DOCUMENT No. 463
March 20, 1963

THE MARITIME LAW ASSOCIATION
OF THE UNITED STATES

SPECIAL REPORT OF THE BILL OF LADING COMMITTEE

REVISION OF THE HAGUE RULES

Introduction

The Hague Rules were originally prepared by the Comité Maritime International (CMI) and take their name from the Plenary Conference of the CMI at the Hague in 1923, at which they were approved and recommended to the Diplomatic Conference for adoption as an International Convention. They were approved by the Diplomatic Conference at Brussels August 25, 1924, and have since been ratified or enacted as domestic legislation by a large number of countries. Some countries made their own special amendments when accepting the Hague Rules and some made the Rules applicable to inward shipments as well as outward ones.

The United States of America, when ratifying the Hague Rules, took exception to Article IX, the Gold Clause, the purpose of which was to maintain uniformity of the limitation amount of £100 per package or shipping unit. The United States Carriage of Goods by Sea Act, approved April 16, 1936, consequently provided that the limitation amount should be $500 U. S. currency. That Act also changed the limitation system for unpackaged goods, substituting the "customary freight unit" for the shipping "unit". Many other countries which had also taken their currencies off the gold standard rejected the Gold Clause in one way or another. Its effect is in doubt in England and an ingenious private arrangement has been made among underwriters there substituting £200 of present currency for £100 Sterling. This agreement may be found in Scrutton, 16th Edition, p. 575.

Interpretations of the Hague Rules by the courts of the various Hague Rules countries have also over the years developed substantial differences in the effect of the Rules in different countries.

The most striking difference in the effect of the Rules is the disparity which has developed in connection with the limitation amount. In England, for instance, the limitation amount is still £100 but its value has fallen to U. S. $280. Other limitation amounts vary, in terms of U. S. money, from $189 to $552. The possibility of a conflict of law developed in connection with a shipment from a Hague Rules country to another country which applies the Rules to inward shipments. For instance, in the case of a shipment from England to the United States, the English Water Carriage of Goods Act fixes the limitation at £100 (U. S. $280), while the United States Carriage of Goods by Sea Act fixes it at $500, and both Acts, by their own terms, apply to such a shipment.

In May, 1959, the Sub-Committee on Conflict of Laws of the CMI raised the question whether the CMI should prepare and recommend to the Diplomatic Conference a set of rules which would prescribe beyond the possibility of dispute which law should apply under all circumstances. This proposal was circulated for comment by the National Associations which are members of the CMI. At the same time, the Sub-Committee pointed out that there were a number of other questions needing attention, and suggested that, rather than developing a set of conflict of law rules, the state of the jurisprudence of each Hague Rules country be studied and amendments to the Hague Rules be prepared which would eliminate the differences.

In this posture, the matter came before the Plenary Conference of the CMI, held at Rijeka in September, 1959. It was there unanimously decided to solve certain English, French and Italian problems, and, by a vote of 19-5, the United States delegation being in opposition, to study the other questions which had been mentioned and any others which might be brought up.

The amendment to the Hague Rules adopted at the Rijeka Conference is the replacement of Article X of the Hague Rules with the following:

> "The provisions of this Convention shall apply to every bill of lading for carriage of goods from one State to another, under which bill of lading the port of loading, of discharge or one of the optional ports of discharge, is situated in a Contracting State, whatever may be the law governing such bill

of lading and whatever may be the nationality of the ship, the carrier, the shipper, the consignee or any other interested person."

The name of the Sub-Committee was changed to the "Sub-Committee on Bill of Lading Clauses" and it will herein be referred to simply as "the Sub-Committee". The Chairman of the Sub-Committee is Hon. Kaj Pineus, President of the Swedish Maritime Law Association and a Swedish average adjuster, of whom there are two, appointed by the Crown.

The matter has been studied by correspondence and in Sub-Committee meetings. The result of the deliberations of the Sub-Committee was a document entitled in French and English, "Report of the International Sub-Committee on Bill of Lading Clauses," dated March 30, 1962. Through the kindness of the CMI, enough copies of this document were made available to The Maritime Law Association of the United States so that it was possible to distribute a copy to each of our members, and this was done under cover of Document No. 459, dated October 15, 1962.

