Buffalo Law Review

Volume 28 | Number 1 Article 6

1-1-1979

Jurisprudence "Under-Mind"?: The Case of the Atheistic Solipsist

Ira P. Robbins
University of Kansas School of Law

JURISPRUDENCE "UNDER-MIND"?: THE CASE OF THE ATHEISTIC SOLIPSIST

IRA P. ROBBINS*

Nearly thirty years have passed since the publication of Professor Lon L. Fuller's *The Case of the Speluncean Explorers,*[1] in which a fictional court expounded upon the manifold ways in which certain harsh necessities, externally imposed upon common people, can test the rules of the criminal law. The instant case is not intended to parody the *Speluncean Explorers,* but rather to complement it with the inverse theme: the singular defendant is a psychologically extraordinary individual existing in a relatively mundane environment. The *Atheistic Solipsist* provides the opportunity for consideration of the ways *internal* forces of great intensity can shape the manners in which people behave and the way the legal enterprise functions.

Often it is useful to return to underlying precepts in order to refine and comprehend more fully the contemporary state of knowledge. Like Fuller's case, this one is

> constructed for the sole purpose of bringing into a common focus divergent philosophies of law and government. These philosophies presented men with live questions of choice in the days of Plato and Aristotle. Perhaps they will continue to do so when our era has had its say about them. If there is any element of prediction in the case, it does not go beyond a suggestion that the questions involved are among the permanent problems of the human race.[2]

The ensuing dialogue is dedicated to the life and work of Professor Fuller.

---

* Associate Professor of Law, University of Kansas School of Law. Director, Kansas Defender Project. A.B. 1970, University of Pennsylvania; J.D. 1973, Harvard University.

The author is grateful to Professor Lon L. Fuller, the late Carter Professor of General Jurisprudence at the Harvard Law School, particularly for sharing his views, when the author was a law student, on the issues addressed by this paper, and more generally for his brilliant insights into and perspectives on life as well as the law. The author also appreciates the willingness of Steve R. Fabert, a third year law student at the University of Kansas, to share his background in philosophy and to help steer the Justices clear of unintended pitfalls.

1. *Fuller, The Case of the Speluncean Explorers,* 62 HARV. L. REV. 616 (1949).
2. *Id.* at 645.

OPINIONS OF THE JUSTICES

HENKER, C. J.

The defendant, Einzig, appeals from a conviction of murder in the first degree with a sentence of life imprisonment. The case was tried without a jury, at the election of the defendant. There was little or no disagreement regarding the facts at trial; thus, this appeal concerns only conclusions of law as determined and applied by the trial court.

The homicide for which Einzig was convicted is one of the more bizarre crimes to come before this Court for review. Random, the victim, was a wealthy man, and a collector of works of art. Although they were not well acquainted with one another, Einzig twice had purchased paintings from Random, and was negotiating to purchase a third before the crime occurred. Einzig had been invited on a weekend camping expedition by Random to discuss the proposed transaction. A fishing guide, Sam Arrowton, accompanied the defendant and the decedent, and was the only eyewitness to the killing.

Arrowton related at trial that, shortly prior to his death, Random had attempted to kindle a campfire using an aerosol-type can of liquid fuel. The can burst open, apparently completely by accident, and Random was badly burned on his face and hands. The burns were so severe that he lost consciousness, but the coroner's report negated any possibility that they could have been fatal or contributed to Random's death.

Arrowton administered first aid, but quickly concluded that expert medical attention was required. He told Einzig to remain with the victim until help could be brought from town. Einzig, however, refused to be left behind, saying that his only purpose in coming on the trip had been to discuss business, and that he would like to return to town as soon as possible. A vehement discussion followed. Arrowton was unwilling to leave the unconscious Random unattended, but doubted that they could assemble an adequate litter to permit transportation of Random. The defendant was unfamiliar with the terrain, which was hilly and overgrown. As a result, it was unlikely that he could reach town in any reasonable time should he attempt to go for assistance while Arrowton stayed behind. Arrowton demanded that the defendant remain, arguing that any other course of action would jeopardize Random's life.

At that juncture, defendant Einzig, who had remained calm (and later denied any anger or emotional distress), took a hand gun from Random's camping gear and shot the unconscious victim once through the head, killing him instantly. Einzig replaced the gun, then turned to Arrowton and asked whether there was any reason at that time why they could not both return to town. After taking the weapon, Arrowton replied that they had best return as quickly as possible. Shortly after reaching town, Einzig was taken into custody by local authorities and charged with Random's murder.

