

CONFERENCE ON THE SCIENTIFIC OUTPUT OF CZESŁAW ZNAMIEROWSKI
(1888—1967)
(POZNAN, FEBRUARY 25, 1989)

The conference was a national event devoted to the output of Czesław Znamierowski, founder of the Department of Theory of State and Law at the Adam Mickiewicz University in Poznań and doctor h.c. of that university. It was opened by Prorector of the Adam Mickiewicz University Professor T. Nowak. The proceedings included the following papers : “Czesław Znamierowski and the Origins of Theory of Law in Independent Poland” by Professor K. Opalek (Jagiellonian University), and “Czesław Znamierowski’s Sociology of Law” by Professor L. Lustacz (Warsaw University), as well as a discussion on a book by S. Czepita, L.L.D. (Adam Mickiewicz University) : *Czesław Znamierowski’s Conceptions of Theory of Law* (Poznań 1988).

K. Opalek, concentrated on the years 1922—1925 which were the first period of a particular animation in the philosophy and theory of law. He described the situation in the separate scientific centres in that period. In his opinion, the most important events in the sphere of theory of law were the “Deliberations on Theory of Law” which took place in Cracow on March 25—27, 1924, and the sharp polemics which Czesław Znamierowski who represented a sociologically-oriented conception of the legal system, carried out in the years 1925—1926 with Jerzy Lande, advocate of the psychologists conception. The impact of both conceptions, however, was limited to some circles of theoreticians of law only, and was but slight in other spheres of jurisprudence where it yielded to the influence of H. Kelsen. The lecturer

found the weak response to the original and uncommon sociologicistic and psychologicistic theories to have been paradoxical.

According to K. Opalek, what played an important part in Znamierowski's polemics with Lande was the adoption by the former of an extremely psychologists interpretation of Petrażycki's theory. This made it difficult for him to come to terms with his adversary who based on a different and moderately psychologicistic interpretation of that theory. It is, however, difficult to decide now which of those interpretations faithfully reflects Petrażycki's ideas that were alas far from consistent. What resulted from different philosophical assumptions were mutual accusations : on the one hand, that the conception of a legal system cannot be squared with the contention that there exists nothing but the psychophysical reality ; and on the other hand, that the interpretation of norms as the ideal objects may lead to the acceptance of Kelsen's sphere of obligation (*sollen*). Instead, K. Opalek found the two authors' conceptions of the legal norm to be unexpectedly concurrent in many points. While, however, the conception of Znamierowski (at least in his *Basic Notions of Theory of Law*) appears quite explicitly and consists in the reduction of the norms of conduct to specific deontic sentences, that is to true or false statements, Lande's conception of norm is unclear due to his failure to discern between the legal and the lawyers' language which made it possible for him to maintain that norms are elements of theory. At any rate, according to K. Opalek, the norms that make up dogmatics in Lande's interpretation are deontic sentences in nature. Znamierowski rejected Lande's vague discernment between theoretical and normative sciences, including in particular the consequences of dogmatics of law being numbered among the latter. He unfortunately also rejected Lande's justified remarks concerning Znamierowski's failure to discern between a fundamental norm and a teleological statement. Lande, in turn, who concentrated on a criticism of the distinguishment of axiological and tethical norms in its 1924 version, underestimated the novelty and usability of that distinguishment and tried to reduce it to a division of norms into auto- and heteronomous, or intuitive and positive in Petrażycki's interpretation. Moreover, he practically failed to notice the conception of constructive norm and of the valuable elements in the legal interpretation treated as a system resulting from the combination of imperative and constructive norms.

Although the two adversaries proved highly resistant to mutual accusations, and no scientific cooperation was ever established between the representatives of the two leading Polish conceptions of theory of law, nevertheless their scientific activities seriously influenced the development of that branch of learning in Poland. They founded the two leading research centres in Poland, as well as scientific schools and schools of thought. K. Opalek perceives the main difference between the Polish theory of law in the years 1922—1925 and its present state to be the fact that today the formerly impossible unification has been achieved, or at least assimilation of the theoretical and methodological assumptions and the notional apparatus to the extent which makes possible both mutual understanding and constructive discussions. Ending his pronouncement, the lecturer pointed to the high value of treatment of Cz. Znamierowski's conceptions in the sphere of theory of law in S. Czepita's monograph *Cz. Znamierowski's Conceptions of Theory of Law*.

Professor L. Lustacz pointed to Znamierowski's posthumous book *Szkoła prawa. Rozważania o państwie* [*The School of Law. Reflections on the State*] (Warsaw 1988), indicating a number of inspiring ideas of the Poznań scholar in the field of sociology of the State. He discussed among other things the questions of originality of Znamierowski's definition of the State, his formal approach to the functions of

State, the relation between his conception of State and the Marxist idea of the class nature of State. The lecturer stressed the need for a clear discernment between the notion of a State community and a State group, and pointed to the penetrating analysis of the State power included in the discussed work, together with the discussion of the values of a democratic system and the conditions of a democratic formation of elites within the State group.

In the discussion that followed, the following persons participated among others : Professor K. Opalek, Professor L. Łustacz, Professor Z. Ziemiński, S. Czepita, L.L.D., S. Pałczyński, L.L.D., and L. Pszczółkowski, L.L.D. It was stressed that Lande's controversy with Znamierowski had been unsolvable basing on the contemporary methodological apparatus (K. Opalek, K. Ziemiński). The classification of Cz. Znamierowski among representatives of the sociological theory of law was found to be a specific simplification ; the same was said of the ascription of Petrażycki and Lande to the psychologists theory of law (S. Czepita). Attention was drawn to the influence on both adversaries of H. Kelsen (K. Opalek, L. Łustacz, S. Czepita). All debaters voiced a high opinion of the book by S. Czepita.

Specific polemic accents concerned among others the attribution to Znamierowski of the opinion according to which the analysis of notions is the source of cognition. According to S. Pałczyński, the author of *Oceny and normy (Estimations and Norms)* separates himself from his own previous statements to that effect ; S. Czepita, in turn, pronounced for a critical treatment of Znamierowski's verbal declarations on that subject. Also S. Pałczyński expressed his doubts as to the possibility of treating the norm of conduct in Znamierowski's conception as a deontic sentence. S. Czepita stressed the specificity of that sentence, defining it as a "deontic sentence in the strong interpretation," that is one which qualifies a person's conduct according to a norm that has been actually established or is pertinent in the light of somebody's actually fostered opinions. From the viewpoint of adaptation, Znamierowski's tethical statement might be treated as a performative one. According to S. Czepita, the concurrence of Znamierowski's and Lande's opinions as to the treatment of a norm of conduct as a sentence was but verbal in nature since they interpreted the latter notion differently (that is, as an equivalent of judgment in the logical sense, and as an analogon of judgment in the psychological sense).

Questions about the inspirations resulting from the conception of the constructive norm, precursory in relation to many others, were also posed (L. Pszczółkowski), and A. Reinach, H. Kelsen, and L. Duguit were mentioned. It was stressed that Znamierowski's conception on that point was not only precursory to H. L. A. Hart's conception of primary and secondary rules but even better developed in certain aspects (L. Pszczółkowski). The superiority of Znamierowski's conception over that of Hart consists in the fact that it is not limited to legal norms and might therefore be compared rather with the more general conceptions, e.g. with that of J. R. Searle.

Recapitulating the discussion, Professor Z. Ziemiński pointed to the need for a broader consideration to be given to Cz. Znamierowski's classical works not only in the Polish but also in the world theory of law where, due to the lack of translations of the works by the Poznań scholar, his conceptions remain completely unknown, at least in their original form.

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