PETER BROWNING HOFFMAN

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I am sad that I could not say good-bye to Browning Hoffman in person. I first learned about his illness after he had already succumbed to it. I would like to have told him what I now can only address to his wife Beth, his children Dawn and Heather, his friends, colleagues, and all those who in the future will get to know him through his writings.

Browning was, and still is, the only psychiatrist I ever trained in psychiatry and law. I introduced him to this new world that had captured his imagination, and for two years we worked very closely together. I was delighted to teach him all I knew. I first had met him years earlier, when he was a psychiatric resident at Yale, and quickly I began to respect his seriousness of purpose, his searching questions, and his boundless energy. His capacity for sustained work was remarkable. When I asked him to take charge of the seminar on psychiatry and law I had been teaching to psychiatric residents, it took only a few months before he presented me with a comprehensive and thoughtfully organized set of new teaching materials. I was amazed and told him so. He perhaps was too serious, too hard working then; it was difficult for him to relax. Unconsciously he may have known that he would not be with us for very long and wanted to leave us the rich heritage he did.

Browning was especially dear to me. I think he knew this, but I would like to have conveyed my feelings to him during a final, personal good-bye when, as Beth wrote me, he was much more receptive to giving and receiving affection. On that occasion we might have been able to laugh and cry together; we had exchanged ideas but not emotions during the days we had known one another so well. There had been things to cry about. I did not want him to leave in 1971 when he went to Virginia. I was teaching at the Law School and we carefully had planned for him to establish an interdisciplinary teaching and research program within Yale’s Depart-

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ment of Psychiatry. We intended to work together and at the same time to allow Browning to be in charge of his own program. He had prepared a most ambitious and imaginative proposal, but we were unable to raise the necessary funds. We were both disappointed. Virginia’s gain was Yale’s loss. The personal loss I experienced was moderated by also wanting him, for his sake, to leave—one should place distance between oneself and one’s early mentors, for it is hard to soar when too close to parental presences. And soar he did; he took his plans to the University of Virginia and, among other things, established there the unique Forensic Psychiatry Clinic he had envisioned creating at Yale University.

I never had the opportunity to talk with him about his written work. Of course I read with interest and pride everything he published; his work was solid, scholarly, and careful. My appreciation of him was only enhanced when I recently reread his major articles and traced his intellectual development during the few years he turned his energies to psychiatry and law. In article after article he displayed his extensive knowledge of both law and psychiatry, intimately interwoven with a sensitivity to the problems that the two professions face in their encounters with one another. Browning emerges from his writings as the great conciliator, constantly trying to speak first to one and then to the other profession, asking each to be more respectful of the other’s position. Listen to him:

[T]he proposed [administrative law] model seeks to settle rather than foster dispute, to integrate rather than alienate the legal and psychiatric professions, and to insure rather than obstruct adequate psychiatric treatment for mentally ill persons. Only through a flexible and interdisciplinary approach . . . can we hope to ensure that mental patients’ rights are protected.¹

Being a conciliator did not mean being uncritical. In a thoughtful discussion of the doctrine of “the least restrictive alternative,”² Browning noted that it is a doctrine still in search of meaning despite all the ink that has been spilled to construe it. And instead of providing facile answers, he informed his readers of issues that too

frequently are lost sight of: that, in applying the doctrine, it does not make sense to focus exclusively on minimizing physical restrictions, for with certain patients greater restrictions for a period of time promise more effective treatment and more rapid rehabilitation than placing the patient in a less physically restrictive "therapeutic" environment;\(^3\) that, in overemphasizing the dangers of physical restriction, one can condemn patients to the restrictive consequences of antipsychotic and antidepressant medications that not only alter the "mental processes of patients who receive them" but also expose them to such physical side effects as "incoordination, blurred vision, and drowsiness."\(^4\) At the same time, he knew that these problems could not be resolved, as some of his colleagues maintained, by allowing psychiatrists to make all treatment decisions. The danger of abuse of power troubled him greatly. Thus, Browning asked for safeguards, accountability, and the abolition of unnecessarily coercive treatments; he presented his proposals for mechanisms of control in considerable detail.\(^5\) Unlike so many commentators on psychiatry and law, he was averse to taking partisan positions informed solely by the professional dogma of one discipline or the other. He attempted patiently to foster greater understanding out of a deep conviction that it is futile to cut Gordian knots; they need instead to be slowly untied.

He appreciated that the "judiciary's attempts to assign [the responsibility for making treatment decisions] to itself, the state, the clinician, or the patient have failed to achieve meaningful results because these parties have been incapable or unwilling to assume the tasks."\(^6\) This was a most important insight and had Browning lived longer he would have developed its implications further. For what happens so consistently in competency proceedings is that lawyers, judges, and psychiatrists defer to one another with no one taking clear responsibility for the decisions which are being made, and it is the voiceless citizen-patient who loses out in the process. Browning was first and foremost dedicated to alleviating the plight of patients. He had great faith that the administrative law models he was working on would best protect patients' rights and needs.

\(^3\) Id. at 1142-43.
\(^4\) Id. at 1150.
\(^5\) See Hoffman & Dunn, supra note 1, at 315-33.
\(^6\) Hoffman & Foust, supra note 2, at 1139.
One of Browning's last ventures propelled him into the political arena. He reluctantly accepted the assignment of leading the Diagnostic Treatment Evaluation Team of the Contract Research Corporation, which was asked by the Governor of Maryland to evaluate the Patuxent Institution, established in 1955 for the "treatment" of mentally abnormal criminal offenders. It was a most difficult assignment and Browning carefully and caringly made a series of recommendations to correct some of the most flagrant abuses to which patients in this institution had been continuously exposed. He understood that any improvement in institutional practices can only be accomplished in incremental steps, for 'treatability' (like dangerousness and defective delinquency) is an elusive concept, of superficial appeal perhaps to legislators who wax eloquent to appease vocal constituents, but of treacherous implication to clinicians, correctional personnel and convicted offenders who believe that such treatment designations may easily mask inhumane care offered under the aegis of rehabilitation.

At the same time, he felt passionately about the mentally ill and cared deeply about the inhumane treatment to which they are exposed. In his last article, written from his death-bed and bearing the charming subtitle "The Perils of Pauline in Policy-Land," he detailed the frustrations he experienced in his encounters with psychiatrists, members of the Governor's staff, and legislators. He wanted to share with his colleagues his experiences—how he had dealt with difficulties, disappointments, and defeats—so that they would learn from them. He was certain of only one thing, about which he wrote with deep conviction: that psychiatrists must bring their influence to bear on the political process and "dare to become involved."

Everything that Browning stood for is encompassed in a statement he made two years earlier: "The mental health professional and particularly the psychiatrist must . . . cultivate a multi-disciplinary expertise and ability to understand and appreciate the contribution of many disciplines if he wishes to address fairly the

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8 Id. at 197.
10 Id. at 1.
complex needs of the mentally ill persons and their social isolation.'" He asked others, as he demanded of himself, to work hard to develop expertise, to collaborate respectfully with members of other disciplines, and to evaluate existing practices fairly but relentlessly. Without such dedication, he knew, the pervasive isolation of patients will continue to haunt them and us. In his short life he spoke of all this with courage and intellectual honesty.

I am sad to have to say good-bye to Browning. He died too young. Students should outlive their teachers. In a short time, though, Browning became a worthy colleague, and this is some consolation. I shall miss him, as will Beth, and as will Dawn and Heather, who had hardly gotten to know him. It is for his children, above all, that I write this down so that in years to come, when they read what I have said here, they will appreciate even more that their father was quite a man.