

1934

Recommendations and Comment

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

Recommended Citation

Recommendations and Comment, 5 J. Air L. & Com. 619 (1934)
<https://scholar.smu.edu/jalc/vol5/iss4/15>

This Symposium 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>.

RECOMMENDATIONS AND COMMENT**I. ORGANIZATION OF AMERICAN AVIATION.**

- (a) We recommend the creation of a permanent Federal Aviation Commission of from five to seven members, the majority of whom should have adequate aeronautical experience—the Commission to be non-partisan or bi-partisan in its make-up.

Comment: The Federal Aviation Commission should be an independent organization whose duties and powers should include the following:

(1) The assembling of authentic information and data on all phases of the aeronautical industry.

(2) The holding of private or public hearings, and the issuance of subpoenas, in obtaining information sought by the Commission.

(3) Giving requested advisory opinions and information in relation to aeronautics, to the President, to Congress, and to other officials of the United States Government having duties in relation to the industry, and to otherwise publish advisory opinions and information in such ways and at such times as may seem appropriate to the Commission, to the end that the Government in dealing with or regulating the industry may at all times act advisedly and with all pertinent facts before it, and that the industry may become stabilized and enjoy normal growth and development.

(4) Serving as liaison between the various elements of aeronautics throughout the country.

- (b) We recommend the establishment of the offices of Assistant Secretary of Aeronautics under the War Department and Assistant Secretary of Aeronautics under the Navy Department, who, together with the Secretary of the Bureau of Air Commerce, should be exofficio members of the Federal Aviation Commission.
- (c) We recommend the continuation of the Bureau of Air Commerce upon its present basis of organization and function.
- (d) We are firmly of the opinion that the aeronautical industry has not yet reached the stage in its development to warrant or justify more rigid economic regulation of air commerce, or the Federal Government's undertaking the issuance of certificates of public convenience and necessity, or rate making; and we be-

lieve that when the industry at some future time shall have developed to a point calling for fuller economic regulation, such regulation should be administered through an independent Federal commission, and not through the Interstate Commerce Commission.

II. MILITARY AVIATION.

- (a) We recommend that the Militia Bureau should establish as an objective the formation of National Guard aviation units in every state where the establishment of a unit is found practical.
- (b) We desire to endorse the recommendation of the Baker Board that units of standard commercial aircraft adequate for the training of pilots for cross-country and instrument flying be purchased by the War Department at the earliest practical time.

Comment: The Baker Board points out that this is a matter of economy and we wish further to point out that not only is economy involved but that the purchase of such equipment will have wide advantages which would justify the move above and beyond its economic aspects.

III. REGULATION.

- (a) We recommend the adoption, by the several states of the Uniform State Aeronautical Regulatory Act as approved by the National Association of State Aviation Officials at its Fourth Annual Meeting at Cheyenne, Wyoming, September 29, 1934. (See Appendix.)

Comment: It should be noted that the Uniform State Aeronautical Regulatory Act requires a federal license for all aircraft and airmen operating within the state.

It should be noted further that said Act also provides for the State control of all air instruction.

- (b) We recommend that the Federal Government, through its aeronautical agencies, should request and urge the several states to enact the Uniform State Aeronautical Regulatory Act.
- (c) We urge the careful consideration of the Bureau of Air Commerce as to the desirability of issuing a federal restricted aircraft license.

Comment: Opinion is divided on the desirability of a restricted type of license for aircraft built without the benefit of

adequate aeronautical engineering knowledge or standard manufacturing processes.

Proponents contend such a license would encourage desirable experiment and encourage many to participate. They suggest limitations on power plants installed, areas of operation and passengers carried.

Opponents of a restricted license contend that an aircraft is related not alone to the man who flies it but to all persons and property on the ground beneath, to all other aircraft and to the general development of aviation. An accident to an experimental ship is not made a matter of distinction by the public and the government has no moral right to place a stamp of approval on an aircraft concerning which it does not have a stress analysis.

The creation of such a type of license would certainly remove a cause of much dissension and controversy. Such a license might be given by specially designated inspectors of the Bureau of Air Commerce. Plans of a semi-technical nature should be submitted by the builder and an accurate description of materials used should be furnished. Thus the ability of the applicant might be somewhat determined and any outstanding mistakes checked. Expenses of such an inspection by an inspector with engineering knowledge should be borne by the applicant for license.

If the engineering department of the Bureau of Air Commerce feels it can by inspection and restriction sanction a type of license with reasonable justice in the matter of safety, such a license would certainly ease the part of all regulating officials. The creation of such a license is recommended if found compatible with the public safety.

- (d) We recommend that the Bureau of Air Commerce should cease to issue identification numbers to aircraft.

