

ITALY

PRELIMINARY

INTRODUCTION

The present air law of Italy, although amended and purged of "corporative norms" after the fall of Fascism, is still an integral part of the general Code of Navigation enacted in 1942. It forms the Second Part of this Code; while Part Three contains criminal and disciplinary provisions, and Part Four comprises additional and transitory provisions, both also contain provisions dealing with the law of the air, and maritime and inland navigation. Moreover, whenever the provisions on air law do not sufficiently or entirely cover certain fields of law as, for instance, insurance, mortgages and the like, the provisions of the maritime law are referred to as applicable. Thus, even though there is no complete fusion of the several branches of laws, a superimposition and intermixture of one field of law with several others was the result. The Code shows the effect of this attempt of combining all fields dealing with navigation.

This expediency was also due to the fact that, when the Code of Navigation was being prepared, Italian maritime law was a somewhat neglected branch of the law. Maritime law was still based on the Merchant Marine Code of 1877, the Second Book of the Code of Commerce, and on a number of special enactments which could not effectively cope with the great changes and the evolution of technology which brought Italy into the group of major sea powers of the world. Air navigation was governed by the fairly recent Law of 1923 and the Regulations of 1925.

After many years of study in this direction, Antonio Scialoja, a noted legal scholar, produced a compilation of draft laws in matters of sea, inland and air navigation, not only to fill the gaps, but to mark achievements worthy of the great Italian tradition in the field of legal science.

The Code of Navigation, enacted in 1942, not only established a "unitary" system but was intended to open the doors to a further process of unification of the various subjects. However, this unification faced the opposition of many Italian scholars who objected to the attempt of uniting such a vast and varied area of law, particularly since air law and maritime law were not regarded as two subdivisions of the same subject. In view of technological developments, this seems even more true today.