Intermunicipal Cooperation in Establishing, Maintaining, and Operating Airports

Emil F. Jarz
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A. B. McMullen, Director of the Airport Section, Civil Aeronautics Administration estimates that "... in the near future there should be some 4,000 airports and landing fields in the United States and its possessions; and ... the cost of building them would be about $558,000,000." As for construction "... 2,900 hangars and 1,400 other buildings will be needed ... [with costs] ... in the neighborhood of $70,000,000." He also states that "the solution of the airport problem lies, to a large extent and in many cases, in the joint establishment, operation and maintenance of one large airport by cities so located as to be effectually and efficiently served in this way." The task is gigantic. Over one-half billion dollars of landing fields and equipment are needed—more than had been expended in all the years up to 1941! The number of airports must be doubled—hangars tripled. What are municipalities doing to meet this challenge?

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1. Address by A. B. McMullen, Director of the Airport Section, Technical Development Division, Civil Aeronautics Administration, delivered before the Tenth Annual Convention of the National Association of State Aviation Officials, Louisville, Kentucky, October 18, 1940, and printed in the Journal of Air Law and Commerce, Vol. 12, pp. 51-57, (January, 1941).

2. Letter of December 6, 1939, by A. B. McMullen to Franklin L. Burdette.

3. The total national expenditures of airports to January 1, 1941, amounted to $449,954,421. There were 2,284 airports and landing fields by August 1, 1941, and only 1,680 civil airports of 2,175 airports for which information was available had hangars. Letter of August 16, 1941, from J. B. Hayard, Jr., Acting Director of Airports, Civil Aeronautics Administration.
1. Extent of Intermunicipal Cooperation

Intermunicipal airport cooperation began in the late twenties. However, administrators and legislators have recognized but recently the possibilities of joint action in meeting the demands of air travel and defense. Table I indicates clearly the mushroom growth of airports established, maintained, and operated through concurrent action of cities, counties, and other political subdivisions. The number of projects proposed and in the process of formation exceeds those already in existence. In Idaho, alone, fifteen joint airports are to be constructed in the next six months following authorization made by the state legislature in 1941. Twelve other states enacted enabling legislation in the same year. Two of these laws were national defense emergency measures.

At the time of writing, ninety-two municipalities were participating in forty-two airport arrangements variously located in nineteen states. As shown in Table I, the large majority of them are a result of bilateral agreements made between cities and counties. The number of airport arrangements proposed and awaiting final action, a total of fifty-five, exceeds those already established. In contrast to the latter, the anticipated projects are primarily "inter-city" rather than "inter-municipal." The scope of "intermunicipal cooperation" is broadened to subsume cities, towns, and villages and other political subdivisions. Its narrower meaning, when used, is made apparent by the context. Included within the scope of "intermunicipal cooperation" are all intermunicipal airport arrangements, such as informal oral understandings and those based on written contracts, resolutions, ordinances and other formal authorizations. Aviation districts established through the incorporation of independent governmental units are not considered. Letters, questionnaires, written contracts, resolutions and ordinances made available by state and municipal officials are the primary source of the administrative data contained in the following pages.

5. The city-county airports at Logan City, Utah, and Greenville, South Carolina, were established in 1928. The agreement between Louisville and Jefferson County, Kentucky, was made in 1929. It was discontinued in 1940 when Jefferson County assumed entire financial support of the field.

6. Some of the airports are jointly owned but are operated by only one of the cooperating municipalities. Others are jointly operated even though owned unilaterally. Examples are given in later pages.

7. Letter of June 26, 1941, from Mr. A. A. Bennett, Director of Aeronautics, Idaho Department of Public Works. The enabling act, Idaho Laws 1941, c. 137, is summarized in Table II.

8. See Table II and discussion in pages devoted to legal analysis.

9. California Laws 1941, c. 265 and Idaho Laws 1941, c. 137. The latter act reads as follows: "Recognizing the need for airports as part of the National Defense System and the inability of one municipality or one county to finance the cost of construction and maintenance thereof within its own limits or boundaries, it is the intent and purpose of this act to enable them to jointly and severally enter into contracts or agreements and share in the cost of such construction and maintenance." The urgent need for immediate action felt by the Idaho legislators is reflected in the retroactive finance provision of section four which provides that "For the purpose of carrying out the terms of any contract or agreement entered into pursuant to the provisions of this Act, such municipality or county may use any funds at its disposal, not otherwise appropriated, and during the years 1941 and 1942, such municipalities shall have the right to make such expenditures though not included and provided for in the annual appropriation bill or budget of such municipality or county." (Italics supplied.)

10. "Cities" include cities, towns, and villages unless otherwise indicated.

