THE "DREYFUS" CASE
OF THE SUPPLEMENTAL AIRLINES

Safety or Monopoly
What is the Issue?

The hue and cry about supplemental airline safety is a frame-up! It is reminiscent of the most famous conspiracy in history - the framing of Alfred Dreyfus, a captain in the French artillery in December of 1894.

Dreyfus was framed to conceal the corruption of the officer caste and the government of France of that time. The supplemental industry is being framed to divert attention from the greatest and most powerful monopoly consolidation in the history of American transportation, that of American Airlines and Eastern Airlines, now scheduled to be merged into the most powerful airline in the United States. These two air carriers are leading a campaign before the Civil Aeronautics Board to raise air fares up to another 20%. Since fares have already been raised 30% since 1958, the total fare increase goal is 50%. Low aircoach fares, introduced as a result of competition of the independent airlines, now have ceased to exist. Originally, aircoach fares were 4 cents per passenger mile, but are now over 5 cents and are approaching 5 1/2 cents.

On the base market of about two billions of dollars a year of air transportation revenues, this amounts to one billion dollars annually to be taken from the American consumer and taxpayer. Profits are covered in profit and loss statements by accelerated depreciation allowances on a vast new fleet of jet transports.

The monopoly power that had scheduled the raising of airline fares by one billion dollars first had to arrange the killing of the watchdog - the independent price - competitive supplemental airline industry engaged in individually ticketed route-type traffic. To kill the watchdog, the dog must first be declared mad! Consequently, the industry, especially that segment that insists upon making individually-ticketed sales to the general public has been framed before Congress as an unsafe fast-dollar operation and therefore should have individually ticketed authority revoked. A series of three tragic accidents by charter airlines is the reason given.

What are the facts?

The facts are that until 1960 even the charter airlines, as well as those specializing in route-type individually ticketed traffic, had a perfect safety record for a period of five years and were officially commended for the same by Pete Quesada, F. A. A. Administrator. This is an unprecedented safety record for such a large group of air carriers.

In 1960, the charter airlines had over 50% of their military charter business amounting to $23,527,000 wiped out by below-cost bidding by Overseas National Airlines - supposedly, one of their own. Their revenues were reduced to the danger point arousing the claim of financial irresponsibility. The President of O. N. A. receives a salary unheard of among the little businesses of air transportation - for conducting a heavy loss operation!

Losses resulting in a negative (minus) net worth of $3,762,632 were registered by Overseas National Airlines in its destructive below-cost military contracts by December 31, 1960. O. N. A. used a large number of DC-7's which American Airlines had made available to General Leasing Corporation, wholly owned subsidiary of the Convair Division of General Dynamics Corporation, one of the Nation's largest defense contractors.

The volume of this economic offensive is attested to by George W. Tompkins, President of O. N. A. in a letter to the editor, published in the Washington Daily News of November 28, 1961:

> "During the year ended September 30, 1960 Overseas National Airways alone flew more scheduled passenger miles in international air transportation than any other American carrier of which there are 17, except Pan American. O. N. A. flew more international passenger miles than the combined total of American, Braniff, Delta, National, Northwest Orient, United, Western, Seaboard, World, Riddle, Flying Tigers and Slick"

General Leasing Corporation and Overseas Air Equipment Corporation, affiliated with Kuhn, Loeb, and Company, and an O. N. A. officer "forgave" $2,678,179 of lease rentals, overhaul reserve payments, and commissions. A mere reduction of an adjustable discount offered to American Airlines by Convair on their purchases of new Convair 990's can reimburse Convair for these "forgivenesses."

O. N. A.'s destructive below-cost economic offensive, had weakened the financial capability of the supplemental carriers - especially those not engaged in individually ticketed traffice for the general public. When accidents occurred, the Air Transport Association, giant lobby of the large airlines, with a billion dollar stake in their play to eliminate individually ticketed transportation of the supplemental air carriers has been extremely active on the House side of Capital Hill. Some congressmen denounced the supplemental industry as a whole for the accident series that had broken a five year perfect safety record. However, no additional safety legislation has been proposed - only economic legislation permitting the CAB to eliminate the route carriers, or to eliminate them for alleged financial irresponsibility or economic violations.

