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THE SUCCESSES AND FAILURES OF PRESIDENTIAL POLICY ON COMMERCIAL AIR TRAVEL

DANIEL K. BUBB*

IN THE YEARS following World War II, the airline industry experienced unprecedented growth in passenger volume. In fact, the statistics were so impressive that airline executives had to accelerate their plans to add more airplanes to their fleets. However, the expansion of the commercial air travel industry did not come without its problems. Industry specialists repeatedly recalled how on numerous occasions, especially prior to World War II, the industry nearly collapsed. In fact, one scholar mostly attributed the rocky history of the airline industry to "some of the [government] legislation [designed to regulate the industry] that has been inadequate, ineffective, or misguided."¹ All too frequently, government officials faced the same dilemma. If they regulated the industry too much, it would prevent economic growth. But, at the same time, if they relaxed regulation, then too many air carriers would enter the market, thereby eliminating any hope of profitability for anyone. Change finally came when, under substantial pressure from industry leaders and members of Congress, on October 28, 1978, President Jimmy Carter signed into law the landmark Airline Deregulation Act, which completely changed the airline industry's future.² This article is not about regulation and deregula-

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¹ CLAUDE E. PUFFER, *AIR TRANSPORTATION* vii (1941).

² JOHN R. MEYER ET. AL., *AIRLINE DEREGULATION: THE EARLY EXPERIENCE* 8 (1981).

tion of the airlines. Instead, it will examine the historic effect of federal policy on the commercial air transportation industry in the twentieth century.

I. THE FORMATIVE YEARS: 1917-1928

Traditionally, most scholars who study the commercial air transportation industry focus on economic and political aspects but do not provide a comprehensive discussion of the historic effect of federal policy on the industry. In fact their works frequently overlook the landmark date, May 15, 1917, when President Woodrow Wilson allocated \$50,000 for airplanes, pilots, maintenance personnel, and facilities to commence regularly scheduled airmail service by the Post Office from New York to Washington D.C.³ Instead, the majority of scholars begin their studies with May 13, 1926, when President Coolidge signed the Air Commerce Act into law and the first passenger service began in the United States.⁴ This date, these scholars claim, was the true birth of the commercial air travel industry.

But prior to enactment of the Air Commerce Act, the profitability of commercial air carriers relied on airmail contracts awarded them from the Postmaster General. Under the Kelly Act of 1925, Congress determined it was no longer economically feasible for the Post Office to continue carrying airmail by itself, and instead, offered service routes to commercial airlines.⁵ At least five major airlines seized the opportunity (United, American, Western Air Express, Bonanza, and TWA) and immediately began developing plans to expand their fleets, bid for more routes, and increase the number of flights on already existing routes that were the most profitable.⁶

However, these airlines became nervous when smaller carriers began submitting applications to Postmaster General Walter Folger Brown to fly some of the same routes that the major airlines flew.⁷ Airline management expressed its concern to the federal government about lax oversight and the lack of safety regulations.⁸ Pilots complained of poorly maintained navigation equipment and long workdays, which both increased their wor-

³ NICK A. KOMONS, *BONFIRES TO BEACONS: FEDERAL CIVIL AVIATION POLICY UNDER THE AIR COMMERCE ACT 1926-1938* 86 (1978).

⁴ *Id.*

⁵ PUFFER, *supra* note 1, at 2-3.

⁶ *Mc Carran Field Shows Traffic Increase*, LAS VEGAS SUN, March 5, 1960, at 5.

⁷ PUFFER, *supra* note 1, at 2-3.

⁸ *Id.* at 548-88.

kload and jeopardized their safety.⁹ To add to the problem, the country lacked air traffic control centers and airport towers to guide the aircraft, thereby placing full responsibility on the pilots to maintain their own vigilance by looking for other aircraft, communicating with them, and sequencing each other for take-off and landing.¹⁰ Government officials began to wonder if regulation was the appropriate policy, especially as the Postmaster General awarded more contracts to new carriers.¹¹ Cabinet advisers to President Coolidge, and later President Hoover, echoed the concerns of industry leaders.¹² Hoover's own director of transportation questioned whether it was wise for regulation of the air transportation industry to be placed under direct control of the Department of Commerce, Hoover's former employer.¹³ Congress wanted independent commissions to regulate the industry, but the President never made a decision, and in fact ordered Postmaster General Brown to deal with the situation.¹⁴ In the end, both Hoover and Brown balked, leaving the Roosevelt administration with a monumental task of resolving a tenuous and potentially volatile situation.¹⁵

