jected to by one or more of the parties to the Convention but not by others?

2. If the answer to the first question is in the affirmative, what is the effect of the reservation as between the reserving state and:

(a) the parties who object to the reservation,
(b) those who accept it?

3. What would be the legal effect as regards the answer to question (1) if an objection to a reservation is made:

(a) by a signatory which has not yet ratified,
(b) a state entitled to sign or accede but which has not yet done so?

The resolution also proposed that the International Law Commission be invited in the course of its work on the codification of the law of treaties "to study the question of reservations to multilateral conventions both from the point of view of codification and from that of the progressive development of international law." Priority is to be given to the study and a report is to be presented which can be considered by the General Assembly at its sixth session.

In the meantime the rules at present followed by the Pan American Union are to be reconsidered in order to meet the new conditions which have come about since the adoption of the resolution of the Lima Conference.

C. G. FENWICK

THE SECOND SESSION OF THE INTERNATIONAL LAW COMMISSION

The International Law Commission held its second session in Geneva from June 5 to July 29, 1950.[1] Two members were absent and the Soviet member, Professor Koretsky, withdrew when the Commission refused to exclude the member who was a national of China. The Chairman ruled, and was upheld by the Commission, that Mr. Koretsky's proposal was out of order since the members of the Commission serve in a personal capacity and not as representatives of governments. Professor Georges Scelle was elected Chairman.

On the agenda were several topics, the treatment of which can only be briefly noted here. The General Assembly had asked the International Law Commision to formulate the principles of international law recognized in the Charter and in the judgment of the Nürnberg Tribunal. The Commission took the view that its task was not to express any appreciation of the Nürnberg principles as principles of international law, but merely to formulate them in accordance with instructions. Seven principles were stated and were referred back to the General Assembly.

[1] For report of the Commission on its second session, see this JOURNAL, Supp., Vol. 44 (1950), p. 105.

Reports were made upon the subject of International Criminal Jurisdiction by Mr. Sandström, who thought that an international judicial organ for this purpose was not desirable, and by Mr. Alfaro, who regarded it as possible and desirable. The Commission voted 8–1 with two abstentions that such a court was desirable, and 7–3 with one abstention that it is possible. It was decided not to recommend a Criminal Chamber of the International Court of Justice.

In the preparation of a Draft Code of Offenses Against the Peace and Security of Mankind, which had been requested by the General Assembly, the Commission thought that the term should be limited to offenses which contain a political element and disturb peace and security, omitting such offenses as piracy or counterfeiting; it limited the subject also to the criminal responsibility of individuals. Until an international court should be established, implementation would have to be achieved through the action of states. The provisional draft was referred to the Rapporteur (Spiropoulos) for report to the next session.

It will be recalled that the Commission itself had decided to work first upon three subjects of international law: the Law of Treaties (Brierly, Rapporteur); Arbitral Procedure (Scelle); Régime of the High Seas (François). On the first topic, the Commission limited itself to general discussion of a few problems.

Professor Scelle in his report on Arbitral Procedure concentrated his effort toward making a code which would close the loopholes through which states have been able to evade obligations to arbitrate. In general, he sought an international body which should have authority to interpret compromissory clauses, assure the presence of arbitrators, take provisional measures, etc. Following a careful discussion, the draft was returned to the rapporteur (Why are they called "*special* rapporteurs?") for revision and report to the next session.

Discussion of the Régime of the High Seas was confined mostly to the topics which should be included in a code. The Commission decided that it could not codify all of maritime law and agreed upon some topics to be studied and reported at the next session by Mr. François. Of current interest are the views of the Commission with regard to the "Continental Shelf" doctrine. It held that the sea-bed and sub-soil were subject to the jurisdiction of littoral states, but that the waters above remain under international law. The views expressed were not dependent upon the presence of a "continental shelf" but were based rather upon proximity.

Finally, a detailed and useful report was presented by Mr. Hudson upon "Ways and Means for Making the Evidence of Customary International Law Readily Available." The Commission recommended that the Secretariat publish a number of series and collections of materials and that governments should publish digests of, and materials relating to, international law from their own practice.

It cannot be said that this was a very fruitful session. A useful recommendation was reached regarding the means of making more readily available the evidence of customary international law, and the two tasks set for the Commission by the General Assembly were completed, though they leave the impression that the Commission had its tongue in its cheek in doing so. It would not be fair to criticize the fact that none of the three topics of international law were completed, since the Commission had to spend some of its time on other tasks and in any case should take ample time for such studies. It does, however, seem that criticism could be made of the reports submitted. There had been no preliminary discussion by the Commission as to how the topics should be handled; each rapporteur was left to his own devices. As a result, each report was individualistic in approach, covering what the rapporteur was interested in; none of the reports was a planned basis for discussion of the whole subject.

