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91-26 IMPLEMENTATION OF TOKYO CONVENTION

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HEARING
BEFORE THE
SUBCOMMITTEE ON
TRANSPORTATION AND AERONAUTICS
OF THE
COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE
HOUSE OF REPRESENTATIVES
NINETY-FIRST CONGRESS

FIRST SESSION

ON

H.R. 14301

A BILL TO IMPLEMENT THE CONVENTION ON OFFENSES
AND CERTAIN OTHER ACTS COMMITTED ON BOARD
AIRCRAFT, AND FOR OTHER PURPOSES

NOVEMBER 4, 1969

Serial No. 91-26

Printed for the use of the Committee on Interstate and Foreign Commerce



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1969

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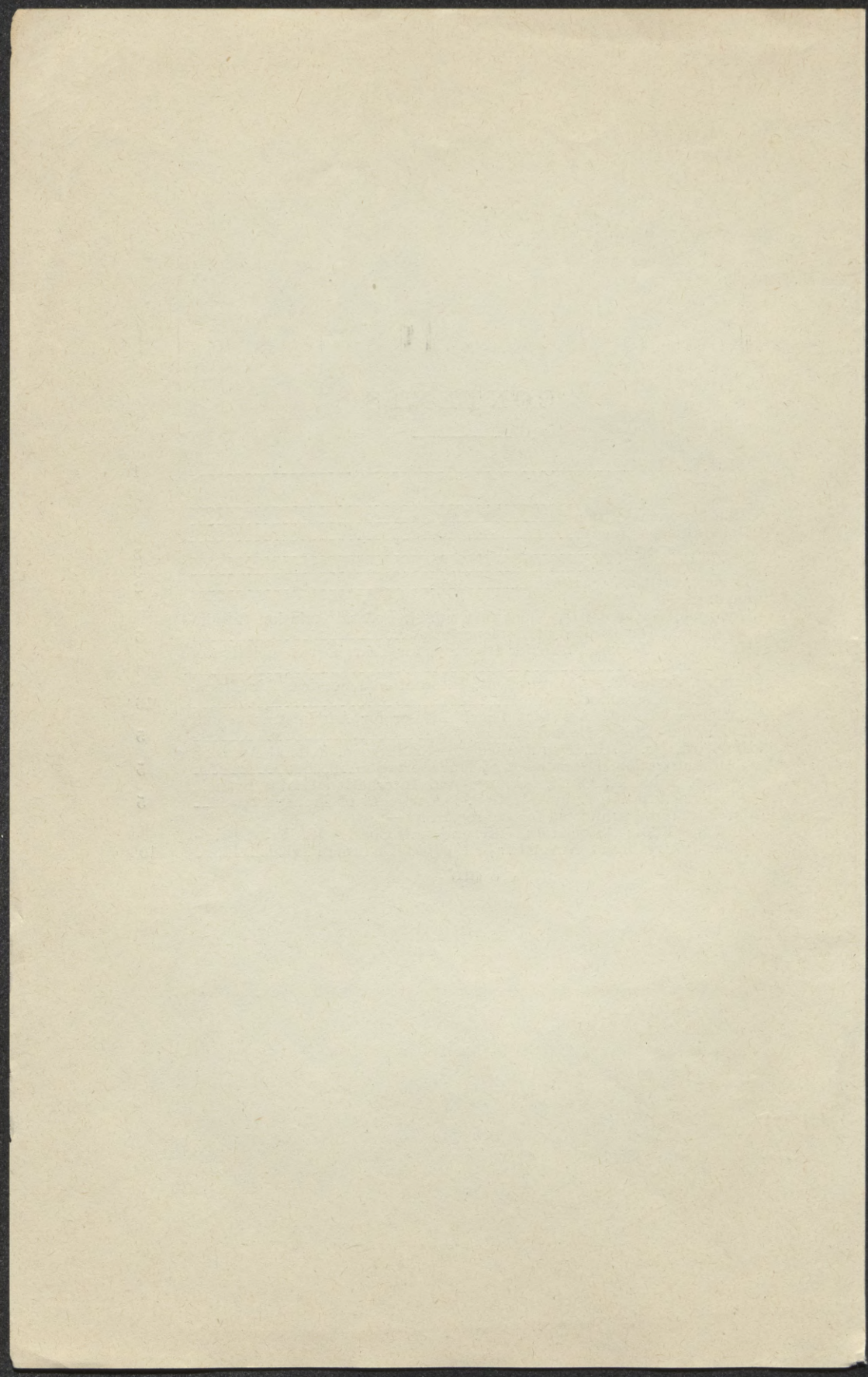
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IMPLEMENTATION OF TOKYO CONVENTION

TUESDAY, NOVEMBER 4, 1969

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2123, Rayburn House Office Building, Hon. Samuel N. Friedel (chairman of the subcommittee) presiding.

Mr. FRIEDEL. The subcommittee will be in order.

This morning we will take testimony and receive statements on legislation which has as its purpose the implementation of the Tokyo Convention on Offenses Committed on Board Aircraft, which dates back to September 1963.

This legislation provides a broader definition of the jurisdiction of the United States with respect to crimes which are committed on aircraft. This entire subject is a very serious one and in many ways a very difficult one to solve. This past weekend brought the subject of highjacking to the fore once again. Fortunately, and almost miraculously, the young serviceman who commandeered a TWA plane in California was captured in Italy, and the entire trip with its several stops was made without anyone being injured.

In particular, I think the TWA employees are to be congratulated. On a flight such as this, the imminent hazard and extreme tension would be almost unbearable. In addition, even though a catastrophe was avoided, dozens of passengers and others were grossly inconvenienced and I understand that the direct expense will be in the neighborhood of \$50,000.

We have earlier held hearings on this subject and on March 11 of this year we issued a report on aircraft piracy. No one has yet an absolute method to prevent such crimes, but we must continue to search for reasonable preventive measures. In addition to the young man who went to Rome, other highjackers made news over the weekend. Six of them have returned from Cuba and if they don't know it by now, they will soon learn that the minimum penalty for highjacking is 20 years in prison. The maximum is death.

(The text of H.R. 14301 and departmental reports thereon follow:)

[H.R. 14301, 91st Cong., 1st sess., introduced by Mr. Staggers on October 9, 1969]

A BILL To implement the Convention on Offences and Certain Other Acts Committed on Board Aircraft and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301), is amended by inserting immediately after paragraph (31) the following new paragraph:

(1)

"(32) 'Special aircraft jurisdiction of the United States' includes the following aircraft while in flight—

"(a) civil aircraft of the United States;

"(b) aircraft of the National Defense Forces of the United States; and

"(c) any other aircraft (i) within the United States or (ii) outside the United States which has its next scheduled destination or last point of departure in the United States provided that in either case it next actually lands in the United States.

For the purpose of this definition, an aircraft is considered to be in flight from the moment when power is applied for the purpose of take-off until the moment when the landing run ends."

