of detailed information now available, [it] recommends the Council to invite the Powers with Far Eastern territories where the use of opium for smoking is temporarily continued in pursuance of Chapter II of the Opium Convention, to enter into immediate negotiations, by means of calling a special conference of representatives, or otherwise, to consider what measures could be taken to give a more effective application to Chapter II of the Convention and to bring about a reduction of the amount of opium used, and whether, on the lines of the suggestions set out below or on other lines, an agreement or understanding could not now be reached for the adoption of a uniform policy on the matter.

The suggestions referred to in this resolution were that the farming system where it still exists should be abol-

ished and government monopoly substituted for it; that the retail sale of prepared opium should be legal only in government shops, and that the persons in charge of these shops should be paid fixed salaries; that the amount of opium placed on sale should be limited and fixed according to the adult male Chinese population in the territory, and the imports of raw opium should be limited to the amount so required; that the possibilities of a system of registration and licensing should be explored; that the retail price of prepared opium should be kept, if possible, uniform in the different territories; that penalties for infraction of the laws with regard to the import, export, sale and use of prepared opium should be made similarly uniform; and that the position should be reviewed periodically by the powers interested, and the question of further reducing the maximum limit fixed by agreement considered.

Resolutions of the Assembly of the League of Nations of September 27, 1923. Based upon the recommendations thus made by the Advisory Committee, the Assembly of the League, on September 27, 1923, unanimously resolved:

V. The Assembly approves the proposal of the Advisory Committee that the Governments concerned should be invited immediately to enter into negotiations with a view to the conclusion of an agreement as to the measures for giving effective application in the Far Eastern territories to Part II of the Convention and as to the reduction of the amount of raw opium to be imported for the purpose of smoking in those territories where it is temporarily continued, and as to the measures which should be taken by the Government of the Republic of China to bring about the suppression of the illegal production and use of opium in China, and requests the Council to invite those Governments to send representatives with plenipoten-

ary powers to a conference for the purpose and to report to the Council at the earliest possible date.

VI. The Assembly, having noted with satisfaction that, in accordance with the hope expressed by the Assembly in 1922, the Advisory Committee has reported that the information now available makes it possible for the Governments concerned to examine, with a view to the conclusion of an agreement, the question of the limitation of the amount of morphine, heroin or cocaine and their respective salts to be manufactured; of the limitation of the amounts of raw opium and the coca leaf to be imported for that purpose and for other medicinal and scientific purposes, and of the limitation of the production of raw opium and the coca leaf for export to the amount required for such medicinal or scientific purposes, requests the Council, as a means of giving effect to the principles submitted by the representatives of the United States of America, and to the policy which the League, on the recommendation of the Advisory Committee, has adopted, to invite the Governments concerned to send representatives with plenipotentiary powers to a conference for this purpose, to be held, if possible, immediately after the conference mentioned in Resolution V.

The Assembly also suggests, for the consideration of the Council, the advisability of enlarging this conference so as to include within its scope all countries which are members of the League, or parties to the Convention of 1912, with a view to securing their adhesion to the principles that may be embodied in any agreement reached.

Several facts deserve to be noted with regard to these two Resolutions.

In the first place, two Conferences are provided for, and the relation between them is not clearly defined. This, as will later appear, became a cause of serious controversy, and it may be here said that this plan of having two Conferences instead of one was adopted despite the outspoken objection of the representatives of France and the United States. The First Conference, it is to be observed, was directed to report its results as soon as possible to the Council of the League. Just why this direc-

tion was given, which was not given to the Second Conference, does not plainly appear. Had it been provided that the First Conference should report its results to the Second Conference there would have been a good reason for doing so. In fact, it appears that some of the Delegates, including that of the United States of America, had assumed that this would be done. The importance of this point will appear in the Chapter which deals with the Competence of the Second Conference.

Another point to be noted is that the Conferences should be composed of representatives with plenipotentiary powers from their respective Governments. This proposition emanated from the Assembly of the League and not from the Advisory Committee. That Committee had recommended simply that the Governments should be invited to enter into immediate negotiations, by nominating representatives to form a committee or committees or otherwise to consider whether, with a view to giving the fullest possible effect to the Convention of 1912, agreement could not now be reached between them.

Thus, so far as the recommendations of the Advisory Committee went, there was necessarily to be nothing more than committees for informal discussions and the reaching of *ad referendum* agreements. It does not clearly appear that even the discussion of the amounts of raw opium to be imported for the purpose of smoking in those territories where it is temporarily permitted, and the measures to be taken by the Republic of China to bring about a suppression of the illegal production and use of opium in China, was to take place in a committee or other body distinct from that in which the problems connected with the misuse of morphine, heroin, cocaine, and other narcotic drugs were to be considered.

CHAPTER V

PREPARATION OF THE AGENDA FOR THE CONFERENCES.

The invitations to the Powers to meet in Conference in Geneva having been sent out, the Council of the League took steps to have provisional Agenda prepared for their use. By a Resolution adopted at its December, 1923, meeting, the Council instructed the Secretary-General of the League to communicate with the Chairman of the Advisory Committee with a view to calling an extraordinary meeting of that Committee for the purpose of nominating a Preparatory Committee which should be charged with the preparation of a draft programme for the Second Conference—this Committee to consist of six members including one representative of the United States and two European Assessors. Should the Chairman of the Advisory Committee be able to form this Preparatory Committee by means of correspondence and without convening his own Committee, he was empowered to do so. This Preparatory Committee, it was declared, should draw up a draft arrangement on the traffic in opium which, if necessary, should be approved by the Advisory Committee before presentation to each of the interested Governments or to the Conference.

The Preparatory Committee. As a result of this Resolution a Preparatory Committee was established consisting of three persons nominated by the Advisory Committee (M. Bourgois, France; Sir Malcolm Delevingne,

Great Britain; M. van Wettum, Netherlands) and three persons nominated by the Council of the League (M. Neville, M. Brenier, and Sir John Jordan).

At its first session the Committee suggested to the Council of the League that it should extend the Committee's terms of reference so as to enable it to prepare a programme for the First Conference; and also that the chief manufacturing and producing States not already represented on the Committee should be invited to send representatives who would collaborate with the Committee.¹

The Council adopted these suggestions, but the Preparatory Committee later deemed it inexpedient to convene the manufacturing and producing Powers. The Preparatory Committee held a considerable number of meetings, at which it is understood there were, at times, animated debates. In result, the Committee was unable to arrive at, or even to approximate, an agreement upon the measures to be recommended to the Second Conference. All that the Committee was able to do with respect to this Conference was to report five proposals (three of them in the form of draft agreements) drawn up by M. van Wettum (Netherlands), Sir Malcolm Delevingne (Great Britain), Mr. Neville (United States), M. Bourgois (France) and M. Brenier (Assessor.)²

¹ Germany, Switzerland and Japan for morphine and heroin; Germany, Switzerland and Japan for cocaine; Turkey, Persia, India, Russia, Greece and the Kingdom of the Serbs, Croats and Slovenes for raw opium, and Peru and Bolivia for coca leaf.

² For the text of these proposals and accompanying explanations, see *Report of the Opium Preparatory Committee*, issued by the League of Nations under date of July 17, 1924, and bearing the League's classification designation C. 348. M. 119, 1924.

As to the First Conference, the Preparatory Committee reported an Agenda which was, however, in the merest skeleton form. This programme ran as follows:

1. Election of President and Vice-President, Officers of the Conference, and Commissions, Adoption of the Rules of Procedure, etc., etc.

2. (a) Examination and consideration of the present situation in regard to the application by the Powers represented of Part II of the International Opium Convention of 1912 in their Far Eastern territories and of the difficulties which have been encountered in giving effect to Part II;

(b) Consideration of the measures which can be taken to carry out more effectively the policy embodied in Part II of gradually suppressing the use of opium for smoking with special reference to the suggestions put forward for consideration in the second resolution adopted by the Opium Advisory Committee of the League of Nations at its meeting in May, 1923;^{*} and

^{*} This Resolution ran as follows:

The Advisory Committee, having regard to the large amount of detailed information now available, recommends the Council to invite the Powers with Far Eastern territories where the use of opium for smoking is temporarily continued in pursuance of Chapter II of the Opium Convention, to enter into immediate negotiations, by means of calling a special conference of representatives of these Governments, or otherwise, to consider what measures could be taken to give a more effective application to Chapter II of the Convention and to bring about a reduction of the amount of opium used, and whether, on the lines of the suggestions set out below or on other lines, an agreement or understanding could not now be reached for the adoption of a uniform policy on the matter:

I. That the farm system, where it is still in operation, should be abolished and that the opium business should be made a Government monopoly and kept entirely in the hands of the Government.

II. As a corollary of paragraph 1, that the retail sale of prepared opium should be made only from Government shops, and that all private shops should be abolished. Persons in charge of Government shops should be paid a fixed salary without any commission on the amount of business done, and therefore would have no temptation to push the sales.

III. That a uniform maximum limit should be fixed for the amount of prepared opium placed on sale for consumption, calculating according to

(c) Preparation of a Convention to embody the measures which may be agreed upon by the Conference.

3. Consideration (a) of the present situation in China with regard to the production of opium in the neighboring territories; and (b) of the measures which might be suggested to the Government of the Chinese Republic for bringing about a suppression of the illegal production and use of opium in China."

With regard to this last (3, b) proposal of the Preparatory Committee it is to be observed that that Committee departed in a very important respect from the purpose and scope of the First Conference as defined in Resolution 5 of the Assembly, and upon the basis of which the Governments had been invited to send representatives with plenipotentiary powers to a Conference. That Resolution spoke of "the measures which should be taken by the Government of the Republic of China," and not of the measures to be suggested to that Government. The

the number of adult Chinese male population, e. g., taels per 10,000 adult Chinese males in the territory, and that the annual imports of raw opium should be limited to the amount required for that rate of consumption.

IV. That the possibilities of the system of registration and licensing, which has already been introduced in some of the Far Eastern territories, should be thoroughly explored.

V. That the possibility should be considered of making uniform, so far as circumstances permit:

(a) the price at which prepared opium is retailed in the different territories, and

(b) the penalties for infraction of the law in regard to the import, export, sale and use of prepared opium.

VI. That the interested Powers, that is, the Powers having territories in the Far East where the consumption of prepared opium is still permitted, should conclude an agreement among themselves to apply the foregoing measures for the purpose of carrying out Chapter II of the Convention.

VII. That the position should be generally reviewed periodically by the Powers interested and the question of further reducing the maximum limit fixed in the agreement should be considered.

These recommendations had been made to the Advisory Committee by Sir Malcolm Delevingne. See O. C. 135.

same error occurred in the Agenda drawn up by the Secretariat of the League (based of course upon this Agenda proposed by the Preparatory Committee) and presented to the First Conference when it convened. As to this error, see the next following chapter.

The report of the Preparatory Committee was discussed at length by the Advisory Committee at its Sixth Session held in August, 1924, and the following resolution adopted: ⁴

“In view of the fact that all the members of the Preparatory Committee are present at the meetings of the Advisory Committee, the Committee hopes that the members of the Preparatory Committee and Dr. Anselmino (Germany) will meet as a Sub-Committee of the Advisory Committee to see if a single programme cannot be accepted, based on the points held in common.”

As a result of the work of this Sub-Committee the Advisory Committee was able to agree upon a detailed list of measures to be suggested to the Second Conference for its consideration. ⁵

⁴ Minutes, 6th Sess., p. 18.

⁵ It was, however, understood that the agreement was as to the desirability of laying these proposals before the Second Conference, and not that the Governments represented in the Advisory Committee severally approved all these proposals. Thus, at the Sixth meeting of the Advisory Committee, M. Bourgeois (France) said that, “Personally, he noted this understanding with satisfaction and thought that it would be of great use to submit this document [drawn up by the Sub-Committee] first to the Advisory Committee and later on to the Council, with the request that it be forwarded to the various Governments. The measures outlined in the document, to all of which he by no means agreed, at least appeared to be of such a nature as would greatly facilitate the work of the Conference and the conclusion of the final agreement. It should, however, be distinctly understood that the French scheme (contained in the report of the Preparatory Committee) was in no way withdrawn, and, secondly, that he reserved

These proposals played an important part in the deliberations of the Second Conference and the full text of them will be given when the work of that Conference is described.⁶

The programme of work as drawn up by the Advisory Committee was circularized on July 24, 1924, "for the information of those States Members of the League which had been invited to the Conference."⁷

full freedom to criticize, approve or reject any article contained in the document now before the Committee." (Minutes, 6th Session, p. 22.) Dr. Tsurumi (Japan) said "that the Japanese Government had had no time to examine the draft and that he consequently had received no instructions." (Minutes, 6th Session, p. 23.)

⁶ *Post*, Appendix III.

⁷ C. O. P. 2. Documents issued by the Secretariat of the League to the First Conference bore the caption C. O. P. and were numbered consecutively.

CHAPTER VI

CHINA INVITED TO THE FIRST CONFERENCE.

Before proceeding to an account of the work of the First Conference it will be necessary to devote a short chapter to explaining why China was invited to that Conference.

As will have appeared from the various resolutions which have been quoted, the primary purpose of the First Conference was to be the consideration by the Powers in whose Far Eastern possessions the smoking of opium is still legalized of measures for bringing about the gradual and effective suppression of that vice. China could not be grouped among such countries for, within her borders, the smoking of opium was absolutely forbidden by law. It was, however, recognized that, upon the one hand, China was deeply concerned as to the measures that the other Powers might take, since it was mainly, and, in some cases, exclusively, to her citizens that the prepared opium was sold and by whom it was consumed. Furthermore, for reasons which will later be more fully stated, China's task of suppressing within her own borders the illegal production and use of opium would be lightened or rendered more heavy according to whether or not effective measures were taken by the other Powers to bring to an early end the legalized smoking of opium. Reciprocally, the other Powers were concerned with conditions existing in China with regard to the illegal production of opium,

since, to the extent that the opium thus produced escaped from China and increased the illicit trade in opium, their own problems with regard to the control of the importation and use of opium were made more difficult of solution. For these reasons, then, China was invited to the First Conference.

The propriety and desirability of inviting China to the First Conference was discussed at the eighteenth and twentieth meetings of the Fifth Session of the Advisory Committee.

When the Chinese representative, M. Chao-Hsin Chu, enquired whether China was to be invited to the Conference, Mr. Porter, the representative of the United States, at once declared that China was more interested than any other nation in the world and should be invited. Sir Malcolm Delevingne (Great Britain), however, said "that if China were included it would alter the nature of the Conference, for if every State interested in the use of drugs were invited half of the countries of the world at least would be included. . . . The hoped-for agreement would be made only between the Powers engaged in the manufacture or production because they were the countries which would have to limit themselves." Mr. Chu replied that China did not manufacture any drug containing opium, nor did she allow opium-smoking or opium production, nor did she produce any coca leaf. However, he expressed a desire that China should be invited to the Conference, and called especial attention to the fact that some 90 per cent or more of the opium smokers in Far Eastern territories and possessions were Chinese. Both Sir John Jordan and M. Brenier, Assessors, said that, in their opinion, China should be invited.

Up to this time the proposed scope of the First Conference had extended only to the matter of limiting the amount of raw opium to be imported by Far Eastern countries for the purpose of making prepared or smoking opium. At the twentieth meeting of the Committee, Sir Malcolm Delevingne said that, since the matter had been first discussed, it had occurred to him, that if the Conference could combine the matter of the restriction of the amount of raw opium to be imported for the purpose of smoking in those territories where its use was temporarily continued with the situation presented by China the problem as a whole would be faced. He suggested, therefore, that a new item should be added to the Agenda for the proposed First Conference, namely, the means by which the illegal production and use of opium in China could be suppressed.

This suggestion of Sir Malcolm was accepted by the Advisory Committee, although the Chinese representative, Mr. Chu, took pains to emphasize that his Government would not tolerate any interference from outside with its own internal affairs, and it was due to his insistence that the new addition to the subject to be discussed by the First Conference was made to read "and as to the measures which should be taken by the Government of the Republic of China to bring about a suppression of the illegal production and use of opium in China."¹

¹ It was suggested by Sir Malcolm that the phraseology should be "and as to the measures which should be taken, etc."; and by the Chairman that the words "by or in concert with the Chinese Government" should be used. But Mr. Chu insisted that it should be plainly stated that the measures to be taken should be "by the Government of the Republic of China." Minutes, 5th Session.

This insistence by the Chinese representative upon the Advisory Committee that the discussion of measures for the suppression of the illegal production of opium in China should be limited to such measures as the Government of China might itself see fit to adopt, had had quite a history in the proceedings of the Advisory Committee.

At the first session (1921) of the Committee, in connection with the problem presented by the recrudescence of the cultivation of the poppy in China, Sir John Jordan had suggested that the consent of the Central Government of China should be obtained for the making of strong representations to the provincial governors by the consuls of Great Britain, France, and other countries located in the affected provinces. Questioned as to whether the Central Government would be opposed to such action, the Chinese representative, Mr. Tang Tsai-Fou, had said that the matter was a political one upon which he was not competent to reply on behalf of his Government, and that, if the proposal were adopted by the Committee, he would be obliged to make a reservation.²

In result the Advisory Committee reported as follows to the Council of the League:

The Committee had under consideration the new situation which has arisen in China through the revival of the cultivation of the poppy. It appears that, in certain provinces the poppy is being cultivated on a large scale with the connivance or encouragement of the Provincial Governors, and that the Central Government is, in the present circumstances, unable to exercise any effective control over the Provinces in question. The situation has a very important bearing on the execution of the [Hague] Convention, but it is evidently

² Minutes, 1st Sess., p. 20.

one of extreme difficulty and involves political considerations which are outside the competence of the Committee.

A suggestion was made by Sir John Jordan, Assessor to the Committee, whose great knowledge of China and the Opium Question enabled him to speak with authority that some good might be done, even under the present conditions, if the Treaty Powers would—subject, of course, to the consent of the Central Government—instruct their Consular Representatives in the Provinces to make strong representations to the Provincial Governors on the subject.

The Committee decided, subject to a reserve on the part of the Chinese Representative: To request the Council to communicate this suggestion to the Treaty Powers and recommend its adoption.*

However, when this recommendation came before the Council and Assembly of the League they decided to take no action upon it until the Chinese Government had made an investigation and report upon conditions in China as to the extent to which opium was being produced.

Such a report was presented to the Advisory Committee at its second session in 1922, but proved to be a very unsatisfactory one. Sir John Jordan thereupon suggested that the Committee should repeat its recommendation as to representations to be made to Provincial authorities in China by the Consular representatives of the Powers. Mr. Chao-Hsin Chu, the Chinese Representative upon the Committee, thereupon said "that the Chinese Government would appreciate the efforts of the League to combat the opium problem. But in no circumstances whatever would the Chinese Government tolerate the intervention of the Consular representatives of other Powers in the internal affairs of China. . . . He reminded the Committee that the year before, when the

* Minutes, 1st Sess., Appendix 10, p. 41.

resolution regarding consular representations had been passed, the Committee had not known whether the Chinese Government would consent. . . . Now, however, precise instructions had been given to the Chinese Representative, who was in a position to state that consular representations would in no event be allowed.”⁴

After considerable discussion the Advisory Committee adopted resolutions declaring that the reports on poppy cultivation in China made by the Chinese Government were not satisfactory, and that it appeared that there was a widespread revival of the cultivation and use of opium in China. The Resolution further continued:

“The Committee realizes that the responsibility for the revival rests mainly, if not wholly, on the military governors of the provinces concerned, and that at the present time, under the political conditions prevailing, the pressure of public opinion is probably the only force available to remedy a state of things which is both a violation of the treaty engagements of China and inconsistent with its obligations as a member of the League of Nations.”⁵

⁴ Minutes, 2d Sess., 1922, p. 17 (English text).

⁵ Minutes, 2d Sess. (1922), p. 56. The Resolution also went on to recommend that the Council of the League should ask the Chinese Government to make more thorough investigation into poppy cultivation, and that upon the board or committee of investigation, created for the purpose, in addition to Chinese officials, there should be appointed by the Chinese Government representatives of Chambers of Commerce, educational associations, and other organizations particularly interested in the suppression of opium.

See, also, the very strong letter of the Chinese representative, of April 24, 1922, in which he declared that the proposal then pending to ask the Chinese Government to invite representatives of the League to accompany the commissioners of the Chinese Government for the investigation

This was certainly strong language for the Committee to use, and that it had been improvidently used appeared when it came before the council of the League. That body sent this portion of its report back to the Committee for its reconsideration.

The Committee thereupon held a third (emergency) session, at the first meeting of which the fact was referred to that the Council of the League had, with the consent of the Committee, published the report of the Committee with the objectionable resolution omitted. At this first meeting the Chairman read a letter addressed to him by the Secretary-General of the League at the request of the Council, and pointed out "that there were two main points raised by the Council. The first was that statement in the report [of the Committee] that the situation which had been found by the Committee to exist in China was in contravention to the Opium Convention. The Council appeared to think that criticism had been directed against the Government of the Chinese Republic, but, as he had explained in his letter to the Secretary-General, that was not in the least the intention of the Committee. He did not think, however, that the Committee need take the matter any further. The Council had been informed of the view of the Committee, and it rested with the Council to decide whether that view should be made public or not. The second point was the proposal of the Council to substitute, for the action suggested by the Committee, action

of opium conditions in China, would be highly objectionable to his Government, and that, should his Government be asked to extend such an invitation, it would certainly decline to do so. Minutes, 2d Sess., Appendix 5, p. 67.

of a different kind, consisting in the appointment of a representative of the International Anti-Opium Association to collaborate with the Commission of the Chinese Government in its investigation of the opium situation in China and to report, through the medium of the Chinese Government, to the League of Nations. That proposal had been accepted by the Chinese Government."

After some discussion the Advisory Committee adopted a resolution which embodied these suggestions thus made to it by the Council.

CHAPTER VII

THE ORGANIZATION AND RULES OF PROCEDURE OF THE FIRST CONFERENCE.

The Conference was opened on Monday, November 3, by Sir Eric Drummond, Secretary-General of the League of Nations, who, in a very brief address referred to the steps leading up to the invitation to the eight Powers, China, France, Great Britain, India, Japan, Netherlands, Portugal and Siam ¹ to assemble for the purpose of seeking, by common agreement, the solution of the matters referred to by the Assembly of the League in the fifth of the Resolutions adopted by it on September 27, 1923.

Upon nomination by Mr. Sugimura (Japan), Mr. van Wettum, delegate of the Netherlands, was elected President of the Conference.²

Upon nomination of Dr. Sze, the Chief of the Chinese Delegation, Prince Charoon, delegate of Siam, was selected as Vice-President of the Conference. The first meeting was concluded with the appointment of a Committee to examine the credentials of the various delegations to see if they were in due order.

The second meeting of the Conference was devoted to a consideration of the Rules of Procedure, a draft of which had been prepared by the Secretariat of the

¹ For names of delegates to the Conference see Appendix IV.

² M. van Wettum had represented his country in The Hague Opium Conference, had served continuously upon the Advisory Committee, and had presided over the work of the Preparatory Committee

League.³ The discussion had upon this matter centered chiefly around two points: the plenipotentiary character of the Conference; and the publicity to be given to its proceedings.

Although it was plainly stated in Resolution 5 of the Fourth Assembly of the League and in the invitations to the Powers based upon that Resolution, that it was expected that delegates with plenipotentiary powers would be sent, it appeared that a number of delegations had come not thus equipped.⁴ It was decided that these delegates might be officially recognized by the Conference with the understanding that, as speedily as possible, they would secure full powers from their Governments.

Publicity. The question as to the amount or degree of publicity to be given to the proceedings of the Conference gave rise to animated discussion in which the fight for fullest possible publicity was led by Dr. Sze. The fifth rule of Procedure, as originally proposed, read:

“ All meetings of the Conference shall be public unless a decision is taken to the contrary. Decisions taken at private meetings shall be announced at a public meeting.”

Dr. Sze started the discussion by asking for a clear definition of the term “ private meetings.” “ He hoped that the same procedure would be followed at Geneva as at Washington,⁵ namely, that at the end of private meetings a communiqué would be drawn up by the President, and that, in addition, each delegate would have the right

³ C. O. P. 7.

⁴ The French draft of the Rules of Procedure spoke of the delegates as *munés de pleins pouvoirs*, but the English text described them simply as appointed and duly supplied with credentials from their Governments.

⁵ The Conference of 1921-1922.

to make public the attitude taken by his delegation during the private meeting.”*

This proposition met with vehement opposition from several of the other delegations. In the end, however, the rule was made to read: “All meetings of the Conference shall be public.”

However, the question as to publicity again arose when it was pointed out that no rule had been adopted as to meetings of committees and sub-committees. Here again Dr. Sze took the lead in urging that the public should be admitted to these meetings, or, if private meetings were held, that each delegation should remain free to state to the press what its own position had been upon the matters discussed. To the motion that had been made that the meetings of committees and sub-committees should be held in private, he moved that there be added the words:

“Each delegation shall have the right, however, to make public a statement of its own position with regard to matters discussed at meetings of committees or sub-committees.”

This amendment was adopted by a vote of four to three, with one abstention,[†] and the rule as thus amended was adopted by a vote six to one, with one abstention. Later events showed, however, that Dr. Sze had won a hollow victory.

At the opening of the third meeting it was suggested by the President of the Conference that the work of the Conference fall into two parts: the one dealing with the situation in China; and the other with the measures to be agreed upon as to the reduction of the use of opium for

* Minutes, 2d meeting, p. 2.

† India, Japan and Portugal voted in the negative; Siam abstained.

smoking in those territories where its use for this purpose is still permitted by law. This latter topic, he declared, might properly be discussed in committee by the Powers directly concerned, that is, without the presence of China. To this proposition Dr. Sze said that his Government had no wish to intervene in the domestic policies of the other Powers, but that, in the present instance, he thought that the Chinese Delegation should participate in the discussions to be had, since the opium consumed in the territories or possessions of the other Powers was almost exclusively by natives of China. "While naturally reluctant to interfere in the administration of these territories and colonies, China wished to know in what way the question would be discussed, and in consequence desired representation on the Committee. In this way, when the questions came to be dealt with in plenary Conference, the Chinese delegate would be able to avoid the necessity of asking questions which would give rise to renewed discussion of matters which had already been dealt with."^a

To the suggestion of the President that the Chinese delegate might be present in an advisory capacity, Dr. Sze objected, but gave assurance that, if present with a full status, he would not intervene in an active way in any purely internal questions which might be discussed by the Committee, and that in all probability he would abstain in such cases from voting. "He could not, however, promise anything definite for reasons which he had already given, and he, his colleagues of the Chinese Delegation, and the whole Chinese people would regret the exclusion of China from the Committee. All the Powers were on an equal footing at the Conference, and it was

^a Minutes, 3d meeting, p. 2.

not likely that China, having suffered so much from the alienation of certain of her sovereign rights to various Powers, would think of attacking the sovereign rights of those Powers." A little later he said:

He desired to clear up a possible misunderstanding with reference to the third item on the agenda. While not wishing to make any general declaration on the subject, he could say that China wished to collaborate in any measures which might help the European Powers to solve the problem of opium in their colonies. He hoped that, on their side, these Powers would reciprocally, in their colonies, take measures which would aid China to solve her problem. As far as the internal situation in China was concerned, he could not tolerate a discussion of it. He expected that this would not be attempted. He would be glad if the Conference would confine itself to making suggestions in the spirit of the Washington Conference.

Due to Dr. Sze's insistence, the establishment of this Committee from which China was to be excluded was abandoned and an agreement reached that questions relating to the gradual and effective suppression of the legalized use of prepared opium should be discussed in the morning plenary meetings of the Conferences, and those relating to the measures to be taken by China for the suppression of the production and use of opium within her own territories to be considered in the afternoon plenary meetings.

However, it soon appeared that the other Powers had not abandoned the idea of discussing the matter of regulating within their several jurisdictions the smoking of opium without the presence of the delegates of China. At the fifth meeting the British delegate, Sir Malcolm Delevingne, pointed out that the members of the Conference did not have at their disposal adequate information upon the following points: (1) The actual rate of con-

sumption of prepared opium in the different territories; (2) a statement and comparison of the systems of control in the different territories; and (3) the facts regarding illicit trade in opium. At the seventh meeting he proposed that a committee, consisting of representatives of France, Great Britain, Japan and the Netherlands be appointed to make an examination of these matters and to report its findings to the full Conference.

Dr. Sze asked that China be represented on this Committee, but his formal motion to this effect was defeated by a vote of five to one, China alone voting in the affirmative.⁹ The resolution read as follows:

That a Committee consisting of delegates of the Countries in which the problem arises on the largest scale—namely, France, Great Britain, the Netherlands and Japan—be appointed to examine the matters mentioned by the British delegate at the meeting of November 5, and report to the Conference at the earliest possible moment.

From the time that this Committee was appointed, there was, for the period of a week—that is, one-half of the total time which it was planned should be at the disposal of the Conference¹⁰—no further discussion by the full Conference of the chief problem for the consideration of which the Conference had been convened, namely, “the measures for giving effective application in the Far Eastern territories to Part II of The [Hague] Convention and as to a reduction of the amount of raw opium to be imported for the purpose of smoking in those territories where it is temporarily continued.” And, in fact, what

⁹ Japan and Siam abstained from voting.

¹⁰ As the Second Conference was to convene on November 17, it was expected that the First Conference would conclude its labors before that date.

discussion there later was upon these topics had to be confined to the four days that remained to the Conference after the Committee had made its report on November 13.

It is to be further observed that not only were the Chinese delegates excluded from the meetings of this Committee, but that its meetings were held *in camera*, and no communiqués issued.

Still further it is to be observed that this Committee, which had been entrusted merely with the determination of facts, in its report went far beyond a mere finding of facts, and reported a series of conclusions or resolutions which were treated by the Conference as in the nature of draft provisions for insertion in the Agreement or Convention which was expected to be the final result of the labors of the Conference.

CHAPTER VIII

THE CHINESE SITUATION AND THE FIRST CONFERENCE.

As has been pointed out in an earlier chapter, China, as the result of a tremendous effort upon her part, had succeeded in 1917 in putting substantially to an end the production and consumption of opium within her territories. Unfortunately, however, during the years since then, and due to unsettled political conditions within her borders, there has been a recrudescence in China of the cultivation of the poppy and the use of prepared opium. This recrudescence has been due, upon the one hand to the inability of the Central Government to exercise adequate executive and administrative control over the provinces and the military and civil authorities therein, and, upon the other hand, to the financial needs of the various military commanders in these provinces who have, in some cases, encouraged and even compelled the farmers to grow the poppy in order that the sale and consumption of opium may be taxed. In some instances, indeed, monopolies for the manufacture and sale of prepared opium appear to have been established by these military officials. All this has been in violation of the laws of the Republic of China, but, for the time being, the Central Government has been unable to put an end to it.

This matter of the illegal production of opium in China is a matter of concern not only to the Chinese Govern-

ment and to the Chinese people, but also to the other Powers of the world, and especially to those having territories or possessions in the Far East, since a certain amount of the opium thus produced is finding its way, by illegal means, outside of China, and going to swell the total amount of illicit trade in that drug.

There is no way of arriving at even an approximate estimate of the total amount of opium that, during the last few years, has been produced in China. The Advisory Committee on Traffic in Opium, from the time of its establishment, sought to obtain from the Chinese Government estimates as to this, and that Government made certain reports upon the subject which were, however, unsatisfactory in character, and were so described by the Committee in its reports to the Council of the League. Occasion has already been had to refer to the attempts made by the Committee to have the Chinese Government conduct a more adequate investigation upon the subject,¹ but no such satisfactory investigation had been made, or, at least, no report based upon such an investigation has been officially made by the Chinese Government.

Lacking such an official report, the International Anti-Opium Association of Peking, in May, 1924, issued a pamphlet entitled *Opium Cultivation and Traffic in China: An Investigation in 1923-1924*.² At the same time the Association issued its Annual Report in which is said: "If in 1905 China produced approximately 30,000 tons of opium, in 1923 it cannot have been less than half this quantity."

¹ *Ante*, p. 142.

² Published by the Association in Peking.

It is clear, however that the Association felt that this estimate was but a very uncertain guess, for, in the introduction to its report, it said:

The publication of the following investigation of opium conditions in China is made without comment and supplementary to the Annual Report of the International Anti-Opium Association. The facts here printed are compiled almost exclusively from the reports of missionaries and other foreigners resident in the provinces, and agree with similar statements published in the Chinese press from purely Chinese sources.³

At the eighth meeting of the Conference Sir Malcolm Delevingne made a long statement devoted to the situation in China in which he emphasized not only the seriousness of the opium situation in China, but the difficulties confronting the other Powers in the Far East by reason of the amount of opium that was being smuggled out of China into their own territories or possessions.

From these remarks, as well as from those of other delegates, it became clear that the Powers, other than Japan, within whose territories or possessions the sale and smoking of prepared opium, and the importation of raw opium is still sanctioned by law, intended to present the matter of the illicit trade in Chinese opium as a reason why they would be unwilling to introduce any systems for the control of the use of prepared opium that

³For other facts regarding the production of opium in China see the British "Blue Book," cmd. 1531 (1921), entitled *Correspondence Respecting the Cultivation of Opium in China*; the memorandum from the British Government entitled *Information Regarding Opium Cultivation in Various Parts of China During the First Quarter of 1924*, issued by the Secretariat of the League of Nations as document O. C. 224; and *The Opium Situation in China*, also issued by the Secretariat of the League, as document C. O. P. 11, and distributed to the delegations to the First Conference. In this last document, the estimate of 15,000 tons as representing the annual amount of opium produced in China is repeated.

would result in the suppression of that use within a definite or short period of time. The contraband trade in Chinese opium, it was continually reiterated, was the "dominant" factor in the situation. Thus, in the first formal statement made on behalf of the Netherlands delegation, M. van Wettum said:

Intricate as the opium problem appears, there seems to me to be in reality only one cause from which all these difficulties arise, namely, the illicit trade. If there were no illicit traffic, we might be able to agree today on a system of control which could be simple, workable, and successful. Our real work will prove to be the setting up of a system which will give us the maximum of efficient control without stimulating the clandestine trade. Long experience in the Far East has given me the absolute certainty that any new measure of control, which has not been preceded by an elaborate investigation of the influence which that measure may have on the illicit traffic, is worse than useless, because the situation deteriorates as soon as the clandestine trade is too much stimulated. Therefore, in my opinion, our first problem is the prevention of smuggling.⁴

The extent to which the Powers other than Japan, in whose territories or possessions the use of prepared opium was still supported by law, were going to rely upon the alleged existence of a great illicit traffic in opium as an excuse for failure upon their part to adopt measures for the effective and early suppression of that use, was explicitly stated in the report to the Conference of the Committee of Four (Great Britain, Japan, France, and the Netherlands). The conclusions of this Committee were later given in a statement which, as first proposed, was to be embodied in a Protocol, but which finally found a place in the Final Act of the Conference.

The efforts of the Chinese Delegation with reference to the problems raised by the illegal recrudescence of the

⁴ Minutes, 5th Session.

production and use of opium in China were directed to the following propositions: (1) That the unfortunate conditions in China should not be exaggerated by the other Powers; (2) that the extent of contraband trade in opium should not be magnified beyond the actual known facts of the case; and (3) that, whatever might be the facts regarding smuggling, they should not be employed by the other Powers as an excuse for not taking those measures which they had been convened in Conference to agree to take.

The following statements will show the position and desires of the Chinese Delegation.

At the sixth meeting of the Conference Dr. Sze in the course of a formal statement, said:

At the present time, no Power, is more concerned than is China that, from the proceedings of this Conference, agreements should result which will hasten the movement for the total suppression of the use of prepared opium. She is concerned as to the welfare of the Chinese people living outside China as well as of those living within her own borders.

It is clear that this result cannot be hoped for without the whole-hearted co-operation of all the Powers which have territorial interests in the Far East. China frankly admits, and greatly regrets, that, due to temporary disturbed political conditions within her own borders, there has been, to a certain extent, a recrudescence of the cultivation of the poppy and of the production and use of prepared opium. This fact, no doubt, complicates and renders somewhat more difficult the solution of the problem with which the Conference is concerned, but it is to be borne in mind that this is but one element in the present situation, and that, serious as it is to the Chinese people living in China, it is of general or international significance only in so far as Chinese-produced opium finds its way outside the borders of China, and there is no certain evidence that this occurs to a very great extent. It will, therefore, be unwise, as well as unjust to China,

should the fact of the recrudescence of the production and use of prepared opium in China be made an excuse for non-action on the part of the Powers, or in any way allowed to discourage them from making every possible effort to bring to an end, within their several jurisdictions, the smoking of opium or the export of opium which will be used for that purpose. Equally it is to be hoped that the Powers will not feel justified in remitting their efforts to prevent practices upon the part of their nationals which render more difficult the task confronting China in her endeavour to suppress, within China, the production and use of prepared opium.

The Chinese delegation does not believe that any good will result from unconstructive criticism of each other upon the part of the Powers represented at this Conference, and, therefore, it is not disposed to mention in a fault-finding way certain of the evils, serious though they are, from which the Chinese people, in and outside China, are suffering by reason of the foreign-grown opium that is smuggled into China, and also by reason of the great amount of foreign manufactured narcotic drugs which are illegally introduced into and sold in China. This debauching traffic is for the most part carried on by nationals of foreign Powers.

This situation of affairs, with reference to the smuggling of narcotic drugs, is mentioned in this first Conference only because its effect is greatly to increase the difficulty of the task of the Chinese Government in its efforts to enforce its laws which prohibit absolutely the production or the smoking of prepared opium. Reports have come from provincial authorities that, almost in proportion as they succeed in stamping out the smoking of opium, there is recourse, especially by the poorer classes, to these smuggled-in narcotic drugs. Thus, in a recent letter to the International Anti-Opium Association at Peking, His Excellency Wang Cheng-Pin, Civil Governor of the Metropolitan province of Chihli, says: "There are signs, I believe, if I am not too optimistic, that the opium evil may be stamped out in my province before long. But it is regretted that the greater the success of the opium suppression in Chihli, the more prevailing is the narcotic problem. This traffic in morphia, Chintan or white pills is more pernicious than opium to our Chihli people. China does not manufacture narcotics. The morphia, cocaine, heroin all come from

abroad." If this be a true statement, and there is no reason for believing that it is not, it is evident that the enforcement of the laws in China against the production and use of prepared opium will be carried on under very discouraging conditions so long as effective steps are not taken greatly to lessen, if not wholly to put an end to, illicit trade in narcotic drugs.

Just as China hopes and expects that the other Powers will take such action as will render more easy the solution of her own problem with reference to opium and narcotic drugs, or at least that they will place no hindrances in her way, so, reciprocally, she stands ready to do all that lies within her power to facilitate the efforts of other Governments to suppress the smoking of opium and the illicit use of narcotic drugs within their several jurisdictions.

Upon her part, China gives assurance that, when the present disturbed political conditions in her territory come to an end, and a government with more effective administrative powers is established, the production and use of prepared opium will, in fact, be prevented. This will be one of the first reforms to which such a government will address itself. That she will then be able to repeat her remarkable achievement of the period from 1907 to 1917, there can be no reasonable doubt.

Enlightened public opinion in China is now more widespread than it then was, and is equally united in the belief that the smoking of opium is morally and physically debasing to those who indulge in it. Since 1907, the extension of education along modern lines has been very rapid. The doctrines, too, of scientific hygiene and medicine have become more generally known, and thus, when the Chinese Government finds itself happily enabled again to secure a more rigid enforcement of its laws and decrees throughout the provinces, it will have its efforts supported by an enlightened public opinion even more strongly than it was during the years from 1907 to 1917.

The International Anti-Opium Association, in one of its most recent publications, *Letters from Chinese Statesmen and Leaders on the Present Opium Conditions in China*, has this to say of China's achievement of those years:

"When we consider the difficulties that lay in the way of this reform, such as the enormous numbers who had acquired the opium

habit, the moral weakness brought on by the habitual use of the drug, the physical sufferings and dangers inseparable from a cure, the large amount of capital invested in the trade, the great profits easily made, the many engaged in the trade, both Chinese and foreign capitalists, agriculturists, merchants and the like, and also the important revenues in China and India, it does seem as if the impossible had been accomplished, and throughout the whole civilised world the Chinese Government and people were credited with having wrought a moral reformation almost without parallel in the history of the world."

China then had the especial sympathy and aid of Great Britain, India and the United States. She now hopes for the same sympathy and co-operation, not only from those States but also from the other Powers.

As evidence of this aid and co-operation, China asks not only that, as has already been indicated, the other Powers should do all that is in their power to prevent the entrance of narcotic drugs into illicit trade, but that they should take every possible step to bring to a speedy end the use of prepared opium in their several Far Eastern territories.

To this end, China asks of the Powers:

1. That the smoking of prepared opium be declared in unqualified terms to be a harmful and therefore illegitimate use of opium.
2. That the importation of opium into their several territories for other than strictly medicinal and scientific uses be at once forbidden, or, where this is not immediately practicable, that such importation be progressively curtailed each year and be wholly forbidden within a definite and brief period which shall be agreed upon.
3. That the exportation of opium for other than strictly medical or scientific purposes be at once forbidden or, where this is not immediately practicable, that such exportation be progressively curtailed each year and be wholly forbidden within a definite and brief period which shall be agreed upon.
4. That these undertakings with regard to the importation and exportation of opium be applied to the colonies and other dependencies of the agreeing Powers.
5. That the use of prepared opium by those of the Chinese race as well as by other persons subject to their respective territorial juris-

dictions be forbidden, but that there be excepted from this prohibition persons who, because of age, or long habituation to the use of the drug, may, upon proper medical grounds, require special treatment.

At the seventh meeting of the Conference, speaking with reference to the matter of contraband, Dr. Sze said:

He noted that in the statements made by several of the delegates mention was made of the seriousness of the illicit traffic. In this connection he thought it would perhaps be of use to the Conference to have, if available, information as to the nationality of the smugglers, the form and amount of the drug smuggled and the destination and origin of the smuggled consignments. He noted that the illicit traffic was not only giving concern to the Conference, but also that, on account of it, members spoke of the impracticability of the immediate suppression of the use of prepared opium because they feared that the suppression would result in the replacing of legitimate by smuggled opium. This apprehension was not, he thought, so great as members were inclined to think. If no prepared opium was to be allowed to be smoked, it would be much easier to detect the existence of opium, because opium could not be smoked without its being easily detected. The smell from the smoking was so strong that it could be detected at some distance. Further, opium smokers could always be distinguished from non-smokers by their complexion, the stain on their hands, and, in some cases, even by their voice. With reference to the statement made by the Portuguese delegate, might he ask what Macao had done toward the checking of illicit traffic in opium? Did the authorities keep track of opium which was re-exported from Macao so as to ensure its reaching its true destination? He noted that the Portuguese delegate had also dwelt upon the subject from the economic point of view. He could well understand that, for those territories the revenues of which depended largely, if not entirely, on smoking and gambling, it would be difficult if one or both were prohibited immediately. If it were on account of the fear of the loss of revenue that the suppression of opium smoking had been delayed, he suggested, in view of the recognized harmful effects

of the smoking of opium, that Portugal might apply to the League of Nations for a loan to tide her over the transition period.⁵

The questions put by Dr. Sze with reference to the information needed with regard to the smuggling of opium, if its true significance, or even its amount, were to be determined, indicated, what appears to be the fact, and, indeed what must almost necessarily be the fact with regard to any illegal traffic, that its character and amount can be only guessed at in the light of the seizures of the contraband opium that the police or customs authorities succeed in making. How vague and unreliable such guesses must be Dr. Sze showed when he called attention to the fact that the British Delegate, Sir Malcolm Delevingne, in one of his statements had first estimated the amount of opium seized as probably representing not more than one-tenth of the amount of contraband opium that escaped seizure, and then, in the very next breath, quoted from an official report from Hongkong which estimated the amount of seized contraband opium as merely equalling the amount that probably escaped seizure.⁶

At this same time, referring to certain figures giving the number of seizures of contraband opium at Hongkong

⁵ This last proposal was, of course, a sarcastic one. Dr. Sze's reference to the well-known fact that the public revenues of the Portuguese possession of Macao are largely obtained from legalized gambling and the smoking of opium, elicited from the Portuguese delegate the rather heated reply that his country had no need of advice from any other country and that, as to the part played by Portugal in the Far East, he would appeal to history. In view of the reputation which Macao has had for many years in the Far East, Dr. Sze said that he also was quite willing to leave the verdict to history as to whether or not Portugal had, as Mr. Rodrigues asserted, "always worked for the good of humanity."

⁶ Fourteenth meeting.

which Sir Malcolm Delevingne had quoted, Dr. Sze said: "The number of seizures was an important factor, but was not everything. Other important factors were the amounts seized, the kind of opium seized, whether it was Chinese, Indian, Persian or Turkish, by whom it was smuggled, whether by Chinese or foreigners, whence it had come and to whom it was consigned. It was also important to know what was being done with the opium seized and what punishments were given to smugglers when caught. These were all essential factors which it was necessary to know. He reminded the Conference of what Sir John Jordan had said in the Advisory Committee regarding smuggling carried on by persons other than Chinese. This class of smugglers was very considerable. If he remembered rightly, Sir John Jordan had quoted a case of smuggling by an Englishman which had resulted in the largest seizure."

That considerable opium of non-Chinese origin figures in the contraband trade in the Far East and is smuggled into China is referred to in the last chapter of the present work. Since the close of the Conference there has arisen in the International Mixed Court of China a case which further evidences this, and also gives point to the contention of the Chinese authorities that the existence of extra-territorial rights considerably handicaps them in their efforts to deal effectively with the contraband traffic in opium. In the case referred to, in the Shanghai Mixed Court, it appeared, from a petition filed on behalf of a Mr. N. E. B. Ezra and a M. Dadunashvilli, that a cargo of 180 cases of opium was shipped from Constantinople on February 26, 1924, by a Japanese steamer under a bill of lading jointly owned by Messrs. Ezra and Dadunashvilli, but that the cargo was removed from the steamer

and taken to Shanghai and there sold by certain Chinese. This opium, it was claimed, would have had a value at Vladivostock of \$1,296,000 (Mex.). The British Assessor in the Mixed Court held that the charge against the Chinese for having obtained this opium by illegal means could not be proceeded with until the British, Spanish and Chinese authorities had had time to discuss the status of Mr. Ezra with a view to arriving at some agreement as to the constitution of the Court owing to the contention of the Spanish Consul that, by registering Mr. Ezra at the Spanish Consulate, he had conferred upon him extraterritorial rights.

It may also be noted that, since the close of the Conferences, the Government of the Netherlands has sent a communication to the Secretariat of the League (O. C. 253) in which it is said:

“ Consignments of opium reported in 1923 by several ships in Sabang as intended for Vladivostock, never arrived at the latter port, not even the consignments for which the authorities of that town had issued import licenses. The whole of this opium was probably unloaded at various places along the southern coast of China, being presumably landed by armed launches, old steamboats or Chinese junks. This information strengthens the belief that raw opium intended for some port in Eastern Asia is, in most cases, probably sold along the coast of China before reaching the indicated place of consignment.”

Notwithstanding the fact that the Powers, with the exception of Japan, which continued to permit the smoking of opium within their territories or possessions, ascribed such demoralizing effects to the contraband trade in raw opium, they made no attempt in the Conference to show that they had used every reasonable effort to sup-

press this illicit trade. And it was rather disconcerting to them when the Japanese Delegation was able to show that its Government had been able to suppress, almost, if not entirely, the smuggling of Chinese opium into Korea, which has a long land frontier bordering on China, as well as into the great island of Formosa which lies only a short distance from the southern coast of China, which has a large Chinese population, and between which and China many Chinese are constantly passing to and fro. This success in suppressing the illicit trade, the Japanese Delegation ascribed to two causes: The efficiency of the Japanese police service, and the low price placed upon the opium sold by the Formosan Government—a price so low that there was little inducement to persons to engage in smuggling.⁷

Admitting, *arguendo*, that the existence of the contraband trade in opium in the Far East hinders the efficient operation of systems of control whose purpose is to reduce and ultimately wholly to suppress the smoking of opium, the position taken by the Chinese Delegation to the Conference was that the Powers should, nevertheless, establish such systems, for with them in existence and operation, the Powers would be in a position to take instant advantage of any diminution in extent of this illicit traffic and thus be able to accelerate the movement towards the total suppression of the use of prepared opium.

It is clear that the Powers within whose territories or possessions the use of prepared opium is still sanctioned by law felt themselves obliged to give some sort of ex-

⁷ In the case of Formosa, as elsewhere appears, the lowering of the price of opium had had no tendency to increase the amount consumed, since a system of registering and rationing had been rigidly enforced.

planation why, in the Agreement which they finally reached, no obligation was undertaken to adopt measures which would bring to an end within a definite or reasonable brief period of time, this legalized vice, and, therefore they embodied in their Final Act the following statements:

It has been pointed out to the Conference that in some countries the system of licenses (or registration) and rationing has been successful in diminishing the number of smokers.

At the same time, the Conference has found that in other countries the contraband trade which equals and even surpasses in extent the legitimate trade, renders the application of this system difficult, and in the opinion of the Governments in question useless and in some cases dangerous.

Accordingly, the Conference declares that the possibility of adopting these measures or of maintaining them in those territories where they are now working successfully depends principally upon the extent of the contraband trade.

It therefore leaves to the Contracting Powers which have not yet applied this system the duty of selecting the moment when circumstances will allow of its adoption and of taking in the meantime all such preparatory measures as they may deem expedient.

To these statements the Chinese Delegation made strenuous objection, which objection was finally embodied in the following statement which the Delegation vainly endeavored to have added to the instrument which was to be signed.*

The Chinese delegation greatly regrets that it is unable to accept the proposal of the French delegation contained in C. O. P. 42. The Conference has not been furnished, in the opinion of the Chinese delegation, with evidence which conclusively demonstrates that, in some of the territories of the Powers in the Far East, the amount of smuggled opium equals and even surpasses in extent the legitimate

* As to the refusal to allow this statement of the Chinese Delegation to appear, see minutes of the twentieth meeting.

trade, and that the application of the system of licences (or registration) is thereby rendered useless and in some cases dangerous. The Chinese delegation, therefore, regrets its inability to participate in a statement that such is a determined fact.

The Chinese delegation also regrets its inability to accept the conclusion contained in the last paragraph, namely, that the Conference should formally approve the proposition that those of the Contracting Powers which have not yet adopted the system of licences (or registration) shall be under no obligation to do so within a definite period of time, but that each shall undertake merely to select the moment when circumstances will allow of the adoption of the scheme and to take, in the meantime, such preparatory measures as they may deem expedient.

The Smuggling of Opium and Narcotic Drugs into China. Other points connected with the recrudescence of the production and consumption of opium in China, and with the contraband trade in the Far East were: As to the extent to which China's efforts to enforce her policy of absolute prohibition were being hindered by the enormous amounts of foreign manufactured morphine and other narcotic habit-forming drugs which were being smuggled into China; and the extent to which foreign produced opium, and especially Indian opium, was finding its way, illegally, into China. These were questions which had already been somewhat discussed in the Advisory Committee.

At the second session of the Advisory Committee, Sir John Jordan, speaking of the recrudescence of the cultivation of the poppy in China, said:

The causes of this collapse had been primarily due to the disturbed state of China, which had been and still was in a transition stage from monarchy to democracy. The military governors of the provinces were the real rulers, and they were compelling and encouraging the growth of the poppy. There were, however, three contributing

causes: first, the immense quantity of morphine which was sent to the Far East from about 1917 onwards and of which a large quantity had found its way into China; next, the smuggling of foreign opium; and, lastly, the Indian Government's policy of continuing to send opium to Hongkong, the Straits Settlements, etc. While the Indian Government continued to supply opium to Chinese settlers in its own possessions, in those of other Powers and in the East, the Chinese Government would and did argue that it was quite justifiable for them to supply their own people at home with opium; this was an acknowledged fact and was also the opinion of all the British communities in the East. When he had first gone to China about forty years ago, comparatively little opium had been grown. Indian exports to China, however, had increased until they had reached at one time as much as 100,000 chests a year. It was scarcely surprising, therefore, that China should have increased her own cultivation of opium. If the Advisory Committee did not take firm action, China, which had not hitherto produced any morphine, would soon begin similarly to manufacture morphia rather than allow it to be imported by other countries.*

At the next session of the Committee, with reference to a request that had been made by the Government of Hongkong that the amount supplied to it by the Indian Government should be doubled, Sir John said that "this request, if granted, would produce a bad impression in China. . . . The great difficulty was the financial question. The Eastern colonies needed the revenues they drew from opium in order to balance their budgets. But this should not be a reason for increasing the import of opium to Hongkong. All the colonies, including the British colonies, received opium in excess of their requirements. . . . [He] was of the opinion that the import of opium should be rationed in the Far East. British colonies made money through the opium monopoly, and that

* Minutes, 2nd Sess. of the Advisory Com., p. 15.

was a temptation for the Chinese Government to do the same.''¹⁰

Mr. John Campbell, the representative of the Indian Government, replying to the statements which Sir John had made, denied that there was a relation between conditions in China and the continued export of Indian opium. In rejoinder to this Sir John said that he could prove that his assertions were well founded. He said:

The statistics which had been placed before the Committee on previous occasions showed beyond a shadow of a doubt that hundreds of thousands of ounces (in one year as much, probably, as 800,000 ozs.) of morphia had been sent to the Far East for illicit introduction into China. China did not produce an ounce of morphia herself, and morphia had thus taken the place of opium in certain parts of China. (2) The statistics published by the Chinese customs and the seizures of opium made in Hongkong and Singapore amply attested the magnitude of the smuggling operations in opium that went on during the years in question. Most of it came in steamers from Liverpool and London, and steamers from the latter port arriving with 3000 pounds of opium. (3) The Indian Government had continued to send opium to Hongkong, the Straits Settlements, etc. This was a fact which was not disputed. . . . Mr. Campbell. . . . had pointed out that neither China nor Sir John Jordan had considered it necessary at the outset of the opium campaign in China to suggest that India should cut off her supplies of opium from (to?) Indo-China, the British Possessions in the Far East, etc. That was quite true, and the reason was obvious. The opium campaign in China was a vast undertaking, and until it had proved successful it would have been premature and indeed hopeless to deal with the subsidiary question. But as soon as the British Government was satisfied that China had carried out her part of the programme and when the Chinese Government gave further evidence of its sincerity by destroying all the Indian opium that remained in

¹⁰ Minutes, 3d Sess., p. 15.

China, Sir John Jordan had felt that the moment had come when, if the reform was to be successful all round, the export of opium for the consumption of overseas Chinese should likewise be stopped, and he had lost no time in making an urgent and earnest appeal in this sense, which, to his great regret, was not favourably entertained. Mr. Campbell had thought this an extraordinary proposition. Sir John Jordan saw nothing extraordinary about it. What did seem extraordinary was that the Indian or any other Government should have expected China to continue to make a reform which entailed such a loss of revenue and required such sustained and self-denial effective in practice, while Western countries maintained opium monopolies in leased territories which formed an integral part of the dominions, and financed their possessions adjacent thereto largely from the opium imported for consumption by Chinese settlers. Opium agreements notwithstanding, this, added to morphia and opium smuggling,¹¹ was putting too great a strain upon human nature."

Sir John Jordan said that as long as opium was exported from India to Singapore, Hongkong, Macao and numerous other places in communication with China, she could not adequately cope with the opium question. Opium, wherever grown, could always reach the consumers.¹²

In the fourth meeting of the First Conference, Dr. Sze pointed out that there was evidence of the fact that many Chinese acquired the vice of opium smoking after arriving in the Far Eastern possessions of the Western Powers where the use of prepared opium was still permitted by law. As an instance of this he referred to the conclusions reached by the Commission which had investigated the

¹¹ At the first session, 1921, of the Advisory Committee, Sir John Jordan had said "that he was in a position to *prove* that a very great quantity of opium entered China each year, and he was convinced that this would very largely cease to be the case if the Indian Government reduced the production and export of opium." (Minutes, p. 13).

¹² Minutes, 1st Sess. of Advisory Com., p. 13.

subject in the Malaya Peninsula. The report of that Commission quoted the statement of the earlier Opium Commission of 1907-1908 to the effect that "the general trend of the evidence tendered to them indicated that the majority of smokers acquired the habit locally," and, as to its own findings, said:

(a) At our suggestion a discreet examination of immigrants on certain ships from China was made. The result of the inquiries show that, of 1086 immigrants who had never been in British Malaya before, 145, or 13.3 per cent, admitted that they were opium-smokers.

(b) Our own Smoking-Room Sub-Committee reported that 80 per cent of the 85 smokers questioned by them stated that they acquired the habit locally.

(c) In connection with the censuses of opium-smokers in hospitals, 1170 smokers were asked where they learnt to smoke opium and 829, or 70.9 per cent, stated that they acquired the habit locally.

(d) Of the 136 opium-smokers enumerated in decrepit wards, 83, or 61 per cent, claimed to have commenced the habit in Malaya.

(e) Of the 584 Chinese inmates of leper asylums who smoke opium, 341, or 58 per cent, stated that they commenced the habit during residence in Malaya.

(f) Our Sub-Committee which made inquiries as to opium smoking amongst jinricksha pullers found that 65 per cent of the smokers acquired the habit locally.

Measures to be Taken by China. In a formal statement given to the Conference at its sixth meeting the head of the Chinese Delegation said: "Upon her part, China gives assurance that, when the present disturbed political conditions in her territory come to an end, and a Government with more effective administrative powers is established, the production and use of prepared opium will, in fact, be prevented. This will be one of the first reforms to which such a Government will address itself. That she will then be able to repeat her remarkable

achievement of the period from 1907 to 1917 there can be no reasonable doubt." ¹³

In this same statement, Dr. Sze went on to show the rising tide in China of an intelligent and patriotic public anti-opium opinion. The facts which he then cited were later reinforced by a remarkable address from Mr. T. Z. Koo, the representative of the National Anti-Opium Association of Shanghai, China, to the Second Conference.¹⁴

At the eleventh meeting of the Conference, Dr. Sze again gave, in a still more formal manner, the assurance that the Chinese Government would not depart from its policy of the absolute suppression, so far as it might be able to do so, of the production and use of opium. This declaration was in the following terms:

In the resolution of the Assembly of the League of Nations providing for the convening of this Conference, it is declared that one of the subjects to be discussed is "as to the measures which should be taken by the Government of the Republic of China to bring about the suppression of the illegal production and use of opium in China." It is here recognised that, at the present time, the production and use of opium are forbidden by the laws of China. From the policy represented by these laws, and which has now been the policy of China for nearly twenty years, the Chinese Government will not depart. Furthermore, that Government is prepared to give, and does give, to the Powers represented at this Conference, the absolute assurance that, to the extent of its administrative and executive power, it will continue this policy by applying rigidly the laws now in force, and by adopting still other measures, should developing conditions make their need manifest, in order that the complete suppression and use of prepared opium may be secured. Having given this assurance, China hopes that the other Powers will cooperate with

¹³ See also the speech of Dr. Sze, at the Fifth meeting of the Second Conference, and quoted, on p. 289 of this volume.

¹⁴ See also the letter of Mr. Koo to Dr. Sze of November 15, 1924, and circulated to the First Conference as Document C. O. P. 39.

her by taking such action in their several territories as will make easier for China the successful carrying out of her policy as above declared.¹⁵

Acceptance of Chinese Assurances. Mr. Sugimura, of the Japanese Delegation, thereupon proposed the following draft resolution for adoption by the Conference:

The Conference, trusting in the declarations of the Chinese delegate, declares itself ready to collaborate in a friendly manner with China with a view to the suppression of the opium evil. The Conference hopes that political considerations will very shortly make this collaboration effective and possible, and at the same time proclaims its continued fidelity to the principle of non-intervention in the internal affairs of China.

This proposed resolution led to some discussion, during which Mr. Sugimura said that the actual wording of his proposition was of secondary importance and that the essential point was that the Conference should express its confidence in the statements of the Chinese delegate. In the course of his remarks, he said:

As far as the Japanese delegation was concerned, the question of opium was, above all, a humanitarian and social question. The economic and financial considerations regarding import, export, sale, purchase, etc., were only of secondary consequence. He had had occasion during the time which he had spent in China in 1917-1919 to note the admirable efforts made by Chinese statesmen and enlightened Chinese public opinion to abolish the opium scourge. China had almost achieved success, and the Conference should pay a tribute to such an effort. Since that date, however, the situation in China had unfortunately changed. Too much criticism had been made by the League of Nations in regard to China. Appeals should now be made to the sentiments of brotherhood which bound the people;

¹⁵ See also the statement contained in the Memorandum accompanying the letter of withdrawal from the First Conference of the Chinese Delegation.

sentiments which formed the basis of the League of Nations. That [no] country could be certain that it would not itself one day fall into disorder, which would paralyse its normal life. In the previous year Japan, which had been the victim of a terrible earthquake, had received the valuable assistance of Great Britain, France, United States, the Netherlands, China herself, and other nations, and Japan would always be grateful for such a mark of sympathy. If feelings which inspired such action were to disappear, what would be the use of the League of Nations? Such feelings ought to dominate the question of opium, which was, above all, a humanitarian and social question.

At an earlier meeting (the ninth) of the Conference, Mr. Sugimura had said :

In the life of States, as in the life of individuals, a disease might occur, paralysing their normal activity. This was what had happened to China, and the disease was sapping its strength. The Conference should not ask China to achieve the impossible. Good-will and right thinking, indispensable for the proper achievement of any international work, were certainly not lacking in China. The Conference could have entire confidence in the future of the great Chinese nation. All the friends of China, though deeply regretting the present ills from which she was suffering, knew, nevertheless, that they could entirely count on the indefatigable efforts of her Government towards achieving the end in view. The distinguished career of the Chinese delegate, Dr. Sze, was well known. The Conference could count on his support either as a member of the Chinese Government or as a well-known champion of public opinion when the new central democratic Government should have introduced the necessary order and authority into the country.¹⁶

¹⁶ Mr. Campbell of the Indian Delegation, who, throughout the Conference, showed a rather extraordinary animus against China, was the one who chiefly opposed the adoption of the resolution proposed by Mr. Sugimura, but the only objection he could advance against its adoption was that it might create a false impression as to the degree of seriousness with which the other Powers were viewing the situation in China.

Supporting Mr. Sugimura's motion with reference to the question as to the grounds upon which the Conference might have confidence that, when established upon a firm basis, the Chinese Government would be both able and disposed to execute with efficiency its laws against the production and use of opium in China, Dr. Sze said:

The same question had been asked at the Conference held at Shanghai in 1909 and again at The Hague Conference in 1912. The record of the Chinese Government from 1907 to 1917 was the best evidence that such apprehensions need not be entertained. Furthermore, one should look at the province of Shansi, with a population of over 11,000,000 and an area of over 81,000 square miles. What had been accomplished in such an important province under such unfavourable conditions could certainly be repeated in other provinces when the general conditions in China became better. Moreover, when the Chinese Government found itself in a better position to enforce its will, it would be supported by a public opinion which was much stronger and more enlightened than that of the period from 1907 to 1917. As Dr. Sze had stated on Wednesday, the progress of popular education was rapid, as also was that of the sciences of medicine, hygiene, etc. Evidence of the widespread and growing opposition of public opinion to the cultivation of the poppy was abundant; some of that evidence was, he understood, in the possession of the Secretariat.

With regard to Mr. Sugimura's motion that the Conference should accept the assurances of the Chinese Delegation with regard to its Government's policy, it was finally decided that it need not be put to a formal vote since, as declared by the President of the Conference, "the good faith of any Government or any representative could never be questioned and should not be explicitly affirmed."

CHAPTER IX

GOVERNMENT MONOPOLY.

At the tenth meeting of the Conference there was laid before it the report¹ of the Sub-Committee which had been appointed at the seventh meeting, composed of representatives of Great Britain, France, Japan and the Netherlands, and directed to consider the facts regarding the actual rates of consumption of prepared opium in the different territories, the different systems of control of the use of opium in those territories and the question of contraband trade in opium.

Reporting upon these matters, the members of the Committee declared that they had not been able to arrive at an estimate of the average rates of consumption of opium in the various territories where the smoking of opium was legalized because the contraband trade (except in Formosa) had reached such proportions that the figures for the licit consumption furnished no reliable basis of calculation. For the same reason, and also because the licensing of smokers had not been generally adopted, it had been found impossible to determine, except in Formosa, the number of smokers. In some cases, the report declared, the contraband trade was as large as or even larger than the legitimate trade, but no figures or other facts were adduced in support of this statement.²

¹ C. O. P. 30.

² These statements were later embodied in the Final Act of the Conference.

As to the different systems in the various territories and possessions for the control of the use of prepared opium, the members of the Committee reported that, after making due allowances for differing conditions in the different territories and possessions, they were unanimously agreed "that the establishment of a complete Government monopoly, (i. e., the retention in the hands of the Government of the importation, manufacture, sale and distribution to the consumers) has by experience been proved to be the only effective way towards the control of consumption."

As regards the system of registering or licensing and rationing those persons who should be permitted by law to buy or smoke opium, the Committee said that the Japanese delegation had declared that 20 years of experience in Formosa had convinced the Japanese Government that, for Formosa at least, that system was the best method of bringing about gradual and complete suppression. The other members of the Committee had, however, serious doubts as to the possibility of enforcing such a system in great centers of population, and they feared lest such severe restrictive measures would lead to an enormous increase in illicit trade in opium.

The Committee further found (again with the exception of Formosa) that the raising of the price of opium had a tendency to reduce consumption, provided the illicit trade was not thereby unduly stimulated.

Speaking generally of all the systems of control that were examined by it, the Committee said that it found that, under all of them, the attempt was made to prevent the use of opium by minors, among the measures taken to this end being propaganda in the schools, prohibition

of admission of minors into smoking divans, and prohibition of the sale of opium to, or its possession by, minors. The report made no attempt, beyond this statement, to exhibit the facts which showed that, in the territories and possessions in which the smoking of opium was legalized, there has been, in truth, a serious attempt to discourage the use of prepared opium.

As to smuggling, the third of the subjects upon which the Committee had been instructed to obtain information, the Committee reported no specific facts whatever, but contented itself with the statement that "it was found that a suppression of smuggling was impossible so long as enormous quantities of raw opium were produced in other territories in which the lack of control allowed the unhindered outflow of contraband opium into most of the Far Eastern territories; and that, therefore, the Committee had been obliged to limit itself to a consideration of measures for checking, so far as possible, this illicit trade." As to these means the Committee said: "Mutual cooperation and direct exchange of information regarding the illicit traffic, seizures, etc., between the heads of the opium services in the different territories have been found to be of great value, and the Committee suggested that a recommendation might be made to the Governments concerned to instruct the heads of their respective services to cooperate in this manner, and when it seems to be useful to arrange for personal meetings.

In order to embody in the Agreement which the Conference was expected to reach the conclusions of the Committee, the British and French Delegations each presented drafts of such an instrument,³ together with a Japanese

³ C. O. P. 32 (British) and C. O. P. 34 (French).

draft covering the matter of the exportation and importation of opium.⁴

It will not be necessary to state and examine the precise respects in which the British and French draft agreements differed as regards the question of Governmental opium monopolies, nor to trace in detail the discussion in the Conference of these differences. It is sufficient to say that the chief point around which the discussion centered was as to whether the retail sale of opium should be wholly by persons employed by the Government and paid fixed salaries and not by commissions or sales, as urged by the British Delegation, or whether retail sales might be permitted by private persons duly licensed and supervised, as provided in the French draft.⁵

As a possible means of bringing about an agreement upon these points, the Chinese Delegation suggested the adoption of the following formula: ⁶

The importation of raw opium and the manufacture and sale of prepared opium shall be under effective Governmental control. To the extent that it is practically possible, this control shall be directly exercised by governmental officials rather than by police or adminis-

⁴ C. O. P. 33. See next chapter.

⁵ The Netherlands Delegate said that the system existing in the Dutch East Indies was substantially that recommended in the British draft, and that he was therefore willing to accept it. The Japanese Delegate, Mr. Sugimura, said that he preferred the French draft as the more elastic. He said: "Certain Delegations maintained that the State monopoly in Formosa was not a complete monopoly. It was, however, equivalent to the complete State monopolies in force in other territories. In the view of the Japanese Delegation, the importation and manufacture of opium should constitute two different State monopolies. The sale, however, was a matter for the police administration, to be controlled by a system of registration and rationing." Twelfth Meeting.

⁶ As Dr. Sze explained, this suggestion was entitled a "formula" as he did not wish the Conference to suppose that, in presenting it, he was acting as an advocate of a Government Monopoly. Thirteenth Meeting.

trative supervision over private persons or establishments, and that in any event the persons employed or licensed by the Government shall receive fixed salaries and not commissions upon sales. In no case shall the farming system be sanctioned.⁷

No formal action was taken by the Conference upon this proposal, as it was agreed to pass by the matter for the time being in order to see if the British, French, and Japanese Delegations might not, in private meetings, be able to come to a common agreement as to the provision regarding monopolies, and one which would presumably be acceptable to the other Delegations.

At the seventeenth meeting this formal drafting committee of three reported the following draft provisions which were accepted by the Conference and were later incorporated, with but unimportant changes, in the final Agreement of the Convention:

1. Except as provided with regard to retail sales, the importation, sale and distribution of opium shall be a monopoly of the Government and the right to import, sell or distribute opium shall not be leased, accorded or delegated to any persons whatever.

2. The preparation for sale of opium for smoking shall also be made a monopoly of the Government as soon as circumstances permit.

3. (a) The system of employing persons paid by a fixed salary, and not by a commission on sale, for the retail sale and distribution of opium shall be applied experimentally in those districts where an effective supervision can be exercised by the administrative authorities.

(b) Elsewhere the retail sale and distribution of opium shall be conducted only by persons licensed by the Government.

Paragraph (a) need not be applied if a system of licensing and rationing of smokers is in force which affords equivalent guarantees.

⁷That is, one under which the right of selling opium is granted, for a fixed sum, to a private individual or to private individuals.

In explanation and defence of these provisions Sir Malcolm Delevingne said:

The text provided for a complete Government monopoly as far as concerned the importation and the wholesale distribution of opium, whether raw or prepared; and it also provided that the preparation for sale of opium for smoking, that was to say, the manufacture of prepared opium, should also be made a monopoly as soon as circumstances permitted. The latter provision had been put in that form because in some territories at the moment (for instance, the French leased territory of Kwang-Chow-Wan) the opium was sold to the consumer in the raw state and the consumer made his own smoking opium. He had understood from M. Kircher that in Kwang-Chow-Wan the authorities were trying to take over the preparation of prepared opium themselves, and that they were ready to make it a Government monopoly as soon as circumstances permitted. Lastly, the text contained provisions in regard to retail sale. The French delegation had agreed that the principle of limiting the retail sale of opium to Government employees paid a fixed salary, and with no commission on the sales which could give them an interest in pushing the sales, should be applied experimentally in districts where the Administration was able to exercise an effective supervision, that was to say, in districts which were large centres of population, such as the large towns and the urban districts. In other districts sparsely populated where smokers were few and far between, or where the communities were small and isolated, the retail sale might be conducted by persons duly licensed by the Government. The French system of a yearly licence which could be revoked at discretion might be recommended. These provisions constituted a substantial advance, though the British Government had gone further and had decided to take over all the retail shops. He thought that the text represented an advance which would be welcomed, and he hoped that the delegates would adopt it.

And a little later, Sir Malcolm said:

Every country, with the exception of Macao, possessed, he thought, monopoly in some form or other. He thought, too, that it was the universal experience of the Governments which had substituted the

monopoly system for the farming system that the former was in every way the better. At any rate in the British Colonies the introduction of a Government monopoly had been followed by a considerable decrease in the amount of opium consumed. It was upon that ground, that was to say, because of the effect which it produced on the consumption of opium, that the Advisory Committee had made the suggestion, and that the Conference had included the principle of Government monopoly in the draft Convention. He could not give, at the moment, the exact figures as to the actual percentage of reduction which the institution of Government monopoly had brought about in British Colonies. It had, however, been very great in Hongkong, and very considerable—as much, he thought, as 26 per cent—in the Straits Settlements, and in the Federated Malay States it had been as much as 56 per cent.

He could not understand, moreover, why a monopoly system should be less advantageous to the Government than a farming system. Under the former system, the Government kept the control entirely in its own hands. There was no private profit, but the profit went entirely to the Government Treasury, whereas under the farming system the farmer had to pay heavy rent to the Government and to make his own profit as well. Certainly in the old days the farmer had not been content with anything less than a very big profit indeed. He could not therefore understand why the system of a Government monopoly should be considered less advantageous in Macao than a farming system.

The Conference had been called to consider the question of restricting the consumption of opium. It was the universal experience of every country which had tried the monopoly system that that system had the effect of reducing the consumption, and it was on that ground that he urged the Conference to adopt it.

It was recognised that a sufficient period of time must be allowed to bring about the administrative changes necessitated by the adoption of the draft Convention, but he suggested that a period of three years would be sufficient. In the case of Macao the new contract for the farming of the opium supply had, he thought, been concluded in June 1924 and that it expired in June 1927. A period of three years, therefore, would cover the life of the present farming contract in Macao and would, he hoped, give sufficient time to the

Government of Macao to make the necessary changes for introducing the new system at the expiry of the present contract.

With regard to the other provisions in the Convention which did not involve any administrative changes, he proposed that they should come into effect within a short time after the ratification of the Convention.

In the discussion which occurred upon this matter it appeared that in the Portuguese possession of Macao the system of "farming" out the right to sell prepared opium still prevailed and that the Portuguese Delegation was opposed to the acceptance of the principle of governmental monopoly, and that, unless it were left within the discretion of the Government of Portugal as to the time when such a monopoly should be established in Macao, the Portuguese Delegation would be obliged to make a reservation to the proposals under discussion if they were adopted by the Convention.*

Dr. Sze urged, but without success, that the qualifying and weakening clauses in the provisions in paragraphs 2 and 3, be deleted.

* See the Final Act of the Conference for the reservation of the Portuguese Delegation to Article I of the Agreement as finally signed.

CHAPTER X

REGISTRATION AND RATIONING OF SMOKERS

It has already appeared that the State which had carried out most effectively the provision of Chapter II of The Hague Convention was Japan with reference to her colony of Formosa. This result Japan had been able to reach, or was in the process of reaching, through a rigorously enforced system of registration (or licensing) and rationing.

It has already been pointed out that the Sub-Committee, while reporting the desirable results that Japan had obtained from this system, expressed its doubts as to the feasibility of applying it in great centres of population where there were many smokers, and where the situation was complicated by a considerable illicit traffic in opium. Thus, in neither of the draft agreements proposed by the British and French Delegations was there any provision looking toward the establishment of the system in any territories where it did not already exist. However, at the fourteenth meeting of the Conference, Mr. Sugimura, in behalf of the Japanese Delegation, submitted the following proposal:

The Conference, considering that the system of registration and licensing of the habitual opium-smokers and of rationing the quantity for their daily consumption is the most effective method, together with the system of Government monopoly, by which the gradual and complete suppression of the use of prepared opium can be brought about,

Recommends to the respective Governments represented at the Opium Conference to adopt those measures.

Those Powers, however, which are not ready to adopt these measures immediately shall introduce the system as soon as the circumstances permit.¹

As alternative to the Japanese proposal, Sir Malcolm Delevingne, in behalf of the Delegation of the British Empire, submitted the following proposal which the Japanese Delegation agreed to accept in place of its own:

The Conference expresses the view that the method of licensing (or registration) and rationing is the most efficacious, if not the only, method—short of prohibition—by which the suppression of the use of prepared opium can be brought about, and recommends that the Governments should keep constantly in view the possibility of adopting those measures and should, in the meantime, take such preliminary measures as may be possible with a view to preparing the way for their introduction as soon as circumstances permit.

In explanation of this proposal, Sir Malcolm said:

The Advisory Committee had, on his proposal, suggested certain measures for consideration by the Conference, with a view to the more effective application of Chapter II of The Hague Convention. The first of those measures had been the principle of rationing; the second that the Governments concerned should thoroughly explore the possibility of introducing a system of registration. The Advisory Committee had placed these proposals on a somewhat different footing. The suggestion of the Advisory Committee had been examined at the request of the Imperial Government by the local governments. Important committees, on which Chinese members had served, had been appointed at Hong-Kong and in Malaya. The question of rationing was conditioned at the moment by the question of the contraband trade, and the British authorities had reached the conclusion that, at the moment—when the British colonies were being flooded

¹ See Annex 13 of the printed minutes of the Conference for statement by Mr. Sugimura in support of this Resolution.

with illicit opium in quantities which, in the case of Hongkong, were at least equal to, if they did not exceed, the actual amounts of opium placed on sale by the Government, and, in the case of Malaya, though they did not reach the same high figures, were very considerable—those Governments could not be asked to undertake to give effect to the principle of rationing at present, for reasons which were obvious. A system of rationing of the Government supplies, when such large amounts of illicit opium were available, would only lead to an increase in the illicit trade, and would in effect produce no useful result.

In the case of registration, the position was somewhat different in Hongkong as compared with the other territories under the jurisdiction of the British Government. In Hongkong, there was a large floating population. A large number entered the colony daily, and, in the opinion of the local government, it was very doubtful whether a system of registration would ever be possible in those circumstances. When circumstances permitted, it would probably be easier for the local government to abolish entirely the whole traffic rather than to proceed to the adoption of a system of registration and rationing.

