

Children Into Men: Lawyers and the Law in Three Novels

Gregory J. Sullivan

Follow this and additional works at: <https://scholarship.law.stjohns.edu/tcl>



Part of the [Law and Society Commons](#)

This Article is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in The Catholic Lawyer by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact selbyc@stjohns.edu.

CHILDREN INTO MEN: LAWYERS AND THE LAW IN THREE NOVELS

GREGORY J. SULLIVAN*

*It is a contradiction in terms
to attempt a sinless Literature of sinful man.*¹

The interdisciplinary law-and-literature movement has burgeoned in recent years. Numerous books and articles have appeared within the past decade or so and many law schools now regularly offer courses on the subject. This essay, however, will not address the movement itself; indeed, I believe it is replete with sundry limitations.² Nevertheless, one facet of the growing area of law-and-literature—and the connections between the two fields—that is salutary is the renewed interest in, and explication of, works of literature that have legal themes or involve characters who are lawyers. This area is one in which lawyers can provide insights into the novels that a reader untrained in the law would perhaps overlook or misunderstand.

* Associate, Hartsough & Kenny, New Jersey. B.A., *cum laude*, Trenton State College, 1985; M.A., Villanova University, 1987; J.D., Seton Hall University School of Law, 1992. The author gratefully acknowledges the guidance of the Rev. Monsignor Harold P. Darcy of Seton Hall University School of Law during the composition of this essay.

¹ JOHN HENRY NEWMAN, *THE IDEA OF A UNIVERSITY* 174 (1875).

² See RICHARD A. POSNER, *LAW AND LITERATURE: A MISUNDERSTOOD RELATION* 1 (1988), which cogently analyzes these limitations. Judge Posner's book also includes masterly discussions of various works of literature, including James Gould Cozzens' *THE JUST AND THE UNJUST*. *Id.* at 79-82. For a more favorable and ambitious view of law-and-literature, see RICHARD H. WEISBERG, *THE FAILURE OF THE WORD: THE PROTAGONIST AS LAWYER IN MODERN FICTION* (1984).

This piece will examine the law and lawyers in three fine American novels: James Gould Cozzens' *The Just and the Unjust* (1942), Harper Lee's *To Kill a Mockingbird* (1960), and Herman Wouk's *The Caine Mutiny* (1951).³ While these novels vary in many respects and all present lawyers in very distinct ways, none of these novels is about law in any direct sense. In fact, each of the three novels is a *Bildungsroman*—concerned more with the moral development of the protagonist than anything else. Yet all three do present a lawyer as a significant character. Atticus Finch in *To Kill a Mockingbird*, Abner Coates (and others) in *The Just and the Unjust*, and Barney Greenwald in *The Caine Mutiny* are among the most vivid characters in these novels (but not in all cases protagonists), and all are defined by their work in the law. Further, although these novels contain trials as integral dramatic events (criminal trials in both *To Kill a Mockingbird* and *The Just and the Unjust*, and a military court martial in *The Caine Mutiny*), none of these trials results in a just—or, in *The Just and the Unjust*, the statutorily required—verdict. This essay will examine what these outcomes imply, and more importantly, explore the distinct world view in each novel—realism in *The Just and the Unjust* and *The Caine Mutiny* and romanticism in *To Kill a Mockingbird*. Realism (i.e., taking man and the world he inhabits as they are) and romanticism (i.e., envisioning man and the world as they ought to be) represent one of the central tensions in a lawyer's moral life, and this essay will consider the ramifications of these conflicting views as they appear in each novel.

