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The Waste Land

Arthur Austin*

*What is that sound high in the air
Murmur of maternal lamentation
Who are those hooded hordes swarming
Over endless plains, stumbling in cracked earth
Ringed by the flat horizon only
What is the city over the mountains
Cracks and reforms and bursts in the violet air¹*

Something was wrong. It was the quietest class Syzygy² could remember; at the end, the usual sycophants avoided him like he had a bad case of halitosis. Conversation abruptly stopped when he got a cup of coffee in the faculty lounge—it was definitely a deep freeze. Even the secretaries looked away when he walked to his office. Now he knew how it felt to manage the Cleveland Indians. *Strange—what is all this about? It couldn't be that memo I sent to that poseur faceman³ Dean about those lazy, incompetent fools on the P & T*

* Edgar A. Hahn Professor of Jurisprudence, Case Western Reserve University School of Law. The characters in this story are fictional.

1. T.S. ELIOT, *The Waste Land* in *THE COMPLETE POEMS AND PLAYS 1909-1950*, 37, 48 (1980).

2. The characters in this story are carryovers from Arthur Austin, *An Allegory on the Banks of the Nile*, 39 *KAN. L. REV.* 929 (1991). Although they were, with the exception of the Dean, destroyed in an explosion, I use literary license to revive them. See, e.g., the works of William Faulkner.

3. Students use the term "faceman" to describe a free spirited person who eschews conventional work, instead relying on good looks and a quick mind to subsidize an extravagant life style. It is derived from Templeton "Faceman" Peck, a character in the TV series "The A-Team" who used looks and guile to scrounge for the "Team." *The A-Team* (NBC television series 1983-86).

"Faceman" is gender neutral and can be used either as ridicule or to connote rakish habits. A "faceman" dean lacks intellectual depth but can charm money out of alumni, placate faculty, and keep central administration at a distance. Most law school deans are "facemen." See generally Douglas Martin, *Law School Dean Wanted: A Man For All Reasons*, *N.Y. TIMES*, May 6, 1988, at 23 (describing the characteristics of law school deans).

Committee;⁴ he's used to those. I sure don't want a fight now—I've got too much consulting to do, too much money to make.

When Syzygy got back to his office his secretary handed him a white envelope. She did not look happy. "A student said that you should get this. I don't know who she is; I never saw her before." When Syzygy mumbled, "I'll get to it later," she looked away and brusquely retorted: "She said that you had better read it now." He sat down behind his desk and read.

Professor Syzygy:

The Committee on Insensitive Action (CIA) has heard testimony from students who charge you with making insensitive comments in your Intellectual Property class. After considering their testimony, the Committee voted unanimously to charge you with a violation of Rule 1 of the Code of Conduct.

Syzygy was the consummate lawyer—he practiced what he preached: read the statute and then go to the decisions. In this case, he was mystified. Who in the hell was the CIA? Rule 1 was not to be found in the Law School Regulations. The letter wasn't even signed. The only recourse was to go to Snopes.

Syzygy did not like Peabody Snopes. They did not have a thing in common: Syzygy revered *law* as the ultimate calling while Snopes was often irreverent, and liked to talk CLS trash and Chicago School economics, and bug Syzygy about his George McGovern politics. Worst of all, Snopes was old (rumored to be over seventy) and played it for every advantage he could get, while Syzygy was a young fifty-three who kept in shape by daily jogging. But while he did not like the old man, he knew that Snopes was plugged into everything that went on in the law school.

It was hard to tell when Snopes was awake. He habitually nodded off at faculty meetings but always recovered when someone said anything that piqued his interest. He was, however, definitely awake when Syzygy walked into his office. Grinning like a possum with a stomach full of apples, Snopes said: "Got your rear end caught in a meat grinder, don't ye."

4. Syzygy is apparently referring to the events surrounding the report of the Promotion & Tenure Committee concerning the appointment of Ms. Evita Allegory to the Faculty. See Austin, *supra* note 2, at 929.

Syzygy almost walked out—no one should have to put up with this ridiculous, phony Sidney Greenstreet pose—especially when Snopes looked more like Boss Hogg.

“What the hell do you know about the CIA and Rule 1 of the Code of Conduct?”