Your Committee's Report contained in Document No. 459 solicited the comments of the members of the Association for your Committee's guidance in preparing its final report and recommendations. The comments received consisted of three letters, one in opposition to any extension of the Hague Rules to protect stevedores or independent contractors, as would be accomplished by Recommendation No. 5 of the Sub-Committee, the second supporting Recommendation No. 1 of the Sub-Committee, in opposition to the imposition of liability upon a carrier where the shipper loads or discharges the cargo, and the third merely endorsing the second.

In view of the fact that possible revisions of the Hague Rules other than Article X were under study by the Sub-Committee, the Bureau Permanent of the CMI, which is the governing body between meetings, decided to defer sending to the Diplomatic Conference the amendment to Article X, which had been agreed upon at Rijeka. There will, therefore, be a recommendation to the Diplomatic Conference of that amendment, and any other amendment which the CMI decides to propose will be sent along with it. This fact makes it unnecessary to consider whether or not any particular other amendment or group of amendments is of sufficient importance to justify

asking the Diplomatic Conference to consider amending the Hague Rules at this time.

The United States delegation to the Plenary Conference of the CMI to be held at Stockholm from June 9 to 16, 1963, will have to be instructed by the Association at the Annual Meeting in May. The recommendations of the Sub-Committee do not foreclose any possibility that other subjects may be brought up, and it will, of course, also be open to the Conference to amend the proposals which have been put forward by the Sub-Committee and to reject any of them in whole or in part. Your Committee therefore recommends that the Association at the annual meeting in May give the broadest possible authority to the Association's delegation so as to put the delegation in a position of being able effectively to represent our Association and the interests of the United States.

It is your Committee's recommendation, by a vote of 9 to 4, that our Association's delegation be instructed as to the position which our Association would like to see taken with respect to each of the points discussed below and also that the delegation be empowered by a majority vote of the members of the delegation present at any regular delegation meeting to vote for or against any amendment of the Hague Rules discussed at the Conference not inconsistent with the tenor of this report in the form approved by the Association.

The Sub-Committee examined proposals for amendment of the Hague Rules with respect to 24 different questions. The final report of the Sub-Committee recommended positive action with respect to six of those subjects, mentioned one more subject with an indication that it might be considered necessary if the United States did not enact legislation which was then under consideration, recommended against any action with respect to 16 more subjects, and placed one subject under further investigation with the probability that it will be brought up for discussion and possible action at the Stockholm Conference. Your Committee is in agreement with the Sub-Committee's recommendation against action on any of the 16 subjects examined and rejected, and in the interest of saving time those subjects will not be mentioned in this report. The other subjects will be taken up with the numbers assigned to them by the Sub-Committee.

1. CARRIER'S LIABILITY FOR NEGLIGENT LOADING, STOWAGE OR DISCHARGE OF THE GOODS BY THE SHIPPER OR CONSIGNEE. (Art. III (2)).

The Sub-Committee proposes that Art. III (2) be amended to read as follows:

> "(2) In so far as these operations are not performed by the shipper or consignee the carrier shall, subject to the provisions of Article IV properly and carefully load, handle, stow, carry, keep, care for and discharge the goods carried."

Your Committee feels that the scope of the proposed clause is too broad and might lead to difficulty. The purchaser of a bill of lading may not know whether the loading of the goods was carried out by the shipper or by the carrier, and your Committee considers that for the good of international commerce the effectiveness of bills of lading should not be diminished by an amendment such as that proposed.

It is quite common in voyage chartering to provide that cargo shall be loaded at the risk and expense of the shipper or that it shall be discharged at the risk and expense of the consignee, and frequently both of these provisions are included in a single charterparty, often referred to as "free in and out" or "F.I.O." In the opinion of your Committee such clauses are not in violation of the Hague Rules, and sufficiently protect the carrier against ultimately having to bear a loss due to the negligence of the shipped or receiver in loading or discharging the goods.

Your Committee recommends that the Association disapprove this amendment.

However, your Committee would not object to an amendment clearly limiting the Carrier's freedom from liability to the extent of damage done by the shipper or consignee to his own cargo, if the bill of lading is so claused as to put a purchaser thereof on notice of the fact that the shipper is to load or the consignee is to discharge. Your Committee considers that such a result could be obtained by amending Article III (2) to read (new matter in italics):

> "Subject to the provisions of Article 4, the carrier shall properly and carefully load, handle, stow, carry, keep, care

for, and discharge the goods carried, *provided, however, that if the shipper or consignee performs any of such operations and the bill of lading so states, the carrier shall not be liable for loss or damage to that shipper's or consignee's goods due to the negligent performance of such operation.*"

Your Committee recommends that the Association's delegation to the Stockholm Conference be instructed to support an amendment to Article III (2) substantially in the form last above set forth.

