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# FLIGHTS ABROAD AND THE ROLE OF THE DEPARTMENT OF STATE\*

IRVING L. THOMSON†

## FOREWORD

When one wishes to fly his own plane in a foreign country, he must ordinarily get permission from the government of that country beforehand. In most cases this must be done through that department of his own government through which all communications with foreign governments must be made—if one is a citizen of the United States, the Department of State.

The purpose of this paper is to describe the steps by which such permission is obtained, to summarize the responsibilities thus assumed by the flier, to outline briefly the nature of the international agreements which apply, and to depict the organization in the Department of State which has been developed to achieve this object efficiently and amicably.

The literature on the subject is scanty. So far as the writer is aware, no detailed description exists in print of the State Department's procedure in obtaining permission for flights of private aircraft in foreign countries. The subject is new; it is still, in fact, in the process of development. Worked out by experience to the point of effectiveness and efficiency, this procedure has not yet crystallized into a mass of printed forms bound by endless coils of red tape.

The securing of permission for a private person to tour in foreign countries in his own aircraft is a complicated process, and may involve factors touching the diplomatic relations between nations. The applicant may not even be aware of them. So far as he is concerned, however, the process is made as easy as possible by flexible methods of procedure and a personal feeling of responsibility on the part of State Department officials in each individual case.

It may be mentioned that although in this paper references are almost entirely to flight in airplanes, the same rules and the same procedure apply to dirigibles.

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The subject of permission for the operation of commercial airlines in foreign countries is a different matter entirely, and does not enter into the scope of this paper.

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# I. PROCEDURE INVOLVED IN OBTAINING PERMISSION FOR FOREIGN FLIGHTS

Anyone who plans a trip abroad knows that he must ordinarily get a passport from the State Department or one of its agencies, as well as visas from representatives of the governments of the countries he plans to visit. The procedure and the machinery behind it are so well established as to be fairly familiar to the traveler. Should he wish to take his own airplane, however, the procedure becomes more complicated, for foreign air touring is still comparatively new, and to many foreign governments a cause for worry. Here the State Department's machinery is called into action still further. The prospective air tourist may not be aware of the activities of the State Department, for his contact with it may be only through the Department of Commerce.

The flier already knows the Department of Commerce and in particular its Bureau of Air Commerce. From it he has secured his pilot certificate, and the airworthiness certificate for his plane, without which he would not be allowed to fly at all in interstate and foreign commerce.<sup>1</sup> To the Bureau of Air Commerce also he applies for permission to fly in each of the foreign countries on his proposed itinerary.<sup>2</sup> It would be well for him to make his application as soon as he can, for weeks and perhaps months may elapse before all the necessary permissions from the foreign governments concerned can be obtained.

In the first place he must send a letter in duplicate to the Bureau of Air Commerce, Department of Commerce, Washington, D. C., giving the following information:

1. Name of the pilot.
2. Names of crew and passengers, indicating citizenship of each.

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1. See *Civil Air Regulations, effective November 1, 1937*,  
2. See "Procedure Governing Obtaining of Permission to Fly in Foreign Countries for American Airmen," 3 Air Commerce Bulletin 589-590 (June 1, 1932), and "United States has Reciprocal Agreements on Civil Aeronautics with Nineteen Nations," 5 Air Commerce Bulletin 151-154 (Dec. 15, 1933).

3. Type of aircraft.
4. Type of motor.
5. United States registration and airworthiness numbers of aircraft.
6. Itinerary, indicating point of entry into and departure from each country, general route to be followed, places where stops will be made, with dates estimated as closely as possible.
7. Apparatus carried—that is, cameras, firearms, radio, with call number, etc.
8. Purpose of flight and names of its financial sponsors, as well as of owners of the aircraft.

In most countries a special permit is required to carry cameras, firearms, or a radio, and it may save time if he states in his first letter either that such articles will not be carried or that they may be sealed if necessary. He should also bear in mind that certain countries require a flier to carry full liability insurance, or to make a deposit to cover liability.

If he wishes permission from the foreign countries he intends to visit to be obtained by telegraph or cable, he must enclose a deposit payable to the Secretary of State, to cover the cost of telegraphing. Ordinarily it is well to count on about twenty-five dollars for each country from which permission must be obtained. When the arrangements have been completed, the unused balance is returned to him.

The Bureau of Air Commerce then decides whether the qualifications of pilot and plane are adequate for the trip. Further tests may be necessary, or the Bureau's records may indicate that both pilot and plane are ready.

When the Bureau of Air Commerce is satisfied, a letter is sent to the Secretary of State, signed by the Assistant Secretary of Commerce whose duties include the supervision of matters relating to air navigation and aircraft, in which a statement is made that the plane is considered airworthy and the pilot or pilots competent. A copy of the applicant's letter and his deposit for telegraph charges are enclosed.

The Commerce Department's responsibility is to make sure that the technical qualifications of the pilot and his plane are satisfactory. It is then the task of the State Department to secure permission from the various foreign governments for this individual to fly in their respective countries. It is not within the State De-

partment's province to grant permission for foreign flights, or to authorize them. The State Department, through diplomatic channels, secures permission from foreign governments for flights over their territories, where the United States has no air navigation agreements with the countries involved, or where the particular conditions of the flight do not bring it under the terms of the agreements. Authorization for the flight is given the flier by the Department of Commerce after the necessary permission is secured.

On being received by the Department of State, the letter is given a file number by the Division of Communications and Records. When all official correspondence connected with the application is completed, it is put into the Department's permanent file under this number. Having been assigned a file number, the letter is sent to the Division of International Conferences, in which all work concerning foreign flights, or flights for foreign aviators in the United States, is centered. There an official examines the application, and sends it to other Department officials whose advice regarding it may be desired.

Certain offices in the Department of State are known as geographical divisions.<sup>3</sup> Members of these divisions are experts on particular countries or groups of countries. Each expert examines all correspondence relating to the country or countries covered by his assignment, including applications to fly over foreign territory.

In some cases it may be necessary to consult also with an official in the War Department or the Navy Department or both concerning certain portions of the applicant's proposed route.

Some reason may exist which makes it inadvisable to grant a request to fly over certain regions. If a state of war exists in a country, or if conditions are unsettled or dangerous to fliers, or if in some country the authorities are over-sensitive concerning flights of foreign aircraft, however innocent, permission may be withheld. In such cases an official in the Division of International Conferences may write directly to the applicant, to ask for an alternative route.

Subsequent developments depend on the countries named in the application. If they are countries with which the United States has made an agreement relating to air navigation, no further action may be necessary.<sup>4</sup> If the flier wishes to go to Canada, Mexico, or Cuba, not even the permission of the Department of Commerce is needed. In every case, however, he must take care to observe the

3. For a description of the geographical divisions see *Spaulding and Blue*, *The Department of State of the United States*, rev. ed. (Washington, D. C.: 1936), pp. 13-15.

4. See *post.*, III.

procedure outlined by the laws and regulations of the foreign country for aircraft crossing its borders.<sup>5</sup>

If the approved itinerary includes countries with which the United States has no agreement on air navigation, an instruction is drafted for the American diplomatic representative in the capital of each such country over which permission is sought to fly. It contains in the briefest form the information given by the flier in his application to the Bureau of Air Commerce, and directions to request permission from the proper authorities. If a deposit has been made to cover telegraph charges the instruction is sent by wire; otherwise it goes in the official mail pouch by steamship, or, in the case of some Latin American countries, by air mail.

For flights in Europe and the Near East a plan has been put into effect which saves much time and expense.<sup>6</sup> The American Embassy in Paris has been made a central office through which requests are sent for permission for flights in all European and Near Eastern countries. A single instruction is sent to the American Ambassador in Paris with a list of the countries on the flier's itinerary. The Paris Embassy then communicates with each of the American missions in the countries listed, receives a report of permission granted, and reports back to the State Department in Washington.

The Embassy in Paris may also handle any further questions regarding the flier's air tour in those countries, without reference to the Department, unless some serious problem arises. "To this end the Embassy is authorized to communicate with the missions in countries not on the original list supplied by the Department and to request such action as may be appropriate with a view to facilitating flights by the American pilots and planes in all European countries with whom this Government maintains diplomatic relations. . . . In turn, all American missions which have received official notification of the flight may similarly communicate with other missions for the purpose of facilitating American flights in Europe, mailing copies of their communications to the Embassy at Paris for its records."<sup>7</sup>

This means that once the American flier has his authorization from the Department of Commerce for a European flight, if he is in Europe and wishes to extend his tour, he may secure the additional permissions needed through the Paris Embassy.<sup>8</sup>

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5. See *post.*, II.

