LEAGUE OF NATIONS

PROCEEDINGS

OF THE

INTERNATIONAL CONFERENCE

FOR THE

ADOPTION OF A CONVENTION

FOR THE SUPPRESSION OF

COUNTERFEITING CURRENCY

Geneva, April 9th to 20th, 1929

GENEVA, 1930.

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SUMMARY TABLE OF CONTENTS.

First Part:

Page

A. Introduction 5

B. Official Instruments of the Conference:

1. Convention 9
2. Protocol 19
3. Final Act 25
4. Optional Protocol 41

Second Part:

Minutes of the Plenary Meetings 43

Third Part:

A. Minutes of the Legal Committee 107

B. Minutes of the Administrative Committee 175

Fourth Part:

Documents of the Conference 197

(This part contains all the official documents circulated to the Conference except those which are reproduced in some other part of the present volume, and those which deal with either question of procedure or drafting.)

Fifth Part:

Annexes 215

(This part contains the principal preparatory documents of the Conference, together with the documents showing the action taken by the Council of the League immediately after the Conference.)

(For fuller information, see the detailed tables of contents at the beginning of each Part.)

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FIRST PART

A. Introduction

The subject of counterfeiting currency was officially brought to the attention of the League of Nations in a letter written on June 5th, 1926, by M. Briand to the Secretary-General (see Annex I, A). The letter requested the Secretary-General to " submit to the Council of the League of Nations the proposal, which is made by the French Government, to entrust to a committee, specially selected from among competent persons to be appointed by the various States, the work of framing a draft convention for suppressing the crime of counterfeiting currency ".

This letter was read before the Council, and the procedure suggested by the French Government was adopted, together with the proposals made by M. Beneš, that the question be referred first to the Financial Committee and studied at a later stage by a Committee of Jurists (see Annex II, A).

Letters were received by the Secretary-General from the Netherlands Government and the Austrian Federal Government both expressing satisfaction that the subject of counterfeiting currency was about to be taken up by the League of Nations, and both at the same time calling the attention of the Secretary-General to the existence and purposes of the International Criminal Police Commission in Vienna, which had been functioning since May 1924 (see Annex I, B and C).

The Financial Committee, in accordance with the suggestion made by the Council, sent out a questionnaire to the banks of issue in various countries (see Annex II, B). In December 1926, the Committee presented a report to the Council containing provisional conclusions (see Annex II, E). The Committee noted that nearly all of the banks of issue which had replied to its questionnaire were in favour of the conclusion of an international convention on counterfeiting currency, and it expressed the opinion that such a convention should contain proposals both for legislative measures and for measures of co-operation between the judicial authorities and the police in the different countries. With regard to the procedure to be followed, the Committee suggested the constitution of a small mixed committee consisting of specialists in international criminal law, prosecution authorities, delegates of the banks of issue, and one or two representatives of the Financial Committee. The Council approved the Financial Committee's report, decided upon the creation of a mixed committee (see Annex II, F), and, with the addition of a South American member, approved the suggestion of the Financial Committee regarding the constitution of the Mixed Committee (see Annex II, G).

This Mixed Committee prepared a report, which, together with a draft Convention and recommendations, its President, Dr. Pospisil, presented to the Council (see Annex III). The Mixed Committee was unanimous in its recognition of the importance, from an international point of view, of more effective measures for the suppression of counterfeiting currency, and completed its task in the absolute conviction that suppression of counterfeiting was of such importance as to require the closest possible international co-operation. The Council instructed the Secretary-General to forward this report and the draft Convention to all States Members and non-members of the League of Nations for their opinion, and to convene a general conference in a year's time for the final adoption of a Convention by as many States as possible. The Council further instructed the Secretary-General to bring to the notice of the Committee of Experts for the Progressive Codification of International Law Recommendations Nos. VII and VIII of the Committee (see Annex IV, A).

By March 1929, observations on the report and draft Convention had been received from thirty-three Governments (see Annex V).

In the meantime, the Committee of Experts for the Progressive Codification of International Law drew up its report, the conclusions of which (see Annex IV, B) were adopted by the Council (see Annex IV, C).

The Diplomatic Conference met at Geneva on April 9th, 1929, its President being Dr. Vilem Pospisil, Governor of the National Bank of Czechoslovakia, who had previously presided over the Mixed Committee (see Annex IV, D).

The Conference drew up a Convention with a Protocol and Final Act. It was attended by delegations of thirty-five Governments, and a delegation of the International Criminal Police Commission was present in an advisory capacity.

The object of the Convention is to render more effective the prevention and punishment of counterfeiting currency. To this end the Convention provides rules for unifying, to a certain extent, the penal laws of the signatory Powers, and for the centralisation and co-ordination of police action in the various countries. Perhaps the chief reason why the Governments desired such a Convention may be found in the fact that, on repeated occasions during the past few years, they had found that purely national action against counterfeiters of currency was insufficient and that international action was fraught with many difficulties and was often impossible. Sometimes these difficulties were to be found in legislation. In many countries, for instance, punishment of the forging of foreign money was very much lighter than that of national money, and in several the forging of foreign money was not a punishable offence at all. Again, in the various countries, not excepting those where the crime of counterfeiting was dealt with most severely, there were wide differences in the punishment given to the various phases of the crime, such as the simple uttering of counterfeits, participation in counterfeiting, or possessing the instruments of counterfeiting. And, again, the rules governing extradition were such that it was usually most difficult, and often impossible, to get counterfeiters who had escaped from the country brought to justice. The Conference believes that the Convention will very much improve upon this state of affairs. In all of the participating countries, legislation will have to be such that currency counterfeiters will be pursued and punished without exception and will nowhere go free with impunity.

The second aim of the Convention is to organise international co-operation between the police authorities of the different countries. To this end it stipulates that, in each country, a central police office shall be established in which all information and all investigations concerning the counterfeiting of currency shall be centralised, and provision is made for an international office to act as a clearing-house between these national offices.

The Convention is open to all States Members of the League and to all non-member States invited to accede, and it will come into force when five ratifications or accessions have been deposited.

The Protocol annexed to the Convention contains indications for the interpretation of certain articles, as well as reservations and declarations made at the moment of signature.

By the terms of the Final Act adopted by the Conference, Governments are invited to take, as far as possible, and even before ratification, the administrative measures appropriate for the organisation of the services provided for in the Convention. It is stated that, as soon as fifteen national Central Offices have been created, the first Conference of the representatives of these offices may be summoned by the Council and, pending the creation of an International Central Office, it is suggested that Governments should continue to make use of the Office established by the International Criminal Police Commission at Vienna. It is recommended that the League should consider the desirability of preparing an international convention for the prevention of counterfeiting other securities (share and debenture certificates, cheques, bills of exchange, etc.). Still a further recommendation suggests that rules for the extradition of accused or convicted persons should be unified on an international basis with a view to obtaining a really effective suppression of crime, and that the despatch and execution of letters of request should be regulated by international convention with a view to establishing a uniform system of rules.

Finally, an Optional Protocol was prepared and signed by certain delegates to the Conference, under which contracting parties undertake, in their mutual relations, to consider the acts referred to in the Convention as ordinary offences for purposes of extradition.

The President of the Conference, M. Pospisil, presented his report to the Council at its fifty-fifth session (see Annex VI, A). This report was discussed and its conclusions adopted on June 14th, 1929, and the Council authorised the Secretary-General to take all necessary action to give effect to the recommendations of the Conference (see Annex VI, B).

The Final Act of the Conference was signed by all the delegates present, save those of the United States of America and Nicaragua. The International Convention, Protocol and Optional Protocol were signed (until closed on December 31st, 1929) by the following States:

International Convention	Protocol	Optional Protocol
Signatures	*Signatures*	*Signatures*
Albania	Albania	Austria
United States of America	United States of America	Bulgaria
Austria	Austria	Colombia
Belgium	Belgium	Cuba
Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League of Nations India [1]	Great Britain and Northern Ireland and all parts of the British Empire which are not separate Members of the League of Nations India	Czechoslovakia
Bulgaria	Bulgaria	Greece
China	China	Panama
Colombia	Colombia	Poland
Cuba	Cuba	Portugal
Czechoslovakia	Czechoslovakia	Roumania
Free City of Danzig	Free City of Danzig	Spain
Denmark	Denmark	Yugoslavia
France	France	
Germany	Germany	
Greece	Greece	
Hungary	Hungary	
Italy	Italy	
Japan	Japan	
Luxemburg	Luxemburg	
Monaco	Monaco	
The Netherlands	The Netherlands	
Norway	Norway	
Panama	Panama	
Poland	Poland	
Portugal	Portugal	
Roumania	Roumania	
Spain	Spain	
Union of Soviet Socialist Republics	Union of Soviet Socialist Republics	
Switzerland	Switzerland	
Yugoslavia	Yugoslavia	

[1] As provided in Article 24 of the Convention, this signature does not include the territories of any Prince or Chief under the suzerainty of His Majesty.

B. Instruments officiels de la Conférence.

N° officiel: C.153.M.59.1929.II.
[C.F.M.12 (1).]

1. CONVENTION INTERNATIONALE POUR LA RÉPRESSION DU FAUX MONNAYAGE

Sa Majesté le Roi d'Albanie; le Président du Reich allemand; le Président des États-Unis d'Amérique; le Président fédéral de la République d'Autriche; Sa Majesté le Roi des Belges; Sa Majesté le Roi de Grande-Bretagne, d'Irlande et des Territoires britanniques au delà des mers, Empereur des Indes; Sa Majesté le Roi des Bulgares; le Président du Gouvernement national de la République chinoise; le Président de la République de Colombie; le Président de la République de Cuba; Sa Majesté le Roi de Danemark; le Président de la République de Pologne, pour la Ville libre de Dantzig; Sa Majesté le Roi d'Espagne; le Président de la République française; le Président de la République hellénique; Son Altesse Sérénissime le Régent du Royaume de Hongrie; Sa Majesté le Roi d'Italie; Sa Majesté l'Empereur du Japon; Son Altesse Royale la Grande-Duchesse de Luxembourg; Son Altesse Sérénissime le Prince de Monaco; Sa Majesté le Roi de Norvège; le Président de la République de Panama; Sa Majesté la Reine des Pays-Bas; le Président de la République de Pologne; le Président de la République portugaise; Sa Majesté le Roi de Roumanie; Sa Majesté le Roi des Serbes, Croates et Slovènes; le Comité central exécutif de l'Union des Républiques soviétistes socialistes; le Conseil fédéral suisse; le Président de la République tchécoslovaque,

Désireux de rendre de plus en plus efficaces la prévention et la répression du faux monnayage ont désigné pour leurs Plénipotentiaires:

[Liste des Plénipotentiaires] [1]

lesquels, après avoir produit leurs pleins pouvoirs trouvés en bonne et due forme, sont convenus des dispositions suivantes:

Première Partie.

Article premier.

Les Hautes Parties contractantes reconnaissent les règles exposées dans la première partie de la présente Convention comme le moyen le plus efficace, dans les circonstances actuelles, de prévenir et de réprimer les infractions de fausse monnaie.

Article 2.

Dans la présente Convention, le mot « monnaie » s'entend de la monnaie-papier, y compris les billets de banque, et de la monnaie métallique, ayant cours en vertu d'une loi.

Article 3.

Doivent être punis comme infractions de droit commun:

1° Tous les faits frauduleux de fabrication ou d'altération de monnaie, quel que soit le moyen employé pour produire le résultat;

2° La mise en circulation frauduleuse de fausse monnaie;

3° Les faits, dans le but de la mettre en circulation, d'introduire dans le pays ou de recevoir ou de se procurer de la fausse monnaie, sachant qu'elle est fausse;

4° Les tentatives de ces infractions et les faits de participation intentionnelle;

5° Les faits frauduleux de fabriquer, de recevoir ou de se procurer des instruments ou d'autres objets destinés par leur nature à la fabrication de fausse monnaie ou à l'altération des monnaies.

Article 4.

Chacun des faits prévus à l'article 3, s'ils sont commis dans des pays différents, doit être considéré comme une infraction distincte.

Article 5.

Il ne doit pas être établi, au point de vue des sanctions, de distinction entre les faits prévus à l'article 3, suivant qu'il s'agit d'une monnaie nationale ou d'une monnaie étrangère; cette disposition ne peut être soumise à aucune condition de réciprocité légale ou conventionnelle.

Article 6.

Les pays qui admettent le principe de la récidive internationale, reconnaissent, dans les conditions établies par leurs législations respectives, comme génératrices d'une telle récidive, les condamnations étrangères prononcées du chef de l'un des faits prévus à l'article 3.

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[1] Pour la liste des Plénipotentiaires, voir l'Acte final de la Conférence, page 24.

B. Official Instruments of the Conference.

Official No.: C.153.M.59.1929.II.
[C.F.M.12 (1).]

1. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF COUNTERFEITING CURRENCY.

His Majesty the King of Albania; the President of the German Reich; the President of the United States of America; the Federal President of the Austrian Republic; His Majesty the King of the Belgians; His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Bulgarians; the President of the National Government of the Republic of China; the President of the Colombian Republic; the President of the Republic of Cuba; His Majesty the King of Denmark; the President of the Polish Republic, for the Free City of Danzig; His Majesty the King of Spain; the President of the French Republic; the President of the Hellenic Republic; His Serene Highness the Regent of the Kingdom of Hungary; His Majesty the King of Italy; His Majesty the Emperor of Japan; Her Royal Highness the Grand Duchess of Luxemburg; His Serene Highness the Prince of Monaco; His Majesty the King of Norway; the President of the Republic of Panama; Her Majesty the Queen of the Netherlands; the President of the Polish Republic; the President of the Portuguese Republic; His Majesty the King of Roumania; His Majesty the King of the Serbs, Croats and Slovenes; the Central Executive Committee of the Union of Soviet Socialist Republics; the Swiss Federal Council; the President of the Czechoslovak Republic,

Being desirous of making more and more effective the prevention and punishment of counterfeiting currency, have appointed as their Plenipotentiaries:

[List of Plenipotentiaries. [1]]

who, having communicated their full powers, found in good and due form, have agreed on the following provisions:

Part I.

Article 1.

The High Contracting Parties recognise the rules laid down in Part I of this Convention as the most effective means in present circumstances for ensuring the prevention and punishment of the offence of counterfeiting currency.

Article 2.

In the present Convention, the word "currency" is understood to mean paper money (including banknotes) and metallic money, the circulation of which is legally authorised.

Article 3.

The following should be punishable as ordinary crimes:

(1) Any fraudulent making or altering of currency, whatever means are employed;
(2) The fraudulent uttering of counterfeit currency;
(3) The introduction into a country of or the receiving or obtaining counterfeit currency with a view to uttering the same and with knowledge that it is counterfeit;
(4) Attempts to commit, and any intentional participation in, the foregoing acts;
(5) The fraudulent making, receiving or obtaining of instruments or other articles peculiarly adapted for the counterfeiting or altering of currency.

Article 4.

Each of the acts mentioned in Article 3, if they are committed in different countries, should be considered as a distinct offence.

Article 5.

No distinction should be made in the scale of punishments for offences referred to in Article 3 between acts relating to domestic currency on the one hand and to foreign currency on the other; this provision may not be made subject to any condition of reciprocal treatment by law or by treaty.

Article 6.

In countries where the principle of the international recognition of previous convictions is recognised, foreign convictions for the offences referred to in Article 3 should, within the conditions prescribed by domestic law, be recognised for the purpose of establishing habitual criminality.

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[1] For the list of Plenipotentiaries, see the Final Act of the Conference, page 25.

Article 7.

Dans la mesure où la constitution de parties civiles est admise par la législation interne, les parties civiles étrangères, y compris éventuellement la Haute Partie contractante dont la monnaie a été falsifiée, doivent jouir de l'exercice de tous les droits reconnus aux régnicoles par les lois du pays où se juge l'affaire.

Article 8.

Dans les pays qui n'admettent pas le principe de l'extradition des nationaux, leurs ressortissants qui sont rentrés sur le territoire de leur pays, après s'être rendus coupables à l'étranger de faits prévus par l'article 3, doivent être punis de la même manière que si le fait avait été commis sur leur territoire, et cela même dans le cas où le coupable aurait acquis sa nationalité postérieurement à l'accomplissement de l'infraction.

Cette disposition n'est pas applicable si, dans un cas semblable, l'extradition d'un étranger ne pouvait pas être accordée.

Article 9.

Les étrangers qui ont commis à l'étranger des faits prévus à l'article 3 et qui se trouvent sur le territoire d'un pays dont la législation interne admet, comme règle générale, le principe de la poursuite d'infractions commises à l'étranger, doivent être punis de la même manière que si le fait avait été commis sur le territoire de ce pays.

L'obligation de la poursuite est subordonnée à la condition que l'extradition ait été demandée et que le pays requis ne puisse livrer l'inculpé pour une raison sans rapport avec le fait.

Article 10.

Les faits prévus à l'article 3 sont de plein droit compris comme cas d'extradition dans tout traité d'extradition conclu ou à conclure entre les diverses Hautes Parties contractantes.

Les Hautes Parties contractantes qui ne subordonnent pas l'extradition à l'existence d'un traité ou à une condition de réciprocité, reconnaissent, dès à présent, les faits prévus à l'article 3 comme cas d'extradition entre elles.

L'extradition sera accordée conformément au droit du pays requis.

Article 11.

Les fausses monnaies, ainsi que les instruments et les autres objets désignés à l'article 3, N° 5, doivent être saisis et confisqués. Ces monnaies, ces instruments et ces objets doivent, après confiscation, être remis, sur sa demande, soit au gouvernement, soit à la banque d'émission dont les monnaies sont en cause, à l'exception des pièces à conviction dont la conservation dans les archives criminelles est imposée par la loi du pays où la poursuite a eu lieu, et des spécimens dont la transmission à l'office central dont il est question à l'article 12, paraîtrait utile. En tout cas, tous ces objets doivent être mis hors d'usage.

Article 12.

Dans chaque pays, les recherches en matière de faux monnayage doivent, dans le cadre de la législation nationale, être organisées par un office central.

Cet office central doit être en contact étroit:

a) Avec les organismes d'émission;
b) Avec les autorités de police à l'intérieur du pays;
c) Avec les offices centraux des autres pays.

Il doit centraliser, dans chaque pays, tous les renseignements pouvant faciliter les recherches, la prévention et la répression du faux monnayage.

Article 13.

Les offices centraux des différents pays doivent correspondre directement entre eux.

Article 14.

Chaque office central, dans les limites où il le jugera utile, devra faire remettre aux offices centraux des autres pays une collection des spécimens authentiques annulés des monnaies de son pays.

Il devra notifier, dans les mêmes limites, régulièrement, aux offices centraux étrangers, en leur donnant toutes informations nécessaires:

a) Les nouvelles émissions de monnaies effectuées dans son pays;
b) Le retrait et la prescription de monnaies.

Sauf pour les cas d'intérêt purement local, chaque office central, dans les limites où il le jugera utile, devra notifier aux offices centraux étrangers:

1° Les découvertes de fausses monnaies. La notification de falsification des billets de banque ou d'Etat sera accompagnée d'une description technique des faux fournie exclusivement

Article 7.

In so far as " civil parties " are admitted under the domestic law, foreign " civil parties ", including, if necessary, the High Contracting Party whose money has been counterfeited, should be entitled to all rights allowed to inhabitants by the laws of the country in which the case is tried.

Article 8

In countries where the principle of the extradition of nationals is not recognised, nationals who have returned to the territory of their own country after the commission abroad of an offence referred to in Article 3 should be punishable in the same manner as if the offence had been committed in their own territory, even in a case where the offender has acquired his nationality after the commission of the offence.

This provision does not apply if, in a similar case, the extradition of a foreigner could not be granted.

Article 9.

Foreigners who have committed abroad any offence referred to in Article 3, and who are in the territory of a country whose internal legislation recognises as a general rule the principle of the prosecution of offences committed abroad, should be punishable in the same way as if the offence had been committed in the territory of that country.

The obligation to take proceedings is subject to the condition that extradition has been requested and that the country to which application is made cannot hand over the person accused for some reason which has no connection with the offence.

Article 10.

The offences referred to in Article 3 shall be deemed to be included as extradition crimes in any extradition treaty which has been or may hereafter be concluded between any of the High Contracting Parties.

The High Contracting Parties who do not make extradition conditional on the existence of a treaty or reciprocity, henceforward recognise the offences referred to in Article 3 as cases of extradition as between themselves.

Extradition shall be granted in conformity with the law of the country to which application is made.

Article 11.

Counterfeit currency, as well as instruments or other articles referred to in Article 3 (5), should be seized and confiscated. Such currency, instruments or other articles should, after confiscation, be handed over on request either to the Government or bank of issue whose currency is in question, with the exception of exhibits whose preservation as a matter of record is required by the law of the country where the prosecution took place, and any specimens whose transmission to the Central Office mentioned in Article 12 may be deemed advisable. In any event, all such articles should be rendered incapable of use.

Article 12.

In every country, within the framework of its domestic law, investigations on the subject of counterfeiting should be organised by a central office.

This central office should be in close contact:

(*a*) With the institutions issuing currency;
(*b*) With the police authorities within the country;
(*c*) With the central offices of other countries.

It should centralise, in each country, all information of a nature to facilitate the investigation, prevention and punishment of counterfeiting currency.

Article 13.

The central offices of the different countries should correspond directly with each other.

Article 14.

Each central office should, so far as it considers expedient, forward to the central offices of the other countries a set of cancelled specimens of the actual currency of its own country.

It should, subject to the same limitation, regularly notify to the central offices in foreign countries, giving all necessary particulars:

(*a*) New currency issues made in its country;
(*b*) The withdrawal of currency from circulation, whether as out of date or otherwise.

Except in cases of purely local interest, each central office should, so far as it thinks expedient, notify to the central offices in foreign countries:

(1) Any discovery of counterfeit currency. Notification of the forgery of bank or currency notes shall be accompanied by a technical description of the forgeries, to be provided

par l'organisme d'émission dont les billets auront été falsifiés; une reproduction photographique ou, si possible, un exemplaire du faux billet sera communiqué. En cas d'urgence, un avis et une description sommaire émanant des autorités de police pourront être discrètement transmis aux offices centraux intéressés, sans préjudice de l'avis et de la description technique dont il est question ci-dessus;

2° Les recherches, poursuites, arrestations, condamnations, expulsions de faux monnayeurs, ainsi qu'éventuellement leurs déplacements et tous renseignements utiles, notamment les signalements, empreintes digitales et photographies de faux monnayeurs;

3° Les découvertes détaillées de fabrication, en indiquant si ces découvertes ont permis de saisir l'intégralité des faux mis en circulation.

Article 15.

Pour assurer, perfectionner et développer la collaboration directe internationale en matière de prévention et de répression du faux monnayage, les représentants des offices centraux des Hautes Parties contractantes doivent tenir, de temps en temps, des conférences, avec participation des représentants des banques d'émission et des autorités centrales intéressées. L'organisation et le contrôle d'un office central international de renseignements pourront faire l'objet d'une de ces conférences.

Article 16.

La transmission des commissions rogatoires relatives aux infractions visées par l'article 3 doit être opérée:

a) De préférence par voie de communication directe entre les autorités judiciaires, le cas échéant, par l'intermédiaire des offices centraux;

b) Par correspondance directe des ministres de la Justice des deux pays ou par l'envoi direct par l'autorité du pays requérant au ministre de la Justice du pays requis;

c) Par l'intermédiaire de l'agent diplomatique ou consulaire du pays requérant dans le pays requis; cet agent enverra directement la commission rogatoire à l'autorité judiciaire compétente ou à celle indiquée par le gouvernement du pays requis, et recevra directement de cette autorité les pièces constituant l'exécution de la commission rogatoire.

Dans les cas *a*) et *c*), copie de la commission rogatoire sera toujours adressée en même temps à l'autorité supérieure du pays requis.

A défaut d'entente contraire, la commission rogatoire doit être rédigée dans la langue de l'autorité requérante, sauf au pays requis à en demander une traduction faite dans sa langue et certifiée conforme par l'autorité requérante.

Chaque Haute Partie contractante fera connaître par une communication adressée à chacune des autres Hautes Parties contractantes, celui ou ceux des modes de transmission susvisés qu'elle admet pour les commissions rogatoires de cette Haute Partie contractante.

Jusqu'au moment où une Haute Partie contractante fera une telle communication, sa procédure actuelle en fait de commissions rogatoires sera maintenue.

L'exécution des commissions rogatoires ne pourra donner lieu au remboursement de taxes ou frais autres que les frais d'expertises.

Rien dans le présent article ne pourra être interprété comme constituant de la part des Hautes Parties contractantes un engagement d'admettre, en ce qui concerne le système des preuves en matière répressive, une dérogation à leur loi.

Article 17.

La participation d'une Haute Partie contractante à la présente Convention ne doit pas être interprétée comme portant atteinte à son attitude sur la question générale de la compétence de la juridiction pénale comme question de droit international.

Article 18.

La présente Convention laisse intact le principe que les faits prévus à l'article 3 doivent, dans chaque pays, sans que jamais l'impunité leur soit assurée, être qualifiés, poursuivis et jugés conformément aux règles générales de sa législation interne.

SECONDE PARTIE.

Article 19.

Les Hautes Parties contractantes conviennent que tous les différends qui pourraient s'élever entre elles au sujet de l'interprétation ou de l'application de la présente Convention seront, s'ils ne peuvent pas être réglés par des négociations directes, envoyés pour décision à la Cour permanente de Justice internationale. Si les Hautes Parties contractantes entre lesquelles surgit un différend, ou l'une d'entre elles, n'étaient pas Parties au Protocole portant la date du 16 décembre 1920 relatif à la Cour permanente de Justice internationale, ce différend serait soumis, à leur gré et conformément aux règles constitutionnelles de chacune d'elles, soit à la Cour permanente de Justice internationale, soit à un tribunal d'arbitrage constitué conformément à la Convention du 18 octobre 1907 pour le règlement pacifique des conflits internationaux, soit à tout autre tribunal d'arbitrage.

solely by the institution whose notes have been forged. A photographic reproduction or, if possible, a specimen forged note should be transmitted. In urgent cases, a notification and a brief description made by the police authorities may be discreetly communicated to the central offices interested, without prejudice to the notification and technical description mentioned above;

(2) Investigation and prosecutions in cases of counterfeiting, and arrests, convictions and expulsions of counterfeiters, and also, where possible, their movements, together with any details which may be of use, and in particular their descriptions, finger-prints and photographs;

(3) Details of discoveries of forgeries, stating whether it has been possible to seize all the counterfeit currency put into circulation.

Article 15.

In order to ensure, improve and develop direct international co-operation in the prevention and punishment of counterfeiting currency, the representatives of the central offices of the High Contracting Parties should from time to time hold conferences with the participation of representatives of the banks of issue and of the central authorities concerned. The organisation and supervision of a central international information office may form the subject of one of these conferences.

Article 16.

The transmission of letters of request [1] relating to offences referred to in Article 3 should be effected:

(*a*) Preferably by direct communication between the judicial authorities, through the central offices where possible;

(*b*) By direct correspondence between the Ministers of Justice of the two countries, or by direct communication from the authority of the country making the request to the Minister of Justice of the country to which the request is made;

(*c*) Through the diplomatic or consular representative of the country making the request in the country to which the request is made; this representative shall send the letters of request direct to the competent judicial authority or to the authority appointed by the Government of the country to which the request is made, and shall receive direct from such authority the papers showing the execution of the letters of request.

In cases (*a*) and (*c*), a copy of the letters of request shall always be sent simultaneously to the superior authority of the country to which application is made.

Unless otherwise agreed, the letters of request shall be drawn up in the language of the authority making the request, provided always that the country to which the request is made may require a translation in its own language, certified correct by the authority making the request.

Each High Contracting Party shall notify to each of the other High Contracting Parties the method or methods of transmission mentioned above which it will recognise for the letters of request of the latter High Contracting Party.

Until such notification is made by a High Contracting Party, its existing procedure in regard to letters of request shall remain in force.

Execution of letters of request shall not be subject to payment of taxes or expenses of any nature whatever other than expenses of experts.

Nothing in the present article shall be construed as an undertaking on the part of the High Contracting Parties to adopt in criminal matters any form or methods of proof contrary to their laws.

Article 17.

The participation of a High Contracting Party in the present Convention shall not be interpreted as affecting that Party's attitude on the general question of criminal jurisdiction as a question of international law.

Article 18.

The present Convention does not affect the principle that the offences referred to in Article 3 should in each country, without ever being allowed impunity, be defined, prosecuted and punished in conformity with the general rules of its domestic law.

PART II.

Article 19.

The High Contracting Parties agree that any disputes which might arise between them relating to the interpretation or application of this Convention shall, if they cannot be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case any or all of the High Contracting Parties parties to such a dispute should not be Parties to the Protocol bearing the date of December 16th, 1920, relating to the Permanent Court of International Justice, the dispute shall be referred, at the choice of the parties and in accordance with the constitutional procedure of each party, either to the Permanent Court of International Justice or to a court of arbitration constituted in accordance with the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, or to some other court of arbitration.

[1] This expression has the same meaning as " letters rogatory ".

Article 20.

La présente Convention, dont les textes français et anglais feront également foi, portera la date de ce jour; elle pourra, jusqu'au 31 décembre 1929, être signée au nom de tout Membre de la Société des Nations et de tout Etat non membre qui a été représenté à la Conférence qui a élaboré la présente Convention ou à qui le Conseil de la Société des Nations aura communiqué un exemplaire de ladite Convention.

La présente Convention sera ratifiée. Les instruments de ratification seront transmis au Secrétaire général de la Société des Nations, qui en notifiera la réception à tous les Membres de la Société ainsi qu'aux Etats non membres visés à l'alinéa précédent.

Article 21.

A partir du 1er janvier 1930, il pourra être adhéré à la présente Convention au nom de tout Membre de la Société des Nations ou de tout Etat non membre visé à l'article 20 par qui cet accord n'aurait pas été signé.

Les instruments d'adhésion seront transmis au Secrétaire général de la Société des Nations, qui en notifiera la réception à tous les Membres de la Société et aux Etats non membres visés audit article.

Article 22.

Les pays qui sont disposés à ratifier la Convention conformément au second alinéa de l'article 20 ou à y adhérer en vertu de l'article 21, mais qui désirent être autorisés à apporter des réserves à l'application de la Convention, pourront informer de leur intention le Secrétaire général de la Société des Nations. Celui-ci communiquera immédiatement ces réserves à toutes les Hautes Parties contractantes au nom desquelles un instrument de ratification ou d'adhésion aura été déposé, en leur demandant si elles ont des objections à présenter. Si, dans un délai de six mois, à dater de ladite communication, aucune Haute Partie contractante n'a soulevé d'objection, la participation à la Convention du pays faisant la réserve en question sera considérée comme acceptée par les autres Hautes Parties contractantes sous ladite réserve.

Article 23.

La ratification par une Haute Partie contractante ou son adhésion à la présente Convention implique que sa législation et son organisation administrative sont conformes aux règles posées dans la Convention.

Article 24.

Sauf déclaration contraire d'une Haute Partie contractante lors de la signature, lors de la ratification ou lors de l'adhésion, les dispositions de la présente Convention ne s'appliquent pas aux colonies, territoires d'outre-mer, protectorats ou territoires sous suzeraineté ou mandat.

Cependant, les Hautes Parties contractantes se réservent le droit d'adhérer à la Convention, suivant les conditions des articles 21 et 23, pour leurs colonies, territoires d'outre-mer, protectorats ou territoires sous suzeraineté ou mandat. Elles se réservent également le droit de la dénoncer séparément suivant les conditions de l'article 27.

Article 25.

La présente Convention n'entrera en vigueur que lorsqu'elle aura été ratifiée ou qu'il y aura été adhéré au nom de cinq Membres de la Société des Nations ou Etats non membres. La date de l'entrée en vigueur sera le quatre-vingt-dixième jour qui suivra la réception par le Secrétaire général de la Société des Nations de la cinquième ratification ou adhésion.

Article 26.

Chaque ratification ou adhésion qui interviendra après l'entrée en vigueur de la Convention, conformément à l'article 25, sortira ses effets dès le quatre-vingt-dixième jour qui suivra la date de sa réception par le Secrétaire général de la Société des Nations.

Article 27.

La présente Convention pourra être dénoncée, au nom de tout Membre de la Société des Nations ou de tout Etat non membre, par notification écrite adressée au Secrétaire général de la Société des Nations, qui en informera tous les Membres de la Société et les Etats non membres visés à l'article 20. La dénonciation sortira ses effets un an après la date à laquelle elle aura été reçue par le Secrétaire général de la Société des Nations; elle ne sera opérante qu'au regard de la Haute Partie pour laquelle elle aura été effectuée.

Article 28.

La présente Convention sera enregistrée par le Secrétaire général de la Société des Nations à la date de son entrée en vigueur.

Article 20.

The present Convention, of which the French and English texts are both authentic, shall bear to-day's date. Until the 31st day of December 1929, it shall be open for signature on behalf of any Member of the League of Nations and on behalf of any non-member State which was represented at the Conference which elaborated the present Convention or to which a copy is communicated by the Council of the League of Nations.

It shall be ratified, and the instruments of ratification shall be transmitted to the Secretary-General of the League of Nations, who will notify their receipt to all the Members of the League and to the non-member States aforesaid.

Article 21.

After the 1st day of January 1930, the present Convention shall be open to accession on behalf of any Member of the League of Nations and any of the non-member States referred to in Article 20 on whose behalf it has not been signed.

The instruments of accession shall be transmitted to the Secretary-General of the League of Nations, who will notify their receipt to all the Members of the League and to the non-member States referred to in Article 20.

Article 22.

The countries which are ready to ratify the Convention under the second paragraph of Article 20 or to accede to the Convention under Article 21 but desire to be allowed to make any reservations with regard to the application of the Convention may inform the Secretary-General of the League of Nations to this effect, who shall forthwith communicate such reservations to the High Contracting Parties on whose behalf ratifications or accessions have been deposited and enquire whether they have any objection thereto. If within six months of the date of the communication of the Secretary-General no objections have been received, the participation in the Convention of the country making the reservation shall be deemed to have been accepted by the other High Contracting Parties subject to the said reservation.

Article 23.

Ratification of or accession to the present Convention by any High Contracting Party implies that its legislation and its administrative organisation are in conformity with the rules contained in the Convention.

Article 24.

In the absence of a contrary declaration by one of the High Contracting Parties at the time of signature, ratification or accession, the provisions of the present Convention shall not apply to colonies, overseas territories, protectorates or territories under suzerainty or mandate.

Nevertheless, the High Contracting Parties reserve the right to accede to the Convention, in accordance with the provisions of Articles 21 and 23, for their colonies, overseas territories, protectorates or territories under suzerainty or mandate. They also reserve the right to denounce it separately in accordance with the provisions of Article 27.

Article 25.

The present Convention shall not come into force until five ratifications or accessions on behalf of Members of the League of Nations or non-member States have been deposited. 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 fifth ratification or accession.

Article 26.

After the coming into force of the Convention in accordance with Article 25, each subsequent ratification or accession shall take effect on the ninetieth day from the date of its receipt by the Secretary-General of the League of Nations.

Article 27.

The present Convention may be denounced on behalf of any Member of the League of Nations or non-member State by a notification in writing addressed to the Secretary-General of the League of Nations, who will inform all the Members of the League and the non-member States referred to in Article 20. Such denunciation shall take effect one year after the date of its receipt by the Secretary-General of the League of Nations, and shall operate only in respect of the High Contracting Party on whose behalf it was notified.

Article 28.

The present Convention shall be registered by the Secretariat of the League of Nations on the date of its coming into force.

EN FOI DE QUOI les Plénipotentiaires susnommés ont signé la présente Convention.

IN FAITH WHEREOF the above-mentioned Plenipotentiaries have signed the present Convention.

FAIT à Genève, le vingt avril mil neuf cent vingt-neuf, en un seul exemplaire, qui restera déposé dans les archives du Secrétariat de la Société des Nations, et dont les copies certifiées conformes seront délivrées à tous les Membres de la Société et aux Etats non membres visés à l'article 20.

DONE at Geneva, the twentieth day of April, one thousand nine hundred and twenty-nine, in a single copy, which will remain deposited in the archives of the Secretariat of the League of Nations, and of which certified copies will be transmitted to all the Members of the League and to the non-member States referred to in Article 20.

ALBANIE / ALBANIA

Dr STAVRO STAVRI

ALLEMAGNE / GERMANY

Dr Erich KRASKE
Dr Wolfgang METTGENBERG.
VOCKE

ÉTATS-UNIS D'AMÉRIQUE / UNITED STATES OF AMERICA

Hugh R. WILSON

AUTRICHE / AUSTRIA

Dr Bruno SCHULTZ

BELGIQUE / BELGIUM

SERVAIS

GRANDE-BRETAGNE ET IRLANDE DU NORD / GREAT BRITAIN AND NORTHERN IRELAND

ainsi que toutes parties de l'Empire britannique non membres séparés de la Société des Nations.

and all parts of the British Empire which are not separate Members of the League of Nations.

John Fischer WILLIAMS
Leslie S. BRASS.

INDE / INDIA

As is provided in Article 24 of the Convention, my signature does not include the territories of any Prince or Chief under the Suzerainty of His Majesty. [1]

Vernon DAWSON.

BULGARIE / BULGARIA

D. MIKOFF

CHINE / CHINA

Lone LIANG

COLOMBIE / COLOMBIA

A. J. RESTREPO

CUBA / CUBA

G. DE BLANCK
M. R. ALVAREZ

DANEMARK / DENMARK

William BORBERG

VILLE LIBRE DE DANTZIG / FREE CITY OF DANZIG

F. SOKAL
John MUHL

ESPAGNE / SPAIN

Mauricio LOPEZ ROBERTS, Marquis DE LA TORREHERMOSA

[*Traduction.*]

[1] Ainsi qu'il est prévu à l'article 24 de la Convention, ma signature ne couvre pas les territoires de tout prince ou chef sous la suzeraineté de Sa Majesté.

FRANCE — FRANCE

CHALENDAR

GRÈCE — GREECE

Mégalos CALOYANNI

HONGRIE — HUNGARY

Paul DE HEVESY

ITALIE — ITALY

Ugo ALOISI

JAPON — JAPAN

Raizaburo HAYASHI
Shigeru NAGAI

LUXEMBOURG — LUXEMBURG

Ch. G. VERMAIRE

MONACO — MONACO

R. ELLÈS

NORVÈGE — NORWAY

Au moment de procéder à la signature de la présente Convention, le soussigné déclare, au nom de son Gouvernement, que:

Vu les dispositions de l'article 176, alinéa 2, du Code pénal ordinaire norvégien et l'article 2 de la loi norvégienne sur l'extradition des malfaiteurs, l'extradition prévue à l'article 10 de la présente Convention ne pourra être accordée pour l'infraction visée à l'article 3, N° 2, au cas où la personne qui met en circulation une fausse monnaie l'a reçue elle-même de bonne foi. [1]

Chr. L. LANGE

PANAMA — PANAMA

J. D. AROSEMENA

PAYS-BAS — THE NETHERLANDS

A. A. VAN DER FELTZ.
P. J. GERKE
K. H. BROEKHOFF

POLOGNE — POLAND

F. SOKAL
Vlodzimierz SOKALSKI

PORTUGAL — PORTUGAL

José CAEIRO DA MATTA

ROUMANIE — ROUMANIA

ANTONIADE — Vespasien V. PELLA. — Pascal TONCESCO

ROYAUME DES SERBES, CROATES ET SLOVÈNES — KINGDOM OF THE SERBS, CROATS AND SLOVENES

Dr Thomas GIVANOVITCH.

UNION DES RÉPUBLIQUES SOVIÉTISTES SOCIALISTES — UNION OF SOVIET SOCIALIST REPUBLICS

G. LACHKEVITCH
Nicolas LIUBIMOV

SUISSE — SWITZERLAND

DELAQUIS

TCHÉCOSLOVAQUIE — CZECHOSLOVAKIA

Jaroslav KALLAB.

[*Translation.*]

[1] At the time of signing the present Convention, the undersigned declares on behalf of his Government that:

In view of the provisions of Article 176, paragraph 2, of the Norwegian Ordinary Criminal Code and Article 2 of the Norwegian Law on the Extradition of Criminals, the extradition provided for in Article 10 of the present Convention may not be granted for the offence referred to in Article 3, No. 2, where the person uttering the counterfeit currency himself accepted it *bona fide* as genuine.

2. PROTOCOLE

I. Interprétations.

Au moment de procéder à la signature de la Convention portant la date de ce jour, les Plénipotentiaires soussignés déclarent accepter, en ce qui concerne les diverses dispositions de la Convention, les interprétations spécifiées ci-dessous.

Il est entendu:

1° Que la falsification de l'estampillage apposé sur un billet de banque et dont l'effet est de le rendre valable dans un pays déterminé, constitue une falsification de billet.

2° Que la Convention ne porte pas atteinte au droit des Hautes Parties contractantes de régler, dans leur législation interne, comme elles l'entendent, le régime des excuses, ainsi que les droits de grâce et d'amnistie.

3° Que la règle faisant l'objet de l'article 4 de la Convention n'entraîne aucune modification aux règles internes qui établissent les peines en cas de concours d'infractions. Elle ne fait pas obstacle à ce que le même individu, étant à la fois le faussaire et l'émetteur, ne soit poursuivi que comme faussaire.

4° Que les Hautes Parties contractantes ne sont tenues d'exécuter les commissions rogatoires que dans la mesure prévue par leur législation nationale.

II. Réserves.

Les Hautes Parties contractantes qui font les réserves exprimées ci-dessous y subordonnent leur acceptation de la Convention; leur participation, sous ces réserves, est acceptée par les autres Hautes Parties contractantes.

1° Le Gouvernement de l'Inde fait la réserve que l'article 9 ne s'applique pas à l'Inde où il n'entre pas dans les attributions du pouvoir législatif de consacrer la règle édictée par cet article.

2° En attendant l'issue des négociations concernant l'abolition de la juridiction consulaire dont jouissent encore les ressortissants de certaines Puissances, il n'est pas possible au Gouvernement chinois d'accepter l'article 10, qui contient l'engagement général pour un gouvernement d'accorder l'extradition d'un étranger accusé de faux monnayage par un Etat tiers.

3° Au sujet des dispositions de l'article 20, la délégation de l'Union des Républiques soviétistes socialistes réserve pour son Gouvernement la faculté d'adresser, s'il le désire, l'instrument de sa ratification à un autre Etat signataire, afin que celui-ci en communique copie au Secrétaire général de la Société des Nations pour notification à tous les Etats signataires ou adhérents.

2. PROTOCOL

I. Interpretations.

At the moment of signing the Convention of this day's date, the undersigned Plenipotentiaries declare that they accept the interpretations of the various provisions of the Convention set out hereunder.

It is understood:

(1) That the falsification of a stamp on a note, when the effect of such a stamp is to make that note valid in a given country, shall be regarded as a falsification of the note.

(2) That the Convention does not affect the right of the High Contracting Parties freely to regulate, according to their domestic law, the principles on which a lighter sentence or no sentence may be imposed, the prerogative of pardon or mercy and the right to amnesty.

(3) That the rule contained in Article 4 of the Convention in no way modifies internal regulations establishing penalties in the event of concurrent offences. It does not prevent the same individual, who is both forger and utterer, from being prosecuted as forger only.

(4) That High Contracting Parties are required to execute letters of request only within the limits provided for by their domestic law.

II. Reservations.

The High Contracting Parties who make the reservations set forth hereunder make their acceptance of the Convention conditional on the said reservations; their participation, subject to the said reservations, is accepted by the other High Contracting Parties.

(1) The Government of India make a reservation to the effect that Article 9 does not apply to India, where the power to legislate is not sufficiently extensive to admit of the legislation contemplated by this article.

(2) Pending the negotiation for the abolition of consular jurisdiction which is still enjoyed by nationals of some Powers, the Chinese Government is unable to accept Article 10, which involves the general undertaking of a Government to grant extradition of a foreigner who is accused of counterfeiting currency by a third State.

(3) As regards the provisions of Article 20, the delegation of the Union of Soviet Socialist Republics reserves for its Government the right to address, if it so desires, the instrument of its ratification to another signatory State in order that the latter may transmit a copy thereof to the Secretary-General of the League of Nations for notification to all the signatory or acceding States.

III. Déclarations.

Suisse.

Au moment de signer la Convention, le représentant de la Suisse a fait la déclaration suivante:

« Le Conseil fédéral suisse, ne pouvant assumer un engagement concernant les dispositions pénales de la Convention avant que soit résolue affirmativement la question de l'introduction en Suisse d'un Code pénal unifié, fait observer que la ratification de la Convention ne pourra intervenir dans un temps déterminé.

« Toutefois, le Conseil fédéral suisse est disposé à exécuter, dans la mesure de son autorité, les dispositions administratives de la Convention dès que celle-ci entrera en vigueur, conformément à l'article 25. »

Union des Républiques soviétistes socialistes.

Au moment de signer la Convention, le représentant de l'Union des Républiques soviétistes socialistes a fait la déclaration suivante:

« La délégation de l'Union des Républiques soviétistes socialistes, tout en acceptant les dispositions de l'article 19, déclare que le Gouvernement de l'Union ne se propose pas de recourir, en ce qui le concerne, à la juridiction de la Cour permanente de Justice internationale.

« Quant à la disposition du même article, d'après laquelle les différends, qui ne pourraient pas être réglés par des négociations directes, seraient soumis à toute autre procédure arbitrale que celle de la Cour permanente de Justice internationale, la délégation de l'Union des Républiques soviétistes socialistes déclare expressément que l'acceptation de cette disposition ne devra pas être interprétée comme modifiant le point de vue du Gouvernement de l'Union sur la question générale de l'arbitrage en tant que moyen de solution de différends entre Etats. »

Le présent Protocole, en tant qu'il crée des engagements entre les Hautes Parties contractantes, aura les mêmes force, valeur et durée que la Convention conclue à la date de ce jour et dont il doit être considéré comme faisant partie intégrante.

III. Declarations.

Switzerland.

At the moment of signing the Convention, the representative of Switzerland made the following declaration:

" The Swiss Federal Council, being unable to assume any obligation as to the penal clauses of the Convention before the question of the introduction of a unified penal code in Switzerland is settled in the affirmative, draws attention to the fact that the ratification of the Convention cannot be accomplished in a fixed time.

" Nevertheless, the Federal Council is disposed to put into execution, to the extent of its authority, the administrative provisions of the Convention whenever these will come into force in accordance with Article 25. "

Union of Soviet Socialist Republics.

At the moment of signing the Convention, the representative of the Union of Soviet Socialist Republics made the following declaration:

" The delegation of the Union of Soviet Socialist Republics, while accepting the provisions of Article 19, declares that the Government of the Union does not propose to have recourse, in so far as it is concerned, to the jurisdiction of the Permanent Court of International Justice.

" As regards the provision in the same Article by which disputes which it has not been possible to settle by direct negotiations would be submitted to any other arbitral procedure than that of the Permanent Court of International Justice, the delegation of the Union of Soviet Socialist Republics expressly declares that acceptance of this provision must not be interpreted as modifying the point of view of the Government of the Union on the general question of arbitration as a means of settling disputes between States."

The present Protocol in so far as it creates obligations between the High Contracting Parties will have the same force, effect and duration as the Convention of to-day's date, of which it is to be considered as an integral part.

En foi de quoi les soussignés ont apposé leur signature au bas du présent Protocole.

Fait à Genève, le vingt avril mil neuf cent vingt-neuf, en simple expédition, qui sera déposée dans les archives du Secrétariat de la Société des Nations; copie conforme en sera transmise à tous les Membres de la Société des Nations et à tous les Etats non membres représentés à la Conférence.

In faith whereof the undersigned have affixed their signatures to the present Protocol.

Done at Geneva, this twentieth day of April, one thousand nine hundred and twenty-nine, 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 Members of the League of Nations and non-member States represented at the Conference.

ALBANIE / ALBANIA

Dr Stavro Stavri

ALLEMAGNE / GERMANY

Dr Erich Kraske
Dr Wolfgang Mettgenberg.
Vocke

ÉTATS-UNIS D'AMÉRIQUE / UNITED STATES OF AMERICA

Hugh R. Wilson

AUTRICHE / AUSTRIA

Dr Bruno Schultz

BELGIQUE / BELGIUM

Servais

GRANDE-BRETAGNE ET IRLANDE DU NORD / GREAT BRITAIN AND NORTHERN IRELAND

ainsi que toutes parties de l'Empire britannique non membres séparés de la Société des Nations.

and all parts of the British Empire which are not separate Members of the League of Nations.

John Fischer Williams
Leslie S. Brass.

INDE / INDIA

Vernon Dawson

BULGARIE / BULGARIA

D. Mikoff

CHINE / CHINA

Lone Liang

COLOMBIE / COLOMBIA

A. J. Restrepo

CUBA / CUBA

G. de Blanck
M. R. Alvarez

DANEMARK / DENMARK

William Borberg

VILLE LIBRE DE DANTZIG / FREE CITY OF DANZIG

F. Sokal
John Muhl

ESPAGNE / SPAIN

Mauricio Lopez Roberts, Marquis de la Torrehermosa

FRANCE	Chalendar	FRANCE
GRÈCE	Mégalos Caloyanni	GREECE
HONGRIE	Paul de Hevesy	HUNGARY
ITALIE	Ugo Aloisi	ITALY
JAPON	Raizaburo Hayashi Shigeru Nagai	JAPAN
LUXEMBOURG	Ch. G. Vermaire	LUXEMBURG
MONACO	R. Ellès	MONACO
NORVÈGE	Chr. L. Lange	NORWAY
PANAMA	J. D. Arosemena	PANAMA
PAYS-BAS	A. A. van der Feltz P. J. Gerke K. H. Broekhoff	THE NETHERLANDS
POLOGNE	F. Sokal Vlodzimierz Sokalski.	POLAND
PORTUGAL	José Caeiro da Matta	PORTUGAL
ROUMANIE	Antoniade — Vespasien V. Pella. — Pascal Toncesco	ROUMANIA
ROYAUME DES SERBES, CROATES ET SLOVÈNES	Dr Thomas Givanovitch.	KINGDOM OF THE SERBS, CROATS AND SLOVENES
UNION DES RÉPUBLIQUES SOVIÉTISTES SOCIALISTES	G. Lachkevitch Nicolas Liubimov	UNION OF SOVIET SOCIALIST REPUBLICS
SUISSE	Delaquis	SWITZERLAND
TCHÉCOSLOVAQUIE	Jaroslav Kallab.	CZECHOSLOVAKIA

3. ACTE FINAL DE LA CONFÉRENCE

Les Gouvernements de l'ALBANIE, de l'ALLEMAGNE, des ÉTATS-UNIS D'AMÉRIQUE, de l'AUTRICHE, de la BELGIQUE, des ÉTATS-UNIS DU BRÉSIL, de la GRANDE-BRETAGNE et de l'IRLANDE DU NORD, de la CHINE, de la COLOMBIE, de CUBA, du DANEMARK, de la VILLE LIBRE DE DANTZIG, de l'ESPAGNE, de l'ÉQUATEUR, de la FINLANDE, de la FRANCE, de la GRÈCE, de la HONGRIE, de l'INDE, de l'ITALIE, du JAPON, de la LETTONIE, du LUXEMBOURG, de MONACO, du NICARAGUA, des PAYS-BAS, de la POLOGNE, du PORTUGAL, de la ROUMANIE, du ROYAUME DES SERBES, CROATES ET SLOVÈNES, de la SUÈDE, de la SUISSE, de la TCHÉCOSLOVAQUIE, de la TURQUIE, de l'UNION DES RÉPUBLIQUES SOVIÉTISTES SOCIALISTES,

Ayant reçu l'invitation qui leur a été adressée par le Conseil de la Société des Nations de participer à une Conférence en vue d'adopter une convention ayant pour objet la répression du faux monnayage,

Ont, à cet effet, désigné les délégations suivantes:

ALBANIE.

Délégué:

Le docteur STAVRO STAVRI, — Ministre plénipotentiaire, Chargé d'Affaires a. i. de la Légation Royale à Paris.

ALLEMAGNE.

Délégués:

Le docteur KRASKE, — « Vortragender Legationsrat » au Ministère des Affaires étrangères.

Le docteur METTGENBERG, — « Ministerialrat » au Ministère de la Justice du Reich.

Le docteur VOCKE, — « Geheimer Finanzrat », Membre du « Reichsbank-direktorium ».

Délégué adjoint:

M. WAGNER, — « Regierungsrat » au Ministère de la Justice du Reich.

ÉTATS-UNIS D'AMÉRIQUE.

Délégué:

Mr. Hugh R. WILSON, — Envoyé extraordinaire et Ministre plénipotentiaire en Suisse.

Délégué adjoint:

Mr. Elbridge D. RAND, — Consul à Genève.

Conseiller technique:

Mr. William H. MORAN, — Chef du service secret de la Trésorerie.

AUTRICHE.

Délégués:

M. Jean SCHOBER, — Préfet de police, ancien Chancelier fédéral.

Le docteur Bruno SCHULTZ, — Directeur de police, chef de la Section de police criminelle à la Préfecture de police de Vienne.

3. FINAL ACT OF THE CONFERENCE

The Governments of ALBANIA, GERMANY, THE UNITED STATES OF AMERICA, AUSTRIA, BELGIUM, THE UNITED STATES OF BRAZIL, GREAT BRITAIN AND NORTHERN IRELAND, CHINA, COLOMBIA, CUBA, DENMARK, THE FREE CITY OF DANZIG, SPAIN, ECUADOR, FINLAND, FRANCE, GREECE, HUNGARY, INDIA, ITALY, JAPAN, LATVIA, LUXEMBURG, MONACO, NICARAGUA, THE NETHERLANDS, POLAND, PORTUGAL, ROUMANIA, THE KINGDOM OF THE SERBS, CROATS AND SLOVENES, SWEDEN, SWITZERLAND, CZECHOSLOVAKIA, TURKEY, THE UNION OF SOVIET SOCIALIST REPUBLICS,

Having received the invitation extended to them by the Council of the League of Nations to participate in a conference for the adoption of a Convention for the suppression of counterfeiting currency,

Have in consequence appointed the following delegations:

ALBANIA.

Delegate:

Dr. STAVRO STAVRI, — Minister Plenipotentiary, Chargé d'Affaires *a.i.* of the Royal Legation at Paris.

GERMANY.

Delegates:

Dr. KRASKE, — "Vortragender Legationsrat" at the Ministry for Foreign Affairs.

Dr. METTGENBERG, — "Ministerialrat" at the Ministry of Justice of the Reich.

Dr. VOCKE, — "Geheimer Finanzrat", member of the "Reichsbankdirektorium".

Substitute:

M. WAGNER, — "Regierungsrat" at the Ministry of Justice of the Reich.

UNITED STATES OF AMERICA.

Delegate:

Mr. Hugh R. WILSON, — Envoy Extraordinary and Minister Plenipotentiary to Switzerland.

Substitute:

Mr. Elbridge D. RAND, — Consul at Geneva.

Technical Adviser:

Mr. William H. MORAN, — Chief of the Secret Service of the Treasury Department.

AUSTRIA.

Delegates:

M. Jean SCHOBER, — President of Police, former Federal Chancellor.

Dr. Bruno SCHULTZ, — Police Director, Chief of Section of Criminal Police at the Prefecture de Police of Vienna.

BELGIQUE.

Délégué :

M. SERVAIS, — Ministre d'Etat, Procureur général honoraire à la Cour d'Appel de Bruxelles.

Délégué adjoint :

M. Léon DUPRIEZ, — Attaché au Service des Etudes économiques de la Banque Nationale de Belgique.

ÉTATS-UNIS DU BRÉSIL.

Délégué :

M. J. A. BARBOZA-CARNEIRO, — Attaché commercial à l'Ambassade des Etats-Unis du Brésil à Londres, Membre du Comité économique de la Société des Nations.

GRANDE-BRETAGNE ET IRLANDE DU NORD.

Délégués :

Sir John Fischer WILLIAMS, C.B.E., K.C., — Conseiller juridique britannique à la Commission des Réparations.

Leslie S. BRASS, Esq., — « Acting Principal at the Home Office ».

CHINE.

Délégué :

M. LONE LIANG, — Conseiller de la Légation de Chine à Berlin, ancien juge de la Cour Suprême.

Conseiller technique :

M. HSIA CHIFFENG, — Représentant de la Fédération des Chambres de commerce chinoises.

COLOMBIE.

Délégué :

Le docteur Antonio José RESTREPO, — Envoyé extraordinaire et Ministre plénipotentiaire, Délégué permanent auprès de la Société des Nations.

Secrétaire :

Le docteur ABADIA.

CUBA.

Délégué :

M. Guillermo DE BLANCK Y MENOCAL, — Envoyé extraordinaire et Ministre plénipotentiaire, Délégué permanent auprès de la Société des Nations.

Délégué adjoint :

M. Manuel R. ALVAREZ, — Attaché commercial à la Délégation permanente auprès de la Société des Nations.

DANEMARK.

Délégué :

M. William BORBERG, — Délégué permanent auprès de la Société des Nations.

VILLE LIBRE DE DANTZIG.

Délégués :

M. François SOKAL, — Ministre plénipotentiaire, Délégué de la République de Pologne à la Société des Nations, chef de la délégation.

M. John MUHL, — Premier Procureur et Chef de la Police criminelle de la Ville libre de Dantzig.

BELGIUM

Delegate:

M. SERVAIS, — Minister of State, Honorary Public Prosecutor at the Brussels Court of Appeal.

Substitute:

M. Léon DUPRIEZ, — Attaché, Section for Economic Studies, National Bank of Belgium.

UNITED STATES OF BRAZIL.

Delegate:

M. J. A. BARBOZA CARNEIRO, — Commercial Attaché to the Embassy of the United States of Brazil in London, Member of the Economic Committee of the League of Nations.

GREAT BRITAIN AND NORTHERN IRELAND.

Delegates:

Sir John Fischer WILLIAMS, C.B.E., K.C., — British Legal Representative at the Reparation Commission.

Leslie S. BRASS, Esq., — Acting Principal at the Home Office.

CHINA.

Delegate:

M. LONE LIANG, — Counsellor of the Chinese Legation in Berlin, former Judge at the Supreme Court.

Technical Adviser:

M. HSIA CHIFFENG, — Representative of the Federation of the Chinese Chambers of Commerce.

COLOMBIA.

Delegate:

Dr. Antonio José RESTREPO, — Envoy Extraordinary and Minister Plenipotentiary, Permanent Delegate accredited to the League of Nations.

Secretary:

Dr. ABADIA.

CUBA.

Delegate:

M. Guillermo DE BLANCK Y MENOCAL, — Envoy Extraordinary and Minister Plenipotentiary, Permanent Delegate accredited to the League of Nations.

Substitute:

M. Manuel R. ALVAREZ, — Commercial Attaché to the Permanent Delegation accredited to the League of Nations.

DENMARK.

Delegate:

M. William BORBERG, — Permanent Delegate accredited to the League of Nations.

FREE CITY OF DANZIG.

Delegates:

M. François SOKAL, — Minister Plenipotentiary, Delegate of the Polish Republic accredited to the League of Nations, Head of the Delegation.

M. John MUHL, — First Prosecutor and Head of the Criminal Police of the Free City of Danzig.

ESPAGNE.

Délégués :

M. Rafael Alcayne Chavarria, — Ingénieur industriel, Attaché à la Manufacture nationale des Monnaies et du Timbre, Ministère des Finances.

M. Severo Carrillo de Albornoz, — Directeur de l'Agence de la Banque d'Espagne à Paris.

ÉQUATEUR.

Délégué :

Don Alejandro Gastelú, — Vice-Consul à Genève.

FINLANDE.

Délégué :

M. Rudolf Holsti, — Délégué permanent auprès de la Société des Nations, Envoyé extraordinaire et Ministre plénipotentiaire.

Délégué adjoint :

M. Evald Gyllenbögel, — Premier Secrétaire de la Légation de Finlande à Berne.

FRANCE.

Le comte de Chalendar, — Attaché financier auprès de l'Ambassade de France à Londres, Président du Comité financier de la Société des Nations.

Délégués adjoints :

M. Collard-Hostingue, — Inspecteur général de la Banque de France.

M. Caous, — Avocat général près la Cour d'Appel de Paris.

GRÈCE.

Délégué :

M. Megalos Caloyanni, — Conseiller honoraire à la Haute Cour d'Appel du Caire.

HONGRIE.

Délégué :

M. P. de Hevesy de Heves, — Ministre résident, Délégué permanent auprès de la Société des Nations.

Expert :

M. Viktor Szondy, — Conseiller de section au Ministère des Affaires étrangères.

INDE.

Délégué :

Vernon Dawson, Esq., C.I.E., — « Principal at the India Office ».

ITALIE.

Délégué :

Comm. doct. Ugo Aloisi, — Conseiller à la Cour de Cassation, Attaché au Ministère de la Justice.

Expert :

Comm. ing. Carlo Moriondi, — Ingénieur conseil dans la fabrication de papier-monnaie.

SPAIN.

Delegates:

M. Rafael ALCAYNE CHAVARRIA, — Industrial Engineer, Attaché to the "Manufacture nationale des Monnaies et du Timbre", Ministry of Finance.

M. Severo CARRILLO DE ALBORNOZ, — Director of the Paris Branch of the Bank of Spain.

ECUADOR.

Delegate:

Don Alejandro GASTELÚ, — Vice-Consul at Geneva.

FINLAND.

Delegate:

M. Rudolf HOLSTI, — Permanent Delegate accredited to the League of Nations, Envoy Extraordinary and Minister Plenipotentiary.

Substitute:

M. Evald GYLLENBÖGEL, — First Secretary of the Finnish Legation in Berne.

FRANCE.

Delegate:

Count DE CHALENDAR, — Financial Attaçhé to the French Embassy in London, President of the Financial Committee of the League of Nations.

Substitutes:

M. COLLARD-HOSTINGUE, — Inspector-General of the Bank of France.

M. CAOUS, — "Avocat général" at the Paris Court of Appeal.

GREECE.

Delegate:

M. Megalos CALOYANNI, — "Conseiller honoraire" to the High Court of Appeal, Cairo.

HUNGARY.

Delegate:

M. P. DE HEVESY DE HEVES, — Resident Minister, Permanent Delegate accredited to the League of Nations.

Expert:

M. Viktor SZONDY, — Counsellor of Section at the Ministry for Foreign Affairs.

INDIA.

Delegate:

Vernon DAWSON, Esq., C.I.E., — Principal at the India Office.

ITALY.

Delegate:

Commander Dr. Ugo ALOISI, — Counsellor at the "Cour de Cassation", Attaché to the Ministry of Justice.

Expert:

Commander Engineer Carlo MORIONDI, — Engineer, Adviser in the manufacture of paper money.

JAPON.

Délégués :

M. Raizaburo HAYASHI, — Procureur général de la Cour de Cassation.
M. Shigeru NAGAI, — Directeur de l'Hôtel des Monnaies.

Secrétaires :

M. Tokuji AMAGI, — Premier Secrétaire à la Légation du Japon à Berne.
Le vicomte MOTONO, — Secrétaire à l'Ambassade du Japon à Bruxelles.

LUXEMBOURG.

Délégué :

M. Charles VERMAIRE, — Consul à Genève.

MONACO.

Délégué :

M. Rodolphe ELLÈS, — Vice-Consul à Genève.

NICARAGUA.

Délégué :

Le Dr Juris Antoine SOTTILE, — Chargé d'Affaires, Délégué permanent accrédité auprès de la Société des Nations.

PAYS-BAS.

Délégués :

Le baron A. A. VAN DER FELTZ, — Ancien Chef de la Centrale néerlandaise pour la répression des falsifications, ancien Procureur général près la Cour d'Appel d'Amsterdam.

M. P. J. GERKE, — Trésorier général au Département des Finances des Indes néerlandaises.

Délégué adjoint :

M. K. H. BROEKHOFF, — Commissaire de police de l'Etat, Inspecteur en chef de police.

POLOGNE.

Délégués :

M. François SOKAL, — Ministre plénipotentiaire, Délégué à la Société des Nations, chef de la délégation.

M. Vlodzimierz SOKALSKI, — Docteur en droit, Juge à la Cour Suprême, Varsovie.
M. Zdzislaw SZEBEKO, — Chef de Division au Ministère des Finances, Varsovie.

PORTUGAL.

Délégué :

Le docteur José CAEIRO DA MATTA, — Directeur de la Banque de Portugal, Professeur à la Faculté de Droit de l'Université de Lisbonne.

ROUMANIE.

Délégués :

M. Constantin ANTONIADE, — Envoyé extraordinaire et Ministre plénipotentiaire auprès de la Société des Nations.

M. Vespasien V. PELLA, — Professeur de droit pénal à l'Université de Jassy.
M. P. TONCESCO, — Avocat à la Cour d'Appel.

ROYAUME DES SERBES, CROATES ET SLOVÈNES.

Délégué :

M. Thomas GIVANOVITCH, — Professeur de droit criminel à l'Université de Belgrade.

JAPAN.

Delegates:

M. Raizaburo HAYASHI, — Public Prosecutor of the Supreme Court.
M. Shigeru NAGAI, — Director of the Imperial Mint.

Secretaries:

M. Tokuji AMAGI, — First Secretary to the Japanese Legation in Berne.
Viscount MOTONO, — Secretary to the Japanese Embassy at Brussels.

LUXEMBURG.

Delegate:

M. Charles VERMAIRE, — Consul at Geneva.

MONACO.

Delegate:

M. Rodolphe ELLÈS, — Vice-Consul at Geneva.

NICARAGUA.

Delegate:

Dr. Juris Antoine SOTTILE, — Chargé d'Affaires, Permanent Delegate accredited to the League of Nations.

THE NETHERLANDS.

Delegates:

Baron A. A. VAN DER FELTZ, — Former Head of the Dutch Central Office for the Suppression of Falsifications, former General Prosecutor to the Court of Appeal of Amsterdam.

M. P. J. GERKE, — Treasurer-General to the Department of Finance of the Dutch Indies.

Substitute:

M. K. H. BROEKHOFF, — State Commissioner of Police, Chief Inspector of Police.

POLAND.

Delegates:

M. François SOKAL, — Minister Plenipotentiary, Delegate accredited to the League of Nations, Head of the Delegation.

M. Vlodzimierz SOKALSKI, — Doctor of Laws, Judge at the Supreme Court, Warsaw.
M. Zdzislaw SZEBEKO, — Head of Division at the Ministry of Finance, Warsaw.

PORTUGAL.

Delegate:

Dr. José CAEIRO DA MATTA, — Director of the Bank of Portugal, Professor at the Faculty of Law of the University of Lisbon.

ROUMANIA.

Delegates:

M. Constantin ANTONIADE, — Envoy Extraordinary and Minister Plenipotentiary accredited to the League of Nations.

M. Vespasien V. PELLA, — Professor of Criminal Law at the University of Jassy.
M. P. TONCESCO, — Avocat at the Court of Appeal.

KINGDOM OF THE SERBS, CROATS AND SLOVENES.

Delegate:

M. Thomas GIVANOVITCH, — Professor of Criminal Law at the University of Belgrade.

SUÈDE.

Délégué :

Le docteur E. R. SJÖSTRAND, — Délégué du Gouvernement suédois auprès du Bureau international du Travail.

SUISSE.

Délégué :

M. E. DELAQUIS, — Chef de la Division de police du Département fédéral de Justice et Police, Professeur de droit à l'Université de Berne.

TCHÉCOSLOVAQUIE.

Délégué :

M. Jaroslav KALLAB, — Docteur en droit, Professeur de droit pénal et international à l'Université de Brno.

Délégué adjoint :

M. Josef VAŇÁSEK, — Conseiller de police et remplaçant du chef du Service de Sûreté, Prague.

Secrétaire :

M. Ladislav RADIMSKÝ, — Docteur en droit, Secrétaire au Ministère des Affaires étrangères.

TURQUIE.

Délégué :

M. Ibrahim BAHATTIN, — Professeur de droit pénal à l'Ecole de droit d'Angora ; ancien Professeur à l'Université de Stamboul.

UNION DES RÉPUBLIQUES SOVIÉTISTES SOCIALISTES.

Délégués :

M. Georges LACHKEVITCH, — Conseiller juridique de l'Ambassade de l'Union à Paris.

M. Nicolas LIUBIMOV, — Représentant du Commissariat des Finances de l'Union en France, Attaché à l'Ambassade de l'Union à Paris.

LETTONIE.

(Participant à la Conférence à titre d'information.)

M. Charles DUZMANS, — Envoyé extraordinaire et Ministre plénipotentiaire, Délégué permanent auprès de la Société des Nations.

La Commission internationale de la Police criminelle, invitée à prendre part, à titre consultatif, à la Conférence, a désigné à cet effet la délégation suivante :

COMMISSION INTERNATIONALE DE LA POLICE CRIMINELLE.

Délégué :

M. A. H. SIRKS, — Commissaire en chef de police à Rotterdam.

Délégués adjoints :

M. F. E. LOUWAGE, — Officier judiciaire principal dirigeant la police du Parquet de Bruxelles.

M. KUENZER, — « Reichskommissar » au Ministère de l'Intérieur du Reich à Berlin.

Qui, en conséquence, se sont réunis à Genève.

SWEDEN.

Delegate:

Dr. E. R. SJÖSTRAND, — Delegate of the Swedish Government accredited to the International Labour Office.

SWITZERLAND.

Delegate:

M. E. DELAQUIS, — Head of the Police Division of the Federal Department of Justice and Police, Professor of Law at the University of Berne.

CZECHOSLOVAKIA.

Delegate:

M. Jaroslav KALLAB, — Doctor of Laws, Professor of Penal and International Law at the University of Brno.

Substitute:

M. Josef VAŇÁSEK, — " Conseiller de police " and Substitute to the Head of the Detective Police, Prague.

Secretary:

M. Ladislav RADIMSKY, — Doctor of Law, Secretary to the Ministry for Foreign Affairs.

TURKEY.

Delegate:

M. Ibrahim BAHATTIN, — Professor of Criminal Law at the Law School of Angora, former Professor at the University of Stamboul.

UNION OF SOVIET SOCIALIST REPUBLICS.

Delegates:

M. Georges LACHKEVITCH, — Legal Adviser to the Embassy of the Union in Paris.

M. Nicolas LIUBIMOV, — Representative of the Commissariat of Finance of the Union in France, Attaché to the Embassy of the Union in Paris.

LATVIA.

(Attending the Conference for information.)

M. Charles DUZMANS, — Envoy Extraordinary and Minister Plenipotentiary, Permanent Delegate accredited to the League of Nations.

The International Criminal Police Commission, having been invited to participate in the Conference in an advisory capacity, appointed the following delegation for this purpose:

INTERNATIONAL CRIMINAL POLICE COMMISSION.

Delegate:

M. A. H. SIRKS, — Head Commissary of Police at Rotterdam.

Substitutes:

M. F. E. LOUWAGE, — Principal Judicial Officer in charge of the Police of the " Parquet " of Brussels.

M. KUENZER, — " Reichskommissar " at the Ministry of the Interior of the Reich at Berlin.

Who accordingly assembled at Geneva.

Le Conseil de la Société des Nations a appelé aux fonctions de président de la Conférence M. le Dr Vilem Pospisil, Gouverneur de la Banque Nationale de Tchécoslovaquie, à Prague; Membre du Comité financier de la Société des Nations; Président du Comité mixte pour la répression du faux monnayage.

Les travaux du Secrétariat étaient confiés aux membres suivants de la Section économique et financière et de la Section juridique du Secrétariat de la Société des Nations: Dr J. van Walré de Bordes, Mr. C. F. Darlington, Dr P. Barandon et Dr F. Arcoleo.

A la suite des réunions tenues du 9 au 20 avril 1929, les actes ci-après énumérés ont été arrêtés:

I. *Convention*, en date du 20 avril 1929, concernant la répression du faux monnayage.

II. *Protocole* de la Convention.

La Conférence a également adopté les recommandations ci-après:

La Conférence recommande:

I.

Que le Conseil de la Société des Nations communique aussitôt que possible le texte de la Convention et du Protocole, aux fins de signature ou d'adhésion, à tous les Membres de la Société des Nations et aux Etats non membres que le Conseil estimera utile.

II.

Que les Gouvernements des pays au nom desquels la Convention a été signée fassent connaître au Secrétaire général de la Société des Nations leur situation en ce qui concerne la ratification de la Convention, au cas où l'instrument de ratification n'aurait pas été déposé dans un délai de trois ans à partir de la date de la signature.

III.

Que, même avant la ratification de la Convention, tous les Gouvernements prennent, autant que possible, les mesures d'ordre administratif appropriées pour organiser conformément aux dispositions de la Convention les services qui y sont prévus.

IV.

Que chaque Gouvernement notifie au Secrétariat général de la Société des Nations l'existence de son office central, dont il est question à l'article 12 de la Convention, avec les indications nécessaires sur l'organisation de cet office, notamment en ce qui concerne la branche de son administration à laquelle il est rattaché, et que le Secrétariat général fasse connaître ces communications, aussitôt que possible, à tous les Gouvernements.

V.

Que, dès que quinze offices centraux auront été créés par les Etats signataires et même avant l'entrée en vigueur de la Convention, le Conseil de la Société des Nations prenne l'initiative de convoquer la première des Conférences des représentants de ces offices centraux et des autres autorités mentionnées dans l'article 15, destinée, aux termes dudit article, à assurer, perfectionner et développer la collaboration directe internationale en matière de prévention et de répression du faux monnayage. Les Gouvernements qui auraient des offices centraux analogues sans avoir signé la Convention pourraient être invités à participer à cette Conférence.

The Council of the League of Nations appointed as President of the Conference Dr. Vilem Pospisil, Governor of the National Bank of Czechoslovakia at Prague, Member of the Financial Committee of the League of Nations, Chairman of the Mixed Committee for the Suppression of Counterfeiting Currency.

The secretarial work of the Conference was entrusted to the following members of the Financial and Economic Section and the Legal Section of the Secretariat of the League of Nations: Dr. J. van Walré de Bordes, Mr. C. F. Darlington, Dr. P. Barandon and Dr. F. Arcoleo.

In the course of a series of meetings between April 9th and April 20th, 1929, the instruments hereinafter enumerated were drawn up:

I. *Convention*, dated April 20th, 1929, relating to the suppression of counterfeiting currency;

II. *Protocol* to the Convention.

The Conference also adopted the following recommendations:

The Conference recommends:

I.

That the Council of the League of Nations should communicate as soon as possible the text of the Convention and Protocol for signature or for accession to all the Members of the League of Nations and to non-member States in cases where the Council thinks it desirable.

II.

That the Governments of countries on whose behalf the Convention has been signed should notify the Secretary-General of the League of Nations of their situation in regard to the ratification of the Convention, should their ratifications not have been deposited within three years from the date of signature.

III.

That, even before the ratification of the Convention, every Government should, as far as possible, take the administrative measures which are appropriate for the organisation, in conformity with the provisions of the Convention, of the services there provided for.

IV.

That each Government should notify the Secretariat of the League of Nations of the existence of its central office, referred to in Article 12 of the Convention, with the necessary information concerning the organisation of this office, especially as regards the branch of administration to which the office is attached, and that the Secretariat should communicate these notices to the Governments as soon as possible.

V.

That, whenever fifteen central offices have been created by the signatory States, and even before the entry into force of the Convention, the Council of the League of Nations may take the initiative to call together the first of the conferences of the representatives of the central offices and of the other authorities mentioned in Article 15, which have for their purpose, according to the terms of the above-mentioned article, to assure, perfect, and develop direct international collaboration concerning the prevention and suppression of counterfeiting currency. Governments which may have created analogous central offices without having signed the Convention might be invited to participate in this conference.

VI.

Que soient créés des offices centraux, tels qu'ils sont prévus à l'article 12 de la Convention, dans les colonies et autres territoires soumis à l'autorité de la métropole, pour autant que ces colonies ou autres territoires possèdent leurs propres organismes légalement chargés de l'émission de monnaie.

VII.

Que les différentes banques d'émission créent — si elles n'en ont déjà — un service avec lequel les offices centraux doivent rester en contact étroit.

VIII.

Que chaque office central ait à sa disposition des spécialistes et des experts connaissant parfaitement l'imprimerie et la fabrication du papier, afin de donner des indications au sujet du mode de fabrication des faux billets et de l'outillage y relatif.

IX.

Qu'en attendant la création d'un bureau international dont il est question à l'article 15 de la Convention, soit continué, avec le concours aussi complet que possible des Gouvernements, le travail, pleinement apprécié par la Conférence, du Bureau international de Vienne, qui, d'après les informations fournies à la Conférence, en centralisant les renseignements en matière de faux monnayage, déploie une activité dirigée dans le sens de la tâche qui pourra être assignée à l'organisme envisagé à cet article 15.

X.

Que les conférences des offices centraux, prévues à l'article 15 de la Convention, suivent le développement technique des méthodes du faux monnayage et de sa prévention.

XI.

Que soit étudiée par les conférences des offices centraux prévues à l'article 15 de la Convention la répression de la falsification d'autres papiers de valeur (titres d'actions et d'obligations, chèques, lettres de change, etc.) et des timbres employés comme instruments de paiement et que la Société des Nations, si elle le juge utile, examine l'opportunité de préparer une convention internationale à cet effet.

XII.

Que l'unification internationale des règles de l'extradition des prévenus et des condamnés soit réalisée pour assurer une répression vraiment efficace de la criminalité.

XIII.

Que les commissions rogatoires concernant le faux monnayage soient communiquées, si possible, directement et non par la voie diplomatique.

XIV.

Que la réglementation de l'envoi et de l'exécution des commissions rogatoires fasse l'objet d'une convention internationale qui en unifie les règles.

VI.

That central offices should be created as provided in Article 12 of the Convention in colonies and other territories which are under the authority of the mother-country in so far as such colonies or other territories possess their own independent organisations legally authorised for the issue of currency.

VII.

That the various banks of issue should create a service with which the central offices should remain in close contact, unless such a service already exists.

VIII.

That every central office should have at its disposal specialists and also experts thoroughly acquainted with the art of printing and the manufacture of paper, so as to give information on the method of manufacturing forged notes and the machinery relating thereto.

IX.

That, pending the creation of an international office, as referred to in Article 15 of the Convention, the work of the International Bureau at Vienna, which was fully appreciated by the Conference, should be continued, with the completest possible co-operation of the Governments; according to the information supplied to the Conference, the International Bureau, by centralising information as to counterfeiting currency, displays an activity which is directed to the task which might be allotted to the organisation contemplated in Article 15.

X.

That the conferences of the central offices mentioned in Article 15 of the Convention should follow the technical development of the methods of counterfeiting currency and of its prevention.

XI.

That the conferences of the central offices mentioned in Article 15 should give consideration to the suppression of counterfeiting other securities (share and debenture certificates, cheques, bills of exchange, etc.) and stamps used as instruments of payment, and that the League of Nations, if it think it expedient, should consider the desirability of preparing an international convention to that end.

XII.

That the rules for the extradition of accused or convicted persons should be unified on an international basis with a view to obtaining a really effective suppression of crime.

XIII.

That the letters of request concerning counterfeiting currency be communicated directly if possible and not through diplomatic channels.

XIV.

That the despatch and the execution of letters of request should be regulated by an international convention so as to produce a uniform system of rules.

En foi de quoi les soussignés ont apposé leurs signatures au bas du présent Acte.

Fait à Genève, le vingt avril mil neuf cent vingt-neuf, en simple expédition, qui sera déposée dans les archives du Secrétariat de la Société des Nations; copie conforme en sera transmise à tous les Membres de la Société des Nations et à tous les Etats non membres représentés à la Conférence.

In faith whereof the undersigned have affixed their signatures to the present Act.

Done at Geneva, this twentieth day of April, one thousand nine hundred and twenty-nine, 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 Members of the League of Nations and non-member States represented at the Conference.

Le Président de la Conférence: *The President of the Conference:*

Dr Vilem Pospisil

Le Secrétaire général de la Conférence: *The Secretary-General of the Conference:*

J. van Walré de Bordes

ALBANIE — ALBANIA

Dr Stavro Stavri

ALLEMAGNE — GERMANY

Dr Erich Kraske
Dr Wolfgang Mettgenberg
Vocke
Wagner

AUTRICHE — AUSTRIA

Dr Bruno Schultz

BELGIQUE — BELGIUM

Servais

ÉTATS-UNIS DU BRÉSIL — UNITED STATES OF BRAZIL

J. A. Barboza Carneiro

GRANDE-BRETAGNE ET IRLANDE DU NORD — GREAT BRITAIN AND NORTHERN IRELAND

ainsi que toutes parties de l'Empire britannique non membres séparés de la Société des Nations.

and all parts of the British Empire which are not separate Members of the League of Nations.

John Fischer Williams
Leslie S. Brass

CHINE — CHINA

Lone Liang
Hsia Chiffeng

COLOMBIE — COLOMBIA

A. J. Restrepo

CUBA — CUBA

G. de Blanck
M. R. Alvarez

DANEMARK	William Borberg	DENMARK
VILLE LIBRE DE DANTZIG	F. Sokal John Muhl	FREE CITY OF DANZIG
ESPAGNE	R. Alcayne S. Carrillo de Albornoz	SPAIN
ÉQUATEUR	Alejandro Gastelú	ECUADOR
FINLANDE	Rudolf Holsti Evald Gyllenbögel	FINLAND
FRANCE	H. Collard — Chalendar	FRANCE — Pierre Caous
GRÈCE	Mégalos Caloyanni	GREECE
HONGRIE	Paul de Hevesy Victor Szondy	HUNGARY
INDE	Vernon Dawson	INDIA
ITALIE	Ugo Aloisi Ing. Carlo Moriondi	ITALY
JAPON	Raizaburo Hayashi Shigeru Nagai	JAPAN
LUXEMBOURG	Ch. G. Vermaire.	LUXEMBURG
MONACO	R. Ellès	MONACO
PAYS-BAS	P. J. Gerke — A. A. van der Feltz	THE NETHERLANDS — K. H. Broekhoff
POLOGNE	F. Sokal Vlodzimierz Sokalski	POLAND

PORTUGAL	José Caeiro da Matta	PORTUGAL
ROUMANIE		ROUMANIA
Antoniade	Vespasien V. Pella	Pascal Toncesco
ROYAUME DES SERBES, CROATES ET SLOVÈNES		KINGDOM OF THE SERBS, CROATS AND SLOVENES
	Dr Thomas Givanovitch.	
SUÈDE		SWEDEN
	Erich Sjöstrand	
SUISSE		SWITZERLAND
	Delaquis	
TCHÉCOSLOVAQUIE		CZECHOSLOVAKIA
	Jaroslav Kallab	
TURQUIE		TURKEY
	Bahattin	
UNION DES RÉPUBLIQUES SOVIÉTISTES SOCIALISTES		UNION OF SOVIET SOCIALIST REPUBLICS
	G. Lachkevitch Nicolas Liubimov	
COMMISSION INTERNATIONALE DE LA POLICE CRIMINELLE		INTERNATIONAL CRIMINAL POLICE COMMISSION
	Sirks Kuenzer	

PROTOCOLE FACULTATIF

En reconnaissant les progrès importants en matière de répression du faux monnayage, réalisés par la Convention pour la répression du faux monnayage, qui porte la date de ce jour, les Hautes Parties signataires de ce Protocole, sous réserve de ratification, s'engagent, dans leurs rapports réciproques, à considérer, au point de vue de l'extradition, les faits prévus à l'article 3 de ladite Convention comme des infractions de droit commun.

L'extradition sera accordée conformément au droit du pays requis.

Les dispositions de la seconde partie de ladite Convention s'appliquent aussi en ce qui concerne le présent Protocole, sauf les dispositions ci-dessous:

1. Le présent Protocole pourra être signé conformément à l'article 20 de la Convention au nom de tout Etat membre de la Société des Nations et de tout Etat non membre qui a été représenté à la Conférence et qui a signé ou signera la Convention, ou à qui le Conseil de la Société des Nations aura communiqué un exemplaire de ladite Convention.

2. Le présent Protocole n'entrera en vigueur que lorsqu'il aura été ratifié ou qu'il y aura été adhéré au nom de trois Membres de la Société des Nations ou Etats non membres.

3. La ratification du présent Protocole et l'adhésion sont indépendantes de la ratification ou de l'adhésion à la Convention.

EN FOI DE QUOI les Plénipotentiaires nommés ci-dessous ont signé le présent Protocole.

FAIT à Genève en un seul exemplaire formant une annexe à la Convention pour la répression du faux monnayage, le vingt avril mil neuf cent vingt-neuf.

OPTIONAL PROTOCOL

Recognising the important progress regarding the suppression of counterfeiting currency which has been realised by the Convention for the Suppression of Counterfeiting Currency bearing this day's date, the High Contracting Parties signatory to this Protocol, subject to ratification, undertake, in their mutual relations, to consider, as regards extradition, the acts referred to in Article 3 of the said Convention as ordinary offences.

Extradition shall be granted according to the law of the country to which application is made.

The provisions of Part II of the said Convention apply equally to the present Protocol, with the exception of the following provisions:

(1) The present Protocol may be signed in accordance with Article 20 of the Convention in the name of any State Member of the League of Nations and of any non-member State which has been represented at the Conference and which has signed or will sign the Convention, or to which the Council of the League of Nations shall have sent a copy of the said Convention.

(2) The present Protocol shall come into force only after it has been ratified or adhered to in the name of three Members of the League of Nations or States which are not members.

(3) Ratification of and accession to the present Protocol are independent of ratification of or accession to the Convention.

IN FAITH WHEREOF the Plenipotentiaries named below have signed the present Protocol.

DONE at Geneva, in a single copy, forming an Annex to the Convention for the Suppression of Counterfeiting Currency, on the twentieth day of April, one thousand nine hundred and twenty-nine.

AUTRICHE / AUSTRIA

Dr Bruno SCHULTZ

COLOMBIE / COLOMBIA

A. J. RESTREPO

CUBA / CUBA

G. DE BLANCK
M. R. ALVAREZ

GRÈCE — GREECE

Mégalos Caloyanni

PORTUGAL — PORTUGAL

José Caeiro da Matta

ROUMANIE — ROUMANIA

Antoniade — Vespasien V. Pella. — Pascal Toncesco

ROYAUME DES SERBES, CROATES ET SLOVÈNES — KINGDOM OF THE SERBS, CROATS AND SLOVENES

Dr Thomas Givanovitch.

TCHÉCOSLOVAQUIE — CZECHOSLOVAKIA

Jaroslav Kallab.

PANAMA — PANAMA

J. D. Arosemena

BULGARIE — BULGARIA

D. Mikoff

ESPAGNE — SPAIN

Mauricio Lopez Roberts, Marquis de la Torrehermosa

POLOGNE — POLAND

F. Sokal

SECOND PART.

MINUTES OF THE PLENARY MEETINGS.

TABLE OF CONTENTS.

Page

First Plenary Meeting, held on April 9th, 1929, at 11 a.m.

1. Introduction 47
2. Opening Speech by the President 47
3. Constitution of Two Committees 49
4. Appointment of the Officers of the Conference 50
5. Appointment of the Officers of the Committees 50
6. Appointment of Credentials Committee 51
7. Length of Speeches 51
8. Hours of Meetings 51

Second Plenary Meeting, held on April 9th, 1929, at 3 p.m.

1. First Report of the Credentials Committee 51
2. General Discussion 52
3. Nomination of Members of the two Committees 65

Third Plenary Meeting, held on April 10th, 1929, at 10 a.m.

1. General Discussion *(continued)* 65
2. Close of the General Discussion and Appointment of Members of the two Committees 69

(Meetings of the Legal and Administrative Committees.)
(See Third Part.)

Fourth Plenary Meeting, held on April 18th, 1929, at 3 p.m.

1. Communications by the President 69
2. First Reading of the Draft :
   Convention 70
   Protocol (Part I) 78
   Final Act 82
3. Communication by the Roumanian Delegation :
   Announcement of an Optional Protocol 83

Fifth Plenary Meeting, held on April 19th, 1929, at 11 a.m.

1. First Reading of the Draft Protocol (Parts II and III) 83
2. Second Reading of the Draft Convention 85
3. Additional Discussion of Article 9 87
4. New Text of the Reservation submitted by the Delegation of China for Inclusion in the Protocol 89
5. Verification of Credentials 90

Sixth Plenary Meeting, held on April 19th, 1929, at 4 p.m.

1. Report of the Drafting Committee on Article 9 90
2. Proposal by the Turkish Delegation :
   Revision of the Convention 90
3. Second Reading of the Draft Final Act 91
4. Statements concerning the Optional Protocol 92
5. Second Reading of the Draft Protocol 93

SEVENTH PLENARY MEETING, held on April 19th, 1929, at 6 p.m.

Page

1. Third Reading of the Draft :
   - Convention 94
   - Protocol 95
   - Final Act 95
2. Declaration of the Delegates of Latvia, the United States of America and China 96
3. Reading of the Optional Protocol 97
4. Second Report of the Credentials Committee 98

EIGHTH PLENARY MEETING, held on April 20th, 1929, at 11 a.m.

1. The Signing of the Convention, Protocol, Final Act and Optional Protocol 98
2. Closing Speech by the President 102
3. Conclusion 104

FIRST PLENARY MEETING

Held on April 9th, 1929, at 11 a.m.

President : Dr. Vilem Pospisil

Introduction.

Sir Arthur Salter :—Gentlemen—I should like, if I might in two words, to welcome you here on behalf of the permanent Organisation of the League and to thank you for responding to the invitation which has been sent to you, and to express the hope that the long, careful and arduous work of the Mixed Committee will now receive its due and proper reward in the conclusion of a successful Convention. To that I have only to add one word, and that is that the Council—as probably most of you know—has appointed M. Pospisil, who was Chairman of the Mixed Committee which prepared the work of this Conference, as President of the Conference.

Opening Speech by the President.

The President.—Gentlemen—My first duty, in opening the International Conference for the Suppression of Counterfeiting Currency, is to thank the Council of the League of Nations for the honour it has done me in calling upon me to preside over this Conference. I can assure you that I experience particular pleasure in doing so, because I have already had the privilege of presiding over the Mixed Committee whose work has led to the preparation of the draft Convention before you. I can therefore only express a sincere desire that the ideas and the hopes of the Mixed Committee may be brought to fruition by this Conference.

In declaring the Conference open, it is my pleasant duty first of all to welcome, on behalf of the Council, all those who have been good enough to accept the invitation addressed to them. It is indeed encouraging to see assembled here the representatives of so many countries, not only of States Members of the League, but also of five States non-members, who are thus again affording us their valuable support—this time in a technical problem. I note with pleasure that many of the delegates here present were members of the former Mixed Committee. I am convinced that their co-operation will greatly facilitate our task. Finally, I beg to extend a hearty welcome to the representatives of the International Criminal Police Commission, whose weighty opinion will certainly contribute to the success of our work.

Before briefly indicating the task which has been entrusted to us, I will venture to summarise what I may perhaps call the history of the problem that we are now called upon to consider. In June 1926, the French Government laid this question before the League of Nations. The Council referred the matter to the Financial Committee, which, after preparing a questionnaire on the various aspects of the problem and consulting the banks of issue in the various countries on the basis of this questionnaire, recommended the creation of a special Committee to prepare a draft International Convention. This Committee, consisting of experts in international criminal law, representatives of officers in charge of public prosecutions, representatives of Central Banks and of the Financial Committee, and known therefore as the Mixed Committee, was appointed by the Council under a resolution adopted on December 9th, 1926.

The Mixed Committee met in June and in October 1927, and drew up the draft Convention you have now before you. You have read this draft and the accompanying statement of reasons. This statement explains the general lines along which the Committee worked in formulating its proposals.

The Mixed Committee was unanimous in its recognition of the importance, from an international point of view, of more effective measures for the suppression of counterfeiting currency.

We have first of all to consider the extent and importance of the interests injured. The counterfeiting of currency injures the monetary sovereignty of the State, endangers the interests of individuals and the security of the circulation of the national currency, which is an indispensable corollary to the exchange of goods on which daily life and all economic relations are based—but it is also a danger from the point of view of international relations. Technical progress and the evolution of human activities are constantly extending the scope and intensity of these relations ; their development is accompanied by a simultaneous increase in currency exchange between countries in which, particularly since the war, increasing use has been made of paper money—apart, of course, from the various methods of compensation.

The Committee is certainly right in emphasising in its report the fact that the counterfeiting of currency strikes a blow at public confidence in that instrument of exchange that currency represents *in abstracto* ; that, owing to the nature of the interests which it injures, it cannot be regarded as one of those offences whose mischievous effects on public order are

confined to a given territory ; and that it falls within the category of offences which are, or may be, in their consequences detrimental to public order in several States, to international co-operation and international relations in general.

The conviction that counterfeiting is an international evil is not of recent date. The penal codes of several countries and various international conventions connected with international criminal law contained, even before the war, clear traces of the existence of this conviction. But it is necessary in the presence of this growing danger to carry international protection further—as far as possible. The technical progress of modern times—which has already so contributed to the welfare of humanity—and the spread of such progress also unfortunately serve the criminal purpose of evil-doers, quite apart from the general state of post-war morality. In addition to this, there are certain special aspects of the crime, the more effective repression of which we are met here to consider. The Mixed Committee's report states, in this connection, that the more extensive use of banknotes, the facility with which the currency of one country can be changed in other countries, the difficulty for the public of testing the genuineness of foreign currency, are circumstances which have encouraged criminals to extend their sphere of action, by creating organisations with ramifications in a number of countries. The report lays stress on the fact that it is impossible for the various countries to remain indifferent before this international combination of criminal forces, which is itself a result of the continuous transformation and internationalisation of modern social life ; on the contrary, the States thus threatened must use the same weapons, by increasing the possibilities of meting out appropriate punishment by means of closer international co-operation.

Although the work of various international organisations, such as the meetings of experts in international criminal law, the discussions of the international congresses of criminal police, the work of the International Criminal Police Commission, set up by the same, as well as the enquiry undertaken at the outset by the Financial Committee, have proved that the need of extending and strengthening international co-operation for the suppression of counterfeiting is keonly felt in all circles which together represent the multiple interests threatened, the Mixed Committee felt it desirable to collect—without going into a minute enquiry—a few general figures to obtain an idea as to the prevalence of counterfeiting currency. An enquiry was conducted among various banks of issue. The banks of twenty-seven countries were good enough to reply to the questionnaire. These replies show that in three years—from 1924 to 1927—there was confiscated in these twenty-seven countries counterfeit currency (notes and coin) to an amount equivalent to about three million dollars. This is well below the exact figure. Some banks of issue have not included in the dates given the figure for foreign banknotes confiscated in their country. We may therefore, on a very moderate estimate, say that throughout the world one million dollars of counterfeit currency are uttered every year. It is naturally impossible to determine the amount of the notes manufactured and not confiscated or the extent to which the instruments employed have been seized. The figure for false notes and currency actually confiscated may seem to be very high or relatively low according to the standpoint from which we view it. Far more important than the figure itself is the latent danger of this evil, which attacks the very roots of world economy.

In view of these considerations and facts, the Mixed Committee recognised, to quote the terms of its report, that international co-operation should take the form, in the first place, of a unification of municipal law, so as to ensure that criminals shall nowhere escape punishment, but that repressive measures should everywhere be severe and, so far as possible, certain in their operation ; and secondly, of an administrative and technical organisation to ensure that detective measures shall be both swift and well co-ordinated, conditions which are essential to this efficacy.

These are the two fundamental aspects of the question that the Committee wished to have governed by the Convention which it framed and submitted to the Council on the conclusion of its labours. The Council decided to submit the draft Convention to the Governments of Member States and to States not members of the League, with the request that they should forward their observations. A summary of the replies sent by the various Governments has already been communicated to you (document C.607. M.185 and C.607 *(a)*. M.185 *(a)*. 1928). I am happy to note that no Government has raised any objection to the conclusion of a Convention of the kind we have in view. All opinions on this point are favourable. The modifications suggested either refer simply to points of detail or tend indeed to widen the scope of the Convention. Many of the proposed alterations refer to the problem of extradition and other questions intimately connected therewith.

Since it was realised in the light of the replies received that the various Governments, generally speaking, recognised the desirability of concluding a Convention of this kind, it was decided that the present Conference should be convened. As stated in the letter of invitation, the object of our meeting is the final adoption and signature by as many countries as possible of a Convention for the Suppression of Counterfeiting Currency. We are therefore entering to-day upon the last stage of the procedure which will enable us to achieve this result.

As you are aware, the text of the Convention which we have to discuss falls into two distinct parts. There is one series of articles referring to legislation, while a second series lays down rules for practical administrative and technical co-operation, first, between the different authorities in any one country and, secondly, between the authorities in the different countries.

Among the general suggestions submitted by different countries in their observations, you will have noted the Swiss Government's proposal that the Convention should be divided into two separate conventions. The Swiss Government notes the difficulties which might arise owing to the fact that the Convention contemplates amendments to legislation, which would mean that countries in the position of Switzerland could not ratify before a certain time, whereas the administrative measures being much simpler of application, ratification of the Convention relating to procedure might follow immediately. I have no wish to anticipate your discussions, still less your conclusions, but one point I do desire to emphasise : the spirit underlying the efforts of international solidarity to improve more rapidly and more surely the lot of humanity, seems to me to have given birth to a firm intention to surmount the difficulties which stand in the way of international *rapprochement* in the matter of legal regulations. The Mixed Committee was well aware of the difficulties noted by the Swiss Government and took them into account, as may be seen more particularly from the first Recommendation of the Committee's report, which contemplates that, even before the ratification of the proposed Convention, every Government should take the administrative measures appropriate for the organisation of their national services, so as to conform to the provisions of the Convention. The Mixed Committee considers, in short, that as many States as possible should enter into a formal undertaking to do what is feasible—the Committee made a point of going no further—in order to achieve real progress on this occasion in regard to unification. The Council of the League, it may be noted, brought the Seventh and Eighth Recommendations of the Committee's report to the notice of the experts for the progressive codification of international law, and the Committee of Experts studying the very difficult question of extradition noted that, in so far as concerns the suppression of counterfeiting currency, there are very strong reasons in favour of the international regulation of extradition and that the universal acceptance of Article 2 of the draft Convention submitted by the Mixed Committee seems highly desirable and feasible in practice.

Again, among the observations of the different countries are suggestions designed to extend the provisions of the Convention, more particularly the suggestion—submitted simultaneously by Hungary, Portugal and the Netherlands—that the Convention should cover the counterfeiting of cheques, securities and other documents. I propose, at the close of my introductory speech, to submit various proposals as to procedure and the organisation of the work. I may say at once that it will not be possible to discuss details at the plenary meetings and that it will be necessary to set up committees for this purpose. Apart from general questions, such as the two to which I have just referred, there are a number of very important questions of a special character which will probably form the subject of lengthy discussion. I have already alluded to the complex question of extradition, and a further point is the very marked desire that counterfeiting currency should be regarded as an offence under common law.

May I ask you, however, to leave all questions of detail, no matter how important, to the Committees. As regards the general discussion, I think it probable that some of you will wish to make general statements on your Governments' attitude.

But whatever procedure we adopt for our discussions and work, I have every reason to hope that we shall achieve our object and that we shall succeed once more, within the framework of the League, in a concerted effort to deal with this grave peril on international lines ; I feel confident, too, that we shall contribute towards the progress of international law and to the furtherance of those efforts which constitute perhaps the greatest preoccupation of the present day, namely, efforts to promote international economic relations.

Personally, I am convinced that it would have been impossible to discover, for the successful accomplishment of our task, any authorities more highly qualified than those assembled here to-day. I am sure that I am interpreting your wishes and those of all persons who are taking an interest in our work, in expressing a most sincere hope that our efforts will be crowned with entire success.

Continuing, the President said there were certain points of procedure and organisation which might be settled immediately, in order to facilitate the work of the Conference. The Conference would have the assistance of Sir Arthur Salter, who would receive help from M. de Bordes, the Secretary of the Financial Committee and Secretary of the Conference ; Mr. Darlington, of the Economic and Financial Section ; M. Barandon and M. Arcoleo, of the Legal Section ; and M. Blondeel, of the Information Section.

Constitution of Two Committees.

The President said he was convinced that the technical details relating to the clauses of the Convention should be examined and discussed by Committees, of which there might be two, one for legal and the other for administrative questions.

The duties of these Committees could be determined later, but in order to avoid misunderstanding, he desired to say a word as to their composition.

It was important that all the delegations which wished to submit the views of their Governments on questions of detail should be represented on both these Committees.

As regards drafting questions and minor points of detail, the best method would be to entrust them to small sub-committees and drafting committees. He himself would keep

au courant with all the discussions which took place and would reserve the right to be present at all such. He noted that the Conference agreed to set up these two Committees and suggested that the appointments to them should be made at the end of the general discussion, which was to open the work of the Conference. *(Agreed.)*

Appointment of the Officers of the Conference.

The PRESIDENT proposed that the Conference should establish its bureau by electing two Vice-Presidents. He suggested M. Schober (Austria), who had been Vice-Chairman of the Mixed Committee, and Mr. Wilson, United States Minister at Berne, the latter in order to mark the Conference's pleasure at the presence of several non-member States.

M. SCHOBER (Austria) and Mr. WILSON (United States of America) *were unanimously nominated Vice-Presidents of the Conference.*

Mr. WILSON thanked the Conference for this proof of its confidence in the Government he represented.

The PRESIDENT said that M. Schober regretted being unable to attend the first meetings of the Conference.

Appointment of the Officers of the Committees.

The PRESIDENT proposed the immediate appointment of the Chairmen and Vice-Chairmen of the two Committees, who, together with the Vice-Presidents of the Conference and himself, would form the Conference Bureau.

(Agreed.)

Legal Committee.

M. GERKE (Netherlands) proposed, on behalf of his delegation, to appoint as Chairman of the Legal Committee M. Servais (Belgium), and as Vice-Chairman Sir John Fischer Williams (Great Britain).

M. ALOISI (Italy) said that he had had the honour of collaborating with these two eminent jurists. He supported the proposal and called upon the Conference to approve it by a show of hands.

M. SERVAIS (Belgium) and Sir John FISCHER WILLIAMS (Great Britain) *were appointed Chairman and Vice-Chairman of the Legal Committee.*

Administrative Committee.

M. KRASKE (Germany) proposed as Chairman of the Administrative Committee M. Delaquis (Switzerland), and as Vice-Chairman M. de Chalendar (France).

M. HOLSTI (Finland) supported the proposal by the German delegate.

M. DELAQUIS (Switzerland) and M. DE CHALENDAR (France) *were appointed Chairman and Vice-Chairman of the Administrative Committee.*

Officers of the Conference.

The PRESIDENT announced that, in view of the elections which had just taken place, the officers of the Conference would be as follows :

M. POSPISIL (Czechoslovakia) (President) ;

M. SCHOBER (Austria) and Mr. WILSON (United States), Vice-Presidents of the Conference ;

M. SERVAIS (Belgium), Chairman of the Legal Committee ;

Sir John FISCHER WILLIAMS (Great Britain), Vice-Chairman of the Legal Committee ;

M. DELAQUIS (Switzerland), Chairman of the Administrative Committee ;

M. DE CHALENDAR (France), Vice-Chairman of the Administrative Committee.

He congratulated the new officers on the confidence which their colleagues had shown in electing them and said that personally he would be pleased to call upon their help.

Appointment of Credentials Committee.

The PRESIDENT proposed the appointment of a Committee on Credentials, to consist of two members only. He suggested for these posts M. KRASKE (Germany) and M. BARBOZA-CARNEIRO (Brazil). *(Agreed.)*

He added that M. TEIXIDOR, of the Secretariat, would act as Secretary of this Committee, and he suggested that the latter should meet immediately after the morning session so as to be able, if possible, to submit its report in the course of the afternoon.

He asked all delegates who had not yet done so to forward their credentials to the Secretariat. As it was their duty to sign any Convention arrived at, they would require to be furnished, not only with credentials for attending the Conference, but with full powers for signing the Convention. He therefore asked those delegates who were provided with such full powers to transmit them also to the Secretariat.

Length of Speeches.

The PRESIDENT asked his colleagues to limit the length of their speeches to twenty minutes, but an extension of ten minutes might be allowed in exceptional cases and for important reasons, if the Conference agreed. He further asked speakers, whenever possible, to hand in the text of their speeches, or sufficiently complete notes so as to allow them to be translated and circulated to the members of the Conference if possible in advance. He urged in the interests of the division of labour the necessity of limiting the general discussion —apart from any general statements setting forth the point of view of Governments—to questions arising out of the observations already submitted, or to those which might occur during discussion.

It was agreed that all questions of detail or technical questions would be held over for discussion in the Committees. These would include questions relating to the creation of an international office and those relating to extradition.

Hours of Meetings.

The PRESIDENT asked delegates who wished to speak to hand in their names to him at the end of the meeting.

He proposed that, as a general rule, they should meet from 10 a.m. to 12.30 p.m., and in the afternoon from 3 to 6. He requested delegates to fill in the forms which had been distributed to them, and especially drew their attention to document C.F.M.2.

(The meeting rose at 12.15 p.m.)

SECOND PLENARY MEETING

Held on April 9th, 1929, at 3 p.m.

President : Dr. Vilem POSPISIL.

At the invitation of the President, Mr. Wilson, Vice-President, took his place at the table.

First Report of the Credentials Committee.

M. KRASKE (Germany), Rapporteur, said that the Committee appointed to verify the credentials of the delegates had examined the documents submitted by the thirty-six delegations taking part in the Conference. The delegates of the following States had full powers from the head of their State : Albania, Austria, Czechoslovakia, Germany, Great Britain, Japan, Luxemburg, Netherlands, Portugal, the Union of Soviet Socialist Republics and the United States of America.

The delegates of the following States had full powers from the Minister of Foreign Affairs of their country : Roumania and the Kingdom of the Serbs, Croats and Slovenes.

The full powers of the delegates of these thirteen countries covered not only the negotiations, but the signature of the Convention.

The delegates of the following States had credentials, either from their Governments or from the Minister of Foreign Affairs, authorising them to take part in the Conference, or had been accredited by a notification to the Secretary-General of the League of Nations, either from the Minister of Foreign Affairs or from the permanent representative accredited to the League of Nations, or by a diplomatic representative of their Governments : Belgium, Brazil, China, Colombia, Cuba, Free City of Danzig, Denmark, Ecuador, Finland, France, Greece, Hungary, India, Italy, Monaco, Nicaragua, Poland, Spain, Sweden, Switzerland and Turkey.

The Committee would suggest that the Conference request the delegates in the last category of States to endeavour to obtain before the end of the Conference authority to sign the Convention.

Latvia had appointed a delegate to follow the Conference for information.

The International Criminal Police Commission had also appointed a delegation, which would take part in the Conference in an advisory capacity.

The PRESIDENT requested the representatives of the twenty-two countries mentioned above, whose powers only authorised them to follow the Conference and take part in discussions, to telegraph to their Governments before the end of the Conference for the necessary authority to sign a Convention.

General Discussion.

M. PELLA (Roumania) said experience had shown that the present provisions of the penal codes of the different countries were inadequate to guarantee the safe international circulation of currency.

In order to obtain security against fraud, which in modern life was gradually taking the place of crimes of violence, it was absolutely necessary to consider the problem of penalising the counterfeiting of currency, both from the administrative and legislative points of view. It seemed that these points of view had been recognised in the draft Convention prepared by the Mixed Committee of the League of Nations.

Confining himself to a discussion of the principles underlying this draft Convention, M. Pella thought that immediate attention should be given to certain fundamental questions closely connected with the general study of the draft.

The first related to the actual aim of the Convention. In view of the provisions contained in certain penal codes, on the one hand, and, on the other hand, of the documents submitted to the Mixed Committee and certain observations recently forwarded by Governments to the League, it might be asked whether the international penal protection which the present draft Convention aimed at ensuring should cover only metallic currency, paper money and banknotes, or whether it should also extend to shares, bonds, Government securities, bills of exchange, cheques, etc.

Since the circulation of the great majority of securities essentially depended upon public confidence, it might be said that these securities should enjoy the same international protection as currency.

Although he saw no reason to oppose the conclusion of a wider convention comprising all criminal activities calculated to disturb international financial and economic relations, he was of opinion that a convention of this kind would necessitate preliminary study, and that it would be better for the moment to concentrate upon the problem of counterfeiting currency. At the same time, his views did not exclude the possibility of a wider convention at a later date.

If the Conference thought it desirable to conclude a convention for the suppression of the falsification of other securities, it could recommend this for preliminary examination by the competent organs of the League of Nations.

Having thus defined the aim of the future Convention, he proceeded to deal with the most important legislative questions which the Conference would have to consider in order to ensure co-operation between countries in the campaign against counterfeiting currency.

A study of the principles upon which the draft Convention was based showed that international agreement was first of all needed with regard to the following questions :

1. A uniform definition in the penal codes of the different countries of offences constituting counterfeiting currency offences.

2. An improvement in the present provisions of international penal law so as to make it impossible for counterfeiters to elude justice.

3. The effective protection of currency by stricter penal measures and the internationalisation of the means of pursuit and punishment.

With regard to the uniform definition of offences, the speaker recognised that difficulties might arise from the fact that States acceding to the Convention would have to adapt their laws to the principles of uniformity laid down in that Convention.

The Conference would therefore have to discuss suggestions for the framing of two agreements, one of which would relate to administrative measures and which States could ratify without difficulty, and the other relating to legislative measures.

He thought, however, that, if they separated administrative from legislative questions, they might have to wait a long time before they obtained the effective protection required. Absence of uniformity in the laws of the different countries concerning counterfeit currency frequently paralysed all international action. Among the many cases of impunity that might arise, he mentioned in particular that which resulted from the " principle of identity " obtaining in regard to extradition. This principle was embodied in most extradition treaties. As a result, an offender could only be extradited if the act committed was regarded as an offence both by the law of the country demanding extradition and by that of the country from which it was requested. Supposing the second agreement, concerning legislative measures and provisions for uniformity in the definition of crimes, were not ratified and a person committed certain acts relating to the counterfeiting of currency which were punishable in the country where they were committed, but not in the country to which the person fled, his extradition would be refused, and he would therefore be immune. Accordingly, if they wished to improve matters, it was absolutely necessary to frame a single Convention providing for administrative and legislative measures. With regard to the exceptional position of certain countries which found it difficult to adapt their penal laws at once to the provisions of the Convention, these countries need only ratify the Convention later. They could take the necessary administrative measures even before ratifying in so far as these involved no change of law.

As far as concerned Roumania, M. Pella said that the Legislative Council in his country had, in September 1927, adopted the principles contained in the Mixed Committee's draft Convention, and that these principles were maintained in their entirety in the draft penal code of Roumania when this was revised by the Parliamentary Commission in 1928.

Secondly, the draft Convention contained proposals for amending the present provisions of international penal law so as to prevent counterfeiters from eluding justice. On this point, he mentioned : *(a)* the principle of the independence of the different acts from the point of view of pursuit and punishment laid down in Paragraph III of Article 1 ; *(b)* the principle of the pursuit of counterfeiters who had left the country and had not been extradited (Paragraphs X and XI of the same article) ; *(c)* the provisions of Paragraph IX concerning political motives ; *(d)* the provisions of Article 2 relating to extradition. They would have to work out precise texts on all these points after examination of the questions by the Committees.

M. Pella next drew the Conference's attention to three matters which he held to be fundamental and which, in his opinion, were not satisfactorily disposed of in the draft Convention. These were : the question of the counterfeiting of currency with an alleged political motive ; the question of extradition, and, thirdly, the acceptance, in the matter of the international suppression of counterfeit currency, of the principle of complicity regarded as a separate offence.

In the case of counterfeiting currency with an alleged political motive, it was clear from the speeches by Sir Austen Chamberlain, M. Paul-Boncour and M. Benes at the fourth meeting of the Council's fortieth session that what led the League of Nations to study this problem was, not the ordinary counterfeiting of currency, but the alleged political motives underlying the offence. The solution proposed by the draft Convention for the problem of political counterfeiting did not remove all possibility of impunity. It was very important to realise that nowadays the counterfeiting of currency might constitute a new form of terrorism. In politics, violence as a means of terrorisation in most cases had very ephemeral, or at any rate limited, results. Hence, the criminal sought for new methods more formidable in their consequences.

