

activity is, in many cases, just the fact that it is a step taken with the intention of bringing about some harmful consequence.

III

Besides the topics I have mentioned much else is illuminatingly discussed in this short book. Indeed the ratio of thoughts to words is astonishingly high — a fact which imparts to many of Lady Wootton's observations an unforgettable quality. This is especially true of her critical comments on the archaic atmosphere and conventional procedures of the English forensic process, many of which, as she says, "seem incongruous in a scientific age." Few lawyers (on either side of the Atlantic) will fail to enjoy and profit from Lady Wootton's blend of wisdom, irreverence and wit.

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THE PERSONALITY OF LAWYERS. A COMPARATIVE STUDY OF SUBJECTIVE FACTORS IN LAW, BASED ON INTERVIEWS WITH GERMAN LAWYERS. By Walter O. Weyrauch.* Forward by Harold D. Lasswell & Myres S. McDougal. New Haven and London; Yale University Press, 1964. Pp. xvii, 316. \$7.50.

THIS is an unusual, fascinating and troubling book. The author, now a Professor of Law at the University of Florida, was from 1948 to 1952 a practicing lawyer in Germany. He then moved to the United States, which he appears to have found more congenial to his personality. A decisive period of the author's American re-education was spent at the Yale Law School, where he was attracted by the work, the research interests, and the methods of Harold Lasswell and Myres McDougal. The author's interest in the ways in which society actually functions, the roles played in it by the law and the lawyers, and the devices by which democratic values may be strengthened by the law and its manipulators has found expression in his earlier writings. The present book is also centered around these questions.

Weyrauch, believing in the comparative method, approaches these questions by drawing a collective portrait of the German lawyer. Express comparisons with America are made in several places, but to what extent, if any, conclusions about the United States can be drawn from Germany, remains doubtful. The collective portrait of the German lawyer that emerges from Weyrauch's inquiry is devastating. The author's method was to interview some German lawyers in such a way that a free flow of associations would reveal essential personality traits. As the interviews are reported, the subjects appear to have

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revealed themselves as a bunch of ranting malcontents. The statements appear as outpourings of dissatisfaction with the law, with its administration and its administrators, with Germany, with the United States, with the state of the world, and with the nature of man. What also appears is a consistent craving for prestige, status, rank and personal security, coupled with a pretended contempt of monetary values and a scepticism or cynicism about morals. There is hardly an expression of self-respect, of pride of profession, or of social responsibility. The subjects appear egocentric, parochially narrow in their interests, and even of moderate or low professional skill.

From the interviews it seems that all legal thinking is either sterile conceptualism, or subjective hunch, or jockeying for power. The interviews give no indication of that method of legal thought which typically appears in present-day opinions of German courts and German legal writing. Old-style conceptualism is by no means dead in Germany; it can be found there just as one can find it here in the United States. One also suspects that hunch and power play are as frequent here as they are there. But what characterizes more accurately the modern legal writing of Germany, judicial and scholarly, is the method of jurisprudence of interests which has also come to the fore in this country as the New Jurisprudence, the Great Tradition, or sociological jurisprudence. Of the wholesome predominance of this "realistic" method of legal thought, we hardly find a trace in Weyrauch's interviews.

Can we then accept as correct the portrayal of the German lawyer that emerges from the interviews? In the extended contacts which I have had with members of the legal profession of Germany, I too have often heard statements like those appearing in Weyrauch's interviews. But they are overbalanced by many others of a positive character, especially indications of responsibility, competency, personal satisfaction with the chosen way of life, and pride of achievement, as well as upright morals.

Weyrauch describes in detail the method of his inquiry. It was carefully thought out and, apparently, carried through with diligence and with awareness of its possible pitfalls. The sample was not very large; 132 persons were seen and some 70 of them were subjected to extensive interviews. That number is, however, larger than the number interviewed in several American attempts to draw collective portraits of the politician or the practitioner of law.

