

From Conspiracy to Policy James V. Martin, the “Air Trust” Narrative, and the 1926 Air Commerce Act

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On May 14, 1921, James Vernon Martin sent a letter to recently confirmed Attorney General Harry M. Daugherty warning of “a pernicious conspiracy” within the Army Air Service. He accused officers in the Air Service Engineering Division of colluding with members of the Manufacturers Aircraft Association (MAA) in a scheme to monopolize aircraft contracts and destroy “independent” designers. Specifically, he asserted that the Engineering Division had actively facilitated the transfer of his patented retractable chassis, or landing gear, to MAA members before awarding them infringing contracts. Martin petitioned Daugherty to unleash the full resources of the Department of Justice against “the conspirators” to defend both his patent rights and the nation from what he deemed a nefarious “Air Trust” that placed profit over national defense.¹



James V. Martin, ca. World War I

A pre-World War I “Early Bird” aviator and master mariner, James V. Martin remains largely forgotten in a historiography focused on famous aircraft designers such as Donald Douglas, Jack Northrop, and Glenn L. Martin (no relation), aeronautical “firsts,” and the rise and fall of storied corporations.² Widely known in his day for a tendency to elaborate and bend the truth in his quest for self-promotion, Martin viewed himself as an unappreciated pioneer who had “contributed more to the success of modern aeroplanes than all other competing firms and individuals

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¹ Martin to Daugherty, May 14, 1921, folder 8, box 29, Manufacturers Aircraft Association Papers, American Heritage Center, University of Wyoming, Laramie (hereinafter referred to as MAAP).

² Examples of this approach can be found in Roger E. Bilstein, *The Enterprise of Flight: The American Aviation and Aerospace Industry* (Smithsonian Institution Press: Washington, DC: 2001); Wayne Biddle, *Barons of the Sky* (Baltimore, MD: Johns Hopkins University Press, 2001); Walter J. Boyne, *Beyond the Horizon: The Lockheed Story* (New York: Saint Martin's Press, 1998); and Donald Pattillo, *Pushing the Envelope: The American Aircraft Industry* (Ann Arbor, MI: The University of Michigan Press, 1998).

combined.”³ Enrolled as a special student at Harvard College from 1908 to 1910, he helped establish the Harvard Aeronautical Society, built and tested the Harvard I pusher biplane, and organized and managed the 1910 Harvard-Boston Aero Meet. After learning to fly at English aviator Claude Grahame-White’s school outside London, he oversaw the construction of the Queen-Martin biplane—billed as “the first successful tractor biplane in America”—and undertook the first heavier-than-air flights in Alaska.⁴ But translating these initial accomplishments into a successful career in aircraft design and production proved elusive. Awarded federal patents but unable to compete as World War I accentuated the importance of engineering training and professionalism in aircraft production, Martin interpreted his inability to secure government contracts as evidence of a sinister plot against him. This belief crystallized into what law professor Mark Fenster described as “a specific, conspiratorial narrative frame” that guided his struggle against a supposed “Air Trust” throughout the interwar period.⁵

Martin’s sense of grievance arose primarily from two distinct yet related elements of World War I aircraft procurement adopted to balance the rights of patent holders with the need to secure state-of-the-art aircraft for the national defense: the government’s use of the “save harmless” clause, or reverse indemnity clause, and a cross-licensing agreement for aeronautical patents managed by the Manufacturers Aircraft Association.⁶ The War and Navy Departments incorporated a save-harmless

³ “Who Originated the Principle Features of the Modern Airplane?” Martin Aeroplane Corporation, ca. 1933, box 2, James V. Martin Papers, National Air and Space Museum Archives, Udvar-Hazy Center, Chantilly, Virginia (hereinafter JMP).

⁴ A perceived lack of recognition for these Early Bird activities provided the foundation for Martin’s conspiratorial beliefs. There can be no doubt that Martin contributed to the advancement of aeronautics in these early years, and there is also no doubt that he intentionally exaggerated his achievements in his quest for recognition. Martin repeatedly claimed to have graduated from Harvard with a technical degree, at times specifying “practical astronomy” or “special methods of navigation” as his course of study. A 1924 search of school records at the request of the Air Service showed that he had not graduated from Harvard (special students are not eligible to receive degrees) and that while there he took courses “mostly in Philosophy and German.” By 1916 Martin had transformed the “brief hops” he obtained in the Harvard I during the summer of 1910 into a full flight that he believed elevated him to the same level as aeronautical pioneers Wilbur and Orville Wright and Glenn Curtiss. Martin to Wanamaker, Apr. 12, 1916, folder 8, box 29, MAAP; Assistant Dean Delmar Leighton to A. H. Hobbey, Acting Chief, Air Service Engineering Division, Feb. 15, 1924, folder 452.1, box 283, Records of U.S. Air Force Commands, Activities, and Organizations, Record Group (RG) 342, National Archives at College Park, MD (hereinafter NACP); Harold E. Morehouse Flying Pioneers Biographies Collection – Martin, James V., <https://transcription.si.edu/project/24094> (accessed Aug. 23, 2021).

⁵ Mark Fenster, *Conspiracy Theories: Secrecy and Power in American Culture* (Minneapolis: Univ. of Minnesota Press, 1999), xiv.

⁶ Under the Constitution, Congress possessed the authority to grant patents, monopolies of limited duration, to “promote the progress of science and the useful arts.” B. Zorina Khan argues that the lack of any restrictions on race, class, and gender within patent policy perhaps best encapsulated the democratic ideal within the early Republic, but its application fell short of this lofty egalitarian vision. Khan, *The Democratization of Invention: Patents and Copyrights in American Economic Development, 1790–1920* (Cambridge: Cambridge University Press, 2005); U.S. Constitution, art. I, § 8, cl. 8.

clause into their procurement contracts to ensure that the United States could take full advantage of “the latest improvements known to the science irrespective of the patent situation.”⁷ With this clause the federal government assumed all liability on the part of the contractor for any patent infringement incurred in the fulfillment of that contract. This extension of the Fifth Amendment’s power of eminent domain to intellectual property left the patent holder with only one recourse—suit against the federal government, subject to its consent, in the Court of Claims.⁸ As a result of the save harmless clause, a U.S. government contractor could utilize any patent without securing a license from the patent holder, the U.S. government agreed to assume any subsequent legal liability, and patent holders were limited to redress through the notoriously slow Court of Claims.⁹

⁷ Charles Menoher to Adjutant General of the Army, May 12, 1921, folder 400.11, box 1366, RG 342, NACP. Contracts also included a complementary clause wherein the contractor agreed to save the government harmless from any infringement of its patent that may occur over the course of the contract. Lawrence Glassman, “Patent Indemnity Clause in Government Contracts,” *George Washington Law Review* 25, no. 2 (January 1957), 257, 272–73. The wartime Munitions Patents Board established in September 1918 under the chairmanship of former Commissioner of Patents Thomas Ewing sought to standardize the use of these clauses across all War Department and Navy Department contracts, but with limited success. Save Harmless Clause Drafts Approved Oct. 14, 1918, Thomas Ewing, drafts, box 2, Office of the Judge Advocate General, Central Patent Section, 1921–1940, Munitions Patent Board, Patent Case File, 1918–1921, Records of the Office of the Judge Advocate General (Army), RG 153, National Archives and Records Administration, Kansas City, Mo. (hereinafter referred to as NARA KC).

⁸ Under the doctrine of sovereign immunity, the sovereign can only be sued with its consent. In the 1793 case *Chisholm v. Georgia* the Supreme Court ruled that only the federal government possessed sovereign immunity when it decided that the State of Georgia, and therefore all states, could be sued by citizens of another state or foreign nationals. This prompted the rapid passage of the 11th Amendment, which extended sovereign immunity to the states. G. Edward White, *Law in American History*, vol. I (Oxford: Oxford University Press, 2012), 203–4. For an analysis of the doctrine of sovereign immunity in the U.S. context, see Gillian Hadfield, “Of Sovereignty and Contract: Damages for Breach of Contract by Government,” *Southern California Interdisciplinary Law Journal* 8, no. 2 (Spring 1999): 467–538, and Vicki C. Jackson, “Suing the Federal Government: Sovereignty, Immunity, and Judicial Independence,” *George Washington International Law Review* 35, no. 3 (2003): 521–610. For a detailed study of the application of eminent domain in the development of another emerging military technology at the time, see Katherine Epstein, *Torpedo: Inventing the Military-Industrial Complex in the United States and Great Britain* (Cambridge, MA: Harvard University Press, 2014).

⁹ Congress established the Court of Claims in 1855 to resolve suits against the government and steadily expanded its authority over subsequent decades. To meet the needs of wartime production, Congress extended the jurisdiction of the Court of Claims in 1918 to include suits involving any patents “used or manufactured for or by the United States without license of the owner.” “Chapter 122, 33 Congress, Session 2, An Act: To establish a court for the investigation of claims against the United States,” *U.S. Statutes at Large* 10, no. Main Section (1855): 612–14; “An Act: Making appropriations for the naval service for the fiscal year ending June thirtieth, nineteen hundred and nineteen, and for other purposes,” *U.S. Statutes at Large* 40, no. Main Section (1918): 704–39. For more on the creation of the Court of Claims and the subsequent extension of its jurisdiction, see David P. Currie, *The Constitution in Congress: Democrats and Whigs, 1829–1961* (Chicago: University of Chicago Press, 2005), 194–204, and Floyd D. Shimomura, “The History of Claims against the United States: The Evolution from a Legislative Toward a Judicial Model of Payment,” *Louisiana Law Review* 45, no. 3 (January 1985): 625–700.

