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FEDERAL

Department Editor: Walter H. Wager*

AIR TRANSPORT AND GOVERNMENT ORGANIZATION—PARTS II AND V OF "NATIONAL AVIATION POLICY," A REPORT OF THE TEMPORARY CONGRESSIONAL AVIATION POLICY BOARD, SENATE REPORT 949, MARCH 1, 1948.¹

AIR TRANSPORT—PART II

CIVIL and military aviation are indivisible in assessing total American air strength. The air-transport industry of the United States and the military air arms must fit into a single pattern. National security requires a financially sound, operationally efficient, and technically modern air-transport industry. It envisions a large, civil air fleet operated in foreign and domestic air commerce with safety and certainty. Such an operating air fleet serves peacetime commerce and industry while remaining available for immediate conversion to military use in an emergency.

Since it is economically impracticable to maintain an air force which will provide absolute security, as many transport aircraft as possible should be operated in commercial service and available to provide a reasonable reserve.

Dependability of flight schedules is the cornerstone of a healthy civilian air arm. Yet, regular all-weather commercial service has not yet been accomplished. With present navigational and landing aids, air traffic control, and airports, the airways system of the country is near the saturation point, even for the present fleet of 1,000 aircraft. Lack of regularity is a major factor in the air transport industry's poor financial condition, shown by heavy losses in 1946 and 1947. Airports and airway aids have not kept pace with the demands of increased operations and larger, faster aircraft. Already crowded, the system could not handle a wartime flow of air traffic. A modern system of airway and traffic aids is of first importance for both security and financial reasons.

The problem is how to provide a pool of modern transport aircraft facilities, equipment and personnel to approach most closely the requirements for a national emergency within budgetary limits that can be supported by American economy. Stimulation of passenger, cargo, and other air traffic is the obvious solution.

12. a. The target program for installation of an ultramodern all-weather navigation, landing aids, and airways traffic-control system proposed by special committee 31 of the Radio Technical Commission for Aeronautics (the RTCA program) should be endorsed as a first priority in the interests of national security and as a move toward eventual financial independence of the air transportation industry.
- b. Authorization of funds should be made for the first year's portion of the program, with an endorsement to future Congresses and recommendation that they continue appropriations to the completion of the program.

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¹ See Editorial by Senator Owen Brewster, Chairman, page 201 *supra*.

- c. Under the guidance of the Research and Development Board, fullest support of the cooperating agencies should be given to the comprehensive research and development program as projected in the "interim" and "target" periods for the implementation of this program.²
13. The Arcata project for the development of additional visual aids to landing should be continued, as a counterpart to the electronic aids recommended by the RTCA.
 14. In the interest of economy, the civil aeronautics authorities should give consideration to gradual removal of airway beacon lights, except for beacons marking airports and emergency fields.
 15. Necessary funds should be authorized to enable the Weather Bureau to furnish weather service on routes newly approved by the CAB, when traffic warrants.
 16. Necessary funds should be authorized to enable the Weather Bureau to continue investigation of causes and characteristics of thunderstorms and hurricanes.³
 17. The Weather bureau should designate qualified personnel at airports where no official weather observers are stationed to act as voluntary official weather observers and assist the private flyer by disseminating weather information obtained from the airways or other weather centers.
 18. International cooperation should be encouraged for prompt exchange of accurate weather information over the oceans and in Arctic regions where observations and reports are desirable to serve air routes.
 19. The Federal Government, by means of weather-station vessels, should continue to cooperate with ICAO to improve weather service over the oceans with due regard to navigation, and search and rescue activities.
 20. Control towers serving interstate commerce, where the traffic justifies, should be included in the Federal system of airway communications, navigation aids, and traffic controls, but consideration should be given to the allocation of costs among the various agencies concerned, municipalities and other units of government, and the various classes of users.
 21. In establishing airworthiness requirements, consideration should be given to the special nature of cargo aircraft.
 22. The entire airport program should be reviewed by the Congress with a view toward providing a system of airports more closely keyed to the needs of a sound air-transport industry, civil aviation, postal service, and national security.⁴

Adequate airports for efficient, safe, and dependable operations in all weather by an expanding commercial air fleet, planned to handle the traffic volume in an emergency, is a fundamental segment of the RTCA SC-31 program discussed elsewhere in this section. This program has the highest priority in the Board's recommendations for air transport. Any basic segment of it, therefore, has priority over matters outside the program.

Airport planning must be aimed primarily at the public interest, the needs for postal service, and national security. First consideration must be given to larger, rather than smaller landing fields. Commercial air trans-

² Relevant passages, Report of President's Air Policy Commission (PAPC) 107-108, 15 J. Air L. & C. 74 (1948). Only appropriation legislation is contemplated at this Session. The discussion of this and other more technical recommendations has been omitted.

³ Implemented by S. 2456, introduced April 6, 1948.

⁴ Relevant passage, PAPC 128-129, 15 J. Air L. & C. 86.

port uses large, multiple-runway fields, and relief of the congestion already apparent can be obtained only by increasing the number of airports designated as class IV (runways at least 4,500 feet) and larger. The complete program should include airport facilities for civilian nontransport flying—those operations which use fields known as class sub-I, I and II. It should also provide for class III airports to relieve major air terminals. The future utility of the smaller airports in the expansion of the postal service should be given consideration.

