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## Organized Protection against Organized Predatory Crime--Peddling of Narcotic Drugs, VI

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# POLICE SCIENCE



CALVIN GODDARD [Ed.]

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## ORGANIZED PROTECTION AGAINST ORGANIZED PREDATORY CRIME:<sup>1</sup>

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### VI. PEDDLING OF NARCOTIC DRUGS

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HARRY J. ANSLINGER<sup>2</sup>

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*Our International Obligations and National Laws.*

It is now, on March 20, 1933, exactly one hundred years since the United States of America took its first step toward control of the use of narcotics, for it was on that day, in the year 1833, that there was concluded "between his Majesty, the Sovereign and Magnificent King of the City of Sia-Yut hai (Bangkok, Siam) and Edmund Roberts, Minister of the United States of America, a treaty of sincere friendship and entire good faith between the two nations," by the terms of which opium was declared to be contraband. So runs the record of a century ago.

It may have been foreseen then, what has since been established as an indisputable fact, that no single nation, alone, can control even its own internal traffic in narcotic drugs. In any event the necessity for international agreements is well demonstrated, if we turn to the record of the last year of that century, set forth in the terse and businesslike language of a recent report on the "Traffic in Opium and Other Dangerous Drugs":

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<sup>1</sup>This is the sixth in the series of articles on this subject, begun in the January-February number, 1933.—*Ed.*

<sup>2</sup>United States Commissioner of Narcotics.

Seattle, Washington: The Japanese ship Paris Maru arrived at this port and a dapper quartermaster, Ishi Fugimura, marched ashore with seventy-three ounces of morphine sewed into his cotton quilted jacket, and was placed under arrest by Federal officers.

Brooklyn, New York. Forty-seven metal containers coated with paraffine and enclosed in rubber sheeting containing 1,658 ounces of heroin, discovered in twelve barrels of olive oil landed by the Greek ship *Byron*.

Brooklyn, New York. *S. S. Alesia* arrived with a shipment from Turkey of twenty-five cases of "furs", which were unloaded and transferred to a warehouse in Brooklyn where Federal narcotic officers discovered that the "furs" were 17,500 one-ounce cans of morphine.

Providence, Rhode Island. The *S. S. Sinai* arrived from Turkey with 670 one-ounce packages of crude opium concealed in the coal bunkers.

New Orleans, Louisiana. *S. S. Creole*, arrived with 116 packages of heroin concealed under a pile of lumber behind a fire extinguishing tank.

New York, New York. *S. S. Milwaukee* arrived with seventeen cases of "cottons" in which were found cardboard boxes containing 3,568 ounces of heroin, tin boxes containing 7,050 ounces of morphine, and 1,100 packages of gum opium each weighing  $14\frac{1}{4}$  ounces net.

El Paso, Texas. Passenger and trunk seized here enroute from Mexico. The trunk had a false bottom in which were found three metal containers with a total of ninety-four ounces of morphine.

And so it goes. Narcotics found in hollow masts, under the flooring of pantry lockers, in laundry bags, in crates of eggs, enclosed in imported cheese, soaps, dolls, in cans labeled as "Fontana Spaghetti," "T and M corn on the cob," "M. J. B. Coffee," concealed in a copra cargo, concealed in unused flues, listed as cases of dried mushrooms, candied peanuts, in jars labeled "cold cream," in barrels manifested as "meat scraps" and so labeled, and a hundred other devices for smuggling the prohibited drugs. Yet during this one year more than  $3\frac{1}{2}$  tons of illicit narcotic drugs were seized by Federal officers.

To protect citizens of the United States, as well as of other nations, from the destructive influences of narcotic poisons, there is an urgent necessity for supplementing America's international and national enforcement by the enactment of adequate laws under the police power of the States, and the rigid application of such provisions by State agencies, if we are to keep pace with the illicit traffic in narcotics. To show that such a necessity does exist, however, we must trace the history of international agreements and the enactment of Federal statutes, so far as was possible under such treaties and our Constitution.

The treaty with Siam was shortly followed by the first treaty between the United States and China, in 1844, by which we engaged not to protect American citizens trafficking in opium, and this prohibition was maintained until 1858, when, by treaty between Great Britain and China, accepted by the United States, certain treaty ports were opened and opium became legalized. However, in 1880, by a treaty with China, and in 1882 with Korea, American citizens were prohibited from engaging in the opium traffic. In 1887 the American Congress prohibited our citizens and vessels owned by them from participation in the opium traffic in ports of China, and forbade the importation of opium into this country by Chinese nationals. It was not until 1895, however, that Great Britain was sufficiently aroused by the destructive influence of opium to send a royal commission to India to make an investigation and report. It must be borne in mind that although this trade had been characterized in the Parliament to be "morally indefensible," the annual contribution of opium to the coffers of India had amounted to thirty million rupees.