The Manufacturers Aircraft Association, the second pillar of Martin's conspiracy theory, came into existence on July 24, 1917, to facilitate a cross-license agreement for the aircraft industry after lengthy negotiations between the Wright and Curtiss interests and government officials.¹⁰ After entering the war in April 1917 the United States needed to produce aircraft in quantity, but the infamous patent dispute between the Wright and Curtiss interests as well as uncertainty over licensing fees threatened to add unnecessary costs to procurement. Patterned off of a similar agreement for the automobile industry, members of the MAA purchased an initial \$1,000 share of stock and paid \$200 per airplane in exchange for licenses to all patents within the pool.¹¹ Despite Attorney General Thomas Gregory's opinion that the cross-license agreement did not violate antitrust laws, accusations of an "Air Trust" that extracted excessive profits continued to spark numerous investigations over the next decade.¹² But several elements of the cross-licensing agreement precluded it from serving as a tool for monopoly control. First, it was open to any and all legitimate aircraft manufacturers. Second, nonmembers could still purchase a patent license from an MAA member provided it was not on better terms than those offered to MAA members. Finally, due to the save harmless clause, any government contractor could utilize any necessary patent without a license free of liability. Rather than a tool of monopoly control established by the industry, the cross-license agreement provided the U.S. government access to a wealth of aeronautical patents at minimal cost—well "over 700" by 1934—without the need for lengthy infringement litigation before the Court of Claims.¹³

¹⁰ Charles D. Walcott of the presidentially appointed National Advisory Committee on Aeronautics and Howard Coffin, head of the wartime Aircraft Board, proved central in these negotiations. Within six months the MAA's membership included the Aeromarine Plane and Motor Company, Burgess Company, Curtiss Aeroplane and Motor Corporation, Dayton-Wright Airplane Company, L.W.F. Engineering Company, Standard Aeronautical Corporation, Sturtevant Aeroplane Company, Thomas-Morse Aircraft Company, Wright-Martin Aircraft Corporation, Fisher Body Corporation, and the Glenn L. Martin Company.

¹¹ Manufacturers' Aircraft Association (Inc.), Cross-License Agreement and License, Dated July 24, 1917, in *Hearings before the Select Committee of Inquiry into Operations of the United States Air Services, Part 1* (Washington, DC: Government Printing Office [GPO], 1925), 226–33 (hereinafter referred to as the *Lampert Committee Hearings*); George Bittlingmayer, "Property Rights, Progress, and the Aircraft Patent Agreement," *The Journal of Law & Economics* 31, no. 1 (April 1988): 227–48.

¹² Thomas W. Gregory to Newton D. Baker, Oct. 6, 1917, folder 2, box 10, MAAP. According to the records of the MAA, the organization underwent 26 different investigations—including a wartime inquiry by Charles Evans Hughes—between 1917 and 1925. The MAA survived until a federal antitrust complaint prompted by a shift in the Department of Justice's interpretation of the Sherman Act prompted its dissolution in the early 1970s. Aircraft Production in the United States, S. Rep. 65-555; Aircraft Investigation, folder 6, box 46, MAAP; *US v. Manufacturers Aircraft Association Inc., et al.* (1972); Bittlingmayer, "Property Rights, Progress, and the Aircraft Patent Agreement."

¹³ Statement of Samuel S. Bradley Before the Federal Aviation Commission, Nov. 11, 1934, folder 8, box 7, MAAP. Ron D. Katznelson and John Howells, "The Myth of the Early Aviation Patent Hold-Up—How a US Government Monopsony Commandeered Pioneer Airplane Patents," *Industrial and Corporate Change* 24, no. 1 (February 2015), 2. Katznelson and Howells claim that Army aircraft contracts were only given to MAA members in the years following World War I, a position clearly contradicted by the archival evidence.

Martin viewed the save harmless clause and the MAA's cross-license agreement as illegal and immoral tools that allowed favored corporations to profit at the expense of "independent" designers like himself. Between 1916 and 1918, Martin filed patent applications for an aerodynamic stabilizer, a K-bar strut connecting the upper and lower wings of a biplane, retractable landing gear, an aerofoil (wing shape), and tractor biplane (an aircraft with the engine at the front of the fuselage).¹⁴ Although questions about his claims to independent invention of these devices persisted over the next decade, he possessed legally granted U.S. patents and refused to join the cross-license agreement.¹⁵ For Martin, the fact that a rival manufacturer could freely use his patented devices under the save harmless clause amounted to officially sanctioned theft, and he came to view the MAA as a monopolistic cartel. This interpretation drew support from wider cultural concerns about rapid corporatization, contemporary anxieties over monopoly, and longstanding undercurrents of "heated exaggeration, suspiciousness, and conspiratorial fantasy" that, as historian Richard Hofstadter noted in 1964, have been interwoven into American political discourse from the nation's founding.¹⁶ Although his claims often bordered on the ridiculous and his methods remained highly caustic, Martin's interpretation of the relationship between the Air Service and established producers

¹⁴ James V. Martin. Aircraft Structure. US 1,277,979. United States Patent and Trademark Office, filed May 31, 1916, and issued Sep. 3, 1918; James V. Martin. Stabilizing and Neutralizing Device. US 1,302,947. United States Patent and Trademark Office, filed Dec. 1, 1916, and issued May 6, 1919; James V. Martin. Landing Gear. US 1,306,768. United States Patent and Trademark Office, filed Jun. 8, 1916, and issued Jun. 17, 1919; James V. Martin. Aerodynamic Stabilizer. US 1,334,707. United States Patent and Trademark Office, filed May 11, 1916, and issued Mar. 23, 1920; James V. Martin. Aerofoil. US 1,400,177. United States Patent and Trademark Office, filed Nov. 30, 1917, and issued Dec. 13, 1921; James V. Martin. Tractor Biplane. US 1,421,803. United States Patent and Trademark Office, filed May 25, 1917, and issued Jul. 4, 1922. Martin's retractable landing gear would also be refined and incorporated into his K-III aircraft patent. Aircraft Structure. US 1,418,008. United States Patent and Trademark Office, filed Nov. 14, 1918, and issued May 30, 1922.

¹⁵ Martin's flurry of patent applications came after a trip to Europe, and circumstantial evidence suggests that he appropriated material from various European patents. Applications for his aerodynamic stabilizer and tractor biplane faced strong opposition from patent examiner J. H. Colwell, who rejected numerous claims in each based on prior French patents such as Marmonier (FR 397,297, 1905), Bowdoin (FR419,106, 1910), Bibard (FR398,087, 1909) and Blériot (FR400,578, 1909) in the case of the aerodynamic stabilizer and Caproni (FR448,337, 1913) in the case of his tractor biplane. These U.S. applications were ultimately granted after an average wait of three years and multiple amendments. Ewing to Barthel, forward of Examiner's Report, Jun. 21, 1918, Patent No. 1,334,707, and Newton to Messimer, Sep. 19, 1918, Patent No. 1,421,803, both in box 50634, Records of the United States Patent and Trademark Office, RG 241, NARA KC.

¹⁶ Richard Hofstadter, "The Paranoid Style in American Politics," *Harper's Magazine* (November 1964), 77. In a foundational book on the political economy of aircraft production, Jacob A. Vander Meulen demonstrated that Congress continued to impose a traditional free market competitive framework on the interwar aircraft industry that manufacturers and some in the military saw as counterproductive in light of the industry's overwhelming reliance on federal contracts. Jacob A. Vander Meulen, *The Politics of Aircraft: Building an American Aircraft Industry* (Lawrence, KS: University of Kansas Press, 1991).

within the MAA spoke to the inherent tension between a patent holder's rights and the needs of the national defense—a legitimate concern.

Martin's struggle against what he viewed as a "politically powerful group" that sought to steal the patents of aviation "pioneers" in order to monopolize aviation transpired within a vast array of federal agencies and institutions: the Air Service Engineering Division, the U.S. Patent Office, the Supreme Court of the District of Columbia, the Justice Department, the Court of Claims, and Congress.¹⁷ Unable to secure the recognition and monetary settlement he felt due him as a patent holder from within either the executive or judicial branches, Martin found ready allies among progressive Republican representatives who viewed the postwar aviation situation as a way to challenge the pro-business Harding and Coolidge administrations. Convinced that he was the victim of a grave injustice, Martin ultimately turned to Congress. In doing so, he helped initiate a process that culminated in the passage of the 1926 Air Commerce Act, a foundational piece of legislation that extended federal regulatory control to aviation and laid the groundwork for a century of American aeronautical development.¹⁸

The Solidification of a Conspiratorial Frame

Tension and recrimination defined the two-day conference at McCook Field between Martin and Air Service procurement officials in late January 1920.¹⁹ Called by Engineering Division chief Col. Thurman Bane to clear the air between his staff and the aggrieved designer, the conference did little to alleviate the growing animosity between the two camps. Over the past year Martin had become convinced that procurement officials had used "every manner of subterfuge and evasion" to deny him a contract.²⁰ Now, he bluntly stated that he was the victim

¹⁷ James V. Martin, Memo on Merchant Marine Twelve Years Ago, May 29, 1950, Folder: Article, brochure, and Other Information on "Oceanplane" Box 2, JMP.

