

# “AVIATION LAW – NEW THRUST AREAS”

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## **ABSTRACT**

*Aviation law is the branch of law that concerns flight, air travel, and associated legal and business concerns. Some of its area of concern overlaps that of admiralty law and, in many cases, aviation law is considered a matter of international law due to the nature of air travel. However, the business aspects of airlines and their regulation also fall under aviation law. In the international realm, the International Civil Aviation Organization (ICAO) provides general rules and mediates international concerns to an extent regarding aviation law. The ICAO is a specialized agency of the United Nations.*

**Keywords:** Air Travel, Aviation, Admiralty Law, International Realm.

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## **Introduction**

In 1938, the Civil Aeronautics Act transferred federal responsibilities for non-military aviation from the Bureau of Air Commerce to a new, independent agency, the Civil Aeronautics Authority. The legislation also gave the authority the power to regulate airline fares and to determine the routes that air carriers would serve.

In 1940, President Franklin Roosevelt split the authority into two agencies, the Civil Aeronautics Administration and a three member Civil Aeronautics Board. The CAA was responsible for air traffic control, safety programs, and airway development. The CAB was entrusted with safety rulemaking, accident investigation, and economic regulation of the airlines. Although both organizations were part of the Department of Commerce, the CAB functioned independently. When a Douglas DC-3A crashed shortly after departing Washington DC on August 31, 1940 the CAB had their first major investigation, that of the Lovettsville Air Disaster set the pattern for subsequent accident investigations.

## **Aviation in the United States**

Aviation in the United States was unregulated until the Air Commerce Act became law in 1926. The Act created an Aeronautic Branch within the United States Department of Commerce with regulatory powers over civil aviation. Among the functions the Aeronautic Branch performed were pilot testing and licensing, issuing aircraft airworthiness certificates, establishing and enforcing safety regulations. The agency was also responsible for establishing airways and operating and maintaining aids to air navigation, in addition to investigating accidents and incidents.

In 1934, the Aeronautics Branch was renamed the Bureau of Air Commerce. In 1936 the Bureau took over air traffic control centers previously operated by commercial airlines, and began to expand the air traffic control system.

In 1938, the Civil Aeronautics Act moved oversight of non-military aviation into a new, independent agency, the Civil Aeronautics Authority. The new agency gained the authority the power to regulate fares and routes for

commercial airlines. Another change followed in 1940, with CAA's authority being split. The CAA continued to have authority for air traffic control, safety, and promotion of civil aviation. The new Civil Aeronautics Board (CAB) was established and had responsibility for accident investigation, as well as regulation of safety of civil aviation and pricing of commercial aviation.

A boom in the 1950s of aircraft technology and the airline industry crowded American airspace, and the regulation of air traffic was considered antiquated.

In 1956, President Dwight D. Eisenhower appointed Edward Peck Curtis as Special Assistant for Aviation. Later that year, Curtis was named by Eisenhower to head a commission to study the dramatic increase in airline traffic and to propose ways to deal with airplane traffic jams at airports.

From that commission came a proposal to create a new Federal aviation agency that would replace the Civil Aeronautics Administration and the Civil Aeronautics Board to consolidate air operations, modernize the airways and to make and enforce safety rules.

An ensuing series of plane accidents prompted the creation of the Federal Aviation Agency, later to be known as the Federal Aviation Administration.

### **Accidents**

Aviation in the United States was not regulated during the early 20th century. A succession of accidents during the pre-war exhibition era (1910–16) and barnstorming decade of the 1920s gave way to early forms of federal regulation intended to instill public confidence in the safety of air transportation. As claimed by the Aircraft Year Book, barnstormers caused 66% of fatal accidents during 1924. Opponents of this view included those who distrusted government interference or wished to leave any such regulation to state authorities. Barnstorming accidents that led to such regulations during this period are accurately depicted in the 1975 film *The Great Waldo Pepper*.

