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A FURTHER HISTORY OF THE SMU AIR LAW SYMPOSIUM

DON G. RUSHING*

I WAS HONORED TO recently receive an invitation from the Editor in Chief of the *Journal of Air Law and Commerce* to prepare a brief history of the SMU Air Law Symposium. The request was to build upon an article about the history of the symposium's early years, written in 2001 by Eugene (Gene) Jericho, one of the symposium's founders.¹ This was an invitation to stand on the shoulders of a giant—and a most welcome one. Gene's earlier history recounted the founding of the symposium in 1966 and its remarkable growth over the next three decades. Charles Tarpley, who served as Chairman of the Board of Advisors of the symposium for thirty-eight years before his passing in 2020, opened the symposium proceedings each year by lovingly describing the symposium as the “biggest, one of the oldest, and the finest” in the world. He had his facts straight.

I. THE WORK OF THE ADVISORS AND STUDENT EDITORS

The symposium is organized annually by a small group of advisors, comprised of members of the aviation law community, and student editors of the symposium. For many years, the board of advisors has ranged in size from as few as five to as many as seven members. The board typically includes representation from the government, aviation insurance industry, and aviation plaintiff and defense bars. Members also are chosen with consideration to gender and geographical diversity, as Dallas—the hometown of the symposium and SMU Dedman School

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¹ Eugene Jericho, *SMU Air Law Symposium History*, 66 J. AIR L. & COM. 501 (2001).

of Law—has always enjoyed outsized representation, as it should be.

Long and distinguished service on the board is a tradition. The two prime examples are Norman Kinzy and Charles Tarp-ley, who began their service as advisors in 1983. This tradition continues with two of the current members, Ladd Sanger and Debra Fowler, who are already in their second decade of service on the board.

The symposium's success depends on the work of the SMU Dedman School of Law students. Symposium editors are chosen from students who worked on the program in the preceding year. The student editors then work closely with the board to plan and conduct the coming year's symposium. A number of former student editors have become regular attendees at the symposium as they enter the legal practice.

Planning for the next symposium begins immediately after the conclusion of the current program, which includes a review of what went right, what went wrong, and what could have been better. Assembling the following year's program occurs at a summer meeting in Dallas with the board and student editors. During the meeting, the board and student editors discuss topics, speakers, venue details, and other planning issues. Advisors then extend invitations to speakers for the next program. Advisors also share the responsibility for ensuring high-quality and timely submitted program materials with the student editors. This planning cycle has largely continued uninterrupted since the 1980s and has served the symposium well.

II. PROGRAMS OF SCHOLARLY IMPORTANCE

Dating back to at least the late 1980s, the goal of the symposium has been to present law review-quality papers on issues of current and abiding interest to the aviation law community and to identify speakers who can present those papers to attendees in an engaging, informative way. Papers included in the proceedings of each symposium are frequently selected for publication in the *Journal of Air Law and Commerce* after a further editorial process. The result is the creation of a virtuous circle of practitioner-authors writing on topics of concern to the aviation bar at large that, in turn, stimulate further thinking and dialog.

The majority of papers and presentations at the symposium are by a single author on a single topic. Unlike other symposia, panel presentations unsupported by law review-style papers are

the exception; a panel of experts on aviation insurance and claims handling issues serves as an example. The objective is to provide attendees with materials that provide professional stimulation and serve as a resource for their practices. Opportunities to write and speak at the symposium are rotated among new and past presenters to prevent monopolization of the program agenda by a relatively small number of lawyers or firms.

Over the years, mainstays of the program have included updates on recent developments in aviation law where noteworthy appellate court rulings are discussed and updates on significant air disaster litigation where the status of cases involving commercial airline accidents are reviewed. While the programs have skewed heavily toward aviation accident litigation topics, the board has made an effort in each program's schedule to include a session addressing regulatory and transactional issues. Topics that have been of frequent interest include the Warsaw and Montreal Conventions, forum non conveniens, defenses to claims such as the government contractor defense, theories of recovery in aviation tort cases, federal preemption, and evidentiary issues relating to air crash litigation.

