

came necessary to replace the caveman's club as a means of enforcing obedience and respect.⁸

And on occasion he slips into such pedantic generalizations as:

The idea that obedience to divine commands was good and disobedience sinful has been traced to the assertions of the early popes, as well as the emperors. It was probably not new with them.⁹

And it is unfortunate that the book, published before the Supreme Court's recent decision involving Governor Barnett,¹⁰ was not able to deal in any detail with that decision. Goldfarb does, however, discuss the right to trial by jury in contempt cases generally and, in a postscript, briefly analyzes the special considerations involved in the Barnett case.

All in all, though, it is quite an impressive book. Hopefully it will stimulate reform in this troublesome area of the law.

JUDGE BAILEY BROWN†

LAW, LIBERTY AND PSYCHIATRY. By Thomas S. Szasz, M.D.* New York: The MacMillan Company, Pp. 281. \$7.50.

THE evil that men do certainly lives after them; indeed, it often shows a disagreeable tendency to live with them and follow them about. In approaching the task of reviewing a book by Thomas Szasz, already author of an earlier tendentious and wildly misleading exposition entitled *The Myth of Mental Illness*,¹ a British psychiatrist is bound to experience a certain advance prejudice. Recognizing this, he must in honesty acknowledge it. *The Myth of Mental Illness* probably deserved no more than it got from most British reviewers, whose medical education and eclectic psychiatric background equipped them to point out that a doctor who could seriously maintain that mental illness was a myth was a doctor whose medical education and experience must have left a good deal to be desired.

But there was no reason why reviews of this kind should have deterred Dr. Szasz, prominent member of the editorial board of the *Journal of Nervous and Mental Disease*, and of the board of consultants of *Psychoanalysis and the Psychoanalytic Review*, from launching a further literary and professional bombshell in the general direction of the reliance of the American legal system upon the sociologic and psychoanalytic concepts of psychiatry. This is, in fact, his third book, as listed by his publishers, the first being *Pain and Pleasure*,²

8. P. 10.

9. P. 11.

10. United States v. Barrett, 376 U.S. 681 (1964).

†United States District Court, Western District of Tennessee.

*Professor of Psychiatry, State University of New York, Syracuse.

1. THOMAS SZASZ, *THE MYTH OF MENTAL ILLNESS* (1961).

2. THOMAS SZASZ, *PAIN AND PLEASURE* (1957).

published in 1957, which contained thoughtful intimations of its author's mistrust of psychophysical concepts; the second was the notorious *Myth of Mental Illness*, which proved of little weight or comfort to any informed reader in the United Kingdom, apart from a few well-known drum beaters like Lady Barbara Wooton, who could not have been expected to know which part of its medical premises were true and which were false. The author still espouses this cause, and in the second paragraph of his preface announces with an assurance which seems not to need even the aplomb with which it is made: "Psychiatric activity is medical in name only . . . psychiatry is a form of social engineering. It should be recognized as such."³ Later in the same preface he announces that the book is addressed not only to lawyers, psychiatrists and social scientists, but also to the intelligent layman. "Indeed, the last may find it especially useful, for organized psychiatry poses a much greater threat to him than it does for the professionals."⁴ The threat would be less grave, perhaps, if some of the professionals were better trained, notably Dr. Szasz himself. The expressed aims of the book are two-fold: first, to present a critical inquiry into current social and especially legal uses of psychiatry; second, to offer a reasoned dissent from what the author considers the theory and practice of false psychiatric liberalism. Most of the legal and social applications of psychiatry, undertaken in the name of psychiatric liberalism, are in his opinion, instances of despotism, a despotism nonetheless coercive because it is based on what are presumed to be health values. "Just as in democracy there lurks the danger of tyranny by the majority, so in mental-health legislation there lurks the danger of tyranny by therapy."⁵

In the early pages of the book itself Dr. Szasz points out that modern psychiatry was born a few years after the founding of the United States of America. He dates it from May 24th, 1798, when Phillippe Pinel removed the chains from one of the most feared patients at the Bicetre, the Paris asylum for male lunatics. "Thus," continues the author, "the historical paradigm of psychiatric treatment is neither prescribing medicines nor performing operations, but giving an imprisoned human being a measure of freedom."⁶ Before pursuing this interesting and by no means insignificant argument further, we are entitled, even bound, to take a cool, hard look at the basis of some of Dr. Szasz's fundamental assumptions.

