

have found in the majority opinion a basis for hope for a more receptive response to his proposals. One cannot but admire what Mr. Falk has undertaken to do. In an area of the law where new thoughts and new tools are sorely needed, one finds in Falk's offering the type of creativity that is too often absent in times of crisis. Those interested in a well-written and succinctly stated analysis of the current state of international law in the area of private property rights and expropriation by foreign governments, and a theory upon which a new body of legal rules can be predicated, would do well to read *The Role of Domestic Courts in the International Legal Order*. For the oldtimers in the field of international law, as well as for the newcomer to the study of problems inherent in any attempt to change long established standards, reading Mr. Falk's book is certain to be a very rewarding experience. It should not be delayed.

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LAW, LIBERTY AND PSYCHIATRY. By Thomas S. Szasz, M.D.¹ New York: The Macmillan Company. 1963. Pp. xii, 281. \$7.50.

Insanity has long been generally recognized as a form of disease, in principle no different from measles or arthritis. But if the erstwhile lunatic is now considered "sick," yet his sickness remains a peculiar variety of disease; consciously or unconsciously, most people regard it as embarrassing or even disgraceful. It is a cliché of humor that the average man will readily regale his friends with an account of the adventures of his colon, liver or vermiform appendix, but it is a highly exceptional man who will favor them with an account of his last bout with paranoia.² The stigma that attaches to the disease is shown by the progressive euphemism which is so marked a feature of its lexicon: we have gone from "madness" to "insanity" to "mental illness" to "nervous disorder"; from "raving" to "violent" to "disturbed." Offhand, I can think of but one other instance in medicine in which there has been a concerted effort to soften the harsh name of a dreaded malady: that is the attempt to rechristen leprosy as "Hansen's Disease."

A number of explanations suggest themselves. Perhaps there lingers some remnant of the theory, at one time universally held, that the lunatic is possessed by a peculiarly disagreeable and tenacious devil or crowd of devils;³ one is dealing not with afflicted fellow men, but with

can waive the provisions of the statute. A specific procedure for settling claims arising from Cuban expropriation is established by 78 Stat. 1110 (1964).

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² The clinical monologues, which in less sophisticated strata of society tend to focus on the speaker's tripe, are in more polished circles likely to revolve around his relations with his psychoanalyst. But it is notorious that such amateurs of psychoanalysis do not usually suffer from any mental defect more serious than silliness; rarely does their malady rise above the level of neurosis.

³ See, e.g., *Matthew* 8:28-33; *Mark* 5:1-16; *Luke* 8:26-36. The diabolic contents of a single man — or two men, according to Saint Matthew — was enough to induce psychosis, accompanied by pronounced disturbance, in a large herd of

the legions of Hell. It may be more than coincidence that the etiology, diagnosis, and treatment of leprosy were for long similarly dominated by theological considerations. A more significant parallel between the two diseases is that in each case diagnosis commonly leads to loss of freedom and probably to confinement in an institution that might as well be called a prison as a hospital or sanitarium. In the case of insanity, the symptoms that land the sufferer in the asylum are very often superficially identical with those that land other people in penitentiaries. Indeed, it is only in comparatively recent times that there has been an effort to draw a clear line between criminality and insanity. Dr. Szasz develops at length the proposition that this line is still very far from clear and that it may in fact be in the process of becoming more blurred and meaningless than it was a hundred years ago.