In the meantime, by the Act of February 14, 1902, the sale or delivery of opium to persons in certain Pacific Islands not in the possession of or under the protection of any civilized power, was forbidden; but with our acquisition of the Philippines we also inherited the opium problem introduced into those islands by Chinese labor. After several abortive attempts of the Philippine Government to control the traffic, the American Congress, by the Act of March 3, 1905, prohibited the importation, sale and use of opium in the Philippine Islands, except for medicinal purposes, to become effective March 1, 1908.

Lord Morley, in England, drew the attention of Parliament to America's action, and in May, 1906, a remarkable debate took place in the British House of Commons, when Mr. Theodore Taylor "moves that this House reaffirm its conviction that the Indo-China opium trade is morally indefensible, and requests the Government to take steps to bring it to a close." The resolution was carried and there followed an agreement between Great Britain and China—the so-called ten-year agreement—by which China "undertook to suppress the growth of the poppy within a period of ten years, by gradual reduction," and Great Britain agreed to reduce the amount of opium exported from India to all countries by ten per centum annually, the agreement to continue only if, after three years, China was able to show that she had lived up to it. In May, 1914, Parliament an-

nounced that Indo-China traffic had ceased. Entire suppression in China had not, however, been achieved.

The American missionaries in China, Bishop Brent in the Philippines, and large American commercial institutions in the Far East, distressed by the havoc wrought by the trade, made a direct appeal to President Theodore Roosevelt that, considering the historical attitude of the United States toward this traffic, this country should take the initiative in assisting China to obtain complete prohibition. As a result, late in 1907 it was determined that the opportune moment had arrived for the United States Government to propose to other interested Governments that a conference be called of those powers having territorial possessions in the Far East, to determine if measures could be devised to bring the opium traffic to an end. This idea did not meet with favor, and it was suggested that an international commission be appointed to study the question and determine measures for suppression, before such conference should be arranged. By May, 1908, Great Britain, China, Germany, France, Holland and Japan had agreed to join with the United States in an international opium commission for a study of the traffic; Shanghai, China, was designated as the meeting place, and the date for assembling set for January 1, 1909. Mr. Hamilton Wright, representing our State Department, Bishop Brent of the Philippines, and Dr. Charles D. Tenney of the American Legation in Peking, were named American Commissioners.

While conditions in our island possessions and abroad had been carefully studied, it had now become distressingly apparent that unless some action were taken with reference to narcotic conditions in the continental United States, the American representatives to the International Commission would carry little weight with the assembled nations. Aside from the number of addicts who had come into this country as immigrants, and the neurotic and psychopathic individuals who had become addicts through contact with other addicts, about the time of the Civil War there had come into general use the hypodermic method of administering drugs. It was then claimed to be a means of administering morphine without danger of causing addiction; but in so far as addiction was concerned it proved a curse rather than a blessing, for it caused a serious increase in the number of addicts. This was followed in 1884 by the discovery of the local anesthetic, cocaine, which was widely praised for its ability to totally and immediately give relief from pain, especially as used in catarrhal and nasal sprays. A large number of addicts were created in this way

and became secondarily addicted to opium just as they do at the present time. In 1898 heroin was put on the market and was advertised as an opiate which was not habit forming, and it was nearly ten years before medical and scientific authorities fully appreciated the dangers of this drug, the importation and manufacture of which, in this country, is now absolutely prohibited. Therefore, a law prohibiting the importation of opium into the United States, except for medicinal purposes, was drafted, and Secretary Root had this bill introduced in Congress, entitled "An Act To Prohibit the Importation and Use of Opium for Other Than Medicinal Purposes." While the commission was in session in Shanghai the passage of this Act of February 9, 1909, was announced to the thirteen nations there represented, all of whom were directly, or, through their colonies, indirectly interested in the question.

While our Congress had heretofore taken practically no notice of the traffic in opium in the states proper, except in 1870 to place a duty on gum opium of \$1.00 a pound and on smoking opium of \$6.00 a pound, and in 1890 to double the duty on smoking opium and tax its manufacture at \$10.00 per pound, with the added provision that no person not a citizen of the United States should engage in its manufacture, the Act of February 9, 1909, was to become a forerunner of far reaching laws for the control of narcotic drugs.

After weeks of study and discussion the International Opium Commission adopted nine resolutions, the most important of which, perhaps, was that introduced by the American Commissioners, known as Article 4, which read:

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

The purpose of this resolution was to throw the responsibility for the distribution of opium and other narcotics upon the producing states, and thereby establish a new principle of international commercial law. There were many authorities who thought that such a new principle could not be established, but several of the governments represented immediately prohibited the importation of opium from their territories to the Philippine Islands, except in ac-

cordance with the regulations as to importation enforced in those islands.

