THE GENERAL ASSEMBLY OF THE UNITED NATIONS: RECENT LEGAL DEVELOPMENTS

A few remarks may serve to introduce the extracts from the Report of the Secretary of State for External Affairs on the second part of the First Session of the General Assembly of the United Nations which are reprinted below.* The selections have been made from the point of view of their probable interest to members of the legal profession in Canada. The Report as a whole is printed as Conference Series (Canada), 1946, No. 3, and is procurable from the office of the King's Printer, Ottawa.

There are three bodies primarily concerned with the legal affairs of the United Nations. The International Court of Justice, established under the presidency of Dr. J. G. Guerrero of El Salvador, is declared by the Charter to be the principal judicial organ of the United Nations. In addition, the Secretariat of the United Nations has a legal department, for which an Assistant Secretary-General (Dr. Ivan Kerno) is responsible and which tenders legal advice to the Secretary-General (Mr. Trygvie Lie) and transacts the routine legal business of the Secretariat. The Legal Committee of the General Assembly (with which we are here principally concerned) acts in effect as the legal adviser of the General Assembly.

The Assembly has six main committees, on which each Member of the United Nations is represented and on which each Member has one vote. The First Committee deals with political and security questions, including the regulation of armaments. The Second Committee is responsible for economic and financial affairs. The Third Committee is concerned with social, humanitarian and cultural matters. The Fourth Committee deals with trusteeship, and the Fifth with administrative and budgetary problems. The Sixth, or Legal, Committee examines the legal aspects of items on the agenda of the Assembly which are political, economic, cultural or financial in character, reporting back to the Committee primarily charged. All items of a predominantly legal character are of course referred directly to the Legal Committee for study and report to the General Assembly. The General Assembly, which, like the Committees, is composed of representatives of each Member of the United Nations, normally implements the recommendations of the committees by the adoption of appropriate resolutions.

---

* *Editor's Note.*—The extracts from the Report of the Secretary of State for Enternal Affairs were selected and the introduction to them prepared by Mr. E. R. Hopkins, Legal Adviser to the Department of External Affairs, Ottawa.

During the second part of the First Session, the work of the Legal Committee was facilitated by the establishment of several sub-committees to which were referred, for preliminary study and report, items of a particularly technical or controversial nature. For instance, a special sub-committee was established to deal with (a) the obligation of the General Assembly, under Article 13 of the Charter, to encourage the progressive development of international law and its codification and (b) the preparation of detailed regulations to give effect to Article 102 of the Charter (which requires the registration and publication of treaties and international agreements entered into by Members of the United Nations after the coming into force of the Charter). A second sub-committee dealt with matters of a primarily administrative character. A third sub-committee was set up to draft a resolution concerning the crime of "genocide". There was also established a joint sub-committee of the Fifth and Sixth Committees which gave preliminary consideration to items on the agenda which had both legal and budgetary aspects. The most controversial item which the Legal Committee was called upon to discuss — India's complaint about the treatment of Indians in the Union of South Africa — was referred jointly to the First and Sixth Committees.

The principal matters with which the Legal Committee dealt are described in detail in the extracts reproduced below. However, one significant juridical trend may perhaps be noted at this point. The Charter does not confer upon the General Assembly any legislative power *stricto sensu* in the general field of international law, although it is of course empowered to establish its own procedures. However the work of the Sixth Committee, during the second part of the First Session, resulted in a notable increase in what may be called the "quasi-legislative" functions of the Assembly. To illustrate: it espoused resolutions which "affirmed" the "principles of international law" recognized by the Charter of the Nuremberg Tribunal for the trial of the major war criminals of the European Axis, "declared" that genocide is a crime under international law, and "adopted" regulations in implementation of Article 102 of the Charter. No specific authority can be found in the Charter for resolutions of this character. It was, nevertheless, the consensus within the Sixth Committee that the General Assembly had inherent power to adopt resolutions reflecting the Assembly's views on contemporary international law, and implementing Article 102 of the Charter. Positivists will question whether such resolutions have, in international law, an absolute juridical force. There can be

no doubt, however, that important precedents have been established and that these resolutions, representing the collective opinion of fifty-five Members of the United Nations, will carry great weight in practice.