Finally, a few words on method. My approach to this analysis will be conventional. I intend to examine the novels closely

³ JAMES GOULD COZZENS, *THE JUST AND THE UNJUST* (1942); HARPER LEE, *TO KILL A MOCKINGBIRD* (1960); HERMAN WOUK, *THE CAINE MUTINY* (1951). The selection of these novels is governed by no principle save quality; they are all good books. Two of the three—*TO KILL A MOCKINGBIRD* and *THE CAINE MUTINY*—appear in Richard Weisberg's updated "Wigmore" list. Richard H. Weisberg, *Wigmore's "Legal Novels" Revisited: New Resources for the Expansive Lawyer*, 71 Nw. U. L. Rev. 17 (1976). In 1922, John H. Wigmore published a list of those novels he believed "any lawyer in search of enlightenment and enjoyment could not 'afford to ignore.'" *Id.* at 17 (quoting John Wigmore, *A List of One Hundred Legal Novels*, 17 ILL. L. REV. 26, 27 (1922)). In his article, Wigmore articulated his reasons for selecting these novels, and Weisberg, in his more recent work, gives the list "renewed attention" and "revision." *Id.* Curiously, however, Weisberg omits Cozzens' *THE JUST AND THE UNJUST* but includes his *BY LOVE POSSESSED*. *Id.* The latter is certainly a good "legal" novel, but the former also merits similar attention.

and draw on relevant secondary sources only where appropriate. Moreover, my interpretive framework will be essentially New Critical,⁴ that is, I will rely on evidence found in the novels to support my analysis. No preconceived ideological system of reading—e.g., feminist, deconstructionist, or Freudian—will be employed. Rather than subordinating the novels to an ideologically driven critical view, I hope to emphasize that these works, although not having law as their primary theme, are sophisticated depictions of the complexity and dignity of the lawyer's vocation.

THE JUST AND THE UNJUST

"Every law student," wrote Zechariah Chafee, Jr., "ought to read *The Just and the Unjust*. It tells him what to expect when he gets out of law school."⁵ This exhortation strikes just the right note with respect to Cozzens' novel, for the book is characterized by an almost reportorial approach to its subject. Cozzens was not trained in law, but the exactitude with which he observes the criminal process—the rules, the attorneys, the judges—is astonishing.

The Just and the Unjust, set in a small rural town during the early 1940s, focuses on a felony-murder trial. The protagonist, Abner Coates, is the county's young, competent, but rather aloof assistant district attorney. He tries the case for the prosecution along with the district attorney, Martin Bunting. Although the district attorney is lead counsel, Coates does play an active role in the trial, making the opening statement to the jury and examining several important witnesses.⁶

The trial reveals that the defendants, Howell and Basso,⁷

⁴ New Critical relies on a "close reading of the text and awareness of verbal nuance and thematic (rather than narrative) organization, and [is] not concerned with the biographical or social backgrounds of works of art." THE OXFORD COMPANION TO ENGLISH LITERATURE 693 (5th ed. 1985).

⁵ Zechariah Chafee, Jr., *Book Review*, 56 HARV. L. REV. 833 (1943); see also Henry B. Cushing & Ernest F. Roberts, *Law and Literature: The Contemporary Image of the Lawyer*, 6 VILL. L. REV. 451 (1961), which is a lucid examination of Cozzens' novel. For the background of the real murder trial on which Cozzens based THE JUST AND THE UNJUST, see Morris H. Wolff, *The Legal Background of Cozzens's The Just and the Unjust*, 7 JOURNAL OF MODERN LITERATURE 505 (1979).

⁶ POSNER, *supra* note 2, at 80.

⁷ One of the minor but satisfying points of verisimilitude in the novel is Cozzens' portrayal of the criminal defendants as stupid—rather than romantic or idealistic—outlaws. For example, when Abner Coates reflects on the criminal events, Cozzens writes:

along with a third man named Bailey, had kidnapped a drug dealer named Zollicoffer. After the ransom was paid, Bailey decided it would be unsafe to return Zollicoffer alive. So on the way to the location where the kidnappers were to drop Zollicoffer off, Bailey shot him, and Howell and Basso helped Bailey weight Zollicoffer down with leg irons and dump him into a river. Bailey subsequently died while attempting to flee the police. Although Howell and Basso do not deny taking an active part in the kidnapping, their roles in the murder are unclear, and it is unknown whether they authorized, knew about in advance, or participated in the murder.⁸