The first, and most characteristically fallacious of all of them, is the constantly implied equation of psychiatry with psychoanalysis, and vice versa. This recurs repeatedly throughout the book, and would suggest that Dr. Szasz remains either invincibly ignorant of, or disdainfully uninterested in biochemical hypotheses concerning, for example, the nature of schizophrenia, and completely indifferent to the possibilities and responsibilities of diagnosis, prognosis, and treatment in the field of psychological medicine as a whole. The fal-

3. P. vii.

4. P. viii.

5. *Ibid.*

6. P. 2.

lacy here is the fallacy which was central to *The Myth of Mental Illness*. It remains central to this book, but is no longer essential. There is hereby created the interesting paradox that a great deal of what Dr. Szasz has to say on the subject of liberty, responsibility, and the conjoint and historical errors of psychiatry and the law in certain notable cases, remains true — despite the appallingly impoverished appreciation which he has of the nature of psychiatry itself. But there are areas of the book where the central fallacy of its predecessor does bring its current assumptions, and the logic based upon them, crumbling to the ground; and these must receive as much attention in what is certainly intended to be a fair and objective review, as the praise and acceptance of what remains forthright and sound.

Dr. Szasz scatters a number of subsidiary fallacies in his opening passages. We are informed that there is a "persistent confusion between two distinct psychiatric roles — namely, the psychiatrist as an *analyzer* of life-games and meanings, and as a *giver* of games and meanings."⁷ He goes on to say, "This distinction is displayed in two ways. One is the posture of the psychiatrist *offering* his wares — call it analysis, help, therapy, or what not — to self-responsible, adult buyers. The other is the posture of the psychiatrist *coercing* others, with police power if necessary, to submit themselves to his control . . ."⁸ The fact that neither of these two roles corresponds to what any reputable psychiatrist actually does, together with an apparently related failure to recognize, perhaps even to comprehend, that a great deal of psychiatric work is in fact a combination of medical techniques with sensitively humane and imaginative relationships, once again undermines the whole of the author's approach to his thesis, while periodically threatening to turn it into almost pure nonsense.

By page 11 he is ready to go back to redeveloping his own concept of *The Myth*. He refers to his earlier book with evident satisfaction, quite clearly unimpressed by any of the cogent and unanswered criticisms which it received. His sole concession to the reality of mental illness is to remark that "The notion . . . derives its main support from such phenomena as syphilis of the brain or delirious conditions — intoxications, for instance — in which persons may manifest certain disorders of thinking and behavior."⁹ He continues, "Correctly speaking, however, these are diseases of the brain, not of the mind. According to one school of thought, *all* so-called mental illness is of this type Many contemporary psychiatrists, physicians, and other scientists hold this view, *which implies that people's troubles cannot be caused by conflicting personal needs, opinions, social aspirations, values, and so forth.*"¹⁰ No single statement in the whole book could better illustrate the extravagantly irresponsible and preposterously illogical assumptions to which the author is from time to time prepared to have recourse. In considering the rest of his