The possum grin turned sour lemon. Snopes sat up and stared at Syzygy for several seconds. “Well, it’s like something out of *The Groves of Academe*.⁵ One thing up front: you liberals who have called the shots in legal education for over fifty years are in deep trouble. You and your sweet pea buddies are fast becoming relics; the young radicals are in the process of—as they would say—marginalizing your privileged butts.”

Snopes paused to light his pipe. Syzygy gritted his teeth. “We had a faculty meeting eleven months ago and that’s when ‘they’ pushed the CIA down our throats by one vote. It was that close. You weren’t there—my memory is that you were in D.C. lobbying for the new utility right-of-way.” [He was right, Syzygy picked up a cool \$5,000 for three hours of “work”]. “It was a surgical piece of academic skulduggery. The Dean was absent—out hustling on the money trail, so the meeting was run by Associate Dean Middling—who, as you probably know, used to affect liberal views but now indulges in chic radicalism. They were very clever. The first thing they did was to troop in some cheeky students who complained about sexism, homophobia, racism, stereotyping, and a list of other things that I can’t remember. It was a classic exhibition of The New Culture of Victimization:⁶ in other words, certain groups of students are victims of unconscious urges, class oppression, or patriarchy.⁷ It was the crit litany of hierarchy, privilege, and elitism. Then the faculty duncanesters took over. Allegory described the trauma of learning contracts out of a sexist casebook, Paul told us about the tragedy of gay people in a totalitarian society, while Ronnie ranted about the greedy habits of the mega Wall Street firms.”

Syzygy jumped out of his seat. “You old crock. What does this Gabbey Hayes stuff have to do with me? I am a liberal! I write briefs for the ACLU, I write articles for *The Nation* and was elected ‘Liberal of the Year’ by the NAACP in 1985.

5. MARY MCCARTHY, *THE GROVES OF ACADEME* (1951).

6. John Taylor, *Don't Blame Me!*, NEW YORK, June 3, 1991, at 26.

7. *Id.* at 29.

Conservatives hate me. Is G. Gordon Liddy President?"

Snopes ignored the outburst and continued to talk in a patient monotone—like he was explaining a case to a confused first-year student. "They very shrewdly went after the swing votes—the flab. Middling scared the hell out of poor old Klapp by saying that anyone who opposed the CIA would be considered a racist, sexist, homophobic dog—and then said that radical students would 'get' anyone who didn't go along. Middling was cunning; he even quoted from D'Souza's book to prove that radical retaliation happens all over the country."⁸

"What about Styx? I know that she told them to bug off. Threats don't work on that tough cookie."

"Of course she gave them hell, like I did. So did McKinley; in fact, he was like a mad dog. But so what? They used old 60's rhetoric to co-opt liberals like you who are on a perpetual guilt trip and who crave approval of the fringe left. They know that liberals see this new radical movement as the last chance to get back in the spotlight and settle scores with conservatives—like me."

"What the liberals do not understand—and this certainly includes you—is that you people are *the* targets. Do you understand the point I'm making, Professor Syzygy?—*they want you!* What do they care about conservatives? We don't have any power in legal education—but liberals do. Liberals *are* the system—think about that: you people are the *core* of the establishment. The problem is that the radicals think that your crowd rationalizes oppression.⁹ To them, you are the status quo of an evil set of values. If they eliminate the influence of your crowd, they control legal education. It's that simple."

Szyzygy was stunned. He was actually having trouble breathing. "What can I do; what's the next step? What do these bastards want?" This was worse than losing a client.

"Who knows? One thing is certain; they're on you like stink on a skunk."

For the next three days Syzygy did some hard and complicated work for an old client. He was so absorbed in

8. DINESH D'SOUZA, ILLIBERAL EDUCATION: THE POLITICS OF RACE AND SEX ON CAMPUS (1991).

9. "[T]he Critical legal scholars believe that the liberal approach tends to rationalize oppression rather than to cure it." Phillip E. Johnson, *Do You Sincerely Want to Be Radical?*, 36 STAN. L. REV. 247, 256 (1984).

"lawyer's work" that he forgot about the "incident." Nevertheless, he could still detect an atmosphere of tension in his classes, while his colleagues politely avoided him. On Thursday, his secretary told him that he had an appointment with a student. "Blow him off; I don't have time."

"I wouldn't do that if I were you." It was her warning voice. "Besides, he's a she."

