

REVIEWS

THE COMMON LAW OF MANKIND. By C. Wilfred Jenks. Published under the auspices of the London Institute of World Affairs. New York: Frederick A. Praeger, Inc., 1958. Pp. xxvi, 456. \$12.50.

OVER the last few decades, many features of the power and other value processes which occur in the international arena have undergone profound and far-ranging changes. The recent literature of international law indicates an increasingly wide recognition of both the insistent challenge and unmatched opportunity presented by these changes to academicians and practitioners. The trend, however, has not yet generally extended to the point of significant clarity about either the character of the challenge and the scope of the opportunity, or the intellectual orientation, perspectives, frame of reference, and operations that may promise most in meeting the challenge and grasping the opportunity. These ten essays by Wilfred Jenks, written separately over a period of about seven years and here collected in book form, may be expected to provide an important, if perhaps tentative and restrained, push in this direction. Their author confesses to being a "harassed international civil servant" compelled to confine scholarly enterprise to leisure hours.¹ Judging from these essays and from the other monographs he has written, harassment may be an unsuspected force both for creativity and balance in judgment.

Mr. Jenks is quite explicit about the central theme which, in the several essays and with varying degrees of directness, he seeks to develop. The central theme is that international law is being transformed from a "law governing the mutual relations of states" to a "common law of mankind."

By the common law of mankind is meant the law of an organized world community, constituted on the basis of States but discharging its community functions increasingly through a complex of international and regional institutions, guaranteeing rights to, and placing obligations upon, the individual citizen, and confronted with a wide range of economic, social, and technological problems calling for uniform regulation on an international basis which represents a growing proportion of the subject-matter of the law.²

Mr. Jenks conceives of this transformation process in part as a broadening of the "scope of international law" and in part as a development toward the "universality of international law." He documents the growth and multiplication of international organizations as an important factor, causative as well as catalytic, in this process. The subsidiary but inevitable problem of how optimally to accommodate and distribute functions and authority among the more comprehensive and less comprehensive organizations is briefly consider-

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1. P. 120.
 2. P. 8.

ed; and complementarity is presented as the dominant motif to be worked out in specific allocations and interrelations. To illustrate the range of contemporary problems that reflect basic changes in the conditions of the international arena and with respect to which the formulation of inclusive standards and policies has come, in differing degrees, to be regarded as needful, Mr. Jenks deals in successive essays with colonial policy, employment policy, peaceful uses of nuclear energy, international cooperation in Antarctica, and peaceful exploration and use of outer space. The final chapter comprises the now famous essay that depicts, in classical and urbane lines, the "good craftsman" in international law who would contribute to, and perhaps significantly influence, the transfiguration of international law into the "common law of mankind."

In his essay on "The Scope of International Law," Mr. Jenks adverts to the plethora of inclusively prescribed substantive rules that have emerged over the last half century and affirms the inadequacy of presenting them either as integral parts of, or as inelegant extrusions from, the inherited framework of international law. He pleads vigorously for a "re-examination of the existing concepts of the structure and arrangements of international law"³ and for exploring, "empirically and experimentally,"⁴ an approach to a "new synthesis" of traditional structure and modern substance that will permit "exposition" of the contemporary law as a "coherent system." He understands the principal task along this line to be one of "definition and arrangement" of the "scope, province and content" of international law.⁵ Mr. Jenks' recommended arrangement comprehends nine major categories dealing respectively with the international law relating to: (1) the structure and law-making processes of the international community; (2) the peaceful relations of states; (3) human rights protected by international guarantees; (4) property rights of a distinctly international character; (5) activities of various public services, corporations, and individuals; (6) conflict of laws; (7) treaties and other international agreements; (8) international arbitration and judicial settlement; and (9) use of force in international relations.

Thus, Mr. Jenks has achieved an impressive listing of matters with respect to which substantive standards and rules are projected in contemporary international law. And, in keeping with his theme that a "common law of mankind" is a "law of an organized world community," he places prominent emphasis upon the expanding role of international institutions in processes of authority in the world arena. It is, however, somewhat difficult to discover the comprehensive unifying structure, the organizing principles and criteria, that would appropriately qualify this "presentation" as a "coherent system." Mr. Jenks has too modestly defined the nature of the immediate tasks that must be performed if legal scholars are to contribute to the development both of "an organized world community" and of a law for such community that would per-

3. P. 7.

4. P. 8.

5. P. 14.

mit all its peoples to approximate the richest fulfillment of their common value aspirations. It seems open to debate whether the redefinition and rearrangement of varying sets of authoritative propositions constitute the most important and most pressing requirements of such development, and whether they are more than relatively minor aspects even of what Mr. Jenks describes as "the collective and long-term task of rebuilding the intellectual foundations of a more adequate analysis and exposition"⁶ of a contemporary law of nations.

