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Inter-American Bar Association

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The XVII Conference of the Inter-American Bar Association was successfully held in Quito, Ecuador, April 24-28, of this year. This was one of the most outstanding conferences ever held by the Association, due mainly to the tremendous effort on the part of the host Association, the Colegio de Abogados de Quito, and the excellent cooperation of other Ecuadorian bar associations and lawyers, as well as to the strong support of the Government of Ecuador and the City Council.

The Opening Session held on Monday April 24, was addressed by the President of Ecuador, H. E. Gen. Guillermo Rodríguez Lara, who declared the XVII Conference of the Inter-American Bar Association officially opened. Other distinguished guests included the President of the Supreme Court, Dr. Miguel Angel Aguirre E.; the Minister of Foreign Relations, Dr. Antonio José Lucio Paredes; the Mayor of the City of Quito, Hon. Sixto Durán Ballén; the Attorney General, Dr. Gonzalo Karolys. Speakers at this session were: Dr. Marco Tulio González, President of IABA and of the Colegio de Abogados de Quito, who welcomed the delegates; John O. Dahlgren, Secretary General of IABA, who read a special message from the President of the United States, the Hon. Richard M. Nixon, extending greetings, as a lawyer, to his colleagues in this Hemisphere and best wishes for a successful conference. On behalf of the U.S. and Latin American delegates, responses were made by William Reece Smith, Jr., President of the ABA delegation, and Dr. José G. Sarmiento Núñez, of Venezuela, former IABA President.

The large attendance included, in addition to the Ecuadorian delegates, delegations and members from the following countries: Argentina, Brazil, Canada, Colombia, Costa Rica, Chile, Dominican Republic, Guatemala, Mexico, Panama, Paraguay, Perú, Puerto Rico, the United States
The International Organizations represented at the Conference were: World Peace Through Law; American Society of International Law; Food and Agriculture Organization of the United Nations; World Health Organization; Latin American Association on Space and Air Law; International Law Association; Inter-American Development Bank; Inter-American Defense Board; Inter-American Commercial Arbitration Commission.

A very interesting and enjoyable social program was arranged by the Local Organizing Committee which included a reception and buffet dinner at the famous and beautiful Convent of San Francisco, built in the 17th Century, providing a memorable experience for those attending; a reception at the Supreme Court; a barbecue at the Military Academy and a closing banquet at the Quito Tennis and Golf Club, with native dancers, singers and musicians.

The Committee meetings were very successful and stimulating. Of particular interest were special programs organized by some of the Committees, i.e., a symposium on hijacking and the problems of drugs, and a panel on comparative study of national legislation in America affecting terrestrial and space communications. The Committee discussions were based on papers prepared by the Association's members on the approved topics for the Conference. Most of these papers will be included in the Conference Proceedings to be published by the Colegio de Abogados de Quito.

The IABA awards made by the Council during the Conference were: "Gold Medal" to Dr. Carlos A. Dunshee de Abranches, of Brazil, for his valuable contribution to the Association through his advice and active participation in its programs and Committee work throughout the years, and for his continued work as a jurist in support of the advancement of law in the American countries. "Gold Medal" to Mrs. Carolyn Royall Just, of Washington, D.C., for her many years of valuable assistance to accomplish the Association's objectives and as a tribute — for the first time in the history of IABA — to the activity of women in support of the legal profession. "Silver Medal" to Dr. Luis A. Andrade, of Ecuador, for his excellent work as Chairman of the Local Organizing Committee for the XVII Conference. "Book Award" to William Mitchell, Esq., of Washington, D.C., and to Dr. Isidoro Zanotti, of Brazil, for their excellent work "Draft Treaty to Establish the Latin American Nuclear Common Market (MECLAN) and Exposé de Motifs" which represents a valuable legal contribution in the field of cooperation among the Latin American countries.
The "William Roy Vallance Award" was granted by the Inter-American Bar Foundation to former President of IABA and well known international jurist from Costa Rica, Lic. Fernando Fournier, who was selected as the first person to receive this award for his outstanding career and for his personal warmth, cordial and friendly personality, which were qualities exemplified by William Roy Vallance — the late Secretary General of IABA — who used them so effectively in bringing members of the legal profession into closer and friendlier relations.

