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Many stories, multiple meanings: Narrative in the O.J. Simpson Case as a Cultural Discourse Event*

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Abstract

America's continuing obsession with the O.J. Simpson case can be explained as a defensive strategy of repetitive narration, to avoid confronting the difficult issues the case raised. These narratives form a series of concentric circles, from the facts of the cases themselves to the meta-analysis of the media. This paper analyzes these multiple levels and their interpenetrations as a way of examining the mutual influence of culture and discourse upon each other.

Key words: Narrative, Media Analysis, Language and Law, Culture.

Table of Contents

1. Introduction: The O.J. phenomenon
2. The case as a creator of distress
3. The defense of narration as the basis for the phenomenon
4. Current problems the O.J. case brings to consciousness
5. The complexity of the Simpson narrative
6. What it all means
7. Conclusions
References

1. Introduction: The O. J. phenomenon

The O. J. Simpson case recently celebrated its one-year anniversary at the forefront of American popular culture. As I write, it has just reached its narrative, if not temporal, halfway point with the resting of the prosecution. Intellectuals still sneer; the MacNeil/Lehrer Newshour on PBS still fastidiously avoids

(*) Editor's note: This article was written in July 1995 and it makes reference to issues raised before the O. J. Simpson trial ended.

mention of it. But the more popular media, even the august paper of record, the *New York Times*, devote endless column inches and air time to it. Although polls regularly find that American viewers feel that too much media time is devoted to the trial, they must still be watching, since flagging ratings would drive the spectacle off the air.

Soap operas, once the mainstay of middle America daytime television viewing, have lost a great deal of ground to the trial, which in the San Francisco area is telecast in full daily by both a cable and a UHF station, as well as being broadcast by a radio station. There are already prolific genres of O.J. Simpson jokes, Kato Kaelin jokes, Rosa Lopez jokes, and much more, yet another indication that Americans presume in one another a familiarity and fascination with the case.

The trial has spawned concern beyond its immediate consequences. There has been a good deal of worry in the media (the very media that obsessively cover it in every detail) about the ways in which the presence of cameras in the courtroom may have affected the outcome of the trial (e.g., Estrich 1995; Graham 1995), the ways in which the reportage of the trial may have affected Americans' perception of the workings of the criminal justice system (e.g., Margolick 1995c; Navarro 1995; Rimer 1995); and the ways in which the statements of dismissed jurors may be affecting the Americans' already troubled views of race relations in this country (e.g., Chiang 1995). In short, the trial can no longer truly be characterized under its official name of the People of California vs. O.J. Simpson. Rather, it has become something closer to the People of the United States of America vs. Themselves, with O.J. Simpson and the courtroom personae as star witnesses.

Intellectuals, of course, tend to take a sniffish attitude to the contretemps, as they have toward several of the more notorious trials of recent memory (the Menendez Brothers; William Kennedy Smith; Lorena Bobbit), feeling that the popular interest displayed is itself the best evidence of the triviality and meretriciousness of the proceedings. But the fact public interest, ordinarily so fickle and short-lived, fastens so tenaciously on these cases, especially O. J.'s, suggests that people instinctively realize that they are relevant for us all. They define who we are at this moment, what we desire for ourselves, what we are afraid of, and how our self-perceptions are conflicted and contradictory.

2. The case as a creator of distress

Crimes like these can cause individual and social distress and disorganization, if not resolved or at least neutralized. An ordinary murder is horrific enough, causing each of us to question our personal safety and the reliability of the social contract under which the government undertakes to protect us from one another; as well as (sometimes) causing each of us to reflect on our own propensity for violent actions. But a murder such as this goes far beyond that, being by any standard no ordinary crime, indeed, no ordinary double murder.

The O.J. case calls into question a number of long-established and trusted presuppositions about how the world works and how we should think about people. Stereotypes we have been encouraged since childhood to believe in are abruptly shaken. Individually and collectively, we experience confusion and disorientation. Under such psychically threatening circumstances, psychoanalysts tell us, we utilize defense mechanisms to ward off the threats and allow us to continue to appear —to ourselves and others— to be behaving and reacting rationally.

