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Book Reviews

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BOOK REVIEWS

PSYCHIATRY FOR LAWYERS. By Andrew S. Watson, M.D. New York: International Universities Press, Inc. 1968. Pp. xiv, 326. \$10.00.

Dr.¹ Watson, professor of psychiatry and professor of law at the University of Michigan, is a clear didactic writer with a superb eye for the interpersonal world of lawyers and law students.² This book is his straightforward, relatively thorough explanation of that branch of medicine that deals with mental disease. The "Psychiatry" part of the title is not particularly intriguing, given the fact that every bus station bookrack devotes several cubbyholes to popular psychiatry. What is intriguing is the "for Lawyers" part — why should lawyers who want to read about psychiatry choose a book about psychiatry "for lawyers"?

One reason for reading *Psychiatry for Lawyers* might be an interest in forensic psychiatry. A small part of legal practice deals with courtroom collisions between Dr. Watson's art and the lawyer's art: involuntary commitment proceedings, "insanity" defenses to charges of crime or civil liability, questions of capacity and competency in the law of property, some credibility questions, and the several other instances in which lawyers must know some psychiatry in order to serve their clients *in litigation*. There are several recent publications in this area, mostly of the "readings for law students" genre.³ There is at least one fairly standard, and oft-cited, treatise on the subject, written primarily for psychiatrists.⁴ Another book on forensic psychiatry was not critically necessary, although that consideration does not always deter authors and publishers. In any case, Dr. Watson did not set out to write just another book on forensic psychiatry; he devotes only one short, final chapter to psychiatric questions in court, and he includes that mainly in order to offer some constructive suggestions on taking psychiatrists out of the adversary process.

What interested Dr. Watson in writing this book is a more difficult, yet perhaps more valuable, theme. It lies beneath the courtroom surface of the lawyer's life as a "hired gun" and beyond the consulting room surface of the author's life as a physician. Dr. Watson, who has previously shown magnificent insight into our lives as law students and teachers,⁵ is interested here in our lives with our clients. His purpose, as he states in the introductory chapter, is to tell lawyers what psychiatry knows about legal counseling:

Lawyers, it appears, are constantly caught up in the powerful, emotional undercurrents and ambitions of their clients — this notwithstanding the fact that as law students they are taught "to take either side of an

1 A colleague suggested that calling a teacher "doctor" indicates that he has a degree, while calling him "professor" indicates that he has a job. I adopt the former style here out of deference to the author's medical credentials. I am aware — and grateful — that he has a job.

2 E.g., Watson, *Some Psychological Aspects of Teaching Professional Responsibility*, 16 J. LEGAL ED. 1 (1963); Watson, *The Quest for Professional Competence: Psychological Aspects of Legal Education*, 37 U. CIN. L. REV. 91 (1968).

3 E.g., J. KATZ, J. GOLDSTEIN & A. DERSHOWITZ, *PSYCHOANALYSIS, PSYCHIATRY AND LAW* (1967); B. ALLEN, E. FERSTER & H. WEIHOFEN, *MENTAL IMPAIRMENT AND LEGAL INCOMPETENCY* (1968).

4 M. GUTTMACHER & H. WEIHOFEN, *PSYCHIATRY AND THE LAW* (1952).

5 See note 2 *supra*.

argument without becoming emotionally involved." The principal effect of this teaching concept seems to be that many lawyers lose *awareness* of their involvement, to the detriment of their professional work. . . .

The era in which we live is characterized by great popular interest in such topics as "how to win friends and influence people," and "the power of positive thinking." We should not be surprised, therefore, when it is suggested that understanding the nature of the emotional reactions between lawyer and client when they talk together is vitally important to any successful communication. Our everyday experience informs us that this sort of transaction, at best, is not free of clearly irrational elements which complicate and confound our efforts at understanding each other.⁶ (Footnote omitted.)

The question for the reviewer, then, is whether the author has succeeded in developing that theme.

