THE work of ICAO during the second quarter of 1949 was characterized by the many different meetings held. Not only was there a session of the Council and its subsidiary bodies, the Air Navigation Commission and the Air Transport Committee, but also an annual Assembly of all Member States, a session of the Legal Committee, and a group of conferences on joint financing and operation of air navigation services and facilities. There were three regional meetings—one full scale meeting on the African-Indian Ocean Region and two regional communications meetings. A special NOTAM meeting was held at headquarters in Montreal from April 14 to May 12 to develop standard procedures for the dissemination of aeronautical information.

II. LONDON CONFERENCES ON JOINT FINANCING AND OPERATION OF AIR NAVIGATION SERVICES

Three ICAO conferences were held in London April 20 to May 12 on the problem of joint financing and operation of essential international air navigation facilities and services. In accordance with the renewal terms of the International Agreement on North Atlantic Ocean Weather Observation Stations concluded in September 1946, the Second Conference on ICAO North Atlantic Ocean Stations was convened to consider continued operation and technical problems of the ocean stations. It was decided that only 10 instead of 13 of these stations, as provided for in the 1946 agreement, were essential to safe and efficient operation of international air services across the North Atlantic, and arrangements were made for the reallocation of the participating States' responsibilities.

Under the new agreement, the United States, which has a major portion of the scheduled airline traffic across the North Atlantic, will be responsible for operating 14 out of a total of 25 ships manning the 10 stations. The United Kingdom, France, Canada, the Netherlands, and Norway will operate the other ships, with Belgium, Denmark, Sweden, Ireland, and Portugal making financial contributions to the partial cost of operating certain of the ships. The agreement will come into force as soon as States responsible for the operation of a total of 18 or more ships have deposited their instruments of acceptance with ICAO and will be effective until June 30, 1953.

The ICAO Council is not a party to this international arrangement because Chapter XV of the Chicago Convention does not provide for joint support through ICAO in areas of undetermined sovereignty. The Council,
however, on June 3 accepted certain administrative responsibilities in connection with the Agreement.

The London Conference on Air Navigation Services: Greenland and the Faroes resulted in an arrangement for the joint support by ICAO Member States of air navigation services and facilities in Danish territory similar to the one concluded in June 1948 with regard to international services and facilities in Iceland. Under the terms of the Final Act\(^6\) of the Conference signed May 12, 1949, Denmark is to be reimbursed by ICAO Member States for 90% of the cost of past, current, and future maintenance and operation of the services and facilities in Greenland and 95% of the cost of maintaining and operating the Skuvanes (Faroe Islands) station of the Northeast Atlantic Loran Chain.\(^6\) The ICAO Council in June 1949 concluded the requisite agreement with the Government of Denmark and passed the resolution required under the terms of the Final Act whereby it will assess nine different ICAO Member States\(^7\) according to proportionate benefits received from the international services and facilities.

Under this new arrangement for the joint support of air navigation services in Greenland and the Faroes, the United States will contribute between 50 and 60% of the sum reimbursed to Denmark by ICAO Member States for the retroactive period ending December 31, 1949 and the calendar year 1950.\(^7\) The arrangement will become effective upon receipt by the ICAO Council of consents from States whose assessments total not less than 80% of all assessments for the period ending December 31, 1949.

The 10 states\(^8\) that met at the London Conference on Air Navigation Services: Greece were not of one mind of the manner and extent to which facilities and services at Ellinikon Airport, Athens and certain other international airports in Greece should be financed through ICAO. The Conference, after examination of the report of the three-man ICAO mission to Greece in March 1949 and other documents submitted, concluded that somewhere between $600,000 and $2,750,000, depending on the requirements of the different user nations, were needed from sources outside the country to finance essential international air navigation services and facilities in Greece. It therefore recommended that the ICAO Council contact all States potentially interested in the project; determine what assessments, if any, they would be willing to accept; and decide, on the basis of replies received, what action should be taken. The London Conference further recommended that, if a joint support project is determined to be feasible, any agreement concluded between the Council and the Government of Greece should specify a percentage of the revenues from Ellinikon Airport to be used to amortize the capital investment of contributing States. The ICAO Council is expected to take action on the Greek project at its eighth session in the fall of 1949.

III. SEVENTH SESSION OF THE COUNCIL AND WORK OF THE AIR NAVIGATION COMMISSION AND AIR TRANSPORT COMMITTEE

The seventh session of the ICAO Council, May 17-June 24, was necessarily interrupted during the two-week period of the annual Assembly in

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\(^7\) An arrangement for joint support through ICAO of the Vik (Iceland) station of the Northeast Atlantic Loran Chain has been in effect since 1947.

\(^8\) Belgium, Canada, France, Iceland, the Netherlands, Norway, Sweden, the United Kingdom, and the United States.

\(^9\) Belgium, Denmark, France, Greece, Italy, the Netherlands, Sweden, Turkey, the United Kingdom, and the United States.
INTERNATIONAL

the early part of June. As was to be expected, much time was devoted at Council meetings prior to the Assembly to recommendations to the latter body and at the few Council meetings after the Assembly to carrying out Assembly directives.

The most important achievement in the air navigation field during the seventh session was the adoption by the Council on May 30 of Annex 10 to the Chicago Convention, Standards and Recommended Practices for Aeronautical Telecommunications. These standards and recommended practices include material prepared by both the Special Radio Technical (COT) Division in November 1946 and the Communications (COM) Division in January 1949. Additional COM material will be added to the Annex later through a series of amendments. The following dates were established by the Council with regard to the standards and recommended practices now included in Annex 10:

<table>
<thead>
<tr>
<th>Date by which States to Register Disapproval</th>
<th>Date by which States to Notify Differences</th>
<th>Date of Coming into Force</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 1, 1950</td>
<td>April 1, 1950</td>
<td>April 1, 1950</td>
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</table>

Another important accomplishment during the Seventh Session of the Council was the consolidation of the results of the various regional frequency conferences into a draft frequency allotment plan covering the international air services of ICAO Member States. This plan was prepared for submission to the second session of the International Administrative Aeronautical Radio Conference (IAARC) of the International Telecommunications Union (ITU) held in the summer of 1949.

The Air Navigation Commission, which did not adjourn in April along with the Council and the Air Transport Committee but was in continuous session from February 7 through June 15, produced a first draft of the Standards and Recommended Practices for Aerodromes and Ground Aids. The Commission also agreed to the revision and addition of new material to the draft Annex on Search and Rescue.