¹⁸ For an analysis of how previous transportation systems and international considerations influenced the creation of U.S. aviation policy in the 1920s, see Sean Seyer, *Sovereign Skies: The Origins of American Civil Aviation Policy* (Baltimore, MD: Johns Hopkins University Press, 2021).

¹⁹ As the center of aeronautical engineering expertise in the Army, the Engineering Division was responsible for issuing bids, awarding "service test" contracts, and approving aircraft and devices for service use. It even undertook the design and construction of its own aircraft much to the chagrin of private manufacturers. As such, the Engineering Division played a central role in the procurement process and served as a focal point for government's interactions with the aircraft industry. For more on the creation of McCook Field and its important role in the formation of aeronautical engineering knowledge, see Peter L. Jakab, "Aerospace in Adolescence: McCook Field and the Beginnings of Modern Flight Research," in *Atmospheric Flight in the Twentieth Century*, ed. Peter Galison and Alex Roland (Dordrecht, Netherlands: Kluwer Academic Publishers, 2000): 45–66.

²⁰ Martin to Adjutant General, U.S. Army, Jul. 23, 1919, File No. 091-5138, box 311, Records of the U.S. Shipping Board, RG 32, National Archives Building, Washington, DC (hereinafter NAB).



Martin's K-III scout aircraft incorporated several of his patented devices: K-bar Strut (US 1,277,979, 1916), Retractable Landing Gear (US 1,306,768, 1916), and Shock Absorbing Rudder (US 1,464,209, 1918).

of “a conspiracy between certain technical officials of the Army, certain technical officials of the Navy, and an Aircraft Manufacturer’s Association in America.” When pressed to provide proof, he admitted he had “not assembled any evidence of this to date” but “would not say that the evidence does not exist.”²¹ And with that, Martin openly accused officers at McCook Field—the very individuals authorized to award the contracts he so desperately desired—of illegality.

Sour relations between Martin and Army procurement officials at McCook Field stemmed primarily from his wartime contract for an experimental transmission bomber and his attempts to secure an additional contract for his K-III “Kitten” experimental scout plane. In early April 1917, the Air Service awarded Martin a \$50 million, eight-month contract for a bomber that harnessed two engines to a single propeller through a transmission apparatus.²² The next month Martin informed then-chief of the Engineering Division Capt. Virginius E. Clark that he had designed a new aircraft with a “guarantee[d] speed of 150 m.p.h.” and requested an additional contract to develop it. Despite a veiled threat from Martin that if his abilities were not properly recognized he would “very shortly . . . expend my surplus energies in promoting Aviation matters through political avenues,” he received no additional contracts but was awarded the title of Consulting Engineer.²³ With his bomber due in December, Martin travelled to England that fall where

²¹ Conference with Mr. Martin, Jan. 25 and 26, 1920, folder 8, box 29, MAAP. In addition to Bane, those present from the Engineering Division also included Lt. Col. Clark, Lt. Col. Henry W. Harms, Maj. George E. A. Hallett, Maj. H. S. Martin (no relation), and stenographer Miss Lampe.

²² Memorandum of Engineering Division, Air Service, in Reply to Certain Charges Made by James V. Martin, in *Lampert Committee Hearings, Part 3*, 2699–2700.

²³ Martin to Clark, May 29, 1917, folder 8, box 29, MAAP.

“the most capable British Government designers” worked on the “transmission mechanism” for his bomber and the British Air Board tested his retractable chassis and K-Bar strut.²⁴ After his return to the United States in December, he focused on incorporating these latter devices into the K-III at the Martin Aeroplane Factory in Elyria, Ohio.²⁵

Slow progress on Martin’s bomber contract undercut his standing with the Engineering Division. The submission of incomplete transmission drawings for his bomber precipitated additional delays and prompted concern over his engineering abilities.²⁶ After a visit to Martin’s factory in March 1918—three months after the bomber’s deadline—McCook Field civilian engineer J. A. Roche reported that Martin had his “head in the clouds” and needed a stern hand to stay on task.²⁷ Martin continued to call for additional contracts, but the new chief of the Engineering Division Lt. Col. Jesse Vincent counseled him to “stick with one thing and show us and your next step of salesmanship will be that much easier.”²⁸ With his transmission bomber now seven months overdue, Capt. Howard E. Blood recommended transferring Martin’s contract to A. L. Garford of the Garford Manufacturing Co., the actual owner of the Martin Aeroplane Factory.²⁹ Blood made it clear to Garford that Martin’s standing at McCook Field hinged on the successful completion of his bomber. “If, in actual trial this machine can demonstrate its merits, Martin’s status as a practical engineer will have been proven. Of course, as soon as things reach this status, we can trust jobs to Mr. Martin with a great deal more confidence and assurance because *at present his ability as a designer of modern flying machines has not been proven*” (emphasis added). Blood welcomed Garford to “unofficially” produce the K-III to further demonstrate

²⁴ Martin to Squire, Jan. 2, 1918 and Martin to Sterns, Feb. 23, 1918, both in folder 8, box 29, MAAP; Passenger List for *S. S. Lapland* arriving in New York on Dec. 16, 1917, from Liverpool, found at Ancestry.com. *New York, U.S., Arriving Passenger and Crew Lists (including Castle Garden and Ellis Island), 1820–1957* (accessed Aug. 3, 2021).

²⁵ Blood to Garford, Jul. 2, 1918, folder 8, box 29, MAAP.

²⁶ Martin bragged of access to “the latest British aeroplane experiments” and freely admitted that his transmission was “designed by the most capable British Government designers,” assertions that only prompted additional questions as to how much of Martin’s work was indeed his own. Martin to Squier, Jan. 2, 1918, and Martin to Sterns, Feb. 23, 1918, Martin to Vincent, Mar. 28, 1918, and Lloyd to Vincent, Apr. 3, 1918, all in *ibid.*

²⁷ Marmon to Vincent, March 14, 1918, *ibid.*

²⁸ Vincent to Martin, Mar. 20, 1918, *ibid.*

²⁹ Not much information is available about the financial situation of both Martin and the Martin Aeroplane Company. In a 1924 FBI report, Special Agent R. P. Burruss noted that “neither Subject or his factory” possessed a commercial rating from Moody’s or Poor’s and estimated that “income, if any, is under \$5,000 per annum.” Report on James V. Martin, Sep. 10, 1924, File No. 70-18, 3, D.J. Central Files, Classified Correspondence Files, 70-17 to 70-22, General Records of the Department of Justice, RG 60, NACP.

Martin's abilities, and promised that if the two machines proved successful the Martin Aeroplane Factory would receive "considerable experimental and developmental work."³⁰ Upset that such talks had occurred without him, Martin threatened to establish his own experimental factory independent of Garford's control.³¹ Blood warned Martin that "Col. Vincent will entirely lose patience" if he did not prove himself "a practical constructor of modern aircraft" soon, and successfully convinced him to finish his bomber with Garford.³² He also informed Martin that it would be "useless" to attempt to secure additional contracts before he had proven himself.³³ By the time the fighting ended in Europe on November 11, 1918, not a single Martin aircraft had been tested by the Engineering Division.

Tests of the transmission bomber and K-III scout over the summer of 1919 further called into question Martin's claims of engineering expertise. After 14 tests between May and July, the Power Plant Section's official report on Martin's transmission concluded that the device suffered from serious structural defects that would require "a complete redesign."³⁴ The K-III incorporating Martin's patented K-Bar strut and retractable landing gear as well as his patent-pending shock-absorbing rudder arrived at McCook Field in March 1919. After a thorough inspection of the scout aircraft, head of the Planes and Engines Maintenance Department Capt. E. F. White recommended a significant redesign to address serious safety concerns and cautioned that any knowledge gained from a test flight would not justify the expense necessary to make the K-III an airworthy machine.³⁵ Martin's refusal to allow Engineering Division officials—now under Colonel Bane's command—to submit the K-III to standard structural integrity tests removed any possibility of test flights at McCook Field, but he did secure them unofficially.³⁶ With McCook civilian engineer Flavius E. Loudy as observer, McCook civilian pilot W. F. Gerhardt piloted the K-III in a series of tests at the Hills and Dales Country Club in Dayton from July 10 to August 10. Safety concerns limited these tests to "extensive taxiing" and "long hops," all with the retractable landing gear affixed in its extended position. Gerhardt concluded that the K-III "cannot be

³⁰ Blood to Garford, Jul. 2, 1918, folder 8, box 29, MAAP.

³¹ Martin to Garford, Jul. 5, 1918 and Martin to Greenlee, Jul. 5, 1918, both in *ibid.*

³² Blood to Martin, Jul. 10, 1918, *ibid.*

³³ Blood to Martin, Aug. 29, 1918, in *Lampert Committee Hearings, Part 3*, 2713.

³⁴ "Report on Test of J. V. Martin Transmission," in *Lampert Committee Hearings, Part 3*, 2707–2713.

³⁵ White to Maj. H. S. Martin, Mar. 26, 1919, in *Lampert Committee Hearings, Part 3*, 2719; Maj. H. S. Martin to Martin, Mar. 26, 1919, folder 8, box 29, MAAP.

