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Review of “Cases on Suretyship,” By Stephen Langmaid

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1928 UNITED STATES AVIATION REPORTS (1928 U. S. Av. R.). Baltimore: United States Aviation Reports, Inc., 1928. Pp. xi, 670.

While this volume purports to be nothing more than a collection of the American decisions and statutes on the law of aviation, it might well be entitled "The History of Aviation in the United States to 1928." It is to be doubted whether the balloonist making an ascension at a state fair over a century ago, and descending rather indiscriminately into the plaintiff's garden (as in the leading case of *Guille v. Swan*, p. 53) realized that he was laying a legal foundation for the rules of liability of an entire industry. It is likewise to be doubted whether the proprietors of such fairs or of similar amusement parks realized that the litigation in which such hazardous undertakings involved them would have any relevance to the law of "airports" in this century. The fact remains that the present volume comprises a survey of all the decisions, both judicial and administrative, which even remotely affect the operation of airplanes today.

It is astonishing to the casual reader to note the amount of litigation which has grown out of this modern development, and the extent to which this litigation impinges upon almost every branch of the law—tort, contract, municipal corporations, patents, and even admiralty rules. For example, the authors have reported fully the patent litigation arising over the Wright patents and the Curtiss patents, furnishing to the novice an interesting discussion of the basic principles of the airplane. It seems that even this infant industry has already been involved in questions arising under the anti-trust acts (see opinion of the Attorney-General, page 268, on *Manufacturers Aircraft Association Cross-License Agreement*). It is noted that the recent decision of the Missouri Supreme Court with reference to validity of the bond issue for the St. Louis Airport is not included in the present work, but there are several very similar cases included in the report.

The usefulness of this volume is enhanced by a full printing of the Air Commerce Act of 1926, the Air Commerce Regulations, Air Port Rating Regulations and all state statutes to date. An additional appendix gives commercial forms, including clauses for insurance policies and forms of contract for passengers, express, etc.

It is to be hoped that the enterprising editors of this volume will continue the series, as it furnishes a convenient reference work for the practitioner who finds new problems and new principles with the advent of every new development of our complex civilization.

R. WALSTON CHUBB.

St. Louis, Missouri.

CASES ON SURETYSHIP, by *Stephen I. Langmaid*. St. Paul: West Publishing Company, 1927. Pp. xii, 662.

It is hard to compare casebooks on suretyship on the basis of their relative teachability. Probably no man walks the earth who can compile a casebook on that subject which will prevent its being the driest one in the law school curriculum, although not necessarily the hardest. The high-

est compliment that can be paid to any suretyship book is that it makes the course the least painful.

Professor Langmaid has stolen a great deal of thunder from the reviewer by turning his preface into a brief for the book, apologizing, explaining, justifying, and otherwise upholding the validity of his analysis, omissions, and selection of cases. One cannot review the book without repeating some of the points he has made there. The preface is helpful. A careful reading of it might make the selection and use of the book by the instructor a more intelligent process.

One of this book's virtues is its brevity. Its 207 cases and 653 pages can be covered in the normal course of thirty-two lectures by averaging six cases, or twenty pages, to a lecture. Its analysis is as brief. There are only nineteen ultimate subdivisions. Chapter I, "The Statute of Frauds," has no further subdivision. Chapter II, "The Rights and Remedies of the Surety," has the conventional quadruple division into "Subrogation," "Indemnity," "Contribution," and "Exoneration." Chapter III, "The Defenses of the Surety," has thirteen well-named subdivisions, and Chapter IV, "Availability to the Creditor of the Surety's Securities," is a lone heading.

The analysis purports to cover less subject-matter than most of the case-books on the subject. The bulk of the book is given to a great extent to the two middle chapters on "Rights and Remedies" and "Defenses." Chapter I has but twenty-seven cases and Chapter IV but five.

With one exception, the book contains nothing but case material. The student can glean an idea as to forms of suretyship undertakings from the facts in the cases. An appendix of forms might have been repetitious.

The problem cases in the footnotes are sufficiently few so that both instructor and student can hope to read them all. This is an advantage. Any greater number would be stifling. In speaking about the footnotes, one could criticise a fault in this book which is hopelessly orthodox. Would not more students read more footnotes were they placed, not at the bottom of the page, but immediately after the conclusion of the case to which they are appended and before the title of the succeeding case? Would not more attention be paid to footnotes if the formal ones, such as "statement of facts omitted" or "concurring opinion omitted," went by the board, leaving such worthless information to be implied from asterisks? Even instructors might become more interested in footnotes if they were made more attractive.

The chapter on the Statute of Frauds contains some well chosen and well arranged cases which not only cover that topic, but serve well as an introduction to the fundamentals. "Sufficiency of the memorandum" is not touched on, except in a long footnote placed before the first case. Its location there might seem unfortunate to an instructor who wishes to discuss this material, but who prefers to start a chapter with a routine recitation on a case before beginning any lecture matter.

The chapter on Rights and Remedies is rather lengthy, and sometimes seems never-ending. Some of the cases seem transposed from one section to another, and repetition can be sensed. This general topic is placed be-

fore "Defenses," although the editor suggests a return to the converse logical arrangement if the instructor so wishes. He also apologizes for the transposition of the cases. If the cases are interchangeable on certain points, it would seem that a thorough treatment of the principle involved in one place, with a footnote reminder that it also holds good for another right or remedy would suffice. This would save space.

The third chapter, "Defenses," is the best done. It has an excellent sub-analysis and presents ample opportunity for discussion of those phases of "formation of contract" incident to Suretyship. In this respect the editor's analysis differs from that of Dean Arant whose treatment of Defenses is composed of fewer headings, with a separate treatment of "formation of contract."

The fourth and last chapter contains five of the toughest cases to be met in a day's journey. One wonders whether it is because of the intrinsic difficulty of the subject matter, or because of a desire by the editor to transport the students to the brink of Hell just before the examination. The cases are at least informing. One of them forces the reader to inquire just what is the Scottish action of "multiplepinding."

The book takes no definite stand on the controversy between ancient cases and modern ones. It achieves a similar straddle as to the present status of the compensated surety, when compared with his gratuitous brother. The corporate, compensated surety is neither neglected nor idolized. The cases are of all ages.

Of the casebooks on suretyship, this seems to be the best one available for a course of thirty-two lectures. It achieves the *summum bonum* of making the course the least painful. Let us hope that Dean Ames' collection will now receive its deserved retirement.

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LECTURES ON LEGAL TOPICS, 1923-1924. Vol. V. New York: The Macmillan Co., 1928. Pp. vii, 485. Price \$3.50.

The Bar Association of the City of New York has just published the fifth volume of a series of lectures and addresses delivered by distinguished members of the legal profession before its regular meetings during the court year 1923-1924. These lectures are of interest not only to the lawyer, but also to the layman, because the character of the material presented and the personnel of the contributors are national and international in scope. Thus we see what others think of us and our problems, and how our institutions compare with those of other nations. The Bar Association of the City of New York is indeed to be complimented for giving others the opportunity to enjoy the benefits which its own members derive from its meetings.

In the volume under review there are twenty lectures by nineteen separate lecturers. A glance at the list of subjects which follows shows the wide field covered: "Reflections of a Trial Justice," by Jacob Marks; "The Development of the Law," by I. Maurice Wormser; "The Legal Profession in France," by Pierre LePaille; "Foreign Lawyers in France," by Maurice Leon; "The Reparations Problem," by P. D. Cravath; "Collective Bargain-