In connection with ICAO's Aviation Training Program, the Commission and the Council approved the setting aside of $5,000 for the production of a few experimental film strips illustrating ICAO regulations and procedures. The Council at the end of May also directed that the Organization avail itself of advisory assistance on audio-visual aids offered by the United States and other national or international authorities.

Of greater potential importance, although not yet reviewed by the Council, were the proposals submitted by the ICAO Secretariat to the UN's Administrative Committee on Coordination. These proposals, submitted for discussion at the July 1949 session of the Economic and Social Council, cover an ICAO program for air transport surveys, technical assistance on design, construction and installation of air navigation facilities, technical advice on operational standards and organization, and training of aviation personnel. A budget of approximately $500,000 has been proposed for the first year of operation of this ICAO program for rendering technical assistance to underdeveloped areas.

The Air Transport Committee, which held its seventh session during approximately the same period as the seventh session of the Council, considered the legal and administrative problems involved in the application of
the Chicago Convention’s provisions relating to nationality of aircraft operated by international operating agencies. The Committee concluded that no special problems arose as long as international operating agencies registered their aircraft nationally, according to the present practice of international airlines. The Secretariat was requested to prepare additional material for discussion by the Committee on problems involved when international agencies do not wish to register their aircraft nationally.

The Committee and the Council approved a report to ICAO Member States pursuant to Resolution A2-19 of the Second ICAO Assembly on national practices with regard to treatment of scheduled and non-scheduled air services. The Council decided to postpone from June 30 to October 31 the deadline for submission by States of their views on the important question of conclusion of a multilateral air transport agreement.

The Committee approved for study a list of policy questions on user charges for international air navigation facilities and agreed to discuss at its fall 1949 session methods of assessing and levels of airport charges and the general problem of whether or not there should be charges for other types of air navigation facilities. Also planned for the Committee’s fall work program is a discussion of the effect of multiple taxation on international air transport.

IV. THIRD ASSEMBLY

The Third ICAO Assembly, held in Montreal June 7-20, was a small one, with the agenda limited to financial and administrative questions in accordance with a resolution of the Second Assembly. Some 35 out of a total 54 ICAO Member States were represented, including Cuba and Israel whose membership in the Organization was not effective when the Assembly opened but who were invited to attend. An Executive Committee, a Credentials Committee, a Committee on Rules of Procedure, and an Administrative Commission were established and the following officers were elected:

Sadar Malik, India, President of the Assembly;
Col. H. Delgado, Portugal, Vice President;
Brigadier General Hugo da Cunha Machado, Brazil, Vice President;
Ali Fuad Bey, Iraq, Vice President.

With economy as its keynote, the Assembly reduced by $261,000 the budget figure for 1950 of $3,198,607, which had been recommended by the Council. In making this lump sum reduction, the Assembly did not specify where the cuts were to be made but merely suggested that savings might be effected by combining and postponing certain meetings and by freezing the Secretariat at its present level. It was emphasized that the work of the Organization would undoubtedly be slowed down.

The voting power in the Assembly was suspended of 6 States which were in arrears of their dues for more than 2 years. The Council was directed to take up the matter of non-payment of contributions with defaulting States, to review the principles on which contributions are based, and to make recommendations on both these problems to the Fourth Assembly. The Secretary General, in consultation with the President, was authorized to accept a portion of Member States’ contributions for 1950 in currencies other than dollars.

9 Cuba became a member of ICAO on June 10 after withdrawing on May 11 its previous reservation to Article 5 of the Chicago Convention. Israel became a member of ICAO on June 23 after depositing its notification of adherence to the Convention on May 24.

10 Voting power in the Council and its subsidiary bodies was also suspended, but since the six States are not Council members this action was more to establish a principle than to accomplish a practical objective.
Since on May 27 the Council had voted to revise as of July 1, 1950 its present system of deductions in lieu of income tax in line with the UN staff assessment plan, the Assembly agreed to the transfer to the general fund of the money accumulated through deductions in lieu of income tax. The Assembly also approved the Organization's participation in the United Nations Joint Staff Pension Scheme, with provision for the crediting of employees' services as from March 1, 1948 and for permissive participation in respect of services before that date.

The Third Assembly recommended that the Council study the possibility of holding the Fourth Assembly, which will be a full scale one, outside Montreal and that it bear in mind the invitation of Argentina to hold it in Buenos Aires in conjunction with the second South American, South Atlantic, and Caribbean Regional Air Navigation Meetings.

V. FOURTH SESSION OF THE LEGAL COMMITTEE

The fourth session of the ICAO Legal Committee was held at the same time and place as the Assembly, June 7-18 at Montreal. Twenty-one ICAO Member States, one observer nation, and 7 international organizations were represented, and the following officers were elected:

Dr. E. M. Loaeza, Mexico, Chairman;
Mr. L. Clerc, Switzerland, 1st Vice-Chairman;
Mr. H. W. Poulton, Australia, 2nd Vice-Chairman.

The Committee was aided in its work by 4 of its permanent subcommittees: the Subcommittees on the Warsaw and Rome Conventions and on Definitions, which began work on June 1, and the Subcommittee on Search, Assistance and Rescue, which was convened for one meeting on June 16.

On the matter of revising the limits of liability of the Warsaw Convention, the Committee, after discussion and consideration of replies from ICAO Member States to a questionnaire on the subject, voted against the following proposed changes:

100% increase for limits of liability with respect to bodily injury when death does not result;
25% increase for limits of liability with respect to bodily injury when death not result;
100% increase for limits of liability with respect to death or permanent total disability;
25% increase for limits of liability with respect to death or permanent total disability.

The Committee requested the ICAO Council to send a report on the results of this discussion to ICAO Member States along with a request for their further views on the need for revising the limits of liability. Before it adjourned in the latter part of June, the Seventh Session of the Council agreed to an October 1, 1949 deadline for receipt of States' replies.

The Committee and its appropriate subcommittee also had under consideration the revision of the limits of liability of the Rome Convention. Replies to the questionnaire previously circulated to ICAO Member States differed greatly, and none of the proposed solutions obtained a majority vote of the Committee. A proposal was made that aircraft be classified into groups by weight and limits assigned to each group. The Council later set October 1, 1949 as the date by which ICAO Member States are to express their opinions on alternative limits of liability suggested by the Committee.