2. NOTICE OF CLAIM. (Art. III (6), first paragraph).

The majority of the Sub-Committee recommends that Art. III (6), first paragraph, be amended by adding the words appearing in italics below:

"Unless * * * (no change) * * * within three days, such removal shall be prima facie evidence of the delivery by the carrier of the goods as described in the bill of lading *but shall have no other effect on the relations between the parties.*"

This amendment would be in accordance with the United States interpretation of the Hague Rules as they presently stand. Under the jurisprudence of Germany, and perhaps some other countries, Art. III (6) has been interpreted to place upon the consignee the burden of proof in all respects including, for instance, proof of the lack of exercise of due diligence in making the ship seaworthy, if goods are removed against a clean receipt and no notice given within 3 days. The purpose of the amendment is to eliminate this lack of uniformity and, as already noted, it would not affect the law of the United States.

Your Committee recommends that this amendment be approved by our Association.

3. TIME LIMIT IN RESPECT OF CLAIMS FOR WRONG DELIVERY. (Art. III (6), third paragraph).

The majority of the Sub-Committee recommends that there be added to Art. III (6), third paragraph, the words shown in italics

below, so that the paragraph would read as follows (new words in italics):

> "In any event the carrier and the ship shall be discharged from all liability in respect of loss or damage unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered; *provided that in the event of delivery of the goods to a person not entitled to them the above period of one year shall be extended to two years from the date of the Bill of Lading.*"

Your Committee considers that such an extension of time to sue is not necessary, since the one-year limitation of time to sue is so well known that suit is almost always brought in one year. The consignee usually would not know whether the goods had been lost or wrongly delivered and would not delay suing in reliance on a belief that the goods had been wrongly delivered. In addition, your Committee fears that the adoption of such an amendment would in some cases foment litigation by encouraging disputes as to whether cargo had been lost or wrongly delivered.

Your Committee therefore recommends that our Association disapprove this amendment.

During the deliberations of the Sub-Committee, it was pointed out that sometimes original bills of lading are lost or mislaid, making it necessary to deliver the goods against a letter of indemnity supported by a bank guaranty or other security. It was further pointed out that it is not safe for a carrier to release the letter of indemnity and its security until the expiration of any possibly applicable statute of limitations and that the maintenance of the security may be a substantial burden on the consignee. The suggestion was well received by the Sub-Committee but no action was taken on it, attention being focussed on the special problem of allowing an extra year for suit in cases of delivery to a person not entitled to the goods.

The Swedish Maritime Law Association, in its report dated December 14, 1962, has revived this proposal and recommended that the third paragraph of Art. III (6) be amended to read (words to be stricken in cancel type and new words in italics):

> "In any event ~~the carrier and the ship shall be discharged from all liability in respect of loss or damage~~ *all rights under*

the bill of lading shall cease unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered."

Your Committee agrees in substance with this proposal but fears that the language used might be interpreted to prohibit any extension of time even by mutual agreement. Your Committee feels that it would be preferable to stay closer to the present language, which has already been interpreted to permit such extensions of time, for instance, by using the following language:

"In any event the carrier and the ship shall be discharged from all liability in respect of ~~loss or damage~~ *the goods* unless suit is brought within one year after delivery of the goods or the date when the goods should have been delivered."

Your Committee recommends that our Association's delegation to the Stockholm Conference be instructed to support this proposal, substantially in the form last above set forth.

4. GOLD CLAUSE. RATE OF EXCHANGE, UNIT LIMITATION. (Art. IV (5) and IX).

As already noted in the introductory remarks of this report, the unit limitations of the various Hague Rules countries are no longer standardized as they were when the Hague Rules were first made effective. The Brussels Convention of 1924 contained a Gold Clause (Art. IX), the purpose of which was to maintain standardization of the limitation amount, even if currencies fluctuated. In the 1930's, gold became generally rejected as the basis for national currencies and in various ways gold ceased to be used as a basis for maintaining the parity of limitation amounts. In the case of the United States, gold was specifically rejected both in ratifying the Convention and in the enactment of the Carriage of Goods by Sea Act. The majority of the Sub-Committee recommends the following:

"1) Article IX be struck out

2) Article IV (5) should read as follows:

'Neither the carrier nor the ship shall in any event be or become liable for any loss or damage to or in connec-

tion with the goods in an amount exceeding the equivalent of 10,000 francs per package or unit, each franc consisting of 65.5 milligrams of gold of millesimal fineness 900, unless the nature and value of such goods have been declared by the shipper before shipment and inserted in the Bill of Lading.'