To rebuild intellectual foundations, a scholar must begin with a clear notion of what he means by "law." Not that the ancient disputation as to whether international law is or is not appropriately characterized as "law" should be resurrected (though this is not, it might be added, exclusively a matter of *de gustibus non disputandum est*; verbal characterizations do have an impact upon the perspectives of peoples). But the scholar must become very clear about the reference he assigns to "law" and, whatever else may be encompassed in such reference, it must include not merely words (perspectives authoritatively verbalized) but a whole process of decision (perspectives and operations) and a way of distinguishing between decisions which are both authoritative and effective and decisions which are effective only. An operable conception of decision-making requires the scholar to identify the maker of decisions, locate him in a social process, distinguish the events that come to the focus of his attention from the responses that he makes in the form of decisions about such events. Moreover, he must inquire into and intellectually isolate the various factors that, in varying degree, account for—that is, condition or affect—such responses, and consider the probable consequences of such decisions in terms of relative approximation of, or regression from, the value goals to which the decision-maker is committed. The requirements of investigation that focuses upon decisions are, at this level of abstraction, the same both for decisions where authority and effective control converge and for decisions where authority plays but a negligible role. The former, of course, has traditionally constituted the distinctive field of study for the lawyer.

To be sure, a variety of intellectual models may facilitate the making of these distinctions and the performance of these tasks.⁷ Over the last two decades or so, one model has been developed and increasingly refined and applied by academicians who explicitly avow an orientation to the consequences of legal decision upon policy.⁸ They constantly seek to perform an intelligence

6. P. 58.

7. See, *e.g.*, SNYDER, BRUCK & SAPIN, *DECISION-MAKING AS AN APPROACH TO THE STUDY OF INTERNATIONAL POLITICS* (1954); KAPLAN, *SYSTEM AND PROCESS IN INTERNATIONAL POLITICS* (1957); Q. WRIGHT, *THE STUDY OF INTERNATIONAL RELATIONS* (1955); LUCE & RAIFFA, *GAMES AND DECISIONS* (1957); SHUBIK, *READINGS IN GAME THEORY AND POLITICAL BEHAVIOR* (1954); DAVIDSON, SUPPES & SIEGEL, *DECISION MAKING; AN EXPERIMENTAL APPROACH* (1957); PARSONS, *THE STRUCTURE OF SOCIAL ACTION* (1937); *TOWARD A GENERAL THEORY OF ACTION* (Parsons & Shils eds. 1954); Easton, *An Approach to the Analysis of Political Systems*, 9 *WORLD POLITICS* 383 (1957).

8. The written presentations include: Lasswell & McDougal, *Legal Education and Public Policy: Professional Training in the Public Interest*, 52 *YALE L.J.* 203 (1943);

and recommending function in relating such decisions to the value patterns of a public order dedicated to human dignity—an "ideal" society that would actively seek to achieve the widest possible sharing of values among its human constituents. Some reference to this model for teleologically-oriented inquiry may provide an interesting comparison with Mr. Jenks' new synthesis.

Under the model, initial discriminations are made by conceptualizing the raw, living events that crowd the international arena in such bewildering profusion, in terms of a global process of social interaction for, and interdetermination of, values. Within this overall community process, the theoreticians distinguish a global effective-power process—a process wherein power is conceived by the participants to be the principal value at stake—from other component value processes that are primarily engaged in for values other than power. To facilitate the ascription of operational meaning to these basic conceptualizations, the world power and other value processes are each analytically broken down into a few major phases or features including: participants, with their perspectives; the arenas or situations and conditions in which they interact; the base (instrumental) values they employ; the strategies they devise and pursue; and the outcomes or changes in relative value positions that ensue from interaction.