11. Table I displays a total of 118 municipalities anticipating participation in the establishment, maintenance and operation of these fifty-five projects. Upon completion, some of these airports may be unilaterally administered.
### TABLE I

**Intermunicipal Joint Airport Arrangements**

<table>
<thead>
<tr>
<th>States of Location</th>
<th>Existing</th>
<th>Proposed</th>
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<tbody>
<tr>
<td></td>
<td>Number of Arrangements</td>
<td>Number of Municipalities Cooperating</td>
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<tr>
<td></td>
<td>City-City</td>
<td>City-County</td>
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<td>Wyoming</td>
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</table>

7       31     4     42       91     36     16     3     55     118

*Established, maintained and operated by joint action. See footnote six of the textual (not tabular) material.

a. The towns of Florence, Sheffield, and Tuscaloosa, and the counties of Colbert and Lauderdale are considering joint construction of paved runways on the Muscle Shoals airport. Construction of the Decatur-Athens airport by the towns of Decatur and Athens, and the counties of Morgan and Limestone is pending.

b. The airport is owned by the county of Santa Cruz and operated by Nogales.

c. Moscow, Idaho, has a joint airport with Pullman, Washington.

d. Fifteen joint city-county airports are to be developed in the next six months.

e. This total does not include the Bar Harbor Airport which until this year was a joint project of the town of Bar Harbor and the city of Ellsworth. The town of Bar Harbor is now the sole sponsor of the airport.

f. One of the joint airports is sponsored by Raleigh, Durham, Durham County and Wake County. The other project includes Asheville, Hendersonville, and Henderson County.

g. At the time of writing, H.B. 112 (S.B. 438) authorizing a joint airport for the counties of Lackawanna and Luzerne was in Senate committee.

h. This number excludes the former city-county airport now owned and operated solely by the city of Laurens.

i. One airport is owned and maintained jointly by Bristol, Kingsport, Johnson City and Sullivan County, Alcoa, Knoxville, Maryville and Blount County are the sponsors of the other airport.
than "city-county" enterprises. Both existing and proposed
enterprises ordinarily are sponsored by cities small in population.

2. ESTABLISHMENT AND ADMINISTRATION

Procedures utilized in the establishment, maintenance, and operation of joint airports vary considerably. Some municipalities, in entering upon an arrangement, specify the responsibilities of each party in written contracts, resolutions, or ordinances. Others, however, collaborate on the basis of an informal oral understanding. Many projects are governed by representative commissions; several, through joint sessions of the legislative bodies; and a few, although jointly established, are maintained and operated by only one municipality. Participants may make money contributions but obligations are also met by supplies of materials, equipment, and personnel. Arrangements illustrating these many devices appear in the following pages.

Multilateral cooperation.—The few multilateral arrangements, such as those found in Tennessee and North Carolina, are indicative of the great possibilities of intermunicipal airport cooperation. If there is to be an airport within a reasonable distance of every citizen, the near future may bring an increase in both the number of multilateral projects and in the number of participants within each, the latter especially in states having many municipal corporations virtually contiguous to each other. That enterprises with more

12. Of the fifty-five proposed airport projects, thirty-six are to be arrangements between cities. The prominence of Texas in the "inter-city" airport program was established in part, by the Texas Aeronautics Advisory Committee's recommendation to the Governor for thirty-three such agreements including seventy-one selected municipalities in its Texas Airport Plan of May, 1940.

13. Omitting counties participating in existing airport arrangements, twenty-two cities are below 10,000 in population; seventeen lie between 10,000 to 25,000; eight from 25,000 to 50,000; six between 50,000 to 100,000; and only two, Knoxville and Nashville, Tennessee, are over 100,000. Louisville, Kentucky, having a population of 319,007, terminated its airport agreement with Jefferson County in 1940. Of the proposed arrangements, again excluding counties, eighty-five of the cities are below 10,000 in population; nine lie between 10,000 to 25,000; and two cities, Fort Worth and Dallas, Texas, are above 100,000.

14. Tennessee and North Carolina each have two multilateral arrangements. In the latter state, the Raleigh, Durham, Durham County, Wake County project is not yet completed. "Plans have been drawn, a site selected, application has been made to the C.A.A. for designation as a defense project," and Work Projects Administration assistance has been requested. Local authorities already have passed appropriations to meet construction costs. Letter of May 12, 1941, from Clarence E. Kuhlman, Utilities Consultant, North Carolina League of Municipalities. The enterprise has its legal basis in North Carolina Local and Private Laws 1939, c. 283, p. 121, authorizing a joint administrative board to establish an airport at Durham. A bill to amend the act was introduced in 1941 but details were not available at the time of writing. The other multilateral airport arrangement in North Carolina includes Asheville, Hendersonville, and Henderson County. General authorization for airport cooperation among cities, counties, and towns is given in North Carolina Code Ann. (1939) c. 25, §191(d), p. 59 (L. 1929, c. 87, §4) summarized in Table II.

than two parties may be either complex or simple is shown in the Tennessee arrangements described below.

In Tennessee, the Tri-City Airport, constructed, maintained and operated by Johnson City, Kingsport, Bristol, and Sullivan County, illustrates the forces operating and the methods used in the acquisition and administration of a relatively complex project. Its origin is found in an urgent need for an airport to serve upper-east Tennessee and southwest Virginia. Simultaneously, private airlines offered maximum service to an airdrome located in the area. Hilly terrain, however, made the cost of construction prohibitive for any one municipality to proceed unilaterally.

