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Book Reviews

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BOOK REVIEWS

AVIATION ACCIDENT LAW, by Charles S. Rhyne (Columbia Law Book Company, 730 Jackson Place, N.W., Washington 6, D. C. 1947, pp. x, 315. \$7.50.)

Charles S. Rhyne¹ has written a book which should appeal to a wide range of readers. It will be of interest to all persons concerned with aviation, whether as operators, passengers, shippers, pilots, or even those whose interest is more general; and it is a "must have" book for every lawyer whose practice may require knowledge of the principles of liability for aviation accidents.

It is most fitting that this valuable book should be presented by this particular aviation practicing lawyer. He has pioneered with two aviation books for practitioners (cited in the footnote). Mr. Rhyne is a true lawyer—able, alert, wise—who is making a splendid contribution to the Aviation Law Bar. He knows his field and he knows when to write a book.

This work has been much needed. As Mr. Rhyne points out in the Introduction, it collects and analyzes the decisions of the courts involving aviation accidents "in an effort to state the status of the legal rules developed by such decisions"; and it includes a consideration of applicable statutes and treaties now in effect. The convenient and practicable Table of Contents makes available a classification of the material included which should enable anyone to turn at once to the treatment of any of the recognized accident liability fields and find there all the cases on the subject. There is also a useful index. In addition to the normal classification of the book's material, there is a special chapter on "Aviation Accidents in International Air Transportation" which deals with several of the international conventions, including particularly the famous Warsaw Convention. The United States is a party to this convention. It attempts to establish a uniform system of liability on the part of carriers by air engaged in international transportation of passengers, baggage and goods. It is, therefore, of great interest and importance to the United States' practitioner who will more and more need to know of its provisions and of the court decisions thereunder.

For the student of aviation, whether or not he be a practicing lawyer, this book could well be examined along with the "*Report to the Civil Aeronautics Board of a Study of Proposed Aviation Liability Legislation*" by Edward C. Sweeney, dated June 1, 1941. This Sweeney report was a study of underlying facts and principles relating to aviation accident liability. It raised numerous important questions, such as, for example: "Do an appreciable number of persons injured by aircraft have no redress at common law because many aircraft accidents are not due to the legal negligence of the aircraft operator?"; "Do practical difficulties unduly hinder production of legally competent evidence to prove negligence in aviation suits?"; "Does the existing diversity of liability standards among the several states hinder the development of aviation?"; and, "Would a system of absolute limited liability, similar to Workmen's Compensation, be a fairer method of adjusting aviation losses than the present common law system?". To the extent that the courts in their decided cases have dealt with any of these questions, the necessary reference material will be found in Mr. Rhyne's book. It is a pity that the Sweeney report could not be published as a companion volume.

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The law proudly claims capacity to achieve stability and, at the same time, to adapt itself to the changing conditions of life. Stability is the result of the deployment of sound theory. Naturally, new facts do not necessarily render invalid old theory. Dependable theory gives the law its idea content. Likewise the architectural concept of a beautiful building gives it the character which appeals to the mind through sight. The imaginative realization of how physical principles may be made to interplay to produce a radio, *e.g.*, is more important than all the cheap physical materials in it. The "theory" or the "idea" is the controlling element that gives law stability. As Justice Holmes said many years ago: "We have too little theory in the law rather than too much. . . . To an imagination of any scope, the most far reaching form of power is not money, it is the command of ideas."

The problem in aviation is to apply sound theory, such as that of liability for negligent acts, to new facts. In the field of transportation heretofore, the theory of negligence has been applied, of course, to various surface forms of transportation. The facts of aviation are so different as to make the application of the theory of negligence, for example, seem to require modification. However, it probably will be found that it is not the theory that requires modification so much as it is the intelligent application thereof to aviation's new facts. To the extent that such application is available in the decided cases, the practitioner will find all the answers there are in Mr. Rhyne's book.

L. WELCH POGUE*

INTERNATIONAL AIR TRANSPORT 1947, Edited by the Rt. Hon. Lord Sempill A.F.C., F.R.Ae.S. (London and New York: Todd Reference Books, Ltd. 1947) pp. 476.)

This is the third edition of an annual reference book previously known as *Air Transport and Civil Aviation*. A statement by the publishers indicates that enlargement of the scope of the book is the reason for retitling.

Students of aviation and others engaged in various air transport researches will find this a useful key. For instance, most of the principal air transport companies of the world have contributed comprehensive statements on their development, present activities and future plans. Another section contains directories and statements of the policy and scope of the various international bodies concerned with civil aviation.

In addition to detailed statistics for United Kingdom operators, the book contains an interesting Table 9, "Operational Statistics of the Major Air Transport Companies of the World." The tabulation is for the year ended December 31, 1945 and is not comprehensive, but affords considerable comparative interest.

S. B.

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