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## Book Reviews

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## BOOK REVIEWS

TRAITE DE DROIT AERIEN-AERONAUTIQUE, by Nicolas Mateesco Matte, second edition. Paris, France, Editions à Pedone, 1964, pp. 1021. 100 francs.

This volume in the French language, printed in Montreal, Canada, and distributed by a Parisian law book publisher, is an elaboration of a shorter 1954 work by the same author, a professor at the University of Montreal.<sup>1</sup> The scope and content of the volume is best shown by describing six of the eight parts into which it is divided:

1. Aviation and air law up to 1919 (pp. 19-113).
2. Regulation of air warfare (pp. 117-29).
3. Public international air law (pp. 133-278).
4. International penal air law (pp. 281-371).
5. Private international air law (pp. 375-576).
6. Problems of space (pp. 579-644).

These six parts constitute an orderly presentation of many of the generally accepted topics of air law, the author having elected not to extend his coverage to include, for example, taxation (including the highly controversial airways facilities charges such as those once imposed by Canada), and aircraft and air transport registration and licensing.

Basically, this edition is the 1954 edition with (i) the addition of subsequent international air law developments (e.g., the Hague Protocol, the Guadalajara and Tokyo Conventions); (ii) many old topics substantially revised and extended (e.g., the Warsaw, Rome, Chicago and Geneva Conventions and crimes); (iii) the addition of Part 6 on Space and of a 327 page Annex (pp. 653-979), in French, consisting of more than 30 conventions, agreements and protocols;<sup>2</sup> and (iv) the addition of a 20 page bibliography on topics covered in the six-part text.

The sum total of this is a broad presentation of most of the major areas of air law together with French language texts of many of the important documents. French sources have been most influential in the preparation of this volume; the works of Maurice Lemoine are cited more often than those of any other author, and the works of other French authors (e.g., Paul Chaveau, Michel de Juglart, Marcel Le Goff and Eugène Pépin) receive considerable attention. Similarly, articles appearing in French air law journals (*Revue Française de Droit Aérien*, *Revue Générale de l'Air* and *Revue Générale de Droit Aérien*) are cited with a number and fre-

<sup>1</sup> Mateesco, *Traité de Droit Aérien-Aéronautique*, Editions A. Pedone, Paris, 1954, pp. 312.

<sup>2</sup> A few words should be said about the long Annex. Some of the Conventions reproduced (e.g., Bucharest and Zemun) are of little, if any, significance; others (e.g., Paris and Pan-American) are not now in force and are of only historical significance; still others (e.g., Warsaw, Rome, Chicago, Bermuda, Geneva and Hague) are readily available as appendices to various volumes. Some of these are: Cooper, *The Right to Fly* (1947); Showcross & Beaumont, *Air Law* (2d ed. London, 1951), with Second Cumulative Supplement (London, 1955); Fixel, *The Law of Aviation* (3d ed. 1948); Cheng, *The Law of International Air Transport* (London, 1962) as well as various air law journals. Except for those few who do not thus have access to the documents, the addition of a long Annex of documents, many of which are not in authentic texts, only makes the volume longer, and distracts from the pleasure of reading it.

quency which, when compared with the paucity of citation of articles in this and in other English language journals,<sup>3</sup> confirms the belief that the volume is written from a French point of view. The intense interest in international air law shown in the volume has resulted in what, at times, seems to be only incidental interest in purely domestic and internal aspects of French air law. To be sure, international air law such as the Warsaw Convention and the Hague Protocol have become in France, as in many nations, the domestic law by force of domestic legislation. Even when this happens, there is still an additional and considerable body of pertinent domestic air law (including, but not limited to, the French Code of Civil and Commercial Aviation, 1955) which has not received the amount of attention to which it seems entitled.

The volume will be most useful to a student or practitioner interested in the development and present status of air law in France or in any of the many nations of the world where French law has been dominant in the evolution and development of air law. The volume would not be nearly as useful to a student or practitioner in Great Britain, or in Canada or in the United States. This seems so because those areas have not only different national statutes (references in the volume to the Aeronautics Act of Canada, to the Carriage by Air and Civil Aviation Acts of Great Britain, and to the Federal Aviation, Federal Tort Claims and Death on the High Seas Acts of the United States, are few and far between), but the position of each of those nations with respect to international air law, public or private, is different because, among other things, they are not parties to the same groups of international conventions and agreements. It is becoming clearer that there is no universal air law, but rather an air law related to, or reflecting the point of view of, each individual nation.

In addition to the student or practitioner interested in the development and present status of air law in France and in nations whose air law has been influenced by French developments, the volume should be of value to all whose interest in air law, international or domestic, is such that all broad works in the field interest them.

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<sup>3</sup> This practice has led to the omission from the volume of any citation to two important articles in the Journal of Air Law and Commerce: Garnault, *Liability of the Gratuitous Air Carrier Under French Law*, 28 J. Air L. 369 (1962), and Cartou, *Codification of Legislative Texts on Civil and Commercial Aviation in France*, 24 J. Air L. 24 (1957). Apparently uncited are any articles from *Il Diretto Aero* (Rome, first published 1962) and *Arkiv for Luftrett* (Oslo, first published 1958).

OUTER SPACE IN WORLD POLITICS, by Joseph M. Goldsen, Editor, New York: Praeger, 1963, pp. vi, 180. Bibliography. \$5.00

This slim volume grew from a conference organized by the RAND Corporation in 1959. The editor, Mr. Goldsen, served as Chairman as well as contributor. Four of the papers presented here appear, in slightly different form, as contributions to that conference (Report R-362-RC, Santa Monica, Calif.: The RAND Corp., May 5, 1960). Here, it is barely possible to do more than list the contributions. To one already familiar with much of the space literature it is perhaps enough to say that several of these papers offer some new and fresh insights into what are becoming somewhat worn areas.