II. THE PRE-WAR YEARS: 1928–1938

Upon entering the Presidency, Franklin Delano Roosevelt quickly sized up the crisis facing the commercial air transportation industry. He summoned his advisers and directed them to examine the situation and submit a report to him detailing their findings. They were unaware that during Hoover's tenure as President, airmail contracts were set to expire on October 7, 1929, with no concrete plans for renewing them in the future.¹⁶ Additionally, in 1930 Alabama Senator Hugo Black led a Congressionally-appointed committee to investigate alleged corrupt practices by Postmaster General Brown, who privately authorized the Williams Air Service Corporation to fly its planes from New Orleans to Fort Worth when other carriers had been offer-

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² TOM D. CROUCH, WINGS: A HISTORY OF AVIATION FROM KITES TO THE SPACE AGE 235–36 (2003).

¹³ *Id.*

¹⁴ *Id.* at 271–72.

¹⁵ *Id.*

¹⁶ PUFFER, *supra* note 1, at 197.

ing lower bids for the route.¹⁷ That same year, the Republican-led Congress pushed for the passage of the Watres Act which transferred responsibility for regulating the air transportation industry from the Department of Commerce to the Interstate Commerce Commission ("ICC").¹⁸ The Republicans felt that the ICC was more capable, experienced, and better equipped to oversee the industry.¹⁹

The Watres Act, however, also contained a serious flaw. It voided all airmail contracts and awarded them to the army, leaving the airline industry in complete chaos.²⁰ The Democrats saw an opportunity to make policy changes. Pointing out that the army, much like the post office, was incapable of handling such a growing industry, the Democrats reasoned that the army would have tried to pawn the industry to the cheapest private bidders, thereby defeating the regulation's purpose.²¹ The Democrats also asserted that the army had experienced too many aircraft accidents, thereby forcing it to reduce flight operations to a limited status.²² Recognizing the egregious legislative error, Congress reinstated all contracts to the major air carriers, even granting them ten-year extensions.²³ (In addition, President Roosevelt directed the ICC to regulate rates and revenues.) But this did not solve the larger, more immediate problem facing the air transportation industry.

III. THE WAR & ANTEBELLUM YEARS: DECLINE & RECOVERY 1939-1950

By the summer of 1938, a severe recession consuming the country's economy also affected the airline industry. According to John Frederick, a professor of business and economics, the "entire [airline] industry was in a chaotic state, with several major carriers facing bankruptcy, half the original investment in the airlines lost forever, and new capital so backward as to be practically unobtainable."²⁴ Passenger air travel declined, forcing airline management to go to extraordinary measures including streamlining company operations just to financially break

¹⁷ *Id.* at 201-04.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.* at 198.

²³ *Id.*

²⁴ JOHN H. FREDERICK, COMMERCIAL AIR TRANSPORTATION 76 (5th ed. 1961).

even. Because the railroads did not have the equipment to transport thousands of military troops to United States military bases in preparation to go overseas, the airlines had to pick up the slack.²⁵ Additionally, military leaders needed more airplanes to transport troops and cargo to Europe, so they turned to the airline industry for help in the form of planes and pilots.²⁶ When airline personnel and planes returned from military service, airline mechanics spent endless hours trying to retrofit the planes to meet Civil Aeronautics Board (“CAB”) passenger plane specifications, thereby reducing ground support needed for flight operations, consequently delaying flights, which cost the airlines thousands of dollars.²⁷ Relief finally came just a few months before the end of the War when the Army and Surplus Property Board authorized the return of more airplanes and pilots to help reduce the stress being placed upon an airline industry that was already stretched to its limit.²⁸ But nothing could prepare airline and airport officials for the unexpected boom in air travel after the end of World War II that would stretch the airlines even thinner and force local airport officials to further expand their budgets to include costs for improving their inadequate and outdated airport facilities.