Faced with these factors the city councils and chambers of commerce of the respective cities urged a program of joint action. Federal and state authorities were consulted. Assured of help from these sources, each legislative body passed, in 1934, similar resolutions creating an airport governing body, defining its powers, and determining the financial support to be given the project.

A joint agency, known as the Tri-City Airport Commission, composed of twelve lay citizens, was appointed by the chief officers of the respective municipalities. Johnson City, the largest contributor to the arrangement has six representatives while the others each have two. The Commission acts as the deliberating body and selects the airport manager who carries out its policies.

In 1934, the commissioners purchased a landing site for $50,000 allocating costs on the basis of the relative populations of the cooperating municipalities. Obligations were paid by appropriations from general funds rather than by resort to bond issues. All other outlays including major construction items were met by federal and state authorities. A Work Progress Administration project provided for grading, hangars, and buildings; and the State Highway Department built a nine-mile connecting highway for the airport. Recurring small construction costs are paid by the State Bureau of Aeronautics.

Since the opening of the field in 1937, airport revenues and refunds from the state gasoline tax have been sufficient to meet the expenses of maintenance and operation. In short, the municipalities

15. Johnson City is in Washington County, Kingsport and Bristol are in Sullivan County where the airport is located.
16. State authorization for joint municipal action was granted in 1931. See Michie's Code Ann. (1938) c. 8, §2776, p. 400 (Law. 1931, c. 74, §1) in Table II.
17. Johnson City contributed $20,000; Sullivan County, $12,000; Kingsport, $10,000; and Bristol paid $8,000.
18. Engineers from the State Highway Department also made the original survey to determine the exact location of the airport site.
19. A 3.5 cent per gallon tax is refunded to the Tri-City Airport Commission for gasoline sold at the airport.
have made no financial contributions in addition to the amounts originally appropriated for the land site.\textsuperscript{21}

The Tri-City Airport has been administered without friction and to the satisfaction of the sponsoring communities generally. Local newspapers were especially expressive of their approval when the Pennsylvania Central Airlines recognized the field as a scheduled stop on their new Pittsburgh-Birmingham route. American Airline transports make four stops daily in flying their transcontinental schedules.

Another undertaking, the McGhee-Tyson Airport in Blount County, Tennessee, is a joint enterprise only to the extent of land purchase. In 1936, the mayor and council of Knoxville\textsuperscript{22} took the initiative in establishing an airport by entering into written contracts with Alcoa, Maryville, and Blount County, specifying that the latter were each to contribute $5,000 for a landing field. Knoxville's appropriation of $35,000 made a total of $50,000 available for the purchase of a 350 acre plot.\textsuperscript{23}

Other than provisions for the disposal of the property if the project were abandoned,\textsuperscript{24} nothing more appears in the contracts. Knoxville has remained the sole administrator of the airport, meeting alone costs of maintenance and operation. It provided for engineering supervision and purchased materials needed for hangars. As in the preceding example, so here again, general funds rather than a bond issue were the source of necessary monies and federal and state help was received.\textsuperscript{25}

\textit{City-county bilateral arrangements.} — City-county, agreements are most illustrative of the wide variety of forms which efforts at cooperation have taken. The Wilkes-Barre and county of Luzerne, Pennsylvania airport arrangement, for example, is formal and extensive in the sense that obligations of each party are precisely stated

\textsuperscript{21}Ordinarily municipal airports are not self-supporting. "Of approximately 650 municipal airports in the United States, not more than 15 per cent are paying their way or breaking even. The remainder have operating deficits, requiring appropriations out of general municipal tax funds to balance their budgets." American Municipal Association, \textit{Financing Municipal Airport Operation}, Report No. 143 (Chicago, 1944), p. 1.

\textsuperscript{22}Knoxville is in Knox County; the other cities are in Blount County.

\textsuperscript{23}The terms of the agreement appear in contracts entered into by Knoxville and the other municipalities on January 15, 1936, and in the report of September 3, 1935, prepared by the Airport Committee of the Knoxville City Council.

\textsuperscript{24}Each contract provides that if the airport project is not completed "the land or the sale price of said land that is acquired by the City of Knoxville for said airport purposes is to be divided among the donors to said project who have contributed toward the purchase of the land on a pro rata basis, and that in the event of the abandonment of the airport project that the donors shall come to an agreement in regard to the disposal of the land purchased for this project." The duration of the contracts was not specified.

\textsuperscript{25}The Works Progress Administration assisted in the development of the field and the State Highway Department constructed a road leading from the airport to the highway.
by ordinance and resolution, and prescribed activities are jointly administered. On the other hand, the understanding between Dothan and Houston County, Alabama, is completely informal and is well described by a local official as "a very loose arrangement." Cooperation is extensive but the understanding is oral and contributions by participants are in terms of supplies, materials, equipment, and personnel in varying amounts. There are also simple arrangements with a minimum cooperation—usually a money grant by a county to a city without further participation by the donor. Berry field at Nashville, Tennessee, was established through an understanding of this kind. Since the remaining city-county arrangements follow rather closely one or the other of the above patterns, only their unique features will be described.

a. Formal procedures.—Private airport operation having failed, Wilkes-Barre, Pennsylvania passed an ordinance in 1934 providing for the acquisition and administration of a municipal airport with the cooperation of the county of Luzerne. Governing authority for the project is vested in a Board of Management made up of three members, two of whom are selected by and from the respective legislative bodies with a third selected by the two already so designated. This air board, in turn, appoints and fixes the salaries of all employees needed in maintaining and operating the enterprise.