In the case of Malaya, which was far more remote from the mainland of China, and where circumstances were somewhat simpler, the Committee which had enquired into the matter had come to the conclusion that a system of registration and rationing was the only method short of prohibition by which the gradual and effective suppression of the use of prepared opium could be brought about. While in existing conditions the Government of Malaya thought it impossible at the moment to introduce the system, they were prepared to move towards it by a series of measures which were contained in the report laid before the Conference.

The British Government was of opinion that a system of registration and rationing was the only method short of prohibition by which a gradual and effective suppression of the use of prepared opium could be brought about. In the territory of Sarawak, where the conditions were more favourable, perhaps, than in any other territory under British jurisdiction, the Government of Sarawak had already decided to introduce a system of registration.

In these circumstances, the British delegation, while unable to accept the resolution proposed by the Japanese delegation as it stood, thought it would be useful if the Conference could express some opinion on the subject. He had therefore drafted his proposal, not for insertion in the Convention, but as a recommendation which the Conference could accept in principle. He was willing to modify it by the insertion of the words "so far proposed" after "method." Experience might show that other methods might prove more effective.

Dr. Sze expressed disappointment that the British proposition should amount to nothing more than a recommendation to the Powers concerned, and called attention to the fact that, at the fifth session of the Advisory Committee, Sir Malcolm had taken a considerably more definite and emphatic stand regarding the matter of licensing and rationing. Dr. Sze made a direct and personal appeal to Sir Malcolm that, in the name of humanity, he should not recede from the positions he had taken only a year before in the Advisory Committee. Dr. Sze urged that the proposition under discussion should, at any rate, contain the provision that the system of registration or licensing and rationing would be introduced by the Powers not later than the beginning of the year 1928.

The French Delegation, upon the contrary, thought that, even as the British proposal stood, it was too strong, and that for it should be substituted the following statement:

The Conference draws the attention of the Contracting Powers to the results which have been obtained in certain countries in the Far East by the application of the method of licenses (or of registration) and of rationing.

The President of the Conference, speaking for the Netherlands Delegation, said that something should be said in the proposed resolution regarding the influence of contraband trade, and suggested that there be added the following statement:

The Conference recognizes that the possibility of adopting these measures, or of continuing them where they are now in force with good results, depends entirely on the extent of the illicit traffic.

It was finally agreed that the task of securing a statement of the matter that might be acceptable to all the members of the Conference should be entrusted to the British and French Delegations.

At the next (fifteenth) meeting of the Conference a text, agreed upon by these two Delegations, was reported and adopted by the Conference subject to the right, which the Chinese Delegation reserved, to indicate, after it had had an opportunity to study the text more carefully, its opinion upon it. This text ran as follows:

It has been pointed out to the Conference that in some countries the system of licences (or registration) and rationing has been successful in diminishing the number of consumers.

At the same time the Conference has found that in other countries smuggling, which equals and even surpasses in extent the legitimate trade renders the application of this system useless and in some cases dangerous.

Accordingly, the Conference states that the question of adopting these measures or of maintaining them in those territories where they are found to be successful depends entirely upon the growth of smuggling.

It therefore leaves to the Contracting Powers which have not yet applied this system the duty of choosing the moment when circumstances will allow of its adoption and to take, in the meantime, such preparatory measures as they may deem expedient.

As thus adopted, with a few merely verbal changes, the propositions were embodied in the Final Act of the Conference.

The statement of dissent to these statements made at the seventeenth meeting of the Conference by the Chinese Delegation is elsewhere given in the present work.

CHAPTER XI

THE EXPORTATION AND IMPORTATION OF OPIUM

With regard to the undertaking to be assumed by the Powers to regulate the exportation and importation of raw and prepared opium differences arose between the Japanese and British Delegations which, for a time, were so acute that the entire work of the Conference was endangered.

In the report made by the Sub-Committee of Four at the seventh meeting of the Conference it was indicated that the British and Japanese representatives had been unable to agree upon any proposals for the regulation of the exportation and importation of opium, and, therefore, that the Committee had been obliged to content itself with laying before the Conference the two sets of proposals which the two representatives had drawn up.

The British representative proposed the following measures which, he said, were already in force in the British possessions :

1. The export of opium, whether raw or prepared from the Far Eastern territories in which smoking is still authorized, is prohibited; the importation of opium into those territories being strictly limited to the amount required for domestic consumption.

2. Opium which comes into the territorial waters of those territories, not for importation but in transit or in transshipment for another destination, is strictly limited and controlled.

The Japanese Representative upon his part proposed the following:

1. The export, import and transshipment of opium are forbidden.
2. Nevertheless, they shall be authorised when the opium is accompanied either by an import certificate duly issued by the competent authorities of one of the contracting States or by an official document guaranteeing that the import is legitimate.
3. The authorities of the ports are under strict obligation to abstain from any measures which might constitute unfair discrimination on the ground of the nationality of the vessel or the origin of the goods.

The draft Agreement presented to the Conference upon this matter¹ contained simply the statement (Article 4): "The export of opium, whether raw or prepared, from the Possessions or Territories, shall be prohibited."²

The draft agreement submitted by the French Delegation contained no provisions whatever regarding the exportation or importation of opium.

In support of the Japanese propositions, Mr. Sugimura read to the Conference an elaborate explanatory state-

¹ C. O. P. 32.

² It will be remembered that, by Articles 7 and 8 of The Hague Convention of 1912, the Signatory Powers had agreed to prohibit the import and export of *prepared* opium, with, however, the proviso that those Powers which were not ready to prohibit such export immediately should prohibit it as soon as possible, but that, in the meantime, such Powers should restrict the number of ports or localities through which prepared opium might be exported; should prohibit its export to countries forbidding its importation; and prohibit the consignment of such opium to countries which desire to restrict its entry, unless the exporter should comply with the regulations of the importing country.

As to *raw* opium, The Hague Convention provided that the Powers should limit the localities or ports from which it might be exported, and that they should take measures to prevent its exportation to countries which forbade its entry, and to control such export to countries which desired to restrict its import.

ment, which, because of its importance needs to be quoted at considerable length. From this statement, as well as from the draft provisions which Japan had put forward, it will be observed that what the Japanese Delegation had chiefly in mind was that when its Government should certify that a given importation of opium was for a legitimate purpose, that certification should be accepted by other Governments without question as to its correctness.

It became clear in the discussion that, in the past, there had been occasions when the Japanese Government had felt that cargoes of opium consigned to parties in Japan had been, in an arbitrary and discriminating manner, refused transshipment and re-export at Hongkong; and, upon the other hand, that Great Britain was convinced that there had been instances in which certificates, granted by Governments, had been used as cloaks to permit the importation of opium in amount beyond the legitimate needs of the importing country.

Mr. Sugimura said in part:

The system of import certificates was elaborated to give full effect to the provisions of the Opium Convention regarding the control of importation and exportation. Its purpose is to confine the exportation of narcotics solely to persons who have obtained due authorisation in the importing countries. The Government must be able to satisfy themselves that a person wishing to import these products into another country also has an authorisation to this effect from the Government of the importing country. The Government of the importing country has to see that the quantities of narcotics imported do not exceed the legitimate requirements of the country, and that the persons who apply for an importation permit carry on the trade in drugs in a legal manner. At the same time, the Government of the exporting country has the assurance that narcotics will not be exported from its territory to other countries for illicit purposes. Ac-

cordingly, this system has been recommended by the League of Nations as being the most effective.

It is absolutely essential to establish a clear distinction between legitimate and illicit trade. Everything which can be classed as illicit trade must be severely punished and strictly repressed. But when the goods are accompanied by certificates proving their legitimate character, the principles of freedom of commerce and mutual tolerance must be given full play. The formalities must, in such cases, be simplified to the greatest possible extent.

We have studied with the greatest care the regulations in force at Hongkong. These confer arbitrary and absolutely discretionary powers on the Governor. To my great regret I am obliged to say that we have had the most unfortunate experience at Hongkong and that we must raise a protest against measures which are contrary to the fundamental principle of the equitable treatment of commerce—a principle which has been embodied in the Covenant of the League itself. The system in force at Hongkong renders it possible to evade and stultify the import certificate system proposed to the Opium Advisory Committee by the honourable delegate for Great Britain and accepted by the Council and Assembly of the League of Nations.

The question is a simple one if each Government trusts the other contracting States and loyally recognises the validity of the certificates duly issued by them. Legal forms are useful, but they are not the essence of our problem, which is, above all, one of morality. To question the validity of the certificates of other nations, and to doubt their sincerity is to destroy the very basis of any useful international collaboration and to render the system of import certificates useless.

When Mr. Sugimura finished the reading of this statement Sir Malcolm Delevingne expressed regret and great surprise that the Japanese Delegation should have made what was, in effect, an attack on the justice and fairness of the British Government. "Though its proposal, as distributed to the Conference, was couched in general terms, it was really an attempt . . . to induce the British Government to relax or withdraw certain measures

which it had thought desirable to take in regard to the shipments of opium to the Far East on ships which made use of British ports. It was, therefore, a proposal, or so it seemed to him, for rendering less and not more effective the measures taken to give effect to Chapter II of The [Hague] Convention." The second and third paragraphs of the Japanese proposal, he went on to say, were outside of the scope of the Conference, and involved questions which were for discussion and negotiation between the British and Japanese Governments, and not for consideration in a general Conference. The following excerpts may be made from the discussion which ensued, as reported in the Minutes of the Conference:

Sir Malcolm Delevingne wished to give an instance, without mentioning any names. A year or two ago, in a Far Eastern territory where opium smoking was still continued, very grave scandals occurred in connection with the opium traffic. A number of officials some of high rank, had been implicated. The Government of the territory in question took steps to deal with the matter, and the officials in question had been put on trial, and very heavy sentences imposed. It had been well known to most people in the Far East, he thought, that the position in that territory had been unsatisfactory for some time. Certainly the information which had reached the British Government had been to that effect. Was the British Government to be required to allow a consignment of opium to go to such a territory because it was accompanied by a certificate given by authorities who might themselves be implicated in the scandals?

Another point to which he wished to draw attention was that the import certificate in the form in which it had been recommended by the League of Nations contained no guarantee against re-export. In the form in which the import certificate had been originally drawn up by the British Government and put into effect by direct negotiation with various Governments, a clause certifying that the article would not be allowed to be re-exported had been inserted, but when the matter was discussed by the Advisory Committee of the

League of Nations, the Committee decided to drop the re-export clause because it had been hoped and anticipated that every country would accept the import certificate system, and that therefore there would be no necessity for the guarantee against re-export. Unfortunately, those hopes and expectations had not been fulfilled, and under the import certificate system as it existed to-day there was no guarantee that a consignment which was sent under an import certificate to one country would not be, or might not be, re-exported from that country to another country which furnished no import certificate whatever. Clearly the original country of export must, in such cases, be allowed to exercise a discrimination in regard to the exports from its own territories which might be diverted in that way to destinations where the consignment might be put to illegitimate uses.

The principle on which the British Government was acting was no new principle. If he remembered aright, the law of the United States was as severe as, if not much more severe than, the British ordinance to which M. Sugimura had alluded. If his recollection was accurate, no transit or transshipment of opium or dangerous drugs could take place in any United States port except under licence from the Treasury, and it was within the absolute discretion of the Treasury authorities to refuse or grant those licences at will.

Sir Malcolm Delevingne had noticed, in the suggestions which M. Clinchant had laid before the Conference at one of its earlier meetings, that the passage in transit, the transshipment or the warehousing of raw or prepared opium should be absolutely prohibited. That question had not been pursued further by the French delegation, but the very fact that it had been put forward indicated, in his view, that there was no *prima facie* objection, on the grounds of justice, humanity, solidarity, or anything else, to the principle on which the British Government acted.

The Japanese proposal went on to suggest that the authorities of a port should be placed under strict obligation to abstain from any measures which might constitute unfair discrimination on the ground of the nationality of a vessel or the origin of the goods. He did not quite know what that meant as applying to the particular class of cases which was under discussion. In the view of the British Government, no unfair discrimination was exercised by it in this

matter, and it seemed to him to be rather surprising that the Japanese delegation should have brought this charge of unfair treatment against the British Government without first raising the question again in private negotiation with the representatives of that Government.

Sir Malcolm Delevingne had only one more word to add. As he had indicated, it was quite impossible for him to accept the Japanese proposal. He would be glad to accept an amendment to his article, to the effect that transit or transshipment should only be allowed when an import certificate duly issued by the competent authorities of one of the contracting States, or an official document guaranteeing that the import was legitimate, was produced; if the Conference generally were in agreement, he would like to amend his draft in that sense. He did not, however, press the point, and unless there was agreement that the proposed amendment was desirable, he would leave the draft of Article 4 as it stood.

Mr. Sugimura (Japan) said that the Japanese Delegation was convinced that it had the approval of the majority of the other delegations. He desired to reply to the observations of the British delegate.

The British delegate maintained that this question was outside the scope of the Conference. Nevertheless, he had himself raised the question of exports. Export, import and transshipment formed part of the general problem of international relations and were inseparable terms. The British delegation, moreover, had consented to amend its draft. It accordingly recognised that the Conference was competent to deal with the matter. He would, moreover, point out that the Conference was dealing with questions such as the system of monopoly, which appeared to fall within the scope of national sovereignty, but in regard to which it nevertheless seemed desirable to establish a uniform régime in the interest of international relations.

The British delegate had suggested that there should be private negotiations between the two Governments. The question, however, did not only concern Great Britain and Japan. It concerned all the nations, and should be the subject of an international Convention founded on principles of equity. It appeared, moreover, from the latest information in regard to the negotiations to which reference had been made, that the equitable solution requested by the Japanese Government seemed impossible by means of secret negotiations. The

Japanese delegation had received explicit instructions to submit the question to the Conference and to appeal to the public opinion of the world.

In the third place, it seemed to him surprising that a statement should be made at an International Conference that the various import certificates were not of equal value, and thus to throw doubt on the certificates given by certain States. The British delegate had referred to a regrettable occurrence which had taken place at Kwangtung some years ago. The Japanese Government had severely punished the guilty officials, and further reference to this incident should not now be made. Moreover, the Japanese Government had itself made very careful enquiries into the question of opium in the Far East, and had collected information which was not very favourable to nationals of other Governments. The Japanese delegation had, however, refrained from alluding to any of these facts, as it was not in favour of such methods of international discussion.

Mr. Campbell (India) said he was entirely in agreement with the British delegate, and he regretted that the Japanese delegation had raised the question in this way. The matter closely concerned India, as an exporter of raw opium. The position of the Indian Government in this matter had always been perfectly clear and precise. It considered that, for obvious administrative reasons, and in conformity with the spirit and letter of The Hague Convention, the responsibility as regarded certificates covering exports from India rested in the first instance on the importing country. Nevertheless, the Indian Government must reserve the right to refuse to supply opium, despite the issue of certificates, when there was reason to believe that those certificates were, in fact, intended to cover illegitimate transactions. The Government of India would not have accepted the system of import certificates upon any other understanding.

This interpretation was strictly in conformity with the provisions of the Convention, the preamble of which stated that the Convention was framed with a determination to bring about the gradual suppression of the abuse of opium and other drugs. A Government would not, of course, lightly disregard a certificate issued by another Power, and the Government of India had certainly not done so without being satisfied that there was ample proof of the unsuitable character of the transaction.

At this point Mr. Sugimura made the following formal and important declaration:

The question at issue could not be the subject of private negotiations between two countries but, according to the existing democratic method, should be discussed before public opinion loyally and frankly. The Japanese delegation had already made many concessions in regard to a draft which was illogical and needlessly long and complicated. At present the very substance of the question was prejudiced. As long as the moral basis was lacking and suspicion remained, the Japanese delegation would not be able to sign any agreement discussed by the present Conference.

In the light of this statement it appeared that, unless some means could be found for reconciling the views of the British and Japanese Delegations, and, at the same time, meeting the wishes of the other Delegation, the Conference would result in a total failure, for, should such an important country as Japan refuse to sign the agreement reached, that agreement would not be worth signing by the other Powers even should they be willing to do so. As the President of the Conference said, "the Conference had reached a critical stage in its discussions. If it were unable to overcome this difficulty, all of its work would have been in vain; the effect would be so deplorable that, before opening the discussion, he felt it his duty to emphasize the great importance of the consequences involved."⁸

Despite the seriousness of the situation thus emphasized by the President, no progress toward an agreement was reached in the discussion that followed at the six-

⁸This statement was made at the opening of the sixteenth meeting of the Conference. The fifteenth meeting had been adjourned almost immediately after the declaration of the Japanese Delegation that, unless its views were met, it could not sign any agreement that might be arrived at.

teenth meeting. Before adjourning, however, the Conference accepted the suggestion of M. Bourgois, of the French Delegation, that the discussion of the subject should be adjourned for a few days. Meanwhile he said, "the delegates would be able to consult their Governments, and those who were perhaps bound by strict instructions might, in agreement with their Governments, be able to find an acceptable formula."

The matter of the import, export, and transshipment of opium was not again brought before the Conference until its eighteenth meeting on November 24.⁴

At this meeting there was circulated by the Japanese Delegation the following revised draft of its proposals, which, it was declared, was intended to avoid certain misunderstandings which had arisen regarding its proposals as originally framed:

1. The exportation, importation and transshipment of opium are prohibited.

2. Exportation and importation shall be permitted when the goods are accompanied by a separate certificate of importation.

3. Transshipment shall be allowed when the goods are further accompanied by a through bill of lading.

4. The port authorities, after verifying the authenticity of these documents, shall abstain from all vexatious measures which might constitute an unjust discrimination based on the nationality of the vessels or the origin of the goods.

In an accompanying explanatory note, the Japanese Delegation said:

⁴In the meantime the Second Conference had begun its meetings, the first meeting being on November 17. The two Conferences thenceforth fixed the hours and dates of their meetings so as not to conflict with each other.

I

(1) Certificates are only to be delivered for purposes of legitimate consumption. Any Government illegally delivering a certificate would thereby be violating the solemn international engagement constituted by the strict obligations of Article I of the Covenant of the League, to say nothing of that good faith which is the fundamental principle of international law. The other contracting countries would then be entitled to take all suitable measures to put an end to such a state of affairs, and to obtain due reparation.

(2) In cases in which false certificates are produced, all the ordinary rules in respect of offences of this kind may naturally be applied. All that the competent authorities of the countries concerned need do is to set in motion the usual judicial and penal procedure to punish the offence which has been committed.

(3) It is recognised that exceptional circumstances may legitimately be met by the application of exceptional counter-measures of a suitable kind.

II

In the Draft Agreement we only considered normal conditions to which the general rules of international trade must as far as possible be applied. In these circumstances the contracting States must clearly place entire confidence in each other's honesty as regards the delivery of certificates. There would indeed be no point in setting up a system of certificates the validity of which might at any moment be called in question thus leading to disputes which would be absolutely fatal to all international co-operation. We should consequently agree to accept the following rules:

“(a) If trade is carried out according to the prescribed regulations, and if goods are accompanied by certificates regularly issued by the competent authorities, they must not be subjected to needless hindrance in the form of protracted and vexatious investigations.

“(b) When the goods are further accompanied by a through Bill of Lading, clearly indicating the ports or origin and destination, the formalities attending transshipment in an intermediary port should be reduced to a minimum. The port authorities will investigate the authenticity of the certificates and see that the through Bills of Lad-

ing are in order. If these documents are found correct, transshipment should be allowed to proceed with all facilities, and without vexatious intervention on the part of the port authorities. All vexatious measures having a character of unjust discrimination on account of the vessel's nationality or the origin of the goods must be entirely eliminated. Such measures would not only be unfriendly to the nation affected, but would be contrary to the fundamental principles of international law."

Some discussion upon this new draft of the Japanese proposals followed which showed that it might be possible for the British and Japanese Delegations to reach some sort of common agreement. In order that an effort might be made to achieve this, the Conference took a recess for a short time at the end of which it was announced that the two Delegations had reached an agreement "in principle," though not as to the exact wording of the article to be inserted in the Conference's final Agreement.

The next meeting of the Conference did not occur until 10 days later. During this interval it was evident that there had been more or less cabling between the Delegations and their respective Governments, as well as between those Governments. At any rate, when the Conference again convened on December 3, in its nineteenth meeting, the President was able to announce that the British and Japanese Delegations had reached an agreement not only in principle but also as to the wording of the Article dealing with export, import, and transshipment. As thus worded the Article was accepted by the other Delegations and appears as Article VI of the final Agreement.

It reads as follows:

ARTICLE VI

(1) The export of opium, whether raw or prepared, from any Possession or Territory into which opium is imported for the purpose of smoking shall be prohibited.

(2) The transit through, or transshipment in any such Possession or Territory of prepared opium shall be prohibited.

(3) The transit through, or transshipment in, any such Possession or Territory of raw opium consigned to a destination outside the Possession or Territory shall also be prohibited unless an import certificate, issued by the Government of the importing country, which can be accepted as affording sufficient guarantees against the possibility of illegitimate use, is produced to the Government of the Possession or Territory.

The last paragraph of this Article is not as explicit and unambiguous as might be desired, but, given any reasonable interpretation, it is clear that the Japanese Delegation conceded to the British Delegation the substance of what it had asked for.

CHAPTER XII

MISCELLANEOUS PROVISIONS: PREVENTION OF ADDICTION, FISCAL CONSIDERATIONS, REGULATION OF DIVANS, USE OF "DROSS," PERIODICAL REVIEW OF THE SITUATION, FORMALITIES AS TO SIGNING, RATIFYING, DENOUNCING, ETC.

The Agreement as finally framed by the Conference contains various provisions designed to prevent persons from becoming opium-smoking addicts. Thus, Article II provides:

The sale of opium to minors shall be prohibited. All possible steps shall be taken by the Contracting Powers to prevent the spread of the habit of opium smoking among minors.

Article III declares:

No minors shall be permitted to enter any smoking divan.¹

Both the British and French draft agreements had contained the provision that opium should not be sold to minors and there was never any difference of opinion in the Conference as to the propriety of the provision. The British draft also contained the provision that no minors should be permitted to enter a smoking divan.

¹ It is to be noted that The Hague Convention speaks of smoking "Dens." This word was changed to "Divans" in the Geneva Agreement at the suggestion of M. van Wettum who pointed out that these establishments were in all cases under the control of the Governments of the places where they were permitted to exist, and that, therefore, it was desirable to designate them by some term less opprobrious than Dens. It was not suggested, however, that this change of title would carry with it any change in the character of the establishments themselves.

The corresponding provision in the French draft had provided that "Europeans, women and minors shall be forbidden to enter public opium dens." When this French provision came before the Conference at its thirteenth meeting, Mr. Sugimura, for the Japanese Delegation, and Dr. Sze, for the Chinese Delegation, at once objected to the distinction between Europeans and Asiatics, and, as a result of this objection, the word "European" was deleted. However, the question whether a distinction should be made between men and women as to their right to enter smoking divans gave rise to considerable discussion in which the principle of the equality of the sexes was pressed into service, and in result, it was agreed that there should be no requirement upon the part of the Governments to forbid women to enter smoking divans.

The last sentence of Article II, that providing that the Contracting Powers shall take all possible steps to prevent the spread of the habit of opium smoking among minors, was adopted at the twentieth meeting of the Conference at the instance of the Japanese Delegation.²

The original French draft agreement contained the provision that the Governments should agree not to increase the number of opium dens within their several territories or possessions. The Netherlands Delegation said that it would be impossible for its government to bind itself absolutely in this respect, and, therefore, the provision was abandoned.³

²The Japanese Delegation first proposed that this statement should appear in the Protocol, but it was agreed that, being in the nature of a definite engagement, it should appear in the body of the Agreement itself.

³M. van Wettum said: "In the Netherlands Indies where the number of divans has been reduced from 160 in 1914, to 59, it might become necessary to grant a licence for another divan in certain large centres of population." Thirteenth Meeting.

Educational Effort. The original English draft Agreement contained the provision that the Governments concerned should "use their utmost efforts by instruction in the schools, dissemination of suitable literature and otherwise, to discourage the practice of opium smoking within their jurisdictions."

This proposal led to an objection upon the part of the Indian Delegate, Mr. Campbell, an objection which, as argued by him, exhibited in an unenviable light the situation of the Indian Government with respect to the esteem with which its actions are regarded by the Indians, Mr. Campbell said:

Experience did not encourage the belief that official propaganda would be successful in the East. On the contrary, there were numerous specific instances, as, for example, when plague broke out in India, showing that the population only consented to take measures to protect themselves against the epidemic when the Government abandoned propaganda and compulsory measures. Official propaganda in regard to opium would do more harm than good in India, and he did not think his Government would be able to accept a provision in an obligatory form.

Dr. Sze and Mr. Sugimura at once said that Mr. Campbell's statement that experience had shown that official propaganda was not successful in the East was not true as to their own countries—China and Japan. Dr. Sze suggested that Mr. Campbell's objection might be met by inserting the words "Except in India" in the provision that the Governments should seek by instruction and otherwise to discourage the use of prepared opium, and asked whether the Indian Delegate thought there would be any objection to Chinese Anti-Opium societies conducting a campaign of education among the Chinese smokers in Burma. He also suggested that possibly the

British Indian Government might find the Chinese in that province more receptive of Government advice. As to the sending of Chinese missionaries into Burma to educate the Chinese there as to the evils of opium smoking, Mr. Campbell said that he did not know how the proposal would be received by his Government, but was certain that such an arrangement could only be made on a reciprocal basis. Dr. Sze then said that he would gladly accept Mr. Campbell's condition. "China would welcome missionaries from Burma to preach the evils resulting from the misuse of opium."

Eminently proper as appeared the suggestion that Governments should do what they could by propaganda in the schools or otherwise to discourage the smoking of opium, it is clear that the proposition that the Governments concerned should obligate themselves so to do was an especially embarrassing one to the Indian Government. The reason for this embarrassment was not stated, but it is evident that, so long as that Government maintains the position that the widespread eating of opium is not deleterious, it will be very awkward for it to carry on an official propaganda as to the evils of the smoking of opium. Especially would this be so in the light of the fact that the dominant medical opinion of the world is that the evils of this latter practice are not greater, and are, indeed, probably less than those that result from the eating or swallowing of the drug.

Whatever may have been the real reasons, Mr. Campbell firmly maintained his position that his Government could not assume an absolute obligation in the premises. The result was that the Conference was finally obliged to re-draft the provision and give to it the emasculated

form in which it appears in the Final Agreement of the Conference, namely (Article VII):

The Contracting Powers shall use their utmost efforts by suitable instruction in the schools, dissemination of literature and otherwise, to discourage the use of prepared opium within their respective territories, except where a Government considers such measures to be undesirable under the conditions existing in its territory.

Fiscal Considerations. The various territories and possessions in the Far East where the smoking of opium is permitted by law derive considerable public revenues from this source. In some cases the sums thus derived constitute a half or more of the total public revenues. Notwithstanding this fact, the Governments concerned have repeatedly asserted that they have not allowed fiscal considerations to control their policies with regard to the use of prepared opium.

Predicated upon this assurance, the Chinese Delegation, at the seventeenth meeting of the Conference, presented for acceptance by the representatives of these Governments the following proposal for inclusion in the final Agreement:

That fiscal considerations will not be allowed to influence in a prejudicial manner the character of the measures to be taken for the progressive and ultimately complete suppression of the legal use of prepared opium; and that the incidental public revenues derived from the legalised importation of raw opium and the manufacture, sale and consumption of prepared opium, as well as from fines and confiscations imposed and collected as a result of legal convictions of violations of the law regulating the manufacture and use of raw and prepared opium and the importation of raw opium, be wholly devoted to measures for the prevention of the acquiring of the vice of smoking opium, for the humanitarian care and treatment of addicts, for the general social and economic betterment of the classes

of the people who are especially addicted to the use of prepared opium, and for meeting the administrative expenses of enforcing the laws against the illegal importation of raw opium and the manufacture, sale and consumption of prepared opium.

The other Delegations plainly felt themselves estopped from questioning the merits of this proposal, but several of them declared that, for technical budgetary reasons, their Government could not accept it. M. Bourgois, of the French Delegation, said that large sums of money were spent in Indo-China on propaganda, free dispensaries, etc.—in fact, in Indo-China, all the provisions of the Chinese proposal were already fulfilled.* “The expenditure, however, came out of the general budget of the country and the Chinese proposal was therefore contrary to the provisions of French fiscal legislation and probably of the fiscal legislation of most countries represented at the Conference. The principle in the French territories, as in other possessions, was that there should be one budget covering all expenditure, and thus revenue from a special source could not be earmarked for expenditure on a special object.”

Mr. Ferreira of the Portuguese Delegation, Mr. Campbell of the Indian Delegation, and M. van Wettum of the Netherlands Delegation declared that the situation in Macao, India, and the Dutch Indies was precisely the same as that stated by M. Bourgois as existing in Indo-China. “Particular items of revenue were not earmarked for particular expenditure.” M. van Wettum quoted the following declaration made at the Shanghai Conferences: “The Netherland Government, being convinced of the

*It would have been interesting had the official figures showing this been produced.

desirability of restricting the use of opium, will never be prevented by financial considerations from taking such measures as will in its opinion genuinely effect the gradual decrease in consumption.''

Prince Charoon of the Siamese Delegation contented himself with the observation that his Government's hands were tied since it was not autonomous in fiscal matters: opium revenue could not be abandoned until other sources of revenue were found.

Sir Malcolm Delevingne of the British Delegation said that he had considerable sympathy with the resolution since it enunciated what was, he believed, the policy of his own Government.

It was difficult, however, to suggest the acceptance even of the first part, because it would seem as though the Conference were trying to lay down a fresh principle and to suggest something which was not the present practice of Governments. Certainly as regarded Hong-kong and the other British colonies, the British Government would not be guided by financial considerations when the possibility of taking further measures arose. The first part of the Chinese proposal did not, he thought, add anything of value to the Convention.

With regard to the second part, from a fiscal point of view, he shared the views expressed by other members of the Conference, that sound finance did not allow the earmarking of any particular source of revenue. This, however, was a technical difficulty. There was also a practical one, which was that, if a Government set aside all the revenue which it derived from its opium monopoly and devoted it to new schemes of welfare, it would find itself launched on a programme the funds for which would gradually decrease from year to year till there was no revenue left at all for the fulfilment of that programme. If, for instance, a Government adopted a new scheme of secondary education or of largely increased hospital accommodation based on its revenue from opium, by the time the use of prepared opium had come to an end and the monopoly had therefore disappeared, no revenue would be left to support these schemes. This, he thought, was a very serious objection.

He stated, on behalf of the British Government, that a very large amount of money was already being spent in the British colonies on measures for the welfare of the populations of those colonies.

Mr. Sugimura, on behalf of the Japanese Delegation, emphasized the importance of the Chinese proposition since it contained a moral principle that should not be disregarded. He said:

The Conference must keep before it the moral aspect of the problem. The revenues derived from opium constituted a very important part of the receipts from the colonies. In the case of Singapore, for instance, estimates of the revenues derived from opium for the financial year 1925 were 48 per cent of the total. This was not merely the case for the year to which he had referred, for about one half of the total revenue of the Colony had been derived from opium for some years past. The revenue was derived from taxes paid by Chinese coolies. He therefore made a warm appeal to the Conference to reduce the amount of revenue derived from opium in the colonies belonging to the various members of the League. It was beneath a nation's dignity to derive so much revenue from opium. If absolutely necessary, one quarter or one fifth of the revenues might be so derived, but not half. He had frequently urged the Conference to view the problem from a humanitarian point of view and not from an economic point of view. In regard to the Japanese Government, the revenues derived from opium were growing less each year in the Island of Formosa. On the other hand, the working power of the population was increasing and the budget of Formosa was in a flourishing condition. . . . Even from the economic and financial point of view, a sacrifice of revenue from opium was in reality a gain, since the productive power of the nation increased.

However, the most that could be obtained from the other Delegations was the adoption of a suggestion made by M. Bourgeois of the French Delegation that there should be inserted in the Preamble of the final Agreement the following pious words: "Being desirous, on the

grounds of humanity and for the purpose of promoting the social and moral welfare of their peoples, etc.”

Interchange of Information. Without difficulty the Conference agreed to the provisions contained in Articles VIII and X of the Agreement. These read:

ARTICLE VIII

The Contracting Powers undertake to assist one another in their efforts to suppress the illicit traffic by the direct exchange of information and views between the heads of the services concerned.

ARTICLE X

The Contracting Powers will furnish all information which they can obtain with regard to the number of opium smokers. This information shall be transmitted to the Secretary-General of the League of Nations for publication.

Dross. The residue left in the bowl of the pipe after opium is smoked is known as “dross.” This dross still has narcotic properties and may be again smoked. It is less palatable, though probably more injurious, to the smoker, and, in the British Possessions, in order to prevent its sale or consumption, it is bought back by the Government from the smokers or divans. In Burma the mere possession of dross is penalized. In Siam, however, dross is regarded exactly the same as prepared opium. It was agreed by the Conference, after but little discussion that the Agreement should provide (Article V) that,

The purchase and sale of dross, except when the dross is sold to the monopoly is prohibited.

Medical and Scientific Purposes. Article XI of the Agreement reads:

The provisions of this Agreement shall not apply to opium destined solely for medical and scientific purposes.

This Article gave rise to no discussion beyond the question whether it was not one that more properly would find a place in the Convention or Agreement which the Second Conference was expected to adopt.⁵

Periodical Review of the Situation. Article XII of the Agreement provides:

ARTICLE XII

The Contracting Powers agree that they will jointly review from time to time at such dates as may be mutually agreed, the position in regard to the application of Chapter II of the Hague Convention of January 23rd, 1912, and of the present Agreement. The first meeting shall take place at latest in 1929.

In its original form this Article did not fix a definite date at which, at the latest, the next meeting of the Powers should take place, and it was at the instance of the Chinese Delegation that the last sentence was added to the Article.⁶

Ex-Territorial Offenses. Article IX of the Agreement provides:

ARTICLE IX

The Contracting Powers will examine in the most favourable spirit the possibility of taking legislative measures to render punishable illegitimate transactions which are carried out in another country by a person residing within their territories.

⁵ Minutes, seventeenth meeting.

⁶ Seventeenth Meeting.

In the original British draft Agreement this matter had been stated in an absolutely obligatory manner, but, several Delegations having said that there might be special constitutional or other legal reasons why it might be difficult for their Governments to legislate in the manner required, the Article was phrased in the above merely dispositional manner.

Report of the Drafting Committee. At its seventeenth meeting the Conference having come to a substantial agreement upon the various matters upon which it seemed possible to agree,⁷ a Drafting Committee composed of the delegates of the British Empire and France, together with the President of the Conference, M. van Wettum, was appointed to prepare the final text of the Agreement which was to be signed.

The nineteenth and twentieth meetings of the Conference were devoted to the examination of the draft reported by this Committee. This examination resulted in a few changes of phraseology.

Dr. Sze, in behalf of the Chinese Delegation, made the significant statement that, in the discussion of the draft agreement, he would take no part, except as to the proposed Protocol, and that his silence was not to be taken as meaning his consent to the articles discussed. He would later, he said, make a statement to the Conference.

Though not expressly so stated, it was generally understood that this declaration of the Chinese Delegation meant that that Delegation did not expect to sign the Agreement that the Conference had drawn up.

⁷ Except as to the exportation, importation, and transshipment of opium which was still being discussed by the British and Japanese Delegations.

Preamble. In the Preamble the words " who, taking note of the fact that the increase of the smuggling of opium in the Far East, etc.," was changed to read, " who taking note of the fact that the increase of the smuggling of opium in the greater part of the territories of the Far East." This change was made upon request of Mr. Sugimura who pointed out that the smuggling of opium had not increased in Formosa, and that, in fact, there was no contraband traffic in that Island.

Territorial Application of the Agreement. Article XIII of the text reported by the Drafting Committee dealt with a matter which had not been discussed in the Conference. It read as follows:

The present Agreement applies only to the Far Eastern possessions or territories of the Contracting Powers, including leased or protected territories, in which the use of prepared opium is temporarily authorised.

At the moment of ratification any Contracting Power may declare that its acceptance of the Agreement does not include any territory over which it exercises only a protectorate; and may accede subsequently in respect of any protectorate thus excluded by means of a notification of accession deposited with the Secretary-General of the League of Nations who shall forthwith notify the accession to all the other Contracting Powers.

Replying to an inquiry from Mr. Sugimura as to the status of Protectorates, Sir Malcolm Delevingne said that the Article was of a purely formal character; that, in the British Empire, for example, there were many Protectorates occupying different positions with regard to the Empire, and that it would be necessary for the British Government to obtain their consent before it could ratify the Agreement on their behalf. He pointed out that the

provision under discussion was to be found in most of the Conventions drawn up under the League of Nations. It occurred in the Convention on Obscene Publications and in the one dealing with Traffic in Women and Children. Reference having been made to the "Native States" of India, Mr. Campbell said that they were not Protectorates. Mr. Sugimura asked whether, under the circumstances, the Indian Native States should not have sent their own representatives to the Conference. Mr. Campbell replied that the status of these States differed widely, and that it was impossible at short notice to give a complete explanation of their situation, but that opium produced in them could not possibly leave them without the approval of the Indian Government.

English and French Texts both Authentic. No objections were raised to Article XIV, the first paragraph of which read:

The present Agreement, of which the French and English texts are both authentic, shall be subject to ratification.

As to this paragraph it is to be observed that the effect of making both texts authentic is that in case it is found possible to give a construction to one text which is different from that which can be given to the other, a Government may rely upon that text which most nearly meets its own desires.

Ratification. The provision that the Agreement should be ratified was apparently deemed necessary in order to establish conclusively the fact that the Agreement was to be regarded as an international instrument of a treaty

character, and, therefore, would require "ratification" before becoming binding upon Signatory Powers.⁸

Denunciation. Article XV of the Agreement provides that each Contracting Power may denounce the agreement, which denunciation is to take effect one year after notification to that effect has been communicated to the Secretary-General of the League of Nations.

Delay in Signing the Agreement. On December 13, the Conference met for the purpose of signing the Agreement that had been finally arrived at. To the surprise of everyone, Sir Malcolm Delevingne, of the British Delegation, then announced that he had received a communication from his Government, which had learned that the American proposal to raise the question of opium in the Second Conference had been brought up in the Council meeting at Rome. The British Government wished to consult Mr. Chamberlain on the subject after his return, and he was therefore instructed to propose that the meeting should be postponed for the present.

M. Bourgois of the French Delegation said that he also was not in a position to sign the Agreement.

The meeting of the Conference was therefore adjourned without any further discussion beyond an expression by Dr. Sze of his surprise at what had occurred.⁹

⁸ That is, that, though termed an Agreement and not a Treaty or Convention, it could not be treated as a mere executive agreement and put into force by the Signatory Powers by mere executive orders upon their part. Why the instrument should be termed an "Agreement" instead of a "Convention," was not discussed or explained.

⁹ Dr. Sze in the course of his remarks, said: "For ways that are dark and tricks that are vain, the First Conference is peculiar." This application of Bret Harte's famous lines is not reported in the Minutes of the Conference, but created considerable amusement at the time and was widely noticed in the press of the world.

The Protocol. The Conference did not again meet until January 24, when it assembled in order to consider the resolution which had been adopted by the Second Conference that there should be created a Joint Committee of Sixteen composed of eight representatives of the Governments participating in the First Conference and eight representatives of the Governments which had not thus participated who were to be appointed by the Second Conference. This Committee, it was proposed, should be entrusted with the examination of the proposals of the American and other Delegations with reference to the control of the traffic in prepared opium which had been presented to the Second Conference.¹⁰

The Conference approved this project, and the Committee was therefore established.

This Committee failed in its efforts to arrive at an agreement acceptable to the American and other Delegations as to what should be done by the two Conferences with regard to the legalized smoking of opium, and so reported. However, the British representative on that Committee had proposed two separate Protocols, the one to be attached to the Convention to be signed by the Second Conference and the other to be annexed to the Agreement to be signed by the First Conference.

The latter Protocol, which was laid before the First Conference at the twenty-third meeting, held February 11, provided, *inter alia*: (1) That the Agreement which the Conference was to sign was to be deemed supplementary to, and designed to facilitate the execution of the obligation assumed by the Signatory Powers under

¹⁰ As to the necessity for, and work of, the Committee of Sixteen, see *post*, p. 333.

Article 6 of The Hague Convention of 1912, the obligation of which was to remain in full force and effect; (2) that, as soon as the poppy-growing countries shall have obtained such effective control of the export of raw opium that such exportation no longer constitutes a serious obstacle to the reduction of the consumption of prepared opium in countries where its use is still permitted, those countries will strengthen the measures already in force and take further measures that will bring the legalized smoking of opium wholly to an end within a period of 15 years thereafter; (3) that a Commission shall be appointed by the Council of the League of Nations to decide when that period shall begin; (4) that, at any time during this period, in the event of the measures upon the part of the poppy-growing countries being no longer effectively executed, the attention of the Council of the League may be drawn thereto, whereupon the Council shall investigate and report as to the facts, and, if it should be found that these measures are not being effectively enforced, the Protocol may be denounced.

When presented to the Conference, this Protocol was criticized by the Japanese Delegation upon the ground that, despite its first Article, its effect would be to weaken the obligation which the Powers had assumed in Article 6 of The Hague Opium Convention, the execution of which obligation, it was declared, was not dependent on the taking of any steps by other Contracting Powers. "It seemed," said Mr. Sugimura, "that an attempt was being made to suspend the execution of the measures contemplated in Article 6 of The Hague Convention and to make what had been hitherto tolerated into something which was legally justified. In his opinion, however, the obligations of The Hague Convention must continue to exist un-

touched according to the various circumstances prevailing in each country. Article I of the Draft Protocol guaranteed this, but Article II of the same Protocol seemed to contradict it. It was for this reason he would like certain explanations." ¹¹

Replying in behalf of the British Delegation, Sir Malcolm Delevingne said that he could not admit that this contradiction between Article I and II existed. "The British Government," he declared, "had no intention of suspending the execution of these obligations (of The Hague Convention), but intended to carry them out to the fullest extent of its power, and to restrict and bring to an end the use of prepared opium by every means which were available for the purpose. These means, however, within its power at the moment were limited because of the state of affairs existing in producing countries, especially in the Republic of China. The British Delegation, therefore, desired to place on record in the First Conference, just as it had done in the Second, that the execution of the obligations of the British Government was not suspended and that it intended to carry them out to the fullest extent within its power."

Mr. Sugimura thanked Sir Malcolm for his assurances and said that "as far as Japan was concerned, it would carry out its obligations, whatever action the producing countries might take. Japan had no desire to wait to reduce consumption of prepared opium until producing countries had taken the measures described in the Draft Protocol."

The position of the French Delegation, as declared by M. Daladier, was by no means as clear as that of the Brit-

¹¹ Minutes, 23d meeting.

ish Delegation. He emphasized the practical impossibility of undertaking "a serious obligation to reduce immediately the consumption of prepared opium in the Far Eastern territories of France while on the other side of several thousand kilometres of frontier an unlimited production of raw opium was in progress," and, in addition, asserted that the terms of Article 6 of The Hague Convention were, after all, very vague. "It was an obligation limited by a formula which left it to each State to say whether the conditions prevalent on its borders did, or did not, authorize it to carry out the provisions of the Article. The Article was, in fact, nothing more than a moral and superficial undertaking to pursue a certain course of action were it found possible to do so."¹²

The views of the Chinese Delegation with reference to this Protocol were not expressed from the floor in the First Conference as that delegation had withdrawn from the Conference. These views are, however, to be found in the Memorandum which accompanied the letter of the Delegation notifying the Conference of its withdrawal.¹³

The Protocol was adopted by the Conference at its next and concluding—the twenty-fourth—meeting.

The Final Act. In addition to the Agreement itself and the Protocol, the Conference adopted a "Final Act" in which, besides formal matter, and certain "Reserva-

¹² In connection with this rather remarkable belittling of Article 6 of The Hague Convention, reference may be made to the fact that in 1923 the authorities of French Indo-China gave permission to the military Governor of Yunnan to send opium through Indo-China, in return for which permission Indo-China received payment in raw opium. This transit was, of course, in direct violation of The Hague Convention, and called forth strong international representations to the French Government. For references to this incident, see the Minutes of the seventh meeting of the First Conference.

¹³ See *post*, p. 225.

tions " presently to be mentioned, there were included the statements regarding the impossibility of establishing systems of licenses (or registration) and rationing because of the existence of the contraband trade in opium, which it had been originally intended to embody in a Protocol. These statements were as follows:

The Conference, with the exception of the Chinese Delegation, further adopted the following resolution:

It has been pointed out to the Conference that in some countries the system of licenses (or registration) and rationing has been successful in diminishing the number of smokers.

At the same time, the Conference has found that, in other countries, the contraband trade, which equals and even surpasses in extent the legitimate trade, renders the application of the system difficult and, in the opinion of the Governments in question, useless and in some cases dangerous.

Accordingly, the Conference declares that the possibility of adopting these measures or of maintaining them in those territories where they are now working successfully depends principally upon the extent of the contraband trade.

It therefore leaves to the Contracting Powers which have not yet applied this system the duty of selecting the moment when circumstances will allow of its adoption and of taking in the meantime all such preparatory measures as they may deem expedient.

Reservations. The British representative signed the Protocol subject to the conditions contained in Article XIII of the Agreement. This Article, it will be remembered, related to the territorial application of the Agreement.

The Portuguese representative signed the Agreement subject to two reservations. The first of these declared that " the Portuguese Government, while accepting the principle of a monopoly as formulated in Article I, does so, as regards the moment at which the measures pro-

vided for in the first paragraph thereof shall come into force, subject to the limitation contained in the second paragraph of the Article; namely, "as soon as circumstances permit."

The second Portuguese reservation declared that "the Portuguese Government being bound by a contract consistent with the provisions of The Hague Convention of 1912, will not be able to put into effective operation the provisions of paragraph 1 of Article 6 of the present Agreement" so long as its obligations under this Contract are in force."

Explaining and justifying the first reservation, M. Rodrigues, of the Portuguese Delegation, said that "an opium monopoly existed in Macao, but was exercised by a concessionnaire under Government supervision. The Portuguese Delegation was convinced, and facts had already proved, that this method, which was the best suited to the geographical conditions of the Colony, was the only really effective one. Nevertheless . . . the Macao Government, in conformity with both the letter and spirit of The Hague Convention of 1912, would change the existing system in order to comply with the requirements of Article I, paragraph 2; in other words, it would institute, for the time being, and as far as circumstances allowed, a State monopoly analogous to the French monopoly (*régie*) in Indo-China. . . . An absolute Government monopoly would mean an army of customs officials unduly taxing the resources of the administration, which would derive no benefit from the monopoly and would be the chief sufferer from contraband coming from neighboring territories."

²⁴ This Article relates to the export of raw opium and the transit and transshipment of raw and prepared opium.

As to the second reservation, replying to questions addressed to him, M. Ferreira, of the Portuguese Delegation, said that the contract referred to would expire in 1928, and that words contained in the reservation "so long as its obligations under this contract are in force," referred to the obligations under that contract.

The Siamese Representative signed with the following reservations:

The Siamese Delegation is instructed to sign the Agreement under reservation of Article I, Paragraph 3 (a), with regard to the time when this provision shall come into force and of Article V. The reason for these reservations has been stated by the First Delegate of Siam on the 14th November, 1924. The Siamese Government is hoping to put into force the system of registration and rationing within the period of three years. After that date, the reservations in regard to Article I, paragraph 3(a), will fall to the ground.

Article V of the Agreement provides that the purchase and sale of dross, except when sold to the monopoly, is prohibited. When this provision was under discussion, Prince Charoon, said:

He would like to make a reservation on the subject of dross on behalf of the Siamese Government. In Siam, dross was regarded in exactly the same way as prepared opium. This had the advantage of ensuring that dross was only consumed by inveterate smokers. . . . The Siamese Government had carefully studied the question and had arrived at the conclusion that in the present conditions prevailing in Siam any attempt to recover the dross would be ineffective, apart from the heavy expenditure which it would entail.

The Withdrawal of the Chinese Delegation. The Chinese Delegation did not sign the Agreement, Protocol or Final Act. In fact the Chinese Delegation had notified the Conference at its twenty-third meeting, held on February 11, 1925, that it had withdrawn from the Conference.

The reasons for this action were set forth by the Chinese Delegation in a Memorandum accompanying its letter of withdrawal. This Memorandum was as follows:

CHINESE MEMORANDUM OF WITHDRAWAL

By the Convention signed at The Hague in 1912, the High Contracting Parties obligated themselves (Article VI) to "take measures for the gradual and effective suppression of the manufacture of, internal trade in, and use of prepared opium," that is, of opium for smoking. This obligation was, however, qualified by the provision that those Powers which were not then ready immediately to prohibit the export of prepared opium, should do so as soon as possible, and that, until this prohibition should be made absolute, the export should be restricted and controlled in certain specified ways.

It was the expectation of the world, and certainly that of the Chinese people, that the Powers signatory to The Hague Convention, and which continued to legalize the use of opium, would take prompt and decisive steps to introduce systems of control which would, by their operation, necessarily bring the temporarily legalized smoking of opium to an end within a few years, or at the termination of a specified period. In fact, however, this has not been the case, and because this has not been the result, this First Opium Conference was convened. In other words, the purpose of this Conference was that the Powers participating in it might come to some new agreement as to the action to be taken by them all in order to bring about that effective suppression of the temporarily legalized use of prepared opium to which the Powers had pledged themselves in The Hague Convention.

In the Resolution (5) of the Assembly of the League of Nations which provided for the convening of the Conference, it was declared that its purpose was to be "the conclusion of an agreement as to the measures for giving effective application in the Far Eastern territories to Part II of The [Hague] Convention and as to a reduction of the amount of raw opium to be imported for the purpose of smoking in those territories where it is temporarily continued."

No such effective action is made obligatory upon the Powers by the draft Agreement that has resulted from the labors of this Conference.

Some few, but not important, unqualified obligations have been assumed by the Powers, as, for example, that the sale of opium to minors shall be prohibited; that minors shall not be allowed to enter smoking divans; that "dross" may be sold only to the State monopoly, where one exists; and that the Powers shall exchange information and views with one another regarding the suppression of illicit traffic and the number of smokers.

All of the other undertakings of the Agreement, except the one providing for a review of the situation before the end of the year 1929, and Article VI later referred to, are so qualified as to render them in no sense imperative. The obligation to make the manufacture of prepared opium a Government monopoly is qualified by the phrase "as soon as circumstances permit"; the obligation to pay retail sellers of opium fixed salaries and without commissions on sales, is to be applied "experimentally in those districts where an effective suppression can be exercised by the administrative authorities," each Power having of course the right to determine for itself when this condition exists. Retail shops for the sale of opium, and divans for the smoking of opium are to be limited in number "as much as possible"—there is not even an obligation not to increase the number of retail shops and smoking dens now existing. Educational and other effects to discourage the use of prepared opium are to be exerted by only those Governments which consider such measures desirable under the conditions existing in their several territories. With regard to legislative measures for rendering punishable illegitimate transactions which are carried out in another country by persons residing within their own territories, the Contracting Parties obligate themselves to do nothing more than examine the possibility of such legislation in a most favorable spirit.

The foregoing undertakings furnish the substance of the draft Agreement that has been agreed upon with the exception of Article VI which prohibits the exportation of raw or prepared opium from the territories in which opium is imported for purposes of smoking, the transit through and transshipment of prepared opium in such territories, and regulates the transit through and transshipment of raw opium in those same territories.

The Chinese Delegation has been aware of the practical difficulties that confront the Powers concerned in taking effective measures for

the suppression of the use of prepared opium, but it is convinced that these difficulties are by no means insurmountable. Therefore, the Chinese Delegation is of the opinion that the time has come for these Powers to declare, in definite terms, either that legalised traffic in prepared opium within their several territories or possessions will be brought to an end within a fixed and reasonable period of time or that they will at once establish and operate, to the extent of their administrative and executive power, systems of regulation and control which will necessarily bring about a yearly and progressive diminution in the amount of prepared opium legally used, and of the number of persons permitted by law to purchase and consume this opium—a diminution that will proceed at a rate that will bring to an end, within a reasonably brief period of time, this pernicious traffic.

The Chinese Delegation has noted the repeated declarations of the representatives of the Governments concerned that their opium policies have not been, and will not be influenced by financial consideration. The Delegation is, however, constrained to say that, however this may be, the fact remains that these Governments do obtain large public revenues from the traffic, and thus furnish occasion for statements like that of Sir John Jordan, when in the Opium Advisory Committee, at one of the meetings of its fifth session, he said that so long as Colonies are deriving fifty per cent of their whole revenue from the opium traffic, it is absurd to say that financial considerations do not play a part.

In addition, there is also the fact, stressed by certain of the British Colonial officials, that the circumstance should not be ignored that an adequate supply of Chinese laborers in those countries is of great economic, that is to say, of financial importance, and, therefore, that the Governments should hesitate to impose restrictions upon the use of prepared opium which may operate to interfere with this labor supply. Thus, in the Memorandum published by the Court of Directors of the British North Borneo Company in October, 1923, embodying their views upon the measures suggested by the League of Nations Advisory Committee on Traffic in Opium, it is said with reference to the possible introduction of a system of registration and licensing (p. 4) :

“A free inflow of Chinese laborers and settlers is vital to the progress and development of North Borneo, and the Government would hesitate to introduce measures which, in the present state of Chinese feeling, must necessarily restrict immigration and have a disturbing effect on the resident Chinese population.”

In the Memorandum supplied by the Netherlands Government (C.O.P. 19) (O.C. 126), it is said with reference to the license system:

“In some districts, it was necessary to deviate from the principle that, after the enforcement of the system, no licenses should be issued. Vast regions, namely, are largely dependent for their economic development on the supply of labor from elsewhere, frequently non-native workers [that is, Chinese] and, should the use of opium be wholly prohibited, it would be impossible or at least extremely difficult to hire laborers, so that the public welfare would suffer materially from such a measure.” That the Chinese laborers would suffer in the absence of such a control is not mentioned.

Again, in the report of the British Malaya Opium Committee which has recently been published, there is this declaration (p. A 54):

“We cannot avoid reflecting upon possible disturbances of the free influx of Chinese labor which might result from restrictions of this nature, unless this system were applied universally where the Chinese can earn a livelihood. Any check on a free flow of labor from China would have disastrous effects on the economic position of British Malaya, and these territories would be faced with a steadily dwindling revenue and steadily increasing expenditure, owing to costly preventive services and establishments required to make the system effective.”

And, as to the revenue obtained in British India, there is the following conclusion stated in the Report of the Indian Retrenchment Committee (the Inchcape Report), issued in 1923 (p. 226):

“Having reviewed the expenditure under the opium head, we recommend that the possibilities of reducing the price paid to cultivators of opium be carefully watched with a view to reduction. We are informed that there will be a reduction of about Rs. 20 Lakhs in expenditure in 1923-1924, and, in view of the importance of safe-

guarding this important source of revenue, we recommend no further reduction."

The statements that have been quoted, seem to indicate that considerations of a materialistic, even if not of a directly public financial, character play a part in the formation of the policies of those Governments which continue to legalize the use of prepared opium in their territories or possessions.

It was suggested by the Chinese Delegation in this Conference that the public revenue derived from the opium traffic be applied to the prevention and cure of opium addiction, to the economic and moral betterment of the classes from which the consumers of opium are drawn, and to defraying the expenses of more drastic police and administrative measures for preventing that illicit traffic in opium which, it is claimed, now interferes with the efficient operation of measures for bringing about the suppression of the use of prepared opium. But this suggestion (with the exception of Japan in Formosa) the Powers declined to adopt.

As to the Protocol that is annexed to the draft Agreement, the Chinese Delegation does not deem it necessary to repeat what it said in the Conference at the time its adoption was discussed. It would, however, respectfully refer to the statement then made.¹⁵

As to the Protocol that is annexed to the draft Agreement which the British Delegation presented to the Joint Committee of Sixteen, and which, it is proposed, should be annexed to the Agreement to be adopted by this Conference, the Chinese Delegation would say that it is unable to subscribe to the unqualified assertion contained in the Preamble that "the effective prohibition of the use of prepared opium in their Far Eastern territories is dependent on effective measures being taken by the producing countries to restrict the production of opium and prevent its illicit export." As the Chinese Delegation has already said, it recognises that the existence of contraband trade in opium constitutes an impediment to the effective operation of measures for the total suppression of the legalized use of prepared opium, but it does not admit that the impediment is such as to prevent and excuse the Powers concerned from taking

¹⁵ It is to be noted that this proposed Protocol was later embodied in the "Final Act" of the Conference.

immediate steps to enforce measures that will, if allowed free play, lead, within a definite or reasonably brief period of time, to the total prohibition of the legalized smoking of opium. With such measures in existence, even though their operation be somewhat retarded by illicit trade, the Powers will be in a position to increase their efficiency in exact proportion as the retarding influences, of which contraband is but one, are lessened or wholly removed.

The Chinese Delegation is further unable to give its approval to the substance of the declarations or undertakings contained in the proposed Protocol for the reason that, instead of providing for the taking of immediate steps leading to the total suppression within a definite or reasonably brief period of time, of the legalized use of prepared opium, they postpone the initiation of such measures to an indefinite and contingent date.

In view of the foregoing, the Chinese Delegation is constrained to say that it deems that no useful purpose will be served by its further participation in the work of the Conference. The Chinese Delegation is, however, convinced that in order successfully to cope with the problem of opium in all its phases international co-operation is required. Whenever the Powers signatory to The Hague Convention of 1912 are prepared to conclude "an Agreement as to the measures for giving effective application in the Far Eastern territories to Part II of The [Hague] Convention and as to a reduction of the amount of raw opium to be imported for the purpose of smoking in those territories where it is temporarily continued," they will find China not only ready but eager to co-operate, to the full extent of its power. In the meantime China will continue its policy of absolutely prohibiting the production of opium and its use for other than medicinal and scientific purposes. The present conditions in China which, unfortunately, make it impossible for the Government of China to secure an effective enforcement of this policy, are temporary in character. The Government of China gives the assurance that it will not depart from its policy with regard to opium, and that it will, at all times, exert all the executive and administrative power possessed by it to enforce that policy. This the Government of China will continue to do, independently, and without regard to the action of the other Powers. It is the hope of the Government and the

people of China that, reciprocally with their independent effort to suppress the production and control the use of opium within the borders of China, the other Powers will, upon their part, make every effort to prevent illegal traffic in opium and narcotic drugs, and progressively to suppress the legalized use of prepared opium.

CHAPTER XIII

THE ORGANIZATION AND PROCEDURE OF THE SECOND CONFERENCE

In an earlier Chapter an account has been given of the steps leading up to the adoption by the Assembly of the League of Nations, on September 27, 1923, of the Resolution which led to the convening of what has been termed The Second Opium Conference.

Appointment of the Presiding Officer. The first meeting of the Conference, held on the morning of November 17, 1924, was opened by M. Avenol, Deputy Secretary-General of the League of Nations, who presented His Excellency M. Herluf Zahle as President of the Conference. M. Avenol said:

As in the case of preceding international conferences convened under the auspices of the League of Nations, the Council was anxious to entrust the direction of your proceedings to a President whose competence and impartiality would be universally recognised. The Council's choice fell on His Excellency M. Herluf Zahle. I have no need to introduce M. Zahle to you. As first delegate of Denmark he has attended all the Assemblies of the League. He has been a member of the General Committee of those Assemblies, and again this year, as Chairman of the Fifth Committee, which dealt mainly with humanitarian questions, more particularly with the opium question, his ability, authority and impartiality were appreciated by all his colleagues. I feel sure, therefore, that all the delegations will warmly approve the choice made by the Council of the League.

I request His Excellency M. Zahle to take the Chair.

The propriety, upon the part of the League, of appointing for the Conference its presiding officer was not beyond criticism, for the Conference, though convened under the auspices and at the invitation of the League, was not a League Conference or in any true sense an organ of the League. As an autonomous body it was entitled to select its own presiding officer. The fact that, among the Nations represented in the Conference, there were several—the United States of America and Germany, for example¹—which were not members of the League made the

¹The Russian Government had been invited to send representatives to the Conference, but sent a letter of refusal, some of the declarations of which make interesting reading, especially in the light of what did actually occur in the Conference. In part, the letter ran as follows (Document O. D. C. 4):

“The People’s Commissariat for Foreign Affairs desires in the first place to point out that the Union of Soviet Socialist Republics is ahead of all other European countries in the campaign against the diffusion of narcotic drugs, and has taken various measures for this purpose, which the other Governments at present in power have not dared to adopt, owing to their fear of private interests. By its own efforts and on its own initiative, the Soviet Government has obtained results which the Conference being held to combat the evil can only contemplate as an object to attain in the distant future. If it were to attend the Conference the only object of the Soviet Government would be, therefore, to endeavour to induce other Governments, to adopt measures similar to those taken by itself.

From the Report of the Preparatory Committee’s proceedings sent by the Secretary-General, the Soviet Government has ascertained that the Committee restricted itself to expressing its deep regret that it was unable to come to a general agreement as between the various proposals of its members and was therefore not in a position to submit a definite programme for the Conference. The only result therefore of the Preparatory Committee’s proceedings has been to emphasise yet more clearly the impossibility of an agreement between the participating Powers as to the practical measures to be taken in this field. Upon analysis of the proposals made by the members of the Preparatory Committee and of the objections raised thereto, the Soviet Government has come to the conclusion that the objection raised by the other members to each proposal was invariably to the effect that the proposal made by each Government was designed exclusively to promote the commercial interests of that Government to the detriment of the other countries, and closer examination of these objections has in all cases convinced the Soviet Government of the correctness of its view.

action of the League all the more open to objection, since, for them, the League could not be held to be acting constructively as their agent. The action of the League was thus a denial to those Powers of any voice whatever, direct or indirect, real or constructive, in the selection of the person who was to direct the work of the body of which they were members. It would appear that the Delegation of the United States of America recognized that its rights had been infringed, and, in order to perfect the record, so far as it was able to do so, its Chief Delegate, Mr. Porter, immediately upon the announcement of M. Avenol that M. Zahle had been selected as the presiding officer of the Conference, rose and said:

On behalf of the delegates of the United States of America, it gives me the greatest pleasure to express our hearty approval at the election of M. Zahle as President of this Conference.

The Chief German Delegate, Herr von Eckhardt, similarly took pains to give the approval of his Delegation of the selection of M. Zahle.

Election of Vice-Presidents. The Conference itself selected its two Vice-Presidents, Dr. S. K. Alfred Sze, head of the Chinese Delegation, and M. de Aquero y Bethancourt, the Cuban Delegate. It was decided that these two Vice-Presidents should be on an equal footing and take their seats in turn upon the platform at the side of the President.

"The Government of the Union has accordingly reached the conclusion that, although the alleged aim is to combat the diffusion of narcotic drugs, the various countries are, in point of fact, seeking to promote their commercial interests and to earn business profits for themselves. In these circumstances the Soviet Government considers that it could not usefully attend any meetings or conferences of this kind."

Credentials. A committee to verify the credentials of representatives to the Conference was appointed, and duly reported. No discussion occurred upon this report, but there did arise some discussion in connection with the report of the Committee on the Rules and Procedure with regard to the standing of certain Delegates whose full powers were not in good order but who had agreed to take steps to have them perfected.² Article I of the Rules of Procedure, as originally presented, and also as reported by the Committee on Rules of Procedure, provided that the Conference should consist of delegates appointed and duly supplied with plenipotentiary powers. In the final draft of the Rules as adopted by the Conference this provision was deleted, and Article III, which originally provided that the plenipotentiary powers should be handed to the secretary as soon as the Conference should open, was changed so as to provide that these powers should be handed in "as soon as possible after the Conference opens." It was agreed that, should any Delegation have failed to receive full powers from its Government at the time the Conference closed, they, of course, would not be able to sign any Agreement or Convention that might be arrived at. In the meantime, those Delegates who had received from their Government only "powers" or designation as "representatives," were to stand upon the same footing as those who had received their full powers. It was assumed that they should be able to regularize their status by the time it became necessary to employ full powers for the purpose of signing the Agreement or Convention that it was expected would result from the labors of the Conference.

² Minutes, 3d meeting.

Audition of the Representatives of Private Associations.

After some discussion of the rights to be accorded to representatives of private associations who were in attendance and who desired to bring the wishes of their several associations before the Conference, it was decided to set aside an entire meeting of the Conference for this purpose. This meeting, the sixth, was held on November 20,³ and, after the addresses had been given, a resolution was adopted by the Conference that the Secretariat of the League should be instructed to collect and classify the proposals and suggestions contained in them and communicate them to the members of the Conference.⁴

Rules of Procedure. The Agenda having been adopted, the President presented to the Conference a set of draft Rules of Procedure which had been drawn up by the Secretariat of the League. These Rules were referred to a Committee of seven, appointed by the President, for examination and report to the Conference.⁵ The report of this Committee was discussed at the third and fourth meetings of the Conference, and the Rules adopted.

Publicity. By Article 6 of the Rules it was provided that meetings of the Conference should be public unless

³ Addresses were made by the following: M. T. Z. Koo (National Anti-Opium Association of China), Dr. Warnhuis (International Missionary Council), M. Kenneth MacLennen (Conference of Missionary Societies), Mr. Eugene Beaupin (Catholic Students Union), M. H. G. Alexander (Society of Friends), Rev. E. J. Dukes (Society for the Suppression of the Opium Trade), Mrs. Moorhead (Foreign Policy Association), Mrs. Sturges (White Cross of America).

⁴ See Document O. D. C. 48.

⁵ This Committee consisted of Dr. F. Bustamenti (Spain), Sir Malcolm Delevingne (British Empire), M. Dinichert (Switzerland), M. Pinto-Escalier (Bolivia), Dr. E. R. Sjöstrand (Sweden), Dr. Sze (China), and M. Veverka (Czecho-Slovakia).

decision to the contrary was taken. No such decision was, however, taken.

Records. Article 14 of the Rules provided that a verbatim record of the meetings of the Conference should be prepared and distributed by the Secretariat. It will be remembered that no verbatim records—only abridged “Minutes”—of the First Conference were distributed.

Sub-Committee Meetings. Meetings of Sub-Committees were in public, no private sessions having been asked for. Only “Minutes” and not verbatim records of the discussions had in them were issued.

The Business Committee. The chief change in, or rather, addition to the Rules as originally drafted made by the Committee to which they were referred was that providing for a Committee of Business. This provision was contained in Article V of the Rules as adopted. This Article was as follows:

A Committee of Business shall be appointed by the Conference, consisting of the President of the Conference, the two Vice-Presidents and eleven other members. The President shall be the Chairman of the Committee.

The functions of the Committee shall be to make proposals to the Conference for the arrangement of the business of the Conference; to nominate for the approval of the Conference, should occasion arise, the members of any Committee which shall be constituted by the Conference; to examine and report on communications made to the Conference by private organisations or individuals; and to consider and report on any other matters which may be referred to them by the Conference.*

* As reported by the Committee on Rules, the Committee on Business was authorized “to approve all communiqués issued to the press.” It was decided by the Conference that this was neither a feasible nor a desirable function for it to perform, and the clause to this effect was therefore deleted. Minutes, 4th Meeting.

In explaining this Article, Sir Malcolm Delevingne, chairman and rapporteur of the Committee, said:

The purpose of the establishment of such a Committee is twofold. In the first place, we think it will facilitate the work of the Conference, as it will avoid, or at any rate shorten, discussions which might possibly be very long in the full Conference on matters which relate only to the procedure or business of the Conference. In the second place, the President has been good enough to say that the appointment of such a Committee will greatly assist him in his heavy task of directing the work of the Conference.

This proposal is not a novel one. It has been adopted in other Conferences and has been found to work very satisfactorily. In the International Labour Conferences, which are held at Geneva under the auspices of the League of Nations, that method is always adopted, and I can speak from personal experience as to its value.¹

First and Second Committees of the Conference. In the first report made to the Conference the Business Committee recommended the establishment of two general

¹ Minutes, 3d Meeting. Upon a ballot taken, the following Delegations were elected to be represented upon the Business Committee: United States of America, France, Japan, British Empire, Switzerland, Netherlands, Germany, Italy, India, Kingdom of the Serbs, Croats and Slovenes, and Bolivia. It is perhaps worth noting that upon this ballot the United States of America received the highest vote—35 out of 39 votes cast. Balloting was conducted under the following rule which has been the one adopted by the Assembly of the League of Nations:

“When a number of elective places of the same nature are to be filled at one time, those persons who obtain an absolute majority at the first ballot shall be elected. If the number of persons obtaining such majority is less than the number of persons to be elected, there shall be a second ballot to fill the remaining places, the voting being restricted to the unsuccessful candidates who obtained the greatest number of votes at the first ballot, not more than double in number the places remaining to be filled. Those candidates, to the number required to be elected, who receive the greatest number of votes at the second ballot, shall be declared elected.”

At the first vote taken under this rule 10 of the 11 members of the Business Committee were elected. As there remained but one place to be filled, the next choice would have been between but two countries—Spain and Bolivia. The Spanish Delegation, however, withdrew its name, and, therefore, the Bolivian Delegation was selected without another vote being taken.

Committees. Upon each of these Committees each Delegation was to be entitled, if it desired, to be represented. The first of these Committees, it was recommended, should consider the measures that had been suggested for consideration by the Conference by the Advisory Committee, as well as measures that might be suggested by any Delegation for: (a) The limitation of the manufacture of dangerous drugs; and (b) the limitation of the production for export of the raw materials (opium, coca leaves, etc.) out of which such drugs are manufactured. The Second Committee, it was recommended, should consider the general proposals for the amendment of The Hague Convention of 1912 suggested by the Advisory Committee or by any Delegation.*

The plan of the Business Committee further provided that each of these Committees might appoint Sub-Committees which should report to General Committees and not directly to the Conference.

These suggestions of the Business Committee were, after some discussion, accepted by the Conference and the General Committees duly established, but the plan never worked satisfactorily, and, later on, the two Committees were abolished.°

Sub-Committees. The establishment of six Sub-Committees which was recommended by the Business Committee in its first report, was accepted by the Conference at its eighth meeting. These Sub-Committees, designated

* As to the suggestion of the Advisory Committee, Appendix III. These suggestions originally appeared as Appendix I to the Sixth Report of the Advisory Committee. O. C. 216.

° See Record of Thirteenth plenary meeting of the Conference.

by the first six letters of the alphabet, were to deal, severally, with the following subjects:

Sub-Committee A.—Suggestions for the limitation of the manufacture of drugs.

Sub-Committee B.—Suggestions for the limitation of opium for export.

Sub-Committee C.—Suggestions for the limitation of the production of coca leaf for export.

Sub-Committee D.—The foregoing suggestions from the point of view of consuming countries.

Sub-Committee E.—Suggestions for the control of the international traffic more especially in regard to export, import, transshipment, etc., of opium, coca leaves and dangerous drugs.

Sub-Committee F.—Consideration of the report of the Health Committee of the League of Nations on the medical requirements for the drugs, and the material collected by the Preparatory Committee and any other material that might be available with reference to the same question. This Committee, it was declared, should be composed of medical, pharmaceutical and statistical experts.

At the time that these Sub-Committees were decided upon there was some discussion as to their composition. The Business Committee had made certain recommendations as to this which did not include, as to Sub-Committees A, B, and C, provision that consuming countries should have a representation upon them equal to that of producing or manufacturing countries. Upon motion of the Polish Delegate, Dr. Chodzko, the Conference voted that this representation should be given to them.¹⁰

Care was taken to indicate under which of the two General Committees each of the Sub-Committees was to

¹⁰ Record, 8th Meeting.

be, but this later became of no importance, since, as has been earlier said, these General Committees were abolished before the time came for the Sub-Committees to make their reports. When made, these reports were addressed directly to the Conference in plenary session.

Assignment of Specific Proposals to the Commissions and Sub-Committees. The Business Committee made a second report to the Conference at its ninth meeting, in which it announced the manner in which it proposed that the various matters to be dealt with by the Conference should be assigned to the two General Committees.

According to these recommendations, which were accepted by the Conference, Part I of the "Measures suggested as a basis for the deliberations of the Second Conference" drawn up by the Advisory Committee was to form the basis of the work of the First Committee; while Parts II and III of the Advisory Committee's suggestions were to be assigned to the Second Committee.¹¹

The detailed American suggestions¹² were to be divided up and so allocated as to have them discussed in connection with the corresponding measures suggested by the Advisory Committee. The Business Committee, however, reported that it had not thus distributed certain of the American proposals. Among the propositions thus held in reserve and not allocated were the following: That contained in Article I, namely that "the Contracting Parties shall enact effective laws or regulations for the control of the production and distribution of raw opium and coca leaves so that there will be no surplus available for

¹¹ As to these "Measures" drawn up by the Advisory Committee, see *post*, p. 512.

¹² See Appendix II.

purposes not strictly medical or scientific"; Article 9a, that laws or regulations should be enacted prohibiting the manufacture and distribution of heroin; Part II, relating to prepared opium; and the Preamble. The reason why these proposals were not allocated was because, as will presently be seen, they involved questions as to the Competence of the Conference—questions which the Conference had not yet decided. Provision was also made in the second report of the Business Committee for the allocation of proposals that had been made by the Belgian, Australian, Austrian, Cuban, Norwegian and Chinese Delegations.

Meetings of the General Committees. The two General Committees, before their dissolution, each held four meetings, and there was one joint meeting of the two. A greater part of the time of these meetings was devoted to the allocation to the Sub-Committees of the various proposals that had been presented to the Conference. There was also some discussion as to whether the meetings of the Commissions should be public, and it was decided that, in this respect, they should be governed by the same rule as that which had been adopted for the plenary meetings of the Conference—namely, that they should be public, unless decision to the contrary was taken. No such decision was taken, and the few meetings of the General Committees were therefore held in public.¹³

As to the meetings of the Sub-Committees, upon motion of Dr. Sze, it was voted that, except when the Sub-Committees should decide otherwise, their meetings should be in public, and that representatives of delegations not on

¹³ Dr. Sze of the Chinese Delegation and Mr. Porter of the American Delegation were among those who most strongly insisted upon publicity.

sub-committees might attend their private meetings if any should be held.

Selection of Members of Sub-Commissions. The members of Sub-Commissions were elected in meetings of the General Committees. For this purpose lists were used which had been prepared by the Business Committee. The Sub-Committees elected their own Chairmen and Rapporteurs.

The Agenda. At the close of his Address of acceptance of the Presidency of the Conference, in which he sketched briefly the steps leading to its assembling, M. Zahle presented to the Conference the following Agenda which had been drawn up by the Secretariat of the League of Nations and which was based upon Resolution 6 of the Assembly of the League of September 27, 1923.

(1) Election of Vice-President; officers of the Conference and Commissions; adoption of Rules of Procedure.

(2) Consideration of the measures which can be taken to carry out the Opium Convention of 1912 with regard to: (1) A limitation of the amounts of morphine, heroin or cocaine and their respective salts to be manufactured; (2) a limitation of the amounts of raw opium and the coca leaf to be imported for that purpose and for other medicinal and scientific purposes; (3) a limitation of the production of raw opium and the coca leaf for export to the amount required for such medicinal and scientific purposes.

It will be observed that this Agenda differed from the Resolution of the Assembly in the important respect that it made no reference to the fact that the declared purpose of the Conference was to be the conclusion of agreements upon the points enumerated " as a means of giving

effect to the principles submitted by the representatives of the United States of America, and to the policy which the League, on the recommendation of the Advisory Committee, has adopted.”

This Agenda was adopted by the Conference without discussion. Mr. Porter, of the American Delegation, however, filed the following caveat or reservation :

The United States Delegation respectfully reserves the right to move that the Agenda be amended in the event of the First Conference not providing an effective means for the suppression of the traffic in prepared opium or failing to reach an agreement.

We are confronted with an unfortunate situation which cannot be solved by an appeal to technicalities. Whether or not the findings of the First Conference were to have been reported directly to the Second Conference, the latter at least needs to know them in order to deal effectively with the subject of production. The First Conference has thus far reached no agreement, and we have nothing before us.

The dictates of common sense demand a frank admission of the dilemma in which this failure to reach an agreement has placed the Second Conference and a consideration of the possibility and wisdom of widening the scope of our discussion to include the subject of the progressive suppression of the traffic in prepared opium. The Hague Convention lays the responsibility for this matter upon all the contracting Powers without distinction.

It is only fair to state that the representatives of the United States, foreseeing the possibility of such a situation as has arisen, consistently contended at the meetings of the Fifth Committee of the Assembly of 1923 for one instead of two Conferences. In view of these facts, the United States delegation respectfully reserves the right to move the amendment of the Agenda in the event of the First Conference not providing an effective means for the suppression of the traffic in prepared opium or failing to reach an agreement.

The importance of this caveat or reservation will later appear.¹⁴

¹⁴ *Post*, Chapter XVI.

Coördination Committee. At its thirteenth meeting the Conference created a body which was designated as the Coördination Committee. This was in pursuance of the following motion made by Sir Malcolm Delevingne:

That a joint meeting of representatives of Sub-Committees A, B, C, and D be held on Saturday, December 13, for the purpose of coördinating the conclusions of these Sub-Committees and presenting a joint report to the plenary Conference on Monday, December 15. Committees A, B, and D shall each nominate two members, and Committee C one member in addition to the Chairman to represent them at the meeting.