Following the introductory chapter — which stands by itself as a useful posing of questions — Dr. Watson develops the history of his branch of medicine and explains the prominence of Freudian psychological theory in it — an informative, if mildly condescending, enterprise. In the three excellent chapters that follow, he develops and explains psychiatric assumptions on personality, ego defense, personal growth, and therapy. These are concepts fundamental to all branches of modern psychology; they demonstrate that Freud, as expounded by Watson, is a giant in any respectable psychological theory.

The remainder of the book takes up each period of the ages of man and explains Freud's findings on the sexual character of personality development — anal/oral in infancy, phallic/oedipal in early childhood, social/cultural in the so-called "latent" period, and heterosexual in adolescence. The penultimate chapter is a short, relatively sketchy survey on aging. (A psychotherapist oriented to Jung rather than to Freud might be more interested in old people; Freud's interest in man sometimes tended to be in direct relation to what most of us understand "libido" to mean.)

At the end of each chapter, the author adds questions and problems — some of the latter quite extensive — designed to aid the reader in testing his comprehension of the textual material. Although no criticism of this device is intended, it should be noted that problems and discussion suggestions of such a character might be construed as an invitation to the lawyer-reader to practice amateur psychiatry on his clients.⁷ This may have a result opposite to what Dr. Watson intends; it may stifle the sensitivity to troubled people that obviously fills his life at the Michigan Law School, and it may discourage the self-analysis

6 A. WATSON, *PSYCHIATRY FOR LAWYERS* 3-4 (1968).

7 Dr. Watson draws a hard line when he confronts this dilemma while discussing a mother-dominated, youthful criminal offender:

Perhaps, at this point, the reader is beginning to feel that it is all well and good for a psychoanalyst or a psychiatrist to draw inferences like these, but is it not a bit dangerous for a "mere" lawyer to do so? My answer to this question is that mere lawyers, and everyone else for that matter, *will* draw precisely the same conclusions, but without necessarily being aware that they are doing so. They might notice only a vague, puzzling feeling (especially if they were "lawyer-type" men) of dislike for the mother. They would then probably devote considerable energy to keeping their "neutrality," and thus would miss the whole point in the mother-son relationship. I would emphatically and unequivocally state that lawyers can and should learn to become aware of interpersonal psychological undercurrents. It is crucial if they are to understand and accomplish what they seek for their clients. *Id.* at 263.

that is probably the starting point for a human attitude toward the lawyer's life as counselor. The problem of sensitivity is as great for psychiatry as it is for the law.⁸ Learning psychiatric theory — Freud's or anyone's — has not been, in my observation, remarkably helpful in solving it.

So much for nonforensic "psychiatry for lawyers," written with the avowed purpose of telling us lawyers about our lives with our clients, about ourselves, and about the troubled people who seek our professional assistance. Dr. Watson's introductory promises were exciting, but I leave the book suspecting that he has failed to fulfill them, principally because he has excluded from the book his magnificent personal insight, and partly because he has left aside insight from nonpsychiatric psychology. In a way, this criticism takes Dr. Watson to task for not having written some other book, but I justify it with a reference to his aspiration (to tell us about legal counseling) and with the thought that a book on nonforensic psychiatry "for lawyers" is hardly justified unless it says something the author could not just as well say to everybody.

My impression is that the book fails of its promise on legal counseling because the first word in the title ("psychiatry") is not broad enough to bear the inquiry. Dr. Watson did not transcend (as he has in other writings on law and lawyers)⁹ the narrow limitations of his profession — a profession too narrowly medical, and Freudian, to convey the information psychology has to give lawyers about their lives with their clients.

Psychiatry is fundamentally a branch of the medical profession. Psychiatrists are physicians; the only qualification they all seem to share is the M.D. degree;¹⁰ they are professionals who treat sick people. They have no professional reason to specialize in the psychology of people whom they, or our society, consider healthy. Even within the appropriate professional sphere of psychotherapy, the success of psychiatry has not been conspicuously better than that of nonmedical psychotherapy. Psychiatry's control of the mental institutions in this country, for instance, is darkened by a certain palpable amount of harm — dreary, punitive confinement; shock treatments; drug therapy; shattered lives. Physicians are not necessarily entitled to claim the monopoly they seem to claim as healers of the mentally ill. This medical limitation is sometimes a positive limitation; most of the criticism one hears of Freud, for instance, can be turned aside by observing that Freud was a *doctor*. That thought, for me, places his philosophical speculation — illumines and strengthens it — and also makes it possible to appreciate his warmth and concern for his troubled patients. But *Psychiatry for Lawyers* is not about medical treatment for sick people. Dr. Watson proposes to tell attorneys about *their* clients, not his. Lawyers necessarily turn to psychiatry (as to medicine) when the demand is forensic — for about the same reasons they turn to the police department when the demand is for force — but there is no overpowering reason for lawyers to turn only to