As the result of further unanimous conclusions of the International Commission the United States Government, on September 1, 1909, proposed to those Governments which had participated to meet in an international conference to conventionalize the conclusions arrived at by the International Commission. This was finally agreed to and upon the invitation of the Netherlands Government the first International Opium Conference assembled at the Hague on December 1, 1911, and closed its sessions on January 23, 1912, embodying not only the principles of Resolution No. 4 of the International Commission of Shanghai, but several other principles which mark a distinct advance in the commercial relations of nations, as well as an agreement to draft and put in force domestic legislation aimed to control the production and use of opium within their national territory. Within six months all but two of the Latin-American states deputed their diplomatic representatives to sign the convention, and on July 1, 1913, all of the signatory nations assembled at the Hague in a second Conference, except for two nations, to proceed to depositing of their ratifications of the convention. For this purpose the Netherlands Government summoned representatives for the third International Opium Conference, at which time forty-three nations had signed or stated their intention of signing and twelve had ratified it. It was agreed that the convention should be put into effect by the signing of a protocol, to become effective as to all nations signing on December 31, 1914, and as to those signing afterward, on the date of signature; but the outbreak of the World War after the close of this conference prevented immediate consummation of this agreement, and it was not until February, 1915, that the convention was placed in effect by the signatures of the Netherlands, China and the United States.

Nevertheless, on January 17, 1914, in strict conformity with the provisions of the first International Opium Convention, Congress had enacted a law entitled "An Act To Prohibit the Importation and Use of Opium Except for Medicinal Purposes," principally amendatory of the Act of 1909 in that it prohibited the exportation of opium, coca leaves, or any salt, derivative or preparation of either, to any country except those which regulated the importation of such commodities in accord with the intention of the Convention, the Act containing also a penalty for its violation of not more than \$5,000.00 fine or imprisonment for not more than ten years, or both. On the

same date our Congress also passed an act, known as the Smoking Opium Act, fixing the tax on all such opium manufactured in the United States at \$300.00 per pound, in effect prohibiting its manufacture. During the same year, on December 17, 1914, to further carry out the intent and purpose of the conventions, the law known as the Harrison Act was passed to become effective March 1, 1915, for control of the importation, manufacture, production, compounding, sale, dealing in, dispensing and giving away of opium and coca leaves, their salts, derivatives and preparations, and providing a penalty for its violation of not more than \$2,000.00 fine or imprisonment for not more than five years, or both, supplementing the Act of January 17, 1914, referred to above. The last three acts named, with amendments found necessary to meet attacks upon them, are in force at the present time.

While theretofore the enforcement of the narcotic laws had been delegated to the United States Bureau of Prohibition, on June 14, 1930, Congress created the United States Bureau of Narcotics, and the reorganization of its personnel and its activities soon led to a vigorous enforcement of every feature of existing Federal law. It was found, however, that a large percentage of the violators of the narcotic laws were aliens, who could not be deported under the provisions of the Harrison Act, and could only be deported under the Act of January 17, 1914, upon the termination of imprisonment in the penitentiary, those receiving suspended sentences, probation, or less than a year and a day thus eluding deportation. The author, therefore, recommended to Congress the passage of an act providing for the deportation of any alien (except and addict non-peddler of narcotic drugs) convicted and sentenced for violation of or conspiracy to violate any statute of the United States regulating traffic in narcotics. On February 18, 1931, this act became effective, providing an additional club for use against traffickers in narcotics, and since that date more than six hundred alien violators of our narcotic laws have been deported from the United States. The author also found that the present statutory provisions for seizure and confiscation of automobiles were too general in nature to be completely effective and he has drafted and recommended for passage an act dealing more specifically with the seizure and confiscation of motor vehicles, vessels and aircraft used for the transportation or concealment of narcotic drugs which do not bear tax-paid Internal Revenue stamps.



*The Federal Plan for Control.*

The plan of the Bureau of Narcotics contemplated direction of Federal activities against first, the unlawful introduction of narcotics into the United States; second, unlawful interstate illicit traffic therein; third, unlawful intrastate illicit traffic by peddlers who deal in what may be termed "wholesale" quantities.

Let us take the first of these, the preventing of smuggling of narcotic drugs into the United States. The Federal Government through treaties is under obligation to furnish to foreign nations information concerning persons engaged in the international traffic, aliens deportable for violation of our narcotic laws, labels or marks indicating foreign origin of seized drugs, the amount of all narcotics seized within the United States, the amount destroyed, the number of persons convicted, etc., and in return the Bureau of Narcotics, acting as liaison with the Department of State, obtains similar information through foreign representatives and responsible officials of foreign governments, as well as information concerning smuggling or attempted smuggling of narcotics, etc., and distributes such data to its agents in the United States with such results as are set forth in the beginning of this article.