7. P. 4.

8. *Ibid.*

9. P. 12.

10. P. 12 (emphasis added).

potentially challenging exposition, it must be firmly stated that while many psychiatrists, with extremely solid grounds of clinical and laboratory evidence to support them, certainly do consider that disturbances of function and structure in the brain and nervous system are responsible for a significant proportion of all mental illness, there could scarcely be a greater fallacy than to suppose that this view implies that varieties of life stress, including conflicting personal needs, opinions, social aspirations, values, and so forth, are not also often equally, sometimes even predominantly, important in the aetiology of mental distress. The whole battle which psychiatry has been fighting for the last fifty years, and which was clearly recognized by the founder of psychoanalysis himself, has been to proclaim and to secure acceptance for the concept of multiple aetiology, not simply of psychiatric illness alone, but of all illness. What Dr. Szasz says in this part of the book is in effect that such established concepts as multiple aetiology, and the psychosomatic aspects of much of human sickness, can be and must be totally ignored. In their place, he postulates a rigid either/or hypothesis, useless to medicine, and in no way reflecting current psychiatric thought: the archaic and by now totally obsolete hypothesis that human suffering is either physical or mental, organic or functional, and that if it is one it cannot be the other. If this thesis were to be taken seriously, it alone would set back the understanding of the human predicament, insofar as medicine in general and psychiatry in particular have contributed to this understanding, by at least fifty years.

Moreover, the effects of this confusion become immediately apparent in the author's own development of his view. "In medical practice," he writes, "when we speak of physical disturbances we mean either signs (for example, fever) or symptoms (for example, pain) . . ." ¹¹ This is precisely the kind of half-baked conceptualisation of unrecognized philosophical and epistemological error which the author is currently claiming to correct in the mind of the reader. Pain is not a physical disturbance at all. Pain is a subjective sensation, which may or may not arise from a structural lesion in the body. The reality of pain depends upon one thing only: whether it is felt or not — whether, in fact, the person who says he is experiencing the pain is telling the truth or deliberately lying. To confuse the nature and reality of pain with the presence or absence of an underlying structural basis is to commit one of the most grievous blunders of which insensitivity and lack of imagination in medical practice are capable. Moreover, the author's first book was concerned with this very area, and whatever else one may be driven to say about his thesis, Dr. Szasz gives no evidence of being either insensitive or unimaginative. Once again we are forced to the conclusion that in certain areas in which he is prepared to venture, he has either not learned enough or else not continued to think enough about what he should have learned.

One could belabor this aspect of the book indefinitely, but this would only prove tedious. Nevertheless one further and final example of the author's com-

11. P. 13.

pulsive retreat from the foundations of basic psychiatric knowledge needs to be instanced. He contrasts a defect in a patient's visual field with a delusion in the area of his beliefs or a hallucination in the world of his experience. A visual defect, as he correctly insists, may be explained by correlating it with certain lesions in the nervous system. But he denies that delusions or hallucinations can arise from disease of the nervous system. This is plain nonsense. As such, it cannot help the foundation of his argument. But more important than this, it can and does imply a confusion within psychiatry for which his own particular version of psychoanalytic background is presumably responsible. Were it to be shared by all his colleagues, their summary and total exclusion from participation as experts in any field of legal activity or the administration of justice would be even more justified than his own relatively modest and reasonable suggestions would imply.

As we read on, fresh fallacies loom in our path — some of them the misleading re-statement of original historical truths, so that they become less than half truths, and then by implication are rendered totally false. For example, Charcot recognized that the majority of people disabled by certain characteristic kinds of motor and sensory symptoms were in fact suffering from hysteria, a disturbance of function at a level inaccessible to their own consciousness, and were therefore to be distinguished from malingerers, that is people deliberately simulating illness in the full knowledge that they do not in fact suffer from it. Dr. Szasz transforms this significant event in the history of medicine into an alleged discovery which was not in fact a discovery at all. "Rather," he says, "it was a reclassification of malingerers as 'hysterics.'"¹² From this he pursues the logical course that "Changing the name of 'malingering' to 'hysteria' left untouched the basic rule that physicians could treat some disabilities with kindness, others with hostility . . ."¹³ Once again, in his zeal to pursue the thesis of his earlier book, Dr. Szasz retrospectively distorts history, and incidentally denies precisely that gain of understanding in medicine for which modern psychiatry has been largely responsible, for which it can take whatever credit there may be in the alleviation of human misunderstanding and misery, and in the further pursuit of which it is still of necessity actively engaged.