The defendant denied none of these facts at trial. His defense instead relied primarily upon his philosophical or religious beliefs in a number of arguments, some quite novel. Essentially, Einzig possesses an abiding belief in a doctrine known as "solipsism," the basic tenet of which is that the presence of more than one mind in the universe cannot be demonstrated. In other words, the defendant professes (if the word may be so abused) to be the sole thinking creature in existence. Such a belief is not sui generis to Einzig, but —as was sufficiently demonstrated by expert witnesses below—has been advanced historically as an extension of the philosophy of skepticism. As a result, Einzig apparently believes that human beings are, for all intents and purposes, distinguishable from animals or trees only in shape and color, and that certainly there is no Supreme Being. Thus, in a sense, solipsism is akin to Hinduism turned upside-down, according to counsel for the Government, in that the Hindu reveres all life, whereas the solipsist equally demeans all life but his own. Defense counsel prefers to characterize his client's attitude as one of benign indifference. The truth—which, after all, is what our criminal justice system aspires to achieve—may well lie somewhere amid these positions.

The defense has argued along more or less conventional lines that Einzig lacked the requisite state of mind for a conviction of the crime of murder in the first degree. In this jurisdiction, as in many others, both malice and intent are elements of any murder, with a further requirement of premeditation in the case of a first degree murder. Notably, the defense does not contend that Einzig failed to premeditate his act, but rather argues that his intent could not have been to kill, since concepts of life and death have no meaning for him except as applied to himself, and, further, that his act was without malice, either actual or implied.

The trial court found that the defendant did not mistake the decedent for anything but a man, that he intended to shoot the

decedent, and that any misapprehension as to the result of a severe gunshot wound was irrelevant to the issue of criminal intent. In the words of the respected trial judge,

> [p]recise grasp of all of the natural effects caused by a gunshot, whether those effects be physical or metaphysical, is not required. The defendant had no reason to think that Mr. Random was already dead. His *indifference* to the distinction between life and death in anyone but himself does not prevent him from *recognizing* that distinction. Thus there is no barrier, merely because the defendant considered Mr. Random's life to be too "hypothetical" to be significant, to a finding that the defendant intended to kill him. (Emphasis in original.)

Simple reflection on the facts should suffice to prove the wisdom of these words. Although the sole discernible purpose of the defendant's acts was to induce Arrowton to forsake Random and return to town, the method chosen by the defendant was to free Arrowton from any need to stay. That the defendant decided to turn the gun on Random rather than on Arrowton evidences an appreciation of the causal link between the health of his victim and the freedom to return to town. The defendant's act would have been completely irrational, in its context, unless he had perceived that Arrowton would leave only if he were no longer needed. This could be achieved only by either healing Random or killing him. The admission of Einzig that his intent was to reach town, coupled with the ludicrousness of any claim that he could have intended to cure Random and the indubitable purposefulness of his act, compel the judgment that he wished Random dead.

These same considerations are persuasive on the question of malice. The only purpose that can be imputed to the defendant logically entailed an end to Random's life. The defendant's imprecise formulation of this objective cannot obscure the fact that his acts speak for themselves, and manifest an intent to kill a human being.

The defense also raises a unique claim that the guarantee of free exercise of religion under the Constitution prohibits this conviction. This contention is thoroughly devoid of merit. Even if "religions of one" were guaranteed protection—a questionable proposition in itself—murder is in no way a ritual of the solipsistic faith. Homicide is not a form of worship, and would not be protected if it were. Furthermore, it is definitive merely to note that the trial court determined that Einzig does not have a sincere belief in any God.

Finally, I concur with my brother Marshal on the issue of the defendant's sanity, and with my brother Barrister on the defendant's competence to stand trial.

I conclude that the judgment of conviction should be affirmed.

BARRISTER, J.

With all due respect to Chief Justice Henker, I feel that I must disagree entirely with his analysis of the law of criminal intent as it is applied in this case. Although it may well be that some subtlety in the Chief Justice's analysis is eluding me, I can in good conscience come to no other determination than that his conclusions are based upon fallacious reasoning. As I understand his opinion, the Chief Justice contends that because the defendant shot the victim rather than the witness Arrowton, it is permissible to ascribe to him a specific intent to cause the death of a human being. This argument does have a certain degree of superficial appeal, for, as the Chief Justice indicates, it is the only way to view the defendant's act as being both purposeful and rational. However, the law does not conclusively presume nor does it even contemplate that an act is purposeful or rational. The evidence creates strong doubts, to say the least, about the defendant's rationality. Moreover, and more importantly, such an argument constitutes an unwarranted extension of the law of imputed intent in this jurisdiction.

