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FORM AND ORGANIZATION OF THE STATE AERONAUTICAL REGULATORY BODY

ELWOOD B. COLE*

The Present Situation:

In studying the present forms and organizations of regulatory bodies of the various states, we find a great diversity. By means of comparing the present set-up with that of 1930, as shown in Professor Fagg's "Survey of State Legislation,"¹ and with the report of Reed G. Landis of 1933, "The National Association of State Aviation Officials: Its Utility and Function,"² we find that in 1930 there were 18 states with no regulatory bodies; in 1933, 15 and in 1934, 14. This seemingly minor change has been occasioned largely by the fact that some bodies have been abolished but this loss has been more than offset by the allocation of regulatory duties to new or existing bodies during the same period of time. Considering the financial condition of the country during the past few years, it would seem that this comparison indicates a rather healthy condition with respect to the assuming of responsibility on the part of the various states for the regulation of aeronautical activity within their own boundaries.

As for the diversity of form, which we find at the present time, it is quite possible and logical as well, that the various states find certain conditions existing which have a definite influence upon their choice. It is reasonable to expect that a state having a large number of aircraft and pilots would require a different form of control than one wherein the occasional flight of an airplane is the exception, rather than the rule. Such states as the latter would not have the need for as *much* systematized control as the former states.

There is one requirement, however, which I believe applies to all states and that is the vital importance of the selection of competent personnel regardless of the form or organization of the regulatory body itself. If the person in charge of state aeronautical regulation is well informed, or at least willing to learn, that state is in much better position, so far as the aviation industry is

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1. 1 JOURNAL OF AIR LAW 452 (1930).

2. 4 JOURNAL OF AIR LAW 1 (1933).

concerned, than a state which has for its aeronautics official, a man who is appointed without regard to his qualifications.

Requirements for Any Desirable Form of State Regulatory Body:

I do not intend to argue very strongly for any particular form of state regulatory body but want to emphasize again that the selection of the right man as active head of any form of body is of the greatest importance. I could point out such states as Ohio and Michigan, whose officials have very wisely selected transport pilots of long experience in the aviation industry to head up their regulatory group. I could point out the States of Idaho and Florida which, although vesting the problem of aeronautical control with the Highway Departments, have appointed men of unquestioned ability to take the active leadership in this work. I could also refer to North Dakota and South Dakota where the work has been delegated to the Board of Railroad Commissioners and the members of that Board in charge of this work are doing a splendid job.

In this connection, it is of primary importance that the task of regulating aeronautics within the state should be in charge of an individual or group who have an unquestioned sincerity of purpose in their work. One state formerly had a law which delegated this authority to a certain state official and he was charged with the issuance of state licenses. It has been reported that he issued only one such license, and that because the applicant pestered him continuously until he had to issue it in self-defense. Obviously, such a lack of sincerity in purpose would be extremely detrimental to the securing of proper cooperation and support of the aviation industry.

Another very important feature in the development of a successful regulatory body would seem to be the prevention, if possible, of allowing the active head of that department to change too frequently. Such changes would do a great deal to instill a lack of confidence in the pilots of the state and a large part of the gains made would be lost with each change. In this connection, I should like to call your attention to a bill recently passed in the State of New Jersey which specifies the qualifications necessary for the Director of Aeronautics of the State and makes provision for that office being classified under Civil Service.

Under What System Can Greatest Good Be Realized:

I have tried to bring out the fact that the various states will have different requirements and, therefore, the best form of regulatory body may vary considerably. If we assume, however, a state wherein the need for a considerable amount of regulation exists, a fair comparison of forms of bodies may be discussed. Our chart shows that in 13 states, the control of aeronautics is essentially in the hands of one person, whether that person be a member of a special aviation body or whether he be a member of a prior existing body. The question arises as to whether one man can effectively regulate the many and varied phases of aeronautics within the state. It seems reasonable to doubt the ability of an individual, unless he has been actively engaged in the many phases of aeronautics, to effectively visualize and understand the problems which arise in this field. As to the practical ability of one man to cover the entire state activity, we all know from experience that this is impossible unless the state be one of very small size. In this same connection, we have the enforcement problems which arise and it is equally impossible for one man to take care of this angle of aeronautical control.

The question then arises as to whether there is any real merit in the creation of a special aviation commission such as exists in 11 states at the present time. In most of these states such a commission is, in the main, advisory, with an active director or secretary. The value of having such an advisory group seems to be unquestioned from the standpoint of having the services of several minds, rather than one. Such an advisory commission is a good balance wheel.

Another most valuable aspect of a special aviation group lies in the fact that they, normally, would be scattered throughout the state and would offer contacts with the industry that could not be had otherwise. The assistance of such a body is also apparent in promotional activities.

The appointment of a special aviation commission is, in most states, on an honorary basis and this is due largely to several reasons, the main one of which is the present economical condition. On this basis, the members of such a commission are not expected to put in their full time. An aviation body differs in this respect from other state commissions, such as railroad and public utility commissions, wherein the members are paid commensurate salaries and devote their entire business energy to that work.

A special aviation commission has the advantage of having their activities confined to the one subject of aeronautics. They do not have to divide their time in a manner such as is necessary with those commissions which deal with both railroad and bus transportation, for example. This fact develops interest, with the result that a well informed group is soon available to the state, particularly so because of the fact that the men originally chosen usually have some knowledge of the subject to begin with.

