Journal of Air Law and Commerce

Volume 9 | Issue 4 Article 4

1938

Aeronautical Law Developments for the Year 1938

George B. Logan

AERONAUTICAL LAW DEVELOPMENTS FOR THE YEAR 1938*

GEORGE B. LOGAN†

This year has not been prolific of cases either of starting newness or of great interest to persons interested in aviation primarily from standpoints other than legal.

I realize that most of my audience are not interested in these annual reports and endure them only because they are part of the program.

As the law becomes more and more settled, and as decisions begin to run more and more in a groove of uniformity, there will naturally be fewer cases that will arouse your interest or imagination.

A few cases last year, however, touched new ground in the aviation field. The first one that I will call your attention to is that of *Dineen* v. *United Air Lines*,[1] decided by the Supreme Court of New York, Appellate Division, on January 27, 1938.

You have all heard, of course, a lot of discussion about what constitutes "doing business" on the part of a foreign corporation, and there have been countless decisions on such questions as to whether or not visiting salesmen, or the maintaining of sales offices, or similar activities, constituted doing business within the particular state in question. One of the leading cases on that point is *Green* v. *Chicago, Burlington & Quincy*.[2] The Burlington railroad maintained a passenger and freight office in the City of Philadelphia. It was listed in the telephone book, in the city directory, and in the building directory. It solicited freight, issued way bills, solicited passengers, and sold tickets. In selling tickets, the railroad gave the customer, in exchange for the money, a ticket from Philadelphia to Chicago on the railroad line chosen by the passenger, and then a slip of paper which entitled him to a ticket from Chicago west on the Burlington.

The court held that this was not doing business in Pennsylvania because none of the railroad's line ran into Pennsylvania and it performed no freight or passenger services in that state.

---

* Address presented at the Eighth Annual Convention of the National Association of State Aviation Officials, October 13-15, 1938.

† Legal Counsel, National Association of State Aviation Officials.

1. 2 N. Y. S. 567.
2. 205 U. S. 530, in 1907.

Now in the case I am calling your attention to, the United Air Lines maintained offices at 58 E. 42nd St., New York. The office was in charge of its employees. It was listed in the building directory and in the telephone directory. The name of the company was on its windows. In addition to the office at 42nd street, it sold air line tickets in the Pennsylvania Hotel and arranged for transportation for the passengers from New York to the Newark Airport. For this latter it received no compensation, all of the passengers' money going to the taxicab or bus company which transported the passengers. However, in exchange for the passenger's ticket money, it issued him a ticket good for transportation from Newark to whatever point the passenger was bound. In other words, the passenger would not have to exchange a slip of paper for a ticket.

Of course, the actual law point arose when a suit was filed against the United Air Lines in New York and a motion was filed to set aside the serrvice of summons. The court in this case held that the United Air Lines was not doing any business in the State of New York; that its lines terminated at Newark, New Jersey; that it did not bring passengers, mail, or parcels into the State of New York; and that, incidentally, there was no difference between taking a passenger's money for a due bill or a receipt, which was good for a ticket, and taking his money for the ticket itself.

Hence, we have the doctrine of the *Burlington* case applied to air lines, and going a wee step farther. It is now possible for an air line, as, of course, it has always been, to maintain a soliciting office and a ticket office in any state without doing business there, providing, of course, it is not engaged in air transportation in that state.

I have discovered another new case, and, in fact, it seems so new to me that it is not quite believable, also arising from New York, and that is the case of the *People of New York* v. *The City of Watertown, its Assessor, etc.*, decided by the New York Supreme Court of Jefferson County, February 23, 1938. I had always been under the impression, and am sure all of you were, that the property owned by a municipal corporation was not subject to taxation by another city. It seems that I am wrong. The City of Watertown, New York, had an airport located outside of its boundaries and in the boundary of the Town of Hounsfield. This airport had been leased by the City of Watertown to the Taylor Airways, Inc. During the continuance of this lease, which provided for its operation, etc., the airport was not assessed by the Town of

Hounsfield. The lease, however, between the City of Watertown and the Taylor Airways, Inc. expired and was not renewed. The assessors of the Town of Hounsfield, therefore, immediately put it upon assessment roll. It appears that they were right, for Section 4 of the New York Tax Law exempts from taxation "real property of a municipal corporation, not within the corporation, which *under agreement with the corporation,* is used for a public aviation field." In other words, the property was free from taxation only as long as it was operated under an "agreement." Just why this law was so passed, it is a little hard to understand, but in any event, the court held that when the agreement ceased, even though the city continued to operate it, the tax exemption likewise ceased and it was subject to taxation.