Airport construction is one of the most expensive items in the entire aviation program. The Federal Airport Act provides \$500,000,000, to be available for matching by States and municipalities during 7 years. The greatest problem which arises under the program is the proper apportionment of funds to serve the Nation's primary interest—security. Private flying should not be neglected, but it must take its priority after those components more directly concerned with military air strength.

23. In the interest of economy and where compatible with the national security, traffic density and flying safety, joint military-civil use of airports and airways facilities should be agreed upon. The civil aeronautics authorities and the military services should consult and resolve each case on its merits and refer all cases in dispute to the Air Coordinating Committee.
24. The Federal Government should continue to have exclusive jurisdiction over the establishment of safety regulations applicable to all classes of aircraft and airmen, but the increase in non-air-carrier flying makes it desirable to delegate the administration and enforcement to non-Federal personnel by—
 - a. Extending the program of the appointment of "designees" by the civil aeronautics authorities to certification of aircraft as well as airmen.⁵

In the interest of economy and as a part of the program to stimulate personal aviation by simplifying procedures, the issuance of airmen certificates can be facilitated by designating local aviation experts to adjudge the competence of private pilots under broad national standards. The present practice is for the civil aeronautics authorities to designate certain airmen, in addition to their own staff, to give such examinations. This practice could be broadened to relieve the Federal Government of handling the laborious detail of regulating the activities of 452,000 certificated non-air-carrier pilots and the 200,000 student pilots. These procedures should not govern the certification of commercial air line pilots.

- b. Amending the Federal laws to give concurrent jurisdiction to the State courts and aviation agencies to enforce the non-aircarrier safety regulations of the civil aeronautics authorities, including the right to suspend airmen's certificates.⁶

The essence of effective enforcement of safety regulations is the speedy and just handling of alleged violations. The need for additional enforcing services to achieve this result will increase in proportion to the growth of aviation. The several States share with the Federal Government the responsibility of protecting the safety of the citizens. It is essential that a uniform and simple procedure be used by established local enforcing agencies in this important task. This objective can be accomplished without relieving the Federal Government of its responsibility and without unduly increasing the demand for additional Federal personnel by the Congress giving concurrent jurisdiction to the State courts and aviation agencies to

⁵ Relevant passages, PAPC 105-110, 15 J. Air L. & C. 72-75.

⁶ Implemented by S. 2452 and H. R. 6147, introduced April 6 and 7, 1948, respectively. Relevant passages, PAPC 126, 15 J. Air L. & C. 85.

enforce the non-aircarrier safety regulations of the Federal civil aeronautics authorities.

- c. Encouraging the civil aeronautics authorities to delegate a greater share of responsibility (1) to the manufacturers of small personal aircraft for compliance with federally established design standards; and (2) to the air carriers for compliance with federally established maintenance standards and requirements.⁷
- 25. The Civil Aeronautics Act of 1938 should be amended to give the CAB power to regulate contract and charter operators of transport aircraft engaged in interstate, overseas, and foreign air transportation.⁸
- 26. The Congress should give early consideration to the transport by air, at the first-class rate, of all first-class mail, the movement of which can be appreciably expedited by air carrier, and in its considerations, Congress should weigh the public benefits of such a transfer against the added costs involved.⁹
- 27. Appropriate legislation should be enacted for establishment of domestic air parcel post, at reasonable experimental rates, subject to revision when more nearly accurate costs of carriage can be ascertained.¹⁰
- 28. Until the air transport system reaches more nearly self-supporting operations, no action should be taken to separate the subsidy pay from the mail service pay.¹¹

The 1938 Civil Aeronautics Act provides for financial support of the air transportation industry in the interests of national security and public service. Under a specific formula of air mail rates (known as "service" and "need" rates), the air lines are paid for carriage of the mails.

Development of air transportation has long been considered by the Congress as in the national interest. The act makes the distinction that a "compensatory" or "service" rate should be paid those carriers normally in a sound condition, as payment for service rendered. In instances where less thickly populated sections of the country are in need of transportation service, or where the traffic flow in the beginning is not heavy enough to make the carrier self-supporting, a "need" rate is awarded by the CAB to bridge the financial gap between the compensatory rate and sufficient funds for operating at a reasonable profit under honest, efficient, and economical management.

The payment above the service rate is the "subsidy." Separation of the subsidy awards from the straight service air mail rate by the Post Office Department so that the public may know exactly what is being paid is advocated by some. They contend that the present system, whereby a carrier is guaranteed a small return under honest and efficient management, does not constitute an incentive to low cost and economy of operation, and that inclusion of the subsidy element unnecessarily confuses the Post Office Department budget.

There is merit to these contentions. It must be recognized, however, that separation of the subsidy would be an extremely complicated matter, and that probable delays resulting might cause serious difficulty to the "need" carriers, with possible failure and denial of service to the public. This would be in violation of the spirit of the act and for the present could do

⁷ Relevant passage, PAPC 69, 15 J. Air L. & C. 85.

⁸ Implemented by S. 2449 and H. R. 6149, introduced April 6 and 7, 1948, respectively. Relevant passages, PAPC 111-112, 121, 15 J. Air L. & C. 76, 82.

⁹ Implemented by S. 2458 and H. R. 6156, introduced April 6 and 7, 1948, respectively. Differing passages, PAPC 104-105, 15 J. Air L. & C. 72.

¹⁰ Implemented by S. 2457 and H. R. 6157, introduced April 6 and 7, 1948, respectively. Differing passage, PAPC 105, 15 J. Air L. & C. 72.