Comment: The negative attitude of the department toward identified aircraft is interpreted as a distinct approval of their operation for non-commercial purposes. The various states seeking to back up the federal government in the development of American aircraft and airmen's standards have passed laws requiring federal licenses. As a consequence, a feeling is developed that state aviation laws are unduly restrictive. This is entirely erroneous and this would be eliminated if the federal bureau were in a position to make it mandatory that all aircraft and airmen have some type of license regardless of the nature of their activities.

- (e) We recommend that the Bureau of Air Commerce should rate all airports and landing fields, it being understood that the actual licensing of such airports or landing fields be left to the several states.

Comment: The state licensing of airports and landing fields is provided for in the Uniform State Aeronautical Regulatory Act. The State requirements have been taken directly from the federal minimum standards and it is urged that the federal rating requirements be simplified insofar as is possible.

IV. PROMOTION OF AERONAUTICS.

- (a) We recommend that the promotion of the National Airways System be inaugurated by Federal Authority, and be developed through the co-operation of the several states with the federal authority.

Comment: The establishment of national airways is not only a matter of commercial air transportation but is fundamental to the national defense policy.

Lack of liaison between commercial and military aviation has been marked in the past but with liaison developed, it appears self-evident that the transcontinental airways and their contributory branches should, as a system, be sponsored by federal authority.

- (b) We recommend that the Air Commerce Act of 1926 be amended, if legally possible, so as to permit the lighting and maintenance of municipal fields.

Comment: This would save the federal government money since it would enable it to abandon some of the present intermediate fields which serve no other useful purpose at the present time than to provide for emergency landings. In states which are fairly well populated, it would be possible to replace practically all of the present intermediate fields by adequate municipal fields. This change would help the federal bureau to reduce expenses by eliminating yearly rentals, and would assist municipalities by providing lighting facilities for their fields.

By far the most important advantage to be gained, however, would be the provision of better fields, suitably lighted, near centers of population, used by small operators and private flyers. One of the greatest present deterrents to the expansion of private flying is the fact that even after acquiring an airplane the private flyer has no place to land, at least at night, except at airline stops.

The remaining intermediate fields, where feasible, should be made available for commercial operations. This provision will not add materially to the maintenance costs of intermediate fields far from centers of population, because commercial activities can never be very great at such points.

This does not mean, however, that the states should not play a part in both the development and maintenance of the airways and the airports. For example, the program of air marking is an essential part of airway establishment and this work can well be handled by state officials with their local contacts. The removal of obstructions, the zoning of areas, the development of state air maps, the fostering of intrastate feeder lines, the maintenance of state emergency fields not on the airways, assistance to the federal government in purchasing, improving and maintenance of airports and a great many other details are primarily matters of local concern but of vital importance to the proper development of a federal aviation program.

Everyone is agreed that a policy of federal-state airway and airport construction is essential to aeronautic progress. The proportionate costs to be borne by the state and federal governments vary and there is also introduced the variation of the municipality, with the possibility that it should bear a part of the cost.

It is universally pointed out that the aviation authorities of the various states can go before their respective legislatures with some hope of success in the development of airports and airways if the development is shown to be a part of a comprehensive plan inaugurated by the federal government.

V. MISCELLANEOUS AND PRIVATE FLYING.

- (a) We recommend that, since private and miscellaneous flying activities provide a potential reserve of experience for national defense and play a vitally important part in the entire aviation program, the federal government should definitely concern itself with the private and miscellaneous flight program so as to consider all possible aids to these branches of aviation.

Comment: In the matter of miscellaneous and private flying there has been wide-spread agitation. The activity of the private flier determines the poverty or prosperity of the community field, and the fixed-base operator located there. That scarcely a community field in the country has managed to make a decent living

for its operator is a fact—whatever our opinion may be on the causes or the methods by which improvement can be effected.

Practically all of the promotional work of the federal Bureau of Air Commerce has been of most assistance to scheduled air transport. This is very likely due not to any studied attempt to ignore the needs of the small operator and private flyer, but to the fact that the scheduled operators were in a position to avail themselves of the facilities as soon as they were provided.

What is the relative value of private and miscellaneous flying?

1. Keeping alive the community field.
2. Sustaining manufacturing programs of aircraft and motors.
3. Developing airmindedness and aeronautical education.
4. Contribution to a potential military crisis.
5. Primary training activity for pilots of higher grades in commerce and defense channels.

Assistance may take several forms. There has been agitation on the matter of regulation. Some very sincere men have felt that private flying equipment should not require the same licensing and inspection service as commercial equipment, and that the requirements for the private pilot should be less stringent. They point out the fact that the private flyer and his ship do not have the same responsibility to the public and that the detail involved in securing a license and in keeping a private ship up to present requirements has driven many individuals out of aviation. This argument seems to be, however, specious.