He was proofreading a memo on a trademark application when he sensed that a student was standing across his desk (he was fond of saying that he could smell a student a block away). Without looking up he grumbled: "I don't discuss exams. The grade is final. That's it." When he got no response, he looked up. *Wow! Where did she come from?*

She was what that sex maniac Klapp¹⁰ would call "hot"—she was classic Christie Brinkley except that she was not posing nor was she smiling. Without an invitation, she sat down in one of Syzygy's expensive chairs.

"I am, Professor Syzygy, the Prosecutor for the CIA. I want to be as fair as possible, but I must tell you that the evidence is very, very persuasive. I have affidavits from students describing gross insensitivity by you in conducting your classes. It has been a continuous affront. This is exactly why the CIA was formed—to eradicate this form of behavior."

"Wait a minute, this is a law school—remember? What did I do or say, when and where? Give me some facts. Let's do this in a professional way. Like rational lawyers. By the way, what is your name, Ms. Prosecutor?"

She paused several seconds. He could hear the clock that the United Way had given him last year for getting 100% contributions from the law school. (It still irritated him that to meet the goal he had to make a contribution in Snopes' name.)

She said: "That's right, it's Ms. Prosecutor. I find it repugnant that you profess ignorance of your transgressions. You cannot evade the facts. You know what you said; you are the one who made those remarks. You know very well how you acted. It's one thing to say those odious things—people make mistakes—but it's another thing to try to stonewall us. We believe in compassion, but it has to be earned. In a way, you are worse than those malignant conservatives; you marginalize

10. "Klapp" is not to be confused with Professor Sanford Clapp, that odious scum in MICHAEL LEVIN, *THE SOCRATIC METHOD* (1987).

us without even knowing it. That is the ultimate in disdain. No, Syzygy, we know your type. That is exactly why I am here—to get justice.”

* * *

He knew that he looked the way a dean should; he purposely cultivated the look. He was tall, angular, slightly graying and cut the figure of an old line Brahmin (in fact, the Dean was from a small town in Montana). It had been two years since he had been on the second floor where the faculty offices were located and it was obvious that most of the secretaries did not know who he was. He would not be up here now but for this damned mess. Snopes's secretary waved him in without comment. She knew.

“What in the hell is going on, Snopes? Are these people crazy? Do they want to jeopardize the biggest fund-raising campaign in the school's history? I was in Denver two days ago and a big contributor asked me if the radicals were going to take over. I didn't even know what he was talking about. I feel like I've been blindsided by Big Foot. Let me in on the secret. What is the CIA and Rule 1?”

* * *

At this precise minute Syzygy was in the air on a flight to Washington D.C. for a consultation. Despite an abnormal capacity to maintain focused concentration, he could not keep his mind on his notes. Instead, he tried to review each class over the past semester for “insensitive comments.”

It was obviously something that I said. A joke—no, my jokes are usually about Nancy Reagan, and she's a safe target since she's his wife. Uh oh, I did say that Professor Styx is too good looking to be a professor.¹¹ Boy, did she ice Klapp.¹² Maybe I use too many sports hypos; that could be it.¹³ I

11. At Smith College, this emphasis on beauty or physical attractiveness would be “lookism,” which is: “The belief that appearance is an indicator of a person's value; the construction of a standard for beauty/attractiveness; and oppression through stereotypes and generalizations of both those who do not fit that standard and those who do.” Smith College Office of Student Affairs, *Smith's New Guide for the Perplexed*, ACADEMIC QUESTIONS, Spring 1991, at 80, 81.

12. “He had kept his distance ever since she walked into his office and very deliberately shoved a copy of *Professor Romeo* over his desk.” Austin, *supra* note 2, at 929 (footnote omitted).

13. “Now, there are several fishy things about the use of sports metaphors. First, they are exclusionary of women Second, sports metaphors may have the effect of directly invalidating women's experience.” Ann Scales, *Surviving Legal*

wonder if someone counted out how frequently I call on women¹⁴—it's their fault if they don't speak up.¹⁵ Someone could have gotten titilated when I asked whether feminism was spelled with a capital F.¹⁶ What about the casebook?—I heard that some guy at Harvard got in trouble because of something "insensitive" in a casebook.¹⁷ Hell, I don't have any control over that.¹⁸ Maybe they don't like the fact that I help top students get interviews with Wall Street firms.¹⁹ It's probably

De-Education: An Outsider's Guide, 15 VT. L. REV. 139, 150 (1990).

