



# LEGAL, MORAL, AND METAPHYSICAL TRUTHS

THE PHILOSOPHY OF  
MICHAEL S. MOORE

*Edited by*  
Kimberly Kessler Ferzan  
and Stephen J. Morse

OXFORD

# Legal, Moral, and Metaphysical Truths

*The Philosophy of Michael S. Moore*

Edited by

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# Table of Contents

<i>List of Contributors</i>	ix
1. Editors' Introduction <i>Kimberly Kessler Ferzan and Stephen J. Morse</i>	1
2. Living with Genius: The Life and Work of Michael S. Moore <i>Heidi M. Hurd</i>	5
3. Modest Retributivism <i>Mitchell N. Berman</i>	35
4. What Do Criminals Deserve? <i>Douglas Husak</i>	49
5. Retributive Desert as Fair Play <i>Peter Westen</i>	63
6. The Wrong and the Free <i>Victor Tadros</i>	79
7. Legal Moralism and Public Wrongs <i>R. A. Duff</i>	95
8. Moore in Jeopardy, Again <i>Gideon Yaffe</i>	111
9. Do We Need a Doctrine of Complicity? <i>Leo Katz</i>	125
10. Reluctant Pluralist: Moore on Negligence <i>Kenneth W. Simons</i>	139
11. Putting (and Keeping) Proximate Cause in its Place <i>John Oberdiek</i>	155
12. Causation: Metaphysics or Intuition? <i>Richard W. Wright</i>	171
13. The Moral Asymmetry Between Acts and Omissions <i>Horacio Spector</i>	187
14. Moore and the Metaphysics of Causation <i>Richard Fumerton</i>	203
15. Self-Defense: Tell Me Moore <i>Kimberly Kessler Ferzan</i>	219
16. Moore on the Mind <i>Stephen J. Morse</i>	233
17. The Means Principle <i>Larry Alexander</i>	251
18. Moral Dilemmas and Moral Theory: Toward a Viable Deontology <i>Phillip Montague</i>	265

19. "Just No Damned Good"	279
<i>Jeremy Waldron</i>	
20. Conceptual Breakage and Reconstruction: Michael S. Moore's Natural Law Theory of Interpretation	293
<i>Michael H. Shapiro</i>	
21. Metaphysical Realism and Legal Reasoning	311
<i>Brian H. Bix</i>	
22. Law and the Role of a Judge	323
<i>Leslie Green</i>	
23. Responses and Appreciations	343
<i>Michael S. Moore</i>	
<i>Bibliography of the Works of Michael S. Moore</i>	427
<i>Name Index</i>	433
<i>Subject Index</i>	437

## Editors' Introduction

*Kimberly Kessler Ferzan and Stephen J. Morse*

Ordinarily, the editors' introduction to a festschrift would both systematize the honoree's work and taxonomize the contributions. But anyone who knows the dynamic duo of Heidi Hurd and Michael Moore will fully understand that both of them have beaten us to the punch. Heidi's contribution, "Living with Genius," details Michael's life's work, setting forth not only his arguments, but also their causal antecedents. It is an unadorned and unabashed look at the man behind this monumental body of work, full of both triumphs and sadness. To explore not only what Michael has written but who he is, we refer you to her contribution.

Our other duty would have been to cast the remaining contributions in order. Of course, Michael has done this in his reply. So, we shall only restate, without taking any credit for his systemization. After Heidi's contribution, this volume engages with Michael's work in criminal law. Michael, famous for his retributivism, is taken to task by three friendly critics, who seek to elucidate retributivism's value in a theory of punishment, and to unpack its dimensions (Mitchell Berman, "Modest Retributivism"; Douglas Husak, "What Do Criminals Deserve?"; Peter Westen, "Retributive Desert as Fair Play"). From here, the contributions turn to Michael's theory of criminalization, asking whether and in what form the fact that an action is morally wrong can appropriately serve as the reason why the conduct ought to be prohibited by the criminal law (Victor Tadros, "The Wrong and the Free"; Antony Duff, "Legal Moralism and Public Wrongs").