(b) Paragraphs (32), (33), (34), and (35) of such section 101 are renumbered as paragraphs (33), (34), (35), and (36), respectively.

SEC. 2. Subsections (i), (j), and (k) of section 902 of such Act (49 U.S.C. 1472) are amended by striking out "in flight in air commerce" each place it appears and inserting in lieu thereof in each such place "within the special aircraft jurisdiction of the United States".

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., October 20, 1969.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. House of Representatives, Washington, D.C.

DEAR MR. STAGGERS: You requested the views of the Department of Transportation on H.R. 14301, a bill to implement the Convention on Offences and Certain Other Acts Committed on Board Aircraft, and for other purposes.

This bill is a Department of Transportation proposal which was submitted to the Congress on April 25, 1969. As you know, its purpose is to provide the legislation necessary for the United States to implement the provisions of the Convention signed at Tokyo on September 14, 1963, and consented to by the Senate on May 13, 1969. The Department recommends enactment of the legislation, and will welcome the opportunity to appear before the Committee to present oral testimony in support of the measure.

Sincerely,

CHARLES D. BAKER,
Deputy Under Secretary.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., October 30, 1969.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget on H.R. 14301, a bill "To implement the Convention on Offences and Certain Other Acts Committed on Board Aircraft, and for other purposes."

The Bureau of the Budget favors the enactment of H.R. 14301.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

GENERAL COUNSEL, DEPARTMENT OF DEFENSE,
Washington, D.C., October 31, 1969.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense on H.R. 14301, 91st Congress, a bill to implement the Convention on Offences and Certain Other Acts Committed on Board Aircraft, and for other purposes.

The Department of Defense is in full accord with this proposed legislation.

The Bureau of the Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

L. NIEDERLEHNER,
Acting General Counsel.

DEPARTMENT OF STATE,
Washington, D.C., November 1, 1969.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of October 10, 1969, enclosing for the Department's comments a copy of H.R. 14301, a bill to implement the Convention on Offences and Certain Other Acts Committed on Board Aircraft (the Tokyo Convention), and for other purposes.

The Department has an interest in this implementing legislation since Article 3(a) of the Convention, to which the Senate gave its advice and consent on May 13, 1969, requires a contracting State to take such measures as may be necessary to establish its jurisdiction as the State of registration consistently with the Convention. Though the Federal Aviation Act already contains criminal provisions with a very broad reach, there may be situations in which a United States registered aircraft might be on a flight not falling within its terms.

For example, section 1472(i) of the United States Code Title 49 (also referred to as section 902(i) of the Federal Aviation Act) spells out the crime of aircraft piracy and defines it as "any seizure or exercise of control, by force or violence, and with wrongful intent, of an aircraft in flight in air commerce." "Air commerce" is defined in 49 U.S.C. 1301(4) (section 101(4) of the Federal Aviation Act) and includes "any operation or navigation of aircraft which might directly affect, or which may endanger safety in, interstate, overseas, or foreign air commerce." Section 1301(20)(c) of Title 49 (section 101(20)(c) of the Federal Aviation Act) defines "foreign air commerce" as the carriage by aircraft of persons or property for compensation or the operation of aircraft in the conduct of a business in commerce between a place in the United States and any place outside thereof. Despite the apparent broadness of the above "air commerce" definition, the provision may still be inadequate to cover all United States aircraft as Article 3(2) of the Tokyo Convention requires. For example, there are at present charter flights conducted by United States supplemental air carriers operating only between two foreign points; an act of force or violence committed aboard such an aircraft may not fall within the definition of air commerce as an act which directly affects or endangers safety in the carriage of persons or property between the United States and a place outside the United States. Or a United States aircraft owned and operated abroad purely for pleasure reasons by a private United States citizen living abroad is certainly not an aircraft used for the carriage of persons or property for hire and may not be considered to be "an aircraft in the conduct or furtherance of a business or vocation." The proposed amendment would clearly solve this situation since it applies to all "civil aircraft of the United States."

Therefore, this amendment to the Federal Aviation Act of 1958 appears necessary to ensure in every case that we have established jurisdiction, in accordance with our obligations under the Tokyo Convention, over acts on board aircraft of United States registration no matter where they are in flight. The Department supports this legislation and urges its prompt passage.

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

H. G. TORBERT, Jr.,
Acting Assistant Secretary for Congressional Relations.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., November 3, 1969.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 14301, a bill to implement the Convention on

Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes.

The purpose of this bill is to implement the Tokyo Convention on crimes on board aircraft. In brief, the bill would amend the Federal Aviation Act of 1958 to create the "special aircraft jurisdiction of the United States." This jurisdiction would include all aircraft of United States registry while in flight anywhere. The bill would then make conforming amendments to certain provisions of the Act now dealing with crimes in flight "in air commerce" so that the conduct involved would be criminal if committed within such special aircraft jurisdiction. In this manner the intent of the Tokyo Convention to give the state of registration of an aircraft concurrent jurisdiction over crimes aboard it in flight anywhere would be carried out, so far as United States aircraft are concerned.

The Department of Justice recommends enactment of this legislation.

The Bureau of the Budget has advised there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

CIVIL AERONAUTICS BOARD,
Washington, D.C., November 3, 1969.

HON. HARLEY O. STAGGERS,
*Chairman, Committee on Interstate, and Foreign Commerce,
House of Representatives, Washington, D.C.*

Dear Mr. CHAIRMAN: The Board has received a Notice from the Subcommittee on Transportation and Aeronautics advising that public hearings will be held on November 4, 1969, with respect to H.R. 14301, a bill to implement the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes.

The bill is one which was prepared by representatives of the member agencies of the Interagency Group on International Aviation (which includes the Board), and transmitted to the Congress by the Department of Transportation. In these circumstances, and since representatives of the Department will appear at the hearing in support of the bill, the Board does not desire to offer oral testimony at the hearing.

The Board does, however, wish by this letter to urge prompt enactment of the bill. As you know, its purpose is to provide the legislation necessary for the United States to implement the provisions of the so-called Tokyo Convention to which the United States is a party, and which will come into force on December 4, 1969. The Convention provides for jurisdiction in the state of registration over offenses committed on board aircraft registered in such state even though the offense occurs outside the territorial jurisdiction of the state, and H.R. 14301 embodies the changes in existing law deemed necessary to enable the United States to exercise such jurisdiction.

The Bureau of the Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely yours,

WHITNEY GILLILLAND,
Acting Chairman.

Mr. FRIEDEL. I understand that the witness from the Department of Transportation is Mr. Nathaniel H. Goodrich, General Counsel of the Federal Aviation Administration.

We welcome you, Mr. Goodrich, and you may proceed as you see fit.

Mr. GOODRICH. Thank you, Mr. Chairman.