6. See 3 Dept. of State Press Releases 115-116 (Aug. 30, 1930).

7. *Ibid.*, p. 116.

8. "How to Fly in Europe: The Amateur Pilot Finds a Way to Untangle the Red Tape," by J. Hopkins Smith, Jr., in *The New York Times*, Sept. 13,

Some American fliers in Europe prefer to fly in a plane of foreign registry. If a plane is chartered which is registered in a country signatory to the Paris Convention of 1919 Relating to the Regulation of Aerial Navigation<sup>9</sup> advantage may be taken of the rights and privileges given to member nations of that convention. When this is done the flier must obtain a pilot certificate from the government of the country in which the plane is registered. These and other arrangements for his flight are thus made by the flier with the foreign government and not with the United States Department of State or Department of Commerce.

The diplomatic procedure involved in obtaining the required permission in foreign countries varies in its elaborateness with the usage in different capitals. The usual course is for the American diplomatic official to prepare a note containing the information furnished by the State Department and send it to the Office of Foreign Affairs of the government to which he is accredited, which refers it to the department of that government which grants permission for flights over its territory.<sup>10</sup> The official at the American mission

1936, sec. 11, p. 3, is a lively, informative, and practical article, based on an extended flight tour of Europe.

9. "The International Convention for the Regulation of Aerial Navigation of October 13, 1919, was signed on behalf of the United States but has not been ratified by this Government, which is therefore not a party to the convention." *Stephen Latchford*, "Codification of Private International Law," 14 Dept. of State Press Releases 124 (Feb. 1, 1936).

10. Following is a list of countries (including some colonies) indicating the ministry, department, or other government office responsible for the administration of civil aviation laws in each.

- Algeria*. Central Service of Civil Aviation.
- Argentine Republic*. Ministry of the Interior. Directorate of Civil Aeronautics.
- Australia*. Department of Defence. Civil Aviation Board.
- Austria*. Federal Ministry of Commerce and Communications. State Aeronautics Organization.
- Belgian Congo*. Public Works Service.
- Belgium*. Ministry of Transport. Aeronautical Administration.
- Bolivia*. Ministry of Defence.
- Brazil*. Ministry of Communications and Public Works. Civil Aeronautical Service.
- Bulgaria*. Ministry of Railways, Posts, and Telegraphs. Direction of Aeronautics.
- Canada*. Department of Transport. Civil Aviation Branch.
- Chile*. Ministry of National Defence. Undersecretariat of Aviation.
- China*. Ministry of Communications.
- Colombia*. Ministry of War. Direction General of Aviation.
- Costa Rica*. Department of Public Safety. Inspectorate-General of Civil Aviation.
- Cuba*. Ministry of Communications and Justice.
- Czechoslovakia*. Ministry of Public Works. Aviation Division.
- Denmark*. Ministry of Public Works. Aviation Council.
- Dominican Republic*. Ministry of the Interior.
- Egypt*. Ministry of Communications. Civil Aviation Department.
- Estonia*. Ministry of Communications. Civil Aviation Department.
- Finland*. Ministry of Communications and Public Works. Civil Department of Aeronautics.
- France*. Ministry of Air. Department of Civil Aviation.
- Germany*. Reich Ministry of Aeronautics.
- Great Britain*. British Air Ministry. Air Registry Board.
- Greece*. Ministry of Air. Department of Civil Aviation.
- Guatemala*. Ministry of Commerce. Directorate-General of Civil Aviation.
- Haiti*. Ministry of the Interior.
- Hungary*. Royal Hungarian Aeronautical Bureau.
- India*. Department of Civil Aviation.

then waits until the Foreign Office communicates the desired permission, or perhaps asks for further information or assurances. It is not unknown, however, for the business to be transacted over the telephone, in which case the flier may receive the authorization for his trip within a few days after he has submitted his application.

But this is not a very frequent experience. Too many factors are involved and too many chances for delay may possibly hold the flier at his starting point until he feels that he must postpone his trip until the next season. There are many reasons that make it strongly advisable for him to put in his application as long as he can before he plans to start.

The most obvious cause of delay is the time necessary for the transmission of the mails, if the applicant does not care to pay for making the arrangements by telegraph. It takes a letter three weeks to go from Washington to Shanghai by ordinary mail, for example, and just as long for a reply to travel in the opposite direction. But mail steamers do not leave port every day, and the letter may have to wait for one for several days at either end of the line. If more

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- Iran.* Ministry of Posts and Telegraphs.
  - Iraq.* Ministry of Defence. Department of Civil Aviation.
  - Ireland.* Ministry for Industry and Commerce. Transport and Marine Branch.
  - Italy.* Ministry of Aeronautics. Office of Civil Aviation and Air Traffic.
  - Japan.* Ministry of Communications. Aviation Bureau.
  - Latvia.* Ministry of War. Inspectorate of Civil Aviation.
  - Lithuania.* Ministry of Transport.
  - Malaya.* Public Works Department. Directorate of Civil Aviation.
  - Mexico.* Ministry of Communications and Public Works. Department of Civil Aeronautics.
  - Netherlands.* Ministry of Public Works. Aeronautical Service.
  - Netherlands Indies.* Department of Government Industries. Civil Aviation Bureau.
  - New Zealand.* Ministry of Defence. Air Department.
  - Nigeria.* Office of Direction of Transport.
  - Northern Rhodesia.* Department of Defence. Civil Aviation.
  - Norway.* Ministry of Defence. Air Traffic Council.
  - Palestine.* Department of Civil Aviation.
  - Panama.* National Aviation Board.
  - Peru.* Ministry of Marine and Aviation. Direction of Commercial and Civil Aviation.
  - Poland.* Ministry of Communications. Department of Civil Aviation.
  - Portugal.* Council of Ministers. National Council of the Air.
  - Rumania.* Ministry of National Defence. Directorate of Civil Aviation.
  - El Salvador.* Department of War, Marine, and Aviation.
  - Siam.* Ministry of National Defence. Royal Aeronautical Department.
  - Southern Rhodesia.* Department of Defence. Directorate of Civil Aviation.
  - Sweden.* Royal Administration of Bridges and Roads. Bureau of Railways and Aeronautics.
  - Switzerland.* Department of Posts and Railways. Federal Air Office.
  - Tanganyika.* Department of Lands and Mines. Directorate of Civil Aviation.
  - Turkey.* Ministry of Public Works.
  - Uganda.* Directorate of Public Works.
  - Union of Socialist Soviet Republics.* Chief Administration of the Civil Air Fleet of the U. S. S. R.
  - Union of South Africa.* Ministry of Railways and Harbors and of Defence. Directorate of Civil Aviation.
  - United States of America.* Department of Commerce. Bureau of Air Commerce.
  - Uruguay.* Ministry of Defence. Directorate of Civil Aviation.
  - Venezuela.* Ministry of War and Marine.
  - Yugoslavia.* Ministry of War and Marine. Department of Civil Aviation.
  - Zanzibar.* Department of Public Works and Electricity.



than one exchange of letters is necessary, much time may elapse before the business is completed.<sup>11</sup>

Even if the telegraph is used, however, the possibilities for delay are numerous. After the request for permission is delivered to the Foreign Office of Ruritania, let us say, there is not much the State Department can do if some Ruritanian official is not disposed to hurry it through. There may be a more or less active anti-foreign feeling, or an attitude that may be described either as intense patriotism or nationalistic prejudice, depending on the point of view. At any rate, humanity being what it is the world over, there may be a disinclination to rush anything through for an unknown, probably unappreciative alien. It might even be that a previous American flier has by his actions or attitude provoked personal antagonism or suspicion, and this has left a difficult situation for any other Americans who might follow him.

In some countries the necessary formalities are more extensive and complex than in others. A request for permission to fly over the national territory may have to go through several governmental offices or departments, in any one of which, through pressure of work, or personal disinclination, or some obscure mischance, it may be delayed.

Another possible cause of delay is a change in local laws or regulations which may make some demand not known when the request was originally submitted, and thus necessitate further correspondence.

Again, if the flier requesting permission makes an important change in his plans after he has made his application, such as buying a new plane, or hiring a different pilot, or adding new passengers or members of his crew, he may have to begin the whole process over again from the original application to the Bureau of Air Commerce.

Where the itinerary includes a number of countries, it is quite possible that permission to enter one or two may be much slower to obtain than that to enter the others. This does not necessarily delay the start of the trip. Authorization may be given to proceed to those countries which have already granted the required permission, and permission to enter the others forwarded to the flier through an American diplomatic mission as soon as it is obtained.