³⁶ Capt. H. S. Martin to Emmons, Jun. 2, 1919, folder 8, box 29, *ibid.* Martin claimed that world altitude record holder Maj. Rudolph Schroeder was eager to fly the scout aircraft, something Schroeder denied. Martin to Bane, Mar. 20, 1919, *ibid.*

flown properly or safely in its present condition” and stressed that the machine would need a “complete re-design” before Martin’s novel ideas could be applied to “a workable machine.”³⁷ Martin later argued that these tests proved the K-III was the first airplane to successfully utilize a retractable chassis in flight, an interesting claim since he was not present to witness the testing of either his transmission or the K-III.³⁸ A lack of Air Service contracts had forced Martin to return to ocean navigation the previous May, an “exile” he blamed on “official indifference” to his devices and designs.³⁹

Martin’s relationship with the Engineering Division did not improve during his time aboard ship. While overseas he became convinced that sinister forces were at work within Air Service procurement to prevent the development and adoption of his aircraft. In a petition to the U.S. Army adjutant general, he claimed that inept officers in the Air Service were undertaking “every manner of subterfuge and evasion . . . to keep me from attaining sufficient prestige.” In characteristically grandiose style, Martin claimed that their efforts had resulted in a lack of contracts that, in turn, had forced the closure of “the most capable aeroplane designing organization in America,” his factory in Elyria.⁴⁰ A similar dispatch to Director of Air Service Charles Menoher prompted a sharp rebuke from Colonel Bane, who noted that the Engineering Division had “spent more than twenty-two thousand dollars in testing and constructing some of Captain Martin’s designs.”⁴¹ For Bane, Martin’s inability to realize his aircraft designs came not from any conspiracy

³⁷ Gerhardt to Martin, ca. Sep. 1, 1919, enclosed in Gerhardt to Chief Engineer, Feb. 12, 1923, folder 400.11, box 1366, RG 342, NACP; Scott to Wetmore and Garber, Mar. 11, 1937, Papers RE: Martin K-3, JMP. This poor showing did not prevent Martin’s friend and self-appointed aeronautical expert Henry Woodhouse from promoting the “distinctive features” of the K-III in his *Textbook of Applied Aeronautical Engineering* (NY: The Century Co., 1920), 112–13.

³⁸ In July 1924, Martin reached out to Smithsonian Secretary Charles D. Walcott about donating the K-III to the National Museum. While Martin remained adamant that the K-III was the first aircraft to use a retractable landing gear in flight, the Smithsonian label stated that the chassis “may be drawn up in flight” and therefore did not explicitly bestow priority to the machine. Martin to Walcott, Jun. 17, 1924, and Memo, undated, both in NASM 0070, Ascension 83905, National Air and Space Museum; Martin K-III Smithsonian Label, Martin Aircraft – Papers Regarding Martin K-III, box 2, JMP.

³⁹ Martin to Bane, May 14, 1919 and Martin to NACA, Jun. 17, 1919, both in folder 8, box 29, MAAP. Space does not permit a discussion of Martin’s time as master of the S.S. *Lake Fray* from June to November 1919, but it ended with his removal and a temporary ban on employment with the Shipping Board after he tried to arrange a side deal to sell and transport German war surplus aircraft and aeronautical equipment to the Russian White Army.

⁴⁰ Martin to Adjutant General, U.S. Army, Jul. 23, 1919, File No. 091-5138, box 311, RG 32, NAB.

⁴¹ Bane to Menoher, Sep. 9, 1919, folder 8, box 29, MAAP. Bane’s use of the designation Captain referred to Martin’s rank in the Merchant Marine. Martin possessed no military rank but often used the term to provide an aura of expertise and prestige to his aviation work.



W.F. Gerhardt piloting the K-III during its longest “jump” of “about 10 foot altitude, and . . . approximately 150 foot length” in summer 1919. The retractable landing gear are in an extended position.

against him but from an unwillingness to share data and numerous extended absences from the United States. Such accusations of corruption did not ingratiate Martin with the Engineering Division. As chief physicist for the National Advisory Committee for Aeronautics Edward P. Warner put it, Martin did “not appear to be popular at McCook Field” upon his return to the United States.⁴²

This escalating situation prompted Bane to invite Martin to the aforementioned two-day conference at McCook Field at the end of January, where his transmission bomber and retractable chassis dominated the discussion.⁴³ As the current assignee of U.S. Patent No. 1,089,029 issued to Paul G. Zimmermann in 1914, Martin claimed to “own the basic patents on any transmission system . . . involving more than one power unit.”⁴⁴ He considered the Engineering Division’s report on his transmission to be full of “deliberate misrepresentations” specifically designed to diminish its value and challenged the particulars of the test. Maj. George E. A. Hallett, head of the Power Plant Section, assured Martin that there had been no

⁴² Warner to Lewis, Jan. 20, 1920, *ibid.*; “Edward Pearson Warner,” in *Who’s Who in American Aeronautics* (NY: The Gardner, Moffat Co., 1922), 103.

⁴³ Martin’s list of eight grievances also included his Wing End Aileron, Aerodynamic Control, K-Bar Cellule Truss, Shock Absorbing Rudder, Shock Absorbing Wheel, and M.P. Plane. Unless otherwise cited, the material in this paragraph comes from Conference with Mr. Martin, Jan. 25 and 26, 1920, folder 8, box 29, MAAP.

⁴⁴ In the course of the discussion, Martin admitted that the transmission employed in his bomber had really been developed by Lt. Col. Vincent—a chief force in the creation of the Liberty engine and previous head of the Engineering Division—and other individuals in the U.S. and England.

manipulation of the two Liberty engines used, and that the transmission proved structurally “weak” even with improved bracing. Bane deemed the transmission “entirely unsatisfactory” and declared that any additional work to improve it would occur at Martin’s expense. Discussion of the K-III—an aircraft that incorporated multiple novel devices—illustrates the fundamental difference in design philosophy between Martin and the trained engineers at McCook Field. For Bane, the inclusion of several “rather unusual departures from the standard practice into one unit” made it “impossible to test out all of these devices.” He viewed the current design of the K-III, with its numerous unproven features, as simply “not satisfactory” due to the difficulty in isolating and evaluating its multiple variables. When Bane presented written concerns from McCook’s chief test pilot Maj. Rudolph Schroeder about the K-III’s safety, Martin dismissed them as “not pertinent.” Rather than adjust his design process, Martin accused Bane and his officers of conspiring with members of the MAA to monopolize military procurement contracts.⁴⁵

Patent Intrigue

Martin’s belief that he was the victim of a vast conspiracy only hardened in response to challenges to his retractable landing gear and transmission patents over the next two years. The first revolved around his offer to sell the U.S. Army and Navy an “irrevocable but non-exclusive license” to his retractable landing gear patent, US No. 1,306,768, for one dollar.⁴⁶ Air Service Contracting Officer Capt. R. H. Fleet accepted this offer contingent on final approval from the War and Navy Departments. A subsequent investigation by Fred D. Schnacke, a lawyer in the Air Service Patent Division, found the patent of “very limited scope” and “doubtful validity” in light of an 1876 French patent “wherein the main features of the Martin patent are described.”⁴⁷ Schnacke cautioned that acceptance of the proposed license would constitute a full recognition of Martin’s patent, preclude any future challenges on behalf of the U.S. government, and bestow “certain artificial values which our patent experts do

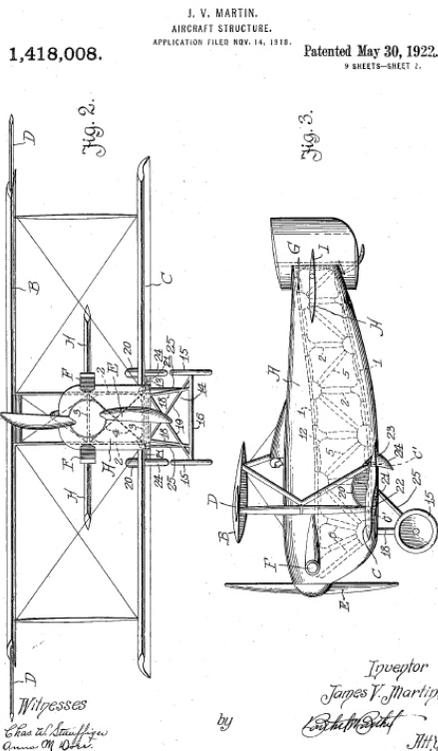
⁴⁵ In a letter to President Wilson’s personal secretary Joseph P. Tumulty two weeks later, Martin presented himself as “the victim of a well-organized conspiracy among Army and Navy Officials and certain aircraft manufacturers” who had engaged in “criminal negligence . . . during and since the war.” Martin to Tumulty, Feb. 27, 1920, File No. 091-5138, box 311, RG 32, NAB.

⁴⁶ Although this license would not provide him with any direct income, government recognition of his patent would support his claims to priority and serve as a potent marketing tool. Fleet to Martin, Sep. 8, 1920, and War Department Public Voucher to James V. Martin, both in File No. 27-202 Special Section, D.J. Central Files, Classified Correspondence Files, 27-186 to 27-213, RG 60, NACP.