At the twenty-fourth meeting of the Conference this Committee was amplified by including among its members representatives of Sub-Committees E and F, and its function correspondingly extended to cover the conclusions of these two Sub-Committees.

Drafting Committee. As usual in all international conferences, a Drafting Committee was created to put into precise form the conclusions arrived at. This Committee was created at the thirteenth meeting of the Conference, and its members, as appointed by President Zahle, announced at the next meeting.¹⁵

¹⁵ The members were as follows: M. Arturo Pinto-Escalier (Bolivia), Sir Malcolm Delevingne (Great Britain), M. Bourgois (France), Mr. Sugimura (Japan) and the Hon. Stephen G. Porter (America).

CHAPTER XIV

PROPOSALS SUBMITTED TO THE CONFERENCE

The specific proposals to be considered by the Conference were derived from two sources: (1) Those made by the Advisory Committee and contained in the report of its Sixth Session; and (2) those presented by the various Delegations in the Conference. Of these latter the most important were those brought forward by the American Delegation. These were presented in printed form, and distributed to the Conference.¹ For the convenience of the other Delegates, in columns parallel to those in which the American proposals were given were also printed the corresponding proposals of the Advisory Committee and the relating provisions of The Hague Conventions with typographical indication as to how those provisions would need to be amended if the American proposals were accepted by the Conference.

As the substantive work of the Conference so largely centered around the American and Advisory Committee's, proposals, they are reproduced *in extenso*, as Appendices to the present volume.²

Proposals, other than those that had been made by the Advisory Committee and by the American Delegation,

¹ There was also presented by the American Delegation a printed volume of more than 300 pages, containing the English and French texts of a number of important documents. This volume is a Congressional Document (House Doc. 380, 68th Cong., 1st Sess.).

² Appendices II and III.

were presented to the Conference from the floor or were circulated in written Communications.

American Proposals. The American proposals were formally presented to the Conference at its fourth meeting by the Rt. Rev. Charles Brent. In bringing them forward he said, in part:

Our programme is an attempt to translate the ideals for which we stand into terms of national and international practice. It is couched not in terms of immediacy or expediency but of a purpose to which every signatory of The Hague Convention is pledged—the ultimate suppression of the abuse of opium, cocaine and their derivatives, and the restriction of their production and manufacture within the requirements of medicine and science. . . . The Delegation of the United States would be acting beyond its province in presenting such a programme as is being placed in your hands were it not that we are voicing not merely an Act of Congress and the instructions of the Government, but also the popular demand. We carry with us written documents pledging the unsolicited support of societies and organizations representative of the whole country, from the American Red Cross Society, the American Chamber of Commerce, the Grotto (a Masonic organization), the Mystic Shrine (another Masonic organization), and fraternal orders representing five million people, from international missionary societies, seven hundred schools and colleges and hundreds of churches and religious organizations. . . . For the present we are laying our whole case before the Conference without reserve and ulterior motive.

Australia. Australia proposed that countries not at present producing opium or coca leaf should be prohibited from doing so.*

Austria. Austria proposed that the cultivation of the poppy and of the coca leaf should be reduced to the quantity needed for the requirements of medicine and science,

* O. D. C. 20.

but that this cultivation should not be confined to a restricted number of countries or confined to countries in which opium has hitherto been produced. The communication of the Austrian Delegation continued: "In the opinion of the Austrian Government, each country should be left to determine the quantity of narcotics required for medical and scientific purposes in its own territory. As regards the calculation of a total for world consumption the Austrian Government sees no objection to the proposal, on condition that this figure should be drawn up with due regard to the statistics for the requirements of the various countries over a period of several years."⁴

In a further communication⁵ the Austrian Government declared that it could not "agree to the proposal that every country should undertake not to authorize the importation of quantities of narcotics greater than those specified in its estimates"; and also that it did not consider it absolutely necessary to set up a Central Board composed of experts to supervise the proportion of quantities imported as compared with those set up in the estimate. Still further, the Austrian Government declared that it could not agree to the proposal that when a copy of the export license does not accompany a consignment the Government issuing the export license should send a copy of it to the Government of the importing country. Regarding shipments of narcotics passing in transit through the territory of a third country without being removed from the ship or conveyance in which it was being carried, the Austrian Government declared it would not be in a position to apply the provisions contained in No. X of the proposals of the Advisory Committee.

⁴ O. D. C. 20.

⁵ O. D. C. 20 A.

China. With the exception of proposals relating to Chapter IV of The Hague Convention, which will be later referred to,⁶ the Chinese Delegation made no formal proposals to the Conference. However, in several of his statements, Dr. Sze emphasized the view of his Delegation that the competence of the Conference should be interpreted in the most liberal manner, and especially so as to include a consideration of the proposals of the American Delegation with reference to the suppression of the use of prepared opium, the prohibition of the manufacture of heroin, and the reduction of the production of raw opium to the amounts needed for strictly medical and scientific purposes. Dr. Sze also gave support to the Egyptian proposal with reference to the control of traffic in hashish, and to the desire of the Persian Delegation for aid from the Powers in order to enable Persia to reduce the production of opium within its own territories.

Cuba. Cuba proposed that the "world production of opium and narcotics should be exactly proportionate to requirements of each country for medical and scientific purposes estimated on a *bona fide* basis."⁷

Norway. Norway said that it would not be able to furnish quarterly, but could furnish annual statistics as to amount of drugs to be imported and exported; that ecgonine might be included among the drugs to be regulated; and that its Government could not consent to the deletion of the last sentence of Article X of The Hague Convention if that would be taken to mean that chemists

⁶ Chap. XXIV. China manufactures no narcotic drugs and, therefore, is not concerned with the problem of the regulation of such manufacturing, nor does China export raw materials for such manufacturing.

⁷ O. D. C. 20.

or druggists would have to enter in their books, together with the name of the purchaser, each consignment of opium, etc., or of drugs containing those substances, and to notify the Governmental authorities of the facts. "Such a provision," it was declared, "would be too drastic and is not essential for the purpose of control. It would, moreover, appear to be impracticable."⁸

Belgium. Belgium proposed that Article XIV of The Hague Convention should be so amended as to make it relate to drugs containing more than 0.05 gr. per cent of morphine and 0.025 gr. per cent of cocaine (instead of 0.2 of morphine and 0.1 per cent of cocaine), to solutions of morphine and cocaine delivered in the forms of ampullas; to ecgonine; to heroin, its salts and preparations containing heroin; and "to all new derivations of morphine, of cocaine or of their respective salts and to every other product which may be shown by scientific research, generally recognized, to be liable to similar abuse and productive of like ill-effects."⁹

Bolivia. Bolivia declared, for reasons set forth by its Delegate in an able statement¹⁰ that, "it would be unable to accept any measure tending to prevent the use of the coca leaf in conformity with the established custom of Bolivia, or to hamper either its production or its exportation for use in this way."¹¹

⁸ O. D. C. 20.

⁹ O. D. C. 41.

¹⁰ To the Conference at its ninth meeting.

¹¹ This statement showed that the moderate chewing by the natives of the coca leaf grown in Bolivia is not considered harmful; that Bolivia does not manufacture or consume cocaine; and that almost her entire exports of coca leaf goes to countries which do not manufacture cocaine or re-export the coca leaf. Nearly 85 per cent of the exports of coca leaf goes to Argentina, and over 15 per cent to Chile. See *post*, p. 385.

Egypt. In the Conference the Egyptian Delegation concerned itself principally with the effort to obtain an agreement upon the part of the Powers for an adequate regulation of the traffic in hashish. The Delegation presented the following proposals:

“ It should henceforward be understood that all known narcotic substances, not at present classified as dangerous drugs, but nevertheless capable of being regarded as such, together with any other narcotic drug which may be discovered or manufactured in future, should automatically come under the provisions of the Convention which we desire to include.”

And, further:

“ 1. That hashish be included in the list of dangerous drugs with which we are to deal.

“ 2. That the Powers signatory of the Convention impose uniform penalties for offenses against the provisions of the Convention to be concluded by this Conference, or at least that they should mention in the Convention that the penalty will not be less than that provided for misdemeanors.

“ 3. That it is desirable that the import and export permits referred to in the Convention should be alike in all countries and that they should be drawn up in such a way as to make it difficult for contraband dealers to forge them.”¹²

Great Britain and India. The Delegations of the British Empire and India accepted the suggestions of the Advisory Committee as an adequate statement of the

¹² O. D. C. 43; O. D. C. 44. See also the Memorandum on Hashish (O. D. C. 38) submitted by Dr. Mohammed Abdel Salem El Guindy, the First Egyptian Delegate; and also the Memorandum on Hashish as it concerns Egypt, submitted by Dr. A. H. Mahfooz Bey (O. D. C. 55).

wishes of their Governments. As to this Sir Malcolm Delevingne, at the fifth meeting of the Conference, said:

It is probably known to most of the delegates that Great Britain has put forward in the Preparatory Committee a scheme for limitation of production. This scheme has not been withdrawn, but in view of the fact that a scheme drawn up on somewhat different and somewhat simpler lines was prepared by the Opium Advisory Committee at its recent session, and in view of the fact that that scheme received a large measure of agreement in the Committee, Great Britain is prepared to withdraw its own scheme, if the scheme of the Advisory Committee is found to be generally acceptable to this Conference.

At the same meeting, Mr. Campbell of the Indian Delegation said: "India is prepared to accept the scheme drawn up by the Opium Advisory Committee."

Czecho-Slovakia. At the fourth meeting of the Conference, the Czecho-Slovakian Delegation, while not presenting specific proposals, stated the following general principles which, in the opinion of its Government, should govern the determinations of the Conference:

(1) Limit production of opium and coca leaves and their derivatives to the medicinal and scientific needs of the world.

(2) Rigorously supervise the manufacture, importation, exportation, distribution and sale of these drugs.

(3) Prohibit the trade in derivatives of opium in every shape or form.

(4) Render the trade in opium subject to the granting of individual concessions.

(5) Carefully ensure that the holders of these concessions submit duly controlled returns.

(6) Establish special certificates for importation and exportation.

(7) Only grant export licences with the consent of the State to which the goods are consigned, and exact severe penalties for infractions of this rule; that is to say, heavy fines, the withdrawal of the

concessions, etc. If every country were to apply these rules loyally and effectively, the problem would, by the very nature of things, cease to exist.

France. The French Delegation made the formal statement of its position at a joint meeting of the First and Second General Committees, held November 25.¹³ This statement, which partook of a running commentary upon and criticism of the proposals of the Advisory Committee is too long and too detailed to be quoted but may be summarized as follows:

The part of the scheme of the Advisory Committee which is founded upon the idea that each of the countries shall estimate their annual import requirements is severely criticized on the ground that these requirements vary so greatly from year to year that those estimates cannot be accurately, and, possibly would not be honestly, made. In result, it is declared, the estimates would be arbitrarily made. As to providing that a Central Board should fix the amounts reasonably required by each country which does not furnish estimates, and that other countries should refuse to authorize exports in excess of the figures fixed by the Board, the French Delegation declared its strong dissent. M. Bourgois said:

I could not possibly agree to this proposal, which would, I think, create a very dangerous precedent. Any Government has the right to refuse to adhere to a Convention without being subjected to suspicion, pressure or menaces of this kind, and every Government must remain the sole judge of its own imports. The French Government desires as careful and rigorous a control as possible, but it should be national control, exercised by the Government itself on its own responsibility. Control by an international power, on the contrary, must be reduced to a minimum; it should only be exercised in the very special case in which a country constitutes a danger to another country by becoming a centre of contraband.

¹³ O. D. C. I and II, C. R. 1.

Japan. The Japanese did not bring forward formulated proposals for consideration by the Conference, but, at the ninth meeting, presented a careful analysis of the whole problem of regulating the production, distribution and consumption of narcotic drugs in which certain opinions of the Japanese Government were stated. Thus it was declared that it was not possible to guarantee the exclusive privilege of manufacturing these drugs to those countries now manufacturing them; nor could the principle of proportional distribution of manufactured drugs at present existing between the various countries concerned be recognized. But steps should be taken effectively to reduce the enormous world stocks now in existence. The first step toward this end, Mr. Sugimura declared, should be the reduction of the illicit use of the drugs. This done, the amount manufactured and in stock could be reduced. For the regulation of international trade it is desirable, he declared, that an international organization should be established "which would collect all useful information and all necessary statistics, which it would carefully examine. It would, however, exert above all a moral influence. If a country did not keep its engagements, or did not fulfil all its various obligations arising under the international agreement, the organization in question would merely publish the facts together with its opinion if it thought such a course necessary or advisable."

The Netherlands. The general position of the Netherlands Government was set forth in a document submitted to the Sub-Committee A. (1) The more important parts of this statement were as follows:

As regards the measures contained in the first section, the most important feature of which is to be seen in the establishment of a

powerful Central Board, my Government is willing to accept in principle such a Board and to entrust to it not only the right of supervision but even of interference, if necessary, in the traffic in drugs of any country; with the clear understanding however that all Governments represented here do the same. As this is not the case for obvious reasons mentioned by other Delegations, the Board should be modified, so as to serve only the purpose of centralization of the statistics of the different countries, while the Board should only have the right to publish the conclusions drawn from those statistics either in its annual report, or if necessity should arise, at any time which it deems fit.

The second important feature of the first section is the estimate of national requirements: for much the same reasons as have already been given by other Delegations, we cannot accept this provision. The estimate is moreover useless and would be subject to never-ceasing alterations, as the fluctuations even in consuming countries are considerable, whilst in manufacturing and exporting countries they may be so great as to make an estimate a mere guess at random without any value whatsoever.

If on the other hand it were understood that the estimate should be rigidly maintained, it would raise unsurmountable difficulties, as in that case the estimate practically amounts to rationing; once you start with rationing, you will be forced to ration from top to bottom, even your smallest chemist shops, veterinarians, etc.; otherwise the drugs would be cornered by a few individuals aiming at a monopoly and a fair distribution of the drugs would be impossible.

Rationing from top to bottom is however in my opinion quite impossible, as it would require a very large well-paid official staff, while moreover under a rigid rationing system the licit manufacturer and trader could not possibly survive; a complete Government monopoly for the importation, manufacture, distribution and sale of the drugs would therefore be more acceptable than the rationing system as implied in the proposals of the Advisory Committee. The only means for manufacturers and traders to try to survive would be either to lay up enormous stocks or to furnish estimates equal to the full capacity of their factories or commercial relations, so as to safeguard their trade against the possibility of a curtailment or cutting off of their necessary and legitimate supplies.

To sum up, the estimate is superfluous, useless and dangerous and the purpose which it should serve will be far better accomplished by the furnishing of statistics to a central Board.

Persia. The Persian Delegation presented to the Conference one of the most valuable of the Memoranda laid before that body.¹⁴ This paper dealt with the cultivation of opium in Persia in its domestic, commercial and financial aspects. It pointed out that Persia was one of the twelve nations represented at the original Opium Commission at Shanghai, and was also present at the International Conference at The Hague in 1912, and had signed the Convention drawn up by that body, with, however, a reservation as to Article 3a which provides that the Contracting Powers shall "prevent the export of raw opium to countries which shall have prohibited its entry."

This was, of course, a very important reservation,¹⁵ but had been necessitated by the economic and financial needs of the country. However, at the September, 1923, meeting of the Assembly of the League of Nations the Persian representative has said that his Government was willing to withdraw its reservation to Article 3a as soon as it was in possession of a satisfactory constructive scheme providing for the substitution of other crops for opium, if it could be allowed a certain period of time in which to put the scheme into practice.

After a detailed account of the growing of the poppy in Persia, of the extent to which the farmers are economically dependent upon this crop, and as to the extent to

¹⁴ Memorandum on Persian Opium, O. D. C. 24.

¹⁵ Persia also made reservation to the articles of The Hague Convention concerning China, since she did not at that time have treaty relations with China.

which the Persian Government itself is financially dependent upon the excise and export customs dues levied upon opium, as well as the political and administrative difficulties that lie in the way of a limitation or suppression by law of the production of opium, and a discussion of the possibilities in regard to the substitution of other crops for that of the poppy, the report concluded with the statement that the Persian Government would be financially able to curtail the production and exportation of opium only if it could obtain a loan of ten million tomans¹⁶ for a period of 20 years at an interest rate not exceeding 5 per cent, with no interest charges for the first five years and one-tenth of the loan to be repaid annually after the tenth year. In addition, the Persian Government would require that, during the period of transition, a moratorium be declared by foreign Governments having claims against Persia; and, finally that existing treaty restrictions on Persia's tariff autonomy should be removed, or, at any rate, that serious consideration should be given to the matter of permitting Persia to increase her customs revenues.

Poland. The Polish proposals¹⁷ included the recommendation that codeine should be included among the drugs regulated and that the manufacture of heroin should be prohibited. There were also a number of suggested modifications of the recommendations of the Advisory Committee, which, however, it is not necessary to enumerate.

¹⁶ A toman is worth something less than an American dollar.

¹⁷ See O. D. C. 62.

Turkey. The Turkish Delegation pointed out¹⁸ that, should the Conference take steps to restrict poppy growing it would be necessary that the measures should be applied only progressively in Turkey, and that Turkey should be allowed to produce enough opium to meet the requirements of her agricultural situation; that all other producing countries should accept the same measures; that smuggling should be effectively dealt with; and that agricultural experts should undertake scientific research in the countries producing opium with a view to suggesting improvements in agricultural methods and to substituting other crops in place of the poppy.

Miscellaneous. The foregoing represent the more or less specific propositions presented by the various Delegations to the Conference for its consideration. These, as has been before said, were first allocated, according to their character, to the two General Committees, and, by them, allocated to the seven Sub-Committees which had been established. Some of these propositions were either withdrawn or modified as a result of the discussions had in these Sub-Committees, or in order to obtain, if possible, agreements that could be reported to the Conference for its final action thereupon. In what form these propositions reappeared after being thus discussed will appear in the Chapter dealing with the reports of the Sub-Committees. Before proceeding however, to a consideration of the work of these Committees it will be necessary to consider with some degree of care the matter of the competence of the Conference to deal with certain of the proposals that had been submitted to it for its action thereupon.

¹⁸ In a memorandum entitled "Poppy Growing and the Production of Raw Opium in the Republic of Turkey," O. D. C., S. C. B., 4.

CHAPTER XV

THE COMPETENCE OF THE CONFERENCE

The question as to the competence of the Conference to deal with various of the proposals brought forward by the American Delegation occupied a considerable number of the meetings of the Conference and gave rise to differences of opinion so acute that, as will presently be seen, there were several occasions when it seemed likely that the Conference would be obliged to adjourn without arriving at any agreement whatever, and, in result, it was largely upon this matter of competence that the American and Chinese Governments withdrew their Delegations from the Conference.

That this quasi-constitutional question of jurisdictional right was to plague the Conference was foreshadowed at the first meeting when, as has been earlier pointed out,¹ the American Delegation filed a reservation at the time of the adoption of the Agenda which had been presented to the Conference by its President. However, though statements were from time to time made that the question would arise, it did not come squarely before the Conference until the seventh plenary meeting, when the matter of adopting the first report of the Business Committee was discussed.

It then appeared that, in the meetings of the Business Committee (these were in private) there had been con-

¹ *Ante*, p. 244.

siderable discussion of the Conference's competence to consider certain proposals that had been presented to it—especially by the American Delegation—and, when the adoption of the Committee's report, which, it will be remembered had not allocated to the Sub-Committees certain of the American proposals, came before the Conference, Mr. Porter of the American Delegation made the following statement which he declared was in the nature of a reservation :

It is the opinion of the United States Delegation that the report of the Business Committee may unduly curtail the scope of the Conference, and my Delegation, having no desire to delay the work, will vote in favor of the adoption of the report, but on the express condition that it will be permitted to present to the Conference, or to the appropriate committees thereof, for consideration on their merits, the suggestions of the United States, or such portions thereof, as it may deem germane to the purpose of the Conference. Our instructions are such that we should find it difficult to proceed further in the Conference without this clear understanding.

During the discussion M. Sugimura made it clear that the Japanese Delegation would be in favor of a liberal and untechnical construction of the powers of the Conference. He said: " I have made an exhaustive examination of all the documents relating to our competence. They are not drafted in strictly legal terms; they allow of a very wide latitude in interpretation. Such being the case, I wish to speak frankly and to give you my personal view, which is based not exclusively on legal, but even more on moral and ethical considerations. . . . Too strict a juridical interpretation of our competence would run counter to the lofty purpose which we have in view."*

* Upon this ground M. Sugimura proposed that the Egyptian proposition regarding Hashish should be considered by the Conference.

However, the only reasoned and juridical exposition of the competence of the Conference made at this time was that contained in the remarks of Dr. Sze of the Chinese Delegation. After giving some account of what had occurred in the meetings of the Business Committee, Dr. Sze said:

The Chinese Delegation has this to say with regard to the scope of this Conference. My Delegation understands that this Conference has been called in order that the Powers represented here may agree upon common action for the full realisation of the aims of The Hague Convention; these aims have been officially declared in the two American resolutions presented to the Opium Advisory Committee at its fifth session, and, with certain reservations as to legitimacy, under The Hague Convention, of the use of prepared opium, approved by the Assembly of the League of Nations.

These resolutions read as follows:

"1. If the purpose of The Hague Opium Convention is to be achieved according to its spirit and true intent, it must be recognised that the use of opium products for other than medicinal and scientific purposes is an abuse and not legitimate.

"2. In order to prevent the abuse of these drugs, it is necessary to exercise the control of the production of raw opium in such a manner that there will be no surplus available for non-medicinal and non-scientific purposes."

The determination of the League to invite all the Nations of the world to assemble, through their representatives on this Conference, was predicated upon the American proposals. In its report of June 16, 1923, to the Council of the League, the Advisory Committee say:

"These proposals were amplified by the United States representatives, who, in commenting on them, showed that they were in full accordance with both the letter and the spirit of the International Opium Convention of 1912.

"The Committee very fully examined the proposals of the United States. It would be difficult in a short space to summarise the discussions which took place, but a full report of them is included in the Minutes of the meetings and reference should be made to them.

“ After a long discussion, and on the proposal of a Drafting Committee, which was appointed to prepare the final text, the Committee adopted unanimously the following resolution.”

Then follows the resolution, the fourth paragraph of which reads:

“ As a means of giving effect to the principles submitted by the representatives of the United States and the policy which the League, on the recommendation of the Committee, has adopted, and having regard to the information now available, the Advisory Committee recommends to the Council the advisability of inviting the Governments to enter into immediate negotiations to consider whether, with a view to giving the fullest possible effect to the Convention of 1912, agreements could not now be reached between them.”

There then follows in the resolution of the Advisory Committee a statement of the various points upon which it is desirable that agreement should be reached. No statement or suggestion is made by the Committee, nor by the Assembly of the League which approved the resolution, that the points thus enumerated exhausted all those that might be involved in any common agreement which might be reached by the nations with a view to giving the fullest possible effect to the purposes of The Hague Convention as defined in the American resolutions.

This Conference would be controlled by an extraordinarily technical, not to say strained, interpretation of its province and powers were it to decide that it could examine, and come to agreement, only upon those points which, by way of description rather than by way of limitation, the Advisory Committee and the Assembly deemed desirable to refer to in their resolutions. Certainly it had not occurred to the Chinese delegation that the Conference would consider itself competent to consider only measures directly relating to the points enumerated by the Advisory Committee and by the Assembly of the League.

Certainly, also, it has been the expectation of the peoples of the world that the Conference should seek in every way possible to abate, and if possible wholly to correct, the evils that now result from the abuse of opium, of cocaine, of their derivatives, and of other similar narcotic drugs.

Apart from other and more general considerations, the Chinese Delegation is concerned with the matter at issue, since it desires that the Conference should give its favourable consideration to certain proposals which the Delegation will make for carrying out effectively the provisions of Chapter IV of The Hague Convention.

Though thus brought before the Conference, the question of competence was not pushed to a decision at this time, the report of the Business Committee being adopted subject to the reservation made by various Delegations of their right later to raise the point. At the tenth meeting, however, the issue was joined. At that time Mr. Porter, the chief of the American Delegation, presented two motions, the one dealing with the prohibition of the manufacture of heroin, and the other with the reduction of the world's production of raw opium to an amount that would leave no surplus available for other than strictly medicinal and scientific purposes. These motions raised, in a manner that could not be escaped, the question of competence, since they dealt with matters which were not among those specifically mentioned in Resolution 6 of the Fourth Assembly of the League of Nations—the Resolution upon which the invitations to the Governments to send representatives to the Conference had been predicated. As to the motion relating to heroin, Mr. Porter said:

The question of competency in regard to Article 9a [of the American Proposals] was raised in the Business Committee, and, so that it may be brought before the Conference in plenary meeting, I have here a motion suggesting that the matter be referred to the First Committee for consideration. With your permission, I will read the motion:

“On behalf of the Delegation of the United States of America I hereby present for the consideration of the Conference, Article 9a

of the suggestions of the United States of America, which reads as follows: 'The Contracting Parties shall enact effective laws or regulations prohibiting the manufacture and distribution of heroin, and move that it be referred to the First Committee for consideration.'

I take it, Mr. President, continued Mr. Porter, that is the proper way to raise the question of competency, so that if anyone present desires to raise the point we are prepared to meet it. If you will note the motion closely, you will see that it does not ask the Conference to consider the matter on its merits at all. It merely asks the Conference to refer the matter to the appropriate Committee.

Rather to the surprise, it may be imagined, of the American Delegation no Delegation made objection to this motion and it was therefore adopted without dissent. The reason for this silence upon the part of those Delegations which desired that a narrow interpretation should be given to the competency of the Conference undoubtedly was that they believed that the matter of the absolute prohibition of the manufacture and distribution of heroin might be brought within the terms of the clause of Resolution 6 which refers to the "limitation" of the amounts of morphine, heroin, or cocaine and their respective salts to be manufactured. These strict constructionists, among whom the Indian Delegates took the lead, deemed it politic, therefore, to reserve the expression of their views until the second of the American motions was before the Conference.

This second motion was presented by Mr. Porter in the following words:

On behalf of the Delegation of the United States of America, I hereby present for consideration by the Conference Article I of the suggestions of the United States of America, which reads as follows:

"The Contracting Parties shall enact effective laws or regulations for the control of the production and distribution of raw opium and

coca leaves so that there will be no surplus available for purposes not strictly medical or scientific.

“The foregoing provision shall not operate to prevent the production for exportation, or exportation, of raw opium for the purpose of making prepared opium, into those territories where the use of prepared opium is still temporarily permitted under Chapter II of this Convention, so long as such exportation is in conformity with the provisions of this Convention.”

and move that it be referred to the First Committee for consideration.

The debate which followed the presentation of this motion was so important, as well as so interesting, that it will be here reproduced at considerable length.

The motion having been presented, Mr. Clayton of the Indian Delegation read a carefully prepared paper in which after tracing the various steps in the Advisory Committee and the Assembly and Council of the League of Nations leading up to the calling of the Conference, he said:

The motion just proposed by the Delegation of the United States of America asks that the Conference should take under its consideration a proposal relating to the control of the production and distribution of raw opium and coca leaves within a producing country.

According to the Agenda of this Conference imposed upon it by the convening authorities and accepted by the Conference, this Conference is empowered to deal with the production of raw opium and coca leaves for export. It is not entitled to deal with the control of raw opium and coca leaves produced for internal consumption. . . .

There is no delegate, I think, present at this Conference who is not aware that this is a question of great importance to the Government which I represent; moreover, the decision which is taken upon it may largely decide the part which the Indian Delegation can take both in the deliberations of this Conference and in its results.

It is one of several questions which were not only not included in the Agenda of this Conference, but were, after the fullest possible consideration, deliberately excluded by the convening authorities—namely, the Assembly and the Council of the League of Nations.

In concluding his speech Mr. Clayton declared that the question of jurisdiction was one to be decided, not by the Conference itself, but the Presiding Officer, because he had derived his authority from the League of Nations. This proposition showed that same confusion of thought which had led the Council of the League to appoint M. Zahle as the President of the Conference, namely, the conception of the Conference as an instrumentality of the League. In this connection, it may be remarked that though the President did later declare an opinion upon the point at issue—an opinion in favor of the competence of the Conference to discuss the matter—he took pains to say that he was expressing but a personal opinion and that it was for the Conference to determine its own jurisdiction.

In support of the propriety of the motion which he had made, Mr. Porter said, in part:

There is nothing peculiarly sacred about an agenda. It has but one function to perform, that is, to furnish a means of giving force and effect to matters stated in the convocation. The Agenda for this Conference and the convocation of this Conference are contemporaneous documents. They must be read together. It would have been quite easy for someone to have moved, on the day when we first met, the substitution of Resolution VI for the Agenda as prepared by the League of Nations. I confess frankly that I did not give the matter a second thought, because I recognise the principle that the Agenda is merely to give force and effect to the call. I might also say, in passing, that this is my third visit to Geneva, and my contact with the Secretariat has been such as to inspire unlimited confidence in

their ability and in their accuracy. When this Agenda is presented to me as the work of the Secretariat of the League of Nations, I assume they have carried out the invitation which the League has issued. . . .

In 1922, the League of Nations invited the Government of the United States to participate in the work of the Advisory Committee on the Traffic in Opium, which had been established by the League to carry out the obligations undertaken under Article XXIII of the Covenant. The United States, being of the opinion that the worldwide traffic in habit-forming narcotic drugs could only be suppressed by international coöperation, and recognising that it was bound by The Hague Convention to work towards this end, accepted the invitation, and in May, 1923, designated three representatives to appear in a consultative capacity before the Advisory Committee with instructions to present for consideration certain proposals which embodied the views of the United States Government with regard to the obligations undertaken under the Convention of 1912, and the means by which the purpose of the Convention might be achieved.

In accordance with the instructions received, the representatives of the United States presented for the consideration of the Advisory Committee the two following proposals:

“1. If the purpose of The Hague Opium Convention is to be achieved according to its spirit and true intent, it must be recognised that the use of opium products for other than medicinal and scientific purposes is an abuse and not legitimate.

“2. In order to prevent the abuse of these drugs, it is necessary to exercise the control of the production of raw opium in such a manner that there will be no surplus available for non-medicinal and non-scientific purposes.”

After considerable discussion, the Opium Advisory Committee adopted a resolution accepting and recommending to the League of Nations the proposals of the representatives of the United States. It considered that the resolution embodied the general principles by which the Governments should be guided in dealing with the question of the abuse of dangerous drugs, and on which, in fact, the International Convention of 1912 is based, subject, however, to the fact that the following reservation was made by the representatives of the

Governments of France, Germany, Great Britain, Japan, the Netherlands, Portugal and Siam :

“The use of prepared opium and the production, export and import of raw opium for that purpose are legitimate so long as that use is subject to and in accordance with the provisions of Chapter II of the Convention.”

The representatives of the United States Government, in September, 1923, appeared before the Fifth Committee of the fourth Assembly of the League, which had been convened for the purpose of considering the recommendations of the Advisory Committee to which I have referred. On September 26, 1923, the Fifth Committee of the Assembly adopted (among other things) the following resolutions: (Here follows the text of the fifth and sixth resolutions).

. . . . In accepting the invitation extended by the Council of the League to participate in the Conference called in pursuance of Resolution VI, the United States did so with the knowledge that its proposals respecting the use of opium were embodied in the two proposals brought to the attention of the Advisory Committee in May, 1923, and had received the approval of the Advisory Committee, the Fifth Committee of the fourth Assembly, the Assembly itself and the Council of the League of Nations, and with the intention to present for consideration certain measures designed to give concrete expression to the proposals which the League had accepted as being in accordance with its policy.

The United States did not feel that it had completely discharged its responsibilities or fulfilled its obligations in merely presenting two proposals for adoption, but considered that the various Governments concerned had the right to ask that the United States should submit for their consideration concrete measures which would give practical effect to the general proposals previously accepted. It was only on this understanding, which is clearly warranted under the circumstances related, that the United States agreed to participate in the present Conference.

While Resolution VI specifically mentions that the Governments concerned may examine, with the view to a conclusion of an agreement:

(a) The question of the limitation of the amounts of morphine, heroin, or cocaine, and their respective salts, to be manufactured;

(b) The limitation of the amounts of raw opium and the coca leaf to be imported for that purpose and for other medicinal and scientific purposes ;

(c) The limitation of the production of raw opium and the coca leaf for export to the amount required for such medicinal and scientific purposes,

it will be noted that these questions are to be considered as a means of giving effect to the principles submitted by the representatives of the United States and to the policy which the League, on the recommendation of the Advisory Committee, has adopted.

Is any argument necessary to establish that the questions referred to in Resolution VI are merely mentioned by way of description and not of limitation, or, as the President of the Conference pointed out in his opening address with regard to the adoption of the Agenda, as merely a starting point or basis for discussion?

The suggestion that a Conference composed of representatives with full plenipotentiary powers called to consider measures to be adopted as a means of giving effect to the United States proposals does not possess the power to examine any question presented germane to the general subject under discussion appears to be untenable. Every Government here represented was aware of the purpose for which the Conference was called and it is to be presumed that each representative received instructions co-extensive with the terms of the invitation received and accepted. . . .

In case of the acceptance of the proposal, ample protection is to be found in the right which each Government has to file reservations to any measure with which it is not in accord. Should the Conference, after examination of the subject under discussion, finally decide to place within the Convention provisions on the lines of Article I of the suggestions of the United States, any Government represented here which cannot give its approval to proposals of the character indicated may appropriately, and without question, make such reservations thereto as may in its judgment be deemed advisable.

The distinguished gentleman from India appeals to the Delegation of the United States, in the name of all that is sacred, to recede from its position, the position which my Government has maintained throughout. For my part, I would also make an appeal and ask him to recede from the position he has taken up and agree with us that

these drugs, these soul-destroying drugs, shall be limited, that the production of them shall be limited to the quantities needed for medicinal purposes. If we can bring that about, we shall bring sunshine and happiness into millions of homes in this world where misery and squalor exist to-day.

Mr. Campbell Charges Americans with Bad Faith. It was at this stage of the discussion that Mr. Campbell, chief of the Indian Delegation, charged the American Delegation and the Government it represented with an act of bad faith in bringing forward the proposal embodied in Article I of the American programme. Relying, in part, upon his understanding of certain unrecorded conversations between himself and Lord Hardinge upon the one hand and Mr. Porter upon the other hand, which, it was alleged, had taken place in 1923, Mr. Campbell asserted that Mr. Porter, on behalf of himself and the other *unofficial representatives of the United States at the Assembly of the League*, had given assurance that the proposal which had been presented by the American Delegation would not be brought before the Conference by the United States.

In making this grave charge against the good faith and national honor of the American Government, Mr. Campbell could have had no other motive than to arouse ill-feeling and indignation upon the part of the American Delegates, because, even had he been able to place beyond all doubt the correctness of his charge, the effect would not have been to prevent the pending proposal from being brought before the Conference, for, if the American Delegation had been estopped from doing so, any other Delegation would have been at liberty to present it. In fact, however, Bishop Brent, in a convincing speech, not only

denied indignantly that there had been given by the American unofficial representatives at the Assembly of the League any such undertaking as Mr. Campbell had charged, but that it was absurd to suppose that any such assurance could have been given. In the course of his reply to Mr. Campbell, Bishop Brent said:

The question of honor, national and personal, has been raised. The distinguished Delegate of India has recounted certain events and put his own construction upon them, a construction which the American Delegation can in no wise accept. . . . That there are no written documents giving any agreement officially does not concern me. I believe in a gentleman's agreement. My word is as good as my bond, so is that of my country, so that the fact that no written compact exists is not one that I would press. Had a document bearing the clear, unequivocal proposal of the distinguished Delegate for India been presented to me for my signature, I would immediately have refused to sign it. Had our Delegation signed such a proposal and reported to our Government, it would have been immediately repudiated by the Government. Had we considered that we had made any such compact, either verbally or in writing, we should have so reported formally to our Government.

In his speech Mr. Campbell made reference to the fact that, at the time the American proposals had been approved by the Advisory Committee, the Indian Representative had made reservation to the effect that "the use of raw opium, according to the established practice in India, and its production for such use, are not illegitimate under The (Hague) Convention."

As to this reservation it is to be observed, as Dr. Sze did later observe, its effect was no more than to declare that the established use of opium in India does not come under the ban of The Hague Convention. It did not assert that this established use is legitimate in the broader and intrinsic sense of being physically and morally harmless.

It is further to be observed that this reservation was not mentioned in the Resolutions of the Assembly upon the basis of which the Conference was called. But, whatever significance might attach to this omission, it was an extreme position for the Indian Delegation to assume that, because of that reservation, the Conference was to be deemed disqualified from considering proposals which might incidentally cause discussion as to the desirability, from the physiological or moral point of view of the eating or swallowing of opium as practiced in British India. Upon this point the following remarks of Bishop Brent are pertinent:

I do not yet quite understand the proposal of the distinguished Delegate for India. He says we may not challenge his position. If his contention is that we may not officially attack the domestic habits of India (however much we may condemn them privately, or on scientific grounds), I agree. If his contention is that we may not single out India for an attack because of its domestic use of opium, I agree. If his contention is that, in dealing with general questions, I may not proceed because there is a danger or a necessity of involving India, I do not hesitate to say that his position is unreasonable, unfair and untenable.

I have no desire to interfere with India's purely internal opium practice, even if I had the right or the ability. I possess neither of these. Science can and will effectively deal with it. I would go out of my way to take a course that would exclude India's domestic business from my purview, but if, in carrying out, or in the honest attempt to carry out, the provisions of The Hague Convention, which lay responsibilities on all signatories alike, except when otherwise specified, I have indirectly to touch India, either as a producing country or as one of the group, I shall not hesitate.

India's exception is not sacrosanct and to be considered separately from all reservations. It is a reservation, and must be treated on the plane of reservations. The claim that it is so exceptional that it stands by itself, or in a class by itself, will not hold water. Unless

the exception were to overflow its banks and directly threaten other nations, I would keep silent. I would keep silence now if the distinguished Delegate for India had not forced me to speak. His exception may or may not get in the way of general discussion as part of a general question affecting other countries. But if, in such a discussion on a general question, India happens to be in the way, that is her concern and not mine. She can at once retreat behind her reservation.

By this time the Conference had become so surcharged with feeling that, upon motion of M. Agüero of the Cuban Delegation, it was deemed wise to adjourn the meeting for three days in order that time for reflection might be given.

When the Conference reconvened in its eleventh meeting, Sir Malcolm Delevingne, of the British Delegation, while not repeating the charge of bad faith upon the part of the American Delegation which Mr. Campbell had made, nevertheless said that "there has been a definite impression of understanding on the part of certain Governments represented here—and some of the Governments most interested in the matter—in regard to this question. In particular, my own Government believed that this matter [of the limitation of the production of raw opium] was outside the scope of the Conference. It has had no notice that the question was going to be raised; it has accordingly had no opportunity of considering the question or of giving me any instructions in regard to it. . . . I am here without any authority to negotiate in regard to the matter. I imagine that there must be other delegates here who are in the same position."

M. van Wettum of the Netherlands Delegation said: "I entirely support Sir Malcolm Delevingne's statement that the understanding on the part of a number of

members of the Advisory Committee amongst whom I may mention myself, was that this question would not be raised at this Conference. As regards what passed during the fifth session of the Advisory Committee, as regards the express reservation of India made and accepted on that occasion, and also as regards the wording of the invitation of the Council, my Government has not, in preparing for this Conference, considered the possibility of the question of raw opium coming up in this form. I have therefore no instructions on this point and am not able to express an opinion on the matter."

M. Sugimura, of the Japanese Delegation, pointed out that the majority of the Governments represented in the Conference had not participated in the conversations or collaborated in the preparation of the documents which Mr. Campbell and Sir Malcolm Delevingne had discussed in their attempt to show what were to be the questions to be discussed in the Conference, and that, therefore, these other Governments could not regard themselves as absolutely bound by them. The only document defining for them the competence of the Conference was Resolution 6 of the Assembly.

Dr. Chodzko, of the Polish Delegation, in an able speech strongly supported the American motion. In the course of this speech he said:

If, according to Mr. Campbell's interpretation, the latter part of the resolution, which speaks of giving effect to "the policy which the League, on the recommendation of the Advisory Committee, has adopted," means that the principles submitted by the United States cannot be discussed, then one must suppose that it was the deliberate intention of the Assembly to nullify the part of the Sixth Resolution relating to the position of the United States Representative at our Conference—a state of affairs which is impossible and inadmissible

as regards both the Council and the Assembly of the League, since the only policy which can be followed by the League in matters relating to opium is the one adopted by the United States Delegation, the only just one and the one which is in keeping with the spirit of the Covenant. According to the Sixth Resolution, therefore, we must be guided in our work by the principles submitted by the United States Delegation. . . . Mr. Campbell, when recommending the unrestricted use of opium by the people of India, quoted the opinion of His Highness the Maharajah of Nawanagar, according to whom opium is regarded in India as a housewife's remedy, a domestic remedy, which has no ill effects on the health or well-being of the native population. I think that, if Mr. Campbell wanted to start a medical discussion on the effects of opium, he should quote medical experts—among whom His Highness the Maharajah could not, I imagine, be included. In any case, I reserve the right to take part in such a discussion, which would, no doubt, be most interesting.

I also wish to make a few remarks regarding the speech of the British delegate, who advocates the semi-medical use of drugs in India. This question is also open to discussion, and ought I think, to be left to medical experts, the only persons who are competent to deal with it. In any case, independent medical opinion is unanimous in the matter.

I might mention a further fact which appears to me to be of some importance. India, as you know, is not the only centre for the production of raw opium. Large quantities are produced in Persia, Turkey, China, Indo-China, etc. None of the delegates of these countries have asked us to refrain from discussing the opium question in all its aspects—quite the contrary, as may be seen from the excellent report on Persian opium submitted by the Persian Delegation, in which the present position is described with the utmost frankness and sincerity and in which the firm intention is manifested to put a stop to the abuse of opium in Persia. It is clear that justice and equity alike preclude any country represented at this Conference from laying claim to a privilege which other countries in the same position have abandoned.

The arguments brought forward by the Indian Delegation have not caused me to change my opinion, and I have the honour, therefore, in the name of the Polish Government, to give my full support

to the proposal of the United States Delegation that Article I of the American suggestions be referred to the First Committee of the Conference.

Dr. Sze of the Chinese Delegation also supported the American motion. In part, he said:

I fully subscribe to the principle that nations assembled in a Conference should not attempt to dictate to one of their members the domestic policies it should pursue. Especially in the case of India, as we were told by its distinguished Delegate in the First Opium Conference, the Government operates under the peculiar disadvantage that such efforts as it might be disposed to make to educate its subjects regarding the evils of the misuse of opium would be worse than futile.

While thus agreeing with the distinguished Delegate of India that a country must determine for itself what is feasible and desirable for it to do in regard to the production and use of opium, I am not able to agree with him, but, rather, must agree with the views of the Delegation of the United States of America, that, when an International Conference is considering a matter of world-wide importance, it is proper that it should examine that matter in all its aspects, even though, incidentally, it becomes necessary to consider conditions in a particular country, provided, of course, that consideration is controlled by a spirit of friendliness and fairness.

In the First Conference the distinguished Delegate of the Government of India did not hesitate—indeed, he seemed to show at times even an eagerness—to animadvert upon conditions in my own country. To this I raised no objection save when I thought that he had been misled, by a too credulous mind, to accept as true statements for which, in fact, there was no adequate supporting evidence.

It seems to me that, as was said by the distinguished first Delegate of the United States of America, the Indian Government should not be too apprehensive of what may be the outcome of a discussion regarding the possibility of so limiting the production of the world's opium as to leave no surplus for other than strictly medicinal and scientific uses. Should the Conference, as a result of that discussion, embody in the Convention which it drafts proposals which are not

acceptable to the Indian Government, that Government can, by express reservations, relieve itself from obligation to enforce them within its own jurisdiction.

It is a strange proposition that a single participating Government may demand that an International Conference shall exclude from its consideration a subject of general and great importance simply because that Government fears that, incidentally, references may be made to conditions of fact existing within its territories and because it is apprehensive that agreements may be reached by the other Powers to which it may have to make reservations. . . .

The Conference, as is admitted by all, derives its competence from the invitation that called it into being. That invitation was issued by the League of Nations in pursuance of a resolution adopted on September 27, 1923, which stated that the Conference should be called to devise measures to be taken "as a means of giving effect to the principles submitted by the Representatives of the United States of America and to the policy which the League, on the recommendation of the Advisory Committee, has adopted." These American proposals, which the Assembly of the League itself denominates as "principles," although the first Delegate of the Government of India objects to the term, state, in so many words, that, if the purpose of The Hague Convention is to be achieved according to its spirit and true intent, the use of opium products for other than medicinal and scientific purposes is an abuse and is not legitimate, and that, if this abuse and illegitimate use is to be prevented, the production of raw opium must be so controlled that there will be no surplus available for non-medicinal and non-scientific purposes.

Mr. Campbell in the course of his remarks had charged that the American Delegation was seeking to use the approval of the two American proposals by the Advisory Committee and the Assembly of the League as an official interpretation of The Hague Convention. Upon this point Dr. Sze said:

It has been said that it was not within the jurisdiction of the Advisory Committee, not even of the League itself, to construe the meaning of The Hague Convention. This is true in the sense that

neither the Advisory Committee nor the League can give to The Hague Convention a construction that will legally determine the obligations under it of the Powers signatory to it. But it was fully within the competence of the Advisory Committee of the League and of the League itself to announce to the world what was its own construction of the purpose of The Hague Convention, and, in the light of that construction, to invite the nations of the world to meet again in order to agree, by common action, upon means, further than those already in operation, for realising the aims thus declared.

The nature of the Conference or of its competence would not have been changed if the League had simply affirmed, without reference to The Hague Convention, that the use of opium products for other than medicinal and scientific purposes is an abuse and that, for the correction of that abuse, it seemed to the League that the production of opium should be so controlled that there would be no surplus available for non-medicinal and non-scientific purposes, and that, based upon that proposal, the Powers should assemble in order to determine concerted means for giving effect to it.

The honourable Delegate of the Government of India has called attention to the fact that, in the Advisory Committee, at the time the American proposals were accepted, he made the reservation that the use of raw opium according to established practice in India, and its production for such use, were not to be deemed illegitimate under The Hague Convention.

No reference is made in the resolutions adopted by the Assembly of the League to this reservation, but, whatever significance, little or great, may be attached to this omission, it is to be observed that the reservation in question has, by its very terms, no further force than to assert that the established use of opium in India, and its production for that use, do not come under the ban of The Hague Convention. The reservation does not assert that the established use of opium in India is legitimate in the broader and intrinsic sense of being physically and morally harmless. Despite the world's medical and scientific opinion, the Indian Government may maintain that, as used in India, opium is thus harmless, but this proposal is not contained in the reservation made by the Indian Representative in the Advisory Committee.

In June, 1921, upon the motion of the Representative of the Republic of China, Dr. Wellington Koo, the Council of the League of Nations resolved:

"That, in view of the world-wide interest in the attitude of the League toward the opium question, and of the general desire to reduce and restrict the cultivation and production of opium to strictly medicinal and scientific purposes, the Advisory Committee on Traffic in Opium be requested to consider and report, at its next meeting, on the possibility of instituting an enquiry to determine approximately the average requirements of raw and prepared opium specified in Chapters I and II of The [Hague] Convention for medicinal and scientific purposes in different countries."

In view, then, of this resolution, proposed by the representative of China more than three years ago and adopted by the Council, and in view of what I have just now had occasion to say, the Chinese delegation to this Conference declares that it supports the proposition that this Conference is competent to discuss and act upon the proposal contained in Article I of the American programme, and is, therefore, prepared to support the motion made by Mr. Porter that this proposal be referred to the First Committee.

The discussion regarding the competence of the Conference, as raised by the American motion was continued at the twelfth meeting of the Conference.

Mr. Porter called attention to the fact that the proposal presented by the Cuban Government which, without objection, had been referred to the First Committee was substantially similar to that of the United States. This Cuban proposal was that "world production of opium and narcotics should be exactly proportional to the requirements of each country for medical and scientific purposes estimated on a *bona fide* basis." "The Delegation of the United States is therefore at a loss to understand," said Mr. Porter, "why the Indian Delegation is using every means at its disposal to prevent the consideration of our proposal, when, as a matter of fact, a proposal

of a similar nature has properly been referred to Sub-Committee B, where it will be considered on its merits."

In reply to a suggestion which had been made by the Cuban delegate, M. Aguero y Bethancourt, that, if necessary, those Delegations which found themselves unduly restrained by their instructions might ask wider authority of their Governments, Mr. Campbell said:

The political position in India is rather complicated; in some respects it approaches fairly closely to the federal position in America. We have, I should think, at least ten Governments which now have power to deal with the question of the domestic use of opium. The Secretary of State does not deal with it; the Government of India does not deal with it. It is dealt with by the local Governments, and there is only one local Government in India where the domestic consumption of opium remains under the direct control of the Central Government.

I should like the Conference to appreciate the point that, before instructions on this subject could reach me, it would be necessary for the Secretary of State to communicate with the Government of India, and it would be necessary for the Government of India to communicate with ten (I am not quite certain of the figure, but I think it is ten) local Governments scattered over a country as large, I think, as Europe.

If Mr. Campbell had been a better international lawyer he would perhaps have hesitated to ascribe an argumentative value to a constitutional *non possumus*.

Mr. Ferreira of the Portuguese Delegation endorsed the declarations which had been made by the British Delegate.

The President of the Conference, before submitting the American motion to a vote, summed up the points at issue and took occasion to say: "I think that the discussion of Article I of the American scheme is within the

competence of this Conference as defined in the Agenda." But he added:

As you will perhaps have observed, I have particularly emphasised the words "the discussion of Article I." I have done so because each of the delegations, acting in conformity with the instructions given by its Government, is, of course, entirely and beyond all doubt, free to refrain from participating in any particular discussion, and to state or refrain from stating its reasons for so doing, to reserve its Government's point of view regarding the trend or conclusions of such a discussion, or even to state in advance that its Government can never accept or even consider any proposals which may be made as a result of such discussion. In so doing, it will not in any way lay itself open to criticism on the part of the other delegations.

If in these circumstances, the Conference or one of the Committees considers it advisable to open or continue a discussion on a proposal of this kind, the point will have to be decided by the Conference or the Committee in question. Cases might also arise in which a discussion, even if it were entirely one-sided, might throw light on certain problems. In other cases, discussion without the participation of the other party would doubtless be a waste of time. No member of any delegation here present has the intention of interfering in questions which are matters of purely domestic jurisdiction.

The American motion having been put to a vote, the result was as follows: In favor: Belgium, Brazil, Canada, Chile, China, Cuba, Danzig, Denmark, Dominican Republic, Egypt, Finland, Germany, Hungary, Irish Free State, Italy, Japan, Luxemburg, Persia, Poland, Siam, Spain, Sweden, Switzerland, United States of America, Uruguay, Venezuela. Total: 26.

Against: India. Total: 1.

Abstentions: Australia, Bolivia, British Empire, France, Greece, Netherlands, Portugal, Serb-Croat-Slovene Kingdom, Turkey. Total: 9.

Motion to Conclude the Labors of the Conference by December 20. At the thirteenth plenary meeting of the Conference Sir Malcolm Delevingne, the Chief of the British Delegation, made the following motion:

In order that the Conference may terminate not later than the afternoon of Saturday, December 20, it is decided:

1. That all Sub-Committees be asked to finish their work and have their reports ready at latest by the afternoon of Friday, December 12.

2. That a joint meeting of representatives of Sub-Committees A, B, C, and D be held on Saturday, December 13, for the purpose of coördinating the conclusions of these Sub-Committees and presenting a joint report to the Plenary Conference on Monday, December 15. Committees A, B, and D shall each nominate two members in addition to the Chairman, and Committee C, one member in addition to the Chairman, to represent them at the meeting.

3. That a Drafting Committee (*comité de rédaction*) be appointed forthwith, consisting of the President of the Conference and five persons to be nominated by the President, and that this Committee commence its work as soon as the report of any of the Sub-Committees has been approved by the Conference.

Although the President of the Conference gratuitously recommended the adoption of the first two parts of the motion, the motion met immediate and destructive criticism from the floor. Especially was this criticism voiced by Dr. Sze, Mr. Porter, Dr. Chadzko, M. Sugimura and M. Bourgois. In truth the proposition that the Conference should conclude its labors by December 20—only twelve days later—was a fantastic one if it were intended that the Conference should give due attention to all of the matters which had been or which were likely to be brought before it. This is shown by the fact that the Conference did not finish its labors until February 19. Un-

less, therefore, one imputes extraordinary optimism to its author, it must be held that the real purpose of the proposition was that the Conference should not give consideration to certain matters which the British Delegation was unwilling to have discussed or passed upon. One of these apprehended matters was undoubtedly that relating to the suppression of the legalized traffic in prepared opium.

In result the second and third paragraphs of Sir Malcolm's motion were adopted but with the dates deleted.

CHAPTER XVI

PREPARED OPIUM IN THE SECOND CONFERENCE

The question as to the competence of the Conference was again raised, and in a still more acute form, when at the fourteenth meeting there was presented by the American Delegation the following motion:

On behalf of the Delegation of the United States of America, I hereby present for the consideration of the Conference Chapter II of the Suggestions of the United States of America, and move that the proposals contained in this Chapter be referred by the Conference to an appropriate Committee for consideration.

The essential proposition contained in Chapter II of the American suggestions was as follows:

Each Contracting Party in whose territory the use of prepared opium is now temporarily permitted agrees to reduce its imports of raw opium for the purpose of making prepared opium by 10 per cent of its present importation each year for a period of ten years beginning with the date of ratification of this Convention by it, and further agrees not to supplement the reduction by domestically produced opium; and further agrees that at the end of such period of ten years it will prohibit the importation of raw opium for the purpose of making prepared opium. By "present importation" is understood the importation during the twelve months immediately preceding the date the Contracting Party ratifies this Convention.

In explaining this motion, Mr. Porter called attention to the reservation his Delegation had made at the time of the first report of the Business Committee, and to the

fact that the proposals contained in Chapter II of the American programme had not been allotted to a Sub-Committee.

Thus was squarely presented to the Conference the question whether it was to consider itself competent to discuss the matter of the suppression of the legalized traffic in prepared opium.

M. van Wettum who was the first to open the discussion, spoke with considerable warmth in opposition to the motion. He said (in part) :

Mr. Chairman and gentlemen, if the proposal of the United States Delegation be taken up by the Conference, a situation will arise which, in my opinion, is without precedent in the history of international conferences. I do not desire to enter into an examination of legal or juridical points to show that this question is outside the scope of the Conference, nor do I wish to explain here the enormous difficulties which will confront the Conference if it decides to add to its task a larger and even more intricate programme, the work of the Conference already being so heavy that most of us feel tired after four weeks of strenuous effort.

Under a sense of restraint, I shall keep silent upon these points. I do, however, want the Conference to understand that it would be preposterous for it to declare null and void the results reached by another Conference and recklessly to embark on an endeavor to draft a new Convention concerning a problem of which most of the members here assembled have had no experience. Such a course would, in my opinion, not only show an insufficient sense of responsibility, but would also mean the passing of a verdict on the members of the First Conference and the Governments which they represent. Such a situation is both impossible and intolerable.

If such a regrettable precedent were once established by a Conference held under the auspices of the League, most Governments will in future have grave and well-justified misgivings regarding the desirability of being represented at such international meetings.

M. van Wettum was followed by Sir Malcolm Delevigne who flatly declared that the matter was not within the competence or concern of the Conference, and that the British Delegation could take no part in its discussion. With regard to the draft agreement which had been drawn up by the First Conference and which it was then thought would be signed the next day, Sir Malcolm said:

I do not wish to pretend that that agreement is all, or nearly all, that we could have desired. It is a matter for great regret to the British Delegation, and I have no doubt to other delegations also, that we have been unable to go further, and, in particular, that no proposals for direct limitation have been found to be possible under the conditions at present existing in the Far East.

The reasons why they have not been found to be possible were explained and discussed at the First Conference, and it would be out of place for me to go into them in detail here. I cannot, however, for a moment admit that the work of the First Conference, and the agreement which it has reached, deserves the attack which I am sorry to see Bishop Brent has distributed to the members of this Conference. It would be a great mistake if (as he suggested in his appeal) that agreement were not signed or ratified.¹

¹ Bishop Brent of the American Delegation, who was obliged to leave Geneva early in the Conference issued at the time of his departure a paper entitled "An Appeal to My Colleagues," in which he severely criticized the conclusions which had been reached in the First Conference, and exhorted the Second Conference to agree upon measures which would effectively carry out the undertaking embodied in The Hague Opium Convention to take progressive steps to bring about the effective suppression of the use of prepared opium. "To keep silent," he said, "and acquiesce in the Agreement [that had been drawn up by the First Conference] would make us delinquents in our responsibility as signatories of The Hague Convention which charges us, equally with the nations represented in the First Conference, with taking progressive and effective measures for the suppression of the use of prepared opium. If it is possible, we hope at this eleventh hour to save both ourselves and the signatories of the Agreement of the First Conference from the just reproach which is sure to be measured out with unsparing hand to all who have made, or may make, themselves responsible for its provisions."

Before concluding his remarks upon this occasion, Sir Malcolm Delevingne declared that his Government was willing that

a small and impartial Commission of Enquiry, on which none of the interested Powers would be represented, should be appointed by the Council of the League and should make a thorough examination of this question: Such a Commission would visit for the purpose the Far Eastern territories in which the use of opium for smoking is still permitted; it would visit the Philippines, in which a measure of prohibition was introduced some years ago; it would visit China, where the existing conditions constitute one of the great difficulties which the Far Eastern Powers have to face in dealing with this subject; and it would make a report to the Council as to what further measures, if any, could be usefully taken in order to bring about the effective and gradual suppression of the use of opium for smoking which is provided for in Chapter II of The Hague Convention.

He added:

I make no formal proposal, of course, to this Conference. We do not regard the matter as one for this Conference. The assent of the other States interested would have to be obtained. The British Government wishes me, however, to take this opportunity of making its attitude in this matter clear to the world.

It will be seen that the suggestion of a Committee of Enquiry of this character did not take the form of a defi-

This "Appeal" was first issued by the Secretariat as Document O. D. C. 62, but was later withdrawn and re-issued without indication that it was a League of Nations document. Just why this was done was never explained. Indeed, it was difficult to explain, since it was eminently proper that it should have been issued and kept in its original form. It was, to be sure, a document that was by no means pleasing to those Delegations which, in the First Conference, had given their approval to the Agreement drafted in that Conference, but this, of course, furnished no reason why this important paper, prepared by a member of the Second Conference and addressed to the other members of that Conference, should not appear as one of the official papers of that body.

nite proposal. It was, therefore, not referred to a Subcommittee for consideration, and no action with regard to the suggestion was taken by the Conference.

M. Bourgois, in behalf of the French Delegation, and M. Ferreira, in behalf of the Portuguese Delegation, declared themselves in agreement with Sir Malcolm Delevingne that the matter of prepared opium should not be considered by the Second Conference, and that their Delegations could take no part in the discussion of it.

M. Buero, of the Delegation of Uruguay, and M. Pernambuco, of the Delegation of Brazil, spoke in support of the American Proposition. M. Sugimura, of the Japanese Delegation, while saying that his Delegation could not, for juridical reasons, take a part in the discussion of a motion to make any changes whatsoever in the Agreement drawn up by the First Conference, the situation was different as to Delegations of Governments which were not members of the League. He said:

They have before them only the fourth Assembly's sixth resolution and The Hague Convention. That great charter of humanitarian effort against the scourge of opium and other drugs includes all drugs. There is no distinction between Chapter II and other chapters of the Convention. It is natural, therefore, that these delegations, whose work is based on the principles of The Hague Convention, should place a wide interpretation on the terms of the sixth resolution of the fourth Assembly.

From the point of view of humanitarian idealism, they are perhaps the more fully justified, in that the First Conference did not achieve the desired results, namely, the total suppression of the opium scourge. It did not even succeed in creating a really effective system for the progressive abolition of opium. The drafting of a second charter would constitute a further obstacle. I feel morally bound, therefore, to congratulate the supporters of this humanitarian view, though I must maintain my position as regards the legal aspect of the matter. I shall listen in silence, but with

the keenest interest and sympathy, to their opinions, which are inspired by a truly humanitarian spirit.

No delegate has the right to restrict the deliberations which are being pursued here in the interests of all mankind. Compassion and magnanimity are the supreme virtues of the great religious leaders of mankind, such as Buddha, Mahomet and, above all, Christ. They bid us show generosity in the accomplishment of the great task of justice and social welfare entrusted to us by the League.

Dr. Sze, of the Chinese Delegation, strongly supported the competence of the Conference in the premises. In the course of his remarks he took occasion to refer the assurances given by his Delegation in the First Conference that his Government would not depart from its policy of absolutely forbidding the production and use of opium except for medical and scientific purposes—an assurance which had been accepted by that Conference—and also to draw attention to the rapidly growing public opinion in China against the violation of that policy which, unfortunately, because of disturbed political conditions in China, the Chinese Government was temporarily unable to prevent. As to this he said:

In order to prove to you that the assurance I gave to the First Conference has already borne good results and to prove that what I say is true as regards China, I beg to read to you a telegram which has been received by the Chinese people's Representative to the Opium Conference. Yesterday he handed me a telegram which he had received from the National Anti-Opium Association of Shanghai dated December 10, 1924. That telegram states that, according to the latest statistics, 750 cities are now participating in the anti-opium work and that in this campaign there are now 3000 organisations with a membership of 3,000,000 people. May I be permitted to remind you that, within the last month, Mr. Koo, our people's representative, received another telegram giving statistics, and instead of 750 cities there were then only 300; instead of

3000 organisations, there were only 2000 at that time, and instead of 3,000,000 people, there were then only 1,000,000 people participating in anti-opium work. Is that not a miracle?

I want to ask you if there is any other country represented in this room which is taking so active and so earnest a part in endeavoring to put an end to opium, drugs and other evils? I challenge anybody to say that, in their country, so much has been done within so short a time. Further information is given in the telegram to which I have just referred and I want to mention one more point, which is this: Since the result of the First Conference has been known in China, mass meetings have been held, and those mass meetings have expressed in clear language what they think of the results of the First Conference. You will be surprised to hear, but nevertheless it is the fact, that more space is given in the Chinese Press today, with the possible exception of the American Press, to the work of the Opium Conference at Geneva than is given in the Press of any other country. Is that not a remarkable fact? Although we have not so many reporters at this Conference as some of the other nations, I am proud to say that China is giving careful attention to the work of this Conference and is watching it with an attention which is perhaps only surpassed by the United States of America.

In support of his contention that the American Government had the right to bring the matter of prepared opium before the Second Conference, Mr. Porter called attention to the fact that the United States had not been invited to, and had not been represented in, the First Conference; that the United States was one of the Signatory Parties to The Hague Opium Convention; that the United States had effectively and in good faith carried out the obligations assumed by it under that Convention; and therefore, that the United States had a right to ask of the other Signatory Parties that they carry out the obligations which they, upon their part, had assumed—obligations which they could not alter or escape from by

entering into another agreement to which the United States had not given its assent.

Mr. Porter's address was such an important one that extended quotations from it are justified. He said :

The United States, or, in fact, any nation signatory to The Hague Convention which has fulfilled in good faith the obligations under that Convention, may without question not only ascertain whether the other signatory Powers have fulfilled their obligations but may also insist, should occasion arise, that such Powers take the steps necessary to that end. Moreover, a Power which is signatory to The Hague Convention possesses the further right to insist that other signatory Powers do not, by means of supplementary agreements between themselves or by other means, weaken The Hague Convention in such a manner as to release themselves from the fulfilment of obligations undertaken under that Convention. The United States cannot admit that any Power signatory to The Hague Convention has the right, so long as that Convention remains in full force, to release itself by a supplementary agreement from the obligations undertaken under Article VI of the Convention, whereby measures are to be taken for the gradual and effective suppression of the traffic in prepared opium.

The United States, and perhaps other nations, are seriously suffering from ill-effects due to the leakage in the distribution of enormous quantities of raw and prepared opium in the Far Eastern territories, and the only remedy we have is the right to demand that the nations represented at the First Conference shall comply with their agreement in Chapter II of the Convention progressively to suppress this traffic. Moreover, this is an international conference through which it would be extremely unfair to throw every conceivable safeguard around our own homes and yet leave unprotected the homes of the peoples described in Article XX of the Covenant of the League of Nations as follows :

“ . . . peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation”

As stated by the distinguished delegate of Poland:

"If there are abuses which can only be gradually suppressed by making due allowance for the varying conditions of life in the different countries, we must quite frankly admit the fact, and point out the ways and means which we think effective for rescuing as speedily as possible the unhappy people who are the victims of those abuses.

"You will all agree that no State, no community, no individual is entitled to found its prosperity upon the misfortunes of any human being of whatever race, religion or class."

Or as stated at an earlier meeting of this Conference, "there must be only one standard of morality for the world and not two standards. Not one for the West and another for the East What is forbidden and punished with severity in Western lands must not be excused and defended and promoted in the East." Such injustice would disturb the peace of the world. . . .

In a general way, we have understood from incomplete reports received from time to time that the traffic in prepared opium has appeared to increase rather than decrease as the years have gone by. As an exception, we note from the reports received by the First Conference that in Formosa, under the regulations of the Japanese Government, the quantities of prepared opium manufactured have materially decreased. We have further noted that, in the opinion of Sir John Jordan, probably the most eminent authority on the opium traffic in the Far East, notwithstanding The Hague Convention, traffic in prepared opium has not been effectively suppressed and we expectantly turned to the agreement reached by the First Conference to ascertain the reason.

It is most significant that the parties to the agreement concluded by the First Conference note the fact that the increase of the smuggling of opium in the greater part of the territory of the Far East since the ratification of The Hague Convention is hampering greatly the accomplishment of the gradual and effective suppression of the traffic. Is it right that this should be used as an excuse by these Powers for their failure to fulfil the obligations undertaken under The Hague Convention?

As Sir John Jordan has stated:

"The argument will doubtless be urged, and urged with perfect good reason, that the widespread recrudescence of poppy cultiva-

tion in China has added immensely to the difficulties of the problem. That I freely admit, and no one has more reason to regret the Chinese relapse than I, who devoted ten years of my life to the work of opium suppression. But I would ask in all earnestness if the fact that China has fallen into a state of political disorder is sufficient reason for the other Powers to evade the obligations which they undertook under Article VI of The Hague Convention. I do not think so."

We are in accord with the view of Sir John Jordan that the failure of China, or any other country, through internal disorder or otherwise, to prevent effectively the illicit traffic in opium does not relieve other Powers signatory to that instrument from the fulfilment of the obligations which they have solemnly undertaken.

Resolution V adopted by the fourth Assembly places squarely before the Governments represented at the First Conference the consideration of measures which should be taken by China to bring about the suppression of the illegal production and use of opium in that country. What measures were adopted with that end in view? None. If China is the cause of the failure of certain countries to suppress progressively the traffic in prepared opium, is it too much to expect that they would lend China such assistance as might be appropriate with a view to suppressing the illegal production of opium in China, particularly since that question was upon the Agenda of the Conference? Yet nothing has been done.

I desire to invite your attention to another significant fact. Article VI of The Hague Convention provides that the Powers shall take measures for the gradual and effective suppression of the use of prepared opium, *with due regard to the varying circumstances of each country concerned*. The article recognises that the conditions in one country were not necessarily similar to those obtaining in other countries and were, if necessary, to be met by different means. Here, however, we have a group of the most influential nations in the world accepting an agreement professing to provide for the adoption of measures for the suppression of the traffic in prepared opium, many of which are known to be less effective than the measures now in operation in several of the countries represented at the First Conference.

May I ask what country would be proud of an educational system in which the progress of a group or class is measured by the intellectual capabilities of the more inferior individuals in the class? Although the acceptance, by nations furthest advanced in the effort to suppress the traffic of the standards of the nations which are less advanced in that respect is to be regretted, the agreement reached by the First Conference menaces in even a more serious way the ultimate success of the effort to suppress effectively the use of prepared opium.

As a result of the agreement, there has been created a prepared opium "bloc" or group consisting of some six or more of the most powerful nations in the world, all of which under the agreement agree to establish an almost complete Government monopoly with regard to the importation, sale and distribution of opium. I do not here intend to discuss the question of a Government monopoly as a temporary expedient for stamping out the prepared opium traffic or to suggest the internal measures which a nation should adopt to carry out Article VI of The Hague Convention. I am, however, not altogether unfamiliar with the working of "blocs" or groups and with the results which naturally may be expected to follow their organisation, and I do not hesitate to say that, so far as I personally am concerned, I regard the conclusion of an agreement providing for the organisation of a prepared opium "bloc" or group as a decided step backward in our endeavour to suppress the traffic in prepared opium and that, by reason of this agreement, the world is no nearer today, in fact is further from, its goal than it was on that fateful day of January 23, 1912, when the nations of the world, for the first time in history, collectively agreed that the use of prepared opium should be permitted only temporarily and decided to take progressive measures for its effective suppression.

I would again remind the Conference that Resolution V of the fourth Assembly directed the First Conference to give consideration to the measures to be adopted for the reduction of raw opium to be imported for smoking. Did the First Conference consider this question? Does the agreement reached offer any assurance that there will be a reduction in the importation of raw opium to be used for smoking? If no such measures have been adopted, if China has not received the assistance with regard to the prevention

of the illicit production of opium to which she is justly entitled, if the agreement does not give effective application in the Far Eastern territories to Chapter II of The Hague Convention, are we not prepared to say that the First Conference has not satisfactorily handled the problems which were referred to it for consideration?

If the agreement reached is unsatisfactory to the world at large, is it in fact completely satisfactory to the Powers which are to sign it? Does it in their judgment mark such an advance in the matter of the suppression of the traffic in prepared opium that they are justly proud of the fruitful results which are expected to flow from their efforts? If, on the other hand, the agreement does not afford the most effective means possible of suppressing the traffic in prepared opium, if the delegates to the First Conference are not entirely satisfied with the agreement that was reached, will they not join us in the Second Conference in a reconsideration of the question of the most effective measures to be taken for the suppression of the traffic?

This brings me to the question of competence.

On every occasion when the Delegation of the United States or other delegations have brought forward proposals aimed at disturbing the established order, the question of competence has been raised. The word has lost its terrors, and I have no hesitation in stating that the Second Conference, under Resolution VI of the Assembly, has the competence to consider the question of prepared opium. The Conference was called to adopt measures as a means of giving effect to the following principle:

“1. If the purpose of The Hague Opium Convention is to be achieved according to its spirit and true intent, it must be recognised that the use of opium products for other than medicinal and scientific purposes is an abuse and not legitimate.

“2. In order to prevent the abuse of these drugs, it is necessary to exercise the control of the production of raw opium in such a manner that there will be no surplus available for non-medicinal and non-scientific purposes.”

It is now no longer proper to speak of these principles as American, if indeed it was ever proper to do so. The interpretation urged by the representatives of the United States before the Advisory Committee was, of course, acceptable to many of the nations signa-

tory to The Hague Convention. But if, in the beginning, the foregoing proposals were rightly termed American, they can no longer be so regarded. Accepted by the Advisory Committee, by the Assembly, by the Council, and, I am happy to say, by the greater number of the nations here represented, as the principles upon which The Hague Convention is based, they have become the principles of this Conference, and as such I shall hereafter refer to them.

Bearing in mind that we are here under an invitation extended by the League to carry these principles into practical effect, how can we hope to accomplish this result without consideration of the question of prepared opium? In the programme before us we are aiming to set up elaborate machinery for determining the medical and scientific needs of the world. But of what avail will this be unless we know definitely the amount of raw opium which is produced for the manufacture of prepared opium and the definite time when the use of prepared opium shall come to an end? Opium produced for medicinal and scientific purposes represents but a small part of the total opium production of the world, and what success can be hoped to crown our efforts if we merely endeavour to control the production of medicinal opium and disregard prepared opium? We may assume, I believe, that we have been granted sufficient powers to handle the question confronting us; that such powers, expressed or implied, are sufficient to enable us to consider and adopt any measures which in our judgment afford a satisfactory solution of the problems confronting the Second Conference.

Apart from technical considerations, however, it must be remembered that the subject of prepared opium is covered in The Hague Convention and must be regarded as a phase of the general problem to which we are called upon to give attention, and the delegates who attended the First Conference are also present at this Conference. It may, of course, be urged that a duplication of work would result if the Second Conference should endeavour to consider a problem that was fully discussed in the First Conference. However, I would remind you that the First Conference, at which were represented only countries in whose territories the use of prepared opium is temporarily permitted, necessarily must have considered the question of the suppression of the traffic from a dif-

ferent standpoint from that of this Conference, at which all nations are represented, and I appeal to the Delegates of the First Conference to lay aside technicalities and to join in considering this important problem to the end that together we may reach a decision that will not only be satisfactory to ourselves but will merit the approval of the world at large.

At the fifteenth meeting of the Conference Mrs. Hamilton Wright of the American Delegation made an eloquent appeal to the Conference to seek for the solution of the opium problem which the First Conference had failed to find. She said, in part:

There is something wrong somewhere—either in the method or in the spirit in which the problem is being approached.

Sixty years ago we were faced in America with a problem which was just as grave as the opium problem, just as injurious to human beings, and just as deeply entrenched in the financial fabric of the nation. At the critical moment, however, there came a man named Lincoln, into whose hands the problem passed for solution—a very wise and human man—who insisted always that the slavery question could never be solved until it was rightly solved, that it was no use groping for some middle course between right and wrong.

I believe that this is the answer to the opium riddle. The reason why it has never been solved is because we have never tried to solve it rightly. Just as the Government in America could not, in Lincoln's opinion, endure half-slave and half-free man, so the opium problem will never be solved while one-half the world is in bondage and the other half free.

This opium problem has imposed definite and dual obligations upon us—one towards our own people of the West and one towards those peoples of the East, or as we have often heard quoted "those colonies and territories . . . which are inhabited by peoples not yet able to stand by themselves, whose well-being and development should form a sacred trust of civilisation." We believe that the time has come to put these principles into effect. There can be no question that what is poison to a man in the West is also poison to a man in the East. We have the word of science that there is no difference in the reaction to drugs in Orientals from Occidentals.

We must therefore have common regulations, mutually enforced. There can be no moral right in connection with one man making a slave of another, and the man who is a slave to drugs is the most pitiful of all bondmen. It is an untenable theory of taxation that a people can thrive and endure on their own moral and physical degradation—a paradox that men should live on their own death.

I believe that we shall never solve this problem until we change our standards, until we are prepared to view it not in isolated fragments but as a complete whole—until we are as anxious to guard the health and well-being of the East as of the West, until we apply the same laws and safeguards to the one as to the other. The secondary and futile restrictions which are discussed day after day and year after year are the regulations to be applied to the ordinary merchandise of everyday commerce. Always the question is dealt with in terms of dollars and cents, of weights and measures. This is why we make no progress, why the opium problem has never been solved. The methods we have chosen, the terms in which we speak, are applicable to things in bulk, to inanimate matter, not to the welfare of human beings, who in the final analysis have become the commodity with which this problem deals.

Is it not fair to ask why we have met here at Geneva? Is it to put into effect The Hague Convention—to amend it if necessary—to hasten in fact its execution and so rid the world of a recognised curse and evil? Or is it through one excuse or another to evade our obligations for another century and a half?

Is the "effective suppression" of that pernicious form of opium known as smoking-opium to be finally terminated, as was the intention of the Convention? Cannot we fix some approximate time-limit, or are we to take advantage of the inability of others to carry out their obligations to continue for a further indefinite period of time the leisurely course of the "gradual suppression" of this obnoxious form of opium?

Are we to reduce the present huge over-cultivation of opium to the medical and scientific needs of the world, as the Assembly proposed, and, if so, how and when? We know that it cannot be done immediately, but, frankly, is the attempt to be made?

These are the fundamental questions with which it was understood that the present Conference was to deal, the questions which

the world is insistently asking to have answered. It is because we hoped and expected to have them answered that the Government of the United States sent delegates to participate in this Conference at Geneva.

At this same meeting of the Conference—the fifteenth—the Delegations of Chili, Venezuela, Bolivia, Cuba,² Egypt, and Italy supported the American position.

Adjournment of the Conference. It was evident by this time that the Conference had reached an *impasse*. It was seen that the majority of the Delegations were in favor of the American proposal that the Conference should consider the matter of the suppression of the legalized traffic in prepared opium, but, opposing this proposition, were the Delegations of the countries within whose possessions that traffic existed. To meet, for a time at least, this situation, the Spanish Delegate, M. de Palacios, moved that the discussion of the American motion be adjourned, in order, as he declared, to give certain of the Delegates time to consult their Governments. “Naturally,” he said, “I can only urge that those Delegates who were members of the First Conference should be asked to explain to their Governments the present position of this Conference.” In result, the discussion was postponed for three days, namely, from December 13 to December 16.

