

**The Contribution to International Legislation of the Nineteenth Session of the International Labor Conference.** It is proposed in this article to consider the Draft Conventions adopted by the International Labor Conference at its Nineteenth Session<sup>1</sup> primarily with a view to illustrating the nature of the contribution which the Conference is making to international legislation and the manner in which problems which have some general bearing upon the development of international law and organization arise for consideration in connection with International Labor Conventions. It is unnecessary for this purpose to recapitulate the composition, powers, and procedure of the International Labor Conference, or to review that part of the activities of its Nineteenth Session which did not lead to the immediate adoption of Draft Conventions. It is therefore necessary to warn the reader that this article is not an attempt to give him a general impression<sup>2</sup> of the Conference. It does not attempt to review the general discussions of social policy based upon the director's report. It does not describe the Unemployment (Young Persons) Recommendation, 1935,<sup>3</sup> an important pronouncement which is one of the most valuable results of the Conference, but which, being a Recommendation, is intended "to be submitted to the Members for consideration with a view to effect being given to it by national legislation or otherwise,"<sup>4</sup> and is

<sup>1</sup> The Nineteenth Session of the International Labor Conference was held in Geneva, June 4–June 25, 1935. Fifty-two of the 62 members of the Organization were represented, 32 of them by complete delegations including government, employers', and workers' representatives. The United States and the U.S.S.R. were represented as members of the Organization for the first time, the United States by a complete delegation, the U.S.S.R. by an observer. The Conventions and Recommendations adopted bring the totals of Conventions and Recommendations to 49 and 45, respectively. On September 1, 1935, 32 Conventions were in force, 44 members had ratified one or more Conventions, and 661 ratifications had been registered.

<sup>2</sup> For such an impression, see "The Nineteenth Session of the International Labor Conference," *International Labour Review*, Vol. 32, No. 3, pp. 290–343.

<sup>3</sup> For which see (1) International Labor Conference, Nineteenth Session, Geneva, 1935, Report III, *Unemployment Among Young Persons*, and (2) International Labor Conference, Nineteenth Session, Geneva, 1935, *Provisional Record*, No. 2, pp. i–xxx; No. 6, pp. 35–62; No. 10, pp. i–xx; No. 25, pp. i–xli; No. 29, pp. 590–596; No. 30, pp. 598–607 and 614–631; No. 32, pp. 639–641 and i–ix; and No. 34, pp. 681–683.

<sup>4</sup> Article 19 (1) of the constitution of the Organization. The constitution of the International Labor Organization formed Part XIII of the Treaty of Versailles of June 28, 1919 (Articles 387–427), Part XIII of the Treaty of St. Germain of September 10, 1919 (Articles 332–372), Part XII of the Treaty of Neuilly of November 27, 1919 (Articles 249–289), and Part XIII of the Treaty of Trianon of June 4, 1920 (Articles 315–355). In view of the fact that different groups of states are parties to these four treaties, and that the membership of the Organization now includes

therefore incapable of becoming by ratification the source of international obligations. This article, further, gives no account of the preliminary discussions which will probably lead to the adoption of Draft Conventions in future years; nor does it review the work of the Conference in supervising the application of existing Conventions. Its scope is limited strictly to a discussion of the five Draft Conventions actually adopted at the Nineteenth Session, i.e., the Forty-Hour Week Convention, 1935; the Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935; the Maintenance of Migrants' Pension Rights Convention, 1935; the Underground Work (Women) Convention, 1935; and the Hours of Work (Coal Mines) Convention (Revised), 1935.<sup>5</sup> Certain of these instruments raise far-reaching questions of economic and social policy; but discussion of such questions would not be appropriate in what is intended as a legal commentary.

*The Forty-Hour Week Convention, 1935.* The question of the forty-hour week has been under consideration by the International Labor Conference since 1933. In that year, the Conference, which had before it a report upon the subject from a special preparatory conference of government, employers', and workers' delegates, decided not to adopt any Convention after a single discussion, but to refer the matter to governments by means of the normal questionnaire procedure.<sup>6</sup> In 1934, two proposed Conventions, one covering industry and the other commerce and offices, were under consideration, but never came to a final vote, a quorum being lacking on a test vote in the Conference on the scope of the industry Convention. The constitution of the Organization is somewhat strict in its requirements as to a quorum, Article 17 (3) providing that "the voting is void unless the total number of votes cast is equal to half

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28 states which were not parties to any of them, it has become the practice to refer to these provisions as the "constitution of the Organization," and to adopt a uniform numbering of the articles running from 1-41. Upon this subject, see E. J. Phelan, "The United States and the International Labor Organization," *Political Science Quarterly*, Vol. 50, No. 1, March, 1935, especially at pp. 107-112. The constitution of the Organization is published by the International Labor Office in a booklet entitled *The Constitution and Standing Orders of the International Labour Organization*.