11. "Time required for arranging permission varies with countries in different parts of the world, but, in general, if the trip is to include very many countries, the application should be submitted at least 6 weeks in advance, provided telegrams and cables are to be used in concluding the arrangements. If the applicant desires that the communications to and from foreign countries go through the mails, it is sometimes necessary to wait several months." 5 *Air Commerce Bulletin* 152 (Dec. 15, 1933).

It is hardly necessary to say that the flier must on no account cross the border of any country before his right to enter it is unquestioned.

So much for possible causes of delay.

Summarizing briefly the progress of the American flier's application to this point: the flier sends his application to the Department of Commerce; the Department of Commerce, after approving technical qualifications of flier and plane, notifies the Department of State of its approval; the Department of State instructs its representatives at the foreign capitals of the countries on the itinerary to request permission for the flight; permission is then requested from the Foreign Office in each of the countries.

The regular procedure dealing with such cases in the particular government concerned having been completed, the Foreign Office communicates the permission to the American mission, usually by note, and the American Minister (or Ambassador or *Chargé d'Affaires*) sends a despatch or telegram to the Secretary of State in Washington, stating simply that permission has been granted, or, if necessary, adding qualifications or essential information. The Secretary of Commerce is then notified that permission for the flight has been granted by the governments named.

An official of the Department of Commerce thereupon sends the applicant his letter of authorization, which is to be carried always by the pilot during his flight abroad. It lists the data required in the application, and gives the date on which the authorization expires.

Much has been said concerning governmental red tape in Washington. In the process of securing permission through the State Department for a foreign flight it seems to have been reduced to a minimum. Certain rules of procedure have to be observed; certain forms have been worked out and proved by experience to be most effective in obtaining the desired results. Obviously where people in foreign countries are involved great care must be taken to avoid friction and misunderstanding as well as to obtain the rights and privileges to which citizens of the United States are entitled. Unavoidable delays may occur. But in the Department applications do not receive merely mechanical attention. Each one is treated carefully, conscientiously, and with all possible dispatch.

It does not matter whether the applicant is a flier with a world-wide reputation or an unknown; when his application reaches the Department with the necessary endorsement by the Department of Commerce it receives the same personal attention. Every possible

effort is made to secure the desired permissions. Procedure is flexible. Formalities are subordinated to service.

Thus far the procedure for obtaining permission for foreign flights for private aircraft has been described. Much the same program is followed when permission is sought for flights of army or navy planes over foreign territory.

The War or Navy Department requests the State Department to obtain the desired permission through its diplomatic representatives, and furnishes details identifying the aircraft and its personnel. When the permission is obtained it is transmitted to the Department requesting it.

In the case of some Latin American countries a blanket agreement is negotiated periodically which allows for the flight of American military aircraft over those countries without special permission being requested in each case, although advance notice must be given. The air navigation laws and regulations of each of these countries are, of course, rigidly observed.

The Department of State functions also when an aviator from a country which has no air navigation arrangement with the United States regarding registry of aircraft wishes to fly over United States territory.<sup>12</sup> The foreign civil flier who wishes to bring his plane to the United States must first obtain permission from the Department of Commerce to make the flight over American territory,<sup>13</sup> and should arrange with the Treasury Department regarding the payment of customs duties.<sup>14</sup>

The usual procedure is for the flier to apply through his own foreign office. The diplomatic officer in Washington representing his country sends a note to the State Department requesting permission to make the flight. Much the same information regarding the pilot, plane, passengers, equipment, and projected flight is contained in the note as that demanded of American applicants for permission to fly abroad. A letter is then sent by the State Department to the Secretary of Commerce, repeating the request and the data. A reply is shortly received from the Assistant Secretary of Commerce in charge of matters relating to air navigation enclosing a letter of authorization for the foreign airman's flight. The

12. See Air Commerce Act of 1926, particularly Sections 6 and 7 (44 Stat. pt. 2, 572-573), for the law relating to foreign aircraft in the United States.

13. Unless his plane is registered in a country with which the United States has an air navigation agreement. See *post.*, III.

14. Treasury regulations governing the admission of foreign aircraft are found in U. S. Customs Regulations, 1931, Articles 242-254, 427, 434-437, and 466. A reprint of Articles 242-254, entitled "Regulations Pertaining to Air Commerce," is issued separately by the Bureau of Customs.

authorization is then forwarded to the foreign diplomatic officer who requested it, and he in turn delivers it to his countryman.

The foreign air tourist is allowed to bring his plane into the United States for a period of ninety days without payment of customs.<sup>15</sup> If he furnishes bond to export the plane, the period may be extended to six months; and permission to extend the time an additional six months may be obtained by application to the Secretary of the Treasury.<sup>16</sup>

The foreign aviator who comes into the United States by airplane must land at one of the officially designated airports of entry.<sup>17</sup> Unless he has sent on in advance a schedule of his flight, he must notify the collector of customs at the airport of entry before he starts from his last foreign port.<sup>18</sup> If he is forced to land in some other place, without previous authorization from the Commissioner of Customs, he must either take off as soon as possible, without allowing any merchandise to be removed, or any passenger to leave, and make a full report of the forced landing when he arrives at the airport of entry, or he must wait until someone authorized to inspect the aircraft, merchandise, passengers and baggage arrives. In the latter case he must pay for any resulting additional expense.<sup>19</sup>

On arriving at the airport of entry the foreign flier must produce his authorization from the Department of Commerce<sup>20</sup> and a bill of health signed by a United States official at the foreign port from which he has come if there have been any quarantinable diseases prevalent in that place.<sup>21</sup>

Violation of the customs laws and regulations relating to aircraft may result in seizure of the plane and a fine of \$500.<sup>22</sup>

## II. THE AVIATOR'S INDIVIDUAL RESPONSIBILITY

The aviator who plans to fly in foreign countries expects the assistance of his government in preparing for and in making the flight, and rightly so. But on the other hand the flier himself has certain responsibilities.

First of all he is expected to have made thorough preparations

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15. U. S. Customs Regulations, 1931, Art. 466.

16. *Ibid.*, Art. 427.

17. A list compiled by the U. S. Bureau of Customs, corrected to March 12, 1938, names 37 airports of entry without time limit, and 20 additional temporary airports of entry.

18. U. S. Customs Regulations, 1931, Art. 245.

19. *Ibid.*, Articles 244 and 247.

20. Unless his plane is registered in a country with which the United States has an air navigation agreement. See *post.*, III.

21. U. S. Customs Regulations, 1931, Art. 248.

22. *Ibid.*, Art. 254.

for his trip. He has his pilot certificate and airworthiness certificate and letter of authorization issued by the Department of Commerce. His plane is equipped with fire extinguishers, first aid kit, safety belts, compass, log books, and all the standard equipment specified in the civil air regulations.<sup>23</sup>

He has arranged for a sufficient amount of liability insurance to meet the demands of the laws of any country over whose territory he will fly. Where necessary he has made a deposit of money or posted a bond to fulfill the requirements of any country which, like Greenland,<sup>24</sup> insists that such a fund must be available to recompense the government for possible rescue work or furnishing of emergency supplies. He has his passport, properly viséed, and definite permission to enter each country before he actually does so. He has his letters of credit and supply of foreign currency so as to be prepared for possible emergencies in out-of-the-way corners of the earth where he may be forced to land unexpectedly.

He has calculated the points at which he will need to replenish his supplies, and where necessary has arranged for stores of gasoline and oil to be placed in remote places on his tour where they would otherwise be difficult to obtain. In many sparsely settled regions such supplies are scanty, and a sudden demand for a considerable quantity by a stranger would reduce those needed for local use, thereby working a hardship for those for whom they were originally intended.

His physical preparations complete, he must make himself familiar with the air navigation laws of the various countries in which he expects to fly. Information concerning them is available at the Bureau of Air Commerce, and summaries of almost all of them have appeared in the Bureau's publication, the *Air Commerce Bulletin*. Foreign consulates and legations in the United States can furnish information regarding the air laws of their respective countries. Air laws and regulations of countries belonging to the International Commission for Air Navigation (CINA),<sup>25</sup>

23. Civil Air Regulations 04.51.

24. 3 Air Commerce Bulletin 442 (March 15, 1932).

25. CINA, as the International Commission for Air Navigation is usually referred to, from the initials of the French title (*Commission Internationale de Navigation Aérienne*), makes an important contribution to air navigation in countries which signed the International Air Convention of October 13, 1919. The Commission, which was created by Article 34 of the Convention, has its seat in Paris, and is under the direction of the League of Nations. Its duties in carrying out the provisions of the Convention are manifold. Besides acting as an agent for the enforcement of the terms of the Convention, and as a tribunal for the settlement of disputes between nations signing it, CINA is "an organization for the collection and dissemination of all information a knowledge of which is indispensable to airmen." *Albert Roper*, *What the I. C. A. N. Is* (Paris, April, 1935), p. 11. Its *Bulletin of Information*, which serves as a medium for this service, is described in the bibliographical note (*post.*, p.

and sometimes those of non-members, are published in the weekly Bulletin of Information of that organization. Copies of laws will also be furnished the flier by local authorities at the airport of entry of each country.