The Sub-Committee on Definitions noted with approval the progress made by ICAO in achieving uniformity of definitions and terminology. The Sub-Committee on Search, Assistance, and Rescue, after examining replies from ICAO Member States to a third questionnaire, concluded that the
major problem with which it was concerned was that of remuneration between States for search and rescue operations rather than between individuals so that the Brussels Convention, a private air law document, could not be used as a basis of solution. The Legal Committee endorsed the Sub-Committee's recommendation that it again take up the matter of remuneration for search and rescue after the Council reached a decision on the basic policy to be followed under Article 25 of the Chicago Convention.

The ad hoc Sub-Committee on Insurance decided that preparation of a draft international convention on aviation insurance is not necessary or appropriate at this time. The Legal Committee adjourned after recommending that its next session, the fifth, be held in January 1950 in Europe.

JOAN H. STACY

INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA)

TRAFFIC MATTERS

THE commercial pattern of international airline activity for the 1949-50 winter season was set by the composite sessions at Nice during May of the three IATA Traffic Conferences. Their conclusions were summed up in a series of 65 unanimous resolutions which will become effective on October 1, 1949, if interested governments approve.

Generally speaking, there will be no radical changes in passenger fares or cargo rates, despite rising costs to the airlines. On some Middle Eastern routes, rates will actually be reduced, while the Conferences provided for a greater flexibility in airline commercial policy which will permit various types of traffic-building fares to promote travel during slack periods. Reductions of from 35 to 50 per cent for school children and students in some parts of the world were also voted.

A special Winter transatlantic fare based on a $466, 60-day round trip between New York and London was recommended by the Conferences, to become effective October 1 for six months. This effects a substantial reduction in the regular season rate of $630 and is less than half of the transatlantic fare in 1944.

The question of tourist class transport at reduced rates will be considered as a worldwide problem by the next meeting of the Conferences at Mexico City in November. Studies now under way will also take into account the possibility of creating several levels of fares to apply to differing types of aircraft.

The necessity for more flexibility in the airline cargo rate structure was recognized by the Conferences and boards have been created to survey the rate levels for specific commodities. Considerable reductions for bulk shipments across the Atlantic were also provided.

Active work has now begun on the preparation of Consolidated Rules Tariffs by IATA on behalf of its members. These tariffs will be largely based upon the IATA Conditions of Carriage as adopted by the IATA Traffic Conferences as recommended practices for members.

TECHNICAL MATTERS

The Annual IATA Technical Conference, held at Burgenstock, Switzerland, during May, developed a threefold aim for the joint efforts of the technical departments of member airlines for the coming year: to increase reliability of service through surer traffic controls and better navigation and landing aids; to prepare for the coming into service of newer, heavier and faster aircraft on major world routes; and, by further standardization and
simplification to increase efficiency, reduce misunderstanding and hazard, and cut operating costs.

Principal recommendations of the various working groups of the Conference included the following:

The Conference urged upon ICAO new rationalized performance requirements for large and small transport aircraft to eliminate hidden margins which sacrifice payload without affecting safety. IATA members will carry out flight tests of such rationalized requirements and report results to a special ICAO meeting in 1950.

On the grounds that new developments in landing aids have outmoded the old idea of strictly visual weather ceilings, the Conference asked ICAO to change both the concept and detail of present regulations. It advocated the use of the "critical height"—the height above the aerodrome elevation at which the instrument approach should be discontinued if visual reference is not established.

The Conference urged installation of approach lighting systems at a total of 1400 international airports, only 300 of which are now so equipped. While it felt that standardization on a single system was not yet advisable, it endorsed either left side-line or center line systems for low intensity approach lights for night landings, and the slope line and Calvert (dash and cross bar) systems for high intensity, bad weather approach systems.

Early implementation by ICAO of a regulation calling for a 500-foot separation between air traffic levels was also voted and, as a supplement, the Conference endorsed the eventual use of a flight level indicator instrument in the cockpits of airline planes.

The Conference also worked out details of standardization between airlines of aircraft pipeline code colors and symbols; external couplings on planes; towbar fittings for vehicles used to handle aircraft on the ground; and for the format of maintenance manuals supplied to airline mechanics by manufacturers.

Problems involved in the operation of new high speed and high altitude aircraft operations were also treated at length. Because aircraft are now literally flying off the map with present aeronautical charts, governments were asked to create a new series of 34 route charts covering all major world routes on a scale of 1 to 2,000,000. Ground handling problems posed by double-deck and jet-propelled transports were discussed. The Conference also sent to ICAO and the International Meteorological Organization a summary of its discussions of the stratospheric weather reporting needs of new high-altitude aircraft.

Reports on methods of evaluating aircrew performance, the use of helicopters in scheduled transport, on instrument approach and navigation systems and on the maintenance, servicing and loading problems of the Berlin Air Lift were presented to the Conference. A special feature was a nose-to-tail symposium discussion on the maintenance and operation of DC-6 aircraft, in which airline engineers joined with those of the manufacturers.

The next IATA Technical Conference will be held in the United States in 1950.

FACILITATION

In order to intensify IATA’s cooperation with ICAO in the latter organization’s drive to obtain adoption by member States of its new Facilitation recommendations, a special Facilitation Office has been created and Facilitation representatives designated among member airlines. These representatives will take the responsibility for assisting individual governments in
their consideration of the new recommendations for minimum border requirements and explaining the interests of the carriers and the public in them.

PUBLIC RELATIONS

Development of an industry-wide approach in the public relations activity of the international airlines was stressed in the IATA Public Relations Conference at Oslo, Norway, from May 11 to 13. The sessions were attended by representatives of 22 airlines and discussed promotion of off-season tourist traffic, air age education, public relations media and techniques, public opinion research and other topics. Provisions were made for the exchange of information and continuing consultation between companies.

IATA CLEARING HOUSE

A doubling of the volume of international air traffic clearances in the IATA Clearing House during the first five months of this year indicates that airlines are entering upon what will probably be the busiest international season to date. Transactions of the Clearing House during May, which marks the beginning of the Summer season, already total $14,417,000—only slightly below the high mark of $15,161,000 set in September last at the peak of the traffic curve.

The first five months' transactions this year have been $60,790,000, as against $33,410,000 in the same period of 1948. Settlements by offset, which eliminate the necessity for cash transactions, exchange premiums, etc., are running as high as 85 per cent per month.