STATEMENT OF NATHANIEL H. GOODRICH, GENERAL COUNSEL,
FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION;
ACCOMPANIED BY KNUTE MALMBORG, ASSISTANT LEGAL ADVISER FOR ADMINISTRATION AND CONSULAR AFFAIRS,
DEPARTMENT OF STATE; JOHN T. STEWART, CHIEF, AIRPORTS AND INTERNATIONAL LAW BRANCH;
AND DR. H. L. REIGHARD, DEPUTY FEDERAL AIR SURGEON, FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. GOODRICH. Mr. Chairman and members of the committee, my name is Nathaniel H. Goodrich. I am the General Counsel of the Federal Aviation Administration, Department of Transportation. I am accompanied by Mr. Knute Malmberg, Assistant Legal Adviser for Administration and Consular Affairs, Department of State, and by Mr. John T. Stewart, the Chief of our Airports and International Law Branch. I appreciate this opportunity to appear before you today to discuss H.R. 14301, a bill "To implement the Convention on Offences and Certain Other Acts Committed on Board Aircraft, and for other purposes." The Department of Transportation strongly supports this legislation, and recommends its favorable and prompt consideration.

I would like to begin, Mr. Chairman, with some background information about the Convention on Offences and Certain Other Acts Committed on Board Aircraft, known as the Tokyo Convention. In June 1950, the legal committee of the International Civil Aviation Organization began a study into the possible negotiation of a treaty that would establish rules respecting jurisdiction over crimes committed on board aircraft, and other related matters. Over the next 13 years, the United States of America actively participated in discussions of the many problems involved, and in negotiations to resolve them. On September 14, 1963, the convention was opened for signature at Tokyo, and the United States—a major supporter of the convention—signed.

The principal purpose of the Tokyo Convention is to promote aviation safety through establishment of continuity of jurisdiction over criminal acts occurring on board aircraft. Several features make the Tokyo Convention a desirable international agreement:

First, the convention establishes a positive rule of international law respecting jurisdiction as between the contracting states. Under this rule, the state of registry of an aircraft may exercise jurisdiction over offenses committed on board that aircraft when it is: (1) in flight; (2) on the surface of the high seas; or (3) on any other area outside the territory of a state. Now, this is not a rule of exclusive jurisdiction. Rather, the convention insures that the state of registry of an aircraft, at least, is competent to exercise jurisdiction, and yet allows other states to exercise concurrent jurisdiction. The exercise of concurrent jurisdiction would depend on a state's interest in the offense, and the applicability of the traditional rules of international law regarding assertion of jurisdiction.

Second, the convention makes more certain the powers and authority of an aircraft commander. Without these provisions, his actions to apprehend and "off-load" an offender would be subject to the laws

of the state where he lands the aircraft. Also, the correctness of his decisions might be judged under the national law of a country overflown. Finally, if their actions are reasonable and comply with the convention, each aircraft crew member and passenger, the aircraft owner or operator, and the person for whom the flight is made, all would have legal immunity. This immunity should enhance the proper attitudes and actions necessary to significantly contribute to safety of flight in international aviation.

Third, the convention establishes rules and procedures to "off-load", an offender. The aircraft commander may use them in the territory of the State where he lands his aircraft. The convention also authorizes the aircraft commander to deliver certain persons to the competent authorities of the state where he lands the aircraft. When he does, the convention obligates the receiving state to accept delivery and, if satisfied that the circumstances warrant, to take custody or other measures to insure the suspected offender's presence. In this regard, the convention has several provisions that are designed both to protect a suspected offender's rights and to insure his case is handled legally and expeditiously.

Fourth, the convention imposes a positive obligation on each contracting state to take every appropriate measure to restore control to, or preserve control in, the lawful commander of an aircraft. This measure minimizes the adverse impact that a hijacking has upon the passengers and crew of an aircraft. While not a complete solution to this serious problem, this provision does represent an important step toward a solution.

On May 12, 1969, the U.S. Senate gave its advice and consent to ratification of the Tokyo Convention. On September 5, 1969, the United States of America presented to the International Civil Aviation Organization the instrument of ratification of the convention, being the 12th nation to do so. Under article 21, paragraph 1, the Convention on Offences and Certain Other Acts Committed on Board Aircraft comes into force on December 4, 1969. I might add parenthetically, the convention comes into force by the deposit of the instrument of verification of the 12th signatory nation and passage of 90 days thereafter. The United States was that 12th signatory nation.

Turning now to H.R. 14301, the Secretary of Transportation forwarded substantially identical proposed legislation to the House on April 25, 1969. The proposal represents the cooperative effort of the Interagency Group on International Aviation, including representatives of the Departments of State, Justice, Defense, and Transportation, and the Civil Aeronautics Board. We understand that each of these departments and the Board has communicated its support of H.R. 14301 to the committee.

Under article 3, paragraph 2, of the Tokyo Convention, "Each Contracting State shall take such measures as may be necessary to establish its jurisdiction as the State of registration over offenses committed on board aircraft registered in such State." When enacted, H.R. 14301 would carry out our responsibility to implement the Tokyo Convention.

Section 1 of H.R. 14301 would add to section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) the definition of a new term "Special aircraft jurisdiction of the United States." The term would include, while in flight, each of the following: (1) A civil aircraft of the United States, defined in section 101(15) as one registered under

the act (49 U.S.C. 1401-1406); (2) an aircraft of the National Defense Forces; and (3) an aircraft that is either within the United States, or outside the United States when its next scheduled destination or last point of departure is in the United States and its next landing is in the United States. The definition also makes clear that an aircraft is in flight "from the moment when power is applied for the purpose of take-off until the moment when the landing run ends."

Section 2 of H.R. 14301 would amend sections 902(i), 906(j), and 902(k) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)-1472(k)) to substitute the term "special aircraft jurisdiction of the United States" for the term "in flight in air commerce." Incidentally, the sections that I just referred to are in the section that contains the penal provisions of the Federal Aviation Act.

The reach of the jurisdiction of the United States under the term "in flight in air commerce" is not as extensive or as definitive as the reach of that jurisdiction under the newly defined term "special aircraft jurisdiction of the United States." Section 902(i) provides criminal penalties for aircraft piracy. Section 902(j) provides criminal penalties for interference with flight crew members or flight attendants. Section 902(k) provides criminal penalties for certain other crimes aboard aircraft in flight. The acts covered under section 902(k) include certain other criminal acts prohibited under title 18, United States Code (assaults (sec. 113), maiming (sec. 114), theft (sec. 661), receiving stolen property (sec. 662), murder (sec. 1111), manslaughter (sec. 1112), attempted murder or manslaughter (sec. 1113), rape (sec. 2031), carnal knowledge (sec. 2032), and robbery or burglary (sec. 2111)), and the District of Columbia Code (lewd, indecent, or obscene acts (D.C. Code, section (22-1112))).