This obligation on the part of the flier may turn out to be more arduous and complicated than might at first appear.<sup>26</sup> But when it is so difficult to obtain uniform laws on almost any subject in the forty-eight states of the Union, under the same national flag, it is easy to understand how wide divergencies in air navigation laws may occur in countries which vary greatly in their geographical position and conditions, their national histories, political backgrounds, national temperaments, and their reactions to the existing international situation.

Knowledge of national air laws is very important, nevertheless, for when the American flier crosses the border into a foreign country he becomes subject to the laws of that country. Since ignorance of the law is never a valid excuse for breaking it, he had better be clear as to the laws of each country in his itinerary regarding the ports of entry, customs requirements, quarantine regulations, compulsory air routes, forbidden zones, photographic equipment, fire-arms, radios, and general air traffic.<sup>27</sup>

Certain countries such as Cuba<sup>28</sup> and Egypt<sup>29</sup> require that foreign fliers obtain permission to enter from their respective consulates.

248). It also publishes a series of aeronautical maps, and a series of booklets on air traffic conditions and regulations in individual countries (see *post.*, p. 249). It is responsible for the adoption of uniform air navigation laws in the countries signatory to the Convention, and a system of marking for aircraft, aerodromes, etc., and other aids to air navigation, such as weather reports, so that they are intelligible to fliers in all countries. The following nations were parties to the Convention of 1919 on January 1, 1938, and therefore members of CINA: Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Denmark, Spain, Estonia, Finland, France, Great Britain and Northern Ireland, Greece, India, Iraq, Ireland, Italy, Japan, Latvia, Norway, New Zealand, Netherlands, Peru, Poland, Portugal, Rumania, Slam, Sweden, Switzerland, Czechoslovakia, Union of South Africa, Uruguay, Yugoslavia. International Commission for Air Navigation Bulletin of Information no. 812 (Jan. 6, 1938).

See *Albert Roper*, "The Organization and Program of the International Commission for Air Navigation (C.I.N.A.)," 3 JOURNAL OF AIR LAW 167-178, (1932); *Clement L. Bouvé*, "Regulation of International Air Navigation Under the Paris Convention," 6 JOURNAL OF AIR LAW 299-324 (1935); *Kenneth W. Colegrove*, International Control of Aviation (Boston, 1930), Chapter V, "The International Commission for Air Navigation."

26. "The adoption of uniform regulations is of utmost importance. . . . Lack of uniformity is so great that it is at times impossible for a private flier to obtain accurate information regarding the regulations he will encounter on an international trip without unreasonable effort and delay." *Charles A. Lindbergh*, in a foreword to League of Nations, Organization for Communications and Transit, Enquiries Into the Economic, Administrative and Legal Situation of International Air Navigation, pp. VII-VIII (Geneva, 1930).

27. "It is important that those engaged in such flights observe the laws and regulations of the various countries over which they fly. This includes recent reciprocal arrangements established between the United States and other countries, the violation of which would serve to bring about international complications." 4 Air Commerce Bulletin 260 (Dec. 1, 1932).

28. 3 Air Commerce Bulletin 563-564 (May 16, 1932), and 591-592 (June 1, 1932).

29. 5 Air Commerce Bulletin 276 (May 15, 1934), and 6 Air Commerce Bulletin 36-37 (Aug. 15, 1934).

Many countries insist that requests for permission before entering their territories be submitted to the national authorities a specified time in advance. In China the application must be received a month before the flight.<sup>30</sup> The Ministry of Aeronautics in Greece must be notified eight days in advance,<sup>31</sup> the Royal Aeronautical Department in Siam a week in advance in the case of seaplanes and two days for land planes.<sup>32</sup> Yugoslavia asks for twenty-four hours notice;<sup>33</sup> Iran wishes several days.<sup>34</sup>

A great many countries require that the aviator telegraph the airport of entry before his arrival, and in any case it is in the pilot's own interest to do so.

The requirement of advance notice is, of course, due in many cases to the ancient but still active suspicion of the stranger, but in others, and especially where the more remote places are concerned, the reason for it is that it is not possible to maintain a permanent staff at the airport, and time is needed to prepare the field for service.<sup>35</sup>

The flier must be careful to make his first landing at an official airport of entry, usually one which he has designated in advance. In Turkey this must be on a day agreed upon beforehand.<sup>36</sup> In many

30. 6 Air Commerce Bulletin 239 (April 15, 1935).

31. 6 Air Commerce Bulletin 189 (Feb. 15, 1935).

32. 8 Air Commerce Bulletin 79 (Sept. 15, 1936).

33. 8 Air Commerce Bulletin 20 (July 15, 1936).

34. "A note from the Ministry of Foreign Affairs, the Fourth Political Division, Azarmah, to the American Legation at Teheran, Iran, with respect to advance notice of flights across Iranian territory is as follows:

"Recently several foreign planes have applied for authorization to fly across Iranian territory only the day before their flight. This has caused the authorities concerned difficulty, inconvenience, and complaint. For whenever any application is submitted for permission to fly, the Ministry of Foreign Affairs reports it to the office of His Highness the Prime Minister, and after the Council of Ministers approves it, instruction is issued to the necessary places through the authorities concerned. It is, therefore, necessary that requests for flights should be submitted several days in advance to afford ample time in taking action, rather than sending an urgent note or calling by telephone the day before. Heretofore, out of respect for the requests received through the pertinent legations, the Foreign Office has been taking immediate action by telephone to obtain authorization, but the authorities concerned have consistently expressed their dissatisfaction with this procedure . . . ." 6 Air Commerce Bulletin 240-241 (April 15, 1935).

35. "The following information . . . has been furnished by the British Government. . . . In the Bechuanaland Protectorate there is one aerodrome in Palapye Road which is used periodically by aircraft traveling between the Union of South Africa and Rhodesia. Supplies of fuel and oil are obtainable from local traders. The protectorate authorities state that it is essential that the police at Palapye Road should be informed in good time of the intended arrival of any aircraft in order that the aerodrome may be inspected to see that all bush is clear and there are no ant-bear holes. It is impossible for financial reasons to keep the aerodrome continually in a state of repair, and the administration cannot accept responsibility for any accident, though everything would be done, on the receipt of notification of the intended arrival of aircraft, to guard against any possible mishap." 4 Air Commerce Bulletin 243 (Nov. 15, 1932).

36. The following information was communicated to the Department of Commerce by the Department of State: "In the event of aviators who have secured permission to fly over Turkish territory on a determined date find themselves unable to adhere to the date fixed, they should notify the American Embassy at Istanbul in ample time for the latter to advise the Turkish authorities of the altered schedule. Such notification is highly important, since the Turkish regulations in the matter are very strict and a warning has been issued by the Turkish authorities that if aviators cross Turkish territory upon a date

countries, also, the national frontier may be crossed only at certain points.

Arriving at one of the airports of entry, the flier must show his passport and other documents, fulfill the customs requirements, and carry out whatever quarantine regulations may be in force. As he flies further into the country he may be compelled to fly over rigidly defined air routes, particularly in Europe. Some national laws require that he shall fly at a certain height, and between certain hours. If landings are not required at the airport of entry for identification, the plane may be required to fly low enough so that officials may identify it in flight. Many countries forbid night flying over their territories or territorial waters.

Most countries, including the United States, have certain prohibited zones over which aircraft are forbidden to fly. These may be forts or ammunition depots or other points having military significance, or they may be large cities over which flying is prohibited for reasons of safety.

Cameras are regarded with great suspicion by the authorities in most countries. In some, such as Belgium,<sup>37</sup> Arabia,<sup>38</sup> China,<sup>39</sup> Bolivia,<sup>40</sup> the carriage of photographic apparatus is prohibited. In most others it must be sealed at the port of entry or before entering the country. In a few countries, such as Uruguay,<sup>41</sup> Cuba,<sup>42</sup> and Greece,<sup>43</sup> permission may be secured to take photographs from the air.<sup>44</sup>

In many countries the carriage of firearms is prohibited; in others special permission must be obtained to carry them and then they must be sealed by authorities. Turkey requires all firearms except one revolver to be sealed.<sup>45</sup> In Great Britain the carriage of

other than that agreed upon they may subject themselves to regrettable incidents." 9 Air Commerce Bulletin 99 (Oct. 15, 1937).

37. 3 Air Commerce Bulletin 32 (July 15, 1931).