The 1934 agreement further provides that Wilkes-Barre is to meet all expenses incurred in the lease of an airport site. A proportionately larger share of the maintenance and operation costs, two-thirds, are paid by the county. The ordinance limits expenditures by the board of management to $18,000 a year.

Topographical handicaps are of some concern to the sponsors of the project at Wilkes-Barre. Finding that bomber operation from the field is precluded by the proximity of surrounding hills, the Civil Aeronautics Administration has shown interest in a new airport being considered as a joint project by neighboring Scranton City and Lackawanna County. Simultaneously, a state bill passed in 1941 authorizes the counties of Luzerne and Lackawanna to cooperate in

26. Davidson County donated $40,000 for the purchase of land. Nashville constructed the buildings and other improvements and remains the sole administrator of the airport.
27. Wilkes-Barre, Pennsylvania Ordinance No. 872, 1934.
28. As shown in Table II, the Pennsylvania State legislature has empowered local authorities to cooperate in airport matters by a series of special acts.
29. Supra, n. 27. The agreement incorporated in Ordinance No. 872 is based on an item of Six Thousand ($6,000.00) Dollars appropriated [by Wilkes-Barre] in ordinance No. 849, passed finally by the City Council of the City of Wilkes-Barre, on the 28th day of December, A. D. 1933, and items of appropriation for similar purposes hereinafter to be appropriated in the annual appropriation ordinance covering the years 1935, 1936, 1937, 1938 and 1939.
such an enterprise.\textsuperscript{30} These cross currents leave indefinite the future status of the Wilkes-Barre-Luzerne County agreement.

A provision setting the termination of this project at the end of five years was included in the 1934 ordinance.\textsuperscript{31} Certain difficulties arising from an incomplete definition of the duties and responsibilities of the governing board and from omission of amendment procedures may be remedied by a new agreement.

Several unique features are found in other city-county arrangements. The city and county of Greenville, South Carolina, are sponsors of an airport for which the state law makes complete provision; the composition and powers of the Greenville Airport Commission together with methods of financing and property disposition are outlined in detail.\textsuperscript{32} Autonomy, however, is left with municipal officials. An independent airport district was not created.

Elizabeth, North Carolina, has an interesting arrangement with Pasquotank County whereby the airport is administered by a joint meeting of the respective legislative bodies rather than through a separately created governing authority.\textsuperscript{33}

\textbf{b. Informal procedures.}—Some municipalities "just get together" and establish an airport without much consideration for legal forms and precise sharing of costs. It was with such a feeling of good neighborliness that the officials of Dothan and Houston County, Alabama, put their heads together and worked out a "good airport and everybody is satisfied."

Originally, Dothan owned an airport of 100 acres which became too small for growing demands. An adjoining plot of land offered a solution to the difficulty but the city was financially unprepared for the purchase. County authorities were consulted and responded by buying the additional acres.\textsuperscript{34}

With each owning about one-half the land, the municipalities together secured a Works Progress Administration project to supply trucks and laborers for the enterprise. The county furnished grading equipment and the city paid the salaries of the men and the cost of the

\textsuperscript{30} Pennsylvania 1929 P.L. as amended by H.B. No. 112 passed by the lower chamber early in 1941. At the time of writing, the bill awaited final action by the Senate.

\textsuperscript{31} Since 1939, the airport authorities have been operating on the basis of the 1934 ordinance even though the five-year limitation clause was included in the agreement.

\textsuperscript{32} South Carolina Laws 1928, Act No. 919, p. 1898 as amended by Act 1929, No. 440 listed in Table II.

\textsuperscript{33} The law enabling cooperation in North Carolina is cited in footnote 14.

\textsuperscript{34} Alabama Code (1940) tit. 4, c. 2, §35, p. 785 (L. 1931, p. 202) authorizes city-county cooperation as indicated in Table II.
fuel used in operating the county machinery. When the project is completed the city will be solely responsible for maintenance and operation expenditures.

Joint meetings of Dothan’s city commissioners with the County Board of Revenue serve to govern the project. An airport commission of five members—one representing the County Board of Revenue and the others being lay citizens—has been appointed to act in an advisory capacity.

Also through informal agreement, Gadsden and Etowah County, Alabama, acquired from private industrial corporations a 360 acre tract of land for a new airport. The county is to furnish grading machinery with Gadsden meeting the remaining expenses. Administration of the airport upon completion will rest in the city.