With some reluctance I venture the expression of doubts as to Weyrauch's findings. Did the subjects really reveal their personalities in his interviews? Can any person's "real personality" be discovered by stimulating him to talk in a free flow of association? In conversations with people, lawyers and others, in the southern United States, I here observed time and again that the talk would almost inevitably turn to the race problem, no matter on what subject one might begin — travel, people, world affairs or cooking. In Germany, people seem to be under a compulsion to talk about the hardships, real or imaginary, of the war years, the bombings, the expulsion from the eastern provinces, the occupation, de-Nazification, etc. They also tend to talk about the protection,

real or imaginary, they have given to individual Jews. And then they will air their grievances, their disappointments, their doubts about themselves, Germany, America and the world. Everything is bad, and if the subject is a lawyer, he will vent his feelings against the law and against his brethren in the craft. But the tune changes when the listener injects some kind word, when he points, for instance, at some fine decision of a German court, at an eminent piece of writing, or at an open-minded lawyer, judge or professor. Once the German partner to the conversation is made to feel that one who comes from outside, especially one who is of German background (and who can thus be expected to understand things German), is sympathetic, a deeper layer of consciousness, or unconsciousness (where is the borderline?), comes to the surface. And that deeper layer is not regulated by self-abasement, cynicism, or nihilism. At times the talk appears as an over-evaluation of the German Self. But more often it is an objective evaluation of the subject's profession and of his field, the law. The talk shifts from bitterness or facetiousness to positive objectivity and seriousness of concern and evaluation.

In the searching analysis of his own qualification for the exploration of German legal minds, Weyrauch repeatedly observes that his German partners appeared eager to talk to him, because to them he was both an insider and an outside observer. Weyrauch also states that he took special care to give free rein to the subject's flow of association. I believe that it was exactly through his reluctance to interrupt the subject's train of thought that the expression of the thought was falsified.

Quite probably Weyrauch's subjects were as eager to hear words of encouragement and positive appreciation as any normal human being. Weyrauch's desire to be scientific, however, prevented him from doing that which would possibly have opened the door to that deeper layer which appears to be decisive of personality.

The tendency to respond to a general conversational stimulus by negative talk, by the utterance of grievances, by the verbalization of repressions, *i.e.*, by ranting and groveling, is a general human trait. It is aggravated in people who, like the Germans, have been through shattering experiences or, who, like the Germans or our Southerners, have profound feelings of collective guilt.

If one tries through interviews to learn about the personality of such individuals, one must not limit himself to the stimulation of free-flow conversation. One has to stimulate by the indication of sympathetic understanding the confidence which allows the baring of that deeper layer which constitutes the core of what may be called personality. Caution is thus appropriate in the evaluation not only of personality studies but also of opinion polls based on interviews which fail to pierce the subjects' protective shells.

I hesitate to accept the results of Weyrauch's interviews; nevertheless, I recognize the significance of his enterprise. He has done pioneer work. He has subjected the interview method of research in social psychology to a test which was necessary to reveal its inadequacies, to indicate the need for its elaboration,

and the ways in which such elaboration is to be sought. He has also given us many instructive insights into the legal profession of Germany and the manner in which it functions. But the more valuable of these insights are contained not so much in the interviews as in the author's own text and annotations.

Perhaps one of the more important insights is that what a society expects of its lawyers is not the same the world over. Lawyers do not have exactly the same social functions in Germany and in the United States. Of course, here as well as there, lawyers have to provide the framework of orderly rules and processes which are necessary for the smooth functioning of a complex society; here, as there, lawyers are engaged in deciding cases, in advising clients, in prosecuting persons suspected of crime. But, as Weyrauch points out, in the United States the legal profession is practically co-extensive with the Bar, while in Germany the various branches of the legal profession are rigidly separate from each other. A young man who wishes to be a judge enters a career service without having first joined the Bar. Here the attorney, in Germany the judge together with the high ranking civil servant, is the central figure of the legal profession. Legal education is geared toward the training of future administrators and judges rather than to that of training future attorneys. Entering the public service as an administrator or a judge has traditionally meant the assumption of a special status in society rather than entering upon a simple relation of employment. In the traditional German society, social position was determined by the rank one occupied in the public service. These traditions have been shattered. What is now to determine a man's social standing? Income, education, civic merit, or what else? No firm new framework has yet developed. How is one who has grown up in the old order to find his place in the new, the shape of which has not yet fully emerged? No wonder that one finds "schizoid" personalities. No wonder also that conclusions are hard to transfer from one of the two countries to the other.

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