It is still a puzzling problem how the Commission can be best organized and staffed to accomplish its purposes. Its financial needs were again debated in the 5th Assembly, and the *per diem* of members was increased. A number of members are at the same time delegates of governments having other duties and sometimes being unable to attend meetings of the Commission. One may also suggest that the Commission has shown little interest in the current needs of international law; the only such topics were those imposed upon it by resolutions of the General Assembly. This, however, raises the question whether new law should be developed—*e.g.*, a law of aviation—by the International Civil Aviation Organization or by the International Law Commission.

The International Law Association at its meeting in Copenhagen in August, 1950, adopted a resolution submitted by the American Branch which makes the following recommendations:

1. That the General Assembly, at the next election of members of the International Law Commission, should select independent experts in preference to persons whose time is limited by their duties as representatives of their governments at the United Nations.

2. That the staff work for the Commission be done in the Division for the Development and Codification of International Law of the Secretariat, for which additional staff should be authorized by the General Assembly.

3. That in the selection of topics to be considered by the International Law Commission, whether as "development" or as "codification," more attention than has been given to them should be paid to new topics concerning which customary law has not yet been adequately developed.

4. That, where there is sufficient precedent or usage, topics should be considered by the Commission under the procedure for "codification" rather than under the procedure for "development"; and that texts considered as "codification" should not usually be submitted for adoption by the General Assembly or by states.

5. That the International Law Commission should study the methods by which it could be put into effect that a state would be obligated by a legislative treaty approved and submitted by the General Assembly unless it formally rejected the convention within a stated period of time.

CLYDE EAGLETON

COLD WAR PROPAGANDA

Coincident with the outbreak of the "cold war" the Soviet Union began a series of propagandistic attacks on the United States, its leaders and its policies, using every medium of communication for this purpose, but with special emphasis on radio propaganda. For some time the United States Government suffered these attacks to go unanswered, but in February, 1947, the "Voice of America" began to include among its other foreign programs regular broadcasts in Russian to the Soviet Union.[1] At first these programs were confined almost entirely to music and straight news reports, but gradually more and more time was devoted to answering Soviet attacks considered hostile to the United States or harmful to its national interests.[2]

In retaliation Moscow, on April 24, 1949, embarked on a vast effort to jam the American programs, and is at present devoting over 1000 broadcasting stations to this single purpose.[3] The American Government protested through diplomatic channels and to the International Telecommunications Union against this jamming campaign.[4] Furthermore, jamming was condemned by the United Nations Sub-Commission on Freedom of Information and of the Press at its Montevideo meeting in May, 1950, as a violation of accepted principles of freedom of information.[5] Also, the Economic and Social Council, at its eleventh session, held in Geneva during the summer of 1950, adopted a resolution recommending to the General Assembly that it call on all Members to refrain from jamming.[6]

It is submitted that the American Government was fully justified, morally and legally, in thus embarking upon a campaign of radio broadcasts destined for the Soviet Union. The only thing to deplore with re-

[1] New York Times, Feb. 2 and 16, 1947. Discussed in Radio, Television and Society, by Chas. A. Siepmann (New York, 1950, 302 pp.).

[2] Clucas, "Piercing the Iron Curtain," Yale Review, Vol. 39 (Summer, 1950), pp. 603 ff.

[3] *Ibid.*; New York Herald Tribune, Nov. 18, 1950.

[4] Department of State Bulletin, Vol. XX, No. 515 (May 15, 1949), p. 638.

[5] *Ibid.*, Vol. XXII, No. 571 (June 12, 1950), p. 954.

[6] U.N. Doc. E/1827, pp. 1–2. Acting on this recommendation, the General Assembly adopted on December 14, 1950, a resolution condemning "measures of this nature (jamming) as a denial of the right of all persons to be fully informed concerning news, opinions and ideas regardless of frontiers." Furthermore, it invited all Member Governments to refrain from such interference and called on them "to refrain from radio broadcasts that would mean unfair attacks or slanders against other peoples anywhere and in so doing conform strictly to an ethical conduct in the interest of world peace, by reporting facts truly and objectively." U.N. Doc. A/1746, Dec. 18, 1950; United Nations Bulletin, Vol. X (Jan. 1, 1951), pp. 14, 79.