THE PATHOLOGY OF DEMOCRACY

A LETTER TO BERNARD ACCOYER AND TO ENLIGHTENED OPINION

JACQUES-ALAIN MILLER

WITH CONTRIBUTIONS FROM
BERNARD BURGOYNE
AND RUSSELL GRIGG



KARNAC

THE PATHOLOGY OF DEMOCRACY

A letter to Bernard Accoyer and to enlightened opinion

Jacques-Alain Miller
with contributions by
Bernard Burgoyne and
Russell Grigg

Translators
Adrian Price and Victoria Woollard

Ex-tensions (A *JLS* supplement)

KARNAC

First published in 2005 by

Karnac Books Ltd.
118 Finchley Road, NW3 5HT

Copyright © 2005 Jacques-Alain Miller to the collection and the individual authors to their contributions. Original text Jacques-Alain Miller, 2003/Edited by the *Atelier de psychanalyse appliquée.*

The rights of the contributors to be identified as the authors of this work have been asserted in accordance with §§ 77 and 78 of the Copyright Design and Patents Act 1988.

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the publisher.

British Library Cataloguing in Publication Data

A C.I.P. for this book is available from the British Library

ISBN: 9781855753372

Edited, designed and produced by The Studio Publishing Services Ltd, Exeter EX4 8JN

Printed in Great Britain

10 9 8 7 6 5 4 3 2 1

www.karnacbooks.com

CONTENTS

Series Preface
Dany Nobus v
About the Authors vii

PART I

Introduction
Love of the Real
Bernard Burgoyne 3

PART II

Amendment 336 17

PART III

Letter to Bernard Accoyer and to enlightened opinion
J.-A. Miller 25

PART IV

The Psy Manifesto
J.-A. Miller 55

PART V

Postscript
Regulating Psychoanalysis
Russell Grigg 61

SERIES PREFACE

JLS Ex-tensions

A book series from Karnac edited by Dany Nobus

Since its inception, Lacanian psychoanalysis has demonstrated a remarkable capacity for inducing acrimonious conflicts and facilitating tumultuous struggles between its own constituency and other areas of inquiry, as well as within its own ranks and amongst its most loyal adherents. Although Lacanianism has spread like wildfire across the academic disciplines, Lacan's intellectual legacy has maintained a highly unstable equilibrium at the theoretical, clinical, and institutional levels of its modus operandi. At the same time, Lacanians have often been at the forefront in addressing the socio-political and cultural tensions that pervade our contemporary living conditions and they have often taken the lead in responding to the pressures of our market economy to control and streamline the psychoanalytic profession. Published in association with the *Journal for Lacanian Studies* (*JLS*), this series of short books aims to address 'extant tensions' affecting the broad field of Lacanian psychoanalysis, whether they originate within its own boundaries or outside its direct sphere of influence. The objective is not to resolve these tensions, nor to interpret them through the application of psychoanalytic knowledge, but to pinpoint their significance and assess their implications for a world that has psychoanalysts in it.

ABOUT THE AUTHORS

Bernard Burgoyne is a psychoanalyst practising in London. He is a Member of the World Association of Psychoanalysis, and a Professor of Psychoanalysis at Middlesex University. He was educated at the University of Cambridge, the London School of Economics, and the University of Paris. He has published extensively on questions of structure in psychoanalysis.

Jacques-Alain Miller is graduate of the École normale supérieure, a member of the *École de la Cause freudienne* and the founder and former president of the World Association of Psychoanalysis. Editor of the books of Jacques Lacan's *Seminar*, he has published several books under his own name, including *Lettres à l'opinion éclairée* (Seuil), *Le Neveu de Lacan* (Verdier), and recently, *Voulez-vous être évalué?* (Grasset) with the philosopher Jean-Claude Milner, a transcription of two sessions from his weekly seminar at the Department of Psychoanalysis, Paris VIII, of which he is the director. Jacques-Alain Miller lives and works in Paris.

Russell Grigg is a member of the Ecole de la Cause freudienne and of the New Lacanian School. He lives in Melbourne, where he practices psychoanalysis and teaches philosophy and psychoanalytic studies at Deakin University.

In memory of Françoise Giroud

PART I

INTRODUCTION

Love of the Real

Bernard Burgoyne

Stuart Hampshire and Iris Murdoch once engaged in a dialogue about human nature and the meaning of freedom. Hampshire stressed the importance for human freedom of 'crystal-clear intentions'; Murdoch responded by insisting on the functioning of 'something more obscure, more historically conditioned, and usually less clearly conscious'. He thought that 'the history of the individual' ought to be accessible to philosophical reflection, and that this could be achieved through having access to 'a "science" which concerns itself especially with the history of the individual: psychoanalysis'. She took his notion of such a 'perfect psychoanalysis' to be too grounded in a philosopher's view of 'scientific therapy'; the real issues at stake she thought lay in establishing techniques that directed a human being away from what is bad – for themselves and others – and towards what was good. He took it that a study of fantasies would bring some enlightenment about the mechanisms of the mind; she agreed that people could be brought to tolerate and engage with what is real in their lives through 'the liberation of the soul from fantasy' – she disagreed in taking it that there was a point 'outside the fantasy', attachment to which would produce the conditions for human progress (Murdoch, 1970). Neither of these two philosophers thought of promoting the hypothesis that the State knew enough about these difficult questions to find itself in a position where it could effectively decide and resolve them.

Jacques-Alain Miller, in his commentary on the recent sudden intervention into these fields by the French State,

points out the simplistic modes of thinking governing the motivations of those who initiated it. The aim of the Accoyer Amendment was to subordinate all psychotherapeutic practice in France – including psychoanalysis – to the control of psychiatrists and psychologists. The intention was to move to the appointment of individuals and panels who would be in positions of control over all levels of psychotherapeutic work: referral, practice, supervision, training. Little matter the ignorance of the State on questions of the relation of psychoanalysis to psychiatry; little matter the ignorance of the State on questions of the relation of psychoanalysis to psychology; little matter the ignorance of the State on internal questions of the nature of psychoanalysis and of the various psychotherapies. What mattered for those promoting this manoeuvre was the administrative taking over of the profession of psychotherapy in France. These recent developments were very swift. By comparison the situation in the UK is very different – in fact nowhere else in Europe has such an arbitrary and ill-considered transformation by the State been introduced, even though the laws brought in by the communist deputy Adriano Ossicini in Italy came close to it. Let me describe a little some of the history of how things have been determined in this field in the UK.

The State in Britain responded to a period of moral panic about the effects of Scientology in the late 1960s by commissioning enquiries that led to the publication of the Foster Report in 1971 and the Sieghart report in 1978. The outcome of this was the recommendation to introduce a control into the practice of psychotherapy in the UK by the setting up of a form of 'indicative' registration. By this was meant a registration that pointed out the various forms and 'modalities' of psychotherapies that were available, avoiding any intention to allocate to the State the tasks of determining the appropriate content and training requirements for psychotherapy – these tasks were to be left to the practitioners and their professional associations. In 1982,

the British Association for Counselling offered the use of its headquarters in Rugby as a secretariat for the development of a professional body that could represent the interests of all forms of psychotherapy across the UK. This offer was accepted, and the corresponding 'Rugby Conference' met from 1983 to 1989, when a free-standing professional agency was judged able to be constructed to replace this preliminary Rugby Conference. The new association took the name of the United Kingdom Standing Conference for Psychotherapy: it voted overwhelmingly to set up and monitor a voluntary Register of Psychotherapists in 1990. The Conference took the name of the United Kingdom Council for Psychotherapy (UKCP) when it published its first National Register in 1993.

Here, then, was a British solution: it was to be that of a national professional organization holding a Register. The component member organizations within this national umbrella structure were to form (federal) subsections, and were to be themselves the agencies responsible for discussions and debate about the style of therapeutic work characteristic of that section's activity. Throughout this period of development the term 'psychotherapy' was used in a generic sense, including the field of psychoanalysis. Initially there were two psychoanalytic societies in the organization – the British Psychoanalytical Society and the Centre for Freudian Analysis and Research. In these years the organization functioned as a place for debate; discussion, exchange of views, critical engagement with presuppositions and foundational assumptions of the field dominated this era. Socratic elements in the early days of the UKSCP – and then the UKCP in its initial period – formed a valuable (some think *the* valuable) activity introduced by this institutional step. But it soon became apparent that – despite the very high level of esteem that was accorded the British Psychoanalytical Society – the Society was ill at ease with the lack of an ability to impose its own criteria and 'standards' on other organizations. So two

poles developed: one Socratic, cherishing debate; the other somewhat authoritarian in tone. The British Society finally lost patience with this situation and, together with a number of allies, proposed a motion at an Annual General Meeting of the Council to the effect that it be given powers 'equivalent to those of the United Nations Security Council' – this phrase was part of the motion that they proposed. It may be that they expected to win the vote – whether or not, the size of the opposition to it may well have come as a shock to them: the voting was five organizations in favour, fifty against. This led to the British Society's secession from the Council in 1992, and its formation of an alternative body, also running a voluntary Register. Any seceding authority that knows something of the history of the United States would do well to avoid the term Confederacy, but that was the term that they chose: the new body was called the British Confederation for Psychotherapy. This BCP soon adopted a policy of forcing member organizations of the UKCP to withdraw from the UKCP by means of its 'single-membership' policy – organizations that wished for close contacts with the kernel of the British Society and its allied organizations were told that it was incompatible to belong to the BCP while maintaining membership of the UKCP. So at this point there was quarrelling, disagreement, and dissent, but still within the context of discussion and debate. The next step in the story was to be a turn towards the authority of the State.

The turn to the State was effectuated by John Alderdice, a psychoanalytic psychotherapist who was trained at the Tavistock Clinic. He chose to introduce a Private Member's Bill into the House of Lords that would, among a range of things, have given the State the authority to determine what was an appropriate character for a psychotherapist to have, and what was an appropriate content for a training in psychotherapy, including psychoanalysis. By January 2001 this Bill had reached its Second Reading in the Lords. After the debate at the Second Reading, Lord Caithness

introduced some of the history of psychoanalysis into his commentary: 'It is common knowledge,' he said, 'that Freud and Jung parted acrimoniously in 1913 and went their separate ways to form completely different theoretical bases for their approach to analytical work.' He wanted the differences between these two orientations to analytical work to be recognized by the State, and expressed the hope that 'these [organizations – the Freudian International Psychoanalytical Association and the Jungian International Association for Analytical Psychology] be split in the UK' by means of the intended legislation. Historical discussions and scientific developments within and between these two fields were to be replaced by the dictation of the State. He insisted on this one proviso for the intended Act: that the existing lines of division within a 'divided profession' were respected: 'What the followers of Jung and Freud have put asunder the noble Lord, Lord Alderdice, should not join together'. This joining and separating was being done in the Lords in the early months of 2001; not by the profession, and not by the body of practitioners, but by someone acting in the name of the profession and with the interest of introducing the kind of control that the British Society had sought at the time of its secession (Lords' Hansard Report).