The final report of 1948 Clearing House operations, issued in March, showed an annual turnover of $124,000,000, as against a $52,400,000 total for 1947. Offset accounted for the settlement of 78 per cent of all 1948 transactions and cash payments of only $13,640,000 were required to clear them completely. A feature of 1948 operations was the protection which Clearing House regulations afforded members against substantial losses in the devaluation of the French franc, and the accretion in value of the New Zealand pound.

The Clearing House now has 36 members.

LEGAL MATTERS

A meeting of the IATA Legal Committee at The Hague during September will discuss negotiability of the air waybill/consignment note and review a glossary of traffic terms developed on the basis of the new IATA Conditions of Carriage. The Committee will also consider the reports of the IATA Observers at the Spring meeting of the ICAO Legal Committee, covering such matters as the Warsaw and Rome Conventions and legal aspects of insurance and search, assistance and rescue. Other matters under consideration include a number of traffic questions arising out of the use of the new IATA standard passenger ticket and the air waybill, and the subject of inter-lending of spare parts by airlines.

FINANCIAL MATTERS

A new Manual of IATA Accounting Procedures developed by the Financial Committee is now being distributed to all IATA members with the strong recommendation that it be followed to the greatest extent possible. The Manual sets up definite accounting procedures with respect to passengers, cargo, Universal Air Travel Plan, issue wires and miscellaneous matters, and contains a comprehensive outline of procedures to be followed in the use of the new IATA air waybill/consignment note. A similar Manual of
Clearing House Procedures has also been issued with the imprimatur of the Financial Committee.

**FIFTH ANNUAL MEETING**

The Fifth Annual General Meeting of IATA from September 12 to 16 in the Palace of Peace at The Hague will commemorate the thirtieth anniversaries of the international commercial operations and of the foundation of IATA as the International Air Traffic Association in the same city in 1919.

Dr. Albert Plesman, President-Director of KLM Royal Dutch Airlines, will take office as President of IATA at the opening session, succeeding M. Gilbert Perier, Chairman of the Board of SABENA, the Belgian airline. The annual assembly will receive reports of all phases of IATA activity during the year and will give general policy guidance to the Executive Committee and the Director General, Sir William P. Hildred.

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**FOURTH SESSION OF THE ICAO LEGAL COMMITTEE**

Reproduced below are pp. 13, 15 of the Summary of the work of the Legal Committee (ICAO Doc. 6025 LC/122 21/6/49) relevant to limits of liability under the Warsaw and Rome Conventions. The Committee met 19 times in Montreal between June 7-18, 1949.

ANNEX “C”

**REPORT TO THE COUNCIL ON THE QUESTION OF LIMITS OF LIABILITY IN THE WARSAW CONVENTION (AS ADOPTED BY THE ICAO LEGAL COMMITTEE ON 17 JUNE, 1949)**

1. On 16 June, 1949, the Legal Committee decided “to report to the Council the results of its discussion on the question of limits of liability, and requested that such Report be sent to the States with a request for a statement of their further views, if any, on the need of revising the limits of liability, with ample time for States to give their replies before the next session of the Committee.”

2. After consideration of the replies received from Governments and the opinions expressed by members of the Legal Committee (which replies and opinions are annexed to this Report together with the synthesis prepared by the Secretariat), the following questions were submitted to the vote of the Committee with the respective results:

   (a) Does the Committee agree that the limits of liability of the Warsaw Convention should be increased by 100% with respect to bodily injury where death does not result?—(4 votes for—8 against).

   (b) Does the Committee agree that the limits of liability of the Warsaw Convention should be increased by 25% with respect to bodily injury where death does not result?—(6 votes for—8 against).

   (c) Does the Committee agree that the limits of liability of the Warsaw Convention should be increased by 100% with respect to death or permanent total disability?—(3 votes for—12 against).

   (d) Does the Committee agree that the limits of liability of the Warsaw Convention should be increased by 25% with respect to death or permanent total disability?—(7 votes for—8 against).

3. Therefore, in accordance with the above resolution, the Legal Committee request the Council that this Report be sent as soon as possible to the States with a request for a statement of their further views, if any, on the need of revising the limits of liability with ample time for States to give their replies before the next session of the Committee.
ANNEX "D"

QUESTIONNAIRE ON THE LIMITS OF LIABILITY IN THE ROME CONVENTION

The Legal Committee of ICAO, in considering the comments of the States received in reply to the Questionnaire on the revision of the Rome Convention, recognized that the opinions of the Governments differ greatly on the principle on which limits of liability should be based.

Consequently, it put the different solutions proposed in that Questionnaire to a vote. Since none of them obtained a majority in their favour, a compromise solution was adopted basing the limits, to a certain extent, on the weight of the aircraft. However, it was agreed that since the potential damage which may be caused by an aircraft cannot be considered to correspond mathematically to the weight of such aircraft, aircraft should be classified in groups, each with specific limit of liability.

The Sub-Committee was entrusted with the task of establishing such classification and with suggesting corresponding limits of liability. The Sub-Committee's proposal should be forwarded to the various Governments to obtain their comments.

Accordingly, the following questions are submitted in the hope that answers thereto may be received from the largest possible number of States, as soon as conveniently possible and in any event not later than September 1, 1949.

1. Is the Government in favour of the following classification of aircraft:
   1—aircraft weighing up to 12,500 lbs.
   2—aircraft weighing from 12,500 lbs. to 29,999 lbs.
   3—aircraft weighing from 30,000 lbs. to 79,999 lbs.
   4—aircraft weighing from 80,000 lbs. to 119,999 lbs.
   5—aircraft weighing 120,000 lbs. and over.

NOTE: By weight should be understood the weight of the aircraft with the maximum authorized load specified by the airworthiness certificate for the type of operation being conducted.

REPORT ON RECENT DEVELOPMENTS IN INTERNATIONAL AIR TRANSPORT LAW TO SECTION OF INTERNATIONAL AND COMPARATIVE LAW OF AMERICAN BAR ASSOCIATION, MAY 27, 1949

THE past calendar year was significant to lawyers concerned with problems of international air transportation both because of projects completed and those initiated. American government and carrier counsel continued to take an important part in the legal activities of the International Civil Aviation Organization and the private deliberations of the International Air Transport Association.