Abandoning acts of savagery and vandalism in favour of the counterfeiting of currency, he found it much easier to strike at the whole political and social organisation of a given country. A very large number of business transactions depended upon faith in the national currency and, if this confidence were destroyed, the whole organisation of the country could be completely upset. Accordingly, terrorism, when it resorted to the counterfeiting of currency, might have profound and lasting consequences.

Further, it must be remembered that the evil effects of counterfeit currency, whatever the motives of the offender or the circumstances in which the offence was committed, are not limited to the credit of the country of which the money is counterfeited. On the contrary, counterfeit currency shook general confidence in money as an international instrument of exchange, and thus affected the interest which every country had in ensuring the security of international circulation. In no circumstances should the counterfeiting of currency be considered a political offence, that was to say, an act directed exclusively against the political and social organisation of a particular State.

By reason of their consequences and repercussions, such acts injured the common interests of all civilised States and should be regarded as a crime against society and should be classed as crimes directed against the very foundations of the organisation of every civilised community.

The elimination from the category of political offences recommended by the Institute of International Law at its Geneva session of 1892 in regard to assassination and poisoning—now embodied in certain legislations—should be extended to the counterfeiting of currency. He mentioned that, in the draft Roumanian Penal Code, it was specifically laid down that the counterfeiting of currency, whatever the motives of the offender and in whatever circumstances the crime was committed, should never be considered a political offence.

With regard to extradition, the text should be made more precise and, in particular, a solution should be found for the question of the urgent arrest of counterfeiters in the event of a request for extradition, for the question of simultaneous requests from different countries and for the question of simultaneous proceedings for different acts of counterfeiting in cases when these proceedings were instituted both in the country applied to and in the country making the application.

Article 2 of the draft Convention merely established the principle that extradition must be granted in matters of counterfeiting currency. What was wanted, however, was, not texts laying down principles, but texts providing rules with regard to extradition ; the value of such rules had been recognised by the League of Nations Committee of Experts on the Progressive Codification of International Law. In the absence of such extradition rules, counterfeiters whose activities extended to different countries would, as hitherto, find a means of evading both pursuit and punishment.

He also thought that, if the Conference preferred to deal with the question of extradition rules in general in a later Convention, Article 2 of the Draft should nevertheless be expressed more precisely. It should provide for two situations, namely, that of countries mutually bound by extradition treaties, and that of countries which allowed extradition without any treaty or without any condition of reciprocity.

With regard to the acceptance of the *principle of complicity as a separate offence*, in matters relating to the international pursuit and punishment of counterfeiting currency, he would merely, for the moment, affirm the need of introducing this principle in order to prevent the possible immunity of counterfeiters, especially of those who in the territory of one country were guilty as accessories of offences committed in the territory of another country.

Finally, he pointed to the necessity of effectively protecting the currency by stricter penalties and through the internationalisation of the means of pursuit and punishment. In addition to the texts already included in the draft Convention, it would perhaps be well to draw attention to the question of the international recognition of previous convictions and the question of recognising the extra-territorial effect of disabilities, forfeitures and deprivation of civil rights arising out of penal sentences for currency counterfeiting.

If they recognised the international character of the crime of counterfeiting currency, there would be no difficulty in considering the possibility of allowing judges, when dealing with second offenders, to take into account sentences for counterfeiting currency already imposed in a foreign country.

Although he realised the difficulties which certain States found in accepting the principle of the international recognition of previous convictions, he thought that they might insert in the Convention a provision requiring States which had already embodied, or might subsequently embody, this principle in their laws to regard sentences for counterfeiting imposed abroad as ground for treating offenders as habitual criminals.

Such a provision would be much more useful than the Mixed Committee's Recommendation No. 6. Its introduction into the Convention might prepare the way for future acceptance of the principle of the full international recognition of previous convictions.

This principle, which was perfectly in accordance with a strong current of opinion influencing the present movement for the codification of criminal law, was formulated as long ago as 1883 by the Institute of International Law at its Munich session.

The international recognition of previous convictions was to be found in the laws of some countries and in the vast majority of draft penal codes framed since the war.

The second official Conference for the International Unification of Penal Law, held at Rome in 1928, also realised the need of introducing this principle into the penal code of every country, and even drafted a text on the matter.

The acceptance of this principle would constitute a concrete expression of international solidarity in the matter of counterfeiting currency.

He said that the Roumanian Government had in principle accepted the administrative measures contained in Paragraphs 12 to 15 of Article 1 of the draft Convention.

He added that there were certain minor questions upon which he did not wish to insist for the moment, as they were concerned only with the general discussion.

While reserving the right to raise these questions in Committee, he stated at the outset that he was proposing to submit certain amendments in connection with the following matters : the conditions governing extradition, the recognition of the *principles of complicity* as a separate offence and the international recognition of previous convictions, the confiscation of falsified money and, finally, the theory of elimination, the object of the latter being to exclude counterfeiting currency from the category of political offences.

He added that he would support any proposal to submit to League organisations the preparation of a draft Convention to prevent the falsification of cheques and other securities.

Before concluding, he wished to acknowledge the important progress which the draft Convention constituted. As a member of the Mixed Committee and as an author of the preliminary draft Convention which, in June 1927, was taken as the basis of the discussions of that Committee's Legal Sub-Committee, he had many times had cause to realise the serious differences of view between the members of the Mixed Committee to which they owed the preparation of the present draft Convention. These differences were due to the diversity of fundamental principles in connection with the prevention of counterfeiting which underlay the legal systems of the countries represented on the Committee.

Thanks to the President's tact and to the spirit of conciliation which animated the members of the Committee, the latter had been able to frame a draft Convention which the present Conference was called upon to perfect before summoning all countries to combine as one " large unit of mutual assistance " against the activities of currency counterfeiters.

M. Delaquis (Switzerland) emphasised the desire of all delegates to reach a successful result. He said :

" The Federal Council's reply regarding the draft international Convention of the Mixed Committee for the Suppression of Counterfeiting Currency had most of it appeared in the *Summary of observations received from Governments* dated December 10th, 1928 (document C.607.M.185.1928.II). The attitude of the Federal Council was, in brief, as follows :

" The draft Convention contained a number of currency counterfeiting offences which were not in harmony with Swiss penal legislation. Theoretically, the latter could be altered, but the situation was peculiar. The draft of a unified Swiss Penal Code was at present under discussion by the Chambers. It included practically all the acts dealt with in the draft Convention. It was not certain, however, that it would be adopted. Even under the most favourable conditions, several years must elapse before it could come into force. If it were rejected, either the cantonal laws would have to be amended or a special federal law would have to be enacted. Thus, in any case, the application in Switzerland of the penal clauses of the draft Convention would be indefinitely postponed. Accordingly, the Convention before the Conference could not be ratified at an early date, since the different countries would first have to adapt their laws to fit it.

" The replies in the above-mentioned *Summary* showed that other countries were in the same position. They, too, would have to modify their national laws. Therefore, if some of them, including certain important countries, were unable to ratify the material clauses of the Convention, as these now stood, it could only be applied in a most incomplete manner. Switzerland, for example, would be unable to accept the article concerning political offences already referred to and advocated by M. Pella. The aim of the Convention would therefore not be attained, and those provisions which could immediately and without difficulty be applied by all countries and which, from the point of view of international co-operation, were quite as important as the material clauses would be left unsettled. He was referring to the administrative provisions.

" For these reasons, Switzerland proposed—with M. Pospisil and M. Pella—that the Convention should be divided into two agreements, one containing the administrative provisions and the other an arrangement regarding the penal provisions to be introduced into the laws of the contracting States (see letter from the Political Department to the League of Nations, dated October 11th, 1928 : I.—General).

" In this way, all countries would be able, without delay, to ratify the agreement on administrative measures. The same system was adopted for the suppression of traffic in women and children and obscene publications. He reminded the Conference that the 1910 Agreement concerning administrative measures for the suppression of the traffic in obscene publications was ratified by the Federal Council in the same year, whereas the draft Convention of 1910 concerning penal suppression received no accessions. Moreover, in many serious cases of currency counterfeiting, Switzerland would be able to participate in penal proceedings before the penal clauses of the Convention were ratified.

" Accordingly, they were forwarding to the Secretariat a draft agreement relating to administrative provisions which, apart from a few changes, followed the lines of the draft Convention.

" Switzerland desired to accept the administrative measures at once and that was why she was forwarding this draft to the Secretariat. "

He concluded by asking the Conference to take account of the difficulties which would arise in Switzerland and probably in other countries if the draft Convention were left as it stood.

M. G. de Blanck (Cuba) said :

" I wish to say only a few words for purposes of information and not of a general nature :

" After studying the draft Convention for the Suppression of Counterfeiting Currency, my Government decided to ask from the budget which was to come into force on July 1st of this year, the necessary funds to establish the National Central Office recommended in

the draft Convention before the Conference. I hope that these funds will be voted in spite of the need for drastic savings which the economic situation calls for.

" If this be so, the Central Office will be part of the Secretariat or Ministry of Finance and will be called the Currency Section. The Currency Section will then be divided into three departments—one for general questions and statistics ; one for the import and export of currency ; and the National Central Office for the Suppression of Counterfeiting Currency, the control of currency and monetary circulation, which will be operated in accordance with the provisions of the draft Convention.

" The so-called Currency section, in spite of its inadequate staff, has already been in contact with the U.S.A. Treasury, and has collaborated with them to a considerable extent owing to the fact that U.S.A. currency is legal tender in Cuba alongside the Cuban national currency, and consequently Cuba is particularly exposed to false currency; even so, production is more dangerous to Cuba than counterfeiting.

" The Currency Section has placed on exhibit about sixty different kinds of forged American banknotes. This gives some idea, not of the increase in the quantity of false currency and of its many varieties, but of the frequency of the offence which we are seeking more effectively to combat. I have no need to remind you that Cuban money is also very frequently counterfeited and even false five-centime pieces have been found.

" Since its establishment in 1909, the Cuban judicial police have intervened in more than three hundred cases of counterfeiting currency. The secret police have since 1911 been concerned in 64 cases, while in 1927 the agents of the Currency Section dealt with 64 different cases, and in 1928 with 52. According to the statistics of the national police, 91 cases have come to its notice between the end of 1924 and the end of 1928. Of these, 89 cases involved the sale of counterfeit currency, 2 being actual cases of counterfeiting.

" In conclusion, I wish to add that my Government will adopt the Convention since it intended it, as our President has said, as a contribution towards the combating of this evil. "

M. Kraske (Germany) said that the German Government had, from the very beginning, appreciated the steps initiated by the French Government to secure more effective protection against the counterfeiting of currency by means of an international convention.

Having followed the work of the Mixed Committee with the greatest interest, the German Government had informed the Secretary-General of the League that it considered the draft of a general Convention as framed by the Committee a suitable basis for international regulation and had added that it was quite ready to take part in an international Conference with a view to drafting a Convention on the question.

At the same time, the German Government had expressed its willingness to co-operate with all its energy in making the Conference a success and, as proof of its desire to render the Convention as complete and as effective as possible, it had already put forward a suggestion to fill a gap which appeared to have been left in Paragraphs X and XI of Article 1 of the Draft.

That suggestion was inspired by the wish that no case of counterfeiting currency should escape the punishment it deserved and that the offender should either be prosecuted in the country in which he took refuge or that he should be extradited to the country in which the offence had been committed.

He repeated that his delegation and his Government would do everything that lay in their power to facilitate the work of the Conference and ensure its success.

M. José Caeiro da Matta (Portugal) desired to say a few words concerning the falsification of public-debt securities. This was a general problem which, as the President had said in his opening speech, should be discussed in full session. Such was the basic question of the extension of the Convention.

The Portuguese Government, in its reply to the League Council, had recommended that the term " counterfeiting currency " should be extended so as to include public-debt securities. Under Portuguese law, and under the laws of other countries also, acts of counterfeiting currency and the falsification of public-debt securities were both given the same penal qualification.

Portugal had had a sad experience of counterfeiting currency and was in this respect less fortunate than other countries—Nicaragua, for example, where, it seemed, the problem hardly existed. That was not the case with most countries, as had been shown by that interesting publication on counterfeiting and falsification, the official organ of the International Criminal Police Commission.

During the last twenty years, there had been 21 cases of the counterfeiting of Portuguese currency. Some of these were only of secondary importance, 3 or 4 were very serious and 1 exceptionally so. This last was the celebrated case of 1925, in which agents of various nationalities were concerned. The Portuguese, Dutch and British Courts all had to intervene and the amount of money involved was £1,080,000.

That sum, which was sufficiently large in itself, became still more important when it was considered that the total issue of the Bank of Portugal for its commercial transactions had up to that time never exceeded two millions. This falsification represented nearly 8 per cent of the total Portuguese circulation of paper money, at a time when Portugal was passing through a period of inflation.

Portugal had also been the victim of the counterfeiting of public-debt securities and of Treasury notes—a sad privilege, not, he thought, confined to his country alone!

He was therefore of opinion that the falsification of public-debt securities should be punished in the way proposed in the draft Convention for the counterfeiting of currency, Of the countries which had forwarded their observations to the League, only Hungary and the Netherlands appeared to have accepted this view.

Nevertheless, this offence was becoming commoner every day and the offenders often belonged to more than one country.

Under Portuguese law and under the laws of other countries, as I have said, the falsification of currency and the falsification of public-debt securities received identical treatment, and the provisions of the Portuguese law were absolutely the same for the two offences. Why, therefore, should they not be treated in the same way internationally? He thought that the psychology of the offenders, their methods, the criminal proceedings involved and the consequences of the offences, which in both cases affected public credit, all called for a similar treatment of the two crimes.

There were, he said, questions of principle and questions of fact, but principles and doctrine should be built upon facts, that is to say, upon realities.

In this matter, the facts demanded that these two crimes should in their international aspects receive the same legal treatment, and he requested the President to submit this problem to the consideration of the Conference.

There was one other problem to which he desired to draw the attention of the Conference, namely, punishment for the falsification of currency, when the act was due to error or carelessness. If this question did not appear to be a general one, he would reserve the right to explain his case before the Legal Committee.

The PRESIDENT invited M. Caeiro da Matta to deal with this point within the general aspect of the question.

M. José CAEIRO DA MATTA (Portugal) then said that, in its reply to the Council of the League of Nations, the Portuguese Government had regretted that the proposals by the banks of issue to punish the falsification of currency without criminal intent had not been favourably received.

In cases of this offence there were often, side by side with agents who obviously acted with criminal intent, others who were only guilty of some fault or carelessness. Since the crime must be punished in all its aspects, it was only logical that all agents should come under the penal law. Only in this way would it be possible to obtain that effective prevention which the draft Convention aimed at.

In cases of counterfeiting currency, it was not easy to decide which was the more pernicious or harmful offence, that of the person who falsified the currency or that of the person who uttered it.

In most cases, the acts of both these classes of agents were clearly fraudulent, but there were other cases in which falsified notes were uttered and the intention was less evident. In the 1925 case, to which he had referred, many of the agents escaped punishment by alleging mere negligence or carelessness.

If they wished to secure effective punishment, the only thing to do was to bring all agents within the law. None must escape. This was only logical, especially as the laws of most countries, and in particular the Portuguese Penal Code, made negligence punishable in the case of forged documents.

If this was true of an offence which generally only affected private interests, it would only seem reasonable to provide the same penalty when the interests of the State were at stake, as in the present case.

In conclusion, therefore, he proposed that the provisions of the draft Convention should be made to include all accessories in counterfeiting crimes, even when they acted without criminal intent.

Mr. WILSON (United States of America) (see document C.F.M.8) expressed his Government's appreciation of the courtesy extended by the Council and the Secretary-General of the League in inviting a State which was not a member of the League to participate in the discussions and to join in the Convention. They had accepted with special satisfaction because they recognised the very destructive nature of the crime of counterfeiting money, a crime which menaced the very foundations of society.

His Government was gratified to see that certain provisions of the Convention had been in effect for a considerable time in the United States. For instance, the United States Treasury Department had had a central bureau for the suppression of counterfeiting since 1864, and it could testify to the utility and practical purposes which such a bureau served.

He regretted that his Government had not been in a position until the last few days to formulate its views on the questionnaire sent out by the Secretary-General, and that he had not, therefore, been able to distribute answers to the questions for the information of the other delegations. He would, however, be able to give the views of his Government as various points arose in the debates.

In deference to the President's request, he would not explain these views in detail at the present moment, but would endeavour in a very few words to speak of certain pre-occupations which his Government felt in regard to the draft Convention.

In the first place, his Government was troubled by a constitutional matter, in that they were not able by an executive act to bind the Legislature. They were in a position analogous to, though not exactly the same as, that of Switzerland. He would not, however, for the moment go into the possibilities of a solution to this difficulty.

His Government was also preoccupied with the fact that the bilateral treaties which they had negotiated with other countries had provided many safeguards for the personal security of the accused whose extradition was desired. It might be that certain suggestions would have to be made which would provide for the maintenance of these safeguards.

There was one point of a practical nature which he would like to raise. In talking to some of the other delegates and in reading some of the suggestions which had been made, he found there was a tendency to specify in considerable detail what should be the work of the Central Offices which it was proposed to set up. In other words, this implied an endeavour to crystallise administrative action. He believed that all who had had experience in treaty drafting or in legislation had seen the mistakes that arose from an endeavour to write too definitely into law, or into a treaty which had the effect of law when adopted, administrative procedure. Especially was this the case when the inauguration of a new system for the interchange of information regarding counterfeiting between States was contemplated. The activities and scope of the action of central offices could not be foreseen, and he would deplore any attempt to write down their duties too definitely.

Sir John Fischer Williams (Great Britain) thanked the Conference for the confidence placed in him personally by his election as Vice-Chairman of the Legal Committee.

He need hardly say that his Government regarded the question of counterfeiting currency from an international rather than a national point of view. They were anxious to support the draft Convention on the general lines on which it was now established. They had suggested certain alterations which he thought were of form rather than of substance, and which were all directed to the improvement and development of the machinery which was to be established by the Convention.

As to the various points mentioned by the speakers who had preceded him, he might perhaps briefly indicate what he believed would be the attitude of His Majesty's Government in Great Britain. In the first place, his Government would shrink from any extension of the general sphere of the Convention to matters which were not intended to be included in it when the question was first set on foot. While they recognised very fully the importance of the prevention of other kinds of forgery, they believed that the present task was comparatively limited and was confined to the prevention of the forging of currency in whatever were the various aspects which currency took.

Again, with regard to political crime, his country had an ancient tradition which they were not at liberty—he might even say were not likely—to sacrifice very lightly. He would read a sentence written seventy years ago :

> " In cases of civil war, of revolution, or of active political proscription leading to the existence of a large body of political exiles, a State is impelled by the dictates of humanity to offer them an asylum and to refuse their extradition when demanded. "

The author of those words was British Home Secretary either at the time of writing or soon afterwards. Sir John Fischer Williams thought they still represented the general policy of his Government.

As to the question of separate conventions, he saw no necessity for the adoption of this suggestion. His Government was to a certain extent in the same position as Switzerland and the United States of America. They could not, merely by the conclusion of a treaty, change the criminal law. For that, legislation would be needed. On the other hand, administrative measures could be put into force at once after the Convention was signed. There was no reason why a longer interval should not intervene before ratification. In fact, in Great Britain's case, it probably would intervene. They would not ratify the Convention until the necessary domestic legislation had been passed. He trusted that it might be possible to reconcile any divergence of views by a consideration of the circumstances of the different countries concerned.

He would not go into the question of extradition at any length, but his Government was anxious to afford every reasonable facility for extradition. He thought he could fairly claim that his country had acted with other countries in establishing the reasonable practice of showing that they did not desire to offer to their own nationals any greater favours as a general rule than those which were given to nationals of other countries.

M. Liubimov (U.S.S.R.) said that the Soviet Republic was amongst those countries which in the last few years had (document C.F.M.6) suffered on many occasions from the forging

of its currency in various foreign countries, and for this reason the delegation of the Union of Soviet Socialist Republics was glad that co-operation of countries was about to be effected in this connection by means of an international Convention.

Thanks to the work carried out by the Mixed Committee, the task assigned to the Conference appeared to have been greatly facilitated. The delegation of the U.S.S.R. proposed to confine itself to making a limited number of observations either in the form of proposals or amendments made when the various articles were discussed in Committee, or as reservations made at the time of the signing of the Convention.

Certain questions which the delegation of the U.S.S.R. was instructed to raise might, he considered, be simplified if the Conference took as its basis the international point of view instead of the national point of view, and if it adopted certain interpretations which his delegation would suggest, and which, without affecting their substance, were in its view capable of reconciling the provisions of the Convention with the structure of the whole of the penal legislation of the Soviet Union, which differed in certain respects from those of other countries.

M. Hayashi (Japan) (document C.F.M.4) said :

" The Japanese Government fully approves the principle that an international Convention for the suppression of counterfeiting currency should be concluded and declares that it is very happy to associate itself with the steps that other Governments are taking towards that end.

" From the point of view of the suppression of the crime and of criminal procedure, equality of treatment in respect of the offence of counterfeiting currency, whether national or foreign, is a fundamental principle of the Convention, to which due attention should be paid. It would therefore not be fair that the contracting parties should have forced upon them obligations which would compel them to give a greater measure of protection to foreign currency than to the national currency. The Japanese delegation is of opinion that, in the discussions which are about to open, this point should not be ignored. It seems that this point of view has also been adopted by the Mixed Committee which had drawn up the draft Convention.

" Furthermore, the Japanese delegation holds that the object of the proposed Convention could only be fully attained if a large number of Powers adhered to it. In order to make the Convention acceptable to the greatest possible number of countries, the Japanese delegation desires to stress the advisability of including in it only general regulations on which unanimous agreement could be obtained, even if by that method they did not arrive at a result theoretically complete.

" For the moment, the Japanese delegation would only submit these general remarks, and reserved its right to raise points of detail when the articles of the draft Convention are discussed. "

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes)(see document C.F.M.3) said :

" While it is twenty years since work has been begun on the international unification of certain laws, particularly those concerning bills of exchange, it is only within the last four years that such work has been undertaken in respect of the civil and penal codes which form the centre of a country's judicial legislation.

" For the purpose of unifying criminal legislation, an international body of a semi-official character has been set up ; this is the Committee for the Unification of Penal Legislation, which has a bureau of ten members, and which has, so far, held two Conferences—one at Warsaw in 1927, and one at Rome in 1928. That Committee has up to the present prepared legislative texts in connection with international criminal law, dealing in particular with the international cognisance of previous convictions and forfeiture of civil rights, attempts to commit crimes and offences, pleas of self-defence and constraint, and measures to protect the public against criminals.

" It was rightly considered that the international unification of criminal law was possible. This is undoubtedly the case in regard to general principles, *i.e.*, the general part of a penal code. It is also true with regard to the special part, at any rate in respect of a large number of offences, including currency offences.

" The League has therefore done good work in the sphere of penal legislation when it appointed a Committee to prepare a draft Convention on counterfeiting currency and other currency offences. The adoption of this Convention would lay the foundations of the future international penal code.

" I am authorised by the Serb-Croat-Slovene Government to sign the Convention we are about to discuss, because my Government holds the Convention to be indispensable. The need of it is obvious ; it is not only in the general interests of the international unification of penal law, but is demanded by the economic requirements of all countries.

" The draft of this Convention has on the whole been well prepared by the League Committee and my criticisms are confined to points of detail.

" Speaking as a supporter of the international unification of penal law and as a member of the Bureau, I hope that this Convention will be adopted—in the form of a single

Convention—and on behalf of my Government, I wish to express my deepest respect and admiration for the League's work.

M. Schultz (Austria) (document C.F.M.5) made the following declaration on behalf of the Austrian Federal Government :

" The Austrian Federal Government's attitude with regard to the Draft in question seems to me to be broadly defined by the fact that my Government has confined itself to making a single additional proposal to the draft Convention, viz., to Paragraph XV of Article 1.

" This procedure implies the Austrian Government's approval of the Draft as a whole, as published. I venture to give a brief outline of the reasons which have led the Austrian Government to adopt this view.

" From the outset, the Austrian Government has devoted special attention to the effective and systematic suppression of crime, which has developed with peculiar intensity after the war. In this connection, the most important thing that has to be done is to combat international crime and particularly the counterfeiting of currency, which, in the years following the war, has assumed extraordinary and unprecedented proportions in every country. Hence the Austrian Federal Government has heartily welcomed the proposal put forward by an Austrian authority with a view to arranging for international co-operation between the police authorities for the suppression of crimes against common law. The above proposal has been due to the Viennese Federal Police Directorate and especially to its chief, M. Schober, former Federal Chancellor, who had convened an International Police Congress at Vienna in 1923. It has been with the same satisfaction that the Austrian Federal Government has seen this Congress set up the International Criminal Police Commission, consisting of technical experts of the various States, and entrust it with the task of continuing the work initiated. Such has been the goodwill with which the Austrian Federal Government has regarded this institution that it did not hesitate to put its own organisations, including the Federal Police Directorate of Vienna, at the International Criminal Police Commission's disposal to assist it in its task and permit it to take effective steps against common-law criminality.

" Among the institutions whose creation was advised by the Vienna Police Congress and by the International Criminal Police Commission, mention should be made, in connection with counterfeiting currency, first, of the central offices created in each country to co-ordinate this work and, secondly, of the joint documentation office intended to establish liaison between the various national offices by centralising all information, observations, notes and other details likely to be of value to them. In 1923, the Federal Police Directorate of Vienna assumed the duties of a central international office in virtue of a resolution to this effect adopted during the Vienna Police Congress.

" Thanks to this attitude on the part of the Austrian Government, and also, of course, to the favourable reception given to this central office by a number of States, it has been able to develop in a very satisfactory manner and to display great activity which was rendered necessary by its task of acting in concert with the growing number of central offices created in the various countries for the suppression of counterfeiting currency. Its work has, moreover, been greatly facilitated by a special and particularly efficient journal published in French, German and Dutch for this purpose.

" In these circumstances, the Austrian Government could not fail to welcome the French Government's proposal that the suppression of counterfeiting currency should be dealt with by an international organisation under the auspices of the League of Nations. The Austrian Government has also been delighted to hear that the League of Nations was proposing to carry the French Government's suggestion into effect on a general and solid basis with the help of its Financial Committee.

" The Austrian Government particularly appreciates this action on the part of the League and the French Government's proposal, inasmuch as both the idea of the international suppression of these crimes and the methods proposed to this effect by the French Government were essentially in harmony with the efforts made by the International Criminal Police Commission under the Austrian Government's auspices. The latter could not but regard this as a clear proof that it had been proceeding on the right lines.

" Accordingly, by a letter dated August 31st, 1926, it has drawn the League's attention to the fact that an organisation corresponding to the principles laid down by the French Government already existed, namely, the Central International Office for the Suppression of Counterfeiting Currency established at the Federal Police Directorate of Vienna.

" The Austrian Federal Government has been much gratified to learn that the Mixed Committee established by the League of Nations for the special purpose of studying this question has acknowledged this central office's work in particularly flattering terms.

" Hence the Austrian Government was pleased to learn that the League of Nations had given its approval to the Draft drawn up by the Mixed Committee and to the recommendations

mentioned in the Annex, and has adopted this Draft as a basis for the discussion of the international Convention which is opening today.

" The Austrian Government, which is happy to have made some contribution towards the solution of this question, would regard the conclusion of this Convention as being the crowning point of a task of the highest importance to humanity. "

M. Kallab (Czechoslovakia) said that his Government had submitted the Draft to its various Ministries and public offices concerned and that no objections had been made to it. All those consulted were agreed in recommending that the draft should be adopted as soon as possible and ratified by the different States in order to ensure the more effective pursuit and punishment of counterfeiting.

In the course of these interdepartmental conferences, and after studying the observations and criticisms of the various Governments, he had been particularly struck by the fact that certain clauses of the Draft were absolutely essential, while others were not. The former could not be changed without modifying the fundamental character of the Convention ; the non-essential clauses might be amended or even rejected without affecting the aim in view.

In his opinion, the following were the four essential points in the draft Convention :

1. No difference should be made between national and foreign currencies.
2. Counterfeiters should be unable to find asylum in any country.
3. The counterfeiting of currency could not be regarded as a political offence.
4. Close collaboration was necessary between the police of the different countries.

He had noted with pleasure that no objections of principle had been made to any of these four points.

With regard to the secondary clauses, such as the unification of the provisions of penal codes, international cognisance of previous convictions, the organisation of mutual assistance, etc., it would be for the Committees to devise texts which would, as far as possible, satisfy the recommendations of the different States.

The four essential points, he added, were closely connected. It would be impossible to find a solution for one and not for the others. For this reason, he could not support the Swiss representative's proposal. What would be the use of police collaboration if countries were not compelled to punish the counterfeiting of foreign currency ? There was a question of principle at stake. Counterfeit currency was no longer an attack upon the sovereignty of the State ; it was an attack upon the safety of commerce. If it was only a question of protecting sovereignty, international collaboration would not be necessary.

But there was also a practical question, for to organise police co-operation without making the counterfeiting of currency an international crime would mean setting up machinery complicated out of all proportion to the task in hand.

For these various reasons, he was unable to support the proposal to frame two Conventions, and begged the Conference to remember that the problems at issue were interdependent and could not be solved separately without prejudice to the interests which it was the aim of the Convention to defend.

M. Sokalski (Poland) said that the Danzig and Polish delegations had no objection in principle to the Convention, but reserved the right to make suggestions regarding questions of detail in the Committees. The delegations which he represented wished to express their great appreciation of the admirable work done by the Mixed Committee and their sincere hope that the work of the Conference would reach a successful conclusion.

M. Sirks (International Criminal Police Commission) (document C.F.M.7) made the following statement :

"As representative of the International Criminal Police Commission, I should like to assure you that the Commission regards a Convention for the suppression of counterfeiting currency as of great importance to the whole world and also to the police of the different countries and to police work in general. The Commission is therefore very grateful to the Council of the League of Nations for its decision of December 9th, 1926, to set up a small Mixed Committee for the purpose of studying the problem of counterfeiting currency, of preparing a draft international Convention on this subject and of convening the present diplomatic Conference. Among those to whom the International Criminal Police Commission owes a debt of gratitude should also be mentioned His Excellency M. Briand, for his proposal that all the States should arrange to lend each other mutual assistance so as to be better able to combat the international crime constituted by the counterfeiting of currency. We must also thank the Austrian Federal Government and the Netherlands Government for their considerable and lasting help, the Mixed Committee for the immense amount of work it has done and its admirable draft Convention, and the Financial Committee, which recommended

the Council of the League to set up the Mixed Committee. Apart from this, the International Criminal Police Commission is extremely obliged to the Council of the League of Nations for the invitation to be represented at this Conference in an advisory capacity. Among the questions raised by this Convention, which is of such importance to the police of all countries, mention should be made in the first instance of the following :

" 1. The organisation of a central police office in each country for the suppression of counterfeiting currency.

" 2. Direct correspondence between these central offices.

" 3. The establishment of a central international office.

" 4. The extradition laws of the various countries, and particularly the carrying into effect of such extradition.

" I hope to have an opportunity during the discussion on the different articles and paragraphs of the Convention to make the necessary observations from the point of view of the International Criminal Police Commission. But, first, I hope you will allow me to make a few observations on the police in general and our Commission in particular.

" It is a well-known fact that for the man in the street the work of diplomatists appears somewhat mysterious. But the diplomatists themselves know how serious, logical and systematic their work really is.

" This applies also to the police. From time to time there are sensational cases which provide much copy for the newspapers, and in which the public takes an unhealthy interest; but for the policeman it was a very simple case and not at all interesting from his point of view. On the other hand, we often have investigations in the police which call for continual effort and extreme perseverance. And it is for these cases that we need inexhaustible sources of information, sources which can only suffice when the measures stated above have been taken. The police cannot do tricks ; we are not conjurers. For each investigation we must have a starting-point. Then it is like a snowball. First you make a little ball with your hand, you put it into the snow and roll it about where the snow is thickest until the ball has grown to a sufficient size to achieve its purpose. But, to do this, you must first find a place where there is some snow in however small quantities. When there is no snow at all, you will never get a big snowball. It is the same with a police case ; by means of information, it must be prepared for its purpose, which is to hand over the criminal to justice.

" The extraordinary increase in crime in the first years following the war laid a heavy burden on the police authorities in all civilised countries. For this, some remedy had to be found. Something could be done by means of co-operation between the authorities and persons in the front rank in the campaign against crime, *i.e.*, between the police authorities in every country, in order to discuss what measures could be taken against this infectious wave of crime. This was what led the Chief of the Viennese Police (formerly Federal Chancellor), M. Hans Schober, to summon at Vienna in September 1923 an International Police Congress, to agree upon the measures to be taken to carry on an active campaign against this evil. It was during this Congress that the International Criminal Police Commission was formed.

" The aims of this body were :

" *(a)* The ensuring and introduction of mutual official assistance as far as possible between all the police services within the limits of the legislations of the different States ;

" *(b)* The foundation and equipment of all institutions likely to be of value in the campaign against crime.

" The Commission's work consists, not only in making recommendations to promote the end in view and in drawing up theoretical resolutions, but also in founding practical institutions, and it has already created a certain number of such institutions, viz. :

" 1. An information service concerning international malefactors, carried on with the help of international judicial investigations at the Vienna Police Directorate by a special service known as the " International Bureau ".

" 2. An international bureau for the pursuit and punishment of forgers of cheques and banknotes, which is also conducted by the Vienna Police Directorate.

" 3. Exchanges by the said " International Bureau " of means of identifying international criminals (finger-prints and photos).

" 4. An official public international police organ and journal founded, with the title *Die Internationale Oeffentliche Sicherheit.*

" 5. An international police telegraph code, of which there are German, French and Bulgarian translations, while an English translation is being prepared.

" 6. A dictionary of technical criminal terminology which is in preparation, and of which the German-French part is already roughly completed.

" Lastly, preparations are being made to found a central international office for the suppression of passport falsifications, which, like the International Office for the Suppression of Counterfeiting Currency, Cheques and other Securities, will be housed at the Vienna Police Directorate. Among other problems with which the Commission is continually dealing, special mention may be made of the following ; measures for the assistance of the international police service by wireless ; measures with reference to the suppression of obscene literature and immoral films, alcoholism and narcotic drugs ; use made of criminal biology for police purposes ; measures against the abuse of firearms ; establishment in the various countries of central offices for the suppression of international crime ; arrangements for official mutual assistance between police authorities ; and improvements in connection with diplomatic extradition, women police, etc.

" The International Office for the Suppression of the Counterfeiting of Currency, Cheques and Securities has since continued its activity with the greatest zeal. The present progress of the campaign against the counterfeiting of currency, carried on under the direction of the League of Nations, is most promising. With the help of the Mixed Committee appointed by the League of Nations, it has been possible to prepare a draft international Convention and the concrete results of the work done may be seen in the present Assembly. The Commission cannot omit to draw attention to the fact that the above-mentioned Mixed Committee has paid a tribute to the activities of the International Criminal Police Commission and of the international bureau for the suppression of counterfeiting banknotes. This declaration of the Mixed Committee, it may be noted, was a matter of extreme satisfaction to the Commission.

" Viewed from a penal standpoint, the following principles might be taken as a starting-point :

" 1. The term " currency " would be interpreted in the widest sense as including, not only metal money and paper money, but also public securities.

" 2. Counterfeiting currency would also include forgery, clipping, or other changes designed to deceive.

" 3. The conditions applicable to counterfeiting currency would extend to all accessory acts and would apply more particularly to attempted counterfeiting, to moral responsibility, to the manufacture, procuring, being in possession and transfer of instruments and tools designed for counterfeiting currency.

" 4. Counterfeiting currency would be deemed an offence at ordinary law. (This should be brought out more particularly in the question of extradition.)

" 5. All systems should come under the law.

" 6. National and foreign currency should be protected equally.

" 7. A national would be deemed guilty in respect of counterfeiting abroad in the same way as if he had committed the act in his own country.

" 8. A foreigner would always be guilty in respect of counterfeiting national currency abroad. As regards counterfeiting foreign currency, he would not be deemed guilty within the country unless he were caught in the act there, and if for some reason extradition had not taken place.

" 9. It should be impossible for anyone guilty of such a crime to remain unpunished.

" 10. All that has been said concerning counterfeiting currency would, of course, apply also to the uttering of counterfeit currency.

" In the interest of successful measures of prosecution, it should be possible to take for granted that the prosecuting authority could count upon the effective support of all civilised States, and that the foreign authorities called upon for assistance would act in such cases with the zeal, speed and promptitude which they would show in regard to a crime committed in their own country.

" For this reason, immediate contact between the judicial and police authorities is most important, subject to mutual assistance and goodwill.

" The general institution of immediate contact between the authorities for the purpose of reciprocal official support does not constitute a final solution of the problem, in view of the special part assigned to the police in the matter of prosecution. This is, however, one very important aspect of the problem.

" If effective measures are to be taken against international crime, all the available material must be collected and worked up, and measures must be taken to ensure the prompt and efficacious exchange of information. The police authorities in the different countries should therefore meet as members of an organisation, culminating in a national central office, which they would assist and by which they would in turn be assisted. Starting from this principle, there are two alternative possibilities. A solution might be found in reciprocal collaboration between the central offices in the different States. This would mean that every central office would forward its material to the other central offices and would conversely receive material from them. Such a procedure would involve a great increase in cost, in time and in work.

" The police are dealing with the crime as energetically as possible, but what they require primarily are effective means of unmasking the criminals promptly and protecting society in

an efficacious manner ; the Commission urges the Conference to give it every assistance in this campaign and secure it the necessary weapons ; namely, central offices, direct correspondence, and an international information office."

M. Caloyanni (Greece) said that the Greek Government had taken cognisance of the expert's report and of the draft Convention, and expressed its great interest in the work accomplished.

The provisions of the Convention were not wholly in harmony with the existing Greek Penal Code, but the new code, which was to be submitted to the Greek Parliament at its next session, contained certain provisions conforming with those of the draft Convention, the new law, like the Draft, being based upon the conception of currency counterfeiting as an international offence.

With regard to the organisation of services for the prosecution of currency counterfeiting offences, the Greek Government would take the necessary steps after the signing of the Convention, and would establish the necessary services in agreement with the competent State departments and with the Bank of Greece, in conformity with the decisions taken by the Conference.

In principle, the Greek Government agreed with the general tendency of the provisions of the Convention, which were in conformity with the provisions of the new draft Greek Penal Code. Its acceptance was, of course, conditional upon the approval of the code by the Legislature, which would fix the date of its entry into force.

With regard to the question of two separate conventions, he thought the Draft so carefully prepared by the experts should be considered as a single whole. With all deference to those who had spoken of two separate conventions, he thought that the difficulties were not insuperable, that the Convention required unity, and that the Conference would find a way to preserve such unity.

M. Lone Liang (China) said that he had the honour to express, on behalf of the National Government of the Republic of China, its pleasure at participating in this Conference, and at co-operating with other Governments in making effective efforts for the suppression of the crime of counterfeiting currency. His Government had not been able to make its observations on the draft Convention before the Conference met, but he had instructions to assure the Conference of its willingness to try by all means in its power to find a suitable means of suppressing this evil of counterfeiting currency, which had spread all over the world, and which in recent years had also penetrated into China, especially into the commercial seaports, where there was usually a large population of a more or less cosmopolitan character ; their community included a number of criminals, whose detection was a matter of difficulty.

The present Conference was concerned with two sides of the question, namely, the legislative and the administrative. As far as legislation was concerned, he was glad to say that the new penal code of China, promulgated on March 10th, 1928, by the National Government, covered nearly the whole of the ground mapped out by the provisions of the draft Convention. There were one or two points, however, which would still require further legislation by China ; the first was the question whether the counterfeiting of foreign currencies should be put on the same footing as domestic currency, as proposed in Paragraph VI of Article 1 of the draft Convention ; secondly, the question of extradition was also difficult for China, as the judicial practice in China was that, apart from the rule that Chinese nationals were not to be handed over to tribunals of any foreign country, it was equally inadmissible for Chinese courts of law to extradite foreign criminals or delinquents unless there were a treaty of extradition between China and the applicant country. However, these were minor points which could easily be overcome by legislation. But there were still difficulties of an administrative character, which handicapped China a great deal.

As they all knew, China still laboured under certain treaty limitations or restrictions which certain provisions in unequal treaties had placed on her. Unless these limitations were removed, they might prove an obstacle to the enforcement of the Convention they were at present discussing. Among these restrictions was the existence of consular jurisdiction and the concessions in China, which sometimes created a very embarrassing situation for China and made the enforcement of the law very difficult, if not impossible.

M. Lone Liang remembered a case which had occurred during his term of office in the Chinese Supreme Court in Shanghai ; a certain foreigner in Shanghai was accused of uttering forged banknotes of Soviet Russia, and he was brought before him. On finding that he was a foreigner who enjoyed so-called extra-territorial privileges, M. Lone Liang ordered him to be brought before his own consular court, but nothing more was heard of the case. He understood later that that was because neither the consular court nor the Concession police were inclined to prosecute.

However, as the Chinese Government was taking steps for the abolition of these unequal treaties, there was no doubt that China would eventually be able, not only to bring the provisions of her laws into line with those of other countries, but also to enforce them in her own territory without let or hindrance.

His Government was prepared to do all it could to suppress this international crime for the benefit of international commerce, and would be ready to sign the Convention as soon as it was adopted by the Conference.

The PRESIDENT *postponed the continuation of the discussion to the next meeting.*

Nomination of Members of the Two Committees.

The PRESIDENT asked the delegations to be good enough to nominate their representatives on the Committees, so that they could be officially appointed at the close of the general discussion the next day.

He reminded them that the fact that one member of a delegation was appointed to the Committee did not mean that the other members could not attend, though only the titular member would speak. If the latter was unable to be present, he could, of course, ask another member of his delegation to speak in his place.

(The Committee rose at 6 p.m.)

THIRD PLENARY MEETING

Held on April 10th, 1929, at 10 a.m.

President : Dr. Vilem POSPISIL.

General Discussion (continued).

The PRESIDENT declared the meeting open and announced that the general discussion would be continued. He called upon Dr. Sjöstrand, delegate of Sweden, to address the Conference.

Dr. SJÖSTRAND (Sweden) said that his country was deeply interested in every effort towards international action in the field of counterfeiting, but he would have certain comments to offer regarding the proposed international regulation of criminal law, as would be seen from the printed summary of replies.

He would not at the moment enter into a detailed exposé of these points, but would observe that at least two of his comments would be of a general character concerning principles in Swedish criminal law which were not in conformity with the draft Convention ; he referred in particular to his Government's reply under Article 1, Paragraphs IV and VII.

He wished further to state that in some respects his Government would prefer a more precise and clearer text under Paragraph III.

At the present moment, he was not in a position to say whether his Government could accept a Convention on questions of criminal law, or whether it would be better to proceed along the lines suggested by the Swiss delegate.

At the previous meeting, speeches had been made by the British and United States delegates among others, regarding the draft Convention, but it was not yet possible for him to judge the real character and purpose of these speeches ; only when the Conference had surveyed the difficulties before it would it be able to decide whether these difficulties were avoidable and whether the Swiss proposal should be adopted.

M. Ibrahim BAHATTIN (Turkey) said that his Government fully appreciated the great importance of the question of counterfeiting. It was therefore glad to take part in the work of the Conference convened under the auspices of the League of Nations, and sincerely hoped that the Conference would be crowned with success, representing as it did an effort on the part of civilisation.

He would venture to state his views with regard to the Committee's report as a whole.

1. According to the explanations given on page 9 of the Mixed Committee's report, colouring or the use of any other process to give metal currency the appearance of a higher value—for instance, by removing the two surfaces of a coin and fixing them to another coin of smaller value or to a simple metal disc—would not be covered by Paragraph II of Article 1.

Nevertheless, in such a case, the offence of counterfeiting would undoubtedly have been committed : there was no need to ask whether " the genuine money continued to exist with its substance intact and unchanged ". The real point was whether, by the use of such a process, the coin in question could be uttered and thus deceive persons who accepted it in good faith.

He therefore thought it would be better, in order to make the pursuit and punishment of counterfeiting more effective, to assimilate a procedure of the kind mentioned above to the manufacture of counterfeit currency.

2. With regard to Paragraph VI of Article 1, he thought that it would be wiser and more fitting if this excellent Convention—symbolising as it did with mutual assistance and international solidarity—were everywhere applied in the same manner without fear or favour, thus eliminating all need for reciprocal treatment by law or treaty, and ensuring that this provision should attain its object.

3. As regards Paragraph X of Article 1, Turkish law did not allow the extradition of Turkish nationals ; nevertheless, according to the provisions of the Turkish Penal Code, Turkish nationals might be sentenced, the penalty inflicted being less severe than if the offence had been committed on Turkish territory.

He did not think that the present state of Turkish legislation—and possibly that of other countries—would permit of the punishment of acts committed abroad by assimilating them to offences committed on national territory. In these circumstances, it would be wiser to leave amendments of such importance to be dealt with by those bodies which were working for the general unification of penal codes, and not lay too heavy a burden on the international instrument which the Conference was sincerely desirous of preparing by its labours.

In conclusion, he said that he would submit any further observations which he felt called upon to offer on points of detail during the discussions in the Committees.

M. DE CHALENDAR (France) said that he had only a few observations to add to the statements made by previous speakers.

He would first of all like to thank the Conference on behalf of the French Government, to whose initiative the investigation of the means of pursuing and punishing counterfeiters was due. When it took this initiative, the French Government fully realised that the pursuit and punishment of counterfeiting were of great international importance, but it hardly expected the investigations to progress so rapidly as they had done, thanks to the Mixed Committee.

The interest taken by a very large number of countries clearly showed that the pursuit and punishment of counterfeiting were now regarded as matters of international concern and that every effort should be made to draw up a practical and effective Convention.

He was glad to see thirty-four countries represented at the Conference, and he desired to convey to them the French Government's sincerest wishes for the complete success of the work.

As a general basis, the French Government took the Mixed Committee's Report and draft Convention. They considered this to be a very excellent basis, and were particularly impressed by the exhaustive nature of the preliminary enquiries. They held that the resultant draft Convention constituted an excellent starting-point for the preparation of an international Convention.

From the previous statements, to which he had listened with much interest, two general tendencies appeared to emerge.

One, in favour of extending and augmenting the Convention, either by perfecting the methods of justice, in the pursuit and punishment of criminals ; or, as the Roumanian delegate proposed, by extending the codification of certain international methods of procedure ; or, again, as proposed by the Portuguese delegate, by making the Convention on the counterfeiting of currency also apply to the forgery of public-debt securities.

This tendency was certainly very interesting, but he did not think that it would be an easy matter for the Conference to adopt such a course. The most essential thing was to achieve practical results. The Conference's principal task was to find means of pursuing and punishing the counterfeiting of currency and it would be best for it to keep within the limits laid down at the outset, which had also been respected by the Mixed Committee.

The second tendency, which was to restrict the scope of the Convention, had emerged from the statements of certain speakers who had urged the necessity of certain precautions with regard to procedure : he would refer, for instance, to the proposal made by the Swiss delegate to divide the Convention into two parts. Personally, he would hesitate to do so, although he had been greatly struck by the very practical nature of his Swiss colleague's arguments. In his opinion, however, it was necessary for the Convention to be a complete whole. He would give additional explanations later, but would like to state at once that, while the French Government desired to adhere as far as possible to the Mixed Committee's report, it would urge the Conference to conclude its work by adopting the provisions submitted to it in their entirety.

Finally; the observations submitted by the French Government might leave room for certain doubts as to its intentions. He was anxious to remove those doubts. In its obser-

vations, the French Government had stated that French legislation was not entirely in accordance with the Mixed Committee's proposals and with the draft Convention : he did not wish the conclusion to be drawn from this that the French Government was opposed to the proposals and that, because its legislation differed from them, it considered the draft Convention unacceptable.

On the contrary, the French Government was quite prepared to consider any legislative amendments which might be regarded as necessary, but these amendments might be a delicate matter and difficult to adopt in practice, and this would probably apply to a large number of other countries as well. The French Government was therefore of opinion that the Conference should not attempt to go too far and would do well to keep within the limits laid down in the Mixed Committee's report and adhere to the terms of the draft Convention.

In conclusion, he added that the draft Convention afforded the best possible basis for discussion.

M. Aloisi (Italy) said :

" I begin without preface.

" The Italian Government's views in regard to the Draft which we are about to examine have already been officially communicated to the Conference by the League Secretariat. My Government unreservedly approves the fundamental principles on which the draft Convention is based and is prepared to collaborate in every possible way in order to improve, not only the form of the Convention, but any provisions the text of which might be made more definite or clearer. Moreover, it has every confidence in the success of our work. At the same time, from the very beginning the Italian Government has made its attitude on a certain question quite plain. This question is one which a previous speaker has rightly described as non-essential. I refer to the organisation of an official international information office, at Geneva or elsewhere. After the statements which have been made yesterday by the official representatives of the Governments with regard to the subjects to be dealt with by the Conference, I need not again refer to this matter, but will only say that my Government sympathises with the initiative taken in regard to the private organisation of police forces. In my opinion, this would mean that the part played by the international criminal police would become more and more important as time went on.

" The statements made by the Government representatives clearly show that it is necessary for the Conference—at all events, for the moment—to confine itself to essential, I might even say absolutely essential, questions. That is our duty ; otherwise we would be building on sand. But what are those essential questions ? Are political offences to be regarded as a question the settlement of which is essential in our Convention ? I do not think so. The whole matter of political offences is still capable of being discussed at great length and there may be considerable differences as to doctrine. In addition, the provisions of the laws of different countries vary greatly, according as political offences are looked at from an objective or subjective standpoint. There is also a mixed system which takes both conceptions into account but regardes the State's mission as superior to either. Are our efforts to be paralysed by the difficulties of every description which such a question involves ? Cases of political offences will not arise very often in practice—in fact, they would be the exception ; the object of the Conference is to lay down regulations for ordinary normal cases of counterfeiting which unfortunately are far from rare. In principle, I do not think that the question is within our competence ; it is of much wider scope and is connected with other subjects of no less importance than counterfeiting. It should therefore be settled as a whole when a model extradition convention comes to be discussed at Geneva—as I still hope it will be—under the auspices of the League.

" A suggestion has been made that it might perhaps be necessary to lay down in the Convention the general basic rules applicable to extradition. I do not agree, because I consider that the special extradition conventions already existing between different countries are sufficient. There is, however, a general question which, if it were not settled, should certainly be considered in its true light, namely, what would be the bearing of the new Convention on the internal legislation of each country and on its special international conventions with other countries ? This is not the time to go deeply into the question, but—to take only one of its aspects—I think that, so far as they are not absolutely incompatible with the provisions of the new Convention as regards offences of counterfeiting in which another country was involved, internal legislation and international conventions should continue to be applied and amplified as before. In due course, I will draw attention to certain cases in which that rule, which is incontestable and already appears to form the basis of all the provisions of the Draft, will naturally apply. These cases might be expressly discussed when the Draft is finally examined.

" In view of the trend of the discussion, I have intentionally left it to the end of my speech to say a few words on a point which obviously will have to be—or ought to be—decided at the outset. Should there be one or two conventions ? Should the whole of the provisions concerning administrative collaboration between countries constitute a separate convention ?

Two conflicting theories have been put forward. The first, based on logical principles, argues the impossibility of separating the various provisions of the present Draft. The provisions concerning administrative collaboration are connected with the others by links which cannot be destroyed without weakening that collaboration, or, at all events, of restricting it to such an extent that it will no longer be effective for the purposes we have in view. The second theory refers mainly to the practical advantages of this separation. I naturally support the first theory. It has been suggested that the point should be held over until the end of our work. Personally, I feel that the same difficulties will then arise ; I would be willing, however, to accept postponement of the question in the hope that some solution may be reached (provided it is clear and legally valid) after we have had more time to consider so serious a problem.

" In any case, it must not be forgotten that the work is a work of justice and that we should strive will all our might to attain that great and lofty ideal. "

M. Stavro Stavri (Albania) said :

" The Albanian Government has been very happy to receive the invitation addressed to it by the Secretary-General of the League to take part in the Conference for the Suppression of Counterfeiting Currency.

" The Albanian Government fully realises the value of the work undertaken and is prepared to co-operate fully in carrying out the object which the initiators of this excellent scheme, the President and distinguished members of the Conference, have in view.

" After hearing the interesting speeches made to-day and yesterday by the delegates who have preceded me, I would like to pay a tribute both to their scientific knowledge and to their enthusiasm and sincerity.

" It is true that there are difficulties arising out of the customs, traditions, legislation and constitution of certain countries and of the treaties concluded by them, but I am glad to know that the delegates of those countries are prepared to discuss these questions and to co-operate with the other members with a view to overcoming these difficulties. I am firmly convinced, therefore, that, by their joint efforts and largely as a result of the admirable preparatory work done by the Mixed Committee, to which the members of the Conference have contributed their learned skill, the Conference will succeed in avoiding pitfalls or a deadlock and will not be obliged to cut any Gordian knots, but discover the means of surmounting the obstacles and thus giving satisfaction to the countries whose representatives they are.

" At the outset of the Conference, the President asked members to be brief, and, as " time is money ", I will not repeat in slightly different words and phrases what has already been said with so much authority and eloquence by my colleagues as to the juridical and political importance of the Conference.

" I will simply thank the Mixed Committee, on behalf of the Albanian Government, for the honour conferred on Albania by inviting her to participate in the work, and I welcome the very satisfactory beginning which has been made. I wish the Conference every success in the common interest of the countries whose representatives have met together to combat counterfeiting and for the maintenance of order throughout the world. "

M. Alcayne Chavarria (Spain) said :

" The Spanish delegation is happy to express its complete agreement with the principles of the draft Convention for the suppression of counterfeiting, which has been prepared with such skill and after such exhaustive investigations by the Mixed Committee, whose able Chairman, M. Pospisil, we are glad to see presiding over our discussions.

" My delegation feels certain that the Spanish Government will view the success of the work with the greatest satisfaction because it fully realises the difficulties which will have to be overcome and the importance of pursuing and punishing the counterfeiters of metallic currency and banknotes. We are also convinced that, like ourselves, all our colleagues are determined to do their utmost to reach an agreement which will be of benefit to all civilised nations.

" I would point out that Spain has already taken steps in the matter. Under Articles 344 to 346 of the Spanish Penal Code as recently amended, the manufacturer of counterfeit currency and forged banknotes is punished in the same manner whether the coins and banknotes in question are national or foreign. Moreover, under Articles 350 and 351 of the said code, the same penalties are inflicted for the forging of Spanish Government securities and the securities of other countries.

" This leads me to agree with the view put forward by several of my colleagues that the Conference should interpret the word " currency " as meaning, not only official currency in the form of specie and banknotes, but also securities issued by any Government.

" In any case, my delegation urges the Conference to insert in the text of the final Convention a provision to the effect that the authorities of the countries represented at the Conference formally undertake to pursue and punish the forging of specie and banknotes

issued by other countries with the same vigour and severity as in the case of the forging of their own specie and banknotes.

" In conclusion, the Spanish delegation hopes that the Conference will succeed in reconciling the conflicting views expressed in the course of the general discussion and that the Convention will shortly become an accomplished fact. "

Close of the General Discussion and Appointment of Members of the Two Committees.

The PRESIDENT closed the general discussion and thanked the delegates for keeping within the broad lines laid down at the outset of the work. He also thanked the members of the Conference on behalf of the Mixed Committee for their expression of appreciation of the work of that Committee, of which he had had the honour to be Chairman.

Certain delegates had asked whether the question of drawing up one or two conventions should be settled immediately. He thought that was a matter which could be discussed by the Committees, and especially by the Legal Committee, which might in due course be able to make suggestions acceptable to those who were in favour of two conventions.

The President then proposed that the Committees should be formed.

This was done.

(The meeting rose at 11.20 a.m.)

FOURTH PLENARY MEETING

Held on April 18th, 1929, at 3 p.m.

President : Dr. Vilem POSPISIL.

Communications by the President.

The PRESIDENT expressed his satisfaction at the presence of Baron Van der Feltz, the Netherlands delegate, who was once more restored to health.

He read the following letter from M. Jean Schober :

> " I greatly regret that my work prevented me from coming to Geneva in time for the opening of the International Conference for the Suppression of Counterfeiting Currency. It is now impossible for me to come for another reason, namely, because I am indisposed. I still hope, however, to be able to get to Geneva before the end of the Conference.
>
> " In any case, I would ask you to express my sincerest thanks to the Conference for the honour which it has done me in electing me First Vice-President of the Conference. I wish the Conference the greatest success in its work because I am convinced that the Convention will afford the means of pursuing and punishing a crime which constitutes a danger to all nations, and that it will assist in uniting all countries throughout the world in favour of the work of peace. "

The following letter from Count Carton de Wiart, President of the International Association of Criminal Law, was also read :

> " In connection with the work of the International Conference for the Adoption of a Convention for the Suppression of Counterfeiting Currency, I have the honour to draw your attention to the work of the International Association of Criminal Law, as summarised in a draft statute designed to facilitate the pursuit and punishment of certain international offences committed by physical persons.
>
> " In view of the possibility of providing in future for the more effective pursuit and punishment of these offences by the application of the principles contained in the annexed draft, I should be grateful if you would be good enough to transmit it to the competent organs of the League of Nations for their consideration.
>
> " Such an examination should, I think, logically be made in view of the aim of the Conference, namely, the more effective pursuit and punishment of certain offences against international public order. "

The President thought that the Conference would be willing to accede to this request. The draft statute in question would be transmitted to the League Secretariat.

The President stated that he had written to the delegates whose full powers were not in order. M. KRASKE, German delegate, and M. BARBOZA-CARNEIRO, Brazilian delegate, would constitute a Credentials Committee to examine the replies received.

The draft Convention drawn up by the Mixed Committee had been discussed by the Legal Committee and the Administrative Committee appointed by decision of the Conference at its first meeting. These Committees had examined the draft very thoroughly and carefully, and certain points had even been examined by sub-committees. Finally, the two Committees together had been through all the clauses of the draft Convention. Drafting questions had been settled by a Drafting and Co-ordination Committee consisting of the Chairmen and Vice-Chairmen of the two Committees and a Rapporteur for legal questions. This Committee, in whose work the President and Vice-President of the Conference had likewise participated, had met during the whole of Wednesday.

These discussions had made it possible to submit to the Conference that day the revised text of the Convention and the first part of the Protocol, that is to say, the official comments. The reservations formulated by the various delegations had also had the attention of the two Committees. The Conference would decide how far these should be taken into account in its discussions. The result of the work was to be found in the printed document C.F.M.12, first proof, and in two roneographed documents, C.F.M.15 and C.F.M.17.

The President remarked that the Co-ordination Committee had endeavoured to take into account the decisions of the two Committees and to draw up a text which should be satisfactory as a whole.

First Reading of the Draft (document C.F.M.12, First Proof).

In reply to a question by M. de Chalendar (France), the PRESIDENT stated that this would be regarded as a first reading. There would be a second and third reading, but it was expected that, during the second and third readings, no questions of substance would be raised as these readings were for the sole purpose of putting the finishing touches to the Convention in the matter of form.

Sir John FISCHER WILLIAMS (Great Britain) asked whether it was desired that small drafting amendments should be raised at the present reading. He thought it might be better for these to be left over for the Drafting Committee.

Agreed.

Preamble.

The Preamble was adopted without alteration.

The PRESIDENT pointed out that the text had subsequently been divided into two parts, the first comprising the material clauses, and the second clauses relating to procedure.

Part I.

Articles 1 *and* 2 *were adopted without alteration.*

Article 3.

M. SERVAIS (Belgium), Chairman of the Drafting Committee, explained how the present text had been arrived at. In the first place, the Drafting Committee desired to meet the wishes expressed that the various texts scattered in several articles, and relating to the different offences punishable under the Convention, should be embodied in a single article.

Secondly, the Drafting Committee had endeavoured to emphasise the principle that counterfeiting was to be regarded as an offence at ordinary law.

Thirdly, the Drafting Committee, in accordance with the tendency manifested at previous discussions, had considered it advisable to take into consideration suggestions regarding the intentional element of the offence. The text of the article imposed a minimum obligation upon the contracting parties. There was nothing in that text to prevent a country from punishing the offences in question more severely than was provided for in the Convention. The Committee had accordingly decided upon the expression " fraudulent " already used in the preparatory work. The word " fraudulent " was meant to imply " intent " and the Rapporteur hoped that it would be accepted by the Conference.

Paragraph V referred to the special offence of manufacturing or procuring material intended for the counterfeiting of currency. This did not, of course, include " innocent " material, such as a printing-press, which could be used as it stood for guilty practices. It merely referred to " guilty " material, such as the dies used for striking counterfeit coins, or lithographic stones for printing the watermark in forged banknotes.

M. SOTTILE (Nicaragua) referred to a misprint in Paragraph III of the French text.

M. Caous (France) proposed that the word " acts " at the beginning of the sentence should be placed in the singular.

The President replied that these details would be settled at the third reading.

M. Sottile (Nicaragua) said that he would like the word " fraudulent " in Paragraph II to be deleted ; otherwise all offenders would plead good faith. He formally proposed that this word should be omitted.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) considered that the provision under discussion was the most important article of the whole Draft. In his report, and also during the discussion, he had already referred to the inaccurate definition of offences. He also rejected the use of the word " fraudulent ", which appeared to be used successively with two different meanings.

If this word were used, there would be a danger of confusion between the offence of counterfeiting and the offence of fraud. Up to the beginning of the nineteenth century, the former was regarded as a variant of the latter. Since then, however, a distinction had been made between them—the offence of counterfeiting was one which affected public interests, while fraud only affected private interests. The explanation of the word " fraudulent " given by the President with regard to M. Givanovitch's proposal had shown that the risk of confusion was a very real one.

In passing, M. Givanovitch corrected an error in the Minutes of the Second Committee, with reference to the result of the vote on his proposal to omit the word " fraudulent ". This proposal, he said, had obtained twelve votes in favour and twelve against. He submitted it to the Conference in the following form :

> " The law should punish any persons who, for the purpose of uttering forged currency in the guise of true currency, commit an act of counterfeiting, the term ' counterfeiting currency ' being understood to mean the making of false currency and the alteration of true currency in such a manner as to give it the appearance of a higher value ; who reduce the substance of currency for the purpose of uttering it at its full value ; who intentionally utter false currency in the guise of true currency ; or who introduce into a country or receive or procure currency which has been fraudulently made or altered, with the object of uttering the same as true currency either within the country or abroad. "

M. Givanovitch added that the explanation given to him by the Chairman of the Drafting Committee was satisfactory ; he merely wished to remind the Committee of the proposal he had made regarding the text earlier in the proceedings. He did not press his proposal.

He pointed out that the record in the Minutes of the vote taken on his proposal was not altogether accurate.

The President replied that the Minutes were merely of a provisional character, and he invited delegates to send in to the Bureau whatever corrections or additions they deemed necessary.

M. Dupriez (Belgium) drew the Conference's attention to the fact that Point 1 of Article 3 referred to the making or altering of currency, and that Point 5 also referred to instruments peculiarly adapted for the counterfeiting or altering of currency, whereas Points 2 and 3 simply referred to the uttering of counterfeit currency. Personally, he was quite prepared to admit in principle that altered currency was counterfeit, but, seeing that a distinction had been made in Paragraphs I and V, he thought it would be better to make this distinction in the other paragraphs also.

M. Servais (Belgium) thanked M. Givanovitch for having expressed his satisfaction with the explanations given to him. He also thanked him for drawing the Conference's attention to the meaning of the word " fraudulent ". It was true that fraud could be committed against a State as well as against an individual, and that a person might have a fraudulent intent against a State as well as against an individual. It was equally true that the making or altering of currency for the purpose of uttering it as true currency constituted an offence which was in complete conformity with the conception of fraud embodied in the article. The Committee had decided to use the word " fraudulent " because there might be cases in which counterfeit currency might be made, not with the definite object of uttering it, but with some other fraudulent intent ; examples had been given during the preparatory discussion.

As regards the observation concerning Point 2, M. Sottile thought that it was difficult to prove the intent to deceive on the part of a person uttering counterfeit currency, and he would like the uttering of counterfeit currency to be punished independently of any international element.

M. Servais observed that anyone might offer a counterfeit coin or forged note in payment, and criminal intent had rightly been regarded as a necessary factor in the offence. M. Servais thought that, even after the adoption of this clause, they should not imagine that the number of offences would fall to zero. In his opinion, Point 2, which dealt with an offence for which provision was made in the legislation of most countries, would unfortunately be brought into application only too frequently.

As regards M. Dupriez' observations, M. Servais thought that his colleague was both right and wrong. The Committee, after defining counterfeit currency, in Paragraph I,

had considered it unnecessary and in some cases impossible to introduce constant references to manufacture and alteration. The Committee held that the making of metallic money or banknotes constituted counterfeiting, as did also the alteration of such money or banknotes. Consequently, after defining counterfeit currency, it had simply referred to counterfeiting. M. Dupriez was right, however, in pointing out that Paragraph V was not in accordance with the previous paragraphs, and M. Servais thought that, in this case also, it would be better to use the expression " counterfeiting " alone. The confusion to which M. Dupriez had referred would thus be avoided.

The PRESIDENT proposed that the question should be referred to the Drafting Committee, it being understood that a final text would be submitted to the Conference.

Agreed.

M. SOTTILE (Nicaragua) thanked M. Servais for his explanation and added that he had asked that the word " fraudulent " should be deleted because it should be left to the judge to determine whether the offence was committed in bad faith or not.

He also pointed out that Paragraphs II and III appeared to have the same meaning.

The PRESIDENT replied that this was not the case.

M. AMAGI (Japan) asked whether the act of giving counterfeit currency to a person without telling him that it had been forged or altered could be regarded as a fraudulent act when the person uttering it did not make any illegal profit on the transaction.

M. SERVAIS (Belgium), Chairman of the Drafting Committee, considered it was rather dangerous to comment on the Japanese delegate's question in detail. The only instance in which he could imagine the hypothesis raised by the Japanese delegate arising would be of someone manufacturing for amusement a thousand-franc note, for example. Supposing the person manufacturing the note came out of a dance-hall, saw a poor man and gave him the thousand-franc note, he had the indirect advantage of appearing charitable, and had therefore an indirect profit. Personally, he would say that it was fraudulent, but in certain circumstances a judge would decide otherwise. The Committee could not say yes or no, as the judge would have to decide if a case arose, which he thought very improbable.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) said that the Japanese delegate's remark showed that the word " fraudulent " was likely to give rise to difficulties. The case contemplated by M. Amagi did not constitute fraud but the offence of passing counterfeit currency.

The PRESIDENT asked M. Sottile whether he wished to maintain his proposal.

M. SOTTILE (Nicaragua) replied that, if his proposal did not obtain the support of the majority, he was prepared to withdraw it.

As the proposal was not supported, it was withdrawn by M. Sottile.

Article 4.

Article 4 was then read.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) thought that each of the acts covered by Article 3 should be regarded as a separate offence, whether they were committed in different countries or in the same country. He did not intend, however, to propose an amendment in this connection.

Article 4 *was adopted.*

Article 5.

The text of Article 5, as given in document C.F.M.15, was then read.

M. Ibrahim BAHATTIN (Turkey) renewed the reservation made by him before the Legal Committee and said that the Turkish delegation could only accept this provision provided reciprocal treatment were accorded by law or by treaty.

The PRESIDENT drew the Conference's attention to the fact that this question had been discussed at length by the Legal Committee, a large majority of the members being in favour of the text now submitted to the Conference. The Legal Committee regarded this clause as one of the corner-stones of the Convention.

M. Ibrahim BAHATTIN (Turkey) said that he was obliged to maintain his reservation until he had been able to communicate with his Government and to receive further instructions.

The Conference noted this declaration and Article 5 *was adopted.*

Article 6 (document C.F.M.17).

M. Pella (Roumania), Rapporteur, pointed out that document C.F.M.17 contained a new text of Article 6, concerning the international recognition of previous convictions. This new wording did not affect the substance of his proposal, which the Conference had accepted, but it had the advantage of satisfying the Italian representative, whose suggestions had been taken into consideration. In agreement, therefore, with M. Aloisi, he requested the Conference to be good enough to accept the new text of Article 6. He also referred to an alteration in the French text.

Article 6 *was adopted.*

Article 7.

M. Ibrahim Bahattin (Turkey) asked whether this article applied to the signatories of the Convention alone or to other States also.

The President replied that the Drafting Committee and he himself took the view that all the articles applied only to the contracting parties, with the exception of any articles (*i.e.*, Article 5 alone) which contained a contrary provision.

M. Ibrahim Bahattin (Turkey) expressed his satisfaction with the President's reply.

Article 7 *was adopted with the addition of the words* "if necessary" *after the word* "including"[1].

Article 8.

M. Caeiro da Matta (Portugal) thought that the phrase "under the same conditions", submitted by the Drafting Committee, was a better one. He would have preferred, however, the wording of the French text to be as he had previously suggested.

M. de Chalendar (France) proposed that this article should be sent back to the Drafting Committee.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) supported that suggestion.

M. Aloisi (Italy) endorsed the proposal. At the same time, he pointed out that the new text should not affect the right of a State to punish its nationals more severely than was provided for under that article.

The President replied that M. Aloisi's remarks would appear in the Minutes.

Article 8 *was referred to the Drafting Committee.*

Article 9.

Article 9 *was adopted.*

Article 10.

M. Lone Liang (China) said that the Chinese delegation would have to make a reservation with regard to this article, but would refer to this when Paragraph II of the Protocol was under discussion.

M. Gyllenbögel (Finland) said that the principle laid down in this article was contrary to the Finnish law of 1922 concerning extradition. That law did not punish the offences mentioned in Paragraph V of Article 3 by penal servitude, and did not permit of that penalty being imposed, except as a matter of form, in the case of the offence of participation.

On the other hand, the other offences covered by the Convention were punishable by penal servitude as a maximum penalty.

In these circumstances, if the Conference considered that not all the offences connected with counterfeiting were punishable by such a severe penalty, the adoption of Article 10 would involve the alteration of the Finnish law.

Sir John Fischer Williams (Great Britain) said that everyone would sympathise with the difficulties in which any particular country might find itself by reason of the general form of the Convention. It would be difficult to express an opinion on the law of any other country and he would not venture into a discussion on the exact provisions of Finnish law. He would, however, suggest to the delegate of Finland that nearly every country would have to contemplate certain modifications in its law as the result of the Convention, and he did not gather that there would be any insuperable objections to the modification of Finnish law in conformity with the extradition provisions—to which the Conference attached peculiar importance—imposed by it.

He would like to repeat an explanation which he had already given in the Legal Committee. Article 10 had been put into its present form in order to make a clear distinction between countries whose extradition machinery depended upon treaties, and countries whose extradition machinery did not depend upon treaties. The first paragraph of the article referred to the former and the second paragraph to the latter.

[1] See document C.F.M.17.

The object of the first paragraph was to make it perfectly clear that, as a result of the ratification of the Convention, the offences included in it would automatically take their place in the various treatics as being extradition crimes. Further, if any country should conclude an extradition treaty in the future without mentioning counterfeiting as an extradition crime, the omission would be automatically supplied as a result of the Convention, and as long as the treaty was in force counterfeiting currency offences would be included.

The last clause : " Extradition should be granted in conformity with the law of the country to which application is made " was intended to preserve the general right of a country to decide by its own judicial, administrative or diplomatic authorities whether or not the case was one in which they were prepared to grant the remedy of extradition.

Article 10 *was adopted.*

Article 11.

M. Servais (Belgium) drew attention to an alteration in the text made by the Drafting Committee, in accordance with which the instruments or other articles referred to in Article 3, as well as counterfeit currency, were to be seized and confiscated. Those instruments were what he had called " guilty material ". The objections raised by certain members to the original text, which provided for the seizure and confiscation of " innocent material ", would thus be met.

It was impossible to imagine that " guilty material " could belong to a third party who was innocent ; it was not an innocent act to deliver to anyone a lithographic stone on which the watermark of a bank's notes had been printed. If the article were read in connection with Article 18, which provided for the punishment of offences in conformity with domestic law, it would be seen that full account had been taken of the point raised by the Japanese delegation.

M. Motono (Japan) thanked M. Servais for his explanation. If this was the opinion of the Conference, the Japanese delegation would be happy to withdraw its reservation.

The President, as no opinion to the contrary was expressed, thanked the delegation for withdrawing its reservation.

M. Mettgenberg (Germany) pointed out that the words in the penultimate line " in Article 13 " should read " in Article 12 ".

Article 11 *was adopted with this alteration.*

Article 12.

Article 12 *was adopted.*

Article 13.

Article 13 *was adopted.*

Article 14.

M. Aloisi (Italy) asked whether it would not be desirable to make a recommendation that each country should inform either the League or the other contracting States in what government department its central office had been set up.

The President said that the Secretariat would bear in mind M. Aloisi's valuable suggestion and would submit a draft text.

Article 14 *was adopted.*

Article 15.

Article 15 *was adopted.*

Article 16.

M. de Chalendar (France) referred to the alteration made by the Drafting Committee in the penultimate paragraph, to the effect that the execution of letters of request should not be subject to payment of taxes other than the expenses of experts, which might in certain cases amount to considerable sums.

For form's sake, the words " referred to in the present Convention " in the first line should be replaced by the words " referred to in Article 3 ". Further, the paragraph commencing with " This representative " should be carried straight on as the second phrase of paragraph *(c)*.

M. Caeiro da Matta (Portugal) pointed out that, in the middle of Article 16, there was a paragraph starting as follows : " Unless otherwise agreed, the letters of request should be drawn up in the language of the authority making the request. . . . " He did not understand the purport of that provision. If it were desired to facilitate the rapid execution of the letters of request, these should, he thought, be drawn up in the language of the country to which the request was made. That was what had been stipulated in the various international agreements and in Article 10 of the Hague Convention relating to Civil Procedure of July 17th, 1905. It would be better to say that letters of request should be drawn up in the language of the country to which the request was made.

M. Aloisi (Italy) held a contrary view and desired the text to be maintained, because it was always easier to understand one's own language. If the Portuguese delegate's suggestion

were adopted, the authorities making the request would be obliged to use a language with which they were not familiar. The Mixed Committee had therefore been guided by technical considerations in framing this paragraph. Moreover, the proposed system had been adopted in a large number of recent agreements such as those concluded by Italy with the Kingdom of the Serbs, Croats and Slovenes and Czechoslovakia.

The PRESIDENT pointed out that, if the country to which the request was made preferred the letters of request to be drawn up in its own language, it was only necessary for it to say so, since this was permitted by the proposed text.

M. LACHKEVITCH (U.S.S.R.) read the following paragraph : " In cases *(a)* and *(c)*, a copy of the letters of request shall always be sent simultaneously to the superior authority of the country to which application is made ". He asked what was meant by the superior authority. If the letters of request were transmitted through the diplomatic channel, this authority would in every case be the Ministry of Foreign Affairs of the country to which application was made.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) thought that, in order to avoid delay, only the two official languages of the League, namely, French and English, should be used.

M. CALOYANNI (Greece) urged the maintenance of the text as drafted, as it allowed each country the right to use whatever language it preferred. It was only natural for the country making the application to do so in its own language. The country to which the application was made would have the document translated, which would be the best solution.

M. DELAQUIS (Switzerland) thought that an answer to the question raised by M. Lachkevitch was to be found in M. de Chalendar's suggestion that the paragraph starting with " This representative shall send . . . " should be read as the second phrase of paragraph *(c)*. The letters of request would therefore be transmitted direct to the competent judicial authority or to the authority appointed by the Government of the country to which the application was made. It was advisable, however, for the central authorities—for instance, the Ministries —to be informed of the matter. Those authorities were the superior authorities. The term " superior authority " should therefore be interpreted according to the internal organisation of each country.

M. DE CHALENDAR (France) said that, like the U.S.S.R. delegate, he had considered the term " superior authority " very indefinite. These words should, however, obviously be taken to mean the superior judicial authorities. The reason why the Drafting Committee had not used a more definite term was that some States—such as Great Britain and the United States—did not possess a ministry of justice. The Drafting Committee evidently meant to refer to the judicial authorities. As concrete cases arose, it would be possible to define this authority more accurately.

M. KRASKE (Germany) referred to the position of certain paragraphs. He suggested that the paragraph beginning " Until such notification is made by a High Contracting Party . . . " should be combined with that beginning " Unless otherwise agreed ", the paragraph at present intervening : " Each High Contracting Party shall notify ", etc., being placed after these paragraphs. He further proposed that the last sentence of the latter paragraph should read : " The language to be employed in the letters of request of that High Contracting Party *may* at the same time be determined ".

The PRESIDENT said that the Drafting Committee would consider the suggestion made by the delegate of Germany. He asked the Portuguese delegate whether, in view of the opposition which had been manifested, he wished to maintain his proposal.

M. CAEIRO DA MATTA (Portugal) withdrew his proposal as to the language to be employed.

Articles 16, 17 *and* 18 *were adopted.*

Part II.

Article 19.

The PRESIDENT said that, while accepting the terms of the draft, the U.S.S.R. delegation had made a reservation regarding this article. This reservation would be examined with the other reservations submitted by the various delegations.

M. SOKALSKI (Poland) drew attention to the reference to the Protocol of December 16th, 1920. In this connection, he reminded the Conference that there was the Protocol of Signature A and the Optional Clause B. Certain countries had signed the former but not the latter. It was not clear, therefore, whether the reference in Article 19 was to the Protocol of Signature A alone or also to the Optional Clause B.

He had raised this question for the sake of clearness and accuracy ; if the provision were to be restricted to countries which had signed the Protocol of Signature alone, the article should state that the reference was confined to text A ; if not, the words " or to Optional Clause B " should be inserted after the words " to the Protocol bearing the date of December 16th, 1920 ". He suggested that the latter alternative should be adopted.

As regards the expression " at the choice of the Parties ", he had already suggested that this should be replaced by the words " at the request of one of the Parties ", which he thought were much clearer. He desired to maintain this proposal because in one of the most recent Conventions, namely, the Convention for the Abolition of Import and Export Prohibitions and Restrictions, of November 8th, 1927, the expression " at the request of one of them " was used, which was exactly in accordance with his suggestion.

He recommended that this suggestion should be considered by the Drafting Committee.

The PRESIDENT replied that the Drafting Committee would give due consideration to M. Sokalski's suggestions.

With this reservation, Article 19 *was adopted.*

Article 20.

M. DE CHALENDAR (France) suggested an alteration in the French text of this article.

Adopted.

The PRESIDENT remarked that the U.S.S.R. delegation had made a reservation with regard to this article which would be dealt with later.

Article 20 *was adopted.*

Article 21.

M. DUZMANS (Latvia) proposed the deletion of the words : " on whose behalf it has not been signed ", which he considered superfluous.

The PRESIDENT replied that this clause made for greater clearness in the text.

M. DUZMANS (Latvia) thereupon withdrew his proposal.

Article 21 *was adopted.*

Article 22.

M. BORBERG (Denmark) pointed out that there were no facilities in the text of that article for countries which signed the Convention between the date of signature and December 31st of this year to make reservations.

The PRESIDENT replied that the Drafting Committee would not fail to supply any deficiency in the text in that connection.

Sir John FISCHER WILLIAMS (Great Britain) said that he had one or two drafting alterations, which he would not trouble the Conference with but would submit to the Drafting Committee.

In reply to a question raised by M. Duzmans, the PRESIDENT explained that, before finally acceding to the Convention, a country would have to bring its legislation into line with the clauses of that Convention.

M. DUZMANS (Latvia) asked what would be the position of countries which desired to make reservations at the time of ratification.

The PRESIDENT pointed out that there could be no question of ratification before the end of 1929. In the meantime, signatures must be given without reservation. If a country desired to make reservations, it must wait and make use of the procedure laid down in Article 22.

Article 22 *was adopted.*

Article 23.

The PRESIDENT read the following letter from M. Caloyanni, Greek delegate :

> " The last part of the statement which I had the honour to make at the opening of the Conference read as follows :
>
> > " ' In principle, the Greek Government agrees with the general principles of the provisions of the Convention, which are in conformity with the provisions of the new draft Greek Penal Code. Its acceptance is, of course, conditional upon the approval of the code by the Legislature, which will fix the date of its entry into force .'
>
> " In view of the text of Paragraph II of Article 1 of the Convention, reading as follows :
>
> > " ' Ratification of or accession to the present Convention by any State implies that the rules contained in the Convention are incorporated in its legislation ',
>
> is it quite understood that the Greek Government, while it is in agreement with the principles of the Convention, will not be obliged to ratify it until the new draft Penal Code, which is in conformity with those principles, has been approved by the Greek Parliament ? "

The PRESIDENT said that it was, of course, understood that the Greek Government was not obliged to ratify the Convention until the new Greek Penal Code had been approved. If the Greek Government preferred to take advantage of the opportunity afforded by the revision of its code, it need not ratify until that revision had actually been accomplished. The same applied to Roumania and doubtless to other countries also.

Sir John FISCHER WILLIAMS (Great Britain) remarked that a large number of delegations were in the same position with regard to this matter. All the States might not be undertaking the revision of their penal code, but some of the States would have to make alterations in their legislation before ratifying the Convention—Great Britain included—though not to such an extent as some of the other countries. Every country, before ratifying the Convention, would have to adjust its penal code and its administrative machinery to the requirements of the Convention.

It would be ungenerous of him not to recognise the skill and moderation with which this difficult point was put to the Legal Committee by the Greek delegation, when it was under discussion in that Committee.

The PRESIDENT pointed out that Article 23 left each State free to decide this matter in agreement with its legislative authorities.

M. CALOYANNI (Greece) thanked the President for the reply which he had given to his letter. He would like the letter and the reply to appear in the Minutes of the present meeting.

The Greek representative also thanked Sir John Fischer Williams for the courteous words addressed to him, which he would also like to be included in the Minutes.

The PRESIDENT replied that M. Caloyanni's request would be granted.

Article 24 (document C.F.M.15).

The text of Article 24 as given in document C.F.M.15 was then read.

M. ALOISI (Italy) said that he maintained the reservation made by him with regard to the Italian colonies.

The PRESIDENT informed the Conference that the Turkish delegation had made a similar reservation with regard to Article 24 to that previously made concerning Article 7. The President gave a similar reply.

M. Ibrahim BAHATTIN (Turkey) expressed his satisfaction with the President's reply

M. HAYASHI (Japan) pointed out that the text of the preliminary draft drawn up by the Mixed Committee implied that, as a general rule, the Convention would apply to colonies, whereas the text prepared by the Drafting Committee appeared to state the contrary. The Japanese delegation regarded this alteration as unfortunate, because the field of application of the present Convention should be as large as possible.

Moreover, conventions recently concluded under the auspices of the League of Nations contained a clause stipulating that they would apply to the colonies of the contracting States in so far as no declaration to the contrary had been made by the latter. That was the case with the Convention relating to Economic Statistics, signed in December 1928 ; the Convention for the Abolition of Import and Export Prohibitions and Restrictions, signed in November 1927 ; the Convention relating to the establishment of an International Relief Union, signed in July 1927 ; and the Opium Convention of February 1925.

The Japanese delegation accordingly proposed that the Conference should adopt the text of the preliminary draft drawn up by the Mixed Committee.

M. SERVAIS (Belgium) appealed to the Japanese representative not to press his proposal. The new wording had been adopted by the Drafting Committee as the result of a suggestion made by the Belgian delegation ; this was the only suggestion of that delegation which had been adopted and maintained, and it was therefore, he thought, deserving of special consideration.

M. Servais pointed out that, as a matter of fact, the text now before the Conference made absolutely no change in the substance of the former text. The position was as follows : A contracting State possessed a certain colony to which the Convention might apply if that State so desired. That fact was clear from both texts. The difference between them was as follows : in accordance with the Mixed Committee's text, the Convention would apply to the colony unless the mother-country made a stipulation to the contrary. According to the new text, the Convention would apply to the colony if the mother-country so stated.

In practice, if a Government considered it inadvisable at the present time to extend the application of the Convention to its colony, it would at once say so, in accordance with the former text, and the position would be the same if, in conformity with the new text, it said nothing. If, on the other hand, a Government desired the Convention to apply to its colony, the new text would require it to take the trouble—a very slight one—to state, as laid down in the article, its intention of applying the provision to its colony.

M. Servais hoped that the Japanese representative would be good enough to withdraw his proposal, especially in view of the fact that the Legal Committee had considered the Belgian delegation's suggestion a sound one.

M. Hayashi (Japan) stated that, if the meaning of the two texts was absolutely identical, there was no reason why the Japanese proposal to revert to the text of the preliminary draft drawn up by the Mixed Committee should not be adopted. He asked the President to ascertain the views of the other delegations on this point.

M. de Chalendar (France) stated that the French delegation much preferred the text proposed by the Belgian delegation. If the Conference adopted the Japanese proposal, the French delegation would be obliged to make a reservation.

As no delegation supported the Japanese proposal, the President stated that this proposal was withdrawn.

Article 24 *was adopted.*

Article 25.

This article was adopted without any observation.

Article 26.

This article was adopted without any observation.

Article 27.

M. Duzmans (Latvia) pointed out that this article laid down no time-limit for the eventual denunciation of the Convention. Such a stipulation was usually included in conventions.

The President replied that this suggestion would be examined by the Drafting Committee

Article 27 *was referred to the Drafting Committee.*

Article 28.

This article was adopted without any observation.

The President stated that the last part of the second paragraph should read " referred to in Article 20 ", instead of " referred to in Article 18 " ; in any case, the text would be very carefully revised.

Protocol (document C.F.M.12, First Proof).

The President informed the Conference that the Drafting Committee had divided the Protocol into three parts, the first containing certain official comments and the second reservations. As regards the third, the President pointed out that the Swiss delegation had made a declaration to the effect that it withdrew its previous reservation. The Swiss delegation had now confined itself, therefore, to a simple declaration ; consequently, the third part of the Protocol was reserved.

The first paragraph of the Protocol was then read.

M. Kraske (Germany) asked for an explanation of the words " as sole interpretations ". In his opinion, the observations in the first part of the Protocol constituted the sole source of interpretation so far as they applied. Were those words to be interpreted in that way or were there to be other sources of interpretation, such as the Co-ordination Committee's report ?

Sir John Fischer Williams (Great Britain) said that, in making this proposal, the Drafting Committee felt that, in view of the discussions which had taken place, they ought to produce a text which would be intelligible as a source of interpretation. They were unwilling to encourage elaborate investigations into any personal statements made in the course of the discussions by one or other of the delegates present, however highly authorised.

He ought to admit that the English text of the sentence to which the honourable delegate of Germany had referred was perhaps in need of some improvement. The object, however, was to prevent too careful search being made into what might be called the diplomatic waste-paper basket, and to ensure that only these authorised expressions on behalf of the Convention itself, in addition to the text of the Convention, should be referred to for the purpose of a ascertaining the meaning.

It had often been his duty to pay some attention to the question of interpreting international instruments, and he had sometimes thought there was a tendency to refer to documents which represented a previous stage of negotiation, and which did not represent the final result at which the common will of all who had been engaged in the process of the composition of diplomatic instruments had arrived.

He trusted that the Conference, adding any other statements as to interpretation wihch might be thought necessary, would be prepared to accept the general principle suggested by the Drafting Committee.

M. Lachkevitch (U.S.S.R.) thought that the Preamble to the Protocol went further than was desired by its authors, who had wished to make it clear that the history and evolution of texts should not serve as a source of interpretation, but it did not follow from this that the four rules laid down in the Protocol were to be regarded as the sole interpretations. An interpretation could be based on precedent, on commonsense considerations and on opinions which had been expressed. He accordingly suggested that the text should state, for instance, that the preparatory documents for the Convention, in so far as the findings contained therein were not included in the four paragraphs in question, should not serve as a source of interpretation ; at the same time, possible interpretations should not be confined to these four rules, which might not be adequate in every case.

M. Aloisi (Italy) agreed that it was not necessary to seek sources of interpretation in all the preparatory work for the Conference ; in legal practice, however, there was a well-known rule to the effect that interpretation should finally rest with the judge, who should decide the matter as he thought best and as his conscience dictated. He suggested that the same rule should be followed in this case and that judges should be free to apply the Convention as they thought best.

Consequently, the words " as sole interpretations " could be purely and simply omitted.

M. Pella (Roumania) regretted that he was unable to share the views of the majority of the members of the Drafting Committee. He did not think the judges' powers should be restricted in any way.

To declare that the rules laid down in the Protocol constituted " the sole source of interpretation of the Convention " would imply an obligation on the part of the persons whose duty it was to interpret the texts of that Convention not to take into consideration, when dealing with any particular question that might arise, precedents or opinions that had been expressed, works of doctrine or even the preparatory work which had led to the framing of the international Convention about to be concluded.

Judges were, and must remain, entirely free to make use according to their conscience of any source which they might think useful for the correct interpretation of the Convention. If a certain judge desired to leave out of account some of the sources of interpretation indicated by the Roumanian delegate, he was free to do so ; similarly, it was inadmissible that he should be prevented from having recourse to such sources if he considered them useful.

It would be dangerous to reject entirely a system of interpretation widely prevalent on the Continent and which had contributed to the brilliantly successful legal practice of many countries represented at the Conference.

At the same time, M. Pella desired to make it clear that, while the preparatory work, opinions expressed before the Conference, etc., constituted optional sources of interpretation, the rules laid down in the Protocol represented compulsory sources of interpretation.

They bore some resemblance to interpretative laws, the object of which was to define or indicate the precise effect of the provisions of a previous law.

The rules laid down in the Protocol formed an integral part of the actual Convention, but although they constituted a compulsory source of interpretation—of authentic interpretation—this did not mean that they represented the sole source of interpretation and that there were no other sources of interpretation which it should be left to the judge to determine.

For this reason, he cordially supported the Italian delegate's proposal that the words " as sole interpretations " should be omitted.

If the Conference desired to make quite clear the real nature of the rules laid down in the Protocol, the words " as sole interpretations " might be replaced by the words " as compulsory (or authentic) interpretations ".

The scope of the rules laid down in the Protocol would thus be more clearly defined, although, even without the addition of those words, he did not think it was possible for any controversy to arise with regard to the compulsory nature of the rules.

M. Servais (Belgium) considered the word " authentic " unnecessary : whether it were inserted or not, the four rules laid down in the Protocol were the authentic sources of interpretation and the only authentic sources. Consequently, it would be sufficient to state : " . . . declare that they accept . . . the interpretations set out hereunder ".

At the same time, he would ask the Conference to reflect on what had been said by Sir John Fischer Williams : it was unwise to seek for a source of interpretation in what the British representative had called the " diplomatic waste-paper basket ". The sole purpose of the Mixed Committee's work and of the discussions which had taken place was to assist in reaching a final decision on the matter, and this had now been embodied in the Convention ; no one would dream of looking for an interpretation by referring to what he might have said on such-and-such a day, at such-and-such a time, or one hour later.

In this connection, he said that in only too many cases Continental jurists resorted to the practice of looking through masses of volumes for the purpose of discovering arguments

put forward in the course of the preparatory work, some arriving at one conclusion and others at an entirely opposite one.

In conclusion, M. Servais asked the Committee to give due consideration to the observations submitted by the British delegate.

M. Caloyanni (Greece) referred to the position of the judge in regard to the words " sole source of interpretation ". After examining the four rules, it was quite certain that the judge would wish to know how the text had been arrived at.

He agreed that they should not expect to find everything in the preparatory work, but it was from this work that the main idea underlying the Convention had evolved and it was to this work that the judge seeking for a true interpretation of the text must refer. It was therefore wrong to say that the preparatory work should be disregarded altogether, since it brought out clearly the juridical conception of the matter.

He agreed that the word " sole " should be deleted, as this would enable other sources of interpretation, if there were any, to be sought.

The President, referring to the Protocol at the end of the International Convention relating to Economic Statistics, said that he would agree to the deletion of the word " sole ". Consequently, the Conference would not have to decide on a general question, namely, how far the preparatory work was to be regarded as a source of interpretation.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said that he was in favour of the Drafting Committee's text : there could be no means of interpreting the text of the Convention other than these four rules.

M. Duzmans (Latvia) agreed with M. Servais that the interpretations given in these four rules would still be authentic even if the word " authentic " were omitted. As regards the word " sole ", judges could not be bound in this way. They should be free to interpret the text in accordance with the rules universally applied in regard to interpretation. The adoption of texts which had no legal force—like that now under discussion—was not binding. Certainly, the four interpretations, if adopted by the Conference, although they would not constitute the sole source of juridical interpretation, would have considerable weight—but that was all. They would not represent the only possible means of interpreting the matter in question. The only method by which they could be made exclusive and rigid as proposed by the Drafting Committee would be to convert them into legal interpretations, as had been done in the case of the definition of currency in Article 2 of the Convention. Such an interpretation, which would be, not only authentic, but also legal, would in every case enjoy *præsumptio juris et de jure* and could not be overlooked or set aside by any other interpretation, however ingenious. The Preamble to the text submitted should therefore be revised accordingly.

The President agreed that the Drafting Committee's wording was not satisfactory and asked the opinion of the Conference on the following text : " . . . declared that they accept . . . the interpretation of the various provisions . . . set out hereunder ", adding that this text implied that the Conference did not wish to find a formula which would settle the question of the admissibility of other interpretations.

The President's proposal was adopted.

Sir John Fischer Williams (Great Britain) said that, in view of that expression of the predominant opinion of the Conference, it was naturally not for him to insist on forcing views upon the Conference which it did not receive with favour. As he understood the vote, however, it entirely left open the question as to what principles of interpretation would have to be followed in a case which did not fall within the rules or interpretative stipulations accepted by the Conference. On that matter the delegations stood upon the positions which they had previously occupied.

M. Duzmans (Latvia) asked whether the provisions in question had acquired legal force —in other words, whether the legal force of those provisions could be assimilated to that of Article 2, for instance.

The President gave an affirmative reply.

M. Barboza-Carneiro (Brazil) asked what would be the position of contracting parties which signed the Convention without signing the Protocol.

The President replied that the Protocol was an integral part of the Convention and that a State could not sign one without signing the other.

M. Caloyanni (Greece) asked what was the text which had resulted from the discussion.

The President read the following text :

> " At the moment of signing the Convention of this day's date, the undersigned Plenipotentiaries declare that they accept the interpretation of the various provisions of the Convention set out hereunder. "

The Rules of Interpretation were then examined, No. 1 being read.

Mr. Wilson (U.S.A.) intimated that he wished to raise a question regarding the English translation, but would reserve his remarks for the Drafting Committee.

No. 1 was adopted.

No. 2 was then read.

M. Aloisi (Italy) said that he would prefer to revert to the original text, namely : " that the Convention does not affect the *right* of States " instead of using the word " power ".

The President proposed that this matter should be referred to the Drafting Committee.

M. Caloyanni (Greece) thought that this was a question of principle and that there would be no difficulty in accepting M. Aloisi's suggestion. He thought that the Permanent Court of International Justice should have the right to interpret and apply the Convention. It would perhaps be as well to make it quite clear that No. 2 did not in any way affect the competence of the Permanent Court of International Justice as laid down in Article 19. The Court would have full power to reach a decision on the question of a country's having made too extensive a use of its right to amnesty and thus hampering the effect of any of the provisions of the Convention. It could thus serve to regulate such questions.

The President, notwithstanding his personal desire to give satisfaction to M. Caloyanni, thought that it was impossible to revise Article 19 in view of the conditions on which it had been accepted.

M. Lachkevitch (U.S.S.R.) urged M. Caloyanni not to complicate the situation. If the clause under discussion were as dangerous as the Greek delegate seemed to fear, it might perhaps be better to omit it altogether.

He thought that, if any Government made improper use of its right to amnesty and thus hampered the application of the Convention, there was nothing to prevent its being summoned to appear before a court of arbitration. If that were the case, the Greek delegate's fears were unfounded.

M. Aloisi (Italy) said that an amendment of the proposed text would seriously endanger the whole work of the Conference. If M. Caloyanni's suggestion were adopted, this would involve a serious infringement of the sovereign rights of States. No Government with any regard for its prestige would agree to alter its prerogative of pardon and right to amnesty. Under no pretext was it admissible that a country should be brought before the Permanent Court of International Justice like an offender before the police-court for some petty offence.

M. Pella (Roumania) thought that M. Aloisi's conception of the sovereign rights of States was not in accordance with the prevailing international spirit.

If the theory of the absolute and unlimited sovereignty of States were admitted, it would follow that the State as a sovereign organism would not be bound to other States either by moral ties, the ties of justice or even by law.

Modern legislation recognised the responsibility of all authorities, even of those at the summit of the social hierarchy.

International solidarity and interdependence to-day required the self-limitation of each country's powers. Moreover, this self-limitation ensured the independence of each State.

Again, while agreeing with the conclusions of M. Aloisi, who desired the text submitted by the Drafting Committee to be retained, he wished to point out that the provisions of No. 2 of the Protocol did not restrict, even as regards the questions covered by that clause, the competence assigned under Article 19 either to the Permanent Court of International Justice or to some other court of arbitration with reference to the *bona-fide* application of the present Convention.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) proposed that the word " excuses " should be replaced by the words " causes d'atténuation et d'exemption ", because in French legal terminology the word " excuses " did not cover all extenuating circumstances and the idea which it conveyed was excluded from many legislative provisions.

M. Caous (France) urged the Conference to retain the text prepared by the Committee. The word " excuses " had a definite meaning ; it applied to the situations rightly contemplated by the Drafting Committee. The words " extenuating circumstances " referred to something quite different from a legal point of view.

M. Lachkevitch (U.S.S.R.) fully agreed with what M. Caous had just said. Although the term " excuses " did not exist in the legal terminology of Slav countries, the underlying principle could quite well be expressed in Slav languages.

Sir John Fischer Williams (Great Britain) said he was inclined to suggest that the sense of the Conference might be taken on the maintenance of the present text. He would not repeat what previous speakers had said, but he would urge the Conference carefully to consider the observations that had been made by M. Aloisi and M. Pella, and not to alter the language in which the arrangement—which had given satisfaction to many States represented—was embodied in the Convention. In his view, a very satisfactory form of words had been arrived at when all the clauses were read together, and, speaking for his own country, it would have the most disastrous consequence if the text as at present drafted were altered.

The President pointed out that this provision was connected with Article 18, which had been discussed at length by the Sub-Committee specially appointed for the purpose, as well as by the Drafting Committee. He earnestly appealed to the Conference not to endanger the whole of the work, but to accept the proposed provision in principle, subject to any slight drafting amendments which the Drafting Committee might make without affecting the substance of the provision.

Nos. 2, 3 *and* 4 *were adopted.*

Final Act (document C.F.M.12 (a)).[1]

The Conference successively examined and adopted Recommendations I, II and III.

With regard to Recommendation IV, the President proposed that the number of central offices should be fifteen instead of twenty.

Recommendation IV was adopted with this amendment.

With reference to Recommendation V, M. Aloisi (Italy) reminded the Conference that he had proposed a reservation during the discussion of Article 24 of the Convention, but, as this reservation had been withdrawn as a result of the amendment of the text, he would not press his proposal.

M. Delaquis (Switzerland) pointed out that, in the Administrative Committee, M. Aloisi had agreed that his reservation should take the form of a simple declaration.

The President said that this would be expressly mentioned in the Minutes.

Recommendations V, VI and VII were adopted.

With reference to Recommendation VIII, M. Aloisi (Italy) referred to his previous declaration concerning the Minutes.

The President said that he had requested the delegations to inform the Secretariat of any changes they desired to make in the provisional Minutes.

M. Aloisi (Italy) said that he was quite satisfied with the Minutes.

Recommendations VIII and IX were adopted.

M. Broekhoff (Netherlands) proposed the addition of the following phrase to Recommendation X :

> " In order to make this investigation more effective, the documentation and work of the central offices should extend to the pursuit and punishment of the forging of securities. "

The President replied that, as the text provided for the investigation of the methods of pursuing and punishing this forgery, it naturally involved the obtaining of documentation on the matter.

M. Servais (Belgium), recalled the Latin tag, *Unius positio est alteriu exclusio.* If one duty only of the office were mentioned in the text, the others would appear to be excluded. It was obvious that a central office would not send its delegates to conferences unless they were thoroughly *au courant.*

The President replied that M. Broekhoff's wishes might be met by an assurance that his observation would appear in the Minutes.

M. Broekhoff (Netherlands) withdrew his proposal.

M. Ibrahim Bahattin (Turkey) wished to add to the list given in Recommendation X the words " Treasury bonds and bills ".

The President replied that these were covered by the word " securities ".

M. de Chalendar (France) proposed to add, after the words " bills of exchange ", the word " etc. ".

Recommendation X with this latter amendment was adopted.

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[1] The numbering of the Recommendations is as in the text C.F.M.12 (a). For comparison with numbers of final text, see the Index, under " Final Act. "

M. Caeiro da Matta (Portugal) desired Recommendation XI to be amended to bring it into line with the other recommendations.

This proposal was adopted.

Recommendation XI was adopted in substance, the wording to be amended in accordance with M. Caeiro da Matta's observation.

Recommendations XII and XIII were adopted, together with the Final Act as a whole.

Communication by the Roumanian Delegation : Announcement of an Optional Protocol.

M. Pella (Roumania) mentioned the existence of an Optional Protocol which some delegations wished to sign with the object of considering, as regards extradition, the counterfeiting of currency as an ordinary offence.

The wording of this Protocol would be duly communicated to the Bureau of the Conference.

(The Conference rose at 8.15 p.m.)

FIFTH PLENARY MEETING

Held on April 19th, 1929, at 11 a.m.

President : Dr. Vilem Pospisil.

First Reading of the Draft Protocol, Parts II and III (document C.F.M.12, Second Proof).

The President proposed that the Conference should consider Parts II and III of the Protocol. He pointed out that the reservations were very few in number, and thanked the delegations for their spirit of compromise.

He observed that progress had been made with regard to the general procedure of submitting reservations. That was a matter for congratulation, and it might prove useful in the future.

Part II.

Preamble.

The Preamble to Part II of the Protocol was read.

This Preamble was adopted.

Reservation by the Indian Delegation.

This reservation was read.

Sir John Fischer Williams (Great Britain) pointed to an error in the numbering of the article. The French text read : " Article 10 ", whereas the English text was numbered " Article 9 ".

The President replied that the proofs would be very carefully read through before the text came up for a third reading.

This reservation was adopted.

Reservation by the Chinese Delegation (document C.F.M.19).

The President announced that the reservation about to be communicated to the Conference had been accepted by the delegations specially interested. This reservation referred to Article 10 and was worded as follows :

> " The Chinese Government is unable to accept Article 10, which involves a general undertaking by each Government to grant the extradition of a foreigner who is accused of counterfeiting currency by a third State.
>
> " This reservation will cease to have effect if the negotiations at present being conducted by the Chinese Government in connection with consular jurisdiction terminate in the entire abolition of such jurisdiction. "

Sir John Fischer Williams (Great Britain) said he would like to draw the special attention of the Conference to the exact sense in which the reservations were accepted by the Conference.

The new form of wording adopted in the Protocol avoided any statement as to the acceptance of the reservation in the language in which, or for the reasons for which, it was put forward. The fact that no objection was made to a reservation was to be interpreted simply as meaning that the countries which had raised no objection were prepared to welcome the participation of the country making the reservation in the Convention, modified, so far as might have been the case, by the effect of the provisions referred to by the country making the reservation. That was to say, the countries which raised no objection expressed no sort of opinion as to the reasons, favourable or unfavourable, which had determined the country to make the exception of the reservation. What the other countries said was that they found that the participation of the country in the Convention, from which so much as was reserved was subtracted, was not of a nature to destroy the value of its participation or to make the countries which accepted it unwilling to enter into the contract contained in the Convention upon the terms which were so made.

This was a point of general interest and of great importance upon the effect of the interpretation of the reservations in multilateral conventions. Any country was perfectly free to have any reasons it chose to express for the reservations it made, but these reasons did not concern the Conference.

It was upon those terms that the declarations of the Chinese Government would not create any objection to the acceptance by his country of the participation of China as a contracting party with Great Britain in the present Convention.

M. Hayashi (Japan) observed that the text just read seemed to imply that negotiations were at present proceeding for the abolition of consular jurisdiction. The Japanese delegation was unaware of the negotiations to which this reservation referred.

He would continue his comments when the text of the Chinese reservation had been communicated.

The President adjourned the discussion of this reservation pending the distribution of the text.

Reservation by the U.S.S.R. Delegation (document C.F.M.18).

The reservation in question, relating to Article 20 was read.

The President stated that the Drafting Committee proposed that this reservation should be accepted, and congratulated the U.S.S.R. delegation on its spirit of moderation and the agreement reached.

Sir John Fischer Williams (Great Britain) pointed out that the Drafting Committee also proposed to welcome the participation of the U.S.S.R. Government in the Convention.

The reservation of the U.S.S.R. was adopted.

Part III.

Declaration by the Swiss Delegation :

M. Delaquis (Switzerland) said :

Referring to my statement at the opening meeting regarding the Swiss point of view, I wish to declare that that point of view has not changed. The Swiss Government would still be extremely glad if the Convention could be divided into two.

True, the Conference, in maintaining the unity of the Convention, has omitted various provisions that have caused anxiety to the Swiss Government, or provisions which Switzerland could not have accepted. I refer to Article 1, Paragraph I, of the old Draft, the second clause of which has been omitted, and to Article 1, Paragraph IX, of the Mixed Committee's draft, concerning political offences, which has also been omitted, the Conference desiring to leave every country free to determine its own standpoint in respect of political offences according to its conscience.

The Swiss attitude towards the final Convention is bound up with the fact that the unified Swiss Penal Code is under discussion in the Federal Parliament, and that it will be difficult to give any more precise information concerning the duration or ultimate outcome of the legislative work.

Taking these circumstances into account, the Swiss Government wishes to express its entire sympathy with the States participating in the Conference in their campaign against counterfeiting currency by accepting the Convention subject to the following statement :

" The Swiss Federal Council, being unable to assume any obligation as to the penal clauses of the Convention before the question of the introduction of a unified penal code in Switzerland is settled in the affirmative, draws attention to the fact that the ratification of the Convention cannot be accomplished in a fixed time.

" Nevertheless, the Federal Council is disposed to put into execution, to the extent of its authority, the administrative provisions of the Convention whenever these will come into force in accordance with Article 25. "

I wish to remind the Conference that this declaration, inserted in the Protocol of the Conference, is of a positive character. Though it contains no undertaking, it is nevertheless an expression of Switzerland's intention to do all she can to give effect to the administrative provisions of the Convention as soon as these come into force.

M. SERVAIS (Belgium) thought that the Swiss representative had, in certain of his phrases, exceeded his own intentions. It was true, as he said, that the tendency of the Conference and of the text adopted by it was to leave each State free to determine the political character of counterfeiting in a given case. M. Delaquis ought, he thought, to have added that, if the Convention was loyally applied—as he was sure it would be—this assertion of each country's freedom to adhere to its own concepts should be based on the fundamental idea of the Conference, *i.e.*, that, save in exceptional circumstances, which should be defined in each case, the offence of counterfeiting was not in principle to be regarded as a political offence. He thought that this was what M. Delaquis had really meant.

M. DELAQUIS (Switzerland) said he agreed with M. Servais, though he would emphasise the fact that, in Switzerland, the Federal Tribunal was alone competent to decide what was a political offence.

The PRESIDENT pointed out that the Swiss delegate's statement did not constitute a reservation. The Conference need merely note this statement, which was due to the attitude Switzerland was obliged to adopt in view of her constitution. He agreed with M. Servais as to the interpretation of the statement.

He thanked the Swiss delegation for adhering in principle.

Declaration by the U.S.S.R. Delegation.

The declaration submitted by the U.S.S.R. delegation was read.

The PRESIDENT said that the Conference noted this declaration and thanked the U.S.S.R. delegation for its spirit of conciliation.

Reservation by the Chinese Government.

The PRESIDENT said that two texts of the Chinese Government's reservation had been distributed : only one of these, beginning in English with the words : " Pending the negotiations for the abolition of consular jurisdiction ", was authentic and it would be discussed subsequently.

Swedish and Turkish Reservations.

The PRESIDENT observed that, as the reservations formulated at a previous meeting by the Swedish and Turkish representatives had ceased to be of any practical import, the delegations of these two countries no longer desired to maintain them. They merely stated that they proposed to sign the Convention at a later date.

M. SJÖSTRAND (Sweden) said he could not formally undertake to sign the Convention.

The PRESIDENT noted this declaration.

Second Reading of the Draft Convention.

The Conference began the second reading of the draft Convention.

Preamble and Part I.

Articles 1 *and* 2.

The Preamble and Articles 1 *and* 2 *were adopted without alteration.*

Article 3.

M. SERVAIS (Belgium), referring to the comments on the difficulties which might be encountered in interpreting this article, stated that the Drafting Committee was of opinion that the proposed text was the most appropriate one for the purpose.

He also drew attention to the correction of certain typographical errors.

Article 3 *was adopted.*

Articles 4 *to* 6.

Articles 4 *to* 6 *were adopted without alteration.*

Article 7.

M. SERVAIS (Belgium) pointed out that the words " if necessary " had been adopted on the previous day. They had also inserted " High Contracting Party " and " country " instead of the word " State ", in order to meet the wishes of the Turkish delegation.

M. DUZMANS (Latvia) was of opinion that the words " High Contracting Party " restricted the scope of the article to contracting States alone, whereas, according to the former text, it was quite possible to foresee the case in which another country not a contracting party might become a " civil party ". He thought it had been the intention of the Conference not to mention reciprocity.

Sir John FISCHER WILLIAMS (Great Britain) held the contrary opinion—that this alteration in Article 7 merely brought out more clearly the general intention, namely, to avoid the bestowal of rights on a State or international organisation which was not a party to the Convention.

M. LACHKEVITCH (U.S.S.R.) thanked the Drafting Committee for this change, which met the desire expressed by the U.S.S.R. delegation in the course of the preparatory work.

The PRESIDENT, replying to M. Duzmans, referred to his observation on the previous day in connection with the Turkish representative's remarks : when certain provisions were to be extended beyond the circle of contracting parties, the fact should be explicitly stated, as in Article 5, which referred to all foreign currency apart from any condition of reciprocity by law or by treaty.

M. DUZMANS (Latvia) said he could not agree with this distinction, because his Government desired the widest possible application of the provisions of the Convention. He did not, however, insist on the point.

Article 7 *was adopted.*

Article 8.

M. SERVAIS (Belgium) referred to the change made by the Committee in the second paragraph. After discussion, the Committee had agreed with the Portuguese delegation's suggestion to insert the words " in a similar case ".

Article 8 *was adopted with the above modification.*

Articles 9 *to* 15.

Articles 9 *to* 15 *were adopted without modification, apart from the correction of a few typographical errors.*

Article 16.

M. SERVAIS (Belgium) observed that the text previously adopted had contained a paragraph providing that " the language used for the execution of these letters of request shall be determined at the same time ". This provision was unnecessary, as the question of language had already been settled in paragraph 6 of the article.

In paragraph 8, French text, " commissions rogatoires " was the correct reading.

Article 16 *was adopted with the above modification.*

Article 17.

M. SERVAIS (Belgium) stated that the Drafting Committee proposed to omit, in the last line, the words " of the various countries ", which were unnecessary.

Article 17 *was adopted with the above modification.*

Article 18.

Article 18 *was adopted without modification.*

Article 19.

M. SERVAIS (Belgium) pointed out that the word "States " had been replaced by " High Contracting Parties ".

Moreover, to meet the wishes of the Polish delegate, who had observed that there were two Protocols of December 16th, 1920, he wished to state that the reference was to Protocol A, which alone bore that date. The Polish delegation's desire had therefore been met.

Article 19 *was adopted with the above modification.*

Article 20.

M. SERVAIS (Belgium) reminded the Conference that the wording originally proposed in line 2 on page 5 had been " at the present Conference " or " at the preparatory Conference ". Fortunately, however. the Convention had been prepared and was about to be adopted by a single Conference. The Drafting Committee therefore considered the best method of referring to the present Conference was to say " the Conference which elaborated the present Convention. "

Article 20 *was adopted.*

Article 21.

