

THE INTERNATIONAL CONTROL OF DRUGS OF ADDICTION.

THE PRESENT POSITION OF THE INTERNATIONAL
OPIUM CONVENTION, 1912.

BY

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A BRITISH PLENIPOTENTIARY AT THE HAGUE INTERNATIONAL
OPIUM CONFERENCES, 1911-12, 1913, AND 1914.

It may be of interest to review, at the present time, the question of the international control of drugs of addiction and the present position of the International Opium Convention of 1912, which is the chief instrument whereby the traffic in so-called "habit-forming drugs" may be restricted to medical and legitimate purposes only.

The BRITISH MEDICAL JOURNAL of August 31st and September 14th, 1912, contained full accounts of the Proceedings of the First International Opium Conference held at the Hague in the winter of 1911-12, and of the Convention which was there and then drawn up and signed by the twelve Powers there represented. In the JOURNAL of April 10th, 1915, there was an account of the Proceedings of the Third International Opium Conference, held at the Hague in June, 1914, only a few weeks before the outbreak of the great war. In that article a summary of the then position contained in a report made by Mr. Max-Muller and myself, who had acted as British Plenipotentiaries at all the three Conferences, was quoted as follows:

"At the close of the *first* Conference twelve Powers had signed the Convention which they had participated in drafting, and thirty-four Powers were invited to attach their signatures.

"At the close of the *second* Conference thirty-four out of the total of forty-six Powers had signed the Convention, and twelve had not then done so, while eight Powers had either ratified it or were disposed to do so.

"At the close of the *third* Conference forty-four out of the total forty-six Powers have signed the Convention, eleven have ratified it, and fourteen more are disposed to do so, while not one of the remaining nineteen signatories has expressed any intention of not proceeding to put the Convention in force. Moreover, all the signatories present were desirous that respectful representations should be pressed upon those which had not deposited their ratifications to do so as soon as possible."

By a resolution of the Conference it was further provided that a special protocol should be opened at the Hague for signature by such Powers as were willing to proceed to put the Convention in force without awaiting ratification by other signatory Powers.

Thus the matter stood when the conflagration broke out in August, 1914, and put a stop for five years to any further international proceedings as regards the greater part of Europe.

In our report to the Foreign Office (Parliamentary Paper Cd. 7813) my co-delegate and I said:

"We are under no illusion as to the influence which events which have occurred since the rising of the Conference must have upon all international concert of the nature contemplated by the Opium Convention. Humanitarian aims of the kind which invoked these three Conferences and inspired their constructive work must suffer eclipse or serious retardation during a time of warfare. We nevertheless recall that one of the first objects attained in 1815 at the Congress of Vienna, after the close of the Napoleonic wars, and on the initiative of the British representative, was an international declaration of the abolition of the slave trade.

"We trust that when, in the course of time, international relations are resumed, the progressive stages in abolishing the abuse of opium and other kindred drugs may be resumed, and that the efforts of the three International Conferences may achieve the beneficent objects which from first to last inspired those who have borne their part in these deliberations."

On October 24th, 1918, when there appeared some prospect of the cessation of hostilities, I put a question to Lord Robert Cecil in the House of Commons as to the position of ratification and enforcement of the Convention and of the special protocol of 1914. Lord Robert Cecil replied:

His Majesty's Government are still considering the question of putting into force some or all of the articles of the International Opium Convention without waiting for its ratification by all the signatory Powers.

The armistice was signed on that ever-memorable date, November 11th, 1918, and it seemed important to press the question of the international control of drugs of addiction upon the notice of the public, and especially on that of our representatives at the approaching Peace Conference at Paris. On December 24th, 1918, I had a letter in *The Times* calling attention to recent disclosures of the abuse of cocaine, opium, and morphine, urging the need for the restrictions which the enforcement of the Convention would impose, and action by our representatives at the Peace Conference, adding "the occasion is ripe and the opportunity a great one."

On March 10th, 1919, Sir James Agg-Gardner kindly put a question for me to Mr. Cecil Harmsworth, Under-Secretary for Foreign Affairs, and was assured that

His Majesty's Government hope to be able to bring the question of international co-operation in the control of drugs before the Peace Conference, with a view to the adoption of a resolution binding the Powers represented at the Conference to the speedy enactment and enforcement of the laws, regulations, and measures contemplated by the Opium Convention of 1912 for the purpose of confining to medical and legitimate purposes the manufacture, sale, and use of opium, morphine, cocaine, and similar noxious and habit-forming drugs, such a resolution to be made binding on the enemy Powers.

In correspondence with Lord Robert Cecil, then in Paris, I received his assurance that it was hoped that "a satisfactory solution of the question of the Opium Convention would be arrived at" at the Conference; and in his speech at the public session of the Conference on February 14th, on the League of Nations Covenant, he urged the need for effective international co-operation on this question.

