

April 30, 1954

American Aviation DAILY

Airport Supplement 1

MOH OFFICIAL URGES 'MINIMUM' AIRPORT CHARGES FOR LOCAL LINES

Local communities must help subsidize local service airlines through "minimum airport use charges," Robert E. Peach, president of Mohawk Airlines, said this week in a speech in Keene, N.H. "We in turn will contribute substantially to the industrial and vacation development of your area," he added. "That's the way to make this area, our company, and local air service in general grow. We all have a mutual stake in it."

Mohawk and the other local carriers "show every promise that the subsidy paid us today will not be permanent," Peach said. "Its trend is downward and service is daily being extended so that the subsidy paid serves more of the people paying it. It looks as though we are on the threshold of the transport helicopter which, in fewer years than has been possible for any other major transportation system, may mark the end of subsidized air carrier through their achievement of complete economic self-sufficiency."

In 1949, each Mohawk passenger was subsidized by payment of \$15.80, whereas the 1954 figure will be less than \$5 for each passenger, "who himself pays Mohawk an average of \$11.70 for his ticket," Peach said. Of DC-3 operating cost of \$1.10 per mile, over 80¢ comes from commercial revenue, "leaving 30¢ which must be made up in mail pay, characterized as subsidy or otherwise, as you may see fit. In the year 1949, each community served by Mohawk was subsidized by \$45,000. In 1954, the 25 Mohawk communities will each be subsidized by only \$35,000."

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COURT TO TEST STATE'S RIGHT TO REGULATE AIR SPACE

Whether a state or municipality can lawfully regulate use of air space by aircraft in landing and taking off is to be decided by the Second Circuit Federal Court as the Cedarhurst Case comes to trial sometime in May. The Court's decision will vitally affect the entire air transportation industry. If the final decision is that states or municipalities can govern navigable air space, top observers predict a rash of legislation throughout the U.S. which will seriously curtail airport activities and in some instances even close down high traffic airports.

Here is the background: On March 31, 1952, the Village of Cedarhurst, L.I., (residential community of 6000 which lies about two miles from the southeast end of runway L-31R at New York International Airport) passed a law which declared it unlawful to operate any aircraft within 1000 feet of any residence or to fly at altitudes below 1000 feet over the village. The ordinance, which was to become effective June 15, would have affected CAA's prescribed approach and transition zones established for the airport. A maximum fine of \$100 was stipulated for each offense with violation constituting disorderly conduct.

Plaintiffs Include 10 Carriers

An injunction was obtained against enforcement of the ordinance and the fight, now to be resolved, was on. Plaintiffs in the litigation are 10 scheduled airlines, Port of New York Authority, Air Line Pilots Association, CAA, and CAB.

The plaintiffs' position was set forth by Sidney Goldstein, PNYA general counsel, recently, as follows: (1) Ordinance conflicts with federal law and regulations and is therefore invalidated by the Supremacy Clause of the Constitution (The Civil Aeronautics Act grants to the public a freedom of right of transit through the navigable air space, which is defined as "air space above the minimum altitudes of flight prescribed by regulations issued."). (2) Ordinance invades a field which the federal government has totally preempted, thus invoking the rule that the federal government may move into and occupy a field of regulation so fully that the states and municipalities are precluded from legislating on the subject at all. (3) The ordinance constitutes an undue burden on interstate and foreign commerce because it discourages the free flow of air transportation and thus offends the Commerce Clause of the Constitution.

Cedarhurst's counterclaims seek a ruling on trespass allegations against the airlines; state that one of the airport's principal runways is a nuisance; and that

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CEDARHURST CASE (Cont.)

federal regulations authorizing flight under 1000 feet over the village are unconstitutional and void. One reason for the latter is taking of private property without just compensation.

The plaintiffs have full intention of going as high as the Supreme Court if necessary. Goldstein summed up the possible result of a negative ruling to the case: "Should the many localities surrounding the nation's major airports be legally permitted to enact ordinances of the nature of the Cedarhurst ordinance, aviation, as we know it, would be virtually impossible."

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CUTBACK OF RADAR INSTALLATIONS PROPOSED, LEE REVEALS

Revision of the airway planning standard which would result in a slow-down of ASR and PAR installations is now under consideration, CAA Administrator Fred B. Lee told the second annual air safety forum of the Air Line Pilots Association in Chicago last week. ACC's NAV Panel has mailed the proposal to the industry for comment.

"The new standard," Lee stated, "in addition to calling for an ASR (approach surveillance radar) at each of the 22 large air transportation hubs, will consider an ASR justified when an approach control tower handles 2000 or more instrument approaches annually. This has the effect of reducing our program for additional ASRs from 40 to 12." CAA will continue with the installation of 44 sets now under manufacture, and five more locations will be placed in operation during fiscal 1955, adding to the 21 sets now commissioned, Lee said.