14. "If the questioner is male, he is also not as likely to 'hear' female responses; indeed, he may ask different questions of women students." Carrie Menkel-Meadow, *Feminist Legal Theory, Critical Legal Studies, and Legal Education* or "The Fem-Crits Go to Law School," 38 J. LEGAL EDUC. 61, 77 (1988).

15. For a discussion of the relative silence of women in law school classrooms, see Stephanie Wildman, *The Question of Silence: Techniques to Ensure Full Class Participation*, 38 J. LEGAL EDUC. 147 (1988). One way to even participation of male and female students is to ration participation or do what a Kenyon College (Ohio) biology professor did: discourage male participation. The alleged reason: "Men never know when to shut up." Charles J. Sykes & Brad Miner, *Sense and Sensitivity*, NAT'L REV., Mar. 18, 1991, at 30. See also Deborah Tannen, *Teachers' Classroom Strategies Should Recognize That Men and Women Use Language Differently*, CHRON. HIGHER EDUC., June 19, 1991, at B1.

16. See Julia Penelope, *Language and the Transformation of Consciousness*, 4 LAW & INEQ. J. 379, 379 n.1 (1986) ("I capitalize Feminist and Feminism in order to signal the importance I assign to the terms.").

17. A visiting professor at Harvard Law School was accused of sexism for quoting a line of poetry from Byron in his contracts class from a casebook that he had authored ("And whispering, 'I will ne'er consent' consented") Tom Bilello, *Visiting Professor Responds to WLA Sexism Charges*, HARV. L. REC., April 14, 1989, at 1. The Harvard Women's Law Association responded:

A quote about a sexual 'jockeying' for power, depicting a woman struggling, repenting, and being dominated, has no place in a contracts textbook Such remarks not only reveal inappropriate and sexist attitudes but also pose a more serious problem: the Byron quote exemplifies the attitude that women mean yes when they say no.

Id. See also Charles E. Finn, Jr. *The Campus: "An Island of Repression in a Sea of Freedom,"* COMMENTARY, Sept. 1989, at 17, 18 (describing this and other alleged examples of professors' insensitivity).

18. Many people think that Syzygy and the establishment have the obligation to edit and revise casebooks. See Mary Joe Frug, *Re-reading Contracts: A Feminist Analysis of a Contracts Casebook*, 34 AM. U. L. REV. 1065 (1985); Mary I. Coombs, *Crime in the Stacks, or A Tale of a Text: A Feminist Response to a Criminal Law Textbook*, 38 J. LEGAL EDUC. 117 (1988).

19. For examples of "big firm" trashing, see Ann C. Scales, *Midnight Train to US*, 75 CORNELL L. REV. 710, 711-12 (1990); Brenda Waugh, *A Theory of Employment Discrimination*, 40 J. LEGAL EDUC. 113 (1990).

Duncan Kennedy seeks to politicize large firms. He advises associates not to laugh at jokes and to throw "blank expressions where the oppressor expects a compliant smile." Duncan Kennedy, *Rebels From Principle: Changing the Corporate Law Firm From Within*, HARV. L. SCH. BULL., Fall 1981 at 36, 39. He adds:

that stupid "rap" crap; someone probably got mad when I said it's not music and should not be copyrighted.²⁰ You can't mention anyone these days. I could tell that a few people didn't like it when I said that Madonna was operating a marketing scam and was giving MTV a bad name.²¹ The same thing happened when I recommended that they read Allen Bloom's book.²² Likewise, when I quoted that Paglia chick.²³ Maybe they don't like me to call everyone 'guys.'²⁴ I did call that one guy the Redneck Writer, but everyone uses redneck.²⁵ I know one thing, I'll never mention Alex Haley's plagiarism law suits again.²⁶ The same goes for the Bart Simpson poster

The strategy I am proposing involves fighting with your elders and betters—sassing them, maybe; undermining them, maybe; hurting their feelings, certainly

. . . . If you think before you act, if you are subtle, collusive, skillful and tricky, if you use confrontation when confrontation will work, you should be able to do left office politics without being fired, and make partner.

Id. at 40.

