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FEDERAL AVIATION POLICY

EDWARD P. WARNER*

You have been good enough to invite me to come here and talk about Federal air policy, and I have been delighted to accept the invitation. It is a subject that is necessarily interesting to all of us; that affects all of us professionally; and with which the members of this Association make daily contact in pursuit of their official duties.

The first step towards being matter-of-fact on this subject is to decide precisely what it is that we are talking about. The term policy is used in a variety of senses. We sometimes hear policy spoken of as though it meant the degree of generosity a particular organization of the government will display, and the amount of money that it will feel able to spend on aviation. We sometimes think of policy in terms of a particular action that has to be taken for the moment, to meet a particular problem arising at the moment, but I am going to use the term in its broader sense. I am going to use it as it is commonly used in military affairs, where policy reaches beyond an individual campaign and extends over a long period of time. A policy, if it is to have any meaning, must have continuity. It must not be subject to abrupt change, or to sudden shift and veer with changes of individual opinion. The first essential in discussing policy on that basis is that we should keep it detached from a consideration of partisanship. Politics ought not even to touch the hem of such a discussion. There used to be a saying, unfortunately more honored in the breach than in the observance, that politics stopped at the water's edge. Let us paraphrase it. Let us put it that politics stop at the edge of the limitless ocean of air, and having put it that way, let us live up to it. Men will differ about policy, and honestly, and their honest differences should be threshed out in free debate; but there could be no greater disservice to aviation's development than to make it, as it has more than once in the past been made, a pawn in partisanship's game.

At least there are certain general principles upon which we should all be able to agree. They ought to serve, like the axioms of geometry, as an unshakeable foundation, and whatever argu-

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ment we may have ought to proceed from them, and not about them.

The first of these fundamental principles is that policy shall square with sound governmental theory. If we are to change our course every few days, it perhaps does not matter so much that some of its shifts should cut across the accumulated experience of the ages on how men may govern themselves wisely and justly; but if we are to seek for a proper measure of stability and continuity, it is essential that we cling to the established lessons of that experience as to the Rock of Ages.

Sound theory requires above all things that there should be a classification of the agencies dealing with aeronautics, and especially a separation of those operations which are executive from those which are legislative or judicial. The obvious need for that simple classification has been the subject of an extraordinary amount of distortion in recent years. Far too much rein has been given to the all-too-common habit of attaching a mystic significance to a particular system of administration.

I have heard it argued, for example, that there should be established a commission to deal with the air problems of the Federal Government; that that commission should take over everything the Bureau of Air Commerce does; everything from the Weather Bureau; everything from the National Advisory Committee for Aeronautics; the aeronautic functions of the Post Office Department; odds and ends from the Chamber of Commerce and the National Aeronautic Association; and in some cases it has even been suggested that the commission should have the responsibility for advising on the procurement of military aircraft, and that it should maintain a staff of intelligence officers to keep tabs on the development of aeronautics in other parts of the world.

I hope all that sounds to you just as ridiculous as it really is. Some of these functions are appropriate to be handled by a commission. Others are utterly unfitted for such treatment. A commission cannot, in the nature of things, fly an airplane. It cannot command a battleship. It cannot, as a commission, predict the weather or maintain an airway, and in proportion as such functions are given over to a commission, it will cease to function as such. It will find itself constrained simply to designate its executive functions to its individual members; it will lose collective efficiency in the handling of the judicial responsibilities that really belong to it; it will in effect cease to be a commission, and become a loose grouping of several bureaus. One might as well propose that the

Justices of the Supreme Court should collectively take over the administration of the Department of Justice, its prosecutions and its G-men.

It has been argued from time to time, and perhaps nowhere more often than in connection with aviation's affairs, that certain mistakes have been made in respect to commercial aviation and therefore the form of the controlling agency should be changed. Will it eliminate the mistakes to change the form? It is ridiculous to think so. If you appoint administrators X, Y, and Z over three different bureaus and they do their jobs badly, and you decide to fix that up by merging the three and calling Mr. X, Mr. Y, and Mr. Z the members of a commission, you will not have better administration, but worse. If the administrators were lazy, incompetent, or corrupt then the commission will be incompetent, ineffective, or incapable of doing justice. A bad administrator at the head of a bureau affects only his own bureau, but a timorous or time-serving man transplanted to a commission pollutes the activities of the new agency as a whole. Too often, the attempt to administer through a committee results in a nice assembling of all the worst qualities of all the members.