Most of the rest of the book is concerned with a lucid and reasoned examination of the operation of the law, and the intervention, sometimes admittedly unhappy, of the psychiatrist. Let us turn to a consideration of these general criticisms and constructive suggestions about the impact of the psychiatric contribution upon the concept of Anglo-American justice.

He quotes a number of telling cases and reputable authorities; among others, Overholser, Russell, Freud, Ferenczi and Judge Learned Hand. He examines once again the battered logical imperfections of the McNaghten rules, with the single original and somewhat surprising implication here that the jury is just as well able to make a medical diagnosis as any doctor, even though the rules

12. P. 19.

13. *Ibid.*

admittedly provide a decidedly rigid and unrealistic basis for approaching this task. He gives a number of illuminating case histories, as examples of the readiness of psychiatrists to provide a loophole for lawyers to dispose of awkward cases by indeterminate sentences, either without trial or without the final invocation of whatever punishment or settled sentence society might otherwise oblige them to impose. The case of King Ludwig II of Bavaria is the first of a fascinating stream of instances of this sort, and, indeed, one is not only beguiled by the author's obvious erudition and interest in this field, but forced again to contrast it with certain aspects of his singular ignorance in his own professional area.

He writes with admirable clarity and is never at a loss for the apt and telling quotation. In addition to Judge Learned Hand, Mr. Justice Oliver Wendell Holmes and Mr. Justice Frankfurter are also quoted. The evolution of the Durham rule from the McNaghten rules, and the inescapable imperfections of the former as derived from the latter, are reviewed. James Baldwin receives attention, as does the case of Mrs. Isola Ware Curry, who stabbed the Reverend Martin Luther King in a Harlem Department store and was then committed to the Matteawan State Hospital without being brought to trial.

Other vividly described and well documented case histories include that of Jim Cooper, who, with the stated intention of getting himself executed, fired nine shots into the body of his former fiancée, who had recently jilted him. He had wanted to be killed since he was nine years old, when he believed he had caused his father's death. His father had slipped on the ice running after his son with a warm cap to wear to Hebrew school, and the fall proved fatal. Jim Cooper never forgave himself for it. Between the ages of twelve and twenty-three he committed many self-destructive acts, and, as Dr. Szasz observes, "Perhaps it was an 'accident' that he lived long enough to kill Connie Gilman."¹⁴ Dr. Szasz's point can be exemplified by his approach to the tragic climax of this case. Cooper was judged to be of unsound mind, and therefore was not executed. When he finally realized that he was not going to be executed, he hanged himself in his cell. Dr. Szasz is contemptuous of the psychiatric opinions offered, and even more of their outcome. "When the state broke its contract, Cooper himself undertook to make it good. When, in effect, the government said, 'although we have promised to kill you, we will not do it,' Cooper replied, 'Then I will do it for you.' And he did."¹⁵

Now of course the point here is not whether Dr. Szasz or the psychiatrists in the case were right. The question is whether or not there is such a thing as unsoundness of mind which should prevent the execution of a man for murder. Most people still believe that the concept of justice depends upon the ancient Latin tag, *Actus non facit reum nisi sit mens rea*. There cannot be a guilty act unless there is a guilty mind. To form a guilty intent, a mind must

14. P. 155.

15. P. 158.

be sound. If it is unsound, then justice demands that guilt either be mitigated or remain unproved.

All this, Dr. Szasz would like to sweep aside, but for the best possible motives as far as his own concept of justice is concerned. He clearly does not believe at all in the reality of psychotic illness — in the accepted sense. He gives an example of a mythical individual who shoots several people in front of the White House under the delusional belief that they are about to attack the President. He says that many psychiatrists would be prepared to say that such a man was suffering from schizophrenia, and therefore that he is not responsible for his actions. Dr. Szasz says that schizophrenia was only a word we use to explain abnormal behavior.¹⁶ For him it seems to have no other meaning. The implication is that such a man should be imprisoned, and, unless he is discovered in fact to be acutely delirious or intoxicated, he must presumably be treated exactly the same as anyone else who commits a deliberate premeditated murder. If his action has occurred in a state where capital punishment is part of the state code, then he must be executed. This may be a further argument for the abolition of capital punishment, but it seems a somewhat tenuous pretext for the abolition of the concept of unsoundness of mind in law.