City–city bilateral arrangements—There are few “inter-city” airports. Table I shows only seven arrangements of this type as compared with thirty-one city-county projects. The Binghamton-Endicott field in the state of New York and the Pullman, Washington-Moscow, Idaho “inter-state” airport are the outstanding examples in this group. Two other projects, those at Helena, Arkansas and Lewiston, Maine, will be briefly considered.

In 1936, the Binghamton city council and the Endicott village board of trustees, acting under the General Municipal Law, passed joint resolutions creating an airport committee and providing for the procurement of real property. The governing body, known as the Tri-Cities Airport Committee, consists of two members from both the city council and the village board of trustees serving at the pleasure of the latter bodies. It has charge of construction, equipment, maintenance and operation of the airport. The committee also appoints the airport manager, and upon his recommendation, the remaining personnel. All its activities relating to the buying and selling of land or requiring expenditures of money are subject to the joint approval of the legislative bodies.

35. The Works Progress Administration project amounted to approximately $100,000, and the city and county contributions together came to about $22,000. At the time of writing the Civil Aeronautics Administration was paving the runways at an additional cost of $100,000.

36. See Baldwin’s New York Cons. Laws, Ann. (1938), V. 3, Tit. 14, §353a, p. 50 (L. 1935, c. 673) as am. by Law 1941 c. 606 summarized in Table 11.


38. The Tri Cities are Binghamton, the village of Endicott, and Johnson City, but the latter did not enter into the arrangement as expected.

39. The resolution further reads that “No member of the said [airport] committee shall be qualified to serve thereon after he shall cease to be a member of the Council of the City of Binghamton or the Board of Trustees of the Village of Endicott, as the case may be.” Supra, n. 36.
According to the resolution of 1936, the cost of the project was to be "borne in equal shares." On this basis, the Committee was authorized to purchase a tract of land at $17,235. Original construction costs were also divided equally. For maintenance and operation expenditures, each city sets up a like amount in its annual budget which together with airport revenues are expected to suffice.

Should additional appropriations be requested by the Committee members of their respective legislative bodies, each of the latter separately determines the source of funds. Small sums are paid by note issues while large capital expenditures are met by bonds. In 1940, for example, Binghamton authorized a $2,000 note issue to defray its share in a new airport office building.

A Committee treasurer keeps a separate account for airport funds into which are paid all monies including the revenues and combined budget items. Surpluses, if they occur, are carried over into succeeding years. All claims are audited by the Committee and an annual report is made to the legislative bodies although none is published for public distribution.

According to a local official the Binghamton-Endicott arrangement has been highly successful although the future may bring some difficulty. "The one weakness of the establishing legislation is . . . that no provision exits for amending the present agreement, or for discontinuing . . . joint operation" should it ever be deemed desirable.

The Pullman, Washington-Moscow, Idaho airport indicates that cooperation does not stop at state boundaries. Upon inauguration of civilian pilot training, representatives from the state colleges, one being located in each of these neighboring towns, met with city and county officials in an effort to develop a site owned by the City of Pullman. As a result of this meeting an airport board was established including the mayors of Pullman and Moscow, one representative from each city council, and a fifth person appointed by these four.

Soon after its creation the board leased the land owned by Pullman and, by way of a Works Projects Administration grant, improved the field and constructed the necessary buildings. The two cities, their respective counties, and several private contributors

40. Upon recommendation of the Civil Aeronautics Administration, army engineers recently let contracts in the amount of $250,000 for grading, paving, drainage of runways, and for adjustment of lighting facilities in harmony with other changes.
41. In 1940 both Binghamton and Endicott each contributed $3,000.
42. Letter of June 9, 1941, from Charles W. Kress, Mayor of Binghamton, New York.
made cash donations to the enterprise. Construction equipment was also put at the disposal of the airport board by the cooperating municipalities. Rentals paid by the two educational institutions, together with other revenues, have been sufficient to maintain and insure the continued improvement of the field.

Other joint city airports offer similarities and some differences in procedures. The Helena-West Helena Airport, authorized by an Arkansas law of 1939, is administered by a joint commission of lay citizens. Revenue bonds to the extent of $25,000 were issued to purchase a landing field. Rather than sharing costs equally, however, the cooperating cities made contributions on the basis of the assessed property valuations in the respective municipalities. As a result, Helena met 80 per cent of the financial obligation.

The joint airport of Lewiston-Auburn, Maine, is financed largely by the Maine Military Defense Commission. Lewiston pays but one-third and Auburn only one-sixth of the costs.

3. LAWS AND COURT DECISIONS

A comparison of Tables I and II indicates that legislation is in advance of practice with reference to airport arrangements; for while thirty-two states authorize intermunicipal airport cooperation, there are but twenty-two states in which joint projects already exist or are under consideration. Moreover, court decisions suggest that cooperation is possible even without express permission in state law. But first, what does an analysis of the enabling legislation show?