Next, the volume addresses Michael's work in the various aspects of the general part of the criminal law. Chapters consider Michael's position on how to understand criminal acts for double jeopardy purposes; Michael's claim that accomplice liability is superfluous; and Michael's views about the culpability of negligence and the relationship between that view and proximate causation (Gideon Yaffe, "Moore in Jeopardy, Again"; Leo Katz, "Do We Need a Doctrine of Complicity?"; Kenneth Simons, "Reluctant Pluralist: Moore on Negligence"; John Oberdiek, "Putting (and Keeping) Proximate Cause in its Place"). Three further contributions press Michael on his claims with respect to the metaphysics of causation (Richard Wright, "Causation: Metaphysics or Intuition?"; Horacio Spector, "The Moral Asymmetry Between Acts and Omissions"; Richard Fumerton, "Moore and the Metaphysics of Causation").

Michael has also greatly contributed to our understanding of justifications and excuses. Continuing the engagement with the general part, one of the volume editors presses him for more details about self-defense, the other questions conclusions reached within Michael's vast work at the intersection of psychiatry, cognitive



neuroscience, and criminal law (Kimberly Kessler Ferzan, "Self-Defense: Tell Me Moore"; Stephen J. Morse, "Moore on the Mind").

As though conquering act, mind, causation, and justifications and excuses were not sufficient for his life's work, Michael has also elucidated the deontological theory that his theories presuppose. Two further contributors take on delineating the nature of this deontological morality. (Larry Alexander, "The Means Principle"; Phillip Montague, "Moral Dilemmas and Moral Theory: Toward a Viable Deontology"). Leaving no stone unturned, Moore also has meta-ethical views about these moral positions, which are challenged in a further contribution (Jeremy Waldron, "Just No Damned Good").

As is readily apparent, Michael does not conquer a topic unless he conquers all aspects of that topic. Hence, this already impressive body of work would cover (1) a meta-ethical view; (2) a position on the content of moral obligations; (3) a stance on the implications of that content for the criminal law, both in terms of what to punish and why; (4) a theory of mental states fully informed by the cognitive sciences; (5) a view on voluntary actions, backed by action theory; and (6) claims about the nature of causation, contextualized within a full metaphysical theory. But that would leave us without the role of the criminal law in a system of *laws*, and Michael's expansive reach includes contributions to general jurisprudence as well. Hence, the final group of contributions concludes with Moore's view about statutory interpretation and the role of a judge (Michael Shapiro, "Conceptual Breakage and Reconstruction: Michael S. Moore's Natural-Law Theory of Interpretation"; Brian Bix, "Metaphysical Realism and Legal Reasoning"; Leslie Green, "Law and the Role of a Judge").

We've also granted Michael the last word (Michael S. Moore, "Responses and Appreciations").

But we shall take the first last words here.

Kim: No one who witnessed the first few interactions I had with Michael would ever think that I would play a role in this festschrift. Michael first spoke to me when Heidi had a potluck dinner for her Torts students at their home in October 1992. As I was placing my cheesecake on the table, Michael came up to me and said, "Hi, I'm Michael." I (ever fearful of grown-ups), smiled, nodded, and (hopefully gracefully) walked away. Our second and third interactions were in the spring of 1993, when I took Michael's class, "Legal Personhood." During or after class, our two interactions were (1) my musing as to whether animals have mental states because my cat at the time clearly dreamed, and (2) my querying what Michael thought about the view that we could just be brains in a vat (blame my dad, he raised it when I was ten, and I have never fully gotten over it). All I can say is that I wish Michael had just smiled, nodded, and gracefully walked away. I am sure he was surprised when I did well in that class.

But taking Legal Personhood at the same time I was taking Criminal Law with Stephen was momentous and life-changing for me. My love of all things criminal law, and all things philosophy, is directly attributable to the joy I found in those puzzles that semester. Had I not taken those two classes, I would never have found this path.

On this path, Michael is my lodestar. For him, there is no puzzle too deep, no query too wide, no discipline too tall that they should not be conquered. And, the reason is simple. He seeks truth.

Over the years, one truth I have had to face is that part of the reason that he manages the taxonomizing, systemizing, and other discipline-resolving that he does is that he is just smarter than many of us mere mortals. Anyone who has attended a conference with him has witnessed with awe that moment when Michael deftly summarizes what appeared to be an hour of scattered discussion. I used to think that was just what senior scholars did until another senior scholar remarked to me how tremendous it was that Michael can do this because he is so absurdly smart. So, maybe I'll never leap tall disciplines in a single bound, as he does. Though, I maintain, we should all try ...

Most of all, I am just grateful that the distributor of eye-rolling in Legal Personhood turned to mentor for my student note, evolved to colleague, and ultimately became a good friend. Whether he's teasing me about an incident in Death Valley (it's a long story) or I'm smack talking him during a game of poker or pool, it's just been tremendous fun to know the person beyond the work.