It has been stipulated by both parties that the *actual* thoughts of the defendant at the time of the killing did not concern the death of a human being, due to his inability to conceive of such an occurrence in a meaningful way. Therefore, it cannot successfully be argued as a permissible inference from the evidence that the defendant intended to cause the death of a human being. Specific intent may thus be imputed, if at all, only by rule of law. And, of course, our long-settled rule is that specific intent or malice may be constructively implied only in cases of reckless acts—those acts done without regard for the consequences and that create a high probability of serious injury to other persons.

Specific intent, either imputed or actual, is a crucial element of the crime in question. This requirement is not an empty formality, but is supported by strong considerations of public policy. Both recklessness and actual intent are functional measures of the degree to which the accused is prone to repeat his criminal behavior on future occasions. In the same way that acting on a desire

to see a fellow human die portends repeated acts of aggression, having a reckless attitude is a harbinger of injuries to come. Lesser penalties for homicides in which neither of these states of mind is present indicates a legislative policy to treat more leniently those whose tendency toward causing harm is more uncertain.

I do not think that this defendant has any greater tendency to endanger others than does one who kills after reasonable provocation or while too intoxicated to appreciate his deed. The defendant ought not be convicted of first degree murder for that reason. Even were this conclusion challenged, I would still vote to overturn the conviction simply because the statute must be interpreted in the defendant's favor, and construed narrowly, whenever fairly debatable distinctions can be drawn. The defendant did not act recklessly. Therefore, he had neither actual nor imputed intent to cause the death of a human being, and should not have been convicted as charged.

My brothers Henker and Marshal state that the defendant was and is fully competent to stand trial. I agree. There is no impairment of his ability to appreciate the seriousness of the charges against him, and to respond intelligently and deliberately to the advice of counsel. Furthermore, nothing in the record suggests that a solipsist cannot assist adequately in his defense, even though he may be unable to defend another.

The defendant's sanity, however, is a separate question. His admitted inability to consider with sympathy the death, as we know it, of another human being, seems to be solid evidence of a severe psychosis, as several witnesses suggested at trial. Our well-established rule is that

> [t]o establish a defense on the ground of insanity, it must be clearly proved that, at the time of committing the act, the party accused was laboring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or, if he did know it, that he did not know that he was doing what was wrong. *Commonwealth v. Oughten.*

There may be some merit to the proposition that the defendant's inability to perceive that other people have minds prevents him from understanding the distinction between right and wrong generally. But avoiding the thorny problems this portion of the rule has engendered, it is my opinion that the defendant is insane under the first *Oughten* criterion. Solipsism, as outlined in the briefs, is such a radical belief that the defendant cannot differentiate bene-

ficial acts from deleterious ones. The victim was, to the defendant's mind, no more than a piece of machinery. Einzig was, therefore, incapable of understanding the harmfulness of the act of shooting the decedent, irrespective of what other understanding of his act he possessed. Notwithstanding the conclusions of the Chief Justice as to what must have been in the defendant's mind, it must be accepted that the defendant could not understand the perniciousness of his deed. Such a misapprehension, or nonapprehension, of the quality of his act places the defendant in the realm of insanity under either of the *Oughten* criteria, and, certainly, either alone is sufficient to support my vote on the result in this case.

I believe that a more enlightened insanity rule should be adopted—one that would more explicitly cover instances such as this, in which a defendant is no longer capable of acting upon his everyday knowledge of matters of fact. However, because neither the members of the legislature nor my colleagues have determined to support a new rule, I decline to base my vote on what ought to be the law, and rely instead upon *Oughten*. Thus, on the ground of insanity, I would vacate the judgment.

MARSHAL, J.

The atypical factual situation before the Court has presented a not unwelcome respite from the insipidity of our routine. Cases such as those involving breach of contract, failure to allege affirmative defenses, and the compartmentalizing of licensees, invitees, and trespassers have a soporific effect absent some imaginative deliverance from the groundswell of ennui. Novelty, however, should not be confused with complexity, nor should it be mistaken for merit. If only those who practice before us would be mindful that this is a court of review, rather than one of original jurisdiction, the intoxication induced by the excitement of this case could be dispelled, and a wise and just decision reached.