The Committee, and indeed the General Assembly itself, was in no mood to accept what Sir Hartley Shawcross, Attorney-General of the United Kingdom (and its representative on the Legal Committee), termed "narrow, pedantic legalism" in interpreting the provisions of the Charter. A liberal approach to the interpretation of the Charter was advocated in the speech delivered by the Chairman of the Canadian delegation at the opening Plenary Session. However, in view of the character of the resolutions passed during the second part of the First Session, there seems, in fact, to be no danger that the Assembly will restrictively interpret its own powers or broadly interpret provisions which, like paragraph 7 of Article 2 of the Charter, derogate from its authority.

The Legal Committee disposed of a crowded agenda with despatch and, in most cases, by unanimous vote. This may be attributed in part to the fact that the majority of the items dealt with were not, politically speaking, of a controversial character. It may be ascribed also to the fact that there is a universality in jurisprudence which transcends the differences separating the principal legal systems of the world. Lawyers will not wish to exaggerate the role of law in national or international affairs. Nevertheless, there can be little doubt that an international community which does not recognize the supremacy of law cannot permanently endure and that there exists in the world-wide fraternity of lawyers a special hope for the resolution of those international differences which, if permitted to flourish and multiply, will imperil the peace so recently and hardly won.

Extracts from the Report of the Secretary of State for External Affairs on the Second Part of the First Session of the General Assembly of the United Nations held in New York, October 23rd to December 15th, 1946.

The Developments and Codification of International Law

Much of the time of the principal sub-committee of the Legal Committee was taken up with a study of the manner in which the General Assembly could best implement its obligation, under Article 13(1)(a) of the Charter, to "initiate studies and make

recommendations for the progressive development of international law and its codification". The United States had asked that this item be placed on the agenda of the Assembly. The Canadian delegation took an active part in the framing of the resolution which was eventually adopted.

The Sub-committee agreed that a considered and comprehensive report on the methods which might suitably be adopted in implementing this obligation should be made available to the General Assembly before it formulated any definite plan for the progressive development of international law and its codification. It was further agreed that "international law", as it appears in Article 13(1)(a) of the Charter, is not necessarily restricted to "public international law", and that a study should be made of existing projects and of the methods followed by official and unofficial bodies interested in the development and codification of both public and private international law. It was agreed, moreover, that the Assembly should appoint a committee, "genuinely representative of the main forms of civilization and of the principal legal systems of the world", to consider and report to the next regular session of the Assembly on these methods.

The recommendations of the sub-committee were adopted unanimously by the Legal Committee and, on December 11th, 1946, by the Assembly. At the same plenary meeting, the General Assembly, on the recommendation of the President, appointed the following seventeen States to serve on the Committee which had been recommended: Argentina, Australia, Brazil, China, Colombia, Egypt, France, India, Netherlands, Panama, Poland, Sweden, Union of Soviet Socialist Republics, United Kingdom, United States of America, Venezuela, Yugoslavia.

The Charter of the Nuremberg Tribunal

There was placed on the agenda of the General Assembly, at the instance of the United States delegation, an item concerning the Nuremberg trials. On the recommendation of the Legal Committee, the General Assembly took note of the agreement to establish an international military tribunal for the prosecution and punishment of the major war criminals of the European Axis (signed at London, August 8, 1945), and of the annexed charter. It also took note of the fact that similar principles were recognized in the charter of the international military tribunal for the major war criminals in the Far East (proclaimed at Tokyo, January 19, 1946). The Assembly affirmed the principles of international law recognized by the charter of the Nuremberg

tribunal and by the judgment of the tribunal, and directed the Assembly's Committee on Codification (referred to above) to give priority to plans for the formulation, in the context, of a general code of offences against the peace and security of mankind, or of an international criminal code, of the principles recognized in the charter and judgment of the Nuremberg tribunal.