As insanity is a peculiar malady, so is psychiatry a peculiar branch of medicine. For one thing, it remains among the most backward of the healing arts. If the prospect of cure in cases of insanity is somewhat better than that for the common cold or acne, it is certainly no better than for cancer. Only in very recent years, with the advent of various drug therapies, has there been a significant advance. The literature of the subject tends to be full of gaseous theory and strange, astounding jargon, more suitable to theological works than to books dealing with medicine or any other science. This is not surprising, for it is plain that the needs that psychiatry — and in particular psychoanalysis — satisfies are in very large part those that used to be satisfied by religion. Its catechumens tend to be drawn from the more educated and solvent sects, such as Episcopalians and Jews, who can no longer swallow the myths and dogmas of their ancestral faiths, but who still find intolerably bleak a life in which there is neither jujū nor the delightful tremors, compounded half of fear and half of ecstasy, conveyed by the ministrations of witch doctors. Psychoanalysis, describing itself as a science, a branch of medicine, but trading heavily in charms and liturgy, meets their need a great deal better than the colorless rites of other decompression chambers for ex-believers, such as Unitarianism and Universalism. I confess some surprise at the failure of Bahaism, Rosicrucianism, Yoga, and similar exotics,⁴ which certainly cannot be accused of drabness, to pick up greater shares of the market. It is probable that the flamboyance of both their doctrines and their disciples has tended to repel people who believe that they believe in the scientific method.

It follows that psychiatrists, though they are by definition doctors of medicine, are frequently highly idiosyncratic specimens of that breed. Many or most of them are no doubt as hardworking, useful and inconspicuous, not to say humdrum, as so many pediatricians or oculists. But the popular image of the profession is dominated by the bands of

swine, put at 2,000 by Saint Mark. But even a single devil could cause severe functional disorders. See *Matthew* 9:32-33.

⁴ Christian Science, which of course is home grown, is a special case. Mark Twain considered Mrs. Eddy's brand of divinity so admirably calculated to meet the spiritual cravings of the average flathead that he expected it to become the national religion. See TWAIN, *CHRISTIAN SCIENCE* (1907). The error must be attributed to the extreme pessimism that overwhelmed that great man in his old age.

Janizaries, drawn from the ranks of psychoanalysts consecrated unto Freud,⁵ whose dissonant kettledrums, trumpets and cymbals, and uncouth warcries, leaps, and whirlings daily astound and terrify the public.⁶ The holy name of Freud is embroidered on their banners, but actually he bears no more responsibility for them than Marx does for Stalin or Castro, or Jesus for Pius XII or the Reverend Billy James Hargis. Freud actually knew something about the scientific method,⁷ as Marx actually knew something about economics (and Jesus perhaps, knew something about God), and so would have been incapable of the flights of richly hued fancy embarked upon by his disciples and *their* disciples. Dr. Szasz is quite right in making and amply illustrating the point that in this branch of medicine it is often exceedingly hard to tell the physicians from the patients (pp. 21-22, 64-65, 210-11).⁸

No system of politics, economics, religion or health, however addled, can really do very much harm so long as the customers are free to accept or reject. In a free market, it will have to abandon its patent absurdities, however cherished by its founding fathers and present management, or see the trade go to rivals. Thus the Church of Rome, no longer able (and perhaps no longer inclined) to enforce orthodoxy by the free use of *autos-da-fé*, is demonstrating its unparalleled talent for survival by debriding itself of doctrinal growths that hamper that survival. It is plainly getting ready to heave overboard its ban on birth control, and it is not very risky to prophesy that sooner or later a like fate awaits its prohibition of divorce, which must have cost it millions of communicants. The Communists, of course, are still in that primitive stage of development in which it is imagined that thought can be prohibited and the Pure Faith imposed by force, forever and ever, world without end: "Such as do build their faith upon/ The holy text of pike and gun . . . / And prove their doctrine orthodox/ By apostolic blows and knocks."⁹ (I admit that I assert the wrongness of this basic Marxist tenet with a good deal more assurance than I actually feel. George Orwell's *1984* is a powerful argument for its correctness. On the other hand, it is impossible to achieve technical efficiency — which the Communists really seem to want, at least

⁵ I recognize, of course, that there are many balanced and reasonable men among even psychoanalysts. I myself actually *know* two or three such, but it would be invidious to name them.

⁶ Szasz has been fairly criticized for confounding psychiatry with psychoanalysis and ignoring every other therapy for diseases of the mind. See Stafford-Clark, Book Review, 74 *YALE L.J.* 392, 393 (1964). Szasz simply follows the popular stereotype, but of course he ought to know better.