When the Conference met on December 16, the President, M. Zahle, called attention to the fact that it was evident that the Conference would not be able to finish its work before Christmas, and said that if there were an immediate adjournment until some date in January, 1925,

²The speech of M. de Aguero y Bethancourt was an especially able one, and it is with regret that the author finds it impracticable to reproduce it. Extracts from it would not give an adequate idea of its exalted eloquence.

the Delegates would have not only a few days holiday but an opportunity to consult their Governments. He therefore moved the following:

The Second Opium Conference consisting of States invited by the Council of the League of Nations to consider problems connected with the extension of The Hague Convention:

Considering that the Conference has now been in session for a month;

Considering that certain important questions have arisen in the Conference;

Decides:

(1) To take advantage of the coming holiday season to adjourn all plenary meetings until January 12, 1925, when the first order of business shall be the continuation of the discussion of the motion of the Delegation of the United States of America;

(2) To ask its various Sub-Committees to continue during this week the discussion of the subjects now under consideration in order that the results at which they have arrived may be distributed at the earliest possible moment and thoroughly considered during the period of adjournment, reserving, however, the right to the Chairmen of the Sub-Committees to adjourn the debates according to the wishes of the members.

The proposition that there should be this long recess was not very acceptable to those Delegations—among them the American and Chinese Delegations—which would not be able to return home for the vacation thus created, but was accepted by them in order that every possible opportunity to obtain new and more liberal instructions from their Governments might be obtained by those Delegations which had declared their inability to discuss the matter of the suppression of the use of prepared opium.³

³ See especially the speech of Dr. Sze.

The Conference, in accordance with the resolution adopted at its seventeenth meeting, reconvened on January 12, but only to meet the motion, moved by the President of the Conference upon the request of the British Government, that a further adjournment of one week be had. This request was based upon a communication received from the British Government that it had appointed Lord Salisbury as Chief of its Delegation, but that, unfortunately, while hunting, he had been thrown from his horse, and, by reason of injuries thus received, would not be able to attend the Conference until January 19.

This request, it clearly appeared, taxed to the utmost the patience of many of the other forty Delegations, but, as a matter of international courtesy, they felt constrained to grant it. The Chief of the Chinese Delegation, Dr. Sze, felt himself justified, as indeed he was, in referring to the fact that no such courtesy had been extended to him in the First Conference by the Chiefs of the British and Indian Delegations when he had asked a much more reasonable favor. Nevertheless, he said, he was ready, as a matter of international courtesy, to vote in favor of the request which the British Government had asked.⁴

⁴Dr. Sze said: While favouring and endorsing your motion, Mr. President, I may say that some of my friends will tell me that I am taking a great risk in doing so. It will be remembered that, during the third meeting of the First Conference, it was proposed that the order of the Agenda should be reversed. I then asked the President and members of the Conference that the work should be continued and that, in view of the suddenness of the proposal, the change of Agenda should be delayed two days in order that I might communicate with my Government on certain points that had arisen since my arrival here.

The first Delegate of India immediately rose and read me a lesson. He said that, if this Conference did not agree to what was asked of it, Mr. Sze would be held responsible for the delay, and an English newspaper agency thought that the incident was of sufficient value to send it round the

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The Conference Reconvened. When the Conference met again on January 19, it appeared that Great Britain had withdrawn the designation of Lord Salisbury as its chief Delegate and in his place had appointed The Rt. Hon. Lord Cecil of Chelwood. The French Government had also strengthened its Delegation by the appointment of His Excellency M. Daladier, Minister of the Colonies, and the Netherlands Government its Delegation by the appointment of His Excellency J. Loudon, Envoy Extraordinary and Minister Plenipotentiary in Paris, and Former Minister for Foreign Affairs.⁵

Whatever hopes were held that these Delegations would obtain more liberal instructions were shown to be largely, if not wholly, without foundation when the American motion was again raised for discussion. The Delegations of the countries which still legalized the traffic in prepared opium in their several territories or possessions one after another rose and reasserted the position of their Governments that the Conference was not competent to consider the matter.

Lord Cecil's Speech. Lord Cecil renewed the discussion of the pending American proposal in an elaborate

world. Further, the late first Delegate of the British Empire expressed his agreement with the views of the India Delegate.

In spite of that, if people ask me why, seeing that two months ago others were not even willing to tolerate such a reasonable request on my part, I come here today and express myself as being in favour of your proposal, my answer would be that it is a matter of international courtesy which one Government owes to another, that when one Government makes to the other Governments such a request as that made by the British, those Governments should, as I am doing now, go out of their way to agree to it, even at considerable inconvenience.

⁵Some of the other Delegations were strengthened by the appointment of new Delegates by their respective Governments.

speech in which he reviewed generally the problem of combating the evils arising out of the misuse of opium and cocaine and their derivatives.

As to the jurisdictional right of the Conference to deal with the matter of prepared opium he said that it was the understanding of his Government that the question of smoking opium had been handed over to the First Conference and the problem of narcotic drugs to the Second Conference, and that his Delegation had "no instructions to take part in the Conference except upon that basis."

With reference to the custom or habit of eating opium, so widespread, and for so long a time practiced in India, he said, though with evident effort:

I think we may say that, generally speaking, that is regarded as an undesirable practice, but in one quarter of the globe, and so far as I know one quarter of the globe only, it is habitual and has been habitual for very many centuries; that is in India. As I apprehend the evidence that has been before you it is certainly true that, when taken in moderation under the conditions that prevail in India, it is probably harmless, and according to a good many opinions it may even be useful. There is, I am quite aware, a great deal of dispute and discussion on this point. I do not wish to express any opinion; indeed my opinion would be quite valueless upon it, but it is probable, it seems to me that it is a question of degree and undoubtedly, at least so it seems to me, there is a use of opium in India which may be called quasi-medical, where it is used in order to combat physical disabilities and physical disease without actual medical prescription, but still really for the same purposes as medical purposes, and there its use seems certainly unobjectionable.

And later in his speech, he said:

This [eating of raw opium] is, as I have already indicated, purely an Indian question. As far as I know, it is exclusively an

Indian custom, and whereas there are, as I have said, grave differences of opinion as to its harmfulness, there can be no difference of opinion as to the fact that it is a purely domestic question in India. It is a question of under what restrictions and under what conditions Indian opium should be used by the Indian population under the control of the Indian Government. As far as that part of it is concerned, it does not appear to me to be a matter for international interference at all. I am one of those who think that international interference in such domestic questions would be a very dangerous precedent to establish, and one that we should guard against with the utmost care, one which, if we were not to guard against it, might well bring all international action into disrepute as an intolerable interference with national sovereignty.

Lord Cecil's Statement as to Opium Consumption in the United States. Speaking of the problem arising out of the misuse of manufactured narcotic habit-forming drugs, which, he asserted, was the most serious aspect of the general problem with which the two Conferences had to deal, Lord Cecil used the following words with reference to conditions in the United States:

It is a terrible social evil producing physical and moral degradation and I understand from the representatives of the United States that it is one of the evils which is, I will not say particularly, but markedly bad in the case of America where it is giving the American Government the greatest anxiety; indeed I have seen figures stating that the consumption of opium is very much greater per head in America than it is in India.

Seldom has a diplomat used words more unfortunate than these. It is true that the statement which Lord Cecil repeated, and thus became responsible for, had been previously made, but its correctness had been often denied, and the official published figures of the League of Nations itself had shown its falsity. Speaking to this point, at the next meeting of the Conference, after quoting Lord

Cecil's statement, and his admonition that "if we want to get on with this business we must abandon recrimination and adopt coöperation," Mr. Porter said:

With all due respect to the distinguished gentleman from Great Britain I must suggest that he is hardly practising what he preaches when he states that the use of opium in the United States of America is greater than that of India. If he can utter a greater slander against a great people than that I would like to know what it is.

Now what are the facts? Unfortunately some four or five years ago someone connected with our Government issued a semi-official report to the effect that the *per capita* consumption of opium in the United States was 36 grains per annum. To look at the figures it is perfectly obvious to anyone that he took the total imports for that year and divided them by the population, without any reduction whatever for exports, and for opium that passed through the country. They say that one can never catch up with a falsehood. I have been trying to catch up with this one for many years. It has been contradicted in every manner, shape and form, and I want here and now and for ever to denounce it as a vile slander upon the people of the United States.

At this point Lord Cecil interjected the declaration that he withdrew the statement. Mr. Porter continued:

I do not for a moment suggest that you knew it was untrue. Far be it from me to suggest anything of that sort, but I do say that it is a curious fact that your Advisers did not know that it was untrue. I call your attention to the record of the League of Nations Second Opium Conference, Part 1, of which the distinguished gentleman from Great Britain, Sir Malcolm Delevingne, is an active member. Surely this organisation should be willing to accept whatever their record says. Here it says: "The United States of America, 0.56." That is a little less than 8 grains *per capita*. "Great Britain 0.53." The difference is negligible. "Canada 0.58; Denmark 0.89; Finland 0.6; the Union of South Africa 0.51; the Netherlands 0.41," showing that the *per capita* consumption in the United States of America is practically the same as in nearly all the European countries. It is

to the credit of the Teutonic and Slavic races that the *per capita* consumption is much lower than it is among ours. There is the record. That record was prepared for the Opium Advisory Committee, of which the distinguished gentleman from Great Britain, Sir Malcolm Delevingne, is an active party. It seems quite strange to me that that statement, that vile reflection upon the morals of the people of the United States should have been repeated in this Conference, which many hope to see some day the Parliament of the world.

When he gained the floor Lord Cecil said:

I greatly regret that anything I said in my speech could be regarded by anyone, and most of all by the distinguished gentleman who represents the United States of America, as intended as an attack upon his people or his country. I accept absolutely, of course, the figures he has given as to the consumption of the United States, and I regret that in reading the great mass of papers before me I was misled into using figures which are apparently devoid of foundation.

I withdraw the allegation, of course, absolutely, but I wish to say that I never intended my remarks as an allegation against the United States of America or their people; I merely meant them as an illustration of the terrible extent to which, even in so very great, so very distinguished and so highly civilised a country this evil had spread, and to show the importance of dealing with the drug-evil which was revealed by this state of affairs.

I withdraw the allegation absolutely, but I understand that there is no difference of opinion between us as to the importance of dealing with the consumption of heroin, morphine, etc.

Of the smoking of opium, Lord Cecil said:

Speaking for myself I am prepared to say that, so far as I can see, opium smoking is never beneficial; it is almost always harmful and, if pursued in excess, is highly deleterious. That certainly is the view of the British Parliament because they have made it a criminal offence to smoke opium in England, and it certainly is the policy of the British government to bring opium smoking to an end throughout the Empire at the earliest possible moment. I venture to think, myself, that any fair and candid and impartial examination of the

conduct of the British Empire during the last few years will confirm that statement and I may refer as a striking example of what it has done, to the action which the Indian government has taken in Burma, where it has very actively pursued the object of suppressing opium smoking and brought it down to something like one-seventh, I think it is, of what it was a year or two ago, and has done it I incidentally remark—I am ashamed to have to say such a thing—without, of course, the slightest consideration of the pecuniary consequences involved in such a policy. . . .

I have already said that the attitude of the British Government is that they desire the suppression of opium smoking. If they did not desire it, as they do desire it, in the interests of good government and for the benefit of their subjects, they are bound to do so by The Hague Convention. They entered into the obligation that they would suppress the use of prepared opium, that is, opium for smoking, in the second chapter of The Hague Convention; but they recognised that it could not be suppressed at once and they provided for its gradual and effective suppression with due regard to the varying circumstances of each country concerned. I want to say in the most explicit way—and I was amazed to hear that in responsible quarters there was some misapprehension on the point—that the British Government accepts that obligation fully. They have no intention of withdrawing from it or receding from it in any degree, and their object is to suppress the smoking of opium but to do so practically and effectively.

With regard to conditions in China and their bearing upon the practicability of a reduction of the export of raw opium by the British Indian Government, his Lordship said:

I want to say, and I hope my Chinese colleague will believe me when I say, that there is nothing further from my wish than to make any criticism or attack on the Chinese Government. On the contrary the British Government has the greatest possible admiration for what the Chinese Government did on that occasion and their very wonderful achievement. By energy, vigour and self-sacrifice they did put a stop practically throughout the whole dominions of China to the growth of opium. Had it been possible for that state of things to

continue there is not the slightest doubt that the position would be very different and very much more hopeful than it is at the present time.

Unhappily, and through no fault of the Chinese Government, it has been over-clouded by the civil disorders which have taken place in China. That is no peculiarity of China. Where civil disorders take place in any country progress comes to a stop, and indeed civil Government has great difficulty in acting at all. My friend who represents the Irish Free State will agree with me that so long as disorders were rampant in Ireland very serious evils occurred in that country, and it was very difficult to carry on the duties of civil Government, and very great disasters took place. As a matter of common knowledge that is what happens wherever civil disturbances exist. Therefore it is matter for no surprise and no criticism of the Government of China in the least that the consequence of these civil disorders has been the recrudescence of opium growing. I hope and believe that that is a merely temporary phase in the history of an ancient Empire and that in the course of a very short time, the shorter the better, the Central Government will be re-established fully throughout the country, and it is with the utmost conviction that I say I feel sure that one of the first acts of that Central Government, when and so far as its authority is restored, will be to resume the old opium policy of the Chinese Government and to suppress the growth of opium as rapidly as that can be accomplished. It is therefore with great confidence that I look forward to the future of what will happen in China in that respect.

But we have to deal with the present situation. I am not in a position—no one is in a position—to know exactly what the production of opium is in China at this moment, but it is certainly very considerable. I have seen it put—I do not know with what accuracy—at the figure of some 15,000 tons.* That compares with a total

*At the twenty-second meeting of the Conference Lord Cecil said: "I see in looking over my last observations that I used the figure of 15,000 tons. It has since been brought to my notice that that figure is not accepted by the representatives of the Chinese Government. I do not wish to insist on it. I quite recognise that these things are matters of speculation and that it is impossible to tell how much is produced. It may well be that the figure of 15,000 tons is an exaggeration, and I earnestly trust that it is. As far as I am concerned I wish to assure the Chinese Delegation that in using it I only used it because it was the only figure that I

production in India, for instance, of something like 800 or 900 tons. While that lasts, while that production, unhappily the growth and product of civil dissension, goes on, the British Government feels very strongly that anything like the proposal which the American Delegation is anxious to submit to this Conference is impracticable. They feel very strongly that as long as that amount of opium is being produced, to forbid opium-smoking in the British Far East dominions either immediately or in a period of years would merely be to put so much extra profit into the pockets of those who at present are smuggling opium into those territories. That is their view. They are quite ready to take any step that will be useful to stop opium smoking, but they are not ready to take a step which will not stop opium smoking and will increase the profits of what is, after all, one of the most worthless sections of the human race. That is the view which the British Government takes and I am bound to tell the Conference that it is the unanimous view of the British experts that they have consulted.

Of the results reached in the First Conference, Lord Cecil said:

Even here in Geneva I understand it is the fashion to deride and contemn what has been accomplished by the First Conference. I do not take that view at all. I quite admit that the achievements of the First Conference are not spectacular, but it is not always the most spectacular reforms that are the most useful, and I believe that the reforms recommended by that First Conference will do a great deal to advance the cause which we all have at heart.

After referring to certain of the provisions of the draft Agreement which the First Conference had drawn up, he said:

happened to have come across, and if they have any objection to it I hasten to say, as I would say to any other Government that objected to anything that I said, that of course I do not insist on that figure, and I only used it as an illustration of what everyone admits, that there is unfortunately a vast production of opium going on at the present time contrary to the wishes and contrary to the efforts of the Central Government of China in the territories of that great Empire."

I say that although it is quite true that some of those provisions have been already enforced in the British Possessions and in other possessions, yet their general enforcement will do a great deal to diminish the use of opium for smoking, and I think myself that it would be an entire mistake to suppose that what has been done by the First Conference is not an extremely valuable step towards the object of the suppression of the opium traffic.

British Declaration. Lord Cecil quoted certain statements in Bishop Brent's "Plea to My Colleagues," to the effect that the Chinese Nation though jealous of its sovereignty and rightfully suspicious of anything that might threaten to infringe it, would be encouraged by reasonable offers of a coöperative character from neighboring countries, which are, in greater or less degree, dependent upon Chinese residents for labor, and, therefore, that with the effective suppression of the production of opium in China these countries might move, *pari passu*, for the suppression of the use of prepared opium, and said:

I am prepared on behalf of the British Government to make this declaration of policy:

"(1) His Majesty's Government undertakes that opium smoking shall be abolished in the British Far Eastern territories in which such smoking is temporarily authorised within a period of not more than 15 years from the date on which the effective execution of the measures taken by China to suppress the growth of the opium poppy has reached such a stage as to remove the danger of opium smuggling from China into those territories.

"(2) As soon as it is established in the manner indicated in the following paragraph that the effective execution of the said measures has reached the stage referred to above, the necessary measures will be initiated to enable the complete prohibition of smoking effective at the end of the said period.

"(3) The question when the effective execution of the measures mentioned in paragraph (1) has reached the stage referred to in

that paragraph shall be decided by a commission to be appointed by the Council of the League of Nations, whose decision shall be final."

Then comes an explanatory paragraph :

" (4) It is understood (1) that as soon as the period of 15 years referred to in paragraph (1) has begun to run opium smoking by persons who are not smokers at that date shall forthwith be prohibited: (2) that the complete prohibition of opium smoking to be effective by the end of the said period of 15 years is not inconsistent with special and temporary provisions for persons in whose case it is certified by the medical authorities of the State concerned that they cannot be completely deprived of the drug without serious danger to life or health."

That last provision, I am told, is absolutely essential, because without it there would be great danger of these unhappy people dying.

I am very reluctant to introduce into this discussion the name of any one who is not actually present, but since outside this room, and to some extent inside this room, the name of Sir John Jordan has been freely used to the effect that he is divergent from British policy, I think it right to say that this document was shown to Sir John Jordan before I left London, and he says: "After careful perusal I find that these proposals entirely represent the views I hold on the subject. They appear to me to constitute a practical and satisfactory solution of the question."

Now that is the proposal that the British Government, after consulting all its advisors, venture to make. . . . They recognise that, and they are prepared therefore to hold by the offer which I understand was made before the Christmas vacation, that if it is desired they will recommend and urge upon the Council of the League of Nations the nomination of a small impartial Commission. As far as we are concerned it may be presided over by an American Chairman, and the Commission may go to these territories, investigate them and see whether the proposals and offers which the British Government have made or are prepared to make can be improved upon, and if that Commission reports and the Council adopts its report that something more ought to be done, then undoubtedly a different situation would arise and the British Government would be disposed to carry out whatever is recommended. That is the attitude of the British Government on this question of opium smoking.

CHAPTER XVII

PREPARED OPIUM IN THE SECOND CONFERENCE (*Continued*)

M. Loudon's Speech. M. Loudon, the new chief of the Netherlands Delegation, who took the floor next after Lord Cecil, declared that he returned to the question of the competence of the Conference only to declare that the Netherlands Government, after having carefully examined the matter, still maintained the view that had been previously expressed by his Delegation, namely, that the Conference had no jurisdiction with reference to prepared opium. In order, however, as he said, to prevent any misunderstanding, he would explain briefly what had been and was the policy of his Government with reference to opium and thus show that the attitude of his Delegation with regard to the American proposals was not one that would hinder the realization of the ideals which all shared in common. In part, he said:

The immediate prohibition and also the American proposal for diminishing the annual imports of raw opium by 10 per cent, with absolute prohibition after ten years, are measures both artificial and arbitrary. The possibility of maintaining them is more than problematical and once it is not certain that such measures could be maintained it would, in our view, be far better not to attempt to apply them. They would really diminish the amount of legal traffic for the sole benefit of the illegal traffic.

After referring to the efforts that his Government was making to limit the use of prepared opium in the Netherlands Indies, M. Loudon said:

I will not conceal from you, however, that some of the measures which have been resorted to in these places appear to have gone too

far. It is true that the restrictive measures taken in the Indies has resulted in a considerable diminution of the legal traffic. The figures for the year 1923 fell by about 50 per cent in comparison with those for 1920 and the figures for 1924 were even lower. On the other hand, there are symptoms which point to the growth of the illicit traffic for the same period. Since this increase has arisen it has become important to relax the stringency of the régime or, at any rate not to accentuate it, so as not to push the consumers into the arms of the contraband traders. . . .

The re-exportation of raw opium, or the exportation of prepared opium are absolutely prohibited. Opium is not cultivated in the Netherlands' Indies. Illicit re-exportation is unknown, and the supply of raw opium destined to be made into prepared opium is only carried out by means of purchases obtained from another Government. The product then remains entirely outside international traffic, and the problem is one of an entirely domestic character. Propaganda against the use of opium is carried out with all possible energy by means of instruction given in schools, by distribution of pamphlets and by the exclusion of opium smokers from any State Service, including the Army and Navy. As regards a method, such as that of progressive limitation of importation as proposed by the American Delegation, it would be indispensable in the first instance to establish a system of licenses and rationing, because otherwise the uniform distribution of the production among all the consumers would be impracticable. But the system of licenses presupposes an absolute Government monopoly. I would like to draw attention to the fact that it is precisely these two measures which are inserted as directive principles in the Agreement of the First Conference, which has been the subject of so much criticism. It is true that it would not be possible to ensure the immediate application of these measures, in view of the excessive proportion which contraband trade has assumed, owing to the state of things prevailing in the countries which produce raw opium. There was, therefore, inserted in the Agreement referred to, a provision which is absolutely indispensable for the preparation of measures such as those recommended by the United States Delegation. I would like to draw the attention of the Conference very specially to this fact as it proves that by drawing up this Convention, a real progress has been accomplished, all the more so because Article

XII has an implied object which is to complete the existing Agreement by further restrictive measures, since the contraband trade shall have been sufficiently reduced. From the international point of view the above-mentioned Convention contains the maximum which can be obtained at the present moment. That does not, of course, imply that it represents a maximum from a national point of view as regards every one of the contracting parties, and as regards the Netherlands' Indies, I can give you an assurance that, not only will we strictly observe the obligations laid down in this regional Agreement, but that we will also take further measures to combat the scourge in our own territories by a system of regulation of the strictest possible character.

Other Speeches. At the same meeting of the Conference the new head of the French Delegation, M. Daladier, declared that the French Government endorsed the view of the British and the Netherlands Delegations as to the non-competence of the Second Conference to deal with the matter of prepared opium. The Conference, he declared, should consider the matter of the regulation of drugs as its chief concern, and with reference to this matter he said that his Government agreed in advance "with all resolutions that might be adopted with a view to controlling the production, manufacture, and distribution of all drugs, raw or prepared, the use of which is dangerous to humanity."

As to Indo-China he declared that gradual reduction and eventual abolition of the consumption of opium would need to be accompanied by the gradual abolition of the production of the drug in the neighboring countries.

At the twentieth meeting of the Conference M. Sugimura (Japan) said that his Delegation was in favor of the American scheme for the total abolition within ten years of the use of prepared opium but that the lessons gained from the experience of Japan compelled him to assume a

passive attitude rather than one of active support, since that experience, in his judgment, indicated that the vigorous application and enforcement of a system of registering and rationing addicts was a better method of securing ultimate suppression of opium smoking than would be one which attempted to fix a definite period within which absolute prohibition would be established. However, he said, should the American proposal be accepted, his Government would be willing to sacrifice its present system in Formosa "in order to give the world a striking and unmistakable proof of its earnest desire for international coöperation for the welfare of humanity."

Following M. Sugimura, Mr. Porter took the floor. His indignant repudiation of the statement, made by Lord Cecil, that the *per capita* consumption of morphia in the United States was greater than it was in India has already been referred to. Of the Japanese policy with reference to the suppression of opium smoking in her colony of Formosa he said:

"I congratulate Japan upon the way in which she has honestly and sincerely tried to suppress this ghastly traffic. Japan's policy is founded upon the proper principle, and that is suppression without regard to revenue." Quoting Bishop Brent, he declared that when Governments discover how lucrative is the opium traffic for purposes of public revenue, they easily dissemble with themselves and indefinitely postpone its abolition.

As to the methods by which suppression was to be effected, Mr. Porter said:

We are merely asking that a solemn compact made between the nations of the world many years ago shall be performed. It is not for us to say how it shall be done. Those who entered into that compact did so with full knowledge of the responsibilities involved, and if it were impossible of performance it was known then just as well as it is known now.

As to the competence of the Conference, Mr. Porter said:

The question of competence has heretofore been discussed at some length, and I shall not, therefore, repeat in detail the arguments that we have advanced in support of our position. Succinctly stated, our view is that under Resolution No. 6 the present Conference was called as a means of giving effect to the principles submitted by the Representatives of the United States and to the policy which the League on the recommendation of the Advisory Committee has adopted.

It cannot be denied, and the Conference so decided in connection with the presentation of Article I of our Suggestions, that, under the principles stated, the present Conference may consider measures for the control of the production of raw opium in such a manner that there will be no surplus available for non-medicinal and non-scientific purposes. If the production of raw opium is controlled so that there will be no surplus available for non-medicinal and non-scientific purposes, it necessarily follows that no raw opium shall be produced for the manufacture of prepared opium, since all must concede that smoking opium is not used for a medicinal or scientific purpose. In Chapter II of our Suggestions we therefore have fixed a definite period, after which the use of opium for smoking purposes shall no longer be permitted. So much for the question of competence.

American Criticism of British Declarations. As to the formal declarations of the British Government which Lord Cecil had presented to the Conference, the observations of Mr. Porter are of such importance that they must be quoted at considerable length. He said:

On a former occasion I took the opportunity of pointing out to the Conference that the United States of America and other nations have in good faith fulfilled the obligations undertaken under Chapter II of The Hague Convention and that they, therefore, have the unquestioned right to insist that nations which have not taken the steps contemplated by the Convention likewise take measures for

the effective and progressive suppression of the traffic in prepared opium and that such nations do not by supplemental agreements between themselves or otherwise, weaken The Hague Convention in such a manner as to release themselves directly or indirectly from the fulfilment of obligations undertaken under that Convention.

If a treaty is in effect a contract between States and the legal rights and obligations arising therefrom may generally be regarded as analogous to those arising from contracts between individuals, it is clear that the rights of nations signatory to The Hague Convention, which have fulfilled their part of the agreement, and the obligations of those nations which have as yet to take measures for the effective and progressive suppression of the traffic in prepared opium are well defined.

I shall therefore, with your permission, discuss in some detail the declaration offered on behalf of the British Government.

Paragraph 1 provides:

“His Majesty’s Government undertakes that opium smoking shall be abolished in the British Far Eastern territories in which such smoking is temporarily authorised, within a period of not more than 15 years from the date on which the effective execution of the measures taken by China to suppress the growth of the opium poppy has reached such a stage as to remove the danger of opium smuggling from China into those territories.”

Our objection to the foregoing provision is not based upon considerations of a technical nature. We are not prepared to accept this proposal because we cannot give our assent to the principle involved. We cannot admit that the obligation to take effective and progressive steps for the suppression of the traffic in prepared opium which each nation signatory to The Hague Convention undertook to enforce can be held in abeyance pending the occurrence of an event as uncertain and as indefinite as the one suggested by the British Government. We are of the opinion that the obligation to take progressive and effective measures for the suppression of the prepared opium traffic is a continuous one and cannot even temporarily be arrested. May I also invite attention to the subtlety of the language used in Paragraph 1. You will note that the period of 15 years is not to run from the date China has

effectively suppressed the growth of the poppy, but from that time when such effective suppression has reached such a stage as to remove the *danger* of opium smuggling from China into the territories. Is it not a fact that so long as opium is produced the danger exists that it will enter the illicit traffic? Indeed, because of this very fact the Delegation of the United States presented to the Conference a proposal aimed to control the production of opium at its source. Uncertain as is the date when China shall be in a position to execute effective measures for the suppression of the growth of the opium poppy, still more indefinite is the time when these measures shall be such as to remove all danger of opium smuggling.

I may mention a further point, namely, that since the period of 15 years is not to run until China has taken the steps suggested, the effect of the proposal, if adopted, would be that nations desirous of maintaining the traffic in prepared opium for purposes of revenue or otherwise would not endeavour to assist China in any way in her effort to adopt the measures contemplated, but on the contrary the incentive would be to discourage and even in some cases to throw obstacles in the way of China's earnest endeavours in this direction.

Paragraph 2 of the proposal provides:

"As soon as it is established in the manner indicated in the following paragraph that the effective execution of the said measures has reached the stage referred to above the necessary measures will be initiated to enable the complete prohibition of smoking to be effected at the end of the said period."

This paragraph is indefinite—that "necessary measures will be initiated to enable the complete prohibition of smoking to be effected at the end of the said period." The First Conference, after long discussion, was unable to come to an agreement with respect to the adoption of any measures reasonably calculated to accomplish the purpose desired. If the British Delegation is in a position to state what measures are necessary to accomplish the purpose sought for it would seem advisable for the sake of clarity to enumerate them in the paragraph.

Paragraph 3 provides:

"The question when the effective execution of the measures mentioned in Paragraph 1 has reached the stage referred to in that

paragraph shall be decided by a Commission to be appointed by the Council of the League of Nations, whose decision shall be final."

Aside from the question of the manner of the appointment of the Commission, this paragraph is objectionable for the reason that it in effect is an attempt to suspend the performance of obligations undertaken under The Hague Convention until a Commission has found it advantageous for such obligations to be performed. To this principle we cannot subscribe. Moreover, are we to expect that China would be willing to permit any Commission to pass final determination upon the question whether the measures adopted by China for the suppression of the poppy have reached such a stage as to remove the danger of opium smuggling from China?

Paragraph 4 provides:

"It is understood

"(1) That as soon as the period of 15 years referred to in paragraph 1 has begun to run, opium smoking by persons who are not smokers at that date shall forthwith be prohibited."

I desire you to note that paragraph.

"(2) That the complete prohibition of opium smoking to be effected by the end of the said period of fifteen years is not inconsistent with special and temporary provisions for persons in whose case it is certified by the medical authorities of the State concerned that they cannot be completely deprived of the drug without serious danger to life or health."

This is a most interesting provision. The nations in whose territories the use of prepared opium is still temporarily permitted are not to take any steps to prevent any increase in the ranks of opium smokers until the fifteen-year period shall begin to run. We would have naturally thought, and certainly we would have had the right to expect, that one of the first measures to be adopted by the Powers after ratification of The Hague Convention would have been the enactment of laws or regulations to insure that no new recruits would enter the ranks of opium smokers. To our astonishment we find, years after the obligation to suppress the traffic in prepared opium was undertaken, that we are asked to give our assent to a proposal that the Powers concerned shall not immediately take steps to prevent new recruits entering the ranks of opium smokers, but that such steps shall not be taken until the occurrence of an event as

uncertain and as indefinite as the day when homicide, burglary, larceny and smuggling shall cease. . . . In view of the foregoing, I am under the necessity of informing the Conference that the Delegation of the United States cannot give its approval to the declaration presented by the Government of Great Britain. We cannot admit that justification exists for even a temporary suspension of the obligation which rests upon every nation signatory to the Hague Convention to take effective measures for the progressive suppression of the traffic in prepared opium. The Hague Convention is clear and explicit as to the nature of the obligations undertaken and we are not prepared to forego any right which under that Convention we are entitled to enjoy.

The distinguished Delegate from Great Britain also referred in his remarks to the desirability of organising a Commission of Enquiry to investigate conditions in the Far East. He doubtless had in mind the suggestion offered by Sir Malcolm Delevingne just prior to the adjournment of the Conference in December. At the fourteenth meeting of the Conference, which was held on Friday, December 12, 1924, Sir Malcolm Delevingne stated that the British Government had no desire to maintain an obstructive attitude with regard to the question of prepared opium, and that the British Government was therefore willing that a small and impartial Commission of Enquiry on which none of the interested Powers would be represented should be appointed by the Council of the League of Nations for the purpose of making a thorough examination into the subject of prepared opium; that this Commission would visit the Far Eastern territories where the use of opium for smoking is still permitted, China, and the Philippine Islands, and would thereupon report to the Council as to what further measures, if any, could be usefully taken in order to bring about the effective and gradual suppression of the use of opium for smoking as is provided for in Chapter II of The Hague Convention. Sir Malcolm Delevingne added, however, that he was not making a formal proposal on behalf of the British Government, as the matter was not considered one for the Second Conference, but under instructions from his Government he took this opportunity of making known the attitude of the British Government in the matter.

Objections of a more or less serious nature may be made to the organisation of the Commission, to the nature of the duties which

it is intended that the Commission shall perform, and to the absence of any assurance that the nations, the conditions in whose territories are to be the subject of examination, will take the steps suggested by the Commission for the suppression of the traffic in prepared opium. Important as these and other objections of a similar character may be, I do not desire to take the time of the Conference to discuss them in detail as I am under the necessity of stating that the Delegation of the United States cannot accept in principle the proposal offered by the British Government. We cannot admit that nations which, under The Hague Convention, agreed to take measures for the progressive and effective suppression of the traffic in prepared opium, are now entitled to have a Commission of Enquiry appointed to ascertain whether they shall at some future time undertake to perform an obligation which they solemnly engaged themselves to carry out more than ten years ago.

During the years which have elapsed since the foregoing obligation was undertaken the traffic in prepared opium does not, from the facts brought to our attention, appear to have been progressively and effectively suppressed. That difficulties stand in the way of the effective suppression of the traffic we are prepared to recognise, but they are not of such a character as to render the fulfilment of the obligations undertaken under The Hague Convention impossible. On the contrary we have the right to assume that such nations understood the nature and extent of the difficulties to be encountered at the time they ratified that Convention, and we therefore look to them to take measures for the progressive and effective suppression of the traffic in prepared opium.

It may of course be urged that circumstances or conditions have arisen which could not have been foreseen in 1912, or at the time of the ratification of the Convention, such as to render it extremely difficult for certain nations effectively to suppress the use of prepared opium in the territories under their jurisdiction.

However, irrespective of any change in conditions or circumstances since the ratification of the Convention, the performance of obligations by the Contracting nations falls squarely within the generally accepted principle of international as well as municipal law, that nations or individuals, as the case may be, who solemnly undertake in an agreement to perform an obligation are presumed to

know, and if necessary to anticipate, any difficulties which, subsequently arising, may stand in the way of the successful accomplishment of the purpose for which the agreement was concluded. This generally accepted principle needs no argument in its support.

It is stated by Chitty in his work on Contracts (page 821) :

“And where the contract is to do a thing which is possible in itself or where it is conditional on an event which happens the promisor will be liable for a breach thereof notwithstanding that the occurrence of an accident or other contingency which, although it was not foreseen by, or within the control of the party, might have been provided against by his contract, has put it beyond his power to perform it.”

Since the manifest purpose of the Commission of Enquiry proposed by the British Government is to investigate conditions in the Far Eastern territories with the view to determine what measures, if any, the nations concerned may take to discharge obligations undertaken a number of years ago, the Delegation of the United States must for the reasons heretofore stated withhold its support from the proposal offered by the British Government. In view of the fact that the traffic in prepared opium, notwithstanding the obligations undertaken under Chapter II of The Hague Convention, does not appear to have been effectively and progressively suppressed, and in the light of the facts disclosed before the First Conference, the Government of the United States is strongly of the opinion that the time has come to place a definite time-limit in the Convention after the expiration of which the use of prepared opium throughout the world shall no longer be permitted. We therefore have inserted in Chapter II of our Suggestions, a provision which, if adopted and carried out, will insure that after ten years the traffic in prepared opium will no longer exist.

Recognising, however, the difficulties confronting a number of the nations in their desire to stamp out effectively the prepared opium traffic and being no less desirous than any government here represented of not maintaining an arbitrary and obstructive attitude, the Delegation of the United States is willing to increase the period contained in Chapter II of our Suggestions, after the termination of which the use of opium for smoking shall not be permitted from ten to fifteen years, and to leave entirely to the various governments con-

cerned the question of the internal measures to be adopted by them in carrying out the obligation undertaken.

In conclusion of his speech Mr. Porter said:

I have spoken much longer than I intended and I hope you will pardon me, but I have spoken from the heart. I have been interested in this matter for a long time and that interest will never cease. We were cursed in America for over a century and a half by a form of human slavery. It took a great war that almost destroyed our Republic to suppress it. Opium is only another form of slavery, and may I not say that it is a worse form, because the master who owned the slave had a financial interest in the physical welfare of the slave and he at least received good care. John Brown left the State of Kansas in the late fifties in a hopeless effort, with a few followers, to suppress human slavery. He was captured at Harper's Ferry, Virginia; he was tried and hanged and the followers, speaking of his cause, said: Yes, right is ever upon the scaffold; wrong is ever upon the throne. Why cannot we dedicate ourselves here to reverse that and put right upon the throne and wrong upon the scaffold?

Dr. Sze (China) at the twenty-first meeting, in a formal speech criticized the British Declarations along somewhat the same lines that Mr. Porter had followed, namely, that the proposals embodied in the Declarations tended to weaken rather than to strengthen the obligations which the Powers had assumed in Chapter II of The Hague Convention. This they tended to do by rendering contingent an undertaking that was unconditional in character. Because of certain important international implications of the opium questions, especially as possibly affecting the future relations of the Western Powers to those of the East, upon which Dr. Sze dwelt, it is desirable to quote at some length from his speech. He said (in part):

For these reasons, fundamental in their nature, and relating directly to the sanctity of international contracts, the Chinese Dele-

gation is constrained to express its dissent from the proposition which the Delegation of Great Britain has presented. This opposition is thus in no wise based upon a fear that the Government of China will not be able, within the near future, to bring to an end the present production and consumption of opium within its borders, which are illegal under the Chinese law; upon the contrary, the rapidly rising tide of anti-opium public opinion in China gives assurance that this can and will be done. What the Chinese Delegation does object to, and which it is convinced the other Delegations will object to, is that an unqualified obligation shall be transmuted into a conditional or contingent one and thus authorisation given by this Conference to a retreat from, instead of an advance towards, that goal which we are striving to reach. It would be difficult, if not impossible, to explain our action to the world should we take such a backward step. In China it would be difficult, indeed I may say that it would be impossible, to explain and justify such action. The Chinese people, who fully appreciate the opium evils which now so unfortunately beset them, though discouraged by the failures upon the part of the powers with Far Eastern possessions to take effective steps to suppress the smoking of opium by the thousands and hundreds of thousands of Chinese who dwell within these possessions, have had their hopes again raised by the convening of the two Conferences at Geneva. If it shall appear from the attitude of these Western Powers, taken in this Conference, that, so far from undertaking to take steps to bring to an end, within a brief or definite period of years, the legalised smoking of opium within their several possessions, it is their desire to postpone to an indefinite date such a suppression, my people will be greatly shocked.

These Powers have repeatedly declared their desire to give to China such aid as they properly can in order to enable her to correct the opium evils which now afflict her. If this aid is to be given, Mr. President, it should be given now and not at some uncertain date. And this present aid which China eagerly desires, can be given in its most effective and possibly only wholly acceptable form, by action upon the part of the Powers so to control the manufacture and exportation of narcotic drugs that an end will be put to the contraband trade in them and therefore to the flood of illicit morphine, heroin and cocaine which is now entering China and doing such dire damage to her people, and by action upon the part of the Powers which have

Far Eastern possessions which will bring to an early termination the traffic in prepared opium—a traffic which especially affects and, in some cases, exclusively affects, the Chinese residents in those possessions.

My Delegation, Mr. President, has not attempted to deny that the existence of contraband trade in opium, some of which opium, but by no means all of it, is of Chinese origin; nor has my Delegation sought to assert that this illicit trade had not increased the task of progressively reducing the licit traffic in those possessions in which the use of prepared opium is still permitted by law. But what the Chinese Delegation has objected to has been the magnification of the extent of this illicit trade, and the bringing forward of its existence by the Powers as a reason why they should be released from the performance of the solemn international obligation which they assumed when they signed or gave their adherence to The Hague Convention. Especially does the Chinese Delegation object to this attempt to evade a contractual obligation upon this ground in view of the fact that the Governments concerned have made no serious attempt to demonstrate that they have themselves made every effort reasonably possible to check that contraband trade. But, however this may be, and it is to be admitted that it is a matter upon which it is impossible to speak with precision, it is not proper that the Powers which still permit the use of prepared opium within their Far Eastern possessions should seek to excuse themselves from doing what they can to reduce this use within these territories because of unsatisfactory conditions that prevail in China. There has already been quoted to you the statement of Sir John Jordan, that he could not believe that the Powers of the West would be willing to shelter themselves behind the plea that they were absolved from performing their part of the obligations assumed by them under The Hague Convention because of disordered conditions in countries like China, Persia, and Turkey.

The general problem with which this Conference has to deal would be one of great importance even if it were regarded simply as a matter of securing a more effective regulation of the traffic in narcotic drugs and the control of the production of the raw material out of which these drugs are manufactured. But, when viewed in its larger aspects, the problem is seen to be a far greater one, for, by necessity, it involves the great question whether the Governments of the world have reached that degree of enlightenment and the stage

of ethical development which enables them to determine their policies by principles of justice and right, and which dispose them to sacrifice immediate and sordid interests in order that the ultimate welfare of humanity may be secured. Coöperation between sovereign Powers is possible only when these Powers are willing to sacrifice their own selfish interests in order that some larger and more general good may be achieved. The results reached by this Conference will show whether this stage of internationalism has been reached.

. . . . Of one thing we may be sure, and that is, that, should we fail in the task that has been assigned to us, those Powers which, by their refusal to subordinate materialistic and sordid considerations to ethical obligations, compel this failure, will be held responsible by the other nations of the world. They will be regarded as nations which have not yet moralised their public policies. They will, therefore, have to pay a heavy price for whatever immediate or materialistic interests they manage to conserve to themselves, and it is not unlikely that this price will be measured not only in terms of moral prestige but also in terms of those very financial and economic interests upon which they will have shown that they set such store.

As to these possibilities, in so far as they relate to the future relations between the four hundred millions of Chinese and the Western Powers that possess territories in the Far East, I am, perhaps, as myself a Chinese, in a better position to speak than most of you, and, therefore, to these possibilities, I feel myself justified in calling your attention.

Among the features which have specially characterized traditional Chinese thought and civilization, two have stood out with especial clearness. One of these has been the emphasis that has been laid upon the moral aspects of life. Until recently, indeed, almost the whole purpose of the Chinese educational system was the inculcation of the ethical duties of man. The other feature has been the extent to which the Chinese people have relied upon reason rather than upon force, with the result that the Chinese Government, even when nominally autocratic, has depended, in order to obtain obedience to its laws, rather upon persuasion than upon compulsion, and, therefore, has promulgated its laws in hortatory rather than mandatory form. I speak of these matters because they have become ingrained in the Chinese people, and, therefore, should they become

convinced that certain of the Western Powers are not disposed to have regard for the moral and physical welfare of the hundreds of thousands of their fellow-countrymen dwelling within their Far Eastern possessions, and do in fact unjustly discriminate between them and their own subjects or citizens, they, the Chinese in China, will be moved by a profound moral indignation.

Instances of the results to trade and commerce, not to speak of other less material but more important consequences that have followed within recent years from a sense upon the part of the Chinese people of right outraged will occur to you all. They indicate to you what may result should my people find that certain of the Western Powers are determined to continue to derive large public revenues from the sale of prepared opium to Chinese living in their Far Eastern possessions, or from the exportation to those possessions of the raw opium from which the prepared opium is to be manufactured.

I do not wish to dwell too much upon the economic or commercial consequences that may possibly result from the action that the Powers may take in this Conference, but it is a phase of our problem that cannot be wholly ignored. The significance of the trade of China to the other trading nations of the world needs no emphasis by me. Only a few days ago in the *London Times* of Jan. 3, 1925, there appeared a message from its own Peking correspondent in which it was pointed out that, although the year just ended had been, for China, one of the most troublous in her history, the customs duties collected had exceeded, by over six million taels, all previous records, and that the total duties collected had represented a foreign trade of more than two hundred million pounds, of which something like 40 per cent had been British. The recent strikes of sailors and workmen in Hongkong and Shameen show that Chinese laborers are rapidly grouping themselves into effective unions, and thus are able, upon occasion, to assert an influence that cannot be lightly regarded. I would also recall to your memory the evidence contained in the address made to the Conference by Mr. T. Z. Koo, and in other communications which I have had occasion to refer to, as to the enormous interest that the Chinese people are taking in the whole opium question, and the anxiety with which they are watching the procedure of this Conference. This means that if they feel that they have cause for indignation at the position taken by any of the Powers in

this Conference, that indignation may lead to popular movements which the authorities might find it difficult to counteract, much as they might desire to do so, and which will have an influence upon the trade of the countries concerned, and also upon the free flow of laborers to the Far Eastern possessions of the European Powers.

I gladly leave, however, these materialistic implications of our problem and turn to a phase of it which, because more cultural or spiritual in character, is of still greater importance. This aspect of the question has to do with the future relations of Eastern and Western peoples.

For many years past, the peoples of the West have proceeded upon the conviction that their civilization, and especially their religions and the codes of morality founded upon them, are superior to the systems of thought and conduct of the East. Based upon this assumption, the peoples of the West, encouraged and supported in many instances by their Governments, have sought by educational propaganda and missionary effort to persuade the Orientals to accept the Western ideas and ideals in place of those of their own. I shall not attempt to discuss in how far this conviction upon the part of the Western peoples has had a firm foundation of fact, but this much can certainly be said, that, whatever be the opinion held upon these points, to the Oriental, as to the Occidental, a principle of right and justice must, from its very nature, be as valid when applied in the East as it is when applied in the West. Hence it must result that if, when put to the practical test, it be found that Western Powers, which claim to enjoy the benefits of Western civilization carried to its highest point of development, are determined to continue indefinitely in their Far Eastern possessions a traffic which admittedly debauches the hundreds of thousands of Chinese who dwell in their possessions—there can be no other result than that not only will Western systems of ethics be deprived of much of the respect which they command from the peoples of the East, but the Governments of the West will lose somewhat of the regard which they now enjoy in Eastern Asia. By this I mean that it will henceforth be more difficult for them to convince the Powers of the East of the sincerity of their professions of good will.

The Delegate of the Irish Free State, Mr. MacWhite, in a brief, but excellent speech, after pointing out that

Japan, in Formosa, had furnished an example which it would be well for the other Powers in the Far East to follow, said:

I do not want to criticise the First Conference or its work. I cannot, however, blind myself to the result of its labour. Neither can I remain indifferent to the fact that the ground for both the First and the Second Conference was badly prepared—a fact which I attribute not to the Advisory Committee but to those who are responsible for the composition of that Body. If, as a result of our post-war economic conditions, in order to combat the high cost of living, a municipality appointed a committee of Master Bakers to fix the price of bread the latter could scarcely be blamed however honest they may be, if they put their interests first. I admit that in the present case there were extenuating circumstances and I do not deny the right of countries principally concerned in the traffic in opium and coca leaves to adequate representation, but countries having higher and holier interests at stake—the interests of mankind in general—should be equally represented. Furthermore, it is apparent to all that the holding of two Conferences for tackling the narcotic drug evil was a mistake which is responsible for some of the difficulties with which we are confronted to-day.

In view, however, of the situation created by the failure of the First Conference, it would be nothing less than farcical for us to continue building an edifice on a foundation that has already been sapped. . . . If we allow technical or legal quibbles to stand in our path, the position of the Second Opium Conference will become just as farcical as that of the First, and the League of Nations, under whose auspices we are here assembled, cannot escape some of the odium that will inevitably fall on the shoulders of those primarily responsible for such a result. . . . In bringing forward their proposal the Delegation of the United States has not only done a good day's work for the great moral principles upon which our civilisation is founded, but they have done a good day's work for the League of Nations. According to the late President Wilson, the League of Nations revolutionised international law by putting morals into it.

Nobody can deny that the presence here of representatives of the United States Government has had a very salubrious and highly

moral effect on this Conference. Without them, it would already have been classified in the limbo of forgotten things.

At the same meeting of the Conference at which the foregoing speeches were made, Mr. Clayton¹ again made an elaborate presentation of the point of view of the British Indian Government. As the situation in India and the policy of its Government with regard to opium has already been adequately considered it will not be necessary to quote from this address.

Reply of Lord Cecil to Objections to British Declarations. At the twenty-second meeting of the Conference, Lord Cecil dwelt upon the extent of the contraband trade in opium in the Far East; reasserted that his Government would not allow, and had not allowed, financial considerations to influence its opium policies; denied that his Government had not or did not propose to carry out in full faith the obligations it had assumed when it signed The Hague Convention; expressed indignation that this charge had been made; and urged that all the Delegations in the Conference should seek to coöperate in the friendliest possible manner—in a manner in consonance with what he termed “the Geneva atmosphere.” Returning to the question of competence, he said:

“I observed, in some of the very interesting speeches we heard yesterday, that there was a tendency to sweep that aside as a merely technical and formal objection. I am afraid I regard it as something more. I am deeply impressed with the importance of proceeding in international gatherings, with absolute regularity. The general system of such gatherings is still in its infancy, and it is very important not to do anything which may seem to those who take part

¹ Mr. Campbell had been obliged to leave the Conference and had been succeeded by Mr. Clayton as the Chief of the Indian Delegation.

in them likely to be dangerous and uncertain. I think it is very important, therefore, that we should not attempt, whatever the motive may be, to extend beyond our mandate the competence of this Conference. It may well be—I do not know—that it would have been a better plan if there had been not two Conferences but one. I do not express any opinion about that. It is very likely that it would have been better. We have got, however, to take the facts as they are. The Assembly decided to call two Conferences. I have read and re-read those resolutions. Again I may be quite wrong, but I cannot myself, applying the ordinary rules of construction to what is said in those resolutions, doubt that the intention was that the opium smoking problem should be referred to one of these Conferences, and other aspects of the opium evil to the other Conference. That is also the view of the Government that I represent.

Other Speeches. M. Loudon also repudiated the charge that the Netherlands Government had permitted financial considerations to control its opium policies; he reaffirmed the opinion of his Delegation that the Conference was not competent to consider the matter of the suppression of the use of prepared opium; and declared that he would be obliged to vote against the proposal of the United States.

M. Chodzko declared that the Polish Delegation supported the American proposal. Prince Arpa-ed-Dowleh made the same statement in behalf of the Persian Delegation.

M. Daladier said that the French Delegation associated itself fully with what had been said by Lord Cecil and M. Loudon. He closed with the following formal declaration:

The Government of the French Republic being firmly resolved to fight against the use under any form whatsoever of opium and the other drugs in the countries placed under its authority in the Far East, but considering as it has already stated, that the consumption

of opium in its Possessions in Indo-China is closely dependent on the production in the neighbouring countries, undertakes to carry out within its territory the complete abolition of the use of prepared opium within the periods and under the conditions specified below:

“ (1) Within a period of two years from the ratification which will close the present Convention, the States exercising authority in the neighbouring territories of French Indo-China will suppress or will effect a considerable reduction in the cultivation of the poppy for other purposes than medical and scientific purposes.

“ (2) During the third year the Council of the League of Nations shall officially place on record the effective disappearance or a very appreciable reduction of the cultivation of the poppy in these territories.

“ (3) As soon as the Council of the League of Nations has adopted the decision notifying this result, the Government of the French Republic undertakes to suppress progressively and completely the use of prepared opium in Indo-China within a maximum period of fifteen years.”

As regards the sense and legal effect of this declaration, I quite agree with all that Lord Cecil has said in regard to the legal aspect. For that reason we have added the following final paragraph:

“ (4) In the opinion of the French Government these provisions confirm and complete those which have been undertaken in the Convention of 1912, and those which were inserted in the draft Final Protocol adopted by the First Conference on Opium which met at Geneva on November 3, 1924.”

At the twenty-third meeting of the Conference Dr. El Guindy said that the Egyptian Delegation supported the American motion, and took occasion to speak of the extent to which his country was suffering from contraband trade in hashish as well as in other drugs. “ Things have come to such a pass,” he said, “ that the whole nation (with the exception, naturally, of the addicts) is very seriously alarmed, and from all sides—from religious and teaching bodies, and from administrative circles—we have received complaints and appeals showing us the

ravages that these drugs are causing in our country and begging us to do something to stamp out the evil.”

M. Veverka said that the Czecho-Slovakian Delegation would support the American proposal.

Mr. Shepherd said that the Australian Delegation would not support this proposal because it believed the matter to be outside the competence of the Conference.*

Committee of Sixteen Created. At this point of the discussion Dr. Sjöstrand of the Swedish Delegation moved that a Joint or Mixed Committee, to be composed of an equal number of members from the First and Second Conferences, be created with the function of considering the various proposals, declarations and suggestions that had been made to the Conference since the American proposal had been presented with a view to coördinating them, and, if possible, arriving at a result which could be accepted by all the Delegations.

After some discussion this proposal by M. Sjöstrand, took the form of an amendment to the pending American motion, and read as follows:

In suggesting that the first Opium Conference meet in order to take a corresponding decision, identical in its object, and on condition that that corresponding decision be adopted

The Second Opium Conference decides:

To name eight delegates representative of Governments who have not participated in the First Conference, to form a Committee with eight members designated by the latter.

* It is to be observed that the Australian Delegate, throughout the Conference, was in close harmony with the British Delegation. The same could not be said of the Canadian Delegate. The independence of the Irish Free State Delegate from the British view was conspicuous. Possibly it was in order to emphasize this independence that Mr. MacWhite usually spoke in French.

That Committee shall be entrusted with examining the proposals of the Delegation of the United States of America, together with the various suggestions and declarations presented during the recent discussions of the Second Conference. The Committee shall present a report to the two Conferences on the result of its work with the least possible delay.

This motion was unanimously adopted by the Conference with the understanding, as appeared in the discussion of it, that the Conference would discuss and take appropriate action with reference to any report that this Joint Committee might make.³

At the twenty-fifth meeting of the Conference it was announced that the First Opium Conference had agreed to take appropriate action in order to constitute the "Committee of Sixteen" as it came to be known.

As the result of a ballot that was taken, the following eight countries were selected to serve upon the Committee: United States of America, Brazil, Cuba, Egypt, Finland, Italy, Persia and Poland.

The Committee selected M. Zahle as its chairman.⁴ It was decided that the same rules of procedure should be

³ When approving this motion, Dr. Sze (China) said: "In giving my assent to this proposal it is appropriate that I should say that any proposal that may be presented to this Conference, in order to be acceptable to my country, will have to be one that gives definite assurances that within a reasonable period of time, the termination of which can be clearly foreseen, the legalized traffic in prepared opium in those territories and possessions where it is now temporarily permitted by law will be brought to an end." This statement, in the nature of a reservation, was later referred to by the Chinese Delegation in the Memorandum which accompanied its letter of withdrawal from the Conference.

⁴ M. Agüero of the Cuban Delegation had been put in nomination for this position by Mr. Porter, but withdrew his name when it appeared from remarks of Sir Malcolm Delevingne, M. van Wettum, Dr. Rodrigues (Portugal), and M. Kircher (France), that it was their opinion that some one who was not a member of the Committee might be able to preside in a more independent or neutral manner than could a member.

followed as had been accepted by the Second Conference. One result of this was to make the meetings public.

Four meetings of this Committee were held in the vain hope that the purpose for which it was created might be achieved. The Committee had before it the proposals contained in Chapter II of the programme of the American Delegation; the declaration of the French Delegation, made at the twenty-second meeting of the Second Conference—a declaration which was later somewhat modified and presented in the form of a draft agreement—and the British declaration made by Lord Cecil at the nineteenth meeting of the Second Conference. It had also been understood that the Committee might consider any other proposals that might be submitted to it.

It is scarcely worth while to attempt even an abstract of the discussions in this Committee, since it cannot be said that any distinctively new matters of substance were brought forward. From almost the beginning the question was as to the adoption by the First and Second Conferences respectively of the two following protocols:

Proposed Protocol to be Adopted by the First Conference. The undersigned representatives of the States signatory to the Convention relating to the use of prepared opium signed this day, duly authorised to that effect;

Recognising that the signature of the said Convention does not in any way minimise the obligation, already assumed by them under Article VI of The Hague Convention of 1912, in regard to the gradual and effective suppression of the manufacture of, internal trade in, and use of, prepared opium;

Anxious to take all practicable steps to ensure the complete and final execution of the said obligation;

Recognising that the effective prohibition of the use of prepared opium in their Far Eastern territories is dependent on effective

measures being taken by the producing countries to restrict the production of opium and prevent its illicit export ;

Taking note of the Protocol signed this day by the representatives of certain States signatories of the Convention relating to dangerous drugs ;

Hereby agree as follows :

I

The States signatories of the present Protocol recognise that the provisions of the Convention signed this day are supplementary to, and designed to facilitate the execution of, the obligation assumed by the signatory States under Article VI of The Hague Convention of 1912, which obligation remains in full force and effect.

II

The States signatories of the present Protocol undertake that the use of prepared opium shall be effectively prohibited in their Far Eastern territories in which such use is temporarily authorised, within a period of not more than fifteen years from the date on which the effective execution of the measures taken by the producing countries to limit and control the production and distribution of raw opium has reached such a stage that opium smuggling into the said territories no longer constitutes a serious obstacle to the carrying out of the measures necessary to that end.

III

The question when the effective execution of the measures mentioned in Article II above has reached the stage referred to in that Article shall be decided by a Commission to be appointed by the Council of the League of Nations, whose decision shall be final.

IV

During the period preceding the decision of the Commission that the stage referred to in Article II has been reached, the States signatories of the present Protocol shall, both by the measures mentioned in the Convention signed this day, and by any other measures that

are practicable, make every effort to reduce the consumption of prepared opium, to encourage the abandonment of the practice by existing smokers, and to combat the illicit traffic.

V

As soon as the Commission provided for in Article III has decided that the stage referred to in Article II has been reached, each of the signatory States shall initiate the necessary measures to enable the use of prepared opium to be effectively prohibited in its territories at the end of a period of not more than fifteen years. The steps to be taken at once shall include the necessary measures to prevent the use of prepared opium being adopted by persons not already smokers, and to prevent the supply of opium to new immigrants, in so far as these steps may not have already been taken at that date.

The signatory States shall consult together as to any measures which can usefully be taken with this object by agreement among themselves.

VI

It is understood that the effective prohibition of the use of prepared opium is not inconsistent with special and temporary provisions for the case of persons as to whom it is certified by the medical authorities of the State concerned that they cannot be completely deprived of the drug without serious danger to life or health. The signatory States will consult together with a view to securing, so far as possible, uniformity in regard to the said provisions.

VII

If at any time after the decision of the Commission referred to in Article V any of the signatory States should find that a serious recrudescence of opium smuggling into its territories is taking place, such State shall have the right to request the Council of the League to appoint a Commission to investigate the facts. If the Commission reports that owing to the measures taken by any of the producing countries to restrict the production of opium and prevent its illicit export not proving sufficiently effective the steps taken with a view to the prohibition of the use of prepared opium are rendered ineffec-

tive, any of the signatory States shall be entitled to denounce the present Protocol. In that case a Conference of the States concerned shall at once be held to consider the action to be taken.

VIII

The present Protocol shall come into force for each of the signatory States at the same time as the Convention relating to the use of prepared opium signed this day.

Proposed Protocol to be Adopted by the Second Conference. The undersigned representatives of certain States signatory to the Convention relating to dangerous drugs signed this day, duly authorized to that effect;

Taking note of the Protocol signed this day by the representatives of the States signatories of the Convention relating to the use of prepared opium;

Hereby agree as follows:

I

The States signatories of the present Protocol recognise that Chapter I, of The Hague Convention of 1912, involves an obligation so to limit and control within their territories the production and distribution of raw opium as to prevent opium smuggling constituting a serious obstacle to the effective prohibition of the use of prepared opium in those territories where such use is temporarily authorised.

II

Each of the signatory States agrees to take the necessary measures, so far as this has not already been done, to ensure the complete execution of its obligation under Article I of the present Protocol within five years from the present date.

III

The question whether the obligation referred to in Article I has been completely executed shall be decided, at the end of the said period of five years, by a Commission to be appointed by the League of Nations, whose decision shall be final.

IV

The present Protocol shall come into force for each of the signatory States at the same time as the Convention relating to dangerous drugs signed this day.

These two Protocols were approved by the representatives of Great Britain, France, the Netherlands, Portugal, and British India.

They were opposed by the American Delegation upon the ground that they failed to fix a definite period within which the legalized traffic in prepared opium was to be brought to an end, and because, in effect, they substituted a conditional obligation for the unqualified one that had been assumed by The Hague Convention.

M. Sugimura (Japan) without taking a definite stand, *pro* or *contra*, with regard to the Protocols, urged that a compromise between the conflicting views be reached. He said that there were many ways in which the countries producing opium might restrict that production, but that, upon their part, the countries consuming prepared opium might do much more than they had already done, or agreed to do, in suppressing the traffic.

Lord Cecil's Argument in Support of the Protocols. Lord Cecil in a speech of considerable length, emphasized the point that his Government was unwilling to undertake to enact laws which it did not think could, in fact, be carried out. He also called attention to the fact that, in the proposed Protocols, the provision that steps to suppress this traffic in prepared opium should be initiated as soon as the "danger" of smuggling was at an end, and which the American Delegation had objected to, had been altered so as to declare that these steps looking toward

total suppression should be begun as soon as smuggling ceased to constitute a "serious obstacle" to their being carried out. Of the Commission to be appointed by the Council of the League and empowered to determine when this control of the exportation of raw opium had been secured, he said:

"Who is to say when smuggling has ceased to be a serious obstacle?" That is a very proper request for information, and we answer that we will put it into the hands of an absolutely impartial international body. We suggest that we shall not be the judges, that it shall be left to be determined by an International Commission appointed by the Council of the League of Nations. We do not say determined by the Council of the League of Nations, and I will tell you why. If we had said that, it would have required a unanimous decision of the Council, and therefore any single member of the Council could hold up that decision, and consequently hold up the obligation to put an end to opium smoking within fifteen years. We say a Commission appointed by the Council, and the reason we do that is because under the terms of the Covenant a Commission is appointed by a majority of the Council. The Commission would be nominated consequently by a majority of the Council. Though, of course, I cannot bind what the Council will do in future years, I say that as far as the British Government is concerned they would welcome the appointment of an American citizen as a member of that Commission. They are perfectly satisfied that the Commission should be absolutely and entirely impartial. The Commission would meet and act in a judicial capacity or semi-judicial capacity. It would determine, like other judicial bodies, the issues submitted to it, I suppose in the way that all other judicial bodies determine them, namely by a majority of the judges if there is a difference of opinion. Therefore you would get an absolute certainty as far as human provisions can provide for absolute certainty, that when smuggling had ceased to be an obstacle to the prohibition of opium smoking then the obligation would arise by the decision of this impartial body to put a stop to that smoking within a definite period. We have said fifteen years, but I do not attach a very great deal of importance to the number of years; it

might be shorter than that if necessary. We are content that the obligation should be absolutely definite and precise.

After quoting Article 6 of The Hague Opium Convention, and calling especial attention to the qualifying clause "with due regard to the varying circumstances of each country concerned," Lord Cecil said:

Now just compare with that the clearness of the obligations we are ready to assume under this Protocol. We say that as soon as one condition is fulfilled, which we regard as practically essential, without which we cannot do anything, as soon as that condition is fulfilled—and as to when it is fulfilled we leave to the decision of an absolutely impartial international body—we will enter into an absolute obligation to put a stop altogether to opium smoking, a clean sweep within a definite period of fifteen years. I cannot conceive that the obligation we are ready to assume under this Protocol is not far clearer, far more definite, far more precise, and far more effective than that which existed and still exists under The Hague Convention.

Sub-Committee Appointed. At this point of the discussion, upon the suggestion of the Cuban Delegate, M. Aguero, a small Sub-Committee of four or five members and including representatives of the United States, Great Britain, France, and Japan, and the President of the Conference was created and directed to obtain, if possible, by private conversations, a basis of action upon which the Committee of Sixteen could unanimously agree. Upon the suggestion of M. Zahle, the delegate for Finland, M. Toivola, was added to the Committee.

At the fourth and final meeting of the Committee of Sixteen, held on February 6, it was announced that the Sub-Committee of Five had been unable to arrive at an agreement.⁵

⁵ Document Opium /C.S./9/.

Dr. Sze's Final Appeal. Dr. Sze, after expressing his regret at this negative result, made what he termed a twelfth hour appeal to the British Delegation to meet the American proposition that a definite period should be fixed within which the legalized traffic in prepared opium would be brought to an end. He called especial attention to the frailty of the argument which Lord Cecil had made in his speech at the nineteenth meeting of the Conference insofar as it had relied upon the fact that the colonial officials had declared the impracticability of suppressing this traffic under present conditions and that his Government had been accustomed to attach very great weight to the opinions of such colonial officials. In his speech Lord Cecil had said:

In this matter perhaps I may be allowed to remind the Conference that in England it is a tradition, and I believe a very wholesome tradition, to give full weight on questions of the administration of the distant possessions of the British Empire, to the advice of the man who is called "the man on the spot." That is a maxim which has passed into the common language of the British people—"Trust the man on the spot—" and it merely embodies a very fundamental principle of British Colonial administration. The Colonies are administered according to the idea of those who live there, and as far as it is possible, for the benefit of those who live there. Therefore it is a principle on which the British Empire is very largely based, that we are bound to give, and do give, and rightly give, the fullest possible weight to the advice that we receive from the men who are fully conversant with the local conditions and are in a position to give us highly skilled and absolutely unbiased advice.

With reference to the policy thus declared, Dr. Sze said:

His Lordship has stated on a previous occasion that it is the practice of the British Government to attach very great weight to the opinions of its colonial authorities as to the policies to be adopted in the colonies or possessions where such officials are stationed. He

took occasion to laud not only their practical wisdom but their disinterestedness. As to this I do not mean to assert that these officials are disposed deliberately, and from selfish motives, to give advice other than that which their judgments and conscience approve, but I do say that experience has again and again shown that officials are, as a rule, disposed to oppose changes in the systems of control and the policies to which they have been accustomed, or, what amounts to the same thing, to defend the *status quo*. As a single but striking evidence of this, I would call the attention of Lord Cecil and of his advisors to the fact that at the time the abolition of human slavery in the British West Indies was being urged, it was practically the unanimous opinion of the British officials in those Islands that slavery was justifiable and that it would be a mistake to attempt to do away with it. It may be of interest to the British Delegation, as well as to the other Delegations who, upon the advice of their Colonial officials, deem it impracticable to take immediate steps to suppress that form of slavery which is due to addiction to the use of prepared opium, to recall what Gladstone upon one occasion said in the House of Commons: "I do not think," he declared, "that in this matter we ought to be guided exclusively, perhaps even principally, by those who may consider themselves great experts. It is a very sad thing to say, but unquestionably it happens not infrequently in human affairs, that those who ought, from their situation, to know the most and best, yet from prejudice and prepossessions know the least and the worst. Eminently it was the case in the great question of the West Indian slavery, when this House and the country for a long time were discouraged and abashed by the assurance that those who were in favor of that great and radical change were in favor of it only because they did not understand the negro character. I, certainly for my part, do not propose to abide finally and decisively by official opinion."

Committee of Sixteen Reports Failure. Some discussion, which it is not necessary to quote or summarize, followed the address of Dr. Sze, at the conclusion of which it was resolved that the Committee of Sixteen, by way of report to the two Conferences in plenary session, should

forward to them without comment the report of the Subcommittee announcing the failure to arrive at a solution of the problem that had been submitted to it.*

Withdrawal of the American and Chinese Delegations.

At the close of the final meeting of the Committee of Sixteen, which the members of the American Delegation did not attend, the Chairman communicated the fact that he had received from the American Delegation a formal letter informing him, as President of the Second Conference, that the Delegation had withdrawn from the Conference, and that a Memorandum stating the reasons for this action accompanied the letter.

American Memorandum of Withdrawal. After reciting the two American principles or resolutions adopted by the Advisory Committee and approved by the Assembly of the League at the time the proposal was made that the Council of the League that the Conference should be convened, this Memorandum called attention to the fact that these two resolutions had been quoted in the Preamble of the Joint Resolution of the Congress of the United States of May 15, 1924, which had authorized the United States to participate in the Conference, and that the Joint Resolution had expressly stipulated:

That the representatives of the United States shall sign no agreement which does not fulfill the conditions necessary for the suppression of the narcotic drug traffic as set forth in the Preamble.

The Memorandum continued:

Despite more than two months of discussion and repeated adjournments it now clearly appears that the purpose for which the Conference was called cannot be accomplished. The reports of the vari-

* See Document, C. O. P. 52; O. D. C. 102.

ous Committees of the Conference plainly indicate that there is no likelihood under present conditions that the production of raw opium and coca leaves will be restricted to the medicinal and scientific needs of the world. In fact, the nature of the reservations made show that no appreciable reduction in raw opium may be expected.

It was hoped that if the nations in whose territories the use of smoking opium is temporarily permitted would, in pursuance of the obligation undertaken under Chapter II of the Hague Convention, adopt measures restricting the importation of raw opium for the manufacture of smoking-opium or would agree to suppress the traffic within a definite period, such action would materially reduce the market for raw opium and an extensive limitation of production would inevitably follow. Unfortunately, however, these nations, with the exception of Japan, are not prepared to reduce the consumption of smoking-opium unless the producing nations agree to reduce production and prevent smuggling from their territories, and then only in the event of an adequate guarantee being given that the obligations undertaken by the producing nation would be effectively and promptly fulfilled. No restriction of the production of raw opium under such conditions can be expected.

In the matter of manufactured drugs and the control of transportation, an improvement over The Hague Convention is noticeable. There is, however, no likelihood of obtaining a complete control of all opium and coca leaf derivatives. In respect of the measure of control provided for manufactured drugs, it is believed that, by reason of the very small bulk, the ease of transportation with minimum risk of detection, and the large financial gains to be obtained from their illicit handling, such drugs and their derivatives can only be effectively controlled if the production of raw opium and coca leaves from which they are obtained is strictly limited to medical and scientific purposes. This, the Conference is unable to accomplish.

In the circumstances, the Delegation of the United States, in pursuance of instructions received from its Government, has no alternative, under the terms of the Joint Resolution authorizing participation in the Conference, other than to withdraw, as it could not sign the Agreement which it is proposed to conclude. We desire to make it clear that withdrawal from the present Conference does

not mean that the United States will cease its efforts through international coöperation for the suppression of the illicit traffic in opium and other dangerous drugs. The United States recognizes that the world-wide traffic in habit-forming drugs can be suppressed only by international coöperation, but believes that, for the present at least, greater strides in the control of the traffic may be hoped for if it should continue to work toward this end upon the basis of The Hague Convention of 1912.

Chinese Memorandum of Withdrawal. At the same plenary meeting of the Conference—the twenty-sixth—at which the withdrawal of the American Delegation was communicated, the withdrawal of the Chinese Delegation was announced. In the Memorandum which accompanied his Letter of Withdrawal, Dr. Sze said:

At the twenty-third meeting of the Conference, at the time an adjournment of this Body was moved in order that opportunity might be given to find, if possible, some means of elucidating and coördinating the various proposals, declarations, and suggestions that had been made by different Delegations with reference to the measures to be agreed upon by the Powers here represented for the progressive suppression of the use of prepared opium in those territories and possessions in which such use is still permitted by law, the Chinese Delegation had the honour to say that, in giving its assent to the motion, no proposal which might be presented to the Conference would be acceptable to China which did not give definite assurance that, within a reasonable period of time, the termination of which could be clearly foreseen, the legalised traffic in prepared opium would be brought to an end.

It is now apparent from the formal proposals that have been made by the Delegations of Great Britain, France, the Netherlands, and Portugal and insisted upon in the Committee of Sixteen and the Sub-Committee of Five of that Committee, that the Governments they represent are not, at this time, prepared to agree to adopt measures which will meet the desires of the Chinese Government as thus stated.

It is the sincere hope of China that, in the near future, the policies of these Governments will have so altered that they can see their way to the common adoption of measures that will lead to the early and total suppression of that legalised traffic which is now bringing such misery and moral degradation to the hundreds of thousands of the citizens of China living within their respective territories and possessions. When that time comes, the Government and the people of China will be glad to coöperate to the extent of their ability.

The present conditions in China which, unfortunately, have made it impossible for the Government of China to obtain effective enforcement of its policy of prohibiting the production of opium and its use for other than medicinal and scientific purposes are temporary in character. The Government of China gives the assurance that it will not depart from this policy with regard to opium, and that it will, at all times, exert all the executive and administrative power possessed by it to enforce that policy. This the Government of China now does and will continue to do, independently, and without regard to the action of other Powers. It is the hope of the Government and the people of China that, reciprocally with their independent effort to suppress the production and control the use of opium within the borders of China, the other Powers will upon their part make every effort to prevent illegal traffic in opium and narcotic drugs, and progressively to suppress the legalised use of prepared opium.

Inasmuch as it appears that those Powers, within whose territories or possessions the use of prepared opium is still permitted by law are not prepared to agree to the inclusion within the Convention to be adopted by this Conference of any undertakings whatsoever regarding the progressive suppression of such use, and inasmuch as it is the opinion of the Chinese Delegation that the adoption of such undertakings is essential in order fully to effect the purposes which, as declared in Resolution VI of the Fourth Assembly of the League of Nations, this Conference was assembled to achieve, the Chinese Delegation deems no good purpose will be served by its further continuance in the Conference and it is therefore constrained to cease its participation therein.

The remainder of the twenty-sixth meeting of the Conference was devoted to remarks by M. Loudon (Netherlands), Lord Cecil (Great Britain), M. Daladier (France), and others in which great regret was expressed at the loss of the two Delegations, but the hope expressed that the Conference would not be thereby deterred from continuing its efforts to arrive at the best possible solution of the problems with which it was concerned. Some excerpts from these remarks need to be made.

M. Loudon, whose remarks, it must be confessed, were somewhat tinged with bitterness, said (in part):

I shall always be foremost in recognising the splendid driving power which the world has on so many occasions derived from American idealism, and to which it is indebted for so many noble acts and admirable constructive works. How valuable would the coöperation of America have been in carrying us forward to a successful conclusion of this work, which was undertaken here by common agreement, a task in which we all had the same goal before us and all fervently desired the same object, and in which we were only divided as regards the methods by which this scourge ought to be combated. A continuation of this coöperation till the last moment would have been possible if a misunderstanding had not arisen two years ago at the Fifth Session of the Advisory Committee on Opium between the United States of America and ourselves with regard to the Opium Conferences. This misunderstanding still continues to exist, and is evidenced by Mr. Porter's letter. According to the American interpretation the task of this Conference was to cover the three first Chapters of the Convention of 1912, that is to say the question of raw opium, of prepared opium and of drugs. The American Government evidently had not taken note of the reservations which were formulated in 1923 with regard to the first Resolution of the Advisory Committee by India as regards raw opium and by the Powers which still allow the use of opium for smoking as regards the prepared product. These reservations were precisely intended to show that the American principles were not acceptable by the Powers as regards Chap-

ters I and II. Our Conference could not in practice apply the American principles except to Chapter III and to Chapter I so far as it refers to Chapter III, in particular as regards drugs. Nevertheless, the instructions given to Mr. Porter involved the application of these principles to all three Chapters. The reservation made by India was entirely ignored. The fact that India had not accepted the American interpretation was hardly taken into account, and as regards the Powers which still admit the use of opium for smoking, it is true that America took account, though to a very small extent, of the reservation which they had made, but only in this sense, that although the reservation implied that Article VI, that is to say, the principle of the gradual suppression of opium would not be touched upon, nevertheless America came here to demand its suppression within a fixed time limit. It was precisely the points on which it was impossible to reach an agreement which formed the essential part of the American proposals. The impossibility of reaching an agreement was still further emphasised by the fact that the American Delegation was bound by rigid instructions which made any elasticity impossible. I think it is desirable to point out, in view of further meetings of the same sort which may be held at Geneva, that an International Conference presupposes the possibility of reciprocal concessions and of true and real exchanges of opinion, and of goodwill on both sides, and such a Conference is doomed to failure if any one of the Parties has imperative orders to impose its will upon the others under pain of leaving the Conference. Due regard to possible divergencies of view and to the force of the argument which may be advanced by the other side must be made.

If these discussions have been rendered more difficult and even superfluous, the reason is that Mr. Porter never took the pains to explain his own point of view or even to reply to the arguments of his opponents. One point which has particularly struck me in Mr. Porter's memorandum is that on the one hand, when it is a question of the consumption of drugs, he asks for the coöperation of the producing countries, while on the other hand, when it is a question of consumption of prepared opium, he not only disregards this collaboration but he even goes so far as to say that in order to achieve a reduction of the production the consuming countries must take the first step.

There has been an agreement on all sides that this method is not borne out by the experience of the Powers concerned, even in Japan, as has been recognised most fully by M. Sugimura. It is natural that in an atmosphere like that of the League of Nations where, thanks to this admirable spirit of conciliation which has been called the spirit of Geneva, so many great international works have already been accomplished it is natural, I say, that an impression might be created through the incident which we must all deplore, that the decision of one of the participating Members to retire from the Conference would be prejudicial to the cause of the League of Nations. In my opinion that is certainly not the case. Any impartial and intelligent person who considers this matter with a full knowledge of the facts must acknowledge that in the matter with which we are concerned conciliation has always been the dominant note of the whole Conference, with the solitary exception of the Party which has withdrawn as soon as it appeared that its point of view was decidedly unacceptable to the majority of the other Delegations. This Party withdrew in spite of the manifold concessions which had been made to it and without consenting to acknowledge the progress which was represented by the proposals submitted to the Conference with a view to combating the scourge of opium. For my part I am convinced that if the Conference, notwithstanding the reasoned objection of so many Delegations to the American proposals, had made a further step in the path of concessions, such a mark of weakness would have been highly prejudicial to the cause of the League of Nations. The United States has left us, but there is nothing which prevents us from continuing our labours. Those labours are on the point of reaching a conclusion, and I think I am justified in stating that those throughout the whole world who reflect on the matter will acknowledge that the two Opium Conferences, in spite of this incident, have accomplished a task which marks genuine progress, and which, so far from being prejudicial, will redound to the honour of the League of Nations.