Conference Resolutions

The fruitful work of the Conference was reflected in the many important resolutions adopted. These dealt with current problems of particular interest to members of the legal profession in the Hemisphere. The full text of resolutions 1-25 is listed below. Resolutions 26-54 will be published in the next issue of the Lawyer of the Americas.

COMMITTEE I. PUBLIC INTERNATIONAL LAW

Section A. Oceanography and the Law of the Sea

Resolution 1

Continental shelf and territorial sea

WHEREAS:

The right of coastal States to establish the limit for the exercise of their sovereignty and jurisdiction over the submarine platform or continental and insular shelf, as well as over the sea adjacent to their continental and insular coastlines, whatever the depth thereof and to the extent covered by said shelf, as far as may be necessary, in order to reserve, protect, conserve and utilize the natural wealth and resources of such states, constitutes a principle of international law adopted by the majority of the Latin American States;

The above mentioned States consider it reasonable to establish said limit at 200 miles both as to the submarine platform or continental and insular shelf, as well as to the adjacent sea, for the above stated purposes, on the basis of their geographical, geological, biological and socio-economic characteristics;

The right of the States to exercise permanent sovereignty and jurisdiction over their natural wealth and resources, in the interest of national
development and of the welfare of their people is a principle previously recognized by international organizations and reiterated by the General Assembly of the United Nations in its Resolution No. 2692 (XXV), dated December 11, 1970;

It is imperative for the process of integration in Latin America that there be established a just juridical regime on the law of the sea which would be extended to all States forming the international community,

RECOMMENDS

1. That the right of each State to establish a reasonable limit for the exercise of its sovereignty and jurisdiction over its submarine platform or continental and insular shelf, as well as over the sea adjacent to its continental and insular coasts, whatever the depth thereof, in accordance with its geographical, geological, biological and socio-economic characteristics and as a member of the international community, be reaffirmed.

2. That the Latin American States which have fixed the limit for the exercise of their sovereignty and jurisdiction over their submarine platform or continental and insular shelf and sea adjacent to the continental and insular coasts, at 200 miles, agree to hold a convention to establish a just juridical regime on the aspects that have been expressed, taking into consideration the desire for integration of the peoples of Latin America, and leaving open the possibility that the remaining States, members of the international community, which have not fixed said limit, may adhere to said regime.

* Res. 2

Sea-bed and the ocean floor

WHEREAS:

The General Assembly of the United Nations, in its Resolution 2749 (XXV) of December 17, 1970, adopted the Declaration of Principles governing the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as the resources found therein;

(*) — Resolutions marked with an asterisk are translations of the original Spanish texts,

N.C. — Resolutions marked N.C. are those approved by the New Council, as Conference Resolutions, in accordance with authority delegated by the Assembly.
The first of said principles proclaims that such sea-bed, subsoil and resources, are the common heritage of mankind;

In conformity with the fourth operative paragraph of said Resolution it was decided that all activities regarding the exploration and exploitation of the resources of the extrajurisdictional area and other related activities, shall be governed by the international regime which is to be established; and

In accordance with paragraph number 5, conforming with paragraph 8, of said provision,

RECOMMENDS

1. The adoption of the principles set forth in the Declaration to which Resolution 2749 (XXV) refers, approved by the General Assembly of the United Nations, on December 17, 1970, on the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as on the resources found therein.

2. To reaffirm that the extrajurisdictional area of the sea-bed and the ocean floor and the subsoil thereof, may be used for peaceful purposes only, in conformity with the said Resolution.

3. That the Conference on the Law of the Sea which is to be held in Geneva for the purpose of avoiding conflicts in the delimitation of the sea-bed and ocean floor, which are in the extrajurisdictional areas of the States, take into account the limit established by said States, in accordance with reasonable criteria, for the exercise of their sovereignty and jurisdiction in their territorial sea.

4. That the international regime that is to be established for the exploration and exploitation of the resources of said extrajurisdictional area, jealously safeguard the principle that declares the same to be the common heritage of mankind.

5. That said regime must, likewise, assure an equitable distribution of the benefits that are derived from the use of the area, especially taking into account the needs of the developing countries, coastal as well as land-locked.

6. That the Secretariat of this Conference notify the III Conference of the United Nations on Trade and Development (UNCTAD),
which is presently meeting in Santiago, and particularly the group of
developing countries, and request their adherence to the principles which
are set forth in the Declaration of the sea-bed and the ocean floor, and
the subsoil thereof, beyond the limits of national jurisdiction, approved by
the General Assembly of the United Nations in its twenty-fifth session.