In the second phase, Federal narcotic officers, acting as dealers in narcotic drugs, or upon information obtained from public spirited citizens, persons with an "axe to grind," and in many other ways, will uncover a narcotic ring whose tentacles reach into many states or between two or three points widely separated. The latter may be well illustrated by the case of the *United States v. Soo Hoo Toy and Chin Loy You*. Because of the ancient association of Chinese with opium dens, when "dope" is mentioned most of us picture in our minds a Chinese with an opium pipe. Yet the average Chinese is a peaceable, law-abiding citizen or resident, and by far the larger number of violators of the narcotic laws are of other races. Nevertheless, when we find a Chinese who violates the narcotic laws beyond the point of mere possession of smoking opium for his own use, we invariably find that he does so on a large scale. In the case referred to, a number of seizures of smuggled drugs having been made in Seattle, Washington, narcotic agents established themselves in the baggage room of the Union Station at Seattle, and began an endless task of inspecting trunks, to detect possible shipments of opium east and south. Their patience was finally rewarded when a large black steamer trunk arrived from Boston, Massachusetts, bearing an odor of opium. In the presence of the baggage agent, the trunk

was opened, and found to contain worn out and worthless apparel. It was relocked and its identification made certain by the number 402 on the leather handle and by Everlasting Lock No. 4552. The trunk was also secretly initialed by the agents, and when called for by an expressman was followed to its destination, a Chinese hotel. Then began another long and tedious wait. Twenty-five days later, the same trunk was delivered again to the baggage room in the Seattle Union Station, consigned to Boston, Massachusetts. It was again opened and found to contain 101 five-tael cans of smoking opium. One can was removed and marked for identification, and the trunk again placed in transit in order to establish the identity of and to prove a conspiracy to violate the narcotic laws against the shippers and consignees. Day and night this trunk was kept under close watch by agents at various points as it crossed the continent, and when it arrived at the South railroad station in Boston, five days later, narcotic agents were on hand. An expressman presented a baggage check and asked for the trunk. He was detained and questioned, and gave the delivery address, but as it was found that he spoke Chinese, he was kept in custody. The trunk was opened and found to contain 100 five-tael cans of smoking opium. For fear of mishap, 97 of these cans were removed from the trunk, and the remaining 3 identified. A brother expressman of the man in custody was instructed to deliver the trunk to the address given; but when it reached there, and before the driver could leave the truck, a Chinaman handed him an envelope with instructions to deliver the trunk to Soo Hoo Toy at another address. The truck left and the Chinaman who had given the instructions, Chin Loy You, was placed under arrest. A terrific storm was in progress, and twice the car of the Federal agents was disabled, necessitating commandeering other vehicles. On delivery of the trunk to Soo Hoo Toy, he was placed under arrest, and on his person was found the note handed the expressman by Chin Loy You. A search also revealed certain correspondence in Chinese, which, when translated, proved the shipper to be one Mun Foo in Seattle, Washington, who was later apprehended and his connection positively established by his finger prints on the cans of opium received in Boston. The papers seized resulted in the interception of a second trunk by agents in San Francisco, which contained 50 five-tael tins of smoking opium addressed to one Wong Sing.

The third phase, intrastate traffic, is met in a hundred different ways; the main objective of Federal agents being to reach the source

of supply. For instance, Federal officers working "under cover," through an agent purchased from T. E. and V. N....., a man and wife, in Miami, Florida, 10 ounces of cocaine hydrochloride, 251 grains of morphine sulphate, and 9 ounces of crude opium. The morphine was contained in a package bearing the purported label of an English firm, while the cocaine and opium was unlabeled. Investigation developed that the drugs had been left in the hands of the peddlers by the wife of C. A. T....., a close friend, employed on some ship. The agent had made contact with the sellers through an introduction by a doctor who aided them in consummating the sale. The peddlers and the doctor were placed under arrest, and T..... was traced to Annapolis, Maryland, where he also was apprehended. It was learned that he had secured the drugs from one Ray F....., a fellow British subject, who had smuggled the drugs into the United States. The agents then took the trail of F....., and three months later the latter was placed under arrest. The narcotic drugs were impounded and all five defendants convicted. T..... and F..... were not only sentenced to the Federal Penitentiary at Atlanta, Georgia, but were ordered deported from the United States.

While most people believe that our climate is not suited to the growing and cultivating of the opium poppy, a field of them was recently discovered that would have reached maturity in three weeks. The blooms, vari-colored from snow-white to deepest red, were such a beautiful sight it seemed almost criminal to destroy them; yet it was a criminal who was responsible for their production.