Lord Cecil spoke with more restraint. After expressing regret at the withdrawal of the Chinese Delegation, and noting with satisfaction the assurance of the Chinese Government that it intended to continue its efforts to sup-

press the growth of the poppy, he said, with reference to the American withdrawal, that while "the chief, if not the only, object of the Conference was to discover some means of arresting the traffic in narcotics and other drugs of addiction," and while this object had been in large measure attained, the American Memorandum had contended that the purpose for which the Conference had been called could not be accomplished.

For this, two specific reasons, and only two, are given. In the first it is said that the Powers in whose Possessions opium smoking was temporarily permitted under The Hague Convention have, with the exception of Japan, refused to reduce the consumption of smoking-opium unless the producing Nations agree to reduce production and prevent smuggling from their territories. That is a complete misapprehension. No such refusal has ever been made or suggested. On the contrary, the countries concerned have repeatedly stated their purpose to reduce, or rather to abolish, opium smoking in their territories, and are taking energetic steps to that end. Unfortunately their efforts in that direction are nullified by the immense contraband trade which is done from neighbouring countries and which, without the coöperation of those countries, they are in existing circumstances powerless to prevent. This is not and never has been denied. Indeed, the facts and figures quoted as to the smuggling now going on would make denial hopeless. In these circumstances the countries concerned have declined to make themselves parties to a paper prohibition which would be quite ineffective until smuggling can be stopped by the limitation of production by their neighbours. This is in accordance with the second principle quoted in the American memorandum which lays down that in order to prevent the abuse of opium products, the production of raw opium must be controlled. It is also in accordance with the best expert opinion such as that of Sir John Jordan, and with the experience of the failure of attempts in the face of smuggling to stop opium smoking by prohibition as, for instance, in the Philippines.

Lord Cecil then went on again to state and defend the reasonableness of the measures which it was proposed

should be included in the Protocol to be adopted by the First Conference—which measures were to supplement the “ somewhat nebulous ” obligation of The Hague Convention.

As to this answer to the American position it is proper to observe that, whatever the substantive merits of the measures referred to, their adoption by the First Conference would not have met, in one very important respect, one of the chief contentions of the United States, namely, that as one of the parties to The Hague Convention, it could not consent to have the obligations of the other parties to that Convention determined by a Conference in which it was not itself represented.

As to the second reason advanced by the American Delegation why, in its opinion, it was evident that the Conference would not be able to achieve the end for which it had been assembled, Lord Cecil said that it was an error to suppose that the traffic in dangerous drugs could only be controlled by controlling the production of raw opium and coca leaves. This could be done, and more effectively, he said, by controlling the manufacture of drugs, and that this control was about to be provided for in the Convention which the Conference was to sign.

The Protocol. It has been seen that the withdrawal of the American Delegation turned upon the two matters of the limitation of the production of raw opium (and coca leaves) and the suppression of the traffic in prepared opium. The final action taken in Geneva with regard to the second of these two matters was embodied, as has earlier appeared, in the Protocol annexed to the Agreement reached by the First Conference. The final action taken with reference to the first of these matters—the

production of raw opium—so far as it was tied up to the problem of suppressing the use of prepared opium, was embodied in the Protocol annexed to the Convention which was drawn up by the Second Conference.

At the twenty-seventh meeting this Conference took up the consideration of this proposed Protocol which had been before the Committee of Sixteen. After some slight discussion this draft was accepted "in principle."

Asked as to the relation of this Protocol to the one which it was expected would be signed by the First Conference, Lord Cecil said:

I suppose that strictly and logically the two Protocols are quite independent, but I agree that they are all part of one common scheme and I should never put this Protocol before this Conference except upon the understanding that the First Conference was going to adopt the other Protocol. I would not like to say that they were absolutely dependent on one another, but in any case whether this Protocol is adopted or not the First Conference will adopt the other Protocol, which is not dependent upon this one. Therefore I would not like to say that they are quite independent, but so far as I am concerned I should not ask this Conference to adopt this Protocol except upon the footing that the First Conference was going to adopt the other.

The Preamble of the Protocol was adopted without change and with but the briefest discussion.

In the discussion of Articles I and II, the chief point made was that presented by M. Kircher, of the French Delegation, that the last part of Article I tended to weaken The Hague Convention by making it appear that the obligation of the Powers to control the production, distribution and exportation of raw opium had reference only to the matter of the prevention of smuggling. It was agreed that this point should be referred to the

Drafting Committee to be taken care of when the final text was drafted.

Asked as to the effect of a decision of the Commission to be appointed by the Council of the League of Nations as provided for in Article III of the draft, Lord Cecil said that, should it decide that the producing States had effected the results stated in Article I, an absolute obligation would rest upon the consuming States to take the steps provided for in the Protocol annexed to the First Conference. If the decision should be otherwise, the situation would have to be considered in a new Conference of the Powers. Articles III and IV were thereupon approved by the Conference and referred to the Drafting Committee for their final wording.

Opium and the Traffic in Arms. At this stage of the proceedings, M. Toivola, of the Delegation of Finland, presented for adoption the following Resolution:

WHEREAS, The Second Opium Conference believes that the recrudescence of the growth of the poppy in the Far East is one of the most serious elements of the world's drug problem:

WHEREAS, That recrudescence is largely due to the unfortunate political conditions now prevailing in large territories of Eastern Asia:

WHEREAS, These unfortunate political conditions are in their turn largely due to the unlicensed importation of arms into those territories from outside countries:

WHEREAS, The League of Nations has convened an International Conference on the Traffic in Arms and Munitions to be held in Geneva on May 4, next:

Be it resolved:

That the Second Opium Conference recommends to the Council of the League of Nations to consider the advisability of referring the question of the unlicensed importation of arms into the territories in the Far East to the forthcoming Conference on the Traffic in Arms

and Munitions with the thought that the various interested Governments may, in the meantime, gather information and consider projects in this connection in the hope of removing what is one of the fundamental difficulties of the world's drug situation.

The debate which ensued upon this Resolution showed that it had been an ill-considered one. M. Sugimura pointed out that the expressions "the Far East" and "Eastern Asia" were vague in the extreme, and that Japan was one of the countries which dealt in arms, but had treaties with Great Britain and France and did not desire to be bound in the manner suggested by the Resolution. With regard to the statement "whereas unfortunate political conditions are, in their turn, largely due to the unlicensed importation of arms into those territories from outside countries," he said:

I think the honourable Delegate for Finland has studied the question of China whilst at Geneva and he is not really acquainted at first hand with the position in the Far East. I would like to give him a few concrete examples of what has been done. At Washington we laid the foundation by means of fair and mutual agreements with China. The Representatives of France, Italy and Great Britain agreed to prohibit the importation of arms into China. During the Civil War these agreements were loyally observed and they produced considerable effect. I do not think that in China the contraband trade in arms is controlled effectively though it would be far easier to control than the contraband trade in drugs. I question whether this recrudescence is largely due to the importation of arms as is stated in the Resolution. I should be very glad if the Delegate for Finland would give us a few concrete facts in support of his argument with which I cannot agree. The evil is not merely due to the illicit trade in arms. There are other causes which lie very much deeper. . . . I would like to appeal to the Delegate for Finland to reconsider his resolution. If he really means "China when he says "the Far East" let him say so and then we shall get a solid basis on which to continue the discussion.

Lord Cecil said :

There do seem to be two ways in which the opium-growing in China is connected with the traffic in arms. In the first place it is, of course, undoubtedly the case that it is owing to the civil disturbances in China that the Chinese laws against the growth of opium have been impossible to enforce. As long as these civil disturbances continue there is only too much reason to fear that the laws against the growth of the poppy will not be enforced. Therefore so far as the importation of arms enables those civil disturbances to continue it has a relation to the growth of the poppy. But there is a much more direct relation which I do not think the delegate from Japan quite allowed sufficient for. Undoubtedly the poppy is grown, as the French Delegation has pointed out to us, under direct orders from the provincial authorities in order to pay for the arms which are imported; I do not think there is any dispute about it that the reason why there is pressure in certain quarters in China to make the population grow the poppy is in order to pay for the arms it is desired to have. That is a much more direct connection between the growth of the poppy and the traffic in arms. In addition to what was done at Washington, the delegate from Japan will remember that as long ago as 1919, there was a Chinese Arms Embargo Agreement entered into by certain Powers. I think that Japan was one of them. . . . Japan has discharged her obligations, as she always does strictly discharge her obligations, under that. . . . I think that it would be unwise for this Conference to embark on a full discussion of this matter this morning. I think that 24 hours would be certainly desirable for us to consider what line we ought to take—whether it is, on the whole, desirable for the Conference to pass a Resolution of this kind or not, or whether it will be sufficient that the discussion on the matter has taken place so that the Council of the League who are represented here by many delegates will be aware of the interest this Conference feels on this subject and will be able to consider whether or not it is a matter which ought to be brought to the notice of the Arms Traffic Convention.

M. Duchene, of the French Delegation said that he thought it unwise to mention China by name, that no par-

ticular State should be thus indicted. " We must remember " he said, " that side by side with official China there is what one might call an irregular China. It is this latter element which encourages the production of the poppy in order to obtain resources by means of which it can supply itself with arms and munitions. " ' 1

In conformity with Lord Cecil's suggestion the further consideration of M. Toivola's Resolution was postponed until after the discussion of the Convention was finished. The Resolution, somewhat modified,² was again discussed at the thirty-fourth and thirty-fifth meetings of the Conference, and the objections to it so strongly pressed that its author finally withdrew it.

Powers of the Commission. At the thirty-fifth meeting of the Conference considerable objection was manifested to the provision of the Protocol that the decision of the commission to be appointed by the Council of the League should be final, and it was suggested that the interested parties should be given a right to appeal from the Commission to the Council of the League. It was pointed out by Sir Malcolm Delevingne that this provision as to the finality of the findings of the Commission corresponded almost word for word with the correlative Protocol agreed upon by the First Conference, and that, should this provision be changed an inconsistency between the two Protocols would be created. It was finally agreed that the Protocol should not recognize a right of appeal from the

¹ M. Sugimura disclaimed making the suggestion that the word " China " should be substituted for " the Far East. " Sir Malcolm Delevingne declared that, contrary to what appeared to be thought by some, he had had no part in the preparation of M. Toivola's motion.

² See Document O. D. C. 108 (1).

findings of the Commission, but that, upon the other hand, there should be no statement that the findings of the Commission should be final. In just what situation this leaves the matter it is difficult to say.

Period of Five Years, When to Begin. The Protocol in its drafted form provided that it should go into force for each of the signatory Powers at the same time as the agreement or the Convention to which it was to be attached. It was pointed out that, in all probability, the Convention would not be ratified for some time, and yet, in paragraph I, the Powers were to agree to take measures to prevent within five years from the date the smuggling of opium from being a serious obstacle to the suppression of the smoking of opium. Upon this point M. Kircher (France) asserted—and his assertion met with no denial from the other Delegates—that, when it was said “within five years from the present date,” it was meant exactly that. He said:

The important point is that the producing countries may sign when they wish, but when they do sign they must take the measures accordingly. If they sign after six months, they must take those measures within four years and six months; if they sign in nine months, they must take them within four years and three months. The important thing is not to prolong the delay of fifteen years.

CHAPTER XVIII

THE LIMITATION OF THE PRODUCTION OF OPIUM AND COCA LEAF

To Sub-Committee B had been referred all questions and proposals concerning the limitation of the production of raw opium. The most important of these proposals, and the one chiefly discussed by the Sub-Committee was that of the United States, contained in Article I of its programme, which, as has been seen, provided that the Contracting Parties should enact effective laws or regulations for the control of the production and distribution of raw opium so that there should be no surplus available for purposes not strictly medical or scientific.¹

This American proposal was discussed in all its phases in protracted and numerous meetings of the Committee, but no agreement regarding it was found possible. The Chinese and Egyptian Representatives upon the Committee were able to accept it unconditionally, but the Representatives of India, Greece, and Jugoslavia found themselves able to agree only upon the following formula :

The Contracting Parties shall enact effective laws or regulations for the control of the production and distribution of raw opium and the suppression of its abusive use. In particular they shall undertake effective measures to prevent any export of raw opium not specifically permitted by the provisions of this Convention.

¹ With, however, the proviso that raw opium might be produced and exported for the purpose of making prepared opium to be used in those countries which might temporarily permit its use.

Sub-Committee B also considered the Australian, Cuban and Austrian proposals,² but directed its attention especially to the Australian proposal as the most definite and comprehensive in character. This proposal was that the production of raw opium and coca leaf should be prohibited in all countries which were not at present producing them. Meanwhile, Sub-Committee D, which, it will be remembered, dealt with the manufacture and export of opium and coca leaf from the point of view of consuming countries, had adopted a Resolution which provided that the Australian proposal could be accepted only on condition that the producing countries would agree to reduce their production, and that the interests of the consuming countries were fully protected in the matter of their obtaining adequate supplies to meet their reasonable requirements for medical and scientific purposes. The Representatives of the producing countries upon Sub-Committee B found themselves unable to accept these conditions, and the American Delegate said that he could accept them only with certain qualifications which he would later state, but which, in fact, he did not find opportunity to do. In result, the Sub-Committee B was not able to report an agreement upon the Australian, Cuban, or Austrian proposals any more than it had been able to do with regard to the American proposal.

When the report of Sub-Committee B came before the Conference at its twenty-seventh meeting, Mr. Clayton seized the opportunity again to present an elaborate explanation and defence of the opium policy of British India.³ He said that his Government would be able to

² See *ante*, Chapter XIV.

³ For excerpts from the remarks of Mr. Clayton, made upon this occasion, see the Chapter which deals with the opium situation in India.

accept the American proposal only if it were restricted so as to make it relate only to opium produced for export. Mr. Clayton later said, however, that the preference of his Government would be to have Article I adopted in the form in which it was already stated in The Hague Convention.

M. Falconi declared that the Italian Government was prepared to give unqualified approval to the American proposition, subject to the right of each State, if it so desired, to make reservations thereto.

M. Chodzko made the same declaration with regard to the Government of Poland.

Mehmed Sureya Bey, in behalf of the Turkish Government, declared that, as to his own and other producing countries in which industry and trade were not highly developed, and whose population had therefore to rely in the main upon agricultural products, among which opium was an important one, it would be necessary to find some crop to take the place of the poppy before their peasants could cease or considerably restrict its cultivation, and that this would take both time and money.

After pointing out that the production of opium in his country had been considerably reduced since 1914, M. Jovanovitch of the Delegation of the Serbs, Croats and Slovenes declared that it would not be feasible to carry further this reduction. He said: "The districts which produce raw opium are those in which, owing to its nature, the soil cannot be usefully cultivated for any other article. The production of opium in these districts could not be replaced by the cultivation of tobacco, the grape, or cotton."

After giving reasons why it was not feasible to make this substitution, he said:

Any further reduction of this production of opium which has already been reduced to its minimum dimensions would have as a result social unrest, because the producers of opium would be deprived of their principal means of livelihood, having regard to the fact that it is only by the cultivation of opium that they are able to obtain a sufficient means of subsistence, and that the peasants who produce this crop are able to employ their wives and children in the work thus saving a great part of the cost of production. . . . Further, in support of our argument, we would point out as an important consideration that in our country the abuse of opium is absolutely unknown, and that our opium is exclusively utilised for the manufacture of the products employed for medical and scientific purposes. Our opium is, for the most part, exported to the United States of America, England, Germany and Switzerland. It is universally known that no opium is illegally exported from our country.

To these remarks, which exclusively refer to our own country, I would add some remarks of a general character. In the opinion of the Delegation of the Kingdom of the Serbs, Croats, and Slovenes, the struggle against the scourge which is threatening humanity could not be carried to a successful conclusion by the simple means of limiting the cultivation of the poppy, having in view the impossibility of organising an effective control in all the countries, owing to their vast area and the lack of the necessary technical personnel to exercise such control. It has indeed been observed that in certain countries, in spite of the goodwill of the Governments and the measures adopted by them, the production of opium has considerably increased. In elaborating a Convention it is not sufficient to draft Articles. It is still more important that these Articles shall be capable of being loyally applied. We should not be able to sign a Convention unless we were convinced that it would be successfully applied, and that it would attain the object which we have in view.

M. Jovanovitch declared, however, that his Government was prepared to give an undertaking not to exceed the amount at present being produced.

M. Dendramis declared that the Government of Greece was ready to adhere without qualification to the American proposal should all the great producing countries do the same.

Prince Arfa-ed-Dowleh said that Persia would accept the American proposal, subject to the conditions set forth in the Persian Memorandum.* These were, in substance: (1) A loan of 10,000,000 tomans for 20 years bearing interest not to exceed 5 per cent; (2) no interest charges for the first five years; (3) one-tenth of the loan to be paid annually after the tenth year; (4) the granting of a moratorium by foreign Governments having claims against Persia; (5) serious consideration to be given to the removal of restrictions on Persia's tariff autonomy; and (6) aid in the matter of determining the manner in which other crops might be substituted for the poppy.

Lord Cecil, with reference to the Italian proposition that the American proposal should be adopted with the understanding that any Power not in favor of it might note a reservation, said:

I do not know what our legal advisers would say, but I think if we put the American Article without a reserve into the Convention any State which was unable to accept that Article would have to decline to sign and ratify the whole Convention. You cannot sign and ratify a Convention and make reserves unless all the other parties to the Convention agree to accept those reserves, and if any single country refused to accept a reserve it would make it impossible for the State to sign the Convention in that form. That seems to me a great practical difficulty in the way of the proposal as it stands.

At this point the further discussion of the American proposal was adjourned, but was again taken up at the twenty-eighth plenary meeting of the Conference.

* Document O. D. C. 24.

At this meeting, Mr. Walton, of the Indian Delegation, deemed it desirable again to state that his Government was prepared to accept the American proposal only if it were amended so as to relate solely to opium produced for export. He insisted that, in its unamended form, it would mean an interference with a matter that was domestic in character, and furthermore, that there was a constitutional difficulty which would make his Government unable to accept it. He said:

You have heard of the medical difficulties and the social and religious difficulties in applying this particular test to the eating of opium in India; but besides that there is a grave constitutional difficulty which by itself would make it impossible for the Government of India to accept the proposal. Under the Government of India Act passed by the British Parliament in 1919, the Indian Provinces, which number nine, enjoy autonomy with regard to a large number of subjects, and the internal trade in and use of raw opium is one of those subjects. With regard to the export trade, on the other hand, the Government of India remains directly responsible. But the control of the internal traffic in opium is placed in the hands of Provincial Governments which, in regard to that subject, are fully representative of and responsible to the people in the Provinces. It follows from that that the Indian people have the power, should they desire to use it, to enact further legislation on the subject of opium with a view, for example, to restrict it to medical purposes, and they also have the power, if they wish, to introduce any change of policy with regard to the administration of the subject. On the other hand, no new legislation nor any new policy can be forced on the autonomous Legislatures in the Provinces.

Honourable Delegates will at once see that it would be a retrograde step, it would be to turn our back on a great democratic advance which has recently been made, if the Government of India were to take away this freedom that has been given to the Indian people and were to compel them to regulate the subject of opium in a particular manner. If anybody wishes to know what the wishes of the people of India actually are, I submit that they can be best ascer-

tained by the action taken by the Representatives of the people during the last four years, during which India has enjoyed this new constitution. During that period certain steps have been taken in the matter of opium, but steps having regard to opium smoking only. That is regarded as a vice in India and the new Provincial Governments have taken various steps to suppress it, more effectively even than was the case before. But with regard to opium eating they have taken no single step to alter in any way the policy or the legislation which was bequeathed to them by the Government of India.

No doubt members of the Conference have seen a telegram from the Indian National Congress, circulated about a fortnight ago, which criticises the policy of the Government of India. Perhaps I might explain that the Congress, which is the Congress of a political party, has actually a majority in more than one of the Provinces of India. If therefore their criticism were justified they have it in their own power in those Provinces to carry out the reforms which they consider desirable. And if in any quarter the autonomous Legislature should desire to restrict the use of opium to medical and scientific purposes or to regulate it in any other way, the Government of India, as Lord Hardinge announced at the Assembly of 1923, would place no obstacle in their way, and would even do everything in its power to coöperate with them in any measures, having that object in view, which were both lawful and practicable.

M. El Guindy urged that the Powers should undertake in an unqualified manner to limit the production of opium to the amount needed by the world for medical and scientific purposes. This was, of course, but a restatement of the American proposal except that he made no suggestion as to the right of individual Powers to except themselves, by reservations, from the obligation so far as the opium might be consumed within their own territories.

When the discussion was continued at the twenty-ninth meeting of the Conference Lord Cecil pointed out that in its call the Conference had been directed to consider measures for "the limitation of the production of raw opium

and the coca leaf for export to the amount required for such medicinal and scientific purposes," and that it was under an obligation to do so. On the other hand, the Indian Delegation had strongly protested against any international convention that would affect what a country should do within its own borders with its own products.⁵ The problem then was, Lord Cecil said, to find a formula which would secure the control of the production with the object of confining the traffic in opium to medical and scientific purposes, without interfering with the internal sovereignty of any country. The Egyptian proposition, he said, went further than any international body ought to go.

In result, Lord Cecil said that there were two possible solutions to the problem thus presented. Either accept the Italian proposition, which was that the American proposal should be adopted with the right reserved to each State to except itself from its operation; or to provide that the control of the production of raw opium should be such that there would be no surplus available for *export* except for medicinal and scientific purposes. As to this second alternative, he said, "I think the Conference would do well to consider whether that is not on the whole the best way out of our difficulties." However, he declared that the British Government was prepared to accept either solution. After some further discussion it was decided to refer the matter to a small committee which would meet immediately and report as soon as possible.

⁵ Mohamed El Guindy later said that he had not intended to suggest that one nation should interfere with the internal affairs of another nation, but that, should his proposal be accepted, each nation would carry it out within its own borders.

This Sub-Committee met and reported before the close of the meeting at which it had been appointed, by a vote of six to one, that it recommended the adoption of Article I of the American proposals with but slight modifications in its text, that is, omitting reference to coca leaves, and saying "The Hague Convention of 1912" instead of "this Convention," but with the following additional text:

Further, any Contracting Party may declare at the time of its signature of or accession to the present Convention the limitations subject to which it accepts this Article as regards the production and distribution of raw opium. If such a declaration be made the other Contracting Parties agree that this Article shall only apply in the case of the Contracting Party making the declaration subject to the limitations contained in that declaration.

A vote by roll-call being taken upon the motion to adopt this additional text, thirteen votes were recorded in its favor, one against, and fourteen abstentions.⁶ The President thereupon declared the motion adopted.

A vote being then taken upon the American proposal as thus amended, nineteen voted aye, none voted nay. There were nine abstentions.⁷

⁶*Pro*, Germany, Australia, British Empire, Canada, Denmark, France, India, Italy, Netherlands, Portugal, Kingdom of the Serbs, Croats and Slovenes, Siam and Switzerland. *Contra*, Irish Free State. *Abstentions*, Belgium, Bolivia, Brazil, Dominican Republic, Egypt, Spain, Finland, Japan, Luxemburg, Persia, Poland, Sweden, Czecho-Slovakia, and Turkey. M. Sugimura said that he abstained from voting because he could not make up his mind whether the step would be forward or backward as compared with The Hague Convention. The Representative of the Irish Free State said that he voted *contra* because he thought the proposal would weaken The Hague Convention.

⁷ Egypt, Spain, Irish Free State, Japan, Persia, Poland, Sweden, and Czecho-Slovakia. At the thirteenth meeting of the Conference the Representative of Brazil said that he had been under a misapprehension as to the motion that was being voted upon, and that he desired that his Delegation should be recorded as abstaining.

As reported by the Drafting Committee the provision regarding the control of the production of raw opium substantially reproduced the provisions of The Hague Opium Convention, the only difference being that the phrase " laws *and* regulations " was employed instead of " laws *or* regulations." When this Article came before the Conference (thirty-first meeting), the discussion was renewed as to whether the amendment to the American proposal which had been adopted at the twenty-ninth meeting did not, as has been suggested by M. Sugimura, weaken the obligation already assumed by the Powers in The Hague Convention. The dominant opinion seemed to be that it did. It was at first proposed that the amendment to the American proposal should provide that in any case the reservations that might be made should not be such as to render the obligations of the States making them less extensive than those prescribed in Article I of The Hague Convention. In the end, however, it was resolved that the Contracting Powers should undertake to strengthen, as occasion might demand, the laws and regulations which had already been adopted in virtue of Article I of The Hague Convention.

Thus it came about that, as finally embodied in the Convention which the Conference arrived at, the provisions for the control of the production of raw opium advanced in only this one respect upon those of the Agreement of 1912. Whether, indeed, this could be said to be an advance is very doubtful, for good faith would seem to require that the Powers strengthen the measures taken by them in fulfilment of the obligation assumed by them in The Hague Convention whenever it is found that those measures are not operating effectively.

In its final form as adopted by the Conference, Chapter II of the Convention reads :

CHAPTER II

INTERNAL CONTROL OF RAW OPIUM AND COCA LEAVES

Article 2

The Contracting Parties undertake to ensure the effective control of the production, distribution and export of raw opium, unless laws and regulations on the subject are already in existence; they also undertake to review periodically, and to strengthen as required, the laws and regulations on the subject which they have enacted in virtue of Article I of The Hague Convention of 1912, or of the present Convention.

Article 3

Due regard being had to the difference in their commercial conditions, the Contracting Parties shall limit the the number of towns or other localities through which the export of raw opium or coca leaves shall be permitted.

Thus the sum result of the long discussions of this subject was that the word *and* was substituted for the word *or* in Article I of The Hague Convention; the laws and regulations in execution of this article are to be periodically reviewed (no period fixed, however), and as required, strengthened; it is specifically provided that these laws and regulations are to apply to export as well as production and distribution (which, however, merely specifically stated what had been previously understood as implied); and finally, the provision of Article 3 is made applicable to coca leaves, which was not the case in The Hague Convention. Surely a meagre result from such prolonged labors!

It is further to be observed that the requirements of Articles 3, 4 and 5 of The Hague Convention disappear entirely, since it is provided (Article 31) that the new Convention is to replace, as between the Contracting Parties, the Provisions of Chapters I, III and V of The Hague Convention.

Commission to Study the Difficulties Connected with the Production of Opium in Certain Producing Countries.

After it had appeared in the discussions had in Sub-Committee B, that the Committee would not be able to agree to the adoption of Article I of the American programme, the American representative upon the Committee, Mrs. Hamilton Wright, proposed the following Resolution:

Having noted with interest the reports submitted by Persia, Turkey, Jugo-Slavia, Greece and Egypt, setting forth the economic and political difficulties with which their Governments are confronted in their efforts to obtain an effective control over the production of opium; and

Recognising that in some cases the situation as described may require international coöperation;

Sub-Committee B recommends to the Conference that careful consideration be given to the question of the appointment of a Commission to visit the countries mentioned above for the purpose of making a careful study of all the problems connected with the production of traffic in and use of opium in those countries, and especially with reference to the possibility of substitution therefor the cultivation of other agricultural products, the development of mineral resources, the improvement of transportation facilities, and such other measures as may be deemed necessary to the end that the production of and traffic in raw and prepared opium within the countries mentioned and the exportation of such products therefrom shall be limited to strictly medicinal and scientific purposes.

The Commission shall be appointed in a manner to be determined by the Conference with the approval of the producing countries con-

cerned and it shall consider carefully the reports which have been submitted to the Conference by the Governments of Persia, Turkey, Jugo-Slavia, Greece and Egypt. To the Conference shall also be referred the questions of the number and qualifications of the members of the Commission and of the steps to be taken to obtain the funds necessary to meet the expenses of the Commission for the purpose as described above.

The Commission shall be instructed to make its report in a manner to be determined by the Conference. The report together with the recommendations of the Commission shall be communicated to the Powers signatory to the Convention. The signatory Powers especially the Governments of Persia, Turkey, Jugo-Slavia, Greece and Egypt, agree to give due consideration to the report and recommendations of the Commission.

The Committee accepted this proposal with the understanding that the Committee should be appointed under the auspices of the League of Nations which should pay the expenses of the Commission. The Delegate of the United States of America reserved the point for further discussion.

When this recommendation came before the Conference at its twenty-ninth meeting, it was pointed out that there was a question whether, in view of the action which the Conference had already taken with regard to Article I of the American proposals, the American Delegation would have desired to press the matter of the appointment of the Commission of Enquiry. It was finally decided that the last two paragraphs of the Resolution should be deleted, and the third paragraph amended so as to make a recommendation to the Council of the League of Nations instead of the Conference. All details, it was explained, could then be settled by the League if it accepted the recommendation.

In its final form this action of the Conference was embodied in Resolution V of the " Final Act " which reads as follows :

The Conference asks the Council of the League of Nations to examine the suggestion which has been made in the course of its proceedings, in particular by the Persian Delegation, that a Commission should be appointed to visit certain opium-producing countries, should those countries so desire, for the purpose of making a careful study (in collaboration with the Governments of those countries) of the difficulties connected with the limitation of the production of opium in those countries and advising as to the measures which could be taken to make it possible to limit the production of opium in those countries to the quantities required for medical and scientific purposes.

Committee of Enquiry to Visit Persia. Sub-Committee B in a supplementary report,⁹ declared :

The Sub-Committee having given consideration to the Persian Memorandum (O.D.C.24), particularly those clauses relating to: revenues, Persian policy, general policy, unconditional assurances, source of funds, moratorium, customs, fully appreciates the difficulties confronting Persia in immediately carrying out the desire to reduce the production of opium in Persia to amounts needed for medical and scientific purposes in Persia and for export for the same purposes.

It therefore recommends to the Conference the following resolution :

" The Conference has had presented for its consideration a very complete and valuable memorandum prepared by the Government of Persia, setting forth in a clear and comprehensive manner the existing situation in Persia with regard to the production and trade in opium, and the numerous measures, agricultural, economic and financial, which *in the opinion of the Persian Government* must necessarily be carried out before any effective scheme for the reduc-

⁹ Document O. D. C. 99.

tion and control of production can be introduced in that country. *The memorandum points out that these measures require for their initiation the obtaining by the Persian Government of financial assistance from the Powers which this Conference is not in a position to secure. The Conference considers that a case for inquiry has been made out and therefore recommends to the Council of the League of Nations that a Committee of Experts with the necessary qualifications be sent under the auspices of the League to make a full inquiry into the facts as stated in the memorandum as well as into the practicability of the proposed measures and their suitability for the attainment of the end in view, namely, the effective control and limitation of the production of opium in Persia, in accordance with the terms of the Convention to be adopted by this Conference in the hope that, in the event of the case of the Persian Government being established, the report of the said Committee may demonstrate that adequate guarantees as to the probable success of the proposed measures are obtainable to justify the taking of the measures proposed by the Government of Persia, and, if necessary, the issue of a loan in the money markets of the world for the purpose of providing the Government of Persia with the financial assistance required, or such assistance as the Commission may find to be required.*"⁹

When this Resolution came before the Conference, M. Shepherd, rapporteur for the Committee, called attention to the fact that the Representative of Persia had declared that he could not accept any part of the report which directly concerned Persia without referring it to his Government. Especially he had objected to the expression "In the hope that in the event of the case of the Persian Government being established." The situation being what it was the Conference decided that no action upon the matter by it would be appropriate.

⁹The proceedings of the Sub-Committee leave it uncertain whether the American Delegation was prepared to approve the mode in which this Committee of Enquiry was to be appointed. The italics are in the original.

CHAPTER XIX

INDIAN HEMP (HASHISH)

In 1923 the South African Government sent to the League of Nations the suggestion that hashish should be treated as a habit-forming narcotic drug and brought within the scope of The Hague Convention. The Advisory Committee considered the matter at its sixth session and passed the following Resolution :

With reference to the proposal of the Government of the Union of South Africa that Indian hemp should be treated as one of the habit-forming drugs, the Advisory Committee recommends the Council that, in the first instance, the Governments should be invited to furnish to the League information as to the production and use of, and traffic in, this substance in their territories, together with their observations on the proposal of the Government of the Union of South Africa. The Committee further recommends that the question should be considered at the annual session of the Advisory Committee to be held in 1925.

The subject of Indian hemp or hashish was presented to the Second Opium Conference at its sixteenth meeting by M. El Guindy, the Egyptian delegate, in a carefully prepared address. In addition there were circulated two documents dealing with the subject.¹ From M. El Guindy's address the following excerpts may be given :

The *cannabis indica* or *sativa*, called also by the name of hashish (English—Indian hemp; German—*indianischer Hanf*; French—*chanvre indien*), was known even in antiquity.

¹ O. D. C. 38, Memorandum on Hashish by Dr. El Guindy; and O. D. C. 55, Memorandum with Reference to Hashish by Dr. A. H. Mahfooz Bey, of the Egyptian Delegation.

It was originally cultivated on the plateau of Persia and Turkestan. Later, it was introduced into Asia Minor and Egypt, where it was mentioned by chroniclers of the time of the Crusades. At present, the countries which produce it are Siberia, Russia, the Caucasus, Persia, the western plateau of the Himalayas, Kashmir, India and also South-Eastern Europe.

Researches undertaken with a view to determining the active agent of this plant led to the discovery of a product called cannabine, a kind of soft and brownish resin. An aromatic oil of an amber colour, whose inhalation causes dizziness and giddiness, is also derived from *cannabis indica* by distillation. In addition, it has been found to contain a certain quantity of nicotine.

The flowers, the tender shoots and the fruits of the *cannabis* are specially utilised. Only the unfertilised female flowers, however, are able to produce the resinous matter, as fertilisation destroys the active principle of the plant.

Hashish, prepared in various forms, is used principally in the following ways:

(a) In the form of a paste made from the resin obtained from the crushed leaves and flowers, which is mixed with sugar and cooked with butter and aromatic substances and is used to make sweets, confectionery, etc.; known in Egypt by the names of *manzul*, *maagun* and *garawish*.

(b) Cut into small fragments, it is mixed with tobacco for smoking in cigarettes.

(c) The Indian hemp is simply smoked in special hookahs, called *gozah*.

We must next consider the effects which are produced by the use of hashish and distinguish between:

- (1) Acute hashishism, and
- (2) Chronic hashishism.

Taken in small doses, hashish at first produces an agreeable inebriation, a sensation of well-being and a desire to smile; the mind is stimulated. A slightly stronger dose brings a feeling of oppression and of discomfort. There follows a kind of hilarious and noisy delirium in persons of a cheerful disposition, but the delirium takes

a violent form in persons of violent character. It should be noted that behaviour under the influence of the delirium is always related to the character of an individual. This state of inebriation or delirium is followed by slumber, which is usually peaceful but sometimes broken by nightmares. The awakening is not unpleasant; there is a slight feeling of fatigue, but it soon passes.

Hashish absorbed in large doses produces a furious delirium and strong physical agitation; it predisposes to acts of violence and produces a characteristic strident laugh. This condition is followed by a veritable stupor, which cannot be called sleep. Great fatigue is felt on awakening, and the feeling of depression may last for several days.

The habitual use of hashish brings on chronic hashishism.

The countenance of the addict becomes gloomy, his eye is wild and the expression of his face stupid. He is silent; has no muscular power; suffers from physical ailments, heart troubles, digestive troubles, etc.; his intellectual faculties gradually weaken and the whole organism decays. The addict very frequently becomes neurasthenic and, eventually, insane.

In general, the absorption of hashish produces hallucinations, illusions as to time and place, fits of trembling, and convulsions.

A person under the influence of hashish presents symptoms very similar to those of hysteria.

From the therapeutic point of view, science has not made much use of hashish with good results. It has, however, been administered with some success in certain cases of *delirium tremens*.

Taken thus occasionally and in small doses, hashish perhaps does not offer much danger, but there is always the risk that once a person begins to take it, he will continue. He acquires the habit and becomes addicted to the drug, and, once this has happened, it is very difficult to escape. Notwithstanding the humiliations and penalties inflicted on addicts in Egypt, they always return to their vice. They are known as "hashashees," which is a term of reproach in our country, and they are regarded as useless derelicts.

Chronic hashishism is extremely serious, since hashish is a toxic substance, a poison against which no effective antidote is known.

It exercises a sedative and hypnotic effect, and is prescribed in the following doses:

The extract, from 0.015 gr. to 0.06 gr.

The tincture, from 5 to 15 drops.

Generally speaking, hashish is not very much used in medical practice, and its results are a matter of controversy.

In view of the great danger involved by the consumption of hashish, special measures have been taken by the Egyptian Government.

As early as 1868, Dr. Mohammed Ali Bey made a report to the competent authorities regarding the accidents caused by the abuse of hashish. In 1884, the cultivation of this plant was forbidden. The cafés (or *mashhashas*) in which hashish was consumed by smoking in special hookahs were closed, and are still mercilessly sought out by the police.

Measures were taken to prevent the production and importation of *cannabis indica*; the following are the chief of these measures:

All cultivation of *cannabis indica* is prohibited, and the cultivator is liable to a fine of £ E 50 (equal to about 26 gold francs) per feddau or fraction of a feddau (the feddau is equal to 4,200.83 square metres).

As regards importation, smuggled hashish used a few years ago to be confiscated and resold to agents for exportation. At present, the goods confiscated are destroyed and a fine of £ E 10 per kilogramme is imposed on the clandestine importer. However small may be the quantity imported, the fine cannot be less than £ E 2.

It is interesting to note the quantities of hashish that have been confiscated as a result of the measures taken by the Egyptian Government.

The following quantities were seized by the Customs Administration:

	Kg. of Hashish
In 1919	2,709,535
1920	1,869,199
1921	621,822
1922	173,468
1923	2,128,864
1924	3,262,227

The following quantities were seized by the Coastguards Administration:

	Kg. of Hashish
In 1920	3,697,648
1921	1,775,235
1922	1,223,842
1923	2,708,169
1924	2,262,350

Unfortunately, I have no information regarding the quantities seized by the police, which must certainly be greater than the above-mentioned figures. There can be no doubt, however, that the goods confiscated represent only a small fraction of what is introduced clandestinely.

It is known, for example, that in a single year (about 1909) more than 140,000 pounds of hashish were consumed in Egypt.

Some idea of the ravages produced by these enormous quantities of hashish clandestinely consumed may be gained from the fact that the real requirements of the country hardly exceed 20-30 kilogrammes annually.

For example, the requirements of hashish for medical purposes in an average year may be estimated at

11.165 kilos of extract,
1.331 " of soft extract,
12.375 " of tincture.

In 1919, the Egyptian Government allowed the importation of 65 kilogrammes of hashish for medical purposes and in 1920 of 23 kilogrammes.

The illicit use of hashish is the principal cause of most of the cases of insanity occurring in Egypt. In support of this contention, it may be observed that there are three times as many cases of mental alienation among men as among women, and it is an established fact that men are much more addicted to hashish than women. (In Europe, on the contrary, it is significant that a greater proportion of cases of insanity occur among women than among men.)

Generally speaking, the proportion of cases of insanity caused by the use of hashish varies from 3 to 60 per cent of the total number of cases occurring in Egypt.

At the conclusion of M. El Guindy's speech, Dr. Sze expressed the approval of the Chinese Delegation of the proposal that the Conference should do what it could to remove the danger threatened to humanity by this drug. Mr. Porter in behalf of the American Delegation declared:

The very carefully prepared statement of the Delegate of Egypt, together with my own knowledge on the subject, have satisfied me that we are under an obligation in this Conference to do everything we can to assist the Egyptian and Turkish people to rid themselves of this vice. We are asking them to help us to destroy the vice of opium, coca leaves and their derivatives, and I believe that this is a good time to practise a little reciprocity. They have their troubles and we have ours, and I can see no reason why this Conference, aided as it is by the distinguished men on Sub-Committee F, should not deal with this question. Happily, as I understand it, no question of revenue is involved. That fact ought to make the solution much easier.

Mr. Clayton, in behalf of the Indian Delegation, said that, though his Government would no doubt view with sympathy the proposal of the Egyptian Delegation, it would be impossible for his Government, in the state of its present knowledge, to enter into any precise engagement with regard to it, and that, in fact, he had not been aware that the question of hashish would be raised, and had therefore no instructions regarding it. Later, the Indian Delegation reported that he had communicated with his Government and had received a reply that it would be able to coöperate to the extent of controlling the export of the drug by applying the import certificate system.² The Indian Delegation in its note went on to say:

² Annex to Document O. D. C. 72 (1) which was a report concerning Indian hemp made by Sub-Committee F.

The Government of India has not yet had time to consult Provincial Governments and the Governments of the Indian States on the further question of controlling, in the manner suggested by Sub-Committee F, the production and sale and use of these drugs within the borders of India itself. The control already exercised by the Provincial Governments over the production, transport and sale of these drugs is of a very stringent nature. Charas is not prepared in India but is imported from Central Asia; import is controlled by licence. The production of ganja is prohibited except in small areas, the product of which is controlled by the excise authorities. The Government of India, however, at the present stage of their examination of the subject point out various serious difficulties of an administrative order in confining the use of hemp drugs to medical and scientific purposes; for example there are social and religious customs which naturally have to be considered, and there is the doubt whether the total prohibition of drugs easily prepared from a wild-growing plant could in practice be made effective.

For these reasons the Indian Delegation is glad to be able to promise the coöperation of its Government in limiting the export of Indian hemp to the needs of the importing countries as certified by their Governments by means of the import certificate system; but would be unable in existing circumstances to accept a proposal that the articles of the Convention should include the full extent of the suggestions put forward by Sub-Committee F in so far as they affect the methods of internal restriction applied by the various Governments in India.

In further explanation of the attitude of the Indian Government with reference to hashish, Mr. Walton, at the twenty-seventh meeting of the Conference, pointed out that one of the greatest difficulties with regard to control of its production arose out of the fact that the plant from which the drug is obtained grows wild and that the drug itself is derived from the plant by a very simple process. "Consequently," he said, "it is difficult to control the production of the drug, and the particular pro-

posal to confine its use entirely to medical and scientific purposes becomes a very difficult matter from the administrative point of view."

Sir Malcolm Delevingne, in opposition to M. E. Guindy's proposal, argued that the Delegations most interested—India and France—had neither the necessary information nor instructions from their Governments to enable them to act. He furthermore questioned the competence of the Conference in the matter. He said:

It was not intended, when this Conference was summoned, that hashish should be discussed, and I do not think that all the ingenuity which different delegations have displayed in reading certain subjects into the Agenda will enable them to find hashish there. That is the reason why the matter is still, if I may use the expression, in an unprepared state. It seems impossible in those circumstances for us to do what the Egyptian Delegate wishes us to do, namely, by an agreement at this Conference to decide to bring hashish under the full provisions of The Hague Convention.

M. Bourgois, speaking for the French Delegation, said that he wished to associate himself with the views of Sir Malcolm. He further said:

From the medical point of view, there can be no doubt that hashish is very dangerous, and there is also no doubt that the Governments wish to remove this danger.

In France, hashish is treated exactly the same way as the drugs to which The Hague Convention applies. Each colony has its own regulations, based, in the first place, on local conditions and, in the second, on administrative possibilities.

I would like to draw your attention to the difficulties encountered on both these points. Without going into the subject in detail, I may quote the fact that in the Congo, for example, there are several tribes of savages and even cannibals among whom the habit is very prevalent. It would therefore be hypocritical on my part to

sign a Convention laying down strict measures in this respect. I can undertake to have these measures applied in France, because this would be a practical proposition, but the same does not apply to the Congo.

M. van Wettum of the Netherlands Delegation said that he also was without instructions to discuss the subject. However, notwithstanding these expressed doubts as to the competence of the Conference, and the lack of instructions declared by several of the Delegations, it was voted to refer the matter to Sub-Committee F.

In a special report on Indian hemp (1) this Sub-Committee declared its opinion that the campaign against the narcotics derived from this plant needed to be organized on international lines. The report continued:

It should, however, be remembered that all derivatives of hemp are capable of providing, in addition to products injurious to public health, fibres which can be used in industry (cloth, cordage, matting etc.) and that the oil seeds may also be employed for domestic purposes.

That being the case, it would not appear to be an easy matter to limit the amount grown. An effort should, however, be made to adopt drastic measures with a view to prohibiting the growing of specially poisonous species and completely abolishing the traffic in the resin.

While effective practical measures could apparently be taken fairly easily in highly developed countries this is not the case as regards Central Africa and Central Asia.

The growing of Indian hemp is prohibited by the Ottoman Governments of Egypt, Greece and a few other countries, while the protecting Powers have issued severe measures in Africa to achieve the same result, measures the enforcement of which will serve as a test of their administrative capacity and their influence on the natives of the centre and south of the continent.

After discussing the definition of Indian hemp and the distinction between the raw material and the resin extracted by various processes (the resin being the most dangerous drug), the Committee reported that it had agreed upon the following Resolution :

The use of Indian hemp and the preparations derived therefrom may only be authorised for medical and scientific purposes. The raw resin (charas), however, which is extracted from the female tops of the *cannabis sativa* L., together with the various preparations (hashish chira, esrar, diamba, etc.) of which it forms the basis, not being at present utilised for medical purposes and only being susceptible of utilisation for harmful purposes, in the same manner as other narcotics, may not be produced, sold, traded in, etc., under any circumstances whatsoever.

This report and Resolution came before the Conference at its twenty-first meeting, with the result that a special Sub-Committee was appointed to give further consideration to the subject.

This Committee reported to the Conference at its thirty-fourth meeting the following text for insertion in the Convention :

(1) The provisions of Chapter V of the present Convention shall apply to Indian hemp. In addition and subject to the other provisions of Chapter V each Contracting Party undertakes (a) In the case of the resin prepared from Indian hemp to prohibit export except to any importing country which may not have prohibited its use, and in such case shall require the production of a special import certificate, by the importing Government, and to certify that the importation is approved and destined exclusively for the objects specified in the certificate and guaranteeing that the goods shall not be re-exported.

(b) In the case of Indian hemp each Contracting Party undertakes before issuing the Export authorisation referred to in Article

13 of the present Convention to require the production of a special import certificate issued by the Government of the importing country and certifying that the importation is approved and is required exclusively for medical and scientific purposes.

(2) The Contracting Parties shall exercise such effective control as to prevent the illicit traffic in Indian hemp, and especially in regard to resin.

It was also recommended that a paragraph (g) should be added to Article 4 of the Convention reading: "To Galenic preparations, extracts or tincture of Indian hemp."

These proposals were approved by the Conference and referred to the Drafting Committee for final wording. Only slight changes were made in the draft of Article 11 as reported by the Drafting Committee for final adoption by the Conference (thirty-eighth meeting).

CHAPTER XX

THE PRODUCTION OF COCA LEAF

The coca leaf from which cocaine is manufactured is grown principally in Bolivia, Peru, and Java, and, in smaller amounts, in the West Indies, Ceylon, and other countries. The South American leaf is of a variety that produces a narcotic effect when chewed. The Javanese leaf, however, does not lend itself to this use, and it is therefore employed only as raw material from which cocaine may be manufactured. Cocaine may be manufactured from the Peruvian and Bolivian leaf, but, as a matter of fact, the Bolivian leaf is not so used.

At the ninth meeting of the Conference M. Pinto-Escalier of the Bolivian Delegation presented a carefully prepared statement which showed that Bolivia was, not a centre of consumption or of traffic in narcotics; that it did not produce or manufacture opium or its derivatives; that it produced coca leaf, the moderate use of which by the natives could not be considered harmful; that it did not manufacture or consume cocaine; and that almost its entire exports of coca leaf was to countries which did not manufacture cocaine, but consumed the leaf by chewing it, and which did not re-export the leaf. He said, in part:

. . . . the experience of several centuries has shown the mastication of coca leaf and the absorption of its juice to be perfectly innocuous.

The quantity of coca leaf chewed by an Indian of the high plateaux of the Andes during his lifetime may be estimated at hun-

dreds of kilogrammes. Nevertheless, these Indians are hardy, and show extraordinary powers of endurance, and they often live to a very advanced age without suffering from the premature decay which attacks organisms undermined by the drug habit.

I would also like to point out that it is only the Indians and never the whites or half-castes who are in the habit of chewing the leaves of what has been termed "the divine plant of the Incas." This fact goes to show that the habit has neither the contagiousness nor the attraction which characterises all vices and particularly that of drug-taking.

It is therefore not rash to assert that the use of the coca leaf presents no social danger, that, as I have already pointed out, it has no corrupting influence morally and that physically it does not weaken either the virility or the vitality of those who consume it.

On the contrary, its use is, perhaps, a source of energy and endurance to those whose lot has been cast by nature on the highest portions of the globe, often at an altitude almost prohibitive of human life and comparable to that of the top of Mont Blanc. . . .

In the course of the last four years, 1920-1923, which were not dealt with in my report to the Advisory Committee, Bolivia exported 1,396,399 kilos. of coca leaf to the following countries:

Argentina	1,181,335 kilos or	84.59%
Chile	213,141 " "	15.29%
Germany	1,839 " "	0.12%
Great Britain	84 " "	Percentage negligible.

These tables demonstrate two facts which in my opinion cannot be called in question and support my Government's point of view.

1. The exportation of Bolivian coca leaf is not increasing, although it is encouraged by the demand of the foreign markets; and this fact must not be attributed to any lack of initiative or activity on our part, but to the natural conditions of the soil which, by preventing the cultivation from being extended, have in practice limited the production.

2. More than 8/10 of these exports go to the Argentine Republic, which, according to official information communicated to me by the Argentine authorities, does not manufacture cocaine and does

not re-export coca leaf. Almost all the remainder goes to Chile, which also does not manufacture cocaine, according to information I have received from an equally authoritative source.

It is clear, therefore, that the question of the production of coca leaf in Bolivia, which, I repeat, has no influence on the cocaine market, is a mere phantom which on closer examination is found to have no terrors.

It also appears clear from what I have said that it would be going too far to place the cultivation of the coca leaf in the same category as that of the poppy, as proposed in the programme drawn up by the Advisory Committee, which proposes to extend to the coca leaf, without modification, the provisions of The Hague Convention regarding opium.¹

Article I of the American programme, it will be remembered, had proposed that the production of coca leaf should be so controlled that there would be no surplus available for purposes not strictly medical or scientific in character. This proposal was referred to Sub-Committee C, which had been empowered to consider suggestions for the limitation of the production of the coca leaf for export.²

The Committee made a very brief report in which it said that, having considered the information of the Delegate of Bolivia as to the innocuous use of coca leaves by the Bolivian people, it was of opinion that the limitation of the production of the coca leaf to the amount needed for medical and scientific purposes could not be realized as that would imply the absolute prohibition of the harmless

¹ See also Document O.D.C./S.C.C./2. This Document was a note submitted to Sub-Committee C, setting forth the substance of the statement made by M. Pinto-Escalier in the plenary Conference.

² This Committee was composed of the Delegations of Bolivia, the Netherlands, Japan, and Peru. The Representative of Peru, however, for some reason not explained, did not put in an appearance at the Conference.

consumption of the leaf in several South American States. The Committee also held that the limitation of the production of the leaf in Java would be inadvisable as that would imply the extirpation of all coca-shrubs used by the natives as living hedges, the leaves of which are never consumed or exported.

Export of Coca Leaves. As to the limitation of the production of coca leaves for export Sub-Committee C reported that this was not feasible in the coca-growing countries of South America, since, in them, there is no distinction between production for domestic consumption and for export. In Java, the Committee said, such limitation would be quite possible, as apart from the coca-shrubs used as hedges, coca leaves were produced solely for export and as a secondary product on plantations, domestic consumption being unknown. The report continued:

If all coca-producing countries would agree to do the same, and, moreover if all countries which do not grow coca leaves at present will abstain from coca growing in the future, the Government of the Netherlands Indies would be willing and able to limit the production of coca leaves for export purposes. As such an agreement did not appear to be possible at this time, the Sub-Committee finally agreed upon the method of indirect limitation of the production for export purposes by the application of the system of import certificates and export authorisations on each exportation of coca leaves; in this way the traffic in coca leaves will be brought under strict national control and also under the supervision of the Central Board. The Sub-Committee is convinced, that by this means the end arrived at by the Conference may satisfactorily be accomplished. It therefore proposes to the Conference to adopt, in conformity with the suggestions of the Advisory Committee, the following conclusions:

(1) Article 2 of The Hague Convention of 1912 shall be extended to apply to coca leaves;

(2) The system of import certificates and export authorisations shall be extended to apply to coca leaves.

This report came before the Conference at its twenty-seventh meeting, and was referred without discussion to the Drafting Committee.

Sub-Committee D. To this Committee were referred all of the suggestions which had been referred to Sub-Committees A, B, and C, in order that they might be examined from the point of view of the consuming countries. It will not be necessary to speak specially of the report of this Committee as the matters dealt with by it are considered in connection with the accounts given of the work of the other Committees. It is sufficient to say that the report^a came before the Conference at its twenty-seventh meeting, and, with but the briefest discussion, was referred to the Drafting Committee. The Resolution of the Committee with reference to the conditions under which the Australian proposal for the limitation of the production of raw opium and coca leaf could be accepted, has already been referred to.

^a Document O. D. C. 77.

CHAPTER XXI

THE INTERNATIONAL CONTROL OF TRAFFIC IN DRUGS

To Sub-Committee E were referred " suggestions for the control of the international traffic, more particularly with regard to export, import, transshipment, etc." ¹ This desired control has for its especial aim the prevention of illicit or contraband trade in opium and the manufactured narcotic drugs, and the propositions considered by the Committee were, for the most part, those contained in Part II of the measures recommended by the Advisory Committee and by the Delegation of the United States.

The Committee was able to present a unanimous report, subject to only one reservation, on the important and complicated matter with which it had to deal. ²

In the main, the Committee accepted the proposals of the Advisory Committee ³ which it modified only in points of detail. As an Annex to its report, the Committee laid before the Conference the text of 11 articles to be incorporated in the final Convention of the Conference. For the most part the scope and purpose of these provisions sufficiently appear from a reading of them. It will, however, be worth while to quote certain of the explanations of them made by the Committee :

Articles I and II lay down two principles which are essential to the effective control of the international traffic. The first of these is that a *separate* import authorisation or export authorisation from

¹ First Report of the Business Committee, Document O. D. C. 35.

² Document O. D. C. 78 (1).

³ See Appendix III.

the Government shall be required in the case of *each* importation and exportation; this secures that every international transaction in the substances covered by the Convention comes under the consideration of the Government before it is carried out. The second is that an export authorisation shall only be issued by the Government of the exporting country on the production of a certificate from the Government of the importing country that the import into the latter country of the consignment proposed to be exported has been approved. The production of such a certificate is a guarantee to the Government of the exporting country that its exports are destined for persons duly authorised by their Government to receive the drugs, and for purposes which are legitimate. . . . Those two principles have already been adopted by many Governments. It is hoped that one result of the present Conference will be to secure their general adoption by all countries. Until that is done, the control over the international traffic will not be completely effective.

A model form of import certificate has been recommended by the League of Nations for adoption by the Governments which accept the system. The Sub-Committee considers that it would be desirable that this form should be followed as closely as possible by all signatory States and recommends that it should be included in an annex to the new Convention as a model recommended for adoption by the signatory States.

It is recognised that the requirement of an import certificate can be applied only in the case of exports to countries which are parties to the Convention or, at least, accept the import certificate system. The Government of an exporting country will not be compelled to require the production of an import certificate in respect of exports to a country which is outside the Convention and does not agree to furnish such certificates. It is to be understood that in these cases the principle above mentioned will not apply, but at the same time a moral obligation will rest on the Government of the exporting country not to allow the export of the substances in excessive quantities to countries which decline to furnish import certificates and to coöperate in the system of international control, and which in some cases are known to be centres of the illicit traffic. . . .

It will be noticed, . . . that while an import authorisation may allow a supply of the substances to be imported in more than one consignment, a similar latitude is not allowed in the case of

exportation. The reason for this will be apparent on an examination of the proposals as a whole. In the case of an importation it will not be possible for the importer to know beforehand whether the person in the other country from whom he is obtaining the supply will be able to send it in a single consignment or not, and as the import authorisation has to be issued before he can order the goods, provision must be made to allow the importation to be effected in more than one consignment. The case is different in regard to exports. The general scheme requires that a copy of the export authorisation must accompany the goods, and it would lead to great confusion if the export authorisation allowed the dispatch of the goods in more than one consignment and there was a difference between the amount specified in the export authorisation and the quantity of goods in the consignment. It is proposed therefore that where the goods have to be sent in separate consignments, a separate export authorisation should be obtained in respect of each consignment. This should lead to no difficulty in the practice. . . .

It is provided that a copy of the export authorisation must accompany the consignment. It is understood that the usual procedure would be, in the case of consignments sent by sea, that the copy should be handed to the Captain or other responsible officer of the ship, and, in the case of goods sent overland by train, to the responsible railway official in charge of the goods, and so on.

In the second place, it is required that the Government issuing the export authorisation shall send a copy to the Government of the importing country, and that the latter Government shall return the copy to the Government of the exporting country, when the importation has been effected with a notification of the amount received. The Sub-Committee considers that the copy should be sent direct from the competent authorities in the one country to the competent authorities in the other, and not through the diplomatic channels.

Article V [of the draft] is a provision of great importance.* Free Ports not being subject to the ordinary control of the customs

* For the purpose of ensuring the full application and enforcement of the provisions of the Convention, as amended by this agreement, in free ports and free zones, the Governments undertake to apply in free ports and free zones situated within their territories, the same laws and regulations, and to exercise the same supervision and control in respect of the substances covered by the Convention, as amended by this agreement, as in other parts of their territories.

authorities of the territory in which they are situated, the illicit traffickers have been able in the past to evade control by making use of the Free Ports. . . . It is not suggested by the Sub-Committee that countries which have already more drastic provisions in force than those suggested in Article V should weaken their provisions, and they recommend that the Drafting Committee, when settling the wording of this Article, should insert a provision to meet such cases.

Attention may especially be called to the opening lines of the Article, which are designed in particular to meet the case of goods in transit along international waterways. There are a number of cases in which, under Treaty, goods pass along international waterways without interference from the authorities of the countries through which the waterways pass. For instance, goods going by sea to Antwerp along the waters of the Scheldt are exempt from interference by the Dutch authorities. Other cases which may be mentioned are international canals such as the Suez Canal, and the great Lakes of North America which are situated partly in the territories of the United States and partly in the territories of Canada.

The Sub-Committee endorse the recommendation in Part III, Article 2 of the Advisory Committee's proposals and suggest that it might be appended to the Convention adopted by the Second Conference in a protocol. The reasons for the recommendation are the following: A ship of country "A" may be engaged in smuggling opium from country "B" to country "C," without touching at any port in country "A" and without therefore, coming under the control of the authorities of country "A." A large amount of the illicit traffic in opium is carried on in this way. The Sub-Committee recognise that some Governments may find difficulty in applying such a provision, and will require to examine it carefully before they can adopt it. It is for this reason that they have not proposed that it should be inserted as a definite provision in the Convention itself.

The Sub-Committee also recognise that the provision will not be applicable if country "B" is not a party to the Convention and does not issue export authorisations. The Drafting Committee should be asked, in settling the terms of the recommendation, to provide for such cases.

In Article 7 (VI) of its proposals the Advisory Committee recommend the omission, at the end of Article X of The Hague Convention, of the words "this rule shall not necessarily apply to medical prescriptions and to sales by duly authorised chemists." The effect of this proposal would have been to require that all sales on medical prescriptions and by duly authorised chemists should be registered. It was pointed out in the Sub-Committee that this would not fit in with the systems of control over such sales in certain countries, and it was unanimously agreed, in place of omitting the words altogether, to substitute for them the words "this requirement shall not necessarily apply either to supplies by medical practitioners to their patients or to sales by duly authorised chemists on medical prescriptions, if the medical prescriptions are duly filed and preserved by the medical practitioner or chemist.

As regards Article 20 in the United States Draft, it was pointed out that it would not be possible to make the possession of coca leaves illegal in countries, where the coca plant grows wild, and the Committee have, in view of this and other objections, not felt able to make any recommendation at the present stage.

The Sub-Committee discussed at length the recommendations of the Advisory Committee in Part III (1) of its proposals, that each Government "should forbid any person within its jurisdiction from producing or assisting the Commission in any place outside its jurisdiction of any offence against the laws in force in such place relating to the control, etc., of the drugs." The Sub-Committee entirely approve the principle of this proposal, but attention was called to the fact that there may be constitutional difficulties in the way of its acceptance by certain countries. The First Opium Conference, which had a similar proposal before it, and had to take account of the same difficulties, adopted a text as follows:

"The Contracting Powers will examine in the most favourable spirit the possibility of taking legislative measures to render punishable illegitimate transactions which are carried out in another country by a person residing within their territories."

The Sub-Committee felt that it would be difficult to recommend a different text for adoption by the Second Conference, and accordingly suggest that an Article on the same lines as Article 9 of the

First Conference Agreement should be adopted by the Second Conference. The Delegate of the United States made a reservation in favour of the adoption of the original proposal of the Advisory Committee, to which effect is given in Article 20 (F) of the United States Draft.

The Sub-Committee approve the proposal in Article 7 (I) of the Advisory Committee's proposals and Article 2 of the United States proposals that Article II of The Hague Convention should be extended to coca leaves.

A new proposal has been submitted to the Sub-Committee that Article IV of The Hague Convention, which provides that "every package containing raw opium intended for export shall be marked in such a way as to indicate its contents, provided that the consignment exceed five kilogrammes," should be suppressed. It has been found that marks indicating that a particular packet contains raw opium are a help to opium thieves, and are of no real value for the purpose of the control over the traffic. The proposed requirement that a copy of the export authorisation must in future accompany the goods will provide a much more effective safeguard. The Sub-Committee therefore approve the proposal and recommend its adoption by the Conference.

The attention of the Sub-Committee has been called to two other matters: (1) The importance of adequate penalties being attached to infractions of the national laws which are adopted to give effect to the provisions of the new Convention. (2) The desirability of the adoption by all States of the practice of direct exchange of information between the competent authorities of the States in regard to the illicit traffic and the persons engaged in it. The Sub-Committee is impressed with the importance of these matters, and it recommends (1) the insertion in the new Convention of an article providing for the punishment of infractions of the law by adequate penalties, and (where appropriate) the confiscation of the substances in respect of which the infraction has been committed. (2) The adoption of a *voeu* recommending that all States should coöperate as closely as possible with one another in the suppression of the illicit traffic and that they should authorise the competent authority charged with the administration of the law on the subject to communicate directly with the corresponding authorities in other countries.

When the report of Sub-Committee E came before the Conference (twenty-seventh meeting), the discussion of it, before it was referred to the Drafting Committee, related almost wholly to the desirability of requiring the giving of heavy bonds by persons licensed as wholesale or semi-wholesale dealers for the stocking, purchasing, or selling narcotics. In support of this proposal M. Chodzko (Poland) said:

It is generally admitted that it is neither the manufacturer nor the chemist who deals in this clandestine trade. They are both too much under the control of the authorities to have wholesale contraband trade, and yet it was due to this trade that recently, on the 27th January there was a seizure of morphine which was declared to be worth 450,000 gold dollars. If clandestine trade can attain such dimensions the fault lies in the fact that there is nothing in the existing legislative measures to prevent a person who is authorized to deal in drugs as a wholesale trader from selling his stock, which may amount to several tons, to a clandestine trader and, having pocketed the enormous profits from such an operation, he has merely got to cross the frontier in order to be safe from any prosecution. Tempted by one of the numerous agents of this international organisation for clandestine trade in drugs, the wholesaler sells his goods, pockets the profits and decamps. The remedy would appear to be a system of deposit of a surety in cash, the amount to be proportionate to the maximum quantity which the wholesale trader should be authorised to have in his possession.

In opposition to this proposal it was argued that it was undesirable to obligate Governments to adopt specific modes of control which they might not think as good as those they had already adopted. It was finally agreed that the proposal should take the form only of a recommendation.⁵

⁵ See Resolution 4 of the "Final Act" of the Conference.

Permanent Central Board. Limitation of the Amounts of Morphine, Heroin, and Cocaine, and their Respective Salts to be Manufactured. Sub-Committee A had been entrusted with the task of considering suggestions for the limitation of the amounts of morphine, heroin and cocaine and their respective salts to be manufactured. In particular it considered Part I of the proposals which had been drawn up by the Advisory Committee.

The Sub-Committee in its report⁶ called attention to the fact that at its meetings strong opposition by several Delegations had been taken to those proposals, and especially on the grounds that their Governments were not in a position to frame the estimates called for, and which were to be regarded as binding upon them; that, in any case, the speculative character of the trade and the fluctuations in the opium crop would always make it impossible to make accurate estimates as to the amounts needed for manufacturing purposes, and that the fixing of the imports of countries at definite figures would lead to attempts upon the parts of dealers to corner the markets, which, in turn, would necessitate a system of rationing them. Continuing, the report said:

The Delegations who held these views considered that a more practical method of control would be to obtain the statistics of the trade in the drugs at the end of each year and to give the Central Board the duty of examining the statistics and calling attention to cases in which the figures appeared to indicate that excessive quantities were being imported and that there was a danger of a country being the centre of an illicit traffic.

The Delegations who supported the scheme of the Advisory Committee pointed out in reply, first, that if reliance was to be placed on statistics which were only to be received after the close of the

⁶ Documents O. D. C. 76 (1).

year in regard to the transactions in that year, no effective action could be taken by the Board to prevent illicit traffic, as the statistics would not be received, at the best, until many months after the event; secondly, that it would not be expected of the Governments, at any rate in the early years of the working of the scheme, that they should furnish exact estimates of their requirements, that, in the first instance, they would be able to allow a sufficient margin in their estimates to provide against a possible shortage, and would always be able, in the event of a shortage actually occurring, to forward a revised estimate, and that as experience grew the estimates would become more and more exact; thirdly, that there was no reason why a Government in a year of abundant crop and low prices should not allow its traders and manufacturers to take advantage of it by laying in supplies for a longer period than the current year, a revised estimate being submitted for the purpose; lastly, that any attempts on the part of dealers to corner the market and to raise prices would be improbable as the trade in these particular drugs, in most cases, forms only a small part of their total business and would prejudice their other business, and in any case, such attempts could easily be countered by the Government, whose permission the dealers would require for carrying on the trade in these drugs.

Eventually, as the result of long discussions, an agreement between the differing views, in the nature of a compromise, was reached, which, as reported by the Sub-Committee, was as follows:

The establishment of a Central Board was retained, but with functions of a different character. Its main duty would be to keep a watch on the international traffic, to note where the drugs were going, and to investigate the case of any country where quantities greatly in excess of its probable requirements were accumulating. To enable it to carry out its duties it would be furnished, at short intervals, by each country with statistics of its imports from and exports to each country of each of the drugs. It would also be furnished at the beginning of the year with the estimates of the probable requirements of each country for internal consumption,

but these estimates would not be binding on the country under the Advisory Committee's scheme, but would be merely for the purpose of serving as a guide to the Central Board in carrying out its task. The Board would also have the power of asking for explanations from any country where the imports appeared to be excessive, and, if no satisfactory explanation were forthcoming, of calling the attention of all other Governments to the position and recommending that the exports to the country in question should cease until the Board was able to report that the situation in that country was satisfactory.

"It will be observed," reported the Committee, "that under this scheme no compulsion is placed upon any Government and that the powers of the Central Board are powers of inquiry and recommendation only. No country is compelled to cease either its imports or its exports of the drugs. The sanction behind the action of the Board will be a moral sanction only, the pressure of public opinion. The Board will publish its findings and the grounds on which they are based, and will communicate them to the Council of the League and through the Council to all the Governments. The Board will only take the decisive action of recommending the stoppage of exports to a particular country when the case is perfectly clear, and in such a case it can hardly be doubted that responsible Governments who put their signatures to the new Convention will act in accordance with the recommendation. Should a Government not be prepared, however, to act on the recommendation, it will be required to inform the Central Board, and if possible give its reasons. It was felt by one or two delegations that in some cases there might be political or other serious reasons for not stating the grounds of the decision of the Government. It is understood that such cases would be exceptional.

In order that every possible safeguard may be provided against the possibility of error or arbitrary action on the part of the Board, it is proposed in the scheme submitted to the Conference that a recommendation of the Board shall only be made if a clear majority of the whole number of the Board is in favour of it; that any country shall be entitled to be represented at a meeting of the Board when any question of action with regard to it under Article VI¹ is being

¹ Of the Draft Articles appended to the report of the Committee.

considered; that where there is a division of opinion in the Board the views of the minority shall also be stated in their report; and finally that any country shall have the right to appeal to the Council of the League against the decision of the Board.

Central Board of Control. With regard to a central or international Agency of Control, the Committee recommended that there be created a Board whose members should be appointed by all the countries represented on the Council of the League of Nations together with the United States of America and Germany. These members, seven in number, it was said, should be so selected as to be impartial, independent, and with an expert knowledge of the matters to be dealt with. Upon its administrative side the Board was to be organized as a part of the Secretariat staff of the League, and its expenses allocated in some manner among the different States. The report said:

The Secretary and staff (who will be permanent officials and who will be provided with office accommodation, presumably at Geneva), would carry on the work of tabulating and analysing the statistics of imports, etc., as they come in; would circulate the summaries, analyses, etc., to the members of the Board as quickly as possible, and would call attention to any cases which might appear to demand the special consideration of the Board. In cases where urgent action would appear to be required, they would immediately warn the members. It is impossible to forecast the number of meetings which the Board would require to hold each year, but it is possible that four quarterly meetings, or even less, with an occasional emergency meeting, might prove to be sufficient.

As regards the staff, it will be necessary to employ a Secretary to be in general charge of the work. His position will be an important one, and he will require to have similar qualifications to those required by the members of the Board, though he need not be of the same standing. He would occupy a confidential position of consider-

able responsibility. It would be necessary therefore that he should be adequately remunerated. . . .

In addition to the Secretary, some officials experienced in the handling of statistics would be necessary, but the statistics would not be of great volume and the number of officials required would be small.

As regards the information to be supplied by the various Governments to the Board, it was recommended that the following statistics should be sent in:

(1) Quarterly statistics of imports and exports of the drugs covered by the Convention.

(2) Annual statistics of production, manufacture, consumption, and stocks on hand.

(3) Annual estimates of probable requirements for internal consumption for the ensuing year. These estimates, it was declared, would not be binding upon the Governments furnishing them, but would serve as a guide to the Central Board. It was declared that the words "internal consumption" were not to include amounts needed for purposes of manufacture.

(4) Seizures of contraband drugs.

(5) Statistics at the close of each year from countries in which the use of prepared opium is permitted, of amounts of prepared opium manufactured, of the raw material used in such manufacture, and of the amounts of prepared opium consumed. As to these statistics it was declared that it should not be within the competence of the Board to question or to express any opinion regarding them, and that with regard to them, the Board was not to take such action as it was provided it should take with regard to the other statistics furnished, and which is described in the next paragraph, "except in cases where the Board may find that illicit transactions are

taking place on an appreciable scale." In explanation of denial of authority to the Board the report said:

Except in the one case mentioned the Board will have no duties in regard to the manufacture of, trade in, and use of, prepared opium in those territories in which opium smoking is still temporarily authorised under Chapter II of The Hague Convention. It was suggested, however, that it would help the Board in keeping a watch upon the international traffic and in ascertaining what becomes of the supplies of raw opium placed upon the world's markets, if information as to the amount of raw opium imported for the purpose of smoking, and the amount used in the manufacture of prepared opium, was supplied to the Board. The Sub-Committee, in order to make it perfectly clear that it will not be within the competence of the Board to intervene in the question of the use of opium for smoking, have inserted the last paragraph in Article V.⁸ There is one class of cases, however, in which it would be competent for the Board to intervene; that is, in a case in which the Board might find that an extensive smuggling of opium from one of the territories in question was taking place. In such a case the Board would have the same power to ask for explanations and to make recommendations as in other cases.

As to the powers and duties of the Board the Committee said that, though the point had been discussed, it had been deemed wise that its decisions should not be subject to the approval of the Council of the League, since to have made them thus subject would have impaired the independent status of the Board. Regarding the relation of the Board to the Advisory Committee of the League, the report said:

While the task of examining the statistics of the traffic furnished by the Governments and watching the course of the international trade will now fall to the Central Board, the Advisory Committee will still remain as the advisory organ of the Council and Assembly of the

⁸ Of the Draft Articles reported by the Committee.

League with important functions, and it is very desirable to prevent any conflict of jurisdiction between the two Bodies.

At the twenty-seventh plenary meeting of the Conference this report of Sub-Committee A was referred, without discussion, to the Drafting Commission. The statement was however made that the differences between the recommendations of the Committee and those of Sub-Committees B and D had been discussed in the Coördination Committee,⁹ and that Sub-Committees B and D had agreed to accept the conclusions of Sub-Committee A.¹⁰

The matter of the Permanent Central Board again came before the Conference at its thirty-third meeting when Chapter VI of the Draft Convention came on for discussion.

It was moved by Dr. Chodzko, of the Polish Delegation, that the Board should consist of eight persons of whom four should be appointed by countries which produce or manufacture narcotics, and four by consuming countries. As to this proposition, Sir Malcolm Delevingne urged with force that it was highly objectionable that anything like a representation of "interests" should be permitted. Furthermore, as he went on to say:

I ask myself, how are the consuming countries, or how are the producing and the manufacturing countries to nominate their four representatives? And let me remind the Polish Delegate that the consuming countries include practically all the countries of the world. They include the producing and manufacturing countries as well because the producing and manufacturing countries are con-

⁹ See p. 245.

¹⁰ For the original recommendations of Sub-Committee B with reference to the statistics of raw opium to be supplied to the Central Board and for its action thereupon, see the First Report of the Committee, Document O. D. C. 79.

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⁹ See p. 245.

¹⁰ For the original recommendations of Sub-Committee B with reference to the statistics of raw opium to be supplied to the Central Board and for its action thereupon, see the First Report of the Committee, Document O. D. C. 79.

suming countries. How are all the countries of the world to appoint these four representatives on the Central Board? Are they to hold a conference every three or five years in order to proceed to an election, and what chance is there that if they did so they would ever arrive at a result which would be satisfactory to all or even to a large number of them? The difficulty of machinery which this amendment would involve seems to me alone sufficient to make it impossible to accept it.

The Polish proposal was negatived by a vote of 13 to 10.

There was also some discussion as to how the members of the Board should be appointed. The Draft Convention had provided that these members should be appointed within three months of the coming into force of the Convention by such of the following States as might at that time have ratified the Convention: The United States of America, the British Empire, France, Germany, Italy, and Japan together with those States which have non-permanent seats on the Council of the League of Nations. As the result of discussions had at the thirty-fifth meeting of the Conference, and continued at the thirty-sixth and thirty-seventh meetings it was finally agreed that the Board should be appointed by the Council of the League of Nations: that the United States and Germany should be invited each to nominate one person to participate in making these appointments, and that in making the appointments, consideration should be given to the importance of including on the Board, in equitable proportions, persons possessing a knowledge of the drug situation, both in producing and manufacturing countries on the one hand, and in the consuming countries on the other hand, and connected with such countries.

With regard to the expenses of the Board it was agreed that the Conference should request the Council of the

League of Nations to include them in the expenses of the League's Secretariat, with the understanding that those Contracting Parties who might not be members of the League should bear their share of such expenses according to a scale to be drawn up by agreement with the Council.¹¹

With regard to the provision of Article 22 that the Contracting Parties shall send annually to the Board statistics regarding the manufacture of the substances covered by Chapter III, Article 4 (b) (c) and (g), and that the amount of such substances used for the manufacture of other derivatives not covered by the Convention shall be separately stated, it was pointed out at the thirty-seventh meeting by Sir Malcolm Delevingne that this requirement was included to meet the desire that had been expressed by the American and other Delegations that the statistics should show the amount of morphine used for transformation into codeine, because only in that way could the Board obtain a complete picture of the use of the substances to which the Convention applies. That was the reason, he said, why the Drafting Committee had used the word "substances," instead of raw materials from which the drugs are in the first instance manufactured.

¹¹ See Resolution VII of the "Final Act."

CHAPTER XXII

MEDICAL NEEDS, DEFINITIONS, CODEINE, HEROIN, ETC.

To Sub-Committee F, composed of medical, pharmaceutical and statistical experts, were referred questions dealing with the definitions of the drugs to be covered by the Convention; with the determination whether or not particular drugs were to be deemed habit-forming in character, and, if so, whether their manufacture should be wholly forbidden; and with the legitimate medical and scientific needs of the world for specific narcotic drugs, or of the raw materials from which they are manufactured.¹

With regard to the legitimate requirements of opium and opium alkaloids, 450 milligrammes per head was accepted as a proper figure for countries with a developed medical organization. For cocaine the figure was fixed at 7 milligrammes.