Within the world process of effective power, as in every other value process, is found a stream of decisions; each value process may in fact be conceived of as comprising a decision-making process. Legal scholars characteristically focus upon decisions with respect to the making and content of which authoritative community expectations are projected. Accordingly, a specialized process of authoritative decision-making is next distinguished within, and as an integral aspect of, the world process of effective power. Systematic description of this authoritative or legal-decision process is sought by utilizing categories parallel to those employed in describing the power process: decision-makers, with their objectives; the arenas and conditions in which decisions are made; the bases of power utilized to sustain the decisions arrived at; the functions performed in the course of making and implementing decisions; and the result-

McDougal, *International Law, Power and Policy: A Contemporary Conception*, 82 H^AGUE RECUEIL 137 (1953); Lasswell, *Current Studies of the Decision Process: Automation Versus Creativity*, 8 W. POL. Q. 381 (1955); Dession & Lasswell, *Public Order Under Law: The Role of the Advisor-Draftsman in the Formation of Code or Constitution*, 65 YALE L.J. 174 (1955); Dession, *The Technique of Public Order: Evolving Concepts of Criminal Law*, 5 BUFFALO L. REV. 22 (1955); Katzenbach, *Conflicts on an Unruly Horse: Reciprocal Claims and Tolerances in Interstate and International Law*, 65 YALE L.J. 1087 (1956); Lasswell, *Clarifying Value Judgment: Principles of Content and Procedure*, 1 INQUIRY 87 (1958); McDougal & Lipson, *Perspectives for a Law of Outer Space*, 52 AM. J. INT'L L. 407 (1958); McDougal & Burke, *Crisis in the Law of the Sea: Community Perspectives Versus National Egoism*, 67 YALE L.J. 539 (1958); McDougal & Feliciano, *International Coercion and World Public Order: The General Principles of the Law of War*, 67 YALE L.J. 771 (1958); McDougal, *The Impact of International Law Upon National Law: A Policy-Oriented Perspective*, 4 S.D.L. REV. 25 (1959); Lasswell & Donnelly, *The Continuing Debate Over Responsibility: An Introduction to Isolating the Condemnation Sanction*, 68 YALE L.J. 869 (1959).

ing effects upon allocations of values between contending claimants and in the community at large.

With this basic intellectual frame of reference, the legal scholar can attempt to perform those tasks that are demanded in any inquiry envisaging, beyond the satisfactions of private comprehension of international life and of symmetrical arrangements of legal rules and doctrines, the active moulding of the developing future more nearly in accordance with the configurations desired. The scholar may proceed to make completely explicit both the value goals and policies established by the community and those which he, as an informed and responsible moral being, would recommend; to describe and examine the flow of decisions for trends conforming to or deviating from the goals and policies so specified; to identify the contextual factors that account for the actual contours of decisions and trends in decision; to estimate the probable future course of decision by the disciplined projection of observed trends; and, lastly, to consider alternatives in specific policy and procedures that may promise more by way of swifter movement, at less social cost, toward the clarified objectives of policy.

Distinctively, the international lawyer inquires into those phases or features or particular types of interaction in the world power and other value processes which are, in and through the functioning of authoritative decisional processes, accorded community approbation and protection or disapprobation and rejection. This is, in its most general tenor, an inquiry into the state of public order in the world arena. In the hands of the lawyer, the preliminary purport of the model is thus to assist in isolating the recurring contexts of disagreement over the limits or requirements of authoritative community policy bearing upon such phases or features or interaction. These controversies—the problems that are of immediate concern to the lawyer—can, on one level of abstraction, be generalized as sets of contraposed claims and counter-claims which the authoritative decision-makers must resolve. For sharper focus in the performance of the tasks necessarily involved in the problem-solving process that is international law, these controversies may be organized around the same categorizations used in describing the power and other value processes in the world arena. Initial emphasis is laid upon the problems arising in the world process of effective power; this process continues to comprehend, directly and immediately, the bulk of international law.

Thus, authoritative community policy is concerned with the type and character of *participants* in the world power process. With increased frequency in recent years, authoritative decision-makers have been confronted by dramatic changes in the composition of the international community as new territorially-based bodies politic have emerged. Newly organized territorial communities commonly demand to be recognized as fully competent to take part in all authority functions and processes in the international arena. Community policy, however, acknowledges that already established states frequently grant or withhold recognition as a tactic in strategic diplomacy. Since the same events in the world power process that manifest the factual organization of

a new body politic most commonly mark the modification or reconstruction of some older polity or polities, decision-makers are simultaneously presented with specific claims for continued enjoyment of benefits and with specific claims for responsible assumption of burdens.