Just a few months ago one government narcotic agent whose trail was covered by two others, finally placed under arrest in New Orleans a chemical engineer, one Claude Fuqua, who had made a trip to China, purchased a supply of the seed of the opium poppy near Shanghai, brought it into the United States and arranged for its planting and cultivation in Louisiana. The Federal agent, working under cover in a hospital in New Orleans, had located a suspect in the person of Fuqua. Representing himself to be a dope peddler, the agent made a deal with Fuqua for the purchase of 100 ounces of morphine at \$40 per ounce, to be secured by Fuqua in Alexandria, Louisiana, where the latter claimed he had the drugs hidden. Fuqua later claimed that the drugs hidden there had been stolen; but he sold to the agent 614 grains of narcotics and told the agent that before long he would sell him all the opium wanted, as he had established an opium farm. The agent chummed with

Fuqua until he had the entire story and was invited to visit the farm. This was done and the farm thus located. A cousin and a brother-in-law of Fuqua, who were actually growing the opium poppies, had been informed by Fuqua, who, as stated above, is a chemical engineer, that these foreign plants were being grown for the purpose of extracting therefrom a very valuable dyestuff. Surreptitiously, the agent obtained a sample of the gum adhering to some of the plants. Both men then started back to New Orleans. While on the return trip, Fuqua, in giving a history of his past, told the narcotic agent that he had at one time been half-back on the football team of the Texas Aggies. The undercover agent himself had at one time been a football star, playing end on the University of Georgia team. When they arrived in New Orleans, the agent drove Fuqua to the front door of a police station and stopped. Fuqua expressed alarm and said, "What's up?" "Well," the agent replied, "it looks as if a half-back tried to make a run around left end and got tackled." Fuqua is now on the training table in Atlanta Penitentiary.

#### *Failure of State Cooperation.*

It would appear from the foregoing that the drug situation was completely in hand. Such is not the case. There is a narrow path between Federal and state enforcement that has been termed "the twilight zone," through which many criminal narcotic violators have managed to escape well merited punishment. In the early eighties the individual states began to take cognizance of the opium traffic, but the laws were usually designed only to reach opium smuggling and the maintenance of opium dens.

Later, some of the states did enact laws covering other narcotic drugs and providing various penalties for their violation; but so little knowledge of the traffic was possessed by the drafters of the various acts, that a comparison reveals not only a host of errors and ambiguities, but such a varied expression of ideas upon a single subject as to create a situation which may only be classed as absurd. Let me give you a few illustrations of the conditions that now exist:

John Doe is a peddler in the State of South Carolina, of one of the most vicious forms of a narcotic drug, heroin. He sells it to minors who are addicted to its use or who become addicted as a result of his despicable trade. Again and again complaint is made by relatives or friends of his victims. Can the State of South Carolina prosecute him? No. The law of that State only prohibits the sale of cocaine. But Richard Roe, a similar peddler living in the State of Oregon makes identical sales, both in Oregon and Montana. May the States of Oregon and Montana prose-

cute Richard Roe for such acts? They not only may, but the penalty for a second such offense in either State is life imprisonment. What would have happened to both of these men in the State of Utah? They would have been punished for a mere misdemeanor.

Let us take another example:

Phil Graves, a peddler of narcotics in the State of Georgia, is arrested in possession of a supply of morphine. May he be prosecuted under the laws of Georgia? No. Under the statutes of Georgia the possession of any narcotic drug is no offense. But E. Z. Berial, a peddler in the State of Kansas is caught in possession of morphine. May he be prosecuted in that State? He may, and the penalty for his offense, a felony, is a fine not to exceed \$5,000.00 *and* imprisonment not to exceed seven years in the penitentiary, and both fine and imprisonment are mandatory.

In the laws of Maine, Massachusetts, Maryland, Illinois and Michigan, we find a provision authorizing one apothecary to sell narcotic drugs to another apothecary. In order that the National Government may protect its revenues, we find that such procedure is forbidden under Federal law, and our State enactments are therefore in conflict therewith. In Texas, because of an attack upon the validity of the present state law, prosecutions under the State statute have practically ceased, and examples of what has become necessary there are cited:

Carrie B., an addict, was arrested and found to be in possession of one grain of heroin. Because of the necessity of placing a Federal charge, this woman was arraigned for the purchase of this one grain of heroin she possessed, and the majesty of the law of the Nation invoked to decide what disposition shall be made of the case of this poor unfortunate.

James B., a peddler of decks (small doses), was arrested by two city detectives and a narcotic agent. Here again the ponderous machinery of the Federal courts must be resorted to, instead of swift disposition under the police power of the state.

The law of South Dakota and of some of the other states gives absolute exemption to common carriers for possession of narcotic drugs whether such carriers are acting within the scope of their employment or are transporting such drugs knowingly for delivery to persons engaged in the illicit traffic. The Virginia and Wyoming laws grant no exemption to common carriers in such cases, making them technically guilty of violating the State laws, each time they transport narcotic drugs for any purpose.

