

Historic Book Review

AIR POWER AND WAR RIGHTS

By J.M. Spaight

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Reviewed by Gp Capt Neville Parton

James Molony Spaight holds an almost unique place in the pantheon of air power writers, being one of the most widely published in the 1920s, '30s and '40s, in English, and yet being almost unknown today. The breadth of his writing and its accessibility, at least in terms of the tongue in which it was written, certainly provides a differentiation between Spaight and a number of his contemporaries who we have already examined in this series. But Spaight was very different in other ways as well, and we shall therefore start with a brief overview of the man, his life and times, before moving on to consider what he actually had to say in *Air Power and War Rights*.

For such an extensively published individual, information on Spaight is fairly thin on the ground. Indeed his obituary in the Times in 1968 consisted of just over 200 words, and mentions nothing of his life beyond the Air Ministry – and is even incorrect in giving the details of his retirement from the Ministry.¹ We do know that he was born in Ireland in 1877, and educated at Trinity College Dublin, where he gained both graduate and doctoral degrees in law before joining the Civil Service of

the United Kingdom in 1901. From his evident familiarity with a number of French and German writers on air power he was also well-read in a number of European languages, although Douhet is significant by his absence from the list of references in his work. He obviously entered the War Office at some point, as he was recruited from there to the newly-formed Air Ministry in 1918. However his interest in air power predated the First World War, as his second publication, printed in 1914, was entitled *Aircraft in War*.² But it is for his legal perspective on the use of air power that Spaight came to be best known, and the majority of his 'serious' work was in this area.³ Titles such as *Aircraft in Peace and the Law* (1919), *Aircraft and Commerce in War* (1926), *Air Power and the Cities* (1930), *An International Air Force* (1932), *Air Power in the Next War* (1938), *The Atomic Problem* and *Air Power can Disarm* all centred around various legal aspects of the use of aircraft.

His work certainly achieved a degree of recognition within the Ministry, having been made an OBE in 1918, a CBE in 1927 and a CB in 1936; given his obvious intelligence, and clear willingness to apply it, it is not surprising that he

achieved fairly high office within the Air Ministry. His last post was as one of only 3 Principal Assistant Secretaries in the ministry which he held from 1934 until his retirement in 1938 – a crucial period in the run-up to the Second World War. He was obviously both known to Trenchard and trusted by him; when a passage in the RAF's first doctrine manual was considered by the then Director of Operations and Intelligence to provide cause for concern, it was to Spaight that Trenchard directed the publication should be sent, to – in his words: "...read through the book with a view to finding (1) if there is anything in it that offends against the laws of war as known at present, or (2) that offends against the provisions of the Washington Conference..."⁴ But little exists in terms of understanding his relationships with many other senior RAF personalities between the wars, and whilst surmise can have a legitimate place in historical analysis, in this case the evidence is so thin that it is with facts that we must content ourselves.

So what of the book itself? Given what we know of his background, it should perhaps not come as a surprise that this is a fairly hefty tome (493 pages in the first edition, 523 in the last), and that much of it is effectively a legal textbook. Comprising twenty-two chapters, it covers such abstruse legal areas as the markings of combatant aircraft, lawful and unlawful ruses, special ammunition, special missions, and even the legitimacy of propaganda dropping. The reader might therefore be forgiven for asking why consideration of the contents of a legal textbook of the early 1920s might be of interest today. However it also examined more mainstream issues, such as the whole issue of bombing from the air – which covered 4 chapters, and considered in detail what could or

could not legitimately be considered a target. Here a number of different perspectives were considered, ranging from extrapolations of previous understandings related to the use of both land-based and naval artillery, through to completely new arguments based upon Spaight's own logic. It should be borne in mind that this publication appeared in the year following the establishing of a set of rules relating to air warfare, drawn up by a commission of jurists at the Hague; and whilst detailed negotiations were taking place on the possibility of establishing limits to air armament.⁵

All of the chapters, with the exceptions of those associated with introducing the overall subject of air power, took a fairly similar approach. This consisted of a brief introduction to the topic, followed by a number of case studies – in other words establishing what had actually been the *practice* during the Great War, and from this eliciting both precedent and what various authorities, as well as the actors themselves, had believed to be the legal situation at the time. Consideration was then given to what existing law could be considered appropriate, or if inappropriate, what changes were recommended. Alternatively, an entirely new set of 'rules' would be suggested – as for instance is suggested at the end of the chapter dealing with *aircraft and enemy populations*, where the possibility of widespread air control is clearly foreseen, and the extant rules relating to occupation are quite evidently shown to be inadequate.⁶