8 E. PORTER, AN INTRODUCTION TO THERAPEUTIC COUNSELLING (1950) and C. ROGERS, CLIENT-CENTERED THERAPY (1951) demonstrate an admirable appreciation for this problem. However, I am not sure that a mere book is capable of solving it. See T. REIK, THE INNER EXPERIENCE OF A PSYCHOANALYST (1949).

9 See note 2 *supra*.

10 "[A]ny person holding a license to practice medicine *may* call himself a psychiatrist, so this designation gives no indication whatever of his level of training and experience." A. WATSON, *supra* note 6, at 36.

psychiatry (or for psychiatrists to expect that they will) when they want to learn about their relationships with their clients or when they want to become better counselors.

The other limitation on nonforensic psychiatry as source material for legal counseling is the incredible loyalty psychiatrists seem to have to Freud — even to the point, as Dr. Watson says, of assuming that “every [mental] disease is caused either by an alteration in the normal physiological process or by the introduction of a foreign agent which produces a secondary change in the body’s functioning”¹¹ Dr. Watson’s source material is a good example of this Freudian atavism. One must read his references closely to know that Theodore Reik or C. G. Jung said anything about the mind (and *they* were both physicians and psychoanalysts). One could come away from Dr. Watson with the impression that experimental psychology, nonmedical psychotherapy, and the centuries-old psychological inquiry into behavior — outside medicine — exist only to assist and be guided by psychiatry. There is no indication that the literature of developmental psychology — the literature of counseling that is closer to the law office than psychopathology is — is relevant to the “for lawyers” part of Dr. Watson’s title or to the interpersonal promise of his introductory chapter. He cites Jung once and James, Skinner, Rogers, Allport, Maslow, *et al.* not at all. Modern Freudians are his principal source material; the classics of the Vienna school are strong secondary support. He seems consciously to have excluded non-Freudian psychology, a negative inference I make from the fact that he demonstrates remarkable breadth in other behavioral literature.¹²

Dr. Watson’s format and organization lend themselves equally well to a feet-up, evening’s reading or to the classroom. He writes well enough to justify the first use, and his problems and reading lists hold promise for the second. But either kind of user should be warned in advance that there are treasures in the study of law and psychology at which this book does not begin to hint.¹³

Thomas L. Shaffer*

11 *Id.* at 309; see generally E. FROMM, SIGMUND FREUD’S MISSION 73-100 (1963).

12 Some authors who fill this void are: E. PORTER, *supra* note 8; C. ROGERS, *supra* note 8; L. TYLER, THE WORK OF THE COUNSELOR (1953); H. FREEMAN, LEGAL INTERVIEWING AND COUNSELING (1964). He cites Redmount, *Attorney Personalities and Some Psychological Aspects of Legal Consultation*, 109 U. PA. L. REV. 972 (1961), and he might have added the same author’s *Choice and Non-Choice of Preventive Law — An Anatomical Study*, 38 S. CAL. L. REV. 402 (1965).

13 A third approach to law and psychology might be to explore the substance of the law for psychological insight — as Freud explored the world of humor in S. FREUD, JOKES AND THEIR RELATION TO THE UNCONSCIOUS (J. Strachey transl. 1960), or as Jung explored the occult. There is very little law-psychology literature of this sort now, a lacuna I attribute to the fact that psychologists have little scholarly interest in the law. Some few of Dr. Watson’s notes and problems suggest that he is developing the interest, though, and that his collaboration with his lawyer colleagues may result in contributions to a psychologically oriented jurisprudence. See Redmount, *Humanistic Law Through Legal Education*, 1 CONN. L. REV. 201 (1968), for a vision of genuinely jurisprudential integration of law and psychology.

