

reported in full. For example, the authors skim over the intricate contests for delegates in the non-primary states. Their several errors of fact do not detract from the over-all authority of the narrative.

Like one of the more sensational of the recent off-Broadway plays, the melodrama they describe closed after a single performance. The authorities are not likely to permit a similar production to open without major revisions in the format.

**Donald Young**

*Donald Young is senior editor for American history for the Encyclopedia Americana.*

## IT DOESN'T MATTER WHERE YOU SIT

by **Fred McClement**

*Holt, Rinehart & Winston, 238 pp., \$5.95*

FOR THE SECOND TIME in the past decade the safety of air transport is being questioned seriously by the Congress, the public, and many in the executive branch of the government, as well as by the aviation industry. Travel by commercial airline in the United States can be considered relatively safe today, no matter how the statistics are compiled; but it is not as safe as we know how to make it.

The real cause for concern is the future, for the government and industry have not kept pace with the inexorable and rapid growth of air travel by providing programs to handle this growth in a safe, controlled way.

The problem manifests itself in the increasing congestion at our major airports, where safety is maintained at the expense of delays in departures and arrivals. These result in serious inconvenience and cost to the air traveler, economic penalties to the commercial carriers, and restrictions on general and business aviation about where and when they can fly.

Flight safety in the 1970s is being threatened in two ways—by the advent of the jumbo and supersonic jets, and the proliferation of aircraft in both commercial and general aviation, especially the latter. Even if the present ratio of accidents to flights (departures) or hours flown maintains its trend, the commercial airlines' record will become meaningless since the jumbo jets will accommodate far more people per flight than do the current jets. Each accident in a jumbo jet will result in two to four times as many fatalities as previously.

Over the next decade our commercial fleet of a few thousand aircraft will double, while the general and business

aviation fleet of some 100,000 planes is expected to increase five to ten times. This will further congest an already saturated airways and airport system—in which the safety record of general aviation is spotty—and increase the risk of all aircraft unless suitable programs for improving aircraft design, airways control and management, and airport facilities are implemented. The only alternative is to blunt the growth of the commercial aviation industry, now an important 2 per cent of the GNP, and to further restrict the use of airspace.

The need for safety cuts across every aspect of aviation—the crash-resistance design of the vehicle itself; the ability of the airways traffic control and management system, operated by the Federal Aviation Administration (FAA), to handle the flow of traffic in an unconstrained way; government policies on the use of airspace; the level of pilot skill and training; airport runway and electronic facilities for landing and surface control of vehicles; the collection and dissemination of accurate weather data.

Most accidents today (over 80 per cent) take place in the vicinity of airports when planes are taking off or landing. This has led to the concept of the "survivable crash," i.e., the possibility of passengers' being able to walk away from the crack-up. To achieve this requires upgraded evacuation systems (including better egress design, fireproofing of materials, smoke control, and fire suppression), as well as more reliable fuel, aircraft structural and instrument systems. Greater attention is now being paid to these factors by the manufacturers of the new

jumbo jets and airbuses—obviously, at some cost to the user.

A much more effective air traffic control and navigation system is needed to handle the projected traffic loads and to decrease the probability of mid-air collisions, especially in high-density terminal areas like New York. The use of airspace in these high-density areas will also have to be restricted to keep out improperly equipped planes or insufficiently skilled pilots.

At the airports the low-visibility landing problem is shaping up as the major challenge of the 1970s. Much improved runway/landing systems are necessary to provide truly all-weather high-capacity airports. Many low-density airports must also be equipped with radar and landing systems.

All the above will take money—over the next decade about \$5 to \$6 billion for new and improved airports and about \$2 billion for an improved airways system, these exclusive of refinements in aircraft and electronics. The current Administration and the Congress are considering the use of a trust fund (similar to the highway fund) to help finance these measures. Monies for the trust fund would be obtained from flight-ticket and aviation-gasoline taxes. There is hope this year that all the parties concerned, in aviation and government, will agree on the specific legislation required and how the fund will be administered. Without such accord air safety in the 1970s can disastrously diminish.

Responsibility for air safety is diffuse. Primarily it rests with the federal government—chiefly the FAA, which administers and operates the airways



"Have my pants pressed and this data processed."

and certifies aircraft, and the National Transportation Safety Board. The NTSB, which promptly investigates all accidents and establishes causes, also takes corrective action and correlates incidents such as near-misses. Involved too are one committee in the Senate and another in the House. All must cope with various special and state and local interests. The growing congestion of the airways will require policy changes by the FAA in the utilization of airspace, especially in the terminal areas. Although the NTSB, which answers only to Congress and the President, has a small budget, it projects a vigorous attitude toward the problem of air safety.

