

1931

The Reference Column

Recommended Citation

The Reference Column, 2 J. AIR L. & COM. 295 (1931)
<https://scholar.smu.edu/jalc/vol2/iss2/10>

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THE REFERENCE COLUMN

(1) INTERNATIONAL COMMISSION FOR AIR NAVIGATION: Official Bulletin No. 17. (1930)

The International Commission for Air Navigation (CINA) in its Official Bulletin, No. 17, April, 1930, has published under Part I, "Official Acts relating to the Air Convention of October 13, 1919," minutes of the deposit of ratifications of the protocol, dated Paris, June 15, 1929, concerning amendments to Articles 3, 5, 7, 15, 34, 37, 41, 42, and the final clauses of the Convention relating to the Regulation of Aerial Navigation, October 13, 1919, by Portugal, January 24, 1930; by Belgium, March 8, 1930; and by the Irish Free State, April 9, 1930.

These amendments are briefly: Article 3, Each contracting State may, as an exceptional measure and in the interest of public safety, authorize flight of its national aircraft over areas prohibited to foreign aircraft, and each contracting State reserves the right in exceptional circumstances in time of peace to restrict temporarily or to prohibit flight over its territory or over part of it on condition that such restriction or prohibition shall be applicable without distinction of nationality to the aircraft of all the other States; Article 5, Each contracting State may conclude special conventions with non-contracting States, provided such conventions are not contradictory to the general principles of the Convention of October 13, 1919; Article 7, Registration of aircraft shall be made in accordance with the laws and special provisions of each contracting State; Article 15, aircraft capable of being flown without a pilot may not fly without a pilot over the territory of another contracting State except by special authorization, and every contracting State may make conditional on its prior authorization the establishment of international airways and the creation and operation of regular international air navigation lines, with or without landing, on its territory; Article 34, Not more than two representatives of each contracting State shall be on the Commission, and any modification of the provisions of the Annexes may be made by the Commission when such modification shall have been approved by three-fourths of the total votes of the States represented at the Session and two thirds of the total possible votes which could be cast if all the States were represented; Article 37, Disagreements between two or more States relating to the interpretation of the Convention shall be referred to the Permanent Court of International Justice, provided that, if one of the States concerned has not accepted the Protocols relating to the Court, the question in dispute shall, on the demand of such State, be settled by arbitration; Article 41, Any State may adhere to the Convention; Article 42 is deleted.

The Bulletin also contains minutes of the deposit of ratifications of the Protocol, dated, Paris, December 11, 1929, concerning amendments to Articles 34 and 40 of the Convention relating to the Regulation of Aerial Navigation, October 13, 1919, by France, February 25, 1930; by the Governing Commission of the Territory of the Saar Basin, March 13, 1930; by the Irish Free State, April 9, 1930; and by Denmark, April 28, 1930. The amendment to Article 34 is that each State represented on the Commission

shall have one vote, and the amendment to Article 40 is the deletion of the first paragraph.

The Agreement between Canada and the United States covering international flying, October 22, 1929, is printed in full, as well as the texts of the following:—Arrangement between the Czechoslovak Republic and the Republic of Austria relating to the establishment and operation of regular air transport lines, Vienna, February 15, 1927; Convention between Italy and Austria relating to the establishment and operation of regular air lines, Rome, May 11, 1928; Convention between France and Italy relating to the establishment of air navigation lines, Turin, March 10, 1929.

Bulletin, No. 17, under Part II, "Documents Relating to the Commission," contains the report by the Secretary General on the work of the Commission since the end of the Fifteenth Session and the internal situation at the opening of the Seventeenth Session, including communications received by the Secretariat, relations of the Commission with certain international organizations, and other business of the Commission.

The list of States which are parties to the Convention of October 13, 1919, is given, together with States which have adhered to the Protocols concerning amendments to Articles 5 and 34 which entered into force on December 14, 1926. All States are also listed which have signed and ratified the Protocol of June 15, 1929, concerning Articles 3, 5, 7, 15, 34, 41 and 42 of the Air Convention of October 13, 1919, together with the complete text of this Protocol in French, English and Italian.

There follows information regarding the studies undertaken by the Commission, including the study of facilities calculated to ensure air communications of importance for the work of the organizations of the League of Nations at times of emergency, and study of a definition of military aircraft referred to in Article 30 of the Convention. The report mentions the British proposal to amend the provisions of Article 34 of the Convention allotting a single vote on the Commission to Great Britain with the British Dominions and India.