Stephen: I second everything Kim said about Michael, who has been my good friend and colleague for four decades (where have the years gone?). It is always intellectually and personally invaluable to spend time with Michael, whether we are at a conference, hiking the Grand Canyon rim to rim, running the San Francisco Marathon, or just hanging out to watch USC football. As Kim says, his intellect is simply extraordinary, but he is also a great *bon vivant*, as the contributors to this volume know. Michael is no unidimensional brain in a skull.

Here's a recent anecdote that sums Michael up. It will surprise no one who knows him or has ever seen Michael in action. A few years ago, a philosopher in Aachen, Germany organized at the local university a conference to celebrate Michael's causation book. The invited speakers were luminaries from Germany, England, and other places. The format was for each speaker to present their papers, which Michael had not seen previously, for about 45 minutes, followed by Michael's response and then some general discussion. Most of the papers were technical and difficult. There were probably six or seven papers the first day. Recall that Michael was hearing these presentations for the first time. The generic Moorean response went as follows. "[Polite thank you.] Your paper makes three major arguments, each of which has three sub-arguments. Let's take them in turn." Then, in perfect sentences and paragraphs, with no misspeaking or empty interjections, Michael would dissect the paper, after having offered the presenter a better organization and argument structure than the presenter realized he had. This was true of Michael's response to every paper. At the end of the day, the obviously bedazzled organizer came up to me and asked, "Is Michael always this good?" I mused for a second and responded straightfaced, that no, he's usually much better but he's jet-lagged after the long flight from Australia. The poor organizer had no idea whether I was kidding or serious. By the end of the two-and-a-half days of exactly the same extraordinary level of Moorean performance, the organizer knew that I had been dead serious. And at the conclusion of the conference, rather than collapsing, Michael suggested that we repair to the finest, ritziest restaurant in Aachen, located in a luxurious, imperial-style hotel. We ate a most satisfying, one might even say extravagant, dinner, accompanied by an exquisite Bordeaux that Michael had chosen.

Michael's exceptional organizing talents deserve special mention. He, and also our mutual friend, Larry Alexander, have organized numerous criminal law theory conferences that have been the most intellectually stimulating meetings I have ever attended. Michael knows how to structure a conference as well as a general conversation. Michael has been the unofficial leader of a group of scholars who think of themselves primarily as criminal law theorists and many of the contributors to this volume have benefitted enormously from frequent attendance and interaction with Michael. We are all in his debt.

Let us both conclude with some general thanks. We owe a great debt to our co-conspirator, Heidi Hurd, with whom we consulted from the beginning. We were particularly delighted that she organized a conference for Michael's 70th birthday, where the agenda for the day was—what else?—a somewhat less formal conference devoted to his work. Although Michael knew the topic, little did he know that the papers presented were intended for this festschrift in his honor. Our birthday present to Michael was to surprise him with this volume, which had recently been accepted by Oxford. We could not have done it without Heidi's masterful ingenuity.

Finally, we share Michael's belief that people ought to get what they deserve. So, celebrating Michael's work is not gratuitous; it is simply the right thing to do. We are delighted that the book has come to such fine fruition and warmly thank the scholars who have contributed. It is a fitting tribute to our friend, Michael Moore. We can think of no one more deserving.

## Living with Genius

### The Life and Work of Michael S. Moore

*Heidi M. Hurd\**

#### I. Introduction

During my many years with Michael Moore—years that reached from my first semester in law school at the University of Southern California (USC) where he was my first-year Torts professor, through years of marriage, co-parenthood, co-authorship, and colleagueship—I have enjoyed countless, indeed daily, spirited debates. We have argued about such things as the nature of causation, the possibility of free will, the coherence of compatibilism, the demands of retributivism, the scope of legitimate consequentialist reasoning, the morality of mercy, and the question that is always good for a round or two over a glass of wine: whether angels are angelic because they do the good in the face of being tempted by the bad, or because they are not tempted by the bad at all. Quite frankly, I'm exhausted. If I were to pick some new philosophical fight with Michael, I would have to dedicate the next six months of breakfasts, lunches, dinners, and dates to defending my views on the topic—and, more onerously, to listening to his views, all of which would come in enumerated parts, with multiple sections and subsections—to the exclusion of hearing about our children's school days, discussing the latest necessary home repair, or gossiping about our colleagues. I simply don't have it in me.