⁷ Indeed, he carried it to preposterous lengths, as in his elaborate dissection of a number of fragile little jokes, with a view to preserving in formaldehyde, describing, and classifying the essential principle of humor. See *FREUD, JOKES AND THEIR RELATION TO THE UNCONSCIOUS* 16-27 (Norton ed. 1963). The better opinion seems to be that this celebrated opus of the Master was not itself intended as a joke. Apparently Freud had a sincere admiration for jokes and merely wished to discover how one was made, like an earnest child pulling apart a butterfly. I am reminded of Rudolf Virchow's statement that he had dissected 10,000 cadavers and never found a soul.

⁸ The phenomenon was noted by Edgar Allen Poe, a connoisseur of madness, more than a century ago and chronicled with his usual macabre drollery. See *The System of Dr. Tarr and Professor Fether*, in *THE COMPLETE TALES AND POEMS OF EDGAR ALLAN POE* (Modern Library ed. 1938).

⁹ BUTLER, *HUDEBRAS*, Part I, Canto I, lines 195-96, 199-200 (Bell & Sons ed. 1907).

to the extent necessary to manufacture hydrogen bombs and military hardware—without creating a class that has at least a technical education. The question is whether any variety of education can be stopped short at the border of independent thought. Macaulay said that the Jesuits “appear to have discovered the precise point to which intellectual culture can be carried without risk of intellectual emancipation.”¹⁰ Whether there really is such a point, and whether it is really possible to strike it precisely, it is not at all clear. As the guiding geniuses of the American Medical Association daily demonstrate, political enlightenment is not a necessary by-product of a scientific education.)

In the United States, it can be argued — Dr. Szasz does argue at considerable length — that only the psychiatrists can actually call in the police to enforce conformity to their views (pp. 59–61). If it is next to impossible to send a man to jail for religious heresy and difficult to imprison him for political crimethink, it is relatively easy, possibly too easy, to lock him up when he deviates noticeably from the psychiatrist’s standards of mental normality — standards that are quite likely to include the particular psychiatrist’s notion of sound political opinions (pp. 3–4, 247). Szasz probably exaggerates the prestige and public acceptance of psychiatry and particularly psychoanalysis. It is probable that most God-fearing people, particularly run-of-the-mill Roman Catholics, Whole Gospel Protestants, and other such non- or anti-intellectuals, regard it with indifference or suspicion. But its faithful, though relatively few in numbers, are commonly men of high intelligence and education, full of public spirit and philanthropy. They hold positions of power out of proportion to their numbers, particularly in the legal profession, and they tend to regard most of life’s problems as soluble by the proper application of psychiatric principles. It is this marriage of psychiatry and law, and the resultant issue of what Dr. Szasz sees as new crimes, new punishments, and new tyranny, that is the major thesis of his book.

Szasz, of course, is still a psychoanalyst and by no means free of the stigmata of his order. He reminds one of those men of the sixteenth century — men of the breed of Matthias and Knipperdoling — who, having thrown off the spell of Rome, proceeded to conceive theological lunacies far more preposterous than any of the superstitions they had renounced. Like a good psychiatrist he commences with shock therapy, by administering horse-doctor’s doses of nonsense. There is no such thing as mental illness (p. 11)! (Alarm in the audience.) There should be no such thing as involuntary mental hospitalization (p. 206)! (Panic and general rush for the Fire Exits.) If these assertions are made *pour épater les bourgeois*, as is probably the case, they have succeeded admirably, at least among Dr. Szasz’s more staid colleagues, many of whom affect to take his iconoclasm literally and tap their foreheads knowingly when he is mentioned.¹¹ But in fact, our author is by no means so crazy as he seems, for it shortly appears that he is merely playing with labels. Though “mental illness” is imaginary, Dr. Szasz admits the existence of “problems in living” which require remedies es-

¹⁰ I MACAULAY, HISTORY OF ENGLAND 542 (Dutton ed. 1953).

