

REVIEWS AND NOTICES

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Clarence Darrow for the Defense. By I. F. STONE. New York: Doubleday, Doran & Co. 1941. Pp. 570. (\$3.00)

This biography of a great lawyer is not written for lawyers, nor by a lawyer. Nevertheless Mr. Stone has written a first-rate biography, which cannot fail to have an appeal for lawyers.

This book is not a collection, as are many legal biographies, of a few dramatic cases and legal anecdotes. It is the account of a man whose career as a lawyer touched American life at many points. There are in it many good and even thrilling stories of Darrow's legal cases and many good hints as to the conduct of trials. Nevertheless, it is for its picture of contemporary society and the reactions of a sensitive, able and courageous man to that society that it will leave its deepest impression.

Clarence Darrow in his life time aroused the most passionate prejudices, and it is likely that many Canadian lawyers retain some lingering distaste for some of his exploits. They are as likely to remember him for the theatrical showmanship of trials like the Scopes "monkey" case of Tennessee, and for his defence of Leopold and Loeb, whose inhuman murder of a small boy for the sole purpose of committing a "perfect crime" created such a sensation. They may also remember the public debates in the later stages of his life in which he took the part of the agnostic against Christian ministers and Jewish rabbis and hardly added lustre to his name. But, just as in his life time he was never more effective than when winning to his side courts and juries who started a case with a violent antipathy against him and his client, it may safely be prophesied that most of those who read of his life as interpreted ably and sympathetically by Mr. Stone will lose their dislike in their enjoyment of his stirring battles and complete integrity.

Darrow's legal career started colourlessly enough. After a few years as a small-town lawyer, he gravitated to Chicago, the most turbulent and fast-growing city in America. Here he became, first, assistant corporation counsel and then corporation counsel of the city. Later he was appointed general counsel for the Chicago and North Western Railway. In this position, with a salary of \$7,000 a year and prospects of steady and secure advance, at the age of thirty-seven his feet were well set on the ladder of success as it is usually reckoned in the legal world. But traditional professional success and security were not for Clarence Darrow. He resigned his position with the Railway Company to defend Eugene Debs and other officials of the American Railway Union who were charged with conspiracy and breach of injunction for taking part in a strike in sympathy with a strike in George Pullman's "model" company town. Pullman was a self-made man whose mechanical and executive genius had created Pullman cars and with them a whole new industry. Pullman was, however, completely unconscious of or indifferent to the social conditions which were being created in the industry he built up. He apparently did not

realize that his hypocritical paternalism was creating deep-seated resentment which, when the stage of desperation arrived, resulted in bitter industrial strife.

When the strike broke out, all the powers of Government, the use of Federal troops and a biased court, all the powers of the Press to create hysteria and misunderstanding, were employed to crush the strikers who dared to organize opposition to the "benevolent" tyranny of their employers.

It was a situation fitted to the man and it was to be the first of a long series of cases in which Darrow was to represent trade union leaders and to exhibit those particular gifts which enabled him to transform courts from instruments of repression into forums of enlightenment in the unending struggle for human freedom. His addresses to the jury in some of these cases are classics of human expression and his contribution to a spirit of tolerance and understanding of trade unionism in America was perhaps his outstanding achievement.

Darrow was at his best with a jury, although he was not a shallow orator, whose power depends upon his readiness to exploit every unworthy prejudice. He had the gift of making a case dramatic, of setting it in the context of the historical past and of its possibilities for the future. When he spoke to the jury, he made them feel that they were indeed the custodians of great traditions of humanity and freedom and that they represented not themselves but the whole American people. They forgot their prejudices and became in fact what he wished them to be, the makers of history and champions of tolerance, whose decisions in fact affected the development of human institutions in America. He was not a good lawyer in the sense of having any great knowledge of the technicalities of law or the cases but he was indefatigable in his personal investigation and mastery of the facts, and particularly those essential facts which constituted the environment in which the "actual facts" of the case could be understood and explained. He was a past master of the aggressive defence, frequently turning the defence of his client into the most discomfiting indictment of the prosecution and the motives which had inspired it. His knowledge of the classics of literature and his vast intellectual curiosity gave form and depth to his natural endowment of eloquence.