The resolution adopted by the General Assembly was thus of a twofold character. While the first part of the resolution, which affirmed the principles of international law contained in the charter of the Nuremberg Tribunal, was adopted by a virtually unanimous vote, the delegations of the U.S.S.R., Byelorussia, the Ukraine and Yugoslavia strongly resisted the second part of the resolution, which contemplated the formulation of these principles in the context of an international criminal code. The Soviet delegation, in particular, insisted that the time was not ripe for any attempt at the codification of international law, and in particular of the Nuremberg principles, although no objection was voiced to preliminary consideration being given to ways and means of codification. The general opinion of the Assembly, however, including that of the Canadian delegation, was that the Nuremberg principles should be reduced to a codified form as soon as possible, while the judges and lawyers who participated in the trial were still available for counsel and guidance.

The Registration and Publication of Treaties

The General Assembly on February 10, 1946, instructed the Secretary-General to submit proposals for detailed regulations and other measures to give effect to Article 102 of the Charter, which requires all treaties and international agreements entered into by Members of the U.N. since the coming into force of the Charter to be registered with the U.N. Secretariat and published by it.

By the same resolution, the Secretary-General was instructed to invite Members to transmit to him, for filing and publication, treaties and international agreements, entered into before the coming into force of the Charter, which were not included in the League of Nations Treaty Series. He was also invited to receive, for filing and publication, treaties and international agreements voluntarily transmitted by non-Member governments which were entered into before or after the coming into force of the Charter and which were not included in the League of Nations Treaty Series.

Pursuant to this resolution, the Secretary-General prepared draft regulations which were submitted to the Legal Committee for consideration. The Legal Committee referred the draft regulations to a sub-committee, delegations not represented on the sub-committee being invited to submit written proposals for the improvement of the regulations. The chairman of this sub-committee was Dr. Frede Castberg of Norway, and its rapporteur, Mr. E. R. Hopkins of Canada.

In setting the terms of the regulations, the subcommittee considered it essential to provide for the orderly registration (or filing) and publication of treaties and international agreements and for the maintenance of precise records on their status. It also thought it desirable to adhere closely both to the Charter and to the General Assembly's resolution of February 10, 1946; in particular to the distinction drawn in the resolution between registration (applicable only to treaties and international agreements subject to Article 102) and filing (applicable to the other treaties and international agreements covered by the regulations). The subcommittee also agreed that no attempt should be made at this time to define in detail the kinds of treaty or agreement requiring registration under the Charter, it being recognized that experience and practice would in themselves aid in giving definition to the terms of the Charter.

During the discussions the subcommittee took the position that registration is effected by the act of one of the parties and not by any action taken by the Secretariat, and also that a treaty comes into force when, by agreement, it is applied provisionally by two or more parties. With respect to treaties and agreements received from non-Member states for filing and recording, the sub-committee considered it proper to include a proviso designed to make it clear that these arrangements do not extend to Franco Spain.

The conclusions of the subcommittee were embodied in a resolution approving a set of regulations. This resolution was adopted unanimously by the Legal Committee and by the Assembly.

The Official Emblem of the U.N.

The design which until the second part of the First Session had been used in practice as the emblem of the U.N. consisted of a "mappemonde" inscribed in a wreath of olive branches. This emblem was criticized in some quarters in that the map did not include certain countries and in that, as projected, it gave undue prominence to the North American continent. The

General Assembly accepted an alternative design, recommended by the Legal Committee, which met these points of criticism. This corrected design was technically described in the report of the Legal Committee as—

> A map of the world representing an azimuthal equidistant projection centered on the North Pole, inscribed in a wreath consisting of crossed conventionalized branches of olive tree; in gold on a field of smoke-blue with all water areas in white.

The General Assembly adopted this design as the emblem and distinctive sign of the U.N., and authorized its use as the official seal of the U.N. Members were asked to take legislative or other appropriate action to prevent the unauthorized use, in particular for commercial purposes, of the emblem, the official seal, and the name of the United Nations and of abbreviations of that name through the use of its initial letters.