¹¹ Concurring passage, PAPC 103, 15 J. Air L. & C. 71.

more harm than good. In view of the current financial condition of the industry, the Board does not feel that this is the time to make such a subsidy separation. When the air lines are on a sounder financial foundation, consideration can then be given to such a procedure.

29. Without further delay the CAB should establish "permanent" rates for the carriage of mail internationally by United States air carriers.¹²

American-flag international air carriers are operating under temporary rates of mail pay and in consequence are unable to ascertain their exact financial condition at any given time. Sufficient experience has now been gained in international operations to warrant the early establishment of "permanent" rates. Temporary rates are set by the CAB during early stages of new operation, on the basis of cost estimate. When experience has shown actual costs, the CAB revises the temporary rate. "Permanent" rates so set are subject to revision up or down, if new conditions arise. In establishment of rates, consideration should be given to the differential between rates of mail pay to American-flag operators and those to foreign-flag operators carrying American mail.

30. A plan should be developed by the CAB for speeding action on mail rate and route cases and for reducing its backlog of pending cases, and immediate consideration should be given to a special study of this problem by the appropriate committee of the Congress.¹³

Rate and route cases pending before the CAB are being delayed to the disadvantage of many of the air carriers and the entire air transportation economy. Mail rate cases totaling more than \$232,000,000 are pending in the backlog. Some cases have been awaiting decisions for several years. Delays have contributed to the critical financial condition of a number of air carriers, particularly in the case of smaller companies. More rapid decisions on petitions for mail pay increases are necessary if there is to be a financially sound civil aviation industry.

A report of an Appropriations Committee subcommittee asks for consideration of a special study of the work of the CAB to determine steps for insuring that the Board's responsibilities are met more promptly. Establishment of a plan whereby the CAB can facilitate its present work load and eliminate a great portion of its backlog is an urgent requirement.

31. The CAB should expedite establishment of air carrier operating costs and efficiency yardsticks.¹⁴

Considering the large public investment in the air transportation industry, close check on the costs and efficiency of air line operations is required. The Civil Aeronautics Act of 1938 directs that in its mail pay decisions the CAB consider the honesty and efficiency of the air carrier management. However, specific standards for determining such efficient management have not been fully developed.

Personnel recently has been assigned to make investigations of air-line operating costs and efficiency with a view to establishing standards for efficiency and economy. Efforts in this direction should be continued and intensified. Progress reports should be made frequently. Additional special personnel may be required by the CAB for these tasks.

32. The CAB should encourage action by the air carriers to achieve over-all economies, particularly by joint operation of airport and meteorological services, ground contract services, and consolidated ticket offices.

Possibilities of joint air line activity at terminal airports are manifold. Elaborate ticket office duplications by various companies appear unnecessary

¹² Differing passage, PAPC 102, 15 J. Air L. & C. 70-71.

¹³ Passages concurring in re need, PAPC 102, 140, 15 J. Air L. & C. 71.

¹⁴ Passages concurring in re need, PAPC 103-104, 15 J. Air L. & C. 71.

in many cases. When combined ticket offices are impracticable, combinations of ticketing facilities should be made in the interest of economy. Another joint action conducive to more efficient operation and improved service is interchange of aircraft between connecting carriers. More such agreements are suggested. Consolidation of weather forecasting services where practicable, both between carriers, and between carriers and the Weather Bureau is also recommended.

33. The CAB should be enabled to secure the assistance of a disinterested nongovernmental agency in making a study of the foreign and domestic air transport systems in order to prepare a basic route plan which may be used as a guide for future revisions of or extensions to the present route pattern.¹⁵

The present network of air routes bears little resemblance to a planned pattern. Much of this may be due to inheritance by the CAB of a network of routes established previous to 1938 on competitive mail pay bids rather than on a carefully planned route basis. It may also be due to the changing personnel and philosophy of the CAB, to heavy competition for new routes, to overoptimistic traffic and cost estimates, and to absence of continuing standards of route patterns. Excessive competition exists in some sections and there is insufficient competition in others. Restrictions on points served by carriers on a given route add to the complications.

The CAB is already empowered to confer with and use the advice of State aeronautical agencies, but has not availed itself of this power to a satisfactory degree. Integration of the over-all airport plan with such a route pattern is also highly desirable.

34. Private financing, particularly of the equipment trust type, of new air carrier equipment should be aided by establishment of settled practices as to legal title and rights of recovery, through legislative action by the Congress and international agreement through State Department action.¹⁶

One of the difficulties of equipment trust financing is the legal question of ownership of mortgaged property in bankruptcy. To facilitate credit arrangements, revision of the Bankruptcy Act may be necessary, making it clear that the trustees obtain ownership in the case of bankruptcy. Another impediment to equipment trust credit arrangements exists in laws of the various States, where trustee owners are equally liable in aircraft accidents. Investigation of this situation, seeking the modification of such State laws, is desirable. Equipment trust credit arrangements may also be aided by requiring the recording of engines and major spare parts. This would increase and strengthen the security behind the equipment trust loan, making it more attractive to the lender.

The question of ownership in international transit of aircraft is of great importance, since there are countries which do not recognize such rights and where there is no protection for the property of the investor. The carriers have difficulty in securing necessary loans for purchase of aircraft unless the investors receive this protection.