Before this move to legislation, there had been difficult but productive and ongoing discussions. They had been set against a background of the work of the country's best philosophers, of the country's best reflections on the nature of science and its relation to affine fields; the country's best practitioners repeatedly and regularly found a forum where they could discuss their work, and its implications. Now, to these facilities were added the country's Junior Ministers of Health, and the interference of government. The intended legislation was suddenly rendered null and void by the withdrawal of government support. There was an oncoming General Election, and a Manifesto to write for it: the government found that it had an interest in shifting

the direction of the intended legislative path. So the Alderdice Bill fell, and instead a process was invoked that revolved around the Privy Council. An Order in Council was established that set up a Health Professions Council (HPC), covering a wide range of 'health professions' including osteopathy and chiropody. With this move to the Privy Council, parliamentary debate was no longer possible; but some advantages appeared. Any profession has to approach the HPC to ask to be registered within it: psychotherapy so far has not done this. Moreover, any profession making such an approach has to demonstrate that it is a unified profession speaking with a single voice: this is hardly the case with the 'divided profession' of psychotherapy with its multiple debates. A profession where there is not a complete agreement on questions of the scope of practice, on relations with other professions, and on its 'knowledge base' is not in a state that renders it eligible to take this route. There is growing disquiet within the sections of the UKCP about the wisdom of moving in this direction; in the meantime – in this and in other forums – a debate continues about the nature of psychoanalysis, about the relations of psychoanalysis to morality and to science, and about the consequences of such issues in relation to the direction of the field.

Iris Murdoch and Georg Kreisel discussed the nature of morality in Cambridge in the 1940s, she as part of what she saw as Wittgenstein's influence on political and moral philosophy, he as part of what he saw as Wittgenstein's influence on the foundations of mathematics and logic. She thought it a great achievement when she got him to admit that moral problems exist. As a philosopher, she was concerned with the nature of the bad. Kreisel is an outstanding logician, but provides a very good candidate for a remarkable man who replaces common morality with a presentation of character more generally experienced as bad. She threaded him – in the form of an anti-hero – into several of her novels: his character as it appears in her work builds an

ethical vehicle for the investigation of human motives, for an investigation of the relation of good and bad. The constructions that they made – the philosopher and the foundationalist in mathematics – are pertinent to an investigation of human nature. The debate between them supports a complicated investigation of how an individual maintains a position in relation to morality and science. The State so far has displayed no interest in this debate.

Freud and James Putnam had much earlier discussed the relations between morality and science. Putnam – an American psychoanalyst and psychiatrist who met Freud on his visit to the USA in 1909 – wanted to give to moral philosophy a directing role in the orientation of the field of psychoanalysis (Hale, 1971). Freud disagreed totally. He maintained that the field of psychoanalysis had no need of such a world-view to orientate it – it was already orientated, he said, by the 'methods of the sciences' (Freud, 1933a). When did any State last involve itself in a discussion of such issues: of the relations of morality and science, and the function of this relation in giving a direction to this very particular field of psychoanalysis? The literature concerning these problems exists, and is accessible to professionals in the field; psychoanalytic institutions – to varying degrees – encourage their students in training to work on these texts, and to relate the results to their practice. Where is there a Department of State that will encourage such work? Professional institutions have their problems, but as long as they encourage debate they play an invaluable role in the development of a field that addresses itself to the suffering inherent in the human condition. Where, meanwhile, is the philosophical State?

Horacio Etchegoyen and Jacques-Alain Miller, in one of their several (Socratic) discussions – this one in Buenos Aires, in 2001, as part of the Lacan centenary celebrations – turned to these questions of organizational structure and the direction of psychoanalysis (Etchegoyen & Miller, 2004). All organizations of practitioners have good and bad

aspects – just as any organization whatsoever has institutional vices together with institutional virtues. Etchegoyen puts it in terms of thorns and flowers – both his own IPA and Miller's AMP, he says, have thorns accompanying their flowers. He recalls inviting Meltzer – his second analyst, after Racker – to talk for the IPA Society in Buenos Aires. After some lengthy discussions about institutional difficulties and impasses, Meltzer was asked what to do about them: 'Dissolve the Society,' he said, 'and replace it with informal study groups.' 'But then,' was their reply, 'who would have invited you here?'

Newspapers from time to time take up these themes: they recently irrupted into the pages of the *New York Times* and – several days later – the *Guardian*. The discussion revolved around the nature of the newly formed College of Psychoanalysts, which aims at constructing a new public forum for the discussion of psychoanalysis, and which is made up of Members who have trained psychoanalytically with organizations recognized by the College. Fights between institutions can be expected where a forum for discussion is set up, and another institution interprets it as a challenge to its authority. The British Psychoanalytical Society again contests the founding of the College in this way – as a challenge to its standards. As the article in the *NYT* puts it: 'battle lines are forming over who sets the standards and who keeps the lists' (Guttemplan, 2004). The President of the College, Dr Jacques China is quoted in the article in the *Guardian*: 'Psychoanalysis has always been contentious, and there have been many different trainings . . . it's been a myth for a long time that there is only one training' (Gillan, 2004). This claim seems evidently true: it is, however, contested. As this contestation moves from the headlines into a more extended text, a climate of debate will provide a richer environment for a psychoanalytical culture.

Some commentators in the House of Lords had insisted on the importance of preserving the climate of discussion and debate. Here is Lord Wedderburn on Alderdice:

> The Bill cannot succeed except on some basis of professional consensus . . . there is no point in regulating for the sake of regulation, nor indeed of choosing a form of regulation which loses something which has been built up in the recent past.

He stressed that 'undue control' might not be compatible with the European Convention on Human Rights. But, more importantly, he raised his questions within a consideration of the detail of the field of psychoanalysis.

> Historically, problems which range across the field of psychotherapy have arisen because of various orientations, or modalities, as they have come to be called, which find their interpretation either in different analytical fields . . . or in more recent analysts than the masters such as Klein, Lacan, or Winnicott.

He continued:

> We must be careful not to lose what is a precious historical oddity; namely the freedom of groups to find new ways to practise and to introduce new concepts in the field . . . I have always thought that when Sigmund Freud was convinced that he had to leave Vienna, he came to the right place where freedom of enquiry is something which regulation must respect.

Freud had been reading David Hume and the Anglo-Scottish reception of Socrates in the late 1870s: in this respect he chose, sixty years later in his flight from tyranny, the country where these critical texts had been written, a country whose political institutions valued debate.

Miller's text addresses the threat to psychoanalytical culture in France today; a similar threat existed in Britain a few years ago. A critical and constructive environment – a Socratic culture – can easily be degraded by administrative interests within the State. The steps are simple and in some ways automatic: give the State control of 'quality' and detriment will follow. Quality becomes trivialized; those best able to judge it are silenced; their work is replaced by

reporting to grand (and little) inquisitors; their work suffers; quality ratings improve. The traditions of Mill and his friend Grote – later to be Vice-Chancellor of the University of London – are among the first political theories that Freud took seriously. These traditions are attempts to search for, and recognize what is real: their programmes represent an attempt to value a 'love of the real', and to transform it into organizational structure and everyday activity. Contrary to Plato's claim, the State has neither the right nor the ability to determine the content of science, and this holds too – *a fortiori* – for the domain of psychoanalysis. A light touch is often called for when it is a question of relating professions to the State. Locke proposed a nightwatchman role for the State: but it is when this nightwatchman claims to be awake, and insists on interpreting his own and other people's dreams, and, moreover, appoints himself the guardian of such work, that real difficulties begin. The misery in the world is increased rather than mitigated through regulation by administrator.

References

Etchegoyen, R. H. and Miller, J.-A. (2004) 'Dialogue à Buenos Aires', *Ornicar?, Revue du Champ Freudien*, 51: 49–60.

Freud, S. (1933a) *The Question of a Weltanschauung. New Introductory Lectures on Psychoanalysis, Lecture XXXV*, in J. Strachey (ed.), *The Standard Edition of the Complete Psychological Works of Sigmund Freud*, 22: 158–182. London: Hogarth Press.

Gillan, A. (2004) 'Psychoanalysts line up for psychotherapeutic row', *Guardian*, 9 June.

Guttenplan, D. D. (2004) 'Calling all ids: Freudians at war', *New York Times*, 29 May.

Hale, N. G. (ed.) (1971) *James Jackson Putnam and Psychoanalysis*, Cambridge, MA: Harvard University Press.

Lords' Hansard Report of UK Parliamentary Proceedings for 19 January 2001, and for 21 February 2001.
Murdoch, I. (1970) *The Sovereignty of Good*, London: Routledge.

PART II

AMENDMENT 336

Amendment 336

Extract from the *Journal officiel de la République française*, Thursday, 9 October 2003.

NATIONAL ASSEMBLY

Parliamentary Debates of Wednesday 8 October 2003[1]

Suspension and resumption of the session. Presided by M. Rudy Salles. Public Health Policy. Continuation of discussion on a governmental bill.

M. LE PRÉSIDENT. 'Two amendments have been referred to me, Nos. 71 and 336, second rectification, both of which can be opened up to a joint discussion.

'Amendment No. 71, presented by M. Dubernard, a reporter, and M. Accoyer, is worded as follows:

'"After article 18, insert the following article:

'"After article L. 4111–7 of the public health code, an article L. 4111–8 is inserted, which reads as follows:

'"*Art. L. 4111–8*. The psychotherapies are medico-psychological treatments for mental suffering. As with any therapeutics, their prescription and their implementation may fall only to professionals qualified in psychiatry, to clinical psychologists, and to doctors who have undertaken the required training. Professionals not holding these degrees or qualifications who have been practising psychotherapies for more than five years at the date of promulgation of the present law will be able to pursue this therapeutic activity, after evaluation of their theoretical and practical knowledge by a jury composed of university lecturers and

professionals whose composition is fixed by a decree from the *Conseil d'État*."

'Amendment No. 336, second rectification, presented by M. Accoyer, runs as follows:

'"After article 18, insert the following article:

'"i. In book II of the third section of the public health code, a title III is created, entitled, 'Special clauses, including a single chapter entitled "Psychotherapies".'

'"ii. In title III of book II of the third section of the public health code, law article L. 3231 is inserted, which runs as follows:

'"*Art. L. 3231*. The psychotherapies constitute therapeutic tools employed in the treatment of mental disorders.

'"The different categories of psychotherapy are fixed by decree from the minister of health. Their implementation may fall only to doctors or psychologists with the required professional qualifications fixed by this same decree. The *Agence nationale d'accréditation et d'évaluation en santé* (National Agency for Accreditation and Evaluation in Health Care) is assisting in the elaboration of these conditions.

'"Professionals currently in activity and not holding these qualifications who have been implementing psychotherapies for more than five years at the date of promulgation of this law will be able to pursue this therapeutic activity subject to the satisfaction, within three years of the promulgation of the present law, of an evaluation of their knowledge and practices by a jury. The composition, attributions and functional modalities of this jury are fixed by joint order of the minister for health and the minister for higher education."

'I give the floor to M. Bernard Accoyer.'

M. Bernard Accoyer. 'These amendments are in line with the work carried out within the commission for social

affairs and on these benches. They aim to secure the practice of psychotherapies.

'The psychotherapies are of various kinds but, above all, they can be conducted in France today without the least monitoring of those who declare themselves capable of conducting them. As strange as that may seem, there is therefore a lacuna in the law, which means that anyone can screw their plaque on the front of a building, assuming the title of psychotherapist.

