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Law and Politics in Space

Edited By

MAXWELL COHEN

Montreal: McGill University Press. 1964.

Pp. 221, \$5.00

This volume is a report of the proceedings of the First McGill Conference on the Law of Outer Space held in April, 1963. The title of the conference is a better indicator of the substance of the material presented in that it leaves out the word "politics." Since the roster of conference participants reads like a who's-who of space law, one comes away from a reading of the proceedings with a sense of the difficulty involved in trying to convey the real utility of such conferences in print. One must assume that this group would generate a dynamic and provocative intellectual exchange, yet this is not as evident as it should be in the book.

George J. Feldman, of the Communications Satellite Corporation, in the first brief paper on the "International Arrangements for Satellite Communications" proceeds (in six pages) through a history of space communications, the nature of the Communications Satellite Act, and some of the implications of space communications for international relations. One would wish that he had focused attention on one or two problem areas which the participants could then have investigated in detail. This narrowing did take place in the discussion and it is therefore the more worthwhile part of this section of the volume.

John A. Johnson of the National Aeronautics and Space Administration discussed the question of "Pollution and Contamination in Space" in the second paper of the conference. This is a useful brief statement of the nature of the problems in this category. He makes it clear to the layman that the immediate problems within this category are those of inhibiting or imperiling continued scientific investigation. For, as he suggests, "it is questionable . . . whether the term 'pollution' should be used at all with reference to outer space, since it ordinarily connotes the destruction, or substantial loss of value, of some great natural resource which is a primary need of man."¹

The Pentagon's John T. McNaughton in the third paper gives a brief but lucid description of present United States military think-

1. Pp. 37-38.

ing on the question of "Space Technology and Arms Control." On the much talked of question of bomb-carrying satellites he suggests two conclusions: "The first is that no one needs the bomb-carrying satellite; the second is that there are convincing reasons why no one should want it."² He ends his discussion of this topic by defining some of the considerations which come into play in considering the military role in outer space.

In the fourth paper, "Observation in Space," Leonard C. Meeker of the Department of State presents the general American position on observation which is "that observation of the earth from outer space is a legitimate and permissible activity in peaceful exploration and use of space."³ He then proceeds through a summary of the possible kinds of observation under the headings of weather, protection of economic activities, and promotion of international security.

An appeal for a central role to be played by the United Nations is the theme of "The Prospects for a Regime in Outer Space and International Organization" by the United Nation's Oscar Schachter. He rejects the thesis that the world must wait upon customary law because treaty law is impossible and suggests the utility of establishing norms through such instruments as United Nation's resolutions. He argues that these resolutions are effective and that they provide standards which transcend individual national interests. This is the outstanding paper of the series because it provides some real focal points for discussion.

In the longest paper of the conference Professor Myres S. McDougal of the Yale Law School deals with the same topic as Mr. Schachter. His effort initially is to set some limits to the notion of the Regime of Outer Space. At a minimum, McDougal suggests, the Regime might mean "that all the important decisions with respect to space activities are taken by legal process. This is merely a demand for rule by authoritative decision rather than by naked force."⁴ At the other extreme it might mean a legal process which we associate with a free society and accepted notions of human dignity.⁵ Professor McDougal then goes on to argue and support the notion that we have achieved or are well on the road to achieving the minimum level of the Regime. He supports this argument by separating the

2. P. 67.

3. P. 76.

4. P. 106.

5. *Ibid.*

legal problems of outer space into seven problem areas. His paper presents considerable food for discussion.

A general view of this volume leaves one somewhat puzzled on the question of its utility. On the one hand, it does not provide a very useful introduction to the problems of this area for the uninitiated, because it does not provide sufficient background information. For example, one would need to know something about the debate that revolves around the question of the upper limits of sovereignty. On the other hand, for someone who has this background information available, there is little to be gained from the book. Although the last two papers are worthwhile, even here one would be well advised to read more detailed discussions of the questions by the same authors in other places.

I would conclude as I started: one must assume that the conference participants would generate a dynamic and provocative intellectual exchange; however, this is not as evident as it should be in the book.

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