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**ALLIES IN AIR ADVANCEMENT: CORRELATION
OF EFFORT OF THE FEDERAL GOVERNMENT
AND THE STATES IN THE DEVELOPMENT
OF CIVIL AERONAUTICS IN THE
UNITED STATES***

COL. J. MONROE JOHNSON†

It is with more than ordinary zest that I thank your Association for its gracious invitation to move among you and speak to your members and friends.

The subject of my remarks looks to the principles and methods by which we can most wisely correlate the efforts of the Federal government and the governments of the States to insure the maximum of sound development of civil aeronautics in this country.

Because of the constitutional division of nation and states, we admittedly have our respective roles, but our ultimate missions are virtually one—to provide the civilian populace with the best aircraft that brains and labor can produce, have such aircraft handled by competent men, and establish adequate airways for their use—all with due regard for the public interest and particularly for the safety of life and property. There can be no conflict with this aim.

To achieve it in an art striving for place—where practice outruns rule, where already have appeared several clearly defined categories with varying needs, where territorial variations, both physical and social, hold out innumerable problems—will permit of no easy idle years. Nor will our aspirations be fully realized unless we ally ourselves in mutually resolving questions of governmental scope.

These views reflect the mind of the Department of Commerce which, for more than a decade, has dealt intimately with the affairs of air commerce. The early years presented issues which were comparatively small in number and in nature. Today, however, the situation has changed. The Department believes that the time is opportune to state its position so that clarification and

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orientation may be given to the healthy promotion and intelligent regulation of civil flying by the Nation and the States.

It is fitting that such a statement be made before your body, consisting as it does of representatives of the aviation units within so many of the State governments.

Because of your long experience in the art and science of aeronautics, it is unnecessary for my purpose to elaborate upon its technique. It would likewise be inappropriate for me to attempt to fire you with a glowing picture of America's wings of the future. You know too well that the job ahead will be a tough one. But our faith in its future is none the less strong.

In any consideration of our separate spheres, one is mindful that under the prevailing law the authority of the Federal government is not exclusive, not nearly so as with respect to the admiralty and maritime jurisdiction. Parenthetically, I would prefer to avoid any reference to law for fear of inciting the legal gentry. But even with you practical men some weight must be given to the legal basis of the subject. In this connection, it is to be observed that the Department's mandate under the organic Act is stated in the purpose clause to be "To encourage and regulate the use of aircraft in commerce." Validity for the Act is premised upon the power of Congress, acting through the Secretary of Commerce, to regulate interstate and foreign commerce. Thus we are circumscribed and numerous fields of action are left open to you in your States.

This being so, I deem it proper to say that if a well-rounded system is to be established, the States should assume their development and regulatory responsibilities with regard to intrastate aeronautics, and to this end should support some form of aviation unit within their government organizations.

Of course, the mere existence of such unit will not attain the objective. Better to have none at all than to have one that is inert or misguided in its energies. At the outset, caution should be the watchword lest excessive zeal give rise to outcry against the reformer and harmful disturbance be created in existing balances.

Your functions, like those of the Department of Commerce, appear to be divisible into two main classifications; one, development, or promotional—the other regulatory.

Development will receive lesser emphasis in my talk. It is the more attractive and is in most instances less apt to meet with resistance. Your opportunity in this quarter is one to conjure with. If Fate holds in store for the airplane anything like the

general distribution and use that has marked the rise of the automobile, then the airplane will be recorded as the outstanding phenomenon of the twentieth century. When the movement actually gains headway, do not neglect the ladies, for, as the automobile men will tell you, they are the real buying force.

It would be presumptuous of me to offer advice on how to spend State money for promotional purposes, save to say that forethought will probably effect a better result, if where a like project is devised, advantage is taken of Federal development in the same direction. Beyond that, I do not choose to go, for if the States will, within sane limitations, independently conduct their own development work, it is likely that greater benefit to the general public will flow from their trials and experimentation.

There is a point of conduct where the activities of our organizations do impinge constantly. It is in the construction and maintenance of airports. The significance of the airport problem is self evident. I have called a special conference to consider a national program of airport planning and related problems to be held in Washington on December 6 and 7. Your Association is expected to be well represented at the conference and to contribute some very helpful ideas. Soon thereafter it is proposed to submit to the Administration and to Congress a unanimous statement regarding the country's airport situation.

Regulation, the other branch of your endeavors, is, in our cooperative venture, the more difficult. It is of sterner stuff and often demands the performance of unpleasant duty.