Statutory enactments.—Beginning with the Indiana Statute of 1920, there has been a gradual increase in the number of jurisdictions enacting joint airport legislation until in 1941, thirteen states entered such authorization into the statute books. In one legislative year alone, the statutory output approximated that of the two preceding decades respectively.
As shown in columns 2 to 9 of Table II, the extent of authorization varies considerably from state to state, although, in general, cities, counties, towns, and villages have ample authority. In a few jurisdictions, all political subdivisions are granted the right to cooperate with each other; while in others, joint arrangements are limited to one class of municipalities, such as cities or counties. Moreover, geographical restrictions are infrequent. Georgia is most liberal in its provisions, allowing its political subdivisions to make agreements with those of other states. In fact, however, there is but one "inter-state" airport and that is located in the far northwest.

The remaining sections of Table II indicate that ordinarily joint airport projects are inaugurated by the legislative bodies of the cooperating municipalities; the form of the agreement, whether written or oral, is not usually specified; detailed provisions for a joint airport governing body are rarely made; revenue sources are ample in the majority of states; and the national defense emergency was recognized as the moving factor for two of the 1941 laws.

Important statutory data not included in the table show infrequent provision for division of costs between cooperating municipalities, rare reference to the inclusion of amending procedures within agreements, and little attention to property disposal upon

47. Seven states permit "all political subdivisions" to sponsor joint airports: thirteen have broad provisions including cities, counties, and either towns or villages or both; two limit cooperation to counties; and one state, Kansas, provides only for "inter-city" arrangements.

48. Seven states restrict cooperation to "adjacent" municipalities and this limitation applies only to counties (or parishes). Four other states provide that only those municipalities "within" a county may enter into airport agreements; and one of these, Pennsylvania, imposes the limitation only on certain classes of cities.

49. Georgia Code (Rev. 1933) Tit. 11, c. 11-2, §201, p. 268 (Acts 1933, p. 102) as am. by L. 1941, S.B. 214. The latter amendment added the clause permitting "interstate" cooperation. In its present form the law reads as follows:

"All counties in the state of Georgia which are located on the boundary line between the State of Georgia and any other State, as well as all municipalities and other political subdivisions which are located in such boundary counties, are hereby authorized, separately, jointly with each other or jointly with any County, municipality, or political subdivision of any such border state, to acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate and police airports and landing fields for the use of aircraft, either within or without the geographical limits of such border counties and the municipalities and other political subdivisions therein contained in the State of Georgia or within the geographical limits of any County, municipality or political subdivision of and such border state." (Italics supplied).

Other states permit the location of airports in a foreign state but such authorization has applied to unilateral rather than joint action. See, for example, South Dakota Laws 1931, c. 56, §1-2, p. 61.


51. Seven states provide for cost allocations. In Montana, payments are to be "based upon the benefits it is determined each shall derive from the project." Indiana requires an equal sharing of expenses. Missouri, New York, North Carolina (General Law), Pennsylvania (all the statutes), except Purdon's Penn. Stat. Ann. (1931) Tit. 53, §§12198-4206, p. 843), and West Virginia merely require a statement of respective expenditures in the agreements entered upon without specifying a fixed ratio.

52. New York and South Carolina (Code [Suppl. 1934] §305, p. 375) are the only states describing amendment procedures. The former requires "concurrency of each legislative body" to proposed changes; and in the latter a
termination of a joint arrangement. Not pertaining to joint airports exclusively, but of relevance to their legal status, are the many legislative declarations that appropriations for airports are expenditures for a "public purpose."

Court decisions.—Few decisions have been rendered pertaining to airports in which the points at issue were inherent in the joint action of the participating municipalities. However, many judicial pages are devoted to problems of constitutionality, financial responsibility, liability, and other questions arising from intermunicipal cooperation in other services, such as fire, parks, sewage, and water. Also a general law giving municipalities a "blanket" authority to cooperate in the administration of any power that they might exercise individually has been subject to judicial interpretation. Quite naturally, many of these decisions apply with equal force to airport arrangements within the state of litigation. Similarly, the numerous holdings in disputes arising from the establishment or operation of an airport by individual municipal initiative have direct relevance to joint undertakings. Nevertheless, a complete analogical treatment citing the cases described above upon issue that might conceivably arise in the conduct of joint undertakings is beyond the scope of this article.

The succeeding pages are largely restricted to a considera-

53. Two states, South Carolina and West Virginia, provide for property disposal upon termination of an arrangement. The South Carolina Act of 1928 as amended in 1929 fixes the abandonment procedure for the Greenville City and County airport in the following terms:

"... in case the property acquired by the Commission as aforesaid shall cease to be used for the purposes herein provided, then all of the property, both real and personal, shall be by the Commission sold and converted into cash, and said proceeds shall be divided among the City of Greenville, the County of Greenville and the Park and Tree Commission of the City of Greenville, in the following proportions: One-fourth thereof to the City of Greenville, one-half interest thereof to the County of Greenville; and one-fourth thereof to the Park and Tree Commission of the City of Greenville,..."

The West Virginia statute is the only general law on the matter. It provides for termination of an arrangement by approval of each participating municipality with distribution of proceeds "in the proportion in which such counties and municipalities had contributed" to the project. Moreover, for points of dispute, litigation procedure is outlined.

54. Of the thirty-two states listed in Table II, twenty-one have declared that airport expenditures are for a "public purpose."