While this summary portrays the novel as one almost exclusively about the law, such a view reduces the essence of *The Just and the Unjust*.⁹ Indeed, as Judge Posner astutely observed, Cozzens' book "is a rite of passage novel, a *Bildungsroman*:"

The hero is a prissy kid at the beginning and a man at the end, having assumed family responsibilities and learned the difference between pure forms (of law, of career advancement) and sordid realities (law may diverge from the lay sense of justice, politics influences promotions), as well as the need to compromise, to moderate demands, to scale down ideals, to trim absolutes, to empathize—with the Republican boss, and above all with his sweetheart, to whose feelings Coates is remarkably insensitive at the beginning of the novel. The work has none of the resonance of *Hamlet* or the *Iliad* but is recognizably part of the same broad category of works, in which youthful idealism becomes tempered with realism through a series of crises.¹⁰

Still, *The Just and the Unjust* uses law as the setting within which Abner's coming of age is enacted, and it is not surprising that Cozzens exploited this area. In few professions is the chasm between the ideal (justice) and the real (petty technicalities, logical legerdemains, legal fictions, and so on) so vast. Law is a

Abner supposed they thought it prudent to get rid of this [i.e., the car in which the victim had been slain]. He could not do more than suppose, because their plans never seemed to follow any logical pattern. If they rose at times to a sort of shrewdness, without intermission they fell to the most staggering stupidities. Only they themselves could know what they thought they were doing.

COZZENS, *supra* note 3, at 19 (1942).

⁸ POSNER, *supra* note 2, at 80.

⁹ This confusion of a legal part for the aesthetic whole is a standard error among some scholars of law-and-literature; the error lies in the reductive tendencies of this reading of multifaceted works.

¹⁰ POSNER, *supra* note 2, at 81.

natural setting for maturation—the tempering of youthful idealism with realism. For example, the trial itself seems headed toward a certain guilty verdict, with the death sentence as the legislatively prescribed punishment for the conviction. The charge against the defendants is felony-murder, a controversial if well-established doctrine,¹¹ and conviction seems certain according to the statute.¹² However, the jury returns a verdict of murder in the second degree, which runs directly contrary to the evidence presented by the Commonwealth. (One should note that Howell is represented by the able and flamboyant Harry Wurtz, the most colorful attorney in the book.) Abner is shocked—as are all the characters; indeed, one of the judges severely castigates the jury for its verdict—by the nullification,¹³

¹¹ The controversial nature of this doctrine is clear from its definition:

At common law, one whose conduct brought about an unintended death in the commission or attempted commission of a felony was guilty of murder. While some states still follow the common law rule, today the law of felony murder varies substantially throughout the country, largely as a result of efforts to limit the scope of the rule

BLACK'S LAW DICTIONARY 617 (6th ed. 1990).

¹² In his jury instructions, the judge reads the following statutory language:

Murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in the perpetration of, or in attempting to perpetrate, any arson, rape, robbery, burglary, or kidnapping, shall be deemed murder in the first degree; and all other kinds of murder shall be deemed murder in the second degree.

COZZENS, *supra* note 3, at 368-69.

¹³ Jury nullification is a term used to describe the power of a jury to acquit a defendant regardless of the strength of evidence against him. See David C. Brody, *Sparf and Dougherty Revisited: Why the Court Should Instruct the Jury of its Nullification Right*, 33 AM. CRIM. L. REV. 1 (1995). Brody writes that jury nullification as a term is really a misnomer because the jury does not have any effect on or nullify substantive law; a jury's verdict of not guilty is "simply an act of mercy to a particular defendant in a specific case." *Id.* at 90.

The issue of whether a trial court should instruct the jury that it may disregard its instructions on the law and acquit a defendant is the subject of continuous debate. See *Id.* at 6-7. The majority rule, however, is that a trial court need not instruct the jury of this power. See *United States v. Powell*, 955 F.2d 1206, 1213 (9th Cir. 1992) (holding jury nullification instructions unnecessary); *United States v. Kerley*, 838 F.2d 932, 937-38 (7th Cir. 1988) (stating jury nullification is a power, not a right); *United States v. Avery*, 717 F.2d 1020, 1027 (6th Cir. 1983) (holding juror's duty, notwithstanding power to ignore law, is to apply law as interpreted by court and juries should be instructed to do so).