Are There Any Disadvantages in Having a Special Aviation Commission:

The great objection to the creation of a special aviation commission is one which is perfectly obvious and one which I will admit. I am speaking of the public sentiment against the creation of any new tax supported body. The question then remains as to whether this objection can be wholly or partially offset by the small cost of administration and the valuable help, both in the interests of public safety and uniformity of regulation. I think this objection can be *largely* offset, particularly so when the public is properly informed as to such costs.

Some states, particularly the smaller ones or those having a small amount of aeronautical activity, might object to the decentralization of control, and in cases where infrequent meetings are held, and communication is more or less difficult, such an exception might be well founded.

A third possible objection is that the already existing state bodies might have sufficient time and personnel to take over this additional work. If the industry could be assured of the designation of such men as have been appointed in Idaho, Florida and Oklahoma, for example, this objection to the creation of a special commission would also be well founded and the result of such appointments would be a decided help to the industry.

Summary:

I would like to summarize, briefly, in two groups, the merits and demerits of a special aviation commission, as I see them. Under the "Advantages," I would like to list,

- (a) A group of men offers a greater scope of thought than one man. This has been borne out vividly to me in Illinois, where I have had the advantage of valuable as-

sistance from the members of our Commission and the Air Law Institute of Northwestern University.

- (b) Such a commission could devote their full thought to the subject of aviation.
- (c) The subject being a new one and of great interest would draw forth better efforts on the part of those responsible for its regulation.
- (d) The lack of high financial returns to members of such a commission would preclude purely political appointments without regard to proper qualifications.

Under the "Disadvantages," I would list,

- (a) The increase of tax expenditures, meeting with universal disapproval at the present time.
- (b) Decentralization of control.
- (c) Availability of time and personnel in present existing bodies.

Conclusion:

In conclusion, I would like to say that, in my mind, the actual form of organization of a state regulatory body is not a matter of life and death. That which we seek is the proper control of aeronautical activity within the state and this, in conjunction with the splendid work being done by the Bureau of Air Commerce, may be handled effectively by one of several types of organization, assuming, of course, the selection of properly qualified men to do the work. The actual decision as to the form of body to be used is a problem which refers itself to the individual states and one which must be decided by them, depending upon their specific requirements.

It is interesting to note that the form of the regulatory body was considered by the aviation section of the American Bar Committee and the recommendation made by it to the Conference of Commissioners was to the effect that, where possible, the special aviation commission should be created.

CURRENT TYPES OF AERONAUTICAL REGULATORY BODIES*

	<i>States</i>
1. REGULATION OF AVIATION BY SPECIAL AVIATION BODY.....	16
(a) <i>Essentially in the hands of one person</i>	3
1. Connecticut, Commissioner of Aeronautics.	
2. Montana, Commissioner of Aeronautics.	
3. Ohio, Director of Aeronautics and Bureau.	

*The writer wishes to acknowledge the assistance of the AIR LAW INSTITUTE in assembling the material for this chart.

(b) <i>State Aviation Commission</i>	11
1. Alabama, Aviation Commission.	
2. Illinois, Aeronautics Commission.	
3. Iowa, Aeronautics Commission.	
4. Kentucky, Air Board.	
5. Maryland, Aviation Commission.	
6. Michigan, Board of Aeronautics.	
7. Minnesota, Aeronautics Commission.	
8. New Jersey, Aviation Commission.	
9. Oregon, Board of Aeronautics.	
10. Rhode Island, Aviation Commission.	
11. West Virginia, Board of Aeronautics.	
(c) <i>Contingent Commission</i>	1
1. California, Aeronautical Commission.	
(d) <i>Investigating Commission</i>	1
1. New York, Commission on Aviation.	
2. REGULATION OF AVIATION BY PRIOR EXISTING BODY.....	18
(a) <i>Essentially in the hands of one person</i>	10
1. Florida, Director Aviation Division, State Road Dept.	
2. Idaho, Airways Eng'r., Dept. Public Works.	
3. Louisiana, State Insp. of Aviation, Highway Commission.	
4. Maine, Secretary of State.	
5. Massachusetts, Supervisor of Aviation, Registry of Motor Vehicles, Department of Public Works.	
6. Oklahoma, Chief Air Officer, Highway Comm.	
7. Pennsylvania, Director of Aeronautics, Dept. of Revenue.	
8. Tennessee, Commissioner, Dept. of Highways and Public Works, with Advisory Board.	
9. Vermont, Com'r. of Motor Vehicles.	
10. Virginia, Inspector Aviation and RR., Corp. Comm.	
(b) <i>State Corporation Commission</i>	2
1. Arizona.	
2. New Mexico.	
(c) <i>State Public Service Commission</i>	3
1. Nevada.	
2. New Hampshire.	
3. Utah.	
(d) <i>State Railway Commission</i>	3
1. Nebraska.	
2. North Dakota.	
3. South Dakota.	
3. STATES HAVING NO REGULATORY BODY.....	14
1. Arkansas.	
2. Colorado.	
3. Delaware.	
4. Georgia.	
5. Indiana.	
6. Kansas.	
7. Mississippi.	
8. Missouri.	
9. North Carolina.	
10. South Carolina.	
11. Texas.	
12. Washington.	
13. Wisconsin.	
14. Wyoming.	