* Res. 3

Resources of the territorial sea

WHEREAS:

All States are juridically equal and none has the right to intervene,
directly or indirectly in the internal or external affairs of another State;
Respect for the personality, sovereignty and independence of States
is a principle essential for maintenance of international juridical order;
Every State has the right to defend its territorial sea resources and
to establish conditions for the best use of its fishery resources;
Economic cooperation between the better developed countries with
those which have not yet reached the same level of development is a prin-
ciple which has been incorporated in the Charter of the United Nations,
and in the Charter of the Organization of American States;
Obligations of solidarity which form the basis for the international
community confirm the necessity for economic cooperation among States,
with the consequent exclusion of any step which contradicts article 19 of
the Charter of the Organization of American States,

DECLAR ES

That all States have the right to provide by legislation for the best
use and the defense of the natural resources of their territorial sea, with-
out interference from another State and to defend their jurisdiction and
sovereignty over such sea.

Section D. Inter-American Air Law

* Res. 4

International air transport

WHEREAS:

International air transport and industry are developing under par-
particularly complex conditions, requiring continuous special attention of governments;

Under these circumstances the necessity for governments to support the commercial activities of their own flag carriers operating in international traffic becomes evident;

It is advisable that there be established for the American Continent appropriate regulations on the interchange of traffic rights which will ensure orderly and productive commercial operation,

RECOMMENDS

1. To the Governments of the American States that through their aeronautical authorities, they establish the basis and principles for regulating in an orderly manner the interchange of traffic rights and the reciprocal conceding of such rights in a just and equitable manner in each case, in order to achieve a balance in the enjoyment of mutual benefits by the international airlines of the hemisphere.

2. To the said Governments that they give adequate assistance of technical, political, economic and juridical nature to the airlines authorized to engage in international air transport, in recognition of the fact that this means of transportation becomes daily more important for national development.

COMMITTEE II. PRIVATE INTERNATIONAL LAW

Res. 5

International cooperation in civil, commercial and penal procedures

A.

WHEREAS:

Resolution 7 adopted at the XVI Conference of the Inter-American Bar Association held in Caracas, Venezuela, in 1969, recommended the publication of the study entitled “International Co-operation in Civil and Commercial Procedure (American Continent)” and the said study was completed with contributions of 22 authors from 19 countries of the Western Hemisphere,
RESOLVES

To take note of the completion of the study entitled “International Co-operation in Civil and Commercial Procedure (American Continent)” and to express its satisfaction that in the near future the said study will be published pursuant to the resolution adopted by the aforesaid Conference of the Association.

B.

WHEREAS:

The importance of concluding the study on international judicial co-operation in penal procedure in each of the countries of the American Continent is evident, and the said study is already in progress under the auspices of the Association,

RESOLVES

To express appreciation for the contribution made by the authors of the National Chapters on “International Judicial Co-operation in Penal Procedure in the American Continent” and encourage the completion and publication of said work.

Section A. International Judicial Procedure

Res. 6

The Hague Conventions

WHEREAS:

The text of The Hague Conventions of 1964 and 1968 on Service Abroad of Judicial and Extra-Judicial Documents and the taking of Evidence Abroad in Civil and Commercial Matters has not been properly known in the Latin American countries and therefore it is not possible, at this time, to recommend the accession of the States of this Continent to said instruments,

RESOLVES

To maintain on its agenda the study of the two aforementioned Conventions requesting their immediate translation into Spanish and Portu-
guessed for their further study and in order to make appropriate recommendations at the next Conference of the Inter-American Bar Association.

COMMITTEE III. CONSTITUTIONAL LAW

Section A. Defense of Independence of the Judiciary and Irremovability of Judges

Res. 7

Independence of the judiciary and irremovability of judges

WHEREAS:

At the XII Conference of the Inter-American Bar Association held in Bogotá, Colombia, in 1961, Committee III approved the following principles:

a) That when appointing members of the Judicial Power the scientific and moral qualifications of the candidates be borne in mind, and the opinions of forensic organizations and of the Judicial Power be considered.

b) That in the execution of their office, the judicial magistrates be irremovable as long as their comportment warrants it and in accordance with the laws governing their term of office.

c) The system of popular election for the appointment of judges is not considered advisable, and it is considered even more inadvisable to make an appointment for a definite period, even if there is a possibility of re-election.

