

Journal of Air Law and Commerce

Volume 2 | Issue 3

Article 6

1931

Editorials

Follow this and additional works at: <https://scholar.smu.edu/jalc>

Recommended Citation

Editorials, 2 J. AIR L. & COM. 373 (1931)
<https://scholar.smu.edu/jalc/vol2/iss3/6>

This Comment is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Journal of Air Law and Commerce by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

EDITORIALS

INTERNATIONAL CHAMBER OF COMMERCE MEETING AND RESOLUTIONS

The Sixth General Congress of the International Chamber of Commerce was held at Washington, D. C., during the week of May 4 to 9, 1931, with an attendance of 1228 persons. Mr. Silas H. Strawn, American Vice-President of the International Chamber of Commerce, and Chairman of the American Committee, presided at the Congress in collaboration with M. Georges Theunis, President of the International Chamber.

The American Committee on Aeronautical Law¹ met on the morning of Friday, May 8, to consider the proposed resolutions and to formulate any amendments thought desirable. The Group Session on Air Transport of the Congress, on May 8, was presided over by Martin Wronsky, Director, Deutschen Lufthansa A. G. In opening the meeting, Mr. Wronsky said, in part:

I have the great honor to welcome you here in the Aviation Group of the International Chamber of Commerce.

The fact that you, gentlemen, are kind enough to attend here today may I take as a sign of the interest you have for the development of civil aviation.

I am especially grateful that besides representatives of aviation also leading men of trade and industry are honoring us with their presence. It is a proof that the commercial world shows interest in this youngest member of the family of transport. Never in the history of transportation a new instrument of transport has gained its place so quickly in the whole economical system as the airplane.

There are already about three-quarters of a million and more passengers carried per year in the United States and Europe and 8000 tons of express and 5000 tons of mail. To give you another example, the express carried

1. The American Committee was composed of the following members:

Colonel A. B. Barber, Manager, Transportation and Communication Department, Chamber of Commerce of the United States, Washington, D. C.; *Luther K. Bell*, General Manager, Aeronautical Chamber of Commerce of America, New York City; *William E. Berchtold*, Aeronautical Chamber of Commerce of America, New York City; *Howard E. Coffin*, (Chairman) Sapeloe, Ga.; *Fred D. Fagg, Jr.*, Managing Director Air Law Institute, Northwestern University School of Law, Chicago, Ill.; *Wm. P. MacCracken*, National Press Building, Washington, D. C.; *S. C. Mead*, Secretary The Merchants' Association of New York, New York City; *J. T. Trippe*, President Pan American Airways System, New York City; *E. P. Warner*, Editor Aviation, New York City; *E. R. White*, Director Division of International Postal Service, Post Office Department, Washington, D. C.; *Mrs. Mabel Walker Willebrandt*, Shoreham Building, Washington, D. C.; *Hon. Clarence M. Young*, Assistant Secretary of Commerce, Washington, D. C. Others attending from the National Chamber were: *C. W. Stark*, *Paul Mahoney*, *A. T. Stewart*.

on the ships of my company in one year would fill 200 railway trucks charged right to the top. This sounds encouraging but very much remains yet to be done. The world's commerce and traffic suffer under a deep depression, and the President of the United States has at his opening speech demanded *world cooperation* in fighting this.

How much more should that remedy be recommended for civil aviation, not only because it is the youngest child in transportation because it suffers too under a certain depression, but also because it lives in most cases on public means. That is first of all the reason why cooperation is necessary, cooperation between the various air traffic companies and between air traffic and the other means of communications.

Air traffic shall and will not replace but will supplement other forms of existing means of transport and wherever air traffic companies meet in the world, be it companies of the same country or of different nationalities they should avoid competition, at least as long as they need subsidies or other help coming from taxpayers. Instead of spending money for fighting each other they should join forces to overcome all the technical, commercial—transport—and political difficulties. In Europe, thanks to the International Air Traffic Association, a friendly cooperation nearly everywhere is introduced. This cooperation however does not jeopardize in any way individual interests of the various nations. And therefore this system should be spread all over the world and I sincerely ask everybody, who is interested in civil aviation, may it be as member of a government, as a carrier or as a client, to assist me in my twelve year old task to make aviation people collaborate and make them follow one aim only. That is to give the world a valuable, speedy and reliable means of communication.

