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## Book Reviews

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## BOOK REVIEWS

INTERNATIONAL CONTROL OF AVIATION. By Kenneth W. Colegrove.  
Boston: World Peace Foundation, 1930. Pp. 234.

Venturesome men with their feet on the ground have extended the world horizons of various epochs until nearly every earth-bound barrier has been explored and conquered, but aeronautics has enabled modern man to view the world from an entirely new perspective. Bird's-eye maps today conspicuously omit the geographical obstacles so vital to other generations, and political boundaries, too, are often missing from them. As the migratory bird heeds only its destination, so does the human traveller by air have merely a "passing" interest in the earth below. What do such changes in world maps indicate? Dr. Kenneth W. Colegrove in his recent book "International Control of Aviation," published by the World Peace Foundation, has made a unique contribution to the significance of flight. It is the only book which sets forth in condensed and concise form the general problems of international aviation and the progress of international relations in respect to this new means of transportation and communication.

To say that the book is a ready reference for civil and military air systems of the world, for efforts to control aeronautics before and after the great war, and for international agreements on air navigation is to belittle Dr. Colegrove's ability as a research scholar. He has, indeed, produced a book of practical value to those who are interested in international affairs as affected by aviation, but more than that he has marshalled his facts into a comprehensive plan. The World Peace Foundation, according to its own statement, operates upon the policy that the actual facts concerning international cooperation constitute the best possible arguments for lasting peace and improved international understanding. Its activities are, therefore, focused upon the task of making these facts available in clear and undistorted form. But before the facts came causes, and after them will come effects. The reader's imagination flies, so to speak, fore and aft of the facts, not only to get the past background but also to feel the trends of the future. This bit of psychology was undoubtedly counted upon in the policy of the Foundation. Each one wants more knowledge according to his interests in life—the manufacturer looking for world markets, the transport operator seeking passengers, express and mail, the economist analyzing business conditions, the lawyer using juridical concepts as bases for legislation, treaties and codes, and the statesman steering political relations between nations. To such demands Dr. Colegrove would probably reply, "That is another story."

The author certainly has given enough concentrated information for one medium-sized volume. He speaks from actual contacts made during recent trips to each principal center of international flight operations, and during scores of conferences with the personnel

of each international organization having part in the administration of aeronautics. His style is terse and to the point. Every now and then a brief comparison leaves a vivid picture on the mind. Dr. Colegrove's theme is the development of aviation and methods of its international control. "The new problem of international regulation," he states, "may be studied in three phases. One phase concerns the regulation of aircraft in the course of interstate journeys. The second includes the diplomatic questions that arise from the development of airlines and manufacture of aircraft by governments as a means of promoting their trade, colonial expansion and national defense. A third concerns the regulation and limitation of aircraft as a weapon of war."

The regulation of international air traffic, according to the author, takes its origin from the diversity of national laws which preceded international control. As early as 1784, when the first experiment of carrying passengers by balloon was successful in the Bois de Bologne, the lieutenant-general of police in Paris published a decree forbidding balloon ascents without police authorization. In 1819 the *prefet* of the Seine required that all balloons be equipped with parachutes, and forbade all ascents until after the farmers' crops were harvested. Similar early legislation is to be found among the police decrees of other states, both in Europe and America. In like manner, police regulations promptly followed the development of the airplane. "Few will deny the wisdom of the state in requiring aircraft to be inspected in order to test their airworthiness, to be registered in order to establish their ownership and insure the responsibility thereof, and to require pilots to be examined and licensed in order to guard citizens from the danger of inexperienced and negligent pilots. But in the fifty-odd countries having legislation on aviation great diversity of regulations soon appeared—a diversity which became inconvenient as soon as airplanes crossed the boundary lines of their native states." Dr. Colegrove then traces the movement for international codification.

Three problems have offered peculiar difficulties in attempts to formulate an international code for air navigation: (1) the extent of the control of a state over the air above its territory; (2) the definition of nationality as applied to aircraft, and (3) the dividing line between an international code and national codes. Before proceeding to detailed description of international conventions, the author discusses aircraft as a war weapon, pointing out two serious problems, namely, competition between the military states to outclass their rivals in aircraft in time of war. "The Air Systems of the World" is the title of an interesting and instructive chapter wherein commercial aviation in France, Great Britain, Germany, Italy, the United States and other countries is briefly described and illustrated with tables and maps. There are also comparisons between civil and military aviation, as well as between governmental subventions and private financing. The results of unmitigated competition in commercial aviation are touched upon and "the open door versus reciprocity in South America."

"Aerial navigation opened a new field in jurisprudence and international government. At first, it seemed possible by analogy to apply the rules of the land and of the sea. In time it became apparent, to the jurist, at least, that aircraft required a special code of laws and a new means of international regulation," explains Dr. Colegrove in the opening paragraph of his chapter on progress toward international control. He describes the five international Congresses on Aeronautics held before the great war, comparing the theory of freedom of the air as advocated by French authorities with the British and American theory of sovereignty of states over the airspace as adopted by the International Law Association. The International Juridical Committee of Aviation was another group studying the subject, and Peace Conferences at The Hague, the International Conference of Air Navigation of 1910, in addition to national legislation in certain countries, dealt with it. The World War impetus to aviation led to the negotiation of treaties and further attempts to codify international air law. The League of Nations has taken its part in the air régime by virtue of its constitutional relationship with the International Committee of Air Navigation, the question of communications and transit and the problem of disarmament.

The book concludes with chapters on the Universal Postal Union and other public agencies, private international organizations, and military limitation and regulation. The Appendix contains original texts of international conventions and agreements on air navigation.

Of the District of Columbia Bar.

MARGARET LAMBIE.

**AIRPORTS, THEIR LOCATION, ADMINISTRATION AND LEGAL BASIS.**

By Henry V. Hubbard, Miller McClintock and Frank B. Williams. Cambridge: Harvard University Press, 1930. Pp. xvi, 190.

