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Dennis W. Arrow
Oklahoma City University

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POMOBABLE: POSTMODERN NEWSPEAK¹ AND CONSTITUTIONAL “MEANING” FOR THE UNINITIATED

Dennis W. Arrow²

1. See generally GEORGE ORWELL, NINETEEN EIGHTY-FOUR, at app. (Harcourt, Brace & Co. 1949) (describing “Newspeak”); *infra* note 41 (contemplating dictionaries).

2. Professor of Law, Oklahoma City University.

[A]t this moment there exists not the smallest prospect that my manuscript will ever see the light unless, by some miracle, it were to leave our beleaguered European fortress and bring to those without some breath of the secrets of our prison-house . . . [O]nly because I consider that future readers will wish to know who and what the author is do I preface these disclosures with a few notes about myself. . . .

. . . I am by nature wholly moderate, of a temper, I must say, both healthy and humane, addressed to reason and harmony . . . a scholar . . . not lacking all contact with the arts . . . but a son of the Muses in that academic sense which by preference regards itself as descended from the German humanists of the time of the “Poets.”

THOMAS MANN, DOCTOR FAUSTUS 3-4 (H.T. Lowe-Porter trans., Vintage Books 1992) (1947). But not wishing to privilege even my personal (let alone my *relational*) identity, see generally *infra* note 30 (quoting Kenneth Karst on “us”), over the context of my discourse, I have, in the interests of avoiding crypto-hegemonic behavior, left the traditional identification until this point in the text. The “voice,” the astute, *but cf. infra* text following note 30 (defining “equality”), reader will note, will shift throughout this article: I certainly (oops! see *infra* text following note 30 (defining “epistemology”)) wouldn’t want to privilege any of my voices. See JACQUES DERRIDA, *The Ends of Man*, in MARGINS OF PHILOSOPHY 109, 135 (Alan Bass ed. & trans., University of Chicago Press 1982) (1972) (“[W]hat we need, perhaps, as Nietzsche said, is a change of ‘style’; and if there is style, Nietzsche reminded us, it must be *plural*.” (emphasis added)); Jacques Derrida, *Living On • Border Lines* (James Hulbert trans.), in DECONSTRUCTION AND CRITICISM 75, 85-86 (Harold Bloom and William Golding eds., 1979) [hereinafter Derrida, *Border Lines*] (“There is the double narrative, the narrative of the vision enclosed in the general narrative carried on by the same narrator. The line that separates the enclosed narrative from the other — [here, Derrida reproduces a line similar to that between the text and footnotes of this article] — marks the upper edge of a space that will never be closed.” (emphasis deleted)); *cf.* KEN KESSEY, SOMETIMES A GREAT NOTION (1964) (providing an example of the plural style); VLADIMIR NABOKOV, PALE FIRE (1962) (same); FYODOR DOSTOEVSKY, NOTES FROM UNDERGROUND (Richard Pevear & Larissa Volokhonsky trans., Vintage Classics 1994) (1864) (same); CHARLES DICKENS, BLEAK HOUSE (Oxford Univ. Press 1948) (1853) (same); Gayatri Chakravorty Spivak, *Translator’s Preface* to JACQUES DERRIDA, OF GRAMMATOLOGY at ix, xxix (Gayatri Chakravorty Spivak trans., 1976) (characterizing “Derrida’s shifts between commentary, interpretation, ‘fiction,’ in the works immediately following *Of Grammatology* and his typographical play with modes of discourse in *Marges or Glas*” as within the plural style); *infra* MEZZATEXT (between text and footnotes) (eschewing “dualities,” and one-

Newspeak was the official language of Oceania In the year 1984 there was not as yet anyone who used Newspeak as his sole means of communication, either in speech or writing. The leading articles in the Times were written in it, but this was a tour de force which could only be carried out by a specialist [But] all Party members tend[ed] to use Newspeak words and grammatical constructions more and more in their everyday speech.

The purpose of Newspeak was not only to provide a medium of expression for the world-view and mental habits proper to devotees of Ingsoc, but to make all other thoughts impossible. It was intended that when Newspeak had been adopted . . . and Oldspeak forgotten, a heretical thought . . . should be literally unthinkable This was done partly by the invention of new words, but chiefly by eliminating undesirable words and by stripping such words as remained of unorthodox meanings, and so far as possible of all secondary meanings whatever No word that could be dispensed with was allowed to survive. Newspeak was designed not to extend but to DIMINISH the range of thought

pping Derrida's *Border Lines* (though who could compete with his *Glas*?); *infra* note 16 and accompanying text (defining and discussing "clarity"); *infra* notes 29, 43 (contemplating the *abyme*); THOMAS PYNCHON, *THE CRYING OF LOT* 49, at 128 (Bantam Books 1981) (1966) (same, from the perspective of one postmodern novelist); *infra* note 38 (same, from the perspective of *zen*); *infra* note 10 (discussing what's going on here).

See also LAURENCE H. TRIBE & MICHAEL C. DORF, *ON READING THE CONSTITUTION* 30 (1991) ("Listen to Walt Whitman: 'Do I contradict myself? Very well then, I contradict myself.' 'I am large, I contain multitudes,' *the Constitution* replies." (emphasis added)); but cf. WALT WHITMAN, *Leaves of Grass*, in *LEAVES OF GRASS AND SELECTED PROSE* 37 (Sculley Bradley ed., Holt, Rinehart & Winston 1949) (1881) ("I am . . . of the foolish as much as the wise."); JOSEPH CONRAD, *HEART OF DARKNESS* 75 (St. Martin's Press 1989) (1899) ("[I]n the emptiness of the landscape, a cry arose whose shrillness pierced the still air like a sharp arrow flying straight to the very heart of the land"); WHITMAN, *supra*, at 18 ("Democracy! [N]ear at hand to you a throat is now inflating itself and joyfully singing."). See generally ARISTOTLE, *Posterior Analytics*, in *THE BASIC WORKS OF ARISTOTLE* 108, 112 (Richard McKeon ed., 1941) ("A contradiction is an opposition which of its own nature excludes a middle."); Richard McKeon, *Introduction to ARISTOTLE*, *supra*, at xi, xvi ("The syllogism, as conceived by Aristotle, required an emphasis on terms . . . he called univocal, that is, words which retain the same meaning each time they are used").

Given the *Weltanschauung* of the Age, it is important to add the now-standard disclaimer: Since I am socially constructed, none of the mistakes that may be contained herein — if epistemologically they can be demonstrated, or ontologically they can exist — can possibly be my fault. Special thanks to Ju-Chuan Arrow, my colleague and "very special one," and to my colleagues and friends Paula Dalley and Arthur LeFrancois; any of my fault not erased by the preceding sentence is theirs.

I dedicate this article to you. Cf., e.g., *infra* note 68 (quoting George Berkeley and Hillis Miller).

... [M]any Newspeak sentences, even when not containing newly created words, would be barely intelligible to an English-speaker of our own day.

— GEORGE ORWELL

The words "cunning, shrewd, devious" don't have a bad connotation to me. Look at the history of people in positions of leadership. They've said of every one of my time that he's devious — from Roosevelt . . . to . . . Mao.

Remember John Foster Dulles? . . . He didn't use the word pragmatic, but he said that every day is a different situation and you have to say "I'd rather be right than be consistent." I've always USED that.

Anything good in this life is worth cheating for.

— AL DAVIS

[A] man investigating principles cannot ARGUE with one who denies their existence.

— ARISTOTLE³

I (the "subject")⁴ have (has) at various ("~~different~~")⁵ times ("moments") con(side)red (presup(posed)) writing (sharing "discourse"⁶ pertaining to) an article ("text") "defining" (destroying)⁷

IS THIS PART OF THE TEXT?

3. ORWELL, *supra* note 1, at 303-04; MARK RIBOWSKY, SLICK 72, 146, 150 (1991) (ellipses between paragraphs omitted) (second emphasis added) (quoting Davis, managing partner and former coach of the Oakland Raiders); ARISTOTLE, *Physics*, in THE BASIC WORKS OF ARISTOTLE, *supra* note 2, at 218, 219 [hereinafter ARISTOTLE, *Physics*] (emphasis deleted and added). Cf. GERTRUDE STEIN, EVERYBODY'S AUTOBIOGRAPHY 292 (1937) ("[A]rguing . . . is not interesting . . ."); CONRAD, *supra* note 2, at 81 ("This clearly was not a case for fisticuffs . . ." (quoting Marlow)); *but cf.* Trisha Olson & Karl B. Shoemaker, *Civility and Remembrance*, 26 CUMB. L. REV. 883, 887 (1996) ("Dueling . . . opened the possibility of dismemberment and fatality. This, however, suggests the worthiness of the duel The . . . closure of a rupture . . . depended on good form in action which confronted finitude squarely."); MANN, *supra* note 2, at 16 ("What a confrontation was there! . . . [P]oison and magic, even magic and ritual.").

4. *But cf. infra* text following note 50 (defining "subject"); *see generally infra* text accompanying note 35 (defining "I"); YEVGENY ZAMYATIN, WE 212 (Clarance Brown trans., Penguin Books 1993) (1924) ("Who is this 'we'?").

5. *See infra* text accompanying notes 24-25 (defining "*différance*"); *infra* note 24 (contemplating same). For other definitions of "*différance*," *see, e.g.,* JONATHAN CULLER, THE PURSUIT OF SIGNS 41 (1981); MADAN SARUP, POST-STRUCTURALISM AND POSTMODERNISM 33-44 (2d ed. 1993); Spivak, *supra* note 2, at xiii-xxi. *But cf. infra* text accompanying note 22 (defining "definition" as "destruction"). *See generally* ROBERT A. HEINLEIN, STRANGER IN A STRANGE LAND 29 (1961) ("*Vive la différence!*"); *hear* JACQUES OFFENBACH, *Orpheus in the Underworld: Cancan and Vivo, on OFFENBACH, GAITÉ PARISIENNE* (BMG Music 1988) (1858).

6. *But see infra* text accompanying notes 26-27 (defining "discourse").

7. *See infra* note 22 and accompanying text (defining and discussing "definition"); *cf.* ROBERT A. WILSON, MASKS OF THE ILLUMINATI (1981) (contemplating illuminati, and masks); CONRAD, *supra* note 2, at 40 ("[W]ho is this Mr. Kurtz?");

pomo (“postmodernist” and “legal postmodernist”) jargon (“signs”)⁸ for the “uninitiated” (unhip dullairds). I was afraid it wouldn’t be very “good”¹⁰ — and that it might even be “good”¹¹

OR THE “TEXT”?

RICHARD FARIÑA, *BEEN DOWN SO LONG IT LOOKS LIKE UP TO ME* 37 (Viking Press 1983) (1966) (“‘Can’t be classified is where it’s at. . . .’ ‘No responsibility, you mean.’ ‘Check.’” (quoting dialogue between Gnosso and Pamela)); MANN, *supra* note 2, at 72 (“I was vexed . . .”); *see also* STEIN, *supra* note 3, at 87 (“A hoot owl is about the best sound. We hear it here a great deal.”); *but cf.* WHITMAN, *supra* note 2, at 66 (“Ever the vexer’s hoot! hoot! till we find where the sly one hides and bring him forth. . . .”).

8. *See generally*, e.g., CULLER, *supra* note 5, at vii:

One important feature of literary criticism in recent years has been the growth of interest in signs and their modes of signification. In the early 1960s Roland Barthes informed readers who were interested in the latest intellectual fashion that the way to recognize a structuralist was by a certain vocabulary of signification: look for *significant* and *signifié* or *syntagmatic* and *paradigmatic*; by these signs shall ye know them. [.]

RIBOWSKY, *supra* note 3, at 119 (“Al Davis . . . bought [the Oakland Raiders] spiffy new uniforms, changing the color scheme to black and *silver*, which jibed more forcefully with that wonderful eye-patched-pirate-and-sword logo.”).

9. *Cf. infra* text following note 35 (defining “hegemony”); *compare id. with id.* (raising the intriguing question of whether “*following* note 35,” *supra* (emphasis added), isn’t *itself* hegemonic).

See generally 1 OXFORD ENGLISH DICTIONARY 1560 (compact ed. 1971) (defining “laird”). I added this citation when some of my colleagues, who are lots brighter than I am, *cf.* Fortune in *Cookie I Consumed with Lunch Earlier Today* (Oct. 18, 1996) (on file with author) [along with fortunes received by others, hereinafter *Fortune Cookie*] (“Speak only well of people and you need never whisper.”); *but cf. infra* note 49 (contemplating the necessity of preserving my self-esteem); BARNEY (asserting that everyone is special); *infra* note 33 (quoting from “Mr. Rogers” book); GARRISON KEILLOR, *LEAVING HOME*, at xvii (1987) (suspending the law of averages and asserting that “all the children [in Lake Wobegon] are above average”); *infra* text following note 42 (defining “pantheism”); *but cf.* HEINLEIN, *supra* note 5, at 179 (“The capacity of humans to believe in what seems to me highly improbable — from table tapping to the superiority of their own children — has never been plumbed.”), didn’t get the “dullaird” wordplay.

10. Although in light of postmodern semiotics, *see generally* BRIAN ROTMAN, *SIGNIFYING NOTHING* (1987) (discussing “the semiotics of zero”); HEINLEIN, *supra* note 5, at 16 (“None of [Valentine Michael Smith’s] thinkings were in Earth symbols.”), it did seem, I must admit, that postmodernism’s own “signs,” *see, e.g., Translator’s Note* to MICHEL FOUCAULT, *THE BIRTH OF THE CLINIC* at vii, vii (A.M. Sheridan Smith trans., Pantheon Books 1973) (“One of the characteristics of Foucault’s language is his repeated use of certain key words.”); RICHARD WOLIN, *THE POLITICS OF BEING* 19 (1990) (“[I]nstead of trying to make his positions plausible through the customary techniques of . . . analysis, Heidegger seeks to convince . . . primarily by . . . various rhetorical strategies, as well as the employment of neologisms whose conceptual self-evidence is . . . assumed.”), might be an appropriate subject for study. *Cf.* Alan A. Stone, *Where Will Psychoanalysis Survive?*, *HARVARD MAG.*, Jan.-Feb. 1997, at 35, 38 (“A work of art of this kind needs interpretation.” (quoting Sigmund Freud)); *but cf.* MANN, *supra* note 2, at 93 (“Adrian . . . did not love personal glances . . .”); *but cf.* CONRAD, *supra* note 2, at 76 (“A voice! A voice! . . . [T]he man did not seem capable of a whisper.

IS THIS A LINE?

However, he had enough strength in him — factitious no doubt — to very nearly make an end of us, as you shall hear directly.”); Beatrice C. Yorker, *Covert Video Surveillance of Munchausen Syndrome by Proxy: The Exigent Circumstances Exception*, 5 HEALTH MATRIX 325, 341 (1995) (“The case law is supportive of warrantless searches if danger to human life is ‘imminent.’”); *but cf.* *Fortune Cookie 2*, *supra* note 9 (“Distance lends *enchantment* to the view.” (emphasis added)); Stephen Weinberg, *Sokal’s Hoax*, N.Y. REV. BOOKS, Aug. 8, 1996, at 11, 11 (“Derrida and other postmoderns do not *seem* to be saying anything that requires a special technical language . . .” (emphasis added)). *See also* KEN KESEY, *THE DAY AFTER SUPERMAN DIED* 4 (1980) (“So. What has the Good Old Revolution been doing lately?” (quoting Larry McMurtry)); *hear* JIMMY RUFFIN, *What Becomes of the Broken-hearted?* (Motown Records 1966); *cf.* TERRY EAGLETON, *THE ILLUSIONS OF POSTMODERNISM* 1-3 (1996) (emphasis added):

Imagine a radical movement which had suffered an emphatic defeat. . . .

What if the left were suddenly to find itself less overwhelmed or outmanoeuvred than simply washed up . . . ?

. . . .

. . . One could envisage much celebration of the marginal and minority as positive in themselves — an absurd enough view . . . since margins . . . currently include neo-Nazis, UFO buffs . . . and those who believe in lashing adolescents until the blood runs *Logically speaking*, it could only hope that its own values would never come to power. [;]

but cf., e.g., infra notes 24, 45 (contemplating, *inter alia*, the Apocalypse).

And there was that “hermeneutics” thing, too. *Cf.* Sanford Levinson & Steven Mailloux, *Preface to INTERPRETING LAW AND LITERATURE* at ix, ix (Sanford Levinson & Steven Mailloux eds., 1988) (“Hermeneutics is ‘the theory or art of explication, of interpretation.’” (quoting HANS-GEORGE GADAMER, *REASON IN THE AGE OF SCIENCE* 88 (1981))); *but cf.* James R. Squire & Barbara L. Squire, *Editor’s Note* to Olivia Coolidge, *The Trickery of Hermes*, in *GREEK MYTHS AND LEGENDS* 34, 34 (James R. Squire & Barbara L. Squire eds., 1967) (“Hermes, who was especially wily and clever, began his career as God of Thieves on the day he was born.”); Christopher Reed, *Biblioklepts*, *HARVARD MAG.*, Mar.-Apr. 1997, at 39, 41 (“In the ’90s, Harvard has suffered the attentions . . . of ‘The Slasher.’”). *See also* Stone, *supra*, at 38 (suggesting that the arts and humanities are the “hermeneutic disciplines”); JOHN MCGOWAN, *POSTMODERNISM AND ITS CRITICS* 255 (1991) (noting the postmodernist argument that disciplines or institutions attempting to *preserve* their autonomy are the product of “mixed motives” or worse); *TRIBE & DORF, supra* note 2, at 2 (“[H]ow is it that different readers of the Constitution draw such very different conclusions about its commands?”); JEAN GRONDIN, *SOURCES OF HERMENEUTICS* at ix (1995) (emphasis added):

Hermeneutics strives to understand what is said by going back to its *motivation*, or its *context* [I]t is only if one inquires into the underlying *motivation* of what is being said that one can hope to grasp its truth [T]he truth that emerges out of a given situation and *urgency* remains one that can be shared by others, provided they are attentive to the *unsaid side of the discourse*. [;]

ERICH FROMM, *ESCAPE FROM FREEDOM* 85 (1941) (emphasis added):

Any psychological analysis of an individual’s thoughts or of an ideology aims at understanding of the *psychological roots* from which these thoughts or ideas sprang. The first condition for such an analysis is to understand fully the logical context of an idea, and what its author consciously wants to say. However . . . a person . . . may frequently be driven unconsciously by a *motive that is different from the one he believes himself to be driven by* Furthermore . . . he may attempt to harmonize certain contradictions in his own feeling by an ideological construction or to cover up an idea which he represses . . . by a

 OU UNE PIPE?

rationalization that expresses its very opposite. The understanding of . . . unconscious elements has taught us . . . *not to take [words] at face value.* [:] SAUL D. ALINSKY, *RULES FOR RADICALS* 26 (Vintage Books 1972) (1971) (“[O]ne’s concern with the ethics of means and ends varies inversely with one’s personal interest in the issue.” (emphasis deleted)); FRANK NORRIS, *McTEAGUE* 332 (Signet Classics 1967) (1899) (“And I knew — good *God!* I knew that girl — his wife — in Frisco [S]he is — she was — I thought once of — this thing’s a personal matter of mine — an’ . . . that five thousand belongs to me by rights.”).

Postmodernism’s influence on contemporary culture, and “legal postmodernism’s” subliminal and overt influence on constitutional law and legal scholarship, has been on the ascent in recent years. See, e.g., Robert Post, *Postmodern Temptations*, 4 *YALE J.L. & HUMAN.* 391, 396 (1992) (reviewing FREDRIC JAMESON, *POSTMODERNISM, OR, THE CULTURAL LOGIC OF LATE CAPITALISM* (1991)) (footnote omitted):

We can . . . expect a social practice to remain untouched by postmodernism if its participants retain a healthy respect for the authority of the relevant standards of the practice. . . . [L]aw will remain impervious to postmodernism so long as . . . the institutional policing mechanisms of law retain general legitimacy among practicing lawyers and judges. Academic accounts of these practices, however, display their postmodernism most precisely in their generic repudiation of the authority for these various standards. [:]

Morton J. Horwitz, *The Supreme Court, 1992 Term — Foreword: The Constitution of Change: Legal Fundamentality Without Fundamentalism*, 107 *HARV. L. REV.* 30, 33 (1993) (“Drawing on developments in both the *PHILOSOPHY OF LANGUAGE* and the *SOCIOLOGY OF KNOWLEDGE*, legal thinkers have . . . concluded that . . . the process of categorization . . . is a social creation *Constitutional law has been especially susceptible to the crisis of legitimacy that follows . . . destabilization.*” (emphasis added) (footnotes omitted)); but cf. MICHAEL DEVITT, *REALISM AND TRUTH* at vii (2d ed. 1991) (“There is no sign that the ‘sociologists of knowledge’ are anywhere near distinguishing epistemology from metaphysics.”); LUDWIG WITTGENSTEIN, *CULTURE AND VALUE* 17e (G.H. von Wright ed. & Peter Winch trans., University of Chicago Press 1980) (1931):

What makes a subject hard to understand — if it’s something significant and important — is not that before you can understand it you need to be specially trained in abstruse matters, but the contrast between understanding the subject and what . . . people *want* to see. Because of this the very things which are most obvious may become the hardest of all to understand. What has to be overcome is a difficulty having to do with the will, rather than with the intellect. [:]

Rennard Strickland, *The Lawyer as Modern Medicine Man*, 11 *S. ILL. U. L.J.* 203, 210 (1986) (“[T]he absence of any consensus of *shared values* ranks high on the list of problems which are eating away at the fabric of the legal system.” (emphasis added)); Martha L.A. Fineman, *Masking Dependency: The Political Role of Family Rhetoric*, 81 *VA. L. REV.* 2181, 2204-05 & n.56 (1995) (relying on the postmodern approach to “local . . . language games” in criticizing “meta-narratives” of the “distinct” “nuclear family” for allowing “framing” of family-law issues through lenses of “capitalistic individualism, independence, self-sufficiency and autonomy”); Charles W. Collier, *The Use and Abuse of Humanistic Theory in Law: Reexamining the Assumptions of Interdisciplinary Legal Scholarship*, 41 *DUKE L.J.* 191, 192 (1991) (“In recent years legal scholarship has undergone changes so fundamental as to suggest the need for a reassessment of law as an academic discipline . . . and . . . an intellectual [but perhaps not as an “intellectual”?] institution.”); J.M. Balkin, *What Is a Postmodern Constitutionalism?*, 90 *MICH. L. REV.* 1966, 1968 (1992) (“[T]he postmodern epoch . . . is already upon

Is THIS?

us.”); *but cf.* ZAMYATIN, *supra* note 4, at 136 (“All this in reality was an immensely delicate spiderweb, stretched to its limit and trembling, and at any moment it would snap and something beyond all imagining would happen. . . .” (ellipsis in original)).

See also DAVID LEHMAN, *SIGNS OF THE TIMES: DECONSTRUCTION AND THE FALL OF PAUL DE MAN* 84 (1991) (stating that in order to dismantle “hierarchical” systems, a postmodern critic first identifies “word names” in “binary opposition,” then “show[s] that the first term in any such set is implicitly — and unjustly — endorsed (‘privileged’) in Western philosophy”). *But cf.* Stone, *supra*, at 38 (“[P]sychoanalysis is the only significant branch of human knowledge (and therapy) that refuses to conform to the demand of Western civilization for some kind of systematic demonstration of its contentions.” (emphasis added) (quoting Merton Gill)); *but cf.* HEINLEIN, *supra* note 5, at 42 (“[S]training at gnats and swallowing camels is a required course in law schools.”).

Given both the context of “legal postmodernism’s” increasing influence on constitutional law and the imperatives of hermeneutics, I thought that undertaking a semiotic, cultural, and psychoanalytic, *see generally* Alan C. Hutchinson, *Inessentially Speaking (Is There Politics After Postmodernism?)*, 89 MICH. L. REV. 1549, 1569 (1991) (book review) (“In the postmodern playbook, situation-sense is always preferable to abstract reflection: the personal is political and the *political is personal*.” (emphasis added)); PETER SEDGWICK, *PSYCHO POLITICS* (1982) (discussing, *inter alios*, Michel Foucault), study of postmodern semiotics and “motivations” was pretty “urgent,” *cf.* STANLEY ARONOWITZ, *ROLL OVER BEETHOVEN* 7 (1993) (“[P]reserving the cultural system is the very presupposition of social stability, without which reason cannot flourish.”); TRIBE & DORF, *supra* note 2, at 7 (“Is the Constitution simply a mirror in which one sees what one wants to see?”); CATHARINE MACKINNON, *ONLY WORDS* 31 (“Social *supremacy* is made . . . through *making* meanings.” (emphasis added)); *infra* text following note 45 (defining “power paradigm”); RIBOWSKY, *supra* note 3, at 113 (“Al Davis’s big-time manipulations were just beginning.”). *But cf.* CONRAD, *supra* note 2, at 52 (“Something was wrong above. But what — and how much?”); *infra* note 37 (noting that humpback whales apparently have no word for “alarm”); *but hear* Berlitz Italian-Language-Learning Tape I Heard in the Restroom at Portobello’s Restaurant Last Night (Jan. 10, 1997) [hereinafter *The Men’s Room Tapes*] (“Call the Police!”) [Note to Martin Heidegger: *This is a joke.*], and that I might be able to “hear” the “unsaid side of the discourse.” *Cf.* Francis J. Mootz III, *Postmodern Constitutionalism as Materialism*, 91 MICH. L. REV. 515, 522 (1992) (“Postmodern thought is significant for law because it opens the possibility that legal practice might embody the critical bite that is always embedded, but often unrecognized, in legal dialogue.”). [I’d already “heard” the “said side,” which was eerily reminiscent of the overture from John Cage’s postmodern opus for piano, 4’33”. *Cf.* David Luban, *Legal Modernism*, 84 MICH. L. REV. 1656, 1658 (1984) (discussing that work); MANN, *supra* note 2, at 4 (narrating the thoughts of Sireus Zeitblom, Ph.D.: “I had scarcely set my pen in motion when there escaped it . . . the word ‘genius’: I spoke of the musical genius of my departed friend.”); John Cage, *Experimental Music: Doctrine* (1955), reprinted in *MODERN CULTURE AND THE ARTS* 88, 93 (James B. Hall & Barry Ulanov eds., 1967) (“Ah! you like sounds after all when they are made up of vowels and consonants. You are slow-witted, for you have never brought your mind to the location of *urgency*.” (emphasis added)).] *But cf.* Howard Chua-Eoan, *Imprisoned By His Own Passions*, *TIME*, Apr. 7, 1997, at 40, 42 (“A 1975 *Time* article described [suicide-cult leader Marshall] Applewhite as having a ‘rare ability to impress audiences with the *urgency* and truth of his message.’” (emphasis added)); JOHN L’HEUREUX, *THE HANDMAID OF DESIRE* 117 (“Maddy was impatient about everything — her work, her life, her love affairs

Is JOHN CAGE?

. . ."); CONRAD, *supra* note 2, at 49 ("I had no time." (quoting Marlow)); *infra* note 14 (same, quoting the Cheshire Cat); *but cf.* CONRAD, *supra* note 3, at 70 ("Never mind. Plenty time." (quoting the Harlequin)). *See generally* THOMAS S. KUHN, *THE STRUCTURE OF SCIENTIFIC REVOLUTIONS* 209 (enlarged 2d ed. 1970) (emphasis added):

Having opened . . . by emphasizing the need to study the community structure of science, I shall close by underscoring the need for . . . comparative study of the corresponding communities in other fields. How does one elect and how is one elected to membership in a particular community . . . ? What is the process . . . of socialization to the group? What does the group collectively see as its goals; what deviations, individual or collective, will it tolerate; and *how does it control the impermissible aberration?* [;]

ARISTOTLE, *Physics*, *supra* note 3, bk. I, § 184 ("When the objects of an inquiry, in any department, have principles, conditions, or elements, it is through acquaintance with these that knowledge, that is to say scientific knowledge, is attained."); L'HEUREUX, *supra*, at 9 ("[L]et us deconstruct . . . in the Aristotelian manner . . .") (first omission in original).

I even thought viewing postmodern jargon (oops! "signs") through the lenses of one of this century's most prominent social critics (George Orwell), one of the authors most frequently credited with helping to spawn the "Age of Aquarius" (and whose work has been influential on a number of postmodern legal scholars) (Robert Heinlein), one of postmodernism's most-discussed contemporary novelists (Thomas Pynchon), one of postmodernism's epistemological ancestors (*zen*), some not-quite-randomly-selected others (from Dostoevsky to Whitman, Baudelaire to Rimbaud, and Laurence Tribe to Barney), and a few (transcendentally?) germane fortune cookies [Why not? In postmodernism, everything is *supposed* to be relevant (isn't it?), *see* BREAKFAST THEORY: A MORNING METHODOLOGY (anonymous cartoon parodying postmodernism now circulating through philosophy departments, on file with author) (reproducing a drawing of a cereal box entitled *Post Modern Toasties*, bearing the motto, "Like everything you've had before, all mixed up"); ALINSKY, *supra*, at 128 ("[U]tilize all events of the period for your purpose."); HUNTER S. THOMPSON & RALPH STEADMAN, *THE CURSE OF LONO* 72 (1983) ("There are no rules." (emphasis deleted)); J.M. Balkin, *Understanding Legal Understanding: The Legal Subject and the Problem of Legal Coherence*, 103 *YALE L.J.* 105 (1993) (same (?))], might generate some amusing and enlightening reading. Besides, wasn't it John Dewey who said that "[i]magination is the chief instrument of the good," and — though not telling us how their work should be *interpreted* — that "[t]he moral prophets of humanity have always been poets even though they spoke in free verse or by parable"? JOHN DEWEY, *ART AS EXPERIENCE* 348 (Capricorn Books 1958) (1934); *but cf.* LEO STRAUSS, *PERSECUTION AND THE ART OF WRITING* 8-9 (University of Chicago Press 1988) (1952) ("To recognize the fundamental difference between Christian scholasticism on the one hand, and Islamic and Jewish medieval philosophy on the other, one does well to start from the most obvious difference, the difference in . . . literary sources." (emphasis added)); Richard Pevear, *Foreword* to DOSTOEVSKY, *supra* note 2, at vii, xiii (noting that Vladimir Lenin described Fyodor Dostoevsky as a "superlatively bad" writer, but stated that Nikolai Chernyshevsky's *What Is to Be Done?* had made him into a confirmed revolutionary); *compare* THE BLUEBOOK R. 5.2, at 44 (Editors of the *COLUM. L. REV.* et al. eds., 16th ed. 1996) (discussing authors' mistakes in quoted material) *with id.* R. 17.5 (discussing citation of television broadcasts).

To make the article even zippier, I'd also decided to expand *The Bluebook's* semiotics [I originally thought I'd invented "*hear*," but a friend pointed out that that imaginative Alex Kozinski got there first, *see* *White v. Samsung Elecs. Am. Inc.*, 989 F.2d 1512, 1513 n.6 (9th Cir. 1993) (Kozinski, J., dissenting) (contemplat-

IS JOHN CAGE(D)?

ing, inter alios, Vanna White), and was even tempted to employ a catchy title. But *Constitutional Con* ("text"), *Decentering Derrida*, *Foucault's Fixation*, *Mosquitos and Monotheism*, *Piercing Professed Plasticity* and *Spencer's Saprogenic Second Shot* had only their appealing alliteration to offer, and "It" Is Not "Ti" was too morbid. *What the Hell: They're Just Words* did deploy a colon, but it didn't have that tone of elegant refinement we all strive for in our law review article titles, and its variant, *What the Hell: They're Just "Subjects"* was even worse. *Hollowness Is Internal* sounded too much like a supermarket "self-help" book, *The Whole Thing* was taken, see Mark Tushnet, *The Whole Thing*, 12 CONST. COMMENTARY 223 (1995), *Roll Over Chuck Berry* was doubly derivative, see Peter Gabel & Duncan Kennedy, *Roll Over Beethoven*, 36 STAN. L. REV. 1 (1984); ARONOWITZ, *supra* (same), and if I used *Positivland* I might wind up getting sued, cf. *infra* note 13 [No explanatory parenthetical here, but *trust me: I'm a law professor*. Cf. *infra* note 60 (quoting John Sexton).]. So when push came to shove, *Water Music*, *Gazed and Confused*, *Sensing the Abyeme*, and *Adjectives From on High* made the semis, with the finalists including *Feet "Theory," Flipping Channels* and *The Spawning of Note 29*.

But what does an author know, anyway? See generally *infra* note 29 (discussing, inter alios, Stanley Fish). I can reassure you (as did Vladimir Nabokov about John Shade's poem) that this article "turns out to be beautifully accurate when you once make the plunge and compel yourself to open your eyes in the limpid depths under its confused surface. It contains not one gappy line, not one doubtful reading." NABOKOV, *supra* note 2, at 14; cf. C.F. MacIntyre, *Introduction* to RAINER MARIA RILKE, *SONNETS TO ORPHEUS* at vii, vii (C.F. MacIntyre trans., University of Cal. Press 1960) (1922) ("[I wrote this] in a single breathless attention . . . without one word's being in doubt or requiring to be altered." (ellipsis in original) (quoting Rilke)); WHITMAN, *supra* note 2, at 39 ("This hour I tell things in confidence, I might not tell everybody, but I will tell you."); STRAUSS, *supra*, at 24-25:

The expression "writing between the lines" indicates the subject of this article. For the influence of persecution . . . is precisely that it compels all writers who hold heterodox views to develop a peculiar technique of writing

. . . .

. . . The attack, the bulk of the work, would consist of virulent expansions of the most virulent utterances in the holy book or books of the ruling party. The intelligent young man who, being young, had until then been somehow attracted by those immoderate utterances, would now be merely disgusted and, after having tasted the forbidden fruit, even bored by them. Reading the book for the second and third time, he would detect in the very arrangement of the quotations from the authoritative books significant additions to those few terse statements which occur in the center of the rather short first part[.]

accord PETER, PAUL AND MARY, *I Dig Rock and Roll Music*, on ALBUM 1700 (Warner Bros. Records 1967) ("But if I really say it, the radio won't play it, unless I lay it between the lines."); Richard M. Thomas, *Milton and Mass Culture: Toward a Postmodernist Theory of Tolerance*, 62 U. COLO. L. REV. 525, 551 n.92 (1991) (characterizing Thomas Pynchon as in "hiding"). But cf. Richard Rorty, *What Can You Expect from Anti-foundationalist Philosophers?: A Reply to Lynn Baker*, 78 VA. L. REV. 719, 726 (1992) ("[W]hat people cannot say in public becomes, eventually, what they cannot say even in private, and then, still later, what they cannot even believe in their hearts."); watch THE TOM SNYDER SHOW (syndicated television broadcast, June 21, 1997) ("The more crap you put up with the more crap you are going to get." (quoting Tom)); cf. Olson & Shoemaker, *supra* note 3, at 909 ("[For the Greeks] the great-souled man . . . remains . . . ready to speak frankly to ward off debasement."). See also Pevear, *supra*, at xiv ("[A] certain clumsy use of parentheses . . . [is Dostoevsky's] narrator's deliberate mockery

IS THE TEXT HEGEMONICALLY PRIVILEGED OVER THE FOOTNOTES?

of Chernyshevsky's writing."); *id.* at xiv-xv ("Dostoevsky[] . . . was challenged to reveal 'the man in man,' precisely in and through the ideas of the new radicals themselves. . . . But the reversal is not a simple contrary; it is the puncturing of a literary cliché by a truth drawn from a different source . . ."); VAN WYCK BROOKS, *THE TIMES OF MELVILLE AND WHITMAN* 180 (1947) ("[Both] Whitman . . . and . . . Dostoevsky . . . were . . . examples of the idea that nations had missions, roles of their own to perform for the good of mankind . . . Both sprang from deep roots in the histories of the[ir] nations . . ."). *But cf.* MANN, *supra* note 2, at 4 ("Adrian himself could hardly — let us say in a symphony — have let such a theme appear so prematurely. At the most he would have allowed itself to suggest itself afar off, in some subtly disguised, almost imperceptible way."); *id.* at 181 ("[He] had been instructed one day, or rather one night, from frightful lips, by an awful ally, in more detail on the subject I here touch upon. . . . I will report on it in its proper place.").

But apart from all that, given the problems of parodying even an occasionally semi-self-conscious self-parody, *cf.* STANLEY FISH, *IS THERE A TEXT IN THIS CLASS?* 180 (1980) ("I was once asked whether there are really such things as *self-consuming* artifacts, and I replied: "There are now." (emphasis added)), and the difficulty of the "work" performed by Maxwell's Demon, *see, e.g.*, PYNCHON, *supra* note 2, at 62 (discussing same), I should have known how wrong things like this could go. *See, e.g.*, J. BRONOWSKI & BRUCE MAZLISH, *THE WESTERN INTELLECTUAL TRADITION* 252 (1960):

[S]atire is intimately connected with urbanity and cosmopolitanism, and assumes a civilized opponent who is sufficiently sensitive to feel the barbs To hold something up to ridicule presupposes a certain respect for reason, on both sides, to which one can appeal. An Age of Reason, in which everyone accepts the notion that conduct must be reasonable, is, therefore, a general prerequisite for satire. [;]

LAWRENCE W. LEVINE, *HIGHBROW/LOWBROW: THE EMERGENCE OF CULTURAL HIERARCHY IN AMERICA* 74 (1988) ("The human Shakespeare who existed for most of the nineteenth century could be parodied with . . . impunity; the *sacred* Shakespeare who displaced him at its close posed greater problems." (emphasis added)); *cf. infra* note 45 (noting the canonization of Michel Foucault); *see also* Weinberg, *supra*, at 14 ("[I]t does no good to satirize views that your opponent denies holding."); *infra* note 29 (quoting commentators, including Stephen Feldman, denying that postmodernism has a definition); MARK WILSON, *MARK WILSON'S COMPLETE COURSE IN MAGIC* 405 (Running Press Books 1988) (1975) [hereinafter *MAGIC*] (discussing the "Classic Palm Vanish"); *id.* at 339 (contemplating the "Impossible Knot"). But by itself, Weinberg's proposition would have been of great utility to Lavrenti Beria and Joseph Goebbels, and at their confluence, Weinberg's and Feldman's propositions were long "deployed" by certain entities within organized crime. *See, e.g.*, RICHARD WAGNER, *DAS RHEINGOLD* sc. 3 (1869) (noting the utility of the Tarnhelm to Alberich's invisibility, and the utility of invisibility to the perpetuation of Alberich's reign of terror); *but cf.* *MAGIC, supra*, at 460 (deconcealing the "Who's There[?]" trick). So in an attempt to be helpful, *cf.* ELIZABETH WURTZEL, *PROZAC NATION* 300 (1995) ("Having my situation boiled down to *scientific* terms, to a disease I can look up . . . gives me some kind of renewed sense of HOPE." (emphasis added)); MANN, *supra* note 2, at 274 ("Today we . . . debate whether . . . organisms which . . . can produce an . . . epidemic on earth come from other planets — Mars, Jupiter, or Venus."), I've provided at least a *glimpse* at a definition in this article. *See generally infra* note 29 (discussing Odysseus and the Cyclops); *watch Biography: Sam Giancana* (A&E network television broadcast, Jan. 6, 1997) ("Joe Kennedy understood the power of the Mob to fix *results*."); *id.* ("Giancana [nicknamed 'Moonie'] inhabited a par-

— DOES THE “SIGN” “FOOTNOTES” MARGINALIZE THEIR “TEXT” AS PEDESTRIAN? —

allel world to the ‘straight’ world. At times, he seemed rational and efficient, but at other he sounded almost insane.”); *id.* (noting that for Giancana, “violence was just a *means* to an end; the real object was power” (emphasis added)); *cf.* DENNY F. PACE, *HANDBOOK OF VICE CONTROL* 3 (1971) (“Vice is the profit-making enterprise of organized crime.”); CONRAD, *supra* note 2, at 82 (“I wasn’t arguing with a lunatic either. Believe me or not, his intelligence was perfectly clear — concentrated, it is true, upon himself with horrible intensity, yet clear . . .”).

So “[w]hat is to be done?” MANN, *supra* note 2, at 237. *See* Michael D. Lemonick, *Spare the Rod? Maybe*, *TIME*, Aug. 25, 1997, at 65, 65:

According to [Dr.] Trumbull . . . [y]ounger children have a poor understanding of the consequences of their behavior. If inappropriate behavior gets out of hand — especially if it poses a danger to the child or to others — a smack on the bottom may be the only way to control it.

. . . More than two-thirds of pediatricians . . . approved . . . spanking in certain situations. [:]

but cf. MANN, *supra* note 2, at 441 (“I *deserve* to be *whipped*.” (emphasis added) (quoting Adrian)); ALINSKY, *supra*, at 128 n.* (“[Saul] Alinsky takes . . . pleasure in kicking the biggest behinds in town and [that] is not untempting.”); *but cf.* L’HEUREUX, *supra*, at 8 (“[Kurtz is] the best teacher in this university . . .” (quoting Peeks)).

Oh, and as Columbo said (Says? He’s in *reruns*.), “There’s just one more thing.” [No cite here, but *trust me*: this is a *narrative*, and besides, the Columbo quote’s empirically verifiable (*gasp!*)] The definitions provided in the lexicographical component of this article are frequently as sharp as shards of glass, as any text that is complex, rich, textured, and nuanced must of course be. *Compare* HUGH HENRY BRACKENRIDGE, *MODERN CHIVALRY* 803 (Claude M. Newlin ed., American Book Co. 1937) (1972) (“It is a caricatura doubtless; but it is by caricatura, that the ridiculous is discovered.”) *with* EAGLETON, *supra*, at 8 (noting that postmodernists have a tendency to caricature their opponents’ positions). But when I (not “I”), as in some of the footnotes, speak in some of my other voices (not “voices”), I engage in a (semi)semiotic experiment: to test my ability to convey determinate meaning (not “meaning”) *without actually saying anything at all*. *Cf.* SOUTHWESTERN BELL GREATER OKLAHOMA CITY YELLOW PAGES 498-508 (1996) (listing local facilities for repair of shattered glass); GEORGE L. KELLING & CATHERINE M. COLES, *FIXING BROKEN WINDOWS* (1996) (discussing some extrinsic benefits of same); Karleen Chinen, *Restoring Structures, Building Lives, MĀLAMĀLAMA*, Winter 1997, at 18, 18 (same). *See generally* ROBERT A. WILSON, *SCHRÖDINGER’S CAT II*, at 7 (1981) (“Everything here is fiction . . . Ulysses is a figment of my depraved imagination, and Einstein . . . Bohr . . . and Schrödinger are all fictitious. According to Dr. Williams, I invented everything — inside and outside this book.”); MACKINNON, *supra*, at 3 (“Imagine . . .”); WILSON, *supra*, at 9 (“Jo was writing a novel-within-a-novel-within-a-novel.”); *hear* RUGGIERO LEONCAVALLO, *Vesto la giubba*, *on* LEONCAVALLO, PAGLIACCI (Philips Classics 1993) (1892).

Mindful of the value of your time (not “time”), *cf.* WHITMAN, *supra* note 2, at 69 (“The clock indicates the moment — but what does eternity indicate?”), I invite you to come along for the ride. *See generally* CONRAD, *supra* note 2, at 21 (“[Y]ou ought to know how I got out there, what I saw, how I went up that river . . .”); WHITMAN, *supra* note 2, at 21 (“For your life adhere to me . . . On my way a moment I pause, [h]ere for you! and here for America!”); BRACKENRIDGE, *supra*, at 727 (“It is an opus magnum, which comprehends law, physic, and divinity. Were all the books in the world lost, this alone would preserve a germ of every art.”); MANN, *supra* note 2, at 154 (“[L]ove and poison here once and forever became a frightful unity of experience; the mythological unity embodied in the ar-

— but took comfort from Richard Delgado's reassuring observation that Randall Kennedy's insistence on merit in legal scholarship was "potentially hostile to the idea of voice."¹²

————— *OR IS WHAT IS BELOW FOUNDATIONAL (GASP!) TO WHAT IS ABOVE?* —————

row."); L'HEUREUX, *supra*, at 118 ("I'll handle Kurtz."). "But I will not say more at this time, lest I be . . . called a braggadocia; an imputation carefully to be avoided by all who would escape envy, and the vexations of that malignant passion." BRACKENRIDGE, *supra*, at 727. *But cf.* MANN, *supra* note 2, at 417 ("But let me tell my tale."); *Ecclesiastes* 2:12 ("And I turned myself to behold wisdom, and madness, and folly . . ."); WHITMAN, *supra* note 2, at 10 ("[Y]ou . . . will thrill to every page.").

11. Compare *infra* text following note 33 (defining "good") with *infra* text accompanying note 34 (defining "'good'").

12. Richard Delgado, *When a Is Story Just a Story? Does Voice Really Matter?*, 76 VA. L. REV. 95, 100 (1990). *But cf. infra* note 59 and accompanying text (defining and discussing "voice"); FISH, *supra* note 10, at 180 (stating that Fish's own theory "relieves [him] of the obligation to be right . . . and demands only that [he] be interesting"); *but cf.* Rennard Strickland, *Scholarship in the Academic Circus or the Balancing Act at the Minority Side Show*, 20 U.S.F. L. REV. 491, 501 (1986) ("I can think of nothing more tragic than one who has selected a vocation with a central element, an element he or she is unwilling, or unable, to undertake.").

But cf. John Hund, Letter to the Editor, *Thanks for Nothing!*, LINGUA FRANCA, Sept. 1997, at 63 (emphasis added):

I regret to say that your magazine just isn't very *interesting*. . . . The fact that you devoted a long article . . . to the computerized GRE shows just how hard up you are for good copy. . . . Why don't you try something *interesting*, like tenured professors John Mack (Harvard) or David Jacobs (Temple) who . . . argue that humans are being abducted by aliens? [;]

Mas'd Zavarzadeh, Book Review, 40 J. AESTHETICS & ART CRITICISM 329, 329 (1982) (reviewing CULLER, *supra* note 5) ("[Hillis] Miller places Jonathan Culler among the canny critics, questions his 'brisk common sense and . . . notions of 'literary competence' . . ." (quoting Hillis Miller)); Michael P. Kenny, *Sovereign Immunity and the Rule of Law: Aspiring to a Highest-Ranked View of the Eleventh Amendment*, 1 GEO. MASON INDEP. L. REV. 1, 4 & n.24 (1992) (perhaps suggesting that it's o.k. to adhere to your preferred constitutional "interpretation" even if you know you're wrong (*gasp!*)); TRIBE & DORF, *supra* note 2, at 31 ("[W]hen a last word is possible THE CONSTITUTION will have lost its *relevance* to an ever-changing society." (emphasis added)). *But cf.* LEO N. TOLSTOY, *WHAT IS ART?* 10 (Aylmer Maude trans., Liberal Arts Press 1960) (1896) ("[P]eople devote their lives . . . to learning to . . . turn every phrase inside out [T]hese people, often very kind and clever . . . grow savage over their . . . stupefying occupations, and become one-sided and self-complacent specialists, dull to all the serious phenomena of life and skilful only at . . . twisting their . . . tongues, or their fingers."); EDWIN A. ABBOTT, *FLATLAND* 8 (Harper Collins 1983) (1884) (emphasis added):

Our Professional Men . . . are Squares . . . and . . . Pentagons.

Next above these come the Nobility, of whom there are several degrees . . . rising in the number of their till they receive the honourable title of Polygonal Finally when the number of the sides becomes so numerous . . . that the figure cannot be distinguished from a circle, he is included in the Circular or Priestly order; and *this is the highest class of all*. [;]

WILLIAM CHEUNG [CHEUNG CHUK HING], WING CHUN • BIL JEE: *THE DEADLY ART OF THRUSTING FINGERS* 8 (1983) ("Few people realize the potential of fingers for use as a weapon. Most lack the knowledge of their proper usage."); HEINLEIN, *supra*

SCENE 1

Had I “cannily”¹³ composed such an article, it might have

CAN WHAT HAS NOT BEEN FOUND BE LOST?

note 5, at 185 (“[I]n Dr. Mahmoud’s experience American professional men were under-educated and narrow, mere technicians.”); CONRAD, *supra* note 2, at 28 (contemplating a French man-of-war firing at the African coast):

In the empty immensity of earth, sky, and water, there she was, incomprehensible, firing into a continent. Pop, would go one of the six-inch guns; a small flame would dart and vanish, a little white smoke would disappear, a tiny projectile would give a feeble screech — and nothing happened. Nothing could happen. There was a touch of insanity in the proceeding [;]

infra note 37 (quoting Robert Post discussing, *inter alia*, the “standard analytic moves of post-modern analysis”); MAGIC, *supra* note 10, at 385 (contemplating mechanical magic); THOMAS SZASZ, *THE MYTH OF MENTAL ILLNESS* 265 (rev. ed. 1974) (emphasis added):

The common and pressing problem today is that, as social conditions undergo rapid change, men are called upon to alter their modes of living. Old games are constantly scrapped and new ones started. Most people are totally unprepared to shift They learn one game or, at most, a few, and desire mainly the opportunity to live out life by playing the same game *over and over again*. [;]

infra note 29 (quoting Patricia Spacks on boredom).

But *cf.* WAYNE C. BOOTH, *THE RHETORIC OF FICTION* 220 (1961) (“[I]nteresting narrators are interesting.”); RALPH WALDO EMERSON, *NATURAL HISTORY OF INTELLECT* 9 (AMS Press 1979) (1904) (“Yes, ’t is a great vice . . . the sacrifice of scholars . . . to talk for the amusement of those who want to be amused, though the stars of heaven must be plucked down and packed into [R]ockets to this end.”); BROOKS, *supra* note 10, at 185 (emphasis added):

Seeing man, as [Whitman] did, in nature . . . he detested [aesthetic poets’] indoor aroma, their suggestion of the parlour, of “dandies and ennuyees” With their small calibre . . . they were. . . he felt . . . six times diluted imitators of the . . . French, concerned with . . . fashion . . . mainly, verbal jewelry, aborted conceits, thin sentiment Most of their poems were but . . . lumps of sugar and the chief part of their dish was the glucose flavors. Not one . . . confronted . . . the voiceless but erect and active spirit of the land, its pervading will and . . . aspiration

For the country signified to Whitman the new age he was fighting for, the incarnation and the pledge of *democracy* and *science*. [;]

BOOTH, *supra*, at 220-21 (“[S]ome interesting narrators . . . are reliable guides . . . also to the moral truths of the world outside the book.”). See generally Daniel A. Farber & Suzanna Sherry, *Is the Radical Critique of Merit Anti-Semitic?*, 83 CAL. L. REV. 853, 883-84 (1995) (defending the now-obsolete propositions that merit can be determined by criteria independent of power and that the “overriding purposes of scholarship [are] to pursue truth and to expand the boundaries of human knowledge”); Ronald Dworkin, *We Need a New Interpretation of Academic Freedom*, *ACADEME*, May-June 1996, at 10, 12 (emphasis in title added) (same).

13. *Cf. infra* notes 15, 56 and accompanying text (defining and discussing “canniness” and “uncanniness”); *supra* note 12 (employing “canny” in context); see also Clark Norton, *Messy Lawsuits Become Performance Art When a Hip, Irreverent Band Pushes the Limits of Fair Use and Parody*, *CAL. LAW.*, July 1996, at 36 (perhaps questioning “canniness” of lawsuits brought against Bay Area rock band Negativland by Casey Kasem and U2’s recording company); *id.* at 84 (noting threat by owner of Negativland’s former recording company to parody Negativland by producing a booklet and CD by a fictional band named Positivland); *hear*

played¹⁴ something like an extended version of this:

————— CAN WHAT HAS NOT BEEN LOST BE FOUND? —————

NEGATIVLAND, *The Answer Is . . .*, on "POINTS" (Seeland Records 1981); cf. Norton, *supra*, at 84 (perhaps suggesting that Kasem didn't "get" the fact that Negativland was parodying mindless negativity, since he sent the band a copy of Norman Vincent Peale's *The Power of Positive Thinking*).

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See also MANN, *supra* note 2, at 111 ("Mystic numbers . . . fascinated Adrian . . ."); Anonymous Postmodernist Insight Now Circulating on the Internet:

Given: Barney is a CUTE PURPLE DINOSAUR.

Prove: Barney is Satanic.

The Romans had no letter "U" and used "V" instead for printing, meaning the Roman representation for Barney would be:

CVTE PVRPLE DINOSAVR.

Extracting the Roman numerals, we have:

C V V L D I V.

[The] Decimal Equivalentents are:

100 5 5 50 500 1 5

Adding those numbers produces: 666

666 is the number of the beast.

Therefore, Barney is Satan. [.]

14. Cf. Bernard J. Hibbitts, *Making Sense of Metaphors: Visuality, Aurality, and the Reconfiguration of American Legal [?] Discourse*, 16 CARDOZO L. REV. 229, 301-41 (1994) (discussing the perceived emergence of "aurality" as a dominant (*gasp!*) theme in American culture and its perceived contribution to "diversity" in American legal scholarship).

[He] was not the first composer, and he will not have been the last, who loved to put mysteries, magic formulas, and charms into his works. The fact displays the inborn tendency of music to superstitious rites and observances, the symbolism of numbers and letters [I]n [Adrian's] musical fabric a five- to six-note series . . . is found strikingly often, a basic figure of peculiarly nostalgic character

The letters composing this note-cipher are: h, e, a, e, e-flat: hetæra esmeralda.

MANN, *supra* note 2, at 155-56; cf. CONRAD, *supra* note 2, at 88 ("[A] fellow . . . gave me to understand that Kurtz had been essentially a great musician."); *watch Investigative Reports: The New Skinheads* (A&E network television broadcast, Jan. 26, 1997) (1995) [hereinafter *The New Skinheads*] ("The language of the skinhead movement is music." (quoting leader of White Aryan Resistance ("WAR"))); cf. DON DELILLO, *WHITE NOISE* (Penguin Books 1986) (1985) (describing the odyssey of J.A.K. Gladney, chairman of the Hitler Studies department at College-on-the-Hill); Julius Getman, *The Price of a Chair*, 46 J. LEGAL EDUC. 456 (1996) (discussing the creation of an endowed chair honoring Benito Mussolini at Texas State Law School).

See also WILLIAM IRWIN THOMPSON, *THE AMERICAN REPLACEMENT OF NATURE* 26-27 (1991):

The scary thing about this manipulation of the body politic through sound is that it really does work. People do behave As . . . Jean Gebser recognized as he wandered in Europe as a refugee from the fascism of Hitler's Germany and Franco's Spain: the emphasis on sight and linear perspective is a characteristic of the Mental era of development that came in with the Italian Renaissance; but the older levels of consciousness, the Mythic and the Magical, were aural worlds [.]

but cf. C.J.S. THOMPSON, *THE MYSTERIES AND SECRETS OF MAGIC* at i (1993) ("Shew me the secrets of the magical art . . . and the sacred operation of hidden

absence of fault, empirically verifiable real fact: except for "I's", of course; see generally "determinism," "essence," "victimology," "power paradigm."

abyme, n.-v.: the situs of all beauty not contained in "plural democracy" (this may or may not be a null set); the situs of "utopia"; (*obso.*): abyss (that one's in *English*, oh slow-witted one), *abysse* (doesn't quite convey the bottomlessness of the pit, or the allusion to hell and/or "enlightenment"), and *abîme* (too . . . well . . . common).

ARE YOU SURE?

mysteries." (quoting an unidentified sixteenth-century manuscript)); Coolidge, *supra* note 10, at 38 ("Wait a moment," he begged hastily. "Wait, listen . . ." and he pulled out his lyre.") (quoting Hermes addressing Apollo, after Apollo had discovered his theft and dissembling). See generally MANN, *supra* note 2, at 27-28 (narrating Zeitblom's thoughts):

Hanne, with whom little Adrian stood on a friendly footing . . . had a strident voice, but a good ear . . .

. . . She taught us . . . to sing rounds . . . the ones that children know best:

O, wie wohl ist mir am Abend, Es tönen die Lieder, and the one about the cuckoo and the ass [.]

Compare *supra* with *infra* notes 20, 38, 50, 57 (employing metaphors of taste — in cuisine, that is) and Pierre Roumeguère, *Introduction* to MAX GERAND, DALI, DALI, DALI 1, 1 (1974) ("Beauty should be edible or not at all." (quoting Salvador Dali)) and *id.* at 2 (discussing "devouring" aspects of Dalian concept of "paranoic orality"). Cf. *infra* note 43 (citing scholars discussing inherency of paranoia in postmodern orality and "discourse"); *infra* text following note 37 (contemplating the omnivorous appetite of "law"); BREAKFAST THEORY, *supra* note 10 (reproducing cartoon of *Deconstruction Breakfast Food Product* cereal box acknowledging its contents to consist primarily of verbiage and sugar, and noting reply from Mouse 2 to a critical (oops!) comment about its flavor from Mouse 1: "Your question is informed, or should I say misinformed, by the conventionalized bourgeois cereal paradigms that center on such outmoded esculatory notions as taste, nutrition and edibility."). Compare ALICE IN WONDERLAND (Walt Disney Prods. 1951) [hereinafter ALICE] (noting that the Mad Hatter preferred highly sweetened tea) with L'HEUREUX, *supra* note 10, at 57 (noting Olga's preference for Constant Comment).

See also *infra* note 29 (quoting Oscar Wilde recommending deployment of visual art as haberdashery); TOLSTOY, *supra* note 12, at 39 (discussing Charles Darwin's view that "[t]he origin of the art of music is the call of the males to the females"); *infra* note 67 (contemplating, inter alia, seduction); James Shreeve, *Music of the Hemispheres*, DISCOVER, Oct. 1996, at 90, 98 (same); *id.* at 99 ("Most people [are] . . . emotionally responsive to music throughout their lives Herbert von Karajan once had a pulse meter attached while conducting Beethoven's Lenora Overture; his pulse rate peaked not in the passages during which he exerted the most physical effort but in those that emotionally moved him most."). But cf. H.T. Lowe-Porter, *Translator's Note* to MANN, *supra* note 2, at v ("[M]usic, and talk about it, uses an exact and international language."); Vincent Tomas, *Introduction* to TOLSTOY, *supra* note 12, at vii, xiv ("Carroll C. Pratt and Suzanne K. Langer . . . agree with Tolstoy that music is a language of emotions, [but] make [the] sense of expression, rather than Tolstoy's notion of infection, fundamental in their theories of art.").

- academic, n.-adj.:** political; see generally "adjectives" "power"; "theory" "concealment."
- adaptive preferences, comp. pl. n.:** "We" don't really *believe* all that "adaptive preferences" stuff, you know: it's either "crimestop" or (*gasp!*) false consciousness.
- adjectives, pl. n.:** untethered "rhetorical" "power"; "theorists," "academics," "intellectuals" "repetitive and cumulative incantation" "adjectives": "truth," "legal authority"; see generally "complex."
- anarchy, feint:** see "nihilism."
- antidisestablishmentarians, pl. n.:** opponents of the disestablishment of a church or religious body; "we"; but see "subversion."
- antifoundationalist pragmatism, feint:** see "concealment" "mysticism," "natural law"; see also "doublethink."
- appreciation, n.:** for the occasional "uncanny" clarity (not "clarity") of "we"s; *keep writing!*
- Article III, "interpretive" construct:** two articles down the road.
- authentic, adj.:** "our" "essence" (in collective-identity *Weltanschauungen*).
- authentic leadership, comp. n.:** "us"; see generally "Heidegger," "crimestop"; *all variants obsolete*.
- authority, n.:** "us."
- autonomy, social construct:** see "fascism"; see also "law," "children"; see generally "self-contradiction"; "complex" "rich" "textured" "nuanced" "postmodernist insights."
- avoidance behavior, subliminal postmodern process:** see "enthusiasm" "narcissism," "self-indulgence."
- balancing test, unclassifiable:** *WHEEEEE!* See generally "democracy" "natural law," "subjects."
- Barney, prop. n.:** contemplate time (not "time").
- Big Brother, paranoid construct:** "mean-spirited" "framing"; see generally "definition"; (*obsolet.*): the embodiment of the Party.
- Big Mother, paranoid construct:** "mean-spirited" "framing" of "dominance" "feminists" variant of "Big Brother"; see generally "naming 'our' own reality"; "responsibility," "children."
- binary opposites, social construct:** "dualities."
- candor, n.:** compare "clarity" with "concealment."
- canniness, n.:** characteristic of scholars "lulled by the promise of a rational ordering";¹⁵ see also "I," "uninitiated," reason (not "reason").

CAN YOU FEEL THE ABYME?

15. Cf. J. Hillis Miller, *Stevens' Rock and Criticism as Cure* (pt. 2), 30 GA. REV. 330, 335 (1976) (confining his remarks to literary critics). See generally *id.* (maintaining that work of "canny" critics generates a "happy positivism"); Zavarzadeh,

- canon, n.:** can't hurt (can it?) if it's aimed in the right direction.
- cash, n.:** see "foundation," "income redistribution"; see generally "adaptive preferences."
- cavalier, adj.:** see "dismissive"; *all variants obsolete.*
- center, social construct:** to be "decentered."
- certain, adj.:** you'll see.
- chains, postmodern construct:** see "certain."
- children, pl. n.:** all American citizens of any age, and soon all rational beings in the universe; "our" wards, to be oligarchically, paternally, and maternally "dominated" by "us" under the banner of "democracy," in the spirit of "love," pursuant to "hegemonically" imposed "natural law," irrespective (?) of consequences. [OF COURSE, I'M ONLY TALKING ABOUT O'BRIEN.]
- chimpanzees, social construct:** "We" can't hear you, either: the sounds appear to be muffled both beneath the earth's surface and in space; see generally "language."
- circles, n.:** Don'cha know those spinning teacups are "our" favorite ride at Disneyland? (or are "we" being "canny" here?); see generally "pragmatism."
- civility, n.:** something *always* to be insisted upon, except, of course, when "we"re *not* in "power"; compare "critical bite" with "mean-spirited"; frequently "deployed" when *faux*-"discourse" is about to cause the *merits* of "our" "critiques" to crater; see generally "crimestop."
- clarity, social construct:** a "traditional" conceptual tool of arch-conservatism;¹⁶ an obstacle to "interpretation," "decentering,"

DOES "IT" FEEL GOOD?

supra note 12, at 329 (asking but not answering the question "[w]hether Miller's own simplifying typology is not in fact a 'positivistic' and canny adaptation of Derridean views").

16. Zavarzadeh, *supra* note 12, at 333 (criticizing Jonathan Culler's "unproblematic prose and . . . clarity of . . . presentation, which are the conceptual tools of that conservatism"). Cf. Salman Rushdie, *Reservoir Frogs*, NEW YORKER, Sept. 23, 1996, at 104, 104 ("As Luis Buñuel knew, obscurity is a characteristic of objects of desire. . . . The movie [*Trainspotting*] has many admirers, perhaps *because* they are unable to understand its title, let alone the fashionably indecipherable argot of the dialogue."); HEINLEIN, *supra* note 5, at 386 ("The marks won't pay attention if it's free."); cf. FRIEDRICH NIETZSCHE, *THE GAY SCIENCE* § 381, at 343 (Walter Kaufmann trans., Random House 1974) (1882):

One does not only wish to be understood when one writes; one wishes just as surely *not* to be understood. It is not by any means necessarily an objection to a book when anyone finds it impossible to understand: perhaps that was part of the author's intention — he did not want to be understood by just "anybody." [;]

but cf. CONRAD, *supra* note 2, at 52-53 (quoting Marlow, describing the Harlequin's lost book):

“discourse,” “rhetoric,” “critique,” and “doublethink”; see generally “concealment”; *all variants obsolete*.

collegiality, n.: “Michel Foucault” “truth,” “children”; see generally “Heidegger,” “submission.”

comets, pl. n.: Whiston’s? or Applewhite’s? or . . .

communitarian, adj.: see generally “social justice,” neo-“Marxism.”

GOAL?

I picked up a book. It had lost its covers, and the pages had been thumbed into a state of extremely dirty softness; but the back had been lovingly stitched afresh with white cotton thread . . . Its title was, *An Inquiry into some Points of Seamanship*, by a man Tower . . . some such name . . . The matter looked dreary reading enough, with . . . diagrams and repulsive tables of figures . . . I handled this amazing antiquity with the greatest possible tenderness, lest it should dissolve in my hands . . . Not a very enthralling book; but at the first glance you could see . . . an honest concern for the right way of going to work . . . The simple old sailor . . . made me forget the . . . pilgrims in a delicious sensation of having come upon something unmistakably real [*gasp!*]. [;]

WHITMAN, *supra* note 2, at 2 (“[T]his is the ocean’s poem. . . This song for mariners and all their ships.” (emphasis added)).

But cf. IRMGARD SCHLOEGEL, *THE WISDOM OF THE ZEN MASTERS* 54 (1976) (“Master Tokusan said on this: ‘If you can say it you will get thirty blows, and if you cannot say it you will also get thirty blows!’”); *but cf.* EUGEN HERRIGEL, *THE METHOD OF ZEN* 45 (Hermann Tausend ed. & R.F.C. Hull trans., Vintage Books 1960) (1958) (“Why be so complicated about something so simple, why make so many words?” (quoting an unnamed zen master)); NIETZSCHE, *supra*, § 381, at 343-44:

And let me say this among ourselves and about my own case: I don’t want either my ignorance or the liveliness of my temperament to keep me from being understandable for *you*, my friends — not the liveliness, however much it compels me to tackle a matter swiftly to tackle it at all. For I approach deep problems like cold baths: quickly into them and quickly out again. That one does not get to the depths that way, not deep enough down, is the superstition of those afraid of the water, the enemies of cold water; they speak without experience. The freezing cold makes one swift. [;]

supra note 10 (quoting Vladimir Nabokov discussing the necessity of opening eyes in limpid depths); NIETZSCHE, *supra*, § 173, at 201-02:

Those who know that they are profound strive for clarity. Those who would like to seem profound to the crowd strive for obscurity. For the crowd believes that if it cannot see to the bottom of something it must be profound. It is so timid and dislikes going into the water. [;]

See also Don Wirth, *How to Master Cold, Muddy Water*, *BASSIN*, Oct.-Nov.-Dec. 1996, at 36, 36 (“Even guides and pro bass anglers dread it . . . [But y]ou can catch bass from it. Good ones, too.”); LINGUA FRANCA, Dec. 1996-Jan. 1997, at 28 (presenting advertisement by publishing company for works of “[a]ccessible” postmodern “theory” (emphasis added)); *watch* SLACKER (Orion Classics 1991) (“They do a little liquid lobotomy here.”); *cf.* Rushdie, *supra*, at 104 (“Welcome to the New Incomprehensibility: gibberish with attitude.”); *but cf.* MANN, *supra* note 2, at 232 (“How long must I . . . sit and freeze and listen to your intolerable gibberish?” (quoting Adrian addressing his soon-to-be friend)); *but cf.* HEINLEIN, *supra* note 5, at 166 (“I want the pool cleaned — we’re through with murkiness.”); *but cf.* BRUCE DETWEILER, *NIETZSCHE AND THE POLITICS OF ARISTOCRATIC RADICALISM* 6, 201-02 (1990) (contemplating Sigmund Freud, Jacques Derrida, and Michel Foucault).

community, n.: whatever “we” tell you yours is; *all variants obsolete.*

competition, social construct: an impediment to “equality” and “entropy,” and therefore to “self(?)-esteem”; see generally “dominance,” “hegemony,” “deconstruction”; to be abolished by “natural law”; *all usages to become obsolete.*

complex, adj.: the way *everything* looks to those lacking both knowledge and reason; see also “rich,” “textured,” “nuanced”; but in “context,” it’s really quite simple; *except for “complicated,” all variants obsolete.*

complicated, adj.: the “education” departments’ (Department’s?) authorized variant of “complex.”

concealment, n.: “power.”

condescension, n.: *shhhhh!* *All usages obsolete.*

consent, n.: “Ours,” right? *All variants obsolete.*

consequences, social construct: as filtered through what axiological preferences, how private (not “private”), and how firmly held? Compare history (not “history”), science (not “science”), religion (not “religion”); “thinking more than one consequence ahead,” “unintended (?) consequences,” “clarity,” and “candor” with “pragmatism” (not pragmatism), “Pomobabble,” “concealment,” and “natural law.”

consistency, n.: standard of argumentation on the basis of which “we” may criticize “I”s, but on the basis of which “I”s may not criticize “us”; see also “rich,” “textured,” “doublethink” “pragmatism”; *all variants obsolete.*¹⁷

Rich?

17. See generally ALINSKY, *supra* note 10, at 128 (“*Make the enemy live up to their own book of rules.*”); *supra* note 2 (quoting Laurence Tribe, Michael Dorf, and Aristotle on consistency); ORWELL, *supra* note 1, at 215 (“*Doublethink* means the power of holding two contradictory beliefs in one’s mind simultaneously, and accepting both of them.”); *infra* note 29 (quoting George Orwell, Leo Tolstoy, and Robert Heinlein on the comparative utilities of consciousness, unconsciousness, and self-deception in “deployment” of “doublethink”).

Compare *infra* note 21 (quoting George Orwell on subtlety) and HERRIGEL, *supra* note 16, at 78-79:

For the Zen Buddhist . . . the true mystery is not only beyond all multiplicity, oppositeness, and differentiation, but also beyond the pairs of opposites ‘unity: multiplicity,’ ‘identity: difference,’ ‘non-oppositeness: oppositeness.’

. . . [H]e would be unable to say anything more than that the centre of being is as much *beyond* unity and multiplicity, identity and difference as it is *not* beyond them. And since being beyond them and not being beyond them are again opposites, he would have to add that the centre of being is neither one nor the other, neither both nor not both, and . . .

with ORWELL, *supra* note 1, at 36:

Winston[’s] . . . mind slid away into the labyrinthine world of doublethink. To know and not to know, to be conscious of complete truthfulness while

TEXTURED?

telling carefully constructed lies, to hold simultaneously two opinions which canceled out, knowing them to be contradictory and believing in both of them, to use logic against logic, to repudiate morality while laying claim to it, to believe that democracy was impossible and that the Party was the guardian of democracy, to forget whatever it was necessary to forget, then to draw it back into memory again at the moment ["moment"?] when it was needed, and then promptly to forget it again

and Martha Minow, *Incomplete Correspondence: An Unsent Letter to Mary Joe Frug*, 105 HARV. L. REV. 1096, 1103-04 (1992) (emphasis added) (footnotes omitted):

The manifesto displays a commitment to deconstruct — to take apart apparent dichotomies and show how apparent polarities need or complement one another or exclude other important alternatives. . . . My question here is why do you not deconstruct the notion of *subordination* . . . ? I think I have an answer; I think that your commitment to deconstruction is not for its own sake or to produce a mindlessly perpetual analytic machine that fractures concepts and ideas. I think that you are a feminist *using* techniques of *postmodernism*, just as you are a feminist *using law*. . . . You want to be in control of your postmodernism just as Madonna wants to assert her control over her dress, her images, her fantasies, and her life.

But why don't you talk about just this: how you mean to be in charge as you use postmodernism? . . . Might that *expose* the analysis to the deconstructive impulses of some readers?

and EMERSON, *supra* note 12, at 13-14 ("My metaphysics are to the end of use. I wish to know the laws of this wonderful power, that I may *domesticate* it." (emphasis added)) and Minow, *supra*, at 1100 ("[Mary Joe Frug] urge[s] . . . law reformers [to] acknowledge and welcome the *fluidity of language and meanings* and participate in *controversies* [*"discourse?"*] about *discourse* rather than hoping to pin things down." (emphasis added)) and *supra* note 10 (quoting Catharine MacKinnon on "making meanings") and *infra* note 41 (quoting Humpty Dumpty on "mastery" of words) and *infra* note 67 (quoting Heaven's Gate website on "speaking in tongues") and Francis X. Clines, *Arguments Before the Court: The Scene*, N.Y. TIMES, Jan. 14, 1997, at B7 (discussing outside-the-courthouse reactions to oral argument in *Clinton v. Jones*, 117 S. Ct. 1636 (1997)):

A dozen women marched as a group in sympathy with Ms. Jones. "Where is N.O.W. now?" one sign asked in an allusion to the National Organization for Women.

. . . .

As the media armada broadcast complaints against organized feminists, Eleanor Smeal, president of . . . *Feminist Majority*, faxed out a press release contending that "the power of the presidency, not sexual harassment law" was the issue before the court. [.]

See generally *infra* notes 46, 32, 42 and accompanying text (defining and discussing "pragmatism," "framing," and "natural law").

See generally Naomi Mezey, *Legal Radicals in Madonna's Closet: The Influence of Identity Politics, Popular Culture, and a New Generation of Critical Legal Studies*, 46 STAN. L. REV. 1835, 1850 (1994) (reviewing DUNCAN KENNEDY, *SEXY DRESSING ETC.* (1993)) ("Few self-respecting cultural critics would go a whole book without addressing Madonna . . ."); BELL HOOKS, *OUTLAW CULTURE* 11-23 (1994) (addressing the Madonna question); JIM POWELL, *DERRIDA* 7 (1997) (documentary comic book) ("Whatever one's philosophical . . . orientation, no thinker today can ignore . . . Jacques Derrida."); Alexander Nehamas, *Subject and Object*, NEW REPUBLIC, Feb. 15, 1993, at 27, 27 ("On one point, [Michel Foucault's supporters and detractors] must agree: *Foucault was a very famous man.*" (emphasis added)); but cf. DECONSTRUCTING MADONNA (Fran Lloyd ed., 1993).

constitutional law, *comp. n.*: the continuation of politics by other means; *all variants obsolete*.¹⁸

context, *n.-v.*: what “we” want to talk about, whether real or imaginary (epistemologically and/or ontologically, is there a difference?), *to the exclusion of everything else*; definitely *not* history (unless, of course, it’s “history”); see also “diversity,” “repetitive and cumulative incantation” “interesting”; see generally “frame” “democratic history”; *all variants obsolete*.

contextual, *adj.*: monomaniacal; see also “diversity” “Johnny One-Note,” “linear thinking”; see generally “adjectives” “doublethink” “power.”

cosmic debris, *comp. n.*: just more “text”; see also “context”; (*obsolet.*): a ’60s term of derision for the over-the-top untethered and their “theories”; *all other variants also obsolete*.

crimestop, *n.-v.*: an evolving, not-quite-perfected technique of “postmodernist” “practice” pursuant to which a mental blur should occur when the minds of “I”s or “we”s subconsciously but “cannily” generate “subversive,” non-“postmodern” (and “therefore” non-“democratic”) thoughts; failing that, prevention of the *faux*-“discoursing” of such thoughts, in “contexts” in which “Pomobabble” (thus far) falls short.¹⁹

critical bite, *comp. n.-comp. v.*: severe and disruptive criticism —

NUANCED?

18. See PETER IRONS, BRENNAN VS. REHNQUIST 20 (1994) (“To paraphrase General Clausewitz, constitutional litigation is politics by other means.”); *cf. infra* text following note 35 (defining “Joe Biden”); *infra* note 34 (discussing “Joe Biden”). See generally Nehamas, *supra* note 17, at 28 (“Reversing Clausewitz’s brutal formula, [Michel Foucault] claimed even more brutally that power, the nature of which obsessed him throughout his life, ‘is war, a war continued by other means.’”).

19. See ORWELL, *supra* note 1, at 258 (“It is intolerable to us that an erroneous thought should exist anywhere in the world, however secret and powerless it may be. . . . The command of the old despotisms was ‘Thou shalt not.’ The command of the totalitarians was ‘Thou shalt.’ Our command is ‘Thou art.’ ”); *id.* at 213-14 (discussing relationship of “crimestop” to “doublethink”); *id.* at 281 (discussing the ideal process); ZAMYATIN, *supra* note 4, at 67 (“The Guardians are the thorns on the rosebush, protecting the gentle state Flower against all rude contact.”); *cf., e.g., infra* text accompanying note 40 (defining “mean-spirited”); *infra* text following notes 47-48 (contemplating promiscuous “deployment” of “rape” and “sexual harassment” “signs”); *infra* note 29 (contemplating lawsuits); *supra* text following note 15 (defining “civility”). See also Evan Thomas, *The Next Level*, NEWSWEEK, Apr. 7, 1997, at 28, 32 (“[The Heaven’s Gate suicide cult f]ollowers had to check in with the leader every 12 minutes [E]veryone was given a ‘check partner’ — to guard against backsliding and independent thought. Doubters were sent to a ‘decontamination zone.’”); HENLEIN, *supra* note 5, at 64 (“This almost led [Mike] to a comparison of Martian and human methods not favorable to the Old Ones, but his mind shied away from heresy.”); *but cf. supra* note 10 (quoting Leo Strauss perhaps suggesting a different response); *infra* note 29 (avoiding “binary oppo-

perhaps even with a sarcastic tone — directed to “I”s; when directed to “us,” see “mean-spirited”; (*fut.*): *ticbite*.²⁰

COMPLEX?

sites,” and quoting Friedrich Nietzsche quoting the Vicomte de Turenne contemplating a third possibility).

See generally Csaba Csere, *If City Councils Designed Cars*, CAR & DRIVER, May 1997, at 9, 9 (quoting Ann Arbor City Council member Elisabeth Daley criticizing fellow council member David Kwan for his use of “hot-button words and inflammatory language like ‘micromanagement.’” (emphasis added)) [MICROMANAGEMENT?]; ORWELL, *supra* note 1, at 235 (“They talked . . . for some minutes, then, without apparent reason, a YELL from the telescreen bade them be silent.” (emphasis added)); RIBOWSKY, *supra* note 3, at 141 (“‘Hey, I’m out here, baby, come my way and I’ll hammer you.’ . . . In the coagulating sixties, this passed for defensive philosophy all around the AFL.” (quoting John Rauch characterizing the Oakland Raiders’ “hammer” (but not sickle) defense)); NORRIS, *supra* note 10, at 332 (“‘[N]ever mind, I’m going along. Do you hear? . . . I’m going along, I tell you. There ain’t a man of you big enough to stop me. Let’s see you try and stop me’ He filled the barroom with his clamor.”).

20. Compare Richard Delgado, *Legal Scholarship, Insiders, Outsiders, Editors*, 68 U. COLO. L. REV. 717, 717 (1992) (defending “critical bite”) and Delgado, *supra* note 12, at 100 n.31 (defending “naming names” of scholars Delgado criticizes) with Richard Delgado & Jean Stefancic, *Scorn*, 35 WM. & MARY L. REV. 1061, 1062-63 (1994) (arguing that “the most caustic types of humor” should be deployed “only . . . against the high and the mighty,” and only “to call attention to the foibles, weaknesses, pomposities, and abuses of those more powerful than oneself”).

I’m pretty safe here, since all of the professors, philosophers, jurists, senators and/or “we”s critiqued (oops!) in this article feed far higher on the food chain than do I. See *supra* note 2; cf. ERICA ABEEL, *WOMEN LIKE Us* 5 (1994) (“[I]t was now fashionable to be an Outsider.” (emphasis to title added)); LEVINE, *supra* note 10, at 94 (“Many people do not . . . occupy seats, while others recline upon satin cushions” (quoting Philip Hone)). But cf. FRANZ KAFKA, *A Hunger Artist*, in *THE COMPLETE STORIES* at 268, 269 (Nahum N. Glatzer ed. & Willa Muir et al. trans., Schocken Books 1971) (1924) (“But his happiest moment was when the morning came and an enormous breakfast was brought them, at his expense, on which they flung themselves with the keen appetite of healthy men after a weary night of wakefulness.”); WHITMAN, *supra* note 2, at 71 (“I have no chair But each man and each woman of you I lead upon a knoll . . . [m]y . . . hand pointing to landscapes of continents and the public road.”). See generally Liner on Tray I Received with Big Mac at Lunch Today (Feb. 2, 1997) (on file with author) (reproducing lyrics and musical notation for song *Have You Had Your Break Today?*: “Feed me, please me, tempt me, tease me.”).

For a description of the “ticbite” contraction’s [see generally *supra* note 14 (discussing Leo Tolstoy’s notion of “infection”)] prospective utility, see ORWELL, *supra* note 1, at 306-07:

The B vocabulary consisted of words which had been deliberately constructed for political purposes Without a full understanding of the principles of Ingsoc it was difficult to use these words correctly. . . . The B words were a sort of verbal shorthand, often packing whole ranges of ideas into a few syllables, and at the same time more . . . forcible than ordinary language.

The B words were in all cases compound words. [.]

Since “legal postmodernism” has “interpreted” Big Brother as *prescription*, watch ALICE, *supra* note 14 (“Hurry! We’re late!” (quoting the White Rabbit)), I have provided suggestions for a number of potentially useful compound words

critique, postmodern process: white noise (buzzzzzzing); “decentering” “doublethink” “discourse”; (*alt.*): the Scream; (*obsol.*): unorderable cognitive chaos.

cultural studies, comp. n.: the essentialized agglomeration of multiple particularized incompetencies, homogenized with “left-wing” axiology; a tenure-track refuge for “enthusiastic” would-be political organizers; a homeroom for “repetitive and cumulative incantation”; a “discipline” useful to those otherwise unable to secure employment, tenure, and/or “self(?)—esteem” in “education,” anthropology, “English,” “history,” natural science, philosophy, or sociology departments, or law (*or* “law”) schools; (*fut.*): *culties*.

culture, n.: *Huh?*

da Bears, social construct: in hibernation.

da Raiders, social construct: still raiding.

da Rosenbergs, social construct: loyal American citizens; dey was “framed!” See generally “democratic history.”

Death, n.: [THE NINTH SACRAMENT]: “life.”

decentered, n.: soon, maybe *you*; (*obsol.*): “us.”

decentering, postmodern process: the patient and gradual stripping away of “I”s’ abilities (or wills, see “crimestop”) to invoke logic (not “logic”), reason (not “reason”), history (not “history”), empirical observation and/or proof (*gasp!*), discernment (not “discernment”), and judgment (not “judgment”); what’s then left besides “our” nostalgically-murmured and melancholic “rhetoric,” repetitively and cumulatively incanted? (*obsol.*): brainwashing; *all other variants also obsolete. WHEEEEEEE!*

deconcealment, n.: a potentially definitive blow to “our” grab for “constitutional law” “hegemony”; to be resisted through the “deployment” of “adjectives” to the “Death.”

deconstruction, postmodern process: “our” “concealed” attempt to “displace” reason (not “reason”) with horror, fear, and pity; “concealment” by “Pomobabble” and “displacement” by “critique,” “rhetoric,” “discourse,” “epistemology,” and “mysticism” of the meanings (not “meanings”) of words (oops! “signs”) representing facts (*gasp!*) and ideas “we” don’t like; an attempt to ob-

NEWSPEAK?

throughout this article, in the spirit of the “B vocabulary,” and in an attempt, as always, to be helpful. See James Surowiecki, *Young Walter*, LINGUA FRANCA, Dec. 1996-Jan. 1997, at 28, 30 (characterizing the relevant view of Walter Benjamin: “The moral responsibility of the critic is to tend the fire, to keep the work from dying.”); cf. RICHARD RORTY, CONTINGENCY, IRONY, AND SOLIDARITY 169 (1989) (“Orwell’s best novels will be widely read only as long as we describe the politics of the twentieth century as Orwell did.”).

fuscate genuine dualities and binary opposites — but only, of course, the ones “we” don’t like; see generally “consistency,” “pragmatism,” “postmodernism,” “natural law.”²¹

HEIDEGGER?

21. What “we” do like is, of course, Exempt. Cf., e.g., *supra* note 17 (quoting Martha Minow (though she *does* recognize the analytical traps) endorsing the nondeconstruction of deconstruction — in the right circumstances, of course); EMMANUEL LEVINAS, *Substitution* (1968), reprinted in THE LEVINAS READER 88, 91 (Seán Hand ed. & Alfonso Lingis trans., Blackwell Publishers (1989)) (“Disorder is but another order, and what is diffuse is thematizable.”); Surowiecki, *supra* note 20, at 29 (“Now there’s a real sense of lack of direction, and [there] is a kind of back-to-basics [*gasp!*] movement within theory.” (quoting Eric Banks)); *infra* text following note 52 (defining “theory,” and perhaps questioning proposition “theory \supset theory”); *infra* note 42 and accompanying text (defining and discussing “natural law”). But cf. ORWELL, *supra* note 1, at 36 (“[T]o apply the same process to the process itself — that was the ultimate subtlety” (emphasis added)). Compare ERNESTO LACLAU & CHANTAL MOUFFE, *HEGEMONY AND SOCIALIST STRATEGY* 152-59 (1985) (highlighting dualities between power and resistance, dominator and dominated, “relations of oppression” and “relations of domination,” “hegemony” and “radical democracy”) and HEINLEIN, *supra* note 5, at 91 (“Human bipolarity was both binding force and driving energy for all human behavior, from sonnets to nuclear equations.”) and *infra* notes 24, 29, 30 (perhaps contemplating the existence of “concealed” dualities at postmodernism’s very core (*gasp!*) with SARUP, *supra* note 5, at 37-42, 50-51 (discussing Jacques Derrida’s attack on “binary opposites”) and HÉLÈNE CIXOUS, *Sorties*, in HÉLÈNE CIXOUS & CATHERINE CLÉMENT, *THE NEWLY BORN WOMAN* 63, *passim* (Betsy Wing trans., University of Minn. Press 1986) (1975) (criticizing “binary opposites” primarily but not exclusively with reference to gender) and *supra* note 2 (quoting Laurence Tribe and Michael Dorf on self-contradiction) and R.H. BLYTH, *GAMES ZEN MASTERS PLAY* 66 (Robert Sohl & Audrey Carr eds., 1976) (“Should you desire immediate correspondence (with this reality), all that can be said is, ‘No duality!’”) and *id.* at 27 (“There is nothing difficult about the great way, but, avoid choosing!”) and *infra* note 68 (quoting Thomas Pynchon describing Oedipa’s presuppositions about “excluded middles”).

See also POWELL, *supra* note 17, at 16 (“The word ‘deconstruction’ comes from . . . Martin Heidegger’s concept of *Destruktion*.”); but cf. Norton, *supra* note 13, at 38 (contemplating some of *Negativland*’s parodies, and noting that “[s]oon after the release of *U2/Negativland*, the music magazine *Spin* hailed it as ‘possibly the most truly subversive rock record ever made’” (emphasis added)); *infra* text following note 51 (defining “subversive”). But cf. Sidney W. DeLong, *Jacques of All Trades: Derrida, Lacan, and the Commercial Lawyer*, 45 J. LEGAL EDUC. 131, 131 (1995) (cringing before “Pierre Schlag’s stinging observation that to ask ‘What is deconstruction?’ is to reveal that one does not understand deconstruction”); *id.* at 131 n.1 (suggesting that “novices who want to avoid this embarrassing pitfall . . . instead ask meta-questions such as ‘What sort of question should I ask to learn something about deconstruction?’ or ‘If I were to ask you the correct question about deconstruction, what answer would you give?’”). Compare WHITMAN, *supra* note 2, at 47-48 (“I hear all sounds running together, combined, fused . . . I hear the key’d cornet . . . I hear the chorus, it is a grand opera . . . [a]nd that we call Being.” (emphasis added)) with PYNCHON, *supra* note 2, at 105-07 (emphasis added):

“They could . . . [p]ut together all the right overtones at the right power levels so it’d come out like a violin. . . . I can do the same thing in reverse. Listen to anything and take it apart again. Spectrum analysis, in my head. I

definition, n.: destruction; see “cosmic debris” (providing an example); compare “candor” with “concealment”; see generally “repetitive and cumulative incantation” “intertextuality” “rhetoric” “decentering” “clarity”; “doublethink”; “goal,” “nihilism,” “quadruplethink,” “natural law,” “transformation,” “meaning,” “United States Constitution,” “power,” “totalitarianism,” “children,” “entropy,” “utopia,” “interesting,” “self(?)-esteem,” “Death” “Meaning”; “Extinction” “equality”; *all variants obsolete.*²²

BEING?

can break down chords, and timbres, and words too into all the basic frequencies and harmonics, with all their different loudnesses, and listen to them, each pure tone, but all at once.”

“How can you do that?”

“It’s like I have a separate channel for each one,” Mucho said, excited, “and if I need more I just expand. *Add on what I need.*” . . .

. . . .

He put a little clear plastic bottle on the table between them. [Oedipa] stared at the pills in it, and then understood. “That’s LSD?” she said. [.]

cf. Luban, *supra* note 10, at 1671 (“*Roll Over Beethoven* . . . a dialogue between ‘Peter’ and ‘Duncan’ . . . often sounds like a pair of old acid-heads chewing over a passage in Sartre.”); G. WILLIAM BARNARD, EXPLORING UNSEEN WORLDS: WILLIAM JAMES AND THE PHILOSOPHY [?] OF MYSTICISM 25-26 (1997) (“According to James, nitrous oxide has a remarkable ability to produce a mystical state of awareness.”); *but cf. id.* at 28 (noting that for James, the transformation included a “flood of ontological emotion,” with his mood shifting “from rapture to horror”); DELILLO, *supra* note 14, at 312 (“I tried to see myself from Mink’s viewpoint. . . . But he was too far gone to have a viewpoint.” (quoting J.A.K.)). *But cf.* Richard Rorty, *Knowledge and Acquaintance*, *NEW REPUBLIC*, Dec. 2, 1996, at 46, 46 (reviewing RAY MONK, BERTRAND RUSSELL: THE SPIRIT OF SOLITUDE (1996)) (arguing that “Aldous Huxley . . . begins to look more like William Dean Howells than like Thomas Pynchon”); RORTY, *supra* note 20, at 171 (“After Winston and Julia go to *O’Brien’s apartment* [not the “Ministry of Love”], 1984 becomes a book about *O’Brien*, not about twentieth-century totalitarian states.” (emphasis added)) [READ IT FOR YOURSELF]; *id.* (characterizing *O’Brien* as among those in a “small gang[] of criminals” who have seized control of the state, but without identifying them further at that point) [HMMMMM DO YOU SUPPOSE RORTY WOULD AGREE WITH ME THAT *APOCALYPSE NOW* IS A FILM ABOUT THE POSTMODERN PSYCHE, NOT THE VIETNAM WAR? See generally CONRAD, *supra* note 2, at 46-63 (contemplating the further decentering of Marlow); *infra* note 58 (contemplating the Rocket); *infra* note 29 (quoting Rorty asserting that he has “no idea what ‘postmodernism’ means”).].

22. See Miller, *supra* note 15, at 330 (equating “self-interpretation” with “self-dismantling”); Bob Dylan (“Definition destroys.”) [I don’t have a cite for the Dylan quote, but he said it in the late 1970s. See The Library of Congress. (It’s really quite a place.); Gabel & Kennedy, *supra* note 10, at 1 (“Duncan: ‘You are betraying our program by conceptualizing it.’”); POWELL, *supra* note 17, at 21 (“[D]efining deconstruction . . . goes against the whole thrust of Derrida’s thought.”); WALTER BENJAMIN, *One-Way Street*, in 1 WALTER BENJAMIN 444, 446 (Marcus Bullock & Michael W. Jennings eds., 1996) (“To convince is to CONQUER WITHOUT CONCEPTION.” (emphasis added)); cf. WILLIAM SHAKESPEARE, HAMLET, act II, sc. ii, l. 190, in THE YALE SHAKESPEARE 975, 991 (Wilbur S. Cross & Tucker

deliberative democracy, *comp. n.*: see “democracy.”

democracy, *n.* (invoked positively): see “oligarchy,” “children”; “totalitarianism,” “us” “natural law”; *all variants obsolete*.

“democracy,” satanic construct (invoked negatively): the greatest obstacle to “genius,” “natural law,” and all that follows.

democratic, *adj.*: undemocratic; see “we” “radically democratic”; see generally “adjectives” “power”; *all variants obsolete*.

democratic breakfast, *comp. n.*: [THE SECOND SACRAMENT] *Foucault Flakes*.

democratic governance, *comp. n.*: “our” “natural law” “hegemony”; *all variants obsolete*.

democratic history, *comp. n.*: making it up as “we” go along; see also “postmodernist insights”; see generally “framing”; (*fut.*):

MAGIC?

Brooks eds., 1993) (“Words, words, words.” (quoting Hamlet)); BEAVIS & BUTTHEAD (same (quoting Beavis)) [I don’t have a cite for the Beavis quote either, but he apparently says it all the time. Watch TV. But watch also DELICIOUS (Twentieth Century Fox 1931) (presenting a song by George and Ira Gershwin that perhaps described George’s views on Hollywood: “Blah, blah, blah . . .”)]; PAUL DE MAN, *THE RHETORIC OF ROMANTICISM* at viii (1984) (“I would never have by myself undertaken the task of establishing such a collection . . . This apparent coherence *within* each essay is not matched by a corresponding coherence *between* them. . . . Rather, it seems that they always start again from scratch and that their conclusions fail to add up to anything.”); Thomas, *supra* note 10, at 564 n.142 (“In Pynchon . . . paranoia, as an explanatory mechanism, ultimately fails to make any final sense out of phenomena.”); but hear Richard Wagner, *Lohengrin*, on WAGNER, *ORCHESTRAL MUSIC* (EMI Records 1995) (1850); cf. TRIBE & DORF, *supra* note 2, at 32 (first emphasis in original):

[T]here are . . . formulas that try to *hide* . . . behind proclamations of “original intent” or of the “clear meaning” of the text. . . . [T]he American experience teaches that the *best* way to achieve *wisdom* in constitutional interpretation is to subject *all constitutional arguments and decisions* to constant analysis and *continuing critique*, both in terms of the text and in terms of our *traditions for construing it*. [;]

but cf. *infra* text following note 48 (defining “rhetoric”); *infra* note 45 (contemplating ad hoc adventures).

Compare Stephen M. Feldman, *Diagnosing Power: Postmodernism in Legal Scholarship and Judicial Practice (with an Emphasis on the Teague Rule Against New Rules in Habeas Corpus Cases)*, 88 Nw. U. L. REV. 1046, 1048 (1994) (“[P]ostmodernism denies the possibility of its own definition.”) and *id.* at 1047 (“[T]o understand the themes of postmodernism, one must *do* postmodernism.”) with *MAGIC*, *supra* note 10, at 471 (“First, you must learn to *do* magic. . . . [M]any phases of magic, particularly *misdirection* and *showmanship*, apply to small tricks as well as large . . .”) and PHILIP KAPLEAU, *ZEN: DAWN IN THE WEST* 9 (1979) (“If I speak of Zen it won’t be Zen I’m speaking of.”) and ALAN W. WATTS, *THE WAY OF ZEN* at xii (1957) (“To know what Zen is . . . there is no alternative but to practice it . . .”). Hear PETER, PAUL AND MARY, *supra* note 10 (“I think I could say something . . . if you know what I mean.”); cf. KAFKA, *supra* note 20, at 276 (“Just try to explain to anyone the art of fasting! Anyone who has no feeling for it cannot be made to understand it.”).

mocstory.²³*COMETS?*

23. Cf. ORWELL, *supra* note 1, at 41 ("All history was a palimpsest, scraped clean and reinscribed exactly as often as necessary."); *id.* at 261 ("Oceania has always been at war with Eastasia. . . . Do you remember that?"); *id.* at 251 ("Who controls the past controls the future; who controls the present controls the past . . ."); FRANZ KAFKA, *AMERIKA* 3 (Willa Muir & Edwin Muir trans., Schocken Books 1962) (1927) ("[A] sudden burst of sunshine seemed to illuminate the Statue of Liberty The arm with the sword rose up as if newly stretched aloft"); *infra* note 41 (quoting J.M. Balkin and Sanford Levinson on "invented traditions"); SARUP, *supra* note 5, at 39 (discussing Jacques Derrida's "deployments" of "*sous rature*"); HEINLEIN, *supra* note 5, at 318 ("Solipsism and pantheism. Together they explain *anything*. Cancel out any inconvenient fact, reconcile all theories, include any facts or delusion you like."); BARNEY'S IMAGINATION ISLAND 20-21 (Stephen White ed., 1994) ("Welcome to Imagination Island! My name is Professor Tinkerputt."); ORWELL, *supra* note 1, at 236-37 ("What are you in for? . . . 'Thoughtcrime! . . . It's insidious! . . . [I]t got hold of me . . . [i]n my sleep! . . . Do you know what they heard me saying? . . . 'Down with Big Brother!'") (quoting dialogue between Winston and Parsons); *id.* at 249 ("The truth, please, Winston. *Your* truth. Tell me what you think you remember." (quoting O'Brien)); WHITMAN, *supra* note 2, at 13, 15 ("Americanos! conquerors! marches humanitarian! Foremost! . . . Libertad! masses! . . . I will report all heroism from an *American* point of view. . . . I will show what alone must finally compact these . . . I will write the evangel-poem of comrades and of love . . . [W]ho but *I* should be the poet of comrades?" (emphasis added)). *But cf.* ORWELL, *supra* note 1, at 239 ("'Remain standing where you are,' said the voice. 'Face the door. Make no movement.'"); *id.* at 240 ("'Room 101,' said the officer.").

. . . .

"Democratic history" includes not only "rediscovering context," but *undiscovering* context (not "context") as well, cf. Lawrence Douglas, *Wartime Lies: Securing the Holocaust in Law and Literature*, 7 *YALE J.L. & HUMAN.* 367, 369 (1995) (reviewing LOUIS BEGLEY, *WARTIME LIES* (1991)) ("[S]cholars of the Holocaust have expressed concern about searching for historical clarification in the world of fiction. They argue that to aestheticize the past is to trivialize it, warning that the very act of fictionalizing history can be exploited by those who claim the Holocaust itself is a fiction."); *but watch* SLACKER, *supra* note 16 ("We all know the psychic power of television. A video image is more powerful than an actual event."); cf. Rennard Strickland, *Coyote Goes Hollywood* (pt. 1), *NATIVE PEOPLES*, Spring 1989, at 46, 46 (emphasis added):

[W]ho is able to distinguish fact from fiction? There is a story told about the shooting in Monument Valley of one of the epic Westerns The cameras stop. The Navajo actors dismount and take off their Sioux war bonnets. One of the film crews says to the Indians, "That was wonderful, you did it just right." An Indian actor replies, "Yeah, we did it just like we saw it in the movies." [:]

cf. Elizabeth Gleick, *The Marker We've Been Waiting For*, *TIME*, Apr. 7, 1997, at 28, 33 ("We watch a lot of *Star Trek* . . . to us, it's just like going on a holodeck. . . . We take off the *virtual reality* helmet . . . go back *out* of the holodeck to *reality* to be with . . . the other members on the craft in the heavens." (emphasis added) (third ellipsis in original) (quoting now-departed (?) follower of Marshall Applewhite, known to his followers as "Do" (apparently the musical note, but perhaps also the transitive verb))). *See also* Randall L. Kennedy, *Racial Critiques of Legal Academia*, 102 *HARV. L. REV.* 1745, 1811-12 & nn.288-89 (1989) (describing attempts to muffle Kennedy's voice and that of others whose research produced

 THE ROCKET?

facts inconvenient to the party line); THOMPSON, *supra* note 10, at 40 (“He was not one of us.” (emphasis added and deleted)). *But cf.* MANN, *supra* note 2, at 48 (“If you go to Kretschmar . . . you will get a foundation for your castles in the air’ From now on he had lessons . . . from Wendell Kretschmar.” (quoting Adrian’s foster-father, addressing Adrian)); Horwitz, *supra* note 10, at 39 (“[I]n law . . . the turn to *history* often occurs when doubts accumulate [?] about whether timeless *truths*, prevailing *paradigms*, or neutral *principles* are available [?] to answer *legal* questions, so that more *contingent*, more *contextual*, and *less universal* sources of *meaning* and explanation are required.” (emphasis added)); MANN, *supra* note 2, at 57 (narrating Zeitblom’s thoughts: “[A]ll that was just magic spells to us, but we heard it as greedily, as large-eyed, as children always hear what they do not understand or what is even entirely unsuitable — indeed, with far more pleasure than the familiar, fitting, and adequate can give them.”); L’HEUREUX, *supra* note 10, at 16 (“He was a theorist, as productive and avant-garde as any of the young theorists. He was not a fool.”); MANN, *supra* note 2, at 147 (“I will not . . . yet apply the shibboleth ‘Kaisersaschern,’ with its various implications, partly middle-class and conventional, yet coloured as well with a mediævally lively horror of sin.”); *but cf.* Richard Corliss, *A Star Trek into the X-Files*, TIME, Apr. 7, 1997, at 42, 42 (“Could the Heaven’s Gaters distinguish pop fable from cold truth? Once we could. Not many of us took *My Favorite Martian* or *Mork & Mindy* as sacred texts.”); Reed, *supra* note 10, at 41 (emphasis added) (quoting Roger Stoddard):

The only real knowledge [*gasp!*] we can gain about the Middle Ages comes from the close study of the few *manuscripts* that have come down to us in the great research libraries. Arguments rage about such things as the spelling of a single word, the peculiarities of the handwriting of single scribes, or the substitution or replacement of single leaves or sections. In short, we need all the *evidence* that we can get — scarce as it is, and we depend on the continuing accessibility of *old* books and manuscripts, so we can *test the accuracy of new interpretations*. [.]

WHITMAN, *supra* note 2, at 24 (“You shall no longer take things at second or third hand”); *but cf.* SVETLANA ALLILUYEVA, ONLY ONE YEAR 145 (Paul Chavchavadze trans., Harper & Row 1969):

Before her death Mama left Father [Joseph Stalin] a letter full of political accusations. Only a few close intimates were ever able to read that letter, which was quickly destroyed. Because of its political implications her suicide would have been of too great significance for the Party [.]

ORWELL, *supra* note 1, at 250-51:

It was *the* photograph. . . . All [Winston] wanted was to hold the photograph in his fingers again, or at least to see it.

“It exists!” he cried.

“No,” said O’Brien.

He stepped across the room. There was a memory hole in the opposite wall. O’Brien lifted the grating. Unseen, the frail slip of paper was . . . vanishing in a flash of flame. . . .

“Ashes,” he said. “Not even identifiable ashes. Dust. It does not exist. It never existed.”

“But it did exist! It does exist! It exists in memory. I remember it. You remember it.”

“I do not remember it,” said O’Brien. [.]

infra notes 39, 43, 50 (contemplating Jorge’s destruction of the long-lost Aristotle manuscript); *supra* note 10 (contemplating Harvard’s Slasher); Nehamas, *supra* note 17, at 28 (“In his early works [Michel] Foucault claimed that what we are today is a creation of the last 200 years”); GEORGE L. MOSSE, THE IMAGE OF MAN (1996) (slavishly submitting to Foucault, and conclusively proving that men were not “masculine” before about 1989); ORWELL, *supra* note 1, at 268 (“*The*

 HISTORY?

earth is as old as we are How could it be older? Nothing exists except through human consciousness.' 'But the rocks are full of the bones of extinct animals' 'Nineteenth-century biologists invented them. Before man there was nothing. . . . *Outside* man there is nothing.'" (emphasis added) (quoting dialogue between O'Brien and Winston); MANN, *supra* note 2, at 9 (narrating Zeitblom's thoughts: "Here, as so often, I cannot help dwelling on the inward"); *infra* note 30 (quoting Danah Zahar on Sigmund Freud); Nehamas, *supra* note 17, at 28 (emphasis added) (quoting Foucault):

Man is an invention of recent date. And one perhaps nearing its end.

If those arrangements were to disappear as they appeared, if some event of which we can at the moment do no more than sense the possibility — without knowing either what its forms will be or what it promises — were to cause them to crumble . . . then one can certainly wager that MAN WOULD BE ERASED, LIKE A FACE DRAWN IN SAND AT THE EDGE OF THE SEA. [.]

Morton Horwitz (who should know) notes further that "[t]he legal academy has witnessed a similar renaissance [?] in constitutional history." Horwitz, *supra* note 10, at 39 n.40. To those aware of the political "context," this will not be a surprise. Cf. LUDWIG WITTGENSTEIN, *The Brown Book, in THE BLUE AND BROWN BOOKS 75, 157* (Harper Torchbooks 1965) (1958) ("[W]e refer by the phrase 'understanding a word' not necessarily to that which happens while we are saying or hearing it, but to the whole environment of the event of saying it." (emphasis added)); PETER NOVICK, *THAT NOBLE DREAM 467* (1988) ("The acceleration in the pace of recent history was paralleled by an acceleration in the succession of historiographical sensibilities. The fifties was the . . . decade of consensus [T]he violent acrimony and polarization of sensibilities in the hyper-ideological sixties. . . . gave way to the ideological *Gotterdämmerung* of the seventies and eighties"). *But cf.* Jack Hitt, *In the Franklin Factory*, LINGUA FRANCA, Feb. 1997, at 31, 32 (quoting Barbara Oberg discussing the post-World War II view "that Americans should know where they came from, and know their own history, and that a good way to do that is to collect and publish, in verified form, texts of the Founders"); *but cf. id.* at 32-33:

This year, the National Historical Publications and Records Commission . . . a federal agency that owes its existence to the founding era projects, demoted those endeavors to second priority status.