New territorial elites make many particular claims for access, in many differing types of interaction, to varying *arenas* of formal authority, including both municipal tribunals of different states and external forums, organized and unorganized. Other specific claims characteristic of new elites relate to almost every other feature of the world power process. These claims are dealt with in a large number of decisions which formulate and apply authoritative policy about "consequences of recognition." Demands for admission to the organized external arenas, constituted by international governmental organizations and international tribunals, also raise certain problems which decision-makers seek to regulate under labels of varying equivalence: "membership," "representation," "credentials," and the like.

Even a quick and cursory examination reveals the number and multifariousness of the claims and demands states make with respect to the *bases of power* they employ in their day-to-day interaction and competition for values. Specific claims of this general type are conveniently grouped under three broad categories that refer to the fundamental components of state power: people, resources, and institutions.

With respect to people, most conspicuously a state claims, *vis-à-vis* other states, the comprehensive, continuous control and protection of certain people as members of its community: "Mr. *A* is our national." By way of restricting the competence claimed by states to prescribe criteria and conditions for inclusion of people in this class, community policy establishes certain requirements of a "genuine connection" between the person claimed and the claimant state. Control over people is the cumulative import of more particular demands to competence to determine who may participate, to what extent, in what internal value processes; these demands for control may thus be subcategorized for minutely detailed examination in terms of the internal value processes in which participation is at stake both for individuals and for the varying private groups those individuals organize. Some international regulation of these demands is attempted by specifying and applying, in the case of aliens, a "minimum international standard" of treatment and principles and procedures for "diplomatic protection" by the alien's home state. In the case of citizens and stateless persons, the relevant common standards are those of "human rights" and "asylum."

Claims to varying degrees of control over resources have long been the subject of community prescription and policy. The claims of states to the complete and exclusive control over the resources which constitute their geographical base—including land masses, internal waters, and air space—are the most characteristic. Claims to establish exclusive control over unappropriated land areas were much more important in preceding centuries than

today, though, as Mr. Jenks documents,⁹ they have recurred with respect to the polar areas. As access to surfaces of comparable solidity in outer space is obtained, claims of this type may possibly acquire new prominence. An impressive and increasing amount of community prescription, conventional and customary, is addressed to the accommodation of competing claims to the use and exploitation of great common resources such as international rivers, international waterways, and the oceans. The beginnings of community policy about uses of outer space seem now, Mr. Jenks believes,¹⁰ at least hazily discernible. Another type of resource that may become particularly important in the future is weather or climate.¹¹ As techniques of weather modification are invented and developed, the assertion of claims to control this resource may be expected. They may pose still more perplexing problems of policy.

Freedom to determine the specific forms of, and exclusive competence to control, internal institutional arrangements—the structures and processes of both authoritative and effective decision-making established within its borders—is fundamental to a territorial community that presents itself to the rest of the world as a distinct unit of participation in global value processes. The common corollary of these comprehensive claims is the demand for an equal voice in the prescribing of policies for the general community of states. Appropriately contraposed to these claims are the demands, made by the rest of the community, that the new state assume an equal responsibility for applying and sustaining jointly formulated policies, in internal as in external arenas, and for maintaining municipal institutions substantially adequate to permit performance of the specific obligations that responsibility entails.

Claims and controversies about the *practices* or strategies in which states engage in the course of mutual interaction may be organized under two main headings that correspond to the two principal modes of interaction: the one of persuasion or agreement, the other of deprivation or coercion. This grouping does not imply rigid dichotomy, but embraces the whole spectrum of modalities ranging from those in which friendly persuasion is predominant to those involving the most severe and comprehensive deprivations. The first principal group includes all controversies that relate to the privileges and immunities of state officials thrust into the world arena as agents of their body politic for peaceful interaction. It includes, further, the many differing controversies that arise at every phase of the making and execution of agreements—formation, application, interpretation, termination—in the disposition of which decision-makers have recourse to the body of prescriptions compendiously designated as the “law of treaties.” The second principal group comprehends manifold problems arising in connection with infliction of deprivations which may differ widely in degree of severity or intensity. Relatively

9. Pp. 367-69.

10. P. 401.

11. See U.S. ADVISORY COMM. ON WEATHER CONTROL, FINAL REPORT (1958).

mild deprivations generate controversies about attribution of responsibility and determination of appropriate reciprocities to which decision-makers respond by invoking somewhat amorphous doctrines like "state responsibility," "nonintervention," "international delinquencies," or "international torts." The infliction of more severe deprivation or the exercise of more intense coercion evokes varying claims and countering claims with regard to every aspect or stage of such coercion or deprivation—from resort or initiation, through management and conduct, to deceleration and termination. For securing community control and mitigation of these claims, there have emerged over the centuries certain fundamental policies embodied in what is similarly compendiously called the "law of war."

