

1952

Book Reviews

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Recommended Citation

Book Reviews, 19 J. Air L. & Com. 248 (1952)
<https://scholar.smu.edu/jalc/vol19/iss2/10>

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BOOK REVIEWS

THE SOCIAL IMPACT OF THE WARSAW CONVENTION; A CRITIQUE OF THE LEE DECISIONS ON THE WARSAW CONVENTION AND A PLEA FOR EARLY RECTIFICATION, by Harold J. Sherman. (New York, Exposition Press, 1952. 156p. \$2.00)

Since the CITEJA meeting in Cairo in 1946 when it was officially proposed that the Warsaw Convention of 1929 be amended there has been a lively debate on this subject. Frequent articles in this JOURNAL during recent years attest to a continuing interest in the Convention. Consequently, Mr. Sherman's book is timely.

He discusses the Convention as it applies to the case of *Lee et al. v. Pan American Airways, Inc.*, a damage suit in connection with the death of the late Arthur Albertus Lee, of Westchester County, New York on February 22, 1943 in the Pan American air-liner "Yankee Clipper" which crashed in Lisbon, Portugal. The book relates the unsuccessful struggle of the surviving widow and next of kin of Mr. Lee in the highest courts of the State of New York and in the Supreme Court of the United States to procure damages in full for their loss.

In part one the author, a practicing New York attorney and a partner in the law firm of Fitelson and Mayer, strives to demonstrate that the Lee decisions are erroneous in principle and judicial policy by presenting the issues and an analysis of the arguments in the Lee case. He states that the restriction of their recovery of damages to no more than \$8,291.87 as provided in subdivision (1) of article 22 of the Warsaw Convention unconstitutionally deprives them of their right of jury trial under the seventh amendment of the Bill of Rights as to their actual damages in excess of that arbitrary figure. He challenges the concept of the Warsaw Convention as the "supreme Law of the Land" and the precedent that a treaty entered into by the United States is a law operating and binding upon the courts, state and federal, which are under the same obligation to give it effect as they are to enforce the Constitution itself. The Warsaw Convention is also criticized on the grounds that its language is too general, vague, and ambiguous to be enforceable as a limitation of the plaintiffs' rights to judgment for the maximum provable damages.

In part two the author proposes various avenues for effecting a revision of the Convention. He is critical of the International Air Transport Association, of the private air-carrier association of the United States, and of the United States Departments of State and Commerce for their reluctance in initiating proposals for required revisions and of the Legal Committee of ICAO for failing to advocate full liability of air carriers where their negligence is established. The author suggests as a possible solution a reasonable upward adjustment of the maximum fare rates to provide maximum liability protection for passengers.

Readers seeking a really exhaustive treatment of the many problems of the Warsaw Convention will be disappointed for the book relates almost exclusively to subdivision (1) of article 22 and the cases are limited to the United States. The work is not wholly disinterested since Mr. Sherman was the attorney for the plaintiffs. Nevertheless, he presents a provocative summary of the legal principles involved.

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