. . . Next year, the letters of George Washington and Thomas Jefferson must get in the back of the line . . . behind the memos of ex-governors and the collected receipts of beloved town clerks. [.]

But cf. ALLLUYEVA, *supra*, at 143 ("My generation was far too ignorant of its country's history in general, of the history of the Revolution, of the Party. Truth had been concealed from us too long."); *The Professors: Where Research Meets Riffs*, CHRON. OF HIGHER EDUC., July 3, 1997, at A6, A6 [hereinafter "*The Professors*"] ("Many of [The Professors]' (a rock band comprised of university professors, which won't be playing at the AALS annual meeting's Gala Reception anytime soon)] original songs relate to their day jobs: the efforts to win tenure . . . the wearisome prevalence of political theory."); A. Robert Eckrich, *Sometimes an Art, Never a Science, Always a Craft: A Conversation with Bernard Bailyn*, 51 WM. & MARY Q. 625, 658 (1994) (quoting Bailyn commenting on the dangers of imposing ideology on history); Michael Kammen & Stanley N. Katz, *Bernard Bailyn, Historian and Teacher, in THE TRANSFORMATION OF EARLY AMERICAN HISTORY: SOCIETY, AUTHORITY, AND IDEOLOGY 3, 6* (James A. Henretta ed., 1991) ("Bailyn was 'driven into positivism,' as he puts it, by the compelling belief that for scholarship to have integrity it must be verifiable."). *But cf.* MANN, *supra* note 2, at 9 (emphasis added) (narrating Zeitblom's thoughts):

[T]he mental co-ordination of language and the passion for the *humanities* is

 ASTROLOGY?

crowned by the idea of education, and thus the election of a profession as the shaper of youth follows The man of the sciences and practical affairs can of course be a teacher too; but never in the same sense . . . as his fellow of the *bonæ literæ*. [;]

but cf. Hitt, *supra*, at 32:

In a time when the vanguard of academe has taken to aping . . . pop culture, with lit professors strutting around the MLA in sharkskin suits and plundering the tabloids for book topics, the[] [founding era] projects continue to attract the kind of scholar unafraid to devote half, sometimes all of a career to a single long undertaking. [;]

but cf. NOVICK, *supra*, at 467 (“[T]he need to restore comity within a polarized profession could lead to a resigned perspectivalism, and abandonment of hope for convergence on unitary truth.”) [How, indeed, *could* something as banal as truth have a chance, given the compelling nature of interests in faculty “collegiality”? Cf., e.g., Minow, *supra* note 17, at 1100 (“Welcoming multiplicity here means that feminists who are opposed to the anti-pornography campaign should *lighten up* [“SUBMIT”?]” (emphasis added)); L’HEUREUX, *supra* note 10, at 201 (“The black Dean snickered and the yellow one smiled and all the other [Deans] nodded approval. It was a nice idea: a happy Department.”); cf. *supra* text following note 15 (defining “civility”); *infra* note 29 (contemplating, inter alia, Cass Sunstein and “adaptive preferences”).].

. . . .

See generally *Inside Madonna’s \$7m pad*, GLOBE, Feb. 4, 1997, at 29 (describing Madonna’s apartment) [*HEY! DO I WANT TO BE PERCEIVED AS UNCOOL?*]; GLOBE, Feb. 4, 1997, at 28 (presenting eleven advertisements for telephone psychics); HEINLEIN, *supra* note 5, at 75 (“Scientists indeed! Half guess work and half superstition. They ought to be locked up [T]he only true science is astrology.” (quoting Secretary Douglass’s wife)); *infra* note 30 (contemplating comets); BARNARD, *supra* note 21, at 41 (“As [William] James puts it: ‘An hallucination is a strictly sensational form of consciousness, as good and true a sensation as if there were a real object there. The object happens not to be there, that is all.’”). But hear MARVIN GAYE & TAMMI TERRELL, *Ain’t Nothin’ Like the Real Thing* (Motown Records 1968); but cf. *infra* note 29 (quoting Richard Rorty on the “romantic” side of John Dewey); Richard Lacayo, *The Lure of the Cult*, TIME, Apr. 7, 1997, at 44, 45 (“These are the waning years of the 20th Century, and out on the margins . . . there’s a strange phosphorescence They bring with them a twitchy hybrid of spirituality and pop obsession. Part Christian, part . . . mystic, part Gnostic, part *X-Files*, it mixes immemorial longings with the latest in trivial sentiments.”); hear ENGELBERT HUMPERDINCK, *Feelings, on FEELINGS* (Special Music 1996) (“Feelings. Wo wo wo feelings. Wo wo wo feelings”); cf. L’HEUREUX, *supra* note 10, at 36-37 (ellipsis between paragraphs omitted) (first quoting Eleanora):

“I follow pop culture, too. Painting, sculpture, poetry — the scatology poets, even — and the music industry, top to bottom. And I . . . know all the sitcoms. And the trash at the supermarket check out: *The Enquirer*, *The Star*, *People*, you name it.”

Olga wasn’t expected to say anything.

“I know everything,” [Eleanora] said. “I’m cultural history in a woman’s body. I just want to teach it all, all at once, to everybody. . . . To be so vast, to want so much, to have so much to give.” [;]

infra note 30 (quoting Sarah Franklin on the various “theories” that collectively comprise the [“interdisciplinary”?] “discipline” of “cultural studies”); but cf. Ed Siegal, *Hollywood Alienates the Alien Nation*, BOSTON GLOBE, Dec. 1, 1996, at N4:

“People of Earth, prepare to die. I will destroy your planet . . . unless your

democratic republic, social construct: see “democratic history.”

deploy, v.: in military science, to spread out so as to form a wider front of narrow depth; a “postmodern” “sign” of atypically revealing and non-Heideggerian clarity (not “clarity”) often “deployed” in preference to “employ.”

Derrida, prop. n.: Dahmer; (*alt.*): nobody’s fool; (*alt.*): Nobody’s fool.

desert, n.: to be “displaced” by “foundations,” “self(?)—esteem”, and the Rocket; (*alt.*): contemplate McTeague.

determinism, empirically verifiable real fact: [THE THIRD SACRAMENT]: It’s not “our” f(ouc)ault! *WHEEEEEEE!* It is, however, “I”s’ fault! “*COMPLEX,*” “*RICH,*” “*TEXTURED,*” “*NUANCED*” *WHEEEEEEE!* (*Obsol.*): heroin; *all other variants also obsolete.*

dialogue, n.-v.: Why not? — for now; see generally “discourse,” “repetitive and cumulative incantation” “decentering.”

différance, ¿n.?: Who *cares* what it means? It’s good enough for Derrida,²⁴ so it’s good enough for you.

MYSTICISM?

... leader, James T. Kirk, be dispatched to negotiate with me.” The transmission was signed with a symbol . . . later translated as The Alien Formerly Known as the Slab.

. . . [T]he country’s leaders decided that the Alien was unaware that Captain Kirk was a fictional character. [;]

but cf. GEORGE ADAMSKI, *FLYING SAUCERS HAVE LANDED* (1952) (describing documented Martian landings on Earth, and journeys taken by humans on Martian spacecraft); MANN, *supra* note 2, at 239 (“[W]ho denies it?”); JOHN G. FULLER, *THE INTERRUPTED JOURNEY: TWO LOST HOURS “ABOARD A FLYING SAUCER”* (1966) (describing capture of Betty and Barney Hill, perhaps by Nazis with lips without muscles from the constellation Pegasus, as recalled by them under therapeutic hypnosis); WILSON, *supra* note 10, at 9 (“Sirius.”); Lacayo, *supra*, at 45 (describing Order of the Solar Temple’s Quebec members’ finally successful March 1997 attempt to reach nirvana in “the star Sirius . . . nine light-years from Quebec,” by “bl[owing] themselves to kingdom come”); *infra* note 46 (quoting Richard Rorty on “new pragmatists” “suspicio[n] of the term ‘scientific method’”); JIMMY BUFFETT, *TALES FROM MARGUERITAVILLE* (1989); *infra* note 45 (discussing, *inter alios*, Sigmund Freud).

24. See SARUP, *supra* note 5, at 33 [Heidegger, too! *Id.*]; *cf.* Spivak, *supra* note 2, at xv (equating “*différance*” with “*trææ*”); *id.* at xvii (“I stick to ‘trace’ in my translation, because it ‘looks the same’ as Derrida’s word; the reader must remind himself of at least the track, even the spoor, contained within the French word.”); DERRIDA, *supra* note 2, at 19 (“[T]he sign [*sign?*] is that ill-named *thing*, the ONLY ONE, that *escapes* the instituting question of philosophy: ‘what is . . . ?’” (emphasis added)); Spivak, *supra* note 2, at xvii (“Derrida’s *trææ* is the mark of the *absence of a presence*, an always already absent present, of the LACK AT THE ORIGIN THAT IS THE CONDITION OF THOUGHT AND EXPERIENCE.” (emphasis added)); JACQUES DERRIDA, *GLAS* 1-2 (John P. Levy, Jr. & Richard Rand trans., University of Neb. Press 1986) (1974) (“Of the remain(s), after all, there are, always, *overlapping each other*, two functions. *The first* assures, guards, assimilates, interiorizes, idealizes, relieves the fall *The other* — lets the remains fall . . . (to the tomb (stone))” (emphasis added)); *infra* note 39 (also contemplating Derrida’s *trææ* — in a

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phabet forced the magic world of the ear to yield to the . . . world of the eye.”); *infra* note 39 (quoting Dan Froomkin, and perhaps, *inter alia*, raising the question about why Derrida writes a lot but speaks only a little).

Approaching full throttle, Derrida characterizes the death-obsessed Martin Heidegger, *cf.* BEREL LANG, HEIDEGGER'S SILENCE, at xiv (1996) (“Every thinker thinks but a single thought.” (quoting Martin Heidegger)); *but cf.* MICHAEL GELVEN, A COMMENTARY ON HEIDEGGER'S BEING AND TIME (Northern Ill. Univ. Press 1989) (1970) 140-55 (characterizing (as does Heidegger) the substance of Heidegger's “death” and “dread” discourse as “the source of freedom and authentic existence”), as too — at least semiotically — *hopeful*. See Spivak, *supra* note 2, at xv (quoting Derrida); *cf. id.* (“Derrida seems to show no nostalgia for a lost presence.” (emphasis added)).

Why?

Well, there is that thing about having transformed himself from a young outcast in anti-semitic Algiers into a frequently-failing French schoolboy into a '60s Parisian “radical” hanger-on, *cf.* GEORGE DU MAURIER, TRILBY 52 (Peter Alexander ed., W.H. Allen 1982) (1894) (“Trilby's left foot . . . was perhaps the more perfect poem of the two.”), into a visiting professor at Johns Hopkins and Yale into a happy member of the bourgeoisie now living in a Paris 'burb, *cf.* DU MAURIER, *supra*, at 41 (“Paris! Paris!! Paris!!! The very name had always been one to conjure with . . .” (emphasis added)); *see generally* JAMES RANDI, CONJURING (1992), that reminds him of Irvine, California. Compare POWELL, *supra* note 17, at 9-10 with Dan Froomkin, *Derrida's Presence Proves Prestigious*, ORANGE COUNTY REG., May 9, 1993, at B2; *cf.* DU MAURIER, *supra*, at 39-40 (“He had never been to Spain, but he had a complete treader's kit — a bargain which he had picked up for a mere song And here he was in Paris famous, painting treaders, and spouting the ‘Ballad of the Bouillabaisse’”); *id.* at 43 (“Paris, of which he could never have enough.”); *but cf.* ERNEST HEMINGWAY, THE SUN ALSO RISES (Charles Scribner's Sons 1954) (1926) (emphasis to title added); *id.* at 82 (“Spain! We will have fun.”). But everybody's doing that lately. See, e.g., Patrick M. Reilly, *Times Are a-Changin'; Rockers Do Industry Gigs*, WALL ST. J., Apr. 28, 1997, at B1 (sneering at Bob Dylan for selling out to the capitalist tools — for \$300,000 — by staging a private concert for bankers and real estate developers at the Arizona Biltmore Hotel). [Come to think of it, maybe both Derrida and I should have taken up the harmonica.] But Derrida's just living the American Dream, and if I won't defend that, who will? [Well, maybe now (but I doubt it) — Bob Dylan.] See generally EDWIN S. SHNEIDMAN, THE SUICIDAL MIND 6 (1996) (“The positive aspects of life include joy and happiness, contentment and well-being, success and comfort, good health and creative energy, love and reciprocal response — life's happy and exhilarating highways and byways.” (emphasis added)); Daniel Zalewski, *Written on the Face*, LINGUA FRANCA, Sept. 1997, at 19, 19 (“[B]ehaviorists viewed [facial expressions] as arbitrary gestures learned in infancy through reward and punishment, and Paul Ekman set out to prove this notion Ekman says now, ‘I was dead wrong, and it was the most exciting discovery of my life.’”); *id.* (“Ekman's . . . mapping of the human face is part of a Darwinian quest to prove that facial expressions are hardwired”); *id.* (“[T]he closest we come to pure delight is with a combination clench of the zygomatic major . . . and the orbicularis oculi”).

But it was Derrida's language-destruction program that got him the bourgeois goodies to begin with, *see generally* MANN, *supra* note 2, at 240 (emphasis added) (quoting dialogue between Adrian and you-know-who):

“[Y]e could . . . not exclude the theoretic possibility of spontaneous harmony between a man's *own needs* and the *moment*, the possibility of ‘rightness,’ of a natural harmony, out of which one might create *without a thought*”

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... "A very theoretic possibility, in fact. My dear fellow, the situation is too critical to be dealt with without *critique*." [.] and the happy outcome wasn't a sure bet, at least before that 1966 Johns Hopkins speech. Could he have been the right man with the right message at the right time? But what, exactly, was the market for that message? And what, exactly, was the message?

See generally Spivak, *supra* note 2, at lxxi ("The essay 'La Différance' . . . spends a lot of energy on reminding us [?] that 'Différance is neither a word nor a concept,' that it 'is NOT theological' . . ." (first and last emphasis added)); *id.* at lxxviii ("Let me add YET ONCE AGAIN that this terrifying [?] and exhilarating vertigo is NOT 'mystical' or 'theological.'" (emphasis added)). [BY JOVE! I THINK I'M BEGINNING TO GET THE HANG OF INTERPRETING POSTMODERN "TEXTS"! I MAY HAVE JUST PICKED UP A CLUE.]

"Mysticism" takes both theological and nontheological forms. With respect to the former, it consists of "belief in the possibility of union with the Divine nature by means of ecstatic contemplation; reliance on spiritual intuition or exalted feeling as the means of acquiring knowledge of mysteries inaccessible to intellectual apprehension." 10 OXFORD ENGLISH DICTIONARY 176 (2d ed. 1989). It also has a psychological definition: "The opinions, mental tendencies, or habits of thought and feeling, characteristic of mystics." *Id.*

Both theology and its "exalted feeling"/"ecstatic contemplation" gnostic cousin, "mysticism," have undoubtedly existed since the origins of man. To the believer, God (by whatever name) or gods are above and/or part of the cosmos, or in the case of a bifurcated or dualistic God, above and below it (or some variant), or in the case of pantheism, around and in and/or comprising it, or combinations of all the above. It may perhaps not be too controversial to speculate that the believer's God (or god or gods) will play a significant role in his or her life, perhaps correlatable to the degree of the believer's belief. Cf. Spivak, *supra* note 2, at 317 n.1 (noting Derrida's interest in his own religious traditions); MANN, *supra* note 2, at 13:

But alongside the religious cast his reading took another direction, which in certain times would have been characterized as wanting to 'speculate the elements.' . . . I have chosen that . . . description . . . because a tinge of mysticism was perceptible in them, which would once have been suspect as a leaning to the black arts. [.]

For the nonbeliever, theology and/or mysticism have sometimes been perceived as conscious or subconscious methods of *ridding* the believer's world of mystery, perhaps to abate a fear of the unknown. Cf., e.g., DANIEL BOORSTIN, *THE DISCOVERERS* 408 (1983) (quoting Roger Fry on "mysticism.").

With the development of portable and durable written documents, religious (as well as political and historical) "books" came into existence, and theologies, mystical or not, gained the potential for wider dissemination. Compiled as they were over extended periods of time, written by multiple and/or anonymous authors, often allegorical and prescriptive (and/or prophetic) in nature, the stories and/or normative prescriptions in the theological works inevitably cried out for interpretation. Unsurprisingly, the Hebrew scriptures were among the first to generate a system (actually, a number of alternative systems) for textual interpretation. Equally unsurprisingly, each of those methods continues to have utility in various fora — not excluding (at least when judges are either consciously or unconsciously willing to entertain them) fora in which the words being construed are those of the United States Constitution.

In 1565, Joseph Karo attempted to synthesize the produce of nearly two millennia of divergent scriptural interpretations in the *Shulchan Aruch*, by fixing the law

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in accordance with the majority opinion of a hypothetical court comprised of Isaac Alfasi, Moses Maimonides, and Asher ben Yechiel (except where most of the ancient authorities were of a different view). But in privileging these three Sephardic authorities, little attention was paid to French and German contributions to the *Halachah*, in violation of the Torah's admonition that in a number of matters, law follows local customs. This omission precluded *Shulchan Aruch's* acceptance by the critically important Polish Jewish community, at least until Moses Isserles of Cracow glossed Karo's work in 1578; shortly following that, however, the glossed version was generally accepted. See ISIDORE EPSTEIN, *JUDAISM* 261-63 (Penguin Books 1990) (1959). When the Orthodox, Conservative, and Reform branches of Judaism diverged in nineteenth-century Germany, each of the three branches (which, inter alia, employ widely variant levels of generality in characterizing newly-emergent issues as "settled" by scriptural prescription, pre-seventeenth-century rabbinic commentaries, and the glossed *Shulchan Aruch*) established a committee of eminent scholars to confront such issues and to promulgate "response literature" concerning such issues. Not surprisingly, the more popularizing literature also prescribes different degrees of textual reference, and otherwise varies. Compare, e.g., Jacob Neusner, *Foreword* in ABRAHAM COHEN, *EVERYMAN'S TALMUD* (New American Library 1995) (1949):

The Talmud is open-ended and invites you to join in its discussion. The main trait of the Talmud is its argumentative character, its argument, back and forth. Once you have not only a proposition but the reason for it, then you may evaluate the reason for it, criticize it, or produce a contrary proposition based on a better reason and argument. And since the Talmud shows its hand at every point, its framers, indicate that they want us to join in And that is why so many generations of learning Jews have found in Talmud study the substance of a worthwhile life: Talmud study, shaping the perspective of the learning Jew, his or her way of seeing many things in one rational, reasonable manner.

. . . .

. . . Enriched by commentaries, response, and law codes over the centuries, the Talmud defined the practical affairs of the community of Judaism.

with ADIN STEINSALTZ, *THE ESSENTIAL TALMUD* 4 (Chaya Galai trans., Basic Books 1976):

[The Talmud] has two main components: the Mishnah, a book of *halakhah* (law) written in Hebrew; and the commentary on the Mishnah, known as the Talmud (or Gemarah), in the limited sense of the word, a summary of discussion and elucidations of the Mishnah written in Aramaic-Hebrew jargon.

This explanation . . . though formally correct, is misleading and imprecise. The Talmud is the repository of thousands of years of Jewish wisdom, and the oral law, which is as ancient and significant as the written law (the Torah), finds expression therein. . . . It is a collection of paradoxes: its framework is orderly and logical . . . yet it is still based on free association, on a harnessing together of diverse ideas reminiscent of the modern stream-of-consciousness novel. . . . And although the Talmud is, to this day, the primary source of Jewish law, it cannot be cited as an authority for purposes of ruling. [;]

cf. *id.* at 9 ("[T]he Talmud is perhaps the only sacred book in of world culture that permits and even encourages the student to question it."); *id.* at 4-5 ("What were [the Talmud's authors and compilers] aiming at, those thousands of sages who spent their lives in debate and discussion . . . ? The key is to be found in the name of the work: Talmud (that is, study, learning).").

Those observations made, the distinctions between the Talmud and the United States Constitution will become apparent (assuming they are not already), and contemporary Judaism will become irrelevant to this article. But among the influences important to a relatively complete understanding of Derrida, postmodern-

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ism, and "legal postmodernism" are the approaches to scriptural interpretation taken by postbiblical but prerabbinic Judaism, along with the theological and/or philosophical dualisms (*gasp!*) at the core of Persian Zoroastrianism, Manichaeism, and Platonism; sundry apocalyptic "visions"; Zoroastrian, Jewish, and Christian gnosticism; and various strains of (sorry, Gayatri) mysticism.

The dominant strain of scriptural interpretive methodology in postbiblical but prerabbinic Judaism (and which carried on into the early rabbinic period) was the "rewritten Bible" style, in which the Bible, often under falsely-claimed authoritative authorship, was paraphrased, "whether as story or as law, in such a way as to blur the distinction between that text and its interpretation." STEPHEN F. FRAADE, *FROM TRADITION TO COMMENTARY 2* (1991); cf. NORMAN MAILER, *THE GOSPEL ACCORDING TO THE SON* (1997) ("deploying" that method — in this instance, writing in the name of Jesus Christ (though not intending its authorship claim to be taken literally) — and helpfully explaining to the "uninitiated" that Christ wasn't sure he was God; that he was really a no-fault-equality-of-result kind of guy [SURPRISE!]; that all of those goofy rules (except, of course, for the one compelling obsession with the power paradigm) are really *optional*; that he's *really* mad at those New Testament guys for screwing up the history — and his message — so badly; and that God, neither omniscient or omnipotent, mismanaged things and/or lost battles with Satan with amazing regularity) [WHERE COULD HE POSSIBLY BE GETTING THAT STUFF?]. See generally Frank Kermodé, *Advertisement for Himself*, N.Y. REV. OF BOOKS, May 15, 1997, at 4, 4 (second emphasis added):

In [rejecting the books of the Evangelists, Mailer] can hardly avoid, and indeed makes little attempt to avoid, infusing Jesus with a strong dose of Mailer, so the book is in some measure another self-advertisement. In [an] interview [for his publisher's promotional magazine,] he suggests that one reason for accepting this "dare" was that he himself has "a *slight* understanding of what it's like to be half a man and half something else, SOMETHING LARGER." [;]

compare *supra* with Robert Draper, *Happy Doomsday*, TEXAS MONTHLY, July 1997, at 74, 74-80, 114-18 (describing the hermeneutic methods pursuant to which a former country and western singer established, inter alia, that he and his brother are God's prophets, that Satan is a woman, that the Pope is her puppet, and that the world will end in October 2000); but cf. *id.* at 117 (emphasis added):

In his pamphlet "The House of Yahweh Established," he devoted 42 pages to proving that "Abilene" was pregnant with prophetic *meaning*. After studying these Hebrew-intensive pages . . . John Alsup of the Austin Presbyterian Theological Seminary listed all of [his] typical tricks . . . *selective use of definitions*, habitual *decontextualizing*, and . . . a *basic ignorance of Hebrew*. [;]

Kermodé, *supra*, at 4 ("To read the surviving ancient examples of apocryphal gospels is to see how impressive the canonical ones usually are.").

Other early forms of Jewish scriptural interpretation included the sermonic or homiletic method (an oral one, commenting on the scriptural text only, if at all, at a high level of generality), see FRAADE, *supra*, at 2-3, and various storytelling approaches. Strands of Christianity, Buddhism, and other religions too numerous to catalogue borrowed freely from those methodologies in interpreting their own sacred writings.

The substance of many early theological views (though never the majority approaches to Judaism or Christianity) tended toward dualism, with strong "good" forces *within* the Deity fighting strong "evil" ones also within.

One of the best known is the Iranian Zoroastrian dualism, which sets a good and an evil god at the beginning of world history and views this history as dominated by the conflict between the two, until the good god with help of his adherents at the end of time carries off the victory.

KURT RUDOLPH, *GNOSIS 59* (Harper & Row 1987) (1977). Plato, of course, distin-

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guished between eternal spiritual ideas and the temporal material world, cf. *infra* note 29 (quoting Plato), but while not characterizing the material world as evil, made the evil within it the responsibility of an “evil world soul,” RUDOLPH, *supra*, at 60. But in the world of many of the early Christian-era Gnostics, the visible world — and its creator — carry negative connotations: the world is “a kingdom of evil and of darkness.” *Id.*; cf. HANS JONAS, *THE GNOSTIC RELIGION* 31-32 (2d ed. 1963) (first and third emphases added):

[Gnosticism] maintain[s] a radical *dualism* of realms of being — God and the world, spirit and matter, soul and body, light and darkness, good and evil, life and death — and consequently an *extreme* POLARIZATION of *existence* affecting not only man but reality as a whole: the general religion of the period is a *dualistic transcendent religion* of SALVATION. [.]

see also RUDOLPH, *supra* at 280 (emphasis added):

Since 1947 we know from the Dead Sea Scrolls (Qumran) of a community on the fringe of Judaism which . . . held a range of ideas which exhibit links with . . . the emergent Gnosis. To these belong . . . a cosmological dualism of two spirits . . . of light and darkness who rule the world at the order of God. Accordingly, men are divided into sons of light and sons of darkness, or of wickedness. *The former are the INITIATED, or wise . . . the elect . . .* [.]

2 FREDERICK COPLESTON, *A HISTORY OF PHILOSOPHY* 41 (Image Books 1993) (1962) (discussing third-century Persian Manichaeism):

The Manichaeans . . . maintained a dualistic theory, according to which there are two ultimate principles, a good principle . . . God or Ormuzd, and an evil principle . . . Ahriman. These principles are both eternal and their strife is eternal, a strife reflected in the world which is the production of the two principles in mutual conflict. In man, the soul . . . is the work of the good principle, while the body, composed of grosser matter, is the work of the evil . . . [.]

Apart from its dualism, Christian gnosticism contained a more situationally necessary component: the existence of a direct pipeline to God supportive of the “visionary’s” claim to authority. The possibility of such esoteric “truth” had also been foreshadowed by a Jewish interpretive tradition: that of the *pēšārīm*. Since Judaism was scripturally based, the ultimate authority was the scriptural text itself. But the prophetic works (primarily Habakkuk, Nuhum, and psalms) were asserted by some “Teacher[s] of Righteousness” to be “veiled in mysterious language whose full MEANING had not been disclosed to the prophets and their contemporaries but only subsequently to the Teacher of Righteousness.” FRAADE, *supra*, at 3-4 (emphasis added); cf. *id.* at 6 (“Having reached this final signification the pēšer closes off the possibility of any others.”).

But in the Christian gnostic context, a mystical pipeline to the truth was a more necessary precondition than for the *pēšārīm*: the second-and-third century Christian gnostics had run foursquare into a *textual* proscription against the issuance of sacred writings by non-Apostles. See, e.g., ELAINE PAGELS, *THE GNOSTIC GOSPELS* 10 (discussing the rationale for such a result provided by the Gospel of Luke); cf. *id.* (“Christians in the second century used Luke’s account to set the groundwork for establishing specific, restricted chains of command for all future generations of Christians. . . . Yet, according to the orthodox view, none can ever claim to equal their authority — much less challenge it.”). So the dominance (*gasp!*)-seeking Christian gnostics were forced to try an end run:

How is Christ’s presence experienced? The author of the *Gospel of Mary*, one of the few gnostic texts discovered before Nag Hammadi, interprets the resurrection appearances as *visions received in dreams or ecstatic trance*. . . . According to the *Gospel of Mary*, Mary Magdalene, *seeing the Lord in a vision*, asked him, “How does he who sees the vision see it? [Through] the soul,

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[or] through the spirit?" *He answered that the visionary perceives through the mind.*

Id. at 11 (emphasis added) (first alteration added) (footnotes deleted) [NICELY DONE! EVEN *ELEGANT*; ONE MIGHT BE TEMPTED TO SAY. NOT ORIGINAL, *cf.* FRAUDE, *supra*, at 4 ("Many scholars have noted that both the term *pēser* and the exegetical methods employed by the *pēšārīm* suggest an activity similar to that of *dream, vision, or oracle* interpretation. . . ." (emphasis added)), BUT *ELEGANT* NEVERTHELESS!].

What's in it for the heads is apparent. But what about the feet? There is, of course, the "self(?)-esteem" attendant to being PERCEIVED as belonging to an "enlightened" "interpretive community." *Cf.* PAGELS, *supra* at 19 (noting similarities between gnostic chains and "circles of artists today"); *id.* at 22 (emphasis added):

[T]he *Gospel of Mary* depicts Mary Magdalene (never recognized as an apostle by the orthodox) as the one favored with *visions and insight* that *far surpass Peter's*. The *Dialogue of the Savior* praises her not only as a visionary, but as the apostle who *excels all the rest*. She is the "woman who *KNEW THE ALL*." [.]

But heck, that's no different from belonging to the Sierra Club. Could there be something more? *Cf.* RUDOLPH, *supra*, at 280-81 ("[In] Jewish Wisdom literature, which may be dated between the fourth and first century B.C. . . . Wisdom is a figure closely connected with God, and even representing him . . . the whole history of SALVATION is under *her* control." (emphasis added)); *id.* at 277 ("The Apocalyptic . . . can be traced back to the second century B.C. (first of all in the book of the prophet Daniel). It is characterized by the *faith* in the early END OF THE WORLD . . ." (emphasis added)); *id.* at 278 ("This eschatological tendency includes also a pronounced *dualistic-pessimistic world view* . . ." (emphasis added)); *id.* at 58 ("The whole world view of late antiquity, with its idea of the power of FATE . . . which dominates the gods, the world and men, is here as it were bracketed together and marked with a negative sign. It becomes a *prison* from which there is *no escape* . . ." (emphasis added)); ZAMYATIN, *supra* note 4, at 177 ("Absolute happiness should of course have a minus sign, a divine minus." I remember muttering distractedly: 'Absolute minus is 273°. . . ' 'Minus 273°. Exactly. Rather cool, but doesn't that alone prove that we're at the apex?'" (ellipsis in original) (quoting dialogue between the "voice from above" and D-503)); *infra* note 39 (contemplating Michel Foucault); RUDOLPH, *supra*, at 278 ("World and history are left on an automatic course towards the end."); Kenneth L. Woodward, *Christ and Comets*, NEWSWEEK, Apr. 7, 1997, at 40, 42 ("This planet is about to be recycled, refurbished, started over . . . [I]t's going to be spaded over." (quoting Marshall Applewhite)); RUDOLPH, *supra*, at 278 ("The *righteous* look upon themselves as *estranged from the world*; they are strangers in this aeon and set their whole expectation on God's future in a new aeon." (emphasis added)); Woodward, *supra*, at 42-43 ("Do's own words suggest that he was tired of his aging body. But if he had to go, he thought, then *those who were GRAFTED TO HIM* had to *join* him in the journey. In Christian terms, he was the good shepherd, they his sheep." (emphasis added)); MANN, *supra* note 2, at 158 ("One of his wrists was linked with the wrist of one of his companions by a bracelet and little chain."); *id.* at 141 ("[W]e struck a bargain." (quoting Adrian)); *hear* STEVIE WONDER, *Signed, Sealed, Delivered, I'm Yours* (Motown Records 1970). *See also* RUDOLPH, *supra*, at 279-80 (emphasis added) (internal quotation marks omitted):

[A] common basic experience for Apocalyptic and Gnosos [is] that salvation lies outside this world . . . [A] new collective consciousness is formed, namely that of the eschatological community of salvation . . . *The social ambitions agree similarly*. Gnosis and Apocalyptic are radically revolutionary. *To change the world means for them to do away with it*. THEIR JUDGEMENT OF

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THE WORLD IS JUDGEMENT OF HISTORY AS SUCH. *They rebel against all rulers and long for the world without laws* They have no interest in any existing order, for nothing is in order, and they strive for a world that needs no ordering hand. *They put God and the world into opposition, thus claiming God entirely for themselves.* [.]

But cf. PAGELS, *supra*, at 19 (quoting approvingly the second-century Bishop of Lyons's observations that at least some Christian gnostics admitted that nothing except "intuition," "feelings," or cosmic "harmony" supported their writings); see also *id.* at xx-xxi (contemplating the possible Hindu or Buddhist influence on the gnostic *Gospel of Thomas*).

There was (and is) no reason, absent authority — which already had been rejected by "initiated" gnostics with respect to anyone (being generous, at least human) above *them* — for gnosticism to stop before the authority "chain" came to originate with the individual, thereby establishing a *personal* pipeline to God (or in the nontheological realm, pipeline to the Truth of absolute substantive morality) for everyone. Cf. PAGELS, *supra*, at xix ("[T]o know *oneself* is to know God; this is the secret of *Gnosis*." (emphasis added)). In theology [which has generally been privatized in modern western civilization, but cf., e.g., PERRY MILLER, *THE NEW ENGLAND MIND* 5 (1953) [hereinafter MILLER, *MIND*] ("[We] seeke out a place of Cohabitation and Consortshipp vnder a due forme of Government both ciuill and ecclesiasticall." (quoting John Winthrop)); EZRA H. BYINGTON, *THE PURITAN IN ENGLAND AND NEW ENGLAND* 200-13 1896 (describing the 1650 burning, at the direction of the Massachusetts General Court, of the known copies of William Pynchon's *The Meritorious Price of Our Redemption* [cf. PYNCHON, *supra*, at 646-48 (contemplating William Slothrop)], which the General Court had declared "false, erronyous, and hereticale" due to its challenge to the Puritan duality (*gasp!*) between the *elect* — for whom Christ died — and the preterites]; but cf. PERRY MILLER, *ERRAND INTO THE WILDERNESS* 4-15 (1956) [hereinafter MILLER, *WILDERNESS*] (contemplating, *inter alia*, the at least partial triumph of the wilderness over John Winthrop's hegemonic and colonial Puritanism); Edward O. Wilson, *The Environmental Ethic*, 3 *HASTINGS W.-N.W. J. ENVTL. L. & POLY.* 327, 331 (1996) ("Wilderness settles peace on the soul because it needs no help"), solipsistic but private moral-norm practice (pantheistic or not) not necessitating the unconsenting participation of others is nonproblematic in western civilization, though it may generate collateral issues connected with a state's perceptions of an individual's duties to it, see, e.g., *Welch v. United States*, 398 U.S. 333 (1970) (military service); *United States v. Seeger*, 380 U.S. 163 (1965) (same). But should a solipsistic (and only *purportedly* pantheistic) *political* gnostic morality (which by its nature requires participation of others in the same political unit) assert hegemonic (*gasp!*) claims, then genuinely excluded middles arise.

To take just one example, hypothesize that an individual demands the abolition of the use of technology (as defined by that individual) within a given *polis* (and is, based on mystical and/or gnostic revelation, irreversibly committed to that view), while others, based on *their* gnostic revelations, unalterably disagree. An infinitude of felled trees, paper mills, and printer's ink notwithstanding, absent a non-self-referential (e.g., "I win because my gnostic revelation is better than your gnostic revelation.") dispute-resolution mechanism, the dissenters have only four options: 1) submit; 2) Masada; 3) join the Man Without a Country (or Headless Helmsman) on the high seas, or 4) BANG! [While there was, in former times, the possibility of saying "no" through democratic (not "democratic") processes, that's now proscribed as "viewpoint" "marginalization." Cf. *infra* text following note 49 (defining "sensitivity"); see also *supra* note 23 (quoting Martha Minow, at least in the academic context, counselling submission). "Yes indeedyfoax!" PYNCHON,

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supra, at 873. There will be more about “marginalization” later on.]; MILLER, *MIND, supra*, at 69 (emphasis added):

The essence of the Congregational idea was the autonomous church limited to visible saints and founded on a covenant of their profession, which meant deliberate *exclusion* of the townsfolk who submitted to (and paid for) the rule of the righteous. Presbyterians not only denounced the church covenant as an artificial notion foisted on the Bible, but predicted civil war for any society that dared “unchurch” the majority. [:]

compare id. with infra note 45 (contemplating, inter alios, J.M. Balkin, Beavis, Michael Collins, Charles Darwin, Al Davis, Paul Dukas, Michel Foucault, Sigmund Freud, George Gershwin, Thomas Kuhn, Kurtz, Willard Van Orman Quine, Maurice Ravel, Ragnar Redbeard, Gertrude Stein, Cass Sunstein, Leo Tolstoy, Laurence Tribe, Walt Whitman, “constitutional law,” “epistemology,” and “ad hoc adventures”); *cf.* Susan P. Koniak, *When Law Risks Madness*, 8 CARDOZO STUD. L. & LITERATURE 65 (1996) (offering a voice (not “voice”) of sanity from the wilderness just outside the bubble, and taking the authentically (not “authentically”) apocalyptic potential consequences of the “visionary” *ragoût de mouton* seriously).

The medieval period also offers dualistic deistic “theories” more than adequate to inspire a generation of postmodernists. *See, e.g.*, DAVID R. BLUMENTHAL, *UNDERSTANDING JEWISH MYSTICISM* 161-80 (1978) (discussing the Lurianic Kabbalah, in which God and man are seen as mutually redemptive); *id.* at 178-79 (discussing Sabbatai Zevi, who having been declared Messiah in 1666, was later declared heretical, and who, threatened with execution, converted to Islam: “Sabbatai Zevi and his followers argued that only by actually committing . . . sins could one ‘redeem the sparks’ hidden therein. This reasoning led to ritual consumption of forbidden foods and, in later Sabbatianism, even to ritual adultery.”); GERSHOM SCHOLEM, *ON THE MYSTICAL SHAPE OF THE GODHEAD* 84-86 (Joachim Neugroschel trans., Schocken Books 1991) (1962) (discussing the Kabbalah written in 1671 by Sabbatai Zevi’s prophet and theologian) (emphasis added):

Kabbalistic thinking went astonishingly far without becoming heretical. However, a further step was taken by the heretical Kabbalah of R[abbi] Nathan of Gaza . . . [H]is entire daring and eccentric system of thought is devoted to explaining the *paradoxical messianic mission of the “holy sinner”*. . . [See generally THOMAS MANN, *THE HOLY SINNER* (H.T. Lowe-Porter trans., University of Cal. Press 1992) (1951).]

. . . According to him, there have always been two lights burning in the *Ein-Sof* [literally, Without Limit] . . . Nathan refers to these as “the thought-filled light” and “THE THOUGHT-LESS LIGHT”. . . *The former . . . contain[ed] the thought of Creation from the very outset. But together with this there exists in God a light in which this THOUGHT WAS ABSENT . . . [F]rom our point of view it is passive, restrained, and self-absorbed. For Nathan this latter aspect of the Divine is by far the dominant one. The thought-filled light has, from the very start, an element of form, while the thought-less light negates all forms and WANTS NOTHING BUT ITS OWN ESSENCE . . . This struggle . . . is not perceived as a struggle between two hostile principles, but rather as one between two aspects of one and the same Godhead . . . To the extent that the “Formless Matter” does agree to acquire form, it becomes a principle of construction, while insofar as it refuses . . . it is the root of evil.*

This conception approaches dualistic thinking, insofar as one can do so within the framework of monotheism. [:]

MANN, *supra* note 2, at 100-01:

According to Schleppfuss . . . the Evil One himself . . . was a necessary emanation and inevitable accompaniment of the Holy Existence of God . . .

. . . God’s logical dilemma had consisted in this: that He had been incapa-

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ble of giving . . . the human being . . . both independent choice, in other words free will, and at the same time the gift of not being able to sin. [.]

Needless to say, the making of societal "value judgments" would be impossible under a legal regime dominated by Nathan's principle. Cf. SCHOLEM, *supra*, at 62 (commenting on Rabbi Isaac ha-Cohn of Soria's thirteenth-century writings criticizing "severe judgment"); BLUMENTHAL, *supra*, at 163-64 (emphasis added):

[T]he *Zohar* interprets the list of the kings of Edom in Genesis 36 . . . as an allusion to the pre-existence of worlds of *stern judgment*, which were destroyed by the excess of this element within them. In Luria the death of the kings from *lack of harmony between the masculine and feminine elements*, described in the *Zohar*, is transformed into the "breaking of the vessels," also a crisis of the powers of *judgment*.

[INADEQUATE ATTENTION TO THE "FEMININE ELEMENTS." THE GOSPELS OF MARY. WISDOM TEACHING. GNOSTICISM. EXCESSIVELY STERN JUDGMENTS. THE EQUALITY CLAUSE. NO-FAULT EQUALITY OF RESULT. . . . DUALISM. OSCILLATION. PIPELINES TO THE TRUTH. PERFECTIONISM. THE DUE PROCESS CLAUSE. . . . THOUGHT-LESS LIGHT. JACQUES! "LACK AT THE ORIGIN THAT IS THE CONDITION OF THOUGHT AND EXPERIENCE?" OBFUSCATING MEANINGS? *THE APOCALYPSE! 1999! GNOSTICS AS ARTISTS! MAN SAVING GOD! OSCILLATION! TRANSFORMATION! ARTISTS AS GNOSTICS! HOLY SINNERS! CONQUERING WITHOUT CONCEPTION! GET WITH THE PROGRAM! GET RADICAL.*] But cf. BLUMENTHAL, *supra*, at 3 (emphasis added) (contemplating one form of *privatized mysticism*):

The world of Merkabah mysticism is one of the most dazzling of the mystical worlds. It is a realm of *fantastic heavenly beings*, of *bizarre magical names*, and of *occult interactions between spirit and matter*. In it, closed gates to *celestial palaces* are opened by *long, incomprehensible incantations*, and the dangers which rise up against man . . . are met with *seals of truth*. It is also a *world of visions* [.]

but cf. *infra* note 45 (quoting Robert Cover on Apocalypses and messiahs); but cf. L'HEUREUX, *supra* note 10, at 13-14 ("God will speak to us with great blows from halberds, with great blows from pikes and harquebuses: we will not understand a word, the language will be most strange." (quoting John Calvin)).

America has had its own share of mystical and/or apocalyptic sects, from the early colonial to the drug-culture-burnout eras. Bernard Bailyn describes one of the more "authentically" esoteric ones, which also may remind some (cynics, to be sure) of "legal postmodernism":

Johann Conrad Beissel, an ignorant, mystical, tormented baker's boy from the German Palatinate, after flirting with several of the radical sects that struggled for existence in the spiritually burnt-over districts of the Rhineland, had joined the exodus to Pennsylvania; concocted, in a hermit's cabin near Germantown, his own brand of sabbatarian Dunkerism; gathered a band of followers at Conestoga; and founded the Ephrata cloister, whose monks and nuns he ruled despotically, neurotically, and cruelly. . . . Beissel preached with his eyes shut tight, passionately, ungrammatically, in incoherent torrents. If by chance his bowed congregation indicated understanding in quiet murmurs of assent, he reversed his chaotic argument to demonstrate the incomprehensibility of God's truth. And he imposed on his half-starved followers — clothed in rough, Capuchin-like habits designed to hide all signs of human shape — a rule of such severe self-mortification that some went mad, while the elite enacted the secret rites of the Rosicrucians, to which neophytes sought admission by bodily ordeals that lasted forty days and forty nights. Yet . . . the art of book illumination was reinvented in Beissel's Ephrata, and from some spark of hidden genius the *Vorsteher* himself devised a form of poly-

discernment, n.: an obstacle to “equality” (not “‘equality’”); see “judgment”; *all variants obsolete.*

discipline, n.: not now, not later, not ever (or are “we” being “canny” here?); compare “cultural studies” with “democratic breakfast” and “totalitarianism.”²⁵

discourse, n.-v.: a “practice” of “decentering” “deploying” “defamiliarization by epistemological critique”;²⁶ see also “critique,” “rhetoric,” “Heidegger”; “repetitive and cumulative

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phonic choral music, complete with his own system of notation, which, when sung falsetto by his followers straining to reach ever higher, more “divine” notes, created an unearthly effect that enthralled everyone who ever heard it — and which caught the imagination, two centuries later, of another German immigrant in America, Thomas Mann, who, brooding on art and the German soul, immortalized Beissel in *Doctor Faustus*.

BERNARD BAILYN, *THE PEOPLING OF BRITISH NORTH AMERICA* 125-26 (1986); *cf.* MANN, *supra* note 2, at 65 (emphasis added):

He wanted to . . . inaugurate a music better answering to the *simplicity* of their souls and enabling them by *practice* to bring it to their own simple PERFECTI-ON He decreed that there should be “*masters*” and “*servants*” in every scale. . . . And those syllables of a text upon which the accent lay had always to be presented by a “*MASTER*,” the unaccented by a “*SERVANT*.” [;]

DUMAURIER, *supra*, at 45 (“Then Svengali and Gecko made music together, divinely.”); *id.* at 53 (“Gecko, cuddling lovingly his violin and closing his upturned eyes, played that simple melody . . . such passion, such pathos, such a tone! — and they turned it and twisted it . . . playing into each other’s hands, *Svengali taking the lead*” (emphasis added)). See generally *id.* at 304 (“[I]t takes two to sing like la Svengali.” (emphasis added)).

25. See generally *infra* text following note 34 (defining “hierarchy”); DeLong, *supra* note 21, at 132-34 (applying the concept (oops!) of “*différance*” to “interpretation” of U.C.C. provisions on disclaimers of implied warranty of merchantability).

26. John O. Calmore, *Critical Race Theory, Archie Shepp, and Fire Music: Securing an Authentic Intellectual Line in a Multicultural World*, 65 S. CAL. L. REV. 2129, 2139 n.32 (1992) (third through seventh emphases added):

Border-crossing social analysis thus represents a critical strategy of *defamiliarization by epistemological critique*: “going out to the periphery of the Euro-centric world where conditions are *supposed* to be most alien and profoundly revising the way we normally think about things in order to come to grips with what in European terms are exotica.” GEORGE E. MARCUS & MICHAEL M.J. FISCHER, *ANTHROPOLOGY AS CULTURAL CRITIQUE* 137-38 (1986).

Marcus and Fischer characterize some critical legal studies work as having adopted a *de facto* ethnographic approach “to the understanding of cultural hegemony, the construction of authoritative MEANINGS, and *processes by which they might be contested*.” *Id.* at 154. Relatively, critical race theory’s reliance on our experiences of colored marginality tries to apply the method of *defamiliarization by epistemological critique* “to bring the *insights* gained on the periphery back to the center to *raise havoc with* . . . *settled ways of thinking and conceptualization*.” *Id.* at 138. [;]

MANN, *supra* note 2, at 63 (“Yes, the lecturer cried” (emphasis added)); *but cf.* BERNHARDT J. HURWOOD, *SUPERNATURAL WONDERS FROM AROUND THE WORLD* 57 (Barnes & Noble 1993) (1972) (noting that a popular variety of Chinese

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folk-tale involves a young scholar whose life is irreversibly altered by a love affair with a ghost).

. . .

See also WOLIN, *supra* note 10, at 19 ("Heidegger's need to disengage from . . . tradition was so strong here [in *Being and Time*] that . . . he chose to elucidate the subject matter by means of a series of terms that were idiosyncratically adopted . . .") (emphasis added) (second alteration in original) (quoting Ernst Tugendhat); *infra* text accompanying note 53 (defining "traditional"); JOHN W. FREEMAN, *STORIES OF THE GREAT OPERAS* 499 (1984) (discussing the utility to Nazis of a dynamic, flexible, living interpretation of Richard Wagner: "Wagner was willfully misread by the Nazis. Despite the blindness of his own prejudices — he ranted against the Jews, the French, and the Jesuits with equal fervor — Wagner was capable of visualizing a better world, one redeemed by love."); *but cf. id.* (stating that Wagner was "aided by the notorious Saxon penchant for never saying anything in ten words that could be said in a thousand."); WOLIN, *supra* note 10, at 19 (emphasis added) (alteration in original):

In [Theodor] Adorno's view, the discourse of Heideggerian *Existenzphilosophie* "sees to it that what it wants is on the whole FELT and ACCEPTED THROUGH ITS MERE DELIVERY, WITHOUT REGARD TO THE CONTENT OF THE WORDS USED." Thus, insofar as "the words of the jargon sound as if they said something higher than what they mean . . . whoever is versed in the jargon does not have to say what he thinks, does not even have to think it properly." [;]

JAMES H. BOREN, *WHEN IN DOUBT, MUMBLE* (1972) (same); *supra* note 22 (quoting Walter Benjamin and Duncan Kennedy in support of similar propositions); see also STEIN, *supra* note 3, at 75 ("[T]he Germans could always convince the pacifists to become pro-German. That is because pacifists were *such* intelligent beings that they could follow what ANY ONE is saying." (emphasis added)); ORWELL, *supra* note 1, at 211 (emphasis added):

[O'Brien's] voice had grown almost dreamy. The exaltation, the lunatic enthusiasm, was still in his face. He is not pretending, thought Winston . . . he believes every word he says. What most oppressed Winston was the consciousness of his own intellectual inferiority . . . O'Brien was a being in all ways LARGER THAN HIMSELF But in that case how could it be true that O'Brien was mad? It must be he, Winston, who was mad. [.]

Cf. MANN, *supra* note 2, at 78 ("Tell me, what do you think about greatness?" (emphasis added) (quoting Adrian)); CONRAD, *supra* note 2, at 20-21 (emphasis added) (quoting Marlow):

[T]here was only an undefinable, faint expression on [the manager's] lips, something stealthy — a smile — not a smile It came at the end of his speeches like a seal applied on the words to make the MEANING of the commonest phrase appear absolutely inscrutable He had no genius for organizing, for initiative, or for order even His position had come to him — why? . . . He was great by this little thing that it was impossible to tell what could control such a man. He never gave this secret away. PERHAPS THERE WAS NOTHING WITHIN HIM. Such a suspicion made one pause — for *out here there were no external checks.*

. . . He . . . repeated several times that the situation was "very grave, very grave." [;]

RIBOWSKY, *supra* note 3, at 53 ("Al was a private guy, unbelievably private [W]hen Al didn't want to answer you . . . he used to show his teeth. He'll go, 'Shee-ut' — that was his favorite word — and he smiles That's his trademark." (quoting Pat Sarnese on Al Davis)); MANN, *supra* note 2, at 78 ("[Greatness] is a test of courage — can one really look it in the eye?" (quoting Adrian)).

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But hear CAROLYN CRAWFORD, *My Smile Is Just a Frown (Turned Upside Down)* (Motown Records 1964); THE UNDISPUTED TRUTH, *Smiling Faces* (Motown Records 1971); cf. Zalewski, *supra* note 24, at 20 (“[T]he telltale sign of a genuine smile isn’t a wide grin but a deep eye scrunch . . . with the eye closure reaching its maximum intensity at the same time the grin reaches its fullest height. Real smiles are also shorter and smoother in execution than *anxious* or *faked* varieties.” (emphasis added)); *id.* at 19 (“[A]n *emotion* can’t be fully masked.” (emphasis added) (quoting Paul Ekman)).

See also CONRAD, *supra* note 2, at 45 (“I listened . . . for the sentence, for the word, that would give me the clue to the faint uneasiness inspired by [Marlow’s] narrative . . .” (quoting the narrator)); watch YOU BET YOUR LIFE (NBC television network broadcast, 1950-1961, any episode) (“Say the secret word, you win a hundred dollars.” (quoting Groucho Marx)); cf. DELILLO, *supra* note 14, at 273-74 (narrating J.A.K.’s thoughts):

Delegates to the Hitler conference began arriving. About ninety Hitler scholars would spend three days . . . attending lectures, appearing on panels, going to movies. . . .

It was interesting to see how closely they resembled each other despite the wide diversity of national and regional backgrounds. . . . They seemed to have a taste for sweets.

I welcomed them in the starkly modern chapel. I spoke in German, from notes, for about five minutes. . . . Most of the words I used in my address were the same or nearly the same in both languages. . . . My remarks were necessarily disjointed and odd. I made many references to Wolf, many more to the mother and the brother, a few to shoes and socks . . . I spoke [Hitler’s] name often, hoping it would overpower my insecure sentence structure. [;]

Getman, *supra* note 14, at 462-63 (describing a faculty-meeting discussion on the creation of the Mussolini Chair at Texas State) (second emphasis added):

Jack . . . Heller was one of our acknowledged stars. He had published in major journals almost immediately upon joining the faculty He was a part of the critical legal studies movement and was frequently invited to attend conferences on the intersection of law and various social science disciplines. He was cynical about the rule of law Most of us envied and admired him.

Heller was not eloquent in the way older faculty often were. He spoke hesitatingly, interspersing a string of *um*’s between his ideas and sometimes repeating himself. . . . [B]ut he could be surprisingly effective He began . . . “Our task is to, um, *police the product* of the chairs, not their names.” [;]

MANN, *supra* note 2, at 53 (“In these forms, said [Kretschmar], the subjective and the conventional assumed a new relationship, conditioned by [D]eath. At this word [he] stuttered violently”); but cf. *supra* note 23 (“If you go to Kretschmar . . . you will get a foundation [*gasp!*] for your castles in the air.” (quoting Thomas Mann)); watch *The New Skinheads*, *supra* note 14 (“The White Power movement has its own *language*.” (quoting a skinhead)); cf. MANN, *supra* note 2, at 17 (“It has turned out to be impossible,’ [Adrian’s father] said, ‘to get at the meaning of these marks.’”). But cf. DELILLO, *supra* note 14, at 281 (“Your doctor knows the symbols.”).

. . . .

See also Shreeve, *supra* note 14, at 99:

“Pieces that make you cry seem to have certain features, and those that send shivers down your spine have others,” says [John] Sloboda. Shivers seem to be provoked by unexpected musical events, such as sudden changes in key, harmony, or sound texture. People were often moved to tears, on the other hand, by repetitions of a melodic theme a step higher or lower than when the

incantation" "legal authority"; (*obso.*): the Big Dissemble; *all other variants also obsolete.*

discrimination, *semiotic construct*: invidious discrimination; the only American "sign" "we" 've thus far been allowed to expropriate *in toto*; see also "discernment," "judgment," "value judgment"; see generally "Pomobabble" "legal authority"; *all variants obsolete.*

dismissive, *adj.*: see "mean-spirited"; see also "cavalier," "contemptuous," "insensitive," "judgmental," and "unselfcritical"; where those "signs" pack insufficient "emotional" wallop, "we" cavalierly, contemptuously, dismissively, insensitively, judgmentally, and mean-spiritedly "deploy" "racist," "sexist," "hegemonic," "hierarchical," *blah blah blah*, promiscuously; see generally "adjectives" "frame"; "education," "legal education" "adjectives"; "Heidegger" "adjectives"; "adjectives" "natural law"; "adjectives" "logic"; "adjectives" "reason"; "adjectives" "crimestop"; "repetitive and cumulative incantation" "adjectives" "legal authority"; *all variants obsolete.*

displace, *v.*: reverse; (*alt.*): the establishment of "our" "dominance," *by any means necessary*; see also "democratic breakfast" "education"; *all variants obsolete.*²⁷

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listener heard it first, as in Albinoni's Adagio for Strings. . . . As a musical device, appoggiaturas proved to be even more reliable at jerking tears. "You find them in a lot of those weepy tunes," Sloboda says. [:]

hear TEAR JERKERS (Warner Classics U.K. 1995); *cf.* MANN, *supra* note 2, at 61 ("[M]usic . . . will not what she does and flings soft arms of lust round the neck of the fool."); *but* hear THE BEATLES, *Revolution 1*, on THE BEATLES (EMI Records 1968) [hereinafter THE BEATLES, *Revolution 1*] ("You say you got a real solution. Well, you know: we'd all love to see the plan.").

Cf. Stone, *supra* note 10, at 36 (emphasis added):

Even those . . . who cannot read Freud's German are awed by the power of his *rhetoric* in translation.

[The] *literary, artistic side* of Freud is by all accounts *even more prominent in his original German*; however, Ernest Jones and the official British translators of Freud's work were particularly determined to present Freud . . . as an empirical scientist. . . . *Jones worried that Freud might be written off as unscientific and speculative by the English-speaking world.* Jones actually convinced Freud to keep some of his theories quiet . . . among them Freud's belief in ESP [:]

supra text following notes 20, 23, 48 (defining "critique," "deploy," "repetitive and cumulative incantation," and "rhetoric").

See also Nehamas, *supra* note 17, at 27 ("[T]he prevalence of the word 'discourse' . . . is a fine example of [Michel Foucault's] influence."); *but cf.* CONRAD, *supra* note 2, at 84 ("Kurtz discoursed.").

27. Unless you're already part of the choir, after an hour of reading Derrida you won't know whether you're Edmund Husserl, Eleanor Roosevelt, or $\sqrt[3]{\infty}$. That, of course, is the point. See *supra* notes 24, 26; *cf.* ALINSKY, *supra* note 10, at

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127 ("Here you want to cause confusion, fear, and retreat."); *supra* text following note 20 (defining "decentering").

See also THE CURRICULUM: PROBLEMS, POLITICS, AND POSSIBILITIES (Landon E. Beyer & Michael W. Apple eds., 1988) (presenting essays defending postmodern educational values (*gasp!*), challenging the reader to count the number of sentences not containing at least one postmodern "sign," and further challenging the reader to find the word "postmodern" anywhere in the book); watch SLACKER, *supra* note 16 ("You got people who don't know who they are, where they came from: THEY TAKE ORDERS REAL GOOD."); compare *supra* text following note 15 (defining "children") with *infra* text following note 35 (defining "ideal children"); watch *The New Skinheads*, *supra* note 14 (noting the Pennsylvania Human Relations Commission's spokesperson's observation that skinheads are almost always alienated from society); *id.* (noting that the response of the skinhead "interpretive community" to the music of *Rahowa* (*Racial Holy War*) is often "*Sieg Heil!*"); ARISTOTLE, *The Politics*, in THE COMPLETE WORKS OF ARISTOTLE, *supra* note 2, bk. VIII, § 1, ¶ 1 [hereinafter ARTISTOTLE, *Politics*] ("The character of democracy creates democracy, and the character of oligarchy creates oligarchy . . ."); *infra* note 29 (quoting George Orwell on the utility of "doublethink" to the Party); CULLER, *supra* note 5, at 32-33 (emphasis added) (footnote omitted):

What does the pursuit of signs have to do with the disappearance of man?
 . . . [A]s meaning is explained in terms of systems of signs . . . the SUBJECT is deprived of HIS role as SOURCE of MEANING. . . . 'The goal of the human sciences,' says Lévi-Strauss, 'is not to constitute man but to dissolve him.' . . .

. . . .

. . . [T]he 'I' is not something given but comes to exist as that which is addressed by and relates to OTHERS. In short, as Jean-Marie Benoist puts it . . . what theoretical investigation discovered was not man but signs. [;]

ARISTOTLE, *Politics*, *supra*, bk. VIII, § 1, ¶ 2 (emphasis added):

[S]ince the whole city has one end, it is manifest that education should be one and the same for all, and that it *should be public, and not private* — not as at present, when every one looks after his own children separately, and gives them separate instruction of the sort which he thinks best . . . Neither must we suppose that any one of the *citizens* belongs to himself, for they all *belong to the state*, and are each of them a part of the state . . . [;]

STEIN, *supra* note 3, at 241 ("[I]n France [in] the Catholic schools, [the students] could and did believe in Catholicism but they did not have to believe what the teacher believed and so they did have some intellectual freedom."); *id.* ("François d'Aiguy . . . said French boys who went to the lycées which are controlled by the government did believe in what the teachers believed, and therefore they never did revolt . . ."); *id.* ("I said to the Choate teachers I wonder if the boys can ever come to be THEMSELVES because you are all so *reasonable* and so *sweet* to them that INEVITABLY THEY ARE CONVINCED TOO SOON. Is that not the trouble with American education . . . [?]" (emphasis added)). *But cf. id.* at 242 ("I did go to . . . Radcliffe . . . I BEGAN KNOWING EVERYTHING." (emphasis added)).

See also ROBIN USHER & RICHARD EDWARDS, POSTMODERNISM AND EDUCATION (1994) (discussing some additional postmodern "educational" "theories" and "practices"); *infra* notes 43, 51 (same, quoting Peter Hasselriis and Dorothy Watson); Romesh Ratnesar, *This is Math?*, TIME, Aug. 25, 1997, at 66, 66-67 (contemplating the "new-new math," and "'math' textbooks featuring lessons on endangered species and the Dogon people of West Africa"); *id.* at 67 ("In the most recent worldwide comparison . . . U.S. eighth-graders fell below the international average . . ."); Melissa Sweet, *Teachers May be Real Culprits for Naughty Children*, SYDNEY MORNING HERALD, July 30, 1997, at 1, 1 ("Many children are being

dissembling, *participle*: as applied to "us," obsolete.

diversity, *n.*: homogeneity; monoculture; see also "linear thinking"; see generally "interesting" "context," "us"; "narcissism," "solipsism," "pantheism," "totalitarianism," "children," "entropy," "utopia" "self(?)-esteem"; compare "plasticity" with "solidarity"; *all variants obsolete*.

dominance, *n.*: "Ours," right? See "consent"; see also "hegemony" "context" "meaning" "United States Constitution"; see generally

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wrongly labeled as inattentive and referred for counseling or medical treatment when their behaviour problems arise from poor literacy . . . "); DELILLO *supra* note 14, at 147 ("Who's in charge? 'Never mind.'"); *infra* text following notes 29, 37, 27 (defining "education," "legal education," and "diversity"); *infra* note 36 (contemplating "knowledge"); *infra* text following note 60 (defining "words"); ORWELL, *supra* note 1, at 6 ("[T]he Ministry of Truth . . . concerned itself with news, entertainment, education, and the fine arts."); ALLILUYEVA, *supra* note 23, at 142 (emphasis added):

We were trained in Communism almost from our diapers — at home, at school, at the university. At first we were "oktyabryata (Little Octobers)," then Pioneers, then Komsomols. After that we were accepted into the Party . . . I *had* to vote for any decisions of the Party, even if they seemed wrong to me. Lenin was our icon, Marx and Engels our apostles — their every word Gospel truth. And my father's every word, either spoken or written, was accepted as a REVELATION from on High. [;]

CONRAD, *supra* note 2, at 32 (emphasis added):

[T]he savage who was the fireman . . . was *useful* because he had been *instructed*; and what he knew was this — that should the water that was in that transparent thing disappear, the evil spirit inside the boiler would get angry through the greatness of his thirst, and take a terrible VENGEANCE. So he sweated and fired up and watched the glass FEARFULLY. [.]

But watch PINK FLOYD: THE WALL (MGM/UA Entertainment 1982) ("We don't need no 'education,' we don't need no thought control . . . "); *cf.* WHITMAN, *supra* note 2, at 10 ("What place is besieged, and vainly tries to raise the siege? Lo, I send to that place a commander, swift, brave, immortal . . . "); *but cf.* Adam Shatz, *The American Earthquake: Mike Davis and the Politics of Disaster*, LINGUA FRANCA, Sept. 1997, at 26, 28 ("A work of distinctly millennial cadences, [Davis's] *The Ecology of Fear* conjures up a catastrophe-prone landscape governed by a geological 'dialectic of . . . disaster' The fire next time, it seems, may come from the sky . . . "); *id.* ("I'm not really that interesting . . . " (quoting Davis)); *but cf. id.* ("A tenure-track position continues to elude Davis . . . "); *but cf.* DELILLO, *supra* note 14, at 217-18 (ellipses between paragraphs omitted) (quoting dialogue between J.A.K. and Murray):

"How is your car crash seminar proceeding?"

"We've looked at hundreds of car crash sequences My students think these movies are prophetic. They mark the suicide wish of technology"

"What do you say to them?"

"I tell them they can't think of a car crash in a movie as a violent act. It's a celebration. A reaffirmation of traditional values. I connect car crashes to holidays like Thanksgiving and the Fourth." [;]

but cf. CONRAD, *supra* note 3, at 21 ("Mind, [Marlow] began again . . . 'Mind, none of us would feel exactly like this.'"); *but cf. id.* at 68 ("Never mind, [the Harlequin] cried . . . "); *see generally* DELILLO, *supra* note 14, at 227 ("Hi, Jack.").

“binary opposites”; “power paradigm” “natural law”; (*alt.(?)*): “submission”; *all variants obsolete*.

doublethink, *n.-v.*: [THE FIFTH SACRAMENT]: process of thought foundational (*gasp!*) to the most “canny” (oops!)²⁸ “deployment” of “postmodernism” in “critique,” “discourse,” and/or “rhetoric”; often, a synonym for “certain” kinds of “complex” (not complex) dissembling (not “dissembling”); see generally “rich,” “textured,” “nuanced” “postmodernist insights.”²⁹

REASON?

28. See, e.g., ALINSKY, *supra* note 10, at 6 (“Radicals must be resilient, adaptable to shifting political circumstances, and sensitive enough to the process of action and reaction to avoid being trapped by their own tactics . . .”); Deborah W. Post, *Critical [?] Thoughts About Race, Exclusion, Oppression, and Tenure*, 15 PACE L. REV. 69, 100-01 (1994):

I don’t label myself or my scholarship. I appreciate the arguments of postmodernity, however, even though I have to struggle to understand the vocabulary. [PERHAPS THIS ARTICLE MIGHT HELP?] In some sense, I feel postmodern scholars have created a space for me to do my work, a theory [?] which is not hostile to the idea of multiculturalism. The automatic credibility granted European intellectuals [“intellectuals”?] has had an unintended effect — it legitimizes [?] some forms of alternative scholarship . . . [.]

cf. infra note 46 and accompanying text (defining and discussing “pragmatism”); *infra* note 29 (quoting Leo Tolstoy on the preconditions to infection); *but cf. infra* notes 45-46 (perhaps, *inter alia*, defending candor).

See generally TOM WOLFE, *The Intelligent Coed’s Guide to America*, in MAUVE GLOVES & MADMEN, CLUTTER & VINE 107, 119-20 (1976) (emphasis added):

The Europeans intellectual! What a marvelous figure! . . . [F]rom that time to this . . . the American intellectual [?] would perform . . . the Adjectival Catch Up [Ketchup?]. The European intellectuals [?] have a *real [gasp!]* wasteland? Well, *we* have a psychological wasteland. They have *real* fascism? Well, *we* have *social* fascism (a favorite phrase of the 1930’s, amended to “liberal fascism” in the 1960’s). They have *real* poverty? Well, *we* have *relative* poverty (Michael Harrington’s great Adjectival Catch Up of 1963). They have *real* genocide? Well, *we* have *cultural* genocide (i.e., what universities were guilty of . . . if they didn’t have open-admissions policies for minority groups).

. . . They were difficult, these one-and-a-half gainers in logic. But they were worth it. What had become important above all was to be that polished figure amid the rubble, a vision of sweetness and light in the smoking tar pit of hell. [.]

ZAMYATIN, *supra* note 4, at 68 (“[W]e’re coming to make your life divinely rational and precise, like ours.”).

29. See *supra* note 17 (quoting George Orwell describing the process); *compare id.* and ORWELL, *supra* note 1, at 215-16 (quoting Goldstein’s book):

The process [of doublethink] has to be conscious, or it would not be carried out with sufficient precision, but it also has to be unconscious, or it would bring with it a feeling of falsity and hence of guilt. . . . [T]o deny the existence of objective reality and all the while to take account of the reality which one denies — all this is indispensably necessary. Even in using the word *doublethink* it is necessary to exercise *doublethink*. For by using the word one admits that one is tampering with reality; by a fresh act of *doublethink* one erases this knowledge; and so on indefinitely

All past oligarchies have fallen from power . . . either through consciousness or through unconsciousness. It is the achievement of the Party to have

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produced a system of thought in which both conditions can exist simultaneously. . . . If one is to rule, and to continue ruling, one must be able to dislocate the sense of reality. For the secret of rulership is to combine a belief in one's own infallibility with the power to learn from past mistakes.

It need hardly be said that the subtlest practitioners of *doublethink* are those who invented *doublethink* and know that it is a vast system of mental cheating.

with Hillary Putnam, *Afterword to Symposium on the Renaissance of Pragmatism in American Legal Thought*, 63 S. CAL. L. REV. 1911, 1914 (1990) (emphasis added):

[P]ragmatism [?] is an attempt to walk a knife edge. It's very easy for the old [?] pragmatism to fall off on one side or the other [?]. Pragmatism stressed fallibilism. [Charles] Peirce said once . . . that if he had to choose one label to apply to himself, he'd choose the label "fallibilist." And the fallibilist side of pragmatism has been stressed here a great deal. But you fall off the knife edge on one side if you only say that pragmatism is fallibilist. The paradox ["paradox"?) is that pragmatism is also intensely anti-skeptical. YOU ONLY GET THE FLAVOR OF THE MOVEMENT IF YOU TRY TO WRAP YOUR MIND AROUND THE IDEA OF BEING FALLIBILISTIC AND ANTI-SKEPTICAL AT THE SAME TIME.

and *supra* note 17 ("To know and not know. . . ." (quoting Orwell)) and T.S. ELIOT, *Mr. Mistoffeles*, in T.S. ELIOT: THE COMPLETE POEMS AND PLAYS 161, 161 (Harcourt, Brace & World 1952) ("He can creep through the tiniest crack, *He can walk on the narrowest rail.*" (emphasis added)).

Compare TOLSTOY, *supra* note 12, at 141 ("[A]s soon as the . . . reader . . . feels that the author . . . does not . . . feel what he wishes to express . . . a resistance immediately springs up, and the . . . newest feelings and the cleverest technique not only fail to produce any infection but actually repel.") with HEINLEIN, *supra* note 5, at 228 ("A confidence man knows he's lying; that limits his scope. But a successful shaman believes what he says — and belief is contagious; there is no limit to *his* scope.") and Douglas, *supra* note 23, at 393 (quoting PRIMO LEVI, *THE DROWNED AND THE SAVED* 27 (Raymond Rosenthal trans., Summit Books 1986) noting that "self-deception" may also be useful, as a rhetor may be "more easily believed by the judge, the historian, the reader, [and] his wife . . .") and RORTY, *supra* note 20, at 111 n.11 ("Heidegger . . . was the sort of man who could betray his Jewish colleagues for the sake of his own ambition, and then manage to forget what he had done.") and POWELL, *supra* note 17, at 157-61 (noting that Jacques Derrida "interpreted" Paul de Man's anti-semitic World War II writings as non-anti-semitic after de Man's death, and argued (alternatively?) that de Man himself was a victim). Compare also J. Hillis Miller, *Stevens' Rock and Criticism as Cure* (pt. 1), 30 GA. REV. 5 (1976) [hereinafter Miller, *Stevens' Rock* (pt. 1)] (suggesting that deconstructive "criticism" may be a "cure" for *mises en abyme*) and ORWELL, *supra* note 1, at 256 (quoting O'Brien suggesting that mastery of "doublethink," as taught in the "Ministry of Love," will "cure" its patients, thereby rendering them "sane") with *infra* note 43 (contemplating other possibilities).

In addition to his other observations in the first block quotation in this footnote, Orwell suggests that doublethinkers deny the existence of objective reality, see ORWELL, *supra* note 1, at 252 ("Reality exists in the human mind, and nowhere else." (quoting O'Brien)), and perhaps suggests further that such a denial is necessary to the process of doublethink. Unsurprisingly, similar observations have also been made about postmodernists. See, e.g., TERRY EAGLETON, *LITERARY THEORY: AN INTRODUCTION* 74 (2d ed. 1995) (arguing that Stanley Fish's claim that everything in "texts" is a product of interpretation "raises the . . . question of what it is . . . Fish believes he is interpreting when he reads"); cf. PAUL DE MAN, *BLINDNESS AND INSIGHT* 288 (University of Minn. Press, 2d rev. ed. 1983) (1971)

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("Within the inner logic of Fish's argument, the examples thus reveal the utter bewilderment of the author before his own text: did he, or did he not know what he was saying? No one can tell, neither reader nor author."); ALAN H. GOLDMAN, *EMPIRICAL KNOWLEDGE* 12 (1988) (characterizing Wilfrid Sellars's views as consistent with George Berkeley's argument "against the possibility of an inductive inference from experience to an independent reality"); LEVINAS, *supra* note 21, at 103 ("[H]ave we ["we"] been sufficiently free from the postulates of ontological thought . . . ?"); EDWARD SAPIR, *The Status of Linguistics as a Science*, in *CULTURE, LANGUAGE AND PERSONALITY* 65, 69 (1949) ("The fact of the matter is that the 'real world' is to a large extent unconsciously built up on the language habits of the group. . . . The worlds in which different societies live are distinct worlds, not merely the same world with different labels attached."); ELIZABETH FOX-GENOVESE, *FEMINISM WITHOUT ILLUSIONS* 146 (1991) (noting that an important track in feminist theory has "borrowed from post-structuralism the conviction that reality is inherently unstable"); Katharine T. Bartlett, *Feminist Legal Methods*, 103 *HARV. L. REV.* 829, 880 (1990) ("[P]ositionality rejects the perfectibility, externality, or objectivity of truth."); USHER & EDWARDS, *supra* note 27, at 25 (associating postmodernism with "challenge[s] to existing concepts, structures and hierarchies of knowledge," "epistemological structures," and "foundational knowledge"); *supra* note 26 (quoting John Calmore on "decentering"); *supra* note 27 (quoting Jonathan Culler on dissolution).

But postmodernism is nothing, *see generally infra* note 44 (discussing nothing), if not slippery. *See* USHER & EDWARDS, *supra* note 27, at 26 ("The possibility of a multiplicity of perspectives is perhaps what most characterises a postmodern perspective."); Feldman, *supra* note 22, at 1048 ("[P]ostmodernism denies the possibility of its own definition."); Rorty, *supra* note 21, at 46 ("I have no idea what 'postmodernism' means."); FOX-GENOVESE, *supra*, at 4 (defining "postmodernist" as "a fancy word for contemporary"); *cf.* Stephen Reinhardt, *The First Amendment: The Supreme Court and the Left — With Friends like These*, 44 *HASTINGS L.J.* 809, 813 (1993) (suggesting that he does not know what an "anti-death penalty" Supreme Court Justice is); Nehamas, *supra* note 17, at 35 ("[James] Miller's . . . discussion of [Michel] Foucault's long-standing obsession with [D]eath left me rather confused because I could not see how it accounts for a very large part of his writing." (emphasis added)); *but cf.* DELILLO, *supra* note 14, at 152 ("Work harder on your Hitler."); *but cf.* Nehamas, *supra* note 17, at 30 ("[Didier] Erebou is not exactly a student of ideas He presents Foucault's life as a . . . quest for academic and popular success [N]O ONE WILL LEARN ANYTHING ABOUT FOUCAULT'S WORK FROM IT." (emphasis added)); *but cf.* CONRAD, *supra* note 2, at 42 ("Do you see anything?" (emphasis added)). *See also* Surowiecki, *supra* note 20, at 28 ("You have people . . . in cultural studies trying to figure out what cultural studies is." (quoting Lindsay Waters)); ARONOWITZ, *supra* note 10, at 8 ("At its best, cultural studies is not interdisciplinary; it is antidisiplinary."); Russell Jacoby, *Marginal Returns*, *LINGUA FRANCA*, Sept.-Oct. 1995, at 30, 30 ("[P]ost-colonial studies' . . . enthusiasts themselves don't know what it is."); Geoff Benington & Robert Young, *Introduction: Posing the Question*, in *POSTSTRUCTURALISM* 1, 1 (Derek Attridge et al. eds., 1987) ("It could be argued that the only common factor in the various attempts . . . to define structuralism and poststructuralism . . . lies in the admission of the difficulty of any such definition and the questionableness of any such difference."); LEVINAS, *supra* note 21, at 90 ("[W]hat is essential [gaspl] is a refusal to be tamed or domesticated by a theme."); FARIÑA, *supra* note 7, at 24 ("No index card for me, I'm Exempt. Secret identity mortally guarded, for I am the Plastic Man. . . ." (quoting Gnosso)); *supra* note 27 (quoting Duncan Kennedy on the disutility of conceptualization); *supra* note 28 (quoting Saul Alinsky's suggestion that would-be Marxist radicals not become trapped by their own tactics);

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watch *The New Skinheads*, *supra* note 14 (“Skinheads have become more mainstream: many have grown their hair; they dress very nicely.”); *cf. supra* note 10 (noting the Mafia’s long-standing denial of its own existence); ROTMAN, *supra* note 10, at ix (“[T]hree millenia [have passed] since Odysseus first used [no thing] to fool the Cyclops, by naming himself Nobody . . .”); *infra* note 60 and accompanying text (quoting Paul de Man’s observations about postmodernism’s tendency to change banners frequently, with relatively minor shifts in “nuance”); *Fortune Cookie 3*, *supra* note 9 (“Versatility is one of your outstanding traits.”); MAGIC, *supra* note 10, at 194 (contemplating the “Super Dooper Versatile Vanisher” trick); *infra* note 60 (quoting Saul Alinsky on shell games); JILL NELSON, VOLUNTEER SLAVERY: MY AUTHENTIC NEGRO EXPERIENCE 12 (1993) (“It’s as if I’m being asked to join a crusade, but no one will tell me its objective.”); *but cf.* JERZY KOSINSKI, BLIND DATE at vii (1977) (“WHO SHALL DECIDE WHAT IS GOOD AND WHAT IS EVIL?” (emphasis added) (quoting Jacques Monod)).

See also Bruce Robbins & Andrew Ross, *Mystery Science Theater*, LINGUA FRANCA, July-Aug. 1996, at 54, 56 (providing a response to physicist Alan Sokal by the editors of *Social Text*, recently subjected to a hoax (published in their journal) spoofing postmodernism by Sokal, in which Robbins and Ross deny the existence of postmodernists “who deny the existence of facts [or] objective realities”); Stanley Fish, *Professor Sokal’s Bad Joke*, N.Y. TIMES, May 21, 1996, at A23 (“[N]one of [Sokal’s] targets would ever make such statements.”) [Can Fish be certain (*gasp!*) that he’s “interpreting” their works accurately?]; *id.* (arguing that postmodernism, properly understood, defends the proposition that “[i]t is not the world or its properties but the vocabularies in whose terms we know them that are socially constructed” (emphasis added)) [*But cf.* PYNCHON, *supra* note 24, at 293 (“If they can get you asking the wrong questions, they don’t have to worry about answers.” (emphasis added))].

Fish’s first assertion is of dubious accuracy. See *supra* (quoting and discussing writers including Fish); *cf.* Weinberg, *supra* note 10, at 14 (arguing that Fish’s distinction is untenable); GOLDMAN, *supra*, at 4-5 (same). But since an assertion denying the existence of external reality, from the standpoint of critiquing (oops!) postmodernism’s ultimate objective, would be functionally indistinguishable from an assertion that reality exists but is not “knowable,” let’s not quibble. *Cf. supra* (quoting Thomas Pynchon on questions). [Apart from the instrumental utility of such statements when Authorized by the principle of “self-contradiction,” can authentic postmodernists make purportedly objective statements about “the world or its properties,” including the positing of its *existence*? Compare KAPLEAU, *supra* note 22, at 28 (“I quoted the Buddha as saying that things neither exist nor nonexist.”) with BLYTH, *supra* note 21, at 70 (“What is, is not; what is not, is.”).]

But even if the truth (not “truth”) of Fish’s first statement is assumed, does his second statement purport to offer an objective (*gasp!*) reading of postmodernist writings as a whole? Is that really all there is to postmodernism? If so, it ain’t much, see GOLDMAN, *supra*, at 15 (arguing that the epistemological vice in an equivalent of the position Fish defends “may lie not in hubris but in excessive modesty”), and is certainly nothing, see *infra* note 44 (you know the routine by now), new. See *infra* note 66 (quoting Hillis Miller); see HEINLEIN, *supra* note 5, at 325-26 (“[W]hat we offer is not faith but truth But they have to learn Martian. . . . This truth can’t be stated in English any more than Beethoven’s Fifth [Jack Daniels’ fifth?] can be.”); JEAN-PAUL SARTRE, *Existentialism* (Bernard Frechtman trans., 1946), in EXISTENTIALISM AND HUMAN EMOTIONS 23 (Philosophical Library 1957) (“[I]f God does not exist, we find no values or commands to turn to which legitimize our conduct.”); Sylvan Barnet, *Introduction to OSCAR WILDE, THE IMPORTANCE OF BEING EARNEST AND OTHER PLAYS* at vii, xxi-xxii (Sylvan Barnet ed., 1985) (1895) (“*The first duty in life is to be as artificial as possi-*

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ble. What the second duty is no one has as yet discovered." (emphasis added) (quoting Wilde)); 6 FREDERICK COPLESTON, A HISTORY OF PHILOSOPHY 438 (1960) ("[G]iven the philosophies of Hume and Kant, it becomes natural to ask whether what we call the world is not a kind of logical construction which lies, as it were, between our minds and reality in itself or things in themselves."); *id.* at 437 ("And if, with Berkeley, we describe physical objects as clusters of 'ideas,' the problem of correspondence between ideas and things simply does not arise. The problem arises only if ideas are said to have a representative function and to be the immediate objects of perception and knowledge."); Aylmer Maude, Editor's Note to TOLSTOY, *supra* note 12, at 64 n.4 (tracing "[P]ro captu lectoris habent sua fata libelli" — foundational (*gaspl*) to postmodernist reader-response critique — to Terentianus Maurus, writing c. 240 A.D.); *supra* note 24 (contemplating the gnostics); WURTZEL, *supra* note 10, at iv ("Long before Derrida and deconstruction, the Talmud said . . . 'We do not see things as they are. We see them as we are.'"); PLATO, THE REPUBLIC, reprinted in THE COLLECTED DIALOGUES OF PLATO bk. VII, paras. 514-15 (Paul Shorey trans. & Edith Hamilton & Huntington Cairns eds., Princeton Univ. Press 1989) ("Picture men dwelling in a . . . subterranean cavern with a long entrance open to the light Conceive them as having their legs and necks fettered from childhood, so that they remain in the same spot, able to look forward only [Would they] have seen anything . . . except the shadows . . . ?"); BREAKFAST THEORY, *supra* note 10 (commenting on *Post Modern Toasties*: "More than just a cereal, it's a commentary on the nature of cereal-ness, cerealism, and the theory of cereality."); WATTS, *supra* note 22, at 10-21 (describing Taoist and *zen* linguistic and epistemological views largely paralleled in postmodern semiotics and "sterile" deconstruction); *id.* at ix-x ("Familiar concepts of space, time, and motion, of nature and natural law . . . have dissolved, and we find ourselves adrift without landmarks in a universe which more and more resembles the Buddhist principle of the 'Great Void.'"); CONRAD SCHIROKAUER, A BRIEF HISTORY OF CHINESE CIVILIZATION 44 (1991) (characterizing the epistemological view of fourth-century B.C. philosophical Taoist Zhuang Zi as including the proposition that all statements are mistaken); *id.* (noting an observation of the Mohist school that "if Zhuang Zi's statement is true, it is false; if false, it is true"). See generally EMERSON, *supra* note 12, at 5 ("[T]he Intellect builds the universe I believe in the . . . material [world] as the expression of the spiritual or the real Every object in nature is a word to signify some fact in the mind"); *id.* at 6 ("Whilst we converse with truths as thoughts, they exist also as plastic forces [The student] will be armed by his insight.").

Apart from "sterile" (non-"legal") postmodernism's epistemological (or ontological) unoriginality, are "I's (or "we"s) hierarchically disempowered by Fish's (or others') hegemony, compare STANLEY FISH, PROFESSIONAL CORRECTNESS at x (1995) [hereinafter FISH, PC] (instructing us [and/or "us"] how to read *his* texts) with Stanley Fish, *Consequences*, in AGAINST THEORY: LITERARY STUDIES AND THE NEW PRAGMATISM 106, 110-11 (W.J. Mitchell ed., 1985) [hereinafter Fish, *Consequences*] (criticizing Noam Chomsky's approach to linguistics insofar as it attempts to govern the practice of textual interpretation), from drawing our own inferences from postmodern writings? Apparently, Fish's works are supposed to have more or less objective meanings, at least within his circularly constructed "interpretive communities," but cf. FISH, *supra* note 12, at 167-73 (defining such "communities" at a level of generality pursuant to which such a "community" may consist of a single *individual*); compare *id.* and *infra* note 41 (quoting Lewis Carroll quoting Humpty Dumpty) and *infra* note 41 (quoting Roger Traynor) with, e.g., KUHN, *supra* note 10, at 174-210 (discussing scientific communities), or he wouldn't be able to argue, as he often does (using his own works as Authority) that he has been misunderstood. See generally Dennis Patterson, *You Made Me Do It*:

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My Reply to Stanley Fish, 72 TEXAS L. REV. 67, 67-68 (1993) (noting the phenomenon); Miller, *supra* note 15, at 331 (suggesting that the phenomenon is inherent in postmodernism); L'HEUREUX, *supra* note 10, at 70 ("Olga's first book *Truth and Methodology* had been widely misconstrued, much to her advantage.").

Returning to Fish's first ("objective reality") point, is Fish's "own simplifying typology . . . in fact a 'positivistic' and canny adaptation of Derridean views that turns 'deconstruction' into a 'reassuring' program of text interpretation"? Zavarzadeh, *supra* note 12, at 329 (commenting on Hillis Miller). Or *should* "nonfoundationalists [?] . . . adopt a REASSURING tone," Joan C. Williams, *Rorty, Radicalism, Romanticism: The Politics of the Gaze*, 1992 WIS. L. REV. 131, 155 (emphasis added); cf. WILLIAM SHAKESPEARE, KING LEAR (same (?), contemplating Cordelia and her father), to enhance their opportunities for achieving political (non-"sterile") power? Cf. *supra* text accompanying note 12 (expressing appreciation for Richard Delgado's "reassurance"); *infra* note 45 (commenting on Morton Horwitz's and Laurence Tribe's "reassurances"); *infra* note 46 (discussing Richard Rorty's "reassurances"); *infra* text following note 48 (defining "reassurance"). But on the third hand ["dualities," you know, cf. HEINLEIN, *supra* note 5, at 222 (noting that Martians have three legs)], is Fish's fall-back position one which "think[s] of criticism as merely an interpretive operation," and if so does he not thereby "reduce its theoretical value and intellectual power?" See Zavarzadeh, *supra* note 12, at 330 (criticizing Jonathan Culler on that ground); cf. College Finals from Hell (now circulating on the Internet; on file with author) (suggesting as a final exam question for an epistemology class: "Take a position for or against truth. Prove the validity of your position."); Barbara DeConcini, Letter to the Editor, LINGUA FRANCA, Feb. 1997, at 7, 7 (stating, apparently on behalf of the American Academy of Religion, that neither the existence nor nonexistence of God "has been demonstrated conclusively"); but cf. DUMAURIER, *supra* note 24, at 66 ("Fortunately for his friends, Little Billee . . . kept all this immature juvenile agnosticism to himself." (emphasis added)); HEINLEIN, *supra* note 5, at 177 ("The predestinators and free-willers were tied in the fourth quarter, last I heard.").

...

In light of the above, see also *infra* note 51 (quoting Stanley Fish on "theory"), is Fish really a postmodernist (or "postmodern pragmatist") at all, or is he a *po-séur*? If not the former, can he speak for postmodernism at all? (Even if the former, can he speak for postmodernism at all?) Has Fish lost any hope of discovering "it," see generally PYNCHON, *supra* note 24, at 839 ("Have you ever waited for it? wondering WHETHER IT WILL COME FROM OUTSIDE OR INSIDE?" (second emphasis added)); watch *The Prisoner: Fallout* (syndicated television broadcast 1969, MPI Home Video 1988) (same) [hereinafter *The Prisoner*]; compare THE GRATEFUL DEAD, *Weather Report II (Let it Grow)*, on WAKE OF THE FLOOD (Grateful Dead Records 1973) [hereinafter THE GRATEFUL DEAD, *Let it Grow*]:

What shall we say, shall we call it by a name?

As well to count the angels dancing on a pin.

Water bright as the sky from which it came

And the name is on the earth that takes it in.

We will not speak but stand inside the rain

And listen to the thunder shout, I am. I am. I am. I am!

and *infra* note 33 (quoting Rainer Rilke) and PYNCHON, *supra* note 2, at 134 ("[K]eep it bouncing.") and JACK KEROUAC, ON THE ROAD 127 (Penguin Books 1976) (1959) ("That Rollo Greb is . . . never hung up, he goes in every direction Man, he's the end! . . . [I]f you go like him . . . you'll finally get it" 'Get what?' 'IT! IT! I'll tell you — now no time') with L'HEUREUX, *supra* note 10, at 141 ("Give me it! . . . Give it! Give IT!" (quoting Kurtz)) and T.S. ELIOT, *The Hollow Men*, in ELIOT, *supra*, at 56, 58 [hereinafter ELIOT, *The Hollow Men*]:

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Between the idea
 And the reality
 Between the motion
 And the act
 Falls the Shadow

and MANN, *supra* note 2, at 232 ("It got the clean, clever Spengler early on."), at the moment he blinks upon gazing into the *abyme*? See generally Miller, *Stevens' Rock* (pt. 1), *supra*, at 11 ("*Abyme* is an older variant of modern French *abime*, from late Latin *abyssus*, from Greek *abussos*, without bottom."); HERMAN HESSE, *THE JOURNEY TO THE EAST* 17, 19-20 (Hilda Rosner trans., Farrar, Straus & Giroux 1957) (1956):

On one occasion I . . . had the experience of seeing one of my comrades entertain doubts; he renounced his vow and relapsed into disbelief. . . .

. . . We were filled with shame and yet at the same time pitied the misguided man. The Speaker listened to him kindly . . . and said in a quiet, cheerful voice . . . "You have said good-bye to us and want to return to the railway, to common-sense and useful work. You have said good-bye to the League, to the expedition to the East, good-bye to magic, to floral festivals, to poetry. You are absolved from your vow."

"Also from the vow of silence?" cried the deserter.

"Yes, also from the vow of silence," answered the Speaker. "Remember, you vowed to keep silent about the secret of the League to unbelievers. As we see you have forgotten the secret, you will not be able to pass it on to anyone."

. . . "I have forgotten nothing," cried the young man, but [he] became uncertain . . . [;]

HEINLEN, *supra* note 5, at 260 ("What else does a chump want? Mystery! He wants to think the world is a romantic place when it damn well ain't." (quoting the carnival manager)); Tim Stoen, *The Most Horrible Night of My Life*, *NEWSWEEK*, Apr. 7, 1997, at 44, 44:

When I went to Jonestown . . . in February 1977, I believed I was going to make the world a better place. I guess I was a super-idealist. Fed up with racism and poverty in America, I was looking to create a utopian society . . . [Jim] Jones always had some opportunism in him, but I was too ideologically blinded to see it. [;]

ALLILUYEVA, *supra* note 23, at 144-45:

Mama was an idealist; toward Revolution she had the romantic approach of poets.

Grandmama . . . often said, "Your mother was a fool!" From the very first she disapproved of my mother's marriage to my father, and her sharp appraisal was a reflection of the habitual attitude of realists toward romanticists According to my aunts . . . Mama was somewhat melancholy The aunts considered Mama too "severe and serious," too "highly disciplined" for her age. And everyone who knew her . . . confirmed that in her last years she had been unhappy, disillusioned, and depressed. [;]

id. at 144 (noting that Alliluyeva's mother, Nadezhda Alliluyeva Stalin, had followed the lead of Vera (the heroine of Nikolai Chernyshevsky's *What Is to Be Done?*) by pursuing a career in the textile industry); *supra* note 23 (noting that Nadezhda's life ended in suicide); ALLILUYEVA, *supra* note 23, at 146 (noting that after Nadezhda's suicide, she became a "non-person" through the miracle of "democratic history").

See also CAROL GILLIGAN, *IN A DIFFERENT VOICE* 24-63 (1982) (defending "essentialist" feminism, in which an "ethic of care" and "nurturing" is argued to be a particular characteristic of women); CHRISTOPHER NEWFIELD, *THE EMERSON EFFECT* 20 (1996) ("Margaret Fuller felt the individualist fear that the person who

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lives 'too much in RELATIONS . . . falls after a while into a *distraction*, or *imbecility*.' But she nonetheless claimed that 'femality' was distinguished by a kind of GENIUS for relations . . ." (emphasis added) (first ellipsis in original); FAITH CHIPPERFIELD, *IN QUEST OF LOVE* 301 (1957) ("The *heart* with all its blunders . . . tells the truth better than the *head*." (emphasis added) (quoting Fuller)); *but cf.* KATHARINE ANTHONY, MARGARET FULLER 28 (1920) (emphasis added):

She was unable to cope with her excessive grief when the *stranger* went away. "Those who are *really* children could not know such love, or feel such *sorrow*," she comments. She fell into a complete hysterical innervation, — "I knew not how to exert myself, but lay *bound hand and foot*," — and soon took refuge in outright sickness. [.]

L'HEUREUX, *supra* note 10, at 22 ("At the moment [Maddy] was studying a picture that hung above the buffet, a reproduction of 'The Scream' blown up to three times actual size."); CHIPPERFIELD, *supra*, at 12-15, 296-300 (noting that Margaret Fuller went down with a ship within a plank's distance from shore, refusing all entreaties to save herself); *id.* at 15 ("To . . . submit in silence to be drowned without an effort to save oneself . . . [s]uch an end challenges the biographer."); *but cf.* MANN, *supra* note 2, at 183 ("This seven times repeated 'Oh woe, Frau Mother, what woe!' . . . calls up the unearthly thrills and shudders so familiar to us in the field of the German folk-song."); *id.* at 174 ("[W]e are a people of mightily tragic soul, and our love belongs to *fate* — to *any* fate, *if only it be one*, even destruction kindling heaven with the crimson flames . . ." (emphasis added)); ANTHONY, *supra*, at 35 ("[T]he grafting of foreign romanticism on the native Puritan stock sometimes produced outlandish results."); James Surowiecki, *The Care of the Audience*, LINGUA FRANCA, Sept. 1997, at 22, 22 ("[W]hen I've finished speaking, [I have] a feeling of total solitude." (quoting Michel Foucault)); *hear* SHERYL CROW, *Every Day is a Winding Road*, on SHERYL CROW (A & M Records 1996) [hereinafter CROW, *Winding Road*] ("I'm just wondering why I'm feeling so all alone: why I'm a stranger in my own life."); *cf.* MANN, *supra* note 2, at 47 ("Not that he would have known how to name these things; but he repeated: 'Relationship is everything. And if you want to give it a more precise name, it is ambiguity.'"); *but cf. infra* text following note 34 (defining "hollowness"); MANN, *supra* note 2, at 227 ("I say 'thou' only to myself." (quoting Adrian)); *id.* at 337 (contemplating the Rocket); SHNEIDMAN *supra* note 24, at 62-63:

What are we to make of people who act as though they were afraid they were going to be late to their own accidents, who foolishly disregard a life-saving medical regimen, who use bad judgment to shorten or truncate their lives, who seem set on premature self-destruction, who imprudently put themselves in harm's way, who seem bent on covert self-destruction, whose health habits are known to jeopardize life, who appear to be their own worst enemies? What comes to mind, by the way of understanding, are ideas like *indirect* suicide and *subintentioned* [D]eath. [.]

See also Robin West, *Economic Man and Literary Woman: One Contrast*, 39 MERCER L. REV. 867 (1988) (proffering a somewhat different gender-based essentialist duality than the one "framed" by Carol Gilligan); PYNCHON, *supra* note 24, at 323 ("'Yang and Yin,' whispers the Voice, 'Yang and Yin . . .'"); *Concordance*, in I CHING 803-04 (Rudolf Ritsema & Stephen Karcher trans., Barnes & Noble Books 1995) (defining and referencing those poles); *Introduction to id.* at 8, 68-69 (discussing references associated with each pole); PERRY MILLER, *THE LIFE OF THE MIND IN AMERICA* (1965) [hereinafter MILLER, *AMERICA*] (comparing what he characterizes as "Head"- and "Heart"-based impulses on the pre-Civil War United States); Note, *Swift v. Tyson Exhumed*, 79 YALE L.J. 284, 305 (1969) (authored by Mark Tushnet) [hereinafter Tushnet] (equating Perry Miller's "Head"-based impulses with reason, and characterizing Miller's "Heart" as encompassing

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"not only emotion but the combination of passion and spontaneity which in the [Great Religious] Revival led to what contemporaries called enthusiasm"); GEORGE LAKOFF, *MORAL POLITICS* (1996) (characterizing "strict father" and "nurturing mother" political orientations, but on an axis arguably different from Miller's); PYNCHON, *supra* note 24, at 841 ("No one has ever talked to Gottfried before, not like this. His father uttered only commands, sentences, flat judgments. His mother was emotional, a great flow of love, frustration and secret terror passed into him from her, but they never really talked."); NELSON, *supra*, at 36 ("[M]y father asked that we absorb his lessons and become what he wanted us to be, number one. He never told us what that meant or how to get there . . . Like most preachers, my father was stronger on *imagery, oratory, and* instilling FEAR than he was on process." (emphasis added)); WURTZEL, *supra* note 10, at 90 ("[N]ow after all the years he was telling me to behave properly as if he really were my father, and all I could think was, 'Who the hell is he to tell me what's wrong or right?'").

But cf. CATHARINE A. MACKINNON, *Difference and Dominance: On Sex Discrimination*, in *FEMINISM UNMODIFIED* 32, 39 (1987) (defending the "dominance" feminism approach, in which the supposed ethic of "nurturing" is not perceived as inherent in women, but as externally imposed by men); *infra* note 48 (quoting Elizabeth Fox-Genovese noting the tendency of poststructuralist-influenced feminists to "question" the concept of rationality); Catharine A. MacKinnon, *Letter to the Editors*, 42 J. LEGAL EDUC. 465, 465 (1992) (perhaps suggesting (but with patent "enthusiasm") that she was "considering other remedies" against the *Journal of Legal Education*, perhaps for libel causing damage to her "professional reputation" following its publication of a parody which caused her to "contemplate . . . the 'cognitive therapy' of a *fist in the face*" (emphasis added)); Tracey Tyler, *Porn Fighter Zeroing in on Bernardo Trial*, TORONTO STAR, Apr. 2, 1995, at C1, C1, available in 1995 WL 5986818 ("She once claimed to have been raped by a book review."); Norton, *supra* note 13, at 84 ("I'm not a *masochist*. Why should I have my mistakes paraded in public . . . ?" (emphasis added) (quoting Casey Kasem on his lawsuit against Negativland)); ORWELL, *supra* note 1, at 243 ("Sometimes it was fists . . . sometimes it was boots."); but cf. ALINSKY, *supra* note 10, at 129 ("*The threat is usually more terrifying than the thing itself.*"); but cf. CONRAD, *supra* note 2, at 90 ("She had a mature capacity for fidelity, for belief, for suffering. The room seemed to have grown darker . . ."); ORWELL, *supra* note 1, at 240 ("Room 101," said the officer."). See generally *infra* text following note 45 (defining "power paradigm"); RIBOWSKY, *supra* note 3, at 133 ("I'M going to *dominate.*" (emphasis added) (quoting Al Davis)).

Compare *supra* with Rosalie Silberman, *Ideas Have Consequences*, 18 HARV. J.L. & PUB. POLY. 409, 410 (1995) (discussing "equality" feminism, in which formal equality before the law is the desideratum); Ruth Bader Ginsburg, *Gender and the Constitution*, 44 U. CIN. L. REV. 1 (1975) (defending that approach); WHITMAN, *supra* note 2, at 19 ("Toward the male of the states, and toward the female of the states, [e]xulting words, words to Democracy's lands."); cf. ANTONIA FRASER, *THE WARRIOR QUEENS* (1994) (demonstrating that infinitely "forgiving" (or short-term "nurturing") political instincts have not historically been inherent in women); MARGARET THATCHER, *THE PATH TO POWER* (1995) (same, in contemporary politics); Deborah L. Rhode, *Feminist Critical Theories*, 42 STAN. L. REV. 617, 623 (1990) ("[C]ontemporary survey research suggests that the vast majority of women do not experience the world in the terms that most critical feminists describe.").

But cf. Kingsley R. Brown, *Sex and Temperament in Modern Society: A Darwinian View of the Glass Ceiling and the Gender Gap*, 37 ARIZ. L. REV. 971, 1105 (1995) ("[T]he fact that women are *not* dissatisfied seems to be viewed as a problem." (emphasis added)); HOOKS, *supra* note 17, at 223 (last emphasis added):

I remember going to this town and working with a number of black women. I

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said to them, "We should buy a building together. Why should we all be paying rent to some nasty white landlord?" And they all looked at me and said weird shit like, "Why would we *want* to live in the same space? What about *privacy*?" They raised all these negative issues and I realized, "These people would rather be *victimized* than think about taking some . . . control over their [?] lives." [;]

id. at 224 ("I think about how *privacy* is so connected to a politics of *domination*." (emphasis added)); *but cf.* ORWELL, *supra* note 1, at 223 ("The picture had fallen to the floor, uncovering the telescreen behind it. 'Now they can see us,' said Julia. 'Now we can see you,' said *the voice*. 'Stand out in the middle of the room . . . Clasp your hands behind your heads.'" (emphasis added)); *but cf. infra* text following note 31 (distinguishing women from Women). See also Eric Schlosser, *The Business of Pornography*, U.S. NEWS & WORLD REP., Feb. 10, 1997, at 43, 46 ("[A] survey by *Redbook* . . . magazine found that almost half of its readers regularly watched pornographic movies in . . . their own homes. And a recent survey by the *Advocate*, a leading gay magazine, found that 54 percent of its lesbian readers had watched an X-rated video in the previous 12 months."); Gail D. Cox, *Feminist Pens Sexy Screenplay*, NATL. L.J., July 14, 1997, at A4, A4 ("'Tricks of the Trade,' a screenplay co-written by . . . Susan Estrich, is not a compendium of litigation tips — unless your take on alternative dispute resolution involves sausages and whipped cream."); *but cf.* WURTZEL, *supra* note 10, at 137 ("[My dad] came with me to Justice class and pretended to be interested in Professor Sandel's neo-Kantian argument about why a town in Minnesota that wanted to ban pornography should be allowed to supersede the First Amendment and do so."); *but cf.* M.G. Lord, *Pornutopia*, LINGUA FRANCA, Apr.-May 1997, at 40, 41 ("[T]he number of feminists who study and defend pornography is growing, much to the dismay of the antiporn MacKinnonites who've been long touted in the media . . ."); *infra* notes 39, 43, 67 (perhaps, inter alia, questioning whether gender-based essentialism necessarily works the other way, either); Richard Rorty, *The Banality of Pragmatism and the Poetry of Justice*, 63 S. CAL. L. REV. 1811, 1816 (1990) ("[The] *romantic* side of Dewey is not banal." (emphasis added)) [though, for the record, it's also not *pragmatism* . . .]. *But watch Campaign Promises and Policy Reform* (C-SPAN network television broadcast, Mar. 10, 1997) [hereinafter *Campaign Promises*] ("In the twenty-first century, men should become more like women." (quoting Lani Guinier)); Gleick, *supra* note 23, at 32 ("[S]ix of the [Heaven's Gate] men, including Applewhite, went so far as to get castrated years ago, which may help explain the odd passivity or gentleness the victims exhibited."); T. Trent Gegak, *The Unkindest Cut of All*, NEWSWEEK, Apr. 7, 1997, at 39, 39 ("I'm one of those students that did that, and I can't tell you how *free* [?] that has made me feel." (emphasis added) (quoting an unidentified Heaven's Gate eunuch)). *But cf.* ROBERT MOORE & DOUGLAS GILLETTE, *THE KING WITHIN* 9 (1992) ("We believe both men and women have encoded deep inside an understanding of how to use their power for blessing and liberation." (emphasis deleted)); *id.* at 8 (tendering a prescription for the further development of men's abilities "to access their inner sources of inclusive caring and generativity," so as to better "cooperate in building a viable postmodern planetary civilization"); *id.* (characterizing that prescription as the "King 'program'"); *but cf.* HEINLEIN, *supra* note 5, at 209 ("Jubal, you talk like a harem guard trying to sell a whole man on the advantages of being a eunuch."); *hear All Things Considered* (NPR network radio broadcast, Jan. 16, 1997) (stating that new evidence may tend to support the hypothesis that there once existed a matriarchal society of warrior women, which may have been the basis for the legend of the "Amazons"); *Morning Report* (ABC network radio broadcast, Jan. 13, 1997) ("The only satisfaction on a golf tour is competing and winning." (quoting Tiger Woods)); *cf.* RIBOWSKY, *supra* note 3, at

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317 ("Just win, baby. . . . Just win." (quoting Al Davis, on football)); SPIKE LEE, BY ANY MEANS NECESSARY at xiii (1992) (perhaps not limiting his comment to the private sphere: "I hate and refuse to lose."); MacKinnon, *supra* ["Shall we leave this text on its own power?" Derrida, *Border Lines*, *supra* note 2, at 152]; NELSON, *supra*, at 57 ("[I]t's impolitic to say anything negative.").