CONVENTION ON THE INTERNATIONAL RECOGNITION OF RIGHTS IN AIRCRAFT

Much of this effort was devoted to the completion of the carefully and concisely drafted Convention on the International Recognition of Rights in Aircraft,1 signed by the United States and 19 other powers at the Second Assembly of the International Civil Aviation Organization (ICAO) at Geneva on June 19, 1948. The global mobility of fleets of costly transport aircraft has naturally made lending institutions hesitate to invest until they can be assured that the priority of their security rights will be recognized

1 For text see, 15 J. Air L. & C. 348 (1948).
in all countries to which the planes might be flown. This is a prime objective of the Convention.

The nature and priority of security liens on chattels is a field of private law wherein national concepts differ markedly. In the United States, many security devices have been found suitable for airline financing, particularly the equipment trust leasing method developed for the railroads. Other countries have no such elaborate security devices, and few are willing to accept unreservedly those used in the United States.

Almost from the founding of the Comite International Technique d'Experts Juridiques Aeriens (CITEJA) in 1926, consideration has been given to drafting conventions relating to an aeronautical property record and to aircraft mortgages and other security interests. Early attempts to agree upon a “treaty mortgage” analogous to that found in maritime conventions were not fruitful, and this approach would have sacrificed the flexibility of the various U.S. financing devices.

For this and other reasons, the Convention signed at Geneva is not a text of international unification but of mutual recognition by the contracting powers of security and property rights created according to the laws of the nationality of the aircraft. With American initiative, the difficult problems of conflicts of laws presented by this approach were resolved into a workable accord, as attested by the signatures of 23 countries.

The basic concept is that the contracting states agree to recognize (a) rights of property in aircraft, i.e., title or outright ownership; (b) rights to acquire planes by purchase coupled with possession, i.e., purchase by conditional sale, or option rights under a hire purchase agreement or equipment trust; (c) rights to possession of aircraft under a lease of 6 months or more, i.e., equipment trusts and ordinary long term leases; (d) mortgages, hypotheques, and similar rights in aircraft which are contractually created as security for payment of a debt, upon 2 conditions and not to give other interests priority. The first condition is that the right must be constituted according to the law of the nationality of the aircraft—not the lex loci contractus or the intention of the parties—and the second is that it must be recorded by the state of the aircraft’s nationality.

In addition to protecting creditors who may lend money on aircraft as security, the Convention clarifies the rights of third parties dealing with aircraft with respect to hidden liens, defines privilege or priority claims which take priority over recorded liens and allows transfer of title from one signatory state to another only on payment or consent of all recorded claims.

On January 13, 1949 the President of the United States transmitted the Convention to the Senate for its advice and consent to ratification. On February 1, the Committee on Aeronautical Law and the Associate and Advisory Committee of the American Bar Association unanimously recommended approval, a position which this Committee wholeheartedly approves and one

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2 Signatures of Denmark, Norway and Sweden early in January of 1949 brought the number to 23.
4 Restricted to recent salvage claims and “extraordinary expenses indispensable for the preservation of the aircraft,” but not including state “fiscal claims.”
5 Extension of recognition of security rights to include fleet mortgages and spare parts raised many unusual problems.
which it suggests the Section endorse. On March 9, 1949 a hearing was held by the Senate Foreign Relations Committee at which all testimony heard favored immediate ratification.

**REVIEW OF SECOND SESSION OF ICAO LEGAL COMMITTEE**

The ICAO Legal Committee held its Second Session in Geneva between May 28 and June 18, 1948 and discussed modifications of the Chicago Convention's amendment procedure through alteration of Article 94, revision of the important Warsaw Convention, representation of international organizations at meetings of the Sub-Committee handling the Warsaw Changes, redrafting the Rome Convention and the Brussels Protocol relating to damage to third parties and property on the surface, the draft convention on the legal status of the aircraft commander, and legal problems in search, assistance, and rescue.

**REVIEW OF THIRD SESSION OF ICAO LEGAL COMMITTEE**

The Third Session of the ICAO Legal Committee met in Lisbon from September 17 to October 2 and took up pressing matters of insurance requirements, revision of Article 94 of the Chicago Convention, assistance and joint support of aviation facilities, modification of the Warsaw Convention, redrafting of the Rome Convention and related issues.

The Sub-Committee on Insurance analyzed requirements for insurance of air carrier liability, including that to passengers, crew, third parties on the surface, and to cargo owners, as well as hull risk and fire insurance, and liability in case of collision or assistance and salvage. It concluded that there was no immediate need for a general convention on insurance affairs.

The Sub-Committee on Assistance narrowed the issues before it to treatment of 3 possible methods of reimbursing a state for search and rescue assistance rendered to foreign aircraft in distress:

1. on a joint support basis.
2. direct recovery against the assisted plane in accord with the principles of the Rome Convention and Draft Convention on Assistance to Aircraft on Land.
3. on the basis of reimbursement for actual expenditures in each search and rescue operation.

The U.S. Delegation suggested that the Air Coordinating Committee develop a legal position on this problem, and such work is in process.

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7 The Sub-Committee on Revision of the Rome Convention and of the Brussels Protocol and the Sub-Committee on Definitions met on June 26, 1948.
8 International Civil Aviation Conference, Chgo. Nov. 1 to Dec. 7, 1944, Final Act and Related Documents, Dep't. of State. No. 2882, Conf. Ser. 64. (G.P.O. 1945.)
11 Dep't. of State Treaty Inf. Bull. No. 47, Aug., 1933; 1933 USAvR 284; for situs of ratifications, see 1944 USAvR 90.
12 The U.S. was represented by Messrs. Calkins, Elwell, and Tipton of the CAB, the CAA, and the ATA.
The urgency of redrafting Article 94 for the ICAO Council prevented giving much attention to the very considerable Warsaw questions, although it was recommended that the existing standard of liability with the burden of proof on the carrier should be maintained. The Sub-Committee on the Warsaw Convention was uncertain as to the advisability of increasing the existing limits of liability, and recommended that a questionnaire be circulated to ascertain diverse national views.

Advice on Policy from Non-Governmental Counsel

The ACC Legal Subcommittee announced on April 26, 1949 the establishment of a panel to be known as the "ICAO Legal Advisory Group." It was agreed that:

"Persons having such competence or interest in a subject would be invited to participate in the work of the ICAO Section on that subject ... In recent months the Secretary, with the informal assistance of the Subcommittee, has prepared a list of individuals and organizations who, it was felt, should be consulted on appropriate ICAO matters as they arose before the Legal Subcommittee."

