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Law and Public Order in Space

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McDougal, Myres S., et al. *Law and Public Order in Space*. New Haven: Yale University Press, 1963. 1147p.

For readers who assume that law is simply the articulation of undeviating universals, this book is horrifying. For those who confidently assume that intelligently programmed computers can automatically spew forth usable legal solutions, it is appalling; but for laymen who understand law as an invented technique to make living together more orderly and harmonious, this book is enlightening and its reading an adventure. It is indeed a great book. No public policy issue involving space or space sciences can henceforth be adequately studied without referring to it. The principal author, Myres McDougal, is well known to the Navy, because his book *The Public Order of the Oceans* is the most authoritative work on the subject. His deep concern for determining the facts before arriving at conclusions has led him in this book to make a detailed search of nonclassified material relating to the use of space. The research is prodigious and, if only because of these comprehensive references, this book belongs on the shelf of an informed strategist. Nevertheless, it is hard reading. Its complicated language and almost painfully accurate mode of expression, deters the browser. The authors at the outset discuss the context in which space problems arise: the setting is by definition international because the utilization of space and its sciences transcends national boundaries and is of universal concern. They seek to identify the participants (governmental, international, nongovernmental, and individual), clarify their values and specify their several objectives. These facts must be disclosed because they decisively influence the kind of 'public order' man creates. It may come as a surprise to many readers to find that due to the imagination and forbearance of the United States, the Soviet Union, and other members of the United Nations, and due to the persistence of the scientific community, there is already a significant amount of agreement in the principles of space utilization, and international collaboration has already suggested a path away from anarchy and confusion. As we all know, 'unregulated rivalry and violence in connection with space can be vastly more disastrous than ship-to-ship or fleet-to-fleet encounters during the age of exploration and colonization.' The complex values which shape the public order of space are discussed under the headings 'power,' 'wealth,' 'enlightenment,' 'respect,' 'skill,' 'well-being,' 'rectitude,' and 'loyalties.' The naval officer should note in this analysis that law is not just the product of power (or of other values) but that one of the constituents of power (and of

other values) is law. In their discussion of the objectives and of preferences which should be accorded various values, the authors reflect their own dedication to Western civilization and to the achievement of a 'minimum' public order that realizes human dignity (and that of all advanced forms of extraterrestrial life) on the widest possible scale. It is axiomatic that law is the product of a process of making claims and responding to the claims of others. That law relating to space develops from this dynamic process is the thesis developed in the bulk of the book. These claims and responses relate to access and competence in space, to the maintenance of order in space, to the nationality of spacecraft, to jurisdiction over space activities, and to the enjoyment and acquisition of space resources. The particular claims and responses and the values that they embody are thoroughly covered.

The most imaginative chapter, which is likely to excite considerable comment and interest, relates to potential interaction with advanced forms of nonearth life. In this recitation the brilliant mind of Harold Lasswell is apparent. He draws upon the numerous occasions in world history when cultures clashed as supplying instructive instances which might guide us should space exploration bring us into contact with inferior, superior, or similar civilizations.

Developments in space during the past six years achieved through an unusual degree of unanimity suggest that the authors' hope for public order in space is not entirely unfounded.

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Law