In treating it, I wish to forcibly dispose of a prevalent misconception of the meaning and relationship of development and regulation, a misconception which should be eradicated before it takes hold. There are those who counsel that regulatory effort at all times be relegated to the rear rank. This is false doctrine for many incidents and conditions call for a firm hand. Let the doubter go back to the post-war period preceding the enactment of the 1926 Statute. He will discover that among the principal arguments advanced for government intervention in non-military aviation were the following: Some government control was needed for the elemental reason that investors would not come forward with funds with which to build aircraft unless standards of airworthiness be set up and administered; that the airmen entrusted with aircraft be competent according to prescribed rules; the public, both user and non-user, as with other modes of transport and travel, wanted the protection of government regulation. Also, in-

surance underwriters would not cover air risks until such things were done. These reasons are just as compelling now as they were then. I make no plea for indiscriminate rule-making and enforcing; I do insist that while development and regulation may run in different channels, they are parts of the same stream.

It is my intention to indicate, without dictating, the means and methods by which we can, in unison, best carry out our respective regulatory functions. In the beginning, the air laws of the States should be uniform with those of the Federal government in at least three elements; namely, in the certification of aircraft as to airworthiness and airmen as to competency, and traffic rules, or rules of the road in the air. Whereas some variants might justifiably appear in the first two mentioned, based upon peculiar circumstances, sectional or regional, it is earnestly felt that if safety of flight is to be achieved, the air traffic rules should be uniform throughout the land.

You will find in studying the new Civil Air Regulations, that the Department of Commerce intends to hew more closely to the line of the Federal tradition in regulating commerce. This revision of former practice should be of more than passing interest to you because we are saying in effect that the States should assert themselves in regulating intrastate flying, which, in the past, in some measure, has been assumed to be a responsibility of the Department's field force. The concentration provided for in the new regulations is made necessary for several reasons. There is public insistence that the Department focus its attention upon matters of Federal concern, and while our personnel has been increased in reorganizing the Bureau of Air Commerce, it has not increased in proportion to the growth of new business which has fallen to our lot during the past two years. You will realize this when you consider the developments in foreign air commerce and the formidable airways enlargement and modernization program that has been inaugurated.

Incidentally, you will be in daily touch with the Civil Air Regulations. Doubtlessly, there will be differences of opinion respecting them. No claim is made that they are perfect, but we modestly believe that they represent a very considerable improvement over the previous regulations. They provide a logical framework upon which to build a workable set of rules which will undergo continual revision because of the continually changing art to which they are devoted. To me, one of the outstanding features of the Civil Air Regulations, which is the handiwork of leaders

from your association, is that under one cover I shall be able to find all of the air regulations administered by my Department. I wish to repeat an invitation previously extended—your advice and comment on these regulations is earnestly solicited. We ask your best thought, for they represent months of gruelling work.

Note, for example, again referring to the air traffic rules, that the latter are founded upon the most dangerous conditions on the airways—when instrument flying is necessary. The provisions contained in the rules may produce some apparent hardships, which experience may reveal can be eliminated, or reduced, but we think it is better to prevent a fatal aircraft collision than to allow unrestricted liberty of flight. Let your hindsight review automobile traffic accidents for confirmation of this point of view.

We approach more closely the realities of our respective roles in the manner in which we deal with violations, or complaints, under our separate regulations. Naturally, if the rules are harmonized, there will be a minimum of difference in applying our regulatory authority. The policy of the Department in the matter of violations will be to investigate and act upon them on its own initiative when the aircraft, or airman, is engaged in interstate or foreign commerce, and when the Federal Civil Air Regulations are materially involved or affected. When, however, the violation in question is not in interstate or foreign commerce and when such commerce is not substantially affected and when neither the aircraft nor the airman are possessed of a Federal certificate, the Department, where the flight comes under its surveillance, will simply transmit a report to the State in which the flight occurs and leave the matter to the disposition of the State authorities.

If the policy and procedure described is to succeed, further desirability is shown for having an aviation authority in each State to regulate intrastate flying. For if some States do not see fit to maintain such an authority, it is likely that, as in other pursuits, the incorrigible or the wily evader will find his way to the lax state with the results that are already borne out by our records.

The lines of demarcation in carrying out the team assignments cannot now be drawn with any straight-edge. Experience will point the way, providing it is obtained in an atmosphere of mutual respect and helpfulness. The Department of Commerce is ready and willing to cooperate to the fullest extent possible. I am confident that you men of the State organizations, imbued as you are with pioneer fervor, will meet us at least half way.