In the first place, the relationship of the private pilot and the aircraft is not a private relationship when the craft takes the air. An airplane in the air has a public relationship which cannot be denied. It is related to every person and to all property on the ground beneath it and to all other aircraft and airmen, whether it is flown by one type of pilot or another and whether it is one class of airplane or another. The aircraft requirements should not fall below reasonable standards and the piloting requirements should not be so lenient as to be inclusive of all who have the desire to operate an aircraft without any reference to their physical or psychological qualifications.

In the second place, every private flyer has a circle of influence and the wrecking of his ship, his injury or his death, definitely develops antagonism to aviation in a large group so that even

in his personal capacity, the private pilot has also a public relationship.

In the next place, the encouragement of the pilot in the primary stages of his experience to a policy of standards and maintenance which has characterized American aviation is highly desirable. There is no class of aircraft in any nation so thoroughly dependable as the American.

If requirements for private pilots can be modified without surrendering any of these factors of safety, then by all means modification is logical, but the preservation of these factors is much more important than the satisfying of any individuals or groups who seek merely personal convenience. It is the consensus of opinion among state officials that the requirements for non-commercial pilots should not be less rigid than at present, and it is also the consensus of opinion that the equipment used should have the same thorough inspection and licensing requirements as those of commercial aircraft.

The second phase of consideration leads us to the question of material subsidy for miscellaneous and private flying. The majority feel that the government has a direct responsibility for this type of aeronautic activity, but all are extremely conservative in the method by which aid should be granted. The availability of a low-priced airplane by which the fixed-base operator could make money and on which the student could train reasonably, and through which the private flyer could build up air experience is the practical answer.

Some feel that a regulated flight training program could be subsidized or that clubs could be formed to which the government might furnish a reserve officer as an instructor with a light aircraft for the use of the members. The majority feel that the subsidy would take care of itself if the federal government could foster production of the airplane to meet the requirement.

Failure of the \$700 airplane to materialize was a foregone conclusion. No one expected the government or anyone else to produce an airplane for \$700, but out of the agitation they did expect a reasonably priced airplane to make its appearance. As a matter of fact, most of the so-called light airplanes have paid their way where fixed-base operators could afford to purchase and use them, but the price of these aircraft is still a third too high for both the private flyer and the average community operator.

It has been suggested that preference be given to rated Department of Commerce pilots in choosing cadet officers for the

service schools. This would be a proper move. We hear it generally stated that it is necessary to forget most of what is learned in commercial flying before one can take training as a military pilot but this viewpoint is either born of prejudice or aborted of desire. As a matter of fact, several National Guard commanders tell us their best men are developed from commercial pilots.

In this connection, private flying has a direct value to the national defense program. The ranks of the private flyers provide many whose knowledge would be useful in ground work or whose experience in the air would make them more readily trained as pilots, observers, machine-gunners and bombers in case of emergency, that many private pilots have much mechanical experience, that in their aggregate experience they have thorough knowledge of local conditions throughout the United States, that they have valuable contacts throughout all communities, and that in general they form a very definite reserve group with potential value to the national defense.

The question as to whether non-scheduled air transportation should be required to furnish the same equipment and personnel as the scheduled operators has been raised. As far as airworthiness goes, the requirements should be identical and pilot qualifications should be adequate. The installation of radio and installations for instrument flying cannot be economically supported by the present amount of traffic. However, there is a small and militant minority which feels that all charter aircraft for cross-country flights should be equipped with radio and flight instruments.

Regulation of intrastate non-scheduled operation devolves wholly upon the state and the states should take the standard of the federal government for such regulations as they impose. Practically unanimous is the sentiment that non-scheduled operation rates no federal subsidy but suggestions are made that if the federal government and the states agree upon the cooperative development of airports and the federal government gives assistance to municipal airports by the lighting of them, and if the intermediate fields are placed nearer to centers of population, the non-scheduled operator will derive a very substantial benefit.

The refund of federal and state gas taxes to the purchaser is advised, where possible. Where impossible, it is advised that aeronautic authorities use every means at their command to see that the taxes collected on aviation fuels be devoted exclusively to aeronautic development.

It is possible that secondary mail contracts may eventually be

found practical in those areas where the transcontinental routes offer no service, but where the mail service, combined with passenger carrying, may be a matter of keeping a given community in touch with the larger spheres of activities.

It appears wise to remember that the four to six place aircraft capable of carrying some mail and passengers but used now principally as a sportsman aircraft or for executive purposes is a valuable type of aircraft to have in operation. The cost of manufacture now makes charter work practically unprofitable. If some way could be found to help just a little bit the situation would be considerably relieved.