For excellent discussions of jury nullification, see David N. Dorfman and Chris K. Iijima, *Fictions, Fault, and Forgiveness: Jury Nullification in a New Context*, 28 U. MICH. J.L. REFORM 861 (1995); Lieutenant Commander Robert E. Korroch and Major Michael J. Davidson, *Jury Nullification: A Call for Justice or an Invitation to*

but his dismay is leavened by his father, the very wise and respected Judge Philander Coates. Judge Coates provides Abner with the mature view of the matter. He remarks:

The ancient conflict between liberty and authority. The jury protects the Court. It's a question how long any system of courts could last in a free country if judges found the verdicts. It doesn't matter how wise and experienced the judges may be. Resentment would build up every time the findings didn't go with current notions or prejudices. Pretty soon half the community would want to lynch the judge. There's no focal point with a jury; the jury is the public itself. That's why a jury can say when a judge couldn't, "I don't care what the law is, that isn't right and I won't do it." It's the greatest prerogative of free men. They have to have a way of saying that and making it stand. They may be wrong, they may refuse to do the things they ought to do; but freedom just to be wise and good isn't any freedom. We pay a price for lay participation in the law; but it's a necessary expense.¹⁴

This rationale is not mere rationalization; it is an adult view of the power and authority of juries to nullify in particular and the law in general. (It is also one of the finest justifications for jury nullification that one is likely to encounter).

The realistic view of Judge Coates is sounded earlier by Bunting when he upbraids Abner for his aloofness from the political process through which he must pass to become district attorney. Abner continuously expresses disgust with Jesse Gearhart, the Republican county chairman who controls—without any evidence of corruption—much of the political process in this solidly Republican community. It is with him that Abner must work if he is to become Bunting's successor. "Standing off," Bunting tells Abner, "and saying you don't like the way things are run is kid stuff—any kid can work out a program of more ice cream and less school and free movies and him telling people what to do instead of people always telling him—"¹⁵

Bunting continues:

What I say is ... until you have some responsibility, do something besides kick, or try to heave in a few monkey wrenches, you aren't going to know what you're talking about. Sure, one way to get rid of the rats is burn down the barn! That's bril-

Anarchy, 139 MIL. L. REV. 131 (1993).

¹⁴ COZZENS, *supra* note 3, at 427-28.

¹⁵ *Id.* at 365.

liant. Wait until it's been up to you for a few years, until you've had to decide, until you've seen how a few of those brilliant ideas turn out. Wait until you have to do the work instead of the talking. Then you may begin to know something, not just think you know.¹⁶

The advice is prudent, particularly in the context of the law. The "[r]omantic' temperament," says Judge Posner, "is one of humankind's fundamental moods, reflecting the boundless egoism of early childhood and the sense of loss that accompanies growing up."¹⁷ And this temperament is in conflict with the bounds that form the law. Bunting's instruction does point Abner in the direction of maturation—and the concomitant sense of loss—with respect to the law, public office, and service to the community. Romantic ideals must, Bunting implies, yield to the reality of adult responsibility; otherwise, duties go unfulfilled and the public is not served.

While Cozzens' realism could be interpreted as slipping into cynicism, *The Just and the Unjust* is not a cynical novel. In fact, it is the consistently antiromantic view of law that is most appealing about the novel. The conflicts in the novel are not, to be sure, great metaphysical struggles—this book, after all, is not *Billy Budd*—but in its own modest way, *The Just and the Unjust* is as satisfying as any of the literature dealing with the law. Cozzens' affirmation of the judicial process depicted with a keen eye as to its flaws is compelling because the novel is not measuring the criminal trial—and by extension the law in general—against an impossible utopian ideal. Abner's conflict is an inevitable one for a young attorney: all too often the verdict is not what it should be, career decisions involve factors not found in political science textbooks, and justice remains elusive in this world. Such imperfections, however, are tolerable with a mature view of institutions, one that recognizes that the imperfections that inhere them are derived from the flaws found in the men who make them. This view represents the actual adult world—the one that is embodied in *The Just and the Unjust*.