<sup>5</sup> The texts of these Conventions are available in International Labor Office, *Official Bulletin*, Vol. 20, No. 3.

<sup>6</sup> For the 1933 discussions, see (1) International Labor Conference, Seventeenth Session, Geneva, 1933, Report V, *Reduction of Hours of Work*, Report of the Tripartite Preparatory Conference, and (2) International Labor Conference, Seventeenth Session, Geneva, 1933, *Record of Proceedings*, at pp. 53-59, 61-64, 71-74, 76-121, 123-125, 339-406, 429-431, and 662-674. The minutes of the Conference Committee on the Reduction of Hours of Work are not published, but are available in the archives of the International Labor Office.

the number of the delegates attending the Conference." The quorum being so high, it is sometimes easier to defeat a proposal by abstaining from voting than by voting in the negative. This is what happened in 1934, and with a view to finding a way out of the *impasse* Signor de Michelis, the Italian government delegate, suggested that in the following year the Conference should adopt a *convention de principe*, proclaiming the general principle of the forty-hour week, but not requiring immediate and general application of the principle, and should then proceed in subsequent years to make arrangements for the application of the principle, with any necessary exceptions or modifications, to particular classes of employment.<sup>7</sup>

The International Labor Office felt some hesitation as to whether a Convention intended for ratification by governments with a view to creating international obligations was the type of instrument best suited for the enunciation of a declaration of principle of this kind.<sup>8</sup> It felt that the analogy of national legislation under which a principle is expressed in statutory form and left to be applied gradually by administrative orders was misleading. Such an analogy would be valid only if members of the Organization were prepared to vest in the Conference power to apply the principle at its discretion to particular industries in such a manner as to bind members independently of subsequent ratification. This would have involved the creation of a real international legislature competent to regulate hours of work, to the extent of reducing them to forty per week, throughout the territories of members ratifying the *convention de principe*. Any scheme of this kind was obviously impracticable, and it was impossible for any *convention de principe*, unless it did this, to bind members ratifying to anything determinate at all, since they would always be at liberty to exercise their own free judgment upon the merits of any subsequent proposals relating to particular classes of employment. The International Labor Office therefore shrank from the suggestion that the form of a Convention should be used for what was in substance a proclamation of future policy and proposed to the Conference that it embody its declaration of principle in a special resolution and link a series of Con-

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<sup>7</sup> For the 1934 discussions, see (1) International Labor Conference, Eighteenth Session, Geneva, 1934, Report I, *Reduction of Hours of Work*, and (2) International Labor Conference, Eighteenth Session, Geneva, 1934, *Record of Proceedings*, at pp. 39-50, 53-87, 90-92, 330-339, 476-482, 489-501, 552-572, and 664. The minutes of the Conference Committee on the Reduction of Hours of Work are not published, but are available in the archives of the International Labor Office.

<sup>8</sup> The objections and proposals of the Office were stated in International Labor Conference, Nineteenth Session, Geneva, 1935, Report VI, *Reduction of Hours of Work*, Vol. 1, *Public Works Undertaken or Subsidized by Governments*, at pp. 13-16.

ventions applying to particular classes of employment to this resolution by means of an appropriately worded common preamble. The Conference did not share the scruples of the Office and preferred to give the intended declaration of principle greater solemnity of form by expressing it as a Convention.<sup>9</sup> The Convention has a preamble and one operative article, the text of which is as follows:

Each member of the International Labor Organization which ratifies this Convention declares its approval of:

- (a) the principle of a forty-hour week applied in such a manner that the standard of living is not reduced in consequence; and
- (b) the taking or facilitating of such measures as may be judged appropriate to secure this end;

and undertakes to apply this principle to classes of employment in accordance with the detailed provisions to be prescribed by such separate Conventions as are ratified by that member.

