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Book Review: Aviation Law

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Book Review

AVIATION LAW by Gerard Pucci (2d ed. 1974).

The author states this work was prepared for “academic study by the aviation student.”¹ From the simplified “learning guide”² and the “glossary of commonly used legal terms”³ to the unedited, verbatim statements of cases, complete with West headnotes, it is clearly not a volume intended for law students. For what type of aviation course this book is intended to provide the legal background, and whether on the undergraduate level or otherwise, does not clearly appear. Whatever the intention of the author, this volume falls short of providing any substantial background in the law of aviation.

The title and the preface suggest that this book provides a general overview of aviation law. Such is not provided, however, because basic areas, such as domestic regulation of both commercial and general aviation, air safety, international regulation and treaties, are omitted. In fact, the book would be more aptly titled *Aviation Tort Liability* because seven of its eight chapters deal with different aspects of the law of aviation tort liability. Some of the chapters may be of interest to the non-legal student, such as *Damages and Injuries on Ground* (Chapter III) and *Liability to Passengers* (Chapter IV). It is difficult to see, however, the value to the non-legal student of such areas as *Tariffs—Limitation on Liability* (Chapter V), *Workmen’s Compensation—Limitation on Liability* (Chapter VI), or *Liability of Manufacturers and Repairers* (Chapter VIII).

Each chapter is commenced with a short explanation followed by one or more cases. The author describes the former as the “abstract theory” and the latter the “laboratory by which is demonstrated the application of the theory.”⁴ It is difficult to fit some of the abstract theory into the laboratory intended. An example is

¹ G. Pucci, *AVIATION LAW* ix (2d ed. 1974).

² *Id.* at 313.

³ *Id.* at 323.

⁴ *Id.* at 1.

the lead-off case in which the U.S. Supreme Court claimed the coastal waters, including oil thereunder, to be within the domain of the United States, rather than the State of Texas.⁵ This case is presented as authority for federal supremacy in airspace, although in the case of airspace, such issue was decided by Congress a quarter century earlier.⁶ Another example is the citation of *U.S. v. Causby*⁷ as resolving the conflict between federal and state government in the regulation of airspace. This reviewer had difficulty finding such issue, yet in the section discussing inverse condemnation, this landmark case is completely omitted!

The explanations of the 'abstract theory' left this reviewer questioning the accuracy of each statement made. Re-examination indicated that oversimplification would be a better description of the problem. An example would be the confusion of inverse condemnation under the federal and state constitutions with damage actions under enabling legislation such as the Federal Tort Claims Act. The result however, is confusion and possible inaccuracy, or at least misunderstanding—undoubtedly in an attempt to clarify legal problems for a non-legal audience.

While a law professor is trained to look at a case book, such as the one under review, from the basis of its value in a legal course, an attempt has been made to look at this volume from the point of view of the non-legal student. It may be, however, that a law professor's attempting such an approach does an injustice to the author and his work. Nevertheless, it is this reviewer's conclusion that this volume is of little value to the law student because of its elementary nature and simplistic approach, and of little value to the non-legal student because it presents a few problems, mainly concerning tort liability, and fails to present an overview of aviation law. Difficulty for the non-legal student is compounded by the use of unedited cases, which must unnecessarily complicate such study for those untrained in analysis of legal opinions.

Stanley B. Rosenfield

⁵ United States v. Texas, 339 U.S. 707 (1950).

⁶ Air Commerce Act of 1926, 44 Stat. 568.

⁷ 328 U.S. 256 (1946).