A reviewer cannot begin to enumerate the dramatic cases in which Darrow was involved and which are well told in this book. His readiness to defend the unpopular and defenceless brought him time and again into conflict with public hysteria and intolerance. After his career as a defender of trade unions was brought to a tragic and disastrous close by the McNamara case, he became the defender of freedom of thought and speech. In the war, although he was not a pacifist, he acted for conscientious objectors. In the post-war period, when a wave of suppression and violent "anti-Red" campaigns disfigured the administration of justice in the United States, he acted for anarchists and political cranks although he was no doctrinaire socialist himself and although he opposed the use of violence. He became the defender of the spirit of scientific scepticism and of the search for truth against religious obscurantism and bigotry. He became the defender of racial tolerance by acting for negroes who were the victims of racial riots and popular prejudice. He advocated a tolerant

and scientific approach to the problem of crime and the criminal in innumerable cases, and most notoriously in the case of Leopold and Loeb. This very terrible and apparently inexplicable crime became in Darrow's hands the opportunity to call the attention of the world to his deep-rooted conviction that the criminal was the product of his environment and that, while the safety of society might require the confinement of criminals, the repressive methods of capital punishment and punitive imprisonment brutalized society and increased rather than diminished crime. The remedy lay, as Darrow thought, in the scientific study of the environment of the criminal.

The picture of Darrow in this book is not idealized. His limitations are made apparent. His mechanistic philosophy was denied by his own generous actions. His cynicism, which was sometimes cheap, was a defence mechanism to hide an emotional and sometimes sentimental reaction to hardness and hypocrisy. He was no builder, no patient disciple of a noble cause. He was not even, despite the numerous "causes" which his eloquence helped to preserve and develop, a believer in any cause. He did, however, use his great talents as a lawyer to create in America a state of public opinion in which good and bad causes might freely compete without violence and oppression and in which law, which defended the weak and oppressed, was the supreme bulwark of freedom.

The Canadian lawyer may perhaps feel that Darrow worked under a legal tradition quite different from our own. He will be amused and perhaps shocked at the latitude permitted by the rules of evidence; at the informality of cases argued in shirt sleeves; at the sometimes crude and shocking methods of prosecutors and courts in some frontier states where some of Darrow's most interesting cases were tried. Fundamentally, however, he will find that the issues which Darrow faced are the same which Canadians must also face.

This is a book which lawyers will enjoy reading. There is no danger of many of them being persuaded to emulate Clarence Darrow. Great would be the consternation if they did. And yet in the years of social strife which will inevitably follow the present war we shall sorely need the pleading of Canadian lawyers following Darrow's example of courage, industry and eloquence. Those who follow his example will once again make the law's great and necessary contribution to the liberation of humanity from the shackles of prejudice and partisanship.

F. A. BREWIN.

Toronto.

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Diplomatic Correspondence of the United States: Canadian Relations, 1784 - 1860. Volume 1, 1784 - 1820. Selected and arranged by WILLIAM R. MANNING. Washington: Carnegie Endowment for International Peace. New York: Columbia University Press. 1940. Pp. xlviii, 948. (\$5.00)

This volume is the first of a four volume publication of the diplomatic correspondence of the United States in relation to the British possessions in North America, but the editor has sought to include all Canadian and

to exclude all exclusively West Indian matters of discussion in the documents herein collected. The selection of the documents was done with a bias towards inclusion rather than exclusion save with respect to purely formal but relatively unimportant documents. The first part of the volume contains the communications to Great Britain, and the second part the communications from Great Britain. The arrangement is, of course, chronological and lends itself to easy use. The value of the collection is enhanced by explanatory and supplementary footnotes. The editor states in a prefatory note that most of the documents in the volume are printed for the first time while many others here reproduced have been fairly inaccessible where previously printed. This alone should commend this publication to those interested in Canadian-American relations. It promises to be an unrivalled source-book in the field which it covers.