I very gratefully appreciate therefore the initiative the International Chamber of Commerce took in 1925 when it commenced its activity in studying the problems of aviation through the promotion of an aviation committee.

The problems discussed in the meanwhile by this committee were of great importance for aviation. In many cases it was the International Chamber of Commerce that has made the first move to begin or to resume negotiations on subjects of international interest for civil aviation. May I just mention the numerous questions of international air law. The carriers liability, the problems of collaboration between plane, rail and steamship, the uniform rail airway bill of lading, the uniform conditions of transport and the problems of air mail so important for commerce and industry.

I am afraid many of our today's visitors will be disappointed. We cannot discuss today what we aviation people bear in mind and in heart. We cannot speak about Lindbergh's great flight, about the amazing development of civil aviation in the United States or about regular lines across the Atlantic—our topics of today are more or less dry.

We have to find out the results of the work that has been done by the various air subcommittees since the last great Congress of the International Chamber of Commerce. What are their suggestions and their resolutions?

But before that I want to thank these subcommittees—especially the air law—and the air mail committee, for the important work they have done which enables us to finish our somewhat extended agenda of today very quickly.

The final resolutions adopted by the International Chamber of Commerce include four of importance to aviation. These are the following:

RESOLUTION No. 26 (AIR LAW)

I.

Seizure of Airplanes

THE International Chamber of Commerce,

Whereas an improvement in regard to "*Saisie*" in relation to aircraft is of great importance for the development of international air transport,

Submits to all Governments and to the International Commission on Air Navigation, the draft international Convention prepared on this question by Major K. M. Beaumont in the name of the Air Transport Committee of the International Chamber of Commerce.

II.

Aircraft Registration

THE International Chamber of Commerce,

Whereas Article 7 of the Paris Convention relating to the Regulation of Aerial Navigation of October 13th, 1919, has been modified so as to stipulate that the entering of aircraft upon the aircraft register should be effected in accordance with the laws and special provisions of each contracting State,

Whereas Article 7 of the Convention should be amended so as to make the registration of aircraft independent of the nationality of the owner,

Whereas it does not seem right to determine the nationality of a company according to that of its members or directors,

Recommends that Governments that consider it necessary to maintain in their laws the principle by which the registration of aircraft owners depends upon their nationality, determine the nationality of a company capable of being registered as owner of an aircraft not according to its membership but solely according to its center of management.

III.

Owners' Nationality

THE International Chamber of Commerce,

Whereas the inscription of an aircraft upon the aircraft register is in almost all countries legally dependent upon the nationality of its owner, and the acquisition and operation of aircraft by foreigners is thus hampered,

Recommends that all Governments refrain from making the registration of aircraft dependent upon the nationality of its owner.

IV.

Transfer of Ownership and Mortgages

THE International Chamber of Commerce,

Whereas the principle according to which the registration of an aircraft is the foundation and proof of ownership, immobilizes aircraft, and is a source of difficulties and heavy charges for the aircraft trade, in other words for their purchase and sale, "*Saisie*" and mortgage.

Recommends that the C. I. T. E. J. A., in its work concerning the ownership of aircraft and the aircraft register, avoid such immobilization of aircraft and, wherever that is impossible in the case of mortgaged aircraft, at least exclude from immobilization aircraft for which there is no question of mortgage.

V.

Cabotage

THE International Chamber of Commerce,

Whereas air navigation concerns are at times obliged to use foreign aircraft, and this becomes impossible if the laws of the various countries reserve

air transport within their territories to national aircraft, instead of reserving it to national air transport concerns,

Recommends that Governments, whenever their laws reserve transport within their territories to national air navigation, make this reserve apply to the concerns and not to the aircraft.

VI.

Taxi Traffic

THE International Chamber of Commerce,

Whereas international air-taxi traffic is destined to play an important part in the future,

Whereas the question of whether commercial traffic of this kind requires a special authorization in the country of destination has not yet been decided,

Recommends that Governments refrain from establishing legal regulations of a kind to hamper or render impossible international air-taxi traffic.