55. Joseph Stein, University of Chicago Law Review, assisted in judicial research.

56. The cases most immediately relevant to Intermunicipal airport cooperation are those upholding the location of airports beyond municipal boundaries. Sing v. Charlotte, 213 N. C. 60, 195 S. E. 271 (1938); State ex rel. Walla Walla v. Clausen, 157 Wash. 457, 259 Pac. 51 (1930); Hills v. Cleveland, 26 Ohio App. 265, 160 N. E. 241 (1927). An ordinance providing for the policing of an airport outside the city was upheld in Ebrite v. Crawford, 315 Cal. 724. Legal experts gave considerable thought to the problem of policing joint airports in their draft of the Uniform Airports Act. National Conference of Commissioners on Uniform State Laws, Consideration of the First Tentative Draft of the Uniform Airports Act, Milwaukee, Wisconsin, 1934, pp. 8-11.

tion of the issues arising in the acquisition and administration of joint airports.

*Are statutes authorizing intermunicipal cooperation in the establishment, maintenance, and operation of airports constitutional?—*

Only two cases bear directly upon this question. In *Ragsdale v. Hargraves, Mayor*, 198 Arkansas 614, 129 S.W. 2nd 967 (1939), a property owner of the city of Helena, Arkansas, sued to enjoin the city from issuing $16,000 in bonds to meet its share of an airport project undertaken jointly with the city of West Helena. The appellant, Ragsdale, contended first, that the state constitution in permitting unilateral action in airport matters did not give authority for joint projects as provided in Act No. 80, 1939, and second, that cities can not hold property jointly.

In deciding the first issue, the Arkansas Supreme Court reasoned that "If it was the intention [of the Constitution] to authorize municipalities to purchase, develop, and improve flying fields, the mere fact that two cities instead of one undertake the improvement does not violate the Constitution." As for cities owning property jointly, the court relied on precedent which held that cities may own property in common and construed "joint ownership" as ownership in common.

A point of view differing sharply from that found in the Arkansas decision is expressed in *Gentry v. Taylor*, 192 South Carolina 145, 5 S.E. (2d) 857 (1939). This latter case held that a county could not levy a tax to pay for bonds issued to improve a city-owned airport located within the county because such expenditure was not for "an ordinary county purpose" as required by the Constitution. In consequence, the statute authorizing counties to aid cities in airport establishment was declared unconstitutional.

Thus, the weight of judicial authority is equally divided on the question of the constitutionality of joint airport laws. Those inter-

Powers of Cities as factors in California Metropolitan Government," American Political Science Review, April, 1937, pp. 286-91; William Seal Carpenter, Problems In Service Levels (Princeton University Press, Princeton, 1940); and Ronald M. Ketcham, Intergovernmental Cooperation In the Los Angeles Area (University of California at Los Angeles, Los Angeles, 1940).

*58.* See earlier reference to the Helena-West Helena Airport In the discussion of "inter-city" arrangements.

*59.* See Table II.

*60.* De Witt et al. v. The City of San Francisco et al., 2 Cal. 289. See also, McQuillan, Municipal Corporations (2d ed.) V. III, a. 1225 and 43 Corpus Juris, Municipal Corporations, §2984, p. 1329. It is doubtful that municipalities may own property "jointly" if the term is construed technically as found in the law of property. Strictly "joint ownership" is characterized, along with other elements, by the right of survivorship. Since municipalities are perpetual entities this one requirement is lacking and joint ownership is precluded. In the Ragsdale case, however, the court took a liberal point of view construing "joint" as equivalent to "concurrent" action or ownership thus avoiding the difficulty.

*61.* 40 Statutes at Large, 2790 (1938).
ested in the growth of intermunicipal airport cooperation may find encouragement in the decisions upholding general and specific authorizations for intermunicipal arrangements in other municipal services.

Is joint action possible without explicit legislative authorization? — Practically, it is not only possible but it is being done. Moreover, legal opinion is following a trend which may culminate in an explicit decision substantiating such action. Since the far-reaching Cardozo decision in Hesse v. Roth, 249 New York 436, 164 North East 342 (1928) declaring airports a public necessity, many other state courts have rendered like decisions. The Ragsdale case might be interpreted as taking the next step in its consideration for “public safety” as a factor of importance in deciding upon the constitutionality of the Arkansas law and by its words “If it was the intention [of the Constitution that municipal airports be established] . . . the mere fact that two cities instead of one undertake the improvement does not violate the Constitution.”

Information is scant upon issues other than that of the constitutionality of joint airport laws. The Arkansas court, in the Ragsdale case, rendered its opinion on joint financing in a situation where the law is silent on the subject by holding that two cities empowered to cooperate “necessarily have the authority to issue bonds and levy a tax to pay for said airport.” Questions of equitable methods of cost allocations, joint liability for tort, the meaning of “adjacent” or “contiguous” in statutes limiting cooperation to such municipalities, and many other problems arising in the administration of other municipal services have not yet received consideration in the interpretation of aeronautical law.