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THE JUSTICES OF THE UNITED STATES SUPREME COURT, 1789-1969: THEIR LIVES AND MAJOR OPINIONS. Edited by Leon Friedman & Fred L. Israel. New York: Chelsea House. 1969. Four vols. Pp. xxix, 3373. \$110.

We are, in the copybook phrase, a government of laws not men. It is well to be reminded of this truism. It is better still to advert to the fact that laws do not administer themselves. In the end, men must apply the law and it is important to know what manner of persons our judges have been.

Nevertheless, thinking about our judges in their judicial capacity as individual persons was unacceptable in nineteenth century America. During that century's earlier half, it was commonly thought that judges merely applied the law to specific controversies. The tools by which they reduced the general to the particular were logic and precedent. The times were also touched by an egalitarianism that rejected any distinction as special privilege. The "life" tenure of federal judges and their unique prerogatives, thus, were an embarrassing anachronism.

Later in the century, the rationale for ignoring the part which the personality of a judge plays in our governmental process was changed. Men came to believe that a millennium was dawning; all that was needed to bring mankind into the warm, life-giving sun was the systematic application of the "scientific method." The activity of judges, in this conception, was objective, impersonal. The interjection of any personal element into the judicial process was obviously "medieval" and impermissible.

Ironically, judges in the grip of this "scientific" myth were able to impose their personal preferences onto the law of the land. The theories of Herbert Spencer and William Graham Sumner were read into our Constitution by judges who believed they were acting with admirable detachment and objectivity. Even more ironically, their devotion to the "scientific method" was applauded by a populace that had accepted the same myth.

Wars and other terrors have weakened the force of this particular mind-set. Few men now anticipate utopian development even by a science equipped with computers. We may accept the scientific and technological marvels of our age without the naive optimism of our great-great-grandfathers.

This shift in our thinking has been reflected in our attitude toward our judges and the law. Judges are no longer viewed as Olympian oracles; they are known to be men like ourselves. Our laws are no longer thought to rest on the mandate of heaven but are a human contrivance to protect what is valuable.

It is easy to exaggerate the faults of our forefathers. If the common attitude toward judges was as described above, there also survived a native wit which knew that the Supreme Court read the election returns. Then, however, such ideas smacked of lese majeste; they could be uttered only by licensed jesters.

The prevailing nineteenth century attitude toward our judiciary explains why so little attention has been expended on the biographies of our judges. There are hardly a half-dozen acceptable studies of our Supreme Court justices. Since they merely applied the law (whether by logic, precedent, or the "scientific method"), there was no need to know much about their personal lives, experi-

ences, or attitudes. That has changed. Few now reject the assertion that a judge "brings his whole experience, his training, his outlook, his social, intellectual and moral environment with him when he takes a seat on the Supreme Bench." The time had obviously come for a biographical compendium of the nearly hundred persons who have formally shaped and reshaped our constitutional doctrines.

In these four volumes, we have the first major effort to supply this need. It is the editorial product of a practicing attorney and an academic historian. Among the contributors are Paul A. Freund, Alpheus T. Mason, Philip B. Kurland, Robert G. McCloskey, and C. Herman Pritchett. Their presence on the roster of authors serves as a partial warrant of its quality.

The biographical essays were written by a varied group of contributors. Most were written by academic historians who reflected their interest in personal narrative rather than the analytic approach. The next largest group of contributors comprises law school professors; they produced generally the most satisfactory essays. Practicing attorneys and newspaper reporters supplied relatively fewer biographies, with the latter assigned to deal with the most contemporaneous subjects, i.e., Earl Warren, Abe Fortas, Thurgood Marshall, and Warren Burger. One of the contributors, Gerald T. Dunne, is the vice-president of the St. Louis Federal Reserve Bank. Like the justices about whom they wrote, the authors are a varied lot and their contributions range from the perceptive to the pedestrian — as one would expect in such an enterprise. A significant portion, say a quarter, are of the first rank. Among these are the essays by Freund on Holmes, Mason on Taft and Stone, and McCloskey on Stephen Field.

