# BOOK REVIEWS

## HACIA UN DERECHO ASTRONAUTICO
**Alvaro Bauza Araujo**

MONTEVIDEO, P. 224, 1957

## TEORIA DEL DERECHO INTERPLANETARIO
**Aldo Armando Cocca**

EDITORIAL BIBLIOGRAFICA ARGENTINA, BUENOS AIRES, P. 250, 1957

## SPACEPOWER; WHAT IT MEANS TO YOU
**Donald Cox and Michael Stoiko**

JOHN C. WINSTON CO. PHILADELPHIA/TORONTO, P. 262, 1958

During the last two years a large number of books and periodicals have discussed various aspects of astronautics; but if many articles of periodicals dealt with legal problems, few books were entirely or largely devoted to the law of space. The three above mentioned are exceptions: the first one is a pre-Sputnik Study, printed in August 1957; the printing of the second one was completed in October 30, 1957, and although entirely written prior to the launching of Sputnik I, some additions refer to it; the third one, terminated in February 1958, took advantage of further developments in astronautics.

The authors of the first two books are lawyers, teachers, and specialists in air law. Mr. Bauza, professor of Civil Law at the Law and Social Sciences Faculty of Montevideo, is also the Chief Legal Officer of the Uruguayan Communications Directorate; M. Cocca, President of the Legal Sub-Committee of the "Asociacion Argentina Interplanetaria", has conducted in 1947 a seminar on air law at the Law Faculty of Buenos Aires and in 1957 has given conferences on interplanetary law on the national radio network of Argentina.

The books of these two lawyers contain a sum-up of most of the previous discussions on the subject, but presented in an orderly manner; naturally the chapters on the legal status of space in which the various theories are encountered are the longest and the most detailed. From such enumeration it appears clearly how these theories, in spite of a tacit agreement on secondary points, are divergent; and both authors arrive at the same conclusion — which I have always recommended — that an international and world-wide agreement is necessary to establish some uniform legal concepts which may facilitate and promote a peaceful utilization of space.

Other chapters have also great merit, particularly chapters on terminology, general principles and characteristics of that new branch of law. With respect to terminology, each one favoured a different expression: "astronautical law" and

"interplanetary law". The definition of "astronautical law" given by Mr. Bauza is as follows: "a branch of law which covers the qualifications and legal regulations of all elements concerned with any astronautical activity (space, astrocraft, specialized personnel), and also the legal relations, public and private, national and international, which may derive from such activity". Mr. Cocca, in defending "interplanetary law", said "although it may appear ambitious, that expression is the most precise because it comprises problems of circulation within space and between planets, of sovereignty, conquest and possession of everything which may be reached in interplanetary space". Personally, I have not been convinced by the reasoning of these authors; I do consider that the expression which I have suggested on many occasions, i.e., "space law" or "law of space" (in Freneh "droit de l'espace") is the most appropriate and the most comprehensive; it is significant that the recent Federal Act approved by the United States Congress in July 1958 has abandoned the expression "outer space" so frequently used in the United States, or any other expression like "extra atmosphere space", and is titled "National Aeronautics and Space Act", describes "Aeronautics and Space Council", "Aeronautics and Space Administration", and defines "aeronautical and space activities".

The chapters on space vehicles, on the legal status of rockets, satellites and other spacecraft, and on jurisdiction on board, emphasized the necessity of an international cooperation; the status of "space stations" and the law applicable after the landing of a space craft on the Moon or on a planet are also discussed. Both are suggesting for the study of the legal problems a continuous assistance of scientists.

Mr. Bauza, who is more concerned with the daily aviation problems, presented an interesting parallel between air law and "astronautical law", and paid some attention also to the condition of a specialized personnel.

Mr. Cocca concluded his study with a chapter on the crisis of sovereignty principles and announced that with the launching of Sputnik I a new era was open and that the traditional concept of national sovereignty in the space should be revised and modified.

Messrs. Cox and Stoiko who are not lawyers but have both aeademic training and great experiences in aviation (Mr. Cox is a doctor in education from Columbia University and taught for nine years in various United States Universities) have prepared a book for laymen with a great number of illustrations and diagrams in order to emphasize "how the space age will affect your job, your home, your mode of living and world peace". It is not a highly technical treatise on satellites and rockets, but it has the considerable merit of presenting clearly a realistic analysis of the social, military and legal aspects and consequences of space penetration. With respect to space law, they have developped their views in successive chapters titled "the need for space doctrine", "who owns space", "who owns the universe", "the first steps to control space", in which they proceeded with a detailed examination of the so-called

five theories of space control, the four theories of lunar control and ownership, the four laws for control of the Universe; after giving four reasons for an international control of space missiles, they concluded that a United Nations code of space law should be prepared at once.

The question is now before the United Nations Assembly, where it will be discussed before the end of the year 1958.