20. Professor Gates from Duke writes that "2 Live Crew must be interpreted within the context of black culture generally and of signifying specifically." Henry L. Gates Jr., *2 Live Crew, Decoded*, N.Y. TIMES, June 19, 1990, at A23.

21. "Not only has [Madonna] become one of the most influential figures on the global dance floor; she is also the intrigue of academics—feminists, theologians, Marxists, sociologists—who want to take her apart and slide her under the microscope." Hull, *Madonna Is Icon of Academe*, ST. PETERSBURG TIMES, Aug. 5, 1990, at 18E. See Camille Paglia, *Madonna—Finally, A Real Feminist*, N.Y. TIMES, Dec. 14, 1990, at A39; Luc Sante, *Unlike a Virgin*, NEW REPUBLIC, Aug. 20, 1990, at 25.

22. ALLAN BLOOM, *THE CLOSING OF THE AMERICAN MIND* (1987). Bloom has been accused of the worst academic crime—elitism. See John Searle, *The Storm Over the University*, N. Y. REV., Dec. 6, 1990, at 34.

23. Syzygy is referring to Paglia's statement:

The children of the 60's have returned. Twenty years have passed, and many of us, through folly, hubris or mischance, have died or been left sleeping in the land of the lotuseaters. The palace has been taken over by shallow upstarts, raiding and wasting the treasury laid up by so many noble generations. It's time to clean house.

Camille Paglia, *Ninnies, Pedants, Tyrants and Other Academics*, N.Y. TIMES BOOK REV., May 5, 1991, § 7, at 1. Paglia is anathema to feminists. Francesca Stanfill, *Woman Warrior*, NEW YORK, Mar. 4, 1991, at 22.

24. See Nancy Stevens, *Women Aren't Guys*, N.Y. TIMES, May 26, 1988, at 35 (letter to the editor).

25. See e.g., Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 561, 571 (1984). One should, however, be advised not to use the term in Smyrna, Georgia. *Use of Word 'Redneck' Burns Georgia Town*, AKRON BEACON J., July 3, 1988, at A6.

26. There were four law suits; three were dismissed for lack of merit, the other

tradename infringement case.²⁷ No jokes about the *Penthouse Pets* either.²⁸ *Styx* tells me that students often take offense when she urges them to think like lawyers.²⁹ It's a good thing I keep my exams "clean." I remember when that professor used *Othello* as a theme; he got zapped as a racist.³⁰ Who knows, it could have been when I told them that my exam was not like the new policy of the *Law Review*—a "tale of misery" affidavit would not count.³¹ My tales about my glorious days at Yale Law School are surely innocuous.³²

* * *

The Dean felt an involuntary jolt; Peabody Snopes was old, he was getting bags under his eyes and was beginning to have trouble moving about. But he was still the shrewdest mole in the building. He knew when something was going to happen two hours before it happened.

"We need a compromise. If the newspapers get hold of this

was settled for \$500,000. See Lee Lescaze & Sandra Saperstein, *Bethesda Author Settles 'Roots' Suit for \$500,000*, WASH. POST, Dec. 14, 1978, at A1.

27. The poster, displayed on the University of Iowa campus, showed Bart Simpson with a loaded slingshot with the caption "Back off Faggot." The poster triggered a complaint to the town Human Rights Commission. Twentieth Century-Fox, the tradename owner, sued for infringement. *Campus Life: Iowa; Suits and Debate Follow Display of Cartoon Poster*, N.Y. TIMES, Nov. 25, 1990, at 53.

28. A professor at the University of California at Santa Barbara noted that *pet* had become a derogatory term," wrote Stephanie Schorow of the Associated Press, "at the insistence of animal rights activists. The politically correct term was now *companion animal*." When the professor facetiously wondered if some magazine centerfold models, now called *Penthouse Pets*, would soon be called *Penthouse Companion Animals*, 15 women promptly filed sexual harassment charges.

William Safire, *Linguistically Correct*, N.Y. TIMES MAG., May 5, 1991, at 18.

29. "Thinking like a lawyer" assumes the white-male norms of objectivity and rationality, which ignores the voices of females who speak in terms of empathy, relationship, and the ethic of care. "[Our legal system] is a system that resolves problems through male inquiries formulated from distanced, abstract, and acontextual vantage points, while feminism emphasizes relationships, context, and factual particulars for resolving human problems." Leslie Bender, *A Lawyer's Primer on Feminist Theory and Tort*, 38 J. LEGAL EDUC. 3, 10, 11 (1988).