See generally Joseph Adelson, *What We Don't Know About Sex Differences*, 3 CONST. COMMENTARY 295, 306 (1986) (concluding that much is yet empirically unknown "with respect to sex differences, where the quotidian difficulties of research are compounded by the strong ideological interests at work"); FARIÑA, *supra* note 7, at 50 ("Mr. Right and Mrs. Left, the hermaphrodites. Introduce them again, anointed sinners." (quoting Gnosso)); Pevear, *supra* note 10, at xiii (concluding that, as a general matter, both "the 'heightened consciousness' of the rationalist [and] the sentimental impulses of the romantic" may generate "disastrous and comic reversals"); Feldman, *supra* note 22, at 1047 ("*Postmodernism just keeps reproducing itself* . . ." (emphasis added)); STEIN, *supra* note 3, at 241 ("I was interested."). But cf. *infra* note 38 (quoting André Malraux on the memories of elephants and utility of contemplation).

Compare WAGNER, *supra* note 10, sc. 2 (suggesting that Fricka's desire for Valhalla may have been motivated by her desire to keep the unfaithful Wotan from straying) and NIKOLAI CHERNYSHEVSKY, WHAT IS TO BE DONE? 74 (Michael R. Katz trans. & William G. Wagner annotator, Cornell Univ. Press 1989) (1863) (emphasis added):

Julie began to list the advantages [A] man who's not evil yet not too bright makes the best kind of husband for a clever woman of character She described in vivid colors the position of some actresses and dancers who don't submit in love to their men and who *dominate* them. "This is the best possible position for a woman in society, except when, at least as far as society is concerned, the woman receives not only independence and power but formal legal recognition of such a position — that is, when a husband relates to his wife as an admirer does to an actress."

and Surowiecki, *supra*, at 22 ("I have a relationship with the people who are [at my lectures] like the one an actor . . . has with his audience." (quoting Michel Foucault)) with CHERNYSHEVSKY, *supra*, at 74 (emphasis added) (quoting Vera):

I prefer neither to dominate nor to submit. I wish neither to deceive nor to dissemble. I don't want to be concerned about OTHER PEOPLE'S OPINIONS, or strive for what OTHERS advise, when I really have no NEED for it. . . . I know only that I DON'T WANT TO SUBMIT TO ANYONE. I want to be FREE

and JENNY DISKI, NOTHING NATURAL 241 (1986) ("What if [someone] . . . took one look at me and thought, that's it, she's the one with all the qualities of an equal mate?" (emphasis added) (quoting Rachel)) and Emily Sherwin, *A Comment on Cass Sunstein's Equality*, 9 CONST. COMMENTARY 189, 195-96 (1992) (second emphasis added):

[H]asn't Sunstein overlooked something? Doesn't the legal validity of women's choices (identified particularly as *women's* choices) have something to do with the view the world takes of women? Is it not "degrading and dehumanizing" to say women do not understand their own interests? To me, *Sunstein's version of dignity and equality is an odd and dangerous one, for it suggests that women are not fully autonomous beings . . . that THEY REQUIRE THE ASSISTANCE OF SUNSTEIN in ordering their lives. But then I am just a woman, probably awash in false consciousness (or as Sunstein might say, endogenous preferences).*

and IT'S A BEAUTIFUL DAY, *White Bird*, on IT'S A BEAUTIFUL DAY (Columbia Records 1970) ("White bird in a golden cage, on a winter's day in the rain *White bird must fly, or she will die.*" (emphasis added)) and Amii L. Barnard, *The*

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Application of Critical Race Feminism to the Anti-Lynching Movement: Black Women's Fight Against Race and Gender Ideology, 1892-1920, 3 UCLA WOMEN'S L.J. 1, 4 n.7 (1993) ("Although the ideal of True Womanhood oppressed white women, they did not recognize the pedestal as a 'gilded cage' until the 1930s.") and BAILYN, *supra* note 24, at 165 n.30 (commenting on "the bizarre training [Johann Conrad] Beissel's singers [canaries?] endured: They were fed special diets according to the parts they sang, practiced four hours at a time and then marched in a 'spectral midnight procession,' were dressed in sacramental white whenever they performed, and were instructed to sing with their heads declined but voices projected heavenward.") and PYNCHON, *supra* note 24, at 837 (contemplating the Harz Mountains, and canaries) and CHARLES GOUNOD, FAUST act 5 (1859) (same) and Lucille M. Pone, United States v. Virginia: *Reinforcing Archaic Stereotypes About Women in the Military Under the Flawed Guise of Educational Diversity*, 7 HASTINGS WOMEN'S L.J. 1, 3 n.5 (1996) ("Traditionally, women were lumped together with African-American slaves, children, and criminals as members of the lower castes of society who were not deserving of the full status and rights of manhood."). *But cf.* C.A. WESLAGER, THE DELAWARE INDIANS 249-50 (1972) ("[Colonel] Bouquet added that he had already liberated two hundred white captives, although this caused a severe problem because he had to station armed guards over many of them to prevent their running away and returning to their Indian homes."); *but cf.* HEINLEIN, *supra* note 5, at 44 ("[H]e, Secretary Douglas, had been *their* humble instrument to work *their* will. The notions were never stated baldly, the assumption being that . . . good old Joe Douglas embodied the common [wo?]man." (emphasis added)); ARTHUR C. DANTO, EMBODIED MEANINGS (1994); *but cf.* NORRIS, *supra* note 10, at 333 ("The posse trailed . . . It was an easy matter. It was only necessary to inquire of the cowboys . . . if they had seen . . . [a man who] carried a bird cage."); *id.* at 5 (noting that the cage, of course, was gilded); CONRAD, *supra* note 2, at 32 ("I've been teaching one of the native women about the station. It was difficult. She had a distaste for the work." (quoting a colonialist whose "collars . . . vast cuffs, [and] brushed hair" Marlow respected)); RIBOWSKY, *supra* note 3, at 206 ("Al [Davis] wouldn't let me be myself." (emphasis added) (quoting John Rauch)); *watch* ALICE, *supra* note 20 ("Your way? It's my way!" (quoting the Red Queen)); DUMAURIER, *supra* note 24, at 276 ("This from la Svengali, whose overpowering fame . . . was still ringing all over Europe . . . She might have been a royal personage!"); *id.* at 52 ("I think she's lovely," said Little Billee, the young and tender. 'Oh heavens, what angel's feet!"). *But cf. id.* at 65 ("Little Billee was not inclined for fun . . . as he expressed it to himself, with pathetic self[?]-pity: 'A feeling of sadness and longing [t]hat is not akin to pain, [a]nd resembles sorrow only [a]s the mist resembles the rain.'"); *hear* THE FOUR TOPS, *I Can't Help Myself* (Motown Records 1965); THE MIRACLES, *You've Really Got a Hold on Me* (Motown Records 1962). *See generally* Nehamas, *supra* note 17, at 27, 31 (noting that in the dominance-and-submission-obsessed world of Michel Foucault, power may take different forms, but its amount and quality remain constant, with oppression *worsening* when power is "cloaked in the vocabulary of humanism and humanitarianism").

[HMMMMM . . . YOU DON'T SUPPOSE SUNSTEIN COULD BE ENGAGING IN AN ATTEMPT TO "ADAPT" (DOMINATE?) SHERWIN'S AXIOLOGICAL PREFERENCES, DO YOU? AFTER ALL, HE EXHIBITS A STRIKINGLY DETAILED AWARENESS OF HOW THE "ADAPTIVE PREFERENCES"/"FALSE CONSCIOUSNESS" GAME IS PLAYED, *see* Cass R. Sunstein, *Private Truths, Public Lies: The Social Consequences of Preference Falsification*, NEW REPUBLIC, Dec. 25, 1995, at 37, 38-39 [hereinafter Sunstein, *Preference Falsification*] (describing the process); *cf. id.* at 38 (evidencing Sunstein's awareness of left-wing political correctness); ORWELL, *supra* note 1, at 260 ("Look me in the eyes. What country is Oceania at war with?" (quoting O'Brien)), AND

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ACADEMIA, LEGAL AND OTHERWISE, DISPENSES ITS OWN "SOCIAL CONSEQUENCES" AND PRESSURES TO CONFORM, *e.g.*, *infra* text following note 52 (defining "the new academic freedom"); *infra* text following note 37 (defining "legal education"); ORWELL, *supra* note 1, at 271 ("The more the Party is powerful, the less it will be tolerant; the weaker the opposition, the tighter the despotism."); L'HEUREUX, *supra* note 10, at 86 ("I don't hear wonderful things about your [classes]. I hear that you're deconstructing Foucault." (quoting Kurtz, addressing a visiting professor)); Strickland, *supra* note 12, at 494 (perhaps suggesting that essentialist "Mau Mau" acts may be expected, desired, or demanded of minority law professors by some predominately nonminority institutions); ORWELL, *supra* note 1, at 212 ("Oceania is at war with Eastasia. Do you remember that now?" (quoting O'Brien)); L'HEUREUX, *supra* note 10, at 23 ("'Look,' Maddy said, and her face got dangerously small, 'my work comes first. My career.'"); *infra* note 30 (quoting Richard Delgado naming names of some of the "imperial scholars" teaching in "the major law schools") [Sunstein wasn't included, but Delgado wrote back in 1984. *Cf.* L'HEUREUX, *supra* note 10, at 85 ("[H]e was not famous yet.")]. ON THE OTHER HAND, GIVEN *THAT* GESTALT, MAYBE *SUNSTEIN'S* PUBLICLY-EXPRESSED PREFERENCES ARE "ADAPTIVE." *Cf. Campaign Promises, supra* ("I was at a conference where a man said that more women should be in charge. There were more women there [than men], so maybe it was in *his* short-term best interest." (quoting Lani Guinier)); Cass R. Sunstein, *Notes on Pornography and the First Amendment*, 4 *LAW & INEQ.* 28 (1986) (quoting remarks by Sunstein first announcing his views against First Amendment protection of pornography, made while participating on a panel with Catharine MacKinnon at the annual conference of the Association of Women Judges); RIBOWSKY, *supra* note 3, at 86 ("Al Davis said and did what was gonna get the job done for Al Davis." (quoting Dan Ficca)). NAH, THAT CAN'T BE. See Sunstein, *Preference Falsification, supra*, at 41 ("[S]omething has gone wrong if *reasonable* or *good* moral judgments cannot be expressed publicly, as . . . in the many parts of many nations where one cannot endorse [*NON*-"DOMINANCE"?] feminism." (emphasis added)); Robert P. George, *Law, Democracy, and Moral Disagreement*, 110 *HARV. L. REV.* 1388, 1401 (1997) (book review) ("Sunstein . . . maintains that any interpretative theory . . . cannot be justified except to the extent that it can be credibly presented . . . as likely to lead . . . 'to a good system of constitutional law . . .'" (emphasis added)); see generally *supra* note 27 (contemplating the Ministry of Truth); *infra* note 51 (contemplating *The House That Jack Built*); STEIN, *supra* note 3, at 35 ("Well anyway he had always been on the point of seducing himself . . .").]

See also Michael R. Katz & William G. Wagner, *Chernyshevsky, What Is to Be Done? and the Russian Intelligentsia*, in *CHERNYSHEVSKY, supra*, at 1, 28 (noting that in Chernyshevsky's "hierarchy of characters," "Julie Letellier, the French courtesan," stands on the "lowest level," while "Vera Pavlovna . . . represents the outstanding model of the 'new woman'"); FRIEDRICH NIETZSCHE, *BEYOND GOOD AND EVIL* 208-09 (Walter Kaufmann trans., Vintage Books 1966) (1886) (emphasis added):

Among the things that may be hardest to understand for a noble human being is VANITY The problem for him is to imagine people who SEEK TO CREATE A GOOD OPINION OF THEMSELVES which they do not have of themselves — and thus also do not "deserve"

. . . .

. . . The vain person is delighted by every good OPINION he hears of himself . . . just as every bad OPINION of him pains him: for HE SUBMITS TO BOTH, HE FEELS SUBJECTED TO THEM IN ACCORDANCE WITH THAT OLDEST INSTINCT OF SUBMISSION.

. . . .

"It"?

... [V]anity is an atavism. [;]

CONRAD, *supra* note 2, at 48 ("Going up that river was like travelling back to the earliest beginnings of the world . . ."); cf. VLADIMIR NABOKOV, *THE GIFT* 247-48 (Michael Scammell with Vladimir Nabokov trans., 1963) (1952) (noting that Chernyshevsky's relationship with his wife Olga did not turn out to be of the type he had prescribed, perhaps because neither of them could live up to Vera's standard); ALLILUYEVA, *supra* note 23, at 134-83 (contemplating her father, Joseph Stalin, and perhaps suggesting that Chernyshevsky's *political* prescriptions didn't turn out the way he'd expected, either).

See generally NORMAN O. BROWN, *LIFE AGAINST DEATH* 307-08 (2d ed. 1985) (advancing the dualistic approach for analyzing the human condition suggested by its title, but one based on Sigmund Freud's views on eros and death: "[T]he [D]eath instinct also demands satisfaction[,] as Hegel says in the *Phenomenology* . . ." (emphasis added)); Vincenc Verdun, *If the Shoe Fits, Wear It: An Analysis of Reparations to African Americans*, 67 *TUL. L. REV.* 597, 626 n.90 (1993) (invoking yet another bipolar view, in this case Leonard Jeffries's racial-essentialism-based "sun people"/"ice people" duality).

The chapter just finished is . . . for my taste, much too extended. It would seem only too advisable to inquire how the reader's patience is holding out. To myself, of course every word I write is of burning interest; but what care must I take not to see this as a guarantee of the sympathy of the detached reader! And certainly I must not forget that I am writing for posterity; not for the moment What I do is to prepare these pages for a time when the conditions for public interest will be quite different, and certainly much more favourable

That time will come. Our prison, so wide and yet so narrow, so suffocatingly full of foul air, will some day open

. . . I am entirely aware that with the above paragraph I have again regretably overweighted this chapter, which I had quite intended to keep short. I would not even suppress my suspicion, held on psychological grounds, that I actually seek digressions and circumlocutions . . . because I am afraid of what is coming

MANN, *supra* note 2, at 30-31. But cf. Wilson, *supra* note 24, at 328-29 ("Now it is time to . . . finish mapping the biosphere.").

[TAKE A BREAK! PART THREE OF FOOTNOTE 29 IS ROUGH SLEDDING, BUT IT'S GOTTA BE DONE. See generally DANTE ALIGHIERI, *THE DIVINE COMEDY* Canti I-XXXIV (H. Oelsner & Philip H. Wicksteed trans., Modern Library 1932) (contemplating the *Inferno*). MAYBE THE 1812 OVERTURE FIRST, FOR FORTIFICATION? A CONVERSATION WITH A FRIEND? Cf. PYNCHON, *supra* note 24, at 887 ("There is time, if you need the comfort, to touch the person next to you . . ."). A GLASS OF RIDGE OR RAVENSWOOD ZIN? A BUDWEISER? A PEPSI? WATER? THIS ARTICLE REALLY IS ABOUT CONSTITUTIONAL LAW, AND WE'LL SOON ENOUGH EMERGE FROM THE DARKNESS. See generally WHITMAN, *supra* note 2, at 66 ("I know . . . my omnivorous lines and must not write any less . . ."); ALINSKY, *supra* note 10, at 149 ("[L]et us go deeper into the psyche of this Goliath."); CONRAD, *supra* note 2, at 27 ("I felt as though . . . I were about to set off for the centre of the earth.")]

The postmodern psyche may not be searching for "it," but rather "~it," cf. LEVINAS, *supra* note 21, at 103 ("A does not, as in identity, return to A, but retreats to the hither side of its point of departure." (emphasis added)); *supra* note 24 (contemplating absolute zero); HERRIGEL, *supra* note 16, at 58 ("If the [zen] painter or poet . . . were asked how to express in a word what it is that gives life and breath to all living things . . . he would probably answer: 'It' . . . 'It' is there by not being there." (emphasis added)); NELSON, *supra*, at 18 (emphasis added):

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In 1970, at the height of the fervor for black nationalism . . . I became obsessed with having an Afro, that living . . . symbol of blackness, of being down with it, whatever "it" was . . .

So there I was, strutting around with my semi-Afro, studiously garbling the English language because I thought that "real" black people didn't speak standard English, mouthing slogans from the Black Panther party, and contemplating changing my name to Malika, or something else authentically black.

I even had a boyfriend who lived in the projects, had an African name, and could hardly read. "*HE'S BAD, THEREFORE I AM*," or so I thought, in a perversion of prep-school Descartes. [.]

or (avoiding "canny". "dualities") "~it" + π, cf. *infra* note 33 (discussing "transformation" in the value of π), or the pure aesthetic joy of seeing a linear rainbow, compare HUBERT L. DREYFUS & PAUL RAINBOW, MICHEL FOUCAULT at xi (2d ed. 1983) (suggesting that their 260-page book on the impact of structuralism and hermeneutics on Foucault should have been longer) [*But cf.* L'HEUREUX, *supra* note 10, at vii ("The author is dead and his intentions are irrelevant." (quoting Michel Foucault)). Oh, and postmodern readers: there's a potential wordplay for you here, cf. Collier, *supra* note 10, at 201 n.55.] and MANN, *supra* note 2, at 87 (narrating Zeitblom's thoughts: "I hesitate to describe those years by the epithet 'happy' — always a questionable word . . .") and WURTZEL, *supra* note 10, at 248 ("[T]here was a certain beautiful honesty to my depressed state — I miss it sometimes now.") and MANN, *supra* note 2, at 45 (narrating Zeitblom's thoughts: "[H]ow fascinating . . . I found it too! How it strengthened my devotion to [Adrian], mingling with it — can one understand why? — something like *pain*, like *hopelessness!*" (emphasis added)) and L'HEUREUX, *supra* note 10, at 160 (contemplating Peeks: "He sat there for a long time watching the dark before the dawn. The night was no longer young, he reflected, and there was sadness everywhere. He was pleased at feeling melancholy. He was becoming a deep person.") and LANG, *supra* note 24, at xi (contemplating "fin-de-siècle melancholy" and the "new hyperconsciousness") and KURT VONNEGUT, TIMEQUAKE 3 ("[B]eing alive is a crock . . .") with PYNCHON, *supra* note 24, at 842-43 (contemplating gravity, and rainbows) and L'HEUREUX, *supra* note 10, at 71 ("A little Foucault goes a long way." (quoting Olga), or sex, cf. SALVADOR DALI, THE SECRET LIFE OF SALVADOR DALI 139-40 (Haakon M. Chevalier trans., DASA Edicions 1986) (1942) (deploying "it" as a code word for masturbation); JEFFERSON AIRPLANE, *Plastic Fantastic Lover*, on SURREALISTIC PILLOW (RCA Records 1967) (contemplating, inter alia, "plasticity" and "positionality"); L'HEUREUX, *supra*, *passim* [No explanatory parenthetical here, but *trust me!* I'm a lawyer.], or other stimulation, see generally PATRICIA M. SPACKS, BOREDOM at ix (1995) ("The title of this book straightforwardly announces its subject but hardly suggests that subject's complexity." (emphasis added)); WURTZEL, *supra* note 10, at 10 ("Every so often there's a reprieve, like . . . when I first started working for the *New Yorker*. But then the dullness of everyday kicks in, and I get crazy."); SHNEIDMAN, *supra* note 24, at 62-63 ("There are many ways to shorten your life other than committing suicide. We can call these cases of indirect suicide. [T]here are two obvious deleterious things we can do . . . We can shorten life's length, and we can narrow life's breadth . . . [m]ake it . . . a narrow, pinched, and unhappy life."); ANDY WARHOL, THE PHILOSOPHY OF ANDY WARHOL 5 (Harvest Books 1977) (1975) ("I wake up every morning . . . and think: here we go again."); PYNCHON, *supra* note 2, at 128 (commenting on paralysis induced by "breath[ing] in a vacuum"), or amusement, compare *infra* note 39 and accompanying text (defining and discussing "love") and ORWELL, *supra* note 1, at 267 ("The object of torture is torture.") with OSCAR WILDE, THE IMPORTANCE OF BEING EARNEST, reprinted in WILDE, *supra*, at 113, or overcoming the fear of flying, compare ERICA JONG, FEAR OF FLYING (1973)

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and RICHARD BACH, JONATHAN LIVINGSTON SEAGULL 111-12 (1970) (second alteration in original; emphasis added):

The next night from the Flock came Kirk Maynard Gull, wobbling across the sand . . . to collapse at Jonathan's feet. "Help me," he said very quietly, speaking in the way that the dying speak. "I want to fly more than anything else in the world . . ."

"Come along then," said Jonathan. "Climb with me away from the ground, and we'll begin."

"You don't understand. My wing. I can't move my wing."

"Maynard Gull, you have the freedom to be yourself, your true self, here and now, and nothing can stand in your way. It is the law of the Great Gull, the Law that Is."

"Are you saying I can fly?"

"I say you are free."

with Spivak, *supra* note 2, at lxxvii ("The fall into the abyss of deconstruction inspires us with as much pleasure as fear. We are intoxicated with the prospect of never hitting bottom."). See generally EMERSON, *supra* note 12, at 10-11 ("The wonder of the science of Intellect ["epistemology?"] is . . . that it intoxicates all who approach it." (emphasis added)).

Apart from nonintellectualized pleasure (or at least sensation), perverse or otherwise, perhaps professional and/or "self(?)-esteem"-oriented factors are the deciding considerations for some. See generally Jeffrey Toobin, *Supreme Sacrifice*, NEW YORKER, July 8, 1996, at 43, 45:

When I started working on this story, [Laurence] Tribe faxed me, unbidden, student evaluations of his courses. (They were very favorable.) His résumé, which he also sent, includes not only the citations from each of four honorary degrees he has received (e.g., "the foremost constitutional thinker of our time") but such esoterica as his victory in a pastel-drawing competition when he was sixteen. When I went to see him in Cambridge, as soon as I arrived he handed me several news clippings about himself, which had the especially favorable sections outlined with a yellow highlighter. [.]

We must therefore also consider the desire for "sterile" (nonpolitical) power, *cf. supra* (citing John L'Heureux on sex); *infra* note 50 (quoting the former director of Freud archives on same); STANLEY ROSEN, HERMENEUTICS AS POLITICS 178 (1987) ("[M]uch of the Anglo-Saxon celebration of postmodernism reduces . . . to the question of who will be the next president of the Modern Language Association."), or social acceptability, *cf. WURTZEL, supra* note 10, at 15-16 ("I had convinced all the girls in my first-grade class that I was their boss . . . if they didn't agree to accept me as their boss, none of the people I'd already taken in would be allowed to be their friends . . ."); *id.* at 3 ("Maybe we're still the nerds we were in high school who get enough of a kick out of the possibility of being popular that we actually did bring this on ourselves."); Nehamas, *supra* note 17, at 29 ("Michel Foucault[s] adolescence and early adulthood were unhappy, and he attempted suicide more than once."); POWELL, *supra* note 17, at 10:

[Jacques] Derrida . . . dream[ed] of a career as a [soccer] star. Upon failing his baccalaureate, he became withdrawn, lost himself [?] in reading Rousseau, Gide, Nietzsche, Valéry, and Camus, and managed to publish some fledgling lines of verse in small North African reviews . . . [A]fter a couple of failed attempts[,] he attended the École Normale Supérieure . . . [.]

WAGNER, *supra* note 10, sc. 1 (suggesting that the dwarf Alberich's desire for the ring — and power — was motivated by his certainty that he could not find love in any event); CONRAD, *supra* note 2, at 50 ("Kurtz, Kurtz — that means 'short' in German — don't it?"); L'HEUREUX, *supra* note 10, at 18 ("[A]lmost all the young Turks were short."); WAGNER, *supra* note 10, sc. 3 (noting Alberich's willingness to morph himself into a toad); L'HEUREUX, *supra* note 10, at 32 ("Then there was

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Daryl, the cabdriver/bartender. He was a fifth year student in comp lit and therefore very likely unbalanced. Poor Daryl. He wanted to fit in whatever the cost."); *id.* at 241 ("It was like a tragedy except that the people were not big enough for tragedy. But were any people, ever, too small for tragedy?"); *but cf.* PYNCHON, *supra* note 24, at 770 (noting that Blicero had been "changing, toad to prince, prince to fabulous monster"); *but cf.* Alfredo Mirandé, "Revenge of the Nerds," or Postmodern "Colored Folk?": Critical Race Theory and the Chronicles of Rodrigo 59 (unpublished manuscript, on file with author) (criticizing Richard Delgado's flavor of essentialism: "Rodrigo is clearly a nerd."); Michael Tomasky, *Waltzing with Sweeney*, LINGUA FRANCA, Feb. 1997, at 40, 41 ("[Richard] Rorty boasting in a . . . note to Nelson Lichtenstein . . . 'I can tell my grandchildren I was on the same stage as John Sweeney.'"); *hear* THE BEATLES, *Revolution 1*, *supra* note 26 ("[I]f you go carrying pictures of Chairman Mao . . ."); *cf.* ZAMYATIN, *supra* note 4, at 22 ("[T]here are some whose love many people want, and others whose love nobody wants."); ARTHUR RIMBAUD, *A Heart under a Cassock: Confidences of a Seminarian* (1924), in RIMBAUD: COMPLETE WORKS, SELECTED LETTERS 261, 281, 283 (Wallace Fowlie trans., University of Chicago Press 1966):

[H]eavy laughter shook my listeners. Thimothina looked at my shoes. I was warm, my feet burned as she watched them, and they swam in their sweat; for I said to myself: these socks I have been wearing for a month are a gift of her love, the glances she casts on my feet are a token of her love. She worships me!

Then some slight smell seemed to come from my shoes. Oh! I understand the horrible laughter of those people! . . .

. . . [B]urning with love, crazed with grief, I picked up my hat, upset a chair as I fled, crossed the hall as I murmured: I worship Thimothina, and fled to the seminary without stopping . . .

. . .

. . . I was born for love and for faith. — One day perhaps . . . I will have the happiness of hearing Thimothina's confession . . . And then, I have a sweet remembrance from her: for a year I have not removed the socks she gave me

. . . .

O God, I will keep these socks on my feet until I reach your blessed Paradise! . . . [:]

NABOKOV, *supra*, at 229-30:

[S]uch was the fate of Chernyshevski that everything turned against him . . . He, for instance, was for synthesis . . . for the living link (reading a novel he would kiss the page where the author appealed to the reader) and what was the answer he got? Disintegration, solitude, estrangement. . . . For everything he was returned "a negative hundredfold," in Strannolyubski's happy phrase, for everything he was backkicked by his own dialectic. . . . Everything that he touches falls to pieces. It is sad to read in his diary about the appliances of which he tries to make use — scale-arms, bobs, corks, basins — and nothing revolves, or if it does, then according to unwelcome laws, in the reverse direction to what he wants: an eternal motor going in reverse — why, this is an absolute nightmare, the abstraction to end all abstractions, infinity with a minus sign, plus a broken jug . . . [:]

but cf. Katz & Wagner, *supra*, at 21 ("[Chernyshevsky] . . . provided déclassé intellectuals with a social role that gave them . . . self[?]-esteem regardless of the success or failure of their actions."); RIBOWSKY, *supra* note 164, at 164 ("After that first season, Al [Davis] had suggested to George Ross that [*Oakland*] *Tribune* stories about him include the word 'genius,' which they did, and often."); *id.* ("He's a very insecure man." (quoting Gladys Valley)); *but cf.* NABOKOV, *supra*, at 237 ("[D]uring penal servitude, [Chernyshevsky] turned out to be . . . incapable of doing any of a convict's special tasks . . . [A]t the same time he was constantly

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butting in to help his fellow man: 'Keep out of what does not concern you, you pillar of virtue,' the other convicts used to say gruffly"); *but cf.* TONY JUDT, PAST IMPERFECT (1992) (discussing Marxist "fashion" among post-World War II French "intellectuals"); Nehamas, *supra* note 17, at 29 (noting that Michel Foucault "drifted in and out of the Communist Party"); POWELL, *supra* note 17, at 10 ("In the 60s, [Derrida] joined the fervor of intellectualism ["intellectualism?"] surrounding the avant-garde journal *Tel Quel*, an ultra-left publication celebrating, among other things, Maoism . . . and the ability [of language] to suggest many meanings."); *infra* note 39 (noting that in the sixties, Foucault had *one-upped* the Parisian Maoists); PYNCHON, *supra* note 2, at 4 (commenting on Mucho's sensitivity: "The sight of sawdust, even pencil shavings, made him wince"); HEINLEN, *supra* note 5, at 66 ("[Mike] did understand that grass was living beings 'Walk on living things?' he asked with incredulous horror."); *Fortune Cookie 4*, *supra* note 9 ("You will be advanced socially without any special effort."); ORWELL, *supra* note 1, at 123 ("Always yell with the crowd, that's what I say. It's the only way to be safe."); BENJAMIN, *supra* note 22, at 458 ("Germans, Drink German Beer!" (quoting sign (not "sign"))); *id.* ("No one sees further than the back before him, and each is proud to be thus exemplary for the eyes behind."); CYRA MCFADDEN, THE SERIAL 8 (1977) ("[T]he Harrisses had become good friends . . . because they, too, belonged to the ACLU and the Sierra Club"); *but cf.* PYNCHON, *supra* note 24, at 770 ("I haven't transcended. I've only been elevated." (quoting Enzian)).

In a proximate vein is the possibility that "it" might be a desire among some academicians to have their fields perceived as being at the center (*gaspl!*) of the intellectual "action," *cf.* L'HEUREUX, *supra* note 10, at 32 ("Then there was this Kurtz to consider, and his little conspiracy. A small man. An ambitious man. He wanted to be at the center of things"); ARONOWITZ, *supra* note 10, at 17 ("[A] polyglot of humanists and social scientists have loosely affiliated under the sign of 'cultural studies' — a heading derived from the FAMOUS Birmingham Centre for Contemporary Cultural Studies . . . which, for most of its almost thirty-year existence, was assiduously ignored" (emphasis added)); Zalewski, *supra* note 24, at 19 ("the inner corners of the brows drawn together and upward, cheeks raised, slight deepening of the nasolabial fold, and slight depression of the lip corners"); *but cf.* D.A.F., *Post-Modern Dental Studies*, 4 CONST. COMMENTARY 219, 221 (1987) ("Never before has dentistry been so much in the forefront of the revolutionary social thought of an epoch."); Rick Perlstein, *Depreciate This!*, LINGUA FRANCA, Sept. 1997, at 12, 13-14 ("This is where the crit[ical accounting] 'theorists' come to town, armed with citations from Foucault and Marx"); Frank Lentricchia, *Last Will and Testament of an Ex-Literary Critic*, LINGUA FRANCA, Sept.-Oct. 1996, at 59, 60 ("It is impossible . . . to exaggerate the heroic self-inflation of academic literary criticism."); W.J. Mitchell, *Introduction to AGAINST THEORY*, *supra*, at 1, 1-2 ("[T]heory has . . . become one of the 'glamour' fields in academic literary study."); *but cf.* Lentricchia, *supra*, at 60 ("But T.S. Eliot could really write, and you can't."); *but cf. infra* note 33 (contemplating the significance of glamour to the Harlequin); KAFKA, *supra* note 20, at 274 ("A large circus . . . can always find a use for people"); DUMAURIER, *supra* note 24, at 273 ("It was like a genial little court of bohemia."); *but cf.* HEMINGWAY, *supra* note 24, at 83 ("I think it's a brothel!"); Strickland, *supra* note 12, at 492-93 ("In a letter to a German friend in 1903, Einstein proclaimed, ' . . . The whole comedy has become a bore I am tired of this [Academic] circus.'") (second alteration in original), or employment in a trendy age, absent any recognizable intradisciplinary excellence, *cf.* Collier, *supra* note 10, at 192 (describing a "generation of new legal scholars . . . who undoubtedly would have entered" the humanities or social science fields "in more auspicious times"); Sander L. Gilman, *Habent Sua Fata Libelli*; *or, Books*,

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Jobs, and the MLA, 111 PMLA 390, 393 (1996) (“Three times in the last month students have told me they intend to go to law school or medical school because they do not see the sense of spending five years studying German, English, or comparative literature with no chance of getting a ‘real’ job.”); D.A.F., *Gresham’s Law of Legal Scholarship*, 3 CONST. COMMENTARY 307 (1986) [hereinafter D.A.F., *Gresham’s Law*] (discussing academic attraction to the “false but novel,” boredom with the “true but trite,” and the possible operation of the law of adverse scholarly selection in one field not formally bound by logic and/or empiricism (emphasis added)); WITTGENSTEIN, *supra* note 23, at 127 (“One could say: ‘Unfamiliarity is much more of an experience than familiarity.’”); Rushdie, *supra* note 16, at 104 (“[T]hese days the thing about incomprehensibility is that people aren’t supposed to get it.”); *but cf.* Weinberg, *supra* note 10, at 12 (discussing a few of the “physics and mathematics bloopers” in purportedly interdisciplinary literature):

Stanley Aronowitz misuses the term “unified field theory.” The feminist theorist Luce Irigaray deploras mathematicians’ neglect of spaces with boundaries, though there is a huge literature on the subject. The English professor Robert Markley calls quantum theory nonlinear, though it is the only known example of a precisely linear theory. And both the philosopher Michael Serres . . . and arch-postmodernist Jean-François Lyotard grossly misrepresent the view of time in modern physics. [.]

But cf. L’HEUREUX, *supra* note 10, at 42-44 (emphasis added):

[T]hey would . . . dissolve the English department. That is, they would . . . create a new department — [Kurtz] made capital letters in the air — The Department of Theory and Discourse.

. . . . [This department] would include Comp Lit, Mod Thought . . . you name it. It would take on all written documents . . . whether . . . a 1950 tax form or the label on a Campbell’s soup can; are you following me? — and subject them all to the probing, thrusting, hard-breathing analysis of the latest developments in metaphilosophical transliterary theory. Whatever those theories might be.

. . . . “And what about the people who want to teach literature?” Olga asked. . . .

. . . . They could just remain behind and teach in a program of Eng Lit. A program, not a department. A program is answerable to a department.

“They’ll be separate,” Olga said, “but not quite equal.”

“You got it,” [Kurtz] said, and rushed ahead He had the votes of all the new people; *they’d been hand-chosen with this in mind.* [.]

ALINSKY, *supra* note 10, at 113 (“Power is the reason for being of organizations.” (emphasis added)); John Sexton, *The President’s Message: Restoring the Notion that Lawyers Are Society’s Conscience*, THE NEWSLETTER ASSN. AM. L. SCHOOLS, Apr. 1997, at 1, 5 (encouraging the “trend [] toward . . . interdisciplinary [“interdisciplinary”] courses” in American law schools); Flyer I Received Earlier Today from the AALS Conference on Clinical Legal Education (Sept. 2, 1997) (on file with author) (emphasis added) (suggesting that I attend one of its meetings):

The . . . Conference . . . will challenge us [“us”?] . . . to ask some *critical* questions about the teaching of values. Should we [?] be trying to teach values? . . .

. . . . [W]e [?] want to learn how various theories [“theories”?] help . . . us [?] in critiquing [?] those values that are assumed [by you?] as well as [in contrast with?] those which are . . . *dominant [gasp!]* in *our* [?] clinical teaching.

. . . Small groups will be created to enable those of us with less teaching

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experience [you?] ["hegemony?"] to work with those who are more experienced ["us"?] . . . as well as [present] an opportunity for some persons ["us"?] to show how they ["we"?] have used CERTAIN techniques The key element . . . is to create an atmosphere that encourages us [you?] to take risks [conform and submit?] [;]

CHERNYSHEVSKY, *supra*, at 282 ("Everyday occurrences demonstrate the usefulness of maintaining close contact with a CERTAIN circle of people." (emphasis added) (quoting Rakhmetov)); Flyer I Received Earlier Today from the Society of American Law Teachers *Conference on Reconceiving Legal Pedagogy* (Aug. 8, 1997) (on file with author) (emphasis added) (suggesting that I attend one of its meetings):

[A] central mission of [SALT] has been the effective education ["education"?] of law students to become progressive ["progressive"?], socially conscious [?] lawyers who care [?] and think critically ["critically"?] about the effect of law [apparently, law] Diversifying ["diversifying"?] law school . . . faculties and transforming ["transforming"?] the curriculum are fundamental [oops!] to that mission.

. . . .

Several movements . . . *such as* [cute?] critical race theory ["theory"?], feminist theory [same], and clinical theory [Wow! a new one! *But cf.* MICHEL FOUCAULT, *THE BIRTH OF THE CLINIC* (A.M. Sheridan Smith trans., Pantheon Books 1973).] . . . built upon new ["new"?] visions ["visions"?] of . . . the legal system [T]hese . . . perspectives can help us to construct . . . LEGAL education [;]

J.M. Balkin, *Agreements With Hell and Other Objects of Our [?] Faith*, 65 *FORDHAM L. REV.* 1703, 1724 (1997) ("We can be the MASTERS of . . . CONSTITUTIONAL destiny." (emphasis added)); L'HEUREUX, *supra* note 10, at 133 ("Next to this, the Department of Theory and Discourse was small beer indeed."); *id.* at 44 (quoting Kurtz noting that "[h]e had already softened up the Deans"; *see generally supra* text accompanying note 18 (defining "constitutional law"); *supra* text following note 15 (defining "children"); L'HEUREUX, *supra* note 10, at 248 ("There was the high bright sound of shattering glass").

Or perhaps a corresponding and equally paradoxical [?] desire to *fill* the *abysses* at the centers of intrinsically academic disciplines experiencing intellectual [not "intellectual"] heat death, *cf.* David Lodge, *CHANGING PLACES* 35 (1975) ("[Morris Zapp] had embarked . . . on an ambitious critical project: a series of commentaries on Jane Austen which would work through the whole canon . . . to put a definitive stop to the production of any further garbage on the subject."); Thomas Pynchon, *Entropy*, 22 *KENYON REV.* 277 (1960) (contemplating entropy); FARIÑA, *supra* note 7, at 231 ("'Exempt.' 'We share a dissipating current, Gnosso. Like transformer coils . . . we mistake induction for generation. Vicarious sampling is all that remains; the sour evening games of the academies.'" (quoting dialogue between Gnosso and David)); HEINLEN, *supra* note 5, at 61 ("'As it was in the Beginning, is now and ever shall be' was so Martian that it could be translated more easily than 'two plus two makes four'"), or a quick fix — the only necessary weapons being envy, hubris, and ignorance — for the lack of perceived [But *esse est percipi*, eh? *Cf. supra* (quoting Stanley Fish); *see generally infra* note 68 (quoting Bishop Berkeley).] intellectual parity between academics in the fields, for example, of the humanities and social sciences and those in the fields of natural science, applied science, or mathematics, *see* PAUL R. GROSS & NORMAN LEVITT, *HIGHER SUPERSTITION* 5-6 (1994); *cf. infra* text following note 35 (defining "hierarchy"); Stone, *supra* note 10, at 36 ("[P]sychoanalysis . . . is an art form that belongs to the humanities and not to the natural sciences. It is closer to literature than to science and therefore . . . is not a cumulative discipline.").

Or perhaps "Gallic hubris [and/or Anglophone sycophancy?] in attributing to

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writing in general the inherited properties of French *écriture*," ROSEN, *supra*, at 178; cf. BREAKFAST THEORY, *supra* note 10 (noting that Foucault Flakes's motto is "It's French, it must be good."); LEHMAN, *supra* note 10, at 24 ("It was de Man who gave deconstruction its first American headquarters — the French and comparative literature departments of Yale University . . ."); but cf. James T. McHugh, *Is the Law "Anglophone" in Canada?*, 23 AM. REV. CANADIAN STUD. 407 (1993) (drawing distinctions between English and French); J.M. Balkin & Sanford Levinson, *Constitutional Grammar*, 72 TEXAS L. REV. 1771, 1771 (1994) ("The Academié, the official arbiter of the French language, has grown increasingly concerned over the use of American words . . . by French speakers. . . . [T]he French Parliament [has] felt it necessary to add to the French Constitution the sentence "The language of the Republic is French" . . ."); *id.* at 1771 n.2 (noting that the addition was in French); Adam Gopnik, *Paris Journal: Appointment with a Dinosaur*, NEW YORKER, Apr. 21, 1997, at 54 (bemoaning the cross-cultural (gasp!) appeal of Barney); but cf. DUMAURIER, *supra* note 24, at 44 ("Svengali . . . spoke fluent French with a German accent . . . and his voice . . . often broke into a . . . falsetto."); ARONOWITZ, *supra* note 10, at 16:

While the "French" turn in Anglo-American cultural theory appears predominant . . . most of the work of the schools loosely known as structuralism and poststructuralism are elaborate metacritiques on works that emanate from German philosophy, particularly the Kantian and Hegelian traditions, with a more than liberal dose of Nietzsche, Husserl, and Heidegger. Kant and his epigones provide the referent for nearly all the major French philosophers and social theorists from Lacan, Lévi-Strauss, and Althusser to Derrida and Foucault. [:]

MANN, *supra* note 2, at 223 ("I understand only German." (quoting you-know-who)); but cf. TOLSTOY, *supra* note 12, at 36 ("[H]owever cloudy the Germans may be, the French, once they absorb the theories of the Germans and take to imitating them, far surpass them in uniting heterogeneous conceptions into one expression and putting forward one meaning or another indiscriminately."); but cf. RORTY, *supra* note 20, at 122 ("Derrida learns from Heidegger that phonemes matter, but he realizes that Heidegger's litany is just Heidegger's, not Being's or Europe's."); but cf. *infra* note 56 (quoting Richard Wolin supporting the proposition that it was also — intrinsically — Adolf Hitler's); *supra* note 26 (quoting Alan Stone contrasting the emotional power of the English and German languages); PYNCHON, *supra* note 24, at 842:

America was the edge of the World. A message for Europe, continent-sized, inescapable. Europe had found the site for its Kingdom of Death But Europe had gone deeper — into obsession, addiction, away from all the savage innocences. America was a gift from the invisible powers, a way of returning. But Europe refused it. It wasn't Europe's Original Sin . . . but it happens that Subsequent Sin is harder to atone for. [:]

Pevear, *supra* note 10, at xi ("In the social displacement of an imported culture, Dostoevsky perceived a more profound human displacement, a spiritual void filled with foreign content."); but cf. MANN, *supra* note 2, at 504 ("I have . . . pondered ways and means of sending *these* pages to America . . ." (emphasis added)); see also WHITMAN, *supra* note 2, at 3:

I heard that you ask'd for something to prove this puzzle
the New World,
And to define America, her athletic Democracy,
Therefore I send you my poems that you behold in them
what you wanted. [:]

STEIN, *supra* note 3, at 21 ("[P]erhaps Europe is finished.").

Also among the possibilities is that the attraction of the abyss (and/or no thing)

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is less pseudo-intellectualized and shallow, but rather stems from chronic and perhaps genetically determined depression and/or undifferentiated anxiety. Cf. WURTZEL, *supra* note 10, at 32-33 ("Pamela, my first cousin, tried to end it all by slitting her wrists [H]er brother had also tried I could just as easily dismiss the thing about my great grandmother's dying in the asylum as insignificant."); MANN, *supra* note 2, at 32 ("[B]ut a physiological explanation is also possible"); WARHOL, *supra*, at 81 ("I always bring every problem back to chemicals, because I really think everything starts and finishes with chemicals."); JULIA KRISTEVA, BLACK SUN 33 (Leon S. Roudiez trans., Columbia Univ. Press 1989) (1987) ("Inconsolable sadness . . . is perhaps biological in part: too much speed or too much slowing down of neural flow unquestionably depends on given chemical substances that are present in each one of us in varying degrees."); Michael D. Lemonick, *The Mood Molecule*, TIME, Sept. 29, 1997, at 75, 77 ("Anxiety disorders . . . probably reflect serotonin deficits in the amygdala, the part of the brain that processes fear and other emotions." (emphasis added)); watch HIGH ANXIETY (Twentieth Century-Fox 1977); hear THE DOORS, *End of the Night*, on THE DOORS (Elektra Records 1967) [hereinafter THE DOORS, *End of the Night*] ("Some are born to the endless night."); but cf. WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY (2d ed. 1983) ("[P]sychosis . . . in psychiatry, [is] any mental disorder in which the personality is very seriously disorganized: psychoses are of two sorts . . . functional (characterized by lack of apparent organic cause, and principally of a schizophrenic or manic-depressive type), and . . . organic (characterized by a pathological organic condition)"); WURTZEL, *supra* note 10, at 345 ("[D]epression does run in my family, but that might just be because we're all subject to being raised by other depressives."); *infra* note 39 (contemplating, inter alios, B.F. Skinner); J. Hillis Miller, *Bleak House*, in TWENTIETH CENTURY INTERPRETATIONS OF BLEAK HOUSE 74, 82 (Jacob Korg ed., 1968) [hereinafter Miller, *Bleak House*] ("[I]f the deterioration of the characters in *Bleak House* can appear as the inescapable fulfillment of an inner principle of corruption, it can also appear as a destiny which draws the characters . . . toward their doom. Instead of being pushed from behind or . . . within, [they] may be attracted from the future."); FARÍÑA, *supra* note 7, at 290 ("[G]nossos] was inspired to court the abyss." (emphasis added)); *supra* (contemplating Emmanuel Levinas, and "inspiration" by the "psyche"); Edna Gundersen, *At the Heart of Dylan*, USA TODAY, Sept. 29, 1997, at D1 ("I am attracted to self-destruction." (quoting Bob Dylan) (emphasis added)); THE DOORS, *The End*, on THE DOORS, *supra* ("The blue bus is calling us.") [hereinafter THE DOORS, *The End*]; William B. Swann, Jr. et al., *Allure of Negative Feedback: Self-Verification Strivings Among Depressed Persons*, 101 J. ABNORMAL PSYCHOL. 293, 293 (1992) (emphasis added) (citations omitted):

Consider this: People with *negative self-concepts* seem to behave in ways that generate the very conditions from which they suffer. As paradoxical as this assertion may seem, a growing body of evidence . . . has led some to conclude that . . . depressed people . . . are the unwitting *architects* of the social conditions that make them miserable. . . .

Researchers have sought to explain such . . . behavior by asserting that the tendency of depressives to despoil their social environments is inadvertent [S]ome have suggested that depressives alienate others through EXCESSIVE APPROVAL SEEKING . . . others have pointed to . . . INAPPROPRIATE SELF-DISCLOSURE, INTROVERSION AND OVERDEPENDENCE, and so on

In this report we suggest that the rejection-cultivating activities of depressives are not nearly so inadvertent as previous workers have assumed. [;]

hear SUICIDAL TENDENCIES, *The Feeling's Back*, on HOW WILL I LAUGH TOMORROW WHEN I CAN HARDLY STOP CRYING TODAY? (Hardcore Records 1988).

See also WURTZEL, *supra* note 10, at 79 ("I was kind of weird as thirteen-year-

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olds go, but it's not like I needed to be relocated to another planet in order to fit in. Or maybe I did."); Gleick, *supra* note 23, at 33:

At least one [Heaven's Gate member] who died in Rancho Santa Fe offers a hint in the farewell videotape that all these people may not have been quite as happy as they seemed: "I don't have any choice but to go for it, because I've been on this planet for 31 years, and there's nothing here for me." [.]

KAFKA, *supra* note 20, at 277 ("I always wanted you to admire my fasting," said the hunger artist 'But you shouldn't admire it . . . [b]ecause I *have* to fast, I can't help it I couldn't find the food I liked.')" (emphasis added); NELSON, *supra*, at 79 ("My editor, the feminist, who is supposed to be my advocate, seems to spend much of her time eating raw carrots and celery, making calls to her ailing mother in California, and complaining."); D.A.F., *The Deconstructed Grocery List*, 7 CONST. COMMENTARY 213 (1990); WARHOL, *supra*, at 131 ("I go and eat, just because I have money, not because I'm hungry."); NEWSWEEK, July 21, 1997, at 4 (advertisement suggesting ingestion of Prozac) ("When you're clinically depressed . . . the level of serotonin . . . may drop. So you may . . . [f]eel unusually sad or irritable[.] [l]ose your appetite . . . [o]r have trouble feeling pleasure."); DAVID EDGAR, MARY BARNES 74 (1979) ("[Angie's] been eating cigarettes."); *but cf.* ZAMYATIN, *supra* note 4, at 54 ("[W]hoever shall poison himself with nicotine . . . need expect no mercy from OneState" (quoting the Benefactor)); *but cf.* RICHARD KLEIN, CIGARETTES ARE SUBLIME at x (1993) ("Italo Svevo's novel *The Confessions of Zeno* . . . [presents] the fictional memoirs of a man who spends his entire life trying to stop smoking, and . . . succeeds only late in life, when . . . he . . . concludes that . . . giving up smoking is itself a way of life, no better or worse than any other."); *watch* ALICE, *supra* note 14 ("I just wanted to ask you which way I ought to go.' 'That depends on where you want to go.' 'Oh, it really doesn't matter.' 'Then it really doesn't matter.'" (quoting dialogue between Alice and the Cheshire Cat)); *cf.* WURTZEL, *supra* note 10, at 145 ("Couldn't talk and thoughts of suicide be considered . . . a special subcategory of depression in which the loss of a will to live has not quite been displaced by a determination to die?"); GEOFFREY WOLFF, BLACK SUN 295 (1976) (quoting Archibald MacLeish contemplating the possibility that Black Sun Press founder Harry Crosby's double-suicide (?) with Josephine Bigelow may have been the result of a dare):

This whole thing caught up with Harry; he'd built it up, the black sun, a philosophy with edges of demonology in it; he peddled it to an awful lot of girls. This one, apparently, took it seriously. Then he was faced with a situation from which there was no escape whatever. He couldn't walk out of that place alive. [.]

id. at 295-96:

Gretchen Powel, who ate lunch with Harry the day he shot himself . . . said that he was annoyed that Josephine had not left New York as she had promised, but continued to pester him, and had even threatened to kill herself in the lobby of the Savoy-Plaza if he didn't agree to see her again that day. . . . Mrs. Powel remembers that [Harry] talked a great deal about suicide, but said that his talk was "just literary." . . .

. . . "I'm sure he had no intention of doing it at all," [she said]. . . . "[T]he joke turned back on him." [.]

Thus, we need also consider intensely personalized needs, *see generally* Martha Minow, *The Young Adulthood of a Women's Law Journal*, 20 HARV. WOMEN'S L.J. 1, 2 (1997) ("A slogan of the women's movement of the 1960s and 1970s, 'The personal is political,' has also spurred recognition of the converse truth: *the political is personal*." (emphasis added)), for therapy (*pharmakon?*) following *anomie*, *ennui*, *Angst*, paranoia, too many monochromatic, *but cf. infra* note 68 (discussing ones and zeros), Bergman movies in college, *cf.* WURTZEL, *supra* note 10, at 96 ("I

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even bought a . . . party dress . . . but . . . felt ridiculous in it, like a circus character who'd accidentally fallen into a Fellini movie when I really belonged in the Nordic desperation of . . . Bergman's *Seventh Seal*.”); watch ALICE, *supra* note 14 (“It's getting dreadfully dark.” (quoting Alice)); but cf. James C. Maxwell, *On the Theory of Colours in Relation to Colour-Blindness* (1855), in 1 THE SCIENTIFIC PAPERS OF JAMES CLERK MAXWELL 119 (W.D. Niven ed., 1890) [hereinafter MAXWELL PAPERS]; ABBOTT, *supra* note 12, at 36-37:

Colour . . . once for the space of a half dozen centuries or more, threw a transient splendor over the lives of our ancestors

The fashion spread like wildfire. Before a week was over, every Square and Triangle in the district had copied the example of the Chromatisites [W]ithin two generations no one in all Flatland was colourless except the Women and the Priests. [.]

but cf. *id.* at 40 (“Soon, they began to insist that all . . . individuals and all classes should be recognized as absolutely EQUAL” (emphasis added)); *id.* at 49 (“Needless to say that henceforth the use of colour was abolished Even the utterance of any word denoting colour, except by the Circles . . . was punished by a severe penalty.”); STEIN, *supra* note 3, at 51 (“And then they got sadder.”), too many bleak and monochromatic winters in Berlin, Paris, New Haven, or in caves, see *Endlessly Grey Skies Cause Serious Blues: Lack of Sunlight Blamed for Number of Depression Cases*, OTTAWA CITIZEN, Jan. 6, 1997, at A1; Kathleen Seiler, *Look Toward the Light: For Some, Winter Gloom Triggers Seasonal Affective Disorder*, SYRACUSE HERALD-JOURNAL, Feb. 24, 1996, at A12 (“Latitude plays a role, [Dr.] Kuehnelt says, ‘The farther north a person is, the more susceptible to SAD she is.’”); cf. Miller, *Bleak House*, *supra*, at 74-77 (discussing Dickens's fog); WURTZEL, *supra* note 10, at 110 (“[T]he rain was ominous. . . . It was the rain that Dylan sings about in ‘A Hard Rain's Gonna Fall.’ *Where black is the color and none is the number*”); LODGE, *supra* at 20-21 (“It was raining hard the morning they docked at Southampton, and Philip caught a cold which lasted for approximately a year. . . . Sometimes he came across snapshots of himself and Hilary in Euphoria, tanned and confident and gleeful, and . . . he would gaze at the figures in envious wonder”); but cf. MCFADDEN, *supra*, *passim* (contemplating Marin County, and fog); WURTZEL, *supra* note 10, at 35 (“There is [a] . . . shot of me [as a two-year old] sitting . . . on a park bench . . . a cryptic, pensive expression on my face. . . . [I]t ended up on a greeting card with . . . haiku-ish words on it saying, ‘People like me like people like you.’ Apparently it sold well in California.” (emphasis deleted)); but cf. MARY A. DUDKO & MARGIE LARSEN, BARNEY'S WEATHER BOOK 1 (1995) (“Barney has fun . . . in all kinds of weather.”), or uncontested PERSONAL defeat, cf. PYNCHON, *supra* note 2, at 3 (“Today was another defeat, [Mucho] began.”); HERRIGEL, *supra* note 16, at 5 (“The [zen] Buddhist starts from the assumption that *life is suffering*.” (emphasis added)); but cf. *supra* (quoting Hillis Miller suggesting that “critique” may be “cure” for *mises en abyme*); but cf. *Fortune Cookie* 5, *supra* note 9 (“A merry heart doeth good like a medicine.”); WHITMAN, *supra* note 2, at 45 (“Each moment . . . thrills me with joy”); hear DUKE ELLINGTON, *When You're Smiling (The Whole World Smiles With You)*, on 3 ROCKIN' IN RHYTHM 1929-1931 (MCA Records 1990); but cf. WURTZEL, *supra* note 10, at 10 (emphasis added):

Julian says stuff like, Happiness is a choice, you've got to work toward it. He says it like it's an insight or something.

. . . .

He says . . . Pull yourself together!

I can't believe how *trite* all this is. For a moment I want to step out of myself so I can teach him some better interpersonal skills, so I can help him learn to sound a little more *sensitive*, a little more *empathic* than all this. [.]

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But perhaps at least the non-“legal” (“sterile”) postmodernists seek decadence of a superficial kind, cf. Barnett, *supra*, at xxi (“One should either BE a work of art, or wear a work of art . . .” (emphasis added) (quoting Oscar Wilde)); *id.* (“Dandyism is the last burst of heroism in a time of decadence.” (quoting Charles-Pierre Baudelaire)), or paradoxically (“paradoxically”?), to achieve *individual* identity, but compare *supra* (noting Stanley Fish’s desire to be *perceived* as interesting) and RIBOWSKY, *supra* note 3, at 139 (“He likes the *mystique* . . . He likes to be able to walk away from a scene and know that behind him all the heads are gonna follow.” (emphasis added) (quoting George Ross on Al Davis)) with IRVING M. COPI & CARL COHEN, INTRODUCTION TO LOGIC 293 (8th ed. 1990) (“ $p \supset p$ ”) and MANN, *supra* note 2, at 16:

As you grew . . . and you can easily prove it by feeling your elbows and ribs, you formed in your insides a solid structure, a skeleton which gives your flesh and muscles stability, and which you carry round inside you — unless it be more correct to say it carries you around. Here it is just the other way: these creatures have put their solid structure outside . . . [.]

or to fulfill a related desire to shock, compare *infra* note 38 (quoting Tom Wolfe on “mau-mauing”) and CARLTON LAKE, IN QUEST OF DALI 11 (1st paperback ed. 1990) (1969) (“I want everybody to talk about Dali — even if they speak well of him.” (first emphasis added) (quoting Salvador Dali)) with *infra* note 38 (contemplating *zen* viewpoint on same) and WHITMAN, *supra* note 2, at 39 (“Do you take it I would astonish? Does the daylight astonish? [D]oes the early redstart twittering through the woods? Do I astonish more than they?”).

Or “authentic” *nostalgie pour la boue*. Cf. Miller, *Bleak House*, *supra*, at 78 (“The mud and fog of the opening paragraphs . . . are not . . . the primeval stuff out of which all highly developed forms evolve. They are the symptoms of a general return to the primal slime, a return to chaos . . . already nearing its final end . . .”); but cf. BROOKS, *supra* note 10, at 177 (“Whitman . . . absorbed the discoveries of science and the dawning conception of evolution, of the gradual *emergence* of life from the primitive chaos.” (emphasis added)); but cf. Miller, *Bleak House*, *supra*, at 85 (“Mr. Snagsby, being led . . . into the heart of Tom-all-Alone’s, ‘feels as if he were going . . . into the infernal gulf.’ What he sees is . . . a vision of hell . . .” (quoting DICKENS, *supra* note 2, at 364)); KRISTEVA, *supra*, at 5-6 (“[T]here is MEANING only in despair.” (emphasis added)); but cf. UMBERTO ECO, THE NAME OF THE ROSE 477 (William Weaver trans., Harcourt Brace Jovanovich, Inc. 1983) (1980) (“I would like to . . . take you on a leash to fairs, to say to all: He was announcing the truth to you and telling you that the truth has the taste of [D]eath, and you believed, not in his words, but in his grimness.” (quoting William addressing the blind monk Jorge)); but cf. WOLFF, *supra*, *passim* (lionizing poor, poor Harry Crosby); *infra* note 45 (noting the lionization of poor, poor Michel Foucault). But cf. MATEI CALINESCU, FIVE FACES OF MODERNITY 164 (Duke Univ. Press 1987) (1977) (“Renan is probably the first to have been aware . . . that the fascination with decadence and the apparently contradictory fascination with origins and primitivism are actually two sides of one and the same phenomenon.”); PADDY CHAYEFESKY, ALTERED STATES 79 (1978) (describing one of Jessup’s “transformations”):

“Eden, oh my god! The birth of man! That’s it! . . . A protohuman! . . . Tiny! . . . It’s me they’re hunting! . . . I’m struck by a stone! I’m down! . . . No pain! No pain! . . . He’s devouring me! . . . It’s my primordial me devouring me! . . . Beatitude! Absolutely transcendental! I’m it, and it’s me! . . . Pure, ultimate hunger! . . . The id! The incarnated id! . . .” Jessup’s report . . . broke into a curious croak . . . and then a series of quick clicking noises and then a strange, strangulated sort of howl. [.]

CONRAD, *supra* note 2, at 88 (“Mr. Kurtz’s knowledge of unexplored regions must

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have been necessarily extensive and peculiar . . ."); Norton, *supra* note 13, at 38 (noting that "interesting and peculiar" is "a high compliment in *Negativland*"); MANN, *supra* note 2, at 66:

The music of Ephrata . . . was too unusual . . . and arbitrary, to be taken over by the world outside, and hence it had sunk into practical oblivion But a faint legend had persisted down the years, sufficient in fact to make known how utterly peculiar . . . it had been [;]

PYNCHON, *supra* note 2, at 12 (describing a song that Mucho was fond of at one time); NABOKOV, *supra*, at 241-42 ("[Chernyshevsky] urgently wanted [Olga] to place her foot . . . on top of his head: his voluptuousness fed on symbols."); *but hear* THE GRATEFUL DEAD, *Here Comes Sunshine, on WAKE OF THE FLOOD*, *supra* [hereinafter THE GRATEFUL DEAD, *Here Comes Sunshine*] ("Good to know you got shoes to wear *when you find the floor*. . . ." (emphasis added)); *cf.* WHITMAN, *supra* note 2, at 52 ("I am afoot with my vision." (emphasis added)); *but cf.* CHERNYSHEVSKY, *supra* at 60-61 (contemplating shoes, and feet); DUMAURIER, *supra* note 24, at 47-48:

"I'm posing for Durien the sculptor"

. . . "[L]'ensemble, you know — head, hands, and feet . . . especially feet. That's my foot," [Trilby] said "It's the handsomest foot in all Paris."

And in truth they were astonishingly beautiful feet

Poor Trilby!

The shape of those lovely slender feet . . . facsimiled in dusty pale plaster of Paris, survives on the shelves and walls of many a studio . . . and many a sculptor yet unborn has yet to marvel at their strange perfection, in studious despair. [;]

MANN, *supra* note 2, at 22 (noting that Adrian's mother had "shapely feet"); NORRIS, *supra* note 10, at 5, 333 (contemplating shoes, and boots); PYNCHON, *supra* note 24, at 271-72 (contemplating boots); ORWELL, *supra* note 1, at 235 (same); L'HEUREUX, *supra* note 10, at 41:

[Kurtz] was staring at her feet.

"Leave off the feet," [Olga] said, with a vaguely Slavic accent.

. . . .

. . . He was a . . . man of considerable gifts. He was acknowledged as a brilliant teacher and a first-rate scholar. He had great plans . . . and was everything to founder now on the rocks of a foot fetish? . . . [Y]et he was overwhelmed by this desire to lick her long thin toes, to lap at her ankles and her heels, to worship quite literally at her feet. [;]

DOSTOEVSKY, *supra* note 2, at 128 ("[W]hy am I running after her? Why? To fall down before her, to weep in repentance, to kiss her feet, to beg forgiveness! I wanted it; my whole breast was tearing apart, and never, never will I recall this moment with indifference." (quoting the underground man)); DUMAURIER, *supra* note 24, at 250 ("[L]ook — *the foot!* Now have you got any doubts?" 'Oh yes — those are Trilby's toes, sure enough!'); HENLEIN, *supra* note 5, at 82 ("By the time he finished tears were running down his cheeks as well as hers, both bathed in catharsis of schmaltz."); *but hear* SHERYL CROW, *If It Makes You Happy, on SHERYL CROW* (A&M Records 1996) ("If it makes you happy, then why the hell are you so sad?"); *cf.* BARNARD, *supra* note 21, at 92 ("We feel sorry *because* we cry" (emphasis added) (quoting William James)); DUMAURIER, *supra* note 24, at 232-33 (emphasis added):

Suddenly Little Billee buried his face in his pillow and began to sob, and some instinct told Taffy this was the best thing that could happen. The boy had always been a highly-strung, emotional, over-excitable, over-sensitive, and quite uncontrolled mommy's darling, cry-baby sort of chap It was all a part of his *genius* It would do him good to have a good blub. [;]

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PYNCHON, *supra* note 29, at 826 (“[I]s he going to cry? . . . Who saves him (or interferes with his orgasm?)”); L’HEUREUX, *supra* note 10, at 47:

Robbie was crying in longer and longer sieges. Earlier on, he had cried and stopped, cried and stopped, but as noon approached he seemed to give himself over to it as a permanent way of life. It crossed her mind that he might very well — single minded as he was about everything — simply cry his way from here to the grave. [;]

DEILLO, *supra* note 14, at 79 (“They watched him with something like awe. Nearly seven straight hours of serious crying.”); *id.* at 78 (“This was an ancient dirge all the more impressive for its resolute monotony.”); MANN, *supra* note 2, at 486-87:

There, to the mystic horror of one sensitive to it, is realized a Utopia in form, of terrifying ingenuity, which in the *Faust* cantata becomes universal, seizes upon the whole work and . . . causes it to be completely swallowed up by thematic thinking. This giant “lamento” (it lasts an hour and a quarter) is very certainly non-dynamic, lacking in development . . . and always the same. [;]

T.S. ELIOT, *The Hollow Men*, *supra*, at 59 (“*This is the way the world ends Not with a bang but a whimper.*”); NABOKOV, *supra*, at 233 (“But hold! the theme of tears is expanding beyond all reason . . . let us return to its point of departure.”).

“It” might be nostalgia, but of a type not consciously directed toward *la boue*: perhaps a simple “yearning,” *see infra* note 45 (quoting Gabel & Kennedy quoting Duncan); BELL HOOKS, *YEARNING: RACE, GENDER, AND CULTURAL POLITICS* (1990); Joseph Frank, *N.G. Chernyshevsky: A Russian Utopia*, 3 S. REV. 68, 82-83 (1967) (“Nothing reveals more clearly [than *What Is to Be Done?*] the deep-rooted spirit of romantic and sentimental idealism that . . . inspired [the 1860s] Russian ‘realists’ And the great success of Chernyshevsky’s absurd novel . . . springs from its ability to tap these . . . emotional yearnings under the guise of ‘science’ and ‘practicality.’”); *but hear* GEORGE GERSHWIN, *Rhapsody in Blue*, on GERSHWIN: *RHAPSODY IN BLUE* (*Deutsche Grammophon* 1983) (1924) (also “yearning,” but perhaps with a different idea of progress in mind); *cf.* WHITMAN, *supra* note 2, at 23 (“*O music wild! O now I triumph — and you shall also . . .*” (emphasis added)), to reprise the ’60s, *see* KESEY, *supra* note 10, at 47 (“That summer sweet Frisco with flowers in your hair come back.”); DAVID HARRIS, *DREAMS DIE HARD* (1982); *hear* THE EAGLES, *Get Over It*, on *HELL FREEZES OVER* (Geffen Records 1994); *cf.* HOOKS, *supra* note 17, at 223:

Sometimes I get really distressed by the extent to which we, in the United States, have moved away from the idea of *communities* In the 60s there was a lot of focus on such communities, but that sort of died out, and a refocus on the nuclear family emerged.

. . . If I think about the communities that have gotten a lot of attention from the mass media . . . it was . . . never attention on shared worship, shared eating of vegetables (and not being meat eaters) But whenever something goes wrong . . . [;]

but cf. Carole Cable, *Cartoon*, *CHRON. OF HIGHER EDUC.*, July 25, 1997, at B11 (“At this time, we would like to pre-board all first-class passengers and academics who have written three or more books.” (quoting airline gate attendant)); SIMONE SIGNORET, *NOSTALGIA ISN’T WHAT IT USED TO BE* (Harper & Row 1978) (1976), by postmodernizing their conglomerate certainties, uncertainties, and utopianism, *compare* JOSEPH FLETCHER, *SITUATION ETHICS* 76 (1966) (“No twentieth-century man of even average training will turn his back on the anthropological and psychological evidence for relativity in morals. . . . Any precepts all men can agree to are *platitudes*” (emphasis added) (footnote omitted)) *with id.* at 68 (“Only one thing is intrinsically good, namely, *love*” (emphasis added)); *cf. infra* note 39 and accompanying text (defining and discussing “love”); HEINLEIN, *supra* note 5,

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at 22-23 (discussing "water brothers"); JEFFERSON AIRPLANE, *Triad*, on CROWN OF CREATION (RCA Records 1968) (same); HEINLEIN, *supra* note 5, at 181 ("[H]is head was buzzing with threes and powers of threes . . ."); *infra* note 33 (discussing "transformation" in the value of π); cf. ANN WILLIAMS-HELLER, *KABBALAH: YOUR PATH TO INNER FREEDOM* 134-35 (1990) (emphasis added):

The *three*-dimensional unity is at the core of every *genuine* tradition, including the ancient Chinese emblem of the Tao. There the masculine *Yang* and the feminine *Yin* unite within a circle to form the Diagram of the Supreme Ultimate.

Cosmic *triads* are too numerous to count . . . And yet most of us take *trinities* for granted, and only a very few are curious to ask for the *real* meaning of "the One that is *Three*" and "the *Three* that are *ONE*." [;]

LANFORD WILSON, *FIFTH OF JULY* 63 (1978) ("Four is too large for a ménage, too small for a commune."); *but cf.* 1 COPELSTON, *supra*, at 35 ("[F]or the Pythagoreans, every material body is an expression of the number Four, since it results, as a fourth term, from three constituent elements (Points, Lines, Surfaces)."); *but hear* THE VELVET UNDERGROUND, *Some Kinda Love*, on LIVE MCMXCH (Sire Records 1993) [hereinafter *VELVET UNDERGROUND*] ("[S]omeday, I know, someone will look into my eyes and say 'Hello! You're my very special one . . .'" [It's Lou Reed's band, and as you've already intuited, that also becomes relevant later on.].

See also VOICES FROM THE LOVE GENERATION 90 (Leonard Wolf ed., 1968) ("The women in the hippie community are very, very female. There are a lot of children around . . . and the women are going back and doing very feminine things, like weaving and cooking . . ." (quoting Maggie Gaskin)); HEINLEIN, *supra* note 5, at 91 ("The man-woman polarity which controlled human lives could not exist on Mars."); Lance Morrow, *Kids & Pot*, *TIME*, Dec. 9, 1996, at 26, 29 (emphasis added):

The boomers raised hell with authority in the '60s; now some have mixed feelings about asserting that authority themselves . . .

. . . .

. . . A haze of self-cherishing nostalgia confuses them. They want to be their child's friend [?]; *they do not wish to be uncool*. They may still smoke sometimes and hide it from their kids, as they once hid it from their parents — an amazingly demeaning drama of *ARRESTED DEVELOPMENT*. [;]

ANTHONY, *supra* at 24 ("Margaret [Fuller's] whole emotional life in childhood centered around the father who likened her to Juno and wrote verses to a lock of her hair."); *id.* at 10 ("If [Margaret's mother] had not been such a . . . self-sacrificing woman, her oldest daughter would have had better manners. But she seems to have yielded her place to her daughter without protest, consoling herself with reminiscences of her prowess as a schoolmistress before her marriage.") ["COMPLEX" "POWER PARADIGM" "PRACTICE"?]; *id.* at 14-15 ("When I recollect how deep the anguish, how deeper still the want with which I walked alone in hours of childish passion and called for a Father, after saying the word a hundred times, till it was stifled by sobs, how great seems the duty that name imposes." (quoting Margaret Fuller)); *but cf.* FLETCHER, *supra*, at 48 ("VALUE CHOICES ARE MADE . . . IN A FASHION EVERY BIT AS ARBITRARY AND ABSURD AS THE LEAP OF FAITH." (emphasis added)); McFADDEN, *supra*, at 31:

Jason was superintelligent, too . . . so he naturally dealt with John-John calmly once he stopped writhing. "John," he said, "I can only surmise that your impulsive gesture, in pouring hot coffee on your father, was the result of some instinctual aversion to the use of stimulants — an admirable course of action in the abstract but a painful one in actuality. I feel we should discuss the question of how one chooses the form of protest he employs as a vehicle for his convictions. It's difficult to entertain an honest difference of opinion

 DO YOU LIKE DADA?

on the rational level when one is suffering from third-degree burns, can you understand that?"

John-John gave him the finger, snatched Martha's baklava . . . and began to pull Gregor's hair. Martha thought it really spoke volumes for the Maginnises that he was so uninhibited. [;]

id. at 91:

Later, with John-John locked in the bathroom . . . Jason said[,] "You try to raise them to be free, and then they got all this *structure* coming down. Even at Montessori school they make them learn numbers. So what have you got? More *linear thinkers*."

. . . "You ought to send John-John to Camp Middle Earth," [Martha] said. "It's five hundred a week, but it's a *nurturing environment* . . ." [;]

Or not. See generally JOHN S. DACEY & ALEX J. PACKER, *THE NURTURING PARENT* (1992).

But perhaps "it" consists of a simple need for sanctuary, see DOSTOEVSKY, *supra* note 2, at 125 ("Leave us to ourselves, without a book, and we'll immediately get confused, lost — we won't know . . . what to hold to and what to despise. It's a burden for us even to be men — men with real, *our own* bodies and blood Soon we'll *con*ive to be born . . . from an *idea*" (second emphasis added)); but cf. HOOKS, *supra* note 17, at 225 ("One day I called up my mother (I think I was 22) and was crying, 'Daddy didn't love me!' . . . [A]fter an hour of tortuous conversation, she suddenly said: 'You're *right* . . . and I never understood why.'"); WURTZEL, *supra* note 10, at 82 ("I just wanted two parents who both loved me."); KEROUAC, *supra*, at 310 ("I think of Dean Moriarty, I even think of Old Dean Moriarty the father we never found, I think of Dean Moriarty."); SHNEIDMAN, *supra* note 24, at 87 ("The *father*, even in his absence, *starts* the life course to suicide."); compare STEIN, *supra* note 3, at 134 ("[F]athers are depressing but our family had one.") with BREAKFAST THEORY, *supra* note 10 (commenting on *Foucault Flakes*: "Finally, a breakfast commodity so complex that you need a theoretical apparatus to digest it. You won't want to eat it, you'll just want to *read* it. A literary tour de force: Breakfast as text!" (emphasis added)) and *supra* (discussing Kafka's hunger artist) and ECO, *supra*, at 472 ("I must say that your solution was exemplary: the victim poisoned himself when he was alone, and only to the extent that he wanted to read . . ." (alteration in original) (quoting William, addressing Jorge (before Jorge ate the book)) and ANTHONY, *supra* note 22 (quoting Margaret Fuller on the deployment of books as substitutes for real-world, real-life experience) and BENJAMIN, *supra* note 22, at 460 (commenting on the sign (not "sign") "Number 13": "Books and harlots interweave time. They command night as day, and day as night."); but hear THE DOORS, *Light My Fire*, on THE DOORS, *supra* ("Try to set the night on fire."); but cf. Gilman, *supra*, at 391 ("Books, especially for teachers of literature, seem to be the natural place to hide from the demons that haunt us.").

Or oblivion. Cf. PYNCHON, *supra* note 2, at 116 ("Notice how often the figure of Death hovers in the background."); SHNEIDMAN, *supra* note 24, at 59 ("There is . . . one undissemblable sign that almost never can be hidden, an aspect of mental life and behavior that is characteristic of the suicidal state of mind. It is called *constriction*, and refers to a narrowing or tunneling of the focus of attention."); Zalewski, *supra* note 26, at 20:

[T]he Swiss psychologists Michael Heller and Veronique Hagnal describe [Facial Action Coding System] experiments that reveal significant differences in facial expressions between suicidal and non-suicidal depressed patients [I]n response[] to the question "Do you still wish to take your own life?" . . . [m]ost of the suicidal patients displayed flashes of contempt and disgust . . . while none of the non-suicidal patients did. [;]

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SHNEIDMAN, *supra* note 24, at 15 (first emphasis added):

Suicide is the result of an *interior* dialogue. The mind scans its options; the topic of suicide comes up, the mind rejects it, scans again; there is suicide, it is rejected again, and then finally the mind accepts suicide as a solution, then plans it, and fixes it as the only answer. The general word for this process is *introspection*. [;]

L'HEUREUX, *supra* note 10, at 220 ("[W]hat he feared was his nonexistence. That he was not anybody. . . . He looked ahead and for one second he *glimpsed* . . . an *abyss of nothing*, and he *knew he was looking into his own absence*." (emphasis added)); CONRAD, *supra* note 2, at 80 (emphasis added) (quoting Marlow):

I WAS COMPLETELY UNNERVED BY A SHEER BLANK FRIGHT, PURE ABSTRACT TERROR, UNCONNECTED WITH ANY DISTINCT SHAPE OF PHYSICAL DANGER. What made this emotion so overpowering was . . . the *moral shock* I received, as if something altogether monstrous, intolerable to thought and odious to the soul, had been thrust upon me unexpectedly. . . . [T]hen . . . the possibility of a sudden onslaught and MASSACRE, or something of the kind, which I saw impending, WAS POSITIVELY WELCOME AND COMPOSING. *It pacified me* [;]

FOUCAULT, *supra* note 10, at ix ("This book is about *space*, about language, and about [D]EATH . . ." (emphasis added)); *infra* note 39 ("Your status as a doomed man lends your words a certain prestige and authority As the time nears, I think you'll find that people will be eager to hear what you have to say. They will seek you out." (quoting Don DeLillo, quoting Murray)); *but cf.* NELSON, *supra* at 25 ("The only thing I can say for certain about him now is that he is dead. Is this an authentic Negro experience?"). *But cf.* SARUP, *supra* note 5, at 52 (discussing Jacques Derrida's discussion of Plato's use of the word "*pharmakon*"); KRISTEVA, *supra*, at 4 ("I LIVE A LIVING [D]EATH, my flesh is wounded, bleeding, cadaverized [T]IME HAS BEEN ERASED OR BLOATED, absorbed into *sorrow* . . ." (emphasis added)); *but cf.* WHITMAN, *supra* note 2, at 57 ("Hell and despair are upon me, crack and again crack the marksman, *I clutch the rails of the fence*, my gore dribs . . ." (emphasis added)); *but hear* SIMON & GARFUNKEL, *Blessed*, on SONGS OF SILENCE (Columbia Records 1965) ("My words trickle down from a wound I have no intention to heal. But it doesn't matter . . ."); *cf.* STEIN, *supra* note 3, at 125 ("It is funny about being afraid."); *watch* APOCALYPSE NOW (Paramount Pictures 1979) ("THE HORROR. THE HORROR." (emphasis added) (quoting Kurtz)); *cf.* STEIN, *supra* note 3, at 189 ("Everything can scare me . . ."); WHITMAN, *supra* note 2, at 16 ("What do you seek so pensive and silent?"); WARHOL, *supra*, at 119 ("Death"); THE DOORS, *The End* ("This is the end; my only friend, the end . . ."); Thomas, *supra* note 19, at 35 (noting Marshall Applewhite's desire to return his followers and himself to "what humans *call* dead" (emphasis added)); *watch* ZARDOZ (Twentieth Century-Fox 1974) (contemplating the Wizard, and quoting an anonymous member of the "inside-the-bubble" "interpretive community": "Death. Sweet Death. Sweet, wonderful Death."); *cf.* DOSTOEVSKY, *supra* note 2, at 129 ("[W]e've grown unaccustomed to life, we're all lame We've even grown so unaccustomed that at times we feel a sort of loathing for real 'living life,' and therefore cannot bear to be reminded of it. . . . [W]e regard real 'living life' almost as labor, almost as service . . ."); CHAYEFSKY, *supra*, at 27 ("I'm a solitary person, Emily." [Jessup] went on. . . . 'Marriage would simply be a chore for me.');

FARIÑA, *supra* note 7, at 231 ("This Immunity business. We wonder how you mean to co-ordinate Marriage and Immunity." (quoting David, addressing Gnosos)); Thomas Pynchon, *Introduction to id.* at v, xiii [hereinafter Pynchon, *Fariña*] ("Death, no idle prankster, is always, in this book, just outside the window."); *id.* at xiv (describing the reaction of another friend of Fariña's in a telephone conversation with Pynchon before reports of Fariña's death had been

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confirmed: "If . . . Fariña . . . has only been seriously hurt — *if he goes up to the edge of It, and then comes back . . .*" (emphasis added and deleted)); WURTZEL, *supra* note 10, at 144-45 (emphasis added):

[H]ow many times a day did [D]eath fantasies creep into my thoughts? So many times I had planned my own funeral, knowing for sure that any death at my age would be CONSIDERED a tragedy, surely worthy of a full-length FEATURE in some publication, maybe the *Boston Phoenix* or *New York . . .* I knew perfectly well how the STORY would go: She was so full of potential . . . *blah blah blah*. And then the reporter would try to figure out what it says about our *society* when a promising young person . . . tries to do herself in. I could see it all: *My life would suddenly be infused with all sorts of symbolism and MEANING that it simply did not have as long as I was alive.* [.]

Stone, *supra* note 10, at 36 ("And a final example: 'Eternal wisdom, in the garb of primitive myth, bids the old man renounce love, choose [D]eath, and make friends with the necessity of dying.' The quote is from a piece of Freud's literary criticism; he is discussing Shakespeare's *King Lear*."). *But cf.* WILSON, *supra*, at 104 ("I've always had the feeling death wasn't all it was cracked up to be."); STEIN, *supra* note 3, at 223 ("[W]ouldn't you rather be even in Milwaukee than in your coffin[?]" (quoting unnamed airline pilot)) [Stein does not report her response.]; WOLFF, *supra*, at 288 (noting conclusion of New York City's chief medical examiner "that Josephine [Bigelow] had died a considerable while before Harry [Crosby]"); WURTZEL, *supra* note 10, at 148 ("I keep thinking of all those famous manic-depressives like Anne Sexton who weren't diagnosed until late in life, so they suffered . . . when lithium could have helped them all along."); THOMAS C. CARAMAGNO, *THE FLIGHT OF THE MIND* (1992) (rediscovering the context of Virginia Woolf's life and work in light of current medical knowledge about depression); WURTZEL, *supra* note 10, at 295 (emphasis altered):

Why must every literary examination of . . . so many writers and artists . . . keep perpetuating the notion that their individual pieces of GENIUS were the result of madness? This is not to say that we should deny sadness its rightful place among the muses of poetry and of art forms, but . . . *let's stop pretending that the feeling itself is INTERESTING.* Let's call it *depression* and admit that it is very bleak. [.]

But cf. FISH, *supra* note 12, at 1 (entitling the first chapter of his most famous work *How I Stopped Worrying and Learned to Love Interpretation*, but eschewing reference to *Dr. Strangelove*); *but cf.* NIETZSCHE, *supra* note 16, at 277 ("*Carcasse, tu trembles? Tu tremblerais bien davantage, si tu savais, où je te mène.*" (quoting Henri de la Tour d'Auvergne, Vicomte de Turenne on fearlessness upon entry into *genuine* battles)); WHITMAN, *supra* note 2, at 45 ("My brain it shall be your occult convulsions! . . . Sun so generous it shall be *you!*" (emphasis added)).

Or satori. *Cf.* BLYTH, *supra* note 21, at 29 ("If you want to get hold of what it looks like, do not be anti- or pro-anything."). Or Rosebud. *Watch* CITIZEN KANE (RKO Pictures 1941) (quoting Kane). Or *schlemielhood*. *Cf.* THOMAS PYNCHON, V. (Perennial Library 1969) (1963) (describing Profane's search for victimhood); Martha Minow, *Surviving Victim Talk*, 40 UCLA L. REV. 1411, 1414 (1993) ("[V]ictim status . . . has become stylish . . ."); WURTZEL, *supra* note 10, at 335-36 ("I . . . became downright trendy."); *infra* note 43 (contemplating, inter alia, "loser culture"). Or if not an incarnation of V., then perhaps B, or Y, G, or O. *Cf.* LEO STRAUSS, *Jerusalem and Athens: Some Preliminary Reflections*, in *STUDIES IN PLATONIC POLITICAL PHILOSOPHY* 147, 149 (1983) ("[A]ccording to the Greek philosophers, the beginning of wisdom is wonder."). Or salvation. *Compare* 6 COPLESTON, *supra*, at 20-21 (discussing the significance of the deconstructive and antifoundationalist Lisbon earthquake of 1755 on Voltaire and on intra-Enlightenment religious revival) and Thomas, *supra* note 10, at 563 n.142 ("Thomas Pynchon

dualities, social construct: artificial, socially-constructed (read: *all* (?)) opposites, such as life and death (*except* of course in death-penalty cases, in the given example); but see, e.g., “power paradigm,” “Death.”

dynamic fundamentality, postmodern process: change, but only if in conformity with “natural law”; see generally “United States Constitution,” “rich,” “textured,” “nuanced”; (*fut.*): *dynfun*.

education, n.: Do (the musical note (or is it the transitive verb?)); “we” like it, especially if “we” “strengthen” *all* “our” “children” with “postmodernist insights” through “discourse,” and “love” them by not burdening them with logic, reason, determinate-structure (*gasp!*) language, or any of that *faux*-empirical stuff; “our” needs must come *first!* Besides, by *giving* “our” “children” “self(?)-esteem,” and “displacing” their natural (*gasp!*) intellectual (not “intellectual”) curiosity with “sensitivity,” “we”’ll be able to “dominate” them more easily later; see generally “Heidegger” “rhetoric” “decentering” “knowledge”; “ideal children”; *all variants obsolete*. [GEE, TOTO, CAN THERE BE A FOUNDATION (*GASP!*) TO AN INSTITUTIONALIZED *ABYME?*]

emotion, social construct: “our” brew — a Sublime combination of “horror,” “hollowness,” depression, “vanity,” “condescension,” “pity,” and atavistic, failure-driven rage — is a model for Others, a worthy substitute for reason and logic, and glorious *pharmakon* for society-as-a-whole; see generally “democratic breakfast,” “responsibility,” “Death.”

“DO [ALL] MEN ENVY THE GODS?”

... suggests that paranoia is actually a form of religious faith . . .”) and *infra* note 45 (discussing messianic aspects of “legal postmodernism”) with JEAN D’ALEMBERT, PRELIMINARY DISCOURSE TO THE ENCYCLOPEDIA OF DIDEROT (Richard N. Schwab ed. & Richard N. Schwab with Walter E. Rex trans., Bobbs-Merrill Co. 1963) (1751) (defending the principles of the French Enlightenment four years before the Lisbon earthquake) and STRAUSS, *supra*, at 149-50 (“We are confronted with the incompatible claims of Jerusalem and Athens to our allegiance. . . . We are seekers for wisdom, ‘philo-sophoi.’ By saying that we wish to hear first and *then* to *act* to decide, we have already decided in favor of Athens against Jerusalem.”); cf. DAVID W. WEISS, THE WINGS OF THE DOVE 81-82 (1987) (“[T]here is no dogma in Judaism that relates to *cause and effect* in the . . . *material* universe. Far from standing in contention with science, Judaism impels scientific inquiry and investigation.” (emphasis added)); but cf. *infra* note 46 (discussing, inter alia, Richard Rorty’s “pragmatism”). Or perhaps secondary consequences (*gasp!*) of some of the above-suggested possibilities. See, e.g., *infra* note 39 and accompanying text (defining and discussing “love”); cf. *infra* note 43 (contextualizing same).

SCENE 2

empirical verifiability, *comp. n.*: a standard of proof that “we” are “authorized” by “natural law” to demand that “I”s apply to their own arguments, but to which “I”s cannot hold “us”; see “logical positivism”; see generally “canon,” “*différance*,” “doublethink,” “facticity,” “epistemology,” “knowledge,” “voice”; for the appropriate reaction when “I”s satisfy that burden, see “mean-spirited” “epistemology”; (*fut.*): **ricity**.³⁰

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30. *Cf.*, e.g., Derrick Bell & Erin Edmonds, *Students as Teachers, Teachers as Learners*, 91 MICH. L. REV. 2025, 2042-46 (1993) (section authored by Edmonds) (enumerating “unsupported assertions” in an article by Harry Edwards that she criticizes). *Compare id. with id.* at 2036 (to take just one example, asserting without support that “to interpret doctrine in a positivistic fashion” not only “condone[s] male supremacy” but “fortifies it”).

To be sure, I don’t doubt for a moment (not “moment”) that Edmonds *could* find support for that or *any other* proposition, *see generally infra* note 68 (quoting Thomas Quine on propositional equivalency), in the contemporary “legal” literature (or no doubt for that matter in the decentered Gertrude Stein). *Cf. infra* note 46 (quoting Daniel Farber on application of Gresham’s Law to legal scholarship); Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 561, 562-63 (1984) (second alteration in original):

The important work is published in eight or ten law reviews and is written by a small group of professors, who teach in the major law schools.

. . . It is fascinating. Paul Brest cites Laurence Tribe. Laurence Tribe cites Paul Brest and Owen Fiss. Owen Fiss cites Bruce Ackerman, who cites Paul Brest and Frank Michelman, who cites Owen Fiss and Laurence Tribe and Kenneth Karst [.]

But for what it’s worth, I notice that Richard Delgado, Derrick Bell, Patricia Williams, and Mari Matsuda, all of whom now teach in the major law schools, seem to cite each other a lot (along with Cornel West, now at Harvard), and that Erin Edmonds likes citing all of them except West (give her time), along with bell hooks, also a favorite of the others, *but cf.* BELL HOOKS & CORNEL WEST, *BREAKING BREAD* 36-37 (1991) (quoting hooks complaining that white scholars sometimes steal her ideas without enough “acknowledgment,” and that black scholars don’t get cited enough); *but cf.* *Anderson v. Martin*, 375 U.S. 399, 402-04 (1964) (perhaps suggesting that any requirement that law review articles’ authors be racially identified might be subject to Fourteenth Amendment attack — at least regarding the journals of public [AIIIIYEEEEEE!] universities). *See also* STEIN, *supra* note 3, at 267 (“[W]e always knew what we were doing how could we not when every minute in the laboratory we were doing what we were watching others doing, that was our training.”); *but cf.* Richard Delgado, *The Colonial Scholar: Do Outsider [?] Authors Replicate the Citation Practices of the Insiders, but in Reverse?*, 71 CHI.-KENT L. REV. 969, 973-76 (1996) (unsurprisingly answering his own question in the negative, but noting a few of the defects in his *methods*); *see generally infra* note 66 (contemplating the “institutionalization” of postmodernism).

See also CONRAD, *supra* note 2, at 34 (“Oh, he will go far, very far . . . He will be a somebody in the Administration before long. They, above — the Council in Europe, you know — mean him to be.” (quoting the chief agent)); DELILLO, *supra* note 14, at 188 (“We’re all brilliant. Isn’t that the understanding around here? You call me brilliant, I call you brilliant. It’s a form of COMMUNAL EGO.” (emphasis added)); L’HEUREUX, *supra* note 10, at 83 (“To Concepcion [Olga] said,

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'Tortorisi . . . says you're brilliant. He says he worships you.' . . . Concepcion spoke of her admiration for . . . Tortorisi . . ."; compare HOOKS & WEST, *supra*, at 27 ("Why did you become an intellectual?") (quoting hooks, addressing West); *with id.* at 65 ("Begin by telling me what your motivation has been for becoming an intellectual." (quoting West, addressing hooks)) and MAGIC, *supra* note 10, at 332 (contemplating "Ping Pong Prestidigitation"); compare also HOOKS & WEST, *supra*, at 29 ("An *academic* usually engages in rather important but still narrow scholarly work, whereas an *intellectual* is engaged in the public issues that affect large numbers of people in a critical ["critical"?] manner." (emphasis added) (quoting West)) *with* Derek Schilling, *French Toast*, LINGUA FRANCA, Dec/Jan. 1997, at 21, 21 (noting the institutionalization of postmodern criteria for inclusion in *Dictionnaire des Intellectuals Français*):

Just what does it take to be a French intellectual? After heated debate, the nine-member staff arrived at a formula that places activism ahead of antiquarianism: Acquire some notoriety in a field; take it to the streets; make a stand; and you're in. A Nobel Prize isn't enough, but if you refuse such a distinction out of political conviction, à la Sartre, your chances improve.

and infra text following note 35 (defining "intellectual") *and infra* text following note 52 (defining "theory") *and* HOOKS & WEST, *supra*, at 23 (describing Cornel West as a "[t]heorist of postmodernism").

See also *infra* note 42 (quoting John Dewey supporting the proposition that moralities tend to become consecrations of the status quo). *But cf.* Mirandé, *supra* note 29, at 35 ("It is significant that some of the most scathing critiques of Critical Race Theory have come not from White scholars but from people of Color themselves."); Mark Tushnet & Timothy Lynch, *The Project of the Harvard Forewords: A Social and Intellectual Inquiry*, 11 CONST. COMMENTARY 463, 480 (1994-1995) ("A hegemony begins to crack when its adherents see that their theory has become less relevant to the real world or when outsiders are bold enough to challenge it by blazing a new trail."); *but cf.* ORWELL, *supra* note 1, at 246 ("'Room 101,' said the officer."):

On the empiricism issue, compare George Levine, *What Is Science Studies for and Who Cares?*, SOC. TEXT, Spring/Summer 1996, at 113, 123:

Andrew Ross' work, *Strange Weather* . . . is written overtly in the interest of what Ross calls progressive politics Ross has a political agenda, and . . . is not well loved by those outside cultural studies Ross makes it clear that he doesn't know much about science, and yet he spends most of the book attempting to undercut, for political reasons, the special authority of science against protest movements like New Age activis[m].

and Nehamas, *supra* note 17 at 31 ("Foucault's aim was to subvert the objective status of human sciences, their claim to arrive at an independent truth, and to expose them . . . as a means for . . . control" (emphasis added)) *and* Sarah Franklin, *Making Transparencies*, 46-47 SOC. TEXT 141, 141 (1996) (emphasis added):

It is no coincidence that the Science Wars have erupted . . . close on the heels of the Culture Wars . . . they are both about cultural values. . . .

These challenges were inspired by several converging trends. One is the rise of *poststructuralist*, *deconstructionist*, *psychoanalytic*, and *postmodern theory*. These are the so-called *traveling theories* . . . through which a *decentering* of the many givens that previously structured assumptions about *knowledge*, its objects, and its subjects is effected. The new *interdisciplinary* fields of *feminist theory*, *postcolonial theory*, *critical race theory*, and *queer theory* are all areas of contemporary scholarship derivative of a move away from previous conventions of objectivity, neutrality, and . . . tradition. One way to define cultural studies . . . is . . . the space [!] in which discussions motivated [?] by all the above *changes* can take place.

FABULOUS MONSTERS?

and FARIÑA, *supra* note 22, at 210 (“You’re evil . . . you know that, Oeuf? ‘*Au contraire*, Gnosso, I’m doing good. . . . The closed community is our refuge, our salvation. The answers to questions of immediate comfort . . . are valid in the microcosm as well. Nearly by definition, *nicht wahr?*’”) and ORWELL, *supra* note 1, at 268 (“‘What about Eurasia and Eastasia? You have not conquered them yet.’ ‘Unimportant. We shall conquer them when it suits us. And if we did not, what difference would it make? We can shut them out of existence. Oceania is the world.’” (quoting dialogue between Winston and O’Brien)) and The Unabomber, *Industrial Society and Its Future*, WASH. POST, Sept. 19, 1995, Supp. (agreeing with Ross that natural science is an obstacle to ushering in the New Age, and with Franklin that “Science Wars” are about cultural values) [IT’S ALL JUST “TEXT,” RIGHT? AM I SUPPOSED TO BE “HIERARCHICAL,” AND “MARGINALIZE” A “VOICE” THAT’S ANTI-THETICAL (oops!) TO “WESTERN CULTURE?”] Compare DAVID GELERNTER, *DRAWING LIFE* 57-61 (1997) (proffering an unabombee’s views on the glorification of the Unabomber in pop culture) with MANN, *supra* note 2, at 78 (“[I]t is a test of courage You can’t stand it, you give way.” (quoting Adrian on the uncomfotability of facing *greatness* eye-to-eye).] and George Lardner & Pierre Thomas, *Unabomber Suspect Is Detained in Montana*, WASH. POST, Apr. 4, 1996, at A1 (“In his manifesto, the Unabomber argued that modern society could not be improved and must be destroyed to return to the condition of ‘wild nature.’”) and SLACKER, *supra* note 16 (“There’s a lot of truth on the late late show.”) and Gleick, *supra* note 23, at 34 (“According to a popular theory . . . a spaceship is hidden behind the [Hale-Bopp] comet.”) and David A. Kaplan, *Sensing Trouble in the Skies*, NEWSWEEK, Apr. 7, 1997, at 43, 43 (“While *modernity* has made us less gullible, ‘comet pills’ still did a brisk business in 1910 upon the return of Halley’s.” (emphasis added)) and *Web of Death*, NEWSWEEK, Apr. 7, 1997, at 26, 26 (“[The Heavens Gaters] were watching . . . for a sign. They found one. . . . Comet Hale-Bopp”) and STEIN, *supra* note 3, at 117 (“In California everybody was [still] interested in prophecy.”) and Kaplan, *supra*, at 43 (“Alan Hale, one of the comet’s discoverers who tried to debunk the supernatural claims, was denounced online as an ‘earth traitor.’”) and ORWELL, *supra* note 1, at 268 (“You must get rid of those nineteenth-century ideas about the laws of nature. We make the laws of nature.” (quoting O’Brien)) with FARIÑA, *supra* note 7, at 231-32 (“‘In my head it was bigger.’ ‘So, the inside again, always the inside TO EASE SUFFERING, THE METHOD IS EASY. SIMPLY WEAKEN THE BOND WITH REALITY.’” (emphasis added) (quoting dialogue between Gnosso and David)) and L’HEUREUX, *supra* note 10, at 183-84 (“‘We’d all like it to be true, and Tortorisi’s told it very well . . . and so it is true. Am I right?’ . . . ‘Paul de Man thought that too.’” (quoting dialogue between Eleanora and Olga)) and ROBERT B. REICH, *LOCKED IN THE CABINET* at i (1997) (“I claim no higher truth than my own perceptions.”); *but hear* THE TEMPTATIONS, *Just My Imagination (Running Away With Me)* (Motown Records 1971); *cf.* Michael Kelly, *The Reich Stuff*, NEW REPUBLIC, June 30, 1997, at 6, 6:

“Oh God! Bob, you *animal!* That’s the third time this hour!” Robert B. Reich looked fondly at Clarissa Woods-Bourke, the beautiful and brilliant Oxford-educated sociobiologist Clarissa stretched sinuously, so that her long, lithe body rippled against Robert B. Reich’s lanky yet muscular form. “You’re ruining me,” she murmured. [;]

BARNARD, *supra* note 21, at 29 (contemplating William James’s views on “anaesthetic revelation”); *but cf.* DELILLO, *supra* note 14, at 161 (quoting J.A.K., then Babette):

“You feel a vague foreboding,” I said.

“I feel they’re working on the superstitious part of my nature. Every advance is worse than the one before because it makes me more scared.”

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"Scared of what?"

"The sky, the earth, I don't know."

"The greater the scientific advance, the more primitive the fear." [.]

Compare CONRAD, *supra* note 2, at 81 ("Go away — hide yourself," he said, in that profound tone." (quoting Kurtz)) and STEIN, *supra* note 3, at 65 ("Inside and outside and IDENTITY IS A GREAT BOTHER." (emphasis added)) and MAGIC, *supra* note 10, at 400 ("The Total Vanish" (emphasis added)) with RILKE, *supra* note 10, at 79 ("What shuts itself up . . . is already rigid; does it think itself safe in the shelter of nondescript gray?") and FREDERIC K. CREWS ET AL., THE MEMORY WARS: FREUD'S LEGACY IN DISPUTE 8 (1995) ("Freudianism in its self-authenticating approach to knowledge constitutes not an exemplification of the rational-empirical ethos . . . to which Freud himself had professed allegiance, but a seductively mythic alternative to it.") and Lentricchia, *supra* note 29, at 65:

If the authority of a contemporary literary critic lies in his *theory of x*, then wherein lies the authority of the theory itself? . . . The typical literary critic is not himself a . . . historian or economist A scandal of professional impersonation? No, because the impersonators speak only into the mirror of other impersonators and rarely to those in a position to test their theories for fraudulence. An advanced literature department is the place where you can write a dissertation on Wittgenstein and never have to face an examiner from the philosophy department. [NOTE TO FRANK LENTRICCHIA FROM THE STILL MARGINALLY AUTONOMOUS DISCIPLINE OF LAW: THERE'S THIS CONCEPT CALLED "ASSUMING FACTS NOT IN EVIDENCE". . .] An advanced literature department is the place where you may speak endlessly about gender and never have to face the scrutiny of a biologist [BETTER], because gender is just a social construction, and nature doesn't exist.

and *supra* note 29 (quoting Stephen Weinberg discussing "physics and mathematics bloopers" of prominent postmodern interdisciplinary "theorists") and JOHN VON NEUMANN, MATHEMATICAL FOUNDATIONS OF QUANTUM MECHANICS 5-6 (Robert T. Beyer trans., Princeton Univ. Press 1955) (1949):

[A]fter Goudsmit and Uhlenbeck had discovered the magnetic moment [not "moment"] and the spin of the electron, almost all the difficulties of the earlier quantum theory disappeared, so that today we are in possession of a mechanical system which is almost entirely satisfactory. To be sure, the great unity with electrodynamics and relativity theory . . . has not yet been recovered, but at least there is a mechanics which is universally valid, where the quantum laws fit in a natural and necessary manner, and which explains satisfactorily the results of our experiments.

and STEPHEN TOULMIN, THE PHILOSOPHY OF SCIENCE 123-24 (1953):

[T]he idea of causality reigning unchallenged seems to be accepted by philosophical scientists so long as the basic theories of the time appear capable, in principle, of explaining all the things it is hoped eventually to explain. It is no surprise, accordingly, to find Einstein, whose horizon stretches further than quantum mechanics can reach, calling for a re-establishment of causality, and saying reproachfully that [Max] Born and his colleagues 'believe in a dice-playing God.' Restated in our terms, the question of causality becomes the question whether all physical phenomena are completely mappable; and this, like other general philosophical questions containing the words 'everything,' 'all,' and 'complete,' depends very much on one's standards of completeness. The determinate, correspondingly, is that for which a place can be found on a map; so that the very name 'Indeterminacy Principle' for Heisenberg's relation seems to rest on a misunderstanding.

and CONRAD, *supra* note 2, at 22 ("[W]hen I was a little chap I had a passion for maps. . . . [T]here was one river especially, a mighty big river . . . resembling an immense snake uncoiled, with its head in the sea" (quoting Marlow)) and

 THE OLYMPIANS?

Weinberg, *supra* note 10, at 12 (footnotes omitted) (quoting ANDREW ROSS, *STRANGE WEATHER* 42 (1991)):

[Q]uantum mechanics can seem rather eerie if described in ordinary language. Electrons in atoms do not have definite positions or velocities until these properties are measured, and the measurement of an electron's velocity wipes out all knowledge of its position. This eeriness has led Andrew Ross, one of the editors of *Social Text*, to remark elsewhere that "quantitative rationality — the normative description of scientific materialism — can no longer account for the behavior of matter at the level of quantum reality." This is simply wrong. By rational processes today we obtain a complete quantitative description of atoms using what is called the "wave function" of the atom. . . . We have replaced the precise Newtonian language of particle trajectories with the precise quantum language of wave functions, but as far as quantitative rationality is concerned, there is no difference between quantum mechanics and Newtonian mechanics.

and LOUIS NARENS, *ABSTRACT MEASUREMENT THEORY* (1985) (developing a mathematical approach to the problem of measurement and summarizing earlier results) and GOLDMAN, *supra* note 29, *passim* (confronting various strands of idealism and systematically defending the empiricist theory of knowledge) and WHITMAN, *supra* note 2, at 43 ("Hurrah for positive science! Long live exact demonstration! . . . This is the lexicographer, this the chemist These mariners put the ship through dangerous and unknown seas, This is the geologist, this works with the scalpel, and this is a mathematician. . . . [T]o you the first honors always!"); *but cf.* L'HEUREUX, *supra* note 10, at 183 ("Oh, don't be stuffy," Eleanor said.").

See generally Symposium, *Science Wars*, *SOC. TEXT*, Spring-Summer 1996 (presenting recent commentaries apparently attempting to (re?)constitute (!) "science studies" core (*gasp!*) following a cataclysmic and manifestly painful chastisement by the natural-science community of some "science studies" "theorists" radically antiempirical mau-mauing, and perhaps constricting at least the self-professed claims of a number of the "discipline"'s adherents to the political promotion of aesthetic aversion to technology, axiological preference for left-wing politics, near-tautological observation that not all applications of scientific knowledge are beneficial, appeal to political utility of generalized "decentering," *ad homina*, and extrinsic undifferentiated pseudo-sociology) [The issue also contained Alan Sokal's hoax. See Alan D. Sokal, *Transgressing the Boundaries: Toward a Transformative Hermeneutics of Quantum Gravity*, *SOC. TEXT*, Spring-Summer 1996, at 217.].

. . . .

Fly with Fletcher Seagull, see BACH, *supra* note 29, at 127 ("No limits, Jonathan? he thought, and he smiled. His race to learn had begun.").

Compare *id.* and WHITMAN, *supra* note 2, at 73 ("I teach straying from me, yet who can stray from me?") and FROMM, *supra* note 10, at 3 ("Freedom — a Psychological Problem?") with A FLOCK OF SEAGULLS, *I Ran, on A FLOCK OF SEAGULLS* (Zomba Productions 1982) and Alan Cooperman, *First Bombs, Now Lawsuits*, *U.S. NEWS & WORLD REP.*, Dec. 23, 1996, at 38, 38-39 (emphasis added):

[M]any prominent [Egyptian] writers, artists and intellectuals . . . are hounded by a handful of extremist sheiks and lawyers who have become adept at exploiting . . . lawsuits . . . based on the loose concept of *hisba* — a legal action to protect "God's Rights"[which had not had a textual legal basis since 1955].