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## ATTORNEY FOR THE DAMNED

### Clarence Darrow in His Own Words

EDITED BY ARTHUR WEINBERG
SIMON & SHUSTER, NEW YORK. PP. 552. $6.50

The Darrow legend grows apace. The life and ideals of this remarkable lawyer are becoming better known with time. Only last year, Chicago, the city in which Darrow practiced, celebrated the centennial of his birth, and books published about him are becoming increasingly popular. It is not surprising. In these times, when the word "liberty" is on many lips, it is right that one of America's greatest defenders of freedom — the important kind, freedom within the law — should become a source of pride and an example to his country at a time when it is severely needed. Threats from without have tended sometimes in the United States to obscure threats from within. Of the two, the latter are the more insidious and more lasting. Also, though to a lesser degree, with the increasing interest in the problems of legal insanity, the words of Darrow deserve careful attention, since he was a powerful challenger of the present rules.

In any account, there have been few more stirring Americans and very few more stirring advocates in the history of any nation. It is a rare man who can spellbind a court room for days at a time and finally leave both judge and jury unashamedly weeping, as did Darrow. There have been few who could logically put forth an argument for six or eight hours without referring to a single note. Yet he was no simple orator. Throughout his defences there are the steel wires of logic, hard and immovable. Nor can it be said that he was a peoples' philosopher and not a lawyer — that he won his cases by winning the jury to

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his beliefs, rather than to his interpretation of the facts in issue. "I never saw twelve men in my life" he said, "that if you could get them to understand a human case, were not true and right." For the law, which he regarded as a product of mankind's better moments, permeated his thought. He won the jury to reason, kindness, understanding, knowledge; and then let them decide for themselves upon the case in hand.

This is not a biography. In this reviewer's opinion, it goes one better. It is an edited collection of Darrow's actual words. Darrow was inherently a man of words, a man who lived by his tongue. His fame and successes were won not in amazing political coups, but in stuffy courtrooms and since his achievements lay in convincing others of the passionate ideals which ruled his life, no one is as capable of conveying the magic of Darrow, as Darrow himself. This is not a biography and does not pretend to be one. While a few more facts about his life would not have been out of place in the preface, the book is above all a declaration of a great lawyer's philosophy in the appealing, if indirect, method of allowing him to state it for himself while engaged technically in other tasks: that of winning cases in a law court.

The method is attractive and has the infinite advantage of allowing no errors of interpretation. There is no biographer to act as intermediary. The reader can draw on no one else's opinions and must perforce form his own. By realizing the merits of this system, Mr. Weinberg has contributed a book of great worth to the mounting pile of words upon Darrow. The editor has divided the book into four parts: (I) Against Vengeance, (II) Against Prejudice, (III) Against Privilege, and (IV) For Justice. This division has little real significance and many of the excerpts are interchangeable but it is in keeping with the tenor of Darrow's ideals. The book is finely edited in the best sense, the editing never being heavy or obtrusive. Mr. Weinberg only makes himself felt when the reader genuinely needs him. Moreover when he is there he is concise, fluid and at times fascinating. Clever use, for instance, is made of printers type. In the heart of the book only Darrow's words appear in Roman script, while those of the editor are in readable italics throughout.

Each of the sections mentioned above contains three or four of Darrow's speeches. The book contains all his most famous, (such as his defense of Leopold and Loeb; the Scopes trial; his own defense when charged with bribery) and many more of his lesser known triumphs. Each is proceeded by two pages or so of introduction and brief biographical sketches of the central characters involved; and each is followed by an account of the reaction of the court and country at large. These the editor has drawn from contemporary newspapers and personal memoires which form some of the most interesting parts of the book. For instance, the description of the struggles, the broken limbs and alarms among the people fighting to hear the Leopold and Loeb defense, throws into more vivid perspective not only Darrow's integrity and his courage, but also his achievement.

Much credit must go to Mr. Weinberg for his handling of material. He makes no pretentions about being unbiassed. The editor clearly has the deepest admiration for his subject, (he is, in fact, at present giving a series of lectures upon him at Chicago University), and his choice of material cannot be regarded as objective. He is out to prove a point. But in reality it is Darrow who proves the points, now as then. It is an inspiring book, which cannot fail to leave lasting impressions on all who read it.

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## LEGAL ETHICS

### Mark M. Orkin

CARTWRIGHT & SONS LTD., TORONTO, 1957. PP. 278. $8.00

The role of democracy in any state is dependent upon the rule of law, and the respect accorded to the rule of law by the people within state. This bond between the rule of law and the people is dependent on the proper function of the legal system. In the maintenance of this respect and trust of the law, the lawyer must exercise the best traditions of the legal profession. Mr. Orkin, in his book *Legal Ethics* underlines the role of proper professional conduct in dealing with issues that involve legal-ethical situations.