It is not proposed to discuss in detail the complicated negotiations as the result of which the article was adopted in this form, but a few points are worthy of notice. In the first place, "standard of living" does not necessarily mean weekly, monthly, or yearly income. Certain delegates, as the Committee report says, "gave the expression a wider interpretation, taking account of all the economic and other factors which affect the standard of living and of the various means—direct and indirect—by which that standard might be maintained."<sup>10</sup> The Conference subsequently, on report from the same Committee, adopted a resolution in which it recited "that the application of this principle should not as a consequence reduce the weekly, monthly, or yearly income of the workers, whichever may be the customary method of reckoning, nor lower the standard of living." But in view of the withdrawal of amendments to the text of the Convention expressed in similar terms, this resolution cannot be relied upon as being an authentic interpretation of the Convention. In the second place, the Convention does not require the maintenance of the standard of living irrespective of whatever other forces may be determining current conditions of economic life. It simply provides that the principle of the forty-hour week shall be applied in such a manner that

<sup>9</sup> For the discussions in the Conference leading to the adoption of the *convention de principe*, see International Labor Conference, Nineteenth Session, Geneva, 1935, *Provisional Record*, No. 6, pp. 62–71; No. 7, pp. 73–110; No. 8, pp. 112–134; No. 12, pp. 173–197; No. 13, pp. ii–iii; No. 14, pp. 216–234 and 253–254; No. 23, pp. vii–xxiii; No. 25, pp. 512–530 and pp. xlii–xliv; and No. 30, pp. 610–612. The minutes of the Conference Committee on the Reduction of Hours of Work are not published, but are available in the archives of the International Labor Office.

<sup>10</sup> *Provisional Record*, No. 23, p. xiv.

the standard of living shall not be reduced in consequence of the application of the principle. In the third place, there is an implication in clause (b) that no direct state intervention may be necessary in cases in which the result in view can be obtained by collective agreements concluded, where necessary, with governmental assistance. In any case, ratification of the Convention involves no specific obligations until a later Convention applying to a particular class of employment is ratified.

It is not for the lawyer to pass judgment upon the value of an instrument of this kind. As a stage in the history of a far-reaching movement, it may prove of vastly greater significance than many an instrument of faultless drafting and determinate legal import, and its adoption in the form of a Convention has at least one determinate legal result of importance. All the members of the Organization are in virtue of the constitution of the Organization required to submit it for the consideration of their national competent authorities within certain time limits, and it is thus likely to receive a degree of attention which would never be given to a mere resolution. The general significance of the Convention was well stated by the director of the International Labor Office in his speech at the closing sitting of the Nineteenth Session of the Conference when he declared that its effect was to substitute a new objective for the standard of the eight-hour day and forty-eight-hour week laid down by Article 41 of the constitution of the Organization as among the methods and principles for regulating labor conditions regarded by the framers of the Constitution as of special and urgent importance.

*The Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935.* The Nineteenth Session of the Conference also adopted the first of the series of industrial Conventions through which it is intended that practical effect shall be given to the principle enshrined in the Forty-Hour Week Convention. This Convention applies to continuous shift workers in automatic glass-bottle works.<sup>11</sup> A similar Convention applying to continuous shift workers in automatic sheet-glass works<sup>12</sup> was adopted at the

<sup>11</sup> For this Convention, see (1) International Labor Conference, Nineteenth Session, Geneva, 1935, Report VI, *Reduction of Hours of Work*, Vol. 4, *Glass Bottle Manufacture*, and (2) International Labor Conference, Nineteenth Session, Geneva, 1935, *Provisional Record*, No. 31, pp. iii-v, x-xii, and xxxi-xxxviii; No. 32, pp. ix-xii; No. 33, pp. 649-658; and No. 34, pp. 683-688. The minutes of the Committee on the Reduction of Hours of Work and Sub-Committee on Glass-Bottle Manufacture of the Nineteenth Session of the Conference are not published, but are available in the archives of the International Labor Office.

<sup>12</sup> For this Convention, see (1) International Labor Conference, Seventeenth Session, Geneva, 1933, *Methods of Providing Rest and Alternation of Shifts in Automatic Sheet-Glass Works*; (2) International Labor Conference, Seventeenth Session, Geneva, 1933, *Record of Proceedings*, at pp. 136-146, 154-155, and 656-661; (3) In-

Eighteenth Session, in the agenda of which the question of the regulation of hours of work in automatic sheet-glass works had been included as an item distinct from the general question of the reduction of hours of work. The ground for limiting the scope of these Conventions to continuous shift workers was that technical considerations make it necessary to apply to such workers special rules involving slightly longer hours than those laid down for other workers, since under a four-shift system a weekly average of forty-two instead of forty hours is necessary to cover the 168 hours in the week. It was therefore proposed to begin by laying down rules for continuous shift workers and to leave for later consideration the shorter hours to be worked by other categories. It is contemplated that at a future date a further Convention shall be adopted applying to all other workers employed in glass works.