⁴⁷ The French patent in question, No. 111,514, was issued to Charles-Alphonse Pénaud and Paul-Élie Gauchot. Report of F. D. Schnacke on Various Charges of James V. Martin, ca. 1923, box 1366, RG 342, NACP; Patent FR-1876-111574, http://econterms.net/aero/Patent_FR-1876-111574 (accessed May 18, 2021).

not think it is entitled to have.” In February 1921, Schnacke informed Martin that the U.S. government rejected his offer of a license for patent No. 1,306,768.⁴⁸ Whereas Martin viewed the U.S. Patent Office’s issuance of a patent as a definitive statement of his inventive priority, Schnacke recognized that this document did not constitute the final word. Martin interpreted this reversal as further evidence that an “Air Trust” sought to dominate military aircraft procurement at taxpayer expense.⁴⁹

Martin soon found himself having to defend his retractable landing gear against a challenge in the Patent Office. On June 29, 1921, the Engineering Division awarded Contract 408 for three airplanes with retractable landing gear to the Dayton Wright Airplane Company. In August 1920, Dayton Wright employee Milton C. Baumann had applied for a patent on the retractable landing gear used in the company’s RB-1 aircraft that had flown in that year’s Gordon Bennett Air Race. The awarding of this experimental contract to MAA member Dayton Wright enraged Martin, who, despite not having submitted a bid, believed his patent covered any and all types of retractable landing gear.⁵⁰ Two weeks after Dayton Wright received the contract, Martin found himself in an interference case



The U.S. Patent Office issued U.S. Patent #1,418,008 to Martin on May 30, 1922, embodying a modified version of his retractable landing gear after he successfully defended himself in an interference case.

⁴⁸ Schnacke to Martin, Feb. 18, 1921, folder 400.11, box 1366, RG 342, NACP.

⁴⁹ Martin to Bane, Mar. 12, 1921, *ibid*.

⁵⁰ Of the firms that submitted a bid in response to the June 15 call, half were MAA members at the time (in bold): G. Elias & Brothers, Inc. (\$63,750), Loening Aeronautical Engineering Corp. (\$68,500), **Gallaudet Aircraft Corp.** (\$71,000), **Boeing Airplane Co.** (\$73,260), **Dayton Wright Co.** (\$90,000), Lewis & Vought Corp. (\$92,750), Ordnance Engineering Corp. (\$118,500), and **Aeromarine Plane and Motor Co.** (\$123,000). Dayton Wright won the contract based on the feasibility of their design, prior experience, and demonstrated ability to deliver aircraft on schedule. R. H. Fleet, Certificate of Contracting Officer in Connection with Contract 408 with Dayton Wright Company, File No. 70-18, 3, D.J. Central Files, Classified Correspondence Files, 70-17 to 70-22, RG 60, NACP.

that pitted a modified version of his retractable landing gear embodied in a pending patent for the K-III against no less than four other pending patents for retractable landing gear.⁵¹ Dayton Wright patent attorney F. L. Walker represented Baumann, while representation for Ellingwood H. Towle, another party to the interference, came directly from the War Department.⁵² Even though a save harmless clause in Contract 408 shielded Dayton Wright from any potential liability, an interference case provided a way to both nullify Martin's claim to possess a basic patent for all retractable landing gear and his ability to pursue potential redress in the Court of Claims. While this case does not support Martin's overarching conspiracy claims, it does show a concerted effort among individuals at McCook Field and Dayton Wright to invalidate his claim to possess an all-encompassing basic patent.

Martin successfully defended his patent against all four challengers. He asserted a conception date of July 1903 for his retractable landing gear, declared that the K-III had been "suppressed from flight trials or official report by the Aircraft Conspiracy," and erroneously stated that Gerhardt's tests in the summer of 1919—conducted "for the express purpose of testing the Retractable Chassis"—proved that it "worked perfectly."⁵³ In a final attempt to block Martin's priority, Walker moved to dismiss all claims in the case "in view of prior patent No. 1,097,816, issued May 26, 1914, to F. McCarroll."⁵⁴ Martin successfully argued that McCarroll's patent did not utilize the three distinct "alighting means," "operating means," and "motion transmission means" at the heart of this particular interference case, and Walker's motion to dismiss was denied.⁵⁵ The Patent Office dismissed two challengers based on their stated date of conception, Martin secured assignee rights to one of the patents in

⁵¹ The four patent applications challenging Martin's priority were from Albert Janin, Alexander Klemin, Ellingwood H. Towle, and Milton C. Baumann. Declaration of Interference, Jul. 14, 1921, Patent Interference No. 46,234, box 612, Patent Interference Case Files, RG 241, NARA KC. The landing gear in the K-III structure's patent differed from Martin's earlier one through the incorporation of a worm gear to allow for adjustable angles and storage of the wheels in the wings when retracted. Patent interference cases occur quite often as the U.S. system awards priority to the original inventor rather than the first person to file. For a discussion of how interference cases can serve as tools for understanding the process of invention, see Seymour L. Chapin, "Patent Interferences and the History of Technology: A High-Flying Example," *Technology and Culture* 12, no. 3 (July 1971): 414–46.

⁵² Towle had developed his retractable landing gear while in the Air Service. Preliminary Statement of Ellingwood H. Towle, Sep. 7, 1921, Patent Interference No. 46,234, box 612, Patent Interference Case Files, RG 241, NARA KC; Weeks to Lovett, Nov. 15, 1921, File No. 27-113, D.J. Central Files, Classified Correspondence Files, 27-109 to 27-121, RG 60, NACP.

⁵³ Preliminary Statement of James V. Martin, Aug. 15, 1921, Patent Interference No. 46,234, box 612, Patent Interference Case Files, RG 241, NARA KC.

⁵⁴ Bartholomew, Acceptance of Preliminary Statements, Sep. 30, 1921, and Walker, Motion to Dismiss, Oct. 26, 1921, both in *ibid*.

⁵⁵ James V. Martin, Applicant's Brief, Dec. 22, 1921, Hearing on Motion to Dissolve, Dec. 22, 1921, Argument on Petition to Review, Jan. 28, 1922, all in *ibid*,

question, and Towle reluctantly recognized Martin's priority.⁵⁶ After the successful defense of the landing gear, the Patent Office issued US Patent No. 1,418,008 covering the K-III's structure to Martin on May 20, 1922.

The final incident that cemented Martin's conspiracy theory revolved around two 1920 contracts between the Navy and MAA member Gallaudet Aircraft Corp. for three experimental nacelles equipped with a single propeller powered by three Liberty engines.⁵⁷ As with the retractable landing gear, Martin considered the Zimmermann transmission patent under his control one that covered all attempts to link more than one motor to a single propeller. Convinced that Gallaudet's contract violated his patent, Martin sued in the U.S. District Court for the Southern District of New York as his interference case made its way through the Patent Office. The Navy contracts naturally included a save harmless clause, but, rather than have the case thrown to the Court of Claims, Gallaudet's attorney William B. Whitney sought to challenge the Zimmermann patent under Martin's control. To do so, he worked closely with Assistant Attorney General Robert H. Lovett and Justice Department patent specialists Harry E. Knight and John W. Loveland to craft Gallaudet's defense.⁵⁸ In Gallaudet's brief to the court, Whitney pointed to nine U.S., three British, and four French patents as proof of prior art. Lovett supported Whitney's efforts, but the Justice Department made plain that if Martin received a favorable ruling it would invoke jurisdiction and send the case to the Court of Claims.⁵⁹ It never came to that. Perhaps aware of the tenuous nature of his case, Martin filed for a reissue of Zimmermann's patent. Awarded on February 27, 1923, this reissue effectively invalidated the prior patent, and the case was dismissed on a motion from Whitney.⁶⁰

The rejection of his offer for a nonexclusive license, the awarding of contracts with save harmless clauses that he viewed as infringing on his patents, and the cooperation among MAA members and the government in both the interference case and District Court case looked to Martin like incontrovertible proof of a plot against him. In a pamphlet titled "How to Steal Valuable Inventions with the Aid of Air Service Officials," he presented his evidence of a conspiracy against "independent aircraft concerns."

⁵⁶ Albert Janin, *Disclaimer During Interference*, Jan. 24, 1922, and Towle to Sec. of War, Feb. 20, 1922, both in *ibid.*

⁵⁷ The contracts were 54,254 and 51,238, issued in March and June 1920. Whitney to Sec. of War, Dec. 17, 1921, File No. 27-121, D.J. Central Files, Classified Correspondence Files, 27-109 to 27-121, RG 60, NACP.

⁵⁸ Knight to Whitney, Jan. 5, 1922, Whitney to Knight, Jan. 6, 1922, Loveland to Whitney, Feb. 15, 1922, all in *ibid.*

⁵⁹ Brief for the United States as Amicus Curiae and Supplemental Brief for the United States as Amicus Curiae on the Constitutionality of the Act of July 1, 1918, both in File No. 27-121, D.J. Central Files, Classified Correspondence Files, 27-109 to 27-121, RG 60, NACP.

⁶⁰ Whitney to Knight, May 3, 1923, File No. 27-121, *ibid.*; P. G. Zimmermann, *Driving Mechanism for Airships*, US Re. 15,550. United States Patent and Trademark Office, originally filed Sep. 13, 1910 and reissued Feb. 27, 1923.