¹¹ See, e.g., Stafford-Clark, Book Review, 74 YALE L.J. 392 (1964).

sententially similar to those applied to mental illness (pp. 13-17). After we have abolished "involuntary mental hospitalization," we shall still have "legal provisions for so-called psychiatric emergencies," such as a maniac with a bundle of dynamite (p. 226). My alarm abates.

Once having satisfied myself that Dr. Szasz is in fact far from *meshuggah*, I am ready to recognize that there is a core of sound good sense at the heart of his jeremiad. That core is contained in chapter 10, "Criminal Responsibility," which deals with legal definitions of insanity, particularly the *Durham* rule, and chapter 11, "Acquittal by Reason of Insanity," which considers the disposition of persons so acquitted. His major propositions can be stated pretty shortly. The expansion of the insanity defense against charges of crime has produced not greater protection for those who deviate from accepted mores, but less; not greater separation of the criminal from the lunatic, but greater homologization of the two. For the first time in this country we have developed a system of *oubliettes* and *lettres de cachet* worthy of Louis XI or J. V. Stalin. The tale is most instructive, and not well understood by most laymen or even by lawyers.¹²

It is probable that for most people the problem of abuse of the insanity defense is still conceived in its classic form: the unjustified acquittal and release of a criminal rich enough to hire lawyers and alienists to persuade a maudlin jury that he had been temporarily insane. Mark Twain saw the problem almost a century ago: "[T]he prisoner had never been insane before the murder, and under the tranquilizing effect of the butchering had immediately regained his right mind Formerly, if you killed a man, it was possible that you were insane — but now, if you, having friends and money, kill a man, it is *evidence* that you are a lunatic."¹³ The archetypal case, still unforgotten after sixty years, is that of Harry K. Thaw, an unprepossessing wastrel whose mother's bottomless purse kept him out of the electric chair when he murdered Stanford White, an architect of real eminence.¹⁴ Such highly publicized cases, featuring reams of psychiatric testimony, of which nothing is comprehensible to the newspaper reader except that each squad of experts denounces as ignorant flapdoodle the opinions of the other, have naturally tended to give the insanity defense a public reputation that is at best dubious.

This jaundiced view of the defendant who claims to be insane fits well with one common American attitude toward criminals, which is that they ought to be given the shortest shrift compatible with a strict construction of the Bill of Rights. The hanging judge, the man whose short way with criminals is one of his main qualifications for the job, has always been rather popular with the laity and even with large sections of

¹² For a pioneering and prescient description and analysis of the problem, see Goldstein & Katz, *Dangerousness and Mental Illness: Some Observations on the Decision to Release Persons Acquitted by Reason of Insanity*, 70 *YALE L.J.* 225 (1960).

¹³ TWAIN, *A New Crime*, in *SKETCHES NEW AND OLD* 220, 222, 225 (Harper ed. 1917).

¹⁴ See O'CONNOR, *COURTROOM WARRIOR: THE COMBATIVE CAREER OF WILLIAM TRAVERS JEROME 171-242* (1963).

the bar.¹⁵ But, as usual with us, ruthless Mr. Hyde and compassionate Dr. Jekyll coexist (not always peacefully), and Dr. Jekyll sees the criminal defendant in a very different light. The infliction of punishment is acutely painful to Dr. Jekyll, for he cannot really bring himself to believe that there is such a thing as a bad man, who deserves to be punished.¹⁶ This second American attitude toward criminals is splendidly illustrated by Will Rogers's idiotic remark that he never knew a man he didn't like. If Dr. Jekyll, having this state of mind, finds himself upon the bench, he is obviously in an agonizing dilemma; if he inflicts punishment upon a "criminal," in whose existence he does not believe, such dreadful feelings of guilt oppress him as might have afflicted a seventeenth century judge who did not believe in witches. He is thus ripe for the psychiatrist, ready to grasp eagerly the suggestion that the prescription of therapy for sick men is a wholly different thing from the punishment of bad men and that virtually all criminals are really sick. Hence the *Durham* rule,¹⁷ designed to transform as many criminals as possible into patients of psychiatrists.

