undertake to pass judgment upon the technical content of the new regulations. We draw attention, however, to the provision of Article 2 by which "naval vessels of special construction" are permitted to follow the requirements as to the position of lights or their range of visibility "as closely as circumstances will permit," where it is not possible to comply fully with the provisions demanded of other vessels. If this paragraph refers to submarines, which it probably does, there would seem to be considerable danger in its facultative character. Submarines with lights improperly carried, or hung so low as not to be readily visible, have been the cause of accidents which have taken a gruesome toll of human lives. The mere inconvenience of carrying proper lights should not weigh in favor of exempting naval vessels in time of peace from the salutary rules applicable to other vessels. The Maritime Law Association of the United States opposed such exemptions in its report in 1928 prior to the International Shipping Conference held in London in June of that year. A wise course is proposed in the Final Act of the present convention in respect of the application of the regulations to aircraft on the surface of the high seas and on other waters navigable by seagoing vessels. The conference recommends that the problem of aircraft be studied and that an endeavor be made to regulate the subject by further international agreement.

The convention is to come into force on July 1, 1931, as between the governments which have deposited their ratifications prior to that date, provided at least five have thus ratified it. As the technical arrangements involved in the execution of a convention such as the present are changing with the progress of the art, it is important that they be subject to amendment in accordance with the requirements dictated by actual experience. Accordingly, conferences are to be convoked from time to time for the revision of the convention after it has been in force for five years, whenever one-third of the contracting governments express a desire to that effect.

As the commerce of the high seas is international in character, so also must its regulation be international. Conflicting national regulations are indeed a positive danger. The present convention is doubtless the most forward-looking international agreement that has thus far been elaborated for ensuring safety of life at sea. If and when it goes into effect, it will still remain a duty incumbent upon the signatory states to make its detailed salutary provisions really effective by maintaining an adequate and efficient inspection service, without which even the most perfect technical regulation of the subject-matter will prove to be only a pious but futile aspiration.

ARTHUR K. KUHN.

INTERNATIONAL CONVENTION FOR THE REPRESSION OF COUNTERFEITING

On April 20, 1929, a draft convention consisting of 28 articles for making more effective the prevention and punishment of the counterfeiting of

currency was signed at Geneva. The convention was elaborated by an international diplomatic conference representing 35 states, convened under the auspices of the League of Nations at the request of the French Government, following the discovery of extensive counterfeiting of notes of the Bank of France in 1925. The draft which served as the basis of the deliberations of the conference was prepared by a "mixed committee" of experts appointed by the Council of the League in December, 1926, to study the problem of repression of counterfeiting. The convention was signed by the plenipotentiaries of 25 states and those of several other states announced their intention of signing at an early date.

The motive which prompted the French Government to suggest the conference was the conviction that the whole community of states had an interest in the repression of a form of criminality which is becoming increasingly common and also more difficult to detect, especially when it is a case of foreign currency presented to banks for exchange. Moreover, it has sometimes been found difficult to punish persons engaged in the business of counterfeiting or passing counterfeit money because of the disposition of certain governments to regard the offense as political in character and therefore non-extraditable. Finally, the chance of offenders escaping adequate punishment or punishment in any form was increased by the diversity of legislation against counterfeiting, diverse rules of extradition, and the lack of international administrative machinery for the discovery and apprehension of counterfeiters. Because of the varying conceptions of criminal law and of practice in respect to extradition, and the somewhat exaggerated notions of national sovereignty, which prevail throughout the world, the difficulty of reaching a general agreement was very considerable, and the project finally adopted by the conference at Geneva represents to some extent a compromise which does not provide an altogether satisfactory solution. The conference was content mainly with laying down certain general principles to be applied through the national legislation of the states which become parties to the convention, and imposing on them an obligation to alter their existing legislation and practice only to a minimum degree. The guiding principle of the convention is the obligation which each state assumes to see that no person found guilty of counterfeiting shall escape adequate punishment.

The declared object of the convention is to make more effective the prevention of counterfeiting of "currency" and the punishment of counterfeiters. "Currency" by the terms of the convention is understood to mean paper money (including banknotes) and coin, the circulation of which is legally authorized by a government. During the course of the deliberations of the conference some proposals were made to include in the category of "currency," bank checks, bills of exchange, bonds, postage stamps and fiscal stamps, but as the conference had been convened for the purpose of dealing with the counterfeiting of money only, it was felt that the extension of the measures proposed, to cover the falsification of other instruments or

papers than those which actually circulate as money, would be going beyond the object for which the conference was called.

Article 3 of the convention declares that the following acts should be punishable as ordinary crimes: the fraudulent making or altering of currency, the introduction into a country or receiving of such currency with a view to uttering it, and with knowledge that it is counterfeit; the attempt to commit such acts; and the fraudulent making, receiving, or obtaining of instruments adapted for the counterfeiting or uttering of currency. Each of these acts, if committed in different countries, shall be considered as a distinct offence, and no difference shall be made in the scale of punishment in respect to the counterfeiting of domestic currency and the counterfeiting of foreign currency. Where such a distinction now exists in the legislation of any country which is a party to the convention, it undertakes to modify its legislation and establish the principle of equality of punishment.

It will be noted that most of the punishable acts mentioned above are qualified by the word "fraudulent." The proposal to so qualify them provoked considerable discussion in the conference. On the one hand, it was argued that the qualification was unnecessary, that counterfeiting is in itself a fraudulent act and that the addition of the qualifying word would create the burden of proving in such case a fraudulent intention—a burden which would often be difficult to discharge even in the face of undoubted guilt. On the other hand, there appears to have been a feeling that the commission of some of the acts mentioned was conceivable without the existence of fraudulent intent, in which case they should not be punishable as ordinary crimes, and the view of those who shared this opinion prevailed.