So, instead, I have chosen to do something with which Michael cannot argue. In this introductory contribution, I will synthesize Michael's lifetime of work, organizing the topics and restating the theses that he has defended within the diverse fields he has explored, and extracting from these theses a number of common themes. Along the way, I will draw on personal experiences in Michael's life that may have influenced his scholarly choices. On pain of committing the genetic fallacy against which Michael has often warned,<sup>1</sup> one cannot think that explaining beliefs in terms of their causal antecedents goes any distance towards either bolstering or debunking them. Still, the causal antecedents of beliefs can be interesting for their own sake. So my project is to provide a systematic and comprehensive taxonomy of Michael's work and to salt it with biographical events, relationships, triumphs, and tragedies that illuminate how personal the ideas that have defined his extraordinary academic legacy have been.<sup>2</sup>

\* I have enjoyed a great deal of help from Michael in writing this piece. I have also put up with a lot of back-talk. I am grateful for the former. I am also grateful to Caitlyn McCutcheon (Illinois Class of 2014) for her extensive research assistance—which was provided without nearly as much back-talk.

<sup>1</sup> Moore, 1982a; Moore, 1984a; Moore, 1997b, ch. 3; Moore, 2004c, ch. 1.

<sup>2</sup> Some of the experiences I will relate are from my own knowledge, having shared Michael's life all these years; others I have explicitly solicited from him in conversations recorded in recent months.

## II. Topics Raised and Theses Defended in the Scholarship of Michael Moore

It is no small task to get one's arms around the work of a career that has spanned forty-nine years and produced 138 publications covering a dizzying array of issues. Fortunately, some years ago Michael himself provided something of a roadmap to his own work when paying tribute to his thirteen years on the faculty of the USC Law School.<sup>3</sup> At the risk of costing our family a month of dinners spent debating the merits of so doing, I have taken the liberty of reorganizing Michael's own taxonomy, altering the number and content of the categories to which his writings can be assigned, and updating the references to accommodate the fourteen years of work that Michael has done since writing his Southern California "remembrance."

### A. The metaphysics of mind, action, and causation

Although Michael often presents his work on the metaphysics of human action, mental states, and causation as if his interests in these areas were entirely motivated by the role such states, events, and relations play in ascribing responsibility, in fact his interest in metaphysics is as much free-standing as it is dependent upon his moral and legal interests. He regards acts and other events, mental states like intention and belief, and relations such as causation, as presenting puzzles worthy of attention in their own right. I have thus separated Michael's work in pure metaphysics from his application of that work to responsibility issues (which I deal with below as his fourth area of scholarly interest).<sup>4</sup>

Michael's main preoccupation in the metaphysics of mind, action, and causation has been to naturalize phenomena often seen as recalcitrant to ordinary scientific description and explanation. These phenomena have included: the Intentionality of mental states and of some actions;<sup>5</sup> the supposed mystery of human agency and the actions through which that agency is expressed; causation (both of human choice and by human choice) as a natural relation; the entities causation relates as natural entities; causal laws as framed in terms of induction about such natural entities and relations; and counterfactual dependence as a natural relation in this, the actual world (despite counterfactuals having on their face seemingly "otherworldly" qualities).

Michael has long been fascinated by what many regard as the hardest problem in the philosophy of mind, namely how content is to be ascribed to Intentional mental

<sup>3</sup> Moore, 2000d.

<sup>4</sup> Some commentators on Michael's work treat it as a contribution to metaphysics independent of its implications for legal and moral responsibility. For example, Stephen Mumford wrote: "Moore's book [*Causation and Responsibility*] is an outstanding contribution not just to the philosophy of law but also to the metaphysics of causation." Stephen Mumford, "Causes for Laws," 4 *Jurisprudence* 109 (2013), 114.

