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Legal Society Told Pueblo's Seizure May Have Been Justified

By PETER GROSE
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WASHINGTON, April 24 — The American Society of International Law heard arguments today that North Korea and other small countries might be justified in taking drastic action to protect themselves from electronic reconnaissance by the great powers.

William E. Butler, a research associate of the Harvard Law School suggested that "the established law of the seas has been outmoded by the advent of electronic intelligence." He noted that modern monitoring devices could "penetrate to the heart of a country's inland defenses," calling into question the long-standing immunity claimed by reconnaissance vessels on the high seas.

North Korea's seizure of the Pueblo in January, 1968, and its downing of an American EC-121 reconnaissance aircraft

Change in Law Possible

panelists as the professional society of international lawyers opened its 63d annual meeting.

George H. Aldrich, assistant legal adviser of the State Department, argued that by established international law "the Pueblo, as a foreign man-of-war, was entitled to absolute immunity from seizure by the North Koreans."

Chance in Law Possible

Mr. Butler did not dispute this point, but argued that established law might be changing. "Coastal states cannot be blamed if they view offshore electronics intelligence operations as a substantially new phenomenon in international life," he said.

He argued further that the great powers, with their wealth and technological capabilities, were taking unfair advantage of smaller, poorer countries that could not afford their own reconnaissance systems. The great powers, he said, are engaging in espionage, but claiming an immunity of the high seas intended primarily to protect navigation.

Mr. Butler, who made it clear that he was arguing a case as a lawyer and not necessarily speaking from personal conviction, was challenged by former Ambassador Arthur H. Dean and Prof. Oliver J. Lissitzyn of Columbia.

Professor Lissitzyn asked if "a new norm of law" was developing from the Pueblo and EC-121 incidents that entitled coastal states to declare zones from which reconnaissance vessels would be excluded. Mr. Butler replied that no state had yet done so, but that "we'll just have to wait and see."

Mr. Aldrich sought to justify electronic intelligence as a legal extension of visual observation. "A state cannot prohibit a passing vessel from looking at the shore through field glasses," he said.

Irrelevance Possible

He conceded that long-standing distinctions in the law of the seas might not be relevant in the era of electronic reconnaissance. For instance, the difference between 12 miles offshore and 15 miles offshore—the firs ta possible intrusion, the second not—makes little or no difference to radio monitoring vessels.

Ambassador Dean, the chairman of the panel, noted that much of the law of the seas had been formulated in the era of sailing ships, whn a three-mile mimit or, later, a 12-mile limit was generally considered to offer adequate protection to a coastal state.

Another convention at the MAYFLOWER Hotel in Washington, the Federal Power Bar Association, heard Clark M. Clifford, former Secretary of Defense, defend the necessity for great powers to collect intelligence.

"If a nation is getting reasonably accurate intelligence, it is less lidely blindly to strike out at some country it thinks is its enemy; it is less lidely to be disturbed by rumors and guesswork and so, in a moment of hysteria or deep concern, launch an all-out effort," Mr. Clifford said.

"Inltleigence collection stabilizes the relationship among nations; intelligence gathering is an aid toward peace and not a hindrance toward peace."