'Those who undergo psychotherapies are more fragile than others, as they are in need of help, of psychological support. Yet, they may be subjected to diagnostic errors, they can be prescribed ill-adapted treatments, and the people they deal with might not identify more serious conditions that veer towards illnesses of a psychotic type, which presents a risk for both the sufferers and those around them.

'What's more, some commercial drifts have been observed. The interdepartmental team for the fight against sects has even identified sectarian drifts that constitute numerous dangers.

'It needs to be specified that psychotherapies may be implemented only by doctors of psychiatry or clinical psychologists with prior training.

'My amendment No. 336, second rectification, provides precisely for those people who conduct psychotherapies but who don't belong to these professions and who are without the required qualifications, allowing them to pursue their therapeutic activity on condition that they've been exercising it for five years and subject to the satisfaction, within three years of the law's promulgation, of an evaluation of their knowledge and their practices by a jury whose composition would be fixed by order.

'I should like, *monsieur le président*, to make a slight rectification to this amendment, by rewriting the second sentence of the second paragraph of the text proposed for article L. 3231 of the public health code as follows: "Their

implementation may fall only to doctors of psychiatry or doctors and psychologists with the professional qualifications required by this same decree".'

M. LE PRÉSIDENT. 'This amendment becomes then amendment No. 336, third rectification.'

M. BERNARD ACCOYER. 'These clauses are the culmination of extensive work which began under the previous legislature, with the then health minister, Bernard Kouchner, and his cabinet. This work hadn't been able to reach this culmination even though we weren't far from our goal.

'I would be very grateful, *monsieur le président*, if you would accept this amendment.'

M. LE PRÉSIDENT. 'What is the commission's opinion?'

M. JEAN-MICHEL DUBERNARD, *President of the Commission, reporter*. 'The commission is in favour of amendment No. 336, third rectification, amendment No. 71 being withdrawn.'

M. LE PRÉSIDENT. 'Amendment No. 71 is withdrawn. What is the opinion of the Government on amendment No. 336, third rectification?'

MINISTER FOR HEALTH, THE FAMILY, AND THE HANDICAPPED. 'Absolutely in favour!'

M. LE PRÉSIDENT. 'I give the floor to Mme Catherine Génisson.'[1]

MME CATHERINE GÉNISSON. 'Naturally, we'll be voting for this amendment, which is in line with a pursuit of "total quality control" and which, as M. Accoyer has said, fills a lacuna in the law.'

M. YVES BUR. 'It's not for want of its having been presented many times!'

MME CATHERINE GÉNISSON. 'As our colleague has rightly recalled, the work had been largely undertaken during the

previous legislature. But a certain number of events occurred – the minister who'd initiated this work wasn't re-elected and has been replaced by another minister who's given a very favourable opinion on M. Accoyer's amendment. We can only subscribe to this clause, which is in line with a "total quality control" that protects a particularly fragile part of the population.'

M. LE PRÉSIDENT. 'I put amendment No. 336, third rectification, to the vote.'

The amendment is passed.

Note

1. M. Accoyer is UMP deputy for Haute-Savoie; M. Bur is UMP deputy for Le Bas-Rhin; M. Dubernard is UMP deputy for Le Rhône; Mme Génisson is PS deputy for Le Pas-de-Calais; M. Salles is UDF deputy for Les Alpes-Maritimes. The amendment is reputed to have been voted in unanimously. Furthermore, M. Accoyer confirmed to me during our debate of Thursday 13 November on the Radio *France-Culture* broadcast '*Tout arrive*', that his name is pronounced, not 'A-kwa-yé', but 'Ako-yé'. Why? I wondered. I queried this the evening of that same day with an eminent linguist, my friend Jean-Claude Milner, who soon after addressed a scholarly *notule* entitled 'Pronunciation', which I reproduce here with his authorization. – JAM

   'In the combination 'oy', the letter 'y' generally takes on the value of a double 'ii'; the first 'i' combines with the preceding 'o' and notes, as would the graphic combination 'oi', the diphthong /wa/; the second 'i' notes a semi-vowel, as occurs in *mien*, *tien*, *sien*. Thus today we pronounce the first syllable of *royal* like *roi*, whereas the second rhymes with *impérial*. But the 1694 *dictionnaire de l'Académie* recommended a different pronunciation; the letter 'y' used to take on the value of a single

'i', noting a semi-vowel, and the 'o' maintained its usual pronunciation. The first syllable of royal used to be pronounced like [the French] *rot* and not like *roi*. 'The former pronunciation was still attested in the time of Littré, who points it out; it has been conserved for some words such as *oyat*, *goyave*, and for the forms of the verb *ouïr*, *oyant* and *oyez*.'

PART III

LETTER TO BERNARD ACCOYER AND TO ENLIGHTENED OPINION

J.-A. Miller, Psychoanalyst, to Bernard Accoyer, Deputy for Haute-Savoie, Mayor of Annecy-Le Vieux, Co-President of the Commission for Cultural, Familial and Social Affairs and Vice-President of the UMP Group of the National Assembly, etc.

Paris, Monday 17 November 2003

Truly, guided by a good bird I never was.
Du Bellay

Why should it be, *monsieur le député*, that I have something to say to you? What common language can we speak? How are we to hear one another? And what is there between you and me?

You need to be answered, however; you yourself are the one who is forcing me to do so. Had you merely expressed your wariness of psychoanalysts, I would have let you be: but you mean also to regulate psychoanalysis, and you claim to evaluate its practitioners; the representatives of the nation have fallen in behind you in their entirety; and the more authority you have among men, the less it is permitted that I silence myself when you mean to compromise psychoanalytic discourse and enchain those who serve it.

THE WAKE UP

On Saturday 25 October, the front page of the newspaper *Libération* gave the alert to the entire 'psy' population and threw it into a state of alarm.

Éric Favereau had told me of the existence of your amendment two days before. In response, I had entrusted to him a page of mockery, singling out the latest avatar of the 'Strategist-State', and promising evaluation to the evaluators, in the tradition of he who is hoisted by his own petard. As chance had it, the psychoanalytic association to which I belong, the *École de la Cause freudienne*, was then holding its annual study days at the Palais des Congrès, dedicated this year to the clinic of the short session. The corridors were buzzing with nothing but this news. The ordinary general meeting of the *École*, which was taking place on the evening of that same day, adopted an unequivocal position.

The following day, the 1,500 participants of the Congress, practitioners from France nationwide, from Belgium and French-speaking Switzerland, welcomed our 'No to M. Accoyer', with an ovation the like of which had never been seen in this milieu where one deals in a certain impassivity. The various European delegations, the president of the World Association of Psychoanalysis, who is from Latin America, pledged their solidarity.

That was only the beginning.

CLÉRY-MELIN

While I was asking her for her feelings about your amendment, one of my students, a psychiatrist–psychoanalyst, Mme Sophie Bialek, replied that it did not seem to her without relation to a text she had just been acquainted with, a report from a certain Doctor Cléry-Melin. He and his collaborators had, it seems, found themselves entrusted in March of this year, by the Minister for Health, with the mission of proposing 'a plan of actions [*sic*] to reorganise

the supply of psychiatric and mental health care', which the Minister was intending to turn into the basis of a 'general plan on Mental Health' that would be adopted in the first quarter of 2004, once the associations of psychiatrists and the patients' associations had been consulted. An official communiqué on 2 October testified to this.

It did not take me long to understand that the Cléry-Melin document was in fact striving to change the mental health system in France from top to bottom. One would no longer have to formulate a 'demand for analysis': how would the man or woman in the street know that they needed a psychoanalysis, or even a psychotherapy, and not simply one or two pills? No, the State would be failing in all its duties were it no longer to leave the choice of therapist to the initiative of the subject, to leave the subject at the mercy of scoundrels, of charlatans without qualifications, claiming to cure by speech, you might as well say by the operation of the Holy Spirit. A police state wants other ways. Has it ever been seen that a sick man may know the treatment suited to his case? When sick, a doctor, if he is wise, goes to see a fellow doctor. Procuring experts for the public with the legal capacity to interpose themselves between analyst and analysand, therapist and *therapied*, will henceforth be the regalian prerogative. If one is 'not so well in one's head', one will henceforth have to present oneself to an evaluator approved by the State; he will proceed to the assessment of your case; he will indicate the therapy best adapted to your case, medicinal or psychotherapeutic; in psychotherapy, three options: psychoanalysis, cognitive-behavioural therapy, systemism. He will recommend serious therapists to you.

The icing on the cake. The text upon which the Minister is resolving to re-found the mental health system in France openly organizes the stagnation of the public psychiatric service: 'there will be no increase in beds in the public sector'. It is, in a way, the national health map the wrong way round.

'MANNA FROM HEAVEN, A GODSEND . . .'

I mailed the strange document on to another of my students, Mme Anne Debruyne-Ganivet, whom I know to have run, over ten years, several private clinics specialising in psychiatry. She analysed this dense text for me, and confirmed all my fears.

She remarked to me that the plan foresaw that, 'certain regions lacking in private supply will be able to be balanced out': 'That means,' she told me, 'creation of private clinics. The report specifies that the private establishments will be able to develop alternatives to full time hospitalization: all the activities that carry a charge will therefore be open to the private sector, hence bigger profits. At the same time, the market will be limited to those establishments having signed an agreement with the ARH, the *Agences régionales d'hospitalisation*: the market will therefore be a protected market.

'Yes, the Cléry-Melin "plan of actions" will go quickly, very quickly. On page 29, it was asking for "the implementation of a tariff system consistent in nature with the restoration of financial balance". Its wish has been granted as of Thursday 30 October, when the National Assembly adopted article 20 of the bill for National Health Service financing, according the private sector tariffs identical to those of the public sector for any given procedure, without, moreover, requesting any return as regards teaching, research, emergency, nor even the reception of the most impoverished, etc., all domains in which the public sector, for its part, is held to act. The impact on the price per day will have to be calculated, but I believe I can tell you already that this is an unprecedented financial godsend for the private clinics. Have you read what M. Mattéi said about the Cléry-Melin plan in *Le Monde*? "An adventure is beginning".

'To finish off, can you imagine that in the past I accompanied the first steps of Philippe Cléry-Melin in the direction

of the private psychiatric clinics, of which he has since made his profession.'

'Manna from the heavens, a godsend . . .' I knew enough about it on Tuesday morning to quickly address an e-mail to Edwy Plenel. I had the delight of seeing it no later than the following day on the front page of *Le Monde*, without a single cut.

YOU AND ME

Furthermore, on Monday, Jean-Pierre Elkabbach had proposed to me two debates with you, *monsieur le député de Haute-Savoie*: Thursday on the television channel of the Senate, '*Public Sénat*', of which he is director, and Friday on Europe 1.

At the *Palais du Luxembourg*, I walked up to you with my hand extended, having taken the trouble to consult the online register of deputies' 'mug-shots'. That the representatives of the French people admit to having a 'mug' is a charming trait that makes one love the Republic. You were certainly an ENT specialist cherished by his patients, and when you say, carefully articulating each syllable, '*sé-cu-ri-ser le publique*,' we can hear that butter doesn't melt in your mouth.[1] People believe you, it's a gift you have. This is to tell you that I wouldn't dream of suspecting your good faith.

I believe you sincere, concerned for the good of the public, and anxious to attach your name to a reform that would be useful to the French people. At the assembly, you won over everyone's heart. And the socialist deputy for *Le Pas-de-Calais*, she couldn't find enough words to compliment you, and your amendment was adopted under the debonair presidency of the UDF deputy of *Les Alpes-Maritimes*.