The attempt to fix things up by tossing this fantastic variety of functions into a single grab-bag marked Air Commerce Commission is one extreme of bad organization. At the other extreme is the casual assignment of judicial functions to an individual administrator, and especially to an administrator appointed as a part of a current administration. A governmental system can survive a great many changes in its internal organization, but it cannot survive change in the fundamental concept of justice. The American system, speaking not in obeisance to the letter of the law as written 150 years ago but to the system as it exists in living spirit, is incompatible with the control of the destinies of the individual by any official who is subject to ready appointment and ready removal, and who is as an individual a part of an executive department. That is especially true if the official concerned is himself an interested party in the case that comes before him for settlement.

I am going to take as an example the Directorship of Air Commerce. I hope it will be understood that my remarks have no special relation whatever to the present incumbents of the Bureau of Air Commerce, to any of their predecessors, or to their successors, whoever they may be. I am talking of a general principle. I haven't been so discourteous as to ask those now charged with this responsibility what they think about

their own jobs, but I know that one at least of the previous Assistant Secretaries of Commerce for Aeronautics feels much as I do about it. Fix your minds upon the Director of Air Commerce. In respect of the regulation of civil aeronautics, he, through his various agencies or through those associated with him, makes the regulations. He is thereby a legislator. He is the detective who discovers the violation of the regulation. He is the policeman who makes the arrest. He is the court of first instance before which the violator is brought. He is the court of appeal before which the appeal is heard. And finally he is the executioner. That is not a unique situation, of course. There are other such cases—too many of them in our government. But there are few more conspicuous cases, or cases where the range of official duties covers a wider territory than here, and I hope I will not be misunderstood if I say that this office seems to me an absolute caricature of sound government organization. I think it is unfair to a man who has a public position of this sort to have to put himself successively in such a multiplicity of functions.

Another such example, of course, has existed in the Post Office Department. That has been amended to a considerable degree by bringing the Interstate Commerce Commission into the field. It would be a great piece of recklessness on my part to say anything about the Interstate Commerce Commission, when we are to hear from the leading expert on the subject very shortly. I will make no comment on its except that it has obviously served a very good purpose in establishing an agency which has continuity through the nature of its membership, and which is essentially judicial in its structure, in a field that cried aloud for judicial consideration. But the powers and duties of the Interstate Commerce Commission in connection with aeronautics have not yet been adequately defined, nor has the Commission been given a broad enough discretion.

In the past there has been no assurance—hardly even the hope—of continuity in air transport policy; and at best there has been a feeling that personal inclination on the part of high officials who came into temporary control of air transportation were bound to affect the basic policy. Air transportation cannot progress as it should without assurance of more continuity than has yet been obtained. With an air mail law undergoing fundamental revision every second or third year, and with the suggestion of a periodic reawarding of air mail contracts by a completely new process of

competitive bidding periodically raising its head, no operator can plan either confidently or intelligently.

Whatever the transport policy may be, it will call for some sort of payments to be made by the Government to the airlines. The payments may be only for service rendered in some cases; they may have to include direct grants in aid in others; but in either case, whether the distribution of benefits is through subsidies, financial grants, mail contracts, or still more indirectly, it is a judicial function. Such a distribution is perhaps the most delicate responsibility, and the responsibility most likely to lead to fear of favoritism, and the most likely to lead to intense personal feeling, of any that the government has to carry. Again, it seems to me it was unfair to the Postmaster General and his several associates to require them to carry that responsibility as they did in the past. It was characteristically a commission job; it should be so recognized, and so remain.

The first requirement of policy is that the organization should give credit to the eternal principle of the division of governmental function. The second is that there should be a limit on governmental responsibility, and I suggest a reasonable limit is that the government should protect anybody who is too helpless to protect himself. The government should protect air line passengers from being ushered into an improperly constructed machine, or one that is being flown improperly. It should protect the purchaser of an airplane so that he will not be sold a machine that is not fit for his use, but I cannot agree that it should protect individuals against themselves. In our enthusiasm for the elimination of air accidents, we are sometimes prone to go even to that length. In Los Angeles, I witnessed the air races, and I heard a wealth of comment to the effect that the Department of Commerce should not allow all this upside-down flying only sixty feet off the ground. We may think such thrills undesirable, and still consider them entirely outside the government's province. The Department of Commerce should have nothing to do with trying to control the activities of any flyer which do not affect anyone's life, health, or pursuit of happiness but his own. I suggest then that we should make a definite distinction between the requirements of public safety and the requirements that relate only to the individual's protection from injury to himself.