3. The defense of narration as the basis for the phenomenon

One favored defense is the turning of passive victimhood into the appearance of total control. One form this can take is the repeated acting out, or narrating, of a painful event by its experiencer. So a child who has had a traumatic visit to the doctor will insist on playing «doctor» with dolls and/or friends for days afterward, in which the «victim» will become the «victimizer», the doctor, giving the injection to the passive doll or younger sibling. Or an adult victim of a natural disaster will tell the story again and again, as often as an audience can be found, until the pressure to tell has receded (as those of us living in the Bay Area during the Loma Prieta earthquake of 1989 discovered: everyone we knew had a story to tell, and they told it, and told it...). Often, too, over time, the acting out or the narrative changes subtly over time, with each rehearsal allowing the experiencer more control.

So, if indeed the Simpson case is arousing anxiety in the populace, it should not be surprising that there is an unslakable demand for reenactment and retelling of the tale. Certainly we can identify some of the causes of the putative distress: the unsettling of the comforting and heretofore unquestioned myths that form some of the backbone of the American agenda.

Perhaps the major question circles around the concept of *justice*. It is a linchpin of the American way of life that we believe that justice exists, the same for all (equal justice under law, according to the fourteenth amendment in the Bill of Rights), in a nation united by common interests —«one nation ...indivisible, with liberty and justice for all,» as we say solemnly at the end of the Pledge of Allegiance to the flag that we invoke at all official ceremonials. But the Simpson case from its beginning makes those secure assumptions untenable, by dividing the citizenry into groups each of which sees in one or another aspect of the case a sign that it is excluded from «justice for all». Blacks, it is said, are apt to be framed by racist police; women who are abused by their husbands are apt to receive short shrift from the justice system. So there is no «justice for all», and moreover, we are not «one nation indivisible», since we cannot agree on any of these critiques. Further, the trial has suggested to many that the kind of justice a wealthy celebrity like Simpson can get is not what most people are likely to find: rather than «liberty and justice for all», the trial suggests that those with money and charisma can get justice, and therefore remain at liberty, while the rest of us cannot.

4. Current problems the O. J. case brings to consciousness

By now, probably most Americans are willing to agree that *at some time in the long-ago, dark past* African Americans were not treated with the same brand of justice as their white counterparts. Many (if not necessarily most) Americans are willing to agree that in that same hoary period, men had rights denied to women. But the accepted current presumption, as demonstrated by a great deal of public rhetoric over the last few years, combined with Supreme Court decisions and legislation actual and potential, would appear to be, approximately, «That was then; this is now», and *now* that those injustices have been righted, there is full equality under law for all U.S. citizens. (Cf. recent Supreme Court decisions that restrict the scope of civil rights and affirmative action legislation: e.g., *Adarand Constructors v. Peña* (1995), No. 93-1841, and *Miller* v. *Johnson* (1995), No. 94-631.) Further, we learned in civics class, money and celebrity make no difference. Every citizen is constitutionally guaranteed the right to legal representation; rich and poor are treated alike by an impartial justice system. Indeed (the more thoughtful among us have argued) the very justification of laws and legal systems is that they protect the poor from the depredation of the rich —the law is the great equalizer.

Underlying these virtuous civic presuppositions are two widespread assumptions about how to judge and treat others —assumptions that are often tacit, but always potent. As is typical of folklore, these stereotypes exist as a contradictory pair which the culture comfortably tolerates. But the Simpson case forces us into an uneasy awareness of our hypocrisies. *The stereotype*: Celebrities are better than the rest of us. They are somehow magical. They have charm, or charisma (which is what makes them celebrities), and part of their charm is their ability to get us to believe that they are not only great, but good. They are not only idols but ideals.

While we invest in celebrities our hopes and dreams, we are also fond of exposés that destroy them: our expressions of envy, representing *the counter-stereotype*: Celebrities are degenerate and stand-offish. They got where they got by dubious means, and will stoop to anything to keep their status. Power corrupts, wealth corrupts, charisma corrupts most of all.

Our edginess about these contradictions and self-denials makes us eager consumers of any defense that allows us to live with ourselves and our confusions. A favorite is the *narrative defense*, the participation in the creation of multiple interlocking narratives about whatever it is that is troublesome, as a way of turning our passive perplexity and sense of helplessness as we view incomprehensibly contradictory events into the illusion (at least) of active control: we make up the story, or piece various stories together to make a sensible whole.