"News items" under the report are the interpretation of the provisions of Section VI of Annex D to the Convention relating to flights by night; new examination of the provisions of the Convention relating to the registration of aircraft; interpretation of Article 16; adoption by the Commission of regulations for the international radio-electric service of aeronautics; Proposed amendments of Articles 12, 13, 14, 26 and 34; revision of Annex H and proposed modification of Annex D; and marks to be borne by aircraft.

Official Bulletin, No. 17, ends by giving the list of signatures, ratifications and adhesions of the Convention, the Protocol of June 15, 1929, the Protocol of December 11, 1929, and the complete text of the Convention of October 13, 1919, corrected and revised to April 1, 1930, with Annexes, in French, English and Italian.

MARGARET LAMBIE

(2) EISENBAHN—UND VERKEHRSRECHTLICHE ENTSCHEIDUNGEN UND ABHANDLUNGEN, Vol. 50, No. 2.

(a) *Neuere Fragen aus dem Luftrecht der Vereinigten Staaten von Amerika.* Dr. Hermann von Mangoldt.

It is always interesting to hear what others have to say about us. Herr von Mangoldt of the Königsberg Institut für Luftrecht gives a short, but well prepared, survey of enacted federal and state aeronautical legislation, cases and decisions on aeronautical law and commentaries on various documentary forms as published in the U. S. Aviation Reports. The essay seems amply supported by footnotes, the author having used mainly the 1928 and 1929 U. S. Aviation Reports as well as various periodical articles.

After a brief sketch of the federal laws the author turns to state legislation. He finds it especially noteworthy that the right to fly over the property of others does not include the right to make a landing, as provided by Sec. 12 of the German Air Traffic Law, which latter, to the reviewer, is rather indicative of progressive social legislation in Germany. The apparent variety of provisions governing liability is a source of bewilderment to the author. While we register with satisfaction that the movement toward uniformity is already strong and steadily growing, in a country where "Reichsrecht bricht Landrecht" this seems very scant. As to liability to passengers and for goods carried, the laws of all states are silent, finds Herr v. M. However, this subject is dealt with to some extent in Arizona and Connecticut and, through insurance laws, in Louisiana and Virginia. The variety of rules governing the licensing of aircraft and airmen also astonishes the author. Here, indeed, he strikes at a problem which presents material difficulty. The body of air traffic rules is, according to Herr v. M., in a state of hopeless confusion, where errors of pilots might result in deplorable accidents. How shall one know the rules, if they differ in all states? True, such multiplicity of rules invites disregard. A standardized minimum flying altitude, however, is not easily ascertained as different types of aircraft have different gliding ratios. Moreover, the pilot is not a subject; he is a citizen and must assume responsibility for violation, the risk of which must rest upon his judgment.

The author then proceeds to give a brief review of court opinions and other decisions dealing with aeronautical law and finally comments on various documentary forms published in the U. S. Aviation Reports. As there is at present in Germany a movement toward creation of an aircraft Hypothek, the airplane purchase chattel mortgage form appears to him of especial interest. The aircraft trust receipt, he believes, is of value only to resellers. He is evidently not familiar with American sales technique.

Herr v. M. arrives at the conclusion that the movement toward a uniform state law of aeronautics is still far afield. This he finds verified in American publications, though the causes given seem to him not always "verkehrs-fördernd" (?). The author does not fully understand the recommendation of the Standing Committee of the American Bar Association, when he writes: "The lack of consistency on part of the promoters of uniform law is shown in the remark in this recommendation that 'the states should preserve their freedom of action to be used if the federal regulations become an embarrassment.'" He infers that deviation by the States from the federal regulations is inconsistent with the proposed uniform state law, and he is confused by considering both concepts identical. The author apparently has but a scant knowledge of the American governmental system and this unfamiliarity with the constitutional principles involved renders his criticism valid and valuable in only a small degree.

RICHARD SALLET.

ADDITIONAL REFERENCES

1. LES ASSURANCES AÉRIENNES. By René Blum. Paris: Recueil Sirey, 1930. Pp. xi, 421.
2. WHAT THE I. C. A. N. IS. By Albert Roper. Paris: International Commission for Air Navigation (Special Bulletin), 1931. Pp. iv.
3. BOMBARDEMENTS ET PROTECTION DES POPULATIONS CIVILE. By Marcel Sibert, in *Revue Générale de Droit International Public*. November-December, 1930. Pp. 621-658.
4. RADIO AND ITS FUTURE. By Martin Codel. New York: Harper & Brothers, 1930. Pp. v, 327.