PAR (precision approach radar) proposed standard revision calls for installations at locations having an ASR, and also having 3000 or more instrument approaches annually. "This," Lee states, "has the effect of reducing our program for additional PARs from 32 to three." PAR is now in operation at 10 locations, he reports, and funds are available for 14 more, eight of which will be placed in operation in fiscal 1955.

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CAB PROPOSES WASHINGTON AS 'HIGH DENSITY AIR TRAFFIC ZONE'

CAB has proposed necessary authorization to test the Washington, D.C. area as a "High Density Air Traffic Zone" for an experimental one-year period. Subject to industry views which must be submitted by May 26, CAB means to issue a Special Civil Air Regulation giving the experimental authority to CAA Administrator Fred B. Lee.

Action would permit Lee to prescribe "additional rules under VFR weather conditions in order to conduct tests with respect to procedures necessary for increasing the safety and efficient movement of air traffic in high density air traffic zones."

CAB indicated that recommendations on new high density area procedures made last year by the Air Traffic Control and Navigation Panel, Air Coordinating Committee will, if applied, "constitute an important step toward implementation of the 'common system' of air navigation and result in increased safety and efficiency of VFR operations in high density areas." Board said its proposal will enable the Administrator to obtain sufficient experience whereby procedures may be made applicable to other high density zones.

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TOBIN OPPOSES TAX ON INCOME FROM AIRPORT REVENUE BONDS

Strong opposition was expressed last week by Austin J. Tobin, executive director of the Port of New York Authority to that portion of the 1954 general revenue bill (Sec. 274 of H.R.8300) which would prevent the states and municipalities from using their revenue bonds to acquire or improve property to be leased to private persons for manufacturing purposes. Tobin testified before the Senate Finance Committee against Section 274 on behalf of both the PNYA and the Airport Operators Council. AOC previously objected publicly to the proposal to impose a tax on the income from airport revenue bonds which "make possible continued airport service."

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AIRLINES RESIST SEATTLE ATTEMPT TO UP LANDING FEES

The airlines are resisting an attempt by the Port of Seattle to boost landing fees at the Seattle-Tacoma International Airport.

The airlines have leases extending to 1966, but the port authority has asked them to open up these leases voluntarily and submit to increases to pay for a proposed extension of the runway to 10,000 feet. The port authority recently acquired the additional land to make this extension possible.

The airlines have declined on the grounds that the present runway length of 7500 feet is ample for their present needs. After the airlines took this position at a meeting with the Port of Seattle this week, the authority announced that it would appoint a committee to determine what action it would take. This move is taken to indicate legal steps will be pursued.

Seattle's present landing fees are on a schedule basis as follows: first three schedules per month, \$150 each; second three, \$75 per month each; all others, \$25 per month each. There is, in addition, an over-ride of \$1 per 10000 pounds over 27,500 pounds per aircraft.

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BUILDER TO ERECT 30 NEXT-TO-AIRPORT HOTELS

Plans to build 30 next-to-airport hotels at leading U.S. airports were disclosed by Builder Hyatt Robert von Dehn at ground-breaking ceremonies for a 70-room, \$1,250,000 unit at Los Angeles International Airport. The Los Angeles hotel will be called The Hyatt House and will have swimming pool, patio, restaurant, and cocktail lounge, with architecture of the so-called Las Vegas type.

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AAA TRANSFER TO PHILIPSBURG AIRPORT APPROVED

CAB authorized Allegheny Airlines to transfer operations at Clearfield-DuBois-Philipsburg, Pa. from Albert Field to Philipsburg Airport. In doing so, Board reversed an Examiner's recommendation for denial of the transfer. Although both fields are considered safe for DC-3 operations, CAB concluded that "on a comparative basis it is clear that the Philipsburg Airport affords a greater margin of safety under emergency conditions."

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LOS ANGELES CITY AIRPORT ACREAGE ENLARGED

Los Angeles department of airports has purchased 24.24 acres of undeveloped land west of the city airport to insure clear approaches for the main runway system. Airport bond funds paid the \$133,320 cost. Negotiations for acquiring the 303.1 additional acreage of the undeveloped land is in final stages. Buildings cannot be erected on the property

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VAN NUYS, CALIF., PLANS \$1.4 MILLION AIRPORT PROJECT

Board of Airport Commissioners has adopted a plan to protect approaches to San Fernando Valley Airport at Van Nuys, effective when financing is available under a general obligation bond issue. Estimated cost of project is \$1,422,500. An area of 50 acres to the north and south of the approach zone would be cleared of residential development.

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TEXAS STATE LEGISLATURE has passed a bill permitting cities over 300,000 population to issue revenue and refunding bonds for airport improvements. Sponsored by Dallas, the bill also applies to Houston, San Antonio, and Fort Worth.

MICHIGAN LEGISLATURE has enacted into law a bill empowering State Aeronautics Commission to make long-term leases (up to 50 years' duration) of airport property, instead of the 20-yr. lease period heretofore in effect.

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