Article 21 *was adopted without alteration.*

Article 22.

M. SERVAIS (Belgium) said that the words " State " or " Government " had been replaced by " High Contracting Parties ".

Secondly, he also reminded the Conference that the original Article 22 laid down the procedure according to which reservations might be admitted by the other contracting parties and referred only to States which might accede to the Convention later. The following point had therefore to be decided by the Drafting Committee : if, at the moment of ratifying the Convention, a State found it necessary to subordinate its ratification to a reservation, by what procedure could this reservation be admitted by the other contracting parties ? The Drafting Committee had supplied this omission by referring to Article 20. Thirdly, instead of stating that a reservation might be accepted they had employed the formula already contained in Part I of the Protocol, to the effect that " the participation of the country making the reservation shall be deemed to have been accepted . . . subject to the said reservation ".

Article 22 *was adopted with the above modifications.*

Article 23.

Article 23 *was adopted without modification.*

Articles 24 *to* 26.

Articles 24 *to* 26 *were adopted without modification.*

Article 27.

M. SERVAIS (Belgium) reminded the Conference that a time-limit had been suggested for the denunciation of the Convention. The Drafting Committee had thought that, in view of the nature of the Convention, it was not necessary to define this time-limit and that it would be better to adhere to the text as proposed.

Article 27 *was adopted without modification.*

Article 28 *and Final Paragraph.*

Article 28 *and the Final Paragraph were adopted without modification.*

Additional Discussion of Article 9.

Article 9.

The PRESIDENT said that certain delegates had enquired the exact meaning of Paragraph 2 of Article 9.

M. SERVAIS (Belgium) re-read Article 9. He explained that this article provided for the case of a foreigner who had committed a delict abroad and had then taken refuge in a third country. This third country would be bound to prosecute provided extradition had been requested but had not been found possible for some reason unconnected with the act. It was normal that the injured State or the State of which the accused was a national should commence by asking for his extradition. The action of the country in which the counterfeiter had taken refuge need be no more than incidental. Consequently, the obligation for that State to prosecute was subject to the condition that extradition had been requested but could not be granted for some reason unconnected with the act.

He quoted the following example : Belgian legislation did not allow the extradition of a foreigner if the act had not been committed in the territory of the requisitioning country.

The article provided for the case in which three countries would be concerned : one country, whose currency had been counterfeited ; another country, in which the crime had been

committed ; and a third State, in which the counterfeiter had taken refuge. This last country received a request for extradition from the injured State ; if its laws were like the laws of Belgium, it would be obliged to refuse extradition because the applicant State was not the one in whose territory the crime had been committed. Consequently, the country in whose territory the counterfeiter had taken refuge would be obliged to institute proceedings.

M. Duzmans (Latvia) said that the Sub-Committee of the Legal Committee, in the draft submitted to the Conference, had suggested that the phrase in Article 9 " as a general rule " should be explained in the Protocol as having been inserted out of regard for the present situation in so far as the various laws made provision for the cases referred to in Article 9. According to this suggestion, the words " as a general rule " would mean : only within the limits in which some definite body of law allowed the prosecution of foreigners for offences committed abroad. That interpretation was certainly not the correct one. The Latvian delegation had explained its standpoint in a note. In its opinion, proceedings would be taken within the limits of Latvian legislation, and the obligation contained in Article 9 would be entirely respected, although Latvian legislation did not admit as a general rule the principle of prosecuting for offences committed abroad.

He thought it would be well to indicate in the Minutes the exact meaning of the expression " as a general rule ". Otherwise it might be held that Article 9 did not apply to countries in which such action was not a general rule.

M. Pella (Roumania), Rapporteur, mentioned the points he had developed at one of the former meetings of the Legal Committee with regard to the expression " as a general rule " in Article 9.

Only States which did not as a general rule allow prosecution for offences committed abroad, *i.e.*, States in which criminal jurisdiction was based on the principle of territoriality, were excepted from the obligation to institute proceedings.

On the contrary, the obligation contained in Article 9 existed for States whose laws allowed, outside the principle of territoriality, the principle of instituting proceedings in connection with offences committed abroad, such proceedings being justified either by the nature of the offence or the interest injured, or on account of the offender's nationality, etc.

In conclusion, he said that Article 9 marked important progress in international action for the suppression of counterfeiting, and that it was a first step towards admitting in the future, without any reservations, the principle of the universality of justice in the pursuit of criminals.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) thought that M. Servais' explanations were not absolutely satisfactory. In the case he quoted there clearly was a connection between the act and the refusal to extradite, since the refusal was determined by the place in which the crime had been committed.

M. Szondy (Hungary) said that the application of Article 9 was subject to the condition that extradition had been requested and could not be accorded for a reason unconnected with the act. What would happen if extradition were granted by the State applied to but could not be carried out for some material reason ? After three months, should not the accused be set at liberty ?

M. Pella (Roumania), Rapporteur, in reply to the Hungarian delegate, said that if, on the one hand, some material reason prevented the State applied to from delivering up the accused to the applicant State, and if, on the other, there was no motive connected with the act to justify the refusal of extradition, the State applied to would itself be obliged to prosecute the accused.

M. Szondy (Hungary) referred to the possibility of the State applied to being prepared to grant extradition but being unable to do so because certain other States through whose territory the accused would have to be transported refused their consent.

The President said he thought that in this case paragraph 2 would apply.

He asked the Drafting Committee whether they could not add the word " executed ".

M. Lachkevitch (U.S.S.R.) raised a similar point. Instead of the words " cannot be granted ", he would prefer " cannot take place ".

M. Servais (Belgium) asked how a State could understand that extradition had been granted if it had not received delivery of the accused ?

M. Caous (France) took up the hypothesis suggested by the Hungarian delegate. The State applied to granted extradition, but certain other countries through which the accused would have to pass were not very favourably disposed, and the applicant country did not exercise sufficient pressure on them. He was afraid that might be making it over-easy for the applicant country to leave it to the State applied to to institute proceedings which, as a matter of fact, were of no concern to it. Thus the applicant country would only have made a request for extradition in order to hide its secret desire not to prosecute the criminal.

M. Servais (Belgium) regretted the comments being made on this article, since these might be taken as a basis for future interpretations, whereas he was sure that, on due reflection, M. Caous himself would not maintain his present standpoint. The French delegate considered that the institution of proceedings did not concern the State applied to.

M. Caous (France), interrupting M. Servais, said : " I should have said, were of *less* concern to it ".

M. Servais (Belgium) concluded from this remark that it was absolutely necessary to maintain Article 9, which formally bound the State applied to, even if it were less concerned in the matter, to institute proceedings against the counterfeiter.

He thought that the hypothesis referred to by the Hungarian delegate could only concern States having no access to the sea. He did not see how there could be any doubt as to the interpretation of Article 9. The second paragraph provided for cases in which extradition was not granted, that is to say, when the refugee was not delivered up.

In order to make the meaning clearer, he proposed the following text :

> " The obligation to take proceedings is subject to the condition that extradition has been requested and that the accused cannot be delivered up for some reason which has no connection with the offence. "

The President referred this question back to the Drafting Committee.

New Text of the Reservation submitted by the Delegation of China for Inclusion in the Protocol.

A new text of the Chinese reservation was read in English, as follows :

> " Pending the negotiation for the abolition of consular jurisdiction which is still enjoyed by some Powers, the Chinese Government is unable to accept Article 10, which involves the general undertaking of a Government to grant extradition of a foreigner who is accused of counterfeiting currency by a third State. "

M. Hayashi (Japan) said he had no observations to offer in connection with this text in view of the British delegate's comments.

The President observed that this meant that, in view of the new meaning given to the reservations embodied in the Protocol, the Japanese delegation had no comments to make.

The Protocol stated, not that the Conference accepted the reservations, but that it agreed to the participation of countries making these reservations subject to these reservations.

M. de Chalendar (France) said that, before making any comment, he would like to know which of the two Chinese reservations was being discussed, for the English text that he had just heard was different from that which had been distributed in the first instance.

M. Lone Liang (China) said that, with all due respect to the French delegate, he wished to maintain the original text. He could not understand why a change had been made in the text he had proposed, seeing that this text merely stated a fact and did not in any way affect the outcome of the negotiations.

The President, replying to M. de Chalendar, said that the text now being discussed was that which had just been read in English.

M. de Chalendar (France) said he therefore understood that they were discussing the text which began with the word " Pending ". He stated that, although it would have preferred the first draft communicated to it, the French delegation would not object to the participation of the Chinese Government in the Convention in spite of its reservation.

He wished to state, however, that the French Government entirely agreed with the comments of the British delegate : it must be clearly understood that the French Government's acceptance of this reservation did not in any way affect France's policy or limit her decisions.

M. Lone Liang (China) said that he was not present when the British delegate had spoken on the subject. In reply to the President, however, he admitted that his deputy had been present. He bore witness to France's spirit of conciliation and thanked M. de Chalendar for accepting the Chinese resolution.

M. de Chalendar explained that he had only " accepted the participation of China subject to the reservation ".

M. Servais (Belgium) stated that Belgium entirely agreed with the French delegation's declaration.

The President was of the opinion that this declaration did not, technically speaking, constitute an objection to the reservations within the meaning of the Preamble of the Protocol, Part II.

The consideration of the reservations being terminated, he announced that the next meeting would take place at 4 p.m.

Verification of Credentials.

The PRESIDENT asked M. Kraske, Chairman of the Sub-Committee for the Verification of Credentials, to make a final review of the credentials of the delegates with a view to the signature of the Convention.

(The meeting rose at 1.20 p.m.)

SIXTH PLENARY MEETING

Held on April 19th, 1929, at 4 p.m.

President : Dr. Vilem POSPISIL.

Report of the Drafting Committee on Article 9.

Article 9, Paragraph 2.

M. SERVAIS (Belgium) read, on behalf of the Drafting Committee, the new text of this paragraph, which was worded as follows :

> " The obligation to take proceedings is subject to the condition that extradition has been requested and that the country to which application is made cannot hand over the person accused for some reason which has no connection with the offence. "

Proposal by the Turkish Delegation : Revision of the Convention.

The PRESIDENT informed the Conference that the Drafting Committee had not felt itself able to recommend the Turkish suggestion to the effect that they should state that the Convention would be open to revision from time to time. He added that the Turkish delegation had expressed its astonishment, and desired that the matter should be mentioned in the Minutes. He had therefore made this communication.

M. ALCISI (Italy) supported the Turkish proposal, and observed that a provision of this kind already existed in certain conventions—for instance, in the Convention for the Suppression of Obscene Publications.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) also supported the Turkish delegation's proposal. He thought it would be desirable to fix a date on which the Convention should be revised, for it was probable that this Convention, like every other, would be found to have its weak points.

M. ALOISI (Italy) said he supported the Turkish delegation's proposal because he thought that it might be necessary to amend the Convention some time or another, and not because he considered the Convention defective at the present time. In that respect, he did not absolutely share the Yugoslav delegate's opinion.

M. CAEIRO DA MATTA (Portugal) also supported the Turkish proposal.

The PRESIDENT observed that the Turkish delegation had not maintained its proposal. The latter was not, therefore, for the moment under discussion. If the Turkish delegation wished to change its mind, he would raise no objection ; he felt bound to point out, however, that it would have been better to discuss this point when examining the articles. He asked the Turkish representative whether he maintained his proposal.

M. Ibrahim BAHATTIN (Turkey) stated that he maintained his proposal.

M. SERVAIS (Belgium) explained, on behalf of the Drafting Committee, the reasons for which they had not recommended the Conference to insert a clause of this nature. It would be comprehensible that a provision of this kind should be included in a convention touching on very delicate points on which there had been much diversity of opinion, or in a convention concerning matters which were bound to evolve and develop. But in the case of a convention

like the one they had before them—which he did not hold to be quite as bad as the Serb-Croat-Slovene delegate suggested, but which, in his opinion, marked a certain progress—he did not see any reason to make provision for revision in the relatively near future.

He pointed out the probable effects of such a clause. It would mean that, within a given time, the members of the Conference or their successors would be obliged to come back and discuss again all that had been so carefully discussed already. Quite possibly the only result would be the self-same Convention. If, by any chance, the Convention did prove to be a bad piece of work, as one delegate had seemed to suggest, this would be seen in the working or else would be proved by failure to ratify, whereupon revision would become necessary. In such case, the League of Nations would have to take the matter up. He thought it would be preferable at the present time not to fix any time-limit, but to wait until the necessity for revision arose.

These were the reasons that had led the Drafting Committee to reject this clause, which was not necessary in view of the nature of the Convention, its provisions and the circumstances in which those provisions had been adopted, *i.e.*, in almost every instance unanimously.

The PRESIDENT drew the attention of the Conference to the fact that it had created central offices and had made provision for conferences between these central offices, so that a permanent organisation existed for the exchange of views with regard to the application of the Convention. The present Conference had, so to speak, left it to this institution to take the initiative in the matter of the international protection of cheques, stamps, etc. It would obviously be possible to take action for the revision of the Convention if necessary. All experts in criminal law were, however, agreed that matters in this domain did not evolve with such rapidity as to necessitate making provision for possible revision in the immediate future. If far-reaching changes were made in penal codes and new concepts appeared as a result of international efforts to secure unification, such evolution would have its effect on existing organs, which would doubtless take steps to adjust themselves to the new circumstances. He agreed with the Drafting Committee that it would not be desirable to fix a time-limit then and there.

M. PELLA (Roumania), Rapporteur, appealed to the Turkish delegate to withdraw his proposal.

He was personally quite favourably inclined to the conception on which the proposal was based. He would point out, however, that, if events finally proved the Convention to be unsuitable, no time-limit fixed by the Conference for revision would ensure its improvement. Events themselves would bring that about.

At the present time, they could foresee neither the nature of such events nor the period at which they might occur.

He would point, as an example, to the strong current of opinion in favour of the international unification of criminal law. Before the war, such unification would have been regarded as a Utopian dream. In their time, however, it had become a real possibility. They had tangible proof of this, first in the work of the official Conferences on Unification, which had unified certain texts in the general parts of the draft penal codes of the countries represented at those Conferences. Further proof was furnished by the fact that, in several recent conventions, the method of instituting and conducting criminal proceedings had been unified in connection with certain international crimes or delicts.

He thought that there was a strong tendency at the present time working for the renovation of criminal law. That tendency would finally—whether they wished it or not—bring about radical changes in the manner of dealing with criminals.

They should await events and could be quite sure that, if real necessity arose, all the States which had ratified the present Convention or had acceded thereto would agree to make the necessary changes and adapt it to meet new conditions, without the Conference having fixed any time-limit for revision.

M. Ibrahim BAHATTIN (Turkey) said that, in a spirit of conciliation and to avoid prolonging the discussion, he would withdraw his proposal.

M. ALOISI (Italy) thought that M. Pella's speech provided a new argument in favour of the Turkish representative's proposal. M. Pella had drawn special attention to the powerful forces now making for evolution in the domain of law. But *accessorium sequitur principale*, and, as M. Bahattin had withdrawn his proposal, he had no further reason to continue his argument.

The PRESIDENT thanked M. Bahattin and M. Aloisi. He added that this discussion would appear in the Minutes and would show that the Conference did not hold the present Convention to constitute the last word of international evolution in the domain of anti-counterfeiting measures.

Second Reading of the Draft Final Act.

The PRESIDENT pointed out the essential difference between the Final Act and the Convention itself. In the Final Act certain facts were noted, and signing the Convention and Protocol was an entirely different matter from signing the Final Act. Moreover, he proposed

to submit to the Conference, at the third reading, a clause which would make it clear that the Protocol formed part of the Convention and was subject to the same procedure, whereas the Final Act was a distinct instrument not subject to Government ratification.

M. DE CHALENDAR (France) proposed that the form of the second paragraph should be modified, the following text being inserted in its place :

> " Having received the invitation extended to them by the Council of the League of Nations to participate in a Conference for the Adoption of a Convention for the Suppression of Counterfeiting Currency . . . "

He observed that this was the object of the present Conference.

The PRESIDENT replied that this change would be made in accordance with M. de Chalendar's desire.

The provisions of the Final Act were then read.

The Conference decided that the third paragraph should read :

> " In the course of a series of meetings between April 9th and April 20th, 1929, the instruments hereinafter enumerated were drawn up :
>
> " I. Convention, dated April 20th, 1929 . . . "

RECOMMENDATIONS.

Recommendation I.

The PRESIDENT drew attention to the Drafting Committee's proposed addition to the text, according to which the beginning would read as follows :

> " That the Council of the League of Nations should communicate, as soon as possible, the text of the Convention . . . "

Recommendation I was adopted with the above alteration.

Recommendations II and III.

Recommendations II and III were adopted.

Recommendation IV.

The PRESIDENT pointed out that Recommendation IV embodied the very judicious suggestions of the Italian representative.

M. ALOISI (Italy) thanked the President.

Recommendation IV was adopted.

Recommendation V.

M. DE CHALENDAR (France) proposed that, in the fourth line, the conjunction " et " (in the French text) should be omitted.

Thus modified, Recommendation V was adopted.

Recommendations VI to XIV.

Recommendations VI to XIV were adopted without alteration.

Final Clause.

The Final Clause was adopted without alteration apart from the date, entered as April 20th.

The PRESIDENT said that the Final Act would be signed, not only by the heads of delegations, but by all members of delegations who had officially taken part in the discussions.

Statements concerning the Optional Protocol.

The PRESIDENT drew attention to the fact that an Optional Protocol had been submitted and that several delegations had agreed *inter se* to sign this Protocol.

M. Pella (Roumania), after explaining the nature of the Optional Protocol which he had drafted, made the following statement on behalf of his own delegation and the other delegates who had informed him that they were prepared to sign this international agreement :

" The Optional Protocol will take effect only in respect of the States that sign it or accede to it and will not in any way affect the reciprocal rights flowing from the Convention, nor the interpretation of the Convention in the case of States which do not sign or accede to this Optional Protocol. "

M. Schultz (Austria) said he would sign the Optional Protocol.

M. Caloyanni (Greece) made the same statement.

M. Caeiro da Matta (Portugal) made the same statement.

M. Toncesco (Roumania) made the same statement.

M. Kallab (Czechoslovakia) read the following declaration :

" According to the formal instructions of my Government, I entirely agree with the Roumanian representative's proposal, and wish to state that Czechoslovakia will sign the Optional Protocol even should the latter imply the connection of counterfeiting with a political offence. "

M. Sokalski (Poland) stated that the Polish Government would consider the possibility of signing the Optional Protocol.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said that he might ask his Government to authorise him to sign the Optional Protocol.

M. Pella (Roumania) thanked the delegates who had been good enough to announce their intention of signing the Optional Protocol which he had presented, and expressed the hope that this Protocol would strengthen the hands of the States which signed it against certain new and extremely dangerous forms of counterfeiting.

Second Reading of the Draft Protocol.

The Protocol was read again.

M. Caloyanni (Greece) pointed out a difference between the English and French versions in Section 2 of Paragraph I.

Sir John Fischer Williams (Great Britain) agreed that this was a point to be dealt with by a small committee. It was, he thought, the delegation of the U.S.S.R. which had been responsible for calling attention to this point, and, as he had understood it, the phrase " le régime des excuses " referred to the English practice according to which the Attorney-General in certain events entered a plea of *nolle prosequi*, and the nearest approach to this seemed to be that it referred to the general administrative discretion as to the institution in particular cases of prosecutions and to the way in which prosecutions were to be carried through ; that was to say, that at any moment the counsel for the Crown, even after the prisoner had pleaded, might say that he did not propose to offer any evidence. This was what he had understood to be the sense of the French expression and was the sense which he had attributed to this particular interpretative clause.

M. Caloyanni (Greece) suggested that this point should be submitted to the Drafting Committee in order that the two texts might be brought into line. They would thus avoid all difficulty, if a question of interpretation arose, for persons not fully acquainted with the terminology employed in Anglo-Saxon and Latin law respectively.

This point was referred back to the Drafting Committee.

The Protocol was adopted.

The discussion on the second reading of the Convention, Protocol and Final Act was closed. The third reading was adjourned until the next meeting.

(The meeting rose at 5.35 p.m.)

SEVENTH PLENARY MEETING

Held on April 19th, 1929, at 6 p.m.

President : Dr. Vilem Pospisil.

Third Reading of the Draft.

The President opened the discussion on the third reading.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) made the following declaration:

" As I have already pointed out, the Convention has its faults, like every human creation. We are bound, however, in the interests of humanity, to work for the unification of law and justice. From this point of view, the Convention constitutes great progress. I shall therefore, as delegate of the Serb-Croat-Slovene Government, sign it and the Optional Protocol proposed by the Roumanian delegation. "

The President remarked that he did not think it was necessary to read the whole of the Convention, but he would ask the Secretary to draw attention to any changes that had been made. Translations into English would only be made when the English text was affected.

Preamble.

The Preamble was adopted.

Articles 1 *and* 2.

Articles 1 *and* 2 *were adopted.*

Article 3.

Article 3 *was adopted with the following modifications* : in the fourth line, the word " of " to be inserted after the word " country " ; in the fifth line, the words " the same " to be inserted after the word " uttering " ; in the sixth line, commas to be inserted after the words " commit " and " in ".

Articles 4 *to* 7.

Articles 4 *to* 7 *were adopted.*

Article 8.

Article 8 *was adopted with the following modification in the French text* : in the seventh line : read " pouvait " instead of " pourrait ".

Article 9.

Article 9 *was adopted with the following modifications* : in the sixth line : the words " cannot be granted " to be omitted, and after the words " requested and " to be inserted the phrase " that the country to which application is made cannot hand over the person accused ".

Articles 10 *to* 15.

Articles 10 *to* 15 *were adopted.*

Article 16.

Article 16 *was adopted with the following correction in the French text* : in the twentieth line : the words " commission rogatoire " to be in the plural.

Articles 17 *and* 18.

Articles 17 *and* 18 *were adopted.*

Article 19.

Article 19 *was adopted with the following modification* : in the fifth line : after the word " Protocol " insert : " bearing the date ".

Articles 20 *and* 21.

Articles 20 *and* 21 *were adopted.*

Article 22.

Article 22 *was adopted with the following modification* : in the seventh line : after the word " participation " insert : " in the Convention ".

Article 23.

Article 23 *was adopted.*

Article 24.

This article was adopted with the following alteration in the third line : the word " the " to be omitted before the word " colonies ".

Articles 25 *to* 28.

Articles 25 *to* 28 *were adopted without alteration.*

Final Paragraph.

In the paragraph immediately preceding the signatures, a comma to be inserted after the words " Done at Geneva ".

Protocol.

After I, write " Interpretations ".

This Section was adopted with the following modifications : in the eighth and ninth lines the words " questions as to the institution and conduct of prosecutions " to be replaced by the words " the principles on which a lighter sentence or no sentence may be imposed " ; in the thirteenth line the word " States " to be replaced by the words " High Contracting Parties ".

After II, write " Reservations ".

This Section was adopted with the following modification : in the eleventh and twelfth lines the words " Union of Socialist Soviet Republics " to be altered to " Union of Soviet Socialist Republics ".

Section III was adopted with the following modification : in the tenth and twelfth lines, the words " Union of Socialist Soviet Republics " to be altered to " Union of Soviet Socialist Republics ".

The PRESIDENT pointed out that the following text should be inserted at the end of the Protocol to show that it is an integral part of the Convention.

The Secretary then read the following clause :

> " The present Protocol, in so far as it creates obligations between the High Contracting Parties, will have the same force, effect and duration as the Convention of to-day's date, of which it is to be considered as an integral part. "

Declaration by the Delegation of the Union of Soviet Socialist Republics.

M. LACHKEVITCH (U.S.S.R.), on behalf of the delegation of the Union of Soviet Socialist Republics, made the following declaration :

" As regards the provisions of Article 24, in so far as they refer to mandated territories, the delegation of the Union of Soviet Socialist Republics is instructed to remind the Conference that the Government of the Union has, as is known, always adopted a negative attitude towards the mandates system. "

Final Act.

The SECRETARY pointed out that the second paragraph had been amended as follows :

> " Having received the invitation extended to them by the Council of the League of Nations to participate in a Conference for the Adoption of a Convention for the Suppression of Counterfeiting Currency. "

M. DELAQUIS (Switzerland) asked why the title of the Convention did not contain the word " prevention " as well as " suppression " of counterfeiting.

The SECRETARY replied that the Council's invitation to the various Governments did not contain the word " prevention ".

The PRESIDENT appealed for the last time to delegates to send in their corrections in the list of delegates to be included in the Final Act.

The first part of the Final Act, up to but not including the Recommendations, was adopted.

RECOMMENDATIONS.

Recommendation I.

The text adopted was the following :

" That the Council of the League of Nations should communicate as soon as possible the text of the Convention and Protocol for signature or for accession to all the Members of the League of Nations and to non-member States in cases where the Council thinks it desirable. "

Recommendation II.

The word " the " before " situation " was replaced by " their ". The words " so far as their respective countries are concerned " were deleted.

Recommendation II was adopted thus altered.

Recommendation III.

Recommendation III was adopted without alteration.

Recommendation IV.

In this recommendation, the word " advices " was replaced by " notices ".

Recommendation IV was adopted thus altered.

Recommendations V and VI.

Recommendations V and VI were adopted without alteration in the English text.

Recommendation VII.

Recommendation VII was adopted in the following form :

" That the various banks of issue should create a service with which the central offices should remain in close contact, unless such a service already exists. "

Recommendations VIII and IX.

Recommendations VIII and IX were adopted without alteration.

Recommendation X.

In Recommendation X, the word " should " was inserted before the word " follow ".

Recommendation X was adopted thus altered.

Recommendation XI.

In Recommendation XI, a comma was inserted before the word " etc. ".

Recommendation XI was adopted thus altered.

Recommendations XII, XIII and XIV.

Recommendations XII, XIII and XIV were adopted without alterations.

VOTE ON THE WHOLE.

The Final Act was adopted in entirety.

Declaration of the Delegates of Latvia, the United States of America and China.

M. DUZMANS (Latvia) wished to explain his Government's attitude. As the Conference was aware, he was only participating in its work as an observer. Circumstances alone had

caused the Latvian Government to adopt this attitude. Its opinion with regard to the question as a whole was favourable, but, previous to his appointment, it had been impossible to obtain the opinion of all the departments concerned. Nevertheless, a few days before the opening of the Conference, he had received instructions explaining the Latvian Government's point of view with regard to a number of clauses in the draft Convention. He had been instructed to lay these views before the Conference—which entailed a certain amount of active collaboration —in order to ensure as far as possible that the final text should be acceptable to the Latvian Government. From a practical point of view, it would certainly have been better if he could have been an active member, but from a juridical point of view he felt bound to explain to the Conference why he had taken an active part in spite of the fact that he was officially only an observer and informer.

The PRESIDENT pointed out that the Latvian representative might be regarded as an informer from both points of view.

M. DUZMANS (Latvia) thanked the President for his courteous observation.

He hoped, therefore, that the Conference would understand the reasons for the juridical contradiction between his active attitude—for which there was not the same justification as in the case of the other third parties there present—and his official status. The main point was that he was able to state that the Latvian Government was favourably disposed towards the Convention, and he had reason to believe that it would accede thereto.

That was why he had ventured to address the Conference, because, as he was not empowered to sign the Convention, he would not be present at the following meeting.

He could at any rate assure the Conference that his Government was strongly in favour of an instrument which marked considerable progress towards the international unification of criminal law.

The PRESIDENT noted M. Duzman's declaration. The Latvian delegate had no need to offer any excuses for intervening in the discussions, since he had helped to throw light on the problem and improve the wording of the texts adopted.

Mr. WILSON (United States of America) recalled that his delegation had not been authorised by its Government to sign the Convention, and, in order to avoid any misunderstanding of the non-participation of his delegation in the signing of the Convention, he wished to give a brief statement of the reasons. He explained that, on account of the great distance at which America lay from Geneva, it had been impossible for him to keep in constant touch with his Government and to secure day-to-day instructions. His Government felt that it was necessary for it to see the texts of the documents before pronouncing any definite opinion upon them, and the failure of his delegation to sign the Convention did not mean than his Government had already taken a decision regarding it ; on the contrary, he assured the Conference that it would study it with the most sympathetic consideration.

The PRESIDENT thanked Mr. Wilson for his statement, which was certainly a very welcome one to the Conference.

M. LONE LIANG (China) announced that he hoped to be able to sign the Convention the following day, but it had been necessary for him to refer one or two points to his Government. He was hoping to receive instructions the next day, in which event he would be in a position to sign the Convention, but, if the instructions should not arrive in time, he would ask the President whether it would be possible for him to sign later.

The PRESIDENT replied that it was to meet such cases that the contracting States had been given up to December 31st to sign the various Acts of the Conference. He felt that he would thus be replying in advance to the Turkish delegate, who had expressed to him similar scruples outside the meeting.

Further, any delegates who so desired could naturally make analogous statements.

Reading of the Optional Protocol.

The PRESIDENT said that he proposed to read the Optional Protocol for the information of the Conference, although the text had been prepared as a corollary to the Conference. Its aims, he thought, were so intimately bound up with those of the Convention that delegates would certainly be interested to hear the text.

The Optional Protocol was read.

M. DE CHALENDAR (France) said that the President had informed him that he could not allow a discussion on this text. He merely wished to state that his Government regarded favourably the action taken by the Roumanian delegate in connection with this Optional Protocol.

M. PELLA (Roumania) thanked M. de Chalendar for his statement on behalf of the French Government.

Report of the Credentials Committee.

M. KRASKE (Germany) read the second report of the Committee on Credentials. The latter showed that thirteen delegations had been duly authorised to sign any instrument which the Conference might adopt. These were the delegations of the following countries :

Albania,
Austria,
Czechoslovakia,
Germany,
Great Britain,
Japan,
Luxemburg,
Netherlands,
Portugal,
Roumania,
Kingdom of the Serbs, Croats and Slovenes,
Union of Soviet Socialist Republics,
United States of America.

Since the opening of the Conference, other delegations had received similar powers, viz. :

Belgium,
China,
Colombia,
Cuba,
Free City of Danzig,
Denmark,
France,
Greece,
Hungary,
India,
Italy,
Poland,
Switzerland,
Turkey.

The delegates of the following countries were not yet empowered to sign the Convention :

Brazil,
Ecuador,
Finland,
Monaco,
Nicaragua,
Spain,
Sweden.

If any of these latter delegations received full powers before the act of signature, he hoped they would be kind enough to notify the President.

The PRESIDENT requested the Committee on Credentials to meet a quarter of an hour before the meeting for the signature.

He noted with satisfaction that the Conference had completed its work of drafting the Convention.

(The meeting rose at 7.30 p.m.)

EIGHTH PLENARY MEETING

Held on April 20th, 1929, at 11 a.m.

President : Dr. Vilem POSPISIL.

The Signing of the Convention, Protocol, Final Act and Optional Protocol.

The PRESIDENT stated that he would now call upon each of the delegations in turn, and requested the delegates who had statements to make in connection with the signature to be good enough to do so when their country's name was called.

When their country's name was called, the delegates came forward to sign the various Acts.

(N.B.—*In calling the countries, the French alphabetical order was observed.*)

During the ceremony of signature the following observations were made :

Albania.

M. STAVRO STAVRI made the following declaration :

" I must offer a tribute to the inventor of the alphabet, first, because he discovered a means of rendering human thought immortal and, secondly, because, by his classification of the letters, he has, in this Convention, accorded my country the place of honour.

" I hope that destiny will grant me many opportunities to avail myself of this privilege and sign conventions and protocols under which the various countries combine to advance

the cause of humanity and the public weal—a policy which my country and my august sovereign wholeheartedly endorse.

" I regret that I am not able to sign the Optional Protocol concluded as a corollary to the Convention. That would be going beyond my powers, since the Optional Protocol was proposed by Professor Pella, the Roumanian delegate, at so late a date that I have not had time to obtain instructions from my Government. "

United States of America.

The SECRETARY declared that the delegation of the United States of America was not able to sign for the reasons given by Mr. Wilson, chief of the delegation, on the previous day.

Austria.

The PRESIDENT said he wished, now that the Austrian delegation was signing the Convention, to express once more the Conference's regret at the absence of M. Schober, who had been unable to participate in the final ceremony. M. Schober had been very largely instrumental in bringing the Conference to so successful a conclusion.

M. SCHULTZ thanked the President and assured him that he would convey his kind message to M. Schober.

Brazil.

M. BARBOZA-CARNEIRO made the following declaration :

" Mr. President—You were good enough to request me to ask my Government for the necessary powers to sign the Convention which has just been adopted. I am sure you will understand how much I should have liked to comply with your request, but I am also sure that you will wish me first of all to furnish my Government with all necessary particulars concerning the work of this Conference and the Act it has just approved. In view of the importance of this Act, I have thought it wiser to refrain from suggesting that my Government should enter into any undertaking until it has become acquainted with the scope of the relative obligations. Moreover, in view of the distance which separates me from my country and of the inadequacy of telegraphic explanations, I have preferred to remain a witness. I have, however, every reason to believe that my Government will shortly accede unreservedly to the Convention.

" Indeed, gentlemen, the legal principles which have been embodied in this instrument do not, in my opinion, constitute an obstacle to the accession of the United States of Brazil. Thus, for instance, all the acts mentioned in Article 3 are punishable under Brazilian law as ordinary crimes. Similarly, as laid down in Article 5, Brazilian law draws no distinction from the point of view of punishment between the counterfeiting of national or foreign currency. I must not, however, trespass on your valuable time in explaining the provisions of Brazilian law which are compatible with the text of the Convention, or the measures that my Government may have to take in order to comply with its obligations if it accedes to the Convention, as it most probably will.

" I simply desire to prove that the hope I have expressed of seeing my country join the others who, by acceding to the Convention for the Suppression of Counterfeiting Currency, will help effectively to guarantee the security of currency circulation throughout the world is more than a mere act of courtesy.

" I will avail myself of this occasion, on behalf of my Government, to thank the Council of the League of Nations for inviting Brazil to send a delegation to this Conference. It has indeed been a privilege to be an eye-witness of such sincere efforts to attain international collaboration. I am sure that the result constitutes important progress towards the unification of criminal law. "

China.

The SECRETARY informed the Conference that the Chinese delegate, who was at that moment sitting on the Preparatory Disarmament Commission, had requested him to say that he had not yet received the instructions he was awaiting from his Government, but he hoped that he would be in a position to sign the instruments in a few days.

Colombia.

Before proceeding to sign the Convention on behalf of his Government, M. RESTREPO said he desired to put forward certain considerations arising out of the Convention and its concomitant instruments.

He much regretted that his health—which had latterly been somewhat indifferent—had prevented him from taking a more active part in the discussions in the Legal Committee, the Administrative Committee and the plenary sessions.

Colombia was particularly glad that the Council of the League of Nations had taken up the question of the suppression of counterfeiting—thus placing it on an international basis—because in the past Colombia, like all countries, had suffered from the activities of counterfeiters. At the present time, her currency was sound. The unit of currency, the gold peso, was the exact equivalent of the American dollar, but there was also in Colombia an autonomous bank of which the Government possessed four-fifths of the shares. This bank issued notes on lines practically identical with the American system, which Colombia had copied as a result of the enquiries of a Commission headed by M. Kemmerer, to whom he would like to offer a public tribute.

The criminal code of Colombia was the most efficient in the world, for it was a compendium of the best principles contained in the French, Italian, Austrian and, above all, Prussian codes. In the matter of counterfeiting, it already contained most of the principles embodied in the Convention. Colombia was therefore prepared to adopt the Convention as a law ; it would be submitted to the Colombian Parliament, and, when thus ratified, would become a law having precedence over the criminal code.

Colombia had therefore raised no objection to the text of the Convention. He was sorry to have heard certain delegates declare that it would be difficult for them to bring their laws into line with the universal legislation established by the Conference with a view to its adoption by all Governments throughout the world. As soon as the League of Nations had been established and Colombia had been invited to join it, she decided to make all her acts conform to President Wilson's great inspiration. They must begin to think and act internationally.

He therefore felt it an honour to sign these instruments, which were the beginning of the internationalisation of legislation against counterfeiting.

Denmark.

M. William Borberg said he was not able to sign the Convention that day, but had every reason to hope and believe that his country would very shortly sign.

Ecuador.

Don Alejandro Gastelu said that he was only signing the Final Act.

Finland.

M. Rudolf Holsti said that he had not yet received the necessary full powers. He hoped that his country would sign the Convention.

France.

M. de Chalendar agreed with the Albanian delegate that they owed a debt of gratitude to the inventor of the alphabet for two reasons. The first of these was that the alphabet made it possible for them to obtain an accurate terminology, and he would like to draw attention to a printer's error which still remained uncorrected in the first line of Article 3 in which the word " *infraction* " should be in the plural, with an " *s* ".

Subject to this reservation, he was prepared to sign the Convention.

The second reason for which he was grateful to the author of the alphabet was that the latter placed France almost in the centre of the list of States, so that the French delegates had the privilege of hearing, before they signed, various statements which they approved and to which they had nothing to add.

He desired, however, to express the gratitude of his Government, which had taken the initiative in this matter and called for the convening of a Conference to combat counterfeiting. At the same time, he thanked the members of the Mixed Committee, whose work had been so valuable during the discussions, and the representatives of so many States who had come to Geneva to work in a spirit of perfect cordiality and mutual understanding.

The French Government was most happy to note that the Conference had succeeded in preparing a Convention which would lead to great progress in the unification of criminal law and to the taking of very effective steps against counterfeiting.

Greece.

M. Megalos Caloyanni associated himself, on behalf of his Government, with the thanks already addressed to the League of Nations and to the Committee of Experts.

It was a matter of satisfaction to know how the Convention for the Suppression of Counterfeiting Currency would contribute to the progress already attained in the matter of the codification of criminal law ; the International Conferences at Warsaw, in 1927, and Rome, in 1928, for the Unification of Criminal Law had discussed and embodied in uniform texts principles which now formed the very basis of the Conference's work. The countries which were about to sign the Convention included those that had participated in the Rome and Warsaw Conferences. They were once again, therefore, witnessing an advance towards universality.

In the signature of the Optional Protocol, he saw a further expression of the principles laid down by the Warsaw and Rome Conferences. When, during the Conference, a proposal had been put forward to fix a date for the revision of the Convention in order to extend its scope, he felt it was a voice calling them towards the further internationalisation of criminal law in order to strengthen the hands of justice. The League of Nations had now lent great weight to these efforts.

At the time when other States also were about to sign the Protocol, he was glad to hear the French delegate express his sympathetic attitude towards this Act. He hoped that others also would join in what he, too, regarded as progress.

In short, the work of the Conference, leading up to the Convention, had proved highly satisfactory and he was glad to be able to sign the Convention on behalf of the Greek Government.

India.

Mr. Vernon Dawson said that, in signing the Convention on behalf of the Government of India, he wished to point out that he intended to attach to his signature a statement to the effect that it did not include the Indian States. That was not strictly necessary in view of the revised terms of Article 24, which were intended to exclude them, but in view of the position of the Indian States and to avoid any misunderstanding, he thought it advisable, after consulting the Secretariat, to make this statement.

He thanked the Drafting Committee for the satisfactory solution they had found in connection with Article 9, and he also thanked the Conference for accepting it.

Italy.

M. Aloisi made the following declaration :

" On behalf of the Italian Government, I have the honour to express our deep satisfaction at the successful termination of our labours.

" The Convention we have prepared should be regarded as entirely satisfactory, both as a scientific document, the value of which will be fully appreciated by lawyers, and, further, as constituting appreciable progress towards the ultimate formation of a juridical consciousness transcending the frontiers of States and having only one ideal—united action throughout the whole world for the repression of crime and criminals.

" I would therefore beg to assure M. Pospisil, the President of the Conference, and the Chairmen of the two Committees, M. Servais and M. Delaquis, of my admiration and personal thanks for the admirable manner in which they have presided over our labours. "

Nicaragua.

M. Sottile said that he had not yet received from his Government express authorisation to sign the Convention. But he wished to point out that, in a declaration communicated to the League of Nations, the Nicaraguan Government had stated that it was prepared to accept, even in advance, all the clauses embodied in the Convention. That note alone constituted sufficient authority to enable him to sign, but, in order to meet his conscientious scruples, he preferred to await a telegraphic reply.

Roumania.

M. Pella made the following statement :

" Before signing the Convention and the Optional Protocol, I wish to state that this Convention itself—even though we might have wished to go a little further—represents undoubted progress.

" The Convention opens out new vistas of very valuable collaboration under the auspices of the League of Nations for the prevention and punishment of crime.

" We stand on the threshold of far-reaching changes which will transform the very foundations of the international pursuit of criminals.

" As our President, M. Pospisil—whom I once more congratulate—so ably put it, the tendency towards the international unification of certain rules of criminal law is now an established fact.

" At the Eighth Assembly, Roumania proposed the creation of an International Institute for the Unification of Criminal Law. As a first step towards such unification we have this Convention and the official Conferences at Warsaw and Rome in 1927 and 1928, which, in six draft penal codes, have already unified certain fundamental principles for the punishment of crime.

" I cannot, therefore, do otherwise than pay a tribute to those who, by proposing this Conference, have enabled the League of Nations also to study the problem of the unification of criminal law and the improvement of international procedure in the pursuit of criminals.

"As I said at one of the plenary meetings of the Eighth Assembly, I think that the League of Nations provides a powerful means of action in the international campaign against malefactors. The League cannot, therefore, remain indifferent to that growing criminality which, particularly since the war, is an ever-increasing menace to humanity. Henceforth, the League of Nations cannot disdain criminal law as a factor in maintaining peace.

" Criminal law also has, as its object, the maintenance of peace and order. As has so often been observed, it is also called upon to wage war 'on the hostile forces of nature and baneful results of human passions which lead individuals as well as nations towards the abyss of crime'."

He hoped that the League of Nations would deal in turn with all the distressing aspects of international criminality, and that it would, in future Conventions, gradually bring about the *unification of criminal law*, thus helping the law to attain its supreme object : *the pursuit and punishment of crime in every part of the world.*

Finally, he would thank the delegates of the States who had signed the Optional Protocol submitted by him and all the members of the Conference for their unfailing courtesy towards the Roumanian delegation's proposals.

Sweden.

M. Sjöstrand said that, although the Swedish Government had not given him full powers to sign the Convention then and there, that did not in any way imply that the Swedish Government lacked interest in the important international activities foreshadowed in the Convention. He was certain that, when his Government received the Acts of the Conference, it would examine them with the greatest care and the most sincere desire to collaborate in the effective prevention and punishment of counterfeiting.

For some years, Sweden had been engaged in revising her criminal law. When the excellent work of the Mixed Committee and the present Conference had been examined by the Swedish experts, the Government would issue the necessary instructions to the competent authorities in order to give full effect to the Convention.

Turkey.

M. Ibrahim Bahattin said that, as he had not yet received a reply from his Government, he could not sign the Convention.

After the last signature had been apposed, the President announced that the Convention had been signed by the delegations of the following countries :

Albania
Austria
Belgium
Colombia
Cuba
Czechoslovakia
Free City of Danzig
France
Germany
Great Britain and Northern Ireland
Greece
Hungary
India
Italy
Japan
Luxemburg
Netherlands
Poland
Portugal
Roumania
Kingdom of the Serbs, Croats and Slovenes
Switzerland
Union of Soviet Socialist Republics

That gave twenty-three signatures, but four or five fresh signatures would be apposed very shortly. Thus the Convention had obtained a number of signatures greater than the average for previous conventions. It was also a matter of congratulation that certain States non-members of the League of Nations had acceded to this Convention, the text of which had been so drafted as to allow them to sign without in any way affecting the principles of their policy.

Closing Speech by the President.

The President then pronounced his closing speech :

" Now that we are about to terminate the task entrusted to us by the Council of the League of Nations and by the decision of your respective Governments, I think I may allow myself one short instant to pass in rapid review the events which have occurred since the French Government first put forward its proposal. I think this may help us to realise to the full the value of the French Government's action, and of all the other efforts which have resulted in the draft Convention as it left the Mixed Committee. Our discussions have shown that the Committee's draft formed a very useful basis for our work. We must also, in all justice, refer to the reports and memoranda submitted to the Mixed Committee by various members of the Committee, including M. Aloisi, M. Kallab, M. Schober, M. Schnyder van Wartensee, M. van der Feltz, and, above all, the very noteworthy and detailed report of

M. Pella, not to mention the help afforded by the other distinguished members of the Mixed Committee. Nor can we pass in silence over the valuable collaboration of the International Criminal Police Commission.

" As regards the work of the Conference itself, I think I may safely, on behalf of the Council of the League, pay a tribute to the united efforts of the members of this Conference, including as it does the most eminent representatives of the various authorities concerned in the solution of this particular problem. The moral and material interest of the public at large, the diplomatic aspects of the problem, its relationship to criminal and international law, its scientific and practical aspects, the financial and economic interests involved—all these points of view have been competently voiced, with a desire to harmonise them all.

" The first important point—quite apart from the fact that several States non-members of the League have participated in our labours—is that the work of this Conference shows how wonderfully the ideal of international collaboration in protecting the public interests and the concept of international solidarity have progressed. The very visible evolution in this direction has certainly strengthened our determination to succeed. The welcome spirit of collaboration manifest on every side has greatly facilitated my task and has enabled us to overcome innumerable difficulties. I cannot stress this point too strongly.

" I think I am also correct in attributing our success to the very judicious composition of the Conference in so far as the representation of the various aspects of the question and interests involved is concerned. We have thus been able to obtain a satisfactory result in the thorny sphere of the unification of laws, and international criminal law in particular.

" From the standpoint of various theories or, if you prefer it, various scientific methods, the Convention is doubtless open to fairly serious criticism. Again, the Convention is nothing sensational in the ordinary acceptance of the term. I am nevertheless convinced that it constitutes a very important instrument from an international standpoint, and for this very reason its usefulness to mankind may be of a more lasting nature.

" Although at times we have been faced with differences of opinion that penetrate to the very root of the various legal systems so deeply embedded in century-old tradition, we have nevertheless—because we have invariably borne in mind the requirements of practical life and the limits of possibility—progressed one stage farther along the path of unification, collaboration and international solidarity ; we have even progressed a little in the very complicated question of extradition. Extradition is all the more serious and complicated a problem in that it affects not only the relatively restricted series of technical questions with which we have had to deal, but is bound up with the great political principles that actuate the whole sphere of the League's activities.

" Our immediate aim was to discover the most effective means of preventing and punishing counterfeiters. The Convention has attained that object to a very appreciable extent. In the provisions of our Convention, we have laid down the principle that counterfeiting is a crime at ordinary law. In this difficult domain, we have arrived at a formula which, though it may not be entirely satisfactory as far as words go—and we have been at great pains to select our words—is, at any rate, far from being a vague generalisation if the spirit of the Convention be faithfully observed, as I am sure it will be.

" We have united our not unsuccessful efforts with a view to ensuring that counterfeiters shall nowhere find an asylum from justice. It is a well-known saying that the more truly a law reflects public opinion, the more effective it will be. I think I may say that our Convention draws its strength from a very widespread public conviction, which I fully believe permeates its every line.

" From a more general standpoint, in addition to the progress I have mentioned, our discussions have helped to throw further light on certain problems connected with international co-operation and amity.

" The Conference, for instance, has discovered an effective method of submitting and obtaining acceptance by the other parties of reservations to certain clauses submitted by certain contracting parties. I also think that we have been able to improve certain points of procedure.

" In addition, this Conference marks a further stage in the progress towards the great principle of international arbitration. There were other problems of a general nature the solution of which we might have been able to essay : these problems, however, lay outside our terms of reference. It was our duty, however, to state them—for instance, the question of interpretation—and our action in this respect will certainly prove useful.

" The problem of the more effective prevention and punishment of falsifications of other valuable paper (share and debenture certificates, cheques, bills of exchange, etc.)—which have this in common with counterfeiting : that they are a menace to the public that puts its faith in these securities—did not fall within the scope of our mission. But, in such a gathering, it was only natural that we should realise the importance and extent of the interests at stake and, above all, the imminence of the problem in view of the ever-increasing intensity of economic and financial interdependence.

" We may hope that this work of ours will draw the attention of the League to the importance of this problem and lead to further results, and will indeed provide the League with a further occasion to prove its value as an instrument of international collaboration. This I say, for I feel certain that international collaboration between the central offices of the various countries will in the near future provide the basis for fresh action along these lines.

" I have said that our work is not perfect, nor does it constitute an end in itself. That we know, and it is preferable from the point of view of progress not to be too satisfied with one's own achievements. We do not pretend that our aim has been attained in this Convention; we merely feel that we have completed one stage of the journey, hoping that some day others will push still farther afield.

" In the light of these considerations, I regard the Optional Protocol put forward by the Roumanian delegation, and adopted by a number of countries here represented, as a corollary to the Conference, as further evidence of this salutary tendency.

" Do not think that, in thus summarising the results obtained, I am in any way forgetful of your united efforts. We must be particularly grateful to those members who agreed to act as members of the Bureau, of the various committees and sub-committees and, above all, as members of the Drafting and Co-ordination Committee, whose task was sometimes difficult and very arduous.

" I wish to draw particular attention to the self-sacrifice of this Committee and to the spirit of perfect concord which has characterised its labours. It has provided a faithful counterpart of the Conference in its composition and working methods.

" I cannot mention by name all those who have helped to raise our discussions to so high a level and have so wholeheartedly contributed to the attainment of our common aim. I should be obliged to read a whole list of names, beginning in alphabetical order with that of M. Aloisi, but I must make one exception to this rule, and I am sure you will forgive me, to pay a tribute to our revered *doyen*, His Excellency M. Servais—*(general applause)*—for his untiring and invaluable collaboration. At the risk of offending M. Servais' known modesty, I feel bound to refer to his unique talents and inestimable qualities, which have been of such great value to the Mixed Committee. You have all come under the charm of his personality, which dispels all atmosphere of discord and restores harmony in the midst of divergences that appear to be irreconcilable.

" Your Excellency, may I, on behalf of my colleagues and on my own behalf, express the hope that the youthful spirit we admire in you will abide with you for yet many years to come. *(Enthusiastic applause.)*

" We also owe a debt of gratitude to the Secretariat of the Conference for its very efficient assistance and to all the technical staff of the League of Nations which has participated in our work. *(Applause.)*

" Gentlemen, before closing this Conference, I have one desire to express, which I think you all will share, namely, that there may be as many ratifications and accessions as possible, at the earliest possible date, making due allowance for the particular situation of each individual country.

" Finally, I would once more express a hope, which has already been embodied in one of your recommendations, that at the earliest possible date we may see administrative co-operation taking shape in the form of numerous central offices and the meeting of the first conference of these offices.

" I am in duty bound to make one appeal to you, gentlemen—though I am sure it is unnecessary—namely, that we should devote all our efforts in our own spheres of influence and activity to converting this hope into a reality.

" Personally, I would thank you most warmly, gentlemen, for your kindness and courtesy towards myself. " *(General and sustained applause.)*

The Conference was closed.

Conclusion.

Sir John Fischer Williams (Great Britain) then spoke as follows:

" Mr. President—In speaking again, I realise that I am a bit of a rebel, but I wish to complete, if I may, a gap in your closing speech.

" I wish to express to you—and I am certain that I speak in the name of the whole Conference—our thanks for the tact, the wisdom and the cordial hospitality, if I may use the term, with which you have conducted our discussions and which have permitted us to achieve a result with which we are pleased. The international character of our deliberations has often been stressed. But in addition to international spirit there is the human element, personal and national contacts. Permit me to say, Mr. President, that we have found these two essential qualities in you to a high degree. We are, in short, most grateful to you and we tender to you our respect and our gratitude. " *(Loud and sustained applause.)*

The President.—" Gentlemen—I cannot express to you how deeply touched I am by the testimony which you have given me and by the most kind words with which Sir John Fischer Williams has interpreted your sentiments. I assure you that I will keep an ineffaceable memory of this Conference. *(Loud applause.)*

(The meeting rose at 1.15 p.m.)

THIRD PART.

A. MINUTES OF THE LEGAL COMMITTEE.

B. MINUTES OF THE ADMINISTRATIVE COMMITTEE.

A. Minutes of the Legal Committee.

TABLE OF CONTENTS.

Page

First Meeting, held on April 10th, 1929, at 3 p.m.

1. Opening Speech by the Chairman 109
2. Order of Work 109
3. Discussion of the Draft Convention :
   Article 1, Paragraph I, of Draft (final Articles 1, 2 and 23) 109
   Article 1, Paragraph II, of Draft (final Article 3) 112

Second Meeting, held on April 11th, 1929, at 10 a.m.

1. Discussion of the Draft Convention *(continued)* :
   Article 1, Paragraph III, of Draft (final Article 4). 119
   Article 1, Paragraph IV, of Draft (final Article 3). 124

Third Meeting, held on April 11th, 1929, at 3 p.m.

1. Work of the Sub-Committee on Article 1, Paragraph III, of Draft (final Article 4) 127
2. Discussion of the Draft Convention *(continued)* :
   Article 1, Paragraphs IV and V, of Draft (final Article 3) 127
   Article 1, Paragraph VI, of Draft (final Article 5). 130
   Article 1, Paragraph VII, of Draft (final Article 11). 132
   Article 1, Paragraph VIII, of Draft (final Article 7). 134
3. Proposition by M. Pella :
   Complicity : a Distinct Offence. 136

Fourth Meeting, held on April 12th, 1929, at 3 p.m.

1. Work of the Sub-Committee on Article 1, Paragraphs II and III, of Draft (final Articles 3 and 4) 138
2. Discussion of the Draft Convention *(continued)* :
   Article 1, Paragraph IX, of Draft 139

Fifth Meeting, held on April 13th, 1929, at 3 p.m. :

1. Discussion of the Draft Convention *(continued)* :
   Article 1, Paragraph IX, of Draft *(continued)*. 148
   Article 1, Paragraphs X and XI, of Draft (final Articles 8 and 9) . 148

Page

SIXTH MEETING, held on April 16th, 1929, at 10 a.m. :

1. Discussion of the Draft Convention after the Report of the Sub-Committee (document C.F.M./A/11) on Paragraphs IX, X and XI of Article 1, and on Articles 2 and 3 of Draft :

Article 3 of C.F.M./A/11 (Article 1, Paragraphs II, IV and V, of Draft) (final Article 3) 158

Article 4 of C.F.M./A/11 (Article 1, Paragraph III, of Draft) (final Article 4) 160

Article 5 of C.F.M./A/11 (Article 1, Paragraph VI, of Draft) (final Article 5) 160

Article 6 of C.F.M./A/11 (Article 1, Paragraph VIII, of Draft) final Article 7) 161

Article 7 of C.F.M./A/11 (Article 1, Paragraph X, of Draft) (final Article 8) 161

Article 8 of C.F.M./A/11 (Article 1, Paragraph XI, of Draft) (final Article 9) 162

Article 9 of C.F.M./A/11 (Article 2 of Draft) (final Article 10) . . . 163

Article 10 of C.F.M./A/11 (Article 3 of Draft) (final Articles 17 and 18) . 163

SEVENTH MEETING, held on April 16th, 1929, at 4.45 p.m. :

1. Discussion of the Draft Convention *(continued)* :

Article 4 of Draft (final Article 19) 164

Article 5 of Draft (final Article 20) 166

Article 6 of Draft (final Article 21) 166

Article 7 of Draft (final Article 24) 166

Article 8 of Draft (final Article 25) 167

Articles 9 and 10 of Draft (final Articles 26 and 27) 167

2. Proposal by the Turkish Delegation :

An Additional Article 167

3. Discussion of the Draft Convention *(continued)* :

Preamble 168

Article 1, Paragraph I, of Draft (final Articles 1, 2 and 23) 168

Recommendations VI and VII 171

Annex : List of Members of the Legal Committee 173

FIRST MEETING.

Held on April 10th, 1929, at 3 p.m.

Chairman : M. SERVAIS (Belgium).

Opening Speech by the Chairman.

The CHAIRMAN expressed his gratitude at the honour which had been paid to his country by his election as Chairman. He trusted that the Conference would not have cause to regret its choice.

He also wished to express, on behalf of his colleagues, his regret that Baron van der Feltz, the Netherlands delegate, was indisposed and that the Committee would thus be deprived of his assistance. He hoped that Baron van der Feltz would soon be restored to health.

Order of Work.

The CHAIRMAN referred to a statement made by the Japanese delegate two days ago to the effect that it would be wiser to adopt general rules acceptable to all than to go too much into detail. Their work must be practical and not merely theoretical. Progress, especially in international affairs, could only be made by stages. This fact should be borne in mind in the future discussions of the Committee.

He accordingly proposed to take as a basis for the Committee's work the draft drawn up by the Mixed Committee ; each of the articles of the draft would be examined separately.

Adopted.

Discussion of the Draft Convention.

Article 1, Paragraph I, of Draft (Final Articles 1, 2 and 23).

The CHAIRMAN read Article 1, Paragraph I.

The first point which arose was that of extending the Convention to all or certain securities, in addition to paper money. This proposal was supported by various countries, but opposed by many others. He declared the discussion on this proposal open.

M. SZONDY (Hungary) said that the Hungarian Government was of opinion that it would be an improvement if the provisions of the draft were extended to all bearer public credit bonds, as it was quite possible that these securities, like metallic money and paper money, might be forged by an international organisation whose activities extended to several countries.

Paragraph 210 of the Hungarian Penal Code read as follows :

> " The following shall be assimilated to paper money : bonds, banknotes, shares, scrip, vouchers or receipts representing the same, as well as interest and dividend coupons and coupon vouchers (coupons and counterfoils) annexed thereto, issued by a Government or public bank, a commune, association, company, corporation or private person authorised to issue securities of this description, when such securities are printed and made out to bearer. "

This provision applied even when the signature of the issuing authority, certain words or figures had been added to the printed security by hand.

M. CAEIRO DA MATTA (Portugal) said that he would like to pay a tribute to the work of the Mixed Committee ; he was not, however, altogether satisfied with the arrangement of the draft. In Article 1, a very large number of different subjects had been dealt with in sixteen paragraphs. Moreover, some provisions—for instance, those contained in Article 2, which were closely connected with the provisions of certain paragraphs of Article 1—had been couched as separate articles. Article 1 dealt not only with matters of penal law but of commercial procedure as well.

He thought that Paragraph I of Article 1 should form a separate article. The object was to define the purpose of the Convention. He proposed the following wording :

> " The High Contracting Parties regard the rules laid down in the present article as the most effective means for ensuring the punishment of the offence of counterfeiting, and agree to adopt the necessary measures for introducing these rules into their respective legal and administrative systems, except in so far as they may be already embodied therein. "

The CHAIRMAN thought that the questions should be dealt with in their proper order. The very valuable suggestion by the Portuguese representative might be discussed in due course. The Committee was at present discussing cheques, shares and bonds ; was Article 1 to include, not only metallic money and paper money, but other or certain securities as well ?

M. METTGENBERG (Germany) thought that the laws of the various countries were more or less uniform as regards currency proper, but that was not the case with regard to securities. He also thought it would be very difficult to extend the Convention, and the German delegation was not in favour of that course.

The CHAIRMAN, speaking as a member of the Mixed Committee, gave it as his personal opinion that, if the Convention were to be extended to securities, a further meeting of the Mixed Committee would have to be called to prepare a new Convention.

M. BARBOZA-CARNEIRO (Brazil) asked the Committee whether it was also disposed to include the stamps used in certain countries for payments made, for instance, to consular authorities. Some of these stamps were of considerable value ; counterfeiters were aware of this and frequently forged them.

Mr. WILSON (U.S.A.) asked whether M. Barboza-Carneiro desired to include postage stamps.

M. BARBOZA-CARNEIRO (Brazil) said that he had not intended his suggestion to cover postage stamps, but he did not think there was any objection to including them, especially as in England postage stamps were used for the payment of certain taxes and charges.

The CHAIRMAN pointed out that the discussion had already revealed the difficulties in the way of the proposal. The question at once arose how far it was to be extended. The Committee did not appear to be in a position to undertake the investigations necessary for the solution of this question.

M. Ibrahim BAHATTIN (Turkey) was in favour of extending the Convention to cover Treasury bonds, and he thought that, in any case, it should cover public debt coupons.

M. LONE LIANG (China) was of opinion that the Committee should be clear whether it was going to deal with currency only or with other questions. It was the purpose of the Committee to consider the pursuit and punishment of the counterfeiting of currency and not the counterfeiting of public documents or securities, and, if it was now suggested to extend the Convention, there would be no limit to the discussions. They would all agree that currency included paper money and metallic money, and all other things not actually under this head should be excluded. The Chinese delegation would oppose the inclusion under currency of public documents.

Sir John FISCHER WILLIAMS (Great Britain) supported the view of the Chinese delegate and said that there was another reason which was of very considerable importance and which ought not to be forgotten : this was the general terms of reference under which the Conference had been called. It had been convened in pursuance of a resolution of the Council creating a Mixed Committee to consider the subject of the counterfeiting of currency and to prepare the draft of an international Convention ; he understood that fact to limit the objects for which the Committee was formed, and the objects of the international Convention which it was considering, to the counterfeiting of currency. It might be necessary to consider at some future date measures of an international character against the counterfeiting of bonds to bearer and similar instruments, but it seemed to him that there was a technical difficulty in extending the limits of their competence to a matter which was not confided to them.

M. POSPISIL (Czechoslovakia), President of the Conference, said that, as Chairman of the Mixed Committee and President of the Conference, he confirmed the opinion which had just been expressed by the British representative. The Council had limited the Conference's task to the problem of the counterfeiting of currency in the proper sense of the term

M. SZONDY (Hungary) withdrew his proposal.

He also asked the Committee whether the forging of the stamps used on banknotes of the Succession States created by the Peace Treaties was covered by the draft Convention.

M. Barboza-Carneiro (Brazil) said that he would withdraw his proposal if it were not supported by the Committee. He would point out, however, that there was a difference between extending the Convention to commercial securities and extending it to the stamps to which he had referred. In exceptional circumstances, those stamps sometimes passed from hand to hand in the same way as money. For instance, at one time, they were accepted instead of coins on the tramways. In Brazil, the Treasury issued special stamps for the payment of certain taxes. The forging of the stamps was highly profitable.

The Chairman proposed that the Committee should adhere to the Convention as it stood, without extending it in any way, and should adopt a recommendation to the effect that preparations should be made for drawing up a draft international agreement for the pursuit and punishment of the forging of paper securities other than paper money, with special reference to the stamps of which mention had been made.

This proposal was adopted.

The Chairman submitted to the Committee the Hungarian representative's proposal relating to the stamping of banknotes for the purpose of making banknotes issued by a Succession State valid—for instance, in Hungary. This question should, he thought, be referred to the jurists.

M. Pella (Roumania) said that this question had been examined by the Mixed Committee, which had stated that any alteration of paper money and banknotes which were not current, for the purpose of giving them the appearance of legal tender, should be regarded as counterfeiting.

He thought that, as the purpose of forging the stamps was to give money which was not current the appearance of legal tender, an affirmative reply should be given to the question raised by the Hungarian delegate.

The Chairman said that, as regards Article 1, there still remained the question whether there were to be one or two Conventions. At a plenary meeting, it had been suggested that this question should be postponed until the end of the discussion. He was in favour of that procedure and submitted the proposal to the Committee.

Adopted.

The Chairman submitted to the Committee the various proposals made in regard to the text, the first being that of the Portuguese representative to the effect that the words in Article 1 defining currency should be deleted and that this definition should form a separate provision. He added that he was in favour of this proposal.

This proposal was adopted.

The Chairman asked the Committee to give its opinion on M. Givanovitch's proposal (document C.F.M.3). This proposal was to omit the word " réprimer "—rendered in the English text as " punish "—in Paragraph I of the Mixed Committee's draft, and to add the words " whether or not reciprocal treatment is accorded by law or by treaty ".

M. Aloisi (Italy) opposed the deletion of the word " réprimer " and pointed out that most of the articles in the draft Convention referred to " répression "—pursuit and punishment.

M. Caeiro da Matta (Portugal) was also of opinion that the expressions " prévenir " and " réprimer " should both be maintained. " Prévention " had a different meaning from " répression ". There was a theory that " prévention ", in its general and special form, would also include " répression ", but the Committee could not accept this theory.

M. Pella (Roumania) said that, in the widest sense of the term, the idea of " répression " (pursuit and punishment) was contained in that of " prévention ". The penalty should be sufficiently severe to make people afraid of committing the crime ; by pursuing and punishing they were thus preventing.

Nevertheless, since prevention was commonly understood to mean the elimination of the general or special causes of offences, whereas pursuit and punishment implied a series of measures taken to protect the community from such of its members as had given proof of their anti-social tendencies by committing offences, he thought it preferable to retain both words in Paragraph I.

The Chairman remarked that no one had pressed for the deletion of the word " réprimer ".

He also pointed out that M. Givanovitch proposed that the words in Paragraph VI : " whether or not reciprocal treatment is accorded by law or by treaty ", should be transferred to Paragraph I. He questioned the advisability in a general provision of excluding the condition of reciprocity, and thought it would be sufficient to refer to it only in certain special provisions in regard to which it appeared to be necessary that the contracting parties should grant each other reciprocal treatment.

M. Lachkevitch (U.S.S.R.) asked M. Givanovitch whether he intended to prevent the question of reciprocity arising between States signing the Convention, or whether this

question would always arise even if a Government which agreed to or required reciprocity were not a party to the Convention.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) explained the purport of his observation. He did not suggest that the words " whether or not reciprocal treatment is accorded by law or by treaty " should be deleted, but that Paragraph VI and Paragraph I should be combined in a single paragraph ; consequently, the exclusion of the condition of reciprocity would likewise apply to the quality of the currency, whether this were metallic money or paper money.

The Chairman thought that this was mainly a question of drafting, to which the Committee would revert when Paragraph VI came up for discussion ; moreover, when the time came, all questions of detail would have to be referred to a small drafting committee.

Approved.

M. Pella (Roumania) drew attention to the second paragraph of Paragraph I and said that this might constitute one of the most serious obstacles to the application of the Convention, because it would mean that many countries would have to modify their criminal law. The Governments, represented at the Conference, whose countries were governed by a parliamentary system could not, according to the rules of their constitution, make any alteration to their legislation themselves. They could only propose to their Parliaments that their legislation should be amended to bring it into agreement with the provisions of the Convention.

The Chairman replied that it would be better to discuss this question when the time came to decide whether there were to be one or two Conventions.

M. Pella (Roumania) agreed. He would therefore merely explain his proposed amendment to the second paragraph of Paragraph I :

> " They agree to adopt or to propose to their respective legislators the necessary measures . . . "

He added that this formula was already to be found in various conventions and would probably prevent certain difficulties from arising.

Nevertheless, he would be willing to withdraw his proposal if the Conference desired to delete the second paragraph of Paragraph I and if it were stated elsewhere that ratification of the present Convention could only take place after the signatory States had amended their legislation to bring it into agreement with the provisions of the Convention.

Mr. Wilson (U.S.A.) supported M. Pella's proposal, and said that he would state his views later in accordance with the Chairman's invitation.

M. Mettgenberg (Germany) said that, as the first paragraph of Paragraph I expressed general principles, he would suggest that this paragraph should form Article 1 of the Convention, the words " in this article " being replaced by the words " in the present Convention ". The second paragraph of Paragraph I would then form the first paragraph of Article 2.

Sir John Fischer Williams (Great Britain) agreed with the German delegate, but believed that the question seemed to be one that could be left to the Drafting Committee.

M. Mettgenberg (Germany) agreed that the proposal should be referred to the Drafting Committee.

M. Aloisi (Italy) agreed in principle with the German delegate's proposal and thought that articles were preferable to paragraphs.

The German representative's proposal was referred to the Drafting Committee.

Article 1, *Paragraph II, of Draft* (*Final Article* 3).

M. Hayashi (Japan) thought that the meaning attached to the word " fraudulent " in this paragraph was of the greatest importance and that it should be clearly defined. In certain countries, the law provided that the making of forged currency was fraudulent only when that currency was intended to be uttered. The Japanese delegation would be glad to know whether the Committee took this view.

M. Caeiro da Matta (Portugal) associated himself with this question.

He also proposed that Paragraphs II and V should be combined in a single article, Paragraph II to form the first paragraph of an Article 2 and Paragraph V the second paragraph.

M. Aloisi (Italy) disagreed. He thought that Paragraph V should remain separate because the subject-matter dealt with, namely, instruments intended for counterfeiting, differed from that of Paragraph II, which referred to currency. It might perhaps be best to compare Paragraph V with Paragraph II and then see whether some of the rules laid down in Paragraphs III and IV could not also apply to the subject-matter of Paragraph V.

If the Committee did not wish to go so far as that, he would ask that, at all events, the subject-matter of Paragraphs II and V should be kept separate.

The CHAIRMAN pointed out that the Portuguese suggestion would involve an important change in the Convention ; if this were adopted, all participation in or attempts to commit the offences would be punishable under Paragraphs III and IV.

As the difficulties in the way of the adoption of the Convention were already sufficiently great, it would be better not to add to their number.

M. ALOISI (Italy) recognised that Paragraph III logically followed Paragraph II because it contained a rule applying solely to Paragraph II ; on the other hand, Paragraph IV was equally applicable to the fraudulent acts covered by Paragraph V. He therefore proposed that Paragraphs IV and V should be reversed.

The CHAIRMAN showed that this would also involve an important alteration. In many countries, the attempted fraudulent manufacture of instruments or articles intended for the counterfeiting or alteration of currency was a punishable offence ; in many others, however —including his own—the law did not punish an attempt to obtain possession of or to procure those articles. Moreover, an attempt to commit such an offence was very difficult to determine.

M. CAEIRO DA MATTA (Portugal) said that there was no reference in Paragraph II to the offence of exposing counterfeit currency for sale, and asked whether that offence were covered by the word " uttering ".

The CHAIRMAN replied that this question would be discussed later, and noted that no one had supported the proposal that the place of Paragraph V should be changed.

Reverting to Paragraph II, and in reply to the question raised by the Japanese delegation, he explained the meaning of the word " fraudulent " : a person uttering counterfeit currency would not be punished unless he did so intentionally, with the knowledge that he was uttering counterfeit currency for the purpose of obtaining illicit profit for himself or a third person.

The word " fraudulent " had been inserted in the Convention because, under most legal systems, the uttering of counterfeit currency was only punishable if it was of a fraudulent character.

M. LONE LIANG (China) raised the question of the definition of the word " adequate ", as it seemed to him that, when the various countries came to apply the Convention, they would meet with difficulties and would not know exactly what penalties to include in their legislation.

He pointed out that Article 211 of the new Chinese Criminal Code provided :

> " Anyone who counterfeits or alters money of legal currency, paper money or banknotes, with the intent that these notes or money be put in circulation as money of legal currency, will be punished by life imprisonment or a term of not less than five years and in addition will be subject to a fine of not over 3,000 yen. "

Sir John FISCHER WILLIAMS (Great Britain) said that the question which had been raised by the Chinese delegate came perhaps from the fact that the English text was a translation of the French text. In any case, the interpretation of the words " efficacement " and " adequate " must be left in each case to the legislating State. He did not think that anything in the nature of fixed penalties could be included in an international Convention. He thought it would be advisable to leave out the word " efficacement " from the French text and " adequate " from the English text.

M. LACHKEVITCH (U.S.S.R.) thought that, in most cases, the course suggested by the British delegate would be the right one. In the present case, however, he thought that the word " adequate " was necessary and cited a case of counterfeiting in which the accused persons who were found guilty of forging Soviet banknotes were punished by one or two months' imprisonment. The word " adequate " would impose a certain moral obligation on the contracting States and would prevent such ridiculous penalties from being applied.

M. ALOISI (Italy) agreed with the British representative that the word " adequate " which had, he thought, no definite meaning, should be omitted. The Convention should be confined to legal obligations and should not involve moral obligations. The suggestions put forward by M. Lachkevitch might perhaps be included in a report attached to the Convention.

He did not think that the discretionary power of each State with regard to punishments should be limited in any way.

M. PELLA (Roumania) said that the observations of the U.S.S.R. representative raised a question of principle, namely, whether adequate punishment referred to legislative provisions or to the application of penalties by a judge. In the latter case, this would imply interference with the powers of judges and with the exclusive attributes of national courts of law and would be very dangerous.

From the legislative point of view, however, the term " adequate " might be useful. For instance, if the legislation of one of the contracting parties provided ridiculous penalties for the offence of counterfeiting, this would mean that the offence was not adequately punished.

As that would constitute a defective application of the Convention, a dispute of this kind could, under Article 4 of the draft Convention drawn up by the Mixed Committee, be submitted to the Permanent Court of International Justice or to some other court of arbitration.

M. Caloyanni (Greece) agreed with the British representative's views. It was to be presumed that the signatory States would apply the Convention properly and would not impose ridiculous penalties. Moreover, the retention of the word " adequate " might prove dangerous in certain cases, if, for instance, the Permanent Court of International Justice were asked to give its opinion in regard to the application of the Convention.

Mr. Wilson (U.S.A.) said that the Greek delegate had very well expressed certain observations which he had been about to make. He would like, however, to add one more argument in favour of the elimination of these words. Some delegates had expressed the apprehension that the punishment meted out might not be adequate and might even be ridiculous. As a matter of fact, however, the Convention provided for the same punishment for falsifying foreign currency as for falsifying local currency. Here the question of self-preservation would arise, and it was inconceivable that a State would not adequately punish the crime of counterfeiting its own currency.

He would add that, in his view, not only should the word " adequate " be struck out but also the word " penalties ".

Sir John Fischer Williams (Great Britain) accepted Mr. Wilson's suggestion.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said that he had made a similar observation in his report (document C.F.M.3), and had also proposed that the words " the criminal law should include and punish with adequate penalties " should be replaced by " the law should punish ".

M. Pella (Roumania) agreed, after the explanations given by the Greek and United States representatives, to the omission of the word " adequate ". If this word were omitted, he did not see why it was necessary to retain the words " and punish with penalties ". He proposed that they should be deleted.

He also thought it would be better to replace the words " the receiving or procuring ", two lines before the end of this paragraph, by the words " being in possession of ".

The Chairman asked the members of the Committee whether they would agree that the first part of Paragraph II should be drawn up as follows :

" The criminal law should include any fraudulent making or altering . . . "

M. Lachkevitch (U.S.S.R.) feared that the expression " the criminal law should include " might give rise to an interpretation which would not correspond to the intentions of the Committee. Furthermore, the competent authorities of the Union of Soviet Socialist Republics considered that this expression had a different meaning from that of " should be punishable ", used in the following paragraphs. Under these conditions, the words " should be punishable " should be substituted for this phrase. However, if the Committee were opposed to this substitution, it should be clearly understood that the words " the criminal law should include " are to be interpreted in the sense of " should be punishable ". If this were the case, the delegation of the U.S.S.R. would withdraw the proposition which it had formulated in these observations.

The Chairman saw no objection in accepting the substitution proposed by the representative of the U.S.S.R., especially since the expression " should be punishable " had the advantage of being shorter and clearer.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) would prefer the expression " should be declared as offences " to " should be punishable ".

M. Caous (France) believed that the word " punishable " was clearer and more easily translatable.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) insisted that the expression " declared as offences ", which was the more scientific, should be chosen.

M. Lachkevitch (U.S.S.R.) supported the Chairman's proposition because the expression " declared as offences " did not conform with the usual terminology of certain countries—in particular, his own.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said that the expression " declared as offences " can be translated into all languages more or less by the words " declared as offences ".

The Chairman put to a vote the adoption of the word " punishable ".

The word " punishable " *was adopted.*

The Chairman opened the discussion on the substitution of the words " being in possession of " for " procuring ".

Sir John Fischer Williams (Great Britain) said that Professor Pella had already explained the view of the British Government on that point.

M. Ibrahim Bahattin (Turkey) thought that it would be necessary to use the word " procuring ", because an intermediary might sometimes procure counterfeit currency for a third person without actually having it in his possession for an instant.

M. Hayashi (Japan), in order to explain the question raised by him, gave the following example : supposing that a private bank were required to keep a certain reserve in its coffers ; if a police inspector chanced to visit the establishment, the bank, taken unawares, might show him counterfeit money without having the intention of uttering it. According to the Japanese law, such an act did not constitute the offence of counterfeiting.

It was necessary to ascertain whether the word " fraudulent " implied both the possession of counterfeit currency and the intention to utter it.

M. Pella (Roumania) said that the original draft drawn up by the Committee of Jurists referred to the introduction into a country, or the possession of currency known to have been forged or altered, for the purpose of uttering it.

M. Mettgenberg (Germany) said that he could not agree to the proposal to replace the word " procuring " by the words " being in possession of ". At the present time, the German Penal Code was being revised. This question had been discussed and the word " procuring " inserted in the new draft in preference to " being in possession of ".

The Chairman pointed out that the text of Paragraph II did not make it absolutely compulsory for Governments acceding to the Convention to adopt the qualifications which it contained. The essential point was that persons possessing counterfeit currency with the intention of uttering it should be punished.

He did not see how it was possible for persons procuring counterfeit currency not to be in possession of it even for an instant.

M. Caeiro da Matta (Portugal) said that he had already raised the question of the uttering of counterfeit currency before the Conference. He was of opinion that persons uttering counterfeit currency, even without criminal intent, should be punished.

The Chairman urged that the stipulation of fraudulent intent should be retained for the time being.

M. Ibrahim Bahattin (Turkey) asked that, in addition to " procuring ", the words " receiving or being in possession of counterfeit currency for one's own or another's account " should be included.

M. Pella (Roumania) replied that, if the words " being in possession of " were used, the word " receiving " might be deleted.

The Chairman pointed out that Paragraph II was completed by Paragraph IV, under which criminal participation was punishable. The possessor or his accessory would therefore be punishable.

If the words " being in possession of " were used, the word " receiving " could be omitted which was an advantage as the shortest articles of a convention are always the best.

He was unable to support the Turkish delegate's proposal to add : " for one's own or another's account ".

M. Gyllenbögel (Finland) said that, according to the Finnish Penal Code, the mere act of receiving forged or altered currency, even with a knowledge of its fraudulent character, was not sufficient. Complicity in the manufacture, uttering, importation or acquisition of the forged or altered currency was also necessary.

Under the Finnish Penal Code, the counterfeiting and altering of currency and the importation or acquisition of counterfeit or altered currency did not constitute an offence unless those acts were carried out with the intention of uttering such currency as genuine currency. The draft Convention did not expressly mention this intention as a characteristic of the offence. According to that draft, only the fraudulent making and altering of currency were punishable. The Finnish delegation supported the proposal to omit the word " receiving ".

The Chairman asked the German delegate whether he supported the proposal.

M. Mettgenberg (Germany) said that he could not accept it.

M. Caous (France) thought there was no objection to retaining the present wording, although, in the French text, the use of the word " détenir " would be shorter.

M. Pella (Roumania) said that he preferred the word " détenir " (" being in possession "), which conveyed the idea of receiving and procuring. The text would thus be clearer and shorter.

Sir John Fischer Williams (Great Britain) asked the German delegate whether the German Code, either in its present state or in the new draft which was about to be voted, did not make it an offence to be in possession of counterfeit money with knowledge of its fraudulent character and with a view to uttering it.

M. METTGENBERG (Germany) replied in the negative. A person inheriting a certain number of counterfeit coins from his grandfather would not be punishable even if he intended to utter them ; on the other hand, if he procured counterfeit currency for the purpose of uttering it, that would be a punishable offence. There must be some act designed to carry out the intention.

M. DUZMANS (Latvia) suggested saying : " procuring or being in possession of ".

M. SZONDY (Hungary) pointed out that there was a distinction between uttering and fraudulent use ; the Hungarian Penal Code provided different penalities for each of these offences.

M. CALOYANNI (Greece) said that he gathered from M. Mettgenberg's statement that German legislation made a distinction between the active act of making counterfeit currency and the passive act of receiving forged coins by inheritance.

Was there any objection to using the three terms : " being in possession of, receiving or procuring " ? The Legislature of each country could then select the term which it considered most suitable.

The CHAIRMAN proposed that a Drafting Committee, consisting of the following members, should be formed : Sir John FISCHER WILLIAMS, M. PELLA, M. METTGENBERG, M. CALOYANNI and himself. This Committee might meet on the following day at 12 o'clock to draw up a concrete proposal.

M. CALOYANNI (Greece) pointed out that Paragraph II mentioned " making or altering ", whereas Paragraph V referred to " counterfeiting " and " altering ". He proposed that Paragraph II should be amended as follows : " . . . any fraudulent making, counterfeiting or altering . . . ". This would bring the text more into line with the domestic laws of certain countries.

M. PELLA (Roumania) thought it would be better to amend Paragraph V, as the two processes envisaged were those of fraudulent manufacture and alteration.

M. ALOISI (Italy) said that it was inadvisable to use three different terms to express only two different things, fraudulent manufacture and alteration.

The CHAIRMAN pointed out that, as M. Caloyanni had observed, there was an error in the draft Convention, because Paragraph V referred only to counterfeiting or altering, whereas Paragraph II mentioned making. Did the Committee desire to retain the word " counterfeiting ", which, technically speaking, undoubtedly included manufacture and alteration, or did it prefer to make the text clearer, as proposed by the Greek delegate, by using the words : " making and counterfeiting " ?

M. ALOISI (Italy) considered that if one used the words " fraudulent manufacture ", which referred to one of the two kinds of counterfeiting, one should add the other word " alteration ".

M. SZONDY (Hungary) proposed that " counterfeiting " should be used, with the word " making " in brackets.

The question was referred to the Drafting Committee.

The CHAIRMAN said that the question had been raised whether exposing for sale should be included. It had already been pointed out that, since the text provided for the punishment of the offence of uttering counterfeit currency and receiving counterfeit or altered currency with a view to uttering it, it was obvious that the exposing of such currency for sale was also covered.

The Chairman also referred to the question raised by the Portuguese representative. According to the text, the acts enumerated were only punishable when they were committed with fraudulent intent, *i.e.*, with the definite intention of obtaining illicit profit. It was proposed to punish such acts even if they were committed without fraudulent intent. Personally, he thought this would increase the scope of the Convention too much. If this were done, Governments would have to submit their observations on the enlarged text.

M. CAEIRO DA MATTA (Portugal) withdrew his proposal.

M. Ibrahim BAHATTIN (Turkey) said that, in the Mixed Committee's report, the word " altering " was given a very narrow interpretation. According to the explanation given on page 9 of that report, the colouring of coins or the use of any other process to give them the appearance of a higher value—for instance, by removing both surfaces of a coin and affixing them to a coin of lower value or to a simple metal disc—was excluded from the offences covered by Paragraph II of Article 1. Nevertheless, such an offence undoubtedly constituted counterfeiting. In this connection, there was no need to ask whether " the genuine money continues to exist with its substance intact and unchanged " ; the point was whether, by the use of such a process, forged currency could be uttered and deceive persons who accepted it in good faith. He thought that this offence should be assimilated to the making of counterfeit currency.

The CHAIRMAN pointed out that this proposal had reference to the Mixed Committee's report. The offence of applying a gold sheet, for instance, to a silver piece in order to make

it pass for a gold coin was well known in criminal law, but was rarely met with in practice. The point was whether this constituted altering or fraud.

M. Pella (Roumania) said that, when the Committee of Jurists, taking as a basis the preliminary draft which he had himself drawn up, had in June 1927 framed the first draft Convention, this Committee of the Mixed Committee, in a note referring to Article 1 of the draft (which corresponded to Paragraph II of the present draft), stated that : " In the Committee's view, the general terms of Article 1 include all the facts enumerated under Nos. 1, 2, 3 and 4 of Article 2 of his draft " (document F.M.6, First Session of the Mixed Committee).

No. 3 of Article 2 of his draft referred to : " the colouring of genuine metal currency and any operations designed to give genuine metal currency, paper money or banknotes a higher value by altering the signs or figures indicating their nominal value ".

He was therefore of opinion that the question raised by the Turkish delegate was covered by Paragraph II of the present Draft corresponding to Article 1 of the first Draft drawn up by the Committee of Jurists.

He pointed out, however, that the interpretation given by the Committee of Jurists in document F.M.6, referred to above, conflicted with the Mixed Committee's report (page 9). This report stated that the Committee did not consider that the offence of colouring genuine metal currency could be assimilated to that of forging currency.

He therefore thought that the Conference should settle this point, and should state whether the colouring of genuine metal currency to give it the appearance of a higher value should or should not be regarded under the Convention as an act of counterfeiting.

In other words, he would like the Conference to decide whether it would endorse the interpretation given on page 9 of the Mixed Committee's report to the effect that the colouring of metal currency was excluded from the offences covered by the draft Convention.

The Chairman said that the Mixed Committee had decided this question as follows :

> " Colouring or the use of any other process to give metal currency the appearance of a higher value is a fraudulent act, which is punishable under the laws of many countries. Though it is clearly desirable that this should be the case in all countries, the Mixed Committee did not consider that this offence should be assimilated to that of forging currency, since the genuine money continues to exist with its substance intact and unchanged. "

Was the Legal Committee of the same opinion as the Mixed Committee ?

M. Aloisi (Italy) considered that the colouring of money was forgery. The laws of many countries definitely regarded this offence as counterfeiting. There was no need to amend the text, which was quite clear ; it was only necessary to state in the Minutes that the Conference wished the word " altering " to cover the colouring of money.

The Chairman proposed to take a vote on this interpretation of the word " altering ", which could be mentioned in the Protocol or report.

The word " altering " could be interpreted in two different ways. In its narrower meaning, the colouring of money to give it the appearance of a higher value (for instance, by an electro-metallurgical process) would be excluded. This act was regarded by the laws of most countries as a crime, but not as counterfeiting. The Turkish delegate's proposal was that this proceeding should be regarded as counterfeiting.

Sir John Fischer Williams (Great Britain) said that he would find it necessary to abstain from voting. If the text remained as at present, the question of its true interpretation was a matter which might arise in the English courts, and the text of the resolutions, although carrying great weight, would not be decisive. He did not feel himself competent to express a legal opinion on such a difficult question.

M. Caous (France) agreed with Sir John Fischer Williams.

The Chairman pointed out that judges would have before them the interpretation given by the Committee. He added that the case referred to by the British representative might in fact arise and could be provided for by adding to the text : " including the colouring of coins, the manufacture of a coin of higher value by the use . . . ", but this would make the text very long.

He thought it might be more practical to consult the Conference as to whether it was in favour of giving a wider interpretation to the word " altering " to cover the colouring of coins, the manufacture of a coin by the use of another coin, etc. When this opinion had been

obtained, the Sub-Committee which had just been formed would consider how the interpretation favoured by the majority might be embodied in the Convention to be drawn up.

M. Caloyanni (Greece) drew the Committee's attention to the fact that this question was very important from a legislative point of view. If the question were settled as proposed by the Chairman, they would be giving an interpretation of the word " altering " and would run the risk—he did not intend to make a pun—of altering the interpretation given to this word by the existing legal systems. This would have the effect of forcing countries whose laws did not provide the same penalties for altering currency and for counterfeiting to agree to an extension of this term. Was the Committee competent to give or enforce such an interpretation ?

To alter an article might be regarded as falsifying it. Counterfeiting was not a question of changing the appearance of coins, but of falsifying them by a process which altered their substance. There was therefore a risk of confusion. According to the laws of certain countries, the colouring of coins was regarded as fraud. Consequently, the magistrate faced with this problem would find it somewhat difficult to reach a decision if the Committee's interpretation differed from that given by the laws of his country. The Committee could not modify the text of domestic laws. This would clash, not only with juridical principles, but with existing legal practice, and would tend to create a new kind of offence. He was therefore opposed to extending the scope of the word " altering ".

M. Aloisi (Italy) said that, like the British representative, he felt rather uneasy about the matter. The Committee was not competent to give interpretations which might bind judges in any way. It was for the judges themselves to interpret the text of the Convention. He regarded that as a preliminary question. It was obvious that it would be very difficult to change the domestic laws of the various countries. The Greek representative had stated that the offence in question was regarded in his country as fraud. That was not the case in Italy. The Committee should therefore confine itself to giving its opinion on the Mixed Committee's text.

The Chairman thought that the observations by the British, Greek and Italian representatives were highly pertinent, and that the best solution would be to maintain the text as it stood, with the statement that the Conference did not consider the Mixed Committee's report as the decisive source of interpretation.

Adopted.

The Chairman said that M. Givanovitch proposed to delete the words " whatever means are employed " in Paragraph II.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said that he had nothing to add to the observation submitted by him in this connection at the foot of page 2 of document C.F.M.3.

M. Aloisi (Italy) thought that the discussion which had just taken place had proved that these words were not superfluous ; they might even be said to be necessary and the discussion had shown that they should be maintained.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said he still thought that, from the point of view of logic, the words were unnecessary, but they might be of some use in practice. He accordingly withdrew his proposal.

The Chairman read No. 4 of the Note by the Serb-Croat-Slovene delegation concerning the word " fraudulent " (document C.F.M.3, page 3), in which it was proposed that the word " fraudulent " should be replaced by definitions which he thought it would be difficult to insert in legal texts.

" Fraudulent " implied a definite intention to make counterfeit currency with a view to obtaining illicit profit for oneself or for a third person, for which purpose it was to be uttered. The use of other expressions would make the definition obscure or would give it too restricted a scope.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said that he did not wish to expand the arguments he had already put forward in his Note ; he still thought that, in the French text of the draft Convention, the word " fraudulent " was used with different meanings. This was sometimes the case in one and the same paragraph. In his opinion, it was better to use the technical term " intention " or " intent to commit an act ".

M. Pella (Roumania) thought that, from the technical point of view, M. Givanovitch was quite right ; the object of the Convention was, however, to specify the acts which should be punished. Accordingly, it was for the legislators of each country to select the terms which seemed to them most appropriate. For the description of such acts, the word " fraudulent " might therefore be retained, since it did not prevent legislators from using the more technical term advocated by the representative of the Kingdom of the Serbs, Croats and Slovenes.

The Chairman replied to M. Givanovitch's argument by giving the following example : Supposing, he said, that a person were to make forged banknotes and to fill his coffer with them. Suppose he were then to show them to someone to let him see how rich he was and the man were duly impressed by this wealth. Were the first man then to ask the second man to sell him his horse on credit and were the latter to agree, the first man would have made counterfeit

currency, not for the purpose of uttering it, but with a view to obtaining illicit profit. He would therefore be a forger.

This showed that it was inadvisable to define things too rigidly ; there might be many cases in which the use of the terms which M. Givanovitch proposed to substitute for " fraudulent " might render immune persons committing acts which undoubtedly constituted the offence of counterfeiting.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) thought that, in the example given by the Chairman, the man intended to utter the counterfeit currency. He still thought the word " fraudulent " was interpreted in different ways by different legislators ; on the other hand, the words " for the purpose of uttering it ", or even the word which was understood, " intentionally ", were used in the laws of many countries.

The Committee decided to retain the word " fraudulent ".

M. Aloisi (Italy) said that he would have refused to support any decision involving the necessity of a " specific intentional element ". However, since the interpretation given by the Chairman merely brought out the necessity of fraudulent intent without any other specification, he had approved the maintenance of the text of the Convention.

The Chairman said that the discussion of the text of Paragraph II was now closed.

The continuation of the discussion was postponed until the next meeting.

(The meeting rose at 6.15 p.m.)

SECOND MEETING.

Held on April 11th, 1929, at 10 a.m.

Chairman : M. Servais (Belgium).

Discussion of the Draft Convention (continued).

Article 1, Paragraph III, of Draft (Final Article 4).

The Chairman read Paragraph III, the opening words of which should be as follows : " Each of the acts mentioned in Paragraph II . . . should . . . ". He observed that the Committee had received various proposals in connection with this article. The most far-reaching of these was Professor Givanovitch's, namely, that Paragraph III should be omitted.

He (the Chairman) was inclined to think that the Serb-Croat-Slovene delegate had not understood the true purpose of this provision. There were, for instance, countries in which criminal jurisdiction was purely territorial, *i.e.*, the police and judicial authorities of the country took no notice of offences committed abroad. Paragraph III had been inserted to meet this case.

He opened the discussion as to whether this provision ought to be omitted.

M. Caeiro da Matta (Portugal) agreed with Professor Givanovitch and said that he thought the paragraph useless because the acts to which it referred were already provided for in most bodies of law as distinct and separate offences. He added that the last part of the paragraph : " at any rate, if these acts are committed in different countries ", might cause confusion.

M. Hayashi (Japan) said that counterfeiting was punished under Japanese law even if the money was not uttered by the person who had manufactured it. It was also an offence to utter counterfeit money manufactured by a third party. If the money were manufactured and uttered by the same person, the two acts were held to constitute one offence, for which only one penalty could be inflicted. The same provision applied when various acts of manufacturing or uttering false coin had been committed by the same person. The law was the same whether these acts had been committed in one or several countries.

He did not think that Paragraph III was contrary to Japanese law ; he feared, however, that the text was not sufficiently clear, and thought it would be desirable to add a few words of explanation with a view to making it clearer.

The Chairman observed that the last point raised by the Japanese delegate was a question of textual amendment, which would be discussed subsequently.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said he had nothing to add to the statements he had made in his report and he maintained that the paragraph was quite unnecessary.

M. Szondy (Hungary) thought that the paragraph should be maintained. The principle was not a new one since it had already been embodied in the Convention on Traffic in Women.

M. Schultz (Austria) agreed with the Chairman's observations, which were, he thought, practical. He was of opinion that the paragraph should be maintained.

M. Pella (Roumania) said that this text did not clash with national laws, because the obligation to regard the acts mentioned in Paragraph II as distinct offences only existed when those acts were committed in different countries. He reminded the Committee of the reasons which had led to the drafting of Paragraph III. He quoted the case of a person who, after manufacturing counterfeit currency or altering currency in one country, proceeded to another country and uttered the currency there. In such circumstances, the act of uttering counterfeit currency should be regarded as a distinct offence as compared with the manufacture or alteration of that currency.

Although certain publicists had maintained that, in such cases, uttering was really the final act in the offence of manufacture or alteration, the vast body of doctrine and the laws of certain countries clearly laid down that, in the above circumstances, the two acts (falsification and uttering) should be regarded as separate offences.

From the point of view of the international Convention, it was absolutely necessary to settle this point—namely, to draw a clear distinction between offences connected with the manufacture or illicit alteration of currency, on the one hand, and offences deriving from the illicit employment of counterfeit currency, on the other. It was quite common for coiners to falsify currency in the territory of one country and utter the same in other countries.

Moreover, coiners could, for the purposes of manufacture or uttering, possess accomplices in various countries to assist them in preparing or carrying out their crime.

If they distinguished the manufacture of false currency from the uttering or being in illegal possession of the same, they would undoubtedly avoid many difficulties in the domain of international criminal law ; otherwise, the pursuit and punishment of such crimes might be hampered, if not paralysed.

When each of these acts was regarded as a separate offence, their author would be prosecuted in the country in which the offence was committed. It would then be easier to bring all acts of accessory participation within the law.

In order to secure the fairest possible apportionment of penalties, they ought to regard the various acts mentioned in Paragraph II of the draft Convention as separate offences. He consequently insisted that the principle embodied in Paragraph III should be maintained. He also thought that the Conference should decide whether Paragraph III applied to *successive acts of uttering*. In Paragraph III, it was laid down that each of the acts mentioned in Paragraph II should be regarded as a distinct offence—at any rate, if these acts were committed in different countries. Now, the facts mentioned in Paragraph II were the fraudulent making or altering of currency, uttering, introduction, etc.

In the light of an interpretation with which he could not agree, it might be thought that the acts of fraudulent making or altering would be regarded as distinct offences as compared with the acts of uttering, whereas successive acts of uttering, even if they occurred in different countries, would not be regarded as separate offences, since no express provision was made for that offence in Paragraph III and, therefore, they had not to deal with different acts, variously differentiated, but with acts of the same nature coming under the same appellation.

He thought it absolutely necessary that the Conference should interpret Paragraph III as being also applicable to successive acts of uttering which took place in various countries.

If the contrary were admitted, they would — in view of the present state of international criminal law — find themselves faced with a series of complications. Under the law of certain countries, the principal would be simply the person who had obtained the money in the first instance from the counterfeiter ; all other persons through whose hands the currency then passed could only be regarded as accessories after the fact. If, then, these accessories happened to be in some country other than that in which the currency was first uttered, justice would be considerably hampered, if not paralysed, in respect of these persons. The principle under which every act of uttering was regarded as a separate offence would ensure speed in the pursuit and punishment of such crimes. It was all the more necessary to admit that principle since the most serious form of counterfeiting was the uttering of counterfeit currency, that being the act which really caused the injury.

M. Aloisi (Italy) observed that the word "indépendante" might be interpreted in more ways than one ; he thought it would be sufficient to say " doit être considéré comme infraction distincte ". He thought that the acts of counterfeiting currency and then uttering that currency were not independent but, rather, connected. Under certain laws, indeed, such a combination involved a heavier sentence. He therefore proposed that they should omit the word " indépendante ".

He also drew attention to the last part of the paragraph : " at any rate, if these acts have been committed in different countries ". He thought that should be maintained. Under some laws, the uttering of counterfeit currency by the person who had manufactured it was regarded as a single offence and, if the two acts of making and uttering were committed in the same territory, there could be only one count in the indictment. If, however, they were committed in different territories, the rule laid down in Paragraph III could be followed.

The CHAIRMAN thought they might regard the discussion on the omission of this paragraph as closed. Some thought it useful and some unnecessary, but nobody maintained that it was noxious. There could therefore be no harm in maintaining it.

The principle of the provision was maintained.

The Chairman then referred to the comments made by the Government of Sweden in document C.607(*a*).M.185(*a*).1928.II, which read as follows :

> " According to the Committee's report (page 10, third paragraph), this provision does not prevent the law of a country, in a case where the making and uttering of counterfeit currency or a number of such acts are being prosecuted simultaneously, from treating such acts as constituting a single offence. The wording of this clause appears to be insufficiently precise and needs revision. "

The Chairman wondered whether this observation was quite in accordance with the facts. The text which he had proposed ran as follows :

> " . . . should be regarded as a separate and independent offence, at any rate if these acts are committed in different countries. "

That expression " at any rate " indicated that, if the acts were committed in one and the same country, the principle of the independence of the offences did not necessarily come into play. He therefore thought that they need not take this observation into account.

M. SJÖSTRAND (Sweden) thought that the text as proposed was neither clear nor definite. It seemed to mean that the acts were regarded in the various countries as separate crimes or that they were regarded as separate crimes in so far as they were committed in different countries. Was not that rather confusing ? It might be thought that the whole crime could be divided up into a series of separate offences. They must ascertain whether there was any obligation to regard the offences as separate. He thought there was a certain contradiction between the text of the article and that of the report, page 10. Paragraph III appeared to impose an obligation of which there was no trace in the commentary of the report. It would be preferable to divide up this paragraph.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) proposed that they should refer the text back to the Drafting Committee.

M. LACHKEVITCH (U.S.S.R.) suggested the following wording :

> " Each of the acts mentioned in Paragraph II, if they are commited in different countries, should be punished as a distinct and separate offence. "

Professor Pella had explained the necessity of maintaining this paragraph. Moreover, the statement of reasons for the draft Convention showed that the authors had inserted this provision for the sole purpose of providing for cases in which the acts were committed in different countries, and not for cases in which they were committed in one country only. That intention should be brought out more clearly by replacing " at any rate " by " if ".

He also proposed that they should replace the word " considered " by the word " punished ". The expression " considered " might lead those who would be called upon to interpret the Convention to believe that that was another case of internal qualifications. The essential point was that each of the offences would be punished even when they were committed in different countries.

M. LONE LIANG (China) preferred the original draft. The text proposed by the delegate of the U.S.S.R. meant that only in cases where the acts were committed in different countries would they become punishable as separate and distinct offences, and this, he thought, implied too narrow an interpretation, as certain legislations made a distinction between the manufacture and the putting into circulation of counterfeit money.

The arguments put forward by the Swedish delegation went, he considered, too far. Two questions had been raised : Should a crime which was only in a state of preparation be punished? In this case, he thought the objection raised was without foundation, since it was evidently the country in which the greater offence had been committed which should inflict punishment.

In his view, Paragraph III bore no relation to Paragraphs X and XI. The latter paragraphs had been drawn up to prevent the escape of criminals from punishment and to deal with cases where the offence committed was not considered as a separate offence in the country in which the offender had taken refuge. The question of extradition or of prosecution in the criminal's own country did not arise at all.

The CHAIRMAN thought the Chinese delegate must be labouring under a slight misapprehension. In the case of acts committed within a State, the text proposed by the U.S.S.R. representative would leave that State perfectly free to regard them as distinct and separate offences or not. The advantage of the new text was that it met the wishes of those who felt that " tout au moins " (" at any rate ") was not sufficiently definite.

M. PELLA (Roumania) wished to know the reasons for the British proposal to insert in line 2 of Paragraph III the word " particularly " instead of " at any rate ".

The CHAIRMAN observed that the word " particularly " implied an idea contrary to that expressed by the Swedish delegate and also to that embodied in the Mixed Committee's report. The text would mean, in that case, that they would always be obliged to consider these acts as separate and independent offences, even when they were committed in the territory of the State in which the prosecution was proceeding.

Sir John FISCHER WILLIAMS (Great Britain) said he did not maintain his proposal.

The CHAIRMAN proposed the adoption of the word " if ", but another proposal had been made by the U.S.S.R. delegate, namely, that the verb " considered " should be replaced by the verb " suppressed ". Perhaps indeed it might be better to say " punished ".

He drew his colleagues' attention to the fact that the word " considered " was inserted in the text because it was thought that the principle might be important from the point of view of extradition. Most countries did not grant extradition to another country if the offence was not committed in the territory of the applicant country. The verb " considered " was used because it had a wider meaning than the verbs " suppressed " or " punished ".

M. LACHKEVITCH (U.S.S.R.) said that he had made his proposal because, as a general rule, extradition could only be granted for acts punishable in the country from which extradition was requested.

The CHAIRMAN observed that the texts of the draft met this point : the words " should be considered as an offence " implied that the act should be visited with punishment.

M. LACHKEVITCH (U.S.S.R.) said he thought that certain countries might feel that they would be obliged to alter their criminal terminology. If that were so and the Committee decided to maintain the word " considered ", he asked that the fact should be mentioned in the Minutes.

The CHAIRMAN proposed that they should maintain the words " considered as an offence "

This was agreed to.

The CHAIRMAN reminded the Committee of the Italian delegate's observation to the effect that the words " separate and distinct " were redundant.

M. PELLA (Roumania) thought that the expression " separate and distinct offence " was an accepted formula consecrated by custom.

M. ALOISI (Italy) said that he could not agree with M. Pella. The most important point was to obtain a text under which offenders might be indicted either for making counterfeit currency or for uttering the same. For that reason, the word " distinct " was important. As regarded the word " separate ", he agreed with the Chairman that it was redundant. In most bodies of law the two offences were regarded as connected and their conjunction involved a heavier sentence. The Committee should not adopt a text which would make it impossible for these countries to continue to treat counterfeiting offences in that manner.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) noted that Paragraph III was causing a great deal of discussion. He therefore thought it would be better to omit it, as he had originally proposed. That was what the U.S.S.R. reservation also amounted to.

M. LACHKEVITCH (U.S.S.R.) did not agree.

The CHAIRMAN asked M. Pella if he really insisted upon maintaining the word " separate ". He pointed out that the omission of this word would not in any way affect the object they had in view.

M. PELLA (Roumania) agreed to the omission of this word, in a spirit of conciliation.

The word " separate " *was omitted.*

The CHAIRMAN reminded the Committee that M. Pella had made another remark. The Roumanian representative had pointed out that the words " each of the acts mentioned in Paragraph II " referred to the making, altering and uttering of counterfeit currency, but that, if a person uttered in two different countries notes which had been forged in one and the same place, the two acts of uttering should be regarded as separate offences. He was sure that the Committee was agreed on this point. But M. Pella thought that the article did not make the matter sufficiently clear in that two successive utterings of several notes manufactured in one and the same place might be regarded as constituting only one act of uttering.

He did not himself feel any such qualms about the text and asked the French and British representatives for their opinions.

M. CAOUS (France) said he did not think it was necessary to add anything to the text simply in order to make the situation clearer with regard to successive utterings.

Sir John FISCHER WILLIAMS (Great Britain) agreed with M. Caous that the text was quite clear on that point.

M. PELLA (Roumania) noted that the official interpretation of the Conference was that the text of Paragraph III covered successive utterings.

M. HAYASHI (Japan) said that Japanese legislation considered the manufacture of counterfeit currency and its uttering as constituting a single crime even if these acts were committed in two different countries. Consequently, he would like Paragraph III to be altered in such a way as to make it quite clear that, as stated in the Mixed Committee's report, there would be no obligation for each country to modify its internal laws.

The CHAIRMAN reminded them that the Committee had admitted the following modification of the text :

> " Each of the acts mentioned in Paragraph II if they are committed in different countries . . . "

M. HAYASHI (Japan) pointed out that, even if the acts were committed in different countries, they did not, under Japanese law, constitute separate offences.

M. SJÖSTRAND (Sweden) proposed, in view of the Japanese delegate's observations, which might apply in the case of other delegations also, that the expression " should be considered " should be replaced by the expression " may be considered ".

M. PELLA (Roumania) said that this would alter the whole meaning of the paragraph. It would no longer be an obligation but a mere option.

M. CALOYANNI (Greece) agreed with the interpretation which the Chairman had given to this paragraph, and he considered, with M. Pella, that the amendment proposed by the delegate of Sweden would render Paragraph III absolutely useless.

M. LONE LIANG (China) said he was in favour of maintaining the text as it stood. He thought that mutual concessions must be made when they were endeavouring to meet a serious situation, even if at times it became necessary to depart from accepted legal principles.

M. SJÖSTRAND (Sweden) said he did not think that the amendment he proposed would be equivalent to omitting the paragraph. With the word " may ", the paragraph was an indication of how national laws could be brought into line with the general formula embodied in the Convention.

He proposed that this text should be referred back to the Drafting Committee with a request that the latter should discover a formula that would meet the Japanese delegation's wishes. For his part, he would suggest using the following formula : " . . . in so far as this is compatible with their internal laws ".

The CHAIRMAN said he quite understood the confidence and respect which every member of the Conference felt for the laws of his own country. But it was impossible to prepare a Convention that would be in keeping with the legislation of all countries. The Conference aimed at establishing principles which in certain respects might necessitate the modification of national laws. For instance, when the Belgian Government examined the draft Convention, it noted that the Convention involved far-reaching changes in a number of the articles of Belgian law. It had even prepared a draft to meet the case. They had therefore to determine whether the principle under discussion was a major principle which must be admitted if they were to attain their object. Their object itself might be summarised as follows : " That the counterfeiter should not go unpunished wherever he might be ". On that point, everyone was agreed, and M. Pella had clearly proved that Paragraph III formed a very important part of the plan. It would therefore be dangerous to omit this paragraph, since, by so doing, they would be weakening one of the principles which it was the object of the Conference to strengthen. He was sure that the comments of the Japanese and Swedish representatives —to whom he had listened with much interest and attention—were due to a misunderstanding

with regard to the scope of the text. He therefore agreed with the Swedish representative's proposal to the effect that this paragraph should be referred to a small committee consisting of the Swedish, Japanese and Greek delegates. He reminded the Committee that the text to which they had agreed, subject to minor alterations in drafting, was as follows :

> " Each of the acts mentioned in Paragraph II, if they are committed in different countries, should be regarded as a distinct offence. "

The Chairman's proposal was adopted.

Article 1, *Paragraph IV, of Draft* (*Final Article* 3).

The CHAIRMAN read the Swedish Government's observation on this paragraph.

M. SJÖSTRAND (Sweden) said that, under Swedish criminal law, attempts were not punishable in principle. If attempts to commit these offences were to be made punishable, the text should be made clearer and the nature of the punishable attempts should be specifically mentioned. That was what the Swedish Government had in mind when it said (Document C.607(*a*).M.185(*a*).1928.II) :

> " In any case, its effects should be confined to attempts at circulating, introducing into the country, receiving or obtaining currency of the descriptions in question. "

He added that, in view of Paragraph V, there was no practical need to include Paragraph IV in the Convention.

Paragraph V, indeed, laid down that the manufacturing, receiving or procuring with fraudulent intent of instruments should be punishable ; in other words, Paragraph V applied to all acts inseparable from the preparation of the offence. The Swedish Government therefore thought that, as the acts had been defined in Paragraph V, it would not be necessary to lay down a general principle in Paragraph IV, particularly as that general principle was contrary to Swedish legislation, under which attempts were not ordinarily punishable.

M. SOTTILE (Nicaragua) suggested that they should add, in Paragraph IV, the notion of complicity ; true, the word " accessory " which exists at present might be interpreted in the sense of complicity, but complicity did not always mean being accessory, and being accessory did not always imply complicity.

He suggested that they should omit the word " intentionnelle " in the French text and insert " . . . et les faits de participation d'une manière quelconque " (" and participation in any form "), for it was difficult to prove good or bad faith. Unfortunate persons who offered counterfeit banknotes as payment often stated that they were trying to pass them on as they had received them ; it was difficult to prove their bad faith. That would be a matter for the judicial authorities of each country to decide. If they omitted all mention of intent and merely said " participation in any form ", they would have a comprehensive wording which the courts could interpret as they thought best.

The CHAIRMAN observed that these comments referred both to attempts and to participation. He would beg the Committee to confine its attention for the moment to the question of attempts.

M. SZONDY (Hungary) thought it would be desirable even to go so far as to include conspiracy (" complot ") in Paragraph IV. As the object of the Convention was to prevent offences, it would be more effective, from this point of view, if they punished conspiracy, followed by some preparatory act (" le complot suivi d'un acte préparatoire ").

The CHAIRMAN, referring to the first aspect of attempts to commit offences, asked M. Pella to define the scope of the words " attempts to commit these offences " by indicating the offences attempts to commit which would be punishable.

M. PELLA (Roumania) explained that the word " attempt " applied to the offences referred to in Paragraph II, *i.e.*, the fraudulent making or altering of currency and any fraudulent uttering of the same. The definition of what constituted an attempt to commit these various offences was a point that was determined by the laws of each individual State.

Under certain codes, an attempt was defined as beginning to carry out an offence, the offence not having been completed or not having produced its effects owing solely to circumstances independent of its author's will.

According to a new concept formed in 1927, at the International Conference for the Unification of Criminal Law, at Warsaw, certain preparatory acts ought to be included in the concept of attempts to commit offences.

By using a more comprehensive terminology, therefore, there would be an attempt to commit the offence when the determination to commit it had been evidenced by the putting into motion of means for its accomplishment and when such operations were suspended or produced no effect, only owing to circumstances independent of the author's will.

In these circumstances, they should not define attempts, since, if they did so, the Convention would be interfering with the prerogatives of national courts. He thought, moreover, that it would be a mistake to believe, as the Swedish representative suggested, that Paragraph IV was no longer necessary, in view of the existence of Paragraph V. If they did so, they would arrive at a very curious result. The acts preparatory to the making of counterfeit currency or the alteration of currency would, in conformity with Paragraph V, be punishable as special offences, whereas more serious offences, *i.e.*, the actual consummation of the crime, which alone would be included under the classic conception of attempts, would go unpunished, since the object of the Swedish proposal was to omit the text referring to attempts to manufacture or alter currency.

The problem ought to be stated in exactly opposite terms. For States whose laws included preparatory acts within the category of attempts, it would be Paragraph V that would be useless. That paragraph was, however, absolutely necessary for States which only regarded attempts as punishable when there had been a beginning of the carrying-out of the offence. In these latter States, preparatory acts would thenceforth become punishable, since they became indictable as special offences under Paragraph V.

In conclusion, he insisted on the maintenance of Paragraph IV, which made provision for attempts, and proposed that the definition of attempts should be left to the courts of each country.

M. Aloisi (Italy) agreed at the same time with the Hungarian delegate's suggestion regarding conspiracy and with M. Pella. He could not approve any wording which would amount to a *ne varietur* definition of attempts. He thought it was clear that the Conference could not put forward solutions based on one set of laws to the exclusion of another. He therefore proposed that they should maintain the text submitted by the Mixed Committee.