Some of you may have read that provision of the Proposed Uniform Code which referred to jurisdiction of the courts in the event of torts committed upon an airplane, and may have wondered what it meant.

Well, it is sometimes difficult to know in what court to bring a suit for a tort which is a lawyer's high-hat way of saying a damage suit. Difficulties of this kind presented themselves in the case of *O'Brien* v. *Delta Air Corporation,* decided by the Supreme Court of Louisiana in January, 1938. It seemed that Mrs. O'Brien, who was a widow, with a son attending Centenary College in Louisiana, was wintering in California. Desiring her son to spend the Christmas holidays with her, she had gone to the office of the American Air Ways in Los Angeles and had purchased for her son a ticket for his transportation from Shreveport, Louisiana, to Los Angeles, California. The ticket agent assured her that for the money received a ticket would be forwarded to Shreveport, delivered to the son by their local office there, and that a reservation would be made for him on the plane of the Delta Air Lines from Shreveport to Dallas and on the American Air Lines from Dallas to Los Angeles. Thus, everything was happy until it came time for the boy to get his ticket. He waited until four o'clock of the day on which he was to leave at midnight, and, no ticket. He then went to the local ticket office in the hotel—no ticket. He went out to the airport office—no ticket. Then between four o'clock in the afternoon and midnight, many telegrams were exchanged between the boy and his mother and between the air line offices with the company, with the net and final result of—no ticket. The air line refused to allow him to get on the plane.

A damage suit was filed in Shreveport for the humiliation suffered by the boy and for the worry and mental strain and disappointment of the mother. The suit was filed in Shreveport, Louisiana, and thereupon arises the law point. The home office of the Delta Air Lines was in Monroe, Louisiana. A state statute provided that suits against corporations could be brought either at the home office of the corporation, or in any county in which the thing done or omitted to be done, giving rise to the cause of action, occurred. The defendant contended that the thing omitted to be done was sending the ticket from Los Angeles, and hence this not having occurred in any county in Louisiana, suit should have been filed at Monroe. The plaintiff contended that the thing omitted to be done was to permit the boy to get on the plane and go to Los Angeles. The court held with the latter view—that the ticket, at best, was only evidence of a right of passage; that he had the right of passage because the company had accepted his money and had agreed to accept him, and the wrongful act was refusing to let him get on the plane. Suit was properly filed at Shreveport. Hence, the law would seem to be from now on, at least in Louisiana, that when you are refused to be let on a plane, or when you are thrown off of a plane, your cause of action, if any, (and in the latter case there is not likely to be any) arises then and there at that point.

You have heard me talk often of the fact that a city is liable, just as any other private business concern would be, for its acts in managing and operating an airport. I remember last year I called your attention to the cases of *Boulineaux* v. *Knoxville* and *Birchhead* v. *Salmon,* in which the cities were held liable for negligence in operating an airport.

The Court of Appeals of Georgia, in the case of *Mayor* v. *Lyons,*[3] has held that a city is not liable because the operation by a city of an airport is a "governmental" function in the exercise of which the city is not liable for injuries caused by the negligence of its agents or employees, or as a result of dangerous defects in a roadway within the airport. The particular act of negligence in this case was that a driveway on the airport had become broken, defective, and dangerous and the city permitted three or four large holes, measuring from 3 to 5 feet wide and some 6 to 10 inches deep to exist in the driveways for many months and plaintiff, at 12:30 A. M., while driving out to the airport with a lady passenger (I mean a lady passenger on the motorcycle, not on or for an airplane), hit one of these holes in the pavement and was severely

3. 189 S. E. 63.

injured. The decision of this case, which held that the city was not liable, hinged entirely upon the statute passed by the state of Georgia on March 23, 1933, which provided that:

"Any lands acquired, owned, leased, controlled or occupied by counties, municipalities, or other political subdivisions, for the purpose of an airport shall and are hereby declared to be acquired, owned, leased, controlled or occupied for public, governmental, and municipal purposes."

I feel quite certain that without the presence of the word, "governmental," in that statute the city would have been liable just as it would have been liable for a similar condition existing in a public street.