After the War ended, as the nation mourned the passing of President Roosevelt, Harry Truman was left with an enormous responsibility he did not expect to inherit. Not being an aviation enthusiast, and in fact harboring a fear of flying, Truman was not sensitive to the needs of the airline industry. Because Americans saved their money during the War and enjoyed more leisure time to spend with their families thanks to New Deal legislation, Truman finally acquiesced to the demands of the airline industry, and provided federal financial assistance to add larger and faster airplanes to its fleets. He also agreed to help airport officials who desperately needed funds to improve passenger facilities and lengthen and reinforce runways and taxiways. After all, as Professor Frederick points out “by the end of 1945, passenger traffic had already grown to nearly two and a half times its 1941 size.”²⁹ However, the boom following the War temporarily leveled off from 1946-1948, giving airline management and airport officials a brief opportunity to make other

²⁵ *Id.* at 77.

²⁶ *Id.* at 78.

²⁷ *Id.* at 81.

²⁸ *Id.* at 84.

²⁹ *Id.* at 96.

necessary changes to their operations and facilities.³⁰ In 1947, Truman issued Executive Order 9781 mandating the creation of the Air Coordinating Committee, whose responsibility was to advise the President on important questions and issues brought forth by the airline industry.³¹ When the Korean Conflict began in 1950, passenger demand once again skyrocketed, forcing airline management to expand their operations and local airport officials to revise their budgets to include facility upgrades.³² As usual, federal funding came slowly and was woefully inadequate to assist airlines and airport management.

IV. INDUSTRY GROWTH AND REFORM 1951–1959

With a new Commander in Chief in the White House, airline officials hoped that this time they would have a more sympathetic and compliant President. However, from the beginning of his tenure, Dwight Eisenhower was straitjacketed from accomplishing any of his immediate aviation-related goals because of partisan politics. Congress considered the Civil Aeronautics Association a third-tier, poorly organized, incompetent government agency that deserved little funding if any at all.³³ Additionally, in 1951, inflation slowed the nation's economy, reducing Congressional funding earmarked for the aviation industry.³⁴ The expense of the Korean Conflict also forced a reduction in aviation funding from \$187 million in 1950 to \$136 million in 1953.³⁵ As a result, navigation equipment could not be repaired in time for the growing number of flights and new air routes, thereby congesting the skies and airports and causing considerable delays.³⁶ Airport terminals lacked proper upgrades, resulting in limited ticket counter space for airlines, smaller waiting areas for passengers, and inadequate parking spaces for automobiles and other ground vehicles.³⁷ Air traffic control centers and towers had to operate with limited staff,

³⁰ *Id.* at 87.

³¹ DONALD W. NYROP, *THE ROLE OF COMPETITION IN COMMERCIAL AIR TRANSPORTATION: A REPORT OF THE CIVIL AERONAUTICS BOARD 33* (United States Government Press 1952).

³² *Id.*

³³ STUART I. ROCHESTER, *TAKEOFF AT MID-CENTURY: FEDERAL CIVIL AVIATION POLICY IN THE EISENHOWER YEARS 1953–1961* 18 (1976).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 33.

³⁷ *Id.* at 34.

forcing employees to work long hours and in many cases overtime, thereby creating a potentially dangerous situation.³⁸

In 1954, Eisenhower demanded the Air Coordinating Committee provide him with a comprehensive review of the airline industry.³⁹ He pressured Congress to allocate additional funds to reduce the stress on the industry.⁴⁰ However, that meant cutting funding to other programs in more need of federal government assistance than the airlines. As a result, inadequate federal funding frequently became the norm for airlines and airports.

Budget cuts, antiquated navigation and airport equipment were not the only immediate concerns facing the airline industry and airport officials. In 1956, the inauguration of jets not only revolutionized the airline industry, but also consumed a significant portion of airline budgets because jets proved to be quite costly to operate. Commercial airports needed reinforced and lengthened runways and taxiways. Terminal buildings required new bridges and equipment to handle jet aircraft. All of these capital expenditures put significant pressure on the profitability of commercial airlines.

Eisenhower and his advisers had been planning for the arrival of the jet age. In 1956, they commissioned William Barclay Harding, a seasoned pilot and government representative in international aviation financing to chair the Committee on Transport Policy and Organization.⁴¹ His central task was to provide a comprehensive report analyzing the impact of jet aircraft on the airlines and nation's airports.⁴² The study led to an obvious question: how to modify the airline industry and nation's airports to accommodate jets? However, before the federal government could take any action, a tragic event provided the wake up call the federal government needed to recognize the crisis looming over the entire air transportation industry system.