Similarly, a barrier to equipment trust financing has been lack of uniformity in the laws of various nations regarding rights of mortgagors in internationally operated aircraft. A Draft Mortgage Convention, called "International Recognition of Rights in Aircraft" was developed by the Legal Committee of the International Civil Aviation Organization at the Brussels Conference in September 1947 and is now ready for adoption. The Board urges negotiation by the Department of State to secure the

¹⁵ Passages concurring in re need but differing in solution, PAPC 110-111, 15 J. Air L. & C. 75-76.

adoption of the agreements of the Draft Mortgage Convention by all nations to which United States international air carriers fly.

35. The development of policies dealing with air cargo, contract flying, and charter service in the transport field is a matter of great importance to the national economy and national security. In recognition of the importance of further evolution of policies in these fields, the governmental agencies concerned and the Congress should give the earliest practicable consideration to the formulation of basic policies to govern expeditious and orderly development, on the basis of public convenience and necessity.¹⁷

The rapid increase of air cargo has pointed to the existence of a tremendous potential development. Within the past 2 years the dramatic rise of cargo carried by air has been marked by an increase from 60,000,000 ton-miles carried in 1946 to 100,000,000 ton-miles in 1947. While the development of air cargo is significant from the standpoint of interstate and foreign commerce, the increase in all civil air operations including cargo, contract, and charter flying is important to the national security because of the reservoir of aircraft and trained personnel it creates, which can be utilized by the military in time of emergency.

36. The Board does not recommend any change be made at this time in the provisions of the Civil Aeronautics Act of 1938 with respect to participation in air transportation by carriers other than air carriers.¹⁸
37. Experimental feeder-line certification should be on a 5-year instead of a 3-year basis to aid in financing of such operations.

Three years seem too short a time to test the value of a new type of service. Economic hardships are imposed on carriers, particularly in raising essential capital.¹⁹

38. Congress should give early consideration to reduction, or repeal, of the tax on transportation.²⁰
39. To prevent multiple air-line taxation by States or localities, the adoption and continued use of a single formula for the allocation of taxes in interstate operations should be insured by Federal legislation.²¹

Air transportation companies should receive no special tax treatment. To do so would invite tax favoritism or tax discrimination. So far as possible the methods of taxing business corporations generally should be followed for air carriers and altered only to accommodate the peculiar features of the industry to the prevailing tax structure. The difficulties of adaptation are almost entirely of a technical nature and can be solved by relatively minor additions to present tax laws.

Equitable operation of the tax system requires a uniform method for determining taxable situs of air carriers' property, net income, payrolls, and other tax bases. A predominant proportion of air transportation is of an interstate character, hence the industry is especially vulnerable to the assertion of varying rules for determining tax situs. The tendency of the

¹⁶ Implemented by S. 2455 and S. 2454 plus H. R. 6146 and H. R. 6148, introduced April 6 and 7, 1948, respectively. Concurring passages, PAPC 116-117, 15 J. Air L. & C. 79.

¹⁷ Concurring passages, PAPC 112-114, 15 J. Air L. & C. 77-78.

¹⁸ Differing passages, PAPC 116, 15 J. Air L. & C. 79. The report of the Congressional Board contains no discussion of this recommendation.

¹⁹ Passages differing in part, PAPC 115-116, 15 J. Air L. & C. 78-79.

²⁰ Implemented by S. 2463 and H. R. 6150, introduced April 6 and 7, 1948, respectively.

²¹ Implemented by S. 2453 and H. R. 1241, introduced April 6 and 7, 1948, respectively. Relevant passages, PAPC 121-123, 15 J. Air L. & C. 82.

States to adopt situs rules which are advantageous to their particular revenue interests exposes the industry to a serious problem of multiple taxation.

At the direction of the Congress, the CAB in 1945 made recommendations to eliminate multiple taxation of air carriers by States and localities. These recommendations have been incorporated in H. R. 1241 introduced in the Eightieth Congress. The Board commends this bill for consideration with a view toward protecting air transportation from tax discrimination.

40. In the settlement of landing rights and routes by bilateral agreements, more effective machinery should be set up in the State Department and the CAB, by legislation if necessary, to govern such procedures and insure full protection by the Government of the United States flag international carriers.²²

Under present law the CAB must hear interested persons before granting a permit to a foreign air carrier. These hearings have usually been mere formalities, since the bilateral agreements authorizing the routes have been previously consummated by the Department of State. It is recognized that the executive agencies are in a position to designate routes in bilateral agreement negotiations, but procedures should be examined to establish improved methods of considering the effects that the granting of such routes may have on the over-all economy of United States flag carriers.

Closer coordination of the Aviation Division of the Department of State with the over-all international policies of the United States is a necessity. The possibility of securing additional operating rights for our international air carriers should be considered when such advantage would be in the spirit of mutual helpfulness.

41. The actual ownership and control of foreign air carriers making application for American permits should be carefully considered with a view toward preventing any air carrier entering the United States unless that carrier is actually owned and controlled by the nationals of the country or countries concerned.

If the spirit and intent of the 1938 Civil Aeronautics Act is not to be circumvented, the ownership and control of foreign-flag carriers by bona fide nationals of those countries must be ascertained by the Department of State and the CAB before granting certificates permitting operation into the United States.