Although the program has shortened in length since the early years when a Wednesday to Saturday morning schedule prevailed, the symposium has retained the number of contact hours necessary to allow most lawyers to obtain the lion's share of their continuing legal education requirements. As part of that effort, sessions on legal ethics issues of interest to aviation lawyers have been included in the programs. The law review staff qualifies all papers and presentations for CLE credit for each jurisdiction from which there are attendees—generally from all fifty states. In this way, attendees can satisfy their bar association continuing education requirements while attending the symposium.

III. AVIATION COMMUNITY GATHERING PLACE

Since 2011, the symposium has been held in the March to April timeframe to accommodate weather conditions for convenient travel and law student spring break.

With the exception of the COVID-19 pandemic years, attendance at the symposium has varied since 2000, from a low of about 340 to a high of about 500. The symposium attracts a wide cross-section of the aviation law business—government employees, representatives of the national and international aviation insurance markets, lawyers and executives from airlines, airframe and powerplant makers and aviation component manufacturers,

plaintiff and defense lawyers, consultants, expert witnesses, academics, and vendors of trial and litigation support services. This symposium is their place to gather to learn, meet and greet, do business, discuss and resolve cases, and form and renew professional and personal friendships. What other area of endeavor offers the opportunity for professionals from across the country practicing in the same area of specialization to gather for a few days in one hotel in a mid-continent location?

The symposium's location has changed several times over the years as the program's needs and the availability of Dallas hotel space has changed. Since the early 2000s, the bulk of the symposia has been held in the North Dallas area at the Intercontinental Hotel or in the Las Colinas area at the Omni Las Colinas. These venues proved popular with attendees, the board of advisors, and the law review staff because of proximity to airports and the law school, availability of dining alternatives in the area, the quality of the hotel facilities, and the layout of ballroom spaces that invite informal meetings and information exchanges. The pandemic forced the event's cancellation in 2020 and a move to a "virtual meeting" format in 2021, but a return to business as usual is planned for the 2022 symposium. The person writing the next update of symposium history will let us know how that turned out.

IV. CHALLENGES FOR THE FUTURE

Heraclitus has been credited with the notion that the only constant is change. The trick, of course, is figuring out what those changes will be and how they will impact our lives. So too with the symposium. Gazing into the crystal ball a bit, several challenges may impact the way the symposium is conducted and the topics that are likely to be addressed.

First, air transportation in all its dimensions—general, commercial, and military—has become markedly safer over the past two decades. The result is plummeting accident rates and fewer numbers of aviation cases in litigation. The challenge for the symposium will be to find a broader array of topics in aviation and space law that continue to appeal to attendees. The symposium's former focus on aviation tort litigation may become less important in the future.

Second, speaking of space, new developments in private space travel and militarization of the space environment are likely to produce grist for the aviation law mill—both governmental and

non-governmental. The challenge for future symposia will be to identify these topics and persons knowledgeable in them.

Third, the live conference format is being challenged given the preferred lifestyles and learning methods of younger lawyers and consultants and the communication methods they have resorted to—with good effect—during the pandemic. While generalizations are difficult, it appears Millennial, Gen X, and Gen Y professionals more carefully guard their personal and family time and prefer to avoid travel for professional conferences. Further, work habits learned during the pandemic, with reliance on distant conferencing through applications like Zoom, seem to predispose professionals to those means of participation in preference to in-person attendance. The challenge for the symposium will be to show attendees why the personal, face-to-face interactions, participation in events and activities, and opportunities to meet and exchange ideas with colleagues cannot be replicated by faces on a computer screen.

Twenty years ago, Gene ended his history of the SMU Air Law Symposium on a hopeful note: “Our future annual air law symposium will surely meet the challenge.” I share his optimism.