At the urging of the aviation industry, that believed the airplane could not reach its full commercial potential without federal action to improve and maintain safety standards, President Calvin Coolidge appointed a board to investigate the issue. The board's report favored federal safety regulation. To that end, the Air Commerce Act became law on May 20, 1926.

The Act created an Aeronautic Branch assigned to the United States Department of Commerce, and vested that entity with regulatory powers to ensure a degree of civil air safety. Among these powers were: testing and licensing pilots, issuing certificates to guarantee the airworthiness of aircraft, making and enforcing safety rules, certifying aircraft, establishing airways, operating and maintaining aids to air navigation, and investigating accidents and incidents in aviation. The first head of the Branch was William P. MacCracken, Jr. High visibility accidents such as the 1931 Transcontinental & Western Air Fokker F-10 crash and the 1935 crash of TWA Flight 6 continued to make headlines.

In fulfilling its civil aviation responsibilities, the Department of Commerce initially concentrated on functions such as safety rulemaking and the certification of pilots and aircraft. It took over the building and operation of the nation's system of lighted airways, a task begun by the Post Office Department. The Department of Commerce improved aeronautical radio communications, and introduced radio beacons as an effective aid to air navigation.

In 1934, the Aeronautics Branch was renamed the Bureau of Air Commerce. As commercial aviation grew, the Bureau encouraged airlines to establish three centers (Newark, New Jersey; Cleveland, Ohio; and Chicago, Illinois) to provide air traffic control in airways. In 1936, the Bureau itself took over the centers and began to expand the ATC system. Pioneer air traffic controllers resorted to using maps, blackboards, and calculations to perform their new roles, making sure aircraft traveling along designated routes did not collide.

### **Aeronautics**

The Department of Commerce created an Aeronautics Branch in 1926. The first head of this organization was William P. MacCracken, Jr. (first recipient of its pilot certification license), whose approach to regulation included

consultation and cooperation with industry. A major challenge facing MacCracken was to enlarge and improve the nation's air navigation system. The Aeronautics Branch took over the Post Office's task of building airway light beacons, and in 1928 introduced a new navigation beacon system known as the low frequency radio range, or the "Four Course Radio Range". The branch also built additional airway communications stations to encourage broader use of aeronautical radio and combat adverse weather.

NACA began its own aeronautics research undertaking in 1920. In 1928, having created one of the first wind tunnels years earlier, the organization's work with the latter produced a new type of engine cowling with much less drag than former designs.

Under President Franklin D. Roosevelt, the Aeronautics Branch cooperated with public works agencies on projects that represented an early form of federal aid to airports. The Branch was restructured and in 1934 received a new name, the Bureau of Air Commerce. Eugene Vidal, nephew of Senator Thomas Gore became its first director. Vidal resigned on February 28, 1937, and was replaced by Fred D. Fagg, Jr.. Fagg reorganized the bureau, but retired in April 1938, being replaced by Hindenburg crash investigator Denis Mulligan.

The year 1934 also saw a crisis over airmail contracts that former Postmaster General W.F. Brown had used to strengthen the airline route structure. In the Air Mail scandal, Senate investigators charged that Brown's methods had been illegal, and President Roosevelt canceled the contracts. In 1935 the BAC encouraged a group of airlines to establish the first three centers (Newark, New Jersey; Cleveland, Ohio; and Chicago, Illinois) for providing air traffic control along the airways, the following year taking over the centers itself and expanding the traffic control system.

### **Conclusion and Recommendations**

The Civil Aeronautics Authority Act of 1938 formed the Civil Aeronautics Authority. The agency was renamed in 1940, due to a merger with the Air Safety Board. It became an independent agency under Reorganization Plans Nos. III and IV of 1940, effective on June 30, 1940. The Air Safety Board had formed in 1938.