The amendments made by H.R. 14301 would extend the criminal provisions, which I just outlined, to all aircraft within the newly defined "special aircraft jurisdiction of the United States." This redefinition of jurisdiction is needed to carry out the Nation's responsibility under article 3, paragraph 1, of the Tokyo Convention that I mentioned previously. The "special aircraft jurisdiction of the United States" falls wholly within the jurisdiction of the Federal Government under the Constitution. The phrase in the new definition, making clear when an aircraft is in flight, is the one usually employed internationally for that purpose.

The definition of "special aircraft jurisdiction of the United States" includes "aircraft of the national defense forces of the United States." This is not essential to the legislation implementing the Tokyo Convention. However, the Department of Defense requested that these aircraft be included because inclusion both is consistent with the spirit of the Tokyo Convention and closes a gap in jurisdiction. In the absence of including these aircraft, serious doubts would arise respecting the jurisdiction of the United States over crimes committed on board U.S. military aircraft while in flight over foreign territory. If the individual committing the crime is subject to punishment under the uniform code of military justice (UCMJ), the question would not be serious. But if the individual committing the crime is not subject to punishment under the UCMJ (such as a military dependent or a civilian employee of the Department of Defense in peacetime), the jurisdictional question would be in serious doubt.

In conclusion, Mr. Chairman, we urge the committee to give prompt and favorable consideration to H.R. 14301. The efforts of the United States of America in support of the Tokyo Convention were instrumental in its development. The cooperative effort of interested departments and agencies led to the legislation embodied in H.R. 14301. This legislation will carry out our obligation under the Tokyo Convention, which comes into effect on December 4, 1969. We hope that prompt action by the United States may lead to favorable action by the 26 signatory states who have yet to ratify the convention, and other states as well.

Mr. Chairman, this concludes my prepared statement. I, and my associates here, would be happy to try to answer any questions that the committee may have.

Mr. FRIEDEL. Thank you, Mr. Goodrich.

Are you complaining that the existing legislation does not curtail crimes on the aircraft?

Mr. GOODRICH. Mr. Chairman, the Legal Committee of the International Civil Aviation Organization met last year in Buenos Aires and adopted a resolution looking toward further international action to broaden the effectiveness and applicability of the Tokyo Convention, to cope with crimes aboard aircraft. Mr. Malmberg of the State Department Legal Advisers Office, can expand on that if you would like, sir.

Mr. FRIEDEL. Yes.

Mr. MALMBORG. Thank you, Mr. Chairman.

The International Civil Aviation Organization has established a legal subcommittee to consider measures designed basically to deter hijacking. That subcommittee has met twice, the most recent ending in October, and prepared a draft convention which provides for the punishment, through prosecution or extradition of hijackers. The jurisdictional provisions of that convention, if it is adopted, would require additional legislative action on our part. At the moment, while we think the executive branch is looking at every possibility to deal with this problem, that is the only specific legislation that I see on the immediate horizon.

Mr. GOODRICH. Mr. Chairman, if I might add something I am sure the committee, having had a hand in this back in 1961, is well aware that under the committee's sponsorship and with its cooperation, the Congress responded at that time to the recommendations of the FAA and the executive branch and did make aircraft piracy specifically a crime under domestic law.

Mr. FRIEDEL. Well, are we getting cooperation from the other countries to which a plane is hijacked; outside of Cuba that is?

Mr. GOODRICH. Mr. Chairman, I suppose the best answer to your question is to refer again to the action that was taken at the meeting of the ICAO Legal Committee in Buenos Aires last year. The fact is that the International Civil Aviation Organization recognizes the need to expand the coverage of the Tokyo Convention to cover hijacking and possibly the return of hijackers.

Mr. FRIEDEL. Well, what I am trying to find out is what kind of cooperation we are getting from all the other countries that have signed this Tokyo Convention?

Mr. GOODRICH. Well, if we understand your question, Mr. Chairman, in connection with the hijackings which have taken place, with the exception of three that I can recall, they have been hijackings to Cuba which is not a signatory.

Mr. FRIEDEL. I am referring particularly to the TWA flight that was hijacked and taken to Syria where the plane could not be returned immediately because it was damaged by a bomb. I understand that it is still there and that they have not yet returned all the passengers.

Mr. GOODRICH. I am going to defer again in view of the international ramifications of your question, to Mr. Malmborg to present whether Syria is or is not a signatory.

Mr. MALMBORG. Mr. Chairman, I think it is fairly well known that, after delays in part occasioned by injuries suffered by passengers in the emergency debarkation, all but two of the passengers were released to continue their trip. There have been major bilateral and multilateral efforts to secure the release of those two passengers which, however, have been unsuccessful so far. In the absence of the direct obligation upon Syria under the Tokyo Convention, we are not able to cite a treaty obligation. We have indicated that the general international sentiment is that provisions of the Tokyo Convention are norms of basic international law and should be observed.

Mr. KUYKENDALL. Would the Chairman yield?

Mr. FRIEDEL. I understand that the Tokyo Convention won't go into effect until December 4 of this year, is that correct?

Mr. MALMBORG. That is correct.

Mr. FRIEDEL. Now had it been in effect would those passengers have been released?

Mr. MALMBORG. No. Even on December 4, it goes into force only for those states that have acceded to it; that is, those that have ratified or otherwise indicated their final acceptance. As a treaty obligation, it would not apply to countries that have not signed and become parties, although as I have indicated, we do feel that it represents the accepted norm of international conduct.

Mr. FRIEDEL. One more question:

Has there been any success with the detection devices we have been using to try to identify would-be hijackers before they board aircraft?

Mr. GOODRICH. Mr. Friedel, if the committee would like to take a moment to get an expert answer on that subject, we have taken the liberty this morning of bringing with us Dr. Homer Reighard, who is acting as the chairman of the FAA special committee to cope with the hijacking problem domestically. This includes the effort to perfect the detection device. Now, that device has been tested over a period of months and it is being employed on a highly selective basis, for obvious reasons. Dr. Reighard is here and can answer that question for you, sir.

Mr. FRIEDEL. Dr. Reighard.

Dr. REIGHARD. Thank you, Mr. Chairman.

Mr. FRIEDEL. Identify yourself for the record, please.

Dr. REIGHARD. I am Dr. H. L. Reighard, Deputy Federal Air Surgeon, Federal Aviation Administration.

Over the past several months, we have developed within FAA a detection system specifically tailored to passenger screening. The field evaluation phase test was completed approximately 6 weeks ago. Some

3 weeks ago, with the assistance of one airline—Eastern Airlines—we began a limited application of the system for the purpose of screening passengers, selecting out those persons who have the characteristics of previous hijackers following the application of the screening process, and who also gave an indication on a metal detection device that they were carrying an amount of metal equivalent to that of a weapon.

As I have indicated, this application has been in effect for some 3 weeks. At this time, we have not identified an individual who we seriously suspected might be a potential hijacker.

Mr. FRIEDEL. Thank you.

Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

First as a bit of background, why did the United States take so long to sign this legislation, this Tokyo Convention? I understand we have just signed it. It has gone into effect this year. It took us a long period of time to say that we were going to be a part of this. Now what was the reason that it took us so long?

Mr. GOODRICH. Mr. Pickle, I don't know that I would be able to give you an entirely satisfactory answer. The matter was kept under continuous executive branch programming since the convention drafting was completed. There was the problem of drafting the implementing legislation. There was the need for agreement on the form that that legislation should take. That process did take a fair amount of time.

Mr. PICKLE. I understand that some 14 nations have signed it now, and this would leave approximately 20 to 24 which have not signed. Is that correct?

Mr. GOODRICH. That is approximately correct.

Mr. PICKLE. That is generally correct. Though you may have touched on this previously, what can we expect with reference to speed and assurance that these other nations will join in this treaty?

Mr. MALMBORG. I think I might speak to that. I think it is felt generally that the United States is a kind of leader in these things. Now that we have deposited our instrument of ratification, I believe we expect and have every reason to believe that a large number of other states will follow suit. I think that we are very encouraged by the greater prospect of ratification.

Mr. PICKLE. I will depart a little from the questioning aspect. I will say as one member it would seem to me like the testimony got about the same speed as our efforts. We have gone at about five knots instead of 500 knots to try to get these things approved. I think we have got to give a strong leadership on our part. Some people think these hijacks are just useless; they get a headline and even this latest one is referred to in kind of a humorous term. The fact is that these things constitute a form of international crisis, and they are an act of piracy if not insanity. I think our Government has got to give some strong leadership to it.

Mr. KUYKENDALL. Would the gentleman yield for one question on this line?

Mr. PICKLE. Yes, I will in just one second.

I yield to the gentleman if I may continue then.

Mr. FRIEDEL. Do you want an answer to your question here?

Mr. PICKLE. Yes. It was more of a statement.

Mr. GOODRICH. Mr. Pickle, I think it is only fair to comment for the record that we agree with you. There should not be any doubt about that. In fact, the 1961 law uses the word "piracy" in describing aerial hijacking. The State Department undoubtedly is in a better position to assess what can be done internationally. From what we understand, in a sense the roadblock has been the traditional reluctance of sovereign nations to give up individuals who might claim the defense of political refuge. Apart from that, we have been in favor of every effort that can be made to secure the extradition and return of hijackers.

Mr. PICKLE. This is an old subject and we have gone over it before. We have had hearings and put out extensive legislation last fall. You and I know that we cannot prevent in many instances a hijacking claim if somebody sets out to do it. You have your screening process but you have not detected anybody within the last 10 days, yet one man got on board carrying a fishing rod and he apparently wanted to go fishing in Italy, but this was not detected.

Now we cannot stop these things but what we can do—and the only way perhaps we can do it is to have this international agreement where there is the same jurisdiction and the same rights for the offense committed in one nation the same as in this Nation.

I will ask you this question: Are we in a position to advocate the cancellation of flights to other nations if they did not abide by this kind of mutual jurisdictional regulation?

Mr. GOODRICH. Mr. Pickle, let me go back to the statement you made just preceding your question. The Tokyo Convention does confer comparable jurisdiction on all signatories so that anything that we can do domestically vis-a-vis hijacking could be accomplished by another signatory nation. This assumes those signatory nations do what we are doing here today: That is, seek to change its domestic laws and bring them up to date to enable it to carry out the obligations assumed when it signed this convention.

Mr. PICKLE. May I interrupt you. In the case, then, of this latest hijacking, that means that this young man will be tried by the courts of Italy and conceivably they could convict him for 10 or 20 years, and we won't have any recourse to him for, say, 20 years maybe.

Mr. GOODRICH. The convention provides concurrent jurisdiction. No one nation has the right to claim exclusive jurisdiction. Of course, that now represents our law because the convention was ratified by the Senate.

Mr. PICKLE. I yield to the gentleman from Tennessee if I have any time remaining.

Mr. KUYKENDALL. In answering Mr. Pickle's original question, have you not really stated the handicap when you discussed the likelihood of real reciprocation? I believe you alluded to what I think is the central core of the hangup and that is the most likely countries to be hijacked to or the least likely to ever cooperate with us so we have been required to sign up all our friends and have an absolutely meaningless bunch of signatures.

Mr. GOODRICH. Sir, that may be the impression looking at what has happened until now. But, you should consider, with whatever interpretation you want to put on the event, what happened this weekend and what has happened in the past, including the return to this country of individuals who have hijacked aircraft to Cuba. For example, six of them were returned this week.

Mr. KUYKENDALL. Voluntarily, only because they are quite sure that our court systems have gotten so lenient they think they may get off scot free. I hope they don't but you and I know they are awfully sure or they would not come back.

Mr. GOODRICH. It is hard to prejudge the determination of a court. But, in a rather spectacular hijacking that took place some years ago, involving the landing of an aircraft at El Paso, Tex., when the takeoff of the aircraft was prevented—

Mr. KUYKENDALL. Yes, I remember the occasion.

Mr. GOODRICH. The two men who hijacked the craft are still in jail. The perpetrator was sentenced to 20 years. Now what happens in prosecutions yet to be brought involving the people who were returned this weekend, of course, remains to be seen. They are all being held under quite high bond and they all will be prosecuted by the United States in the appropriate jurisdictions.

Mr. KUYKENDALL. I think all of us will make some noise when this subject comes up. It seems awfully strange that Mr. Castro would make their lives so uncomfortable that they would walk back here for 20 years in jail. I know it is bad being free in Cuba but being in jail here—this creates a great big question mark over all of our justice in our Nation. I think our Nation is going to be watching what happens to these guys and if they get off easily, the whole country is going to think some kind of deal was made, some kind of softening deal. I think it would be incumbent upon the FAA to be sure that no such deal was made.

Mr. FRIEDEL. The time of the gentleman from Texas has expired. I recognize Mr. Devine.

Mr. DEVINE. Mr. Goodrich, has there been disagreement on this?

Mr. GOODRICH. No, sir. As far as the executive branch is concerned, all the departments and agencies agree that it should be adopted.

Mr. DEVINE. For the purpose of the record, Cuba is not a party to the Tokyo Convention?

Mr. GOODRICH. No, sir; it is not.

Mr. DEVINE. Is Italy?

Mr. GOODRICH. Italy is. Italy signed the convention on September 14, 1963, and deposited its ratification on October 18, 1968.

Mr. DEVINE. Of course we have a few problems here, as Mr. Pickle pointed out. There is a likelihood that prosecution by the time the authorities act may keep this most recent person in custody over there for 15 of 20 years. I think our problem today is what will happen in the event someone is apprehended. As you know, the Congress enacted legislation over a year ago providing capital punishment for hijacking of aircraft. That does not seem to have been any great deterrent.