The presence of airline counsel on the United States delegation to the Second Session reflects the increasing tendency of the federal government quite properly to call upon specialized private attorneys for advice and assistance in regard to the broad program of revision of fundamental international air transport conventions in progress, but at the same time evoked criticism that the general public and various industrial and business groups were not sufficiently represented.

Until recently, non-governmental assistance to the Legal Subcommittee of the interdepartmental Air Coordinating Committee has been restricted on ICAO affairs to advice from specialists (listed on an intra-governmental list) specifically called in for the purposes. Shortly before the Third Session of the ICAO Legal Committee the assistance of the 3 non-governmental U.S. members of the ICAO Legal Committee was sought. The desirability of establishing machinery for broadening the participation of non-governmental lawyers in the formulation of U.S. positions was strengthened by the Report of the Chairman of the U.S. Delegation to the Third Session of the ICAO Legal Committee:

"The present composition of the (ICAO Legal) Committee derives from several sources. There are lawyers who are employed on a full-time basis by their governments and whose work is primarily in the aeronautical field. Examples of countries usually represented in this manner are Canada, Argentina, Belgium, and Australia, and to a large extent the United States. Other countries however, are generally represented by private practitioners (United Kingdom, France); by judges (Norway, Netherlands) and by law professors (Portugal, Italy) to give but a few examples. Thus, the Committee as a whole represents a cross-section of the field of legal experience. In the opinion of the delegation the maintenance of this balance is highly desirable for the purpose of developing new international conventions on private air law, since so much of the material considered by the Committee relates not only to aviation but to the effect of aviation on the general commerce and life of the community as well."

Members of this Section of the American Bar Association with special qualifications and who desire to offer their services to the "ICAO Advisory Group" should communicate directly with the Executive Secretary of the Air Coordinating Committee in the Department of Commerce Building in Washington.

15 ACC 51/29.21 at 19.
16 It is the ACC which evolves integrated U.S. policies on these matters.
17 ACC 51/29.21 at 23.
RECENT DEVELOPMENT OF U.S. POLICY—THE WARSAW CONVENTION

After an ACC Working Group had prepared suggested material for the ICAO questionnaire on limitation of liability for passengers, baggage and cargo for the revision to the Warsaw Convention, air transport industry lawyers and other private counsel were called together on February 17 to comment on United States policy.

By the end of April a "firm" U.S. position was reached by the ACC. It favored the present limitation of liability for cargo of $7.40 per pound and indicated that this country would support but not initiate an upward revision of the limit of liability for the death of a passenger now fixed in relation to gold francs at $8,291.87. As the current maximum recovery for non-fatal injury is the same as the death limit, it is extremely low by American standards and the United States position favors an increase if a new convention should be found desirable.

This Committee endorses the desirability of raising the limit for passengers, provided the great majority of nations will concur. Further, it is disappointing that the official position is not one proposing to initiate reasonable increases in passenger liability limits. In recent years many of our States have raised their limits for death by wrongful act and none imposes a limit for non-fatal injuries.

The standard of liability in the existing Convention has been described as both "absolute and limited" and as "liability based on negligence with a shift of the burden of proof to the carrier to establish freedom from negligence on its part." Neither appears wholly correct. The present basis of liability is not easy to describe accurately, and with the apparent preoccupation with the merits of raising the limitation of liability and other controversial issues, it appears that the basis of all liability may be altered at the Fourth Session of the Legal Committee, with approval of the U.S. delegation, without due consideration to the grave public interests involved. This may be done by reaffirming the simple substitution of the word "reasonable" for "absolute and limited" and "liability based on negligence with a shift of the burden of proof to the carrier to establish freedom from negligence on its part."

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19 While Article 17 makes the carrier liable for the death or wounding of a passenger in certain defined accidents, Article 20 provides the "standards":

"(1) The carrier shall not be liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

"(2) In the transportation of goods and baggage the carrier shall not be liable if he proves that the damage was occasioned by an error in piloting, in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage."


20 The most recent instance of glossing over the important principle here discussed occurs in the treatment of "Basis of Liability" in the Draft Report of the Warsaw Sub-Committee for the Fourth Session of the ICAO Legal Committee, prepared by Major K. M. Beaumont, Rapporteur. Paragraph 13 reads: "Basis of Liability—The Sub-Committee recommended, and the Committee agreed in principle that the existing basis of liability should be maintained—namely liability based upon negligence, but with the burden of proving that he had taken all necessary measures to avoid the damage being cast upon the carrier. This important variation of the normal principle is of extreme value to claimants. It was incorporated in the existing Convention because of the practical difficulty, in many air accidents, of proving the cause of the accident. Hence the claimant was, in effect, placed in a position analogous to that in which he would have been if the principle of absolute (objective) liability had been applicable; and, in exchange for this important and valuable departure from the normal rule, moderate limits of the carrier's liability were imposed."
At present, the passenger may recover for provable damages up to $8,291.87 without a showing of negligence, unless the airline comes forward and proves that all its ground and flight employees were free from fault, i.e., that they had taken "all necessary measures" to avoid the damage or that it was "impossible for him or them to take such measures." On the other hand, the passenger may now prove unlimited provable damages if he can affirmatively prove "wilful misconduct."

The proviso permits the air carrier to avoid all liability if it convinces the judge or jury that the accident was caused by lightning, unpreventable act of a maniac, or due to some positive act or omission of an independent third party or government agency, such as a wrong order of a control tower operator which the pilot could not detect as improper. To add to these defenses, escape from liability on proof that the airline's employees had taken all reasonable measures clearly shifts the fundamental basis of liability to that of ordinary negligence—a retrogression to common law developed in the stage-coach era and carried over to the automobile, but not law evolved to meet modern industrial and technological progress as were Workman's Compensation laws.

To urge that "if all necessary measures have been taken, there will be no damage" overlooks the important role that third parties play in airline operations—especially in traffic control, communications and airport operations, to say nothing of that played by those manufacturing aircraft and components.

In recommending that the limitation of liability apply regardless of ticket defects or degrees of negligence short of wilful misconduct, a progressive step is taken. However, to recommend further subsidization of international air carriage at the expense of the passenger (and his dependents) who must commit his complete safety to the airline on being locked in the carrier's passenger compartment may well be pushing the doctrine of assumption of risk too far.

