

1948

Editorials

Follow this and additional works at: <https://scholar.smu.edu/jalc>

Recommended Citation

Editorials, 15 J. Air L. & Com. 64 (1948)
<https://scholar.smu.edu/jalc/vol15/iss1/6>

This Comment is brought to you for free and open access by the Law Journals at SMU Scholar. It has been accepted for inclusion in Journal of Air Law and Commerce by an authorized administrator of SMU Scholar. For more information, please visit <http://digitalrepository.smu.edu>.

EDITORIAL

SURVIVAL IN THE AIR AGE

When President Truman appointed his Air Policy Commission last summer¹ he directed the members to make an investigation so broad in scope that its recommendations could "serve as a guide for formulating a carefully considered national air policy" which (1) would protect the national security to the greatest extent practicable, and (2) would foster its economic and social interests. The Commission fully met this mandate by presenting to the President on January 1, 1948 in a report of 145 pages an integrated national air policy.

While civil aviation policies presented by the Commission's report are of less general appeal, the JOURNAL considers them of such significance that the entire section dealing with "Civil Aviation" is set forth verbatim commencing on page 69.

The Commission placed foremost its consideration of the national security, of national survival itself in the Air Age, and highlights in this section are these:

"The United States will be secure in an absolute sense only if the institution of war itself is abolished under a regime of law . . . the United Nations will [not] develop in time the necessary authority and power to prevent another great war. . . . The United States must have a double-barrelled policy abroad. It must work to achieve world peace through support and development of the United Nations. At the same time it must prepare to defend itself for the possibility that war may come. . . . We need a new strategic concept for the defense of the United States, one based on air power. Heretofore we have had one force in being, the Navy. Now we need two, the Air Arm and the Navy. There is a new element to defend; the air. . . . Now we must defend both the water and the air approaches [to the United States]."

The Commission recommends that the United States immediately begin to spend vast sums to build the Air Force and the Navy's air arm to a position of world leadership; that military aircraft procurement be increased and placed on a five-year contract basis in order to provide a healthy airplane industry capable of rapid expansion in case of emergency; that commercial air transport be recognized as a valuable adjunct to the military and be strengthened by all-weather flying aids; that funds for both civil and military aeronautical research be increased, including funds for education in the aeronautical sciences to meet the serious lack of trained scientists.

¹ For letters of appointment see 14 JOURNAL OF AIR LAW & COMMERCE, 364 (1947).

In addition to policies relating to national security, the Commission gave long and detailed attention to the economic and social import of the air transport industry which has been spotlighted by the serious economic reverses suffered by most of our air lines, particularly during 1947 when they were caught by increasing operating costs, fixed or decreasing income, over-abundant new planes with "bugs" still to be eliminated, and a public increasingly impatient with weather and equipment delays and cancellations.

Recognizing the basic soundness of the Civil Aeronautics Act of 1938 as comprehensive national legislation designed to foster and regulate the economic and operational aspects of civil aviation during this period of adjustment and growth, the Commission proceeded to analyze the shortcomings of the statute and its administration, the air lines holding franchises thereunder, and the broader aspects of commercial air transport and of personal aviation. No serious indictment was filed by the Commission against any government agency or any segment of the aviation industry. Opinion may differ with the conclusion that much of the financial crisis of the transport companies may be forgiven as misguided optimism as to the post-war growth of civil flying. Again, the decision of the Commission to leave undisturbed the quasi-judicial functions of the Civil Aeronautics Board will have proved a disappointment to numerous witnesses who came before the Commission urging it to recommend clarifying legislation of certain fundamental policies with which the Board is presently struggling under its 1938 mandate from Congress; for example, the important issue of certification of cargo carriers, the domestic air route pattern, and the allocation of costs between different classes of air services. Likewise, the felicitude shown by the Commission for the taxpayer of the country for projects not closely related to security may leave impatient the personal flying enthusiast and the traveler who expects all-weather flying immediately.

No comprehensive report on Civil Aviation policies will satisfy all critics, but the carefully weighed recommendations of this section of the report deserve the most careful study by government aviation officials and industry. The policies enumerated will go far to meet the current problems of civilian air transport and will serve as guides for the growth of an economic and healthy air transportation system.

This remarkable report was made in less than six months by a unanimous Commission of private citizens under the able leadership of Thomas K. Finletter, Chairman; George P. Baker of Harvard Business School, Vice-Chairman; and Palmer Hoyt, Denver publisher, John A. McCone,² Los Angeles industrialist, and Arthur D. Whiteside, New York financier, Members. The Commission was named July 18, 1947 and S. Paul Johnston was named Executive Director. Between Septem-

² Mr. Henry Ford, originally appointed, resigned in September and was replaced by Mr. John A. McCone who had been a staff advisor.

ber 8 and December 3, 1947, it heard 150 witnesses from all segments of civil and military aviation in 96 public hearings, 65 executive sessions and 45 other less formal meetings. Witnesses before the Commission were requested to file statements in advance of their appearance and the hearings consisted mainly of questions elaborating upon and clarifying the policies advocated by the witnesses.

This procedure, somewhat unique among investigating commissions, facilitated the smooth functioning of the public hearings in that it required each witness to prepare in advance, a coordinated position, and likewise, gave the conscientious commissioners and their staff an opportunity to familiarize themselves with the position of each witness before the hearing. The stenographic record of over 3,500 pages constitutes the most exhaustive record of the status and problems of civil and military aviation in 1947. Abstracts were made of both the filed statements and the testimony as taken. The JOURNAL is fortunate in having been provided a complete set of the filed statements, the stenographic record and the abstracts.

The Report of the Commissioners accurately reflects the impact of this exhaustive record. Its comprehension and analysis is due in large measure to the loyal and untiring work of the Commissioner's staff advisors and their associates, especially John A. McCone for National Security matters, C. A. Colvin for Aircraft Industry matters, E. S. Prentice for Civil Aviation and R. S. Cook for Government Organization. The legal procedures involved in the hearings and the abstract of the statements and testimony were ably conceived and directed by the Commission's chief legal counsel, Denis Mulligan, Chief of the Bureau of Air Commerce in 1937-38.

As special legal advisor the Editor of the JOURNAL had the distinct privilege of serving with this outstanding Commission and its staff from early in September until late November, when he was asked to become chief Consultant to the Congressional Aviation Policy Board on Government Organization.³ This Board has exhaustively analyzed the report and record of the President's Commission and is in the process of preparing its own Report on all phases of national aviation policy from the point of view of the legislative branch of the government, and with the intent of recommending a specific legislative program to carry into effect its conclusions. This report is to be completed before March 1. This double review of United States aviation policy following the close of World War II in which the overwhelming might of aviation was demonstrated and its future highlighted, can and undoubtedly will serve a most valuable purpose in helping to place national aviation policy in proper perspective in this Air Age.

E. C. S.

³ See P.L. 287, 80th Congress, 1st Sess., 14 JOURNAL OF AIR LAW & COMMERCE, 365 (1947).