Other predecessor agencies included the Aeronautics Branch (1926–1934), the Bureau of Air Commerce (1934–1938), and the Bureau of Air Mail, Interstate Commerce Commission (1934–38). The first air accident investigation led by the CAB was the 1940 Lovettsville air disaster. Some duties were transferred to the Federal Aviation Agency in 1958. The National Transportation Safety Board (NTSB) was established in 1967, taking over air accident investigation duties. So, Aviation Law should be implemented effectively.

### **References :-**

1. Stringer, David H., "Non-Skeds: The Story of America's Supplemental Airlines, Part 1: Industry in the United States," AAHS Journal, vol. 64, no.4 (Winter 2019) journal of the American Aviation Historical Society, excerpt online, retrieved April 8, 2020
2. Brown, John Howard (assoc. prof., Dept of Finance & Economics, Georgia Southern University) (with credit to Alfred Kahn, last CAB Chairman) "Jimmy Carter, Alfred Kahn, and Airline Deregulation: Anatomy of a Policy Success," Summer 2014, The Independent Review, vol. 19, no. 1, ISSN 1086-1653, pp. 85–99
3. "Civil Aeronautics Act of 1938 ~ P.L. 75-706" (PDF). 52 Stat. 973 ~ Senate Bill 3845. Legis Works. June 23, 1938. Archived from the original (PDF) on November 20, 2015. Retrieved July 22, 2017.
4. The United States Government Manual 2009-2010. Government Printing Office, October 30, 2009. ISBN 9780160839498. p. 581.
5. Kaps, Robert W. Air Transport Labor Relations (Southern Illinois University Press series in aviation management, Southern Illinois University at Carbondale). SIU Press, 1997. ISBN 9780809317769. p. 197.
6. Gerhard Peters; John T. Woolley. "Franklin D. Roosevelt: "Statement on the Civil Aeronautics Authority Under the New Reorganization Plans.," April 30, 1940". The American Presidency Project. University of California - Santa Barbara.
7. "Records of the Civil Aeronautics Board." United States National Archives. Retrieved on September 16, 2014.

8. Lang, Susan S. "Economist Alfred Kahn, 'father of airline deregulation' and former presidential adviser, dies at 93," December 27, 2010, Cornell Chronicle, retrieved April 9, 2020
9. Hershey Jr., Robert D. (December 28, 2010). "Alfred E. Kahn Dies at 93; Prime Mover of Airline Deregulation". New York Times.
10. Kane, Robert M. Air Transportation. Kendall Hunt, 2003. ISBN 0787288810, 9780787288815. p. 121 (A part of the "Civil Aeronautics Board" section).
11. "Sorbitol from France: determination of the Commission in investigation no. 731-TA-44 (final) under the Tariff Act of 1930, together with the information obtained in the investigation" (Volume 1233 of USITC publication). United States International Trade Commission, 1982. p. A-42. "Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C."
12. The Code of Federal Regulations of the United States of America. U.S. Government Printing Office, 1964. p. 370. "office hours at the Board's Docket Section. Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C."
13. "Briefings..." Flying Magazine. May 1959. Vol. 64, No. 5. ISSN 0015-4806. p. 98. "UNDER ONE ROOF at last, the Civil Aeronautics Board is now quartered in the Universal Building, 1825 Connecticut Ave., N.W., Washington"
14. National Research Council (U.S.). Committee on Latin American Anthropology, Alexander Lesser. Survey of Research on Latin America by United States Scientists and Institutions. National Academies, 1946. p. 70. "Material available for the most part at the Civil Aeronautics Board, Commerce Building, Washington, D.C."
15. Civil aeronautics board (Volume 38 of Independent Offices and Department of Housing and Urban Development Appropriations for 1969: Hearings, Ninetieth Congress, Second Session, United States. Congress. House. Committee on Appropriations. Subcommittee on Independent Offices and Dept. of Housing and Urban Development). U.S. Government Printing Office, 1968. p. 475.