Article 3 does not obligate any state which becomes a party to the convention to alter its criminal code so far as its qualification and punishment of crime are concerned. All it requires is that the acts mentioned should (*doivent*) be punished as ordinary crimes. Each state, therefore, is free to impose such punishment as it considers adequate and just. This principle is reinforced by Article 18, which declares that the convention does not affect the principle that the acts mentioned in Article 3 should in each country be defined, prosecuted and punished in accordance with the general rules of its own domestic law, the only obligation being that the guilty offender should not be allowed impunity.

Moreover, while Article 3 obligates the parties to insert in their criminal codes the principle that the offences mentioned in that article shall be punished as ordinary crimes, in case they do not already so declare, it does not affect the right of public prosecutors to decide for themselves in each particular case whether it is expedient to prosecute an individual charged with any of the acts mentioned or the discretion of juries in reaching their verdicts. In order to emphasize further the freedom of the parties in respect to the manner of punishment of acts in connection with counterfeiting, a protocol, signed at the same time as the convention, declares that the convention does

not affect the right of states to regulate by their own legislation, the principles on which a lighter sentence or no sentence at all may be imposed, the prerogative of pardon or mercy or the right of amnesty.

The question, whether, if ever, any of the acts mentioned in Article 3 might under certain circumstances have the character of political offences and therefore non-extraditable and non-punishable, was also the subject of prolonged discussion in the conference. On the one hand, there were certain delegates who were unable to conceive of the possibility of counterfeiting ever being properly considered as a political offence; on the other hand, there were some who felt that there were circumstances, for example, during a revolutionary movement when the insurrectionists being temporarily in power, issued currency of the state, under which acts denominated as counterfeiting might justly be regarded as having a political character and their authors entitled to asylum. The text as finally adopted does not declare that counterfeiting shall never be considered as a political offence; it only declares that it should be punished as ordinary crimes, that is, as a violation of the common law, which is tantamount to saying that in principle it has no political character. Each state is left free, therefore, to determine for itself in a particular case whether the motive of the offender was in any sense political and whether he is entitled to the benefit of asylum.

The question of extradition was also naturally the subject of extended discussion, especially between the representatives of those states which do not punish their nationals for crimes committed abroad and which surrender them for trial and punishment in the country where the crime was committed, and those of countries which refuse to surrender nationals in such cases but themselves try and punish them. Because of these opposing practices and the probable unwillingness of both groups of states to abandon their traditional practices, the conference did not regard it as expedient to propose rules which would oblige any state to modify its own conceptions or practice, as much as uniformity of practice might seem desirable as a means of facilitating the repression of counterfeiting. The conference did, however, adopt a *vœu* that it was desirable that the rules of extradition should be unified on an international basis with a view to promoting a more effective suppression of crime. The rules finally agreed upon made it obligatory upon countries which do not extradite their nationals to punish those guilty of counterfeiting in a foreign country but who return to their own country, in the same manner as if the offence was committed in their own territory. The same obligation applies in the case of foreigners guilty of counterfeiting abroad and who are in the territory of a country which punishes offences committed abroad. It is further declared that the offences mentioned in Article 3 shall be deemed to be included as extraditable crimes in any treaties which have been or may hereafter be concluded between any of the high contracting parties, and that extradition in such cases shall not

hereafter be conditioned upon the existence of a treaty of extradition with the other party or upon reciprocity of conduct.

The first of these provisions virtually obliges the parties to put counterfeiting on the list of offences which, according to their law or treaties, are extraditable, in case it is not already there. The second provision will have the effect of modifying the practice of the Anglo-Saxon countries which ordinarily extradite offenders only upon condition of reciprocity. Another article obliges the parties to seize and confiscate counterfeit currency as well as all instruments or articles used in connection with counterfeiting.

Finally, to mention only the more important provisions of the convention, an attempt is made to organize a system of international collaboration through the creation in each state of a central office which shall be a depository of information useful for the prevention, detection and punishment of counterfeiting, which should keep in touch with the similar offices of other countries, and which should keep one another informed of issues of new currency and of withdrawals from circulation of old currency, of discoveries of counterfeit money and of other matters likely to be of interest to the public authorities in the discharge of their duties in connection with the prevention and punishment of counterfeiting.

The convention is to come into force when it is ratified by five states, and it is agreed that any disputes arising among the parties relating to its interpretation or application, and which are not settled by diplomatic negotiation, shall be referred to the Permanent Court of International Justice for decision, or in the case of disputing states which are not parties to the Permanent Court protocol, to Arbitration if they prefer.

J. W. GARNER.

JUDGE EDWIN B. PARKER

On October 30, 1929, Judge Edwin B. Parker passed away. His death, terminating an important international judicial activity, is a serious loss to the world, and especially to the field of international law and relations.

As Umpire of the Mixed Claims Commission, United States and Germany, as War Claims Arbiter, and as sole Commissioner of the Tripartite Claims Commission (United States, Austria and Hungary), Judge Parker exercised a responsibility, both by reason of the subjects with which he dealt and the amounts involved, almost unique in the annals of international arbitration. He was first appointed American Commissioner of the Mixed Claims Commission; but on the death of Judge Day very early in the proceedings of the Commission, he was appointed Umpire. For a time also he served as a Commissioner of the Mixed Claims Commission, United States and Mexico. As Umpire of the Mixed Claims Commission, United States and Germany, and as sole Commissioner of the Tripartite Claims Commission, he had, as an American citizen, the major responsibility of passing