VI. AVIATION AND NATIONAL DEFENSE.

- (a) We recommend that the federal government should make a determined effort to organize an efficient reserve from the personnel of the large operating companies which receive government assistance, and also from properly qualified pilots engaged in miscellaneous operations.

Comment: The subject of national defense beyond doubt must include not only a study of present military establishment but of the relation of commercial aviation to the subject. The most important contribution that commercial aviation makes to national defense is the established facilities of the air transport systems, the experience they accumulate and the technical proficiency reached by their operating personnel.

It is almost universally conceded that the finest laboratory of flight training in all weather and under all conditions is to be found in scheduled air transport. The precision with which personnel must act under various conditions can be found nowhere else in the field of aeronautic training. In a military emergency one of the great requirements would be the ability to move groups of aircraft and personnel long distances with precision. Very few of the military personnel have had experience to qualify them for such work and certainly no novice emergency trained officers would be qualified.

The air transport systems, with their personnel, would be the backbone of military operation, and subsidy to the air transport operation should not be placed on the false basis of pay for the carrying of mail but should be on the sound basis of subsidy for the maintenance of what is in effect a laboratory of experience for national defense by aeronautics.

To definitely require the personnel of subsidized operating companies to belong to the reserve would not be constitutionally possible and to require active duty flying by these individuals who are flying daily might be neither wise nor possible, but that they be on a status available to military call in the time of emergency seems most reasonable.

In the case of any operators or pilots engaged in private or miscellaneous flying, it seems only fair that when receiving assistance, they pledge themselves and their equipment to be available and subject to call upon the declaration of a military emergency. It is very generally felt that a good reserve program made available to all who are willing to take advantage of it would be of great assistance to aviation generally and a wise military procedure. Individuals differ in what they feel to be an adequate training program for a reserve of men whose occupation is in the aviation industry, but it appears to be the consensus of opinion that the opportunity to fly service type aircraft should be provided to a large reserve personnel.

VII. SCHEDULED AIR TRANSPORT.

- (a) We recommend the adequate subsidizing of scheduled air transport on the theory that this field of activity is the great natural laboratory for both civil and military aviation, and because it involves the making available of a very necessary type of transportation to the public at large.

Comment: There is unanimity on the subject of subsidy for scheduled air transport. Individuals disagreed as to the methods by which subsidy should be given but all agreed that the government owes a definite obligation of adequate subsidy to scheduled air transport, not in payment for the transportation of mail but to make possible the development of an air transport system which will play an increasingly large part in the commercial development of today, which will provide an increasing field of activity for citizens, and which will increase the scope and influence and maintain the prestige of the United States in its international relationships.

- (b) We recommend that the regulation of the equipment and personnel of the scheduled operators should remain under the jurisdiction of the Bureau of Air Commerce.

Comment: The standards to be applied, flight regulations,

airport rating, airways development and many kindred technical phases belong logically to the federal bureau.

VIII. THE AIRCRAFT INDUSTRY.

- (a) We recommend that assurance should be given that the government does not intend to go into competition with civil interests in the production of civil, military and naval aircraft.
- (b) We recommend that procurement programs should be set up on a sufficiently broad and simplified basis to justify the comprehensive engineering necessary before any manufacturer can establish production.
- (c) We recommend that the government should make provision to pay for experimental work done on aircraft, instruments, motors or any other type of aeronautical equipment, plans concerning which have first been submitted and approved by the proper governmental authorities such as the National Advisory Committee for Aeronautics.

Comment: The adequacy of the national air force is not measurable by the number of aircraft it has at this moment, but by the number of aircraft it can produce within a specified time following the declaration of an emergency. The power of an air force is just as strong as its replacement facilities. Ships in forced military operations do not last long. Therefore, all of the foregoing reasons are not only a valuable development of civil aircraft and motor construction, but have national defense value.

IX. NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS.

- (a) We recommend the continuation of the National Advisory Committee for Aeronautics with sufficient appropriation to insure its continued effective participation in aeronautical research.

Comment: The National Advisory Committee for Aeronautics has rendered a very useful service and the government very properly should support research in aeronautics. The value of this research agency, is self-evident in the improvement in aircraft and aeronautic equipment, as it appears progressively in the skies above the nation. That committee should and does have a great fund of knowledge in reserve for use in military emergency.

It would be difficult to state what the appropriations for fundamental research should be, but it is important that it should not be limited in funds to the point where it cannot proceed where improvement is indicated or possible. No one in aeronautics seriously believes that the present conventional type of airplane exhausts the possibilities of aeronautical progress.