Leading this pack . . . is Sheik Yusuf el-Badry, a[n] . . . Islamic scholar with a penchant for *publicity*. He immediately hands visitors a *three-page résumé* listing some of his books . . . and highlighting a stint . . . as imam of the Omar Mosque in Paterson, N.J. . . . [E]l-Badry has filed . . . lawsuits . . . to allow

 CONSTITUTIONAL LAW?

what he calls "circumcision" . . . for Egyptian women; and to ban books, movies and articles

"We have no chains, no guns, no bombs . . . no weapons WE HAVE ONLY FOUR THINGS: PEN AND PAPER, BAD LAWS AND GOOD COURTS. THANK GOD THE JUDGES HERE IN EGYPT ARE VERY GOOD."

. . . The sheiks are now seeing how much further they can stretch [*hisba*]

. . . .

Sound familiar?

Cf. Erin Edmonds, *Mapping the Terrain of Our Resistance: A White Feminist Perspective on the Enforcement of Rape Law*, 9 HARV. BLACKLETTER J. 43, 72 (1992) ("I came to *theory* because I was hurting." (emphasis added) (quoting bell hooks)); *infra* text following note 52 (perhaps questioning the proposition "'theory' \supset theory"); DELILLO, *supra* note 14, at 180 ("It's an unlisted drug." (quoting J.A.K.)); *infra* note 39 (contemplating collective essentialism); NELSON, *supra* note 29, at 32 (initially quoting one of Nelson's neighbors):

"You gonna hear a lot of bullshit from these white folks But Barry's a good mayor."

Like one in twelve residents of Washington, he works for district government. Like more than half of D.C.'s residents, he owns his home. Like just about everyone, he keeps his lawn neatly mowed and plants azaleas.

"Why?" I am eager to learn

"Why? How the hell I'm gonna tell you why white folks act like they do? Don't quote me —" I am going to hear that a lot here — but I believe it's racism. You know how they are. [Cf. *id.* at 65 ("Who's they?" I ask." (quoting Nelson in a different context)).] Just can't stand to see a black man in charge."

"Or black woman," I say. He ignores this.

. . . I stand there, not really listening. I can tell by the cadence of his voice . . . when to grunt or agree. It is a conversation I have nearly every day with at least one black person. It involves dissing white folks for always fucking with us, and celebrating the latest individual, and therefore collective, comeuppance. This is an authentic Negro experience. [.]

But cf. WHITMAN, *supra* note 2, at 22 ("A new race . . . grander far, with . . . [*n*]ew politics, new . . . inventions and arts." (emphasis added)). But cf. NELSON, *supra* note 29, at 39 ("I've spent a good portion of my life trying to be a good race woman and number one at the same time."); Randall Kennedy, *My Race Problem — and Ours*, ATLANTIC MONTHLY, May 1997, at 55, 56 (emphasis added):

It is understandable why people have often made inherited group status an honorific credential. PERSONAL achievement is *difficult* to attain, and the *lack of it* often leaves a VACUUM that racial pride can easily fill. Thus even if a person has little to show for *himself*, racial pride gives him *status*. [.]

Kimberlé Crenshaw *Mapping the Margins*, 43 STAN. L. REV. 1241, 1297 (1991) ("We all can recognize the distinction between the claim 'I am Black' and the claim 'I am a person who happens to be Black.'"); Kenneth L. Karst, *Paths to Belonging: The Constitution and Cultural Identity*, 64 N.C. L. REV. 303, 307 (1986) (emphasis added) (footnote omitted):

Imagine right now that someone has asked *you* the question: "Who are you?" Perhaps the reader is a Walt Whitman, who would answer, "I am *myself*, unique in the universe, and I exult in my uniqueness." Most of us, however, would likely respond in words premised on the ways in which *we* are RELATED to OTHERS: "I am a mother;" "I am a law student;" "I am black" [.]

infra note 50 (noting critiques of individualism by Elizabeth Fox-Genovese and Howard Beale); MANN, *supra* note 2, at 487 ("[T]here is no true solo in the *Faustus*" (emphasis added)). But cf. *supra* note 17 (discussing "consistency," and noting the apparently unlimited fascination with Madonna shared by some femi-

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nists, "cultural studies" "practitioners," and perhaps Duncan Kennedy). *But cf.* WURTZEL, *supra* note 10, at 5 ("I really needed my lithium. But I was determined to cold-kick it. If cocaine would help, so be it."); NELSON, *supra* note 29, at 118 ("Like the Matt Dillon character says at the end of *Drugstore Cowboy*, the thing about doing drugs is that you always know how you're going to feel based on what you take. *The straight life is too UNPREDICTABLE.*" (emphasis added)); Stoen, *supra* note 29, at 44-45 (discussing his escape from Jonestown: "People join cults in moments of weakness People want simplicity; a cult provides ready-made answers."); *infra* note 58 (contemplating the Rocket); *but cf.* WURTZEL, *supra* note 10, at 112 ("I always sought solace . . . where I knew . . . it did not exist."); Swann et al., *supra* note 29, at 293 (emphasis added):

[W]e propose that people with . . . depress[ion] . . . tend to *create and embrace* rejecting social worlds. Although this hypothesis may seem perilously close to accusations of *masochism*, it is quite different. . . . [W]e hold that people who possess negative self-views *prefer* rejecting social worlds because such worlds have become familiar and PREDICTABLE to them. . . . These notions are elaborated in self-verification theory. [;]

NELSON, *supra* note 29, at 24 ("I wasn't into human sacrifice. Or was I?"); WURTZEL, *supra* note 10, at 327 (emphasis added):

Depression had for so long been a convenient — and honest — explanation for everything that was wrong with me Now, with the help of a biochemical cure, it was going to go away. . . . [W]ild animals raised in captivity will *perish if placed back into their natural habitats because they don't know the laws of prey and predator* . . . even if that's where they belong. How would I ever survive as my normal *self*? And after all these years, WHO WAS THAT PERSON ANYWAY? [.]

But cf. HEMINGWAY, *supra* note 24, at 11 (1926) ("You can't get away from yourself by moving from one place to another." (emphasis added)); *hear* NIKOLAI RIMSKY-KORSAKOV, *Flight of the Bumblebee*, on SCHEHERAZADE (London Records 1987) (1898); *cf.* FARIÑA, *supra* note 7, at 260 ("Go into as many pebbles or artichokes as you choose The torment is inside you to begin with."); WURTZEL, *supra* note 10, at 10 ("How can you hide from what never goes away?" (quoting Heraclitus)). *But hear* THE DOORS, *Break on Through, on THE DOORS*, *supra* note 29 ("Tried to run; tried to hide; *break on through to the other side.*" (emphasis added)); SHERYL CROW, *Redemption Day*, on CROW, *supra* note 29 ("[W]hat mercy sadness brings if God be willing. There is a train that's heading straight [t]o heaven's gate."); Thomas, *supra* note 19, at 30 (commenting on members of "Heaven's Gate": "These were lost souls literally uncomfortable in their own skin, searching desperately for a home they could never find."); *but hear* CROW, *Redemption Day*, *supra* ("And on the way, child and man [a]nd woman wait . . . [for] redemption day. It's buried in the countryside. It's exploding in the shells of night. It's everywhere a baby cries *freedom.*" (emphasis added)). *Cf.* EMERSON, *supra* note 12, at 129-30 (emphasis added):

Is chemistry suspended? Do not the electricities and the imponderable influences play with all their magic undulations? Do not gravity and polarity keep their unerring watch on a needle and thread[?] . . . You find the times and places mean. My friend, stretch a few threads over a common Æolian harp, and put it in your window, and listen to what it says of times and the heart of *Nature*. . . . Watch the breaking morning, the enchantments of the sunset. [;]

PYNCHON, *supra* note 24, at 275 ("The great cusp — green equinox . . . turning . . . dreaming fishes to young ram, watersleep to firewaking, bears down on us."); WURTZEL, *supra* note 10, at 170 (second emphasis added):

Which is why I started to think that maybe I didn't want to be on *Oprah!* after all. It was too much the sort of thing I would do: Take a sad private matter,

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give the facts in technicolor detail to perfect strangers, and thus relieve myself of my life. . . . So maybe I wanted to reclaim my life, make it private, make it mine. Maybe . . . if I lost the urge to tell all to all, maybe that would be behavior befitting a happy person and maybe then I could be happy.

The key to happiness, I decided, was *not* to appear on *Oprah!* [;]

William Safire, *Why Do They Shoot Horses?*, N.Y. TIMES, Jan. 26, 1997, § 6 (Magazine), at 16 ("Alain Juppé . . . Prime Minister of France . . . decided to let his hidden passion and repressed angst hang out in a new book titled 'Between Ourselves.' When Roger Cohen of the New York Times asked Juppé if such personal confessions . . . might make matters worse, [he] answered . . . 'Perhaps. . . *On achève bien les chevaux?*'"); WURTZEL, *supra* note 10, at 202 (typeface as in original) ("I CAN'T GO TO [THE CLINIC] BECAUSE I HAVE TO WRITE MY SPACE, TIME, AND MOTION PAPERS. WHY DOESN'T ANYBODY UNDERSTAND THAT EVERYTHING WILL BE FINE IF I CAN JUST READ DARWIN IN PEACE?"). *But cf. id.* at 183 ("But . . . I worried that my decision to abstain from self-destruction was turning me into a BORE." (emphasis added)); NELSON, *supra* note 29, at 78 ("[T]he bad kids . . . get the most ATTENTION." (emphasis added)); Minow, *supra* note 29, at 1414 ("[V]ictimhood is attractive in the sense that it secures ATTENTION in an attention-taxed world." (emphasis added)); WURTZEL, *supra* note 10, at 237 ("Story of my life: I am so *self-destructive*, I turn solutions into problems. . . . I'm Midas in reverse." (emphasis added)).

. . .

See also Laurence H. Tribe, *Seven Deadly Sins of Straining the Constitution Through a Pseudo-Scientific Sieve*, 36 HASTINGS L.J. 155 (1984) [hereinafter Tribe, *Seven Sins*]; *but cf.* MANN, *supra* note 2, at 153 (narrating Zeitblom's thoughts: "[I]t was not long before . . . I went to [Adrian] again and found him, while outwardly unchanged, yet in fact a marked man, pierced by the arrow of fate."); Laurence H. Tribe, *The Curvature of Constitutional Space: What Lawyers Can Learn from Modern Physics*, 103 HARV. L. REV. 1 (1989) [hereinafter Tribe, *Space*] (sinning); *but cf.* ZAMYATIN, *supra* note 4, at 168 ("My dear, you are a mathematician. You're even more, you're a philosopher of mathematics. So do this for me: Tell me the final number." (quoting I-330)); compare Tribe, *Space*, *supra* with WERNER HEISENBERG, PHYSICS AND PHILOSOPHY 187-206 (Harper Torchbooks 1962) (1958) (presenting an argument remarkably similar to Tribe's in a forthrightly political context, but refraining from praising any of William Brennan's judicial opinions specifically). *But cf.* MANN, *supra* note 2, at 47 (narrating Zeitblom's thoughts: "Why was I . . . moved . . . ? [Adrian's] cheeks were hot, as they never were in school, not even over his algebra . . . I divined a budding passion . . ."); *id.* at 51 (narrating Zeitblom's thoughts on the experience of sitting at Wendell Kretschmar's feet); watch SLACKER, *supra* note 16 ("I mean I've had a total recalibration of my mind. It's like that new physics, man; it's like you can't look at something without changing it. The underlying order is chaos . . . We have to start all over. Let's put Squeaky Fromme on the \$1 bill."); see generally *infra* note 45 (quoting Emily Sherwin on Cass Sunstein's "baselines"); Weinberg, *supra* note 10, at 12 (describing Werner Heisenberg as susceptible to "dreadful" "philosophical wanderings"); HEISENBERG, *supra*, at 199 (himself warning "against the somewhat forced application of scientific concepts in domains where they did not belong"); Weinberg, *supra* note 10, at 12 ("Heisenberg was one of the great physicists of the twentieth century, but he could not always be counted on to think carefully, as shown by his technical mistakes in the German nuclear weapons program."); A.J. AYER, *The Vienna Circle*, in FREEDOM AND MORALITY AND OTHER ESSAYS 159, 163-73 (1984) (discussing the *logical positivist* principle of verifiability).

English, n.-adj.: "hegemony"; an obstacle to "feet theory"; to be "displaced" by "Pomobabble."

enlightened, adj.: "us"; see generally "adjectives."

enthusiasm, n.: *Amen, little brothers!* See generally "Heidegger."

entropy, n.: see generally "waste land" "fashion"; not the *ultimate* goal of "postmodernism" and/or "legal postmodernism," *but* "we" *'re getting close*

epistemology, feint.: a key to it all? "We" "reassure" "you" it's

Gnostics?

For a "displacement" of attempted postmodernist "deployments" of the "new physics" metaphor, see DANAH ZAHAR, *THE QUANTUM SELF* 234-37 (1990) (emphasis to title added):

The SPLIT *between mind and body* . . . gave rise to the dichotomy between extreme subjectivism (a world without objects) and extreme objectivism (a world without subjects). . . . Freud assumed that the inner was real and accessible, while the outer was all projection, and many strains of mysticism mirrored this view At the other extreme, behaviorism assumed the outer was real but denied the relevance of the inner. It became psychology without the psyche.

The SPLIT *between the individual and his relationships* led on the one hand to an exaggerated individualism, to a selfish will to power . . . and on the other to an enforced communitarianism like that of Marxism

The SPLIT *between culture and Nature* led both to relativism of all sorts — factual, moral, aesthetic, and spiritual (value judgments) — and to dogma and extreme fundamentalism. . . .

. . . .

The mechanical world view fails, ultimately, because it does not work towards a greater, ordered coherence. It reflects neither the intuitions nor the personal needs of most people. . . .

. . . .

The mechanical world view . . . owes most to the DUALIST philosophy of Descartes and the mechanistic physics of Newton. . . .

. . . [T]he quantum world view transcends the dichotomy between human culture and Nature, and indeed *imposes the constraint of the NATURAL [AIIIIYEEEEEE!]* upon the ultimate success of the cultural.

. . . It gives us a view of the human self that is *free and responsible*. [.]

But cf. DEVITT, *supra* note 10, at vii (citations omitted):

As John Heil remarks in a survey, "anti-realist tracts overwhelm both in number and in sheer density a steady but comparatively modest realist output." . . . Why is it so? Why is anti-realism an occupational hazard of philosophy? My former colleague David Stove has some witty and unflattering answers in his recent book. . . .

Though anti-realism may seem to be everywhere, Heil points out that "Australia, isolated and out of the loop evolutionarily, continues as a stronghold of realists and marsupials" Barry Taylor protested . . . and rightly so: there is indeed a small anti-realist enclave in Melbourne where the sun does not shine so much. [.]

See generally Kenneth L. Woodward, *Christ and Comets*, NEWSWEEK, Apr. 7, 1997, at 40, 42 ("Like Do [Marshall Applewhite], the Gnostics 'had a secret knowledge . . . that is not known to the uninitiated[.]' . . . The Gnostics also stressed a radical dualism of soul and body"); THOMPSON, *supra* note 10, at 150 ("Yesterday's weirdness is tomorrow's reason why[.]"); PYNCHON, *supra* note 24, at 772 ("You will want cause and effect. All right.").

definitely *not* a social construct (not “social construct”); see generally “knowledge,” “truth” “subjectivity”; “doublethink”; “natural law” “formalism” “good”; *all mathematics-based and/or empirically-based usages obsolete.*

equality, feint (invoked positively): no-fault equality of result (or are “we” being “canny” here?); the abolition of discernment (not “discernment”), judgment (not “judgment”) and “value judgments” (except, of course, for “ours”); (*alt.*): “Mao Zedong” “natural law” “democratic,” “children”; see generally “sequence”; *all variants obsolete.*

“equality,” satanic construct (invoked negatively): WHO IS TO DECIDE WHAT IS GOOD AND WHAT IS EVIL?

essence, n.: anywhere *but* the detail; (*alt.*): whatever “we” tell you yours is; see generally “authentic leadership.”

excluded middles, social construct: an obstacle to “interpretation”; see generally “doublethink.”

expert, n.-adj.: anyone who says (writes?) anything that “we” (for the “moment”) find useful; see generally “complex,” “rich,” “textured,” “nuanced,” “linear thinking” “pragmatism.”

exploitation, social construct: see “enthusiasm.”

Extinction, social construct: the equivalent (or are “we” being “canny” here?) of “survival”; see “multiculturalism” “postmodernist insights”; see generally “Michel Foucault” “life,” “equality.”

facticity, social construct: see “fashion”; “truth” “subjectivity”; *all variants obsolete.*

facts, social construct: “history.”

failure, social construct: success (see “victimology”); (*alt.*): to be abolished by “natural law” upon the “displacement” of “competition”; *except as “deployed” by “us” in “our” “value judgments” (see generally “adjectives”), all “canny,” discerning (not “discerning”), and therefore “mean-spirited” usages obsolete.*

false consciousness, comp. n.: any consciousness that may constitute an obstacle to “our” “hegemony” (and perhaps, therefore, *any* consciousness); see also “crimestop”; “decentering” “education”; compare “adaptive preferences” “theory” with “Marxism”; see generally “feet theory”; ride “the Rocket.”

family, n.: “us” and “our” “children”; see generally “power paradigm”; *all variants obsolete.*

fascism, n.: “‘equality’”; “‘freedom’”; “‘democracy’”; “‘I’”; see generally “uninitiated”; *all variants obsolete.*

fashion, n.: that which becomes unfashionable.³¹

"DEMOCRACY"?

31. Cf. *supra* note 8 (noting Roland Barthes's early-'60s advice to those interested "in the latest intellectual fashion" to identify structuralist writing by its vocabulary); FOX-GENOVESE, *supra* note 29, at 147-48 ("Post-structural feminism originated in France, in the very special Parisian world of competitive intellectual ["intellectual"?) fashion."); *but cf.* FRANK HOFFMAN & BILL BAILEY, *ARTS & ENTERTAINMENT FADS* (1990); *hear* THE GRATEFUL DEAD, *Weather Report Suite, on WAKE OF THE FLOOD*, *supra* note 29 [hereinafter THE GRATEFUL DEAD, *Weather Report*]:

Darkness falls and seasons change,
 (Gonna happen every time),
 Same old friends, the wind and rain.
 (we'll see summer by-and-by).
 Winter gray and falling rain,
 (Summers fade and roses die),
 We'll see summer come again,
 (like a song that's born to soar the sky). [;]

cf. L'HEUREUX, *supra* note 10, at 254-55:

"I have a problem," Maddy explained, and it turned out to be a moral problem. Was Concepcion *really* the best we could do? Yes, she was Chicana. Yes, she was lesbian. Yes, she knew her Barthes. But Barthes? Really? Wasn't he getting just a little passé? Wasn't there some danger that in the life and pursuit of theory, Roland Barthes — and with him, poor Concepcion, for whom she felt deep concern — was about to be left behind? Part of the fascination of literary discourse today, Maddy explained — turning toward the fools, who could not be expected to know this — was the short-lived nature of theory itself. Styles in theory were changing faster than styles in clothing . . . Could Concepcion keep up? Or was she doomed to be merely a Barthes clone? . . .

One of the fools said that he thought fashion should be left for the clothing industry and that the concern of an English department should be something more enduring and dependable — like literature, for instance . . . [;]

FOX-GENOVESE, *supra* note 29, at 147 ("[F]eminist history now claims to be the cutting edge of what both supporters and opponents are calling a revolution in the writing of history, much as a decade ago cliometricians and psychohistorians claimed to be doing so. So much for the permanence of revolutions.")

Cf. FRED BARBASH, *THE FOUNDING 207* (1987) ("Well, Doctor, what have we got? A republic or a monarchy?" someone asked Franklin in the summer of 1787. [He] responded, 'A republic, if you can keep it.');" *id.* at 203 (quoting Franklin's September 17, 1787 speech (read for Franklin by James Wilson) to the Convention: "Government . . . can only end in Despotism . . . when the people shall become as corrupted as to need [it], being incapable of any other." (emphasis added)); *but cf.* ALINSKY, *supra* note 10, at 24 ("Life is a corrupting process. . ."); *but cf.* STEIN, *supra* note 3, at 201 ("Choice is always more pleasing than anything necessary.") [IF ONLY SHE COULD HAVE UNDERSTOOD . . .]; WHITMAN, *supra* note 2, at 3:

To thee old cause!
 Thou peerless, passionate good cause,
 Thou stern, remorseless, sweet idea,
 Deathless throughout the ages, races, lands,
 After a strange sad war, great war for thee,
 (I think all war through time was really fought,
 and ever will be really fought, for thee,)
 These chants for thee, the eternal march of thee.

. . . .
 Thou orb of many orbs!

fault, n.: see “determinism.”

fear, n.: the sine qua non of “our” existence, and along with “repetitive and cumulative incantation,” “cash,” and “condescension,” one of our favorite “deployments”; see also “horror.”

feet, semiotic construct: superjacent to “head” (one way, then the other).

feet theory, postmodern construct: keep reading.

feminism, n.: [TYPE 1: EQUALITY FEMINISM]: the attempt to secure political and civil “equality” through the Fifth and Fourteenth Amendments, and legislative protections against formal or *Yick Wo*-style gender-based discrimination in the private (*gasp!*) sector; feminism not generated by “horror,” and therefore with no need for “dominance” or “submission”; feminism for women; [TYPE 2: ESSENTIALIST FEMINISM]: a variety characterized by the perception of an “essential” ethic of nurturing and care, perhaps (but not necessarily) perceived to empirically result from genetics or from the experience of the mother-child relationship, and perhaps (but not necessarily) extrapolated into privileged prescriptive axiology; (*alt.*): *yin*; (*alt.*): an essentialized high level of sensitivity (“sensitivity?”), including a gnostic mysticism-based Pipeline to the Truth; (*alt.*): “hollowness.” Depending on the alternative selected, a variety of feminism for either women or Women; [TYPE 3: DOMINANCE FEMINISM]: And “we” mean it! The “horror”! “Democratic breakfast”! The “dominance”! “Power paradigm”! “Michel Foucault”! You *will* “submit” to “our” “framing[s]” of your “essence”! Man bad! Woman good! Logic bad! “Rhetoric” “good”! “Words” “power”! Man “rape”! Equality feminism “false consciousness”! “‘Our’ own reality” “complex”! “Rich” “TEXTURED” “NUANCED”! (*alt.*): *HELLLLLLLLLLL!* Feminism for Women WOMEN WOMEN; [TYPE 4:

INTUITED ESSENCES?

Thou seething principle! thou well kept, latent germ! thou centre! [:]
 KAFKA, *supra* note 20, at 273 (“[E]verywhere, as if by secret agreement, a positive revulsion from professional fasting was in evidence.”); CONRAD, *supra* note 2, at 57 (“No fear can stand up to hunger, no patience can wear it out” (quoting Marlow)); *id.* at 37 (“‘*Hang Kurtz,*’ I thought Being hungry . . . and kept on my feet too, *I was getting savage.*” (emphasis added)); ORWELL, *supra* note 1, at 273 (“[W]hat is it, this principle that will defeat us? . . . ‘The spirit of Man.’” (quoting dialogue between O’Brien and Winston)); *but cf. supra* note 29 (perhaps suggesting an inference that Napoleon, Hitler, and Stalin may not be the last of the genre); *Web of Death*, *supra* note 30, at 27 (“Marshall Herff Applewhite . . . is not the first millennialist seer, and he almost certainly won’t be the last.”); *watch* 2001: A SPACE ODYSSEY (MGM 1968) (“‘Do you believe *HAL* has genuine human emotions?’ ‘Of course. He’s programmed that way.’”); *cf.* DAVID MACEY, *THE LIVES OF MICHEL FOUCAULT* 457 (1993) (entitling his last chapter *An Unfinished Life*).

WHOOPEE FEMINISM]: the Joker; anything “we” want it to be; “equity” (which, of course, means anything “we” want it to mean); either naked instrumentalism accompanied by hubris and a substantial *chutzpah* level (“‘We’ ll take all the Ivory ‘we’ can get!”), or unorderable cognitive chaos (which may be perceived as “good”).

fiction, n.: see “legal authority”; *obso.*: “democratic history.”

formalism, n.: “Ours,” right? See “reason” (not reason), “logic” (not logic), “empirical verifiability” (not empirical verifiability) “mean-spirited”; “rich,” “textured,” “nuanced” “constitutional law” “utopia”; see generally “rediscovering context” “interpret” “plasticity” “meaning” “constitutional law” “Lochnerize” “I”; compare “democracy” with “‘democracy.’”

foundation, social construct: Ford, Guggenheim, or Rockefeller?

frame, n.-v.: raising or lowering the level of generality at which a proposition is asserted, or obscuring the proposition in issue, in the interests of “reassurance,” marketing, and/or “decentering”; see also “Heidegger” “rhetoric”; see generally “postmodernist insights”; (*obso.*): begging the question; political spin; *all other variants also obsolete.*³²

VANITY?

32. See Donald R. Kinder & Lynn M. Sanders, *Mimicking Political Debate with Survey Questions: The Case of White Opinion on Affirmative Action for Blacks*, 8 SOC. COGNITION 73, 74 (1990):

[F]rames lead a double life: they are internal structures of the mind that help individuals to order and give meaning to the dizzying parade of events they witness . . . they are also devices embedded in political discourse, invented and employed by political elites, often with an eye on advancing their own interests or ideologies, and . . . mak[ing] favorable interpretations prevail. [.]

cf. Nancy Ehrenreich, *The Colonization of the Womb*, 43 DUKE L.J. 492, 506 (1993) (“[T]he power to define others — to affect how they are PERCEIVED — is the power to CONTROL them.” (emphasis added)) [THE CENTERED AS WELL AS THE HOLLOW? *But cf.* ALINSKY, *supra* note 28, at 127 (“Never go outside the experience of your people.”).]; ORWELL, *supra* note 1, at 259-60 (emphasis added) (quoting O’Brien):

We shall crush you down to the point where there is no coming back
Never again will you be capable of ordinary human feeling. Everything will be dead inside you. Never again will you be capable of love, or friendship, or joy of living, or laughter, or curiosity, or courage, or integrity. YOU WILL BE HOLLOW. WE SHALL SQUEEZE YOU EMPTY, AND THEN WE SHALL FILL YOU WITH OURSELVES. [.]

[I THINK I'M BEGINNING TO UNDERSTAND. THINK IT WILL WORK? See generally *infra* text following note 34 (defining “hubris”). ON THE SUPREME COURT? ON LAW (NOT “LAW”) PROFESSORS? LAW STUDENTS? BEARERS? DONKEYS? *But cf.*, e.g., *infra* note 67 (contemplating, inter alios, “Linda Greenhouse”); *supra* note 29 (contemplating Cass Sunstein’s lack of success with Emily Sherwin); *but cf. infra* note 46 (contemplating “framing”-capture-through-law-school-casebook-capture); *infra* note 41 (contemplating “language”-capture-through-dictionary-capture); Morton Horwitz & Orlando do Campo, *When and How the Supreme Court Found*

framers' intent, social construct: Karl's, or Groucho's?. Vladimir's, or John's?

freedom, n. (invoked positively): a "safety net" legally guaranteeing "our" absence-of-"fault," no matter how irresponsible, negligent, or criminal "our" behavior; a "safety net" legally guaranteeing "us" "self(?)-esteem"; a "safety net" thereby legally guaranteeing slavery; see generally "determinism," "power paradigm": "submission."³³

SOCIAL CONSTRUCTION?

Democracy — A Computer Study, 14 QLR 1, 2-3 (1994) (providing examples of "the power of political rhetoric"); CATHARINE A. MACKINNON, *Sex and Violence: A Perspective*, in MACKINNON, *supra* note 29, at 85 (same). *But cf. infra* note 39 (contemplating, inter alia, "hope"); *infra* notes 44, 67 (contemplating the historical failures of Marxism and neo-Marxism); *supra* text following note 20 (defining "deconcealment"); *infra* notes 33-69 (contemplating the "spirit of Man").]

You don't, of course, need to be a postmodernist to try this technique yourself. See, e.g., J. David Bleich, *Godtalk: Should Religion Inform Public Debate?*, 29 LOY. L.A. L. REV. 1513 (1996); Allen E. Mayefsky & Gary V. Stange, *Should Children Be Penalized Because Their Parents Did Not Marry? A Constitutional Analysis of Section 516 of the New York Family Court Act*, 26 U. TOL. L. REV. 957 (1995); Ann E. Mayer, *Reflections on the Proposed United States Reservations to CEDAW: Should the Constitution Be an Obstacle to Human Rights?*, 23 HASTINGS CONST. L.Q. 727 (1996) [ANYBODY INTERESTED IN WAGERING ON THE PROFERRED ANSWERS?]. I contemplated asking the same question about C. Douglas Ferguson, *Should the End Justify the Means? United States v. Matta-Ballesteros and the Demise of the Supervisory Powers*, 21 N.C. J. INTL. L. & COM. REG. 561 (1996), but realized that even without knowing what *Matta-Ballesteros held* (perhaps assuming facts not in evidence), the answer would come too quickly for some. Cf., e.g., ALINSKY, *supra* note 28, at 25 ("The means-and-ends moralists . . . always wind up on their ends without any means." (emphasis deleted)); *id.* at 26 ("[T]he judgment of the ethics of means is dependent upon the political position of those sitting in judgment." (emphasis deleted)); *supra* text accompanying note 3 (same, quoting Al Davis).

33. Cf. FRED ROGERS, *YOU ARE SPECIAL* 4 (1994) ("Nothing can replace the influence of unconditional love in the life of a *child*." (emphasis added)); ORWELL, *supra* note 1, at 267 ("You know the Party slogan: 'Freedom is Slavery.' Has it ever occurred to you that it is reversible? Slavery is freedom."); *id.* at 280 ("Only surrender, and everything else followed."); *but cf.* STANLEY M. ELKINS, *SLAVERY* 81, 130-32 (1963) (noting the tendency of the American system of nonmetaphorical, race-based slavery — in which power was monolithic, with the master the only authorized "father figure" — to brutalize both physically and psychologically its subjects through its system(s?) of punishments and incentives, in an attempt to demand that the slave "be a child forever," and to leave slaves' status as "moral individual[s] . . . in the vaguest of legal obscurity"); *supra* note 29 (quoting Lucille Pone on the moral status to which women were also relegated); Miller, *Bleak House*, *supra* note 29, at 79 (emphasis added):

Richard's error is not to understand that his case can never be finished, to live in the expectation of an end which will settle his life in permanent form: "it can't last for ever. We shall come on for a final hearing, and get judgment in our favour These proceedings will come to a termination, and then I am provided for." But the nature of these proceedings is precisely to be interminable, as long as the character is *alive*. [;]

CAN WE ESCAPE "US"?

HEINLEIN, *supra* note 5, at 217-18 ("The Federation Senate minority leader called for 'a bold, new approach' to problems of population and malnutrition in southeast Asia, starting with increased grants-in-aid to families with more than five children."); *id.* at 300 ("In the Tennessee legislature a bill was introduced to make π equal to three . . ."); *but cf.* McKeon, *supra* note 2, at xvii ("[Aristotle's] *Prior Analytics* . . . is concerned with inference or, since all perfect inference may be stated as a syllogism or a series of syllogisms, with combinations of *three* terms in an argument."); *but watch* SLACKER, *supra* note 16 ("Every action is a positive action even if it has a negative result."); *cf. infra* note 45 (quoting Morton Horwitz on the subordination of empirical evidence to "passion"); *infra* text accompanying note 46 (defining "postmodern pragmatism"). *But cf.* Stone, *supra* note 10, at 37 (finding "no scientific method or science" in Freud's *Three Essays on the Theory of Sexuality*, and finding them "filled with what we now recognize are horrifying mistakes . . . about female sexuality [that made] . . . several generations of educated women . . . feel sexually inadequate"); *infra* text following note 43 (defining "postmodern airline pilots").

See also Miller, *Bleak House*, *supra* note 29, at 83 ("[Richard] is slowly consumed by his vampire-like lawyer, Vholes . . . Vholes gives 'one gasp as if he had swallowed the last morsel of his client.'" (emphasis added)); WURTZEL, *supra* note 10, at 236 ("[I]n movies and novels, a . . . stock character is the evil, manipulative psychiatrist . . . who kills his irritating, untreatable manic-depressive patient and then eats the flesh of his carcass with fava beans and Chianti."); CONRAD, *supra* note 2, at 75 ("I saw [Kurtz] open his mouth wide — it gave him a weirdly voracious aspect, as though he had wanted to swallow all the air, all the earth, all the men before him." (quoting Marlow)); ANTHONY, *supra* note 29, at 11 ("[At] thirty-six, [Margaret Fuller's soul] was still uncouth . . . like a voracious birdling in a nest, all wide-open beak and nothing else."); WURTZEL, *supra* note 10, at 52-53 ("[Mine] was the kind of mother who believed in pulling a Band-Aid off fast . . . but she seemed resigned to let this depression drag on for years . . ."); *infra* text following note 49 (defining "sensitivity"); *infra* text following note 58 (defining "validation"); *infra* note 49 and accompanying text (defining and discussing "self(?)-esteem"); *watch Freeloaders* (ABC television broadcast, Feb. 24, 1997) (quoting Bob Kotay, a former homeless man now running a shelter in Denver, criticizing the "poverty industry" for its "compassion without any logic," its refusal to demand any responsibility on the part of its "clients," and its consequent promotion of "killing yourself on the installment plan"); *cf.* MAGIC, *supra* note 10, at 256-58 (demonstrating the "Equal-Unequal Ropes" trick); CONRAD, *supra* note 2, at 31 ("They were dying slowly — it was very clear."); *hear* THE EAGLES, *Hotel California*, on HOTEL CALIFORNIA (Asylum Records 1976) ("You can check out any time you like, but you can never leave."); *cf.* STEIN, *supra* note 3, at 257 ("The hotel did look like a political hotel . . ."); CONRAD, *supra* note 2, at 56 ("[A]s long as there was a piece of paper written over in accordance with some . . . law . . . made down the river, it didn't enter anybody's head to trouble how they would live."); *watch Freeloaders*, *supra* (noting that hundreds of jobs go unfilled daily in Denver, due to shelters other than Kotay's refusal to demand that their "clients" apply for work); *id.* (quoting narrator John Stossel observing that individuals unwilling to pick up their own food from various programs may have it personally delivered to them); *cf.* CHERNYSHEVSKY, *supra* note 29, at 333 ("Never mind, I'll just sit here." (emphasis added)); ELEANOR ROOSEVELT, INDIA AND THE AWAKENING EAST at xii (1953) ("Taxpayers' money must be expended wisely and the taxpayers must know just what it was spent for."); *hear* TEN YEARS AFTER, *I'd Love to Change the World*, on A SPACE IN TIME (Chrysalis Records 1971) ("Tax the rich, feed the poor 'til there are no rich no more."); *but watch Freeloaders*, *supra* (noting that the RELATIVELY wealthy as well as the RELATIVELY poor — by

 CAN "WE" ESCAPE "US"?

AMERICAN standards — are not immune from "sponging," at both public and private troughs); cf. MAGIC, *supra* note 10, at 393 (contemplating "Sponge Sorcery"); FARIÑA, *supra* note 7, at 124-25:

"— and nobody," continued Heff, barreling right over [Gnossos], "nobody's going to give you squat"

"Stipend. Grants. The Ford Fruit, the Guggenheim Vine."

"You're out to bring me down. You have any grass with you, by the way?"

"And that's another thing, that escapism syndrome You'll be mainlining, man, in a year and a half you're gonna have trackmarks." [.]

DUMAURIER, *supra* note 24, at 45 ("Suddenly there came a loud knuckle-rapping at the outer door, and a portentous voice of great volume . . . uttered the British milkman's yodel, 'Milk below!' . . . [A] strange figure appeared, framed by the gloom of the little antechamber." (emphasis added)); FARIÑA, *supra* note 7, at 205 ("Oeuf with a look of supremely confident patience: 'Gnossos?' 'What?' 'Do you want a Ford?' 'A what?' 'Fellowship. Ten grand. Private secretary, research office?' . . . 'Tangier?' 'You want the Nobel Peace Prize? . . . You help me, I help you.'"); L'HEUREUX, *supra* note 10, at 199-200:

[The Dean of Humanities] smiled and went right on. It could be a five-year appointment, or a ten-year appointment, or an appointment without term

. . . .

. . . "The Department name would have to be changed."

"Not call it a Department?"

"Not call it English," Olga said. "English is thought by some to sound too . . . exclusive." Suddenly she seemed to have an English accent.

"It's undemocratic," the black Dean said.

"It's imperialistic," the yellow Dean said

"It's homophobic," the gay and lesbian deans said together

The tall Dean observed this display of unanimity in silence then, speaking as the Department's cognizant Dean . . . said, "I never liked the name, I confess."

[“There are . . . ‘uncertain and frightened boys in dean’s capes.’” Strickland, *supra* note 12, at 494.]; L'HEUREUX, *supra* note 10, at 200 (“‘It could be called the Department of Theory and Discourse,’ Olga said, ‘or something exactly like that.’”); Getman, *supra* note 14, at 465 (noting that the “leading scholars at Harvard, Yale, and Columbia” were willing to write articles on Mussolini — for “handsome[]” compensation provided by Mussolini Chair funds at Texas State Law School); *supra* text following note 14 (contemplating “adaptive preferences”); MAGIC, *supra* note 10, at 237 (explaining “Rope Preparation” (“Coring”)). *But cf.* BROOKS, *supra* note 10, at 140 (“Whitman’s editorials . . . criticized the dollar-worship that went with poverty of soul”); F.A. HAYEK, *THE ROAD TO SERFDOM* (University of Chicago Press 1994) (1944) (viewing “safety net” slavery from an unconsenting host’s point of view); BROOKS, *supra* note 10, at 190 (“[Whitman] shared Emerson’s faith in self-reliance, in the latent powers of the normal soul, which required no ‘superstitious support’ whatever, — the justification of Lincoln’s government of *for, by, and for the people*. . . .” (emphasis added)) [*BY JOVE! DOES THIS MEAN “WE”’VE GOT TO TRASH BOTH JEFFERSON AND LINCOLN?*]; Kesity, *supra* note 10, at 5 (“They had called him brother when he came down to greet them — an endearment that always made him watch out for his wallet”) [*KESHEY A GAIN? WHAT’S NEXT: NURSE RATCHED?*]; MAGIC, *supra* note 10, at 223 (“Bills from Nowhere”); HEINLEIN, *supra* note 5, at 267 (characterizing the “carnie viewpoint”: “[M]arks weren’t people; they were blobs whose sole function was to cough up cash.”); FROMM, *supra* note 10, at 3 (“In the long and virtually continu-

 CAN "WE" TRANSCEND?

ous battle for freedom . . . CLASSES THAT WERE FIGHTING AGAINST OPPRESSION AT ONE STAGE SIDED WITH THE ENEMIES OF FREEDOM WHEN VICTORY WAS WON AND NEW PRIVILEGES WERE TO BE DEFENDED." (emphasis added); *supra* note 29 (quoting Thomas Pynchon on the "toad," "prince," "fabulous monster" "sequence"); *infra* note 39 (contemplating the "dier"/"killer" "duality"); *watch Panel on Medicare* (C-SPAN 2 network television broadcast, Jan. 3, 1997) (quoting Leonard Schaeffer, Chairman and CEO of Blue Cross of California: "Medicare is one of the great successes. Poor people make more medical visits than non-poor people. That makes it a success."); *cf.* PACE, *supra* note 10, at 2 ("Profit motive is the prime cause of vice activity."); *watch Biography: Sam Giancana*, *supra* note 10 ("I didn't care where the money came from. The money was there. We spent it." (quoting one of Giancana's daughters)); CONRAD, *supra* note 2, at 31 ("The word 'ivory' rang in the air, was whispered, was sighed. You would think they were praying to it. A touch of imbecile rapacity blew through it all, like a whiff from some corpse. By Jove!"); Kenneth Rexroth, *Afterword* to NORRIS, *supra* note 10, at 341, 342 ("When Erich von Stroheim filmed *Greed*, he is said to have followed *McTeague* page by page . . ."); Mootz, *supra* note 10, at 515 (criticizing "[J.M.] Balkin's thesis that a postmodern constitutionalism must focus on the material determinants of social life"); *but cf.* Rexroth, *supra*, at 346 ("[The title] *Greed* . . . may have been wished on [Von Stroheim] by the studio. There really isn't any greed in the book. Zerkow is not greedy; he is psychotic, and Trina progressively becomes so. *McTeague* himself simply fails and becomes alcoholic."); *but cf. infra* text following note 47 (defining "psychosis" as a "value judgment"); *supra* text following note 30 (defining "failure" as success); *but cf. supra* note 31 (contemplating the "spirit of Man"); EUGENE D. GENOVESE, ROLL, JORDAN, ROLL 588-90 (1974) (describing uprisings by nonmetaphorical slaves in the Western hemisphere); EUGENE D. GENOVESE, FROM REBELLION TO REVOLUTION *passim* (1979) (same).

See generally ORWELL, *supra* note 1, app. at 303 ("The word *free* still existed in Newspeak, but could only be used in such statements as . . . 'This field is free from weeds.' It could not be used in its old sense of 'politically free' or 'intellectually free,' since political and intellectual freedom no longer existed even as concepts . . .").

. . .

See also SARTRE, *supra* note 29, at 16 ("[E]xistentialism's first move is to make every man aware of what he is and to make the full responsibility of his existence rest on him."); *id.* at 23 ("The existentialist does not believe in the power of passion. He will never agree that a sweeping passion is a ravaging torrent which fatally leads a man to certain acts and is therefore an *excuse*. He thinks that man is *responsible* for his passion." (emphasis added)); *but cf.* Nehamas, *supra* note 17, at 27-28 ("When I was young' . . . [Sartre] was the one — along with everything he represented, the *terrorism of Les Temps modernes* — from whom I wanted to *free* myself." (emphasis added) (quoting Michel Foucault)); *but cf.* WHITMAN, *supra* note 2, at 13 ("Take my leaves, America . . . for they are your *own* offspring. And you precedents, connect lovingly with them, for they connect lovingly with you." (emphasis added)); *hear* THE GRATEFUL DEAD, *Here Comes Sunshine*, *supra* note 29:

Wake of the flood, laughing water, forty nine
 Get out the pans, don't just stand there dreamin'
 Get out the way
 Here comes sunshine [:]

THE GRATEFUL DEAD, *Let it Grow*, *supra* note 29:

Round and round, the cut of the plow in the furrowed field,
 Seasons round, the bushels of corn and the barley meal,
 Broken ground, open and beckoning
 To the spring: black dirt, live again. [:]

cf. Fortune Cookie 6, *supra* note 9: ("You can always find happiness at work at

VICTIMOLOGY?

Friday."); *but cf.* WURTZEL, *supra* note 10, at 199 ("Work always makes me feel better." That was true too. 'Arbeit macht frei,' I added, realizing that Timothy wasn't Jewish and probably wouldn't get my morbid reference to Auschwitz."). *But cf.* STEIN, *supra* note 3, at 105 ("AMERICA IS NOT OLD ENOUGH YET TO GET YOUNG AGAIN." (emphasis added)).

But cf. supra note 3 (noting that Stein wrote in 1937); *supra* note 10 ("The postmodern epoch as such is already upon us." (quoting J.M. Ballin)); *infra* note 43 ("[I]t is generally thought we are sinking." (quoting Walt Whitman)); *but hear* PETER I. TCHAIKOVSKY, *Sleeping Beauty: Waltz, on SWAN LAKE* (EMI Records 1991) (1890); *but cf. infra* note 43 ("In the postmodern moment the great upward march of history seems suddenly to have culminated and ceased." (quoting Robert Post)).

See also MCFADDEN, *supra* note 29, at 32 ("[Kate's] job search [had] fizzled out, too, since what she had to offer wasn't what she could do, exactly, but who she was [?] . . ."); Minow, *supra* note 29, at 1420 ("[V]ictim talk . . . creates a self-fulfilling prophesy . . . by suggesting that victims are powerless."); Nehamas, *supra* note 17, at 28 (characterizing Foucault's assertion of "freedom" from Sartre in a manner now repetitively and cumulatively incanted as a verse in the *Postmoderne Internationale*: "Foucault . . . argued that the 'subject,' far from being free, is itself the product of historical forces that cannot be mastered . . .") (emphasis added)); *but cf. id.* at 32 ("As early as 1960 Michel Serres . . . concluded that [Foucault's *Discipline and Punish*] 'is . . . also a cry.'" (emphasis added)); WURTZEL, *supra* note 10, at 69 ("[P]eople who did self-destructive things . . . got lots of attention . . . and got to be rescued." (emphasis added)); *id.* at 49 ("My life has become a tearjerker movie, and I am glad to be having the calculated effect." (emphasis added)); ANTHONY, *supra* note 29, at 29-30 (contemplating Margaret Fuller):

[E]very one had joined the trick against her. Even the teachers smiled and the servants tittered. The world despised her and triumphed in her disgrace! . . . [A]fterwards she . . . fell upon the floor in convulsions. Instantly, everybody was kind and attentive. . . .

[Later,] eight of the older girls . . . charged her with falsehood and calumny. The outcome was more convulsions and another illness. [:]

Minow, *supra* note 29, at 1433 ("[T]he language of victimization invites people to treat victimhood as the primary source of identity." (emphasis added)); WURTZEL, *supra* note 10, at 233 ("I am . . . the sum total of my pain."); Minow, *supra* note 29, at 1434 ("This may reflect an almost religious view of suffering, empowering those who suffer with at least respect and perhaps reverence from OTHERS." (emphasis added)). *See also* DUMAURIER, *supra* note 24, at 45-46, 48 (emphasis added):

[Trilby's] toes lost themselves in a huge pair of male list slippers, which made her drag her feet as she walked.

. . . .

. . . Trilby had . . . never worn a leather boot or shoe, had always taken as much care of her feet as many a fine lady takes of her hands. It was . . . the only real vanity she had. [:]

infra note 45 (contemplating Professor Eberhard Schlepffuss); CONRAD, *supra* note 2, at 70 ("I was SEDUCED into something like admiration — like envy. *Glamour* urged him on . . . His need was to exist . . . and with a maximum of privation." (emphasis added) (quoting Marlow on the Harlequin)); WURTZEL, *supra* note 10, at 349 (contemplating "Misery-chic"); DUMAURIER, *supra* note 24, at 44 ("Little Billee took up the 'Ballad of Bouillabaisse' where the Laird had left it off . . ."); Nehamas, *supra* note 17, at 34 (emphasis added):

[F]rom his experience of the sometimes silly, often indulgent self-absorption of California, Foucault rather poignantly arrived at his final . . . and most important idea, the idea of care of the self.

Suso?

The self? Hadn't he himself already eliminated this bourgeois concept? Was he now rejecting all that he had stood for?

....

Foucault's thinking took a seriously aestheticist turn: "From the idea that the self is not given to us, I think there is only one consequence: WE HAVE TO CREATE OURSELVES AS A WORK OF ART"

....

In particular, he became progressively more fascinated with . . . sado-masochistic subcultures

His late research [?] seemed to suggest to Foucault that he might combine ancient ethics . . . with the stuff of his own life, and thereby fashion a self [?] of his own. [.]

RONALD HAYMAN, *DE SADE* 1 (Dorset Press 1994) (1978) ("Different forms of the [Sade] surname . . . can be found in documents of the twelfth and thirteenth centur[ies]"); *id.* ("Sado, Sadone, Sazo"); WILLIAM JAMES, *THE VARIETIES OF RELIGIOUS EXPERIENCE* 307-08 (Martin E. Marty ed., Penguin Books 1982) (1902) (describing medieval German mystic Heinrich Suso: "[I]n [his] undergarment he had strips of leather . . . [with] a hundred and fifty brass nails . . . turned towards the flesh. . . . He continued this tormenting exercise for about sixteen years."); MANN, *supra* note 2, at 23-24 ("[Adrian's] friend . . . was the yard dog, Suso [S]he was by no means good-natured to strangers, and led the unnatural life of a dog chained all day to its kennel and only let free to roam the court at night."); PYNCHON, *supra* note 24, at 150 (further contemplating Suso); BARNARD, *supra* note 21, at 19 (contemplating the nurturing of William James's "mystical germ"); WURTZEL, *supra* note 10, at 31 ("[A]ny history of depression in your family?" (quoting her first therapist)); PYNCHON, *supra* note 24, at 273 ("Above all, pain. The clearest poetry, the endearment of greatest worth"); CONRAD, *supra* note 2, at 70-71 (emphasis added) (quoting Marlow on the Harlequin):

I did not envy him his devotion to Kurtz, though. He had not meditated over it. It came to him, and he accepted it with a sort of *eager fatalism*. . . .

"They had come together unavoidably, like two ships becalmed near each other, and lay rubbing sides at last. I suppose Kurtz wanted an AUDIENCE" [.]

[NOTE TO ALEXANDER NEHAMAS: NOW, I'M CONFUSED. FOUCAULT'S "MOST IMPORTANT IDEA" CAN'T BE CREATION OF THE SELF, BECAUSE THAT'S WHAT SARTRE — AGAINST WHOM FOUCAULT WAS *REACTING* (DID HE *SUBMIT*?) — WAS ALL ABOUT. IT CAN'T BE CREATION OF THE SELF AS A WORK OF ART, BECAUSE OSCAR WILDE GOT THERE TWO GENERATIONS EARLIER, *see supra* note 29, AND THAT ONE HAD NO DOUBT BEEN AROUND FOREVER IN ANY CASE. YOU'VE TOLD US THAT YOU DIDN'T UNDERSTAND HOW IT COULD BE DEATH, *see supra* note 29, AND YOU'RE OBVIOUSLY AN AUTHENTIC EXPERT ON FOUCAULT. IT COULDN'T BE KEEPING DIARIES, SINCE AS YOU YOURSELF NOTE, THAT ONE TRACES BACK TO THE ANCIENTS. *See* Nehamas, *supra* note 17, at 34. I DON'T *THINK* FOUCAULT INVENTED SADMASOCHISM. SO WHAT WAS IT — PERHAPS A NON-PRIVATIZED VARIANT? BUT GEORGE ORWELL GOT *THERE* FIRST. *See infra* note 39 (quoting O'Brien on boots and faces). THE APPLICATION OF THE PARTY'S TACTICS TO THE REAL (?) WORLD? *But cf., e.g., infra* note 46 (contemplating Mao Zedong). A SYNTHESIS (*GASP!*) OF "IT'S NOT MY FAULT" AND "I CHOSE TO DO IT?" *See, e.g.,* PYNCHON, *supra* note 24, at 625 ("Dear Mom, I put a couple of people in Hell today"); *cf.* MANN, *supra* note 2, at 224 (quoting Adrian noting that the Divel was possessed of an "actor's voice and eloquence"); *id.* at 238 ("a member of the intelligentsia, writer on art . . . theoretician and critic, who himself composes, so far as thinking allows him"). NAH, THAT CAN'T BE: FOUCAULT'S ALL ABOUT *LOVE*, RIGHT? *Cf.* Nehamas, *supra* note 17, at 32, 36. THAT "INMATES *RUNNING* THE

 THE POSE?

ASYLUM" THING? NAH, SURELY FOUCAULT WAS RATIONAL (*GASP!*) ENOUGH TO HAVE CONSIDERED THE "UNINTENDED (?) CONSEQUENCES." *But cf.* Yorker, *supra* note 10, at 328 ("*The most compelling form of circumstantial evidence in [Munchausen by Proxy Syndrome] cases is improvement of the child's condition upon separation from the mother.*").]

See WURTZEL, *supra* note 10, at 268 ("I packed a whole bag full of nothing but reading material — Freud's *Totem and Taboo*, Heidegger's *Being and Time* . . . Derrida's *Margins of Philosophy*, a Marx-Engels anthology, and other beach-blanket books like that . . ."); *id.* at 358 ("[W]hat is depression if it isn't the most striking, poignant, psychic challenge to the American Dream?"); *but cf.* WHITMAN, *supra* note 2, at 41 ("The pains of hell . . . *I* translate into a new tongue." (emphasis added)); WURTZEL, *supra* note 10, at 264-65 ("Only one person bothers to point out the madness of this plan. My sophomore year adviser [says] . . . 'Elizabeth . . . USE YOUR MIND!'" (emphasis added)); *but cf.* CONRAD, *supra* note 2, at 77 ("*Never mind.*" (emphasis added) (quoting Kurtz)); WURTZEL, *supra* note 10, at 265 ("I know, somewhere deep down, that going to London is just more *self*-destruction . . . more of an avoidance tactic, but I must persist." (emphasis added)); *watch* SLACKER, *supra* note 16 ("I may live badly, but at least I don't have to work. I'll get a job when I feel the calling."); *id.* ("Who's ever written a great story about the intense effort it takes *not* to create?"); *see* STEIN, *supra* note 3, at 70 ("It takes a lot of time to be a GENIUS, you have to sit around so much doing nothing . . .") (emphasis added); NELSON, *supra* note 29, at 44 ("That's why you need the party. So you don't have to do anything." (quoting Bill Lynch)); DAVID F. WALLACE, *INFINITE JEST* 8 (1996) (noting Harold Incandenza's thoughts while "interviewing" at Arizona State: "I expend energy on remaining utterly silent in my chair, empty, my eyes two great pale zeroes. People have promised to get me through this."); CONRAD, *supra* note 2, at 70 ("I tell you' [the Harlequin] cried, 'this man has enlarged my mind.' He opened his arms wide, staring at me with his little blue eyes that were perfectly round." (quoting Marlow)); Miller, *Bleak House*, *supra* note 29, at 86-87 ("Lady Dedlock achieves the only kind of freedom available in Dickens' world, the freedom to be one's destined self, the Kierkegaardian freedom to will to accept oneself as what one already irrevocably is."); DAVID LODGE, *THERAPY* 173 (Penguin Books 1996) (1995) ("This . . . Kierkegaard bloke, was the son of a wealthy merchant in Copenhagen . . . The old man was a gloomy, guilt-ridden old bugger, who brought his children up accordingly . . . [Kierkegaard] suffered a lot from depression, like his father."); *id.* at 100 ("According to K., the unhappy man is 'always absent to himself, never present to himself.'" (emphasis added)) [SOUND FAMILIAR?]; ANTHONY, *supra* note 29, at 208 ("[Margaret Fuller] 'submitted to be drowned.' Her death had in it the elements of pagan acquiescence, of consenting to her destiny."); *but cf.* FARIÑA, *supra* note 7, at 22 (narrating Gnosso's thoughts: "The resigned are my foes."); *but cf.* ORWELL, *supra* note 1, at 233 ("In the Ministry of Love there were no windows."); FARIÑA, *supra* note 7, at 204 (noting Gnosso's observation that in Oeuf's antiseptic Victorian hospital room, "[t]here were no windows . . . just the single door"); WURTZEL, *supra* note 10, at 8 ("When I'm off the [lithium], when my head is *clean* and *clear* of this *clutter* of *reason* and *rationality*, what I'm mostly thinking is: Why? . . . *Why be mature?* . . . I don't mean to sound like a spoiled brat." (emphasis added)); PYNCHON, *supra* note 2, at 116 ("The moral rage, it's a throwback, *it's* mediaeval." (emphasis added)). *But cf.* WURTZEL, *supra* note 10, at 247 (emphasis deleted and added):

[I]ndulgence actually made me worse. A [non-postmodern?] psychologist once explained to me that the WORST THING A THERAPIST CAN DO TO AN EXTREMELY DEPRESSED PATIENT IS BE NICE. BECAUSE THAT KINDNESS CREATES A STASIS, ALLOWS THE DEPRESSIVE TO REMAIN COMFORTABLE IN HER CURRENT MISERABLE STATE. IN ORDER FOR THERAPY TO BE EFFECTIVE, A

WINDOWS?

PATIENT MUST BE PRODDED AND PROVOKED, FORCED INTO CONFRONTATIONS,
GIVEN SUFFICIENT INCENTIVE TO PUSH HERSELF OUT OF THE CAGED FOG

[;]

DISKI, *supra* note 29, at 201 (noting Rachel's similar thoughts); watch *The Victory Garden: Planting* (HGTV television broadcast, Jan. 4, 1997) ("Never use plastic burlap; cut the ties and let it grow."); hear ERIC CLAPTON, *Let it Grow*, on 461 OCEAN BOULEVARD (RSO Records 1974) ("In the sun, the rain, the snow"); watch ALICE, *supra* note 14 ("You can learn a lot from the flowers."); cf. WHITMAN, *supra* note 2, at 39 ("Do you guess I have some intricate purpose? Well I have, for the Fourth-month showers have, and the mica on the side of a rock has."); WILSON, *supra* note 29, at 116 (emphasis added) (quoting Ken):

After they had explored all the suns in the universe, and all the planets of all the suns, they realized that there was no other life in the universe, and that they were alone. And they were very happy, because then they knew it was up to them to become all the things they imagined they would find. [;]

WURTZEL, *supra* note 10, at 247 ("All I ever did with Rafe was wallow in my pain. In striking contrast, Nathan . . . did not suffer my depressive episodes gladly. . . . He would say, Enough already. . . . And you know what? His approach worked. Forced to behave, I behaved; forced to cope, I coped." (emphasis deleted)); CHERNYSHEVSKY, *supra* note 29, at 430 ("Katerina Vasilievna treats us like solid citizens, so we behave with her as if we were."); WURTZEL, *supra* note 10, at 133 ("I've always stored up my deep depressive episodes for the weeks off when there was time."); WHITMAN, *supra* note 2, at 41 ("We have had ducking and deprecating about enough"); *id.* at 76 ("It is not chaos or death — it is form, union, plan — it is eternal life — it is Happiness."). *But cf.* VIRGIL, *THE AENEID* bk. V, at 124-25 (C. Day Lewis trans., Anchor Books 1953):

But lord Aeneas, hard hit by this most cruel disaster,

Was full of anxiety, and his mind kept oscillating

Between two thoughts — should he settle down in Sicily here

And forget his destiny, or struggle on towards Italy?

Then did the aged Nautes — he whom Pallas Athene

Had singled out as a pupil to learn her lore and be famed for it

(Him she favoured with explanations of what a god's

Great wrath should mean, and what the . . . fates demanded) —

He now addressed to Aeneas these words of consolation: —

Goddess-born, let us follow our destiny, ebb or flow.

Whatever may happen, we master fortune by fully accepting it.

Acestes now — he's a Dardan, and of divine lineage:

.....

Detail to him the crews of the burnt-out ships, and any

Who have lost heart in your great enterprise and your fortunes:

.....

Weed them out, they are spent, let them make a walled home here;

If he permits the name, they shall call their city Acesta. [;]

but cf. id. at 125 ("Aeneas was much disturbed by the words of his aged friend"); WURTZEL, *supra* note 10, at 229-30:

I watch Debi [Thomas] skate, knowing all the hard work and the years of training that lead up to this one performance . . . and I start to cry.

. . . These are the same tears I cry when I hear the gospel song that goes

This little light of mine, I'm gonna make it shine, and I think of the way that ordinary people are able to triumph, in ways small and large, over adversity.

[;]

hear THE SUPREMES, *You Can't Hurry Love* (Motown Records 1966); cf. WURTZEL, *supra* note 10, at 361 ("I sometimes worry that part of what creates depression in young people is . . . *impatience with allowing the phases of life to run*

 "SENSITIVITY?"

their course. We will very likely soon be living in a society that *confuses disease with normal life*" (emphasis added)). *But cf. supra* note 10 (sense of "urgency" (quoting Jean Grondin)); CONRAD, *supra* note 2, at 51 ("I had no time." (quoting Marlow)); *id.* at 81 ("[I]mmense plans" (quoting Kurtz)); *supra* note 14 ("Hurry!" (quoting the White Rabbit)); Thomas, *supra* note 19, at 30 ("Red Alert" (quoting Heaven's Gate website)). *But cf. infra* text following note 52 (defining "thinking more than one consequence ahead"); watch *The New Skinheads*, *supra* note 14 ("I just had to leave, and get *my own* life together [*AIYAIYAIIEEEEE!*]") (emphasis added) (quoting the former girlfriend (*gasp!*) of the leader of the Christian Identity Movement, after she had his child and then abandoned the Movement)); L'HEUREUX, *supra* note 10, at 60:

The phone rang and [Olga] snatched it up at once. It was Daryl, the cab-driver/bartender, and he was disturbed. No he could not come and see her, she said. No, he could not come and talk. No, he could not be in her Foucault seminar She would not take responsibility for the Daryls of this world. She had seen enough of chaos [;]

NELSON, *supra* note 29, at 18 (emphasis added):

My mammying days are over. I have vowed not to join a single organization in Washington Leaving New York, I also leave behind . . . COLLECTIVE consciousness, and promojites — people dressed in African garb and stuck in the late 1960s—imploring and guilt-tripping me into doing something for the cause. [;]

FARIÑA, *supra* note 7, at 56 ("Old [Calvin], the . . . advising buddy . . . who alone had warned [Gnossos] to beware the paradoxical snares of Exemption. In failing . . . to bear approving witness, he had become Gnossos' only ear. . . ."); *but cf.* PACE, *supra* note 10, at 3 ("The enforcement of [proscriptions against] vice crimes will tend to bring criticism from many sources in the community."); ROOSEVELT, *supra*, at 134 ("[E]ven the shadow of an Untouchable was supposed to be contaminating."); *but cf.* PYNCHON, *supra* note 24, at 872 ("[A]ny System which cannot tolerate heresy . . . by its nature, must sooner or later fall"). *But cf.* Peter Rudy, *Introduction* to EUGENE ZAMIATIN, *WE* at v, vi (Gregory Zilboorg trans., E.P. Dutton & Co. 1952) ("Antagonized by Zamiatin's insistence on telling the truth as he saw it, by his open disdain for anything that smacked of literary servility, Communist critics opened an offensive against him which reached an incredibly vituperative intensity after 1929"); CONRAD, *supra* note 2, at 47 ("Certainly," grunted the OTHER; 'get him hanged! *Why not?* Anything — *anything can be done in this country.*" (emphasis added)); STEIN, *supra* note 3, at 134 ("IF NOT WHY NOT." (emphasis added)); THOMPSON & STEADMAN, *supra* note 10, at 156 ("Rage, rage against the coming of the light."); HEINLEIN, *supra* note 5, at 400-01 ("[M]ore rocks gave [Mike] a crown of blood. 'The Truth is simple but the Way . . . is hard. FIRST YOU MUST LEARN TO CONTROL YOUR SELF. The rest follows' Another shotgun blast . . . followed . . . An incautious grasshopper . . . [landed] a few inches from his face"); VIRGIL, *supra*, bk. II, at 41:

Then, my god! a strange panic crept into our people's fluttering
Hearts: they argued Laocoon had got what he deserved
For the crime, the sacrilege of throwing his spear at the wooden
Horse and so profaning its holiness with the stroke.
"Bring the horse to Minerva's shrine! Pray for her goodwill!"
All of our people shouted. [;]

DELILLO, *supra* note 14, at 305 ("The door would be open. I gripped the knob, eased the door open, slipped into the room. Stealth. It was easy. Everything would be easy." (narrating J.A.K.'s thoughts)).

But cf. NELSON, *supra* note 29, at 189 ("[W]hen you are black and female, always look a gift horse in the mouth — then gallop away from it as fast as humanly

 SELF?

possible.”); VIRGIL, *supra*, *passim* (perhaps suggesting that that may not be a bad idea, apart from any essentialist limitation); WHITMAN, *supra* note 2, at 8 (“To the States . . . Resist much, obey little, Once unquestioning obedience, once fully enslaved . . . no nation, state, city . . . ever afterward resumes its liberty.”); *but cf.* Rudy, *supra*, at vii (“In June 1931 Zamiatin wrote a letter to Joseph Stalin. This letter was not the sort that dictators are accustomed to receive. Far from being an abject plea, it displayed an unruffled dignity underscored by an ironical tone.”); WHITMAN, *supra* note 2, at 23 (“I celebrate myself, and sing myself . . .” (emphasis added)); *but cf.* L’HEUREUX, *supra* note 10, at 69 (“Olga existed more truly in her books than outside of them. She felt that she was dull and desperate, and for the most part she was right, having no life to speak of . . .”); *but cf.* NELSON, *supra* note 29, at 169-70:

Misu — who is now fifteen and filled with the offhand viciousness of adolescence — tells me, “Mom, get a life.” This is in response to my suggestion that we spend the weekend together, touring local slave plantations. Hey, it sounded like fun to me.

“Sorry, mom. Me and my friends are going to the mall.”

. . . .

“The mall? The mall? How disgusting. . . . What about history, culture, the sacrifices of our ancestors?” [;]

EMERSON, *supra* note 12, at 10 (“What is life but what a [hu]man is thinking all day?”); WHITMAN, *supra* note 2, at 1, 35, 36 (“The Female equally with the Male I sing . . . The groups of newly-come immigrants cover the wharf or levee . . . The pedler sweats with pack on his back . . .”); *id.* at 56-57 (“I am the man, I suffer’d. I was there . . . I do not ask the wounded person how he feels, I myself become the wounded person . . .”); *but cf.* WURTZEL, *supra* note 10, at 12:

I would watch the other girls . . . as they blow-dried their hair in preparation for night activities . . . I watched as they improved their tennis serves and learned basic lifesaving techniques, as they poured themselves into tight Sasson jeans . . . Couldn’t they see that all this was just process — process, process, process — all for naught. [;]

but cf. NELSON, *supra* note 29, at 170 (“That’s when Misu turns, looks me dead in the eye, and in a voice so dry it could wither a cactus says, ‘Mom, get a life.’” (emphasis added)); *id.* at 38 (“It’s hard to move forward when you’re looking over your shoulder.” (emphasis added)); WHITMAN, *supra* note 2, at 39 (“Vivas to those who have fail’d!” (emphasis added)); NELSON, *supra* note 29, at 175:

My mother and I go into the living room. I sip my vodka . . . as my mother talks about my brother’s addiction.

“He looks terrible I’ve never seen him look this bad it’s like he’s trying to kill himself I don’t know what the shit to do,” she says.

“Kick him out. Tell him he’s got to go into a program and if he doesn’t, throw him out,” I say. “Want me to do it for you?” I offer, always the dutiful daughter.

“No . . .”

“Well, what are you going to do? You can’t live here with him, trapped and worried all the time. You have to do something.”

“I know that,” she snaps. “I’d just like to get some professional advice.” [;]

CHERNYSHEVSKY, *supra* note 29, at 391 (“Freedom comes before everything . . .” (quoting Dr. Kirsanov)); RAINER M. RILKE, SONNETS TO ORPHEUS, 113 (David Young trans., Wesleyan University Press 1987) (“And if the quiet earth forgets you, say to the quiet earth: I flow. Speak to the rushing water — say: I am.”).

But cf. WURTZEL, *supra* note 10, at 146 (“[B]ut then I realized that I was at Harvard, the school with the all-purpose excuse system . . .”); *id.* at 256-57 (“Some . . . don’t understand how desperate I am to have someone say . . . I support you just the way you are because you are wonderful just the way you are.”

“freedom,” *n.* (invoked negatively): “‘democracy,’”; “‘equality,’”; life (not “life”).

freedom of speech, *postmodern construct:* the freedom to say what we *tell* you to say; a necessary precondition to “equality,” “freedom,” “Mao Zedong,” “entropy,” and all that follows, *nicht wahr?* See generally “crimestop”; *all variants verboten!*

fun, *social construct:* see “enthusiasm” “hollowness,” “sterility” “chains”; *all variants obsolete.*

goal, *n.:* _____; (*alt.*): see “abyeme”; (*alt.*): gaol; (*alt.*): *shh-hhh!*; (*alt.*): ask Freud.

God, *prop. n.:* “us.”

good, *adj.* (invoked positively): see “natural law,” and all that follow; *all variants obsolete.*

PROGRESS?

(emphasis deleted)); watch BARNEY (any episode) (“I love you. You love me. We’re a happy family.”); cf. WURTZEL, *supra* note 10, at 264:

Our tutorial is pass-fail anyway. Another junior faculty member agrees to do an independent study with me on Marx, Freud, and philosophical trends in the late nineteenth century. He feels sorry for me after I tell him my various tales of woe A writing instructor agrees that I can take his course without actually showing up for it, as long as I turn in some stories now and again

[:]

compare id. with supra note 29 (contemplating Camp Middle Earth); *but cf.* Gopnik, *supra* note 29, at 54 (“[T]hat anthem of coercive affection . . . sung . . . to the tune of ‘This Old Man.’”); *infra* text following note 58 (defining “paralysis”); *but cf. infra* text following note 42 (defining “value judgment”); *but cf.* NELSON, *supra* note 29, at 178-79 (emphasis added):

My father, Popi New Age, is into his latest guru

“I love Stanley, unconditionally. Just the way he is,” my father responds when I tell him the plan. “He’s exactly where he wants to be. He is doing *the only thing he can do*”

“Are you kidding? You think the only thing he can do is be a crack fiend and die?”

“Jill, Jill. He is exactly where he wants to be. He may well have come onto this earth to take himself out in this way” His voice is in what I call his guru mode: monotone, thick, orally catatonic. CONDESCENDING. NONJUDGMENTAL MY ASS. [:]

But cf. CONRAD, *supra* note 2, at 23-24 (“[KURTZ] IS A PRODIGY. . . . HE IS AN EMISSARY OF PITY, AND . . . PROGRESS, AND DEVIL KNOWS WHAT ELSE.” (emphasis added) (quoting the “papier-mâché Mephistopheles”)); DUMAURIER, *supra* note 24, at 81 (quoting dialogue between Trilby and Svengali):

“How can I thank you, monsieur? You have taken all my pain away.”

“Yes, matemoiselle. I have got it myself But I love it, because it comes from you. Every time you have pain you shall come to me, 12 Rue Tire-Liard, au sixième au-dessus de l’entresol, and I will cure you and take your pain myself” [:]

Akhil Reed Amar, *Remember the Thirteenth*, 10 CONST. COMMENTARY 403 (1993) (tendering a definition of “slavery” perhaps even more expansive than Hayek’s, Harvard’s, Jill Nelson’s father’s, or the “nurturing” Camp Middle Earth’s); *supra* note 20 (discussing one particularly unfortunate consequence of the continued existence of serfdom).

“good,” *adj.* (invoked negatively): “‘freedom.’”³⁴

great, *adj.*: “us.”

head, *semiotic construct*: subjacent to “feet” (one way, then the other).

heart, *immutable component of human nature*: (Are you following me?).

Heaven’s Gate, *social construct*: “mean-spirited” “framing.”

hegemony, *n.-v.*: power of any form exercised by anyone other than “us”; see generally “democratic breakfast”; “transform,” “displace”; *all variants obsolete*.

Heidegger, *semiotic construct*: He’s de Man! (if only he’d gotten his “natural law” right) (on the other hand . . .); see “rhetoric”; (*alt.*): *shhhhh!* See generally “doublethink.”

Heisenberg Uncertainty Principle, *real fact*: “We”’re sure.

heresy, *n.*: an emetic for “democratic breakfast.”

hermeneutics, *n.*: see “Hermes,” “interpretation” “theory.”

Hermes, *prop. n.*: the possessor (are you following me?) of the greatest lyre of them all.

hierarchy, *n.*: “hegemony”; *all variants obsolete*.

history, *n.*: “democratic history”; *all variants obsolete*.

Hitler, *social construct*: those new-moon torchlight parades! That shattered glass! That “vision”! That “*rhetoric*”! Those *songs!* Those *BOOTS!!!*

hollowness, *n.*: see “horror,” “determinism” “rhetoric”: “power paradigm” “obsession” “Death.”

hope, *postmodern nightmare*: No! Don’t take away “our” food! See generally “horror” “emotion” “love.”

horror, *immutable component of human nature (except, of course, where “we” must export it to “you”)*: [THE FIRST SACRAMENT]: undifferentiated terror; high anxiety; the “*abyme*”; a fundamental (oops!) precondition to “hollowness,” and a non-waivable criterion for initiation; see “interesting,” “inspiring”; see also “sub-

ARE YOU SURE?

34. Cf. 1 Nomination of Judge Clarence Thomas to Be Associate Justice of the Supreme Court of the United States: *Hearings Before the Senate Comm. on the Judiciary*, 102d Cong. 2-4 (1991) (statement of Sen. Joseph Biden) (distinguishing good natural law from bad natural law); *infra* text following note 35 (defining “Joe Biden”). See also *supra* text following note 14 (defining “authentic” and “authentic leadership”).

See generally ORWELL, *supra* note 1, at 52 (“If you have a word like ‘good,’ what need is there for a word like ‘bad?’”); *id.* at 55 (noting the deployment in Newspeak of words that have two contradictory meanings: “Applied to an opponent, it is abuse; applied to someone you agree with, it is praise.”); *infra* note 68 (quoting Willard Van Orman Quine on the potential fungibility of “good” and “bad” pursuant to deviant logics rejecting the principle of “excluded middles”).

mission," "the Rocket"; see generally "inmates running the asylum" "Death"; but see "marginalization."

hubris, n.: see "I."

human beings, social construct: *Huh?* See generally "essence."

human nature, social construct: all uses to be rendered obsolete upon "our" *construction* of the New Man's "nature"; (*fut.*): [TOO OBVIOUS, *N'EST CE PAS?*].

I, personal pron.: an obstacle to "interpretation," and all that follows; the enemy; see also "uninitiated"; antonym for "enlightened."³⁵

ideal children, comp. n.: "our" "skinheads."

illusion, n.: structure.

income redistribution, feint: see "obsession"; (*fut.*): *inred.*

indeterminacy, n.: determinacy, but *only* in accordance with "natural law"; see generally "subjectivity," "concealment."

inmates running the asylum, traditional (gasp!) adage: [*WHERE COULD THIS ONE BE GOING? DIDN'T IT LOOK AS IF "WE" WERE BEING "CANNILY" AND "MEAN-SPIRITEDLY" "FRAMED" AS*

THE WIZARD?

35. See *supra* note 27 (discussing the "dissolution" of "man"); *supra* note 32 (quoting Nancy Ehrenreich, and perhaps questioning the proposition "'man' \supset man"); cf. Speech by Mao Zedong at Closing of Second Session of First National Committee of Chinese People's Political Consultative Conference (June 23, 1950), in QUOTATIONS FROM CHAIRMAN MAO TSE TUNG 42 (1966) [hereinafter MAO, LITTLE RED BOOK] ("The people's *democratic dictatorship* uses two methods. Towards the *enemy*, it uses the method of dictatorship, that is . . . it . . . *compels* them to . . . *transform* themselves into *new men*. Towards the *people* . . . it . . . uses the method of *democracy* in *educating and persuading* them." (emphasis added)); CONRAD, *supra* note 2, at 71-72 (quoting the Harlequin) (emphasis added):

You can't judge Mr. Kurtz as you would an ordinary man . . . [H]e wanted to shoot me, too, one day — *but I don't judge him* I had a small lot of ivory the chief of that village . . . gave me Well, [Kurtz] wanted it, and wouldn't hear reason. He declared he would shoot me unless I gave him the ivory . . . because he . . . had a fancy for it I gave him the ivory. What did I care! But I didn't clear out. No, no. I couldn't leave him This man *suffered* too much. [;]

watch APOCALYPSE NOW, *supra* note 29 (emphasis added) (quoting Kurtz):

I have seen the HORRORS that you've [?] seen. But you have no right to call me a murderer. . . . [*Y*ou have no right to judge me.

It's impossible for words to describe what is necessary to those who do not know what HORROR means. . . . HORROR HAS A FACE AND YOU MUST MAKE A FRIEND OF HORROR. HORROR and MORAL TERROR are your friends. If they are not, then they are enemies to be FEARED. . . . [;]

cf. ZAMYATIN, *supra* note 4, at 122 ("She was no longer a Number, she was simply a person, and she existed as nothing more than the metaphysical substance of the insult committed against OneState."); CONRAD, *supra* note 2, at 73 ("They would have been even more impressive, those heads on the stakes, if their faces had not been turned to the house." (quoting Marlow)); accord Harlan Ellison, *Strangers in a Strange Land*, NEWSWEEK, Apr. 7, 1997, at 49, 49 ("The Promised Land does not lie in the tail of a comet.").

NURSE RATCHED?]. See "education" "democratic"; see also "quadruplethink." [*WHEW! IT'S NOT ABOUT "US" AT ALL!*]

insensitive, adj.: characteristic of un"decentered" "I"s retaining the capacity to evaluate both arguments and "rhetoric," and the capacity and will to say "no" in response; see also "cavalier," "contemptuous," "dismissive," "mean spirited," "value judgment"; see generally "adjectives"; *all variants obsolete.*

inspirational, adj.: see "enthusiasm," "horror," "abyme," unorderable cognitive chaos, "vanity"; "avoidance behavior," "postmodernist insights," "power paradigm," "linear thinking": "unintended (?) consequences," "entropy," "equality," "love," "vandalism," "Death"; see generally "legal education" "repetitive and cumulative incantation" "natural law"; *all variants obsolete.*

instrumentalism, n.: see "principles" "formalism."

intellectual, n.-adj.: see "enthusiasm" "feet theory"; *all variants obsolete.*

interdisciplinary, adj.: antidisciplinary (or are "we" being "canny" here?); see generally "cultural studies," "theory"; but see "diversity," "plasticity," "solidarity" "linear thinking."

interesting, adj.: "our" *collective* "essence"; see generally "adjectives" "self(?)-esteem"; (*obsol.*): boring; *all other variants also obsolete.*

international law, comp. n.: (as "we" "interpret" it, of course): in the short run, only if "our" "interpretations" of the "United States Constitution" are marketed with less-than-complete success without it; Akhil Amar's next fashion (after "Thirteenth Amendment theory," *where else can he go?*); for the long haul, see generally "children," "consent."

interpretation, n.: see "Hermes."

interpretive community, comp. n.: "us"; see also "vanity": "genius" "interpretive community" "legal authority," "self(?)-esteem"; see generally "solipsism," "diversity," "solidarity"; (*fut.*): **immunity.**

intertextuality, n.: "context"; (*obsol.*): see "Leo Strauss."

Joe Biden, "legal" construct: a key to it all? See generally "natural law" "transformation" "United States Constitution."

John Finnis, social construct: truth (not "truth") in advertising.

Johnny One-Note, postmodern construct: "complex," "interesting" "diversity."

judgment, n.: in all cases, invidious discrimination, and an early warning sign of "fascism"; an obstacle to "entropy" and all that follows; see also "value judgment"; see generally reason (not

“reason”) “hegemony,” “mean-spirited”; an obstacle to “self(?)—esteem”; (*obsol.*): the power to compare ideas and ascertain the relations of propositions; good sense; sagacity; *all other variants also obsolete.*

justice, feint: “radically democratic” “social justice”; *all variants obsolete.*

keep writing, categorical imperative: Since “our” highest “authority” is not posterity but “our” colleagues, it doesn’t matter that after “we”’re gone [*though at this thought “we” shudder violently*], no one will ever read “our” stuff again! [NOTE TO THE READER: THE AUTHOR’S ASTROLOGER INFORMS HIM, HOWEVER, THAT A SEMINAL (OOPS!) NEO-“POSTMODERNIST” “ARTICLE” WILL BE PUBLISHED IN THE KAISERSASCHERN LAW REVIEW IN OCTOBER 2097, AND THAT THE TWENTIETH-CENTURY “POSTMODERNIST” “CONTEXT” WILL BE REDISCOVERED (IN FRANCE AND AT YALE) SHORTLY THEREAFTER.]

knowledge, social construct: formerly thought to be a necessary presupposition to reason; “displaced” by “enthusiasm,” “theory,” “rhetoric,” and “discourse”; “ignorance” “strength”; see generally “hegemony” “education,” “legal education”; *all variants obsolete.*³⁶

“DISCOURSE”?

36. Compare CULLER, *supra* note 5, at 3 (“No longer was discussion and evaluation . . . something which had to wait upon acquisition of a respectable store of . . . information. No longer was the right to comment something earned by months in a library.”) and Robert Post, *Lani Guinier, Joseph Biden, and the Vocation of Legal Scholarship*, 11 CONST. COMMENTARY 185, 188 (1994):

I was asked to guest lecture in a graduate seminar offered by the Berkeley humanities center on “The Historiography of the Subject.” The seminar began by having two graduate students, one in English and the other in History, comment on my work. . . . Both graduate students were proficient in the most advanced techniques of cultural theory. They each remarked that my work contained a great deal of sociology which they did not feel competent to evaluate. They each said that they would instead take my articles as themselves “texts,” and they each then proceeded to practice on those texts the elegant and standard analytic moves of post-modern analysis.

and DELILLO, *supra* note 14, at 304-05 (narrating J.A.K.’s thoughts):

Elegant. My airy mood returned. I was advancing in consciousness . . . I became aware of processes, components, things relating to other things . . .

. . . On the door . . . were little plastic letters arranged in slots to spell out a message. The message was: NU MISH BOOT ZUP KO.

Gibberish but high-quality gibberish.

and PYNCHON, *supra* note 24, at 505 (“Part of the ceiling, blown away when the King Tiger died, is covered now with soggy and stained cardboard posters all of the same cloaked figure in the broad-brimmed hat, with its legend DER FEIND HÖRT ZU. Water drips through in half a dozen places.”) and *infra* text following note 37 (defining “legal education”) and BENJAMIN, *supra* note 22, at 447 (“These are days when no one should rely unduly on his ‘competence’”) and ORWELL, *supra* note 1, at 17 (“IGNORANCE IS STRENGTH.”) and *supra* text following note 18 (defin-

language, *n.*: *Huh?* (or are “we” being “canny” here?); see generally “chimpanzees.”³⁷

SEMIOTICS?

ing “context”) and *supra* text accompanying note 23 (defining “democratic history”) with *supra* note 30 (discussing empiricism) and Strickland, *supra* note 12, at 495 (“[I]f any of you know more about our current crisis than what you read in this morning’s *New York Times* or *Washington Post* . . . I’ll be happy to . . . talk about it.” (quoting Cal Woodard)) and W. Barton Leach, *Property Law Taught in Two Packages*, 1 J. LEGAL EDUC. 28, 38-39 (1948):

Understanding must precede criticism and evaluation if these are to be worth anything. My fear is that [Myers] McDougal’s emphasis on sociological and political evaluation will cause his students to be criticizing something . . . as to which they . . . have no proper basis for expressing a judgment. It may also be that it is not the best way to lead a young man into thorough understanding of a system to keep saying to him, “This is silly. . . . The whole thing is wrong, wrong, WRONG!!!”

and *Fortune Cookie 7*, *supra* note 9 (“He who has imagination without learning has wings but no feet.”). See generally PYNCHON, *supra* note 10, at 16 (contemplating corroboration); PYNCHON, *supra* note 2, at 59 (“[Oedipa] wrote *Shall I project a world?*”); *infra* note 46 and accompanying text (defining and discussing various types of “pragmatism”); CONRAD, *supra* note 2, at 52 (“[A]nd we crept on, towards Kurtz.”).

37. Cf. Mark A. Krause, *Biological Continuity and Great Ape Rights*, 2 ANIMAL L. 171, 176 (1996) (“The chimpanzees Washoe, Moja, Tatu, Dar, and Loulis — at the Chimpanzee and Human Communication Institute — use American Sign Language (ASL). The chimpanzees sign with their human care givers, with each other, and to themselves.” (footnote omitted)); *id.* at 172-73 (“Humans cross-fostered Washoe, Moja, Tatu, and Dar and taught the chimps their signs. Washoe adopted Loulis, *who learned his signs from the other chimpanzees.*” (emphasis added) (footnote omitted)); FRANCINE PATTERSON & EUGENE LINDEN, THE EDUCATION OF KOKO 108 & tbl. 4 (Owl Books 1983) (1981) (noting the ability of Koko, a lowland gorilla, even to answer some *questions*); *infra* note 51 (quoting David Lodge on questions). But cf. JACQUES-YVES COUSTEAU & PHILIPPE DIOLÉ, THE WHALE 105 (J.F. Bernard trans., Doubleday 1972) (“Certainly not all the sounds made by cetaceans are part of a ‘language.’ Some of them are not a means of expression, but a method of orientation and detection.”); but cf. *id.* at 116 (“When one hears whales ‘talking’ in the night, it seems quite obvious that they are able to communicate with one another; that they are not simply indulging in sounds without meaning, but that they are actually exchanging thoughts and opinions.”); *id.* at 112 (“The sounds made by [h]umpback whales are different from those of any other animals. They extend over a much wider range and have a greater variety of expression even than that of birds.”); HEAR HUMPBACK WHALES, SONGS OF THE HUMPBACK WHALES (Roger S. Payne ed., Capitol Records 1970) (permitting the inference that *some* humpback whale sounds are *songs*, of between six and thirty minutes in length, identifiable as such because they are uttered, like those of birds, in repeated complete sequences); cf. Dennis W. Arrow, *Pomobabble: Postmodern Newspeak and Constitutional “Meaning” for the Uninitiated*, 96 MICH. L. REV. 461, 568 n.37 (1997) (stating that George and Tiger, the Arrows’ basset hounds, employ language to convey and receive determinate meaning to and from humans and each other, and that, in many cases, they can accurately remember the past); KIMBERLY KEARNS & MARIE O’BRIEN, BARNEY’S FARM ANIMALS 21 (1993) (discussing canine linguistics); Miles v. City Council, 551 F. Supp. 349, 350 n.1 (S.D. Ga. 1982) (“[I]t should be disclosed that I have seen and heard a demonstration of Blackie’s abilities. . . . One afternoon when crossing Greene

laughter, social construct: "hope"; nonsubmission to "the Rocket"; *all usages and practices therefore obsolete.*

law, n.: not now, thanks, but definitely later; a "discipline," incorporating all other "disciplines," that operates autonomously

HERMENEUTICS?

Street . . . I spotted in the median a man accompanied by a cat Held and stroked by the man Blackie said 'I love you' and 'I want my Mama.'). *affd.* 710 F.2d 1542 (11th Cir. 1983) (per curiam); *hear* THE BEACH BOYS, PET SOUNDS (Capital Records 1966); *cf.* WHITMAN, *supra* note 2, at 24 ("Have you practis'd so long to learn to read?") (emphasis added)); KARL-ERIK FICHTELIUS & STEVE SJÖLANDER, SMARTER THAN MAN?: INTELLIGENCE IN WHALES, DOLPHINS, AND HUMANS (Thomas Teal trans., Pantheon Books 1974) (1972); *but compare* COUSTEAU & DIOLÉ, *supra*, at 116 ("It does not seem that whales have a special sound for *alarm* . . ." (emphasis added)) *with* VIRGIL, *supra* note 33, bk. II, at 36 ("[Y]ou must never feel safe with the horse, Trojans." (quoting Laocoon)).

Cf. supra note 29 (comparing English with French); *supra* note 26 (comparing English with German); *supra* note 26 (comparing language with music); *infra* note 45 (quoting Thomas Pynchon on the utility of controlling the channels of communication to those undemocratically seeking power); *see also* Gary L. Francione, *Animals as Property*, 2 ANIMAL L. at i, iv n.13 (1996) ("There has been some discussion . . . as to the advisability of a law suit seeking by judicial decision a declaration that at least some animals (e.g., chimpanzees) have personhood status."); *but cf. supra* text following note 15 (defining "children," and perhaps suggesting an inference that that wouldn't do much good for chimpanzees not converted to postmodernism); *but cf.* *Rushton v. Vitale*, 218 F.2d 434 (2d Cir. 1955) (contemplating "Zippy" the chimpanzee, and concluding that chimpanzees may not be dechimpanzeed by mindless essentialism).

See also BENJAMIN, *supra* note 22, at 448 ("In an aversion to animals, the predominant feeling is fear of being recognized by them through contact. The *horror* that stirs so deep in man is an obscure awareness that something *living* within him is so akin to the animal that it might be recognized." (emphasis added)); Brooks, *supra* note 10, at 187 ("[Whitman] foresaw democracy proving itself . . . [and] displacing all that had previously existed . . . under . . . opposite and hostile influences It was to pervade life . . . beginning in America . . . because the old world was committed to the feudal tradition . . . [with democracy] vitalized by regular contact with OUT-DOOR LIFE and GROWING THINGS, trees, animals . . . and the warmth of the sun." (emphasis added)); BLACK ELK SPEAKS 246 (John G. Neihardt ed., 1961) (demonstrating that Whitman's was by no means the first such American vision). *See also* Peter Dobereiner, *Golf and the Darwinian Theory*, GOLF DIG., Feb. 1997, at 32, 32 (1981) (contemplating a possible proto-human: "Was this creature a man or an ape? Did it possess the power of reason? Did it communicate by speech? Did it have a sense of humor?"); *but cf. infra* note 50 (noting that Koko, a living lowland gorilla capable of conveying and receiving determinate meaning through language, *has* a sense of humor); *but cf.* KRISTEVA, *supra* note 29, at 33 (emphasis added):

Let us keep in mind the speech of the depressed — repetitive and monotonous. . . . A *repetitive rhythm*, a *monotonous melody* emerge and dominate the *broken logical sequences*, changing them into *recurring, obsessive litanies*. Finally . . . the melancholy person appears to stop cognizing as well as uttering, sinking into the blankness of *asymbolia* or the excess of an *unorderable cognitive chaos*. [;]

STEIN, *supra* note 3, at 5 ("That's interesting I said."). *See generally* RILKE, *supra* note 33, at 95 ("Is there a place where . . . we can speak the language of fish?").

(oops!) from all other forces, and which exists so that its “hierarchy” may structure (not “structure”) *all* relationships on the basis of *autonomously*-generated ideology (as contrasted, say, with disciplines such as engineering, where the goals of a particular application are established by entities outside the field, and the natural sciences, in which the goal(s) of an exercise, from problem-solving to enhancing the discipline’s ability to precisely treat newly-gathered data in detail, subjects hypotheses and/or applications to the possibility of ultimate empirical disverification); a system to be perfected when all that is not prohibited is *required*; the set of all sets “we” like; see generally “totalitarianism.”

law and literature, *comp. n.*: see “canon”; (*fut.*): **lawrature**.

left-wing, *paranoid construct*: never mind: a null set. It doesn’t exist. “We”’re *sure!* Doesn’t *exist!* “We”’re Civic Republicans! As harmless as little children! “We”’re just “pragmatists”! Without a jargon, too! Nothing like “Solidarity”! No “mysticism” or “romantic idealism,” either! Doesn’t *EXIST!* “We” only want to *help* you ~~make the right decisions!~~ Oops! “We” just mean *help* you! “We”’re all for “democracy”! “We” “love” Andy Jackson. Of the people, by the people, and all that — *all* of “us”! “We” only want “justice”! “Justice”! “JUSTICE”! And “democracy,” by Jove (are you following me?), “democracy”! (*Obsol.*): right wing (not “right wing”); *all other usages also obsolete. Obsolete!*

legal, *adj.*: political; *all variants obsolete.*

legal authority, *comp. n.*: “our” law review “articles”; see also “repetitive and cumulative incantation” “enlightened” “complex” “great” “rich” “textured” “nuanced” “theory” “natural law”; see generally “mysticism,” “romantic idealism.”

legal education, *comp. n.*: “power”; training for “hierarchy”; (*fut.*): **egalduc**.

legal postmodernism, *comp. n.*: *shhhhh!* (*alt.*): linear thinking; (*alt.*): constitutional amendment by faculty-appointments committee; (*alt.*): Foucault’s Proustian bedtime lullabies; sadoanarchy; (*alt.*): the “constitutionally” fueled Rocket; (*alt.*): neo-“Marxist” (ersatz) *zen*; (*alt.*): the (ersatz) sixties mau-mau (and dine in) Las Vegas; (*alt.*): the Borg; (*alt.*): the *only* thing “we” can do; (*fut.*): **legalism**.³⁸

legitimacy, *social construct*: *huh?*; (*alt.*): “ours”: “epistemology”

Fog?

38. See WATTS, *supra* note 22, at 3 (“Zen Buddhism is a way and a view of life which does not belong to any of the formal categories of Western thought. It is not religion or philosophy”); *id.* (“The origins of Zen are as much Taoist as Buddhist”); *id.* at 10-11:

 "ENLIGHTENMENT"?

When we turn to ancient Chinese society, we find two "philosophical" traditions playing complementary parts — Confucianism and Taoism. Generally speaking, the former concerns itself with the linguistic, ethical, legal, and ritual conventions which provide the society with its system of communication. . . .

Taoism, on the other hand, is generally a pursuit of older men, and especially of men who are retiring from life in the community. Their retirement from society is a kind of outward symbol of an inward liberation from the bounds of conventional patterns of thought and conduct. . . .

. . . In certain natures, the conflict between social convention and repressed spontaneity is so violent that it manifests itself in crime, insanity, and neurosis, which are the prices we pay for the otherwise undoubted benefits of order.

But Taoism must on no account be understood as a revolution against convention, although it has sometimes been used as a pretext for revolution. Taoism is a way of liberation, which never comes by means of revolution, since it is notorious that most revolutions establish worse tyrannies than they destroy. [;]

KAPLEAU, *supra* note 22, at 48:

QUESTIONER: What is satori?

ROSHI: When a Zen master was asked, "What is Buddhism," he replied, "I don't understand Buddhism."

Me, I don't understand satori.

QUESTIONER: If you don't understand, who does?

ROSHI: Why don't you ask someone who says, "*I am enlightened*"? [;]

SCHLOEGEL, *supra* note 16, at 56 ("MASTER OTSU commented on it: "To reach real gentleness means to let the original nature [*AAAAEEEEEE!*] persist in all circumstances of everyday life."); *id.* at 50 ("MASTER DOGEN advised: 'Do not aim at achieving Buddhahood.'"); *id.* at 54 ("MASTER MUMON advised: 'Rather than putting the body to rest, rest the heart.'"); BLYTH, *supra* note 21, at 33 ("When activity is stopped and there is passivity, this passivity is a state of activity."); ANDRÉ MALRAUX, *ANTI-MEMOIRS* at vi (Terence Kilmartin trans., Bantam Books 1990) (1967) ("The elephant is the wisest of all the animals, the only one who remembers his former lives; and he remains motionless for long periods of time, meditating thereon." (quoting Buddhist text)); *but cf.* SCHLOEGEL, *supra* note 16, at 56:

Master Sessan said: "There are people who do a little practice and before attaining any spiritual light jump up without thinking at all and come out with pointless big words and fine phrases. They go in for every kind of oddity to show how different they are and think carelessness and unreliability are spiritual freedom. Wit they pass off as enlightenment and frivolity as detachment; they specialize in speaking and acting as if mad." [;]

infra note 45 (quoting Gertrude Stein on Duncan); TOM WOLFE, *Mau-Mauing the Flak Catchers*, in *RADICAL CHIC AND MAU-MAUING THE FLAK CATCHERS* 115, 155 (Bantam Books 1971) (1970) (characterizing "mau-mauing" as "saying every outrageous thing that bubbles up into [one's] brain," in an attempt to "blow the minds" of the uninitiated); *but cf.* FARINA, *supra* note 22, at 76 ("You want it all without the *discipline*, Gnostos, you can't exactly expect the revelations of Saint John." (emphasis added)).

Compare V.I. LENIN, *STATE AND REVOLUTION* 78 (rev. trans. ed. Greenwood Press 1978) (1917) ("He who does not work, shall not eat.") and XIANFA [Constitution] art. 6, para. 1 (PRC) ("[F]rom each according to his ability, to each according to his *work*." (emphasis added)) and MARY ANN GLENDON, *THE NEW FAMILY AND THE NEW PROPERTY* 65 (1981) (describing the "*compassionate ongoing marriage*" as a "sharing of goods from each according to ability, to each according to

“subjectivity,” “repetitive and cumulative incantation” “natural law”; “I”’s: *United States Constitution* (not “United States Constitution”); see also words, text, structure, history, context, self-government, *pragmatism!* (*gasp!*); Occam’s razor: “*we win!*” [“COMPLEX,” “RICH,” “TEXTURED,” “NUANCED,” EH?]

life, n.: Death.

linear thinking, postmodern construct: straight backwards from the monotonic conclusions to the “legal authority.”

“POSTMODERNIST INSIGHTS”?

need” (emphasis added)) with Joan C. Williams, *Married Women and Property*, 1 V.A. J. Soc. POLY. & L. 383, 406 (1994) (emphasis added) (footnotes omitted):

One implication of “rights talk” is that Americans are more receptive to arguments based on claims of entitlement than to claims based on *need*. “From each according to his ability, to each according to his need”: if any principle is *discredited in the United States*, this is it. Because the LANGUAGE of need does not have a strong foothold in the *political* arena, to say “you must give women post-divorce income because they *need* it” *sounds* less like demanding justice than like asking for charity in a peculiarly unpersuasive tone of voice.

and Joan Chalmers Williams, *At the Fusion of Horizons: Incommensurability and the Public Interest*, 20 V.T. L. REV. 625, 633 (1996) [hereinafter Williams, *Horizons*] (“Of all the RHETORICS of American politics, ‘*democracy*’ remains the only one that commands an unassailable aura of consensus.” (emphasis added)) and *supra* text accompanying note 23 (defining “democratic” and “democratic history”) and *infra* text following note 47 (defining “radically democratic”) and text accompanying note 32 (defining “frame”) and *supra* note 29 (quoting Williams on “reassurance”) and Williams, *Horizons, supra*, at 628-29 (emphasis added) (footnote omitted):

A famous 1939 *Chicago Tribune* cartoon showed a professor hoisting the hammer and sickle outside the Yale Law School. It quoted an unnamed professor saying “Give me any student and I’ll make him a communist in two years *without mentioning communism.*”

The *Tribune*[’s] . . . image of Yale Law School as an epicenter of liberalism was accurate. . . . During that period, it had helped invent a social role perfectly suited to my dad — that of “public counsel.”

and RIBOWSKY, *supra* note 3, at 54 (“The [Southern] accent was an affectation . . . If I was recruiting three guys in one day, I’d change clothes three times. Make them think you were fresh, that they were special . . . I can charm anyone . . . I want.” (quoting Al Davis) (alteration in original)) and HEINLEIN, *supra* note 5, at 137 (“‘How many hands do I have?’ ‘Two hands. I see two hands,’ Mike amended. Anne glanced up . . . ‘In six weeks I could make [him] a Witness . . .’” (emphasis added)).

See generally *infra* note 45 (contemplating, inter alia, Morton Horwitz and “democracy”); *supra* note 35 (noting Mao Zedong’s “deployment” of that “sign”); Stephen B. Presser, *Some Realism About Orphism*, 79 Nw. U. L. REV. 869, 877 n.39 (1984-1985) (contemplating neo-Marxism in the Critical Legal Studies movement); *infra* note 45 (quoting Peter, Paul, and Mary on words); LANG, *supra* note 24, at xiv (“‘I am good; who else can say this than the good man himself, and who would be less willing to affirm it?’” (quoting Martin Heidegger)); *supra* note 29 (“Who shall decide what is good and what is evil?” (quoting Jacques Monod)); WHITMAN, *supra* note 2, at 44 (“I speak the pass-word primeval, I give the sign of democracy . . .” (emphasis added)).

local positions, *comp. pl. n.*: universal “natural law.”

Lochnerize, *v.*: what Supreme Court Justices who are not one of “us” do; for what “our” Justices do, see “rich,” “textured,” “nuanced” “postmodernist insights”; “enlightened” “interpretation” “social justice”; see generally “adjectives”; *all variants obsolete*.

logic, *n.*: see reason “hegemony”; discernment “mean-spirited”; value judgment “fascism”; to be “displaced” by “vanity” and “emotion”; *all variants obsolete*.

logical positivism, *comp. n.*: not for “us,” thanks anyway, but an offer “I’s can’t refuse; see generally “empirical verifiability,” “epistemology.”

loser culture, *comp. n.*: The more losers, the “greater” “our” “culture”!

love, *n.*: a necessary precondition to “power” and all that follows.³⁹

AMERICA?

39. “[A]N ARMY OF LOVERS CAN BE BEATEN. These things appear on the walls of the Red districts in the course of the night. . . . They are not slogans so much as texts, revealed in order to be thought about, expanded on, translated into action by the people. . . .” PYNCHON, *supra* note 24, at 181 (second ellipsis in original); *cf.* ORWELL, *supra* note 1, at 229-300 (contemplating the Ministry of Love); KRISTEVA, *supra* note 29, at 4 (“Montaigne’s statement ‘*To philosophize is to learn how to die*’ is inconceivable without the *melancholy* combination of sorrow and HATRED — which came to a head in Heidegger’s care and the *disclosure* of our [“our”?] ‘being for [D]eath.’” (emphasis added)); *supra* note 24, 26 (commenting on Heidegger’s Death “discourse” generally); WARHOL, *supra* note 29, at 144 (“I believe that *everyone* should live in one big empty space.” (emphasis added)).

See also CHAYEFSKY, *supra* note 29, at 94 (emphasis added):

During his seven years of marriage, [Jessup] had lived with a relentlessly simmering rage directed against his wife’s disorderliness But once he was left alone and free and the house tidied up and everything clinically in its place, he had found that the rage still simmered, unfocused now [There were] times when he suspected himself of imminent madness, a sensation of *horror* just on the periphery of his civilized sanity, a horror moving about like a lurking pack of predatory animals in the darkness of the primeval forest. . . .

THE RAGE WAS HIS ALONE, HAD ALWAYS BEEN HIS. [;]

watch *The New Skinheads*, *supra* note 14 (“If you lie down with skinheads, you’re gonna wake up with hate.” (quoting a former member of the White Aryan Resistance)); *cf.* BELL HOOKS, *AIN’T I A WOMAN?: BLACK WOMEN AND FEMINISM* (1981) (apparently concluding that all men hate all women, that both black and white men (other men undiscussed) hate black women more than they hate white women (other women undiscussed), and that most white women (same comment) hate black women); Edmonds, *supra* note 30, at 95 n.256 (noting “*strands* of feminism that posit men as hopelessly sexist — sometimes called the ‘testosterone theory’ — and . . . *strands* of Black liberation that posit white people as ‘born (racist) devils’”); HOOKS, *supra*, at 114 (“*Patriarchy* forces fathers to act as monsters, [and] encourages husbands and lovers to be rapists in disguise”) [WHEW! AFTER READING THAT, I MOMENTARILY THOUGHT THERE MIGHT BE A WHOLE LOT OF PEOPLE HOOKS DIDN’T LIKE. See generally KESSEY, *supra* note 10, at 16 (“She looks primed, he thought [A]n argument rigged to go off at the slightest touch.” (emphasis added)); MACKINNON, *supra* note 29, at 91 (“SOMETIMES YOU BECOME

 AMERIKA?

WHAT YOU'RE FIGHTING." (emphasis added)). BUT I WAS "REASSURED." See HOOKS, *supra*, at 114 ("[M]en, too, are victimized. To be an oppressor is dehumanizing and anti-human in nature . . ." (emphasis added)); see generally MANN, *supra* note 2, at 14 ("One such butterfly, in transparent nudity, loving the duskiness of heavy leafage, was called *Hetæra esmeralda*. *Hetæra* had on her wings only a dark spot of violet and rose; one could see nothing else of her, and when she flew she was like a petal blown by the wind.").

See also Getman, *supra* note 14, at 456 (contemplating Salvatore Nunzio, who eventually funded the Mussolini Chair at Texas State):

[Nunzio] once told a young associate named Timowski . . . "Poles haven't acquired their reputation for stupidity without cause." Another time he told a reporter seeking to know the secret of his success: "I'm Italian. Italians like to threaten, fake, and make shady deals. And there is no better preparation for law."

Nunzio was reported to have said on more than one occasion that "left-wing Jewish intellectuals are ruining this country." [.]

PYNCHON, *supra* note 24, at 658-59 ("'Swope's a Jew . . . ' 'Naahh — Bloody, yew don't know whatcher talkin' about —' 'I'm *telling* you —' They fall into a . . . juicers' argument over the ethnic background of the ex-chairman of GE, full of poison and sluggish hate." (quoting dialogue between Chlitz and Marvy)); hear SERGEI PROKOFIEV, *Montagues and Capulets, on ROMEO AND JULIET* (Deutsche Grammophon 1994) (1936); cf. THOMPSON & STEADMAN, *supra* note 10, at 36-37 ("'And stay away from Korean bars,' Skinner added. 'They're degenerate scum — cruel, bloodthirsty little bastards . . . Let me tell you a negro story. It'll get your mind off Koreans.' 'I've heard it,' I said."); Getman, *supra* note 14, at 459 (emphasis added) (contemplating Dean Engle's predicament):

I wondered if the Mussolini idea was a matter of ethnic pride, so I suggested . . . another famous Italian . . . He cut me off disdainfully. "I'm not interested in promoting one of these lovable wops. I'm interested in helping to restore the reputation of a *great* but unappreciated thinker." [.]

id. ("I'm interested in *political ideas*." (emphasis added) (quoting Nunzio)) [cf. L'HEUREUX, *supra* note 10, at 209 ("Olga . . . had appealed to what is easiest and most base in human nature and . . . had found a ready response in the Deans . . . They had . . . been offered the chance to sell their souls, and . . . had taken it, eagerly . . .")]; THOMPSON & STEADMAN, *supra* note 10, at 37 (first emphasis in original) (ellipsis in original):

"The Samoans," he said. "The traffic jam on the freeway . . . Jesus! You never heard *that* story?"