42. The temporary conference method of rate making for international air carriers as executed by IATA should be continued for a reasonable time.²³

The temporary conference method of rate making (established under the Bermuda civil aviation agreement between the United States and Britain) was adopted after unsatisfactory experience in individual establishment of international rates, complicated by the competition between American and foreign companies with a wide variety of cost standards. The conference method is accepted for the present as the most effective means of avoiding rate wars. A basic requirement of this method is Government approval. Public protection is assured through the CAB's concurrence in any rate or traffic practice.

43. Full United States support should be given the International Civil Aviation Organization by the Federal Government.

The ICAO, now an agency of the United Nations, serves as the assembly of member nations for achieving uniformity in technical aviation matters,

²² Relevant passage, PAPC 119, 15 J. Air L. & C. 81.

²³ Differing passage, PAPC 120-121, 15 J. Air L. & C. 81.

and as a forum for discussing economic and legal problems. If these problems are to receive prompt resolution, full support of ICAO by the Federal Government must be given. Such support does not mean relinquishment of any essential sovereign rights, since the Congress retains final control over agreements entered into by United States delegates.

ICAO has been functioning for 2 years and, although to date its most effective area of accomplishment has been in the field of standardization of technical matters, it has other important objectives. These include efforts to promote the simplification of customs, immigration, public health, passports, visas, and other border-crossing formalities, all essential matters in the facilitation of air travel.

On most technical matters ICAO can take action subject to disapproval or reservation by member countries. On economic and legal matters it can only make recommendations or initiate action subject to formal processes of treaty ratification by member countries before action is final. In the field of joint support, ICAO appears as the agent of interested governments. The purpose of jointly supported activities is to make available adequate air-navigation facilities in many parts of the world.

44. Constructive diplomatic action should be taken through arrangement of long-term leases or by other appropriate means to assure continued availability of overseas bases necessary for world-wide United States civil and military air-transportation services.²⁴
45. Legislation authorizing financial assistance and supervision for the establishment and maintenance of international airways communications and navigation aids during their initial stages should be given early consideration, but—
 - a. There should be proportional financial participation based on use among the member nations of ICAO in support of international facilities, with provision for payment of charges by the carriers themselves when they are financially able.
 - b. United States flag carriers should utilize and preserve the remaining Air Force Communications Service facilities and United States built airports abroad; wherever agreements for such use can be reached with the countries in which they are located.²⁵
46.
 - a. There should be a complete examination by the Congress into present customs and immigration laws as they affect air carriers with a view toward their modernization by corrective legislation.
 - b. Removal of travel barriers in other countries should be discussed with representatives of those countries through the Department of State or American representatives in ICAO on the basis of mutual desirability.
 - c. Consideration should be given by interested Government agencies to establishment of additional ports of entry at airports where international traffic justifies, and the same rights of clearance granted to all classes of American aircraft.²⁶
47. Responsibility for lighter-than-air rigid airship development should be transferred to the Maritime Commission and consideration should be given to setting up a lighter-than-air division to consider experimental

²⁴ Relevant passage, PAPC 120, 15 J. Air L. & C. 81.

²⁵ Concurring passage, PAPC 109, 15 J. Air L. & C. 75.

²⁶ Implemented by S. 2462, S. 2459, S. 2461, and S. 2460 plus H. R. 6151, H. R. 6154, H. R. 6145, introduced April 6 and 7, 1948, respectively. Similar passage, PAPC 119, 15 J. Air L. & C. 80.

rigid airship construction and operations.²⁷

48. The National Advisory Committee for Aeronautics and the United States

Air Forces should be encouraged to conduct intensive research in the development of small aircraft with a wide speed range and with emphasis on safety and low-cost production.²⁸

The light aircraft, like the automobile, is to a great extent a matter of private interest and responsibility. Personal aircraft, private pilots and technicians, and the industry which supplies them, serve public interest and national welfare as a reservoir of aircraft and personnel for special tasks during an emergency. During the last war, 91,000 pilots were trained under the civilian pilot training program of the CAA, 67,000 of them entering the military air services. Another 3,000 served in defense flying as members of the Civil Air Patrol. Light aircraft manufacturers produced thousands of liaison planes for the Air and Ground Forces.

Personal flying and its allied interests is today a sizable industry. There are 5,000 fixed-base operators employing more than one-third of all personnel employed in aviation. With more than 75,000 aircraft operating out of some 5,000 civilian airports, the private flying industry is an important component of national air power.

Development of small aircraft for use by Army Ground Forces as liaison planes, which can readily be adapted to personal use by civilians, is a logical program for NACA and the USAF. This should result in a safe and efficient light aircraft available to the private flier at low cost. A healthy industry, resulting from a civilian market, based on low-cost production, could provide the quick expansibility needed in emergency.

49. To provide an air-minded public and a reservoir of technically trained personnel, flight and technical courses should be promoted in colleges and universities with full scholastic credit given; and aviation education courses should be stressed in our primary and secondary schools.

GOVERNMENT ORGANIZATION—PART V

One of the greatest needs of aviation today is stable Government operating policy. Only through a continuing, but firm Government policy, capable of ready adjustment to changing circumstances, can the stability which the aviation industry requires be achieved.

Revolutionary changes in present Government organization are not suggested. The principles of the Civil Aeronautics Act of 1938 have stood the test of 10 years of tremendous growth during peace and war.