Is the FAA pursuing any aggressive course in an effort to prevent hijacking rather than what will happen to them in the event it does occur and they are apprehended? What preventive action is the FAA taking aggressively?

Mr. GOODRICH. Well, Mr. Devine, just parenthetically, the penalty of death was prescribed by the Congress in 1961 so the threat of that penalty has been present for quite some time.

Mr. DEVINE. It may be a crime, but as a deterrent it is not effective enough to prevent hijackings.

Mr. GOODRICH. If you recall, sir, there was a wave of hijackings in 1961 and with the adoption of legislation by the Congress at that time the situation quieted down considerably.

Mr. DEVINE. It does not compare to 1968 and 1969.

Mr. GOODRICH. No, there was recurrence in 1968 and 1969.

Now to go to the latter part of your question, I believe the FAA program was the subject of testimony before this committee some time ago. As a result, Dr. Reighard was appointed chairman of a task force which has developed the detection device and the program to install that device at strategic points to the extent they can be identified.

Mr. DEVINE. It is now 3 weeks old and the doctor testified that Eastern Air Lines is the only major certificated carrier that is at least testing it. I was not quite clear on what the results have been in this 3-week period.

Have you come up with any results thus far?

Dr. REIGHARD. As I indicated, in the 3-week period during which we have had the detection system in operation, we have not found a person who we seriously suspected to be a potential hijacker.

Mr. DEVINE. What about your passengers? Are they claiming any first amendment rights are being violated or something?

Dr. REIGHARD. We have had no indication of resistance on the part of passengers. During the field tests which preceded the actual implementation of the operational screening system, we test screened several thousand passengers, we made public statements through press interviews in the local communities to the effect that they were being screened. We have had absolutely no complaints from passengers, or other persons in the general public.

Mr. DEVINE. Is this device such that will reveal any metal? I am thinking of a zipper, belt buckle, cigarette lighter. Does that turn the beeper on, or does it have to be something of the size of a gun before the signal reacts?

Dr. REIGHARD. I have used the term "system" rather than device and I can very briefly describe the basic elements of the system. It consists of a behavioral profile of the proposed characteristics of past hijackers which can be applied by the airlines personnel. Application of this profile will clear for boarding more than 99 percent of passengers who travel domestically on U.S. airlines. This means we are left with possibly 1 percent of passengers about whom we still have some concern. They then pass through a metal screening device which does give an indication of the presence of metal depending on its mass and whether it is a weapon or some other similar sized ferrous metal object.

When the device gives an indication, at that point we are not certain as to whether it is a weapon or some other similar ferrous metal mass. However, the device has been refined technically to the point that it does not give an indication for a belt buckle, a fountain pen, a wrist watch, or any other ordinary objects likely to be carried by a passenger.

Mr. DEVINE. Let's back up to this behavioral pattern. Do you have a psychiatrist who looks at the passengers who decides who is going to be put under the light or whatever it is?

Dr. REIGHARD. No. As I indicated the behavioral profile consists of the elements that have been identified in studying past hijackers. We

have extensive records of background behavioral investigations of these hijackers. This forms a pool of information as to their behavior and their psychological make-up. From this pool of information we are able to extract a few significant elements. When given to the people who need to know or who are involved in the screening process, they are used in making observations of the 1 percent of the passengers that I mentioned earlier. They are very simple and do not require professional surveillance. There is no clinical psychological testing or observation. It is a simple identification of behavior.

Mr. DEVINE. Who is qualified to apply this test? The ticket agent or the stewardess or where is this determined?

Mr. GOODRICH. It is not a test; it does not require a psychiatrist. Dr. Reighard has produced certain observable, identifiable, overt indicia.

Mr. DEVINE. By whom?

Mr. GOODRICH. By the passenger agent.

Mr. DEVINE. Who says that this fellow is the one that is likely to create a situation like this?

Mr. GOODRICH. The indicia will not say he is likely to; they will simply identify him as—

Mr. DEVINE. Fits in the pattern?

Mr. GOODRICH. Fits in the pattern.

Mr. DEVINE. But who is it, the guy who takes the tickets, the baggage clerk or the stewardess?

Mr. GOODRICH. The elements are that simple. They can be identified by ticket agents, boarding agents, and the like.

Dr. REIGHARD. My answer would be customer services personnel of the airlines, the persons who come in contact with passengers.

Mr. DEVINE. They are so simple that a nonexpert may make this determination?

Dr. REIGHARD. Yes, sir; a nonexpert may make this determination.

Mr. FRIEDEL. Mr. Kuykendall.

Mr. KUYKENDALL. We should have read Mr. Hailey's book "Airport." They don't all telegraph their conditions quite that well.

Would you consider the Syria hijacking aftermath as clear international kidnaping? Who wants that one?

Mr. MALMBORG. I am not quite sure I understand the question.

Mr. KUYKENDALL. Well, when an American airline has two Israeli nationals; two Jews, on its flight and they are captured by an Arab and held, is that not kidnaping?

Mr. MALMBORG. What happened is that the passengers debarked in the territory of Syria which submits them to its jurisdiction. We do not consider that they were rightfully—

Mr. KUYKENDALL. May I interrupt, please. This airplane didn't have previous approval of this destination, did it?

Mr. MALMBORG. No, it did not.

Mr. KUYKENDALL. So their landing and debarkation in Syria was not very voluntary to anybody, was it?

Mr. MALMBORG. That is quite correct, sir.

Mr. KUYKENDALL. So when all the other passengers were released and these two Jews were kept, is that not kidnaping?

Mr. MALMBORG. Well, kidnaping in a legal sense is a matter of intention and it is only in that technical sense that perhaps I can give a direct answer to your question. The Syrian Government did not re-

quest that the plane land there, and they did not instigate the debarkation of passengers. As I said before, what they did do is refuse to permit them to continue their trip.

Mr. KUYKENDALL. May I ask, why are you dodging this question?

Mr. MALMBORG. Sir, it is essentially accusing sovereign governments of particular forms of behavior in terms that arouse them, and that are not likely to be very helpful in working out what we still hope to achieve.

Mr. KUYKENDALL. We get so timid that sometimes we lose our case going too far the other way.

Mr. MALMBORG. That is possible; we don't think that is the case here.

Mr. KUYKENDALL. I will throw one out here and any one of you that wants it can have it.

Do you consider a very drunk passenger a danger on an airplane?

Mr. GOODRICH. Mr. Kuykendall, the Federal Aviation regulations prohibit the boarding of passengers under the obvious or apparent influence of liquor.

Mr. KUYKENDALL. I am aware of that. OK. So it is obvious that you do consider them a dangerous passenger.

Mr. GOODRICH. Yes, very definitely.