Action, of course, begets reaction. *Durham* stimulated Mr. Hyde to convulsive activity. Hyde echoes Festus: "Hast thou appealed unto Caesar? unto Caesar shalt thou go."¹⁸ If you claim the benefits of insanity, we will see that you get them, in full measure, pressed down and running over. The speedy result of *Durham* was the passage of an act of Congress making commitment to an insane asylum mandatory for persons acquitted by reason of insanity.¹⁹ The net result is that, in jurisdictions with mandatory commitment statutes,²⁰ one who successfully establishes his innocence by reason of insanity is likely to be a good deal worse off than a genuine criminal, who is sent to jail. Dr.

¹⁵ A splendid specimen of the breed was Recorder John W. Goff, of the old New York General Sessions Court, of whom an admiring cop once said, "Recorder Goff is a fine man, but he thinks everybody ought to go to jail at least once." Oldtime reporters and policemen told many such tales of Goff, mostly with affection.

¹⁶ As Recorder Goff was a prize-winning specimen of the hanging judge, so the points of the other breed were strongly developed, perhaps even overdeveloped, in the late Justice Curtis Bok of Pennsylvania. I have heretofore commented on Justice Bok's *Weltanschauung* in my review of his book, *Star Wormwood*, 69 *Yale L.J.* 193 (1959).

¹⁷ The rule denies criminal responsibility if the accused's unlawful act "was the product of mental disease or mental defect." *Durham v. United States*, 214 *F.2d* 862, 874-75 (D.C. Cir. 1954).

¹⁸ *Acts* 25:12 (King James).

¹⁹ D.C. CODE ANN. § 24-301(d) (1961); see Krash, *The Durham Rule and Judicial Administration of the Insanity Defense in the District of Columbia*, 70 *YALE L.J.* 905, 941 (1961). Dr. Szasz reminds us of a half-forgotten piece of history. The protagonist of M'Naghten's Case, 10 *Cl. & F.* 200, 8 *Eng. Rep.* 718 (H. L. 1843), which laid down the orthodox rule on the insanity defense, ended his days in Broadmoore, the English equivalent of Matteawan. In fact, as Dr. Szasz does not seem to realize, the practice of automatic commitment of persons acquitted by reason of insanity goes back at least to the beginning of the last century. Even before the original Act of Parliament (39 & 40 *Geo. 3*, c.94) English and American courts on their own initiative assumed power to order such disposition of insane defendants. See *Lynch v. Overholser*, 369 *U.S.* 705, 720, 724-25 (1962) (Clark, J., dissenting).

²⁰ There are at least a dozen, including New York. See *Lynch v. Overholser*, *supra* note 19, at 709 n.4. Similar problems seem to exist in England. See Thomas, *Theories of Punishment in the Court of Criminal Appeal*, 27 *MODERN L. REV.* 546, 561-62 (1964).

Szasz makes abundantly clear — and here he has plenty of corroboration — that if the mental hospital to which the blameless one is dispatched differs at all from a penitentiary, it differs for the worse (pp. 83–84).²¹ There is scarcely a pretense of therapy. No term is set to his imprisonment. He may very well pay five or ten years for a crime that a sane man could commit for a maximum price of eighteen months. Indeed, since there is no psychiatric therapy for “sociopathic personality disturbance, antisocial reaction,” a piece of psychiatric cant meaning criminal propensities, it is entirely possible that the psychiatrists in charge of the institution will *never* be willing to certify that he can be released without danger to the public.