The basic existing governmental structure is sound. What is needed is (1) an adequate statutory basis for interagency coordination and cooperation; (2) clarification of overlapping responsibilities and elimination of bickering that exists between the CAB and the CAA and their staffs as a result of Reorganization Plan No. IV of 1940; and (3) an independent agency concerned with safety to investigate aircraft accidents in order to insure the utmost safety to the traveling public, the private flier, and the military user of the airways.

Corrective measures along these lines will solve many of the current problems of aviation without disrupting the economic or technical status of the industries involved.

77. The present Air Coordinating Committee should be reestablished with statutory power to coordinate and recommend aviation policies affecting two or more agencies of the Federal Government; the Committee

²⁷ Implemented by S. 2464 and H. R. 6153, introduced April 6 and 7, 1948, respectively. Differing passage, PAPC 84-85.

²⁸ Relevant passages, PAPC 85, 123-126, 15 J. Air L. & C. 83-84.

to be composed of representatives of the agencies primarily concerned with aviation, as determined from time to time by the President.²⁹

A fundamental weakness of civil aviation is lack of adequate coordination of policy within the executive departments. The present ACC, established originally by interdepartmental memorandum and later by Executive order, has encountered insurmountable obstacles in attempting to persuade autonomous departments to agree upon policies involving controversial issues and, particularly, in implementing decisions once reached. This can only be met by establishing a statutory basis for coordination of aviation policy, following the pattern employed in the National Defense Act of 1947 of establishing statutory boards for interdepartmental coordination of military research and mobilization planning. While the ACC should primarily deal with general policy, certain limited operating functions can best be handled by it to bring about proper balance between military and civil agencies.

78. The Air Coordinating Committee should be authorized to reach decisions by majority vote, with provision that a dissenting member may certify the dispute to the President for his decision.³⁰

A recognized weakness of the Committee is its inability to reach unanimous decisions on controversial issues and the tendency to allow such issues to remain unresolved for long periods without carrying the matter to the President for decision, as provided in the present Executive order. It is believed that a majority voting procedure would expedite action and not unduly burden the President with technical and minor aviation disputes. To insure expeditious functioning of the Committee, it is recommended that it continue to employ an executive secretary charged with responsibility for keeping interdepartmental coordination functioning at the tempo required by the rapid development of aviation.

79. The Chairmanship of the Air Coordinating Committee should rotate annually among the participating agencies.³¹

80. The statute establishing the Air Coordinating Committee should specify in some detail the policies that may come before it and the advisory panels to be created.³²

Jurisdiction of the Committee should be defined so that participating agencies may know the Committee's areas of responsibilities, and thus avoid any infringement of duties reserved by law to an agency or coming within the quasi-judicial functions of an agency. Advisory panels should be created by the ACC, as needed, in order adequately to perform its functions.

The statute establishing the ACC should require it to make provisions to act as a sounding board for State and municipal agencies on aviation matters touching upon the interests of political subdivisions. This can be accomplished by the creation of an ACC State-local aviation panel which would be attached to the ACC and organized along the lines of the ACC industry advisory panel. The ACC should be directed to refer for recommendation aviation matters affecting industry to the industry panel, and aviation matters affecting State and local aviation governments to the State-local aviation panel.

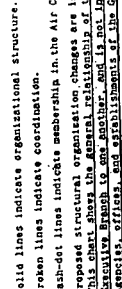
A State-local aviation panel to advise the Committee is believed the most satisfactory method of giving State and local governments opportunity to express their views and recommendations concerning national aviation policies that directly affect them. Since the ACC is an inter-

²⁹ Implemented by S. 2448 and H. R. 6144, introduced April 6 and 7, 1948, respectively. Relevant passage, PAPC 144.

³⁰ *Ibid.*

³¹ *Ibid.* Differing passage, PAPC 144.

³² *Ibid.*



departmental coordinating body it is not believed proper that States' representatives be voting members. An essential lack in the present formulation of national aviation policies is permanent liaison with State and local governments.

81. A Joint Congressional Committee on Aviation Policy should be created which, among other duties, would make a biennial report to the Congress of the defense and commercial capabilities of the Nation in the light of the then existing international situation and aviation strength of other nations.³³

In view of the changing military requirements and enormous appropriations required, it is believed desirable that a standing joint legislative committee review and analyze biennially the air defense and commercial capabilities of the United States, with reference to the then international situation and the aviation strength of other nations. This appraisal should be on the broadest and most comprehensive scale. The Joint Committee on Aviation Policy should be appointed by the President of the Senate and the Speaker of the House of Representatives, after consultation with the chairmen of the various committees concerned, including the following: Armed Services, Interstate and Foreign Commerce, Atomic Energy, and Appropriations. The findings of this Committee should be translated into policy recommendations to the Congress. This procedure would coordinate the analysis of the several committees which function independently of each other, and in addition to informing the public, would provide the basis for legislation to effect a sound and continuing security for the Nation.

82. The administration and enforcement functions of the CAA relating to aircraft and airmen should be transferred to the CAB and the operative functions of the CAA should remain in the Department of Commerce.³⁴

The CAA is engaged in heterogeneous activities involving operation of facilities, rule making and interpretation, administration, enforcement, and promotional services. This violates the principle Congress has followed in placing quasi-legislative and quasi-judicial functions in the transportation field in independent agencies. The Board has considered re-creation of the Civil Aeronautics Authority as established by the Civil Aeronautics Act of 1938, in which all aviation administrative activities of the Federal Government were placed under an administrator who was part of the Civil Aeronautics Authority. Operation of Federal airways now requires over 8,500 employees, and the airport development program employs nearly 700. It is believed these services should be kept apart from the quasi-judicial functions of making and administering rules and regulations and retained in an organization that can readily be transferred to the military in a national emergency. These service may therefore be left in the Department of Commerce together with other promotional and educational activities of the present CAA.