TO KILL A MOCKINGBIRD

Harper Lee's *To Kill a Mockingbird* is, in many respects, the

¹⁶ *Id.* at 366.

¹⁷ POSNER, *supra* note 2, at 140-41.

most lyrical and compelling of the three novels under discussion. There are moments of great moral intensity captured perfectly in the first-person narration of "Scout" Finch, the young daughter of the saintly lawyer, Atticus Finch.¹⁸ This novel does, however, lack the authority of *The Just and the Unjust* and *The Caine Mutiny* because of the puerility of its view of human nature. *To Kill a Mockingbird* is a book that ultimately embraces the romantic view of man affirming his essential goodness—in a way that conflicts with the savage conduct of some of its characters.

Set during the 1930s in Maycomb County, Alabama, *To Kill a Mockingbird* traces the coming of age of Jem and Scout Finch, the son and daughter of Atticus Finch, a lawyer and representative in the state legislature who is revered in the community. Roughly the first third of the book depicts scenes of youthful tranquillity in a small Southern town. But there are darker aspects and they come to the fore when Atticus defends a black man, Tom Robinson, against an accusation of rape by a white woman, Mayella Ewell. Clearly, Atticus is the moral center of the novel, and his struggle with Tom's case demonstrates what can only be called his saintliness. As he explains to Scout:

Scout ... when summer comes you'll have to keep your head about far worse things ... it's not fair for you and Jem, I know that, but sometimes we have to make the best of things, and the way we conduct ourselves when the chips are down—well, all I can say is, when you and Jem are grown, maybe you'll look back on this with some compassion and some feeling that I didn't let you down. This case, Tom Robinson's case, is something that goes to the essence of a man's conscience—Scout, I couldn't go to church and worship God if I didn't try to help that man.¹⁹

The reason Tom's case has such a moral impact on Atticus is because the man is manifestly innocent. Atticus, moreover, is not fighting the evidence but the racial bias of his community. His job is to convince a jury of white men that a black man was wrongly accused of raping a white woman—an unenviable case. But Lee, so to speak, stacks the deck in Atticus' favor, notwithstanding that this case is lost before it begins, for Tom Robinson is a noble black man—kind, decent, who only wanted to help Mayella Ewell, a white woman and daughter of Robert E. Lee

¹⁸ See Thomas L. Shaffer, *Christian Lawyer Stories and American Legal Ethics*, 33 MERCER L. REV. 877 (1982).

¹⁹ HARPER LEE, *TO KILL A MOCKINGBIRD* 113 (1960).

Ewell, who is the patriarch of Maycomb County's most loathsome white clan. Lee obviously wanted to condemn the racism inherent in Southern life, but presenting the characters in a cartoon-like depiction of good versus evil deprived her story of a great deal of moral force.

Atticus conducts his defense of Tom brilliantly—his skill as a lawyer is never in doubt—and his closing argument is among the most compelling in fiction. He closes his appeal to the jury with a resonant affirmation of equality before the law:

But there is one way in this country in which all men are created equal—there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court. It can be the Supreme Court of the United States or the humblest J.P. court in the land, or this honorable court which you serve. Our courts have their faults, as does any human institution, but in this country our courts are the great levelers, and in our courts all men are created equal.

I'm no idealist to believe firmly in the integrity of our courts and in the jury system—that is no ideal to me, it is a living, working reality. Gentlemen, a court is no better than each man of you sitting before me on this jury. A court is only as sound as its jury, and a jury is only as sound as the men who make it up. I am confident that you gentlemen will review without passion the evidence you have heard, come to a decision, and restore the defendant to his family. In the name of God, do your duty.²⁰

This appeal to the jury is shrewd; it seeks to evoke the better angels of the jurors' natures. It is, however, not enough: Tom is convicted of rape and sentenced to death according to the law.

