

BOOK REVIEWS

THE LAWFULNESS OF DEEP SEABED MINING. By Theodore G. Kronmiller. New York: Oceana Publications, Inc. 1980. 2 Vols. \$40.00.

For the last decade there has been a need for a definitive compendium on the law of deep seabed mining which would assemble in one location all of the reference and analytical materials on this politically and legally controversial topic. In spite of the inclusion of an excellent bibliography, many useful reference materials, and an ambitious scope, *The Lawfulness of Deep Seabed Mining* falls short of compendium stature. In fact, Kronmiller's work may well be characterized as an exceptionally lengthy analysis of and support for the assertion that "deep seabed mining is within the ambit of the freedom of the seas, a general principle of international law."¹ The fact that this text is primarily a work of advocacy is apparent from the introduction entitled "A Statement of the Argument." Furthermore, the work concludes with the statement that "[t]hus, under international law, it is permissible for a State or private enterprise unilaterally to appropriate the resources of the seabed and subsoil beyond the limits of national jurisdiction. Deep seabed mining is clearly within the principle of the freedom of the seas and is consistent with rules of customary international law and relevant conventional law."²

Kronmiller begins his work with a general overview of the political and economic factors affecting the deep seabed mining issues, and he is well versed in the delicate interface of the political and legal motives which impact these complex issues. However, it is rather curious that in such a lengthy text devoted to the premise of the lawfulness of seabed mining, only three pages are devoted to an explanation of the economic necessity and benefits of deep seabed mining. Kronmiller traces the development of the deep seabed mining issue from its inception with the now famous 1967 Pardo proposal, through the U.N.'s Moratorium and Common Heritage Resolutions, to the seemingly interminable sessions of the Law of the Sea Conference's Geneva/New York sessions of 1978. The author dismisses the importance of the U.N. Moratorium and Common Heritage Resolutions and makes no

1. T. KRONMILLER, *THE LAWFULNESS OF DEEP SEABED MINING* 9 (1980).

2. *Id.* at 521.

attempt at any definitive or lengthy analysis of the Law of the Sea (LOS) debate or the emergence of draft treaty articles since these topics do not easily fit into the freedom of the high seas format of the text.

Over one hundred pages of text are committed to a detailed and inconclusive analysis of the now familiar rubrics of *Res Nullius* and *Res Communis*. This analysis concludes with the assertion that, "the important point is that, under both theories, the resources of the deep seabed may lawfully be appropriated by State and private enterprises on a unilateral basis."³

After over three hundred and forty pages of background and reference text, Kronmiller finally arrives at his central premise in the chapter on "Lawfulness of Deep Seabed Mining Under the Regime of the High Seas." This section is complete with the now familiar theories and arguments of the flag-nation advocates of unilateral or multi-lateral deep seabed exploitation and is coupled with a chapter entitled "Analogies of Deep Seabed Mining to Uses of the Sea Established to be Lawful." These analogies include a discussion of the rights of fishing, laying and maintaining submarine cables and pipelines, and a most interesting discussion of military gunnery/bombing target practice and long-range missile tests.

The major strength of Kronmiller's work is his excellent and well detailed analysis of the deep seabed exploitation rights asserted under the freedom of the high seas standard. This section of the book is as definitive and well-written as has yet been undertaken. However, a major weakness of the work is its cursory analysis of developments of the Law of the Sea Conference and its very real attempts at international consensus building on the seabed mining issues. The treatment of the LOS's work by the author is explained by the fact that a basic premise of the text is that the LOS Conference will never agree to an international seabed treaty acceptable to the United States, and accordingly, the U.S. will opt for unilateral deep seabed exploitation. Regrettably, too little text and analysis is devoted to the history and emergence of U.S. domestic enabling legislation for seabed mining and the possibility of multi-state reciprocal practice and the emergence of a mini-treaty outside of the LOS Conference between the Western technological powers.

It is to be anticipated that opponents of the basic premise of this text will come out with their own partisan texts on the "Unlawfulness of Deep Seabed Mining." It can only be hoped that some writer will have the time and expertise to synthesize these viewpoints into the

3. *Id.* at 515.

long-awaited compendium on the subject. Kronmiller's work will, however, remain as a most welcome addition to the literature and shall be the benchmark of the cause it advocates.

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