*Legal Ethics* is an examination of the legal ethical principles that should govern the lawyer in his special capacity as a warden of the law, and as a member of the state. Mr. Orkin asserts that the lawyer has a dual position to play: to devote his primary allegiance to the state, and to maintain his position as an officer of the Court. He must also function as a representative of his client. Indeed, this theme, the lawyer as a minister of Justice, an officer of the Court, appears to be the basis of the entire book[1]. The author traces the early development of the legal profession, the growth of its functions, and the acquisition of its ethical canons, not solely as illustrations of the traditions of the profession, but to emphasize the lawyer's obligation to the State, the Courts, and to his client. This obligation to the Courts can never, in the paramount interests of Justice, be subordinated to those of the client. "He owes a duty to the State to maintain its integrity and its law and not to aid, counsel

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[1]See *Canons of Legal Ethics* of the Canadian Bar Association in Appendix A.

or assist any man to act in any way contrary to these laws."[2] This is the substantive theme of Mr. Orkin's book, and from this theme, all legal ethics precipitate. It is within the duty to the State and to the Courts, that the lawyer must guide his actions. This duty must never be precluded in the interest of the client.

The author then deals with the manifold situations that arise where the lawyer must reconcile contrasting ethical situations with his individual moral perspective. The first and most obvious of these are the many problems that arise within the Court.[3] The author has illuminated Court room procedure and decorum in the most vivid manner, and the novice lawyer will certainly find this treatment instructive, for it contains a great deal of the accepted ethical procedure of the Court that he might not otherwise acquire except through considerable experience, perhaps embarrassment.

"The ideal relationship between bench and bar is one of mutual courtesy and respect which the exigencies of litigation should not be allowed to discompose."[4] This comprises a variety of characteristics, such as the mention of decisions against the lawyer's position,[5] the duty not to introduce improper evidence,[6] and courteous relations with witnesses.[7] These are but a few of the many duties Mr. Orkin envisages as the basis of the lawyer's relation with the Court. A particularly interesting section is on the independence of the Bar. This might appear to be a preconceived conclusion, but the author's treatment issues as a reminder that the lawyer, in presenting his client's case earnestly and fearlessly, ought not to be swayed by, among other things, what Lord Halsbury called "the popular side of the question, that is to say, what the newspapers would say of the advocate the next day."[8] The independence of the judiciary is synonymous with the independence of the Bar.

The author's examination of the extent of the lawyer's duty to his client answers many of the questions that frequently occur to the law student. His treatment is practical, perhaps pragmatic, and this is an interesting characteristic of the book. The whole technique of Mr. Orkin's legal ethic is one of precedent, an ethical 'ratio decidendi' coming from a multitude of cases. His principles thus come from the particular, with tidy abstractions into legal canons. The approach is utilitarian, stimulating, but surely legal ethics is more than precedent?

While dealing with his client, the lawyer must reconcile varied obligations to the State and to the Court. This frequently involves delicate situations and the lawyer must "reconcile the interests he is bound to maintain and the duty

[2]Ibid., p. 21
[3]Ibid., p. 32
[4]Ibid., p. 32
[5]Supra., p. 28
[6]Ibid., p. 44
[7]Ibid., p. 50
[8]Supra., p. 40

which is incumbant upon him to discharge, with the external and immutable interest of truth and justice."[9] On this premise, the author deals with the lawyer's relationship to his client, from the moment of acceptance of a retainer, to the defence of one known to be guilty.[10] This latter problem is superbly presented. In essence, "A lawyer must never allow the nature of the offence, the character of the accused, the weight of public opinion to impugn his motives in defending any client he chooses."[11]

The problem of the relationship between lawyers should be characterized at all times by courtesy and good faith. The author traces this obvious need through the many situations that arise between lawyers, in which trust, good faith and professional respect are the criteria of behaviour.[12]

Mr. Orkin concludes his book by dealing with the lawyer's means of solicitation of business, disciplinary proceedings and lastly, the canons of legal ethics approved by the Canadian Bar Association. He does not deal extensively with the problem of law and morality, which is regretable, but quotes from an extract that defines the mutual dependence of law and morality. "The advocate must look upon his profession, like every other endowment and possession, as an instrument, which he must use for the purpose of Morality. To act rightly, is his proper object; to succeed as an advocate, is a proper object, only so far as it is consistent with the former. To cultivate his moral being, is his highest end; to cultivate his Professional Eminence, is a subordinate aim."[13]

This book has not been reviewed from the practioner's vantage point, but its value is certainly incontestable to the law student as a directive and as a valuable reminder of the role of the lawyer in its noblest aspect.

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[9]Ibid., p. 75
[10]Supra., p. 73
[11]Ibid., p. 107
[12]Ibid., p. 109
[13]Ibid., p. 131-ff.
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