Now, under the Warsaw Convention, the carrier of international traffic must convincingly demonstrate that the fault of the accident was due to some third person or outside force in order to avoid the modest limits of damages, and not stop with showing that his technical operations complied "reasonably" with all applicable regulations and practices—proof probably short of the "highest degree of care" demanded of surface common carriers in the United States. This Section of the American Bar Association is urged to support continuation of present standards of liability in any revision of the thus far effective Warsaw Convention.

Mr. Albert L. Wolf, member of the Committee, invites attention to the "unwary air shipper's peril" resulting from Article 20(2) of the present Convention exonerating the airline from liability in connection with goods and baggage when it proves that "the damage was occasioned by an error in piloting, in the handling of the aircraft, or in navigation." Mr. Wolf comments:

"This means that in the event of the negligent handling of the aircraft by its pilot, navigator, radio operator, engineer or other crew mem-

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21 This "innocent" change was discussed at the XIV Plenary Session of CITEJA in Paris in January 1945. (Res. 143 of said session; see footnote 16 to p. 100, 14 J. Air L. & C. (1947).
ber, there can be no recovery for loss occasioned the airshipper thereby. Consider railroads, or truckers. Would the public be likely to use them to ship goods if, when these goods were lost through the negligence of the engineer or driver, no recovery could be had against the railroad or truck company? If the public were coerced, yes, but otherwise no. What excuse can presently be offered for this antique clause? 24

The incongruous results of this Section have been given much attention 25 and it is the understanding of the Chairman that the general sentiments expressed favors applying the same standard of liability to goods and baggage as to passengers, notwithstanding the higher standards imposed on surface carriers of property in the United States, but not imposed uniformly by foreign nations.

**Revision of the Rome Convention**

Activity to promote revision of the Rome Convention has been accelerated during the past year. 26 This Convention, dealing with liability of the international air carrier to persons and property on the surface, was drawn up in 1933 and signed by the U. S. Delegate, and has been ratified by Belgium, Brazil, Guatemala, Romania, and Spain. As this is the minimum number of countries required to bring the Convention into force, it presumably is in force with respect to them. However, certain of its principles are not acceptable to carriers and insurance groups.

During the year, a comprehensive ICAO questionnaire was circulated to member nations requesting their views on the fundamental principles that should be incorporated in a new convention covering surface damage, collision of aircraft and insurance requirements. A working group composed of CAB, CAA, the State Department and ATA prepared draft answers for the United States. As with the Warsaw limitation proposal, expert private counsel and interested organizations from the new ACC “ICAO Legal Advisory Group” were invited to submit comments and to meet on May 6.

Public and private attorneys joined insurance experts in going over the draft U. S. reply, spending considerable time on the controversial question of whether to endorse the present provisions providing for so-called absolute but limited liability for damage caused by aircraft to third persons or property on the surface. Only the memorandum of your Chairman appears to have supported this principle. The final U. S. position is now being formulated by the ACC and will be transmitted to ICAO before the Fourth Session of the ICAO Legal Committee in June.

The discussions revealed that carrier and government counsel have moved away from the continental law concept of absolute but limited liability for surface catastrophies, except perhaps in case of intentional or wilful act. They appear to favor legislating the same standard of liability for damage caused to innocent persons on the surface as that recommended for airline passengers in any revision of the Warsaw Convention, i.e. the burden would be on the carrier to prove that it had taken all reasonable measures to avert the accident.

The Chairman of this Committee remains unconvinced of the wisdom of such action, despite the argument that a standard of absolute but limited liability for civil aviation would impose a more rigorous one than that applied to other forms of passenger transport. On the other hand, only the

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26 For Text of Rome Convention, see citation note 11, supra.
shipowner enjoys effective limitation of total liability, and no surface carrier has special limitations on serious injuries or death.

This Committee certainly opposes any improper discrimination between different modes of common carrier travel, but also believes that retention of the present standard of limited but absolute liability will have a more beneficial effect upon the future developments of flying than shifting the loss for non-negligent accident to innocent bystanders living in this rapidly evolving Air Age.

To urge that relatively inexpensive insurance is today available to all persons and to property owners for the remote possibility of damage from aircraft falling, or objects therefrom, seems at once to recognize that there is a very real danger which should be covered by insurance, and to shift the burden away from those who initiated the danger by defying the forces of gravity. Persons not on established airports are in no real sense then participating in any phase of air transportation, and certainly have not assumed any of the risks taken by a passenger or shipper. It has been argued that everyone must assume a proper share of these risks if each is to enjoy the benefits of life in an Air Age. Aside from the fact that the benefit to many individuals may be difficult to discern, it might be reasoned that, if this risk of falling objects is one which Society as a whole should bear, the best method of spreading the burden is through a system in which the government would be the insurer. It seems inopportune to encourage any program which might bring the government into the insurance business in this wholesale manner—one which would be regarded as another subsidy to international air transportation.

Section 5 of the Uniform State Law for Aeronautics of 1922, in effect in 15 jurisdictions, provides that the owner or lessee of a plane is “absolutely liable” for injuries to persons or property on the ground “caused by the ascent, descent, or flight of the aircraft, or the dropping or falling of any object therefrom, whether such owner was negligent or not” unless there was contributory negligence. This “anticipatory legislation” has certainly been shown to have been unnecessary. But it is worth noting that the section has created no reported hardship during a time in which aircraft were admittedly more hazardous, except perhaps adversely affecting insurance rates. The section certainly did not retard the full growth of civil aviation in the States adopting it.27

In criticizing the American Law Institute’s Restatement of Torts for classifying aviation as “ultra-hazardous,” the Chairman of this Committee in a study on these problems for the CAB in 1941 pointed out28 that under that definition

“the operator of the aircraft is now absolutely liable under the principles of the common law to third persons and property on the ground elsewhere than at an airport, but, on the other hand, he is not subject to absolute liability with respect to passengers, goods carried therein, or persons on an airport. The Institute cites no case expressly characterizing aviation as an ultra-hazardous activity.

“The small amount of damage that aircraft have caused to persons and property on the ground since the origin of flight would appear to negative the contention that aircraft involve unusual hazards to such persons, although it is recognized that the possibility, if not the prob-

27 Public Law 656 was passed on July 2, 1948 by the 2nd Session of the 80th Congress to exempt persons holding security interests only in aircraft from liability in damage suits.
28 Report to CAB of Study of Proposed Aviation Liability Legislation, June 1, 1941, 40-51.
ability, of great damage remains. Since aviation has become an accepted and essential mode of transportation and is rapidly becoming as much a matter of common usage as the railroad and automobile, it seems doubtful whether civil aviation in 1941 may be characterized as ultra-
hazardous under the common law, pursuant to the standards recognized by the Institute, without, at the same time, so classifying the railroad, the truck and the private automobile.