This book is Volume I of the Harvard City Planning Studies. In 1929 Harvard University established its Graduate School of City Planning, with research as the principal function. A group of scholars gathered by that school have been conducting a series of special studies, and this study of airports is the first of the series. The Editor of Research is Mrs. Theodora Kimball Hubbard, and the chairman of the department is Henry V. Hubbard. These two scholars last year published "Our Cities Today and Tomorrow," and their interest in this book on airports insures its success. The first essay is entitled "The Airport in the City Plan" and is written by Henry V. Hubbard, assisted by Howard K. Menhinick, instructor in City Planning in Harvard University. The second essay is upon "Airport Administration," written by Miller McClintock, an expert in the field of municipal research, a director of the Albert Russell Erskine bureau for Street Traffic Research, Harvard University, and Paul Mahoney who is connected with the Transportation and Communication Department of the United States Chamber

of Commerce. The third essay is entitled "The Law of Airports," and is by Frank Backus Williams of the New York Bar, and one of the leaders in the zoning movement, a lawyer and city planner. Mr. Williams will be remembered as the author of "The Law of City Planning and Zoning," a pioneer work which appeared in 1922. Mr. Williams is City Plan Editor of the National Municipal Review and Editor of "Zoning Notes" in the American City Magazine. The six people mentioned are well qualified both in training and experience to do the work which the volume is designed to accomplish. In order to have first hand information Mr. Paul Mahoney visited 85 airports and acquired much more valuable information than could have been obtained through any set of questionnaires broadcast through the mails. This has enriched the study to a considerable degree.

As to the content of the volume—it is considerably padded with various introductions and prefaces. It has about twenty charts and illustrations and thirty-seven separate appendices. The first topic, "The Airport in the City Plan," takes up the physical characteristics of suitable airport sites, the relation of the airport to the city and regional plan, and the relation of the airport to national transportation. The second topic, "Airport Administration," is the longest and most detailed study in the volume. The topics discussed are ownership, administration, management and fiscal policy of airports. Mr. Williams' treatment of the "Law of Airports" is very brief, covering only twenty-four pages, but within those pages he manages to touch upon the topics of national and state jurisdiction over aviation, the ownership of airports and air rights. Then he discusses the law as to the establishing of airports, their location, taxation, negligence, insurance, etc.

As to the value—if one expected to find a detailed text he will meet with disappointment, because the authors have made no effort to do more than to present materials rich in suggestion. The important factors in proper location and administration of airports are touched upon, but the volume carries very few concrete recommendations, which is only natural considering the widespread difference in conditions around each individual airport. The notes of Mr. Williams are complete and he brings together a great number of statutes bearing upon the law of airports, but the student of aviation law will be disappointed in this section of the volume. However, there was no attempt to give detailed legal advice to those establishing or maintaining airports, but the intention was only to make a cursory examination of the chief legal problems which constantly arise. The book is a valuable book. While little more than a monograph, it is useful and forward looking. It should be read by every official or individual planning to locate and administer an airport.

NEWMAN F. BAKER.

Northwestern University School of Law.

LA CONVENTION INTERNATIONALE DU 13 OCTOBRE 1919 PORTANT  
REGLEMENTATION DE NAVIGATION AÉRIENNE: SON ORIGINE,  
SON APPLICATION, SON AVENIR. By Albert Roper. Paris:  
Recueil Sirey, 1930. Pp. vii, 379.

A commentary on the Air Convention of 1919 from the pen of Captain Albert Roper has peculiar authority. Not only was he a member of the commissions which drafted the air clauses of the Treaty of Versailles as well as the Air Convention of 1919, but also he has served from the beginning as the first Secretary-General of the Commission Internationale de Navigation Aérienne (International Commission for Air Navigation) established by virtue of the Air Convention. Guests of the *Air Law Institute* in August 1930 will remember him for his erudite lectures on Developments in Aeronautical Law. The book now published under his name gives the history of the negotiation and ratification of the Air Convention, its amendment from time to time, a detailed analysis of its provisions, and a comparison of the system of the Air Convention of 1919 with the rival régimes of the Pan-Iberian Convention of 1926 and the Pan-American Convention of 1928. The book also contains an account of the operation of the Commission Internationale de Navigation Aérienne (commonly called by the abbreviated name *Cina*) and contains an appendix giving the text of twenty-five important documents.

What Captain Roper relates regarding the negotiations in Paris in 1919 contributes to our enlightenment on the subject of the origin of the Convention. The minutes and reports of the Paris Peace Conference have never been made generally available to the public. Captain Roper, of course, has access to documents which are still considered as confidential and has drawn upon this material in writing his book. Personal considerations and incidents, a glimpse of which appear in his informal address before the Extraordinary Session of *Cina* in 1929, are entirely lacking. (Compare Minutes: Extraordinary Session of June 1929, p. 145.) Such things belong to the historian rather than to the administrator and the jurist. Captain Roper's story is told with a coldness and detachment which is considered eminently correct in continental treatises of this character.

The author does not seek to emphasize unduly the excellent qualities of the Convention of 1919—the fact that its principles are based on practical experience, that these rules are few in number and broadly phrased so as not to obstruct the future development of aviation, that detailed rules regarding international traffic are relegated to eight annexes which can be periodically amended by simply a three-fourths majority of the members of *Cina* provided each of the five largest powers assent, while progressive amendment of the Convention itself can be accomplished by a two-third vote in the Commission followed by ratification of all the States. On the other hand, he candidly admits the various mistakes in the Convention as drafted in 1919—the provisions of article 5 prohibiting contracting States from permitting the flight of the subjects of non-

member States above their territory, the irritating inequality among States represented on the Commission, and the exclusion from membership of Germany and her Allies in the World War. Fortunately all of these imperfections have been corrected by amendment. Furthermore, in an effort to bring the Convention into line with German and American criticism the Extraordinary Session of *Cina* in 1929 adopted amendments which will go far toward winning German if not American approval of the Convention.