M. Caeiro da Matta (Portugal), noticing that Paragraphs IV and V contained references to punishable acts, proposed a new wording of Paragraph IV, associating attempts and preparatory acts ; Paragraph V would then refer only to acts of participation.

M. Sjöstrand (Sweden) said he could not give an opinion until he had seen the text.

The Chairman suggested that the new text might be as follows :

> " IV. Attempts to commit these offences shall be punishable, as also the act of fraudulently making, receiving or obtaining instruments or other articles intended for counterfeiting or altering currency.
>
> " V. Being an accessory to the commission of these offences should be punishable. "

M. Sjöstrand (Sweden) thought that they should be even more explicit : the acts referred to in the Swedish Government's note with regard to Paragraph IV went somewhat further, since the reference was to :

> " Attempts at circulating, introducing into the country, receiving or obtaining currency of the descriptions in question. "

He hoped that they would be able to agree to a text on those lines.

The Chairman pointed out that there was very little difference between the Swedish proposal and the text under discussion : the Mixed Committee's text provided for the punishment of attempts to make or alter currency and attempting to utter the same ; the Swedish proposal referred only to attempts to utter.

If uttering false currency was a sufficiently serious offence to warrant the punishment of a mere attempt to commit it, he failed to see why an attempt to manufacture false currency should not also be punishable.

M. Sjöstrand (Sweden) replied that the Swedish Government had not intended to specify what attempt or attempts should be punishable ; it merely desired that they should avoid too vague a terminology.

The Chairman asked the Swedish representative whether he would agree to the following text :

> " Attempts to falsify currency, manufacture counterfeit currency or utter the same with fraudulent intent should be punishable. "

M. Sottile (Nicaragua) thought it unnecessary to embody in the Convention so detailed a text. By so doing, they would be departing from the simplicity and elasticity which was eminently desirable in a text of that kind.

The Chairman said that a written draft calculated to meet the Swedish representative's wishes would be submitted at the next meeting, during which they would continue their discussion on that point.

With regard to the suggestion that conspiracy should be included among the preparatory acts, and not in the " participation " in the offence, he once more drew attention to the fact that such an addition would rather overload the Convention and would necessitate an amendment of the laws of very many countries.

The Commission decided not to include in the Convention conspiracy followed by a preparatory act.

M. Sottile (Nicaragua) said he did not mean that a " participant " who had acted knowingly should not be punished : the omission of the word " intentionnelle " would merely afford the judge greater liberty in determining whether the act had or had not been intentional. Similarly, he did not consider it necessary to substitute the word " criminelle " for " intentionnelle " : it would be for the judicial authorities to determine the good or evil intentions of persons connected with the crime.

M. Pella (Roumania) said that he was neither for nor against the expression " intentionnelle ". The expression was, however, unnecessary, because " participation " was only punishable if the agent was aware of the criminal nature of the act, and if he had participated in the commission thereof *knowingly* and voluntarily. As had already been pointed out, *every act of participation was necessarily intentional.*

But another question arose in connection with which he thought that either the text should be amended or an authorised interpretation given. Did the Conference intend to maintain the principle of *complicity—criminality in the second degree*—or did it intend to confirm the principle of *complicity—a distinct offence* ?

Let them suppose that a Frenchman was guilty in France of participating in counterfeiting British currency, the actual offence being committed by an Englishman in England. The Frenchman in question could not be extradited to England on account of the principle of the non-extraditability of nationals ; but he could not be punished in his own country because he would merely have been an accessory (" coupable d'une participation accessoire ") to an offence committed by a foreigner abroad, such complicity not being punishable under French law.

There was a possibility of accessories going unpunished in many countries, *i.e.*, in all countries whose laws admitted simultaneously the principle of *complicity—criminality in the second degree*—and the principle of the non-punishability of offences committed abroad by foreigners, and, finally, the principle of the non-extraditability of nationals.

The difficulty could only be avoided, he thought, by adopting " *the theory of complicity—a distinct offence* ", a theory confirmed by the Institute of International Law at its session at Munich in 1883. This theory took as the basis for the jurisdiction, not the place in which participation produced its effect, but the place in which the individual happened to be at the time he became guilty of his act of participation.

He reminded the Committee that the French group in the Union internationale de Droit pénal had come to the same conclusion and had adopted, in 1905, the following formula :

> " Any act of co-operation or complicity constitutes a distinct offence, for which the guilty party can be prosecuted in the country in which the offence is committed and judged according to the law in force in that country. "

If the acts constituting " participation intentionnelle " which ought to be punished had been set out above Paragraph III, the act of complicity would have been regarded as a distinct offence, but, if they placed this provision after Paragraph III, he thought that they could not bring all the ramifications of counterfeiting organisations within the law, and it would still be possible for criminals to go unpunished as in the past.

The Chairman said the question raised by M. Pella was an extremely delicate one. It would be discussed subsequently. The important point for the moment was to decide whether in the French text the word " intentionnelle " should be maintained after the word " participation ".

M. Caeiro da Matta (Portugal) said he could not agree with the Nicaraguan delegate. He thought that the acts of participation referred to in the paragraph should include, not only acts of complicity, but also receiving. He proposed that they should cast the text in another form to include receiving, for which no provision had yet been made.

The Chairman observed that French criminal law recognised two varieties of criminal participation : criminal participation as a principal (" la participation criminelle dite principale "), known as " coopération ", and participation as an accessory—a less serious offence, known technically as " complicité ". If, therefore, the word " complicité " were introduced into the text, they would be using an ambiguous expression.

M. Caeiro da Matta (Portugal) reminded the Committee that receiving was not included in the offence of " participation ".

The Chairman observed that the particular point of receiving was not under discussion at the moment.

M. Caous (France) held that the omission of the word " intentionnelle " had already been decided by the Committee on the previous day when it had refused to consider the pursuit and punishment of offences committed by negligence or imprudence.

Sir John Fischer Williams (Great Britain) said that, if the word " intentionnelle " were omitted from the French text, difficulties would arise regarding the English text. The words " participation intentionnelle " had been translated by the word " accessory ", and, speaking as an English lawyer, he was unable to conceive how a person could be accessory to an offence unless he had intent. The question was primarily one concerning Continental law, but, in his view, it would be better to maintain the word " intentionnelle " in the French text.

M. Caloyanni (Greece) said they should not forget that the text would come before numerous magistrates in various countries, who might not all be of the same opinion, and might even say that the word " participation " should have been qualified by the expression " intentionnelle ". He thought, under the circumstances, it would be better to admit the maxim, *Melius est abundare quam deficere.*

The Chairman said he was all the more in favour of M. Caloyanni's opinion in that it was quite certain that, in French, the word " participation " alone did not imply intentional participation, and he quoted a conclusive instance to prove his point. He therefore thought that there could be no doubt that the word " intentionnelle " should be maintained.

This was agreed to.

(The meeting rose at 12.15 p.m.).

THIRD MEETING.

Held on April 11th, 1929, at 3 p.m.

Chairman : M. Servais (Belgium).

Work of the Sub-Committee on Article 1, Paragraph III, of Draft (Final Article 4).

The Chairman reminded the Legal Committee that it had adopted paragraph III of Article 1 in the following text, subject to the Report to be submitted by the Sub-Committee :

> " *Article* 4.—Each of the acts mentioned in paragraph II (now Article 3) if they are committed in different countries, should be considered as a distinct offence. "

The Sub-Committee decided to propose to the Legal Committee that it should maintain this text, adding in its Report the following explanatory note :

> " This rule does not oblige the various countries competent to judge the acts regarded as distinct offences under paragraph III to institute separate proceedings ; on the contrary, it leaves each State so situated free to institute proceedings on one single count. "

Discussion of the Draft Convention (continued).

Article 1, Paragraphs IV and V, of Draft (Final Article 3).

The Chairman stated that paragraphs IV and V had been recast in accordance with the Portuguese delegate's suggestion. These two paragraphs, the wording of which could not yet be regarded as final, provisionally read as follows :

> " Attemps to commit these offences and the fact of receiving or procuring with fraudulent intent instruments or other articles intended for the manufacture or altering of currency should be punishable.
>
> " Acts which render a person accessory to these offences should be punishable. "

The Chairman said they had now to decide whether they should add to " participation intentionnelle " (" intentional participation ") what the Portuguese delegate described as

" recel " (" receiving "). He apologised to the Portuguese delegate for not having understood what he had meant by " recel ". In Portuguese law, this expression was used to designate a special offence : covering up the evidence of a crime or misdemeanour. The question proposed by the Portuguese delegate was therefore the following : Should they make it obligatory to punish persons who covered up the traces and evidence of a counterfeiting offence ?

M. Caeiro da Matta (Portugal) strongly urged the insertion of a provision of that kind in Paragraph V. All persons participating in a counterfeiting offence ought to be brought to book. The Portuguese Penal Code treated as " complices par recel " (" accomplices on account of receiving ") all persons who caused the evidence or instruments of a crime to disappear and covered up the traces of the same. They were accessories after the fact, for which the draft Convention made no provision.

The Chairman, after consulting the Committee, declared the discussion open on this point.

M. Aloisi (Italy) did not contest the fact that covering up the traces of a crime ought to be a punishable offence. He did not, however, think it was necessary to insert a special provision in connection with counterfeiting offences. The sanctions against the authors of crimes in general, established in each legislation, should sufficient.

He proposed that they should add, in Paragraph V, the word " exclusively " in the following sentence :

> " Manufacturing, receiving, or procuring, with fraudulent intent, instruments or other articles exclusively intended for the counterfeiting or altering of currency should be punishable. "

The Chairman drew the Committee's attention to the observation submitted by the Italian representative. He could quite understand their proposing in the Convention certain departures from the principles of internal legislation ; but that should only be done when, on account of the peculiar international nature of the offence of counterfeiting, the proposed modification was absolutely indispensable. The treatment accorded to persons inciting others was different under the different bodies of law. It was not correct to say that a person who incited others to commit an offence was never punished under French or Belgian law, but the law of those countries was not nearly so far-reaching as Portuguese law. It was open to question whether they were bound, in order to ensure the punishment of counterfeiters, to insert a special provision relating to persons who incited others to commit offences.

M. Pella (Roumania) thought that the Portuguese proposal was valuable because it would facilitate the work of the central offices. In counterfeiting cases it was easy to destroy evidence. Since some bodies of law might still be defective in the matter of the punishment of persons who incited others to commit offences, he thought there would be no objection to accepting the Portuguese delegate's proposal.

Sir John Fischer Williams (Great Britain) said that he held the same views as the Chairman on this point, and appealed to the Committee to consider it very carefully. It seemed a small point, but in fact it was a very important one. The Committee was being asked to agree to something which would involve certain countries in the modification of a general principle of criminal law in relation to the particular offence under discussion, and this, in his view, was a mistake. What the Committee was endeavouring to do was to see that every country placed in what it considered the appropriate position in its criminal law those offences against which it was desired that measures should be taken. So far as Great Britain was concerned, there could be no suspicion of his country wishing to open the doors of impunity to forgers, for its legislation was, he thought, perfectly satisfactory on this point. At the same time, he felt that any attempt to alter points of general criminal law and practice with regard to this particular offence was a mistake.

He cited a case which would affect his own country : Great Britain had very strict rules of evidence in criminal matters. A man had to be convicted on oral evidence subject to cross-examination before a jury. In a great many Continental countries, this was not so ; written evidence which could be read against the prisoner was allowed and was not necessarily subject to cross-examination. If it were to be suggested that, because of the heinousness of the offence of the counterfeiting of currency, a principle of this kind was to be infringed, any chance of his country accepting the Convention would be destroyed, and that would be a great loss. Once the Committee entered upon the delicate and difficult ground of telling countries to modify their general principles of criminal administration or criminal law in regard to a particular offence, it made the Convention much more difficult of acceptance and consequently much less effective.

M. Caeiro da Matta (Portugal) said his proposal merely tended to ensure that no act connected with counterfeiting should remain unpunished. The British representative had said that the Portuguese proposal was contrary to the general principles of law in a great many countries, but he thought that remark—as M. Pella had observed—applied to the whole Convention and in particular to Paragraphs VII and X.

In view of the opposition which his proposal had aroused, he would be prepared to amend it and say that the contracting States undertook to punish accessories after the fact (" la participation à l'infraction par des faits postérieurs ").

The CHAIRMAN put this amended Portuguese proposal to the vote.

This proposal was rejected by the majority.

The CHAIRMAN submitted to the Committee the Italian amendment to Paragraph V :

> " . . . instruments or other articles intended exclusively for the counterfeiting or altering of currency. "

M. PELLA (Roumania) stated that he was in favour of the proposal.

The Italian proposal was adopted without discussion.

The CHAIRMAN observed that they still had to consider M. Pella's highly important suggestion, viz., that they should insert a provision under which the contracting States would undertake to regard the simple fact of " complicity " as a distinct offence.

M. PELLA (Roumania) referred once more to the reasons he had advanced in favour of admitting that concept. In that connection, he had quoted the resolution adopted in 1905 by the French group of the Union internationale de Droit pénal on the proposal of M. Feuilloley ; he would also remind the Committee of the resolution submitted by Professor Le Poittevin at the Prisons Congress at Brussels in 1900. He thought that, if the distinct character of each act of " participation " in counterfeiting was not admitted, most of the clauses of the Convention would remain inoperative.

He submitted to the Committee two texts (document C.F.M./A/5), from which they might select one. The first was as follows :

> " Acts of co-operation or complicity in the offences dealt with in the present Convention—no matter where the principal offence occurred—should be indictable and triable in the country in which they were committed or in the country of which the accused person is a national, and should be punished in conformity with the laws in force in that country. "

He thought that this proposal was in keeping with the formula suggested by the French group and quoted by him at the previous meeting.

His second proposal would attain the same result. According to the modifications already admitted, Paragraphs IV and V would now form only one paragraph. The Committee had also agreed that " participation " should form the subject of a special paragraph. As Paragraph III laid down that each of the acts referred to in Paragraph II should be regarded as a distinct offence if they were committed in different countries, the problem might be solved by adding the following sentence to Paragraph II :

> " as well as being accessories ['ainsi que la participation (intentionnelle)'] to the above acts. "

He thought that thus Paragraph III would produce the desired effect and that acts of participation would be regarded as distinct offences.

The CHAIRMAN proposed that they should adjourn consideration of this question until the text had been typed and distributed to the members of the Committee.

This proposal was adopted.

M. Ibrahim BAHATTIN (Turkey) asked whether accession to the Convention would mean that the signatory Governments would no longer be allowed to maintain in their respective codes, or to introduce therein subsequently, provisions under which persons who had participated in counterfeiting offences would be pardoned if they denounced their accomplices. That was already allowed under the laws of several countries. He was afraid that the term " efficacement " (" effectively ") might be incompatible with such provisions.

M. ALOISI (Italy) pointed out, before anything else, that the word " efficacement " had been omitted. At first he had, like M. Bahattin, considered that point, but he had interpreted it in the following manner. The problem before them was how to prepare a Convention that would ensure the punishment of all acts connected with counterfeiting. Every signatory State would be bound to make provision for the adequate punishment of the acts set out in Paragraph II. When such sanctions had been adopted by his legislation nothing would prevent him, in certain exceptional cases, from being free to grant a remission of the penalty, for example, to benefit informers.

The CHAIRMAN said he shared M. Aloisi's opinion. The measure of clemency referred to by the Turkish delegate was really intended, by encouraging offenders to give evidence against their accomplices, to facilitate the pursuit and punishment of crime. He thought that the Convention left the various countries entirely free to settle the question of measures of clemency as they thought fit, provided that the latter were of a general character applied to all offences or to a whole category of offences, or were of a nature such as those indicated by the Turkish delegate. In order that there should be no doubt on that point, he proposed that they should insert in the Protocol, as an addition to the former Paragraph II, which implied

the obligation to punish all counterfeiting offences, a note stating that the text did not affect the right of States to maintain under their own laws certain prerogatives of pardon or mercy.

This proposal was adopted.

Article 1, *Paragraph VI, of Draft* (*Final Article* 5).

The CHAIRMAN read Paragraph VI.

M. HAYASHI (Japan) asked whether the wording of the French text corresponded exactly to "scale of punishments" in the English text. He understood that the object of Paragraph VI was to indicate a rule ensuring that counterfeiting offences should entail the same punishment whether the currency counterfeited was national or foreign. The French text merely said : " au point de vue répressif ".

M. CAOUS (France) explained that the text as it stood would entail a modification of French law. At present, sentences varied according to whether French or foreign currency had been counterfeited. The French Government felt, however, that there would be no difficulty in amending French law on that point. It was quite prepared to submit a bill for the purpose. He did not think that the words " au point de vue répressif " were likely to cause any misunderstanding and they did refer to the scale of punishments.

M. CAEIRO DA MATTA (Portugal) agreed as to the meaning of Paragraph VI. He proposed to substitute the words " pour les effets de cette Convention " (" for the purposes of this Convention ") for the words " au point de vue répressif " (" in the scale of punishments ").

Mr. WILSON (U.S.A.) mentioned that he had a few observations to make in connection with this paragraph, but they entered into the domain which would probably be covered by the resolution of the sub-paragraph of Article 1. He therefore presumed that it would be the Chairman's desire that he should reserve his observations until that point was reached.

M. HAYASHI (Japan) said he was fully satisfied with the explanations given concerning the scope of the text.

The CHAIRMAN submitted to the Committee the proposal concerning the condition of reciprocal treatment. The text read : " whether or not reciprocal treatment is accorded by law or by treaty ".

M. Ibrahim BAHATTIN (Turkey) said that so important a Convention ought certainly to contain a clause stipulating reciprocal treatment by law or by treaty. In examining questions of this kind, they could not neglect public opinion, for without its support they could secure no lasting or effective results.

The CHAIRMAN pointed out that the suggestion made by the Belgian Government on this subject in its observations came very near the opinion expressed by the Turkish delegate. There were, however, two distinct proposals. The Turkish delegation's was that an equal scale of punishment should apply only in the case of reciprocal treatment accorded by law or by treaty—that is to say, the heavier penalty would only be applied in the case of the currency of a State which itself exacted the same penalties for the counterfeiting of its own or foreign currency. The Belgian delegation's was to the effect that the provision in question should only come into force when all signatory States had ratified the Convention. In this connection, he read the Belgian Government's observation concerning Paragraph VI of Article 1.

M. ALOISI (Italy) said he could not accept the Turkish delegate's proposal because, in the matter of international co-operation, it would be a backward step. If they said that they would sign this Convention leaving every country free to punish the counterfeiting of another country's currency otherwise than it punished the counterfeiting of its own currency, they would be undermining the Convention in one of its most essential points. The Convention should confirm the spirit of international solidarity and lay down an equal scale of punishments for all counterfeiting offences.

M. PELLA (Roumania) asked the Committee to maintain the text of Paragraph VI as proposed by the Mixed Committee.

There was one fundamental idea underlying the draft Convention, namely, that every country ought to accord equal protection at law to national and foreign currencies. Equal protection at law meant, first of all, an equal scale of punishments for counterfeiters either of national or foreign currency, and, secondly, that all countries should co-operate in pursuing and punishing that crime whether their own interests had been injured or not.

Could a State which had signed or acceded to the international Convention nevertheless refuse to grant the protection it afforded in the case of its own currency to the currency of another State which had neither signed nor acceded, when the latter's laws provided differential scale of protection ? It would certainly be desirable for all States which had signed or acceded to the Convention to obtain, in connection with their own currency, reciprocal treatment on the part of States which had neither signed nor acceded. He thought that no appreciable

progress would be secured if the principles laid down in the Convention were applied merely in ratio to legislative reciprocity. The same differences in treatment were to be feared, as regarded the protection which every State should accord to foreign currency, if that protection were subordinated to the existence of reciprocity by treaty. In that case, there would be two varieties of protection, one granted by a State to the currency of States which had signed or acceded to the Convention, and the other applicable in the case of the currency of a country which had neither signed nor acceded. The adoption of such a system would be the very negation of the principles they had taken as a basis for the conclusion of their Convention.

The object of the Convention was indeed to give material expression to that idea of solidarity which bound all countries together in their campaign against counterfeiting, and to eliminate all differentiation as regarded the protection afforded by law between national and foreign currency. Still less could they conceive of any distinction being drawn between various foreign currencies, for there was no such distinction at the present time. Consequently, if States undertook to pursue and punish with the same severity the counterfeiting of both foreign and national currency, such treatment should not depend on any form of reciprocity by law or by treaty.

M. Szondy (Hungary) proposed that they should maintain the text submitted by the Mixed Committee. Hungarian legislation afforded foreign currency the same protection as it afforded Hungarian currency, without any condition of reciprocity.

Moreover, there was no mention in the Hungarian Criminal Code of such condition of reciprocity, even as regarded diplomatic privileges and exterritoriality.

In criminal matters, apart from the rules concerning the forging of postage and fiscal stamps, there was no mention of reciprocal treatment by law or by treaty in criminal matters. Hungarian doctrine laid down that the idea of reciprocity was a matter which came rather within the domain of private international law.

M. Schultz (Austria) said that the particular idea of assimilating, in the matter of the scale of punishments, the counterfeiting of national currency to the counterfeiting of foreign currency, as laid down in Paragraph VI, seemed to him to constitute great progress from a general standpoint as well as from the point of view of the campaign against international counterfeiting.

He also thought that the arguments which had led the Mixed Committee to insert the clause : " whether or not reciprocal treatment is accorded by law or by treaty ", were well founded and entirely acceptable.

He added that the Austrian Penal Code, although it was more than a hundred years old, drew no distinction between national and foreign currency, as they would see by referring to paragraphs 106 and 118 of the code.

From the point of view of the Austrian Government, he warmly recommended the acceptance of Paragraph VI as set out in the Mixed Committee's Draft.

M. Lachkevitch (U.S.S.R.) supported M. Pella's arguments in favour of maintaining the text of Paragraph VI as it stood.

He added that, by the very wording of the paragraph, this clause concerning the non-requisition of reciprocal treatment, either by law or by treaty, should have effect, not only as between signatory States, but also in regard to a State which had not acceded to the Convention. That was why he felt certain doubts regarding the Belgian proposal to the effect that this paragraph should only apply when the Convention had been ratified by a number of States.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) thought, on the contrary, that the words " whether or not reciprocal treatment ", etc., were unnecessary. The Convention would only be binding on the States that signed it and would naturally bind those States unconditionally.

The Committee decided to maintain the text proposed by the Mixed Committee in Paragraph VI.

The Chairman then opened the discussion on the Belgian Government's proposal.

Sir John Fischer Williams (Great Britain) thought that very serious results might follow if this proposal were accepted.

The Belgian Government had proposed that the paragraph should only come into force after the Convention had been ratified *by all the signatory States*. But, to his mind, that clause was the kernel of the whole Convention. If, for some reason, a State which had signed was unable to ratify—an event which might very well take place—ratification might be postponed for ten or twenty years. During the whole of that period, this essential provision of the Convention would have no effect at all. That was a danger which it was not reasonable to undergo.

M. Aloisi (Italy) proposed an intermediate solution, namely, that they should add to Article 8 a provision to the effect that a State might declare that it ratified the Convention subject to the reservation that Paragraph VI would only come into force after the ratification of the Convention by a certain number of signatory States.

M. Lachkevitch (U.S.S.R.) pointed out that every State had a natural right to make a reservation when signing. No State needed to obtain permission—at any rate, under existing

international law—to make a reservation. He therefore proposed that the clause suggested by the Belgian Government should not be adopted.

M. Delaquis (Switzerland) shared M. Lachkevitch's opinion that every State was entitled to make reservations when signing, and that they had no need to reach a decision concerning the admissibility of a special resolution, particularly in view of the fact that, if they did so, it might be supposed that no other reservations could be made, whereas the Swiss Government intended, if necessary, to submit other reservations.

The Committee decided not to adopt the Belgian proposal.

The Chairman reminded the Committee that M. Caeiro da Matta had proposed that they should substitute the words " for the purposes of this Convention " (" pour les effets de cette Convention ") for the words " in the scale of punishments " (" au point de vue répressif ").

M. Caous (France) thought that the formula submitted by the Portuguese representative was neither so dignified nor so precise as the present wording of Paragraph VI.

M. Caeiro da Matta (Portugal) still maintained that the words " in the scale of punishments " were unnecessary, since the whole object of the Convention was to pursue counterfeiting offences. He would not, however, maintain his proposal.

The wording of Paragraph VI as submitted by the Mixed Committee was adopted.

Article 1, *Paragraph VII, of Draft* (*Final Article* 11).

The Chairman drew his colleagues' attention to the British observations concerning this paragraph.

Sir John Fischer Williams (Great Britain) said that, in view of the state of the Committee's business, he would withdraw that particular suggestion.

The Chairman laid before the Committee a proposal by the Swedish Government to the following effect :

> " This clause is also incompatible with the general principles of Swedish law. The paragraph should confine itself to stating that material intended for counterfeiting or altering, and the objects thus falsified or altered, should be rendered incapable of fraudulent use. "

M. Sjöstrand (Sweden) thought that the explanations given by his Government were sufficient. He desired, however, to state that there was no mention anywhere in Swedish law of the obligation to hand over to another Government or to a bank any article which had been confiscated. He thought that this was rather an administrative than a legislative matter; in any case, no Government ought to be obliged to act in any given manner. It should be allowed to conform to the custom of the country.

He thought it would be desirable to add to the last sentence of the paragraph " of fraudulent use ", in which case the sentence would read :

> " In any event, all such objects should be rendered incapable of fraudulent use. "

M. Caeiro da Matta (Portugal) said he thought that Paragraph VII was not in its proper place and ought to come after Paragraph XI of the draft Convention.

M. Hayashi (Japan) said he approved of the manner in which the Draft proposed to deal with confiscated articles. He wished, however, to point out that Japanese law admitted the principle that, in the case of any offence, the court was always free to take a decision with regard to confiscation. That applied to counterfeiting offences also. Moreover, Japanese law did not allow the confiscation of objects belonging to third parties. In practice, counterfeit currency and the apparatus that had been used for manufacturing it were generally confiscated ; in the matter of confiscated apparatus, however, the Court could exercise rather wider powers than in the case of the confiscation of counterfeit currency. Consequently, the Japanese delegation would be obliged to make certain reservations concerning the application of this paragraph.

M. Pella (Roumania) reminded the Committee that, at the time of the general discussion' he had announced his intention of submitting an amendment to the effect that the Convention should provide, not only for compulsory confiscation, but also for the summary seizure of counterfeit currency.

As it was highly important that all States whose currency might be forged should be assured that other States would, if necessary, take urgent steps to effect the summary seizure of such counterfeit currency in order to prevent its circulation, and as the text of the Convention provided only for confiscation, he proposed that they should add, in the second line of Paragraph VII, the words " summarily seized and " after the words " should be ".

The CHAIRMAN pointed out that the term " confiscation " meant a decision of the judge after the trial ; " confiscation " was not " summary seizure ".

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) thought that the first sentence of Paragraph VII was quite unnecessary, since all bodies of laws provided for such confiscation in the case of counterfeiting offences.

The CHAIRMAN drew the attention of the Committee to the very interesting observation submitted by the Japanese delegate. They could quite understand the obligation to confiscate in the case of manufactured or altered currency, *i.e.*, counterfeit currency. In the case of apparatus used for manufacturing such currency, however, Japanese law laid down that such apparatus should only be confiscated if it belonged to the guilty party. He thought that was just. Consequently, he asked the members of the Committee whether they would agree to add, at the end of the first sentence, the words " in so far as this apparatus belongs to the guilty party ".

M. DELAQUIS (Switzerland) pointed out that it was somewhat difficult to settle the question in an international Convention. True, there existed a very appreciable difference between " summary seizure " and " confiscation ", but certain bodies of law—Swiss criminal law, at any rate—recognised two varieties of " confiscation ". In addition to " summary seizure ", they had preventive " confiscation " and " confiscation " as a punishment. The former was a precautionary measure, whereas the second was a penalty inflicted on the guilty party only after the latter had been tried.

The CHAIRMAN said that these two varieties of " confiscation " also existed in his own country, but that preventive " confiscation " was called a " measure of public security ".
He asked his colleagues whether they were prepared to add the words " in so far as this apparatus belongs to the guilty party ".

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) thought it was unnecessary to add these words, for it was obvious that such apparatus could only be confiscated if it belonged to the guilty party.

M. DELAQUIS (Switzerland) said that he did not share that opinion ; he thought that the addition of the words proposed by the Chairman would make the text clearer.

M. ALOISI (Italy) thought that, if they made it clear in the text that only apparatus intended *exclusively* for the manufacture or falsification of currency would be confiscated, they would meet his colleague's wishes and it would not be necessary to add the words suggested by the Chairman.

The CHAIRMAN pointed out that the text referred to material that had been used for falsifying and not material exclusively intended for falsifying.

M. ALOISI (Italy) said that, in these circumstances, he agreed with the Chairman's proposal, but he intended to come back to this argument.

M. KALLAB (Czechoslovakia) pointed out that the paragraph included two distinct questions : the decision of the judge regarding confiscation, on the one hand, and the destination of the confiscated material, on the other. He thought it would be better to draw a definite distinction between these two questions. Paragraph VII should merely mention the obligation to confiscate ; the destination of the confiscated material might be referred to in another paragraph in connection with the central offices. They might, for instance, insert an article, after Paragraph XV, to the effect that confiscated articles should be handed over to the central office.

M. SJÖSTRAND (Sweden) said he had taken the text of Paragraph VII to mean that the authorities concerned would be free to decide whether confiscated currency and material should be handed over to a foreign Government or to a bank of issue. He thought it would be desirable to add to this paragraph a sentence similar to that in Paragraph XIV, which laid down that each central office should, " so far as it considers expedient . . . ". Such an addition might meet the wishes of the delegates of countries whose laws made no provision for handing over confiscated articles to a foreign country or bank of issue.

The CHAIRMAN said he thought that the Czechoslovak delegate's suggestion was very useful.
Consequently, he proposed that they should omit the first sentence of Paragraph VII, referring the rest of the article to the Administrative Committee, which would reach a decision concerning the manner in which confiscated currency and apparatus should be dealt with within the bounds of national legislation.

M. PELLA (Roumania) thought that, if they omitted the first part of Paragraph VII, they would be omitting one of the essential points of the Convention. Laws might embody the principle of the confiscation of articles that had been used, or were intended, for the commission of the offence and the confiscation of the products of such crime, but the principle in this paragraph was that of compulsory confiscation. Although the question did not

arise in the case of most countries, he thought it highly desirable to assert the rule that counterfeit currency should, in every instance, be confiscated.

He again drew attention to the question of " summary seizure ", which was an essential point.

The contracting parties ought to agree to take urgent steps to ensure the summary confiscation of counterfeit currency. Unless such steps were taken, the State whose currency had been counterfeited might suffer further injury if, after the discovery—even perhaps after proceedings had been instituted against them—the counterfeiters continued to utter the currency which had not been summarily confiscated.

The CHAIRMAN remarked that, if they omitted all reference to obligatory " confiscation ", there would no longer be any question of " summary seizure ".

M. PELLA (Roumania) said he was astonished that anyone should suggest omitting the principle of obligatory " confiscation " from the Convention.

The CHAIRMAN replied that the suggestion had been made.

M. CAOUS (France) thought that, if the question were submitted to the Administrative Committee, it would create no difficulty. The Legal Committee was composed of lawyers. The Administrative Committee consisted mainly of bankers. The latter knew how highly important it was, from the point of view of the banks, that the instruments of the crime and the products thereof should be immediately seized and confiscated. Bankers knew only too well that articles prepared for the crime of forgery might remain in circulation or sometimes, if they had not been confiscated, be put into circulation a second time. They must avoid that at all costs.

Those were material difficulties which concerned all banks throughout the world. He strongly supported M. Pella's proposal to maintain the text prepared by the Mixed Committee, subject to their adding a clause which would make the meaning quite clear and would ensure even greater efficacy, namely : " The counterfeit money, the material, etc., should be summarily seized and confiscated. "

The CHAIRMAN agreed, and proposed that Paragraph VII should be referred to the Administrative Committee.

The Portuguese delegate, however, had submitted a suggestion to the effect that the proper place for Paragraph VII would be after Paragraph XI. The Drafting Committee would consider that point.

Article 1, *Paragraph VIII, of Draft* (*Final Article* 7).

The CHAIRMAN read Paragraph VIII and opened the discussion on the text.

He reminded the Committee that the Government of the Union of Soviet Socialist Republics had made the following observation (document C.607(*a*).M.185(*a*).1928.II) :

> " The Union of Soviet Socialist Republics would be unable to accept Paragraph VIII of Article 1, as the admission of ' civil parties ' in criminal proceedings is not in accordance with its practice in such cases . "

The text, however, ran : " in those countries which allow ' civil parties ' ". There was consequently no difficulty if the U.S.S.R. did not allow " civil parties ".

M. LACHKEVITCH (U.S.S.R.) said that he would point out that the existence of a " civil party " did not mean that the prosecution would be any more effective. He would transfer his rights to address the Committee to M. Liubimov, representing the U.S.S.R. State Bank and delegate of the U.S.S.R. Finance Commissariat in Paris. He had followed the various cases of the counterfeiting of Soviet currency in different countries with close attention.

M. LIUBIMOV (U.S.S.R.) said that, even leaving aside the various theoretical views concerning the situation of the " civil party " and the desirability of the system, Paragraph VIII established in practice no actual reciprocity in the relations between countries which admitted that practice and countries which did not do so.

The situation with regard to the various cases of counterfeiting Soviet currency—in Germany, in France and in China—was entirely different in each instance. In France, proceedings had been pending since February 1927, and the preliminary enquiry had not yet been terminated. In Germany, the preliminary enquiry had been in progress since August of that year ; proceedings had been temporarily suspended in July 1928, as the accused had benefited under the 1928 Law of amnesty. At present, preliminary proceedings had been terminated. The situation in China had been explained on the previous day by M. Lachkevitch.

From the particular standpoint of the position of the " civil party " in the cases in France and Germany, there was a considerable difference. In France, it was possible, by becoming a civil party, to consult the documents connected with the proceedings. In Germany, that was not the case. Nevertheless, from the point of view of the results of the preliminary proceedings and the general conduct of the case, the position in Germany was not less satisfactory than in France—rather the contrary. That proved that efficacy in the pursuit and punishment of counterfeiting did not depend on the fact that the injured Government could become a

" civil party ". Accordingly, the U.S.S.R. delegation agreed with the Swiss delegation's proposal. The question should be left entirely to national laws.

M. Delaquis (Switzerland) referred to the Swiss Government's previous statement, namely :

> " It would be unusual for an international Convention to interfere in this way in the judicial procedure of the contracting States. This provision, however, contains nothing that cannot be taken for granted and may very well be deleted. "

If the foreign " civil party " were placed on the same footing as a " civil party " national of the country concerned, it should be clearly understood that the question of the actual acceptance of such a party would be reserved and that, if necessary, the courts might refuse to admit a State as a " civil party ". Even if they admitted that provision, it would not give them the security they expected.

M. Aloisi (Italy) said that Italian law drew no distinction between national and foreign " civil parties ". The rule contained in Paragraph VII might perhaps be useful in countries which had not yet adopted this system. They might perhaps apply the rule laid down in the Hague Convention on civil procedure.

He asked that they should omit the words : " including the Government whose money has been counterfeited ". He was obliged to make certain reservations as to the possibility of admitting a foreign State as a " civil party ". The interests of the State, both national and foreign, which have been injured by a crime of counterfeiting currency, are always of a public nature, *lato sensu* ; their presentation before the courts is therefore entrusted to a public ministry.

M. Caeiro da Matta (Portugal) observed that the Portuguese code of civil procedure placed nationals and foreigners on the same footing as regarded the right of bringing actions, though there were certain restrictions in the case of foreigners. For instance, foreigners could not go to court in Portugal when the obligation had been contracted abroad. Paragraph VIII very judiciously laid down the principle of absolute equality. He entirely agreed with that part of the paragraph.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) asked that the paragraph should be maintained. A foreigner who was the victim of an offence was entitled to obtain damages under existing criminal procedure. It would not always be the same in the case of a State. He therefore thought that this paragraph ought certainly to be maintained.

M. Pella (Roumania) also urged that they should maintain this paragraph for certain reasons which had not yet been put forward. They must not forget that the obligation of paying in a *cautio judicatum solvi* also existed in penal matters. In spite of various agreements which contained provisions for dispensation from such payments, and in spite of the Hague International Conventions of 1896 and 1905, such dispensation was only accorded by a limited number of States, among which certain new States formed after the war were not included. It was therefore absolutely necessary, for countries which admitted the system of " civil parties ", that the Convention should assert the principle that foreign complainants should be accorded the same rights as nationals by the laws of the country in which the case was tried.

They should also remember that the participation of a foreign " civil party " having the same rights as nationals might sometimes be of the greatest importance in the discovery of the crime and its perpetrators. He would like them to accord the foreign " civil party " all the rights accorded nationals in providing evidence and discovering the guilty party. That was a concept deriving from international solidarity in the campaign against counterfeiting.

M. Gyllenbögel (Finland) said that the Finnish code of procedure allowed " civil parties ", even foreign " civil parties ", including the Government of the country concerned. The draft Convention laid down a principle which was not consonant with Finnish law.

According to Finnish law, any person who was the victim of an offence became a party. It did not matter whether the victim were Finnish or foreign. Nevertheless, he did not think that a foreign State could appear in court as a party to a case in which its competence might come under discussion, particularly when the Finnish Penal Code itself provided for the punishment of the offence that had affected the sovereignty of the other State. The " civil party " used the right to prosecute which was really the prerogative of the Finnish State. A foreign State could not, therefore, constitute another " civil party ", since, if the denunciation proved to be false, against whom could action be taken ? The foreign State could not, on account of exterritoriality, be ordered to pay damages.

In these circumstances, when an offence affected a foreign State, Finnish criminal law laid down that only the Finnish Public Prosecutor could prosecute, and a foreign State could not be admitted as a " civil party ".

He was therefore not in favour of the principle laid down in Paragraph VIII. In addition, that principle did not involve reciprocity.

M. Kallab (Czechoslovakia) was of opinion that this provision should be maintained ; it tended, he thought, to strengthen mutual trust among States with regard to the pursuit of counterfeiters. Without such trust, the Convention could not operate effectively. As States were able to lay complaints before the Permanent Court of International Justice regarding the manner in which the Convention was applied, they should leave to " civil parties " the modicum of justice accorded them under Paragraph VIII.

The CHAIRMAN thought that the Committee ought to vote on the paragraph in two parts. It should state first of all whether it admitted the following provision :

> " In those countries which allow ' civil parties ' to criminal proceedings, foreign ' civil parties ' should be entitled to all rights and powers allowed to inhabitants by the laws of the country where the case is tried. "

They would then have to decide whether the words " including the Government whose money has been counterfeited " should be added after the words " foreign ' civil parties ' ".

M. CAEIRO DA MATTA (Portugal) proposed the omission of the word " powers ", as being redundant after " rights ".

This proposal was adopted.

By seventeen votes to one, *the Committee adopted the first part of the paragraph*, and by eleven to five *it also decided to maintain the words :* " Including the Government whose money has been counterfeited ".

M. GYLLENBÖGEL (Finland) mentioned the difficulties which would, in his opinion, arise at the time of the ratification of the Convention.

M. LACHKEVITCH (U.S.S.R.) said he wished, as the majority had decided in favour of maintaining Paragraph VIII, to offer a few explanations concerning the law of his country. Paragraph VIII laid down that, in countries which allowed " civil parties ", the rights accorded to nationals would also have to be accorded to foreign civil parties. In the U.S.S.R., " civil parties " were allowed in certain courts but not in others. For instance, there could be " civil parties " in the ordinary courts (Code of Criminal Procedure, Articles 14 and 15). But the special courts did not allow that procedure (Code of Criminal Procedure, Article 389). These special courts might be called upon to judge counterfeiting cases. In the latter circumstance, naturally, neither foreigners nor nationals could be " civil parties ". He thought that that was the only interpretation that could be admitted.

The CHAIRMAN agreed, since the whole intention of the paragraph was to place foreigners on the same footing as inhabitants.

M. LACHKEVITCH (U.S.S.R.) said that he had instructions to oppose the adoption of the paragraph ; he hoped, however, that his Government would not raise any difficulties in this connection at the time of signature. His Government might instruct him to make an explanatory statement at that moment.

The CHAIRMAN proposed a modification in the drafting of the paragraph which had occurred to him as a result of the U.S.S.R. delegate's observation. He wondered whether they might not say :

> " When ' civil parties ' are admitted under the domestic law, foreign ' civil parties ' . . . "

M. ALOISI (Italy), referring to his proposal to omit the words " including the Government whose money has been counterfeited ", asked whether the Chairman's latest proposal applied to the question of a foreign State becoming a " civil party ". He thought he might say that his Government would favour such an extension. The paragraph should be interpreted thus : " If the country in which proceedings were instituted did not allow a foreign State to become a ' civil party ' (although allowing a foreign individual to do so), the right of a foreign State to become a ' civil party ' should be held not to be recognised even under the Convention ".

The CHAIRMAN then put the following wording to the vote :

> " In so far as ' civil parties ' are admitted under the domestic law, foreign ' civil parties ' . . . "

There were no observations.

Proposal by M. Pella : Complicity a Distinct Offence.

The CHAIRMAN referred to M. Pella's proposal (see document C.F.M./A/5) to insert in the Convention a special article which had already been read during the meeting.

Sir John FISCHER WILLIAMS (Great Britain) said he had some difficulty in accepting the texts, particularly the first as it now stood, because it introduced the principle of punishment in a particular country of an offence which had been committed abroad. He was afraid it would be impossible for the British Government to undertake an obligation to punish a British person who had been committed abroad as guilty of being an accessory to some crime committed abroad. If that person took refuge in England, the English extradition obligations would be sufficient to enable the Government to deal with the matter. The acceptance of a principle

revolutionary in British law would go beyond the power of his Government to accept. He was further advised that to punish a person at home who was only an accessory to an offence committed abroad was also a matter upon which the English law would not be adequate, and as to which it would be introducing, by the thin edge of the wedge, a new principle which the British Government would hardly care to admit. These matters could be met by extradition, which would form a satisfactory remedy for the situation M. Pella's suggestion was intended to meet.

M. METTGENBERG (Germany), discussing the second alternative of M. Pella's proposal, showed that, if intentional participation were added to Paragraph II, Paragraph IV would involve the punishment of attempts to participate.

He also thought that this conclusion would be rather revolutionary ; he could not agree with the proposal.

M. PELLA (Roumania), in reply, first of all, to the British delegate, said that there had been no intention of punishing acts committed abroad. His proposal was intended to apply to acts of participation in an offence committed abroad.

Nevertheless, in order to make the text clearer, they might omit the last two lines and simply say :

> " Acts of co-operation or complicity in the offences dealt with in the present Convention—no matter where the principal offence occurred—are indictable and triable in the country in which they were committed. "

He repeated that he was not thinking of the punishment under English law of an Englishman who participated in an offence committed abroad when the act of participation occurred abroad. In the example he quoted, the act of participation took place in England. Far from being contradictory to the general principles of English criminal law, his text merely confirmed the system of territoriality on which English law was founded.

In reply to the German delegate, he pointed out that his text did not in any way propose the punishment of attempts to participate. There was a way, however, in which the German delegate's objection could be met, which was to insert, in Paragraph II, the word " attempt " before the words " intentional participation ". Such wording could give rise to no discussion, and it could no longer be urged that the Convention in any way obliged legislators to punish attempts to participate in a counterfeiting offence.

If, therefore, the Conference preferred to adopt the second formula, Paragraph II might be drafted as follows :

> " The following should be punishable : . . . any fraudulent making . . . attemps to commit, and any intentional participation in the foregoing acts. "

He did not think that an international Conference which had adopted the slogan " No impunity for counterfeiters " could offer any objection to his proposal, the very object of which was to prevent such impunity.

He recalled that proposals to the effect that the receiving of stolen articles should be regarded as a distinct offence had met with the same objections to which his proposals were then being subjected. Nevertheless, most bodies of law had now discarded the obsolete concept under which proceedings could be taken against receivers only when they could also be taken against the principal offenders.

It often happened that the principal offender was a foreigner who had committed his offence abroad. The receivers, therefore, could not be proceeded against because they were regarded as accessories to a main offence non-punishable under the law of the place in which the receiving occurred. Such scandalous impunity had obliged most legislators to regard receiving as a distinct offence. The impunity in question was put forward as an argument in France when the Law of May 22nd, 1915, was being prepared—a law which confirmed the new attitude towards receiving.

Similarly, reasons just as powerful militated in favour of admitting the principle of complicity as a distinct offence in the matter of counterfeiting. Far from being revolutionary, this principle responded to the imperious necessity of ensuring the effective punishment of counterfeiting offences.

The CHAIRMAN said he thought that the question as it now stood might give rise to a long and purely legal discussion. He therefore suggested that the proposal should be referred to a Sub-Committee, consisting of Sir John FISCHER WILLIAMS (Great Britain), M. PELLA (Roumania), M. METTGENBERG (Germany) and himself, which would submit its report to the next meeting.

The rest of the discussion was adjourned until the next meeting.

(The meeting rose at 6 p.m.)

FOURTH MEETING

Held on April 12th, 1929, at 3 p.m.

Chairman : M. SERVAIS (Belgium).

Work of the Sub-Committee on Article 1, Paragraphs II and III, of Draft (Final Articles 3 and 4).

The CHAIRMAN said that the Sub-Committee which had been charged with the examination of M. Pella's proposal had completed its work and proposed that the term : " and also the intentional participation in the foregoing acts " should be added to the former Paragraph II.

As no objection was raised, *this proposal was adopted.*

M. PELLA (Roumania) thanked the Sub-Committee and the Conference for having adopted his proposal.

The CHAIRMAN also submitted a second proposal by the Sub-Committee, namely, to insert in the former Paragraph II the word " attempts ". This would enable the former Paragraph IV to be eliminated.

Subject to any amendments which might be made by the Drafting Committee, the paragraph would accordingly read as follows :

> " The criminal law should include and punish with adequate penalties any fraudulent making or altering of currency and also the intentional participation in and attempts to commit the foregoing acts ", etc.

This proposal was adopted.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) agreed to the proposal, but wished to point out that, in his opinion, the word " complicity " would be preferable to " participation ", as the latter included not only abettors and instigators, but also the principal or principals. The word " complicity " was therefore more suitable.

Sir John FISCHER WILLIAMS (Great Britain) was afraid that he would have great difficulty in accepting voluntarily the change in the text submitted by the Sub-Committee. He owed an apology to the Committee for having misled it by the translation, for which he was responsible, in the original draft Convention, and also in the course of the meetings of the Committee, by assuming that " accessory " and " participation " were the same thing. In the Convention, he proposed the term " intentional participation ", which would be a sufficient guide to legislators. To alter that and to enter into a scientific discussion as to the meaning of " complicity " and " intentional participation " would, in his opinion, lead to very unfortunate results.

The CHAIRMAN said that this question had already been discussed and settled and he would ask the Serb-Croat-Slovene delegate to be good enough to leave questions of terminology to the French delegates. He could assure M. Givanovitch that the word " complicity " in French had a special meaning which would make it inappropriate in the present case ; it referred to a special and subordinate kind of criminal participation.

The term " intentional participation " would therefore be maintained in the text.

M. DUZMANS (Latvia) thought that the Hungarian delegation had proposed to amend the text of Paragraph II in order to provide for the punishment of a conspiracy. He asked whether the omission to discuss this proposal, which was supported by the Latvian Government, was intentional.

The CHAIRMAN said that the proposal had been withdrawn by the Hungarian delegate, Moreover, it was impossible to contemplate the punishment of conspiracy, because the proposal to punish conspiracy with aggravating circumstances, *i.e.*, conspiracy with acts preparatory to the offence, had been rejected.

He then informed his colleagues of the result of the Sub-Committee's work with reference to Paragraph III, which, as drafted by the Legal Committee, would now become Article 4 and would read as follows (document C.F.M./A/8) :

> " *Article* 4.—Each of the acts mentioned in Paragraph II, if they are committed in different countries, should be considered as a distinct offence. "

The members of the Sub-Committee had unanimously agreed to adhere to this text ; however, they wished it to be stated, in the Legal Committee's report to the plenary assemblys that :

> " This rule does not oblige the various countries competent to judge the act, regarded as distinct offences under Paragraph III to institute separate proceedings ; on the contrary, it leaves each State so situated free to institute proceedings on one single count. "

Adopted.

Discussion of the Draft Convention (continued).

Article 1, Paragraph IX, of Draft.

The CHAIRMAN opened the discussion on Paragraph IX. He reminded the members of the Committee that this provision had been discussed at great length by the Committee of Experts and that the proposed text represented a compromise between the various suggestions put forward. It might perhaps be dangerous to go back on a compromise.

The Chairman said that the Committee had had before it a proposal by the Italian delegation (document C.F.M./A/9) to delete Paragraph IX (counterfeiting currency as a political offence), or to delete the said Paragraph IX and add to Article 2, in the new draft proposed by the delegation of the United States of America, the following paragraph :

> " With regard to extradition, the acts of currency counterfeiting provided for in the present Convention cannot be considered as political offences. "

M. CAEIRO DA MATTA (Portugal) proposed that Paragraph IX and Article 2 should be discussed together. According to the latter, the offences provided for in the Convention were recognised as extradition crimes and extradition should be granted in conformity with the internal law of the country applied to.

The CHAIRMAN said that he proposed to adopt the Portuguese delegate's suggestion.

M. GERKE (Netherlands) said he was obliged to take the place of Baron Van der Feltz, the head of the Netherlands delegation, who was indisposed.

The Netherlands Government thought that Paragraph IX should be made more explicit. The present wording was too indefinite and did not lay down categorically, as had been proposed, that counterfeiting could never be regarded as a political offence. It was the object of the League of Nations to frame an international clause which should make it absolutely impossible for forgers to escape punishment by taking refuge behind political considerations. He would refer to the statements made by M. Paul-Boncour and Sir Austen Chamberlain at the fortieth session of the League Council (see document F.294). It was absolutely essential that this principle should be clearly defined in the Convention.

For the reasons mentioned, the Netherlands Government could not accept Paragraph IX in its present form. The principle of that paragraph was contrary to the principles of many extradition treaties, which provided that, in each case of a political offence, the State applied to should be free to decide whether extradition should be granted or refused. The Netherlands Government desired to retain that possibility.

He gathered from the Mixed Committee's report on Paragraph IX that counterfeiting, taken by itself, could never be regarded as a political offence and, consequently, that special regulations concerning political offences could never be applied to cases of counterfeiting with a political motive. In the opinion of his Government, there might be circumstances in which counterfeiting would be a political offence. For instance, forgers might manufacture and circulate large quantities of forged notes for political purposes with a view to damaging the circulation of currency in some particular country.

He accordingly suggested that Paragraph IX should be deleted or that, in any case, the possibility of removing the difficulties to which he had drawn attention should be examined.

M. ALOISI (Italy) said he would like to explain briefly the two proposals he had made : to delete Paragraph IX purely and simply, or else delete the said paragraph and add to Article 2, in the new draft proposed by the delegation of the United States of America, the following paragraph (document C.F.M./A/9) :

> " With regard to extradition, the acts of currency counterfeiting provided for in the present Convention cannot be considered as political offences. "

He thought, referring to what he had said in the full committee, that the Committee should confine itself to solving those problems which were essential, so that the resolutions might be adopted by the largest possible number of States.

Could counterfeiting be considered a political offence ? Many differences of opinion existed as to what actually constituted a political offence. Some preferred the objective notion, others the subjective. The new Italian draft Penal Code provided for a mixed system which combined the two conceptions and made them subordinate to a higher conception of the State's mission. He did not think that obstacles of this kind should be allowed to impede the Committee's work. Such a question would very rarely arise in practice and the main point was to establish general rules. Furthermore, the question of political offences was much too vast to be decided by the Committee.

There remained to add that the text of Paragraph IX was not complete. It did not state in what circumstances the counterfeiting of currency could be considered a political offence. Each State could interpret the text as it thought fit. This provision was therefore of no real value.

He then explained his second proposal. They must avoid encroaching upon the domestic law of the various countries. It was impossible at the present time to foresee what effect a regulation concerning political offences, adopted in regard to a particular hypothesis, like the crime of counterfeiting currency, might have on the various legal systems. Nevertheless, if the Conference thought it necessary to settle that particular point, the proper place for the provision would be in Article 2, which concerned extradition. He did not think that the text he had proposed would permit of half-way solutions.

M. Pella (Roumania) said he did not intend to repeat the criminological arguments put forward by him in the general discussion on counterfeiting of a so-called political nature, or to emphasise further the necessity for excluding this crime from the category of political offences. These arguments were, moreover, to be found in the Roumanian Government's observations on Paragraph IX of Article 1.

From the juridical point of view, he would like to point out that Paragraph IX was not only incomplete as regards the conception of a political offence, but might also have dangerous consequences when the time came to apply the Convention.

There were two possible conceptions of a political offence—the *subjective* and the *objective*. From the *subjective* standpoint, if the *motive* ("intention-mobile") *theory* were accepted, it was obvious that an individual acting in the collective interest of a party or an organisation could not be regarded as guilty of a common law offence.

Nevertheless, the Mixed Committee had decided in Paragraph IX that a political motive was not enough to make counterfeiting a political offence. Consequently, the subjective theory appeared to have been rejected by the Mixed Committee. The question then arose, under what conditions was counterfeiting to be regarded as a political offence in conformity with the provisions of Paragraph IX of Article 1 ?

Could the difficulties which this problem involved be solved by the other theory which appeared to have been adopted by the Mixed Committee, namely, the *objective* theory ?

He would not attempt to define political offences, but the objective theory, which took into account, not the offender's motive, but the nature of the interests injured, regarded as political offences only acts of an anti-governmental nature, *i.e.*, acts exclusively affecting the interests and political organisation of a given State. Once the consequences of an offence exceeded the limited interests of a given State and struck at the very roots of contemporary civilisation, all States seemed to agree that it could no longer be regarded as a political offence. There was thus a strong tendency, as shown by the laws of many countries and by certain drafts now under consideration, to exclude from the category of political offences crimes for the commission of which recourse was had to *terrorism*. He need only recall the laws passed between 1880 and 1900 in most European countries for the purpose of preventing and punishing barbarous acts and acts of vandalism, whatever the offenders' motive, and also the laws passed since 1920 in the United States of America against criminals' associations.

He would also refer to the German draft extradition law submitted to the Reichstag on July 27th, 1927, which, after laying down the principle of the non-extraditability of political offenders, stipulated that extradition might be granted when, all things considered, the offence was regarded as specially reprehensible. Moreover, this draft contained a very important definition, namely, that " punishable acts immediately directed against the existence or safety of the State, the head of the State or a member of the Government ", etc, should be regarded as political offences.

There was also the Finnish Law of February 1922, which, after laying down the principle of the non-extraditability of political offenders, provided that murder or attempted murder (except in open fight) would in no case be regarded as a political offence. That definition was quite clear : such acts could only be regarded as political offences in exceptional cases, when they were committed in the course of serious upheavals which profoundly disturbed the political order of a State.

The French Law of 1927 showed the same tendency to exclude terrorism—*i.e.*, vandalism and barbarous acts contrary to public order in general and not only to the political order of a given State—from the category of political offences. Terrorism might occur in connection with other offences than those contemplated by the laws or drafts to which he had just referred. At the present time, counterfeiting constituted one of the most dangerous forms of terrorism.

Reverting to objective conceptions, he said that he would like to know whether, from the objective point of view, counterfeiting could be regarded as a political offence. Could counterfeiting, by its nature, injure the political interests of any one State ?

He was not merely expressing his own personal views. Many others had also declared that the counterfeiting of currency could never be regarded as a political offence, because

it did not merely injure the political interests of a given State but the interest of all States, in that all were concerned to ensure the security of the international circulation of currency.

At the opening of the Conference, the President, M. Pospisil, had said :

> " We have first of all to consider the extent and importance of the interests injured. The counterfeiting of currency injures the monetary sovereignty of the State, endangers the interests of individuals and the security of the circulation of the national currency, which is an indispensable corollary to the exchange of goods on which daily life and all economic relations are based—but it is also a danger from the point of view of international relations. "

He would go back still farther and would mention, as being the origin of the draft Convention, M. Briand's letter, in which the French Minister for Foreign Affairs implicitly recognised that counterfeiting could not be confined to the interests of any one State :

> " The circumstances attending these criminal acts have shown that the counterfeiting of currency not only constitutes a danger to the credit of the injured country but that, owing to the financial and economic solidarity which is springing up between States, the consequences of such actions are in certain cases much more widespread. Though such crimes deal a blow, in the first instance, at the financial strength of the country whose currency is counterfeited, they are also capable, as a direct consequence, of disturbing international public order. "

Consequently, such acts did not merely disturb the national public order of a certain country, but international public order as well. That was a new conception, of great assistance in forming a correct estimate of the objective character of counterfeiting.

In its report (page 6), the Mixed Committee had also rejected the objective theory :

> " Owing, therefore, to the nature of the interests which it injures, the counterfeiting of currency cannot be regarded as one of those offences whose mischievous effects on public order are confined to a given territory. It falls within the category of criminal acts the consequences of which are, or may be, detrimental to public order in several States, as well as to international relations. "

It followed, therefore, that while, from the subjective point of view, counterfeiting was excluded from the category of political offences by the actual text of Paragraph IX of the draft Convention, from the objective point of view, it was also excluded from that category by the text of the Mixed Committee's report to which he had just referred.

That was only natural. Counterfeiting, by its very nature, must be excluded from the category of political offences.

The text of Paragraph IX drawn up by the Mixed Committee was the result of a compromise and such texts were not always the most satisfactory. But its wording could not be regarded as in accordance with the views and aims of the League in studying the problem of counterfeiting.

What was the League's object in this connection ?

In his speech before the Council on Thursday, June 10th, 1926, M. Paul-Boncour said :

> " There is a tendency to extend to political spheres, under a pretext of patriotism, which cannot be admitted, acts which are ordinary crimes and should be punished as such. "

He added later :

> " The manufacture internationally of counterfeit currency is no longer a matter concerning only the national sovereignty of a given country, but directly concerns, materially and morally, the whole international community. "

The objective theory was thus rejected by M. Paul-Boncour who, in the same speech, also stated :

> " It was no doubt somewhat strange to claim that the counterfeiting of currency had a political character. "

The statements of M. Beneš were no less categorical. At the same meeting of the Council, he said :

> " It is generally known that, in certain cases, the counterfeiting of currency has been regarded as a political weapon . . . This is a question which plays an important part in international relations and in the maintenance of general peace. It is entirely legitimate and necessary to demonstrate that ideas and methods of this kind are absolutely inadmissible in international relations and that, if such acts are repeated, an international authority will be found which will reprove them with indignation and severity. "

He was doubtful whether the severity referred to by M. Beneš was ensured by the draft Convention drawn up by the Mixed Committee.

He also referred to the statement made at the same Council meeting by Sir Austen Chamberlain, who said :

> " The question would be of international interest if forgeries were never undertaken except for private profit by men of the ordinary criminal class ; it became of graver international interest when endeavour was made to excuse these forgeries by reasons of political considerations which certainly did not contribute to good relationships between States or to international peace. "

Finally, he referred to the statement made by their Chairman himself during the general discussion in the Mixed Committee, on which occasion M. Servais had said :

> " It had been asked whether counterfeiting could be regarded as a political offence ; Belgium would unhesitatingly give a negative reply. "

The CHAIRMAN interrupted M. Pella and observed that, as the Belgian delegation was defeated on this point, it withdrew its proposal and agreed to the compromise represented by the present text.

M. PELLA (Roumania) added that, for his part, he did not consider that he had been defeated, because he still maintained his views. He also referred to what M. Collard-Hostingue had said during the general discussion mentioned above. On that occasion, the representative of the Bank of France on the Mixed Committee had said :

> " States would perform an act of high international morality if they undertook always to consider the crime of counterfeiting as a crime at common law and if they thus implicitly condemned the truly scandalous view that a crime so odious and so dangerous to society had the character and, as it were, the excuse of a political crime. "

He likewise mentioned the categorical statement which had been made that day by the Italian representative to the effect that counterfeiting should be excluded from the category of political offences.

Moreover, the Financial Committee had asked the banks of issue to reply to the following question :

> " Do you consider that the repression of counterfeiting or uttering could be promoted by providing that it shall always be considered to be an ordinary criminal offence for which the State will prosecute ? "

The reply was :

> " *This should be the case in all States.* "

This formal request that in all cases counterfeiting should be regarded as an ordinary criminal offence was made by the national banks of many countries : Austria, Belgium, Bulgaria, Czechoslovakia, the Free City of Danzig, Denmark, Finland, France, Hungary, Japan, Latvia, Lithuania, Netherlands, Kingdom of the Serbs, Croats and Slovenes, South Africa, Switzerland, U.S.S.R.

He would refer to certain draft conventions submitted to the Mixed Committee. The admirable draft of Professor Kallab stated that :

> " The High Contracting Parties agree in no circumstances to repudiate the obligations which they have undertaken . . . on the grounds that the act is regarded as a political crime. "

And his own draft contained the following stipulations :

> " Whatever the circumstances in which they have been committed or whatever the motive of the delinquent, the acts specified in the present Convention may in no case be regarded as political offences. "

Moreover, the Committee of Jurists of the Mixed Committee had also gone a long way in that direction and had agreed upon a compromise text which he regarded as satisfactory, and which at first appeared to have been adopted unanimously. Thus, Article 7 of the first draft of the Committee of Jurists stated :

> " Whatever the motives of the delinquent, the acts specified in the present Convention may in no case be regarded as political offences. "

He did not wish to prolong the discussion unduly and would revert to the drafting of Paragraph IX. This paragraph stipulated that :

> " The political motive of an offender is not enough to make an offence coming under the present Convention a political offence. "

He would like to know on what grounds counterfeiting could be regarded as a political offence if the motive were not sufficient. That brought him back to the Mixed Committee's report. In order to justify the text of Paragraph IX, the Mixed Committee's report stated :

> " The text of the draft [Paragraph IX] does not definitely say, as was suggested, that counterfeiting can never be regarded as a political offence. It is more accurate. It states that a political motive, genuine or alleged, on the part of the offender is not enough to make an act of counterfeiting a political offence. It thus applies a generally accepted and reasonable principle, namely, that a political offence is an act of which the sole or main result intended is an attempt on the political order of a State . . . "

He would point out that it was not a question of the political order of a State but of international order.

The Mixed Committee's report continued :

> " Counterfeiting currency, as a rule, is a direct attack upon rights and interests which are in no way political, and the mere existence of a political motive does not affect the actual result produced or, consequently, the character of the offence as an ordinary crime. "

Consequently, the text of Paragraph IX conflicted with the actual report which attempted to justify it. This report went on to state :

> " This is not to say that it is impossible to conceive circumstances where an act of counterfeiting, being closely connected with political action, might be accorded the benefit of the special rules which in most States apply to ordinary criminal offences when closely connected with political action. Such would be the case if, during a revolution, the insurgents, being temporarily in possession of power, assumed the right to coin money on behalf of the State and afterwards, when the legal Government had regained control, were prosecuted for thus issuing money. "

The Mixed Committee, in its efforts to justify the text of Paragraph IX, had taken as an example an exceptional case. When a revolutionary Government obtained possession of power and coined money, it was questionable whether that money was counterfeit, because the Government in question was actually in power. A revolutionary Government in power usually had the same rights as the Government whose place it had taken. Until it was overthrown, a revolutionary Government could exercise sovereign rights, including the right to coin money or authorise its issue. In such a case, therefore, there could be no question of counterfeiting. Consequently, the example given by the Mixed Committee in its report could not justify the provisions of Paragraph IX.

He would also point out that reference had been made to the right of asylum accorded to political offenders. He believed that this question had been raised by the Swiss representative, supported by the British delegate. The right of asylum was provided for by the internal public law of States. He had no desire to encroach in any way upon that right. Moreover, in Roumania there was a constitutional provision laying down the principle of the non-extraditability of political offenders. That provision could not be changed by an ordinary law. This did not imply that legislators had not the right to define what they meant by political offences. He understood that the principle of the non-extraditability of political offenders existed under Belgian law also.

The CHAIRMAN remarked that there was no such provision in the Belgian Constitution.

M. PELLA (Roumania) said that this was a fundamental principle of Belgian public law. Nevertheless, it had not prevented the Belgian legislators from *excluding*, by a Law dated March 22nd, 1856, from the category of political offences the murder of the Head of the State and members of his family, in whatever circumstances the crime had been committed and whatever the offender's motive.

Consequently, in exceptional circumstances such as revolutions, to which the British representative had referred during the general discussion, the problem of counterfeiting did not arise. In such cases, the insurgents were guilty of far graver crimes than counterfeiting, *i.e.*, of crimes against the safety of the State. If an application were made for their extradition on the charge of counterfeiting, it could be refused because that offence was outweighed by the gravity of the other crime, namely, the crime against the safety of the State.

In order to solve all these difficulties, it had been proposed that the clause should be deleted. In some ways, that might be a convenient solution, but it would in no way remove the difficulties. He would not object to Paragraph IX being struck out if it were laid down at the beginning of the Convention that counterfeiting must always be regarded as an ordinary criminal offence.

He would even be prepared to accept the second part of the Italian delegation's proposal —that a clause should be added to Article 2, which dealt with extradition, to the effect that counterfeiting should be excluded from the category of political offences.

In that case, however, certain difficulties might arise, because the problem was not

merely one of extradition, but also of the treatment that States might accord to counterfeiters if they regarded them as political offenders. Better treatment was in fact accorded to political offenders than to ordinary offenders. The laws of certain States provided that in the case of political offences, an amnesty might be granted by the head of the State, whereas in the case of ordinary offences the approval of Parliament was necessary. He would not press the point, and, if the Conference considered it better to deal with the matter in connection with extradition, he would agree to any proposal to exclude, as regards extradition, counterfeiting from the category of political offences.

In order to show a conciliatory spirit, he would agree that only in one case should counterfeiting be sometimes regarded as having a political character, namely, when it was connected with a political disturbance and was directed against the currency of the State in which the political disturbance had occurred.

A case of this kind had arisen in France during the Revolution of 1789, when forged assignats were uttered.

If, during a revolutionary movement, recourse were had to counterfeiting for the purpose of damaging the credit of the State against which this movement was directed, counterfeiting might in such exceptional circumstances be regarded as connected with the political disturbances.

But if a revolutionary party or some other organisation forged the currency of another State, it would obviously be ridiculous to regard such acts as political offences.

It would be equally dangerous to allow nationals of a State who (whether they were organised for the purpose or not) forged the currency of another State against which they bore a feeling of animosity to enjoy the privileges of political offenders.

Such acts could give rise to serious international disputes. In such cases, it was no longer the political order of a given State which was affected, but peace and international order.

In conclusion, he would reserve the right to make certain proposals later with a view to the amendment of the text, and he wished to state that the Roumanian Government considered Paragraph IX of Article 1 as at present drafted to be far from satisfactory. While it was possible to take protective measures against ordinary counterfeiting, the Roumanian Government held that, in order to deal with the extremely dangerous forms of counterfeiting having a so-called political character, an international agreement was essential. Its desire to ratify such an agreement would be much less strong if the agreement did not contain a clause providing for the effective protection of the signatory States from further action on the part of counterfeiters.

As the Roumanian Government's delegate, he was obliged to adhere to this view.

However, as a former member of the Mixed Committee—and in this connection he would observe that he had always displayed a conciliatory spirit—he hoped that, like the Mixed Committee as a whole, the Conference would be inspired by similar sentiments.

States desired to be protected from the plague of counterfeiting with a so-called political character.

He did not think that the assurance of this protection could be refused them, because it was justified, not only by their material interests, but also by the higher principles of international morality, which should not be allowed to remain an empty formula.

M. Mettgenberg (Germany) said that he would withdraw his proposal that Article 2 should be inserted before Paragraph IX.

Paragraph IX was acceptable in its present form to the German Government, but he did not think that his Government could accept a formula affecting political asylum, which it regarded as a *noli me tangere*.

The Roumanian delegate had referred to the German draft concerning extradition now before the Reichstag ; but that was only a draft, and M. Pella did not appear to know that the German Parliament had already expressly rejected the exception regarding political asylum. Consequently, nothing had actually been settled in the matter. If an exception were to be made to the doctrine of political asylum, that might be the case in regard to crimes against human life, but not in regard to the crime of counterfeiting.

In supporting the present text, the German representative urged the Committee to be very cautious if it desired to go farther.

With regard to Article 2, he would ask permission to postpone his observations on the matter until Paragraphs X and XI, and also the German proposal to insert a supplementary article, XI *(a)*, came up for discussion.

M. Schultz (Austria) said that he supported the views expressed by M. Pella and agreed with him that—except in certain cases of civil war or internal disturbances—counterfeiting could never be regarded as a political crime.

He thought that a distinction should be drawn between the motives and the actual crime. Crimes were committed for political and other motives ; there were political crimes, which might be granted more favourable treatment, and there were ordinary crimes ; it was possible for an ordinary crime to be inspired by a political motive, just as an act of espionage might be prompted by extremely vile motives.

Nevertheless, the distinction between ordinary crimes and political crimes was very clear, even when a motive could be invoked as an extenuating or aggravating circumstance. That

fact had been borne in mind by the Austrian Government in preparing its draft Convention, which he had himself drawn up. The first paragraph read as follows :

> " Any persons falsifying or forging . . . shall be guilty of an ordinary criminal offence and shall be punished. "

For that reason, he was not altogether satisfied with Paragraph IX now under discussion and would like the wording to be clearer. At the same time, the text was not unacceptable to Austria, although he hoped that it would be possible to arrive at something more in accordance with M. Pella's views.

In conclusion, he said that Austria would agree to any proposal which made it quite clear that counterfeiting would be regarded as an ordinary criminal offence.

It would also be well to ascertain whether all the States represented at the Conference were prepared to accept Paragraph IX as it stood, and whether the risk of non-accession would not be still greater if the Conference decided upon a more rigid text. He thought that the formula submitted by the Italian delegation was quite satisfactory, and would vote for it if necessary.

M. Szondy (Hungary), after showing that, according to Paragraph IX, the political motive of the offender was not enough to make an offence covered by the Convention a political offence, pointed out that the Mixed Committee's report stated that Paragraph IX of Article 1 and Article 2, which dealt with the extradition of the perpetrators of offences or their accomplices, were closely related.

The Hungarian Government thought that the principle laid down in Paragraph IX was in conformity with the general doctrine that, as regards extradition, the political character of an offence was determined, not by the reason assigned by the offender, but rather by the actual connection between the offence and some political movement.

The Roumanian representative had drawn attention to the method of elimination adopted by the Institute of International Law, at its session at Geneva in 1892, to exclude *a priori* from the benefit of the right of political asylum grave offences such as murder and poisoning, and proposed that this method should likewise be adopted with regard to the counterfeiting of currency.

The Institute's decision could not yet be regarded as part of positive international law : the Hungarian Government, when applying for extradition, had had occasion to note that, as a rule, Governments were not disposed to recognise the authority of that decision. Consequently, there could be no question of extending the method of elimination.

The Mixed Committee's report recognised that there might be circumstances in which counterfeiting, being closely connected with a political offence, might be accorded the benefit of the special rules which in most States applied to ordinary criminal offences when closely connected with a political offence. But the predominant opinion in regard to extradition recognised the connection between an ordinary criminal offence and a political offence, whether the two offences were committed at the same time or not.

He then referred to the German draft concerning extradition, which laid down the following principles : the common law offence served as a preparatory act to the political offence ; it served to ensure the success of that offence, to conceal and eliminate it.

He also showed that, in the French law on extradition, the Oxford theory had been adopted. According to this theory, barbarous acts were denied the benefit of the right of political asylum ; the French law did not, however, contain any provision restricting counterfeiters' right to political asylum.

In every case, the Hungarian Government considered the crime of counterfeiting as an extradition crime, even when the counterfeiter pleaded political motives. After the fall of the Bolshevist regime, application was made to several States for the extradition of the former Peoples' Commissaries, both on the charge of forging the national currency and of forging the stamping on foreign currency.

The States applied to did not confine the right of asylum of the revolutionary counterfeiters to the forgeries indispensable for maintaining the revolutionary regime—in particular, to forgery of the national currency—but refused to accede to the requests for extradition, both on the charge that the accused persons had forged national currency and that they had forged foreign currency.

In view of this, the Hungarian delegation proposed that the text of Paragraph IX should be retained. Should this paragraph not be accepted, it would propose the following formula, which might facilitate Switzerland's accession :

> " In regard to extradition, if the predominant element of the crime is a common law offence, the political motive of the offender is not enough to make an offence coming under the present Convention a political offence. "

He proposed that the words " in regard to extradition " should be inserted, because the question of the description of counterfeiting as a political offence might also arise in connection with penalties, judicial organisation, legal assistance, application of the principle *aut punire aut dedere* or amnesty.

The system adopted by the Hungarian Penal Code divided offences into two groups : *(a)* purely political offences punishable by incarceration in a State prison ; *(b)* common

law offences in respect of which the principal penalties were death, hard labour, penal servitude, imprisonment and fines. Counterfeiting was punished by hard labour and was accordingly described by the law as a common law offence.

In any case, the Hungarian delegation thought that other States should not be deprived of the right to establish under their domestic law special treatment of political offenders, irrespective of the restrictions laid down in Paragraph IX regarding extradition.

M. Caeiro da Matta (Portugal) agreed with M. Pella, whose views coincided with those he had himself expressed when the recent Extradition Convention concluded between Portugal and Czechoslovakia was being drawn up.

He did not, however, think that the Mixed Committee had absolutely excluded the subjective element, but that, in the Committee's opinion, this element, as embodied in Paragraph IX, was not in itself sufficient to define political offences. It had therefore added the objective element—*i.e.*, the political nature of the offence—to the paragraph.

However, if that were the interpretation to be given to Paragraph IX, he was opposed to the principles which it embodied. Like his colleagues, the Italian, Netherlands and Roumanian representatives, he thought that in no case should counterfeiting be regarded as a simple act directed against the political organisation of a given State : even if there were no theoretical reasons in support of that view, the facts would still remain, and the experience of what had recently happened in his country constituted, in his view, a decisive argument which led him to give full support to the opinions expressed by M. Pella and his other colleagues to whom he had just referred.

Sir John Fischer Williams (Great Britain) suggested the appointment of a small sub-committee to report to the next meeting of the Legal Committee on the subject. Personally, he confessed to having considerable affection for the text of the Mixed Committee. His opinion as to the retention of the text, or something allied to it, had been confirmed by the fact that nearly all the delegates who had spoken, especially M. Pella and M. Gerke, had begun their remarks by laying great stress on the fact that counterfeiting money, generally speaking, was just as much an ordinary crime as any other crime, such as homicide, but in the end there was agreement, especially in M. Gerke's declaration, that in the millionth case, perhaps, circumstances might occur in which a man who had committed what the Government would admit as a crime of counterfeiting currency other people might consider to be a political crime ; consequently, the efforts of the Committee must be directed, not so much towards securing a uniform text for internal legislation, as towards the right of asylum. He was not at all unhopeful of arriving at a satisfactory form of words to take the place of Paragraph IX, for which he still cherished an affection, and of similarly arriving at the text for Article 2 on the lines of the proposal by the delegation of the United States of America, which would give complete satisfaction to everyone concerned.

He thought it would not be right as a matter of drafting to put the question of extradition into the first article, because that article was intended to give a list of the principles to be introduced into internal legislation.

Extradition was not a question of internal legislation, but of international obligation, and the Draft as it at present stood was perfectly logical in keeping as a separate article international obligations with reference to extradition. He hoped the Committee would not attempt the definition of a political crime, because that would be an extremely difficult thing.

M. Szondy (Hungary) reminded the Committee that Hungary was the first country to establish, in a Convention concluded with the Kingdom of the Serbs, Croats and Slovenes, the system of elimination to which M. Pella had referred.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said that he had proposed a text for Paragraph IX in his report (document C.F.M.3). He had now amended this text and proposed the following text to the Committee :

> " The political motive of the offender and the political nature of the offence owing to its connection with a purely political offence must both be established before the offender can be accorded the privileges to which political offenders are entitled. "

In this text he had formulated the objective-subjective theory of a political offence—a theory disputing the purely objective and the purely subjective conception which he had expounded in a French review in 1926.

In his opinion, according to this conception and in conformity with the text he proposed, it was necessary, before counterfeiters could be granted the privileges to which political offenders were entitled, that :

1. The counterfeiter should have acted with a political motive. If a revolutionary committed an offence of counterfeiting in his own personal interest, it would not be right for him to enjoy political privileges owing to the fact that he was a revolutionary.

2. The act of counterfeiting should be of a political character. It was obvious that, taken by itself, counterfeiting had not this character, because the object protected by the law was the security of monetary circulation. Nevertheless, counterfeiting might indirectly become a political offence, and consequently an offence which was primarily political. That was the case when it formed part of a purely political offence, such as a revolutionary conspiracy.

That conception was expressed in the text which he had submitted by the words : " Owing to its connection with a purely political offence. "

M. KALLAB (Czechoslovakia) thought that the present Convention would be deprived of a great part of its value for most of the signatory States if there were any doubt left as to whether counterfeiting could or could not be regarded as a political offence. The progress represented by this Convention consisted precisely in the fact that a large number of States had agreed that they would no longer regard counterfeiting as an infringement of their individual sovereignty but as detrimental to their common interests in the maintenance of security in international trade and of confidence in the means of payment.

He was well aware of the difficulties encountered by States whose constitution or political tradition was antagonistic to the restriction of the right of asylum. For that reason, he would like to draw attention—without, however, making any formal proposal at the moment—to two possible means of overcoming those difficulties. The first was to draft Paragraph IX as follows :

> " For the purposes of extradition and the treatment of offenders, counterfeiting shall be regarded as an ordinary criminal offence. "

This would provide for the assimilation, from a juridical standpoint, of counterfeiters to other common law offenders such as thieves, swindlers and murderers. He thought that this formula might prove acceptable to all, as it allowed of the possibility in exceptional cases of counterfeiting being regarded as a political offence.

The second alternative would be to strike out Paragraph IX and to recommend the signatory States to incorporate in their extradition treaties a provision, which could be formulated immediately by the Committee, to the effect that counterfeiting would not be regarded as a political offence.

This method would enable the thorny question of the political character of counterfeiting to be dealt with apart from the Convention, while leaving States which desired to do so free to take action in the matter by destroying the political halo with which it was sought to surround the crime of counterfeiting.

M. DE CHALENDAR (France) thought that it would have been better to arrive at a more definite and clearer conception of the very delicate matter of political motives in connection with the crime of counterfeiting. The Committee would remember the origin of the Conference. The discussions which took place in the Council in June 1926 certainly gave the impression that the Council desired that very severe measures should be taken to suppress the international crime of counterfeiting even with a political motive. He would therefore have preferred a more rigorous provision than that adopted by the Mixed Committee. The French delegation would have approved the text drawn up by the Committee of Jurists appointed by the Mixed Committee. That text was very clear and very definite.

Nevertheless, the French delegation accepted the compromise adopted by the Mixed Committee and thought that this compromise should serve for the general guidance of the Conference in its work.

Consequently, although this text did not give entire satisfaction to the French delegation, the latter considered that it would meet minimum requirements and hoped that it might be improved by the Drafting Committee. It was desirable that a text providing for the pursuit and punishment of counterfeiting (even when a political motive was alleged as an excuse) and which would prove acceptable to all States should be submitted to the Conference.

M. GYLLENBÖGEL (Finland) pointed out that, when an offence such as counterfeiting affected the existence, political order or security of the State, there was a generally accepted opinion, which found expression in Finnish law, that this might be regarded as a political offence. Although Finnish law contained no formal definition of political offences, it would need to be modified.

The Finnish delegation trusted that the Sub-Committee would arrive at a formula which would state definitely that acts constituting offences under the Convention must never be regarded as political offences.

The CHAIRMAN proposed that the provision should be submitted for preliminary examination to a Sub-Committee consisting of Sir John FISCHER WILLIAMS, M. PELLA, M. METTGENBERG, Mr. WILSON, M. GERKE, M. ALOISI, M. CALOYANNI and himself.

Adopted.

(The meeting rose at 6 p.m.)

FIFTH MEETING

Held on April 13th, 1929, at 3 p.m.

Chairman : M. Servais (Belgium).

Discussion of the Draft Convention (continued).

Article 1, Paragraph IX, of Draft (continued).

The Chairman informed the Committee that the Sub-Committee which had been formed to study Paragraph IX had come to the conclusion that it would be unable to submit a complete report on the subject before the Committee had examined those provisions of the preliminary Draft which dealt with extradition—in particular, Paragraphs X and XI—and had referred them back to the Sub-Committee.

Article 1, Paragraphs X and XI, of Draft (*Final Articles 8 and 9*).

M. Mettgenberg (Germany) proposed an amendment to the form of Paragraph X. He proposed that, instead of " . . . nationals who have taken refuge . . . ", they should say " . . . nationals who are in . . . ". Thus, the same expression would be used in Paragraphs X and XI.

Adopted.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) proposed the omission of the words " as a general rule ", since the expression would mean, arguing *a contrario*, that Paragraph X would merely apply to countries which only admitted the extradition of nationals as an exception, apart from the offences referred to in the Convention.

M. Stavro Stavri (Albania) stated that he was not quite sure if action could be taken in certain cases of counterfeiting when these were connected with extradition, and would ask the Committee for an explanation. He proposed to give an example, and, in order not to offend anyone of another nationality, he would suppose that the principal offender was a non-existent person whom he would call his brother Luke. Luke, being of Albanian nationality, had established himself in Roumania at Bucharest, a city in which the Albanian colony enjoyed the utmost hospitality at the hands of the Roumanian authorities and people. After remaining four years at Bucharest, Luke took to evil ways and counterfeited Roumanian currency. Some of this he uttered and then proceeded to London, taking counterfeit notes with him. In London, he met a wealthy Roumanian who possessed a large town house in London and a country house on the outskirts. Luke persuaded his Roumanian friend to sell him his country house, for which he offered him £50,000, to be paid in Roumanian currency. The Roumanian agreed, and thus quite innocently found himself in possession of the counterfeit currency. As the financial reorganisation of Roumania was pending, he deposited his notes in a safe. In the meantime, Luke had sold the country house, gone to Monte Carlo, played, lost and committed suicide. Eight months later, the stabilisation of Roumanian currency took place. The Roumanian took his notes out of the bank and put them into circulation. The officials of the Roumanian Consulate noticed that counterfeit Roumanian notes were in circulation and notified the British and Roumanian Governments. An ordinary offence would have been committed. Roumania, having—or let them suppose that she had—concluded a Treaty of Extradition with Great Britain in respect of offences at ordinary law, requested the extradition of the Roumanian, who had nevertheless acted in perfect good faith. Would the Roumanian be extradited or not ? Further, if the Roumanian were a political refugee, having committed a political offence in Roumania and having taken refuge in London enjoying there the right of asylum, ought he to be extradited or not ?

Sir John Fischer Williams (Great Britain) found himself in a difficulty in giving a legal reply to the arguments raised, because it was hard to prophesy as to the decisions to be given in the courts. He thought it highly unlikely that the courts could go so far as to sanction extradition for a man who had committed such an act in good faith.

M. Pella (Roumania) pointed out that the Albanian delegate in the example he had quoted seemed to have been contemplating yet another possibility : that of an individual prosecuted in the applicant country for counterfeiting and also for a political offence, there being no connection between the two offences.

The Albanian representative asked whether, in such circumstances, extradition for counterfeiting might be refused? If, in the example quoted, the counterfeiter, after committing his offence in another country, had taken refuge, not in England, but in a fourth country, whose laws allowed the principle of indictment for offences committed abroad, and if that country refused extradition, they might in certain cases contemplate the possibility of applying Paragraph XI, provided there were no connection between the political offence justifying the refusal of extradition and the act of counterfeiting.

The CHAIRMAN thought it would be dangerous for the Committee to endeavour to elucidate beforehand any particular or concrete case. He proposed to close the discussion on that point.

M. SZONDY (Hungary) drew the Committee's attention to the Hungarian Government's observation on Paragraph X, namely :

> " In order to avoid misunderstanding, the Royal Hungarian Government would like to see it clearly stated that the provisions of Paragraph X do not exclude the application in the matter of penalties of the principle *lex milior*, of the principle *non bis in idem* and other similar principles ; for instance, the taking into account of sentences served abroad. "

Articles 8, 9 and 11 of the Hungarian Penal Code were worded as follows :

> " *Article* 8.—In addition to the cases mentioned in paragraph 1 of Article 7, a Hungarian subject who commits abroad one of the crimes or misdemeanours referred to in this Code shall also be punished according to the provisions of the present Code.
>
> " *Article* 9.—Any foreigner who commits abroad a crime or misdemeanour not mentioned in paragraph 2 of Article 7 shall also be punished according to the provisions of the present Code if his extradition is not authorised under existing treaties or custom, and if the Minister of Justice issues an order for his prosecution.
>
> " *Article* 11.—In the cases mentioned in Articles 8 and 9, a crime or misdemeanour committed abroad shall not be punishable if the act is not punishable under the law in force in the place in which it was committed or under Hungarian law, or has ceased to be punishable according to either of these bodies of law, or if the competent foreign authority has remitted sentence. "

Paragraph X of the first article of the Draft laid down, however, that offences provided for under the Convention, when committed abroad, should be punishable in the same manner as if the offence or act of intentional participation in question had been committed in the territory of the country itself.

Under the Hungarian system of law, the principle of territoriality was only applied in the case of crimes and misdemeanours committed in Hungarian territory. For crimes and misdemeanours committed in Hungary, foreign law was not taken into consideration, nor did Hungarian law take into account sentences pronounced abroad. But, if a Hungarian committed a crime abroad, the judge took into consideration the law of *forum delicti commissi*. If the foreign law provided higher penalties than those admissible under Hungarian law, Hungarian law applied. In that respect, therefore, Hungarian law could not ensure the absolute assimilation of offences committed abroad to those committed within Hungarian territory.

The CHAIRMAN, summarising the Hungarian representative's statement, said its tendency was to show that in Hungarian legislation there was a difference between the sentence imposed for a crime or misdemeanour committed in Hungarian territory and that imposed for a crime or misdemeanour committed abroad. In the first instance, the Hungarian judge took no notice of the foreign judge's opinion ; he applied Hungarian law and, if the Hungarian offender had already been sentenced abroad for the offence in question, he would be sentenced once more in Hungary. In the case of an act committed abroad for which proceedings were being taken in Hungary, the Hungarian judge was bound to take into account the opinion given abroad. If the act had led to a sentence abroad, or was not punishable abroad, the person would not be prosecuted in Hungary. If the act had been punished abroad, the sentence was deducted from that which might be imposed in Hungary.

In these circumstances, he thought that the question was whether the international character of counterfeiting currency made it absolutely necessary to modify Hungarian law.

M. DUZMANS (Latvia) wished to state that Latvian legislation as it stood was absolutely in keeping with the provisions of Paragraph X. A Latvian who committed a crime or misdemeanour abroad was punished in Latvia in the manner laid down in the paragraph, except in the matter of minor offences (" contraventions "), for which there had to be some treaty agreement.

He proposed a modification in the text of Paragraph X, which laid down :

> " . . . if the commission abroad of any offence referred to in this Convention, or of any act rendering them liable as accessories to such offence . . . "

The same passage occurred later on. Could not this be replaced by the word " offences ", seeing that participation—in its general meaning admitted at the previous session—already constituted an offence under the Convention ? Moreover, in Paragraph XVI, there was no reference to participation, it being merely stated :

> " The transmission of letters of request relating to offences referred to in this Convention . . . "

It was probable that letters of request would also refer to participation. Consequently, it would be preferable to employ in Paragraph X the same wording as in Paragraph XVI. That would be more in keeping with the decision reached at the previous meeting. A similar change ought to be made in Paragraph XI. He would revert to the point when that paragraph was submitted to the Committee.

M. Pella (Roumania), referring to the Hungarian delegate's observations, said he thought that Paragraph X did not in any way affect the principle of *non bis in idem*.

Pursuit and punishment of the acts referred to in the Convention would be carried out in conformity with the general principles contained in each code for the application of criminal law, in respect of the places or persons subject to that law and, naturally, to the extent to which the principle was not in contradiction with the provisions of international criminal law contained in the Convention. The Convention was nowhere opposed to the application of the principle of *non bis in idem*.

He thought that Paragraph X was far from opposed to the taking into account of sentences served abroad.

The question became more difficult, however, when a body of law provided that, if there was a difference, from the point of view of the penalty, between the law of the country in which the offence was committed and the law of the country in which the offender was being prosecuted (under the principle of personality), the law which was most favourable to the offender should be applied, that is to say, the law which imposed the lighter penalty.

Obviously, if the foreign law was more favourable, the latter could not be applied even if the law of the country in which the offender was being prosecuted provided for its application. Paragraph X, in fact, laid down that nationals who had committed counterfeiting, etc., offences abroad should be punished in the same way as if the offence had been committed in the territory of the country in question. If the act had been committed in the territory of that country, it should be that country's law, *i.e.*, the law entailing the heavier sentence in the case in point, which ought to be applied under the principle of territoriality.

In conclusion, he thought that, as regarded the maxim *non bis in idem*, and the taking into consideration of sentences inflicted abroad, Paragraph X did not affect Hungarian or any other legislation. Except in the cases he had quoted, Paragraph X left States entirely free to prosecute, in conformity with the principles of the international penal law contained in their codes, any nationals who were guilty of counterfeiting offences abroad.

The Chairman, like M. Pella, thought that the Committee would agree that the Convention did not affect Hungarian law. He differed from M. Pella, however, in believing that they might nevertheless modify the text in order to meet the Hungarian delegate's desire for a clearer wording. That, however, was a drafting matter, which might be referred to the Sub-Committee.

The Committee referred this point to the Sub-Committee.

M. Pella (Roumania) asked the German representative what he had had in mind when he persuaded the Mixed Committee to introduce into Paragraph X the last two lines beginning : " This provision does not apply . . . ".

He agreed with the Mixed Committee's observations on this point (page 12), but he thought that the text as at present worded might be open to another construction. It might be thought that the phrase referred to connection with a political offence. The report itself referred to non-punishability owing to lapse of time ; the text proposed by the German delegation seemed to refer to connection with a political offence. He would be glad to know what they really had in view when they made the proposals as a result of which the final part of Paragraph X was inserted by the Mixed Committee.

The Chairman noted that there were two conflicting possibilities : either they should not take into account the political nature of the offence, since extradition ought to be accorded, or they could admit that counterfeiting might be a political crime. If so, the word " nature " would apply to political offences. For instance, a State might take proceedings against a foreigner on the count of an offence committed abroad only if on the same count the foreigner could have been surrendered by the State.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) noted that the last sentence of Paragraph X was connected with Paragraph IX. The reference was to the case in which counterfeiting was a political crime ; they could not, therefore, reach a conclusion until a final text had been adopted for Paragraph IX.

M. Pella (Roumania) thought that there was a difference between what the Committee said in its report and the German delegation's opinion. In the report, mention was made of non-punishability owing to lapse of time, a matter quite unconnected with the political nature of the offence.

He cited the case of a Roumanian who had committed an offence abroad. If the Roumanian could not be prosecuted for the offence in Roumania as a result of lapse of time or amnesty or because no provision was made for the offence under Roumanian law or the law of the country in which the offence was committed, that would be a question totally unconnected with the political nature of the offence.

If, therefore, they had the political nature of the offence in mind, they must agree with M. Givanovitch's proposal and connect up this matter with the question of political offences.

If, on the other hand, they were referring to non-punishability owing to lapse of time or any other similar circumstances, the text should be made to read :

> " This provision does not apply if there be a cause for the extinction of the offence or penalty under the laws of the country in which the offence was committed or those of the country of refuge. "

The CHAIRMAN noted that they were very near agreement and were indeed already agreed as to the principle, namely, that there could be no question of taking proceedings in a case in which, under the terms of the Convention itself, extradition ought not to be granted. He proposed that this text should be referred to the Drafting Committee with a view to eliminating the word " nature ".

This was agreed to.

The CHAIRMAN reminded the Committee of the suggestion put forward by the Belgian delegation.

Under Paragraph XI, the obligation to take proceedings was made subject to the condition that complaint had been laid by the injured party, or official notice given by the foreign authority. That condition did not exist in Paragraph X.

The Drafting Committee would examine this point.

M. ALOISI (Italy) said he ventured to submit a contrary proposal : the Italian authorities could prosecute counterfeiters without waiting for any complaint or official notification.

A reference in the report would therefore be quite sufficient as an explanation.

This was agreed to.

M. SJÖSTRAND (Sweden) read the Swedish Government's reservation to the effect that the Swedish Code contained no provision covering the case in which the guilty party changed his nationality after the offence. He wondered whether there were sufficient reasons to warrant the inclusion of a provision of this kind solely to meet the crime of counterfeiting.

M. PELLA (Roumania) said he supposed that that amounted to a proposal to omit the sixth line of the paragraph. That, he thought, would be impossible, and quoted the following example in proof of his contention :

A Polish woman committed a counterfeiting offence in Poland. She came to Roumania and married a Roumanian. Poland had not demanded the extradition of this Roumanian before her marriage, but did so afterwards. Roumania could not extradite the woman, who had become Roumanian by her marriage, on account of the principle of the non-extraditability of nationals. Nor could Roumanian law apply either, because at the time of her crime the offender was a foreigner and Roumanian law was not applicable to foreigners who had committed offences abroad. It was a case of absolute impunity.

He reminded the Committee that there had been the same gap in the French Code until 1910, in which year (February 26th) a law was passed authorising the pursuit and punishment of foreigners who had acquired French nationality after committing an offence abroad.

In the circumstances, he thought they ought to maintain the present text of the sixth line of Paragraph X, which was an imperious necessity in the case of States whose laws were still defective on that point.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) said that there was a similar hiatus in the penal code of his country, but that, in practice, the courts always decided in the manner laid down in Paragraph X.

M. SJÖSTRAND (Sweden) thought M. Pella's arguments were sound in principle : it seemed, however, that the omission had been made good in the laws of only a very few countries. If Paragraph X were adopted as it stood, almost all bodies of law would have to be amended.

The CHAIRMAN said that, in Belgium, it was also the established practice of the courts not to allow homicide to go unpunished because the guilty party had subsequently acquired another nationality.

M. DELAQUIS (Switzerland) said that the same was true of Switzerland. Was there, therefore, any need to maintain the sixth line of this paragraph ?

M. PELLA (Roumania) replied that there might be States in which the practice was different. He insisted that the text ought to be maintained in order to avoid all possibility of impunity.

M. CAEIRO DA MATTA (Portugal) supported the proposal.

M. CALOYANNI (Greece) pointed out that countries whose case-law was favourable to pursuit and punishment would find no difficulty in accepting the principle. There would be no difficulty either for countries which had already included the rule in their codes. Finally, countries whose codes were silent on the point, or in which the courts followed a contrary practice, would be well advised to alter their laws, as Greece herself was doing at the time. All bodies of law should be brought into harmony with the spirit of the Conference so that no crime should go unpunished. That object could be attained if a very small amount of goodwill were exercised. He therefore asked that the text should be maintained.

M. Sjöstrand (Sweden) pointed out that in some countries the law was not in conformity with Paragraph X. Those countries would therefore be obliged, like Sweden, to amend their laws.

M. Caous (France) wished to offer a few observations, although the question did not in any way affect his country's laws, which already contained the provisions set out in Paragraph X.

The Conference seemed to have chosen as its driving principle the slogan : " No impunity anywhere for counterfeiters ". If that provision were not included in Paragraph X and if certain countries refused to extradite their nationals, all pursuit would become impossible.

He asked the Swedish delegate whether it would be so very difficult to alter Swedish law. All the delegates seemed prepared to ask for certain changes in their laws. Was it not worth while in that connection, and in order to secure the application of the rule, " No impunity anywhere for counterfeiters ", that the various bodies of law should take a little step forward, seeing that they could probably do so without much effort.

M. Duzmans (Latvia) thought that the Greek delegate had well expressed the important part which case-law did, and would in future, play in that particular question when the guilty party changed his nationality after committing the offence. The Roumanian and Serb-Croat-Slovene delegates had pointed out that, when criminal law was silent on the subject, it was the usual practice of the courts to allow prosecution, even if a person had acquired the nationality of the country after committing the offence abroad. That was natural. In countries in which practice and case-law were both in favour of such a course, though the written law itself was silent on the point, there was no urgent necessity to alter the penal code—with all due respect to the obligation contained in the Convention. Those countries would be able to make the necessary alterations in due course. In countries, however, in which—the law being silent on the subject—the courts were undecided and afforded no basis for a solution, why should there be any hesitation ? It was difficult to explain why, in so many words. But very often it was due to a lack of positive facts. In the law as it stood, the courts might derive such positive facts from various sources, and not merely from the penal code. Particularly if they bore in mind the fact that the rules and principles of law, which the penal code protected by the infliction of punishment, had their being elsewhere than in the code. Especially in the present case, when punishment existed under the code, the only doubt was concerning the scope of the right to punish. That being so, they might largely help to overcome the hesitancy of the courts by providing them with some positive material in the shape of the treaty clause introduced into Paragraph X of Article 1. After ratification, indeed, the Convention would become part and parcel of domestic law—in other words, a ground for positive law. They had even, for instance, contemplated the possibility of making certain international agreements automatically operative as internal law, without embodying their rules elsewhere, as in the case of cheques and bills of exchange. Obviously, they could not do that with criminal law. But even in the case of criminal law they would be creating a positive framework on which the courts of the various countries could base their decisions. Perhaps, when such a principle had been laid down to aid the courts in reaching their decisions, its very existence might facilitate its adoption by those who had hitherto hesitated to adopt it for the reasons set out by the Swedish delegate. Accordingly, he proposed that Paragraph X should be maintained as it stood.

Sir John Fischer Williams (Great Britain) said he had listened to the discussion with the greatest possible interest, all the more so because, so far as his country was concerned, the paragraph did not apply. His opinion had fluctuated somewhat during the course of the discussion, but he had come to the following conclusion. If the clause which the Committee was seeking to include in the Convention were a new one, he would beg M. Pella not to insist upon it, but as the clause was already included, and the advantages of it seemed to be nicely balanced, he thought that the general principle of maintaining the Convention as it stood should prevail. If he were to vote upon the question, he would vote in favour of the retention of the clause. He specially addressed an appeal to the Swedish delegate as to whether the present case was not one where the principle of maintaining the Convention as drafted should not be applied.

M. Sjöstrand (Sweden), in reply to the various arguments put forward by the French, Latvian and British delegates, said that, if they admitted the principle of maintaining the paragraph, they ought all to adopt it. That would entail considerable work in modifying existing laws. Consequently, the Swedish Government had expressed doubt as to the advisability of admitting the principle in that particular instance.

M. Aloisi (Italy) thought that the rule in question would not be necessary from the standpoint of Italian law, since it already formed a part of that law. He agreed, however, with those of his colleagues who had spoken in favour of its maintenance. If the Committee adopted their view, he would like to see the word " acquired " take the place of " obtained ".

M. Caous (France) pointed out that the word in the French code was " acquis " (" acquired ").

M. Gyllenbögel (Finland) explained Finland's position in connection with the proposed text.

The Law of February 11th, 1922, on extradition laid down that a Finnish citizen could in no case be extradited in order to be judged by a foreign State for an offence committed

outside Finnish territory (including a Finnish vessel on the high seas). Nationality at the time of the requisition for extradition was the determining factor. Consequently, a Finnish national who had obtained Finnish nationality even after the commission of the offence could not be extradited. Thus, the provisions of Paragraph X would not apply to Finnish law.

Paragraph X laid down that a person who, after committing abroad an act punishable under Paragraphs II, IV or V of Article 1, had taken refuge in a country party to the Convention, or who had acquired the nationality of that party, should be punishable in his new country as if the offence had been committed therein, unless the act were of such a nature that a foreigner could not, in similar circumstances, have been extradited.

With regard to the application of the criminal law of the State whose courts were to try the offender, the Convention was based on a principle contrary to the provisions in force in Finland. The Finnish Penal Code laid down that Finnish nationals, to whom were assimilated persons who had committed an offence outside Finnish territory and had subsequently obtained Finnish nationality, could only be tried if their acts affected the supreme power in a foreign country, or the right of a national of the latter country, and if complaint were laid against the offender by the Government or party concerned.

M. Lachkevitch (U. S. S. R.) said that, after listening to the Swedish representative, he had received the impression that Swedish legislation was opposed to the acceptance of Paragraph X. On re-reading the Swedish Government's observations, however, he noted that there was nothing in Swedish law contrary to the provision. Again, he had examined the Swedish Government's observations with regard to Paragraph XI concerning the prosecution of foreigners, and noted that no objection had been raised.

There was nothing to prevent the Swedish authorities from prosecuting a foreign offender, even if he had subsequently acquired Swedish nationality. There was nothing to prevent them prosecuting a Swedish national who had committed the crime of counterfeiting after he had acquired Swedish nationality.

Where was the difficulty, then, in adopting the rule ? He would be glad if the Swedish representative would explain.

M. Sjöstrand (Sweden) withdrew his remarks.

M. Hayashi (Japan) (document C.F.M./A/7) spoke as follows :

" Japanese law having adopted, for criminal proceedings, the principle known as " discretionary power to prosecute ", it follows that, even if there should be sufficient proof that the offence has been committed, the Public Prosecutor is not obliged to prosecute if, after examining the case, he is of opinion that there are special reasons for such abstention, account being taken of the character, age and status of the offender, the circumstances of the offence and the circumstances following the offence.

" This is a fundamental principle of Japanese criminal procedure which has been recognised by formal provisions of the Code and to which no exception is made. It even applies to the most serious offence provided for by law, namely ' lèse-majesté '.

" This principle is recognised both by doctrine and by practice. It would therefore be very difficult to make an exception to this principle for the case of counterfeiting currency. It would be impossible to admit such an exception in the case of counterfeiting of foreign currency.

" Should paragraph XI of Article 1 stipulate, as regards counterfeiting currency, that a legislation should be established which would involve an *obligation* to prosecute in certain given cases, Japan could not accept such a clause.

" Nevertheless, in practice, there are very seldom special reasons which prevent prosecution in the case of counterfeiting of currency. As a general rule, the Public Prosecutor initiates proceedings as soon as there is any evidence that the offence has been committed.

" The Japanese delegation would fully approve the paragraph in question if it merely states that in practice measures should be taken against the offence of counterfeiting currency. "

The Chairman thought that a reply could be given to the Japanese delegation which would meet its objections. The right and even the duty of the Public Prosecutor to weigh the advisability of instituting proceedings—provided, of course, the grounds were entirely reasonable—was a principle which he thought was generally admitted. He did not believe that the authors of the Draft had ever intended that the text should make it impossible for the Public Prosecutor not to institute proceedings, when he had come to the conclusion, for instance, that there was not sufficient evidence. In principle, then, they might say that the text, even as it stood, met the Japanese delegation's wishes. In any case, the Japanese delegation could be assured that the Convention would be so drafted as to protect the principle of reasonable discretion concerning the advisability of prosecuting.

M. Mettgenberg (Germany) said that the only fundamental proposal the German delegation had to make was that to be found on page 19 of document C.607.M.185.1928.II,

which had been distributed to the members of the Committee. The proposal was to the effect that a Paragraph X *(a)* should be inserted between Paragraphs X and XI :

> " The countries which recognise the principle of the extradition of their own nationals undertake, upon requisition being made, to surrender their nationals who are in their own territory but who have committed in a foreign country one of the offences covered by this Convention, or who have wittingly been accessories to such offences, even if the extradition treaty applicable in such cases contains a reservation with regard to the extradition of the country's own nationals.
>
> " Extradition shall not be obligatory if, on the same facts, the extradition of a foreigner could not be granted on account of the nature of the offence, or if the country applied to itself takes proceedings against its own nationals in respect of the offence. "

He explained that this proposal was intended to supply a deficiency in the Convention. He thought all his colleagues were agreed that no act of counterfeiting which merited punishment should go unpunished. They might attain their object in one of two ways : they might punish the counterfeiter, or they might deliver him up to the country of which he was a national or in whose territory he had committed his crime. It was laid down in Paragraphs X and XI that counterfeiting committed abroad should be punished ; that obligation was also binding on countries which admitted in principle the punishment of offenders for crimes committed outside their territory.

Moreover, Article 2, which was binding on all the contracting parties, provided that acts of counterfeiting should be extraditable offences. He knew that certain countries admitted in principle the extradition of their nationals—he believed that to be the case with Czechoslovakia, Great Britain and the United States of America. He reminded the Committee that the United States and British delegations had proposed that the wording of Article 2 should be modified so that the contracting parties would undertake to insert in the treaties of extradition in force between themselves the stipulation that counterfeiting should be an extraditable offence.

There was no treaty of extradition between Germany and the United States, but there was one between Germany and Great Britain. The latter treaty, however, contained a formal reserve with regard to the extradition of the nationals of these two countries.

The result was that the United States of America or Great Britain might refuse to extradite to Germany an American or an Englishman who had committed a counterfeiting offence in Germany.

He did not think that situation satisfactory and requested his colleagues to be good enough to consider their own situation with regard to countries which admitted the principle of the extradition of their nationals. He was quite prepared to agree to any other proposal for the solution of the problem if it were better than the one he had submitted.

Mr. Wilson (U.S.A.) said that the German delegate had introduced a subject which he had intended to bring to the attention of the Conference. That difficulty had presented itself to his Government, and he candidly did not see how to prevent it. At the same time, his Government agreed with the principle that every possible avenue of escape to the criminal and to the counterfeiter should be stopped.

There were two possibilities, but unfortunately both of them violated fundamental principles. One possibility was that the United States should surrender her nationals without reciprocal treatment from other countries, in contradiction to her long-established policy. The other possibility was that other nations should agree with the United States to surrender their nationals, in contradiction to their well-established policy. He admitted the difficulty, but he did not see how to overcome it in the absolute sense.

He would add that Mr. Moran, the United States expert from the Treasury Department, had assured him that, in practice, cases of Americans participating abroad in the counterfeiting of foreign currency were so rare that no fear need be felt, so far as the United States was concerned, if this avenue—if it might be so called—were left open to the transgressor.

Sir John Fischer Williams (Great Britain) found himself in very much the same situation as the representative of the United States. He wished to thank the representative of the German Government for the extremely cogent and very moderate way in which he had called the attention of the Conference to a matter of undoubted gravity and undoubted difficulty.

Great Britain, as was well known, had never had any objection, as a general principle, to the extradition of her own nationals. She had rather hoped at one time to persuade other countries to accept that principle. She recognised, however, that many countries had a perfectly justifiable objection to taking that particular action ; in any case, it was a matter within the discretion of each country, and it was not the business of Great Britain to attempt a task of general persuasion. At the same time, she had felt a not unnatural difficulty—
—and he thought everyone present would understand—in agreeing as a matter of absolute obligation to extradite her own nationals in favour of a country which refused similar treatment on its part.

Equally it had long been a principle of British criminal law that it was only in exceptional cases that Great Britain could prosecute her own nationals, much less foreigners, for offences committed abroad. That was a result partly of her territorial principle of criminal law and

partly of the principles of the British law of evidence. Evidence in a British court had to be given *viva voce*, and not in writing. When an offence had been committed abroad, the British Government had no means of compelling witnesses—who were usually of foreign nationality—to come before a British court. Consequently, there was a fundamental difficulty in British criminal law in undertaking—and he certainly had no authority to undertake—that offences committed abroad would be punishable. He therefore found himself in the difficulty that British obligations to extradite depended upon particular treaties. Obviously, he had not the authority, even if he had the wish, to attempt a reform of the whole system of extradition treaties simply with regard to a particular offence, and he hoped the Committee would not now search for a perfection which perhaps was hardly attainable in human affairs by seeking to introduce into the Convention the theoretically highly desirable clause proposed by the German Government. He was afraid such a clause would render it impossible for the British Government to accept the Convention as it stood.

He would associate himself particularly with the remarks made by the delegate of the United States to the effect that it was very easy to exaggerate the practical inconveniences of the present system. He did not know of any case—though there might be such cases—in which any forger had succeeded in obtaining impunity because of difficulties as to extradition.

His Government, however, was prepared to give a certain amount of satisfaction in this matter, and to add counterfeiting of currency to the list of extradition offences in all treaties in which it was not already included. It was willing to go even further and to consider favourably any proposal—though it would be a matter, of course, for separate negotiations between the Foreign Offices—for the amendment in any extradition treaty of an article which precluded the surrender of nationals by an article making the surrender of nationals discretionary. He thought it extremely unlikely in practice that, if such a discretion were assumed, Great Britain would ever refrain from exercising it for any offence falling within the present Convention.

In view of the advance which he had shown his country was ready to make in the face, he would add, of very considerable difficulties of internal legislation and tradition, he hoped that the Committee would be prepared to accept paragraphs X and XI of Article 1 in substance as they stood and Article 2 in the general form which had been proposed.

M. Szondy (Hungary) asked that in Paragraph XI the words " in the same way " should be omitted.

The Chairman agreed and said that that was a matter of drafting.

Mr. Wilson (U.S.A.) said he had been greatly impressed by the conciliatory spirit shown by the British representative in endeavouring to meet the difficulties which his German colleague had so justly pointed out. He would assure the Committee that the United States Government was also disposed to go as far as possible in the matter, and the general possibility of an undertaking by which nationals might be surrendered had already been considered, even though the United States might not be able to undertake an absolute obligation to do so. He had not worked out the form which this might take, and would like to see textually what was proposed, but he thought it would be possible to adopt a solution which would give satisfaction.

M. Mettgenberg (Germany) thanked the United States and British representatives for their remarks, which gave him reason to hope that this gap in international relations would one day be bridged by arrangements between the various countries.

The additional paragraph submitted by the German delegation was referred to the Drafting Committee.

The suggestion submitted by the Indian Government (document C.607(*a*).M.185(*a*).1928.II, page 20 of the English text) *was referred to the same Committee.*

M. Duzmans (Latvia) said he thought that, as they stood in paragraph XI, the words " as a general rule " had a slightly different meaning from the one intended by the Mixed Committee. He preferred the interpretation given in the report and proposed that they should omit these words. The Convention would then no longer be in opposition with most bodies of law.

There was, for instance, no such " general rule " in Latvian law ; foreigners who had committed offences abroad were only punished in Latvia in the case of crimes or offences which affected the rights of nationals or the property and revenue of the Treasury, provided there was an international agreement on the subject. There was the refore no generalrule. Latvian legislation would be in keeping with the Convention if the words " as a general rule " were omitted, because the provisions of the Latvian Penal Code, although limited, covered all the acts of counterfeiting.

He reminded the Committee that, in connection with Paragraph X, he had proposep the omission of the words " or acts of intentional participation ". He suggested that these words should be omitted in Paragraph XI for the same reasons : the expression " offence " included the whole range of delicts, including participation both as a principal and as an accessory.

With regard to the first condition, namely, that extradition had not been requested or could not be granted, he thought they might connect this point with the " nature of the offence " referred to in Paragraph X.

He also suggested that they should bring into line the expressions " nature of the offence ", in Paragraph X, and " which has no connection with the offence ", in Paragraph XI, since the underlying meaning was the same.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) seconded M. Duzmans' motion with regard to the words " as a general rule ". As he had pointed out in his observations, their retention would mean that proceedings would not be obligatory when the internal law only allowed such proceedings to be taken as an exception in the case of offences committed abroad, even if the exception extended to the offences dealt with in the Convention.

M. Pella (Roumania) reminded the Committee that the words " as a general rule " had not been included in the first Draft. As they desired to exempt from the provisions of Paragraph X countries which, like Great Britian, only applied the system of territoriality, they had made it clear that even in these countries the guilty person might be prosecuted as an exception, although the offence had been committed abroad—when, for instance, it had been committed in uncivilised regions. That was why they had introduced the words " as a general rule ".

Sir John Fischer Williams (Great Britain) agreed.

M. Pella (Roumania) pointed out, on the other hand, that, if they omitted the words " or acts of intentional participation ", it might be thought that a national who had been guilty abroad as an accessory could not be punished when he returned to his country.