We had hardly shaken hands when you pronounced the name of Bernard Kouchner: 'I subscribe to the same line,'

you told me. And no doubt the backing of France's most popular politician according to the polls would not be nothing to you. He will certainly have to take a position. I wouldn't know how to predict what he'll say.

Monsieur le député de Haute-Savoie, it is no small thing for a psychoanalyst, a man trained to receive people one by one for short sessions in his office, as the practice of psychoanalysis that proceeds from Lacan has it, it is no small thing for a university lecturer, which I am also, more familiar until now with libraries and amphitheatres than playgrounds and studios, to interpellate such a distinguished member of the nation's representatives and suggest to him that perhaps he has not been well informed. Believe me that I am measuring my audacity, and that I would not have ventured to do this had I not been led, driven to do so, by the present turmoil of the 'psy' milieu, and above all by concern for the good of the public.

To this may be added the gratitude that attaches me to psychoanalysis, the benefits of which I have been able to experience in my own person. There is, finally, the feeling of what I owe to the memory of Jacques Lacan, who was not only my master, but who received me into his family. All of this means that I have a duty to address myself to you.

I do it alone, without affectation, in my own name, engaging no one but myself. But I am not at all alone, since, as I told you, the members of the *École de la Cause freudienne* are with me, and now the 'Forum of the Psys' and the 'Movement of 15 November'.

As for our colleagues from other psychoanalytic associations, if most of them have so far conserved the 'wait and see' attitude they are well accustomed to in their practice, it is certainly because they have not fully understood what is at issue, because they have been prompted to dissociate themselves from the other psys, and because some were obsessed by the prospect of occupying places – an old French passion – on your juries of 'evaluation–accredita-

tion'. Now that the light is starting to peep through, I don't think you can hope that they will accept the Accoyer–Cléry-Melin strategy without resistance. We shall see at the end how many come out for you.

This word 'psy': in truth I still abhorred it not so long ago, but so far as language is concerned, one does not go against the vast murmur, the *vox populi*: in order to be understood, you have to speak the Other's language. Since the psys are being laid into with no half measures, since the masses are being stirred up against the charlatans who would infest their ranks, since a veritable manhunt is being launched, well, don't count on me to prove that I am acceptable, and sell out my brothers while praising the excellence of my own house as some do without scruple. Slandered together, the psys will not be divided as had been anticipated, but shall defend themselves together, and together will they respond.

The psys owe their unity to you, monsieur Accoyer.

THE GREAT MINDS

I confess that I am not that well acquainted with the workings of the State, just as you do not claim, *monsieur le député*, to be an expert in psychoanalysis. The legislator whom I respect in you could not know everything of the matters on which he votes, and he solicits every possible qualified opinion. Then he comes to a decision in the name of the French people. Therein lies the greatness of his act.

You are confident, so you said, that you have 'the community of scientists and lecturers' behind you, as well as 'the highest authorities in psychiatry, in clinical psychology, and in psychoanalysis.' And from where, *monsieur le député de Haute-Savoie*, did you learn this? You said it before the cameras of the Senate: for having presided, on 23 March 2000 at the National Assembly, a symposium where you were told that all whom France could count

among her greatest minds as far as mental health is concerned were to be found. You said so and you believed so, I am persuaded of that. Well, *monsieur le député*, let me tell you, with all the respect that your position inspires in me, that you are mistaken, or else you have been misled.

What you presided over three years ago, three floors down in the basement of the *Palais-Bourbon*, was a confidential symposium, accessed solely by invitation, and whose existence was unbeknown, if not to all, at least to the greater majority. Nothing of it has filtered through in these three years, nothing of it has been published. Only 150 privileged people attended. This does not bode well, you will admit, for the way in which the juries of 'evaluation–accreditation' would be composed, those juries that you intend to constitute if your amendment passes beyond the senatorial level.

It has taken nothing less than the present turmoil for the proceedings of this symposium to be found on the Internet by many of my correspondents. We will gladly publish these proceedings, *monsieur le député*, if you don't mind, and with commentaries, for the edification and the entertainment of the public. In the meantime, it seems to me that the leading experts behind whom you believed you could shield yourself are being noted for their discretion, and are leaving you well alone in the storm.

Do not see an enemy in me, nor even an adversary, if I tell you that, all in all, you are making a mistake. You do so in good faith, I give you credit for that. It is true that Jacques Lacan, who sometimes evidenced a certain intellectual terrorism, wrote that, 'the error of good faith is of all errors the most unforgivable'**.** But hey! Is what is true in psychoanalysis necessarily so in politics? It may be that good faith has the value of an absolutary excuse in your discipline.

You will tell me, *monsieur le député de Haute-Savoie*, or rather your friends will tell you. I have no skills whatsoever on that point.

TO CREATE BY DECREE

On opening that symposium of Spring 2000, you confessed to having been alerted the previous year by one of your correspondents – M Martinet, a psychologist, he himself came forward with his name, and wanted to specify that he had set you in motion by the sending of a fax – to the existence of a lacuna in the law 'which means that, as you well know, there is no legal framework in France for defining the usage of psychotherapies.' This lacuna appeared dangerous to you, you rolled up your sleeves, and undertook to fill it in.

Back on 13 October 1999, you submitted a bill to the National Assembly relating to the prescription and the conduct of psychotherapies, no. 1844, co-signed by 81 deputies, which aimed at 'reserving the usage of the title of psychotherapist for those people holding university degrees, since, currently, anyone who wishes may screw up his "psychotherapist" plaque and claim to "treat".'

Now, this text is tangibly different to amendment 336, second, then third modification, which you presented to the approval of the Assembly on 8 October this year.

In April 2000, in your bill, the psychotherapies are 'medico-psychological treatments for mental suffering'; and it is stipulated: 'Like any therapeutics, their prescription and their implementation may fall only to qualified professionals: doctors qualified in psychiatry and clinical psychologists.'

In October 2003, the psychotherapies are henceforth 'therapeutic tools employed in the treatment of mental disorders'; they constitute specialities distinct from one another, and you leave it to a decree from the Minister for Health to define both these specialities and the professional qualifications that these specialities require: 'The different categories of psychotherapy are fixed by decree. Their implementation may fall only to doctors or psychologists with the required professional qualifications fixed

by this same decree.' Furthermore, the famous ANAES makes its appearance: 'The *Agence nationale d'accréditation et d'évaluation en santé* is assisting in the elaboration of these conditions.'

In other words: in 2000, the psychotherapies formed one same speciality, which any psychiatrist or clinical psychologist was supposed to be apt to practise; in 2003, the psychotherapies are multiple, they are simple 'tools'; being a doctor or psychologist is a necessary condition, but no longer sufficient to manage them; hence the recourse to the ministerial decree to constitute as such both the scientific categories and the practical skills. It is a creationism by decree, a 'decreation', if I may say so.

What is constant from 2000 to 2003 is the formation by decree of juries of evaluation–accreditation that will judge the files of those who are called throughout your symposium the 'neither-nors', neither doctor, nor psychologist.

In this way then, you, legislator, place in the hands of the Minister a power to decree that you extend so far it ends up covering everything. To the point that a layman like myself, who is ignorant of the ways and customs of Parliament, ends up wondering whether it is really a law, and whether it would not be rather a case of the pure and simple surrendering of legislative power to executive power. Certainly, the power conferred on the Minister is not discretionary, since the decree is taken up by the *Conseil d'État*, and since it thus remains subject to its censure. None the less, it is disconcerting. Disconcerting, I'm not saying any more than that.

Is that it then, the role of our deputies? I must seem a trifle candid to you.

THE 'OR' AND THE 'AND'

Something else is bothering me.

8 October, on the point of putting 336 to the vote and obtaining the triumph that we know about, you request, at

the last minute, and you obtain, a final modification of a detail concerning the second sentence of the second paragraph of article L. 3231.

In 336, second modification, this sentence said that the implementation of the different categories of psychotherapy fixed by decree from the minister 'may fall only to doctors or psychologists with the required professional qualifications fixed by this same decree'**.** Now you want: '. . . may fall only to doctors of psychiatry or doctors and psychologists with the professional qualifications required by this same decree.' What is the difference?

Before, the psychotherapies are the prerogative of 'doctors or psychologists'; after, the prerogative of 'doctors of psychiatry or doctors and psychologists'**.**

How curious! The psychiatrists, mentioned in the 2000 text, and who had disappeared in 336, second modification, resurface in 336, third modification. They escape the regulatory power of the Minister now; the legislative text protects them and recognizes their skills.

Second difference: in 336–2, the psychotherapies are administered by 'the doctor or the psychologist'; in 336–3, by 'the psychiatrist or the doctor and the psychologist'**.**

No, written thus, it is not clear. Should there be brackets: (the psychiatrist) or (the doctor and the psychologist)? Or should we even, to spin out the mathematical metaphor, set down the equivalence:

1 Psychiatrist = 1 General Practitioner + 1 Psychologist

Should it be understood that, according to the amendment that you have succeeded in getting voted by the unanimity of the Assembly, UMP, UDF, PS, PC, and *tutti quanti*, every psychologist is reckoned to be incapable of carrying out any psychotherapy whatsoever, if he is not coupled with a doctor, that is to say, if he does not practise under strict medical surveillance? What is beyond doubt is that you want everyone to have obtained a prior accreditation – and from what juries, my God?

Do you know, *monsieur le député de Haute-Savoie*, what you have done with your *ands* and your *ors*? And, more serious, what you have made the entirety of your National Assembly colleagues do? Do you know that with an *and* or an *or* placed this way or that, you turn the professional lives of thousands of practitioners upside down? That you upset the everyday lives of tens of thousands of patients? That you light the fuse if not of a revolution, at the least of a social dissidence?

You make me think again of *Le nozze di Figaro*:

THE COUNT: Does it say *and* in the act, or *or*?
BARTHOLO: It says *and*.
FIGARO: It says *or*.
BRID'OISON: Dou-ouble-Hand, read for yourself.

A REAL THAT LIES

The successive palinodes that have punctuated your legislative work over the last four years – the October 1999 bill, then amendment 336 first modification, second, third, and . . . *bingo!* – have led precisely to this: the unprecedented legislative triumph of the least enlightened faction of medical opinion.

France is no doubt the only country in the world where the medical authorities have not resigned themselves to sharing their ancient sovereignty over therapeutic speech with anyone. This one idea is anathema to the major institutions of the Corporate Body: the *Académie de médecine*, the *Ordre des médecins*. They stubbornly hold, and against all likelihood, that every doctor, and *a fortiori* every psychiatrist, is naturally a psychotherapist.

The thesis, or the postulate, would fuel a lengthy *disputatio*, had we the time.

It is correct that medical intervention has always been psychotherapeutic, it might not have been anything other than that at the beginning. 'Always' says Lacan, 'medicine hit(s) the bull's eye with words.'

This is what Molière put on the stage: a medicine that is nothing but rhetoric, a scholastico-humanist art, proceeding by the citation of major authors, by prestige, by suggestion, intimidation. If this drivelling chatterbox of a medicine made seventeenth century France laugh, it was because the age of science was beginning, and the Zeitgeist, the spirit of the time, sensed the ridiculousness of this ancient medical discourse, aspiring already, without knowing, to seeing it become scientific, which was only accomplished in our time, the innumerable benefits of which we welcome.