He accused Colonel Bane of being a willing “tool of the conspirators,” claimed the Engineering Division actively suppressed his K-III and transmission bomber, and charged both the Engineering Division and Dayton Wright of developing derivative patents for retractable landing gear after studying his K-III aircraft. He bemoaned a system that awarded contracts to MAA members who could then utilize any patent they wanted under the save harmless clause while the patent owner was limited to redress through the Court of Claims.⁶¹ Of course, this pamphlet did not mention the serious delays with his transmission bomber, the negative assessments of both his transmission and the K-III, or persistent questions about his engineering abilities. Sent to the commissioner of patents, Secretary of the Navy Edwin Denby, President Coolidge, and members of Congress, this pamphlet as well as subsequent articles in *The Libertarian* magazine presented a scandalous state of affairs in aviation, one that Martin hoped would stimulate an investigation to bestow upon him the recognition he felt he deserved.⁶²

The Push for an Investigation

Martin became determined to secure an official investigation after Schnacke rejected his retractable landing gear license. As previously discussed, he petitioned Attorney General Daugherty for an investigation into Air Service procurement practices on May 14, 1921. Persistence paid off, and that October the Justice Department tasked Washington, DC, lawyer Hazel L. Scaife with “a general investigation of the aircraft situation.”⁶³ Scaife was far from an impartial investigator. In an article that April, he had presented the wartime aircraft procurement program as hopelessly inept, declared that manufacturers had secured immense profits through corrupt means, and accused the military of providing the public with “false and misleading statements” to cover up the program’s deficiencies.⁶⁴ Martin became one of Scaife’s most important sources of information, and the investigator readily adopted his conspiracy theory. As a result, Martin’s claims became part of Scaife’s report to the Justice Department, which in turn provided Martin with an official report that he used to support his charges.

⁶¹ The full text of this pamphlet can be found in *Pooling of Patents: Hearings on H.R. 4523, Before the Committee on Patents*, 74th Cong. 207–213 (1935). Maj. Lawrence W. McIntosh, Bane’s successor as head of the Engineering Division at McCook Field, compiled a detailed refutation of each claim in Martin’s pamphlet for Chief of Air Service Mason Patrick. McIntosh, Memo on Activities of James V. Martin, Dec. 14, 1922, folder 8, box 29, MAAP.

⁶² Martin to Commissioner of Patents, Nov. 1, 1921, Patent Interference No. 46,234, box 612, Patent Interference Case Files, RG 241, NARA KC; Martin to Denby, May 9, 1922, folder 8, box 29, MAAP; Martin to Coolidge, Aug. 14, 1923, reprinted in James V. Martin, “The Aircraft Conspiracy,” *The Libertarian* 2, no. 3 (March 1924), 165, box 5, JMP.

⁶³ Scaife to Woodruff, Apr. 8, 1922, in 62nd Cong. Rec. 5290 (1922).

⁶⁴ Hazel L. Scaife, “What Was the Matter with the Air Service?” *Current History* 14 (April–September 1921), 10.

Unable to obtain a desired grand jury investigation from within the executive branch, Martin and Scaife turned to Congress. In spring 1922, they reached out to Republican Congressman Roy O. Woodruff of Michigan, a progressive in the vein of Wisconsin Senator Robert M. La Follette, who had been following the near-continuous investigations into wartime expenditures. By this time, concerns over continued corruption and waste in military procurement had morphed into a cudgel for Democrats and progressive Republicans to use against the pro-business Harding administration.⁶⁵ Woodruff seized upon Martin's alleged mistreatment at the hands of Air Service officials—along with Scaife's assertion that “high officials of the Government” had interfered in his investigation—as proof of deep-seated corruption within the Air Service. On April 11, 1922, Woodruff and fellow progressive Republican Royal C. Johnson of South Dakota took to the floor of the House.⁶⁶ In a fiery speech, Woodruff proclaimed the existence of a “criminal conspiracy in [the] handling of these aircraft and other war contracts,” while Johnson accused the War Department of protecting “an invisible biparty financial combine” that sought to defraud U.S. taxpayers.⁶⁷ Their resolutions to create a committee to investigate all War and Navy Department contracts over the past five years died in the Committee on Rules, something Martin interpreted as intentional repression by the Harding administration.⁶⁸

With the defeat of both Woodruff's and Johnson's resolutions, Martin turned to the courts. Because a suit of patent infringement against the government would be relegated to the Court of Claims, on April 4, 1923, he charged 28 corporations and 38 individuals involved in aircraft manufacture and procurement with conspiracy in violation of the Sherman Antitrust Act and sought \$51 million in damages.⁶⁹ In a grievance-laden petition to the Supreme Court of the District of

⁶⁵ For more on how progressive Republicans used charges of graft and corruption in the aircraft industry as a weapon against the Harding and Coolidge administrations, see Thomas W. Walterman, “Airpower and Private Enterprise: Federal-Industrial Relations in the Aeronautics Field, 1918–1926” (Ph.D. diss., Washington University, 1970).

⁶⁶ Scaife to Woodruff, Apr. 8, 1922, in 62nd Cong. Rec. 5290 (1922); Woodruff to Martin, Mar. 3, 1925, folder Letters and Documents, box 1, JMP. This 1925 letter from Woodruff to Martin recalled two prior meetings between the two in the former's office, one in the spring of 1922 and another in 1924. “Two Congressmen Say They Will Accuse Weeks in Connection with War Deals in House Today,” *New York Times*, Apr. 11, 1922. Johnson served on the House Select Committee on Expenditures in the War Department.

⁶⁷ 62nd Cong. Rec. 5288, 5347 (1922).

⁶⁸ Martin, “The Aircraft Conspiracy,” 119–20.

⁶⁹ The list of defendants reads like a “who's who” of aviation in the period, and includes the MAA, its members as well as nonmember corporations, Curtiss president Clement Keys, former Assistant Secretary of War Benedict Crowell, Chief of the Air Service Gen. Mason Patrick, three successive Engineering Division chiefs (Vincent, Bane, and McIntosh), head of the Navy Bureau of Aeronautics Adm. William Moffett, and Jerome Hunsaker.

Columbia that filled over 200 pages, Martin declared himself “one of the foremost pioneer inventors of basic principles and improved methods of construction of aeroplanes,” accused the MAA of constituting a monopoly in violation of the Sherman Antitrust Act, and charged the MAA and Engineering Division with collusion against non-MAA members.⁷⁰ Martin’s charges made a huge splash in the press, but his case rested on precarious legal foundations, and the MAA filed a plea in abatement based on the vagueness of his petition. Judge Frederick Siddons agreed that the petition demonstrated a clear lack of “knowledge of first principles of Common Law pleading,” and Martin’s three amended declarations over the next eight months failed to adequately address these defects.⁷¹ Siddons dismissed the entire case on February 4, 1924, and both the appellate court and Supreme Court denied Martin’s request for a writ of certiorari to compel Siddons to accept a fourth amended petition.⁷² As far as Martin was concerned, Siddons’s ruling only provided further proof of the conspirators’ ability “to make their acts . . . look like perfectly innocent official decisions”⁷³

The Lampert Committee

Six days before Siddons struck down Martin’s case, Wisconsin Republican and progressive firebrand John M. Nelson took to the floor of the House to call for an investigation into the aircraft situation. In a blistering speech, he claimed to possess “more than 7,000 documents” that detailed how aircraft manufacturers “who [had] participated in the loot of more than \$500,000,000 of the people’s money” during the previous war “are still getting . . . contracts under the same conditions and provisions.” He declared the MAA “in absolute violation of the Sherman antitrust law” and portrayed the save harmless clause as nothing more than a government license “to steal boldly and deliberately the patents of any inventor whose patent appliances the air trust may desire.” As evidence of a vicious conspiracy, he told of how an offer from an “independent” manufacturer to provide the government with a one-dollar license for his retractable landing gear had been rejected while an MAA member received a contract for aircraft with retractable landing gear at taxpayer

⁷⁰ In his petition to the court, Martin went to great lengths to connect his postwar experiences to charges of wartime corruption and graft that had followed the MAA since its creation. Damages, Declaration, and Exhibits, *James V. Martin v. The Manufacturers Aircraft Association, Inc. et al.*, Supreme Court of the District of Columbia, Law No. 67540, box 1258, Supreme Court of the District of Columbia Law Case Files, 1863–1934, Records of the District Courts of the United States, RG 21, NAB; Meeting of the MAA, Jul. 12, 1923, folder 1, box 3, MAAP.

⁷¹ Siddons to Mitchell, Nov. 10, 1925, File No. 229772, box 4062, D. J. Central Files, Straight Numerical Files, 229758–229791, RG 60, NACP.

⁷² “Martin’s Plane Suit Ordered Dismissed by Court,” *Washington Post*, Feb. 5, 1924; *Cases Adjudged in the Supreme Court, Oct. Term, 1925* (Washington, DC: GPO: 1926), 584; *Martin v. Siddons*, 269 U.S. 584, 46 S. Ct. 121, 70 L. Ed. 424, decided Dec. 14, 1925.

⁷³ Martin, “The Aircraft Conspiracy,” 139.

expense.⁷⁴ In a rebuttal the following week, fellow Republican representative and former Assistant Secretary of War Jonathan Wainwright noted clear similarities between Nelson's statements and those of Martin's recently dismissed conspiracy suit.⁷⁵ This was no coincidence. With the prospects of his case looking increasingly grim, Martin had come to Nelson's office claiming to possess thousands of pages worth of documents in support of his conspiracy charge. The aggrieved designer brought in Scaife—who had himself extensively relied on Martin for his findings—and together they served as Nelson's "two main witnesses." Nelson later admitted that he knew very little about aviation and had even allowed Martin and Scaife to draft his speech before the House.⁷⁶ As a result, Martin's claims that Siddons rejected as legally unsound became part of the *Congressional Record*.