5. The complexity of the Simpson narrative

At least six levels of concentric narration can be distinguished in the Simpson narrative, which the reader may imagine as organized into a series of concentric circles.

Level 1 is outside the narrative proper as it forms the basis for the story: this is the «real truth», what actually happened. We have no way of knowing what this is.

Level 2 is the story presented by the prosecution (and perhaps an alternate version offered by the defense). In an adversarial trial by jury, it is the task of the prosecution to present to the jury a «most plausible» scenario: a narrative in which all the known facts ideally fit together to form a seamless whole in which the jury can believe, and which identifies the defendant as the only person who could have committed the crime, the prosecution story as the only way in which the crime could have taken place «beyond reasonable doubt».

The defense's job, on the other hand, is to unravel and cast doubt on the prosecution's narrative. Popular courtroom fiction like *Perry Mason* and *Matlock* suggest that a good defense attorney (aided by his ingenious private investigator) will present an alternate, more plausible, scenario, exonerating his client. The Simpson defense team hinted at its intention to do so in its opening statement, in which it alleged that the murders were committed by «drug dealers» in revenge for unpaid drug debts (or something), and that the physical evidence against their client (the blood, the gloves, the hair and fibers...) were planted by racist and venal police officers in order to frame Simpson. In normal trial procedure, the defense virtually never offers, as it will apparently do here, a true alternate narrative —another way in which this trial is extraordinary.

The problem at Level 2 is that neither narrative is totally satisfactory. The prosecution has not fully explained how O. J. alone could have committed two elaborately brutal murders in the time allotted, nor has it proved motive to everyone's satisfaction. One dismissed juror has remarked that testimony about incidents of spousal abuse seem beside the point: everyone fights, not everyone murders. Several apparently are unconvinced by the seemingly incontrovertible DNA evidence: the prosecution is «drawing straws», another reject stated confidently if unidiomatically. These aporias at Level 2 lead to the likelihood of an inability to construct a collaborative narrative (a verdict) at Level 3, and the efflorescences we observe at Levels 4 and 5.

Level 3. This is the narrative that the jurors, first separately and then as a group, must make of Level 2 narrative and its connection to Level 1, as they see it (the jury as «trier of fact»). Normally the jury's job is to use the defense deconstruction as a guide to determining the airtightness of the prosecution narrative. Has the prosecution established guilt beyond a reasonable doubt? They may, of course, adopt the prosecution theory in toto, or reject it in toto. They may, and often do, adopt parts of it in order to construct their own most-plausible narrative. If that narrative still places the defendant in the position of perpetrator, they will produce a «guilty»

verdict, even though they arrive at that conclusion by a path different from that of the prosecution, or may, as a compromise, find the defendant guilty of a «lesser included offense», a less serious crime then he is charged with by the prosecution. Other things can happen. The jurors may disagree on whether any plausible narrative can be made at all of the data they have encountered, in which case the jury will hang: there will be no verdict (a common assumption about the outcome of this trial, at this point). Or, of course, the jurors may dislike one another so intensely that they are unwilling or unable to collaborate during deliberations in the construction of the single narrative that is the requisite unanimous verdict, and again the result will be a mistrial. (There has been a good deal of testimony by dismissed jurors to this effect).

In a normal trial, the conclusion of Level 3, the verdict, is the final narrative. A guilty verdict may be appealed to a higher court. But an appellate court does not have the role of constructing, or deconstructing, the jury's narrative. Appellate courts serve an interpretive function, the literary critic to the jury's/prosecution storyteller. Did the spinners of tales utilize all the materials available in a legitimate way? In the Simpson case, should there be a conviction, the defense would probably appeal —but this is in the remote and improbable future.

Another anomaly of the Simpson case is its use of a sequestered jury. Since December the jurors have been living in a wing of a hotel, under 24 hour guard. They may not lock their doors, have unmonitored telephone calls, watch television or listen to radio. Their time and activities are totally controlled by the sheriff's deputies who guard them, and who apparently are allowed to enter their rooms at will to search for contraband (e.g., evidence that they are making notes for eventual publication). The purpose of sequestration is the avoidance of one sort of narrative interpenetration or corruption — that is, the influencing of the stories the jury is constructing by narratives at Level 4, the level of media commentary.