This medicine that chatters, a medicine of pure prestige and conjuring, was still vivid enough after the First World War for Jules Romains to have embodied it in the immortal character of Knock, revisited not so long ago by Fabrice Luchini at the Théâtre de l'Athénée, and I was there applauding. People are still laughing; they are laughing more than ever at the 'Does it tickle or does it prickle?' but do they laugh at the modern doctor? Certainly not. For all the time that they haven't been speaking, or not much, or not enough, but calculating in silence, the great doctors haven't been making people laugh, it even happens that these benefactors make people afraid, which is the limit. No, Knock, today, would be Freud instead, even Lacan. See for example Terry Johnson's crazy *Hysteria, Fragments of an Obsessional Neurosis*, recently played in Paris with direction from the marvellous John Malkovich. All this to say that, now that medicine has become something so serious, psychoanalysis, or the psychotherapies, have taken on the major comic roles of the medical repertoire.

What medicine, having become scientific and technological, bears so badly in psychoanalysis and its emancipated offspring, is the rediscovery within them of the trimmings and the splendour it was stripped of when it was beaten by a desire until then unknown to it, the desire of science. What medicine cannot bear in psychoanalysis, is that which it was and which it is no longer, its art of saying,

of saying-well, of 'half-saying' (Lacan), and this narrow winding path between truth and lie, imposture and authenticity, which has always made for the drama, or the tragicomedy, of speech.

Medicine has renounced the powers of speech, it purses its lips, it has become mute. It expects nothing, or very little, from what the patient might say, cry, stammer or murmur. On the other hand, it is employing a growing ingenuity in interrogating the real of the body, and this real responds in mathematical language, in figures, in formulae, in knowledge.

The real doesn't lie; the subject does. To decrypt, to 'sequence' the human genome, whom can you speak to? It's a question of executing the procedures as quickly as possible, with an eye on your rival who is doing the same – and who gets the patent? It's not hard to understand that medicine seized by, or even stripped bare by scientific discourse, thereby liberated a space that psychoanalysis came to occupy, and then, in turn, the psychotherapies. It is the logical sequence of the scientification of medicine.

Is the domain of psychoanalysis merely mirages and lies? Is hysteria merely simulation? Is the analyst merely a charlatan? That is what the scientist doctors believed, and believe still. Do they believe it more than ever, or, justly, a bit less? I don't know. What I do know and test every day, is what Freud discovered, 'evaluated–accredited', to speak the lingo of 'total quality': the consistence and the impossible-to-bear of the pure suffering-of-thought. Lacan put it differently: that the analyst too, like the scientist, deals with the real, but it is a different real, new and strange: the real of the scientist always tells the truth, not so the psychoanalyst's real. It is a real that lies.

Curiously, since Max Planck, the real of the scientists has also been starting to lie, hence Einstein's horror of quantum mechanics (see the fine article by Mme Françoise Balibar, due to appear in the forthcoming issue of *Ornicar?*).

THE MEDICAL MONOPOLY

Is the Corporate Body lying? Let's say that contradiction doesn't put it off.

Its problem is as follows: how can the training of psychotherapists be controlled without recognising that this training exists? Well! The Corporate Body sometimes says: 'There is no training that holds good as concerns psychotherapy, if not medicine; every doctor is a psychotherapist in function or in essence.' But, if need be, it also says: 'Our doctors receive a training in psychotherapy, which trains them perfectly in this practice, even if this teaching only numbers a few hours per year.' Finally, it says: 'It is perfectly possible for us to deliver an adequate training in psychotherapy to non-doctors and to control that training.'

The third and final modification to amendment 336, voted unanimously on 8 October, is being made to give full satisfaction to the august Pichot, glory of French psychiatry. The master, with the support of Professor Allilaire, who took the floor at your symposium, *monsieur le député*, drafted a report on this topic, dated 11 April of this year, and adopted by the *Académie de médecine* during its session of 1 July, unanimously – really! – minus two abstentions.

But did the Academicians even read it? Psychiatry has always been the poor and despised parent of medicine, its freak of a cousin, and it only gained its independence from neurology in the aftermath of May 1968. This handsome report we shall also publish, *monsieur le député*, and we shall give it some publicity. One can read here that, in every case, psychotherapy must 'be the object of a medical prescription, the doctor being responsible for the diagnosis, the choice of treatment and its evaluation'.

Could one not fail to see how these prestigious cautions must have impressed the modest ENT practitioner that you were, *monsieur le député de Haute-Savoie*?

However, the powerful legislator that you now are might recognize that in having the psychoanalysts and the

psychotherapists pass under the yoke of the Medical Corporate Body, France is isolated from all its neighbours in Europe. It is true that none has the good fortune to have so powerful a Corporate Body to its credit.

I too am fond of the French exceptions, but it seems to me to be preferable for them to be exemplary, for them to show the paths to the future rather than wearing themselves out constructing defences to hold back the Pacific. The psy phenomenon is a phenomenon of civilization; all the European countries recognize as much, or will.

On the other hand, the amendment that bears your name in the press and in public opinion, the Cléry-Melin 'plan of actions' that complements it, the *Livre blanc de la psychiatrie* and the academic Pichot-Allilaire report that approves it, all this tasteless literature converges in one same result: the authoritarian imposition of medical monopoly.

A DANTESQUE DISASTER

Do you really want, *monsieur le député*, to attach your name to the reconquest of the domain of the psychotherapies by a Corporate Body, respectable certainly, but which in the end cannot wind back the clock of history?

To impose point-blank medico-psychiatric monopoly or supremacy as far as psychoanalysis, psychotherapy, and clinical psychology are concerned, would, for the State, amount to the head-on opposition of a phenomenon of civilization that is in all likelihood irreversible. It would be to provoke a veritable revolt, going from the 'bourgeois bohemians' to the working-classes. It would be to go against the flow of the harmonization of European legislation. Moreover, to over-regulate and re-medicalize the psy domain would produce serious difficulties in the treatment of concrete situations, I'll demonstrate that another day.

Let's imagine that your heart hardens and that the senators deem it impossible for them to go against the

unanimous deputies. Imagine then that the *Conseil d'État* does not refuse this text that one eminent jurist told me was 'insufficiently justifiable'**.** Let's imagine finally that the implementing decrees get taken on, by this government or by another, left-wing or right-wing, in spite of the maquis of appellations and the 'polysemy' that infects all the terms in play, to take up Dr Olbrecht's expression, adviser to Bernard Kouchner when the latter was in charge of Health. In short, let's suppose hypothetically that your amendment takes on the force of law. What happens then?

It's *grande terreur* for the psys. The famous 'plaques that anyone can screw on to their door' are unscrewed at the double. Many of them, having become illegal practitioners overnight, will go underground, and, given their number, will naturally be tolerated. Others will hasten to make new plaques with new appellations. They will henceforth call themselves:

Psycho-advisers?
Psycho-synthesizers?
Psycho-abracadabras, certified by the Faculty of Hocus-pocus?

As for the psychoanalysts, they will register on the side of 'counselling', as distinct from healthcare, and parallel networks will be constituted in order to bypass the 'regional psychiatrist co-ordinator' and the approved evaluator.

So it is that the zone of psychotherapies, which was hitherto unregulated by the State, becomes frankly a zone of no-law.

The situation is no better in the regulated sector. The inevitable creation of reimbursed 'psychotherapeutic treatment' for accredited clinical psychologists as exists already for the psychiatrists will put all the more strain on the social security budget. The Minster in office is thus obliged to continuously revise the conditions of access and the modalities of psychotherapies, to restrict their cost.

Stagnation of the public sector, increased number of private clinics, as we have said. The strict definition of 'good practices' has as its first effect the proliferation of malpractice lawsuits, as in the United States. And so on.

Do you really want, *monsieur le député*, the name of Accoyer to be associated with this Dantesque disaster?

INSTRUMENTALIZATIONS

The ancient regulatory pruritus of the French, when it encounters a phenomenon of civilization, would only give very poor results. But the national quirk is not in question. One day I'll speak to you, or one of my colleagues, Professor Maleval, will speak to you of the three major hysterical epidemics triggered in the United States in the 1970s by the reign, uncontested over there, of quantitative evaluation: many tens of thousands of patients affected, with sometimes serious legal and social consequences.

That's not all.

You see, it seems to me, *monsieur le député*, that your initiative – in so many respects commendable and sympathetic, and which has the merit of having brought into the public arena the problems of a sector too often neglected by the administration, save the spectacular circumstances that reveal how the accountant's logic that is suffocating psychiatry has, after all is said and done, an elevated social cost – that your initiative, I say, has been instrumentalized by various interests.

I will cite, just for the record, the hope that you gave to the epidemiologists and neuroscientists that they might finally introduce their methods into psychiatry, even though 'this choice is in opposition to the position taken by the majority of practitioners, expressed during the recent *États Généraux de la psychiatrie* in June this year: the quantitative methods of evaluation promoted by the neurosciences are unsuitable for clinical practice, and treat its

theoretical fundaments with disdain' (Sophie Bialek and Pierre Sidon in Monday's *Marianne*).

Neither shall I dwell on the satisfaction that you give to the private clinics through the intermediary of Doctor Cléry-Melin.

There are more serious things. Giving your all to your combat against the sects, you are neglecting the major pharmaceutical groups. What else could they desire other than to bring to heel, to compromise, to suffocate, all those practices that are employed to treat mental pain without medicinal prescription? There you have their eternal, logical ambition, in keeping with their *conatus*.

These are very powerful economic forces, intellectually dogmatic, without concession in the quest for maximum profit. For years they have been exercising a constant pressure on the psychiatrists and the general practitioners to lead them to prescribe psychotropics, and on the public to lead it to desire the medicinal prescription. The volume of anti-depressants prescribed is already two to four times higher in France than in neighbouring countries; the French have the sad privilege of being the biggest consumers of psychotropics in the world, why stop when making such good headway? Why not 'have a big clear up', and sweep away the last obstacles? Namely, psychoanalysis and the psychotherapies.

The legislator that you are, *monsieur le député*, certainly knows that the pressure from these interests is also being exerted upon the authorities: they are doing their best to convince them that depression is under-diagnosed and under-treated, they are calling for the launch of educational health campaigns aiming to convince the public of the virtues of medication, they are requiring that the rate of reimbursement of anti-depressants be maintained, higher in France than neighbouring countries, while restrictions are scheduled for all the posts in public healthcare.

Transposing the concept of 'health studies' to the psy domain, due to Alain Juppé, was already an aberration.

Was it really reasonable to count on a report from INSERM (submitted at the end of this year) to define 'good practices' in psychoanalysis, and attempt to outlaw Lacan's short session?

A PATHOLOGY OF DEMOCRACY

I have tried to explain to you, *monsieur le député*, that there are more things in the 'psy world' than a lacuna in the law to be filled in.

