

Book Review

Aerospace Law. By Nicolas Mateesco Matte. London: Sweet & Maxwell. Toronto: The Carswell Company Ltd. 1969. Pp. 501.

Already the author of a number of French-language books on various aspects of international law, Nicolas Mateesco Matte, Professor of Air and Space Law at Université de Montréal, visiting Professor at the Universities of Paris, Aix-Marseille and McGill and a well-known Montreal lawyer, now presents AEROSPACE LAW as his first major work in English.¹

The achievements of the space technology and space explorations have created and will continue to create a host of complex inter-state relations which will require legal regulation. The author treats this legal regulation as a separate branch of law, namely "aerospace law". He seems to accept the definition of "aerospace" as "earth's envelope of air and the space above it, the two considered as a single realm for activity in the flight of air vehicles and in the launching, guidance and control of ballistic missiles, earth satellites, dirigible space vehicles and the like".² Nevertheless, in spite of this broad definition of "aerospace" the book is actually confined only to legal problems of "space" explorations.

The first part of the book entitled "Space and Space Vehicles" deals mainly with the legal status of space and presents a penetrating analysis of different theories. The author advocates the *functional theory* and considers that the demarcation of the boundary between the "air space" and "space" is neither an urgent problem nor even one which needs to be resolved. In the light of this theory, there exists only one medium, the *coelum*, which should be considered a unity and in which states would exercise *functional sovereignty* (for the purpose of air navigation and in the interest of military security) and enjoy *functional freedom* (for the purpose of peaceful exploration). While the author refuses any analogies with maritime law, he asserts that the natural corollary to the principle of freedom of space is the right of every state to have access to these heights (including the incidental flight over the territory of another state, at whatever altitude that may be), just as landlocked states have the right to have access to the high seas. Somewhat surprising is

¹ A French edition of the book has been published by Ed. Pedone, Paris, 1969.

² Matte, at p. 19.

the assertion that "aeronautical law" (*i.e.*, air law) should apply to mixed planes and satellites which can fly in air and in space and which are used for "earthly missions", such as the transport of persons or merchandise, weather information, for the transmission of radio or TV programs, etc.³ It would appear that in this respect the functional theory fails and the question of boundary between "air" and "space" becomes relevant.

Part II of the book gives an outline of the structure and work of international non-governmental and governmental organizations dealing with space activities and the development of space law; of particular interest is the detailed and up-to-date analysis of the development of space law in the United Nations, as well as in the specialized agencies in relationship with the United Nations (ITU, WMO, ICAO, UNESCO). Interesting references are also made to bilateral agreements on cooperation in the exploration and use of outer space as well as to space activities of individual states.

Part III bears the title "Economic utilization and exploitation of space" but deals exclusively with the utilization of space for telecommunications and with the organizational structure and work of COMSAT and INTELSAT. In the critical survey of COMSAT and INTELSAT⁴ the author reproduces the critical comments of certain scholars (in particular from the USSR) but his personal opinion is not quite clearly stated.

Part IV is concerned with treaties, agreements and projects on the peaceful uses of outer space. It will be found extremely useful by any reader interested in the history, procedure and political context of international law-making. In Chapter I the author discusses the vital prerequisite of securing the maintenance of minimum order in the earthspace arena — the issue of general and complete disarmament and of non-proliferation of nuclear arms. The focal point of Chapters II and III on the peaceful uses of space is a merciless critical analysis of the *Outer Space Treaty* of 1967, the wording of which the author finds inaccurate, ambiguous, confusing and even contradictory. Chapter IV presents an analysis of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space (1968) and Chapter V outlines the problem of international liability for injury or damage caused by space vehicles on which — with many difficulties still to be overcome — a draft convention is being prepared in the United Nations.

³ *Ibid.*, at p. 73.

⁴ *Ibid.*, at pp. 217-221.

The book contains over 100 pages of useful documents, such as the full texts of all the relevant resolutions of the United Nations General Assembly and texts of all important international agreements referred to in the book. These Annexes and a detailed bibliography of space law guarantee that Professor Matte has prepared a handy reference book which purveys accurate and up-to-date information.

AEROSPACE LAW is a book of high scholarly standard and it deserves the attention of anyone studying space law. Several theoretical conclusions may be open to discussion but the book as a whole is a useful contribution to knowledge of a field of law which, though it has only recently emerged, will fascinate lawyers and laymen for many generations to come.

It is to be regretted that a book of this size does not contain an index and that the English edition is plagued with some disturbing typographical errors. It is difficult to refrain from commenting on the picture shown on the cover which shows an artist's concept of launching of a satellite from the surface of the moon; the trajectory of the satellite leaves no doubt that the satellite is heading for collision with the surface of the moon. Fortunately, the book itself shows more optimism in respect of the successful outcome of the exploration of the space.

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