The International Court of Justice

The question of the terms upon which Switzerland, having indicated a desire to do so, might become a party to the Statute of the International Court of Justice was discussed by the Assembly. By Article 93(2) of the Charter, the General Assembly determines, on the recommendation of the Security Council, the conditions upon which a state not a Member of the U.N. may become a party to the Statute. In this instance, the General Assembly, on the recommendation of the Security Council and the Legal Committee, required that Switzerland deposit with the Secretary-General an instrument, duly ratified in accordance with Swiss constitutional law, containing:

> (a) an acceptance of the provisions of the Statute of the Court;
>
> (b) an acceptance of all the obligations of a Member of the U.N. under Article 94 of the Charter (concerning compliance with the decisions of the Court);
>
> (c) an undertaking to contribute to the expenses of the Court such equitable amount as the Assembly may determine after consultation with the Swiss Government.

A second item affecting the Court turned on the meaning of the word "meeting" as it appears in Articles 11 and 12 of the Statute of the Court. Article 8 of the Statute provides that the General Assembly and the Security Council shall proceed "inde-

pendently of one another" to elect the members of the Court. Article 11 provides that if, after the first "meeting" held for this purpose, one or more vacancies remained to be filled, a second, and if necessary a third, "meeting" will be held for the purpose. Article 12 adds that if three "meetings" do not result in the filling of all vacancies, a joint conference between three representatives of the Assembly and three representatives of the Security Council will proceed to fill the vacancies by majority vote.

Differences of opinion arose at the London session of the Assembly as to the meaning of the word "meeting", some delegates holding the view that a meeting must be regarded as concluded as soon as the first ballot is taken. To resolve these differences, the General Assembly, on the recommendation of the Legal Committee, adopted a new provisional rule of procedure for the Assembly, designed to make it clear that any "meeting" held by the Assembly under Articles 11 and 12 of the Statute is deemed to continue (with as many adjournments as necessary) until as many candidates as are required to fill all the vacancies have received an absolute majority of votes. This was the League of Nations practice and was regarded by the Legal Committee as in accordance with the letter and spirit of the Charter. However, since the Security Council was also concerned, the adoption of the new rule was made conditional on the adoption of a corresponding rule by the Security Council.

At one stage the United Kingdom delegation had recommended that this question be referred to the International Court itself for an advisory opinion. However, since there was no disagreement within the Legal Committee as to the meaning of the word, and as the matter was essentially one of procedure, the Legal Committee did not regard it as necessary or desirable to ask the Court for an advisory opinion.

Article 96 of the Charter authorizes the General Assembly and the Security Council to request the International Court to give an advisory opinion "on any legal question". The same article empowers the Assembly to authorize other organs of the U.N. and the specialized agencies to request advisory opinions of the Court on "legal questions arising within the scope of their activities". Under this Article the Assembly, on the recommendation of the Legal Committee, unanimously adopted a resolution authorizing the Economic and Social Council to seek the advice of the Court. The Legal Committee also advised the Economic and Social Committees, at their request, that there was no legal obstacle to including in the agreements concluded

between the Economic and Social Council and the specialized agencies clauses conferring on the agencies a right of referring legal problems to the Court. As a result the Assembly approved the inclusion of these clauses in the agreements with the specialized agencies.

It was the consensus, within the Legal Committee, that this action would have the effect of extending and strengthening the rule of law in international affairs, and that the Council and the agencies would make good use of the right of reference. The action taken was strongly supported by the Canadian representative, and was in line with the introductory address of the Chairman of the Canadian delegation and with the position taken by Canada at meetings of the Economic and Social Council.

The Terms of Office of Members of Councils

The General Assembly unanimously agreed, on the recommendation of the Legal Committee, that the terms of office of the non-permanent members of the Councils should be from January 1 to December 31 in the appropriate year. The Provisional Rules of Procedure of the Assembly were amended accordingly. It was recognized that this change would mean a loss of several days' tenure of office on the part of Members elected to the Security Council and the Economic and Social Council on January 12 or 14, 1946. However, it was felt that the terms of office should be regularized as soon as possible on the basis of the calendar year, and it was noted that the maxim "de minimis non curat lex" was common to most legal systems.

