

# History of the Human Sciences

<http://hhs.sagepub.com>

---

## **If p, then what? Thinking in cases**

John Forrester

*History of the Human Sciences* 1996; 9; 1

DOI: 10.1177/095269519600900301

The online version of this article can be found at:

<http://hhs.sagepub.com>

---

Published by:



<http://www.sagepublications.com>

**Additional services and information for *History of the Human Sciences* can be found at:**

**Email Alerts:** <http://hhs.sagepub.com/cgi/alerts>

**Subscriptions:** <http://hhs.sagepub.com/subscriptions>

**Reprints:** <http://www.sagepub.com/journalsReprints.nav>

**Permissions:** <http://www.sagepub.co.uk/journalsPermissions.nav>

**Citations** <http://hhs.sagepub.com/cgi/content/refs/9/3/1>

# If *p*, then what? Thinking in cases

JOHN FORRESTER

My research at present centres on a large and hence necessarily long-term project that I call, depending on the occasion, either 'Thinking in Cases' or 'The History and Philosophy of the Case'. The project started, like most large branching structures that threaten to get out of their author's control, from small seedlings. Or perhaps, to alter the botanical metaphor, it started from three rhizomes, which have now intertwined, out of the public view, into a tangled network of themes and variations. I will attempt an exposition of my work in this field by describing the three rhizomes, which also necessarily involves some intellectual autobiography; I will go on to show how the network has become ever more complex and difficult to map; finally, I will ask your help in the task of managing, perhaps even pruning, the proliferation of the topics raised. So I will welcome enthusiasm for the project, but I will be even more eager to hear how paring, thinning out and even inhibiting of growth can be implemented. The three rhizomic structures I will call, for simplicity's sake: the psychoanalytic case history; the historical sociology of the sciences; the individual in the human sciences.

Most of my research in the last 20 years has been devoted to the history and philosophy of psychoanalysis. I am, by early love and by university training, an historian and philosopher of science; so I have often viewed psychoanalysis from that perspective, whilst becoming reasonably well acquainted with other approaches: those of sociology, of anthropology, of literature, of psychology. The first question people ask me when they hear that I study psychoanalysis and that I am interested in the sciences is: Is psychoanalysis a science? I will not answer this question immediately, although what I have to say affects that question quite profoundly. But my initial response is always to be somewhat flustered by the question. It is analogous to the question: Is jazz serious music?

What do you answer? Well, in one sense of 'serious', quite obviously not: it aims at something quite different from serious music. But the illocutionary force of the question prevents this from being an answer one would want to give.

More pertinent might be a rephrasing of the question: *was* psychoanalysis a science in the early 20th century? This rephrasing helps to remind us that the criteria of what counts as a science change: there is not one science for all time, but sciences in history, subject to the gains, losses and fortunes of history. In addition, there is not one *method* in science, established for all time, the eternal benchmark and guarantor of truth. There have been different methods, discovered and employed in different times and places. Method is, in any case, too restrictive a term to apply to the package of practices, reasoning procedures and ways of going on that are to be found in the sciences. I prefer to use a term that Ian Hacking has found useful in his studies of the rise of statistical thinking: styles of reasoning:

... styles of reasoning are curiously self-authenticating. A proposition can be assessed as true-or-false only when there is some style of reasoning and investigation that helps determine its truth value. What the proposition means depends upon the ways in which we might settle its truth. (Hacking, 1990: 7)

So, not only are there sciences, in the plural, but there is a plurality of methods, some specific to a group of sciences, some more nomadic in character. There can be different styles of reasoning operative in different disciplines for different purposes.

Alongside the list of six styles of reasoning that Hacking proposes – postulation and deduction; experimental exploration; hypothetical construction of models by analogy; ordering of variety by comparison and taxonomy; statistical analysis of regularities of populations; historical derivation of genetic development – I propose a seventh: reasoning in cases. Part, but only part, of my motives for adding this mode of reasoning is an attempt to characterize the style of reasoning dominant in psychoanalysis and related disciplines.

Hacking's work on the statistical style of thinking indicates one further element of reasoning in cases, although he does not emphasize this. According to Hacking and others, an entirely new way of thinking arose with the transformation of the science of the state into statistical methods in the social and biological sciences. Let me just run through some of those transformations. Hacking has been much concerned with the fate of the doctrine of determinism and its intertwining with the rise of probabilistic and statistical methods. Is probabilistic reasoning just like ordinary reasoning, but under conditions of uncertainty, as Laplace thought? Or are the probabilistic laws and theories that a whole variety of sciences started to produce from the mid-19th century onwards truthful pictures of a probabilistic universe? There may be laws governing large numbers

of electrons, or of Frenchmen contemplating suicide, but are these the only laws to be had? Is there true indeterminism – lack of any possible knowledge – at the level of the individual electron or Frenchman? James Clerk Maxwell thought that humans could have only probabilistic knowledge, but that God could have certain knowledge. That is what made him God. The space of indeterminacy left to man by the probabilistic laws was also the space of free will. Even Einstein is quoted, famously, as saying: God does not play dice with the world.

The ideal of science as certain knowledge is of course Aristotle's ideal. One version of how Aristotle's vision was finally contested and overthrown focuses on Darwinian evolution. The pre-Darwinian Aristotelian theory of the natural world is founded, it is argued, on the category or species, arranged hierarchically in order of generality. Darwin's fundamental break with the Aristotelian tradition was to see classes or species as constituted by populations of individuals which vary along an indefinite number of axes. Whether one is to attribute this revolution in biological (and social) thought to Darwin, or to his contemporary Quetelet (the inspiration for Maxwell's probabilistic model of matter and for Buckle's account of statistical laws in history), or for that matter to Francis Galton, founder of eugenics and pioneer of statistical studies of inheritance, the claim is that it is populations of independently varying individuals that constitute the base matter of the natural and human worlds. All categories or species are artificial, imprecise and ultimately misleading attempts to portray in the outmoded Aristotelian language of predication a fundamental dynamic reality which can be represented only statistically.

But is, then, the rise of statistical science one further thrust of nominalism in its attack on realism: only individuals exist, there are no species, no categories, no names? We, at this end of the 20th century, are very familiar with claims that phenotypes (individuals) should always be distinguished from genotypes, which determine the fundamental biological realities – so is it the other way round, with individuals being entirely contingent expressions of an underlying reality, itself expressible only in terms of probabilities?

Let me leave these broad questions to one side, whilst extracting one feature of this indubitably fundamental transformation in our way of thinking about classes and populations: this feature is best portrayed at this stage as a suspicion that the rise of statistical thinking put in question the notion of the individual, through the very process of refining what it might mean to have knowledge of *a number of individuals*. To give this an immediate historical anchor: psychoanalysis has never betrayed any interest whatsoever in statistical knowledge, whereas its sister discipline, experimental psychology, has been, if anything, the discipline most in thrall to the exigency of statistical methodologies, in fact has been the parent of many of them. If experimental psychology has been the discipline most aware of this need, born at the beginning of the 20th century, to frame its scientificity in terms both of the experimental framework and of

statistically significant results, what did the psychoanalysts think that *they* were doing? My answer is simple: they were thinking in cases.