Toward the end of the book, Dr. Szasz enunciates a number of long range and short range goals. Long range goals include the abolition of involuntary mental hospitalization, the abolition of the plea of insanity in criminal proceedings, and the preservation of the human rights of the mental patient in a hospital. The value of the first two of these procedures remain highly questionable. Nevertheless it is extremely important that neither of them should be abused, and Dr. Szasz has, albeit somewhat laboriously, performed a considerable service by the degree of emphasis which he has given to this proposition. The preservation of the human rights for the mental hospital patient is equally desirable, although as propounded by Dr. Szasz it would encourage every patient who had ever been in a mental hospital, and had subsequently disagreed with the reasons which prompted his admission, to sue all concerned with his care and treatment on the grounds of improper detention. One effect might be that hospitals would be even more reluctant than some of them already are to admit the litigious and paranoid patients who might nevertheless stand in need of their care.

Right to the very end, Dr. Szasz mingles passages of compelling argument with questionable assertions. Returning to the cases of Mrs. Isola Ware Curry and Ezra Pound, both previously quoted and commented upon extensively,¹⁷ he says, "When, for instance, an outstanding antisegregationalist leader is physically attacked by a Negro woman, her act is judged insane. When a famous American poet embraces Fascism, and is charged with treason, he is considered mentally ill and is imprisoned in a mental hospital. The examples could be multiplied . . ."¹⁸ They could be, and indeed they have been, but

16. P. 134.

17. Pp. 193-98, 199-210.

18. P. 247.

surely the burning question is what are they examples of? Was Mrs. Isola Ware Curry insane? Was Ezra Pound in fact a paranoid schizophrenic? If they were not, if they were incorrectly diagnosed, and if the reason for these incorrect diagnoses was psychiatric connivance in legal impropriety, then Dr. Szasz does well to indict them both. But these examples and arguments do not alter the validity of the concept of mental illness, nor of the concept of justice whereby a man is presumed to be sane unless he is proved insane, but wherein the reality of insanity is not totally denied, as it would be in the new society created by Dr. Szasz's legal reforms.

Reflecting upon this book, a European reviewer is bound to wonder how much the author's own European background and subsequent immigration, with a clearly passionately loyal and sincere commitment to the United States, has influenced what he has had to say and how he has chosen to say it. As an intelligent, sensitive and ambitious professional man in contemporary America Dr. Szasz is faced with a profound dilemma: on the one hand he is inevitably moved to criticize that aspect of American life in which the state, in the name of security, has permitted itself to encroach upon individual liberty; on the other hand, he faces the enormous pressure to conform which no citizen of the United States, least of all a first generation immigrant, can wholly escape. Nor, if he is brave enough, and sufficiently alert, can he deny the corrosive effects of this pressure upon his own self-respect, and his respect for his adopted country. So, like the native born but naturally rebellious Mr. Norman Mailer, he must oppose it.

But where Dr. Szasz would seem to differ from Mr. Mailer is that his rebellion remains finally safe. It is conventionally unconventional. He has sensed that liberty is in danger in America but he has chosen to attack the danger from a false premise and from within the confines of an already ambivalent and deeply divided camp, contemporary American psychiatry. However sincere, his own psycho-analytically oriented belief that psychiatry should stay in the private consulting room and out of the public Courts of Justice is a convenient and expedient belief, because it helps him to feel — and indeed to be — doubly "in." He becomes the *in* professional analyst who debunks the pretensions of the power seekers, and the *in* intellectual who strikes a ringing blow on the Liberty Bell. Much of what he has to say about Psychiatry and the Law is worth reading and pondering. But just as the threat to American civil liberty remains more complex, so do the foundations of clinical psychiatry remain wider and more solid than this brave but biased exposition can either recognize or reveal.

DAVID STAFFORD-CLARK†

†York Clinic, Guy's Hospital, London.