The remaining major category covers a multitude of specific claims and controversies that relate to the *outcomes and effects* of interaction in world power processes. Preliminarily, controversies with respect to the outcomes that are obtained in particular instances of interaction are to be distinguished from controversies relating to the aggregate effects of the whole process of power upon the structure and composition of the international community in general and upon the internal structure and composition of individual participating polities. The one is concerned with competing demands for authority over—in the sense of competence to prescribe and apply policy to—a set of events or changes in value positions comprising a particular transaction, encounter or activity, either of state officials or of private persons and associations. The other deals with demands asserted in the course of the restructuring or reconstituting of the international community that results from the alteration or extinction of old bodies politic and the emergence of new ones. Controversies embraced in the first group commonly present the issue of whose policy is to be applied to the events which may variously have occurred within the territory of the forum state, or upon the high seas and superincumbent air space, or within another state's territory. In the resolution of this general issue, decision-makers have customarily referred to complementary prescriptions about "bases of jurisdiction" and about "acts of state" and "immunities," as well as to the body of doctrine commonly called "private international law" or "conflict of laws." The second group includes all the demands and counterdemands—of both the old and the new bodies politic and of third states—for reconsidering or continuing a variety of commitments made prior to the structural changes in the several polities involved. These controversies have traditionally been met with doctrines pervaded by a rather elusive distinction between "state succession" and "succession of governments." Thus, consideration of these controversies about outcomes and effects shades almost imperceptibly into consideration of the problems subsumed under the initial category of participants. The model reflects both the continuity of power processes and the almost continuous reconstituting of the world community.

States, while perhaps the most conspicuous type of participant, are by no means the only kind of groups or entities that effectively participate in the

world process of effective power. One of the chief merits of Mr. Jenks' presentation is that he accords explicit, if still partial, recognition to this fact. The model referred to may be utilized for similar contextual inquiry into the interactions of other types of participants: international governmental organizations, political parties, pressure groups, private associations, and individuals. The same model, furthermore, may be employed for analogous inquiry into the other global value processes, the processes, that is, in which the principal value sought is one other than power. Such inquiry, for instance, into the phases of processes of wealth production and distribution in the international community which are sought to be subjected to regulation by authoritative decision, would embrace all of what Mr. Jenks calls "the law of international economic relationships."¹²

The same kind of analysis may, still further, be utilized whatever the territorial compass of the processes of social interaction which are examined. The model, in its application to lawyers' tasks, is designed to provide a framework for analysis and appraisal of any system of public order, whether the system examined be limited in its geographic comprehension to one province of a state or to a single state, or comprehend two or a few or many states, and of the interrelations of such systems. The world is visualized as a graduated series of community contexts—each exhibiting a public order system—of varying territorial scope, which intersect and affect each other at many different points. Reflecting this conception of the world, such a framework may permit—for the better prosecution of the component tasks of policy-oriented inquiry—one to trace the interrelation of each process with every other process and to place in comprehensive, unifying context not only the problems of "public international law" and "private international law" but also those of municipal or regional law. Some such framework seems essential for a comparative investigation of the various public order systems, in particular for inquiry into the "general principles of law," sometimes quaintly termed the "general principles of law recognized by civilized nations." These general principles, when appropriately explored and formulated, may be regarded as expressing the deepest-held convictions, demands and supporting expectations of the differing peoples about the globe, and hence as offering one index to those wider community perspectives called international law.

This brings us to Mr. Jenks' essay on "The Universality of International Law." A substantial portion of this essay is devoted to an exploration, impressive in its geographic and temporal scope (from the precepts of Lao-Tze to the Italian civil law, from Ashanti tribal custom to the law of the Soviet state), of differing legal systems with the end of ascertaining the extent to which certain principles, posited as "basic," have been embodied in these systems. The survey, characterized, Mr. Jenks cautions,¹³ more by breadth than by depth, is principally moved by the hope that from varying legal systems

12. P. 152. Dr. Schwarzenberger's phrase is "international economic law." SCHWARZENBERGER, *INTERNATIONAL LAW* 231 (3d ed. 1957).