As to the question of language Captain Roper refrains from comment upon the employment of Italian as well as French and English in the Convention and its amendments. Obviously the adoption of Italian in 1919 was a concession to nationalistic demands. But both Spain and Germany which are not members of *Cina* have greater claims for the use of their respective languages. Spain on account of Latin America, and Germany on account of her remarkable leadership in aviation. The use of Italian is an unnecessary complication in the international control of aerial navigation.

The author maintains an optimistic attitude toward the future extension of the régime of the Convention. At present twenty-two States are included. Germany and her former allies, the United States, Russia, China, Turkey, Spain and most of the Latin American States are out of it. In well guarded language the author holds that the Convention constitutes the proper basis for a universal régime. The position is eminently sound. The competing Iberian and Pan-American conventions cannot be other than regional arrangement. International co-operation would be advanced by a general adherence to *Cina*.

Captain Roper's book will remain for many years the authoritative treatise on one of the most remarkable of the international organizations created since the World War.

Northwestern University.

KENNETH COLEGROVE

LA CONDITION JURIDIQUE DU PERSONNEL AÉRIEN. By Maurice Maschino. Preface by Jacques Vivent. Paris: Per Orbem, 1930. Pp. viii, 211.

The author discusses the following questions: The legal status of the air personnel (ch. 1), certificates of competency (ch. 2), the air work contracts (ch. 3), the status of the commanding officer of the aircraft (ch. 4), the air accidents and professional guaranties of the members of the air personnel (ch. 5). He exposes primarily the French legislation and the factual situation in France. Being a specialist in questions of air navigation, the author gives data concerning professional schools for navigators in France and in some other countries as well as on other questions of interest to professional air men. Annex gives a study of different certificates in force admitted in France in 1926.

Speaking of the status of the commanding officer of the aircraft the author exposes the relevant provisions of the Pan-American Convention of 1928 (p. 94-96) and of the recent laws of Czecho-

slovakia, Sweden, Jugoslavia and Denmark p. 97-101 and reproduces the draft of a convention concerning international status of the commander of the aircraft, elaborated by M. Thieffry in 1927, reporting member of a commission at the C. I. T. E. J. A. (p. 131-134).

A special chapter (6) deals with "Conflict of Laws." The subtitle to this chapter is "Validity in France of Foreign Certificates; Validity Abroad of French Certificates," and to this question the author gives pp. 179-186, reproducing provisions of the Paris convention of 1919 and of some bipartite conventions of France and other countries. Subtitle on p. 186 is: "Commander in International Legislation" and under this subtitle the author states that the contract of employment of the commander should rather escape from an international statute because (p. 187) this question interests only (?) the two parties, the employer and the employee; that the question of the obligatory presence in an aircraft of a commander should be governed by the law of the territory over which the aircraft flies (!) but that an international agreement is highly desirable on this question; that relations between the commander and the passengers should be governed by the law of the flag of the aircraft (p. 188); that the status of the commander as agent of the owner of the aircraft should be governed by the law of nationality of the aircraft (p. 189); that the conditions of the competency of the commander must remain subject to the national legislation of every respective state (p. 190).

The table of contents with regard to ch. 6 is not exact. The bibliography (p. 207) contains thirteen references, including works of Weiss on Private International Law and Ripert on Maritime Law which have nothing to do with questions of Air law or Air personnel.

The book of M. Maschino, while not very valuable for lawyers, is nevertheless a useful contribution to this virgin subject of the (economic, technical and legal) status of the air personnel (cmp. also C. Savoia, *La figura giuridica del comandante dell'aeromobile*, *Il Diritto Aeronautico*, vol. 7, n. 3, 1929, pp. 195-208; International Law Association, New York Conference, 1930, Report of the Aerial Law Committee, p. 2 sq., p. 109).

ALEXANDER N. SACK.

Northwestern University School of Law.

DEUTSCHE LUFTFAHRTSGESETZGEBUNG (German Legislation Concerning Aviation.). By Alfred Wegerdt, Second Edition. Berlin: Radetzki (1930). Pp. 539.

The purpose of this volume is to make it possible for those interested in aviation to ascertain the legal situation in Germany. Exact source reference and errorless reprints of the fundamental German air law statutes of 1922 and of the various regulations and treatises is particularly aimed at the regulations covering among other things air mail, air police, air customs and air commerce. Material which heretofore was not available in printed form is now made available. Wherever a statute has been amended or where, for other reasons, an explanation seemed to be desirable, notes are



added. Numerous forms of certificates, licenses, and authentications appear throughout the regulations. The treaties reprinted are with Switzerland, Denmark, Holland, Austria, Sweden, France, Belgium, Czechoslovakia, Great Britain, Italy, Spain, and Norway. German statutes passed to carry out the treaties with Norway and Poland, and various gentlemen's agreements in regard to the Saar region, and in regard to reciprocal recognition of airworthiness certificates appear, as well as other miscellaneous material including the relevant provisions of the Versailles treaty of 1919.

The volume is entirely in the German language and no attempt is made to publish the bi-lingual texts of the various treaties. The work is done with typical German thoroughness, the print is large and clear, the paper is of good quality and the binding is satisfactory. The book is extremely valuable to German lawyers and administrative officers, and should find a place in every legislative reference bureau in this country.

Marquette University School of Law.      CARL ZOLLMANN.

THE LAW OF AVIATION. By G. D. Nokes and H. P. Bridges. London: Chapman & Hall's, 1930. Pp. xix, 220.

This work is divided into two distinct sections; Part I dealing with the law of civil aviation in time of peace, and Part II containing a general discussion of the law of aviation in war and neutrality. The two parts are treated in somewhat different fashion by virtue of necessity. Part I contains more detailed and specific information with reference to the law as it exists in England by virtue of statutes, and Part II treats primarily with various considerations involved in the regulation of aviation during hostilities between nations.