30. See PATRICIA J. WILLIAMS, *THE ALCHEMY OF RACE AND RIGHTS*, 80-84 (1991).

31. At Columbia Law School, applicants for the law review are "invited to submit two-page statements describing how they could enhance the diversity of the board. The factors that will be considered include race and ethnicity, socioeconomic background, sex, physical handicap and sexual orientation." Stephen Labaton, *Law Review at Columbia In a Dispute On Bias Plan*, N.Y. TIMES, May 3, 1989, at 10. Other schools have adopted similar plans. See, e.g., Anne Kornhauser, *GW Law Review Implements 'Diversity Criteria'*, LEGAL TIMES, May 15, 1989, at 6.

32. No, rather than being "innocuous," they amount to blatant elitism.

thing, the fund drive will shrivel up and we can't add that new building. That's all these donors need—an excuse not to give. Get me something from Syzygy that will satisfy the CIA. I can take care of Syzygy—a corner office and a reduced teaching load will do him. What I want you to do is to work things out with the CIA—and that ruthless Prosecutor. I hear that she's hard as nails."

And smart, too, Snopes knew. *She got the highest grade in Administrative Law that I have ever given. Her capacity for logic and analysis is incredible.*

* * *

She was in his office within an hour after the note was put in her box. Syzygy was right; she was very pretty, but at his age that sort of thing did not interest him. Nothing interested him anymore. He was like an old LeCarre spy who had lost his moral compass, mislaid his integrity, and now relied on cynicism to sustain him. He was amused at the situation; here he was, a much-published (not, however, in ten years) and renowned scholar, a revered teacher, and a man waiting patiently to die, trying to negotiate a deal with someone with the "Do It"³³ mentality of the 70's.

"I am," said Snopes, "representing Professor Syzygy in this . . . whatever it is. It puts me in a difficult position. I don't especially like Syzygy, and more importantly I don't know what he did to trigger whatever the allegations are. What did he say? My problem with this "case" is that Syzygy is self-programmed to the main-stream liberal line—for him it has always been a mixture of NOW, NAACP, ACLU, and AFofL-CIO. He's not out to offend anyone—it would be bad for business."

She knew right away that she had an advantage—Snopes was in reality representing the Dean, who was obviously worried. Fundraising was their Achilles' heel. But she also had to be careful; Snopes was a tricky old hound dog, one of the few of the privileged that she respected and even feared.

Old Snopes at least accepts one thing that his cohorts are

33. This refers to a book by Jerry Rubin, a yippie leader of the 1960's who said: "The goal of the revolution is to eliminate all intellectuals, create a society in which there is no distinction between intellectual and physical work: a society without intellectuals. Our task is to destroy the university and make the entire nation a school with on-the-job living." JERRY RUBIN, DO IT! 213 (1970).

*too arrogant to admit: the feminist movement is the most powerful force in legal education in the 1990's.*³⁴ *The crits are spoiled brats who are more interested in male posturing than hard work. That's why by 1995, we'll be in control and they will be back in the woodwork. In the meantime, we have to crack people like Syzygy, who are the classic models of patriarchy. Count on it, I am going to make sure that weasel has to read Jurisprudence and Gender.*³⁵

"Professor, Rule 1 very specifically prohibits the use of insensitive language or conduct. It seeks purification of erroneous thought. Although you voted against the Rule, you and everyone else are bound by it. Syzygy definitely violated the Rule. The evidence *is* overwhelming; he is guilty. The only real issue is the penalty." Now was the time to Fannonize Snopes. "Look, there is a lot of pressure on me to ask for at least a one year suspension without pay. Some of the more radical students are mobilizing for a strike and occupation of the building—including all offices. You can imagine what this would do to the fund drive. It would also mean the resignation of the Dean and the nasty politics of finding a replacement."