The lower court judge, sitting as trier of both fact and law, has found the defendant competent to stand trial, sane, and guilty of premeditated murder. This Court has the limited function of determining whether these findings are prejudically erroneous. Findings of fact may be found objectionable only if a reasonable person could not infer them beyond a reasonable doubt upon the evidence presented. Rulings of law are to be overturned only when they are contrary either to settled precedent or an urgent require-

ment to reinterpret the law. Under these standards, I would uphold the judgment.

The evidence of Einzig's competence to stand trial has been amply discussed by Justice Barrister, and will not be repeated here. Since the issue was not even raised by defense counsel at the trial level, I fail to see why it should be a present concern.

Strong objection has been made to the finding that Einzig was sane at the time of the commission of the crime. The eloquence of the presentation on behalf of Einzig is impressive; yet, despite its power to inveigle one of our number, it is nevertheless inadequate. Concededly, Einzig's psychology is uncommon, and his perception of commonplace behavior may well be drastically different from that of most men. But a finding that he is abnormal does not necessitate the conclusion that he is mentally *deficient*. His condition stems not from a mental defect, but rather from an excessive zeal or preoccupation of a character that arguably is purely intellectual. Indeed, my brother Blitz is persuaded that Einzig's psychological aberration is a sign of intellectual superiority, and not of deficiency. The law requires not only that the defendant be incapacitated, but also that the incapacity be the result of mental defect. Thus, a finding of insanity is not compelled. Alternatively, it would hardly seem that a reinterpretation of the law of insanity is exigent, for it is improbable that Einzig would derive greater benefit in an asylum than in a prison, or that society would be better served by such a result. Although neither option would appear to be an altogether efficient solution to the problem presented by Einzig's condition, his status alone does not warrant a reconsideration of our rule.

Similarly, there exist no sufficient grounds for holding that this case falls squarely within any of the exceptions already enunciated by this Court on the issues of intent or malice. If Einzig is not to be convicted, the exceptions to the general rule must be extended. But the trial judge decided not to so extend them, and there is no good reason for us now to do otherwise. Certainly there is no public sympathy for Einzig's plight. His deed can occasion nothing but revulsion in a person of common sensibility. To extend a privilege to one who has dispassionately killed, where others would have been moved to the extreme of solicitude, would indeed be an anomalous judicial act. So long as the imperatives of legality can be fulfilled, public order demands that Einzig be removed from society physically—whether or not such a freethinking believer in metaphysics personally conceives of such a concept—in order to avoid

any risk of recurrence of dangerously thoughtless violence on his part. The law should not be redefined to frustrate the achievement of these goals.

Refusal to uphold this conviction could serve only to introduce new playthings for defense counsel. Solipsism is not a difficult attitude to feign, since it closely resembles the egocentric temperament and histrionics common to many an unctuous offender. The administrative burden necessary to sort out a bona fide complaint from the myriad of frivolous assertions that irrefutably would follow a reversal of this conviction would be an unjustifiable waste of valuable resources. Wisdom therefore dictates that Einzig's claims be rejected.

BLITZ, J.

Never before in my career on both sides of the bench have I witnessed such a concerted attempt to overlook the merits of an attorney's argument. My brother Henker has virtually spat on the defendant's brief, and none of my noble colleagues has seen fit to take notice of the soiled contents. Brother Barrister has done the defendant the signal honor of inviting him to reside with those among us who offer the best evidence for the possible truth of solipsism—the inmates of the Hospital for the Mentally Insane. In a perverse way, this has some justice to it—something along the lines of the man without a country, or, to be more precise for present purposes, a man without a society. Justice Marshal avoids all of the technical niceties, and simply seeks an innocuous rationale to support his preconceived verdict that the defendant is a "dangerous person." As for Justice Forthwright, perhaps all one can say is that her attitude towards the law makes solipsism attractive indeed.

If my colleagues had paid attention to counsel at oral argument rather than to their own predilections, they might have recognized that grave constitutional objections have been levelled at a large part of our criminal justice system. I find these objections sufficiently weighty to necessitate reversal of the defendant's conviction.