I shook my head.

"Okay," he said, "this is a wonderful story about how *your worst nightmares can come true at any moment, with no warning at all.*"

"Good," I said, "Let's hear it. *I like these stories. They speak to my deepest fears.*"

"They should," he said, "Paranoia pays, over here."

"What about the Samoans?" [.]

"We're talking maximum stereotype overdrive here." NELSON, *supra* note 29, at 56; cf. *id.* at 88 ("*Human* characteristics and personality traits . . . are viewed as 'racial,' and therefore negative." (emphasis added)); RILKE, *supra* note 33, at 21 ("Have *we* learned that?"); NELSON, *supra* note 29, at 166 ("My understanding is that you haven't been happy on the magazine, and that Len and Milton felt you'd be happier in Metro," she says. I bet, the newspaper equivalent of Coon Town, where Negroes are happier among their own (you see, it's not segregation, they *like* it that way)." (quoting Mary Hadar of the *Washington Post*)); see also Strickland, *supra* note 23, at 37 (noting Hollywood's attraction to essentialist

MESSIAHS?

stereotyping of the demonizing, condescending, infantilizing, and "Christ figure" "redeemer" verities). *But cf.* Kennedy, *supra* note 30, at 56 ("I reject the notion of racial kinship. I do so in order to avoid its burdens and to be free to claim what . . . Michael Sandel labels 'the unencumbered self.' The unencumbered self is free and independent, 'unencumbered by aims and attachments it does not choose for itself. . . .'); *but cf.* HOOKS, *supra* note 17, at 9 ("*Confined and restrained by family, region, and religion, I was inwardly homeless, suffering, I believed, from a heart-breaking estrangement from a divine community of radical artistic visionaries whom I imagined were longing for me to join them Europe was a necessary starting place for this search.*" (emphasis added)); *but cf. id. passim* (noting that by her late 20s, hooks had found "home" in her race and gender — which apparently, unlike her *mutable* "region and religion" accidents of birth, were *not* "confining and restraining"). *See also* Kennedy, *supra* note 30, at 60 (emphasis added):

[Stephen] Carter writes about his racial love for black people, declaring . . . that "to love one's people is to crave a kind of familyhood with them." Carter observes that this . . . affect[s] the way in which he values people's OPINIONS of him. "The good OPINIONS of black people . . . matter to me more," he writes, than the good OPINIONS of white people. [.]

but cf. id. at 66 ("I would propose a shoe-on-the-other foot test for the propriety of racial sentiment."); *but cf.* HOOKS AND WEST, *supra* note 30, at 44 (quoting West on the instrumental utility of naming at least part of his *Weltanschauung* "Christianity"); HOOKS, *supra* note 17, at 243 (naming the foundation (*gaspl*) of her program an "ethic of love"); *but cf.* HOOKS, *supra* note 17, at 245 ("Malcolm called us [?] back to ourselves [?], acknowledging that taking care [?] of blackness is our [?] central responsibility. Even though King talked about the importance of black self-love, he talked more about *loving* our *enemies*." (emphasis added)); NELSON, *supra* note 29, at 145 ("[W]hile I respect Martin Luther King . . . if I had to throw it down it would have been with Thurgood or the gun-toting . . . brothers and sisters in the Black Panther Party."); HOOKS & WEST, *supra* note 30, at 22 ("I was politically awakened by the *crypto*-Marxism of the Black Panther Party and schooled in the Hegelian Marxism of Georg Lukacs and the Frankfurt School . . . and I possess an abiding allegiance to progressive ["progressive"?] Marxist social [?] analysis and political praxis." (emphasis added) (quoting Cornel West)); *id.* at 33 ("[W]e [?] HAVE TO [?] interpret . . . the decline [?] of American civilization from the vantage point of an [?] African-American." (emphasis added) (quoting West)); NELSON, *supra* note 29, at 145 ("I need an outlet for my energy, as well as some positive feedback, the ego-feed of leadership."); HOOKS & WEST, *supra* note 30, at 55 ("[T]here is a tremendous sense of inadequacy and rage in Black women . . . [and] Black men." (quoting Cornel West)); *id.* at 41 (emphasis added) (again quoting West):

Black people *rarely get free from their fear of . . . stepping out on their own and being independent.* There is a *fear of failure* deeply ingrained in the black psyche So we have many individuals who fear success, *fear that if you are too successful you will be alienated from Black people.* Hence we see people failing because the anxiety of possible failure after attempted success is so intense. [.]

So what is to be done? STEP 1: Reinforce the allegedly perceived impossibility of achieving success by "repetitively and cumulatively incanting" "victimology," "racism," and "determinism" as often as possible, and toss in a little language-fantasy "decentering" for good measure. *Cf. id.* at 35 ("[M]any of us are influenced [by] [find useful?] European theorists ["theorists"?], Michel Foucault, Julia Kristeva, [Jacques] Derrida, and [Jacques] Lacan." (quoting Cornel West)); *see also* HOOKS, *supra* note 17, *passim* (repetitively incanting "dominance"). STEP 2: To *abate* black individuals' [*AIYAIEEEEEE!*] fears that "if they are too successful"

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they "will be alienated from [other] Black people," *define* the *essence* of blackness as *poverty*. See, e.g., NELSON, *supra* note 29, at 23 ("[B]eing bourgeois . . . negated being black."); *but cf. infra* (quoting Jill Nelson on her "vow of poverty," and characterizing its surrounding gestalt as "CLASS suicide" (emphasis added)). STEP 3: To further abate success/racial alienation fears, engage in pseudopsychological attacks on the black middle class as a whole, "cannily," *but cf. supra* text following note 20 (defining "deconcealment"), "deploying" the array of "adjectives" included in the lexicographical component of this article. See, e.g., HOOKS & WEST, *supra* note 29, at 42 ("The worst feature of the *Black middle class* is that IT *refuses* to promote SELF-CRITICAL SENSIBILITIES, owing to *deep-seated anxieties* [?]" (emphasis added) (quoting Cornel West)); *see generally supra* text following note 14 (defining "authentic" leadership); *supra* note 29 (contemplating Cass Sunstein, Emily Sherwin, and "endogenous preferences" (not the Marxist-preferred "false consciousness" "sign")). STEP 4: While providing "reassurances" about the high level of critical race "theory"'s commitment to the "rich[]" legacy of freedom of speech (and invoking the icon of Martin Luther King in so doing), *see* HOOKS & WEST, *supra* note 30, at 43 ("We have to accent liberty [?] and freedom of expression and thought in all [?] of their forms." (emphasis added) (quoting West)), attack the *exercise* of free speech by individuals [*AIYYEEEEEE!*] within the black middle class (but only if they disagree with the agenda, of course) *as itself censorship*, *cf. infra* text following note 52 (defining "the BIG Lie"), while "deploying" a maximum amount of Pomobabble in the process, *see* HOOKS & WEST, *supra* note 30, at 42 (emphasis added) (quoting bell hooks):

This raises again the question of why *we must* THEORIZE *class relations* in the Black *community*. To some extent, what we are really talking about and trying to understand [LET ME HELP: THEY DISAGREE WITH YOU.] is the way a CERTAIN kind of middle-class mentality ["HOPE"?] operates to CENSOR [publicly disagree with?] the development of a CERTAIN kind [STAY TUNED] of *critical* ["critical"?] oppositional Black *intellectuality* ["intellectuality"?]. [.]

cf. HOOKS & WEST, *supra* note 30, at 42-43 ("We [?] have to tackle this HEAD-ON if we [you?] are going to BREAK FREE from the kind of economic/political BONDAGE [success?] that has so many of the Black middle-class trapped [thriving?] within the larger capitalist rat race [America?]." (emphasis added) (quoting West)); *see generally infra* note 45 (perhaps raising the question of whether "head-on" means "crimestop"). STEP 5: To further enhance the paralysis, add a dollop of depression, *cf., e.g.,* FYODOR DOSTOEVSKY, *DEMONS* 387 (Richard Pevear & Larissa Volokhonsky trans., Vintage Classics 1995) (1872) ("Add some extra gloom, that's all, no need for anything else . . ." (quoting Pyotr)); *see also supra* note 29 (quoting Julia Kristeva), "richly" "textured" with a touch of Heideggerian Death "discourse," *cf.* HOOKS & WEST, *supra* note 30, at 33 ("[A]s a PHILOSOPHER [there's another one coming up shortly], I'm fundamentally [oops!] concerned with how we [?] confront [*D*]eath, dread, despair, disappointment, and disease And sociologists, economists, social scientists . . . are not *primarily* concerned with how individuals confront their INEVITABLE [*D*]OOM, their INESCAPABLE [*E*]XTINCTION." (emphasis added) (quoting West)); *id.* at 52 ("[*U*]nfortunately, we do indeed have very, very strong expressions of *gospels* [!] of *wealth and health*" (quoting West)); *compare id. with infra* note 43 (quoting Michel Foucault). STEP 6: Add a cup of that "inspirational" Cuban cinema, to better prepare the proles for *class* struggle, *id.* at 46 (quoting hooks), a rasher of "reassurance," HOOKS & WEST, *supra* note 30, at 50 (quoting West defending "humility" and decrying "authoritarian sensibility"); *but cf.* KARL MARX, *THE COMMUNIST MANIFESTO* 36-37 (Henry Regnery Co. 1954) (1848) ("In depicting the . . . development of the proletariat, we traced the more or less *veiled* civil war, *raging* within existing society, up to the point where that war breaks out into open revolution, and where the violent over-

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throw of the bourgeoisie lays the foundation for the sway of the proletariat.” (emphasis added)); *but cf.* HOOKS & WEST, *supra* note 30, at 22-23 (“Cornel West is unique among Black intellectuals [“intellectuals”?] in that he has always courageously identified himself with Marxist *social* [?] analysis”); *but cf.* MARX, *supra*, at 36 (“The proletarian movement is the . . . movement of the immense majority, in the interest of the immense majority.”); *but cf.* ALNSKY, *supra* note 10, at 126 (“[I]f your organization is small in numbers . . . conceal the members in the dark but raise a din and clamor that will make the listener believe that your organization numbers many more than it does [I]f [it] . . . is [even smaller], stink up the place.”); *supra* text following note 38 (defining “loser culture,” and perhaps suggesting that having lots of losers might not be a bad thing from the standpoint of CERTAIN [AIIYAIYAEIEEEEE!/] agendas). Anyway you slice it, though, it’s obviously a whole lotta love. *But compare supra with Tribal Elders Pray for Earth*, SUNDAY OKLAHOMAN, Sept. 28, 1997, at 24 (“Black, red, yellow, white — all men are created equal But blood from everyone is red. We are all one. Color means nothing.” (quoting Harry Byrd)); *but cf.* Strickland, *supra* note 12, at 498:

There is an old joke oft told at Indian gatherings, I think it is told about other minority groups as well. Two men are walking along the beach, each is carrying a bucket of long-legged sea crabs. The crabs in one bucket are crawling everywhere, and some are even climbing out of the bucket. In the other bucket the crabs are all in place. When asked why his crabs stayed put, the second man replied, “I selected only Indian crabs If one starts to pull himself up out of the bucket, the others turn on him and pull him back down.”
[:]

L’HEUREUX, *supra* note 10, at 34 (“[Kurtz] tells people what they want to hear He manipulates people.”); HOOKS & WEST, *supra* note 30, at 34-35 (“[T]heory is inescapable because it is an *indispensable weapon* in struggle . . . because it provides CERTAIN kinds of understanding, CERTAIN kinds of illumination, CERTAIN kinds of insights that are requisite if we are to act effectively. For example [cute?], the Marxist tradition has always meant much to me” (emphasis added) (quoting West)); *but cf. id.* at 44 (“Bill Moyers . . . being of Baptist origin, felt . . . that I would . . . be able to speak to the mainstream because of my *Christian faith*, and because of my relative LEGITIMACY in the EYES of the ‘MAINSTREAM’ ACADEMY.” (emphasis added) (quoting West)); MANN, *supra* note 2, at 14 (“Then there was the leaf butterfly, whose wings were on top a triple chord of colour, while underneath . . . they resemble a leaf When this clever creature alights among the leaves and folds its wings, it disappears by adaptation . . . entirely”); HOOKS & WEST, *supra* note 30, at 31 (emphasis added):

[BELL HOOKS]: Why do you think universities like Princeton, Duke, Harvard, and any number of schools we could name . . . are now engaged in promoting Black studies? What’s *their* agenda?

[CORNEL WEST]: Well, we live in a different world now. We saw the *collapse of Europe* in 1945. We are seeing the *decline of the American empire* [?] in the 1990’s And so these universities, which are in many ways *repositories* [?] of the different kinds of shifts going on in the world as expressed [?] intellectually [“intellectually”?], must indeed RESPOND [?]. [:]

compare id. with infra text following note 43 (defining “Pomobabble”).

But cf. WHITMAN, *supra* note 2, at 63 (I do not ask who you are, that is not important to me, You can do nothing and be nothing but what I will infold you.). [WALT! *It’s YOU that doesn’t get it! For one thing, it’s a MORAL DUTY: “we”’ve got to go for “it”! It’s part of “our” “social construction”!* Cf. Kennedy, *supra* note 30, at 56 (emphasis added):

[Michael] Sandel believes that the *unencumbered self* is an illusion and that

 Eat?

the yearning for it . . . “cannot account for CERTAIN moral and political obligations that we [?] commonly recognize, even prize” — “obligations of solidarity [?], religious duties, and other moral ties that may claim us [?] for reasons UNRELATED TO A CHOICE [yes, but *in what way?*],” which are “indispensable aspects of our [?] moral and political experience.” Sandel’s objection to those who, like me, seek the unencumbered self is that they fail to appreciate loyalties and responsibilities [“responsibilities”?] that *should be accorded moral force* partly because they influence our [?] identity [?], such that living by these attachments “is inseparable from understanding ourselves [?] as the *particular* persons we [?] are — as *members* of this family or city or nation or people [or *psychological class?*], as *bearers* [?] of that history . . . [.]”

[UHH, MICHAEL . . . DOES THIS ALSO APPLY TO, SAY, A PERSON WHOSE PARENTS — AND “COMMUNITY” MEMBERS — ARE VIOLENT AND PROUD NEO-NAZIS? ANTISEMITIC? RACIST? LINEAL DESCENDANTS OF JOSEPH MENGELE? B.F. SKINNER? WHOSE COMMUNITY HAS LONG PRACTICED RITUALIZED CHILD ABUSE? PEDERASTY? INCEST? HUMAN SACRIFICE? DEPRESSION? IT *MUST* BE A MORAL DUTY, SINCE EVERYBODY’S SOCIALLY CONSTRUCTED, RIGHT? *But cf. supra* note 29 (quoting Cass Sunstein, and distinguishing “good” moral values, like “dominance” feminism, from bad ones); *supra* note 34 (quoting Joe Biden distinguishing “good natural law” from “bad natural law”); *infra* note 51 (contemplating *The House that Jack Built*); *see also Kennedy, supra* note 30, at 56 (“Sandel privileges what exists and has existed so much that his deferential tradition lapses into historical DETERMINISM. . . . Feelings of PRIMORDIAL attachment often represent *mere prejudice or superstition, a hangover of the childhood socialization from which MANY people never recover.*” (emphasis added).)]

[RECOVER? NO ONE EVER “RECOVERS”! HAVEN’T YOU READ FOUCAULT? “WE”’VE ALL BEEN RAISED IN SKINNER BOXES. Cf. B.F. SKINNER, CONTINGENCIES OF REINFORCEMENT: A THEORETICAL ANALYSIS (1969); *but cf. WHITMAN, supra* note 2, at 69 (“Long I was hugg’d close — long and long.”). *WELL, IF WHITMAN’S RIGHT, THEN “I”’S WERE JUST SOCIALLY CONSTRUCTED DIFFERENTLY AND EVEN IF RANDALL KENNEDY’S RIGHT, AND “WE”’RE SOCIALLY (FAMILIALLY?) CONSTRUCTED BUT “I”’S AREN’T, see generally supra* text following note 34 (defining “hollowness”), “WE” STILL GET TO PLAY BY DIFFERENT RULES!]

[BUT THEN WE’D BE TALKING ABOUT INDIVIDUALS, AND THE RESULTANT CLASSIFICATION — CENTEREDNESS VERSUS “HOLLOWNESS” — WOULDN’T BE ESSENTIALIST AT ALL.]

[DOESN’T MATTER! *See infra* text following note 42 (defining “obstacles to personal success other than those readily susceptible to ‘essentialist’ ‘victimology’ agglomeration”); *see also Crenshaw, supra* note 30, at 1297 (emphasis added):

“I am Black” takes the *socially* imposed [?] identity and empowers IT as an *anchor* [!] of *subjectivity* “I am a person who happens to be Black,” on the other hand, achieves *self*-identification by *straining* [?] for a certain [not “certain”] universality (in effect, “I am first a person”) and for a concomitant dismissal of the imposed [?] category (“Black”) as contingent, circumstantial, *nondeterminant*. *There is truth in both characterizations*, of course, but they function quite differently depending on the *political* context [“context”?]. *At this point in history*, a *strong* case can be made that the most critical [“critical”?] resistance strategy . . . is to *occupy and defend* a politics of social location [.]

But cf. infra note 44 (quoting Gertrude Stein on Oakland).]

[BUT WE’RE TALKING CONSTITUTIONAL LAW HERE. AND WHO’S “IMPOSING” THE CATEGORY?]

[DOESN’T MATTER. IT’S ALL JUST PRINCIPLE AS LONG AS “WE” GET THE CAPITAL. *See supra* text accompanying note 3 (quoting Al Davis). AND “WE”’RE IMMUNE FROM FOUCAULT’S “POWER PARADIGM” PENDULUM SWINGS! (Sorry,

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Umberto.) See generally THOMPSON & STEADMAN, *supra* note 10, at 132 ("Driving the Saddle Road"). BUT EVEN IF "WE"'RE NOT, AND ESSENTIALIST CANNIBALISM ATTACKS FROM EITHER WITHIN, see, e.g., NELSON, *supra* note 29, at 90-91 (emphasis added):

[Juan] Williams is a black Republican type . . . à la Clarence Thomas. He is also of Panamanian parentage, which explains some of where he's coming from. He typifies the worst STEREOTYPE of . . . immigrants [of African descent who,] because they ostensibly came here voluntarily, view America as a place where, if you work hard, keep your nose clean, and obey the law, anything's possible. . . . These immigrants ["Is that not a generalization?" MANN, *supra* note 2, at 193.] often have a hard time . . . understanding African-Americans

. . . .

. . . [T]hese immigrants [THAT ESSENTIALISM AGAIN] of African descent pass judgment: African-Americans, [IT NEVER STOPS] they say, are lazy, cynical, always looking for a hand-out . . . Forget racism, history, the brutalization of the African-American psyche from the middle passage on down, they holler [NOT SING?]. [.]

OR FROM WITHOUT, see, e.g., RICHARD J. HERRENSTEIN & CHARLES MURRAY, THE BELL CURVE 269-340 (1994) (positing and discussing racial and ethnic cognitive ability and IQ inequalities); Graeme Leech, 4 Billion Reasons Men Have Brains, THE AUSTRALIAN, July 30, 1997, at 3 ("A Danish neurologist has found that men, on average, have 23 billion brain cells — 4 billion more than women."); but cf. MANN, *supra* note 2, at 105 ("How much of that sort of thing, in past ages, has not been said and felt most profoundly about woman!"); but cf. PYNCHON, *supra* note 24, at 771 ("Flirt if you want . . . but expect to be taken seriously." (quoting Enzian)); see generally *supra* ("What about the Samoans?" (quoting Dr. Thompson)), THEN IT MAY BE ANTHONY KENNEDY OR BUST. BUT "WE"'RE COMFORTABLE WITH THAT: "WE"'RE CONFIDENT HE'S JUST "DEPLOYING" "POSTMODERN" "RHETORIC" WHEN HE WRITES THAT "ADHERENCE TO NEUTRAL PRINCIPLES IS THE VERY PREMISE OF THE RULE OF LAW," Maryland v. Wilson, 117 S. Ct. 882, 891 (1997) (Kennedy, J., dissenting); cf. 117 S. Ct. at 891 (Kennedy, J., dissenting) (closing the sentence immediately preceding the "neutral principles" one with the [code?] words "reasoned judgment"); Louis Michael Seidman, *Romer's Radicalism: The Unexpected Revival of Warren Court Activism*, 1996 SUP. CT. REV. 67, 69 (footnotes omitted):

In tone, Justice Kennedy's opinion for the Court [in *Romer v. Evans*, 517 U.S. 620 (1996),] seems far out of place in current volumes of the U.S. Reports It contains not a single footnote, and a bare minimum of legal analysis In place of technical discussion of precedent and doctrine, Kennedy relies upon sweeping moral generalities — some might say bromides — concerning "transactions and endeavors that constitute ordinary civic life in a free society and our [?] constitutional tradition." [.]

Obstruction of Justice, NEW REPUBLIC, May 19, 1997, at 9, 9 (citing a study characterizing Kennedy as the "most activist Justice," voting to "second-guess the political branches" in eighty-five percent of the Court's economic and civil liberties cases); but cf. John Copeland Nagle, *Newt Gingrich, Dynamic Statutory Interpreter*, 143 U. PA. L. REV. 2209 (1995) (book review); compare *Idaho v. Coeur d'Alene Tribe*, 117 S. Ct. 2028, 2034 (1997) (Kennedy, J.) ("We do not . . . question the continuing validity of the *Ex parte Young* doctrine. Of course, questions will arise as to its proper scope and application.") and 117 S. Ct. at 2039 (Kennedy, J.) (concluding that "[t]he range of concerns to be considered in answering this inquiry is broad," invoking, in a single column, two "case-by-case"s, one "balancing," and one "sensitivity to varying contexts," and marginalizing Indian tribes' attempts to pursue *Ex parte Young* relief) with *Oklahoma Tax Commn. v. Chickasaw Nation*, 515 U.S. 450, 457-60 (1995) (rejecting a state attempt to localize, plasticize, contex-

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tualize, and deconstruct a traditional *per se* rule of law and replace it with a subject-privileging balancing test); *cf.* Randall Coyne, *Images of Lawyers and the Three Stooges*, 22 OKLA. CITY U. L. REV. 247, 251 (1997) ("Truth is stranger than fiction, Judge-Wudgie." (quoting Curly)); *but cf. supra* text following note 38 (defining "Lochnerize," and distinguishing "Lochnerizing" from "rich," "textured," and "nuanced" "social justice").]

See also ALINSKY, *supra* note 10, at 14 ("We live in a world where 'good' is a value dependent on whether we want it." (emphasis added)); Michael Bérubé, *Citizens of the World, Unite! Martha Nussbaum's Campaign to Cultivate Humanity*, LINGUA FRANCA, Sept. 1997, at 54, 59 (noting that when responding to persons with axiological preferences differing from her own, "Nussbaum has only one card to play: What these people . . . need is more reason" (emphasis added)); Pevear, *supra* note 10, at xiv ("What I want, with all my HEART, is to MAKE people happy. IN THIS LIES MY HAPPINESS. MINE! Can you hear that, YOU, IN YOUR UNDERGROUND HOLE?") (emphasis added) (quoting Nikolai Chernyshevsky)); Katz & Wagner, *supra* note 29, at 21 ("Rakhmetov, the *totally rational* [?] revolutionary ascetic and superhero, makes both Lenin and Dostoevski more comprehensible . . ." (emphasis added)); see also *supra* note 23 (contemplating "education"); *but cf.* Bérubé, *supra*, at 59-60 ("But . . . [i]t's . . . often impossible to appeal to a universal table of reason ["reason"?] in order to rule out of court *other people's* appeals to reason . . ."); *but cf.* Frank, *supra* note 29, at 78 (characterizing Rakhmetov as the "revolutionary Superman"); *but cf.* DOSTOEVSKY, *supra*, at 402 ("I got entangled in my own data, and my conclusion directly contradicts the original idea I start from. *Starting from unlimited freedom, I conclude with unlimited despotism.* I will add, however, that *apart from my solution* of the social formula, *there can be no other.*" (emphasis added) (quoting Shigalyov)); *id.* at 403 ("So it all comes down to Shigalyov's *despair*," Lyamshin concluded . . ." (emphasis added)); *id.* at 403-04 (emphasis added):

[T]he lame man finally mixed in . . . ["Mr. Shigalyov . . . suggests, as a final solution of the question, the division of mankind into two unequal parts. One tenth is granted freedom of person and unlimited rights over the remaining nine tenths. These must lose their person and turn into something like a herd, and in unlimited obedience, through a series of regenerations ["transformations"?], attain to primeval innocence, something like the primeval paradise — though, by the way, *they* will have to work. The measures proposed by the author for removing the will from nine tenths of mankind . . . by means of a re-educating of entire generations — are quite remarkable . . ."] [;]

id. at 404 ("What I propose is . . . paradise, earthly paradise, and there can be no other on earth," Shigalyov concluded imperiously.); *id.* at 417 ("Shigalyov is a man of GENIUS . . . He's invented 'EQUALITY'!" (emphasis added) (quoting Pyotr)); Katz & Wagner, *supra* note 29, at 7 ("Convinced of the correctness of his views, Chernyshevsky often advanced them self-righteously and remained intolerant of criticism."); *id.* at 4 (noting the emergence of a "potentially authoritarian commitment to social transformation" among Russian intelligentsia); RIBOWSKY, *supra* note 3, at 116 ("In order to run an efficient organization, there has to be a dictator." (quoting Al Davis)); *but cf.* CONRAD, *supra* note 2, at 33 ("Suddenly there was a growing murmur of voices . . . All the *carriers* were speaking together, and in the midst of the uproar the lamentable voice of the chief agent was heard . . . 'When one has got to make *correct entries*, one comes to HATE those savages — HATE THEM TO DEATH.'" (emphasis added)); Katz & Wagner, *supra* note 29, at 17 (emphasis added) ("[For] Chernyshevsky . . . [g]ood' and 'evil' became relative terms, their use based on whether people perceived the actions of others as beneficial or harmful to them . . ."); Yang Jung-kuo, *Confucius — A Thinker Who Stubbornly Supported the Slave System*, in SELECTED ARTICLES CRITICIZING LIN PIAO AND CONFUCIUS 1, 1 (Foreign Languages Press (Peking)

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1974) ("To analyze Confucius from the historical-materialist viewpoint, one must put him in the context of the CLASS STRUGGLE of his time and see which class standpoint he took and which class his ideology served." (emphasis added)).

[HMMMMM . . . LET'S TAKE A LITTLE INSPIRATION FROM BOTH YANG AND THOMAS SZASZ. See generally SZASZ, *supra* note 12, at 39. THE RESULTING QUESTIONS LOOK LIKE THIS: FOR WHOM, OR FROM WHAT POINT OF VIEW, IS IT DESIRABLE TO CLASSIFY THOSE WHO EITHER PERCEIVE OR PURPORT TO PERCEIVE THE WORLD AS UNORDERABLE COGNITIVE CHAOS, AND SOME OF WHOM MAY BE DRIVEN BY HORROR, MELANCHOLIA, AND/OR HATE, AS PSYCHOLOGICALLY HEALTHY? FOR WHOM, OR FROM WHAT POINT OF VIEW, WOULD ENFORCING THAT "EPISTEMOLOGICAL" VIEW ON THOSE WHO DO NOT, TREATING THE FORMER INDIVIDUALS AS MORALLY PRIVILEGED AND PRESCRIBING THEIR "VISION" FOR SOCIETY AS A WHOLE, GENERATE PERCEIVED BENEFITS? Watch *Star Trek (The Next Generation): Best of Both Worlds* (pt. 2) (syndicated television broadcast 1990) [hereinafter *The Borg*] (noting that The Borg's consciousness consists of a common mind with an insatiable appetite for conquest, in which individuals are but components); THE TWILIGHT ZONE, *Number Twelve Looks Just Like You* (CBS television broadcast, Jan. 24, 1964); see WURTZEL, *supra* note 10, at 50 ("If I can just get in touch with the blue-collar blues . . . I will be a . . . Marxian worker person, alienated from the fruits of my labor. *That is all I want in life: for this PAIN to seem purposeful.*" (emphasis added)); CONRAD, *supra* note 2, at 26 ("[By] my . . . aunt . . . I had been represented . . . as . . . one of the Workers, with a *capital* — you know. Something like an emissary of light, something like a lower sort of *apostle* [T]he excellent woman . . . got carried off her feet. She talked about 'weaning those ignorant millions from their horrid ways' (emphasis added)); RIBOWSKY, *supra* note 3, at 214 ("For all his nerve he needed *distant* targets, dehumanized by overriding crusades and nebulous causes. This was the same Al Davis . . . who fought the Korean war in the PX at Fort Belvoir."); MANN, *supra* note 2, at 279 ("Dr. Chaim Breisacher . . . a polyhistor . . . was concerned with the philosophy of culture, but his views were anti-cultural The most contemptuous word on his lips was the word 'progress.'"); ARONOWITZ, *supra* note 10, at 5 (emphasis added):

EVEN IF [DEFENDERS OF THE "OLD" FAITH] MAY TAKE SOLACE IN THE COLLAPSE OF COMMUNISM, AT LEAST FOR THE MOMENT, THE DECLINE of many of their own cherished institutions such as universities, "serious" classical music, modernist art, and the so-called legitimate theater — indeed, many of the apparatuses of HIGH, *western culture* — weakens the polemical thrust of those who would declare *marginal* the minions of post-modern culture. . . .

. . . [U]NLIKE PREVIOUS PERIODS OF RAPID TRANSFORMATION, WHAT THE QUEST TO REINSTATE TRADITIONAL VALUES LACKS NOW IS A WIDESPREAD PERCEPTION OF PROGRESS. While the idea of progress has been subject to severe intellectual scrutiny since the end of the late nineteenth century, American popular culture was, until fairly recently, suffused with HOPE. [;]

hear Aram Katchaturian, "*Gayne*" *Suite: Sabre Dance*, on OFFENBACH, *supra* note 5. See generally MANN, *supra* note 2, at 343 ("One sunny morning had been enough to fatigue his nerves so much that he thirsted after darkness and enjoyed it like a beneficent element.".)]

IT'S A TRANSCENDENTAL MOMENT OF "HOPE"! AS I WRITE THIS, ARONOWITZ'S BOOK IS *PHYSICALLY COMING APART IN MY HANDS!* [Note to Conrad scholars and postmodern readers: This is *not* a hidden reference to Marlow's first encounter with the Harlequin's lost book. See *supra* note 16 (discussing that episode). It really (*gasp!*) happened, as the tape between pages xii-1 and 6-7 of my copy of Aronowitz book (assuming it's not actually Aronowitz himself) will corroborate. Have fun (or, in the latter case, "fun") with the rest, as you will (?).] See also, e.g., Lentricchia, *supra* note 29, *passim* (offering the "last will and testament" of an ex-

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literary "theorist" who recently bailed out of the "theory"-mill wing at Duke's English Department, became a "mere" Professor of Literature, and "confessed" that he actually likes (not "loves") great literature (not "texts") [AIAIYAYIEEEEE!]). *But cf.* NABOKOV, *supra* note 29, at 265 ("Political literature is the highest literature [L]iterature cannot fail to be the handmaiden of one or another ideological trend" (quoting Nikolai Chernyshevsky)); Lentricchia, *supra* note 29, at 64 (emphasis added):

I believe that what is now called literary criticism is a form of Xeroxing. Tell me your theory and I'll tell you in advance what you'll say about any work of literature, *especially those you haven't read*. Texts aren't read; they are preread. *All of literature is x and nothing but x*, and literary study is the *nam-ing (exposure) of x*. For x, read *imperialism, sexism, homophobia, and so on*. [;]

but cf. ALINSKY, *supra* note 10, at 128 (second emphasis added):

A tactic that drags on too long becomes a drag. Man can sustain militant interest in any issue for only a limited time, after which it becomes a ritualistic commitment, like going to church on Sunday mornings. New issues and crises are always developing, and one's reaction becomes, "Well . . . after all *there are other important things in life*" [;]

but cf. infra note 50 and accompanying text (defining "sterile"); *cf. infra* text accompanying note 44 (providing as a definition of "postmodernism": "*the only thing 'we' can do*" (emphasis omitted)); *supra* note 36 (discussing "knowledge," contemplating "education," and quoting Robert Post perhaps suggesting an identical inference); *see also supra* note 37 (quoting Julia Kristeva characterizing the "speech of the depressed" as "repetitive and monotonous," involving the changing of "broken logical sequences" into "recurring, obsessive litanies"); Zalewski, *supra* note 24, at 19 ("Despite our best intentions to suppress or conceal our emotions, it seems they're written all over our face").

But hear THE GRATEFUL DEAD, *Eyes of the World*, on WAKE OF THE FLOOD, *supra* note 29 [hereinafter THE GRATEFUL DEAD, *Eyes of the World*] ("Right outside this lazy summer home, you ain't got no time to call your soul a critic, no."); *see* NELSON, *supra* note 29, at 13-14 (emphasis added):

"I like it here, Mom. I think we should move here," my daughter says.

. . . .

"The buildings are small. The people are nice. And it's clean"

. . . .

My daughter is tired of being a leftist. She is tired of eccentric clothes, artists, vegetarian diets Deep in her little African-American heart, she yearns to be Vanessa Huxtable She is sick of my Sixties CLASS-suicide trip, of middle-class Mommy's *vow of poverty* in pursuit of the *authentic Negro experience*

She's got a point. [;]

id. at 160 ("It took me a few years to accept that [Martha's] Vineyard . . . was my authentic Negro experience"); *id.* at 241-43 ("I leave the *Washington Post* forever, free to imagine myself. Now, that's my authentic African-American experience Most of all, I'm happy, and finally number one to myself."); *supra* note 29 (noting the ever-increasing marginalization [AIAIYAYIIIIIEEEEE!] of "dominance" feminists — and their agenda — as their "rhetoric" generates escalating levels of perspectival discordance). *Compare* CONRAD, *supra* note 2, at 75 ("Kurtz . . . looked at least seven feet ["two arshins and fifteen vershoks," CHERNYSHEVSKY, *supra* note 29, at 278 (contemplating Rakhmetov)] long." (emphasis added) (quoting Marlow)) *with id.* (contemplating stretchers) and L'HEUREUX, *supra* note 10, at 168 ("[Olga] was surprised to see that some who had *seemed* big people were well on their way to becoming marginal" (emphasis added)) and Ruth Bader Ginsburg, *On the Interdependence of Law Schools and Law Courts*, 83 VA. L. REV.

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829, 833 (1997) (“[L]aw journal citations in Supreme Court opinions are less numerous in the 1980s and 1990s than they were in the 1970s . . .”) and Note, *Looking It Up: Dictionaries and Statutory Interpretation*, 107 HARV. L. REV. 1437, 1438 (1994) (“Over the past decade, the Supreme Court’s use of *dictionaries* in its published opinions has increased *dramatically*.” (emphasis added)) [PERHAPS THE “RICH” AND “NUANCED” “TEXTURE” OF POSTMODERN “INTERPRETIVE” “THEORY” HAS HAD A REAL-WORLD (GASP!) EFFECT!] and PYNCHON, *supra* note 24, at 839-40 (some emphasis added):

[D]idn’t you sneak away . . . to have a moment alone with [w]hat you felt stirring across the land . . . [?] [H]uman consciousness . . . is about to be born. *This is the World . . . Alive, it was a threat*: it was Titans . . . So we . . . were sent out . . . to have *dominion* . . . Us. Counter-revolutionaries. *It is our mission to promote [D]EATH*.

. . . [But] [a] few keep going over to the Titans every day.

. . . Titans stir far below. They are all the presences we are not supposed to be seeing — wind gods, hilltop gods, sunset gods . . .

and AARON COPLAND, *Appalachian Spring*, on DORATI CONDUCTS COPLAND (Philips Classics 1991) (1944) and James Wood, *Major Changes*, NEW REPUBLIC, May 19, 1997, at 15, 16 (commenting on the Labour Party’s victory in the United Kingdom’s recent elections: “[T]wo things have changed forever: popular mainstream socialism has died; and the European ideal has snuffed itself out in Britain.”) and Robert G. Natelson, *Condominiums, Reform, and the Unit Ownership Act*, 58 MONT. L. REV. 495, 508 (1997) (“[T]he trend toward centralized decision-making recently has reversed — partly due to the dramatic collapse of centralized societies . . .”) and Barbara Giudice, *An Era of Soul-Searching for France’s Intellectuals*, CHRON. HIGHER EDUC., June 13, 1997, at A41 (“That the influence of [French] intellectuals [?] seems to be decreasing even as their visibility is increasing is a subject of consternation . . . among them.”) and *id.* (“For example, the endorsement of Communist Party candidates by a group of leading intellectuals [?] had no discernible impact on the party’s popular support.”) and *France Urged to Accept English Language*, SAN DIEGO UNION-TRIB., Aug. 31, 1997, at A25 (“[France’s] Education Minister Claude Allegre said yesterday [that] . . . English, along with computers, will be a fundamental part of the future, so the French people must . . . embrace both . . .” (emphasis added)) and Cynthia Cotts, *Columbia University To Become a Mecca for Legal Philosophers*, NATL. L.J., Nov. 17, 1997, at A18, A18 (“For years, the law reviews have been captured by bad French philosophy,” said Professor [Jules] Coleman. ‘But now the analytic tradition is making a comeback.’”) and Isabelle Kreindler, *Multilingualism in the Successor States of the Soviet Union*, 17 ANN. REV. APPLIED LINGUISTICS 91, 93 (1997) (“Generally, amid an enthusiastic opening to English, Russian is in precipitous decline . . .”) and Steven Mufson, *Chinese Shake Up Leadership*, WASH. POST, Sept. 19, 1997, at A1 (“[T]he . . . delegates . . . at the Great Hall of the People voted today . . . to endorse [Jiang Zemin’s] proposal to enshrine . . . market-style theories . . . ‘I declare the 15th Party Congress . . . over,’ pronounced Jiang amid the fading strains of the . . . *Internationale* . . .”). And haven’t I heard something about Stanford bringing back Western Culture? [AIYAYAIIIIIIEEEE! QUICK! THE RAPID RESPONSE TEAM! (“Hey, hey, ho, ho . . .”). Hear Anonymous but Apparently Technically Augmented Demonstrator I Encountered During the Sixties (“We chant slogans! We chant slogans!”).] [ENOUGH HOPE, STAN?] See generally PYNCHON, *supra* note 24, at 648 (“*You killed my lemming!*” (emphasis added)); L’HEUREUX, *supra* note 10, at 141 (“*You pig! . . . [G]ive me back my baby!*” (emphasis added) (quoting Kurtz)).

But watch SLACKER, *supra* note 16 (“To those humans in whom I have faith: I

 TITANS?

wish you suffering, being forsaken, sickness, humiliation. I wish that they should not remain unfamiliar with profound self-contempt, the torture of self-mistrust. Remember: the passion for destruction is also a creative passion." (quoting an elderly anarchist who has a picture of Leon Czolgosz on his wall)); KRISTEVA, *supra* note 29, at 5 ("My depression points to my not knowing how to lose — I have perhaps been unable to find a valid compensation for the loss?"); *but cf.* WURTZEL, *supra* note 10, at 353 (discussing Depressives Anonymous); LODGE, *supra* note 33, at 212 ("I'll put you on Prozac if you really want me to . . ."); *supra* note 30 (perhaps prescribing a substantial dose of *external empirical reality*); *but cf.* DELILLO, *supra* note 14, at 306 (emphasis added) (quoting dialogue Mink and J.A.K.):

"By coming in here, you agree to a certain behavior"

"What behavior?"

"ROOM BEHAVIOR. THE POINT OF ROOMS IS THAT THEY'RE INSIDE. NO ONE SHOULD GO INTO A ROOM UNLESS HE UNDERSTANDS THIS THIS IS WHAT PEOPLE IN ROOMS HAVE TO AGREE ON, AS DIFFERENTIATED FROM LAWNS, MEADOWS, FIELDS, ORCHARDS."

I agreed completely. It made perfect sense I heard a noise, faint, monotonous, white. [:]

WURTZEL, *supra* note 10, at 326 ("Taking a hypersensitive approach to life had come to seem so . . . pure What I'd stopped realizing was that if you feel *everything* intensely, ultimately you feel nothing at all." (emphasis added)); *id.* at 356 ("I was . . . difficult, demanding, impossible, unsatisfiable, self-centered, self-involved, and above all, self-indulgent Depression is a very narcissistic thing."); VIRGIL, *supra* note 33, bk. VIII, at 194 (emphasis added):

[Mezentius] would even have live men bound to dead bodies,
CLAMPING THEM HAND TO HAND and face to face — a horrible
Method of torture — so that they died a lingering death
Infected with putrefaction in that most vile embrace.

At last the townsfolk could stand it no more: they rose in arms
Against the criminal maniac, besieged him in his palace,
Put his friends to the sword and set the place alight.

But Mezentius somehow escaped [:]

Nehamas, *supra* note 17, at 30:

Foucault was fascinated by what an INDIVIDUAL OR SOCIAL GROUP MUST EXCLUDE AND SUPPRESS SO THAT IT CAN FORM A POSITIVE CONCEPTION OF ITSELF. He argued that OUR [?] CONCEPTION OF WHAT WE [?] ARE LIKE AS INDIVIDUALS OR "SUBJECTS" depends essentially on expelling and CONTROLLING WHOLE CLASSES OF PEOPLE who do not fit the categories that the *Enlightenment* ["we"?] developed in order to establish what *it* ["we"?] would count as "normal." [:]

ORWELL, *supra* note 1, at 270 (emphasis added) (quoting O'Brien):

THE OLD CIVILIZATIONS CLAIMED THAT THEY WERE FOUNDED ON LOVE OR JUSTICE. OURS IS FOUNDED UPON HATRED. In our world, there will be no emotions except fear, rage, triumph, and self-abasement. Everything else we shall destroy — everything. Already we are breaking down the habits of thought which have survived from before the Revolution. We have cut the links between child and parent, and between man and man, and between man and woman. [:]

L'HEUREUX, *supra* note 10, at 26:

"But of course everybody hates men," Betz Rudin said, gaining on her.

. . . .

"Olga's on to something different."

"Like what?"

"Like hatred as some modern replacement for faith. You now those books

 MARGINALIZATION?

Comic Faith and *Erotic Faith* by Whosiewhatzis? Well, this is more like deconstructive faith. Or hatred as faith."

....
 "Or maybe hatred as power." Betz Rudin was pulling ahead. "Or hatred as deconstruction." [;]

DOSTOEVSKY, *supra*, at 288 ("Never mind!" (quoting Gaganov)); *id.* at 404 ("Instead of paradise,' Lyamshin shouted, 'I'd take these nine tenths of mankind, since there's really nothing to do about them, and BLOW THEM SKY-HIGH, and leave just a bunch of *learned* people who would then start living happily in an *educated* way.'" (emphasis added)); CONRAD, *supra* note 2, at 65-66 (last bracketed material in original) (emphasis added) (quoting Marlow):

Mind, I am . . . trying to account . . . for . . . Mr. Kurtz — for the shade of Mr. Kurtz. This initiated wraith from the back of Nowhere honoured me with its amazing confidence before it vanished altogether. . . . All Europe contributed to the making of Kurtz [M]ost appropriately, the International Society for the Suppression of Savage Customs had entrusted him with the making of a report, for its future guidance. . . . I've read it. It was . . . vibrating with eloquence, but too high-strung But this must have been before his — let us say — nerves went wrong, and caused him to preside at certain midnight dances ending with unspeakable rites, which . . . were offered up to him — do you understand? — to Mr. Kurtz himself. But it was a beautiful piece of writing. The opening paragraph, however, in the light of later information, strikes me now as ominous. . . . [F]rom the point of the development we had arrived at, "[we] must necessarily appear to them [savages] in the nature of supernatural beings" "By the simple exercise of our will we can exert a power for good practically unbounded," etc. etc. . . . It made me tingle with *enthusiasm*. This was the unbounded power of eloquence — of words — of burning, noble words. There were no practical hints to interrupt the magic current of phrases, unless a kind of note at the foot of the last page, scrawled evidently much later . . . may be regarded as the exposition of a method. It . . . blazed at you . . . like a flash of lightening in a serene sky: "EXTERMINATE ALL THE BRUTES!" [;]

watch ZARDOZ, *supra* note 29 ("Zardoz has spoken."); cf. WURTZEL, *supra* note 10, at 318 ("I never liked [the Beatles], except for that one point in the middle of 'Strawberry Fields' when John Lennon sings, 'Let me take you down' Those are the words I want to leave the world with. LET ME TAKE YOU DOWN. DOWN AS LOW AS I AM." (emphasis added) (alteration in original)); Stoen, *supra* note 29, at 45 ("[The Reverend Jim] Jones taped himself during the collective suicide. Among the things he said: 'We win when we go down. Tim Stoen will destroy himself.'"); watch AMADEUS (Republic Pictures 1984) (contemplating Salieri); cf. CONRAD, *supra* note 2, at 20 ("He has to live in the midst of the incomprehensible Imagine the growing regrets, the longing to escape, the powerless disgust, the surrender, the hate."); Lacayo, *supra* note 23, at 46 ("The modern era of cultism dates to the 1970s, when the free inquiry of the previous decade led quite a few exhausted seekers into intellectual surrender."); WURTZEL, *supra* note 10, at 51-52 (emphasis added):

They have no idea what a bottomless pit of misery I am. They will have to do more and more and more [T]hey are still not listening. They still don't know that . . . they need to try to get through to me until they haven't slept or eaten or breathed fresh air for days, they need to try until they've died for me. THEY HAVE TO SUFFER AS I HAVE. And even after they've done that, there will still be more. They will have to rearrange the order of the cosmos, they will have to end the cold war [T]hey will have to cure hunger in Ethiopia and end the sex-slave trade in Thailand They have no idea how much energy and exasperation I am willing to suck out of them until I feel better. I

MEZENTIUS?

will drain *them* and drown *them* until *they* know how little of me there is left even after I've taken everything *they've* got to give me because I HATE THEM FOR NOT KNOWING. [;]

id. at 257 (“*Depression is all about If you loved me you would. As in If you loved me you would . . . stop doing everything except sitting by my side and passing me . . . aspirin while I . . . creak and cry and drown myself AND YOU in my misery.*” (small-capital-letter emphasis added)); DUMAURIER, *supra* note 24, at 243 (“[T]here was hardly any sacrifice . . . that Little Billee would not accept from big Taffee as a mere matter of course — a fitting and proper tribute rendered by . . . strength to GENIUS.” (emphasis added)); MANN, *supra* note 2, at 99 (“Schleppfuss[s] . . . daemonic conception of God and the universe was illuminated by psychology and thus made acceptable, yes, even attractive . . . His delivery contributed to the effect, for it was entirely calculated to impress the young.”).

But cf. WURTZEL, *supra* note 10, at (“WE’RE SORRY, THE NUMBER YOU HAVE DIALED IS NO LONGER IN SERVICE.” (emphasis added)); MINOW, *Surviving Victim Talk*, *supra* note 29, at 1428 (“The very benefit of claiming victimhood — securing attention — can be undermined by overuse of the claim.”); *supra* (quoting Randall Kennedy daring to treat people as *individuals*); *but cf.* Frank, *supra* note 29, at 79-80 (emphasis added):

Rackmetov . . . is [Turgenev’s] . . . Bazarov whole-heartedly dedicated to revolution . . . deprived even of the few remaining traits of self-doubt and human awareness that still manage to make Bazarov sympathetic. But Chernyshevsky can hardly contain himself when he comes to eulogize Rackmetov . . . People like Rackmetov, he *assures* his readers, are “few, but THROUGH THEM flourishes the *life* of all; *without* them life would become *dead and putrid.*” [;]

but cf. supra (quoting Virgil, on Mezentius).

But cf. WURTZEL, *supra* note 10, at 73 (“*I had no scruples: I would do anything if it meant I might feel better.*” (emphasis added)); *but cf. infra* text following note 42 (defining “NO” (emphasis added)); *but attend* *The Jeckyll and Hyde Club*, 1409 6th Ave., New York, New York (deploying a gargoyle seriously dissing Barney); *cf.* PYNCHON, *supra* note 24, at 859 (“Ludwig, a little S and M never hurt anybody.’ ‘Who said that?’ ‘Sigmund Freud . . . But . . . [t]hey cannot be wasted in . . . sex. [The structure] [gasp!] needs our SUBMISSION so that it may remain in power.’” (emphasis added) (first quoting Thanatz)); *but cf.* FARIÑA, *supra* note 7, at 121 (“Masochism, baby . . . It’s an alternative. Got to . . . see what it has to say.’ ‘To you, maybe.’ ‘. . . Those zombis in the back? Creatures of the night, man, blooming in the moonshine.’ Heff ducking as a surprised crow flew directly at them and veered away. . . . ‘Zombis.’” (quoting dialogue between Gnossos and Heff)); Thomas, *supra* note 19, at 36 (reproducing a photograph apparently of one of Marshall Applewhite’s former zombis deploying a poster captioned “The Only Way Out”); *but cf.* DISKI, *supra* note 29, at 199-200 (noting Rachel’s contemplation, from one feminist perspective, of the possibility that sadism and masochism may result — on both sides (assuming perhaps counterfactually that they are fundamentally (gasp!) different) — from undifferentiated fear, hollowness, self-loathing, depression, and a consequential inability to engage in genuine (not “authentic”) human interactions); *see also* Nehamas, *supra* note 17, at 28 (emphasis added) (quoting Michel Foucault):

Liberation of the insane, abolition of punishment . . . THESE ARE ONLY JUSTIFICATIONS. *The real operations were different.* In fact, [Samuel] Tuke created an asylum where he substituted for the *free terror of madness the stifling anguish of responsibility* [not “responsibility”]; *fear* no longer reigned on the other side of the prison gates, it now *raged* under the seals of *conscience.* [;]

but cf. SARTRE, *supra* note 29, at 23 (“[M]an is condemned to be *free.*” (emphasis

DIERS?

added)); *but cf. supra* note 33 (quoting Foucault on his desire to be “free” from Sartre and the “terrorism” of modernity); *supra* note 29 (“[T]he [D]EATH instinct also demands satisfaction” (emphasis added) (quoting Norman Brown)).

See DELILLO, *supra* note 14, at 292 (“ARE YOU A KILLER OR A DIER, JACK?” (emphasis added) (quoting Murray)); *id.* (“You know the answer to that. I’ve been a dier all my life.” (quoting J.A.K., responding)); Thomas, *supra* note 19, at 35 (contemplating the followers of Marshall Applewhite: “In the [Death-day] videotapes, some of the cultists seem giddy. ‘We’re looking forward to this,’ chirps one woman. ‘Beam me up!’ sings another.”); *id.* at 30 (noting that Applewhite’s followers regarded their bodies as “mere ‘containers’ or ‘vehicles’”); *id.* (“The members of . . . Heaven’s Gate had been taught to put aside lust and . . . prepare for a Higher Kingdom. . . . [They] recoiled at the human touch.”); *supra* note 29 (noting that a number of Heaven’s Gate members were eunuchs); ORWELL, *supra* note 1, at 65-66:

Tacitly the Party was . . . inclined to encourage prostitution, as an outlet for instincts which could not be altogether suppressed. Mere debauchery did not matter very much

The aim of the Party was [partly] to prevent men and women from forming loyalties which it might not be able to control All marriages between Party members had to be approved by a committee appointed for the purpose, and — though the principle was never clearly stated — permission was always refused if the couple concerned gave the impression of being physically attracted to one another. . . . Sexual intercourse was to be looked on as a slightly disgusting minor operation, like having an enema. This again was never put into plain words, but in an indirect way it was rubbed into every Party member from childhood onwards. There were even organizations such as the Junior Anti-Sex League which advocated complete celibacy for both sexes. All children were to be begotten by artificial insemination (*artsem*, it was called in Newspeak) and brought up in public institutions The Party was trying to kill the sex instinct, or, if it would not be killed, then to distort it and dirty it. He did not know why this was so, but it seemed natural that it should be so. [;]

but cf. Jerry Alder, Far From Home, NEWSWEEK, Apr. 7, 1997, at 37, 39 (“‘It may comfort you to know I am still not participating in any sexual acts,’ [departed Heaven’s Gate member] Gail Maeder wrote to her parents in 1995. ‘It is really nice to establish better relationships, especially with males.’”).

See Nehamas, *supra* note 17, at 34 (“[Michel] Foucault . . . could not imagine [the self] . . . existing happily”); *but cf. id.* at 32-33 (emphasis added):

The next two volumes of [Foucault’s] history of sexuality were different from what had been earlier announced, in subject, style and approach. They appeared eight years later, only a few days before his [D]eath. WHAT, THEN, HAPPENED during this period to change the direction of Foucault’s project as well as his overall approach to philosophy? [;]

NORRIS, *supra* note 10, at 333:

Here [the posse] picked up the trail and held to it steadily till the point was reached where, instead of tending southward, it swerved abruptly to the east. . . .

“It ain’t reason,” exclaimed the sheriff. “What in thunder is he up to? This beats me. Cutting out into Death Valley at this time of year.”

“He’s heading for Gold Mountain” [;]

DELILLO, *supra* note 14, at 291 (emphasis added) (quoting Murray, addressing J.A.K.):

“Nothingness is staring you in the face. . . . The dier accepts this and dies. The killer . . . attempts to defeat his own death by killing others. He buys time Watch others squirm. See the blood trickle in the dust.”

 KILLERS?

I looked at him, amazed. He drew contentedly on his pipe, making hollow sounds.

"... BE THE KILLER FOR A CHANGE. LET SOMEONE . . . REPLACE YOU . . . IN THAT ROLE. . . ."

....

KILL TO LIVE." [.]

Compare *supra* note 29 (noting Michel Foucault's numerous suicide attempts as a youth) and *supra* note 24 (noting that Jacques Derrida's early years were littered with unhappiness and failure) with *supra* (quoting Alexander Nehamas suggesting that Foucault may have later found happiness in California) and Froomkin, *supra* note 24, at B2:

Jacques Derrida is a prized member of the faculty at the University of California, Irvine, and his presence over the past seven years has added an enormous amount of prestige to the campus.

"Jacques Derrida is one of the great thinkers of the 20th Century," said Associate Executive Vice [?] Chancellor Bill Parker.

....

"To have that kind of mind present at Irvine . . . allows his insights to be reflected in what we do"

....

But on the other hand, Derrida spends very little time on campus for his salary of \$34,533 a year.

And although he insists that he covers more ground in his . . . five-week stay in Irvine than he does in five months in Paris, Derrida teaches for a total of only 15 days at UCI

....

During his annual stay in Southern California, Derrida rents a . . . house in Laguna Beach. And it is there, in the mornings, that he continues his research.

. . . [H]is office [on the UCI campus] . . . has no books in it.

The black shelves are empty save for a ragged Alitalia Airlines poster [*see generally* THOMAS MANN, *Tonio Kröger*, in *STORIES OF THREE DECADES* 85 (H.T. Lowe-Porter trans., Alfred A. Knopf Co. 1936) (1903)], the only mark [~~trace~~?] of Derrida's [always already absent?] presence the aroma of pipe smoke [in the room]. [.]

Cf. DELILLO, *supra* note 14, at 290-93 (emphasis added) (quoting dialogue between J.A.K. and Murray):

"Are you saying that men have tried throughout history to cure themselves of death by killing others?"

". . . To plot is to die, whether we know it or not."

"To plot is to live," he said.

"Are you saying a dier can become a killer?"

"I'm only a visiting lecturer. I theorize . . . I admire the . . . houses. I have my students, my rented room, my TV set. I pick out a word here, an image there." [.]

id. at 290 ("I'm talking *theory*. In *theory*, violence is a form of rebirth. The dier passively succumbs." (emphasis added) (quoting Murray)); *id.* ("[T]hink what it's like to be a killer." (emphasis added)).

See RILKE, *supra* note 33, at 109 ("Killing is one form of our wandering sadness . . ."); Nehamas, *supra* note 17, at 28 ("THE SOUL IS THE PRISON OF THE BODY." (emphasis added) (quoting Michel Foucault)); *supra* (discussing Foucault's recognition that the same methods he perceived as being employed by "western civilization" to control the "marginalized" could also be "deployed" to control ("marginalize") the "normal"); *infra* note 46 (same); Stoen, *supra* note 29, at 45 ("Suddenly I realized that [Jim] Jones recognized only *power*."

 MASOCHISTS?

(emphasis added); Woodward, *supra* note 30, at 42 (quoting David Zinn contemplating Heaven's Gate and suggesting that cult followers (leaders?) generally "have a lot of trouble with impulse control," and "need external control"); Nehamas, *supra* note 17, at 28 ("[S]ince all relations were for [Michel Foucault] relations of power, warfare is constant . . ." (emphasis added) (quoting J.A.K.)); DELILLO, *supra* note 14, at 297 ("The next day I started carrying the . . . automatic to school. . . . The gun created a second reality I for me to inhabit. . . . It was a reality I could control, secretly DOMINATE." (emphasis added) (quoting J.A.K.)); THOMPSON & STEADMAN, *supra* note 10, at 146 ("We killed like champions . . ."); Thomas, *supra* note 19, at 35 (discussing the Heaven's Gate Death-day videotapes: "Applewhite is more serious [than his flock]. 'You can follow us,' he intones, 'but you cannot stay here and follow us.'"); *id.* at 31 ("Applewhite was a master manipulator. Indeed, the mass suicide itself may have been a bit of a con."); PYNCHON, *supra* note 24, at 645 ("Lemmings never do anything alone. They need a crowd. It gets contagious I learned that in college Harvard."); *id.* ("[S]o I know what I'm talking about."). *But cf.* Thomas, *supra* note 19, at 34 (in fairness to Applewhite (Do), noting that his followers got to live in Rancho Santa Fe and apparently got "free" Nikes); *see also id.* (noting that Do wanted to follow Ti (his former platonic wife) in Death, recognizing that she had been initiated into the "Next Level" earlier than had he); CONRAD, *supra* note 2, at 81 (noting Marlow's "natural aversion . . . to beat that Shadow"); *id.* ("[A]t this very moment . . . the foundations of our intimacy were being laid — to endure — to endure — even to the end — even beyond." (quoting Marlow)); Woodward, *supra* note 30, at 42 ("After her death, in 1985, Do announced that Ti was really 'My Father,' the 'other [Other?] Member' sent to Earth to help him at the command of her own father in heaven." (emphasis added)) ["COMPLEX" "POWER PARADIGM" "PRACTICE"?]. *See generally* MAGIC, *supra* note 10, at 242 (contemplating "The Triple Rope Trick"). Compare Steven Levy, *Blaming the Web*, NEWSWEEK, Apr. 7, 1997, at 47 ("[T]he Net did not bring flocks of adherents to Heaven's Gate 'The loudest voices were those expressing ridicule' Could this Internet rejection have been the last straw?") and Gleick, *supra* note 23, at 36 ("Marshall Herff Applewhite died with his followers.") and Thomas, *supra* note 19, at 31 ("Applewhite [falsely] told his followers that he was very sick, that his body was 'disintegrating,' and there were rumors that he had only six months to live.") and *supra* note 10 (contemplating "urgency") and *supra* note 24 (contemplating the apocalypse) with *supra* note 33 (quoting Alexander Nehamas on Michel Foucault's progressively increasing fascination with sadomasochism) and Nehamas, *supra* note 17, at 35 ("From [James] Miller's account we may conclude that sado-masochism was a kind of blessing in Foucault's life. It provided the occasion to experience RELATIONS OF POWER as a source of delight." (emphasis added)) and *id.* ("Sex is worth dying [killing?] for." (citation omitted) (quoting Foucault)) and *id.* ("Foucault was not a particularly nice man") and MANN, *supra* note 2, at 6:

To whom had he opened his heart . . . ? With Adrian that did not happen. Human devotion he accepted I might compare his absentness to an abyss All about him was coldness — and how do I feel, using this word, which he himself, in an uncanny connection, once also set down? Life and experience can give to single syllables an accent utterly divorcing them from their common meaning and lending them an aura of horror

and RANDY SHILTS, AND THE BAND PLAYED ON 472 (1988) (suggesting that Foucault [in a reverse-Applewhite move?] hid his AIDS "from everyone, including his devoted lover") and MANN, *supra* note 2, at 5-6 ("Whom had this man loved? . . . A charming twifler and winner of hearts, whom then, probably just because he inclined to him, he sent away — to his death.") and Nehamas, *supra* note 17, at 35 (noting that Foucault continued to visit the San Francisco bathhouses even after

SADISTS?

AIDS had been identified) and DELILLO, *supra* note 14, at 303 (“Random Access Memory, Acquired Immune Deficiency Syndrome, Mutually Assured Destruction.”) and THOMPSON, *supra* note 10, at 90 (“We’re all EQUAL in the ocean.” (emphasis added)) and MACEY, *supra* note 31, at 476 (noting that Foucault kept writing until the very end) and *supra* (quoting Tim Stoen on Jim Jones’s final thoughts) and MACEY, *supra* note 31, at 476 (“[Foucault’s] final illness was mercifully short.”) and DELILLO, *supra* note 14, at 284 (quoting Murray on the Doomed J.A.K.’s likely future prestige and authority) and MACEY, *supra* note 31, at 474 (noting the hero’s sendoff Foucault received from the French press) and Nehamas, *supra* note 17, at 36 (characterizing Foucault as “wise,” possessed of “deep love,” and a “model of autonomy”) and *infra* note 45 (noting Foucault’s subsequent canonization). *But cf.* CONRAD, *supra* note 2, at 81 (“[T]hat Shadow — this wandering and tormented thing.”); *id.* at 73 (ellipsis in original):

[T]he wilderness had found him out early, and had taken on him a terrible vengeance for the fantastic invasion. I think it had whispered to him things about himself which he did not know, things of which he had no conception till he took counsel with this great solitude — and the whisper had proved irresistibly fascinating. It echoed loudly within him because he was hollow at the core [.]

But cf. id. at 79 (“‘But quiet, eh?’ [the Russian] urged, anxiously. ‘It would be awful for his REPUTATION if anybody here —’ I promised a complete discretion with great gravity.” (emphasis added)); *but cf. id.*, at 75 (“I could see the . . . bones of his arm waving.” (quoting Marlow, on Kurtz)); PYNCHON, *supra* note 24, at 592 (“Now Närrisch here’s a guidance man, a guidance man is he. And ev’ry day at Rocket Noon, there’s [D]eath, and revelry But Närrisch has managed, in his time, to avoid nearly all of it.” (ellipsis in original)); *but cf.* L’HEUREUX, *supra* note 10, at 128 (“Foucault was a god, [Peeks] said, and you just didn’t make funny cracks about a god.”); *supra* note 10 (distinguishing the “sacred” from the “human” Shakespeare for purposes of resolving the satirizability/parodizability question); *but cf.* L’HEUREUX, *supra* note 10, at 86-87 (“‘I hear that you’re deconstructing Foucault. I hear that you refer to him as a terrorist.’ ‘An epistemological terrorist,’ she said, ‘And a paranoid.’” (quoting dialogue between Kurtz and Olga)). *But cf.* ORWELL, *supra* note 1, at 197 (“The boots were approaching again. The door opened. O’Brien came in.”); *but cf.* L’HEUREUX, *supra* note 10, at 88 (“[H]e moved . . . to the . . . shelves on sex and sex problems. He was in search of a book on fetishes. On feet, to be exact.”).

See also RIBOWSKY, *supra* note 3, at 235 (“[Gladys] Valley . . . maintained that an Al Davis power grab could not have caught her husband altogether off-guard. . . . He expected it at any time, because we knew Al Davis had done that all his life.”); MAGIC, *supra* note 10, at 245 (commenting on the “Triple Rope [Trick] — ‘Times Two’:” “‘It is a special form of . . . the triple rope trick, especially suited for small or intimate audiences. It falls into the category of a *Do As I Do* effect” (emphasis deleted and added)); DELILLO, *supra* note 14, at 314-16 (quoting Mink, then J.A.K., then a nun):

“Who shot me?” he said

“You did.”

“Who shot you?”

“You did. . . .”

“What was the point I was trying to make?”

“You were out of control. You weren’t responsible. I forgive you.”

. . . .

. . . It was no longer possible to tell whether the blood on my hands or clothes was his or mine. My humanity soared We came to a [hospital]

. . . .

 FAMILY?

....
 "We're shot," I said, lifting my wrist in the air.
 "We see a lot of that here . . ." [;]

L'HEUREUX, *supra* note 10, at 245 (emphasis added):

The church clock began to sound the hour and for a second they stopped where they were — [Kurtz] with his hands at Rosalie's throat, Gil with his hands at [Kurtz's] throat — and the bell tolled slowly . . .

....
 . . . [Kurtz] could see only black and he had a terrible pain in his chest. He felt strangely *free*. [;]

NORRIS, *supra* note 10, at 338-40 (second emphasis added):

The mule . . . fell upon the canteen . . . spilling its entire contents into the sand.

....
 "We're dead men," said Marcus.

....
 "I guess," began McTeague . . . "even if we are done for, I'll take — some of my truck along."

"Hold on," exclaimed Marcus . . . "I ain't so sure about who that . . . money belongs to."

"Well, I *am*," . . . growled the dentist. . .

....
 "Don't try an' load that gun, either," [he] cried . . . fixing Marcus with his little eyes.

"Then don't lay your finger on that sack," shouted *the other*. . . "[I]t's my turn now . . ."

. . . McTeague did not answer. His eyes drew to two fine, twinkling points

....
 Suddenly the men grappled . . .

McTeague did not know how he killed his enemy, but all at once Marcus grew still . . . Then there was a sudden last return of energy. McTeague's right wrist was caught; something clicked upon it; then the struggling body fell limp . . .

. . . Looking down, he saw that Marcus in that last struggle had found strength to handcuff their wrists together . . . All about [McTeague], vast, interminable, stretched the measureless leagues of Death Valley.

McTeague remained stupidly looking around him . . . now at the half-dead canary . . . in its . . . gilt prison. [.]

See generally MANN, *supra* note 2, at 69:

For a moment I felt myself the older, more mature.

....
 "Do you consider love the strongest emotion?" [Adrian] asked.

"Do you know a stronger?"

"Yes, interest."

"By which you presumably mean a love from which the animal warmth has been withdrawn."

"Let us agree on the definition!" he laughed. "Good night." [.]

....
 See CONRAD, *supra* note 2, at 30 ("They were building a railway. The cliff was not in the way or anything; but this objectless blasting was all the work going on."); Woodward, *supra* note 30, at 43 ("Heaven's Gate was not under siege by conquerors out to destroy them."); PYNCHON, *supra* note 24, at 770:

Understand it isn't [Enzian's] blackness, but [Katje's] own — an inadmissible darkness she is making believe for the moment is Enzian's, something even beyond the center of Pan's grove, something not pastoral at all, but of the city, a set of ways in which the natural forces are turned aside, stepped down, recti-

MacKinnon, *social construct*: see “inspirational” “logic,” “rhetoric” “love”; see also “dominance,” “equality,” “power paradigm,” “democratic breakfast”; speech “rape”; “thoughtcrime” “rape”; candor “rape”; “canniness” “rape”; clarity “rape”; competition “rape”; consistency “rape”; ““democracy”” “rape”; “fiction” (other than MacKinnon’s) “rape”; “freedom” “rape”; hope “rape”; laughter “rape”; nouns “rape”; book reviews “rape”;

CLOSED “INTERPRETIVE COMMUNITIES”?

fied or bled to ground and come out very like the malignant dead . . . souls whose journey across was so bad that they lost all of their kindness . . . and turned to imbecile killers and jokers, making unintelligible honks in the emptiness . . . a city darkness that is her own, a textured darkness in which flows go in all directions, and nothing begins, and nothing ends. [.]

Cf. Patricia M. Wald, *Whose Public Interest Is It Anyway? Advice for Altruistic Young Lawyers*, 47 *ME. L. REV.* 3, 5 (1995) (quoting Anna Freud):

How sad that in the name of goodness and kindness to others one can see plenty of mean-spirited behavior — a demanding, controlling, manipulative, condescending, self-centered ruthlessness that masks itself as good will, as an effort at charity, as an attempt to change the world, to reform a given society. [.]

accord BERTRAND RUSSELL, *WHAT I BELIEVE* 41-42 (1925) (“[T]he defenders of traditional [1997?] morality are seldom people with warm hearts . . . One is tempted to think that they value morals as affording a legitimate outlet for their desire to INFLICT PAIN: the sinner is fair game, and therefore away with tolerance!” (emphasis added)).

But cf. infra text accompanying note 40 (suggesting that Wald’s and Freud’s usage of “mean-spirited” in the above context is now obsolete); *but cf.* Yorker, *supra* note 10, at 326 (footnotes omitted) (emphasis added):

There are numerous obstacles to intervention in [Munchausen by Proxy Syndrome] cases. First . . . is a general lack of awareness [by] health professionals of the possibility that an *illness* may have been *intentionally produced*. Second, the mothers who engage in falsifying their child’s illness are DESCRIBED as *exemplary* mothers, quite contrary to the typical child abuse perpetrator. Third, it is difficult to obtain evidence of a parent *secretively* producing symptoms. Finally the courts are reluctant to believe that this form of symptom production is *potentially lethal to a child*. [.]

Eco, *supra* note 29, at 480-81, 484 (describing the blind monk Jorge’s willingness to dine on poisoned text and perish in a burning library so long as the last copy of previously undiscovered manuscript by Aristotle — endorsing humor — also perishes); *id.* at 475 (“[F]rom this book there could be born the new destructive aim to destroy death through redemption from fear.” (emphasis added) (quoting Jorge)). *But cf.* ZAMYATIN, *supra* note 4, at 203 (narrating D-503’s thoughts: “[A] laugh can be a terrifying weapon. With a laugh you can kill even murder itself.”); *but cf. infra* notes 43, 52 (further contextualizing (not “contextualizing”) the definition of “love”); *but cf.* WHITMAN, *supra* note 2, at 8:

Here, take this gift,
I was reserving it for some hero, speaker, or general,
One who should serve the good old cause, the great idea,
the progress and freedom of the race,
Some brave confronter of despots, some daring rebel;
But I see that what I was reserving belongs to you
just as much as to any. [.]

United States Constitution “rape”; see generally “complex,” “interesting” “crimestop.”

Mao Zedong, social construct: see generally “nihilism” “love.”

marginalize, v.: when done by “us,” see “enthusiasm,” “love.”

Marxism, social construct: *shhhhh!*; (*alt.*): not bad, for an appetizer; (*alt.*): who’s asking, and at what stage of what argument? See generally “pragmatism.”

masculine, adj.: “sensitive.”

masochism, human nature: see “sadism,” “family,” “submission.”

meaning, social construct: see generally “self(?)—esteem.”

Meaning, n.: I can think of a few possibilities off hand, but *that would be telling*: this one’s a *solo* voyage.

meaningful, adj.: “legal postmodernists”’ law review articles, and all “postmodernists”’ books; see also “great,” “complex,” “rich,” “textured,” “nuanced”; see generally “adjectives”; *all variants obsolete*.

mean-spirited, comp. adj.-comp. n.: logically and/or empirically irrefutable; nevertheless, a “good” (not “‘good’”) “framing” that in any conceivable situation permits “us” to “crimestop” *faux*—“discourse” by “I”s attempting to misguidedly, “cannily,” and “unselfcritically” suggest pursuit of “‘equality,’” “‘freedom’” and/or aggregate and/or long-term and/or earned individual benefits; see generally “rhetoric,” “discourse,” “repetitive and cumulative incantation” “adjectives” “legal authority”; *all variants obsolete*; (*fut.*): *merited*.⁴⁰

merit, n.: “self(?)—esteem.”

messiahs, pl. n.: see generally “the Rocket.”

metaphor, n.: “Metaphor” is logic (not “logic”), reason (not “reason”); (*obsol.*): “no,” it’s metaphor; *all other variants also obsolete*.

RAINBOWS?

40. Compare Douglas Laycock, *Vicious Stereotypes in Polite Society*, 8 CONST. COMMENTARY 395 (1991) (identifying groups “that can . . . be safely insulted”) with MCFADDEN, *supra* note 29, at 11 (“Kate felt put down . . . Look at the way [Harvey] had baited her TA instructor at the Brennans’ the other night. ‘You are not O.K.,’ he had told him . . . ‘I could give you a lot of reasons; but take my word for it — you are *not* O.K.’”) and PYNCHON, *supra* note 2, at 34 (reproducing the muffled-horn sign (not “sign”) of Thurn and Taxis postal society).

See generally BENJAMIN, *supra* note 22, at 478-79 (“Stamps bristle with tiny numbers, minute letters, diminutive . . . eyes . . . [W]hy are we not shown the stamps of the superior planets? The thousand graduations of fire-red that are in circulation on Venus, and the four great gray shades of Mars, and the unnumbered stamps of Saturn?”); JAMES C. MAXWELL, *On the Stability of the [M]otion of Saturn’s Rings* (1856), in 1 MAXWELL PAPERS, *supra* note 29, at 288, 372 (proffering a theory (not “theory”) — later empirically verified (*gasp!*) — “that the rings must consist of disconnected particles . . . they must be independent”).

Michel Foucault, social construct: “equality”; (*obso.*): “inmates running the asylum”; *all other variants also obsolete.*

moment, n.: “context”; *all variants obsolete.*

moral, adj.: consistent with “natural law.”

movies, music, and the phases of the moon, signs (not “signs”): see “context,” “legal authority.”

multiculturalism, n.: 1. All cultures are equal; 2. Some cultures survive, but others are extinct; 3. ∴ [(survival ≡ extinction) • (extinction ≡ survival)]. [Wow! NO WONDER “DEATH STUDIES” IS SO AVANT GARDE IN “OUR” SCHOOLS!]

mysticism, n.: see “*abyeme*.”

naming ‘our’ own reality, postmodern process: “practice” of “discourse” “deploying” language-capture; see generally “Heidegger” “concealment,” “decentering” “rhetoric”; (*alt.*): see “therapy”; (*fut.*): *nooty*.⁴¹

WHEEEEE?

41. Cf. *supra* text accompanying note 3 (discussing “Newspeak”); *infra* note 43 (quoting Catharine MacKinnon on “epistemology,” “objectivity,” and “naming”); ORWELL, *supra* note 1, at 269 (“This is not solipsism. Collective solipsism, if you like.”); LEWIS CARROLL, THROUGH THE LOOKING GLASS AND WHAT ALICE FOUND THERE, *in* THE ILLUSTRATED LEWIS CARROLL 103, 168 (Roy Gasson ed., 1978) (1872) (emphasis added):

“When I use a word,” Humpty Dumpty said in a rather scornful tone, “it means just what I choose it to mean — nothing more or less.”

“The question is,” said Alice, “whether you can make words mean different things.”

“The question is,” said Humpty Dumpty, “which is to be MASTER — that’s all.” [;]

accord supra note 10 (quoting Catharine MacKinnon).

But wait! I thought words couldn’t convey determinate meanings. Cf., e.g., *supra* note 29 (quoting Beavis); *supra* note 10 (contemplating Morton Horwitz); *id.* (quoting everybody); *infra* note 45 (quoting Laurence Tribe unwittingly providing an example); *infra* note 46 (same, quoting Richard Rorty); Pacific Gas & Elec. Co. v. G.W. Thomas Drayage Co., 442 P.2d 641, 644. (Cal. 1968) (Traynor, C.J.) (emphasis added) (citations and internal quotation marks omitted):

If words had absolute and constant referents, it might be possible to discover . . . intention in the words themselves and in the manner in which they were arranged. Words, however, do not have . . . constant referents. A word is a symbol of thought The *meaning* of particular words or groups of words *varies* with the verbal context and surrounding circumstances and purposes in view of the linguistic education and experience of their users *and their hearers or readers (not excluding judges)*. A word has no meaning apart from these factors [;]

STEIN, *supra* note 3, at 317 (“I like anything that a word can do. And words do do all they do and then they can do what they [“we”?] never do do.”) [*WHEEEEE!*]; *supra* note 21 and accompanying text (defining and discussing “deconstruction”). *But cf. supra* note 29 (contemplating Stanley Fish, words, and hegemony); compare 2 THE NEW SHORTER OXFORD ENGLISH DICTIONARY ON HISTORICAL [not “Historical”] PRINCIPLES 2275 (Lesley Brown ed., 1993) (emphasis added) (defining “political correctness” as “conformity to a body of *liberal or radical opinion*, esp. on social matters, in the avoidance of *anything, even established vocabulary, that*

narcissism, n.: collectivized “solipsism”; see generally “self(?) -esteem.”

narrative, n.-adj.: “democratic history”; (*alt.*): watch *Oprah!*; see generally “avoidance behavior,” “self(?) -indulgence,” “narcissism,” “voice,” “interesting”; *all variants obsolete.*

natural law, comp. n.: the whims of Richard Rorty, Laurence Tribe, Joan Williams, Morton Horwitz, Catharine MacKinnon, Richard Delgado, Cass Sunstein, J.M. Balkin, John Rawls, or whoever “our” collective whims happen to prefer as our standardbearer *du jour* (provided, of course, that he or she marches under the ~~banners~~ (oops! “signs”) of “equality” (not “equality”), “freedom” (not “freedom”), and “justice”). [HMMMMM . . . MIGHT THE PROVISIO BE UNNECESSARY GIVEN THE “DIVERSITY” OF THE “VOICES” IN “OUR” “INTERPRETIVE COMMUNITY”? OR, IF MY IMPLICATION THAT THE “VOICES” ARE ALL CHANTING THE SAME *SPECIFIC* NOTE IS WRONG, DO “WE”’S RESOLVE “EQUALITY” CONFLICTS BETWEEN “ESSENTIALIST” “VICTIM” GROUPS BY . . . NO, “WE” CAN’T DO THAT . . . BY . . . NO, THAT’S ILLEGITIMATE *FAUX*-“EQUALITY” . . . BY (*GASP!*) *VOTING?* BY VOTING WITHIN THE “AUTHENTIC LEADERSHIP”? BY WEIGHTED VOTING? BUT WHO DETERMINES THE APPORTIONMENT? AND WHAT IF THE “LEADERSHIP’S” NOT “AUTHENTIC”? DOES *THAT* GET DETERMINED BY VOTING? (THAT “POWER” AND “FAULT” STUFF SEEPS IN THROUGH EVERY CRACK.) AND WHAT CONSTITUENCY GETS TO VOTE FOR CASS? OR THE OTHER (PRESUMABLY?) STRAIGHT WHITE GUYS? (POOR, POOR DUNCAN.) OR MAYBE “WE” DO THAT PUBLIC-CHOICE THING, BUT ON WHAT FOUNDATION (*GASP!*)? CHANT? SCREAM? A FIST IN THE FACE? *SHOOT?* (OPEN THE POD BAY DOOR, *HAL.*) OR DOES NONE OF IT MATTER AS LONG AS “WE” TAKE THE “UNINITIATED” *DOWN?*

“SIGNS”?

may CONCEIVABLY be CONSTRUED as discriminatory or pejorative” (emphasis added) *with supra* note 19 and accompanying text (defining and discussing “crimestop”) and THE CONCISE OXFORD DICTIONARY OF CURRENT ENGLISH 1057 (Della Thompson ed., 9th ed. 1995) (emphasis added) [hereinafter CRIMESTOP “ENGLISH”] (defining “political correctness” as “the avoidance of forms of expression or action that *exclude, marginalize, or insult racial or cultural minorities*” (emphasis added)) and *supra* text accompanying note 23 (defining “democratic history”). See generally Balkin & Levinson, *supra* note 29, at 1774 (noting that viewed cynically, attempts to consciously influence the development of language “are efforts by self-appointed elites to gain cultural control over the masses”).

The Thompson edition also provides as a definition of “politician”: “*US derog* . . . a person who strives for power by manipulation,” CRIMESTOP “ENGLISH,” *supra*, at 1057, so perhaps *all* the kinks haven’t quite yet been worked out. See generally *infra* text following note 43 (defining “political correctness”).

WHEEEEEEE! AND WHO GETS TO ASK THE QUESTIONS, ANYWAY?]⁴²

WHAT IS TO BE DONE?

42. If you haven't sampled the fare lately, Duncan Kennedy's been passé for at least a decade. See, e.g., Presser, *supra* note 38, at 874-75; cf. *supra* note 31 and accompanying text (defining and discussing "fashion"); but cf. Mezey, *supra* note 17, at 1837-43 (characterizing a recent book by Kennedy as an attempt to reinvent himself following a *washing he* received from some feminists and critical race "theorists"); hear DEREK AND THE DOMINOS, *Bell Bottom Blues*, on LAYLA (Polygram Records 1970) ("Do you want to hear me beg you to take me back? . . . I don't want to fade away. Give me one more day, please!"); but cf. Mezey, *supra* note 17, at 1844-46 (suggesting that Kennedy's resurrection isn't being bought by many of those perceiving themselves to rank higher in the essentialist-victimology hierarchy (*gasp!*) than does he). See generally *infra* note 56 (quoting Svetlana Alliluyeva on the general utility of cults of personality); ORWELL, *supra* note 1, at 262 ("Does Big Brother exist . . . in the same way as I exist? 'You do not exist.'" (quoting dialogue between Winston and O'Brien)); ALLILUYEVA, *supra* note 23, at 148 (noting the . . . decentering tendency of her father to "displace" "disgraced relatives"). Compare *id.* and Frank, *supra* note 29, at 79 (noting that Rachmetov, the hero of *What Is to Be Done?*, renounces wine, women, tasty food, and personal happiness "to prove that, while the radicals are asking for the political and sexual emancipation of women . . . they are not doing so 'for the gratification of our personal passions . . . but for humanity in general'") with KENNEDY, *supra* note 17, at 126-213 (discussing sexy dressing).

Don't worry about "brushing up," though: "legal postmodernism"'s fundamentally (*gasp!*) the same buffet as CLS, but with more "reassurance" from the chefs, cf., e.g., *supra* notes 29, 38 (quoting Joan Williams on reassurance), still more "voices," cf., e.g., *supra* note 29 (discussing, *inter alios*, Catharine MacKinnon and Cass Sunstein); *infra* note 50 (contemplating Richard Delgado); see generally L'HEUREUX, *supra* note 10, at 189 ("They were the power people . . ."), and more "enthusiastic" deployment of *ennui* (read: Continental philosophy (read: depression (read: "horror"))) in the jambalaya.

[ISN'T IT AN "UNCANNY" (?) COINCIDENCE THAT DESPITE THE VEHEMENCE OF THE PURPORTED "THEORY WARS," VIRTUALLY ALL OF THE "THEORISTS" END UP WITH VIRTUALLY THE SAME RESULT? Cf., e.g., Rorty, *supra* note 29, at 1811-12 (emphasis added) (footnote omitted):

[Ronald] Dworkin's description of "law as integrity" in *Law's Empire* seems to differ only in degree of elaboration from Cardozo's account of "the judge as legislator" in *The Nature of the Judicial Process*. . . . Dworkin's polemics against legal realism appear as no more than an attempt to sound a note of Kantian moral rigorism as he continues to do exactly the sort of thing the legal realists wanted done. [i]

infra note 45 (discussing Morton Horwitz, Cass Sunstein, and Lawrence Tribe); *infra* note 46 (discussing Richard Rorty and Joan Williams); but cf. STEIN, *supra* note 3, at 267 ("I do not think any university student is likely certainly not under observation is likely to be able to do genuinely automatic writing . . . that is under normal conditions, where there is no hypnotism or anything of that kind."); but cf. MAGIC, *supra* note 10, at 323 (deconcealing the "Curious Coincidence" trick); CHAYEFSKY, *supra* note 29, at 60-61 ("What's weird about this compound," Rosenberg continued, 'are the hallucinations. They're repeatable. I've never run across a psychoactive substance that produces repeatable hallucinations. I've taken the stuff myself three times, and not only are my hallucinations the same

nature, social construct: to be “transformed.”

new, adj.: atavistic; see generally “adjectives” “power.”

New Age, semiotic construct: “mysticism,” “romantic idealism,” “sterility,” *nostalgie pour la boue*; see generally “progress,” “turning back the clock”; contemplate the Apocalypse, and messiahs.

New Man, postmodern construct: see “sensitive” “children”; (*alt.*): non-“sterile” Young Pioneers; see generally “ideal children.”

nihilism, feint: [THE TRAVELLING SACRAMENT]: see “horror” “enthusiasm” “deploy” “canny” “doublethink” “rhetoric” “pragmatism”; “enlightened” “complex” “rich” “textured” “nuanced” “decentering” “practice”; “quadruplethink” “reassurance” “uninitiated”; see also “definition” “clarity”; “concealment”; “dualities” “waste land”; “logic,” “principle,” “consistency” “formalism”; “dynamic fundamentality” “interpretation” “meaning” “plural democracy”; “intertextuality,” “words”; see generally “Marxism” “solidarity”; “epistemology” “subjectivity”; “democratic history”; “radically democratic” “freedom” (not “freedom”) “equality” “power”; “totalitarianism,” “children,” “democratic breakfast,” “Mao Zedong,” “education,” “entropy”;

LINEAR THINKING?

each time, but they're much the same as [Jessup's].”); *but cf.* Thomas Kuhn, *Foreword* to PAUL HOYNIGEN-HUENE, *RESTRUCTURING SCIENTIFIC REVOLUTIONS* at xi, xiii (1993) (“Revolutions should be described not in terms of group experience but in terms of the *varied* experiences of *individual* group members. Indeed, that *variety* itself turns out to play an essential role . . .” (emphasis added)); *supra* note 30 (quoting Danah Zahar on nondualistic thinking); *infra* note 45 (quoting Edward deBono on “New Think”); Mootz, *supra* note 10, at 523 (“A postmodern legal practice would embody dialogic openness.”); *but cf. supra* text following note 35 (defining “interpretive community”); *supra* text following note 27 (defining “diversity” as homogeneity); *infra* text accompanying note 59 (defining “voice”); ZAMYATIN, *supra* note 4, at 17 (“Simply by turning this handle, any one of you can produce up to three sonatas per hour.”); L’HEUREUX, *supra* note 10, at 101 (“Hamlet continued his search for the still point of the turning world, found it at last, and peed.”). *But cf.* PYNCHON, *supra* note 24, at 829 (“[T]hen there’s also about a thousand ppp-to-fff blasts, but only the one, the notorious One, going the other way . . .”); *hear* GIOACHINO ROSSINI, *William Tell: Overture*, on ROSSINI: *VARIOUS OVERTURES* (Point Classics 1994) (1829); *cf.* WHITMAN, *supra* note 2, at 10 (“Shut not your doors to me proud libraries, [f]or that which was lacking on all your well-fill’d shelves, yet needed most, I bring . . .”); STEIN, *supra* note 3, at 100 (“Too few is as many as too many.”); DEWEY, *supra* note 10, at 348 (“[M]oralities . . . either are, or tend to become, consecrations of the status quo . . .”); *but cf. infra* notes 45, 46 (contemplating the power of ersatz theology); *but cf. supra* text following note 14 (defining “antidisestablishmentarianism”); *but cf. infra* text following note 51 (defining “subversion”).

See generally ARISTOTLE, *Physics*, *supra* note 3, at 219 (“The [first] principles in question must be either (a) one or (b) more than one. If (a) one, it must be either (i) motionless . . . or (ii) in motion, as the physicists hold . . .”); *infra* notes 43-68 and accompanying text (contemplating, *inter alia*, the possibilities of zero).

“utopia” “interesting”: “Death”; “self(?)—esteem”; “Meaning” “Extinction.”

Nikolai Chernyshevsky, *prop. n.*: see generally “law and literature.”

no, *satanic construct*: compare Barney with “mean-spirited” (“we” *think*).

nuanced, *adj.*: illogical, incoherent, and often empirically disverifiable, but a politically useful “framing” and therefore “good” (not “‘good’”) “rhetoric”; *all variants obsolete*; (*fut.*): to be combined with “rich” (not “‘rich’”) and “textured” into *ritenu*.

obsession, *postmodern process*: see “merit”; (*alt.*): “horror,” “abyeme”; (*alt.*): free breakfast (maybe Las Vegas?).

obstacles to personal success other than those readily susceptible to ‘essentialist’ ‘victimology’ agglomeration, *satanic construct*: an emetic for “feet theory”; if *faux*-“discoursed” by the “uninitiated,” a potentially preemptive mortal blow to “our” power; (*alt.*): living life; *all usages obsolete*.

old, *adj.*: modern; see also “progressive,” “turning back the clock”; see generally “adjectives” “reason.”

orthodoxy, *n.*: see “natural law” “formalism” “legal education”; *all variants obsolete*.

our, *pron.*: possessive (see “hegemony”) form of “we.”

outsider scholarship, *postmodern construct*: insider scholarship.

pantheism, *n.*: “solipsism” and “narcissism” with a twist; see also “self(?)—indulgence.”

paradox, *postmodern construct*: see generally “doublethink”; “decentering”; “rhetorical” “reassurance”; (*alt.*): in a way.

paralysis, *postmodern process*: the inability to make an *independent* value judgment (not “value judgment”) about anything or anybody (or are “we” being “canny” here?); the acceptance of the proposition that since everybody’s socially constructed, *independent* value judgments are *impossible*; the completion of the first stage of the “hollowing-out” process (for those not pre-“hollowed” by “horror”), and the culmination of first-stage “decentering.” [Now, to begin the second stage, repeat after “us”: “All relationships are power relationships. ‘Our’ self is that which is addressed — and therefore perceived — by others. ‘Our’ identity is that which is perceived by others. ‘We’ derive ‘our’ meaning from ‘our’ perception in the eyes of others. ‘We’ are controlled by the opinions of others. ‘We’ live through others. ‘We’ are ‘responsible’ for the failures of others. ‘We’ ‘love’ others” One more time]

paranoid jurisprudence, comp. n.: faux-scholarship attacking postmodernism; all variants obsolete.⁴³

Psychosis?

43. *But cf.* William Bywater, *The Paranoia of Postmodernism*, 14 *PHIL. & LITERATURE* 79 (1990) (comparing the symptoms of postmodernism with those of paranoia); Francis J. Mootz III, *The Paranoid Style in Contemporary Legal Scholarship*, 31 *Hous. L. Rev.* 873 (1994) (suggesting that Pierre Schlag's idealized postmodern legal critic exhibits a paranoid "style of functioning"). *Cf.* Post, *supra* note 10, at 392-94 (reviewing and quoting JAMESON, *supra* note 10 (footnotes omitted)):

[The] characteristics [of postmodern sensibility] may be characterized as concentric circles of deprivation. There is, first, the loss of time as a dimension of social meaning The dominant metaphors of postmodernism are spatial rather than temporal. . . .

. . . [A] second loss [is] that of "depth," which is everywhere "replaced by surface or by multiple surfaces." . . .

Everything can now be a text. . . .

. . . [A] third loss [is] that of nature. . . . [W]e have so dominated and reconstructed our human environment that the only reliable referents for reality have become those of our own culture. . . . "[R]eality" itself has been transmuted into a cultural construction.

Faced with such staggering deprivations, postmodernists can make a virtue of necessity and celebrate "the randomly heterogeneous and fragmentary and the aleatory" But when, lacking this confidence and tired of whistling in the dark, they attempt seriously to make sense of these "heaps of fragments," they betray a distinctive sensibility that Jameson aptly labels "schizophrenic nominalism." . . .

Schizophrenic nominalism is most evident in the writings of postmodern academics. [;]

APOCALYPSE NOW, *supra* note 35 (narrating Willard's thoughts on Kurtz, shortly after meeting him: "I'd never met anyone as fragmented as he was."); *id.* (quoting Kurtz reading poetry):

We are the hollow men
 We are the stuffed men
 Leaning together
 Headpiece filled with straw. Alas!
 Our dried voices, when
 We whisper together
 Are quiet and meaningless
 As wind in dry grass

. . . .

Shape without form, shade without colour,
 Paralyzed force, gesture without motion [;]

POWELL, *supra* note 17, at 177 (reproducing a cartoon of two ersatz butterflies, and quoting a dialogue between Butterfly 1 and Butterfly 2: "This 'dialogue' is really just writing — always already I'm beginning to feel a little spacey!" "We are the hollow (wo)men."").

See also EDGAR, *supra* note 29, at 65-66 ("Imagine, if you would, a worldwide conspiracy to deny the existence of the colour yellow. . . . Eventually, whenever you saw yellow, you would say: that isn't yellow You'd say it, yes it is, it's yellow, and become increasingly hysterical, and then go quite berserk."); *but cf.* LUDWIG WITTGENSTEIN, *REMARKS ON COLOUR* 63e, at ¶ 350 (G.E.M. Anscombe ed. & Linda L. McAlister & Margarete Schättle trans., Basil Blackwell 1977) (1950) ("[T]he special logic of the concept 'knowing' is not that of a psychological state."); *see also* ZAMYATIN, *supra* note 4, at 213 ("Laughter comes in different

passion, social construct: see "emotion" "messiahs."

HOLLOWNESS?

colors. It's only the distant echo of an explosion inside you. It might come in holiday colors — red, blue, golden [R]ockets."). Compare CONRAD, *supra* note 2, at 11 ("I was going into the yellow.") and *id.* at 9 ("It had become a place of darkness.") and *supra* note 24 (contemplating, inter alia, Puritans and the wilderness) with *supra* note 12 (noting the small calibre of French guns firing into the continent) and MARY A. DUDKO & MARGIE LARSEN, BARNEY'S COLOR SURPRISE 8 (1993) ("Barney paints with yellow for fun. Can you point to the bright yellow sun?").

Compare also *infra* note 50 (describing Oedipa's reaction to Mucho's auditory "insights") with Pynchon, *supra* note 29, at 280 ("Aubade . . . lived on her own curious and lonely planet, where the clouds and the odor of poincianas . . . came to her reduced inevitably to the terms of sound: of music which emerged at intervals from a howling darkness of discordancy.") and MANN, *supra* note 2, at 240 ("Why should I not find some pleasure in the sickness which has attacked the idea of the musical work?" (quoting the Divel)) and FARIÑA, *supra* note 7, at 213 ("When Jack turned off the engine they could hear the electronic harmonium, dissonant Schoenberg frequencies, metallic fifths rattling the stained glass windows.") and MANN, *supra* note 2, at 183 ("Here music turns its eye upon itself and looks at its own being."). But cf. Cage, *supra* note 10, at 92 ("Who said anything about themes? It is not a question of having something to say."); but cf. *id.* at 93 ("Question: But, seriously, if this is what music is, I could write it as well as you. Answer: Have I said anything that would lead you to think I thought you were stupid?" (emphasis added)); but hear JOHN CAGE, *In a Landscape, on IN A LANDSCAPE* (BMG Classics 1994) (1948) [hereinafter CAGE, *In a Landscape*]; cf. MANN, *supra* note 2, at 113 (emphasis added):

"How can it be nothing," the other answered back, "since you are playing it?"

"He is improvising," explained . . . Baworinski . . .

. . . .

. . . Probst defended himself, ". . . One surely cannot play what is not?"

. . . .

"I can assure you," said Adrian, "that it really was nothing, in every sense of the word." [.]

See also Paul Klee, *The Shaping Forces of the Artist, in MODERN CULTURE AND THE ARTS*, *supra* note 10, at 208, 212 ("The myth about the childishness of my drawings must have started with those linear structures in which I attempted to combine the IDEA of an object — a man ["subject"?], say — with pure representation of the linear elements." (emphasis added)); MANN, *supra* note 2, at 239 ("Art becomes critique." (quoting you-know-who)); see also ZAMYATIN, *supra* note 4, at 67 ("Poetry today . . . is government service, poetry is usefulness."); but cf. HEINLEIN, *supra* note 5, at 225 ("[N]owdays . . . any idiot with a blow torch and astigmatism calls himself a sculptor."); TOM WOLFE, FROM BAUHAUS TO OUR HOUSE 3 (1981) ("O beautiful, for spacious skies . . . has there ever been another place on earth where so many people of wealth and power have paid for and put up with so much architecture they detested as within thy blessed borders today?"). But watch *The Borg*, *supra* note 39 (noting the structure (*gaspl*) of Borg spacecraft); cf. CHERNYSHEVSKY, *supra* note 29, at 370 (contemplating Utopian architecture) (emphasis added):

A building — what is it? What style of architecture? There's nothing at all like it now. No, there is one building that hints at it . . . cast iron and crystal, crystal and cast iron — nothing else But . . . [h]ow elegant it all is! Aluminum and more aluminum; all the spaces between the windows are hung with huge mirrors. [.]

 NEGATIVLAND?

WOLFE, *supra*, at 5 (“Without a peep they move in! — even though the glass box appalls them all.”); *compare id.* at 15-16 (emphasis added):

[Walter] Gropius’ interest in “the proletariat” or “socialism” turned out to be no more than aesthetic and *fashionable*, somewhat like the interest of . . . Chairman Mao . . . in republicanism. Nevertheless, as Dostoevsky said, ideas have consequences; the Bauhaus style proceeded from certain firm assumptions. First, the new architecture was being created for the workers. . . . Second, the new architecture was to reject all things bourgeois. Since just about everyone involved, the architects as well as the Social Democratic bureaucrats, was himself bourgeois in the literal, social sense of the word, “bourgeois” became an epithet that MEANT *whatever you wanted it to mean*.

with FRANK LLOYD WRIGHT, *THE FUTURE OF ARCHITECTURE* 347-48 (1953):

Form is predicated by function but, so far as poetic imagination can go with it without destruction, transcends it. “Form follows function” has become spiritually insignificant: a stock phrase. Only when we say or write “*form and function are one*” is the slogan significant. It is now the password for sterility. Internationally.

and Douglas Davis, *Back to the Classics*, *NEWSWEEK*, Sept. 7, 1981, at 76, 77 (in one of the too-often-underappreciated ironies of postmodernism, characterizing the school of “post-modern” architecture — which spawned the term’s wider usage — as “neo-neoclassicism”) and Charles Jencks, *Postmodern vs. Late Modern*, in *ZEITGEIST IN BABEL 4* (Ingeborg Hoesterey ed., 1991) (perhaps suggesting that in *architecture*, modernism — in its Bauhaus and later International Style incarnations — was the totalitarianizing force, which “post-modern” architecture attempted to genuinely pluralize); *but look* (and you may perhaps conclude that it hasn’t turned out that way); *cf.* Edward Rothstein, *Cage’s Cage*, in *WRITINGS ABOUT JOHN CAGE* 301, 306 (Richard Kostelanetz ed., 1993) (“What is the direction of this much discussed career? Mainly a traditional, almost conservative avant-gardism . . .”).

See also WURTZEL, *supra* note 10, at 348 (“[A] peak moment in depression culture arrived with the . . . success of Nirvana, whose hit single ‘Smells Like Teen Spirit’ was a call to apathy. This song was so delighted with its passivity that its central demand was, ‘Here we are now, entertain us.’”); *id.* at 350 (“[O]ne of the owners of [the record company] . . . that . . . discovered Nirvana thought the band’s success was a sign that the ‘loser rebellion’ was under way. . . . If being a loser could become cool . . . the culture of depression must [be] . . . thoroughly entrenched in the mainstream.”); *id.* at 350-51 (discussing the suicide of Nirvana leader Kurt Cobain); *but cf.* Gregory R. Alsip, *Ways to Counteract Winter’s Dark Gloom*, *SEATTLE TIMES*, Oct. 17, 1996, at E2; WHITMAN, *supra* note 2, at 59 (“A youth not seventeen years old seiz’d his assassin till two more came to release him.”); BROOKS, *supra* note 10, at 181 (“Emerson had looked to Jacksonism, the ‘rank rebel party,’ to root out the hollow dilettantism of American culture.”). *But cf.* CONRAD, *supra* note 2, at 32 (“You wonder I didn’t go *ashore* for a *howl* and a *dance*? . . . I HAD NO TIME.” (emphasis added) (quoting Marlow)); WURTZEL, *supra* note 10, at 15 (“How could they possibly understand why it made no sense to me to . . . dance . . . when I could lie on the concrete floor with just the single bulb of bathroom light while Lou Reed’s voice would lure me into a life of nihilism?”); *hear* THE VELVET UNDERGROUND, *supra* note 29 (“Leave the sunshine out, and say ‘hello’ to ‘never’ Leave the wine glass out, and drink a toast to ‘never.’”); CROW, *supra* note 29 (“You get down, real low down. You listen to Coltrane, derail your own train . . . who hasn’t been there before?”); *but hear* THE VELVET UNDERGROUND, *supra* note 29 (noting that the Parisian “interpretive community,” at least near the summer solstice of 1992, gave a Straussian close listening to Lou Reed’s song, and interpreted it as a double narrative); *cf.* LODGE, *supra* note 29, at

Do you LIKE MOMA?

21 (“Culturally conditioned to choose the Bartok, [Philip] SWITCHES [AIIIIYEEEEEE!], after a few minutes, to the Muzak, a cool, rippling rendition of . . . ‘These Foolish Things’ . . . [.]” (emphasis added)).

But would anyone deny that postmodern culture has its aesthetic and inspirational upsides? After all, the artist “is an involuntary philosopher,” Klee, *supra*, at 208; cf. Paul Gray, *How Did We Get Here?*, TIME, Sept. 29, 1997, at 89, 90 (reviewing DON DELILLO, *UNDERWORLD* (1997)) (“‘Everything’s connected’ [is] the mantra of both paranoiacs and artists”), and leads us to the insight that the “existing shape of the world” is not its “only possible shape.” Klee, *supra*, at 208; cf. *id.* at 209 (“[S]liding toward otherworldliness, he decides: On other planets it may well have assumed . . . different forms.”); Richard Lippold, *Illusion as Structure*, in *MODERN CULTURE AND THE ARTS*, *supra* note 10, at 214, 214 (“Structure is illusion.”); *id.* at 215 (“We [?] have come . . . from the ‘knowledge’ that we are chemically ninety-five percent water to the ‘certainty’ that we [?] are physically one hundred percent ‘empty’ space!”); but cf. WHITMAN, *supra* note 2, at 40 (“I know I am solid and sound.” (emphasis added)).

Apart from all that, aren’t either of Chuck Berry’s chords (especially (?) when he hits the notes right) just *better* than anything Ludwig von ever put together? Compare CHUCK BERRY, *Roll Over Beethoven*, on HAIL! HAIL! ROCK ‘N’ ROLL (MCA Records 1987) (1964) with LUDWIG VON BEETHOVEN, *Movement 4*, on SYMPHONY No. 9 (Decca Records 1972) (1824); cf. *supra* text accompanying note 42 (defining “natural law”). But cf. Peter Hasselriis & Dorothy J. Watson, *Language Arts Basics: Advocacy vs. Research*, in *WHOLE LANGUAGE* 24, 28 (Gary Manning & Maryann Manning eds., 1989) (“There is an elitism in many schools that would place Harlequin Romances, and many other forms of art that are highly regarded and sincerely respected by many persons at the negative end of a ‘cultural’ continuum.”); watch *WCW Nitro* (TNT network television broadcast, Mar. 4, 1997) (presenting a professional wrestling match that was apparently highly regarded by many persons (albeit perhaps less “sincerely respected” than Harlequin Romances), and interviewing Hulk Hogan); see also WHITMAN, *supra* note 2, at 60 (“[I]t is generally thought we are sinking.”); *supra* text following note 35 (defining “judgment”); but cf. *infra* note 57 (comparing the United States Constitution with wine); *infra* note 67 (perhaps, *inter alia*, defending democracy). See also CONRAD, *supra* note 2, at 25 (“What I really wanted was rivets, by heaven! Rivets. To get on with the work — to stop the hole [A]nd rivets were what really Mr. Kurtz wanted, if he had only known it.” (quoting Marlow)); Shreeve, *supra* note 14, at 100:

In [a] 1993 . . . study conducted at the University of California at Irvine by . . . Frances Rauscher, along with Gordon Shaw and Katherine Ky . . . college students were given standard IQ spatial reasoning tests, preceded in one trial by ten minutes of silence, in a second trial by ten minutes of listening to a relaxation tape, and in a third one by ten minutes of listening to a Mozart piano sonata. [*Roll Over Beethoven* was not tested.] The post-Mozartian IQ scores averaged at least eight points higher than those of the other two trials. Rauscher suspects . . . that listening to any complex [not “complex”] musical piece could produce similar results. [;]

WHITMAN, *supra* note 2, at 60:

Our frigate takes fire,
The other asks if we demand quarter?
If our colors are struck and the fighting done?
Now I laugh content, for I hear the voice
of my . . . captain,
We have not struck, he composedly cries,

YOUR OWN REALITY?

we have just begun our part of the fighting. [.]