4. Summary and Conclusions

It is apparent that intermunicipal airport arrangements are entering upon a stage of development whose final outcome remains

62. In re City and County of San Francisco, 191 Cal. 172, City of Oakland v. Williams, 15 Cal. 2d 542.
63. See, for example, court opinions in Benke v. City of Neenah, 221 Wis. 411, Carr v. Borough of Merchantville, 102 N. J. 553; People of the State of New York v. State of New Jersey and the Passaic Valley Sewage Commission. There are many others.
64. Joint airports were undertaken without explicit legislative authorization in two states. One of these states enacted a law in 1941 giving legal recognition to such enterprises. The Texas program calling for thirty-three “inter-city” airport projects may be contingent upon a liberal court interpretation of a 1934 law, Vernon’s Ann. Texas Stats. (1934) Art. 1269 h. s. 1, empowering municipalities to proceed unilaterally in the establishment, maintenance, and operation of airports.
somewhat obscure. Not only are there indications of a rapid increase in the number of such projects, but they may take a wide variety of forms. To date, there are arrangements based on oral understandings, written contracts, resolutions, ordinances, and some are provided for in detail by state law. Governing authority is vested in special commissions, joint sessions of cooperating legislative bodies, or in officials of one of the participating municipalities. Both money grants and contributions in supplies, equipment, and personnel have been made. There is no fixed manner of allocating costs. Expenses are most often divided equally but they are also shared on the basis of relative populations or assessed property valuations. Monies may be received from general funds, special taxes, bond and note issues, and from state and federal authorities. In short, there is little standardization in the many procedures.

Legislative sanction for intermunicipal airport cooperation is in advance of practice and was considerably augmented by the new laws of 1941. Nevertheless, the extent of authorization varies considerably from state to state with a tendency toward special treatment in a few. Most liberal is the state of Georgia giving all of its political subdivisions the power to cooperate with each other and its boundary corporations the right to cooperate with municipalities of adjoining states. The laws, as a rule, provide that joint projects can be undertaken by action of the local legislative bodies; and requirements as to the form of the agreement are infrequently made. Revenue sources are ample in the majority of states.

Court interpretations of joint airport laws are few and indicate both broad and narrow construction of municipal powers in this field. The Ragsdale case may be a forerunner of judicial opinion that will ultimately uphold intermunicipal joint efforts without specific legislative authorization. Moreover, considering court opinions rendered in deliberations upon laws enabling cooperation in other municipal functions, the outlook for joint airports from a legal point of view is encouraging.

Far-reaching generalization upon the administrative procedures and legal provisions summarized in the preceding paragraphs is somewhat precarious because of the relatively small number of joint airports in existence and the incomplete nature of the data for a number of them. There are indications, however, that certain practices including a reliance on oral understandings, the omission

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66. Oral understandings are apt to leave indefinite the exact duties and responsibilities of the parties to an agreement. Friction ensues. This has been especially true for intermunicipal cooperation in fire fighting.
of amendment and termination procedures from agreements, and somewhat arbitrary division of costs are apt to cause friction. Furthermore, state legislatures have created a confusing duplication of statutes and have enacted laws, in some instances, that are either too detailed in their provisions, or, contrariwise, without sufficient definition of the extent of municipal powers in airport cooperation.

There remains, finally, the problem of determining the role of intermunicipal cooperation in the establishment, operation, and maintenance of airports. Quite obviously, joint sponsorship offers airport facilities to municipalities which would otherwise do without such services. But it is also clear that an indiscriminate growth and distribution of airports is unwise especially under conditions of national emergency. In short, a certain amount of federal and state supervision and assistance appears indispensable. Local projects must be included within a coordinated national plan.

67. For any number of reasons, participants in an airport arrangement may find that representation in the airport commission, respective financial contributions, duration of the agreement, and many other original provisions must be changed. Moreover, if, after a considerable investment has been made in land, hangars, and buildings, a project is discontinued, the matter of reorganization or distribution of proceeds is made difficult without a prior understanding of the techniques to be used and the amounts to be distributed to each member municipality.

68. Refined methods of cost allocation are rarely used. In most airport arrangements, for example, financial obligations are shared equally. Yet there is no reason why such should necessarily be the case. A particular municipality, in contrast to its neighbor, may be better able to support an airport project and benefit more by its presence. Methods used in determining cost allocations in other forms of intermunicipal cooperation will be described in the writer's forthcoming work.

69. See, for example, the duplication within airport laws alone in the Pennsylvania Statutes listed in Table II. The author's forthcoming publication will describe the amount of overlapping between authorizations for specific municipal services.

70. The special acts of North and South Carolina as shown in Table II.

71. The Arkansas law, among others, omits mention of revenue sources other than fees. Fortunately, a broad construction of the statute by the Arkansas supreme court remedied this deficit.

72. Several states have authorized the creation of independent aviation districts. Evidence accumulated in the study of examples in many other municipal functions indicates that joint projects as a rule, might better be formed under direct municipal control.


74. Federal assistance for municipal airports, including joint projects, has been significant in recent years. International City Managers' Association, Municipal Yearbook, V. 8, 1941, pp. 345-59.