As important as the avoidance of contamination may be, the downside of sequestration is the infantilization of people who have lost total control of their time, their lives, and their possessions, whose movements are circumscribed, and who are placed in a situation they cannot fully comprehend. The infantilization is already showing in the grumblings of the jurors who have been dismissed, which sound like a bad day in kindergarten: There is childlike revenge: «She kicked me», «He called me a bad name»; decisions like «Today let's all wear the same color clothes»; endless tattling: «She's writing a book»; «He's making notes about us».

Sequestration may make it more difficult to reach a rational verdict, than would nonsequestration. Unquestionably sequestration shields jurors from direct influence by the media narratives as well as those of others in their environment. But their impenetrability is not absolute: as long as the principal actors (attorneys and judge) are demonstrably influenced in their presentation of their cases and adjudication of it by media response, the

latter will trickle down to the jury, however subtly. A sequestered jury is apt to be rendered overdependent on what they can glean from the judge and the attorneys by their isolation from other creators of meaning.

More seriously, the theory of sequestration is based on outmoded ideas about communication —namely, that silence equals noncommunication, that the absence of utterance is a void. But we know better: we know that silence, where utterance would be expected, is eloquent. The absence of access to opinion does not create a vacuum.

Normally human beings who belong in a complex society are bombarded by information, real and quasi, at all times and from many sources. Much of this we filter out, but that continual access creates our sense of reality and our very sanity. What happens to a group of people denied *all* access to sources —newspapers, magazines, television, radio— that they normally rely upon, not only for information on the O. J. case, but everything else? The withdrawal of the drug must have painful side effects, no doubt including hallucinations (she looked at me funny; he's writing a book). Each juror must be producing internal substitutes —endorphins, if you will— for the external stimulant. Rather than relying on group process (the consensus of acquaintances and the media) for the interpretation of events, each juror is probably constructing an individual, perhaps quite idiosyncratic, account.

Of course, jurors are *supposed* to construct individual accounts of testimony (Level 3), eventually to be compared with and related to the constructs of the other jurors during deliberations, so that the jury as a whole produces its own seamless narrative in response to what they have heard during the trial. But ordinarily what filters in from the world outside, perhaps (illegally but invariably) about the trial itself as about everything else, provides checks and balances against the internal scenario the juror is constructing, based on the juror's life experiences, idiosyncratic cognitive structures, stereotypes, and prejudices. Without the external corrective, it is quite possible (particularly in a jury that may be sequestered for nearly a year) that their understandings of what is going on in court are becoming more and more distorted, their individual narratives increasingly idiosyncratic. In an ordinary trial (again illegally but typically), jurors do some discussing of court events with one another, testing their individual perceptions against a group consensus; but with jurors in this case encouraged to report on one another, sharing of narratives is less apt to occur, so that each juror's individually constructed scenario will remain virginal, and increasingly bizarre, until deliberations.

Level 4 is the media gloss of Levels 1-3. The media do more than simply *report*, that is reiterate what was said, and show pictures of trial events. But even that involves some subjective interpretation: what bits of the six-hour trial day to put into the five minute evening news segment? What pictures to use, putting which figures at an advantage or disadvantage?

Beyond that, this trial has spawned an army of media commentators. Every network, every local TV station has its own legal analyst, sometimes several. Talk shows regularly schedule these or other experts to summarize recent events and predict the future course of things. They assess what each bit of evidence «means», whether it was good or bad for prosecution or defense; assess the behavior of the principals: is Judge Ito controlling the attorneys? Is Maria Clark/Johnnie Cochran behaving in accordance with normal courtroom procedure? Is their dress meaningful? They wring meanings out of Delphic mutterings of dismissed jurors: race is/is not an issue in the jury; spousal abuse is /is not seen as prognosticator of murder. They try to determine what it all means: there will/won't be a verdict; O.J. will/won't testify; the defense will/won't present a case. (Cf. Carlsen 1995; Chaing 1995d; Davidson 1995; Margolick 1994a; Margolick 1995a).

This is also the level of incessant polls of ordinary citizens and attorneys alike. These have shown (among other things) a steady increase in belief in Simpson's guilt, but at a significantly lower level in the black (60%) than in the white (80%) community; a belief both among attorneys and the common folk that O.J. will never be convicted, with a somewhat higher percentage voting for a mistrial (either due to the dissolution of the jury before it can reach a verdict, or its inability to reach a verdict) than for outright acquittal; and a decrease from 63% in January of 1994 to 50% in June 1995 of public faith in the justice system (CBS Evening News poll, June 9, 1995).