Nelson's speech began a process that culminated in profound changes for American aviation. Based on Martin's belief that patent infringement and the save harmless clause lay at the root of corruption in Air Service procurement, Nelson submitted two resolutions calling for an investigation in the House Committee on Patents. Testimony before the Committee on Rules from Chief of Air Service Gen. Mason Patrick generated support for a wider investigation that would finally settle the numerous and persistent accusations swirling around government aviation. On March 24, 1924, the House established the Select Committee of Inquiry into Operations of the United States Air Services to investigate conditions in the Army, Navy, and Post Office as well as "any corporations, firms, or individuals or agencies having any transactions with or being in any manner associated with" those activities.⁷⁷ Known as the Lampert Committee after its chair, Republican Florian Lampert of Wisconsin, the nine-member, bipartisan body specifically focused on possible corruption in procurement, the legality of both the cross-license agreement and the MAA, and the use of the save harmless clause. The fact that all five Republican members came from the House Committee on Patents—where Lampert also served as chair—shows how central Martin's claims of patent infringement were to the Lampert Committee's work.⁷⁸ The committee moved forward with their investigation in a professional,

⁷⁴ 65th Cong. Rec. 1625–1633 (1924).

⁷⁵ 65th Cong. Rec. 1917 (1924).

⁷⁶ Statement by John M. Nelson, *Lampert Committee Hearings, Part I*, 45–52.

⁷⁷ *Report of the Select Committee into Operations of the United States Air Services*, H.R. Rep. no. 68-1653, at 1 (1925) (hereinafter cited as the *Lampert Committee Report*). Resolution 192 passed on March 24, 1924, with support from Democrats and both progressive and moderate Republicans. 65th Cong. Rec. 4815–4817 (1924).

⁷⁸ In addition to Lampert, the Republican members of the Select Committee were Party Whip Albert H. Vestal of Indiana, Randolph Perkins of New Jersey, Charles L. Faust of Missouri, and Frank R. Reid of Illinois. The Democratic side was composed of Clarence F. Lea (who was familiar with aviation issues from his work on the House Committee on Foreign and Interstate Commerce), Anning S. Prall of New York, Patrick B. O'Sullivan of Connecticut, and William N. Rogers of New Hampshire.

nonpoliticized manner, and its members visited McCook Field and numerous hubs of U.S. aeronautics over the summer.

Martin's charges not only prompted the creation of the Select Committee, but they also directed much of its investigative work.⁷⁹ Chief investigator Alexander Fisher estimated that "probably two-thirds" of his entire work for the committee revolved around Martin's claims of persecution and conspiracy.⁸⁰ When the committee established a technical advisory board composed of three experts each from the War and Navy Departments, it appointed Martin as a consultant with a \$10 per diem "so that the "pioneer" point of view may be had by the advisors in preparing their reports and presentations."⁸¹ Confidential document requests to the Air Service included calls for "all of the J. V. Martin contracts and the status of Mr. Martin's account with the Air Service" as well as any material relating to his various charges.⁸² Although Lampert reportedly became "thoroughly disgusted with Martin and wanted to kick him out," he nonetheless continued to tolerate the aircraft designer in the hope that his involvement would undercut any future charges of prejudice or impropriety against the committee.⁸³

Martin's testimony and rebuttals from various witnesses dominated the committee's hearings from October 1924 through March 1925. On the first day of the hearings, Martin readily admitted that, other than "work in practical navigation," he possessed no "special technical experience" in aeronautics. He then recounted how several of his devices had been "appropriated" without compensation. As

⁷⁹ Other individuals who labelled themselves "independents" testified before the Lampert Committee, such as George E. Barnhart, Samuel W. Carter, and Grover Loening, but none of them so directly shaped the creation of the Lampert Committee, directed its work, and dominated its hearings as did Martin.

⁸⁰ Report of Alexander M. Fisher, Dec. 7, 1924, *Lampert Committee Hearings, Part I*, 93.

⁸¹ Lampert to Weeks, Jun. 7, 1924 and memorandum to the Technical Advisors, Aug. 20, 1924, both in Records Relating to the Lampert Committee Investigations of the Air Service, 1921-1925, box 1, Records of the Army Air Forces, RG 18, NACP. The technical advisors assigned to the Select Committee were Alfred B. Verville, F. W. Caldwell, and Jean A. Roche of the Air Service Engineering Division, and Diehl, Harper, and Condon from the Navy's Bureau of Aeronautics. In addition to serving as expert witnesses, members of the committee's technical advisory board drafted "The Military Airplane," a primer on the fundamentals and current state of aviation that provided explicit details on the experimental procurement process and specification requirements for military aircraft.

⁸² J. D. Reardan to Chief, Finance Section, Jul. 29, 1924, and W. H. Frank to Chief, Engineering Division, Jul. 30, 1924, both in *ibid*.

⁸³ Burruss, Supplemental Report on James V. Martin, Sep. 15, 1924, File No. 70-18, 3, D.J. Central Files, Classified Correspondence Files, 70-17 to 70-22, RG 60, NACP. In his report on Martin, FBI agent H. P. Burruss concluded that "the one and sole object Subject has in his insistent demands upon the Department for action against the alleged Aircraft Conspiracy is to secure for himself, Scaife . . . and others, position as investigators, technical experts, etc., with the Department of Justice." Burruss, Report on James V. Martin, Sep. 10, 1924, File No. 70-18, 3, D.J. Central Files, Classified Correspondence Files, 70-17 to 70-22, RG 60, NACP.

evidence of prejudice against independents, Martin pointed out that although he had been the lowest bidder for a pursuit plane contract, it had been awarded to Grover Loening, a Columbia-trained engineer he viewed as an MAA “agent.” Called before the committee on multiple occasions, Martin divided the history of aeronautical development into two sections: the prewar “pioneers” and a “banking-broker-automobile-promoter group” that he claimed had taken over wartime production and continued to control the industry.⁸⁴ According to this interpretation, the MAA’s cross-license agreement and save harmless clause were simply tools of control that powerful outsiders had imposed for their own selfish gain at the expense of both independent inventors and national security.

In forceful testimony before the committee, Chief of Air Service Gen. Mason Patrick provided a full-throated defense of his procurement policies. Convinced that open bidding would result in a race to the bottom that would prompt numerous bankruptcies and ultimately monopoly, Patrick stressed the need to award contracts based on both the practicality of the design and a firm’s proven ability to deliver rather than simply the lowest bid. He declared that MAA membership had nothing to do with this decision, noting that “until this investigation started, I did not know who were or were not members.” As evidence against any bias, he presented seven circular bid proposals for 22 different aircraft between 1920 and 1924. Of the 55 total design and production contracts that arose from these bid proposals, 29 had gone to MAA member firms and 26 to nonmembers. Six of the seven circulars were sent to Martin, who submitted bids for two of them and had received a design contract for a single-seater pursuit aircraft. Loening’s bid ultimately won that particular production contract because “the design . . . promised to most nearly fulfill the requirements of this type of airplane.” Patrick noted that the MAA’s cross-license agreement allowed the government access to a plethora of patents free of negotiation and litigation, and that the save harmless clause ensured the development of state-of-the-art experimental aircraft “without the laborious process of ascertaining whether or not we were infringing patents, or of negotiating with the inventor as to whether we might use them.” Seeing no real choice between an established concern “which has had experience, the product of which you know, and one of which has done nothing along that line except to put things on paper,” he pleaded for the legal authority to abandon competitive bidding.⁸⁵ For Patrick, shrinking postwar procurement budgets and the needs of the national defense required supporting proven manufacturers, not throwing money at wild-eyed inventors and unproven devices.

⁸⁴ Testimony of James V. Martin, *Lampert Committee Hearings, Part I*, 55–87, and *Lampert Committee Hearings, Part III*, 2323.

⁸⁵ Testimony of Maj. Gen. Mason M. Patrick, *Lampert Committee Hearings, Part I*, 127–77.

Patrick was not alone in his defense of the cross-license agreement and the save harmless clause. Patent attorney Robert H. Young—former captain in the Air Service Patent Section and a defendant in Martin’s 1923 conspiracy case—portrayed the cross-license agreement as a clear benefit for the government that was “in a certain sense forced upon” the Curtiss and Wright interests in 1917. He pointed to several instances wherein the Air Service had negotiated for licenses from patent holders, and noted that the issuance of a patent through the U.S. Patent Office in no way bound the government to recognize its validity. Now a member of the Department of Justice tasked with defending the United States in patent infringement cases, Young, like Schnacke, believed that the 1876 French patent invalidated Martin’s claim to possess a basic patent for retractable landing gear, and he had advised Patrick to leave the matter to the Court of Claims.⁸⁶ Chief of the War Department Patent Section Lt. Col. Joseph I. McMullen pointed out that the cross-license agreement remained open to all reputable manufacturers. While recognizing the value of the save harmless clause for the government, McMullen nevertheless admitted that the time and money needed to pursue redress in the Court of Claims could put independent inventors at a disadvantage.⁸⁷ Both Young and McMullen recognized the need for reforms, but neither saw the cross-license agreement or the save harmless clause as nefarious or illegal. The two men agreed that, while both may incidentally inconvenience inventors, they facilitated government’s access to the latest inventions and a process existed to secure just compensation.

After hearing from more than 150 witnesses and combing through thousands of documents, the Lampert Committee issued a meticulous report on December 14, 1925. In a clear blow to Martin, the committee declared that “there is no aircraft trust” and that the cross-license agreement’s legality “should now be accepted as conclusive.” Qualified manufacturers were not making “excessive profits” through government contracts but rather were “going out of business” due to a scarcity of procurement funds.⁸⁸ The committee found the use of the save harmless clause “basically sound” and the best way to ensure government’s access to the most technologically advanced aircraft. It did, however, recognize that the save harmless clause could produce “incidental hardship upon inventors” and recommended

⁸⁶ Testimony of Robert H. Young, *Lampert Committee Hearings, Part I*, 222–68.