The present law of the State of North Carolina and of some of the other states provides that a registered pharmacist, or the owner of a pharmacy, may sell narcotic drugs "to a person in the employ

of the United States, or of this State, or of any county or municipality thereof, purchasing or receiving the same in his official capacity." In other words, sales to such officers are legal in all cases when made to them in line with their official duties.

Having reason to suspect that the proprietor of the B—— Drug Company was violating the narcotic law, and it being his *official duty* to make purchases of narcotics to be used as evidence of such violations, a "person in the employ of the United States" entered the said store, and without a prescription or written order therefor purchased from the proprietor 20 grains of morphine, giving marked money in payment. Three Federal narcotic agents and an Assistant United States Attorney, within a few minutes thereafter, went into the store and requested a lady clerk to open the cash register. In it was found the marked money. The agents were informed that the proprietor had stepped out of the store, but they found this to be untrue and located him in an upstairs room. He admitted making the sale. A check of his stock and records was then made and it was found that he had been filling prescriptions plainly marked, "Addict", and which should not have been filled, some of such prescriptions calling for a total of 111 grains of morphine, more than twenty times as much as is usually prescribed by the average physician.

A prosecution under the State law for the 20 grain sale would have been met with the defense that the sale having been made "to a person in the employ of the United States purchasing and receiving same in his official capacity" was a legally authorized sale under the law of the State. Therefore, although the case was of a minor nature, this druggist was arraigned before a United States Commissioner, indicted by a Federal Grand Jury, and tried in the United States Federal District Court, where he was convicted and fined \$2,000.00.

The present laws of Iowa, while covering the offense of possession, are defective, among other things, in one very vital respect. They first prohibit the sale, delivery or gift of narcotic drugs, and then provide that such prohibition shall not apply to persons registered under the Federal law. The result of this is to place upon the Federal Government the burden of prosecuting every violation by a registrant, no matter how minor the case, and to make almost impossible, with the force of Federal agents available, any adequate inspection of the business of such registrants.

Alabama, amending its law in 1931, provided for the exemption of preparations containing 1 grain of cocaine. Oregon, in reenacting its law in 1931, permits the use of 1/6 grain of cocaine in exempt preparations, and any amount of cocaine in liniments and for veterinary purposes. The State of Maryland gives absolute exemption

to the sale of paregoric and laudanum, and a limited exemption to preparations, sold in good faith for diarrhea and cholera, having a greater narcotic content than that permitted under the Harrison Act. The State of Virginia contains a similar provision for preparations containing more than 2 grains of opium to the ounce, when sold for diarrhea and cholera. North Carolina not only permits the sale of preparations containing more than 2 grains of opium to the ounce for diarrhea and cholera, but also authorizes the sale of such preparations for coughs. Georgia's law exempts the sale of preparation's containing encaine, and those having a narcotic content of from two to four times that permitted under Federal law. Indiana, Kentucky, Virginia, West Virginia and Wisconsin, absolutely exempt all liniments containing more than 2 grains of narcotics to the ounce, provided they have a label stating they are "for external use only," whether they may safely be taken internally or not. Maine permits, in exempt preparations,  $\frac{1}{2}$  grain of morphine or  $\frac{1}{4}$  grain of heroin to the ounce, twice the amount allowed under Federal law. Ohio exempts preparations containing beta eucaine. West Virginia makes exemption of preparations containing cocaine and beta eucaine. Hawaii exempts preparations containing four grains of opium or 2 grains of codene to the ounce. A sale under any one of the provisions cited from the foregoing statutes would constitute a violation of the Federal law; yet it has been found that even that law does not meet every phase of the situation.

There are many defects of a similar nature. It may be stated without fear of contradiction that there is not a single state law now in force in this country (except the proposed Uniform Narcotic Drug Act recently enacted by New York, New Jersey, Nevada and Florida) which is free from defects, or which is so drafted as to check the growing requirements for possession and control of narcotic drugs.

The primary purpose of the Harrison Act, in fact the only ground upon which it could at that time have been enacted, was to create and protect revenues for the United States, although the Supreme Court of the United States has said that it has a moral end also. It was contemplated that the authorities of the various states and of the political subdivisions thereof would accept and discharge the responsibility for investigating, detecting and preventing or punishing the local retail illicit traffic conducted by the ordinary peddler. This would leave to the Federal force of less than three hundred officers the duty of protecting one hundred and twenty-two million citizens of the United States from the nefarious activities of the smuggler, the wholesale illicit dealer and the major peddler.