Such a set of volumes, however, must be judged as a unit. The editors' intention and performance, rather than the critic's preferences, are the proper subject for consideration. It is easy to outline a more brilliant approach; actual delivery of such concoctions is more rare. On balance, then, are these four volumes, taken as a whole, interesting and useful? Yes. The attraction and usefulness of the individual pieces vary, but the set provides engaging reading as well as a ready reference. The index makes it easy to find what various justices have thought about specific cases or ideas. The essays are brief enough to be read between more pressing engagements. The bibliographies point the way to other, more extensive, accounts or to obscure dissertations and articles.

One of the most interesting effects of reading the set is noting how many justices have not yet attracted skilled biographers. More than one bibliography ends with some such sentence as: "A modern full-length biography yet remains to be written." There are, thus, opportunities still beckoning persons with a taste for research and legal reasoning who have accepted Charles Evans Hughes's dictum: "We are under a Constitution, but the Constitution is what the judges say it is."

*Nicholas Varga**

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COP! A CLOSEUP OF VIOLENCE AND TRAGEDY. By L. H. Whittemore. New York: Holt, Rinehart & Winston, Inc. 1969. Pp. xii, 305. \$6.95.

This book describes some of the events the author shared with various policemen during the several months he accompanied them on the streets of New York's Harlem, Chicago's South Side, and San Francisco's Haight-Ashbury district. His reportorial style brings the reader right to the scene of the action. By sharing the writer's experiences, one develops a better understanding of the factors that make it difficult to be a patrolman on the street, particularly in a high crime area. For this reason alone, the book is valuable reading for anyone concerned with the law and order crisis.

The author says his only thesis is "simply that policemen are individual men who work on the cutting edge of social conditions."¹ This is well established by his detailed descriptions of the manner in which various policemen handled numerous street encounters with little time for the careful analysis and reflection a theoretical approach to the problem would require. In addition to this stated thesis, however, the incidents related in *COP!* reveal a second, unspoken thesis: Black neighborhoods ought have black policemen. Although the author does not articulate this point, it comes through loud and clear. It is best demonstrated by a comparative analysis of the two policemen who are the principal subjects of the book.

Mr. Whittemore states in his introduction that the material he developed during many months of research was put through a process of distillation to produce a "selective reality as true to the total experience as I could make it."² Hence, the two principal subjects of the book are apparently intended to be representative of the various types of policemen that the author was able to observe.

The first part of the book deals principally with Joe Minelli, a white patrolman who has been driving a radio car in Harlem for over twelve years. Notwithstanding an estimated 10,000 assignments involving various types of contact with the people in his precinct, there is a great amount of friction in the relationship between patrolman Minelli and the people whom he serves. While the attitude of the blacks toward him, as a white policeman, cannot be discounted, his attitude toward them also contributes to the problem. The following quotations indicate his attitude:

"[W]hen you come onto this job, you *think* you're gonna do a job, you think it's a good job, that you can help people, and *some* of it's dedication. You *try* to help the people, but then when you see the way the people treat *you*, you sort of lose it, you know?"

" . . . It's the Negroes. We used to be able to talk to them, but some-

1 L. WHITTEMORE, *COP! A CLOSEUP OF VIOLENCE AND TRAGEDY* xii (1969). He recognizes, however, that some policemen avoid the "cutting edge." Some police supervisors and some politicians are inclined to judge a policeman's handling of a controversial matter against a standard that is based on a broad outlook, ample time for analysis and reflection, and twenty-twenty hindsight. The book points out that fear of review by such men causes some policemen to withdraw from or detour around the "cutting edge" to avoid the possibility of such adverse criticism.

2 *Id.* at xi.

thing happened, and now we don't talk at all. It's the young punks, mostly. Not so much the older people."³

"[B]y the time they're ten they'll be packin' knives a foot long, and by fifteen they're shootin' their veins full of heroin. By twenty-one they're full-time thieves."⁴

"A Negro boy here, he don't stand a chance — unless he's got good parents. Because if they let him go out on the streets wherever he wants and not supervise him, he'll probably turn out a junkie, or a burglar — a purse snatcher, a mugger — anything. Not because he's Negro, but because of the environment."⁵

"This here is a *rich* ghetto. There's so much welfare and poverty money coming in and new schools . . . Look at me — I was a poor whitey! These people have the best.

