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Madeline C. Dinu

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STATE AVIATION OFFICIALS—SOME OF THEIR DUTIES, RESPONSIBILITIES, AND ACTIVITIES*

By MADELINE C. DINU

Special Assistant Attorney General for aviation in Michigan; Legal Counsel for the NASAO and Detroit Metropolitan Aviation Authority; Wayne University, LL.B.; graduate studies in aeronautical law under the late John H. Wigmore, Northwestern University; member of the Michigan Bar. Chairman, Michigan State Bar Committee on Aeronautical Law; and Chairman, Committee Aeronautical Law of National Association of Women Lawyers. Legal consultant, National Aviation Clinic, Oklahoma City, 1946.

THERE is nothing so discouragingly startling as to put in twelve to sixteen hours a day, on the responsibilities of the job of state aviation director, and then be asked the question: "What does a state aviation director do?" Especially is this true in states where the state aviation director has been tussling with aviation problems for ten to twenty years.

Today, state aviation is fully developed, with duties and responsibilities clearly defined and conscientiously executed. State aviation directors are still laboring long hours; the satisfaction of doing a good job and contributing to the record of accomplishments keeps them going, despite meager recognition.

Without attempting to make a full and complete statement of their activities, the following discussion will consider the work of state aviation officials in connection with eight problems of present day urgency: (1) Federal airport program (2) Legislation (3) Enforcements and safety program (4) Aviation education and the G.I. Bill (5) Air-marking (6) Surplus airports (7) Economic regulation of air carriers in intrastate air commerce, and (8) International aviation and personal flying.

FEDERAL AIRPORT PROGRAM

Congress intended the Federal Airport Act ¹ to assist in the development of a nation-wide network of public airports, divided into two major categories, the smaller airports (Classes I, II, and III), and the large trunkline airports (Classes IV, V, and VI airports). The former classes of airports are located in the small communities; the latter classes of airports are located in the larger cities. The program looks good on paper, but a fact few people realize is that the average smaller community does not have the funds to meet its 50% share of project costs. This is where the State enters the picture, through the state aviation

*There are at present 47 states represented in the National Association of State Aviation Officials; their Annual Reports are available for further detail.

¹ Federal Airport Act, 60 Stat. 170, 49 USCA § 1101 (Supp. 1946).

director, commission or board. Through the efforts of state aviation officials, sizeable appropriations of \$1,000,000 or more for a first and second year's program were made in the 1945 and 1946 sessions of some of the state legislatures, and numerous similar bills have been pending in various States during the 1947 sessions. The state aviation director presents the facts and figures for airport construction, the needs of the airports, the potential use of and financial return from these airports, correlating these factors into a state plan for airports, and coordinating the state plan with the nation-wide plan. The States, in a majority of cases, contribute a good proportion of a sponsor's share in a project, and some States contribute the entire sponsor's share.

After the communities have secured their appropriations, the state director aids them in preparing their projects by furnishing them with engineering directives for plans and specifications, construction contracts, supervising the construction, and lastly by preparing the numerous federal forms and papers which the establishment of such projects requires.

When the Rules and Regulations for this program were first proposed, their length, breadth and scope were of appalling proportions.² The state aviation officials put all other work aside, went to the hearings on the Rules in Washington,³ and presented vigorous protests against the unjust burden those Rules would put on the community-sponsors. As a result of these protests,⁴ combined with those of other national organizations, the Rules were redrafted into a more workable form, although, even today, they require a vast amount of paper work.⁵

The revised Rules and Regulations, while appreciably shortened, are still subject to interpretation by the Washington CAA staff. These interpretations, however, appear to be predicated upon the same spirit and intent as are the original Rules, and allow very little amelioration of the strangling effect upon actual construction of airports. The C. A. A. staff maintains the same ostensibly unilateral attitude in regard to the Sponsor's Assurance Agreement,⁶ other legal documents, and engineering specifications, despite the several provisos permitting deviation, with the approval of the Administrator, from the forms set up in the regulations.

State aviation officials are still doing everything in their power to minimize the vitiating effect of conditions raised by those interpretations.

LEGISLATION

It is one of the functions and duties of a state aviation agency to introduce and support intelligent state aviation legislation, and to dis-

² CAA Proposed Regulations, Part 550, 11 Fed. Reg. 9886 (Sept. 7, 1946); CAA Proposed Regulations, Parts 555 and 560, 11 Fed. Reg. 11219 (Oct. 2, 1946).