RESOLUTION No. 27 (AIR MAIL)

THE International Chamber of Commerce,

Whereas the Postal Administrations graciously accepted the suggestion it presented to them in 1926, with a view to the calling of a special Conference of Postal Administrations for the preparation of new Air Mail Regulations, which Conference was held, and led to the Hague Air Mail Arrangement of September 10, 1927,

Whereas the Regulations now in force, as appearing in the Universal Postal Convention of London (1929), call for amendment in the light of experience,

Urges the Postal Administrations, to consider the possibility of calling, as soon as they consider it advisable, a special Conference (provided for in Paragraph VII of the final Protocol of the London Convention) to make the necessary amendments in the Air Mail Regulations, and

Presents to the Postal Administrations the following set of suggestions that may be of service to them. These suggestions correspond in particular to the needs of commercial and industrial interests and could usefully be completed by direct exchanges of views between the Postal Administrations and air-carriers.

I.—FIRST CLASS MAIL (Letters and post cards).

(1) *Special boxes.*

It would be of service if the administrations could provide, as several have already done, at the principal points of large cities as well as in post offices and railway stations, special letter boxes for air-mail with a table giving the necessary indications as to the principal air-mail lines, hours of collection, and postal rates, etc.

These boxes as well as the special boxes provided at the offices of air navigation companies should be emptied not only at special collection rounds, but also at all regular rounds.

It should also be clearly understood, and the public should be so informed, that airmail can be posted not only in special air-mail boxes but in all ordinary mail-boxes.

(2) *Sorting.*

Certain Postal Administrations have opened post offices at aerodromes so that the mail to be transshipped from one air-line to another can be sorted so that the air-mail may not miss the connection. It appears indispensable that this measure should be generalized, and that post offices should be established at all the more important aerodromes.

(3) *Rapid carriage of air-mail.*

It is recommended that all useful measures be taken to insure that air-mail be forwarded as soon as possible by utilizing all through methods of transport.

In particular it is recommended that special arrangements be made for the forwarding of air-mail by other means of transport.

(4) *Rapid distribution of air-mail.*

The International Chamber of Commerce particularly emphasizes the necessity of reducing as much as possible the time between the arrival of a mail-plane and the distribution of mail in the city.

It believes that mail carried by air is entitled to special distribution on condition of course that the number of letters carried justifies this measure.

Taking into account the heavy expenses incurred by additional distribution, it recommends agreements between the administrations and the air navigation companies with a view:

- (a) to making the hour of certain distributions coincide as closely as possible with the hour of arrival of mail-planes,
- (b) to ascertain whether in case it is not possible to make an air-mail distribution coincide with a regular distribution, it would not be possible to advance or delay the latter within limits to be determined,
- (c) to organize, if needs be, in cities where there are less than five distributions a day, or in those where the last distribution takes place at about 4 p. m., one or more special distributions.

On the other hand it would be desirable that administrations organize adequate publicity in favor of express-mail, making known to the public the advantages offered by express distribution in the case of air-mail, on payment of special express postage.

(5) *Air-mail postage rates.*

In view of the essential importance to commercial and industrial interests in general, and also to air-carriers themselves (through the development of air-mail traffic that would result), of the greatest possible simplification and unification of regulations relating to postage rates for air-mail, it is recommended:

A. *For Europe:*

If it is not feasible to abolish the air-mail surtax temporarily as propaganda in favor of the carriage of mail by air:

- (a) that postage rates for air-mail be made uniform in each country for all European countries, allowing two contiguous countries to agree between themselves upon lower rates;
- (b) that these postal rates be established at as low a level as possible in the interest of trade, but nevertheless corresponding to due remuneration for the services rendered.

B. *For countries outside Europe.*

- (a) that the possibility be considered either of establishing zones each subject to uniform regulation as regards air-mail rates, or of concluding special agreements corresponding to the necessities of each case;
- (b) that the scale of weights should be as low as possible.