d) That the Judicial Power be assured of a portion of the General Budget, to be fixed by laws and distributed by the said Judicial Power, which will make the necessary suggestions to enable the Executive Power to authorize the necessary expenditure.

e) It is indispensable that the remuneration of the magistrates be sufficient to cover the average requirements of a person of this category, bearing in mind the fact that they cannot hold any other lucrative position.

f) That the remuneration of any person in the service of the state, in any office, with the exception of the Chief Executive,
The XIV Conference of the Inter-American Bar Association held in San Juan, Puerto Rico, in 1965, approved the following principles:

a) To reaffirm resolutions adopted at previous Conferences regarding the independence of the judiciary.

b) Distribution and publication by national member associations of all pertinent resolutions adopted in order that effect may be given to them.

c) That in the appointment and promotion of members of the judiciary and of the Department of Justice, there should be taken into account the educational and moral qualifications of the candidates as well as the opinion of the bar associations and of the judiciary itself, by means of a just and adequate system.

d) That, while in exercise of their duties, members of the judiciary should not be removed during good behavior, the constitutional limitation because of age not violating the principle of irremovability.

e) That the system of popular voting for nomination of judges should not be considered desirable and that the nomination for a fixed term, even with the possibility of reelection, be considered even less desirable.

f) To assure by constitutional provisions the financial independence and the initiative of the judiciary in matters of laws concerning organization, administration and judicial procedure.

g) That it should be considered indispensable that the compensation of members of the judiciary be in accord with their rank and be protected from inflationary trends, a principle which should extend to retired members of the judiciary.

h) That the remuneration of members of the highest tribunals of each country should not be less than that of members of other agencies, except that of the Chief of State.

i) The creation in each country of an institute to study the problems of the judicial system in order to improve the professional qualifications of its members and especially of those who desire to become members of the judiciary.
j) The creation of associations of members of the judiciary in order to promote a better administration of justice.

RESOLVES

1. To reaffirm the principles adopted at Bogotá and at San Juan relative to the independence of the Judicial Power and the irremovability of the court members and judges.

2. To consider that the principle of irremovability of judges implies a set of guarantees, such as the right to adequate remuneration, to a just judicial career and tenure of their positions until the end of the term for which they were appointed or until they reach the age of compulsory retirement established by prior law.

3. That they can be required to retire from office before the time established in accordance with the preceding paragraph only for serious misdemeanors damaging to their standing, such as:

   a) Severe defects in the fulfillment of their functions.

   b) Repeated unjustified delays in the administration of justice.

   c) Scandalous behavior in their private lives.

   d) Supervening physical or mental incapacity.

   e) Other similar reasons.

4. As to means for removing court members and judges from office, there must be established a system guaranteeing due process and a court to determine the proper balance between the maximum juridical guarantees and political power, in order to safeguard court members or judges from political changes or varying circumstances.

5. That an established career incorporates a system of selection and promotion, preventing political intervention and taking into particular account the professional and moral qualities of the candidates and their fidelity to the principle of equality before the law and justice.

   (Approved with the notation that this resolution does not imply a decision as to the constitutional power which the Executive may have in the appointment of judges.)
Section B. Delay and Congestion in the Courts

Res. 8

Delay and congestion in the Courts and establishment of a Computer Center

WHEREAS:

At previous Conferences of the Inter-American Bar Association programs, discussions and resolutions have recognized the serious problem of delay and congestion in the courts and the resulting denial of justice, as well as the burden on constitutional governments wherein an important part of their structure fails to function as designed, and

Various studies have confirmed the existence of this problem in many jurisdictions and the belief that the indispensable step necessary to correct this problem is the computerization of all relevant data relating to delay and congestion in the courts,

RESOLVES

1. To request each State in the Western Hemisphere to adopt, at the earliest possible time, a uniform system of keeping and reporting data relating to such information as dates of filings, case numbering, types of cases, when at issue, how and to whom assigned, final disposition and time consumed from initial filing to completion in each court; further, that this information be gathered to the end that such data can be used for computer operations to determine the amount of delay and congestion in the courts of each country and, further, that ultimately such data be used to enable judges, judicial administrators, legislators and chief executives to devise and adopt methods to decrease and eliminate delays and congestion through appropriate legislative and administrative action.

2. To recommend that each State, if it can or so desires, establish a computer center to compile the aforesaid data and that, at the earliest practicable time, a Western Hemisphere computer center be established to utilize such information for the benefit of all countries within the Western Hemisphere.