Chapter I, treating The Regulation of Aviation, paints a brief historical background of the important steps which have been taken in this direction, namely, the International Conference at Paris in 1910, the Aerial Navigation Act of 1911, the Air Navigation Act of Great Britain of 1919 and the International Convention of 1919. The principal law of Great Britain is contained in the Air Navigation Act of 1920. This Act delegates certain powers to the Minister for Air and regulates the classes of plane coming within the Act. The Act also provides for the establishment of the "Air Council."

Chapter II contains a detailed classification of aircraft. It also treats specifically the subjects of conditions of flying, nationality and registration; markings, airworthiness, equipment and documents. This chapter, lays down the specific regulations provided for by the Air Navigation Act with respect to the foregoing subjects. Chapter III, dealing with the personnel, treats the subject of pilots, their duties and the examinations required and the various classes of licenses. It also lays down regulations and examinations for navigators, engineers and wireless operators. This chapter, again, is specific in its treatment of the subject of personnel, and gives in outline form valuable information pertaining thereto. Chapter IV takes up the subject of Aerodromes, defining and classifying them

according to State controlled and licensed aerodromes, and the further sub-classification of licensed aerodromes. It also contains a list of the various aerodromes of Great Britain together with the classification thereof.

Chapter V considers the subject of the General Rules of Flight. This embraces such topics as air traffic rules, showing in detail the regulation with regard to the piloting of aeroplanes in the air, while landing and taking off, while near aerodromes and while taxi-ing on the aerodromes. Here we find that certain areas are restricted and learn the rules with reference to pilots flying over restricted areas; for example, the right of the authorities to compel the plane to land, the punishment connected with the infraction and the persons responsible for the same. Exceptions, of course, are made for forced landings within restricted areas and emergencies, which exceptions are treated in detail.

Chapter VI—International Flight. Here the authors begin to get into the field of international law, which obviously is not crystallized to the same extent that the local law is. It shows the establishment of and regulations with respect to aerodromes, maps, international routes and landings. Obviously, the question of customs formalities is considered under this chapter, together with the provisions and regulations with respect to the carriage of goods and mails. A few words are given on the infringement of patents and the conditions under which planes can be held on account thereof. Chapter VII, on Duties and Liabilities Arising from Aviation, considers the law with reference to accidents to aircraft, pointing out the necessity for notifying authorities and of investigation in certain cases. In cases of investigation, inspectors are appointed by the Minister for Air. The powers and the court procedure are here outlined. A further discussion is had with reference to the duty of ships to assist and salvage in cases of accidents at sea. The chapter then treats of injuries caused by aircraft, showing that the same rules of negligence apply to them as in other suits of common law, and treats briefly of the nature, of aircraft as common carriers. There seems to be a presumption of negligence on the part of the owner of an aircraft when injury is caused to people or things either on land or water. This presumption, however, is not irrefutable. The question of the liability for trespass in flight, the actions therefor and against whom is taken up, together with criminal responsibility for failure to comply with the regulations of the Act of 1920. A few of the specific offences are set forth.

Chapter VIII starts the discussion of Part II, dealing with war and neutrality, and contains a general discussion of international law with reference to aviation, pointing out that one of the most important features is to know when war is actually declared and concluded and the necessity of national and international regulations with respect to the law of aviation, both as to belligerents and neutrals. Military aviation as between hostile States is necessarily regulated by international law. Aerial warfare was prohibited by the Convention at The Hague in 1899 and again in 1907, but finally

gained recognition during the World War 1914-1918. The subject was then fully discussed at The Hague in 1922 and 1923. The work points out that some of the rules of land warfare accepted and recognized by international law naturally apply to aviation, but at the same time there is a real need for specific regulation.

Chapter IX, on Combatant Aircraft, contains general considerations with respect to the classification of combatant aircraft. It points out the necessity for and usage with respect to nationality and markings for the purpose of identification, the equipment and arms which may or may not be used, and goes on to treat at some length the questions of conversion and supply, the destruction, capture and internment of combatant aircraft. Chapter X treats with Combatant Personnel, their uniform, identification, and with the capture of and quarter given to them during hostilities. What constitutes surrender and capture of pilots and the general considerations involved therein is discussed. Chapter XI—Aerial Warfare. After a brief statement of the legality of various types of weapons authorized in aerial fighting, the remainder of the chapter deals largely with the considerations involved in bombing. This takes up the history of bombardment and the proposed rules with reference thereto, showing the difficulties encountered in framing any set of rules. More specifically it points out what are proper objects of bombardment and under what conditions they may be bombarded, showing a few exceptions. Chapter XII—Belligerent Action Against Civil Traffic and Civilians. The discussion here has to do with the treatment by combatant aircraft of civilians in the combatant's own territory or in hostile territory; with the enemy civilian aircrafts either in friendly or hostile territory, and the rights, duties and liabilities of combatants and civilians in this regard.

The book contains a comprehensive index and should prove valuable to aircraft personnel using it as a manual, and for the personnel in the British military or civilian air service, should prove of inestimable value. Foot notes with reference to various treaties and other works of a similar nature are copious and manifest a rich background in this field on the part of the authors of the book.

Of the Chicago Bar.

NELSON G. WETTLING.

LE DROIT D'INTERPRÉTATION DES ACTEURS ET DES ARTISTES EXÉCUTANTS. By M. Robert Homburg. Paris: (Librairie du Recueil Sirey) 1930. Pp. 161.

The author of this interesting book is a member of the Paris bar. In addition to a number of treatises on divers legal subjects, he has been editor of *La Revue Juridique Internationale de la Radioélectricité* (a French quarterly devoted to radio law) ever since its establishment in 1924, and has served as secretary general of the *Comité International de la Télégraphie sans Fils*, the organization under the auspices of which have been held four international juridical congresses on radio law problems.