At this point, the Aristotelian starting-point yields another direction for this inquiry. For Aristotle, there can only be knowledge of the universal and the necessary; what is individual and what is contingent cannot be an object of knowledge. The claim is always the same, although it is inflected in different arenas – in metaphysics, in rhetoric, in politics, in ethics. For instance:

... none of the arts theorizes about individual cases. Medicine, for instance, does not theorize about what will help to cure Socrates or Callias, but only about what will help to cure any or all of a given class of patients: this alone is subject to technique – individual cases are so infinitely various that no knowledge of them is possible. (Aristotle (1984a) *Rhetoric*, 1356<sup>b</sup>, 29–33, 2156)

In the mood of the *Metaphysics*, since there can only be a science of the universal and the necessary, the individual, which is ontologically prior, is also the horizon of non-intelligibility. In the *Ethics*, this horizon is what is crossed in action based upon deliberation by the wise man, who embodies practical wisdom, *phronesis*:

Nor is practical wisdom concerned with universals only – it must also recognize the particulars; for it is practical, and practice is concerned with particulars. This is why some who do not know, and especially those who have experience, are more practical than others who know. . . . That practical wisdom is not knowledge is evident; for it is . . . concerned with the ultimate particular fact, since the thing to be done is of this nature. . . . [P]ractical wisdom is concerned with the ultimate particular, which is the object not of knowledge but of perception – not the perception of qualities peculiar to one sense but a perception akin to that by which we perceive that the particular figure before us is a triangle. (Aristotle (1984b) *Nicomachean Ethics*, 1141b, 14–17; *ibid.*, 1142a, 23–8, 1802–3)

There is a preoccupation with the distance between knowledge and practice, as if knowledge for ever cuts itself off from the individual, to which, by necessity, action and practice are committed. Practical wisdom engages with the individual, with the contingent this-ness of things, but can only ever do so in blindness. Aristotle gives the name experience to the ground which allows this deliberation. But there can be no science of the individual.

So, Aristotle assumes not only that knowledge must be of the universal and the necessary, but also that it is possible to have such knowledge, and that, as a matter of fact, we do. There are a number of critiques of this position; indeed, one might say that the history of epistemology is the history of the critique of this position. For my purposes and on the grounds of personal partiality, I have selected the critique by J. S. Mill of the Aristotelian deductive syllogism.

Mill argues that the major premiss of a syllogism – the Aristotelian exemplar of

universal and necessary knowledge – is itself inductively acquired from the examination of ‘particulars’, as Mill calls the individual objects of perception. ‘All men are mortal’ has the form of a universal proposition, but is true only because of the examination of a finite number of particular instances of mortality; if the mortality of Socrates was one of those instances, then our reasoning from ‘Socrates is a man’ to ‘Socrates is mortal’ is circular, only a sleight of hand. If Socrates’ mortality is still in question, we have no guarantee that the inductively derived major premiss really does hold for Socrates; we certainly cannot deduce it. Think what would happen if, by accident as it were, the logician arbitrarily chose the example of Christ instead of Socrates. Hence syllogistic reasoning is always from an inductively derived generalization to further particulars; yet the inductively derived generalization is itself only a way of writing down our knowledge of particulars, a sort of shorthand, as Mill, that contemporary of Pitman, argued. So that having established an inductive generalization, ‘what remains to be performed afterward is merely deciphering our own notes’ (Mill, 1884: 122).

The successive general propositions are not steps in the reasoning, are not intermediate links in the chain of inference between the particulars observed and those to which we apply the observation. If we had sufficiently capacious memories, and a sufficient power of maintaining order among a huge mass of details, the reasoning could go on without any general propositions; they are mere formulae for inferring particulars from particulars. (Mill, 1884: 140)

Mill is peremptory in his anti-elitist advocacy of practical reasoning contra the humbug of the logicians (i.e. Aristotle):

Since the individual cases are all the evidence we can possess, evidence which no logical form into which we choose to throw it can make greater than it is, and since that evidence is either sufficient in itself, or, if insufficient for the one purpose, cannot be sufficient for the other, I am unable to see why we should be forbidden to take the shortest cut from these sufficient premises to the conclusion and constrained to travel the ‘high priori road’ by the arbitrary fiat of logicians. (Mill, 1884: 123)

However, having established the primacy of the individual cases over any possible generalization invoking them, he then begins to sound more like Aristotle, the Aristotle concerned with practical wisdom:

I believe that, in point of fact, when drawing inferences from our personal experience and not from maxims handed down to us by books or tradition, we much oftener conclude from particulars to particulars directly than through the intermediate agency of any general proposition. We are continually reasoning from ourselves to other people, or from one person to another, without giving ourselves the trouble to erect our observations

into general maxims of human or external nature. . . . It is not only the village matron who, when called to a consultation upon the case of a neighbour's child, pronounces on the evil and its remedy simply on the recollection and authority of what she accounts the similar case of her Lucy. We all, where we have no definite maxims to steer by, guide ourselves in the same way; and if we have extensive experience and retain its impressions strongly, we may acquire in this manner a very considerable power of accurate judgment, which we may be utterly incapable of justifying or communicating to others. (Mill, 1884: 123)

For Mill, then, reasoning is always from particulars to particulars, because the general form of a proposition, or the general class to which particulars belong, are simply names, or *marks* as he calls them, which we employ because of our fallible memories. Mill thus has come full circle from Aristotle: his exemplar of reasoning is practical wisdom, which he argues is not only adequate knowledge, but the only sort of knowledge we have. Anything else, including science, is simply mutton dressed up as lamb, or knowledge that is seduced by the metaphor of the 'commanding view' into believing that the only way from A to B passes via the logician's impressive but ultimately useless vantage point of the mountain top.

There are a number of ways of aligning Mill's critique of the syllogism with developments in the 19th-century sciences. His nominalistic attack on the reality of the general class is similar to the Darwinian attack on the reality of species, which I have already mentioned, together with the rise of statistical thinking. And there is nothing more characteristic of 19th-century statistics than the vast collation and organization of marks, of numbers, of names, of particulars, whose accumulation and subterranean movement one can almost sense behind Mill's text. Hacking calls this the avalanche of printed numbers (Hacking, 1982). Before pursuing further historical questions raised by Mill's critique, let me turn to another of my rhizomes: the historical sociology of the sciences.

One of the most influential books of the last 30 years has been T. S. Kuhn's *The Structure of Scientific Revolutions*, first published in 1962. The buzzword 'paradigm' came into general currency with Kuhn's account of the development of the sciences and caused him considerable embarrassment, since both his critics and his devotees revealed to him how polyvalent the term as he used it in the book was. In the second edition of 1970, he clarified his concept of paradigm by introducing two further terms: the first, 'disciplinary matrix', to characterize the network of social relations in which the production and employment of scientific knowledge are embedded; the second, 'exemplar', to indicate more clearly the way in which shared examples are what ground the productive collective labour of a scientific community. Kuhn reflected on his revised, clarified concept as follows:

I . . . could not, when examining the membership of a scientific community, retrieve enough shared rules to account for the group's unproblematic

conduct of research. Shared examples of successful practice could, I next concluded, provide what the group lacked in rules. Those examples were its paradigms, and as such essential to its continued research. (Kuhn, 1977: 318–19)

Kuhn introduced the term 'exemplar' to highlight this feature of a scientific community's way of going on; exemplars are the standard experiments that novice practitioners learn their science on, or the standard problems that figure in textbooks, the exemplary achievements that define and delimit a whole field of research and eventual body of knowledge. One learns how to do science not by learning the rules or principles or concepts and then applying them to concrete situations; rather, one learns how to do science by learning how to work with exemplars: extending them, reproducing them, turning a novel situation into a version of a well-understood exemplar. I myself learned how to think history with these exemplars, since I studied at Princeton in the early 1970s with Kuhn; when he set me a General paper, one of the questions was: "What we call the Scientific Revolution is the history of the theory of the pendulum". Discuss.' I knew what this question was all about; the pendulum was one of Kuhn's principal examples of an exemplar: from Galileo observing the swinging lamps in the cathedral at Florence, via the dispute between Hooke and Newton over the trajectory of a body falling to the centre of the earth, through to Huygens's technical advances in the manufacture of clocks.