We have had another aerial trespass case, and that is the case of *Mohican and Reena, Inc.* v. *John Tobiasz et al.*, in the Superior Court of Hampton, Mass., decided February 2, 1938.

Mohican and Reena were the names of two camps operated for children, one being for boys on one side of the lake and the other for girls on the other side. John Tobiasz and his wife owned a piece of real estate, had permitted their son Alexander Tobiasz, to operate it and Alexander had improved it and was operating it as an airport, which, at the time, provided shelter for three airplanes. These airplanes, in turn, were being used by the owners thereof for the purposes of instruction in flying. The chief complaint was that the flying instructor and his students flew frequently over the children's camp, disturbing them at their afternoon nap hours and causing fear in the minds of their parents, which had caused the camp to lose business. The Master in Chancery, to whom this case was assigned found that flying of this type, (that is below 1,000 feet), was in violation of the flying rules, the camp being a congested area, and was a trespass as well as a nuisance. The Master found, however, that no damage had been done to the owner of the camp, hence no liability for trespass. He recommended, however, that the nuisance be eliminated by requiring the planes to fly at an altitude of 1,000 feet and at a distance of 500 feet from the boundary lines of the camp. I have no information as to whether the Master's recommendations were followed by the court or as to whether any appeal was taken. The Master evidently followed the rule laid down by the Supreme Court of Massachusetts in 1931 in deciding the case of *Smith* v. *New England Air Transport Co.*, where the court held that there was a trespass, but because of no damage the flying would not be enjoined. Of course, in the Smith case the

court found there was no nuisance, while in this case here was a nuisance, and flying was enjoined on that account.

You may recall that last year I called to your attention the case of *Budgett* v. *Soo Sky Ways, Inc.,* decided by the Supreme Court of South Dakota, in which it was held that the rule of *res ipsa loquitur* did not apply in a case where there were dual controls, and both persons were able to fly. That there was no presumption as to which one was in control and consequently the presumption of negligence from the accident could not arise. That seemed to be sound law, and we find that the Supreme Court of Michigan on February 25, 1938, in the case of *Madyck* v. *Shelley,*[4] reached the same decision. In this case, Madyck and Hickey (Shelley was his administrator) were both members of a flying club and both able to fly. They went up in a plane with dual controls hooked up in violation of the Department's regulations, and crashed. The court, in my opinion, properly held that *res ipsa loquitur* did not apply. However, there have since then been two recent cases which have borne out my contention heretofore made that the rule of *res ipsa loquitur* will be applied more and more generally with the advance of the science of flying and with better construction of aircraft.

In the Canadian case of *McInnerny* v. *McDougall* (King's Bench Manitoba, Nov. 16, 1937), it was held that the rule of *res ipsa loquitur* applied as against the estate of a deceased pilot in in favor of non-flying, non-paying, guest passenger. In the opinion by Mr. Justice Montague, the court said:

"I am prepared to hold do hold that the doctrine of *res ipsa loquitur* applies in this case. The accident itself was sufficient proof of negligence."

The court in this case also held that the evidence introduced on behalf of the defendant was not sufficient to overcome the presumption and the defendant's estate was held liable. To the same effect was the decision of the New York Supreme Court, Appellate Division, decided Dec. 30, 1937, in the case of *Goodheart* v. *American Air Lines.*

Insofar as the decision is concerned, it is largely obiter dictum on *res ipsa loquitur,* because the plaintiff in the case attempted to prove certain specified acts of negligence.

The plaintiff attempted to prove these specified acts of negligence and apparently failed, and then was allowed by the trial court to go to the jury on the theory that the rule of *res ipsa loquitur*

4. 278 N. W. 110.

applied. The trial court permitted this and the jury brought in a verdict for the plaintiff. The Appellate Court ordered a new trial, stating:

"Here the plaintiff did not rely on the presumption arising from the doctrine of *res ipsa loquitur*. On the contrary, he pleaded and introduced evidence to establish the specific acts of negligence which he alleged resulted in the accident. Under these circumstances, the doctrine did not apply."

It is clear, however, from the decision that the Court would have applied the doctrine if the plaintiff had not taken upon himself the burden of attempting to prove specific negligence.

