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## SKYJACKING: PROBLEMS AND POTENTIAL SOLUTIONS

A SYMPOSIUM\*

INTRODUCTION

DONALD W. DOWD†

A TASK FREQUENTLY repeated can become a bore or an increased source of satisfaction. For the past several years I have worked closely with the Board of Editors of the *Villanova Law Review* in organizing and moderating the Review's annual symposium. This task has been no mere chore, but has been most rewarding in offering the opportunity of bringing together distinguished nonlawyers as well as a wide variety of legal specialists on matters of immediate public concern. The 1973 symposium was no exception; in fact, it epitomized the vitality and give and take which can be generated by a frank and open exchange among those with different points of view, different interests, and different backgrounds.

Captain O'Donnell, President of the Air Line Pilots Association, did not approach the problem of skyjacking abstractly or legalistically. Captain O'Donnell and the members of his association daily put their lives and safety and the lives and safety of their passengers in jeopardy if there is no adequate control of skyjacking. There is in Captain O'Donnell's remarks an intensity of concern and interest which is generated by such responsibility. Captain O'Donnell is well aware of the commercial and legal problems presented by controls to skyjacking but he cannot permit concern with these problems to cloud what to him is the essential problem of safety and security.

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\* This symposium was conducted in two parts. The panelists presented their papers and discussed the positions adopted among themselves and with members of the *Law Review* and invited guests in the afternoon session. During the evening session, which was open to the public, the panel members made brief statements which were followed by a general discussion and question-answer period.

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Captain Fenello, as a pilot, is no stranger to the concerns expressed by Captain O'Donnell, but he obviously has other concerns in his responsibilities as a Vice President of Eastern Airlines. The ease of operation, the cost of control, and the public's attitude militate against draconic solutions. Captain Fenello stressed that perfect security cannot be purchased at the cost of unacceptable regimentation. He also doubted that perfect security could be achieved under any regime and noted that the concepts of privacy and personal dignity are inconsistent with overly extensive searches such as characterized the controls in a fear-dominated state such as Nazi Germany.

Dr. Dailey approached the problem of skyjacking, not as one directly involved in the industry or involved in the law, but as a social scientist. His contribution to the symposium reflected the role of science in dealing with the problem. As a scientist, he developed the highly successful, but secret, personal profile which has been used to detect potential skyjackers. He described his pet cat vividly, but without letting it out of the bag.

General Davis has had the responsibility of giving effect to the policy of the federal government in the area of skyjacking. He explained and defended the policy forcefully, but remained particularly open to suggestions of other methods of control. General Davis put the problem in the context of the Government's responsibility to the carriers, pilots, and the public and its responsiveness to these varying interests.

Mr. Brower, as acting Legal Advisor for the Department of State, saw the problem of control of skyjacking in the much wider context of international agreement. In his remarks he outlined the fascinating balancing act which is necessary to develop an international policy in this area. He acknowledged that one man's criminal skyjacker can be another's patriotic hero. The difficulties of establishing an international control of skyjacking are enormous. The world contains those who are desperately seeking political exile, those who are attempting to liberate what they consider to be an occupied homeland, those who are attempting to justify revolution against what they consider to be tyranny, those who have the technology and means to use sophisticated devices, and those who are operating airline systems on a shoestring. Any simple solution to satisfy all is impossible. It is in that context that Mr. Brower developed his description of the international controls that are in effect and the United States' role as a leader in developing them.

Mr. Gora contended that the problems of skyjacking cannot be abstracted from the general legal problem of controlling any govern-

mental activity which interferes with personal liberty and dignity. Mr. Gora is concerned that the overreaction to skyjacking might blind us to the requirements of the fourth amendment limits on search and seizure and guaranty of privacy. Mr. Gora does not believe that the dangers of skyjacking vitiate fourth amendment considerations or that one must "consent" to sacrifice one's fourth amendment rights in order to fly.

These brief characterizations of the positions taken by the participants are perhaps unfair and are certainly incomplete. They are given merely to indicate the range of the views offered, and I hope they indicate the richness and variety of the contributions. As moderator, I am grateful to all the participants for fulfilling to such a high degree the objectives of the Ninth Annual Villanova Law Review Symposium.