

An old anecdote from the legal field states that a good lawyer is not, in fact, one who never loses. This is impossible. A good lawyer, instead, is one who postpones defeat. Eduardo Spiller Pena's book examines the legal practice and politics of three famous lawyers involved in the ongoing legal battles over the problem of slavery in Brazil, mainly in the 1850s and 1860s. The common connection between them was the IAB (Instituto dos Advogados do Brasil). Since a significant part of the imperial elite was composed of jurists, the IAB eventually brought together 44 members of the House of Representatives, 11 senators, 9 representatives who later became senators, and 25 members of the Council of State. The explicit objective of this association of jurists was to make decisions concerning the lacunae and contradictions of Brazil's legal code. According to Pena, the members of the IAB intended their opinions and decisions, reached during often-turbulent meetings, to have a direct influence on legal decisions and thus guide the jurisprudence of the day.

One of the biggest problems for the legal hermeneutics of that era was precisely legislation concerning slavery. The constitution was nearly silent with regard to slavery; when the most influential Brazilian jurist of the time, Teixeira de Freitas, decided to consolidate the civil code, he avoided addressing the subject explicitly, as he considered slavery a legal oddity, an exception, and as such, deserving only of commentaries in footnotes. As Pena says with fine irony, Brazil thus ended up with its "footnote slave code." Although the general conclusions of this book follow the same lines of reasoning found in recent historiography on the problem of abolition, its originality rests in its presentation of a little-known aspect of this subject, through the provocative analysis of the opinions, discourses, and disagreements among members of the IAB, particularly those of three of its more notable presidents, Teixeira de Freitas, Caetano Soares, and Perdigão Malheiros.

With regard to slavery, the problems most often debated by the IAB, according to Pena, were: (1) the question of the legal status of the children of freedwomen "*sob condição*" (granted conditional freedom) who had been born before this legal status was so designated; (2) the status of children born of unions between slave women and their masters, as well as that of mothers in those cases where the offspring were declared free and the mother was not; and (3) the "forced purchase of freedom"—that is, the possibility of slaves obliging their master to emancipate them in exchange for reimbursement.

Pena's book follows a detailed debate concerning these issues, which eventually found its way into the courts. He translates for historians, in a style that is pleasant and lively, the twists and turns of legal rhetoric, where often the same principles or laws could serve to defend diametrically opposed positions.

Grounded in the legal philosophy and principles of Roman law, the members of the IAB believed in the civilizing function of law and in the duty of the lawmaker to perfect society. The three jurists that Pena focuses on, therefore, viewed themselves as men with a mission. The plenary decisions of the IAB, as well as the discourses and opinions of its main members, certainly had repercussions in Brazilian legal practice. But the IAB was ultimately unsuccessful in its attempt to unify legal discourse by turning the considered opinions of its members into a guiding axis of jurisprudence. In truth, in their legal practices and legislative actions, Pena's main characters at times contradicted the positions they themselves had taken as jurists when arguing over the applicability of general legal principles to the Brazilian context. There are, however, few examples of such contradictions in legal practice in the book, though this does not invalidate its conclusions, since judicial process is not the central subject of this important work, but rather the legal and political debates over slavery and the problem of emancipation.

One of the guiding principles of the IAB's actions was the belief in the law as the foundation of man's existence in society. Emancipation, therefore, would have to come about through slow and steady legal reform. Revolt or direct action by the interested parties was not considered an appropriate route for achieving new legal rights. In this sense, according to Pena, the IAB reflected imperial politics concerning the problem of the slavery, despite the inconsistencies of its members in their actions as legislators or lawyers. The course of parliamentary debate was not linear, but in the end they moved toward the introduction of gradual reforms, seeking to "ameliorate" the institution of slavery. All of this took place with immense moderation, aiming to restrain the momentum with which slaves, freedpersons, and their lawyers clamored for their rights both inside and outside the courts starting in the 1860s. The ultimate outcome of the considerable legal and political skills of jurists such as Pena's central characters was a very slow emancipation process, one that dragged on for several decades. In the end, they were lawyers. As such, they sought either to win the case, or at least to postpone defeat. Abolition did not come to pass until 1888. These men were certainly good lawyers.