<sup>5</sup> "Intentionality" or "Intentional states" are technical terms referring to representational states that have content. These terms are capitalized to distinguish them from the more idiomatic use of the term "intentional" which refers to just one kind of Intentional state, namely intentions. Beliefs and desires are Intentional states because they have content, despite, of course, not being intentions. This usage of "Intentional" was revived by Roderick Chisholm in *Perceiving* (Ithaca, NY: Cornell University Press, 1959).

states.<sup>6</sup> Early in his career, he explored Quinean skepticism about such content.<sup>7</sup> He then tentatively proposed the very non-Quinean solution that propositions (rather than events or sentences) form the content of what Russell dubbed the “propositional attitudes.”<sup>8</sup> These explorations in the content of Intentional states have been, as he would admit, tentative. His only certainty has been that *some* answer must be given to the question of content,<sup>9</sup> both for purposes of assessing moral responsibility and for purposes of keeping the psychology of Intentional states scientifically respectable.<sup>10</sup>

Human actions also come in for their share of non-natural or “otherworldly” analyses. To forestall the need to resort to the mysterious, Michael has consistently sought to analyze human actions as events are analyzed generally, which (in the Davidsonian tradition at least) is as spatio-temporally located particulars. More specifically, Michael has analyzed each human action as a complex event consisting of both a volition (or willing) and a bodily movement where the bodily movement is both the effect and the object of the willing—in short, as a willed bodily movement.<sup>11</sup> This analysis places human actions squarely within the causal-explanatory nature of the world, and does so for two reasons. First, the peculiarities in action descriptions (that tempt some philosophers to become mysterious) are conceived as just that, namely peculiarities in *descriptions* of actions rather than in actions themselves. And second, such an analysis is a species of what is generically called the causal theory of action (or “CTA”), which importantly asserts that human agency is not irreducible or mysterious, but rather is fully explicable as a form of mental state causation. This is a conclusion Michael explicitly draws from his own version of the CTA.<sup>12</sup>

Such agency does have further aspects to it, however, beyond those required by the CTA. Michael’s work describes two such important attributes, both involving causation. The first is that human beings often cause the existence of the objects of their willings, wants, and intendings. Michael argues that this causal capacity is fundamental to the agency of persons, and he defends the existence of this capacity against the challenge of recent neuroscientific findings that purport to show that willings are merely epiphenomenal with the actions willed, rather than causes of such actions.<sup>13</sup> The second aspect of human agency which Michael defends is that the causation of intendings, wantings, choosings, and willings by factors outside the control of an actor does not impact upon an actor’s agency.<sup>14</sup> All that is needed for such agency is the capacity to have chosen otherwise,<sup>15</sup> which according to Michael is a capacity which persons possess despite their causings being caused.

<sup>6</sup> Michael tells me that Judith Thomson once advised him (when both were teaching at Berkeley in the early ’80s) not to even try to solve this problem; that so doing would be “crazy” in light of the numerous philosophical lances that had already been broken on this tournament field.

<sup>7</sup> Moore, 1993a; Moore, 1997b, ch. 8.

<sup>8</sup> Moore, 1987c; Moore, 1997b, ch. 11.

<sup>9</sup> It has been gratifying to Michael to observe younger scholars whom he is proud to have influenced tackle some of the complexities here. See particularly Kimberly Ferzan, “Beyond Intention,” 29 *Cardozo Law Review* 1147 (2008); Kimberly Ferzan, “Intention,” in Dennis Patterson (ed.), *A Companion to Philosophy of Law and Legal Theory*, 2nd edn. (Oxford: Blackwell, 2010); Gideon Yaffe, *Attempts* (New York: Oxford University Press, 2010), discussed at length by Michael (Moore, 2013c, 150–77).

<sup>10</sup> Moore, 2011b; Moore, 2013c.

<sup>11</sup> Moore, 1993c; Moore, 1994c; Moore, 1997b, ch. 6.

<sup>12</sup> Moore, 2010.

<sup>13</sup> Moore, 2011a.

<sup>14</sup> Moore, 1985c; Moore, 1997b, ch. 12; Moore, 2014b; Moore, 2014e.

<sup>15</sup> Moore, 2014d.



As Michael insists, causation is basic to our understanding of human agency. But then, causation is basic to our scientific understanding of the universe. Michael has accordingly devoted substantial energies to pinpointing the nature of causation within the natural world.<sup>16</sup> He identifies causation as a relation naturally existing between states of affairs, and only constructively between events and facts as derivative causal relata. Such states of affairs do not include omissions or other absences, and the causal relation is singularist and not to be identified as probabilistic chance-raising, nomic sufficiency, or counterfactual necessity. Michael seems to think such singular causal relations may be either physicalist in nature, or *sui generis* ("primitive"); in either case, the singular relation is scalar, not bivalent. Causal laws are derived from such singular relations, and not the other way around; such laws are sometimes at least to be seen as giving sufficient conditions; and every singular causal relation presupposes the existence of some causal law(s). Importantly, Michael rigorously distinguishes counterfactual dependence from the causal relation, yet nonetheless finds counterfactual dependence to be a real relation as well.<sup>17</sup> Such counterfactual dependence relates absences as well as presences, and it too is scalar, but in ways that differ from causation.<sup>18</sup>