³ Public Hearing on proposed Federal-Aid Airport Program Rules, Oct. 28-Nov. 2, 1946, Washington, D. C.

⁴ Statement of National Ass'n. of State Aviation Officials, Oct. 30, 1946.

⁵ CAA Regulations, Part 550, 555, and 560, 12 Fed. Reg. 135 et seq. (Jan. 9, 1947).

⁶ *Id.* § 550.15.

courage proposals which will hinder or cripple flying, scheduled, commercial, or private. To achieve uniformity consistent with state constitutions, the state aviation officials proposed five pieces of general aviation legislation. They are the Aviation Commission or Department Act, the Airport Act, the Airport Zoning Act, the Channeling Act and the Airport Condemnation Amendment.⁷ In order to have agreement on principles, the majority of these acts were drafted with the cooperation of the C. A. A., the Department of Justice, the Commissioners on Uniform State Laws and the Council of State Governments. They represent many months of concentrated effort by state aviation officials to bring about adequate and workable enabling legislation so that the growth of aviation generally could be stimulated.⁸ Many states have introduced one or several of these Acts.

This year in many state legislatures bills have been introduced to restrict aviation in many ways, such as prohibiting construction of airports near certain urban areas, prohibiting landings and take-offs from inland lakes, requiring flights at high altitudes over certain areas, etc. State aviation officials have done everything in their power to discourage the passing of such crippling legislation, and have spent many hours convincing legislative committees why such bills should be killed. In another category is a bill proposed for state economic regulation of intrastate air transportation drafted and endorsed by the National Association of Railroad and Utilities Commissioners.⁹ This is the Uniform State Air Commerce Bill, identified as the NARUC bill, and proposes to give jurisdiction to a state public utilities commission over air transportation within a state. The state aviation officials have been and are presently making a study of the question of whether or not a state should establish economic regulation of its intrastate air transportation, and if so, to what extent, and by whom; and until the study is completed, they feel the NARUC bill should not be passed.

To keep abreast of federal legislation introduced in Congress is another time-consuming duty. For a state aviation official's responsibilities cover not only general development of aviation, but also private flying, non-scheduled, commercial activities, air cargo, aviation schools, the G. I. Flight Program, trans-border flights, airports and national aviation policies. Thus, whenever proposed federal legislation affects any of these or other aviation activities, statements are officially made by the state director at public and committee hearings, in Washington, and by other means, to prevent the burden of regulation from becoming unbearable.

Another duty of the state aviation officials is to study the state and federal rules and regulations. State rules must promote safety and must comply with state constitutional prohibitions against incorporating fed-

⁷ See SUGGESTED STATE LEGISLATION PROGRAM FOR 1947, Nov. 1, 1946, published by Council of State Governments.

⁸ Schroeder, *Activities of NASAO*, 14 JOURNAL OF AIR LAW AND COMMERCE 72 (1947).

⁹ See, Special Report of Committee on Legislation, NARUC, 1944 (New Post Office Building, Washington, D. C.).

eral rules by reference. Federal regulations are examined with the purpose of suggesting changes in federal requirements as technological progress obviates strict regulation, and as experience gained through observation of flight activities within the states indicates the needed changes.

STATE ENFORCEMENT OF SAFETY REGULATIONS

Laws and rules on the books must be enforced. In the years past state and federal officials have been handicapped by the lack of sufficient personnel to enforce their rules and regulations. As a result, low flying, buzzing, acrobatics, and generally inconsiderate "smart" flying have brought about an avalanche of suits seeking injunctions against airports, an increase in air accidents and a strong resistance to aviation by the general public. Realizing its inability to cope with the problem of enforcement, due to the recent great increase in flying, the C.A.A. has asked the States to take over the job, and it is the state aviation official who has convinced his state agencies that the solution to the problem was coordination with the state police.

A record of convictions should be made on the airman's certificate which by C.A.R. he must carry on his person at all times when flying. Since this is a federal certificate, the States are not permitted to "tamper" with it in any manner. The time is practically at hand when the situation will require a state registration card for airmen upon which the State may record violations and convictions as is done with motor vehicles driver's licenses; otherwise, a repeating violator may pay his fine, and go into several other areas where he, alone, with his low, noisy, buzzing, and crazy flying, will do great harm to aviation. There is in this connection another problem for the state aviation officials to solve.

