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## Digest of Recent Cases

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## DIGEST OF RECENT CASES

### AIRCRAFT — ACTION OF TORT FOR CONVERSION — SEIZURE BY SHERIFF TO SATISFY JUDGMENT — PASSAGE OF TITLE — RECORDATION

*Marrs v. Barbeau*

5 CCH Aviation L. Rep. 17,654 (Mass., December 4, 1957).

The purchaser's failure to record an airplane bill of sale with the Civil Aeronautics Administration pursuant to the Civil Aeronautics Act, voids such purchase as well as an otherwise valid attachment of the plane by such purchaser's judgment creditor as against a subsequent *bona fide* purchaser who records his bill of sale. Subsequent to the plaintiff's demand for release of the plane, the sheriff sold the airplane at an execution sale and its therefore liable to the plaintiff for conversion.

### TAXATION — PROPERTY LEASED TO AIR FORCE — JURISDICTION OF STATE

*International Business Machines Corp. v. Vaughan*

5 CCH Aviation L. Rep. 17,677 (Florida Supreme Court, November 27, 1957).

Privately owned electric accounting machines which were leased to the United States Air Force for use on an Air Force base are exempt from property tax. The land on which the base was located was ceded to the United States for use as the site of forts, arsenals and other necessary federal buildings. While the deed of cession reserved to the state jurisdiction for service of process, it was held that nothing in the deed suggested that the right to tax property situated on the ceded land was similarly reserved.

### NEGLIGENCE OF AIR CARRIER — INJURY TO PASSENGER — ISSUE OF NEGLIGENCE PROPERLY LEFT TO JURY

*American Airlines, Inc. v. Marchant*

5 CCH Aviation L. Rep. 17,633 (1st Cir., November 22, 1957).

Evidence indicating that the defendant air carrier neglected to maintain constant cabin pressure during a rapid ascent, thus causing the rupture of a passenger's eardrum, was properly submitted to the jury for a determination of the carrier's negligence. The trial court correctly denied defendant's motion for judgment notwithstanding the verdict when it was shown that the plane was equipped with an automatic pressurizer, subject to manual control, which might have been used to alleviate plaintiff's pain after the stewardess was informed of his discomfort.

### FAIR LABOR STANDARDS ACT — AIR FORCE BASE CONSTRUCTION — GEOGRAPHICAL SCOPE OF ACT — POSSESSION OF UNITED STATES

*O'Brien v. Morrison-Knudsen Company*

5 CCH Aviation L. Rep. 17,664 (F. Supp., N. Y., November 27, 1957).

Unless an Air Force base in Morocco is shown to be a "possession" of the United States, employment on such base is not covered by the Fair Labor Standards Act. Whether or not such a base constitutes a "possession" depends upon the provisions of the treaty executed between the United States and France and/or Morocco—a treaty which has been designated as "top

secret." Because plaintiff had no access to such information, he failed to sustain the burden of proof that his employment was subject to the Act and his suit was dismissed.

**CONDEMNATION — ABANDONMENT OF PROCEEDINGS —  
DAMAGE TO OWNER RESULTING FROM  
ABANDONMENT**

*Kroger Co. v. Louisville & Jefferson County Air Board*

5 CCH Aviation L. Rep. 17,667 (Kentucky Court of Appeals, December 5, 1957).

The owner of real estate may not recover damages resulting from the commencement and prosecution of condemnation proceedings for airport expansion purposes in the absence of bad faith or unreasonable delay by the county air board which instituted such proceedings. Losses incurred by the property owner because of uncertainty in eminent domain proceedings are governed by the rule of law of damages without injury. While negotiation with the land owner is not a condition precedent to the commencement of such a suit, neither is bad faith chargeable to the air board, as public officials are presumed to act in good faith.

**AIRPLANE ACCIDENT — PILOT ON JURY PANEL —  
IMPROPER ARGUMENT TO JURY**

*Rorabaugh v. Northwest Airlines, Inc.*

5 CCH Aviation L. Rep. 17,687 (F. Supp., N. J., December 20, 1957).

Strong suggestions to a jury by counsel that the jury should place emphasis upon the advice of a fellow jury member, who was also a pilot, regarding his opinion of the evidence about weather conditions, together with the statement, "Thank God, you got one on the jury who will tell you about it," resulted in the setting aside of the verdict and granting of new trials in death suits arising from a plane crash into Lake Michigan. Plaintiff's evidence attempted to prove that because of defendant's negligence, the plane had flown into turbulence. Although the jury found that the defendant was negligent, it further found that such negligence was not the proximate cause of the plane's fall. Defense counsel's admonition was regarded as objectionable because plaintiff was denied the opportunity to cross-examine the pilot-juror about his special information, and because jury members cannot generally rely upon their own knowledge of complex meteorological facts.