Alain-Gérard Slama laughed, this Thursday on *France-Culture*, where I was the guest of Nicolas Demorand, at the haste, so very French, to search out lacunae in the law and fill them in. As for Yves-Charles Zarka, director of research at the CNRS, who teaches modern political philosophy at the *Université Panthéon Sorbonne*, last week I shared with him, at Lille's celebrated '*Citéphilo*', a round table discussion dedicated to the theme 'Psychoanalysis and Politics', and I heard him qualify the way in which your amendment was voted in unanimously by the National Assembly, without prior public debate and without mention of the Cléry-Melin 'plan of actions', as a 'pathology of democracy'**.** At the 'Forum of the Psys' he developed an analysis of arbitrary legal power which gripped the audience, and which allowed the psys to understand what they were dealing with. Not all the sectors on the way to being reconfigured, and harshly so, have the faculty of making themselves heard.

If you will allow me, *monsieur le député*, to make an incursion beyond my field of competence into your own, I will tell you that the episode of your amendment will stick in everyone's mind as the example of what not to do in politics.

As painful as particular cases may be – and it is necessary that those responsible for criminal actions be pursued ruthlessly – statistically, the psychotherapeutic risk is infinitesimal. It is being trumped up, the threat is being

spectacularized. Those who find in the psy, even the barely competent psy, a place of address and reassurance, are being thrown into a panic; the therapists are being tarnished; patients and their close ones are being put off; and from one close one to another, that's everyone.

Furthermore, one is letting oneself be manipulated by certain interests, certain appetites, even certain currents of thought, thrilled to be mobilising the might of the State against their rivals. Having wanted to act by surprise, but misreading the yield of real, intellectual and media forces, the extent of the emotion and vigour of the response have left them surprised.

To crown it all, one would like, I am told, to make a few allies by promising, already, places on the future juries of evaluation and accreditation, as in days gone by tobacco counters were offered out. Were that to happen, what credibility would these juries have in public opinion?

But I cannot believe that this will be: it would not be worthy, would it not, of the nation's representatives. They would only know how to censure such corrupt practices.

SAINT BARTHOLOMEW'S DAY FOR THE PSYS

A good many heavenly angels have come to help you in your enterprise, *monsieur le député*.

In 1999, it was the fatal fax from M. Martinet Didier, which alerted you to the existence of a 'lacuna in the law'**.** On 13 October of the same year, you submitted your bill from the eighty-one deputies, designed to fill it in. The argument of the 'plaque screwed on to the door' makes its appearance.

But this law would initiate medical monopoly. So, people take an interest in you, take you in hand, educate you. The excellent Cournut, no stranger to the readers of my *Lettres à l'opinion éclairée* (Seuil, 2002), puts you in contact with Christian Vasseur. The choice is of an exquisite delicacy: he's 'someone from back home'**,** 'from the same

valley' as yourself, and a bitter, disappointed Lacanian. You abandon your first project, and in the aftermath, your new mentor organizes for you at the Assembly the symposium of 23 March 2000, that you preside together, the two Savoyards, in the third floor basement. All the Savoyards are thought to be mountain dwellers. Some are potholers though.

One can read on the SPP site dated 6 November the following note, 'that has been addressed to us by Christian Vasseur, member of the *Société Psychanalytique de Paris* and president of the *Association Française de Psychiatrie*' under the title, 'Accreditation Committees':

> Since the beginning of the relationship with B. Accoyer, initially prompted by Jean Cournut, it has been clearly stated that the accreditation committee(s), particularly important for the psychoanalysts who are neither psychiatrist nor psychologist, will be open to psychoanalysts. The places will be hot, as not all the societies will be able to participate. For the time being, one of them must be reckoned essential since it is 'recognised as being of pubic benefit: the SPP. This is the argument that I have sustained over four years to B. Accoyer, the *Ordre des Médecins*, the *Académie de Médecine*, and commissions from the Minister for Health. It seemed to go without saying for all the interlocutors.'

Here, then, is how the neutralization of predictable opposition to the assassination of French psychoanalysis from the oldest psychoanalytic society in France has been thought through: by the granting of a few 'hot places' on miserable juries of evaluation, negotiated by an 'indispensable' who has been pacing the corridors of the Assembly, of the *Ordre des Médecins*, of the *Académie de Médecine*, and of the Ministry of Health, relentlessly for four years.

At the beginning of 2001, no less than fourteen work groups co-ordinated by Jean-François Allilaire were formed at the *Fédération Française de Psychiatrie* with a view

to drafting a 'blue book'; at the end of that same year, a work group on the practice of psychotherapy was created by the Permanent Secretary of the *Académie de Médecine*; its secretary: the same Professor Allilaire. This was also the year that the *Revue française de psychanalyse* slandered both me personally and the *École de la Cause freudienne*, then refused me a few lines of right to reply, provoking my ire and the distribution of my first letter 'to enlightened opinion', dated 3 September 2001. I must say that in the context that is now coming into view, the slandering of the ECF by the old *Revue* and its refusal to let me have my say is much easier to understand.

Who is this Jean-François Allilaire, who crops up time and again in this affair? He is not known to the general public, but he is a distinguished professor, pupil of professor Widlöcher and the late lamented Pierre Fédida. He is also the Secretary of the Société médico-psychologique, who publish the famous *Annales*; J.-F. Allilaire is personally in charge of them; Philippe Cléry-Melin is on the Editorial Board.

In 2003:

JANUARY: publication of the *Livre blanc da la psychiatrie*, co-ordinated by Allilaire.

FEBRUARY: letter from the Minister for Health, M. Mattéi, entrusting to Cléry-Melin the task of 'proposing a plan of actions targeting the reorganisation of the supply of psychiatric and mental health care' to be submitted at the end of May at the latest in order to be 'presented to the *États Généraux de la Santé Mentale* which will be held in Montpelier this coming June'.

APRIL: Allilaire finishes the drafting of the report from the *Académie*'s work group.

JUNE: meeting of the *États Généraux de la Psychiatrie* (name change); the participants reaffirm the primacy of the clinic and the subject; the Cléry-Melin report is not ready: it is not therefore submitted.

JULY: the *Académie* unanimously approves, minus two abstentions, the *Report on the Practice of Psychotherapy*, signed Pichot and Allilaire: psychotherapy 'must be carried out by doctors'; it can also 'remain open to non-doctors on condition of the validation of criteria of qualification duly controlled'; the future? 'The integration of psychotherapeutic and biological approaches'.

SEPTEMBER: Cléry-Melin submits his report to the Minister;

2 OCTOBER: communiqué from the Minister for Health, announcing that the Cléry-Melin 'plan of actions' will be the basis of a 'general plan on Mental Health', elaborated during the first quarter of 2004, after 'wide consultation bringing together the professionals and the representatives of all the modes of exercise of psychiatry (public and private) as well as the associations for patients and their families'; the 'plan of actions' is put on the Internet.

8 OCTOBER: vote of the *amendement Accoyer* by the National Assembly, voted in unanimously; there was no mention of the Cléry-Melin 'plan of actions'.

25 OCTOBER: *Libération* alerts public opinion to the *amendement Accoyer*.

29 OCTOBER: *Le Monde* publishes my 'opinion' entitled 'On the social utility of listening practices' on the front page.

30 OCTOBER: debate on the television channel *Public Sénat*.

11 NOVEMBER: Nicolas Demorand receives me on *Matins de France Culture*.

13 NOVEMBER: Marc Voinchet hosts the debate on *Tout Arrive*, on *France Culture*.

15 NOVEMBER: The 'Forum of the Psys'; distribution of the 'Psy Manifesto'; creation of the 'Movement of 15 November'.

One might say to oneself: 'What a fine weave! What a masterpiece!' I'm almost bearing a grudge against myself

for having knocked this fine edifice to the ground with the help of the media.

And I still haven't been able to evoke, for lack of information, the exact circumstances that governed the creation of the *Fédération Française des psychologues*, which seems to have been called upon to come to your aid. Will the psychologists allow themselves to be led astray by this subterfuge? – when the first reading of the Cléry-Melin plan reveals that, 'the people who would address themselves to psychologists practising as much in private consulting rooms as in health or medico-social establishments would have to submit themselves to prior psychiatric expertise by consulting a psychiatrist co-ordinator from a Medico-Psychological Territorial Research Centre, alone able to evaluate the validity of the request, to prescribe psychotherapy and to orient it toward the psychotherapist of his choice; it is only on these conditions that the psychotherapies could be covered by sickness benefit.' (Note from Michel Normand on the *Œdipe* web-site, 8 November 2003).

As for the position of my excellent colleague, professor Widlöcher, who resides, if memory serves, near Lion de Belfort, I'm not saying anything, since I don't know anything about it: he doesn't express himself these days, even though I regularly use his name each time I'm invited to speak on a radio or television channel. Certainly, there is a lot to do, being president of the International Psychoanalytic Association, whereas I handed over the presidency of the World Association of Psychoanalysis last year. It must be that.

The fact remains that I am rather proud that psychoanalysis should have rallied, so as to clap it in irons, so many leading experts and dignitaries, so many Savoyards and Academicians, so many colleagues some more Machiavellian than others, and that this prestigious assembly should have judged, in its wisdom, that it mattered to the designs of Providence that the *École de la Cause freudienne* and myself be kept well out of what was being prepared.

Who knows? Maybe we were destined to be the first victims of the massacre of the Innocents . . .

I believed that psychoanalysis was accepted, recognized, and even commonplace in public opinion. I am discovering with trepidation that it is nothing of the sort, and that it will thus be up to us to fight for it, as Freud had to in his time, and Lacan in his.

Thank you, *monsieur le député de Haute-Savoie* – even if everything is now making it appear that you were but the blind instrument, or perhaps one-eyed, of the other side of contemporary history.

PSYCHOANALYSIS, HOW MANY DIVISIONS?

I am being much less severe with you than many of my colleagues will be.

The State just took too long to intervene on the question, and it was no doubt fatal that it did so first of all in the wrong way, in view of the divisions in the professional milieu and its political incompetence, which is structural. The trouble has been created, people are speaking about it a lot, and are going to be speaking about it a lot more after this letter. A parliamentary select committee with public hearings wouldn't be a bad idea.

People in analysis, in therapy, feel threatened to the innermost. Expectation from the instigator of the plot, from the *Deus ex machina*, is growing. A problem in suspense for two decades is going to find a solution. The manifesto that I had approved on Saturday by the 'Forum of the Psys', convened in a few days by way of the airwaves and to which nine hundred people flocked, indicates a way and promises a counter-position.

It is a fact that the demand for the listening practices of the psys has not stopped rising over the last ten years; consultations for children are multiplying; the psy is now being expected to substitute himself for the forebear to assure the transmission of values and continuity between

the generations. The listening ear of the psy, qualified or not, constitutes the compassionate cushion necessary to the 'society of risk': the trust given obligatorily to abstract and anonymous systems gives rise dialectically to the need for personalized attention: 'I've got my psy', 'I've got my coach'. In the last year, the growing power of the psy has been confirmed in the press, in publications, on the radio, and soon on television.

Everything is indicating that mental health is a political stake for the future. Detraditionalization, loss of bearings, disarray of identifications, dehumanization of desire, violence in the community, suicide among the young, *passages à l'acte* of the mentally ill insufficiently monitored due to the state of shortage that psychiatry is having to endure: the 'Human Bomb' in Neuilly, the killings in Nanterre, the attacks against the President and the mayor of Paris. All this is unfortunately just the beginning (cf. USA). On this point, yes, we do need the unanimity of the nation's representatives that you have aroused around your amendment, and which, better orientated, could do better, by withdrawing this stake of public salvation from the usual quarrels of political life.