So, faced with his own concept of a paradigm being generalized by his readers to become equivalent to a world-view, or in some texts of the 1970s to being akin to Foucault's grandiose concept of the episteme, Kuhn retrenched and insisted that being a scientist was knowing how to manipulate discrete problems, both mathematically and manually, and that becoming a member of a scientific community was indeed learning to inhabit a different world, but only in the same sense as your plumber or electrician, in visiting your home, inhabits, through familiarity with the pipes and wires, a world that is probably entirely mysterious to you, and certainly one in which technical proficiency is not shared or easily shareable.

One of the many suggestions in Kuhn's book that has aroused great interest but insufficient subsequent research was his pointing to textbooks as the way in which to understand how modern scientific knowledge works. And it is not just the compendious organization of the textbook that accomplishes this task; the only way to become a scientist is to plough through all those dreary textbook problems'. The general principles and arguments enunciated in the general section of each chapter of a textbook are the window-dressing on the real acculturation process: the problems show the neophyte how to do science, provide model ways of asking questions as much as model answers. Through the internalization of ways of carrying on whereby the would-be scientist knows how to recognize a problem that is feasible (i.e. makes sense) and how to convert



that problem into an analogue of ones already solved, he or she acquires the tacit knowledge involved in bridging the gap between the paradigm and the unknown object of research. This is not a matter of applying explicit general principles to specific instances; the general principles are not fully articulatable, and not therefore subject to critical scrutiny. One might say that a scientific discipline is automatically protected against excessive self-critical and sceptical questioning by its axioms and fundamental tenets being embodied in a set of practices founded in tacit knowledge which cannot be rendered into propositional and thence universal form; this tacit knowledge, this practical wisdom, is absolutely necessary. The sociological side of Kuhn's concept of the paradigm focused on the way in which the social organization of science eliminated the possibility of such criticisms of the foundations of the discipline. As Richard Rorty puts this aspect: 'the only sense in which science is exemplary is that it is a model of human solidarity' (Rorty, 1989: 14–15). But for Kuhn science achieves this exemplary character not only through its social organization, but through the set of practices – research, teaching – associated with a limited and privileged set of exemplars.

If the sociological aspect of the organization of scientific knowledge, the disciplinary matrix as Kuhn called it, led to the vigorous last two decades of the sociology of science, the characterization of the exemplar led Kuhn into psychology. On the one hand, he wished to show how, using the findings of *Gestalt* psychology, a scientist could be said to inhabit a different world; on the other, he wished to make claims about our general perceptual organization of the world into categories that made plausible his claim about the necessarily tacit character of scientific exemplars. In the 1970s, a branch of cognitive psychology and linguistics gave support to this project, with the introduction of what became known as prototype theory. Here again the critical target was the Aristotelian category: the conception of a set or class as being defined by the members of that class possessing the class attribute. Through the study of cross-cultural, comparative linguistic and children's 'classifications' systems, Eleanor Rosch's prototype theory proposed that classes are defined not by attributes or predicates, but by central members, called generators or prototypes; thus children recognize the robin as more representative of the category of birds than chickens, penguins and ostriches. Rosch argued that thought in general is organized in terms of prototypes, rather than being conducted in terms of Aristotelian category theory (see Lakoff, 1988: 16–76).

Much of the background to this research in psychology and to Kuhn's ideas about scientific practice has been retrospectively perceived in Wittgenstein's concern with language-games and family resemblances and in his discussion of following a rule (Kripke, 1982). And Wittgenstein also pointed out the peculiar status of paradigms, standards, or prototypes in the language-games they make possible:

There is *one* thing of which one can say neither that it is one metre long, nor that it is not one metre long, and that is the standard metre in Paris. – But this is, of course, not to ascribe any extraordinary property to it, but only to mark its peculiar role in the language-game of measuring with a metre-rule. (Wittgenstein, 1967: §50)

I do not want to engage in detail with the problems in Wittgenstein's account of following a rule; I do want to point out that his account has wide resonances with the questions I have raised so far: the relation of the universal to the particular; of the scientist's paradigmatic exemplar to the practice of science; of the possibility of a science of the individual. And one of the key points in this account is questioning the sort of *obligation* that we feel ties the specific instance to the general rule. Wittgenstein can be understood as questioning the tyranny of the universal, the tyranny of the rule, without wishing to give up on the rule-likeness of the rule. It is always reasonable to question the applicability of a rule; nothing goes by itself. As J. R. Lucas points out in relation to the appropriateness of the application of any rule of distributive justice:

... this does not really prove that distributive justice is a confused concept or that no further elucidation is possible. What it shows is that, as in litigation, there are often arguments on all sides, which have to be considered and assessed before we can decide which of them are relevant to the particular distribution in question, and how much weight should be given them. It all depends. (Lucas, 1980: 169)

I have gone somewhat ahead of myself, and I now wish to bring you back to another of my starting-points: the psychoanalytic case-history. I have already remarked on the complete absence of the statistical mode of thought in psychoanalysis. To be sure, Freud employs the concepts of 'normal' and 'pathological', or, with respect to sexuality, of 'normal' and 'perverse'; but he does not conceive of the pathological or perverse as normally distributed or countable in any interesting way. And, as Arnold Davidson has pointed out (Davidson, 1988), much of Freud's theory of sexuality subverts the opposition between normal and perverse. Let me remind you of one of the innumerable ways in which he does this through quoting his description of the sexual act of kissing:

... the kiss ... between the mucous membrane of the lips of the two people concerned, is held in high sexual esteem among many nations ... in spite of the fact that the parts of the body involved do not form part of the sexual apparatus but constitute the entrance to the digestive tract. (Freud, 1953–74[1905]: 150)

In this description of the culturally favoured kiss, Freud evokes the sensations more usually associated with vomiting, all so he can convince the reader to

confront as if for the first time the true enormity, the utter perversity, of the act. At such times, Freud is himself identified with the sexual instinct which 'in its strength enjoys overriding this disgust' (Freud, 1953–74[1905]: 152). Freud's writing thus stages and enacts *our* division of the normal and the perverse, so as to elide, to deconstruct, some would say, the opposition.

At the same time, we know that there is a normative drive in psychoanalytic theory as Freud developed it: the drive to show how each and every erotic life conforms to the model, the exemplar, of the Oedipus story. Yet what many find most seductive in psychoanalysis is its promise to give an account of the divergences, the detours, the idiosyncrasies of the individual's life. We all know Tolstoy's dictum: 'All happy families are alike but an unhappy family is unhappy after its own fashion'. But how do we read this? Do we read it as the recognition, before Freud, that it is in the unhappinesses and difficulties of life that we find our singular difference? And do we then read Freud as simply observing that there are no happy families, only as many ways of being unhappy as there are families? And as many meanings as there are dreams?

It is this tension that is so evident in *The Interpretation of Dreams*: every dream of Freud's tells us something different about him, his life, his friends, his personal relationship to his theories, his ambition, his bodily ailments. Each dream unveils a little more of that singular version of an autobiography that we find in that book. Yet the man himself, beyond his style, seems to recede at the same time; all Freud scholars have the sense that for every act of disclosure there is something passed over in silence. The act of building a theory out of a well-examined life only makes more evident the deafening silence that constitutes that life's secret truths.

Yet the promise of the entirely revealed life, in its singularity and distinctiveness, is undoubtedly still alive in the devotees of analysis; it is the genre of the case-history that sustains that desire. Psychoanalysis was at its inception one of what Ian Hacking in his new book, *Rewriting the Soul*, calls the sciences of memory. It responded, Hacking argues, to the demand to reconstitute the secularized human soul; the sciences of memory were intended to achieve this aim – and it might be said that they have succeeded, insofar as recent moral theory attempts to reconstitute the ethical subject around the concept of a person-with-a-life-history (Nagel, 1970; Rachels, 1987; Murdoch, 1970; Baier, 1994). Of which more anon.