The introduction provided a useful overview of the 'establishment' perspective relating to air power, or at least that element of the establishment which was air minded. Major themes which emerge echo much in other contemporary UK writings, such as the

'direct impact' of air power, its 'moral effect' (morale in current parlance), the impossibility of absolute defence against attack from the air and the fear of reprisals. He also outlines the extremes of positions held by air power commentators of the time – from the more bloody-minded:

The only effect an International Bombing Code can have is to cramp the style of the RAF at the beginning of the war... If we go bang into the next war all hair and teeth and blood, as the saying goes, free from any fetters of rules and regulation, we may achieve quite useful results at the start.⁷

to the rather more considered:

The aerial battles of 'the interior' will complete the land or naval engagements of 'the fringe', but both the one and the other will seek the same end, which is the overthrowing of the will of the enemy nation by every means.⁸

His central thesis is that air power has the potential to cause enormous destruction, and therefore unless international law can be used to limit its application – but in a practical and pragmatic manner – the outcome will be disastrous for all mankind. "Let there be no mistake about it : unless air power is regulated and controlled, it will destroy civilisation itself."⁹ His suggested approach is that air power should be enabled to destroy property, but in a manner that deliberately aims to minimise the loss of non-combatant life.

However Spaight was certainly a realist when it came to the application of law during a time of major conflict. When considering the rights – or otherwise – of bombing civilian property, after a long series of logically constructed propositions, he finishes with the

following: "Let there be no mistake about it: the cities will be bombed, whatever rule is laid down. In no other way will belligerents be able to obtain the moral effect which they will certainly seek."¹⁰ Yet his actual approach seems eminently logical, in this case he suggested that the rules should be framed such that they allowed 'devastation' of particular target sets, but in a manner which reduced the loss of non-combatant life to a minimum. He was also an extremely even-handed analyst, and almost seems to take pleasure in debunking some of the glib statements made with regard to bombing during the War.

With regard to bombing experience during the War, he clearly points out the difference between the intention and actual performance: "The fact is that what the airmen on each side set out to do and what they actually did were not always identical ... it is entirely beyond question that the Allied airmen on their side set out to bomb military objectives only. What they did bomb, on some occasions at least, may be seen from the photographs which appeared in various war publications."¹¹ The problems here were exacerbated as air defences improved, and drove attackers to operate at night in order to survive. However night operations called into doubt the accuracy of both navigation and bomb delivery – and a list of the factors which contributed to both of these is provided, which includes the effect of enemy action, the difficulty of bombing from greater altitudes, and in particular the effect of the weather. It will be noted that these same factors significantly affected, in an adverse manner, the efficacy of RAF bombing operations at the beginning of the Second World War. If the factors could be so rationally identified by a civilian analyst, with a decidedly non-technical background, it does beg the question as

to why the RAF did not seem to place the same emphasis on solving these problems during the inter-war years.

Another section of interest deals with air combat, and besides considering such aspects as ruses and the possibility of surrender in the air, also examines such questions as whether the ramming of enemy aircraft is legitimate, and the differentiation of parachutists and their liability to attack by the enemy. In the section on ruses a 'legitimate' approach is mentioned which would appear to have some contemporary parallels. This involved what was known as a 'reversed march', whereby troops on the ground would march in one direction whilst observed, and as soon as the watching aircraft had departed, would set off in the direction of the real march. This involved an understanding of the problems caused by observation which was restricted – in this case by time. In both current and recent campaigns against insurgents, the use of a particular activity, clearly visible to watching reconnaissance assets, has been used to draw attention away from another more important endeavour – in this case exploiting the restricted view and capacity of some systems.

A minor footnote of curiosity is that a noteworthy line is taken with regard to what is termed the 'colour line', or in other words, an airmen's perspective on the attitudes of the day towards differences in race. After pointing out that in terms of aerial fighting race is immaterial, and that there is no colour line in the rules of war, a number of positive examples of ethnic minorities serving in the Allied air forces are then quoted, ranging from an American Negro who served with the French Air Force and won the *croix de guerre* with star for his gallantry, to several Indian pilots

with the RFC, one of whom was credited with the destruction of nine enemy aircraft and awarded the DFC. Although his perspective might be seen as rather colonial in tone, Spaight was clearly no bigot.

