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Editorials

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EDITORIALS

THE JOURNAL OF AIR LAW AND COMMERCE

Ever since Noah was commanded to take into the Ark "of every living thing two of every sort," and so "there went in two and two unto the Ark as God had commanded Noah," History illustrates how Law and Economics have been inseparably related. Economics furnishes the materials and the motives; Law supplies the mechanism for obtaining the results. It was necessary that each species of living thing should be preserved for new life after the impending Flood, but it was also necessary that the Ark be not overloaded. Hence the law of two by two.

However, in the original Federal Air Commerce Act of 1926 (a remarkable piece of well-planned advance legislation in a new field) there was no attempt to consider Economics. No data were available, no forecast possible. Safety alone was the objective. But in the last thirteen years, the extraordinary progress of aviation in all branches has brought to pass a radical change in the situation. Economics must now have its place in the legal scheme.

Hence in the new Federal Air Commerce Act of 1938 a joinder of Law and Economics made its appearance. The new provisions for a "certificate of convenience and necessity" throw into the picture the whole panorama of aeronautic economics. Henceforth the two form an inseparable field; for legal experience and legal dogmas alone cannot suffice, either in State law or in Federal law or in International law.

This is the change reflected in the new title for this "Journal of Air Law and Commerce."

This enlargement of scope will be assisted by admitting to the management of the School of Commerce of Northwestern University. The School of Commerce has installed courses in aeronautic economics. The personnel of its Faculty will contribute their knowledge and experience; and authoritative contributions will be invited from all competent sources.

This progressive change is but a phase that has long ago been passed through in the older agencies of transportation—rail and marine—and more recently in highway motor transportation. Fortunately it has come earlier in aeronautics than in the older activities. We may profit by their experience to undertake to solve

the great problems by advance thinking, rather than by the cruder trial and error method.

The Journal of Air Law and Commerce will endeavor earnestly to maintain its place as an organ for the most reliable information and authoritative discussion in this double and inseparable field.

J. H. WIGMORE.

ORGANIZATION OF THE AIR SAFETY BOARD*

The organization of the Air Safety Board, Civil Aeronautics Authority, was announced today by Colonel Sumpter Smith, Chairman of the Board. The Air Safety Board was created by the Civil Aeronautics Act of 1938 as an independent unit of the Civil Aeronautics Authority. The principal duties of the Air Safety Board as set forth in the Act are to:

1. Investigate accidents involving aircraft and report to the Authority the facts, conditions, and circumstances relating to each accident and the probable cause thereof. (Title VII—Sec. 702(a) (2).)
2. Make such recommendations to the Authority as, in its opinion, will tend to prevent similar accidents in the future. (Title VII—Sec. 702(a) (3).)
3. Make such reports and recommendations public in such form and manner as may be deemed by it to be in the public interest. (Title VII—Sec. 702(a) (4).)
4. Conduct investigations and necessary hearings in the performance of the above-enumerated duties. (Title VII—Sec. 702(c).)
5. Assist the Authority in ascertaining what will best tend to reduce or eliminate the possibility of, or recurrence of, accidents by investigating such complaints filed with the Authority or the Board, and by conducting such special studies and investigations, on matters pertaining to safety in air navigation and the prevention of accidents, as may be requested or approved by the Authority. (Title VII—Sec. 702(a) (5).)

These duties may be grouped under three headings: investigation, recommendation, and dissemination of information. For this reason the Board has divided the organization into three major divisions similar to this grouping of activities. In addition, being an independent unit, the Board has its own Executive Officer and Legal Adviser and has provided for a Technical Adviser on its main staff.

The three Divisions of the Board are the Investigation Division, the Recommendations Division and the Information and Publication Division. Each division consists of two closely related sections. Primarily, this grouping has been made for the purpose of pro-

* Taken from a Press Release of the Air Safety Board, dated November 23, 1938.

moting close coordination of the activities of the two associated sections.

The Investigation Division is the primary source of most of the material with which the Safety Board will work. It consists of the Investigation Section and the Examiners Section.

The Investigation Section is composed of a limited number of Air Safety Investigators whose duty it will be to investigate aircraft accidents. This section will have regional offices established so as to expedite the investigation of accidents. The Board expects to place one or more investigators in each office. For the sake of convenience, the location of these offices probably will coincide with those of the Civil Aeronautics Authority regional offices.

The Examiners Section consists of trained personnel, including attorneys who assist in the investigation of accidents, especially where public hearings are necessary, and in matters requiring legal interpretation.

The material gathered by the Investigation Division will be reviewed by the Recommendations Division where it will be completely analyzed and recommendations-originated for final action by the Board.

The Analysis Section of the Recommendations Division is the only section the Board took over from the old Bureau of Air Commerce. The Analysis Section will handle the mass of the work submitted to the Recommendations Division, but when detailed technical analysis is desired, the data will be turned over to the Technical Section, the second section in the Recommendations Division.

The Technical Section consists of a group of technicians and engineers, each a specialist in some certain phase of aeronautics. Included in this section is an aeronautical, communications, power plant and airport engineer, a maintenance expert and a meteorologist.

Information emerging from the Recommendations Division, release of which is believed to be in the public interest, is turned over to the Information and Statistical Section of the Information and Publication Division for handling. In addition, this section will assist in the preparation of other accident information and statistics and information concerning the activities of the Air Safety Board. This section will work in cooperation with the Information Divisions of the Authority.

The Liaison Section is the other section of the Information and Publication Division. It will maintain liaison with industry and state organizations and with other Federal agencies for the purpose of

coordinating the activities of the Air Safety Board with these other organizations.

In making the announcement concerning the organization of the Air Safety Board, Colonel Smith made the following remarks:

"Our type of agency is a little new and I am afraid that there has been some misunderstanding concerning the exact place we occupy in the entire scheme of things. Actually, the organization is simple. Primarily, we have been established to assist the Civil Aeronautics Authority and the industry to promote greater safety in aviation through our studies and recommendations resulting from our investigation of accidents. We are not snoopers or policemen. Rather let us say we are independent investigators of accidents with a main objective of being of maximum assistance to the public, the industry and the Authority by obtaining the true facts of each accident.

"Our organization is compact; fortunately so because the personnel will of necessity have to work together very closely. The duties of the various sections are correlated and each will be called upon by the other to collaborate in the submission of reports and in other work. We believe that we have the combination that will work and one that can be expanded if necessary.

"The Air Safety Board considers its duty and responsibility to be the submission to the Civil Aeronautics Authority of only such reasonable and practicable recommendations as are necessary to insure safety in aviation, and believes it is the responsibility of the aviation industry not only to cooperate with the Air Safety Board, but to make such recommendations affecting its own interests as may be practicable and necessary to insure safety to the public.

"The Air Safety Board can only be a success if and when the industry, private flyers, and the public form a partnership with the Board for the common welfare."