It may tax your credulity to believe this, but a drive was thereupon made to wipe out by such economic legislation the carriers engaged in individually ticketed traffic available to the general public along regular routes where maintenance and operational safety practices has to date resulted in almost a decade of a perfect passenger safety record. Although such operations often attracted Board enforcement for "frequency and regularity" economic enforcement actions, the safety record of these air carriers has <u>never</u> been duplicated by <u>any</u> groups of air carriers here or abroad.

The gigantic fraud sold to Congress has resulted in crippling House Amendments to S. 1969 designed to give the Civil Aeronautics Board power to summarily put these safe carriers out of business for either "lack of financial capability" or violation of Board economic regulations, or association with individuals who have violated. But Overseas National Airlines, with $987,447.00 negative net worth of September 30, 1961, even after $2,600,000 of lease rentals, overhaul payments, and commissions were forgiven - is presumably financially competent. The rest of the carriers, by the crippling amendments, have had their future entrusted to the tender mercies of the staff of the Civil Aeronautics Board.

Members of the Senate and of Congress have asked us to trust the members of the CAB - four out of five of whom were supporters of S. 1969 before the crippling amendments, but who, nevertheless, now support the crippling amendments. However, the supplemental Air Carriers have found, from cruel experience, that the Board's staff has been substantially under the control of those opposed even to a minimum of justice or fair play for the supplemental air carriers operating along regular routes. This has been true for 14 years. Many Board members and staff members have moved into well-paying positions with the major airlines after Board service opposing fair play to the independent airlines.

An example of the injustice of pre-judging by the Civil Aeronautics Board's staff is exposed by the "Goodkind Memorandum" excerpts of which are indicated below.

The author of this official Board staff document, Louis Goodkind, was appointed by the Civil Aeronautics Board to head the Large Irregular Air Carrier Investigation at its beginning in 1951. The document was identified as authentic by Gordon Bain, Chief, Bureau of Air Operations, CAB, and the appointment of Goodkind was defended when Senator John Sparkman introduced the Memorandum into the record of the Senate Small Business Committee hearings in 1953.

Excerpts from the Goodkind Memorandum follow:

> "The need for route operations by large carriers is further emphasized by purely operational factors -- that is, considerations of maintenance, overhaul, fueling, crew change, etc. * * * for it is necessary * * * to make careful provision for their frequent overhauls and maintenance checks, crew changes, etc. * * * This cannot be successfully accomplished economically except on route operations." [The CAB was, therefore, fully aware that the essentials of a safe operation described above were incompatible with their economic regulations prohibiting "route operations."]
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> "It is believed [bringing this phase of air transportation under more positive control] could be effected by keying their authority, i.e., letters of registration, to Board action on 1) the carrier's pending certificate application under 401 or 2) their pending applications for special exemption under 416. [The large Irregular Air Carrier Investigation was ordered by the CAB on September 21, 1961, and was headed by Louis Goodkind, to process the irregular air carriers' applications under 401 and 416.]
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> "It is conceded that there are certain limited and special services which can be conducted by large aircraft on a truly non-scheduled, irregular basis. These are true fixed base operations such as conducted by Paul Mantz in carrying movie crews to and from location. It is believed unwise, however, to keep the door open to such few operators and thus provide entry for a host of undesirables. [Even non-violators were destined for the "final solution" of the irregular airline question!]
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> "A second reason in favor of either proposal is that it should not lay the Board open to criticism of stamping out, without due process, these carriers which they have permitted to come into being. [S. 1969, as amended, "legalizes" elimination of due process guaranteed by the Administrative Procedure Act]. If, after consideration of either a 401 or a 416 application, the Board determines that it cannot make the statutory findings to permit authorization of the proposed service, it is difficult to see how the carrier or the public at large could expect the Board to perpetuate the service; accordingly, termination of such carriers' letters of registration would appear a natural and fair conclusion. [The House amendments offer the CAB a new opportunity for "a natural and fair conclusion."]