So psychoanalytic discourse combines two unlikely features: it promises a new way of telling a life in the 20th century, a new form for the specific and unique facts that make that person's life their life; and at the same time, it attempts to render that way of telling a life public, of making it scientific. The bridge between these two aims is the case-history, along with the curious and distinctive narratives of transference and countertransference phenomena that increasingly came to dominate 'clinical writing', as it is called.

But it is not only the psychoanalytic case that speaks to the new ideal of the

details of a life recounted. In psychiatry, criminology and psychology, we find book-length studies of lives, of treatments: from Mary Reynolds (Ellenberger, 1970: 128 ff.; Hacking, 1995: 150–2) to Morton Prince's Miss Beauchamp (Leys, 1992). It appears from this wider perspective that psychoanalysis is only one culmination of a much broader movement whereby the life yields up its secrets. This idea of the case appears to be closely linked with the very idea of the compilation of a dossier, such as that on Pierre Rivière, who slaughtered his mother, his sister and his brother (Foucault, 1975). This is the sort of case that suspicious critics of the human sciences have often enough contrasted with the human individual, as when Graham Greene notes: 'So already in a few months it had become a case. When something became a case it no longer seemed to concern a human being: there was no shame or suffering in a case' (Greene, 1971: 193). This case is an administrative invention of genius, the freely circulating dossier that accompanies the subject, as the Puerto Rican kids in *West Side Story* put it, from police officer to judge to headshrinker to social worker to jail – and even into that 'good honest job'. The cynic could point to the *Tarasoff* case as the moment when the not very plausible pretensions of psychoanalysis to be anything other than one more link in the circulation of the dossier that constitutes an individual were finally revealed for all to see as empty.

The obvious, and the most important, starting-point for addressing these issues is the extraordinary section on 'The examination' in Michel Foucault's *Discipline and Punish*. Like Mill's, Foucault's answer to Aristotle invokes procedures of marking, of writing:

... does the very technology [of the human sciences], this tiny operational schema that has become so widespread (from psychiatry to pedagogy, from the diagnosis of diseases to the hiring of labour), this familiar method of the examination, implement, within a single mechanism, power relations that make it possible to extract and constitute knowledge? ... The examination that places individuals in a field of surveillance also situates them in a network of writing; it engages them in a whole mass of documents that capture and fix them. ... Thanks to the whole apparatus of writing that accompanied it, the examination opened up two correlative possibilities: firstly, the constitution of the individual as a describable, analysable object, not in order to reduce him to 'specific' features, as did the naturalists in relation to living beings, but in order to maintain him in his individual features, in his particular evolution, in his own aptitudes or abilities, under the gaze of a permanent corpus of knowledge; and, secondly, the constitution of a comparative system that made possible the measurement of overall phenomena, the description of groups, the characterization of collective facts, the calculation of the gaps between individuals, their distribution in a given 'population'. One is no doubt right

to pose the Aristotelean problem: is a science of the individual possible and legitimate? A great problem needs great solutions perhaps. But there is the small historical problem of the emergence, towards the end of the eighteenth century, of what might generally be termed the 'clinical' sciences; the problem of the entry of the individual (and no longer the species) into the field of knowledge; the problem of the entry of the individual description, of the cross-examination, of anamnesis, of the 'file' into the general functioning of scientific discourse. To this simple question of fact, one must no doubt give an answer lacking in 'nobility': one should look into these procedures of writing and registration, one should look into the mechanisms of examination, into the formation of the mechanisms of discipline, and of a new type of power over bodies. (Foucault, 1977: 185–91)

The thesis Foucault proposes is clear: the techniques of writing associated with the examination are the practices upon which the clinical sciences are founded. And it is these clinical sciences that make possible the case:

*The examination, surrounded by all its documentary techniques, makes each individual a 'case': a case which at one and the same time constitutes an object for a branch of knowledge and a hold for a branch of power. The case is no longer, as in casuistry or jurisprudence, a set of circumstances defining an act and capable of modifying the application of a rule; it is the individual as he may be described, judged, measured, compared with others, in his very individuality; and it is also the individual who has to be trained or corrected, classified, normalized, excluded, etc. (Foucault, 1977: 191)*

Foucault's well-known account is framed within a broader context: his attack on traditional political theory, with its emphasis on sovereignty and law as the source of legitimate power and authority within the nation-state. What Foucault emphasizes is that the mark of the modern society is that, 'from the eighteenth century to the present', it 'has created so many technologies of power that are foreign to the concept of the law: it fears the effects and proliferations of those technologies and attempts to recode them in forms of law' (Foucault, 1979: 109). I would also wish to connect that argument with his long sustained argument, which only comes clear in his later lectures and seminars on governmentality and pastoral power (Foucault, 1989: 85–7; Foucault, 1981: 225–54; Foucault, 1988; Foucault, 1983: 214), that it is a specific set of institutions, which I will call 'closed institutions' – the hospital, the school, the barracks, the prison – which are the carriers of western modernity, as opposed to the 'open institutions' – the market, the parliament, the court. The closed institutions have their genealogy in the monastery, in the eastern religious traditions with their pastoral theo-political ideologies.

In the context of *Discipline and Punish*, Foucault's principal aim was to argue

against the supremacy of the law as an institution of authority and order. Hence, when outlining his account of the genesis of the case, he explicitly counterposes the case as found in 'casuistry or jurisprudence' with the case as found in the clinical sciences. In writing the history of the case, then, I will have to decide if Foucault's account is sufficiently nuanced, and I already have my doubts. This is not to deny the significance and the interest of the distinction Foucault draws between the case as found in the clinical sciences, and the case as found in casuistry and law. But I wish now to outline what the areas are that put in doubt the clear-cut distinction between the two.

Having started with the psychoanalytic case, having speculated that it is a new form of accounting for the self in 20th-century scientific and popular discourses, an obvious next step is to ask what its conceptual-historical context was. In other words: what is the genealogy of the case in the late 19th century? Foucault offers a clear-cut answer, based upon a technology of writing, the examination and the dossier, wedded to the new clinical sciences of the 19th century. We can turn to *The Casebook of Sherlock Holmes* and to Carlo Ginzburg's account of the science of clues in medical diagnostics, forensic medicine and art history (Ginzburg, 1983) to supplement and round out Foucault's account. But is not there an autonomous history of the medical case-history? Is not the history the distinctive feature of Hippocratic medicine itself?

The Hippocratic corpus includes physicians' case-notes, particularly taken down during times of epidemics. These notes characteristically record the chronological progress of a disease, its passage from crisis to crisis, culminating in the final crisis or, often enough, and with seemingly little warning, in death. We have here individual cases; but these cases are interwoven with other typical Hippocratic themes: of hot and cold, of airs and unhealthy winds, of the influences of place, age, race and sex.<sup>1</sup> The history of this recording of cases is the history of standardized chronology, or of a record of the interplay of a large number of independent factors. Yet the history does specify the individual (Lloyd, 1978: 138):

At Meliboea, a young man who had been running a temperature for a long time as the result of drinking and much sexual indulgence, took to his bed. His symptoms were shivering, nausea, insomnia and lack of thirst.

On the first day, his bowels passed a large quantity of solid faeces accompanied by much fluid. . . .

Tenth day: was delirious without excitement. . . . Skin dry and taut. . . .

Twentieth day: went mad. . . .

Twenty-fourth day: died.

There is a conventional story one can tell about the development of medical perception and explanation in the Christian West that will continue this historical tradition. It passes from the stability of the clinical picture, the collocation of symptoms, and the isolation of individual diseases in a comprehensive table or

classification of disease species, via the clinical gaze as Foucault anatomized it, with its correlation of bodily lesions and stable symptoms, to the scientific medicine of histopathology and then of bacteriology, in which causal agency or experimental simulation subordinates symptom and lesion to a secondary position. This movement from the 17th century to the late 19th century also sees, in tandem, the subordination of the clinical case-history as recounted to the doctor.