Thus, the merciful *Durham* rule permits life imprisonment for relatively minor offenses. Worst of all, the gates of the *Durham* type of prison are far harder to push open by legal means than are those of the ordinary pen. No matter how indifferent or arbitrary the refusal of the prisoner-patient’s medical custodian to release him as sane, it is exceedingly difficult even for an inmate who has friends and money — and virtually impossible for the ordinary wretch — to obtain meaningful judicial review. In theory, of course, the Great Writ runs to the superintendent of a hospital as surely as to the warden of a penitentiary. Practically, Dr. Szasz is right in saying that habeas corpus is far from an adequate remedy (pp. 66–70). Considering the fact that asylums, unlike prisons, do not usually have law libraries, the writ is sought by surprising numbers of inmates (practically all of them on the criminal side of the campus), but with minimal success. The reasons for this monotony of result were candidly stated by a majority of the court in *Ragsdale v. Overholser*.²² The court is naturally inclined to lay great weight on expert evidence, which is almost always unanimously against an indigent petitioner; indeed many a judge may suspect that a petition in forma pauperis emanating from a mental institution is probably itself a symptom of paranoia. Even if the claimant to sanity (or at least harmlessness) is rich enough to hire his own psychiatrists, the expert testimony will be in sharp conflict — and the mandatory commitment statute has been construed to mean not only that the petitioner must bear the burden of showing that his release creates no potential danger to the public, but that he must do so *beyond a reasonable doubt*.²³ Even in the rare cases in which the psychiatrists are willing to take a chance, the courts are likely to throw up legal obstacles to freedom.²⁴ In short, the odds against the petitioner are today so crushing that only a lunatic would allow himself to be acquitted by reason of insanity.

The problem is beginning to be perceived, and limits are beginning to be set to the more or less benign despotism of the psychiatrists under

²¹ The Court of Appeals for the Second Circuit has found it unnecessary to decide whether Matteawan is a hospital or a jail, although it exhibited a strong preference in favor of the jail classification. *United States ex rel. Carroll v. McNeill*, 294 F.2d 117, 121 (2d Cir. 1961), *judgment vacated and case remanded with directions to dismiss as moot*, 369 U.S. 149 (1962).

²² 281 F.2d 943 (D.C. Cir. 1960).

²³ *Id.* at 946–47.

²⁴ *Cf. Hough v. United States*, 271 F.2d 485 (D.C. Cir. 1959); *In re Golden*, 341 Mass. 672, 171 N.E.2d 473 (1961).

the *Durham* rule and the anti-*Durham* statutes. The Supreme Court has limited the District of Columbia mandatory commitment statute, and presumably its congeners in other jurisdictions, to cases in which the defendant himself pleads the defense of insanity; the Court invoked the rough justice of the "appeal unto Caesar" argument.²⁵ The D.A.'s office can no longer, by itself raising the insanity defense, turn the *Durham* rule into a device for the indefinite incarceration of nuisances.²⁶ Moreover, there are other judicial intimations that some process is due even a putative madman. In the *Ragsdale* case itself, in which the majority of the court laid so much stress on the presumption against release, Judge Fahy, concurring, made the modest suggestion that "due process may well require . . . that within a reasonable time, which will vary from case to case, continued confinement be made dependent upon civil commitment proceedings, with their greater procedural safeguards" ²⁷ The Court of Appeals for the Second Circuit has held unconstitutional, as denying the equal protection of the laws, a New York Statute that permits the Commissioner of Mental Hygiene to transfer from an ordinary mental hospital to an institution for the criminally insane anyone who happens to be an ex-convict, if he "manifests criminal tendencies" — as by trying to escape — while in the noncriminal loony bin. Unfortunately the petitioner's death while the appeal was pending caused the Supreme Court to vacate the judgment as moot.²⁸

Most important of all, there are many indications that the bar, or its more conscientious elements, has begun to realize that the person accused of mental illness has no less need of counsel than the person accused of crime.²⁹ The key to the problem appears to lie in the devising of fair procedures, not wholly dominated by psychiatrists, to review involuntary confinement for mental illness, and in making sure that counsel are available for those inmates who are capable of cooperating in their own hearings. Habeas corpus *can* be an adequate remedy, when even the indigent inmate has a lawyer and a chance to be examined by impartial doctors. This, of course, is far easier said than done, but the problem must be tackled if we are to avoid Dr. Szasz's peculiarly unpleasant version of Orwell's *1984*.