From a contemporary viewpoint his approach was certainly not universally accepted, as readers of the historic book review on *Basic Principles of Air Warfare* will recall, where in particular the assumption that one air force could conduct its own activities and effectively ignore those of the opposition was challenged. In general though it was well received, and certainly became a standard work for those interested not only in air power, but also in the legal implications of exercising that power, as its longevity clearly illustrates.

From our perspective at the beginning of the 21st Century, what should we make of Spaight's major work eighty years on? At the time it was quite clearly a tour de force; no other single book brought together so many aspects of air operations and considered their permissibility against extant law, or so cogently argued for extensions to cover new capabilities. In Robin Higham's book on British military thinkers of the period, Spaight is one of the very few non-military writers felt worthy of detailed consideration, and this publication is described as a 'mine of information'.¹² For the historian, all three editions provide a considerable degree of insight into contemporary views regarding air warfare, and because they are so well referenced and footnoted, are a tremendous source of places to commence research.

It is also interesting to consider just how closely the law has been associated with the practice and theory of air power from its earliest days: those who feel

that the prominence given to legal advice in current operations is a new phenomenon should consider that our earliest doctrine in the areas of strategic bombing and counter-insurgency was significantly altered by legal advice – and in fact considerably improved in both cases. However where Spaight really shone, at least perhaps as far as we are concerned, was in the area of the analytical skills that he brought to bear on a broad range of issues. Whilst perhaps not consciously intending to do so, he clearly identified many of the limitations of contemporary air power, and thereby defined what was reasonable to expect in terms of achievement. In other words, his was a counsel of caution regarding extravagant claims, and a call for a realistic understanding of what air power could achieve, and the costs that were associated with it.

In days where ill-informed understanding can significantly affect expectations of achievement – in some cases not helped by over-extravagant claims from airmen themselves – Spaight's words have a good deal of contemporary resonance. Indeed, given current debates over the legality of attacking non-military targets to produce a military effect (as in the 1999 Kosovo campaign), it is interesting to note that Spaight commented: "Unless and until the right of air power to attack property the destruction of which will affect the economic life and business of the enemy people is admitted, the problem of air bombardment cannot be regarded as solved."¹³ In this respect at least, the major issues identified by Spaight are still relevant today, even if matters of detail may have significantly changed.

Reference

Dean, Sir Maurice. "Dr J. M. Spaight." *The Times*, 24 January 1968.

Air Ministry file "CD 22 Printing and Publication, 1921: The National Archives (TNA) AIR 5/299.

Spaight, J M. *Air Power and War Rights*. London: Longmans, Green and Co., 1924.

Higham, Robin. *The Military Intellectuals in Britain: 1918-1939*. New Brunswick: Rutgers University Press, 1966.

Notes

1 Sir Maurice Dean, "Dr J. M. Spaight," *The Times*, 24 January 1968.

2 His first publication was *War Rights on Land* (1911)

3 Other publications included *The Beginnings of Organized Air Power* (1927), which examined the institution of the Air Ministry within the UK, and a series of popular air power books during the Second World War (*The Sky's The Limit*, *The Battle of Britain*, *Volcano Island* and *Bombing Vindicated*).

4 *CD 22 Printing and Publication*, 1921, TNA AIR 5/299.

5 To follow on from the Washington Naval Treaty of 1922, which limited naval armaments.

6 "The same shifting of the scene of defence from the ground to the air ... will probably render obsolete the existing rules in regard to the effectiveness of military occupation." J M Spaight, *Air Power and War Rights* (London: Longmans, Green and Co., 1924), 371.

7 Mr C. G. Grey quoted in *The Aeroplane* 11 July 1913. *Ibid.*, 14.

8 Marcel Jauneaud, *Ibid.*, 17.

9 *Ibid.*, 18.

10 *Ibid.*, 259.

11 *Ibid.*, 220. This refers to various publications, some official, which clearly show a range of targets hit in Germany – including hospitals and a nunnery. The point is also well made that in June 1918, as a result of Allied air operations the insurance rates for life and property in the Rhine towns were raised by 38%.

12 Robin Higham, *The Military Intellectuals in Britain: 1918-1939* (New Brunswick: Rutgers University Press, 1966), 231.

13 Spaight, *Air Power and War Rights*, 256.

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