There is speculation at this level too about what the defense will do: not make a case at all (but then, won't the jury worry about the defense opening statement?); whether or not they will put O.J. on the stand (if they do, the prosecution gets to grill him in cross examination; if they don't, the jury will wonder why: cf. Chiang 1995e and Margolick 1995d). There is also puzzlement throughout the electronic media about one of the ragged ends left in the prosecution's case: why no testimony about the low-speed car chase, the $10,000 and passport found in the glove compartment of the notorious Ford Bronco? why no testimony from Al Cowlings? why not recall Kato Kaelin to the stand to see if he's really perjured himself?

Level 5 is the interpretation of Level 4. This level, too, is multi-tiered. It involves media looking at themselves and their influence (what has been the role of cameras in the courtroom? the role of reportage on the behavior of the principals? the role of eventual celebrity on the jurors?), and also deeper and broader questions about the fallout from the trial on American society generally: is it accentuating our already dangerous racial polarization? is it imbuing us with cynicism about the justice system? is it causing us to reevaluate our love affair with fame? Will it cause us to press for changes in the conduct of the trials? Suggestions, spurred on if not actually originating with this trial, have already been made: to permit non-unanimous

verdicts in criminal cases; even to scrap the jury system completely in favor of an inquisitorial system (or anything rather than this). (cf. Chiang 1995c; Estrich 1995; Graham 1995; Margolick 1994a; Margolick 1995b; Margolick 1995c; Navarro 1995; Rimer 1995). Also discussed at this level are polls showing that the majority of the population are sick of O.J. and aren't listening any more; but these reports must be considered along with other facts, such as the continued high ratings of shows with O.J. reportage, and the awareness that even those pollees who are most adamant in their denunciation of trial coverage seem to have about every detail in the unfolding drama.

Also part of Level 5 are comparisons of the relative competence of (other) media commentators (cf. Chiang 1995c).

And finally there is Level 6, the meta-meta analysis, namely papers like this. (And if you, dear reader, discuss this paper, that becomes Level 7, and so on...).

6. What it all means

We do not yet know (although Level 5 has mulled it over) just what the trial represents. Is it a total anomaly, a law unto itself that ought not to create precedents or encourage changes in trial procedure? Or is it just an especially striking example of the typical trial, a normal trial that just happens to be conducted in the glare of publicity, and do the miscarriages of justice we observe (or think we do) in this trial signal a need for reform of the whole system? (Chiang 1995b; Chiang 1995d; Estrich 1995; Margolick 1995b). There are many reasons to believe the first hypothesis to be correct, but much of the critique, especially at more popular levels, presumes the second.

And there is more that our attentiveness to the trial is making manifest. Deep racist and sexist tendencies in society are being at once brought to light and defended against (cf. Gorov 1995; Noble 1995; Chaing 1994; Chaing 1995a; Davidson 1995; Hancock et al. 1995; Lara 1995; Margolick 1994a; Mayer 1995). Institutions such as the District Attorney and the Police Department, which we have tended to trust and even venerate, upon close inspection by a defense team with deep pockets, turn out to have feet of clay (Carlsen 1994; Margolick 1994b).

Similarly, the trial is often considered a glaring example of jury misconduct, in which jurors chosen for preexisting racial prejudice (the «race card») use their position to «send a message» to the larger society that it is incontrovertibly racist. Even if that message is legitimate, many argue, it is dangerous to allow a jury to send that message by (as many believe will happen) refusing to convict a guilty defendant (by invoking the defense «frameup» theory). The jury is seen as out of control, following its own agenda rather than doing what it swore to do.

Or one can view the trial as a different sort of anomaly: the only jury in history to truly believe in the presumption of innocence of the defendant:

innocent till proven guilty beyond a reasonable doubt. Most prospective jurors in criminal trials have no trouble telling the court in *voir dire* that they can adhere to that standard, but post-verdict interviews often reveal that jurors formed an opinion that the defendant was guilty very early.