What lesson should Scout take from this watershed event? One would think a sober view of the human condition, with its capacity for injustice, its blindness to manifest truth. But this is not the case. The novel closes with Atticus tucking Scout into bed. Responding to Scout's comment that somebody "was real nice," Atticus says, "Most people are, Scout, when you finally see them."²¹ Really? Such a conclusion, though appropriate perhaps from the saintly Atticus—it is the view of only a saint—runs contrary to the events in the novel. Most people are *not* very nice

²⁰ *Id.* at 218.

²¹ *Id.* at 296.

when you finally see them. The jury—a reasonable cross-section of the population, at least the white male part of it—convicts Tom based on passion and prejudice. Also, Jem's teacher, Miss Gates, expresses horror when discussing Hitler and supreme faith in the goodness of democracy, but she is pleased with the trial's guilty verdict. Finally, Jem and Scout, while walking home from a school play, are violently attacked by Bob Ewell, and Jem has his arm broken. (The children are saved only by the mysterious neighbor, Boo Radley, the eponymous mockingbird).²²

The romantic view of man that *To Kill a Mockingbird* endorses undermines its moral import. The reader has followed a narrative that involves the horrors outlined above and is expecting a conclusion not unlike Cozzens' stern acceptance of human limitations. Instead, he gets a child's view that all is, finally, good. And it is this view that is so offensive: original sin, and the evil that is its inevitable consequence, requires more respect than this novel provides. However much Atticus is and ought to be an ideal figure for a lawyer, the triumph of the child's vision leaves *To Kill a Mockingbird* bereft of an enduring moral resonance.

THE CAINE MUTINY

Like *The Just and the Unjust*, Herman Wouk's *The Caine Mutiny* is another *Bildungsroman*. The naiveté of the hero, Willis Seward "Willie" Keith, is lost in the cauldron of war (like the law, an ideal arena for maturation) as he emerges a mature man ready for work, marriage, and other adult responsibilities. Like Cozzens, Wouk is antiromantic in his view of the human condition, and he, like Cozzens, tells the story in conventional prose using third-person narration. Although *The Caine Mutiny* is much less about law than the other novels discussed,²³ it contains a crucial court martial and defense attorney, Barney Greenwald, who constitutes and defines the moral center of the novel.

²² As one character explains: "Mockingbirds don't do one thing but make music for us to enjoy. They don't eat up people's gardens, don't nest in corncribs, they don't do one thing but sing their hearts out for us. That's why it's a sin to kill a mockingbird." *Id.* at 98.

²³ Indeed, it is among the best World War II novels, comparable to Cozzens' outstanding *GUARD OF HONOR* (1948).

In this long but straightforward tale, Willie is introduced as the son of privilege. The scion of a fairly distinguished New York family and a recent graduate of Princeton University, Willie is a frivolous young man whose academic talent for literature goes uncultivated while he plays piano in cocktail lounges, waiting to join the U.S. Navy. Just prior to commencing his officer training, Willie meets and falls in (superficial) love with May Wynn (her real name is Marie Minotti), and he has difficulties, largely because of his overbearing mother, with Marie's social (lower class), ethnic (Italian), and religious (Roman Catholic) background.