These latter two cases are quite important, especially in view of the proposed Uniform Liability Code. This code proposes to make the aviator absolutely liable, for all accidents and injuries to passengers and persons on the ground, on the theory that it is practically impossible for the plaintiff to establish negligence. Such a Uniform Liability Act is not necessary, at least in this particular, because as pointed out before, the courts are taking care of this situation very nicely and coming around to a universal appreciation of the fact that the rule of *res ipsa loquitur* does apply and, therefore, the burden is no longer upon the plaintiff except in a technical sense, and the burden is actually upon the defendant to absolve itself by showing that it was not negligent.

You are all doubtless familiar with what is known as the "guest statute" as applied to law suits brought by passengers in automobiles against the drivers. Several states have passed statutes providing that no recovery may be had in such cases unless the injuries or death are caused by the willful or wanton misconduct of such operator or owner of the motor vehicle. Ohio had such a statute.

In the case of *Harry O. Hanson* v. *Roy W. Lewis,* decided Dec. 9, 1937 by the Common Pleas Court, Belmont County, Ohio, a suit was brought for a death arising out of the negligent operation of an airplane. The defendant filed an answer alleging that the person involved was a guest passenger and that the petition had failed to allege that the operator was guilty of willful or wanton misconduct. The plaintiff filed a demurrer to this answer. The question, therefore, was whether or not the statute in question applied to the operation of an airplane. In other words was an airplane a motor vehicle?

The court went to a great deal of trouble in reaching the conclusion that an airplane was not a motor vehicle. I am afraid this illustrates a point that I have made before that a good many law-

suits are either unnecesarily brought, or improperly prosecuted or defended, through lack of knowledge of aviation law. If the defendants in this case had been aware of the decisions in the case of Crawford Bros. No. 2,[5] decided in 1914, the case of *Reinhardt* v. *Newport Flying Service,*[6] decided in 1921, the case of *People ex rel. Cushing* v. *Smith,*[7] decided in 1922 and the opinion of the Attorney-General given in Florida. *In the matter of Motor Vehicles,*[8] in 1932, it is hardly possible that they would have wasted the court's time with this contention. An airplane is not a motor vehicle.

You have heard me on many occasions dicuss the construction of insurance policies denying recovery in the event the deceased was engaged in aviation or participating in aeronautics or several other phrases of like import. You will also remember that in the early cases almost irrespective of the language used, whether it was "engaged in" or "participating in," the plaintiff could not recover whether he was only a passenger or not. In other words, the court, in the early days, took the view that a passenger who was in no wise operating the plane, and had no interest in its operation, was both "engaged in" and "participating in" aeronautics.

Then you will recall that the time came when the courts decided that a passenger was not "engaged" in aviation; that the word "engaged" connoted a sort of employment or avocation, and where that language was used in the policy the plaintiff was permitted to recover But he was not permitted to recover if the language used was "participating."

Later, the courts took the position that there probably was no difference between the meaning of the words "engaged in" and "participating in," and that a passenger was doing neither.

In the year 1937, there were four cases before the United States Court of Appeals for the 9th Circuit. These cases were:

(1) *Mutual Benefit Ass'n* v. *Moyer;*[9] (2) *Mutual Benefit Ass'n* v. *Bowman,* decided Mar. 15, 1938; (3) *Swasey* v. *Massachusetts Protective Ass'n,* decided April 26, 1938, and (4) *Marks* v. *Mutual Life Ins. Co.,* decided on April 26, 1938.

In all four cases, the court held that a provision in the policy that denied recovery in the event of "participation in aeronautics" would not prevent a recovery in the case of a passenger.

The West Virginia Court of Appeals in a decision June 14, 1938,

5. 215 Fed. 269.
6. 232 N. Y. 115.
7. 199 N. Y. S. 942.
8. U. S. A. R. 252.
9. 94 Fed. (2d) 906.

in the case of *Chappel* v. *Commercial Co.*, also held that a policy which excluded recovery for death "while participating in aeronautics" would not prevent recovery by the insured while he was a mere guest passenger.

In other words, it now seems to be fully established that a passenger is not excluded from recovery by a policy which says "engaged in" or a policy which says "participating in." It is only in those cases where the language is so broad as to say "while participating in aeronautics as a passenger or otherwise" that the courts now hold that a passenger is barred from recovery.

There has been no state legislation during the year 1938. Most legislatures, as you know, are not in session during the even years, and there was no significant state legislation during the latter part of the calendar year 1937.

