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Book Reviews

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BOOK REVIEW

"*Aviation Accident Law*," by Charles S. Rhyne,
Columbia Law Book Co., Washington, D. C.

Heavy domestic and international airline traffic now passes daily over North Dakota. Included are two routes to the Orient, Minneapolis-Seattle-Anchorage and Minneapolis-Edmonton-Anchorage. Private flying is booming in even the smallest towns, and the establishment of the State Aeronautics Commission indicates that our lawmakers are aware that flying is out of the barnstorming county-fair stage and into the status of a business. There is even a highly successful newspaper in North Dakota, devoted exclusively to aviation. (*Dakota Flyer*, Bismarck)

It is natural that lawyers are being called upon to pay some attention to the legal aspects of this mushrooming industry.

The book reviewed is by Charles S. Rhyne, Chairman of the American Bar Association's Committee on Aeronautics, and the author of a 1939 annotation of the Civil Aeronautics Act. A forward is supplied by Senator Pat McCarran of Nevada, long identified with aviation legislation.

In turn, the book deals with the status of aircraft operators as common or private carriers, with types of aircraft accidents, liability of manufacturers and vendors; aspects of aviation negligence law; defenses, workmens' compensation and insurance in air accidents, and the problems of international air operations. The book ends with a reprint of the international Warsaw Convention governing overseas airline questions.

As the book indicates, the fundamental law on carriers, negligence, et al, carries over into the aircraft field. But a new body of law, based on the old principles, is fast overlaying the initial foundation.

This new field of law is the child of necessity, fostered by the legal problems of travel in the third dimension.

During the war, the reviewer investigated innumerable military aircraft crashes, and many allegations of rule-violations or negligence by pilots. The results were not particularly creditable. It was sufficient to be convinced that this new field of law will present tough problems. Expert testimony will be the chief reliance in accident cases, both on the plaintiff's side, and in establishing the defense. Observations and testimony of lay observers in air accidents will be found highly inaccurate. They vary even more than the testimony of auto accident witnesses. A layman seeing an airliner streaking by at three hundred miles per hour, cannot be expected to accurately testify that the smoke trailing behind came from the number three engine, the number four engine, or from the baggage compartment.

Witnesses will require exhaustive pre-trial interviewing, with expert assistance, in order to accurately learn their story and place it in form for presentation in court.

Mechanical defects causing an accident, are entirely in a field belonging to the experts, and few if any persons outside of the highly-trained CAA investigators, can offer any help on this problem.

Some aircraft cases will present nothing out of the ordinary. If an airline employee slips on a wing and falls while refueling an

airliner, it is simply a Workmens' Compensation case not differing in law from the truck-terminal employee who similarly falls from the loading-dock while at work. At the other extreme, a Northwest Airlines plane bound for the Orient traverses several states, including North Dakota, and Canadian provinces, the Territory of Alaska, the American occupation zone of Japan, and terminates in a foreign country, the Phillipine Republic.

The jurisdictional problems arising if it crashes along the way, are obvious. Fortunately there is a well-established body of law on the subject, in addition to international agreements. The book in question covers these points thoroughly.

A copy of "*Aviation Accident Law*" is available at the office of the Secretary-Treasurer, in Bismarck.

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