Mr. KUYKENDALL. I don't know if this is a law or agreement among the airlines, some are very strict and some free on the amount they serve. I was on a long flight—I don't want to indicate any certain airline—and I watched a guy sitting in the seat next to me, who got on the airplane stone sober, at least he acted like he was, and during this flight, which was about 5 hours, he consumed—that was just set in front of him, he didn't even have to work very hard to get it—two glasses of champagne, four highballs, four glasses of wine and two after dinner liqueurs. What is your rule on that?

Mr. GOODRICH. Apart from boarding, the rule is that drinks are to be served only by airline personnel. Under the FAA regulations, no passenger is permitted to draw on his own private supply, for example. The amount of liquor that can be served to an individual passenger, therefore, is controlled by the carrier.

Mr. KUYKENDALL. Are there agreements pretty much that have been reached by certain airlines? I know some I ride are quite strict and some of them are so free, it is quite amazing.

Mr. GOODRICH. I mention the regulations, sir, because they represent the limit of our authority. We have no control over the flight or passenger service. Also the regulations, actually prohibit serving of any intoxicating liquor to any passenger who appears to be under the influence.

Mr. KUYKENDALL. Now the thing that comes to my mind which the good doctor has mentioned, behavioral patterns were so common that they could be defined. I was going to ask that question, if there was not such a pattern, and you explained that there definitely is.

I have just read Hailey's book and that is why I am going to ask the question, but it also occurred to me after your present discussion that an oversupply of liquor would certainly tend, in a lot of cases, to explode that person that was very near the brink on this behavior pattern.

Do you consider it out of the realm of possible jurisdiction of the FAA to see that the airlines at least abide by their own rules and their own agreements in this case?

Mr. GOODRICH. The airlines are subject to enforcement action if we do ascertain that they have not complied with the regulations. Sir, I am sorry, but I don't have the list with me. I didn't anticipate this line of questioning. We have on occasion imposed civil penalties on passengers who have failed to observe the regulations either because they surreptitiously took a drink from their own liquor supply or who created a disturbance after having too much to drink. I think on some occasions we have assessed civil penalties on air carriers because they allowed a situation like that to get out of hand.

Mr. KUYKENDALL. Mr. Chairman, I want to make it very clear I consider the line of questions in line particularly as it might pertain to a person that endangers the crew or a person that was say, a marginal psychiatric or psychological risk who was driven over the brink by excessive drinking.

I have jokingly suggested to one of my airline friends the other day that I was going to suggest that they take about two seats in the first-class section and sell a do-not-disturb service and block it off and let you go to sleep and not be bothered by all the booze and the fancy food you get on those flights and you don't ever get to sleep. Get a do-not-disturb service and they won't serve anything, a cup of coffee, maybe. This is just one of the areas of passenger conduct that does not affect the crew.

Mr. GOODRICH. Again, to clarify the record, we share your view that sobriety of the passengers is directly related to safety of the flight. An uncontrollable passenger is a threat and that is the reason for the agency's regulations against serving passengers who appear to be under the influence.

Mr. KUYKENDALL. I have examined the agreements of the airlines and it is not so much a matter of what the rules are as it is a matter of enforcement.

Thank you, Mr. Chairman.

Mr. FRIEDEL. Thank you, Mr. Goodrich.

We have one more witness.

James E. Landry, vice president, international services, Air Transport Association of America.

**STATEMENT OF JAMES E. LANDRY, VICE PRESIDENT, INTERNATIONAL SERVICES, AIR TRANSPORT ASSOCIATION OF AMERICA;
ACCOMPANIED BY JEROME F. HUISENTRUIT, SENIOR ATTORNEY**

Mr. LANDRY. Mr. Chairman, members of the committee, my name is James E. Landry, I am vice president—international of the Air Transport Association of America, the trade and service organization which represents virtually all the scheduled, certificated airlines of the United States. We thank you for the opportunity afforded the association to present its views on H.R. 14301. I am going to be very brief and to the point on this matter.

The problem of hijacking has plagued our member airlines these last few years, and the increasing frequency of these incidents is of grave concern. No one has been able to develop a simple solution to the problem, for the very fundamental reason that no single step will bring these mindless acts of aircraft piracy to an end. However, some progress has been made, in bits and pieces, and we believe the current efforts of world governments through the U.N. and ICAO hold the strongest promise for the future.

One thing is abundantly clear—neither the United States airlines nor our Government can bring a halt to air piracy by unilateral measures. Only the closest cooperation between us and the governments of those countries where the hijackers divert our aircraft will solve the problem. The airlines therefore vigorously support the participation of the United States in such multilateral efforts as the Tokyo Convention. The formal deposit of this country's instrument of ratification 2 months ago triggered the entry into force of that treaty, and we applaud our Government for taking that step.

The Secretary of Transportation has determined that the bill which is now before you, H.R. 14301, will provide the domestic legislation necessary for U.S. implementation of the convention when it comes into force on December 4. For our part, we are satisfied that the bill establishes a basis for asserting U.S. jurisdiction over crimes committed aboard U.S. flag aircraft in flight anywhere in the world. This expansion of U.S. jurisdiction is in accord with the positive rule of international law contemplated by the Tokyo Convention, establishing certain jurisdictional competence for the state of aircraft registry. Mr. Goodrich has already described that.

There can be no question but that this Government must fully position itself to prosecute offenders for these grievous crimes. H.R. 14301 represents another step in that direction. We urge its enactment.

Mr. FRIEDEL. Thank you for your short and to the point statement.

Mr. PICKLE, any questions?

Mr. PICKLE. Mr. Chairman, I agree with your statement and I like the clarity with which it was given.

Mr. Landry, you said give jurisdiction to the United States for crimes committed aboard the aircraft any place in the world.

Mr. LANDRY. In flight any place in the world.

Mr. PICKLE. Concurrent jurisdiction?

Mr. LANDRY. Concurrent jurisdiction, that is right.

Mr. PICKLE. Just how will that work? I agree with you.

Mr. LANDRY. It is in keeping with the terms of the Tokyo Convention itself, which establishes the rule of law that the state of registration has competence to exercise jurisdiction over the crimes involved. The state involved here in this particular incident over the weekend in Italy also would have jurisdiction.

Mr. PICKLE. And he would therefore be tried there first before he could be tried here?

Mr. LANDRY. Yes, sir—not necessarily. Either one. They could agree to let the United States prosecute him.

Mr. PICKLE. What do you think the other nation will do? Will they try the person first or will they return him to the United States—

Mr. LANDRY. I suppose that is very hard to say, sir. I imagine it might depend upon the individual nation involved, our relations with that nation and the ability of our diplomats to persuade them that these criminals should be tried here in the state of registration.

Mr. PICKLE. Do you think these offenses would be lessened if the nations agreed that they would return the offender to the base nation?

Mr. LANDRY. I think certainly that would be very desirable, but I think the most desirable thing is that it becomes clear to the world community that the offenders will be prosecuted for this crime. I think the basic problem down through the last few years has been that there has

been an impression that people can get off scot free when they commit this crime. If the person is prosecuted and convicted and sentenced to—I have seen the figure of 16 years as a possibility under Italian law, I think there is a message there to a potential hijacker.