38. 3 Air Commerce Bulletin 32 (July 15, 1931).

39. 6 Air Commerce Bulletin 239 (April 15, 1935).

40. 4 Air Commerce Bulletin 90 (Aug. 15, 1932).

41. 5 Air Commerce Bulletin 85 (Sept. 15, 1933).

42. 3 Air Commerce Bulletin 564 (May 15, 1932).

43. 3 Air Commerce Bulletin 33 (July 15, 1931).

44. The following information sent by the State Department to the Department of Commerce indicates the suspicion with which foreign photographers are regarded: "Foreign aviators undertaking flights over Austria must also apply through proper diplomatic channels for permission to use photographic apparatus. The application must state the name, citizenship, occupation, and address of the person desiring to take photographs, and must also be accompanied by the birth certificate and two photographs of the applicant. The reason for undertaking the flight must be indicated. It must be clearly stated whether the photographic apparatus is to be used for commercial or non-commercial purposes, the extent of the photographic operations, the type of apparatus to be used, and the use to which the pictures will be put. If in the opinion of the Austrian aviation authorities the person applying for permission to take photographs is able satisfactorily to explain his purpose, the application will be granted. The area over which the flight is permitted may be restricted and the permit may be withdrawn at any time at the discretion of the competent authorities." 4 Air Commerce Bulletin 345 (Jan. 16, 1933).

45. 9 Air Commerce Bulletin 99 (Oct. 15, 1937).



arms is forbidden, although if the aviator is on a world flight, so that he contemplates flying over dangerous areas, he is allowed to carry arms for personal protection, but he must apply for a license for them immediately on landing.<sup>46</sup>

It is something of a novelty to find at least one country where firearms are not only not forbidden but definitely advised. A despatch to the Department of State from the American Embassy at Paris (No. 51 of Aug. 10, 1933) stated:

"It is considered advisable that airmen who propose to enter Australia via the Timor Sea should provide themselves with firearms, which, in the event of an unpremeditated landing at a remote part of the northern Australian coast, would be exceedingly valuable for augmenting their food supplies and, as a last resort, as a means of protection."<sup>47</sup>

National regulations relating to radio equipment on aircraft vary widely in different countries. A conflict may be discerned between widespread fear of espionage and a desire to promote safety in the air. In a few countries radios are forbidden or must be sealed, as in Rumania.<sup>48</sup> In most countries special permission must be sought to carry radio equipment, and many require that the radio must be licensed in the flier's home state. There are no restrictions in Australia.<sup>49</sup>

The aviator must also take care to familiarize himself with the rules regarding air traffic in the countries he plans to visit. These, too, are apt to vary, but if the countries are signatories of one of the multipartite navigation treaties, whose aim is to secure uniform air laws and regulations throughout the world, his task will be made easier.

These few examples will serve to suggest the wide variety of national air laws, and the importance of investigating those of the countries to which the airman intends to go before he starts his trip. Failure to know them and to live up to them is apt to lead to unfortunate consequences both to the flier himself and to others. The aviator in a foreign country, because he is an aviator and because he is an alien, is particularly subject to publicity and to suspicion, especially in parts of the world where political or international conditions are unsettled.<sup>50</sup>

46. 3 Air Commerce Bulletin 33 (July 15, 1931).

47. 5 Air Commerce Bulletin 85 (Sept. 15, 1933).

48. 3 Air Commerce Bulletin 33 (July 15, 1931).

49. 5 Air Commerce Bulletin 85 (Sept. 15, 1933).

50. Of interest in this connection are the experiences of Clyde Pangborn and Hugh Herndon, Jr., as told in *The Aircraft Year Book for 1932* (pp. 115-118):

"Pangborn and Herndon . . . were out to break the eight-day record of Post and Gatty for circling the globe. . . . Telegrams from Tokyo urged them to come to Japan and attempt a non-stop trans-Pacific flight for the \$25,000

It is easier to say that when one is in a foreign country he is subject to its laws than to realize the implications of the statement. His own background of national laws, linked as they are with custom, has tended to make their observance more or less automatic. He may criticize some of them, but on the whole he accepts them as the rational system, and when he is confronted with a new set under a different flag, it may be hard to understand that they apply to him.

He must remember that an American citizen does not carry his own laws abroad with him, but is under obligation to observe the laws of whatever country in whose territory he happens to be.<sup>51</sup> He has the right to ask for fair treatment under those laws, and the American foreign service officers are there to see that he gets it. But it is the indisputable right of the people of a nation to make their own laws, and to enforce them on all those who claim their hospitality.

Thus it is important that the American flier restrain his impatience and refrain from entering the territory of any nation until he gets definite permission to do so. When he does get permission he must use the utmost care in observing the traffic rules, keeping on the legal air routes and away from restricted zones, no matter how tempting they may seem, and obeying the local regulations even though they appear irrational and irritating to him.

It is quite possible that a private American flier on a business or pleasure trip may become innocently involved in political in-

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prize offered by the Japanese newspaper, Tokyo Asahi. Bitterly disappointed because of their failure to break the record, Herndon and Pangborn decided to continue their world trip with a stop in Japan to get a fresh start for the trans-Pacific honors. They became the seventh challengers. They telegraphed the American Embassy in Tokyo for permission to fly over and land on Japanese soil, a side-trip they had not planned in applying for their original permits; but neglected to wait for a reply before taking off.

"At Tachikawa Airport, the fliers were met by a squad of Japanese police, headed by a highly indignant chief of foreign police. They were questioned for their permits, asked to trace their route on the map, asked if they had taken photographs. Herndon and Pangborn answered all question unhesitatingly. They had flown over Tsugaru Strait, which is fortified; the naval post at Ominato; the concealed fortifications near Tokyo Bay. They had landed a few minutes at a new airport at Hanedo, not yet opened to traffic. All were forbidden areas, and they had taken motion pictures of them!

"Days and days of questioning followed, during which the fliers were treated courteously but held virtual prisoners. In vain the fliers protested that they had not intended to photograph forbidden areas. The judge fined each \$1.025—\$1,000 for violating Japan's civil laws by flying over the country without a permit, and \$25 for photographing forts. Permission for them to leave the country by air was held up. . . . Finally, permission was granted for one attempted take-off. If they failed, they must return to the United States by teamship. . . .

"They ended their world flight just 82 days after the start, adding their names to the list of world fliers and with the distinction of being the first to span the Pacific non-stop. Japan hailed the flight as a great achievement, but Japanese officials failed to lift the ban forever prohibiting Herndon and Pangborn from flying over Japanese territory."

51. "When flying in foreign countries, airmen are required to observe the rules and regulations that have been established by those countries for air navigation." 6 Air Commerce Bulletin 239 (April 15, 1935).

trigue, by letting himself be persuaded to carry with him some plausible stranger, or perhaps lend his plane, and incidentally break some foreign air regulation. Such incidents do occasionally occur outside the pages of E. Phillips Oppenheim. And then trouble results for the flier and for his government, too.

The effects of indifference to foreign laws and regulations may be exceedingly unfortunate. Friction between countries is thereby increased, when there are already all too many possibilities for misunderstandings. The burden on the diplomatic officers of the United States is unnecessarily increased, and unfair demands are made on the government itself by the irresponsible flier abroad. His actions result in stricter laws and more severe enforcement of them with regard to fliers who follow him. The antagonistic attitude induced by his own actions does not contribute to the pleasure of his trip; he cannot expect to receive hospitality from those to whom he has shown contempt. If further troubles develop he cannot expect much sympathy. And finally, there are penalties which can be imposed on him by his own government. He can be fined, and his pilot and aircraft registration certificates can be revoked.

A reasonable explanation for the stern attitude exhibited by national governments toward those who fly in airplanes from one country to another is not hard to find.

For one thing, aviation has grown at a terrifying rate since its wobbly pre-war infancy. It is a lusty young giant of unknown but ominous strength, of huge proportions but uncertain mentality. National authorities are not certain what to expect of it, but they are perfectly clear as to the necessity for keeping it under rigid control, at least until it has reached the age of discretion when it can be depended upon not to be destructive. If certain national air regulations seem at times unreasonably vexatious, they must be recognized as a determined effort to keep aviation from getting out of hand.

In the second place, the recent period of remarkable developments in aviation happened to coincide with the post-war growth of nationalism, particularly in its economic aspect. Nations are determined to develop and keep for themselves their own resources of whatever kind. International cooperation, although making some progress, is regarded with distrust on all sides. The tendency shown by the universal passport and visa requirements dating from war days is also in evidence in the jealous guarding of the privilege of air travel over national territories.