(6) *Advantageous air-mail lines.*

It is recommended that in their air-mail publicity postal administrations especially favor those air-lines offering real advantages from a postal point of view.

The International Chamber of Commerce is prepared in this connection to give its full support to postal administrations for the diffusion of air-mail publicity.

(7) *Remuneration of carriers.*

As the remuneration that postal administrations pay to air carriers is a matter concerning operation, the International Chamber of Commerce is of opinion that this question should be inquired into by the air-carriers themselves in the International Air Traffic Association.

In the interest of all concerned, the International Chamber of Commerce requests postal administrations not to seek to make profit on the difference between what they collect from the public for mail en-

trusted to air carriers and the expenses they incur as the result of the introduction of air-mail services.

(8) *Letters bearing insufficient stamps.*

Postal administrations are urged not to forward air-mail bearing insufficient postage by ordinary mail, but to permit such mail to enjoy the advantage of air transport, subject to all necessary regulations for the collection of the postage due.

(9) *Stamps.*

It is urged that in all countries air-mail may be stamped with either ordinary or special stamps.

(10) *Continuity of service.*

The International Chamber of Commerce insists upon the necessity of air-mail services being operated from one end of the year to the other, and on all lines where this is possible every day throughout the year.

II.—PARCEL POST.—INSURED MAIL.—PRINTED MATTER.

The International Chamber of Commerce calls the attention of the postal administrations and of air carriers to the necessity of seeking, in the interest of trade, a new arrangement establishing new air-mail regulations not only for the carriage of ordinary mail but also for the carriage of:

- (1) parcels post,
- (2) insured mail and packages,
- (3) newspapers and other printed matter,

which matters the present regulations cover only partially or not at all.

The International Chamber of Commerce particularly recommends that parcels post carried by air be treated as being air-mail.

RESOLUTION No. 28 (AIRPORT CUSTOMS WAREHOUSES).

THE International Chamber of Commerce,

Whereas existing Customs Regulations, especially those governing airports present drawbacks for commercial air traffic,

Recommends that customs administrations consider the possibility of creating at customs aerodromes a bonded warehouse or a space (designated) considered to be a bonded warehouse.

RESOLUTION No. 29 (AIR EXHIBITIONS).

THE International Chamber of Commerce,

Whereas it is essential that any regulation of air exhibitions and fairs should entirely meet the interest and requirements of the aircraft industries,
Considers:

I.

That the time is not yet ripe for an official international regulation of special international air exhibitions and fairs, and that such international regulations should rather be sought by the manufacturers concerned.

II.

That the object of an international regulation of special international air exhibitions and fairs should be to limit the number of such exhibitions or fairs.

A. T. STEWART.

UNITED STATES CHAMBER OF COMMERCE MEETING

Greater stimulation was given to the economic advancement at the 19th Annual Meeting of the Chamber of Commerce of the United States, held in Atlantic City in May, by the publication of a very complete report of the Committee on Aeronautics, entitled "Aids to Air Commerce."

In the development of aviation as a useful medium of transportation in our national life, the Chamber of Commerce of the United States has played a very important part. Valuable surveys, helpful public meetings, interesting reports, and a tremendous amount of personal interest displayed by key men in the National Chamber's Organization has been most helpful in the progress of Aeronautics.

The recommendations offered by the Committee on Aeronautics were as follows:

1. *Uniform Aeronautic Licensing Laws.*

While recognizing that in certain states constitutional limitations may act as a bar and that possibly in a few states local conditions may have suggested adaptation, your Committee unanimously believes that it is desirable to require federal licenses for all aircraft and airmen, and recommends that wherever constitutional and practicable, all states not yet having such requirements review the situation in the light of proven experience, make every effort toward realization of complete uniformity by requiring federal licenses for aircraft and airmen engaged in all aviation, and promulgate regulations in relation thereto in conformity with those issued by the Federal Government.