CONRAD, *supra* note 2, at 23 (“[T]he silence of the land went home to one’s very heart — its mystery, its greatness, the amazing reality of its concealed life.” (emphasis added)); *but cf.* ZAMYATIN, *supra* note 4, at 91 (narrating D-503’s thoughts: “Man ceased to be a wild man only when we built the Green Wall, only when . . . we isolated our perfect . . . world from the irrational, ugly world of trees, birds, and animals.” (emphasis added)); WURTZEL, *supra* note 10, at 158 (“What I wouldn’t do to be Alice climbing through the looking glass, taking one of those pills that makes you small”); *supra* text following note 30 (defining “epistemology”); *supra* note 39 (contemplating, inter alia, essentialism); *but watch* ALICE, *supra* note 14 (“We’ll never catch him while we’re this small.” (quoting Alice)); *but cf.* WHITMAN, *supra* note 2, at 41 (“I show that size is only development.” (emphasis added)).

But cf. Miller, *Bleak House*, *supra* note 29, at 84 (“When the . . . foundations [*gaspl*] which have been precariously upholding things give way, there is a sudden drop vertically into infernal depths.”); *hear* CROW, *Winding Road*, *supra* note 29 (“I’ve been wondering if all the things I’ve seen were ever real, were ever really happening.”); *but cf. infra* note 67 (quoting *The Great Society* on therapy); MARGIE LARSEN, BARNEY & BABY BOB GO TO THE DOCTOR 3 (1996) (“[D]octors are our friends. They help people stay healthy.” (quoting Barney)); WHITMAN, *supra* note 2, at 77 (“You will hardly know who I am or what I mean But I shall be good health to you nevertheless, [a]nd filter and fibre your blood.” (emphasis added)); *but cf.* KRISTEVA, *supra* note 29, at 1 (suggesting that *psychoanalysis* [introspection?] may be a “counterdepressant”); WURTZEL, *supra* note 10, at 3 (“I NEED that thing that happens when your BRAIN SHUTS OFF and your HEART TURNS ON.” (emphasis added)); *id.* at 21 (“Slowly . . . the data will accumulate in your heart and mind, a . . . program for total negativity will build into your system.” (emphasis added)); *but cf.* WHITMAN, *supra* note 2, at 7 (“How all times mischoose the objects of their adulation and reward And how the same inexorable price must still be paid for the same great purchase.”). *See also* WURTZEL, *supra* note 10, at 45 (“I thought this alternative persona that I had adopted was just that: a put-on, a way of getting attention And maybe when I first started . . . talking about plastic and [D]eath, maybe then it was an experiment. But after a while, the alternative me really was just me.” (emphasis added)); MACKINNON, *supra* note 32, at 86 (discussing her approach to “renam[ing]” reality); *but cf.* CONRAD, *supra* note 2, at 26 (“Your own reality — for yourself.” (emphasis added)); PYNCHON, *supra* note 24, at 772 (“I am not here, am I, to devote myself to her fantasies!” (emphasis added)); *but cf. supra* note 29 (contemplating, inter alia, boots and feet); *but cf.* CONRAD, *supra* note 2, at 50 (quoting Marlow):

Suddenly . . . a group of men appeared, as though they had come up from the ground Instantly, in the emptiness of the landscape, a cry arose whose shrillness pierced the air like a sharp arrow flying straight to the heart of the land; and . . . streams of human beings . . . with spears in their hands, with bows, with shields . . . were poured into the clearing by the . . . forest.

But cf. Chantal Mouffe, *Radical Democracy: Modern or Postmodern?*, in UNIVERSAL ABANDON? THE POLITICS OF POSTMODERNISM 31, 38-39 (Andrew Ross ed., 1988) (stating that postmodernism deploys “different forms [*gaspl*] of rationality” (emphasis added)); ORWELL, *supra* note 1, at 220 (quoting O’Brien):

The sex instinct will be eradicated. . . . We shall abolish the orgasm. . . . There will be no loyalty [poor, poor Duncan], except loyalty toward the Party. There will be no love, except the love of Big Brother. There will be no laughter, except the laugh of triumph over a defeated enemy. . . . When we are omnipotent, we shall have no more need of science. There will be no distinction between beauty and ugliness. There will be no curiosity, no employment

 SCHADENFREUDE?

of the process of life. All competing pleasures will be destroyed. But always — do not forget this, Winston — always there will be the intoxication of power, constantly increasing and constantly growing subtler. Always, at every moment, there will be the thrill of victory, the sensation of trampling on an enemy who is helpless. If you want a picture of the future, imagine a boot stamping on a human face — forever. [;]

Nehamas, *supra* note 17, at 34 (“Foucault found a wide range of techniques, ranging from . . . introspective self-examination to the extensive writing of daily diaries These techniques constituted what he called . . . ‘the care of the self.’”); *but cf.* WURTZEL, *supra* note 10, at 235 (“[M]aybe [the Xanax allowed] me . . . to think about my problems Which made me realize . . . that my life is even worse than I thought.”); *id.* at 234 (“‘So you think I’m suffering from meta-depression?’ I ask Dr. Sterling in a moment of humor.”); *but cf.* CONRAD, *supra* note 2, at 36 (“One can’t live with one’s finger everlastingly on one’s pulse.” (quoting Marlow)).

See also Sue MacDonald, *Beating the Blues: Out of the Darkness and into the Light*, CINCINNATI ENQUIRER, Nov. 20, 1996, at E1 (noting that the test offered on National Depression Screening Day lists as one of its questions, “My mind isn’t as clear as it used to be.”); *watch* ALICE, *supra* note 14 (“I can’t remember things as I used to.” (quoting Alice)); *hear* THE DIXIE CHICKS, *I’m Falling Again*, on SHOULD’N’T A TOLD YOU THAT (Crystal Clear Records 1993); see also ORWELL, *supra* note 1, at 281:

Anything could be true. The so-called laws of nature were nonsense. The law of gravity was nonsense. “If I wished,” O’Brien had said, “I could float off this floor like a soap bubble.” Winston worked it out. “If he *thinks* he floats off the floor, and if I simultaneously *think* I see him do it, then the thing happens.” . . . All happenings are in the mind. Whatever happens in all minds, truly happens. [;]

PYNCHON, *supra* note 24, at 841 (“They are . . . losing what reality they brought here, as Gottfried lost all of his to Blicero long ago.”); CATHARINE A. MACKINNON, *Desire and Power*, in MACKINNON, *supra* note 29, at 46, 50 (“Objectivity is the epistemological stance of which objectification is the social process, of which male *dominance* is the politics, the acted-out social practice.” (emphasis added)); *but cf.* CONRAD, *supra* note 2, at 41:

I was cut to the quick at the idea of having lost the inestimable privilege of listening to the gifted Kurtz. Of course I was wrong. The privilege was waiting for me. Oh yes, I heard more than enough. And I was right, too. A voice. . . . [V]ery little more than a voice. [;]

but cf. NELSON, *supra* note 29, at 122 (“At first I think working for the musician’s union is going to be big fun.”); *but cf.* WURTZEL, *supra* note 10, at 187 (“[I]t was . . . the lack of anchoring, that was really starting to frighten me: I was certain that if Stone let go of me I might float up to Mars.”); *id.* at 233 (“It might be terminal velocity, the speed of the sound of a girl falling down to a place from where she can’t be retrieved.”); *hear* PATTI SMITH, *Summer Cannibals*, on GONE AGAIN (Arista Records 1996) (“[N]othing was as real as the street beneath my feet descending into air [C]annibals, eat eat I saw their souls a-withering like snakes in chains. . . . Cause . . . nothing was as real as the street beneath my feet descending into hell”); see also WURTZEL, *supra* note 10, at 115 (“[I]t feels as if the floor beneath my feet is crumbling I feel like an art deco skyscraper, like the Chrysler Building, but my foundation is crumbling and shattered glass is falling all over the sidewalks I am shards of glass, and I am the person being wounded by the glass.” (emphasis deleted)); *id.* at 191 (“The fog is like a cage without a key.”); PYNCHON, *supra* note 2, at 23 (“Hair spray hung like fog, glass twinkled all over the floor.”); Rothstein, *supra*, at 301 (“I’m not sure what made me finally grasp the importance of fungi for the career of John Cage.”); Cage,

DEATH?

supra note 10, at 93 (“Why don’t you realize as I do that nothing is accomplished by writing, playing, or listening to music?”); MANN, *supra* note 2, at 149 (“He had long ceased to be a beginner in music, that curiously cabalistic craft . . .”); STEIN, *supra* note 3, at 64-65 (emphasis added)

I BEGAN TO WORRY ABOUT IDENTITY. . . . I AM I BECAUSE MY LITTLE DOG KNOWS ME. But was I I when I had no written word inside me. It was very bothersome. I sometimes thought I would try but TO TRY IS TO DIE AND SO I DID NOT REALLY TRY. [;]

WARHOL, *supra* note 29, at 9 (“The thing is to think of nothing [N]othing is exciting”); KAFKA, *supra* note 20, at 268 (“[H]e sat there . . . with his ribs sticking out . . . paying no attention . . . even to the all-important striking of the clock that was the only piece of furniture in his cage”); WURTZEL, *supra* note 10, at 12 (“*Everything’s plastic, we’re all going to die* That was my motto.”); Miller, *Bleak House*, *supra* note 29, at 85 (“Once [Lady Dedlock’s] ‘freezing mood’ is melted, she rapidly becomes . . . what she has really been all along: dead. . . . Here, more intensely than for any other character, we experience the descent into formlessness which follows inevitably the failure to achieve a proper relation to the onward motion of time.”); WARHOL, *supra* note 29, at 5 (“B is anybody who helps me kill time.”); EDGAR, *supra* note 29, at 40 (“The vertigo of freedom. Minute to minute. White rabbits. Need to stop the ticking, listen to the heartbeat. Dali only melted clocks. We need to wrench their coggy little innards out, and stop them telling us their time.”); Miller, *Bleak House*, *supra* note 29, at 81 (“The self-enclosed life of the characters . . . is a clock that runs down, something organic which has died and decays, the entropy of an enclosed system approaching the maximum equilibrium of its forces.”).

But cf. ROOSEVELT, *supra* note 33, at 28 (“In one hillside [Palestinian refugee] camp . . . scorpions and poisonous snakes are a constant menace. One distraught mother led me to the spot where a snake had bitten her baby only a few hours before. Happily prompt medical treatment had saved its life.”); *but cf.* FOUCAULT, *supra* note 29, at 195 (emphasis added):

This book . . . concerns . . . the period in which illness, counter-nature, [D]eath . . . came to light It is as if for the first time for thousands of years, doctors, free at last of theories and chimeras, agreed to approach the object of their experience with the purity of an unprejudiced gaze. *But the analysis must be turned around* [;]

ORWELL, *supra* note 1, at 272 (“‘Life will defeat you.’ ‘We control life, Winston, at all its levels [W]e create human nature. Men are infinitely malleable.’” (quoting dialogue between Winston and O’Brien)); MACKINNON, *supra* note 10, at 19 (“As pornography consumers . . . [d]octors may molest anesthetized women, [and] enjoy watching and inflicting pain during childbirth” (emphasis added)) [YEP. AND THEY MAY NOT.]; CITIZENS’ COMM. ON HUMAN RIGHTS, BETRAYING WOMEN: PSYCHIATRIC RAPE 2 (1995) (“Visit a psychiatrist for post-partum depression . . . or because you are troubled after an unhappy love affair and you are liable to be diagnosed as mentally ill” (emphasis added)); *id.* at i (“Special acknowledgment is made to Freedom Magazine, published by the Church of Scientology International.”); Thomas, *supra* note 19, at 32 (“The pair gave each other silly nicknames . . . finally Do and Ti (mere notes in the celestial symphony) — to show that names mean nothing.”); *infra* text following note 60 (defining “words”); *but cf.* WURTZEL, *supra* note 10, at 155 (“Semiotics, not a chemical imbalance, was killing me.”); *but cf.* Peter Klebnikov, *Time of Troubles*, NEWSWEEK, Apr. 7, 1997, at 48, 48B (“[T]his is the golden age of the doomsday industry.”); Richard Corliss, *A Star Trek into the X-Files*, TIME, Apr. 7, 1997, at 42, 42 (“Trash is fact, and facts are trash. . . . Could the Heaven’s Gaters distinguish pop fable

MARS?

from cold truth?"); *supra* note 10 ("Imagine" (quoting Catharine MacKinnon)); DISKI, *supra* note 29, at 191-92 (describing Rachel):

She lay curled up on the floor . . . her arms covering the top of her head protectively. Everything now was impossible . . . all too complicated, too many problems, no solutions, just complexity on complexity, like a terrible spider web that grew new and dreadfully intricate strands wherever she tried to break through. . . . There were no straight lines, just everything trying madly to connect itself to everything else; no sense, just fleeting associations that led inexorably away from the original problem. [:]

ORWELL, *supra* note 1, at 45 ("It's a beautiful thing, the destruction of words." (quoting Syme)); CONRAD, *supra* note 2, at 24 ("Kurtz . . . was just a word for me. I did not see the man in the name any more than you do. Do you see him? Do you see the story?" (quoting Marlow)); PYNCHON, *supra* note 14, at 277 ("The weather will continue bad, [Boris] says. There will be more calamities, more [D]eath, more despair We must get into step, a lockstep toward the prison of [D]eath. There is no escape. The weather will not change." (quoting Henry Miller)); WURTZEL, *supra* note 10, at 3 ("I will live and die alone I will be nothing at all. Nothing will work out."); BENJAMIN, *supra* note 22, at 460 ("Thirteen — stopping at this number, I feel a cruel pleasure." (quoting Marcel Proust)); *but cf.* WHITMAN, *supra* note 2, at 34 ("The lunatic is carried at last to the asylum a confirmed case He will never sleep any more as he did in the cot in his mother's bedroom"); *but cf.* FARIÑA, *supra* note 7, at 130-31 ("The frieze on the wall was not a frieze. It was a spider monkey. 'Proust,' said Heap They both jumped at the name. 'What?' 'That's his name, guys' 'Proust?' asked Heff. 'He's asthmatic, digs being alone. Has a weak bladder. Don't get too close.'"); WU CHENG'EN, *JOURNEY TO THE WEST* (W.J.F. Jenner trans., Beijing Foreign Lang. Press 1990) (1955) (contemplating the role of the monkey on monks' odyssey to secure Buddhist texts, and the monkey's motivations); THE BEATLES, *Everybody's Got Something to Hide Except Me and My Monkey*, on THE BEATLES, *supra* note 29 (contemplating John Lennon's experiences with a different — but similar — kind of monkey); Miller, *Bleak House*, *supra* note 29, at 76-77 ("There was once . . . a time when . . . each individual object was itself a formal unity. . . . [Later,] they were simply collections of broken objects thrown pell-mell together . . . like the wreckage left behind after the destruction of a civilization."); Post, *supra* note 10, at 392 ("In the postmodern moment the great upward march of history seems suddenly to have culminated and ceased.").

See also FOUCAULT, *supra* note 29, at 195 ("[T]he abyss beneath illness, which was the illness itself, has emerged into the light of language — the same light, no doubt, that illuminates [de Sade's] *120 Journées de Sodome, Juliette*, and the *Désastres de Soya*." (emphasis added)); Cage, *supra* note 10, at 93 ("No purposes. Sounds."); THOMAS S. SZASZ, *IDEOLOGY AND INSANITY* 74 (1970) (criticizing Ann Landers for too frequently recommending therapy); *but cf.* WURTZEL, *supra* note 10, at 221 ("Dinah took me to a Paul Klee exhibition at the Museum of Modern Art, but I couldn't concentrate on all the abstraction."); *id.* at 222 ("I listened to the new Marianne Faithful album, *Strange Weather*. It really should have been subtitled 'Music to Slit Your Wrists To.'"); *id.* at 260 ("Why hadn't K-Tel long ago released a compilation called something like *Depressing Dylan Songs for the Broken-hearted?*"). *But cf.* BLYTH, *supra* note 16, at 32 ("Neither follow after, nor dwell with the doctrine of the void."); WHITMAN, *supra* note 2, at 18 ("I will not make poems with reference to parts But I will make poems, songs, thoughts with reference to *ensemble*" (emphasis added)); RILKE, *supra* note 33, at 25 ("Hail to the spirit that can unite us"); Judy Foreman, *Working with the Body's Rhythms*, *BOSTON GLOBE*, July 29, 1996, at C1 ("In skin cells at least, sunlight boosts levels of the feel-good hormone, beta-endorphin."); WURTZEL, *supra*

CHOICE?

note 10, at 175 (“[In Dallas,] I go to the Sound Warehouse and buy — heaven help me — four Grateful Dead albums.” (emphasis deleted)); David Gates, *Requiem for the Dead*, NEWSWEEK, Aug. 21, 1995, at 46 (“[A] ‘grateful dead’ is a sub-genre of British ballad in which a human helps a ghost find peace”); Sue MacDonald, *Beating the Blues: New Treatments Enter Batle Against Depression*, CINCINNATI ENQUIRER, Nov. 22, 1996, at D1 (“People suffering from [SAD] . . . are working or sitting under full-spectrum light boxes Researchers know exposure to light triggers positive-mood brain chemicals”); *supra* text following note 34 (defining “hope”); Stone, *supra* note 10, at 39 (emphasis added):

My focus is almost entirely on the here and now . . . on helping patients find new strategies and new ways of interacting with the important people in their lives. I still believe that a traditional psychoanalytic experience on the couch is the best way to explore the *mysterious otherness* of one’s self [?]. But . . . [i]f I can call on Freud, I would suggest that he would have welcomed Prozac
[.]

But cf. WURTZEL, *supra* note 10, at 148 (“Wouldn’t it be nice if we could all take happy pills and make the bad go away? But I’m not going to lie to you.”); *id.* at 310 (“[I]t takes a lot of energy to be depressed and even more energy to get better.”); WHITMAN, *supra* note 2, at 72 (“You must habit yourself to the dazzle of the light and of every moment of your life.”); VIRGIL, *supra* note 33, bk. VI, ll. 123-29:

Thus [Aeneas] was making petition, his hands upon the altar,
When the Sibyl began to speak:
— O child of a goddess’ womb,
Trojan son of Anchises, the way to Avernus is easy;
Night and day lie open the gates of [D]eath’s dark kingdom:
But to retrace your steps, to find the way back to daylight —
That is the task, the hard thing. [.]

WHITMAN, *supra* note 2, at 71 (“Not I, not anyone else can travel that road for you You must travel it for yourself.” (emphasis added)).

But cf. CONRAD, *supra* note 2, at 40 (“I had never imagined [Kurtz] as *doing*, but as *discoursing* The man presented himself as a voice.” (emphasis added)); ABBOTT, *supra* note 12, at 51 (“[O]ur Priests are *administrators* of all Business, Art, and Science . . . doing nothing themselves, they are the causes of everything worth doing, that is done by others.” (emphasis added)); *but cf.* CHERNYSHEVSKY, *supra* note 29, at 361:

In the distance stand groves of olive[] and fig trees. Farther still, on the horizon to the northwest, stands a double chain of lofty mountains. The summits are covered with snow, their slopes with cedars. But the shepherds are more slender than the cedars, their wives more graceful than the palms. . . . They have but one concern — love. [.]

but cf. id. at 362 (“A new scene appears. A city. Mountains stretch into the distance to the north”); PYNCHON, *supra* note 24, at 837-38:

Nordhausen felt like a city in myth, under the threat of some special destruction [F]or an evening, the sense of preservation there was lost. . . .

Behind her, pushing her, is the town’s somnolence, and at night . . . full of too many spells, witch rivalries, coven politics . . . she knows that’s not what magic is about. The Hexes-Stadt, with its holy mountains cropped . . . by the little tethered goats, has turned into just another capital, where the only enterprise is administrating — the feeling there is of upstairs at the musicians’ union — no music, just glass-brick partitions . . . indoor plants You either come to the Brocken-complex with a bureaucratic career in mind, or you leave it, and choose the world. There are two distant sorts of witch, and Geli is the World-choosing sort. [.]

perfection, n.: “us” [NOW, IF EVERYBODY COULD BE “PERFECT” . . .].

philosophy, postmodern construct: see “theory”; all variants obsolete.

pity, n.: “responsibility” (not responsibility); see also “condescension” “emotion” “progress” (and the Divil knows what else).

plasticity, n.: “solidarity.”

plural democracy, comp. n.: monolithic oligarchy; see generally “totalitarianism” “democracy,” “children”; all variants obsolete; (fut.): *pluracy*.

political correctness, dictionary-capture construct: the avoidance of forms of expression that exclude, marginalize, or insult racial or cultural minorities; (obso.): conformity to a body of radical opinion, especially on social matters, in the avoidance of anything, even established vocabulary, that may conceivably be construed as discriminatory or pejorative; all other variants also obsolete. [AND FOR THE RECORD: “POLITICAL CORRECTNESS” NEVER EXISTED! NEVER EXISTED! (DO YOU REMEMBER THAT, WINSTON?)]

political truth, comp. n.: any empirically disverifiable “natural law” proposition proved by “democratic history,” “rhetoric,” and/or “repetitive and cumulative incantation,” or enacted by judicial decree; (fut.): *litru*.

Pomobabble, linguistic construct: Newspeak; Amerikan “signs.”

pop culture, comp. n.: the almost-thoroughly corrupted handmaid of desire; a semi-conscious corporal in the crusade; but despite the dimness of most of its facets’ lights, occasionally useful on the micro level as well as the macro one, when “we” need “expert” testimony (“narratives”?) on . . . well . . . just about *anything* to Congress, amicus briefs to the Court; see generally “autonomy,” “intertextuality” “repetitive and cumulative incantation” “natural law”; “self-esteem”; “narcissism” “interesting.”

positionality, n.: “plasticity,” “solidarity.”

post-colonial studies, comp. n.: see “cultural studies.”

postmodern airline pilots, comp. n.: *WHEEEEEEE!* (Fut.): all “subjects” “displaced.”

postmodernism (perhaps assuming facts not in evidence, the non-“legal” variety), n.: *shhhhh!* Homeroom for “subjects” “vessels,” and heroin for the “hollow”; (alt.): “horror”-driven gnostic “mysticism” and/or “romantic idealism,” attempting to distill, export, and universalize the *Angst*, *anomie*, and *ennui* generated by (and/or causing) personal and/or cultural defeat; (alt.): *nostalgie pour la boue*; self(?)-loathing; “vanity”; submission before the

challenge; (*alt.*): the songs of a “decentered” *Sphyrapicus varius*; (*alt.*): “Death” “culture”; (*alt.*): *Schadenfreude*; (*alt.*): something to do while it’s raining; (*alt.*): “we” really are “socially constructed”: *it’s the only thing “we” can do.*⁴⁴

postmodernist insights, cliché: “doublethink” lunch; always “inter-

“NEW” PEOPLE?

44. Cf. ARISTOTLE, *supra* note 2, at 108, 113 (bk. I, ch. 2, § 72a) (“[T]o define what a unit is is not the same as to affirm its existence.”); STEIN, *supra* note 3, at 289 (commenting with respect to Oakland that “there is no there there”); BREAKFAST THEORY, *supra* note 10 (describing a dialogue between two nonexistent characters whose words are reproduced on the front of a *Foucault Flakes* cereal box: “But it’s empty. ‘But of course.’”); MANN, *supra* note 2, at 207 (“‘What a lot of rooms!’ they exclaimed. Yes, they were mostly empty, replied the hostess.” (emphasis added)); KESEY, *supra* note 10, at 43 (“[I]t had *all* been a trick . . . [F]or all the sound and fury, those grand flights, those tootings, had all, always, at bottom, been only rebop, only the rattle of insects in the dry places of Eliot, signifying nothing.”); HERRIGEL, *supra* note 16, at 6 (“[S]inking into yourself, becoming completely empty . . . was the way of Zen. We cannot tell how far back ‘Nothing’ was sought in this fashion”); ROTMAN, *supra* note 10, at ix (“To write, read, talk about Nothing, or to believe in it . . . is to sit close to the obvious possibility that one is involved in the ultimate unreality of signifying not Nothing but no thing.”).

“But, leaving Nothing and its subtleties to one side, what sort of phenomenon is zero?” *Id.*; see MARK V. TUSHNET, RED, WHITE, AND BLUE: A CRITICAL ANALYSIS OF CONSTITUTIONAL LAW 318 (1988) (“Critique is all there is.”); cf. Miller, *Bleak House*, *supra* note 29, at 81-82 (“[S]ince there is no influx of life, energy, air, or novelty from the outside, there is a gradual exhaustion of the forces inside . . . as all diversity is slowly transformed into a bland and motionless homogeneity.”); *supra* note 29 (contemplating, inter alia, entropy); ROSEN, *supra* note 29, at 86 (“The . . . postmodern listens for the voice of Being; he hears nothing but the rustling of texts turning their own pages.”); but cf. L’HEUREUX, *supra* note 10, at 30 (“Robbie[’s] . . . hung up on *theory* — he thinks *theory* is what’s in question here, rather than the larger picture, which, needless to say, he doesn’t get” (emphasis added) (quoting Kurtz)).

But cf. Frank, *supra* note 29, at 76-77 (emphasis added):

One group, led by the rising young critic D.I. Pisarev, took Turgenev’s Bazarov as their ideal whatever his defects, and *became the advocates of a “Nihilism” which came . . . close to justifying . . . destruction for its own sake.* But the OTHER GROUP — the followers of Chernyshevsky . . . attacked *Fathers and Sons* as a vicious attempt to malign the new generation

....

. . . Chernyshevsky’s “new people” . . . are not all Nihilists in Bazarov’s sense The lives of these “new people” have a well-defined *positive* content — the content of Chernyshevsky’s own curious and ill-digested amalgam of CRUDE FEUERBACHIAN MATERIALISM AND DETERMINISM, BENTHAMITE UTILITARIANISM, AND UTOPIAN SOCIALIST PERFECTIONISM. [.]

see also infra note 67 (quoting Harvey Teres on cyclical history and farce); KESEY, *supra* note 10, at 12 (“That’s it! That’s what the revolution has been doing lately. . . . Losing!” (emphasis deleted)); but cf. EAGLETON, *supra* note 10, at 21:

One would not expect postmodernists themselves to greet this proposition with acclaim. Nobody much likes being informed that they are the effect of an historical failure, any more than we take kindly to being told that we are the spawn of Satan. It is hardly, in either case, the most heroic of origins. [.]

See generally United States *ex rel.* Mayo v. Satan and his Staff, 54 F.R.D. 282 (W.D. Pa. 1971) (order denying prayer to proceed in forma pauperis) (questioning

esting," "great," "complex," "rich," "textured," and "nuanced";
(*fut.*): *posight*.

INTERMISSION

The orchestra plays a lively rendition of the Carmen Fantasy. Perhaps just enough time for a respite in the Parlour? A Macanudo? A Salem? A Winston? . . .

SCENE 3

power, n.-v.: ["WE"'RE GETTING CLOSER].⁴⁵

POST[?]MODERNISM?

the ability of the United States Marshall to effectuate service of process on the defendants, but acknowledging probable eligibility for class certification).

45. Cf. Steven L. Winter, *The "Power" Thing*, 82 VA. L. REV. 721, 722 (1996) (after quoting a portion of the excerpt by Martha Minow quoted above in note 17, commenting):

What interests me most about this passage is its explicit justification of the decision not to pursue an obvious line of analysis: Minow appreciates deconstruction's power to negate congealed dichotomies and thereby expand alternatives. She nevertheless applauds Mary Joe [Frug]'s refusal to follow through on these possibilities because of the perceived need to hang onto a political position. [;]

id. at 833 (criticizing, but stating as an "unwritten rule," the proposition that "every scholarly venture must be preceded by a careful (if silent) calculus in which one gauges the normative or political consequences of one's intended analysis"); MCGOWAN, *supra* note 10, at ix ("[P]ostmodernism . . . proclaim[s] itself resolutely radical in its commitment to the transformation of the Western social order."); *infra* note 60 (contemplating neo-Marxist political agendas of Ernesto Laclau and Chantal Mouffe); *but cf.* Geoffrey H. Hartman, *The Fate of Reading Once More*, 111 PMLA 383, 384 (1996) ("Alan Liu, among the best of the cultural critics, wants to restore 'the absent *cash flow* between culture and *poetry*' — is this the witticism of a demystifying Marxist or of a market-oriented [?] capitalist?" (emphasis added)); PACE, *supra* note 10, at 3 ("Embezzlement and theft are common crimes that result from vice activity."); *infra* note 64 (contemplating the "institutionalization" of postmodernism); ALINSKY, *supra* note 28, at 36 ("[Y]ou do what you can with what you have and clothe it with moral garments." (emphasis deleted)); Mark Tushnet, *The Dilemmas of Modern Constitutionalism*, 42 OHIO ST. L.J. 411, 424 (1981) (suggesting that he would decide cases by making "an explicitly political judgment: which result is . . . likely to advance the cause of socialism?," then "write an opinion in some currently favored version of Grand Theory"); RIBOWSKY, *supra* note 3, at 279 ("There are three alternatives in a changing environment. One, you adapt . . . Two, you migrate. Three, survival of the fittest. I decided on number three." (quoting Al Davis)). Compare RAGNAR REDBEARD, MIGHT IS RIGHT, OR, THE SURVIVAL OF THE FITTEST (5th ed. 1903) (offering a developed argument by a proto-"legal postmodernist" that moral values are products of power, but rejecting the teachings of "weepful" messiahs) with NABOKOV, *supra* note 29, at 232 ("Chernyshevski cried willingly and often.").

See also RIBOWSKY, *supra* note 3, at 161 ("[Al] Davis said he would have complete command of league policy and of the owners. 'I have dictatorial powers,' he said. 'We'll eliminate fighting one another.' . . . 'We'll do a-n-y-t-h-i-n-g we think

 "PRAGMATISM"?

necessary.""); PAUL W. SCHROEDER, *THE TRANSFORMATION OF EUROPEAN POLITICS, 1763-1848*, at 378 (1994):

Napoleon himself helped undermine his own reforms, especially in his "model kingdom," Westphalia, where his own financial interests and those of the new nobility he had [created] . . . prevented the abolition of feudalism. . . . [I]n his scale of priorities men and money always came before reform The fact that state constitutions were encouraged did not mean a direct advance in real constitutional government, in Germany any more than in France; constitutions were intended and used to promote strong centralized government rather than to . . . share power and decision-making. [;]

PYNCHON, *supra* note 2, at 123 (emphasis added):

"The *salvation of Europe*," Konrad says, "depends on communication, right? We face this *anarchy* of jealous German princes . . . dissipating all of the Empire's strength in their useless bickering. But whoever could CONTROL THE LINES OF COMMUNICATION . . . would control *them*. . . . So I propose that we *merge with our old enemy* Thurn and Taxis." . . . "Together," Konrad is saying, 'our two systems could be invincible. . . . Any prince tries to start his own courier system, WE SUPPRESS IT. We, who have so long been disinherited, could be the heirs of Europe!'"[;]

but cf. EDWARD DEBONO, *NEW THINK* 1-2 (1967) (emphasis added):

New Think is old. . . . *Creative artists* . . . have always employed it. Yet it is man's newest need.

New Think has to do with breaking out of *old, self-perpetuating patterns* and generating new ways of looking at things

. . . .

New Think usually involves *lateral thinking*

. . . . There are many . . . thinkers who are mental eunuchs when it comes to generating new ideas. Usually this is a matter of puritan choice rather than anything more fundamental.

. . . .

See also FRANK HIVES & GASCOIGNE LUMLEY, *JU-JU AND JUSTICE IN NIGERIA* at vi (1930) ("The term ju-ju means the same as *fetish*, or obeah. It is not a native African word, but is derived from the French *jeu*, a *play*; though of course it is more than a play, it is a *religion*. The Aro-Chuku ju-ju was an oracle, served by its special priests." (emphasis added)); TRIBE & DORF, *supra* note 2, at 1 ("[W]ho are the *high priests* of constitutional interpretation if not the *justices of the Supreme Court*?" (emphasis added)); but cf. *Introduction* to I CHING, *supra* note 29, at 8, 8 ("The *I Ching* . . . is an ORACLE." (emphasis added)); Kurt Mueller-Vollmer, *Language, Mind, and Artifact: An Outline of Hermeneutic Theory Since the Enlightenment*, in *THE HERMENEUTICS READER* 1, 1 (Kurt Mueller-Vollmer ed., 1994) ("They mean by that the messenger of the gods who . . . must proclaim to the humans the will of the gods." (quoting Johann Zedler)); Cage, *supra* note 10, at 92 ("I myself use chance operations, some derived from the *I-Ching*"); SHIRLEY MACLAINE, *OUT ON A LIMB* (1983) (describing her own reality, and her own approach to "channeling"); compare *id.* with L'HEUREUX, *supra* note 10, at 70:

Olga's . . . *Truth and Methodology* . . . overleap[ed] Husserl and his scientific subjectivity and deposited in place of his deep structures of the mind what she called "intuited essences of the feminine." She discoursed lengthily on this new and provocative term, citing ancient literatures and Gnostic texts and women writers Then she pulled in a whole lot of terminology from Heidegger and Lacan . . . and redefined it all in feminist terms The book was well received indeed, though a few nay-sayers felt she had failed to define her semi-mystical term "intuited essences of the feminine." Her defenders insisted that the whole point of the book was that "intuited essences of the feminine" could not be defined The matter was left there. [;]

 "GENIUS"?

cf. MANN, *supra* note 2, at 51 (narrating Zeitblom's thoughts: "Often did we all nod at [Herr Kretschmar] consolingly . . . and one or the other . . . would utter a soothing . . . 'Never mind!'""); *Revelation* 21:2 ("And I . . . saw the holy city, new Jerusalem, coming down . . . out of heaven . . ."); VONNEGUT, *supra* note 29, at 2 ("For practically everybody, the end of the world can't come soon enough").

Cf. W.S. Holdsworth, *The House of Lords, 1689-1783* (pt. 2), 45 *LAW Q. REV.* 432, 449 (1929) ("[A] monarchy must subsist either by an army or by a nobility; the first makes it despotic, and the latter a *free* government." (emphasis added) (quoting Horace Walpole)); *Ecclesiastes* 1:9 ("[T]here is no new thing under the sun."); but cf. EMERSON, *supra* note 12, at 125 ("What right have you to be better than your neighbor?"); but cf. ORWELL, *supra* note 1, at 280 ("GOD IS POWER."); PACE, *supra* note 10, at 3 ("Contrary to popular opinion, vice activities are generally not conducted by a single person. Third-party profits are common in vice crimes."); ORWELL, *supra* note 1, at 217 ("We are the priests of power."); HIVES & LUMLEY, *supra*, at vii-viii (describing profiteering by Aro-Chaku priests).

But cf. *supra* notes 29, 33, 39, 43 (contemplating some potential causes — and effects — of "authentic" messianism); W.B. YEATS, *The Celtic Element in Literature, in ESSAYS AND INTRODUCTIONS* 173, 187 (Macmillan Co. 1961) (1897) ("The arts by brooding upon their own intensity have become religious, and are seeking, as I think Verhaeren has said, to create a sacred book."); LEVINE, *supra* note 10, at 134 ("The artist's vocation, Edward Baxter Perry maintained in 1892, 'is, or should be, a religion' . . ." (emphasis added)); but cf. TOLSTOY, *supra* note 12, at 54-60, 71-76 (discussing the utility of art to religion); Giudice, *supra* note 39, at A41 (perhaps suggesting that in yet another variant of the "triple rope" trick, movie actors are increasingly filling the former leadership roles [?] of "intellectuals" in French society); but cf. EMERSON, *supra* note 12, at 127 ("The College should hold the profound thought, and the Church the great heart to which the nation should turn But now there is but one institution, and not three."); *Everson v. Board of Educ.*, 330 U.S. 1 (1947) (contemplating the separation of church and state).

But cf. Frank, *supra* note 29, at 79 ("[Chernyshevsky's Rakhmetov,] on returning to St. Petersburg, virtually becomes a monkish ascetic of the revolution. He renounces wine, women, and personal happiness . . . and finally tests his endurance by sleeping on a board studded with nails."); *supra* note 39 (quoting William James on Suso, and nails); but cf. Joseph Slobodzian, *Part of Blame-God Defense Admissible*, *NATL. L.J.*, Mar. 31, 1997, at A8 ("John G. Bennett Jr., founder of the bankrupt Foundation for New Era Philanthropy, may introduce evidence of mental illness — his religious zeal gone awry — at his [fraud] trial . . . a federal judge has ruled.").

Along these lines, it may also be noted that although Roberto Unger placed his call over two decades ago, see ROBERTO MANGABEIRA UNGER, *KNOWLEDGE & POLITICS* 295 (1975) ("Speak, God."), God, perhaps put off by the hubris of Unger's *diktat*, cf. *supra* note 42 (comparing Mao Zedong with *zen*); but cf. Louis B. Schwartz, *With Gun and Camera Through Darkest CLS-Land*, 36 *STAN. L. REV.* 413, 416 (1984) (describing Unger as a "Christ figure"); see generally EDGAR, *supra* note 29, at 36 ("A shrink once put his patient on a lie-detector test, and asked the question: Are you Jesus Christ? The lie-detector registered he hadn't told the truth. He'd answered 'no.'"); DAVID M. HALPERIN, *SAINT FOUCAULT* (1995) (canonizing Michel Foucault); L'HEUREUX, *supra* note 10, at 8 ("To me, Foucault is a god. I mean, that's *really* what he is, a god." (emphasis added) (quoting Peeks)), has thus far failed to answer, but cf. Arthur A. Leff, *Memorandum*, 29 *STAN. L. REV.* 879, 879 (1977) (book review) (quoting an unnamed "Harvard philosopher: 'Hello? Roberto?'"). See also Presser, *supra* note 38, at 873 n.22 (characterizing Unger's directive to God as "theological fatalism," but noting his subsequent assembly of a "how to" manual for a *good* society" (emphasis added));

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but cf. *infra* (quoting Stephen Holmes's characterization of such a society); Phillip E. Johnson, *Do You Sincerely Want to be Radical?*, 36 STAN. L. REV. 247, 281 n.91 (1984) (arguing that the achievement of Unger's "transformation" is impossible without state- or mob-imposed terror); William Ewald, *Unger's Philosophy: A Critical Legal Study*, 97 YALE L.J. 665 (1988) ("cavalierly" remaining "insensitive" to Unger's reputation as a GENIUS, reading the words of his "discourse," checking his "authority," and "deconcealing" Unger's "intellectual" vapidly and pretense for all to see); but cf. Cornel West, *CLS and a Liberal Critic*, 97 YALE L.J. 757, 757-58 (1988) (criticizing Ewald's article as a "passionate political" [!] evaluation, insufficiently "guarded" and "respectful," and a "mean-spirited academic putdown" (emphasis added)); but cf. DOSTOEVSKY, *supra* note 39, at 192 ("[E]xcuse me, we will talk about harshness and mildness later, and for now I only ask you to answer the first question: is *everything* I said true, or not? If you find it is not true, you may make your declaration at once."); but cf. L'HEUREUX, *supra* note 10, at 175 ("You've hurt my feelings. Some of us are more sensitive than others." (emphasis added)); hear THE TEMPTATIONS, *Ain't Too Proud to Beg* (Motown Records 1966); but cf. ORWELL, *supra* note 1, at 272 ("As usual, the voice had battered Winston into helplessness. Moreover he was in dread that if he persisted in his disagreement O'Brien would twist the dial again. And yet he could not keep silent."); *supra* note 19 (discussing "crimestop," and perhaps authorizing the inference that in the postmodern era now upon us, criticisms of prescriptions for oligarchy, Rocket-fueled neo-Marxism, anarchy, and/or mob terror must *also* be "guarded" and "respectful"); ORWELL, *supra* note 1, at 274 ("A twinge of pain shot through Winston's jaw."); Rick Perlstein, *Who Owns the Sixties?*, LINGUA FRANCA, May/June 1996, at 30, 33 ("The future of our movement,' went one . . . slogan, 'is the future of crime in the streets.'"); HEINLEIN, *supra* note 5, at 242 ("That's not a church — it's a madhouse.' 'No, Jill. It is a church . . . and the logical eclecticism of our time.'").

See generally PYNCHON, *supra* note 24, at 817-18 (quoting Tchitcherine, addressing Wimpe) (emphasis added):

The basic problem . . . has always been getting other people to die for you. What's worth enough for a man to give up his life? That's where religion had the edge, for centuries. Religion was always about [D]eath. . . . [I]t got people to die for one particular set of beliefs about [D]eath. . . . But ever since it became impossible [?] to die for [D]eath, we have had a secular version — yours. . . . *Revolutionary* suicide [.]

WOLIN, *supra* note 10, at 89 ("The political object of Heidegger's speech is clear. . . . [C]ompeting value-claims . . . can be resolved only by recourse to a *total state*." (emphasis added)); RIBOWSKY, *supra* note 3, at 237 ("'Al Davis can con a rattlesnake.' Now, he had only to con a . . . judge."); PYNCHON, *supra* note 24, at 771 ("Oh, ho. Here's whatcha came for, folks.") [though it's not *quite* yet the whole banana].

. . .

Since God has not yet answered Unger, the courts are not preempted. See *Lochner v. New York*, 198 U.S. 45 (1905); cf. Scott Idleman, *A Prudential Theory of Judicial Candor*, 73 TEXAS L. REV. 1307 (1995). Morton Horwitz, one of America's less covert legal instrumentalists, see Morton J. Horwitz, *The Conservative Tradition in the Writing of American Legal History*, 17 AM. J. LEGAL HIST. 275, 277 (1973) (denigrating "the received legal tradition" as "anti-Marxist medicine"); Presser, *supra* note 38, at 878 n.45 ("I am not a Marxist, but *history, history* ['history']? is Marxist." (emphasis added) (quoting Horwitz)), attempts a preemptive "framing" of the "theology" question, but cf. Katz & Wagner, *supra* note 29, at 31 ("What Is to Be Done? exalted the . . . status of the intelligentsia by stressing its members' nobility of character [T]hey, too, could fulfill Christ's prophecy that

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the last shall be first.”); Frank, *supra* note 29, at 70 (endorsing Fyodor Dostoevsky’s characterization of *What Is to Be Done?* as a “catechism”); Katz & Wagner, *supra* note 29, at 30 (quoting Irina Paperno’s characterization of *What Is to Be Done?* as a “new Gospel”); MANN, *supra* note 2, at 49 (“Wendell Kretschmar . . . was . . . drawn back to the old world . . . where his own roots lay and those of his art.”); but hear THE BEATLES, *Back in the USSR*, on THE BEATLES, *supra* note 29; remember EDÁ KRISEOVÁ, VACLAV HAVEL 74 (1993) (noting that Havel had participated in the resistance “when Soviet tanks rolled in to crush the ‘Prague Spring’”); cf. *infra* note 67 (contemplating bread, and Bulgaria); MAGIC, *supra* note 10, at 431 (contemplating “The Lemon Surprise”), by describing the existence of regularized constitutional law standards of review as not only “theological” but “fundamentalist.” Horwitz, *supra* note 10, at 98; cf. MORTON J. HORWITZ, THE TRANSFORMATION OF AMERICAN LAW 1870-1960, at 271 (1992) (“The search for neutral principles has always been the secular alternative in religiously pluralistic American society to a direct resort to religious authority.”); compare *id.* with PYNCHON, *supra* note 24, at 870-79 (contemplating the Bible, the Kabbalah, the Tarot, the I Ching, magic talismans, demons, Marxist/Leninist magicians, working mystics, the Horse, the Rocket, and the *abyrne* (and throwing in thorazine for good measure)).

Horwitz further characterizes the Supreme Court’s “fine distinctions that produce . . . opinions designated in Parts, sub-parts, and sub-sub parts” as “methodological obsessions,” and the Court’s attempts to “classif[y] and categoriz[e]” as “medieval” “technicality,” Horwitz, *supra* note 10, at 98-99 [perhaps as contrasted with medieval “mysticism”?]; but cf. Robert M. Cover, *Bringing the Messiah Through the Law: A Case Study*, in RELIGION, MORALITY, AND THE LAW 201, 209 (J. Roland Pennoch & John W. Chapman, eds., 1988) (“One of law’s usual functions is to *hold off* the Messiah.” (emphasis modified)). Horwitz’s *Foreword*, in short, is an attack on reason itself, or at least on the rule of law as understood by non-postmodernists outside some “decentered” university towns, cf. *infra* (contemplating Kaisersaschern); CONRAD, *supra* note 2, at 20 (“Here and there a military camp lost in a wilderness . . . cold, fog, tempests, disease, exile, and [D]eath . . .”), North Korea, Iraq, and a few other “democratic” paradises, but watch SLACKER, *supra* note 16 (quoting a diner waitress of questionable mental competence repetitively incanting: “You should never label things. You should never list things in order.”). But since Horwitz’s salvo is not atypical of the contemporary pomo/“power” genre, it repays a few paragraphs of non-“doublethink” analysis. See generally W.V. QUINE, PHILOSOPHY OF LOGIC 80-94 (2d ed. 1986) (contemplating some “deviant” logics).

In its first sentence, Horwitz’s *Foreword* reassuringly, see generally *infra* text following note 48 (defining “reassurance”), characterizes that which in his view has “destabilized” constitutional law not as “postmodernism” (or “anti-foundationalist pragmatism,” anti-foundationalism, deconstructionism, structuralism, or post-structuralism), but rather as “modernism.” Horwitz, *supra* note 10, at 32. [Horwitz, remember, was writing in 1993, when few academicians, but cf. *supra* note 42 (quoting Elizabeth Fox-Genovese — but in a popularizing work — defining “postmodernist” as a “fancy word for contemporary”), talked like that anymore. Cf. WHITMAN, *supra* note 2, at 43 (“[M]ine, a word of the *modern*, the word *En-Masse*.” (emphasis added)).] Two pages later appears Horwitz’s equally “reassuring” recognition that “[t]he idea of a Constitution as *fundamental* law is one of America’s most important contributions to civilization” and that “WRITTEN CONSTITUTIONS . . . SEEM TO HAVE EMBODIED A NEW UNDERSTANDING OF A CONSTITUTION . . .” Horwitz, *supra* note 10, at 34 (emphasis added) (footnote omitted). He follows that up with an express recognition of the legitimacy problem surrounding constitutional application, *id.* at 34, 37, and an equally express repudiation of

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William Brennan's "Rule of Five," *id.* at 37 n.30. See generally Mark Tushnet, *Themes in Warren Court Biographies*, 70 N.Y.U. L. REV. 748, 763 (1995) (describing Brennan's practice of asking his clerks, early in their clerkships, to identify "the most important rule in constitutional law," and after they stumbled, holding up five fingers).

Horwitz's starting point for analysis — the proposition that the question "[w]hether constitutional meaning changes over time has not, until recently, been a central preoccupation among constitutional theorists," Horwitz, *supra* note 10, at 41 — is, for the purposes he employs it, accurate enough (though at varying levels of generality it traces back to the Framing). One reason is perhaps the most obvious: the Article V power to amend the Constitution was employed, on average, about once every seven and one-half years (counting the Bill of Rights as a unit, once every ten) from 1791 through the end of the Warren Court. Since 1971, excepting the Twenty-Seventh Amendment (proposed in 1789 and ratified in 1992), it has never again been invoked. The Warren Court — and in a different way, the Burger and Rehnquist Courts (but that's another article) thus left a legacy with respect to the process of constitutional amendment that perhaps even more than Michel Foucault left an impression on many in Horwitz's generation whose Marxist, neo-Marxist, or other equality-of-result-oriented axiological preferences were not being enacted quickly enough to suit their whims through the processes of democratic (not "democratic") self-government. But Horwitz eschews serious reference to the constitutional-amendment context (apparently, it's not "context"), and the corresponding "reassurances" made earlier in his article.

The next portion of Horwitz's *Foreword* concedes that "[o]riginalism has been the dominant interpretive paradigm for most of American constitutional history." Horwitz, *supra* note 10, at 44. He then traces — again, correctly — the origins of modern "living constitution" theory to dissatisfaction with *Lochner*. *Id.* at 51-57. But from that point on, his planetary disconnect begins, and widens.

Horwitz's historical argument is largely premised on the proposition that only after 1937 did "[d]emocracy suddenly bec[o]me a central legitimating concept in American constitutional law." *Id.* at 57; see also *id.* at 61 (same, placing date at "around 1940"). This critical "fact" is "proved" with a chart showing that the Supreme Court employed the terms "democrat" and "democratic" to a much greater extent after 1940 than before. See *id.* at 57. Given the fact that Horwitz understands that the word "democracy" (as opposed to "self-government," "republicanism," "Madisonianism," or the like), carried a Jacksonian connotation through much of the nineteenth century, see, e.g., Horwitz, *supra* note 10, at 59-60, one might have expected charts for those terms as well. One would be disappointed, though a subsequent article does (following a lengthy explanation of the nature of the Westlaw and Lexis databases, Horwitz & do Campo, *supra* note 32, at 5-14) search for some such terms (including "republican" and "popular sovereignty") but not others (including "self-government"), see *id.* at 21.

Horwitz appears to recognize *some* of the methodological problems in such searches, see *id.* at 9-13, 19-22, but apart from other problems yet to be discussed, I discovered in about ten minutes of Westlaw research that had Horwitz searched for "self-government," he would have obtained 81 pre-1940 Supreme Court database "hits," with 45 of them between 1802 and 1899. And had he slightly varied "popular sovereignty" into "sovereign! w/2 people," he would have located 24 additional pre-1940 cases going back as far as *Chisholm v. Georgia*, 2 U.S. (2 Dall.) 419 (1793). No, I haven't read all of those hundred or so cases, but I didn't write a *Supreme Court Foreword* arguing that "democracy" ("self-government" too, eh?) wasn't a central Supreme Court concern regarding the legitimacy of its constitutional decisionmaking processes before 1937.

One might also have expected some recognition from the Charles Warren Pro-

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fessor of American Legal History at Harvard Law School of the fact that notions of self-government were so implicit in the late-eighteenth- and nineteenth-century contexts (not "contexts") that the Court may not have felt it necessary to rehearse the obvious, seriatim, in judicial opinions issued during those years. See, e.g., *Chisholm*, 2 U.S. (2 Dall.) at 454 (Wilson, J.) (emphasis added):

To the Constitution of the *United States* the term SOVEREIGN is totally unknown. There is but one place where it could have been used with propriety. But even in that place it would not, perhaps, have comported with the delicacy of those who *ordained and established* that Constitution. They *might* have announced themselves "SOVEREIGN" people of the *United States*: But serenely conscious of the *fact*, they avoided the *ostentatious declaration*. [.]

One would yet again be disappointed.

Or, given the fact (if such it be in postmodern epistemology) that *Erie* was decided virtually simultaneously with Horwitz's chart's purported paradigm shift, see *Erie R.R. v. Tompkins*, 304 U.S. 64 (1938), the prevalence of federal common law cases in the Supreme Court before that time might at least have been addressed. *Nada*. Or any of a half-dozen other obvious and potentially affective variables. But I'm not a real bright guy, *supra* note 9, and my analysis is, no doubt, insufficiently "rich," "textured," and "nuanced."

On this foundation (*gasp!*), along with the notion that Madison's statement that "[t]he use of words is to express ideas" made him a closet Humean, Horwitz, *supra* note 10, at 49 & n.86 (quoting THE FEDERALIST No. 37, at 229 (James Madison) (Clinton Rossiter ed., 1961)) [In this respect, Horwitz, not Hamilton, "express[es] a complex view of the range of meanings that could be derived from language," see *id.*], and an endorsement of a "rich conception of democracy," see *id.* at 63 (emphasis added), Horwitz rehearses the arguments against originalism, see *id.* at 65-70, and attempts to confront — first, through the lens of Sandra Day O'Connor's joint opinion in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992) — the question of *stare decisis*.

Revealing "decentering" residual traces of Aristotelian reasoning, a surprising (though temporary) lack of insight into the "rich" "nuances" of "pragmatism," and an equally shocking (though also temporary) resistance to "doublethink," *cf. supra* note 29 (quoting George Orwell describing the necessity for the process to be in part unconscious), Horwitz resists the Court's amazing proclamation that *Lochner's* overruling was justified since — *perhaps as a matter of constitutional law* [*cf. United States v. Jefferson County Bd. of Educ.*, 372 F.2d 836, 873-74 & n.80 (5th Cir. 1966) (characterizing the conclusion of *Brown v. Board of Education*, 347 U.S. 483 (1954), that segregated schools are unequal, as one of "constitutional fact" (quoting *Branche v. Board of Educ.*, 204 F. Supp. 150, 153 (E.D.N.Y. 1962) (emphasis added)); *but cf. HENRY M. HART, JR. & ALBERT M. SACKS, THE LEGAL PROCESS* 350-55 (Foundation Press 1994) (1958) (commenting, inter alia, on questions posed as questions of law application)] — the "factual assumption about the capacity of a relatively unregulated market to satisfy minimal levels of human welfare" was "fundamentally false," *Casey*, 505 U.S. at 861-62. See Horwitz, *supra* note 10, at 71 ("The joint opinion's theory echoes the 'changed circumstances' formulation advanced by Justice Brandeis, but it is a pre-[post?]modern version infused with . . . static originalism . . ."). While some "I's" might commend Horwitz for not rejoicing in O'Connor's astounding declaration (albeit only in dictum, *but cf. supra* text following note 29 (defining "dualities")), that "relatively unregulated" capitalism was *unconstitutional*, in retrospect Horwitz might have been better advised to have taken the "changed circumstances" bait.

In short order, we come to realize why he doesn't. Quoting from Oliver Wendell Holmes's dissent in *Lochner v. New York*, 198 U.S. 45, 76 (1905), Horwitz opines:

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The expression “[g]eneral propositions do not decide concrete cases” connects to an elaborate critique of “conceptualistic,” “formalistic,” and “mechanical” legal reasoning [but cf. Larry Alexander & Frederick Schauer, *On Extrajudicial Constitutional Interpretation*, 110 HARV. L. REV. 1359, 1387 (1997) (“Some call this positivism. Others call it formalism. We call it LAW.” (emphasis added))] that Justice Holmes initiated and bequeathed to Pound and the followers of *progressive* legal thought, and later, to Morris and Felix Cohen, John Dewey, and many other GREAT legal realist writers.

Horwitz, *supra* note 10, at 80 (emphasis added).

That’s “it”! See generally *supra* note 29 (contemplating “it”). An approving postmodern paraphrase of legal realism and of Holmes’s *Lochner* dissent. Of such stuff are Forewords to the *Harvard Law Review*’s Supreme Court issue now made. See generally Tushnet & Lynch, *supra* note 30, at 463 (“Within the community of scholars of constitutional law the ‘Forewords’ are widely taken to be good indications of the state of the field.”). Oh sure, there’s a *bit* more. Dashes of legal-process-reminiscent, see HART & SACKS, *supra*, at 1111-72, purpose analysis, see, e.g., Horwitz, *supra* note 10, at 83-84, 86, 88, to be applied where *useful*, but not, of course, in any *binding* sense, see *id.* at 92. A smattering of natural law, see *id.* at 89, but left undefined and largely unfocused since Horwitz applies it only to that most difficult of moral issues: whether non-remedial racial discrimination is wrong. [Note, inter alios, to Richard Delgado, Roberto Unger, Cass Sunstein, and Catharine MacKinnon (see *infra* note 50; *supra* note 29): *This is an attempt at what is commonly characterized as a “joke.”*] Apparently a large dose of “awareness of social reality,” Horwitz, *supra* note 10, at 83, 88, 92, but what that means (or excludes) is also left undefined, cf. *infra* note 46 (quoting Irving Copi and Carl Cohen on gathering evidence); *supra* note 21 (describing Mucho’s “gift” — or predicament); *infra* note 51 (quoting Stanley Fish on perspicacity); HORWITZ, *supra*, at 209-10 (criticizing “constructive mode” Legal Realism for “SUBORDINAT[ING] POLITICAL AND MORAL PASSION TO SOCIAL SCIENCE EXPERTISE” (emphasis added)). [Compare *id.* with *Program to Save Horses Sends Them to Slaughter*, DAILY OKLAHOMAN, Jan. 5, 1997, at 1 and MILLER, *supra* note 24, at 5 (“John Winthrop was not dismayed before the economic task: as the fleet approached the scene of labor, he *knew the danger to be not failure but success.*” (emphasis added)) and MANN, *supra* note 2, at 35-37:

Kaisersaschern is a junction. . . .

. . . .

. . . [S]omething still hung on the air from the spiritual constitution of the men of the last decades of the fifteenth century: a morbid excitement, a metaphysical epidemic latent since the last years of the Middle Ages. This was a practical . . . modern town. — Yet no, it was not modern, it was old [H]ere one could imagine strange things: as for instance a movement for a children’s crusade might break out; a St. Vitus’s dance; some wandering lunatic with communistic visions, preaching a bonfire of the vanities; miracles of the Cross, fantastic and mystical folk movements

The stamp of old-world, underground neurosis which I have been describing, the mark and psychological temper of such a town, betrays itself in Kaisersaschern

and Perlstein, *supra* note 29, at 14 (emphasis added):

Tony Tinker, the co-editor of [*Critical Perspectives on Accounting*], would rather see the bean counters live up to an even higher calling than sociology: revolution. As both a Marxist ROMANTIC of the OLD school and a certified public accountant who teaches at New York City’s Baruch College, he believes accountants have nothing to lose but their *irrelevance*.

and ORWELL, *supra* note 1, at 217 (“WE ARE NOT INTERESTED IN THE GOOD OF OTHERS; WE ARE INTERESTED SOLELY IN POWER.” (emphasis added)) (quoting

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O'Brien)] And we can't, of course, forget the "context and consequences" of judicial decisions, *see* Horwitz, *supra* note 10, at 96, though how we evaluate "contexts" without *foundations*, and how non-*laissez-faire* ideologists, *see infra* (quoting Thomas Kuhn on evolution), evaluate "consequences" without *goals* [*cf. infra* note 46 and accompanying text (defining and discussing "pragmatism"); *supra* note 22 (quoting Walter Benjamin, and Gabel & Kennedy quoting Duncan); Gabel & Kennedy, *supra* note 10, at 1 ("Peter: . . . I don't like 'goal.' . . ."); *id.* at 4 ("Duncan: . . . [C]an't I just call it *yearning*? . . . [I]ntersubjective zap?" (emphasis added)); *id.* at 9 ("Peter: . . . One time we came back from a panel . . . and you said . . . that it's like they spin the wheel. First, it's 'The means of production.' Then, 'No, it's not the means of production.' Spin the wheel. Whoosh. 'Mother-centered childrearing!'""); *id.* ("Duncan: . . . [W]HAT . . . WE NEED TO DO IS LOOK FOR . . . WAYS OF DOING THINGS IN WHICH THE GOAL IS NOT TO CONVINCE PEOPLE BY LUCIDITY . . . BUT RATHER TO OPERATE IN THE INTERSPACE OF ARTIFACTS, GESTURES, SPEECHES AND RHETORIC, HISTRIONICS, DRAMA, ALL VERY PARADOXICAL, SOAP OPERA, POP CULTURE, ALL THAT KIND OF STUFF." (emphasis added)); DeLillo, *supra* note 14, at 310 (narrating J.A.K.'s thoughts: "I continued to advance in consciousness. . . . Water struck the roof in elongated orbs A richness, a density. I believed everything."); Stein, *supra* note 3, at 77 ("[W]ater has to go up to come down and when it is raining all the time as it has been doing how can it go up to come down."); Farina, *supra* note 7, at 46 ("Heff flipping idly through the *Anatomy of Melancholy* . . . asking casually: "You going to make Cuba with me over spring vacation?"); *but cf. id.* at 52 (narrating Gnosso's thoughts: "Has it bad, all right. Conjures up cafés with back rooms full of anarchists, smoke thick over crowded tables. Dens for impregnating rebel minds, conceiving attitudes, ferment, brush-fire wars."); *id.* at 91 ("Crusades, thought Gnosso. Jehads and holy wars."); *but cf. id.* at 173-74 ("Rosenbloom was on the Navajo rug, wearing a new red and yellow rodeo shirt, tight white Levis, and jodhpurs, tracing diagrams from his volume of Clausewitz: strategic deployment, tactical flanking maneuvers, logistical supply techniques."); *id.* at 199 ("G. Alonso Oeuf, also a paradox. But not without a plan."); McFadden, *supra* note 29, at 56 ("'Oh, wow,' Kate said . . . 'You ought to be a therapist or something. I mean, you have these incredible *insights*.'"); Pynchon, *supra* note 24, at 701 ("Wow, Rocketman . . ."); Conrad, *supra* note 2, at 50 ("There he was before me, in motley, as though he had absconded from a troupe of mimes, enthusiastic, fabulous." (quoting Marlow on the Harlequin)); *hear* Mary Hopkin, *Those Were the Days*, on POST CARD (EMI Records 1991) (1968) ("We thought they'd never end, for we were young and sure to have our way."); *but cf.* Hemingway, *supra* note 24, at iv ("You are all a lost generation." (quoting Gertrude Stein)); Powell, *supra* note 17, at 60 (reproducing a cartoon of a clown asserting that "Derrida's style is more of a performance, a song and dance, a mime show, than an argument"); Stein, *supra* note 7, at 255 ("Americans when they are twenty-one are always organizers I suppose that those that really organize later do not organize then, they use up their organizing energy and then . . . they become a failure, after all to be older is to be older, we did see Duncan . . ."); *but cf.* Schroeder, *supra*, at 341 ("Napoleon's confidence that he could get away with anything at first seemed justified."); *supra* note 22 (quoting Beavis and Hamlet on words); *infra* text following note 52 (defining "thinking more than one consequence ahead"); *supra* note 26 (discussing Martin Heidegger, and quoting Gertrude Stein on the intelligence level of pacifists); *supra* note 29 (contemplating horror, fate, Margaret Fuller, and the reincarnated id); Mann, *supra* note 2, at 498 (narrating Zeitblom's thoughts: "Never had I felt more strongly the advantage that *music*, which says nothing and everything, has over the unequivocal word; yes, the saving irresponsibility of all art, compared with the bareness and baldness of unmediated revelation." (emphasis added)); *but cf. id.* at

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244 (“What have they to expect, who have listened to you, in the *spelunca?*”); PYNCHON, *supra* note 24, at 823 (“The dearest nation of all is one that will SURVIVE no longer than you and I, a common movement at the mercy of [D]eath and time: *the ad hoc adventure.*” (emphasis added) (quoting a resolution of the Gross Suckling Committee)). See also CONRAD, *supra* note 2, at 45 (“Instead of rivets there came an invasion, an infliction, a visitation. . . . This devoted band called itself the Eldorado Exploring Expedition [T]he uncle of our manager was the leader of that lot. . . . [H]is eyes had a look of sleepy cunning He . . . spoke to no one but his nephew.”); Stephen Holmes, *The Professor of Smashing*, NEW REPUBLIC, Oct. 19, 1987, at 30, 30 (discussing Roberto Unger’s prescription for society where everything is “‘up for grabs’ and subject to ‘perpetual innovation’”); but hear SQUIRREL NUT ZIPPERS, *Hell, on HOT* (Mammoth Records 1996) (“Now you make the scene all day. But tomorrow there’ll be hell to pay.”); cf. CONRAD, *supra* note 2, at 48 (quoting Marlow):

In a few days the Eldorado Expedition went into the patient wilderness, that closed upon it as the sea closes over a diver. Long afterwards the news came that all the donkeys were dead. . . . They, no doubt, like the rest of us, found what they deserved. I did not inquire. I was then rather excited at the prospect of meeting Kurtz very soon. [;]

DERRIDA, *supra* note 24, at 1: (“what, after all, of the remain(s), today, for us [?], here, now, of a Hegel?”); *id.* (“[W]hat remained of a Rembrandt torn into small, very regular squares and rammed down the shithole”); duMAURIER, *supra* note 24, at 67:

Most deeply to my regret. For I had fondly hoped it might one day be said of me that whatever my other literary shortcomings might be, I at least had never penned a line which a pure-minded young British mother might not read aloud to her little blue-eyed babe as it lies sucking its little bottle in its little bassinot.

Fate has willed it otherwise. [;]

but cf. PYNCHON, *supra* note 24, at 809 (“LISTENING TO THE TOILET”); Thomas, *supra* note 10, at 533 n.23 (emphasis added) (citation omitted):

In a typical answer to the Maoists and other revolutionaries of the 1960s with whom he was in frequent contact, Foucault [responded] . . . to a questioner who opined that the French student movement needed . . . a practice that “assumed responsibility for the whole of society”: “[T]HE WHOLE OF SOCIETY” IS PRECISELY THAT WHICH SHOULD NOT BE CONSIDERED EXCEPT AS SOMETHING TO BE DESTROYED. AND THEN, WE CAN ONLY HOPE THAT IT WILL NEVER EXIST AGAIN.” [;]

FARIÑA, *supra* note 7, at 90 (“Vandalism, read the headline.”); hear JOHN LENNON, *Imagine*, on IMAGINE (EMI Records 1971) (“Imagine all the people living for today”); EDGAR, *supra* note 29, at 39 (“They’re smashing windows, all around.”); *supra* (contemplating Ragnar Redbeard); FARIÑA, *supra* note 7, at 127 (“Ground zero” (quoting Heff)); MACKINNON, *supra* note 10, at 3 (“Imagine”), are problems Horwitz apparently leaves to the next generation of postmodernists (assuming there will be such in a “doublethink” “logic,” unorderable-cognitive-chaos world). But cf. *supra* (questioning whether Horwitz is an “ad hoc adventurer” or has a goal or goals); *supra* text following note 42 (perhaps questioning the proposition “‘nihilism’ \supset nihilism”); *supra* (quoting Mark Tushnet defending the “advancement of socialism” as controlling “interpretation” of the “United States Constitution”).

See generally KUHN, *supra* note 10, at 172:

The *Origin of Species* recognized no goal set either by God or nature. . . . Even such marvelously adapted organs as the eye and hand of man — organs whose design had previously provided powerful arguments for the existence

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of a supreme artificer and an advance plan — were products of a process that moved steadily *from* primitive beginnings but toward no goal. . . . What could 'evolution,' 'development,' and 'progress' mean in the absence of a specified goal? [;]
supra note 38 (contemplating *zen*); KUH, *supra* note 10, at 195-96 (emphasis added):

What makes the integrity of perception worth emphasizing is . . . that so much past experience is embodied in the neutral apparatus that transforms stimuli to sensations. AN APPROPRIATELY PROGRAMMED PERCEPTUAL MECHANISM HAS SURVIVAL VALUE. TO SAY THAT THE MEMBERS OF DIFFERENT GROUPS MAY HAVE DIFFERENT PERCEPTIONS WHEN CONFRONTED WITH THE SAME STIMULI IS NOT TO IMPLY THAT THEY MAY HAVE JUST ANY PERCEPTIONS AT ALL. IN MANY ENVIRONMENTS A GROUP THAT COULD NOT TELL WOLVES FROM DOGS COULD NOT ENDURE. . . . IT IS JUST BECAUSE SO VERY FEW WAYS OF SEEING WILL DO THAT THE ONES THAT HAVE WITHSTOOD THE TESTS OF GROUP USE ARE WORTH TRANSMITTING FROM GENERATION TO GENERATION. Equally, it is because they have been selected for their success over historic time that we must speak of the experience and knowledge of nature embedded in the stimulus-to-sensation route. [;]

RILKE, *supra* note 33, at 27:

Ripe apple, pear and banana,
 gooseberry . . . They speak of life and death
 as soon as they get in our mouths . . .
 Try watching a child's face: you can
 see the far-off knowledge as he tastes it.
 What's going on in your mouth? Something nameless,
 slow. Instead of words, a flood of discoveries,
 startled loose from the flesh of the fruit. [;]

but cf., e.g., *supra* text accompanying note 37 (defining "language"); *supra* text following note 30 (defining "facticity"); *supra* text accompanying note 23 (defining "democratic history"); *supra* text following note 29 (defining "education"); *supra* text accompanying note 29 (defining "doublethink"); *supra* text following note 42 (defining "nature"); *supra* text following note 14 (defining "authentic leadership"); *infra* text following note 45 (defining "power paradigm"); *infra* text following note 56 (defining "unintended (?) consequences"); *infra* text following note 49 (defining "SS"); *but cf.* *supra* text accompanying note 41 (defining "naming 'our' own reality"); *supra* text following note 35 (defining "inmates running the asylum"); *supra* text following note 35 (defining "inspirational"); *supra* text following note 34 (defining "Heaven's Gate"); *supra* text following note 20 (defining "Death"); *supra* text following note 30 (defining "Extinction"); STEIN, *supra* note 3, at 196 ("It was a puzzle to me."); *id.* at 264 (emphasis added):

When I was at Radcliffe I was of course very interested in *psychology*. . . . I HAD TO BE . . . I DID NOT LIKE ANYTHING . . . FRIGHTENING so I did not care for . . . *medicine* and I DO NOT LIKE WHAT IS NOT WHAT PEOPLE ARE DOING so *chemistry* and *physiology* did not attract me, and *astronomy* and *mathematics* were too far away and again TOO FRIGHTENING . . . [;]

id. at 242-43 ("[A]nd then *William James* came that is I came to him And so naturally science is not INTERESTING since it is the statement of observation and the laws of science are like all laws they are *paper laws*" (emphasis added)); *but cf.* Wilson, *supra* note 24, at 330 (emphasis added):

Only in the last moment of human history has the delusion arisen that people can flourish apart from the rest of the living world. PRELITERATE SOCIETIES . . . STRUGGLED TO UNDERSTAND . . . THAT THE RIGHT RESPONSES GAVE LIFE AND FULFILLMENT, THE WRONG ONES SICKNESS, HUNGER, AND [D]EATH. THE IMPRINT OF THAT EFFORT CANNOT HAVE BEEN ERASED [SOWS

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ature notwithstanding?) IN A FEW GENERATIONS OF URBAN EXISTENCE. . . . [I]t is to be found among the particularities of HUMAN NATURE . . . [including] aversions . . . to the objects and circumstances that threaten humanity in natural environments: heights, closed spaces, open spaces . . . wolves . . . snakes. [;]

but cf. *supra* note 39 (quoting Mink on the indoor nature of rooms); but cf. *supra* note 37 (discussing, inter alia, the ability of chimpanzees, gorillas, cetaceans, and Basset hounds to convey and receive determinate meaning through language); EMERSON, *supra* note 12, at 127-29:

I thought . . . a college was to teach you geometry, or the lovely laws of space and figure; chemistry, botany, zoölogy, the streamlining of thought into form, and the precipitation of atoms which Nature is.

. . . .

If your college and your literature are not felt, it is because the truth is not in them. [;]

but cf. *supra* note 36 and accompanying text (defining and discussing "knowledge"); *infra* text accompanying note 53 (defining "traditional"); *supra* note 43 (discussing, inter alia, postmodernism's sensory deprivations). See generally STEIN, *supra* note 3, at 188 ("We were having trouble.").

All of Horwitz's factors (?), apparently, are to be weighed (but not too precisely), balanced (but not too meticulously), and blended in the Court's own special Cuisinart (perhaps replicas (with due apologies to Walter Benjamin) could be sold at the Supreme Court's gift shop), without those pesky "parts and subparts," tedious tests, stifling standards of review, and that oh-so-confining regularity and predictability, then poured down the steps of Justice ("justice"?), presumably in the approximate direction of *Bleak House*. Cf. *infra* note 46 (perhaps naming [AIIYYEEEEEE!] this approach "Bass-o-Matic jurisprudence").

Toward the end of his article, Horwitz prepares his Rocket for final lift-off. Cf. Horwitz, *supra* note 10, at 91 (fueling up with "twentieth-century debates over objectivity," an (almost) final rejection of the principle of "excluded middles," and challenges to the "fact"/"interpretation" "duality"). See generally BERTRAND R. BRINLEY, ROCKET MANUAL FOR AMATEURS (1960); *infra* note 68 (quoting Thomas Pynchon on telemetry). Given the pungency of his own homogenized but visionary smorgasbord, watch FANTASIA (Walt Disney Prods. 1940); hear PAUL DUKAS, THE SORCERER'S APPRENTICE (EMI Classics 1996) (1897), how, indeed, could reliance on content-neutral rules, see, e.g., FED. R. Civ. P. 3 ("A civil action is commenced by filing a complaint with the court."), be anything but illegitimate by comparison? See Horwitz, *supra* note 10, at 100 ("[L]iteralism is the symptom of a degenerate textualism . . ." (emphasis added)); cf. POWELL, *supra* note 17, at 64 (discussing Jacques Derrida: "[T]extuality is constantly called a villain, a fatal poison." (emphasis added)) ["[I]t was whispered that Derrida himself would speak. Indeed word had circulated that the title of his text was 'Old Bottles, New Wine: Textual Inebriation' . . . [G]uests had been invited from Berkeley . . . Irvine . . . Cornell . . . and Yale." L'HEUREUX, *supra* note 10, at 251.]; RICHARD CONDON, AN INFINITY OF MIRRORS 9 (1964) ("God surrounded me with an infinity of mirrors which repeat my image again and again and again." (quoting *The Keepers' Manual*) (emphasis added)); MANN, *supra* note 2, at 486 ("It does not lack significance that the *Faust* cantata . . . favoured the echo-effect . . ."); *infra* text following note 48 (defining "repetitive and cumulative incantation"); FISH, *supra* note 10, at 180 ("These, however, are the fictions of formalism, and as fictions they have the disadvantage of being confining. My fiction is liberating.") [BUT FOR WHAT?]. See generally *supra* text following note 43 (defining "postmodern airline pilots").

Approaching escape velocity, Horwitz glances back one last time at Earth, to

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castigate those (objectively?) evil Rehnquist-Court conservatives for *doctrinal inconsistency* [!], Horwitz, *supra* note 10, at 97; *but cf.* HORWITZ, *supra*, at 271 (“Only *pragmatism*, with its dynamic understanding of the unfolding of principle over time and its *experimental* appreciation of the *complex* interrelationship between *law* and *politics* and *theory* and *practice*, has stood against the static fundamentalism of *traditional* American conceptions of *principled* jurisprudence.” (emphasis added)); *but cf. infra* note 46 (discussing, *inter alia*, nonmonotonic logics); *but cf. supra* note 17 and accompanying text (defining and discussing “consistency”); *supra* note 10 (quoting Stanley Fish contemplating self-consuming objects), and charging them further with failing to recognize that the Court’s “understanding of the role of law may be growing dangerously out of touch with American society,” Horwitz, *supra* note 10, at 98. No problem with that, however: the Court can always get back “in touch with American society” by invalidating a few more statutes, especially those pesky ones arising from *direct* “‘democracy.’”

Now safely in geosynchronous orbit, *see infra* notes 29, 44 (contemplating entropy), Horwitz *almost* comes out of the hermeneutic closet, and comes close to expressly revealing that it is his naked *political* preferences that drive his “interpretive” agenda. *See generally* Horwitz, *supra* note 10, at 100-16 (fleshing out Horwitz’s axiological preferences). Boosting into a bit higher orbit, he takes a parting shot at judicial instrumentalism [!], *id.* at 115, without realizing that he has dropped the punch line long before: “Without some *deeply compelling theory* about the source of objectivity in law, any single-minded quest for ‘objective’ answers must inevitably degenerate into pure technicality,” *id.* at 100 (emphasis added).

[EARTH TO MORTON HORWITZ: IT’S A WRITTEN CONSTITUTION. IT WAS NOT WRITTEN TO TEACH, EXPRESS, PERSUADE, OR ENTERTAIN. IT CONTAINS WORDS, HELPFULLY ARRANGED INTO SENTENCES, PARAGRAPHS, SECTIONS, ARTICLES, AND THE LIKE. IT HAS A PROVISION FOR ITS OWN AMENDMENT. THERE IS UNIVERSAL SUFFRAGE. IT IS APPARENT THAT YOU HAVE FORGOTTEN THESE THINGS IN THE LAST EIGHTY PAGES OF YOUR ARTICLE, BUT IF YOU DID NOT THINK AT LEAST SOME OF THEM WERE MEANINGFULLY “FUNDAMENTAL” (YOUR WORD) TO AMERICAN CONSTITUTIONALISM, THERE WAS NO NEED (OR WAS THERE?) TO DISCUSS THE TEXT- (NOT “TEXT”-)RELATED ONES IN THE FOURTH AND FIFTH PARAGRAPHS OF YOUR FOREWORD — WHERE YOU FIRST MENTIONED THE UNITED STATES CONSTITUTION.]

Hear *The Men’s Room Tapes*, *supra* note 10 (“Now, let’s *ask* some questions.” (emphasis added)). Is the pursuit of special-interest politics, *but cf. supra* note 39 and accompanying text (defining and discussing “love”); *supra* note 33 (discussing “freedom”); *infra* text following note 56 (defining “unintended (?) consequences”), a sufficiently “compelling theory” to justify abdicating the slightest quantum of self-government — let alone reason — to untethered and hegemonic (*gasp!*) caprice? Or, alternatively, to neo-Marxism? *Cf. infra* note 67 (quoting George Santayana on the retention of experience, and barbarianism). Or, more “reassuringly,” Socialism? [No, it can’t be *that* . . . Surely Horwitz has read *both* pages of Holmes’s *Lochner* dissent, and noticed that two sentences before the “General propositions” sentence he quotes, Holmes opines that “a constitution is not intended to embody a particular economic theory, *whether of paternalism* and the organic relationship of the citizen to the state *or of laissez faire*,” *Lochner v. New York*, 198 U.S. 45, 75 (1905) (Holmes, J., dissenting) (emphasis added), and that Holmes begins his dissent with a clarion call for DEMOCRACY (not “democracy”), 198 U.S. at 75 (Holmes, J., dissenting) (“This case is decided upon an economic theory which a large part of this country does not entertain.”). Oops! I think I’ve succumbed to *degenerate textualism*, *methodological obsessions*, and *medieval technicalities!* Sacrificing candor to obfuscation? *Cf.* Idleman, *supra*, at

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1416 (apparently reluctantly concluding that ARGUMENTS AGAINST JUDICIAL CANDOR ARE "DIFFICULT TO ARTICULATE OR DEFEND"). Sacrificing the structure and predictability of law to postmodernist incoherence? Sacrificing the principle of excluded middles to postmodern airline pilots? [Imagine the results if Horwitz had done his "words and phrases" searches on HAL, the postmodern computer. *Watch* 2001, *supra* note 31; cf. *supra* text following note 14 (defining "binary opposites"); *infra* note 68 (discussing ones and zeroes). On the other hand . . .]

Or is it just that "we" don't take governance — or reason — that seriously? Cf. BENJAMIN, *supra* note 22, at 460 ("For the critic, HIS COLLEAGUES ARE THE HIGHER AUTHORITY. Not the public. Still less, posterity." (emphasis added)); Gregory G. Schultz, *Statutory Deconstruction: An Examination of Critical Legal Studies in Context*, 26 CUMB. L. REV. 459, 475 (1996) ("[Paul] de Man dismantles the assumption that reliability is more valuable than unreliability."). But watch *The New Skinheads*, *supra* note 14 (quoting Louis Jordan's observation that the skinhead sign (not "sign") for a homicide is a spider web). And if not, perhaps others will be further inspired to explore even more *avant garde* "logics" for application to those issues, in pursuit of their own "ad hoc adventures." See, e.g., Steve Lackmeyer & David Zizzo, *Morning of Terror*, THE DAILY OKLAHOMAN, Apr. 20, 1995, at 1 (describing the deconstructive and anti-foundationalist consequences of an event in my city during the spring of 1995); *supra* note 30 (discussing Sheik Yusef el-Badry); *supra* note 26 (discussing Martin Heidegger); cf. Koniak, *supra* note 24, *passim* (contemplating Common Law courts); George J. Annas, *Questing for Grails: Duplicity, Betrayal, and Self-Deception in Postmodern Medical Research*, 12 J. CONTEMP. HEALTH L. & POLY. 297 (1996) (discussing the impact of postmodern "reasoning" on human experimentation during the Third Reich and post-World War II America); Stone, *supra* note 26, at 36-37 ("I am not really a man of science, not an observer, not an experimenter, and not a thinker. I am nothing but by temperament a conquistador — an adventurer . . ." (emphasis added) (quoting and citing Freud)); ORWELL, *supra* note 1, at 270 ("[A] world of trampling and being trampled upon . . . Progress in our world will be progress toward more pain." (quoting O'Brien)); CONRAD, *supra* note 2, at 21 ("They were conquerors, and for that you want only brute force . . . since YOUR STRENGTH IS JUST AN ACCIDENT ARISING FROM THE WEAKNESS OF OTHERS." (emphasis added)); HEINLEIN, *supra* note 10, at 91-92:

On Mars . . . [t]he disincorporate Old Ones . . . turned attention back to serious matters. Shortly before, around the time of the Terran Caesar Augustus, a Martian artist had been composing a work of art. It could have been called a poem, a musical opus, or a philosophical treatise; it was a series of emotions arranged in tragic, logical necessity. . . . The important point was that the artist had accidentally disincorporated before he finished

. . . He had not noticed his disincorporation and had gone on composing his sequence.

Martian art was divided into two categories; that sort created by living adults . . . and that of the Old Ones . . . the two sorts were judged separately.

By what standards should this opus be judged? . . .

The question was of greater interest because it was religious art (in the Terran sense) and strongly emotional: it described . . . an event that had happened long ago but which was alive and important to Martians The Martian Race had encountered the people of the fifth planet, grokked them completely, and had taken action; asteroid ruins were all that remained This new work of art was one of many attempts to grok the whole beautiful experience in all its complexity in one opus. . . .

It was a pretty problem. [;]

TOLSTOY, *supra* note 12, at 52 ("If people lacked [the] . . . capacity to receive the thoughts conceived by the men who preceded them and to pass on to others their

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own thoughts, men would be like wild beasts, or like Kaspar Hauser.”); *supra* note 37 (eschewing the characterization of chimpanzees, gorillas, cetaceans, and Basset hounds as “wild beasts”); Wilson, *supra* note 24, at 331 (“We do not understand ourselves yet and descend farther from heaven’s air if we forget how much the natural world means to us.”); HEINLEN, *supra* note 5, at 135 (“Occam’s Razor could not slice the prime problem, the Nature of the Mind of God (might as well call it that . . . it’s an Anglo-Saxon monosyllable not banned by four letters — and as good a tag for what you don’t understand as any).”); *supra* note 30 (discussing noncaricatured empiricism); QUINE, *supra*, at 86:

[L]et us not underestimate the price of a deviant logic. There is a serious loss of simplicity, especially when the new logic is not even a many-valued truth-functional logic. And there is a loss, still more serious, on the score of familiarity. . . . The price is perhaps not quite prohibitive, but the returns had better be good. [.]

see generally *infra* note 46 (quoting Gerhard Brewka on one group of many-valued truth-functional logics).

Meanwhile, high above (with an eye out for worlds even beyond Clausewitz’s god’s to conquer?), but cf. MICHAEL COLLINS, *MISSION TO MARS* (1990) (advocating a similar journey, but with democratically (not “democratically”) selected goals and transportation); Sharon Begley, *Greetings From Mars*, NEWSWEEK, July 14, 1997, at 23 (describing the non-“postmodern” transportation system in greater detail); but cf. James P. Lampertius, Note, *The Need for an Effective Liability Regime for Damages Caused by Debris in Outer Space*, 13 MICH. J. INTL. L. 447, 447 (1992) (contemplating the possibility of collision with cosmic debris); but cf. DOSTOEVSKY, *supra* note 39, at 259 (“Pyotr . . . is an astrominer.”), Professor Horwitz begins the conclusion of his article: “The central problem of *modern* constitutionalism is how to reconcile the idea of fundamental law with the [*post?*] *modernist* insight that meanings are fluid and historically changing.” Horwitz, *supra* note 10, at 116 (emphasis added). The residuum of his conclusion reveals that he has found not only his “voice,” but also his mantras: in five paragraphs, sixteen “changes” and six “meanings” (and the like) appear (?) to be present in his text. On the other hand, maybe there’s only *one* mantra. “Transforming” (of *all* people, Horwitz *surely* can’t mind that) only the structure (*gaspl*) of his words (and into poetic text, at that), to facilitate the discernment (not “discernment”) of his meaning (not “meaning”), his conclusion looks like this:

[C]hanging . . . meaning

[C]hanging . . . meanings

[C]HANGE . . . MEANING

[C]HANGING . . . CONSTITUTION

Horwitz, *supra* note 10, at 116-17 (emphasis added); see also *infra* note 46 (“It’s horrible! It’s horrible!” (quoting Aldous Huxley quoting Lenina’s incantation)); *supra* note 36 (“wrong, wrong, WRONG!!” (quoting Barton Leach characterizing Myers McDougal’s incantation)); hear THE BEATLES, *Revolution 9*, on THE BEATLES, *supra* note 22 (“Number 9? . . . Number 9? . . . Number 9?”); cf. DELILLO, *supra* note 14, at 155 (“Toyota Corolla, Toyota Celica, Toyota Cressida.”); but cf. *supra* (“You should never label things. You should never list things in order.” (quoting SLACKER quoting the diner waitress’s incantation)); FARINA, *supra* note 27, at 318 (“Gno-ssos . . . Gno-ssos.” (quoting the mob)); *id.* at 320 (“VEN-DETT-A . . . VEN-DETT-A . . .” (emphasis added) (quoting the mob)); watch THE MANCHURIAN CANDIDATE (United Artists 1962) (“Raymond Shaw is the kindest, bravest, warmest, most wonderful human being I’ve ever known in my life.”); see also LEVINE, *supra* note 10, at 189 (“When Theodore Thomas was warned that he was peppering his [concert] programs with too many compositions . . . the people did not like, he replied, ‘Then they must hear them till they do.’”);

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MANN, *supra* note 2, at 231 ("[S]ilence is not my motto . . ." (quoting the Divil)); *but hear The Men's Room Tapes, supra* note 10 ("Scuzi."); *cf.* WHITMAN, *supra* note 2, at 19 ("Whoever you are,"); *watch The Prisoner, supra* note 29 ("whatever you are,"); *cf.* WHITMAN, *supra* note 2, at 19 ("to you endless announcements!"); *but cf.* MANN, *supra* note 2, at 245 (quoting you-know-who, on you-know-what):

True it is that inside these echoless walls it gets right loud . . . and by much overfilling the ear with screeching and beseeching, gurgling and groaning, with yauling and bauling and caterwauling, with . . . racking ecstasies of anguish no man can hear his own tune, for that it smothers in the general, in the . . . trills and chirps lured from this everlasting dispensation of the unbelievable combined with the irresponsible. [;]

but cf. WHITMAN, *supra* note 2, at 4 ("Ever the mutable . . ." (emphasis added)); *watch SLACKER, supra* note 16 ("Change? I've got change."); ALIENS (20th Century Fox 1986) ("Game over. GAME OVER." (quoting a human)).

See infra text following note 48 (defining "repetitive and cumulative incantation"); *cf.* HUMPBACK WHALES, *supra* note 37, at LP album cover ("The pauses between [h]umpback songs are no longer than the pauses between notes within the song: in other words, they are recycled without any obvious break. . . . [I]n contrast with birds, who complete a song before pausing, it doesn't matter where in its song the [h]umpback starts or stops." (emphasis added)); *hear* Maurice Ravel, *Bolero*, on MUSSORGSKY • RAVEL, BILDER EINER AUSSTELLUNG (Deutsche Grammophon 1987); Cage, *In a Landscape, supra* note 43 (same); *cf. supra* (discussing Horwitz's characterization of "methodological obsessions"); *supra* text following note 37 (defining "legal authority"). But Horwitz leaves us with a final "reassurance":

[A]ny dynamic conception of constitutional fundamentality that can satisfactorily meet this . . . challenge needs to avoid the risk of enabling judges undemocratically to impose values. This Foreword's discussion of the history of "democracy" as a foundational concept in constitutional law presents GLIMPSES of a potential model for a theory of a changing constitution that is capable of combining classical ideas of fundamental law with [post?]modernist conceptions of dynamic change.

Horwitz, *supra* note 10, at 117 (emphasis added); *cf.* Lippold, *supra* note 43, at 227 ("Illusion is structure.").

Funny, I apparently missed Horwitz's "model," and instead got "glimpses" only of the *abyeme*. *Cf.* Tushnet & Lynch, *supra* note 30, at 485 ("In abandoning legal process theory for substantive theories, the recent Foreword . . . authors . . . have no theoretical basis for explaining why their substantive concerns ought not ALWAYS override contrary conclusions produced by the processes of democratic self-governance. So, the commitment to democracy is an 'add-on' in many recent Forewords . . ." (emphasis added)); CONRAD, *supra* note 2, at 28 ("As for me, I seemed to see Kurtz for the first time. It was a distinct glimpse . . ." (quoting Marlow)); *watch* APOCALYPSE NOW, *supra* note 29 ("What did they tell you? They told me that . . . your methods were unsound.' 'Are my methods unsound?' 'I don't see any method at all.'" (quoting dialogue between Kurtz and Willard)). *But cf.* HEINLEIN, *supra* note 5, at 246 (discussing Bishop Digby: "[A]s for internal logic, mundane rules do not apply to sacred writings [H]e was in tune with his times, he tapped the Zeitgeist. Fear and guilt and loss of faith — how could he miss?"); RIBOWSKY, *supra* note 3, at 27 ("He seemed to have a great understanding of people, and I think that's why he's gone as far as he has." (quoting Bernie Curtis on Al Davis)); SCOTT ALEXANDER, RHINOCEROS SUCCESS 39 (1980) ("You see, there is a scientific principle called 'entropy' which says that there is a tendency from the highly organized downward to the less organized. There is never an increase of order unless acted upon by an outside force."); Rorty, *supra* note 29,

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at 1816 (“[V]isions do not really need backup.”); *but cf.* VILFRED O. PARETO, *MANUAL OF POLITICAL ECONOMY* 22 (Ann S. Schwier & Alfred N. Page eds., Augustus M. Kelley 1971) (1927) (“A man receives certain impressions, [and] under their influence he states . . . a proposition, *which can be verified experimentally . . .*” (emphasis added)). *See generally* Tushnet & Lynch, *supra* note 30, at 485 n.94:

No recent Foreword author has been so committed a post-modernist as to deny the proposition that a theoretically integrated account of law is possible. And, if one were to take that position as to his or her own work, we would wonder what basis there would be for criticizing the legal process Forewords as awkward pastiches. [.]

[Horwitz's was the most recent *Foreword* to appear before the publication of Tushnet's and Lynch's article, but while noting it, *id.* app. A, at 498, they neither characterized nor discussed it. But true to form (*gasp!*), Horwitz, too, formally defended what he named “democracy.” *See generally* Balkin, *supra* note 29, at 1703 (“Who wants to be *known* as a constitutional adulterer?” (emphasis added)).]

See also Book Note, *The Partial Partial Constitution*, 107 HARV. L. REV. 493 (1993) (reviewing CASS R. SUNSTEIN, *THE PARTIAL CONSTITUTION* (1993)) (apparently having similar difficulties with the “model” presented by one of Cass Sunstein's recent books); Robert W. Bennett, *Of Gnarled Pegs and Round Holes: Sunstein's Civic Republicanism and the American Constitution*, 11 CONST. COMMENTARY 395, 396 (1994) (reviewing SUNSTEIN, *supra*) (“[T]he book lacks definition and coherence. Sunstein uses key terms with little precision; in particular, he never pins down what it takes to be a legitimating ‘reason.’”); Sherwin, *supra* note 29, at 191, 193 (“[Sunstein] is advocating a very definite — and VERY STRICT — social order . . . Stripped of the language of cause and effect, Sunstein's argument must be that we should reject [the current] baseline . . . in favor of a baseline that ENACTS SUNSTEIN'S VIEW OF CORRECT SOCIAL ORDER.” (emphasis added)). *See generally* L'HEUREUX, *supra* note 10, at 8 (“Foucault? Are you teaching Foucault?”); Martin H. Redish & Gary Lippman, *Freedom of Expression and the Civic Republican Revival in Constitutional Theory: The Ominous Implications*, 79 CAL. L. REV. 267 (1991) (criticizing a number of Sunstein's earlier works on similar grounds).

For a “reassurance” as reassuring as those of Horwitz and Sunstein, see Laurence Tribe, *Bicentennial Blues: To Praise the Constitution or to Bury It?*, 37 AM. U. L. REV. 1, 6 (1987) (“To keep the Constitution's promise, it is crucial that the people insist on compliance.”); *but cf. id.* (“*But* the Constitution of the United States is . . . a call to progress.” (emphasis added)) (HMMMM . . . DOES TRIBE'S “BICENTENNIAL” TITLE IMPLY AN “EXCLUDED MIDDLE”?); ALEXANDER M. BICKEL, *THE SUPREME COURT AND THE IDEA OF PROGRESS* 13 (1970) (characterizing the Warren Court as pursuing the “Egalitarian Society” as its “idea of progress” goal); *but cf.* TRIBE & DORF, *supra* note 2, at 16-17 (rejecting criticism by Richard Posner of an earlier Laurence Tribe book that had suggested that Tribe's agenda might consist of the creation of a “radically egalitarian society” (emphasis added)); *but cf.* Laurence H. Tribe, *Architect of the Bill of Rights*, A.B.A. J., Feb. 1991, at 47, 51 (praising William Brennan's “grand architectural design” and “vision of liberty and EQUALITY” (emphasis added)); *but cf.* MANN, *supra* note 2, at 101-02 (narrating Zeitblom's thoughts) (emphasis added):

Freedom. How extraordinary the word sounded, in Schlepffuss's mouth! . . . The question of freedom . . . seemed, in our student days, not a burning one, and Dr. Schlepffuss might give to the word the meaning that suited the frame of his lecture and leave any other meanings on one side. If only I had had the impression that he *did* leave them on one side; that absorbed in his psychology of religion he was not mindful of them! But he *was* mindful of

power paradigm, comp. n.: [THE THIRD SACRAMENT]: “democratic breakfast.”

practice, n.-v.: anything “we” can get away with.

pragmatism, n.: [TYPE 1: WHOOPEE PRAGMATISM]: whatever you'd like it to be; a magic wand for low-watt instrumentalist bulbs (ever played poker *with the whole deck consisting of jokers?*); [TYPE 2: ANTIFOUNDATIONALIST PRAGMATISM (NOT “ANTIFOUNDATIONALIST PRAGMATISM”): reactive, unselfconscious, non-instrumentalist “sterile” “postmodernism,” oblivious to both excluded middles and empiricism; nihilism (not “nihilism”); not-yet-“enlightened” “hollowness,” still trapped in the “abyeme”; the source of “our” best recruits; [TYPE 3: EMPIRICIST PRAGMATISM]: genuine axiological uncertainty generating a consciously malleable *li*, continually adjusted *a posteriori*, and an epistemol-

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them And his theological definition of freedom was . . . a polemic against the . . . “more modern,” that is to say more insipid, more ordinary ideas See, he seemed to say, we have the *word* too, it is at *our* service

Thus he developed his theme Certain [not “certain”] people should NOT speak of freedom, reason, humanity [;]

but cf. ALINSKY, *supra* note 10, at 45 (“[G]oals must be *phrased* in general terms like ‘Liberty, Equality, Fraternity,’ ‘Of the Common Welfare,’ ‘Pursuit of Happiness,’ or ‘Bread and Peace.’” (emphasis added)); TRIBE & DORF, *supra* note 2, at 17-18 (emphasis added):

One of us (Laurence Tribe) is evidently regarded by some as an admirer of [what Thomas Grey described as the “grand and cloudy Constitution that stands in our minds for the ideal America”] *Whether or not there was ever any basis for [that] characterization*, we do not espouse anything *quite* as MYSTICAL as all that *here*. [;]

supra note 29 (quoting Joan Williams on “reassurance”); *hear* THE BEATLES, *Revolution 1*, *supra* note 26 (“You tell me that it’s evolution”); *but hear* THE BEATLES, *I Am the Walrus*, on MAGICAL MYSTERY TOUR (Capitol Records 1967); GEORGE GERSHWIN, *There’s More to the Kiss Than the Sound*, on LA LA LUCILLE (Universal Pictures 1919); *cf.* RIBOWSKY, *supra* note 3, at 308 (“The solution, as he had said . . . was ‘objective standards or guidelines’ This, said Al Davis, would prevent moves based on the ‘whim or caprice of individual owners.’ *That was not so in his case*, naturally” (emphasis added)) [HMMMMM . . . “PROFESSOR DAVIS”?]; *id.* at 286 (“Al [Davis] says he’s not for anarchy, and I’m sure he wants a stable league. *He just wants anarchy for himself.*” (quoting Pete Rozelle)); *watch* THE ORANGE BOWL (CBS television broadcast, Dec. 31, 1996) (presenting a half-time promo for a new TV show, *Orleans*, in which “Larry Hagman plays a judge who bends the rules, but never breaks the law”); *hear* PETER, PAUL AND MARY, *supra* note 10 (“They got a good thing goin’ when the words don’t get in the way.”).

See generally Horwitz, *supra*, at 277 (“[H]e was the best special pleader of his time.”) [Horwitz *appears* to be using “special pleader” in its common law sense, and was certainly (*oops!*) not talking about Tribe, but hey, no “medieval technicalities” or “methodological obsessions,” right?]; CONRAD, *supra* note 2, at 33 (“Mr. Kurtz . . . [is] a first-class agent . . . a very remarkable person . . . Sends in as much ivory as all the others put together” (quoting the accountant)).

ogy correspondingly and consciously privileging empiricism; pragmatism with a notion; complex- (not "complex") calculus pragmatism, neither seeking to evade genuinely excluded middles nor to construct them where they do not inevitably (or probably, but then only tentatively) exist; [TYPE 4: AXIOLOGICALLY DRIVEN PRAGMATISM]: empiricist pragmatism with a consciously defeasible but presumptively fixed default-function axiology, and the confidence to both candidly (not "candidly") project it and subject it to the marketplaces of both logic (not "logic") and experience; pragmatism with an idea; [TYPE 5: NATURAL-LAW PRAGMATISM]: axiologically driven pragmatism coupled with absolute axiological certainty, pursuant to which consequences are evaluated (?) solely pursuant to the controlling axiological proposition(s); not to be imposed by *diktat*, but marketed with the (perhaps only unilateral) understanding that it is not subject to empirical and/or logical disverification; fraudulent advertising; "pragmatism" with an Idea; natural law (not necessarily "natural law"); [TYPE 6: POSTMODERN PRAGMATISM]: natural-law "pragmatism" combined with "natural law," an acceptance of the proffered definition of "constitutional law" and the methodologies of "legal postmodernism"; a cynical semiotic fraud; *much* further along than the *beginning* of the end of self-government (not "self-government").⁴⁶

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46. See J.M. Balkin, *The Top Ten Reasons to Be a Legal Pragmatist*, 8 CONST. COMMENTARY 351, 351 (1991) (including among his (tongue-in-cheek (?)) reasons: "Being a legal pragmatist means never having to say you have a theory," and "You can also be a . . . civic republican . . . a feminist . . . a deconstructionist . . . a case-cruncher . . . a crit . . . a law-and-economics type, or . . . anything else."). *But cf.* GERHARD BREWKA ET AL., *NONMONOTONIC REASONING* at ix (1997) (emphasis added):

Nonmonotonic reasoning, in its broadest sense, is reasoning to conclusions on the basis of incomplete information. Given more information, we are prepared to *retract* previously drawn inferences. To exhibit the classical example: if all that we know about Tweety is that he is a bird, then we plausibly conclude that he can fly; on learning that Tweety is a penguin, we *withdraw* that conclusion. We call this reasoning nonmonotonic because the set of plausible conclusions does not grow monotonically with increasing information. [;]

but cf. supra note 29 (quoting Hilary Putnam distinguishing the "new pragmatism" from the "fallibilist" pragmatism of Charles Peirce). *But cf.* KUHN, *supra* note 10, at 15-17 (noting that "all of the facts that could possibly pertain . . . are likely to seem equally relevant" absent "at least some . . . body of intertwined theoretical and methodological belief that permits . . . evaluation, and criticism"); CORI & COHEN, *supra* note 29, at 432 ("[I]t is strictly impossible to make any serious attempt to collect evidence unless one *has* theorized [not "theorized"] beforehand. As Charles Darwin . . . observed, ' . . . all observation must be for or against some view, if it is to be of any service.'"). On the other hand, perhaps "legal postmodernism"/"antifoundationalist pragmatism" *has* so done. *See generally*

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supra text following note 42 (defining “nihilism” (which, of course, turns out to be anything but nihilism)).

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Asterisks too are a refreshment for the eye and mind of the reader. One does not always need the greater articulation of a Roman numeral [B]elow . . . I will round out this section with some further information about Adrian’s Leipzig years, though I realize that as a chapter it makes an impression of heterogeneous elements — as though it were not enough that I did not succeed better with what came before.

MANN, *supra* note 2, at 175-76.

See generally *id.* at 7 (narrating Zeitblom’s thoughts: “[M]y mother was a pious daughter of the Church, punctually fulfilling her religious duties, whereas my father, probably from lack of time, was laxer in them, without in the least denying his solidarity, which indeed had also its political bearing”); *id.* at 25 (“[T]he house and its surroundings in which Adrian later as a mature man settled down when he took up permanent quarters . . . indeed the whole setting — were a most extraordinary likeness and reproduction of his childhood home”); *id.* at 26 (“Was that artificial ‘return’ simply a whim? I cannot think so. Instead it reminds me of a man . . . who . . . was so highly strung that when he was ill . . . he wished to be treated only by a child-specialist.”); *but cf. id.* at 26-27 (“I am aware of digressing in telling this anecdote about the man with the child-specialist, in so far as neither of them will appear in this narrative.”).

*

* *

In a vein similar to that taken by the professors discussed in the preceding footnote (except for the now-obsolete Roberto Unger and Duncan Kennedy), Richard Rorty’s writings are replete with “reassurances” to the “uninitiated,” see, e.g., Rorty, *supra* note 10, at 724 (characterizing as “fantasy” the proposition “that a new set of philosophical ideas . . . can do quickly and wholesale what . . . activist lawyers, charismatic leftist candidates, and the like can do, at best, very slowly”); *but cf.* CZESLAW MIŁOSZ, *THE CAPTIVE MIND* 3 (Jane Zielonko trans., Vintage Books 1990) (1953) (“It was only toward the middle of the twentieth century that the inhabitants of many European countries came, in general unpleasantly, to the realization that their fate could be influenced directly by intricate and abstruse books of philosophy [“philosophy?”].”); *but cf.* Rorty, *supra* note 10, at 724 (“One nice thing about pragmatism seems to me to be that it is very hard to pretend . . . that it is ‘something very large and powerful’ that is on one’s side.” (footnote omitted)); *id.* at 725 (“A further advantage of pragmatism is that, unlike deconstruction, pragmatism doesn’t provide much of a jargon.”); *id.* (expressing apparent amazement at “people who can turn Derrida’s stuff into a polemical jargon”); *but cf.* MANN, *supra* note 2, at 233 (“La, la, sweet innocence.” (quoting the Divel)); CONRAD, *supra* note 2, at 46 (“I am as harmless as a little child, but I don’t like to be dictated to. *Am I the manager — or am I not?*” (emphasis added) (quoting the manager, addressing his uncle); *but cf.* Rorty, *supra* note 10, at 719 (emphasis added):

[The good] kind of prophet does not think that her views have “legitimacy” or “authority.” The other, worse, type of prophet thinks of herself as a messenger from somebody (God) or something (Truth, Reason, History, Human Nature, Science, Philosophy, the Spirit of the Laws, The Working Class, the Blood and Soil of Germany, The Consciousness of the Oppressed,

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Woman's Experience, Negritude, the Overman who is to come, the New Socialist Man who is to come) — somebody in whose name, or something in the name of which, they speak. Such prophets think of themselves as not just one more voice in the conversation, but as the representative of *something* that is somehow *more* than another such voice. [.]