"Aircraft accidents to persons not on airports are like railroad accidents to persons on property alongside of, but not upon, their right-
of-way. As to persons (even trespassers) on such property, whether public or private, the railroads owe a clear duty to keep their trains within the limits of their own right-of-way. However, the railroad's liability to such persons and to persons on public and private crossings who are injured by things falling or being thrown from passing trains is generally based upon the principle of negligence. Similarly, when an automobile leaves the highway and injures persons on adjoining sidewalks and outside the right-of-way, the liability of a motorist is predicated upon negligence, aided by the rule of res ipsa loquitur.

"From this resume of law it appears that in a somewhat similar situation the courts have not found it necessary to characterize other modern mechanical vehicles as ultra-hazardous instrumentalities in order consistently to render judgments in favor of persons who are injured by such vehicles at a time when they are not participating in any way in the particular mode of travel. Following this precedent, the courts appear to be reaching this same result in actions brought by persons on the ground injured by aircraft and doing so without expressly characterizing aviation as 'ultra-hazardous.'

"The Rome Convention suggests absolute liability as the standard of liability which the aircraft operator owes to persons and property on the ground for damage caused by the aircraft itself or any object falling therefrom.

"While the liability proposed by the Rome Convention is perhaps stricter than the liability imposed upon the railroads and automobiles for injuries to persons and property outside of their right-of-way, it appears to involve no great departure from present law. It has been shown that section 5 of the Uniform State Law for Aeronautics of 1922 imposes 'absolute liability' and that the few courts that have considered the problem have reached the same results at common law by finding the operator negligent or by applying, although not expressly, the doctrine of 'ultra-hazardous' activity."

These comments are plainly relevant to allegations of discrimination which have been founded upon statements that there is no absolute liability for other transport media, except in the case of goods carried, in light of the continuing public confidence in and healthy growth of air transportation under the present concept of virtually absolute liability to third persons on the surface. In any case, if that standard should be modified by international convention, it would seem unfair also to limit arbitrarily the recovery in future accidents no matter how great the catastrophe or hardship to persons on the surface.

ADOPTION OF ICAO TECHNICAL STANDARDS AND RECOMMENDED PRACTICES

The following section has been forwarded by Mr. Alfred L. Wolf, member of the Committee, for inclusion in the report:

"It is felt by some members of your Committee on International Transportation that the legislative activities of ICAO have worked a lit-
tle hardship on flying activity in the United States. This has come about through the failure of the representatives of the United States at ICAO to review proposed technical standards and recommended practices with the parties affected. Thereafter, these Standards are promulgated by ICAO and then through progressive steps may become the effective law governing the flight activities of the adherents, including the United States.

"Through this inadvertence of the representatives of the United States, or their inattention to the views of the parties affected, certain doctrines have advanced to the point of promulgation which did not in any way represent the 'better will' of the affected United States citizens, nor indeed their government's and enlightened representatives.

"While for some reason wide advance publicity was given to the 'Convention on the International Recognition of Rights in Aircraft,' on the other hand, the case of the sudden abandonment through ICAO action of the phonetic system of abbreviations used for years in the United States 'NOTAMS' represents a leading instance of the wilful disregard at international level of the wishes of most parties affected.

"It is the view of these members of your Committee that ICAO must either limit its legislative endeavors to the very broadest principles or else the United States delegates must find means and time to follow a practice of submitting to the majority of those affected, in any way, all proposed Standards and Recommended Practices. This may seem onerous, yet within the United States for the last decade at least, it has been the program of the Federal Civil Aeronautics authorities to submit proposed regulations to those affected in advance, and, when necessary, hold hearings on them before their adoption. Civil aviation legislation should go through normal legislative procedure which certainly throws it under the scrutiny of all affected. These members of your Committee therefore urge that either a rule of wider representation be arranged to protect the interests of the affected citizens of each adherent or that steps be taken domestically to throw open to public scrutiny, study, and criticism, proposed ICAO Technical Standards and Recommended Practices."

PROSPECTS FOR 1949-1950

The proposed agenda for the Fourth Session of the ICAO Legal Committee in Montreal on June 7, 1949 includes:

(1) consideration of the Report of the Subcommittee on Revision of the Warsaw Convention;
(2) consideration of the Report of the Subcommittee on Revision of the Rome Convention and related matters;
(3) consideration of answers to the questionnaire on search, assistance, and rescue;
(4) consideration of the Report of the Subcommittee on Definitions;
(5) consideration of questions of double insurance, if any.

Thus, it is clear that the next year will see the lawyers concerned with international air transportation at work on some of the fundamental conventions and problems, and that these sizable tasks will put a heavy burden upon the considerable legal talent which the United States has in this field. It is obvious that a program of cooperation and joint effort by private counsel and government personnel will be necessary if the U.S. is to meet its responsibilities and continue its leadership.

Respectfully submitted,

EDWARD C. SWEENEY, Chairman,
Committee on International Transportation of Section on International and Comparative Law of American Bar Association.
Note: This report was circulated to but not specifically approved by all members of the Committee, who are:

ALFRED WOLF, Vice Chairman  
SUEL O. ARNOLD  
JAMES A. GLEASON  
ALLAN B. LUTZ  
LIONEL P. MARKS 

JOHN J. O’CONNOR  
ORVILLE A. PARK, JR.  
JOHN A. PERKINS  
ALBERT E. REITZEL  
R. C. WHITTEMORE

Recommendation No. 4 Adopted by the Section of International and Comparative Law and submitted to the American Bar Association for action at its Annual Meeting in September, 1949.

RESOLVED That the American Bar Association urge the Air Coordinating Committee to instruct the United States delegates to the Legal Committee of the International Civil Aviation Organization to:

(1) Advocate an increase in the present presumptive liability limitation of $8,291.87 in damages for death or non-fatal personal injury in international air transportation imposed by the Warsaw Convention.

(2) Oppose exonerating the international air carrier from liability to his passengers upon the mere showing that “reasonable measures” were taken by it to conduct a safe operation as urged by the Rapporteur on the revision of the Warsaw Convention.

(3) Insist that aircraft operators should be responsible, regardless of negligence, for damages on the surface to innocent persons and their property unless the accident is proved to be due to an Act of God or third party.