A third reason for the severity of air legislation in the various countries of the world is the association of aviation with military activities. It must be remembered that the first great impulse to the development of aviation came in the world war, as a military arm. It is now a common assertion that the next war will be fought in the air. In many countries commercial airlines and private flying clubs are heavily subsidized by the government, with the object of developing great numbers of airplanes which may be converted into military planes in wartime, and pilots who may be quickly mobilized in a like emergency.

It is everywhere agreed that espionage did not end with the armistice. In some countries more than in others, but in some degree in almost every one of them, "spy fever" is chronic and at times acute. What more effective instrument than the airplane could be devised for locating possible military objectives, or making maps of the fortifications, terrain, and harbors with the aid of powerful photographic equipment? And with troubled conditions throughout the world, who can tell whether the most harmless looking plane slipping across the border may not have the most sinister intentions? Such thoughts help to trouble the mind of many an official who is worrying over his country's defenses. Thus every foreign flier who applies for permission to fly above the national territory must persuade the authorities of his innocent intentions.

A further reason for the strict enforcement of national air laws is the use of the airplane for smuggling. With high immigration and customs barriers in almost every country in the world, ceaseless and unrelenting vigilance must be exercised along the borders to prevent illicit entry, and the rules compelling the landing of all aircraft at designated airports of entry rigidly enforced.

These are some of the factors which have resulted in the strict national air laws and regulations which make it necessary to ask governmental permission for a foreign individual flying in his own airplane to cross national boundaries. Machinery must be set up to facilitate the securing of such permission. And this is part of the work of the Department of State.

### III. INTERNATIONAL AGREEMENTS RELATING TO AIR NAVIGATION TO WHICH THE UNITED STATES IS A PARTY

Reference has already been made to the fact that where the United States has an air navigation agreement with another nation

it is not necessary to secure permission through diplomatic channels for an American aviator to fly over its territory, provided the flight comes within the terms of the agreement.

"Air navigation arrangements are necessary for air commerce between nations," explains the *Air Commerce Bulletin*,<sup>52</sup> "because each nation claims sovereignty over the airspace above its territory. This is a principle recognized in international law—if a foreign aircraft proceeds over a nation's territory without proper authority, the nation is justified in taking any steps necessary to halt the craft and investigate its mission."

The United States has thus far negotiated bilateral air navigation arrangements with eleven countries: Canada, Colombia,<sup>53</sup> Denmark, Germany, Great Britain, Ireland, Italy, the Netherlands, Norway, Sweden, and the Union of South Africa. That with the Netherlands is a temporary working arrangement pending the adoption of a permanent agreement. In each case the agreement has been effected by an exchange of notes either between the American Minister in the capital of the foreign government concerned and the Minister of Foreign Affairs, or between the American Secretary of State and the diplomatic official representing the foreign government in Washington. They deal with the reciprocal right of private aircraft belonging to citizens of the signatory countries, and registered in those countries, to fly over the other's territory. They do not refer to commercial airlines (the Colombian agreement excepted) except in most cases to specify that the operation of such airlines is subject to the prior consent of the party over whose territory the lines are flown. Such consent is usually accorded on a reciprocity basis.

The arrangements do not give the aviators of one country special rights in the other which are not possessed by the other's own citizens. They do not permit them to carry their own laws into foreign territory. But the arrangements do guarantee the fliers of one country against discrimination in the other. They are subject to the same laws and regulations as nationals. Public air-dromes are open to them on equal terms, they may claim the same services, and they may not be charged higher fees.

Thus it is not necessary for an American to obtain special permission to fly into one of the countries with which the United States has an air navigation arrangement, provided the flight comes within the terms of the arrangement. It is necessary, however, to

52. Vol. 5, p. 151 (Dec. 15, 1933).

53. The arrangement with Colombia does not apply to private flights.

find out in advance (and the arrangements call for the exchange of air laws and regulations) whether the national laws of the foreign country require that the airport of entry must be notified in advance of the flier's arrival, or whether other preliminary arrangements are mandatory.

A multilateral convention on air navigation makes bilateral agreements on the subject between the signatory nations less necessary, though it does not prohibit them. Two parties to a multilateral convention may still find it necessary to enter into a separate agreement on a special point.

In 1928, during the Sixth International Conference of American States, the United States with all the other members of the Conference, "desirous of establishing the rules they should observe among themselves for aerial traffic,"<sup>54</sup> signed a convention known as the Habana, or Pan American, Convention on Commercial Aviation. It was ratified by the United States in 1931, and to date has been adopted by ten other countries, namely, Chile, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, and Panama.<sup>55</sup>

This convention gives the nationals of any country ratifying it the right to fly over the territory of any other country which has ratified it, and provides that the air laws and regulations of each state will be applied without discrimination against the nationals of any other of the contracting states. Other matters dealt with in the Pan American Convention relate to compulsory routes, prohibited areas, registration and marking, documents to be carried in aircraft, airworthiness certificates, pilot certificates, arms, photographic apparatus, customs airports, right of visit and search, salvage, and cooperation as to weather information and maps.

Another multilateral convention to which the United States is a party is the Hague Convention of 1933 on Sanitary Aerial Navigation, signed with reservations by the United States in 1934 and ratified in 1935. Twenty-two other nations, besides British possessions, have adopted this treaty.<sup>56</sup> It contains certain rules relating to the preservation of health in international air commerce, and quarantine regulations applying to airports, aircraft, crews, and passengers. It simplifies the work of the flier who wants informa-

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54. Quoted from the preamble to the convention.

55. Information from the Treaty Division, Department of State.

56. As of Jan. 1, 1938. *Revue Aéronautique Internationale* No. 26, p. 405 (Dec., 1937).

tion regarding such rules enforced by the countries which have ratified the convention.<sup>57</sup>

#### IV. DEPARTMENTAL ORGANIZATION WITH REFERENCE TO OBTAINING PERMISSION FOR FOREIGN FLIGHTS

The number of persons in the Department of State involved in obtaining permission for a foreign flight might well astonish the flier who sends his application to the Bureau of Air Commerce, and at length receives his letter of authorization from the same office. Directly involved are the Counselor of the Department of State, the Division of International Conferences, the Division of Communications and Records, the various geographic divisions, the Foreign Service, and possibly the Office of Arms and Munitions Control. The Treaty Division makes its contribution also, though less directly.

The Counselor of the Department of State, R. Walton Moore, is in charge of all activities in the Department connected with air navigation, and is chairman of the Interdepartmental Committee on Civil International Aviation.<sup>58</sup>

The primary responsibility in obtaining permission to make flights abroad rests with the Division of International Conferences. The chief of the Division is executive secretary of the Interdepartmental Committee on Civil International Aviation. An official in the Division of International Conferences takes charge of the application for permission to make a foreign flight when it enters the Department, confers with other Department officials and government officials outside the Department if necessary, reports on the acceptability of the itinerary, prepares instructions regarding the application for diplomatic officers in foreign capitals, and notifies the Department of Commerce when the required permission has been granted. He also attends to the details involved in obtaining permission through the Department of State for foreign aviators to make flights within the territory of the United States and its several dependencies. The present chief of the Division of International Conferences is Richard Southgate.<sup>59</sup>

The Division of Communications and Records is responsible for the filing of correspondence and other papers connected with the application. The system which has been evolved by the Division for

57. The United States has also signed and ratified the Warsaw Convention of 1929 for the Unification of Certain Rules Relating to International Transportation by Air, but this applies to commercial operations.

58. Register of the Department of State, October 1, 1937, pp. 2, 244. (Washington, D. C., 1937.)

59. *Ibid.*, pp. 24, 280.

this purpose is so efficient that among the enormous mass of records any correspondence requested may be located within a very brief space of time. Also under supervision of this Division is the telegraph room, from which telegrams may be sent all over the world over wires leased from private telegraph companies.

The activities of the various geographic divisions have been mentioned on a previous page.<sup>60</sup>

The officers of the Foreign Service in the various capitals of the world receive the instructions from the State Department with regard to the application, refer it to the appropriate department in the foreign government, and when permission is received report to the State Department. Or, as has already been explained,<sup>61</sup> exchanges of correspondence may take place between officers in European and Near Eastern Foreign Service posts and those in the American Embassy in Paris.

The foreign service officer's part in the business, however, is not limited to receiving and forwarding instructions and notes. He obtains information regarding air laws and regulations, and forwards it to the Department of State in Washington. He observes and reports on conditions which may have some effect on flights undertaken by American aviators.<sup>62</sup> He sees that the American flier receives the rights due him, and if the flier unhappily falls into a misunderstanding with the local authorities, or otherwise gets into trouble, the foreign service officer is there to help him out.