This declaration * * * (no change) * * * on the carrier.

By agreement * * * (no change) * * * above named.

Neither the * * * (no change) * * * of lading.

'The date of conversion of the sum awarded into national currencies shall be regulated in accordance with the law of the court seised of the case.'

3) the status quo be retained in respect of 'package and unit'."

The franc defined above is the so-called "Poincaré Franc", an artificial unit developed for the purpose of maintaining a parity of limitation amounts. This method was accepted by the United States in connection with the Warsaw Convention, dealing with liability of air carriers, and has proved practical and successful in practice. Your Committee sees no reason why the system should not be equally practical and successful in connection with the Hague Rules, and recommends that it be accepted. The proposed new limitation of 10,000 Poincaré Francs is a convenient round figure, equal at present to about U. S. $662 and is higher than any existing Hague Rules limitation.

Your Committee therefore considers it acceptable.

The question of the date of conversion was discussed at length in the Sub-Committee, it being the recommendation of certain European members of the Sub-Committee that the time of payment be stipulated as the date for conversion even if the time of payment should be later than the time of judgment. The European members felt that such a time for conversion, which is common practice in Europe, is fairer because it prevents a carrier from speculating on foreign exchange by delaying payment of a claim or a judgment. This proposal was opposed in the Sub-Committee by the Anglo-Saxon

delegates because under Anglo-Saxon procedural methods it is impossible to have a date for conversion subsequent to the date of judgment, the rate of conversion being a question of fact for decision by the Trial Court.

Your Committee considers the reservation with regard to the date of conversion as being harmless and, in fact, meaningless, but recommends that our Association's delegation be instructed not to object to the inclusion or exclusion of this provision.

The Sub-Committee also examined the problem of the different units for limitation purposes used in various international enactments of the Hague Rules. Although the Sub-Committee found that substantial lack of uniformity had developed, both because of differences in legislation and because of differences in interpretation, it appeared impossible to negotiate any other solution.

Your Committee recommends no action on this point.

5. LIABILITY IN TORT, THE HIMALAYA PROBLEM.

The decision of the Sub-Committee on this point is as follows:

> "In order to avoid the possibility of by-passing the contract and the legislation based on the convention the Sub-Committee recommends to the I.M.C. that the following new Article be adopted:
>
> '1) Any action for damages against the carrier, whether founded in contract or in tort, can only be brought subject to the conditions and limits provided for in this Convention.
>
> 2) If such an action is brought against a servant or agent of the carrier or against an independent contractor employed by him in the carriage of goods, such servant, agent or independent contractor shall be entitled to avail himself of the defences and limits of liability which the carrier is entitled to invoke under this Convention.
>
> 3) The aggregate of the amounts recoverable from the carrier, his servants, agents and independent contractors in the employment of the carrier, in that case,

shall not exceed the limit provided for in this Convention.

4) Nevertheless, the servant, agent or independent contractor shall not be entitled to the benefits of the above provisions if it is proved that the loss or damage resulted from an act or omission of such servant, agent or independent contractor done with intent to cause loss or damage or recklessly and with knowledge that loss or damage would probably result.'

The provisions of sub-paragraph (4) of the proposed new Article will be noted. In order to ensure that the position of a carrier is the same as a servant in such circumstances the Sub-Committee further recommends that to Article IV be added a new provision which would have no. 7 and would read thus:

'Neither the carrier nor the ship shall be entitled to the benefit of the defences and limits of liability provided for in this Convention if it is proved that the loss or damage resulted from an act or omission of the carrier himself done with intent to cause loss or damage or recklessly and with knowledge that loss or damage would probably result.' "

If a bill of lading clause claiming the benefits of the Hague Rules for the carrier's servants and independent contractors would be held by the United States Supreme Court and other final courts of appeal to be enforceable, such an amendment would not be necessary. Your Committee expresses no opinion as to whether or not such a bill of lading clause would be enforced by the courts, and nothing contained herein should be construed as indicating such an opinion.