Snopes looked like he was nodding off to sleep, but she knew better. *He looks more like a crocodile. It's getting to be fish or cut bait time. Now was the time to throw out the bait and pull him in.*

"But we do not want confrontation. It didn't work in the 1960's and 70's. Frankly, we want power . . ." As she went on with what amounted to a lecture, Snopes reflected: *At least she's candid. That is what it's all about—power. The radicals of the 70's got their graduate degrees and infiltrated academe as professors.*³⁶ *They don't use confrontation tactics, instead*

34. As Professor Rhode points out, unlike other movements, "feminist legal theories emerged against the backdrop of a main political movement." Deborah Rhode, *Feminist Critical Theories*, 42 STAN. L. REV. 617, 622 (1990).

35. Robin West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1 (1988).

36. A number of prominent former New Left activists now hold teaching jobs, and many are carrying on the battles of the protest movement in the context of their academic disciplines. No definitive numbers are available on how many former radicals have become faculty members, but many old New Leftists say—and many conservatives complain—that the university has become the new front line of radical politics.

Michael W. Hirschorn, *A New-Left Challenger Comes to an Uneasy Peace With Academe*, CHRON. HIGHER EDUC., June 29, 1988, at A3. Kimball says: "[Y]esterday's student radical is today's tenured professor or academic dean." ROGER KIMBALL,

they co-opt the University to get power. They are now doing the same thing in law schools. I wonder how long it will take them to take over. Who knows, maybe they can do a better job than we have.

"The bottom line is that I—we—will deal. We want a public apology from Syzygy. Hopefully we can get national press coverage. If we can get him—the ultimate liberal, a successful law professor who has standing in academe and business—the others will fall in line. We can force the dissenters to accept what is best for all—a community that respects the personhood of each member. I also expect him to attend sensitivity sessions conducted by the victims of his insensitivity. Because of the seriousness of his offense we expect him to write an essay which we will call 'Learned My Lesson.'³⁷

"Ms. Prosecutor, you have laid some heavy terms on Syzygy. I don't know how he is going to take it. He's a proud man with a bloated ego. I simply do not know. There is one possible way to avoid confrontation—let me talk to him and see if he goes along."

* * *

It wasn't so bad after all. That cagy old Snopes was right. People who purposely avoided me before now often drop by my office for casual conversation. My clients were anything but offended—in fact, I am getting more business than ever. It's amazing, I can now say anything in class without offending anyone. In fact, they want me to say something provocative. When Snopes first suggested it, I thought that he was crazy. But the more I thought about it, the more it made sense. All I had to do was to inform the CIA that I was gay and was officially making that fact public. As Snopes said, at that point I am converted from a white male, privileged, elite oppressor into an oppressed marginalized person. And as an oppressed person I can't be guilty of insensitive conduct. It's that simple.

Even the Prosecutor sent a letter of apology (along with the latest edition of the Random House Webster's College

TENURED RADICALS xiv (1990).

37. "When a student at the University of Michigan read a limerick that speculated jokingly about the homosexuality of a famous athlete, he was required to attend gay-sensitivity sessions and publish a piece of self-criticism in the student newspaper called 'Learned My Lesson.'" Taylor, *supra* note 6, at 35.

Dictionary).³⁸ *But I have the last laugh. Unknown to that old fool Snopes, I am gay. I've been wanting to go public for years, and now they've made it possible for me to do it as a hero. The only thing that bothers me is that I never did find out what I said that was supposed to be insensitive. Ahh, I know what it was. It was the time I said Indians, instead of Native Americans.*³⁹ *Or, maybe it could have been when I joked about digging up Elvis in order to kill the rumor that he had disappeared into the clutches of the Federal Witness Protection Program.*⁴⁰ *I saw some evil glances when I said that the new fad of storytelling was the newest scam in legal scholarship—that was probably it.*

38. "[T]he most publicized features of the new dictionary are, first, its claim to have eliminated sexist language from its definitions and, second, the scrupulous attention it pays to the potential of words to give offense." Richard Bernstein, *Dictionary Gives New Meaning to Sensitivity*, N.Y. TIMES, June 11, 1991, at B1.

39. Themstrom's failures, according to the students, were almost systematic. He had, to begin with, used the words *Indians* instead of *Native Americans*. Themstrom tried to point out that he had said very clearly in class that *Indian* was the word most Indians themselves use, but that was irrelevant to the students.

John Taylor, *Are You Politically Correct?*, NEW YORK, Jan. 21, 1991, at 33-4.

40. See Alex Heard, *Exhumed Innocent*, NEW REPUBLIC, Aug. 5, 1991, at 12.