Planning airways routes and airways facilities should be coordinated through the ACC so that both the military users of the airways and the CAB, charged with the airworthiness of aircraft and operating specifications, can determine the needs of the services.

83. The Civil Aeronautics Administration should be abolished and an "Office of Civil Aviation" be created in the Department of Commerce; the Director of Civil Aviation should be the senior operating official and

³³ Implemented by S. J. Res. 205 and H. J. Res. 369, introduced April 6 and 7, 1948, respectively.

³⁴ Implemented by S. 2448 and H. R. 6144, introduced April 6 and 7, 1948, respectively. Differing passage, PAPC 135.

report to an Assistant Secretary of Commerce.³⁵

Transferring functions out of the CAA, as recommended above, reduces the aviation activities of the Department of Commerce primarily to those involving equipping and operating of navigational and traffic-control facilities, regulation of flight movement, and promotion of civil aviation through airport development, education, and other means. These activities should be handled by two bureaus, the Federal Airways Service which would be charged with the equipping and operating of Federal airways facilities and the movement of aircraft over the airways, and the Bureau of Aeronautical Development, which would administer the Federal Airport Act and other promotional, experimental, and educational activities of the present CAA. These Bureaus would compose the Office of Civil Aviation, headed by a Director of Civil Aviation. The Director should receive \$12,000 per annum, the salary recommended in the Civil Aeronautics Act of 1938 for the Administrator of Civil Aeronautics.

The establishment of the Federal Airways Service in a separate bureau under a single civilian head should facilitate the integration of the airways system with military aviation in an emergency as heretofore recommended in the combat section of the report.

Confusion now exists between the statutory duties of the Administrator of Civil Aeronautics, who is primarily an operating official, and the Assistant Secretary of Commerce to whom the Administrator reports, along with the Chief of the Weather Bureau and the Director of Coast and Geodetic Survey. There is unnecessary overlapping of duties between the present Administrator and the Assistant Secretary. These could be eliminated by removing the statutory duties now vested in the Administrator and requiring the proposed Director to report to an Assistant Secretary of Commerce for policy determination.

84. a. The Civil Aeronautics Board should promulgate, administer, and enforce regulations relating to the competency of airmen, certification and airworthiness of aircraft, air carrier operating specifications and other regulations relating to the economics of operations.
- b. The Federal Airways Service should promulgate and administer regulations relating to the movement of aircraft in flight and at airports.
- c. The CAB should hear and determine appeals from the Federal Airways Service in cases involving violation of regulations.³⁶

The same agency which promulgates particular Civil Air Regulations should also interpret and administer them. It is not necessary, however, for the same agency to promulgate and administer both air traffic rules and also those relating to equipment and competency. The distinction is made between the rules and procedures to be administered in the normal course of operating the airways and airport traffic control facilities—the rules of the road—and all other rules governing the operation of aircraft and air services in flight and on the ground.

Thus, the CAB should be made responsible for promulgation, administration, and enforcement of regulations relating to competency of airmen, certification of the airworthiness of aircraft, air carrier operating specifications, regulations concerning equipment used in air transportation and the competency ratings of private air agencies as provided in title VI of the Civil Aeronautics Act of 1938. These regulations concern the safe and economic operation of the scheduled air carrier and aircraft generally.

To discharge these duties, the personnel of the CAA now administering and enforcing the safety regulations should be transferred to the CAB.

³⁵ *Ibid.*

³⁶ Implemented by S. 2448 and H. R. 6144, introduced April 6 and 7, 1948, respectively.

This would place a field staff of approximately 1,500 in the CAB, administered by an executive director hereinafter recommended.

The Federal Airways Service should be responsible for promulgation, administration, and enforcement of regulations relating to movement of aircraft in flight, air traffic rules, and regulations which are normally administered by airways control and airport traffic control operators (especially sec. 601 (7) of the Civil Aeronautics Act of 1938). These bear directly upon the safe movement of aircraft over the airways and at airports.

85. The Civil Aeronautics Board should continue as an independent quasi-legislative and quasi-judicial agency and be charged with the administration of the economic responsibilities imposed by the Civil Aeronautics Act of 1938, including the Civil Air Regulations having a direct bearing upon economics of operations.³⁷

The importance of civil aviation in its relation to national security and to the economy of the Nation demands that the broad policies established by the Congress be administered by men of the greatest competency and integrity. The cardinal principle of the Civil Aeronautics Act of 1938, that quasi-legislative and quasi-judicial functions of the Civil Aeronautics Authority, now the CAB, should be exercised independently and free of political influence and domination by other agencies of Government, is reaffirmed. Reorganization Plan No. IV of 1940 abridged this independence and divided responsibilities for the execution of congressional policy between the Department of Commerce and the CAB. The present Board has failed in its functions, due in part to this loss of independence, inability to organize its work in a business-like manner, and dissension among its members. Further stripping from the Board of important governmental responsibilities will scarcely induce outstanding men to accept positions on the Board. On the contrary, every effort should be made to concentrate in the Board all quasi-legislative and quasi-judicial functions so that the best talent in the country can be persuaded by the importance of the Board's responsibilities to accept membership on it.