On June 30, 1956, a TWA Super Constellation propeller-driven airplane carrying sixty-four passengers and a United Airlines DC-7 propeller-driven airplane carrying fifty-three passengers collided over the Grand Canyon killing everyone on board both planes.⁴³ Despite the fact that the weather was clear, the

³⁸ *Id.*

³⁹ *Id.* at 54.

⁴⁰ *Id.* at 55.

⁴¹ *Id.* at 82-83.

⁴² *Id.*

⁴³ *Id.* at 126-27.

CAB determined that the pilots did not see each other and failed to react in time to avoid the collision.⁴⁴ Because the planes were flying in uncontrolled airspace, the director of air traffic control denied any responsibility for the accident.⁴⁵ Ironically, the Civil Aviation Authority had been working on a plan to overhaul the nation's air traffic control system, including the expansion of controlled airspace.⁴⁶ Congress had approved their five-year plan but did not provide adequate funding in time to complete the project.⁴⁷ Newspaper headlines nationwide pointed out the obvious problem: the government was unequipped to handle the rapidly expanding air traffic, especially jets.⁴⁸ The American public angrily criticized the government, but specifically targeted the Civil Aviation Authority for not doing its job.⁴⁹ Washington finally realized that it did not need just an oversight board, but an entire separate, independent agency to handle all aviation affairs. On June 23, 1958, on the twentieth anniversary of the Civil Aeronautics Act of 1938, both Congress and President Eisenhower proudly introduced to America the new Federal Aviation Administration.⁵⁰

V. THE JET AGE & DEREGULATION: 1960–PRESENT

With Cold War tensions growing and increasing internal policy disputes among divisions within the FAA, Congress drafted and approved Senate Bill S. 3880, which directed the FAA Administrator to provide a plan of wartime procedures, and conduct a study of "special personnel problems," with recommendations to be submitted to Congress.⁵¹ Legislators and the President felt that this bill would remedy the internal problems dividing the FAA, while simultaneously providing airline passengers and personnel a sense of national security.⁵² Additionally, the federal aviation budget needed to be increased. In 1960, the FAA Administrator requested \$587 million from the federal government. However, Congress felt that there had

⁴⁴ *Id.* at 127.

⁴⁵ *Id.* at 127.

⁴⁶ *Id.* at 128.

⁴⁷ *Id.* at 128.

⁴⁸ *Id.* at 128.

⁴⁹ *Id.* at 128.

⁵⁰ *Id.* at 214.

⁵¹ *Id.* at 210.

⁵² *Id.* at 290–91.

been wasteful spending by the Administration and approved the allocation of only \$535 million.⁵³

Journalists and aviation industry leaders claimed this was typical Eisenhower policy, attempting to keep costs at a minimum. As Stuart Rochester, a professor of Aviation History points out, most of “the Eisenhower initiatives had been characterized more by rhetoric than substance, more by the grand pronouncement or the token overture than the decisive action. . . . Too often staff studies were substituted for executive action.”⁵⁴ But, Rochester ultimately concludes that it was not entirely Eisenhower’s fault. He claims that “Eisenhower had inherited from Truman a spotty, unfocused aviation program and could bequeath to Kennedy a still flawed but measurably sounder foundation for the future.”⁵⁵ However, Kennedy not only inherited a badly understaffed and internally divided FAA, but more importantly, a rapidly growing airline industry that threatened to burst the entire commercial aviation system at its seams.

Despite the fact that in the 1960s the federal government limited the number of air routes awarded to airlines, the industry could not keep up with the increasing demand of passenger travel, both domestically and internationally. As airlines purchased larger and faster jets, airport officials again found themselves unprepared to meet the challenge. In fact, as early as 1954, European aircraft manufacturers had been researching and experimenting with the concept of a supersonic transport jet (“SST”).⁵⁶ During the Eisenhower administration, Congress was not interested in funding research for the SST. First, legislators were too busy trying to comply with requests from airport officials nationwide for federal financial assistance. More importantly, they questioned whether the SST was economically viable and environmentally sound.⁵⁷ Kennedy, however, was more sympathetic to not only expanding the role of the FAA, but also to supersonic jet travel. He asked Congress to appropriate \$750 million to develop the program, which Congress granted, but only after an exhaustive \$11 million study had been completed.⁵⁸ Airline industry leaders felt they finally had an ally in the White House who not only would listen to their concerns,

⁵³ *Id.* at 238–39.