The Treaty Division, as its name indicates, is charged with the drafting of treaties and other international agreements, the preparation of them for submission to the Senate, and the handling of treaty formalities. Certain officials in the Division are experts on air laws and agreements. They are responsible for the preparation of the air navigation agreements of the United States, which guarantee the rights of the American aviator and facilitate the obtaining of permission to make foreign flights. One of the officers of the Division, Stephen Latchford, is assistant executive secretary of the Interdepartmental Committee on Civil International Aviation. He is also one of the American members of the International Technical Committee of Aerial Legal Experts (usually known by the initials of the French title: C.I.T.E.J.A.),<sup>63</sup> which prepares drafts

60. P. 223.

61. P. 224.

62. Consular Regulations of the United States Annotated, Sec. 598, Notes 4-9.

63. See *John J. Ide*, "The History and Accomplishments of the International Technical Committee of Aerial Legal Experts (C.I.T.E.J.A.)," 3 JOURNAL OF AIR LAW 27-49 (1932).



of aircraft legislation and international conventions.<sup>64</sup> This is the only international organization connected with air navigation of which the United States is at present a member, and to the expenses of which the United States regularly contributes.

If an American flier decides to sell his airplane while abroad and return to the United States without it, he finds himself involved with the Office of Arms and Munitions Control. This office is "charged with the administration of the laws and regulations governing international traffic in arms, ammunition, and implements of war and with the supervision of the international traffic in arms, insofar as these matters fall within the jurisdiction of the Secretary of State under treaties and statutes."<sup>65</sup> Under the existing law, which is very definite in the matter, an aircraft must be licensed for export by the Secretary of State before it can be taken out of the United States to be sold in a foreign country. Therefore, if the flier decides to sell his plane abroad, he must first bring it back to the United States and get a special license for the purpose, unless he has foreseen that he will want to dispose of it and has procured the required license before the start of the trip.<sup>66</sup>

The Office of Arms and Munitions Control is also charged with the duty of preventing the export of articles involving military secrets of national defense.<sup>67</sup> The flier should make certain that his aircraft and equipment do not include any article which could possibly be regarded as such. In case of doubt, to avoid serious consequences, he should obtain definite information from the Department of State.

The process of obtaining permission for making a flight in foreign territory is, it can be seen, an elaborate one, involving many persons and much care. The only fee required is the deposit to cover telegraph costs. It is submitted that here is a fine example of the service rendered an American citizen by his government.

64. Register of the Department of State, October 1, 1937, p. 222.

65. *Spaulding and Blue*, p. 81.

66. "Should the owners, after the departure of a plane flown or shipped from the United States without an export license, propose to place the plane under foreign registry or have it operated by a pilot not holding a United States license, or to dispose of the plane or any of the essential parts referred to in any foreign country, the plane, or the part in question, must be returned to the United States and a license obtained for its export to the country concerned." *International Traffic in Arms: Laws and Regulations Administered by the Secretary of State Governing the International Traffic in Arms, Ammunition, and Implements of War and Other Munitions of War* (4th ed., Washington, D. C., 1937), Part III, paragraph 30, p. 19.

67. "The articles which may be considered are articles falling within one of the following categories:

"(a) Articles, the whole or any features of which have been or are being developed or manufactured by or for the War Department or the Navy Department or with the participation of either of those Departments; and

"(b) Articles, the whole or any features of which have been used or are being used by the War Department or the Navy Department or which either Department has contracted to procure." *Ibid.*, Part V, pp. 20-21.

### Appendix A

#### A SERIES OF LETTERS ILLUSTRATING CORRESPONDENCE INVOLVED IN SECURING PERMISSION FOR A FOREIGN FLIGHT

To date no official forms have been created which must be used in the process of obtaining permission through the Department of State to fly in foreign countries. All correspondence is prepared with respect to the particular case involved.

An imaginary series of letters relating to an application for permission for a foreign flight may, however, suggest the nature of such correspondence. It may be supposed that John Brown, of New York City, wishes to make a flight in Belgium and France. No complications develop, his application proceeds through the regular channels, and he receives his authorization without delay. John Brown, his application and the resulting correspondence are all fictional.

So also, to a large extent, is the simplicity of our mythical case, and the expedition with which it is able to be handled. Actually, in most cases, delay is caused by the necessity for procuring information omitted by the applicant in his first letter, or by complications of various kinds which develop at some point in the proceedings.

##### 1. John Brown's Application to the Department of Commerce.

1987 West 124th St.,  
New York, N. Y.  
March 15, 1937.

Bureau of Air Commerce,  
Department of Commerce,  
Washington, D. C.

Gentlemen:

Permission is requested to make a flight in Belgium and France, the particulars of which are outlined below. I enclose herewith a duplicate of the request.

1. The plane is to be flown by myself.
  2. James Green, an American citizen, is co-pilot. There are no other passengers.
  3. The plane is a Mason A-22 4-place cabin land biplane.
  4. The motor is a 250 h.p. Western Q-980.
  5. U. S. registration no. NC-98765—ATC 987.
  6. My plan is to ship the plane, crated, on the *Moravia* to Antwerp, May 1, 1937, arriving May 10th, and on May 15th to fly directly to Paris. I intend to fly in France about two weeks, and return to the United States with the plane, crated, on the *Gigantic*, which sails from Havre June 7th.
  7. I have a Blank X-4 radio receiver, and X-10 22-watt transmitter, call letters XYZZ, wave length 192 meters. No cameras or firearms will be carried.
  8. The flight is for pleasure. The plane is owned by myself.
- Enclosed is a check for fifty dollars (\$50.00), payable to the Secretary of State, to cover costs of cabling.

Yours very truly,  
*John Brown.*

2. Letter from the Department of Commerce to the Department of State.

DEPARTMENT OF COMMERCE  
OFFICE OF THE ASSISTANT SECRETARY  
WASHINGTON

March 18, 1937.

The Honorable,  
The Secretary of State,  
Washington, D. C.

My Dear Mr. Secretary:

There is enclosed a copy of a communication dated March 15, 1937, from John Brown, 1987 West 124th Street, New York, N. Y., requesting authorization for flight over Belgium and France.

The aircraft to be used on the proposed flight is a Mason, model A22, serial number 9999, U. S. registration number NC-98765, recorded as owned by John Brown. The aircraft will be flown by John Brown, pilot certificate no. 98765, and James Green, pilot certificate no. 87654.

Since the aircraft is considered airworthy and the pilots competent, this Department perceives no objection to the flight. It is, therefore, requested that the Department of State secure the necessary permission.

Check no. 99, in the sum of fifty (\$50.00) dollars, is enclosed to cover cable charges.

Very truly yours,  
(Signature)  
Assistant Secretary of Commerce.

3. Letter from the Department of State to the Department of Commerce.

DEPARTMENT OF STATE  
WASHINGTON

March 19, 1937.

The Honorable,  
The Secretary of Commerce,  
Washington, D. C.

My Dear Mr. Secretary:

The receipt is acknowledged of your letter of March 18, 1937, and the enclosure thereto relative to a foreign flight which John Brown, 1987 West 124th Street, New York, N. Y., proposes to undertake in the near future. The American Embassy in Paris is being instructed to request the desired permissions.

Sincerely yours,  
For the Secretary of State,  
(Signature),  
Counselor.

4. Telegram from the Department of State to the American Embassy in Paris.

AMEMBASSY—

PARIS (FRANCE)

123, March 22, 3 p. m.

Plane owned by John Brown arriving Antwerp on Steamer Moravia May 10 to be flown from Antwerp to Paris May 15, and to fly in France for about two weeks before being shipped back from France.

Pilot: John Brown, pilot certificate 98765.

Co-pilot: James Green, pilot certificate 87654.

Plane: Mason A22 cabin 4-place land biplane.

Motor: Western 250 h.p. Q980.

U. S. registration: NC-98765.

Equipment: Radio receiver and 22-watt transmitter, call letters XYZ2, wave length 192 meters. No firearms or cameras.

Please request permissions through appropriate authorities for France and Belgium.

[Sent by the Counselor for the Secretary.]

**5. Telegram from the American Embassy in Paris to the Department of State in Washington.**

Secretary of State,  
Washington.

1111, March 29, 11 a. m.

Department's 123, March 22, 3 p. m.

Belgian and French permission accorded subject to Belgian and French aerial navigation laws.

[Signed by the Ambassador.]

**6. Letter from the Department of State to the Department of Commerce.**

DEPARTMENT OF STATE  
WASHINGTON

March 30, 1937.

The Honorable,  
The Secretary of Commerce,  
Washington, D. C.

My Dear Mr. Secretary:

In response to your letter of March 18, 1937, relative to a foreign flight which John Brown, 1987 West 124th Street, New York, N. Y., proposes to undertake, the American Embassy in Paris was instructed to request the desired permissions.