The defense contends that Mr. Einzig has been convicted and is to be punished primarily for his religious beliefs. Whether homicide is some kind of religious ritual *vel non* is *not* the issue. What *is* the issue is whether Mr. Einzig is to be punished simply because his beliefs differ from our own. The Chief Justice would permit elevating this crime from simple manslaughter to first degree

murder solely because the defendant is a solipsist. Justice Barrister, for the same reason, would confine Mr. Einzig in an institution. Perhaps no clearer case could be made of a sanction against an unpopular belief. If the defendant had had no reverence for a *particular* life, that of his victim, and expressed his viewpoint by means of a thoughtlessly lethal act, he would plainly be guilty of no more than second degree murder. But because of his general cynicism, the Court would apply the excessive sanction of either life imprisonment or indefinite institutional confinement.

As Mr. Justice Barrister so innocently notes, Mr. Einzig is no more deadly than a mean drunk or an incensed but rational assailant. Why, then, should he be punished more severely than either of those killers? The former is incapacitated, the latter guilty only of involuntary manslaughter. The difference, I submit, is that we disapprove less of alcohol and rage than we do of the condescending nature of indifference offered by the solipsist. Our disapproval is cultural. As Mr. Justice Marshal realizes, revulsion is the reaction that is to be expected from a "person of common sensibility" who is confronted with solipsistic behavior. *Ante.*

It is just this type of legal embodiment of cultural preferences that is forbidden by our Constitution. Persons of common sensibility have no favored place under the Constitution, nor can they be given special status under our laws. Yet that is precisely what occurs when the defendant is condemned for the heartlessness and cruelty of his act. A statute prohibiting these characteristics in and of themselves would present a constitutional violation of the most basic sort. I do not see why these same attitudes should be punishable only when the defendant is guilty of some other crime as well. It is doubtful that such a legislative design aims at a permissible goal. Even if it did, the means of the criminal law would still be open to question, considering the convoluted path by which a conviction for cruelty is in fact obtained. There can be no doubt that no impelling interest is served by such a governmental program, and that a narrow constitutional analysis would defeat a statute that embraced the principles avowed by Chief Justice Henker and Justices Barrister and Marshal.

Moreover, contrary to the Chief Justice's assertion, it is clearly incorrect to say that Mr. Einzig's belief is insincere. He claims to be an atheistic solipsist. Not only does he deny the objective existence of others, but he also rejects the notion of any Supreme Being *greater than himself.* This qualification is crucial to his

belief and to his defense. Because of his extreme subjectivism, or subjective idealism, he believes himself to be alone in the universe, and all manner of matter, living or not, is no more than an extension of his own mind. In essence, then, apparently the solipsist becomes like God, and his belief, a religion. He believes that all things owe their existence to him.

While this most unfamiliar religion is unorthodox, heresy trials are foreign to our Constitution. Religious experiences that are as real as life to some may be incomprehensible to others. Any system of law that determines penalties by reference to the ideas in the defendant's mind is a dangerous encroachment upon both freedom of thought and freedom of religion and serves no justifiable purpose, particularly when other alternatives are available.

Generally, the criminal law is the way it is not because our best judgment tells us that it ought to be so, but because no lawmakers have taken pains to attempt to rationalize the law—at least not with sufficient vigor to question basic assumptions about psychology and criminality. Judges have plugged the cracks in the facade in a piecemeal fashion, always striving to avoid coming to grips with discreditable postulates of the criminal law, and always interpreting the law to reach all cases—difficult, like the present one, as well as simple—whether or not the legislature so intended. They have argued that convicted defendants are dangerous, without acknowledging that guilt is not determined by dangerousness, even though punishment sometimes may be so determined. They depict spectres of administrative burden and procedural inefficiency, as if these considerations could overcome challenges to imprudent rules. They foretell that rampant criminality will result from acquittals, without undertaking to deduce a connection between convictions and the deterrent effect on other persons.

Mr. Einzig has adequately demonstrated the discrimination and prejudice upon which his conviction rests. Accordingly, he is entitled to having his conviction and sentence set aside.

FORTHWRIGHT, J.