3. To recommend that all States adopt as promptly as possible, where necessary, additional methods to combat delay and congestion, to wit: special schools for judges, schools for judicial administrators, changes in techniques of processing cases and in applying the law, all to the end that
the various judicial systems can function constitutionally, fairly and promptly for the benefit of mankind.

Section C. Constitutional Problems of Latin American Integration

* Res. 9

Action on topics of the Section

WHEREAS:

The topics in the agenda for Section C of Committee III relating to constitutional problems of Latin American integration are closely linked with those of Section A of Committee XI, entitled "Legal Aspects of Economic Development and Integration";

The constitutional aspects of the process of integration could very well be considered in the broad sense by the second of the aforementioned Sections;

The diversity of subjects included in Committee III made it possible for the subject matter to be discussed first by Committee XI.

RESOLVES

To refrain from considering the topics contained in the agenda for Section C of Committee III, at this Conference.

COMMITTEE IV. MUNICIPAL LAW

* Res. 10

State institutions on urban and housing problems

WHEREAS:

The housing deficit in the American countries is becoming ever more serious;

The solution of this problem exceeds the bounds of ordinary municipal power;

It has become urgently necessary in each country to formulate plans and national housing funds calling for wider State action,
RECOMMENDS

The study of the advantage of creating in the countries where no such entity yet exists, a state institution, of national character and wide-ranging powers (Ministry, Corporation or Housing Institute) to plan, coordinate and finance a comprehensive and effective solution to urban and housing problems.

Section A. Housing Law

* Res. 11

Study of special legislation

WHEREAS:

Appropriate housing is a necessary means for the complete fulfillment of man;

It is imperative to promote a better distribution of urban real property;

The property system must be oriented to the welfare of the community and regulated in accordance with standards of social justice, and

Frequently, real estate selected for housing has been a target of misuse and even of exploitation,

RECOMMENDS

To the American States the study of special legislation which would enable housing to be provided for a larger number of families, would avoid the concentration of urban real estate in a few hands and make possible a process of transformation and improvement of the socio-economic structure of the countries of the hemisphere in the service of human dignity.

* Res. 12

Horizontal property

WHEREAS:

Various American States have laws on condominiums that permit the construction of housing in co-ownership;
The American States have adopted different practices in the implementation of their general and local laws on condominiums, and

A comparative study of the general and local laws on condominiums and experience under them would help the American countries to improve their laws,

RECOMMENDS

The formation of a representative commission, composed of jurists of the various countries of the hemisphere, to make a comparative study of the legislation on condominiums and to present a draft model law to be submitted for consideration by all the countries.

* Res. 13

Leasing laws

WHEREAS:

Leasing laws of the various countries of America have become an integral part of the social rights;

Tenants should be protected in their aim of becoming proprietors when they have fully complied with their contracts in accordance with the legal requirements of each country, and

It is necessary to begin putting an end to the precarious use of housing that does not comply with the minimum standards of habitability consistent with human dignity,

RECOMMENDS

The study of adequate legislation that will permit tenants to become proprietors.

COMMITTEE V. CIVIL LAW

* Res. 14

Permanent consulting bodies to furnish information

WHEREAS:

In view of the general trend towards inter-American integration which is rapidly developing in most of the American nations, it seems appropriate
for the Inter-American Bar Association to collaborate in this field by facilitating, in a practical way, the study of regulations to contract laws and other juridical standards closely linked with the economic aspects of those countries and, to this end, the establishment of permanent consulting bodies to furnish relevant information to members of the Association is considered advisable.

RECOMMENDS

The study of the ways and means to make effective the establishment of permanent consulting bodies which shall be composed of Inter-American Bar Association members willing to furnish legal information from their respective countries, especially in juridical matters relating to the economic aspects, for the benefit of lawyers of other nations and also members of the Association.

Section A. Persons, Family and Succession

* Res. 15 — N.C.

Equality of children born in and out of wedlock

WHEREAS:

The substantive law should promote justice with a sense of equality and protection of rights;

There still exists in some countries prejudicial discrimination against children born out of wedlock;

The States should encourage parents to comply with their obligations with reference to their children, especially during their minority, and without regard to their legitimacy;

Irregular or illegal conduct of parents should not result in unfavorable consequences for the children;

Many States have recognized the equality of children born in and out of wedlock, without detracting from the worth of marriage;

In such an important matter it is advisable that, as soon as possible, precise and explicit legislation be passed,
RECOMMENDS

1. To the States that still do not provide in their legislation for the equality of children born in and out of wedlock, that they adopt this principle.