To be sure, Rorty's readers — especially those who privilege the notion that words must have shared and stable meanings where their object is persuasion rather than brainwashing — may be a bit skeptical after reading *Contingency, Irony, and Solidarity*, see RORTY, *supra* note 20, where Rorty sketches out his well-known "ironist 'theory.'" See generally MANN, *supra* note 2, at 496 ("He began in a low murmur, so that very few understood his opening . . . or made anything out of it. Perhaps they took it as a whim . . ."). After suggesting that his project involves an attempt to "do justice" [?] to both individualistic ("private") and communitarian ("public") axiological preferences by treating them as equally legitimate though incommensurable, see RORTY, *supra* note 20, at xiii-xiv, the qualifiers, e.g., *id.* at xiv ("I urge that we not try to choose between them, but rather give them equal weight and then use them for different purposes." (emphasis added)), "deployments" of undefined terms whose specific connotations would necessarily remain opaque to even the most hard-core "plain meaning" positivist, e.g., *id.* ("justice," "human solidarity"), wildly dubious but non-disverifiable assertions, *id.* (claiming that neither "philosophy" nor "any other theoretical discipline will ever let us [?] hold individualism and communitarianism [I have been forced to make two definitional assumptions to write the preceding three words] "in a single vision [?]"), and privileging semiotic ipse dixits, e.g., *id.* ("The vocabulary [?] of self-creation is necessarily [!] private, unshared, unsuited to argument. The vocabulary [?] of justice [?] is necessarily [!] public and shared, a medium for argumentative exchange."), begin to cry out for rational [*AHHHAAAAEEEEEE!*] comparison and analysis. Compare L'HEUREUX, *supra* note 10, at 195 ("[Kurtz] could not find the words. He could not even find the idea.") with MANN, *supra* note 2, at 81 ("[T]here is . . . a discipline in which Queen Philosophy becomes a servant . . . a subsidiary branch of another; and that other is theology.").

Next, Rorty tells his readers that the solution to the individualism/communitarianism compromise (three more definitional assumptions, which by the fifth paragraph of Rorty's book may already be counterfactual) is "liberal ironist" theory. See RORTY, *supra* note 20, at xv. The "ironist" part is more or less universalized antifoundationalism, so Americans can avoid *jihads*, and as Rodney King said (says?), "all just live together." See generally *id.* So Rorty must mean "liberal" in some sort of contemporary political "equality," process-oriented sense, to protect that "individualist" bunch and otherwise provide centripetal force, right? Well, not quite. See *id.* ("I borrow my definition of 'liberal' from Judith Shklar, who says that liberals are the people who think that cruelty [?] is the worst thing we [?] do." (emphasis added)) [My buddy Rog thinks "liberal" means Hyder, Alaska.]. So assuming further that Rorty uses "liberal" more-or-less in its contemporary political sense, see, e.g., Balkin, *supra* note 29, at 1733 (perhaps defining "liberal" as a person more likely to have voted for Walter Mondale than for Ronald Reagan), and ignoring (of course!) all "unintended (?) consequences" of attempts at "cruelty" abatement, then anybody who thinks "cruelty" is really, *really* bad is a "liberal." As the necessary consequence of that, those who "desire . . . self-creation [and] private autonomy, [and] . . . see socialization as Nietzsche did — as antithetical to something deep within us," RORTY, *supra* note 20, at xiii-xiv, will be guaranteed that their interests are given "equal weight," *id.* at xiv, to those of the "community"-oriented folks, by *antifoundationalism*, fortified with a healthy dollop of . . . *Karl Marx!* *Id.* at xiv ("Authors such as [cute?] Marx . . . are engaged in . . . the effort to make our institutions and practices . . . less cruel."). [Non-postmodern readers will have also noted that by this point, the avoidance of "cru-

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elty" *infliction* also mandates the affirmative *diminution* of "suffering." See *id.* at xv.]

We [including but not limited to "we"] have now completed five paragraphs of Rorty's book, for which I paid the full retail price of fifteen dollars and ninety-five cents. [*STEP RIGHT UP, BOYS AND GIRLS! THE GREAT SOPHOI IS ABOUT TO PERFORM! HE'LL LEVITATE! HE'LL CUT HIS ASSISTANT; MADAM PHILO, INTO AS MANY PARTS AS YOU'D LIKE, THEN MAKE HER WHOLE AGAIN! HE'S GOT THIS LITTLE WHITE BUNNY HE CAN MAKE DISAPPEAR!* Cf. MAGIC, *supra* note 10, at 376 ("When you 'vanish' the box and the bunny, grasp the cloth by one corner as it falls and snap it out sharply.")]

But Rorty provides the "uninitiated" with further "reassurances," both with respect to the political context, see, e.g., Tomasky, *supra* note 29, at 43 (noting that at a recent labor "teach-in" at Columbia University, "Rorty used his podium time to lambaste the New Left over . . . its failure to make common cause with labor in the Sixties and its 'stupid and self-defeating' hatred of America (check that — Amerika)"), and, more importantly for present purposes, in the context of the private/public nature of his "theory," cf., e.g., RORTY, *supra* note 20, at xv ("This book tries to show how things look if we drop the demand for a theory which unifies the public and private, and are content to treat the demands of self-creation and of human solidarity as equally valid, yet forever incommensurable." (emphasis added)); but cf. *supra* note 29 ("Here we go again." (quoting Andy Warhol)); see generally IRVING M. COPI, *SYMBOLIC LOGIC* 16 (1954) ("A conditional does not assert either that its antecedent is true or that its consequent is true."). But cf. RORTY, *supra* note 20, at 190 (emphasis added):

I [earlier] tried to show how ironist theory can be *privatized*, and thus prevented from becoming a threat to political [*deja vu* all over again?] liberalism

...

In this final chapter I shall say something more general about the claim that we [?] have a *moral* obligation to feel a sense of solidarity [?] with all other human beings. [.]

id. at 113 n.13 ("I want to stand Heidegger on his head — to cherish what he loathed." (emphasis added)); *id.* at 189 ("[W]e want something which stands beyond history and institutions. What else can there be except human solidarity . . . ?" (emphasis added)); but cf. *infra* note 51 (noting the ability of anybody to ask questions); CONRAD, *supra* note 2, at 40 (emphasis added) (quoting dialogue between the "papier-mâché Mephistopheles" and Marlow):

"We want," he began to declaim suddenly, "for the guidance of the cause entrusted to us by Europe, so to speak, higher intelligence, wide sympathies, a singleness of purpose." "Who says that?" I asked. "Lots of them," he replied. "Some even write that . . . Today [Kurtz] is chief of the best station, next year he will be assistant manager, two years more and . . . but I daresay you know what he will be in two years' time." [.]

See also Rorty, *supra* note 10, at 725 ("Isn't there an *ambiguity* between [?] 'we, the people with power to change things' and 'we — ALL OF US . . . ? Doesn't my cheerful, up-beat, 'liberal' [?] use of 'we' obscure this difference?" (emphasis added)) [HE DOES KNOW SOMETHING ABOUT ZAMYATIN AND ORWELL!]. See generally Rothstein, *supra* note 43, at 304 ("But of course [John] Cage doesn't treat all events equally. He makes guilty choices; he just hides behind the dice."); MANN, *supra* note 2, at 32 (emphasis added):

[I]t was remarkable how early the idea was fixed in his family's head and in all of ours that Adrian was to be a scholar . . . [E]ven his look, his facial expression, never left a doubt . . . that this scion of the Leverkühn stock was called to "SOMETHING HIGHER" . . .

The decisive confirmation . . . came from the ease . . . with which Adrian absorbed the instruction of the [GRAMMAR] school. [.]

But maybe Rorty really doesn't have a *constitutional* theory. RORTY, *supra*

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note 20, at 173 ("I do not think there are any plain moral facts out there in the world . . ."); cf. *id.* at 103 ("[Proust] managed to debunk authority without setting himself up as authority . . ."); see generally Herbert Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 HARV. L. REV. 1 (1959). [BUT WHAT WAS THAT CASE IN WHICH JOHN MARSHALL ASSUMED POWER ON BEHALF OF THE COURT IN A FACTUAL CONTEXT IN WHICH HE COULD PLAUSIBLY MAINTAIN THAT THE COURT WAS DECLINING IT? OH YES, I BELIEVE IT WAS *MARBURY V. MADISON*, 5 U.S. (1 Cranch) 137 (1803). AND WASN'T THERE ONCE SOME GUY NAMED "NOBODY"? See *supra* note 29 (discussing Odysseus and the Cyclops). YOU DON'T SUPPOSE RORTY COULD HAVE SOME UTILITY AS SUPPORT STAFF, BEHIND THE TROOPS "DEPLOYED" ON THE POSTMODERN FRONT LINES? Cf. ORWELL, *supra* note 1, at 5-6 ("The Ministry of Truth contained, it was said, three thousand rooms above ground level, and corresponding ramifications below."). HOLY DERRIDA, ROBIN! I'VE DEGENERATED INTO "PARANOID JURISPRUDENCE": RORTY DOESN'T EVEN KNOW (?) WHAT "POSTMODERNISM" MEANS! See *supra* note 29 (quoting Rorty); cf. *supra* text following note 27 (defining "dissembling"); but cf. BROOKS, *supra* note 10, at 132 ("What [Whitman] loved especially in the seething American population was its freedom, its alertness, its freshness and turbulent good nature, *the clear eye that looked straight at you.*" (emphasis added)); *id.* at 129 (emphasis added):

Whitman delighted in Carlyle, much as [Whitman] disliked . . . Carlyle's reactionary doubts and fears. He felt that nations, like individuals, learned most from a sincere opponent, from the light thrown even scornfully on [their] dangerous spots, and that . . . America needed the warnings and threats of this candid . . . enemy of the democratic programme. [:]

ECO, *supra* note 29, at 478 ("The hand of God does not conceal." (quoting William)).]

Richard Rorty is a very intelligent man. Perhaps even "nuanced" enough to have "decentered" some of his potential allies in the contemporary postmodern corps (none of whom plays in the same league as Plato, Kant, or even Heidegger). He's obviously aware that there are innumerable "theories" that will take an "antifoundationalist" to a preferred *result*, as his comments quoted above concerning the fungibility of Ronald Dworkin and the (great?) legal realists, see *supra* note 42, reveal. He's read Orwell, and obviously remembers something about "doublethink." See generally *supra* note 21 (discussing Rorty's spin on *Nineteen Eighty-four*, wherein O'Brien, not English Socialism (Ingsoc) is the villain, and where O'Brien (not the Party) hauls off Winston (assuming it was Winston) to O'Brien's apartment (not the Ministry of Love)) [In any case, *Nineteen Eighty-four's* a novel, so feel free to "interpret" its Part 3 (but not Article III) as having Madonna haul off Sigmund Freud to *Jonathan Livingston Seagull's* apartment.]; *supra* text following note 42 (defining "nihilism," and perhaps permitting the inference that "quadruplethink" might have some potential "reassurance" utility in that "context") [JUST A MOMENT . . . I THINK I HAVE A CALL COMING IN FROM TRISTERO . . .].

Where does it stop? Right here — maybe. Even though Rorty may be obscuring, dissembling on, or genuinely confused about other issues, except for the Orwellian implications of his "we," he's been careful not to cross the line from philosophy (or whatever he thinks he's "doing") into jurisprudence. And *that* matters for purposes of applying Rorty's own public/private test to "ironist theory" itself.

So no matter how wafty Rorty's "theory" may be in other respects, it really is privatized, right? Well, not *quite*: it's again time for a little counter-"reassurance," for the sake of the not-yet-fully-initiated, and perhaps just a little "authority" — from a *real* (?) *Philosopher* — to the courts. See Rorty, *supra* note 29, at 1811

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(asserting that “[n]obody doubts that what Morton White called ‘the revolt against formalism’ was a real advance . . . in legal theory” (emphasis added) (footnote omitted)); *id.* at 1812 (“Since [!] neither [!] Dworkin nor Richard Posner nor Roberto Unger has any use for what Posner calls ‘formalism’ . . . it seems plausible to claim that the battles that the [“great”] legal realists fought in alliance with [the “romantic side” of John?] Dewey have essentially been won.” (emphasis added) (footnotes omitted)); *cf.* BARNARD, *supra* note 21, at 28 (“Incoherent, coherent — same.” (quoting William James)); RIBOWSKY, *supra* note 3, at 43 (“Annexing vast territory with his mouth, Al [Davis] was summoned . . . to be a ‘sports general’”); *supra* note 22 (quoting Beavis on words); *but cf. supra* note 45 (quoting Willard on Kurtz’s “methods”); IRVING M. COPI, INTRODUCTION TO LOGIC 68 (3d ed. 1968) (discussing the fallacy of “hasty generalization”: “If one considers only exceptional cases and hastily generalizes to a rule that fits them alone, the fallacy committed is that of converse accident.”); *id.* at 69 (discussing the “fallacy of false cause”: “No one would be misled by this argument, but countless people are ‘suckers’” (emphasis deleted)); *but cf.* DOSTOEVSKY, *supra* note 39, at 233 (“[N]ever mind” (quoting Kirillov)); *supra* note 33 (quoting Robert Heinlein on the “carnie viewpoint” of “marks”). See also Rorty, *supra* note 29, at 1814 (“[W]e new pragmatists talk [“discourse”] about language [“discourse”] instead of experience [W]e have become suspicious of the term ‘scientific method.’” (emphasis added)); *cf. supra* note 30 (same, citing the Unabomber); see generally PIERRE SCHLAG, LAYING DOWN THE LAW: MYSTICISM, FETISHISM, AND THE AMERICAN LEGAL MIND 20 (1996) (“Talk and Talk and Talk about Talk and Just Keep on Talking[.]”). Rorty’s views on logic, words, and syntax have already become self-evident. Whatever this is is now marketed as “pragmatism.” [MMMMMMMM . . . TASTY!]

For what it’s worth, Rorty appears to self-impose formal (*gasp!*) criteria on the validity of his “theory”:

Beauty, depending as it does on giving shape to a multiplicity, is notoriously transitory

By contrast, sublimity is neither transitory, relational, reactive, nor finite. *The ironist theorist, unlike the ironist novelist, is continually tempted to try for sublimity*, not just beauty. . . . Since Kant, the metaphysical attempt at sublimity has taken the form of attempts to formulate the “necessary conditions of all possible *x*.” . . .

In theory, Nietzsche is not playing this Kantian game. In practice, just insofar as he claims to *see deeper rather than differently*, claims to be free rather than merely reactive, he betrays his own perspectivism and . . . nominalism. . . .

This quest for the historical sublime . . . leads Hegel, Nietzsche, and Heidegger to fancy themselves in the role of the “last philosopher.” The attempt to be in this position is the attempt to write something which will make it impossible for one to be redescribed except in one’s own terms To try for the sublime is to try not just to create the taste by which one judges oneself, but to make it impossible for anybody else to judge one by any other taste.

RORTY, *supra* note 20, at 105-06 (emphasis added); *cf.* GILLIAN ROSE, MOURNING BECOMES THE LAW 1 (1996) (“From Marx to Heidegger . . . it has become *de rigueur* to charge your predecessor with adherence to ‘metaphysics’”); RORTY, *supra* note 20, at 104-05 (unifying his philosophical question with my jurisprudential one: “[T]he problem of how to finitize while exhibiting a knowledge of one’s own finitude . . . is the problem of ironist theory.”) [Standpoint “Epistemology”? “Pragmatism”? Solidarity? “We”?]. *Cf.* RORTY, *supra* note 20, at xvi (attempting to remain on what he characterizes as the Proust/“private”-seeing side of the capital-letter conundrum, by prescribing reference to fiction describing suffer-

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ing inflicted by “us” on “them,” and defining “them” as people “unfamiliar” to “us”); see generally Richard Delgado, *Rodrigo's Eleventh Chronicle: Empathy and False Empathy*, 84 CAL. L. REV. 61 (1996) (helpfully straightening “us” out on all that).

But cf. CONRAD, *supra* note 2, at 40 (“I heard a . . . murmur at my ear, ‘Heap’s of muffs — go to.’” (emphasis added)); Rorty, *supra* note 10, at 720 (“If the audience keeps BRAVING [not singing?] ‘what’s your authority?’, ‘what’s your source of legitimation?’, and so on, then she will have to have something to say . . . Pragmatism is having a philosopher on hand to murmur in your ear ‘You have the right not to answer that question.’” (emphasis added)) [cf. DUMAURIER, *supra* note 24, at 82-83 (“And you shall see nothing, hear nothing, think of nothing but Svengali, Svengali, Svengali!”); CONRAD, *supra* note 2, at 90 (“She took both [his] hands in hers and murmured, ‘I had heard you were coming[.]’”); L’HEUREUX, *supra* note 10, at 41 (“but not so soon.”); see generally *id.* at 186 (“[Tortorisi] brayed, robustly, on demand.”); NORRIS, *supra* note 10, at 336 (contemplating donkeys and loco-weed); *supra* note 45 (quoting Marlow’s speculations on the donkeys’ fate); see generally MANN, *supra* note 2, at 225 (perhaps suggesting that Adrian had been expecting you-know-who).]. Which, of course, is correct — if you’re only trying to persuade yourself, see *infra* note 51 (quoting Stanley Fish on self-referentialism), your echo, see *infra* note 51 (quoting Robert Heinlein on dialogues with Martians), a can of Campbell’s soup, cf. *infra* note 51 (quoting Andy Warhol characterizing himself as a mirror), or a barnacle yet yearning to find its rock, watch A CLOCKWORK ORANGE (Warner Bros. 1971).

But cf. SCHROEDER, *supra* note 45, at 339 (“Napoleon’s attempt to deceive and manipulate everyone while keeping his own options open soon threatened to unravel.”); Rorty, *supra* note 29, at 1818 (defending “egalitarian [Egalitarian?] . . . breakthroughs into romance” [“Romance?”] by the United States Supreme Court, as “necessary” to break up “bad coherence” [Bad? Coherence? Bad Coherence?]); *supra* note 45 (quoting Rorty on the nonnecessity of “backup” to “visions”). So not only is Rorty’s “murmuring” useful to the “deployment” of Heidegger’s style of “rhetoric,” in which “discourse” sees to it that its preferences are accepted through the force of “mere delivery, without regard to the content of the words used,” compare *supra* (quoting Rorty) with *supra* note 26 (quoting Richard Wolin), but also to constitutional “interpretation,” surely a public [AIIIIYEEEEEE!] activity. See generally CONRAD, *supra* note 2, at 78 (“‘No method at all, I murmured . . .’ ‘Exactly,’ he exulted.” (emphasis added) (quoting Marlow, then Kurtz)); PYNCHON, *supra* note 24, at 864 (“Most of the others gave up long ago trying to hold him together, even as a concept . . .”); WARHOL, *supra* note 29, at 180 (“It was lift-off time again.”).

And if the “right not to answer the [authority] question” works for “antifoundationalists,” why not the other way around? See generally PYNCHON, *supra* note 24, at 769 (“He has often imagined the coming of a Questioner.”); DOSTOEVSKY, *supra* note 39, at 547 (“Shigalyov sat down and braced himself.”); *supra* note 29 (“Take a position for or against truth. Prove [it].” (emphasis added) (quoting College Finals from Hell)). Perhaps something on the order of “The authority for the United States Constitution is the United States Constitution?” See, e.g., Collier, *supra* note 10, at 194 (“[L]egal scholars today are, in effect, seeking in philosophy and humanistic theory generally something that law cannot offer and cannot even tolerate: ‘intellectual authority,’ an external, non-legal source of scholarly legitimacy.”); cf. CONRAD, *supra* note 2, at 78 (“He appeared confounded for a moment.”). But no, that can’t be right. How could I forget JAMES CARVILLE, WE’RE RIGHT, THEY’RE WRONG (1996)? And in this light, Rorty’s personalized “Europe” reveals itself: it’s Solidarity, coupled with the murmured Authority of the-

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Philosopher. And not just *any* Philosopher's Authority, but *Rorty's!* Cf. DOSTOEVSKY, *supra* note 39, at 190 (Sublime" (quoting Stepan)). Clearly, we have reached the apotheosis of contemporary philosophy: the Last Philosopher, indeed. See WILSON, *supra* note 29, at 60 ("She died of cardiac arrest and astonishment at the magnificence of my achievement in my chosen field. Only Shakespeare, Michelangelo, Beethoven, and Frank Lloyd Wright have raised to my heights before me."); HEINLEIN, *supra* note 5, at 391 ("I am God"); watch APOCALYPSE NOW, *supra* note 35 (narrating Willard's thoughts: "This was the end of the river, all right."); cf. JACKIE MASON, THE WORLD ACCORDING TO ME (1987); FARIÑA, *supra* note 7, at 125 ("Vision, baby, that's all I'm after. Having a night light on all the time so's I can see.' 'Be satisfied with the sun.' 'I want to be the sun, schmuck. Particles, wave, and source.'" (quoting dialogue between Gnos-sos and Heff)); *id.* at 127 ("Oobop shebam."); *id.* at 34 ("Superman winging over Metropolis, cape fluttering in the wild wind. *Safe as long as no one pulls any Kryptonite out of a lead box. WHEEEEEEE*, down the cinder path behind the law school Out on Academia Avenue now" (emphasis added)); but hear ELTON JOHN, *Rocket Man*, on HERE AND THERE (MCA Records 1976). See generally ECO, *supra* note 29, at 473-74 (emphasis added):

"But tell me now," William was saying, "why? Why did you want to shield this book more than so many others? . . . There are many other books that speak of comedy, many others that praise laughter. Why did this one fill you with such fear?"

"Because it was by the Philosopher. . . ."

"But what frightened you in this discussion of laughter? You cannot eliminate laughter by eliminating the book."

. . . "[T]he church can deal with the heresy of the simple But this book could teach learned men the . . . illustrious artifices that could legitimize the reversal." [.]

Where should the interpretive burden of proof be placed: on those wishing to read the Constitution as if it effectively were no thing, or on the other side? See generally DELILLO, *supra* note 14, at 188 ("It took me a while to spot the hole.' 'That's because it's laser-drilled The drug is delivered at specified rates for extended periods No upset stomach" (quoting dialogue between J.A.K. and Winnie)). Surely "repetitive and cumulative incantation" of the proposition that "our" law review articles (specifically, oh slow-witted one, "our" CONCLUSIONS) are "legal authority" *must* be good for *something*. Cf. MANN, *supra* note 2, at 489 ("The orchestration of this horror-dance consists of nothing but wind instruments and a continuous accompaniment, which . . . pervades the work throughout . . . appearing again and again. [I]t is, as it were, the reverse of the 'Ode to Joy'"). [FOR NOW, WE'LL PUT TO ONE SIDE SHEIK YUSUF EL-BADRY, see *supra* note 30, AND THE SKINHEADS, see *supra* notes 14, 26-27, 29, 33, 39, 43, SINCE THEY DON'T (DO THEY?) PUBLISH IN AMERICAN LAW REVIEWS.] See also *infra* (quoting Anthony D'Amato suggesting that the Authority of "highly qualified publicists" may in appropriate circumstances be *personal*); R.J. Lambrose, *Damned If You Do . . .*, LINGUA FRANCA, Feb. 1997, at 16, 16 ("[Scholarly] credentials lend credibility to even the silliest points." (quoting Franklin Foer)); PACE, *supra* note 10, at 3 ("Vice is allowed to exist because there is little hostile . . . sentiment toward most forms of vice behavior"); D.A.F., *Gresham's Law*, *supra* note 29, at 310 ("In law . . . it is rare for a professor to attack a colleague's work in print. Such attacks, when they occur at all, are likely to be restrained and extremely polite." (footnote omitted)); *id.* at 311 ("Currently . . . a certifiably nutty idea can be repeated in major journals for years on end, before some brave soul ventures to suggest that 'although there is some validity to the insights of Professor Wacko's theory, some serious qualifications should be stressed to a greater extent than has been previously recognized.'"); but cf. Mirandé, *supra* note 29, at 19 ("The Crits' attack on

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traditional scholarship was labelled 'trashing.' Some of the attacks . . . were severe, irreverent, and unabashed."); MARK URBAN, *BIG BOYS' RULES* (1992); DANIEL A. FARBER & SUZANNA SHERRY, *BEYOND ALL REASON: THE RADICAL ASSAULT ON TRUTH IN AMERICAN LAW* 3 (1997) "[I]t matters, it always matters, to NAME [gasp!] rubbish as rubbish . . . to do otherwise is to legitimize it." (emphasis added) (quoting Salman Rushdie). So when a *Richard Rorty* (who manifestly stands at the pinnacle of American philosophy) is supported in his preferred outcomes by a *Laurence Tribe* (who at the very least takes no issue with the proposition that he is "the foremost constitutional thinker of our time," see *supra* note 29), a *Morton Horwitz* (the Charles Warren Professor of American Legal History at Harvard Law School) [*TRUST ME: IT DOESN'T GET ANY BIGGER THAN THAT (AT LEAST IN THE REPOSITORIES OF PROFESSORIAL GENIUS THAT AMERICAN LAW SCHOOLS HAVE BECOME).*], and a chorus of ancillary cheerleaders and their "theories," see generally *Get Peppy or Get Out*, N.Y. TIMES, Jan. 26, 1997, § 6 (Magazine), at 12 ("[T]he X-Cheerleaders, a New York-based group of dancers and former cheerleaders, perform feminist cheers at venues all over the country [But] a co-director, Jody Oberfelder, still prefers cheering to football. . . . Oberfelder [says,] 'Cheerleaders are powerful women doing amazing group acrobatics.'"), many of whom stand at the pinnacles of their "disciplines" (at least in terms of the PERCEPTIONS of their "interpretive communities," and at whatever level of permissiveness those "disciplines" are defined), see generally, e.g., PYNCHON, *supra* note 24, at 830 (citing Natasha Raun, *Regions of Indeterminacy in Albatross Anatomy*, in PROCEEDINGS OF THE INTERNATIONAL SOCIETY OF CONFESSORS TO AN ENTHUSIASM FOR ALBATROSS NOSOLOGY, Winter 1936); but cf. RUDOLPH, *supra* note 45, at 57 ("Gnoseology[?]").), then despite the fact that even by his own lights he's not the "good kind of prophet," see *supra*, how can Rorty's view of the Constitution's effective nonexistence not prevail? Cf. RIBOWSKY, *supra* note 3, at 54 ("I'll tell you one thing. If there were no rules, [Al Davis] would have the greatest football team in the history of the game." (quoting John Sauer)); but cf. *supra* note 45 (contemplating Ragnar Redbeard); DOSTOEVSKY, *supra* note 39, at 479 ("Then suddenly, in the back rows, a lonely but loud voice was heard: 'Lord, what rubbish!'").

But wait! Based on his professed epistemological agnosticism, maybe Rorty doesn't exist! Since "I"m [Doesn't my cheerful, upbeat, liberal use of the word "I" . . .] both a *cogito* kind of guy and an empiricist (*Gusto ergo sum?*), "I," and the United States Constitution, *do*. Moreover, since this is a *narrative*, I get to narrate the following, *without* "Authority":

1. $(R \supset \sim F) \bullet (\sim F \supset \sim A)$
2. $R \supset \sim A$
3. $[R \supset (\sim F \bullet A)]$
4. $R \equiv A$
5. $A \supset \sim \sim F$
6. $[(A \equiv \sim A) \vee (R \supset F) \vee (R \equiv \text{GOD}) \vee (R \equiv 0)]$
7. $R \supset \sim F$ (that "Caesar was an honorable man" thing)
8. $A \neq \sim A$
9. $[(R \equiv \text{GOD}) \vee (R \equiv 0)]$
10. $(R \supset \sim A) \supset (R \neq \text{GOD})$
11. $\therefore R \equiv 0$

Poof!

"What a loss to me — to *us!*" — she corrected herself . . . then added in a murmur, 'To the world.' . . . 'His words will remain,' I said." CONRAD, *supra* note 2, at 92 (emphasis added). "'And his example,' she whispered . . . 'True,' I said; 'his example too.'" *Id.*; cf. JOSEPH HELLER, *CATCH-22*, at 78 (Dell Publishing Co. 1961) (1955) "'I'm asking the questions. You're answering them.' 'Yes, sir.'" (emphasis added)); *id.* at 60 ("And regulations [Regulations?] . . . say you have to obey

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every order. That's the catch." (emphasis added)); *id.* at 55 ("That's some catch, . . . [Yossarian] observed. 'It's the best there is,' Doc Daneeka agreed. Yossarian saw it clearly in all its spinning reasonableness."); EDGAR, *supra* note 29, at 50:

DOUGLAS: All right. Shall we stop pretending?

HUGO: Yes Stop pretending what?

DOUGLAS: Well, for a start, let's drop this crap about no rules.

HUGO: Go on.

DOUGLAS: I will. Rule one. There are no rules. Rule two. It is against the rules to question rule one. Rule three. It is against the rules to acknowledge the existence of rules one and two. [:]

ABBOTT, *supra* note 12, at 27 ("If my Spaceland patrons have grasped this general conception, so far as . . . not to reject my account as altogether incredible — I shall have attained all I can reasonably expect."). See also STEIN, *supra* note 3, at 244 ("[I]f you ask a question . . . not even . . . when you are very little is the answer interesting if there is an answer *why listen to it if you can ask another question, listening to an answer MAKES YOU KNOW THAT TIME IS EXISTING . . .*" (emphasis added)). Compare *supra* note 29 (quoting Hilary Putnam describing what "you" need to "wrap your mind around" to "get the flavor of" the "new" "pragmatism" "movement") with *supra* note 17 (quoting George Orwell on "doublethink") and DOUG HILL & JEFF WEINGRAD, SATURDAY NIGHT 142-43 (1986) (quoting Laraine Newman, drinking a glass of homogenized bass, in *Bass-O-Matic*, a 1976 *Saturday Night Live* skit: "Wow! That's terrific bass!").

See generally Frederic Crews, Letter to the Editor, *Our [?] Neurotic Miseries*, N.Y. TIMES, Oct. 20, 1996, § 7 (Book Review), at 4 (quoting Richard Rorty, *Sigmund on the Couch: Wittgenstein Reads Freud*, N.Y. TIMES, Sept. 22, 1996, § 7 (Book Review), at 42) (emphasis added):

Richard Rorty is no slave to consistency. After granting the possibility . . . that "Freudian ideas have encouraged such abominations as imprisonment of innocent parents on the basis of 'repressed memories,'" he suggests that "there can be no harm" in applying Freudian readings to "our [?] quirks, fantasies and neurotic miseries"

. . . Freud provided us with a diverting new interpretive game, and . . . Mr. Rorty intends to keep playing that game, whatever its . . . offenses against logic and plausibility. He knows quite well that choosing a Freudian over a less tortuous non-Freudian explanation, or choosing among equally facile but contradictory Freudian explanations, is a matter of sheer WHIM. . . . Is this "pragmatism," as Mr. Rorty wants us to believe, or . . . a complacency that stretches to the horizon? [:]

So Rorty's status as a "Type 6" "pragmatist" is well earned. [The poker game described in the accompanying text doesn't Authorize around-the-corner straights.] See generally STEVEN BEST & DOUGLAS KELLNER, POSTMODERN THEORY 1 (1991) ("In philosophy . . . many began celebrating a new postmodern philosophy associated with Nietzsche, Heidegger, Derrida, Rorty, Lyotard, and others."); Stone, *supra* note 10, at 37 ("Freud had a new hypothesis every day. It is astonishing to see how little evidence he needed; a single patient hour to launch a whole new theory of mental illness. Freud was no more a scientist than Marx.").

See also *supra* note 17 (quoting Martha Minow perhaps praising Mary Joe Frug for both her instrumentalist use of postmodernism and her instrumentalist use of law, which Minow characterizes Frug as subordinating to her political agenda); *supra* note 28 (quoting Deborah Post supporting a similar proposition); *supra* note 21 (exempting deconstruction from deconstruction); *supra* note 10 (quoting David Lehman, and perhaps suggesting that the self-exemption is tautological and circular); Williams, *supra* note 29, at 135 ("The most common contemporary response to the fear of 'nihilism' is to embrace nonfoundationalism while preserving access

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[?] to a few *objective, moral certainties*.” (emphasis added)); LEVINAS, *supra* note 21, at 90 (“[T]he one-for-the-other . . . responsibility with regard to men we do not even know . . . is ‘older’ than the a priori.”); Williams, *supra* note 29, at 135 (emphasis added) (footnotes omitted):

In pragmatist ethics, *objective moral certainties* are *undesirable* and unnecessary. Objectivity is unnecessary for a very simple reason. As recent work shows, *forging some coherency for neopragmatism will be difficult*. If pragmatism is to prove more than “generosity of spirit in search of something to say,” we as pragmatists ought to *agree* [!] on a *vigorous nonfoundationalism*. Not only is objectivity undesirable; it is also *unnecessary* to explain our sense of *certainty* about torture and OTHER horrors. [.]

Joan Williams’s point — that “antifoundationalist pragmatism” is no more than untethered emotion “in search of something to say” — is well taken. Cf. BRONOWSKI & MAZLISH, *supra* note 10, at 280-89 (discussing Rousseau’s sentimentalism and its influence on the “emotional revival”); *supra* note 45 (contemplating, inter alia, “passion”); Tushnet, *supra* note 29, at 305-10 (discussing the original motivation for the importation by attorneys of sentiment into American *common law*, in an era in which the populace rather than the judiciary was thought to comprise the sentimentalists); but cf. Richard H. Underwood, *Logic and the Common Law Trial*, 18 AM. J. TRIAL ADVOC. 151, 158 (1994) (“*The argument ad misericordiam is a favorite of trial lawyers, the refuge of the weaker party, . . . the last resort of the feckless criminal defendant, and the stuff of class struggle.*” (emphasis added) (footnote omitted)); MILLER, *supra* note 29, at 121 (“[T]he *common law* was not a construction of systematic reason: it was a haphazard accumulation of precedents, quirks, obscurities, which some of its English champions, most conspicuously Burke, publicly and positively boasted was wholly a matter of prescription, fundamentally irrational by its inherent nature.” (emphasis added)); Tushnet, *supra* note 29, at 288 & n.22 (noting Peter duPonceau’s 1824 attempt to “dispel the fears of ‘the vulgar’ that the *common law* was a device used by judges to do whatever they wished”); watch Panel on Medicare, *supra* note 39 (“I think I’ve just been asked to explain the behavior of the United States [Congress]. These are random events.” (quoting Leonard Schaeffer)). But since Williams is presumably prescribing a regime for *law* (her Rorty article is published, after all, in a *law review*), and since Williams herself recognizes both that “nonfoundationalism” has a “severe burden of implausibility” and that her “transformative goals” are “exactly the *opposite* from” “*what is needed to win elections*,” presumably CONSTITUTIONAL law, see Williams, *supra* note 29, at 154-55 (emphasis added)), perhaps “oligarchically enforced ‘generosity of spirit’ in search of something to say” might be more accurate. See generally PAUL THEROUX, THE HAPPY ISLES OF OCEANIA 364 (1992) (“The French are at their most obvious, their most . . . sentimental when they are dealing with people they regard as savages, but it seems to be a fact that sentimentality is a trait one always finds in bullies and brutes.”). Seen in that light, the

Wait! I’ve got her point backwards? She’s not *parodying* “antifoundationalist pragmatism”? [I MUST HAVE BEEN MOMENTARILY “DECENTERED”: I SURE WAS DIZZY, AT ANY RATE.] See Williams, *supra* note 29, at 139 (“Ethical choices offer not opportunities for appeal to absolutes, but the chance to find out who *we* are and who *we* want to be.” (emphasis added)); cf. L’HEUREUX, *supra* note 10, at 115 (“‘What must be faced now is who we are and *what we want*,’ Olga said.”); SARTRE, *supra* note 29, at 17 (“[N]othing can be good for us without it being good for all.”); LEVINAS, *supra* note 21, *passim* (same); *Hearings on the Nomination of Charles E. Wilson to be Secretary of Defense Before the Senate Committee on Armed Services*, 83d Cong. 26 (1953) (statement of Charles E. Wilson) (providing a “textual” basis for the [post]modern (*i.e.*, reversed) “paraphrase”: “What’s good for General Motors is good for America.”). See generally Richard J. Bernstein,

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Introduction to HABERMAS AND MODERNITY 1, 5 (Richard J. Bernstein ed., 1985) (“For all of [Max] Weber’s rationalist proclivities, he despaired about the possibility of rationally grounding the ultimate norms that guide our lives; we must *choose* the “gods or demons” we *decide* to pursue [W]e are left with a void.”); L’HEUREUX, *supra* note 10, at 115 (“And nothing in Roland Barthes seemed to help.”).

But maybe my inference, two paragraphs above, concerning the ultimate *constitutional* law focus of Williams’s axiological preferences is incorrect, and we (*including* “we”) get to vote [*AIHIIYAIHEEEEE!*] after all. To be sure, her writings are generally and prudentially oblique when gazing explicitly at the question of constitutional “interpretation.” *Cf. supra* note 29 (quoting Williams on the utility of a “reassuring tone” to the achievement of political power); *supra* note 38 (quoting Williams noting the disutility of Marxist “language” to same); *supra* note 38 (quoting Williams on the utility of the “rhetoric[]” of “democracy” to same); Joan Chalmers Williams, *The City, The Hope of Democracy: The Casebook as Moral Act*, 103 HARV. L. REV. 1174, 1182-83 (1990) (reviewing GERALD FRUG, *LOCAL GOVERNMENT LAW* (1988)) (criticizing Gerald Frug for presenting excerpts by James Madison and Alexis de Tocqueville that *frame* the American choice as one between democracy and oligarchy); *id.* at 1183 (noting that “[e]litism” as “EXPLICIT” as Madison’s in Federalist 10 “lost its constituency when the Federalists fell from power” (emphasis added) (citation omitted)). *But cf. id.* at 1182 (emphasis added):

Frug’s casebook disempowers *students* in a third — and very traditional — way. To some extent he “hides the ball” about what his vision for cities actually is. . . . Frug’s vision of cities . . . is fully articulated only in the book’s final pages

How can *students* understand the prism through which Frug refracts local government law if Frug does not share with *them* his hopes for cities until almost the end of the course? How can *students* decide whether or not *they* agree with Frug’s vision unless *they* know early on what it is? . . .

The argument that, if Frug made his views *explicit* early on, docile *law students* would fall into line underestimates *law students*, particularly those of a professor who treats STUDENTS with *respect*. Moreover, this risk seems worthwhile to ensure that conscientious *students* proceeding in good faith have the perspectives *they* need to grapple with the challenge Frug presents *them*. [;]

STEIN, *supra* note 3, at 181 (“I like college audiences they inevitably are more flattering.”); Nehamas, *supra* note 18, at 30-31 (“Foucault believed that the *mechanisms used* to understand and to control marginalized . . . groups were ALSO ESSENTIAL TO THE UNDERSTANDING AND THE CONTROL — INDEED, TO THE CONSTITUTION — OF ‘NORMAL’ INDIVIDUALS. *Thus, the constant surveillance of prisoners that replaced physical torture . . . came to be applied also to schoolchildren*” (emphasis added)); MANN, *supra* note 2, at 32-33 (“The schoolmaster, a still young and sensitive man, who never ceased to be afraid of the dog Suso . . . [was] accustomed to drive his learning with whip and spurs into . . . puzzled or rebellious heads.”); ALINSKY, *supra* note 10, at 113 (“POWER AND ORGANIZATION ARE ONE” (emphasis added)); THOMPSON, *supra* note 10, at 48 (“The Doomed Generation”); Sanford Levinson, *Slavery in the Canon of Constitutional Law*, 68 CHI-KENT L. REV. 1087 (1993) (suggesting that casebook authors have enormous power — if they choose to exercise it — to influence what literally may be thinkable or unthinkable to law students, and stating that his constitutional law casebook is constructed with the conscious purpose of influencing the “canon”); DAVID LODGE, *PARADISE NEWS* 147 (Penguin Books 1993) (1991) (“Life was regular, ordered, repetitive. . . . It was a civilized, dignified . . . existence. Students looked up

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to you. . . . We were MASTERS of our tiny, artificial kingdom. Of course, we couldn't entirely ignore the fact that vocations were declining . . . and ordained priests leaving the priesthood . . . in ever-increasing numbers." (emphasis added)); hear THE PROFESSORS, *Foucault Funk: The Michel Foucault Postmodern Blues* (1996), quoted in *The Professors*, *supra* note 23, at A6 (emphasis added):

I can't find no foundations
There ain't no truth anymore
I'm caught in multiple perspectives
I can't think straight anymore
. . . Discourse is not life
Its time is not your time
In discourse you have not survival
You only establish your [D]eath [;]

Reed, *supra* note 10, at 54 ("You can spoonfeed, you can custom tailor a packet of information, and give it to people, and they will learn it. But if you want them to learn how to learn . . . then they need . . . a broad base of information" (quoting Nancy Cline)); GERALD GUNTHER & KATHLEEN M. SULLIVAN, CONSTITUTIONAL LAW at v (13th ed. 1997) ("As in the past, this edition emphasizes constitutional law as a species of *law*, not mainly as a philosophical ["philosophical"]? inquiry."). *But cf.* MANN, *supra* note 2, at 228 (quoting you-know-who):

That is what we recognized betimes and why from early on we had an eye on you — we saw that your case was quite definitely worth the trouble, that it was a case . . . whereof with only a little of our fire lighted under it, only a little heating, elation, intoxication, something brilliant could be brought out. Did not Bismarck say something about the Germans needing half a bottle of champagne to arrive at their normal height? [.]

Sometimes, to be sure, the reader can only struggle for a "glimpse." *E.g.*, Williams, *supra*, at 1185 ("The crucial current question is *not whether we want centralization with oligarchy or decentralization with civic transformation*, but whether and where modern conditions permit [?] the kind of *participatory* democracy Frug advocates." (emphasis added)); Williams, *Horizons*, *supra* note 38, at 638 ("My father . . . is so confident that his expertise qualifies him to make value choices for the whole society that he typically makes his values open and *explicit*." (emphasis added)); *id.* ("If the public counsel is a government official [including Justices?], the authority issues cease to be problematic . . ."). But elsewhere, Williams appears to step up to the plate. *See, e.g.*, Joan C. Williams, *Abortion, Incommensurability, and Jurisprudence*, 63 TUL. L. REV. 1651, 1656 (1989) ("[Michael] Perry is so caught up with his . . . *romantic* [the basis for a Williams/Rorty "theory" debate?] view of the *American constitutional tradition* that he . . . at times appears to ignore that law serves . . . to limit OUR VISION." (emphasis added)); *id.* at 1657 ("For all its strengths in other areas, *American constitutional law* has often been a disappointment in the realm of economics" (emphasis added)); *id.* at 1659 ("One message of contemporary *hermeneutics* is that no sharp distinction exists between understanding a text on its own terms and reading the interpreter's *concerns* into it." (emphasis added)).

So maybe Williams, like Rorty, is no mere "privatizer," and I've got "antifoundationalist pragmatism" pegged right in the text (oops! I mean the part of this article that isn't *MEZZATEXT* or footnotes) after all. *But wait again!* For the reasons discussed three paragraphs ago, shouldn't Williams's formulation *really* be "to find out who 'we' want you to be," since both "we"s and "I"s can be "generous" in our own "spirits" *right now*? *Cf.* FLETCHER, *supra* note 29, at 87 ("[J]ustice is love *distributed*" (emphasis altered)); ORWELL, *supra* note 1, at 8 ("[T]he Ministry of Plenty . . . was RESPONSIBLE for economic affairs." (emphasis added)); LEVINAS, *supra* note 21, at 113 ("The RESPONSIBILITY for another [is] an unlimited

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RESPONSIBILITY [I]n RESPONSIBILITY for the *other* for life and [D]eath, the *adjectives* unconditional, undeclinable, absolute take on *meaning*." (emphasis added); *id.* ("[T]he idea of a RESPONSIBILITY PRIOR TO FREEDOM . . . such as it shows itself in RESPONSIBILITY for another, enables us to confer [!] an *irreducible MEANING* [!] to [the] notion . . . of *finite* freedom." (emphasis added)); MICHEL FOUCAULT, DISCIPLINE AND PUNISH 17 (Alan Sheridan trans., Vintage Books 1979) ("[T]he definition of offenses . . . has considerably changed over the last 200 years . . ."); RIBOWSKY, *supra* note 3, at 331 ("The philosophy of this team should always be . . . not to make the opponents respect us, but to put the *fear* into them." (emphasis added) (quoting Al Davis)); DOSTOEVSKY, *supra* note 39, at 527 ("[W]hat *we need* is one splendid, monumental, despotic *will*" (emphasis added) (quoting Pyotr)); CONRAD, *supra* note 2, at 23 ("WHAT A ROW THE BRUTE MAKES!" said the indefatigable man with the moustaches . . . 'Serve him right. TRANSGRESSION — PUNISHMENT — BANG! Pitiless, pitiless. That's the only way. This will prevent all conflagrations for the future.'" (emphasis added)); ECO, *supra* note 29, at 478 (emphasis added) (quoting Jorge):

[W]e have *disciplined* them. . . . They have rejoined our ranks, they no longer speak like the simple. THE SIMPLE MUST NOT SPEAK. *This book would have justified the idea that the tongue of the simple is the vehicle of wisdom.* . . . You say I am the Devil, but . . . *I have been the hand of God.* [;]

Chua-Eoan, *supra* note 10, at 40 (noting that Do and Ti were also semioticians, and were also on a mission from God); PYNCHON, *supra* note 2, at 6 ("What I should be is a . . . BIG BROTHER." (emphasis added) (quoting Mucho)); MAO, LITTLE RED BOOK, *supra* note 35, at 61 ("Political power grows out of the barrel of a gun."); *supra* text accompanying note 33 (defining "freedom" as slavery); ORWELL, *supra* note 1, at 289 ("Do it to Julia! Not me!" (quoting Winston)); WOLIN, *supra* note 10, at 89 (emphasis added):

The various ["obligations" Heidegger] emphasizes in the [rectorial] address . . . aim at the creation of an all-encompassing, TOTAL STATE in which the (modern) SPECIALIZATION OF COMPETENCIES IS ABOLISHED and all pursuits are INTEGRATED BY A COMMON GOAL: the realization of the . . . *destiny of the German Volk*. The three "obligations" . . . are dependent on the *state* for AUTHENTIC LEADERSHIP . . . and direction. [;]

id. at 88 ("'German students are on the march,' announces Heidegger"); RUDYARD KIPLING, *Boots*, in A KIPLING PAGEANT (Halcyon House 1942) (1903) ("Boots — boots — boots — boots — movin' up and down again!"); *compare id.* with THE RIVERDANCE IRISH DANCE COMPANY, RIVERDANCE (Columbia Tristar home video 1995) (presenting dance troupe (not "troop") precision tapdancing to semitransitional (*gaspl!*) music, perhaps permitting an inference that such may be pleasing in art, where the footwear is somewhat different than that ultimately worn by the German students, and where there is an *ability to decline* to participate) and DUMAURIER, *supra* note 24, at 48 ("It is a wondrous thing, the human foot . . . but . . . it is seldom a thing of beauty in . . . adults who go about in . . . boots"). *But cf. supra* text following note 36 (defining the "moment" at which "law" is perfected); *infra* text accompanying note 49 (defining "standards of constitutional judicial review," and noting that in the future, *all* "legal" issues will be issues of "constitutional law"); ORWELL, *supra* note 1, at 217 ("Can you not understand, Winston, that the individual is only a cell?"); LEVINAS, *supra* note 21, at 102 (emphasis added):

[T]he more I divest myself, under the traumatic effect of persecution, of my freedom . . . the more I discover myself to be RESPONSIBLE; the more just I am, the more guilty I am.

The *INABILITY TO DECLINE* indicates the *anachronism* of a *debt preceding the loan* This exigency . . . is produced in the form of an *accusation*

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preceding the fault, borne against oneself despite one's innocence. For the order of contemplation it is something simply demented The accusation that weighs on the self . . . is an exigency without consideration for oneself. . . .

. . . I am summoned as someone irreplaceable. I EXIST THROUGH THE OTHER [;]

but cf. McLuhan & Fiore, *supra* note 24, at 42 ("Nonsense!" cried Alice . . . "The idea of having the sentence first!"). But cf. Aldous Huxley, *Brave New World* 60 (Bantam Books 1946) (1932) (last emphasis added):

"I want to look at the sea in peace," [Bernard] said

. . . .

. . . "It makes me feel as though . . . I were more *me*, if you see what I mean. More on my own, not so completely a part of something else. Not just a cell in the social body. . . ."

But Lenina was crying. "It's horrible, it's horrible," she kept repeating. "And how can you talk like that about not wanting to be a part of the social body? After all, every one works for every one else. *We can't do without any one.*" [;]

watch *The Borg*, *supra* note 39 (same). Cf. Magic, *supra* note 10, at 224 (demonstrating a variation of the "Bills from Nowhere" trick); Orwell, *supra* note 1, at 239 ("Almost unconsciously he traced with his finger in the dust on the table: 2 + 2 = 5. . . . [T]hey could get inside you. . . . Something was killed in your breast; burnt out, cauterized out." (emphasis added)); Allluyeva, *supra* note 27, at 141-42 ("And over it all a wasted, obdurate man . . . who with his accomplices had turned the country into a prison, in which everyone with a breath of spirit and mind was being extinguished. . . .").

But see Confucius, *Analects*, in *The Four Books* 1, 13 (James Legge trans., Shanghai Commercial Publ. Co., 1923) (discussing the relative merits of promoting the proper mode of behavior in the private (*AiiiiyaeEEEE!*) sphere by a functional equivalent of morality (*li*), and in the public sphere by the emperor's strict law (*wang fa*):

If the people be led by laws, and uniformity sought to be given them by punishments, they will try to avoid the punishment, but have no sense of SHAME.

If they be led by virtue, and uniformity sought to be given them by the rules of propriety, they will have the sense of SHAME, and moreover will become good. [;]

See generally Alinsky, *supra* note 10, at 127 ("Wherever possible, go outside of the experience of the enemy.").

[No! No! THAT'S WRONG! "WE" CAN'T DO "IT" THAT WAY! TRUE (?), EVERYTHING IS A SOCIAL CONSTRUCT, BUT YOU CAN'T REALLY BE SUGGESTING THAT SOCIETY USE PRIVATE "VALUE JUDGMENTS" TO DEMOCRATICALLY (NOT "DEMOCRATICALLY") "DECIDE WHAT IS GOOD AND WHAT IS EVIL," *supra* note 29 (quoting Jacques Monod), AND SOCIALLY CONSTRUCT ON THAT BASIS (GASP!)? THAT WOULD BE WRONG! WRONG! WRONG! "OUR" VALUES ARE BETTER! "WE" ALL AGREE! IN VIRTUALLY EVERY ISSUE OF VIRTUALLY EVERY LAW REVIEW! THE PEOPLE'S "EDUCATION" IS NOT COMPLETE! WHAT ABOUT "DISCRIMINATION"? WHAT ABOUT "EQUALITY," AND "FREEDOM"? WHAT ABOUT "OUR" "RESPONSIBILITIES"? WHAT ABOUT HEIDEGGER, DERRIDA, AND FOUCAULT? WHAT ABOUT THE ROCKET? WHAT ABOUT "US"? AiiiiiaaiiiiiEEEEEEEE!]

See Levinas, *supra* note 21, at 104 (revealing that his vision is private: "RESPONSIBILITY IN OBSESSION IS A RESPONSIBILITY OF THE EGO FOR WHAT THE EGO HAS NOT WISHED, THAT IS, FOR THE OTHERS. . . . I EXIST THROUGH THE OTHER AND FOR THE OTHER, BUT WITHOUT THIS ALIENATION: I AM INSPIRED. THIS INSPIRATION IS THE PSYCHE." (emphasis added)); Dostoevsky, *supra* note 39, at 419 ("[W]ithout you I'm a zero." (emphasis added) (quoting Pyotr)); but cf. *supra* notes 29, 33, 38-43

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(contemplating the postmodern psyche generally); *infra* text following note 48 (defining "responsibility"); DOSTOEVSKY, *supra* note 39, at 56 ("Administrative rapture?"). Compare *id.* with HERRIGEL, *supra* note 16, at 11 (discussing zen's "constant struggle with [Man's] egohood") (emphasis added):

[W]hat [the ordinary man] should be, and how he can become it, cannot be put before him as a guiding image. It is not a different way of living, a new direction given to his everyday existence, not an image which he could bring into reality, nothing that could be achieved with consciousness and will It is something totally different, something that eludes his will and reason and can be achieved only by a *radical transformation* [not "transformation"].

and BARNEY'S IMAGINATION ISLAND, *supra* note 23, at 24 ("Good things happen when you share!" (quoting Barney)).

Have we come half-circle from Williams's "transformative goals" prescription for *constitutional law*? Or is hers only a prescription for legislation? *But see supra* (quoting Williams's recognition of her goals' lack of appeal to democratic (not "democratic") majorities); *see also* KENNEDY, *supra* note 17, at 25 ("It seems unlikely that radical intellectuals [?] will exercise significant power through *representative* democratic institutions" (emphasis added)). [HMMMMM COULD KENNEDY NOW BE SUPPORTING *INITIATIVE PETITIONS*?] Or perhaps Williams's approach is theological? A post-theological morality (*li*)? *See generally* CONRAD, *supra* note 2, at 25 ("[W]hen one comes out here . . . it is not to gaze at the moon.").

Or, in the other direction, an "interpretation" of the Universal Declaration of Human Rights? *See generally* HEINLEIN, *supra* note 5, at 73 ("The High Court reversed the United States Supreme Court"); Anne-Marie Slaughter, *A Typology of Transjudicial Communication*, 29 U. RICH. L. REV. 99, 134 (1994) ("A . . . consequence of increased transjudicial communication should be an increased *blurring of the lines* between national and international law. . . . [T]he very notion of a national versus an international legal system could begin to *dissolve*." (emphasis added)); *id.* at 136 ("The reinforcement [!] of *courts* as autonomous [!] . . . actors is a step toward the *disaggregation* of state sovereignty The fruits of such interaction . . . would emulate the form and substance of a world government" (emphasis added)); *supra* text following note 15 (defining "children"); David Weissbrodt, *Globalization of Constitutional Law and Civil Rights*, 43 J. LEGAL EDUC. 261, 262 (1993) ("My remarks are addressed to teachers who believe that the Constitution is a *living document* . . ." (emphasis added)); Statute of the International Court of Justice, art. 38(1)(d), 59 Stat. 1055, 1060 (1945) (authorizing reference to "the teachings of the *most highly qualified publicists*" in determining the rules of international law (emphasis added)); ANTHONY D'AMATO, INTERNATIONAL LAW ANTHOLOGY 104 (1994) (arguing that in international law, the authority of such academics is *personal*, going *beyond the evidence marshaled by them in support of their conclusions*) [*WHEEEEE!*]; Robert M. Jarvis & Phyllis G. Coleman, *Ranking Law Reviews: An Empirical Analysis Based on Author Prominence*, 39 ARIZ. L. REV. 15 (1997) (proffering a hierarchical ranking system based on presumptive individual Authority); STEIN, *supra* note 3, at 168 ("In America . . . I WAS MORE THAN OTHERS." (emphasis added)); *id.* at 179 ("I was very much interested in this thing."). *But cf.* Weinberg, *supra* note 29, at 15 ("Although *natural science* is *intellectually* hegemonic, in the sense that we have a clear idea of what it means for a theory to be true or false, its operations are not *socially* hegemonic — authority counts for very little." (emphasis added)); Dennis W. Arrow, *Seabeds, Sovereignty and Objective Regimes*, 7 FORDHAM INTL. L.J. 169, 205-27 (1984) (debunking the myth of nonconsensual "lawmaking regimes" in international law). [THOUGH ON THE OTHER HAND, PERHAPS THAT APPROACH MIGHT GENERATE

principle, n.: *shhhhh!* "We" 've got some; see "nihilism."⁴⁷

private, semiotic construct: public; see generally "constitutional law," "Article III," "state action": "totalitarianism."

progress, n.: "equality" (not "'equality'") and all that follows It, to Death; (*alt.*): one more fix; (*alt.*): more "pity"; (*alt.*): more pain; (*alt.*): all the above; *all variants emphatically and permanently obsolete.*

progressive, n.-adj.: see "turning back the clock."

psychosis, social construct: see generally "value judgment"; *all usages obsolete.*

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SOME UNINTENDED CONSEQUENCES. Cf. Thomas M. Franck, *The Emerging Right to Democratic Governance*, 86 AM. J. INTL. L. 46 (1992).]

The range of choices runs out pretty quickly here. [UHHHHH, RICHARD? ABOUT THAT "CHEERFUL, 'LIBERAL' USE OF THE WORD 'WE'" . . .] Compare *supra* (quoting Eugene Herrigel's discussion of zen's project for "radical transformation") and *supra* (quoting Confucius on *li*) with *supra* note 35 (quoting Mao Zedong's description of his project for "transforming" "enemies" into "new men") and BRONOWSKI & MAZLISH, *supra* note 10, at 94, 203, 364, 375, 386, 412, 463-66, 498 (describing various other projects for the manufacture of the "New Man" by "transforming" "human nature") and ORWELL, *supra* note 1, *passim* (same) and *supra* (quoting Mao discussing the utility of guns) and *supra* note 2 (quoting from Laurence Tribe's and Michael Dorf's recent work, *On Reading the Constitution*).

But see WHITMAN, *supra* note 2, at 1 (first three emphases added):

A Phantom arose before me with distrustful aspect,

Terrible in . . . age, and power,

The GENIUS of poets of old lands,

As to me directing like flame its eyes,

With finger pointing to many immortal songs,

And menacing voice, *What singest thou?* it said,

Know'st thou not there is but one theme for ever-enduring bards?

And that is the theme of War, the fortune of battles,

The making of perfect soldiers.

Be it so, then I answer'd,

I too haughty Shade also sing war, and a longer

and greater one than any

. . .

Lo, I too am come, chanting the chant of battles [.]

47. Cf. LEONARD W. LEVY, ORIGINAL INTENT AND THE FRAMERS' CONSTITUTION at xiii (1988):

In *Huckleberry Finn*, Tom and Huck set out to rescue Jim. Tom, always the romantic who remembered the adventure stories he had read, knew that the proper way to rescue a prisoner was by digging him out of his prison with a case-knife. They dug and dug for many hours, until they were dog-tired and had blistered hands, yet they had scarcely made any progress. Tom admitted that they would have to use picks "and *let on* it's case-knives." He declared that Huck, being ignorant, might use a pick without letting on, but that would not do for himself, Tom, because he knew better. "Gimme a case-knife," he ordered. Huck handed him one but Tom threw it down and said, "Gimme a *case-knife*." Huck finally caught on and handed Tom a pick; Tom took it and set to work. Huck marveled, "He was always just that particular. Full of principle." [.]

quadruplethink, *n.-v.*: only if triplethink becomes inadequate; see generally “nihilism” (providing an example).

radically democratic, *comp. adj.*: radically undemocratic; *all variants obsolete*; (*fut.*): *radidectic*.

rape, *n.-v.*: rape; (*alt.*): doing anything “we” don’t like (since it’s not a crime of sex, but *power* (but not, of course, “power”), *why limit it?*); *writing* anything “we” don’t like; *thinking* anything we don’t like; *attempting to think* anything “we” don’t like; and after “our” “theory” is perfected, *being* anyone “we” don’t like; see generally “naming ‘our’ own reality”; “Hitler”; “Stalin”; “Mao Zedong”; *all variants soon to become obsolete*.

rational-basis test, *postmodern construct*: “balancing test.”

reason, *n.-v.*: the whims of Martha Nussbaum; (*alt.*): style of argument to be pursued as far as it takes “us” (but unfortunately, that’s not far); to be trashed as necessary when “cannily” and “unselfcritically” pursued by “I”s; *all variants obsolete*.⁴⁸

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48. See *supra* note 43 (quoting Chantal Mouffe stating that postmodernism deploys “different forms of rationality” (emphasis added)); cf. Mark G. Kelman, *Trashing*, 36 STAN. L. REV. 293 (1984) (describing the most noteworthy “legal” process (oops!) of the Critical Legal Studies movement); Miller, *Stevens’ Rock* (pt. 1), *supra* note 29, at 13:

If [Wallace] Stevens is right to say that “poetry must be irrational” and that “poetry must resist the intelligence almost successfully,” then the moment when the intelligence triumphs over the poem, encompassing its *mise en abyme* with human reason, is the moment of the poem’s failure, its resolution into a rational paradigm. The *mise en abyme* must constantly begin again. . . . The poem repeatedly takes some apparently simple word . . . and . . . plac[es] it in a context of surrounding words so that it gives way beneath its multiplying contradictory meanings and reveals a chasm below . . . [.]

KRISTEVA, *supra* note 29, at 3 (“I am trying to address an ABYSS OF SORROW, A NONCOMMUNICABLE GRIEF [“HOITOR”?] that at times, and often on a long-term basis, lays claim upon us [?] to the extent of having us LOSE ALL INTEREST IN WORDS, ACTIONS, AND EVEN LIFE ITSELF.” (emphasis added)); FOX-GENOVESE, *supra* note 29, at 146 (emphasis added):

[Poststructuralist-influenced] feminists . . . have expanded the attack on logocentrism into an attack on “phallogentrism.” Thus the illusion that the human mind can identify and understand any independent reality becomes a specifically male pretention to INTELLECTUAL DOMINATION, WHICH MUST INEVITABLY END IN THE OBLITERATION OF WOMEN, and all Western thought becomes inherently “phallogentric.” IN THIS SPIRIT, *they question* the wide variety of our inherited intellectual assumptions, notably *the concept of rationality*

[IN THAT SPIRIT, IT’S DIFFICULT TO IMAGINE HOW THEY WOULDN’T. BUT MOST WOMEN DON’T SEEM TO AGREE. MIGHT THERE BE A NON-ESSENTIALIZED CHICKEN/EGG PROBLEM HERE? But cf. ORWELL, *supra* note 1, at 209 (“Shall I tell you why we have brought you here? To cure you! To make you *sane!*” (emphasis added) (quoting O’Brien)].

reasoned judgment, *postmodern construct* (invoked positively): “linear thinking” homogenized with “rhetoric”; see also “reason,” “judgment.”

“**reasoned judgment**,” *comp. n.* (invoked negatively): in law (not “law”), reasoned (not “reasoned”) judgment (not “judgment”) based on legitimate (not “legitimate”) authority (not “authority”).

reassurance, *postmodern process*: said the spider to the fly; and “you” thought “we” hadn’t learned anything from Duncan’s mau-mauing days; compare “candor” with “concealment”; (*alt.*): Neville Chamberlain’s piece of paper.

rediscovering context, *postmodern process*: “democratic history”; (*fut.*): *covercon*.

reification, *n.*: one of “our” short-term methods (and long term goals); but see “reassurance,” “children.”

religion, *n.*: *shhhhh!* (*alt.*): “power paradigm”; (*Alt.*): “self(?)-esteem”; (*alt.*): neo-“Marxism”; (*alt.*): “us”; (*alt.*): “the Rocket”; (*alt.*): “democratic breakfast”; (*alt.*): “nihilism”; (*alt.*): “Extinction” “equality,” “fun”; (*alt.*): all the above; *all variants to become obsolete*.

repetitive and cumulative incantation, *postmodern process*: assuming a will to (socially-constructed, deep-seated psychological need for?) “power,” and that “we” won’t take “no” for an answer, then without knowledge, reason, logic, even the most rudimentary empiricist secondary-consequence analysis, or traditional (not “traditional”) constitutional authority (not “legal authority”), with goals (*gasp!*) that must be concealed to “reassure” potential sources of resistance, and with fear of and loathing for self-government, *except for “cash” and “fear,” what’s “our” real alternative?* (*Fut.*): *petcant petcant petcant* [petcan?].

republican, *adj.*: see “democratic.”

republican governance, *comp. n.*: see “democratic governance.”

responsible, *adj.*: “us”; *all variants obsolete*.

responsibility, *n.*: “our” “power”; see generally “Stalin,” “Mao Zedong,” “love.”

rhetoric, *postmodern process*: Since “we” “decenter” the “uninitiated” to subliminally convince them that the words of “our” “Pomobabble” “discourse” *mean something higher than what they say* (as well as to capture language for the purpose of making thoughts “we” don’t like unthinkable and unsayable), “we” can rest assured that “our” axiological preferences will be accepted without reference to the (former?) meanings of what we are now

“our” words; untethered emotionalism homogenized with “the Rocket”; “postmodern” Newspeak; since “our” other “interpretive” “powers” are limited to “democratic history,” “repetitive and cumulative incantation,” and undifferentiated “decentering,” *and those are all subsets of “rhetoric,”* an essential linchpin in our drive for “natural law” “hegemony” through “constitutional law”; see also “Marxism,” “discourse,” “enthusiasm,” “postmodernist insights,” “Heidegger,” “Mao Zedong”; but contemplate “the Wizard.”

rich, adj. (invoked positively): see “nuanced”; (*fut.*): to be combined with “nuanced” and “textured” into “*ritenu.*”

“**rich,**” *adj.* (invoked negatively): see “I.”

right-wing, comp. adj.: anyone opposed to “good” “dominance”; see generally “adjectives” “power”; *all variants obsolete.*

romantic, adj.: see generally “sterility,” “Marxism,” “totalitarianism.”

romantic idealism, comp. n.: “messiahs” redeeming worlds; see generally “genius.”

Rorty, prop. n.: see “pragmatism” “reassurance,” “concealment”; see also “repetitive and cumulative incantation”; *the Authority* on “authority.”

sadism, human nature: *shhhhh!* See generally “masochism,” “family,” “submission” “the Rocket.”

safety, religion: now competing (?) with “postmodernism” for “dominance”; see generally “responsibility.”

science, social construct: “social science.”

science studies, comp. n.: “cultural studies” formerly over-extended white dwarf.

self, social construct: that which comes to be perceived and addressed by others; see also “subject,” “vessel”; see generally “hollowness”; contemplate echoes; all variants obsolete

self(?)-contradiction, comp. n.: for “us,” an impossibility; see generally “principle,” “doublethink,” “natural law”; (*fut.*): *seldiction.*

self(?)-esteem, postmodern construct: If you ain’t got it (“It?”), “we”’ll give it to you (but only, of course, if you *obey*); but if you’ll just submit to “our” “love” and “Authority” (“we”’ll even feed you some “democratic breakfast”!), then it’s O.K. to be ignorant, a criminal, wilfully unproductive, a vandal, parasitic, culpably giftless (except, of course, at “complex” defenestration), or (with apologies to “decentered” gen-Xers) whatever, *but only if you’re proud of it*; it’s emphatically *not* O.K., however, to be the opposites (*gasp!*) of those things if you think that makes you *bet-*

ter than those who are not; but since "we" 're right and "I"s are wrong (see "natural law," "dualities," "self(?)-contradiction," "doublethink"), notwithstanding the above, "we" 're *always* "Authorized" to assert "moral" and "interpretive" superiority over "I"s; (*alt.*): if you *need* it from "us," you've already got a one-way ticket to the launching pad (and *as always*, of course, the return ticket is *free!*); (*fut.*): *elfteem*.⁴⁹

"INTERESTING"?

49. *But cf.* Jim Killackey, *Those Boos Won't Do at OU*, THE DAILY OKLAHOMAN, Sept. 12, 1996, at 1 (quoting University of Oklahoma President David Boren's observation that booing at college football games may have an adverse impact on booed football players' self(?)-esteem, but leaving the question concerning the effect of cheering on non-cheered players' self(?)-esteem unaddressed); *supra* note 29 (contemplating entropy); *see also supra* note 9 (quoting Garrison Keillor and Barney). *But cf. supra* note 29 (quoting Friedrich Nietzsche in support of proposition that while "vanity is an atavism," low self-esteem may be well and truly earned); *but cf. ZAMYATIN, supra* note 4, at 68 (narrating D-503's thoughts: "Our gods are here below, with us, in the Bureau . . . in the toilet. The gods have become like us — ergo, we've become like gods."); *but cf. ROSEN, supra* note 29, at 176-77 (emphasis added):

[T]heory decays into interpretation. Accordingly, the impetus toward political universalism in the expurgation of error and ignorance by truth, dissipates into the empty universalism of "fairness" or "seeing the other person's point of view." *If each viewpoint defines a world, then the earlier aristocratic desire of a philosopher to become a god reappears — by way of a "negation of the negation" that lowers but does not raise to a higher level . . . [W]e are all gods. Or, as the point would have to be made in the posttheological epoch, we are all INTERESTING. [;]*

but cf. supra note 12 (noting Stanley Fish's suggestion that it may be more important to be interesting than to be correct); STEIN, *supra* note 3, at 201 ("It is interesting" (emphasis added)); Kenney, *supra* note 12, at 5 ("Any effort to prove that one side to the constitutional debate is *wrong* would not only be misguided, it would *misapprehend the nature of constitutional interpretation* in our *democratic* society." (emphasis added)); STEIN, *supra* note 3, at 76 ("Up to that time I had always been listening sometimes arguing very often just being interested and being interesting"); *supra* text accompanying notes 22, 42, 44 (defining "democratic," "pantheism," and "postmodernist insights"); STEIN, *supra* note 3, at 76 ("[S]lowly I was knowing that I was a GENIUS . . ." (emphasis added)); *but watch SHINE* (Fine Line Features 1997) (noting that we're now approaching the millennium, when *everybody* — the more mediocre (but perceivedly damaged) the better — is a "genius"); *cf. RIBOWSKY, supra* note 3, at 138-39:

So piquant were these deviations that it was as though Al [Davis] was fitting himself into an aberrant contour of the world in which he could live contentedly [O]nce inside there, his insecurities could be made to seem [?] like pieces of inscrutable genius. That was why Al Davis believed he was a genius. *He had to.* [;]

supra note 30 (perhaps suggesting that small "interpretive communities" tend to devolve into communal-ego "genius" clubs). *See also* BERTRAND RUSSELL, POWER 8 (Unwin Hyman Ltd. 1975) (1938) ("As a rule, however, the easiest way to obtain GLORY is to obtain *power* . . ." (emphasis added)); *but cf. supra* note 46 (quoting Confucius on shame); VIRGIL, *supra* note 33, at 30 (quoting Aeneas):

O lady, you alone have pitied the tragic ideal
Of Troy, and now you offer to share your home and city

- self-government**, *comp. n.*: of the “geniuses,” by the “geniuses,” and for the “geniuses”; (*alt.*): see “democratic,” “republican.”
- semiotics**, *n.*: just another “sign.”
- sensitivity**, *n.*: the inability to say “no” to “our” demands for “dominance”; see also “civility,” “New Man.”
- separation of law from morality**, *heresy*: “Our” “morality,” right?
- sequence**, *social construct*: *shhhhh!* See “decentering” “clarity,” “thinking more than one consequence ahead”; see generally “time,” “moment,” “definition,” “nihilism.”
- sexual harassment**, *comp. n.*: (*fut.*): all sexual flirtations between men and women; see also “rape”; see generally “New Man.”
- shame**, *social construct*: *Huh?*
- signs**, *n.*: words, words, words.
- since**, *conj.*: see “therefore.”
- skinheads**, *pl. n.*: postmodernists deploying “unenlightened” “natural law,” and ordinarily lacking academic appointments; but see, e.g., “Heidegger.”
- social construct**, *comp. n.*: anything “we” don’t like, and “therefore” incongruent with “natural law”; *all variants — especially that “canny” one which might “displace” “our” agenda by using the concept to suggest that private (not “private”), democratic (not “democratic”) “value judgments” create law, emphatically forbidden under penalty of crimestop, O’Brien’s apartment, or, worse yet, undeclinable admission to Brown University.*
- social justice**, *comp. n.*: “freedom” (not “freedom”), born of “love”; *all variants obsolete*; (*fut.*): **socialust.**
- social science**, *comp. n.*: political “science.”
- solidarity**, *n.*: see “social justice”; one of the results of “plasticity.”
- solipsism**, *n.*: see “narcissism”; see generally “interpretive community” “self(?)—esteem.”
- special pleading**, *comp. n.-comp. v.*: see “repetitive and cumulative incantation” “rhetoric,” “love,” “democratic,” “social justice”; *all variants obsolete*; (*fut.*): **pecing.**
- speech**, *social construct*: “our” “discourse” and “rhetoric”; *all variants soon to be incorporated into definition of “rape.”*
- spirals**, *n.*: except for the fact (?) that they can be three-dimensional, they’re *almost* as good as “circles” (or are “we” being “canny” here?); see generally “pragmatism.”

THE LADY WITH THE SWORD?

With us, the remnant of Troy — men utterly spent by
Every disaster on land and sea, deprived of everything.

⋮⋮⋮
Your name, your fame, your glory shall perish not from the land
Wherever I am summoned to go [.]

SS, social construct: see generally “love” “sensitivity.”

Stalin, social construct: see “love” “democracy”; see generally “democratic republic.”

standards of constitutional judicial review, comp. n.: along with the Constitution’s “text,” medieval technicalities, methodological obsessions, and generally degenerate; to be ultimately “transformed” into a sliding-scale ad hoc balancing test, which will apply “natural law” to all constitutional issues (which all issues in the future will of course be); *all variant uses to become obsolete, although rational-basis “Lochnerizing” is temporarily “authorized,” provided of course that its results are consistent with “natural law” as determined by “legal authority.”*

state action, social construct: everything; see generally “private,” “children”; *all variants obsolete.*

sterile, adj.: anything *not* affecting political “power”; *all variants obsolete.*⁵⁰

strength, n.: ignorance (but whose?).

ROMANCE?

50. *But cf.* L’HEUREUX, *supra* note 10, at 51 (describing the viewpoint of the fools: “What about romance? What about fun, for God’s sake?”); *but cf.* ZAMYATIN, *supra* note 3, at 21 (“‘Love and hunger rule the world.’ *Ergo:* To rule the world, man has got to rule the rulers of the world.”); MANN, *supra* note 2, at 248 (“Thou maist not love.” (quoting you-know-who)); DAVID SHAW, *THE PLEASURE POLICE* (1995); LODGE, *supra* note 46, at 270 (“The Neo-platonists assumed there was no sex in heaven”); PYNCHON, *supra* note 2, at 114:

They are stripping from me, [Oedipa] said subvocally — feeling like a fluttering curtain in a very high window, moving up to then out over the abyss — they are stripping away, one by one, my men. My shrink . . . has gone mad; my husband . . . gropes like a child further and further into the rooms and endless rooms of the elaborate candy house of himself [;]

id. at 83:

“The pin I’m wearing means I’m a member of the IA. That’s Inamorati Anonymous. An inamorato is somebody in love. That’s the worst addiction of all.”

“Somebody is about to fall in love,” Oedipa said, “you go sit with them, or something?”

“Right. The whole idea is to get where you don’t need it. I was lucky. I kicked it young.” [;]

Jane Gross, *In New Yorker Libel Trial, The Analyst Is Examined*, N.Y. TIMES, May 11, 1993, at A12 (discussing the libel suit brought by a former curator of the Freud Archives: “Jeffrey M. Masson said today that his interest in psychoanalysis was born when he turned to therapy as a young man because he had regarded his ‘promiscuity as an illness’ that he wanted to cure. . . . ‘I was not able to fall in love,’ Mr. Masson said he told the analyst.”); *but cf.* DOSTOEVSKY, *supra* note 39, at 63 (“You must stand ‘as an example and a reproach,’ [Varvara] says.”). *But hear* RICHARD WAGNER, *DIE WALKÜRE* act 3 (1870) (noting Brünnhilde’s axiological preference for love (not “love”) over the Ring); *cf.* STEIN, *supra* note 3, at 268 (“The City of Oklahoma pleased me . . . the men were very big men and they were all very different from the Texans”); L’HEUREUX, *supra* note 10, at 152

IDEALISM?

("Maddy . . . had definitely gone for the suspenders and he *did* look good in them."); STEIN, *supra* note 3, at 103:

Bernard Fay was a French college professor only like so many Frenchmen the contact with Americans during the war made the romance for them. French people living so completely the life of Frenchmen have always needed something exotic to make a relief for them

The French felt themselves such an old worn out people and here was something so different [.]

but cf. L'HEUREUX, *supra* note 10, at 39-40 ("'Don't,' he said, brushing her hand from his brow. 'Poor puppy,' she said and nibbled at his ear. 'Don't,' he said. And then, pitifully, 'I love Foucault [W]hy can't I be in your seminar?'" (emphasis added) (quoting dialogue between Peeks and Olga)); MANN, *supra* note 2, at 218 (narrating Zeitblom's thoughts: "'How beautiful!' the heart said to itself — mine at least said so — 'and how sad!'"); *but cf.* KRISTEVA, *supra* note 29, at 6 ("Nevertheless, melancholia is not French."); *but cf.* L'HEUREUX, *supra* note 10, at 72:

[Olga] wrote a second novel, *The Death of the Patriarch* . . . as a kind of homage to Foucault, who had provided her with so much good material

This novel too was a tidy little parable, with much to say about the connections between writing and [D]eath Olga had become a figure now . . . and, in France at least, [it] sold well. [.]

But hear ELLA FITZGERALD, *The Man I Love*, on BEST OF THE GERSHWIN SONGBOOK (PolyGram Records 1996); ELLA FITZGERALD, *They Can't Take That Away from Me*, *on id.*; *but cf.* Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1, 189 (1824) ("The subject to be regulated is commerce [and] to ascertain the extent of the power, it becomes necessary to *settle* the meaning of the word. . . . Commerce, undoubtedly, is traffic, but it is something more: it is *intercourse*." (emphasis added)); Gleick, *supra* note 23, at 32 ("In order to be a member of that Kingdom, one had to overcome his humanness, which included his sexuality." (quoting a former Heaven's Gate member)); ORWELL, *supra* note 1, at 20 (similar, quoting O'Brien); Symposium, *The Sex Panic: Women, Censorship and "Pornography"*, 38 N.Y.L. SCH. L. REV. 1 (1993); *supra* text accompanying note 47 (defining "rape"); *supra* text following note 49 (defining "sexual harassment"); L'HEUREUX, *supra* note 10, at 95-98:

Conception confessed everything [about her attempted "rape" of Tortorisi (Or was it the other way around? *See id.* at 91-92.)] to her cell of post-Christian feminists. . . .

She concluded: "I have strayed from the path of female righteousness, but I am lifted up in my sisterhood and made whole once again. Deliver us all from the curse of the penis and the arrow that flies by night."

"Amen," they said

She rose and they embraced each other and then, silently, as from a church, they all took their leave. [.]

See also MANN, *supra* note 2, at 10 (narrating Zeitblom's thoughts: "Helene . . . my excellent wife I will confess that the . . . *name* . . . Helene, those beloved *syllables*, played not the least considerable role in my choice. Such a name means a *consecration*, to its pure *enchantment* one cannot fail to respond Today my two young sons serve their Führer" (emphasis added)); DELILLO, *supra* note 14, at 88 (quoting dialogue between Tweedy and J.A.K.):

"God . . . we were good together."

"Good at what?"

"Fool, you're supposed to look at me in a fond and nostalgic way, smiling ruefully."

"You wore gloves to bed."

"I still do."

 LOVE?

"Gloves, eyeshades, and socks."

"You know my flaws. You always did. I'm ultrasensitive to many things."

"Sunlight, air, food, water, sex."

"Carcinogenic, every one of them."

"What's the family business in Boston all about?" [;]

L'HEUREUX, *supra* note 10, at 36 ("Deep down she suspected that sex was not what she wanted at all. . . . She wanted to be PERFECT and she wanted the world to ACKNOWLEDGE it. At once." (emphasis added)); *With Bo and Peep, A Chore Every Twelve Beeps*, TIME, Apr. 7, 1997, at 41, 41 ("Gloves are worn at all times." (quoting a 1979 *Time* story about Marshall Applewhite's followers)); Gleick, *supra* note 23, at 33 (noting that the Heaven's Gaters requested nonmembers to wear sterile surgical slippers while in their "monastery").

Hear PETER I. TCHAIKOVSKY, *Romeo and Juliet*, on SYMPHONY No. 4 & ROMEO & JULIET (Sony Music 1994) (1870); *but cf.* ORWELL, *supra* note 1, at 300 ("He loved Big Brother."); FOUCAULT, *supra* note 42, at 170-94 (discussing "the means of correct training"). *But cf.* BLYTH, *supra* note 21, at 28 (discussing the *zen* observation that "only when you neither love nor hate does it appear in all clarity"); DISKI, *supra* note 29, at 164 ("*I have no real feeling . . .*" (emphasis added) (quoting Rachel)); *but cf.* KEROUAC, *supra* note 29, at 188 ("He no longer cared about anything . . . but now he also cared about everything in principle . . ." (emphasis deleted)); CONRAD, *supra* note 2, at 47 ("Ah, [Kurtz] talked to you of love! I said, much amused. 'It isn't what you think,' he cried, almost passionately. 'It was in general.'" (emphasis added) (quoting dialogue between Marlow and the Harlequin)); DOSTOEVSKY, *supra* note 39, at 22 (contemplating Varvara's thoughts: "[H]e REPRESENTED an IDEA." (emphasis added); *id.* at 404-05 ("Mr. Shigalyov is somewhat of a fanatic in his love of mankind . . ." (emphasis added)); *but cf.* KEN FOLLETT, THE MAN FROM ST. PETERSBURG 7 (1982) ("One can't love humanity. One can only love people." (quoting Graham Greene)).

But cf. DISKI, *supra* note 29, at 239 (describing Rachel's reaction to Joshua's phone call):

First of all Rachel laughed; it was quite funny, or at any rate in the context of a normal relationship it would have been funny. Long-distance sex — a new kind of intimacy for an erotically charged couple who couldn't be together. That wasn't what they were about though, and there wasn't an ounce of humour in his voice. In the terms of their relationship she thought it more an act of contempt than anything; he didn't even need her physical presence Sexual minimalism, post-modernist fucking, a relationship with narrative.

[;]

L'HEUREUX, *supra* note 10, at 154 ("Finally Concepcion brushed away her tears and leaned forward, enticing in her warmth and her longing, and said in a voice of embarrassing intimacy, 'Tell me, Betz. Do you read Roland Barthes? . . . I'll loan you my personal copy . . . It's very special.'"); STEIN, *supra* note 3, at 65 ("We had the telephone."); PYNCHON, *supra* note 24, at 768 ("So she's only been talking . . . about a common friend. Is this how the Vacuum feels?"); MANN, *supra* note 2, at 218 (narrating Zeitblom's thoughts: "[A]dmiration and sadness, admiration and doubt, is that not almost the definition of love?" (emphasis added)); CHAYEFSKY, *supra* note 29, at 27-28 ("Everyday life has no reality for you at all. I don't have any reality for you You have to have some great immutable truth That's it, isn't it? I'm in love with an unfrocked priest, a renegade monk I'm never going to be anything more to you than a distraction." (quoting Emily, addressing Jessup)); NABOKOV, *supra* note 29, at 233:

[Y]oung [Chernyshevsky's] dreams in connection with love and friendship are not distinguished for their refinement . . . he was able to bend the silliest daydream into a logical horseshoe. Musing in detail over the fact that

 ANGLES?

Lobodovski, whom he sincerely admires, is developing tuberculosis, and that in consequence Nadezhda Yegorovna will remain a young widow, helpless and destitute, he pursues a particular aim. He needs a dummy image in order to justify falling in love with her, so he substitutes for it the urge to assist a poor woman, or in other words sets his love on a utilitarian foundation. [;]

WAGNER, *supra*, act 2 (noting how Alberich, whose Faustian pact had foreclosed his ability to love, acquired the wife who would bear Hagen, Alberich's son); NABOKOV, *supra* note 29, at 241:

Before us is [Chernyshevsky's] "Diary of my Relations with Her Who now Constitutes my Happiness." . . . The maker of the report draws up a project for declaring his love . . . with points for and against marriage (he feared, for example, lest his restive spouse should . . . wear male dress — in the manner of George Sand [who greatly influenced Chernyshevsky's writing]) and with an estimate of expenses when married, which contains absolutely everything [;]

DOSTOEVSKY, *supra* note 2, at 125 ("I was no longer able to love, because . . . for me to love meant to tyrannize and to preponderize morally." (quoting the underground man)); Frank, *supra* note 29, at 74 ("[In *What Is to Be Done?*,] Lopukhov can think of nothing better to do than hand Vera over on a silver platter: strict egoism impels this move"); *id.* at 77:

[T]he tranquil *dénouement* of Chernyshevsky's complicated love knot is clearly intended to form the sharpest contrast with Turgenev's treatment of a similar theme. Turgenev, with unerring artistic aim, had revealed the human limitations of Bazarov's ideology by causing him to fall in love. There is no place in Bazarov's materialism for the complicated torments . . . that Bazarov's love makes him feel for the first time Such trifles no longer present any problems for the "new people" [;]

See also ALLILUYEVA, *supra* note 23, at 144 ("The illiterate phrase itself only bespoke the Party's inability and unwillingness to disclose the corrupt foundations of the whole system, so contrary and inimical to democracy. Not political interpretations but *life itself*, with its unexpected paradoxes, helped me to understand the truth." (emphasis added)); Pevear, *supra* note 10, at xv ("[W]hat [Dostoevsky's] narrator comes in the end to call 'living life.'" (emphasis added)); *but cf.* WURTZEL, *supra* note 10, at 245 (emphasis deleted):

At times he relished the idea of being my personal Jesus, of setting up a safe haven for me [H]e would bring me toast and tea and tell me he loved me and ask me to talk to him about my pain. He liked the idea of salvation. His mother was a high-maintenance hysteric, his younger sister was . . . a preadolescent psychotic, and Rafe's natural role in life was as caretaker.

. . . Throughout the ages, troubled individuals . . . have mated themselves to people who groove on their pain F. Scott will always recognize his Zelda; Samson will always fall for Delilah; and Jason would wed Medea all over again [;]

L'HEUREUX, *supra* note 10, at 38 ("She . . . [saw] Robbie . . . sink to his knees and Cynthia crouch down to support . . . him. Not altogether unlike the Pieta. Irony, Olga told herself, was the stuff of life."); ABBOTT, *supra* note 12, at 33 ("[O]ur whole social system is based on Regularity, or Equality of ANGLES." (emphasis added)); *supra* text accompanying note 40 (defining "Michel Foucault"); *supra* note 39 (contemplating chains, and wrists); *supra* note 29 (contemplating feet). *But cf.* ORWELL, *supra* note 1, at 110-11 ("At the sight of the words *I love you* the desire to stay alive had welled up in him"); FARINA, *supra* note 7, at 173 ("'Pappadopoulis, in fact,' he lowered his voice and raised a hushing finger like Toscanini, 'is in love.'" (quoting Gnosso [Pappadopoulis])); *id.* at 175 ("Order from chaos, babies. Art, if you dig." (quoting Gnosso)); *hear* RICHARD WAGNER, *Bridal Chorus, on WAGNER: LOHENGRIN* (London Records 1989) (1850); *cf.*

LIBERATION?

WHITMAN, *supra* note 2, at 18 (“I will make the songs of passion to give them their way . . .” (emphasis added)); hear ALEKSANDR BORODIN, *Prince Igor: Polovitsian Dance No. 17*, on BORODIN: SYMPHONY No. 2 (BMG Records 1991) (1889); cf. BROOKS, *supra* note 10, at 182 (“[Whitman] wished to reclaim sexuality from the tongues and pens of blackguards . . . He was in reaction . . . against the contempt of the body . . . expressed by the ascetic religions for the natural man.”); CHAYEFSEY, *supra* note 29, at 176-82 (noting Jessup’s final “transformation”). See also BOOTH, *supra* note 12, at xiv (“[E]ven the most unconscious and Dionysian of writers succeeds only if he makes us join in the dance.”); hear MARTHA & THE VANDELLAS, *Dancing in the Street* (Motown Records 1964); THE VELVET UNDERGROUND, *supra* note 29 (“[T]he people are dancin’ and they’re havin’ such fun: I wish it could happen to me!”); cf. STEIN, *supra* note 3, at 201-02:

I had no idea that [the lights] would throw such a beautiful dark gray light on the city at night but they do . . . The lighting of the buildings in Chicago is very interesting and then I liked the advertisement for dancing that they had at the end of the beginning of everything they had a room and figures dancing solemnly dancing and in the daytime it was the daytime and at night it was nighttime and I never tired of seeing them, the sombre gray light on the buildings and the simple solemn mechanical figures dancing, there were other things that I liked but I liked that the most. [;]

id. at 55 (“I never get over the fact that you are very likely to know everybody a long time and the difference between knowing them a long time and not knowing them at all is really nothing.” (emphasis added)); hear FREDERIC CHOPIN, *Waltz in D-Flat Major*, on CHOPIN: WALTZES (London Records 1986) (1835); cf. PYNCHON, *supra* note 24, at 772 (“Feedback, smile-to-smile, adjustments, waverings: what it damps out to is *we will never know each other.*”); RIBOWSKY, *supra* note 3, at 238 (“He doesn’t have anything else, you know. His life is entirely the Raiders.” (quoting John Madden on Al Davis)).

See also *supra* note 42 (noting Joan Williams’s recognition that her “transformative” “New Man” agenda is unlikely to be popular); FOX-GENOVESE, *supra* note 29, *passim* (advancing a forthright feminist [remember when it was named “women’s liberation”?] “critique” of individualism); watch NETWORK (United Artists 1976) (discussing network president Arthur Jensen’s persuasive advice to newscaster Howard Beale that “dehumanization is not such a bad word”); GLEICK, *supra* note 23, at 32 (“These [Heaven’s Gate followers] . . . followed suicide . . . in a very positive way . . . They define [D]eath . . . as life itself.” (quoting James Tabor)); watch *Special Report: Heaven’s Gate* (NBC network television broadcast, Mar. 27, 1997) (“Can it be that they had lost their individuality? They all dressed alike . . . They all looked alike . . . Did they figure out that in America, the best way to get lost is in a crowd?” (quoting a reporter on Heaven’s Gate members)); *supra* note 30 (“Go away — hide yourself.” (quoting Kurtz)); ZAMYATIN, *supra* note 4, at 124 (“We comes from God, I from the Devil.”); but watch NETWORK, *supra* (discussing the free-fall in Beale’s ratings after his announcement on the evening news that “[t]he individual is finished”); cf. WHITMAN, *supra* note 2, at 1 (“One’s-self, I sing, a simple separate person, Yet utter the word *Democratic* . . .” (emphasis added)); *supra* note 31 (discussing “the spirit of Man”); ROGERS, *supra* note 33, at 6 (“You really can’t love someone else unless you really love yourself first.” (emphasis added)); but cf. FARIÑA, *supra* note 7, at 21 (“*Beatra Pappadopoulis, semper virgini*” (quoting Gnosso)); CONRAD, *supra* note 2, at 21 (“WHAT REDEEMS IT IS THE IDEA ONLY . . . and [a] . . . belief in the IDEA — something you can set up, AND BOW DOWN BEFORE, AND OFFER A SACRIFICE TO” (emphasis added) (quoting Marlow)); but cf. DOSTOEVSKY, *supra* note 39, at 558 (“[I]t was not you who ate the idea, but the idea that ate you”); GLEICK, *supra* note 23, at 31 (noting that the dead Heaven’s Gate members’ “faces were

 SUBVERSION?

hidden by purple cloths, shrouds the purple of Christian penance"); Frank, *supra* note 29, at 83 (emphasis added):

The ideal of the disciplined . . . revolutionary, coldly utilitarian and even cruel to himself and others, but warmed by a love for mankind . . . the IRON-WILLED leader who *sacrifices his private life to the revolution*, and who, *since he looks on himself only as an instrument ["vehicle"?) feels free to use others in the same way* — in short, the Bolshevik mentality . . . steps right out of the pages of *What Is to Be Done?* [.]

. . .

See also ALINSKY, *supra* note 28, at 75 ("A sense of humor is incompatible with the complete acceptance of any dogma, any . . . political . . . prescription for salvation."); Sherwin, *supra* note 29, at 197 (perhaps implying that Cass Sunstein's projected hypersensitivity could benefit from a leavening with an enhanced sense of humor, but noting that "modern legal scholarship is not much inclined to levity"); Milner S. Ball, *The City of Unger*, 81 Nw. U. L. REV. 625, 626 ("The substance [Roberto Unger's] *Politics* offers is milk and honey processed into an unpalatable powder, freeze-dried by . . . the humorless demands of space travel."); hear GUSTAV HOLST, *Mars, on HOLST: THE PLANETS* (Virgin Classics 1995) (1918); cf. HEINLEIN, *supra* note 10, at 297 ("On Mars there is *never* anything to laugh at. All the things that are funny to us humans either cannot happen on Mars or are not permitted to happen . . . 'Freedom' doesn't exist on Mars; everything is planned by the Old Ones . . ."); *supra* note 29 (quoting an article by Richard Delgado and Jean Stefancic explaining what is Authorized to be PERCEIVED as funny in the '90s, and why). Compare ALINSKY, *supra* note 10, at 128 ("*Ridicule is man's most potent weapon.*") with *supra* text accompanying note 34 (defining heresy) and *supra* text accompanying note 19 (defining "crimestop").

Having over the years written literally dozens of books and articles, Delgado clearly knows just about everything already, so he can afford to branch out into the final frontier of potential human knowledge. See CRITICAL WHITE STUDIES: LOOKING BEHIND THE MIRROR (Richard Delgado & Jean Stefancic eds., 1997). So being as encyclopedic as he is, *why the fear of criticism? Why the crimestop?* Could he, too, not benefit from the advice that he and Stefancic offer in that book, which "invites whites . . . to 'look behind the mirror.'"? Under Delgado's own "theory" [unless, of course, I don't "get it," see generally L'HEUREUX, *supra* note 10, at 228], I'm allowed to challenge him, see *supra* note 20, as are some others, see, e.g., *supra* note 29 (characterizing a small portion of Alfredo Mirandé's critique (not "critique")). But given Foucault *Flakes'* tender mercies and the high-order Orwellian power arrogated by "crimestoppers," see generally Marjorie Heins, *A Public University's Response to Students' Removal of an Art Exhibit*, 38 N.Y.L. SCH. L. REV. 201 (1993) (describing spring 1992 events at the University of Michigan Law School involving Catharine MacKinnon and Andrea Dworkin); watch ALICE, *supra* note 14 ("*Silence!*" (quoting the Red Queen)), should not resistance by "crimestoppees" be privileged per se? Aren't our own (as in "our — all of our") self-awareness, intellectual acuity, and consequential effectiveness of the *real* (as opposed to intramural shadow-boxing) advocacy we engage in on behalf of issues in which we believe *enhanced* by vigorous criticism? And who knows? Even a thinker as brilliant as Delgado might be wrong (*gasp!*)! See generally Lacayo, *supra* note 23, at 46 (emphasis added):

In Gustave Flaubert's story *A Simple Heart*, an old French woman pines for a beloved nephew, a sailor who has disappeared in Cuba. Later she acquires a parrot. Because it comes from the Americas, it reminds her of him. When the parrot dies, she has it stuffed and set in her room among her items of religious veneration. On her deathbed, she has a vision of heaven. The clouds part to reveal an enormous parrot.

strict scrutiny, postmodern construct: see "standards of constitutional judicial review"; "rational-basis test."

structure, social construct: see "illusion."

subject, n.: "us," "we"; (*fut.*): "you."

LIVING LIFE?

The lessons there for Heaven's Gate? The religious impulse sometimes thrives on false sentiment, emotional need and cultural fluff. In its search for MEANING, the mind is apt to go down some wrong paths and to mistake its own reflection for the face of God. [.]

Have so many become so *fragile*? What kind of agenda — and *citizenry* — craves so much shelter and validation? Hear CLAUDE DEBUSSY, *Prelude to the Afternoon of a Faun*, on DEBUSSY: LA MER (Sony Music Entertainment Inc. 1994) (1894); cf. Thomas, *supra* note 19, at 32 ("[Do had] a total childlike innocence in his eyes."); Lacayo, *supra* note 23, at 45 ("It's Bambi in a tunic."). See also Gleick, *supra* note 23, at 33 (noting that the Heaven's Gaters apparently weren't moved by jokes about Jonestown before their Apocalypse); L'HEUREUX, *supra* note 10, at 156 ("[M]ost maddening of all, the sound of laughter."); hear THE DOORS, *The End*, *supra* note 29 ("This is the end, my only friend, the end. . . . The end of laughter . . ."). But cf. HEINLEIN, *supra* note 5, at 143 ("[M]an is the animal that laughs at himself." (quoting Jubal)); Pevear, *supra* note 10, at ix ("Laughter creates the distance that allows for recognition."); compare Eco, *supra* note 29, at 414 ("He told me . . . truly It had the power of a thousand scorpions." (alterations in original) (quoting the dying Malachi)) with *supra* text accompanying note 48 (defining "repetitive and cumulative incantation") and *infra* note 51 (discussing *The House That Jack Built*); cf. Eco, *supra* note 29, at 468 (emphasis added) (quoting from the last manuscript of the lost second book of Aristotle's *Poetics*, before it perished with Jorge):

[A]lone among the animals — man is capable of laughter. We will . . . examine the means by which comedy excites laughter, and these means are actions and speech. WE WILL SHOW HOW THE RIDICULOUSNESS OF ACTIONS IS BORN FROM . . . AROUSING SURPRISE THROUGH DECEIT, FROM THE IMPOSSIBLE . . . FROM THE DEBASING OF THE CHARACTERS . . . FROM THE USE OF . . . VULGAR PANTOMIME, FROM DISHARMONY, FROM THE CHOICE OF THE LEAST WORTHY THINGS. WE WILL THEN SHOW HOW THE RIDICULOUSNESS OF SPEECH IS BORN FROM THE MISUNDERSTANDING OF SIMILAR WORDS FOR DIFFERENT THINGS AND DIFFERENT WORDS FOR SIMILAR THINGS, FROM GARRULITY AND REPETITION, FROM PLAY ON WORDS . . . FROM ERRORS OF PRONUNCIATION, AND FROM BARBARISMS. [.]

compare Dobereiner, *supra* note 29, at 33:

Let us go back to those original definitions of man and see how our modern pro golfers measure up.

The power of reason. Apart from Jack Nicklaus, and to a lesser degree Tom Watson, this faculty seems to be disappearing.

Sense of humor. Totally vanished from the world of golf except for Lee Trevino.

Ability to speak. . . .

On the golf course the players communicate in grunts.

with PATTERSON & LINDEN, *supra* note 37, at 139-45 (contemplating the sense of humor of Koko, a living (not "living") lowland gorilla).

See generally PYNCHON, *supra* note 24, at 768 ("Once . . . [Katje] would have been laughing *politically*, in response to a power-predicament, because there might be nothing else to do."); McFADDEN, *supra* note 29, at 13 ("Nobody could call Kate humorless. She never missed *Doonesbury* or *The Now People* . . .").

subjectivity, postmodern process: objectivity; see generally “epistemology,” “natural law.”⁵¹

MIRRORS?

51. ARYEH BOTWINK, *POSTMODERNISM AND DEMOCRATIC THEORY* at xii (1993) (“[F]ormulations of skepticism can legitimately be skeptical of everything but their own tenets.”); Hasselriis & Watson, *supra* note 43, at 29 (“If [cute?] we [?] know [?] from language theorists [“theorists”?] that when students read and listen they are *constructing* (not reconstructing) *meaning*, then it is basic [oops!] that we . . . *reject* [tests] . . . that demand a . . . replay of the *speaker’s* or author’s *message*[, and] place students in situations in which they can *construct meaning from meaningful* [“meaningful”?] *discourse* [“discourse”?]” (emphasis added)); *but cf. supra* note 46 (quoting Copi & Cohen, *supra* note 29, on truth value of conditional propositions); *id.* (contemplating Richard Rorty); *but cf. supra* note 42 (contemplating “natural law”); *supra* text accompanying note 29 (defining “education”); *supra* text accompanying note 15 (defining “children”).

But cf. James C. Boyle, *Is Subjectivity Possible? The Post-Modern Subject in Legal Theory*, 62 U. COLO. L. REV. 489, 489 (1991) (“[C]ritical legal theory in particular . . . has concentrated too much on critiques of objectivity, wrongly assuming that “subjectivity” was an unproblematic term This article reverses the focus, concentrating on the *construction* [AIIIIYAIEEEEE!] of subjectivity in law and social theory.” (emphasis added)); Fish, *Consequences*, *supra* note 29, at 110:

Theory . . . will never succeed . . . because the primary data and formal laws necessary to its success will always be spied or picked out from within the contextual circumstances of which they are supposedly independent. The objective facts and rules of calculation that are to ground interpretation and render it principled are themselves interpretive products: they are, therefore, always and already contaminated by the interested judgments they claim to transcend. [;]

FISH, *supra* note 12, at 173 (“[Y]ou will agree with me . . . only if you already agree with me.”); HEINLEIN, *supra* note 5, at 15 (“[T]alking with a Martian is like talking with an echo.”); *With Bo and Peep*, *supra* note 50, at 41 (“During one three-month phase, [Heaven’s Gate] members constantly wore hoods over their heads, and peered out through mirrored eye slits.”); WARHOL, *supra* note 29, at 7 (“People are always calling me a mirror and if a mirror looks into a mirror, what is there to see?”); VIRGIL, *supra* note 33, at 126 (“*These words: then he vanished, like a wisp of smoke, into thin air.*” (emphasis added) (quoting Anchises’s figure)); Miller, *Stevens’ Rock* (pt. 1), *supra* note 29, at 14 (“‘The House That Jack Built’ turns back on itself, a snake with a tail in its mouth, or a snake almost succeeding in getting its tail in its mouth.”).

See *MEZZATEXT* (perhaps demonstrating that *anybody* can ask questions); *but watch* 20/20 (ABC network television broadcast, Mar. 28, 1997) (running a film of a reporter being shouted down at a feminist rally at Brown University for asking the *wrong* questions); *cf.* HELLER, *supra* note 46, at 79:

“Now suppose you answer my question,” [said the colonel].

“But how can I answer it?”

“That’s another question you’re asking me.”

“I’m sorry, sir. But I don’t know how to answer it. I never said you couldn’t punish me.”

“Now you’re telling us when you did say it. I’m asking you to tell us when you did say it.”

Cleavinger took a deep breath. “I always didn’t say you couldn’t punish me, sir.”

“That’s much better, Mr. Cleavinger, even though it is a barefaced lie.” [;]

LODGE, *supra* note 14, at 12 (ellipses in original):

- submission**, *immutable component of human nature*: “vanity.”
- subversive**, *n.-adj.*: [You’re going to talk about “us” here, right? Aren’t you? AREN’T YOU? Puhleeeeeeeze!!! “Adjectives” “power”!]. See generally “canny” “quadruplethink” “framing.”
- suicide**, *postmodern process*: “We” also offer the installment plan.
- sunshine**, *social construct*: empirical rivets, and the answer to “our” subtexual cry (though “we” may dimly suspect what the consequences to “us” — *as “us”* — will be).
- supplementarity**, *postmodern process*: adding on what “we” need to enhance “our” “richly” “textured” and “nuanced” “critiques,” but only if we can simultaneously subtract what “we” don’t; see also “intertextuality.”⁵²
- tears**, *pl. n.*: “reason,” “life.”
- tenure**, *postmodern process*: see “crimestop.”
- text**, *n.*: whatever “we” want it to be.
- textured**, *adj.*: see “nuanced”; *all variants obsolete; (fut.)*: to be combined with “rich” (not “‘rich’”) and “nuanced” into “ritenu.”

“CRITIQUE”?

A colleague had once declared that Philip ought to publish his examination papers. The suggestion had been intended as a sneer, but Philip had been rather taken with the idea — seeing in it, for a few dizzy hours, a heaven-sent solution to his professional barrenness. He visualized a critical work of totally revolutionary form, a concise, comprehensive survey of English literature consisting entirely of questions, elegantly printed with acres of white paper between them, questions that would be miracles of condensation, eloquence and thoughtfulness, questions to read and re-read, questions to brood over, as pregnant and enigmatic as *haikus*, as memorable as proverbs; questions that would, so to speak, contain within themselves the ghostly, subtly suggested embryos of their own answers. *Collected Literary Questions*, by Philip Swallow. A book to be compared with Pascal’s *Pensées* or Wittgenstein’s *Philosophical Investigations* [.]