⁵⁴ *Id.* at 290–91.

⁵⁵ *Id.* at 291.

⁵⁶ CROUCH, *supra* note 12, at 624–25.

⁵⁷ *Id.*

⁵⁸ *Id.* at 625.

but also demand federal compliance. That excitement abruptly ended upon the tragic news of Kennedy's assassination. Industry officials could only hope that Lyndon Johnson would be equally or more sympathetic to the industry needs.

Johnson's aviation policies did not accomplish much more than Kennedy's. In fact, Johnson focused more of his attention on civil rights legislation than the airline industry. However, he could not ignore the airlines for long. With monthly increases in the number of flights, the implementation of larger passenger jets, and airport terminals that were inadequately equipped to accommodate the rapidly expanding passenger volume, the federal government soon felt pressure not only from local political officials, but also from powerful labor union leaders demanding immediate action to address these problems.⁵⁹ As a result, Johnson pressed the Congress for funding to remedy the crisis facing the airline industry.⁶⁰

President Nixon, like Johnson, also recognized that commercial aviation was a significant part of the United States economy. He expressed a sincere interest in promoting and expanding the industry. For example, in his annual report on United States Aeronautics and Space Activities to Congress, Nixon lauded progress in civil aviation, especially for the "substantial contributions to continued pre-eminence in civil aviation, major improvements in aeronautical services, and impressive developments in a sound SST (Supersonic Transport) program."⁶¹ By 1971, the passenger volume began to rise dramatically and continued this increase during the later years of the Vietnam War.⁶² When Nixon was forced to resign from his office as President, airline industry leaders wondered if his then vice-president and successor, Gerald Ford would be equally enthusiastic and supportive of commercial aviation. Their hopes for the continued support of a strong President would soon be dashed.

In the year prior to Ford's inauguration as President, certain members of Congress who oversaw a number of aviation subcommittees became concerned when they received a report detailing uneven airfare price structures on the West and East

⁵⁹ T.A. HEPPENHEIMER, *TURBULENT SKIES: THE HISTORY OF COMMERCIAL AVIATION* 267 (1995).

⁶⁰ *Id.*

⁶¹ RICHARD M. NIXON, MESSAGE TO THE CONGRESS TRANSMITTING ANNUAL REPORT ON UNITED STATES AERONAUTICS AND SPACE ACTIVITIES ANNUAL REPORT ON UNITED STATES AERONAUTICS AND SPACE 40 (1971).

⁶² *Id.*

Coasts.⁶³ Massachusetts Senator Edward Kennedy launched a Congressional investigation, asserting that the price structure needed overhauling.⁶⁴ According to Daniel Kaplan, a former Director of the Office of Economic Analysis, Kennedy's findings overwhelmingly "convince[d] others in the government of the benefits of reform."⁶⁵ Even President Ford supported the Senator's findings and recommendations.⁶⁶ However, in Ford's first year in office as President, the nation experienced a sharp recession, largely caused by inflation, forcing Congress to reduce funding for commercial aviation.⁶⁷ Airline management and labor union leaders braced themselves for the worst. But, instead of increasing funding to the airlines, the Ford administration offered to slowly reduce regulation (an approach once unsuccessfully tried by the Nixon administration).⁶⁸ The results were disastrous. Passenger jets departed airports only half-full, sharply cutting into airline profitability.⁶⁹ Regardless, government officials continued to entertain the notion of additional reform even if it meant deregulating the industry.

Airline leaders cringed at the thought of such an idea. In fact, the most vocal opponents were TWA, Eastern, and American executives who feared losing their most profitable routes to other smaller air carriers should the government authorize deregulation.⁷⁰ United was the only airline to support deregulation because the FAA had authorized it to serve only one new market outside of its regular service routes, costing the airline potential revenue.⁷¹ As the Ford administration approached the end of its tenure in office, deregulation seemed inevitable. Finally, after months of Senate hearings, Congress overwhelmingly approved deregulation of the airline industry.⁷² The Senate voted in favor of the measure by 83 to 9, and the House 363 to 8.⁷³ On October 28, 1978, President Jimmy Carter signed into law the

⁶³ ELIZABETH BAILEY, DAVID GRAHAM & DANIEL KAPLAN, DEREGULATING THE AIRLINES 31 (1985).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 33.