As for psychoanalysis, do not ask, *monsieur le député*, as in the past Stalin did of the Vatican: 'how many divisions?' 5,000 psychoanalysts is not nothing, no doubt, statistically. But it is also a strategic knot. Psychoanalysis is much more than psychoanalysis: it is constitutive, or reconstitutive, of the social bond, which is going through a period of restructuring probably without precedent since the industrial revolution. For half a century, philosophy in France (Foucault, Deleuze, Derrida) has been a dialogue with psychoanalysis (Lacan). The entire psy nebula gravitates around it. The training it requires, long and highly supervised in all the self-regulated associations, demands respect.

I honour the neuro-biologist Vincent for having said it, much better than I, on Franz-Olivier Giesbert's programme on France 3.

RESPECTFUL DUST

You shall read, *monsieur le député*, what I ask for, in the manifesto that I'm attaching. This manifesto has been circulating since Saturday evening, we shall see whether it meets with the approval of the large masses of the psy population. Accept that, in the meantime, your amendment shall be frozen at the Senate.

For myself, I maintain what I said at the beginning: I believe in your good faith.

I am more irritated when I consider the 2 October Communiqué put out by the Ministry of Health, and when I see M. Mattéi, coming out of a national catastrophe, concocting the reorganization of the entire Mental Health System in France whilst 'conferring' with a handful of psychiatric associations and patients' associations.

In mentioning that, two days ago at the 'Forum of the Psys', I felt my voice take on the vibrato of Jean-Jacques Rousseau's *Letter to Christophe de Beaumont*:

'May you discourse at your ease, you other men constituted in dignity! Recognising no other rights besides your own, no other laws than those that you impose, far be it from you to do the duty of being just, you do not even believe yourselves obliged to be human. Upon the least conventions of interest or state, you sweep us aside before you like dust. When you insult us with impunity, we are not even permitted to complain; and if we display our innocence and your wrongs, we are again accused of lacking respect for you.'

But hey! We're in a Republic now.

Sincerely yours, monsieur le député de Haute-Savoie,

Jacques-Alain Miller

Note

1. [Translator]: Miller's use of the French idiom, *'on vous donne le Bon Dieu sans confession'*, is the first of many allusions to M. Accoyer's Christian pursuasion.

PART IV

MANIFESTO

THE PSY MANIFESTO

Paris, 15 November 2003

We, the psys, who treat 'the demand that comes from the voice of the sufferer, of he who suffers from his body or his thought' (quotation from Lacan).

We, professionals from all the modes of exercise of psychoanalysis, of clinical psychology, of the psychotherapies, of public and private psychiatry, gathered together in a forum this 15 November 2003, in Paris, declare the following:

2 October, the Minister for Health announced in an official communiqué, 'the elaboration of a general plan on mental health' based on the Cléry-Melin 'plan of actions', preceded by a so-called 'wide' consultation bringing together 'the professionals and the representatives of all the modes of exercise of psychiatry (public and private) as well as the associations for patients and their families'. Which clearly means that there is an intention to exclude the professionals and the representatives of all the modes of exercise of psychoanalysis, of clinical psychology, and of psychotherapies from any consultation.

8 October, the National Assembly, Left and Right together, voted unanimously in favour of amendment 336, third modification, of the Public Health Code, known as the '*amendement Accoyer*' and this without opening a prior public debate, without consulting the professionals concerned, and without being itself informed of essential facts, one of which being the role that the Minister for Health intended to give to the Cléry-Melin 'plan of actions'. This vote constitutes in itself a 'pathology of democracy'.

The Communiqué and the amendment are two sides of one and the same project whose realization would

systematically bleed mental health in France in favour of private clinics, and would bring psychoanalysis and the psychotherapies to heel in favour of pharmaceutical laboratories: indeed, our professionals are the principal obstacles hindering the complete triumph of psychotropic drugs, of which the French are already the world's largest consumers.

In consequence of which:

1. We request that the Communiqué of 2 October be purely and simply withdrawn.
2. We respectfully ask the Senators to begin consultations with the qualified representatives of our professions, then to freeze the voting of the *amendement Accoyer* while awaiting the proposition of the 'Forum of the Psys' presently under elaboration.
3. We request of M. Mattéi, the Minister for Health, M. Aillagon, the Minister for Culture, and of M. Dutreil, the Minister for the Liberal Professions, to receive the delegation known as the 'Forum of the Psys', who will show them what is at stake in this present affair and the reasons for the stir in the public and the media: the stakes for public health, the stakes for civilization, and the professional stakes.
4. We would suggest to Alain Juppé that it would not be ill-timed for the President of the UMP to consider taking a position without delay on the poorly orientated initiatives of M. Accoyer, the UMP Deputy for Haute-Savoie, which are unfortunately making the news.
5. We hope for the constitution of a work group, including, together with the delegation of the 'Forum of the Psys', representatives from the two Chambers and those from the entire group of professionals interested in the 'psy', from the psychiatrists to the social workers and nurses, without forgetting the associations of the ill and users.

We consider ourselves mobilized until Mattéi's Communiqué is withdrawn and the *amendement Accoyer* is frozen.

Text drafted by Jacques-Alain Miller

Address signatures to:
ORNICAR?-FORUMPSY 9, rue Duguay-Trouin, 75006 Paris,
or the website: www.forumpsy.org

PART V

POSTSCRIPT

Regulating Psychoanalysis: Why We Should Be Concerned Over the New Psychotherapy Legislation in France

Russell Grigg

On Wednesday 8 October 2003 the French National Assembly passed a bill intended to regulate, for the first time, the practice of psychotherapy in France. Moved by Bernard Accoyer, a medical doctor and member of the Union for a Popular Movement, the conservative Party of which Jacques Chirac is a member, the purpose of the legislation was to restrict the practice of psychotherapy to psychiatrists and clinical psychologists; it would effectively no longer be legal for any other practitioners, including psychoanalysts, to practice in the sphere of mental health.

Although the bill was passed without debate and, apparently, without objection in the Assembly, there has been a mixed but on the whole vociferous public response since. Most notably, an action group called the 'Forum des Psys' established by Jacques-Alain Miller has brought together, in united opposition to the new legislation, the *École de la Cause freudienne* and various groups from the field of 'Psys', as the vast therapeutic industry in France is commonly referred to.[1] There have been other offshoots as well, such as the association called 'Vive la Psychanalyse!' which Judith Lacan has founded with the aim of promoting psychoanalysis in the public domain. Catherine Clément, Roland Dumas, Bernard-Henry Lévy, and Philippe Sollers, all members of the association's council, have been vocal opponents of the new legislation, both at

public forums and in the press. Bernard-Henry Lévy has described the legislation as a giant backward step that takes us back some hundred years to a scientism that one would have thought the Freudian 'break' had done away with. He predicted that the legislation would be the death of psychoanalysis. Jean-Claude Milner, eminent linguist and social commentator, has referred to 'a mortal alliance between scientism, managerial ideology and unrestricted regulatory control'.[2]

Despite the unremarkable passage of the bill through its first reading in the Assembly, by the time it arrived at the Senate on 19 January 2004 it had become clear that the bill would not pass unchallenged. The Government was able to curtail opposition to, and circumvent possible failure of, the legislation in the Senate by presenting a modified version of the 'Accoyer Bill', as it had come to be known, and to present it as a 'Government Bill', presented by the then Minister for Health, Jean-François Mattéi. The effect of presenting the legislation in the form of a Government bill was that the text would have to be voted on without amendment. The novelty of this second bill, now known as the 'Mattéi Bill', was to propose the establishment of a National Register of Psychotherapists maintained by the Prefecture. Three categories of practitioners were exempt from the requirement: those with medical degrees, registered psychologists and, last but not least, psychoanalysts who are registered members of a psychoanalytic association, as indicated by the membership records of their association. It might seem that this modification would be sufficient to appease the psychoanalysts opposed to the legislation and to allay the concerns it gave rise to. Indeed, one group of psychoanalytic associations, which calls itself 'the Contact Group', embracing Lacanians and non-Lacanians alike, welcomed the new legislation, citing its recognition of the 'specificity' of psychoanalysis and the 'irreplaceable role it plays in the training and the qualification of its members'.[3] The response of Jacques-Alain

Miller, on the other hand, was immediate and categorical: this legislation is worse than the original; a view he has been supported in by both the *École de la Cause freudienne* and members of the public. I return to this issue below.

When the bill was referred back to the National Assembly for the second reading, it was to undergo yet further modification. The bill, now referred to as the 'Dubernard bill', opined that

> the practice of psychotherapy requires either theoretical and practical training in clinical psychopathology or training recognized by a psychoanalytic association.
>
> Use of the title of psychotherapist is restricted to professionals who are registered in a national register of psychotherapists.
>
> Registration is recorded on a list maintained by the State in the department of residence.
>
> This list indicates the training undertaken by the professional. It is updated, made available to the public and published regularly.
>
> Accredited medical doctors, registered psychologists and psychoanalysts who are registered members of their association are exempt from registration. The application of the present article is fixed by decrees in the Conseil d'État.[4]

Finally, on Friday 9 July 2004, the Senate's second reading of the bill took place. The Dubernard bill, which had been adopted by the National Assembly on its second reading, was further modified and adopted as the Giraud bill. This bill refocused on the use of the title of psychotherapist rather than on the practice of psychotherapy.

The details are not important because, as the text of the Senate and National Assembly bills remained at variance following the second reading in both houses, a joint commission of the two houses was convoked in order to establish a form of legislation that would be acceptable to both houses.

The Joint Commission met at the end of July and

adopted the final form of the legislation, which was gazetted in the *Journal Officiel* on 11 August, thereby becoming law.[5] It states the same requirement that

1. all psychotherapists must be registered on a record maintained by the Government;
2. this record must be made available to the public and published regularly.

It then re-states the by now familiar exclusion clause concerning doctors, psychologists and psychoanalysts.

> Medical practitioners and qualified psychologists and psychoanalysts registered as members in the records of their association have a legal entitlement to register.

And it adds a final clause concerning the decree that will be all important to its implementation.

> A decree in the Conseil d'État specifies the manner of application of the present article and the conditions for the theoretical and practical training in clinical psychopathology that must be fulfilled by persons referred to in the second and third paragraphs.

Now that the legislation has become law in France, the question is what to make of it. As mentioned above, Jacques-Alain Miller was even more vigorously opposed to the amended version of the original that was endorsed on the first reading in the Senate. To see why, and to consider whether these concerns still apply to the final form of the legislation, one needs to understand the place of decrees in French law, where the difference between statute law (adopted by the parliament) and regulation by decree is fundamentally important. The manner in which a law is applied can be determined by decrees drafted by the executive branch, rather than by the legislature; they are administrative actions and as such, though sometimes they

require approval by the Conseil d'État, they are obviously not drafted as openly, and are not subject to as much debate, as parliamentary legislation is. There are different sorts of decree in France, but the basic principle remains the same; the Government establishes, through its bureaucracy, the means by which the statute is to be implemented. In the present case, the wording of the legislation combines with the behaviour of the Government over this issue to lead one to fear the worst: boards responsible for making the decisions sympathetic to the position of the Minister of Health and acting from a perspective that favours a medicalization of psychotherapeutic practices and the ascendancy of cognitivist currents in psychology.