The title of the book is difficult to translate, but is approximately rendered by "Exclusive Rights of Actors and Performing Artists over their Performances (Interpretations)." The book is the product of the new currents and cross-currents set in motion in the fields of both law and economics by modern achievements of science in mechanical reproduction of music, drama and other forms of literary and artistic expression. Not many years ago, to see or to hear the performance of an actor, soloist or orchestra it was necessary to attend the performance in person at a public hall, and to pay an admission fee. When the echoes of the performance died away, the performance became a thing of the past; it could not be reproduced. The audience was limited to the size of the hall. The advent of the phonograph record and the mechanical piano player roll brought the performing artist into the home where for the modest original purchase price of the record, he can be made to give innumerable repetitions of a single performance. The moving picture took the performing artist to a far-off studio where innumerable films could be made of a single performance, and shown in moving-picture houses throughout the world. The talking movie has added sound to sight, a complete drama without living actors. Radio broadcasting has annihilated the walls of the concert-hall and has brought millions of listeners, seated comfortably at their firesides, within hearing of a performance which could formerly have been heard by only a few hundred. It has thus become possible for a third person, equipped with suitable apparatus, to make phonograph records of performances by great artists which come to him through his radio receiver, without the consent of either broadcasting station or artist. Hotels, restaurants, and dance-halls are using radio receivers and phonograph records to give entertainment which, for the most part, would otherwise have to be given by musicians. There have even been occasions when theatres have used broadcast programs as part of the entertainment for which they charge admission fees. Broadcasting stations, in turn, are making extensive use of phonograph records without the consent either of phonograph record manufacturer or artist, and, it is claimed, are destroying the market for such records. To add to this confusion of conflicting interests, television must be taken into account as a possibility which may materialize in the near future, by wire if not by radio, to bring a synchronized drama of sound and sight into the home or into the theatre.

Authors (I use the word in the sense in which it is employed in copyright legislation) have been comparatively successful in keeping pace with the march of science, as the result both of judicial decisions construing copyright statutes to cover new situations and of legislation extending their protection. No corresponding change has been effected in the rights of the artist, who, according to M. Homburg, stands where he stood before the advent of the phonograph record, moving-picture, or broadcasting station. He must take his pay, and his only pay, from the person with whom he has his original contract relation; he enjoys no right to additional

compensation for the reproduction and multiplication of his performance by third persons to their profit.

M. Homburg's book is devoted to an attempt to demonstrate the validity of the artists' claim to protection in a manner analogous to that which an author enjoys in France (where it is very broad). This protection would give him an exclusive right to his performance, enabling him to veto any reproduction or multiplication or further dissemination of the performance, to fix the terms upon which he will authorize such reproduction, multiplication or dissemination, and otherwise to act as a copyright proprietor may in that country.

After showing that, in the present state of the law, there is very little protection given the artist either at common law or by statute, M. Homburg discusses the possibility of assimilating the artist to the author, of giving him international and national protection by appropriate provisions in the Berne Convention of 1886 for the Protections of Literary and Artistic Property (as revised at Berlin in 1908 and at Rome in 1928), and in the legislation of the various nations. He believes that the performing artist may in some, but not all, cases be classed as a collaborator with the author. He then discusses the other alternative, i. e., the creation by legislation and treaty of a new and separate right in the artist to protection, and outlines what he believes should be the nature and extent of the right. Appended to the book is a series of *voeux* and projects for protection of the artist which have been adopted or urged by various international organizations in Europe. The book contains a valuable bibliography on the subject.

It may be said in criticism of the book that M. Homburg brushes aside too easily the practical difficulties which lie in the way of giving the performing artist the desired protection; and that at times he does not sufficiently distinguish between the rights of the artist of peculiar and unusual ability, and the musician in the orchestra whose place can be filled without difficulty by another musician at the same pay. Yet, while the book is partisan in spirit and in treatment, it is scholarly and interesting. He has touched at the heart of what may prove to be a very real economic problem, i. e., the decreasing demand for musicians resulting from the success of science in making one performance sufficient both to reach the world through radio while it is actually going on, and to furnish material for an endless number of repetitions thereafter. Civilization has not been particularly shocked by the passing of the horse-shoer or of the stage-coach driver; the passing of the musician, however, would be rightly regarded as a calamity.<sup>1</sup> Whether it is really threatened by the inventions of today, or whether the scene of the musician's labor is merely being shifted from the public hall to the studio where, in equal or greater numbers, he will be employed to entertain vastly larger audiences both present and future, is difficult

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1. See U. S. Daily, Nov. 29, 1930, for report of oral statements by specialists of the Department of Commerce announcing marked decreases in the production of musical instruments due to radio, the "talkies," etc.

to say. It is also difficult to understand how, if Mr. Homburg's pessimism is well-founded, the irresistible pressure of economic laws can be successfully withstood by any legislative devices such as he proposes.

LOUIS G. CALDWELL.

Member of the Chicago and the District of Columbia Bars.

FOURTH ANNUAL REPORT OF THE FEDERAL RADIO COMMISSION FOR  
THE FISCAL YEAR 1930. Government Printing Office, 1930.  
Pp. 70.

The Fourth Annual Report of the Federal Radio Commission offers somewhat of a contrast in method of treatment to the reports of previous years. Since 1927 the Commission reports have been eagerly awaited both by members of Congress and the general public as a compendium and source book of radio information. As a result of a change in administrative policy this year's report is confined within rather narrow limits.

The report covers the fiscal year from July 1, 1929 to June 30, 1930, with consequent duplication of material included in the previous report which did not follow the fiscal year.

Part I is an introduction by the Chairman summarizing the year's activities and concluding with recommendations for legislation which would permit the Commission (1) "to compel the painting and illumination of radio towers," to exclude the Virgin Islands, Porto Rico, Alaska and the Hawaiian Islands from the provision of the Davis Amendment, and (3) to suspend station licenses for infractions of regulations for a period not to exceed thirty days. The inclusion of legislative recommendations is an innovation which is commendable and which, it is hoped, will be pursued in subsequent reports. The omission, however, of recommendations of amendments to cure some of the more important and generally recognized defects of the Radio Act (e. g., the failure to provide for appeals from Commission decisions denying applications for construction permits, and the impossible and unscientific Davis Amendment) is regrettable.