⁷¹ *Id.*

⁷² *See id.* at 34.

⁷³ *Id.*

Airline Deregulation Act, a landmark piece of legislation that completely changed the airline industry's future.⁷⁴

The purpose behind the Airline Deregulation Act not only was to reduce the CAB's control over airline industry regulation, but eventually to eliminate the CAB altogether. In fact, the government proposed to dissolve the Board by January 1, 1985.⁷⁵ Other stipulations of the Act included implementing a reasonable airfare structure, assuring service to smaller communities (which practically had been non-existent during regulation), and most importantly, allowing other smaller air carriers to compete in a growing domestic and global market.⁷⁶ Carter and his administration firmly believed that deregulating the airline industry was the right thing to do.

However, deregulation did not solve the immediate problems facing the airlines. Passenger demand continued to increase rapidly, as did the number of planes, which represented significant capital investments for the carriers. New carriers flooded the market, significantly reducing fares.⁷⁷ Major airlines watched their profit margins narrow with the added competition. In fact, in May 1982, after enjoying years of profitability and company expansion during the early to mid 1970s, Braniff Airlines, the nation's tenth largest airline filed for bankruptcy, largely due to high fuel prices and a stagnant United States economy.⁷⁸ The airline never recovered and was forced to liquidate all of its assets to pay its massive debt.⁷⁹ Soon thereafter, other major airlines watched their profits diminish, while even more regional air carriers entered the market.⁸⁰ Further adding to the industry's woes, fearless corporate raiders such as Frank Lorenzo (Eastern Airlines) and Carl Icahn (TWA) patiently waited to pounce on opportunities to become majority stock shareholders in financially weak airlines to eventually gain complete control and plunder the companies of all their assets. These ruthless aviation magnates sent bone-chilling terror rippling throughout the entire airline industry, specifically targeting executives of major airlines who feared that their companies too might fall prey to corporate raiding. As a result, the only

⁷⁴ *See id.*

⁷⁵ *Id.* at 34.

⁷⁶ *Id.* at 34-37.

⁷⁷ BAILEY ET AL., *supra* note 63, at 63.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

seemingly plausible option for the major airlines was to merge, which some did during the Reagan and Clinton administrations.

With the commercial air travel industry in chaos as a result of deregulation and just one year into Ronald Reagan's presidency, the Professional Air Traffic Controller Organization ("PATCO") announced a strike.⁸¹ This had devastating consequences on the airlines as thousands of air traffic controllers nationwide refused to work. Instead of negotiating with PATCO, President Reagan promptly fired the controllers.⁸² Recruits soon replaced the striking controllers, forcing managers to work at a feverish pace to properly train new workers.⁸³ Airline executives had to streamline operations and sharply revise their budgets just to keep their companies afloat.⁸⁴

Matters worsened when, in 1983, Continental Airlines pilots and flight attendants went on strike, demanding better pay and work hours.⁸⁵ Two years later, United Airlines pilots followed suit.⁸⁶ Neither President Reagan nor the Republican Congress were sympathetic to the strikes. Airline management certainly disapproved of the strikes, and refused to negotiate with the pilots' unions. Airline analyst Peter Capelli explained how "the more aggressive tactics used by management appear to have been the main factor shifting the balance of power away from the airline unions in collective bargaining."⁸⁷ He added that well into the early 1990s "once management was able to win strikes, union power eroded and the carriers secured concessions even when the industry was experiencing record growth and profits."⁸⁸ Despite continued passenger demand, profitability in the industry diminished not only due to high fuel prices and an inflated market with too many competitors, but also a recession that lasted well into George H.W. Bush's tenure in the Oval Office.

The Gulf War forced President Bush to press Congress for funds to support the War, which meant less money allocated for

⁸¹ HEPPENHEIMER, *supra* note 59, at 280-283.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.* at 327.