⁸⁷ Testimony of Lt. Col. Joseph I. McMullen, *Lampert Committee Hearings, Part I*, 178–220.

⁸⁸ Republican austerity during the Harding administration resulted in restricted procurement budgets for the Air Service. The 1920 Army Appropriations Act authorized \$33.4 million “for aviation purposes,” of which \$10 million went towards the procurement of aircraft, engines, and accessories. By 1923, total appropriations to the Air Service were down to \$12.7 million, with just over \$6.6 million for material procurement and experimental research combined. The MAA consistently advocated for a long-term procurement plan that would funnel adequate and sustained funding to the industry. *Report of the Director of Air Service, 1920* (Washington, DC: GPO, 1920); *Report of the Director of Air Service, 1921* (Washington, DC: GPO, 1921).

some other avenue for redress than the Court of Claims. The committee also called for greater transparency in the procurement process and legislation to eliminate competitive bidding so that proven firms could receive the financial support needed to survive.⁸⁹ The committee refused to accept Martin's binary of "pioneers" versus corrupt corporate interests, completely rejected the idea of an "Air Trust," and recommended concrete policies to ensure the expertise and productive capacity necessary to meet the nation's aerial defense needs.

Conclusion

Although the Lampert Committee did not provide Martin with the validation he craved, the willingness of certain members of Congress to pursue his allegations for political gain initiated profound changes in American aviation. Concerned over the possible recommendations of the Lampert Committee and faced with a crisis in public confidence after the loss of the Navy airship *Shenandoah* in September 1925, President Calvin Coolidge turned to his longtime friend and J. P. Morgan partner Dwight W. Morrow to lead a parallel aviation investigation. This President's Aircraft Board recommended various ways to stimulate civil aviation that aligned with the Lampert Committee's report released two weeks later, most notably the federal regulation of interstate flight through a bureau in the Commerce Department.⁹⁰ In response to these two reports, Congress passed the Air Commerce Act of 1926, which extended federal sovereignty to the nation's airspace and placed interstate and foreign flights under federal regulatory control to address unsafe flying conditions and promote the development of commercial aviation. While some historians have viewed the Lampert Committee as the first step in the legislative process that led to the Air Commerce Act, Lampert himself acknowledged that Martin's "allegations and charges" had prompted the creation of the House Select Committee.⁹¹ Based on the Lampert Committee's report, Section 10 of the 1926 Air Corps Act allowed the War and Navy Departments to award contracts to "the lowest *responsible* bidder"

⁸⁹ *Lampert Committee Report*.

⁹⁰ *Report of the President's Aircraft Board, November 30, 1925* (Washington, DC: GPO, 1925).

⁹¹ Statement of Chairman Lampert, Aug. 4, 1924, Records Relating to the Lampert Committee Investigations of the Air Service, 1921–1925, box 1, RG 18, NACP. As detailed in Seyer, *Sovereign Skies*, the Lampert Committee, in fact, represented one of the last episodes in a long process of ideation and institutionalization that drew upon regulatory frameworks for existing transportation technologies, the unique nature of powered flight, and an international regulatory regime established under the 1919 Convention Relating to the Regulation of Aerial Navigation. For interpretations that place the Lampert Committee near the beginning of this process, see Nick Komons, *Bonfires to Beacons: Federal Civil Aviation Policy under the Air Commerce Act, 1926–1938* (Washington, DC: Smithsonian Institution Press, 1989), and M. Houston Johnson V, *Taking Flight: The Foundations of American Commercial Aviation, 1918–1938* (College Station: Texas A&M University Press, 2019).

rather than simply the lowest bidder (emphasis added).⁹² With Martin's false charges providing the impetus for the House investigation, American aviation underwent a massive transformation in 1926.

Martin's crusade did not end with the Lampert Committee's dismissal of his allegations. He continued to testify against the "Air Trust" in congressional hearings over the next decade, most notably before the House Committee on Patents in 1935. Between 1926 and 1937 he initiated nearly two dozen cases before the Court of Claims, suits that the Department of Justice dismissed as "fishing expeditions" due to his tactic of requesting voluminous technical material as part of discovery.⁹³ With the expiration of his retractable landing gear patents imminent, Martin sued several aircraft manufacturers for infringement in 1936. Much to his chagrin, in 1940 the U.S. District Court of the District of Delaware not only failed to rule in his favor but also invalidated his retractable landing gear patents based on prior developments.⁹⁴ That same year, the Court of Claims dismissed Martin's 15 pending cases after rejecting his requests for further extensions.⁹⁵ Unable to rally Congress to his cause, Martin nonetheless remained a vocal opponent of what he considered to be a vicious monopoly in military aircraft procurement until his death in 1956.⁹⁶ While Martin is largely forgotten today, his belief that close coordination among established manufacturers and military procurement agencies naturally led to corruption continued in the Nye Committee of the mid-1930s and post-World War II concerns over a Cold War Military-Industrial Complex.⁹⁷

⁹² "Public Law 69-446 / Chapter 721, 69 Congress, Session 1, An Act: To provide more effectively for the national defense by increasing the efficiency of the Air Corps of the Army of the United States, and for other purposes," U.S. Statutes at Large 44, no. Main Section (1926): 780-90 (italics added).

⁹³ Asst. A.G. George C. Sweeney, Objection to Plaintiff's Motion for Call on the Navy Department, Jul. 11, 1935, Court of Claims case #42,546, and Asst. A.G. Francis M. Shea, Objection to Plaintiff's Motion for Call on the Navy Department, Feb. 21, 1940, Court of Claims case #42,546, both in folder G. J. 42546, box 4598, Records of the U.S. Court of Claims, RG 123, NAB.

⁹⁴ *James V. Martin v. United Aircraft Corporation, United Aircraft Manufacturing Corporation, and United Aircraft Export Corporation*, Final Judgment, May 24, 1940, 1164 In Equity, District Court of the United States, District of Delaware, Patent 1,306,768, box 49342, RG 241, NARA KC.

⁹⁵ *Cases Decided in the Court of Claims of the United States, April 1, 1940 to October 6, 1940, Vol. XCI* (Washington, DC: GPO, 1940), 686.

⁹⁶ Martin's views on the interwar "Air Trust" became a central element in two popular books by the muckraking journalist Emile Gauvreau, *Billy Mitchell: Founder of Our Air Force and Profit Without Honor* (1942), and *The Wild Blue Yonder* (1944).

⁹⁷ For a historical analysis of the development of the Military-Industrial Complex throughout the 20th and 21st centuries, see Paul A.C. Koistinen, *The Military-Industrial Complex: A Historical Perspective* (NY: Praeger, 1980), and Alex Roland, "The Military-Industrial Complex, Lobby and Trope," in *The Long War: A New History of U.S. National Security Policy since World War II*, ed. Andrew J. Bacevich (NY: Columbia University Press, 2009), 335-70.

To himself and other like-minded individuals, Martin was a heroic figure who sought recognition for pioneering independents and worked to expose a new military-industrial nexus that threatened democratic oversight and individual invention. For those in military procurement and the struggling aircraft industry, he was a “born trouble-maker,” a charlatan, or both.⁹⁸ The very nature of a government-issued patent lay at the heart of this contradiction. As a patent holder, Martin viewed his rights as absolute, inviolable, and all-encompassing. Those involved in aircraft procurement—focused primarily on the need to deliver cutting-edge machines vital to the national defense—recognized that a patent’s validity came not from its issuance but through subsequent litigation. Martin’s claims to inventive priority continued to be questioned while the state of the art advanced. An Early Bird tinkerer and experimenter who had adopted the moniker of engineer, Martin found himself unable to keep up with an industry in the throes of an intense professional transformation prompted by World War I, one that redefined notions of aeronautical expertise. Rather than adapt to these changing circumstances, Martin saw a conspiracy to push “independent pioneers” out of the industry.

Ultimately ineffective in his personal quest for recognition and wealth, Martin’s charges nevertheless prompted massive changes in the relationship between aviation and the federal government. Eager to use charges of impropriety in aircraft procurement as a bludgeon against the Harding and Coolidge administrations, progressive Republicans in Congress prompted a special inquiry that led—through a path-dependent process—to the passage of the 1926 Air Commerce Act. The history of technology is full of tales of unintended consequences; in this case, claims of conspiracy directly led to an unprecedented expansion of federal power over the airspace that, in turn, laid the groundwork for America’s 20th-century aerial preeminence. In our current post-truth world, where some see conspiracy theories as political tools, Martin’s story reminds us that such claims can elicit positive outcomes *if* they initiate a legitimate investigation that leads to substantive policy.

Picture credits: James Martin, Smithsonian National Air and Space Museum (NASM-NASM.XXXX.0162-M0000001-00020); K-III scout aircraft, from Henry Woodhouse, *Textbook of Applied Aeronautical Engineering* (1920); K-III during its longest “jump,” Manufacturers Aircraft Association Papers, American Heritage Center, University of Wyoming, Laramie; Patent, Records of the United States Patent and Trademark Office, RG 241, NARA Kansas City.

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⁹⁸ McIntosh to Patrick, Dec. 12, 1922, folder 8, box 29, MAAP.