It is only natural that this Court has had some difficulty in resolving the case before us. All of the traditional manipulative contrivances of jurisprudence have proven themselves impotent to reduce this crime to easily digestible morsels of fact, issue, rule, application, and conclusion. In this case, we cannot eat what we

like from the smorgasbord of discretionary devices. These tools have been relied upon for so long that we have forgotten their origin and purpose. In viewing the legal system through rose-colored glasses, we have also myopically forgotten how to reason our way through a troublesome case without the crutches of *stare decisis,* rules of legislative interpretation, presumptions, and burdens of proof. I pray that we be wary, lest this case of first impression become one of last impression for our criminal justice system.

There comes a time when courts must do what courts did in ancient days, *to wit:* simply *to rule.* We must look at the law in terms of what it *does,* rather than what it *is.* Even when the principles upon which we usually base a determination have eroded, there still remains the undeniable fact that a decision must be made. That is the judicial function. One cannot utterly succumb, as I must conclude Justice Marshal has done, and decide that it is better not to decide. That in itself is a critical decision. It is not our task to perfect society, but rather to order, control, protect, and preserve it as best we can. If the conventional rules do not stretch well enough to fit the present circumstances, it makes more sense to admit that appraisal than to refuse to apply any rule at all under the guise of following tradition into places where inevitably it should not lead. Basing a decision on the application of "settled law," when such law cannot resolve the issues before us, is nothing more than a refusal to rule judiciously and rationally.

The familiar standards of competence, sanity, malice, and privilege simply do not extend to this case. Nor were they meant to do so, and we should concede as much. Having done so, we must seek a new rule. Some might inveigh against such a course as the creation of a common law of crime. To yield to such criticism, however, would be to abdicate the only essential role the judiciary performs. The legislature cannot decide this case, for bills of attainder and *ex post facto* laws are expressly forbidden. Neither can the executive branch without a complete denial of due process of law—except, perhaps, by way of clemency, which ultimately does very little for the integrity of a system of rules. The controversy has been joined. If we cannot both adjudge it and do so intelligently, then ours is only a mockery of a government. When a court refuses to decide a case such as this, it fails to resolve conflict where conflict most needs resolution—at the perimeters of our experience. Even a dullard can decide a case in which the law has been established for more than a century. But, where there has not

yet developed a body of law to deal with a situation, we must rely on our intelligence.

Intelligent resolution of the case at bar requires an understanding of the relationship between the solipsist and the law. The latter presumes the existence of numerous persons, each having rights, privileges, powers, immunities, obligations, disabilities, and liabilities, and the occasional occurrence of conflicts among these. Rules arise only in the course of reconciling these conflicts between persons. Solipsism, on the other hand, denies the possibility of rational law by denying the possibility of reconciliation, or the need for it. It is not possible for any rational system of law to tolerate the anarchism of solipsism, for to do so would be to repudiate its own very essence. I dare say that solipsism, in its pure form, is the epitome of evil under law, for it is the extension beyond all bounds of logic of a refusal to deal with persons *qua* persons, and an insistence that they be perceived as mere chattels. Solipsism is selfishness in its most immoderate form, going beyond even the fabled megalomania of tyrants. Normal criminality is but a mild tendency toward egocentricity. It would be contrary to all reason to license criminality once it has diverged so far from decency and probity that it is barely comprehensible. There can be no question but that the law must restrict the practice of solipsism. The solipsist's beliefs notwithstanding, this is the real world and we must treat it as such. A right to be different simply does not presuppose a right to be irrational.

The only question that remains is how to deal with this particular solipsist. The need for sanctions against him will not diminish so long as he maintains his present way of life, and there is no indication that his beliefs could be modified by any method short of brainwashing. Certainly our mere reprobation would be meaningless. Indefinite detention is therefore unmistakably required in this case.

Were all else equal, I would vote to commit the defendant to an asylum. But because I am not sufficiently persuaded that such an atmosphere is markedly more conducive to recovery of the defendant's senses, I will vote instead to affirm the conviction for premeditated murder, with its penalty of life imprisonment.

Voting to affirm the judgment of conviction:

HENKER, C.J., and MARSHAL and FORTHWRIGHT, JJ.

Voting to reverse and set aside the conviction:

BARRISTER and BLITZ, JJ.

POSTSCRIPT

Without any doubt, the *Solipsist's Case* does not examine all of the claims and intricacies that inhere in the given circumstances. The mythical facts and Justices have merely given form to various positions concerning the nature of criminal jurisprudence and the legal process. Above all, the opinions are intended to communicate —as Professor Fuller was wont to do so wisely and so well—that a viable legal system and a free society can endure and progress only by continuing to debate fundamental principles.