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Editorial

Fred D. Fagg Jr.

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THE JOURNAL OF AIR LAW

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EDITORIALS

THE VALUE OF AN AIR LAW INSTITUTE

What service can an Air Law Institute render?

1. In the course of legal history, new economic and social activities have from time to time found the Law not prepared with developed rules to fit patly the new needs for definition of rights. And naturally so, for Law is based on Experience.

At such times there has usually—and unavoidably—been a long period of fumbling.

Here are some instances:

When the copious literary activity of the early 1700's sprang into life in England, and the era of Dryden, Addison, Pope, Johnson, Swift, and Goldsmith arrived, the importance of recognizing and defining literary property became gradually apparent. But more than sixty years passed (between the elementary statute of 1710 and the House of Lords' decision in 1774) before the final definition of rights was made by the courts.

When commercial activities created the moral and business need for recognizing property in trade marks and trade names, more than two centuries elapsed between the earliest judicial rulings in England and the final comprehensive statute in 1876.

When gold was discovered in California in 1848, the inherited common law contained no rules for defining the numerous detailed relations of the parties in mining operations. On the basis of customs gradually established by self-help and the strong arm, it took a generation for the courts to work out the legal rules.

And when placer-mining developed new uses for stream-water, and later when the arid regions called for artificial irrigation, the old simple rules for water-rights proved inadequate, and nearly two generations elapsed before the final formulation of new rules.

Courts and legislatures, between them, ultimately solved these problems. But the transition periods were long; and in the interim there was much fumbling, while the law was being adjusted to the equities of experience.

2. Again, today, we are confronted with a new, and this time a vaster, field for the definition of legal rights—Rights in the Air. Again we are faced with the prospect of a long period of fumbling and error.

Can that period be avoided? And if not avoided, can it not at least be minimized? This time, we have the teachings of history, which urge us to control the situation at the start.

3. The conditions for success, we believe, are, first, an early exchange of experiences; and, secondly, a central organ for that exchange of experiences.

Such is the service which the Air Law Institute and the Air Law Journal aim to render, viz., to furnish a clearing-house for experiences.

The field, of course, is so vast, the experiences are so varied and local, and the interests involved are so powerful, that no one place or body of men can expect to become the only medium of expression. But at any rate much fumbling can be avoided, and the era of settle-

ment can be brought to pass more speedily, if such a service is made available.

What is needed is coöperation from all quarters. The Journal hopes to receive it.

JOHN H. WIGMORE.

THE JOURNAL OF AIR LAW

The bibliography prepared by Dr. Rudolph Hirschberg and published in the June number of the Southern California Law Review clearly shows the need for a Journal of Air Law. A multitude of extremely valuable articles has been written in the English language and these appear in almost as many periodicals. The lawyer who would consult them must collect a large library at considerable expense to himself. With the increasing number of articles, the task of making them available becomes a real burden. France has its *Droit Aérien*, Germany its *Zeitschrift für das gesamte Luftrecht*, and Italy its *Il Diritto Aeronautico*. The United States has had no such publication devoted to air law.

The Air Law Institute saw the need for such a publication and, in the late summer of 1929, publicly announced in 30,000 bulletins sent to lawyers and other interested persons, its intention to publish such a Journal. This issue introduces the *JOURNAL OF AIR LAW* as one devoted to the various interests of air law—aeronautical law, air property law, and radio law. Its pages are open to those who have something to contribute to the important and tremendous development of this field of law.

The problems of air law are not essentially local. They are national and international. Representative viewpoints are essential. Hence, the Air Law Institute has invited a few leading law schools in some of the most important aviation centers to join in the publication of the Journal. The Law Schools of Northwestern University, University of Southern California, and Washington University of St. Louis, have accepted that invitation and will make possible a joint product of high standard. Other institutions will continue their development in the field of air law and will offer their assistance. With lawyers, law teachers, and students contributing their efforts, this Journal will be able to state and discuss every problem of local, national, and international importance pertaining to air law. There is need for such a service.

FRED D. FAGG, JR.