If it is true that jurors in this case have really not made up their minds (as interviews with some of the ten dismissed jurors have suggested), that is not necessarily because they have virtuously avoided prejudging the case. In most cases conviction provides an immediate positive payoff for a jury, as acquittal does not. To convict is to feel that the long and onerous job of jury duty was not in vain: the crime was solved, a dangerous perpetrator removed from the streets, and the right message was sent to society. Weighed against that happy conclusion is the possibility that the man at the table before you is the by prosecutorial and police error —a light weight by comparison.

In this case, however, a fairly even balance tends to keep the juror's minds open. Weighed against the horribleness of the crime and the need to solve it are both O.J.'s celebrity (which, as we have seen, may make jurors like the rest of us see him in the most favorable light) and the «race card».

If the jurors are indeed keeping open minds, they are among the few who are. The media have come down heavily in favor of guilt: their concerns are framed in terms of whether, for example, the prosecution's glove fiasco will keep justice from being done, keep the jury from convicting. They seldom wonder whether the gloves' failure to fit might mean that they did not belong to O.J. at all.

7. Conclusions

Beyond these legal concerns, the O.J. Simpson case and our obsession with it raise larger and more abstract questions. Beyond the anguish of facing the racist or sexist nature of current society lurks a related but darker question: the very definitions of race and gender. The writings of Freud began the reinspection of apparently discrete mental categorizations, and since the early years of the century we have been continually forced to reexamine certain age-old presumptions of Judeo-Christian culture.

Popularly both race and gender are seen as essential, inherent, and precisely definable characteristics that are given to individuals at conception and are an unchanging part of them till death. Intellectual discourse increasingly recognizes both race and gender as constructed, as well as shifting and ambiguous, as much subjectively as objectively determined. This opposition inspires fear and loathing in traditional sectors of the community, even as they inspire fascination. Over the last several years, just about every TV talk show has done programs on racial and sexual indeterminacy: transexualism and transvestism; whites who act black; blacks who like to date whites; people of mixed racial background. Audiences almost always respond with incomprehension and hostility, especially when it is a member of the politically dominant group (male or white) who has chosen to throw in his lot with the despised other.

A deep source of both fascination and the distress engendered by the Simpson case is that O.J. is someone who is racially indeterminate. Earlier in his career, his ability to cross over and act «white» made him a star; now it is raising problems. He was married to (and is accused of killing) a (blond) white woman. Granting that our attitudes are colored as much (at least) by what we *want* to be true, as by what we see in the media, how does O.J.'s status as disturbingly ambiguous figure impel us to view him?

Finally, there are two more background issues stirred up by the Simpson epiphenomena. This trial (along with some earlier examples) has begun to obscure another previously sharp categorial distinction, this one distinguishing two institutions: entertainment and justice. In the future, will trials be Neilson rated? Will judges be appointed on the bases of their telegenic capacities?

Trials function in societies as ways to determine «the truth» about what «really» happened. It is clear enough that that definition of a satisfactory procedure is unlikely to be met in this case, whether because it ends in a mistrial, or because a verdict dissatisfies the majority of the community. But beyond that, the ambiguities and indeterminacies of this case and its conduct call into question the existence of any notion of a discoverable, single, truth. If «the truth» cannot be ferreted out via a procedure expressly conceived millennia ago to accomplish that precise aim; despite (more accurately, to be sure, because) the great expense of time and money, then where if at all is «truth» reliably to be found? The trial and its commentary are beginning to suggest that there is a «black truth» —when in doubt, doubt the system, and a «white truth»— trust institutions unless there is really good reason not to. As with many aspects of current social indeterminacy, the comfortable age-old assumption that there was only one *real* truth, the one espoused by and useful to the powerful, is being demolished by what we see and hear every day. The results, when the dust settles, could be cataclysmic.

The multiplicity of narratives, superimposed on an event itself built on indeterminacy and ambiguity, means that all kinds of «truths» are being subjected to examination in the trial of O. J. Simpson. But the complexities of the case mean that there is no possible way we will ever know the «real» truth if there is one. If (as is currently believed) there is no verdict, that fact will be apparent at once. If there should be a verdict, though, that will not put all doubts and fears to rest.

The eventual result of the trial may well be the forced recognition by everyone of the reality of multiple meanings, multiple narratives, and the elusiveness of the truth. If so, it will be recognized by future historians as the final triumph of postmodernism, just in time for the millennium.

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