Goldsen, in an introductory chapter, emphasizes that this is a book of political thought, an examination of *some* of the points of interaction between space activities and international politics, with a heavy emphasis on space and the Cold War. He raises some of the relevant questions concerning this "geographically extended dimension of human activity" and its effects on the continuing political concerns of men on earth. He believes, with others here represented, that the attempt over many years to make a "peaceful-military" distinction in U.S. space activities has been unrealistic and useful to the Soviet Union for propaganda purposes.

This important point is explored in papers by Paul Kecskemeti and Arnold L. Horelick, both of RAND, and related documentation is offered by Gabriel Almond. Kecskemeti points out that, in outer space activities, the Soviet Union has for the first time engaged in a governmental effort with an emotional appeal for people at large, not just Communist sympathizers. He contrasts the United States and Soviet approaches to projecting a "peaceful image" of national space programs: the Soviets insist that the nature and purpose of all their acts are scientific and peaceful, but on occasion point out the formidable military power inherent in a space program. The United States hopes for a safeguarded, enforced, peaceful approach by all nations and makes NASA its chief space agency, but maintains and acknowledges military programs. He feels that separate military, civilian and political policy streams will not in all probability add up to an optimal integrated overall space policy. More important, he suggests that there may be little need for arms control regulation in space at this time.

Horelick also focuses on Soviet policy, pointing to political prudence and expediency as its ultimate criteria. He argues that the Soviet space program is a "major element in the total strategy of the Soviet leadership" and is in support of such objectives as the destruction of the Western alliance system (through destruction of confidence in United States military, scientific and technological superiority), the acquisition of power and prestige in the new nations, and the strengthening of the regime at home through boosts to national pride. He assumes that science, economics, technology, education and culture are at most secondary values, important essentially as means toward political ends. Ultimately, of course, these must be interrelated, even in the Soviet Union. He also dissects the Soviet uses of its space program as well as the Soviet view of the American programs.

Almond, in "Public Opinion and the Development of Space Technology: 1957-60" pulls together the admittedly fragmentary poll results acquired

in the first few years of space activities. He deals with popular knowledge and attitudes toward space developments, popular estimates of United States and Soviet capabilities, popular support for United States foreign policy, attitudes toward East-West relations and the United Nations, and the trends in United States opinion on many issues. Countries covered, in differing degrees, are the United States, the United Kingdom, France, West Germany and Italy. He estimates the impact of Sputnik I with its consequent upgrading of belief in Soviet technological capacity and some lessening of respect for United States military capabilities, particularly in France. In part the image of the Soviet Union as a strong but less fearsome entity has also emerged. All polls, of course, date from 1960 or earlier as the author takes care to point out. More recent polls appear to show more respect for the American program. The future public opinion and power impact of space exploits of course depends on how much essentially new drama or knowledge or power they invoke.

Next Thomas C. Schelling deals with "The Military Uses of Outer Space: Bombardment Satellites." He raises the pertinent questions respecting military and political use and feasibility of space bombardment systems and of these weapons in the general arms control context without seeking to give definitive answers. The 1963 United Nations Resolution barring the placing of weapons of mass destruction in orbit does not in fact detract from the usefulness of his analysis since there are emerging powers which may find such systems more in their interest than the current space duoplists seem to.

Klaus Knorr in "The International Implications of Outer-Space Activities" also deals speculatively with possible developments in and related to outer space activities for the next twenty-five years. This is a slightly revised version of the paper which attracted considerable attention when published in *World Politics* in July 1960. In sum, he feels it unlikely that space activities will "produce revolutionary changes in world affairs" in the next few decades.

Last, Karl Deutsch, in "Outer Space and International Politics: A Look to 1988," discusses national capabilities, groupings, and the techniques of war and observation potentially available through space use. He then explores the implications of "developmental constructs" involving a world of extreme rivalry in 1988 and one of moderate rivalry. He also offers suggestions as to what types of studies might be undertaken now as an aid in better understanding the problems of the future.

The question of projecting the interesting lessons from the past into the space politics of the future clearly requires an educated guess as to how important space technology and activities will become militarily or economically. The future psychological and power impact of space will surely depend on realized or realizable strategic and economic results. Since it is overwhelmingly likely that the major theatre for international competition, warlike and peaceful, will remain on earth, we can expect that this new dimension to man's activities will be dominated by the old. Predictions about space developments must predict earth developments. Thus, the interesting events of mid and late 1963 which occurred after these papers were written, the partial nuclear test ban treaty and the United Nations resolutions on principles governing space activities and the orbiting of nuclear weapons, marked a relatively sharp break with earlier United

States-Soviet-United Nations space relations. They were no doubt impelled by international political developments on earth including especially the deepening Russian-Chinese rift.

These papers highlight again the implications of the different governmental systems of the two space powers as determinants of the "efficiency" of their past and future space policies. Though faced with similar problems, since they compete for power and survival in the same decentralized international system, they can be expected to retain different sensitivities to national and international public opinion as a result of their significantly different processes of internal decision making. Thus, as these essays show, the United States has been and can be expected to remain less free to ignore or to use disingeniously the pressures of "peace movements" directed at earth or space. It may choose to be led by them, often appearing to yield, grudgingly, too little too late (and, even so, running the risk in fact of yielding too much within the present sensitive system). It may seek to lead, to re-educate, to re-create public opinion towards the support of broader gauge "peace movements," those aimed at a fundamental modification of the international system, not just the symptoms. Whatever the freedom of the Soviet government, "efficient" policy choice for the United States is not and cannot be independent of the preferences of the American people for peace or even for "peace movements."

Taken together, these essays form a useful contribution to this necessary continuous speculation about nation's relation to nation in the space age.

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