2. That not only general constitutional and abstract rules be dictated but, when necessary, laws or reforms to develop these principles be promulgated.

Section B. Intellectual and Industrial Property

* Res. 16 — N.C.

Industrial Property

WHEREAS:

For the implementation of industrial property laws it is required to have the services of public officials who are technically capable, with thorough knowledge of the rules and juridical principles on the subject;

In modern States, judges are charged with solving conflicts between private persons and the State;

The independence of the judiciary and the independence of judges themselves, guarantee impartiality in judicial decisions;

The judicial process is an adequate instrument for the parties to enforce the rights which they believe they have;

The judiciary provides protection against a tendency toward assumption of public power;

The solving of industrial property controversies requires guarantees of stability, impartiality and thorough knowledge of the law,

RECOMMENDS

1. To the American States that they include in their laws and regulations establishing the administrative structure of industrial property offices, the requirement that the senior employee in charge of said office be a lawyer having specialized knowledge of industrial property.

2. To the American States that they should adopt, for the decision of all controversies on trademarks, patents, models and industrial designs
and commercial names and in general for the decision of all industrial property conflicts, the system establishing judicial review of administrative decisions so that the judges of general jurisdiction will hear and decide such conflicts in the final instance, providing, whenever possible and when the volume of work justifies it, judges specially qualified on this subject.

* Res. 17

_Industrial property in the Andean Group_

WHEREAS:

To attain a more efficient Andean subregional integration it is required that there be similar rules which guarantee industrial property rights,

RECOMMENDS

To the member countries of the Andean Subregional Integration Agreement that they adopt general rules to regulate adequately the protection of industrial property, leaving to the authorities of the member countries the application of the principles established in such rules.

* Res. 18

_Topics for future Conferences_

WHEREAS:

The juridical problems referring to intellectual and industrial property should be constantly studied because of its close link with the economic development,

RECOMMENDS

To the Council of the Association that the agenda for all future Conferences include topics relating to the juridical problems of intellectual and industrial property.
Committee VI. Civil and Commercial Procedure

Section A. Inter-American Commercial Arbitration

* Res. 19

Program of information and education

WHEREAS:

International trade and investment is rapidly growing and expanding not only among the nations of the Western Hemisphere but also between those nations and the nations of the rest of the world;

Disputes arising from such international trade and investment similarly will grow and expand with corresponding rapidity;

It is desirable and necessary that information regarding the facilities and expertise of the Inter-American Commercial Arbitration Commission and other international arbitration facilities be brought to the attention of all persons, organizations and institutions involved in international trade and investment;

The resolutions adopted by the Inter-American Bar Association at its XVI Conference held in Caracas, in 1969, recommended adherence to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards and noting with approval that Ecuador, Mexico, Trinidad and Tobago and the United States of America have taken such action, and

It is highly desirable to publicize widely the provisions of the United Nations Convention, especially those relating to the non-enforceability of foreign awards obtained by fraud or against public order,

RESOLVES

1. That all efforts be made to increase the number of adherents to the United Nations Convention in order to facilitate the development of inter-American arbitration,

2. To urge the individual members and member associations of the Inter-American Bar Association to promote and to participate in a widespread program of information and education designed to inform and advise persons, organizations and institutions regarding international arrangements and facilities for the rapid, efficient and inexpensive concili-
ation or arbitration of disputes arising from international trade and investment activities.

3. That the foregoing program be based on thorough and documented research on the laws and practices of international conciliation and arbitration and the related subject of international trade law.

4. That all available contemporary informational and educational techniques be utilized, including the use of books, pamphlets, periodicals, lectures, seminars, radio, television, films and audio-visual techniques.

5. That this program be implemented with the help and cooperation of organizations and institutions including bar associations, chambers of commerce, law schools, business schools, international development institutions having training programs and appropriate inter-governmental, governmental and non-governmental agencies interested in the process of international conciliation and arbitration.