Mr. PICKLE. You represent IATA?

Mr. LANDRY. No, I represent the Air Transport Association of America. I have the unfortunate title of vice president-international, which makes me sound like I am from IATA when punctuation disappears.

Mr. PICKLE. What is your opinion as to the reaction of these other nations who signed this treaty with the other 24? Do you think they will sign? You are in contact with many of these, I assume, or their representatives. Now what is your estimate as to their reaction?

Mr. LANDRY. Well, as the previous witness has indicated, 14 have thus far ratified it. I believe there were 40—or a sum approaching 40—who originally signed it. Also as one of the previous witnesses said, many countries do tend to sit and watch and see whether the United States is going to act on these international treaties, these multilateral treaties, and do follow our lead. I had the privilege of attending the Assembly of the International Civil Aviation Organization in Buenos Aires last fall and there was certainly a general consensus that this step of the Tokyo Convention, while not all that needs to be done, is a step that they all believed necessary.

Mr. PICKLE. One other question: Is our Government giving proper leadership in this field now? Are we doing all as a Government we should be doing to get these other nations to join hands?

Mr. LANDRY. We have enjoyed very close cooperation both with the FAA and the Department of State in trying to solve this problem. We have not been fully successful yet, it has been a somewhat frustrating experience. But I certainly would not want to criticize them, they have been very helpful. They have made a lot of attempts for example, in this Syrian affair and I think those attempts are continuing.

Mr. PICKLE. I assume, then, that ATA favors the legislation.

Mr. LANDRY. Very much, sir.

Mr. PICKLE. Thank you.

Mr. FRIEDEL. Mr. Devine.

Mr. DEVINE. No questions, Mr. Chairman.

Mr. FRIEDEL. Mr. Kuykendall.

Mr. KUYKENDALL. Sir, can you imagine why in the world—Is it five or six guys are willing to return here from Cuba? Isn't our present law, even without this new legislation, awfully strong on this subject?

Mr. LANDRY. It is very strong. Actually, if they are convicted the minimum penalty is 20 years in prison.

Mr. KUYKENDALL. Do you agree with me that there is a great big question mark in the minds of the American public today as to what is their motive and whether or not there has been some deal made? I mean don't you think this is a legitimate question that must be legitimately answered some way?

Mr. LANDRY. I hope the answer will be provided by the courts in terms of the sort of sentences you are speaking of. But, in any event I do think that we have had quite a bit of evidence in the past from others who have returned that life in Cuba is very bad for these hijackers, life in the cane fields and so forth. I also think we have had

some evidence that Mr. Castro and the Cuban Government don't want some of these people around themselves. Some of them are not the type of people that any country would want to have.

Mr. KUYKENDALL. You mean life in our prisons has gotten so easy they prefer it to life in Cuba?

Mr. LANDRY. I don't have any experience to answer that question.

Mr. KUYKENDALL. Personally, I can't understand facing a certain 20 years in exchange for coming back to this country.

Now these guys that have been accused of treason and different things like this in the past, granted there has been some lessening of the determination of what treason is. Some of the guys fled when communism was illegal and are now back when communism is not illegal. I don't agree with it but I understand it. It is almost impossible for the average guy or the average Congressman to understand what reason could possibly exist.

Mr. LANDRY. I agree with you, sir, except these of course are not the average guys who are committing these crimes. I hope that is the explanation.

Mr. FRIEDEL. I thank you very much.

The subcommittee now stands adjourned.

(The following letter was received for the record:)

AIR LINE PILOTS ASSOCIATION, INT'L.,
Washington, D.C., November 3, 1969.

HON. SAMUEL N. FRIEDEL,
*Chairman, Subcommittee on Transportation and Aeronautics,
Committee on Interstate and Foreign Commerce,
House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: This is to express the support of the Air Line Pilots Association in favor of H.R. 14301, a bill to implement the Convention on Offences and Certain Other Acts Committed on Board Aircraft, and for other purposes. The subject Convention was ratified by the United States on September 5, 1969, and comes into force of December 4, 1969, among the States that have ratified it.

The bill H.R. 14301 would amend the Federal Aviation Act of 1958 to permit the United States to implement certain provisions of the Tokyo Convention. Section 101 of the Act is amended to create the "special aircraft jurisdiction of the United States" which would include, while in flight, all civil aircraft of the United States, aircraft of the National Defense Forces of the United States, and any other aircraft within the United States or, under specified circumstances, outside the United States. Subsections 902(i), (j), and (k) of the Act (which provide criminal penalties for aircraft piracy, interference with flight crew members, and certain other acts) are then amended to substitute the "special aircraft jurisdiction" for the jurisdiction presently conferred by the term "in flight in air commerce". The effect of these amendments is to extend the criminal provisions to all aircraft within the special aircraft jurisdiction of the United States as defined by the amended section 101.

As you are aware, the problem of aircraft hijacking is of great concern to our members since they are daily facing the immediate threat of force and violence offered by the hijacker and must assume the additional responsibility for the safety of the passengers and the aircraft that is unexpectedly thrust upon them when they are forced to divert from their planned destination. In the past, flight crew skills, air carrier policies, and fortunate circumstances have permitted hijacked flights to be completed; however, we have been lucky and there is general agreement it is only a matter of time before a hijacking incident results in a catastrophic aircraft accident. As each hijacking increases the probability of such a disaster, there is also concern that such a disaster would generate a wave of public feeling making deliberate and careful consideration of the hijacking problem difficult.

We believe the permanent solution to the aircraft hijacking problem is to secure an international agreement based on internationally accepted standards that hijacking is a serious crime endangering many lives and that the hijacker shall

be severely punished. Hijacking of a commercial aircraft is an offense that may involve aircraft of any country, operating in any part of the world, and is likely to occur anytime that tensions exist between two or more countries. With respect to the hijacker who requests political asylum, the dangers of hijacking a commercial aircraft are clearly so great that nations acting responsibly should agree to return the hijacker provided, however, that he will be tried and punished only for the hijacking offense.

The Tokyo Convention constitutes recognition by the United States and the more than 34 countries which have signed it, that aircraft hijacking is an international crime and must be dealt with by an international agreement. Also, consideration is currently being given to a new Convention by ICAO that would supplement the Tokyo Convention, and would penalize the offense of hijacking in an effective manner, taking into account its gravity. We firmly believe that implementation of the Tokyo Convention by the United States would be one more important step to achieving urgently needed international agreements for the effective control of aircraft hijacking.

The Association strongly recommends the enactment of the implementing legislation H.R. 14301.

Sincerely yours,

AIR LINE PILOTS ASSOCIATION,
CHARLES H. RUBY, *President*.

(Whereupon, at 11:10 a.m. the subcommittee was adjourned.)

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