The scope of the Reduction of Hours of Work (Glass-Bottle Works) Convention is defined in Article I, paragraph 1 of which applies it to "persons who, in glass works where bottles are produced by automatic machinery, work in successive shifts and are employed in connection with generators, tank furnaces, automatic machinery, annealing furnaces, and operations accessory to the working of the above." Paragraph 2 of the same article defines the term "bottles" as including "similar glass articles produced by the same processes as bottles." Articles 2, 3, and 4 of the Convention are identical with the corresponding articles of the Sheet-Glass Works Convention, 1934. Under Article 2, the persons to whom the Convention applies are to be employed under a system providing for at least four shifts; the hours of work of such persons are not to exceed an average of 42 per week; this average is to be calculated over a period not exceeding four weeks; the length of a spell of work is not to exceed eight hours, and the interval between two spells of work by the same shift is not to be less than sixteen hours, save that it may, where necessary, be reduced on the occasion of the periodical change-over of shifts. Exceptions are provided by Article 3 for cases of accident, actual or threatened, urgent work to be done to machinery or plant, *force majeure*, and cases in which it is necessary to make good the unforeseen

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ternational Labor Conference, Eighteenth Session, Geneva, 1934, Questionnaire III, *Methods of Providing Rest and Alternation of Shifts in Automatic Sheet-Glass Works*; (4) International Labor Conference, Eighteenth Session, Geneva, 1934, Report III, *Methods of Providing Rest and Alternation of Shifts in Automatic Sheet-Glass Works*; and (5) International Labor Conference, Eighteenth Session, Geneva, 1934, *Record of Proceedings*, at pp. 283-287, 402-404, 603-611, and 673-676. The minutes of the Committees on Glass Works of the Seventeenth and Eighteenth Sessions of the Conference are not published, but are available in the archives of the International Labor Office.

absence of one or more members of a shift; but it is specified that exceptions may be permitted in such cases "only so far as may be necessary to avoid serious interference with the ordinary working of the undertaking." Adequate compensation for all additional hours worked in virtue of these exceptions is to be "granted in such a manner as may be determined by national laws or regulations or by agreement between the organizations of employers and workers concerned." It is believed that this provision imposes an absolute obligation to grant compensation, and that it is only the manner of such compensation that is left to be determined by national laws or regulations or by agreement between the organizations of employers and workers concerned. Where there is no agreement between the organizations concerned providing for adequate compensation, there will therefore be a definite obligation upon the member to provide for such compensation by law or regulation.

Article 4 contains provisions relating to enforcement similar to those contained in other International Labor Conventions upon hours of work. Every employer is to be required "to notify, by the posting of notices in conspicuous positions in the works or other suitable place, or by such other method as may be approved by the competent authority, the hours at which each shift begins and ends." Employers are "not to alter the hours so notified except in such a manner and with such notice as may be approved by the competent authority" and are "to keep a record in the form prescribed by the competent authority of all additional hours worked in pursuance of Article 3 of this Convention and of the compensation granted in respect thereof." Article 5 was included to meet the apprehensions of certain members of the Workers' group, and provides that "nothing in this Convention shall affect any custom or agreement between employers and workers which ensures more favorable conditions than those provided for by this Convention."

It should be noted that the operative provisions of this Convention make no reference to the maintenance of the standard of living, but that there is an allusion to the matter in the preamble, which recites that "the question of the reduction of hours of work is the sixth item on the agenda of the session" and that the Conference "confirms the principle laid down in the Forty-Hour Week Convention, 1935, including the maintenance of the standard of living," and then announces that the Conference has "determined to give effect to this reduction forthwith in the case of glass-bottle works." It is believed that the resultant position is as follows. A member which ratifies the Reduction of Hours of Work (Glass-Bottle Works) Convention without having ratified the Forty-Hour Week Convention is under no obligations in respect of the maintenance of the standard of living, the reference to the matter in the preamble being in-