COMMITTEE VII. COMMERCIAL LAW

Section A. Banking Laws and Trust

* Res. 20

Creation of Working Group

RESOLVES

In compliance with Resolution 21 of the XVI Conference held in Caracas in 1969, to designate a Working Group which shall receive and disseminate information on existing legislation and draft legislation especially draft Uniform Law of Negotiable Instruments for Latin America, referred to in said Resolution, and which shall be composed of the following members: Dr. Felipe S. Casanova, Venezuela; Dr. Rafael Eyzaguirre, Chile; Dr. Octavio Jaramillo, Colombia; Dr. Miguel Macías Hurtado, Ecuador; and Dr. Hernán Delgado, Panama.

* Res. 21 — N.C.

Compilation of Legislations

RECOMMENDS

1. That the Inter-American Bar Association use its best efforts to publish a compilation of all the laws of the American nations relating to banks, financial companies and capital markets.
2. That for this purpose, the member associations shall send to the Executive Headquarters of the Association the corresponding legal texts and a summary of the most important decisions relating to the subject.

Section C. Corporation Law * Res. 22

Corporations and individual enterprises

WHEREAS:

The expansion of trade among American countries makes it necessary that corporation laws be revised in accord with the changing situation;

There is an urgent need to provide standards for regulating adequately individual enterprises to protect their rights on a fair and equitable basis, and

These matters merit the special attention of bar associations of America and of individual members of the Inter-American Bar Association, in view of their specialized knowledge,

RESOLVES

1. In matters pertaining to corporations;

   (a) To recommend to endeavor to obtain by national legislation the observance of standards for regulating the conduct of such enterprises.

   (b) To propose that the supervision and inspection of corporations be in charge of lawyers, whether administrative or judicial authorities, that their decisions must be in conformity with the law and the right of appeal be afforded;

   (c) To ensure that standards be maintained for bringing before ordinary courts or arbitration tribunals the consideration of disputes that arise between shareholders and the corporations;

   (d) To try in every possible way, without prejudice to existing controls which insure the responsibility and solvency of foreign corporations, to simplify the rules applicable to such corporations which permit them to operate in various countries in order to facilitate their multinational activities.
2. With reference to individual enterprises:

(a) To make every effort to ensure that the laws express to the individual enterprise, specifically, its right to its own legal personality which, as such, has the following attributes: name, purposes and operating capacity, property, domicile, etc.

(b) To exert influence, in accordance with conditions in each nation, toward the preparation of standards to be applicable to individual enterprises specifying with precision the nature and scope of their property which will include personal and real property rights and obligations, consonant with their purposes. The standards should also provide that liability should be limited to acts performed or contracts carried out in the furtherance of their own activities and, likewise, that the matters relative to capacity, agencies, representation, termination and liquidation of the enterprise also be considered.

Section E. Bankruptcies

* Res. 23

Fraudulent Bankruptcies

WHEREAS:

The XVI Conference of the Association held in Caracas in 1969 adopted Resolution 23 requesting information on the dangers of businessmen declared insolvent in certain countries and who again install themselves in any of the countries of the hemisphere and since the said resolution has not been complied with;

The bankruptcy of a businessman, natural or juridical person, brings with it serious consequences, not only for his creditors but for all society, because of the multiple interests involved;

Therefore, the Institution must pursue diverse objectives, among others, to encourage laws that will see that payment be made to all creditors on an equal basis in accordance with credit priorities, that will protect the good faith debtor who because of fortuitous circumstances falls into bankruptcy, and that will punish the bad faith insolvent person who, because of expressed negligence or by fraudulent acts tries to defraud his creditors;

The penal systems, in this case, must be effective so that the penalties have effect not only in the countries in which such acts are committed, but
also, in some way, a formula must be found in order that businessmen who commit such illegal acts in one country cannot reestablish themselves in business, individually or as a company, in another country.

In order to prevent such occurrences, all competent bodies must collaborate through exchange of data, on persons as well as on companies that have gone into fraudulent bankruptcy.

RECOMMENDS

To the competent organizations which maintain relations with the Institution, to promote effective means to exchange data on fraudulent bankruptcies in order to avoid repetition of such acts in other countries.

COMMITTEE VIII. CRIMINAL LAW AND PROCEDURE

* Res. 24

Convention on Psychotropic Drugs and proposed legislation

RECOMMENDS

1. To the member associations of the Inter-American Bar Association that they request their respective governments, if they have not yet done so, to ratify the Convention on Psychotropic Drugs signed in Vienna on February 21, 1971.