52. Compare Betsy Wing, *Translator’s Note* to CIXOUS & CLÉMENT, *supra* note 21, at v (“Clément and Cixous consistently take what they need from a body of knowledge . . . and make it serve their own purposes.”) and *supra* note 21 (“I just . . . [a]dd on what I need”) (quoting Thomas Pynchon quoting Mucho) and *supra* notes 24, 39 (discussing Derrida’s “tree”) with TOLSTOY, *supra* note 12, at 133 (“For a country peasant of unperverted taste this is as easy as it is for an animal of unspoiled scent to follow the trace he needs among a thousand others in wood or forest. The animal unerringly finds what it needs.”) and SCHLOEGEL, *supra* note 16, at 55 (“Master Rinzai was fond of asking: ‘What, at this moment, is lacking?’”). See generally BENJAMIN, *supra* note 22, at 465 (second emphasis added):

Untidy child. — Each stone he finds . . . and every single thing he owns makes up one great collection. . . . [Y]ears pass in which his vision is free of people. . . . His dresser drawers must become arsenal and zoo, crime museum and crypt. “To tidy up” would be to demolish an edifice full of prickly chestnuts that are spiky clubs, tinfoil that is hoarded silver, bricks that are coffins, cacti that are totem poles, and copper pennies that are shields [I]N HIS OWN DOMAIN HE IS STILL A SPORADIC WARLIKE VISITOR.

the BIG lie, postmodern practice: Tough choice! "Dualities?" "Antifoundationalism?" The "sign" "*postmodernism*" itself? Suggestions?

the Comet, sign (not "sign"): It was *not a star*.

the Cultural Revolution, nostalgic "moment": The "complexity"! How "rich," "textured," and "nuanced"! Those mass marches! Those uniforms! That rhetoric! The *romance!* The *Art!* The *POSE!*

the Emperor, deity: buck naked.

theory, n.: "emotion" homogenized with "democratic breakfast," "love," "rhetoric," and "natural law" "instrumentalism"; but maybe if we "repetitively and cumulatively incant" "theory" enough "times," the "uninitiated" will think it means *theory*, and "we"ll gain not only "power," but unearned academic "self(?)-esteem"; see generally "the Wizard"; *all variants obsolete*.

the new academic freedom, paranoid construct: I was attending an AALS meeting in San Francisco. As usual, it had been raining. I had returned to my room after attending a session staged by the Section on Theory and Discourse. The topic had been "Tchaikovsky's Fifth, Che Guevara, Phoebe Snow." Since I hadn't read the program notes, I'd gone in unprepared. I could only utter a few trite comments about Weather Report, Aristotle, and Benjamin Franklin. But the rest of the attendees (apart from being famous) were obviously much brighter than I, and being sensitive to such things, I could tell that my comments hadn't been well-received. I'd felt marginalized during the mind-melding meditation at the climax.

I heard what sounded like four galloping boots in the corridor outside my room. The boots stopped. I heard a knuckle-rapping, a tap-tap-tapping at my door. The door opened before I could say "*Entrez.*" The Chair of the Section on Hegemony and Dominance came in, framed by the gloom of the room.

Its boots were well polished but well worn. At the top of its back, between the signs of what appeared to be a muted trumpet and a Rocket, was an elaborately-carved Gothic letter. It appeared to be an "H," or a "K," but I couldn't be certain in the dark gray illumination.

Though it had looked far more imposing when I'd seen it on TV, it was not physically impressive, Being in fact rather small. It beckoned to me with one of its long, spidery arms with thin, bony wrists. "We'd like to see you before our afternoon session," it

murmured. "We'll be meeting in Room 101." As it trotted away, the hallway seemed to echo the faint cry: "Milk below."

I knew I'd humiliated myself at the morning meeting, and that I richly deserved whatever I was about to get. I cast off my Aloha shirt, and retrieved a nondescript suit from my closet. I added a French-cuffed shirt and some steel cufflinks for effect. I parted my hair perfectly, gulped down a glass of water, and resisted the temptation to have a cigarette. In fear, and trembling, I prepared to go downstairs to submit.

the People's Temple, social construct: see "complex" "power paradigm" "love"; see generally "democratic history"; *all variants obsolete.*

the Pose, postmodern artistic construct: the flame for postmodern moths; the pretext (but *esse est percipi, n'est ce pas?*) of a self.

therapy, n.: definitely, but only with consent (not "consent"): think *and* feel love (not "love").

therefore, postmodern construct: Maybe it's got something to do with it. On the other hand, maybe it doesn't. On the other hand, (*alt.*): related to but different from; (*fut.*): **Do.**

the Rocket, sign (not "sign"): "democratic breakfast."

the speed of light, social construct: In what culture? See generally "Heisenberg Uncertainty Principle."

the Wizard, sign (not "sign"): You already know (not "know"). But isn't what's behind *the Wizard* more *interesting*?

thinking, participle: attempted "thoughtcrime"; *to be "displaced" by "enthusiasm" and "theory."*

thinking more than one consequence ahead, process: when done by "us," see "power" (but *not* all that follows it); when done by "I's," "mean-spirited," "dismissive," "judgmental," "insensitive," and one of the early warning signs (not "signs") of "fascism"; *to become obsolete after "we" "hegemony" "constitutional law," and take such additional steps as are necessary to achieve "self(?)-esteem"; (fut.): thinconhead.*

Thirteenth Amendment theory, comp. n.: Whatever "we" don't like that's not genocide is slavery, *n'est ce pas?* See generally "complex."

thoughtcrime, n.: "rape."

Ti, necessary construct: Do's Mi; "complex" "power paradigm" "practice"; but contemplate diminished sevenths.

time, social construct: "moment"; *all variants obsolete.*

totalitarianism, n.: Now "we" 'll *really* be "interesting" (won't "we"?), but "we" 'll wait 'til "you" serve the *Yquem* (despite "dis-

cernment" and "discrimination," "we" think '21 was a pretty good year).

traditional, *adj.*: see "western civilization" "mean-spirited"; "displace"; but see "postmodern airline pilots"; *all variants obsolete*.⁵³

transformation, *n.*: conquest, *by any means necessary*.

truth, *¿?*: a "social construct" when mathematically, logically, or empirically based versions are posited by the "uninitiated"; "we," of course, insist for the sake of form(alism?) that its existence first be denied, but then *inferred* from "our" "natural law" "texts," before "we" defend "it," with "critical bite," to the "Death."⁵⁴

turning back the clock, *metaphor*: to *la boue?* the Middle Ages? St. Petersburg 1917? Berlin 1933 or 1938? Warsaw 1947? Budapest 1956? Prague 1968? Santiago 1973? Beijing 1989? But see "democratic history" (except, of course, for Berlin and Santiago).

two plus two?, *question*: five, and "everything else follows";⁵⁵ (*fut.*): *toto*.

uncanniness, *n.*: characteristic of *not* being "lulled by the promise of a rational ordering";⁵⁶ but see "doublethink," "candor," "concealment."

SQUEAKY FROMME?

53. Cf. FISH, PC, *supra* note 29, rear of book jacket (blurbing a *New York Times* book review praising Fish as at his best when criticizing "effects wrought by mean-spirited defenders of traditional values" (emphasis added)); *supra* note 26 (quoting Ernst Tugendhat on Martin Heidegger's "need to disengage from . . . tradition"); but cf. BROOKS, *supra* note 10, at 188-89 ("[Whitman] came to feel that he could never have written *Leaves of Grass* if he had not stood bare-headed before Shakespeare's poems, fully aware of their colossal grandeur and beauty.").

54. Cf. HANNAH ARENDT, *Truth and Politics*, in BETWEEN PAST AND FUTURE 227, 241 (Penguin Books 1978) (1950) ("Seen from the viewpoint of politics, truth has a despotic character."); POWELL, *supra* note 17, at 154 ("[I]f all texts are 'unreadable' because of inherent undecidability, then as one Yale-school deconstructor put it[,] 'meaning is fascist.'"); but cf. *supra* note 23 and accompanying text (describing and defining "democratic history"); *supra* note 45 (contemplating *constitutional* "meaning").

55. ORWELL, *supra* note 1, at 80, 293; cf. HEINLEIN, *supra* note 5, at 61 ("[T]wo plus two makes four' . . . was not a truism on Mars."). See generally *supra* note 45 (quoting Willard Van Orman Quine on some deviant logics); *supra* note 30 (discussing empiricism); *supra* text accompanying note 30 (defining "epistemology," and perhaps permitting the inference that *mathematical* epistemological uncertainty may also be useful to "decentering").

56. Miller, *supra* note 15, at 335. But cf. *id.* at 336 ("These critics are not tragic . . . in the sense that their work is . . . irrational. No critic could be more rigorously sane and rational . . . in his procedure . . . than Paul de Man. Nevertheless, the thread of logic leads . . . into regions which are allogical . . ."); cf. LEHMAN, *supra* note 10, at 269-71 (discussing some of de Man's subsequently-discovered "allogical regions"); RIBOWSKY, *supra* note 3, at 88 ("And then, just as Al Davis was reach-

uninitiated, *adj.*: those lacking "postmodernist insights," and in need of "enlightenment" by "education"; see generally "dualities."

unintended (?) consequences, *comp. n.*: *shhhhhh!* Compare "thinking more than one consequence ahead" and "empirical verifiability" with "love," "nihilism," and "entropy"; see also "Death," "Extinction"; *all usages emphatically obsolete; (fut.): unisquence.*

United States Constitution, *postmodern construct*: not now, thanks, but definitely with the afternoon tea; just another "text" to be "deconstructed," indistinguishable, in nature (not "nature"), purpose, and effect from, say, Wallace Stevens's poetry, wine, a Richard Rorty "philosophy" book, and/or Madonna; *Just Another Brick in the Wall*,⁵⁷ *all variants obsolete; (fut.): uscon.*

BURMA SHAVE?

ing his goal, the fates that he had mastered suddenly rose up and knocked him down. By the time the season began, Davis had been stained once more by scandal."); POWELL, *supra* note 17, at 155 ("The purest and most holy gurus of deconstruction had, for years, kept silent about de Man's questionable [Nazi-sympathizing] past."); *but cf.* EMERSON, *supra* note 12, at 8 ("[W]as there ever prophet burdened with a message to his people who did not cloud our gratitude by a strange confounding in his own mind of private folly with his public wisdom?"); *but cf.* WOLIN, *supra* note 10, at 97 ("But Heidegger's enthusiasm for the National Socialist revolution persisted for quite some time."); *id.* at 99 ("[J]ust as Heidegger's philosophy in the postretirement years can be understood only in light of his political concerns, so his political ideas cannot be understood apart from his philosophy."); RIBOWSKY, *supra* note 3, at 303 ("I didn't hate Hitler. He captivated me." (quoting Al Davis)); RORTY, *supra* note 20, at 111 n.11:

Habermas takes the switch from "phenomenological ontology" to "history of Being" to be a result of Heidegger's involvement with the Nazis. . . . But a great deal of the story that Heidegger told in the late '30s and '40s about the history of Being was prefigured in his 1927 lectures on "The Basic Problems of Phenomenology," and presumably would have made up part two of *Being and Time* if that book had ever been completed. [;]

ALLLUYEVA, *supra* note 27, at 143 ("[W]hen after 1953 the Party endeavored clumsily and hopelessly to dissociate itself from its former Leader, it only convinced me of the inner unity between the Party and the 'cult of personality' . . ."); *but cf.* RORTY, *supra* note 20, at 183 ("O'Brien . . . is as terrifying a character as we are likely to meet in a book." (emphasis added)) [UHH, RICHARD? *NINETEEN EIGHTY-FOUR IS FICTION*]; *but cf.* RORTY, *supra* note 20, at 183 ("O'Brien is a curious, perceptive intellectual [?] — much like us.").

57. *Hear PINK FLOYD, Another Brick in the Wall, on THE WALL* (Columbia Records 1979); see *supra* note 48 (quoting Hillis Miller on Wallace Stevens). *Cf.* Hartman, *supra* note 45, at 388 ("Consider Milton's reputation Milton survives, not because he is endlessly open to interpretation but because he is exemplary for it."); *but cf.* CHARLES A. REICH, *THE GREENING OF AMERICA* at ix (Bantam Books 1971) (1970):

This is the Revolution:

. . . .

unselfcritical, *adj.*: the “uninitiated”; see also “cavalier,” “contemptuous,” “dismissive,” “insensitive,” and “mean-spirited”; see generally “adjectives” “crimestop” “democracy”; *all variants obsolete.*

urgency, *n.*: see “time,” “natural law”; *all variants obsolete.*

us, *pron.*: “we.”

utopia, *n.*: [THE EIGHTH SACRAMENT]: “our” banana “republic” (without the bananas); a place “we” can achieve “our” objective, “natural law” values (*gasp!*), which “we” (when convenient) deny exist; a place where “we” will *have to* be PERCEIVED as “interesting” (won’t “we”?); A PLACE WHERE “WE” CAN PURSUE “OUR”

WINE?

There is not any haunt of prophecy,
Nor any old chimera of the grave,
Neither the golden underground, nor isle
Melodious, where spirits got them home,
Nor visionary south, nor cloudy palm
Remote on heaven’s hill, that has endured
As April’s green endures; or will endure.

— WALLACE STEVENS [.]

See generally QUINE, *supra* note 45, at 3:

It is commonplace to speak of sentences as alike or unlike in meaning. This is such everyday, unphilosophical usage that it is apt to seem clearer than it really is. In fact it is vague, and the force of it varies excessively with the special needs of the moment. Thus suppose we are reporting a man’s remark in indirect quotation. We are supposed to supply a sentence that is like his in meaning. In such a case we may be counted guilty of distorting his meaning when we so much as substitute a derogatory word for a neutral word having the same reference. Our substitution misrepresents his attitude and, therewith, his meaning. Yet on another occasion, where the interest is in relaying objective information without regard to attitudes, our substitution of the derogatory word for the neutral one will not be counted as distorting the man’s meaning. Similar shifting of standards of likeness of meaning is evident in literary translation, according as our interest is in the poetic qualities of the passage or in the objective information conveyed. [.]

supra note 23 (quoting Ludwig Wittgenstein on linguistic context (not “context”).)

See also Garrett Power, *The Case of the 1989 Bordeaux*, 44 J. LEGAL EDUC. 434 (1994) (comparing Robert Parker’s wine-tasting expertise with Orley Ashenfelter’s economic expertise and the latter’s evaluation of the climatological conditions in Bordeaux in 1989, and analogizing their approaches, respectively, to common law and law and economics methodologies). It was an exceptional summer in Bordeaux, and the price has climbed since Power wrote (one for Ashenfelter). But taste the wines, as well. I recently decanted a bottle of ’89 *Haut-Brion* — much too young, to be sure, but curiosity got to me — and its potential was magnificent. [On this proposition, Morton Horwitz and I might agree. *See* Presser, *supra* note 38, at 879 (discussing Horwitz and the *in vino veritas* principle); cf. VIRGIL, *supra* note 33, bk. 1, at 33 (same, discussing Bacchus).] So Parker scores as well, and that’s all the better! It is, after all, just wine, and you can buy it for investment, buy it for taste — *or not buy any at all.*

“HAUNTING COMMUNAL ‘DREAM OF ANNIHILATION.’”⁵⁸

CONTEXT?

58. RAYMOND M. OLDERMAN, *BEYOND THE WASTE LAND* 128 (1972) (quoting PYNCHON, *supra* note 29). *But cf.* FARIÑA, *supra* note 7, at 227 (“[Gnossos] pared and whittled . . . the tail, a graceful V. It was a time of building.”); *but cf. id.* at 247 (“He touched his lips together and said: A monkey . . . coming out of a cave But there was nothing, only the odor. . . . [I]n a compulsive seizure he put on . . . *La Traviata*.”); Thomas, *supra* note 19, at 28 (contemplating the odor emanating from Heaven’s Gate “monastery”); *hear* GIUSEPPE VERDI, *LA TRAVIATA* (Phillips Classics 1993) (1853) (contemplating Alfredo and Violetta); *cf.* PYNCHON, *supra* note 24, at 483 (reproducing the lyrics to *Victim in a Vacuum*) [Though Pynchon provides an interlinear translation, I’ve reproduced it in the original German in tribute to Roberto Unger. *See generally* Ewald, *supra* note 45, at 702-04 n.141.]:

Nur . . . ein . . . Op-fer!
 Sehr ins Vakuum,
 Wird niemand ausnut-zen mich, auch?
 Nur ein Sklave, ohne Her-rin, (*ya-ta, ta ta*)
 Wer zum Teufel die Freiheit, braucht? [;]

HEINLEIN, *supra* note 5, at 351:

“All right, here’s pay copy. Title: ‘One for the Road.’

.....

“Chorus — With an *ugh!* and a groan, and a kick of the heels,
 Death comes quiet, or it comes with squeals —
 But the pleasantest place to find your end
 Is a cup of cheer from the hand of a friend!”

.....

“That’s for file, too?” [asked Anne.]

“Huh? That’s for the *New Yorker*.”

“They’ll bounce it.”

“They’ll buy it. It’s morbid, they’ll buy it.” [;]

but cf. WURTZEL, *supra* note 10, at 334 (“I never thought there would be so many cartoons with Prozac themes in *The New Yorker*, illustrating, among other things, a serotonin-happy Karl Marx declaring, ‘Sure! Capitalism can work out its *hinks!*!’”); PYNCHON, *supra* note 2, at 107 (“The bad dream . . . doesn’t bother me any more. It was only that *sign* in the lot, that’s what scared me We were a member of the National Automobile Dealers’ Association. *N.A.D.A.*” (emphasis added) (quoting Mucho)); *but cf.* WURTZEL, *supra* note 10, at 241 (“But [Mellari]’s main result is my complete indifference to everything. . . . Instead of being Depressed Girl, I’m Blank Girl. . . . I am calm enough to write a semiotics paper, calm enough to compose an essay for my tutorial about feminist theory”); *id.* at 100:

Hey, baby, I’ll make you a star — when he said all those things, I knew they were lines, and I still bought them He said, he said, he said. . . . I imagined a buffered universe of sunshine and safety. I dreamed of going off to the never-never land where scary moods . . . and black waves just didn’t exist. For a few days, while planning my transport, via Sam, to a place where nothing bad ever happens . . . I could concentrate on reading Hegel for more than a minute at a time [;]

CONRAD, *supra* note 2, at 48 (“The broadening waters flowed through a mob of wooded islands; you lost your way on that river as you would in a desert”); PYNCHON, *supra* note 24, at 845-46:

Here’s Enzian ramrodding his brand-new [R]ocket through the night. . . . Perhaps, after all, just before the firing, it will be painted black.
 It’s the 00001, the second in its series.

Valhalla, *prop. n.*: “We” want! “We” want! (*Alt.*): the mechanic’s lien’s not released.

Valkyries, *pl. n.*: Ask Gottfried (but which one?).

value judgment, *social construct*: except for “ours,” (it’s “our” country, *right?*); inconsistent with “equality” and “entropy,” and therefore “discrimination”; (*obsol.*): WHO IS TO DECIDE WHAT IS GOOD AND WHAT IS EVIL? *All other variants also obsolete.*

vandalism, *social construct*: one of the effects of “love”; a necessary precondition to “entropy” and all that follows it.

vanity, *immutable, empirically-verified component of human nature*: [THE FOURTH SACRAMENT]: “submission” to “the Rocket”; shamelessness driven by deep-rooted psychological needs, shielded and reinforced by small and effectively closed “interpretive communities.”

vehicles, *social construct*: the physical manifestations (bodies) of Marshall Applewhite’s “subjects” (also named “containers” — in their own reality); their minds, however, have (had?) already departed for the *other*.

vendetta, *social construct*: [THE SEVENTH SACRAMENT]: see “horror,” “vanity,” “voice” “victimology,” “vandalism.”

FATE?

. . . How did you feel about the old Rocket? . . . [D]o you remember any more what it was wheeling them out by hand . . . all your faces drowning in the same selfless look — the moirés of personality softening, softening, each sweep of surf a little more out of focus till all has become subtle grades of cloud — all hatred, all love . . . Where will you all go? What empires, what deserts? . . . You . . . struggled, in love, on this Baltic shore — not Peenemünde perhaps, not official Peenemünde . . . [A]t last, you couldn’t leave — the way the wind smelled salt and dying, the sound of winter surf, the premonition of rain . . . At Test Stand VII, the holy place.

But . . . there’s little color in the scene . . . they are pushing into the sun, the glare strikes them squinting . . . [;]

but cf. WURTZEL, *supra* note 10, at 45 (“The *reverse* transformation [AIIIIYAAAIEEEEE!] couldn’t be that much of a leap. I could just try talking to *people* again. I could get the astonished look off my face, as if my eyes had just been exposed to a terrible glare. I could laugh a bit.” (emphasis added)). But cf. *supra* text accompanying note 52 (defining “thinking more than one consequence ahead”); hear LUDWIG VON BEETHOVEN, *Movement 1, on SYMPHONY No. 5* (op. 67) (CBS Records 1985) (1808); cf. *Introduction to YEATS, supra* note 45, at vii (“We have arrived at that point where in every civilization Caesar is killed, Alexander catches some complaint and dies; personality is exhausted, that conscious, desirous, shaping FATE rules.” (emphasis added)); FARIÑA, *supra* note 7, at 219 (“[E]vil needn’t be conjured to be manifest. It often functions on its own. You’ll see.” (quoting Calvin, addressing Gnosso)); Pynchon, *Fariña, supra* note 29, at xiv (noting that Richard Fariña’s death — in his twenties — came on the back of a motorcycle on which he was a *passenger*); but cf. *id.* at xiii (noting Fariña’s need “to keep tempting [D]eath”); but hear RICHARD WAGNER, *Prologue to GÖTTERDÄMMERUNG* (noting that the power of the Norns, who weave the fates, disappears upon their hearing of Alberich’s theft of the Rheingold).

victimology, n.: the omnivorous monarch of all "disciplines."

vision, n.: [THE SIXTH SACRAMENT]: "ours," in all its "rich," "textured," and "nuanced" "complexity"; see generally "genius"; *all variants obsolete.*

voice, postmodern process: All voices are "equal" but "ours" are more "equal" than others.⁵⁹

waste land, comp. n.: Don't leave for class (or court) without it! "Metaphor" "power"; (*fut.*): *wand.*

we, pron.: "legal postmodernists," and those Feuerbachian materialists, Chernyshevskyite "romantics," unreconstructed Stalinists, Foucaultian structuralists, Derridean "deconstructionists," post-structuralists, "cultural studies" "theorists," "science studies" "theorists," "post-colonial theorists," "reassuring" "new" crits (see generally "practice"), old crits, "dominance" and other "victimologist" "feminists," "whoopee feminist" "theorists," "essentialist" and/or "victimologist" "critical" race "theorists," "essentialist" and/or "critical" race "victimologist" "feminist" "theorists," "antifoundationalist pragmatists," "postmodern pragmatists," "whoopee pragmatists," clinical "theorists," undifferentiatedly "decentered" "theorists," "dissembling" professed "pragmatists," and all other "feet theorists" who "deploy"

MYSTICAL NUMBERS?

59. Compare GEORGE ORWELL, *ANIMAL FARM* 148 (Harcourt, Brace & Co. 1954) (1946) ("ALL ANIMALS ARE EQUAL BUT SOME ANIMALS ARE MORE EQUAL THAN OTHERS") and HEINLEIN, *supra* note 5, at 126 ("Time was when any Terran sovereign held public court so that the lowliest might [appear] without an intermediary. . . . A remnant of the principle was embalmed in Amendments I & IX of the United States Constitution, although superseded by the Articles of World Federation.") and *The New Skinheads*, *supra* note 14 ("We don't want to consider the world through someone else's eyes." (quoting a skinhead activist)) and MACKINNON, *supra* note 10, at 25 ("[S]ubordination is 'doing someone else's language.'" (citation omitted)) with RILKE, *supra* note 33, at 27 ("Do you dare tell what we mean by 'apple'?") and WHITMAN, *supra* note 2, at 11 ("Stranger, if you passing meet me and desire to speak to me, why should you not speak to me? And why should I not speak to you?") and Hartman, *supra* note 45, at 384 ("Too many feel compelled to announce an allegiance (I am such and such from such and such a milieu), as if that satisfied the truthfulness [gaspl] requirement.") and HERRIGEL, *supra* note 16, at 16-17 ("Japanese Zen Buddhists . . . never speak of what moves them inwardly . . . nor do they feel any urge to make confessions.") and *supra* note 30 (quoting Elizabeth Wurtzel on *Oprah!*) and PYNCHON, *supra* note 2, at 123 ("There might . . . be . . . a few visionaries: men above the immediacy of their time who could think historically. At least one of them hip enough to foresee . . . the Peace of Westphalia, the breakup of the Empire, the coming descent into particularism.").

Compare LOVE GENERATION, *supra* note 29, at 32-33 (discussing tribalism) and *infra* note 64 (discussing Tribalism) and *supra* notes 10, 46 (discussing Balkinization) with Tribe, *supra* note 45, at 2 (describing Edwin Meese's constitutional vision as "Meesianic").

“postmodern” “interpretive” methods to transform “the United States Constitution” into a delivery vehicle for “natural law.”⁶⁰

LANGUAGE GAMES?

60. Cf. HEINLEIN, *supra* note 10, at 405 (“We close down the Church of all Worlds So we move and open the Congregation of the One Faith — and get kicked out again. Then we reopen elsewhere as the Temple of the Great Pyramid Patience is so much part of the discipline that it isn’t patience: it’s automatic.”); ALLILUYEVA, *supra* note 23, at 141 (“*Gutta cavat lapidem, non vi sed saepe cadendo* (A drop furrows a stone not by force but by continually falling.)’ This Latin saying we learned by heart at the university.”); *but cf. supra* note 31 (quoting Marlow on the relative strengths of fear, patience, and hunger); *but cf. supra* text accompanying note 48 (defining “repetitive and cumulative incantation”); ALINSKY, *supra* note 10 at 129 (“The major premise for tactics is the development of operations that will maintain a constant pressure upon the opposition.” (emphasis deleted)); Jacoby, *supra* note 29, at 31 (“Marxism begat structuralism and post-structuralism; post-structuralism begat deconstructionism; deconstructionism begat post-modernism and they both gave rise to post-colonialism.”). *But cf. Rushdie, supra* note 30, at 104 (“For the first time since the decline of Dadaism, we are witnessing a revival in the fine art of *meaningless* naming.” (emphasis added)); *but cf. supra* note 38 (noting Al Davis’s frequent changes of haberdashery when recruiting potential players); *supra* text accompanying this note (noting the multiplicity of “signs” that have superseded “neo-Marxism” and/or “CLS”); Rushdie, *supra* note 30, at 104 (“[T]itular *mystification* continues to intensify.” (emphasis added)); DE MAN, *supra* note 29, at 4 (“It is hard to keep up with the names and the trends that succeed each other with bewildering rapidity.”); BARNEY’S IMAGINATION ISLAND, *supra* note 23, at 11 (“‘Look!’ said Tesla. ‘Our clothes have changed.’”); ALINSKY, *supra* note 10, at 131 (“[T]he problem . . . is that of *identifying* the enemy [A]nd so it goes on in a comic . . . routine of ‘who’s on first’ or ‘under which shell is the pea hidden.’” (emphasis added)); RIBOWSKY, *supra* note 3, at 224 (“A lot of teams have been trying to copy . . . our method of organization. . . . Makes a man feel humble.” (quoting Al Davis)).

But cf. Bell & Edmonds, supra note 30, at 2032 (section authored by Erin Edmonds) (criticizing Harry Edwards’s *faux*-“discourse” [my characterization of her characterization] for combining, inter alia, “CLS,” “law and literature,” “feminist legal studies,” and “critical race studies” for criticism); *id.* at 2034 (“*Feminist jurisprudence, for example, shares with CLS — and every other method that questions the status quo, INCLUDING LIBERALISM — a CRITICAL approach.*” (emphasis added)); *but cf. supra* note 29 (perhaps suggesting that Edmonds deploys the very technique she criticizes by combining “essentialist feminism,” “dominance feminism,” and “equality feminism” into “feminist jurisprudence” for purposes of her assertion); *supra* text accompanying note 20 (defining “critique,” and perhaps permitting the inference that “critical” approach may not mean critical approach); *but cf. DOSTOEVSKY, supra* note 39, at 536 (“‘Never mind, never mind,’ she reassured him”). *But cf. supra* text accompanying note 20 (defining “deconcealment”); PYNCHON, *supra* note 24, at 771 (quoting Enzian on responses to flirtation, and perhaps authorizing the inference that being taken seriously should be a foreseeable possibility even where the flirtation is of the semiotic/academic variety) [Of course, if “liberalism,” for Edmonds, means “Hyder, Alaska,” or “Jacques Derrida,” or “Burma Shave,” or . . .]. *See also* Bell & Edmonds, *supra* note 30, at 2034 (section written by Erin Edmonds) (arguing that CLS “practitioners” are not nihilistic, and have occasionally been successful at achieving components of their agenda); *accord supra* text accompanying note 42 (defining “nihilism”); *cf. Sexton, supra* note 29, at 1 (emphasis added):

AMERICA’S LAWYERS HAVE BEEN CHARGED [apparently in the positive sense]

western civilization, comp. n.: an obstacle to “natural law” and all that follows; *to be* “transformed” and “displaced” by our “romantic,” “mystical,” and “enthusiastic” “vision.”

What Is to Be Done?, categorical imperative: “repetitive and cumulative incantation” “natural law” “narrative,” “children.”

whining, participle: see “truth,” “children”; see also “narrative”; (*alt.*): winning (but *what?*).

Whitman, social construct: Michel Foucault without the unhappy childhood; (*alt.*): Michel Foucault with the unhappy childhood, but without Foucault’s submission to “the Rocket.”

words, pl. n.: free poker chips; “our” “framed” enemies, but sometimes (perhaps *especially* when “we” “deploy” them with constructed meanings precisely the *opposite* of what non-postmodern dictionaries say they mean?) our friends.

you, pron.: the reader.

zombis, social construct: “mean-spirited” “framing”; (*alt.*): see “family.”

“LEGAL” “EDUCATION”?

WITH SETTING THE NATION’S VALUES In our society, *lawyers* are and must be the *conscience* of . . . the legal system . . . for if they are not, no one will be.

THE ROLE OF THE LAWYER IN SOCIETY AND THE SHAPE OF *LEGAL EDUCATIONAL* ALWAYS HAVE BEEN CLOSELY LINKED; AND OUR [“OUR”?] VISION [?] OF EACH HAS EVOLVED . . . AS INTERTWINED STRANDS.

[UHH, JOHN? ABOUT THAT “OF THE PEOPLE, BY THE PEOPLE” THING Cf. Chris Klein, *Poll: Lawyers Not Liked*, NATL. L.J., Aug. 25, 1997, at A6 (“[A] recent Harris poll . . . reveals that lawyers’ prestige has plummeted . . . during the past 20 years.”)]; *supra* text following note 37 (defining “legal education”); *compare* CONRAD, *supra* note 2, at 22:

They beguiled the time by backbiting and intriguing against each other in a foolish kind of way. There was an air of plotting about that station, but nothing came of it, of course. It was as unreal as everything else — as the philanthropic pretense of the whole concern, as their talk . . . as their show of work. The only real feeling was a desire to get appointed to a trading-post where ivory was to be had, so that they could earn percentages. They intrigued and slandered and hated each other only on that account — but as to effectually lifting a little finger — oh, no.

with PYNCHON, *supra* note 24, at 874:

The King of Cups, crowning his hopes, is the fair intellectual-king. If you’re wondering where he’s gone, look among the successful academics, the Presidential advisers, the token intellectuals who sit on boards of directors. He is almost surely there. Look high, not low.

His future card, the card of what is to come, is the World. [.]

But cf. HEINLEIN, *supra* note 10, at 61 (“‘It is later than you think’ could not be expressed in Martian”); *but hear* LUDWIG VON BEETHOVEN, *Symphony No. 7: Movement 2, on BEETHOVEN SYMPHONIES 7 & 8* (London Records 1990) (1812); *watch* ZARDOZ, *supra* note 29 (contextualizing same).

SCENE 4

Had I written such an article, I would have been able to claim credit for coining the term "Pomobabble," without the necessity for tedious research by students of the evolution of language.⁶¹ Perhaps that would have raised my frequency-of-citation-count,⁶² moving me up a notch in the hierarc⁶³

Whoops! *That* sure closed down *my* discourse.⁶⁴ I *knew* this article wasn't going to be very good. But that's in the eye of the beholder, *n'est ce pas?*⁶⁵ Anyway, I know no *postmodernist* would ever be seduced by hierarchy.⁶⁶

 THE HORSE?

61. See, e.g., Fred R. Shapiro, *Coinage of Psychobabble*, 59 AM. SPEECH 373 (1984).

62. See generally Fred R. Shapiro, *The Most-Cited Articles from the Yale Law Journal*, 100 YALE L.J. 1449, 1449-50 (1991) (citing various studies of law-school and law-professorial rankings, including some based on frequency of citation).

63. See generally *supra* text accompanying note 19 (defining "crimestop").

64. *But cf.* Tribe, *Space*, *supra* note 30, at 2 ("I continue to maintain my previous objection to any form of dogmatism that closes down *discourse* about fundamental values within the law." (emphasis added)). *But cf. supra* note 29 (describing an attempt by Cass Sunstein to do so, while also purporting to facilitate it); *supra* note 40 (describing possible attempts by Laurence Tribe and others so to do [Unless, of course, Tribe meant "discourse," watch MR. ED (CBS television broadcast, 1960-65, any episode) (contemplating Mr. Ed: "A horse is a horse, of course, of course, unless . . .").]).

But cf. supra note 2 (quoting Laurence Tribe and Michael Dorf on excluded middles); QUINE, *supra* note 45, at 81 ("[A]ny conjunction of the form '*p · ~p*' logically implies any sentence whatever; therefore acceptance of one sentence and its negation as true would commit us to accepting every sentence as true . . .") [Wow! THAT WOULD BE HELPFUL TO SOME LITIGATORS!]; *cf.* Arrow, *supra* note 37, at 669 n.64:

I heard a voice! A voice! Though the center of the repeated single word of its siren chant each word of which was of no more than two syllables or was it but it was muffled by a vague whirring noise, I could quite clearly detect . . . though now, who can say? — an initial 'H' and ultimate 'R.' It seemed to be reaching my ears from a place somewhere above me — *are you following me?* It seemed to be murmuring, beckoning to *me*, by Jove! A complexity, a richness, a *presence!* somehow reassuring, its textures highlighted brightly yet paradoxically concealed in its soft undertones.

[WELL, MAYBE WITH PRACTICE . . . (ANY PACIFISTS AROUND?)]. *But cf.* QUINE, *supra* note 45, at 81 ("[T]he notation [*~*, 'not'] ceased to be recognizable as negation when . . . some conjunctions of the form '*p · ~p*' [were regarded] as true, and stopped [before] regarding such sentences as implying all others. Here, evidently, is the deviant logician's predicament: when he tries to deny the doctrine he only changes the subject.")

65. *But cf.*, e.g., *supra* notes 45, 46 (discussing "natural law").

66. *But cf.* Miller, *supra* note 15, at 332 (emphasis added):

[T]he apparent novelty of any new development in criticism is the renewal of an insight which has been found and lost and found again repeatedly through all the centuries . . . The novelty of any "new criticism" is not in its intrinsic insights or techniques but rather in the "accidents" of its expression, though

Why'd I ever do this, anyway?⁶⁷

REDEMPTION?

how can "accident" here be distinguished from "substance"? The novelty of an innovative criticism, nevertheless, is in large part in its INSTITUTIONALIZATION [:]

accord CRIMESTOP "ENGLISH," *supra* note 41.

67. See TOLSTOY, *supra* note 12, at 29 ("According to [Hemsterhuis], beauty is that which . . . gives us the greatest number of ideas in the shortest time."); ALLEN GINSBERG, *Howl*, in *HOWL AND OTHER POEMS* 9 (1959) ("I saw the best minds of my generation destroyed by madness . . ."); KESEY, *supra* note 10, at 37 ("Maybe so, Ginsy, but I saw the best mice of my generation destroyed by good ol' American grit . . ."); CONRAD, *supra* note 2, at 29 ("The other day I took up a man who hanged himself on the road. . . . The sun too much for him, or the country perhaps." (quoting the steamer captain)); HEINLEIN, *supra* note 5, at 105 ("'Everyone that doeth evil hateth the light.' John something or other, Jesus to Nicodemus."); FOUCAULT, *supra* note 29, at 195 ("What was fundamentally invisible is suddenly offered to the brightness of the gaze, in a movement of appearance so simple, so immediate that it seems to be the natural consequence of a more highly developed experience."); PYNCHON, *supra* note 24, at 276 ("Earlier the conspiracy was monolithic, all potent, nothing [that] could [be] touch[ed]."); Perlstein, *supra* note 45, at 32 ("The whole world is watching." (quoting David Farber)).

But cf. RIBOWSKY, *supra* note 3, at 286 ("When you're dealing with Machiavelli, you don't know what his motives ever are." (emphasis added) (quoting George Ross on Al Davis)); but cf. WAGNER, *supra* note 58, act 1 (noting the necessity of Hagen's "canny" "deployment" of *pharmakon* to Siegfried's subsequent "consensual" "concealment" of Gunther's identity, and Hagen's desire to possess the Ring — and power — at any cost); but cf. FARIÑA, *supra* note 7, at 24 ("I am the Plastic Man, able with an effortless shift of the will to become a bowling ball, a pavement, a door, a corset, an elephant's contraceptive." (quoting Gnosnos)); WAGNER, *supra* note 58, act 2 (noting the postmortem influence of Alberich on his son Hagen, and Brünhilde's failure to recognize the "contextual" *dédoublement*); *id.* act 3 (describing Brünhilde's and Siegfried's fates); FARIÑA, *supra* note 7, at 328-29 (describing Gnosnos's fate); SHAKESPEARE, *supra* note 29, act 5, sc. 3 (describing the fates of Cordelia, her sisters, and the "displaced" King Lear).

But cf. ECO, *supra* note 29, at 465 ("You were better than the others You know that it suffices to . . . reconstruct in one's own mind the thoughts of the other." (emphasis added) (quoting Jorge)); but cf. DELILLO, *supra* note 14, at 184 ("It was only after moments of intense scrutiny that I'd been able to spot the hole."); CONRAD, *supra* note 2, at 12 ("Are you an alienist?" . . . 'Every doctor should be — a little.'" (quoting dialogue between Marlow and the old, unshaven doctor)); PYNCHON, *supra* note 24, at 860 ("'Fear of the unknown,' diagnoses this gray eminence"); WHITMAN, *supra* note 2, at 75 ("I ascend from the moon, I ascend from the night, I perceive that the ghastly glimmer is noonday sunbeams reflected"); Wilson, *supra* note 24, at 327 ("The sixth great extinction spasm of geological time is upon us [N]ighttime vision was a dying artifact, a last glimpse of savage beauty."); *id.* at 328 ("Life had stalled on plateaus along the way, and on five occasions it suffered extinction spasms that took 10 million years to repair"); STEIN, *supra* note 3, at 11 ("When I was young the most awful moment of my life was when"); *id.* at 115 ("the first [C]omet I saw made it real that the stars were worlds and"); *id.* at 12 ("that there were civilizations that had completely disappeared from this earth."); *Forecast: Cloudy*, UNIV. CHI. MAG., Aug. 1996, at 6, 6-7 (ellipses between paragraphs omitted) (paraphrasing and quoting Priscilla Frisch):

In its lazy orbit around the center of the Milky Way Galaxy, our solar system recently glided out of a zone almost devoid of matter and . . . toward a [gas

 SVENGALI?

and dust] cloud sufficiently dense to compress the heliosphere to a volume not much wider than Earth's orbit.

. . . "I can't imagine that a star passing in and out of dense interstellar cloud fragments — such as a star that's traversing galactic spiral arms — would have a stable interplanetary environment. Without stability in the local interstellar environment, I doubt there could be stable planetary climates hospitable to life." [:] Pevear, *supra* note 10, at xvi (emphasis added):

GIFTLSSNESS, as Dostoevsky feared and Nabokov knew, became the dominant style in Russia; it eventually seized power, and in the process of "making people happy" destroyed them by millions, leaving its vast motherland broken and desolate. "The triumph of materialism has abolished matter," the poet Andrei Bely said in the famine-ridden 1920s. [:]

DOSTOEVSKY, *supra* note 39, at 190 ("[T]he worse the better — I understand . . ."); but cf. WHITMAN, *supra* note 2, at 3:

You who celebrate bygones,
 Who have explored . . . the surfaces of the races . . .
 Who have treated of man as the creature of
 politics, aggregates, rulers and priests,
 I, habitant of the Alleghenies, treating of him
 as he is in himself and in his own rights . . .

I project the history of the future. [:]

hear *The Men's Room Tapes*, *supra* note 10 ("[W]e are running out of time. Given this sense of urgency . . ."); see Siegel, *supra* note 23, at N4 (ellipses between paragraphs omitted):

Kirk: Why do you threaten us with destruction . . . ?

The Alien: . . . I just rented "Independence Day." . . . Your species is growing increasingly stupid and becoming a menace to the universe . . . Just throwing out references to cultural touchstones doesn't mean anything . . . The universe is founded on progress and evolution and you and your movies are devolving . . . Prepare to die.

Kirk: Wait. What about "The X-Files"?

The Alien: It's a particularly great series if you're a paranoid schizophrenic or a Harvard University professor. The root of Fox Mulder's beliefs lies in his being hypnotized and recovering his memories of being abducted and probed. That you people believe this hokey about recovered memories is bad enough . . . Prepare to die. [.]

See also HEINLEIN, *supra* note 5, at 89 ("There comes a time in every man's life when he has to stop being sensible — a time to stand up and be counted — strike a blow for liberty — smite the wicked."); ALINSKY, *supra* note 1, at 3 ("Better to die on your feet than to live on your knees.") (quoting a credo from the Spanish Civil War); watch *The New Skinheads*, *supra* note 14 ("What hate needs to flourish is the silence of good people."); cf. DOSTOEVSKY, *supra* note 39, at 341 ("*Alea jacta est!*") Eco, *supra* note 29, at 477 ("The Devil is not the Prince of Matter; the Devil is the arrogance of the spirit, faith without smile, truth that is never seized by doubt. The Devil is grim because he knows where he is going, and, in moving, he always returns whence he came."); BRACKENRIDGE, *supra* note 10, at 803 ("[H]ow many are there in an age that could write such a book as this?"); *id.* at 807 ("Why is it that [C]ongress do not buy up an edition of my book, and distribute [it] among the members? It would be of more use to them than the library of Monticello."); MARTIN HEIDEGGER, BEING AND TIME 262 (John McQuarrie & Edward Robinson trans., Harper & Row 1962) (1927) ("The ultimate business of philosophy is to preserve the force of the most elementary words in which *Dasein* expresses itself, and to keep the common understanding from levelling them off to that unintelligibility which functions . . . as a source of pseudo-problems."); hear RICHARD

 SEDUCTION?

STRAUSS, *Thus Spake Zarathustra, on THUS SPAKE ZARATHUSTRA* (London Records 1995) (1896); cf. FRIEDRICH NIETZSCHE, *THUS SPAKE ZARATHUSTRA* 39 (R.J. Hollingdale trans., Penguin Books 1969) (1883) ("Great star! . . . Behold! I am weary of my wisdom, like a bee that has gathered too much honey; I need hands outstretched to take it . . . Like you, I must *go down* . . . Behold! this cup wants to be empty again, and Zarathustra wants to be man again."); PYNCHON, *supra* note 24, at 841 ("[Gottfried] understands that Blicero wants to give, without expecting anything back, give away what he loves."); CONRAD, *supra* note 2, at 24 ("The smell of mud, of primeval mud, by Jovel was in my nostrils . . ."). *But cf. id.* at 51 ("Some of the pilgrims behind the stretcher carried his arms — two shotguns, a heavy rifle, and a light revolver carbine — the thunderbolts of that pitiful Jupiter.").

But cf. EMERSON, *supra* note 12, at 121-22 (emphasis added):

Do you suppose that the thunderbolt falls short? Do you imagine that a lie will nourish and work like a truth? . . . A little finer order, a larger angle of vision, commands centuries of facts . . . It reverses all rank; "he who discriminates is the father of his father." . . .

And yet the world is not saved. . . . There are bad books and false teachers and corrupt judges; and in the institutions of education a want of faith in their own cause. Nay, it happens often that the well-bred and refined, the inhabitants of cities, dwelling amidst colleges, churches, and scientific museums, lectures, poets, libraries, newspapers, and other aids supposed intellectual are more vicious and malignant than the rude country people, and need to have their corrupt voting and violence corrected by the cleaner and wiser suffrages of poor farmers. The poet does not believe in his poetry. Men are ashamed of their intellect. [;]

but cf. LINDA C. DOWDY, *MAKE BELIEVE WITH BARNEY* 3 (1996) ("We [?] can *make believe* we're farmers." (emphasis added)); *but cf.* David Zizzo, *Oklahomans Have Ways With Words*, *DAILY OKLAHOMAN*, Dec. 29, 1996, at A1; PYNCHON, *supra* note 24, at 877:

Superman will swoop boots first into a deserted clearing The colors of his cape will wilt in the afternoon sun, curls on his head begin to show their first threads of gray

Submariner and his multilingual gang will run into battery trouble. Plastic man will lose his way among the Imipolex chains, and topologists all over the Zone will run out and stop payments on his honorarium checks [;]

contemplate FRANCIS KING, *VOICES IN AN EMPTY ROOM* (1984). *But hear* GEORGE GERSHWIN & IRA GERSHWIN, *Someone to Watch Over Me*, on OH, KAY (Nonesuch Records 1995) (1926) ("[W]here is the shepherd for this lost lamb?"); WHITMAN, *supra* note 2, at 72 ("Long enough have you dream'd contemptible dreams, Now I wash the gum from your eyes . . ."); cf. VIRGIL, *supra* note 33, at 53:

Look! I shall wipe away the cloud which now occludes
And dulls your mortal vision, even as you gaze, the dank mist
Befogging you. Fear not to do whatever your mother
Tells you, and willingly be guided by me [;]

DUMAURIER, *supra* note 24, at 80 ("Perhaps I can cure you; come in here with me." (emphasis added) (quoting Svengali)); *hear* THE ORIGINALS, *Baby, I'm for Real* (Motown Records 1969); cf. DUMAURIER, *supra* note 24, at 290-91 ("[S]he folded her hands across her breast . . . and in a weak voice said: 'Svengali . . . Svengali . . . Svengali! . . .'"); DOSTOEVSKY, *supra* note 39, at 196 ("Did you . . . arrive long ago? she murmured . . . with flashing eyes." (first alteration in original)); ZAMYATIN, *supra* note 4, at 191 ("Lift off . . . !"). *But see* WHITMAN, *supra* note 2, at 62 ("Enough! enough! enough! Somehow I have been stunn'd. Stand back! . . . I discover myself on the verge of a usual mistake.").

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[Wow! I CAN SEE HOW THAT MESSIANIC STUFF GETS *ADDICTIVE!* AND THIS "FREE FORM" STYLE REALLY FREES YOU FROM THOSE *METHODOLOGICAL OBSESSIONS AND MEDIEVAL TECHNICALITIES*. IT REALLY IS "LIBERATING!" BUT UNLIKE THE OLYMPIANS, I'M JUST NOT THAT *GOOD*. SO LET'S TRY IT ONE MORE TIME, FROM THE TOP. See generally MANN, *supra* note 2, at 31 ("I herewith resume my narrative . . .").]

Savor It's A BEAUTIFUL DAY, *Galileo*, on MARRYING MAIDEN (Columbia Records 1970):

A man sat on his rooftop and looked at the stars.

Soon, he could see a truth in the stars.

And he thought, "I'd like to tell everybody."

So he went to the village, and said to the people:

"Look! See what I found!"

But no one listened.

So he went back to his house and sat on his roof. . . .

And he thought: "the truth is still there, and I'd still like to share it."

So this time he tried a gentle way.

[*instrumental, led by David LaFlamme's authentically (not "authentically") sublime violin*] [:]

IT'S A BEAUTIFUL DAY, *Do You Remember the Sun?*, on *id.* ("See the sky: the celebrated rainbow . . . the concentrated moonbeam . . . *Life's anew* . . . Do you remember the sun? . . . *He remembers you.*" (emphasis added)); Wilson, *supra* note 24, at 330 ("Look up and see the stars awaiting . . ."); THE GRATEFUL DEAD, *Eyes of the World*, *supra* note 43:

Wake up to find out that you are the eyes of the world,

But the heart has its beaches, its homeland, and thoughts of its own.

Wake now, discover the song that the morning brings,

But the heart has its seasons, its evenings, and songs of its own. [:]

THE GRATEFUL DEAD, *Let it Grow*, *supra* note 29:

The plowman is broad as the back of the land he is sowing

As he dances the circular track of the plow, ever knowing

That the work of his day measures more than the planting and growing.

Let it grow

Let it grow

Greatly yield. [:]

cf. RILKE, *supra* note 33, at 25 ("[W]here the seed is changing to summer . . . the earth pours out."); WHITMAN, *supra* note 2, at 17:

I have seen the he-bird also,

I have paus'd to hear him near at hand

inflating his throat and joyfully singing

And while I paus'd it came to me that what he really sang for

was not there only,

Nor for his mate nor himself only, nor all sent back by the echoes,

But subtle, clandestine, away beyond,

A charge transmitted and gift occult for those being born. [:]

See also BLYTH, *supra* note 21, at 7 ("Zen teaches, not by words, but by direct pointing . . ."); HEINLEIN, *supra* note 5, at 233 ("*I grok wrongness.*" (quoting Mike)); Fortune Cookie 8, *supra* note 9 ("You will make a change for the better."); compare CULLER, *supra* note 5, at 102 ("[O]ne's presuppositions . . . must be revealed by another, or by an effort of *dédoublement*: of thinking from the point of view of the other.") with Fred Dalmayr, *Self and Other: Gadamer and the Hermeneutics of Difference*, 5 YALE J.L. & HUMAN. 507, 514-16 (1993) (noting that according to Hans-Georg Gadamer, deconstruction generates insights that are

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relevant to hermeneutics.); *dream to BROOKS*, *supra* note 10, at 176 ("[I]n her essay *American Literature* Margaret Fuller had foretold the coming of a mighty GENIUS in the Western world. He would harrow the soil and open it to the air and the sun." (emphasis added)); *MANN*, *supra* note 2, at 4 (narrating Zeitblom's thoughts: "[T]his word 'genius' . . . certainly . . . has a noble, harmonious, and humane ring."); *assimilate STEIN*, *supra* note 3, at 77 ("The only thing about it was that it was *I* who was the genius . . ." (emphasis added)) ["Of course, it ended with the final shaking of her mental faculties . . . but the main thing here was the dream." *DOSTOEVSKY*, *supra* note 39, at 187.]. *Criticize* Craig Lambert, *The Professionalization of Ivy League Sports*, *HARVARD MAG.*, Sept.-Oct. 1997, at 36, 37 (insensitively praising Harvard soccer player Emily Stauffer for her "*talent[]* and *dominan[ce]*" of that sport (emphasis added)); *supra* note 45 (quoting Laurence Tribe on William Brennan's "visions" of "equality").

But cf. L'HEUREUX, *supra* note 10, at 147 ("Olga . . . recognized . . . a high, sustained, academic cry for help. She began to feel a resumption of her gifts . . ."); *id.* ("Oh yes, she thought, oh yes. Fear and pity will be possible after all."); *watch* THE MANCHURIAN CANDIDATE, *supra* note 45 ("Why don't you pass the time by playing a little solitaire?"); L'HEUREUX, *supra* note 10, at 47 ("By dawn Robbie's whimpering had turned to tears." (emphasis added)); *id.* at 164 ("We aren't the big people, we know that . . ."); *but cf. id.* at 171 ("[I]t made you vulnerable." (quoting Olga)); *id.* at 45 ("'I have certain gifts. . . And I'm here to put them to use,' she said, sounding rather French."); *id.* at 259-60:

Robbie . . . had to tell them first about his emergence into the spirit . . . of D.H. Lawrence, his acceptance of his psycho-sexual identity with this man of vision, his revolutionary discovery of the penis.

. . . .

"Listen, listen!" Robbie said. "The penis is the still point of the turning world." He gestured delicately in the direction of his crotch. "Here is my mind! Here is my heart!"

"The new Chairman!" the Chairman called out [S]omebody else shouted, "Robbie for penis! Robbie for still point!" [.]

[I'M NOT SURE. BETTER? BUT IS IT REALLY THAT MUCH DIFFERENT THAN THE FIRST ONE? OR MAYBE THERE'S STILL SOME UNRESOLVED TENSION? A LEVELS-OF-GENERALITY PROBLEM? SOMETHING ELSE? ARE ANY OF THESE REALLY (*GASP!*) PROBLEMS? SHOULD I JUST STOP HERE AND MOVE ON? BUT IN LIGHT OF "DUALITIES" AND ALL THAT, MAYBE I'LL TAKE ONE LAST SHOT . . .]

. . . .

Grok deeply TOLSTOY, *supra* note 12, at 27-28 ("According to Burke, the sublime and beautiful, which are the aim of art, have their origin in the promptings of self preservation and of society. . . . The first is attained by nourishment . . . the second . . . by intercourse Therefore, self-defense . . . is the source of the sublime; sociability . . . is the source of beauty." (citation omitted)); *watch* NEVER GIVE AN INCH (Universal Pictures 1971); *cf. supra* note 46 (contemplating, inter alia, barbarianism); *but cf.* *MANN*, *supra* note 2, at 59 ("[B]arbarism is the opposite of culture only within the order of thought which it gives us. Outside of it the opposite may be something quite different or no opposite at all." (quoting Adrian)); *but cf. supra* note 37 (contemplating language and chimpanzees); HEINLEIN, *supra* note 5, at 177 ("[I]t's well to look at the new rascals before you turn your present rascals out."); WINSTON S. CHURCHILL, *Speech to the House of Commons* (Nov. 11, 1947), in 7 *HIS COMPLETE SPEECHES 1897-1963*, at 7566 (Robert Rhodes James ed., 1974) ("[D]emocracy is the worst form of government except all those other forms that have been tried . . ."); Strickland, *supra* note 12, at 492-93 ("BALANCING is an intimate task, a peculiarly PERSONAL one. . . . *Each viewer sees the picture from a different angle, and with a different perspective and propor-*

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tion." (emphasis added)); DOSTOEVSKY, *supra* note 2, at 26 ("Who wants to want according to a little table?"); CONRAD, *supra* note 2, at 49 ("I seemed . . . to have been transported into some lightless region of subtle horrors, where pure, uncomplicated savagery was a positive relief, being something that had a right to exist — obviously — in the sunshine."); BROOKS, *supra* note 10, at 132-33 (emphasis added):

For [Whitman] the tumult even of the political scenes was good to behold and reassuring . . . How much better than the despairing apathy of the people of European states, — the "well ordered" governments of Germany and czarist Russia . . .

. . . In politics . . . the democratic [not "democratic"] formula was the only safe and preservative one for the future. It was the only effective method for . . . training people to rule and manage themselves of their *own* will, — far better than merely finding good ["good"?] ["great"?] RULERS for them . . . [.]

Alfred L. Brophy, "For the Preservation of the King's Peace and Justice": *Community and English Law in Sussex County, Pennsylvania, 1682-1696*, 40 AM. J. LEGAL HIST. 167, 167 (1996) ("William Penn believed that good people as well as good laws were necessary to bring harmony to society."); WHITMAN, *supra* note 2, at 6 ("The prophet and the bard . . . [s]hall mediate to the MODERN, to DEMOCRACY, interpret yet to them . . .") (emphasis added)); TRIBE & DORF, *supra* note 2, at 30 ("LISTEN TO WALT WHITMAN . . .") (emphasis added); WHITMAN, *supra* note 2, at 76 (emphasis added):

Do I contradict myself?

Very well then I contradict myself,
(I am large, I contain multitudes.)

. . .

I too am not a bit tamed, I too am untranslatable,

I sound my barbaric yawp over the roofs of the world.

[NOTE TO LAURENCE TRIBE AND MICHAEL DORF: IN THIS CONTEXT (NOT "CONTEXT"), WHITMAN'S "I" IS (as Richard Rorty would say but not mean, *see supra* note 46) "WE — ALL OF US," NOT "OUR" CONSTITUTIONAL "INTERPRETATIONS." *See, e.g.,* NICHOLAS D. KRISTOF & SHERYL WUDUNN, *CHINA WAKES* 449 (1994) ("Walt Whitman could have been describing *China* . . .") (emphasis added).]; WHITMAN, *supra* note 2, at 68 ("I launch all men and women forward with me into the Unknown." (emphasis added)); *id.* at 55 ("Speeding through space, speeding through heaven and the stars . . ."); *id.* at 57 ("I am the clock myself." (emphasis added)).

But see WOLIN, *supra* note 10, at 85 ("The consummate fusion of . . . Heidegger's thought may be found in the 1933 Rectorial Address . . . a work, according to Löwith, whose interweaving of Nazi rhetoric with the language of classical philosophy was so extreme that at the end 'the listener was in doubt as to whether he should start reading the pre-Socratics or enlist in the SA.'" (quoting Karl Löwith, *The Political Implications of Heidegger's Existentialism*, *NEW GERMAN CRITIQUE*, Fall 1988, at 117, 125); Redish & Lippman, *supra* note 45, at 310 ("The . . . transformation of one's personal ideal, impulses, and values into an external structure (*gasp!*) that others . . . are meant to inhabit is a familiar temptation for scholars. Unfortunately, the projectors of such worlds too often 'stack the deck' from the outset, reserving the privilege of control for themselves."); ZAMYATIN, *supra* note 4, at 169 ("[T]hey got the notion that *they* were the final number — something that doesn't exist *in nature*." (emphasis added)); CONRAD, *supra* note 2, at 42 ("You should have heard him say . . . 'My Intended, my ivory, my station, my river, my —' everything belonged to him." (quoting Marlow, on Kurtz)); *but cf.* L'HEUREUX, *supra* note 10, at 223 ("There were lives . . . out of balance. Fates not yet enacted. Ultimates unachieved. Olga, like academics everywhere, was exper-

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encing the need for closure."); *but cf.* MANN, *supra* note 2, at 111 (narrating Zeitblom's thoughts: "A peculiarly painful combination that: necessity and futility." (emphasis added)); *but hear* THE CYRKLE, *Red Rubber Ball* (Columbia Records 1966) ("This roller-coaster ride we took is nearly at an end." (emphasis added)).

See also *supra* note 45 ("Third-party profits are common in vice crimes." (quoting Denny Pace)); RICHARD HELGERSON, SELF-CROWNED LAUREATES 2-4 (1983) (emphasis added) (discussing Edmund Spenser, Ben Jonson, and John Milton):

Theirs was to be a role apart. *But . . . [a] "different" kind implies OTHER kinds.* Indeed, it implies the existence of a system [gaspl] whose individual elements ["vessels"? "subjects"?] TAKE MEANING FROM THEIR RELATIONSHIP TO THE WHOLE. . . .

. . . .

Among the problems that faced *them* was the *lack* of a word . . . to designate the role they wished to play. It was easy enough to name a pastoral or a duke, but what was one to call a writer of this particularly ambitious sort? "Poet" had, they felt, been taken over by lesser men performing a lesser function They dismissed the usurpers as poetasters, versifiers, or riming parasites and elevated the *great* writers as *vates*; they translated "poet" into "maker," equated it with "priest," "prophet," "lawmaker," "historiographer," "astronomer," "philosophist," and "musician," and adorned it with ADJECTIVES like "good," "right," and "true." But all their efforts . . . ended in failure. The necessary distinction could thus be made only with the circumlocution of self-presentational gesture. [;]

DOSTOEVSKY, *supra* note 39, at 382 ("[I]s there any place here for petty VANITY?" (emphasis added)); RIBOWSKY, *supra* note 3, at 187 ("[Al Davis] said, 'I can't be called coach because that's demeaning.' [Wayne] Valley had a solution . . . 'You can call yourself Mr. God.'"); ALLILUYEVA, *supra* note 23, at 149 ("I never heard [my father's] name otherwise than with such epithets as 'great' and 'wise' tagged onto it."); WALLACE, *supra* note 33, at 11 ("I have an *interesting history*. Experiences and feelings. I'm *complex*." (emphasis added) (quoting Hal)); RUSSELL, *supra* note 49, at 7-8:

One of the chief emotional differences [between man and other animals] is that some human desires . . . are essentially boundless and incapable of complete satisfaction. . . . The activities of animals, with a few exceptions, are inspired by the primary needs of survival and reproduction

With men, the matter is different. . . .

. . . .

. . . Every man would like to be God, if it were possible; some few find it difficult to admit the impossibility. [;]

hear TEARS FOR FEARS, *Everybody [?] Wants to Rule the World*, on SONGS FROM THE BIG CHAIR (A&M Records 1983); *cf.* Katz & Wagner, *supra* note 29, at 20 ("Chernyshevsky portrayed an elite that served society largely by shaping it in accordance with the elite's own view of social justice."); WATSON, *supra* note 45, at 3 ("If the government will not make [legal rules], some other group . . . will: the jurists in ancient Rome, [and] LAW PROFESSORS in *medieval* and later continental Europe" (emphasis added)); EDMUND BURKE, REFLECTIONS ON THE REVOLUTION IN FRANCE 155 (Penguin Books 1976) (1790) ("These professors . . . [f]inding their . . . politics not adapted to the state of the world in which they live . . . come to think lightly of all public principle and are ready . . . to abandon for a very trivial interest what *they* find of very *trivial value*." (emphasis added)); RORTY, *supra* note 20, at 176 ("Orwell is . . . trying to make a concrete political possibility plausible by answering three questions: 'How will the intellectuals of a certain possible future describe themselves?' 'What will they do with themselves?' 'How will their talents be employed?'""); ZAMYATIN, *supra* note 4, at 114 (narrating D-503's thoughts: "*Homo sapiens* is not fully man until his grammar is

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absolutely *rid* of question marks, leaving nothing but exclamation points . . . and periods." (emphasis added)); *supra* note 33 (quoting Don DeLillo, narrating J.A.K.'s thoughts: "The door would be open. I gripped the knob, eased the door open, slipped into the room. *Stealth*. It was easy. *Everything* would be easy." (emphasis added)); Thomas, *supra* note 10, at 551 n.91 ("The world's tyrants have often been . . . astute cultural critics." (quoting Mark Edmundson, *Prophet of a New Postmodernism: The Greater Challenge of Salman Rushdie*, HARPER'S, Dec. 1989, at 62, 62 (emphasis in title added))); *watch* APOCALYPSE NOW, *supra* note 29 ("The man is clear in his mind but his soul" (quoting the photojournalist, contemplating Kurtz)); *see* CONRAD, *supra* note 2, at 56 ("[w]as mad. Being *alone in the wilderness*, it had looked within itself, and, by heavens! . . . it had gone mad." (emphasis added) (quoting Marlow, Contemplating Kurtz)). *Cf.* RORTY, *supra* note 20, at 183 ("Our initial defense against this suggestion is that O'Brien is a psychologically implausible figure."); *but cf. supra* note 56 (quoting Richard Rorty comparing O'Brien with "us"); Katz & Wagner, *supra* note 29, at 20 ("[The] combination of moral and scientific certainty helps explain the stridency, intolerance, and self-righteousness with which Chernyshevsky promoted his ideas."); ZAMYATIN, *supra* note 4, at 136 ("[T]he Benefactor . . . binding us hand and foot in His wisdom . . ."); *but cf.* Eco, *supra* note 29, at 472 ("*Comedy* . . . achieves the effect of the ridiculous by showing the defects and vices of *ordinary men*." (emphasis added)). *But watch The Borg*, *supra* note 39 ("Why do you resist? We only wish to raise the quality of life for all species." (quoting "decentered" Picard, temporarily under control of the Borg "common mind")); *but cf. Bulgarian Workers Threaten Strikes*, CHI. TRIB., Jan. 14, 1997, at 7 ("If in 1919, the purchasing power of one wage was nine pieces of white bread (per day), in January 1997 it is 1.34 pieces of bread." (quoting the Sofia daily newspaper, *Trud*)); ORWELL, *supra* note 1, at 229 ("What [Winston] longed for above all was a piece of bread."); WHITMAN, *supra* note 2, at 18 ("*I will make the true poem of riches*." (emphasis added)); *supra* note 30 (quoting Nikolai Chernyshevsky quoting the young Vera on freedom (*gasp!*)); *hear* GRACE SLICK, *Theme from the Movie "Manhole," on MANHOLE* (Grunt Records 1973) ("*Como libertad!*"); *cf.* ROOSEVELT, *supra* note 33, at 198 ("[Many] do not realize that the Communist system is a brake not only on material but spiritual advance; they have not yet made the connection between freedom and . . . full stomachs."); ALLILUYEVA, *supra* note 23, at 143 ("The theories and dogmas of MARXISM-LENINISM began to WITHER AWAY . . ." (emphasis added)); *hear* THE GRATEFUL DEAD, *Eyes of the World*, *supra* note 43 (emphasis added):

There comes a *redeemer*, and he slowly too fades away,

And there follows his wagon behind him that's loaded with clay.

And the seeds that were silent all burst into bloom and decay,

And night comes so quiet [;]

cf. Gary L. Francione, *Animal Rights and Animal Welfare*, 48 RUTGERS L. REV. 397, 463 ("[T]here are different ways of understanding the 'parts' that make up the 'whole' of vivisection . . ."). *But cf. supra* note 46 (quoting Gertrude Stein supporting the proposition that *answers* are not *interesting*, particularly but not exclusively to young children); 1 GEORGE SANTAYANA, *THE LIFE OF REASON* 284-85 (Dover Publications 1980) (1905):

Progress, far from consisting in change, depends on retentiveness. . . .

[W]HEN EXPERIENCE IS NOT RETAINED . . . INFANCY IS PERPETUAL. Those who cannot remember the past are condemned to repeat it. In the first stage in life the mind is frivolous and easily distracted This is the condition of *children* and *barbarians* [O]ld age is as forgetful as youth, and more incorrigible . . . its memory becomes *self-repeating* and degenerates into an *instinctive reaction, like a bird's chirp*. [;]

hear THE FOUR TOPS, *It's the Same Old Song* (BMI 1965); *cf.* Kim A. McDonald,

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Scientists Find Another Bird-Dinosaur Link, CHRON. HIGHER EDUC., June 13, 1997, at A17; *Conference on UFOs Shunned Members of Heaven's Gate Cult*, ST. LOUIS POST-DISPATCH, Apr. 13, 1997, at 9A, 9A ("I remember them showing up . . . [They] made weird chirping noises." (quoting Tabby Runnels)); Gleick, *supra* note 23, at 31 (emphasis added):

Do and Ti . . . as Applewhite and . . . Nettles were known, *plucked bits of this and pieces of that . . . like birds building a nest . . .* And for scores of spiritual seekers, it worked. . . . Do and Ti's followers . . . shared little more than a willingness, or a NEED, to SUSPEND DISBELIEF, and in the end to PARTICIPATE IN A COMMON [D]EATH. [;]

hear CAMILLE SAINT-SAËNS, *Danse Macabre*, on SAINT SAËNS: CARNIVAL OF THE ANIMALS (London Records 1986) (1871); cf. PYNCHON, *supra* note 24, at 369-70 (emphasis added):

Though they don't admit it, the Empty Ones now exiled in the Zone, Europeanized in language and thought, split off from the old tribal unity, have found the why of it just as mysterious. But they've seized it, as a sick woman will seize a charm. They calculate no cycles, no returns, they are in love with the GLAMOUR of a WHOLE PEOPLE'S suicide — THE POSE, *the stoicism, and the bravery*. [;]

supra text accompanying note 52 (defining "the Pose"); *supra* note 39 (quoting Thomas Pynchon on lemmings); *play* FRANK SILVER & IRVING COHN, *YES! WE HAVE NO BANANAS* (Shapiro, Bernstein, & Co. 1923) [*ALL TOGETHER NOW . . .*]; Thomas, *supra* note 19, at 35 (emphasis added) (contemplating former Heaven's Gate member Rio DiAngelo):

DiAngelo received a Federal Express package . . . and found two videotapes and a set of instructions.

The next morning, a shaken Rio [who had not watched the videotapes] told his boss . . . that he believed all the members from Higher Source were dead. . . . [His boss] at first brushed it off, figuring that the group had "died" — and gone to *Europe*. [;]

id. at 28, 30 ("There was an oddly *theatrical* aspect to the mass suicide" (emphasis added)); *supra* note 45 (contemplating a *prescriptive* role for art in society); *supra* text accompanying note 34 (defining "hollowness," and perhaps authorizing the inference that "poses" may be of utility to those taking *their* meaning from others' [OTHERS?]' *perceptions* of them); *supra* note 27 (quoting Claude Lévi-Strauss codifying that principle, and contemplating the "dissolution" of man); JACQUES DERRIDA, *Differance*, in *SPEECH AND PHENOMENA* 129, 146-147 (David B. Allison trans., Northwestern Univ. Press 1973) (1968) (noting that postmodernists think of themselves as "subjects" ("containers"? "vessels"?)); *supra* note 39 (quoting Michel Foucault on "caring for the self" by *fashioning* the self [?] as a *work of art*); *infra* note 68 (contemplating, *inter alia*, that "*esse est percipi*" thing); *but cf. supra* note 29 (quoting everybody for the proposition that "postmodernism" cannot be defined); *but cf. supra* text following note 34-35 (defining "hollowness").

See also Gleick, *supra* note 23, at 35 (contemplating Heaven's Gate):

The group plainly tailored its message in an attempt to be palatable to the broadest group of people possible. "Our dilemma was multifaceted: How do we present the information in a credible fashion, when to most, our ["our"] Truth is definitely stranger than any fiction?" one Website posting wondered. "How do we avoid being seen as religious, in order not to 'turn off' those who rightfully despise the hypocrisy of what religions have become? At the same time, how do we acknowledge our past associations with this civilization which are primarily recorded in your Bible, so as to offer those who are waiting for prophecy . . . enough clues to put it together?" The mixture of philosophies, the author concludes, is like "speaking in tongues." [;]

 SWORD?

cf. CONRAD, *supra* note 2, at 26 ("Ever any madness in your family?" (quoting the old, unshaven doctor)) [WHAT? HOW "DISMISSIVE"! THAT'S SURELY NOT "GUARDED" AND "RESPECTFUL"! HOW DARE YOU! SECOND-CENTURY PIPELINE-TO-THE TRUTH Gnostics? FOURTH-CENTURY MANICHEAN DUALISTS, WITH THOSE GOOD, GOOD SOULS AND THOSE BAD, BAD BODIES? (ANYWAY, "WE"'VE FIXED THAT BY HOMOGENIZING THEM WITH CHERNYSHEVSKY AND FOUCAULT!) MEDIEVAL MYSTICS? COUNTER-ENLIGHTENMENT MYSTICS? HEGEL? PROUST? HEIDEGGER? FOUCAULT? DEMAN? ALL AS SOUND AS A BUG IN A RUG, "WE" TELL YOU! BY JOVE! HOW COULD YOU EVEN SUGGEST SUCH A THING? "WE"'RE TALKING "CONSTITUTIONAL LAW"! "CONSTITUTIONAL LAW"! CONSTITUTIONAL LAW! BUT EVEN FORGETTING THAT, THERE'S THAT YEAR COMING UP WITH TWO HUNDRED TENS IN IT! AND IT BEGINS WITH A TWO! AND HAS FOUR DIGITS. AND IT ["IT"?] ENDS WITH THREE ZEROES. AND IT'S NOW BEEN "SOCIALLY CONSTRUCTED" TO "MEAN" THREE! AND].

[JUST A MOMENT: THE PHONE'S RINGING AGAIN THEY SAID THEY'D BE CALLING ME BACK]

Hear TALKING HEADS, *Life During Wartime*, on FEAR OF MUSIC (Sire Records 1979) ("This ain't no party. This ain't no disco. This ain't no foolin' around."); cf. LEE, *supra* note 29, at xiii ("Presently in America a war is being fought."); VIRGIL, *supra* note 33, at 173-74 ("There are twin gates of War . . . [T]he religion [a]nd terrible indwelling presence of Mars have sanctified them."); Johnson v. M'Intosh, 21 U.S. (8 Wheat.) 543, 590 (1823) ("The Europeans were under the necessity either of . . . relinquishing their pompous claims to [the wilderness], or of enforcing those claims by the sword . . ."); David A. Elder, *Introduction and Remarks*, 23 N. Ky. L. Rev. 471, 472 (1996) ("[O]ne of the great anomalies of the last decade has been the world-wide collapse of Marxist ideology and its political structures abroad at the same time that its Stalinist counterparts in this country have seized control of much of higher education."); but cf. *supra* note 23 (noting Franz Kafka's observation that the Lady in New York Harbor carries a sword); CHRISTOPHER MATTHEWS, *HARDBALL* (1988); RICHARD WAGNER, *SIEGFRIED* act 1 (1876) (describing the utility of empiricism and metallurgical innovation to Siegfried's reconstruction of his sword); MANN, *supra* note 2, at 252-53 (emphasis added) (narrating Zeitblom's thoughts):

That the flabby democracies *did* know after all how to use these frightful tools is a staggering revelation, weaning us daily from the mistaken idea that war is a German prerogative . . . [W]e await the attack, from all sides, with preponderance of material and millions of soldiers, on our European fortress — or shall I say our prison, our madhouse? [;]

but cf. SUN-TZU, *THE ART OF WAR* 177 (Ralph D. Sawyer & Mei-Chun Lee Sawyer trans., Barnes & Noble Books 1994) ("Preserving [the enemy's] army is best, destroying their army second-best." (emphasis added)); but cf. Theodore C. Sorensen, *Law: The Most Powerful Alternative to War*, 4 *FORDHAM INTL. L.J.* 13 (1980); *Thousands Protest in Bulgaria*, *DALLAS MORNING NEWS*, Jan. 15, 1997, at 6A ("In Sofia, protesters cheered when Katerina Maleeva . . . said: 'I'm happy we've proved to the world that even in Bulgaria we know what democracy [not "democracy"] is.'"); but hear William Billings, *Lamentation over Boston*, on *MUSIC OF THE AMERICAN REVOLUTION: THE SPIRIT OF LIBERTY* (New World Records 1996); cf. MANN, *supra* note 2, at 231 (quoting you-know-who):

It is such a snug, familiar world wherein we are together, thou and I — we are right at home therein, pure Kaisersaschern Bethink thee what lively movement of the people was with you in Germany's midst . . . how full of agitation and unrest, anxiety, presentiments . . . what children's crusades, bleeding of the Host, famine, Peasants' League, war, the pest at Cologne, meteors, [C]ometes Good time, divellishly German time! Don't you feel all warm and snug at the memory? . . . As though I spake of the marching guild of

ARROWS?

penitents, the Flagellants, who flailed for their own and all other sins [I]t sounds so comfortably like the depths of [the] Middle Ages

But cf. Linda Greenhouse, *Millions Gather for Democracy Rally at Supreme Court*, N.Y. TIMES, July 4, 2001, at A1; *but watch Redressing the Power Imbalance in the Gerbil/Hamster Relationship*, on NIGHTLINE (Foucault Network television broadcast, July 4, 2001) (eschewing coverage of the demonstration); *cf.* EUGENE O'NEILL IV, *LONG NIGHT'S JOURNEY INTO DAY* (2001) [The "three-that-are-one"? *Cf. supra* note 29 (quoting Ann Williams-Heller).]; *hear* THE DOORS, *The End*, *supra* note 29 ("You know the day destroys the night . . ."); PYNCHON, *supra* note 24, at 836 ("'Maybe I was a Melvin Purvis Junior G-Man . . . For Post Toasties.' 'For whom?' The German actually thinks Post Toasties is the name of some American Führer . . ."). *But cf.* CONRAD, *supra* note 2, at 44 ("I saw the slope of a hill interspersed with rare trees and perfectly free from undergrowth." (quoting Marlow, on his first glimpse of Kurtz's "station")); WARHOL, *supra* note 29, at 156 ("My ideal city would be one long Main Street with no . . . side streets to jam up traffic."); STEIN, *supra* note 3, at 140 ("Street railroads were interesting."); *supra* note 29 (contemplating linear rainbows); *but hear* THE POLICE, *Don't Stand So Close to Me*, on ZENYATTA MONDATTA (A&M Records 1980); *cf.* RILKE, *supra* note 33, at 79:

What shuts itself up in staying is already rigid;
does it think itself safe in the shelter of nondescript gray?
Wait: from a distance the hardest is warning the hard.
Watch out —, an absent hammer is raised! [;]

SZASZ, *supra* note 12, at 264-65:

[M]an . . . may elect to despair over the lost usefulness or the rapid deterioration of games painfully learned. Skills acquired by diligent effort may prove to be inadequate for the task at hand almost as soon as one is ready to apply them. Many people cannot tolerate repeated disappointments of this kind. In desperation, they long for the security of stability — even if stability can be purchased only at the cost of personal enslavement. [;]

STEIN, *supra* note 3, at 117 ("One can do *anything* all over." (emphasis added)); Feldman, *supra* note 22, at 1047 ("POSTMODERNISM JUST KEEPS REPRODUCING ITSELF: THE DOING OF POSTMODERNISM SEEMS TO OCCUR AGAIN AND AGAIN." (emphasis added)); *but cf.* PYNCHON, *supra* note 24, at 819 ("[T]he hallucinations . . . are unique to this drug. Not only audiovisual, they touch all senses, equally. And they recur. CERTAIN themes . . . will find CERTAIN *individuals* [AIIYYAIEEEEE!/] again and again Jeauch calls them 'the dullest hallucinations known to psychopharmacology'").

See also CONRAD, *supra* note 2, at 58 ("I had . . . judged the jungle of both banks quite impenetrable — and yet eyes were in it, eyes that had seen us." (quoting Marlow)); *id.* at 60 ("Arrows, by Jove! We were being shot at!"); JUDITH TARR, *ARROWS OF THE SUN* (1993); STEIN, *supra* note 3, at 59 ("It is still happening. Only now it is not any longer very interesting."); BRACKENRIDGE, *supra* note 10, at 727 ("[T]here must be *novelty* in the hypothesis that will attract." (emphasis added)); *but cf.* ZAMYATIN, *supra* note 4, at 30 ("It's clear . . . that to be original means to *distinguish* yourself from *others*. It follows that to be original is to violate the principle of EQUALITY." (emphasis added). *See generally* MILLER, WILDERNESS, *supra* note 24, at 232-33 (emphasis added):

Confident that his *comet* could destroy civilization, [William] Whiston was prepared to contend that anything so magnificently explosive was bound, *after destroying millions*, to introduce the *millennium*.

He staked everything on the comet. In a few short decades, *that HOPE was gone*. Further research . . . diminished the chances of collision. By 1759 Professor John Winthrop . . . [suggested] that pious New England . . . should not

EXTINCTION?

bank too much upon comets [T]he last natural (*gasp!*) agency capable of producing destruction on a scale large enough to constitute a *respectable* finish was disarmed. Did this mean that there was to be no explosion and never any day of [D]oom? [;]

HARVEY M. TERES, *RENEWING THE LEFT* 4 (1996) (noting Karl Marx's observation that history repeats itself as farce).

See BOBBY FISCHER ET AL., *BOBBY FISCHER TEACHES CHESS* at vii (Bantam Books 1972) (1966) ("[I]t will teach you the themes to look for so that you can find the right move fairly quickly, sometimes in just a few seconds."); MAGIC, *supra* note 10, at 365 (demonstrating the "Take-Apart Vanish"); RORTY, *supra* note 20, at 175 ("Orwell . . . convinced us that our previous political vocabulary had little relevance to our current political situation"). *But cf.* Balkin & Levinson, *supra* note 29, at 1784 ("Language *games* continually borrow from each other and poach on each other's territory." (emphasis added)); *but cf.* PYNCHON, *supra* note 24, at 841 ("It is only another game isn't it, another excuse for a whipping?") (quoting Gottfried's near-final thoughts about Blicero); FISCHER, *supra*, at 20 ("Once . . . the King is 'checkmated[,] . . . the game is terminated."); *Bulgarian Workers Threaten Strikes*, *supra*, at 7 ("I told [Socialist party leader Georgi] Parvanov that the game was over." (quoting Ivan Kostov, leader of the Union of Democratic Forces)); *hear* WOODY LEE, *Get Over It, on GET OVER IT* (Atlantic Records 1995); *cf.* KESEY, *supra* note 10, at 47 ("Now go away."); WAGNER, *supra* note 58, act 3 (describing Hagen's fate in the Rhine); DUMAURIER, *supra* note 24, at 251:

[T]hat . . . tweaking of his nose . . . had so shaken and demoralized him that he had never recovered from it.

He was thinking about it always . . . and . . . dreaming at night that he was being tweaked . . . again by a colossal nightmare Taffy, and waking up in agonies of terror, rage, and shame. [.]

"The tall marble fireplace had a cold and monumental whiteness. A grand piano stood massively in a corner; with dark gleams on the flat surfaces like a sombre and polished sarcophagus."); CONRAD, *supra* note 2, at 90; *cf.* DUMAURIER, *supra* note 24, at 37 ("The . . . piano . . . lay, freshly tuned [O]n the wall opposite was a panoply of foils, masks, and boxing-gloves. A trapeze, a knotted rope, and two parallel cords . . . depended from a huge beam in the ceiling."); DOSTOEVSKY, *supra* note 39, at 303 ("On the table lay an open book. It was the novel *What Is to Be Done?*"); MANN, *supra* note 2, at 495 ("Open on the rack of the . . . piano . . . stood the score of *The Lamentation of Dr. Faustus*"); DOSTOEVSKY, *supra* note 39, at 389 ("The guests who [had] gathered . . . had some sort of . . . urgent look."); *id.* at 399 ("[T]he hostess announced[:] . . . 'I ask that you sit down at the piano; you can give your vote from there'"); MANN, *supra* note 2, at 503 ("[H]e sat down at the . . . piano and flattened the pages We saw tears run down his cheeks and fall on the keyboard, wetting it, as he attacked the keys in a strongly dissonant chord."); DOSTOEVSKY, *supra* note 39, at 399 ("'Eh, the devil!' [he] swore, . . . striking the keys randomly, and all but with his fists."); *id.* at 653 ("'What? What is that? From where?' 'It's from the Apocalypse.'"); CONRAD, *supra* note 2, at 75 ("I saw him open his mouth wide — it gave him a weirdly voracious aspect, as though he wanted to swallow all the air, all the earth, all the men before him."); MANN, *supra* note 2, at 503 ("[H]e opened his mouth as though to *sing*, but only a wail . . . broke from his lips." (emphasis added)); CONRAD, *supra* note 2, at 76-77 ("And from right to left . . . moved a[n] . . . apparition of a woman. . . . [H]er hair was done in the shape of a helmet Suddenly she opened her bared arms and threw them up rigid above her head, as though in an uncontrollable desire to touch the sky"); MANN, *supra* note 2, at 503 ("He spread out his arms, bending over the instrument and seeming about to embrace it, when suddenly, as though smitten by a blow, he") DOSTOEVSKY, *supra* note 39, at

 SALVATION?

561 ("suddenly crashed full-length to the floor."); L'HEUREUX, *supra* note 10, at 249 ("There was an[] onslaught of pain . . . starting in his chest and expanding to fill him up It became who he was. He lay his head lightly on *Emma* and waited for the pain to pass. It was a deadly pain. It would kill him surely. And it did."); CONRAD, *supra* note 2, at 86 ("Mistah Kurtz — he dead." (quoting a voice from the wilderness)); *hear* THE MARVELETTES, *The Hunter Gets Captured by the Game* (Motown Records 1966); MARTHA & THE VANDELLAS, *Nowhere to Run* (Motown Records 1965); *cf.* KEN KESEY, *DEMON BOX* (1986); DUMAURIER, *supra* note 24, at 256 ("Monsieur Svengali had . . . died in that box."); *id.* at 260 ("He'd got heart disease."); *id.* at 264 ("What will they ever do without Svengali?"). *But cf.* CONRAD, *supra* note 2, at 70 ("You take Kurtz away quick" (quoting the Harlequin)); *supra* note 39 (contemplating O'Brien, and feet).

But cf. CONRAD, *supra* note 2, at 86 ("All the pilgrims rushed out to see. I . . . went on with my dinner. I believe I was CONSIDERED brutally callous. . . . The voice was gone. What else had been there?" (emphasis added) (quoting Marlow, on his first reaction to the announcement of Kurtz's death)); *hear* THE GREAT SOCIETY, *White Rabbit, on CONSPICUOUS ONLY IN ITS ABSENCE* (Columbia Records 1968) ("When logic and proportion have fallen . . . dead; when the White Knight is talking backwards, and the Red Queen's off her head, remember . . . *feed your head.*" (emphasis added)); EMERSON, *supra* note 12, at 130 ("Keep the intellect sacred. Revere it. Give all to it. *Its oracles countervail all.*" (emphasis added)); FICHTELIUS & SJÖLANDER, *supra* note 37, at 42 ("*We Have Large Brains Because We Think That seems obvious to a biologist. But it does not seem to be obvious to philosophers ["philosophers"?.]*" (emphasis added)); MARY ANN DUDKO & MARGIE LARSEN, *A DAY WITH BARNEY 16* (1994) ("Goodnight, Barney."); *hear* JOHANNES BRAHMS, *Lullaby, on BRAHMS AT BEDTIME* (Phillips Records 1996) (1868).

But cf. HEINLEIN, *supra* note 10, at 41 ("This is different; I have accused them of holding a political prisoner. . . . [A] government[s] . . . prime characteristic is the instinct to survive. You hit it, it fights back. This time I've *really* hit it."); L'HEUREUX, *supra* note 10, at 191 ("They watched . . . in silence and suddenly they all got serious about their plotting."); *wach* *The Prisoner, supra* note 29 ("Contact Control. CONTACT CONTROL!" (quoting the Speaker)); *cf.* SCHROEDER, *supra* note 45, at 340-41 ("As usual, resistance drove Napoleon forward. . . . If he could have stopped, he would not have been Napoleon."); ORWELL, *supra* note 1, at 263 ("Will Big Brother ever die? 'Of course not. How could he die?"); CHERNYSHEVSKY, *supra* note 29, at 355 ("*Passion* doesn't know satiety; it knows only temporary relief." (emphasis added)); L'HEUREUX, *supra* note 10, at 252 ("[Kurtz] was dead but his ideas lived on"); Balkin, *supra* note 29, at 1738 ("[T]he *Constitution* has not yet been REDEEMED" (emphasis added)); DOSTOEVSKY, *supra* note 39, at 629 ("Pyotr . . . with the greatest readiness moved at once to first class."); CHERNYSHEVSKY, *supra* note 29, at 300 ("Submission is always rewarded." (quoting Rakhmetov)); *id.* at 287 ("Two years after, we see him in Kirsanov's study reading Newton's *Apocalypse*"); *but cf.* ZAMYATIN, *supra* note 4, at 179 ("*I did not want to be []SAVED[]*" (emphasis altered)) [LISTEN TO YEVGENY ZAMYATIN . . .]; *but cf.* MANN, *supra* note 2, at 493 ("Meanwhile the baying of old Suso . . . rattling his chain in front of his kennel, seemed never to stop; he became quiet only when . . . the company had gathered in the Nike salon"); THE DOORS, *End of the Night, supra* note 29 ("Come on, baby, take a chance with us and meet me at the back of the blue bus"); PYNCHON, *supra* note 24, at 825 ("But will it ever get us, Jeremy, you and me, that's the quesshun. . . ." (ellipsis in original)); *id.* at 278-79 (last emphasis in original):

[N]one of them made the connection, at least not while alive; it took [D]eath . . . death with its very good chances of being Too Late, and a host of *other*

POWER?

souls feeling themselves, even now, Rocket-like, driving out toward the stone-blue lights of the Vacuum under a Control they cannot quite *name* [T]he illumination out here is . . . mild as heavenly robes, a feeling of . . . invisible force, fragments of "voices," GLIMPSES into *another order of being* [:]

RIBOWSKY, *supra* note 3, at 266 ("Al [Davis] is a guy capable of bringing the roof down around his own head."); CONRAD, *supra* note 2, at 58 ("He had been writing . . . and meant to do so again, 'for the furthering of my ideas. It's a duty.'" (quoting Marlow, on (the Risen?) Kurtz)); DOSTOEVSKY, *supra* note 39, at 607 (emphasis added) (quoting Pyotr):

You are called to renew the cause, which is decrepit and stinking from stagnation In the meantime your whole step is towards getting everything destroyed: both the state and its morality. We alone will remain, having destined ourselves beforehand to assume power: we shall rally the smart ones to ourselves, and ride on the backs of the fools. . . . This generation must be *re-educated* [:]

CONRAD, *supra* note 2, at 56 ("Your success in Europe is assured in any case," I affirmed"); *id.* at 53 (emphasis added):

The Russian tapped me on the shoulder. I heard him mumbling and stammering something about 'brother seaman — couldn't conceal — knowledge of matters that would affect Mr. Kurtz's *reputation*.' I waited. For him evidently Mr. Kurtz was not in his grave; I suspect that for him Mr. Kurtz was one of the immortals. [:]

ALINSKY, *supra* note 10, at 127 ("*Power is not only what you have but what the enemy thinks you have.*"); *but cf.* CONRAD, *supra* note 2, at 82 ("There was nothing either above or below him, and I knew it." (quoting Marlow, on Kurtz)); ELIOT, *The Hollow Men*, *supra* note 29, at 58:

Sightless, unless
The eyes reappear
As the perpetual star
Multifoliate rose
Of [D]eath's twilight kingdom
The hope only
Of empty men. [:]

L'HEUREUX, *supra* note 10, at 85 ("And, poor thing, he was short besides."); *id.* at 245 ("Mistah Kurtz . . . he dead."). *But cf.* BENJAMIN, *supra* note 22, at 458 ("Never stop writing because you have run out of ideas Fill the lacunae in your imagination by tidily copying out what you have already written."); DOSTOEVSKY, *supra* note 39, at 137 ("They're paper people . . ." Shatov observed calmly"); EDGAR, *supra* note 29, at 47 ("In the land of the mind, the slogan runs, the One-Id man is King."); WARHOL, *supra* note 29, at 148 ("I think a lot about 'space writers' — the writers who get paid by how much they write [Q]uantity is the best gauge on anything"); *but cf.* EMERSON, *supra* note 12, at 131 ("When the great painter was told by a dauber, 'I have painted five pictures whilst you have made one,' he replied, '*Pingo in eternitatem.*'"); ELIOT, *supra* note 29, at 56 ("Mistah Kurtz — he dead."). *But cf. supra* text accompanying note 48 (defining "repetitive and cumulative incantation"); *supra* text accompanying note 37 (defining "legal authority"); DUDKO & LARSEN, *supra*, at 2 ("[W]ake up, Barney!"); *but watch Star Trek* (any episode) ("He's dead, Jim!" (quoting Bones)); CONRAD, *supra* note 2, at 29 ("[A]ll the donkeys were dead." (emphasis added)). *But cf.* RIBOWSKY, *supra* note 3, at 195 ("I mean, I *think* he's dead. I go over and pick him up" (emphasis added) (quoting Tom Keating)); STEPHEN WHITE, BARNEY SAYS "PLEASE AND THANK YOU" (1994) (noting Barney's endorsement of those "signs"); McLUHAN & FIORE, *supra* note 24, at 1 ("Good morning!"); MARY A. DUDKO & MARGIE LARSEN, BARNEY'S BOOK OF OPPOSITES 1, 2 (1994)

If I did.⁶⁸

PERCEPTION?

(noting Barney's ability to distinguish between full and empty); DUDKO & LARSEN, *supra* note 43, at 16 ("Can you guess the big surprise Barney's made for you?"); *id.* at 17 ("A rainbow's what he's painted, and it's very pretty, too."); *supra* note 40 (contemplating the multiplicity of postage stamps of Saturn and the physical structure of its rings); PYNCHON, *supra* note 24, at 844 ("If there is still hope for Gottfried here in this wind-beat moment, then there is hope elsewhere. The scene itself must be read as a card: what is to come.").

. . . .

See generally Pinaki Chakravorty, Note, *The Rushdie Incident as Law-and-Literature Parable*, 104 YALE L.J. 2213, 2225 (1995) (characterizing Thomas Pynchon as within the "genre of postmodern satire"); Thomas, *supra* note 10, at 563 n.142 (characterizing Pynchon as "probably the most influential postmodern novelist"); HEINLEIN, *supra* note 5, at 22 (noting Mike's attempt to "grok deeply"); *id.* at 204-05 (tendering possible definitions of "grok"); Pierre Schlag, *Fish v. Zapp: The Case of the Relatively Autonomous Self*, 76 GEO. L.J. 37, 48 (1987) ("[T]he self doesn't really know what it is doing It just sort of groks its way through life." (footnote omitted)); Joseph William Singer, *The Player and the Card: Nihilism and Legal Theory*, 94 YALE L.J. 1, 47 n.144 (1984) (defining "grok," but hierarchically privileging Mahmoud's voice); Margaret Jane Radin & Frank Michelman, *Pragmatist and Poststructuralist Critical Legal Practice*, 139 U. PA. L. REV. 1019, 1046 n.103 (1991) ("In one of Robert Heinlein's . . . science fiction novels, 'grok' signified a mode of unmediated communication or infallible understanding. See ROBERT HEINLEIN, *STRANGER IN A STRANGE LAND* (1961); cf. Gabel & Kennedy, *Roll Over Beethoven*, 36 STAN. L. REV. 1, 4-14 (discussing 'intersubjective zap').").

68. Compare GEORGE BERKELEY, *A Treatise Concerning the Principles of Human Knowledge*, in *A TREATISE CONCERNING THE PRINCIPLES OF HUMAN KNOWLEDGE AND THREE DIALOGUES BETWEEN HYLAS AND PHILONOUS* 43, 66 (G.J. Warnock ed., Meridian Books 1963) (1710) ("[A]s to what is said of the absolute existence of *unthinking* things without any relation to their being *perceived*, that is to me perfectly unintelligible. Their *esse* is *percipi*, nor is it possible they should have any existence out of the minds or thinking things which perceive them." (emphasis added)) with Miller, *supra* note 15, at 331 ("[A] *work of literature* must be read in order to come into existence as a *work of literature* . . ." (emphasis added)).

See also Miller, *Bleak House*, *supra* note 29, at 78:

[A] structure so elaborate that it cannot be understood by the human mind . . . yields to complete heterogeneity. And a world of complete heterogeneity is, paradoxically, a world of complete homogeneity. Since nothing has any relation to anything else and cannot therefore be understood in terms of a contrast to anything else, everything is, finally, the equivalent of everything else.
[.]

QUINE, *supra* note 45, at 81 (noting that if the concept of negation had not already lost its meaning for the deviant logician, thereby ipso facto "chang[ing] the subject [not "subject"]", then ' $p \sim p$ ' and its corollary, "accepting every sentence as true," would "forfeit[] all distinction between true and false"); HEINLEIN, *supra* note 5, at 24 ("There was so much to grok, so little to grok from." (quoting Mike)).

"Oedipa took out her . . . memo book and opened to the [muted horn] symbol she'd copied and the words *Shall I project a world?*" PYNCHON, *supra* note 2, at 63. Compare PYNCHON, *supra* note 24, at 824 ("The Rocket was fired southward, westward, eastward. But not northward — not so far. . . . Evidence and intuition — and maybe a residue of uncivilizable terror that lies inside *us* . . . point to 000°: true North. What better direction to fire the 00000?" (emphasis added)) and CONRAD,

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supra note 2, at 40 (“You are of the new gang — the gang of *virtue*. The same people who sent [Kurtz] specially also recommended you.” (emphasis added) (quoting the “papier mâché Mephistopheles,” addressing Marlow)) and ROTMAN, *supra* note 10, at ix (emphasis added):

At one point during the writing of this book, I felt inundated by zeroes: a friend gives me a copy of a song *Down to Zero*, then a newspaper ad announces the invention and sale of *Zero Bonds*, an off-off-Broadway play called *Zero* is just closing when I arrive in New York, a novel with the title *Woman at Point Zero* is published followed by another called *Less Than Zero*, my local video shop offers me *The Zero Boys* Is there a zero-phenomenon out there, some actual preoccupation with an extreme or terminal state, with the condition of being a cypher, manifested in these titles, or have I merely sensitised myself to any mention of zero, zeroing in on zero, obsessively foregrounding it out of the cultural noise? And assuming there is such a phenomenon, am I, producing this artefact . . . not part of it? Presumably so [H]ow? I do not know. *And do not . . . expect to know:* for, whatever the phenomenon is, we (or at least I) seem to be still *passing through it*

with PYNCHON, *supra* note 2, at 136-38 (emphasis added):

[Oedipa] had heard about all excluded middles; they were . . . to be avoided; and how had it ever happened here, with the chances once so good for diversity? . . . For it was now like walking among matrices of a great digital computer, the zeroes and ones twinned above . . . Ones and zeroes. . . . Another mode of meaning behind the obvious, or none. Either Oedipa in the orbiting ecstasy of a true paranoia, or a real Tristero. For there either was some Tristero beyond the appearance of the legacy America, or there was just America and if there was just America then it seemed the only way she could continue, and manage to be at all relevant to it, was as an alien, unfurrowed, assumed full circle into some paranoia.

. . . .

The auction was duly held, on a Sunday afternoon . . . Oedipa arrived a few minutes early

. . . Oedipa sat alone, toward the back of the room, looking at the napes of necks, trying to guess which one was her target, her enemy, perhaps her *proof*.
[.]

Compare also L'HEUREUX, supra note 10, at 228-29:

When the Turks had first arrived, they had been invited to these cookouts, and they had come. But only once. The Turks had found the conversation trivial, the food fattening, the beer disgusting.

[T]he fools . . . laughed unkindly at . . . Kurtz's plan to supplant English with a Department of Theory and Discourse. It was a hoot . . . as so much of the theory stuff was, just more fascist bullying from the new right wing. As if books were improved by calling them discourse! . . . [I]t was fun to puncture balloons and belittle pomposity and, specifically, to call *un sac de merde* a bag of shit. But rancor and indignation never lasted long among the fools. They immediately moved on to practical things: who would water Dave and Sheila's plants while they were away, who would feed Stephanie's cat

They were a functioning community, full of small rivalries . . . and lots of forgiveness. . . . Mostly they liked one another. This was what the Turks could never understand about them: they were content.

and id. at 50 (“They had seen Kurtzes come and go.”) with CONRAD, *supra* note 2, at 87 (emphasis added) (narrating Marlow's near-final thoughts about “life,” after further introspection following Kurtz's Death):

[T]here is a . . . time . . . I remember mistily, with a shuddering wonder, like a passage through some inconceivable world that had no hope I found myself back in the sepulchral city resenting the sight of people hurrying

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through the streets to filch a little money from each other, to devour their infamous cookery, to gulp their unwholesome beer, to dream their insignificant and silly dreams. They trespassed upon my thoughts. They were intruders whose knowledge of life was to me an irritating pretence, because I felt so sure they could not possibly know the things I knew. Their bearing, which was simply the bearing of commonplace individuals going about their business in the assurance of perfect safety, was offensive to me like the outrageous flauntings of folly in the face of a DANGER IT IS UNABLE TO COMPREHEND. . . . I had some difficulty in restraining myself from laughing in their faces, so full of stupid importance.

and id. at 93-94 (noting that Marlow's final act was one of PITY, and PROGRESS, and the devil knows what else) *and* PYNCHON, *supra* note 24, at 844 (narrating Blicero's thoughts about Gottfried, a few moments before Blicero's Death: "[Y]our immortality rips at my heart — can't you see why I might want to destroy that . . . stupid clarity in your eyes" BLICERO HAS ALWAYS MADE THE DECISIONS." (second emphasis added)); *but cf. id.* at 876-87 (noting that Gottfried had neither immortality nor clarity after all, having developed a fatal attraction to the Rocket); ORWELL, *supra* note 1, at 300 ("He had won the victory over himself. He loved Big Brother." (emphasis added)); WHITMAN, *supra* note 2, at 2 ("In full rapport at last.").

. . . .

"Now I will do nothing but listen" *Id.* at 47; *cf. id.* at 11:

I but advance a moment only to wheel and hurry back
into the darkness.

. . . .

Leaving it to you to prove and define it,

Expecting the main things for you. [;]

cf. ZAMYATIN, *supra* note 4, at 89 ("I knew that some sort of happiness was waiting for me tomorrow. But what sort?"); *call* Mike (at Rainbow Travel) (regarding Aitutaki); *cf.* ZAMYATIN, *supra* note 4, at 188 ("I'm leaving . . . for the unknown. . . . Farewell to you, my unknown, my dear readers, with whom I've lived through so many pages . . . I'm leaving." (first ellipsis in original)); RILKE, *supra* note 10, at 91:

Dancer: oh you relaying of every
vanishing into a stride: how you performed it there!
And the twirl at the finish, that tree made of energy,
didn't it fully capture the swing of the year?
Didn't that tree's crown suddenly blossom with quiet
so your whirling could swarm up around it? And over you
wasn't it sun, wasn't it summer, the warmth of it,
this immeasurable warmth, coming from you? [;]

MAGIC, *supra* note 10, at 472 ("The choice is yours"); ZAMYATIN, *supra* note 4, at 141 ("And tomorrow . . . what? Nobody knows. You understand? Neither I nor anyone else knows. . . . Now it'll be new, never before seen, or imagined."); *watch* *The Borg*, *supra* note 39 ("Engage." (quoting Picard)).

But cf. L'HEUREUX, *supra* note 10, at 168 ("Then . . . Kurtz, full of hope, came calling." (emphasis added)); CONRAD, *supra* note 2, at 52 (final ellipsis in original):

At this moment I heard Kurtz's deep voice behind the curtain: "Save me!
— save the ivory, you mean. Don't tell me. Save me! Why, I've had to save
you. . . . Sick! Sick! Not so sick as you would like to believe. Never mind!
I'll carry out my ideas out yet — I will return I will return. I"

["[D]emons always want to be taken seriously" Richard Pevear, *Foreward* to DOSTOEVSKY, *supra* note 39, at vii, xxi.]; *but see* L'HEUREUX, *supra* note 10, at vii ("Don't come crying to me." (quoting Anton Chekhov)). *See also* PYNCHON, *supra* note 24, at 886-87 (perhaps suggesting that Blicero has now moved to

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America, his work in Europe done, and quoting his last words — at least in Pynchon's book):

"The edge of evening . . . the long curve of people all wishing on the first star. . . . The true moment of shadow is the moment in which you see the point of light in the sky. The single point, and the Shadow that has just gathered you in its sweep"

••••

But it was *not a star*, it was falling, a bright angel of [D]eath. [.]

"Always remember. The first star hangs between his feet." *Id.* at 887; *but watch ALICE, supra* note 14 (perhaps suggesting that it was all just a dream).

Nuts.⁶⁹

 EXPLANATORY POWER?

69. Cf. *supra* note 16 (quoting Eugen Herrigel on words); *supra* note 23 (same, quoting Ludwig Wittgenstein). Compare KEVIN FREIBERG & JACKIE FREIBERG, NUTS! (1996) (contemplating "Southwest Airlines' crazy recipe for business and personal success") with A. MARJORIE TAYLOR, THE LANGUAGE OF WORLD WAR II, at 140 (rev. ed. 1948) (emphasis added) (citation omitted):

"Nuts": Reply handed to Germans on December 22, 1944, by Brigadier General Anthony C. McAuliffe of the 101st Airborne Division, to their demand for the surrender of Bastogne before the siege was broken A poem about this[,] "*The Word*" by William Rose Benét[,] appeared in *The Saturday Review of Literature*. September 8, 1945. [.]

. . . .

It was a moment of triumph for the wilderness I remembered his abject pleading, his abject threats, the colossal scale of his vile desires, the meanness, the torment, the tempestuous anguish of his soul. And later on I seemed to see his collected languid manner, when he said one day . . . "I want no more than justice." He wanted no more than justice — no more than justice. . . . I seemed to hear the whispered cry, "The horror! The horror!"

CONRAD, *supra* note 2, at 89-90; cf. *id.* at 89:

He lived then before me; he lived as much as he had ever lived . . . a shadow of the night, and draped nobly in the folds of a gorgeous eloquence. The vision seemed to enter the house with me — the stretcher, the phantom-bearers, the wild crowd of obedient worshippers, the gloom of the forests, the glitter of the reach between the murky bends, the beat of the drum, regular and muffled like the beating of a heart — the heart of a conquering darkness. [.]

id. at 84 ("Kurtz discoursed. A voice! A voice! It rang deep to the very last.");

DUMAURIER, *supra* note 24, at 304 ("[A] voice, and nothing more").

See also MILLER, WILDERNESS, *supra* note 24, at 239 (emphasis added):

Men have always desired the assurance of an end When the end of the world was a descent from Heaven, it was also a Judgment; if it becomes more and more a contrivance, it has less and less to do with good and evil. Humanity lusts after the conflagration, even after nature seems unlikely to provide it But then, if humanity has to do the deed itself, can it bring about more than the explosion? Can it also produce the Judgment? Explosion . . . although satisfying the most venerable requirements for *stage effects*, turns out to be — like . . . Whiston's comets — not what was wanted after all Catastrophe, by and for itself, is not enough. [.]

But cf. MANN, *supra* note 2, at 109 ("Why did the donkey have to tell?"); see *id.* at 491 ("[T]hat tone . . . which was the voice of mourning, is so no more. It changes its meaning; it abides as a light in the night.").

. . . .

"This thing that happened today was really not so important, but just suppose it were only the beginning, only the first meteor of a whole shower . . . poured down by infinity onto our glass paradise?" ZAMYATIN, *supra* note 4, at 124; cf. *id.* at 157 ("You, too, probably have a drop or two of that sunny forest blood.").

. . . .

[*The Los Angeles Philharmonic Orchestra, Leonard Bernstein at the piano, plays Ferdé Grofé's orchestral arrangement of Rhapsody in Blue.*]

[*Exeunt.*]



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