Note that the final legislation no longer gives a medical practitioner the right to automatically register as a psychotherapist, irrespective of his training. Mr Giraud maintains that registration of medical practitioners will be restricted to those who have specialist training, but while it was difficult to see how the Giraud bill could be interpreted to support this assertion, it has been inscribed in the gazetted law.

Nevertheless, there are other difficulties with the legislation. There is, for instance, the somewhat arbitrary distinction between psychoanalyst and psychotherapist, the grounds for which have not been well argued. Furthermore, to suggest, as did Bernard Accoyer when he initially proposed the legislation, that it was motivated by a desire to protect the public from charlatanism and all the snake-oil merchants (my words, not his) of this world who prey on an unsuspecting public would appear to be an idle claim if the legislation leaves it open to any group of psychotherapists to unite as a group of 'psychoanalysts' and register under that category.

The strategy of some analytic groups in France has been to accept the legislation as guaranteeing their presence on the list of categories of professionals authorized to practise psychotherapy. This has been the position of the 'Contact

Group', for instance, who have simply noted that the Senate recognizes the 'specificity' of psychoanalysis and the irreplaceable role associations play in the qualification and training of their members.

Philippe Douste-Blazy, the new Health Minister since April, has indicated that while he has not had the time to meet representatives of all the professions involved, as the person responsible for drafting the future decree regarding the training required for registered psychotherapists, he 'undertook to allow an extensive debate, a wide-ranging gathering of information and reflection that would produce a consensus amongst the professionals'.[6]

The expansion of administrative control over the lives and practices of members of the public and professions is a feature of contemporary society and, although it may appear innocuous, there are grounds for thinking the movement insidious. Whatever the reassurances of the Minister concerning seeking consultation and achieving consensus, increased regulation, with its needless time wasting and costly compliance process, now appears inevitable. Perhaps this is nothing more than a nuisance, and if it produces a higher standard of professional practice, then the price may be worth paying. But the fear is that the temptation to further increase regulation and control is one that bureaucracy finds difficult to resist. Once the door of accountability is opened – and it is always opened with the best of intentions – control and compliance requirements expand. Who can be confident that the decrees will not, with time, impose increasingly arbitrary and irrelevant restrictions on the requirements that must be met for practitioners to practise and expanded measures for exclusion? What information will be gathered, what databases set up and how will the information be used?

The legislation will have the effect of introducing a *de facto* distinction between psychoanalysts who are qualified medical practitioners or registered psychologists on the

one hand, and the rest, which in France have been dubbed 'the ni-ni' or the 'neither-nors'. While the legislation gives *de jure* recognition to doctors, clinical psychologists *and* psychoanalysts, the consequences are different in each case, owing to the differences between medical registration via the *Ordre des médecins*, which has statutory recognition in France, the registration of psychologists on the basis of academic qualifications, and the registration of psychoanalysts on the basis of their membership of a psychoanalytic association. It is foreseeable that registration of psychoanalysts will significantly modify the status of psychoanalytic associations, which will henceforth have a legal reporting status, given that they will be required to maintain a register of members which has a legal status.

Moreover, some associations currently have non-practising members. This includes the *École de la Cause freudienne* whose directory speaks of 'members who practise psychoanalysis', implying that practising is not a requirement of membership, and adds that practising members come under two categories: those who, admitted as members of the school by the School's Council, have declared that they practise psychoanalysis and are registered as Practising Analysts; those whom the ad hoc Committee of the Guarantee has guaranteed as having met the training that the School provides and on whom is conferred the title of 'Analyst Member of the School'.[7] The number of non-analyst members of the *École de la Cause freudienn*e may be small, but the principle is nevertheless a venerable one, having its origins in the *École freudienne de Paris*.

A moment's reflection is enough to make one realize some fairly specific and detailed criteria for the registration of psychoanalysts will have to come out of the administrative decree to be presented by the Minister of Health. In the absence of such measures, the legislation alone, absurdly, might allow for any two people to found an organization which they could call an association of psychoanalysis, have it registered at the Prefecture and subsequently

declare oneself a member of this psychoanalytic association. This even suggests a sort of guerilla response in the form of bureaucratic sabotage, with a series of spurious organizations, all with one or two members. . . .

Something like the category of Analyst Member of the School may well be destined to become all-pervasive under the new law, since this is the one category that will really matter from the point of view of legislation. One can expect that the basis upon which the title is to be conferred by the School will be compelled to comply with whatever the requirements of the decree are. Either that or a new, fourth, category will need to be introduced. In either case, the new legal obligations of the School will no doubt challenge the principle that Lacanian psychoanalysis is a practice with 'no standards but not without principles'. The category of 'practising analyst', at least in the sense in which it was introduced by Lacan and adopted by the *École de la Cause freudienne*, seems destined to disappear because the ministerial decree will establish conditions for registration that any association will effectively be required to see that its practising analyst members satisfy.

While the new legislation speaks in terms of guaranteeing the qualification and training of psychotherapists, by framing the law in terms of membership of an association, it leads to potentially absurd situations. There are psychoanalysts who have opted not to belong to any psychoanalytic organization, but whose training and competence have never been at issue. Equally, the situation has arisen and could always arise again where, for different reasons, analysts resign from their Association. On the basis of the new legislation, in such cases the analyst will no longer be able legally to practise; and in reality the force of the law will commit an analyst to remaining throughout his or her professional life a member of an association.

We do not know at this stage what requirements will be imposed upon psychoanalytic associations, and will not know until the content of the ministerial decree (or *décret*

en Conseil d'État, as it is more strictly called) is released; however, the following are possibilities.

Legal requirements: will associations be required to exclude members if they have been convicted of a crime? The implications of this not only for the vetting of admissions and policing of the activities of members are rather horrific, but the scenario is not unrealistic.

Ethics: will associations be required to implement a code of ethics and a complaints procedure? These typically cover such issues as responsibilities to the 'client', as it has become increasingly common to call the 'consumer' of therapeutic services; matters of exploitation; matters of confidentiality; contracts, involving informed consent; responsibilities to other professionals and the wider community; and a complaints procedure. It is highly unlikely that once psychoanalytic associations come under the jurisdiction of the law they will escape the requirement to implement a code of ethics and complaints procedure, the broad shape of which can be predicted on the basis of what such codes look like in the case of other regulated professions and professional bodies, and it is likely that every psychoanalytic association will be required to address all of the above issues.

What will the implications of such measures be for psychoanalysis, if, as I think is likely, they are implemented? It is possible to be rather blasé about the whole thing and declare that nothing much will change for either the better or the worse; on the one hand, cases where issues of compliance and complaints arise are extremely rare; and on the other it is not clear that a formal code is going to solve the more egregious perversions of psychoanalytic practice. It is not clear, for instance, that the Masud Khan scandal would have been any better addressed if a code of conduct had been in existence at the time. As was stated by the President of the British Psychoanalytical Society, Donald Campbell,

> Although there were rumours of inappropriate professional behaviour by Masud Khan, a case of malpractice could not be

> brought on the basis of rumour. I believe that attempts were made to encourage patients and ex-patients to come forward with a complaint, but none did so.[8]

It is not too cynical to think that the Code of Conduct functions mainly as a public relations device to reassure the public that Something Will Be Done in the case of ethical misconduct.

There is the further point that Government regulation will not improve standards of clinical training and theoretical formation; in fact, there is a case to be made for thinking that it will lead to their deterioration. There are two reasons. First, the standards of training required by Ministerial Decree will be both minimal and quantitative: together these characteristics imply that the conditions for qualification will be purely formal, as is the case with the registration of psychologists in France and elsewhere. The duration of the training will erroneously come to be taken to be the measure of the quality of the trainee. In the *École de la Cause freudienne*, which prides itself on being the School of the Pass, the pass is constructed around a completely different ethics, one that is consistent with and follows from the ethics of psychoanalysis: in the procedure of the pass analysands give testimony not only about the process of an analysis – their own – thereby addressing, most valuably, the issue of research into the analytic experience, its outcomes and its subjective effects; but it is also expected that they will make a contribution on 'crucial problems of psychoanalysis'.[9]

The last remark leads to a more disturbing trend in the current tendency towards regulation, or increased regulation, of psychoanalysis. In the mind of the regulators, one suspects, there is a conception of psychotherapists and *ipso facto* of psychoanalysts as technicians, as technicians of the unconscious as it were, whose technique and practice is straightforward and uncontroversial, at least amongst themselves. The consequence is that regulation, stagnation,

and lack of innovation can all too naturally go hand in hand. Supposing the regulated environment had been put in place in 1954 and not 2004, would Lacan have been free to innovate in the way he did and change forever the nature of psychoanalytic practice?

In making these comments I am assuming that the new legislation is just the first step in a process of increasing regulation. Certain of the further developments discussed here flow directly from the legislation enacted in August; this includes the conditions that we can expect to see stipulated in the *Décret en Conseil d'État* dealing with the implementation of the new law. This will occur in the short term. If the experience elsewhere and in other domains is anything to judge by, we can expect that further down the track the legislative and/or administrative interference in the 'Field of Psys' will increase inexorably. If this is correct, then it is a curiously short-sighted approach to think that psychoanalysis is protected by the new legislation which is only a threat to psychotherapy. It was Freud who spoke of psychoanalysis as the *primus inter pares* in the field of psychotherapy. And abandoning the larger psychotherapeutic community to its own devices, as agreeable as the sense of superiority may be, its origin is the narcissism of minor differences, and the attempt to form a united front of *all* the professionals directly concerned by the initial Accoyer bill via the Forum des Psys will be shown to have been correct. Jacques-Alain Miller is no doubt correct in his judgement that the amended Mattéi legislation was worse than what it replaced, and there is a logic to this development that will continue to unfold to the disadvantage of psychoanalysis: the inclusion of psychoanalysis in the amended legislation may turn out to be a hollow and short-lived victory if it leads to an increasingly significant impact upon the training and development of psychoanalysts.

It is important to view the legislation of the practice of psychotherapy in France in the context of what is potentially a profound change in the mental health sphere in

France. The move towards quantitative, so-called 'evidence-based' forms of intervention, along with the recent Cléry-Melin 'Plan of Actions for the Development of Psychiatry and the Promotion of Mental Health' that Jacques-Alain Miller refers to and critiques in this volume, combine to indicate a disturbing tendency in approaches to issues in mental health.

Notes

1. For much of what follows, see the website of the 'Forum des Psys', http://www.forumpsy.org/index.html
2. Quoted in *Agence Lacanienne de Presse*, *Bulletin spécial Accoyer* n° 5, Paris, 1 December 2003, website www.forumpsy.org
3. See the website of the Société Psychanalytique de Paris, http://www.spp.asso.fr/Main/Actualites/Items/21.htm
4. The text of the Dubernard bill can be found on any number of websites, such as the following: http://www.etatsgeneraux-psychanalyse.net/actualites/Dubernard.html
5. For the full text consult the website http://www.legifrance.gouv.fr/
6. See the website of the Senate, http://www.senat.fr/cra/s20040709/s20040709H35.html
7. *Annuaire et textes statuaries, École de la Cause freudienne, 2001*, p. 16.
8. *London Review of Books*, Letters, vol. 23, no. 6, 22 March 2001.
9. *Annuaire*, 16.