This, however, did not prove to be the case. Notwithstanding that the Supreme Court of the United States has also said that once the tax due the United States on such drugs has been paid, the peddler or addict found in possession of them may not be charged with illegal possession under the Harrison Act, and notwithstanding the limited power of the Federal Government to control the illicit traffic in other ways, many state officers immediately became imbued with the erroneous impression that the problem of preventing the abuse of narcotic drugs was one now exclusively cognizable by the National Government, and that the Federal law alone should represent all the control necessary over the illicit traffic. In very few states was any attempt made to assume a just part of the burden, and in most of those states the laws were wholly inadequate to cope with the situation.

This attitude on the part of the states has resulted in an anomalous situation. The public prints from day to day bring news of bank robberies, kidnappings, gambling rackets, hold-ups of stores and citizens by a lone bandit. What is the result? Newspapers clamorously, but justly, demand the apprehension of these menaces to the community well-being. The police, ever active, are stirred to greater activity. The offenders who have unlawfully taken the property of fellow citizens must be caught, prosecuted and punished. The man-hunt is on. No one suggests that this is anything but a state problem. The person who would suggest that the Federal authorities be called upon to come into the state and apprehend this hold-up man would be ridiculed. But in this same community, the insidious, sordid drug peddler, carrying on his iniquitous work of unlawfully taking away not only the property, but the peace of mind, the morals, the health of the citizens, and undermining the general welfare of the community—what of him?

In spite of the fact that the sole right to punish such criminals, under certain circumstances, lies only within the police power of the state, despite the fact that the founders of our country never contemplated that such activities should be dealt with by the National Government, enforcement officers as well as legislators in a number of the states have decided that Uncle Sam is the proper person to cope with this particular menace to the community. This illogical attitude has prevented the passage of adequate laws, even in those aspects of the crime with which only the state itself may deal. The dockets of the Federal courts, primarily intended for cases of a national character, are thus flooded with petty cases which should have been handled in state, county, or city courts.



In this age of organized gangs of super-criminals, in many instances dominating the political policies of entire cities, what can be done to meet the menace of such organized crime? There can be but one answer: Counter-organization. In what way can this be done? The first step to that end has already been taken:

*The Proposed Uniform Narcotic Drug Act.*

On October 8th, 1932, in the National Capital of the United States, there was consummated one of the most effective strides toward the eradication of the illicit traffic in narcotic drugs yet attempted by any country in the world. On that date, the National Conference of Commissioners on Uniform State Laws recommended the adoption of a proposed law known as The Uniform Narcotic Drug Act. Four days later, on the 12th day of October, the American Bar Association, sitting in the same city, approved the draft thus submitted and recommended its passage by the several states.

The Governors of every state in the Union have received copies of this proposed law and have been urged to recommend its enactment to the state legislatures, forty-three of which are now in session. It is not only designed to cure every defect referred to in the present state laws, but it has been drafted to meet conditions that unquestionably will arise in the immediate future. Some of the purposes it will accomplish may be enumerated as follows:

Aid the United States in carrying out its international obligations under the Hague Convention.

Arrest the growth and spread of the traffic in illicit narcotics by replacing the present inadequate and conflicting state laws.

Utilize and call into full exercise the powers that reside in the states alone, permitting prosecution in such cases as illegal possession, over which the Federal courts have no jurisdiction.

Make a necessary division of responsibility in narcotic law enforcement between the Federal and the several state governments, if the general welfare of the citizens of each state is to be maintained.

Coordinate enforcement machinery through mandatory cooperation of state with Federal officers.

Prohibit sales or transfer of narcotic drugs except under state licenses, to include manufacturers and wholesalers; a requirement solely within the power of the states.

Prohibit production of narcotic drugs within state borders, except by specific license and under strict regulation.

Include within the definition of narcotic drugs those narcotics which may be prepared synthetically (such as tropococaine) as well as those directly derived from opium and coca leaves.

Provide for revocation of licenses for violations of the state narcotic law, direct control of this phase of enforcement being beyond the power of the Federal Government.

Strengthen enforcement by making admissible as evidence what are normally privileged communications, when they are used to procure unlawfully a narcotic drug.

Require the return of the unused portion of a narcotic drug to the practitioner from whom received, when no longer required as a medicine by the patient.

Permit of prosecution in all cases of persons obtaining narcotic drugs by fraud or deceit, and particularly in those cases where narcotics are obtained by means of false or altered prescriptions. These cases are difficult, if not impossible, to handle satisfactorily under the present Federal law.

In recommending the passage of the Uniform Narcotic Drug Act, the aim of the Federal Government is to promote a nation-wide and organized movement to eradicate the menace to society of the traffic in illicit narcotic drugs, for the field is so vast, the task so gigantic, that nothing short of a systematic campaign, with concerted action on the part of national, state, and municipal agencies, can hope to successfully accomplish that purpose.