The biographical antecedents of Michael's metaphysical apparatus appear to reach all the way back to his college days. Having found the US Naval Academy shockingly anxious to enforce rules of order and decorum against an Oregon kid who mostly liked to ski, Michael survived as a midshipman for only three months, twenty-two days, and ten hours. Having turned down the chance to study mathematics at MIT for the prospect of giving orders on the bridge of a destroyer, Michael's departure from Annapolis left him with little choice but to return to his home in Eugene. There, however (while living in the fraternity next door to the iconic wreck used in the movie *Animal House*), he entered the newly founded Honors College at the University of Oregon where he found ample intellectual nourishment during his undergraduate years (1961–4). Honors College graduates had to take year-long core courses and comprehensive year-end exams in US history, economics, calculus, chemistry, physics, English literature, philosophy, and a foreign language. Students could petition to waive one such core course and Michael promptly petitioned to waive philosophy, on the stated ground that he was "an empiricist for whom knowledge consisted of testable facts, whereas philosophy was just moving concepts around (and around and around) so that no progress was possible and no new knowledge gained."<sup>19</sup> Remarkably, his petition was granted (presumably by a member of the science faculty!).

Michael's interest in and respect for empirical science has thus been long standing. Indeed, he has always had a mathematics/hard science bias, regarding the standards of those disciplines as the standards of rational thought. (He was always proud of the fact that when his high school math teacher, Mr. Oscar Schaaf, heard that Michael had headed to Harvard Law School, his comment to Michael's father was, "What a waste!")

<sup>16</sup> Moore, 1987b; Moore, 1997b, ch. 7; Moore, 1998d; Moore, 2000b; Moore, 2002d; Moore, 2003b; Moore, 2005a; Moore, 2009a; Moore, 2009d; Moore, 2011c; Moore, 2011f; Moore, 2012a; Moore, 2012d; Moore, 2013a; Moore, 2013b.

<sup>17</sup> Moore, 1987b; Moore, 1997b, ch. 7; Moore, 2003b; Moore, 2007e; Moore, 2009b; Moore, 2009d; Moore, 2012d.

<sup>18</sup> Moore, 2012d. <sup>19</sup> From a recorded conversation, December 2013.

What Michael didn't appreciate at the time was that his interest in science was the philosopher's interest, not the scientist's interest. He liked, as he has put it, "theories, overviews, knowledge about the world in large clumps" and, unsurprisingly, he thus found that he did as poorly in lab courses as he did well in lecture courses (earning three As in Chemistry, and a C, D, and W (in lieu of an expected F) in Chemistry Lab). And so, after disdaining philosophy for the sciences, Michael found his way to metaphysics, which for Michael is literally that; namely physics (and science generally) at a higher (or "meta") level of abstraction. But his interest in the discoveries of the empirical sciences continues to the present time, and when he isn't reading the latest work in neuroscience, he is indulging the bedtime hobby of exploring the history of physics, from Maxwell's equations to string theory.

## B. The philosophy of science applied to the psychological sciences

One of the earliest areas of scholarship which Michael undertook was the application of the philosophy of science to academic psychology. Although interdisciplinary, his work in this arena was not concerned with his primary discipline of law, but rather with the disciplines of philosophy and psychology. More specifically, Michael applied the philosophy of science to psychological science (that is, psychoanalysis, psychiatry, behaviorism, cognitive psychology, and neuroscience).

Three theoretical aspects of psychoanalytic science drew Michael's attention early in his career: the psychoanalytic understanding of dreams, the claimed existence of a dynamic unconscious, and the subdivisions of self posited by the five metapsychological viewpoints of Freud's version of psychoanalytic theory. Michael cautiously conceded that in various senses of the word, *unconscious* mental processes existed.<sup>20</sup> He sought, however, to decouple that thesis from Freud's more specific and more animistic conclusions. In the theory of dreams, for example, Michael reconstrued each of the three levels of explanation of Freudian dream theory so as to dispense with Freud's animistic reliance on the notion of unconsciously motivated actions.<sup>21</sup> For example, Michael urged that instead of thinking of dreams as satisfying a motive or wish to sleep, as Freud hypothesized, we should think of dreams as fulfilling the function of sustaining sleep. Similarly, Michael sought to de-animize Freud's putatively motivational explanations of parapraxes (such as slips of the tongue) and neurotic symptoms. And finally, he sought to defuse the supposedly radical disunities that stemmed from Freud's division of the self along the three lines of experienced conflicts, consciousness versus unconsciousness, and differential functional roles. Michael concluded that these three divisions of self did not evidence any fracturing of the agency that marks each of us as but one person, nor did the three divide personality in congruent ways.<sup>22</sup>