The Privileges and Immunities of International Organizations

The privileges and immunities to be accorded by Members to international organizations and their staffs were considered by the Legal Committee and the General Assembly in four aspects: the general convention on the privileges and immunities of the U.N., the position of the International Court of Justice, the arrangements concluded with the Swiss Federal Council in respect of the privileges of the U.N. in Switzerland (including the agreement with the Swiss Confederation in respect of the Ariana site), and the draft agreement between the U.N. and the United States made necessary by virtue of the decision to establish the seat of the U.N. in the United States.

The Secretary-General reported that, while several Members had indicated that authority was being sought to enable them to accede to the general convention on the privileges and immunities

of the U.N., only one Member, the United Kingdom, had as yet actually acceded. The General Assembly noted this report and adopted a resolution inviting Members to accede to the convention as soon as possible, and recommending that until Members had acceded they should follow as closely as possible the provisions of the general convention. (It is provided in the convention that before an instrument of accession is deposited by a Member, that Member should be in a position under its domestic law to give effect to the terms of the convention, so that legislation has to precede accession.)

The Legal Committee also considered the privileges and immunities required by the International Court of Justice for the proper discharge of its functions. The Secretary-General, by an Assembly resolution of February 13, 1946, had been charged with the duty of considering the problem and of making recommendations to the Assembly. The Legal Committee examined the report of the Secretary-General, which was prepared with the assistance of the judges and registrar of the Court. The Committee's views, which were incorporated in a resolution of the General Assembly, included a recommendation that the members and registrar of the Court should enjoy every facility to enter and leave any country where the Court is sitting, a recommendation that officials should enjoy in any country where they may be on the business of the Court such privileges, immunities and facilities as may be necessary for the independent exercise of their functions and a recommendation that Members of the U.N. should recognize the U.N. *laissez-passer* issued by the Court to its members and registrar.

The Legal Committee also considered the Secretary-General's report on negotiations with the Swiss Federal Council which contained interim arrangements on the privileges and immunities of the U.N. in Switzerland and an agreement on the Ariana site. These instruments were drawn up by the Swiss Federal Council and the Negotiating Committee of the U.N. and came into force on July 1, 1946. The Secretary-General's report also contained a review of later discussions and the text of two letters from the head of the political department of the Swiss Federal Council, dealing with the interim arrangements and with radio facilities for the U.N. The Legal Committee expressed the hope that assurances concerning the transfer to the U.N. of wave-lengths previously registered for Radio-Nations would be received shortly from the Swiss authorities. On this basis, the General Assembly approved the arrangements already concluded with the Swiss Federal Council.

The General Assembly in London had adopted, as a basis for discussion in negotiations with the United States, a draft convention between the U.N. and the United States setting forth the facilities, privileges and immunities to be granted to the U.N. by the United States as a result of the choice of the United States as the site of the U.N. The Assembly had also appointed a committee to negotiate the convention with the United States.

The report of this negotiating committee envisaged the establishment of the permanent headquarters in a rural site. Its recommendations therefore required revision in the light of the Assembly's decision of December 14, 1946, to establish the headquarters in New York City. Under these circumstances, the Assembly authorized the Secretary-General to negotiate an agreement with the appropriate authorities of the United States of America concerning the arrangements required as the result of establishing the headquarters in New York, the Secretary-General to be guided in principle by the recommendations of the negotiating committee. He was also authorized, pending the conclusion of the agreement, to determine in consultation with the United States authorities, on a provisional basis, the privileges, immunities and facilities required for the U.N.