As pointed out by the Sub-Committee, there is a current dispute between cargo and vessel interests as to whether Article III (6) of the Hague Rules ($500 per package or per customary freight unit under the U. S. Carriage of Goods by Sea Act) may properly be extended to stevedores or others. The majority of your Committee considers attempts to hold stevedores and others liable in circumstances such that the carrier cannot be held liable particularly unfair in view of the fact that the shipper has been offered a choice of freight rates, the higher rate carrying an increased limitation amount,

and he has chosen the lower rate but by suing others seeks the benefit he would have had under the higher rate. While it might be argued that the recovery in a suit against one other than the carrier is of no concern to the carrier, the practical economic fact is that the cost of judgments against such others has to be paid by the carrier in one way or another—either directly or through increased rates to stevedores, for instance—so that in fact any possibility of such a recovery is, *pro tanto,* a nullification of the protection given to the carrier under the Hague Rules.

The majority of your Committee (9 members to 4 members) agrees with the recommendation of the Sub-Committee, except that they do not approve paragraph (4) of the proposed new Article or the proposed new paragraph (7) of Article IV, and recommends that our Association's delegation be instructed to support this amendment.

It has been suggested that there is a possibility of misinterpretation of the words, "in the carriage of the goods," in paragraph 2) quoted above and **your Committee recommends that these words should be changed to, "in connection with the carrier's duties under this Act."**

6. Nuclear Damage.

The Sub-Committee recommends a new article on nuclear damage to read as follows:

> "This Convention shall not affect the provisions of any international Convention or national law which governs liability for nuclear damage."

Under ordinary principles of statutory interpretation, your Committee would not consider any such amendment to be necessary. However, in view of the fact that such an amendment was contained in the 1961 Convention on Carriage of Passengers by Sea, Art. XIV, **your Committee has no objection to including such a provision in the present amendments to the Hague Rules and recommends that our Association's delegation be instructed accordingly.**

7. Both-to-Blame.

The Sub-Committee criticized the jurisprudence of the United States under which the cargo of a vessel which is partly to blame in a collision may in effect recover half of its loss from the carrying vessel, although if that vessel was solely to blame the owner and the vessel would be exempted from liability for negligence in the navigation or management of the vessel and also for unseaworthiness if due diligence was proved to have been exercised to make the ship seaworthy before and at the beginning of the voyage. In view of the fact that at the time of the Sub-Committee's report there was pending in the United States Congress legislation to enact as the domestic law of the United States the principles of the Brussels Collision Convention of 1910, the Sub-Committee did not make any recommendation for action.

Subsequently, however, in accordance with a previous understanding with the Sub-Committee, to keep him advised of developments here, the Chairman of your Association's Committee reported to the Chairman of the Sub-Committee that the legislation had been withdrawn, and the Chairman of the Sub-Committee has circulated that report to the members of the Sub-Committee with a suggestion that Art. IV be amended to say that neither the carrier nor the ship shall be liable "directly or indirectly" for loss or damage, etc., resulting from causes for which the carrier cannot now be held liable directly. This could be done by inserting the words "directly or indirectly" after "liable" at the beginning of Art. IV (1) and after "responsible" in Art. IV (2).

From the point of view of draftsmanship, the simplicity of the approach thus proposed is appealing and your Committee has studied it sympathetically. However, your Committee is of the opinion that such an amendment would not accomplish the purpose intended in certain both-to-blame collisions because of problems of collision accounting in connection with the single liability principle of limitation of liability and the fact that fault of the carrying ship is not imputed to her cargo.

The both-to-blame collision clause widely used in bills of lading (and quoted below) is based on the principle of indemnification by cargo to the ship for money recovered for a cause for which the ship and her owners are not responsible under the Hague Rules.

Your Committee considers this approach artificial and sought diligently for a direct means to avoid this circuity but the same problems of collision accounting doomed this attempt to failure.

Your Committee has reached the conclusion that if the both-to-blame problem is to be solved by amendment to the Hague Rules, the only suitable way to do it is by amending the Hague Rules, preferably Article III (8), to provide that the both-to-blame collision clause shall not be prohibited under the Hague Rules, and, if included in a bill of lading, shall be given effect in accordance with its terms.

