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## A Life In My Hands. By Jacob W. Ehrlich

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A LIFE IN MY HANDS. By JACOB W. EHRLICH. New York: Putnam. 1965. Pp. 365. \$5.95.

[T]hat an advocate, by the sacred duty which he owes his client, knows, in the discharge of that office, but one person in the world, that client, and none other. To save that client, by all expedient means, to protect that client, at all hazards and cost to all others, and, among others, to himself, is the highest and most unquestioned of his duties; and he must not regard the alarm, the suffering, the torment, the destruction, which he may bring upon any other.

—*Third Great Western Turnpike-Road Co. v. Loomis*, 32 N.Y. 127, 133 (1865)  
(quoting 1 BROUGHAM'S SPEECHES 63)

It was Lord Brougham, not Jake Ehrlich, who thus sternly defined the duties of the advocate; but the portrait projected by this autobiography is that of a man who would have enjoyed sharing a counsel table with Brougham. As successful and expert as he is, Ehrlich could not properly be called a "lawyer's lawyer," the title enjoyed by some of our noted barristers. Jake Ehrlich is a client's lawyer. His belief in "a just and measured aggressiveness" (p. 25) in the service of his client is the mortar holding this book together.

Unfortunately, the mortar does not always bind sufficiently. To some extent this is probably the fate of most litigators who would write their memoirs. The statesman, the inventor, the business executive, even the corporation lawyer, live with the long struggle, the gradually developing trend, the cause doggedly championed. The trial lawyer has only his cases, fascinating but episodic, abstracts of the most tragic moments in the lives of related people. The Kodachrome flashes jerkily on the screen, even as the next slide drops into place. In this book the cases are very many and the problems are particularly acute.

In sketching his childhood in rural Maryland, Ehrlich provides the reader with a view of the developing pugnacity that has never deserted him. At thirteen, he defended a younger brother by thrashing a sadistic schoolteacher and confiscating his switch. "It was then that I learned the occasional superiority of direct action over negotiation" (p. 17). He has never forgotten it. We read next of Ehrlich's soldiering and his prize fighting, the latter career abandoned only when a bearded judge questioned the dignity of a shiner at the Bar and promised a referral a month if young Ehrlich would hang up his gloves.

Then come the cases, presented in the format of a typical Ehrlich day, but relying principally upon flash-backs. We see an attorney whose every talent, energy and experience can be focused to a white-hot point of advocacy. Ehrlich's knowledge of the Bible, which he has read in English, Hebrew and Aramaic, served to convince a critical witness to testify in a trial which also featured Ehrlich and Jerry Geisler re-enacting an alleged rape for the edification of the jury. Even Ehrlich's marriage by a small town justice of the peace helped preserve the liberty of a client tried before that same judge twenty-five years later.

Ours is an adversary system and Mr. Ehrlich's autobiography points out the disabilities as well as the advantages of this system as applied to the criminal law. Some of Mr. Ehrlich's acquittals probably did not require the "Master," as he is universally known in San Francisco. No doubt a journeyman might successfully have defended Jean Collins, who shot her paramour as the only alternative to a thirteen story plunge. Most of Ehrlich's cases were nowhere near that easy. It was the fierce combativeness and the will to win nurtured by the adversary system that sent Ehrlich up the creaking steps of a Chinatown tenement at 4 a.m. to remove, from its fantastic hiding place, the evidence necessary to acquit Louis Quan. It was in the service of the same system that Ehrlich developed the skill necessary to use that evidence to convince the jury. The adversary system worked perfectly for Quan. But one cannot help wondering about all the others, the patsies, the chronic victims, condemned before trial by the half-heartedness of their own defenders in situations where our system of justice assumes and demands a rough equality of energy, talent and resources between prosecution and defense.

In civil cases, that equality is more often present. The resources which litigants are willing and able to commit to the struggle tend to match the value of what is at hazard. In the criminal case the depth of the client's pocket bears no necessary correlation with the potential sentence or the competence of the prosecutor. It should be a source of pride to no one if life and liberty are to be determined by whether a defendant can afford the services of Ehrlich or his few peers.

The converse is also true. We all have a stake in the conviction of the guilty. The educative function of the criminal law is ill served when the obviously culpable walk from the courtroom past baffled and overmatched prosecutors.

By and large, Ehrlich paints a displeasing picture of district attorneys. Again and again he complains of the lack of compassion and the ferocity of his public adversaries. There are exceptions, which the author graciously acknowledges, but in the main, Ehrlich finds prosecutors undeterred by any sense of justice. Yet the prosecutor determined on a conviction at any price is, like Ehrlich himself, a product of a carefully developed and substantially untrammelled will to victory which bottoms our traditional system of criminal litigation. In discussing the famous defense of Billie Holiday, Ehrlich writes, "I was going to have to cut corners, throw curves and deal an occasional card from the bottom of the deck if this palpable frame-up were to be short-circuited" (p. 151). If this is acceptable on the part of defense counsel, is it not inevitable that a prosecutor, raised in the same school, will similarly cut corners? Self-justification is easily produced: the prosecutor is already convinced of guilt on the basis of reliable but inadmissible evidence; the defendant is a menace to society; and equally significant in this context, the defendant is represented by counsel who will attempt to cheat the law of its victim by himself cutting corners. In theory, the roles of prosecution and defense counsel are not reciprocal.<sup>1</sup> In practice they often are.<sup>2</sup>

It would seem to this reviewer that we can afford a much more efficacious management of our system of criminal justice than that so vividly depicted in this book.

The question of the attorney's duty to his client and to the court and the question of injustices in the administration of the criminal law are only two of many controversial issues discussed or touched upon by this book. The author's view on these subjects—which range from Humpty Dumpty to CORE—will be stimulating to any thoughtful reader. Ehrlich may sometimes be wrong. He is never in doubt.

Indeed, he wears his cockiness like his celebrated starched handkerchief for all to see. The author frankly states "there will be no modest reticences in my book" (p. 361), and the reviewer has found none. Perhaps, as Ehrlich writes, "to disclaim pride of self is prob-

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<sup>1</sup> See *Berger v. United States*, 295 U.S. 78, 88 (1935) (the Supreme Court's view of a prosecutor's duties).

<sup>2</sup> The misconduct or alleged misconduct of prosecutors is the subject of a considerable body of law tending to support Mr. Ehrlich's contentions. See, e.g., *Mooney v. Holohan*, 294 U.S. 103 (1935) (claim of perjured testimony knowingly used); *Berger v. United States*, *supra* note (startling prejudicial cross-examination). See *State v. Giles*, 239 Md. 458, 212 A.2d 101 (1965) (dissent contains a discussion of the law on this subject).

ably the basest of subterfuges" (p. 24), but some reticence is at least a literary convention. Its total absence tends to distract and eventually to annoy.

This book is not a great biography in the sense that it provides any real insight into the character of its subject. Neither does it strive to be a technical manual, although the author, who has written eleven books on professional subjects, would have little difficulty with a legal primer. Rather, this volume is intended for the spare time reading of the lawyer or interested layman.

There is always a fascination in watching anything done terribly well. As a criminal lawyer and as a champion of his clients in civil or criminal matters, Ehrlich has few equals. The many stories that make up this book are well and colorfully told, and the reviewer found the reading of this book an enjoyable experience.

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