> "Third, either method gives the Board a good measure of control over the life of the carriers, in that it can delay or hasten action on the pending applications as it deems necessary. [After 11 years S. 1969 gives the Board additional opportunity to delay. The theme of the second Senate Small Business Committee Hearings in 1953 was "death by delay."]
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> "In an accompanying memorandum the bureau of Law recommends following the procedure of processing immediately applications for special exemption under section 416, rather than the certificate applications under section 401. Whichever procedure is adopted, it will be necessary to 'live with these carriers' for yet some time." [Unfortunately, the CAB may again have to "live with these carriers" for yet some time'. All emphasis by underlining is supplied.]

Some of the crippling amendments referred to eliminate the constitutional protection guaranteed by the Administration Procedure Act by subjecting applicants in the 11-year Large Irregular Air Carrier case to the mercy of the unreviewed discretion of the Civil Aeronautics Board and its staff. No "grandfather clause" protection is given by the House amendments as has protected other groups of air carriers previously certificated. In view of the history of the Board's relations with the irregular and supplemental air carriers over the past 11 years which has conformed to the master plan laid down in the Goodkind Memorandum, how can the supplemental carriers hope to live under the CAB staff in view of the proposed legislation?

The Senate Small Business Committee in 1951 forced the Civil Aeronautics Board by an investigation and by a denunciation in its official report to revoke the "3-trip regulation" which would have put the carriers out of business.

The Committee found that 14 to 15 trips per month was necessary to assure survival; the Board authorized only 10 trips. The Board assured the Committee of an 18-month investigation which would establish a permanent place for the large irregulars; the Board has failed and the House legislation has failed 11 years later to permanently license these carriers. The Board found over 98% of all operations conducted by large irregular carriers before 1951 to be in violation of their regulations; the Board now desires to eliminate without trial even those carriers who have associated with "violators."

The Report of the Senate Small Business Committee in 1951 recommended the following:

> "Issue a temporary regulation permitting the 'nonskeds' to fly sufficient flights to allow profitable operations. As pointed out earlier in this report, witnesses before the committee testified that 14 to 15 flights a month between designated points would be a bare minimum to justify continued operations by most of the lines."
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> "In selecting carriers, the Board should not consider the matter of past violations of section 292.1 which resulted from greater regularity or frequency than may have been considered allowable at that time. Your committee believes that the record of the Board in this matter has been confused and devious. Your committee does not want to imply any approval of violations of the regulations. But it finds itself in strong disagreement with the Board's admitted policy of banishing all large irregulars on the grounds that they are 'willful violators' ofa regulation that seems clearly unreasonable."

> "The Board should act promptly to relieve the hardships it is imposing on Alaska through its restrictions of flights from the United States. The Board should recognize the special need for cargo transportation to Alaska and the lack of alternative forms of low-cost passenger service."

To complete a total disregard of the Senate Committee's recommendations, the Board continued eliminating carriers for "violations" and eliminated all carriers to Alaska by enforcement action. Now it desires further authority from the House amendments to discipline economic "violators" without judicial review!

Such consistent actions of the Board's staff under many different Board memberships, and in spite of vigorous denunciations by the Senate Small Business Committee suggests that the staff, including Goodkind, has been reflecting the attitudes of the Big Airlines.

To illustrate beyond any doubt that no route-type supplemental air carrier is invulnerable to trumped-up "safety" and "financial irresponsibility" charges, United States Overseas Airlines, Inc. of Wildwood, New Jersey, was suspended from Air Force business by the Military Air Transport Service on these charges only three days ago.

U. S. O. A. is probably the most financially stable supplemental air carrier in the industry. U. S. O. A. owns 6 DC-6's and 10 DC-4's - most of which are free and clear of any debt whatsoever. They are the only supplemental air carrier owning their own engine overhaul facility and propeller overhaul shop. Their pilot safety training facilities include a $100,000 flight simulator. As for safety - the air carrier has been in business since World War II and has never scratched a passenger.

However, U. S. O. A. has, in legal operations permitted by the CAB under the 10-trip regulation, carried more passengers more passenger-miles over regular established routes than all other supplemental air carriers combined. Therein lies their "crime"!

In view of the above, Members of the Senate and Members of Congress are respectfully requested to support only the original S. 1969 without crippling amendments or refuse to enact any bill at all until the above questions of national policy relating to a possible monopoly in air transportation are resolved.

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Supplemental Air Carrier Conference

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