India's Complaint Against South Africa

The Indian Government on June 22, 1946, requested that the question of the treatment of Indians in the Union of South Africa be included in the agenda of the Assembly. The Indian Government claimed that, under South African legislative and administrative measures, Indians were discriminated against on grounds of their race; amongst the disabilities were the lack of the franchise, restrictions of the rights of ownership and occupation of property, restrictions on trading, on employment in public services and on travel, and lack of educational facilities; the discriminations had reached their climax in the passage in 1946 of the Asiatic Land Tenure and Indian Representation Act, the result of which was the complete segregation of Asiatics as regards both trade and residence; the passage of this act constituted a unilateral repudiation by South Africa of the Capetown Agreement concluded between the two governments in 1927 and of the joint statement of 1932 renewing it; the reactions in India to these measures had been so serious that the Government of India had had to give notice of the termination of the trade agreement between the two countries and to recall the Indian High Commissioner for consultation. The Indian Government

concluded by stating that a situation had thus arisen "which is likely to impair friendly relations between India and South Africa and, under Articles 10 and 14 of the Charter, is submitted for the consideration of the General Assembly".

India's complaint was referred to a Joint Committee of the Political and Legal Committees, on which each member of the Assembly was represented.

India requested approval of a resolution under which the Assembly would state that South Africa's "discriminatory treatment of Asiatics in general and Indians in particular on the grounds of their race constitutes a denial of human rights and fundamental freedoms and is contrary to the Charter" and that the Assembly therefore considers that the South African Government "should revise their general policy and their legislative and administrative measures affecting Asiatics in South Africa, so as to bring them into conformity with the principles and purposes of the Charter, and requests the Union Government to report at the next session of the General Assembly the action taken by them in this behalf".

In presenting this resolution the Indian representative, Mrs. Pandit, stated that the actions of South Africa against which India complained constituted a violation of the provisions of the Charter which, in its preamble, reaffirmed "faith in fundamental human rights" and expressed a determination "to promote social progress and better standards of life in larger freedom". It also ran counter to the resolution recently adopted unanimously by the Assembly regarding the abolition of racial and religious persecutions and discrimination.

In reply, the South African representative, Field-Marshal Smuts, contended that paragraph 7 of Article 2 of the Charter provided that (subject to three exceptions) a state, within the domain of its domestic affairs, was not subject to control or interference and its actions could not be called in question by any other state. The first exception was the imposition of sanctions by the Security Council. A second exception was to be found in treaty obligations but the so-called Capetown Agreement of 1927 and the joint communique of 1932 were not instruments giving rise to treaty obligations. A third exception to the rule of domestic jurisdiction might be violations of such elementary human rights and fundamental freedoms as the right to exist, the right to freedom of conscience and freedom of speech and the right of free access to the courts. The Government of South Africa, however, denied that it had in any way infringed any of these elementary human rights.

South Africa therefore proposed that the Assembly should ask the International Court of Justice for an advisory opinion on the question whether India's complaint was concerned with matters which, under paragraph 7 of Article 2 of the Charter, were "essentially within the domestic jurisdiction" of South Africa.

The presentation of these two proposals gave rise to a long and, at times, acrimonious debate which lasted for six sessions of the joint committee. It was not surprising that representatives of countries, whose peoples are not Europeans or descended in the main from European stock, took advantage of the debate to make clear their hatred of racial discriminations.

Towards the end of the debate South Africa withdrew its resolution in favour of one introduced by the United States, the United Kingdom and Sweden, and India withdrew its resolution in favour of a resolution introduced by France and Mexico.

The U.S.-U.K.-Swedish resolution read as follows:

> The General Assembly
>
> Having taken note of the application made by the Government of India regarding the treatment of Indians in the Union of South Africa and having considered the matter, is of the opinion that since the jurisdiction of the General Assembly to deal with the matter is in doubt and since the questions involved are consequently of a legal as well as of a factual nature, a decision based on authoritatively declared juridical foundations is the one most likely to promote realization of those purposes of the Charter to the fulfilment of which all Members of the Organization are pledged as well as to secure a lasting and mutually acceptable solution of the complaints which have been made.
>
> The Assembly therefore resolves that
>
> The International Court of Justice is requested to give an advisory opinion on the question whether the matters referred to in the Indian application are, under article 2, paragraph 7 of the Charter, essentially within the domestic jurisdiction of the Union.