⁸⁶ THOMAS PETZINGER JR., *HARD LANDING: THE EPIC CONTEST FOR POWER AND PROFITS THAT PLUNGED THE AIRLINES INTO CHAOS* 325 (1996).

⁸⁷ PETER CAPPELLI, *INTRODUCTION TO AIRLINE LABOR RELATIONS IN THE GLOBAL ERA: THE NEW FRONTIER 3* (Peter Capelli ed., Cornell Univ. Press 1995).

⁸⁸ *Id.*

the airline industry.⁸⁹ In order to stave off bankruptcy, airline executives streamlined their operations to make up for the money that Congress had promised them. Despite these efforts, by 1993, the industry faced a horrendous financial crisis. Over the previous three years, the entire airline industry had lost more than \$10 billion.⁹⁰

To attempt to relieve the crisis, newly elected United States President Bill Clinton called for a mandatory meeting with industry leaders, including labor unions, to resolve the financial strife hampering the airlines. He called for the formation of the National Committee to Ensure a Strong Competitive Airline Industry to provide stability that the industry badly needed.⁹¹ As a result, airline officials noticed an improvement in labor relations, and watched their companies once again rise to profitability.⁹² However, that profitability was short lived. Rising fuel prices and further expansion in the industry increased competition, thereby forcing major carriers such as TWA and Reno Air to merge with larger airlines such as American (which they did, the former in 1997, the latter in 2000) or go out of business.⁹³

VI. CONCLUSION: RETURN TO REGULATION?

Since the inception of the airline industry in 1915, federal policy substantially affected and changed it in many ways, especially in the second half of the twentieth century. Regulation of the industry proved useful by controlling the number of participating airlines, limiting the number of flights, and providing uniform airfare structures. However, after World War II federal policy largely was ineffective as the airline industry grew at an unprecedented rate and airports expanded at a feverish pace just to keep up with the explosive growth in passenger demand. Airlines added faster and larger aircraft to their fleets, more service routes, and repeatedly urged the federal government to change airfare structures. Airport officials continuously requested funds from the federal government to upgrade airport facilities and airport pavement surfaces to keep up with the expansion of airline, air cargo, and general aviation traffic. Air traffic controllers had to handle increasingly larger workloads

⁸⁹ *Id.* at 13.

⁹⁰ *Id.* at 13.

⁹¹ PETZINGER, *supra* note 86, at 415.

⁹² *Id.*

⁹³ *Id.*

with antiquated technology. Navigation equipment routinely failed, frustrating pilots and nearly causing aircraft collisions. The federal government consistently was slow to respond with funding and implemented necessary changes only when necessary to deal with an immediate crisis. The FAA, in particular, demonstrated this sluggish response by failing to implement new laws and enforce existing regulations concerning flight safety.

Deregulation seemed to be the remedy for an ailing airline industry and financially strapped commercial airports. One noted scholar, Thomas Petzinger, claims that deregulation had, in fact, already been in place prior to Congressional approval of the Deregulation Act.⁹⁴ Petzinger contends

few realized it at the time, but deregulation was well underway even before anyone had uttered the word. . . . Nearly forty years of regulation had stifled competition, but not dulled the impulse to compete. . . . Regulation had only forced airline executives to engage in mutated forms of competition. . . . As a feat of legislation, deregulation only legitimized behavior that was already taking place.⁹⁵

By allowing free competition, deregulation enabled airlines to establish their own pricing structures and service regions. Many new airlines seized the opportunity to participate. However, deregulation also provided opportunities for too much competition and corporate raiding, exposing serious industry vulnerabilities. Major airlines experienced their worst fear: that smaller carriers would invade their markets and offer lower fares to attract consumers. Today, low-fare airlines such as Southwest and JetBlue control many regional markets once dominated by major airlines such as United, American, Northwest, and Delta. Furthermore, skyrocketing fuel prices also have stressed the budgets of many companies (except for Southwest, who hedged its fuel bids). As a result, to remain competitive, many major airlines have downsized their fleets and asked for significant wage cuts and concessions from their employees. Nonetheless, federal policy always has affected the commercial air travel industry in one way or another and will continue to do so well into the future. But the overarching question remains: will the industry someday return to regulation? We can only wait.

⁹⁴ *Id.* at 86.

⁹⁵ *Id.*