The passage of the Civil Aeronautics Act overshadows all legislation which there might have been in this field. I have no intention of discussing this legislation in detail. I am informed that aviation as a whole regards it as a great improvement over the preceding federal legislative situation, and even though there are portions of which the aviation industry does not approve, it was the best to be had under the circumstances. Perhaps I ought not to point out anything which appears to me as a flaw, but I have not been able in the past eight years that I have been your counsel to earn much of a reputation for timidity, reticence and unwillingness to speak out in public in spite of my efforts to do so.

There are legal changes of great significance in the Civil Aeronautics Act and of especial significance to this organization. I desire to call your attention to the definition of "air commerce" contained in Sec. 1, paragraph 3. It is as follows:

"air commerce means interstate, overseas, or foreign air commerce or the transportation of mail by aircraft or any operation or navigation of aircraft within the limits of any civil airway, or any operation or navigation of aircraft which directly affects or may endanger safety in interstate, overseas, or foreign aircraft."

I call your attention to the definition of "air commerce" as contained in the *Air Commerce Act of 1926*, Sec. 1.

"that as used in this act, the term 'air commerce' means transportation in whole or in part by aircraft of persons or property for hire, navigation of aircraft in furtherance of a business, or navigation of aircraft from one place to another for operation in the conduct of a business."

Please note that the word "business" and the words "transportation for hire" have been left out of the new definition of "air commerce." Please note that there has been added to the definition of "air commerce" the words "within the limits of any civil airway" and "which directly affects," or "may endanger" interstate air commerce.

Thus, we have a new definition of air commerce, almost as broad as the definition of interstate commerce used in the Wagner Labor Relations Act and in the Wage & Hour Bill. Of what significance is this?

The first significance lies in the fact of registration. Heretofore, registration was *required* only for aircraft engaged in *interstate commerce.* Now by Sec. 501-A of the new act, it is unlawful to operate an aircraft which is eligible for registration, if not registered. By Sec. 510-B an aircraft is eligible for registration if it is owned by a citizen of the United States. That means that all air craft must be registered. There is no exception there in favor of the non-commercial or pleasure planes. It is now a mandate, not a permission. And, finally by Sec. 610, it is unlawful for any person to operate in "air commerce" unless registered and having in effect a current air-worthiness certificate.

This means, therefore, that Joe Doke the private owner of a pleasure plane, in no sense using it for business, must have his plane registered or its flight is unlawful. It means further that it cannot be operated in air commerce without a certificate of air-worthiness, for air commerce means "in the civil airways" and air commerce means "in flight which directly affects commerce." There is no definition yet as to what is meant by "directly affects commerce." But there is a further provision that such operation is unlawful in air commerce, and air commerce includes such air navigation as "may endanger safety." There is not only no definition of that but its possibilities are limitless.

This involves a whole new conception of registration and air-worthiness certificates. Further, it involves a whole new conception of the scope and extent of federal regulation. By Sec. 601-A, the Civil Aeronautical Authority is empowered to promote safety of flight in air commerce and is required to do so by prescribing and revising from time to time, regulations governing: (1) Standards of design, materials, workmanship, etc., (2) Minimum standards of safety appliances, (3) Rules and regulations as to inspection, servic-

ing, and the time and manner in which inspection and over-hauling may be made including examination and reports thereof.

In addition, there are rules and regulations governing the reserve supply of fuel and oil hours of service and wages of airmen, and other "reasonable rules and regulations." It is then made unlawful by Sec. 610-A for any person to operate aircraft in "air commerce" in violation of the rules and regulations

We have to go back again to our definition of "air commerce" to see just what this means. It means that our same business man, Joe Doke, flying for pleasure only, but who may wish to fly in established airways, is subject to regulation as to how much gasoline and oil he must carry, for what hours and at what wages he must employ his pilot, how he may repair his machine and by whom it may be repaired, and is subject to required inspection and the man who repairs and inspects his plane may be required to make reports thereof.

I am not saying that every Joe Doke operates his airplane in "air commerce," but the chances are 100 to 1 that he does, first, because he will want to operate it in established airways (practically all airports are civil airports), and second, because it might "directly affect commerce" and third, because it "may endanger the safety of interstate commerce."