There is probably no more absurd fallacy extant than the notion that murders are committed and robberies and holdups carried out by men stimulated by narcotic drugs to make them incapable of fear. This may occasionally happen, but the immediate effect of a narcotic drug is usually to soothe the abnormal impulses, and the ultimate effect is to create a state of idleness and dependency which naturally enhances the desire to live at the expense of others by anti-social means. The police record of the average addict almost invariably shows convictions for burglary, housebreaking, sneakthieving, petty larceny and other minor offenses. It is not because of the present influence of the drug that the addict commits crime, but because, in addition to the destruction of the moral sensibilities brought about by its abuse, the insatiable burning desire for the narcotic makes him ready and willing to violate the law to obtain the necessary money with which to purchase it.

The proposed Uniform Act makes it obligatory on all peace officers to enforce its provisions. Any police chief who will aid in ridding his city of the petty peddlers and addicts, will find his department benefited by a corresponding decrease in the number of complaints of petty offenses received from citizens of his community. The police may lift part of the burden from the National Government by assuming responsibility for investigating, detecting, preventing

or punishing the illegal activities of the ordinary street peddler, and in arranging for the institutional care and treatment of non-peddling addicts within their respective jurisdictions, leaving to the Federal officers the direction of major activities against the sources of supply referred to above.

The fundamental purpose of the Federal Government in its cooperative relations with the states, is to get the work done; to set in motion a well ordered and sustained effort to accomplish a purpose designed for the nation's good; and in many situations, as, for instance, the licensing of manufacturers and wholesale dealers in narcotic drugs, the Federal Government is helpless. It is true that the Federal law requires registration, but the certificate thereof is neither a permit nor a license to conduct a business. It is simply evidence of the payment of the tax. Federal Collectors of Internal Revenue may not refuse to register anyone who files an application and tenders payment of the tax, even though such applicant may have previously been convicted of violating the narcotic laws and may intend to divert large quantities of tax-paid narcotic drugs into illicit channels. It is only through the police power of the states that the remedy may be applied—the issuing of licenses only to morally qualified and financially responsible persons.

Every defect cited in this article and many not cited; every inadequacy shown to exist in the present laws and many not shown, can be cured by the enactment of the proposed Uniform Narcotic Drug Act. The organization necessary to its enforcement in each state already exists; the cost of making its provisions effective is practically nil. The legislatures of every one of the forty-three states now in session owe a solemn duty to their citizens to enact the proposed Uniform Narcotic Drug Act at the next session.

Chief Justice Shaw well said: "It is much easier to perceive and realize the existence and source of the police power, than to mark its boundaries or prescribe the limits of its exercise." That power rests solely with the States, and it is to that power, and to the united strength and ability of State officers, that the National Government must look, if we are to reach complete and successful control of that enemy of the commonwealth, the despicable trafficker in narcotic drugs.

*The International Convention for Limiting the Manufacture  
and Regulating the Distribution of Narcotic Drugs*

During the years of labor expended by the Conference of Commissioners on Uniform State Laws in its successful attempt to secure a draft of a uniform narcotic drug law which would be reasonably acceptable to the widely divergent narcotic interests, the National Government has not been idle.

Mr. John K. Caldwell, representing our State Department, Dr. Walter L. Treadway, Assistant Surgeon-General, U. S. Public Health Service, Mr. Sanborn Young, Member of the Senate of the State of California, and Mr. Harry J. Anslinger, U. S. Commissioner of Narcotics, were appointed Plenipotentiaries of the President of the United States to attend a conference held at Geneva from May 27 to July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs. The Convention drawn up by that conference and signed by the plenipotentiaries of forty-four nations there assembled, deals with two phases of the narcotic problem—(1) limitation of the manufacture and (2) control of the distribution of manufactured narcotic drugs. Any improvement in these particulars in other countries cannot help but be of advantage to the United States; and in the field of international control, the system provided by the Convention approaches, in principle, the national system of drug control in the United States. It requires each high contracting party to submit, annually in advance, to a supervisory body, an estimate of its needs which, in so far as it relates to domestic consumption, must be based on the medical and scientific requirements of the particular country, supported by an explanatory statement of the method by which the needs were calculated. Manufacture, thereafter, must not exceed the total quantity shown by the estimates. Importation and Exportation are also regulated, with a view to preventing the accumulation in any country, ostensibly for medical and scientific requirements, of any quantity of manufactured drugs in excess of the actual medical and scientific needs. Further, it requires a strict supervision over the amounts of raw material and manufactured drugs in the possession of each of its manufacturers, and the accumulation of a stock of raw material in any factory, beyond a certain specified reserve, is prohibited. It is designed not only to control the present narcotic drugs including existing excess stocks, but to control newly discovered narcotic drugs and new derivatives, to prohibit the manufacture of narcotic drugs of no medical or scientific value, and to require annual reports and the exchange of