By de-animizing psychoanalytic theory, Michael left open the question of how much of the theory (so reconstrued) could be taken seriously as an attempt by Freud to state an ontologically respectable, functionalist theory of mind. Michael's answer came as a divided verdict: some parts of the theory, such as the dream-work, Michael took to be a

<sup>20</sup> Moore, 1984d, ch. 7.

<sup>21</sup> Moore, 1983e; Moore, 1984d, chs. 1, 8.

<sup>22</sup> Moore, 1983d; Moore, 1984d, ch. 11.



genuine attempt at functionally specifying sub-personal states that underlie the ordinary mental processes of whole persons; other aspects of the theory, such as the structural metaphysics (ego, id, superego), Michael saw as less successful. The ego, for example, Michael took to be a “far too smart general” to serve as a vehicle for gradually reducing the intelligent to the mechanical via the strategy known as “homuncular functionalism.”<sup>23</sup> In general Michael evinced skepticism that the conflicts persons experience in dreams, neurotic symptoms, or everyday slips of the tongue or movement could give rise to useful starting points for the general functional subdivision of mind that should be part of a truly general psychology.<sup>24</sup>

Apart from reconstructing psychoanalytic theory in a more scientifically respectable way, Michael’s other early topic in this area was psychiatry’s conceptualization of mental illness. There were, as Michael saw it, two errors to be avoided within psychiatry. One was the error of thinking that mental illness “was a myth,” as was the conclusion of Thomas Szasz, R. D. Laing, and other members of the radical psychiatric movement of the 1960s and 1970s in the US and the UK. The opposite error was to “medicalize morals” in the expansive way that Karl Menninger (Michael’s supervisor during his time as a lecturer at the Menninger Foundation in the early 1970s) and those like him were wont to do. Michael avoided the first error by showing how the claims of “myth” were based on inadequate philosophies of mind and science.<sup>25</sup> He sought to channel psychiatry away from the second error by cabining the criteria that were used by the psychiatric profession for a “mental disorder” so as to avoid its equation with socially deviant behavior or attitudes.<sup>26</sup> Michael did this with the express purpose of keeping psychiatry within the bounds of concern for the aberrational and exceptional phenomena commonly thought of as mental illness, and with an eye to discrediting any claimed psychiatric expertise about the ethics of the good and virtuous life.

Given his interest in science, it is no surprise that some of Michael’s earliest work was in the philosophy of science.<sup>27</sup> In the late 1960s, he would arrive at his law firm in San Francisco (then Howard, Prim, Smith, Rice, & Downs; but now Arnold & Porter) by 6:00 a.m., typically a good two hours before anyone else, in order to work on his first paper on dream theory. As he describes it, it had a kind of “mad scientist” feel to it, given the disjunction between his early morning theoretical work and the practicalities of the typical workday.

His general interest in science explains some such activity; but why the philosophy of science as applied to psychology, psychiatry, and psychoanalysis? One of his specific interests within psychology/psychiatry is perhaps easily explained; the interest in how mental illness should be conceptualized. Such an interest was somewhat forced on Michael by the fact that many of those who were closest to him suffered from serious mental diseases, ranging from classic paranoid schizophrenia to clinical depression and bipolar disease. His mother lost custody of Michael (for a period of about six years)

<sup>23</sup> Moore, 1988b; Moore, 1997b, ch. 10. <sup>24</sup> Moore, 1988b; Moore, 1997b, ch. 10.

<sup>25</sup> Moore, 1975a; Moore, 1975b; Moore, 1984d, ch. 4.

<sup>26</sup> Moore, 1978a; Moore, 1984d, ch. 5; Moore, 2014f.

<sup>27</sup> In the 1970s, Michael became friends with the three leading philosophers of science in America, Carl (or “Peter,” as he was known to friends like Michael) Hempel, Adolf Grunbaum, and Ernst Nagel, and all three were quite encouraging of his work.