Part II is devoted to the "Report of the Secretary" and consists of data concerning reorganization of the Secretary's office followed by the Commission's General Orders Nos. 70 to 94, inclusive, printed in full text. Although these latter are available in separate mimeographed or printed form, the convenience of a single collection is readily acknowledged. A preferable arrangement, however, would probably place them in an appendix to the regular report. Unfortunately, such important orders as the Amendments to General Orders 42 and 87 have been overlooked. The functions and services of the Commission Press Bureau evidently passed unnoticed in compilation.

Part III is the "Report of the General Counsel" setting forth the organization of the legal division into three subsections: Administrative, Hearing and Record, Research and Drafting. This

follows in a general way the same set-up outlined in the third annual report.

A departure is noted under the heading "Pending Litigation" which merely states the principal issue or issues involved in each case to which the Commission is a party rather than including excerpts from the various Commissions "Statement of Facts and Grounds for Decision." In the past such a digest has been of assistance to station operators, practitioners, before the Commission and others interested in the policy and growth of radio law. Practically the same cases are listed and discussed under "Court Decisions" as were covered in the third annual report, but with two additions, namely, the Chicago Federation of Labor case and the Universal Service Wireless case.

Perhaps the outstanding administrative development has been the codification and promulgation of rules of practice and procedure, together with inauguration of the examiner system. The report in addition to containing these regulations in full (Gen. Order 93) indicates the ensuing labors to put them into effect.

Part IV is the "Report of the Chief Engineer" and includes a brief synopsis of the major engineering problems which have confronted the Commission. The only important reallocation of broadcasting stations was contemplated by General Order No. 87, but this, it is explained, was held up by restraining orders from the Courts. The allocation of broadcasting facilities within the various states is shown to have been placed upon a more systematized basis under G. O. 92, which adopts the so-called "Unit system" of evaluation. It is noticeable, however, that the population figures relied upon for the tabulation are those estimated for 1928 rather than the official census figures for 1930. The subject of synchronization is touched upon only in cursory fashion.

The international aspects of radio are assuming greater importance than ever before. Other restrictions than those in the International Radio Telegraph Convention may become necessary. Canada and Mexico are urgently pressing their demands for the use of frequencies in the broadcast band and in the latter country stations are already causing considerable interference with those in the United States. It is of vital interest, therefore, that the attention of Congress be called to the forthcoming international conferences in which the United States must be an active participant if our radio rights are to be protected.

Under the heading "Commercial communications" are summaries of action taken with respect to the various types of radio services such as fixed, maritime, emergency, experimental, geophysical, aviation and Alaskan stations. These statements are largely restatements in explanation of the contents of general orders providing for such services. There is no comment on amateur service although some 19,000 amateur licenses are outstanding and an amateur conference was held in March, 1930, resulting in a complete new set of amateur regulations.

Former annual reports have contained tabulated data such as a list of all hearings held during the year, the tabulated disposition of applications, and a complete list of authorizations (other than ship and amateur) all of which are missing from the most recent compilation. As a reference manual the latter apparently omits information on the very matters which are most likely to be inquired into by Congress.

ARTHUR SCHARFELD.

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REPORT OF THE ADVISORY COMMITTEE ON EDUCATION BY RADIO.

Appointed by the Secretary of the Interior. Washington, D. C., 1930. Pp. 246.

Into the 250 pages of the Report of the Advisory Committee on Education by Radio, appointed by the Secretary of the Interior, there has been packed, in my judgment, an amazing array of pertinent and authoritative facts. The report contains prima facie evidence of thoroughgoing research. All schools of air thought had their day in Court. The inescapable deduction from the mass of assembled testimony is (1) that radio has a distinct mission in the realm of education and (2) that in some form or other radio's manifest destiny as an agency for the dissemination of knowledge must be shaped on systematic lines.

There is one other aspect of the report which, it seems to me, stands out as clear as Mars at perihelion. That is the virtually unanimous view that the development of the radio art must remain utterly untrammelled. Chairman Cooper tells us that the Committee recommends the establishment in the Office of Education, Department of the Interior, of "a section devoted to education by radio." If such a section's functions would be purely of a fact-finding and advisory nature—its material and facilities available to all and sundry interested in radio, from the greatest of chain corporations to the humblest crystal-set listener—I can conceive of such an additional governmental bureau fulfilling a useful and legitimate mission. But if "radio education" were to be in the remotest degree subjected to the peril of regulation, control or supervision by such a bureau, I would regard it objectionable and reprehensible in the highest degree. A radio censorship would be just as detestable in the United States as a newspaper censorship. The air must be as free as the press.

Having myself contributed a so-called educational feature to the air program now for more than seven years in unbroken succession, I am naturally not unbiased in my advocacy of, and belief in, a reasonable seasoning of radio entertainment with instruction and information. I am free to confess that the proportion of listeners who prefer a weekly review of national politics to a nightly session of negro comedy is relatively slender. No station or chain of stations, I think, can afford to ignore that minority. It is undoubtedly the opinion-molding element of any given community and in the Nation at large. Crooners, wise-crackers and syncopators have their



places even on educational programs, for we should starve on a purely high-browed radio diet. But listening man cannot live on jazz alone.

The detailed analysis made by the Commonwealth Club of San Francisco (page 40 of the report) strikes me as being a cross-section of radio sentiment that is probably unchallengeable. "We found," the club affirms, "a tidal wave of indignation against jazz; an enthusiasm for talking-machine recordings of the classics; objection to too much talk; and a plea for educational features."

Personally I am a bit skeptical about the "enthusiasm" for talking-machine recordings of the classics (presume musical classics are those in question). As to the mounting popularity of classical music when broadcast by fine orchestras and renowned vocalists or instrumentalists, there can be no shadow of doubt.

But I shudder at the thought of a House Committee on Radio Education—Chairman, Representative Small Potato, of Ashkansas—ever having it within its power to influence the Radio Section of the Office of Education, Department of the Interior, as to what, when or why this or that educational feature should be sent forth over the wave lengths.