The Chairman reminded M. Pella that, in connection with Paragraph X, the Committee had decided to replace these words by a reference to the acts enumerated in Article 2.

M. Pella (Roumania) agreed with the Chairman that, if there were a general reference to all the acts indicated in Paragraph II, which in its new form also included acts of participation, they might quite well replace the words " any offence referred to in this Convention or any act rendering them liable as accessories to such an offence " by the words " any of the acts referred to in Paragraph II ".

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said that, if they adopted the words " as a general rule ", States would not be obliged to punish counterfeiting in certain cases.

M. Duzmans (Latvia) called for an explanation of the following sentence : " that a complaint is made by the injured party or official notice given by the foreign authority ". That provision was contrary to the main idea that the guilty person should be punished in every instance ; it seemed to limit the possibilities of pursuing and punishing counterfeiting. Under her present legislation, Latvia would invariably prosecute under Article 9 of her Penal Code, even if no complaint were made. But that would not be the case in some other countries.

The reasons advanced by the Committee included the following : " The State on the territory of which the offence was committed is in the best position to judge of the advisability of prosecution. " If that State decided not to prosecute, the offence would go unpunished.

The Chairman pointed out that they should not regard the Committee's report as a decisive factor in interpreting the final Convention.

M. Gyllenbögel (Finland) made the following statement on behalf of his Government :

According to the Decree of February 25th, 1895, extending the provisions of the Penal Code, an offence committed abroad by a foreigner might be tried, under a convention concluded between Finland and the foreign State, under Finnish law, even when the offence had been committed against a foreign national. On the other hand, and indeed under the same clause, an act committed abroad by a foreigner which, without injuring Finland or a Finnish national, affected a foreign State in its public law or, without being directed against any individual, affected some other rights could not be judged under Finnish criminal law, even when a convention existed between Finland and the State in question.

Consequently, an act committed abroad by a foreigner which included some coining offence that injured neither Finland nor any Finnish national could not, according to existing Finnish law, even if an international convention were concluded on the subject, be judged under the Finnish Criminal Code unless the offence was also aimed at some individual.

Paragraph XI of Article 1 of the draft Convention was intended to be applied " in countries whose internal legislation recognised as a general rule the principle of the prosecution of offences committed abroad ". As he had shown, Finnish law did not recognise that principle and only punished acts committed abroad by a foreigner in special cases. Consequently, the paragraph as worded in the draft Convention would not be applicable to Finland. He thought the Committee should decide to omit the words " as a general rule ".

Sir John Fischer Williams (Great Britain) agreed with M. Pella that a number of countries did not prosecute for offences committed abroad, and the text was intended to apply to those countries. The language was perfectly clear and conveyed the intention of the Mixed Committee in connection with the Convention.

The Chairman suggested that, after so detailed a discussion, the article should be referred to the Drafting Committee, which might be able to reconcile the various points of view : the Committee would then be able to discuss Article 2.

M. Lone Liang (China) asked if the text of his reservations had been distributed and taken note of.

The Chairman replied in the affirmative.

M. Lone Liang (China) desired to make some observations on the reservation which had been handed to the Secretariat and which had not yet been distributed.

The Chinese delegation felt that China was not in a position to accept this paragraph nor Article 2 of the draft Convention, which, if he was not mistaken, seemed to involve the obligation of a signatory State to grant the extradition of a foreigner accused of counterfeiting currency by a third State. He would have something to say with regard to Article 2 when that came under discussion.

For the moment, he would confine his remarks to the report of the Mixed Committee explaining the provisions of Paragraphs X and XI, and which said (document C.F.M./A/10) :

> " When the criminal is a foreigner, then, under the draft Convention, the obligation to prosecute in the country in which he has sought refuge depends in the first place on the condition that the internal law of the country recognises the principle of prosecuting offences committed abroad ; if the country does not recognise this principle, it will extradite. Further, the obligation to prosecute in the country where the criminal has taken refuge is subject, even in the case of States which recognise the principle of prosecuting offences committed abroad, to two conditions, namely, that extradition has not been requested or cannot be granted for some reason which has no connection with the offence itself, and that a complaint is made by the injured party or official notice given by the foreign authority. "

From the first condition it was clear that, although provision was made, it had not been expressly provided what the action of the Government of the country should be in which the criminal had sought refuge. It was to be inferred that the alternative must be the granting of extradition, since, according to the said report, the principle underlying the proposed Convention was that such crime should nowhere go unpunished.

It was that obligation which his Government was at present unable to assume, on account of the unsatisfactory relations between China and some foreign States. He referred to the privileges of consular jurisdiction which those States still enjoyed. Under that system, if a national of one of those privileged States committed counterfeiting in a third country and then sought refuge in China, it would not be possible for China to extradite him to the third State, nor to punish him, but she would have to hand him over to the consul of his country in China. If the law of his country did not recognise the principle of allowing its own nationals to be extradited, nor the principle of prosecuting offences committed abroad, then he would escape punishment altogether. On the other hand, there were now many countries which did not have the right of consular jurisdiction, and the nationals of those countries were subject to Chinese law and jurisdiction. In case a national of any of those States committed the offence of counterfeiting the currency of a country which enjoyed the right of consular jurisdiction in China, he would have to be extradited. That would be unfair to the foreigners who were subject to Chinese law and jurisdiction and would give an advantage to those who were not. The position of his Government was therefore very difficult, and until all foreigners in China were put on an equal footing and made amenable to Chinese jurisdiction, China could not undertake a general engagement to grant extradition of foreign criminals, even for an offence of such a nature as that specified in the Convention. On behalf of the Chinese Government, he desired to make the following reservation :

> " Pending the negotiations for the abolition of the system of consular jurisdiction, the Chinese Government is unable to accept Paragraph XI, Section (1), which involves the undertaking of a general obligation to grant extradition of a foreigner who is accused of counterfeiting currency by a third State. "

The Chairman said that the Chinese delegation would have to consider whether it could not agree to the Convention, with its reservation included in the Protocol, and the other delegates would have to decide whether they could accept that reservation.

M. Pella (Roumania) suggested that they might close the meeting, seeing that the question of extradition referred to in Article 2, which they would have to discuss, was connected with the question of political offences, which had been reserved, and seeing that certain new proposals would be made regarding habitual international criminality which might possibly give rise to lengthy discussion.

The Chairman observed that, with regard to Article 2, the Committee only had before it a proposal by the United States of America and a suggestion by Roumania. Delegates who

had other alterations to propose should acquaint the Secretariat with their proposals in order that the Sub-Committee might have time to consider them. The text of Article 2 could be sent to the Sub-Committee immediately.

M. Pella (Roumania) pointed out that it was not merely the question of Article 2, but of a text referring to habitual international criminality to be introduced between Paragraphs XI and XII. That text was unconnected either with extradition or political offences. Consequently, he asked that they should allow him to put forward his proposals regarding habitual international criminality.

(The meeting rose at 6.30 p.m.)

SIXTH MEETING.

Held on April 16th, 1929, at 10 a.m.

Chairman : M. Servais (Belgium).

Discussion of the Draft Convention after the Report of the Sub-Committee (document C.F.M./A/11) on Paragraphs IX, X and XI of Article 1, and on Articles 2 and 3 du projet.

The Chairman declared the meeting open. The Committee had before it document C.F.M./A./11, containing the suggestions of the Sub-Committee on the drafting of Paragraphs IX, X and XI of Article 1 and of Articles 2 and 3. It would be seen that the system of dividing the text into articles instead of paragraphs had been adopted. This might mean that the Convention would have to be divided into chapters, but that could be left to the Drafting Committee.

Article 3 of C.F.M./A/11 (Article 1, Paragraphs II, IV and V, of Draft) (Final Article 3).

The Chairman desired to draw the Committee's attention to Article 3, page 2. That article approximately represented Paragraphs II, IV and V of the original Draft, which contained an enumeration of the offences to be punishable. He would ask the Vice-Chairman to explain the reasons for the new form of these paragraphs.

Sir John Fischer Williams (Great Britain), Vice-Chairman, hoped that the reasons for the change would commend themselves to the Committee. The main object was to distinguish clearly between the sphere of internal legislation and the sphere of international obligation. In the sphere of internal legislation, with which Article 3 principally dealt, it was agreed to insert the reference to ordinary offences (" délits de droit commun ") in order to emphasise the fact that, from the point of view of internal legislation, it was eminently desirable and necessary that no idea should be introduced of a *régime de faveur*, of establishing favourable treatment, in regard to counterfeiting currency. He hoped that the Committee would agree with the insertion of the words " délit de droit commun ", which he thought admirably fulfilled their purpose.

He would like to add a few words on an article closely connected with Article 3, namely, the old Article 2, now Article 9, which would be found at the bottom of page 4 of the document. There the amendments proposed by the delegate of the United States of America had been adopted. It was intended to make clear that extradition was, for all States which had concluded extradition treaties, a matter for those treaties ; that the new Convention should not upset the whole system of extradition by means of at reaty ; but that where a treaty existed, or if in the near future a treaty were conceivably to be brought into being, which did not mention counterfeiting currency, that offence should be deemed to be *ipso facto* at once included in these treaties and should be submitted to the general extradition procedure.

On M. Pella's suggestion, a new article had been added making it clear that countries whose extradition procedure did not depend upon treaties were to be bound to include in that procedure the offence of counterfeiting currency. That, however, was an obligation, as had been pointed out, which ought to be, and was to be, undertaken only as between the particular countries which had adopted what he might call the non-treaty system.

Finally, to the old Article 3, now Article 10, a more ample reserve had been added in order to make it perfectly clear that nothing was being done to prejudice the general criminal legislation and administration of each country within its own domestic sphere ; for example, nothing was being done which would alter the qualification given in particular legislations to the particular facts with which the Conference was dealing, or the general rules as to prosecution by which a country decided or did not decide to prosecute, or the general rules under which what in England was called the " prerogative of mercy ", the right of pardon,

was exercised ; such rules would remain unaffected. It was intended to make this doubly clear by a reference in the Protocol. He trusted that the general arrangement, which had been arrived at after very prolonged discussion and in a mutual spirit of conciliation, would commend itself to the Legal Committee and to the Conference.

He would call attention finally to the words " sans jamais leur assurer l'impunité ", which aimed at making it perfectly clear that it was not intended to have any general measure that allowed impunity to counterfeiting currency.

The CHAIRMAN said that all punishable acts in general had been enumerated in this article, in which Paragraphs II, IV and V of the Preliminary Draft of the Mixed Committee of Experts had been combined.

He then drew attention to two misprints in the text of document C.F.M./A./11, Article 3 : in lines 8 and 9, the periods should be replaced by commas. The tenth line should read as follows : " Les tentatives de ces infractions et le fait de fabriquer, de recevoir ou de se procurer . . . "

M. CAOUS (France) proposed that in the first line the word " délit " should be replaced by " infraction ".

This proposal was adopted.

M. PELLA (Roumania) said that the Roumanian Government regarded the further changes which had been made as the minimum guarantee in regard to the so-called political forms of counterfeiting.

In laying down categorically at the beginning of the Convention the principle that counterfeiting should be punished as an ordinary offence, he thought that the Conference had intended to provide effective protection from the underhand practices of certain individuals who had recourse to counterfeiting for the purpose of destroying a country's credit and who sought to conceal the reprehensible nature of their acts by alleging that they were of a political character.

Without in any way affecting the discretionary powers which certain countries, represented at the Conference, desired to retain as regards the determination of the political nature of an offence in exceptional circumstances, when counterfeiting was connected with a political disturbance, the principle laid down in Article 3 had the great advantage of defining still more clearly the object of the Convention, namely, that no counterfeiters should be allowed to go unpunished.

This was the primary aim of the whole Convention and must be borne in mind in deciding whether the Convention was being properly applied.

Although he proposed to submit, on behalf of Roumania, an optional Protocol providing that, as regarded the reciprocal relations between the States signing this Protocol, the principle that counterfeiting was an ordinary criminal offence should in every case be applicable in connection with extradition, he approved Article 3 and thanked the Sub-Committee for adopting certain of his suggestions.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) proposed that the words " comme infraction de droit commun " should be deleted, as they were unnecessary.

The CHAIRMAN replied that, if the words were unnecessary, this proved that they could do no harm. The Sub-Committee had done its utmost to make the text as clear and precise as possible. If any member thought he could propose a better text, he was at liberty to do so. The text submitted to the Committee was the result of a discussion which had lasted for some hours, and which it was not advisable to reopen.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) said that he would not press his proposal.

M. Ibrahim BAHATTIN (Turkey) asked whether the words " making or altering " were intended to cover colouring or any other similar process.

The CHAIRMAN gave an affirmative reply.

M. CAEIRO DA MATTA (Portugal) proposed that the article should begin as follows : " Doivent être punis toujours comme un exclusif délit de droit commun . . . "

The CHAIRMAN replied that this proposal had been made on the previous day, but the Sub-Committee had not seen its way to adopt it. It would therefore probably not be accepted by all the members of the Committee.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) asked the meaning of the term : " les faits de participation intentionnelle ". In addition to instigating, aiding and abetting, did this expression also include co-operation ?

The CHAIRMAN replied that the term covered all acts by which a person participated intentionally in the perpetration of the offence, and which were called by the laws of some countries " co-operation " and by others " complicity ".

The term had been selected after lengthy discussion. It had an absolutely general meaning and embraced all acts, whether material or moral. It was impossible to find a more comprehensive expression or one more in accordance with the views expressed during the previous discussions.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) thanked the Chairman. He still thought that the first part of the article referred to co-principals, whereas participation referred to instigators or accomplices. He would not press the point, however.

Article 3, *amended as above, was adopted.*

Article 4 *of C.F.M./A/*11 (*Article* 1, *Paragraph III, of Draft*) (*Final Article* 4).

The CHAIRMAN read Article 4, which now covered, not only the offences of counterfeiting, but also intentional participation and the attempt to commit such offences.

Article 4 *was adopted.*

Article 5 *of C.F.M./A/*11 (*Article* 1, *Paragraph VI; of Draft*) (*Final Article* 5).

The CHAIRMAN pointed out that this article reproduced the text of Paragraph VI of Article 1 of the draft Convention.

Mr. RAND (U.S.A.) called attention to the fact that, owing to constitutional difficulties in the United States, which had been referred to by Mr. Wilson in the Drafting Committee, it would be impossible for his delegation to accept the text as drafted ; this observation referred also to Paragraph I. In the United States, penalties were different in the case of infractions of the law by nationals and by foreigners. His delegation was prepared to recommend legislation to bring the law into conformity with the provisions of the Convention, but could not bind itself in any way.

The CHAIRMAN took note of the statement by the United States representative and said that this would be examined when the subsection of Paragraph I, which had been postponed until later, and the question of a double Convention, came up for discussion.

M. LACHKEVITCH (U.S.S.R.) asked for an interpretation of the last part of the article : did this mean that it was forbidden to require the condition of reciprocity for the pursuit and punishment of the counterfeiting of all foreign currency, or did it mean that the condition held good only in connection with the pursuit and punishment of the counterfeiting of the currency of one of the States parties to the Convention? He assumed that the first interpretation was the correct one, because otherwise the reference to reciprocity would be meaningless. An authorised interpretation might possibly allay the misgivings of the United States delegation.

If it were the intention of the authors to avoid the possibility of reciprocal treatment being required solely in regard to the pursuit and punishment of the counterfeiting of the currency of the contracting States, he would suggest that, instead of " between acts relating to domestic currency on the one hand and to foreign currency on the other ", the text should read : " between acts relating to domestic currency on the one hand and to the currency of one of the Contracting States on the other ".

The CHAIRMAN said that the Belgian Government had proposed to make the application of Paragraph VI subject to the ratification of the Convention by all the contracting parties, so as to organise a complete system of reciprocity between them. It had been pointed out, however, that, owing to the international character of counterfeiting and its danger to general world economy, it was necessary that it should be effectively pursued and punished in them all and that no limit should be placed on the application of this provision.

M. DUZMANS (Latvia), replying to the Soviet delegate, asked what was the scope of his observation. They must not lose sight of the technical difficulties which would arise when the time came to bring municipal law into line with the Convention. The Latvian Code referred to national and foreign currencies : according to this new interpretation, it would be necessary to enumerate all these currencies in the code. From the technical point of view, it appeared to be difficult to confine the scope of the paragraph to the contracting States alone, and he was in favour of its application by the contracting parties to the currency of all countries, whether they were parties to the present Convention or not.

M. LACHKEVITCH (U.S.S.R.) said that his country punished the counterfeiting of currency and fraudulent acts whether or not reciprocal treatment were accorded. He therefore accepted the text and had submitted his observation for the sole purpose of reducing as far as possible the number of reservations which might be made by the signatory parties. His object had been to arrive at unanimity and he would be glad if this could be secured by the present text.

M. METTGENBERG (Germany) pointed out that German law was in conformity with Soviet law in this respect.

In his opinion, however, the reciprocal treatment provided for in Article 5 only applied as between the contracting parties which ratified the Convention.

M. DUZMANS (Latvia) explained that he had merely offered his previous remarks with a view to meeting those countries which might desire to limit their accession to the Convention.

Sir John FISCHER WILLIAMS (Great Britain), referring to the observation by the German delegate, said that they were no doubt all agreed that the Convention would only operate as between the contracting parties, but that did not imply that it would be impossible to protect also the currency of States which might not be parties to the Convention. The essential thing was to ensure that counterfeiting—no matter what currency was involved—should be dealt with in the legislation of the contracting States on exactly the same footing whether the crime had been committed against the national currency or against the currency of a foreign country.

M. PELLA (Roumania), referring to the statement which he had made at one of the previous meetings on the same question, agreed with the explanations given by the British representative.

M. CALOYANNI (Greece) thought that the text of Article 5 (formerly Paragraph VI) should be retained, because there could not be a more comprehensive text.

The Greek draft Penal Code was in conformity with this text and punished all counterfeiting, whether of national or foreign currency.

It was true that the parties acceding to the Convention would enter into a mutual engagement, but it was also understood that they would protect the currency of all countries, and in his opinion it would be difficult to find a more definite text than Article 5, which afforded all possible guarantees for every country, even for those which were not parties to the Convention.

M. METTGENBERG (Germany) pointed out that, so far as his country was concerned, the question was of no practical importance, but from a theoretical point of view he reserved his opinion as to the scope of the Convention.

M. SCHULTZ (Austria) said that the object they had in view was to prevent and punish counterfeiting, and not to protect the currency of certain countries. He was accordingly in favour of the adoption of the text submitted.

The CHAIRMAN supported this observation and gave an example. In Belgium, French and English banknotes were often accepted as readily as Belgian notes. It was therefore to the interest of Belgium that the counterfeiting of foreign notes should be severely punished, even in the impossible case of Great Britain and France failing to ratify the Convention. The provisions of Article 5 embodied in the clearest possible form the guiding principles of the Conference's work.

M. ALOISI (Italy) fully agreed with what the Chairman had said and added that, as regarded the international campaign against counterfeiting, Italian law already provided that no distinction should be made between Italian and foreign currency.

M. POSPISIL (President of the Conference) associated himself with the Chairman's remarks : Article 5 did in fact embody the aims pursued by the Conference.

Article 5 *was adopted as it stood.*

Article 6 *of C.F.M./A/*11 (*Article* 1, *Paragraph VIII, of Draft*) (*Final Article* 7).

Article 6 *was adopted without amendment.*

Article 7 *of C.F.M./A/*11 (*Article* 1, *Paragraph X, of Draft*) (*Final Article* 8).

M. CAEIRO DA MATTA (Portugal) noted that, in the last phrase of this article, while the draft Convention read " un cas identique ", the new text spoke of a " même cas ". Neither of these formulæ suited him and he suggested saying : " Cette disposition n'est pas applicable si, dans un cas analogue, l'extradition d'un étranger . . . "

The CHAIRMAN said that the Sub-Committee had had a long discussion on the best adjective and that finally it agreed on the words " même cas ".

M. PELLA (Roumania) was of the opinion that this question might will be referred to the Drafting Committee.

M. Duzmans (Latvia) pointed out that the Sub-Committee had discussed at great length the highly pertinent observations which had led to the various amendments to the text. However, not all the delegates were members of the Sub-Committee. It was therefore desirable that a report should be drawn up concerning all these alterations.

The Chairman replied that a report of this kind would take some time and would give rise to discussion. He could, however, meet the wishes expressed by the Latvian delegate by giving him the following verbal explanations :

The former text read as follows : " Dans les pays qui n'admettent pas comme règle générale . . . " ; the words " comme règle générale " had been omitted as useless. In the words " . . . le principe de l'extradition des nationaux, leurs ressortissants qui se sont réfugiés . . . ", the word " rentrés " had been substituted for the word " réfugiés ". In the beginning it had been proposed to put : " Les ressortissants qui se trouvent sur le territoire de leur pays ", but the verb " trouver ", it seemed, had too broad a meaning.

The former text further read : " . . . sur les territoires de leur pays, après s'être rendus coupables à l'étranger d'infractions prévues par la présente convention ou d'actes de participation auxdites infractions ". These last words had been replaced by : " de faits prévus par l'article 3 de la présente convention ". The reference to Article 3 included all the acts which are considered crimes by the present Convention.

The text further read : " . . . doivent être punis de la même manière que si l'infraction ou l'acte de participation intentionnelle avait été commis sur leur territoire, et cela même dans le cas où le coupable aurait acquis la nationalité postérieurement à l'accomplissement de l'infraction ". The words " l'infraction ou l'acte de participation intentionnelle " had been replaced by " le fait " and the word " acquis " had been substituted for the word " obtenu ", in accordance with M. Pella's observation.

The new text formally set forth that " cette disposition n'est pas applicable si, dans le même cas, l'extradition d'un étranger ne pourrait pas être accordée ". The word " même " had been preferred to the word " identique " which existed in former Paragraph X.

M. Duzmans (Latvia) thanked the Chairman for his explanations.

Article 7 was adopted.

Article 8 of C.F.M./A/11 (Article 1, Paragraph XI, of Draft) (Final Article 9).

The Chairman said that Article 8 corresponded to Paragraph XI. The alteration concerned the last part of the text, which read as follows :

> " The obligation to take proceedings is subject to the following conditions :
>
> " (1) That extradition has not been requested, or cannot be granted, for some reason which has no connection with the offence or act itself ;
>
> " (2) That a complaint is made by the injured party or official notice given by the foreign authority. "

No. (2) had been deleted in view of the objections raised to this paragraph when it was discussed by the Legal Committee, and also because the provision mentioned by the Vice-Chairman, namely, the passage added to Article 10, which referred to the methods of proceeding against criminals and general rules of internal law, did not prevent the addition of this condition of a complaint by the injured party, in the case of countries—and there were many such—which required a complaint or official notice from the foreign authority in order to institute proceedings in connection with offences committed abroad. Some countries required this condition, while others did not ; but it was not right that counterfeiters should enjoy the benefit of an exceptional provision under which prosecution ceased to be obligatory.

The State which, being a party to the Convention, allowed prosecution for all offences committed abroad, except counterfeiting, without complaint or official notice, would be acting contrary to the Convention. If, however, the laws of any country did not allow prosecution for crimes and offences committed abroad without a complaint or official notice by the foreign authority, that provision would legitimately apply just as much to counterfeiting as to murder.

In practice, the paragraph did not appear to be of any great importance, because it was impossible to imagine that a party injured by counterfeiting would fail to make a complaint.

The text continued :

> " The obligation to take proceedings is subject to the condition that extradition has been requested and cannot be granted for some reason which has no connection with the offence. "

That restriction was justified by the fact that it referred to an offence of counterfeiting committed abroad by a foreigner and that, in principle, it was for the country injured, *i.e.*, the country whose currency had been forged or the country in which the offence had been committed, to institute proceedings and ask the country in which the offender had taken refuge to extradite him. It might happen, however, that extradition could not be granted for some

reason which had no connection with the actual offence ; for instance, if the request for extradition were made by the country whose currency had been counterfeited, when the offence had been committed in a country other than that applying for extradition and when it was the rule of the country of refuge not to grant extradition to a Government except when an offence had been committed on the latter's territory. According to certain treaties by which Belgium was bound, extradition would be refused. To meet such cases, it was therefore necessary to make it obligatory for Belgium to prosecute the foreigner in question, in conformity with the general principle underlying the Convention, namely, that no counterfeiters should be allowed to go unpunished anywhere.

Article 8 *was adopted, note being taken of the maintenance of the Latvian delegation's reservation concerning the expression* " as a general rule ".

M. Mettgenberg (Germany) said that he would like to know which of the contracting parties undertook to observe the stipulations laid down in Articles 7 and 8 of the draft, or, in other words, which were the contracting parties whose legislation allowed, as a general rule, of proceedings being taken in respect of crimes committed abroad.

The Chairman pointed out that the question raised concerned comparative law rather than the actual Convention. This question was as follows : Which countries recognised, as a general rule, the principle of prosecution for crimes committed abroad and, consequently, which countries refused, as a general rule, to allow prosecution for offences committed abroad ? It might be somewhat difficult for the Committee to give a satisfactory reply.

M. Pospisil (President of the Conference) proposed to draw up a note to be sent to each delegation. The replies would be communicated to the German delegation.

Agreed.

Article 9 *of C.F.M./A/*11 (*Article* 2 *of Draft*) (*Final Article* 10).

The Chairman read Article 9 and referred to a misprint. Instead of : " The offences referred to in Paragraph II . . . ", the text should read : " The offences referred to in Article 3 . . . "

The text of Article 9 *was adopted.*

The Chairman pointed out that it would no doubt be possible to insert in the Protocol a clause which would satisfy the Chinese representative, who had explained that the special regime still existing in his country prevented him from undertaking the obligation laid down in Article 9.

Sir John Fischer Williams (Great Britain) presumed that that would be in the nature of a reservation by China on which it would not be necessary for any State to express an opinion one way or another.

Adopted.

Article 10 *of C.F.M./A/*11 (*Article* 3 *of Draft*) (*Final Articles* 17 *and* 18).

The Chairman said that Article 10 had already been explained by the Vice-Chairman. The first part merely reproduced Article 3 of the Sub-Committee's draft and the scope of the second part had abready been defined. There was also the proposal to add to the Protocol a passage concerning the right of pardon and the right of amnesty.

M. Ibrahim Bahattin (Turkey) requested that, after the words : " criminal jurisdiction of States ", the following words " and of prosecution " should be added, because in his country the public prosecutor was not automatically bound to prosecute.

The Chairman remarked that the idea of prosecution was implicit in the expression : " criminal jurisdiction ". The present text safeguarded the discretionary power of the public prosecutor to take proceedings or not. In accordance with the observation made by the Japanese Government, the words : " or the principle that offences ", etc., had been added.

M. Ibrahim Bahattin (Turkey) said that he was satisfied with the interpretation given to the article, because the discretionary power to States in this connection should not be affected by the Convention.

M. Duzmans (Latvia) said that he wished to revert to the fact that the Sub-Committee had submitted no report. While Articles 1 to 8 of the new draft prepared by the Sub-Committee reproduced, with amendments, Paragraphs I to VI and VIII to XI of the former Article 1—which had been fully discussed by the Committee before they were referred to the Sub-Committee—that was not the case with Articles 9 and 10 of the new draft. These two articles reproduced in an extended and improved form Articles 2 and 3 of the original draft Convention, and were not discussed by the plenary Committee before they were referred to the Sub-Committee. The Committee was thus faced with completely new texts which had only been distributed that morning. This accelerated and summary procedure, which was customary after the preparatory work of a Sub-Committee, when it was usual to say that the texts had been fully discussed in the Sub-Committee and that discussion should not be reopened in the plenary Committee, made it difficult to express an opinion on them.

In these circumstances, he thought that the Sub-Committee should be asked to submit at all events an explanatory report on these two articles, to enable the Committee to ascertain the scope and reasons of the numerous innovations.

The CHAIRMAN replied that the drafting of a report would delay the Committee's work still further.

The Committee was consulted and decided not to draw up any special report on these two articles.

M. Duzmans' proposal was rejected by a show of hands.

M. GYLLENBÖGEL (Finland) said that he would like further explanations with regard to the obligation to extradite resulting from Article 9.

The Finnish law on extradition stipulated that extradition would be granted when the offence committed involved a heavier penalty than ordinary imprisonment *(simple détention)*. Article 3 of the draft Convention appeared to go further than the Finnish Penal Code, so that an act punishable under the said article might not be punishable under the Finnish Penal Code. Would Finland be bound in such a case to grant extradition ?

The CHAIRMAN remarked that it should be the object of the Convention to oblige the States ratifying it to punish the offences covered by the Convention which were not at present punished by them. It had already been pointed out on several occasions that, if there were no need to amend the laws of the various States by means of a Convention, that Convention would be unnecessary.

M. CAOUS (France) thought that the point raised by M. Gyllenbögel, which the latter had explained to him in advance, was not exactly that to which the Chairman had replied. The Finnish delegate had stated that the legislation of his country accorded extradition only when a fairly severe penalty was provided for the offences in connection with which extradition was applied for, namely, a penalty heavier than ordinary imprisonment. Certain offences covered by Article 3 were merely liable, in Finland, to the penalty of ordinary imprisonment. Consequently, according to Finnish legislation, extradition could not be granted in such cases.

M. GYLLENBÖGEL (Finland) asked whether, that being so, his country would be obliged, after signing the Convention, to extradite in such cases.

M. PELLA (Roumania) thought that the text was quite clear and that, whatever the penalties stipulated by the domestic laws of any country, extradition was obligatory in the cases covered by Article 3.

If, at the present time, the laws of certain countries conflicted with the principles of the Convention, they should be amended before that Convention was acceded to or ratified.

The CHAIRMAN agreed with the explanation given by M. Pella. If certain provisions of the Convention made it necessary to amend the laws of any country, that would be a good thing, because the Conference considered that the adoption of the principles laid down by the Convention was calculated to ensure the more effective pursuit and punishment of the crime of counterfeiting.

The Chairman said that all the items on the agenda had now been discussed and that Article 4 and the following articles of the Mixed Committee's draft and also the question of the final wording of Paragraph I of Article 1, which had been postponed, and the question of the double Convention would be dealt with at the next meeting.

The meeting rose at 11.45 a.m.

SEVENTH MEETING.

Held on April 16th, 1929, at 4.45 p.m.

Chairman : M. SERVAIS (Belgium).

Discussion of the Draft Convention (continued).

Article 4 of the Draft (Final Article 19).

The CHAIRMAN informed the Committee that the British delegation had proposed to delete the word "States" in the phrase: "any or all of the States parties to such a dispute . . ." Personally, he thought that this would be an improvement.

Sir John Fischer Williams (Great Britain) pointed out that the Convention would be concluded not between States but between the Heads of Governments.

The amendment was adopted.

M. Lachkevitch (U.S.S.R.) made the following statement :

" The U.S.S.R. delegation is not in a position to adhere, so far as its Government is concerned, to the obligation to resort to the procedure for arbitration in the case of disputes concerning the application or interpretation of the Convention. This delegation is therefore compelled to make a reservation to the effect that such disputes, should they arise between the U.S.S.R. and another signatory State, will in every case be settled through the diplomatic channel. "

M. de Chalendar (France) said that he did not quite understand the scope of the reservation made by the U.S.S.R. representative, and would be grateful if he would give the Committee a fuller explanation.

M. Lachkevitch (U.S.S.R.) said he did not think that it was necessary for him to give a long explanation. The statement which he had just made was in accordance with the general attitude of his Government towards international arbitration as an effective and equitable method of settling disputes. It was the intention of the U.S.S.R. Government to undertake to settle any disputes which might arise through the diplomatic channel. If such an obligation were carried out in good faith, he did not think that arbitration would be necessary.

M. de Chalendar (France) did not think it was possible for the French or any other Government represented at the Conference to object to a unilateral reservation. He would point out, however, that this reservation was a serious one because it referred to one of the most important provisions of the Convention. He very much regretted, therefore, that it should be impossible for the Soviet Government to adhere to the stipulations of Article 4.

The Chairman thought that it would be necessary for the full Conference to take a final decision on the reservation, but he wished to point out to the U.S.S.R. representative that he did not think the reservation was likely to be accepted by many members of the Conference.

M. Ibrahim Bahattin (Turkey) proposed an alteration in the form of the article, and suggested that the words " or application ", in the second line of the text of Article 4, should be deleted.

M. Sokalski (Poland) proposed that the words " at the choice of the Parties " (sixth line) should be replaced by the words : " at the request of one of the Parties ".

The Chairman proposed that this suggestion should be referred to the Drafting Committee.

M. Delaquis (Switzerland) asked whether this amendment affected the form or the substance of the article. Personally, he thought it involved a change of substance.

M. Aloisi (Italy) said that this question had been discussed by the Mixed Committee, and that the text submitted to the Committee was the result of the Mixed Committee's discussions.

On reflection, he thought that the words " at the choice of the Parties " might give rise to confusion, and he proposed that they should be deleted.

The Chairman did not agree. With regard to the selection of a court to which disputes were to be referred, the authors of the preliminary draft had given three alternatives : (1) the Permanent Court of International Justice ; (2) a court of arbitration constituted in accordance with the 1907 Convention ; (3) an ordinary court of arbitration. The term : " at the choice of the Parties " meant : " whichever of the three alternatives the Parties might agree to select ".

M. Aloisi (Italy) pointed out that the possibility of the Parties failing to agree must be contemplated.

The Chairman replied that, according to the Convention, they were bound to reach agreement.

M. Pella (Roumania) said that, supposing a dispute were to arise between Roumania and Turkey and that Roumania desired to submit the dispute to the Permanent Court of International Justice, whereas Turkey wished to refer it to a court of arbitration, the two parties agreed to the principle of submitting the dispute to arbitration but disagreed as to the choice of the court. In such a case, the term : " at the choice of the Parties " might lead to complications. He therefore endorsed M. Aloisi's observation.

M. Caous (France) said that, if M. Aloisi's proposal were adopted, the dispute could be submitted either to the Permanent Court of International Justice, to a court of arbitration constituted in accordance with the 1907 Convention or to some other court of arbitration. Supposing one of the parties desired to refer the dispute to a court of arbitration to be set up,

this would be sufficient to set aside the two important courts already existing. An agreement between the parties appeared to be indispensable.

M. Pella (Roumania) pointed out that the controversy might arise even if one of the parties selected the Permanent Court of International Justice and the other a court of arbitration constituted in accordance with the Convention of October 18th, 1907. Those were the two courts to which the French delegate had referred. Even in this case, there would be the same difficulty if the parties failed to agree upon the choice of one of these courts.

M. Aloisi (Italy) thought that Article 4 provided for too many possibilities of settling disputes and that it would be better to specify one court only.

Sir John Fischer Williams (Great Britain) agreed with M. Aloisi. It was necessary to provide for the case of parties to a dispute which were not parties to the Protocol of the Permanent Court of December 16th, 1920. As, however, there were very few States which were not parties to that Protocol, the question under discussion was rather a theoretical one, and would only arise in comparatively rare cases. He did not know whether M. Aloisi could obtain unanimity for his proposal to omit all reference to any other tribunal except the Permanent Court, but he personally was prepared to support it.

Mr. Wilson (U.S.A.) feared that M. Aloisi's proposal might be somewhat embarrassing to his country, which was not a member of the Permanent Court of International Justice. His Government must leave open some other course in the event of its being unable to submit a difference to the Court.

The Chairman said that he recognised the advantages of the Italian proposal, but pointed out that the clause in question of Article 4 was not a new one. It was embodied in many treaties recently concluded ; it had always been accepted and so far had never given rise to any difficulty. The Mixed Committee had examined all these objections and had decided to adhere to the text now before the Committee.

For his part, he proposed that the text should be retained.

The Chairman's proposal was adopted.

M. Ibrahim Bahattin (Turkey) said that he withdrew his amendment.

Article 5 *of Draft* (*Final Article* 20).

M. Lachkevitch (U.S.S.R.) said that he wished to make a preliminary statement. The U.S.S.R. delegation would have a proposal to make to the Conference with regard to the procedure to be adopted in the case of States non-Members of the League of Nations which desired to take advantage of this procedure. His delegation reserved the right to submit a more detailed proposal to the plenary Conference.

The Chairman took note of M. Lachkevitch's statement.

Article 6 *of Draft* (*Final Article* 21).

The Chairman remarked that a date would have to be inserted in this article. This would be proposed to the Committee later.

No observation was submitted concerning Article 6.

Article 7 *of Draft* (*Final Article* 24).

M. Lachkevitch (U.S.S.R.) said that, with regard to the provisions of Article 7, so far as they applied to mandated territories, the U.S.S.R. delegation was instructed to remind the Committee that—as they already knew—the Government of the Union did not recognise the mandates system.

M. Aloisi (Italy) said that, on signing the Convention, he would make the reservation which his Government had instructed him to submit with regard to the Italian colonies.

The Chairman read this reservation (document C.607.M.185.1928.II, page 30) and said that it would be referred to the plenary Conference.

He then read the observation submitted by the Belgian Minister of the Colonies (page 28 of document C.607.M.185.1928.II).

In short, the Belgian Government desired a contrary stipulation to be laid down.

M. Aloisi (Italy) associated himself with the Belgian proposal, which was, moreover, based on precedents.

Sir John Fischer Williams (Great Britain) drew attention to a point of translation.

The proposal of the Belgian Government referred to the self-governing dominions. If that was intended to apply to members of the British Empire (or British Commonwealth of Nations), certain difficulties would arise. There would, of course, be separate signatures on behalf of each of the members of the British Commonwealth of Nations ; there might be difficulties with regard to the Indian signature. He was sure the members of the Conference would sympathise with this peculiar difficulty and would understand the necessity for making a reservation regarding the English version of the text in case the Conference adopted the French form of wording.

M. Ibrahim Bahattin (Turkey) said that he also reserved the right to submit reservations to the plenary Conference.

The Chairman asked him to be good enough to communicate them in writing to the President of the Conference before the plenary meeting took place.

Replying to the Vice-Chairman, he pointed out that the words which appeared to cause him misgivings would no longer be of any importance if the text proposed by the Belgian Government were adopted. As he had already remarked, the proposal was merely to reverse the stipulation laid down by the Mixed Committee. The Belgian Government desired that, if the Convention were to apply to colonies, the Government concerned should make a formal declaration to that effect, whereas, according to the Mixed Committee's draft, the provisions of the Convention applied automatically to the colonies unless a declaration to the contrary were made.

M. Gerke (Netherlands) asked that the words " overseas territories " should be inserted so as to include the Dutch Indies.

M. de Chalendar (France) supported the Belgian proposal.

The Belgian proposal was adopted and referred, with the observations of the British and Netherlands delegates, to the Drafting Committee.

Article 7 was adopted with the foregoing amendments.

Article 8 of Draft (Final Article 25).

With reference to Article 8, the Chairman reminded the Committee that the Belgian Government had submitted an observation concerning the equality of penalties and desired certain measures of reciprocity to be provided for. As this suggestion had not been adopted, the text submitted to the Committee was that drawn up by the Mixed Committee.

Article 8 was adopted.

Articles 9 and 10 of Draft (Final Articles 26 and 27).

These articles were adopted.

Proposal by the Turkish Delegation : An Additional Article.

M. Ibrahim Bahattin (Turkey) proposed an additional article reading as follows :

> " Upon a request for a revision of the present Convention by five of the signatory or adherent Parties to the Convention, the Council of the League of Nations shall call a conference for that purpose.
>
> " In any event, the Council will consider the desirability of calling a conference at the end of each period of five years. "

Sir John Fischer Williams (Great Britain) asked whether there were any precedents for such a clause.

M. Ibrahim Bahattin (Turkey) replied that this clause was embodied in the Convention on Obscene Publications.

M. Lachkevitch (U.S.S.R.) said that a similar clause was to be found in a convention signed in November last with reference to international exhibitions.

M. de Chalendar (France) thought that a clause of this kind might constitute a precedent for other conventions. It was therefore desirable that they should not insert the clause without a full realisation of the consequences. He asked the Committee to request the Legal Section of the Secretariat to examine the suggestion and ascertain whether the adoption of the Turkish proposal would give rise to difficulties in this connection.

M. de Chalendar's suggestion that the Turkish proposal should be examined by the Secretariat from this point of view and a report submitted to the plenary Conference was adopted. In the meantime, the Turkish proposal was postponed.

Discussion of the Draft Convention (continued).

PREAMBLE.

The Preamble was then re-examined.

M. POSPISIL (President of the Conference) asked that, in order to show that the authors of the present Convention did not yet regard it as a perfect instrument for the effective pursuit and punishment of counterfeiting, the Preamble should be amended as follows :

(List of Heads of States),

" Being desirous of making more and more effective the prevention and punishment of counterfeiting currency . . . "

(The remainder of the Preamble being the same as the draft.)

This proposal was adopted.

Article 1; *Paragraph I, of Draft* (*Final Articles* 1, 2 *and* 23).

The CHAIRMAN reminded the Committee that it had been proposed to delete the second paragraph of Article 1, and to divide the Convention into two diplomatic instruments : one legislative, the other administrative.

The Committee had unanimously agreed upon a single Convention, the deletion of the second paragraph of Article 1 and the insertion, not in the Protocol, as erroneously stated in document 13, but in the Convention, in a place to be decided by the Drafting Committee, of an article reading as follows :

" Ratification of or accession to the present Convention by any State implies that the rules contained therein are incorporated in its legislation. "

Sir John FISCHER WILLIAMS (Great Britain) said that the words " will be " in the English version should be replaced by the word " are ".

M. ALOISI (Italy) thought that the Chairman's observation merely referred to a question of form. They were all agreed as to substance. However, he was not sure whether it was advisable to use the word " incorporated ". Having regard to the etymological meaning of this word, it might be thought—which was not the Committee's intention—that, before ratification, States should insert the text of the Convention in their domestic laws. It should be sufficient for these laws to be in conformity with the Convention. He therefore suggested saying " . . . that its legislation is in conformity with the rules contained in the Convention ".

M. CALOYANNI (Greece) questioned the utility of inserting the second paragraph and of adopting the new article proposed by the Chairman. The matter was not merely one of form but of substance also.

The first paragraph of Paragraph I was a solemn declaration which was sufficient by itself : if a second paragraph were added or a supplementary article adopted, States would appear to mistrust each other.

In the new text proposed by the Chairman, " implies " meant that an imperative obligation would devolve upon Governments. In most countries, the Government had no other right than that of presenting to Parliament a draft law for the ratification of the Convention.

Consequently, Governments could only give their accession in principle, and, if the word " implies " were retained, this accession would be given *ad referendum*. The provision proposed did not appear, therefore, to be of any utility, because it was merely a repetition of the first paragraph.

After commending this question to the attention of the Conference, he referred to the Italian delegation's proposal to replace the words " are incorporated " by the words " are in conformity with ". He thought that, should the Committee accept the paragraph, that amendment would be in accordance with the views he had just expressed ; in the meantime, he could only make a reservation on the matter.

M. DELAQUIS (Switzerland) said that he had already raised the question whether there should be one or two Conventions, with a view to enabling the Swiss Government to go as far as possible in the direction proposed.

If there were two Conventions, one administrative and the other legislative, Switzerland could ratify the former in a very short time and, as regarded administrative measures, the Confederation would thus be bound as a whole.

If, on the other hand, the Conference decided to have only one Convention, Switzerland could sign the new text but could not ratify it until the entry into force of a unified Federal Penal Code. He would lay stress on the situation which would thus be created in Switzerland regarding administrative measures ; in such case, the central authorities could merely submit the provisions to the Cantons for their approval.

He had consulted the Federal Council, which had authorised him to sign a single Convention on condition that the Conference accepted a reservation reading more or less as follows :

" The Swiss Federal Council makes the express reservation that ratification cannot be effected within a specified period or in any case until the question of the

introduction of a unified Swiss Penal Code has been decided upon. Nevertheless, the Federal Council is prepared to apply, as far as it is authorised to do so, the administrative provisions of the Convention as soon as this comes into force, in accordance with Article . . . "

M. Pospisil (President of the Conference) thought that the reservation formulated by the Swiss delegate was already implied in the Convention as a whole, and that it was unnecessary to emphasise it, unless by this reservation Switzerland desired to state what everyone was convinced of, namely, that she was prepared to carry out the provisions of the Convention within the limits of the Federal Council's authority. In any convention, it was understood that the parties would do what was necessary in order to ratify it. No one would suspect Switzerland's good faith, even if her special situation—with which they were all familiar—made it necessary for a somewhat longer time than usual to be allowed for ratification.

Sir John Fischer Williams (Great Britain) expressed the satisfaction which he was sure his Government would feel at the statement made by M. Delaquis that he was prepared to sign a single Convention. No words of his would be necessary to lend weight to the appeal made by the President of the Conference to M. Delaquis, but he thought the Committee could assure M. Delaquis that, even if he was not in a position to yield to the appeal, nevertheless the essential objects of the Swiss Government had been secured so far as it was constitutionally possible to secure them.

Referring to the remarks made by M. Caloyanni that the Committee should not insert the interpretative clause now proposed and should suppress the second clause of the first paragraph, he confessed that such suppression would be viewed by his delegation with very great apprehension. He thought the Committee were all agreed as to the necessity and value of the clause, which was almost the essential clause of the whole Convention ; it was an international pledge that the necessary measures for the pursuit and punishment of the counterfeiting of currency would be embodied in the legislation of each country. He would, however, remark that some difficulty was felt by certain States—particularly the United States of America—because it appeared that an actual obligation was being undertaken to carry out legislative measures.

At first, it had been suggested that they might insert an obligation to propose the necessary measures to the legislative power, but this was an unsatisfactory form of words which his Government had already rejected, because it did not impose any international obligation to carry the necessary legislation into effect.

After being confronted with that difficulty, they had found what they considered to be a useful solution, namely, to omit the clause where it occurred and to insert an express reminder to all Governments—not only to the executive powers, but to the States generally—that it would be impossible for any State to ratify the Convention unless its legislation at the date of ratification was already in conformity with the principles embodied in the Convention. That seemed to be a perfectly commonsense requirement ; it was only a requirement that each nation should satisfy itself that, at the moment when it assumed international obligations, its legislation was in conformity with the Convention. That was a simple statement which every State ratifying the Convention should make. In his view, this method, which fully met all constitutional difficulties without in any way impairing the international validity of the Convention, provided a solution which would commend itself to the Committee and to the full Conference. International conventions ought to include definite obligations.

He trusted that the Committee would see its way to assent to the insertion of this particular clause as being the necessary complement to the omission of the second paragraph of Article 1.

The difficulties which would arise if the old clause were omitted and the new clause not inserted might be illustrated by a reference to the extradition obligations assumed under Article 2 of the Convention. Extradition treaties were based on the hypothesis that the crime for which extradition was demanded was one according to the legislation of the demanding country ; if there was no assurance that a particular legislation had been carried out, that principle of the extradition treaty would not work, because it would not be known whether or not the actual obligation had been put into effect or whether or not the extradition crime was in accordance with the general principle of extradition and extradition treaties.

M. Caloyanni (Greece) said that he wished to reply to Sir John Fischer Williams, who had said that the clause should serve as a reminder to Governments. He would point out, however, that States were either acting in good faith or they were not, and they must be the sole judges of the matter. Out of deference to the United States of America, the word " obligation " had been omitted ; this point should be borne in mind. But a reminder to Governments would indirectly involve that obligation. He did not think that, in the second paragraph, the intention was indirectly to impose this obligation, but to avoid doing so. It was a simple recommendation, an engagement undertaken by the various Governments ; the measures in question were stated to be desirable.

With reference to extradition, he said that it was not a question of ascertaining which clause was operative ; they were dealing with the Convention as a whole. If the whole Convention were approved by a Government represented at the Conference, that Government assumed a moral obligation ; but it could not give any undertaking beforehand as to its future legislation. All that he could say was that his Government would do its utmost to carry out

the Convention. A distinction must, however, be made between this moral obligation and the formal obligation to bring its legislation into line with the Convention.

The CHAIRMAN thought that M. Caloyanni's observations did not convey the true nature of the proposed text, the object of which was to indicate to Governments that ratification by them of the Convention implied that they were in a position to carry it out.

The condition was a necessary one. To take an example : supposing that Belgium, before ratifying the Convention, modified her legislation as required. The Convention was to come into force when it had been ratified by five States. Supposing the other four States in question did not immediately bring their legislation into conformity with the Convention. In such a case, Belgium alone would have made the necessary effort. That was a situation which could not be allowed to arise. Every convention should have an effect.

M. PELLA (Roumania) said that Roumania was in the same position as Greece. She was faced with the same difficulties, which must also affect most of the countries represented at the Conference ; each of them would have to amend its legislation. No State could ratify or accede to the Convention until it had adapted its legislation to the principles laid down therein.

He failed to understand, therefore, the special considerations which had induced M. Caloyanni to ask for the deletion of the proposed text, and he appealed to the Greek delegate to withdraw his proposal.

M. POSPISIL (President of the Conference) associated himself with M. Pella's appeal to M. Caloyanni and thought that, from the point of view of the Greek situation, the clause would not give rise to any difficulty.

M. DUZMANS (Latvia) thought that the Sub-Committee must have had good reasons for deleting the reference to administrative measures in the original text. Nevertheless, he would like to know what those reasons were.

The CHAIRMAN said that the word " legislation " was used in a general sense and was intended to cover administrative organisation also. There was no objection, however, to saying : " their legislation and their administrative organisation ".

M. SZONDY (Hungary) said that M. Pella had stated that all countries would be obliged to modify their legislation ; but, so far as his country was concerned, this would not be the case, as its legislation was already in conformity with the Convention.

M. POSPISIL (President of the Conference) remarked that the text was to be adopted with an additional clause to the effect that, before ratification, States could take the administrative measures indicated in the Convention. He would like to know whether this implied that States could voluntarily undertake these administrative obligations before ratifying the Convention.

The CHAIRMAN said that, in order to meet the various views expressed during the discussion, the text might be drafted as follows :

> " Ratification of or accession to the present Convention by any High Contracting Party implies that its legislation and its administrative organisation are in conformity with the rules contained in the Convention. "

M. Pospisil had asked whether the statement that ratification by any Power implied that its administrative organisation was in conformity with the rules contained in the Convention meant that it could not apply the administrative rules prior to ratification.

He himself, in agreement with the French delegate, thought this fear was unfounded.

The text proposed by the Chairman was adopted.

M. DELAQUIS (Switzerland) said he wished to thank Sir John Fischer Williams and the President of the Conference, M. Pospisil, for their kind reference to the Swiss delegation's reservation, which he regretted he was unable to withdraw.

The CHAIRMAN asked the Committee to appoint a Rapporteur. The Drafting Committee to be entrusted with the final drafting of the text of the Convention would consist of this Rapporteur, the Chairman and Vice-Chairman of the Legal Committee and the Chairman, Vice-Chairman and Rapporteur of the Administrative Committee.

M. POSPISIL (President of the Conference) proposed that, in view of the part which he had taken in the proceedings of the Mixed Committee, M. Pella should be appointed Rapporteur.

M. PELLA *was appointed Rapporteur by acclamation.*

M. PELLA (Roumania) thanked the Committee for the honour they had paid him by appointing him Rapporteur. He would do his utmost to prove worthy of their trust.

M. POSPISIL (President of the Conference) said that M. DELAQUIS, Chairman of the Administrative Committee, and M. DE CHALENDAR, Vice-Chairman, would participate in the

work of the Drafting and Co-ordination Committee, which would meet on the following day. The date of the meeting of the Conference at which a second, and possibly a third, reading would take place would be fixed by the Secretariat.

Recommendations VI and VII.[1]

The Chairman opened the discussion on Recommendations VI and VII.

M. Sokalski (Poland) drew the Committee's attention to Recommendation VI. This recommendation would be carried out very shortly because, generally speaking, this provision concerning habitual international criminality was included in the new draft penal codes, including the Polish draft Penal Code.

Moreover, the resolutions adopted by the Second Official Conference for the Unification of Criminal Law, held at Rome in May of last year, were also in conformity with this recommendation.

The question might arise of the advisability of inserting in Article 5 (formerly Paragraph VI of Article 1) a provision based on Recommendation VI and reading more or less as follows :

> " The High Contracting Parties undertake to assimilate, from the point of view of habitual criminality, upon conditions to be determined by domestic legislation, foreign convictions to national convictions, so as to increase the sentence on, or take other subsidiary measures for the protection of society against, professional forgers. "

M. Ibrahim Bahattin (Turkey) seconded the Polish proposal, and thought that this proposal was the logical and natural consequence of the object which the Committee desired to achieve. Since the disastrous effects of counterfeiting were not confined to one country, but disturbed economic and financial order throughout the world, it was essential that, if pursuit and punishment of this offence were to be effective, no account should be taken of frontiers. Adequate means of defence were necessary. When the first punishment inflicted on counterfeiters was not sufficient to prevent them from committing a further offence, it was obvious that penalties imposed in other countries should be taken into consideration by the court for the purpose of increasing the sentence.

He added that he wished to make the following reservation : as the organisation relating to proof of identity was not yet complete in his country, his Government could only undertake, in the meantime, to carry out such a provision in so far as its means permitted.

M. Pella (Roumania) referred to the discussions in the Mixed Committee with regard to habitual international criminality and also to the Roumanian Government's observations (document C.607.M.185. 1928. II, pages 20 and 21).

The Polish delegate's proposal, supported by the Turkish delegation, coincided in every respect with the views which he had put forward in the Mixed Committee and with the Roumanian Government's attitude to the question of habitual international criminality.

While agreeing with the ideas expounded by the Polish delegation, he would like to make his intentions quite clear. The suggestion which he proposed to submit did not embody any revolutionary conception involving the modification of all internal legislation that made no provision for habitual international criminality. However, this principle was already recognised by the laws of certain countries and would probably be recognised by others in the near future. He wished to make it quite clear that his proposal referred solely to countries whose legislation recognised or would in future recognise the principle of habitual international criminality. Certain of these laws might include a general text concerning any sentence rendered abroad. They might leave the judge free to take into consideration any foreign conviction for the purpose of determining whether an offender was an habitual criminal. A similar text had also been adopted by the Second Conference for the Unification of Criminal Law, in which, he would have the Committee observe, M. Aloisi had taken a prominent part.

This Conference, bearing in mind the provisions of the Rocco draft and the provisions dealing with the same question contained in the draft penal codes of the other participating States, had adopted a text concerning habitual international criminality.

Apart from States which recognised the principle of habitual international criminality, irrespective of whether the foreign conviction was for a crime or a misdemeanour, there were other States whose legislation or drafts only regarded as indicative of such habitual criminality foreign convictions for crimes. According to the laws of many countries, however, counterfeiting was punishable as a misdemeanour and not as a crime.

It was apparent that States which only took into consideration foreign convictions for crimes could not punish counterfeiters as habitual offenders if, according to the laws of those States, counterfeiting was punishable as a misdemeanour.

It was obviously ridiculous that provisions concerning habitual international criminality should not be applicable to counterfeiting—an offence which was clearly of an international character and for the pursuit and punishment of which the closest possible international co-operation was necessary.

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[1] Numbers as in the draft of the Mixed Committee. For comparison with numbers of final text, see the Index, under " Final Act ".

He proposed the following text :

> " Those countries whose legislation recognises the principle of habitual international criminality shall include among the foreign convictions which cause an offender to be regarded as an habitual criminal (in accordance, of course, with the conditions under which previous convictions are taken with account), sentences passed in respect of one of the offences covered by Article 3 of the Convention. "

He considered that this text did not bind States whose legislation did not as yet embody the principle of recognising previous convictions abroad. Neither did it involve any modification of laws which, while recognising this principle, made no distinction as to whether the foreign conviction referred to a crime or a misdemeanour.

The text in question involved the modification, in regard to counterfeiting, only of laws which took solely into account, as causing an offender to be regarded as an habitual international criminal, foreign convictions for crimes. Even in this latter case, the modification of these national laws would only be necessary if counterfeiting were regarded as a misdemeanour.

In conclusion, he reminded the Committee that during the general discussion he had stated that he would submit a text concerning habitual international criminality. He would therefore ask the Conference to be good enough to accept his proposal.

M. Aloisi (Italy) said that he had had occasion to give serious consideration to the arguments advanced by M. Pella, since the new Italian Penal Code, which would come into force in the following year, contained a clause concerning habitual international criminality. He was strongly in favour of introducing such a principle. At the same time, he felt certain misgivings in regard to the text proposed by M. Pella. It was understood that, in the case of laws in which the principle of recognising previous convictions abroad was adopted, this principle should apply to all offences, and to counterfeiting currency in particular. No distinction was possible. It was for this reason that the text proposed by M. Pella seemed somewhat superfluous. The basic question was another. The principle of habitual criminality should be adopted altogether or not at all. So far as Italy was concerned, the Government had selected the former solution.

But there were very serious difficulties in the way of the adoption of such a principle. He thought all the members of the Committee agreed—at any rate, in principle—to the advisability of embodying this rule in their respective legislations, but they had not succeeded in agreeing upon the means of applying it. It was in connection with these means that difficulties might arise. In substance, the question was one of recognising that a foreign sentence—in other words, a sovereign act of a foreign State—had juridical force as regarded the punishment of offenders, which punishment was itself an expression of the sovereign power of the State whose judges pronounced sentence. He intended to emphasise the point that the question very closely affected the sovereign rights of each State. He did not think that these obstacles were insuperable in themselves, but it was not advisable for the Committee to undertake this task, which might be a long and delicate one. Moreover, it could only do so *per incidens*, i.e., in connection with the particular case of counterfeiting, whereas the question was and could not fail to be one of a general nature, and the Committee was not competent to deal with it in its widest form.

For that reason, and also because he was not able to accept the text proposed by M. Pella for the above-mentioned reasons, he considered that the triumph of those principles could best be assured if the Conference confined itself to confirming Recommendation VI formulated by the Mixed Committee, thus giving it the prestige of its authority.

M. Caloyanni (Greece) said he quite agreed with M. Pella and thought that his proposal could not in any way affect Italian legislation, which covered all cases. The Conference might insert the principle of recognising previous convictions abroad in the Convention ; that would not prevent any country from regarding habitual criminality as an international crime under its domestic law. He did not see why they should not secure certain of their desiderata, even if they could not at present obtain them all.

M. Aloisi (Italy) agreed, provided that this principle were embodied in a recommendation and not in an article.

M. Caloyanni (Greece) thought that it would be a sign of weakness not to specify in a separate article that the Conference considered it indispensable that the crime of counterfeiting and habitual criminality should be punished as severely as possible.

M. Pella's proposal was put to the vote and adopted unanimously.

The Chairman pointed out that Recommendation VI would accordingly be deleted and replaced by a special provision.

Recommendation VII was adopted without observation.

M. Pospisil (President of the Conference) said he had asked M. Servais, Chairman of the Legal Committee, to act as Chairman of the Co-ordination Committee and had handed to him

for final drafting the addition to Recommendation I, referring to international administrative action, which had been approved by the Committee.

He also asked the delegations which had made reservations to be good enough to transmit them to the Chairman of the Co-ordination Committee on the following day.

M. Caeiro da Matta (Portugal) proposed an addition to the recommendation (page 2 of document C.F.M./A/11, referring to the framing of a convention for the pursuit and punishment of the counterfeiting of other valuable paper. This addition was as follows : " and that the Mixed Committee should be convened for this purpose ".

In this connection, he would like to emphasise the importance of the work done by the Mixed Committee.

The Chairman expressed his gratitude to M. Caeiro da Matta for the tribute which he had just paid to the Mixed Committee's work. But, while he thought it right that the Conference should recommend that the League of Nations should deal with this question, he did not think it was justifiable for the Conference to indicate the procedure to be followed.

M. Pospisil (President of the Conference) thought that it was highly probable that the Council would refer this recommendation for consideration to the Financial Committee whose Chairman *pro tempore*, M. de Chalendar, was present and could take note at this time for all future purposes of M. Caeiro da Matta's suggestion. This being the case, M. Pospisil said that he would not forget the recommendation which M. Caeiro da Matta had just put forward.

M. Caeiro da Matta (Portugal) expressed his satisfaction with this reply.

(The meeting rose at 7.15. p.m.)

ANNEX.

LIST OF MEMBERS OF THE LEGAL COMMITTEE.

Chairman : M. Servais.

Vice-Chairman : Sir. John Fischer Williams.

Albania	Dr. Stavro Stavri.
Austria	M. Schober.
Belgium	M. Servais.
Brazil	M. Barboza Carneiro.
China	M. Lone Liang.
Colombia	Dr. Restrepo.
Cuba	M. de Blanck y Menocal.
Czechoslovakia	Dr. Kallab.
Danzig	M. Muhl.
Denmark	M. Borberg.
Finland	M. Gyllenbögel.
France	M. Caous.
Germany	Dr. Mettgenberg.
Assistant	M. Wagner.
Great Britain	Sir J. Fischer Williams.
Greece	M. Caloyanni.
Hungary	M. Szondy.
India	Mr. Dawson.
Italy	M. Aloisi.
Japan	M. Hayashi.
Assistant	M. Amagi.

Luxemburg	M. Vermaire.
Netherlands	Baron van der Feltz.
Substitute	M. Gerke.
Poland	M. Sokalski.
Portugal	Dr. Caeiro da Matta.
Roumania	M. Pella.
Serbs, Croats and Slovenes (Kingdom of the)	M. Givanovitch.
Spain	M. Alcayne Chavarria.
Sweden	Dr. Sjöstrand.
Switzerland	M. Delaquis.
Turkey	M. Bahattin.
Union of Soviet Socialist Republics	M. Lachkevitch.
United States of America	Mr. Rand.
International Criminal Police Commission	M. Kuenzer.

B. Minutes of the Administrative Committee.

TABLE OF CONTENTS.

Page

First Meeting, held on April 12th, 1929, at 10 a.m. :

1. Opening Speech by the Chairman 177
2. Discussion of the Draft Convention :
   - Article 1, Paragraph VII, of Draft (final Article 11). 177
   - Article 1, Paragraph XII, of Draft (final Article 12) 182
   - Article 1, Paragraph XIII, of Draft (linal Article 13) 183

Second Meeting, held on April 13th, 1929, at 10 a.m. :

1. Death of Signor Enrico Ferri :
   - Conference's Expression of Sympathy. 183
2. Communication by the Chairman. 184
3. Discussion of the Draft Convention *(continued)* :
   - Article 1, Paragraph XIV, of Draft (final Article 14) 184
   - Article 1, Paragraph XV, of Draft (final Article 15) and Recommendation V 186
4. Telegram of Condolence sent to Signora Enrico Ferri 189

Third Meeting, held on April 16th, 1929, at 3 p.m. :

1. Discussion of the Draft Convention *(continued)* :
   - Article 1, Paragraph XV, of Draft (final Article 15) *(continued)* . . 189
   - Article 1, Paragraph XVI, of Draft (final Article 16) 190
2. Discussion of the Recommendations adopted by the Mixed Committee . 192

Annex: List of Members of the Administrative Committee 194

FIRST MEETING

Held on April 12th, 1929, at 10 a.m.

Chairman : M. DELAQUIS (Switzerland).

Opening Speech by the Chairman.

The CHAIRMAN, after declaring the meeting of the Administrative Committee open, thanked his colleagues on behalf of his country for the honour they had conferred upon him in appointing him Chairman.

Turning to the agenda, the Chairman reminded the members that, on the previous day, Paragraph VII had been referred to the Administrative Committee by the Legal Committee, which was apparently desirous that this paragraph should be placed after Paragraph XI.

He proposed that, for the moment, the Committee should confine itself to a discussion of Paragraph VII ; a decision as to its position in the Convention would be taken later. He then opened the discussion on this Paragraph.

Discussion of the Draft Convention.

Article 1, Paragraph VII, of Draft (Final Article 11).

M. NAGAI (Japan) referred to an observation already submitted by the Japanese delegation to the Legal Committee (document C.F.M./A/12), namely, that Japanese legislation adopted the principle of leaving it to the discretion of the court to confiscate articles which had formed the subject of an offence and material used in manufacturing those articles.

In practice, the courts usually confiscated counterfeit currency, but did not always confiscate materials—for instance, when those materials belonged to a third person.

Consequently, the Japanese delegation would find it difficult to accept Paragraph VII if it involved the legal obligation to confiscate both the counterfeit currency and materials. As regards the disposal of the confiscated articles, the Japanese delegation agreed with the proposed text.

In reply to a question raised by M. Pospisil, who asked whether the measure referred to was a general measure applying to all counterfeiting offences, M. Nagai gave an affirmative reply.

M. POSPISIL (Czechoslovakia), as the representative of a bank of issue, said that the banks attached the greatest importance to the adoption of measures which would give them the utmost security—in particular, measures providing for the complete destruction of articles used in committing the crime. He therefore appealed to the Japanese delegation to go a step further in this matter, for the sake of protecting all currencies.

M. COLLARD-HOSTINGUE (France) considered it essential that forged notes should be withdrawn from circulation as soon as possible and that the materials employed for their manufacture should be rendered incapable of use. It was therefore indispensable that forged notes and the materials in question should be seized as soon as possible and confiscated immediately sentence was passed.

The question then arose : What was to be done with them ? There were two possible solutions : the notes could be destroyed and the materials rendered incapable of use, or they could be handed over to the Government or bank of issue whose notes had been forged. He preferred the latter solution, which was safer, because the banks would see that the forged notes were not put back into circulation. That might not be so certain if the notes were disposed of otherwise.

M. POSPISIL (Czechoslovakia) said that there had been cases in which they had actually been re-circulated.

M. ALOISI (Italy) was in favour of maintaining the proposed text. The object of the Conference was to increase the solidarity of States with a view to the pursuit and punishment of counterfeiting. It was inconceivable that the Convention should not make express provision for the confiscation of counterfeit currency and the materials used for its manufacture. There was, however, a question of detail to be settled : in addition to confiscation, should provision also be made for seizure ? In his opinion, the obligation to confiscate involved the obligation to seize; seizure was the necessary preliminary to confiscation. It could be then taken for granted that the obligation to confiscate implied that to seize, at least for those States which intended in good faith to carry out their international engagements. Nevertheless, if it were desired to insert the word " seizure " in the paragraph, for the sake of greater clearness, he would agree to this.

He believed also that forged notes would be safer in the coffers of the bank whose currency had been forged than anywhere else. From the point of view of drafting, however,

he would like to see a clause inserted in the paragraph to the effect that, in every case, forged notes would be handed over to the actual State whose currency had been forged.

The Convention must bind States in this matter since they are simply the subjects of international law; after the forged notes had been handed over, the States could do what they liked with them ; they would almost certainly hand them over to their bank of issue.

M. Sirks (International Criminal Police Commission) said that the International Criminal Police Commission was of opinion that forged currency and the materials used for its manufacture should be confiscated, whether those materials belonged to the perpetrator of the crime or to his accomplices. However, he thought it would be unjust to confiscate a printing press when the owner was quite innocent, because in such a case there was no special danger of a repetition of the offence.

It would also be ridiculous to confiscate, as had been done in the past, an ordinary pen used for tracing Bank of England notes.

He thought it highly desirable that the authorities should have power to preserve the materials or articles manufactured for purposes of study, and in this connection the International Commission approved Paragraph VII, which even went further in this direction than the police thought necessary.

M. Givanovitch (Kingdom of the Serbs, Croats and Slovenes) said that, with the support of the Czechoslovak delegation, he had proposed to the Legal Committee that the first phrase of Paragraph VII, which provided for the confiscation of counterfeit currency and the materials used, as an additional penalty, should be omitted. This penalty was provided for under all legislations and was understood to apply.

The first phrase would have no meaning unless confiscation were extended to materials belonging to persons other than the offender : that was not clear from the wording.

In conclusion, he said that confiscation should take two forms : in the case of an offender, it would be a penalty ; in the case of a person other than the offender—*i.e.*, the owner of the materials—it would be an administrative measure.

M. de Chalendar (France), Vice-Chairman, summed up the discussion by expressing the hope that an agreement between the representatives of the banks of issue, to whom the Legal Committee had specially referred Paragraph VII, and who were primarily concerned in the forging of banknotes, might be possible.

In this connection, he attached great importance to the statements made by the representatives of the Bank of Czechoslovakia and the Bank of France. These statements afforded a valuable indication of the views of the banks of issue, to which due consideration should be given.

From what had been said, it appeared that Paragraph VII gave full satisfaction to the banks of issue ; if any part of that paragraph were omitted, the security of the banks provided for under that paragraph would to some extent be impaired.

After referring to the Japanese delegation's remark that, according to the laws of its country, confiscation was left to the judge's discretion, he showed that Paragraph VII made this confiscation compulsory. He therefore urged the Japanese delegation to go a step further : if each country desired to adhere to its own legislation, the number of reservations made when the Convention was signed would be so great that its scope would be considerably reduced.

M. de Chalendar said that he would therefore be glad to hear that the Japanese delegate had allowed himself to be convinced by the arguments put forward by the various delegations and that it would be possible for Japan to amend her legislation so as to make confiscation compulsory.

In reply to M. Givanovitch, he said that the Japanese representative's statement clearly showed that confiscation was not provided for in all legislations. This proved the utility of inserting this provision in Paragraph VII.

France attached some importance to the first phrase and had proposed that the word " seizure " should be added to the word " confiscation ".

The French delegation did not agree with the Italian representative, who thought that the addition of the word " seizure " was unnecessary. Seizure was a police measure and was a material act, consisting of taking hold of the articles in question and putting them in a safe place so as to make any attempt to utilise them impossible, but this police measure did not involve the disposal of the articles. Confiscation, on the other hand, obviously involved seizure and the determination of the new owner of the articles by decision of the court.

Consequently, there was more than a shade of difference between " seizure " and " confiscation " ; if confiscation only were provided for, forged notes or the material used for their manufacture might be left unguarded pending the court's decision. It was important that they should be legally seized at once by the police and put under lock and key so that they could not be used. It was to the banks' interest and to the interest of all citizens that no forged banknotes should be put back into circulation.

Confiscation was useful both as a penalty and as a measure assigning the final ownership of the goods and materials seized to the body which had the best right to them. The second phrase of Paragraph VII stipulated that, after confiscation had been pronounced by the court, the currency and materials should be handed over either to the Government or to the bank of issue whose currency had been forged.

The last part of the paragraph was likewise of great importance, because a State whose currency had been forged should make certain that the materials and forged notes had been

taken from the forgers, particularly in view of the importance of discovering the methods employed by forgers in making or altering currency.

The Italian delegate had stated that he did not consider it necessary to retain the term " bank of issue " in a Convention to be drawn up between States ; he thought it would be sufficient if the forged notes or materials were handed over to the State whose currency had been forged. Personally, he did not attach much importance to the question : since the bank of issue whose currency had been forged could act as a civil party, it would exist in the eyes of the court as a known entity. There was therefore no objection to retaining this term in the text.

In conclusion, he asked that the text should be maintained with the addition of the word " seized " to the first phrase.

Mr. Brass (Great Britain) agreed substantially with the views expressed by the delegate for France and by M. Pospisil, but he nevertheless had some sympathy with the Japanese point of view, which he thought sought to protect property or machinery belonging to innocent third parties. As he understood it, however, there was no intention in the paragraph to deal with property belonging to innocent third parties at all, but perhaps some explanation to that effect should be inserted in the report.

M. Sjöstrand (Sweden) said that the Vice-Chairman of the Legal Committee had remarked that, when certain provisions of the Convention conflicted with the domestic law of any country, it was preferable that they should not be urged. The speaker pointed out that Paragraph VII conflicted with a general principle of Swedish criminal legislation ; he accordingly desired this paragraph to be drawn up in general terms. The paragraph might be confined to a statement that articles and materials which had been or were intended to be used for the manufacture or alteration of currency would be rendered incapable of use. He thought this question was of an administrative and not of a juridical character, and that it was unnecessary to go so far as the present text.

M. Caloyanni (Greece) pressed for the maintenance of the present text with the addition of the word " seized " proposed by M. de Chalendar.

He pointed out that this paragraph was divided into three parts : the first referred to the necessity of confiscating counterfeit currency and materials used for counterfeiting ; the second dealt with the disposal of the confiscated currency and materials ; and the third with the rendering useless of articles used for counterfeiting.

To the first part, M. de Chalendar had proposed the addition of the word " seized ". The speaker thought this was a necessary addition. Seizure was a preliminary act and at the same time a measure of protection. Even if this word did not appear in domestic law, the Committee should include it in this Convention in order to facilitate the work of the police authorities.

Moreover, confiscation was likewise an important act. This word had several meanings. It meant a change of ownership, but it also meant the disposal of the confiscated article after the original owner had been dispossessed. Disposal naturally involved the right to destroy the article. That was an important point.

M. Caloyanni referred to the case of an innocent owner of material which had been seized. He pointed out that when, in connection with an offence of counterfeiting, machinery which had been used for forging notes was seized, it was presumed that this machinery belonged to the person who had made use of it. From the juridical and legal point of view, the holder could be dispossessed, whether he were the owner or not. If the real owner were innocent, it was for him to make a claim. He was entitled to do this under the domestic law of the various countries.

The second part of the paragraph, which referred to the disposal of confiscated articles, stated that those articles should be handed over either to the Government or to the Bank of issue. He thought it would have been simpler to stipulate that all forged notes should in every case be handed over to the bank by which they were issued, whose duty it was to collect and keep them and prevent their re-circulation.

As regards the third part of the paragraph, which provided for the rendering incapable of use of the articles seized, he was glad that the Committee had inserted this clause.

In conclusion, the Greek representative said that he would like this paragraph to be retained with the addition of the word " seized " to the first phrase.

The Chairman asked M. Caloyanni whether he desired the stipulation in the second part of this paragraph, that the forged currency and materials used should be handed over to the Government, to be omitted. He understood that M. Caloyanni thought it better to mention banks of issue only.

M. de Chalendar (France), Vice-Chairman, thought that both terms should be retained, as the text covered the forging, not only of banknotes, but of metallic money also. Banks were not responsible for the quality of metallic money. Consequently, counterfeit coins uttered and materials used for their manufacture or alteration should be handed over to the Government. Both terms were therefore of use.

M. Caloyanni (Greece), in reply to the Chairman, explained that he had not asked for any amendment to the text, but had merely explained his point of view in regard to one of the questions involved ; he agreed with M. de Chalendar's explanation.

M. Vocke (Germany) thought that the present wording should be maintained, with the addition proposed by M. Collard-Hostingue. This text was indispensable for the efficient operation of the Convention. It was impossible to take too many precautions as regards the rendering of instruments and materials employed by forgers incapable of use.

The Chairman said that M. Aloisi had made the following proposal concerning the first phrase of the paragraph :

> " Counterfeit or altered currency, material solely intended for counterfeiting, and also any other material used for that purpose, except, in the latter case, when it belongs to an innocent third party, should be seized and confiscated. "

M. Aloisi (Italy) said that he had desired to sum up the views of the various speakers who had preceded him. The first words " counterfeit or altered currency " met with general approval. By " materials solely intended for counterfeiting ", he meant material which had been used and which could only be used for manufacture or alteration. He was certain that counterfeit or altered currency should in every case be withdrawn from circulation or handed over to the Government. At the same time, materials which could be used for purposes other than counterfeiting and which did not belong to the delinquent should not be confiscated ; this exception was provided for in all legislations. The latter might be called " innocent " materials, and, if they belonged to an innocent third party, confiscation constituted a blow at his property rights.

It was possibly superfluous to add that, after confiscation, these materials should be handed over to the bank of issue, although there was no real objection to this clause. The bank of issue might act as a civil party under conditions which varied according to the different legal systems, but those were only minor points.

M. Liubimov (U.S.S.R.) supported the Italian delegate's proposal to omit the words " or bank of issue ". The counterfeit currency and materials used for its manufacture should be handed over to the Government and not directly to the bank of issue concerned.

Moreover, he attached great importance to the rapidity of the procedure of taking over the counterfeit currency and materials in question from the forger. It was essential for the bank of issue to find out as soon as possible what technical processes had been used by the forgers.

He desired to pay a tribute to M. Schuhler, the distinguished expert of the Bank of France, who had drawn up a detailed and valuable report, dated April 2nd, 1927, on the forged notes of the Soviet State Bank. As, however, the proceedings had not yet terminated, the Russian authorities were not yet in possession of either the counterfeit currency or the plant used for its manufacture. The matter of taking over should be speeded up in future.

M. Pospisil (Czechoslovakia) pointed out that Paragraph XIV covered M. Liubimov's proposal.

The Chairman said that this proposal would be discussed when the time came to examine Paragraph XIV.

M. de Chalendar (France), Vice-Chairman, said that he had carefully read the text proposed by the Italian delegate and appreciated the latter's desire to give satisfaction to those of his colleagues who had expressed reservations with regard to " innocent " materials. It was undoubtedly true that many laws contained provisions prohibiting the confiscation of accessory materials which had been used for counterfeiting without the owners' knowledge.

Nevertheless, in the case of criminal law and fraud, it was necessary to take very stringent action. Under French legislation, for instance, the measures directed against smuggling were both preventive and punitive. The provisions regarding seizure and confiscation were extremely severe. What was the purpose of those measures ? Their main purpose was to make an impression on the offender, but they also provided for the effective seizure of the articles used in committing the offence and of all accessories, without prejudging the question whether the materials so seized belonged to an innocent party or not.

For instance, smugglers might seize or hire a motor-car and use it for taking tobacco over the frontier. If they were discovered and stopped by the Customs officials, the latter seized, not only the tobacco, but also the motor-car. If the owner of the car proved that he was completely innocent, he could claim the material belonging to him. Nevertheless, the stringent measure of seizure and confiscation would be imposed because his complicity was presumed. It was even more important to take such action, which was of considerable utility, in a matter of such grave concern as counterfeiting. It served to make people aware of their obligations and responsibilities.

He thought, therefore, that it was important to retain in the Convention the general spirit of the original text. This text did not in any way affect domestic law, under which the restoration of the " innocent " material could be provided for ; there was nothing to prevent this.

He sometimes thought it was a pity that a few well-known forgers could not take part in conferences on counterfeiting. Their co-operation would be very valuable. Personally, he was ignorant of the technique of the manufacture of banknotes, but he believed that

forgers used photographic and lithographic processes and ordinary printing material. A press could quite well be used for other purposes than printing banknotes ; but a lithographic stone on which an impression had been made by the forger without the owner's knowledge could not be returned to the latter without constituting a public danger.

He urged the importance of adhering in an international convention to general principles which allowed domestic law a certain amount of elasticity. He therefore thought that the text drawn up by the Mixed Committee should have their Committee's attention and should meet with general support.

Nevertheless, if the members of the Committee had any scruples on the matter and wished to discuss the text proposed by the Italian delegate, the two texts might be compared by a Drafting Committee, which could decide on the one it thought most suitable.

The CHAIRMAN agreed with M. de Chalendar. He urged that the first phrase should be maintained, with the addition of the word " seized ".

He could not accept M. Aloisi's text without a very definite restriction. The Swiss draft Penal Code contained the following provision :

> " The judge, even when no special person can be prosecuted or convicted, shall order the articles used or intended to be used in committing an offence, or which have been made, etc., to be confiscated. "

If M. Aloisi's text were adopted, it would no longer be possible to take such action against forgers.

The Chairman accordingly urged that the text proposed by the Mixed Committee should be retained.

M. CALOYANNI (Greece) was strongly in favour of the maintenance of Paragraph VII. He recognised that certain recent laws—in particular, the new Greek draft Penal Code (Article 181, Paragraph II)—explicitly provided for the restoration of articles which had been seized when the owner had been found to be innocent. He thought, however, that it would be better not to mention this matter in Paragraph VII, but to add a special paragraph as proposed by the British representative.

M. ALOISI (Italy) objected to the use of the word " confiscated ". For instance, if someone stole photographic material from him, he would be doubly wronged if that material were confiscated by the State. M. de Chalendar had based his argument on an example taken from Customs legislation. M. Aloisi thought that this legislation was exceptional. In any case, the Mixed Committee's text should be amended to bring it into line with the new text of Paragraph V, to which, on the Italian delegate's proposal, the word " solely " had been added. The provision of the Swiss law to which the Chairman had referred covered what was called compulsory confiscation. This was also provided for by Italian legislation and M. Aloisi had not proposed anything which conflicted with his own legislation. A distinction should, however, be made between compulsory and optional confiscation. The former related to articles solely intended for counterfeiting and the latter to what he had called " innocent material ". The question was one directly attached to the right of property and he could not subscribe to any engagement which might strike it a blow.

The CHAIRMAN pointed out that, strictly speaking, M. Sirks and M. Nagai had not made any proposals. The Japanese delegation had merely made a reservation.

M. Givanovitch had proposed that the first phrase of the paragraph should be omitted.

M. GIVANOVITCH (Kingdom of the Serbs, Croats and Slovenes) withdrew his proposal.

M. SJÖSTRAND (Sweden) said that he withdrew his proposal to use the words " should be rendered incapable of use " instead of " should be confiscated ".

The CHAIRMAN asked the Committee to decide whether a reservation should be made concerning material which had been used for counterfeiting and which belonged to innocent third parties. In the event of an affirmative decision, the Drafting Committee would be instructed to prepare a text to this effect.

Mr. BRASS (Great Britain) said that personally he did not think it necessary to insert an article or reservation on this matter. He merely wished a note to be included in the report or protocol.

M. Aloisi's proposal was rejected and the first phrase of Paragraph VII maintained.

The Committee decided to add the word " seized " *to this phrase.*

The CHAIRMAN submitted to the Committee M. Aloisi's proposal that the second phrase of Paragraph VII should read as follows :

> " Such currency and material should, on application, be handed over after confiscation to the Government whose currency is in question. "

M. ALOISI (Italy) withdrew his proposal.

The last part of the paragraph was approved without any amendment.

M. Aloisi (Italy) asked that mention should be made of his formal reservation with reference to the first phrase.

M. Nagai (Japan) also made a reservation of principle, but declared that, in substance, the Japanese delegation agreed with the Committee.

The Chairman stated that the reservations of the Italian, Japanese and Swedish delegations would be mentioned in the report.

Article 1, *Paragraph XII, of Draft* (*Final Article* 12).

The Chairman then read Paragraph XII.

M. Broekhoff (Netherlands) (document C.F.M./B/3) proposed the addition of a recommendation with regard to this paragraph. It was desirable that the central offices should be requested to supplement their documentation and extend their activities in the matter of cheques, promissory notes, bills of exchange and letters of credit and all other similar commercial instruments.

The Netherlands delegation based its proposal on the following grounds : it was a recognised fact that, for some years past, there had been a growing tendency in most countries to replace banknotes to a very large extent by commercial bills. As a rule, this tendency was encouraged by Governments and issuing institutions. The result was that forgers, who formerly uttered banknotes only, had now changed their tactics and concentrated on commercial bills, either because these were in many cases easier to forge or because the profit on them was greater. In this connection, the Netherlands delegation would refer to the replies submitted by the Netherlands Government. In its observations, the Government stated that, during the past year, cheques, letters of credit, etc., were forged to the value of about half a million florins.

The Netherlands delegation drew the Committee's attention to the fact that, as the result of various investigations which had been carried out, the forging of commercial bills had been found to have been committed by the same persons as were known to have previously forged banknotes. It would therefore be logical for the central offices to regard the forging of commercial bills as a corollary of counterfeiting currency.

The central offices already in existence—among others, the central office of the Netherlands — had already extended their activities to the forging of commercial bills.

The Netherlands delegation accordingly proposed the addition of the following recommendation to the text of the Convention :

> " It is desirable that central offices should be requested to supplement their documentation and extend their activities in the matter of cheques, promissory notes, bills of exchange and letters of credit and all other similar commercial instruments. "

The Chairman said that the Legal Committee had already stated its opinion that the field of application of the proposed Convention should not be extended, but he did not think that there was any objection to adopting a recommendation.

M. Pospisil (Czechoslovakia) endorsed the Chairman's remarks and agreed to the adoption of the recommendation.

M. Sokalski (Poland) did not think it necessary to state at the moment that the central office set up in each country should be a police organisation. Each country should be free to determine the nature of this institution. He therefore proposed that the Convention should refer simply to " a central office ".

M. Sirks (International Criminal Police Commission) said that the International Police Commission supported the recommendation submitted by the Netherlands delegate, more especially because national central offices whose activities extended to acts connected with the forging of cheques and bills of exchange were already in existence.

He also recommended the adoption of Paragraph XII, adding that the International Commission considered that the best solution was to make these offices police organisations, which would keep in close contact with other police authorities in the country, because the criminals who made counterfeit currency were usually forgers in the general sense of the word.

Consequently, these central police offices should obtain full information with regard to counterfeiting and the forging of bills, etc. It was highly important that they should be acquainted with the *modus operandi* of all criminals.

Nevertheless, if the maintenance of the word " police " would cause the paragraph to be rejected, the International Commission would not oppose its deletion.

M. de Chalendar (France) said that the central office referred to in Paragraph XII had not yet been set up in France, but that the French Government would willingly take the necessary steps for its establishment.

He did not think it greatly mattered whether this central office was a police organisation or not. The office might, he thought, just as well be attached to some other ministry than that which dealt with police matters. He agreed that contact should be established with the organisations mentioned in Paragraph XII.

As regards the recommendation submitted by the Netherlands delegation, M. de Chalendar agreed with the Chairman's observations, namely, that the field of action proposed to the Conference should not be extended, but that recommendations could quite well be added to the Convention. He was of opinion, however, that this recommendation should not be confined to cheques and commercial bills ; the supervision of securities negotiable on the Stock Exchange should also be added. This latter point might be referred to the Drafting Committee.

M. Nagai (Japan) asked whether the word " investigations " in Paragraph XII had a general meaning and implied the obtaining of information and carrying out of enquiries ; he did not think it had the precise meaning attached to it in certain penal codes, in which it meant the means of execution of public action.

The Chairman replied that the word " investigations " was not used in Paragraph XII in a technical sense. It merely had the general meaning mentioned by the Japanese representative.

The Committee decided to refer the Polish delegation's proposal to the Drafting Committee.

The Committee adopted, subject to drafting amendments, the recommendation submitted by the Netherlands delegation.

Paragraph XII was adopted.

Article 1, *Paragraph XIII, of Draft* (*Final Article* 13).

Paragraph XIII was adopted without discussion.

(The meeting rose at 12.15 p.m.)

SECOND MEETING.

Held on April 13*th*, 1929, *at* 10 *a.m.*

Chairman : M. Delaquis (Switzerland).

Death of Signor Enrico Ferri : Conference's Expression of Sympathy.

M. Pella (Roumania) spoke as follows :

" One of the most forceful personalities in the field of modern criminal law has just passed away.

" The great Italian master, Enrico Ferri, is no more !

" No matter what may be the differences of opinion regarding Enrico Ferri's conceptions as a whole, the new perspectives which his genius has opened up for us in the field of criminality and the wide influence which his studies have exercised for almost half a century on the evolution of criminal law, these will not be forgotten.

" To-day, when, for the first time, the representatives of criminal science, in their quality as official delegates of their Governments, have gathered together in diplomatic conference under the auspices of the League of Nations to search for new means of combating one of the most dangerous forms of international criminality, to-day this conference cannot in silence pass by the death of Enrico Ferri.

" The new science of criminal law which has manifested itself with such force in our discussions is indissolubly linked with the great personality of that celebrated Italian master.

" Even if Enrico Ferri is no more, the flame of his victorious ideas, undying, ever renascent, will long cast its light down the new roads along which the contemporaneous movement for the codification of criminal law is leading.

" In proposing that the President of our Conference convey our sentiments of grief to the family of the great master now gone, I request the representative of Italy—classic land of criminal law, birthplace of so many illustrious criminologists—most kindly to associate our mourning with the mourning which has stricken his nation in the irreparable loss of Enrico Ferri, whose works have enriched, not only the criminal law of Italy, but also the universal heritage of criminal science ! "

M. Pospisil (Czechoslovakia), President of the Conference, associated himself with M. Pella's words and said he was sure he would be interpreting the feelings of all the members of the Conference, as well as his own, in offering their deepest sympathy to the Italian representative.

The CHAIRMAN, on behalf of the Committee, also associated himself with the expression of sympathy which had been offered. He had been deeply grieved at the news. Death had deprived them, not only of a distinguished scientist, but of a most congenial colleague, one who was ever in the forefront of the battle in the campaign against crime—a " volcano " as he used to call himself.

The Chairman proposed that the President of the Conference should send a telegram on its behalf to the family of Signor Enrico Ferri.

M. ALOISI (Italy) said that he was too much overcome by the news which he had just heard of the loss sustained by Italian jurisprudence to be able to express all that he felt. On behalf of the Italian Government and of the Ferri family, he thanked the Conference for the tributes which had just been paid to the memory of his distinguished countryman, who was a representative, not only of Italian criminal science, but of criminal science throughout the word.

Communication by the Chairman.

The CHAIRMAN informed the Committee that, as several of its members were also members of the Committee which was to meet at 11 o'clock to examine Paragraph IX, he proposed to curtail the meeting, which would end at 11.30 a.m.

Adopted.

Discussion of the Draft Convention (continued).

Article 1, *Paragraph XIV, of Draft* (*Final Article* 14).

The CHAIRMAN proposed that a general discussion on the paragraph as a whole should first be opened.

Mr. MORAN (U.S.A.) said that he desired to make a short statement for the information of those members of the Committee who were not present at the proceedings of the Mixed Committee.

The qualifying clause in Paragraph XIV—" so far as it considers expedient "—had been inserted as a result of the statement made by Mr. Rand on behalf of the United States Government.

The United States Government was not in a position to supply the central offices with specimens of the various notes constituting its paper currency. First, because to do so would violate a long-established principle of the Treasury Department that no impressions should be drawn from currency plates except for issue as legal tender, and the specimens intended for central offices would not be legal tender.

Secondly, the United States of America issued a considerable variety of paper notes. These included State currency, gold and silver certificates, notes issued by the Federal Reserve Banks and by National Banks. Each of these issuing institutions issued a number of notes of different denominations, varying from six to eleven. The National Banks, of which there were 7,000, each issued seven different denominations of notes. The central offices would therefore have to be supplied with, approximately, 50,000 specimens and it would be seen that this was impossible.

The CHAIRMAN remarked that Switzerland was in favour of the deletion of the words in question. However, in view of the statement just made by the United States representative, he would not press the matter.

M. CARRILLO DE ALBORNOZ (Spain) drew the Conference's attention to the advisability of stipulating, in the text of Paragraph XIV, the languages to be used by the central offices for the exchange of communications. It was impossible for an official with a knowledge of all the languages to be attached to the office or available whenever an urgent case arose.

In order to ensure rapid communications between the central offices, his delegation was of opinion that English, French and Spanish, which were the three most widespread languages, should be used.

M. SOKALSKI (Poland) referred to the sentence in Paragraph XIV which reads as follows :

> " Notification of the forgery of bank or currency notes shall be accompanied by a technical description of the forgeries, to be provided solely by the institution whose notes have been forged. "

He pointed out that the description in question might be given by an establishment other than the issuing institution ; it would be better to replace the words " accompanied by a technical description " by the words " provided solely by the competent establishment or office ".

M. DE CHALENDAR (France), Vice-Chairman, pointed out that the text of Paragraph XIV referred only to forged notes. Personally, he thought it would be more useful for the central offices to exchange specimens of forged notes than specimens of coins, since the forging of the latter was carried out on a much smaller scale and the specimens varied greatly. He would be glad, however, if the representatives of police organisations participating in the Committee's work would be good enough to state what had been their experience in this respect.

M. SIRKS (International Criminal Police Commission) said that it was extremely important that the office of the International Criminal Police Commission should possess specimens of the various banknotes issued, to enable it to compare the specimens transmitted by the various central offices. At the same time, the International Commission realised how difficult it might be for some countries to communicate specimens of all the notes issued in their territory. He would merely express the hope that the phrase " so far as it considers expedient " would be construed in the most generous manner.

M. MOTONO (Japan) drew attention to the Japanese delegation's proposal concerning Paragraph XIV of Article 1.

The CHAIRMAN read the text of that proposal (document C.F.M./B/5) :

> " Counterfeiting of metallic currency being very frequent, it would seem desirable that specimens of same should also be forwarded to the authorities concerned. The Japanese delegation therefore suggests that, after the words ' genuine bank or currency notes ' in the first paragraph, the words ' and of metallic currency ' should be added. "

M. SIRKS (International Criminal Police Commission) said that he would like to add that, in order to facilitate the work of the police, it was of the utmost importance that it should be supplied with the greatest possible number of specimens of forged banknotes. As regards metallic money, he pointed out that this kind of counterfeit currency was rarely to be found abroad, but there were always a great many foreign notes, which were more easily transported.

M. LIUBIMOV (U.S.S.R.) said that he had already drawn attention during the discussion of Paragraph VII to the necessity of handing over counterfeit currency and the material used for its manufacture to the bank of issue concerned as quickly as possible. It was then stated that this question was connected with Paragraph XIV ; he thought that the words " in urgent cases " in sub-paragraph 1 were applicable to the case.

Accordingly, he would not press the point, but would be satisfied if mention were made of his statement in the Minutes.

M. MOTONO (Japan) said that, in the Far East, there was far more counterfeiting of metallic money than of notes ; that was why the Japanese delegation had proposed the addition of the words " metallic currency " to the paragraph.

The CHAIRMAN summed up the discussion.

The first question was that of the languages to be used. He suggested that this should be referred to the Drafting Committee.

The question of languages was referred to the Drafting Committee.

The CHAIRMAN added that the Japanese delegation proposed to add, after the words " bank or currency notes ", in sub-paragraph 1, the words " and of metallic currency ".

The Japanese proposal was adopted.

The CHAIRMAN referred to the proposal concerning sub-paragraph 1 submitted by the Polish delegation, which had suggested the words :

> " . . . the technical description of the forgeries to be supplied solely by the competent establishment or office. "

M. POSPISIL (Czechoslovakia), President of the Conference, referred to the discussion which had taken place on this matter in the Mixed Committee. In his opinion, the only body which could give the necessary descriptions, while safeguarding the secrets of manufacture, was the bank of issue or the official printing works of that bank.

M. DE CHALENDAR (France), Vice-Chairman, drew attention to a typographical error in the French text of sub-paragraph 1.

M. SOKALSKI (Poland) said that he did not agree with M. Pospisil's statement. For instance, in Poland, the printing works of the bank of issue were now being organised as a separate establishment.

M. POSPISIL (Czechoslovakia), President of the Conference, said that he could not conceive of a state of affairs in which the bank of issue would be responsible for its notes but would not control the printing of them.

M. Sokalski (Poland) said that he was instructed by his Government to maintain his contention.

M. Aloisi (Italy) said that, on behalf of the Bank of Italy, he could not approve any text other than that proposed by the Mixed Committee.

M. Barboza-Carneiro (Brazil) asked the Japanese delegation whether it would agree to the words :

> " Notification of the forgery of bank or currency notes and, if the office in question considers it necessary, of metallic currency ",

because it might cost a certain amount to send a specimen of each coin to each central office.

The Chairman replied that this point was covered by the words in the first line : " so far as it considers expedient ".

M. Barboza-Carneiro (Brazil) asked whether this could be taken to mean that no specimens need be sent.

The Chairman gave an affirmative reply.

M. Pospisil (Czechoslovakia), President of the Conference, reverting to the Polish delegation's proposal, thought that the proposed text met M. Sokalski's point; the "institution" referred to might apply either to the institution itself or to the separate organ of the bank to which the Polish representative had referred.

The Committee adopted Paragraph XIV as proposed, with the addition of "metallic currency" *in sub-paragraph I.*

Article 1, *Paragraph XV; of Draft* (*Final Article* 15) *and Recommendation V.*[1]

The Chairman read Paragraph XV and Recommendation V, which referred, not to Paragraph XIV as stated, but to Paragraph XV.

M. Pospisil (Czechoslovakia), President of the Conference, said that the Mixed Committee, which had discussed at great length the establishment of a central international office, had finally recognised the impossibility of providing in the Convention for the organisation of this central international office. It was not possible to do more than lay down in the Convention the future bases of this organisation by stipulating that the national offices should from time to time hold conferences, at which the organisation and statute of the international office might one day be agreed upon.

The Mixed Committee had recognised the utility of a properly organised central institution and had recommended (Recommendation V) that, pending a definite decision on the matter, the work of the Vienna Office should be continued. M. Pospisil appealed to his colleagues to adopt a conciliatory attitude towards the two texts proposed, namely, Paragraph XV and Recommendation V.

M. Aloisi (Italy) referred to the two proposals made by the International Criminal Police Commission.

The first was that, pending the creation of an international office, the International Office at Vienna should continue its work, with the co-operation of the Governments ; the second embodied the suggestion that the League Council should appoint two commissioners to keep in contact with the International Office.

He pointed out that these two proposals were complementary, and added that he would like to state the views of the Italian Government with regard to each.

These proposals referred to the establishment, for the time being at Vienna, and later on at Geneva, of the international organisation for the prevention of counterfeiting which had been rejected by the Mixed Committee for technical reasons, or as being in any case premature. The Italian Government had always taken a firm stand on the matter, as appeared from the following declaration, which it had already communicated to the Governments :

> " The Royal Government could not agree to the institution of any official international organisation, even if intended simply for the centralisation of information relating to counterfeit currency. "

M. Aloisi added that he was bound to carry out his Government's instructions, but he hoped that the matter would not be pressed and that he would be able to sign the whole Convention without any reservation, which was what his Government desired.

The opposition of the Italian Government was based on technical grounds. The experience of institutions of the kind suggested which certain countries, his own among others, had had during the war had not prejudiced the Italian Government very much in their favour, because masses of documents would have to be collected, drafted, revised, translated and sent to the various national offices. This would cause delay and would impede the work of the national offices. In fact, during the war, the national offices to which he referred had ended by corresponding direct with one another, as was, moreover, provided for in Paragraph XIII.

At the same time, he did not wish to be uncompromising. If the organisation were wisely managed, the difficulties encountered during the war might possibly be avoided. But it

[1] Final text : Recommendation IX:

would, he thought, be better to await at any rate the results of the conferences between bankers and police representatives mentioned in Paragraph XV before going further in the matter.

He therefore wished merely to approve Paragraph XV in its present form.

M. Pospisil (Czechoslovakia), President of the Conference, asked M. Aloisi whether he was also prepared to accept Recommendation V.

M. Aloisi (Italy) said that he would accept this recommendation out of deference to the President of the Conference.

M. Pospisil (Czechoslovakia), President of the Conference, thanked the Italian delegate for the conciliatory spirit which he had shown.

M. Sirks (International Criminal Police Commission) (see document C.F.M.9) said that he would like to submit his views to the Committee with regard to the establishment of an international office for the prevention of counterfeiting.

1. From the police point of view, an international office was absolutely essential, and he hoped that this would be officially recognised in the Convention.

For instance, supposing three Dutch nationals were arrested in Germany for uttering forged Belgian notes in the Netherlands. " So far as Germany considered it expedient " (according to the formula employed in the draft Convention prepared by the Mixed Committee), the German central office would communicate this fact to the Belgian and Dutch central offices. Proceedings would be taken and sentence passed. Then, supposing that, some years later, a Dutch national were arrested in Italy for uttering forged Belgian notes, If he said that the notes had been passed to him, his statement would be accepted and he would be released. It was obvious that, if an international office had been in existence, it would have been notified by the German central office and would have been supplied with photographs and finger-prints of the three criminals. Similarly, the Italian central office would have been able to obtain full particulars with regard to the forgery from the international office. Consequently, the individual in question would have been kept under arrest by the Italian judicial authorities.

To take another example, supposing that forged Italian notes were discovered in Italy, and that these notes, although they were well made, had the peculiarity of consisting of two slips of paper stuck together, the watermark being formed by a barium salt applied between the two slips. Let us suppose that the enquiry proved fruitless, but that, some time previously, similar notes were uttered in France. In such a case, the international office would be notified by the French central office and the Italian central office, and would not fail to notice the connection between the two cases. If the criminals were discovered in France, the international office would at once notify the Italian central office, whose enquiries would thus be greatly facilitated.

As he had already explained to the general meeting, it would be the duty of the international office to collect all the documentation and information supplied by the central offices.

The draft Convention stipulated that each central office should, " so far as it considered it expedient ", forward any useful information to the central offices of the other countries concerned. The object of this restriction was to prevent the central offices from being swamped by documents. The difficulty would consist in determining which countries were concerned, especially from the point of view of future developments. This difficulty would, however, be overcome if an international office were set up, as this office could decide the matter immediately.

The Mixed Committee's report also stated that the central office should complete the work of co-operation between the various police forces. M. Sirks did not agree. He thought that, from the very outset, an international office was essential for the efficient operation of the central offices. Moreover, the experience of the last few years had already shown that it was, not only useful, but necessary, for the central offices already existing in a large number of countries to have recourse to the documentation centralised at the international office.

It should also be noted that, without an international office, it would be impossible to publish a review for the circulation of information concerning the uttering of forged notes. Such a review was absolutely indispensable to enable the police to procure the invaluable co-operation of the various financial organisations. He had available a certain number of copies of the review at present in circulation, drawn up in French and German. This publication had already 4,700 subscribers.

The Mixed Committee's report also dealt with the problem of antecedents, even in the case of persons who had only been convicted abroad. Account could always be taken of antecedents as far as the laws permitted ; the international office would in every case have knowledge of those antecedents.

2. It was highly desirable that the international office should be affiliated to some important police organisation. It would thus be more technical and, he thought, more active, as it would have a more extensive knowledge of actual criminality. The police should, of course, keep in touch with the modern methods employed by international criminals and should closely follow their movements. The international office should also endeavour to improve the methods of dealing with international criminals. The Criminal Police Commission was

of opinion that an international office which merely collected information would not be able to carry out this work.

3. The documentation relating to counterfeiting should not be separated from the general documentation relating to all other branches of international crime. This documentation formed a complex but indivisible whole, and could not be separated without the risk of destroying the value of the whole work.

4. The international office would have urgent need of authority and prestige and could only obtain this if it were connected with the League of Nations. If it lacked this prestige and authority the central offices would not be disposed to supply it with adequate information.

5. The Commission considered that the most effective and least costly method of establishing this connection would be to appoint two commissioners delegated by the League Secretariat who would keep in touch with the international office organised under the auspices of the International Criminal Police Commission.

If necessary, these commissioners could furnish information to the committees already set up by the League, or which might be set up by it later, when the general problems connected with police matters were under discussion.

In conclusion, he added that the International Criminal Police Commission had drawn up two proposals which had been circulated (see documents C.F.M./B/2 and C.F.M./B/4).

M. Pospisil (Czechoslovakia), President of the Conference, was not in favour of including in the Convention the proposals made by the International Criminal Police Commission. The technical reasons mentioned by the Mixed Committee were of a different nature from those invoked by M. Sirks. The Mixed Committee's decision had been based on constitutional grounds : the central organisation must be established in accordance with the principles laid down by the Convention, which could not incorporate an organ the organisation, functions and administration of which were determined by an institution which had nothing to do with the Convention, namely, an organ created by the International Criminal Police Conferences. It was not even within the competence of the Conference itself to determine the composition, functions and all the details connected with the organisation of the central office, the utility of which, as he had just stated and as it appeared from the Mixed Committee's report, was not disputed.

In order to make it quite clear that this procedure, which was inspired by logical considerations, did not cover administrative measures as a whole, the President said that, when the time came, he proposed to suggest a motion inviting the States signing the Convention to put the administrative clauses into operation and to proceed to organise central offices even before the ratification of the Convention. This would make it possible to summon the first conference of representatives of those central offices. He felt certain that all the members were anxious to establish administrative co-operation as soon as possible.

The Chairman said that the proposal made by the International Criminal Police Commission coincided with the Austrian Government's proposal.

M. Schultz (Austria) thanked M. Pospisil, the President of the Conference, for his statement to the effect that, personally, he was in favour of Recommendation V adopted by the Mixed Committee, and asked the Conference to accept this. He also thanked M. Aloisi for accepting this recommendation and said that he was in complete agreement with M. Sirks' statement.

He added that the Austrian Government was prepared to do its utmost to assist in preventing and punishing counterfeiting, and he recalled the fact that his Government had placed the matter in the hands of the Viennese Police Directorate, in accordance with the decisions of the International Police Congress held at Vienna. The Austrian Government's attitude was still equally favourable, and it desired to assist in the work through its various organisations in general and through the Viennese Police Directorate in particular, in accordance with Recommendation V adopted by the Mixed Committee and which had just been renewed by the International Criminal Police Commission. In view of the importance and success of the work carried out by the International Bureau at present established at Vienna, the Austrian Government would have preferred this work to be continued for as long as was necessary by the insertion of this recommendation in the actual text of the Convention.

At the same time, the technical difficulties involved, to which the President of the Conference had referred, must be borne in mind. In any case, the President had recommended that Recommendation V should be inserted in the Protocol to the Convention.

The Austrian Government's main object was to assist in preventing and punishing this crime and it was quite prepared to sacrifice form to substance. The Austrian representative added that his Government accordingly supported the proposal made by the President of the Conference, to the effect that Recommendation V should not be inserted in the text of the Convention but only in the Protocol.

In conclusion, M. Schultz urged that Recommendation V should be inserted in the text of the Protocol to the Convention.

The CHAIRMAN said that, in view of the difficulties involved, M. Schultz had agreed not to press the Austrian proposal. M. Sirks had come to a similar decision with regard to the same proposal submitted by the International Criminal Police Commission.

This proposal was accordingly withdrawn.

The CHAIRMAN stated that, as a result of this decision, the second proposal of the International Criminal Police Commission, concerning the appointment of two commissioners, should also be regarded as withdrawn.

M. LIUBIMOV (U.S.S.R.) said that, in order to avoid any misunderstanding which might arise when the time came to establish the central international office, he wished to make the following statement :

" The Government of the Union of Soviet Socialist Republics understands that the central international office will not be authorised to issue orders or instructions to the central national offices in the various countries. "

He accordingly proposed either that a paragraph to this effect should be added to Paragraph XV or that a note should be inserted in the commentary attached to the Convention.

M. ALOISI (Italy) thought that this question should not be decided at the moment.

M. POSPISIL (Czechoslovakia), President of the Conference, said that, in any case, this point would be discussed later. Speaking personally, he thought he could assure M. Liubimov that the central international office would have no authority to issue instructions to the central national offices. Neither would the central international office have any powers other than those assigned to it under the statutes to be unanimously approved by the representatives of the central national offices at a conference of those offices. It would therefore be impossible for the central international office to have any greater powers without the express consent of *all* the national offices whose organ it would be. M. Pospisil therefore thought that the point raised by M. Liubimov would certainly be borne in mind.

M. LIUBIMOV (U.S.S.R.) pressed for his remarks to be inserted either in the Protocol or in the commentary attached to the Convention.

M. SCHULTZ (Austria) made the same request with regard to his observation.

M. POSPISIL (Czechoslovakia), President of the Conference, repeated that this question would be discussed later.

The CHAIRMAN said that there was no difference of opinion on the substance of the question, and closed the discussion on this matter.

Telegram of Condolence sent to Signora Enrico Ferri.

M. POSPISIL (Czechoslovakia), President of the Conference, read to the members of the Committee the telegram which he proposed to send to Signora Enrico Ferri :

This read as follows :

> " The International Conference for the Suppression of Counterfeiting Currency, met together at Geneva and consisting of delegations of thirty-five Governments, has requested me to communicate to you its deepest sympathy in your bereavement. We regard the death of Professor Enrico Ferri as an irreparable loss to the science of criminal law in Italy and throughout the world. "

M. ALOISI (Italy) thanked M. Pospisil on behalf of Professor Enrico Ferri's family.

(The meeting rose at 11.50 a.m.)

THIRD MEETING

Held on April 16th, 1929, at 3 p.m.

Chairman : M. DELAQUIS (Switzerland).

Discussion of the Draft Convention (continued).

Article 1, Paragraph XV; of Draft (Final Article 15) (continued).

M. NAGAI (Japan) asked whether, in framing the text of Paragraph XV, the Mixed Committee had intended to provide for conferences between technical experts for the purpose

of investigating the methods and processes employed by forgers. He also asked whether Paragraph XV referred to bankers' conferences or to conferences between the representatives of central offices.

M. DE BORDES, Secretary-General of the Conference, replied that the reference was to conferences of central national offices at which the representatives of central banks could be present.

M. MOTONO (Japan) said that special technical conferences should be envisaged.

M. ALOISI (Italy) supported this proposal.

M. MORIONDI (Italy) was of opinion that the technical experts of all countries should take joint action against forgers, who themselves possessed an international organisation. In certain countries, there were technical experts who had made a special study of the processes used by forgers and of the methods by which forgery might be prevented or made very difficult. Their experience should be placed at the disposal of all countries. He therefore supported the Japanese proposal.

M. MOTONO (Japan) proposed that a text to this effect should be drawn up by the Drafting Committee.

This proposal was adopted.

M. BROEKHOFF (Netherlands) pointed out that there was no reference in the Minutes of the last meeting to his suggestion that the conferences referred to in Paragraph XV should investigate the forging of bills of exchange, cheques and Stock Exchange securities.

The CHAIRMAN replied that this recommendation had, in fact, been adopted and had merely been omitted from the Minutes by an oversight.

M. DE CHALENDAR (France), Vice-Chairman, asked who was to take the initiative in summoning the conferences, and proposed that this should be done by the League of Nations.

This proposal was adopted.

Paragraph XV was adopted, subject to the amendments mentioned above.

Article 1, *Paragraph XVI, of Draft* (*Final Article* 16).

Mr. MORAN (U.S.A.) thought that the term " letters of request " had the same meaning as " letters rogatory ". In that case, he would like to explain that American legislation contained very definite provisions on the matter and that, under those provisions, the letters could not be communicated, as proposed, through the central offices.

M. MOTONO (Japan) pointed out that there was a recommendation on this matter and thought that it should be regulated by a general convention concerning international legal assistance

The CHAIRMAN replied that this suggestion was embodied in the memorandum submitted by the Swiss Government. It had not been found possible to give effect to it. Although it might appear logical to settle this question in a convention concerning international legal assistance, it would be realised on reflection that it was better to go more slowly, because, if the matter were left to be dealt with in a more general convention, this would mean that it would be postponed indefinitely. The Mixed Committee, which was originally in favour of the Japanese proposal, finally realised that it was better to limit its ambitions and confine itself to what was practicable at the moment.

In reply to the delegate of the United States of America, the Chairman pointed out that the Convention did not make it compulsory for letters of request to be transmitted through the central offices, and the United States would be at liberty to transmit them through some other channel.

M. SOKALSKI (Poland) agreed with what the United States delegate had said and proposed that the words under *(a)*, " through the central offices where possible ", should be deleted, as the admissibility of direct correspondence between the various central offices was provided for under Paragraph XIII of the Draft (also under Paragraph XII *(c)*), and the letters of request referred to in the paragraph in question should be exchanged preferably between the judicial authorities themselves or, failing them, between the Ministries of Justice or through the diplomatic channel.

The CHAIRMAN replied that any country was at liberty to exclude the central offices if it so desired. This being the case, why was it necessary to delete the words mentioned by M. Sokalski and thus make it impossible for two countries which wished to do so to exchange letters of request through their central offices ? Moreover, in Paragraph XIII, the word " correspond " referred only to normal correspondence and did not apply to letters of request. It was therefore necessary that the words in question in Paragraph XVI should be retained.

As delegate for Switzerland, the Chairman proposed that the utilisation of the diplomatic channel should be excluded.

M. Aloisi (Italy) approved this proposal.

The Chairman said that this would constitute real progress and was absolutely necessary if it were really desired to speed up communications. If the Convention allowed, even as a third alternative, of a possibility of diplomatic transmission, they might be certain that, in practice, this system would have preference. Custom and the opposition of Government offices would prevent the use of other channels. This had already happened in the case of the suppression of obscene publications and of the traffic in women. When Switzerland had asked other countries which of the three possible channels they preferred, she had in every case received the reply that they desired to continue transmission through the diplomatic channel. Only Germany, Austria and Italy had adopted a simpler course. Direct communications had already been established between Germany and Austria on the one hand and Switzerland on the other, while, between Italy and Switzerland, communications were now exchanged between the Courts of Appeal.