AVIATION EDUCATION AND THE G. I. BILL

The G. I. Bill, under which a veteran may take part or all of his educational entitlement in aviation, has been a great impetus to aviation education. The Veterans Administration and state departments of public instruction have looked to state aviation officials to work out a suitable program, establish an adequate curriculum, supervise establishment of aviation schools by various institutions and operators, and enforce requirements for adequate facilities, instructors and equipment. This is no mean task, when such states as Michigan have over 216 approved aviation schools, with a registered 1946 enrollment of about 11,000 G. I.'s, and prospects of the 1947 enrollment going to about 15,000 to 17,000 G.I.'s. It takes many weeks of full time effort to establish a curriculum and a set of requirements. It also takes full time supervisory personnel for frequent inspections to maintain high standards. As the G.I.'s taking such training will constitute the great pool of trained pilots for any national emergency, the state aviation officials take very seriously their responsibility in the G.I. pilot training program.

The year 1947 will be a red letter year in the history of aviation education, for this year there is a true awakening of leading educators, all

over the country, and the beginnings of a movement to bring public instruction up to date, insofar as it is affected by the Air-age are apparent. Conferences between state educational agencies, the heads of teachers colleges, universities, and state aviation officials are resulting in summer courses this year to enable teachers to bring to their classes in the fall a program of relating academic subjects to the art and science of flight. At present this program is for the colleges and secondary schools, but gradually, the primary schools will be included. Mechanics courses and shop courses will have aircraft engines and structural parts for study projects, and ground school courses in meteorology, navigation and C.A.R.'s will be added as interest develops. State aviation officials have devoted months of effort to bring about this program, and further months of effort are facing them to make the aviation education program as successful as possible.¹⁰

AIRMARKING

It is remarkably easy for a person to get lost in the air. The solution is town or air marking, and an aerial map which spots certain points, cities, locations, physical landmarks, etc. In some states an early program of town marking, atop the tallest structure within an area, had been instituted by the state aviation agency, until there was a reasonably good network of "guide posts" for the aerial traveler. But during the War, all town markings were effaced for security reasons, and now must be replaced. This is another responsibility of state aviation officials. In many states appropriations for paint and labor are either non-existent, or inadequate. There is now a federal fund, on a matching basis, for air marking, but where there are no state or local funds to match, the federal funds cannot be secured. Thus the state aviation officials must use resourcefulness to devise ways and means of getting an air marking program under way. In Missouri, for instance, the state aviation director is furnishing paint to high school groups for air marking projects; in other states, the aid of Aero Clubs, local Chambers of Commerce, civic groups, and other aviation groups, is enlisted for both funds and labor. It takes a good deal of time and persuasion to get results, but eventually the work is accomplished. The question has arisen as to what a marker should reveal. The C.A.A. recommended the indication of latitude and longitude in addition to the name of the town and direction to the nearest airport. All of this requires a good deal of paint. Some state aviation officials believe that the same amount of paint could be used to better advantage by marking more places and omitting the indication of the longitude and latitude. But the C.A.A. states that it will not put on its air map any site marked differently from its recommendations. State aviation officials have on several occasions passed resolutions advocating to the C.A.A. a revision of this requirement, but the matter is still undetermined.¹¹

¹⁰ See, "Air Age Education" by Mich. Dept. of Aeronautics (1946).

¹¹ See Resolution #10, Annual Meeting of NASAO, Butte, Mont., Sept. 20, 1946.

SURPLUS AIRPORTS

When SPA Regulation 16 became effective,¹² inquiries to the state aviation officials came from every quarter for assistance in preparing compliance with required procedures. Complicated tenancies by the Armed Services of huge war-built airports made the task even more difficult. There was also unparalleled delay in getting action. Some eight federal agencies had to pass upon an application before an airport could be declared surplus. Communities who once owned these airports, and who had unhesitatingly turned them over to the Armed Forces during the War, now have tried for almost two years to get them back.¹³ Not only have state aviation officials had to write, telephone and wire Washington concerning surplus airports, but also they have had to wage a constant battle against action by uncorrelated federal agencies authorizing the removal from fields of airport equipment which was actually needed for field maintenance, and, in fact, required by the SPA Regulations. The situation in Florida, where there are surplus airports to provide every medium sized community with an airport, is a classic example of inefficiency, for despite every effort by the Florida state aviation director to secure return of at least several of these war-built airports, the federal agencies cannot be budged, and grass overgrows runways and aprons, pavements deteriorate and buildings fall into disrepair.