That doesn't necessarily mean a restriction of the Bureau's present activities. In some respects it might enlarge them. I would like to have every man who deals with aviation as a cus-

tomer to have all forms of information. I would like to have a purchaser know what a plane will do before he buys it. I would like to see a Government certificate of performance of the type go along with each plane. I am thoroughly sympathetic in principle with the idea that there should be classification of airplanes in respect to flying qualities and ease of operation.

Now let me focus my attention for a bit on the Government's relation to air transport, and so on the field that really does call for control by a commission in the interest of dispassionate justice to all parties. The first need there is a better system of competition in the awarding of air mail contracts. If you as individuals want to get a house built, you go to a group of contractors, who take your specifications and give you a bid, and you will probably give the job to the man who makes the lowest bid; but if you want to employ a confidential assistant, you do not put the specifications out for competitive bidding. You decide, after inspecting all the candidates, who is best fitted to do the job. So with the airlines. We are not buying supplies. We are buying continued service, and we ought to act accordingly. The illusion that everything can be done by competitive bidding is very widespread in Washington. In 1929 the air routes were let out by competitive bid. In three or four years some of the winners were in terrible trouble, and to save them from going to the wall the Post Office got an amendment to the law and readjusted the compensation. In 1934 the routes were let out on competitive bids again, and again some of them went at perfectly ridiculous figures. Some of the bids in fact were purely fictitious, based on a conviction that the rates would shortly be readjusted, and that a bid, like the traditional political platform, was something to get in on, not to stand on. Just such a readjustment has occurred. So competitive bidding is a temporary device, and a meaningless one.

The second need is to make the compensation proportionate to service rendered; and I suggest that since passenger service comes from very much the same people that make the principal use of the mail service over that same route, they logically ought to receive as passengers the residual benefit of what they spend on postage, by giving the air line a payment equal to the entire air mail revenue derived from its route, and then requiring the line to keep up a passenger service commensurate with the revenue so received. To do otherwise, holding out a part of the air mail postage revenue at a time when air transport as a whole is admittedly in need of some sort of Government aid, is unfair, illogical, and leads to wholly

inaccurate assertions about the dependence of particular lines on "subsidy."

The third need is that, if air transport service is for any good reason to be continued where it cannot possibly be self-supporting, we should face that fact squarely. If the airlines are to be run where they cannot develop enough traffic to carry their costs, tell the public the truth about it, and let the taxpayer pay the bill.

In the fourth place, somebody should maintain a closer watch over economic operations, including those of passenger service, and exercise a freer discretion in regard to them than anybody is empowered now.

In the fifth place, promote good operating practices, such as will encourage both the steady improvement of service and a steady improvement in economy of operation. The law now says that no one shall make an excessive profit, but it carefully refrains from defining an excess. If you talk in terms like that, with the regulating authority instructed to see that no one makes very much money and that no one loses enough to put him out of business, operation goes practically onto a cost-plus basis. That has its customary disastrous effect. There is a positive inducement to make business methods as wasteful as possible.

Sixth, there is the clause of the Air Mail Act that practically prohibits starting any new line that would be competitive with any now existing. That destroys the most important of the Interstate Commerce Commission powers. The provision is reprehensible, and it ought to be changed without delay. Nothing should stand on the statute books which debars new competition where it will serve the public convenience.

Finally, let us make sure that the control is sufficiently broad to be effective, and through an agency especially qualified. The Maritime Commission has been recently set up for ocean-going shipping. I am not going to argue particularly for a special commission to handle aviation. I happen to believe that on the whole a separate agency would be best, but I feel much less strongly on that subject than do some of my friends. I think the Interstate Commerce Commission is doing a good job. I am inclined to believe that a new agency, without so much background relating to other fields, might do a still better one, from the technical point of view, though it couldn't possibly command more general respect or have higher standards of conduct.

Let me summarize, finally. The essentials of an air policy are that it be founded on sound principles of government; that all the

principles involved should be frankly declared with an end to evasion and circumlocution; that it should avoid any unnecessary interference with individual enterprise; that it should give the maximum return for the sum expended by promoting efficiency and economy of operation; and that it should lead steadily toward a completely self-supporting air transport system, all forms of aid being self-extinguishing as rapidly as the progress of the art permits. If we all do that, we shall not only be going somewhere, but we will all know where it is that we are going; still more important, we shall get there.