On April 29th the text of the League of Nations Covenant was published, and on June 28th the whole Treaty of Peace, including the revised Covenant, became public property.

An examination of the Treaty of Peace shows that under its provisions great progress is secured for the operation of the International Opium Convention of 1912. Under Part I, article 23 (c)—that is to say, in the Covenant of the League of Nations, it is provided that—

Subject to and in accordance with the provisions of International Conventions existing or hereafter to be agreed upon, the members of the League will entrust the League with the general supervision over the execution of agreements with regard to the . . . traffic in opium and other dangerous drugs.

Again, under Part X, Section II, dealing with treaties, there is a very valuable article, No. 295, specifically providing for the ratification and enforcement of the Opium Convention of 1912, alike by signatories and non-signatories, who have hitherto failed to ratify, as well as the endorsement by them of the Special Protocol adopted by the Third Opium Conference in 1914. Article 295 runs as follows:

Those of the High Contracting Parties who have not yet signed, or who have signed but not yet ratified, the Opium Convention signed at the Hague on January 23rd, 1912, agree to bring the said Convention into force, and for this purpose to enact the necessary legislation without delay and in any case within a period of twelve months from the coming into force of the present Treaty.

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

For this purpose the Government of the French Republic will communicate to the Government of the Netherlands a certified copy of the Protocol of the deposit of ratifications of the present Treaty, and will invite the Government of the Netherlands to accept and deposit the said certified copy as if it were a deposit of ratifications of the Opium Convention and a signature of the Additional Protocol of 1914.

Among the concluding paragraphs of the Treaty of Peace is one providing that it will itself come into force from the date upon which the first *procès-verbal* of the deposit of ratifications is drawn up announcing that the Treaty has been ratified by Germany on the one hand and by three of the Principal Allied and Associated Powers on the other.

Now, according to the latest note from the Hague, with which the Netherlands Minister, His Excellency M. de Marcees van Swinderen, has courteously favoured me, the

Powers may be classified as follows in regard to their attitude towards the Opium Convention of 1912:

A. *Signed and Ratified Convention and Signed Special Protocol.*

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| 1. China. | 3. Netherlands. | 5. United States. |
| 2. Honduras. | 4. Norway. | |

B. *Signed and Ratified Convention but not Signed Special Protocol.*

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| 1. Belgium. | 6. Guatemala. | 11. Spain. |
| 2. Brazil. | 7. Italy. | 12. Sweden. |
| 3. Denmark. | 8. Nicaragua. | 13. Uruguay. |
| 4. Ecuador. | 9. Portugal. | 14. Venezuela. |
| 5. Great Britain. | 10. Siam. | |

C. *Signed Convention but not Ratified.*

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| 1. Argentine. | 9. Bulgaria. | 17. Panama. |
| 2. Chili. | 10. Columbia. | 18. Paraguay. |
| 3. Costa Rica. | 11. Cuba. | 19. Persia. |
| 4. France. | 12. Dominica. | 20. Peru. |
| 5. Haiti. | 13. Germany. | 21. Russia. |
| 6. Luxemburg. | 14. Greece. | 22. Rumania. |
| 7. Mexico. | 15. Japan. | 23. Salvador. |
| 8. Bolivia. | 16. Montenegro. | 24. Switzerland. |

The first seven of these had before the war expressed their intention to ratify.

D. *Not Ratified nor Signed Convention.*

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| 1. Austro-Hungary. | 2. Serbia. | 3. Turkey. |
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Greece, although not appearing as a signatory in the official list from the Hague, was announced by M. Loudon as having signed without any reserve at the final session of the 1914 Conference, and is therefore included under C.

It will be observed that by the terms of the Treaty of Peace all those Powers which are party to it, whether signatories or not of the Opium Convention and if signatories who have not ratified it, are at once transferred into the first category as if they had both ratified the Convention and signed the Special Protocol. This applies to:

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| 1. France. | 5. Greece. | 9. Rumania. |
| 2. Japan. | 6. Haiti. | 10. Serbia, and |
| 3. Bolivia. | 7. Panama. | 11. Germany. |
| 4. Cuba. | 8. Peru. | |

The first two being among "the Principal Allied and Associated Powers" and the last being the other "High Contracting Party." Presumably the new Powers mentioned in the Treaty of Peace—that is, the Hedjaz, Liberia, Poland, Slovene State, and Czecho-Slovakia—will be in the same case, as they have "not yet signed," not having yet been invited to do so, and therefore "have not yet ratified," the Opium Convention of 1912. All these Powers will therefore be under obligation "to enact the necessary legislation without delay, and in any case within a period of twelve months from the coming into force of the present Treaty," and will be held to have signed "the Special Protocol of 1914 for bringing the Convention into force."