M. de Chalendar (France), Vice-Chairman, regretted that he was unable to accept the Chairman's suggestion. Certainly, there was a great deal to be said for the proposal, and it was highly desirable, in dealing with the international pursuit and punishment of counterfeiting, to facilitate the exchange of letters of request by means of direct communication. Nevertheless, the position in France was such as to make it very difficult to eliminate entirely communication through the diplomatic channel.

He did not wish to exclude the possibilities of improvement and probably France would adopt a more elastic procedure—at all events, as regards communications with neighbouring States, but the question was not yet ripe.

In any case, the order of preference indicated in Paragraph XVI would receive special attention from the French judicial authorities, with a view to any necessary improvements in French methods.

In conclusion, he urged that the text should be maintained.

M. Sirks (International Criminal Police Commission) supported the observations submitted by the Chairman on behalf of the Swiss Government.

Mr. Moran (U.S.A.) could not agree to the elimination of diplomatic channels, as that was the present method of dealing with letters of request.

Mr. Brass (Great Britain) said the view of Great Britain was the same as that of the United States of America.

M. Liubimov (U.S.S.R.) said that, while he recognised the soundness of the Swiss proposal, he was not in favour of the exclusion of the diplomatic channel.

M. Kraske (Germany) said that he was not in favour of this elimination either. At the same time, it would be advisable, since they desired to simplify methods of correspondence, to find a formula which, while maintaining the diplomatic channel, would state that the usual method of communication would be by direct correspondence between the authorities concerned. He thought that the procedure on this particular point should depend on the general agreements regarding criminal procedure which had already been concluded, or which might in future be concluded, between States.

The Chairman said that, in view of this opposition, he would withdraw his proposal.

In reply to the suggestion made by the German delegate, he proposed that a provision should be added, before the third sub-paragraph (starting from the end), to the effect that, so far as direct communication was admitted as a general rule between the contracting parties, this should also apply to offences of counterfeiting.

M. Aloisi (Italy) said that he could not accept any change in the text. If the Chairman had maintained his proposal, he would have supported it, because experience had shown that direct communication was the best means of tracking down forgers, but, in the circumstances, he urged the maintenance of the text as it stood.

The Chairman, in face of M. Aloisi's opposition, said that, in order to meet the views of the French and German representatives, he was prepared to make a further concession : he then suggested that a recommendation should be framed laying stress on the words " preferably " in sub-paragraph *(a)* and stating that the Conference was of opinion that, where possible, letters of request should be exchanged by direct communication for the sake of rapidity, and that the diplomatic channel should still remain the last alternative.

M. Aloisi (Italy) agreed with the Chairman on condition that the recommendation merely referred to direct communication " between the authorities" and not " between the judicial authorities ".

Mr. Moran (U.S.A.) understood that letters rogatory were a judicial proceeding and a well-established procedure. Where there was urgency in the matter of obtaining information, direct communication between the central offices could well be employed—for instance, in preliminaries to arrest or the prevention of secreting or destroying evidence ; but letters rogatory, as a judicial proceeding well established in the courts, should be conducted through the usual channel and sent through diplomatic representatives, but, as he saw it, there was no haste in the matter of letters rogatory.

The CHAIRMAN, referring to M. Aloisi's proposal, explained that each country would be free to exchange direct communications between the judicial or other authorities, according to the provisions of its legislation. Consequently, if the Committee supported the Italian delegate's proposal, it would give satisfaction to the United States representative, as no direct channel, whether judicial or administrative, would be excluded : a sub-paragraph should follow, to the effect that each country would notify the channel through which it intended to transmit its letters of request.

M. BROEKHOFF (Netherlands) said that he had always had the impression, on receiving requests from foreign judicial authorities for the taking of evidence, that these communications were sent direct in order to avoid the delay which the use of the diplomatic channel involved.

M. MOTONO (Japan) asked whether the article involved a formal obligation to execute the contents of letters of request. Japanese legislation only permitted the transmission of copies of documents and the administration of the evidence ; if all letters of request had to be executed, whatever their nature, the Japanese representative would have to make reservations.

M. ALOISI (Italy) replied that the Convention could not compel countries to carry out acts other than those which a judge could require them to execute in accordance with their own legislation. The foreign authorities' judicial act could in no case conflict with the laws or with the judge's competence. The text should therefore be interpreted to mean that a foreign authority could not request any country to execute an act which, according to the latter's legislation, was not within the competence of the judge.

The CHAIRMAN added that an answer to the question raised by M. Motono was to be found in the third, penultimate and last sub-paragraphs of the text.

Paragraph XVI was adopted.

M. POSPISIL (Czechoslovakia), President of the Conference, said that it had been decided to hold periodical conferences of central offices for the purpose of drawing up documentation concerning the forging of cheques, securities, etc. It had also been recommended that the Governments should put into application the administrative measures indicated therein even before the Convention had been ratified. As soon as a sufficient number of countries had established central national offices, the League might take the initiative of convening a first meeting of those offices.

The CHAIRMAN said that some of the recommendations adopted by the Mixed Committee were of an administrative, while others were of a juridical, nature. The text would be found on the last page of the report.

Discussion of the Recommendations adopted by the Mixed Committee.[1]

The CHAIRMAN read Recommendation I.

M. POSPISIL (Czechoslovakia), President of the Conference, said that, in accordance with a decision which had already been taken, he would propose an additional recommendation to Recommendation I, and would submit the text to the Drafting and Co-ordination Committee later.

Recommendation I was adopted with this reservation.

The CHAIRMAN then read Recommendation II.

M. ALOISI (Italy) made the following statement in the name of the Royal Italian Government :

" As regards its colonies, the Royal Italian Government wishes to point out that, as none of the Italian colonies possesses " its own independent organisations legally authorised for the issue of currency ", the Italian monetary system being in force in all the colonies, it is not called upon to consider the possibility (referred to in the Committee's second recommendation) of the creation of special monetary police offices, as provided for in Paragraph XII of Article 1 of the Draft Convention. "

M. LIUBIMOV (U.S.S.R.) said that he would have certain observations to make on this matter when Article 7 of the Convention came up for discussion.

The CHAIRMAN said that this statement would be placed on record.

M. DE CHALENDAR (France), Vice-Chairman, said that he had no objection to Recommendation II. As regards Article 7, he might also have an observation to make when the time came to discuss that article.

The recommendation was adopted in principle, with the reservation made by the Italian delegation.

M. POSPISIL (Czechoslovakia), President of the Conference, said that he would prefer this recommendation to be adopted without any reservation.

The CHAIRMAN replied that M. Aloisi had merely explained the Italian point of view.

M. ALOISI (Italy) confirmed this remark.

[1] Numbers as in the draft of the Mixed Committee. For comparison with numbers of final text, see the Index, under " Final Act ".

The CHAIRMAN said that it would be mentioned in the Minutes.

Recommendation III was then read.

M. POSPISIL (Czechoslovakia), President of the Conference, thought that, if the central offices were to perform their task satisfactorily, they should keep in close touch with the banks of issue.

M. DE CHALENDAR (France), Vice-Chairman, did not think that the mention of "special offices" implied that the banks of issue were expected to establish a large and costly organisation. It would perhaps be better to say that the various banks of issue should appoint certain of their agents to keep in touch with the central offices.

The CHAIRMAN replied that this was a question of drafting and would be settled by the Drafting Committee.

M. ALOISI (Italy) said that the question of the language in which the central offices were to correspond with each other had been postponed.

The CHAIRMAN replied that the question of language raised by the Spanish delegation had been referred to the Co-ordination Committee.

Recommendation III was adopted in principle.

Recommendation IV was then read.

M. MORIONDI (Italy) thought that it would be desirable to place at the disposal of each central office, not only experts thoroughly acquainted with the art of printing, but also experts in the manufacture of paper. It was now possible to print notes by the very simple methods taught in all schools of printing, but the paper, especially when it bore a watermark, was more difficult to forge. Owing to the paper and watermark used, English and French banknotes had never been forged perfectly. In order to reproduce the paper and the watermark, four or five series of different operations were necessary, whereas a forger operating in his own room could easily reproduce the printing on those notes.

M. POSPISIL (Czechoslovakia), President of the Conference, thought it desirable that the central offices should have at their disposal experts with a thorough knowledge of the art of printing and the manufacture of paper in general, but it was understood that the secrets of manufacture should be known only to the banks of issue.

M. DE CHALENDAR (France), Vice-Chairman, agreed. It was obvious that the difficulty of forging banknotes consisted in the reproduction of the secret processes used for the manufacture of the paper. But it was precisely for this reason that only the directly responsible agents of the bank should be acquainted with the processes used in the manufacture of the paper.

The greatest confidence should, of course, be placed in the central offices and police officers whose duty it was to assist in the prevention of counterfeiting. But the mere fact that persons outside the banks of issue knew how the notes were made would be likely to call forth very strong objections on the part of those banks.

He thought that the Italian delegation's suggestion should be applied as follows : the bank of issue should not acquaint the central office with the secrets of the manufacture of its paper and no police officer should have knowledge of them, but each central office should have at its disposal police officers and experts acquainted with the general technique of paper manufacture. It would be quite understood that the banks of issue would not divulge their secrets of manufacture.

M. MORIONDI (Italy) replied that there were no secrets in paper manufacture. Forgers were stopped by the fact that a very large number of operations were necessary for this manufacture. Everyone knew how the forms were made, but five or six different operations were involved. Besides, the most important point was that the central offices should be acquainted with the methods employed by forgers.

The CHAIRMAN stated that there was no formal opposition to the adoption of the recommendation. The words proposed could be added to it.

Recommendation IV was adopted with this amendment.

The CHAIRMAN read Recommendation V.

M. SIRKS (International Criminal Police Commission) said that, in this connection, he wished to refer to M. Liubimov's statement, to the effect that a central international office would not have the right to issue orders or instructions to the central national offices in the different countries. That statement had been confirmed by the President of the Conference as his personal opinion.

The International Criminal Police Commission formally declared that the sole object of the International Office at Vienna was to give assistance. It collected and distributed

information, but the national offices were in no way subordinate to it. Should an observation to this effect be inserted in the commentary attached to the Convention, the International Criminal Police Commission desired to endorse it.

M. Pospisil (Czechoslovakia), President of the Conference, thought that the central international office could have no powers other than those conferred upon it by the free consent of the central offices.

M. Liubimov (U.S.S.R.) said that, as his observation would appear in the Minutes of the meeting, he would withdraw his original proposal to insert it in the Protocol.

The Chairman thanked him for facilitating the Committee's task. Everyone agreed as to the purport of his observation.

Recommendation V was adopted.

The Chairman stated that Recommendations VI and VII concerned the Legal Committee.

He then read Recommendation VIII.

Recommendation VIII was adopted.

(The meeting rose at 4.40 p.m.)

ANNEX.

LIST OF MEMBERS OF THE ADMINISTRATIVE COMMITTEE.

Chairman : M. Delaquis.

Vice-Chairman : Count de Chalendar.

Austria	Dr. Schultz.
Belgium	M. Dupriez.
Brazil	M. Barboza Carneiro.
China	M. Hsia Chifeng.
Colombia	Dr. Abadia.
Cuba	M. Alvarez.
Czechoslovakia	M. Vanasek.
Danzig	M. Muhl.
Equator	Don A. Castelu.
Finland	M. Holsti.
France	M. Collard-Hostingue.
Germany	Dr. Vocke.
Great Britain	Mr. Brass.
Greece	M. Caloyanni.
Hungary	M. de Hévesy.
Italy	M. Aloisi.
Japan	M. Nagai.
Assistant	M. Motono.
Luxemburg	M. Vermaire.
Netherlands	M. Broekhoff.
Poland	M. Szebeko.
Roumania	M. Toncesco.
Serbs, Croats and Slovenes (Kingdom of the)	M. Givanovitch.
Spain	M. Carrillo de Albornoz.
Sweden	Dr. Sjöstrand.
Switzerland	M. Delaquis.
Turkey	M. Bahattin.
Union of Soviet Socialist Republics	M. Liubimov.
United States of America	Mr. Moran.
International Criminal Police Commission	M. Sirks.

FOURTH PART

DOCUMENTS OF THE CONFERENCE.

(This part contains all the official documents circulated to the Conference except those which are reproduced in some other part of the present volume and those which deal with either questions of procedure or drafting.)

LIST OF DOCUMENTS.

A. Documents of the Plenary Conference.

		Page
C.F.M. 1 (1). ,, 1 (*a*). ,, 1 (2). ,, 1 (3).	Lists of the Delegates, not included. For Final List, see	25
C.F.M. 2.	General Arrangements	not included
C.F.M. 3.	Observations of M. Givanovitch, Delegate of the Kingdom of Yugoslavia	199
C.F.M. 4.	Declaration of M. Hayashi, Delegate of Japan	59
C.F.M. 5.	Declaration of Dr. Schultz, Delegate of Austria	60
C.F.M. 6.	Declaration of M. Liubimov, Delegate of the Union of Soviet Socialist Republics	58
C.F.M. 7.	Declaration of M. Sirks, Delegate of the International Criminal Police Commission	61
C.F.M. 8.	Observations of the Government of the United States of America	202
C.F.M. 9.	Statement by the Delegation of the International Criminal Police Commission regarding Paragraph XV of Article 1 of the Draft Convention	203
C.F.M. 10.	List of the Delegates, not included. For Final List, see	25
C.F.M. 11.	Communication by the Delegation of the International Criminal Police Commission concerning the Commission's Review	204
C.F.M. 12 (first proof).	Convention and Protocol	not included
C.F.M. 12 (*a*).	Final Act (Proof)	not included
C.F.M. 12 (second proof).	Convention, Protocol, Final Act and Optional Protocol	not included
C.F.M. 12 (*b*).	Protocol (Third Proof)	not included
C.F.M. 12.	Final Text without Signatures of the Convention, Protocol, Final Act and Optional Protocol	not included
C.F.M. 12 (1).	Final Text with Signatures of the Convention, Protocol, Final Act and Optional Protocol (C.153.M.59.1929.II)	9
C.F.M. 13.	Communication by the President regarding Articles 8 and 9 of the Final Text	209
C.F.M. 14	Note by M. Duzmans, Delegate of Latvia	209
C.F.M. 15.	Changes and Additions suggested by the Drafting Committee to the Text C.F.M. 12 (First Proof)	not included
C.F.M. 16.	Text of Part II of the Protocol resulting from the Decisions of the Drafting Committee	not included
C.F.M. 17.	Changes and Additions suggested by the Drafting Committee to the Text C.F.M. 12 (Second Proof)	not included
C.F.M. 18.	Reservations by the Delegation of the Union of Soviet Socialist Republics. For Final Text, see	19 and 21
C.F.M. 19.	Reservation by the Chinese Delegation. For Final Text, see	19
C.F.M. 20.	(See revised text, document C.F.M. 20 (1))	not included
C.F.M. 20 (1).	Summary of the Delegates' Replies to the Communication by the President (document C.F.M. 13) regarding Articles 8 and 9 of the Final Text	211

Page

B. Documents of the Legal Committee.

C.F.M./A/1.	Proposals by the Delegation of the Union of Soviet Socialist Republics regarding Paragraphs II, III, and VIII of Article 1 of the Draft Convention	211
C.F.M./A/2.	List of Members of the Legal Committee	173
C.F.M./A/3.	Observations of Dr. Sokalski, Delegate of Poland	212
C.F.M./A/4.	Statement by the Japanese Delegation regarding Paragraph II of Article 1 of the Draft Convention	213
C.F.M./A/5.	Proposal by M. Pella, Delegate of Roumania, for the Introduction of a Special Article making Complicity a Distinct Offence	129
C.F.M./A/6.	Proposal by the Delegation of the United States of America regarding Article 2 of the Draft Convention . .	214
C.F.M./A/7.	Observation of M. Hayashi, Delegate of Japan, regarding Paragraph XI of Article 1 of the Draft Convention . . .	153
C.F.M./A/8.	Report of the Special Sub-Committee on Paragraph III of Article 1 of the Draft Convention.	not included
C.F.M./A/9.	Proposals by M. Aloisi, Delegate of Italy, regarding Paragraph IX of Article 1 of the Draft Convention . . .	139
C.F.M./A/10.	Declaration of M. Lone Liang, Delegate of China, regarding Paragraphs X and XI of Article 1 of the Draft Convention	157
C.F.M./A/11.	Text resulting from the Discussions of the Sub-Committee .	not included
C.F.M./A/12.	Observation submitted by the Japanese Delegation regarding Confiscation. For Discussion of this Subject, see	177
C.F.M./A/13.	Proposal by the Sub-Committee	not included

---

C. Documents of the Administrative Committee.

C.F.M./B/1.	List of Members of the Administrative Committee	194
C.F.M./B/2.	Proposal by the Delegation of the International Criminal Police Commission regarding a Recommendation to be appended to the Convention	214
C.F.M./B/3.	Recommendation proposed by the Netherlands Delegation	182
C.F.M./B/4.	Proposal by the Delegation of the International Criminal Police Commission regarding a Paragraph to be appended to Paragraph XV of Article 1 of the Draft Convention	214
C.F.M./B/5.	Proposal of the Japanese Delegation regarding Paragraph XIV of Article 1 of the Draft Convention	185

D. Documents of the Bureau.

C.F.M./Bureau/1.	Text of the Convention resulting from the Discussions of the Legal Committee	not included
C.F.M./Bureau/2.	Text of the Convention resulting from the Discussions of the Administrative Committee (April 12th)	not included
C.F.M./Bureau/3.	Text of the Convention resulting from the Discussions of the Administrative Committee (April 13th)	not included
C.F.M./Bureau/4.	Communication by the Secretariat on Procedure	not included
C.F.M./Bureau/5.	Communication by the Secretariat on Procedure	not included
C.F.M./Bureau/6.	Convention—Draft of April 15th	not included
C.F.M./Bureau/6(*a*).	Convention—Draft of April 16th	not included

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OBSERVATIONS OF M. GIVANOVITCH, DELEGATE OF THE KINGDOM OF YUGOSLAVIA (Document C.F.M.3).

Ad Article 1.

Paragraph I.

In the interests of legislative economy, paragraph VI should be combined with the first sentence of paragraph I, since paragraph VI only supplements the kinds of currency to be protected as enumerated in the first sentence of paragraph I.

The first sentence of paragraph I should read :

> " The High Contracting Parties recognise the rules laid down in Article 1 as the most effective means for ensuring the prevention of the offence of counterfeiting currency, including paper money, banknotes and metallic money, domestic or foreign, the circulation of which is legally authorised, whether or not reciprocal treatment is accorded by law or by treaty. "

It will be seen that this wording contains two further changes :

1. The word " punishment " is deleted, since the *ultimate* aim of the Convention is prevention and not punishment.

2. The exclusion of the condition of legal or treaty reciprocity refers to *metallic* as well as to *paper* currency.

Paragraph II.

The following changes should be made :

1. The words " The criminal law should include and punish with adequate penalties " should be replaced by " The law should punish ", as being shorter and also clearer.

2. Instead of " making or altering of currency " say " counterfeiting of currency (making or altering) ", since both cases deal with one and the same offence, an offence consisting of two alternative acts which may be reduced to one generic act, namely, the counterfeiting of currency (or falsification of currency).

With regard, however, to alteration—not every alteration constitutes an offence of counterfeiting currency, but only the alteration of true currency in such manner as to give it the appearance of a higher value ; unless this condition is fulfilled, there cannot be said to be falsification.

It is also necessary, no doubt, to penalise alteration which does not give to currency the appearance of a higher value ; but the only alteration which is an international danger is that which consists in reducing the substance of currency (metal currency, of course) for the purpose of uttering it as currency of full value.

Hence the words " making or altering " must be replaced by the words " counterfeiting of currency, this term being understood to mean (1) the making of false currency and the alteration of true currency in such manner as to give it the appearance of a higher value ; (2) the reduction of the substance of currency for the purpose of uttering it at its full value ".

3. The words " whatever means are employed " must go, since this is self-evident, if no restriction is made in the use of the words " counterfeiting of currency ".

4. The word " *fraudulent* " must be replaced by words expressing the necessity of the purpose underlying the use of the word " fraudulent ", as this word has no exact meaning.

The word " *frauduleusement* " is used in Article 379 of the French Penal Code in the definition of theft and of the thief. It is admitted that in this context the word means " the wish of the agent to appropriate the article to himself, or more exactly to usurp civil possession of that article " (Garçon, *Notes on the Penal Code*, Article 379, No. 266). More exactly, this word here means not merely the *wish* but the *purpose* to appropriate to oneself *illegally* someone else's property.

In counterfeiting currency, the word " fraudulent " must in any case signify the intention to employ false currency in the guise of true currency or of otherwise uttering it as such (words used, for example, in Paragraph 146 of the German Penal Code).

In order, therefore, to avoid possible misunderstanding, the word " fraudulent " should be replaced by the words " for the purpose of uttering false currency in the guise of true currency ".

The need of this change for the reason given is also shown by the fact that the word " fraudulent " is used with another meaning in the same paragraph II and in paragraph V.

The laws of some countries are rightly content with *mere intention*, since in this case, too, the safety of the currency is threatened. We might therefore replace the word " fraudulent " by the word " intentional ".

5. The words " *fraudulent* uttering " should be replaced by " the intentional uttering of false currency in the guise of true currency ", since this use of the word " fraudulent " can only denote a mere intention (knowledge) as opposed to its meaning earlier in the same paragraph. It is necessary to add " in the guise of true currency " in order to avoid the contrary interpretation already given to the words " intentional uttering " by a minority of writers.

Some laws describe as a milder form of the offence of uttering the intentional uttering of false currency which has been *received* by the person concerned as being *true* currency.

6. Instead of the words " with a view to uttering the same " we must say " for the purpose of uttering the same ", since it must be enough for the uttering to be a mere *motive* of the act.

After the word " uttering " we must say " within the country or abroad ", since the danger in the second case is equally great, and in their interpretation some writers, although unfairly, exclude this case.

Instead of the words " with knowledge of its fraudulent character ", which define the intention with regard to the acts mentioned in the text and to the counterfeiting of the currency, we must employ the technical word " intention " and add " the intentional introduction into a country or the intentional receiving or procuring of currency which has been fraudulently made or altered ". The text we propose has the further advantage of showing clearly that the intention refers to the introduction, etc., of the currency as well as to its counterfeiting.

It would, however, be better to delete the word " intentional " which is to replace the words " with knowledge of, etc., " since the necessity of intention is already clear from the words " with the object (purpose) of uttering the same ". If it is desired to emphasise this in objective form and in order to avoid a possible misunderstanding through the use of the mere words " with the object (purpose) of uttering the same, we must say " with the object of uttering the same as true currency ".

In view of the foregoing, paragraph II should read as follows :

> " The law should punish : (1) *any counterfeiting of currency with the purpose of uttering counterfeit currency in the guise of true currency, the term ' counterfeiting currency ' being understood to mean the making of false currency and the alteration of true currency in such manner as to give it the appearance of a higher value* ; (2) *a reduction in the substance of currency for the purpose of uttering it at its full value* ; (3) *the intentional uttering of false currency in the guise of true currency* ; (4) *and the introduction into a country or the receiving or procuring of currency which has been fraudulently made or altered, with the object of uttering the same as true currency either within the country or abroad.* "

The method of formulating penal laws, however, is usually *personal* (or subjective). Moreover, this method is necessary if we consider that it is the offender who is punished and not, of course, the offence (this has only received juridical expression in the tripartite system of Criminal Law ; three fundamental crimino-juridical conceptions, offence, offender, penalty. [1] Paragraph II should therefore read as follows :

> " *The law should punish : anyone who, with the purpose of uttering counterfeit currency in the guise of true currency, commits an act of counterfeiting currency, this term being understood to mean the making of false currency and the alteration of true currency in such manner as to give it the appearance of a higher value ; anyone who reduces the substance of currency for the purpose of uttering it at its full value ; anyone who intentionally utters false currency in the guise of true currency ; and anyone who introduces into a country or receives or procures currency which has been fraudulently made or altered, with the object of uttering the same as true currency either within the country or abroad.* "

Paragraph III.

This paragraph should be deleted :

1. In the first place, and without taking account of the inter-connection of meaning between the acts mentioned in paragraph I, the important thing, from the point of view of the international protection of currency, is that those who commit these acts should be punished and not that each of these acts severally should be regarded as a separate offence.

2. Again, the acts mentioned in paragraph II are by their nature so different from one another that it is logically impossible to combine certain of them into a single offence, except the offence of making and altering, which constitute the offence of counterfeiting currency (offence in the form of two alternative acts, and therefore a mixed offence).

3. The existing laws already penalise the acts mentioned in paragraph II as separate offences.

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[1] See Thomas GIVANOVITCH : *Les problèmes fondamentaux du Droit criminel*, 1929 (Paris, Rousseau et Cie).

Paragraph IV.

There is no need to mention, as this paragraph does, that persons should be punished as accessories, since this is self-evident, currency infringements being everywhere given the character of crimes or offences *(délits)*.

This being admitted, paragraph IV is left with attempts only. The clause dealing with these attempts could be transferred as a second paragraph to paragraph II, and paragraph IV would go.

If paragraph IV is retained, it must in any case be given the personal formula, as we have already pointed out in relation to paragraph II. Paragraph IV, therefore, if retained, should read :

> " *Attempts to commit these offences and any act which renders a person accessory thereto should be punishable.* "

Paragraph V.

The indefinite word " fraudulent " (see paragraph II) must be replaced by words expressing the necessary idea, namely, by the words " for the purpose of counterfeiting currency ".

This paragraph, too, must be expressed in personal form (see paragraphs II and IV).

Paragraph V should accordingly read :

> " *Anyone who manufactures, receives or procures, for the purpose of counterfeiting currency, instruments or other articles intended for the counterfeiting or altering of currency, should be punished.* "

Paragraph VI.

We have combined this paragraph with paragraph I (see paragraph I).

Paragraphs VII and VIII.

We have nothing of importance to remark in connection with these two paragraphs.

Paragraph IX.

This paragraph rejects the subjective theory of a political offence. It seems, however, to show that the political character of the offence is sufficient (the objective theory), which also appears from paragraph X (" on account of the nature of the offence "). This, however, is equally wrong. The objective-subjective theory of political crime (invented by the tripartite system) is the only correct one. Paragraph IX should therefore read as follows :

> " *The political motive of an offender and the political nature of the offence are both required to make a crime coming under the present convention a political crime.* "

Paragraph X.

1. The words " as a general rule " must go, since, if they are used *(argumentum a contrario)*, paragraph X would not apply to countries which only allow nationals to be extradited by way of exception, unless the exception extended to offences coming under the present convention.

2. In view of what we have just said on the subject of political crime (paragraph IX) we must add at the end of paragraph X, after the words " or act in question " the words " or of the offender's motive ".

Paragraph XI.

1. The word " internal " is superfluous and should be deleted.

2. The words " as a general rule " must be deleted, since their use implies that prosecution is not compulsory in cases when internal legislation only recognises the prosecution of offences committed abroad by way of exception, even if the exceptions were to extend to offences coming under the present convention.

3. The words in paragraph 1 " in the same way as if the offence or act had been committed in the territory of that country " must be deleted. In the first place, these words are unnecessary after " should be punishable ". And, again, these words prevent the possible application of the laws of the foreign country in which the offence was committed, which some countries lay down in cases when those laws are less severe.

Ad Article 2.

The word " internal " is unnecessary and should be deleted.

OBSERVATIONS OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA (Document C.F.M.8).

The Secretary of State of the United States of America refers to the note of the Secretary-General of the League of Nations, dated October 8th, 1928, in which he requested this Government's observations on the proposals contained in the report of the Mixed Committee for the Suppression of Counterfeiting Currency.

In reply, the Secretary of State desires to submit the following comments on the provisions of the draft Convention :

Ad Article 1.

The Government of the United States suggests that the agreement for the adoption of necessary measures embodied in *paragraph I* be modified so as to provide that the contracting parties agree themselves to take or propose to their respective law-making bodies the necessary measures in question.

With this exception, *paragraphs I to V*, inclusive, appear to impose no requirements that are not covered by the laws of the United States at present in force.

Paragraph VI.

The penalties provided in the Federal Statutes of the United States relating to the counterfeiting of foreign obligations and securities are not as severe as those imposed by laws denouncing the counterfeiting of United States obligations and securities. An effort might be made to remedy this by amending the statutes to equalise these penalties.

Paragraph VII.

Confiscation of counterfeit money and material and apparatus fitted or intended for counterfeiting purposes is provided for in the Federal Statutes, and the surrender of such property in case of the counterfeiting of foreign moneys to the interested Government can be accomplished by direction of the Secretary of the Treasury.

Paragraph VIII.

The Federal Statutes do not allow participation of civil parties in criminal proceedings.

Paragraph IX.

The American Government perceives no objection to this paragraph.

Paragraph X.

The American Government approves of the provisions of this paragraph, but desires to point out that, inasmuch as it recognises the general rule of extraditing its nationals for offences committed in a foreign country, subject to the provisions of existing treaties, paragraph X is not applicable to the United States.

Paragraph XI.

This paragraph is not applicable to the American Government, since the internal legislation of the United States does not recognise the principle of the prosecution of offences committed abroad. The American Government perceives no objections to the provisions of this paragraph.

Paragraph XII.

A central bureau in the United States charged with the suppression of counterfeiting, the Secret Service Division of the Treasury Department, has been in existence since 1864, and is in close touch with the institution issuing currency and with the police authorities throughout the country. It is believed that it will be entirely practicable for the Secret Service Division of the Treasury Department to effect contact with the central bureaux abroad with good results.

Paragraph XIII.

It is believed that direct communication between these central bureaux will facilitate their activities and add materially to their effectiveness.

Paragraph XIV.

The provisions of this paragraph calling for specimens of the currency issues of the United States cannot be complied with without violating the policy of the Treasury as established for a long period of time. It is not believed that this policy should be changed, and it is suggested that the same results can be accomplished if the foreign Governments obtain United States currency in exchange for legal tender, which exchange can be made direct with the Treasury so that the currency obtained will be known to be genuine.

Paragraph XV.

Periodical conferences attended by representatives from the contracting Governments might prove advantageous.

Paragraph XVI.

The Government of the United States would desire further information as to the exact scope and effect of " letters of request ", but may observe that mere correspondence relating to counterfeiting operations and their suppression should be conducted directly between these central bureaux and confirmed by copies despatched through customary diplomatic channels.

Ad Article 2.

The American Government is of the opinion that the offences referred to should be recognised as extraditable offences, and, subject to the limitations contained in existing treaties or conventions, favours the principle stated. However, it would much prefer that the offences in question should be specifically set forth in this article.

In view of the provisions of paragraph X, Article 1, and of the foregoing comment thereon, the Government of the United States would desire an addition to Article 2 providing that the contracting parties shall not be obligated to surrender their own citizens.

Moreover, since the extradition laws of the United States are not very comprehensive and do not cover several matters which are ordinarily dealt with in the extradition treaties of the United States, the American Government considers that future embarrassment to it might be obviated by providing in the Convention under consideration for such matters : as, for instance, a prohibition of the trial of the extradited persons for another offence until he has had a reasonable opportunity to leave the country following his trial or punishment on the charge for which he was surrendered ; the effect upon the obligation to surrender of the running of the Statute of Limitations and of the current prosecution or conviction of the fugitive upon an offence committed in the territory of the surrendering Government; the rule which shall govern in case surrender is requested by two or more Powers ; the limit of time a fugitive shall be held after commitment or arrest and awaiting the production of the formal documents, and, finally, the nature of the evidence which it is essential to produce.

The Government of the United States does not object to the provisions of the remaining articles of the draft Convention.

With reference to the *Recommendations numbered I to VIII*, inclusive, on page 24 of the printed report, this Government has no comments to submit at this time. However, the Government of the United States reserves the right to make such further comments as it may later deem advisable.

Department of State.

Washington, March 22nd, 1929.

STATEMENT BY THE DELEGATION OF THE INTERNATIONAL CRIMINAL POLICE COMMISSION REGARDING PARAGRAPH XV OF ARTICLE 1 OF THE DRAFT CONVENTION (Document C.F.M.9).

The International Criminal Police Commission thinks it advisable to give hereunder a short summary of the arguments in favour of the adoption of Article 1, paragraph XV, of the present Convention as amended on the lines suggested by the Austrian Government and deemed desirable by the Swiss Government.

1. This article is entirely in harmony with the Mixed Committee's wish to confine any action to measures that are practicable at the moment and easy to realise (Mixed Committee's Report, page 7) since the International Bureau at Vienna is already in full activity.

2. The Mixed Committee rejected the proposal to extend the Convention to the forging of cheques, but fully appreciates the importance of such a possible extension of the Convention (Mixed Committee's Report, page 8). The International Bureau at Vienna already has data concerning the forging of cheques, which it could extend and secure much more easily if Article 1, paragraph XV, were officially approved.

3. " So far as it considers expedient " (Article 1, paragraph XIV, of the draft Convention), each central office shall supply information of all kinds to the central offices of the other countries. This provision is intended to obviate too great an extension of the activity of the central offices, but it will be difficult to define with precision to whom the communications must be made in certain cases which may arise. These difficulties disappear completely if the information is at the same time forwarded to the International Bureau at Vienna, where all central offices may obtain it immediately in any case that arises.

4. The Central International Office should not be regarded as merely completing the system of co-operation between the various police forces (Mixed Committee's Report, page 14). It should from the outset co-operate with the national central offices so as to make their work as fruitful as possible. It ought not to be thought that " the time has not yet come to set up this International Office ".

5. An international " publication " cannot exist apart from the International Office (Mixed Committee's Report, page 15).

6. The Court may take full account of the antecedents of the accused, even if he has hitherto only been convicted abroad (Mixed Committee's Report, page 16), if a Central International Office can supply it with the necessary data.

7. The extension of preventive measures to increase the difficulty of forging banknotes (Mixed Committee's Report, page 17) can only be profitable if all the data are concentrated at one point; that is to say, in a Central International Office.

8. International offences must be considered as one indivisible whole. Hence the Central International Office for the suppression of Counterfeit currencies must be at Vienna where the police data regarding international offences in general are concentrated.

9. The setting up of a Central International Office at a later date and in another place would entail considerably greater expense.

10. The Central International Office should be designated in the Convention itself. That will react favourably upon the quantity of data available at Vienna. The more data possessed by Vienna, the better can national central offices be helped and the more effectively can counterfeiting currency be combated.

It is hoped that the above considerations may lead the Diplomatic Conference to include the paragraph in question in the Convention, so that the Central International Office (an organisation whose function is merely the centralisation of information regarding counterfeiting currency), may continue its work at Vienna.

COMMUNICATION BY THE DELEGATION OF THE INTERNATIONAL CRIMINAL POLICE COMMISSION CONCERNING THE COMMISSION'S REVIEW

(Document C.F.M.11).

As the result of unceasing efforts by the editors of the Review *Erkennungszeichen* to secure the co-operation of all banks of issue, nearly all European banks of issue have already promised their assistance.

The few European banks which have not yet done so will in all probability follow the example of the others within the near future.

The editors have further endeavoured to enlist the interest and aid of issuing banks outside Europe, and we are glad to say that already quite a large number of non-European banks of issue have responded to this invitation. This co-operation is manifested through a written declaration on the part of the institute concerned, which further allows the Review to publish its name on the title-page of the periodical under the special heading of " Associated Banks of Issue ". The institutes which thus co-operate keep the editors regularly informed regarding all new issues, counterfeitings, withdrawals, etc., of their notes.

The following list contains the names of all European and non-European banks of issue which may be regarded as " associated banks of issue " in the sense mentioned above :

Albania : Banca Nazionale d'Albania, Durazzo.

Algeria : Banque de l'Algérie, Paris.

United States of America : Federal Reserve Banks.

Angola : Banco de Angola, Lisbon ;
Banco Nacional Ultramarino, Lisbon.

Azores : Banco de Portugal, Lisbon.

Belgium : Banque Nationale de Belgique, Brussels.

Bulgaria : Banque Nationale de Bulgarie, Sofia.

China : Chinese American Bank of Commerce, Pekin.

Curaçao : De Curaçaosche Bank, Curaçao.

Denmark : Nationalbanken i Kjöbenhavn, Copenhagen.

Danzig (Free City of) : Bank von Danzig, Danzig.

Germany : Reichsbank-Direktorium, Berlin ;
Deutsche Rentenbank, Berlin ;
Bayerische Notenbank, Munich.

Estonia : Eesti Pank, Tallinn.

Finland : Finlands Bank, Helsingfors.

France : Banque de France, Paris.

Goa : Banco Nacional Ultramarino, Lisbon.

Greece : Banque de Grèce, Athens.

Dutch Guiana : De Surinaamsche Bank, Paramaribo.

Portuguese Guinea : Bancoo Nacional Ultramarino, Lisbon.

Dutch Indies : De Javasche Bank, Batavia.

Netherlands : De Nederlandsche Bank, Amsterdam.

Ireland : The Currency Commission, Dublin.

Italy : Banca d'Italia, Rome.

Japan : The Bank of Japan, Tokio.

Cape Verde Islands : Banco Nacional Ultramarino, Lisbon.

Latvia : Latvijas Banka, Riga.

Lithuania : Lietuvos Bankas, Kovno.

Luxemburg : Banque Internationale, Luxemburg.

Macao : Banco Nacional Ultramarino, Lisbon.

Morocco : Banque d'Etat du Maroc, Rabat.

Mozambique : Banco Nacional Ultramarino, Lisbon.

Norway : Norges Bank, Oslo.

Austria : Oesterreichische Nationalbank, Vienna.

Poland : Bank Polski, Warsaw.

Portugal : Banco de Portugal, Lisbon.

Roumania : Banque Nationale de Roumanie, Bucharest.

Russia : National Bank of the U.S.S.R., Moscow.

St. Thomas and Principe : Banco Nacional Ultramarino, Lisbon.

Switzerland : Schweizerische Nationalbank, Berne and Zurich.

Spain : Banco de España, Madrid.

South Africa : South African Reserve Bank, Pretoria.

Tunis : Banque de l'Algérie, Paris.

Hungary : Magyar Nemzeti Bank, Budapest.

The editors have a collection of specimen notes (genuine but marked so as to be useless as currency) of many countries in the world. Thanks to constant efforts on the part of the editors, this collection has been substantially enlarged. The following banks of issue and Governments have up to the present furnished the Review with complete specimen sets of their notes :

Albania : Banca Nazionale d'Albania, Durazzo.

Algeria : Banque de l'Algérie, Paris.

Angola : Banco de Angola, Lisbon ;
Banco Nacional Ultramarino, Lisbon.

Azores : Banco de Portugal, Lisbon.

Belgium : Banque Nationale de Belgique, Brussels.

Brazil : Banco do Brasil, Rio de Janeiro.

Bulgaria : Banque Nationale de Bulgarie, Sofia.

China : Chinese American Bank of Commerce, Pekin.

Denmark : Nationalbanken i Kjöbenhavn, Copenhagen.

Danzig (Free City of) : Bank von Danzig, Danzig.

Germany : Reichsbank-Direktorium, Berlin ;
Deutsche Rentenbank, Berlin ;
Badische Bank, Mannheim-Karlsruhe ;
Bayerische Notenbank, Munich.

England : Treasury, London ;
Bank of England, London.

Estonia : Estonian Republic ;
Eesti Pank, Tallinn.

Finland : Finlands Bank, Helsingfors.

France : Banque de France, Paris.

Gibraltar : The Government of Gibraltar, Gibraltar.

Goa : Banco Nacional Ultramarino, Lisbon.

Greece : Banque de Grèce, Athens.

Dutch Guiana : De Surinaamsche Bank, Paramaribo.

Portuguese Guinea : Banco Nacional Ultramarino, Lisbon.

Dutch Indies : De Javasche Bank, Batavia.

Netherlands : De Nederlandsche Bank, Amsterdam.

Indo-China : Banque de l'Indochine, Paris.

Ireland : The Currency Commission, Dublin.

Italy : Banca d'Italia, Rome.

Japan : The Bank of Japan, Tokio.

Cape Verde Islands : Banco Nacional Ultramarino, Lisbon.

Latvia : Latvijas Banka, Riga.

Lithuania : Lietuvos Bankas, Kovno.

Luxemburg : Etat du Grand Duché de Luxemburg, Luxemburg ;
Banque Internationale, Luxemburg.

Macao : Banco Nacional Ultramarino, Lisbon.

Morocco : Banque d'Etat du Maroc, Rabat.

Mozambique : Banco Nacional Ultramarino, Lisbon.

Norway : Norges Bank, Oslo.

Austria : Oesterreichische Nationalbank, Vienna.

Poland : Ministry of Finance, Warsaw ;
Bank Polski, Warsaw.

Portugal : Banco de Portugal, Lisbon.

Roumania : Banque Nationale de Roumanie, Bucharest.

Russia : National Bank of the U.S.S.R., Moscow.

St. Thomas and Principe : Banco Nacional Ultramarino, Lisbon.

Sweden : Sveriges Riksbank, Stockholm.

Switzerland : Schweizerische Nationalbank, Berne and Zurich.

Spain : Banco de España, Madrid.

South Africa : South African Reserve Bank, Pretoria.

Syria and the *Lebanon* : Banque de Syrie et du Grand Liban, Beirut.

Tunis : Banque de l'Algérie, Paris.

Hungary : Magyar Nemzeti Bank, Budapest.

The efforts of the editors to obtain the fullest possible data and information on all matters within the purview of *Erkennungszeichen* have been crowned with success, as is proved by the steadily increasing size of the publication.

Between July 1st, 1926 (introduction of the new system of communicating information), and March 15th, 1929—that is, over a period of about thirty-three months—the editors of *Erkennungszeichen* have distributed the following :

(1) *Communications concerning counterfeit paper and metallic currency* :

(a)	247	reports
(b)	67	reproductions
Total ..	314	

(2) *Circulars and reports concerning criminals* :

(a)	79	reports
(b)	66	reproductions
Total ..	145	

(3) *Communications concerning forged cheques, bills of exchange, shares and other securities* :

(a)	32	reports
(b)	27	reproductions
Total ..	59	

(4) *Communications concerning new paper and metallic currency* :

(a)	114	reports
(b)	162	reproductions
Total ..	276	

(5) *Communications concerning the calling-in and withdrawal from circulation of paper and metallic currency* :

(a)	103	reports
(b)	3	tables [1]

(6) *Cancellations (disposal of criminals' circulars) and other supplementary communications* : 61 informations.

Including the lists of contents (202 pages), a total of 1,160 pages, or on an average 35 pages a month, were thus distributed during a period of thirty-three months.

In 1928, this average was greatly exceeded.

Examples of counterfeit notes and other securities, together with photographic reproductions, concerning which information is published in the Review, are either lent or given to the editors, partly spontaneously and partly at the request of banks of issue, police authorities, private enterprises or private individuals. In this way the editors are in possession of a large collection of these counterfeits.

[1] These tables were given up in November 1927 and replaced by single report sheets dealing with each country separately.

The rapid communication of information—to which special importance is attached—concerning these various acts of counterfeiting and the frauds practised in connection therewith, has not only served to warn the public against accepting such counterfeits, but has frequently led to the arrest of the forgers within a comparatively short time.

Although the editing of the Review is centred in Vienna, every effort has been made to see that there shall be no delay in the publication of the French and Dutch editions, which appear in Brussels and Amsterdam respectively.

Closer relations have been established between the managers of the Review and the various banking groups, and this has further increased the number of copies distributed in the different countries. In particular, the co-operation with the " Zentral Verband des Deutschen Bank- und Bankiergewerbes (E.V.) " (Central Association of German Banks and Bankers) in Berlin, which, as is known, is regulated by a contract, has added still further to the interest shown by German banks in *Erkennungszeichen*.

Through agreements made with a number of banking groups in various countries, although these are not yet embodied in contracts, these associations themselves order the Review, and distribute it to their members. This has, of course, made it easier to ascertain what institutions are interested in the Review.

" Les Dossiers Financiers (Systeme Keesing) ", which is responsible for the French edition (*Contrefaçons et Falsifications*—" Revue internationale des marques caractéristiques de billets de banque et autres valeurs authentiques et de leur falsification "), and the " Financial Archief (Systeem Keesing) ", which is in charge of the Dutch edition (*Falsificaten*—" Internationaal Orgaan voor de Kenmerken van echte en valsche bankbiljetten, gemunt geld, cheques, enz. "), keeping in closest co-operation with the German editors, work untiringly and with great success to increase the number of persons and institutions interested in the Review.

It is hoped that the obstacles which have hitherto prevented the issue of an English edition of *Erkennungszeichen* will be removed before very long. The question of the issue of *Erkennungszeichen* in other languages will, of course, be considered.

The following table shows the number of subscribers to each of the three editions (German, French and Dutch) which so far exist :

Country	German edition	French edition	Dutch edition	Total
Africa	1	5	—	6
Albania	2	—	—	2
Angola	—	1	—	1
Argentine	—	1	—	1
Australia	—	2	—	2
Austria	605	—	—	605
Belgium	2	139	—	141
Brazil	2	—	—	2
Bulgaria	8	4	—	12
Chile	—	1	—	1
China and Indo-China	1	12	—	13
Costa Rica	—	1	—	1
Czechoslovakia	219	—	—	219
Danzig (Free City of)	10	—	—	10
Denmark	16	—	—	16
England	2	30	—	32
Estonia	16	—	—	16
Finland	8	—	—	8
France and Colonies	2	269	—	271
Germany	2,466	—	—	2,466
Gibraltar	—	1	—	1
Greece	—	31	—	31
Hungary	96	—	—	96
Ireland	—	1	—	1
Italy	18	68	—	86
Japan	1	—	—	1
Latvia	17	—	—	17
Lithuania	8	—	—	8
Luxemburg	—	9	—	9
Netherlands and Colonies	6	—	200	206
Norway	13	—	—	13
Peru	2	—	—	2
Poland	95	—	—	95

Country	German edition	French edition	Dutch edition	Total
Portugal	1	9	—	10
Russia	6	—	—	6
Roumania	19	9	—	28
Spain	2	25	—	27
Sweden	26	—	—	26
Switzerland	53	92	—	145
United States of America	1	1	—	2
Yugoslavia	146	4	—	150
Total	3,870	715	200	4,785

Administrations and banks of issue receive free of charge one or more copies of the German edition *(Erkennungszeichen)*, the French edition *(Contrefaçons and Falsifications)*, or Dutch edition *(Falsificaten)*, as they wish. The Review is also sent gratis to certain Government departments, embassies, consulates, etc.

COMMUNICATION BY THE PRESIDENT REGARDING ARTICLES 8 AND 9 OF THE FINAL TEXT

(Document C.F.M.13).

The German delegation desires to know what countries in the sense of Article 8 do not recognise the principle of the extradition of nationals, and what countries in the sense of Article 9 recognise as a general rule the principle of the prosecution of offences committed abroad.

Delegations are requested to give, to such extent as is possible, the answers requested in writing to the President of the Conference.

NOTE BY M. DUZMANS, DELEGATE OF LATVIA

(Document C.F.M.14).

Our Convention will include a certain *minimum* number of rules for the direct suppression of counterfeiting currency by means of penal codes of the Contracting States. Some of these rules will have to be introduced into national legislation, while others are already embodied therein. Many penal codes will doubtless contain measures of a more repressive nature than the Convention demands. Latvia will be among the latter countries, if we allow for the introduction of a number of fresh provisions arising out of the Convention. Generally speaking, it may be said that nearly all the measures of repression which the Convention will call upon us to take are already included in the provisions of the Latvian Penal Code.

The penalties for counterfeiting currency provided by this Code are very severe. The chief offences (counterfeiting, alteration, uttering) are, in principle, all described as *crimes* (the Latvian Penal Code provides for three different criminal acts : crimes, delicts, contraventions). Attempts to commit these acts and acts preliminary thereto are liable to the same penalties, modified according to the provisions in the general part of the Code. Even complot of counterfeiting currency not followed by acts is described as a delict.

According to the Latvian Penal Code, the penalty inflicted for a crime (penal servitude for life or from four to fifteen years) involves the almost entire deprivation of all public and private rights, rights to the possession of wealth, and family rights acquired prior to the penal sentence. Imprisonment in a penitentiary for more serious offences involves the loss of various public and private rights (enumerated).

The Latvian Penal Code in force makes a very slight distinction, in the scale of punishment, between the protection of national currency and foreign currency. The penalty for counterfeiting, altering or uttering Latvian currency is penal servitude for four to twelve years, except when the technical method of counterfeiting or altering limits the amount that can be counterfeited and the extent to which it can be uttered ; in this case, penal servitude is from four to eight years. As regards *foreign* currency, the penalties in the two cases are respectively four to ten years' penal servitude, and imprisonment in a penitentiary for one and a-half years to six years. Although this difference is small, the Latvian Government is quite prepared to accept the principle laid down in the Convention that, in the scale of punishment, no distinction should be made between domestic currency and foreign currency. In this special matter the Latvian law in force does not require *reciprocity* ; the law mentions among its reasons the constantly increasing interdependence of countries and their solidarity of interests. These ideas are shared by our Conference.

Latvian law goes further than our Convention. By means of the same penalties as are mentioned above, it also protects against counterfeiting any Government security, effect or bond, whether Latvian or foreign. Slightly mitigated, the same penalties are inflicted upon the counterfeiters of the securities, effects, bonds, etc., of private banks, both Latvian and foreign, *without any distinction* in the scale of punishment. *Equality* of punishment, as between domestic and foreign currency, is also laid down in the Latvian Penal Code for diminishing the intrinsic worth of metallic currency by altering its substance or weight. Similarly, equal penalties are imposed for the counterfeiting or altering of stamped paper, stamps, banderoles, and other marks indicating the payment of duties, both Latvian and foreign.

The second important amendment to be made in the Latvian Penal Law in execution of the Convention will be the consecration of the principle that each of the punishable acts of counterfeiting currency mentioned in our Convention is henceforth to be considered as a separate offence, if the acts are committed in different countries. It seems, however, to be understood that this will not affect the power of the judicature to combine the separate elements of a crime into a single offence, if the circumstances of the particular case justify or even demand this, without prejudice to the fundamental principle in the Convention, namely, that counterfeiting currency shall be punished in every country. It is also understood that this same principle shall apply to the prevention of counterfeiting currency, which under Article 1 of the Convention will be one of its two international purposes : " . . . the . . . means for ensuring the *prevention* and *punishment* . . . "—through international co-operation and mutual assistance.

* * *

From the present drafting of paragraph II of Article 1 of the draft Convention (Article 3 in the new draft), " any *fraudulent* making or altering of currency ", it may be concluded that the Convention will adopt the principle that, to complete the offence, it is not enough to have committed the said acts, but for the purposes of prosecution the offender must have *intended* to utter the currency thus counterfeited.

Here we are confronted with a *minimum* requirement which will become binding upon all countries and will be covered by the *maximum* requirement, wherever this is already embodied in the penal codes of the different countries. Accordingly, the Convention will not require the amendment in this sense of those provisions in national laws which include the maximum. In the Latvian Penal Code (Articles 427 and 429), the intention to utter is purposely excluded from the constituent elements of the offence, the whole of which are required in order to constitute the completed act of punishable counterfeiting or alteration. The same applies to the Danish Penal Code (Articles 264 and 265). In Latvia, anyone committing these acts will always be liable to the severe penalty mentioned above, even if it is not proved that he had this purpose in view.

These provisions are based upon the presumption, prompted by common sense, that the intention to utter false currency and to profit by it is *inherent* in the making of such currency, and that very few people will embark upon this most complicated industry from mere pleasure, or to indulge a sporting instinct. In these few cases, the burden of proof will be shifted from the place it occupies by general consent. At this comparatively cheap price, however, society is assured that criminals constituting a social, and even an international, danger will not escape punishment in the far more frequent cases in which the criminal's intention to utter is clearly inherent in the act of counterfeiting, but cannot be proved by the prosecution. These would include, for example, cases in which false currency has been uttered without the participation of the maker himself. In the same way the decisions of the courts do not generally recognise that the act of making direct payments into the State Treasury is to be assimilated to " uttering ", properly so called.

Where there is doubt, or absence of positive proof, otherwise unmistakable counterfeiters will escape punishment whenever, as in Norway (Norwegian Penal Code, Articles 174 and 175) and in Germany (German Penal Code, Articles 146 and 147), the penal law expressly requires the existence (and therefore positive proof) of the intention to utter the currency whose counterfeiting has been established. In other cases, a light penalty will be imposed, as for a mere contravention (Swedish Penal Code, Chapter 12, Article 15) ; for in penal cases, and especially when, as often happens, heavy penalties are involved, the *possibility* of crime is not admissible as a basis of punishment, and the accused benefits by the *præsumptio boni viri.*

* * *

The law in force in Latvia (Penal Code, Article 9) accepts the principle, without any restriction or demand for legal or treaty reciprocity, that nationals shall be punished for crimes and delicts committed abroad in the same way as if they had been committed in Latvia. An express international agreement on this matter is only required for contraventions. As the offences referred to in the Convention will, under the Latvian Penal Code, in all cases be described as crimes or delicts, paragraph X of Article 1 of the draft Convention (Article 7 of the new draft) is already sanctioned by existing Latvian law.

The same applies to paragraph XI of Article 1 (Article 8 of new draft), on condition that the meaning of the term " as a general rule " is interpreted in the Protocol of the Convention in the sense proposed by the Legal Committee, namely, that the obligation to punish the act in the same way as if it had been committed on national territory shall only apply within the limits imposed by the internal legislation of the country. Even subject to this reservation, the whole of the acts of counterfeiting currency may be made the subject of compulsory prosecution, in this special case. The case of Latvia furnishes an example. Article 9, Part II, of the Latvian Penal Code extends the application of this code to crimes committed by foreigners abroad and to such delicts as affect the rights of nationals or the property and revenues of the Latvian State, provided that there is an international agreement on this matter. The offences of counterfeiting currency referred to in the Convention will, in Latvia, always be covered by the said categories of offences, although Article 9 of the Latvian Penal Code says nothing about " a general rule " ; this article does not cover other delicts or contraventions. Parallel situations doubtless exist in the penal codes of several other countries. It must, however, be recognised that the guiding principle of the Convention would be better served if the term

" as a general rule " were to be removed from the text of the article in question, whereupon the above-mentioned reservation would automatically disappear from the Protocol, having lost its *raison d'être.*

* * *

Latvian criminal procedure recognises *civil parties.* The admission of foreign civil parties, including the Government and the banks concerned in the country whose money has been counterfeited, constitutes a happy innovation, and justifies a departure from the traditional practice, as the draft Convention proposes.

As regards *letters of request* for judicial assistance in matters relating to counterfeit currency, the Latvian Government considers the intermediary of Ministries for Foreign Affairs unnecessary, and would prefer direct communication between the judicial authorities. The right to confirm this direct correspondence by means of copies sent through the usual diplomatic channel would remain intact.

With regard to the *central police office* to be set up for investigation, the Latvian Government does not think it necessary in practice to establish a new office of this kind. It would seem that the purpose of the Convention would be equally well served by specially adapting certain existing departments. The Latvian Government considers, for example, that these duties might, in Latvia, be discharged as follows : Prosecution for counterfeiting currency would still be centred in the Public Prosecutor of the Court of Appeal, which has jurisdiction *throughout* the country ; but at the same time a special section might be organised under the Ministry of Finance, suitably staffed and capable of giving and receiving the information required by the Convention. This section would keep in touch with the Public Prosecutor of the Court of Appeal. It might be added that there is a scientific institute of judicial enquiry attached to the office of the Public Prosecutor of the Latvian Court of Appeal, at Riga.

SUMMARY OF THE DELEGATES' REPLIES TO THE COMMUNICATION BY THE PRESIDENT (Document C.F.M.13) REGARDING ARTICLES 8 AND 9 OF THE FINAL TEXT (Document C.F.M.20 (1)).

Albania, *Belgium* and the *Netherlands* do not allow the extradition of nationals, but allow as a general rule the prosecution of offences committed abroad.

The *German* Constitution in a general way forbids the extradition of German subjects, and the legislation of the Reich recognises as a general rule the principle of the prosecution of offences committed abroad.

The delegation of the *United States of America* considers that, in view of its laws, Articles 8 and 9 do not apply to its country.

Austria, the *Free City of Danzig*, *Italy* and *Czechoslovakia* do not recognise the principle of the extradition of nationals, but recognise as a general rule the principle of the prosecution of offences committed abroad.

The delegation of *Great Britain* recognises the principle of the extradition of nationals, but does not recognise, as a general rule, the prosecution of offences committed abroad. Neither of these two articles therefore applies to Great Britain.

China does not recognise the principle of the extradition of nationals, but allows, in certain cases, the prosecution of offences committed abroad.

Denmark and *Sweden* do not allow the extradition of their own nationals, but recognise, in certain cases, the principle of the prosecution of offences committed abroad.

French law does not recognise the principle of the extradition of nationals. In its presnte form it recognises the possibility of the prosecution of foreigners in France who have committed abroad certain offences, including the counterfeiting of national currencies.

The *Indian* delegation replies that Article 8 does not apply to its country. As regards Article 9, the principle of the prosecution of offences committed abroad applies only to certain persons.

Switzerland allows neither the extradition of nationals nor, as a general rule, the prosecution of offences committed abroad.

In *Latvia*, the principle of the extradition of nationals has not been given up. Latvia prosecutes, in certain cases, offences committed abroad.

PROPOSALS BY THE DELEGATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING PARAGRAPHS II, III AND VIII OF ARTICLE 1 OF THE DRAFT CONVENTION (Document C.F.M./A/1).

Under the Criminal Codes of the Republics of the Union of Soviet Socialist Republics, the crime of counterfeiting currency is defined as follows :

> " The counterfeiting of metallic money, notes of the State Bank, and Public Debt bonds, or the fraudulent putting into circulation of counterfeit metallic money, counterfeit notes of the State Bank and counterfeit Public Debt bonds, and also the counterfeiting of foreign currency or the fraudulent putting into circulation of counterfeit foreign currency are punished . . . etc. " (The penalties are then enumerated.)

Attempts to commit these offences and preparatory acts are also punished.

The above-mentioned definition accordingly includes by implication all the offences covered by Paragraph II of Article 1 of the draft Convention.

It would be desirable to ascertain whether the expression in this paragraph, " the Criminal Law should include ", should be taken to mean that the definitions must be sufficiently comprehensive entirely to cover all the offences mentioned in paragraph II, or whether the above expression requires that the definitions of the crimes should be formally unified.

If the former view is taken, the delegation of the Union of Soviet Socialist Republics proposes that, in the case of States whose criminal laws as at present framed provide fully for the punishment of all the offences referred to in paragraph II, it should be stated either in the paragraph itself or in a protocol of signature that the said paragraph does not require such countries to modify their laws with a view to a unification of the definitions contained therein.

If this interpretation is accepted, the delegation of the Union of Soviet Socialist Republics could agree to paragraph II.

In the other case, the criminal legislation of the Republics of the Union of Soviet Socialist Republics could not be altered as required.

Paragraph III.

As stated in connection with paragraph II of Article 1, the Criminal Codes of the Republics of the Union of Soviet Socialist Republics provide for the punishment of all the offences covered by paragraph II, but they are not differentiated to the extent indicated in that paragraph.

The obligation imposed by paragraph III to " *consider* " these offences as " separate and distinct " could not, accordingly, be assumed without far-reaching changes being made in the Criminal Codes of all the six Republics in the Union. The Government of the Union of Soviet Socialist Republics is opposed to any such modification. In substance it has no objection to make against the idea contained in the paragraph in so far as it consists in ensuring prompt and, as it were, automatic punishment of the offences, regardless of questions relating to their interdependence or connection. If the Union of Soviet Socialist Republics is to accept this paragraph, the word " considered " would have to be replaced by " punished ", a change which would also make for greater clearness.

Moreover, the delegation of the Union of Soviet Socialist Republics suggests that the words " at any rate " should be omitted. In point of fact, the Convention must necessarily deal, above all in this connection, with offences the perpetration of which involves punishable acts committed in a number of countries. Difficulties and complications would probably occur here, and these should be avoided. As regards crimes committed in their entirety in the territory of one and the same country, the Soviet delegation does not think it necessary to deal with them from this point of view, for in that case it would have been possible for the same reason to take up in addition a whole series of other questions relating to criminal jurisdiction and examination.

It accordingly proposes that paragraph III should read as follows :

> " Each of the acts mentioned in paragraph II, if these acts were committed in different countries, should be punished as a separate and distinct offence. "

Paragraph VIII.

The delegation of the Union of Soviet Socialist Republics supports the Swiss Government's proposal that this paragraph should be omitted, as it is of opinion that this is a matter which comes entirely under municipal law.

OBSERVATIONS OF Dr. SOKALSKI, DELEGATE OF POLAND
(Document C.F.M./A/3).

Ad Article 1.

Paragraph III.

This paragraph should be corrected as follows : instead of " in paragraph I ", in " paragraph II " should be inserted.

Paragraph XI.

The first provision of the second paragraph is not sufficiently clear and should be redrafted.

According to this provision, the obligation to take proceedings is subject to the condition that extradition has not been requested—or cannot be granted *for some reason* which has no connection with the offence or act itself. It is impossible to know for what reasons extradition might be refused, and these reasons should be expressly mentioned or determined.

Paragraph XII.

Investigations should be organised " by a Central *Police* Office ". It is not advisable to stipulate beforehand in the text of the Convention that the investigations in question should be undertaken by a *Police* Office.

By allowing each State to select an office at its own discretion on condition that it communicates the name of that office immediately to the other States, the conclusion of the present Convention or subsequent accession to it would be facilitated.

Paragraph XIV.

The third paragraph under (1), second line, states: " accompanied by a technical description of the forgeries, to be provided *solely by the institution* ".

In view of the fact that in certain countries the framing of a technical description of the forgeries of bank or currency notes might not rest with the institution of issue itself but with another institution or Government authority, it would be desirable to replace the text of the draft by the following words : " to be provided solely by the competent institution or office ".

Paragraph XV.

The words " with the participation of representatives of the banks of issue and of the central authorities concerned " should be deleted, because it is not allowable to fix in advance the institutions to be convened to attend the conferences mentioned and to restrict beforehand the central offices' choice of those institutions. The text should at all events be drawn up in a more liberal form, for instance : " with the participation of representatives of the competent authorities and institutions concerned ".

Paragraph XVI.

The words under *(a)*, " through the central offices where possible ", should be deleted, as it has already been stated in paragraph XIII of the draft (also in XII *(c)*) that direct correspondence between foreign central offices is allowable and the letters of request mentioned in this paragraph should for preference be exchanged between the judicial authorities themselves ; failing this, they should be transmitted by communications between the Ministries of Justice or through the diplomatic channel.

Ad Article 4.

In order to facilitate the conclusion of the Convention or accession to the Convention submitted, I have the honour to propose : (1) that the words " or application ", which might even refer to a sentence rendered by a criminal court, should be deleted ; (2) that the words " at the choice of the parties " should be replaced by the more accurate expression " at the request of one of the parties ".

STATEMENT BY THE JAPANESE DELEGATION REGARDING PARAGRAPH II OF ARTICLE 1 OF THE DRAFT CONVENTION (Document C.F.M./A/4).

The Japanese delegate declares that he cannot accept the punishing of mere " possession of counterfeit currency with knowledge of its fraudulent character, with a view to uttering the same ".

A person who has received counterfeit currency without knowledge of its character and afterwards perceives its being false, will very likely and very often use the counterfeit currency himself. Japanese law punishes this offence with a much lighter penalty than counterfeiting or original uttering.

If we adopt the term " being in possession of " instead of " procuring " in paragraph II, it will follow that, in the above-mentioned case, the person who has received counterfeit currency without knowing its character will be punishable as soon as he comes to know the character of the said currency and intends using it. That goes really too far. Of course, each country is free to punish this particular case by including in its penal code punishment for " being in possession of counterfeit currency, with knowledge of its fraudulent character, with a view to uttering the same ". It will, however, be impossible for Japan to adopt such a provision.

The Japanese delegate permits himself to draw your attention once more to the passage of his speech in the Assembly meeting, to which our President has so kindly alluded as a guiding principle of our discussions ; that is to say, the " advisability of including in the Convention only general regulations on which a unanimous arrangement can be obtained, even if by that method we do not arrive at a result theoretically complete ".

It is evident that " being in possession of " means something more than " procuring " in paragraph II. Therefore, I suggest that it would be prudent not to extend the actual text before us and to leave it acceptable to all countries.

PROPOSAL BY THE DELEGATION OF THE UNITED STATES OF AMERICA REGARDING ARTICLE 2 OF THE DRAFT CONVENTION (Document C.F.M./A/6).

> " The offences mentioned in paragraphs . . . of Article . . . of this Convention shall be deemed to be included in the extradition treaties for the time being in force between the several High Contracting Parties as offences for which extradition in accordance with such treaties and in accordance with the internal law of the country applied to shall be granted during the life of such treaties. "

PROPOSAL BY THE DELEGATION OF THE INTERNATIONAL CRIMINAL POLICE COMMISSION REGARDING A RECOMMENDATION TO BE APPENDED TO THE CONVENTION (Document C.F.M./B/2).

The Commission proposes that the following recommendation be appended to the text of the Convention :

> " The Conference for the adoption of the Convention for the Suppression of Counterfeiting Currency suggests that the Council of the League of Nations should appoint two commissioners, to be selected by the Council, who would be delegated by the Secretariat of the League of Nations to keep in touch with the International Office, organised under the auspices of the International Criminal Police Commission. "

PROPOSAL BY THE DELEGATION OF THE INTERNATIONAL CRIMINAL POLICE COMMISSION REGARDING A PARAGRAPH TO BE APPENDED TO PARAGRAPH XV OF ARTICLE 1 OF THE DRAFT CONVENTION (Document C.F.M./B/4).

The International Criminal Police Commission recommends the addition of the following paragraph to paragraph XV of Article 1 :

> " Pending the creation of this Central International Office, the International Bureau at Vienna, created in 1923 by the International Criminal Police Congress and managed by the Vienna Prefecture of Police under the direction of the International Criminal Police Commission, will continue, with the assistance of the Governments of the High Contracting Parties, the work it has hitherto done by centralising. information in the matter of counterfeiting currency. "

FIFTH PART

ANNEXES.

(This part contains the principal preparatory documents of the Conference, together with the documents showing the action taken by the Council of the League immediately after the Conference.)

CONTENTS.

Annex I.

Page

LETTERS OPENING THE QUESTION OF COUNTERFEITING CURRENCY BEFORE THE LEAGUE OF NATIONS AND LETTERS RELATIVE THERETO :

A. Letter from M. Briand to the Secretary-General 219
B. Letter from the Netherlands Government to the Secretary-General . 219
C. Letter from the Austrian Federal Government to the Secretary-General 220

Annex II.

VARIOUS REPORTS PRESENTED AND RESOLUTIONS ADOPTED BETWEEN THE RECEIPT OF THE LETTER FROM M. BRIAND AND THE MEETINGS OF THE MIXED COMMITTEE :

A. Extract from the Minutes of the Fourth Meeting of the Fortieth Session of the Council 222
B. Extract from the Report of the Financial Committee to the Council on the Work of its Twenty-third (Special) Session 225
C. Extract from the Report of the Financial Committee to the Council on the Work of its Twenty-fourth Session 225
D. Extract from the Minutes of the Third Meeting of the Forty-second Session of the Council 225
E. Extract from the Report of the Financial Committee to the Council on the Work of its Twenty-fifth Session 225
F. Extract from the Minutes of the Fourth Meeting of the Forty-third Session of the Council 226
G. Extract from the Minutes of the Fifth Meeting of the Forty-third Session of the Council 227

Annex III.

DOCUMENTS SUBMITTED TO THE COUNCIL BY THE MIXED COMMITTEE :

A. Letter addressed by the Chairman of the Mixed Committee to the President of the Council 228
B. Report submitted by the Mixed Committee 228
C. Draft Convention 238
D. Recommendations adopted by the Mixed Committee 243

Annex IV.

VARIOUS REPORTS PRESENTED AND RESOLUTIONS ADOPTED BETWEEN THE MEETINGS OF THE MIXED COMMITTEE AND THE INTERNATIONAL CONFERENCE :

A. Extract from the Minutes of the Second Meeting of the Forty-eighth Session of the Council 244
B. Report to the Council by the Committee of Experts for the Progressive Codification of International Law on Recommendations VII and VIII adopted by the Mixed Committee 246
C. Extract from the Minutes of the First Meeting of the Fifty-first Session of the Council 247
D. Extract from the Minutes of the Seventh Meeting of the Fifty-fourth Session of the Council 247

Annex V.

SUMMARY OF THE OBSERVATIONS RECEIVED FROM GOVERNMENTS ON THE REPORT OF THE MIXED COMMITTEE AND ON THE DRAFT CONVENTION DRAWN UP BY THE COMMITTEE. 248

Annex VI.

VARIOUS REPORTS PRESENTED AND RESOLUTIONS ADOPTED AFTER THE INTERNATIONAL CONFERENCE :

A. Report to the Council by the President of the Conference 283
B. Extract from the Minutes of the Fourth Meeting of the Fifty-fifth Session of the Council 284

Note.—In Annexes II, IV and VI, the Acts of the Assemblies of 1926, 1927 and 1928 are not included, as the Assemblies did no more than note the progress of the work.

ANNEX I.

LETTER OPENING THE QUESTION OF COUNTERFEITING CURRENCY BEFORE THE LEAGUE OF NATIONS AND LETTERS RELATIVE THERETO.

A. Letter from M. Briand to the Secretary-General.

[*Translation.*] Paris, June 5th, 1926.

The French Government's attention has been drawn to numerous cases during the past few years in which the national currency of various countries has been forged.

The circumstances attending these criminal acts have shown that the counterfeiting of the concurrency not only constitutes a danger to the credit of the injured country, but that, owing to the financial and economic solidarity which is springing up between States, the consequences of such action are in certain cases much more widespread. Though such crimes deal a blow in the first instance at the financial strength of the country whose currency is counterfeited, they are also capable, as a direct consequence, of disturbing international public order.

It should also be noted that banknotes are usually forged and put into circulation outside the country whose national money they are. The reason for this is that the criminal considers that he is less closely watched abroad, and that it is easier for him to pass a note with which bankers and business men are less familiar.

Under these circumstances, it would seem to be the interest and duty of all States, in order to strengthen the means of defence which they individually possess and to enable them to assist each other, to consider jointly treaty stipulations by which they might more effectively repress the " international crime " of counterfeiting the currency.

This co-operation, the conditions and extent of which could be defined only after full investigation, might in the first place take the form of co-operation on the part of the courts and the police of the various countries.

An important step forward would also be recorded if States agreed to amend their penal laws and to inflict on all persons guilty of counterfeiting foreign currencies penalties comparable with those imposed in the case of the counterfeiting of national currencies.

Finally, the creation of an international office, which would keep in close touch with the currency authorities in the various countries and would collect accurate information as to the origin of forged notes and the methods of forgers, would seem likely to furnish effective assistance to the judges and the police of the various countries.

In this form, or in whatever manner seemed the most expedient or effective, the international understanding which the Government of the Republic feels essential would in fact merely come within the scope of the agreements which have been successfully concluded for the purpose of dealing with crimes against the common law of nations, such as the Agreements of 1904 and 1910 regarding the suppression of the white slave traffic and of obscene publications. Such an understanding would be in keeping with the noble idea of international solidarity which the Government of the Republic desires to see constantly extended.

The French Government has thought that the League of Nations, which has undertaken the development of this movement of international legislation designed to bring the various countries into closer relations and to spread justice, was the body specially qualified to find a solution for this problem.

I should therefore be grateful to you if you would submit to the Council of the League of Nations the proposal, which is made by the French Government, to entrust to a committee, specially selected from among competent persons to be appointed by the various States, the work of framing a draft convention for suppressing the crime of counterfeiting currency.

(Signed) Aristide Briand.

B. Letter from the Netherlands Government to the Secretary-General.

[*Translation.*] Netherlands Legation, Berne,

June 21st, 1926.

With reference to the proposal made on June 7th by the French representative on the Council of the League of Nations regarding an international campaign against the manufacture of counterfeit money and forged banknotes, I am instructed to forward to you the enclosed Note, with annexes, from the Netherlands Government.

(Signed) W. van Lennep,
Netherlands Chargé d'Affaires
ad interim.

[*Translation.*]

Note.

It is with great interest that the Netherlands Government has learnt of the French proposal for the creation of an international office to collect accurate information concerning the origin of counterfeit notes, thus affording practical aid to the magistrates and police of the various countries. The Netherlands authorities have for some years past had in mind the desirability of international co-operation to prevent the falsification of money.

At the International Police Congress which met at Vienna in September 1923 under the presidency of M. Schober, Chief of the Viennese Police, M. Broekhoff, Chief Inspector of Police at Amsterdam, submitted a report on the international campaign against the forging of banknotes. M. Broekhoff's conclusions were: (1) that " central organisations for the suppression of counterfeits and forgeries " should be established in every country ; (2) that a permanent connection should be established between these national centres ; and (3) that one of the national centres should be asked to act as an international office.

The Congress accepted these proposals, and the " International Criminal Police Commission ", created after the Congress, with its seat at Vienna, was appointed provisionally to act as an international office. When the Commission met at Vienna in May 1924, M. Broekhoff proposed that they should found an international review on the counterfeiting of money in order that the police, banks, etc., in the various countries might be supplied with the information they required. This proposal was adopted ; a copy of the *International Review of the Characteristic Marks of Banknotes and other Authentic Securities and their Forgeries*, in French and in German, is attached to this note.[1]

As a monthly review might possibly not warn the police in sufficient time, there was established—again at the instance of the Netherlands—a publication, appearing in Dutch and French, which is sent free to the principal police stations in the Netherlands and Belgium.[1] The possibility of issuing a similar publication in English is being considered. In future, the *International Review* will be published in the same way, and an endeavour will be made to unite these two publications.

At present, " Central Organisations for the Suppression of Counterfeits and Forgeries " exist in twenty-seven countries. The two publications referred to above are sent to over 2,000 addresses where information on this subject is desired.

The present organisation might doubtless be strengthened and extended. Her Majesty's Government therefore greets with satisfaction the action taken by the French Government. Considering, however, that the League of Nations, in dealing with this matter, should take full account of everything that has already been accomplished in this respect, it has thought it right to bring the above facts to the notice of the Secretary-General.

C. Letter from the Austrian Federal Government to the Secretary-General.

[*Translation.*] August 20th, 1926.

In June last the French Government called the attention of the Council to the problem of counterfeiting currency. The Austrian Federal Government is entirely in agreement with His Excellency M. Aristide Briand, who, in his letter to the Council on the subject, expressed the opinion that the League of Nations, having assumed the task of hastening the progress of international legislation to bring the various countries into closer relations and extend the sway of justice, is particularly well qualified to find a solution for this problem.

Among the considerations which the French Minister for Foreign Affairs, in his letter, suggests should be discussed, in order that treaty provisions may be universally adopted, is the expediency of establishing an international office, which, keeping in touch with the currency authorities of all countries, would collect accurate information as to the origin of counterfeited notes and the processes used by counterfeiters, and would thus be able to give valuable assistance to the magistrates and police of the various States.

In this connection, the Austrian Government, being anxious to help the Financial Committee in its present enquiry, directs me to request you to draw the Committee's attention to those institutions in Vienna which, under the direction of Dr. Schober, Chief of Police and former Federal Chancellor of the Republic, have hitherto served the purposes covered by this proposal. I have accordingly the honour to forward you herewith the relevant documents, consisting of a memorandum, with four annexes[2], which the Chief of Police has been good enough to supply for the Financial Committee's use.

If the work which Dr. Schober has long carried on as head of these institutions appears to correspond in large measure to the spirit of the French proposal, this is partly because the " Falschgeldzentrale ", set up by the International Criminal Police Commission of Vienna at the headquarters of the Vienna Police, is operating, in accordance with the intentions of that Commission, on the lines indicated for the " International Office ", partly because the

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[1] These documents may be consulted at the Secretariat of the League of Nations.
[2] These annexes may be consulted at the Secretariat of the League of Nations.

Chief of Police bases his action on the Austrian Penal Code, under which counterfeiters are prosecuted without regard to the origin of the coin or securities imitated or the place where the crime was committed, and are punished with equal severity in all cases, so that this legislation conforms in most respects to the requirements of the " Weltstrafrechtsprinzip ".

(Signed) E. PFLÜGL.

Memorandum.

The international suppression of banknote forgery was undertaken in its present form by the International Police Congress held at Vienna in 1923, and was carried on by the International Criminal Police Commission set up during the Congress. The Chairman of this Commission is Dr. Schober, Chief of the Vienna Police. The appended resolutions of the Congress of 1923, together with those adopted by the International Commission at its first and second sessions in 1924 and 1926, supply information with regard to the contemplated measures of suppression.[1]

Among these resolutions voted by the Congress of 1923 on the motion of Chief Inspector Broekhoff of Amsterdam is one recommending an agreement to the effect that a central office in each country for the suppression of banknote forgery should be established—where no such office already exists—and given the status of a sort of international office responsible for maintaining permanent touch among all the central national offices.

A further motion, which runs as follows, was adopted at the same time :

> " The delegates here present declare that it is expedient and desirable to set up in each country special offices to deal with the counterfeiting or falsification of currency securities and bonds, the forging of cheques and passports, and with pickpockets ; and they undertake to use their influence with their Governments with a view to the establishment of central offices of this kind. "

Subsequently, a conference took place at which representatives of the various " Offices for the Suppression of Banknote Forgery ", who were present at the Congress, took part. In the course of this conference a resolution was passed recommending the immediate institution at Vienna of an international office for the suppression of counterfeiting, as recommended in Resolution 3.

In conformity with this decision, the Vienna Police Department, after getting into close touch with the members of the International Criminal Police Commission, undertook the duties of the " International Office of Central Bureaux for the Suppression of Banknote Forgery " ; it performs these duties through the medium of the Central National Bureau, which exists as a parallel institution for the suppression of counterfeiting in Austria.

The Vienna Police Department has undertaken the following duties :

1. The observation of all developments in the sphere of the counterfeiting or debasement of monetary tokens as well as bearer securities (including coupons and the counterfoils to which they are attached) ;

2. The establishment of a register of all facts coming to its notice relating to the counterfeiting of the above-mentioned monetary tokens, both Austrian and foreign ; the establishment of a list of counterfeiters and their accomplices (with information concerning both persons and offences) ;

3. The transmission of useful observations and information regarding the above-mentioned matters to administrations responsible for the prosecution of counterfeiters, and, if necessary, to the central offices of foreign States ; the serving as a clearing-house for the exchange of identification papers (photographs, finger-prints of counterfeiters and their accomplices wanted by the police) ;

4. The preservation and registration of forgeries, and their reproduction.

Two periodicals devoted to counterfeiting have, up to the present, served as official organs in Vienna : the *International Police Review* and the review entitled *Characteristic Marks of Genuine Banknotes and other Securities and Forgeries thereof.* At its session in April 1926, the International Criminal Police Commission passed a resolution recommending that these two reviews should be brought into intimate connection. This has been done, and *Characteristic Marks* will in future be published as an appendix to the *International Police Review.* It has thus become possible to publish, at dates not fixed in advance and in the form of slips, the *Characteristic Marks* published by the Federation of Austrian Banks and Bankers, and to bring each forgery to the notice of the administrations and banks as soon as it is detected (see also Annexes 1 to 3).

The Police Department has endeavoured to carry out as completely as possible the work which fell to it in this respect. A report on its work, submitted at the session of the International Criminal Police Commission held last April—an extract from which is appended (Annex 4)—gives an account of the efforts made by it in this direction.

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[1] These documents may be consulted at the Secretariat of the League of Nations.

Accordingly, the most considerable remaining difference between the International Office for which the French Government is pressing and the International Office attached to the Police Department at Vienna lies in the fact that this latter office is not yet officially recognised by all those concerned ; general recognition would allow all States to make constant use of the services of this office, and the end aimed at by the French Government would thus be achieved.

ANNEX II.

VARIOUS REPORTS PRESENTED AND RESOLUTIONS ADOPTED BETWEEN THE RECEIPT OF THE LETTER FROM M. BRIAND AND THE MEETING OF THE MIXED COMMITTEE.

A. Extract from the Minutes of the Fourth Meeting of the Fortieth Session of the Council.

Held in Geneva on Thursday, June 10th, 1926, at 11 a.m.

Present : All the representatives of the Members of the Council, and the Secretary-General.

1742. **The Question of Counterfeiting Currency : Letter from the French Government.**

A letter, dated June 5th, 1926, from the French Government was read.

M. Paul-Boncour wished to enlarge upon the reasons which had moved the French Government to address this letter to the League of Nations and to formulate the proposal which had just been read. This proposal was of a general character. Its object was to seek out the necessary changes which should be made in the methods for suppressing the counterfeiting of currency, and the method of internationalising such suppression.

There would, however, be a lack of frankness towards, and even a slur upon, international morality if the French Government disguised the fact that its general proposals were born of actual experience in particular cases. The country whose international duty was, it would appear, the more clearly defined from the fact of its benefiting at that moment from the material and moral assistance of the League of Nations, had witnessed within its own boundaries very serious cases of the manufacture of counterfeit currency, not national but international forgery, affecting two countries in particular—Czechoslovakia and France.

It was clear that a country could not be held responsible for the acts of its individual subjects. But in this particular case the standing of the criminals, the relationships and the friendships that they were alleged to have with important personages, had deeply stirred public opinion, which had seen in these facts not merely an individual criminal act but a tendency to extend to political spheres, under a pretext of patriotism which could not be admitted, acts which lent themselves to penal suppression pure and simple.

Was this penal suppression sufficiently effective under present conditions ?

There, again, the facts which had recently been disclosed—and which the French representative recalled only in so far as they served for explanation and justification of the French Government's proposals—had led the public opinion of many countries to think that such suppression at the present time was insufficiently effective. It was nobody's affair—and the French representative would bear the fact in mind—to judge of the manner in which any country might have exercised its sovereign rights in judicial matters ; but the least that could be said, it seemed—while retaining an open mind—was that, as a result of the manner in which this particular trial had been conducted and the penalties which had resulted from it, public opinion, already stirred by the facts, had not been sufficiently reassured by the sentences given.

It had seemed, therefore, to the French Government that the question was one of internationalising the methods of suppressing the counterfeiting of currency, and it had thought that the organisation clearly indicated for the study of those methods was the League of Nations.

Serious persons, who had been deeply stirred by these scandals, had even gone so far as to express a wish to see the Permanent Court of International Justice in a position to take cognisance of instances of the manufacture and circulation of counterfeit currency, so strongly had they been struck by the powerlessness of national law to punish these cases as they deserved.

That point of view might be applied in the future, but it was clearly not practicable at the present time. There could be no idea of giving to the Permanent Court of International Justice the power of suppression, and, moreover, that power was only of value according to the extent to which it was armed with the means of research and investigation, which obviously the Permanent Court did not possess. But, in default of international jurisdiction—and it would, moreover, be seen how another and more circuitous route could lead to much the same end—international legislation would appear to be necessary.

Those who had considered the question must have been struck by the fact that many countries did not punish the manufacture of foreign counterfeit money under the same conditions

and same penalties as the manufacture of counterfeit national currency, and it might even be said that, as regards foreign paper money, the majority of national laws did not allow of punishment, which could only be inflicted with the help of a very doubtful legal practice. At the present time, and in view of the present circulation of money, the occurrences to which the French representative had just referred were sufficient proof that the manufacture internationally of counterfeit currency was no longer a matter concerning only the national sovereignty of a given country, but directly concerned, materially and morally, the whole international community.

In venturing to make this suggestion to the League of Nations, the French Government had thought that it would perhaps be well to lay the foundations of a convention under the terms of which the various States should undertake to repress the international counterfeiting of foreign currency by making that crime subject to exactly the same penalties as were applied to the counterfeiting of national currency.

So much for legislation. Similarly, in the practical sphere, the events which had just taken place had clearly demonstrated the difficulties which the States directly affected by this manufacture of counterfeit currency had experienced in asserting their rights and protecting themselves. The necessity for acting through the diplomatic channel for all measures of search, etc., which in matters of this kind demanded sudden and rapid action and, to some extent, secrecy, had made it almost impossible, it must be confessed, for the countries affected to protect themselves.

The French Government ventured to draw the League's attention to the fact that, after rendering the different legislations uniform on this point, it would be an excellent thing if arrangements could be made to apply, as regards the counterfeiting of currency, types of jurisprudence like those established, for example, with regard to the traffic in women and obscene publications—to which, moreover, reference was made in the letter which had been read—and to secure direct contact between the police departments and the public prosecutors of the various countries.

A further point, the importance of which had been only too clearly shown by recent experience, was that of extradition. Extradition was applied in the case of crimes against common law, but for humanitarian reasons, and out of respect for the liberty of opinion, it was not applied in the case of political crimes. It was no doubt somewhat strange to claim that the counterfeiting of currency had a political character, but this argument had to be considered as it was the pretext which had been put forward to excuse these acts.

Perhaps it would be a good thing if the League of Nations drew up an international declaration to the effect that on no ground could the crime of counterfeiting currency, which so closely affected international relations, be excused on the pretext of patriotism or be given a political character, and that it should therefore be followed by ordinary extradition like any other crime against common law.

Thus, it may be possible, by a circuitous though practical route, to bring such matters within the competence of the Permanent Court of International Justice and so guard against their repetition.

When, after some preparatory work which it would be for the Council to specify, international conventions had been drawn up with regard to this subject, a point would have been reached when the Permanent Court of International Justice at The Hague would be directly concerned. As soon as conventions had been concluded on any subject, countries became entitled to ask the Permanent Court of International Justice to interpret those conventions and see that they were respected. Consequently, when international conventions with regard to the counterfeiting of currency existed, if a country, or a private individual belonging to a country, committed a crime such as the one now being discussed and which had created such a profound sensation, that country could be arraigned before the Permanent Court of International Justice for a breach of those conventions—action which was not possible in the present instance.

M. Beneš observed that M. Paul-Boncour had done full justice to the general and legal aspects of the French Government's proposal, and he himself would not return to them. He simply desired to support the proposal and to emphasise what he considered to be its important aspect.

Attention had already been called in the Financial Committee, when certain questions connected with the Hungarian loan had been discussed, to the danger of counterfeiting currency and to its possible financial and economic consequences. He did not wish to talk of such technical questions at a meeting of the Council, but preferred to dwell upon the political aspect of the matter.

On the previous day, in the Hungarian Committee, he had supported the French Government's proposal that the general question of counterfeiting currency should be specially examined during the discussion of the letter from the French Government by which that Government took the initiative in preventing any repetition of the occurrences which had recently taken place, notably in Hungary.

During the last four years, the Czechoslovak currency had frequently been attacked by counterfeiters, and that at the very time when the country was endeavouring to cope with the difficulties of currency stabilisation. The Czechoslovak Government, therefore, had a particular interest in the matter. More than 30 million crowns had been counterfeited, and 6 millions had been put into circulation in Czechoslovakia during 1922 and 1923. The Czechoslovak State had suffered serious losses in consequence. The political and psychological effects of such a circumstance were even more serious than the material loss involved.

The Czechoslovak Government had consequently been continually occupied with the question of counterfeiting, and had completely succeeded in putting an end to the circulation of counterfeit money in its territory. Recent events had shown, however, that it was still more essential to find means of preventing the manufacture of counterfeit currency in foreign territory and, above all, to be able to suppress and to punish it efficaciously by means of some jurisdiction and some procedure offering adequate safeguards.

The French proposal afforded an opportunity of seriously considering the questions which arose in this connection and, it might be hoped, of achieving some practical success.

The League of Nations was undoubtedly the proper body before which to discuss a question of this kind. It was generally known that, in certain cases, the counterfeiting of currency had been regarded as a political weapon. Indeed, the Hungarian forgers had boasted of their patriotic intent before the Court. This was a question which played an important part in international relations and in the maintenance of general peace. It was entirely legitimate and necessary to demonstrate that ideas and methods of this kind were absolutely inadmissible in international relations, and that if such acts were repeated an international authority would be found which would reprove them with indignation and severity.

The Czechoslovak Government, having made certain preliminary enquiries and obtained important information on the recent events, was ready to uphold the action taken by the Council, and to co-operate with those concerned and with any organs of the League which might be set up by the Council to attain the desired object and to prevent the repetition in future of actions which no less politically than morally were reprehensible.

The PRESIDENT asked whether M. Beneš had any suggestion to make as to the procedure which should be followed.

M. BENEŠ explained that the question, as he saw it, had a technical side and a legal side. He thought that the best procedure would be to begin by forwarding the letter and Minutes of the present discussion to the Financial Committee. After investigating the technical aspect of the problem, the Financial Committee could, in consultation with the Secretary-General, send the results of its work to a Committee of Jurists, which would then deal with the legal aspect. The States Members of the Council, and any other Governments which might have observations and information to offer, could be represented on the latter Committee. Eventually, the Legal Committee, in consultation with the Financial Committee, would draft a Convention to be submitted to the Council.

The PRESIDENT thought that all the Members of the Council would agree to the first part of M. Beneš' proposal, namely, that the French Government's letter and the Minutes of the present discussion should be first forwarded to the Financial Committee.

This suggestion was approved.

With reference to the second part of the proposal, the PRESIDENT asked how M. Beneš thought that the Legal Committee should be constituted. He suggested that each of the States Members of the Council might appoint a jurist to serve on the Committee.

M. BENEŠ agreed to this proposal.

Sir Austen CHAMBERLAIN accepted both proposals and gladly supported them. In so doing, he wished to make it quite clear that he reserved his judgment as to the measures which it might be proper ultimately to take, until the Council had received the report of the Financial Committee and of the jurists whose advice and assistance it was going to seek. It was clear that among the interests which must be heard in this matter were the banks of issue themselves, and no doubt the Financial Committee would take the necessary steps to obtain their opinion and advice.

He need not say that he was not going to comment on judicial proceedings in a particular country, which indeed, as he understood it, had not yet reached their final stage. It was clear, however, from the letter received from the French Government and from the explanations just given by the representative of France, that the subject thus raised on general grounds was one of international consequence and interest. It would be of international interest if forgeries were never undertaken except for private profit by men of the ordinary criminal class ; it became of graver international interest when endeavour was made to excuse these forgeries by reason of political considerations which certainly did not contribute to good relationships between States or to international peace. Sir Austen Chamberlain therefore thought, without making any comment on what had passed, that this was a matter which might be a source of danger for the future and which the Council did well to take into consideration. In his view, the procedure suggested by the French Government and by M. Beneš was appropriate to the occasion.

The PRESIDENT said that the procedure suggested in the French Government's letter would be followed, *and declared this procedure, together with M. Benes' proposals, adopted by the Council.*

B. Extract from the Report of the Financial Committee to the Council on the Work of its Twenty-third (Special) Session.

. . . . . .

The Financial Committee has had before it the decision taken by the Council of June 10th, 1926, regarding the letter from the French Government, dated June 5th (document F.294), which suggested the framing of a draft convention for suppressing the crime of counterfeiting currency.

The Committee has also examined the letter from the Netherlands Government of June 21st (document F.296), giving details of the co-operation between the police authorities of different countries which already exists in this connection. The Committee had the advantage of hearing on this point M. Broekhoff, Commissioner of Police of the Netherlands.

In accordance with the suggestion made at the June Council meeting that the Financial Committee should obtain the opinion and advice of the banks of issue in various countries, the Committee has sent out a questionnaire to these banks. It hopes, on the basis of the replies received, to report further at its next meeting.

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C. Extract from the Report of the Financial Committee to the Council on the Work of its Twenty-fourth Session.

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The Financial Committee has already reported to the Council that, at its meeting held in London in July last, it drew up a questionnaire [1] on counterfeiting currency, which was addressed to the banks of issue of the different countries in order to obtain the opinion of those banks on the subject.

The Committee has already received replies from a number of banks, and has examined these replies, which constitute an important contribution to this enquiry.

Before making a definite report to the Council, the Committee would wish to await the replies of other banks, many of which, owing to distance, could not yet have been received. The Committee hopes that it will soon receive the remaining replies and will be able to examine an analysis of all these banks' recommendations at its December meeting.

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D. Extract from the Minutes of the Third Meeting of the Forty-second Session of the Council.

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M. de Brouckère, Rapporteur, read the following report :

" The Council has already discussed the principal results of the Financial Committee's work, namely :

. . . . . .

" I have only to mention further the information supplied to us in the last two reports of the Financial Committee concerning the measures it has taken with a view to a methodical survey of the international repression of counterfeit currency. We can only request the Committee to continue its investigations.

" I propose, therefore, that the Council should adopt the Financial Committee's last two reports concerning its meetings held in London from July 19th to 23rd, 1926, and in Geneva from September 2nd to 9th, 1926. "

The report was adopted.

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E. Extract from the Report of the Financial Committee to the Council on the Work of its Twenty-fifth Session.

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As already reported to the Council, the Financial Committee, after its session in London last July, sent a questionnaire to the banks of issue in the different countries in order to obtain their opinion regarding the repression of counterfeit currency.

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[1] Document F.313.

The Committee has so far received replies from twenty countries (out of forty-three to which the questionnaire was sent) ; several of these replies deal with the question in great detail. The Financial Committee has come to the following provisional conclusions :

The Committee has noted with satisfaction that nearly all the banks of issue which have hitherto replied are in favour of the conclusion of an international convention on counterfeit currency. In the opinion of the Financial Committee, such a convention should contain proposals both for legislative measures and for measures of co-operation between the judicial authorities and the police in the different countries.

It has been suggested that the convention should also cover the forging of cheques, bills of exchange and the various instruments of credit. The Committee does not consider that it is at the present time desirable thus to extend the scope of the convention to be concluded.

With regard to the legislative aspect of the problem, the Committee is of opinion that there is no need to insist upon the unification of the laws of the different countries, but that it would serve the purpose if under the convention the different States accepted certain common principles and measures :

(a) All practices of counterfeiting should be covered by the law.

(b) All these practices should be prohibited and penalised without its being necessary to prove intent to defraud ; in the absence of intent to defraud, the penalty might be lighter.

(c) All counterfeiting or uttering of counterfeit money should be regarded as an ordinary criminal offence for which the State will prosecute.

(d) A State on whose territory the offence of counterfeiting or uttering the currency of another State is committed must punish this offence with the same severity as if the criminal acts had concerned its own currency. Such treatment should depend neither upon reciprocity nor adhesion to a convention.

(e) A State whose nationals have counterfeited or uttered foreign money outside the country must punish such nationals as if the crime had been committed in the country. An exception to this obligation would be made in the case of a State which undertook to extradite its own nationals who had committed the crime of counterfeiting abroad.

(f) The principle of extradition for counterfeiting must be regulated on a uniform basis. The convention might—by distinguishing between the State on whose territory the crime has been committed, the State whose currency has been counterfeited, and the State to which the criminal belongs—fix the order in which States could demand extradition.

With regard to the practical aspect of the problem, the Financial Committee is of opinion that, in order to supply a basis for useful international co-operation, it is exceedingly desirable that in every country enquiries and prosecutions should be organised under a single police office, which would be in close touch with the national bank of issue. Further, it would be necessary to authorise these central police offices in all countries to establish direct contact with one another. The convention should leave to States the option of organising a closer liaison through a joint office, while the establishment of an international central bureau would depend upon how this co-operation develops.

The Committee has confined itself to indicating the general features of the problem which it considers capable of serving as a basis for the discussion and preparation of an international draft convention.

With regard to the procedure to be followed in the future, as considered by the Council at its meeting on June 10th, 1926, the Committee suggests that it might perhaps be better to set up a small mixed committee consisting of specialists in international criminal law, prosecution authorities, delegates of the banks of issue, and one or two representatives of the Financial Committee.

Accordingly, the Committee recommends to the Council the creation of a committee of this kind, to which would be forwarded the provisional conclusions of the Financial Committee mentioned above.

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F. Extract from the Minutes of the Fourth Meeting of the Forty-third Session of the Council.

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M. Urrutia submitted the following report and resolutions :

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" (c) *Counterfeiting currency.*—As the members of the Council will remember, the Financial Committee addressed a questionnaire to the central banks of the world asking them for their opinion and advice on this question. A certain number of replies to this questionnaire have been received, on the basis of which the Committee is now making certain provisional

suggestions which might be taken into consideration in the preparation of an international convention.

" As to the procedure to be followed in the further consideration of this problem, the Committee suggests that the Council should set up a small mixed committee consisting of specialists in international criminal law, prosecution authorities, delegates of the banks of issue and one or two representatives of the Financial Committee. I think this suggestion a sound one, which it would be useful for the Council to adopt. Should the Council agree, the question of the composition of this mixed committee could be discussed at a private meeting.

" Accordingly, I have the honour to submit the following resolutions to the Council :

" I. The Council approves the report of the Financial Committee on the work of its twenty-fifth session held at Geneva from December 2nd to 8th, 1926.

. . . . . .

" IV. The Council :

" Decides to create a small mixed committee to consider the problem of counterfeiting currency and to prepare an international draft convention on the subject ; this committee should consist of specialists in international criminal law, prosecution authorities, delegates of the banks of issue and one or two representatives of the Financial Committee ; and

" Decides further to forward to this mixed committee the provisional suggestions of the Financial Committee. "

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G. Extract from the Minutes of the Fifth Meeting of the Forty-third Session of the Council.

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M. Urrutia, Rapporteur, spoke as follows :

The Council approved yesterday the creation of a small Mixed Committee for the purpose of considering the problem of dealing with the counterfeiting of currency and of preparing a draft international convention on the subject. The Council decided that this Committee should consist of specialists in international criminal law, prosecution authorities, delegates of banks of issue and one or two representatives of the Financial Committee.

The Financial Committee has suggested that this Committee should include :

(a) Dr. Pospisil, the present Chairman of the Financial Committee ;

(b) Delegates of banks of issue to be nominated by :

The Bank of France,
The Reichsbank,
The Swiss National Bank ;

(c) Specialists in international criminal law to be nominated by the Governments of :

Belgium,
Great Britain,
Italy ;

(d) Prosecution authorities to be nominated by the Governments of :

Austria,
Netherlands,
United States of America.

I think it is important that an expert from South America should also be a member of this Committee, and I would therefore suggest that the National Bank of the Argentine should also be invited to nominate an expert. Subject to this addition, I propose to the Council to approve the suggestion of the Financial Committee and to authorise the Secretary-General to invite the Government and banks of issue in the above list to nominate experts to serve on the Mixed Committee.

These proposals were adopted.

On the proposal of M. Guerrero, with which the Rapporteur agreed, and in view of the explanations given by M. Titulesco, *the Council decided to add Roumania to the list of States invited to appoint specialists in international criminal law*, so that the Roumanian Government might appoint the well-known expert M. Vespasien V. Pella.

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ANNEX III.

DOCUMENTS SUBMITTED TO THE COUNCIL BY THE MIXED COMMITTEE.

A. Letter addressed by the Chairman of the Mixed Committee to the President of the Council.

Geneva, October 13th, 1927.

By a resolution of December 9th, 1926, the Council decided to create a Mixed Committee to consider the subject of the counterfeiting of currency and to prepare the draft of an international Convention.

In execution of this reference, the Mixed Committee for the Suppression of Counterfeiting Currency, which was created in pursuance of that resolution, has considered the problem submitted to it. The conclusions of the Committee are contained in the attached report, which also includes the draft Convention which it has prepared.

On behalf of the Mixed Committee, I have the honour to submit these documents to the Council of the League of Nations, and I am happy to be able to say that they were approved unanimously by all the members who took part in the discussions.

The Committee is fully aware of the many difficulties which will have to be overcome, but it is convinced that the adoption and putting into force of the proposed Convention by a large number of States would mark an important step forward in the campaign against counterfeiting currency.

As to the action to be taken, the Committee would suggest to the Council that its report and the draft Convention should be forwarded to all Governments with a request for their observations, and that, at a later but not too distant date, a general conference should be convened for the final adoption of a Convention by as many States as possible.

If, on the receipt of the replies from Governments, the Council thought it desirable, the Mixed Committee would be happy to examine any amendments to the draft suggested in these replies.

(Signed) Dr. Vilém Pospisil,
Chairman of the Mixed Committee for the Suppression of Counterfeiting Currency.

B. Report submitted by the Mixed Committee.

Organisation and Terms of Reference of the Mixed Committee.

In its resolution of December 9th, 1926, the Council decided to set up a " Mixed Committee to consider the problem of counterfeiting currency and to prepare an international draft Convention on the subject ". This Committee was to consist of specialists in international criminal law, representatives of the authorities responsible for prosecutions, delegates of banks of issue and a representative of the Financial Committee. The Council also decided what Governments and banks of issue were to be invited to nominate experts as members of this Committee.

In conformity with the Council's resolution, the Mixed Committee was constituted as follows :

Dr. Vilém Pospisil	Chairman of the Financial Committee, Governor of the National Bank of Czechoslovakia.
Assistant :	
Dr. Jaroslav Kallab	Professor at the University of Brno, Expert in International Law.
M. Collard-Hostingue	Inspector-General of the Banque de France.
Dr. Wilhelm Vocke	Member of the Board of Directors of the Reichsbank.
Assistant :	
Dr. Wolfgang Mettgenberg	Ministerial Counsellor at the Reich Ministry of Justice.
M. Chs. Schnyder de Wartensee	Vice-Chairman of the Board of the Banque Nationale Suisse.
Assistant :	
M. Schwab	Secretary-General of the Banque Nationale Suisse, Head of the Disputed Claims Office.
M. Juan Carlos Cruz	Chief Legal Adviser of the Argentine National Bank, Member of the Superior Council of the University of Buenos Aires, Professor of Commercial Law in the Faculty of Law.

M. SERVAIS	Minister of State, Public Prosecutor to the Court of Appeal at Brussels.
Deputy in case of absence :	
M. CORNIL	Public Prosecutor, Professor of Penal Law at the University of Brussels.
Sir John FISCHER WILLIAMS, K.C., C.B.E.	Legal Adviser to the Reparation Commission.
Comm. Ugo ALOISI	Counsellor to the Court of Appeal at Rome.
M. Vespasien PELLA	Member of the Chamber of Deputies, Professor in the Faculty of Law at the University of Jassy and at the Academy of International Law at The Hague, Member of the Higher Legislative Council.
M. Johann SCHOBER	President of Police at Vienna, former Federal Chancellor.
Deputy :	
M. E. PFLÜGL	Minister Plenipotentiary.
Assistant :	
M. Hans ADLER	Assistant Counsellor to the International Criminal Police Commission, Editor of the *International Review of Characteristic Marks and Forgeries of Banknotes and other Legally Current Securities.*
Mr. W. H. MORAN	Chief of Secret Service, Treasury Department, Washington, D.C.
Baron VAN DER FELTZ	Doctor of Law, Public Prosecutor at the Court of Appeal at Amsterdam, Head of the Central Netherlands Organisation for the Suppression of Forgery.
Assistant :	
M. K. H. BROEKHOFF	Inspector-in-Chief of Police at Amsterdam, State Police Commissioner.

Proceedings of the Mixed Committee.

The Committee thus constituted held meetings at Geneva from June 23rd to 28th and from October 10th to 13th, 1927. It was unfortunately deprived, at its second session, of the assistance of M. Cruz and Mr. Moran, who were unable to travel to Geneva. The ground for its work had been well prepared by the enquiries addressed by the Financial Committee to the banks of the various countries, by the information supplied by the Government of the Netherlands and by the Government of Austria on the happy initiative taken by the International Criminal Police Congresses and the International Criminal Police Commission set up by these Congresses, by the information supplied by the Italian Government, by a very complete and striking report by Professor Pella, and finally by notes and drafts which were submitted to the Committee by some of its members—M. Pella, Comm. Aloisi, M. Schober, Baron van der Feltz, M. Schnyder de Wartensee, M. Cruz and Dr. Kallab.

Main ideas underlying the Mixed Committee's proposals.

The Mixed Committee was unanimous in its recognition of the importance, from an international point of view, of more effective measures for the suppression of counterfeiting currency.

Indeed, whether one considers the nature of the offence itself or of the interests which it injures, it will be seen that such counterfeiting endangers, not only the property rights of individuals, but also the monetary sovereignty of the State and those economic relations which depend intimately for their development on complete confidence in the security of the currency.

Moreover, the increasing intensity of economic relations between nations, involving as it does an expansion of international dealings in currency, causes the counterfeiting of currency to strike a blow not only at the public order of the State where the offence is committed, or at the credit of the State whose currency has been forged, but to undermine public confidence in the medium of exchange, as represented by the currency, thus hindering international economic co-operation.

Owing, therefore, to the nature of the interests which it injures, the counterfeiting of currency cannot be regarded as one of those offences whose mischievous effects on public order are confined to a given territory. It falls within the category of criminal acts the consequences of which are, or may be, detrimental to public order in several States, as well as to international relations. [1]

Another reason which renders necessary international co-operation for the repression of counterfeiting currency is the manner in which the offence is committed. The successive acts which go to make up the offence of counterfeiting are in fact often carried out in prolonged frequence on the territories of different States.

The more extensive use of banknotes, the facility with which the currency of one country can be changed in other countries, the difficulty for the public of testing the genuineness of

[1] See M. Briand's letter to the Secretary-General of the League of Nations, dated June 5th, 1926, *Official Journal*, page 95.

foreign currency are circumstances which have encouraged criminals to greater boldness, and lead them to extend their sphere of action and to create organisations with ramifications in a number of States.

These gangs of forgers find accomplices in every country who are ready to assist them in obtaining the means of committing the offence and at the same time to enable them to escape prosecution and punishment.

It is impossible for the States to remain indifferent before this international combination of criminal forces, which is itself a result of the continuous transformation and internationalisation of modern social life ; on the contrary, they must make the appropriate reply by improving the machinery for the punishment of crime by the closest international co-operation.

In view of its terms of reference, the Committee did not think it could make a full enquiry into the prevalence of the offence of counterfeiting currency. It merely requested the banks of issue throughout the world to furnish a few figures on this question. Though the replies received did not allow of the preparation of complete statistics, they were sufficient to confirm the Committee in its views as to the importance of international action.

A large number of banks of issue state that they have no precise knowledge of cases of counterfeiting reported in their respective countries, or of cases relating to their own notes discovered abroad ; the very absence of this knowledge shows the need of national offices to collect and centralise information of this nature, and the necessity of establishing close relations between these offices and the banks of issue.

* * *

Extent to which the Mixed Committee proposes to unify national systems of law.

International co-operation should take the form, in the first place, of a unification o municipal law, so as to ensure that criminals shall nowhere escape punishment, but that repressive measures should everywhere be severe, and, so far as possible, certain in their operation ; and, secondly, of a police organisation to ensure that detective measures shall be both swift and well co-ordinated, conditions which are essential to this efficacy.

The Mixed Committee realised that, in a task of such magnitude, it was necessary, particularly at the outset, to proceed with caution, and that it must content itself with proposing measures which were practicable at the moment and easy to realise, instead of seeking by theoretical methods to attain an ideal result.

In the draft Convention submitted to the Council, the Committee has sought to avoid any encroachment upon the fundamental principles of those national legal systems to the maintenance of which States are very properly attached. At the same time, the proposal contains the most effective rules for the prevention and punishment of offences relating to counterfeiting, and in paragraph 1 of Article 1 of the draft Convention the high contracting parties declare that they recognise these rules as such.

The uniform rules which the Mixed Committee proposes to introduce are in part of a legislative and in part of a purely administrative character.

Obligation assumed by States signing and acceding to the proposed Convention.

The signature of the Convention by any Government which becomes a party thereto involves an obligation to adopt the necessary measures for introducing these rules into its legislation and administration, except in so far as they may be already embodied therein, and when all the rules are so embodied, ratification by the Government will follow.

Such is the purport of the second sentence of Article 1 of the Convention, which reads as follows :

> " They [the High Contracting Parties] agree to adopt the necessary measures for introducing these rules into their respective legal and administrative systems, except in so far as they may be already embodied therein. "

The Committee further recommends that, even before the ratification of the proposed Convention, all Governments should, as far as possible, take suitable administrative steps to bring their departmental organisation into agreement with the Convention.

* * *

Rejection of proposal to extend the Convention to forgeries other than the counterfeiting of currency. Forged cheques.

The Mixed Committe thought that the application of these rules should be limited, at any rate for the present, to the counterfeiting of currency.

A note by Herr Schober shows clearly enough how desirable it might be to extend these rules, at any rate to the forging of cheques.

The Mixed Committee, however, did not see its way to adopt the proposal. The endeavours which have been made, so far without result, for the unification of laws regarding bills of exchange show how difficult such an attempt would be ; moreover, the forging of cheques has not quite the same mischievous effects on international economic relations as the forging of currency.

Meaning of the term " currency " employed in the Convention.

In the proposed Convention the word " currency " means both metallic and paper money, so that all notes, whether State notes or notes of legally authorised banks of issue, are included. This definition will be found in paragraph 1 of Article 1.

* * *

Offences which States are bound to punish under the Convention and to which the provisions of the Convention apply.

The second paragraph of Article 1 has been drafted with a view to penalising counterfeiting and the uttering of counterfeit currency in every shape and form :

> " The criminal law should include and punish with adequate penalties any fraudulent making or altering of currency, whatever means are employed, any fraudulent uttering of currency, and the introduction into a country or the receiving or procuring of currency which has been fraudulently made or altered, with knowledge of its fraudulent character, with a view to uttering the same. "

It is of the first importance for the effective repression of counterfeiting that it should be punishable everywhere, no matter what means may have been employed. That is already the case in most legal systems ; it has, however, been pointed out that in some countries the making of a false note out of fragments of genuine notes is not an offence ; this ought not to be so.

Not only the forging and altering, but also the uttering of counterfeit currency are to be punishable offences, the word " uttering " being held to cover putting in circulation in any form, including the mere introduction, exportation or possession of counterfeit currency with a view to putting it in circulation, provided that the person introducing, exporting or in possession of such currency received or procured it knowingly and with the intention of putting it in circulation.

The following acts are also to be held to constitute the offence of counterfeiting : the making of coins, even if their standard and weight are identical with or superior to that of the genuine coins ; the diminution of the intrinsic value of genuine coins by altering their substance or weight ; the alteration of coins, paper money or banknotes which are no longer current, with a view to and the result of giving them the appearance of money which is current ; any operation with a view to giving metal or paper currency or genuine banknotes the appearance of currency of a higher value by altering the marks or figures indicating the nominal value.

Fraudulent intent an element of the offence and proof thereof.

The text of the provision makes the fraudulent intention of the offender an element in the offence, and the burden of proof here or elsewhere will rest on the prosecution.

The suggestion that, as regards this fraudulent intent, the onus of proof should be shifted and replaced by a *præsumptio juris tantum*—in other words, that, in the absence of proof to the contrary, any falsification (making or altering) or uttering of counterfeit currency should be deemed to be fraudulent—has not been accepted, although, of course, any State is at liberty to include such a provision in its laws.

In point of fact, intent to defraud is in most instances easy to prove from the actual circumstances of the case *(dolus in ipsa re)*, and the shifting of the onus of proof would be a serious and hardly admissible departure from a principle which is regarded in most legislative systems as inviolable and to which public opinion in many countries is deeply attached.

Latitude allowed to States to define the offences in question and fix the penalties therefor.

It is for the legislature of each country to classify these offences as may be thought best ; the important point is that all of them should be punishable. The Convention is very explicit on this point : " The criminal law should include and punish with adequate penalties . . . "

Subject to the restriction mentioned in paragraph V, which will be dealt with later, the legislatures of the various countries retain complete power as to the classification of offences and the fixing of the character and severity of penalties.

Colouring of coins. Making without fraudulent intent.

Colouring or the use of any other process to give metal currency the appearance of a higher value is a fraudulent act which is punishable under the laws of many countries. Though it is clearly desirable that this should be the case in all countries, the Mixed Committee did not consider that this offence should be assimilated to that of forging currency, since the genuine money continues to exist with its substance intact and unchanged.

The Financial Committee had given a favourable reception to the opinion, which all the banks consulted expressed, that the falsification of currency without fraudulent intent should be made punishable, but that the penalty imposed should be lighter.

In the Mixed Committee's opinion, a provision to this effect would undoubtedly be desirable if and in so far as the falsification is of a character to cause loss, and indeed such a provision already exists in a number of legal systems. But the Committee did not consider it absolutely essential for the suppression of the crime of counterfeiting, regarded as an international danger ; in the view of the Committee, the proposed international Convention should be confined to essential provisions of this character.