The early 18th-century doctor would still diagnose through his Hippocratic history, through hearing the symptoms as the client presented them to the doctor. The early medical usages of the word 'case' in English conform to this model; in the 1720s, Bishop Berkeley writes: 'a Patient must have full Liberty to explain his Case, and tell all his Symptoms, the concealing of which might prevent a perfect Cure' (Berkeley, 1732: 35–6). And this legal model for the medical case – the doctor passing judgement on the facts before him, the client accepting this judgement or often enough going elsewhere until he finds something more suitable to his 'case' – can combine with the exigencies of the medical market to produce for the purposes of the physician's self-advertisement, maybe even for protection of his reputation, a detailed narrative of illness and its cure (Rusnock, 1993: 9). It is the demands of the market, not the exigencies of a philosophical project in the natural history of disease, that give rise to these narratives. Yet the effect of 19th-century clinical medicine is to eliminate them from vast areas of medicine.

But alongside the causal histories of disease of the late 19th century, we do observe the resurgence of the narrative of the single case. Indeed, it receives new impetus from an unexpected quarter. In the early 20th century, the doctors introduce the model of the clinical case as a *pedagogic* tool that duplicates or repeats an essential element of medical practice, but it is introduced in the context of the medical school. We are back in the arena highlighted by Kuhn, of the medical case now as exemplar employed for the purposes of teaching. Here, though, the story becomes more complicated, and we must retrace our steps to address the question raised by Foucault placing at a distance the writing of the individual life as a case from 'jurisprudence or casuistry'.

It is said that Continental law benefited fully from the rational reforms of the Enlightenment, whereas the common law tradition of England and America remained dominated by a powerful centralized artisanal elite – the lawyers (Weber, 1978: 761–3, 1009; Raynaud, 1986; Brimo, 1975: 21–31). The marks of the successful Continental reform of the law were the ideal of the code with its erasure of history from the structure of the law, together with an implacable conviction that 'legal decisions constitute the "application" of fixed and stable rules' (Weber, 1978: 760; Marty and Raynaud, 1972: 145 ff.). This Continental ideal did make its way into Anglo-American law, and is often known as formalism, frequently linked, as here, to legal positivism: law consists solely in

the derivation of judgments from a fixed set of laws supplied with sufficient linguistic clarity to allow unambiguous interpretation of the specific instance.

Yet the absence of a code and the growing importance – quite possibly for reasons linked to the institutional reforms and institutional hierarchies of English and American law in the period – of the practice of following precedent (whether or not that is actually how courts operated or operate), presented Anglo-American legal positivists with a problem: how to present the tangled web of instances and precedents as a science of law? The answer found by Christopher Columbus Langdell at Harvard Law School in the 1870s was truly Kuhnian: he invented and introduced the case method of teaching, whereby students of law would be obliged to discover for themselves and then trace out the entire *implicit* rational system of law embodied in cases:

... law, considered as a science, consists of certain principles or doctrines. To have such a mastery of these as to be able to apply them with constant facility and certainty to the ever-tangled skein of human affairs, is what constitutes a true lawyer ... and the shortest and the best, if not the only way of mastering the doctrine effectually is by studying the cases in which it is embodied. (Langdell, 1871: vii)

The case method of teaching, also often known as the Socratic method, replaced a lecturing or *ex cathedra* teaching and required students to argue the case against one another in class, with the professor intervening as he thought fit, masquerading as the court. Established just when law was becoming a sufficiently respectable subject to be taught in the American universities, the case method of teaching became the mark of the academic lawyer, along with a dogmatic bookishness:

... all the available materials of [legal] science are contained in printed books ... the library is the proper workshop of professors and students alike; that it is to us all that the laboratories of the university are to the chemists and physicists, the museums of natural history to the zoologists, the botanical garden to the botanists. (Langdell, 1887: 123–5)

The method required close reading of cases and the attempted framing of the general proposition of law embodied as a precedent in that case. If the method had anything Socratic in it, it might be said to be the following: that Harvard's ruling ideal was of law as a series of definable, objective and interrelated rules to be mastered by exclusive devotion to a methodology concerned with the inconsistent and the discretionary (Stevens, 1983: 55; Redlich, 1914).

Harvard's methodology, together with its administrative ideology of the law school, won the day: the case method still rules in Anglo-American legal education. But Harvard also hosted its dissemination into medicine, when Walter B. Cannon, explicitly following the exemplar of the law school, introduced the case method into medical teaching in the university (Cannon,



1900: 31–6) and Richard Cabot introduced it into the teaching hospital in the form of the pathological case conference, still to be found in each issue of the *New England Journal of Medicine* (Cabot, 1906; Cabot, 1911). And in 1911, when Harvard Business School was founded, the pedagogy was entirely case-based (McNair, 1954). It has been so ever since (Matejka and Coss, 1981). The rationale for the case method of teaching changed; an eminent figure from the business school justifying the method in the 1950s described how didactic teaching was appropriate for the liberal arts such as English or physics, which were oriented to pure knowledge and research, while the case method was fitting for professional knowledge, such as law, medicine and business, which was problem oriented, concerned with dealing directly with humans and with action (Andrews, 1953: 39). We are, you see, back with practical wisdom and its relation to knowledge.

There is also a route that leads back from the case method of teaching to psychoanalysis, since the Socratic method turned out to be an unruly pedagogic tool: teachers found that their students rebelled against the demand to discover the best arguments, the best cases, on their own; they complained that the professors weren't doing their jobs properly. If there was a domain of knowledge that they were in college to make their own, it was the professor's duty to lead them into it and map it for them using traditional didactic methods. The case method gave rise to or merged with group analysis, in which the principal object of the pedagogue became the learning process itself (Mucchielli, 1992; Pagès, 1959; Castore and Berrien, 1950). Reflexivity and sensitivity to the group process, to group dynamics, became an essential part of the case method of teaching. But I will desist from pursuing this further, in order to return to the home discipline of the case method of teaching, the discipline that, it should be said, is most traditionally associated with case-oriented reasoning: Anglo-American law.

Langdell may have been confident that the case method would lead to the permanent academic ratification of the scientific principles underlying the common law, but his method probably had greater affinities with the anti-formalism of his near-contemporary and Harvard Law School associate, Oliver Wendell Holmes, Jr, whose influence on 20th-century law has been profound and yet indeterminate. Once again, like every other commentator on the history of legal reasoning, I will cite his most famous legal maxim: 'The life of the law has not been logic: it has been experience' (Holmes, 1882: 1). Or again, 'General propositions do not decide concrete cases' (Holmes, 1946[1905]: 76). An entire tradition of jurisprudential thinking calls on Holmes's aphoristic and deceptively simple reasoning to question the possibility of there being a formalistic science of law based on syllogistic reasoning from general principles to specific instances. Let me quote a venerable work, still often quoted by lawyers, to give a sense of how the Holmesian tradition has come to view the work of the courts:

The basic pattern of legal reasoning is reasoning by example. It is reasoning from case to case. It is a three-step process described by the doctrine of precedent in which a proposition descriptive of the first case is made into a rule of law and then applied to a next similar situation. The steps are these: similarity is seen between cases; next the rule of law inherent in the first case is announced; then the rule of law is made applicable to the second case. (Levi, 1949: 1–2)

It is the law, then, that concentrates most of its energy on the rendering of an example in the form that will lend it greatest weight, by allowing the example to connect with the greatest possible number of other already authorized examples, or the example with the greatest authorized, or authorial, power (see Austin, 1885; Gény, 1899; Stone, 1964; Aarnio and MacCormick, 1992; Atias, 1987; Kojève, 1981; Anderson and Twining, 1991; Posner, 1990). There will therefore often be a great pressure to render the case in as individual a fashion as possible, in order to show that it stands out as an example, that it does not conform to the paradigms known to or on display to all in court, or in class. The lawyers may say that the task of the lawyer is to render down the case to its legal skeletal essence. Holmes writes:

The reason why a lawyer does not mention that his client wore a white hat when he made a contract, while Mrs. Quickly would be sure to dwell upon it along with the parcel gilt goblet and the sea-coal fire, is that he foresees that the public force will act in the same way whatever his client had upon his head. It is to make the prophecies easier to be remembered and to be understood that the teachings of the decisions of the past are put into general propositions and gathered into text-books, or that statutes are passed in a general form. (Holmes, 1946[1897]: 72)

Apart from the echoes of Mill we find here – laws are general only because it makes them easier to remember, not because there is any other virtue in generality – we might question whether Holmes's client's hat will always be irrelevant. A hat that is a turban, a hat that is a baseball hat turned sideways, a hat that was bought at Burberry's, might easily figure in the rhetoric of a lawyer. Each lawyer will use the theatre of the law to a different end. To rub the point home, and to remind us how lawyers in the English-speaking world get taught, let me quote an examination question set by the Law Faculty of the University of Cambridge on 2 June 1995:

Kate and Larry married in December 1993. They separated two weeks later when Kate discovered that on the night before their wedding Larry had had sexual intercourse with Marcie, the wife of the best man. The separation lasted only a few days; the couple were then reconciled and decided to make a fresh start. They lived a turbulent life style, both being prone to over-indulge in alcohol and both becoming violent when drunk.

On one occasion eight months ago, both finished up in hospital, Larry with a broken nose and Kate with a dislocated shoulder.

Larry has just been arrested and is being held in custody on charges of defrauding a merchant bank of 18 billion pounds. Kate herself has a conviction for a mortgage fraud but was very upset to see from photographs in the national press that Larry was arrested in a state of undress in the company of Nancy, whom Kate knows to be a post-operative transsexual and with whom she herself had an affair before Nancy's sex-change operation.

Advise Kate whether she can obtain (i) a divorce and (ii) an order excluding Larry from the matrimonial home.

No doubt it is the task of the student taking the examination to separate out the relevant from the irrelevant legal fact. Try persuading any English jury that £18 billion are irrelevant to anything. Try persuading any American jury that the colour of O. J. Simpson's skin is irrelevant to whether or not he should be found guilty of murder.

I have addressed only questions concerning the place of the case in legal reasoning. There are also further considerations, bearing on the history and concept of equity, that branch of the law that Aristotle defined as 'a correction of law where it is defective owing to its universality' (Aristotle, 1984c: 1137<sup>b</sup>, 1795–6). And beyond that lies an ideal of justice as that universal form whereby the particularity and singularity of this particular case are fully recognized. The very phrase 'to do justice to something' means to recognize a thing, a person, a situation in its singularity. Each of these considerations, some concerning the long-standing epistemological practices of Anglo-American law, some antedating or having a wider import than the necessarily parochial domain of English-language law, makes me doubt whether Foucault's attempt to separate the jurisprudential and the clinical genealogy will succeed. And my doubts are reinforced by his other example, with which I will conclude: that of casuistry.

Casuistry is the set of practices associated with the development of the Christian Church's functions of regulating the moral life of members of its flock. Starting with the resolution of problems arising from the interface of Christianity with paganism – questions involving food, dress, rendering service to the state, etc. – from the sixth century on, a casuistry of sin developed, associated with auricular confession and contained in penitentials. Following the Lateran Council of 1215, which made annual confession and communion obligatory, there was considerable elaboration of cases of conscience in the *Summae confessorum*; by the 16th and early 17th centuries, textbooks for the training of priests included extensive discussion of the cases of conscience. The Jansenist critique of probabilism in general, culminating in Pascal's famous attack on casuistry in *Les Lettres Provinciales*, produced a minimalist casuistry and a

sacralization of the fundamental moral principles intended to underpin all moral considerations; in England the moral will came to hold centre stage.

The disappearance of casuistry in England and its rapid decline elsewhere has prompted questions about its destiny, including speculations about its transformation into the epistolary novels of Defoe and Richardson, akin to letters of advice, addressed to imaginary individuals faced with perplexing moral circumstances (Leites, 1988: 119–33; Toulmin and Jonsen, 1988; Slight, 1981). Where casuistry addressed the individual conscience, the novel now addressed the individual character. Are we to think, then, of *Les Liaisons Dangereuses* as a continuation of the art of the casuist, devoted to other ends? Is Graham Greene's *A Burnt-out Case* to be seen as not only the spiritual but also the legitimate descendant of a transmogrified casuistry?

What horrified Pascal about casuistry was its avowed intent to tailor its moral prescriptions to the individual case, in the process evacuating from religious morality its heart, its spirit and the love of God. And the history of moral philosophy since Pascal has been dominated, if not by his unconditioned obligation of the revealed law of God, then by universalism, whether in its Kantian form, in the categorical imperative, or in the utilitarian or consequentialist form, where the universal is given through a summation procedure of utilities or goods. In contrast, casuistry had been the moral science devoted to the singular case; and it still was, where it survived, in 1968, according to the *New Catholic Encyclopaedia*:

... casuistry denotes the method that applies the principles of a science to particular facts. Thus there are casuistries proper to civil and canonical law (jurisprudence), to psychology (casework), to commerce (case system). In theology casuistry signifies that part of moral theology, or that method, that treats of the application of moral principles to singular cases. (Hamel, 1967: 195–7)

But it is from the arena of biopower, which Foucault was the first to delineate clearly, that the recent renewal of casuistry has come – from the new field of medical ethics and the epidemic of legal-moral debate surrounding networks of action that link machines, calculation of qualities of life, technical experts and moral agents or patients.

The method of the new casuistry should by now ring bells with us: it is classificatory, initially grouping series of cases around paradigm examples, from which rules of thumb or maxims are extracted. For example, the principle underlying the *Quinlan* case, which our new casuists convert into the maxim 'Parents should make the kind of termination of life decisions a now incompetent person would make if that person knew this to be a terminal situation'. A grammatical model of parsing the case then leads from one case to another. What is characteristic of the procedure is an acute awareness of

... the circumstantial dependence of ethical judgments on the detailed facts of an individual situation. Rather than searching for some abstract ethical

principles the stress will be on pragmatic active involvement in pressing cases. We can only find the degree of exactness or necessity the case allows. (Ellos, 1990: 163 ff.)

The method of argument is principally analogical.

The new medical ethics has indeed created new ways of writing cases. For questions concerning, for example, the termination of active medical treatment of severely handicapped newborn babies, there are now committees which will peruse the details of each case: how many siblings the infant has, the income of the father and mother, the likelihood of their divorcing, the cultural wealth of the home – all so as to make a decision about removing the feeding tubes in a post-natal intensive care unit (Rothman, 1991). This is biopower with a vengeance; and, rather than taking a path distinct from the conception of the case found in casuistry, as Foucault's account of the modern case would lead one to expect, it has prompted a resurgence of the new casuistry, at the expense of the universalist ethical systems that dominated modern ethics.