Codeine. Regarding codeine the Committee reported that, though a derivative of morphine, its properties prohibited it from being either medically or scientifically reckoned among narcotics, but that, as dangerous substances with trade names similar to codeine (cucodal, dicodide) were, like codeine products, obtained from morphine, it was desirable to define what was to be understood by derivatives, and to draft paragraph (e) of Article

¹ For Reports of this Committee see Documents O. D. C. 59, 71 (2), 72 (1), 100, and 73, the last being a Minority Report by Surgeon-General Blue of the American Delegation.

14 in such form that no new product possessing habit-forming narcotic properties might either now or in the future be excluded from the provisions of the Convention. The report continued :

In view, however, of the use of large quantities of morphine in the manufacture of codeine and possibly of other non-narcotic derivatives, it is very necessary to be able to control the quantity of morphine thus used. On the proposal of the French Delegation the Committee adopts the following resolution :

“ In order to exercise as strict a control as possible over the manufacture of narcotic alkaloids of opium and the coca leaf, the Contracting Parties undertake to adopt any measures enabling them to ascertain the quantity of these alkaloids transformed into non-narcotic derivatives.”

Of ecgonine, which is, so to speak, a secondary raw material in the manufacture of cocaine, the Committee reported that it could not possibly be confused with any substance under this name, but it seemed to all the Delegates that this substance must necessarily come under the provisions adopted for the manufacture and traffic in noxious drugs.

Derivatives. Article 14 of the American programme recommended that the powers should apply their laws respecting the manufacture, import, export, sale, etc., of morphine, cocaine, their respective salts and their derivatives, to certain enumerated drugs. This word “ derivatives,” Sub-Committee F said, should be deleted wherever it appeared “ since if the expression was not limited exclusively to the dangerous derivatives aimed at by the Convention which are already known or may be discovered, this expression would constitute in the case of some of those derivatives a serious technical error. By allowing this word to stand, we should end by including within the scope of those provisions of the Convention products which have a totally different medicinal effect,

or which are in any case not dangerous in the sense of those drugs we are considering.”

In the Minority Report which he filed as a member of Sub-Committee F, Surgeon-General Blue urged that the word “ derivatives should not be deleted because, if it were, an accurate accounting of the course and disposition of consignments of opium would be rendered impossible. “ It may be mentioned,” he said, “ that statistics collected by the Advisory Committee on the Traffic in Opium indicate that only six states have so far tabulated returns respecting codeine, and these figures are for the most part not reliable.”

Heroin. The American Delegation proposed that the Powers should agree wholly to prohibit the manufacture of heroin, and, at the thirteenth plenary meeting of the Conference, Surgeon-General Blue, of the American Delegation, made an elaborate argument in support of this view. He pointed out that the importation of heroin into the United States had been forbidden by Act of Congress as had also the importation of raw opium for the manufacture of the drug, and that, inasmuch as no raw opium is produced in the United States, the effect of this legislation is, as far as the United States is concerned, wholly to prohibit the manufacture and distribution of the drug. He further showed that, as early as 1916, the United States Public Health Service had decided that the need for heroin as a respiratory sedative might be met by the use of less dangerous drugs and that, therefore, the use of heroin in the United States Marine Hospitals and Dispensaries under its control should be discontinued, and that other medical services of the Government of the United States had quickly followed the lead thus given.

Furthermore, in 1920, the House of Delegates of the American Medical Association, with a membership of 90,000, and representing 80 per cent of the medical profession in the United States, had unanimously recommended "That heroin be eliminated from all medical preparations. And that it should not be administered, prescribed, nor dispensed, and that the importation, manufacture, and sale of heroin should be prohibited in the United States."

General Blue continued:

It is, of course, impossible in this brief statement to dwell at length upon the medical and scientific aspects of this question, but I shall endeavour briefly to summarise the reasons impelling the medical profession of the United States to condemn the use of this pernicious drug. For many years the medical profession had been endeavouring to find a substitute for morphia, and in 1898 a German chemist subjected morphia to the action of acetic acid and produced heroin or as the drug is scientifically known diacetyl-morphine hydrochloride. It is a most significant fact that at the time the drug was being widely heralded as the long-sought-for substitute for morphia German pharmacologists warned physicians from the beginning against the use of heroin and pronounced it to be not indispensable. If we can accept the opinion of medical authorities of the highest character heroin possesses the double action of cocaine and morphia; it produces the excitation of cocaine together with the sedative effects of morphia. Heroin cuts off the sense of moral responsibility much quicker than does morphine, and for that reason heroin addicts will the more quickly commit crime with no sense of regret or responsibility. While heroin obliterates responsibility, as does also cocaine, the muscular reaction is quicker than in the case of the latter drug. From a physiological standpoint the effect of the drug is to benumb the inhibitor and to make of moral cowards brutal, brainless men without fear and without conscience. As an eminent physician has stated "It inflates the personality, and exaggerates the ego."

At the hearing on the Bill to prohibit the manufacture of heroin the chief physician of one of the largest prisons in the United States testified that 96 per cent of the men admitted to the prison, who were drug addicts, were heroin addicts and that the average age of the heroin addict was younger than that of other prisoners. He further stated that in the light of years of observation and experience, he was of the opinion that a very great percentage of men convicted of crime were drug addicts who, had they not been influenced by the drug habit, would not have become criminals. The magistrate of the largest city in the United States has gone on record as stating that 98 per cent of drug addicts are using heroin and that an addict using morphine or cocaine is so rare as to attract attention.

The small dose and bulk of heroin facilitates smuggling and secret addiction. Because of its potency and solubility, the drug may be snuffed, with the result that the habit may be readily acquired and easily concealed. On account of its poisonous qualities which act upon respiration, heroin has been declared to be the most toxic of all drugs of addiction. . . . The suppression, however, of the manufacture of heroin in the United States is of little value unless the other manufacturing nations are prepared to take similar action for the reason that the heroin abusively used in the United States is for the most part manufactured abroad and enters the country through illicit channels.

While we have every desire to protect, so far as may be possible, the people of the United States from the baneful influences of heroin, it is not for this reason alone that we are appealing to the other manufacturing countries here represented to suppress the manufacture and distribution of this most pernicious of all drugs. Drug addiction knows no barrier or limitation. The problem of the United States today will be your problem tomorrow, and we therefore appeal to you to join us in a common cause against a common enemy.

M. Beland of the Canadian Delegation said that he whole-heartedly supported the views expressed by General Blue. Without further discussion the matter, as being a medical one, was referred to Sub-Committee F.

That Committee, however, with the exception of the American representative upon it (General Blue), decided

that it was not desirable wholly to suppress the manufacture and use of heroin. In its report, the Committee said:

Only on the recommendation of a medical enquiry throughout the whole world could its entire suppression be decided upon. Nevertheless, impressed by the terrible ravages of the heroin habit, especially in the United States of America, the Sub-Committee in contrast to the stipulations of the previous article as regards morphine and cocaine, adopted the suppression of the percentage, which means, in practice, that it is impossible to sell to the public any preparation containing even the smallest quantity of heroin without a medical prescription.

For this reason some of the Delegates found it necessary to observe that they were not empowered to accept this modification, and that, although they associated themselves personally with the high motives which inspired the change, they made a reservation regarding their Government's acceptance of this suppression of the tolerance extended to other narcotic alkaloids.

At the same time many of the Delegates considered that it would be well to proceed, first, to the reduction, and then no doubt to the removal of heroin from therapeutics throughout the world.

Article 14 of The Hague Opium Convention provides that the Powers shall apply their laws respecting the manufacture, import, sale, or export of morphine, cocaine and their respective salts to medicinal opium, to all preparations (official or non-official, including the so-called anti-opium remedies) containing more than 0.2 per cent of morphine, or more than 0.1 per cent of cocaine, and "to heroin, its salts and preparations containing more than 0.1 per cent of heroin."

Sub-Committee F, in its report, said that it "considered that The Hague Convention, having served since 1912 to establish the present practice, which is already consecrated by use, no new fact could justify the alteration of this wording.

At the thirtieth meeting of the Conference, M. de Myttenaere of the Belgian Delegation pointed out that, under The Hague Convention, preparations containing less than 0.1 per cent of heroin might be dispensed by apothecaries and others without a medical prescription, and urged that this permission should be done away with so that no preparations containing heroin in any amount might be so dealt with. In support of the proposition of thus dealing more strictly with heroin than with morphine and cocaine he said:

Medicinal opium contains 10 per cent of morphine; coca leaves contain cocaine in varying percentages. It is therefore impossible to conceive that any quantity of opium or coca leaves can be delivered without at the same time delivering morphine or cocaine. Neither prepared opium nor coca leaves, however, contain diacetylmorphine [heroin]. Diacetylmorphine is not a natural product; it is a chemical product derived from morphine. It is absolutely necessary to authorise chemists to dispense preparations containing very small quantities of opium or cocaine on their own responsibility. It is therefore desirable to exempt from the terms of the Convention preparations which contain a certain percentage of morphine or cocaine. The action of these alkaloids is universally known, and there is a great variety of these preparations, which, it may be pointed out, cannot possibly lead to drug addiction. On the other hand, there is no reason for adopting the same policy in the case of preparations which contain diacetylmorphine. Already certain countries—the United States, Canada, Brazil, Poland, Norway and Ireland, for instance—are agreed in declaring that diacetylmorphine is a medicament which is not indispensable, and which has only one advantage over morphine, namely that in much smaller quantities it constitutes a first class narcotic.

After considerable discussion, in which varying views were expressed as to the medicinal value of heroin, M. Myttenaere's proposal was not accepted, but it was

agreed that all preparations containing more than 0.05 per cent of heroin should be brought under the operation of the Convention which was to be adopted.

However, when the matter again came before the Conference at its thirty-seventh meeting upon the second and final reading of the draft convention reported by the Drafting Committee, it was voted that the provisions of the Convention should apply to "all preparations containing diacetylmorphine (heroin)."

CHAPTER XXIII

DISCUSSION OF THE CONVENTION AS REPORTED BY THE DRAFTING COMMITTEE

An informal draft of the Convention had been submitted to the Drafting Committee on February 5. The draft submitted to the Conference was, however, dated February 8,¹ and a revised draft on February 9.²

The discussion of this draft by the Conference was begun at its twenty-ninth meeting. The changes in this draft which resulted from this discussion will be indicated only in so far as they were significant in character, either by reason of their substance or because of the grounds upon which they were made. It should, however, be said that this discussion thus begun was spoken of as merely a "first reading," that is, that there would be later opportunity for further changes as to phraseology or minor matters.

Prepared Opium. Article I of the Draft in its definitions of substances included one of Prepared Opium. The point as to the competence of the Conference to deal in any manner with the matter of prepared opium was raised, and, upon a vote taken, it was agreed to delete the definition.

New Habit-Forming Drugs. Article X of the Draft Convention provided that, in the event that the Health

¹ Document O. D. C. 106.

² Document O. D. C. 106 (1).

Committee of the League of Nations, after consultation with the Permanent Committee of the Office International d'Hygiène in Paris, should find any narcotic drugs not mentioned in the Convention are liable to similar abuse as the drugs to which the Convention does apply, it should so inform the Council of the League and recommend that the provisions of the Convention be applied to them; and that as soon as ten of the Contracting Parties had agreed to this recommendation the provisions of the Convention should apply as between such Parties. It was proposed by the Egyptian Delegation that, immediately upon notification by the Council of this recommendation, the provisions of the Convention should apply to all the Parties signatory thereto.

This proposal was rejected upon the ground that, in effect, it gave to the Health Committee of the League authority to amend the Convention, and would bind the Powers to future action in a manner which would be incompatible with their sovereignty.

It was finally agreed that the recommendation of the Health Committee should be binding as between those Powers that accepted it.

Obligations Towards Non-Contracting Powers. Article XVIII of the Draft Convention provided as follows:

If any Contracting Party finds it impossible to apply any provision of this Chapter V ("Control of International Trade") to trade with another country by reason of the fact that such country is not a party to the present Convention, such Contracting Party will only be bound to apply the provisions of this Chapter so far as the circumstances permit. It shall, however, take all measures within its power to secure that the objects of the present Chapter are fulfilled so far as circumstances permit, and in particular to prevent

the country which is not a party to the present Convention becoming a centre of the illicit trade.

Upon the motion of M. van Wettum (Netherlands) the propriety of retaining the last sentence of this Article was questioned and in result, this sentence was deleted from the Convention as finally framed and signed.³

Second and Final Reading of the Draft Convention, Protocol and Final Act. The second and final reading of the Draft Convention, Protocol and Final Act was begun and finished at the thirty-seventh meeting of the Conference. Except with regard to the constitution and powers of the Permanent Central Board,⁴ the discussions in the Conference upon this second reading of the Draft Convention related to matters of detail and phrasing, and they do not need to be here reviewed.

Adherence and Denunciation. The last—thirty-ninth—Article of the Convention provides that

Any State signing or acceding to the present Convention may declare at the moment either of its signature, ratification or accession, that its acceptance of the present Convention does not include any or all of its colonies, overseas possessions, protectorates, or overseas territories under its sovereignty or authority or in respect of which it has accepted a mandate on behalf of the League of Nations, and may subsequently accede, in conformity with Article 35⁵ on behalf of any such colony, overseas possession, protectorate or territory excluded by such declaration.

³ M. van Wettum raised this point in view of Article 26.

⁴ See p. 400.

⁵ Article 35 is as follows:

"After the 30th day of September, 1925, the present Convention may be acceded to by any State represented at the Conference at which this Convention was drawn up and which has not signed the Convention, by any

Denunciation may also be made separately in respect of any such colony, overseas possession, protectorate or territory, and the provisions of Article 38 shall apply to any such denunciation.⁶

Application of the Convention to Colonies, Protectorates, Dependencies, Etc. At the thirty-fourth meeting of the Conference, Mr. Sugimura, a member of the Drafting Committee, called attention to the fact that the draft of the Convention then under consideration did not contain an Article corresponding to Article XV of the Convention drawn up by the Conference on Freedom of Transit, and that this omission had been intentional. This Article XV of the Convention on Freedom of Transit reads :

It is understood that this Article is not to be interpreted as regulating in any way the rights and obligations *inter se* of territories forming part of or placed under the protection of the same sovereign State, whether these territories, taken individually, are or are not Members of the League of Nations.

Member of the League of Nations, or by any State to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

"Accession shall be effected by an instrument communicated to the Secretary-General of the League of Nations to be deposited in the archives of the Secretariat. The Secretary-General shall at once notify such deposit to all the Members of the League of Nations signatories of the Convention and to the other signatory States."

* Article 38 provides:

"The present Convention may be denounced by an instrument in writing addressed to the Secretary-General of the League of Nations. The denunciation shall become effective one year after the receipt of the instrument of denunciation by the Secretary-General, and shall operate only in respect of the Contracting Party which makes it.

"The Secretary-General of the League of Nations shall notify the receipt of any such denunciations to all Members of the League of Nations signatories of or adherents to the Convention and to the other signatory or adherent States."

Mr. Malkin of the British Delegation, confirming the statement of M. Sugimura that this omission had been intentional, said:

My friend M. Sugimura knows as well as I do the reasons why that Article is necessary in certain conventions. The reason why it is not inserted here is that certain provisions in this Convention—such as those dealing with export authorisation, import certificates and so on—are (at any rate in the view of my government, and no doubt in the view of the other governments of the British Empire) to be applied to export between Great Britain and Canada, for example, if that Article were to be inserted, it would mean precisely the opposite.

At the thirty-eighth meeting of the Conference Sir Malcolm Delevingne said:

I have to make the declaration which is usually made by the Representative of Great Britain on occasions of this kind.

As the Conference is aware, the self-governing Dominions of the British Empire, which are Members of the League, sign a Convention of this kind independently, and therefore I have to make the following declaration, that at the moment of signing the Convention my signature does not bind those parts of the British Empire which are separate Members of the League of Nations.

However, in Resolution 1, embodied in the Final Act, the following declaration was made by the Conference:

The Conference recognizes that, to enable the Convention relating to Dangerous Drugs, signed this day to produce its full effect, it is essential that it should be applied as widely as possible in the colonies, possessions, protectorates and territories mentioned in Article 39 of the Convention. The Conference accordingly expresses the earnest hope that the Governments concerned will take the necessary steps to that end with as little delay as possible, and that the number of such colonies, possessions protectorates, or territories excluded from the operation of the Convention may be reduced to a minimum.

French Reservation. Beneath the signatures of the French Delegates to the Convention the following reservation was inserted:

The French Government is compelled to make all reservations, as regards colonies, protectorates and mandated territories under its authority, as to the possibility of regularly producing, within the strictly prescribed time-limit, the quarterly statistics provided for in paragraph 2 of Article XXII.⁷

Persian and Siamese Reservations. In the Final Act the following reservations by Persia and Siam respectively are noted:

The Persian Delegate, acting on instructions from his Government, declares that he signs the Convention *ad referendum* and subject to the League of Nations acceding to Persia's request as set forth in its Memorandum.⁸

In signing the Convention and the present Final Act, the Siamese Delegation wishes to declare that, having no instructions on the subject of Indian hemp, which was not originally on the Agenda of the Conference, the Siamese Delegation is obliged to make reservation of Chapter III in regard to galenical preparations of Indian hemp and of Chapters IV and V solely in regard to Indian hemp.

Final Meeting of the Conference. Speech of M. Zahle. The final (thirty-eighth) meeting of the Conference was held on February 19, and was devoted to a concluding address by President Zahle, and to shorter speeches by

⁷ This paragraph provides: "The Contracting Parties agree to forward to the Central Board, in a manner to be prescribed by the Board, within four weeks after the end of each period of three months, the statistics of their imports from and exports to each country of each of the substances covered by the present Convention during the preceding three months. These statistics will, in such cases as may be prescribed by the Board, be sent by telegram, except when the quantities fall below a minimum amount which shall be fixed in the case of each substance by the Board."

⁸ Document O. D. C. 24.

delegates voicing their admiration of, and gratitude for, the manner in which M. Zahle had executed the functions of his office, and expressing their appreciation of the value of the services of the Secretariat of the League of Nations.

President Zahle's speech was devoted to a summing up of the results achieved by the Conference, and, these results, though perhaps somewhat generously estimated, were so clearly presented that the speech deserves to be quoted with but slight abridgment. M. Zahle said :

The Opium Conference, I say unhesitatingly, has been the most difficult Conference in the history of the League of Nations. We have touched on the centuries old practices of the East; we have come hard against the economic status of several nations; we have found ourselves confronted by the most complicated and baffling details; we have seen the struggle between the smuggler and the law-enforcer; and yet we have had to safeguard legitimate rights and legitimate uses of drugs when fulfilling their errand of mercy in alleviating suffering. The drug question is both a boon and a curse to civilisation; it contains much that is good as well as much that is bad; but where it is bad it is like a many-headed Hydra rearing its ugly features despite all precautions in most unexpected places.

The Conference opened on November 17, with 41 States present, including four non-members of the League. It sat till December 20, when the combination of the holidays and the breach of opinion already manifested made adjournment desirable in order to give the Delegates opportunity to consult their Governments. The Conference resumed its work on January 19, with three of the Delegations reinforced by new Delegates. On February 6, the Delegation of the United States of America, and on the following day that of China, withdrew because of disagreement with the progress of the Conference. Today, February 19, we complete our work, and immediately the long process of signature, ratification and executions of the resultant Convention begins.

No League Conference has ever lasted so long. For nearly 70 days we have been in session. Thirty-eight times we have met in

plenary conference and over 100 times in sessions of commissions, committees or sub-committees. The effort and the material labour expended is well illustrated by the single fact that over two million sheets of paper have been roneoed and distributed.

The Conference . . . makes no claim to complete success. On the contrary, it frankly recognises that it leaves behind it questions which will not be solved for years, possibly even decades. Yet I do unhesitatingly believe that this Conference has struck a most powerful blow at the drug evil. The immense publicity which has been had from its open debates in an international centre has sounded a warning of the drug evil which will be heard in the far corners of the world. The facts which have been brought out here and the education there has been both of the delegates and of public opinion have put the question in a light never before possible. That, I think, is the great cardinal result of our long deliberations. The drug problem is now before world opinion and will stay before world opinion until it is solved.*

Apart from publicity, the Conference has greatly strengthened The Hague Convention of 13 years ago. The general principles enunciated in that Document have now been provided with the mechanism for their realisation. The first step has been taken towards the constitution of that international control which will eventually destroy the evil aspects of the drug traffic.

The keystone of this control is the Central Board of eight permanent and disinterested experts who are to be armed with all the statistics which the Governments can provide as to the nations' legitimate requirements for production and manufacture. This Board will in effect be a great fact-finding body which in a few

* It is to be noted that M. Zable's appreciation of the value of publicity did not extend to the meetings of the Sub-Committees. At the first meeting of the First General Committee he said: "I venture in view of my long experience in the matter to suggest that to make the meetings of the Sub-Committees public would be, in my opinion, a dangerous procedure, not because we have to deal with questions which should be kept from the press or the public, but because those Sub-Committees have to deal with the preparatory work which is the most important of all and because it is impossible to do such work properly if the public is present. I therefore support the opinion expressed by the Delegate for India."

years should cast its light of publicity into the darkness of the drug question and allow the world to distinguish the good from the evil. Then, and then only, will we have the data essential for an intelligent and scientific course of action.

That, however, is not all. Should statistics prove that any nation's territory is being used for an importation grossly in excess of its needs and obviously a danger to others, the Board can recommend the cessation of shipments to that nation. The mere threat of such action and the mere danger of an aroused world opinion should constitute an almost irresistible weapon which it may be expected will never have to be used.

Obligations as intricate and complicated as the drug problem itself have been accepted by the Signatory Powers to make all this mechanism effective. Estimates of needs, statistics of production and of manufacture; control and supervision of factories; extension of the system of import and export certificates; provisions for the control of transshipment and for free ports; even, for the first time, I believe, provisions as regards transportation by air; all have been incorporated in this new treaty in order to prevent any possible leakages. While no one, I think, suffers under the delusion that the present system is watertight, all of us, I am sure, feel that its imperfections can be overcome as they manifest themselves with experience.

If manufacture and transit have been well cared for, the same success cannot be claimed for production. The American principle for a limitation of production to medicinal and scientific purposes, though accepted as a principle by both the Advisory Committee on the Traffic in Opium and the Assembly, has not been included in the Convention as a contractual obligation. While, again, no one disputed the rightness of this principle, the objections by the producing countries to its immediate acceptance as a binding obligation made it obvious that years will be required before the principle will become effective in fact. Every possible effort was made, even up to the last day of the Conference, to find a solution, but when no solution appeared possible, the frankest and the wisest course seemed to be to strengthen the original provisions of The Hague Convention. The difficulties before the immediate acceptance of this proposal were twofold: First, international control has not yet become suffi-

ciently accurate and scientific to justify the world in attempting to reduce and to apportion production amongst the various nations, and, second, the producing nations would find themselves faced by grave economic and political difficulties if they attempted brusquely and without alternative compensation to reduce a commerce deep-rooted in custom and in large part at least justifiable.

The way however, has been pointed out. On the one hand, the producing countries realise that in total they are providing far more drugs than the world needs; on the other, the world realises that the reduction of production can take place only on a scientific programme and with due regard to existing legitimate interests. Such a sharp clarification of the situation is the first essential on the road to ultimate success. Facts are needed in order to apportion the reduction, and alternative economic activities are essential to meet its losses.

Similarly, only a limited progress can be claimed as regards the smoking of opium in certain Pacific countries. While this question was the sole item on the Agenda of the First Conference, nevertheless a Joint Committee of that Conference and this was created to hear and to discuss the American proposal for a total suppression of that practice within 15 years. Agreement unfortunately was not reached, as the countries where the practice is temporarily permitted under The Hague Convention felt unable, with the exception of Japan, to accept the immediate initiation of that period of suppression on the ground that the present heavy smuggling would render such acceptance illusory. Instead, they strengthened their measures for the control of the practice and accepted the principle of total suppression within a 15-year period provided that that period should not begin to run until some outside international authority, such as the Council of the League of Nations, ruled that the danger from smuggling had ceased. This result, however, was unacceptable to the American Delegation which, very largely for this reason, withdrew from the Conference. Regrettable though this withdrawal was, I feel that our Conference did what was in its power to do to provide a solution which would go far enough to convince the American Delegation that real progress was under way and not too far to appear impracticable to the Powers immediately responsible for the administration of these territories.

Such, then, is the broad outline of the results of our eight-weeks' effort—an unprecedented publicity, a thorough appreciation of the facts and the difficulties of these immensely intricate problems, the creation of a real mechanism for the day-to-day execution of The Hague Convention, an understanding of the problem of the limitation of production which is essential for final success, and a thorough discussion, even without final agreement, of the prepared opium problem. More and more as we leave behind us these surcharged, and at times even hard, moments through which we have passed, I am sure we will begin to see that, after all, the sun is not far from breaking through the clouds.

One special consideration I would mention: the most serious and the most unfortunate incident of the Conference, namely, the withdrawal of the Delegation of the United States of America. Utterly unchallengeable, I believe, is the statement that that Delegation, by its boldness, its directness, and its devotion, had given a supreme impetus to the whole anti-drug campaign. Important political personalities had thrice crossed the Atlantic to help in our discussions and this last time had been away from home nearly four months.

No voice was raised, and indeed, I believe, no voice can be raised, against the justice of the principles enunciated by the American Delegation. The only question is as to the moment when they can be realised. The American Delegation contended for immediate action; the other Delegations felt that time was required. Without taking position between these two viewpoints and with full recognition of the generosity with which the American Delegation has given us of its time and its activity, I cannot but express my own regret, first that the Delegation should have felt it necessary in any circumstances to withdraw, and secondly, that they felt it necessary to withdraw before the end of the Conference.

We cherish, however, the statement of its chief Delegate that this immensely intricate problem of drugs can be solved only by international coöperation. We have tried since the withdrawal of the Delegation not only to take no action which might make its renewed coöperation more difficult, but even to carry out so far as we understood them, the various view-points which they had advanced. Despite our efforts, however, I feel confident the Convention would have been an even better one if the Delegation had remained to the end.

Nevertheless, we look back on America's attendance with gratitude for her energy and regret for her departure. We have gladly safeguarded America's right to coöperate in the choice of the Central Board and in the general execution of the Convention and we venture to hope that it will not be long before she will as gladly return to the world-wide movement which we have launched here.

In closing, let me again reaffirm my conviction that the drugs question has entered upon a new period. It is now caught in the day-to-day machinery of the League of Nations. It cannot escape. Where The Hague Conference adjourned without leaving behind it either organisation or permanent machinery, this present Conference is but the opening step in a movement which will accelerate from day to day and from month to month. Within a week the instrument which you sign today will be dispatched for the ratification of the parliaments of the world; within a month the Council of the League will have before it a report on the First Conference; within the year, many of you who are Delegates to this Conference will be reviewing these questions in a broad way at the Sixth Assembly of the League of Nations; and within a reasonable time we may hope that the mechanism which we have here provided will be set in motion to bring into being the Central Board. From today on, then, I think we can count that the very intricate and the very many-sided campaign which we have outlined during the past eight weeks will follow on and on through its various successive stages until this terrible scourge, from which so many different branches of the human family are suffering, shall finally have been laid to rest.

CHAPTER XXIV

CHINA AND THE TREATY POWERS: CHAPTER IV OF THE HAGUE CONVENTION

The Hague Convention of 1912 contains a special chapter—Chapter IV—dealing with the problem of opium and narcotic drugs as affected by the extraterritorial rights of certain Powers within China.¹

¹ The *China Year Book* for 1924-1925, p. 265, gives the following statement regarding the so-called "Treaty Powers":

"The countries that have treaty rights in China are Belgium, Brazil, Denmark, France, Great Britain, Italy, Japan, Mexico, Netherlands, Norway, Peru, Portugal, Russia, Spain, Sweden, Switzerland, and the United States.

"Sweden agreed in her Commercial Treaty with China, signed in 1908, (Article X), to relinquish consular jurisdiction as soon as all other Powers have agreed to relinquish their extraterritorial rights.

"Bolivia has agreed, in an exchange of Notes, that the 'most favored nation' clause in Article II, of the Treaty of 1919, does not imply that Bolivia is entitled to extraterritorial rights in China.

"Persia also, in a treaty concluded with China in 1920, agreed, in Article IV that 'in all civil and criminal cases to which Persian subjects are parties, they shall be subject to Chinese law and jurisdiction.'

"Germany and Austria-Hungary lost their extraterritorial rights when China declared war upon the Central Powers in 1917, and they were not restored by the subsequent Treaty of Peace made between China and these Powers. Citizens of these Powers are now, therefore, subject to Chinese jurisdiction.

"It is unlikely that China will concede extraterritorial rights in any future treaties, and there has been a tendency of late to resist the claims of consuls of Treaty Powers to enforce them in respect of subjects of Non-Treaty States who are registered as protégés."

By the Sino-Russian Agreement of 1924, (Article XII), Russia renounced all rights of extraterritorial and consular jurisdiction in China.

By Declaration VI, annexed to this agreement, the Governments of China and the Union of Soviet Socialist Republics agreed to establish equitable

By Article XV of this Chapter the Powers having treaties with China agreed, in conjunction with the Chinese Government, to take the necessary measures to prevent the smuggling into Chinese territory, as well as into their Far Eastern colonies and into the leased territories which they occupy the China, of raw and prepared opium, morphine, cocaine, and their respective salts, as well as of the substances referred to in Article XIV of The Hague Convention.

By Article XVI, the Chinese Government agreed to promulgate pharmacy laws for its subjects regulating the sale and distribution of narcotic drugs and to communicate these laws to the Diplomatic Representatives of the Powers at Peking. The Treaty Powers, upon their part, undertook to examine these laws, thus communicated to them, and, if found acceptable, to apply them to their own nationals residing in China.

By Article XVII, the Treaty Powers agreed to adopt the necessary measures to restrict and control the habit of smoking opium in their leased territories, settlements, and concessions in China, and, *pari passu* with the Chinese Government to suppress within such areas opium dens or similar establishments and to prohibit the use of opium in places of entertainment.

By Article XVIII the Treaty Powers agreed to take effective measures, *pari passu* with the efforts of the Chinese Government, directed to the same end, for the

provisions for the regulation of the situation created for the citizens of Russia by this relinquishment of extraterritorial rights.

For the Resolution Regarding Extraterritoriality in China adopted at the Washington Limitation of Armaments Conference, see Willoughby, *China at the Conference*. Generally upon Extraterritoriality in China and the problems connected therewith see Willoughby, *Foreign Rights and Interests in China*.

gradual reduction of the number of shops in which raw and prepared opium was sold in their leased territories, settlements, and concessions in China. They also agreed to adopt effective measures for the restriction and control of the retail trade in opium in such areas.

By Article XIX, the Contracting Powers having post-offices in China agreed to prohibit the illegal import into China in the form of postal packages, as well as the illegal transmission through these offices from one place to another place in China, of opium, raw or prepared, and the other narcotic drugs referred to in the Convention.

Under date of August 2, 1924, the Chinese Government submitted to the Opium Advisory Committee of the League a copy of the "Provisional Regulations for the Registration of Chinese and Foreign Pharmacies."²

Previous to this, in 1912, the Chinese Government had promulgated a Provisional Criminal Code, Chapter XXI of which dealt with offenses relating to opium; and, as is well known, in 1917 the production as well as the use of opium for other than medicinal purposes was absolutely forbidden.

At the fifth meeting of the sixth session of the Advisory Committee, the Chinese representative, Mr. Chao-Hsin Chu, pointed out that if China was to be enabled to give full effect to the measures for suppressing the traffic in opium within her borders, its Government would have to possess full power to enforce its laws, and that he hoped to obtain the help of the Powers concerned in order that this end might be achieved. Sir John Jordan, however, expressed the opinion that this raised a question which was not within the competence of the Committee, and that

² Document O. C. 196. Printed as Appendix IV of the Minutes of the Sixth Session of the Advisory Committee.

it is one to be dealt with by the Diplomatic Body at Peking. Sir Malcolm Delevingne said: "He believed that the traffic in drugs in China as carried on by nationals of Powers having extraterritorial rights was at present subject to regulation and control by the Powers," and that it would be useless for the Committee to deal with the subject. In the case of British nationals in China, he said that British regulations were already in force. He added:

It would be of more immediate value to consider whether the regulations in force, with regard to the trade in drugs in China carried on by subjects of Powers having extraterritorial rights, were really adequate, that was to say, whether they were sufficient to control the trade in the same way as it was controlled in the territories of the Powers themselves. Recently the British regulations in China had been revised, and now dealt with the matter in a very effective manner.

Some time ago he had called the attention of the Secretariat to the position of Great Britain in this connection, and had suggested that information should be obtained regarding the steps taken by other Powers. He thought accordingly that the Committee might recommend that all Powers having extraterritorial rights in China should, if they had not already done so, introduce regulations, similar to those adopted in their own country, to govern the trade in these drugs by their subjects in China.

Replying to Sir Malcolm, Mr. Chu said that the question had been taken up by his Government with the diplomatic bodies in Peking, but that none of the Governments were willing to waive their extraterritorial rights. "China did not expect a solution which would modify the treaty rights, but she wanted the support and coöperation of the members of the Committee and their Governments. It was an international question, and although many cases of smuggling had been discovered, some of them had eventually been found to be beyond the control of the Chinese authorities."

Sir Malcolm Delevingne pointed out that the provisions of Chapter IV—so far as foreign Powers were concerned—“referred only to leased territories, concessions and settlements, and that the regulations adopted by the British Government, and which he suggested should be recommended to the other Governments, related to the control of subjects of foreign Powers wherever they might be in China. . . . The British Government was only waiting for its new regulations to be formally promulgated in Peking before sending them to the Secretariat (of the League).”

The Advisory Committee thereupon adopted the following Resolution:

The Advisory Committee recommends that Powers having extra-territorial rights in China should, if they have not already done so, make regulations, the breach of which shall be punishable by the adequate penalties, to control the carrying on by their nationals in China of any trade in the drugs to which Chapter III of The Hague Convention applies. The Advisory Committee further recommends that copies of such regulations should be sent to the Secretariat of the League.

At the thirtieth session of the Council of the League (September 1, 1924, A. 43, 1924, XI) this recommendation of the Advisory Committee was approved, the rapporteur, Mr. Branting, saying: “This would appear to be a very fair proposal to which no justifiable objections can be raised, and I am sure that the Council as a whole will approve this recommendation exactly as it stands, and instruct the Secretary-General to communicate with the Governments in the manner proposed.”

In March, 1923, the Chinese Government referred to the Doyen, of the Diplomatic Body at Peking, the proposal that the Chinese Government should establish at Shanghai

a special Bureau for the control of the traffic in and use of dangerous drugs. More than a year later, in August, 1924, the answer was received from the Acting Doyen, Dr. Schurman, that some of the Ministers had not received instructions from their respective Governments and that a general decision was therefore not then possible.

Early in the Second Opium Conference at Geneva, the Chinese Delegation submitted the following Memorandum and Proposals with reference to Chapter IV of The Hague Convention :³

Above other nations, China is suffering by reason of the illicit trade in narcotic drugs. Besides the debasing effects of these drugs upon her people, there is the further circumstances that their widespread use enters as a discouraging element in the effort which the Government and the people are making to suppress the production and consumption of prepared opium which are illegal under Chinese law. It is, therefore, of special concern to China that the Governments of the countries where these drugs are manufactured should adopt common and effective regulations regarding their manufacture, export, re-export, transshipment, and transit with the view of confining traffic in them to their strictly medicinal and scientific uses.

China, which manufactures none of these drugs, will, upon her part, do all that is within her governmental power to control their importation into China, their transshipment and re-exportation, and will thus, in every possible way, coöperate with the other Powers in their efforts to solve the world-problem of confining the traffic in these drugs to strictly scientific and medical purposes.

And, as regards the trade in, and the use of these drugs within China, the Government of China will use all its powers, legislative and administrative, to prevent their use for other than the purposes which science and medicine approve. In most countries this is a task the performance of which is not directly dependent upon the coöperation of other Governments, but, in China, by reason of the existence of the extraterritorial rights of the nationals of a number

³ Document O. D. C. 39.

of the other Powers, as well, also, as by reason of the existence within China of areas within which some of the Treaty Powers are permitted to exercise certain administrative powers, it is necessary that the Government of China should obtain the hearty coöperation of these Powers in order that it may efficiently control the narcotic problem.

For the control of her own citizens over whom she has full administrative jurisdiction, the Chinese Government has enacted comprehensive and stringent laws which it enforces to the extent of its powers, but with regard to those of her citizens who live within the above-mentioned areas, as well with regard to the nationals of those Powers within these areas, and the nationals outside these areas who enjoy extraterritorial privileges, China is largely, if not wholly, dependent upon the coöperation of the Powers for the effective control of the use of narcotics. This fact is recognised in Chapter IV of The Hague Convention of 1912, which provided for harmonious and coöperative action between the Signatory Powers and China.

China has sought loyally to fulfil the obligations thus assumed by her, but she has thus far failed to receive full coöperation upon the part of the other Powers as regards the action required to be taken under Article XVI; namely, that Diplomatic Representatives of those Powers at Peking should examine the pharmacy laws regulating the sale and distribution of morphine, cocaine, their respective salts and other substances referred to in Article XIV of the Convention, enacted by the Chinese Government and communicated to them, with a view, if found acceptable, to applying them to their own nationals residing in China, and, furthermore, the Chinese Delegation is constrained to say with reference to the laws of some of the Powers, for the control of their own nationals in China, that the penalties they impose seem scarcely severe enough efficiently to attain the purposes for which they have been enacted, nor are they, in all cases, vigorously and uniformly enforced by the officials of the Powers concerned. This observation applies also to laws for the punishment of smuggling of opium and narcotic drugs into China.

Therefore, in order that the present unsatisfactory conditions may be corrected, the Chinese Delegation requests that, in substance, the following provisions be included in the Convention which, it is to be hoped, will result from the labors of this Conference.

1. That the existing laws and regulations and administrative processes of the Signatory Powers shall be so strengthened and perfected as to prevent the exportation, importation, transshipment, transit and re-exportation of opium, except as provided for in Chapter II of The Hague Convention of 1912, and of morphine, heroin, cocaine and other narcotic drugs except in amounts needed for strictly medicinal and scientific purposes.

2. That prompt examination of, and action not later than April 1, 1925, with regard to the application to their own nationals of the pharmacy laws of the Chinese Republic regulating the sale, possession, and distribution of narcotic drugs shall be made by the Powers enjoying extraterritorial rights in China, as provided for in Article XV of The Hague Convention.

3. That the Powers which enjoy extraterritorial rights in China shall either apply Chinese laws to their nationals for contraventions against Chinese laws prohibiting the cultivation, sale, transport or trade in opium and other narcotics, or enact adequate laws regulating these matters which shall provide that the violation of these laws by their nationals shall be punishable by fines whose amounts shall be multiples of the values at the places where the offences are committed of the drugs concerned and, in addition, by terms of imprisonment, and, at the expiration of such terms, deportation of the party or parties concerned from China and prohibition thereafter to return to China.

4. That the Powers enjoying extraterritorial rights in China shall either apply to their own nationals in China the laws of China with regard to the smuggling or attempted smuggling into China of opium or narcotic drugs, or strengthen their own laws by attaching to them penalties for their violation which shall include fines the amounts of which shall be multiples of the values of the opium or drugs concerned, together with terms of imprisonment at the expiration of which terms the party or parties shall be deported from China and forbidden thereafter to return to China.

Reciprocally, China will adopt measures to prevent the smuggling out of China by her own nationals of opium or narcotic drugs into the territories and possessions of the Contracting Parties.

5. That, if the smuggling of opium or the aforesaid drugs into China or their sale in China or their attempted smuggling or sale,

is by or with the connivance of the officers of a ship, the ship also shall be subject to a fine equal in amount to a multiple of the local value of the goods smuggled or sold or sought to be smuggled or sold.

6. That the trial of foreign nationals who enjoy extraterritorial rights in China for offences referred to in the preceding paragraphs shall be in open court, and that, at such trials, Chinese assessors may be present.

The only discussion by the Conference of the foregoing Memorandum and Proposals was that which took place at the fourth meeting of the Second General Committee.* Upon that occasion Dr. Sze said, in part:

I have been told that I was going to raise the question of extraterritoriality. Let me say at once that there is no such intention in my mind, although I have always felt, and still feel, that the extraterritoriality imposed on China is unjust and unfair, and should be removed as soon as possible. I do not, however, propose to raise that question here. . . .

I simply ask you (and everyone knows that something must be done) to tighten up the prevention of smuggling, not only in the interests of China, but in your own interests, and in the interest of humanity. . . . I ask you, therefore, either to adopt the Chinese laws on those questions, or if you find that inconvenient, to strengthen your own laws. . . . The United States, as far back as 1844, conceded to China rights much greater than anything in the proposals which I have put before you.⁵

* Document O. D. C./II/C. R. 4.

⁵ Article XXXIII of the Sino-American Treaty of 1844, reads:

"Citizens of the United States who shall attempt to trade clandestinely with such of the ports of China as are not open to foreign commerce, or who shall trade in opium or any other contraband articles of merchandise, shall be subject to be dealt with by the Chinese Government, without being entitled to any countenance or protection from that of the United States; and the United States will take measures to prevent their flag from being abused by the subjects of other nations as a cover for the violation of the Laws of the Empire."

Following Dr. Sze's remarks there was a discussion which dealt with the question whether or not the Treaty Powers had been unduly slow in passing upon the question whether the Chinese provisions were such as could be accepted by them for application to their own nationals residing in China, and also whether the whole subject was not one which could be best dealt with by negotiations between the Chinese Government and the Diplomatic Body at Peking. In result, it was decided that before the questions arising under the enforcement of Chapter IV

This clause, imposing only a unilateral obligation upon the United States Government, was superseded by one of reciprocity by Article II of the Treaty of 1880, which reads:

"The Governments of China and of the United States mutually agree and undertake that Chinese subjects shall not be permitted to import opium into any of the ports of the United States; and citizens of the United States shall not be permitted to import opium into any of the open ports of China, to transport it from one open port to any other open port, or to buy and sell opium in any of the open ports of China. This absolute prohibition, which extends to vessels owned by the citizens or subjects of either Power, to foreign vessels employed by them, or to vessels owned by the citizens or subjects of either Power and employed by other persons for the transportation of opium, shall be enforced by appropriate legislation on the part of China and the United States; and the benefits of the 'favoured nation' clause in existing Treaties shall not be claimed by the citizens or subjects of either Power as against the Provisions of this Article."

This clause is still in force by virtue of Article XVII, the Treaty of 1903, the annex to which reads:

"As citizens of the United States are already forbidden by treaty to deal in or handle opium, no mention has been made in this Treaty of opium taxation."

This treaty of 1903 also prohibits the importation into China of morphia and of instruments for its injection, excepting for medical purposes, provided the prohibition by the Chinese Government is made applicable to all nations and provided further that, the Chinese Government undertakes to prevent the manufacture of morphia and of instruments for its injection in China.

On March 3, 1915, the United States, enacted an elaborate law "to regulate the practice of pharmacy and the sale of poisons in the consular districts of the United States in China."

of The Hague Convention should be further considered by the Conference it was desirable that they should be considered in a conference of the representatives of China and of those countries participating in the Conference which have extraterritorial rights in China. "If," said Sir Malcolm Delevingne, who made this proposal, "as the result of such a conference, it appears that there are any definite recommendations which can usefully be made, then those recommendations can be presented for information and guidance of the Conference."

One meeting of this Conference was held at which the British Delegation circulated a copy of the British Order in Council promulgating regulations with regard to dealings in narcotics by British subjects in China, and the Chinese Delegation presented a revised draft of its proposals with reference to Chapter IV of The Hague Convention. These were as follows:

(1) That the Powers will give prompt consideration to the matter of applying to their nationals in China the Pharmacy Laws of the Chinese Republic, if such laws be found acceptable, and, in particular, the Regulation for the Registration of Chinese and Foreign Pharmacies as stated in the Memorandum of the Chinese Government submitted to the Advisory Committee of the League of Nations on Traffic in Opium and Other Narcotics on August 2, 1924, and published as Annex 4 to the Minutes of the Sixth Session of said Advisory Committee. And that, at the latest, decision as to the foregoing shall be given before January 1, 1926.

(2) That the Powers will take any and all such action as will permit the Republic of China to apply, to the extent needed, the system of export and import certificates as recommended by the League of Nations or any similar system adopted by any of the Signatory Power or Powers and China.

(3) That the Powers will issue instructions to their nationals, pharmacies, hospitals and other establishments or companies in the Republic of China to furnish to the Chinese Government such

statistics and other information as to opium and narcotic or habit-forming drugs imported by them into China or sold, used, or held in stock by them in China as will aid the Chinese Government in determining its per capita medicinal and scientific needs for opium and the aforesaid drugs.

(4) That the powers will make every possible effort to cause their several laws and regulations regarding the smuggling of opium and narcotic or habit-forming drugs into China and the illegal possession, transportation, sale, dispensing and use of opium and the aforesaid drugs in China to be uniform in character, and especially as to the penalties imposable for violation of them.

(5) That the Powers will provide that the penalties imposable for violations of the laws and regulations referred to in Paragraph 4 of this Agreement shall be of sufficient severity to have a highly deterrent effect, and that, in any case, when one is convicted of second offence thereunder, he or she shall be sentenced to a term of imprisonment, and, at the expiration of such term, if he or she is in China, deported therefrom and forbidden under heavy penalties to return thereto.

(6) That the Powers will make provision for the public trial of all persons accused of violating the aforesaid laws and regulations.

The special conference or committee then adjourned in order to study these proposals, but for various reasons another meeting was postponed from time to time with the result that nothing had been done before the Chinese Delegation withdrew from the Conference. After this withdrawal, none of the other Powers appeared to deem that their own interests were sufficiently involved to make it worth while for them to make any proposals for a more effective application and enforcement of the obligations they had assumed under Chapter IV of The Hague Convention. The whole matter was thus left in exactly the situation that it was before the Geneva Conferences convened.

This result is an unfortunate one. The exercise by one State of jurisdictional authority within the territory of another sovereign State is a serious matter to the State within whose borders the jurisdiction is exercised. It is, therefore, justified only under very exceptional conditions, and international friendliness requires that the Powers to which the privilege is granted should exercise it with all possible consideration for the feelings and welfare of the people of the State which has been compelled to grant the privilege. With reference, therefore, to the prevention and punishment of the smuggling of opium and narcotic drugs into, and their sale within China, there are the strongest possible reasons why the Powers enjoying extraterritorial rights should exercise them in a manner that will assist China in enforcing her own laws with regard to the same matters. There is thus every reason why these Powers should, when this is at all possible, adopt as their own laws, for application and enforcement within China, the laws of China, or, at least, to bring their own laws in the closest possible conformity to those of China. The propriety and desirability of this, as to pharmacy laws, is expressly recognized in The Hague Convention of 1912.

Still more important, and, indeed, almost imperative is it, that, in those cases in which they find it necessary to apply their own penal laws in an extraterritorial manner, the Powers should feel it incumbent upon themselves to make their own laws severe enough, and to apply them with sufficient vigor and impartiality to demonstrate to the people of the State within whose territories they are applied that extraterritorial rights are not being employed in such a way as to release their own nationals

from full responsibility for their own misdeeds, and thus to create in the minds of the Chinese people not only a belief that there is unjust discrimination as between themselves and the nationals of the Treaty Powers, but also a feeling that those Powers have not a sufficient regard for the public policies and interests of the people of China.

As regards the prevention of the smuggling of opium and narcotic drugs into, and their illegal sale within China, all of the Powers represented in this Conference had a common interest. Those of these Powers which have Far Eastern possessions have emphasized upon every possible occasion the difficulty they have been under in enforcing their own laws within these possessions by reason of the extent to which contraband traffic exists. They must, therefore, recognize the difficulties that China encounters from the same source, and be willing to do whatever lies within their power to lessen those difficulties.

What China asked for in the proposals which her Delegation presented to the Conference, involved no concessions from those Powers which do not possess extraterritorial rights in China, and, from those who do possess such rights, no real sacrifice of interest or of principle. All that was asked was that, where the Chinese laws are found suitable, the Treaty Powers shall adopt them as their own, and that, in those cases in which they may deem it desirable to employ their own laws, they should attach to them penalties which may be expected to be strongly deterrent in character, and to enforce them with vigor, uniformity and impartiality. By adopting these proposals of the Chinese Delegation, the Nations represented at this Conference would have shown their deter-

mination to give full effect to the provisions of Chapter IV of The Hague Convention of 1912, and furthermore, would have given additional evidence of their desire to coöperate internationally in a matter of common concern.*

*If one desires to learn something of the difficulties under which the Chinese Government labors by reason of the existence of extraterritorial rights in China in its efforts to control illicit trade in opium and narcotic drugs, an examination may be made of the case decided on February 27, 1925, by the International Mixed Court of Shanghai and described in *The China Weekly Review* for March 7, 1925 (Vol. XXXII, p. 1). That the Kingdom of Siam suffers in the same way by reason of the existence of extraterritorial jurisdiction within her borders, is seen by the remarks of Prince Charoon at the First Geneva Conference.

Mr. K. K. Kawakami, the well-known Japanese writer in an article contributed to the December, 1924, issue of *Japan*, says: "Not only is China surrounded by opium-using countries, but she has within her own territories several centers of the opium trade. Foremost of these centers is Shanghai, followed by Hongkong, Canton, Macao, Harbin and Dairen. The International Settlement in Shanghai is said to have at least 500 opium stores, and the French Settlement 140. In the Foreign Settlements the import and sale of opium is not forbidden, and it is but natural that they should become favorite rendezvous of opium addicts and the vantage-ground from which crafty smugglers, both foreign and native, make inroads into the interior of China."

CHAPTER XXV

GENERAL CONCLUSIONS

Regarded as a whole the results of the Geneva Conferences were far from satisfactory whether judged by the substantive contents of the Conventions that were signed or by the circumstances that attended their drafting. The fact that two important Delegations found themselves constrained to withdraw from the Conferences before their labors were concluded was, in itself, most unfortunate. And, in this connection, it is to be noted that a considerable number of other Delegations which did not formally withdraw were not in attendance at the later meetings of the Second Conference. Indeed, of the 41 Delegations that participated in that Conference only 14 remained to the end and signed the Convention on February 19.¹ This of course does not mean that a larger number of States will not later sign, but it is nevertheless significant that there should have been so few original signatories, and it still remains to be seen how many of the Governments which have signed will later ratify the instrument and thus enable it to be put into force as between themselves.

The two Conferences were convened to effect, if possible, three distinct objects. These were: (1) To limit to the world's medical and scientific needs the production of the raw materials from which narcotic habit-forming drugs are manufactured; (2) to bring to a speedy

¹Seventeen countries signed the Final Act.

end the legalized traffic in prepared opium; and (3) to control the international traffic in narcotic habit-forming drugs.

The raw materials, the production of which needs to be limited, are Indian hemp, coca leaves and opium. As to none of these substances was an agreement for the limitation of their production reached. As to Indian hemp certain undertakings were entered into looking to the control of international traffic, but none as to limitation or even as to the governmental control of its production. The same was true as to coca leaves, and, as to both of these substances, it is to be observed that The Hague Convention makes no provision. As to opium, The Hague Convention declares that its production shall be brought under governmental control but there is, in that instrument, no requirement that the amount shall be limited, and, in this respect, the Geneva agreements mark no advance.

All that was done in Geneva with regard to the production of opium was the declaration contained in the Protocol annexed to the Convention framed by the Second Conference that there is a duty upon the part of the Signatory Parties to establish such a control that within five years the illicit trade in opium will cease to constitute a serious obstacle to the effective suppression of the use of prepared opium in those territories and possessions where such use is temporarily authorized, and that the Council of the League of Nations shall be requested to examine the suggestion that a commission be appointed to visit certain countries with a view to determining the difficulties connected with the limitation of the production of opium in those countries and advising as to the measures that may be taken in order to make it possible

for those countries to limit the production of opium to the quantities required by the world for medical and scientific purposes.²

In result, the situation as regards the production of opium remains as follows: In China the production of opium is absolutely forbidden, but, owing to disturbed political conditions, this prohibition is not effectively enforced. In Persia, Turkey, and other countries, production is legalized, but a willingness to limit this production has been declared provided it is made economically possible by foreign aid, for them to do so. In India the production of opium is under strict governmental control, but it is the policy of that Government to promote the production to amounts required not only to supply the needs of its own opium-eating subjects but to meet the requests of other Governments for the drug whether for manufacturing purposes or to provide prepared opium for smoking. In other words, the Indian Government continues to defend the use of opium in India for, what it is pleased to term, "semi- or quasi-medical" purposes, and to repudiate all moral responsibility for whatever use it is known will be made of the opium which it exports. With especial emphasis the Indian Government declares its intention of continuing to export, and to produce for that purpose, all opium that is needed by those countries which continue to legitimize the smoking of opium within their several territories or possessions. In Sub-Committee B, the Indian Delegate said, in so many words, that his Government preferred that no step in advance of the provisions of The Hague Convention with reference to the production and exportation of opium should be made.

² As to this request to be addressed to the League, see Paragraph 5 of the Final Act.

The Indian Delegation in the Conferences repeatedly asserted that the control exercised by its Government over the production, sale, and exportation of opium is so effective that no Indian opium leaves the country except that which is officially sold in order to be exported to countries which have certified that its importation into their borders is desired. In fact, however, there is evidence that seems to make it necessary to qualify this assertion. As to this, one needs only refer to certain facts set forth in the Persian Memorandum, which indicates that considerable amounts of Indian opium finds its way to Persian ports and is exported therefrom as Persian opium. And according to the *Tajaddud* of March 4, 1925, the Union of Merchants of Teheran recently received word that one of the merchants of Persia had imported more than seven hundred bales of opium into Bushire and exported it as Persian opium. It is not said that this opium was from India, but it is difficult to believe that it could have come from any other country.³ It is also to be noted that in a document supplied by the British Government to the League of Nations since the closing of the Conferences,⁴ there is the statement that Indian opium was being sold by a company in Canton to which an opium monopoly had been granted by Sun-Yat-Sen's Government.

In connection with the part played by Indian opium it may be noted that an inquiry into the opium situation in Assam has recently been made at the instance of the Indian National Congress, which shows the terrible ravages the drug is inflicting upon the people of that province. Mr. H. G. Alexander in an article entitled

³The *Tajaddud* made protest against this transaction upon the ground that it had brought about a serious fall in the price of Persian opium.

⁴Document O. C. 250, dated March 12, 1925.

“Asia’s Struggle Against Opium,”⁵ after calling attention to some of the evidence presented in this report, says: “In 1921 a resolution was passed in the Assam Provincial Council to abolish the opium trade within ten years. Twenty-six members voted for it (a missionary and 25 Indians); 13 against (eight Europeans and five Indians). The only action the Government would take was to record the names of the consumers; this has shown that there are about a hundred thousand. When the Non-Coöperators carried out a temperance and anti-opium campaign, as part of their plan of non-coöperation with the Government, they reduced opium consumption by 50 per cent. Then the Government intervened, and put 44 out of 63 in prison!”

As regards the second chief purpose for the effecting of which the Geneva Conferences were assembled, namely, the suppression of the use of prepared opium, no important advance was made. The statement will, perhaps, not be assented to by the Governments of those countries which continue to legalize the traffic in smoking opium, but it is the author’s opinion that the facts justify it. Upon this point he fully accepts the criticisms of the Agreement of the First Conference contained in the Memorandum which accompanied the Letter of Withdrawal of the Chinese Delegation from the First Conference, and in Bishop Brent’s “Appeal to My Colleagues.”^{5a}

⁵ Contemporary Review, April, 1925.

^{5a} Writing in *Current History* for March, 1925, Mr. W. H. Graham Aspland, General Secretary of the International Anti-Opium Association, has the following to say regarding the results reached under The Hague Convention with regard to the use of prepared opium:

“Several representatives of the monopoly countries at the first Conference held at Geneva under the auspices of the League of Nations declared that the use of opium had decreased in their colonies. Their estimate for this

Space does not permit the inclusion of Bishop Brent's "Appeal," but the following may be quoted as showing his general opinion of the Agreement of the First Conference. After a scathing criticism of the provisions of the Agreement because of their weakness, Bishop Brent says:

"When we contemplate the tremendous machinery called into being for the creation of the document that lies before me—Advisory Committee, Council, Assembly of the League of Nations, International Conference with plenipotentiary representatives—it is like requisitioning a steam hammer for splitting rock and then cracking a walnut with it. The document bears the marks of too many compromises—indeed it is a bundle of compromises reducing the whole great enterprise to the lowest common denominator. . . . The best that I can hope for it is that it will not be ratified or even signed as it stands. What I have said is not prompted by the critical

alleged decrease was arrived at by taking a period of six or ten years for comparison. Such a method of calculation, however, is fallacious or otherwise according as the years fell during or immediately after the World War. One or two countries—French-Indo China in particular—had bumper rice harvests and unprecedented prosperity during part of the war, and consequently their opium consumption increased. In the years 1916-1918, in fact, Indo-China doubled her opium import. The majority of colonies, however, suffered from trade depression and had to reduce their Chinese labor in all plantation and mining areas, and consequently opium consumption fell. To be just, all estimates of opium consumption should exclude the years 1914-1919. With improvement of trade the number of Chinese laborers has been gradually rising to pre-war standards, hence we are faced with the lamentable fact that the monopoly countries are consuming today, bulk for bulk, the same amount of opium (in some cases even more) as in 1912, when the representatives of their respective nations signed The Hague Convention! . . . Indo-China in 1912 imported 67 tons of opium to be consumed by Chinese smokers; in 1916, 140 tons, and in 1921, 73 tons; and this despite the fact that while opium was sold at \$88 per kilo in 1907, the price has gradually been increased to \$187 per kilo in 1920. Siam in 1917-18 imported 86,000 kilos. The Netherlands East Indies in 1918 imported 84,000 kilos, but in 1920, 126,000. The revenue from opium in British North Borneo in 1912, when The Hague Convention was signed, was \$915,000, and in 1920, \$1,800,000."

spirit or any desire to say harsh words about the work of my colleagues. I simply wish to save them and our common cause, as far as in me lies, from the reprobation that will surely greet the meager fruit of their labors. . . . Unless something is done color will be given to the charge that Western nations having Eastern possessions are callous to the vital interests of the very people upon whom the welfare of such possessions depends, and to the further charge that we of the West have a law of exploitation for those who ought to be counted our friends when they are not our wards. Most of all to be deplored is the fact that Christ and His religion are brought under reproach and put to open shame. How is it going to look to the world, if we continue with our programme as at present constructed, safeguarding our own national interests and leaving a vast section of the great Orient unaided and alien? Is it just for an International Conference of such weight and solemnity as this to deal with the 10 per cent of the subject which affects Europe and America, leaving almost untouched the other 90 per cent which affects Asia?"

Later in his article, Dr. Aspland says:

"Do the monopolies really wish to end the opium traffic? There is positively no evidence to show that they do, and much, including the Cecil proposals at the opening of the Second Conference, that they do not. Bulk for bulk, they are raising the same amount as in 1912, and are prepared to oppose any measure aiming at restriction. . . . The monopoly defenders all say that the Chinese must have opium. . . . 'Without opium,' they declare, 'we would not get the laborers.' This is not the complete truth. During the war 95,000 coolies were taken from North China to France by the British Government on a three years' indented service; not a man smoked opium, and yet they were contented and would volunteer again tomorrow. . . . Both the smoking and the preventive difficulties have, in my opinion, been much exaggerated. With the notable exception of Hongkong, whose Governor recently declared in council that no financial consideration would stand in the way of complete opium suppression, but that it must be *pari passu* with Chinese suppression, we cannot escape the conviction that finance is the great rock of obstruction. So long as the monopolies of the East are annually raising from 22 to 46 per cent of their revenue from opium, or, as in the case of North Borneo, meeting the whole of their colonial expenditure by opium sales and pawnshops, it will be idle to say that the eight million Chinese in these territories are not being exploited for financial gain."

At the time that Bishop Brent thus wrote, the Protocols to the agreements reached by the two Conferences had not been drawn up, but it is not likely that he would have changed his opinion regarding the Agreement of the First Conference even had he known that these Protocols were to be signed, for, when one examines the undertakings embodied in these Protocols it is seen how little of substantial result is to be expected of them. The action promised to be taken by the nations which have signed the Protocol adopted by the First Conference is wholly contingent upon the action to be taken by the Powers which have signed the Protocol drafted by the Second Conference. As to this, it is important to observe, however, that, of the states signing this Protocol, but two, Greece and Persia, produce raw opium. The Kingdom of the Serbs, Croats and Slovenes, Turkey, Egypt, India, and China though represented at the Second Conference have not as yet signed. Moreover, Greece signed the Protocol *ad referendum*. Persia, a state producing a considerable quantity of opium, apparently signed the Protocol without reservation, but the Persian representatives repeatedly made it known during the Conference that Persia would sign no agreement except upon the understanding that the League of Nations would comply with the conditions set forth in the Persian memorandum. This suggests the thought that the Persian representatives in signing the Protocol inadvertently either omitted to record the usual reservations of Persia or that they considered the declarations made from time to time in the Conference and recorded at the time of signature of the Final Act were sufficiently broad to cover any convention, protocol or agreements which they might sign in the name of their Government. Persia has never with-

drawn the reservation made to Article 3-a of The Hague Convention (providing for the prevention of the exportation of raw opium to countries which have prohibited its entry) nor ratified that Convention, and until this is done it cannot be safely assumed that Persia has agreed without reservation to undertake the performance of the obligations contained in the Protocol of the Second Conference.

Aside from the question whether the representatives of Persia intended to sign the Protocol without reservation, the failure of the other producing nations to sign, makes it unlikely that any important results will be obtained from or under either of the Protocols.

The absence of any definite provision in the first Protocol whereby the signatory parties bind themselves collectively to adopt measures for the prevention of the smuggling into their territories and their endeavor to place the obligation to prevent such smuggling entirely upon the producing nations, gives occasion for increased suspicion that the first Protocol will not appreciably hasten the day when the use of prepared opium will be effectively suppressed.

It will be noted, however, that the Protocol is open for signature until the thirtieth of September, 1925, and that, after that date, the Protocol may be acceded to by any state represented at the Conference, by any member of the League of Nations, or by any state to which the Council of the League shall have communicated a copy thereof for that purpose. Whether the producing nations will later sign the Protocol cannot now be foretold.

It is, possibly, worth while to say a further word with regard to what appears to have been the attitude of the

United States with reference to the eating of opium as practiced in British India.

The argument of the United States is, that, though not explicitly forbidden by The Hague Opium Convention, the use of opium except for medicinal purposes, that is, as authorized by the prescription of a qualified physician, comes under the reprobation, if not the unqualified ban, of the Convention, the Preamble of which declares its purpose to be "the progressive suppression of the abuse of opium, morphine, and cocaine." While, therefore, the United States has disavowed any intention or desire that the other nations, including itself, should interfere with the domestic opium policy of British India, its Delegation made it plain that the United States Government was concerned that there should be produced in the world, whether in India or elsewhere, an amount of opium in excess of the amount needed to supply the legitimate medicinal needs of the world. For there has been no denial of the fact that, wherever or whenever opium is actually produced, it manages to reach the persons who desire to consume it, whether through licit or illicit channels, or for medicinal or addiction purposes. Thus, almost from the beginning, and with consistency, the American effort has been to bring about a drastic limitation of the production of raw opium. Thus, one of the reasons which the American Delegation gave for the emphasis which it laid upon the suppression of the use of prepared opium, was that thus, to that extent, the production of raw opium would be discouraged.

In this connection it may be noted that, roughly speaking, at the present time scarcely 10 per cent of the opium which is produced is used for the manufacture of the derivatives with which the Permanent Board, established

by the Second Conference, will have to deal; and that, of this 10 per cent, it is doubtful whether a third is needed for legitimate uses.

It is only when one considers the agreements reached in the Second Conference with regard to the control of the international traffic in narcotic drugs that it can be said that results of some value were achieved. These agreements, if carried out in good faith, ought to make easier the control of that vast amount of illicit international traffic in these drugs which now afflicts the nations of the world. But, even here, the action that is provided for relates rather to the establishment of facts upon which intelligent and conscientious national action can be based, than to the creation of an international agency through which an effective control may be exercised. This was recognized by the Conference itself when it decided that the central organ that was to be established should not be termed a "Board of Control," but simply a "Permanent Central Board."

Whether or not it was wise to tie up this Board so closely to the League of Nations and to its Secretariat is a matter upon which there can be honest differences of opinion. There is, however, this much to be said of what was done, that, until the American Government comes to view with greater favor American participation in the activities of the League, the action of the Conference makes it more difficult for the United States to adhere to the Geneva Convention, or to coöperate, in the fullest manner, with the other nations which have agreed to coördinate, through the Board, their measures for the control of the international traffic in narcotic drugs. This is unfortunate, because, as appeared in the meetings of the Sub-Committees of the Conference, the United States

was willing to vest in a Central Board greater powers of control than were most of the other important Governments, provided only that the Board was given an independent status. As it is, it is not likely that the United States Government will see its way clear to adhere to the Convention that has been drawn up. However, this failure or refusal to adhere need not prevent the United States from supplying the Board, *ex gratia*, with the information which the Powers signatory to the Convention have obligated themselves to supply.

As regards the various measures which these Signatory Powers have agreed to take with reference to the national control of the manufacture, sale, exportation and importation of drugs, it is to be noted that the United States already has upon its statute books laws which substantially meet, and, in some cases, go beyond the requirements of the Geneva Convention.⁶

Whether or not its withdrawal from the Conference was the wisest policy for the American Delegation is no doubt a question upon which differences of opinion will exist. To the author it seems that the decision to do so was an eminently proper one. That Delegation had been sent to the Conference by its Government in order that, if possible, certain specified results should be reached, and it had been directed to sign no agreement which did not contain provisions looking to the realization of those results. When, then, it became indubitable that the Convention that was to be drawn up would contain no such provisions, and, therefore, that the American Delegation would not be able to sign it, it is difficult to see what good

⁶For an account of laws in the United States with reference to opium and narcotic drugs, see Appendix VI.

purposes would have been served by a further participation by the Delegation in the Conference. Upon the other hand, the withdrawal of the Delegation had the effect, and was undoubtedly intended to have the effect, of calling the attention of the world in a formal and, as it were, dramatic manner to the fact that the Powers financially interested in maintenance of the production of raw opium are not prepared to agree to restrict this production so as to leave no surplus available for non-medical and non-scientific purposes; and, also, that those Powers which continue to legalize the traffic in and consumption of smoking or prepared opium are not willing to adopt measures which will bring such traffic and use to an end within a definite or reasonably brief period of time.

It is further to be noted that, had the American Delegation remained in the Conference until the end, even though it knew that it would be unable to sign the Convention that was being drawn up, it would have been obliged either to refrain from expressing any views as to what provisions should be included in that Convention, or to participate in the discussions and thus be placed in the invidious position of attempting to determine what should be the nature of an international arrangement which the other Powers should agree to, but which the United States Government did not intend itself to accept. In other words, had the American Delegation remained in the Conference it would have been faced by but two alternatives, neither of which was a desirable one. In the one case, its continued presence would have been futile; in the other case it would have been almost, if not quite, an impertinence. It scarcely needs be added that the withdrawal was in no sense a discourtesy to the other Delegations nor to the League which had convened the Conference, and so

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far as the author is aware, the withdrawal was not so regarded by any one at Geneva. This fact is mentioned because the author, since his return to America has heard the statement made that the American withdrawal was in some sense a discourteous act.⁷

The propriety of the withdrawal of the Chinese Delegation from both of the Conferences was as evident as was the American withdrawal from the Second Conference. At the time of the Chinese withdrawal from the Second Conference it had been placed beyond a reasonable doubt that the Conference would not embody in its Convention any undertaking whatever regarding measures to be taken to bring to an end that legalized traffic in smoking opium which is inflicting such dire evil upon the millions of the Chinese living in the territories or Far Eastern possessions of Great Britain, France, the Netherlands, Portugal, British India, and Siam. This refusal of the Conference to deal with this most important matter was predicated upon a denial by the Delegations of the Powers just enumerated that the Conference was competent to deal with the matter—a denial that had been reaffirmed after it had become evident that the First Conference would not deal adequately with the evil.⁸

⁷ It will be remembered that at Paris in 1919, while the Treaty of Versailles was being discussed, President Wilson threatened to withdraw, and, upon one occasion went so far as to make the gesture of summoning the steamship *George Washington* to take him back to America. The Italian Delegates threatened to withdraw, and Signor Orlando did in fact withdraw for a time. The Japanese Delegation at one time strongly intimated that it might be obliged to withdraw.

⁸ At the twenty-sixth meeting of the Conference, at which the withdrawal of the Chinese Delegation was announced, President Zable seemed to think it proper to express his personal opinion that these Powers had rightly denied the Conference's competence.

As to the First Conference there can be no question as to the justification for the withdrawal of the Chinese Delegation. In its opinion the Agreement which that Conference was about to sign registered the formal refusal of the other interested Powers (with the exception of Japan) to take immediate steps for bringing about that effective suppression of the use of smoking opium which, under The Hague Convention, entered into 13 years before, they had agreed to take. Holding the views that it did as to the continuing force of this obligation, and disastrously affected as the Chinese people were by this refusal upon the part of the other financially interested Powers to give full effect to this obligation, the Chinese Government could scarcely have done otherwise than withdraw its Delegation from a Conference that had determined to sanction this refusal.

Reverting to the American withdrawal from the Second Conference, the point deserves to be noted that this withdrawal was declared to be necessitated by the mandate laid upon the American Delegation by the Congress of the United States in its Joint Resolution of May 15, 1924, authorizing the participation of the United States in the Conference. There is thus raised the important question whether it was in accord with proper international practice and procedure that Congress should have thus fixed within rigid limits the discretionary powers of the American Delegation, or, if in accord with such practice and procedure, whether it was an act of wisdom upon the part of Congress.

It is of course proper, and, in fact, necessary that official representatives sent to international conferences convened for the purpose of reaching agreements which will more or less commit their Governments to specific policies

or lines of action, should receive "Instructions" from their Governments as to the matters which those Governments are prepared to discuss and as to the obligations they are prepared to assume. These "Instructions" are ordinarily known only to the Delegates which receive them and emanate from that branch of the Government which has within its hands the current conduct of international relations, namely, the Foreign Office, which, in the case of the United States, is, of course, the Secretary of State acting in behalf of the President of the United States. Such instructions may be modified from time to time in order to meet the conditions that develop during the course of the negotiations or the discussions in the Conference. It is clear, then, that the mandate which Congress, by its Resolution of May 15, 1924, laid upon the American Delegation was something quite different from the executive instructions which the representatives of a Government ordinarily receive for their guidance in the conduct of international negotiations, for, as a practical proposition, the obligation that was thus imposed could not be modified in order to effect a compromise with such conflicting views as the other Governments might present.

As a general proposition there can be no question that a Government, when conducting negotiations or carrying on discussions with other Governments in order to reach common agreements with regard to specific matters, should not have its hands so tightly tied that it will not be able to make such compromises as may be found necessary in order to obtain some, if not all, of the results which it desires. With regard to international conferences one may go even further than this and say that the decision of a Government to participate in them implies that, re-

garding the matters to be discussed, there are conflicting views and interests which need to be brought by mutual compromises into agreement. Thus, in the Instructions which were given to the American Delegation to the Second Hague Peace Conference, held in 1907, it was declared: "In the discussion upon every question it is important to remember that the object of the Conference is agreement, and not compulsion. If such conferences are to be made occasions for trying to force nations into positions which they consider against their interests, the Powers cannot be expected to send representatives to them. It is important also that the agreements reached shall be genuine and not reluctant. Otherwise, they will inevitably fail to receive approval when submitted for the ratification of the Powers represented."⁹

At the twenty-sixth meeting of the Second Opium Conference, commenting upon the American withdrawal, M. Loudon said:

"The difficulty of reaching an agreement was still further increased by the fact that the United States Delegation was bound by rigid instructions which admitted of no deviation during the discussions. May I express the opinion here at Geneva, where other similar meetings will be held, that an international conference necessarily implies mutual concessions, frank discussions and goodwill on either side. Any international conference is doomed to failure if one of the parties insists on imposing its will on the others by threatening to break up the Conference instead of being prepared to meet the divergent

⁹ Scott, *Instructions to American Delegates to The Hague Conferences*, p. 72. Quoted by Professor Quincy Wright in the *American Journal of International Law*, April, 1925, p. 349.

views and arguments which those other parties may submit." ²⁸

There was hardly justification for the statement by M. Loudon that the United States Delegation had threatened to "break up the Conference," but, leaving this assertion aside, no one can contest the force of the general argument. However, that argument does not cover the whole ground, or establish a basis for an unqualified condemnation of the mandate laid by Congress upon the American Delegation. While it is true that it is desirable that the representatives of a Government should have discretionary powers sufficient to enable them to participate in a profitable discussion, it by no means follows that this discretion should extend to matters which their Government deems to be of fundamental importance. The personal judgment which these delegates should be free to exercise must ordinarily relate to matters of detail rather than to those of principle—to means for reaching ends rather than to the ends themselves. It is, therefore, eminently proper that, when accepting an invitation to participate in an international conference, a Government should instruct its delegates that, as to certain matters which it considers of prime importance, their position shall be a specifically and rigidly fixed one.

In addition, it is proper that a Government should instruct its representatives that they shall not participate in the discussion of, or enter into any agreements with reference to particular matters which may be within the

²⁸ It is worthy of note that, as reported in the Minutes as originally issued in mimeograph form, M. Loudon used the phrase "under pain of leaving the Conference," but, in the revised printed form, deemed it desirable to strengthen this statement so as, in effect, to charge the American Delegation with "threatening to break up the Conference."

“ terms of reference ” of the Conference. Thus, for example, as has been earlier referred to in this volume, the British Government instructed its Delegates to The Hague Opium Conference that it was not prepared to discuss, and that the Delegates should therefore refuse to enter into discussion of, certain specified matters, one of which was “ any resolution specifically affecting the domestic regulation of the production and use of opium and cognate questions of internal administration in India, or any other portion of the British dominions.”

It would seem to be but fair that, when a Government does seriously limit the competence of its representatives to discuss matters fairly within the call of the Conference to which they are sent, or if, upon important matters, their position is to be so inflexibly fixed that no opportunity for the profitable discussion of them remains, the other Governments should be made aware of these instructions in order that they may determine, in the light of such knowledge, whether it will be profitable for them to participate in a conference whose competence is thus curtailed or whose possible results are thus limited.

Applying the foregoing propositions to the congressional mandate contained in its Resolution of May 15, 1924, it appears that while divergent views may be held as to whether it was an act of good judgment upon the part of the Congress thus to limit the discretion of the American delegates, there is no good ground for saying that there was any impropriety in the act, and, therefore, no valid ground for a criticism of it upon the part of the other Delegations in the Conference. Had this mandatory instruction to the American Delegation been a secret one, the other Delegations might possibly have had reason for complaint. But this was not the case, for the congress-

sional Resolution had been published to the world, and the other Governments had sent their representatives to the Conference knowing that the American Delegation would not sign an agreement which did not obligate the Signatory Powers, as declared in the second of the American principles which had been approved by the Assembly of the League of Nations, and embodied in its invitation to the Powers to assemble in the Conference, "to exercise the control of the production of raw opium in such a manner that there will be no surplus available for non-medical and non-scientific purposes." That this firm position taken by the American Congress was not an arbitrary or unreasonable one is evident when it is remembered that the Resolution of the Assembly of the League, which recommended that the Conference be convened, declared that the measures which it would be asked to adopt would have for their purpose the giving of effect to the principles which had been submitted to the Advisory Committee by the American Representatives.¹⁰

¹⁰ It will be remembered that in the call for the Conference it had been stated that one of the measures which it would be called upon to consider was as to "the limitation of the production of raw opium and the coca leaf for export to the amount required for such medical and scientific purposes." The proposition made in the Conference by the American Delegation went beyond this, in that it left out the words "for export," with the result that, were the proposition accepted, the countries would be pledged to prevent the production of opium and coca leaves for domestic consumption of a non-medicinal and non-scientific character, as for example, the eating of opium as practiced in India. The American Delegation, however, repeatedly said that it did not propose that any country should be prevented from consuming opium or coca leaves within its own borders in any way that it might see fit, and that, should any country, as, for example, India, desire to continue the non-medicinal and non-scientific use of these drugs, it might, by a reservation to the Convention to that effect, preserve the right to do so. The American proposition also made express provision for the legitimizing of the export of raw opium for the purpose of making prepared opium to those countries which might be permitted, by the Convention which was to be signed, temporarily to continue to legalize the smoking of opium.