13. P. 121.

may be drawn the elements of "a legal system with sufficiently broad and deep foundations to command the allegiance of a world community with a fundamentally changed composition and distribution of influence."¹⁴

Mr. Jenks here gives expression to the long and widely asserted demand of legal scholars for a universal system of international law. This demand commonly has at least two aspects: an assertion that all territorially organized communities, whatever their own internal value-institutional systems, are subject to the same body of authoritative prescriptions in respect of their external relationships; and a demand for uniformity in the application of these prescriptions. The first aspect of universality is stressed in Mr. Jenks' affirmation of the establishment of a "formal universal order" and of the "consolidation of the formal authority of (international) law on a universal basis."¹⁵ He refers, of course, to the United Nations, which embraces in its membership practically every state in the world, and to the fact that every member state is automatically a "party" to the Statute of the International Court of Justice and, in particular, to the Statute's formulation of the "sources of international law." The second aspect of universality, and a circumstance of some notoriety, namely, diversities in the interpretation and application of the same body of authoritative language, are delicately passed over in a paragraph on "The Underlying Strains of the Transition to a Universal Order."¹⁶

Mr. Jenks touches the heart of the matter in describing the task of all scholars of good faith as that of securing "on a world wide basis the essential elements of a legal order which gives reasonable expression to *our* sense of right and justice."¹⁷ If, however, any lesson is to be drawn from observing the facts of contemporary international life, it is that different decision-makers, though purporting to subscribe to the same legal principles, are in fact moved by different senses of "right and justice," project differing conceptions of an appropriate world order, and seek to realize very different fundamental policies about allocation of power and other values. The world arena exhibits not just one but several demanded systems of international order, each with its own distinctive pattern of value-shaping and value-sharing, and each aspiring, though with varying expectations of success, to completion. This is a condition which scholars cannot dissolve by decently ignoring it or by reiterating demands for universality. To exorcise this condition may be a task beyond the peculiar skills of lawyers alone, but, frankly recognizing it, they can examine its impact upon decisions made in world value processes.

Beyond beginning sophistication about competing conceptions of public order for the world, legal scholars who are convinced that the kind of basic policies expressed in the law which achieves effective universality does profoundly matter, appropriately give priority to the clarification and appraisal

14. P. 87.

15. Pp. 77-78.

16. Pp. 79-80.

17. P. 120. (Emphasis added.)

of fundamental policies, to the articulation of shared interests, and to the investigation of the conditions for securing such policies and interests. The task, in its preliminary aspects, is one of stock-taking, of ascertaining and assessing with as much explicitness and specificity as possible, by utilizing all the insights and operational techniques offered by the contemporary social sciences, the policies actually sought and effectively applied by different decision-makers in their external interactions. From such stock-taking might emerge a map, as it were, of the configurations of public order that in fact presently obtain on a transnational scale. In its fullness, the task involved has been aptly described:

(1) to develop a jurisprudence, a comprehensive theory and appropriate methods of inquiry, which will assist the peoples of the world to distinguish public orders based on human dignity and public orders based either on a law which denies human dignity or a denial of law itself for the simple supremacy of naked force; and (2) to invent and recommend the authority structures and functions (principles and procedures) necessary to a world public order that harmonizes with the growing aspirations of the overwhelming numbers of the peoples of the globe and is in accord with the proclaimed values of human dignity enunciated by the moral leaders of mankind.¹⁸

This is the more precise statement of the challenging opportunity thrust upon scholars of international law. It is hoped that with or without further harassment, Mr. Jenks may turn his very considerable powers to the fuller exploitation of this opportunity.

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MASTERS OF DECEIT. By J. Edgar Hoover. New York: Henry Holt & Co., 1958. Pp. 374. \$5.00.

WORKS such as the collage, African primitivist statuary, the canvasses of Jackson Pollack, and the finger painting of talented monkeys have revived debate recently over the classic problem of aesthetics—what is Art? Philosophers have noted that there are at least three analytical perspectives from which one can approach this question—the intention of the artist, the intrinsic merits of the work, and the subjective reaction of the viewer—and that one's judgment about a controversial work usually will depend upon one's vantage point. Although this seems a singularly inapposite opening for a review of J. Edgar Hoover's best-selling volume on communism, I find these exceedingly helpful terms in which to consider *Masters of Deceit*.

Hoover deals with five topics. He describes the personalities and doctrines of international communism from the days of Marx and Engels to the present,

18. McDougal & Lasswell, *The Identification and Appraisal of Diverse Systems of Public Order*, 53 AM. J. INT'L L. 1, 28 (1959).

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