A telegram has now been received from the American Embassy in Paris stating permission has been granted by French and Belgian authorities to fly in their respective countries, and two copies are transmitted herewith.

Sincerely yours,

For the Secretary of State,  
(Signature),  
Counselor.

Enclosure:

From Embassy, France.  
No. 1111, March 29.

**7. Letter from the Department of Commerce to John Brown.**

DEPARTMENT OF COMMERCE  
OFFICE OF THE ASSISTANT SECRETARY  
WASHINGTON

March 31, 1937.

Mr. John Brown,  
1987 West 124th Street,  
New York, N. Y.

Dear Sir:

Authorization is hereby granted for your flight in Belgium and France, premised upon the following conditions:

1. *Aircraft.* Mason, model A22, serial number 9999, certificate (license) NC-98765, recorded as owned by John Brown.

2. *Pilot.* John Brown, holder of pilot certificate (license) No. 98765.
3. *Co-pilot.* James Green, holder of pilot certificate (license) No. 87654.
4. *Apparatus carried.* Radio, 22-watt transmitter. No cameras or firearms.
5. Unless sooner suspended or revoked, this authorization shall remain in force until April 15, 1938, provided that the above mentioned aircraft certificate (license) and the certificate (license) of the pilot shall remain in full force and effect during the period.

The authorization contained herein is issued with the understanding that neither the aircraft nor its equipment constitutes or involves military secrets of interest to the national defense. In this connection, your attention is invited to the provision of Title 1 of the Espionage Act of June 15, 1917.

It is the duty of the pilot to inform himself of the air regulations in force of the countries over which the flight is to be made and to comply with such regulations in so far as they are applicable.

This authorization shall be kept in the personal possession of the pilot at all times during the flight.

Very truly yours,

(Signature),  
Assistant Secretary of Commerce.

#### 8. Letter from the Department of State to John Brown.

DEPARTMENT OF STATE  
WASHINGTON

April 5, 1937.

Mr. John Brown,  
1987 West 124th Street,  
New York, N. Y.

Sir:

With reference to your deposit of \$50.00 made with this Department through the Department of Commerce, on March 15, 1937, for telegraph charges in connection with securing the necessary permits for your flight in Belgium and France, you are advised that there has been charged against this deposit a total of \$36.15, thus leaving an unexpended balance of \$13.85.

There is now enclosed herein a check drawn payable to your order in refund of this balance.

Very truly yours,

(Signature),  
Chief, Bureau of Accounts.

### Appendix B

#### USEFUL REFERENCES IN PLANNING A FLIGHT ABROAD

Little printed material is available which will aid the American aviator in securing permission through the Department of State for foreign flights. Of much value in planning his flight, however, is the literature containing information regarding the air navigation laws and regulations of the various nations. Because such laws are constantly in the process of development and change, material on the subject is found largely in periodicals. An annotated list of some useful periodical and serial publications in the English language

which contain information on this and other matters relating to international air navigation is appended. It is followed by a selected list of periodical articles.

### I. Periodical and Serial Publications

*Air Law Review.* New York. Quarterly. Contains articles on aeronautical law, lists of books and articles on the subject, and tables of law cases reported, noted, commented upon, or digested.

International Commission for Air Navigation *Bulletin of Information.* Paris. Weekly. Best described by Albert Roper in *What the I. C. A. N. Is* (pp. 12-13):

"This Bulletin of Information is published weekly in two editions, one in French and the other in English.

"The general plan of this publication, divided into five parts, is as follows:

"I. *Conventions. Laws. Regulations.* Conventions, agreements or arrangements relating to air navigation concluded by contracting States with non-contracting States in conformity with Article 5 of the Convention. Special protocols in respect to customs, police, posts and other matters of common interest in connection with air navigation, as provided for in Article 36 of the Convention. National laws. National regulations relating to the carriage and use of photographic apparatus in air navigation, prohibited areas, customs aerodromes, prohibited transport, the construction of machines, the issue of certificates and license, rules of the air, etc.

"II. *Register of aircraft.* Registration and cancellations of registrations entered on the registers of the various States (communications provided for in Article 9 of the Convention).

"III. *Lists of licenses* issued by the different States (pilots, navigators, ground engineers, etc. . . .).

"IV. *General Information.* Notices issued by contracting or non-contracting States regarding aerodromes and landing grounds, the state of such aerodromes and landing grounds, the state of such aerodromes, danger areas, the creation or closing of landing grounds, the installation or demolition of air lights or W/T masts, the prices charged for fuel, the special rules for landing to be observed at certain military aerodromes, etc. . . .

"Wireless, meteorological and medical information. Official information of all kinds concerning international air navigation.

"V. *Air Traffic Statistics.* Statistics officially published by the Governments.

"This weekly Bulletin is sent free of charge to all Governments, aeronautical authorities, aerodrome managers and air navigation companies in all countries.

"It can be sent under the same conditions to associations, societies or private persons interested in aeronautical matters and qualified to receive it."

A cumulative index to all previous Bulletins is published in the last number of each year. From time to time useful "recapitulatory lists" are published on such subjects as the following: National laws and regulations (no. 756, Dec. 24, 1936), photographic apparatus (no. 740, Sept. 3, 1936), prohibited areas (no. 748, Oct. 29, 1936), special air navigation conventions (no. 808, Dec. 16, 1937), special protocols relating to customs, police, posts and other matters of common interest with air navigation (no. 808, Dec. 16, 1937).

International Commission for Air Navigation *Official Bulletin.* Paris. Published irregularly, but lately annually. Parallel English and French texts. Part I contains texts of official acts relating to the Air Convention of 1919 and air navigation treaties. Part II contains documents relating to the Commission, reports of meetings of the Commission and its work.

International Commission for Air Navigation *Aeronautical Instructions*. Paris. Although this series is published only in French, it is mentioned in this list because of its usefulness. "These Aeronautical Instructions contain, in respect of as large a number of countries as possible, the information relating to air traffic necessary to airmen and in particular such information as it is not possible to mark on aeronautical maps (conditions of admission of aircraft over the territory, compulsory routes, danger areas and obstructions, prohibited transport, flight over populous areas, detail of aerodromes, air lines organization of meteorological services, lists of air lights, etc. . . .). These Instructions are published, in French only, in separate booklets, one booklet for each country, and will be kept up to date by the publication of successive editions, the latest of which will always cancel and replace the earlier editions." (*Bulletin of Information*, no. 785, p. 1, July 8, 1937.) Titles already published include *Pays-Bas* (1934), *Pologne* (1935), *Grèce* (1935), *Italie* (1936), *Belgique* (2d ed., 1937). In preparation are *Portugal*, *Suisse*, and *Yugoslavie*.

*Jane's All the World's Aircraft*. London (Sampson Low, Marston & Co., Ltd.). Annual. In the section entitled "Historical (Civil Aviation)," the following information is given for most of the countries of the world: the official government agency charged with the administration of civil aviation, with address and director's name; names of flying clubs, with descriptive paragraph on the governmental policy regarding them, etc.; aviation publications; names, addresses and services of air transport companies; names and locations of civil aerodromes, both public and private, with useful descriptive material regarding them.

*Journal of Air Law*. Chicago. Quarterly. Contains articles on aeronautical law and texts or descriptions of foreign laws, regulations, reports and other official documents relating to air navigation. Comments on important legal decisions. In a "selected bibliography of aeronautical law" are references to current publications containing texts of treaties, laws, regulations, instructions, etc. Includes also a useful list of articles on aeronautical law in foreign publications. The only American publication devoted exclusively to the legal problems associated with aeronautics.

U. S. Bureau of Air Commerce *Air Commerce Bulletin*. Washington, D. C. Monthly. Contains information regarding aeronautical laws and regulations of various countries, international agreements relating to air navigation, and other essential information pertaining to aviation.

U. S. Bureau of Foreign and Domestic Commerce *Aeronautical World News*. Washington, D. C. Three times a month. While concerned mainly with the commercial aviation industry, it contains valuable information regarding foreign aviation laws and regulations, airport developments, etc.

U. S. Department of State *Press Releases*. Washington, D. C. Weekly. Includes addresses, reports, etc., relating to aeronautical law as applied to the foreign relations of the United States.

U. S. Department of State *Treaty Information*. Washington, D. C. Monthly. "A monthly bulletin giving detailed information concerning treaties to which the United States is or may become a party or in which the United States has some particular interest."

U. S. Department of State *Treaty Series* and *Executive Agreement Series*. Washington, D. C. These two series contain the texts of the international agreements to which the United States is a party.

## II. Periodical Articles

Air Code of the U. S. S. R. 4 *JOURNAL OF AIR LAW* 265 (1933). Summary of the law.

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