Being advised by the Resolution of Congress as to the unalterable position that the American Delegation would be obliged to take in the Conference, it was within the right of the other Powers to notify the American Government that, by that Resolution, a situation had been created which would render it useless for them to participate in the Conference since they were not prepared to agree to exercise that control over the production of raw opium which the Resolution called for. In fact, however, so far as the author is aware, no such representations were made to the American Government by the other Powers which later, in the Conference, either denied the competence of the Conference in the premises or declared their unwillingness to adopt, or, at any rate, their belief in the practical impossibility of adopting, any measures for so controlling the production of raw opium that no surplus would be available for non-medicinal or non-scientific purposes. It would seem, then, if any valid accusation of a lack of consideration or of good faith could be made, it would be that these other Governments permitted the American Government to send its Delegation to the Conference without informing it that they were not prepared to incorporate in the Convention which was to be drawn up provisions which would enable the American Delegation to sign the Convention. In this connection it is to be observed that the American Government had not assumed to itself the right to dictate to the other Governments the specific measures which they should adopt in order to put into effect the American proposals which had been approved by the Assembly of the League and, by reference, included within its invitation to the Powers to assemble in Conference. All that the American Government, speaking officially through its legislature, had declared

was that it would be satisfied with no Convention which did not contain provisions of some sort which would be calculated to bring about (presumably within a reasonable period of time, though not necessarily immediately) that limitation of the amount of raw opium to be produced which the American principles called for.

That there are great practical difficulties in securing this limitation there is no doubt. To be really effective, and to be fair to all the parties concerned, the limitation will have to be world-wide, and, as had already appeared, this will mean that some of the producing countries—Persia and Turkey in particular—will have to receive financial and scientific aid in order to enable them to bring about that reduction in the present production of opium which will be required. But it is to be assumed, and the American Government was justified in assuming, that, when the other Powers accepted the invitation to participate in a Conference convened for the purpose, *inter alia*, of limiting the world-production of opium, they foresaw these difficulties and were prepared to meet them, just as, in the case of the undertaking embodied in Article VI of The Hague Convention with reference to the suppression of the use of prepared opium it was assumed that the Signatory Powers were prepared to overcome any difficulties that might have to be overcome in order to effect such a suppression.

The foregoing discussion gives no answer to the question whether or not it was an act of wisdom upon the part of the American Congress to tie as tightly as it did the hands of the American Delegation. It does show, however, that there was no international impropriety in its doing so. The author of this volume is fully prepared to subscribe to the proposition that, as a general rule, it is better

that the representatives of a Government engaged in negotiations with foreign Powers should receive their instructions from that branch of the Government which has in its hands the current control of foreign relations and which is free to change its instructions which it issues as circumstances and sound public policy may require. But he is not prepared to say that the legislature, which, after all, is the real policy-forming organ of the Government, should never attempt to fix the limits within which the foreign office of that Government shall be authorized to operate. And especially is this so when, as in the United States, it is constitutionally provided that one branch of that legislature shall participate in the ratification of all treaties.

In an article in a recent issue of the *American Journal of International Law*¹¹ discussing the American withdrawal from the Geneva Conference, Professor Quincy Wright says: "It is to be feared that if the movement for democratic control of foreign affairs takes form in the practice of instruction of delegates to international conferences by legislative resolutions or popular referenda, it will prove a serious impediment to genuine international coöperation." There is ground for this fear, for, unless Congress uses great discretion in the exercise of its right of fixing the conditions under which it will authorize and make financial provision for the official participation of the United States in international conferences or other international agencies, it will prevent the American people from obtaining the best results from international coöperative action. But it still remains true that there may be occasions when it is highly desirable, that, before

¹¹ April, 1925 (vol. XIX, p. 348).

participation is authorized, certain fundamental and, presumably inflexible, conditions shall be laid down.

As regards these matters which are deemed by the representatives of the people to be of fundamental importance it is certainly far better that they be declared in unequivocal terms, and in advance of the beginning of actual negotiations and discussions, than that the representatives of the Government should agree to measures or policies which the Senate, acting as a part of the treaty-making organ of the Government, is unwilling to ratify, or which the two Houses of Congress, when called upon to enact the necessary enforcing provisions, are unwilling to accept. Surely, neither the American people nor the other Governments of the world desire to have another experience similar to that which they were obliged to suffer when the American people and the American Senate were compelled to refuse to sanction the action which the American Delegation at Paris in 1919, headed by President Wilson, had approved. Is it not fair, then, to say that the trouble with the Second Geneva Conference, so far as American participation in it was concerned, was not the intransigence of the American Government, but the failure of the other Governments to take due notice of the terms upon which the American Government had declared its willingness to participate?

The foregoing discussion of the circumstances attending the withdrawal of Chinese and American Delegations had indicated one of the reasons why the Geneva Conferences did not lead to more satisfactory results. This reason was that the Conferences had not been properly prepared for, in that there was no definite understanding upon the part of the participating Powers as to the matters that, from what may be called the constitutional

point of view, the Conferences were to be deemed competent to discuss.

The initial mistake made by the League of Nations was in providing for two Conferences instead of one. It appears from the report of the proceedings of the League, that the British Representatives were chiefly responsible for this decision.¹² That this decision was probably an unfortunate one was conceded in the Second Conference by Lord Robert Cecil.¹³

Even after it was decided to hold two Conferences, the relation that the two were to bear to each other appears to have been not well understood. The author of the present work, when he first arrived at Geneva, found that there was a fairly general opinion, and one that was shared by at least one of the officials of the Secretariat of the League, that the First Conference was to serve as a preliminary body to prepare the way for the work of the Second Conference, especially in the matter of determining the annual opium needs of the opium smoking countries, and thus to enable that Conference to determine the total opium needs of the world. There was even an impression in some quarters that the First Conference was to make a

¹² See the Minutes of the Fifth Committee of the Fourth Assembly, Tenth Meeting (League of Nations, Official Journal: Special Supplement No. 18, pp. 42 ff.). Dame Edith Lytton (British Empire) appears to have been the first to propose that there should be two Conferences, and this proposition was strongly supported by Sir Malcolm Delevingne. The proposition was opposed by M. Chao-Hsin Chu (China) and M. Reynold (France). The author has been informed that, shortly before the meeting of the Conferences, one of the Powers whose colonies are financially interested in the sale of prepared opium, suggested to the League of Nations that the Conference which was to deal with prepared opium should be held after and not before the Second Conference, but that the Secretary-General of the League replied that the public opinion of the world would not approve such an action.

¹³ Cf. *ante*, p. 331.

formal report to the Second Conference. In fact, however, as the call for the First Conference showed, it was directed to report to the Council of the League of Nations. Just why the First Conference had been directed to report to the Council of the League no one has been able to explain, and the printed records of the League throw no light upon the subject. No similar direction was given to the Second Conference, and yet the two Conferences were of exactly the same character. Both had been convened under the auspices and at the invitation of the League, and both were composed of representatives with plenipotentiary powers.

The making of distinctions between the two Conferences by the League for which no adequate explanation was given was further exhibited in the matter of the selection of their presiding officers. The First Conference elected its own President. The Second Conference had its President imposed upon it, that is, it was notified, at its first meeting, by the Council of the League that it had appointed M. Zahle as its President. This action the Council had apparently taken without any effort to sound the various Delegations or their Governments as to their wishes in the matter. That the Council had no technical right to take this action is clear, for the Conference, though convened under the auspices and upon the invitation of the League, was in no sense a League Conference. In other words, the Conference was an autonomous body and was subject to the control of no authority outside itself, although each Delegation was, of course, responsible to its own Government for what it might do in the Conference. The Council would have been without proper authority to appoint the President of the Conference even if all the Powers represented in it had been members of

the League. In fact, however, there were several Powers participating—the United States and Germany among them—which were not members of the League, and thus the effect of the action of the League was to deprive them of any voice whatever, actual or constructive, direct or representative, in the selection of the person who was to direct their deliberations. In short, the action by the Council in selecting the President of the Second Conference was as much in excess of its legitimate authority as would have been an attempt to impose upon the Conference the Rules of Procedure in accordance with which its work was to be performed.

There is no reason to think that any of the Delegations had any personal objection whatever to the appointee of the Council, M. Herluf Zahle, but, though not openly expressed, it is certain that some of them were irritated by the manner of his selection, and this irritation was by no means lessened when it developed that M. Zahle, ignoring the fact that he was not a member of the Conference, and that he represented no Government in it, felt himself justified in exceeding the functions of a mere moderator, and in attempting, at times, by the expressions of his own personal opinions, to influence the actions of the Conference. As instances of wholly gratuitous injections of his own personal opinions may be cited his remarks upon the Chinese Letter of Withdrawal from the Conference, and his declared approval of the absurd, if not disingenuous, proposal of Sir Malcolm Delevingne at the thirteenth meeting that the Conference should conclude its work by December 20.

Anent the Chinese Letter of Withdrawal, M. Zahle said: “ Apparently . . . the reason for the departure of the Chinese Delegation is that the Conference is, in view of

the First Delegate of China, unable to reach a satisfactory settlement of this question of prepared opium. That touches very closely the question of competence, which, as you are aware, has not yet been determined by the Second Opium Conference. In my personal view, the reasoning of the Chinese Delegation is founded on a conception contrary to that adopted by the Assembly of 1923, in the two Resolutions of which you were aware." Just why the President should have felt himself called upon to volunteer this opinion of his own does not appear, and the author of the present work is not disposed to guess as to the reason, but he does deem it proper to observe that the statement that the Conference had not at that time decided the question as to its competence to deal with prepared opium was correct in only the barest technical sense. If there had been any question as to whether or not the Conference would deal with the matter, the result of the meetings of the Committee of Sixteen had decisively shown that it would not. The Delegations of all of the countries, except Japan, in whose territories or possessions the traffic in prepared opium is legalized, had iterated and reiterated not only that the Conference had no competence to deal with the traffic, but that their instructions from their Governments would not permit them to sign any agreements relating thereto. Not once was it suggested by any one of them, even in the Committee of Sixteen, that the Convention to be signed by the Second Conference should contain any undertakings whatever with direct regard to the suppression of the legalized smoking of opium. One cannot, therefore, escape from the impression that there was a degree of disingenuousness in the statement of M. Zahle, that, at the time of the withdrawal of the Chinese Delegation, the matter of the

authority of the Conference to deal with smoking opium had not been determined.

In the Committee of Sixteen when the appointment of the members of the smaller Committee of Five was under consideration, M. Zahle, who was presiding, suggested that the representative of Finland should be one of the five. To the author's mind, any suggestion upon this point from M. Zahle was a highly improper one. The personnel of this committee which was to make the final effort to bring about an agreement as to what should be done with reference to smoking opium was a very important matter which certainly should have been left to the judgment of the members of the Committee of Sixteen, and in point of fact, although it was not deemed desirable to oppose the suggestion which had been openly made, there were members of the Committee of Sixteen who did not view with favor the selection of the Finnish Delegate.

There were still other occasions upon which M. Zahle made, or at least attempted to make, decisions which should have been left to the Conference itself or to its Business Committee. Thus, instead of circularizing, as he had been requested to do, an important letter to the Conference from Mr. T. Z. Koo, Representative of the National Anti Opium Association of China, M. Zahle delivered the letter to the President of the First Conference, and it was only after several weeks, and repeated requests upon the part of the Chinese Delegation, and the statement that it would bring the matter before the Conference, that the letter was circulated.¹⁴

It will be seen from what has been said that there were causes of friction in the Conferences which might, and

¹⁴ Document O. D. C. 84.

should have been avoided. To these causes it is unfortunately necessary to say there were added incidents which served to arouse, upon the part of certain of the Delegations at least, a feeling of suspicion as to the accuracy with which the documents and records of the Conferences were prepared. Certain of these incidents need to be specifically mentioned since they played a not unimportant part in impairing that atmosphere of mutual trust and good will which is needed if an international conference is to be an efficient agency for the promotion of international harmony and coöperative effort.

In the meetings of the Opium Advisory Committee of the League, when there was under discussion the matters which should be brought before the Conferences which it was decided should be invited to assemble, it was proposed that one of the matters to be brought before the First Conference should be "the measures to be suggested to the Government of the Chinese Republic for bringing about a suppression of the illegal production and use of opium in China." The Chinese Representative upon the Committee objected strongly to this phraseology, which implied that nations other than itself should suggest to China what it should do. Mr. Chu felt it important to emphasize this point of view because of the fact that there had been other occasions upon which the Committee had shown a disposition to recommend measures which would have amounted to an interference with the domestic affairs of China. After considerable discussion, and in order to meet the views of the Chinese Representative, it was voted that the proposal should be modified so as to make it relate to "the measures to be taken by the Chinese Government." To some, this may not seem an important matter, but it was made plain that

it was deemed a very important matter to the Chinese Government. However, when the First Conference met it was presented with an Agenda which had been drawn up by the Secretariat of the League which contained the exact words which the Chinese Representative in the Advisory Committee had objected to and which it had been definitely decided should not be employed. Such being the facts, it is not strange that the Chinese Delegation in the Conference should have been greatly surprised.

The Agenda presented by the Secretariat of the League to the Second Conference was also seriously defective in that it failed to make mention of the fact that the measures to be discussed by the Conference were to have for their purpose the giving effect to the two American principles, which statement had been made in the Resolution of the Assembly of the League recommending that the Conference be called.

The Minutes of the proceedings of the Advisory Committee and of the First Conference and the Verbatim Records of the Second Conference were not always satisfactory as the following instances will show.

In the First Conference the statement was made that the Chinese Representative in the Advisory Committee had admitted that the cultivation of opium in China had been completely revived, and, when examined, the published Minutes of that Committee reported him as having said so. Mr. Chu denied that he had said this. He asserted that he had said that there had been a revival of the cultivation of the opium, but that he had not used language that would imply that conditions as to opium cultivation in China had again become as bad as before such cultivation had been prohibited. Upon an examination of the unpublished transcript of the stenographer's notes it was

shown that he had not used the word " completely " when speaking of the revival of the cultivation of opium. In other words, the person responsible for making an *abridgement* of what was said had added the word " completely. "

In the First Conference, Mr. John Campbell of the Indian Delegation charged Dr. Sze with having said that China did not begin the cultivation of opium until after the country had been flooded with imported opium, and criticized him strongly for having made such an erroneous statement. In fact, Dr. Sze, who had read from a carefully prepared manuscript, had not made this assertion. What he had said was that when China had found herself unable to prevent the importation of foreign opium she had begun " to an increasing extent " to cultivate the poppy. And yet, when the Provisional Minutes (mimeographed) were circulated the next day he was reported as having said what Mr. Campbell had incorrectly charged him with having said.¹⁵

What purported to be verbatim reports of the proceedings of the Second Conference were issued. These were

¹⁵ Mr. Campbell also charged Dr. Sze with having stated that China had been forced by the Opium War to agree to the importation of Indian opium, which Mr. Campbell denied was the fact. In truth, Dr. Sze had not made the statement thus ascribed to him. What he had said was that, as the result of the War, China had been compelled to grant extraterritorial rights and to surrender tariff autonomy " with the result that, within a few years, the importation of opium without limit as to amount was legalized. " However, as has appeared from the evidence set forth in the first chapter of the present treatise, Dr. Sze would have been fully justified had he made the statement which Mr. Campbell charged him with making, and which he, Mr. Campbell, felt justified in denying as an historical fact. Mr. Campbell's own sense of absolute accuracy may be judged by the fact that he had published a few months before in the *Asiatic Review*, the statement regarding the amount of morphine consumed in the United States which was repeated with such unfortunate results by Lord Cecil in the Second Conference.

provisional in character in the sense that it was permissible for the several Delegations to correct them so far as the reports of their own words were concerned. There was no definite rule laid down as to the extent to which this process of correction might be carried, but, inasmuch as no Delegation knew what changes would be made by the other Delegations, and also as flowing from the necessity of maintaining the substantial integrity of the report of what was actually said, it was necessarily understood that the corrections would not relate to matters of substance unless, in fact, there had been an error in the reporting. In other words, if a Delegation desired to add to or subtract from, or to modify the substance of what it had in fact said, it was deemed proper that it should do so by statements to that effect in the open Conference. It would seem that the Secretariat of the League which was doing the reporting for the Conference should have insisted upon the observance of this rule. In fact, however, it did not always do so. Furthermore, it would seem that it should never have been proper for a Delegation to ask that, in the original "roneoed" or mimeographed record of the proceedings should depart in any manner from an exact and literal transcription of the stenographer's notes. The author does not intimate that such a departure was suggested at any time to those responsible for the transcription and circularization of the stenographer's notes, but the fact is that the report as published did, upon some occasions, omit rather important words. Thus, for example, when the name of M. Aguero was put in nomination as Chairman of the Committee of Sixteen, his election was opposed by Sir Malcolm Delevingne and others upon the ground that it was desirable to obtain some one from outside the Committee who might be a

more "neutral" or "independent" or "impartial" presiding officer. And yet, when what purported to be the verbatim record of this meeting was issued, Sir Malcolm Delevingne was not reported as having made any such remark. M. van Wettum was reported as later saying that he had used the word "neutrality" and not the word "impartiality," whereas, in fact, the record, as issued in English, did not report him as having used either word.

Besides the foregoing circumstances attending the calling and the proceedings of the Conferences, which were not without a regrettable influence upon those participating in them, there was the further unfortunate fact that one, at least, of the Delegates seemed eager to make unconstructive criticisms of other Delegations, and unnecessarily to raise issues which could have no other result than to arouse the anger or indignation of the persons or Delegations thus brought under his censure.

In the First Conference, it was unfortunate that the Committee of Four, which was appointed for the purpose of ascertaining and reporting upon specific facts, should have gone far beyond its terms of reference and, in effect, have reported draft proposals for incorporation in the final agreement which was to be signed. This was all the more regrettable, in view of the fact that its meetings were *in camera*.

With regard to both Conferences it is, perhaps, worth noting that the British Empire derived considerable special advantage from the separate representation of India and—in the Second Conference—of several of its "Dominions." This advantage was shown not only in the matter of voting strength, but with regard to representation upon sub-committees. In the First Conference M. Sugimura referred, at one time, to the fact that the

British and Indian Delegations seemed to think as but one; and, in the Second Conference, the consistent manner in which the Australian Delegate, Mr. Shepherd, supported the British Delegation was noted even if not openly commented upon.

A final factor which militated against the complete success of the Conferences was the circumstance that the facts of the situations with which they had to deal were not presented to them in sufficiently complete and definite form. Especially was this true as to the question of the use of prepared opium. The reports of the several countries within whose territories or possessions this use is still permitted were by no means satisfactory in character, and particularly was this true with reference to the illicit trade in opium. Although the Delegations of these countries asserted that this illicit trade was the dominant fact to be considered, and that it was due to this fact alone that they were not able to carry out that effective suppression to which they had pledged themselves in 1912, they made no serious attempt to show just how extensive this illicit trade was, who were engaged in it, how they were organized, what devices they employed, what proportion of the smuggled opium came from each country, upon what ships it was carried, to whom consigned, etc., etc. All these facts, as far as available, should have been classified and set forth, and especially should these countries also have made known the nature and extent of the efforts they had made, and the results achieved by these efforts, to prevent this contraband trade. Japan showed that she had, by the methods she employed, been almost completely successful in preventing the smuggling of opium into Formosa, but the other countries made no real effort to show that they had done all that they could

possibly do to prevent this illegal traffic. As regards conditions in the Philippines, the American Delegation was able to supply very little information.¹⁶ This was most unfortunate, because in those Islands there had been in force a policy of absolute prohibition of opium smoking—a policy which the American Delegation asked the other countries to put into effect. It was, therefore, of extreme importance that the Conferences should have had information upon which they could rely as to the degree of success with which the American Government had been able to prevent, in fact, the use of prepared opium in the Philippines, and, so far as success had been achieved, to describe the means by which that success had been obtained, and in so far as success had not been achieved, to state the reasons for the failure.

In an international conference there is not that opportunity which exists in courts of law for compelling the production of evidence, or for testing or supplementing by cross-examination, the evidence that is voluntarily offered. This means that, if an international conference is to yield fruitful results, extraordinary care must be taken to provide it with a knowledge, as full as possible, of all the facts of the situations or problems with which it is to deal. This was not done with reference to the Geneva Conferences. The Advisory Committee had collected a certain amount of information and this information was supplemented by a considerable number of memoranda submitted to the Conference and circulated to its members, but the only really satisfactory memorandum thus submitted was that of the Persian Government. In

¹⁶ Some facts are given in the speech of Bishop Brent on May 29, 1923, before the Advisory Committee.

result, the discussions in both of the Conferences often consisted of little more than assertions and counter-assertions which were neither proved nor attempted to be proved.

If, then, the Geneva Conferences did nothing else, they served to throw into clear light some of the prerequisites to success of any gathering of plenipotentiaries for the drafting of agreements for common action upon the part of the participating Powers. They showed there must be adequate and trustworthy information upon which to base the agreements to be reached; there must be a clear understanding as to the competence of the Conference; there must be a scrupulous regard for the autonomous rights of the Conference; the Delegations must be composed of competently trained men; the integrity of the reports of the proceedings of the Conference and of its committees must, at all hazards, be maintained; opportunities or occasions for the creation or manifestation or personal ill-feelings upon the part of particular Delegates or Delegations must, so far as this is possible, be avoided;¹⁷ and, finally, there must be a real disposition upon the part of the participating Powers to bring about the results for the achieving of which the Conference is assembled. As to this last prerequisite, the author is compelled to the conclusion that it was not present so far,

¹⁷Two conspicuous instances in the Geneva Conferences of failure to observe this reasonable requirement were the reference by Sir Malcolm Delevingne in the First Conference to the case in which certain Japanese officials in the Kwantung Leased Territory were found to be corruptly involved in an opium transaction; and the charge by Mr. Campbell that the American Delegation and its Government had been guilty of an act of bad faith in bringing before the Second Conference the proposal for the limitation of the production of opium so that there would be no surplus available for non-medicinal and non-scientific purposes.

at least, as the suppression of the traffic in prepared opium was concerned. The colonial authorities of British India, Java, Macao, the North Borneo, Hongkong, the Straits Settlements, the Malay States, and Indo-China, were not willing to surrender the economic advantages they are deriving from the traffic in opium. The quotations from their official reports which appear in the Memorandum of the Chinese Delegation accompanying its Letter of Withdrawal from the First Conference sufficiently evidence this. As further evidence of this is also the fact that none of the Governments was willing to follow the Japanese example, adopted in Formosa, of deterring the entrance of contraband opium by placing a very low price upon the licit article. The author is convinced that there is in Great Britain a strong official, as well as popular, opinion in opposition to the maintenance of the present opium policy of British India, as well as to the policies of the other British possessions with regard to the continued legalization of the use of smoking opium and the deriving of considerable public revenues therefrom, but the British Home Government does not feel itself justified in insisting that the authorities in its colonies or dependencies should do otherwise than their wishes and conceived interests dictate. The author has had no evidence called to his attention that would indicate that in France, Portugal, and the Netherlands there is anything but satisfaction with regard to the manner in which their colonial authorities are dealing with the opium situation.

One further fact regarding the Geneva Conference is worthy of mention, and this is as to the manner in which their proceedings were reported in the press. These re-

ports, when not so brief as to be practically unintelligible, were, in very many cases, so erroneous as to make almost irresistible the conviction that there was a deliberate effort to mislead. Certainly the American propositions, the arguments in support of them, and the motives that lay back of them, were continually misrepresented in the European and British papers. Until this problem of publicity is better solved, the government of the United States will have to take it into consideration whenever it is called upon to participate in Europe in the discussion of questions of international concern. The author is by no means prepared to say that the American press is always fair to foreign Powers. But such a *tu quoque* retort does not render less serious this matter of public information as to the proceedings of conferences whose purpose it is to promote international good-will and to lay the basis for mutually beneficial coöperative action upon the part of the Powers.

APPENDICES

APPENDIX I

THE HAGUE INTERNATIONAL OPIUM CONVENTION

CHAPTER I.—RAW OPIUM

Definition. By “raw opium” is understood:

The spontaneously coagulated juice obtained from the capsules of the *papaver somniferum*, which has only been submitted to the necessary manipulations for packing and transport.

Article 1

The contracting Powers shall enact effective laws or regulations for the control of the production and distribution of raw opium, unless laws or regulations on the subject are already in existence.

Article 2

Due regard being had to the differences in their commercial conditions, the contracting Powers shall limit the number of towns, ports, or other localities through which the export or import of raw opium shall be permitted.

Article 3

The contracting Powers shall take measures—

(a) To prevent the export of raw opium to countries which shall have prohibited its entry, and

(b) To control the export of raw opium to countries which restrict its import,

unless regulations on the subject are already in existence.

Article 4

The contracting Powers shall make regulations requiring that every package containing raw opium intended for export shall be marked in such a way as to indicate its contents, provided that the consignment exceeds 5 kilog.

Article 5

The contracting Powers shall not allow the import and export of raw opium except by duly authorised persons.

CHAPTER II.—PREPARED OPIUM

Definition. By "prepared opium" is understood:

The product of raw opium, obtained by a series of special operations, especially by dissolving, boiling, roasting and fermentation, designed to transform it into an extract suitable for consumption.

Prepared opium includes dross and all other residues remaining when opium has been smoked.

Article 6

The contracting Powers shall take measures for the gradual and effective suppression of the manufacture of, internal trade in, and use of prepared opium, with due regard to the varying circumstances of each country concerned, unless regulations on the subject are already in existence.

Article 7

The contracting Powers shall prohibit the import and export of prepared opium; those Powers, however, which are not yet ready to prohibit immediately the export of prepared opium shall prohibit it as soon as possible.

Article 8

The contracting Powers which are not yet ready to prohibit immediately the export of prepared opium—

(a) Shall restrict the number of towns, ports, or other localities through which prepared opium may be exported;

(b) Shall prohibit the export of prepared opium to countries which now forbid, or which may hereafter forbid, the import thereof;

(c) Shall, in the meanwhile, prohibit the consignment of prepared opium to a country which desires to restrict its entry, unless the exporter complies with the regulations of the importing country;

(d) Shall take measures to ensure that every package exported, containing prepared opium, bears a special mark indicating the nature of its contents;

(e) Shall not permit the export of prepared opium except by specially authorised persons.

CHAPTER III.—MEDICINAL OPIUM, MORPHINE, COCAINE, &c.

Definitions. By "medicinal opium" is understood:

Raw opium which has been heated to 60° centigrade and contains not less than 10 per cent of morphine, whether or not it be powdered or granulated or mixed with indifferent materials.

By "morphine" is understood:

The principal alkaloid of opium, having the chemical formula $C_{17} H_{19} NO_3$.

By "cocaine" is understood:

The principal alkaloid of the leaves of *Erythroxyton Coca*, having the formula $C_{17} H_{21} NO_4$.

By "heroin" is understood:

Diacetyl-morphine, having the formula $C_{21} H_{23} NO_5$.

Article 9

The contracting Powers shall enact pharmacy laws or regulations to confine to medical and legitimate purposes the manufacture, sale, and use of morphine, cocaine, and their respective salts unless laws or regulations on the subject are already in existence. They shall coöperate with one another to prevent the use of these drugs for any other purpose.

Article 10

The contracting Powers shall use their best endeavours to control, or to cause to be controlled, all persons manufacturing, importing, selling, distributing, and exporting morphine, cocaine, and their respective salts, as well as the buildings in which these persons carry on such industry or trade.

With this object, the contracting Parties shall use their best endeavours to adopt, or cause to be adopted, the following measures, unless regulations on the subject are already in existence:

(a) To confine the manufacture of morphine, cocaine, and their respective salts to those establishments and premises alone which

have been licensed for the purpose, or to obtain information respecting the establishments and premises in which these drugs are manufactured and to keep a register of them ;

(b) To require that all persons engaged in the manufacture, import, sale, distribution, or export of morphine, cocaine, and their respective salts shall be furnished with a license or permit to engage in these operations, or shall make to the competent authorities an official declaration that they are so engaged ;

(c) To require that such persons shall enter in their books the quantities manufactured, imports, sales, and all other distribution, and exports of morphine, cocaine, and their respective salts. This rule shall not necessarily apply to medical prescriptions and to sales by duly authorised chemists.

Article 11

The contracting Powers shall take measures to prohibit, as regards their internal trade, the delivery of morphine, cocaine, and their respective salts to any unauthorised persons, unless regulations on the subject are already in existence.

Article 12

Due regard being had to the differences in their conditions, the contracting Powers shall use their best endeavours to restrict to authorised persons the import of morphine, cocaine, and their respective salts.

Article 13

The contracting Powers shall use their best endeavours to adopt, or cause to be adopted, measures to ensure that morphine, cocaine, and their respective salts shall not be exported from their countries, possessions, colonies, and leased territories to the countries, possessions, colonies, and leased territories of the other contracting Powers, except when consigned to persons furnished with the licenses or permits provided for by the laws or regulations of the importing country.

With this object each Government may communicate from time to time to the Governments of the importing countries lists of the

persons to whom licenses or permits for the import of morphine, cocaine, and their respective salts have been granted.

Article 14

The contracting Powers shall apply the laws and regulations respecting the manufacture, import, sale, or export of morphine, cocaine, and their respective salts—

(a) To medicinal opium ;

(b) To all preparations (official and non-official, including the so-called anti-opium remedies) containing more than 0.2 per cent of morphine, or more than 0.1 per cent of cocaine ;

(c) To heroin, its salts and preparations containing more than 0.1 per cent of heroin.

(d) To all new derivatives of morphine, of cocaine, or of their respective salts, and to every other alkaloid of opium, which may be shown by scientific research, generally recognised, to be liable to similar abuse and productive of like ill-effects.

CHAPTER IV

Article 15

The contracting Powers having treaties with China (Treaty Powers), shall, in conjunction with the Chinese Government, take the necessary measures to prevent the smuggling into Chinese territory, as well as into their Far Eastern colonies and into the leased territories which they occupy in China, of raw and prepared opium, morphine, cocaine, and their respective salts, as also of the substances referred to in Article 14 of the present Convention. The Chinese Government shall, on their part, take similar measures for the suppression of the smuggling of opium and of the other substances above referred to from China to the foreign colonies and leased territories.

Article 16

The Chinese Government shall promulgate pharmacy laws for their subjects, regulating the sale and distribution of morphine, cocaine, and their respective salts, and of the substances referred to in Article 14 of the present Convention, and shall communicate these

laws to the Governments having treaties with China, through their diplomatic representatives at Peking. The contracting Powers having treaties with China shall examine these laws and, if they find them acceptable, shall take the necessary measures to apply them to their nationals residing in China.

Article 17

The contracting Powers having treaties with China shall undertake to adopt the necessary measures to restrict and control the habit of smoking opium in their leased territories, settlements, and concessions in China, to suppress, *pari passu* with the Chinese Government, the opium dens or similar establishments which may still exist there, and to prohibit the use of opium in places of entertainment and brothels.

Article 18

The contracting Powers having treaties with China shall take effective measures for the gradual reduction, *pari passu* with the effective measures which the Chinese Government shall take with the same object, of the number of shops in which raw and prepared opium is sold, which may still exist in their leased territories, settlements, and concessions in China. They shall adopt effective measures for the restriction and control of the retail trade in opium in the leased territories, settlements, and concessions, unless regulations on the subject are already in existence.

Article 19

The contracting Powers having post offices in China shall adopt effective measures to prohibit the illegal import into China in the form of postal packages, as well as the illegal transmission through these offices from one place in China to another, of opium (raw or prepared), morphine, cocaine, and their respective salts, and of the other substances referred to in Article 14 of the present Convention.

CHAPTER V

Article 20

The contracting Powers shall examine the possibility of enacting laws or regulations making it a penal offence to be in illegal possession of raw opium, prepared opium, morphine, cocaine, and their respective salts, unless laws or regulations on the subject are already in existence.

Article 21

The contracting Powers shall communicate to one another, through the Ministry of Foreign Affairs of the Netherlands—

(a) The texts of the existing laws and administrative regulations respecting the matters referred to in the present Convention, or promulgated in the virtue of the clauses thereof;

(b) Statistical information as regards the trade in raw opium, prepared opium, morphine, cocaine, and their respective salts, as well as in the other drugs or their salts or preparations referred to in the present Convention.

These statistics shall be furnished with as many details and within a period as short as may be considered possible.

CHAPTER VI.—FINAL PROVISIONS

Article 22

Any Powers not represented at the conference shall be allowed to sign the present Convention.

With this object the Government of the Netherlands will, immediately after the signature of the Convention by the Plenipotentiaries of the Powers which have taken part in the Conference, invite all the Powers of Europe and America not represented at the Conference, that is to say:

The Argentine Republic, Austria-Hungary, Belgium, Bolivia, Brazil, Bulgaria, Chile, Colombia, Costa Rica, the Republic of Cuba, Denmark, the Dominican Republic, the Republic of Ecuador, Spain, Greece, Guatemala, the Republic of Haiti, Honduras, Luxemburg, Mexico, Montenegro, Nicaragua, Norway, Panamá, Paraguay,

Peru, Roumania, Salvador, Servia, Sweden, Switzerland, Turkey, Uruguay, the United States of Venezuela,

to appoint a delegate, furnished with the necessary full powers, to sign the Convention at The Hague.

These signatures shall be affixed to the Convention by means of a "Protocol of signature by Powers not represented at the Conference," to be added after the signatures of the Powers represented, the date of each signature being mentioned.

The Government of the Netherlands will, every month, notify the signatory Powers of each supplementary signature.

Article 23

After all the Powers, as well on their own behalf as on behalf of their possessions, colonies, protectorates, and leased territories, have signed the Convention or the supplementary Protocol above referred to, the Government of the Netherlands will invite all the Powers to ratify the Convention with this Protocol.

In the event of the signature of all the Powers invited not having been obtained on the date of the 31st December, 1912, the Government of the Netherlands will immediately invite the Powers who have signed by that date to appoint delegates to examine at The Hague the possibility of depositing their ratifications notwithstanding.

The ratification shall take place within as short a period as possible and shall be deposited at the Ministry of Foreign Affairs at The Hague.

The Government of the Netherlands will every month notify the signatory Powers of the ratifications which they have received in the interval.

As soon as the ratifications of all the signatory Powers, as well on their own behalf as on behalf of their colonies, possessions, protectorates, and leased territories, have been received by the Government of the Netherlands, the latter will notify all the Powers who have ratified the Convention of the date on which it received the last instrument of ratification.

Article 24

The present Convention shall come into force three months after the date mentioned in the notification by the Government of the

Netherlands, referred to in the last paragraph of the preceding article.

With regard to the laws, regulations, or other measures contemplated by the present Convention, it is agreed that the Bills or Drafts required for this purpose shall be prepared not later than six months after the entry into force of the Convention. As regards the laws, they shall also be submitted by their Governments to the Parliaments or legislative bodies within the same period of six months, or in any case at the first session following the expiration of this period.

The date on which these laws, regulations or measures shall come into force shall form the subject of an agreement between the contracting Powers, at the instance of the Government of the Netherlands.

In the event of questions arising relative to the ratifications of the present Convention, or to the enforcement either of the convention or of the laws, regulations, or measures resulting therefrom, the Government of the Netherlands will, if these questions cannot be settled by other means, invite all the contracting Powers to appoint delegates to meet at The Hague in order to arrive at an immediate agreement on these questions.

Article 25

If one of the contracting Powers should wish to denounce the present Convention, the denunciation shall be notified in writing to the Government of the Netherlands, who will immediately communicate a certified copy of the notification to all the other Powers, informing them of the date on which it was received.

The denunciation shall take effect only as regards the Power which notified it, and one year after the notification thereof has reached the Government of the Netherlands.

In witness whereof the Plenipotentiaries have affixed their signatures to the present Convention.

Done at The Hague the 23d January, 1912, in a single copy, which shall be deposited and remain in the archives of the Government of the Netherlands, and of which certified copies will be transmitted through the diplomatic channel to all the powers represented at the Conference.

[Signatures omitted.]

FINAL PROTOCOL OF THE INTERNATIONAL OPIUM CONFERENCE

The International Opium Conference proposed by the Government of the United States of America, and convoked by the Government of the Netherlands, assembled at The Hague, in the Hall of the Knights, on the 1st December, 1911.

The Governments hereinafter enumerated took part in the Conference, for which they had appointed the following delegates:

[*Names omitted.*]

At a series of meetings held from the 1st December, 1911, to the 23d January, 1912, the Conference drew up the annexed text of a convention.

The Conference further expressed the following *vœux*:

1. The Conference considers it desirable to direct the attention of the Universal Postal Union—

(1) To the urgency of regulating the transmission through the post of raw opium;

(2) To the urgency of regulating as far as possible the transmission through the post of morphine, cocaine, and their respective salts and other substances referred to in Article 14 of the Convention;

(3) To the necessity of prohibiting the transmission of prepared opium through the post.

2. The Conference considers it desirable to study the question of Indian hemp from the statistical and scientific point of view, with the object of regulating its abuses, should the necessity thereof be felt, by internal legislation or by an international agreement.

In witness whereof the Plenipotentiaries have affixed their signatures to the present Protocol.

Done at The Hague, the 23d January, 1912, in a single copy, which shall be deposited and remain in the archives of the Netherlands Government, and certified copies of which shall be transmitted through the diplomatic channel to all the Powers represented at the Conference.

[*Signatures omitted.*]

FINAL PROTOCOL OF THE SECOND INTERNATIONAL
OPIUM CONFERENCE, 1913

The Second International Opium Conference, convoked by the Government of the Netherlands in accordance with Article 23 of the International Opium Convention, met at The Hague, in the Hall of the Knights, on the 1st July, 1913.

The Governments hereinafter enumerated participated in the Conference, for which they had appointed the following delegates :

[Names omitted.]

At a series of meetings held from the 1st to the 9th July, 1913, the Conference, having examined the question submitted to it under paragraph 2 of Article 23 of the International Opium Convention of the 23d January, 1912.

1. Has decided that the deposit of ratifications may now take place.

2. Has unanimously adopted the following Resolution :

Desiring to pursue, in the path first entered upon by the International Commission of Shanghai of 1909 and by the first Conference at The Hague of 1912, the progressive suppression of the abuse of opium, morphine, and cocaine, and of the drugs prepared or derived from these substances, and more than ever convinced of the necessity and mutual advantage of an international agreement on this matter, the Second International Opium Conference,

(1) Resolves that the Government of the Netherlands may be pleased to inform the Governments of Austria-Hungary, Norway and Sweden, that the signature, ratification, preparation of legislative measures, and the enforcement of the Convention, constitute four distinct stages which allow these Powers to proceed at once to supplemental signature.

Indeed, it is provided by Articles 23 and 24 that a period of six months may elapse between the enforcement of the Convention and the preparation of bills, regulations and other measures contemplated by the Convention. Also, the third paragraph of Article 24 allows the contracting Powers to come to an agreement after ratification as to the date of the enactment of such legislative measures. Furthermore it must be observed that the difficulties anticipated by Austria-

Hungary, Norway and Sweden, as regards their legislation, were foreseen by the delegates of the signatory Powers, and were, indeed, the subject of thorough examination by the twelve contracting Powers. Almost all the signatory Powers are in the same position as the above-mentioned Powers, and have not yet formulated all the measures contemplated by the Convention.

(2) Resolves that the Government of the Netherlands may be pleased to communicate to the Governments of Bulgaria, Greece, Montenegro, Peru, Roumania, Servia, Turkey and Uruguay, the following resolution :

“ The Conference regrets that certain Governments have as yet declined or failed to sign the Convention. The Conference is of the opinion that the abstention of these Powers would prejudice most seriously the humanitarian ends sought by the convention. The Conference expresses the firm hope that these powers will alter their negative or dilatory attitude.”

(3) Resolves that the Government of the Netherlands may be pleased to inform the Swiss Government that they are mistaken in their belief that their coöperation will be almost valueless. Contrary to the view expressed in the letter of the Federal Council of the 25th October, 1912, the Conference believes that the coöperation of Switzerland will be most useful, while its abstention will jeopardise the results of the Convention. As for the consideration advanced by the Federal Council concerning the respective fields of federal and cantonal legislation, it may be observed that similar difficulties confronted the first Conference, which took them into account while drafting the text of the Convention.

(4) Invites the signatory Governments to instruct their representatives abroad to support the above-mentioned representations of their Netherlands colleagues.

3. Has resolved as follows :

That should the signature of all the Powers invited in accordance with paragraph 1 of Article 23 not be obtained by the 31st December, 1913, the Government of the Netherlands will immediately request the signatory Powers to appoint delegates to proceed to The Hague to examine into the possibility of putting into effect the International Opium Convention of the 23d January, 1912.

In witness whereof the delegates have attached their signatures to this Protocol.

Done at The Hague, the 9th July, 1913, in one instrument, which shall be deposited in the archives of the Government of the Netherlands, and copies of which, duly certified, shall be forwarded through diplomatic channels to all the signatory and the non-signatory Powers.

[Signatures omitted.]

FINAL PROTOCOL OF THE THIRD INTERNATIONAL
OPIUM CONFERENCE, 1914

The Third International Opium Conference, convoked by the Government of the Netherlands in accordance with the third resolution of the Second Conference, met at The Hague, in the Hall of the Knights, on the 15th June, 1914.

The Governments hereinafter enumerated participated in the Conference, for which they had appointed the following delegates:

[Names omitted.]

At a series of meetings held from the 15th to the 25th June, 1914, the Conference having examined the question submitted to it under the third resolution passed by the Second Conference,

(A) Has placed on record the following opinions:

1. That it is possible to bring into force the International Opium Convention of the 23d January, 1912, notwithstanding the fact that some of the Powers invited, in pursuance of paragraph 1 of Article 23, have not yet signed the Convention.

2. That the Convention shall come into force between all the signatory Powers as soon as the Powers which have already signed, and those which have expressed their intention to adhere to it, have ratified it. The date of the coming into force of the Convention shall be that fixed by paragraph 1 of Article 24.

3. That, if by a date to be determined by the Conference all the signatory Powers have not yet deposited their ratifications, it shall be permissible for the signatory Powers whose ratifications have been deposited by that date, to bring the Convention into force. The same power shall obtain for the signatory Powers which may successively deposit their ratifications after that date.

4. That the date indicated in 3 shall be the 31st December, 1914.

5. That the power of acceding to the Convention do remain open to the Powers which have not yet signed.

(B) Has decided :

That a protocol by which the signatory Powers desirous of availing themselves of the power mentioned in 3 shall be able to declare their intention of putting the convention in force shall be opened at The Hague.

His Excellency the Minister for Foreign Affairs of the Netherlands, in accordance with the unanimous wish of the Conference, has consented to draw up this Protocol, which will remain open for signature.

(C) Has unanimously carried the following resolution :

The Conference invites his Excellency the Minister for Foreign Affairs of the Netherlands to make, in the name of the Conference, an urgent and respectful representation to the signatory Powers which have not yet ratified the Convention nor expressed their intention of doing so, with a view to induce them to declare their readiness shortly to deposit their ratifications, in order that the Convention may come into force as soon as possible.

In witness whereof the delegates have attached their signatures to this Protocol.

Done at The Hague, the 25th June, 1914, in one instrument, which shall be deposited in the archives of the Government of the Netherlands, and copies of which, duly certified, shall be forwarded through diplomatic channels to all the signatory and the non-signatory Powers.

[*Signatures omitted.*]

PROTOCOL RESPECTING THE PUTTING INTO FORCE OF THE INTERNATIONAL OPIUM CONVENTION

The undersigned duly authorised by their respective Governments, in virtue of the power provided under No. 3 of the Final Protocol of the Third International Opium Conference, declare that their Governments having ratified the International Opium Convention of the 23d January, 1912, intend to put it into operation.

As regards the Powers which shall sign that Protocol before the 31st December, 1914, the Convention will come into force on that date; as regards the Powers which shall sign it after the 31st December, 1914, the Convention will come into force on the date of signature.

For the United States of America:	
HENRY VAN DYKE,	Feb. 11, 1915.
For China:	
T'ANG TSAI-FOU,	Feb. 11, 1915.
For the Netherlands:	
J. LOUDON,	Feb. 11, 1915.
For Honduras:	
E. H. CRONE,	April 3, 1915.
For Norway:	
F. HAGERUP,	Sept. 20, 1915.
For Belgium:	
ALB. FALLON,	May 14, 1919.
For Luxemburg:	
ALB. FALLON,	May 14, 1919.
For Sweden:	
G. DE DARDEL,	Jan. 13, 1921.
For Spain:	
SANTIAGO MENDEZ DE VIGO,	FEB. 11, 1921.

APPENDIX II

SUGGESTIONS OF THE UNITED STATES OF AMERICA

[Deletions from International Opium Convention indicated by striking out words thus: "~~unless laws.~~" Amendments to International Opium Convention indicated by italics thus: "*and coca leaves.*"]

Considering that the Powers interested in the progressive suppression of the abuse of opium, morphine, cocaine, as well as drugs prepared or derived from these substances, which give rise, or might give rise, to similar abuses entered into the International Opium Convention of 1912;

Considering the necessity of adopting further measures in order to hasten the consummation of the aims and objects of that Convention;

Considering that the Assembly of the League of Nations by Resolution No. VI passed on October 18, 1923, requested the Council, as a means of giving effect to the principles submitted by the Representatives of the United States of America, subject to the reservation in regard to prepared opium made by Representatives of France, Germany, Great Britain, Japan, the Netherlands, Portugal, and Siam, to invite the Governments concerned to send representatives with plenipotentiary powers to a conference for this purpose;

Considering that the principles submitted by the Representatives of the United States of America are the following:

1. "*If the purpose of The Hague Opium Convention is to be achieved according to its spirit and true intent, it must be recognized that the use of opium products for other than medicinal and scientific purposes is an abuse and not legitimate.*

2. "*In order to prevent the abuse of these drugs, it is necessary to exercise the control of the production of raw opium in such a manner that there will be no surplus available for non-medicinal and non-scientific purposes.*"

Considering that this humanitarian effort will meet with the unanimous adhesion of all the Nations interested:

Have resolved to conclude a Convention for this purpose and have appointed as their plenipotentiaries:

CHAPTER I.—RAW OPIUM AND COCA LEAVES

Definitions. By "raw opium" is understood:

The spontaneously coagulated juice obtained from the capsules of the papaver somniferum, which has only been submitted to the necessary manipulation for packing and transport.

By "coca leaves" is understood:

The Leaves of Erythroxylon Coca and its varieties from which cocaine may be extracted.

Article 1

The Contracting ~~Powers~~ Parties shall enact effective laws or regulations for the control of the production and distribution of raw opium ~~unless laws or regulations on the subject are already in existence~~ and coca leaves so that there will be no surplus available for purposes not strictly medical or scientific.¹

The foregoing provision shall not operate to prevent the production for exportation, or exportation, of raw opium for the purpose of making prepared opium into those territories where the use of prepared opium is still temporarily permitted under Chapter II of this Convention, so long as such exportation is in conformity with the provisions of this Convention.

Article 2

Due regard being had to the differences in their commercial conditions, the Contracting ~~Powers~~ Parties shall limit the number of towns, ports, or other localities through which the export of raw opium and coca leaves shall be permitted.

Article 2-A

The Contracting Parties shall require that a separate import license must be obtained for each importation of raw opium or coca leaves. The license may allow the importation of the amount for which the license is given in one or more consignments within a period to be specified in the license.

Article 3

~~The Contracting Powers shall take measures:~~

~~(a) To prevent the export of raw opium to countries which shall have prohibited its entry, and~~

¹See the Report of the Advisory Committee on Traffic in Opium and Other Dangerous Drugs, Fifth Session, Appendix page.

~~(b) To control the export of raw opium to countries which restrict its import, unless regulations on the subject are already in existence.~~

The Contracting Parties shall require that a separate export license must be obtained for each exportation of raw opium or coca leaves. The Contracting Party before issuing such license shall require an import certificate issued by the authorities having jurisdiction over the territory into which the importation is made and certifying that the importation is approved, to be presented by the person applying for the license.

The license may allow the exportation of the amounts for which the license is given in one or more consignments within a period to be specified in the license.

Unless a copy of the export license accompanies the consignment, the authorities issuing the export license shall send a copy to the authorities having jurisdiction over the territory into which the importation is made.

The authorities having jurisdiction over the territory into which the importation is made, when the importation has been effected, shall return the export license with an endorsement to that effect to the Contracting Party issuing such export license.

In the case of an application to export a consignment to any place for the purpose of being placed in a bonded warehouse in that place, the production of a special certificate from the authorities having jurisdiction over that place, certifying that they have approved the introduction of the consignment for the said purpose, may be accepted by the Contracting Party permitting the export in place of the import certificate provided for above.

Article 4

The Contracting Powers Parties shall make regulations requiring that every package containing raw opium or coca leaves intended for export shall be marked in such a way as to indicate its contents, provided that the consignment exceeds 5 kilograms.

Article 5

The Contracting Powers shall not allow the import and export of raw opium except by duly authorized persons.

CHAPTER II.—PREPARED OPIUM

Definitions. By "prepared opium" is understood:

The product of raw opium, obtained by a series of special operations, especially by dissolving, boiling, roasting, and fermentation, designed to transform it into an extract suitable for consumption.

Prepared opium includes dross and all other residues remaining when opium has been smoked.

Article 6

The Contracting ~~Powers~~ *Parties* shall take measures for the gradual and effective suppression of the manufacture of, internal trade in, and the use of, prepared opium.

Article 7

The Contracting ~~Powers~~ *Parties* shall prohibit the import and export of prepared opium; ~~these Powers, however, which are not ready to prohibit immediately the export of prepared opium shall prohibit it as soon as possible.~~

Article 8

The ~~Each~~ Contracting ~~Powers~~ *Party* which ~~are not as yet ready to prohibit immediately the export of prepared opium:~~

~~(a) Shall restrict the number of towns, ports, or other localities through which prepared opium may be exported;~~

~~(b) Shall prohibit the export of prepared opium to countries which now forbid, or which may hereafter forbid, the import thereof;~~

~~(c) Shall, in the meanwhile, prohibit the consignment of prepared opium to a country which desires to restrict its entrance, unless the exporter complies with the regulations of the importing country.~~

~~(d) Shall take measures to ensure that every package exported, containing prepared opium bears a special mark indicating the nature of its contents;~~

~~(e) Shall not permit the export of prepared opium except by specially authorized persons.~~

in whose territory the use of prepared opium is now temporarily permitted agrees to reduce its imports of raw opium for the purpose

of making prepared opium by 10 per cent of its present importation each year for a period of 10 years beginning with the date of ratification of this Convention by it, and further agrees not to supplement the reduction by domestically produced opium; and further agrees that at the end of such period of 10 years it will prohibit the importation of raw opium for the purpose of making prepared opium. By "present importation" is understood the importation during the 12 months immediately preceding the date the Contracting Party ratifies this Convention.

CHAPTER III.—MEDICINAL OPIUM, MORPHINE, COCAINE, ETC.

Definitions. By "medicinal opium" is understood:

Raw opium which has been heated to 60° Centigrade and contains not less than 10 per cent of morphine, whether or not it be powdered or granulated or mixed with indifferent materials.

By "morphine" is understood:

The principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$.

By "cocaine" is understood:

~~The principal alkaloid of the leaves of Erythroxylon Coca, having the formula $C_{17}H_{21}NO_4$.~~

The methylbenzoyl derivatives of ecgonine ($C_9H_{15}O_3N$) of the chemical formula $C_{17}H_{21}O_4N$, whether occurring naturally or prepared synthetically; and all other derivatives of ecgonine, whether occurring naturally or prepared synthetically, which possess the property of creating addiction by their use.

By "heroin" is understood:

Diacetyl-morphine having the formula $C_{21}H_{23}NO_5$.

Article 9

The Contracting ~~Powers~~ Parties shall enact ~~pharmacy~~ effective laws or regulations to limit exclusively to medical and legitimate scientific purposes the manufacture, sale, and use of morphine, cocaine, and their respective salts and derivatives, ~~unless laws or regulations on the subject are already in existence.~~ They shall coöperate with one another to prevent the use of these drugs for any other purpose.

Article 9-A

The Contracting Parties shall enact effective laws or regulations prohibiting the manufacture and distribution of heroin.

Article 10

The Contracting ~~Powers~~ *Parties* shall ~~use their best endeavours~~ to control, ~~or to cause to be controlled~~, all persons manufacturing, importing, selling, distributing, ~~and or~~ exporting morphine, cocaine, ~~and or~~ their respective salts *or derivatives*, as well as the buildings in which these persons carry on such industry or trade.

With this object, the Contracting Parties shall ~~use their best endeavours to adopt, or cause to be adopted~~, the following ~~measures, unless regulations on the subject are already in existence~~:

(a) ~~To~~ Confine the manufacture of morphine, cocaine, and their respective salts *and derivatives* to those establishments and premises alone which have been licensed for the purpose ~~or to obtain information~~ respecting the establishments and premises in which these drugs are manufactured ~~and to keep a register of them~~;

(b) ~~To~~ Require that all persons engaged in the manufacture, import, sale, distribution, or export of morphine, cocaine, ~~and or~~ their respective salts *or derivatives* shall ~~be furnished with~~ *obtain* a license or permit to engage in these operations, ~~or shall make to the competent authorities an official declaration that they are so engaged~~;

(c) ~~To~~ Require that such persons shall enter in their books the quantities manufactured, imports, sales, and all other distribution, and exports of morphine, cocaine, and their respective salts *and derivatives*. ~~This rule shall not necessarily apply to medical prescriptions and to sales by duly authorised chemists.~~

Article 11

The Contracting ~~Powers~~ *Parties* shall take measures to prohibit, as regards their internal trade, the delivery of morphine, cocaine, and their respective salts *and derivatives* to any unauthorized persons, ~~unless regulations on the subject are already in existence.~~

Article 12

~~Due regard being had to the differences in their conditions, the Contracting Powers shall use their best endeavours to restrict to authorized persons the import of morphine, cocaine, and their respective salts. The Contracting Parties shall require that a separate import license must be obtained for each importation of morphine, cocaine, or their respective salts or derivatives. The license may allow the importation of the amount for which the license is given in one or more consignments within a period to be specified in the license.~~

Article 13

~~The Contracting Powers shall use their best endeavours to adopt, or cause to be adopted, measures to ensure that morphine, cocaine, and their respective salts shall not be exported from their countries, possessions, colonies, and leased territory to the countries, possessions, colonies and leased territories of the other Contracting Powers except when consigned to persons furnished with the licenses or permits provided for by the laws or regulations of the importing country.~~

~~With this object each government may communicate from time to time to the governments of the exporting countries lists of the persons to whom licenses or permits for the import of morphine, cocaine, and their respective salts have been granted.~~

~~The Contracting Parties shall require that a separate export license must be obtained for each exportation of morphine, cocaine, or their respective salts or derivatives. The Contracting Party before issuing such license shall require an import certificate issued by the authorities having jurisdiction over the territory into which the importation is made and certifying that the importation is approved, to be presented by the person applying for the license.~~

~~The license may allow the exportation of the amounts for which the license is given in one or more consignments within a period to be specified in the license.~~

~~Unless a copy of the export license accompanies the consignment, the authorities issuing the export license shall send a copy to the authorities having jurisdiction over the territory into which the importation is made.~~

The authorities having jurisdiction over the territory into which the importation is made, when the importation has been effected, shall return the export license with an endorsement to that effect to the Contracting Party issuing such export license.

In the case of an application to export a consignment to any place for the purpose of being placed in a bonded warehouse in that place, the production of a special certificate from the authorities having jurisdiction over that place, certifying that they have approved the introduction of the consignment for the said purpose, may be accepted by the Contracting Party permitting the export in place of the import certificate provided for above.

Article 14

The Contracting ~~Powers~~ *Parties* shall apply the laws and regulations, respecting the manufacture, import, sale, *distribution, delivery,* or export of morphine, cocaine, and their respective salts and their derivatives;

(a) To medicinal opium;

(b) To all preparations (official and non-official, including the so-called opium remedies) containing ~~more than 0.2 per cent of morphine, or more than 0.1 per cent of cocaine, morphine, cocaine, or their salts or derivatives;~~

~~(c) To heroin, its salts and preparations containing more than 0.1 per cent of heroin;~~

(d) To all new derivatives of morphine, ~~of or~~ cocaine, or of their respective salts, and to every other alkaloid of opium *or coca leaves, and to any habit-forming drug* which may be shown by scientific research, generally recognized, to be liable to similar abuse and productive of like ill-effects.

CHAPTER IV

CHAPTER V

Article 20

The Contracting ~~Powers~~ *Parties* shall ~~examine the possibility of enacting~~ *enact* laws or regulations making it a penal offense to

be in illegal possession of ~~raw opium, prepared opium, morphine, cocaine, and their respective salts, unless laws or regulations on the subject are already in existence.~~ any of the substances to which this Convention applies.

Article 20-A

The Contracting Parties shall furnish annually to the Central Board hereinafter constituted, not later than April 1st, for the calendar year beginning January 1st following, in respect of raw opium; coca leaves; morphine, its salts, derivatives, and preparations containing morphine; and cocaine, its salts, derivatives, and preparations containing cocaine, estimates of:

(1) Their import requirements for medicinal and scientific purposes, whether for domestic consumption, manufacture, or commerce;

(2) Their total production and requirements:

(a) For all purposes,

(1) For domestic consumption for all purposes,

(2) For domestic consumption for medicinal and scientific purposes,

(3) For export purposes,

(4) For export for medicinal and scientific purposes.

Article 20-B

The Contracting Parties undertake to prohibit the importation into their territory of any of the substances mentioned in Article 20-A in excess of the quantities specified in the estimates furnished in pursuance of Article 20-A (1) or fixed by the Central Board in pursuance of Article 20-E. The foregoing provision shall not operate to prevent the importation of raw opium for the purpose of making prepared opium into those territories where the use of prepared opium is still temporarily permitted under Chapter II of this Convention, so long as such importation is in conformity with the provisions of this Convention.

Article 20-C

A permanent Central Board shall be constituted consisting of one representative each from,,,,,,,,,, and²

The Board shall fix its headquarters, shall determine its procedure, and shall meet at least once annually beginning the first Monday in May. The decision of all questions coming before the Board shall be by a majority vote of those present, but two-thirds of the Board shall be necessary to constitute a quorum.

The Board may appoint an Executive Committee of not more than five persons who shall perform such of the Board's duties as it may delegate to the Committee. The members of the Executive Committee need not be members of the Board.

The expenses of the members of the Board shall be defrayed by the Parties they represent. The expenses of the Executive Committee and its clerical staff shall be divided among the Contracting Parties in proportion to their total imports and exports of raw opium and coca leaves.

Article 20-D

The Contracting Parties, in addition to the estimates called for in Article 20-A, agree to send to the Central Board:

(1) In respect of each of the substances mentioned in Article 20-A:

(a) Within three months after the end of each quarter statistics of their imports, specifying their source, and of their exports and re-exports, specifying their destination, during that quarter;

(b) If possible, within three months after the end of each half year the wholesale stocks, whether in Government or in private hands, at the end of that half year;

(2) In respect of morphine and cocaine and their salts and derivatives, within three months after the end of each half year, the statistics of their manufacture during that half-year;

²The nations having representatives shall be selected by this Conference.

(3) *In respect of raw opium and coca leaves, within three months after the end of each year, the total quantity produced and consumed during that year.*

The Central Board shall communicate periodically to all the parties to this Convention the situation as regards the quantity and destination of all exports and re-exports of the substances mentioned in Article 20-A, calling to their particular attention the fact that, in the case of any territory, the imports have already reached the amounts to which such territory is entitled under this Convention.

Article 20-E

If any Contracting Party furnishes no estimate of its import requirements in pursuance of Article 20-A or furnishes an estimate which appears to the Central Board upon investigation undertaken on its own motion or on complaint of any of the Contracting Parties, to be greatly in excess of its reasonable requirements, the Board shall immediately ascertain the amount of the reasonable requirements of that Contracting Party for the calendar year beginning January first following, after taking into account its population, climatic and hygienic conditions and all other factors which appear to the Board to be relevant as well as any other special circumstances which such Contracting Party may be at liberty to submit to the Board.

The Board shall notify to all Contracting Parties its conclusion as to the amount so ascertained by it. The Board shall recommend that each Contracting Party other than that Contracting Party the extent of whose import requirements has been ascertained by the Board, shall prohibit the exportation from their respective territories to the territory of that Contracting Party, amounts of substances specified in Article 20-A which, taken in conjunction with other exports thereto, will exceed the amount ascertained as aforesaid by the Board to be the reasonable annual import requirements of such Party. Due consideration shall be given to the recommendation of the Board.

Article 20-F

Each Contracting Party shall make it a penal offense for any person within its jurisdiction to procure or assist the commission,

in any place outside its jurisdiction, of any offense against the laws in force in such place for controlling or regulating the manufacture, sale, delivery, distribution, use, possession, export, or import of any of the substances covered by this Convention.

Article 20-G

Each Contracting Party shall forbid the conveyance in any vessel sailing under its flag of any consignment of the substances covered by this Convention,

(1) Unless an export license has been issued in respect of such consignment in accordance with the provisions of this convention and the consignment is accompanied by an official copy of such license;

(2) To any destination other than the destination mentioned in the license.

Article 20-H

For the purpose of ensuring the full application and enforcement of the provisions of this Convention in Free Ports and Free Zones, the Contracting Parties undertake to apply in Free Ports and Free Zones situated within their territories the same laws and regulations, and to exercise the same supervision and control in respect of the substances covered by this Convention as in other parts of their territories.

Article 20-I

The Contracting Parties shall enact effective laws and regulations to prohibit the transportation through their territory from a place outside thereof to another place outside thereof, of any of the substances covered by this Convention unless such Contracting Party is advised of the contents and the destination of the consignment.

Article 20-J

The Contracting Parties shall enact effective laws and regulations to prohibit transshipment within their territories of a consignment of any of the substances covered by this Convention unless such consignment is accompanied by an official copy of the export license

issued by the authorities having jurisdiction over the territory from which exported or by an official copy of the import certificate issued by the authorities having jurisdiction over the territory to which destined. The Contracting Parties shall also enact effective laws and regulations to prohibit in the territory of transshipment the diversion of, or attempt to divert, a consignment of any of the substances covered by this Convention to any destination other than that named in the official copy of the export license or import certificate, unless an export license is first obtained from the authorities of the territory where the transshipment occurs.

Article 20-K

The Contracting Parties shall enact effective laws and regulations to prohibit a consignment of any of the substances covered by this Convention which is landed in their territory and placed in a bonded warehouse from being withdrawn from such warehouse for export, unless an import certificate issued by the authorities having jurisdiction over the territory to which the consignment is destined, certifying that the importation is approved, is presented to the authorities having jurisdiction over the bonded warehouse.

A special certificate shall be issued by the Contracting Parties in respect of each consignment so withdrawn and shall take the place of the export license for the purpose of the preceding provisions of this Convention.

Article 20-L

In the case of a geographical area the Government of which is not a party to this Convention the Contracting Parties undertake to allow the export to such geographical area of any of the substances covered by this Convention only in such amounts as may be fixed by the Central Board as being reasonably required for the medical and scientific needs of such area. The Central Board shall communicate periodically to all the Parties to this Convention the amount fixed in respect of each geographical area and the situation as regards the exports and re-exports thereto.

Article 20-M

~~The present Convention shall come into force three months after the date mentioned in the notification by the Government of the Netherlands, referred to in the last paragraph of the preceding Article.~~

This Convention shall come into force between the Contracting Parties who have ratified it as soon as it has been ratified by four of the Contracting Parties.

APPENDIX III

MEASURES SUGGESTED BY THE ADVISORY COMMITTEE AS A BASIS FOR THE DELIBERATIONS OF THE SECOND CONFERENCE, NOVEMBER 1924

PART I

1. That each country shall furnish an estimate of its annual import requirements for medical and scientific purposes, whether for domestic consumption, manufacture or commerce, of

- (a) Raw opium.
- (b) Coca leaves.
- (c) Morphine, its salts, and preparations containing morphine.
- (d) Heroin, its salts, and preparations containing heroin.
- (e) Cocaine, its salts, and preparations containing cocaine.

2. Each Government undertakes to refuse to authorise the importation into its territory of any of the substances mentioned in Article 1 beyond the quantities specified in the estimates furnished by it in pursuance of Article 1. The foregoing provision shall not prevent the Government of a country, in which the use of opium for smoking purposes is still temporarily permitted under Chapter II of The Hague Convention, from authorising the importation of raw opium, in conformity with the provisions of Chapter II of the Convention, until such time as the use of opium for smoking purposes shall have been definitely prohibited.

3. A permanent Central Board, composed of experts, shall be constituted by the Council of the League on the advice of the Opium Advisory Committee.

4. The Governments agree to send to the Central Board:

(a) Their estimates of their annual import requirements in pursuance of Article 1.

(b) Within three months after the end of each quarter, statistics of their imports from each country and of their exports or re-exports to each country during that quarter and, within three months after

the end of each half-year, statistics of their manufactures during that half-year and, if possible, the stocks in the hands of the wholesale dealers at the end of the half-year, of each of the substances mentioned in Article 1.

(c) Within three months after the end of each year, the total quantity of each of the substances mentioned in Article 1, consumed as such in the country during the year.

The Central Board will communicate periodically to all Governments the position as regards the exports and re-exports to each country.

Should it appear that the imports of any of the substances mentioned in Article 1 already received in any country during the current year have exceeded the amounts specified in the estimate furnished by that country, the Central Board shall call the attention of the Governments specially to the fact. Each Government undertakes not to export any further consignment of the substance in question to the said country during the same year, unless a revised estimate of its requirements shall have been furnished by the country.

5. If any country furnishes no estimate of its requirements in pursuance of Article 1 or furnishes an estimate which appears to the Central Board to be greatly in excess of the reasonable requirements of the country and to be likely to be used in part for the illicit traffic, the Board shall fix the amounts of the reasonable requirements of that country after taking into account its population, climatic and hygienic conditions and all other factors which appear to the Board to be relevant, as well as any other special circumstances which the said country will be at liberty to submit to the Board. The Board shall notify the amount so fixed to all Governments. Each Government agrees not to allow the export to that country of amounts which, taken in conjunction with the exports from other countries, will exceed the amounts fixed by the Board.

6. If any Government of any country which has commercial relations, in the matter of the substances mentioned in Article 1, with a country for which an amount has been fixed by the Board in pursuance of Article 5 or Article 7, paragraph XIII, considers that it is undesirable to limit exports to the latter country to the amount so fixed, it shall have the right to demand that a special conference

of all the countries which have such relations with the said country shall be summoned to consider whether such limitation or any other measure should be put into force.

PART II

7. The provisions of The Hague Convention of 1912 shall be amended as follows:

(I) Article 2 shall be extended to apply to coca leaves.

(II) The following article (numbered 2bis) shall be added to the Convention:

“Each Contracting Power shall require that a separate import licence must be obtained for each importation of raw opium or coca leaves. The licence may allow the importation of the amount for which the licence is given in one or more consignments within a period to be specified in the licence.”

(III) Article 3 shall be replaced by the following article:

“Each Contracting Power shall require that a separate export licence must be obtained for each exportation of raw opium or coca leaves. The Contracting Power, before issuing such licence, shall require an import certificate, issued by the Government of the importing country and certifying that the importation is approved, to be produced by the person applying for the licence. The licence may allow the exportation of the amounts for which the licence is given in one or more consignments within a period to be specified in the licence. Unless a copy of the export licence accompanies the consignment, the Government issuing the export licence shall send a copy to the Government of the importing country. The Government of the importing country, when the importation has been effected, shall return the export licence with an endorsement to that effect to the Government of the exporting country.

“In the case of an application to export a consignment to any country for the purpose of being placed in a bonded warehouse in that country, the production of a special certificate from the Government of that country, certifying that it has approved the introduction of the consignment for the said purpose, may be admitted by the Government of the exporting country in place of the import certificate provided for above.”

(IV) Article 5 shall be omitted.

(V) The definition of cocaine in Chapter III shall be modified as follows: "By cocaine is understood the principal alkaloid of the leaves of *erythroxyton coca* having the formula $C_{17}H_{21}NO_4$, whether extracted from the leaves of *erythroxyton coca* or produced by chemical synthesis." (Ecgonine also to be included?)

(VI) In Article 10 the words "The Contracting Powers shall control" shall be substituted for "The Contracting Powers shall use their best endeavours to control or to cause to be controlled," and the words "The Contracting Parties shall adopt" shall be substituted for "The Contracting Powers shall use their best endeavours to adopt or cause to be adopted."

The words "or shall make to the competent authorities an official declaration that they are so engaged" shall be omitted.

The words "This rule shall not necessarily apply to medical prescriptions and to sales by duly authorised chemists" shall be omitted.

(VII) Article 12 shall be replaced by the following article:

"Each Contracting Power shall require that a separate import licence must be obtained for each importation of any of the substances to which Chapter III applies. The licence may allow the importation of the amount for which the licence is given in one or more consignments within a period to be specified in the licence."

(VIII) Article 13 shall be replaced by the following article:

"Each Contracting Power shall require that a separate export licence must be obtained for each exportation of any of the substances to which Chapter III applies. The Contracting Power, before issuing such licences, shall require an import certificate, issued by the Government of the importing country and certifying that the importation is approved, to be produced by the person applying for the licence.

"The licence may allow the exportation of the amount for which the licence is given in one or more consignments within a period to be specified in the licence.

"Unless a copy of the export licence accompanies the consignment, the Government issuing the export licence shall send a copy to the Government of the country of importation.

"The Government of the importing country, when the importation has been effected, shall return the export licence, with an endorsement to that effect, to the Government of the exporting country.

“ In the case of an application to export a consignment to any country for the purpose of being placed in a bonded warehouse in that country, the production of a special certificate from the Government of that country, certifying that it has approved the introduction of the consignment for the said purpose, may be admitted by the Government of the exporting country in place of the import certificate provided for above.”

(IX) For the purpose of ensuring the full application and enforcement of the provisions of The Hague Convention, as amended by this agreement, in free ports and free zones, the Governments undertake to apply in free ports and free zones situated within their territories the same laws and regulations, and to exercise the same supervision and control in respect of the substances covered by the Convention, as amended by this agreement, as in other parts of their territories.

(X) In the case of a consignment of any of the substances covered by the Convention as amended by this agreement exported from one country to another country, which passes through the territory of a third country without being removed from the ship or conveyance in which it is being conveyed except for the purpose of being transferred to another conveyance under the supervision of the authorities of the country of transit, a declaration shall be made to the authorities of the country of transit of the contents of the consignment and the country for which it is destined. If no declaration is made or a false declaration is made, the consignment shall be liable to confiscation by the authorities of the country of transit and the person making such false declaration shall be guilty of an offence.

(XI) No transshipment of any of the substances covered by the Convention as amended by this agreement shall be allowed unless the consignment is accompanied by an official copy of the export licence, issued by the authorities of the country of export, or by an official copy of the import certificate, issued by the authorities of the importing country. It shall be made illegal for anyone in the country of transshipment to divert, or attempt to divert, the consignment to any destination other than that named in the official copy of the export licence or import certificate above mentioned, without an export license from the authorities of the country of transshipment.

(XII) A consignment of any of the substances covered by the Convention, as amended by this agreement, which is landed in any country and placed in a bonded warehouse, shall not be allowed by the Government of that country to be withdrawn from the bonded warehouse to be sent out to another country unless an import certificate, issued by the Government of the country of destination and certifying that the importation is approved, is produced to the authorities of the former country. A special certificate shall be issued by the Government in respect of each consignment so withdrawn and shall take the place of the export licence for the purpose of the preceding provisions of this agreement.

(XIII) In the case of a country which is not a party to this agreement, the Governments undertake not to allow the export to such a country of any of the substances covered by the Convention as amended by this agreement except such amounts as may be fixed by the Central Board as being reasonably required for the medical and scientific needs of the country.

PART III

The Conference makes the following recommendations :

1. That each Government should forbid any person within its jurisdiction from procuring or assisting the commission, in any place outside its jurisdiction, of any offence against the laws in force in such place for controlling or regulating the manufacture, sale, use, export or import of any of the substances covered by the Convention as amended by this agreement, and that any person knowingly violating such prohibition shall be liable to punishment.

2. That each Government should forbid the conveyance in any ship sailing under its flag of any consignment of the substances covered by the Convention as amended by this agreement :

(1) Unless an export licence has been issued in respect of such consignment in accordance with the provisions of the Convention so amended and the consignment is accompanied by an official copy of such licence ;

(2) To any destination other than the destination mentioned in the licence.

NOTE EXPLANATORY OF THE PROPOSALS

The measures suggested as a basis for discussion consist of two parts. The first part consisting of Articles 1 to 6 contains a scheme the object of which is to limit the export and imports of the drugs and of the raw materials from which they are manufactured to the amounts required for medical and scientific purposes. It has not been thought necessary at the present stage to work out the scheme in full detail, but the essential features are set out in Articles 1 to 6, and Article 7, paragraph XIII. Each country which becomes a party to the agreement will prepare at, or shortly before, the commencement of each calendar year an estimate of the amounts of each of the raw materials or of the manufactured drugs which it will require to import during the year:

(a) For consumption in the country for medical and scientific purposes;

(b) For the manufacture of the drugs or of other medical preparations;

(c) For the export trade.

Each country will undertake that it will not import more of the raw materials or of the manufactured drugs than it specifies in its estimates.

The estimates will be sent to a Central Board established in the manner proposed in the scheme.

The Governments will also send periodically to the Central Board statistics of their imports and exports, their manufactures, and their consumption of the raw materials and of the drugs.

These statistics will enable the Central Board to follow the course of the international traffic, so that whenever it appears that the exports to or imports into any country have exceeded the amounts of the estimates furnished by that country, it will be in a position to notify the Government of that country, and the Governments of other countries, of that fact.

It is intended that the scheme should be worked in as elastic a manner as possible. In the first place, it is not expected that in the early years it will be possible to give exact estimates. At first, the estimates will in many cases necessarily be approximate only, and some margin will have to be allowed for errors in estimation. As

experience is gained, the estimates will become more and more precise. In the second place, the estimates furnished by a Government at the commencement of a year will not necessarily be the final estimates for the year. If the estimates should be found by the Government in the course of the year to be insufficient, it will be open to the Government to furnish revised estimates to the Central Board. Or, again, the production of the raw materials will vary from year to year according to the state of the crops. In a year of abundant crops, when prices are low, the manufacturing countries will desire to take advantage of the state of the market and lay in supplies for the future. It will, again, be open to the Governments of such countries to revise their estimates of the supplies of the raw material required during the current year, a corresponding reduction being made in the estimates of the following year.

The experience of the Advisory Committee shows that it has to be anticipated that some countries will not become parties to the agreement, at any rate, not at first, or that they will neglect or declare themselves unable to frame any estimates of their requirements. It may be also that in some cases supplies will be demanded which are greatly in excess of the legitimate requirements of the country and which might serve to supply the illicit trade in the drugs.

It is therefore provided (Articles 5 and 7, paragraph XIII) that in such cases the Central Board shall have the power to fix the amounts which are reasonably required for the medical and scientific needs of the country, after taking into account all proper considerations, such as population, climate, etc., and any special circumstances which the country in question may desire to submit to the Board. The amounts so fixed will be notified to all Governments by the Central Board and the Governments will undertake to limit their exports to that country so that the amounts fixed by the Board shall not be exceeded. As explained above, Governments will be informed by the Central Board when the amounts fixed have been reached.

It has been suggested that political considerations may sometimes make it undesirable for a particular Government or Governments to limit its exports to a country in a case of this kind. To meet this difficulty, it is provided in the scheme that such a Government or Governments may ask for a special conference of the countries trad-

ing in the drugs with the country in question to consider whether the limitation should be enforced or some other measures taken.

It will be noticed that Article 1 provides only for estimates of *imports* being furnished. Some countries, however, provide themselves with their requirements of the drugs from their own manufactures, and the estimates furnished in pursuance of Article 1 will, therefore, not give the total requirements of the amounts needed for medical and scientific purposes. It is desirable, however, that the total requirements should be known. If the total requirements of all countries are known, it will be possible to compare the estimates of one country with those of another and so to reach some kind of standard for countries having similar conditions. The total amount of the drugs required to be manufactured to meet the world's medical and scientific needs, and the total amount of raw materials required to be produced, will also be known, and this knowledge should help to stabilise the manufacture of and trade in the drugs.

The second part contains a number of provisions designed to strengthen and give greater precision to the provisions of The Hague Convention, and, in particular, those which relate to the control over the exports and imports of the substances to which the Convention applies. Experience during the three years which have elapsed since the Convention came into force has shown that there are loopholes in the existing provisions by which persons engaged in illicit traffic can evade the control over the national and international trade in the materials and drugs which was the object of the Convention, and that a stricter control must be established if that object is to be secured effectively.

It is accordingly proposed: (1) that a separate licence from the Government shall be required for each consignment imported or exported; (2) that an export licence shall only be issued by the Government of the exporting country on the production of a certificate from the Government of the importing country that the importation of the consignment is approved (to avoid unnecessary interference with trade, this certificate can be given on telegraphic instructions from his Government by a diplomatic or consular officer of the importing country stationed in the exporting country); (3) that a copy of the export licence shall either accompany the consignment or be sent by the Government of the exporting country to

the Government of the importing country, and that when the importation has been effected this copy shall be returned, with an endorsement to the effect that the importation has been effected, to the Government of the exporting country.

The first two of these proposals are already being enforced by many Governments. The third is intended as a preventive against diversion of the consignment *en route* for illicit purposes.

Provisions are also proposed to ensure that materials or drugs which are brought into free ports or free zones do not escape control, and that transshipment facilities are not utilised for the purpose of diverting consignments, without authority, to a destination other than that for which the export licence has been issued. Special arrangements are suggested for safeguarding the "entrepôt" trade as carried on by means of bonded warehouses.