Should such a calamity overtake this free people, it were almost better that the Hertzian wave had never been discovered.

FREDERIC WILLIAM WILE.

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NEW EMPIRES, THE NEWSPAPERS AND THE RADIO. By Karl Bickel. Philadelphia: J. P. Lippincott Co. Pp. 112.

If one essays to discern a single theme running through the several chapters devoted to radio broadcasting in the live-minded Karl Bickel's timely little volume, that theme might be paraphrased in the form of a message to American journalism reading something like this:

"Newspapermen of America; Here is a new form of journalism. Possibly it is a competitor of ours, but in most essentials I do not believe it is; I believe that radio broadcasting complements the printing press. I do not believe it threatens the printed word as a purveyor of news. But it bears watching. You should join forces with it, controlling it if possible, for its ultimate success is as inevitable as the progress of time itself."

Possibly this reviewer has injected more of his own views than Karl Bickel's into the foregoing lines. An hour's careful perusal of Mr. Bickel's book—for that is all the time the reading of it will consume—served to strengthen a conviction that has been growing in the reviewer's mind these last half dozen years of broadcasting's span of a decade. Mr. Bickel's treatment of his subject is in the main factual; but hovering over those facts, always, is this theme, essentially as expressed.

Intensely stimulating are Mr. Bickel's facts and conclusions, particularly refreshing because such clear-thinking comes from the

ranks of printed journalism. For Karl Bickel is president of the far-flung United Press Association, which gathers news and serves newspapers in all corners of the globe. He is, of course, not a publisher, but his great news service must needs know the problems of newspaper publishers because its very existence is predicated upon their success. If those publishers are threatened by a new medium of mass communications, whether the threat looms in the distribution of news or competition for advertising revenues, no organizations will feel the effects more keenly than the press associations.

But, one gathers, the threat hasn't materialized after ten years of radio broadcasting. It hasn't materialized in spite of the calamity howling of such an organ as *Editor and Publisher*, whose hollow bellicosity toward radio broadcasting has contributed nothing toward enlightening and advising the confused and groping newspaper editors and publishers, not fortunate enough to be affiliated directly or indirectly with radio broadcasting stations.

Mr. Bickel draws liberally for opinions from newspapermen affiliated and unaffiliated with radio broadcasting. Indeed, in a supplement to his book he lists 90-odd radio broadcasting stations affiliated with newspapers, some 40 of them listed with the Federal Radio Commission as directly newspaper-owned and operated. (The listing is somewhat incomplete due to the fact that the Federal Radio Commission does not yet require a complete record of the stockholders of broadcasting corporations; among the 600 or more radio broadcasting stations in the United States are many that are newspaper-owned, in whole or in part, but that exist as separate corporate entities not named after the newspapers.)

It was the United Press, ever liberal in its attitude toward radio under Mr. Bickel, which sponsored the first broadcasting of the complete national election returns in 1924 over the original WEAf network, then controlled by the American Telephone & Telegraph Co. Since then such broadcasting has become commonplace, with all the press associations furnishing their flash news bulletins to the networks and to individual radio stations and with the networks and stations amplifying these with comments by specially engaged politico-announcers of their own—usually well known newspapermen like David Lawrence, Frederic William Wile and William Hard. Does this mean competition with the newspapers? Mr. Bickel thinks not.

"We have learned, through our experiences with the radio, that the distribution of radio bulletins and descriptions of a particular event tend to increase the sale of newspapers because of the widened public interest.

"The Lindbergh flight was a most interesting demonstration of the latter fact. All American press associations cooperated with the great broadcasting 'hook-ups' in the distribution of bulletins on this event. Every obtainable fact on the Lindbergh flight was cheerfully surrendered by the newspapers to the radio for immediate distribution to the public before the press itself could deliver the same news. But the sales of

newspapers did not diminish; they increased. The news-consuming public desired the whole printed record of the flight.

"Radio news distribution has, I believe, in certain types of news tended to eliminate a form of news service on the part of newspapers that was inadequate and economically unprofitable. The day of the old 'flash extra'—a paper containing merely an announcement of a result and nothing more—is going to find its field increasingly limited as far as it covers the conclusion of some set event such as a championship prizefight or baseball game. The radio will largely supply this flash bulletin information. And if this is true, it will react greatly to the publisher's profit, for this type of 'extra' was never profitable and was only justified on the basis that it was good newspaper promotion and advertising—a somewhat problematical proposition."

On the other hand, where the broadcasters assume fully to "cover" big news events on their own, Mr. Bickel sees an element of danger to the press:

"There seems to be no danger to the newspaper in the radio broadcasting of current news bulletins, even on a rather extensive basis, as long as the broadcasting is definitely under the control of a newspaper or press association and done under their authority and in their name. But when the radio goes out on its own to cover news and report it on its own responsibility—entirely independent of the press—then the radio directly invades the newspaper field and immediately becomes competitive with the newspaper. And in that situation lies a germ that can easily develop into a most serious and dangerous situation in both the radio and newspaper industry unless handled with unusual care, consideration and forethought."

Apparently the radio broadcasters, more particularly the chains, have exercised to a considerable degree that "care, consideration and forethought" for they have handled such momentous big news broadcasts as Lindbergh's triumphal return from Paris, the Republican and Democratic National conventions of 1928 and the London Peace Conference, directly from the respective scenes, without any appreciable agitation and antagonism being stirred up in press circles. This reviewer recalls only one case in which a publisher took real umbrage against usurpation of the press privilege; that was when a zealous radio man, during the Ohio penitentiary fire and riot, placed a microphone in the hands of a convict and asked him to describe the tragically disordered scenes being enacted before him. The publisher of the New York Daily News was so provoked with this piece of radio reporting, especially when he learned that the network's president had presented the convict with a liberal check for his services, that he ordered radio news practically excluded from his columns.

