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Report of the Committees on Aeronautical Law of the American Bar Association Resolution

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FEDERAL REVIEW

REPORT OF THE COMMITTEES ON AERONAUTICAL LAW OF THE AMERICAN BAR ASSOCIATION* RESOLUTION

“RESOLVED, That the American Bar Association is aware of a present need for the revision of many State aeronautical statutes and administrative regulations so as to recognize and permit effective utilization of helicopters and convertiplanes, and that the Standing Committee on Aeronautical Law be, and it hereby is, authorized to continue to study proposals from interested public and private groups regarding such statutes and regulations, and to submit, for the consideration of the House of Delegates, recommendations regarding same to be made available to appropriate governmental and administrative officers of the several states and territories.”

In its Annual Report for 1953¹ and 1954² your Committee reviewed the unfortunate legal status of the helicopter in those States where the differences between it and fixed-wing aircraft have not been recognized. These Reports pointed out that in such states, the vast body of state and local laws, regulations and decisions built up over many years for application to fixed-wing airplanes are now also indiscriminately applicable to helicopters, convertiplanes, vertical rising and other non-conventional aircraft.

In many cases such application will prevent a full realization of the peculiar performance characteristics of these planes. Finally, after pointing out that the Federal Government and some State Governments have taken steps to recognize helicopters and to provide for their effective utilization, the Reports stated that the most urgent use is to recognize that exceptions for helicopters must be made from certain existing aeronautical laws and regulations and urged a re-examination thereof for possible non-applicability to the helicopter.

During the past year two significant developments have taken place. The 1954 Organization and Policy Report of the National Association of State Aviation Officials (NASAO) set forth the following policy concerning this problem:

“HELICOPTER—ROTARY-WING AIRCRAFT

“By reason of special performance characteristics which give the helicopter a utility not possessed by any other vehicle, the various States should review their laws and regulations with a view toward removing, where necessary, language which unnecessarily limits or restricts the operations of helicopters and rotary-wing aircraft; particularly with respect to airport planning, the establishment of public and private heliports, visibility limitations, minimum altitudes of flight, airport traffic patterns, and other matters where the difference between the helicopters and fixed-wing airplanes justify different regulatory treatment.”

NASAO has for some time recognized the need for such a review, and has recently undertaken a study of State aeronautical laws in conjunction with

* Dated July 1, 1955.

¹ 78 A.B.A. Rep. 191 (1953).

² Advance Program, 77th Annual Meeting of the American Bar Association, p. 1.

the Helicopter Council of the Aircraft Industries Association (Helicopter Council) in an attempt to formulate the needed revisions.

The Helicopter Council has recently caused a survey to be made of all State aeronautical statutes in order to clarify the specific areas where revision will be necessary. This survey showed that the more serious problems facing future helicopter operators under existing aeronautical statutes are traceable to two main sources: (1) to a failure on the part of most statutes to recognize that the helicopter is a vehicle very different than the fixed-wing airplane; and (2) to a similar failure to recognize that the two vehicles require vastly different types of landing-areas. It was shown that as of 1953 (the survey cut-off date) statutes in almost every State defined "aircraft" broadly enough to include helicopters and other non-conventional aircraft, thus subjecting their operations to inappropriate regulations designed for fixed-wing aircraft. (Four States, however, did also give separate limited recognition to helicopters in their statutes.) Of these regulations, the ones which will most seriously retard full realization of the helicopter's potential are fixed-wing rules prescribing altitude and visibility limitations, safety rules, and landing and take-off pattern requirements. Such regulations sometimes appear in statutes, but more often in administrative regulations. In almost all States, however, they now apply alike to fixed-wing airplanes and helicopters under definitions of the word "aircraft."

Similarly, the survey showed that as of 1953, most State statutes defined words like "airport" or "landing field" broadly enough to include the relatively small landing areas (heliports) which helicopters will utilize, and gave no separate recognition thereto. As a result, heliports will be subject to all existing regulations designed for fixed-wing airports unless appropriate exceptions are made.

The survey also showed that in some jurisdiction helicopters, classified as "aircraft," may be required to operate only from conventional "airports," unless appropriate excepting provisions are adopted. There is no need for such a requirement, and the enforcement thereof would destroy the helicopter's ability to be of maximum benefit to the traveling public.

The Legislatures of over forty States will not meet in general sessions again until 1957. Your Committee, therefore, proposes to complete its study and to make its recommendations during 1956 so that such recommendations can be made available to persons and public groups interested in aviation legislation prior to the convening of the various State Legislatures in 1957.

During this last year commercial use of the helicopter has significantly increased. Experimental operation thereof has been undertaken by existing common carriers. National Airlines, Inc., a trunkline carrier, has continued during the year its helicopter operations within a 150 mile radius of Miami, Florida³ and Mohawk Airlines, Inc., a feederline carrier, has conducted similar operations in the areas served by it.⁴ The most extensive and significant commercial use of helicopters has been undertaken in Europe by Belgium's Sabena Airlines.

Thus, although your committee stated in its 1954 Annual Report that the more significant legal developments regarding helicopters will probably occur in the future, it now appears that the time when helicopters may be in substantial commercial use is near at hand. Furthermore, a full study of the problems now facing operators of non-conventional aircraft and appro-

³ This experiment, authorized by the Civil Aeronautics Board (CAB Order No. E-8034) was cited in your Committee's 1954 Annual Report, Advance Program, 77th Annual Meeting of the American Bar Association, p. 1.

⁴ This experiment was authorized by CAB Order No. E-8526.

priate revisions of existing law, should be made in the reasonably near future—before the use of such aircraft is stifled by aeronautical laws designed for an entirely different type of vehicle. Your Committee, therefore, vigorously supports NASAO's policy statement set forth above, and urges the House of Delegates to pass the attached Resolution, thereby granting the Committee authority to cooperate with NASAO, the Helicopter Council and other interested public organizations in their worthwhile endeavors in this area.

Respectfully submitted,

WILLIAM S. BURTON, Chairman

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