Dilation upon the criminal problem precludes adequate comment on some of Dr. Szasz's secondary philippics — notably his argument that simplicity is anything but a virtue in civil commitment procedures, since it is a synonym for the easy railroading of the unwanted and for the denial of due process (ch. 5); and his very shrewd analysis of the absurd and undignified role of the psychiatrist in probate proceedings, which is essentially to create "the impression that a scientific decision

²⁵ *Lynch v. Overholser*, 369 U.S. 705, 715 (1962).

²⁶ See Note, *A Logical Analysis of Criminal Responsibility and Mandatory Commitment*, 70 Yale L.J. 1354 (1961).

²⁷ 281 F.2d at 951.

²⁸ *United States ex rel. Carroll v. McNeill*, 294 F.2d 117 (2d Cir. 1961), judgment vacated and case remanded with directions to dismiss as moot, 369 U.S. 149 (1962).

²⁹ See, e.g., the October 1964 issue of THE LEGAL AID BRIEF CASE (Vol. 23, No. 1) — the organ of the National Legal Aid and Defender Association — which is largely devoted to "Legal Rights of the Mentally Ill."

has been reached" (p. 76) by giving a scientifically impossible expert opinion on the sanity of a man on whom he never laid eyes. Szasz may be irreverent, he may even be guilty of some hyperbole, when he says that "questioning the testator's sanity serves to set aside a will that injures the community's sense of fair play in the inheritance game" (p. 75),³⁰ but he is uncomfortably close to the truth.

I cannot forbear mention of one fearsome problem that Dr. Szasz raises but (most uncharacteristically) leaves unresolved. That is the problem of the madman who is also a head of state. Szasz actually raises the problem in its least serious form, as exemplified by King Ludwig II of Bavaria (pp. 48-53). Ludwig, though dotty enough, resembled his equally dotty Roman prototype, the Emperor Elagabalus,³¹ for he was dangerous to nothing except the Treasury. If he had been a private citizen there would have been no reason to lock him up. But what are we to do when a Roman Caesar, *deus ac dominus*, or the Autocrat of all the Russias, or *der Führer*, or the First Secretary of the Communist Party, happens to be a homicidal maniac? We need not look backward to Caligula or Ivan the Terrible: Stalin's unending purges and Hitler's *Endlösung* of the Jewish question are still quite fresh in memory. The chances of popular revolt against such tyrants seem to be practically nil; they are, in fact, usually admired and even loved by the rabble. We are told that for long after Nero's death his tomb was regularly adorned with flowers,³² presumably by humble citizens who admired his grandiose style, as the German *Spiessbürger* of thirty years ago admired Göring's. The only ways, other than natural death, to remove such monsters have been external conquest or palace conspiracy, usually the latter. In such polities the palace revolution, despite its obvious deficiencies, seems to be the best solution so far devised, and maybe the only imaginable one. Whether future Harmodiuses and Aristogeitons will consult their psychiatrists before resolving to remove the contemporary Hipparchuses remains to be seen.

This review is of inordinate length. That it is so is a tribute to Dr. Szasz's considerable ability to make challenging and provocative statements — and to the fact that he is rarely *totally* wrong.

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³⁰ But I cannot take literally his statement, on the same page, that the very fact that the will is contested shows that the testator had adequate contact with reality, because it demonstrates that he wanted to disinherit his natural heirs and knew the rules for doing so. An octogenarian's desire to leave his wealth to a cutie in white, who has fed him his gruel and pills and otherwise soothed his aches and pains, may denote contact with reality; as much can hardly be said when the principal beneficiary is a crank foundation.

³¹ See 1 GIBBON, *DECLINE AND FALL OF THE ROMAN EMPIRE* 282 (Milman ed. 1914).

³² See 2 Suetonius, *THE LIVES OF THE CAESARS* 185 (Loeb ed. 1930).

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