adequate to impose any such obligation. On the other hand, a member which ratifies both the Reduction of Hours of Work (Glass-Bottle Works) Convention and the Forty-Hour Week Convention will by its ratification of the Forty-Hour Week Convention have declared its approval of "the principle of a forty-hour week applied in such a manner that the standard of living is not reduced in consequence" and have undertaken to apply "this principle" to classes of employment in accordance with the detailed provisions to be prescribed by such later Conventions as it may ratify. Such a member will therefore be required to regulate hours of work in glass-bottle works (1) in accordance with the detailed provisions relating to hours set forth in the Reduction of Hours of Work (Glass-Bottle Works) Convention, and (2) in virtue of the Forty-Hour Week Convention, in such a manner that the standard of living is not reduced in consequence of the application of the principle of the forty-hour week.

The Nineteenth Session of the Conference also considered Draft Conventions relating to the application of the forty-hour week in favor of persons employed on public works, in the building and contracting industry, in iron and steel works, and in coal mines. The required two-thirds majority was not secured for the adoption of these Conventions, but their further consideration has been included in the agenda for next year's session. The application of the principle to further industries is also under discussion.

*The Maintenance of Migrants' Pension Rights Convention, 1935.* This Convention presents the greatest interest for the international lawyer of possibly any achievement of the Nineteenth Session, or for that matter, of any other session of the Conference.<sup>13</sup> Unlike the majority of the International Labor Conventions, the object of which is to make a matter of

<sup>13</sup> For this Convention, see (1) International Labor Conference, Eighteenth Session, Geneva, 1934, Report IV, *Maintenance of the Rights in Course of Acquisition and the Acquired Rights of Migrant Workers under Invalidity, Old-Age, and Widows' and Orphans' Insurance*; (2) International Labor Conference, Eighteenth Session, Geneva, 1934, *Record of Proceedings*, at pp. 435-450 and 612-638; (3) International Labor Conference, Nineteenth Session, Geneva, 1935, Questionnaire I, *Maintenance of Rights in Course of Acquisition and of Acquired Rights under Invalidity, Old-Age, and Widows' and Orphans' Insurance on Behalf of Workers who Transfer their Residence from one Country to Another*; (4) International Labor Conference, Nineteenth Session, Geneva, 1935, Report I, *Maintenance of Rights in Course of Acquisition and of Acquired Rights under Invalidity, Old-Age, and Widows' and Orphans' Insurance on Behalf of Workers who Transfer their Residence from one Country to Another*; and (5) International Labor Conference, Nineteenth Session, Geneva, 1935, *Provisional Record*, No. 21, pp. i-xxxi; No. 26, pp. 551-559; No. 27, pp. 561-571 and i-x; and No. 30, pp. 612-614. The minutes of the Maintenance of Pension Rights Committees of the Eighteenth and Nineteenth Sessions of the Conference are not published, but are available in the archives of the International Labor Office.



international obligation certain general standards of industrial regulation, the object of this Convention is to create rights on behalf of individuals who in the course of their industrial career are insured in more than one country, and for this purpose to regulate certain relationships between such individuals and the insurance institutions in respect of their dealings with such individuals. Inasmuch as the proposed regulation of these relationships made it necessary to consider a group of questions not adequately dealt with for the purpose of a Convention of this character in the standard articles customarily inserted in International Labor Conventions, and which have a certain general importance in relation to the future developments of international legislative technique, and also inasmuch as these questions should be of special interest in the United States since the adoption of the Social Security Act, 1935, whether the United States becomes a party to the Convention or not, because the Convention should present analogies of great interest to those concerned with the coördination of state insurance schemes, it has been deemed best to treat this question at greater length in a separate article.<sup>14</sup>

*Underground Work (Women) Convention, 1935.* The Underground Work (Women) Convention<sup>15</sup> is a useful addition to the group of International Labor Conventions which formulate the basic standards of protective legislation. It is true that there are few countries of appreciable industrial importance in which women are still employed underground in mines. But the problem has a certain importance for colonial territories; and in view of the fact that the adoption of a relatively non-controversial Convention of this character places little extra strain upon a permanent Organization which is in any case holding regular conferences for the discussion of more urgent matters, and does not in any way prejudice the discussion of such matters, there is everything to be said for completing the existing body of international labor legislation by the adoption

<sup>14</sup> C. Wilfred Jenks, "Migrants' Pension Rights Convention, 1935," *Political Science Quarterly*, June, 1936.