" . . . How much better can you get? They *got* all that now—poverty programs, welfare . . . And they're all gettin' fat from it, and I mean *fat*."⁶

"And that's what really burns you up. You work and you bust your ass, you *better* yourself in life, and these sons of bitches, for being nothing, for *doing the wrong thing*, are living as *well as you are*, on welfare! They get all kinds of money."⁷

Part two of *COP!* follows the efforts of detective Ernie Cox, who is black, in attempting to solve a routine homicide on Chicago's South Side. While some residents of the ghetto remain hostile to detective Cox because he is a policeman, he is able to develop considerable rapport with most blacks.

The prime requisite for the solution and successful prosecution of street crimes is the cooperation of witnesses, be they victims or bystanders. Cooperation, of course, implies communication; to the extent that the relationship between potential witnesses and the police is characterized by distrust or hostility, the chances for such communication are lessened. Hence, it is not surprising that detective Cox appears to be a far more effective policeman on the South Side of Chicago than patrolman Minelli is in Harlem. The difference between the two is demonstrated by a comparison of the above statements by patrolman Minelli with the following quotations from detective Cox:

"[W]ithout a doubt, being colored is an advantage on this job. Yes, sir. And now, at this particular time, with this turmoil and social change, we have situations where it's almost impossible for a white policeman to effectively function — because all the doors are closed when he comes in. Before all this change started taking place, a white policeman, just by the advantage of *fear*, could go in and do something or get information, because the people were *afraid* of him. Now, he's afraid of *them*. Also, we colored cops know the people's habits and everything better. We understand 'em better. We know how they think, and the Negro people figure that we're

3 *Id.* at 14.

4 *Id.* at 18.

5 *Id.* at 47.

6 *Id.* at 53.

7 *Id.* at 55.

harder to fool than a white detective, say. That's why so many of the ultramilitants hate us so much."⁸

"You form a kind of kindredship when you talk the same language as they are, joking about this and that, and sometimes they'll loosen up a little more."⁹

"A white *policeman* has to be extremely careful walking through here. In fact they *don't* walk in here. A lot of 'em won't even *drive* through.

" I may have been born and raised here, but I *still* think it's a dangerous neighborhood. I don't think there's nowhere any worse in the whole country. No foot patrolmen at all! Black or white. I'd walk in here as a detective, but not with a uniform on my back."¹⁰

"To me, a detective is only as good as his sources of information, because this ain't no Sherlock Holmes thing out here. No little magnifying glass and looking all over the ground, measuring off a whole lot of stuff and all that. Just a lot of routine questioning and digging around in the neighborhood for a witness. Soliciting information from people in the most underhanded and inconspicuous way possible."¹¹

In contrast to detective Cox's statements indicating optimism in the search for a witness, patrolman Minelli commented: "[W]here you gonna get a witness around here? That's the *real* joke, trying to dig up a witness."¹²

The most serious weakness of *COP!* is the author's failure to develop and focus on this difference in effectiveness between black and white policemen. Since many of the high crime areas are in black ghettos, and since black policemen are more effective in such areas, simple logic dictates the need for vast increases in the numbers of black policemen in most, if not all, of our major cities. This may indicate that, in areas where there are a limited number of vacancies on the police force, black candidates ought be hired in preference to white candidates, regardless of their relative qualifications, until the black neighborhoods have black policemen. If Mr. Whittemore had focused on this highly controversial subject, his book might have made a greater contribution than it does in its present form. Unfortunately, he submerged the racial material in a broad effort to create a better understanding of what it is like to be a cop on the street in a high crime area. As such, however, the book is still well worth reading and highly relevant to issues currently being raised regarding the basic nature of a policeman's role — whether he is a protector or a "pig."

*James A. Durkin**

8 *Id.* at 115.

9 *Id.* at 140.

10 *Id.* at 152.

11 *Id.* at 172-73.

12 *Id.* at 84.

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