2. *Airport Enabling Legislation.*

Your committee recommends that the States enact legislation enabling municipalities, counties, or other political subdivisions, separately or jointly, to acquire airport sites by purchase, grant, lease or other means, and to develop, operate and police airports; such legislation to include (1) authority to acquire sites within and/or without the corporate limits, (2) extension of the police powers beyond the corporate limits to regulate and police the airports, (3) authority for acquisition by condemnation and/or excess condemnation proceedings where necessary, and (4) to provide funds for all of the said purposes.

3. *Air Traffic Rules.*

Since the resolution of the Seventeenth Annual Meeting of the Chamber was adopted, the subject of local enforcement of Air Traffic Rules has come prominently to the fore. Your committee considers uniformity of such enforcement very important and recommends that, in enacting such legislation, the states should conform their laws and regulations and air traffic rules to those of the Federal Government, and that they should awaken their state, county and municipal authorities to the necessity for proper enforcement.

4. *Uniform Airport Field Rules.*

Your Committee recommends that all airports, both public and private, as far as practicable, adopt the Uniform Field Rules recommended by the Department of Commerce.

5. *Federal Airways and Aids to Air Navigation.*

Recognizing properly established and equipped airways and airports as the essential basis of safe, successful air transport, your Committee commends the work done by the Aeronautics Branch of the Department of Commerce in the establishment of airways and the provisions of suitable aids to air navigation, also the work of the U. S. Weather Bureau, and urges continued increased effort on the adopted program.

6. *Airports.*

Your Committee recommends support by state, county, and municipal governments and business and civic organizations in the establishment of airports, airways and aids to air navigation conforming to the standards of the Department of Commerce, and recommends that, in order to avoid confusion in navigation, only such lights as are deemed necessary in connection with lighting of airways and the identification of hazards be established. In this connection full advantage should be taken of technical experience and facilities of the Aeronautics Branch of that Department.

7. *Air Marking.*

In order to secure uniform air markings looking to greater safety in flight, your Committee urges the chamber of commerce in each city or town to see that its community is adequately air marked in conformity with accepted standards. It is also recommended that all federal and state highways be air marked by the proper state authorities and that arrangements be made for suitable air marking of railway lines in appropriate cases.

8. *Airport Zoning.*

Your Committee recommends that states enact legislation authorizing the adoption of zoning regulations by counties and municipalities covering the zoning of the neighborhood of public airports and intermediate landing fields, and that such zoning be carried out so as to assure to the public the continued usefulness and safety of operation of such airports and landing fields.

9. *Air Transport Development.*

The Committee urges the continued development of domestic and foreign private enterprise in the development of commercial lighter-than-air services. Watres Bill looking to the extension of air mail service, especially that to cities now off the regular air mail routes.

10. *Lighter-than-Air Transportation.*

In view of the commercial possibilities of dirigible airships as applied to overseas operation, your Committee favors federal legislation to encourage private enterprise in the development of commercial lighter-than-air services and, in view of the vast supply of non-inflammable helium lifting gas found only in the United States, your Committee further advocates continuation of the policy of the Federal Government to permit the exportation of helium gas for use in airships abroad in so far as consistent with a policy adequately protecting American commerce and industry and insuring the National Defense.

11. *Contract Air Mail Service.*

In order to expedite mail service by use of air transportation under conditions not justifying establishment of regular air mail routes your Committee recommends the enactment of legislation looking to the handling of mails by air on a basis similar to that of star route, motor boat and similar services.

12. *Aerial Customs and Port Formalities.*

To facilitate and promote aerial commerce and intercourse between American or other foreign States, your Committee urges that the necessary facilities and personnel be provided by the respective government departments for carrying out the provisions of the Pan-American Commercial Aviation Convention of 1928 or special agreements with other States, and that such laws be enacted and regulations promulgated as may be required for this purpose, with a view to expediting the entry and clearance of aircraft, the customs, immigration and agricultural inspection of such aircraft, crews, passengers and cargo, and the handling of air mail. To this end attention is called to the need for the simplification of customs, immigration and clearance documents in keeping with the class of traffic encountered, the elimination as far as possible of clearance fees and charges, the importation

of merchandise within reasonable value without consular invoice, the facilitating of passage of baggage in transit through the country under proper guarantees, and the return of undeliverable merchandise to the country of origin by officially recognized aerial carriers after proper deposit in government bonded warehouse.