Recently, Senate Bill 364¹⁴ was introduced to expedite declaration of surplus airports, but the War Assets Administration has recently issued Policy Letter No. 5, which purports to do the same thing. The only drawback to any policy statement is the length of time it takes to get it filtered down through the staff to those on the spot who most need the information. State aviation officials have been appealed to daily for help by the representatives of communities owning airports. Such duties and responsibilities in this phase of state aviation are being added unnecessarily to an already overloaded schedule because of the unwarranted bureaucratic red tape.

ECONOMIC REGULATION OF AIR CARRIERS IN INTRASTATE
AIR TRANSPORTATION

Just as in the early twenties a few strong characters decided to establish scheduled air transportation for persons between cities of large populations, so since the end of hostilities of World War II, a number of returned pilots have approached state aviation officials for permission to begin and operate commercially a scheduled airline between points within the state. They usually have some equipment, limited financial

¹² SPA Regulation 16, June 26, 1946, Surplus Airport Property, Part 8316, 11 Fed. Reg. 7427; amended, 11 Fed. Reg. 8361.

¹³ One ludicrous situation occurred in Louisiana last year, where a community-owned airport was finally turned back to the owner under a Use Permit, and shortly thereafter the community received a bill from the War Department for a substantial payment as *rent in advance* for its own airport. Needless to say, the state aviation director was immediately called on the matter, and it took considerable effort to untangle.

¹⁴ S. 364, 80th Cong. 1st Sess., Jan. 27, 1947, introduced by Senator McMahon and referred to as the "Surplus Airport Act".

backing, and encouragement by citizens and civic organizations of their own and neighboring towns to begin such air service for both persons and cargo. In the majority of states, there is no legislation dealing with economic regulation of intrastate scheduled air commerce. While some states do give jurisdiction by law for such regulation to the state aviation agency, only a few have promulgated such rules because of the desire to encourage the unhampered development of intrastate air transportation. The philosophy underlying all state aviation activities is to let aviation develop and be encouraged with the minimum of restrictive regulation consistent with good standards of safety. A minority of states do regulate the intrastate traffic of commercial air carriers, but recent federal developments indicate a stand toward preemption of the entire field of economic regulation in favor of the federal government.

State aviation officials have received many bitter complaints from persons in their States who have filed applications with the C.A.B. for certificates of convenience and necessity to the effect that they have had to spend upwards of \$50,000 for fees and expenses alone in presenting their applications, employing attorneys, filing documents and making personal appearances in Washington and other cities where regional hearings have been held, with denials of this application as their reward. These applicants state that they are willing to take a reasonable risk in commencing an air service, and to invest in good equipment and hire qualified personnel to insure safe operations, but they cannot sustain such initial outlays to participate in C.A.B. proceedings.

The Federal Airport Act clearly provides that in establishing a nation-wide plan for airports, the C.A.A. is to include the various state plans as developed by state aviation agencies. In establishing a state plan, considerations are given primarily to aeronautical necessity and economic factors, i.e. whether or not there is sufficient prospective potential air carriage to merit investment of public funds in facilities of smaller or larger proportions. To establish a Class III or IV airport at a point which would be a burden upon all taxpayers of a state would be folly. Yet, in several feeder-route decisions, the C.A.B. has apparently ignored existing facilities and has certificated stops where the airport facility is either inadequate, not on a state plan for airports, or is non-existent.¹⁵ The fact that feeder lines cannot commence operations because airport facilities are inadequate or non-existent at certificated stops creates only confusion, frustration, disappointment, and bankruptcy. It would appear that a modicum of coordination between the C.A.B. and the state aviation agencies would inure to the benefit of the entire country on a sound development of air transportation.

The recent area decisions of the C.A.B. involving feeder lines have given such inadequate consideration to state economic needs that several state aviation officials have considered taking individual action to alle-

¹⁵ *Texas-Oklahoma Case*, 7 CAB—(Order E-136, Nov. 14, 1946); *North Central State Case*, 7 CAB—(Order E-200, Dec. 19, 1946); *Southeastern States Case*, 7 CAB—(Order 2-435, April 4, 1947).

viate local dislocations created by the C.A.B.'s decisions. In Michigan, where the Upper Peninsula is isolated from the rest of the State, a feeder-line was recently certificated to operate over a route from Chicago to the western part of the Upper Peninsula and beyond to parts of Wisconsin and Minnesota.¹⁶ Thus, all air traffic and cargo from the Upper Peninsula must go through Chicago to get to Detroit, the natural market point for Michigan products, business, bank clearings, mail and personal carriage. In addition, certificated stops were approved at locations where traffic is less than at other locations and where airports are not adequate for DC-3 equipment specified to be used by the feeder-line, and which may not be made adequate for several years, depending upon the Federal Airport program. There are presently available other improved airports in the State, which, potentially would sustain profitable air carriage, and which could handle larger planes, but C.A.B. has evidently ignored these considerations.