It is recognized, however, that certain of the duties originally vested in the Civil Aeronautics Authority, and later transferred to the CAA in the Department of Commerce, are operative functions requiring the employment of large numbers of personnel who have no relation to the judicial and legislative responsibilities of the Board. Operation of the Federal airways, the administration of the Federal Airport Act of 1946 and the general promotional and educational activities of the CAA are in this category. These functions can and should be kept apart from the CAB and should be placed in the Office of Civil Aviation in the Department of Commerce, as heretofore recommended. Coordination in planning these operations should be effected with the CAB through the ACC. The registration and recordation of aircraft should be handled by the Board, as it is charged with the certification of civil aircraft.

86. The Civil Aeronautics Board should be freed of its present administrative ties to the Department of Commerce.³⁸

Further to strengthen independence of the CAB, it should be freed of all administrative housekeeping ties to the Department of Commerce. CAB should be specifically authorized to handle its own budget and procure its own personnel, as do the Interstate Commerce Commission and the Federal Communications Commission. Present relationship to the Department of Commerce has not produced economies anticipated from centralization of procurement, personnel processing, and budget preparation.

³⁷ *Ibid.* Relevant passage, PAPC 139.

³⁸ Implemented by S. 2448 and H. R. 6144, introduced April 6 and 7, 1948, respectively.

87. The Civil Aeronautics Board should continue to have five members.³⁹
88. The salaries of the Civil Aeronautic Board should be increased to the present statutory limit of \$12,000 per annum.⁴⁰
89. The Civil Aeronautics Board should be directed to appoint an Executive Director, subject to removal by the Board, who would have charge of the administration of the civil air regulations promulgated by the Board, including the certification of airmen and aircraft and the issuance of air carrier operating certificates, subject only to policy direction of the Board.⁴¹

The relationship between the Administrator and the Civil Aeronautics Authority lacked clarity in the Civil Aeronautics Act of 1938 and much confusion resulted from the uncertainty as to whether the Administrator was responsible to the Board or only to the President. By amendment, it should be made clear that the Executive Director is responsible for the day-to-day operation of the field inspectors administering and enforcing the civil air regulations relating to the competency of airmen and private air agencies, the airworthiness of aircraft, and the issuance of operating certificates. With reference to the Executive Director, the CAB should sit as a board of directors of a corporation, concerning itself only with matters of major policy that may affect the over-all responsibilities of the Board. In this manner the operative duties of the field inspectors will not be encumbered by dealing directly with a five-man Board primarily occupied by quasi-judicial and legislative duties.

90. The Civil Aeronautics Board should be authorized by amendment to the Civil Aeronautics Act to delegate such of its functions as it considers proper to individual members, panels, the Executive Director and other members of its staff, with the right of discretionary appeal to the Board, except that route and rate decisions should be made by a majority of the Board.⁴²
91. An independent Director of Air Safety Investigation should be appointed by the President and confirmed by the Senate.
 - a. He should be responsible for investigation and analysis of civil air accidents and for submitting reports and recommendations to the Air Coordinating Committee, which should be required to make such reports public and to transmit them to the Congress, the Civil Aeronautics Board, and the Office of Civil Aviation in the Department of Commerce.
 - b. He should be responsible for promoting safety and certainty in air operations through educational means and by instilling a consciousness of the importance of safe operation in all echelons of air operations.
 - c. He should be required to coordinate with the military services to arrive at the most effective methods of accident investigation and to exchange findings and data with them.
 - d. The Air Coordinating Committee should be responsible for recommending to the Congress elimination of unnecessary duplication that becomes apparent from time to time between the Director, the Civil Aeronautics Board, and the Office of Civil Aviation, with a view to eliminating overlapping of field investigations.
 - e. To insure cooperation of both civil and military governmental agencies, the Director should be assisted by a special subcommittee of the ACC whose members should be charged by the

³⁹ *Ibid.*⁴⁰ *Ibid.*⁴¹ *Ibid.*⁴² *Ibid.*

statute creating ACC with the responsibility for assisting the Director in his activities, providing him with all needed facilities of their separate agencies, and of implementing the recommendations of the Director as appropriate.⁴³

Accident investigation and analysis is fundamentally an operating function. Because of its importance to the development of civil aviation it should be handled by an independent agency, properly staffed. A single director in charge of investigation of accidents is preferable to a board. The deliberations of a board are not compatible with focusing responsibility in a single office organized to handle expeditiously the important work of accident investigation and prevention. This is also true of the educational features of a safety program. For these reasons the Director should not be attached to any department or agency for administrative or budgetary purposes, particularly those charged with making and administering civil air regulations.

The increase in both civil and military flying and their common use of the same airways facilities, and in many instances the same airports, makes coordination of investigation of aviation accidents for mutual benefit increasingly important. Since the ACC is charged with coordination of military and civil aviation policy, a subcommittee of ACC should assist the Director, as he may desire, in the investigation of civil air accidents and accidents involving civil with military aircraft. This subcommittee should assist the Director in his activities, provide him with all needed facilities of their separate agencies, and implement his recommendations as appropriate.

92. The Air Coordinating Committee should be designated to study the subject of development and coordination of air search and rescue over land and sea areas and formulate recommendations for achieving the maximum effectiveness in this field.

⁴³ *Ibid.* Relevant passage, PAPC 138.