Willie's maturation unfolds on the ship to which he is assigned, the U.S.S. *Caine*. Initially, the ship is under the command of Captain de Vriess, whom Willie despises instantly for his slovenliness and lackadaisical style of command. Soon, however, de Vriess is replaced by Captain Queeg, whom Willie immediately likes. But Queeg's character flaws rapidly reveal, and Willie comes increasingly to despise him. The critic Frederick Karl succinctly comments on the central event—the mutiny—on the *Caine* resulting from Queeg's erratic mental state:

What makes Willie mature are the episodes on the *Caine* involving Captain Queeg. Wouk's overt plan is to demonstrate that Queeg is an incompetent skipper, not to speak of one suffering borderline madness, as demonstrated in arbitrary and cruel punishments and an inability to respond to crucial situations. His behavior drives Maryk, the executive [officer], and Keith and Keefer, a novel-writing officer, to believe he is incapable of command. Seduced by the amateur psychologizing of Keefer, Maryk is persuaded Queeg must be replaced as skipper when the *Caine* moves into the eye of the typhoon and almost capsizes. Citing three articles of navy regulations, Maryk, along with Keith and Keefer, takes over the ship and brings it safely back to port.²⁴

Maryk is, of course, subject to court martial for his mutiny. His representation is assigned to the extraordinary lawyer and naval officer, Barney Greenwald. Karl is again to the point with respect to Greenwald's trial strategy: "At the trial of Maryk, who is held responsible for the mutiny, Greenwald argues brilliantly

²⁴ FREDERICK R. KARL, *AMERICAN FICTIONS 1940-1980* 111 (1983). The three navy regulations under which Maryk assumes command permit relief of the captain only under extraordinary circumstances.

that Queeg was indeed mad at the moment he had to decide the fate of the *Caine*, although he may be considered sane when beyond periods of stress.”²⁵ Greenwald’s closing argument is a perfect example of his subtle forensic manner:

I was reluctant ... because I knew that the only possible defense of the accused was to show in court the mental incompetence of an officer of the Navy. It has been the most unpleasant duty I’ve ever had to perform. Let me make one thing clear. It is not and never has been the contention of the defense that Commander Queeg is a coward. The entire case of the defense rests on the opposite assumption: that no man who rises to command of a United States naval ship can possibly be a coward. And that therefore if he commits questionable acts under fire the explanation must lie elsewhere.²⁶

Greenwald is depicted as a superb trial attorney, and his efforts earn Maryk an acquittal. Yet, the shrewdness and subtlety of his defense, as indicated in his closing argument, as well as the underlying nature of his representation, are not revealed until later.

Wouk could have ended the novel at this point, with the few scenes completing Willie’s passage to manhood—including, finally, his command of the *Caine* and a more enduring bond with Marie. But he uses Greenwald to make a more profound point. At the celebration dinner following Maryk’s acquittal, hosted by Keefer, who has just received news that his novel has been accepted for publication, Greenwald arrives drunk but lucid enough to deliver the following denunciation of the true culprit of the entire mutiny:

‘Scuse me, I’m all finished, Mr. Keefer. I’m up to the toast. Here’s to you. You bowled a perfect score. You went after Queeg and got him. You kept your own skirts all white and starchy. Steve is finished for good, but you’ll be the next captain of the *Caine*. You’ll retire old and full of fat fitness reports. You’ll publish your novel proving that the Navy stinks, and you’ll make a million dollars and marry Hedy Lamarr. No letter of reprimand for you, just royalties on your novel. So you won’t mind a li’l verbal reprimand from me, what does it mean? I defended Steve because I found out the wrong guy was on trial. Only way I could defend him was to sink Queeg for you. I’m sore that I was

²⁵ *Id.* at 111.

²⁶ HERMAN WOUK, *THE CAINE MUTINY* 566 (1951).

pushed into that spot, and ashamed of what I did, and thass why I'm drunk. Queeg deserved better at my hands. I owed him a favor, don't you see? He stopped Hermann Goering from washing his fat behind with my mother.²⁷

Greenwald's attack of Keefer goes right to the moral heart of the novel: Queeg is the innocent party. Though Keefer's conduct is diabolically clever inasmuch as his seminal part in the mutiny remains beyond the reach of the law, it remains within the penetrating moral intelligence of Greenwald. This "verdict" is controversial, and Karl finds it untenable:

Here is the equation: Queeg, despite his limitations as a skipper, fought for his country, represented its values; and he was done in by the viper on board his ship, the intellectual, novel-writing Keefer, who knew nothing of the nature of the individual's responsibility or of obedience to a higher authority. And Keefer, by virtue of his glibness and shallow sense of human rights, was able to foment a mutiny, all based on duplicitous issues, and then withdraw when the going became difficult. The real enemy is Keefer, and behind him the Nazis. The reasoning is tortuous²⁸

Wouk finishes Keefer off at the close of the novel. The *Caine*, under Keefer's captaincy at this point, is hit by a kamikaze and burns. Willie decides to stay on board and save the ship while Keefer, his novel in a sack, cravenly jumps into the ocean. The ship is saved by Willie's skillful command in Keefer's absence; Keefer's cowardice could not be more egregious, and he realizes it.²⁹ Thus, Greenwald's attack on Keefer and his defense of Queeg are vindicated—and he was honest in his representation of Myrak.

Left simply as a *Bildungsroman*, then, *The Caine Mutiny* is

²⁷ *Id.* at 442-43.

²⁸ KARL, *supra* note 24, at 111. I find the logic much more coherent. Wouk, to be sure, is provocative in endorsing Greenwald's view of the ultimate culpability for the mutiny, but it is a very compelling view.

²⁹ As Keefer observes:

See Willie, there is one lousy thing about having brains. Makes me worse off than Queeg. He could swallow all his own feeble self-protecting lies because he was a stupid man. But I can analyze. I'm imprisoned forever by the fact that I jumped. It has given me an identity. I can't forget that fact except by going paranoid like Queeg, and I'm pretty clearheaded. Not much guts, but a lot of brains. The combination is quite possible—in fact maybe there's a correlation, I don't know—.

WOUK, *supra* note 3, at 458.

an outstanding example of the genre; but Wouk pushes beyond Willie's maturation to make more substantial points about responsibility. It is noteworthy too that he uses a lawyer to accomplish this task: the trial saves the innocent man but the guilty man is condemned by Greenwald's speech to a lifetime with his own sullied conscience. Justice is done but outside the confines of the established judicial forum. Wouk, like Cozzens, realistically affirms human and institutional limitations while demonstrating the consequences of morally irresponsible intelligence.

CONCLUSION

The Just and the Unjust, *To Kill a Mockingbird*, and *The Caine Mutiny* all contain what one can correctly term heroic views of lawyers. (This view probably goes too far with respect to Cozzens' work, but the lawyers there are all depicted as honorable men who fulfill their substantial duties). The sense of duty of John Bunting and Abner Coates, the moral courage of Atticus Finch, and the sheer brilliance of Barney Greenwald are all qualities that lawyers—especially young lawyers—would do well to emulate. The themes of the books do not involve the law, but the law is hardly an insignificant part of the protagonists' moral development. What strikes a reader who is trained in law is the accuracy of, and faith in, the legal processes depicted in these novels. A trial, especially a criminal trial, is an inherently dramatic event, and it is not surprising when a novelist draws on its form, intricacy, weaknesses, and grandeur for a story.

But what one primarily takes away from these books is a view of the world—any serious novel vouchsafes one, however abstruse or incoherent³⁰—and it is here that *To Kill a Mockingbird* falls disappointingly short, notwithstanding the splendid moral example of Atticus Finch. For a lawyer is, in a sense, the ultimate worldly figure, resolving issues in what often seems a coldly positivist universe. His moral compass must be set accurately if justice is to be effected and cynicism kept at bay. *The Just and the Unjust* and *The Caine Mutiny* provide the requisite world view for the lawyer. It is one where maturity is a good to

³⁰ "A novel," said the distinguished literary journalist and novelist, Anthony Burgess, "ought to leave in the reader's mind a sort of philosophical residue. A view of life has been indirectly propounded that seems new, even surprising." ANTHONY BURGESS, 99 NOVELS: THE BEST IN ENGLISH SINCE 1939 17 (1984).

be sought and is a triumph when achieved. In other words, it is a world view where fulfilling the responsibilities to oneself and the community represent the enduring ideal for lawyers.