* * *

Every act to be punishable as a separate offence, particularly the acts of counterfeiting and uttering.

Paragraph III states :

> " Each of the acts mentioned in paragraph II should be considered as a separate and distinct offence, at any rate if the acts are committed in different countries. "

" Each of the acts mentioned in paragraph II " : This expression implies that each act of making, altering, uttering or being fraudulently in possession of currency, when committed in different countries, even by the same individual, should be capable of being dealt with in each country as a separate offence independent of the others.

In this way effect was given to the happy suggestion made to the Committee by M. Schober, who pointed out that " the making and uttering of counterfeit currency should be punishable in each State as a separate offence, even when the notes or coins have been counterfeited or altered in the territory of another State, or if their putting into circulation was begun in the territory of a State other than that in which the notes or coins were issued ".

This provision does not, of course, prevent the law of a country, in a case where the making and uttering, or a number of acts of making and uttering, are being prosecuted simultaneously, from treating such acts as constituting a single offence.

* * *

Attempts, accessories.

The serious nature of the offence of counterfeiting and the danger it entails are sufficient to justify the provisions of paragraph IV, penalising attempts—*i.e.*, outward acts showing a criminal intent and constituting the initial steps of the commission of the offence, and also complicity—*i.e.*, participation with the offender either as a principal or accessory in the commission of an offence.

* * *

Acts preparatory to offence. Instruments for the making of Counterfeit Currency.

A proposal was made that the criminal law should include acts merely preparatory—that is to say, all acts revealing a criminal intent before the stage of actual commission was reached. As regards these preparatory acts, however—without prejudice to any more comprehensive provisions which may exist in individual systems of law—the Mixed Committee has only retained as punishable offences—and that on account of their definite significance and their seriousness—the fact of being in possession of or manufacturing with fraudulent intent instruments or other articles intended for the counterfeiting of currency (paragraph V).

* * *

The counterfeiting of currency of a foreign country to be punished in the same way as the counterfeiting of domestic currency.

In many legal systems the penalty for counterfeiting differs if the currency forged is national or foreign. Valuable information on this subject is provided by M. Pella's report.

This mitigation of the penalty when the criminal has only forged a foreign currency would appear to be a survival of the tradition which looked upon forgery as a kind of treason, the right to coin money being a royal right. But the recognition that the suppression of counterfeiting is of international importance and that the crime causes international damage deprives this differentiation of any justification. The abolition of the distinction would, by the deterrent effect of the threat of severe punishment, be one of the most effective means of checking a crime which by its very nature knows no State frontiers.

For that reason, the draft contains the following provision, to which the Mixed Committee attaches particular importance :

> " No distinction should be made in the scale of punishments for offences referred to in this Convention between acts relating to domestic currency on the one hand and to foreign currency on the other according to the offences referred to in this Convention, whether or not reciprocal treatment is accorded by law or by treaty." (Paragraph VI.)

" Whether or not reciprocal treatment is accorded by law or by treaty " : It is not so much on account of international solidarity as for their own protection that States make punishable the manufacture and uttering of false foreign currency ; it would be indispensable to make such punishment conditional upon inter-State reciprocity.

* * *

How the counterfeit currency and instruments of manufacture are to be dealt with after the conviction of the offender.

> " Counterfeit or altered currency and materials used for counterfeiting or altering or intended for that purpose as provided in paragraph V should be confiscated. Such currency and material should, on application, be handed over after confiscation either to the Government or bank of issue whose currency is in question, with the exception of exhibits whose preservation as a matter of record is required by the law of the country where the prosecution took place and any specimens whose transmission to the Central Office, mentioned in paragraph XII, may be deemed advisable. In any event, all such articles should be rendered incapable of use." (Paragraph VII.)

It is obviously important to the issuing institution injured by the falsification of its currency to obtain the counterfeit currency, and in particular the materials used for counterfeiting. This point is made by all the banks consulted.

Nevertheless, it is clear that, if a large quantity of false metal currency or notes which are all identical has been seized, it is not necessarily in the interests of the State or institution that it should have the whole consignment sent to it, provided that whatever is not sent is rendered unfit for use or destroyed. This, indeed, is prescribed in all systems of law.

Moreover, though it is important for the issuing institution injured by the falsification of its currency to obtain the counterfeit currency and material, this consideration must give place to the legitimate requirements of those systems of law which prescribe that exhibits should be preserved in the records of the Court ; such exhibits have directly contributed to the decision and are valuable for its defence.

The Mixed Committee has been assured that this necessary restriction—which would, of course, be applied with moderation and good sense—is not likely in practice to prejudice seriously the interests of the issuing authority, which, indeed, could readily obtain permission from the authorities concerned to have the exhibits sent to it for examination without its being necessary to send a representative abroad.

* * *

Recognition of a foreign " Civil Party ".

> The provisions of paragraph VIII are obviously just and equitable and furnish an additional means of dealing with offences :
>
> " In those countries which allow ' civil parties ' to criminal proceedings, foreign ' civil parties ', including the Government whose money has been counterfeited, should be entitled to all rights and powers allowed to inhabitants by the laws of the country where the case is tried. "

* * *

Extradition.—Political offence.

Paragraph IX of Article 1 and Article 2 of the draft are closely related, both referring to the extradition of principal offenders or accomplices in offences covered by the Convention.

In the opinion of the Mixed Committee, the international unification of the rules for the extradition of persons accused or convicted is highly desirable with a view to ensuring really effective action in all criminal cases. But an attempt to effect such a general unification covering all offences, would have been outside the Committee's province, and the Committee

therefore did not think it opportune to attempt such a unification, even if confined to the offence of counterfeiting money. The rules for extradition in the different countries are based on traditional ideas, but, within the limits of their rules, it is possible and indeed necessary to lay down the principle that the counterfeiter of currency should not be allowed to find shelter and go unpunished in any civilised country, and that counterfeiting, taken by itself, should not be allowed, as regards extradition, the benefit of the privileges ordinarily applicable to political offences.

Political motive.

The text of the draft (paragraph IX) does not definitely say, as was suggested, that counterfeiting can never be regarded as a political offence. It is more accurate. It states that a political motive, genuine or alleged, on the part of the offender is not enough to make an act of counterfeiting a politica offence. It thus applies a generally accepted and reasonable principle, namely, that a political offence is an act of which the sole or main result intended is an attempt on the political order of a State and nothing more. Counterfeiting currency, as a rule, is a direct attack upon rights and interests which are in no way political, and the mere existence of a political motive does not affect the actual result produced or, consequently, the character of the offence as an ordinary crime.

This is not to say that it is impossible to conceive circumstances where an act of counterfeiting, being closely connected with political action, might be accorded the benefit of the special rules which in most States apply to ordinary criminal offences when closely connected with political action. Such would be the case if, during a revolution, the insurgents, being temporarily in possession of power, assumed the right to coin money on behalf of the State and afterwards, when the legal Government had regained control, were prosecuted for thus issuing money.

* * *

Extradition crimes.

Article 2 of the draft Convention reads as follows :

> " The offences referred to in this Convention are recognised as extradition crimes. Extradition will be granted in conformity with the internal law of the country applied to. "

This is not one of the rules contained in Article 1 which the high contracting parties undertake to embody in their laws or regulations, but is an international undertaking which they assume on signing and ratifying the Convention and which involves the reciprocal obligation of granting the surrender of principal offenders or accomplices in cases of counterfeiting currency. This obligation is already in existence, and the manner of giving effect to it is prescribed in the internal legislation of the countries concerned and, in particular, of the country to which application is made. If, for example, a case of counterfeiting currency was found, subject to the provisions of paragraph IX, to be a political offence, it would not be covered by Article 2. The law of the country to which application is made and the proceedings will be conducted in the manner and with the guarantees provided for in that law.

* * *

Counterfeiter or accessory who has taken refuge abroad, and who is not extradited.

Paragraphs X and XI of Article 1 constitute an indispensable application of the principle underlying the proposed Convention, *i.e.*, that the counterfeiting of currency should nowhere go unpunished. For this purpose it is necessary that, when a forger or his accomplice commits his crime in one country and takes refuge in another, he should either be prosecuted in the country where he has taken refuge or be surrendered by that country.

The latter remedy is applied in all cases by those States which allow their own nationals to be extradited, and therefore the obligation to prosecute should only apply to other States, and even those States will be under no such obligation if the surrender of the offender would have to be refused for a reason directly connected with the charge (e.g., period of limitation).

When the criminal is a foreigner, then, under the draft Convention, the obligation to prosecute in the country in which he has sought refuge depends in the first place on the condition that the internal law of the country recognises the principle of prosecuting offences committed abroad ; if the country does not recognise this principle, it will extradite. Further, the obligation to prosecute in the country where the criminal has taken refuge is subject, even in the case of States which recognise the principle of prosecution for offences committed abroad, to two conditions, viz., that extradition has not been requested or cannot be granted for some reason which has no connection with the offence itself, and that a complaint is made by the injured party or official notice given by the foreign authority. From what we have already said, the first condition requires no special justification, and the second is the recognition of the fact that, in the case in question, the injured party and the State on the territory of which the offence was committed are in the best condition to judge of the advisability of prosecution.

Paragraphs X and XI are as follows :

" X. In countries where, as a general rule, the principle of the extradition of nationals is not recognised, nationals who have taken refuge in the territory of their own country after the commission abroad of any offence referred to in this Convention, or of any act rendering them liable as accessories to such an offence, should be punishable in the same manner as if the offence or act in question had been committed in their own territory, even in a case where the offender has acquired his nationality after the commission of the offence. This provision does not apply if, on the same facts, the extradition of a foreigner could not be granted on account of the nature of the offence or act in question. "

" XI. Foreigners who have committed abroad any offence referred to in this Convention, or any act rendering them liable as accessories to such an offence, and who are in the territory of a country whose internal legislation recognises as a general rule the principle of the prosecution of offences committed abroad, should be punishable in the same way as if the offence or act had been committed in the territory of that country.

" The obligation to take proceedings is subject to the following conditions :

" (1) That extradition has not been requested, or cannot be granted, for some reason which has no connection with the offence or act itself ;

" (2) That a complaint is made by the injured party or official notice given by the foreign authority. "

" These provisions do not prejudice the reservation contained in Article 3. "

* * *

National central offices.

One of the surest means of suppressing the counterfeiting of currency lies in the co-ordination for a prosecution of the efforts of magistrates and police in different countries.

The value of this co-ordination has been shown by the results already obtained in this way by the International Criminal Police Commission, which has begun by contributing very largely to centralising intelligence work in a large number of countries.

Paragraphs XII, XIII and XIV of Article 1 are intended to promote this co-ordination, which already exists in practice, and which must be based on the co-ordination of the efforts of the police and magistrates of each country in its own territory. Co-ordination will be further developed by the extension of the institution already existing of a central office for police investigations in every country.

Each of these offices must do its work on the lines of its own national legal system. For example, there can be no question of altering the rules of procedure which, in each country, govern information and prosecutions, but it is possible, as experience has proved, to organise the relations of the various competent authorities in administrative matters in such a way as to ensure that their activities will be centralised in the hands of a single office.

The duties of this office would be as follows : to keep in close contact with the institutions responsible for the issue of paper money and metal currency (bank of issue and other institutions), with the other police authorities in the same country, and with the central offices of other countries ; to centralise in each country all information of a nature to facilitate the investigation, prevention and suppression of counterfeiting currency ; to forward—so far as expedient—to the central offices of the other countries a set of cancelled specimens of the bank and currency notes of its own country ; to notify regularly to the central offices in foreign countries—giving all necessary particulars—new domestic issues of bank or currency notes or of metallic currency and the withdrawal from circulation, whether as out of date or otherwise, of bank or currency notes and metallic currency, except in cases of purely local interest ; and, subject to the same limitations, to notify to the foreign central offices any discovery of forged notes or currency. Notification of the forgery or alteration of bank or currency notes will be accompanied by a technical description of the forgeries, to be provided solely by the institution whose notes have been forged ; if possible, a specimen forged note or a photographic representation will be transmitted. Each central office will also supply the other central offices with particulars of the investigations, prosecutions, arrests of, sentences on, and expulsions of currency forgers, the movements of forgers, and any details which may be of use, in particular their descriptions, finger-prints and photographs, and details of discoveries of counterfeiting, stating whether it has been possible to seize all the counterfeit currency put into circulation.

The paragraphs with which we are dealing in addition lay down two principles : (1) that the central offices in the various countries must correspond direct with each other ; and (2) that close contact should be maintained between the central office and the issuing institution in the same country.

Attention was drawn to the great importance—immediately on the detection of new cases of a foreign country's banknotes being forged—of notifying without delay the issuing institution affected ; the central office of the country whose currency was forged would, upon

receipt of the communication from the central office of the country where the forgery was discovered, have to advise immediately its own issuing institution.

Similarly, in a case where, on the discovery of the uttering of counterfeit currency in a country, it appears that the traces of the criminal can easily be followed up in another country, the office of the former country should advise the office of the latter without delay. But, in certain cases, such a notification, if made even before the issuing institution or the Government concerned could be advised and consulted, would have its disadvantages if it immediately brought to the notice of the public the putting into circulation of counterfeit currency, when the institution or Government in question might have legitimate reasons for not disclosing the fact at once.

The draft Convention takes account of these various requirements by stipulating that, in urgent cases, a notification and a brief description by the police authorities of the counterfeit currency may be discreetly communicated to the central offices which are considered to be interested, without prejudice to the notification and technical description mentioned above.

* * *

It is obvious that the constitution and precise composition of the national central offices are a matter for the individual countries and that they cannot be regulated by a general Convention. The Committee desired, however, to recommend that it is desirable :

(1) That such central offices should as far as possible be set up in colonies ;

(2) That the different banks of issue should establish special offices to maintain contact with the central offices ;

(3) That these offices should be able to count on the services of police officials with a special knowledge of questions of counterfeiting and that experts thoroughly acquainted with printing should be attached to these offices.

* * *

Central International Office.

When central offices have been constituted in the majority of countries, as they are already in a large number, the system of co-operation between the various police forces may doubtless be completed by the institution of a central international office acting as an organ for collecting information and for bringing the individual national offices into contact with each other.

The Mixed Committee considers that the time has not yet come to set up this international office, but it recognises in principle the desirability of its creation. Seeing, however, that for such an organisation the fundamental principles must first of all be set out in a Convention, the means by which the creation of a central international office could be systematically carried through are indicated in paragraph XV of Article 1. This paragraph is as follows :

> " In order to ensure, improve and develop direct international co-operation in the prevention and punishment of counterfeiting currency, the representatives of the central offices of the High Contracting Parties should from time to time hold conferences with the participation of representatives of the banks of issue and of the central authorities concerned. The organisation and supervision of a central international information office may form the subject of one of these conferences. "

The Mixed Committee recognises the signal services and merits of the International Office at Vienna, which was set up in 1923 by the International Congress of Police and directed by the Chief Commissioner of Police at Vienna, under the guidance of the International Criminal Police Commission. In particular, this office took the initiative in founding a publication entitled *La sûreté publique internationale (International Police Review)*, to which is appended another publication called *Marques caractéristiques des billets de banque et autres valeurs authentiques et leurs falsifications (Characteristic Marks and Forgeries of Banknotes and other legally current Securities)*, published by the Association of Austrian Banks and Bankers, under the auspices of the Commission and the supervision of the Austrian Government. The Committee has been assured that in this way every case of counterfeiting is brought immediately it is detected and with all necessary discretion to the notice of the administrations and banks concerned. Experience has shown the value of this publication in helping to prevent and punish counterfeiting.

Having regard to the foregoing, the Mixed Committee made the following recommendation :

> " It is desirable that, pending the creation of an international bureau, as contemplated by paragraph XV of Article 1, the work of the International Bureau at Vienna, which was fully appreciated by the Committee, should be continued, with the completest possible co-operation of the Governments ; according to the information supplied to the Committee, the International Bureau, by centralising information as to counterfeiting currency, displays an activity which is directed to the task which might be allotted to the organisation contemplated in paragraph XV. "

Letters of request.

When, as often happens in cases of counterfeiting currency, an offence has been committed or begun, continued and completed in the territory of more than one State, the preparation

of the case against the accused may involve the despatch and execution of letters of request from examining magistrates in one country to those in another.

In the view of the Mixed Committee, this question, like that of extradition, should be dealt with in an international Convention, which would unify the rules on the subject, but here again, the Committee, having regard to its terms of reference, limits its proposals to letters of request issued in the course of the proceedings contemplated in the proposed Convention.

The execution of letters of request, being an act of international courtesy, must in principle be authorised by the Government of the country in which the request is executed. The Government usually reserves the right to refuse the execution of letters of request in cases which cannot lead to extradition—as, for example, in the case of a political offence; hence letters of request are usually sent through the diplomatic channel—in other words, from one Government to another. As experience daily shows, however, this method is extremely slow, and it will easily be realised that such slowness hinders and sometimes jeopardises the result of the prosecution.

This method must therefore be abandoned, and such an abandonment should cause no difficulty, particularly as far as counterfeiting currency is concerned, if the Government of the country where the letters of request are executed retains sufficient power of supervision. In any event, in cases where the use of the diplomatic channel is retained, the procedure followed in regard to the document transmitted should be made as short as possible.

Paragraph XVI of Article 1 of the draft lays down the principle that the transmission of letters of request relating to offences falling under the Convention shall be effected preferably by direct communication between the judicial authorities, possibly through the central offices ; the paragraph adds that, in order to ensure Government supervision in these cases, a copy of the letters of request shall always be sent at the same time to the superior authority of the country to which application is made.

If a country acceding to the Convention cannot see its way to accept this system, two other alternatives are open to it : (1) the transmission may be effected either by direct correspondence between the Ministers of Justice of the two countries or by direct transmission from the authority of the country making the request to the Minister of Justice of the country to which the request is made ; (2) through the diplomatic or consular agent of the country making the request in the country to which the request is made, a copy of the letter of request being sent to the Government of the latter country.

This agent will send the letter of request direct to the competent judicial authority, or to the authority appointed by the Government of the country applied to, and will receive direct from the authority the documents notifying the execution of the letter of request.

The paragraph adds the following :

> " Unless otherwise agreed, the letters of request shall be drawn up in the language of the authority making the request, provided always that the country to which the request is made may require a translation in its own language, certified correct by the authority making the request.
>
> " Each Contracting Party shall notify to each of the other Contracting Parties the method or methods of transmission mentioned above which it will recognise for the letters of request of the latter Party. The language to be employed in the letters of request of that Party shall at the same time be determined.
>
> " Until such notification is made by a High Contracting Party, its existing procedure in regard to letters of request shall remain in force.
>
> " Execution of letters of request shall not be subject to payment of taxes or expenses of any nature whatever. "

The purport of the last paragraph but one above is that, so long as a Government has not notified the method of transmission which it desires among those indicated, the existing procedure will be followed in the relations of the authorities of that Government with the authorities of the other countries.

The paragraph closes with a reservation which is so natural and legitimate that it might be thought self-evident and superfluous :

> " Nothing in the present paragraph shall be construed as an undertaking on the part of the Contracting Parties to adopt in criminal matters any form or methods of proof contrary to their laws. "

* * *

International recognition of previous convictions.

The manner in which offences connected with the counterfeiting of currency are committed frequently gives them an international character and renders it desirable, if they are to be adequately punished, that the Court should be able to take full account of the antecedents of the accused, even if he has hitherto only been convicted abroad.

The Mixed Committee adopted a recommendation on these lines, though it did not think that it could be embodied at present in an international Convention :

> " The Committee regards with interest the introduction, and proposals for the introduction, into certain systems of law of the principle of putting a foreign conviction, upon conditions to be determined by domestic legislation, upon the same footing as a conviction by a Court of the country concerned from the point of view of dealing with habitual criminals so as to increase the sentences on, or take other subsidiary measures for the protection of society against, professional forgers. "

Article 2 of the draft was discussed on pages 233 and 234 in connection with paragraph IX of Article 1.

* * *

Reservation regarding the principle of the territorial character of criminal law.

Article 3 of the draft states that " the participation of a High Contracting Party in the present Convention shall not be interpreted as affecting that Party's attitude on the general question of the criminal jurisdiction of States as a question of international law ".

This reservation applies to all the stipulations of the Convention, particularly to paragraphs X and XI of Article 1, which imply or might seem to imply an exception to the principle of the territoriality of criminal law.

* * *

Provisions regarding the acceptance, coming into force, and denunciation of the Convention. Jurisdiction of the International Court.

The other articles of the draft Convention contain the provisions usually found in international conventions. The text was taken from the most recent conventions concluded under the auspices of the League of Nations.

The most important of these clauses is Article 4, relating to disputes which may arise relating to the interpretation or application of the Convention.

This article provides that the Permanent Court of International Justice shall have jurisdiction in accordance with Article 36 of its Statute. If it is competent to deal with the question, the latter will be referred to it under Article 40 of its Statute by means of a submission to arbitration drawn up by the parties, should they agree on this point, and if not, by means of a request from one party only.

* * *

Measures for the prevention of counterfeiting.

Any account of the action taken against counterfeiting would be incomplete without some reference to the extension of preventive measures to increase the difficulty of forging banknotes.

These measures may be considered under two main heads.

In the first place, police methods and police work might be improved and international co-operation in regard to prosecution might be developed in such a way as to facilitate the detection of acts preparatory to counterfeiting. In this sphere also, the application of the principle of the centralisation of investigation and intelligence contained in the Convention will certainly produce appreciable results. The persons attending the periodical meetings referred to in Paragraph XV might give special consideration at every stage of their work to this aspect of the problem. It is, moreover, obvious that the strengthening of the criminal law as a result of the application of the principle that the counterfeiter should not be able to take refuge in any country and the legislative measures contemplated in the Convention will give excellent results.

At the same time, the problem has a definitely technical aspect. The more perfect the manufacture of banknotes from the point of view of the material and the processes employed, the more difficult the forgery of such notes becomes. The issuing institutions have been working in this direction for a long time past, but it is also certain that, by means of suitable international co-operation, this work might be intensified and made more effective. The machinery for co-operation which is provided for in the Convention and the Committee's recommendations is certainly adapted to serve as the basis for work of this nature. It would not appear to be impossible that, independently of this machinery, advantage might be taken in this direction also of the co-operation between central banks which is recommended for other purposes.

A number of concrete suggestions were submitted to the Mixed Committee, such as the use of a single kind of paper for the manufacture of notes and a uniform type of banknote. The Committee did not discuss these suggestions, as they did not come within its province and they are referred to here solely for purposes of record.

C. Draft Convention. [1]

[List of Heads of States.]

being desirous of ensuring the effectual prevention and punishment of counterfeiting currency, have appointed as their plenipotentiaries [list of plenipotentiaries] ;
who, having communicated their full powers found in good and due form, have agreed on the following provisions :

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[1] The side-headings summarising the contents of the articles or paragraphs of the draft Convention are for convenience of reference only and do not form part of the text of the draft.

Article 1.

Meaning of the term " currency ".
Obligation of States signing or acceding to the proposed Convention to adopt following rules.

Paragraph I.

The High Contracting Parties recognise the rules laid down in this article as the most effective means for ensuring the prevention and punishment of the offence of counterfeiting currency, the word " currency " being understood to mean paper money, including banknotes and metallic money, the circulation of which is legally authorised.

They agree to adopt the necessary measures for introducing these rules into their respective legal and administrative systems, except in so far as they may be already embodied therein.

Offences which States are bound to punish under the Convention and to which the provisions of the Convention apply.

Paragraph II.

The criminal law should include and punish with adequate penalties any fraudulent making or altering of currency, whatever means are employed, any fraudulent uttering of currency, and the introduction into a country or the receiving or procuring of currency which has been fraudulently made or altered, with knowledge of its fraudulent character, with a view to uttering the same.

Each act to be punishable as a separate offence.

Paragraph III.

Each of the acts mentioned in paragraph II should be considered as a separate and distinct offence, at any rate if the acts are committed in different countries.

Attempts and accessories.

Paragraph IV.

Attempts to commit these offences and any act which renders a person accessory thereto should be punishable.

Instruments for counterfeiting currency.

Paragraph V.

Manufacturing, receiving, or procuring, with fraudulent intent, instruments or other articles intended for the counterfeiting or altering of currency should be punishable.

No distinction to be made between the punishment of counterfeiting foreign and counterfeiting domestic currency.

Paragraph VI.

No distinction should be made in the scale of punishments for offences referred to in this Convention between acts relating to domestic currency on the one hand and to foreign currency on the other, whether or not reciprocal treatment is accorded by law or by treaty.

How the counterfeit currency and instruments of manufacture are to be dealt with after conviction.

Paragraph VII.

Counterfeit or altered currency and materials used for counterfeiting or altering, or intended for that purpose as provided in paragraph IV, should be confiscated. Such currency and materials should, on application, be handed over, after confiscation, either to the Government or bank of issue whose currency is in question, with the exception of exhibits whose preservation as a matter of record is required by the law of the country where the prosecution took place, and any specimens whose transmission to the Central Office, mentioned in paragraph XI, may be deemed advisable. In any event, all such articles should be rendered incapable of use.

Recognition of a foreign " civil party ".

Paragraph VIII.

In those countries which allow " civil parties " to criminal proceedings, foreign " civil parties ", including the Government whose money has been counterfeited, should be entitled to all rights and powers allowed to inhabitants by the laws of the country where the case is tried.

Political motive.

Paragraph IX.

The political motive of an offender is not enough to make an offence coming under the present Convention a political offence.

Criminal taking refuge abroad and not extradited.

Paragraph X.

In countries where, as a general rule, the principle of the extradition of nationals is not recognised, nationals who have taken refuge in the territory of their own country after the commission abroad of any offence referred to in this Convention, or of any act rendering them liable as accessories to such an offence, should be punishable in the same manner as if the offence or act in question had been committed in their own territory, even in a case where the offender has acquired his nationality after the commission of the offence.

This provision does not apply if on the same facts the extradition of a foreigner could not be granted on account of the nature of the offence or act in question.

Paragraph XI.

Foreigners who have committed abroad any offence referred to in this Convention, or any act rendering them liable as accessories to such an offence, and who are in the territory of a country whose internal legislation recognises as a general rule the principle of the prosecution of offences committed abroad, should be punishable in the same way as if the offence or act had been committed in the territory of that country.

The obligation to take proceedings is subject to the following conditions :

(1) That extradition has not been requested, or cannot be granted, for some reason which has no connection with the offence or act itself ;

(2) That a complaint is made by the injured party or official notice given by the foreign authority.

These provisions do not prejudice the reservation contained in Article 3.

National central offices.

Paragraph XII.

In every country, within the framework of its own laws, investigations should be organised by a central police office.

This central office should be in close contact :

(a) With the institutions issuing currency ;
(b) With the other police authorities within the country ;
(c) With the central offices of other countries.

This central office should, in each country, centralise all information of a nature to facilitate the investigation, prevention and punishment of counterfeiting currency.

Paragraph XIII.

The central offices of the different countries should correspond directly with each other.

Paragraph XIV.

Each central office should, so far as it considers expedient, forward to the central offices of the other countries a set of cancelled specimens of the genuine bank or currency notes of its own country.

It should, subject to the same limitation, regularly notify to the central offices in foreign countries, giving all necessary particulars :

(a) New issues, made in its own country, of bank or currency notes, or of metallic currency ;

(b) The withdrawal from circulation, whether as out of date or otherwise, of bank or currency notes or metallic currency.

Except in cases of purely local interest, each central office should, so far as it thinks expedient, notify to the central offices in foreign countries :

(1) Any discovery of forged notes or coin. Notification of the forgery of bank or currency notes shall be accompanied by a technical description of the forgeries, to be provided solely by the institution whose notes have been forged. If possible, a specimen forged note or a photographic reproduction should be transmitted. In urgent cases, a notification and a brief description made by the police authorities may be discreetly communicated to the central offices which are considered to be interested, without prejudice to the notification and technical description mentioned above ;

(2) Investigation and prosecutions in cases of counterfeiting and arrests, convictions and expulsions of counterfeiters, and also, where possible, their movements, together with any details which may be of use, and in particular their descriptions, finger-prints and photographs ;

(3) Details of discoveries of forgeries, stating whether it has been possible to seize all the counterfeit currency which a gang has put into circulation.

Central International Office.

Paragraph XV.

In order to ensure, improve and develop direct international co-operation in the prevention and punishment of counterfeiting currency, the representatives of the central offices of the High Contracting Parties should from time to time hold conferences with the participation of representatives of the banks of issue and of the central authorities concerned. The organisation and supervision of a central international information office may form the subject of one of these conferences.

Letters of request.

Paragraph XVI.

The transmission of letters of request relating to offences referred to in this Convention should be effected :

(a) Preferably by direct communication between the judicial authorities, through the central offices where possible ;

(b) By direct correspondence between the Ministers of Justice of the two countries, or by direct communication from the authority of the country making the request to the Minister of Justice of the country to which the request is made ;

(c) Through the diplomatic or consular representative of the country making the request in the country to which the request is made.

This representative shall send the letters of request direct to the competent judicial authority or to the authority appointed by the Government of the country to which the request is made, and shall receive direct from such authority the papers showing the execution of the letters of request.

In cases *(a)* and *(c)* a copy of the letters of request shall always be sent simultaneously to the superior authority of the country to which application is made.

Unless otherwise agreed, the letters of request shall be drawn up in the language of the authority making the request, provided always that the country to which the request is made may require a translation in its own language, certified correct by the authority making the request.

Each Contracting Party shall notify to each of the other Contracting Parties the method or methods of transmission mentioned above which it will recognise for the letters of request of the latter Party. The language to be employed in the letters of request of that Party shall at the same time be determined.

Until such notification is made by a High Contracting Party, its existing procedure in regard to letters of request shall remain in force.

Execution of letters of request shall not be subject to payment of taxes or expenses of any nature whatever.

Nothing in the present paragraph shall be construed as an undertaking on the part of the Contracting Parties to adopt in criminal matters any form or methods of proof contrary to their laws.

Article 2.

Extradition crimes.

The offences referred to in this Convention are recognised as extradition crimes. Extradition will be granted in conformity with the internal law of the country applied to.

Article 3.

Reservation regarding the principle of the territorial character of criminal law.

The participation of a High Contracting Party in the present Convention shall not be interpreted as affecting that Party's attitude on the general question of the criminal jurisdiction of States as a question of international law.

Article 4.

Settlement of disputes.

The High Contracting Parties agree that any disputes which might arise between them relating to the interpretation or application of this Convention shall, if they cannot be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case any or all of the States Parties to such a dispute should not be Parties to the Protocol of December 16th, 1920, relating to the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties and in accordance with the constitutional procedure of each State, either to the Permanent Court of International Justice or to a Court of Arbitration constituted in accordance with the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, or to some other Court of Arbitration.

Article 5.

Signature and ratification of the Convention.

The present Convention, of which the French and English texts are both authentic, shall bear to-day's date. Until the .... day of .... 19.. it shall be open for signature on behalf of any Member of the League of Nations and on behalf of any non-member State which was represented at the Conference of .... or to which a copy has been communicated for this purpose by the Council of the League of Nations.

It shall be ratified, and the instruments of ratification shall be transmitted to the Secretary-General of the League of Nations, who will notify their receipt to all the Members of the League and to the non-member States aforesaid.

Article 6.

Accession to the Convention.

After the .... day of .... 19.. the present Convention shall be open to accession on behalf of any Member of the League of Nations and any of the non-member States mentioned in Article 5 on whose behalf it has not been signed.

The instruments of accession shall be transmitted to the Secretary-General of the League of Nations, who will notify their receipt to all the Members of the League and to the non-member States mentioned in Article 5.

Article 7.

Provisions regarding Colonies.

Any High Contracting Party may, at the time of signature, ratification or accession, declare that, in accepting the present Convention, he does not assume any obligations in respect of all or any of his colonies, protectorates or territories under suzerainty or mandate ; and the present Convention shall not apply to any territories named in such declaration.

Any High Contracting Party may give notice to the Secretary-General of the League of Nations at any time subsequently that he desires that the Convention shall apply to all or any of his territories which have been made the subject of a declaration under the preceding paragraph, and the Convention shall apply to all the territories named in such notice ninety days after its receipt by the Secretary-General of the League of Nations.

Any High Contracting Party may at any time denounce the Convention for all or any of the colonies, protectorates or territories referred to above. Article 10 shall apply to such denunciation.

Article 8.

Entry into force of the Convention.

The present Convention shall not come into force until five ratifications or accessions on behalf of Members of the League of Nations or non-member States have been deposited. 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 fifth ratification or accession.

Article 9.

Date of taking effect of subsequent ratifications or accessions.

After the coming into force of the Convention in accordance with Article 8, each subsequent ratification or accession shall take effect on the ninetieth day from the date of its receipt by the Secretary-General of the League of Nations.

Article 10.

Denunciation.

The present Convention may be denounced on behalf of any Member of the League of Nations or non-member State by a notification in writing addressed to the Secretary-General of the League of Nations, who will inform all the Members of the League and the non-member States referred to in Article 5. Such denunciation shall take effect one year after the date of its receipt by the Secretary-General of the League of Nations, and shall operate only in respect of the High Contracting Party on whose behalf it was notified.

Article 11.

Registration of the Convention.

The present Convention shall be registered by the Secretariat of the League of Nations on the date of its coming into force.

In faith whereof the above-mentioned plenipotentiaries have signed the present Convention:

[Follow the signatures]

Done at .. ... the ... day of ..... 19... in a single copy, which will remain deposited in the archives of the Secretariat of the League of Nations and of which certified copies will be transmitted to all the Members of the League and to the non-member States mentioned in Article 5.

D. Recommendations adopted by the Mixed Committee.

I.

It is desirable that, even before the ratification of the proposed Convention, every Government should, as far as possible, take the administrative measures which are appropriate for the organisation of their national services so as to conform to the provisions of the Convention.

II.

It is desirable that central offices should be created as provided in paragraph XII of Article 1 of the Convention in colonies which are under the authority of the mother-country in so far as such colonies possess their own independent organisations legally authorised for the issue of currency.

III.

It is desirable that the various banks of issue should create special offices with which the central offices should remain in close contact.

IV.

It is desirable that every central office should have at its disposal police officers who have specialised in the subject and also experts thoroughly acquainted with the art of printing, so as to give information on the method of manufacturing forged notes and the machinery relating thereto.

V.

It is desirable that, pending the creation of an international office, as contemplated by paragraph XIV of Article 1, the work of the International Bureau at Vienna, which was fully appreciated by the Committee, should be continued, with the completest possible

co-operation of the Governments ; according to the information supplied to the Committee, the International Bureau, by centralising information as to counterfeiting currency, displays an activity which is directed to the task which might be allotted to the organisation contemplated in paragraph XIV.

VI.

The Committee regards with interest the introduction, and proposals for the introduction, into certain systems of law of the principle of putting a foreign conviction, upon conditions to be determined by domestic legislation, upon the same footing as a conviction by a Court of the country concerned from the point of view of dealing with habitual criminals, so as to increase the sentences on, or take other subsidiary measures for the protection of society against, professional forgers.

VII.

The Committee considers that the international unification of the rules for the extradition of persons accused or convicted is desirable with a view to obtaining a really efficacious suppression of crime applicable to every class of offence.

VIII.

It is desirable that the despatch and the execution of letters of request should be regulated by an international convention so as to produce a uniform system of rules.

ANNEX IV.

VARIOUS REPORTS PRESENTED AND RESOLUTIONS ADOPTED BETWEEN THE MEETINGS OF THE MIXED COMMITTEE AND THE INTERNATIONAL CONFERENCE

A. Extract from the Minutes of the Second Meeting of the Forty-eighth Session of the Council.

. . . . . .

M. Pospisil, Chairman of the Committee on the Counterfeiting of Currency, came to the Council table.

M. Pospisil recalled that he had forwarded to the Secretariat and the Council on October 13th, 1927, a draft Convention for the suppression of counterfeit currency, together with a detailed report stating that the Mixed Committee had fulfilled the task entrusted to it by the Council in December 1926.

The Committee had completed that task in the absolute conviction that the crime of counterfeiting currency was of an international character and that its suppression was of such importance as to require the closest possible international co-operation. It was clear from the beginning, when the Council was asked to deal with the problem of the international suppression of false currency, that there was agreement as to the international character of these crimes and as to the importance of there suppression by international means. Nevertheless the Mixed Committee, as stated in its report, began by making an unofficial enquiry among banks of issue, the organisations principally interested in the question, on the frequency of cases of currency falsification which had occurred in their respective countries during the past three years. In this it followed the example already given by the Financial Committee.

It was not possible to include the results of this enquiry in the report because the central banks did not possess complete statistics. These statistics, however, again brought out the necessity of establishing general regulations for the suppression of the counterfeiting of currency.

The Mixed Committee approached forty-three banks of issue and received thirty-one replies. The statistics forwarded, though incomplete, showed that the amount of false banknotes seized amounted to nearly three million dollars and the amount of false metal coins to thirty-five million dollars during the last three years.

The Mixed Committee suggested that the Council should forward the draft Convention and the report to all Governments with a request that they should submit their observations and consider the convening, at as early a date as possible, of a general Conference with a view to the adoption of the Convention.

The Committee was at the entire disposal of the Council for the purpose of examining any observations that might be made and in order to amend, if necessary, the draft which had been submitted.

As a result of joint work which was made possible by the action taken within the limits of existing legislation by the International Conferences of Criminal Police, the Committee was

able to state at the end of its report that it considered that the Governments should immediately organise their national administrations on the lines indicated in the report, even before the conclusion of the Convention, and that they should forthwith put into practice the procedure laid down in the Convention so far as it was compatible with their respective national legislations.

M. Pospisil proposed that the draft Convention should be forwarded not only to the Governments but also to the central banks, in conformity with Recommendations I to V, which dealt with the advantage of co-operation through administrative channels.

M. Comnène said that one of the documents considered by the Mixed Committee had been a draft Convention, drawn up by the Roumanian Professor Pella. At the meeting on the Mixed Committee held on October 13th, 1927, M. Pospisil, its Chairman, had made the following observations :

> " He expressed the thanks of the Committee to M. Pella and to Baron van der Feltz for the important memoranda which they had submitted. He hoped that M. Pella, if he decided to print his memorandum, would do so soon enough to make it possible for reference to be made to it when interpreting the report and the draft Convention in view of the important quotations from these memoranda included in the two documents submitted by the Committee. "

Professor Pella had adopted this suggestion and printed his report at his own expense, together with his draft Convention. These documents were at the disposal of the Council, and about one hundred copies were available for despatch, if necessary, to Governments at the same time as the remainder of the Mixed Committee's documents.

The President, in the name of the Council, warmly thanked Professor Pella for his offer which was gratefully accepted.

M. Voionmaa, Rapporteur, read the following report and draft resolution :

" By a resolution of December 9th, 1926, the Council decided to create a ' Mixed Committee to consider the problem of counterfeiting currency and to prepare an international draft Convention on the subject '.

" This Committee has met twice during the present year, and has completed its task. It has recently submitted to the Council its report, together with a draft Convention, of which the report forms the detailed commentary.

" The draft Convention aims at organising international co-operation in the fight against counterfeiting currency in two domains, namely, unification of municipal law and police organisation ; or, in the words of the Committee, ' in the first place . . . a unification of municipal law, so as to ensure that criminals shall nowhere escape punishment, but that repressive measures should everywhere be severe, and, so far as possible, certain in their operation ' ; and, secondly, ' . . . a police organisation, to ensure that detective measures shall be both swift and well co-ordinated—conditions which are essential to this efficacy '.

" In consequence, the first part of the draft Convention deals with municipal law. It contains definitions of the offences which are to be punished, provisions as regards extradition, etc.

" With regard to a closer co-operation of police authorities, the Convention contemplates the creation of national central offices in each country, in which all police information and investigations should be concentrated.

" The Committee has also discussed the creation of a central *international* office. The Committee considers that the time has not yet come to set up such an office, but it recognises in principle the desirability of its creation. It has, however, indicated in paragraph XV of Article 1 of the Convention the means by which the creation of a central international office could be systematically carried through. This paragraph is as follows :

> " ' In order to ensure, improve and develop direct international co-operation in the prevention and punishment of counterfeiting currency, the representatives of the central offices of the High Contracting Parties should from time to time hold conferences with the participation of representatives of the banks of issue and of the central authorities concerned. The organisation and supervision of a central international information office may form the subject of one of these conferences. '

" In this connection, the Mixed Committee recommended that it is desirable that, pending the creation of an international bureau, as contemplated by paragraph XV of Article 1, the work of the International Bureau at Vienna should be continued.

" Besides proposing a draft Convention, the Committee has submitted certain recommendations. One of these has just been quoted. Some of the others deal with the organisation of the national central offices. Two of these recommendations (Nos. VII and VIII) deal with certain points of international law, namely, the rules on extradition and on letters of request. The anarchy at present existing on these points in international law created certain difficulties for the Committee. It has solved these in connection with the offence of counterfeiting by

proposing in the draft Convention certain provisions in regard to that special domain. But its experience has led the Committee to recommend that international law on these questions should be codified.

" As to the action to be taken on the Committee's report, the Chairman of the Committee, in his covering letter, has suggested that the report and the draft Convention ' should be forwarded to all Governments with a request for their observations and that, at a later but not too distant date, a general Conference should be convened for the final adoption of a Convention by as many States as possible '. He adds that ' if, on the receipt of the replies from Governments, the Council thought it desirable, the Mixed Committee would be happy to examine any amendments to the draft suggested in these replies '.

" I think these proposals are practical, and I would therefore propose to you the following resolution :

" ' The Council :

" ' Takes note of the report of the Mixed Committee for the Suppression of Counterfeiting Currency and the draft Convention prepared by it, and expresses its gratitude to the Committee for the expeditious manner with which it has completed its task ;

" ' Instructs the Secretary-General to forward the report and the draft Convention to all States members and non-members of the League of Nations for their opinion, and to convene a general Conference in a year's time for the final adoption of a Convention by as many States as possible.

" ' It also instructs the Secretary-General to bring to the notice of the Committee of Experts for the Progressive Codification of International Law Recommendations Nos. VII and VIII of the Committee for the Suppression of Counterfeiting Currency.' "

He proposed that the Council should adopt the suggestions of M. Pospisil :

(1) That the draft Convention and report of the Mixed Committee should be communicated to the central banks ; and

(2) That the attention of the Governments should be drawn to Recommendations I to V of that report.

M. Pospisil, in the name of the Mixed Committee, thanked the Rapporteur for his appreciation of the work of the Mixed Committee. M. Pospisil also paid a tribute to the Secretariat, more particularly to the Financial and Legal Sections, for their willing assistance.

He was very glad to learn that Professor Pella had followed his suggestion to publish the remarkable report which had served as a basis for the discussion of the Mixed Committee. M. Pospisil felt sure that this publication would make it easier for those concerned to understand the draft Convention and the report thereon.

He was glad to know that the Rapporteur proposed to draw the attention of the experts composing the Committee on the Progressive Codification of International Law to Recommendations VII and VIII concerning the necessity for the international unification of the regulations regarding extradition and the despatch of letters rogatory and their execution. It would be very useful, in order to suppress counterfeit currency, to achieve a closer international co-operation than had formerly been the case as regards these two matters.

The draft resolution, together with the additional proposals of the Rapporteur, were adopted.

M. Pospisil withdrew.

. . . . . .

B. Report to the Council by the Committee of Experts for the Progressive Codification of International Law on Recommendations VII and VIII adopted by the Mixed Committee.

The Council of the League of Nations having instructed the Secretary-General to bring to the knowledge of the Committee of Experts for the Progressive Codification of International Law the two Recommendations VII and VIII formulated by the Mixed Committee for the Suppression of Counterfeiting Currency, the Secretariat placed before the Committee of Experts the following documentation :

Report and draft Convention drawn up by the Mixed Committee for the Suppression of Counterfeiting Currency (document C.523.M.181.1927.II) ;
Minutes of the Council's meeting of December 6th, 1927 (No. 2067).

After studying these documents, the Committee of Experts has to express the following conclusion :

As regards Recommendation VII, dealing with extradition, the Committee points out that this subject was studied at length by it during its second session. Its discussions resulted in

the conclusion that it would not appear to be at present feasible to establish rules regulating extradition generally. The Committee, however, felt that it should transmit to the Governments the report of its Sub-Committee which dealt with the topic, in order that the Governments might have the possibility of benefiting by the light thrown upon the subject in that report (document C.51.M.28.1926.V). So far as the recommendation formulated by the Mixed Committee may contemplate a more general establishment of rules concerning extradition, the Committee of Experts can only abide by its above-mentioned decision. The Committee, however, hastens to add that, in so far as it is a question of the suppression of the counterfeiting of currency, there are particularly strong reasons in favour of the establishment of international rules for extradition and that, accordingly, the universal acceptance of Article 2 of the draft Convention put forward by the Mixed Committee appears highly desirable and at the same time realisable in practice.

As regards Recommendation VIII, the Committee of Experts may confine itself to referring to the view expressed by it on the subject of letters rogatory in penal matters in its report of to-day's date upon the questions which are sufficiently ripe for international regulation.

(Signed) Hj. L. Hammarskjöld,
Chairman of the Committee of Experts.

C. Extract from the Minutes of the First Meeting of the Fifty-first Session of the Council.

. . . . . .

M. Scialoja read the following report :

" On December 6th, 1927, the Council instructed the Secretary-General to bring to the attention of the Committee of Experts for the Progressive Codification of International Law two of the recommendations formulated by the Mixed Committee for the Suppression of Counterfeiting Currency. The recommendations in question were those numbered VII and VIII and appearing on page 24 of the document which contains the report and draft Convention submitted by the Mixed Committee (document C.523.M.181.1927.II). The recommendations were as follows :

" ' *Recommendation VII.*

" ' The Committee considers that the international unification of the rules for the extradition of persons accused or convicted is desirable with a view to obtaining a really efficacious suppression of crime applicable to every class of offence. '

" ' *Recommendation VIII.*

" ' It is desirable that the despatch and the execution of letters of request should be regulated by an international convention so as to produce a uniform system of rules. '

" The Council has received the report adopted on this matter by the Committee of Experts during its session of last June (document C.344.1928.V).

" The Committee does not contemplate any steps to be taken immediately by the Council. On the other hand, the opinion which it has expressed upon the recommendations in question may be of considerable interest in connection with the ultimate consideration of the draft Convention on Counterfeiting Currency by an international conference. The Committee's examination of Recommendation VII has, in fact, led it to declare that, in the case of the suppression of counterfeiting currency, there are specially strong reasons in favour of international regulation of extradition and that consequently general acceptance of Article 2 of the draft Convention submitted by the Mixed Committee would appear to be highly desirable and obtainable in practice.

" I feel, therefore, that I should propose that the Council should note the report of the Committee of Experts and instruct the Secretary-General to bring it to the attention of the Governments to which the conclusions of the Mixed Committee for the Suppression of Counterfeiting Currency have been communicated. "

The conclusions of the report were adopted.

. . . . . .

D. Extract from the Minutes of the Seventh Meeting of the Fifty-fourth Session of the Council.

. . . . . .

M. de Agüero y Bethancourt read the following report :

" In accordance with the Council's decision of December 6th, 1927, the Conference for the Suppression of Counterfeiting Currency has been summoned for April 9th next at Geneva. It would be advisable for the Council to appoint a President to direct the work of the Conference and I suggest that M. Vilem Pospisil, Governor of the National Bank of Czechoslovakia, is clearly indicated for that post. As you are aware, M. Pospisil has been a member of the

Financial Committee ever since its establishment ; he took a very active part in its work for the suppression of counterfeiting currency and subsequently presided over the Mixed Committee for the suppression of counterfeiting currency which has drawn up the draft Convention now submitted to the Conference.

" I therefore propose that M. Pospisil should be appointed President of the Conference for the Suppression of Counterfeiting Currency. "

The appointment of M. Pospisil *was approved.*

. . . . . .

ANNEX V.

SUMMARY OF THE OBSERVATIONS RECEIVED FROM GOVERNMENTS ON THE REPORT OF THE MIXED COMMITTEE AND ON THE DRAFT CONVENTION DRAWN UP BY THE COMMITTEE.

The report of the Mixed Committee for the Suppression of Counterfeiting Currency containing the draft Convention drawn up by the Committee, was communicated to all States whether Members of the League of Nations or not, making a total of sixty-eight.

Up to December 6th, 1928, the Secretariat had received thirty-one replies.

Of these, the replies from the Argentine, Costa Rica and Spain were acknowledgments only, while Colombia, Cuba, Egypt, Mexico and Venezuela stated that any observations would be sent later.

The Australian and Norwegian Governments declared that they had no observations to make with regard to the proposals contained in the Mixed Committee's report.

Bulgaria, Estonia, Japan and South Africa expressed a general approval of the proposals contained in the report, without further observations.

Extracts from the replies received from those Governments which sent detailed observations are given below, arranged according to the articles and paragraphs of the draft Convention and the Recommendations of the Mixed Committee.

The Belgian Government has communicated the observations of the various authorities which were consulted by it, namely, the Minister of Justice, the Ministry of the Colonies, the National Bank and the Department of the Mint, which is part of the Ministry of Finance.

The Government of New Zealand has submitted a comparison of the provisions of the draft Convention with the existing laws relating to this question in New Zealand.

I. General Observations on the Draft Convention.

Belgium.

1. *Observations of the Minister of the Colonies.*

[*Translation.*]

I agree in principle, as far as the Colony of the Belgian Congo is concerned, with the draft Convention prepared by the Mixed Committee for the Suppression of Counterfeiting Currency, as submitted to the Council of the League of Nations.

2. *Observations of the Governor of the National Bank.*

[*Translation.*]

The draft submitted to us for consideration summarises in concrete form the joint desiderata of the principal banks of issue. The recommendations refer either to measures of police organisation, a domain in which serious progress will have to be effected in certain countries before an international convention can be concluded, or to more delicate questions of international law regarding which it appears difficult to secure unanimity in the near future.

The National Bank fully approves the steps which the legislature and judicial authorities of the various countries may be called upon to take to ensure the more certain prevention and punishment of counterfeiting. It quite agrees that this problem must be dealt with internationally, and particularly approves the main principle of the Convention, namely, that offences against foreign currency must be placed on a par with offences against domestic currency. This is at the same time an earnest of international solidarity which will help to protect our own banknotes and currency abroad, and also a measure which will protect transactions in Belgium.

General Observations (continued).

The adoption of the present draft would not necessitate many modifications in the law in Belgium. Apparently, only the penalties for various offences against foreign currencies would have to be modified. Recommendations Nos. VI and VIII adopted by the Mixed Committee obviously raise far more complex questions. The National Bank would certainly be glad to see these recommendations carried into effect, particularly that which refers to international habitual criminals. It is nevertheless aware that their application is essentially a problem of international penal law.

As regards preventive police measures, the recommendations of the Mixed Committee are based on action which has already been taken in Austria, the Netherlands and Belgium. We are naturally glad to see that our own efforts have served as an example abroad, and we also approve the creation, at a subsequent date, of an international office, when the national offices are all in operation and when the enquiries conducted at Vienna in this connection have reached a more advanced stage. In any case, we are prepared to supply the various central offices with cancelled specimens of our notes, as is already the practice, at the request of the Public Prosecutor, Brussels.

Czechoslovakia.

[*Translation.*]

The competent organs of the Republic have declared themselves to be in favour of the draft Convention, which forms a first step towards the effective prevention and the international suppression of counterfeiting currency.

France.

[*Translation.*]

The French Government notes with satisfaction that the investigations undertaken at its suggestion are now sufficiently advanced to allow of a Conference being held next April ; nevertheless, some of the clauses of the proposed text are not entirely in harmony with French legislation, and their adoption, whatever their advantages may be, would in particular necessitate modifications in the rules laid down in the French Penal Code. The question whether it is desirable to effect these changes in the criminal law or whether, on the contrary, it would be desirable to make certain reservations at the international Conference which is to open on April 9th, 1929, is under consideration. I shall therefore, without in any way questioning the value of the text proposed, merely indicate to you the provisions of the French Penal Code which are not in harmony with the draft Convention.

(*See observations in regard to paragraphs VI, VII and X of Article* 1, *pages* 263, 265 *and* 269).

These remarks naturally do not prevent the French representative at the forthcoming Conference from submitting further observations.

Germany.

[*Translation.*]

The German Government considers that the draft Convention prepared by the Mixed Committee of the League of Nations constitutes, on the whole, a suitable basis for an international arrangement, but reserves the right to submit to the Conference recommendations on points of details as regards the order or the drafting of the provisions.

Italy.

[*Translation.*]

I have the honour to inform you that the Royal Government has no objection in principle to the provisions of the draft Convention drawn up by the Committee in October last.

I would add, however, that, as stated in the Mixed Committee by Comm. Aloisi, the Royal Government could not agree to the institution of any official international organisation, even if intended simply for the centralisation of information relating to counterfeit currency.

Netherlands.

[*Translation.*]

The Netherlands Government has read with interest the Mixed Committee's report and its draft Convention, the general lines of which the Government is prepared to accept. The Netherlands Government, however, reserves the right to offer observations or raise certain objections at a later date when the Conference is convened for the drafting of the Convention in its final form.

(*And see remarks under paragraph XII of Article* 1.)

General Observations (continued).

New Zealand.

The crimes of counterfeiting coin and foreign paper currency are very uncommon in New Zealand and the police have had little difficulty in dealing with the few isolated cases which have occurred.

Little foreign currency is introduced into New Zealand, and persons who have such in their possession have the greatest difficulty in disposing of it unless, and until, their *bona fides* have been well established.

Nicaragua.

[*Translation.*]

The problem of counterfeiting currency does not arise in Nicaragua, except in altogether exceptional and rare cases, but the Government is prepared to take part in any measures for protection and mutual defence which the proposed Conference may decide to adopt.

Poland.

[*Translation.*]

The Polish Government has read with the greatest interest the experts' report and the draft Convention, and fully appreciates their importance and practical value.

In the Polish Government's opinion, it would perhaps be desirable, in view of the large number of cases of counterfeiting currency in all countries, to establish closer co-operation between States for the purpose of prosecuting this offence, as well as to insert in the legislation of States acceding to the Convention more definite rules for its repression.

In view, however, of certain difficulties to which such regulations might give rise, and desirous, on the other hand, that the present Convention should be brought into force as soon as possible, the Polish Government refrains from submitting further observations and expresses the opinion that a convention in conformity with the Mixed Committee's draft would be of very great value.

Portugal.

[*Translation.*]

The Portuguese Government agrees with the provisions of this draft, which provides effective means of combatting counterfeiting.

. . . . . .

The recommendations made by the Mixed Committee regarding the administrative measures to be taken to ensure the proper working of the future Convention, the creation of central police offices, the recruiting of police officers and experts who have specialised in the subject of the manufacture of notes, and co-operation with the International Office at Vienna, merit entire and unconditional approval.

(*The Portuguese Government also makes detailed observations on Article* 1, *paragraphs I, II and IV, and on Recommendation III* ; *see under separate headings for these.*)

Roumania.

[*Translation.*]

The Roumanian Government gives its adherence in principle to the draft Convention drawn up by the Mixed Committee for the Suppression of Counterfeiting Currency and contained in the document C.523.M.181.1927.II.

(*See also observations under separate articles.*)

Siam.

In the main, the provisions of the Convention are in accord with the existing provisions of the Penal Code. What differences exist will be commented on section by section.

Switzerland.

[*Translation.*]

The Swiss authorities welcome the efforts which are being made to establish international co-operation in the campaign against the counterfeiting of currency and the forging of bank-notes. They are aware that Swiss banknotes are not infrequently forged abroad, and they have noted that foreign authorities do not act with the same energy as they display when dealing with the forgery of their own notes.

The provisions of the draft Convention which appear to be of the greatest practical importance are those which ensure close co-operation between the authorities responsible for the suppression of counterfeiting currency. Their immediate application in the contracting States would meet with no difficulty. On the other hand, the criminal law of most States would have to be amended in order to bring national law into line with those clauses of the Convention which relate to the definition of offences, extradition, the legal status of the foreign " civil party " and jurisdiction. In Switzerland, in particular, such an amendment would

General Observations (continued).

create serious difficulties. While the forgery of banknotes issued by the National Bank is punished under Articles 66 *et seqq.* of the law concerning the National Bank, dated April 8th, 1921, the forgery of foreign banknotes and the alteration of metallic money come under cantonal criminal law. The substance of the penal clauses in the law concerning the National Bank agree with the provisions of the draft Convention only in so far as Swiss banknotes are concerned. Cantonal law is still more at variance with the terms of the Convention. Articles 206 to 210, 213 to 216, and 325 to 327 of the draft Swiss Penal Code, on the other hand, are in harmony with the principles of substantive law contained in the draft Convention.

Under Article 1, paragraph I, of the draft Convention, the contracting States agree to adapt their legislation to the Convention as soon as it is signed. Ratification can only take place after such adaptation. As the draft Penal Code is at present under discussion in the Federal Chambers, it is no longer possible to remove the provisions in question and convert them into a special law which would come into force before the Penal Code. As some years must elapse before the Code can come into force, Switzerland could not ratify the Convention for a considerable time. Nevertheless, on account of her geographical position, international co-operation with a view to suppressing counterfeiting currency is a matter of great importance to Switzerland. She would therefore be glad if the proposed Convention could take the form of two separate agreements : (1) an agreement concerning administrative measures ; and (2) an agreement concerning the principles to be introduced into the criminal legislation of the contracting States. This method of procedure would enable all States to ratify the agreement concerning administrative measures at an early date. The same method was adopted in the case of agreements for the suppression of the traffic in women and children and the traffic in obscene publications. In this connection, we would recall the fact that the agreement of 1910 concerning the administrative measures for the suppression of the traffic in obscene publications was ratified the same year by the Federal Council, while the draft Convention of 1910 concerning penal measures was not acceded to by any State. Moreover, in the majority of grave cases of counterfeiting currency, Switzerland could take part in the criminal proceedings before the penal clauses of the Convention were ratified.

* * *

Participation of Switzerland in the Convention.

The accession of Switzerland to the Convention would in itself entail the obligation, undertaken by all the signatory States, to adopt all the necessary measures required for the execution of the Convention. Article 1, paragraph I, sub-paragraph 2, indicates this point even more clearly than the earlier draft, as it pledges the contracting parties " to adopt the necessary measures ", and not merely " to adopt or propose ", as before.

In Switzerland, the coming into force of the Federal Penal Code would give effect, as regards essential points, to the penal provisions contained in the Convention, but it is possible that the Federal Penal Code may be rejected by a public vote. In that event, the question might be settled by a special law. In any case, to sign the Convention whilst postponing ratification would at present merely be of theoretical value. The Swiss authorities therefore consider it desirable to urge the preparation of two agreements, one of which would relate only to administrative measures.

Union of Soviet Socialist Republics.

[*Translation.*]

Our standpoint continues to be that indicated in our letter of August 31st[1] to the Financial Committee of the Council of the League, namely, that we agree with the view expressed by the Mixed Committee in its report to the Council as to the importance, from an international point of view, of joint and effective measures for the suppression of counterfeiting, and we believe that the Committee's draft is capable of providing a solution for questions of the highest moment.

II. Observations on Individual Articles of the Draft Convention.

Article 1.—Paragraph I.

Great Britain.

A comma should be inserted after " banknotes " in line 3.

Hungary.

[*Translation.*]

The draft merely lays down rules for the protection of metallic money and paper money, but does not include public credit bonds. The Royal Government considers that it would be desirable to complete the draft by extending its provisions to all bearer public credit bonds

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[1] Document F.313 (n). (Reply from the State Bank of the Union of Soviet Socialist Republics to questionnaire on counterfeiting.) *Extract* (*Translation*) : " As regards the first points mentioned in the questionnaire, in particular the question whether it is desirable to remedy the defects of the present situation by the conclusion of an international convention intended to ensure co-operation over a wider field, we would inform you that the State Bank of the Union of Soviet Socialist Republics considers the conclusion of such a convention desirable. "

Observations on Article 1, *Paragraph I* (continued).

since such scrip might well, in the same way as metallic money and paper money, be counterfeited by an international organisation with activities extending into several countries.

New Zealand.

The Banking Act of 1908, section 8, provides as follows : " The Governor may by Proclamation declare that any Bank incorporated by Royal Charter or letters patent, and empowered to carry on the business of banking in New Zealand, and to issue and circulate therein the banknotes of the Bank, may lawfully issue and circulate such notes within New Zealand, but subject to the provisions and restrictions in such charter or letters patent contained. "

The Banking Amendment Act 1914 authorises the Governor in Council by Proclamation to declare banknotes to be legal tender.

The Finance Act 1916, section 44, authorises the Governor in Council to make Regulations in that behalf.

This section is amended and extended by the Finance Act 1917, section 66.

Successive Proclamations published in the *New Zealand Gazette* have declared banknotes of the banks above referred to to be legal tender.

Part of the Imperial Coinage Act 1870, as amended by section 2 of the Coinage Act 1891, is applied to New Zealand by Royal Proclamation published in the *New Zealand Gazette*, 1897, page 731.

Part of the Coinage Act 1920 amending the law relating to coinage is applied to New Zealand by Proclamation published in the *New Zealand Gazette*, 1920, page 2650.

These enactments provide for the issue, value, denominations and fineness of all current gold, silver and copper coins.

Portugal.

[*Translation.*]

Paragraph I of the draft defines the meaning of the expression counterfeiting currency, which includes, according to the draft, the forging of metallic and paper money, including banknotes.

The Government of the Republic feels that it would be desirable slightly to enlarge this definition of counterfeiting currency so that the latter may include State public-debt securities.

Under several national bodies of law, including Protuguese law (Penal Code, Article 206, paragraph I), the counterfeiting of currency and of public-debt securities is included under the same heading as a crime.

Siam.

The definition of currency is somewhat wider than that in the provision of the Penal Code which covers only currency notes issued " by the State or by any foreign State or bank-notes issued by any Siamese or foreign bank ", whereas the Convention covers also any bank-notes issued under any State authorities. His Majesty's Government, however, does not object to the wider definition.

Switzerland.

See under " General Observations ".

Article 1.—Paragraph II.

Belgium.

[*Translation.*]

Observations of the Minister of Justice.

Some of the acts referred to in this provision are punishable under our laws.

Articles 160 to 167 of the Penal Code deal with the counterfeiting or altering of any metallic money, whether this money be legal tender in Belgium or not.

Articles 168 to 170 of the Penal Code deal with the uttering in or introduction into Belgium, or the putting into circulation, of such counterfeit or altered money.

Articles 173 to 178 punish the counterfeiting and forgery of national or foreign paper money and the uttering in or introduction into Belgium, or the putting into circulation, of counterfeit or forged paper money.

Observations on Article 1, *Paragraph II* (continued).

Article 497 of the same Code makes it a punishable offence to utter or attempt to utter, as gold or silver coinage, coinage of lesser value which has been made to look like gold or silver.

According to the report of the Mixed Committee (page 9), the draft Convention does not apply to the colouring or the use of some other process to give metal currency the appearance of a higher value, or to the offence, provided for in Article 497 of our Code, of uttering such currency.

But certain acts—for instance, according to some authors (SERVAIS, *The Belgian Penal Code Interpreted*, Vol. I, page 490), that of uttering coins obtained by removing the two surfaces of a gold coin and applying them to a silver coin—which would be punished in Belgium on the count of uttering, " for gold or silver coin, coins of lesser value which have been made to look like gold or silver " (Article 497 of the Penal Code), should perhaps be regarded as *counterfeiting* within the meaning of the Convention (page 8 of the Mixed Committee's report).

As, therefore, the Convention applies, not only to uttering and attempts to utter, but also to the manufacture of coinage, I think that Parliament might be asked to make an addition to Article 497 of the Penal Code in this sense, to meet the requirements of the Convention.

It is doubtful whether the act of " knowingly receiving or procuring counterfeit or illegally altered currency " is at present provided for in our penal laws, and whether it amounts to the offence of receiving stolen property *(recel)*, which is punishable under Article 505 of the Code. It would therefore be advisable to insert in the Code a special provision covering this offence.

Great Britain.

Line 3 : " Being in possession of " should be substituted for " procuring ".

" Being in possession of " counterfeiting tools is an offence in English law ; " procuring " them is not, although the consequences of procuring would often bring the procurer into conflict with the law.

Hungary.

[*Translation.*]

Hungarian legislation considers all the acts referred to in Paragraph II as distinct and independent offences. As regards the protection of the interests of foreign States, paragraph 203 of the Hungarian Penal Code contains model provisions. According to this paragraph, any person is guilty of counterfeiting :

> " who, with a view to uttering it as good currency or currency of full value :
>
> " (1) Counterfeits or causes to be counterfeited any metallic or paper money which is legal tender in Hungary or abroad ;
>
> " (2) Makes or causes to be made on good metallic or paper money alterations with a view to enhancing its apparent value ;
>
> " (3) Diminishes or causes to be diminished by any means the intrinsic value of good gold or silver Hungarian or foreign currency.
>
> " Any person who, for the same purpose, makes or causes to be made, on money withdrawn from circulation, alterations such as would cause it to resemble legal tender shall be guilty of the same offence. "

In Hungary, therefore, the very definition of these offences proves that the falsification of both national and foreign money is included in counterfeiting. This rule applies also to alterations made on money withdrawn from circulation, although the last paragraph of paragraph 203 does not (in connection with currency withdrawn from circulation) repeat the expression " Hungarian or foreign money ". All acts which the Mixed Committee's draft would make punishable are already punishable in Hungary. According to the Hungarian Penal Code the following offences are punishable : (1) counterfeiting (paragraph 203 of the Penal Code, and paragraph 39 of Law XXXVI of the year 1908, modifying the Penal Code), and conspiring and taking preparatory steps with a view to committing this crime (paragraph 205 of the Penal Code) ; (2) Uttering false currency and all means adopted to obtain possession of false currency for this purpose (paragraph 206 of the Penal Code) ; (3) fraudulent use of counterfeit currency (paragraph 207 of the Penal Code and paragraphs 41 and 42 of the law modifying the Penal Code) ; (4) the misdemeanour of paying out counterfeit currency (paragraph 209 of the Penal Code) ; (5) the misdemeanour of unlawfully issuing banknotes (paragraphs 11 and 12 of Law V, 1924) ; and (6) the counterfeiting or alteration of public credit bonds (paragraphs 210 and 211 of the Penal Code).

Observations on Article 1, *Paragraph II* (continued).

Finally, the Hungarian Penal Code of Minor Offences treats as minor offences connected with the counterfeiting of currency and scrip certain acts resembling counterfeiting or connected with acts preparatory thereto : (1) counterfeiting currency without intent to utter the same (Penal Code of Minor Offences, paragraph 55) ; (2) employment of mechanical or chemical apparatus which could be used for manufacturing counterfeit or fraudulently altered currency (paragraph 56 of the Penal Code of Minor Offences) ; (3) acts referred to in (1) and (2) in connection with public-credit bonds (paragraph 57 of the Penal Code of Minor Offences) ; (4) unlawful manufacture or cession to an unauthorised person of certain technical material (paragraph 58 of the Penal Code of Minor Offences).

India.

False notes made out of fragments of genuine notes (*vide* page 8 of Mixed Committee's report) would presumably not include mismatched notes.

New Zealand.

The Crimes Act 1908, Sections 288 to 292, provides penalties for the crimes of *forgery and uttering forged documents.*

In this Act, " *banknote* " includes all negotiable instruments issued by or on behalf of any person, body corporate, or company carrying on business of banking in any part of the world or issued by the authority of any foreign prince, or State or Government, or any Governor or other authority lawfully authorised thereto in any of His Majesty's Dominions, and intended to be used as equivalent to money, either immediately upon their issue or at some time subsequent thereto, and all bank bills and bank post bills.

The Crimes Act 1908, Section 289, provides that :

> " It is not necessary that the fraudulent intention should appear on the face of the document, but it may be proved by external evidence. "

The Crimes Act 1908, Section 290, defines forgery as :

> " The making of a false document, knowing it to be false, with the intention that it shall in any way be used or acted upon as genuine, *whether within His Majesty's Dominions or not*, or that some person shall be induced by the belief that it is genuine to do or refrain from doing anything, whether within His Majesty's Dominions or not.
>
> " Making a false document includes altering a genuine document in any material part, and making any material addition to it, or adding to it any false date, attestation, seal or other thing that is material, or making any material alteration to it either by erasure, obliteration, removal or otherwise.
>
> " Forgery is complete as soon as the document is made with such knowledge and intent as aforesaid, although the offender may not have intended that any particular person should use or act upon it as genuine, or be induced by the belief that it is genuine to do or refrain from doing anything.
>
> " Forgery is complete although the false document may be incomplete, or may not purport to be such a document as would be binding in law, if it be so made and is such as to indicate that it was intended to be acted on as genuine. "

Note.—The *mens rea* in this definition is an intention that the document be used or acted upon as genuine, not, as at common law, an intention to defraud (R. *v.* Stewart (1908), 27 *N.Z.L.R.*, 682).

Section 291 of the Crimes Act provides the following punishment for the crime of *forgery* :

> " To imprisonment with hard labour for life if the document forged purports to be :
>
> " (xi) A banknote, bill of exchange, promissory note, or cheque, or an acceptance, making, or endorsement, or assignment thereof.
>
> " (xii) A document that is evidence of title to any portion of the debt of the United Kingdom, or of any Dominion, colony or possession of His Majesty, or of any local authority or public body in New Zealand, or of any foreign State or country, or a transfer or assignment thereof . . . "

Observations on Article 1, *Paragraph II* (continued).

Section 292 of the Crimes Act provides the following punishment for the crime of *uttering forged documents* :

> " Every person who, knowing a document to be forged, uses, deals with, or acts upon it, or attempts to use, deal with, or act upon it, or causes, or attempts to cause, any person to use, deal with, or act upon it as if it were genuine, is liable to the same punishment as if he had forged the document. "

It is immaterial where the document was forged.

Note.—Forgery and uttering are separate and distinct offences.

Section 296 of the Crimes Act provides the following punishment for *possessing forged banknotes* :

> " Everyone is liable to fourteen years' imprisonment with hard labour who, without lawful authority or excuse (the proof whereof shall lie on him), purchases or receives from any person or has in his custody, or possession, any forged banknote whether complete or not, knowing it to be forged. "

The Customs Act 1913, Section 46 (1), prohibits the importation of " false or counterfeit money or banknotes and any money not being of the established standard in weight or fineness, and any coin intended for circulation in New Zealand and not being legal tender in New Zealand ". Any person who commits a breach of this section is liable to a fine of £200, and the goods shall be forfeited.

Counterfeiting Gold and Silver Coins.—The Crimes Act 1908, Section 313, contains the following definitions :

" Current " applied to coin means coin coined in any of His Majesty's mints, or lawfully current under any proclamation or otherwise in any part of His Majesty's Dominions.

" Copper " applied to coin includes every kind of coin inferior in value to silver.

" Counterfeit coin " includes genuine coin prepared or altered so as to resemble or pass for coin of a higher denomination, and genuine coin clipped, filed, or otherwise diminished in size or weight, and altered or prepared so as to conceal such clipping, filing or diminution, and counterfeit coin in an unfinished state.

" Gilds " and " silvers " as applied to coin include producing the appearance of gold and silver respectively.

" Having in possession " when used in reference to any person includes not only having in his personal possession, but also : *(a)* having in the actual possession or custody of any other person ; and *(b)* having in any place (whether occupied by himself or not) for the use or benefit of himself or of any other person.

Section 314 of the Crimes Act provides the following punishment for *counterfeiting gold and silver coin* :

> " Everyone is liable to imprisonment with hard labour for life who :
>
> " *(a)* Makes or begins to make any counterfeit coin with intent to make it resemble or pass for current gold or silver coin respectively ;
>
> " *(b)* Without lawful authority or excuse (the proof whereof shall lie on him) :
>
> " (i) Buys, sells, receives, or puts off any counterfeit gold or silver current coin, at a lower rate than it imports, or was apparently intended to import, or offers to do any such thing ; or
>
> " (ii) Imports or receives from beyond the seas any counterfeit current coin, knowing it to be counterfeit. "

The Crimes Act 1908, Section 316, provides the following punishment for *clipping current coin* :

> " Everyone is liable to fourteen years' imprisonment with hard labour who diminishes or lightens any current gold or silver coin, with intent that when so dealt with it may pass as current gold or silver coin. "

Observations on Article 1, *Paragraph II* (continued).

Section 317 provides :

> " Everyone is liable to seven years' imprisonment with hard labour who unlawfully has in his custody or possession any filings or clippings, or silver in dust or solution or other state, obtained by impairing current gold or silver coin, knowing the same to have been so obtained. "

The Crimes Act, Section 318, provides the following punishment for *counterfeiting foreign gold and silver coins* :

> " Everyone is liable to seven years' hard labour who :
>
> " *(a)* Makes or begins to make any counterfeit gold or silver coin of any foreign prince, State or country ; or
>
> " *(b)* Gilds or silvers any counterfeit coin of any foreign prince, State, or country ;
>
> " *(c)* Brings or receives into New Zealand without lawful authority or excuse (the proof whereof shall lie on him) counterfeit gold or silver coin of any foreign prince, State or country, knowing the same to be counterfeit. "

The Crimes Act, Section 319, provides the following punishment for *counterfeiting copper coin* :

> " Everyone is liable to imprisonment for seven years with hard labour who :
>
> " *(a)* Makes or begins to make any counterfeit current copper coin . . . "

Section 320.—" Everyone is liable to one year's imprisonment with hard labour who makes any counterfeit copper coin of any foreign prince, State or country. "

The Crimes Act provides the following punishment for *uttering and possessing with intent to utter any counterfeit coin* :

Section 321.—" Everyone is liable to one year's imprisonment with hard labour who has in his possession any counterfeit current gold or silver coin, knowing such coin to be counterfeit, and with intent to utter it. "

Section 322.—" Everyone is liable to three years' imprisonment with hard labour who has in his possession three or more pieces of counterfeit current gold or silver, coin knowing such coin to be counterfeit and with intent to utter it. "

Section 323.—" Everyone is liable to one year's imprisonment with hard labour who utters any counterfeit current gold or silver coin, knowing such coin to be counterfeit. "

Section 324.—" Everyone is liable to two years' imprisonment with hard labour who utters any counterfeit current gold or silver coin, knowing it to be counterfeit, and :

> " *(a)* Has at the time of such uttering in his custody or possession any other piece of counterfeit current gold or silver coin : or
>
> " *(b)* Has on the day of uttering as aforesaid, or within ten days preceding exclusive of the day of uttering such coin, uttered any other counterfeit current gold or silver coin. "

Section 325.—" Everyone is liable to two years' imprisonment with hard labour who, without lawful authority or excuse (the proof whereof shall lie on him), exports, or puts on board any vessel for the purpose of being exported, any counterfeit current coin whatever, knowing the same to be counterfeit. "

Section 326.—" Everyone is liable to one year's imprisonment with hard labour who :

> " *(a)* Utters any counterfeit current copper coin knowing it to be counterfeit ; or
>
> " *(b)* Has in his possession three or more counterfeit current copper coins knowing them to be counterfeit and with intent to utter them ; or,
>
> " *(c)* With intent to defraud, utters as current gold or silver coin any coin which is not current coin, or any metal or piece of metal or of mixed metal being of less value than the current coin as and for which it is uttered ; or
>
> " *(d)* Defaces any current coin whatever, by stamping thereon any word, whether such coin is or is not thereby diminished or lightened ; or
>
> " *(e)* Utters any counterfeit gold or silver coin of any foreign prince, State or country, knowing it to be counterfeit. "

Observations on Article 1, *Paragraph II* (continued).

Punishment after Previous Conviction.

Crimes Act, Section 327.—" Everyone who, after a previous conviction of any offence relating to coin under this or any other Act, is convicted of any offence specified in Sections 314 to 326 hereof is liable to imprisonment with hard labour for life if he would otherwise have been liable to fourteen years' imprisonment with hard labour only ; or to fourteen years' imprisonment with hard labour if he would otherwise have been liable to imprisonment with hard labour for less than fourteen but not less than three years; or to five years' imprisonment with hard labour if he would otherwise have been liable to imprisonment with or without hard labour for less than three years. "

The Finance Act, 1920, Section 48, provides the following punishment for *melting down or using coin except as currency* :

" Every person commits an offence, and is liable to a fine not exceeding ten pounds, who, without the consent of the Minister of Finance, melts down, breaks up, or uses otherwise than as currency any gold or silver coin which is for the time being current in New Zealand. "

Portugal.

[*Translation.*]

From paragraph II of the draft, it is clear that the authors intend to make counterfeiting punishable in all its aspects.

Though it may perhaps be held that the act of *exposing counterfeit currency for sale* is covered by the wording of the paragraph, the Government of the Republic is of opinion that it would be desirable so to draft this paragraph as to leave no room for doubt ; this is in fact a punishable offence under the laws of several countries, including those of Portugal (Penal Code, Articles 206 ; 207 ; 208 ; Nos. 1 and 2, paragraphs 1 and 2 ; 210, paragraphs 1 and 2).

As regards the moral factor in this offence, the Portuguese Government regrets the unfavourable reception accorded to the Banks' proposal that the falsification of currency where there is no criminal intent should be punished, even with a light sentence.

In these crimes, alongside offenders whose intentions are obviously criminal, there are other agents guilty only of carelessness or negligence. It is therefore logical, as the object is to punish this offence in all its aspects, that all those connected with its commission should be amenable to criminal law. Only thus will action for the repression of this offence—which it is the object of this draft to ensure—become truly effective.

Siam.

The offences specified in this paragraph are already definitely covered by the Penal Code.

Switzerland.

[*Translation.*]

The offences specified in this paragraph are all covered by the draft Penal Code. The cantonal laws punish the counterfeiting, imitation and altering of currency and the uttering of counterfeit or altered currency. Under the law of some cantons, the importation of counterfeit currency and the manufacture and possession of the instruments required for making counterfeit currency are also punishable offences. In a few cantons, the forgery of banknotes is assimilated to the counterfeiting of metallic currency. Others, again, treat it as forgery of public documents. The law on these matters varies greatly from canton to canton.

Union of Soviet Socialist Republics.

[*Translation.*]

This paragraph should be redrafted so that the obligation to punish the fraudulent acts set forth therein need not entail a general reconstruction of the criminal law of any country.

(*See remarks of Union of Soviet Socialist Republics under Article* 1, *paragraph III, below.*)

ARTICLE 1.—PARAGRAPH III.

Great Britain.

Line 1 : " Paragraph II " should be read for " Paragraph I ".

Line 2 : " Especially " should be substituted for " at any rate. " (The present text appears to indicate that normally the acts in question will not be charged as separate and distinct offences.)

Observations on Article 1, *Paragraph III* (continued).

Hungary.

[*Translation.*]

The provisions of the Hungarian Penal Code referred to in the observations submitted above on paragraph II of Article 1 clearly show that in Hungary the fact that counterfeiters have carried on some of their activities abroad does not in any way prevent their prosecution. If counterfeit currency is manufactured or good currency is fraudulently altered abroad, the uttering of such currency in the country, or the fact that it has been obtained or received for such purpose, or fraudulently employed or even paid out in the country, is punishable in Hungary as an independent offence committed in Hungary.

New Zealand.

" *Each of the acts mentioned in paragraph* 1 ".—This is obviously a printer's error and should read " Each of the acts mentioned in paragraph II ". This is made clear in the explanation of the said paragraph III which appears on page 9 of the pamphlet.

It will be seen from the comparison given above of the New Zealand law with paragraph II of the draft Convention, that each act of making, altering, uttering or being fraudulently in possession of currency is capable of being dealt with as a separate offence independent of the others, if committed in New Zealand.

Siam.

The principle of this paragraph is in accord with the provisions of the Penal Code on counterfeiting and also with the general provisions of the Code with regard to concurrence of offences.

Sweden.

[*Translation.*]

According to the Committee's report (page 10, second paragraph), this provision does not prevent the law of a country, in a case where the making and uttering of counterfeit currency or a number of such acts are being prosecuted simultaneously, from treating such acts as constituting a single offence. The wording of this clause appears to be insufficiently precise and needs revision.

Switzerland.

[*Translation.*]

The uttering of counterfeit currency is regarded as a distinct offence both under the law concerning the National Bank and under the draft Federal Penal Code. The established practice of the Federal Criminal Court is to treat the manufacture and the uttering of counterfeit currency by the same person as one offence. This case law does not conflict with the draft Convention which provides for separate proceedings for the manufacture and the uttering of counterfeit currency only when these offences have been committed in different countries.

Union of Soviet Socialist Republics.

[*Translation.*]

In paragraph III of Article 1, the words "should be considered as a separate and distinct offence, at any rate . . ." should be replaced by: " should be prosecuted and punished ". The reason for this amendment is that the laws of the Union of Soviet Socialist Republics do not particularise, as separate offences, the various acts relating to the making and uttering of counterfeit currency, but punish such acts as initial steps in the crime, attempts to commit the crime, or complicity in the crime.

ARTICLE 1.—PARAGRAPH IV.

Belgium.

Observations of the Minister of Justice.

[*Translation.*]

Articles 66 and 67 of the Penal Code concerning accessories apply to all crimes and misdemeanours which are or may be dealt with under this Code (see Article 100 of the Code). In this respect, therefore, our laws are in harmony with the Convention.

An attempt to commit a crime is in all cases punishable as such (Article 52 of the Penal Code), whereas an attempt to commit a misdemeanour is only punishable in cases expressly

Observations on Article 1, *Paragraph IV* (continued).

defined by the law (Article 53 of the Code). No provision is made for the punishment of attempts to commit the misdemeanours in Articles 163, 165, 167, 170 and 178. In this respect, therefore, certain additions will have to be made to the law as it stands. It should be observed that, as Article 165 will have to be modified and the punishment increased so as to meet the requirements of paragraph VI, attempts to commit this offence will consequently become punishable *ipso facto*.

Hungary.

[*Translation.*]

In connection with the crime of counterfeiting, an attempt to commit the offence is always punishable under the general rule laid down in paragraph 67 of the Penal Code concerning attempts to commit any crime. According to paragraph 39 of Law XXXVI, 1908, modifying the Penal Code, an attempt to commit a *misdemeanour* in connection with counterfeiting is punishable in every case.

As regards the fraudulent use of counterfeit or altered currency, the attempt to commit the offence is covered by paragraph 41 of the Law modifying the Penal Code ; as regards the misdemeanour of paying out false currency, paragraph 209 of the Penal Code applies to attempts. Accomplices are prosecuted under the general provisions of the Penal Code. Moreover, under paragraph 205 of the Penal Code, any conspiracy the object of which is to commit the crime referred to in paragraph 203 is punishable if such conspiracy has been followed by any preparatory act.

New Zealand.

Attempts.

The Crimes Act 1908 contains the following provisions relating to attempts :

Section 93.—(1) Everyone who, having an intent to commit an offence, does or omits an act for the purpose of accomplishing his object is guilty of an attempt to commit the offence intended, whether under the circumstances it was possible to commit such offence or not.

(2) The question whether an act done or omitted with intent to commit an offence is or is not only preparation of that offence, and too remote to constitute an attempt to commit it, is a question of law.

Section 349, *as amended by Act of* 1922.—Everyone is liable to imprisonment for two years with hard labour who attempts, in any case not hereinbefore provided for, to commit any crime punishable by imprisonment with hard labour for three years or upwards, or who incites or attempts to incite any person to commit any such crime.

Section 350, *as amended by the Act of* 1922.—(1) Everyone who attempts to commit any crime for which the punishment is of less severity than three years' imprisonment with hard labour, in any case where no express provision is made by law for the punishment of such attempt, is liable to imprisonment with hard labour for a term equal to one-half of the longest term to which a person committing the crime attempted to be committed may be sentenced.

(2) Everyone who incites or attempts to incite any person to commit any such crime is liable to the same penalty as if he had attempted to commit that crime.

Section 351.—Everyone is liable to two years' imprisonment with hard labour who attempts to commit any crime under any statute not inconsistent with this Act, or incites or attempts to incite any person to commit any such crime.

The Customs Act 1913, Section 203, provides that :

> "Any attempt to commit an offence against this Act shall be an offence punishable in like manner and constituting the like cause of forfeiture as if the offence so attempted had been actually committed. "

Accessories.

The Crimes Act 1908 contains the following provisions with respect to accessories :

Section 90.—(1) Everyone is a party to and guilty of an offence who :

(a) Actually commits the offence ; or

(b) Does or omits an act for the purpose of aiding any person to commit the offence ; or

(c) Abets any person in the commission of the offence ; or

(d) Counsels or procures any person to commit the offence.

(2) If several persons form a common intention to prosecute an unlawful purpose, and to assist each other therein, each of them is a party to every offence committed by any one of them in the prosecution of such common purpose, the commission of which offence was, or

Observations on Article 1, *Paragraph IV* (continued).

ought to have been known to be, a probable consequence of the prosecution of such common purpose.

Section 91.—(1) Everyone who counsels or procures another to be a party to an offence of which that other is afterwards guilty is a party to that offence, although it may be committed in a way different from that which was counselled or suggested.

(2) Everyone who counsels or procures another to be a party to an offence is a party to every offence which that other commits, in consequence of such counselling or procuring, and which the person counselling or procuring knew or ought to have known to be likely to be committed in consequence of such counselling or procuring.

Section 92.—(1) An accessory after the fact to an offence is one who receives, comforts or assists anyone who has been party to such an offence, in order to enable him to escape, knowing him to have been a party thereto.

(2) No married woman whose husband has been party to an offence shall become an accessory after the fact thereto by receiving, comforting or assisting her husband, or by receiving, comforting or assisting, in his presence and by his authority, any other person who has been party to such an offence, in order to enable her husband or such other person to escape.

Section 352.—Everyone is liable to two years' imprisonment with hard labour who, in any case where no express provision is made by this Act for the punishment of an accessory, is accessory after the fact to any crime punishable on a first conviction by imprisonment with hard labour for three years or upwards.

Section 353.—Everyone who is accessory after the fact to any crime punishable with less severity than three years' imprisonment with hard labour is liable, in any case where no express provision is made for the punishment of such accessory, to imprisonment with hard labour for a term equal to one-half of the longest term to which a person committing the crime to which he is accessory may be sentenced.

The Customs Act 1913, Section 202, provides : " Whoever aids, abets, counsels, or procures the commission of an offence against this Act shall be deemed to have committed that offence and shall be liable accordingly. "

Portugal.

[*Translation.*]

The formula : " any act which renders a person accessory thereto " may be taken to include the offence of receiving stolen property *(recel)*, which should be punishable in connection with crimes of this kind. But, as receiving is the act of an accessory *after* the fact, and paragraph IV refers to any act which renders a person accessory to the offences referred to in paragraph II, doubts may arise on this point.

Roumania.

[*Translation.*]

The Roumanian Government, though it approves the principles laid down in paragraphs IV and V which are, as a matter of fact, embodied in the draft Roumanian Penal Code, thinks that it would be desirable to add to the draft Convention a clause making the mere fact of a number of persons associating together for the purpose of counterfeiting currency a punishable offence. The possibility, which exists under several penal codes, of punishing such action would be one of the most effective means of preventing this class of crime. It would also be well if all countries were to make it a punishable offence—the penalties, of course, being lighter—to manufacture medals or printed matter having an external resemblance to coins or banknotes. Although such objects do not constitute counterfeit coins or banknotes, they may nevertheless be used to deceive the public, and to obtain illicit profit. The law in most countries regards such action as a punishable offence (for instance, in France, the Law of 1885 ; in Belgium, the Law of 1899 ; in Austria, the Penal Code, paragraph 225 ; in Germany, the Penal Code, paragraph 360). It would therefore be desirable for the draft Convention to make provision for such acts, in order that this omission in the laws of other countries may be remedied.

Siam.

The Royal Siamese Government states that this provision is already covered by the Penal Code.

Sweden.

[*Translation.*]

Owing to the general attitude of Swedish law towards attempts to commit offences, it would be very difficult for Sweden to accept this clause. In any case, its effect should be

Observations on Article 1, *Paragraph IV* (continued).

confined to attempts at circulating, introducing into the country, receiving or obtaining currency of the descriptions in question. Moreover, in view of the terms of paragraph V, there would appear to be no practical need for paragraph IV of Article 1 of the Convention.

Switzerland.

[*Translation.*]

Both the law concerning the National Bank and the draft Federal Penal Code cover the case of attempted offences and complicity.

ARTICLE 1.—PARAGRAPH V.

Belgium.

1. *Observations of the Minister of Justice.*

[*Translation.*]

Paragraph 3 of Article 180 of the Penal Code makes it a punishable offence to counterfeit or falsify punches, dies or frames intended for the manufacture of Belgian metallic currency, while paragraph 4 of the same article makes it a punishable offence to counterfeit or falsify punches, dies, metal casts, plates or any other objects used for the manufacture of Belgian fiduciary currency.

Paragraph 1 of Article 186 makes it a punishable offence to counterfeit or falsify seals, stamps, punches or marks (paragraph 1 of Article 180) belonging to foreign countries ; but it makes no mention of the manufacture of foreign metallic or fiduciary currency (paragraphs 3 and 4 of Article 180).

This clause should therefore be completed.

A special provision should be made regarding the " receiving or procuring with fraudulent intent " of the objects referred to in paragraph V on account of the doubt concerning the applicability of the present penal provisions, particularly Article 505 of the Penal Code.

2. *Observations of the Commissioner of the Mint.* (Department of the Mint, Ministry of Finance.)

[*Translation.*]

It might be useful to render the text of paragraph V rather more precise. In my opinion, it should be an offence not only to procure these instruments or other articles with fraudulent intent, but, generally speaking, to *manufacture*, *be in possession of*, *hand over* or *receive* such articles when they are *obviously* intended for the counterfeiting or altering of currency. These articles would include dies—either genuine or counterfeit—for striking coins, moulds prepared for the casting of counterfeit coins and all other objects which could be used for no other purpose than the manufacture of counterfeit currency. The mere possession of such objects by private individuals should, I think, be prohibited as constituting the offence of preparing to counterfeit coinage and should be punished as such, even though it may not be possible to prove that these articles have actually been used for illegal purposes.

Great Britain.

Line 1.—As in the case of paragraph II, line 3, " being in possession of " should be substituted for " procuring ".

New Zealand.

Preparation for Forgery.

The Crimes Act, 1908, Section 300, provides the following punishment for preparation for forgery :

" Everyone is liable to fourteen years' imprisonment with hard labour who, without lawful authority or excuse (the proof whereof shall lie on him) :

> " *(a)* Makes, begins to make, uses or knowingly has in his possession any machinery, instrument or material for making revenue paper, Bank of England paper, or paper intended to resemble the bill-paper or banknote paper of any firm, body corporate, company or person carrying on the business of banking ;
>
> " *(b)* Engraves or makes upon any plate or material anything intended to resemble the whole or any part of any debenture or banknote ;

Observations on Article 1, *Paragraph V* (continued).

" *(c)* Uses any such plate or material for printing any part of any such debenture or banknote ;

" *(d)* Knowingly has in his possession any such plate or material as aforesaid ;

" *(e)* Makes, uses, or knowingly has in his possession, any revenue paper, Bank of England paper, or paper intended to resemble any bill-paper or banknote paper of any firm, body corporate, or company, or person carrying on the business of banking, or any paper upon which is written or printed the whole or any part of any debenture or any banknote ;

" *(f)* Engraves or makes upon any plate or material anything intended to resemble the whole or any distinguishing part of any bond or undertaking for the payment of money used by any Dominion, colony, or possession of His Majesty, or by any foreign prince or State, or by any local authority or public body, or by any company or body corporate or other body of the like nature whether within His Majesty's Dominions or without ;

" *(g)* Uses any plate or material for printing the whole or any part of such bond or undertaking ;

" *(h)* Knowingly offers, disposes of, or has in his possession any paper upon which such bond or undertaking or any part thereof has been printed. "

Preparation for Counterfeiting Coin.

The Crimes Act, 1908, Section 314, provides the following punishment for preparation for counterfeiting coin :

Section 314.—" Everyone is liable to imprisonment with hard labour for life who :

. . . . . .

" *(c)* Without lawful authority or excuse (the proof whereof shall lie on him), makes or mends, or begins or proceeds to make or mend, or buys or sells, or has in his possession or custody :

" (i) Any stamp or mould intended to make the resemblance of both or either of the sides of any current coin, or of any coin of any foreign prince or State, or any part of either of such sides, knowing the same to be such, or to be so adapted or intended as aforesaid ; or

(ii) Any tool or instrument intended for coin round the edges with marks or figures apparently resembling those on the edges of any such coin as aforesaid, knowing the same to be so adapted and intended as aforesaid ; or

(iii) Any press for coinage, or any machine or tool for cutting round blanks out of gold, silver or other metal, or mixture of metals, knowing such press, machine or tool to be intended to be used for or in order to counterfeit any such coin as aforesaid :

" *(d)* Knowingly conveys out of any of His Majesty's mints any such thing above-mentioned or any useful part thereof, or any coin, bullion, metal or mixture of metals. "

Section 315.—" Everyone is liable to imprisonment with hard labour for life who :

" *(a)* Makes any piece of metal or mixture of metals whatever into a fit size or figure to facilitate the coinage therefrom of any counterfeit gold or silver *current* coin, with intent that thereby counterfeit gold or silver coin should be made ; or

" *(b)* Gilds or silvers any piece of metal or mixture of metal whatever of a fit size or figure to be coined, with intent that it shall be coined into counterfeit current gold or silver coin. "

Section 318.—" Everyone is liable to seven years' imprisonment with hard labour who :

. . . . . .

" *(c)* Makes any piece of metal or mixture or metals whatever into a fit size or figure to facilitate the coining therefrom of any such counterfeit gold or silver coin, with intent that thereby counterfeit gold or silver coin should be made ; or,

Observations on Article 1, *Paragraph V* (continued).

" *(d)* Gilds or silvers any piece of metal or mixture of metals whatever of a fit size or figure to facilitate the coining therefrom of any such counterfeit gold or silver coin, with intent that thereby counterfeit gold or silver coin should be made. "

Section 319.—" Everyone is liable to seven years' imprisonment with hard labour who :

. . . . . .

" *(b)* Without lawful authority or excuse (the proof whereof shall lie on him), knowingly makes or mends, or begins to make or mend, or buys or sells or has in his custody or possession, any instrument adapted and intended for counterfeiting any current copper coin ; or buys, sells, receives or puts off any counterfeit copper coin at a lower rate or value than the same imports or was apparently intended to import. "

Roumania.

See observations under paragraph IV.

Siam.

The Royal Siamese Government states that this provision is already covered by the Penal Code.

Switzerland.

[*Translation.*]

Article 69 of the Law concerning the National Bank and Article 213 of the draft Federal Penal Code contain penal clauses relating to the manufacture and supply of instruments intended for the counterfeiting of currency, but provisions of this kind are not included in certain of the cantonal laws.

Article 1.—Paragraph VI.

Belgium.

Observations of the Minister of Justice.

[*Translation.*]

Our Code provides, in general, for a lesser penalty when the currency concerned is that of a foreign country (see Articles 164 to 167, as compared with Articles 160 to 163).

The principle of equality of treatment, as laid down in paragraph VI, should be admitted, since it is now to the interest of every State to protect foreign currency as well as its own.

But the interest of the State also postulates reciprocal treatment between all States. Belgium's accession to this paragraph, therefore, must depend on the accession of the majority of States or, at any rate, of those with whom her economic relations are most highly developed.

The Belgian Government therefore intends to propose the insertion in Article 8 of the Convention of a clause to the effect that paragraph VI of Article 1 shall only come into force after the Convention has been ratified by all signatory States.

The adoption of paragraph VI will make it necessary for Belgium to propose to Parliament the modification of certain articles in the Penal Code ; some penalties will have to be increased in order to ensure the equality contemplated in the Convention.

France.

[*Translation.*]

The French Government states that this paragraph is not in harmony with the provisions of the French Penal Code. The French Penal Codes punishes the counterfeiting of foreign currency in France with hard labour for a specified period, and the counterfeiting of currency which is legal tender in France with hard labour for life.

(See also under " General Observations.)

Hungary.

[*Translation.*]

It has been stated above (see remarks in connection with paragraphs II and III) that Hungarian legislation affords the same protection to foreign currency as it does to national currency. Indeed, paragraph 203 of the Penal Codes gives a definition of counterfeiting which expressly applies both to foreign currency and to national currency. Moreover, several of

Observations on Article 1, *Paragraph VI* (continued).

the special provisions concerning counterfeit currency accord to foreign currency a treatment even more favourable than that accorded to national currency. Thus, paragraph 39 of Law XXXVI, 1908, modifying the Penal Code, lays down formally that the illegal alteration of divisional currency, or paper currency replacing the latter, shall not be regarded as a misdemeanour if the illegally altered currency forms the money of account of a foreign country and the value of this unit is less than the national unit of account (Law X, 1928, paragraph 51). In this case, the offence is regarded as a crime. The same applies to the fraudulent use of such counterfeit or illegally altered currency (paragraph 41 of the Law modifying the Penal Code).

At the present time, when the money of account in many foreign countries is lower than the pengö, these provisions are of special interest. The Military Penal Code affords foreign currency the same protection as the Civil Penal Code. In addition, several provisions of the Military Penal Code are even more severe. For instance, the counterfeiting of public-credit bonds and metallic currency is in all cases treated as a crime. According to Article 11 of the Military Penal Code, incitement to commit an offence is punishable even if the offence is not committed.

New Zealand.

For the crime of forging banknotes there is no distinction in the scale of punishment provided in the Crimes Act between crimes relating to domestic currency on the one hand and foreign currency on the other.

The definition of " banknote " contained in Section 288 embraces banknotes issued by the authority of any foreign prince or State or Government or issued by or on behalf of any person, body corporate or company carrying on the business of banking in any part of the world.

Section 291 provides that every person is liable to imprisonment with hard labour for life who commits forgery of :

. . . . . .

> " (xi) A banknote, bill of exchange, promissory note or cheque or an acceptance, making, endorsement or assignment thereof ;
>
> " (xii) A document that is evidence of title to any portion of the debt of the United Kingdom, or of any Dominion, colony, or possession of His Majesty, or of any local authority or public body in New Zealand, or of any foreign State or country, or a transfer or assignment thereof. "

Uttering Forged Documents.

The Crimes Act, Section 292.—(1) " Everyone who, knowing a document to be forged, uses, deals with, or acts upon it, or attempts to use, deal with or act upon it, or causes or attempts to cause any person to use, deal with, or act upon it as if it were genuine is liable to the same punishment as if he had forged the document.

(2) It is immaterial where the document was forged.

For the crimes relating to coin there is a marked difference in the scale of punishment provided in the Crimes Act between crimes relating to domestic currency and crimes relating to foreign currency.

In Sections 314 and 315, the punishment provided for all offences connected with counterfeiting or preparation for counterfeiting gold and silver current coin, is imprisonment with hard labour for life.

In Section 316, the punishment provided for diminishing or lightening current gold or silver coin is fourteen years' imprisonment with hard labour, and in Section 317 the penalty for possessing clippings, filings, etc., is seven years' imprisonment with hard labour.

In Section 318, the punishment for counterfeiting foreign gold or silver coin, or preparation for same, is seven years' imprisonment with hard labour.

In Section 319, the punishment provided for counterfeiting current copper coin, or preparation for same, is seven years' imprisonment with hard labour.

In Section 320, the punishment provided for counterfeiting foreign copper coin is one year's imprisonment with hard labour.

The penalty for uttering counterfeit coin is the same in the case of domestic currency as in the case of foreign currency (one year) : see Crimes Act, Sections 323 and 326.

Observations on Article 1, *Paragraph VI* (continued).

Siam.

The Royal Siamese Government states that this provision is already covered by the Penal Code.

Switzerland.

[*Translation.*]

It is just that no distinction should be made in the scale of punishments for counterfeiting foreign and domestic currency. Article 216 of the draft Federal Penal Code embodies this principle. The Law on the National Bank, on the contrary, as has already been pointed out, only punishes the forgery of Swiss banknotes. Under the oldest cantonal laws, only currencies which are legal tender in Switzerland are protected against counterfeiting.

ARTICLE 1.—PARAGRAPH VII.

France.

[*Translation.*]

This paragraph is not in harmony with the provisions of the French Penal Code, " which does not provide . . . that materials used for counterfeiting should be handed over to the Government or bank of issue whose currency is in question. "

(See also under " General Observations ".)

Great Britain.

Line 6.—" If necessary, a limited number of specimens for the Central Office mentioned in paragraph XI " should be substituted for " any specimens . . . deemed advisable ".

It is considered important that the number of specimens to be retained by the Central Office abroad should be limited. In the present text, the number of specimens is subject to no limitation, and it is not clear at whose desire the specimens are to be retained.

Hungary.

[*Translation.*]

Illegal alterations and the material used for making such alterations are sent forthwith by the court dealing with the case to the bank of issue which is the injured party, as soon as the proceedings have been terminated (paragraph 249 of the Code of Penal Procedure). The system adopted under Hungarian law is thus in advance of the present draft, since, under Hungarian law, the handing over of illegally altered currency, etc., is a matter of ordinary procedure.

New Zealand.

Search Warrants.

The Crimes Act 1908, Section 365, authorises any justice of the peace to issue his warrant to search for :

(a) Anything upon or in respect whereof any crime has been or is suspected to have been committed ; or

(b) Anything on which there is reasonable grounds to believe will afford evidence as to the commission of any such crime.

. . . . . .

(5) If under any warrant there is brought before a justice any forged banknote, bill-paper, banknote paper, instrument or other thing the possession whereof, in the absence of lawful excuse, is a crime under any provisions of this or any other Act, the court to which any such person is committed for trial, or, if there is no commitment for trial, such justice may cause such thing to be defaced or destroyed.

(6) If under any such warrant there is brought before any justice any counterfeit coin or other thing the possession of which, with knowledge of its nature and without lawful excuse, is a crime, every such thing shall be delivered up to an inspector or other superior officer

Observations on Article 1, *Paragraph VII* (continued).

of police, or to any person authorised by him to receive the same, as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced.

Note.—In paragraph VII of the draft Convention reference is made to the " Central Office, mentioned in paragraph XI ". This is evidently a misprint and should read : " The Central Office mentioned in paragraph XII ".

The Justice of the Peace Act 1908 contains the following provisions relating to *coinage offences* :

Section 187.—No tender of payment of money made in any current gold, silver or copper coin defaced by having any name or word stamped thereon, whether such coin is or is not thereby diminished or lightened, shall be allowed to be a legal tender, and everyone who knowingly tenders, utters or puts off any coin so defaced is liable to a fine not exceeding two pounds ; but no person shall be proceeded against under this section without the leave of His Majesty's Attorney-General.

Section 188.—Every person who without lawful authority or excuse (the proof whereof shall lie on him) has in his possession any greater number of pieces than fives pieces of any counterfeit coin of any foreign prince, State or country is liable to a fine not exceeding two pounds and no less than ten shillings in respect of every such piece of counterfeit coin found in his possession ; and every such piece of counterfeit coin shall be cut in pieces and destroyed by order of the convicting justices.

Section 189.—(1) If any coin is tendered as current gold or silver coin to any person who suspects the same to be diminished otherwise than by reasonable wear, or to be counterfeit, such person may cut, break, bend, or deface such coin and if any coin so cut, broken, bent or defaced appears to be diminished otherwise than by reasonable wear, or to be counterfeit, the person tendering the same shall bear the loss thereof ; but if the same is of due weight, and appears to be lawful coin, the person cutting, breaking, etc., shall be bound to receive the same at the rate at which it was coined.

(2) If any dispute arises as to whether the coin so cut, broken, bent or defaced, is diminished in manner aforesaid, or counterfeit, it shall be heard and finally determined in a summary manner by any justice, who may examine on oath the parties, as well as any other person, for the purpose of deciding such dispute.

(3) Every officer employed in the collection of His Majesty's revenue in New Zealand shall cut, break or deface, or cause to be cut, broken or defaced, every piece of counterfeit or unlawfully diminished gold or silver coin tendered to him in payment of any part of such revenue in New Zealand.

Siam

The Penal Code provides for confiscation of counterfeits or altered money and any instrument or material sused therefore. Although the Code has no provision that the materials confiscated shall be handed over to the Government or to the bank of issue, His Majesty's Government undoubtedly may do so without any amendment to the Code. However, His Majesty's Government suggests that delivery should be made always to the other Government and not to the bank of issue.

Sweden.

[*Translation.*]

This clause is also incompatible with the general principles of Swedish law. The paragraph should confine itself to stating that material intended for counterfeiting or altering, and the objects thus falsified or altered, should be rendered incapable of fraudulent use.

Switzerland.

[*Translation.*]

The Law concerning the National Bank, the majority of the cantonal laws and the draft Penal Code provide for the confiscation but not for the handing over of the counterfeited banknotes or coin to the Government or bank of issue whose currency is in question. A surrender of this kind, and even the handing over of counterfeit notes and coins to a criminological museum would, however, be possible under the stipulation in the draft Penal Code relating to confiscation.

ARTICLE 1.—PARAGRAPH VIII.

Hungary.

[*Translation.*]

The provisions of Chapter IV of the Code of Penal Procedure concerning the " civil party " and " private accuser " draw no distinction between foreigners and Hungarian nationals, and grant to foreigners, without any stipulation as to reciprocity, the enjoyment of the rights and privileges specified in the paragraphs relating thereto.

New Zealand.

The Crimes Act 1908, Section 355, provides that :

> " No civil remedy for any act or omission shall be suspended by reason that such act or omission amounts to a criminal offence. "

In Fairbairn Wright & Co. *v.* Levin & Co., Ltd. (1914, 16.*G.L.R.* 522, C.A.) defendants were held liable in damages at common law for using unlawful means for the purpose of injuring the plaintiffs in their trade and thereby causing them damage, the defendants having been previously convicted and fined on charges under the Commercial Trusts Act 1910, the acts complained of having been the basis of the conviction.

Siam.

There is no objection to this provision.

Switzerland.

[*Translation.*]

This paragraph, which deals with the recognition of a " civil party ", is almost identical with Article 9 of the draft dated June 28th, 1927. It is unusual for an international convention to interfere in this way in the judicial procedure of the contracting States. This provision, however, contains nothing that cannot be taken for granted and might very well be deleted.

Union of Soviet Socialist Republics.

[*Translation.*]

The Union of Soviet Socialist Republics would be unable to accept paragraph VIII of Article 1, as the admission of " civil parties " in criminal proceedings is not in accordance with its practice in such cases.

ARTICLE 1.—PARAGRAPH IX.

Great Britain.

Line 1.—" A political motive " should be substituted for " The political motive ".

Hungary.

[*Translation.*]

The principle set forth in this paragraph is in conformity with the doctrine according to which the political character of an offence is normally determined, not by the reason assigned by the offender, but rather by the actual connection between the offences and some political movement which determines their political character.

New Zealand.

The Extradition Act, 1908 provides that the Imperial Statutes, The Extradition Act, 1870 and the Extradition Act, 1873, shall be in force in New Zealand subject to one or two formal modifications.

The Extradition Act, 1870, Section 3, provides :

> " The following restrictions shall be observed with respect to the surrender of fugitive criminals :

Observations on Article 1, *Paragraph IX* (continued).

> " (1) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the police magistrate or the court before whom he is brought on habeas corpus, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character. "

Note.—In the second volume of his *History of Criminal Law*, page 71, Sir James STEPHEN expresses the opinion that the term " offence of a political character " should be interpreted to mean " that fugitive criminals are not to be surrendered for extradition crimes if those crimes were incidental to and formed part of political disturbances ".

Roumania.

[*Translation.*]

This paragraph should be more clearly drafted : under the present wording, persons claiming to have committed this offence for political reasons might escape punishment. The draft lays down that " the political motive of an offender is not enough to make an offence coming under the present Convention a political offence ". Cases might therefore arise under the Convention as it stands in which counterfeiters would be regarded as political offenders, and would benefit under the treatment accorded to such offenders. They might even escape all punishment, if they took refuge in a country other than that in which they had committed the offence, or that whose currency they had counterfeited.

It should not be forgotten that it was precisely the danger of counterfeiting, perpetrated for alleged political reasons, which caused the League of Nations to take up this question, and to appoint the Committee of Experts which has framed the draft Convention.

The statements of Sir Austen Chamberlain and M. Paul-Boncour at the fourth meeting of the Fortieth Session of the League Council, and the replies from the Banks of Issue consulted on this question, clearly show that the inadequacy of present penal laws and the provisions of international criminal law concerning the punishment of political forms of counterfeiting are recognised.

One point is obvious : the manufacture of counterfeit currency constitutes at the present time a new form of terrorism, destined either to assuage a collective thirst for vengeance—political or nationalistic—or to intimidate peoples into accepting certain social doctrines.

It is therefore difficult, in such circumstances, to adopt the theory of intention or the objective theory and to draw a distinction between the counterfeiting of currency for political purposes and ordinary counterfeiting. In this connection, we can only adopt the method of elimination, which is to place counterfeiting in the category of crimes against the community, for the repression of which all countries are obliged to co-operate without taking into account the motive of the offence or the circumstances in which the criminal acts were committed.

The method of elimination adopted by the Institute of International Law, at its session at Geneva in 1892, with regard to murder, poisoning, etc., which has been embodied in the laws of several countries, will perforce have to be adopted in the case of counterfeiting. Counterfeit currency not only injures the credit of the State which issues the true currency ; it also shakes the confidence of the public in this instrument of international exchange and affects the interest which all States have in guaranteeing the security of the monetary circulation. In no case should counterfeiting be regarded as a mere act directed against the political organisation of a given State. The consequences of such acts, direct and indirect, affect the common interests of all civilised countries.

The Roumanian Government therefore thinks that it would be highly desirable to consider the possibility of so wording paragraph IX as definitely to eliminate counterfeiting from the category of political offences.

Siam.

The only effect this provision would have in Siam is on extradition cases. It would extend the provisions of the existing treaties, which in general provide that extradition shall not apply to political offences, with certain exceptions concerning crimes of violence.

His Majesty's Government prefers not to express an opinion at present on this paragraph as it has not consulted the other Governments with which it has treaty obligations.

Switzerland.

[*Translation.*]

This paragraph provides that the political motive of an offender is not enough to make an offence of counterfeiting currency a political one. In Switzerland, the treatment of political

Observations on Article 1, Paragraph IX (continued).

offences involves principles of public law which cannot be departed from. The Mixed Committee, moreover, recognises in its report that the counterfeiting of coin and banknotes may constitute a political offence. A clause such as paragraph IX would appear to be at variance, in particular, with the right of political asylum embodied in Article 10 of the Swiss Extradition Law. Cases of counterfeiting currency for political motives do not, as a rule, constitute political offence pure and simple. Accordingly, the Federal Tribunal decides freely in each individual case whether the predominating element of the offence is political or not, and whether political asylum shall be granted or refused. From the Swiss point of view, it is important that the Federal Tribunal should retain this jurisdictional power. Paragraph IX of the draft Convention, therefore, could hardly be accepted.

ARTICLE 1.—PARAGRAPH X.

Belgium.

Observations of the Minister of Justice.

[*Translation.*]

M. Servais, Public Prosecutor at the Brussels Court of Appeal, whom the Belgian Government sent as its delegate to the Mixed Committee, observes that the text of paragraph X omits a condition—which was to be laid down therein as it is in paragraph XI—on which the Committee desired, in these two paragraphs, to make criminal proceedings depend : namely, that a complaint should be made by the injured party, or official notice should be given by the foreign authority.

M. Servais therefore thinks that the text of paragraph X should be completed in this sense.

In our opinion, moreover, we should only be bound to bring our law into line with the Convention, as regards this condition, if the Convention should prohibit the subordination of prosecution to this condition. Should the Convention subordinate criminal proceedings to this condition or allow such subordination, we are not prohibited from going further.

My Department will consider the modifications which will have to be proposed in connection with Articles 6, 10 and 12 of the Law of April 17th, 1878, in order to bring these articles into line with the Convention.

Danzig.

A clause should be inserted between paragraphs X and XI of Article 1 stipulating that countries which recognise the principle of the extradition of their own nationals should be bound to surrender those of their nationals who have committed abroad any offence referred to in this Convention, or any act rendering them liable as accessories to such an offence, even if the extradition treaty applicable should contain a reservation relative to the surrender of that country's nationals.