Other proposals are that the coca leaf, which is the raw material of cocaine, shall be brought within the Convention, and that the definition of cocaine shall be extended to cover artificial cocaine produced by chemical synthesis.

Finally, the Advisory Committee has appended two recommendations for the consideration of Governments.

The first of these is based on a provision in the British law which has been found extremely useful in dealing with illicit traffickers, who, while residing in one country, organise or arrange for illicit transactions in another country.

The second is intended to meet a very serious difficulty which is caused at present by the lack of any control over the exports from certain producing countries. Large consignments of raw opium without any restriction are being exported to the Far East under false declarations of destination for the purposes of the illicit traffic, and are being smuggled into China and elsewhere. It is accordingly proposed that Governments should exercise a control over the conveyance of opium or the other materials or drugs in ships sailing under their flag.

APPENDIX IV

FIRST GENEVA OPIUM CONFERENCE

Agreement

Protocol

Final Act

Signed at Geneva, February 11, 1925.

Agreement

The British Empire (with India), China, France, Japan, the Netherlands, Portugal and Siam,

Being fully determined to bring about the gradual and effective suppression of the manufacture of, internal trade in and use of prepared opium, as provided for in Chapter II of the International Opium Convention of January 23, 1912, in their Far Eastern possessions and territories, including leased or protected territories, in which the use of prepared opium is temporarily authorised; and

Being desirous, on the grounds of humanity and for the purpose of promoting the social and moral welfare of their peoples, of taking all possible steps for achieving the suppression of the use of opium for smoking with the least possible delay;

Having decided to conclude an agreement supplementary to the said International Convention;

Have nominated for this purpose as their plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland, and of the British Dominions beyond the seas, Emperor of India:

Sir Malcolm Delevingne, K.C.B., Assistant Under-Secretary of State for the Home Department,

And for India:

Mr. Harold Clayton, C.I.E., I.C.S.,

The President of the Chinese Republic:

The President of the French Republic:

Mr. Ed. Daladier, Minister for the Colonies;

His Majesty the Emperor of Japan :

Mr. Sagataro Kaku, former Civil Governor of the General Government of Taiwan,

Mr. Yotaro Sugimura, Counsellor of Embassy, Assistant Head of the Imperial Japanese Bureau accredited to the League of Nations,

Her Majesty the Queen of the Netherlands :

Mr. W. G. van Wettum, former Head of the Opium Régie Department in the Netherlands Indies,

Mr. de Kat Angelino, Secretary for Chinese Affairs to the Government of the Netherlands Indies,

The President of the Portuguese Republic :

Mr. A. Bartholomeu Ferreira, Envoy Extraordinary and Minister Plenipotentiary of the Portuguese Republic to the Swiss Federal Council,

Mr. Rodrigo Rodrigues, Governor of the Province of Macao,

His Majesty the King of Siam :

H.S.H. Prince Damras, Siamese Chargé d'Affaires at The Hague, Who, having examined the present situation in regard to the application of Chapter II of the said International Opium Convention in the above-mentioned Far Eastern possessions and territories ; and

Taking note of the fact that the increase of the smuggling of opium in the greater part of the territories in the Far East since the ratification of the Convention is hampering greatly the accomplishment of the gradual and effective suppression of the manufacture of, internal trade in, and use of prepared opium, as provided for in the Convention, and is even rendering less effective some of the measures already taken for that end ; and

Taking into account the different situations of the several countries,

Having deposited their full powers found in good and due form ;

Have agreed as follows :

Article I

1. Except as provided in paragraph 3 of this article with regard to retail sale, the importation, sale and distribution of opium shall

be a monopoly of the Government and the right to import, sell or distribute opium shall not be leased, accorded or delegated to any persons whatever.

2. The making of prepared opium for sale shall also be made a monopoly of the Government as soon as circumstances permit.

3. (a) The system of employing persons paid by a fixed salary and not by a commission on sales for the retail sale and distribution of opium shall be applied experimentally in those districts where an effective supervision can be exercised by the administrative authorities.

(b) Elsewhere the retail sale and distribution of opium shall be conducted only by persons licensed by the Government.

Paragraph (a) need not be applied if a system of licensing and rationing of smokers is in force which affords equivalent or more effective guarantees.

Article II

The sale of opium to minors shall be prohibited. All possible steps shall be taken by the Contracting Powers to prevent the spread of the habit of opium smoking among minors.

Article III

No minors shall be permitted to enter any smoking divan.

Article IV

The Contracting Powers shall limit as much as possible the number of retail shops and, where smoking divans are permitted, the number of divans.

Article V

The purchase and sale of "dross," except when the "dross" is sold to the monopoly, is prohibited.

Article VI

(1) The export of opium, whether raw or prepared, from any possession of territory into which opium is imported for the purpose of smoking shall be prohibited.

(2) The transit through, or transshipment in, any such possession or territory of prepared opium shall be prohibited.

(3) The transit through, or transshipment in, any such possession or territory of raw opium consigned to a destination outside the Possession or Territory shall also be prohibited unless an import certificate, issued by the Government of the importing country, which can be accepted as affording sufficient guarantees against the possibility of illegitimate use, is produced to the Government of the Possession or Territory.

Article VII

The Contracting Powers shall use their utmost efforts by suitable instruction in the schools, dissemination of literature and otherwise, to discourage the use of prepared opium within their respective territories, except where a Government considers such measures to be undesirable under the conditions existing in its territory.

Article VIII

The Contracting Powers undertake to assist one another in their efforts to suppress the illicit traffic by the direct exchange of information and views between the heads of the services concerned.

Article IX

The Contracting Powers will examine in the most favourable spirit the possibility of taking legislative measures to render punishable illegitimate transactions which are carried out in another country by a person residing within their territories.

Article X

The Contracting Powers will furnish all information which they can obtain with regard to the number of opium smokers. This information shall be transmitted to the Secretary-General of the League of Nations for publication.

Article XI

The provisions of this Agreement shall not apply to opium destined solely for medical and scientific purposes.

Article XII

The Contracting Powers agree that they will jointly review from time to time at such dates as may be mutually agreed, the position in regard to the application of Chapter II of The Hague Convention of January 23, 1912, and of the present Agreement. The first meeting shall take place at latest in 1929.

Article XIII

The present Agreement applies only to the Far Eastern possessions or territories of the Contracting Powers, including leased or protected territories, in which the use of prepared opium is temporarily authorised.

At the moment of ratification any Contracting Power may declare that its acceptance of the Agreement does not include any territory over which it exercises only a protectorate; and may accede subsequently in respect of any protectorate thus excluded by means of a notification of accession deposited with the Secretary-General of the League of Nations who shall forthwith notify the accession to all the other Contracting Powers.

Article XIV

The present Agreement, of which the French and English texts are both authentic, shall be subject to ratification.

The deposit of ratification shall be made at the Secretariat of the League of Nations as soon as possible.

The Agreement shall not come into force until it has been ratified by two Powers. The date of its coming into force shall be the 90th day after the receipt by the Secretary-General of the League of Nations of the second ratification. Thereafter the Agreement shall take effect for each Contracting Power 90 days after the receipt of its ratification.

The Agreement shall be registered by the Secretary-General of the League of Nations upon the day of its coming into force.

Article XV

If one of the Contracting Powers should wish to denounce the present Agreement, the denunciation shall be notified in writing to

the Secretary-General of the League of Nations who will immediately communicate a copy of the notification to all the other Powers informing them of the date on which it was received.

The denunciation shall take effect only as regards the Power which notified it, and one year after the notification thereof has reached the Secretary-General.

IN FAITH WHEREOF the above-named Plenipotentiaries have signed the present Agreement.

DONE AT GENEVA, the eleventh day of February of nineteen hundred and twenty five, in a single copy which shall remain deposited in the archives of the Secretariat of the League of Nations, and of which authenticated copies shall be transmitted to all the Contracting Powers.

British Empire :

MALCOLM DELEIVINGNE.

India :

HAROLD CLAYTON.

China :

France :

ED. DALADIER.

Japan :

S. KAKU,

Y. SUGIMURA.

The Netherlands :

V. WETTUM,

A. D. A. DE KAT ANGELINO.

Portugal :

A. M. BARTHOLOMEU FERREIRA,

RODRIGO J. RODRIGUES.

Siam :

DAMRAS

Protocol

The undersigned representatives of the States signatory to the Agreement relating to the use of prepared opium signed this day, duly authorised to that effect ;

Anxious to ensure the complete and final execution of the obligations, and to strengthen the undertakings assumed by them under Article VI of The Hague Convention of 1912;

Taking note of the fact that the Second Opium Conference has decided to adopt a Protocol by which certain Powers are to establish within five years at latest an effective control over the production, distribution and export of raw opium, so as to prevent illicit traffic;

Hereby agree as follows:

Article I

The States signatories of the present Protocol recognise that the provisions of the Agreement signed this day are supplementary to, and designed to facilitate the execution of the obligation assumed by the signatory States under Article VI of The Hague Convention of 1912, which obligation remains in full force and effect.

Article II

As soon as the poppy-growing countries have ensured the effective execution of the necessary measures to prevent the exportation of raw opium from their territories from constituting a serious obstacle to the reduction of consumption in the countries where the use of prepared opium is temporarily authorised, the States signatories of the present Protocol will strengthen the measures already taken in accordance with Article VI of The Hague Convention of 1912, and will take any further measures which may be necessary, in order to reduce consumption of prepared opium in the territories under their authority, so that such use may be completely suppressed within a period of not more than fifteen years from the date of the decision referred to in the following Article.

Article III

A Commission to be appointed at the proper time by the Council of the League of Nations shall decide when the effective execution of the measures, mentioned in the preceding Article, to be taken by the poppy-growing countries has reached the stage referred to in that Article. The decision of the Commission shall be final.

Article IV

In the event of any of the States signatories of the present Protocol finding, at any time during the period of fifteen years referred to in Article II, that the measures to be taken by the poppy-growing countries, referred to in the said Article, are no longer being effectively executed, such State shall have the right to bring the matter to the notice of the Council of the League of Nations. If the Council, whether by the report of a Commission appointed by it to investigate and report upon the facts, or by any other information at its disposal is satisfied that the facts are as stated, the States concerned will be entitled to denounce the present Protocol. In that case a conference of the States concerned shall at once be held to consider the action to be taken.

Article V

During the year preceding the end of the period of fifteen years referred to in Article II, a special Conference of the States signatories of the present Protocol shall be held to consider the measures to be taken in regard to habitual addicts whose pathological condition is certified by the medical authorities of the country concerned.

Article VI

The States signatories of the present Protocol will coördinate their efforts to effect the complete and final suppression of the use of prepared opium. In order to attain this object as soon as possible the said States, recognising the difficulties at present experienced by certain Powers in establishing an effective control over the production, distribution and exportation of raw opium, make a pressing appeal to the poppy-growing countries for the establishment between all the States concerned of a sincere energetic collaboration which will lead to the termination of the illicit traffic.

Article VII

The present Protocol shall come into force for each of the signatory States at the same time as the Agreement relating to the use of prepared opium signed this day.

Article VIII

Any State represented at the Conference at which the present Protocol was drawn up may accede to it at any time after its coming into force.

Done at Geneva, the eleventh day of February, one thousand nine hundred and twenty-five.

British Empire:

MALCOLM DELEIVINGNE.

India:

HAROLD CLAYTON.

China:

France:

ED. DALADIER.

Japan:

S. KAKU,

Y. SUGIMURA.

The Netherlands:

V. WETTUM,

A. D. A. DE KAT ANGELINO.

Portugal:

A. M. BARTHOLOMEU FERREIRA,

RODRIGO J. RODRIGUES.

Siam:

DAMRAS

**Final Act of the Conference on the Application in the Far East of
Chapter II of the International Opium Convention
of January 23, 1912.**

Convened at Geneva on November 3, 1924.

The Conference convened by the Council of the League of Nations in accordance with the Resolution adopted by the Assembly of the League on September 27, 1923, met in the offices of the Secretariat of the League on November 3, 1924.

The Governments below enumerated took part in the Conference, for which they had appointed the following Plenipotentiaries: British Empire with India:

Sir Malcolm Delevingne, K.C.B., Assistant Under-Secretary of State for the Home Department,

India:

Mr. John Campbell, C.S.I., O.B.E., I.C.S. (retired),

Mr. Harold Clayton, C.I.E., I.C.S.,

China:

His Excellency Mr. Sao Ke Alfred Sze, Ambassador, Envoy Extraordinary and Minister Plenipotentiary to the United States of America,

His Excellency Mr. Wang Kouang Ky, Envoy Extraordinary and Minister Plenipotentiary to Her Majesty the Queen of the Netherlands,

His Excellency Mr. Chao-Hsin Chu, Minister Plenipotentiary, Chargé d'Affaires in London,

France:

His Excellency Mr. Ed. Daladier, Minister for the Colonies,

Japan:

Mr. Sagataro Kaku, former Civil Governor of the General Government of Taiwan,

Mr. Yotaro Sugimura, Councillor of Embassy, Assistant Head of the Japanese Bureau accredited to the League of Nations,

The Netherlands:

Mr. W. G. van Wettum, former Head of the Opium Régie Department in the Netherlands Indies,

Mr. de Kat Angelino, Secretary for Chinese Affairs to the Government of the Netherlands' Indies,

Portugal:

His Excellency Mr. A. Bartholomeu Ferreira, Envoy Extraordinary and Minister Plenipotentiary of the Portuguese Republic to the Swiss Federal Council,

Mr. Rodrigo Rodrigues, Governor of the Province of Macao,

Siam:

His Serene Highness Prince Damras, Siamese Chargé d'Affaires at The Hague,

At a series of meetings, the Conference drew up the supplementary Agreement and the Protocol which bear this day's date.

The Conference with the exception of the Chinese Delegation, further adopted the following Resolution:

"It has been pointed out to the Conference that in some countries the system of licenses (or registration) and rationing has been successful in diminishing the number of smokers.

"At the same time, the Conference has found that, in other countries, the contraband trade which equals and even surpasses in extent the legitimate trade, renders the application of this system difficult, and in the opinion of the Governments in question, useless and in some cases dangerous.

"Accordingly, the Conference declares that the possibility of adopting these measures or of maintaining them in those territories where they are now working successfully, depends principally upon the extent of the contraband trade.

"It therefore leaves to the Contracting Powers which have not yet applied this system the duty of selecting the moment when circumstances will allow of its adoption and of taking in the meantime all such preparatory measures as they may deem expedient."

The Representative of the British Empire declared that he signed the Protocol subject to the following declaration:

"I declare that my signature of this Protocol is subject, in respect of British Protectorates, to the conditions contained in Article XIII of the Agreement signed this day."

The Representative of Portugal, on signing the Agreement, made the following declarations:

(1) "The Portuguese Government, while accepting the principle of a monopoly as formulated in Article I, does so, as regards the moment at which the measures provided for in the first paragraph thereof shall come into force, subject to the limitation contained in the second paragraph of this article.

(2) "The Portuguese Government being bound by a contract consistent with the provisions of The Hague Convention of 1912, will not be able to put into operation the provisions of paragraph 1 of Article 6 of the present Agreement so long as its obligations under this contract are in force."

The Representative of Siam declared that he signed the Agreement subject to the following declaration:

"The Siamese Delegation is instructed to sign the Agreement under reservation of Article I, paragraph 3 (a) with regard to the time when this provision shall come into force and of Article V. The reason for these reservations has been stated by the First Delegate of Siam on the 14th November, 1924. The Siamese Government is hoping to put into force the system of registration and

rationing within the period of three years. After that date, the reservation in regard to Article I, paragraph 3 (a) will fall to the ground."

In witness whereof, the above-named Plenipotentiaries have signed the present Act.

Done at Geneva, the eleventh day of February, nineteen hundred and twenty-five, in a single copy which shall remain deposited in the Secretariat of the League of Nations and of which authenticated copies shall be transmitted to all the Powers represented at the Conference.

British Empire:

MALCOLM DELEIVINGNE.

India:

HAROLD CLAYTON.

China:

France:

ED. DALADIER.

Japan:

S. KAKU,

Y. SUGIMURA.

The Netherlands:

V. WETTUM,

A. D. A. DE KAT ANGELINO.

Portugal:

A. M. BARTHOLOMEU FERREIRA,

RODRIGO J. RODRIGUES.

Siam:

DAMRAS

APPENDIX V

SECOND GENEVA OPIUM CONFERENCE

Convention Protocol Final Act

Signed at Geneva on February 19, 1925.

Convention

Taking note of the fact that the application of the provisions of The Hague Convention of January 23, 1912, by the Contracting Parties has produced results of great value, but that the contraband trade in and abuse of the substances to which the Convention applies still continue on a great scale;

Convinced that the contraband trade in and abuse of these substances cannot be effectually suppressed except by bringing about a more effective limitation of the production or manufacture of the substances, and by exercising a closer control and supervision of the international trade, than are provided for in the said Convention;

Desirous, therefore, of taking further measures to carry out the objects aimed at by the said Convention and to complete and strengthen its provisions;

Realising that such limitation and control require the close coöperation of all the Contracting Parties;

Confident that this humanitarian effort will meet with the unanimous adhesion of the nations concerned;

Have decided to conclude a Convention for this purpose.

The High Contracting Parties have accordingly appointed as their Plenipotentiaries:

[Here follow the names of heads of States and their Plenipotentiaries.

who, after communicating their full powers, found in good and due form, have agreed as follows:

CHAPTER I.—DEFINITIONS

Article 1

The Contracting Parties agree to adopt the following definitions for the purposes of the present Convention :

Raw Opium. "Raw Opium" means the spontaneously coagulated juice obtained from the capsules of the *Papaver somniferum L.*, which has only been submitted to the necessary manipulations for packing and transport, whatever its content of morphine.

Medicinal Opium. "Medicinal opium" means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the national pharmacopœia, whether in powder form or granulated or otherwise or mixed with neutral materials.

Morphine. "Morphine" means the principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$.

Diacetylmorphine. "Diacetylmorphine" means diacetylmorphine (diamorphine, heroin) having the formula $C_{21}H_{23}NO_6$.

Coca Leaf. "Coca leaf" means the leaf of the *Erythroxylon Coca Lamarck* and the *Erythroxylon novo-granatense* (Morris) Hieronymus and their varieties, belonging to the family of Erythroxylaceæ and the leaf of other species of this genus from which it may be found possible to extract cocaine either directly or by chemical transformation.

Crude Cocaine. "Crude cocaine" means any extract of the coca leaf which can be used directly or indirectly for the manufacture of cocaine.

Cocaine. "Cocaine" means methyl-benzoyl lævo-ecgonine ($^{(a)}D_{20}^{\circ} = -16^{\circ}4$) in 20 per cent solution of chloroform, of which the formula is $C_{17}H_{21}NO_4$.

Ecgonine. "Ecgonine" means lævo-ecgonine ($^{(a)}D_{20}^{\circ} = -45^{\circ}6$ in 5 per cent solution of water), of which the formula is $C_8H_{15}NO_3 \cdot H_2O$, and all the derivatives of lævo-ecgonine which might serve industrially for its recovery.

Indian Hemp. "Indian hemp" means the dried flowering or fruiting tops of the pistillate plant *Cannabis sativa L.* from which the resin has not been extracted, under whatever name they may be designated in commerce.

CHAPTER II.—INTERNAL CONTROL OF RAW OPIUM
AND COCA LEAVES

Article 2

The Contracting Parties undertake to enact laws and regulations to ensure the effective control of the production, distribution and export of raw opium, unless laws and regulations on the subject are already in existence; they also undertake to review periodically, and to strengthen as required, the laws and regulations on the subject which they have enacted in virtue of Article 1 of The Hague Convention of 1912, or of the present Convention.

Article 3

Due regard being had to the differences in their commercial conditions, the Contracting Parties shall limit the number of towns, ports or other localities through which the export or import of raw opium or coca leaves shall be permitted.

CHAPTER III.—INTERNAL CONTROL OF MANUFACTURED DRUGS

Article 4

The provisions of the present Chapter apply to the following substances:

- (a) Medicinal opium;
- (b) Crude cocaine and ecgonine;
- (c) Morphine, diacetylmorphine, cocaine and their respective salts;
- (d) All preparations officinal and non-official (including the so-called anti-opium remedies) containing more than 0.2 per cent of morphine or more than 0.1 per cent of cocaine;
- (e) All preparations containing diacetylmorphine;
- (f) Galenical preparations (extract and tincture) of Indian hemp;
- (g) Any other narcotic drug to which the present Convention may be applied in accordance with Article 10.

Article 5

The Contracting Parties shall enact effective laws or regulations to limit exclusively to medical and scientific purposes the manufacture, import, sale, distribution, export and use of the substances to which this Chapter applies. They shall co-operate with one another to prevent the use of these substances for any other purposes.

Article 6

The Contracting Parties shall control all persons manufacturing, importing, selling, distributing or exporting the substances to which this Chapter applies, as well as the buildings in which these persons carry on such industry or trade.

With this object, the Contracting Parties shall:

(a) Confine the manufacture of the substances referred to in Article 4 (b), (c) and (g) to those establishments and premises alone which have been licensed for the purpose.

(b) Require that all persons engaged in the manufacture, import, sale, distribution, or export of the said substances shall obtain a licence or permit to engage in these operations;

(c) Require that such persons shall enter in their books the quantities manufactured, imports, exports, sales and all other distribution of the said substances. This requirement shall not necessarily apply either to supplies dispensed by medical practitioners or to sales by duly authorised chemists on medical prescriptions, provided in each case that the medical prescriptions are filed and preserved by the medical practitioner or chemist.

Article 7

The Contracting Parties shall take measures to prohibit, as regards their internal trade, the delivery to or possession by any unauthorised persons of the substances to which this Chapter applies.

Article 8

In the event of the Health Committee of the League of Nations, after having submitted the question for advice and report to the Permanent Committee of the Office International d'Hygiène pub-

lique in Paris, finding that any preparation containing any of the narcotic drugs referred to in the present Chapter cannot give rise to the drug habit on account of the medicaments with which the said drugs are compounded and which in practice preclude the recovery of the said drugs, the Health Committee shall communicate this finding to the Council of the League of Nations. The Council will communicate the finding to the Contracting Parties, and thereupon the provisions of the present Convention will not be applicable to the preparation concerned.

Article 9

Any Contracting Party may authorise the supply to the public by chemists, at their own discretion, as medicines, for immediate use in urgent cases, of the following opiate officinal preparations: tincture of opium, Sydenham laudanum and Dover powder. The maximum dose, however, which may be supplied in such cases must not contain more than 25 centigrammes of officinal opium, and the chemist must enter in his books the quantities supplied, as provided in Article 6 (c).

Article 10

In the event of the Health Committee of the League of Nations, after having submitted the question for advice and report to the Permanent Committee of the Office International d'Hygiène publique in Paris, finding that any narcotic drug to which the present Convention does not apply is liable to similar abuse and productive of similar ill-effects as the substances to which this Chapter of the Convention applies, the Health Committee shall inform the Council of the League accordingly and recommend that the provisions of the present Convention shall be applied to such drug.

The Council of the League shall communicate the said recommendation to the Contracting Parties. Any Contracting Party which is prepared to accept the recommendation shall notify the Secretary-General of the League, who will inform the other Contracting Parties.

The provisions of the present Convention shall thereupon apply to the substance in question as between the Contracting Parties who have accepted the recommendation referred to above.

CHAPTER IV.—INDIAN HEMP

Article 11

1. In addition to the provisions of Chapter V of the present Convention, which shall apply to Indian hemp and the resin prepared from it, the Contracting Parties undertake:

(a) To prohibit the export of the resin obtained from Indian hemp and the ordinary preparations of which the resin forms the base (such as hashish, esrar, chiras, djamba) to countries which have prohibited their use, and, in cases where export is permitted, to require the production of a special import certificate issued by the Government of the importing country stating that the importation is approved for the purposes specified in the certificate and that the resin or preparations will not be re-exported;

(b) Before issuing an export authorisation under Article 13 of the present Convention, in respect of Indian hemp, to require the production of a special import certificate issued by the Government of the importing country and stating that the importation is approved and is required exclusively for medical or scientific purposes.

2. The Contracting Parties shall exercise an effective control of such a nature as to prevent the illicit international traffic in Indian hemp and especially in the resin.

CHAPTER V.—CONTROL OF INTERNATIONAL TRADE

Article 12

Each Contracting Party shall require a separate import authorisation to be obtained for each importation of any of the substances to which the present Convention applies. Such authorisation shall state the quantity to be imported, the name and address of the importer and the name and address of the exporter.

The import authorisation shall specify the period within which the importation must be effected and may allow the importation in more than one consignment.

Article 13

1. Each Contracting Party shall require a separate export authorisation to be obtained for each exportation of any of the sub-

stances to which the present Convention applies. Such authorisation shall state the quantity to be exported, the name and address of the exporter and the name and address of the importer.

2. The Contracting Party, before issuing such export authorisation, shall require an import certificate, issued by the Government of the importing country and certifying that the importation is approved, to be produced by the person or establishment applying for the export authorisation.

Each Contracting Party agrees to adopt, so far as possible, the form of import certificate annexed to the present Convention.

3. The export authorisation shall specify the period within which the exportation must be effected, and shall state the number and date of the import certificate and the authority by whom it has been issued.

4. A copy of the export authorisation shall accompany the consignment, and the Government issuing the export authorisation shall send a copy to the Government of the importing country.

5. The Government of the importing country, when the importation has been effected, or when the period fixed for the importation has expired, shall return the export authorisation, with an endorsement to that effect, to the Government of the exporting country. The endorsement shall specify the amount actually imported.

6. If a less quantity than that specified in the export authorisation is actually exported, the quantity actually exported shall be noted by the competent authorities on the export authorisation and on any official copy thereof.

7. In the case of an application to export a consignment to any country for the purpose of being placed in a bonded warehouse in that country, a special certificate from the Government of that country, certifying that it has approved the introduction of the consignment for the said purpose, may be accepted by the Government of the exporting country in place of the import certificate provided for above. In such a case, the export authorisation shall specify that the consignment is exported for the purpose of being placed in a bonded warehouse.

Article 14

For the purpose of ensuring the full application and enforcement of the provisions of the present Convention in free ports and free

zones, the Contracting Parties undertake to apply in free ports and free zones situated within their territories the same laws and regulations, and to exercise therein the same supervision and control, in respect of the substances covered by the said Convention, as in other parts of their territories.

This Article does not, however, prevent any Contracting Party from applying, in respect of the said substances, more drastic provisions in its free ports and free zones than in other parts of its territories.

Article 15

1. No consignment of any of the substances covered by the present Convention which is exported from one country to another country shall be permitted to pass through a third country, whether or not it is removed from the ship or conveyance in which it is being conveyed, unless the copy of the export authorisation (or the diversion certificate, if such a certificate has been issued in pursuance of the following paragraph) which accompanies the consignment is produced to the competent authorities of that country.

2. The competent authorities of any country through which a consignment of any of the substances covered by the present Convention is permitted to pass shall take all due measures to prevent the diversion of the consignment to a destination other than that named in the copy of the export authorisation (or the diversion certificate) which accompanies it, unless the Government of that country has authorised that diversion by means of a special diversion certificate. A diversion certificate shall only be issued after the receipt of an import certificate, in accordance with Article 13, from the Government of the country to which it is proposed to divert the consignment, and shall contain the same particulars as are required by Article 13 to be stated in an export authorisation, together with the name of the country from which the consignment was originally exported. All the provisions of Article 13 which are applicable to an export authorisation shall be applicable equally to the diversion certificate.

Further, the Government of the country authorising the diversion of the consignment shall detain the copy of the original export authorisation (or diversion certificate) which accompanied the con-

shipment on arrival in its territory, and shall return it to the Government which issued it, at the same time notifying the name of the country to which the diversion has been authorised.

3. In cases where the transport is being effected by air, the preceding provisions of this Article shall not be applicable if the aircraft passes over the territory of the third country without landing. If the aircraft lands in the territory of the said country, the said provisions shall be applied so far as the circumstances permit.

4. Paragraphs 1 to 3 of this Article are without prejudice to the provisions of any international agreement which limits the control which may be exercised by any of the Contracting Parties over the substances to which the present Convention applies when in direct transit.

5. The provisions of this Article shall not apply to transport of the substances by post.

Article 16

A consignment of any of the substances covered by the present Convention which is landed in the territory of any Contracting Party and placed in a bonded warehouse shall not be withdrawn from the bonded warehouse unless an import certificate, issued by the Government of the country of destination and certifying that the importation is approved, is produced to the authorities having jurisdiction over the bonded warehouse. A special authorisation shall be issued by the said authorities in respect of each consignment so withdrawn and shall take the place of the export authorisation for the purpose of Articles 13, 14 and 15 above.

Article 17

No consignment of the substances covered by the present Convention while passing in transit through the territories of any Contracting Party or whilst being stored there in a bonded warehouse may be subjected to any process which would alter the nature of the substances in question or, without the permission of the competent authorities, the packing.

Article 18

If any Contracting Party finds it impossible to apply any provision of this Chapter to trade with another country by reason of the

fact that such country is not a party to the present Convention, such Contracting Party will only be bound to apply the provisions of this Chapter so far as the circumstances permit.

CHAPTER VI.—PERMANENT CENTRAL BOARD

Article 19

A Permanent Central Board shall be appointed, within three months from the coming into force of the present Convention.

The Central Board shall consist of eight persons who, by their technical competence, impartiality and disinterestedness, will command general confidence.

The members of the Central Board shall be appointed by the Council of the League of Nations.

The United States of America and Germany shall be invited each to nominate one person to participate in these appointments.

In making the appointments, consideration shall be given to the importance of including on the Central Board, in equitable proportion, persons possessing a knowledge of the drug situation, both in the producing and manufacturing countries on the one hand and in the consuming countries on the other hand, and connected with such countries.

The members of the Central Board shall not hold any office which puts them in a position of direct dependence on their Governments.

The members shall be appointed for a term of five years, and they will be eligible for re-appointment.

The Central Board shall elect its own President and shall settle its rules of procedure.

At meetings of the Board, four members shall form a quorum.

The decisions of the Board relative to Articles 24 and 26 shall be taken by an absolute majority of the whole number of the Board.

Article 20

The Council of the League of Nations shall, in consultation with the Board, make the necessary arrangements for the organisation and working of the Board, with the object of assuring the full technical independence of the Board in carrying out its duties under the present Convention, while providing for the control of the staff in administrative matters by the Secretary-General.

The Secretary-General shall appoint the secretary and staff of the of the Board on the nomination of the Board and subject to the approval of the Council.

Article 21

The Contracting Parties agree to send in annually before December 31, to the Permanent Central Board set up under Article 19, estimates of the quantities of each of the substances covered by the Convention to be imported into their territory for internal consumption during the following year for medical, scientific and other purposes.

These estimates are not to be regarded as binding on the Government concerned, but will be for the purpose of serving as a guide to the Central Board in the discharge of its duties.

Should circumstances make it necessary for any country, in the course of the year, to modify its estimates, the country in question shall communicate the revised figures to the Central Board.

Article 22

1. The Contracting Parties agree to send annually to the Central Board, in a manner to be indicated by the Board, within three (in the case of paragraph (c), five) months after the end of the year, as complete and accurate statistics as possible relative to the preceding year, showing:

(a) Production of raw opium and coca leaves;

(b) Manufacture of the substances covered by Chapter III, Article 4 (b) (c) and (g) of the present Convention and the raw material used for such manufacture. The amount of such substances used for the manufacture of other derivatives not covered by the Convention shall be separately stated;

(c) Stocks of the substances covered by Chapters II and III of the present Convention in the hands of wholesalers or held by the Government for consumption in the country for other than Government purposes;

(d) Consumption, other than for Government purposes, of the substances covered by Chapters II and III of the present Convention;

(e) Amounts of each of the substances covered by the present Convention which have been confiscated on account of illicit import

or export; the manner in which the confiscated substances have been disposed of shall be stated, together with such other information as may be useful in regard to such confiscation and disposal.

The statistics referred to in paragraphs (a) to (e) above shall be communicated by the Central Board to the Contracting Parties.

2. The Contracting Parties agree to forward to the Central Board, in a manner to be prescribed by the Board, within four weeks after the end of each period of three months, the statistics of their imports from and exports to each country of each of the substances covered by the present Convention during the preceding three months. These statistics will, in such cases as may be prescribed by the Board, be sent by telegram, except when the quantities fall below a minimum amount which shall be fixed in the case of each substance by the Board.

3. In furnishing the statistics in pursuance of this Article, the Governments shall state separately the amounts imported or purchased for Government purposes, in order to enable the amounts required in the country for general medical and scientific purposes to be ascertained. It shall not be within the competence of the Central Board to question or to express any opinion on the amounts imported or purchased for Government purposes or the use thereof.

4. For the purposes of this Article, substances which are held, imported or purchased by the Government for eventual sale are not regarded as held, imported or purchased for Government purposes.

Article 23

In order to complete the information of the Board as to the disposal of the world's supply of raw opium, the Governments of the countries where the use of prepared opium is temporarily authorised shall, in a manner to be prescribed by the Board, in addition to the statistics provided for in Article 22, forward annually to the Board, within three months after the end of the year, as complete and accurate statistics as possible relative to the preceding year showing:

(1) The manufacture of prepared opium, and the raw material used for such manufacture;

(2) The consumption of prepared opium.

It is understood that it shall not be within the competence of the Board to question or to express any opinion upon these statistics,

and that the provisions of Article 24 are not applicable to the matters dealt with in this Article, except in cases where the Board may find that illicit international transactions are taking place on an appreciable scale.

Article 24

1. The Central Board shall continuously watch the course of the international trade. If the information at its disposal leads the Board to conclude that excessive quantities of any substance covered by the present Convention are accumulating in any country, or that there is a danger of that country becoming a centre of the illicit traffic, the Board shall have the right to ask, through the Secretary-General of the League, for explanations from the country in question.

2. If no explanation is given within a reasonable time or the explanation is unsatisfactory, the Central Board shall have the right to call the attention of the Governments of all the Contracting Parties and of the Council of the League of Nations to the matter, and to recommend that no further exports of the substances covered by the present Convention or any of them shall be made to the country concerned until the Board reports that it is satisfied as to the situation in that country in regard to the said substances. The Board shall at the same time notify the Government of the country concerned of the recommendation made by it.

3. The country concerned shall be entitled to bring the matter before the Council of the League.

4. The Government of any exporting country which is not prepared to act on the recommendation of the Central Board shall also be entitled to bring the matter before the Council of the League.

If it does not do so, it shall immediately inform the Board that it is not prepared to act on the recommendation, explaining, if possible, why it is not prepared to do so.

5. The Central Board shall have the right to publish a report on the matter and communicate it to the Council, which shall thereupon forward it to the Governments of all the Contracting Parties.

6. If in any case the decision of the Central Board is not unanimous, the views of the minority shall also be stated.

7. Any country shall be invited to be represented at a meeting of the Central Board at which a question directly interesting it is considered.

Article 25

It shall be the friendly right of any of the Contracting Parties to draw the attention of the Board to any matter which appears to it to require investigation, provided that this Article shall not be construed as in any way extending the powers of the Board.

Article 26

In the case of a country which is not a party to the present Convention, the Central Board may take the same measures as are specified in Article 24, if the information at the disposal of the Board leads it to conclude that there is a danger of the country becoming a centre of the illicit traffic; in that case the Board shall take the action indicated in the said Article as regards notification to the country concerned.

Paragraphs 3, 4 and 7 of Article 24 shall apply in any such case.

Article 27

The Central Board shall present an annual report on its work to the Council of the League. This report shall be published and communicated to all the Contracting Parties.

The Central Board shall take all necessary measures to ensure that the estimates, statistics, information and explanations which it receives under Articles 21, 22, 23, 24, 25 or 26 of the present Convention shall not be made public in such a manner as to facilitate the operations of speculators or injure the legitimate commerce of any Contracting Party.

CHAPTER VII.—GENERAL PROVISIONS

Article 28

Each of the Contracting Parties agrees that breaches of its laws or regulations by which the provisions of the present Convention are enforced shall be punishable by adequate penalties, including in appropriate cases the confiscation of the substances concerned.

Article 29

The Contracting Parties will examine in the most favourable spirit the possibility of taking legislative measures to render punish-

able acts committed within their jurisdiction for the purpose of procuring or assisting the commission in any place outside their jurisdiction of any act which constitutes an offence against the laws of that place relating to the matters dealt with in the present Convention.

Article 30

The Contracting Parties shall communicate to one another, through the Secretary-General of the League of Nations, their existing laws and regulations respecting the matters referred to in the present Convention, so far as this has not already been done, as well as those promulgated in order to give effect to the said Convention.

Article 31

The present Convention replaces, as between the Contracting Parties, the provisions of Chapters I, III and V of the Convention signed at The Hague on January 23, 1912, which provisions remain in force as between the Contracting Parties and any States Parties to the said Convention which are not Parties to the present Convention.

Article 32

1. In order as far as possible to settle in a friendly manner disputes arising between the Contracting Parties in regard to the interpretation or application of the present Convention which they have not been able to settle through diplomatic channels, the Parties to such a dispute may, before resorting to any proceedings for judicial settlement or arbitration, submit the dispute for an advisory opinion to such a technical Body as the Council of the League of Nations may appoint for this purpose.

2. The advisory opinion shall be given within six months commencing from the day on which the dispute has been submitted to the technical Body, unless this period is prolonged by mutual agreement between the Parties to the dispute. The technical Body shall fix the period within which the Parties are to decide whether they will accept the advisory opinion given by it.

3. The advisory opinion shall not be binding upon the Parties to the dispute unless it is accepted by each of them.

4. Disputes which it has not been found possible to settle either directly or on the basis of the advice of the above-mentioned tech-

nical Body shall, at the request of any one of the Parties thereto, be brought before the Permanent Court of International Justice, unless a settlement is attained by way of arbitration or otherwise by application of some existing convention or in virtue of an arrangement specially concluded.

5. Proceedings shall be opened before the Permanent Court of International Justice in the manner laid down in Article 40 of the Statute of the Court.

6. A decision of the Parties to a dispute to submit it for an advisory opinion to the technical Body appointed by the Council of the League of Nations, or to resort to arbitration, shall be communicated to the Secretary-General of the League of Nations and by him to the other Contracting Parties, which shall have the right to intervene in the proceedings.

7. The parties to a dispute shall bring before the Permanent Court of International Justice any question of international law or question as to the interpretation of the present Convention arising during proceedings before the technical Body or arbitral tribunal, decision of which by the Court is, on the demand of one of the Parties, declared by the technical Body or arbitral tribunal to be necessary for the settlement of the dispute.

Article 33

The present Convention, of which the French and English texts are both authentic, shall bear today's date and shall be open for signature until the 30th day of September, 1925, by any State represented at the Conference at which the present Convention was drawn up, by any Member of the League of Nations, and by any State to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

Article 34

The present Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the League of Nations, who shall notify their receipt to the Members of the League which are signatories of the Convention and to the other signatory States.

Article 35

After the 30th day of September, 1925, the present Convention may be acceded to by any State represented at the Conference at which this Convention was drawn up and which has not signed the Convention, by any Member of the League of Nations, or by any State to which the Council of the League of Nations shall have communicated a copy of the Convention for this purpose.

Accession shall be effected by an instrument communicated to the Secretary-General of the League of Nations to be deposited in the archives of the Secretariat. The Secretary-General shall at once notify such deposit to all the Members of the League of Nations signatories of the Convention and to the other signatory States.

Article 36

The present Convention shall not come into force until it has been ratified by ten Powers, including seven of the States by which the Central Board is to be appointed in pursuance of Article 19, of which at least two must be permanent Members of the Council of the League. The date of its coming into force shall be the ninetieth day after the receipt by the Secretary-General of the League of Nations of the last of the necessary ratifications. Thereafter, the present Convention will take effect in the case of each Party ninety days after the receipt of its ratification or of the notification of its accession.

In compliance with the provisions of Article 18 of the Covenant of the League of Nations, the Secretary-General will register the present Convention upon the day of its coming into force.

Article 37

A special record shall be kept by the Secretary-General of the League of Nations showing which of the Parties have signed, ratified, acceded to or denounced the present Convention. This record shall be open to the Contracting Parties and the Members of the League at all times; it shall be published as often as possible, in accordance with the directions of the Council.

Article 38

The present Convention may be denounced by an instrument in writing addressed to the Secretary-General of the League of Nations. The denunciation shall become effective one year after the date of the receipt of the instrument of denunciation by the Secretary-General, and shall operate only in respect of the Contracting Party which makes it.

The Secretary-General of the League of Nations shall notify the receipt of any such denunciations to all Members of the League of Nations signatories of or adherents to the Convention and to the other signatory or adherent States.

Article 39

Any State signing or acceding to the present Convention may declare, at the moment either of its signature, ratification or accession, that its acceptance of the present Convention does not include any or all of its colonies, overseas possessions, protectorates, or overseas territories under its sovereignty or authority, or in respect of which it has accepted a mandate on behalf of the League of Nations, and may subsequently accede, in conformity with the provisions of Article 35, on behalf of any such colony, overseas possession, protectorate, or territory excluded by such declaration.

Denunciation may also be made separately in respect of any such colony, overseas possession, protectorate or territory, and the provisions of Article 38 shall apply to any such denunciation.

IN FAITH WHEREOF, the above-named Plenipotentiaries have signed the present Convention.

DONE AT GENEVA, the nineteenth day of February, one thousand nine hundred and twenty-five, in a single copy, which will remain deposited in the archives of the Secretariat of the League of Nations; certified copies will be transmitted to all the States represented at the Conference and to all Members of the League of Nations.

Albania:

B. BLINISHTI.

Germany:¹

H. VON ECKARDT.

¹ Subject to the reservation annexed to the Procès verbal of the plenary meeting of February 16, 1925.

Belgium:

FERNAND PELTZER,
DR. FERD. DE MYTTENAERE.

British Empire:

MALCOLM DELEVINGNE.

Australia:

M. L. SHEPHERD.

France: *

G. BOURGOIS,
A. KIRCHER.

Greece:

Ad referendum
VASSILI DENDRAMIS.

Japan:

S. KAKU,
Y. SUGIMURA.

Luxemburg:

CH. G. VERMAIRE.

Netherlands:

V. WETTUM,
J. B. M. COEBERGH,
A. D. A. DE KAT ANGELINO.

Persia: *

Prince ARFA-ED-DOVLEH MIRZA RIZA KHAN.

Poland:

CHODZKO

Portugal:

A. M. BARTHOLOMEU FERREIRA,
R. J. RODRIGUES.

Siam:

DAMRAS

*The French Government is compelled to make all reservations, as regards the colonies, protectorates and mandated territories under its authority, as to the possibility of regularly producing, within the strictly prescribed time limit, the quarterly statistics provided for in paragraph 2 of Article 22.

**Ad referendum* and subject to the League of Nations complying with the request made by Persia in the Memorandum O.D.C. 24.

ANNEX

MODEL FORM OF IMPORT CERTIFICATE

INTERNATIONAL OPIUM CONVENTION

No. *Certificate of Official Approval of Import.*

I hereby certify that the Ministry of.....
being the Ministry charged with the administration
of the law relating to the dangerous drugs to which
the International Opium Convention of () ap-
plies, has approved the importation by

(a) Name, address
and business of im-
porter.

(b) Exact descrip-
tion and amount of
drug to be imported.

(c) Name and ad-
dress of firm in ex-
porting country
from which the
drug is to be ob-
tained.

(d) State any spe-
cial conditions to be
observed, e. g., not
to be imported
through the post.

(a)

of (b)

from (c)

subject to the following conditions

(d)
and is satisfied that the consignment proposed to be
imported is required:

(1) For legitimate purposes (in the case of raw
opium and the coca leaf);¹

(2) Solely for medicinal or scientific purposes
(in the case of drugs to which Chapter III
of the Convention applies and Indian hemp).

Signed on behalf of the Ministry of.....

(Signature)

(Official Rank)

(Date)

¹ Where the use of prepared opium has not yet been suppressed and it is desired to import raw opium for the manufacture of prepared opium, the certificate should be to the effect that the raw opium to be imported is required for the purpose of manufacturing prepared opium for use under Government restrictions pending complete suppression, and that it will not be re-exported.

Protocol

The undersigned, Representatives of certain States signatory to the Convention relating to Dangerous Drugs signed this day, duly authorised to that effect;

Taking note of the Protocol signed this eleventh day of February one thousand nine hundred and twenty-five by the Representatives of the States signatory to the Agreement signed on the same day relating to the use of prepared opium:

Hereby agree as follows:

I

The States signatory to the present Protocol, recognising that under Chapter I of The Hague Convention the duty rests upon them of establishing such a control over the production, distribution and exportation of raw opium as would prevent the illicit traffic, agree to take such measures required to prevent completely, within five years from the present date, the smuggling of opium from constituting a serious obstacle to the effective suppression of the use of prepared opium in those territories where such use is temporarily authorised.

II

The question whether the undertaking referred to in Article I has been completely executed shall be decided, at the end of the said period of five years, by a Commission to be appointed by the Council of the League of Nations.

III

The present Protocol shall come into force for each of the signatory States at the same time as the Convention relating to Dangerous Drugs signed this day. Articles 33 and 35 of the Convention are applicable to the present Protocol.

IN FAITH WHEREOF, the present Protocol was drawn up at Geneva the nineteenth day of February 1925, in a single copy, which will remain deposited in the archives of the Secretariat of the League

of Nations; certified copies will be transmitted to all States represented at the Conference and to all Members of the League of Nations.

Albania:

B. BLINISHTI.

Germany:

H. VON ECKARDT

British Empire:

MALCOLM DELEIVINGNE.

Australia:

M. L. SHEPHERD.

Greece:

Ad referendum

VASSILI DENDRAMIS.

Japan:

S. KAKU,

Y. SUGIMURA.

Luxemburg:

CH. G. VERMAIRE.

Netherlands:

V. WETTUM,

J. B. M. COEBERGH,

A. D. A. DE KAT ANGELINO.

Persia:

Prince ARFA-ED-DOVLEH MIRZA RIZA KHAN.

Portugal:

A. M. BARTHOLOMEU FERREIRA,

R. J. RODRIGUES.

Siam:

DAMRAS

Final Act

The Second International Opium Conference, convoked in accordance with the resolution of the Assembly of the League of Nations dated September 27, 1923, met on November 17, 1924, at the Palais des Nations, Geneva.

The Resolution of the Assembly was in the following terms:

“The Assembly, having noted with satisfaction that, in accordance with the hope expressed in the Fourth Resolution adopted by the Assembly in 1922, the Advisory Committee has reported that the information now available makes it possible for the Governments concerned to examine, with a view to the conclusion of an agreement, the question of the limitation of the amounts of morphine, heroin or cocaine and their respective salts to be manufactured; of the limitation of the amounts of raw opium and the coca leaf to be imported for that purpose and for other medicinal and scientific purposes; and of the limitation of the production of raw opium and the coca leaf for export to the amount required for such medicinal and scientific purposes, requests the Council—as a means of giving effect to the principles submitted by the Representatives of the United States of America, and to the policy which the League, on the recommendation of the Advisory Committee, has adopted—to invite the Governments concerned to send representatives with plenipotentiary powers to a conference for this purpose, to be held, if possible, immediately after the Conference mentioned in Resolution V.

“The Assembly also suggests, for the consideration of the Council, the advisability of enlarging this conference so as to include all countries which are Members of the League or Parties to the Convention of 1912, with a view to securing their adhesion to the principles that may be embodied in any agreement reached.”

The Council of the League nominated as President of the Conference:

His Excellency M. Herluf Zahle, Envoy Extraordinary and Minister Plenipotentiary of Denmark to Berlin.

The Secretary-General of the League of Nations nominated as Secretary-General of the Conference:

Dame Rachel Crowdy.

The following States participated in the Conference, and for this purpose appointed the Delegations, whose members are set out below:

Albania.

Delegate:

M. Benoit Blinishti.

Consul General in Switzerland; Director of the Permanent Secretariat accredited to the League of Nations.

Germany.

Delegates:

His Excellency M. H. von Eckardt.

Envoy Extraordinary and Minister Plenipotentiary.

M. G. Aschmann.

Consul-General at Geneva.

Doctor Anselmino.

Senior Government Counsellor at the Health Department
of the Reich.

United States of America.

Delegates:

The Honourable Stephen G. Porter.

Chairman of the Committee on Foreign Affairs, House of
Representatives.

The Right Reverend Charles H. Brent, Bishop.

Substitute Delegates:

Mr. Rupert Blue.

Assistant Surgeon-General.

Mrs. Hamilton Wright.

Mr. Edwin L. Neville.

Australia.

Delegate:

Mr. M. L. Shepherd, I.S.O.

Official Secretary for the Commonwealth of Australia in
Great Britain.

Belgium.

Delegates:

His Excellency M. Fernand Peltzer.

Envoy Extraordinary and Minister Plenipotentiary in
Switzerland.

Doctor F. De Myttenaere.

Chief Inspector of Pharmacies.

Bolivia.

Delegate:

Doctor Arturo Pinto-Escalier.

First Secretary of the Bolivian Legation in France.

Brazil.**Delegates:**

Doctor Humberto Gottuzo.

Medical Director of the Rio de Janeiro Mental Hospital.

Doctor Pedro Pernambuco.

Professor in the Faculty of Medicine at the University of Rio de Janeiro.

British Empire.**Delegates:**

The Rt. Hon. Viscount Cecil of Chelwood, K.C.

Sir Malcolm Delevingne, K.C.B.

Assistant Under-Secretary of State.

Experts:

Mr. G. D. Kirwan.

Home Office.

Mr. M. D. Perrins.

Home Office.

Mr. H. W. Malkin, C.B.

Assistant Legal Adviser to the Foreign Office.

Bulgaria.**Delegate:**

M. Dimitri Mikoff.

Chargé d'Affaires in Switzerland.

Canada.**Delegates:**

The Honourable Henri S. Beland, B.A., M.D.

Member of the King's Privy Council, Minister of Health.

Minister of Soldier Civil Re-establishment.

Doctor J. A. Amyot.

Deputy Minister of Health.

Doctor W. A. Riddell, Ph.D.

Advisory Officer of the Dominion of Canada for the League of Nations.

Chile.**Delegate:**

Doctor Eugène Suarez-Herreros.

China.

Delegates:

His Excellency M. Sao-Ke Alfred Sze.

Ambassador Extraordinary and Minister Plenipotentiary
at Washington.

His Excellency M. Wang Kouang Ky.

Envoy Extraordinary and Minister Plenipotentiary at The
Hague.

His Excellency M. Chao-Hsin Chu.

Minister Plenipotentiary; Chargé d'Affaires in London.

Counsellor and Expert:

Professor Dr. W. W. Willoughby.

Professor of Political Science at the Johns Hopkins Uni-
versity.

Experts:

Doctor Venfour Tchou.

Secretary of the Chinese Legation at Washington.

M. Tchou Che-Tsien.

Secretary of the Chinese Legation in Paris.

M. William Hsieh.

Secretary of the Chinese Legation at The Hague.

Doctor Telly Koo.

Secretary at the Ministry for Foreign Affairs.

Cuba.

Delegate:

His Excellency Doctor Aristides de Agüero y Bethancourt.

Envoy Extraordinary and Minister Plenipotentiary at Ber-
lin and Vienna.

Denmark.

Delegate:

His Excellency M. Andreas Oldenburg.

Envoy Extraordinary and Minister Plenipotentiary in
Switzerland; Representative of the Royal Government
accredited to the League of Nations.

Free City of Danzig.¹**Delegate:**

Doctor W. Chodzko.

Former Minister of Health; Delegate of the Polish Government to the Office International d'Hygiène.

Expert:

Doctor Karl Stade.

Councillor of State; Head of the Health Administration at Danzig.

Dominican Republic.**Delegate:**

Doctor L. M. Betances.

Doctor of Medicine and Science; Biologist at the Embryology Laboratory of the Collège de France.

Egypt.**Delegate:**

Doctor Mohamed Abdel Salam El Guindy.

Secretary of the Royal Egyptian Legation at Paris and Brussels; Delegate of the Egyptian Government at the "Office International d'Hygiène."

Substitute Delegates:

Doctor A. H. Mahfouz Bey.

Assistant Director of the Government General Hospitals, Public Health Department, Cairo.

Mohamed Kamel Bey.

Assistant Director of the Ministry of Agriculture.

Spain.**Delegates:**

His Excellency M. Emilio de Palacios.

Envoy Extraordinary and Minister Plenipotentiary in Switzerland.

Doctor Francisco Bustamante Romero.

Head of the Pharmaceutical Service of the Ministry for the Interior.

Doctor Antonio Pagador y Gomez de León.

Doctor of Medicine at Barcelona.

¹The Delegation of the Free City of Danzig withdrew before the end of the Conference.

Substitute Delegate:

M. Juan de Arenzana.
 Consul at Geneva.

Finland.**Delegate:**

M. Urho Toivola.

Secretary of Legation; Director of the Finnish Secretariat
 accredited to the League of Nations.

France.**Delegates:**

His Excellency M. Daladier.

Minister of the Colonies.

His Excellency M. Clinchant.

Minister Plenipotentiary; Assistant Director for Asia at the
 Ministry for Foreign Affairs.

Assistant Delegates:

M. Duchêne.

Director of Political Affairs at the Ministry for the Colonies.

M. Kircher.

Director of Customs and Excise in Indo-China.

M. Perrot.

Inspector of Pharmacies; Professor and Vice-Doyen of the
 Pharmacy Faculty of Paris.

M. Bourgois.

Consul.

Expert:

M. Chéron.

Colonial Administrator.

Greece.**Delegate:**

M. Vassili Dendramis.

Chargé d'Affaires at Berne.

Expert:

Professor Em. J. Emmanuel.

Professor of Pharmaceutical Chemistry at the University
 of Athens; Member of the Supreme Council of Public
 Health, Greece.

Hungary.

Delegate:

M. Zoltán Baranyai.

Director of the Royal Hungarian Secretariat accredited to the League of Nations.

India.

Delegates:

Mr. J. Campbell, C.S.I., O.B.E., I.C.S. (retired).

Mr. H. Clayton, C.I.E., I.C.S.

Mr. J. C. Walton.

Expert:

Mr. G. A. Levett Yeats, C.I.E., I.S.O., V.D.

Irish Free State.

Delegate:

Mr. Michael MacWhite

Representative of the Irish Free State accredited to the League of Nations.

Italy.

Delegates:

His Excellency M. Alfredo Falcioni.

Former Minister for Justice.

Professor Comm. Pietro Spica.

Director of the Institute of Pharmaceutical Chemistry at University of Padua.

Doctor Comm. Guido Fabris.

Vice-Director of Customs and Indirect Taxation.

Japan.

Delegates:

M. Sagataro Kaku.

Former Civil Governor of the Government-General of Taiwan.

M. Yotaro Sugimura.

Counsellor of Embassy; Assistant Head of the Imperial Japanese Bureau to the League of Nations.

Experts:

Doctor Mikinosuke Miyajima.

Doctor Mitsuzo Tsurumi.

Luxemburg.

Delegate:

M. Charles Vermaire.

Consul at Geneva.

Nicaragua.

Delegate:

Doctor Sottile.

Consul at Geneva.

Netherlands.

Delegates:

His Excellency le Jonkheer J. Loudon.

Doctor of Political Science; Envoy Extraordinary and
Minister Plenipotentiary in France.

M. W. G. van Wettum.

Chairman of the Advisory Committee of the League of
Nations on the Traffic in Opium and Other Dangerous
Drugs.

Dr. J. B. M. Coebergh.

Chief Inspector, Public Health Service.

M. A. D. A. de Kat Angelino.

Secretary for Chinese Affairs to the Government of the
Dutch Indies.

Expert:

M. H. van Ebbenhorst Tengbergen.

Persia.

Delegate:

His Highness Prince Mirza Riza Khan Arfa-ed-Dowleh.

Ambassador; Former Minister for Justice.

Poland:

Delegate:

Doctor W. Chodzko.

Former Minister of Health; Delegate of the Polish Gov-
ernment to the Office International d'Hygiène.

Portugal:

Delegates:

His Excellency M. Bartholomeu Ferreira.

Envoy Extraordinary and Minister Plenipotentiary in
Switzerland.

His Excellency Doctor Rodrigo Rodrigues.

Governor of Macao.

Roumania.

Delegate:

His Excellency M. N. P. Comnene.

Envoy Extraordinary and Minister Plenipotentiary in
Switzerland.

Substitute Delegates:

M. E. Timciuc.

Consul-General.

M. D. Moriaud.

Vice-Consul at Geneva.

Kingdom of the Serbs, Croats and Slovenes.

Delegates:

His Excellency M. M. Jovanovitch.

Envoy Extraordinary and Minister Plenipotentiary in
Switzerland.

M. Milivoyo Pilya.

Inspector at the Board of Trade.

Expert:

M. Dragan Militchevitch.

Secretary to the Confederation of Industrial Corporations
of the Kingdom of the Serbs, Croats and Slovenes.

Siam.

Delegates:

His Highness Prince Charoon.

Envoy Extraordinary and Minister Plenipotentiary in
France.

His Serene Highness Prince Damaras.

Chargé d'Affaires at The Hague.

Sweden :

Delegate :

Doctor Erik Rudolf Sjöstrand.

Adviser for Social Questions, in residence at Geneva.

Switzerland.

Delegates :

M. Dinichert.

Minister Plenipotentiary; Head of the Foreign Affairs Division of the Federal Political Department.

Doctor Carrière.

Head of the Federal Public Health Service.

M. Péquignot.

Assistant Head to the Commercial Division of the Department for Public Economy.

M. Hulftegger.

First Secretary at the Directorate of the Swiss Union of Commerce and Industry.

Expert :

M. Secretan.

Secretary at the Foreign Affairs Department of the Federal Political Department.

Czecho-Slovakia.

Delegate :

His Excellency M. F. Veverka.

Envoy Extraordinary and Minister Plenipotentiary in Switzerland; Permanent Delegate accredited to the League of Nations.

Substitute Delegate :

M. Jean Reisser.

First Secretary of Legation.

Turkey.

Delegates :

Mehmed Sureya Bey.

Under-Secretary at the Ministry of Agriculture.

Professor Nouriddin Bey.

Professor of Agricultural Chemistry at the School of Agriculture of Constantinople.

Uruguay.

Delegate:

His Excellency M. Enrique Buero.

Envoy Extraordinary and Minister Plenipotentiary in
Switzerland.

Venezuela.

Delegate:

Doctor Francisco J. Duarte.

Consul at Geneva.

The Conference held meetings between November 17, 1924,
and February 19, 1925.

The Conference adopted the Convention relating to Dangerous
Drugs which bears today's date.

The Conference also adopted the Protocol bearing today's date.

The Conference also adopted the following resolutions:

I

The Conference recognises that, to enable the Convention relating to Dangerous Drugs, signed this day to produce its full effect, it is essential that it should be applied as widely as possible in the colonies, possessions, protectorates and territories mentioned in Article 39 of the Convention. The Conference accordingly expresses the earnest hope that the Governments concerned will take the necessary steps to that end with as little delay as possible, and that the number of such colonies, possessions, protectorates or territories excluded from the operation of the Convention may be reduced to a minimum.

II

The Conference recommends that each Government should consider the possibility of forbidding the conveyance in any ship sailing under its flag of any consignment of the substances covered by the Convention:

(1) Unless an export authorisation has been issued in respect of such consignment in accordance with the provisions of the Convention, and the consignment is accompanied by an official copy

of such authorisation, or of any diversion certificate which may be issued;

(2) To any destination other than the destination mentioned in the export authorisation or diversion certificate.

III

The Conference recommends that all States should coöperate as closely as possible with one another in the suppression of the illicit traffic, and that they should authorise the competent authorities charged with the administration of the law on the subject to communicate directly with the corresponding authorities in other countries.

IV

The Conference draws attention to the advisability in certain cases of requiring dealers who are licensed by the Government to trade in the substances covered by the Convention to deposit or give sureties for a sum of money sufficient to serve as an effective guarantee against their engaging in the illicit traffic.

V

The Conference asks the Council of the League of Nations to examine the suggestion which has been made in the course of its proceedings, in particular by the Persian Delegation, that a commission should be appointed to visit certain opium-producing countries, should those countries so desire, for the purpose of making a careful study (in collaboration with the Governments of those countries) of the difficulties connected with the limitation of the production of opium in those countries and advising as to the measures which could be taken to make it possible to limit the production of opium in those countries to the quantities required for medical and scientific purposes.

VI

The Conference asks the Council of the League of Nations to invite the Health Committee to consider immediately whether

it would be expedient to consult the International Health Office regarding the products mentioned in Articles 8 and 10, in order that, if so, a decision concerning preparations which cannot give rise to the drug habit and a recommendation concerning all other drugs which might come under the provisions of the Convention may be notified immediately upon the entry into force of the said Convention.

VII

The Conference requests the Council of the League of Nations to decide to include in the expenses of the Secretariat the expenses of the Central Board and its administrative services.

It is understood that those Contracting Parties which are not Members of the League will bear their share of the expenses in accordance with a scale to be drawn up by agreement with the Council.

At the moment of signing the present Act, the Delegate of Persia made the following declaration:

“The Persian Delegate, acting on instructions from his Government, declares that he signs the Convention *ad referendum* and subject to the League of Nations acceding to Persia’s request as set forth in its memorandum.”

At the moment of signing the present Act, the Delegate of Siam made the following declaration:

“In signing the Convention and the present Final Act, the Siamese Delegation wishes to declare that, having no instructions on the subject of Indian hemp, which was not originally on the Agenda of the Conference, the Siamese Delegation is obliged to make reservation of Chapter III in regard to galenical preparations of Indian hemp and of Chapters IV and V solely in regard to Indian hemp.”

IN FAITH WHEREOF, the Delegates have signed the present Act.

DONE AT GENEVA, the nineteenth day of February one thousand nine hundred and twenty-five, in a single copy, which shall be deposited in the archives of the Secretariat of the League of

Nations and of which authenticated copies shall be delivered to all States represented at the Conference.

The President:

Herluf Zahle.

The Secretary-General:

Rachel E. Crowdy.

Albania:

B. BLINISHTI.

Germany:

H. VON ECKARDT,
GOTTFRIED ASCHMANN.

Australia:

M. L. SHEPHERD.

Belgium:

FERNAND PELTZER,
DR. FERD. DE MYTTENAERE.

Bolivia:

ARTURO PINTO-ESCALIER.

British Empire:

MALCOLM DELEVINGNE.

Spain:

EMILIO DE PALACIOS.

France:

G. BOURGOIS,
A. KIRCHER.

Greece:

VASSILI DENDRAMIS.

Hungary:

DE BARANYAI ZOLTÁN.

Japan:

S. KAKU,
Y. SUGIMURA.

Luxemburg:

CH. G. VERMAIRE.

Netherlands:

V. WETTUM,
J. B. M. COEBERGH,
A. D. A. DE KAT ANGELINO.

Persia:

Prince ARFA-ED-DOVLEH MIRZA RIZA KHAN.

Poland:

CHODZKO

Portugal:

A. M. BARTHOLOMEU FERREIRA,

R. J. RODRIGUES.

Siam:

DAMRAS

APPENDIX VI

LEGISLATION OF THE UNITED STATES WITH REFERENCE TO OPIUM AND NARCOTIC DRUGS

By Act of February 23, 1887,¹ the United States prohibited the importation of non-medicinal opium into the United States by Chinese citizens, or its importation into China by American citizens.

By Act of February 14, 1902,² the United States prohibited the sale, except for medical purposes, of opium to natives of the Pacific Islands lying within the 20th parallel of north latitude and the 40th parallel of south latitude, and the 120th meridian of longitude west and the 120th meridian of longitude east of Greenwich and not being in the possession or under the protection of any civilized power.

By Act of February 9, 1909,³ the United States prohibited the importation into the United States of opium "in any form or any preparation or derivatives thereof," except for medicinal purposes and under regulations which the Secretary of the Treasury was authorized to make, and subject to such duties as might be imposed by law. But in no case was prepared or smoking opium to be imported. At the time this law was passed it was shown that the United States was annually importing 200,000 lbs. of opium of which only 50,000 was needed for medical purposes.

This Act of February 9, 1909, was amended and considerably elaborated, as regards its penalties and administrative features, by the Act of January 17, 1914.⁴ This Act contained the following important provisions:

"SEC. 5 That no smoking opium or opium prepared for smoking shall be admitted into the United States, or into any territory under the control or jurisdiction thereof, for transportation to another

¹ 24 St. L. 409.

² 32 St. L. 33.

³ 35 St. L. 614.

⁴ 38 St. L. 275.

country, nor shall such opium be transferred or transshipped from one vessel to another within any waters of the United States for any other purpose.

"SEC. 6 That hereafter it shall be unlawful for any person subject to the jurisdiction of the United States to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any opium or cocaine, or any salts, derivative, or preparation of opium or cocaine, to any other country.

Provided, That opium or cocaine, and salts, derivatives, or preparations thereof, except smoking opium or opium prepared for smoking, the exportation of which is hereby absolutely prohibited, may be exported to countries regulating their entry under such regulations as are prescribed by such country for the importation thereof into such country, such regulations to be promulgated from time to time by the Secretary of State of the United States.⁵

By another Act of January 17, 1914,⁶ it was provided that an internal revenue tax of \$300 per pound should be levied and collected upon all opium manufactured in the United States for smoking purposes, and that no person should engage in such manufacture who was not a citizen of the United States, and who had not given a bond of not less than \$100,000. It was furthermore provided that every such manufacturer should file with the collector of internal revenue of his district such notices and inventories, keep such books, render such accounts of materials and products, put up such signs, etc., as the Commissioner of Internal Revenue might require, and, in general, to conduct his business under the surveillance of officials and agents of the Commissioner.⁷

By Act of March 3, 1915,⁸ as elsewhere noted, the United States provided elaborate regulations for the practice of pharmacy and the

⁵ The Act goes on to direct that the Secretary of State shall request foreign countries to communicate through diplomatic channels texts of their laws and regulations.

⁶ 38 St. L. 277.

⁷ The provisions of the Act of October 1, 1890 (26 St. L. 1567) so far as they related to the manufacture of smoking opium were repealed.

⁸ 38 St. L. 817.

sale of poisons and narcotic drugs in the consular districts of the United States in China.

By Act of May 26, 1922,* the Act of February 9, 1909, as amended by the Act of January 17, 1914, was still further amended and brought into its present form.

By this last Act there was created a Board to be known as the Federal Narcotics Control Board, composed of the Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce.

Section 2 (b) of this Act provides:

“That it is unlawful to import or bring any narcotic drug into the United States or any territory under its control or jurisdiction; except that such amounts of crude opium and coca leaves as the Board finds to be necessary to provide for medical and legitimate uses only may be imported and brought into the United States or such territory under such regulations as the Board shall prescribe. All narcotic drugs imported under such regulations shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.”

Sections 5 and 6 of the Act read as follows:

“SEC. 5. That no smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any purpose; and, except with the approval of the Board, no other narcotic drug may be so admitted, transferred, or transshipped.

“SEC. 6. (a) That it shall be unlawful for any person subject to the jurisdiction of the United States Government to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any narcotic drug to any other country: *Provided*, That narcotic drugs (except smoking opium and opium prepared for smoking, the exportation of which is hereby absolutely prohibited) may be exported to a country only which has ratified and become a party to the Convention and Final Protocol between the United States Government and other powers

* 42 St. L. 596.

for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if (1) such country has instituted and maintains, in conformity with that Convention, a system, which the Board deems adequate, of permits or licenses for the control of imports of such narcotic drugs; (2) the narcotic drug is consigned to an authorized permittee; and (3) there is furnished to the Board proof deemed adequate by it that the narcotic drug is to be applied exclusively to medical and legitimate uses within the country to which exported, that it will not be re-exported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and legitimate uses within such country.

Section 8 (a) of the Act provides for a penalty of \$25 an ounce for smoking opium, and one equal to the value of any narcotic drug found upon a vessel arriving at a port of the United States or territory under its control or jurisdiction, and not shown upon the vessel's manifest, or which is landed from any such vessel without a permit first obtained from the collector of customs. The master of the vessel is made liable for these penalties, and they also constitute a lien upon the vessel enforceable by proceedings of libel in rem.

By Act of June 7, 1924, the Act of February 9, 1909, was so amended as to prohibit the importation of crude opium into the United States for the purpose of manufacturing heroin. As no opium is produced in the United States, the effect of this Act has been absolutely to prohibit the manufacture of heroin in the United States.

By Act of December 17, 1914,¹⁰ known as the Harrison Anti-Narcotic Act, elaborate provision was made for the regulation of the importation, manufacture, production, compounding, traffic in opium, coca leaves and their salts and derivatives. By this law it is provided that every person engaged in any of these activities must register with the collector of internal revenue of his district and pay a special tax. A stamp tax is also to be paid on the drugs imported or sold, which is in addition to the customs duties that may have been paid upon them. Importers, manufacturers, and wholesale dealers are required to keep books and records and render such

¹⁰ 38 St. L. 785.

monthly returns in relation to all transactions in those drugs as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may require. Physicians, dentists, and veterinary surgeons also must keep a record of the drugs dispensed or distributed by them, showing the dates and the names and addresses of the persons to whom they are dispensed or distributed except such as may be given to patients upon whom such physicians, dentists or veterinary surgeons personally attend. Copies of prescriptions upon which such drugs are dispensed or distributed must be kept and be open to inspection by the revenue officials. The Act applies to the United States, the Territory of Alaska, the Territory of Hawaii, the insular possessions of the United States and the Panama Canal Zone. The Act does not apply to preparations and remedies which do not contain more than two grains of opium or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them, in one fluid ounce, or, if a solid or semi-solid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them. Records must, however, be kept of these preparations by the manufacturer, vendor or dispensing physician. Heavy penalties are provided for violations of the Act.

By Sections 1006, 1007, and 1008 of the Revenue Act of 1918 ¹¹ persons engaged in importing, manufacturing, dealing in, administering, or dispensing narcotic drugs are divided into five classes and taxed as follows: importers, manufacturers, producers or compounders, \$24 annually; wholesale dealers, \$12; retail dealers, \$6; practitioners, \$3; manufacturers of, or dealers in, the drugs which are specifically exempted from paying a stamp tax by reason of their small narcotic content, \$1.

This law also imposed a stamp tax of one cent per ounce or fraction thereof on narcotic products not specifically exempted by reason of their small narcotic content, and provided for the forfeiture to the

¹¹ 40 St. L. 1057.

United States of all drugs involved in violations of the Acts of 1890, 1897, 1909, and 1914.

An examination of the laws which have been referred to shows that the importation and exportation of opium and narcotic drugs is controlled by the Customs Service. The control of manufactures and sales is effected through the imposition of excise taxes, the collection of which is in the hands of the Internal Revenue Service.

As a subdivision of the Bureau of Internal Revenue, which is a branch of the Treasury Department, there is what is known as the Prohibition Unit. This Unit has the duty of enforcing the Federal Prohibition (Intoxicating Liquors) Act, and the Harrison Narcotic Act.

One of the subdivisions of the Prohibition Unit is the Narcotic Division, which has for its special function the enforcement of the Act of December 17, 1914 (Harrison Act), as amended by the Revenue Act of 1918, and the Act of January 17, 1913, imposing a tax of \$300 a pound on smoking opium, the collection of the other special and stamp taxes on narcotics.

There also exists a Federal Narcotic Control Board composed of the Secretary of State, the Secretary of the Treasury and the Secretary of Commerce, created by the Act of May 26, 1922, which Act was an amendment of the Act of February 9, 1909. The Board is directed to determine the amounts of crude opium and coca leaves needed to provide for medical and legitimate uses. Only such amounts as are thus determined may be imported or brought into the United States, and then only under such regulations as the Board may prescribe.

The following information regarding the results reached by the enforcement of the Acts which have been described is taken from the report of the Commissioner of Internal Revenue for the year ending June 30, 1924:

"The importation of opium, has decreased from 471,000 pounds annually for the ten-year period prior to the effective date of the Harrison Narcotic Law in 1915 to slightly less than 136,000 pounds in 1922, a per capita consumption in morphine equivalent of $\frac{1}{4}$ of one grain. For the year 1923 the records of the Narcotic Division show a substantial decrease in the importation of narcotic drug raw

material. For the six months ending December 31, 1923, the importation of opium particularly showed a considerable decrease, while the sales of the various alkaloid derivatives of opium by the manufacturers fell off 50 per cent over the previous six months.

“The importation of coca leaves has been decreased from 626,341 pounds in 1920 to 342,260 pounds in 1923, a drop of approximately 50 per cent in three years. This would allow a per capita consumption of cocaine, a derivative of coca leaves, of only about $\frac{1}{4}$ of one grain annually. The sales of cocaine by manufacturers decreased about 27 $\frac{1}{2}$ per cent during the last six months of 1923 over the first six months.

“The decrease in the importation, sale and use of narcotic drugs may be attributed in part to the fact that non-habit-forming synthetic compounds and preparations now on the market are replacing the habit-forming narcotic drugs; to a more rigid enforcement of the narcotic laws; and to the lack of new recruits to the present body of addicts. We are convinced that there is no increase in the use of narcotics in the United States. On the contrary, there has been an apparent decrease in the last three years. Conditions are bad enough, but not nearly as bad as some try to depict. A questionnaire recently sent to 500 representative druggists in one of our largest cities requesting a report of sales of narcotic drugs dispensed during the preceding three months revealed that the average sale was 47 $\frac{3}{8}$ grains, a total of 23,833 $\frac{3}{8}$ grains, whereas two years prior it was found that 6 druggists in the same city had dispensed 2000 ounces, or 875,000 grains, in one year.

“The smuggling of narcotic drugs constitutes the greatest problem with which the Narcotic Division has to deal, the report indicated. It is estimated that 90 per cent, perhaps more, of the drug supply of non-medical drug addicts is procured through unauthorized channels, the dope peddler or bootlegger, and represents smuggled drugs. Recent investigations have disclosed a situation with respect to the smuggling of drugs that is quite alarming, the report stated. Ships coming into both Eastern and Western ports have been found to be bringing in drugs, chiefly the derivatives of opium and coca leaves. In some cases the employees of the ships bring in the drugs as a side line to enhance their income; in other cases it is manifested under various classes of merchandise. No inconsiderable

quantities of narcotic drugs come into the United States along the Mexican border and from Cuba.

“From the best information obtainable, the number of drug addicts in this country has been on the downward trend for several years. Many of the non-medical class are criminals. Inquiry made recently by the Narcotic Division at the three Federal prisons in the United States revealed a large percentage of the inmates of these institutions were convicted of violation of the various opium laws. On October 1, 1923, the report shows there were confined in the Federal penitentiary at Atlanta, Ga., 2460 inmates; of this number 697 were reported as convicted for violation of the Harrison Narcotic Act. Confined in the Federal penitentiary at Leavenworth, Kansas, on the same date were 2446 inmates, of which number 921 were reported as convicted for violation of the Harrison Act. In the Federal penitentiary at McNeil's Island, Wash., the report dated November 1, 1923, shows there were 519 inmates, of which number 245 were convicted for violation of the Harrison Act. It is reported that 98 per cent of the addicts treated in the clinics in New York had criminal records. This, it is believed, points unmistakably to the criminal character of the illicit trafficker or bootlegger in narcotic drugs. There are, of course, many normal persons who bear good reputations generally, who have become addicted through medication due to illness, incurable or otherwise. The larger class are the underworld derelict, care free and seeking pleasure and excitants. Occasionally an addict of the inebriate class will go from liquor to drugs, or vice versa, but this is extremely rare, the reason being that the effects of the use of narcotics and intoxicating liquor on the human system are not alike in any way.

“The recent report of Judge Cornelius F. Collins of New York was cited showing that there has been a large decrease during the past year in the number of cases of drug addiction passing through the Court of Special Sessions, regarded as a pulse of drug addiction in New York. The average age of the drug addict has been found to be increasing, indicating fewer addicts. Slight increases in the number of persons who asked to be cured of drug addiction, and others who were committed for other reasons but who were found to be drug addicts, were reported.

“During the year 1922 the Narcotic Division showed a 65 per cent increase in criminal cases over the year 1921, and a substantial increase for the year 1923 over 1922, with the remarkable record of 7201 criminal cases in 1923, of which number 4479 have already been tried, resulting in 4194 convictions, or 93.6 per cent, the prison sentences imposed aggregating 4692 years, 6 months and 21 days, double the showing of the previous year. During the first eight months of the present fiscal year 2830 cases have been tried, resulting in 2167 convictions, or 92.4 per cent, with sentences imposed aggregating 3174 years, the number of field officers averaging about the same each year.

“In addition to these criminal cases, 29,776 civil cases, consisting chiefly of technical delinquencies of registrants, have been settled by payment of tax and penalty, compromised or dropped because of technicality of charge, during 1923. During 1922 a total of 40,055 such cases were handled, and 37,189 in 1921.

“The remarkable increase in the number of violations reported, convictions secured and sentences imposed does not mean an alarming increase in drug addiction, but shows the results obtained by a trained body of investigators, carefully selected for their peculiar adaptability to this particular line of work and the intelligent prosecution of the cases by the United States Attorneys in our Federal Courts, the report said. It also demonstrates conclusively the advantages of the segregation of the Narcotic Field Force from other activities.”

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