In summary, the issue of air safety is a structural one, not an operational one, with no particular party being the villain. A great deal needs to be done regarding financing, research and development, management, allocation and utilization of airspace, legislative policy, pilot training and discipline, implementation of new traffic control systems and procedures, aircraft design, etc., to allow the aviation industry to grow to its true potential in the next twenty years.

Unfortunately, Fred McClement's book (the title refers to the equal probability of getting killed in a crash whether you're in the back or front of a jet) does not address this air safety issue in a wholly positive and accurate manner. *It Doesn't Matter Where You Sit* is principally a popular treatment of Civil Aeronautics Board and NTSB reports on probable causes of jet air disasters and near disasters in the last decade. Although the book sounds authoritative, technical errors abound—about a dozen to a chapter. They range from the trivial and obvious to those that could be distortions—such as freely mixing domestic and international accident statistics without identification as such.

The book dramatizes accidents and near accidents in thunderstorms and lightning, clear air turbulence, "CAT," (after stating that the airlines are wasting their money doing research on CAT, the author spends the rest of the chapter showing how bad it is), geostrophic convection (wind gusts caused by buildings and other impediments near airports), and 727 landings. No clear conclusions are drawn or recommendations made. Mr. McClement ends with a hodgepodge of ideas—some good and some impractical—on what to do about air traffic control and airports. The incidents dealt with are actual ones but heavy reliance is placed upon innuendo, implications, and doubt-raising.

*It Doesn't Matter Where You Sit* will unnecessarily scare the layman and

provide little help or perspective for the public, Congress, or the experts who want to do something about the problem. It will not be the *Unsafe at Any Speed* for the aviation industry. Buried in the debris, there are these messages in the book:

Jet flying is an extremely complex business, especially in bad weather.

The NTSB, as an independent agency relatively free from outside pressures, plays an important role in keeping the air transportation system honest in the safety area.

The aviation community is a long way from being omniscient with regard to physical phenomena involved in aviation safety.

The problem will get worse unless some things get done.

**Charles A. Zraket**

*Charles A. Zraket is a senior executive of a company engaged in research and development in military and air transportation systems.*

## TWO STUDIES IN CONSTITUTIONAL INTERPRETATION

by **Telford Taylor**

*Ohio State University Press, 214 pp., \$7*

FBI AGENTS SUSPECT YOU of tax evasion. May they bug your house? May they frisk you without a warrant? If they arrest you, may they search your house without a warrant? If you are indicted, what may the press publish about you? May the trial judge fine or jail a newspaper editor who permits the publication of information that tends to prejudice the jury against you? These are the kinds of Constitutional problems Telford Taylor, professor of law at Columbia University, ably considers in his *Two Studies*.

The first essay, "Search, Seizure and Surveillance," explores the Fourth Amendment: what it was meant to mean, what it has come to mean, and what it ought to mean, to paraphrase Taylor's three canons of Constitutional interpretation. Taylor traces the use and abuse of search warrants in England and America before our Revolution, points out how little protection

against unreasonable search is afforded by the warrant procedure, examines some of the mysterious lines the Supreme Court has on occasion invoked in an attempt to make the Fourth Amendment look objective (e.g., that bugging was Constitutional if the bug was placed outside a wall of a house, but not if it penetrated the wall without the owner's permission). He distinguishes the Constitutional problems posed by traditional searches from those posed by the more pervasive techniques of wiretapping and bugging, and predicts the resolution of a number of Fourth Amendment questions. Recent Supreme Court decisions, handed down after the book was written, have already borne out two of his predictions: the demise of the "mere evidence" rule and the trend towards Supreme Court approval of electronic surveillance pursuant to court order.

The second essay, "Fair Trial and Free Press: First Fruits of the Warren Report," reviews the efforts of the bar and the press to define the kinds of information that should not, consistent with a defendant's right to a fair trial, be divulged by the prosecutor or by the police or published by the press, and to consider what sanctions should be imposed upon the bar, the police and the press for disseminating prejudicial information. This section, consisting as it does largely of a report on the reports of various bar and press groups, is less stimulating than the first one with its wealth of independent Constitutional interpretation.

Both essays are based on lectures given in April 1967. Although Taylor has updated them with postscripts covering events to April 1968, the law, particularly in the Fourth Amendment area, has moved exceedingly fast. Since April 1968 the Supreme Court has decided a number of important cases involving the permissibility of bugging and warrantless frisking, and Congress has authorized wiretapping and bugging pursuant to court order in the Omnibus Crime Control and Safe Streets Act of 1968 (with a name like that, who could vote against it in an election year?). Despite these recent developments, Taylor's book, with its clear writing, able analysis, and thorough presentation of Constitutional history, will be of great use and interest to anyone concerned with the Fourth Amendment, the conflicting claims of fair trial and free press, and the continuing efforts of the Supreme Court to interpret the Constitution wisely in a changing world.

**Meredith M. Brown**

*Meredith M. Brown is a practicing attorney in New York City.*