13. *Tax on Aviation Gasoline.*

To avoid unjust application of special taxation to an industry not benefiting therefrom and to keep the financial burdens upon the new industry of aviation as low as possible, your Committee favors the policy of exempting aircraft fuel from gas taxes.

14. *Local Chamber Activities.*

Your Committee recommends that chambers of commerce, with the cooperation of the Chamber of Commerce of the United States and the Aeronautical Chamber of Commerce of America, through the formation of representative and qualified aviation committees undertake such activities as are necessary to familiarize the public, particularly the business men, with the existing aeronautic facilities, and to promote sound development thereof.

15. *Flying Meets.*

Your Committee condemns any flying meet based upon spectacular stunting or upon any appeal other than that designed to give the public a correct appreciation of the aviation industry and recommends that no public flying meet be permitted unless set up with the assistance and supervision of the proper state and local aviation officials or recognized chamber of commerce committees, the Aeronautics Branch of the Department of Commerce and the aviation industry.

The speakers at the Atlantic City meeting included Mr. Charles L. Lawrance, President, Aeronautical Chamber of Commerce of America, who spoke on the subject "Trends in Aeronautic Development; Col. A. B. Barber, Manager, Transportation & Communication Department, Chamber of Commerce of the United States, told of the work of the Committee on Aeronautics and the Regional Conferences;¹ Casey Jones spoke on "The Attitude of the City Operating an Airport as Regards Profit and Loss"; and Mr. L. S. Peck, General Manager of the New York Airways Corporation, presented an address on "How Chambers of Commerce Can Be of Assistance to the Development of Passenger Business on Air Lines." Mr. Jack Hott, Secretary of the Fort Worth Chamber of Commerce, presided.

W. IRVING BULLARD.

AMERICAN BAR AERONAUTICAL COMMITTEE MEET

The third meeting of the 1931 Aeronautical Committee of the American Bar Association was held in Washington on May 8-9, 1931, and the entire committee was present at that time, including

1. See *A. T. Stewart*, Regional Aviation Conferences, 2 *JOUR. AIR LAW*, 29.

Randolph Barton, Jr., of Baltimore; John C. Cooper, of Jacksonville; George B. Logan, of St. Louis, chairman; Howard Wikoff, of Chicago; and Mrs. Mabel Walker Willebrandt, of Washington.

The purpose of the meeting was to complete the final draft of the proposed Uniform Air Code which will be offered to the various state after its approval by the membership of the American Bar Association. The topics considered at this meeting included those contained in the supplementary reports on such topics as venue of prosecutions for crimes committed by means of or in or on aircraft; jurisdiction of tort actions arising out of aircraft accidents, etc.

The final draft has been completed and will be published in the Journal of Air Law as soon as the report of the committee is released for publication. Those meeting with the committee during its two-day sitting included Mr. E. McD. Kintz, Chief, Legal Section, Department of Commerce, Aeronautics Branch; and Prof. Fred D. Fagg, Jr., of the Air Law Institute.

AMERICAN LAW INSTITUTE TORTS RESTATEMENT

At the Ninth Annual Meeting of the American Law Institute, held in Washington, May 7-9, 1931. Tentative Draft No. 7 of the Restatement of the Law of Torts was presented for discussion by the two reporters, Professor Francis H. Bohlen, University of Pennsylvania, and Professor Edward S. Thurston, Harvard University Law School.

The two sections most important to aviation interests are 1002 and 1011. The former provides, in substance that a trespass on land may be committed by entering or remaining above the surface thereof and the comment to that section states, in part, that an unprivileged entry or remaining in the space above the surface of the earth, at whatever height above the surface, constitutes a trespass. The latter section deals with trespass resulting from extra hazardous activities, negligence or recklessness, and the general facts of the case of *Guille v. Swan* are cited as an example.

Those interested in aeronautical law will find a very interesting set of notes which have been compiled by Professor Thurston and presented in the Appendix. Since this is but a Tentative Draft, no full statement can here be made of the full section, but it is believed that some modification will be made in the language finally adopted in the restatement.