It is not only possible, but also plausible, to reinterpret the fundamental principles of Foucault's own ethical and political stance along these lines. Let me quote André Glucksmann:

The anti-humanism of the 1960s doesn't refer to an eternal opposition to an eternal humanism, but to a specific humanism, that of the end of the nineteenth and beginning of the twentieth centuries. There it was a question of a positive humanism which accorded European man with knowledge of the highest values. For thinkers like Gide, Sartre or Foucault, this so-called knowledge produced blindness for colonialism, fascism, the Siberian camps or Stalinism. Which led to a very simple idea, although difficult enough to put to work, that there is perhaps a possibility of engaging in commitments and moralities, not on the basis of a positive idea of the good which will stand as a universal or everlasting property, but beginning with a perception, of the certain evidence in itself of the intolerable. This certainty was the source of *affaires* or cases, like the Calas case or the Dreyfus case. On this point, Foucault was not original but he was rigorous. On the basis of his thinking, it is possible to replace the Weberian opposition between two ethics, that of responsibility and that of conviction, with an opposition of extreme urgency, which analyses case by case intolerable situations, and moral thinking that is edifying, well meaning, solving all problems forever with one principle. (Glucksmann, 1989: 395–7)

Even politics, then, a politics conducted in the wake of the rejection of Lyotard's grand narratives based on universal moral, economic, or legal principles, is a matter of cases. It strikes me as a plausible renewal of classical political history to take up Glucksmann's suggestion and write the history of French politics as a

history of *affaires*. When I was working at the Bibliothèque Nationale last year, I wondered what the easily accessible material for such a study would be; so I called up on the computer catalogue all items listed under *affaire*. The list came to well over 300 items, amongst which, as readers will know, the material relating to the Dreyfus Affair alone, which was just one of those listed by the computer catalogue, would comprise many hundreds of books, let alone newspaper articles, commissions and memoirs. Is that the politics that Foucault had returned to, as the only honest politics?

We should be able to think about politics this way, since we do it so easily. How often do political arguments, such as over the possibility of American intervention in Bosnia, revolve around selecting the right case to analogize from? Is Bosnia like Vietnam, a case of sacrificing American lives to influence the political and economic destiny of a far-off country? Or is it like Europe in 1941, when a moral imperative that transcends any national self-interest can be invoked? I leave the alternative cases to you. And if you think that invoking principles will avoid this method of reasoning, a sceptic of the relevance of your principles will soon require you to make explicit the exemplar, the prototype, the analogue onto which the invocation of your principle is grafted.

How far can I go with this exploration of thinking in cases? I have surveyed some of the terrain; I have addressed one of the most challenging arguments concerning that terrain, that of Michel Foucault. In the end, I come back to the question of psychoanalysis, and the ideal of an account of the singular life as the test-case. The central theme for this study, though, must for now run as follows: what are the specific modalities – historical, epistemological, political – by which reasoning in cases, descended from Aristotle's practical wisdom, has been embedded in disciplines and practices that we recognize as the domain of the expert, the professional, in the human sciences, sciences which, to encompass the scope that case-work has now acquired, must be allowed to include medicine, law, philosophy – and the therapies of the word?

*Department of History and Philosophy of Science, University of Cambridge, UK*

## NOTE

- 1 And these are all combined in classification systems that might well have been, but were not, copied down by Borges from a Chinese encyclopedia. 'The disease was very widespread. Of those who contracted it, death was most common among youths, young men, men in the prime of life, those with smooth skin, those of a pallid complexion, those with straight hair, those with black hair, those with black eyes, those who had been given to violent and loose living, those with thin voices, those with rough voices, those with lips and the choleric' (Lloyd, 1978: 97).

## BIBLIOGRAPHY

- Aarnio, Aulis and MacCormick, D. Neil, eds (1992) *Legal Reasoning*, Vol. II. Aldershot/Hong Kong/Singapore/Sydney: Dartmouth.
- Anderson, Terence and Twining, William (1991) *Analysis of Evidence. How To Do Things with Rules, with an Appendix on Probability and Proof by Philip Dawid*. London: Weidenfeld & Nicolson.
- Andrews, Kenneth R., ed. (1953) *The Case Method of Teaching Human Relations and Administration. An Interim Statement*. Cambridge, MA: Harvard University Press.
- Aristotle (1984a) *Rhetoric*, in *The Complete Works of Aristotle: The Revised Oxford Translation*, ed. Jonathan Barnes, Vol. II. Princeton, NJ: Princeton University Press.
- Aristotle (1984b) *Nicomachean Ethics*, in *The Complete Works of Aristotle: The Revised Oxford Translation*, ed. Jonathan Barnes, Vol. II. Princeton, NJ: Princeton University Press.
- Aristotle (1984c) *Nicomachean Ethics*, in *The Complete Works of Aristotle: The Revised Oxford Translation*, ed. Jonathan Barnes, Vol. II. Princeton, NJ: Princeton University Press.
- Atias, Christian (1987) *Théorie contre arbitraire* [Theory against the Arbitrary]. Paris: PUF.
- Austin, John (1885) *Lectures on Jurisprudence, or the Philosophy of Positive Law*, 5th edn, rev. and ed. Robert Campbell. London: Murray.
- Baier, Annette (1994) *Moral Prejudices: Essays on Ethics*. Cambridge, MA/London: Harvard University Press.
- Berkeley, Bishop (1732) *Alciphron: or, the Minute Philosopher. In Seven Dialogues*, 2nd edn, Vol. II. London: J. Tonson.
- Brimo, Albert (1975) 'La Notion de rationalisation du droit dans la sociologie juridique de Max Weber' [The Idea of the Rationalization of Law in Max Weber's Sociology of Law], in *Recueil d'études en hommage à Charles Eisenmann* [A Collection of Studies in Homage to Charles Eisenmann]. Paris: Cujas.
- Cabot, Richard C. (1906) *Case Teaching in Medicine: a Series of Graduated Exercises in Differential Diagnosis, Prognosis and Treatment of Actual Cases of Disease*. Boston, MA: D. C. Heath.
- Cabot, Richard C. (1911) *Case Histories in Medicine, Illustrating the Diagnosis, Prognosis and Treatment of Disease*, 2nd edn, rev. and enlarged. Boston, MA: Leonard.
- Cannon, Walter B. (1900) 'The Case Method of Teaching Systematic Medicine', *Boston Medical & Surgical Journal* 142: 31–6.
- Castore, G. F. and Berrien, F. K. (1950) 'A Student Evaluation of a Case Method Course', *American Psychologist* 5: 117–32.
- Davidson, Arnold I. (1988) 'How to Do the History of Psychoanalysis: a Reading of Freud's *Three Essays on the Theory of Sexuality*', in Françoise Meltzer (ed.) *The Trial(s) of Psychoanalysis*. Chicago, IL/London: University of Chicago Press, pp. 39–64.
- Ellenberger, H. (1970) *The Discovery of the Unconscious*. London: Allen Lane.
- Ellos, William J. (1990) *Ethical Practice in Clinical Medicine*. London: Routledge.
- Foucault, Michel et al. (1975) *I, Pierre Rivière, Having Slaughtered my Mother, my Sister, and my Brother . . . a Case of Parricide in the 19th Century*, trans. Frank Jelinek. New York: Pantheon Books.