2. To the said member associations that they request the governments that ratify the aforesaid Convention, to adopt, for the punishment of the violation of the rules of said Convention, the following proposed legislation:

   Art. 1. For the purpose of this Law, Psychotropic substances include any substance, natural or synthetic, included in the lists of the Law suggested by the Convention of Psychotropic Drugs, or any other substance which can cause physical or physiological dependence in a person, or stimulation or depression of the central nervous system, which creates problems of the motor function of the mind, behavior, perception, or the spirit. It is left to the State to include in the list any other substance which can produce similar effects or which has been included in an international agreement ratified by said State.

   Art. 2. Any person who uses illegally any substance included in Article 1 or who uses personally a dose which exceeds that prescribed by
the doctor, will be punished by one to three years in prison or will be subjected to a cure in an institution for addicts and inebriates for an equal or less period, until he is found to be completely recovered in the judgment of the Court after receiving the opinion of three forensic experts.

Art. 3. Addicts who present themselves voluntarily for treatment in rehabilitation centers shall not be subjected to the penalties prescribed in the preceding Article unless they refuse the cure. The directors of the Rehabilitation Center will immediately advise the proper judicial authority of each case presented and will terminate the treatment for addiction only when the person is found rehabilitated in the opinion of the judge who has been notified and of three forensic experts. In each case, the rehabilitated person will be provided with a medical certificate stating the duration and object of the treatment.

Art. 4. Any person who illegally prescribes, imports, exports, manufactures or produces any of the substances referred to in Article 1, or who engages in any activity or traffic of said substances for purposes of gain will be imprisoned for from 8 to 12 years.

An attempt shall be punished as a completed offense.

Art. 5. Any person who facilitates the use by another of substances included in Article 1, whether for gain or not, and whether by procuring a place or by any other means, will be punished by imprisonment for from 2 to 5 years.

Art. 6. Any person who by means of false prescription or prescriptions in blank form causes the issuance of any pharmacological substances included in Article 1 will be punished by imprisonment for from two to 5 years. The same punishment will be given to any person who, with knowledge of the false prescription or of a prescription in blank form, issues the said substances.

Art. 7. A druggist who sells or issues any substance of Article 1 without a prescription issued by a medical specialist will be punished by imprisonment for from 1 to 2 years and cancellation of his license for the same period.

A member of the medical profession who illegally prescribes psychotropic drugs will be punished in the same way.

Art. 8. Any person who incites, induces or uses another person for the consumption, traffic in, or production of the substances listed in Article 1 will be punished by imprisonment for from 4 to 10 years. The penalty will be increased by one third to one half if the victim is a minor, an
incompetent or a relative of the offender within the third degree of consanguinity and second grade of affinity; or is the spouse of the offender; or when the offender is a medical doctor, druggist, chemist or a member of any profession which has to do with public health; or when he is a public official in the exercise of his duties.

Art. 9. The cure provided in the previous Articles will be accomplished in any institution established for that purpose or in one which the government creates for the treatment of addicts. The appropriate judicial authority will be notified of the progress of the cure and of its results by the attending physician and by the Director of the Institute. From time to time the condition under which the cure is to be accomplished will be fixed. The costs of hospitalization will be paid by the State, except that persons of means will pay their own costs.

Art. 10. Without prejudice to the provisions of the Law of Aliens and their Supervision, every alien convicted as an offender under the foregoing provisions of the Law will be deported immediately from the country as soon as he completes his sentence.

COMMITTEE IX. ADMINISTRATIVE LAW AND PROCEDURE

* Res. 25

Codification of administrative law

WHEREAS:

Despite the difficulty and complexity of undertaking codification of administrative law, it is possible to do so in its procedural aspect;

A set of rules of procedure in administrative matters which make substantially uniform the process by which decisions of various administrative agencies and pertinent appeals are reached, constitute a guarantee for those subject to administration directed at safeguarding and making effective their substantive rights,

RECOMMENDS

That in each country studies be made relating to the codification of the administrative process, directed to two main fields: a) the strictly administrative: administrative appeals; and b) in the field of controversy under administrative law.
XVIII CONFERENCE OF IABA

Rio de Janeiro, Brazil, will be the site for the XVIII Conference of the Association to be held August 18 to 24, 1973, with the Instituto dos Advogados Brasileiros as the host association. Its President, Dr. Theophilo de Azeredo Santos, personally extended the invitation of the Instituto during the Quito Conference.