There has been every indication in the last few years that the networks, within the limits of their time, intend to continue broadcasting big news events as described by their own announcers or by specialists from the particular field of interest—prominent Washington correspondents from political conventions, aviators from air meets, yachtsmen from yacht meets, newspaper columnists in their own specialities. Mr. Bickel takes cognizance of the resentment

this may entail—resentment which, oddly enough, hasn't found nearly as much expression as the resentment toward radio as a potential (if not actual) detractor from the advertising revenues of the newspapers:

"Once let the radio become directly and seriously competitive with the newspaper, as a news distributor as well as an important creator of advertising energy, the issue will be joined and the newspaper will fight bitterly with all its power and its varied resources to protect its very life.

"There are today unfortunately plenty of indications that this struggle may be inevitable. The broadcasting industry, somewhat conscious of its remarkable development over the past five years, is pushing along under forced draught apparently determined to risk the danger of a newspaper break in its efforts to develop to the furthest extent both its advertising and news fields. Resentment among newspaper publishers is steadily growing. Newspaper antagonism to broadcasting which was smoldering three years ago and then pronouncedly declined is flaming up again. Radio broadcasting is dependent upon the newspaper for program distribution. If the issue went to a struggle today unquestionably the newspaper would win and broadcasting would receive a definite setback."

It is difficult to reconcile this latter statement with the tenor of the book as a whole and, more particularly, with Mr. Bickel's own description, in the preceding chapter, of the inherent limitation of radio even when television joins sound broadcasting "to enlarge vastly and extend the present limits of popular personal participation in great fixed and set events." Pointing out that "these things are not only certain—they are inevitable—and in the not so very distant future" Mr. Bickel states in the preceding chapter:

"But that does not mean any injury to the newspaper. On the contrary, I believe it will be a most decided favorable factor in the growth and development of the newspaper. Anything that tends to lift and widen the boundaries of men's minds, that excites their curiosity and stimulates their interest, only sharpens to a keener edge their desire to read about the objects of their interest. The radio and sound television can not alone meet that need.

"The radio is imperative. It is immediate. To utilize it, to enjoy it, all else must be dropped and all attention concentrated on the instrument. It offers no permanent record. It has not the flexibility to handle the most important and most vitally interesting type of news—the totally unexpected.

"In direct proportion to the keenness of your interest in viewing the great events of the day will be your interest in reading the full details of the event. Mechanical marvels of the future may give your eye a fleeting picture of the day's events, but it will be your newspaper that will give you the opportunity for careful reading and leisurely examination and analysis of current affairs."

True enough. Wherefore, then, the apprehension expressed in the next chapter? As for the possibility of a struggle between radio and the press, either in the fields of news or advertising or both, Mr. Bickel might well have noted that such a struggle might take

the form of internecine warfare with the "ins" (those newspapers engaged in radio broadcasting) aligned on the side of the radio interests against the "outs" (those newspapers not engaged in radio broadcasting). For few of the former appear to fear the encroachment of radio; indeed, a half dozen or more newspaper-owned radio stations are that confident of radio that they were among the score seeking authority from the Federal Radio Commission recently to erect new high-powered stations whose transmitter equipment alone would entail expenditures of around \$250,000 each.

Mr. Bickel apparently believes that radio advertising is here to stay, for he asserts that "it is sheer folly not to assume that a successful advertising technique will be developed through which radio advertising power will be applied with increasing efficiency." The far-sighted publisher, he adds, is beginning to realize this and to study the radio problem with open and level eyes for "it is going to be one of the fundamental problems of the newspaper industry during the next ten years."

We are too deeply involved in a business depression at this writing—a depression which, incidentally, has marked great increases in radio advertising accompanying the decreases in newspaper lineage, especially lineage from the automobile and radio industries—to note with any confidence the precise effects of radio on newspaper lineage. We have confident testimony on the one hand that the newspapers are losing lineage to radio, and on the other that newspapers not only have gained tremendous revenues from the phenomenal growth of the parvenu radio industries but have substantially increased their lineage because program sponsors, vying for listener attention, now find it necessary to buy paid space to throw a sort of "spotlight" on their particular offerings in order to insure themselves an audience. And there is ample evidence from publishers owning broadcasting stations that they have actually increased their lineage because such ownership has made it possible for them to "tie up" their printed and their broadcast advertising media to the profit of both. So mere good will is not always the only "*raison d'être*" for the newspaper ownership of radio stations; in fact, a great many of them are actually paying their own way, *per se*, in dollars and cents, if not earning tangible as well as intangible profits for their newspaper owners.

As for the "inevitability" of a radio v. press conflict—which this reviewer does not believe Mr. Bickel really expects to come—the publishers might well bear in mind these facts, if their resentment has reached the point where they would like to exclude radio program listings from their newspapers. It would be a relatively simple matter for the great and profitable radio networks to publish, either separately or jointly, a national radio magazine listing their programs for the ensuing week, the magazine to be supported by paid advertising. Such a magazine exists in England where the radio is a government monopoly, and it has a tremendous circulation.

Again, there is a simple device ready for the market which might be promoted by the radio interests to the point where it would

become an indispensable concomitant of each and every radio receiving set in use in this country. It is a facsimile reproducer which, practically foolproof of operation and extremely cheap to produce, will pick up broadcast impulses on chemically treated paper requiring no developing or fixing and emerging from the radio set as a neatly printed program. Such facsimile reproductions might also include pictures of the radio performers—and possibly advertisements would be solicited to defray the expense of transmission.

One regrets that Mr. Bickel did not devote the whole of this little volume to radio and the press. Nearly half the book discusses the "new empires" of journalism, as seen by a far-sighted journalist who is advising a group of students of journalism. The book really, as the author tells us in the preface, is an amplification of an address delivered before the Journalism Section of the Tenth Educational Conference held at Ohio State University in April, 1930. There is little in the forepart to interest the student of radio but there is a wealth of material in the latter half—material which, it is hoped, Mr. Bickel one day will amplify into a more complete dissertation on radio's relations to the press. Perhaps it is too early for such a volume; when the time comes, there will be few as well qualified as Mr. Bickel to give the newspapers' side of the story.

MARTIN CODEL.

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