<sup>15</sup> For this Convention, see (1) International Labor Conference, Eighteenth Session, Geneva, 1934, Report VI, *Employment of Women on Underground Work in Mines of all Kinds*; (2) International Labor Conference, Eighteenth Session, Geneva, 1934, *Record of Proceedings*, at pp. 289-295 and 647-649; (3) International Labor Conference, Nineteenth Session, Geneva, 1935, Questionnaire II, *Employment of Women on Underground Work in Mines of all Kinds*; (4) International Labor Conference, Nineteenth Session, Geneva, 1935, Report II, *Employment of Women on Underground Work in Mines of all Kinds*; (5) International Labor Conference, Nineteenth Session, Geneva, 1935, *Provisional Record*, No. 11, pp. xi-xix; No. 19, pp. 373-379 and xii-xv; and No. 27, pp. 576-579. The minutes of the Underground Work Committee of the Eighteenth and Nineteenth Sessions of the Conference are not published, but are available in the archives of the International Labor Office.

of Conventions relating to questions already adequately covered by national legislation in the majority of countries.

The Convention has three substantive articles. Article 1 defines the term "mine" as including "any undertaking, whether public or private, for the extraction of any substance from under the surface of the earth." The words "whether public or private" were added by the Conference committee *ex abundanti cautela* on the ground that in certain earlier Conventions<sup>16</sup> it had been thought necessary to specify that they applied to public undertakings; but it is believed that even in the absence of such a provision it is impossible to read into an International Convention any implied exception in favor of public undertakings, whatever the position may be in this respect under any particular municipal legal system.<sup>17</sup> The only other point emphasized during the discussion of this article was that the words "for the extraction of any substance" indicate that the definition covers only undertakings the object of which is the extraction of some useful substance and not merely the making of a hole.<sup>18</sup> Article 2 embodies the general prohibition which is the object of the Convention, and provides that "no female, whatever her age, shall be employed on underground work in any mine." Article 3 makes provision for exceptions. Such provision is normally made in International Labor Conventions in one of two forms. In some cases, a Convention includes an express provision that it shall not apply to certain persons or in certain circumstances. In other cases, a Convention leaves to each party a discretion not to

<sup>16</sup> Some Conventions, notably (1) the Hours of Work (Industry) Convention, 1919, Article 2, and five Conventions the scope provisions of which are modelled thereupon, and (2) the Minimum Age (Sea) Convention, 1920, and five Conventions which define "vessel" in the same manner as the Minimum Age (Sea) Convention, specify that they apply to persons employed in public undertakings or on public vessels. Some Conventions, e.g., the Unemployment Provision Convention, 1935, Article 2 (2) (c), implicitly include such persons generally by excluding them in specified cases. In other Conventions, e.g., the White Lead (Painting) Convention, 1921, the Night Work (Bakeries) Convention, 1925, the Sickness Insurance (Industry, etc., and agriculture) Conventions, 1927, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Pension Insurance Conventions, 1933, the Sheet-Glass Works Convention, 1934, the Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935, and the Hours of Work (Coal Mines) Convention (Revised), 1935, there is no express provision, but the scope of the Convention is stated in perfectly general language.

<sup>17</sup> On the relevance of municipal rules of interpretation for the interpretation of International Labor Conventions, see P.C.I.J., Series C, Pleadings, Oral Statements and Documents, No. 60, "Interpretation of the Convention Concerning Employment of Women During the Night," *Mémoire du Bureau International du Travail*, at pp. 172-173, and statement by Mr. Phelan at pp. 209-210.

<sup>18</sup> See Committee Report, International Labor Conference, Nineteenth Session, Geneva, 1935, *Provisional Record*, No. 11, at p. xiii.

apply its provisions to certain persons or circumstances. In the Convention under discussion, the latter method is adopted, and Article 3 provides that "national laws or regulations may exempt from the above prohibition" four classes of females: (a) "females holding positions of management who do not perform manual work;" (b) "females employed in health and welfare services;" (c) "females who, in the course of their studies, spend a period of training in the underground parts of a mine;" and (d) "females who may occasionally have to enter the underground parts of a mine for the purpose of a non-manual occupation."