Accordingly, it seems to your Committee that the best means of dealing with this question is an amendment to Article III (8) of the Hague Rules to add the following paragraph:

> "A clause in a contract of carriage in substantially the following form shall, however, be valid and enforceable in accordance with its terms:
>
> > 'If the ship comes into collision with another ship as a result of the negligence of the other ship and any act, neglect or default of the Master, mariner, pilot or the servants of the Carrier in the navigation or in the management of the ship, the owners of the goods carried hereunder will indemnify the Carrier against all loss or liability to the other or non-carrying ship or her owners in so far as such loss or liability represents loss of, or damage to, or any claim whatsoever of the owners of said goods, paid or payable by the other or non-carrying ship or her owners to the owners of said goods and set off, recouped or recovered by the other or non-carrying ship or her owners as part of their claim against the carrying ship or Carrier.' "

However, your Committee is further of the opinion that the best way to eliminate the anomalous rule that a ship solely at fault is free of liability while one partly at fault is liable and bring United States law into conformity with the law of the rest of the world on this point is to ratify the Brussels Collision Convention or to enact the provisions of that Convention as United States law. Your Committee therefore would not recommend amendment of the Hague Rules on this point, if it were certain that the principles of the Brussels Collision Convention would in the near future be enacted as domestic law of the United States. However, there is the difficulty of timing.

The majority of your Committee recommends by a vote of 9 to 4 that our Association's delegation to the Stockholm Conference be instructed to support an amendment of the Hague Rules to make valid a both-to-blame clause or otherwise eliminate the difficulties of the United States both-to-blame rule, preferably as above proposed, with the understanding, however, that the CMI in reporting the proposed amendments should point out to the Diplomatic Conference that the both-to-blame amendment deals solely with a problem of United States law, and that it should be abandoned if, before the close of the Diplomatic Conference which deals with the proposed amendments to the Hague Rules, the problem is cured by United States legislation.

(*Note*: As previously indicated, this report makes no comment with regard to points 8, 9 and 10 of the Report of the Sub-Committee, since on these points the Sub-Committee recommends no action.)

11. Due Diligence to Make Ship Seaworthy (Art. III (1) and IV (1)).

During the period when the Sub-Committee was studying amendments to the Hague Rules, the English House of Lords decided that a shipowner had not exercised due diligence in making the vessel seaworthy when he selected competent repairers who failed to do a particular job competently and, therefore, held the shipowner liable. This decision was in accordance with pre-existing United States law but caused a preliminary discussion of comparative law within the Sub-Committee, in which it appeared that United States and English law were at variance with continental law on this point.

The difference between the continental law and United States law was succinctly summarized by the French legal terminology in which the French describe their own interpretation as an "obligation de moyens" or duty to use proper means, whereas the French describe the United States and English rule as an "obligation de résultat" or duty to achieve the result. It appeared that the divergence between continental jurisprudence and Anglo-Saxon jurisprudence was due at least in part to a difference in the text of the Hague Rules in the French language and in the English language. The Brussels Convention of 1924 in both French and English is printed as an appendix

to the report of the Sub-Committee. In the French language in the text of Art. III (1), quoted at the foot of page 2 of the appendix, the carrier is bound to exercise "une diligence raisonnable" to make the ship seaworthy, properly manned, equipped, etc. A fair translation of the French language text would be that the carrier is bound to exercise "reasonable diligence" while the English text requires him to exercise "due diligence."

Since this subject came up so late in the deliberations of the Sub-Committee that it was not possible thoroughly to explore and deal with the subject as had been done with the other questions, it was left that Dean van Ryn of the University of Brussels should, with the assistance of the representatives of the National Associations, study this problem and report at a later date. Dean van Ryn's report has not yet been received but it is expected that it will be received sufficiently in advance of the Stockholm Conference so that consideration of this point can be included in the deliberations at Stockholm.

Your Committee recommends that our Association's delegation to the Stockholm Conference be instructed to seek international uniformity on this point, preferably on the basis of amendment of the Hague Rules to assure that the jurisprudence of all countries will be brought into accord with the jurisprudence of the United States and England.

Additional Comment Regarding Revision of Art. X.

As indicated above (p. 4949) there was previously a proposal that a conflicts of law rule be formulated. Your Committee has heard that this proposal will probably be revived at Stockholm. Your Committee considers that for practical reasons there should be no conflicts of law rule, leaving the choice of law wherever possible to the court of the forum.

Your Committee therefore recommends that our Association's delegation be instructed to oppose a conflicts of law rule.

Conclusion

Your Committee is keenly aware of the importance of the position of the United States in the world of today and of the comparatively high corresponding position of leadership of our Association in the

CMI at recent Conferences. Your Committee therefore considers it important that our Association exercise its leadership but also that, where necessary and in the interest of international good will and uniformity of law, our Association accommodate its views with the views of others.

February 25, 1963.

Respectfully submitted,

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* Subject to Minority Report, Doc. No. 463A.