France.

[*Translation.*]

This paragraph provides that, in countries where the principle of extradition of nationals is not recognised, nationals who have taken refuge in the territory of their own country after the commission abroad of offences relating to the counterfeiting of currency should be punishable in the same manner as if the offence in question had been committed in their own territory. No provision such as this is to be found in French law.

(See also under " General Observations ".)

Germany.

The German Government points out that paragraphs X and XI contain a reservation which exempts countries applying the English law from the obligation to prosecute for the offence of counterfeiting currency if committed abroad. The Government states that the text of Article 2 does not show clearly whether these States are bound, in the case of such offences, to grant the extradition of their own nationals. It therefore seems to it necessary to supply this omission as regards the possibility of suppressing the counterfeiting of currency by inserting a definite stipulation whereby the aforesaid countries would be pledged to grant extradition. The German Government therefore proposes that the following paragraph Xa should be inserted in Article 1, between paragraphs X and XI :

Xa.

[*Translation.*]

" The countries which recognise the principle of the extradition of their own nationals undertake, upon requisition being made, to surrender their nationals who are in their own territory but who have committed in a foreign

Observations on Article 1, *Paragraph X* (continued).

country one of the offences covered by this Convention, or who have wittingly been accessories to such offences, even if the extradition treaty applicable in such cases contains a reservation with regard to the extradition of the country's own nationals.

" Extradition shall not be obligatory if, on the same facts, the extradition of a foreigner could not be granted on account of the nature of the offence, or if the country applied to itself takes proceedings against its own nationals in respect of the offence. "

Hungary.

[*Translation.*]

In Hungary, offences committed abroad are dealt with under the provisions of paragraph 8 of the Penal Code if the offender is a Hungarian subject living in Hungary, and provided the offence is not one of those mentioned in paragraph 7 (1) of the Penal Code. The offence in question must, however, be punishable under the Hungarian Penal Code also.

In order to avoid misunderstanding, the Royal Hungarian Government would like to see it clearly stated that the provisions of paragraph X do not exclude the application in the matter of penalties of the principle *lex mitior*, of the principle *non bis in idem* and other similar principles ; for instance, the taking into account of sentences served abroad.

It is obvious that, even when a State draws no distinction between its own and foreign interests, it must nevertheless take certain circumstances into account in the case of an offence committed abroad. For instance, if in the territory of the State in which the offence is committed the law is less severe, it cannot ignore this fact ; nor that the offender has already been sentenced for the acts in question by the *forum delicti commissi* and has entirely or partly served his sentence, nor that he has been acquitted abroad or even pardoned. These considerations cannot be disregarded in counterfeiting offences either, since they are derived from universally admitted general principles of international penal law. Failure to observe them might give rise to contradictions. For instance, if the principle of *lex mitior* were not applied, the offender might be obliged under Hungarian law to undergoa penalty severer than that laid down by the laws of the *forum delicti commissi.*

India.

It is presumed that the provisions of this paragraph would apply in any case where extradition is refused not because the general principle of extradition is not recognised, but because there is a saving clause in favour of nationals in the particular treaty between the two countries concerned applicable to the case. In order to remove any doubt on this point, it is suggested that the following addition to the paragraph in question should be made, viz. : In line 2, after the word " recognised ", insert the words : " or where between any two countries no provision is made for the extradition of nationals ".

Further, I am to point out that the laws of India do not admit and, by reason of the restriction of the extra-territorial power of the Indian Legislature under Section 65 (1) *(c)* of the Government of India Act, cannot be amended to admit, of the prosecution in British India of a European British subject domiciled in British India for a currency offence committed outside India. Also, the Government of India would not be able to honour the obligation imposed by the following words of the paragraph, viz. : " even in a case where the offender has acquired his nationality after the commission of the offence ", since, if the offender was not a British subject at the time of the offence, he would not be triable under the provisions applicable only to offences committed by British subjects.

I am accordingly to suggest that, to meet these difficulties, the following further addition should be made to paragraph X of Article 1, viz. : In line 4, after the word " should ", insert the words : " so far as the Legislature of their country is competent so to provide ".

New Zealand.

Extradition crimes include forgery and counterfeiting (see 1st schedule to the Extradition Act, 1870, and the schedule to the Extradition Act, 1873).

An extradition crime must be a crime that comes both within the Extradition Acts and within the treaty between England and the country demanding the surrender.

All parties to an extradition crime are extraditable (see Extradition Act, 1873, Section 3). (See also R. *v.* Lander, referred to in note to paragraph XI.)

Roumania.

[*Translation.*]

Though it approves the principles embodied in paragraphs X and XI, the Roumanian Government feels that certain very important questions connected with these provisions might have been definitely settled by the draft Convention.

Observations on Article 1, *Paragraph X* (continued).

The first of these is the question of *habitual international criminals.* If counterfeiting currency is admitted as an international offence, States are surely bound, when punishing such acts, to take into account the offenders' previous criminal record. Owing to the strictly territorial character of criminal sentences, judges are obliged, at the present time, to impose quite light sentences on counterfeiters, even when the latter have already been sentenced abroad for similar offences. As the corruption and anti-social tendencies of the offender are proved by the fact of previous convictions abroad, publicists have unanimously demanded that judges should be allowed to take such previous convictions into consideration and pass a heavier sentence. This principle was also enunciated by the Institute of International Law at its session at Munich in 1883, and has now been embodied in the laws of certain countries or in draft Penal Codes (*cf.* : Penal Code of the Canton of Lucerne, Article 77 ; Mexican Penal Code, Article 39 ; Penal Code of the Canton of Valais, Article 79 ; Penal Code of the Canton of St. Gall, Article 39 ; Penal Code of Neuchâtel, Article 96 ; Norwegian Penal Code 1902, Section 61, paragraph 3 ; draft Roumanian Penal Code of 1927, Article 11 ; draft Greek Penal Code of 1924, Article 68 ; draft Penal Code prepared by M. Travers for the Polish Republic, Article 5 ; draft Italian Penal Code, 1927, Article 11).

When, at the Second Conference for the Unification of Criminal Law, held at Rome in May 1928, the principle of habitual international criminality came to be discussed, the representatives of the Codification Committees of countries which were preparing new penal codes recognised the absolute necessity of embodying this principle in all modern codes ; no objection was raised to the universal acceptance of these views (*cf.* speech by the Rapporteur-General of the Conference). The representatives of the Italian, Serb-Croat-Slovene, Czechoslovak, Roumanian, Greek, Spanish and Polish Codification Committees agreed to introduce into their respective draft Penal Codes the following text :

> " Any person committing an offence in the country X, after being sentenced abroad for an offence also recognised under the laws of X, shall be regarded as an habitual criminal under the circumstances and in the cases specified in the present Code with regard to previous offences and the recognition of the effects of criminal sentences passed abroad. "

In these circumstances, it would be desirable to omit Recommendation No. VI at the end of the Convention, and to draft a text, to be inserted in the Convention itself, embodying the principle of habitual international criminality.

Secondly, and once again as an earnest of international solidarity in the campaign against counterfeiters, it would be desirable for the draft Convention to contain a definite clause to the effect that sentences passed in any State on such offenders and involving deprivation of rights should also be operative in all other States.

It would also be desirable, when persons have been sentenced abroad to forfeiture of civil rights for counterfeiting, that such sentence should likewise take effect in the country of which the offender is a national, in the form of an action for the express purpose of placing that person under a civic disability.

This principle is embodied in the penal laws of many countries (for instance : German Penal Code, paragraph 7 ; Penal Code of the Canton of Neuchâtel, Article 37 ; Penal Code of the Canton of Vaud, Article 3 ; Hungarian Penal Code, Article 15 ; Swedish Penal Code, paragraph 21 ; Italian Penal Code, Article 7 ; Russian Penal Code of 1923, Article 12 ; Bulgarian Penal Code, Article 11 ; draft Swiss Penal Code of 1916, Article 5 ; draft Roumanian Penal Code 1927, Article 5 ; draft Greek Penal Code 1924, Article 7 ; draft Czechoslovak Penal Code, Article 9 ; draft Spanish Penal Code, Article 11 ; draft Italian Penal Code of 1927, Article 11).

The Second International Conference for the Unification of Criminal Law (Rome, May 1928) unanimously agreed to a common text to be inserted in the draft codes of the countries represented at this Conference :

" *Forms of Disability and Loss or Deprivation of Rights (Incapacités, déchéances ou interdictions.)*

> " Article 2.—Should a national of X have been sentenced abroad under the ordinary law of the country for an offence which, according to the law of X, involves the placing of this person under some form of disability or the loss or deprivation of his rights, the Courts in X may place that person under the disability in question or decree the loss or deprivation of rights provided under the laws of X for offences of this kind. "

In the case of foreigners sentenced in their country to the loss of rights for counterfeiting, it would be desirable that the draft Convention should admit the principle which has been embodied in several modern drafts and has been put forward both by the Institute of International Law at its session at Munich in 1883, and by the International Prisons Congress at its session in Paris in 1895. This principle also forms the subject of a common clause adopted unanimously by the second Conference for the Unification of Criminal Law at Rome (May 1928) and worded as follows :

> " Article 3.—A foreigner sentenced in his own country for an offence against the ordinary law of the country shall be forbidden, in the country X, to exercise or enjoy the rights of which he has been deprived by a foreign sentence which has become final. "

Observations on Article 1, *Paragraph X* (continued).

As the Convention contains a series of clauses only binding on States which admit the general principle of prosecution for offences committed abroad (Article 1, paragraphs X and XI), it might be possible to draft, for these countries, texts concerning habitual international criminality and the extra-territorial effect of penal sentences passed for counterfeiting.

Siam.

It is not the policy of His Majesty's Government to extradite its own nationals. However, the Penal Code already provides that its own nationals may be punished for certain crimes committed abroad (which include counterfeiting) under certain conditions, among which are that the acts shall be crimes under the laws of both States. The Penal Code, therefore, is in accord with the provision of paragraph X.

Sweden.

[*Translation.*]

As regards the clause providing for the case where an offender has changed his nationality after the commission of the offence, it should be observed that Swedish law contains no general provisions regarding this point. The Swedish Government doubts whether there are sufficient grounds to justify the enactment of legislation which would be applicable solely to the offence of counterfeiting.

Switzerland.

[*Translation.*]

Though extradition is never granted in the case of Swiss citizens, the Federal Extradition Law of 1892 allows criminal proceedings to be taken against nationals for extradition crimes. Nevertheless, the draft Convention provides for offences which would not be dealt with in Switzerland, as the cantonal Penal Codes do not contain the necessary provisions.

In many cases—perhaps in the majority—criminal proceedings could not be taken under Swiss law against aliens who had committed an offence of counterfeiting currency abroad, as there are no special provisions to that effect. The principle of the universality of the offence of counterfeiting currency is not, generally speaking, embodied in Swiss legislation.

ARTICLE 1.—PARAGRAPH XI.

Belgium.

See observations of the Minister of Justice on paragraph X.

Danzig.

See observations under paragraph X.

Germany.

See observations under paragraph X.

Hungary.

[*Translation.*]

Proceedings against Counterfeiting Offences committed abroad by Foreigners.—It is immediately obvious that this is an undertaking which cannot be entered into by all the contracting States, but only by those which admit as a general rule the principle of the prosecution of offences committed abroad.

On the supposition that the authors of the draft had in mind the system adopted by the Hungarian Penal Code and similar systems, the Royal Hungarian Government ventures to offer the following comment :

The observations of the Royal Hungarian Government with regard to paragraph X of the draft clearly prove that it would be difficult entirely to disregard the consequences of the fact that the offence was committed abroad. A country would have little difficulty in justifying. in the eyes of its own nationals, a decision to regard foreign territory in which counterfeiting had occurred as if that territory were within its own jurisdiction. On what juridical basis, however, could it under its own internal law prosecute a foreigner simply because he happened to have been arrested in its territory ? Or how could it proceed against him without taking into account the relative severity of the penalties incurred under the laws of the *forum delicti commissi*, or under those of the injured State ?

Observations on Article 1, *Paragraph XI* (continued).

It could hardly be argued that, as certain States punish the counterfeiting of national currency committed abroad by foreigners without taking into account the law of the *forum delicti commissi* (paragraph 7 of the Hungarian Penal Code), the same might therefore apply to foreign currency. The State whose jurisdiction is only involved because it is the *forum reprehensionis* could certainly not disregard the principles of *lex mitior* and *non bis in idem*.

The Royal Hungarian Government thinks that the text of paragraph XI is not sufficiently clear as regards the application of these principles. The expression " should be punishable in the same manner " doubtless does not mean an absolute assimilation of extra-territorial jurisdiction to territorial jurisdiction, nor is it intended to exclude the application of the above principles.

With a view to avoiding misunderstanding, the Hungarian Government proposes a reservation similar to that proposed in connection with paragraph X.

Sub-Paragraph 2.—In Hungary, the Public Prosecutor is bound to take proceedings in counterfeiting offences. A complaint by the injured party or official notice is not therefore necessary.

India.

The Indian Legislature has no power to provide for the punishment of offences committed outside India by foreigners, and the acceptance by the Government of India of this paragraph would be conditional on the assumption that it is not applicable to a country whose internal laws recognise the principle of prosecution of nationals but not foreigners for offences committed abroad. In order to make this clear in the text of the Convention, I am to suggest that it would be desirable to include the following addition in the paragraph in question, viz. : In line 4, after the word " punishable ", insert the words : " so far as that rule applies ".

New Zealand.

An enactment purporting to deal with crime committed beyond the territorial limits of New Zealand is beyond the power of the New Zealand Parliament. (See R. *v.* Lander, *N.Z.L.R.* 1919, page 305.)

Roumania.

See observations under paragraph X.

Siam.

The Penal Code already provides that any person (which includes nationals or aliens) who commits offences outside of the country shall be punished in Siam in certain specified cases, among which are any offences " relating to the money of the State under Sections 202 to 221 of the Penal Code ". This provision does not cover the obligation expressed in paragraph XI, which is, under certain conditions, to punish aliens who have in other territories committed any offences referred to in the Convention. His Majesty's Government doubts the wisdom of assuming such a wide obligation, since the crime must be committed outside the country and involves counterfeiting, etc., of the currency of some other countries. It would be extremely difficult in Siam to obtain the necessary evidence to secure conviction since, under Siamese law, depositions are not permitted in criminal cases.

Switzerland.

See observations under paragraph X.

Article 1.—Paragraph XII.

Belgium.

1. *Observations of the Minister of the Colonies.*

[*Translation.*]

I think that an the official seat of the bank responsible for issuing currency in the colony is at Brussels, the central office to be established for the colony should also be at Brussels.

Observations on Article 1, *Paragraph XII* (continued).

A central Police office in the colony, with the organisation and functions conferred upon it by Article 1, paragraph XII, of the draft Convention, would be of no practical value, and would entail unnecessary expenditure.

2. *Observations of the Governor of the National Bank.*

See under " General Observations ".

Czechoslovakia.

[*Translation.*]

The functions of a central office, such as is proposed in Article 1, paragraph XII, have for several years been carried out in strict contact with a corresponding section of the National Czechoslovak Bank by the Police Administration at Prague, which has for this purpose specialised police and experts.

Netherlands.

[*Translation.*]

The Netherlands Government desires to draw your attention to one point forthwith. It is convinced that it would be advisable to extend the competence of the national central offices, whose work is defined in paragraphs XII, XIII and XIV of the draft Convention, to include forged or falsified cheques, bills of exchange, letters of credit and similar instruments. It may be pointed out in this connection, to give but one instance, that at the beginning of the year various large and small banking institutions in the Netherlands were cheated, in the course of one month, by the use of forged or falsified cheques, bills of exchange and letters of credit, of about half a million florins, a sum greater than the total amount for which Dutch banknotes, Treasury notes and coin have ever been forged or manufactured. In the latter case it has almost always been possible to apprehend the offenders ; whereas international forgers of cheques, bills of exchange or letters of credit are less easy to discover. The Netherlands Government would therefore propose the addition to the Draft Convention of a clause under which the national central offices would be authorised to deal with the question of forged or falsified cheques, bills of exchange, letters of credit and similar instruments. This proposal refers only to the centralisation and specialisation of police enquiries. The Government believes that the adoption of this suggestion would be likely to facilitate the campaign against such crimes.

My Government proposes to put forward other suggestions on this subject when the Conference meets.

New Zealand.

In New Zealand the police force is a national organisation, the central office being the office of the Commissioner of Police at Police Headquarters, Wellington. This central office, being the controlling authority of the entire police organisation in New Zealand, can at any time get into contact with the institutions issuing currency.

The New Zealand Police Force is a national one and there are no other police authorities within the Dominion.

Contact (direct) with the central offices in other countries would be subject to arrangement after the central offices have been established in the other countries referred to.

This central office, through its present organisation, centralises all information of a nature to facilitate the investigation, prevention and punishment of all crime, per medium of the *Police Gazette*, Criminal Registration Branch, etc.

Portugal.

See under " General Observations ".

Siam.

Paragraphs XII, XIII, XIV and XV.—There are no objections to these provisions. The Siamese Government, however, is interested in the question of what language will be used.

Switzerland.

[*Translation.*]

The organisation of central offices would be an excellent measure. The Public Prosecutor's Department of the Confederation has since 1922 served, in cases of counterfeiting currency, as liaison office between the Netherlands and Czechoslovakia on the one hand and the Swiss police authorities on the other.

Observations on Article 1, *Paragraph XII* (continued).

At the International Police Congress, held in Vienna in September 1923, the following resolution was adopted :

> " The delegates declare that it is expedient and desirable to establish in each country special services definitely responsible for the investigation of questions concerning the counterfeiting or alteration of currency. . . . They undertake to use all their influence with their respective Governments to urge the establishment of central offices of this nature. "

The Public Prosecutor's Department of the Confederation was appointed as the central office for Switzerland and, working in close collaboration with the National Bank, it maintains relations between foreign countries and the Swiss police authorities.

ARTICLE 1.—PARAGRAPH XIII.

Netherlands.

See observations under paragraph XII.

New Zealand.

This would be subject to arrangement after the central offices in other countries have been established.

Portugal.

See under " General Observations ".

Siam.

See remarks under paragraph XII.

Switzerland.

See remarks under paragraph XII.

ARTICLE 1.—PARAGRAPH XIV.

Hungary.

[*Translation.*]

Hungary is fully prepared to agree to the creation of international organs to ensure and facilitate the suppression of counterfeiting.

Netherlands.

See observations under paragraph XII.

New Zealand.

When central offices have been established in other countries, the provisions of paragraph XIV of the draft Convention (Article 1) could be carried out whenever the Commissioner of Police considers it expedient to do so.

Portugal.

See under " General Observations ".

Siam.

See remarks under paragraph XII.

Observations on Article 1, *Paragraph XIV* (continued).

Switzerland.

See remarks under paragraph XII.

ARTICLE 1.—PARAGRAPH XV.

Austria.

The Austrian Government suggests the addition of a second clause to this paragraph, to read as follows (see the observations of this Government on Recommendation V of the Mixed Committee) :

> " Pending the creation of an international office, the work of the International Bureau at Vienna which was set up in 1923 by the International Congress of Police, and is directed by the Chief Commissioner of Police at Vienna, under the guidance of the International Criminal Police Commission, will be continued with the completest possible co-operation of the Governments of the High Contracting Parties. "

Hungary.

See remark under paragraph XIV.

Italy.

See under " General Observations ".

Siam.

See remarks under paragraph XII.

Switzerland.

[*Translation.*]

It would have been desirable to designate the Viennese police authorities, who already discharge the duties in question to the general satisfaction, in the Convention itself.

Union of Soviet Socialist Republics.

[*Translation.*]

Paragraph XV of Article 1 needs to be amplified by a clause to the effect that the Central International Office is not empowered to issue orders or instructions of any kind to the Central Offices of the different countries.

ARTICLE 1.—PARAGRAPH XVI.

Danzig.

[*Translation.*]

Paragraph XVI *(a)* should state that direct communication should be effected, not only between the judicial authorities, but also between the central offices for the suppression of counterfeiting currency set up in contact with the police authorities.

It may be pointed out that there would be no objection in principle to the exchange of information in accordance with the proposal of the League Committee, after the acceptance of the Convention by the Free City of Danzig, but that co-operation between the judicial and police authorities is not so close here as in France, Belgium, Switzerland, etc. The addition of the above clause therefore appears to be necessary. "

Great Britain.

Line 29 (penultimate line).—Insert " High " before " Contracting Parties ".

Hungary.

[*Translation.*]

The Royal Hungarian Government is prepared to accept the text of paragraph XVI.

Observations on Article 1, *Paragraph XVI* (continued).

New Zealand.

In Scotland, Ireland, India and the Colonies one of the three ways of taking evidence in His Majesty's dominions outside the jurisdiction of the High Court is : " By letters of request addressed to a Court or Judge in India or the Colonies or elsewhere in His Majesty's dominions."

In such a case the Court or Judge so requested may appoint a person to take the examination (48 & 49 Vic. c. 74, s. 2).

Whether the examination is by commission, mandamus, or letters of request, any witness or person may be examined on oath, affirmation or otherwise, according to the law in force at the place where the examination is taken (48 & 49 Vic. c. 74, s. 6).

* * *

The Evidence Act 1908 contains the following :

" *Section* 48.—Matters pending before Foreign Tribunals.

" (1) In this section, ' Affidavit ' means any written statement made on oath before a solicitor of the Supreme Court of New Zealand ; ' Declaration ' means any written statement declared by the maker thereof to be true in the presence of a solicitor of the Supreme Court of New Zealand ; ' Foreign Tribunal ' means a court of justice in any place outside of His Majesty's dominions.

" (2) It shall be lawful for any solicitor of the Supreme Court of New Zealand to take the affidavit or declaration of any person in relation to any matter, whether civil or criminal, which is certified in accordance with this Act to be pending before any foreign tribunal.

" (3) Every such affidavit or declaration shall be intituled " In the matter of Section 48 of the Evidence Act 1908 " ; and every such declaration shall be expressed to be made in pursuance of the provisions of this section.

" (4) No such affidavit or declaration shall be taken unless the solicitor taking it has received a written certificate from a consul or vice-consul of the State to which such foreign tribunal belongs that he believes the said affidavit or declaration to be required for the purpose of a matter pending in the said tribunal.

" (5) The jurat or attestation of the said affidavit or declaration shall state the name and official designation of the consul or vice-consul on whose certificate the said affidavit or declaration has been taken.

" (6) Every such affidavit or declaration shall be deemed to have been made in a judicial proceeding within the meaning of the Crimes Act, 1908, and any person who falsely makes any such affidavit or declaration shall be guilty of perjury accordingly.

" (7) In any prosecution for perjury in respect of any such affidavit or declaration, it shall not be necessary to prove that any judicial or other proceeding was actually pending in any foreign tribunal, or that any such certificate as is mentioned in Sub-section 4 hereof was actually given, nor shall any evidence to the contrary be admissible.

Siam.

His Majesty's Government has no objection to this provision.

Switzerland.

[*Translation.*]

To attempt to establish a special system for the transmission and execution of letters of request concerning counterfeiting currency, the language to be used and the refunding of costs would lead to confusion. If it is desired to simplify correspondence in connection with international judicial co-operation in penal matters, such simplification should apply to criminal law as a whole. No category of offences, however important, should be given a privileged position.

ARTICLE 2.

Belgium.

Observations of the Minister of Justice.

[*Translation.*]

The adoption of this article will necessitate alterations in our law and extradition treaties as regards the list of extradition offences specified therein.

Germany.

See observations under Article 1, *paragraph X.*

Great Britain.

The whole article should be amended to read as follows : " The offences described in this Convention shall be deemed to be included in the Extradition Conventions for the time being in force between the High Contracting Parties as offences for which extradition in accordance therewith shall be granted. "

New Zealand.

Extradition crimes are given in the 1st Schedule to the Extradition Act, 1870 and the Schedule to the Act of 1873.

They include the crimes of counterfeiting, uttering and forgery.

Roumania.

[*Translation.*]

This article would need to be supplemented by provisions for the solution of the following questions, which complicate extradition procedure, and therefore make it possible for counterfeiters, in many cases, to escape prosecution :

(a) Determination of priority in cases in which a request for extradition is made by several States ;

(b) The acceleration of extradition procedure ;

(c) Simplification of the formalities for the arrest of criminals when their extradition is required on a charge of counterfeiting.

Switzerland.

[*Translation.*]

In the present position of extradition law, the important principle is recognised that extradition is only granted if the offence complained of is punishable both in the applicant country and in the country to which application is made (*cf.* Article 3 of the Federal Extradition Law of 1892, and numerous extradition treaties concluded by Switzerland). The legislation concerning counterfeiting currency now in force—*i.e.*, the Law concerning the National Bank and the cantonal Penal Codes—is certainly adequate to authorise extradition in many, and even most, cases which might arise. But neither the Law concerning the National Bank nor the cantonal Codes punish all the offences provided for in the Convention. Hence, *de lege lata*, extradition cannot be granted in a certain number of cases.

ARTICLE 3.

Switzerland.

[*Translation.*]

The Mixed Committee's report contains no explanation as to the exact meaning of this article. It would be unnecessary if it merely meant that the participation of a State in the Convention must not be regarded as affecting its general attitude on the question of the sphere of criminal jurisdiction. The article should be deleted or a clearer text should be drafted.

ARTICLE 4.

Great Britain.

Line 4.—Delete " States ".
Line 7.—Delete " States ".

Union of Soviet Socialist Republics.

[*Translation.*]

Article 4 would be unacceptable to the Union of Soviet Socialist Republics, which does not recognise the authority of the institutions referred to therein.

We consider that disputes which might arise regarding the application or interpretation of the Convention should be settled by the normal methods of diplomacy.

ARTICLES 5 AND 6.

Union of Soviet Socialist Republics.

[*Translation.*]

We consider that it would be desirable to lay down in Articles 5 and 6—as has already been done in various international treaties—that the text of the Convention and the instruments of ratification should be deposited with the Government of the country, in whose territory the Treaty has been signed ; that Government would also be responsible for all the formalities relating thereto.

ARTICLE 7.

Belgium.

Observations of the Minister for the Colonies.

[*Translation.*]

I note that Article 7 of the draft Convention, which refers to the accession of colonies, is not drafted on the lines of the formula included in the most recent Conventions. I would quote, for instance, the Agreement concerning the facilities to be granted to merchant seamen for the treatment of venereal disease, signed at Brussels on December 1st, 1924. Under Article 7 of this Agreement :

> " In the absence of a contrary decision by one of the signatory Powers, the provisions of the present arrangement shall not apply to the self-governing dominions, to colonies, etc. "

This wording, which makes the application of Conventions to the colonies depend on a formal declaration by each Government concerned, is, in my opinion, vastly preferable to the wording of the draft Convention on Counterfeiting, which makes the provisions of the Convention apply to colonies *ipso facto* unless a declaration is made to the contrary. Of the numerous Conventions prepared in the last few years, many are of no interest to the Belgian Congo. It would therefore be preferable, as a general rule, to lay down that such Conventions should not be applicable to the colonies unless the Government concerned formally expresses its desire that they should become so.

India.

With reference to Article 7 of the draft Convention, I am to invite attention to the Secretary of State's letter of September 28th, 1927 (reproduced below), regarding the question of the ratification by India of the draft Convention concerning Workmen's Compensation for Occupational Diseases adopted by the International Labour Conference held at Geneva in 1925, and to say that, for the reasons given therein, the draft Convention now under discussion could be ratified by India only in the sense that the obligations are accepted as applying to British India and not to the Indian States. It would be desirable, therefore, to add a special article providing for this.

Letter of the Secretary of State for India to the Secretary-General of the League of Nations.

India Office, London, S.W. 1.

September 28th, 1927.

I have the honour to inform you that, in consultation with the Government of India, I have recently had under consideration the question of the ratification by India of the draft Convention concerning Workmen's Compensation for Occupational Diseases adopted at the International Labour Conference held at Geneva in 1925. In so far as British India is concerned no difficulty arises, as the legislation necessary to make effective the provisions of the draft Convention has recently been passed by the Indian Legislature, but for the reasons explained below ratification would not be possible if the obligations arising out of the Convention which would be assumed by the Government of India extended also to the Indian States.

2. These States number several hundreds and the great majority of them are, from the industrial point of view, undeveloped. They vary greatly in size and population and the exact relations between the various States and the Paramount Power are determined by a series of engagements and by long-established political practice. These relations are by no

Observations on Article 7 (continued).

means identical, but, broadly speaking, they have this in common, that those branches of internal administration which might be affected by decisions reached at International Labour Conferences are the concern of the Rulers of the States and are not controlled by the Paramount Power. The Legislature of British India, moreover, cannot legislate for the States nor can any matter relating to the affairs of a State form the subject of a question or motion in the Indian Legislature.

3. That being the position, it is clear that the Government of India cannot undertake the obligation to make effective in the Indian States the provisions of a draft Convention, and it follows, therefore, that a draft Convention can be ratified by India only in the sense that the obligations are accepted as applying to British India.

4. No other conclusion is possible. If the consequences of ratification were to apply to the whole of India, it would be necessary, under the procedure laid down in Article 405 of the Treaty of Versailles, that in the case of each of the Indian States all draft Conventions should be brought before " the authority within whose competence the matter lies for the enactment of legislation or other action ". And if this cumbrous procedure could be carried out, the failure of a single State to agree to make effective the provisions of the Convention would presumably prevent ratification. Further, even if these difficulties could be overcome, it would be necessary in order to comply with the provisions of Article 408 of the Treaty to obtain from each of these several hundred States an annual report on the measures taken to give effect to the provisions of the Convention.

This brief description of the practical difficulties, which in my view are insurmountable, will make it clear that, if obligations arising out of a draft Convention are not limited to British India, the only course open to the Government of India would be to refuse consistently to ratify all draft Conventions—a course which they would be most reluctant to adopt, as they have in the past, in their progressive programme of social legislation, derived so much inspiration from the work of the International Labour Organisation and have given so many tangible proofs of their sympathy with its objects.

But, although unable to assume obligations in regard to the Indian States, the Government of India will (on the analogy of the ninth paragraph of Article 405 of the Treaty of Versailles), when a draft Convention has been ratified by India, bring it to the notice of those States to which its provisions appear to be relevant, and will also be prepared, when necessary, to use their good offices with the authorities of such States to induce them to apply so far as possible the provisions of the Convention within their territories.

5. On the understanding stated in paragraph 3 above that the obligations assumed apply to British India only, I have now the honour to communicate the " ratification " of India of the draft Convention concerning Workmen's Compensation for Occupational Diseases, and of the draft Convention concerning Equality of Treatment for national and foreign workers as regards Workmen's Compensation for Accidents, adopted by the International Labour Conference at its seventh session (1925).

6. The statement of the position contained in the first four paragraphs of this letter is communicated to you only for your information and to enable you to answer any enquiries that may be addressed to you. I would ask you to be good enough, when forwarding a copy of this letter to the Director of the International Labour Office, to request that it may be given the fullest publicity.

(Signed) BIRKENHEAD.

Italy.

[*Translation.*]

As regards the colonies, the Royal Government would observe that none of the Italian colonies possess " their own independent organisations legally authorised for the issue of currency ", the national currency of the Kingdom being legal tender there, so that there is no need to consider the possibility referred to in the Committee's second recommendation of creating special police offices for the supervision of currency, as provided in paragraph XII of Article 1 of the Convention.

Union of Soviet Socialist Republics.

[*Translation.*]

We should be unable to recognise the procedure for the representation of independent countries placed under the mandate of other countries, as it is well known that the Union of Soviet Socialist Republics does not admit the justice of this form of representation.

ARTICLES 8, 9, 10 AND 11.

No observations.

III. Observations on the Recommendations adopted by the Mixed Committee.

Recommendation I.

Czechoslovakia.

See observations in regard to Article 1, *paragraph XII.*

Switzerland.

[*Translation.*]

Effect was given to this recommendation when the Federal Public Prosecutor's Department was appointed as a liaison office.

Recommendation II.

Belgium.

1. *Observations of the Minister for the Colonies.*

See observations under Article 1, *paragraph XII.*

2. *Observations of the Governor of the National Bank.*

[*Translation.*]

I would draw your attention to the second recommendation adopted by the Mixed Committee concerning the colonies.

This point had not been considered previously. Most of the types of note used in the colonies are printed by us, and there can be no doubt that, for the verification of any forgeries, the competent authorities would, like the Belgian authorities, apply to the head of the printing establishment of the National Bank as an expert. It would, however, be desirable to draw the attention of the Ministry of the Colonies to this matter, requesting it to indicate the authorities responsible for international relations, as mentioned in the Convention, in the case both of the uttering of counterfeit Congo currency abroad and the uttering of counterfeit foreign currency in the Congo.

Czechoslovakia.

See observations in regard to Article 1, *paragraph XII.*

Italy.

See observations in regard to Article 7.

Switzerland.

[*Translation.*]

This recommendation does not concern Switzerland.

Recommendation III.

Czechoslovakia.

See observations in regard to Article 1, *paragraph XII.*

Portugal.

[*Translation.*]

With regard to Recommendation III, the Bank of Portugal, which has been consulted on this subject by the Government, thinks that the creation in banks of issue of special offices with which the central offices should remain in close contact is one of the surest and most effective means of investigation for the discovery of counterfeiting.

Switzerland.

[*Translation.*]

The requirements of the third recommendation are complied with in that the Disputed Claims Office of the National Bank co-operates with the Federal Public Prosecutor's Department.

RECOMMENDATION IV.

Portugal.

See under " General Observations ".

Switzerland.

[*Translation.*]

The fourth recommendation cannot be accepted by Switzerland in its present form as the Confederation has in point of fact no police of its own. The Federal Public Prosecutor's Department applies to the competent cantonal police. The Confederation cannot direct the cantons to organise their police forces in a particular way. The police in the chief towns, however, possess organisations with the necessary technical qualifications. The Disputed Claims Office of the National Bank gives them the benefit of its experience, and the National Bank places at their disposal the experts referred to under Recommendation IV.

RECOMMENDATION V.

Austria.

[*Translation.*]

In view of the importance of the work carried out by the International Bureau (otherwise known as the " International Central Office for the Suppression of Counterfeiting Currency ") at present established in Vienna—an importance which the Federal Government fully recognises—the Government holds that the wording of this recommendation does not give adequate expression to the considerations which inspired it.

In the opinion of the Federal Government, it would be preferable for the text of the Convention itself to ensure the continuation of this work for as long as may be necessary. The Federal Government therefore suggests the insertion in Article 1, paragraph XV, of a second clause, as shown in its remarks above in regard to paragraph XV.

Portugal.

See under " General Observations ".

Switzerland.

[*Translation.*]

The Swiss Government has no objection to make to this recommendation.

RECOMMENDATION VI.

Belgium.

Observations of the Governor of the National Bank.

See under " General Observations ".

Roumania.

See observations under Article 1, paragraph X.

Switzerland.

[*Translation.*]

It should be noted that, according to the draft Federal Penal Code (Article 64), a sentence served abroad counts as a repetition of the offence if the person is sentenced for a crime for which extradition may be granted under Swiss law. Internment in a special institution is provided for as a protective measure in the case of certain habitual criminals.

RECOMMENDATION VII.

No observations.

RECOMMENDATION VIII.

Belgium.

Observations of the Governor of the National Bank.

See under " General Observations ".

ANNEX VI.

VARIOUS REPORTS PRESENTED AND RESOLUTIONS ADOPTED AFTER THE INTERNATIONAL CONFERENCE.

A. Report to the Council by the President of the Conference.

C 179.1929.II.

The Council having requested me by its resolution of March 9th, 1929, to preside at the Conference for the Adoption of a Convention for the Suppression of Counterfeiting Currency, I have the honour to submit to the Council the following report on the proceedings of that Conference.

The Conference met at Geneva from April 9th to 20th. It was attended by delegations of thirty-five Governments ; moreover, a delegation of the International Criminal Police Commission was present in an advisory capacity.

The Conference may, I think, be regarded as a very real success : a Convention was elaborated and was signed on the last day by the following twenty-three countries :

Albania, Austria, Belgium, Colombia, Cuba, Czechoslovakia, Danzig, France, Germany, Great Britain and Northern Ireland, Greece, Hungary, India, Italy, Japan, Luxemburg, the Netherlands, Poland, Portugal, Roumania, the Kingdom of the Serbs, Croats and Slovenes, Switzerland and the Union of Soviet Socialist Republics.

After the close of the Conference, the Convention was signed by China, Denmark and Monaco, thus making the total signatures twenty-six in number.

The aim of the Convention is twofold. In the first place, it contains a series of rules concerning the penal prosecution of counterfeiting which the signatory States undertake to include in their penal legislation. Secondly, the Convention contains rules for the centralisation and co-ordination of the activities in this field by the police authorities in the various countries. The signatory States have to bring their legislation and their administrative organisation into conformity with the provisions of the Convention before they proceed to ratify it.

This Convention prescribes a set of rules which, I believe, constitute the most effective means in the present circumstances for ensuring the prevention and punishment of the offence of counterfeiting. If the Convention is ratified by an adequate number of States—and there is every prospect that this will be the case—a most salutary piece of international co-operation will have been achieved.

The Governments which signed this Convention also signed a Protocol containing certain interpretations of and reservations to the Convention. But I am happy to state that the reservations are very few in number and unimportant in character.

In connection with the Conference—though not directly by the Conference itself—an Optional Protocol was prepared which was signed by the following eight States :

Austria, Colombia, Cuba, Czechoslovakia, Greece, Portugal, Roumania and the Kingdom of the Serbs, Croats and Slovenes.

Apart from the Protocol and the Convention, the Conference also passed a Final Act containing a number of recommendations. In several of these recommendations the Conference requested that certain action should be taken by the League of Nations.

In this connection the Conference recommended :

1. That the Council of the League of Nations should communicate as soon as possible the text of the Convention and Protocol for signature or for accession to all Members of the League of Nations and to non-member States in cases where the Council thinks it desirable.

2. That the Governments of countries on whose behalf the Convention has been signed should notify the Secretary-General of the League of Nations of their situation in regard to the ratification of the Convention, should their ratifications not have been deposited within three years from the date of signature.

3. That each Government should notify the Secretariat of the League of Nations of the existence of its central office—for the organisation of investigations on the subject of counterfeiting as is provided in Article 12 of the Convention—together with the necessary information concerning the organisation of this office, especially as regards the administrative department to which the office is attached, and that the Secretariat should communicate this information to the Governments as soon as possible.

4. That, whenever fifteen central offices have been created by the signatory States, and even before the entry into force of the Convention, the Council of the League of Nations may take the initiative of calling together the first of the conferences of the representatives of the central offices and of the other authorities mentioned in Article 15, which have for their purpose, according to the terms of the above-mentioned article, to assure, improve and develop direct international co-operation for the prevention and suppression of counterfeiting currency. Governments which may have created similar central offices without having signed the Convention might be invited to participate in this conference.

5. That the League of Nations, if it thinks this expedient, should consider the desirability of preparing an international Convention for the suppression of counterfeiting other securities (share and debenture certificates, cheques, bills of exchange, etc.), and stamps used as instruments of payment.

I venture to recommend these proposals to the Council and express the hope that it will be prepared at once to accept the formal responsibilities in the first four, and will ask the Financial Committee to give an opinion as to the advisability of the action contemplated in the fifth.

I take this opportunity to thank the Council for the honour they conferred upon me in choosing me as President of this Conference. I greatly appreciated this mark of their esteem.

B. Extract from the Minutes of the Fourth Meeting of the Fifty-fifth Session of the Council.

. . . . . .

M. de Agüero y Bethancourt read the following report :

" The Council has received a report (document C.179.1929.II) from the President of the Conference for the adoption of a Convention for the Suppression of Counterfeiting Currency. My colleagues will have noticed that the results of the Conference were very satisfactory. A Convention containing a set of rules, which may be considered in the present circumstances the most effective means for ensuring the prevention and punishment of the offence of counterfeiting, was drawn up and signed by no less than twenty-six States. This is a matter for congratulation to all those who took part in this work and not the least to the President of the Conference, Dr. Vilem Pospisil. I am sure I speak in the name of all my colleagues if I thank him on the part of the Council and express to him its appreciation of all he has done to make the Conference a success.

" The preparation of this Convention is, I think, a striking example of the value of the League's machinery in the conduct of international affairs.

" It is just three years ago that the question of counterfeiting was first raised. In June 1926 the French Government, which has taken the initiative in this matter, asked the League to examine the possibility of drawing up a Convention for the suppression of counterfeiting currency. The Council referred the question to the Financial Committee, which began by consulting the authorities who are perhaps the most directly concerned, namely, the banks of issue of the various countries, as to what action should be taken. These banks having all expressed themselves in favour of the action suggested by the Financial Committee, the latter proposed to the Council that a draft Convention should be prepared by experts from the three domains which are chiefly affected by the counterfeiting of currency, namely, experts from the banks of issue, experts in matters of police investigation and in questions of penal law. Such a Committee was created by the Council and held two sessions in 1927, during which a draft Convention was prepared. The draft was then submitted to the Governments for their observations. Owing to this sound and thorough preparation, it was possible to draft the final text of the Convention at the Conference in a space of ten days. A special tribute should be paid to the Mixed Committee which prepared the original draft Convention. The soundness of its work is clearly shown by the fact that the Convention finally signed is very similar to the draft originally prepared by the Mixed Committee.

" In his report to the Council, the President of the Conference has mentioned in detail the recommendations which the Conference adopted requesting that certain action should be taken by the League of Nations. I therefore need not repeat them here. As my colleagues will have seen, all these proposals are reasonable and suggest action which can, without any objection, be undertaken by the League. Most of them are simply questions of procedure, and I suggest that the Secretary-General be authorised to act in conformity with these recommendations.

" In the case of two recommendations only the Council has to take more detailed decisions :

> " *(a)* In accordance with Article 20 of the Convention, the Council has to decide to which States non-members of the League which were not represented at the Conference a copy of the Convention should be communicated for signature. I propose to you that copies of the Convention should be communicated for that purpose to the following States : Costa Rica, Egypt, Iceland, Liechtenstein, San Marino, Mexico.
>
> " *(b)* The Conference recommended that the League of Nations, if it thought expedient, should consider the desirability of preparing an International Convention for the suppression of counterfeiting other securities (share and debenture certificates, cheques, bills of exchange, etc.), and stamps used as instrument of paymenta. I propose to the Council that the Financial Committee should examine this question and report on it in due course. "

M. Antoniade said that the Rapporteur had very carefully explained the importance of the Convention for the Suppression of Counterfeiting Currency recently signed by several

States. That Convention constituted considerable progress from the point of view of international penal law and the suppression of certain misdemeanours. The adhesion, however, of certain States would be delayed because of the amendments which would have to be introduced into their legislation in order to make it possible to apply the Convention in its entirety. To obviate this slight difficulty, which was merely a question of time, and on the initiative of the Roumanian delegation, an optional Protocol had been submitted for signature to the States represented at the International Conference in question. That Protocol stipulated that all facts connected with counterfeiting should be considered as misdemeanours of common law in so far as extradition was concerned. This constituted a progress on the Convention itself and made it at the same time possible to apply the Convention in advance in so far as extradition was concerned.

The Roumanian Government expressed the hope that it would be possible for a considerable number of States to adhere to this optional Protocol so that the Convention might be applied before the final adhesion of the signatory States had been obtained.

M. Briand, as representative of France, the Government of which had taken the initiative on the grave question of counterfeiting, was pleased to see that a satisfactory result had been obtained and would thank the technical experts of the League for the material help which they had given to the Council.

The conclusions of the report were adopted.

. . . . . .

INDEX

Abbreviations

Cttee = Committee. Govt. = Government. Int. = International. Memo = Memorandum. Para = Paragraph. U.S.A. = United States of America. U.S.S.R. = Union of Socialist Soviet Republics.

Accessory to Offence.. 149, 155–6, 156, 232, 234

See also Convention, Article 3.

Acts under Article 3 Committed in Different Countries to be Considered as Distinct and Separate Offences

See Convention, Article 4.

Adequate Punishment of Offences

See Convention, Article 3.

Administrative Measures for Organisation of Services Provided by Convention to be Taken Before Ratification. 6, 49, 53,170, 172–3, 230, 243, 244–5, 281

See also Final Act, Recommendation III.

Administrative System

in Various countries : introduction into, of rules laid down under Para. I of Article 1 of Draft 21, 76–7, 84–5, 112, 168–71, 230, 239, 250

See also Convention, Article 23.

Agüero y Bethancourt, M. de 247–8

Albania

Delegation
- Declaration *re* Optional Protocol 98–9
- List 25
- Views of, *see* Stavro Stavri, Dr.

Reply to Note of President on Articles 8 and 9..... 211

Signature of
- Convention 16
- Final Act 38
- Protocol 22

Alcayne Chavarria, Rafael

Delegate of Spain 29

Discussion of articles of Convention
- Article 2 68
- Article 5 68–9

Measures taken by Spain 68

Aloisi, Dr. Ugo

Delegate of Italy 29

Colouring of currency 117, 118

Declaration *re* Convention 101

Discussion of articles of Convention
- Article 1 112
- Article 2 ..... 111, 112
- Article 3 .... 112, 113, 116, 118, 119, 124, 128, 129–30
- Article 4 ..... 120–1, 122
- Article 5 ..... 130, 131, 161
- Article 6 172
- Article 7 ..... 135, 136
- Article 8 ..... 73, 151, 152
- Article 9 151
- Article 11 ..... 133, 177–8, 180, 181, 182
- Article 14 ..... 74, 186
- Article 15 ..... 67, 186–7, 189, 190
- Article 16 ..... 74–5, 191, 192
- Article 19 ..... 165, 166
- Article 24
  - Reservation 77, 166

Aloisi, Dr. Ugo *(continued)*

Division of Convention into two agreements 67–8

Extradition 67

Legal and administrative systems of countries : introduction of rules laid down under Para. I of Article 1 of Draft ... 168

Political offence 67, 139–40

Protocol : interpretation 79, 81

Recommendations of Conference
- VI 82, 192
- VII 193
- IX 82, 187

Revision of Convention, proposal *re* (Turkish) 90, 91

Tribute to memory of Enrico Ferri 184

Altering of Currency

See Convention, Article 3.

Amagi, Tokuji

Secretary, delegation of Japan 31

Discussion of articles of Convention
- Article 3 72

Amnesty, Right to. 19, 81, 93, 129, 130, 158, 163

Antecedents, Establishing of 187

See also Convention, Article 14.

Antoniade, C. 284–5

Arbitration 21, 165, 166

See also Convention, Article 19 ; Court of Int. Justice, etc.

Arcoleo, Dr. F. 35, 49

Arrests

Notification of central offices, *see* Convention, Article 14.

Austria

Delegation
- List 25
- Views of, *see* Schultz, Dr. B ; Schober, Jean.

Letter, August 20, 1926, from Govt. to Secretary-General..... 220–1

Observations submitted *re* articles of Draft Convention (article 15) 276

Recommendation IX of Conference, observations *re* 188, 276, 282

Reply to Note of President *re* Articles 8, 9.. 211

Signature of
- Convention 16
- Final Act 38
- Optional Protocol 41
- Protocol 22

Bahattin, Ibrahim

Delegate of Turkey 33

Colouring of currency 65–6, 116, 159

Declaration *re* signature of Convention ... 102

Discussion of articles of Convention
- Article 3 ..... 65–6, 115, 116, 129, 159
- Article 5 ..... 66, 72, 130

Bahattin, Ibrahim *(continued)*

Discussion of articles of Convention *(continued)*
Article 6 171
Article 7 73
Article 8 66
Article 17 163
Article 19 ..... 165, 166
Article 24 ..... 77, 167
Recommendation XI of Conference..... 82
Revision of Convention, proposal *re*. 90, 91, 167
Shares, cheques, etc. 82, 110

Bank Notes

Forging of 3, 48, 57
See also Final Act, Recommendation VIII.
Forwarding of specimens of cancelled, by central offices, *see* Convention, Article 14.
Notification of forging of, *see* Convention, Article 14.
Seizure etc., *see* Convention, Article 11.
Stamp, falsification of 19, 37, 81, 110, 111

Banks of Issue

Co-operation between..... 238
Co-operation with central offices, judicial authorities and police 5, 37, 193, 236, 243, 249, 275
See also Convention, Article 15 ; Final Act, Recommendation VII.
Questionnaire to : replies 5, 48, 225, 225–6

Barandon, Dr. P...... 35, 49

Barboza-Carneiro, J.A.

Delegate of Brazil 27
Declaration *re* signature of Convention ... 99
Discussion of articles of Convention
Article 14 186
Protocol : interpretation 80
Stamps, falsification of 110, 111

Belgium

Delegation
List 27
Views of, *see* Dupriez, L., Servais, M.
Observations submitted
re Articles of Draft Convention (articles 3, 5, 6 (recommendation VI of Mixed Cttee), 8, 9, 10, 12, **13**, 14, 15, 24)... 151, 166, 249, 252–3, 258–9, 263, 269, 272, 273–4, 278, 279, 282
General 248–9
Recommendations of Conference, observations *re*
VI 273–4, 281
XI 82
XIV 282
Reply to Note of President *re* articles 8, 9... 211
Signature of
Convention 16
Final Act 38
Protocol 22

Benes, E...... 223–4, 224

Bills of Exchange, Counterfeiting of

Prevention
Discussion and documents 6, 49, 52, 58, 173, 182–3, 190, 230–1, 274, 284
See also Final Act, Recommendation XI.

Blanck, G. de

Delegate of Cuba 27
Discussion of articles of Convention
Article 12 55–6
Measures taken by Cuba 56

Blondeel, M...... 49

Borberg, William

Delegate of Denmark 27
Declaration *re* signature of Convention ... 100
Discussion of articles of Convention
Article 22 76

de Bordes, J. van Walré 35, 49, 95, 190

Brass, Leslie S.

Delegate of Great Britain 27
Discussion of articles of Convention
Article 11 ..... 179, 181
Article 16 191

Brazil

Delegation
Declaration *re* signature of Convention 99
List 27
Views of, *see* Barboza-Carneiro, J.A.
Signature of
Final Act of Conference 27
Recommendations 38

Briand, A.

Discussion in Council..... 285
Letter, June 5, 1926, opening question adresses to Secretary-General..... 219

Broeckhoff, K. H.

Substitute delegate of Netherlands 31
Cheques, promissory notes, etc. ... 82, 182, 190
Discussion of articles of Convention
Article 12 182
Article 16 192
Recommendation XI of Conference 82

Bulgaria

Signature of
Convention 16
Optional Protocol 42
Protocol 22

Caeiro da Matta, José

Delegate of Portugal 31
Complicity, unintentional : punishment 57, 115 116
Discussion of articles of Convention
Article 1 109–10
Article 2 111
Article 3 .... 112, 113, 115, 116, 125, 126, 128, 159
Article 4 119
Article 5 ..... 130, 132
Article 7 ..... 135, 136, 161
Article 8 ..... 73, 151
Article 11 132
Article 16 ..... 74, 75
Optional Protocol 93
Political offence 139, 146
Recommendation XI of Conference 83
Revision of Convention, proposal *re* (Turkish) 90
Shares and debenture certificates .. 56, 57, 173
Situation in Portugal 56–7

Caloyanni, Megalos

Delegate of Greece 29
Declaration *re* Convention 100–1
Discussion of articles of Convention
Article 3 ..... 71, 114, 116, 118, 127
Article 4 123
Article 5 161
Article 6 172
Article 8 151
Article 11 ..... 179, 181
Article 12 64
Article 16 75
Article 23 ..... 76, 77, 168, 169–70
Division of Convention into two separate agreements 64
Legal and administrative systems of countries : introduction of rules laid down under Para I of Article 1 of Draft 76, 77, 168, 169
Optional Protocol 93
Protocol : interpretation 80, 81, 93

Caous, M.

Substitute delegate of France 29
Colouring of currency 117

Caous, M. *(continued)*

Discussion of articles of Convention
Article 3 ..... 114, 115, 117, 127, 159
Article 4 123
Article 5 ..... 130, 132
Article 8 152
Article 9 ..... 88, 89
Article 11 134
Article 17 164
Article 19 165–6

Carrillo de Albornoz, Severo

Delegate of Spain 29
Discussion of articles of Convention
Article 14 184

Cases of Counterfeiting

Notification of central offices, *see* Convention, Article 14.

Central Offices

Colonial, etc. 249
See also Final Act, Recommendation VI
Commissioners of League in relation to Int. Office : proposal. 186, 187, 189, 213–14
Co-operation with banks of issue 249, 275
See also Final Act, Recommendation VII
Co-operation between, *see* Convention, Article 13.
Conferences of representatives, *see* Convention, Article 15 *and* Final Act, Recommendations V *and* X.
Experts, attached to, to provide information *re* method of forging notes, *see* Final Act, Recommendation VIII.
International Central Office
Establishment, *see* Convention, Article 15.
See also Commissioners of League, etc.
National, *see* Convention, Article 12.
Notifications *re*, *see* Final Act, Recommendation IV.
Relation of Int. Office with police organisations 187
See also Convention, Article 14.

Chalendar, Count de

Delegate of France 29
Declaration *re* signature of Convention ... 100
Discussion of articles of Convention
Article 8 73
Article 11 ..... 178–9, 179, 180–1
Article 12 182–3
Article 14 185
Article 15 190
Article 16 ..... 74, 75, 191
Article 19
Reservation of U.S.S.R. 165
Article 20 76
Article 24 ..... 78, 167, 192
Division of Convention into two agreements 66
Final Act, paragraph 2 92
Optional Protocol 97
Political Offence 147
Protocol : Chinese reservation *re* Art. 10 .. 89
Recommendations of Conference
VI 192
VII 193
VIII 193
XI 82
Revision of Convention proposed by Turkish delegation 167
Shares and debenture certificates, etc. .. 66, 82
Vice-Chairman of Administrative Committee 50

Chamberlain, A. 224

Cheques, Counterfeiting of

Prevention
Discussion and documents ... 6, 49, 52, 58, 109, 110, 111, 173, 182–3, 190, 230–1, 274, 284
See also Final Act, Recommendation XI

China

Delegation
Declaration *re* signature of Convention 97, 99
List 27
Views of, *see* Lone Liang, Mr.
Reply to Note of President *re* Article 8, 9... 211
Reservations *re* Article 10.. 19, 73, 83–4, 85, 89, 157, 163
Signature of
Convention 16
Final Act 38
Protocol 22
Treaties with foreign powers : question in relation to application of Convention 64
See also above Reservations, etc.

" Civil Parties ", Foreign

See Convention, Article 7.

Collard-Hostingue, M.

Substitute delegate of France 29
Discussion of articles of Convention
Article 11 177

Colombia

Delegation
Declaration *re* Convention 99–100
List 27
Views of, *see* Restrepo, A.J.
Signature of
Convention 16
Final Act 38
Optional Protocol 41
Protocol 22

Colonies, Protectorates, Mandated Territories, etc.

Application of Convention to, *see* Convention, Article 24.
Central offices, creation in, *see* Final Act, Recommendation VI.

Colouring of Currency

See Currency, Colouring.

Commissioners of League

Relations with Central International Office : proposal 186, 187, 189, 214

Committees of Conference

Administrative Committee
Appointment of Chairman and Vice-Chairman 50
Constitution and members 69, 194
Drafting Committee, work of 185, 190
Opening speech by Chairman 177
Work of 70, 177–94
Constitution 49–50, 65
Credentials Committee, *see that title.*
Drafting and coordination Committee
Constitution 116, 171
Work of... 70, 72, 73, 74, 76, 77, 78, 80, 81, 85, 86, 87, 89, 90, 92, 93, 192
See also above and below under Administrative Cttee *and* Legal Cttee
Legal Committee
Appointment of Chairman and Vice-Chairman 50
Constitution and members 69, 173–4
Drafting Committee
Constitution 116, 170–1
Work 123, 127, 151, 155, 157, 158, 167, 170
Opening speech by Chairman 109
Rapporteur, appointment of 170
Work of 70, 109–73
Sub-Committees, *see that title.*

Committees for Preliminary Study of Question

See Mixed Committee, etc.

Common Law, Offences Under 49

See also Convention, Article 3 ; Optional Protocol.

Comnène, N. 245

Complicity

a Distinct and separate offence
Proposal of Roumanian Delegation
Discussion 54, 136–7
Unintentional, punishment
Discussion 57, 115, 116
Report of Mixed Cttee 232
See also Convention, Article 3.

Conference for Suppression of Counterfeiting Currency

Convening proposed by Mixed Committee. 6
Final Act, *see that title.*
Introduction 5–6
Officers : appointment 50
Procedure 51, 70
Recommendations, *see* Final Act.
Report of President to Council
See Report of President, etc.
Speeches, length of 51
Telegram of condolence sent to Signora Enrico Ferri 189
Tribute to memory of Enrico Ferri 183–4
Tribute to President 104

Confiscation of Forged Currency and Instruments

See Convention, Article 11.

Conspiracy, Punishment of 124, 138

Convention for the Suppression of Counterfeiting Currency

Accession to 6
See also below Articles 21, 23.
Amendments, *see under articles concerned.*
Application
to Colonies, etc. *see below* Article 24.
Reservations *re, see below* Article 22.
Article 1 *Relating to Part I* (*Articles* 1 *to* 18)
Adoption 70, 85
Amendments proposed 110, 112
Discussion
in Legal Committee .. 109–10, 111, 112, 168
in Plenary Cttee 54, 70
Observations of Govts. 199, 202, 210, 251–2
Text
Draft 239–41
Final 9
Article 2 *Interpretation of word currency* (Para. I of Article 1 of Draft)
Adoption 70, 85, 94
Discussion
in Legal Cttee. 109, 110, 111–12
in Plenary Cttee 63, 68, 70
Observations of Govts. 199, 251–2
Report of Mixed Cttee. 231
Text
Draft 239
Final 9
Article 3 *Offences to be punished as ordinary crimes* (Paras. II, IV and V of Article 1 of Draft, Article 3 of C.F.M./A/11)
Adoption 85, 94
Amendments proposed 71, 72, 94, 116, 117, 121, 123, 124, 125, 126, 127, 128, 129
Discussion
in Council..... 226
in Legal Committee..112–19, 124–7, 127–30, 136–7, 138, 158–60
in Plenary Cttee... 65, 65–6, 70–2, 85, 94
Observations of Govts. *re* Draft .. 71, 199, 200, 201, 202, 210, 212, 213–14, 252–7, 258–63
Report of Mixed Cttee. 231–2, 232
Text
Draft 239
Final 9

Convention for the Suppression of Counterfeiting Currency *(continued)*

Article 4 *Acts to be considered as distinct and separate offences* (Para. III of Article 1 of Draft, Article 4 of C.F.M./A/11)
Adoption 72, 85, 94
Amendments proposed 127, 138
Discussion
in Council..... 63
in Legal Committee .. 119–124, 138, 160
in Plenary Cttee. 53, 65, 72
Interpretation 19, 82
Observations of Govts. *re* Draft . 200, 202, 210, 212, 257–8
Report of Mixed Cttee. 232
Text
Draft 239
Final 9
Article 5 *Non-distinction between domestic and foreign currency in scale of punishment for offences under Article* 3 (Para. VI of Article 1 of Draft, Article 5 of C.F.M./A/11)
Adoption 72, 85, 94
Discussion
in Council 61, 99, 226,
in Legal Committee ... 111, 112, 130–2, 160–1
in Plenary Cttee. 59, 63, 64, 66, 68–9, 72
Observations of Govts. .. 72, 130, 131, 199, 201, 202, 209, 249, 263–5
Report of Mixed Cttee. 232–3
Text
Draft 239
Final 9
Article 6 *Recognition of foreign convictions for purpose of establishing habitual criminality*
Adoption 73, 85, 94
Discussion
in Legal Committee 158, 171–2
in Plenary Cttee. 54, 73
Observations of Govts..... 271, 272, 282
Recommendation VI of Mixed Committee 171–2, 244
Observations of Govts. 249, 282
Report of Mixed Cttee. 237
Text 9
Article 7 *Foreign " Civil Parties ", rights* (Para. VIII of Article 1 of Draft, Article 6 of C.F.M./A/11)
Adoption 73, 86, 94
Amendments proposed 135, 136
Discussion
in Legal Committee 134–6, 161
in Plenary Cttee. 73, 86
Observations of Govts. *re* Draft . 134, 201, 202, 211, 212, 267
Report of Mixed Cttee. 233
Text
Draft 240
Final 11
Article 8 *Punishment of nationals for offences committed abroad in countries where extradition principle is not recognised* (Para. X of Article 1 of Draft, Article 7 of C.F.M./A/11)
Adoption 86, 94
Amendments proposed 94, 149
Discussion
in Council..... 226
in Legal Committee..... 148–53, 153–8, 161–162, 163
in Plenary Cttee.... 53, 56, 63, 66, 73, 86
Observations of Govts. . 149, 151, 153, 155, 201, 202, 210, 211, 269, 269–72
Report of Mixed Committee 150, 234–5, 238
Replies to Note of President *re*... 209, 211
Text
Draft 240
Final 11
Article 9 *Punishment of foreigner by country recognising the principle of prosecution of offences committed abroad* (Para. XI of Article 1 of Draft, Article 8 of C.F.M./A/11)
Adoption 73, 86, 94

Convention for the Suppression of Counterfeiting Currency *(continued)*
Article 9 *(continued)*
Amendments proposed ... 89, 90, 94, 149, 150, 155
Discussion
in Legal Committee 148–53, 153–8, 162–3
in Plenary Cttee..... 53, 54, 56, 73, 87–9
Observations of Govts.. 151, 153, 201, 202, 210–11, 212, 269, 269–70, 272–3
Replies to Note of President *re*.. 209, 211
Report of Mixed Committee 150, 234–5, 238
Reservation of India 19, 83
Text
Draft 240
Final 11
Article 10 *Extradition* (Article 2 of Draft, Article 9 of C.F.M./A/11)
Adoption 74, 86, 94
Amendments proposed 89, 139
Discussion
in Council..... 247
in Legal Committee . 143, 145, 154, 157–8, 158–9, 163, 167
in Plenary Cttee. 53, 54, 73–4, 83–4
Observations of Govts. 201, 203–4, 214, 271, 278
Report of Mixed Cttee 233–4, 234
Reservation of China
Discussion 64, 73, 83–4, 85, 89–90, 157–8, 163
Text 19
Text
Draft 241
Final 11
Article 11 *Seizure etc. of counterfeited currency and instruments, etc., referred to in Art.* 3 (5) (Para. VII of Article 1 of Draft)
Adoption 74, 86, 94
Amendments proposed 74, 132, 180, 181, 182
Discussion
in Administrative Committee ... 177–82
in Legal Committee..... 132–4, 172
in Plenary Cttee..... 54, 65, 74
Observations of Govts. 132, 201, 202, 265–6
Report of Mixed Committee 233
Text
Draft 239
Final 11
Article 12 *Central offices for investigations on subject of counterfeiting* (Para. XII of Article 1 of Draft)
Adoption 74, 86, 94
Amendments proposed 182
Discussion
in Administrative Committee 182–3
in Council..... 226, 245
in Plenary Cttee..... 54. 55–6, 58, 64
Observations of Govts. 202, 211, 213, 250, 273–5
Report of Mixed Cttee. 235–6
Text
Draft 240
Final 11
Article 13 *Central offices, direct corresponding* (Para. XIII of Article 1 of Draft)
Adoption 74, 86, 94, 183
Discussion in Plenary Cttee and Council 54, 58, 62, 63, 74, 223, 226
Observations of Govts..... 202, 274, 275
Report of Mixed Cttee 235–6
Text
Draft 240
Final..... 11
Article 14 *Forwarding by Central offices of cancelled specimens of currency, notification of new currency issues, withdrawal of currency from circulation, forgery of banknotes, etc., cases of counterfeiting, arrests, etc. and details of discoveries of forgeries* (Para. XIV of Article 1 of Draft)
Adoption 74, 86, 94
Amendements proposed..... 185
Discussion
in Administrative Committee 180, 184–6
in Plenary Cttee 54, 74
Observations of Govts., etc.... 203, 204, 213, 249, 274, 275–6
Report of Mixed Cttee..... 235–6

Convention for the Suppression of Counterfeiting Currency *(continued)*
Article 14 *(continued)*
Text
Draft 240–1
Final..... 11–13
Article 15 *Conferences between representatives of central offices, banks of issue and central authorities; organisation, etc of Central Int. Office* (Para. XV of Article 1 of Draft)
Adoption 74, 86, 94
Council decision, discussion and documents.. 219, 220, 221, 222, 226, 245, 283–4
Discussion
in Administrative Committee 186–9 189–90
in Plenary Cttee..... 54, 60–67
Observations of Govts., etc. 186, 189, 203, 203–4, 213, 214, 249, 250, 274, 276
Report of Mixed Cttee..... 236, 238
Text
Draft 241
Final..... 13
See also Final Act, Recommendation X.
Article 16 *Letters of request, transmission* (Para. XVI of Article 1 of Draft)
Adoption 75, 86, 94
Amendment proposed 74, 75, 94
Discussion
in Administrative Committee 190–2
in Plenary Cttee. 74–5, 86
Interpretation 19, 82
Observations of Govts. 203, 211, 213, 276–7
Report of Mixed Cttee..... 236–7
Text
Draft 241
Final..... 13
See also Final Act, Recommendations XIII, XIV.
Article 17 *Participation of High Contracting Parties in Convention in relation to attitude on general question of criminal jurisdiction as a question of Int. Law* (Article 3 of Draft, Article 10 of C.F.M./A/11)
Adoption 75, 86, 94
Discussion
in Legal Committee 163–4, 167
in Plenary Cttee. 86
Observations of Govts..... 278
Report of Mixed Cttee..... 238
Text
Draft 242
Final..... 13
Article 18 *Prosecution and punishment of offences in conformity with domestic law* (Article 10 of C.F.M./A/11)
Adoption 75, 86, 94
Discussion in Plenary Cttee 82
Interpretation 19, 81–2, 93
Text 13
Article 19 *Settlement of disputes re interpretation, etc., of Convention* (Article 4 of Draft)
Adoption 76, 86, 94
Amendments proposed 94, 164, 165
Declaration of Union of Socialist Soviet Republics..... 21, 85, 165
Discussion
in Legal Committee 164–6
in Plenary Cttee 75–6, 86
Observations of Govts..... 213, 278, 279
Report of Mixed Cttee..... 238
Text
Draft 242
Final..... 13
Article 20 *Signature and ratification of Convention* (Article 5 of Draft)
Adoption 76, 87, 94
Council decision..... 284
Discussion
in Legal Committee 166
in Plenary Cttee 76, 87
Observations of Govts..... 279
Reservation of Union of Socialist Soviet Republics..... 19, 84
Text
Draft 242
Final..... 15

Convention for the Suppression of Counterfeiting Currency *(continued)*

Article 21 *Accession to Convention* (Article 6 of Draft)
Adoption 76, 87, 94
Discussion
in Legal Committee 166
in Plenary Cttee 76
Observations of Govts..... 279
Text
Draft 242
Final 15
Article 22 *Reservations* re *application of Convention*
Adoption 76, 87, 94
Discussion in Plenary Cttee 76, 87
Text 15
Article 23 *Ratification or accession, legislation and administrative organisation of High Contracting Parties in relation to* (Para. I, Art. 1 of Draft)
Adoption 87, 94
Discussion in Plenary and Legal Cttees 76–7, 168–71
Text
Draft 239
Final 15
See also Legal system in various countries, etc.
Article 24 *Application of Convention to colonies, protectorates, etc.* (Article 7 of Draft)
Adoption 78, 87, 95
Amendments proposed 77, 78, 95, 167
Declaration of Union of Socialist Soviet Republics 95
Discussion
in Administrative Committee 192
in Legal Committee 166–7
in Plenary Cttee..... 77–8, 101
Observations of Govts.... 77, 78, 166, 167, 279–80
Report of Mixed Committee 236
Reservations
Great Britain 167
Italy 77, 166
Text
Draft 242
Final 15
Article 25 *Entry into force* (Article 8 of Draft)
Adoption and discussion 78, 87, 95, 131
Text
Draft 242
Final 15
Sec also below Ratification, Declaration by Switzerland.
Article 26 *Ratifications, etc. subsequent to coming into force ; date of taking effect* (Article 9 of Draft)
Adoption and discussion... 78, 87, 95, 131
Text
Draft 243
Final 15
Article 27 *Denunciation of Convention* (Article 10 of Draft)
Adoption 87, 95
Discussion in Plenary Cttee..... 78, 87
Text
Draft 243
Final 15
Article 28 *Registration* (Article 11 of Draft)
Adoption 78, 87, 95
Text
Draft 243
Final 15
Communication by Council to Members of League and States non-Members. 35, 92, 96, 284
Declarations *re* Articles of, *sec above and below* Articles 19, 24 *and* Ratification.
Denunciation, *sce above* Article 27.
Division into two agreements proposed by Czechoslovakia, Roumania and Switzerland ... 49, 55, 58, 61, 65, 66, 67–8, 69, 168, 251
Draft prepared by Mixed Committee Articles, *scc the corresponding articles of Convention.*

Convention for the Suppression of Counterfeiting Currency *(continued)*

Draft prepared by Mixed Committee *(conlinued)*
Communication to Members and States non-Members of League Replies 48, 248–82, 284
Discussion in Administrative Committee 177–92
Discussion in Legal Committee ... 109–71
Observations of Govts. .. 197–214, 248–82
1st Reading 70–8
2nd Reading 85–9
3rd Reading 94–5
Text 238–43
Entry into force 6
See also above Article 25.
Final paragraphs
Adoption 87, 95
Text 16
Interpretation, *see above* Articles 4, 16, 18.
Legislative and administrative measures contemplated by
General aspect..... 5, 48, 49, 52, 53
See also Administrative Measures, etc. ; Administrative System, etc. ; Legal System, etc.
Optional Protocol, *see that title*
Paragraph IX of Draft, *see* Political offence.
Preamble
Adoption 70, 85, 94
Amendment 168
Discussion in Legal Committee 168
Text
Draft 238
Final..... 9
Protocol, *see that title.*
Ratification
Declaration by Switzerland 21, 49, 55, 84–5 168–9, 170
Notification *re, see* Final Act, Recommendation 11.
See also above Articles 20 *and* 26.
in Relation to modification of legislation by countries, *see above* Article 23 *and* Legal System, etc.
Registration, *sec above* Article 28.
Reservations *see above*, Articles 9, 10, 20, 24.
Revision
Proposal of Turkish delegation
Discussion 90–1, 167
Text 167
Signature
Date and regulations *re, see above* Article 20.
of High Contracting Parties .. 6–7, 16–17, 102
Declarations *re* 94, 99, 100, 101, 102
Recommendation of Conference, *see* Final Act, Recommendation I.
in Relation to signing of Protocol and Final Act 80, 91
Text
Draft 238–43
Final..... 9–16

Convictions, Previous, Recognition of

See Convention, Articles 3, 6.

Council of League

Discussion of question, *see under* Opening of Question *and* Report of President of Conference to.

Court of Int. Justice, Permanent

Competence as to application
Declaration of U.S.S.R. 21, 165
of Penalties 114
of Provisions of Convention .. 75–6, 81, 135, 238, 279
See also Convention, Article 19.

Credentials Committee

Appointment..... 51, 70
Reports 51–2, 90, 98

Criminal Jurisdiction

in Relation to Int. law, *see* Convention, Article 17.
See also Penal law.

Criminal Law

International Association, work of
Letter from Count Carton de Wiart . 69–70

Criminal Police Commission, Int.

Activity pending creation of Int. Central Office, *see* Convention, Article 15 *and* Final Act, Recommendation IX.
Aims of commission and congresses and scope of work 48, 56, 60, 62–3
Communication *re* Review 204–9
Delegation
List 33
Views of, *see* Sirks, A. H.
Observations submitted *re* Articles 14, 15 of Convention 203–4, 214
Signature of Final Act 40

Criminality, Habitual : Recognition of Foreign Convictions for Purpose of Establishing

See Convention, Article 6.

Cuba

Delegation
List 27
Views, *see* Blanck, G. de.
Measures taken by 56
Signature of
Convention 16
Final Act 38
Optional Protocol 41
Protocol 22

Currency

Altering of, *see* Convention, Article 3.
Colouring of 65–6, 116–17, 118, 159, 232
Description, *see* Convention, Article 14.
Destruction and confiscation of forged, *see* Convention, Article 11.
Domestic, forging of, *see* Convention, Article 5.
Exposing for sale of counterfeit 116
Foreign, forging of : punishment of offence, *see* Convention, Article 5.
Forging of, *see* Convention, Article 3.
Forwarding by central offices of cancelled specimens, notification of new issues, withdrawal from circulation, *see* Convention, Article 14.
Fraudulent making, altering, uttering, etc., *see* Convention, Article 3.
Interpretation of word, *see* Convention, Article 2.
Introduction of counterfeit currency into a country, or participation in act, *see* Convention, Article 3.
Notification *re* forgery, *see* Convention, Article 14.
Punishment for forgery due to carelessness or error, *see* Complicity, unintentional.
Seizure of counterfeited currency, *see* Convention, Article 11.

Czechoslovakia

Delegation
List 33
Views of, *see* Kallab, J.
Observations submitted
re Articles of Draft Convention (Article 12) 274
General 249
Recommendations of Conference, observations *re*
III 274, 281
VI 274, 281
VII 274, 281
Signature of
Convention 17
Final Act 40
Optional Protocol 42
Protocol 23

Danzig, Free City of

Delegation
List 27
Observations submitted *re* articles of Draft Convention (articles 8, 9, 16) 269, 272, 276
Reply to Note of President *re* Articles 8, 9 .. 211
Signature of
Convention 16
Final Act 38
Protocol 22

Darlington, C. F. 35, 49

Dawson, Vernon

Delegate of India 29
Declaration *re* signature of Convention and position of Indian States 101

Delaquis, E.

Delegate of Switzerland 33
Chairman of Administrative Committee... 50
Declaration *re* ratification of Convention by Switzerland in relation to amendments to legislation 55, 84–5, 85, 168-9, 170
Discussion of articles of Convention
Article 5 132
Article 7 135
Article 8 151
Article 11 ..... 133, 179, 180, 181, 182
Article 12 ..... 182, 183
Article 14 ..... 180, 184, 185, 186
Article 15 ..... 186, 188, 189
Article 16 ..... 75, 190, 190–1, 191, 192
Article 19 165
Division of Convention into two agreements proposed 55, 168
Final Act, paragraph 2 95
Political offence of counterfeiting..... 55, 85
Recommendations of Conference
VI 82, 192, 193
VII 193
VIII 193
IX 194
Shares, cheques, etc..... 182, 190
Tribute to memory of Enrico Ferri 184

Denmark

Delegation
Declaration *re* signature of Convention 100
List 27
Views of, *see* Borberg, W.
Reply to Note of President *re* Articles 8. 9.. 211
Signature of
Convention 16
Final Act 38
Protocol 22

Destruction of Instruments used for Counterfeiting

See Convention, Article 11.

Detective Measures

Co-operation to ensure 48, 230
See also Administrative measures, etc.

Dispute, Settlement of

See Arbitration ; Court of Int. Justice, etc. ; Convention, Article 19.

Documentation..... 187

See also Convention, Article 14.

Domestic Law

See Convention, Article 18.

Dupriez, Léon

Substitute delegate of Belgium 27
Discussion of articles of Convention, Article 3 71

Duzmans, Charles

Attending Conference as observer (Latvia) 33, 96–7, 97
Discussion of articles of Convention
Article 3 ..... 116, 138
Article 5 ..... 160, 161
Article 7 ..... 86, 162
Article 8 ..... 149–50, 152, 155–6
Article 9 ..... 88, 150, 155-6, 156
Article 10 163–4
Article 17 163–4
Article 21 76
Article 22 76
Article 27 78
Legal and administrative systems of countries : introduction of rules laid down under Para. I of Article 1 of Draft 170
Protocol : interpretation 80

Ecuador

Delegation
List 29
Views of, *see* Gastelu, Alejandro
Signature of Final Act 39, 100

Extradition

Discussion, general, and documents 6, 49, 53, 58, 61, 62, 64
Treaties concluded by States in relation to question 58, 67, 158
Unification of rules on international basis, *see* Final Act, Recommendation XII.
See also Convention, Articles 8, 9, 10 ; Final Act, Recommendation XII ; Optional Protocol ; Political Offence

Feltz, A.A. Vander

Delegate of Netherlands 30
Member of Mixed Cttee 239

Ferri, Enrico

Telegram of condolence sent to Signora Ferri 189
Tribute to memory 183–4

Final Act of Conference for Suppression of Counterfeiting Currency

Adoption 95
as Distinct from Convention and Protocol. 91–2
Final Clause : adoption 92
Paragraphs 2 and 3 ..... 25, 35, 92, 95
Ratification, question of 92
1st Reading 82–3
2nd Reading 91–2
3rd Reading 95
Recommendations
I (I of C.F.M.12(a)) *Communication of Convention and Protocol to States*
Adoption 82, 92, 96
Council decision 245, 283
Text 35, 96
II (II of C.F.M.12a)) *Ratification, notification re*
Adoption 82, 92, 96
Council decision 283
Text 35, 96
See also Convention, Articles 20, 23, 26
III. (1 of Draft, III of C.F.M.12(a)) *Administrative measures*
Adoption 82, 92, 96
Discussion and documents (observations) 6, 49, 53, 173, 281
Text 35, 96, 243
See also Administrative measures for Organisation, etc.
IV *Central Offices, national (notifications)*
Adoption 92, 96
Council decision 283
Text 35
See also Convention, Article 12.
V (IV of C.F.M.12(a)) *Central Office, Int.*
Discussion and adoption 82, 92, 96

Final Act of Conference for Suppression of Counterfeiting Currency *(continued)*

Recommendations *(continued)*
V (*continued*)
Text 35
See also below X and Convention, Article 15.
VI (II of Draft, V of C.F.M.12(a)) *Colonial Central Offices*
Adoption 82, 92, 96
Discussion 82, 192–3
Observations of Govts 281
Reservation of Italy 192
Text 37
VII (III of Draft, VI of C.F.M.12(a)) *Banks of Issue, relations with Central Offices*
Adoption 82, 92, 96
Discussion 5, 193
Observations of Govts 281
Text 37, 96, 244
VIII (IV of Draft, VII of C.F.M.12 (a)) *Central Offices, experts' co-operation*
Adoption 82, 92, 96
Discussion 193
Observations of Govts 250, 282
Report of Mixed Cttee 236
Text 37, 243
IX (V of Draft, VIII of C.F.M.12 (a)) *Criminal Police Commission : activity pending creation of Int. Central Office*
Adoption 82, 92, 96
Discussion and documents. 5, 6, 82, 186, 187, 188, 189, 193–4, 220, 220–1
Observations of Govts, etc.... 214, 250, 276, 282
Text 37, 243–4
X (IX of C.F.M.12(a)) *Central Offices, Conferences*
Adoption 82, 92, 96
Text 37
See also Convention, Article 15.
XI (X of C.F.M.12(a)) *Counterfeiting of other securities, prevention*
Adoption 82, 92, 96
Amendment 82, 83
Discussion and documents 6, 18, 49, 52, 54, 284
Text 37, 96
XII (VII of Draft, XI of C.F.M. 12(a)) *Extradition rules, unification*
Adoption 83, 92, 96
Discussion and documents . 6, 49, 53, 82, 172, 245–6, 246–7
Text 37, 96, 244
XIII (XII of C.F.M.12(a)) *Letters of request*
Adoption 83, 92, 96
Discussion and documents 6
Text 37
See also Convention, Article 16.
XIV (VIII of Draft, XIII of C.F.M.12(a)) *Letters of request*
Adoption 83, 92, 96
Discussion and documents... 6, 49, 194, 245–6, 246–7, 249
Observations of Govts 282
Text 37, 244
See also Convention, Article 16
Signature 38–40
Declaration *re* 100
Text 35, 37, 38

Financial Committee

Enquiry undertaken by 48
Report, *see* Report, etc.

Finland

Delegation
Declaration *re* signature of Convention 100
List 29
Views of, *see* Gyllenbögel, E., Holsti, R.
Signature of Final Act 39

Fischer Williams, Sir John

Delegate of Great Britain 27
Colouring of currency 117
Discussion of articles of Convention
Article 1 112
Article 2 112
Article 3 ... 113, 114, 115, 117, 127, 128, 136–7, 138, 158–9
Article 4 ..... 122, 123
Article 5 ..... 131, 161
Article 7 86
Article 8 ..... 148, 152, 154–5, 156
Article 9 ..... 155, 157
Article 10 ..... 73–4, 155, 158–9, 163, 169
Article 11 132
Article 19 ..... 165, 166
Article 22 76
Article 23 ..... 77, 168
Article 24
Reservation 167
Divison of Convention into two agreements 58, 169
Extradition 58
Legal and administrative systems of countries : introduction of rules laid down under Para. 1 of Article 1 of Draft. 77, 169
Political offence 58, 146
Protocol
Interpretation 78, 80, 82, 93
Reservations
Chinese *re* Article 10 84
Indian *re* Article 9 83
U.S.S.R. *re* Article 20 84
Revision of Convention proposed by Turkish delegation 167
Shares and debenture certificates, bills of exchange, cheques 58, 110
Tribute to President 104
Vice-Chairman of Legal Committee 50

Foreign Convictions, Recognition for Purpose of Establishing Habitual Criminality

See Convention, Article 6.

Foreigners, Punishment of

See Convention, Article 9.

Forgeries, Discovery of

Notification of central offices, *see* Convention, Article 14.

Forging of Currency

See Convention, Article 3.

France

Delegation
Declaration *re* signature of Convention 100
List 29
Views of, *see* Chalendar, Count de ; Caous, M. ; Collard-Hostingue, M.
Observations submitted
re Articles of Draft Convention (Articles 5, 8, 11) 263, 265, 269
General 249
Reply to Note of President *re* Articles 8, 9.. 211
Signature of
Convention 17
Final Act 39
Protocol 23

Fraudulent Intent an Element of Offence

See Convention, Article 3.

Gastelu, Alejandro

Delegate of Ecuador 29
Declaration *re* signature of Final Act 100

Gerke, P. J.

Delegate of Netherlands 31
Discussion of articles of Convention
Article 24 167
Political offence 139

Germany

Delegation
Amendments submitted by, *see under* Articles of Convention (Article 1).
List 25
Views of, *see* Kraske, Dr.; Mettgenberg, Dr.; Vocke, Dr.
Observations submitted
re Articles of Draft Convention (Articles 8, 9, 10)... 154, 269–70, 272, 278
General 249
Reply to Note of President *re* Articles 8, 9 ... 209, 211
Signature of
Convention 16
Final Act 38
Protocol 22

Givanovitch, Thomas

Delegate of Serb-Croat-Slovene Kingdom 31
Discussion of articles of Convention
Article 2 ..... 111, 112
Article 3 .... 71, 72, 114, 118, 119, 138, 159, 160
Article 4 ..... 72, 120, 121, 122
Article 5 ..... 111, 112, 131
Article 7 135
Article 8 ..... 73, 148, 151, 156
Article 9 ..... 88, 156
Article 11 ..... 133, 178, 181
Article 16 75
Observations *re* articles of Draft Convention (Articles 3, 4, 5, 7, 8, 9, 11 and political offence, Para. IX) ... 71, 199, 200–1
Optional Protocol 93, 94
Penal law 59
Political offence 146–7, 150
Protocol : interpretation 80, 81
Revision of Convention, proposal *re* (Turkish) 90
Signature of Convention 94

Great Britain and Northern Ireland

Delegation
Amendments submitted by, *see under* Articles of Convention (article 19).
List 27
Views of, *see* Brass, L. S. ; Fischer Williams, Sir John.
Division of Convention into two agreements 58
Observations submitted *re* articles of Draft Convention (Articles 2, 3, 4, 10, 11, 16, 19, Para. IX) ... 251, 253, 257, 261, 265, 267, 276, 278
Reply to Note of President *re* Articles 8, 9... 211
Reservation *re* Article 24 167
Signature of
Convention 26
Final Act 38
Protocol 22

Greece

Delegation
Amendments submitted by, *see under* Articles of Convention (article 3).
List 29
Views of, *see* Caloyanni, M.
Division of Convention into two separate agreements 64
Signature of
Convention 17
Final Act 39
Optional Protocol 42
Protocol 23

Gyllenbögel, Evald

Substitute delegate of Finland 29
Discussion of articles of Convention
Article 3 115
Article 7 ..... 135, 136
Article 8 152–3
Article 9 ..... 156, 164
Article 10 73
Article 17 164
Political offence 147

Hayashi, Raizaburo

Delegate of Japan 31
Discussion of articles of Convention
Article 3 ..... 112, 115
Article 4 ..... 119, 123
Article 5 ..... 59, 130
Article 8 153
Article 9 153
Article 11 132
Article 24 ..... 77, 78
Protocol : Chinese reservation *re* Article 10 ..... 84, 89

History of Study of Question 5

Holsti, Rudolf

Delegate of Finland 29
Declaration *re* signature of Convention ... 100

Hungary

Delegation
Amendments submitted by, *see under* Articles of Convention (Article 9).
List 29
Views of, *see* Szondy, V.
Observations submitted *re* articles of Draft Convention (articles 2, 3, 4, 5, 7, 8, 9, 11, 14, 15, 16, Para. IX).. 149, 251–2, 253–4, 258, 259, 263–4, 265, 267, 270, 272–3, 275, 276
Signature of
Convention 17
Final Act 39
Protocol 23

India

Delegation
Declaration *re* signature and ratification of Convention and position of Indian States 101, 279, 280
List 29
Views *re*, *see* Dawson, V.
Observations submitted *re* articles of Draft Convention (articles 3, 8, 9, 24) 155, 254, 270, 273, 279–80
Reply to Note of President *re* Articles 8, 9.. 211
Reservation *re* Article 9 of Convention .. 19, 83
Signature of
Convention 16
Final Act 39
Protocol 22

Instruments for Counterfeiting

Making, receiving, etc. : punishment, *see* Convention, Article 3.
Seizure, *see* Convention, Article 11.

International Law

Expert Committee for progressive codification : report on recommendations VII and VIII of Mixed Committee, *see under* Final Act. Recommendations XII and XIV
in Relation to criminal jurisdiction, *see* Convention, Article 17.

Investigations on Subject

See Convention, Articles 12, 13, 14.

Italy

Delegation
Amendments submitted by, *see under* Articles of Convention (articles 3, 7, 10, 11, 15).
Declaration *re* Convention 101
List 29
Views of, *see* Aloisi, Dr. Ugo ; Moriondi, C.
Division of Convention into two agreements 67–8

Italy *(continued)*

Observations submitted
re Articles of Draft Convention (15, 24) 276, 280
General 249
Recommendations of Conference, observations *re*
VI 82, 192, 280, 281
VII 193
VIII 193
IX 82, 187
Reply to Note of President *re* Articles 8, 9... 211
Reservation *re* Article 24 ..... 77, 166
Signature of
Convention 17
Final Act 39
Protocol 23

Japan

Delegation
Amendments submitted by, *see under* Articles of Convention (articles 11, 14, 24)
List 31
Views of, *see* Amagi, T.; Hayashi, R.; Motono, Viscount; Nagai, S.
Observations submitted *re* articles of Draft Convention (article 3) 213–14
Signature of
Convention 17
Final Act 39
Protocol 23

Judicial Authorities

Co-operation in different countries 5
See also Convention, Articles 12, 13, 15 ; Banks of issue, co-operation, etc.

Kallab, Jaroslav

Delegate of Czechoslovakia 33
Co-operation between police of different countries 61
Discussion of articles of Convention
Article 5 61
Article 7 135
Article 11 133
Division of Convention into two agreements 61
Extradition 61
Optional Protocol 93
Penal law, unification 61
Political offence 61, 147

Kraske, Dr.

Delegate of Germany 25
Discussion of articles of Convention
Article 8 56
Article 9 56
Article 16 ..... 75, 191
Protocol : interpretation 78
Reports of Credentials Committee 51–2, 98

Lachkevitch, Georges

Delegate of Union of Socialist Soviet Republics 33
Discussion of articles of Convention
Article 2 111–12
Article 3 ..... 113, 114
Article 4 ..... 121, 122
Article 5 ..... 131, 131–2, 160
Article 7 ..... 86, 134, 136
Article 8 153
Article 9 ..... 88, 153
Article 16 75
Article 19
Reservation 165
Article 20 166
Article 24 166
Declaration *re* 95
Protocol : interpretation 79, 81
Revision of Convention proposed by Turkish delegation 167

Languages, Use of

by Central Offices 184, 185, 193
in Drawing up "letters of request". 74, 75, 237

Latvia

Delegation
Amendments submitted by, *see under* Articles of Convention (articles 8, 9)
Declaration *re* attitude towards Conference 96–7
List 33
Views of, *see* Duzmans, Charles
Observations submitted *re* articles of Convention (articles 3, 4, 5, 7, 8, 9, 12, 16) 209–11
Reply to Note of President *re* Articles 8, 9.. 211

Legal Assistance, International

in Relation to communication of "letters of request" 190

Legal System

in Various Countries : introduction into, of rules laid down under Para. 1 of Article 1 of Draft . 21, 49, 76–7, 84–5, 102, 112, 239, 168–71, 230, 250
See also Convention, Article 23.

Letter Opening Question, from M. Briand

See Opening of Question, etc.

Letters of Request

Regulation of despatch and execution
Discussion and documents .. 6, 190, 246–7
See also Convention, Article 16 ; Final Act, Recommendations XIII and XIV.

Liubimov, Nicolas

Delegate of Union of Socialist Soviet Republics 33
Discussion of articles of Convention
Article 7 134–5
Article 11 180
Article 14 185
Article 15 189
Article 16 191
Article 24 192
Penal law 59
Recommendations of Conference
VI 192
IX 194

Lone Liang, Mr.

Delegate of China 27
Chinese treaties with foreign powers in relation to application of Convention 64, 157
Declaration *re* signature of Convention ... 97
Discussion of articles of Convention
Article 3 113
Article 4 ..... 121–2, 123
Article 5 64
Article 9 157
Article 10
Discussion 73
Reservation 157
Extradition 64
Protocol : Chinese reservation *re* Article 10 89
Shares, cheques, etc. 110

Luxemburg

Delegation
List 31
Signature of
Convention 17
Final Act 39
Protocol 23

Mandated Territories

See Colonies, etc.

Manufacture of Currency and Instruments, Fraudulent

See Convention, Article 3.

Mettgenberg, Dr.

Delegate of Germany 25
Discussion of articles of Convention
Article 1 112
Article 3 ..... 115, 116, 137
Article 5 161
Article 8 ..... 148, 154, 155
Article 9 ..... 148, 154, 155, 163
Article 10 ..... 112, 144, 154
Article 11 74
Political offence 144
Shares, cheques, etc. 110

Mixed Committee

Appointment, meetings and work of .. 5, 47, 48, 226–7, 229
Committee of Jurists 5, 142, 147, 224
Draft Convention 238–43
Observations of Govts. 248–82
Recommendations 243–4, 282
(Recommendation VI afterwards Article 6 of Convention.)
Report 228–38
Observations by Govts. 248–82

Monaco

Delegation
List 31
Signature of
Convention 17
Final Act 39
Protocol 23

Moran, William H.

Technical adviser, delegation of U.S.A. .. 25
Discussion of articles of Convention
Article 14 184
Article 16 ..... 190, 191

Moriondi, Carlo

Expert, delegation of Italy 29
Recommendation VIII of Conference 193

Motono, Viscount

Secretary, delegation of Japan 31
Discussion of articles of Convention
Article 11 74
Article 14 ..... 185, 190
Article 16 ..... 190, 192

Municipal Law, Unification 48, 230, 245

Nagai, Shigeru

Delegate of Japan 31
Discussion of articles of Convention
Article 11 ..... 177, 182
Article 12 183
Article 15 189–90

Nationality

Change of, after offence, *see under* Convention, Article 8.

Nationals Taking Refuge in Own Country after Committing Offence Abroad, Punishment

See Convention, Article 8.

Netherlands

Delegation
Amendments submitted by, *see under* Articles of Convention (articles 12, 24) ; Final Act, Recommendation XI.
List 31
Views of, *see* Broekhoff, K. H. ; Gerke, P. J.

Netherlands *(continued)*

Letter, June 21, 1926, from Govt. to Secretary-General 219–20
Observations submitted
re Articles of Draft Convention (articles 12, 13, 14) 274, 275
General 249
Reply to Note of President *re* Articles 8, 9.. 211
Signature of
Convention 17
Final Act 39
Protocol 23

New Zealand

Observations submitted
re Articles of Draft Convention (articles 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 16, Para. IX) 252, 254–7, 258, 259–60, 261–3, 264, 265–6, 267, 267–8, 270, 273,274, 275, 277, 278
General 250

Nicaragua

Delcgation
Amendments submitted by, *see under* Articles of Convention (article 3).
Declaration *re* signature of Convention 101
List 31
Views of, *see* Sottile, A.
Observations, general, *re* articles of Draft Convention 250

Offences

Adequate punishment of, *see* Convention, Article 3.
to be Considered as ordinary offences as regards extradition 6
See also Convention, Article 3; Optional Protocol.
to be Considered as separate and distinct offences, *see* Complicity *and* Convention, Article 4.
Change of nationality after committing, *see under* Convention, Articlc 8
Committed abroad, punishment of nationals in countries where extradition principle is not recognised, *see* Convention, Article 8.
Committed in different countries, to be considered as distinct and separate offences, *see* Convention, Article 4.
Difference of punishment given to various phases of crime 6
Official notification, punishment subject to, *see under* Convention, Articles 8, 9.
Political motive, *see that title*
to be Punished as ordinary crimes, *see* Convention, Article 3.
Prosecution and punishment in conformity with domestic law, *see* Convention, Article 18.
Uniform definition in penal codes 52

Opening of Question

Extracts from Council Minutes (40, 42, 43, 48, 51, 54, 55 sessions)..... 222–4, 225, 226–7, 244–6, 247–8, 284–5
Letter, June 5. 1926, from M. Briand to Secretary-General..... 219
Declaration by M. Paul-Boncour, June 10, 1926 222–3
Letter, June 21, 1926, and note from Netherlands Govt. to Secretary-General 219–20
Letter, Aug. 20, 1926 and Memo. from Austrian Govt. to Secretary-General 220–2

Optional Protocol

Announcement of 83
Declarations *re* 92–3, 94, 104
Discussion 159
Entry into force 41
Ratification 41
Reading 97
Signature 6, 41–2
Declarations *re* 97, 98, 99, 101
Text 41

Panama

Signature of
Convention 17
Optional Clause 42
Protocol 23

Paper for Manufacture of Notes 238

Pardon

See Amnesty, etc.

Participation in Counterfeiting

See Complicity.

Passports, Falsification of

Office for suppression..... 63

Paul-Boncour, M.

Statement in Council (40 session) *re* letter of M. Briand 222–3

Pella, Vespasien V.

Delegate of Roumania 31
Colouring of currency 117
Complicity a distinct and separate offence: proposal discussed 136–7
Declaration *re* signature of Convention and Optional Protocol 101–2
Discussion of articles of Convention
Article 1 54
Article 2 ..... 111, 112
Article 3 .. 113–14, 114, 115, 116, 117, 118, 124–5, 126, 128, 129, 137, 138, 159
Article 4 ..... 53, 54, 120, 122, 123
Article 5 ..... 130–1, 161
Article 6 ..... 54, 73, 158, 171–2
Article 7 ..... 135, 161
Article 8 53, 54, 148–9, 150, 150–1, 151, 156
Article 9 ..... 53, 54, 88, 148–9
Article 10 ..... 53, 54, 143, 157, 158
Article 11 ..... 132, 133–4, 134
Article 17..... 164
Article 19 ..... 165, 166
Division of Convention into two agreements: Swiss proposal..... 49
Legislative and administrative systems of countries: introduction of rules laid down under Para. I of Article 1 of Draft 112, 170
Optional protocol 83, 93, 97, 101, 159
Penal law, unification 101, 102
Political offence .. 53, 53–4, 140–3, 143–4, 150, 157, 159
Protocol: interpretation 79, 81
Rapporteur of Legal Committee 170
Revision of Convention, proposal *re* (Turkish) 91
Shares and debenture certificates, bills of exchange, cheques 52
Stamps, falsification of 111
Tribute to memory of Enrico Ferri 183

Penal Law

in Austria 131
in Belgium 252–3, 258–9, 261, 263
in China 64, 113
in Czechoslovakia 271
in Finland 73, 115, 153, 156
in France 151, 263, 265
in Germany 115, 210
in Greece 64, 161, 181, 271
in Hungary. 109, 116, 131, 149, 258, 259, 263–4, 265, 267, 273
in Italy 139, 161, 271
in Latvia 209–10
in New Zealand 254–6, 259–60, 261–3, 264, 265–6, 267, 270
in Norway 210
in Poland 271
in Portugal 57, 252, 257
in Roumania 53, 54, 260, 271
in Serb-Croat-Slovene Kingdom 154, 271
in Siam .. 257, 258, 260, 263, 265, 266, 267, 272, 273

Penal Law *(continued)*

in Spain 271
in Sweden 65, 179, 210
in Switzerland... 55, 133, 168–9, 181, 257, 258, 263, 266, 271, 272, 282
Unification and modification.. 5, 48, 52, 53, 54, 58, 59, 61, 101, 102, 230, 271
in Union of Socialist Soviet Republics 59

Penalties, Latitude of States to Fix

See Convention, Article 3.

Poland

Delegation
Amendments submitted by, *see under* Articles of Convention (articles 14, 19).
List 31
Views of, *see* Sokalski, V.
Observations submitted
re Articles of Draft Convention (articles 4, 9, 12, 14, 15, 16, 19) 212–13
General 250
Signature of
Convention 17
Final Act 39
Optional Protocol..... 42
Protocol 23

Police

Co-operation in different countries 5, 61, 63, 238, 245
See also Convention, Articles 12, 13, 15.
Relations with Int. Central Office 187
See also Criminal Police Commission.

Political Motive of Offence

Paragraph IX of Draft Convention, rejected
Discussion and documents .. 53, 54, 58, 61, 67, 85, 139–48, 150, 157, 159, 234, 240
Observations submitted by Govts. . 140–3, 201, 202, 268

Portugal

Delegation
Amendments submitted by, *see under* Articles of Convention (articles 1, 5, 11, 16).
List 31
Views of, *see* Caeiro da Matta, José
Observations submitted
re Articles of Draft Convention (articles 2, 3, 12, 13, 14, 15).. 252, 257, 260, 274, 275
General 250
Recommendations of Conference, observations *re*
VII 281
VIII 250, 282
IX 282
XI 83
Signature of
Convention 17
Final Act 40
Optional Protocol 42
Protocol 23
Situation in 56–7

Pospisil, Dr. Vilem

President of Conference 5, 35, 247-8
Closing speech..... 102–4
Communications 69–70
Opening speech 47–9
Credentials of delegates 90
Declarations of China, Latvia, Turkey and U.S.A. 97
Discussion of articles of Convention
Article 2 110
Article 3 ..... 71, 72
Article 4 72
Article 5 ..... 72, 161
Article 7 ..... 73, 86
Article 8 ..... 73, 209
Article 9 ..... 87, 88, 163, 209
Article 11 ..... 74, 177
Article 12 182

Pospisil, Dr. Vilem *(continued)*

Discussion of articles of Convention *(continued)*
Article 14 ..... 74, 180, 185, 186
Article 15 ..... 186, 188, 189
Article 16 ..... 75, 192
Article 19 ..... 75, 76
Article 20 76
Article 21 76
Article 22 76
Article 23 ..... 77, 169, 170
Article 24 77
Article 27 78
Article 28 78
Discussion in Council 244–5, 246
Final Act 95
Paragraph 2..... 92
Letter, Oct. 13, 1927, to Council 228
Note on Articles 8, 9 209
Optional Protocol 97
Preamble of Convention 168
Protocol
Declarations
by Switzerland 85
by U.S.S.R. 85
Interpretation 78, 80, 81, 82
Reservations
Chinese *re* Article 10 ... 83–4, 84, 85, 89
Indian *re* Article 9..... 83
U.S.S.R. *re* Article 20 84
Recommendations of Conference
I 92
VI 82, 192
VII 193
VIII 193
IX 82, 186, 187, 194
XI 82
Revision of Convention, proposal *re* (Turkish) 90, 91
Shares, cheques, etc..... 82, 110, 111, 173, 182
Signing of various instruments 91–2
Stamps, falsification of 111
Tribute of Conference to 104
Tribute to memory of Enrico Ferri 183

President of Conference

See Pospisil, Dr. Vilem.

Prosecution, Discretionary Power *re*

See Convention, Article 9.

Protocol to the Int. Convention for Suppression of Counterfeiting Currency

Amendments 95
Communication to Members and States non-Members of League ... 35, 92, 96, 284
Declarations
Discussion 84–5
by Switzerland *re* ratification 21
See also Convention, Ratification, Declaration.
Text 21–2
by U.S.S.R. *re* Article 19 21
See also Convention, Article 19, Declaration.
Integral part of Convention 80, 95
Interpretation
Discussion 78–82
Rules of interpretation..... 81–2, 93
See also the subjects and articles concerned
Text 19, 80, 95
Optional Protocol, *see that title*
1st Reading 78–82, 83–5
2nd Reading 93
3rd Reading..... 95
Reservations
Discussion 83–4, 85, 89
Preamble: adoption and text 19, 83
Text 19, 95
See also Convention, Articles 9, 10, 20
Signature by High Contracting Parties 6–7, 22–3
Declarations *re* 98, 99
Signing of, in relation to signing of Convention and Final Act 80, 91
Text 18–23

Questionnaire to Banks of Issue

See Banks, etc.

Rand, Elbridge D.

Substitute delegate of United States of America 25
Discussion of articles of Convention
Article 5 160

Reciprocal Treatment

as Applicable to provisions of Article 5 of Convention, *see* Convention, Article 5.
as Applicable to provisions of Article 7 .. 86

Report of Financial Committee to Council 5, 225–6

Report of Mixed Committee to Council

See Mixed Cttee., Report.

Report of President of Conference to Council 6, 283–4

Decisions of Council 284
Discussion in Council 284–5

Reservations

See Convention, Articles 9, 10, 19, 20, 24, *and under* Protocol : Declarations, Interpretation, Reservations.

Restrepo, A. J.

Delegate of Colombia 26
Declaration *re* Convention 99–100

Review

Publication of 187, 204–9

Roumania

Delegation
Amendments submitted by, *see under* Articles of Convention (article 3)
Declaration *re* signature of Convention and Optional Protocol 101–2
List 31
Proposal submitted *re* complicity as distinct and separate offence ; discussion 136–7
Views of, *see* Pella, V. ; Toncesco, P.
Observations submitted
re Articles of Draft Convention (articles 3, 6 (recommendation VI of Mixed Cttee.), 8, 9, 10, Para. IX).. 140–2, 260, 263, 268, 270–2, 273, 278, 282
General 250
Signature of
Convention 17
Final Act 40
Optional Protocol 42
Protocol 23

Salter, Sir Arthur 47, 49

Schober, Jean

Delegate of Austria 25
Letter to President of Conference 69
Tribute of President of Conference 99

Schultz, Dr. Bruno

Delegate of Austria 25
Discussion of articles of Convention
Article 4 120
Article 5 ..... 131, 161
Article 15 ..... 60–1, 188, 189
Optional Protocol 93
Political offence 144–5
Recommendation IX of Conference 188

Scialoja, V. 247

Securities, Counterfeiting of

See Shares, etc.

Seizures

See Convention, Article 11.

Serbs, Croats and Slovenes, Kingdom of

Delegation
Amendments submitted by, *see under* Political offence (Para. IX).
List 31
Views of, *see* Givanovitch, Th.
Observations submitted *re* articles of Draft Convention (Articles 3, 4, 5, 7, 8, 9, 11) 71 181, 199, 200–1
Signature of
Convention 17
Final Act 40
Optional Protocol 42
Protocol 23

Servais, M.

Delegate of Belgium 27
Chairman of Legal Committee 50
Colouring of currency ... 116–17, 117, 118, 159
Discussion of articles of Convention
Article 2 ..... 70, 111, 112
Article 3 70, 71, 72, 85, 113, 114, 115, 116, 116–17, 117, 117–18, 118, 118–19, 124, 125, 125–6, 126, 127, 127–8, 128, 129, 136, 137, 138, 159, 160
Article 4 119, 121, 122, 123, 123–4, 138, 160
Article 5 ..... 111, 112, 130, 132, 160, 161
Article 7 ..... 86, 134, 136, 161
Article 8 149, 150, 151, 153, 156, 161, 162, 163
Article 9 ... 87–8, 88, 89, 90, 149, 151, 153, 155, 157, 162, 163, 167
Article 10
Discussion 157–8, 163, 164
Reservation of China 157, 163
Article 11 ..... 74, 132, 133, 134
Article 16 86
Article 17 ..... 86, 163, 164
Article 19 ..... 86, 164, 165, 166
Article 20 87
Article 21 166
Article 22 87
Article 24 ..... 77–8, 166, 170
Article 27 87
Legal and administrative systems of countries : introduction of rules laid down under Para. I of Article 1 of Draft 85, 112, 168, 170
Political offence 85, 139, 143, 147, 148, 150
Protocol
Declaration
by Switzerland 85
Interpretation 79–80
Reservation, Chinese, *re* Article 10 .. 89
Recommendation XI of Conference 82
Revision of Convention, proposal *re* (Turkish) 90–1
Shares, cheques, etc. 82, 110, 173

Shares and Debenture Certificates, Counterfeiting of : Prevention

Discussion and documents 6, 49, 52, 56, 57, 58, 66, 109, 110, 111, 173, 182–3, 190, 230, 274, 284
See also Final Act, Recommendation XI.

Siam

Observations submitted
re Articles of Draft Convention (articles 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 14, 15, 16, Para. IX).. 252, 257, 258, 260, 263, 265, 266, 267, 268, 272, 273, 274, 275, 276, 277
General 250

Sirks, A. H.

Delegate of Int. Criminal Police Commission 33
Discussion of articles of Convention
Article 2 63
Article 3 63
Article 5 63
Article 8 63
Article 9 63
Article 11 178
Article 12 ..... 62, 64, 182
Article 13 ..... 62, 63, 64
Article 14 185
Article 15 ..... 62, 64, 187–8
Article 16 191
Extradition 62
Recommendation XI of Conference 193–4
Statement made in Plenary session 61–4

Sjöstrand, Dr. E. R.

Delegate of Sweden 33
Declaration *re* signature of Convention ... 102
Discussion of articles of Convention
Article 3 ..... 65, 124, 125
Article 4 ..... 121, 123
Article 5 ..... 65, 132
Article 8 ..... 151, 152, 153
Article 11 ..... 65, 132, 133, 179, 181

Sokalski, Vlodzimierz

Delegate of Poland 31
Discussion of articles of Convention
Article 6 171
Article 12 182
Article 14 ..... 184, 185, 186
Article 16 190
Article 19 ..... 75–6, 165
Optional Protocol 93

Sottile, Dr. Antoine

Delegate of Nicaragua 31
Declaration *re* signature of Convention ... 101
Discussion of articles of Convention
Article 3 ..... 70, 71, 72, 124, 125, 126
Article 4 72

Spain

Delegation
List 29
Views of, *see* Alcagne Chavarria, R.; Carrillo de Albornoz, S.
Measures taken by 68
Signature of
Convention 16
Final Act 39
Optional Protocol 42
Protocol 23

Stamps, Counterfeiting of

on Bank-notes, *see* Bank-notes, etc.
for Payment of certain taxes 110, 111
Postage 110

Stavro Stavri, Dr.

Delegate of Albania 25
Discussion of Articles of Convention
Article 8 148
Optional Protocol 98–9

Sub-Committees of Conference

Constitution 137, 147
Work of ... 70, 138, 148, 150, 158, 159, 162, 170

Sweden

Delegation
Amendments submitted by, *see under* Articles of Convention (articles 3, 11).
Declaration *re* signature of Convention 102
List 33

Sweden *(continued)*

Delegation *(continued)*
Views of, *see* Sjöstrand, Dr. E. R.
Observations submitted *re* articles of Draft Convention (articles 3, 4, 8, 9, 11) 132, 151, 153, 258, 260–1, 266, 272
Reply to Note of President *re* Articles 8, 9 .. 211
Signature of Final Act 40

Switzerland

Declaration *re* ratification in relation to amendments to legislation 21, 49, 55, 84–5, 85, 168–9, 170, 250
Delegation
List 33
Views, *see* Delaquis, E.
Observations submitted
re Articles of Draft Convention (articles 1, 3, 4, 5, 6 (recommendation VI of Mixed Cttee). 7, 8, 9, 10, 11 to 17, Para. IX) ... 135, 251, 257, 258, 261, 263, 265, 266, 267, 268–9, 272, 273, 274–5, 275, 276, 277, 278
General 250–1
Proposal *re* division of Convention into two agreements 49, 55, 251
Recommendations of Conference, observation *re*
III 281
VI 82, 192, 193, 281
VII 193, 281
VIII 193, 282
IX 194, 282
Reply to Note of President *re* Articles 8, 9 ... 211
Signature of
Convention 17
Final Act 40
Protocol 23

Szondy, Viktor

Expert, Hungarian delegation 29
Discussion of articles of Convention
Article 3 ..... 116, 124
Article 4 120
Article 5 131
Article 8 149
Article 9 ..... 88, 155
Article 23 170
Political offence 145–6, 146
Shares, cheques, etc. 109, 110
Stamps, falsification of 110

Toncesco, P.

Delegate of Roumania 31
Optional Protocol 93

Turkey

Delegation
Amendments submitted by, *see under* Articles of Convention (articles 19, 24).
Declaration *re* signature of Convention 102
List 33
Views of, *see* Bahattin, I.
Observations submitted *re* articles of Convention (articles 5, 7, 24) 72, 73, 77, 130
Proposal *re* revision of Convention .. 90–1, 167
Signature of Final Act 40

Union of Socialist Soviet Republics

Delegation
Amendments submitted by, *see under* Articles of Convention (article 3).
Declaration *re* provisions relating to arbitration 21, 85, 165
List 33
View of, *see* Liubimov, N. ; Lachkevitch, G.
Observations submitted
re Articles of Convention (articles 3, 4, 7, 15, 19, 20, 21, 24) 134, 189, 211–12, 257, 258, 267, 276, 279, 280
General 251

Union of Socialist Soviet Republics *(continued)*

Reservations
re Article 20 19
re Article 24 95
Signature of Convention 17
Signature of Final Act 40
Signature of Protocol 23

United States of America

Delegation
Amendments submitted by, *see under* Articles of Convention (article 10 *and* Political offence, Para. IX).
Declaration *re* signature of Convention 97, 99
List 25
Views of, *see* Moran, W. H.; Rand, E. D. ; Wilson, H. R.
Division of Convention into two agreements 58
Extradition treaties concluded by United States in relation to question of punishment of offenders 58
Measures taken by 58
Observations submitted *re* articles of Draft Convention (articles 1, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, Para. IX (Political offence) 202–3, 214
Participation in Conference 57
Reply to Note of President *re* Articles 8, 9 .. 211
Signature of Convention 16
Signature of Protocol 22

Uttering of Counterfeit Currency

See Convention, Article 3.

Vice-Presidents of Conference

See Schober, M. ; Wilson, M.

Vocke, Dr.

Delegate of Germany 25
Discussion of articles of Convention
Article 11 180

Voionmaa, V. 245–6

Wilson, Hugh R.

Delegate of United States of America 25
Declaration *re* signature of Convention 97
Discussion of articles of Convention
Article 2 112
Article 3 114
Article 5 130
Article 8 ..... 154, 155
Article 9 ..... 154, 155
Article 13 58
Article 19 166
Division of Convention into two agreements 58
Extradition treaties concluded by U. S. A. in relation to question of punishment of offenders 58
Legal and administrative systems of countries : introduction of rules laid down under Para. I of Article 1 of Draft ... 112
Measures taken by U. S. A. 58
Protocol : interpretation, rules of 81
Stamps, falsification of 110

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