The French-Mexican resolution read as follows:

> The General Assembly
>
> Taking note of the application made by the Government of India regarding the treatment of Indians in the Union of South Africa, and having considered the matter:
>
> 1. States that, because of that treatment, friendly relations between the two Member States have been impaired and, unless a satisfactory settlement is reached, these relations are likely to be further impaired;
>
> 2. Is of the opinion that the treatment of Indians in the Union should be in conformity with the international obligations under the agreements concluded between the two Governments and the relevant provisions of the Charter;

3. Therefore requests the two Governments to report at the next session of the General Assembly the measures adopted to this effect.

In supporting the resolution of the United States, the United Kingdom and Sweden, Field-Marshal Smuts stated that the South African Government had consented to the matter being referred to the International Court. It would agree to that reference being enlarged to include the facts as well as the law. If the Court wished, it could send a commission of enquiry to South Africa so as to establish the true facts in order to arrive at its determination of the law.

The Indian delegation, however, stated that, while it would be prepared to consider a suggestion from Field-Marshal Smuts that the General Assembly appoint a commission to conduct enquiries in South Africa, the Indian delegation was of the opinion that it would be a great mistake to permit the International Court to become involved in political issues.

The joint committee adopted the French-Mexican proposal by twenty-four votes to nineteen (including Canada), with six abstentions.

When the matter came before the Assembly, the U.S.-U.K.-Swedish resolution was moved as an amendment to the French-Mexican proposal. The amendment was rejected by twenty-one votes for (including Canada), thirty-one against, and two abstentions. Of the Latin-American republics, eight voted for the amendment, eleven against, and one abstained. The Western European and Scandinavian countries were divided; Belgium, Denmark, Luxembourg, the Netherlands and Sweden voted for the amendment; France, Iceland and Norway against. The United States and the nations of the British Commonwealth, with the exception of India, voted for the amendment; China, the five Arab states, Iran, India, the U.S.S.R. and the five Eastern European states against.

The French-Mexican proposal was then carried by a vote of thirty-two for, fifteen against (including Canada), and seven abstentions.

The Canadian position was made clear in the statement made by the Canadian representative to the joint committee on November 25, 1946.[1]

Rights and Duties of States

The delegation of Panama submitted to the Assembly for consideration a draft declaration of the rights and duties of states.

[1] See the Canadian Bar Review for January (1947), 25 Can. Bar Rev. 65.

In submitting this draft declaration, Dr. Alfaro, the chairman of the Panamanian delegation, stated that he had attempted to embody in it the cardinal principles of a number of previous drafts. Thus nine of the first ten articles were based on the declaration of the American Institute of International Law published in 1916 or on the Convention of Montevideo on the Rights and Duties of States agreed to in 1933. Ten of the last thirteen articles were based on the ten principles set forth in "The international law of the future" drawn up by a group of North American lawyers in 1942 and 1943.

The Assembly decided that the Members of the U.N. and international bodies concerned with international law should be requested to submit their comments and observations on this draft declaration before June 1, 1947. The draft, together with these comments and observations, will be referred to the committee which has been established by the Assembly to study the methods by which the Assembly should carry out the obligation laid upon it by Article 13 of the Charter to encourage "the progressive development of international law and its codification". The committee will present a report on the draft declaration to the 1947 session of the Assembly and the matter will be included in the agenda of that session.

INTERNATIONAL CIVIL AVIATION ORGANIZATION

The aims and objectives of the Organization are to develop the principles and techniques of international air navigation and to foster the planning and development of international air transport so as to :

(a) Ensure the safe and orderly growth of international civil aviation throughout the world;

(b) Encourage the arts of aircraft design and operation for peaceful purposes;

(c) Encourage the development of airways, airports, and air navigation facilities for international civil aviation;

(d) Meet the needs of the peoples of the world for safe, regular, efficient and economical air transport;

(e) Prevent economic waste caused by unreasonable competition;

(f) Ensure that the rights of contracting States are fully respected and that every contracting State has a fair opportunity to operate international airlines;

(g) Avoid discrimination between contracting States;

(h) Promote safety of flight in international air navigation;

(i) Promote generally the development of all aspects of international civil aeronautics. (Article 44 of the Convention on International Civil Aviation)