If all of this be true what becomes of state registration, state licensing, state rules concerning repairs and inspection, and state regulations concerning flying? It seems to me that this act has attempted to relieve state aviation officials of all of their functions, although ironically enough, the Authority is by Sec. 205-B, empowered "to confer with any state aeronautical agency and to avail itself of the cooperation, services, records and facilities of such state agencies."

It is true that Sec. 301 of the new act states that the Administrator is empowered and directed to encourage and foster the development of civil aeronautics and air commerce, but the requirement of Sec. 601-A makes it mandatory upon the Authority (not the Administrator) to prescribe the rules and regulations.

Our future seems to lie in the hope that the Administrator whose duty it is to foster, and the Authority whose duty it is to regulate, may cooperate in such a way that civil aeronautics is fostered and not killed; that private flying is encouraged and not discouraged; that the regulations as to private pleasure flying will

be reduced to the minimum and not expanded to the maximum permitted by the act.

There is one other point that I wish to call your attention to. The Railway Labor Act was passed in 1934; by an amendment in 1935, there was added Title II, which made most of the provisions of the Railway Labor Act apply to interstate commerce by air, only however, if and when the necesssity for it was determined by the Railway Labor Board. The Wagner Labor Relations Act was passed in 1935.

Both of these acts had provisions for regulating the conditions of employment and provided certain penalties for violation of the acts. The greatest penalty provided in either of these two acts (aside from criminal acts, with which we are not concerned here) was an order to cease and desist from doing those things denominated as unfair labor practices and an order to reemploy and pay back wages to employees. There was no provision in either of these acts that a manufacturing company, for instance would suffer forfeiture of its charter or that a railroad would have its franchise cancelled.

I find by examining Sec. 401, paragraph L, that it shall be a condition upon the holding of a certificate by any air carrier, that such carrier "shall comply with Title II of the Railway Labor Act as amended." I am disturbed as to what this might mean. In the first place, it might be a declaration by Congress that Title II of the Railway Act is now in force and operative as to air carriers, and need not await the action of the Railway Labor Board. In the second place, it may mean that if any air carrier has violated the act and after due process through the Railway Labor Board is ordered to take certain remedial steps, the taking of those steps may not be sufficient to absolve it. Because of the finding by the Railway Labor Board that it has violated the law, it may be subject to revocation of its certificate.

It would seem to me, that if no drastic penalty were intended, it would have been sufficient for Congress to say that every air carrier should comply with Title II of the Railway Labor Act as amended. Even that would have been unnecessary, for every air carrier is required to comply with it when it is put into effect. But when the Civil Aeronautics Act goes further and says that compliance shall be a condition to the holding of a certificate, it appears as if the air carriers are standing at the muzzle end of a gun. Refusal to comply with labor's demands, even on advice of counsel,

apparently subjects them to the double penalty of not only being required to take remedial steps, but of losing their certificates and their right to continue in business.

One other legal change between this bill and the old act and I am through. It has considerable bearing on the ancient bugaboo on the "right of flight." In the old *Air Commerce Act of 1926,* Sec. 10, we have this statement, "Navigable Air Space. As used in this act, the term, navigable air space means air space above the minimum safe altitude of flight prescribed by the Secretary of Commerce under Section 3, and such navigable air space shall be subject to a public right of freedom of interstate and foreign air navigation in conformity with the requirements of this act."

The new act has an entirely different provision. It is Section 3 and provides as follows:

> "There is hereby recognized and declared to exist in behalf of any citizen of the United States, a public right of freedom of transit in air commerce through the navigable air space of the United States."

Unless someone desires to contest the validity or constitutionality of this declaration, which I very much doubt, we may forget all about uniform laws or any other form of laws necessary either to create or recognize the "rights of flight." Note that the "right of flight" exists in behalf of *any* citizen, whereas before, the "right of flight" was recognized only in behalf of those operating in *interstate* and *foreign* air commerce. Note also that the air space involved is that air space which is "navigable air space," and "navigable air space" is that air space below the minimum safe altitude of flight. It is everywhere. It is not only along the civil airways. It is the air space above everybody's land. It is the universal air space.

The language of this act does not attempt to create the right of flight. It simply recognizes and declares that it exists. True, it is limited by the words "air commerce," but "air commerce" as we have seen by the new definition, is much broader than "interstate air commerce" used in the old act.

I might say in conclusion that this new law is just another reason that the proposed "uniform code" should not be adopted.