It does not appear from the terms of the Peace Treaty that those Powers which had already ratified the Opium Convention will be similarly bound by the terms of the Special Protocol of 1914, unless and until they have signed it. This applies to the case of Great Britain and of Belgium, Brazil, Denmark, Ecuador, Guatemala, Italy, Nicaragua, Portugal, Siam, Spain, Sweden, Uruguay, and Venezuela.

The cases of Bulgaria, Austria, Hungary, and Turkey remain to be dealt with.

It is pretty clear that some time must elapse before all the Signatory Powers and those who have not already signed are in line with those which either voluntarily or under duress shall have undertaken to conform to the Special Protocol—that is, to put the Convention into force without waiting for the adhesion of the rest. It would obviously be advantageous if all the fourteen Powers which have ratified the Opium Convention were voluntarily to sign the Special Protocol forthwith. The coming into force of a Treaty or Convention (*mise en vigueur*) is not the same thing as putting into force the legislation which flows from that Treaty, and it behoves all those Powers which desire to make up for the delay which the war has caused in the effective international control of drugs of addiction to get ready the legislation which ratification of and putting into force of the Convention imply.

To this end and with a view to ascertain how we

ourselves stand in this matter, I requested Sir James Agg-Gardner to put the following question on May 7th, 1919:

Whether, in view of the incorporation of the effectuation of the Opium Convention in the Covenant of the League of Nations, and the amendment of pharmacy law which must follow the enforcement of the Convention, it is proposed to introduce legislation for that purpose this session.

The Home Secretary replied:

Instructions have already been given for the preparation of a bill on the subject, but I cannot say at present whether it will be possible to pass it into law this session.

Now, it will be remembered that under D.O.R.A. Regulations 40 and 40 *b* certain restrictions were temporarily placed upon the supply to the public of opium and cocaine, and of opium, morphine, and cocaine to members of His Majesty's Forces, and that by proclamation made under the Customs Consolidation Act, 1876, the import of cocaine and opium was restricted as if the drugs were "arms, ammunition, or gunpowder."

These temporary limitations, which are considerably in excess of our ordinary pharmacy legislation, but yet not thoroughly effective, will before long come to an end, and it becomes a question whether the new legislation flowing from the Opium Convention will be ready and in force against their withdrawal. Again by the favour of Sir James Agg-Gardner, the following question was recently addressed to the Home Secretary:

Whether Regulations 40 and 40 *b* under the Defence of the Realm Act, restricting the use of opium, morphine, and cocaine, will cease to be operative before the projected pharmacy legislation to give effect to the provisions of the International Opium Convention, 1912, has been enacted.

Mr. Shortt's rather cryptic and cautious reply was:

I hope Parliament will agree to keeping Regulation 40 *b* in force long enough to allow legislation to be passed to give effect to the International Convention.

Inasmuch as there is considerable hostility to keeping D.O.R.A. in operation or to continuing regulations made under that exceptional instrument, as well as grave doubt as to the legality of proclamations issued under the Customs Consolidation Act, 1876, restricting the import of commodities not *ejusdem generis* with "arms, ammunition, and gunpowder," it is of the utmost importance that Great Britain should set an example by expediting the enactment of such pharmacy legislation as will be necessitated by the coming into force of the Opium Convention.

One need only cite two of the articles of that Convention to show how far-reaching the reform of our present pharmacy laws will require to be. Article 9 of the Convention provides that:

"The Contracting Powers will enact pharmacy laws and regulations, so as to limit the manufacture, sale, and use of morphine, cocaine, and their respective salts to medical and legitimate uses only, unless such laws already exist. They will co-operate amongst themselves in order to prevent the use of these drugs for any other purpose."

Various measures are then set out whereby the Contracting Powers will use their best endeavours to control the manufacture, import, sale, distribution, and export of these aforementioned drugs. Moreover, by Article 14 (which reproduces a resolution I submitted as chairman of the Technical Commission) it is further provided that—

"the Contracting Powers will apply the laws and regulations for the manufacture, import, sale or export of morphine, cocaine, and their respective salts, to (a) medicinal opium; (b) to all preparations (official and non-official, including the so-called anti-opium remedies) containing more than 0.2 per cent. of morphine or more than 0.1 per cent. of cocaine; (c) to heroine, its salts and preparations, containing more than 0.1 per cent. of heroine; (d) to every new derivative of morphine, cocaine, or their respective salts, or to any other alkaloid of opium which, as the result of scientific research, shall be generally recognized as giving rise to analogous abuse or as producing the same injurious effects."

It would be well if the Home Office bill, which has already been drafted, were made public as soon as possible, not only that pharmacists and the public generally may study its terms, but also to indicate to our Dominions and other Contracting Powers the nature of the control of the manufacture, import, sale, distribution, export, and use of these drugs of addiction which the Convention requires and the bona fides of Great Britain in giving effect to those restrictions for which her representatives were instructed to press.