*The Hours of Work (Coal Mines) Convention (Revised), 1935.* The Hours of Work (Coal Mines) Convention was first adopted by the Conference at its Fifteenth Session in 1931,<sup>19</sup> but has never come into force. The object of revising it was to remove certain technical difficulties which have been partly responsible for the failure to ratify of the countries which participated in the pre-1931 negotiations. The modifications made are of no general interest to international lawyers. As the Convention was originally adopted at a time when the United States was not a member of the International Labor Organization, conditions in the United States were not considered when it was being prepared, and the method which it prescribes for the calculation of time spent in the mine is entirely different from that in vogue in the United States. This being so, and the revised Convention<sup>20</sup> having been modified only in technical details, it is not anticipated that the United States will be able to ratify.<sup>21</sup> But it is expected that the question of hours of work in coal mines will be

<sup>19</sup> For the 1931 Convention, see (1) International Labor Conference, Fourteenth Session, Geneva, 1930, Report III, *Hours of Work in Coal Mines*, with supplement thereto; (2) International Labor Conference, Fourteenth Session, Geneva, 1930, *Final Record*, Vol. 1, at pp. 341-401, 485-498, and 809-849; (3) International Labor Conference, Fifteenth Session, Geneva, 1931, Questionnaire II, *Hours of Work in Coal Mines*; (4) International Labor Conference, Fifteenth Session, Geneva, 1931, Report II, *Hours of Work in Coal Mines*; (5) International Labor Conference, Fifteenth Session, Geneva, 1931, *Final Record*, Vol. 1, at pp. 367-432, 479-483, 666-717, and 748-757. The minutes of the Hours of Work in Coal Mines Committees of the Fourteenth and Fifteenth Sessions of the Conference are not published, but are available in the archives of the International Labor Office.

<sup>20</sup> For the revised Convention, see (1) International Labor Conference, Nineteenth Session, Geneva, 1935, Report VII, *Partial Revision of the Hours of Work (Coal Mines) Convention, 1931*, and (2) International Labor Conference, Nineteenth Session, Geneva, 1935, *Provisional Record*, No. 18, pp. iii-xv; No. 22, pp. 454-462; No. 23, pp. xxiv-xxxii; and No. 27, pp. 579-581. The minutes of the Committee on the Partial Revision of the 1931 Convention of the Nineteenth Session of the Conference are not published, but are available in the archives of the International Labor Office.

<sup>21</sup> See Mr. Hamilton's speech in International Labor Conference, Nineteenth Session, Geneva, 1935, *Provisional Record*, No. 32, at pp. 638-639.

reconsidered in the near future as part of the general problem of the reduction of hours of work, and an opportunity will then occur of drafting a new Convention in which adequate account shall be taken of conditions in the United States.

*The Drafting of International Labor Conventions.* Certain features of the drafting of recent International Labor Conventions may be of interest to students of international legislation in general. The draftsmanship of international legislation is a technique which is still in its infancy, and some attempt to attain uniformity in methods of arrangement, definitions, translations of terms recurrent in bilingual texts, standard articles, etc., is highly desirable. There has as yet been little coördination of effort among those concerned with the drafting of different groups of International Conventions, and to some extent divergencies between the subject-matter of different groups of Conventions make differences of method inevitable, but it is believed that there are a few features of recent International Labor Conventions which deserve to be widely copied. Every International Labor Convention now prescribes a mode of citation by a short title. It has been found most convenient to state the short title as a conclusion to the preamble to each Convention in the following form: "The General Conference of the International Labor Organization, . . . adopts this twenty-second day of June of the year nineteen hundred and thirty-five, the following Draft Convention which may be cited as the Maintenance of Migrants' Pension Rights Convention, 1935." In the interest of clarity and neatness of arrangement, articles are sub-sectioned wherever possible, and all paragraphs and sub-paragraphs are suitably numbered or lettered in accordance with a logically defensible system applied with reasonable consistency. Care is taken to use the form of a proviso in proper cases only and not to use it for the statement of conditions. One of the standard articles defines the legal consequences of the revision of a Convention, but reserves to the International Labor Conference power to modify the operation of the normal rules by making provision to that effect in the revising Convention. There is, of course, still great scope for improvement. But it is submitted that it is upon the foregoing lines that a concerted attempt should be made to better the form and technique of all international legislation.

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**Switzerland and the League of Nations; A Chapter in Diplomatic History.** On December 23, 1921, the Swiss Federal Council received a note from the French Embassy to the effect that the Council of the League of Nations had entrusted the French government with the trans-