- Foucault, Michel (1977) *Discipline and Punish*. London: Allen Lane.
- Foucault, Michel (1979) *A History of Sexuality*. Vol. I, *An Introduction*. London/Harmondsworth, Mx: Allen Lane/Penguin.
- Foucault, Michel (1981) 'Omnes et Singulatim: Towards a Critique of "Political Reason"', Tanner Lectures on Human Values, October 1979, in Sterling McMurrin (ed.) *The Tanner Lectures on Human Values II*. Salt Lake City: University of Utah Press.
- Foucault, Michel (1983) 'The Subject and Power', in Hubert L. Dreyfus and Paul Rabinow, *Michel Foucault. Beyond Structuralism and Hermeneutics*, 2nd edn, with an afterword and an interview with Michel Foucault. Chicago, IL: University of Chicago Press, pp. 208–26.
- Foucault, Michel (1988) 'Politics and Reason', in Lawrence D. Kritzman (ed.) *Michel Foucault. Politics, Philosophy, Culture. Interviews and Other Writings 1977–1984*. New York/London: Routledge, pp. 57–85.
- Foucault, Michel (1989[1975–6]) "'Il faut défendre la société'" [Society Must Be Defended], in *Résumé des cours 1970–82* [Abstract of Courses]. Paris: Julliard.
- Freud, Sigmund (1953–74[1905]) *Three Essays on the Theory of Sexuality*, in James Strachey et al. (eds) *The Standard Edition of the Complete Psychological Works of Sigmund Freud*, in 24 vols, Vol. VII. London: Hogarth Press and the Institute of Psycho-analysis.
- Gény, François (1899) *Méthode d'interprétation et sources en droit privé positif* [The Method of Interpretation and Sources in Positive Private Law]. Paris: Chevalier-Marescq.
- Ginzburg, Carlo (1983) 'Morelli, Freud and Sherlock Holmes: Clues and Scientific Method', in Umberto Eco and Thomas A. Sebeok (eds) *The Sign of Three: Dupin, Holmes, Pierce*. Bloomington: Indiana University Press, pp. 81–118.
- Glucksmann, André (1989) 'Le Nihilisme de Michel Foucault' [The Nihilism of Michel Foucault], in *Michel Foucault, philosophe*, Rencontre Internationale, Paris, 9, 10, 11 janvier 1988. Paris: Seuil, pp. 395–402.
- Greene, Graham (1971[1948]) *The Heart of the Matter*. Harmondsworth, Mx: Penguin.
- Hacking, Ian (1982) 'Biopower and the Avalanche of Numbers', *Humanities in Society* 5: 279–85.
- Hacking, Ian (1990) *The Taming of Chance*. Cambridge: Cambridge University Press.
- Hacking, Ian (1995) *Rewriting the Soul. Multiple Personality and the Sciences of Memory*. Princeton, NJ: Princeton University Press.
- Hamel, E. (1967) 'Casuistry', in *New Catholic Encyclopaedia*, Vol. III. New York: McGraw-Hill.
- Holmes, Oliver Wendell, Jr (1882) *The Common Law*. London: Macmillan.
- Holmes, Oliver Wendell, Jr (1946[1897]) 'The Path of the Law', address delivered at the dedication of the new hall of the Boston University School of Law, 8 January 1897, first published in *Harvard Law Review* 10: 457–78. Reprinted in Max Lerner (ed.) *The Mind and Faith of Justice Holmes. His Speeches, Essays, Letters and Judicial Opinions*. Boston, MA: Little, Brown.
- Holmes, Oliver Wendell, Jr (1946[1905]) *Lochner v. New York*, 198 U.S. 45 (Holmes, J., dissenting). Reprinted in Max Lerner (ed.) *The Mind and Faith of Justice Holmes. His Speeches, Essays, Letters and Judicial Opinions*. Boston, MA: Little, Brown, pp. 149–50.



- Kojève, Alexandre (1981) *Phénoménologie du droit* [The Phenomenology of Law]. Paris: Gallimard.
- Kripke, Saul A. (1982) *Wittgenstein on Rules and Private Language. An Elementary Exposition*. Oxford: Blackwell.
- Kuhn, T. S. (1977) 'Second Thoughts on Paradigms', in T. S. Kuhn, *The Essential Tension. Selected Studies in Scientific Tradition and Change*. Chicago, IL/London: University of Chicago Press.
- Lakoff, George (1988) *Women, Fire and Dangerous Things*. Chicago, IL/London: Chicago University Press.
- Langdell, C. C. (1871) *A Selection of Cases on the Law of Contracts*. Cambridge, MA: Harvard University Press.
- Langdell, C. C. (1887) 'Professor Langdell's Speech at the Quarter-Millennial Celebration of Harvard University, 5th November, 1886', *Law Quarterly Review* 3: 123–5.
- Leites, Edmund (1988) 'Character and Casuistry', in Edmund Leites (ed.) *Conscience and Casuistry in Early Modern Europe*. Cambridge: Cambridge University Press, pp. 119–33.
- Levi, Edward H. (1949) *An Introduction to Legal Reasoning*. Chicago, IL: Chicago University Press.
- Leys, Ruth (1992) 'The Real Miss Beauchamp: Gender and the Subject of Imitation', in J. Butler and J. Scott (eds) *Feminists Theorize the Political*. London: RKP, pp. 167–214.
- Lloyd, G. E. R., ed. (1978) *Hippocratic Writings*, trans. J. Chadwick, W. N. Mann, I. M. Lonie and E. T. Withington. Harmondsworth, Mx: Penguin.
- Lucas, J. R. (1980) *On Justice*. Oxford: Clarendon Press.
- McNair, M. P., ed. (1954) *The Case Method at the Harvard Business School: Papers by Present and Past Members of the Faculty and Staff*. New York: McGraw-Hill.
- Marty, Gabriel and Raynaud, Pierre (1972) *Droit civil, Tome I, Introduction générale à l'étude du droit* [Civil Law, Vol. I, General Introduction to the Study of Law], 2nd edn. Paris: Sirey.
- Matejka, J. K. and Coss, T. J. (1981) *The Business Case Method: An Introduction*. Richmond, VA: Robert F. Dame.
- Mill, J. S. (1884) *A System of Logic, Ratiocnative and Inductive, Being a Connected View of the Principles of Evidence and the Methods of Scientific Investigation*, 8th edn. London: Longman, Green.
- Mucchielli, Roger (1992) *La Méthode des cas* [The Case Method], 8th edn. Paris: Les Editions ESF.
- Murdoch, Iris (1970) *The Sovereignty of Good*. London: Chatto & Windus.
- Nagel, Thomas (1970) *The Possibility of Altruism*. Oxford: Clarendon Press.
- Pagès, R. (1959) 'Remarques sur les groupes de base et leur rôle dans un ensemble de procédés de formation psycho-sociale' [Remarks on Basic Groups and their Role in a Set of Procedures in Psychosocial Training], *Bulletin de Psychologie* 12: 321–42.
- Posner, Richard A. (1990) *The Problems of Jurisprudence*. Cambridge, MA: Harvard University Press.
- Rachels, James (1987) *The End of Life: Euthanasia and Morality*. Oxford: Oxford University Press.
- Raynaud, Philippe (1986) 'Préface', in Max Weber, *Sociologie du droit (1911–13)* [Sociology of Law (1911–13)], intro. and trans. Jacques Grosclaude. Paris: PUF.

- Redlich, Josef (1914) *The Common Law and the Case Method in American University Law Schools*, Carnegie Publications no. 8. New York: D. B. Updike.
- Rorty, Richard (1989) 'Science as Solidarity', in Hilary Lawson and Lisa Appignanesi (eds) *Dismantling Truth: Reality in the Post-Modern World*. London: Weidenfeld & Nicolson.
- Rothman, David (1991) *Strangers at the Bedside: a History of How Law and Bioethics Transformed Medical Decision Making*. New York: Basic Books.
- Rusnock, Andrea (1993) 'New Forms of Disease Narratives 1700–1750', unpublished paper.
- Slights, Camille Wells (1981) *The Casuistical Tradition in Shakespeare, Donne, Herbert, and Milton*. Princeton, NJ: Princeton University Press.
- Stevens, Robert (1983) *Law School: Legal Education in America from the 1850s to the 1980s*. Chapel Hill: University of North Carolina Press.
- Stone, Julius (1964) *Legal System and Lawyers' Reasonings*. Stanford, CA: Stanford University Press.
- Toulmin, S. and Jonsen, Albert R. (1988) *The Abuse of Casuistry. A History of Moral Reasoning*. Berkeley: University of California Press.
- Weber, Max (1978) *Economy and Society. Part II: The Economy and the Arena of Normative and De Facto Powers. VIII. Economy and Law (The Sociology of Law)*, Vol. II, ed. Guenther Roth and Claus Wittich. Berkeley: University of California Press.
- Wittgenstein, Ludwig (1967) *Philosophical Investigations*, 3rd edn. Oxford: Blackwell.