The Council of State Governments took cognizance of this inequitable situation by taking action at its Eighth General Assembly of States in Chicago, January 16-18, 1947, in the form of a Resolution entitled "State Participation in Determination of Air Route Patterns", copies of which were sent to the governor of every member state.¹⁷ Similarly, the Michigan Legislature in its 1947 regular session, passed a similar resolution, which is indicative of public thinking in a great number of the states.¹⁸

Indications of C.A.B. preempting the entire field of economic control of air transportation, complaints of C.A.B. handling of applications, receipt of requests for permission to operate intrastate, and noting C.A.B.'s inefficient use of airports and lack of adequate traffic data to establish an adequate transportation system, all combine to make the problem of economic regulation a very pressing one for state aviation officials. A thorough study of the entire matter is now being made for the NASAO under the auspices of the Indiana Aeronautics Commission.

¹⁶ See Wisconsin-Central Airlines application in *North Central States Case*, *Ibid.*

¹⁷ "WHEREAS, The several States have agencies directly charged by law with the promotion and development of aeronautics within their jurisdictions, such development including air transportation; and

"WHEREAS, The present means by which the States may present their views as to development of air routes is as an intervenor, in common with civic groups and private interests; and

"WHEREAS, It is believed that a State, as an entity, represents a more comprehensive and overall interest in establishment of air routes within its boundaries than an ordinary intervenor; and

"WHEREAS, Recent area decisions by federal agencies on patterns of air routes have failed ostensibly to reflect statewide needs as viewed by the States in response to public demands for integrated local services; and

"WHEREAS, State participation in determination of development of air routes will permit a more balanced and economic development of airports in the public interest under the Federal Airport Act in which the States have a vital public responsibility:

"NOW THEREFORE BE IT RESOLVED, That the several States be given major consideration in the federal determination of air route services and patterns in continental United States, by the establishment of a procedural system which will provide participation by the States affected in the formulation and determination of air routes."

¹⁸ Michigan—House Concurrent Resolution No. 44, May 20, 1947.

It is hoped that this study, which will be presented at the annual meeting of the NASAO in Fort Worth October 26-28, 1947, will offer a workable solution for both state aviation officials and the federal aviation agencies.

INTERNATIONAL AVIATION AND PERSONAL FLYING

The Chicago Conference on International Civil Aviation¹⁹ was held in November and December 1944. At that time a number of state aviation officials were in the military services, and since their return they have been burdened in resuming the increased load of work in state aviation activities. Suddenly, there is a rude awakening to the discovery that domestic aviation in its personal flying aspects may be seriously affected by the Recommended Standards and Requirements being considered by the interim Provisional International Civil Aviation Organization, and recently approved by the permanent International Civil Aviation Organization (ICAO). ICAO's main concern has been with scheduled air transportation, but the Standards and Requirements are not so limited. When the standards and requirements are finally adopted by ICAO, then according to the Convention on International Civil Aviation to which the United States is a party,²⁰ their incorporation into the laws and regulations of the United States becomes almost mandatory;²¹ and private and non-scheduled flying, as well as scheduled air transportation, will be governed accordingly. The state aviation officials have therefore taken up this matter with the appropriate subcommittees of the Air Coordinating Committee in Washington and with the President of ICAO in Montreal, with the view of achieving a dual approach that will result in one set of regulations for the scheduled air carriers and a second set for personal flying.

What does a state aviation official do? The foregoing are just a few of his routine activities.

¹⁹ INTERNATIONAL CIVIL AVIATION CONFERENCE, Chicago, Nov. 1 to Dec. 7, 1944, *Final Act and Related Documents*, Dep't. of State, No. 2882. Conf. Ser. 64 (Gov't. Printing Office 1945) 1945 USAvR 207-307.

²⁰ Ratified by the United States, August 9, 1946.

²¹ Chapter VI, International Standards and Recommended Practices, of the Convention on International Civil Aviation, *op. cit.* note 19, *supra*.