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*Published in:*  
Law and Literature

*DOI:*  
[10.1080/1535685X.2020.1729596](https://doi.org/10.1080/1535685X.2020.1729596)

*Publication date:*  
2021

*Document Version*  
Peer reviewed version

[Link to publication in Discovery Research Portal](#)

*Citation for published version (APA):*  
Giddens, T. (2021). A Series of Unfortunate Events or the Common Law. *Law and Literature*, 33(1), 23-48.  
<https://doi.org/10.1080/1535685X.2020.1729596>

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# **A Series of Unfortunate Events *or* The Common Law**

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## **Abstract**

Lemony Snicket's *A Series of Unfortunate Events* mirrors the scholarly praxis of the common law, encoding a doctrine of virtue from diligent study. This doctrine promotes critical literacy as a means of achieving justice, linking with the textual adjudication of state power found in the archive and practice of the common law. The doctrine also requires at the same time that this literacy be inhabited by its readers. In its translation to a Netflix series, this doctrine is misinterpreted: the TV series does not inculcate the cinematic or televisual literacy required by its form, but presents an appearance of bookish study and scholarly endeavour in lieu of its actual undertaking. Within a broader context of the marketisation of higher education—including legal education—in which space for the undertaking of scholarly endeavour is increasingly compressed, the misinterpretation of such a valuable doctrine should not pass without concern.

I'm afraid this dreadful nonsense is the law.<sup>1</sup>

## **The Predictable Premise**

Lemony Snicket's account of the Baudelaire orphans are tales not just of horror and misfortune, but of the virtues of scholarly praxis. They promote a devotion to textual endeavour and the practical application of learning to the vicissitudes of life ('vicissitudes' is a word which here means 'a series of unfortunate events'<sup>2</sup>); to virtue through bookish study and the practical application of knowledge. The current paper, meanwhile, is a second-hand academic analysis and tedious repetition of the book's lesson; unless you want to feel vaguely bored and irritated, it is probably best that you do not read any further.<sup>3</sup>

*A Series of Unfortunate Events* was originally released into the world as a series of inscriptive events, taking the form of alliteratively titled printed books. From *The Bad Beginning*,<sup>4</sup> via the stressful tomes of *The Reptile Room*,<sup>5</sup> *The Wide Window*,<sup>6</sup> *The Miserable Mill*,<sup>7</sup> *The Austere Academy*,<sup>8</sup> *The Ersatz Elevator*,<sup>9</sup> *The Vile Village*,<sup>10</sup> and *The Hostile Hospital*,<sup>11</sup> through the inopportune narratives of *The Carnivorous Carnival*,<sup>12</sup> *The Slippery Slope*,<sup>13</sup> *The Grim Grotto*,<sup>14</sup> and *The Penultimate Peril*<sup>15</sup> to the inexorably titled thirteenth volume *The End*,<sup>16</sup> the upsetting adventures of the Violet, Klaus, and Sunny Baudelaire are recorded for posterity. The series is concerned with the justice afforded its three juvenile protagonists, and the broad failure of the well- and ill-meaning adults who do not share the academic prowess of the Baudelaires, and presents a cyclical journey of inconvenient and disastrous happenings that are variously navigated, solved, and survived by the orphans through the diligent application of their studious capacities.

This expansive series of books<sup>17</sup> has since distressingly been compressed into a televised adaptation. ‘Televised adaptation’ is a phrase which here means ‘a series of episodic small-screen audio-visual narrative presentations, released on Netflix from 2017 to 2019’. This particular televised adaptation represents an ironic dumbing down of Snicket’s oeuvre for a couch-ridden audience, relying on the indicative appearance of bookish study and scholarly endeavour to re-present the more performatively inhabited argument of the literary source material—material that requires the scholarly skills for which the story argues. Accordingly, the interminably dull sequence of words that follows seeks to examine the series’ claim of gaining virtue from diligent study, not through a simple and exclusive return to the literary expression but also through a critical consideration of its digital televisual translation. Indeed, it is this translation to a televised adaptation that gives rise to this paper’s predictable premise.

This predictable premise is two-fold. Firstly, that *A Series of Unfortunate Events*—in both its title and content—models the common law. Secondly, that the translation of the scholarly story into a televised

adaptation mirrors some critical problems within contemporary legal education, which relies upon the ‘indicative appearance of bookish study and scholarly endeavour’ in lieu of the more performatively embodied scholarship required to work meaningfully with the common law.

The current paper should not be read by anyone who wants to avoid such horrors—you are better off reading Snicket’s work first-hand, or maybe going for a nice walk. If you are unlucky enough to have been sent this paper for peer review, please receive my apologies along with it—and while you may feel bound by duty to proceed, I hereby give you authorial permission to simply reject my work without reading any more of it than is absolutely necessary. If this text has somehow proceeded into print, please know, dear reader, that its remainder simply repeats the above claims in more detail—no doubt causing only confusion and disagreement. If you wish, you may save yourself a not insignificant amount of time and distress by stopping now and simply citing the abstract.

### **Section the First: The Literary Law**

Like this paper, the common law is tedious and repetitive.<sup>18</sup> But whilst tedious and repetitive, the common law is also a phenomenon steeped in humanist traditions of textual proficiency and written literacy. Indeed, not only is literacy in many senses a pre-requisite for the development of a fully-fledged legal institution, with the “literacy of courts and governance” in turn “predicated on trust in the written word”,<sup>19</sup> but the development of a specifically technical legal vernacular can be seen to be of practical importance in securing the operation of the common law system of adjudication. The common law is often thought of as being a technical system of communication that is independent from the everyday use of language, relying on this technicality for its practical operation and authoritative meanings. Whilst Anglo-Saxons were more literate than is often thought,<sup>20</sup> trust in written documents declined after the Norman Conquest as forgeries

increased.<sup>21</sup> Courts accordingly reverted to older oral methods of securing truth without documentary evidence—swearing oaths, battle, ordeal.<sup>22</sup> But more profoundly, this distrust of documents eventually resulted in juridical methods of establishing documentary veracity, notably via “the development of diplomatics ... and of technicality in legal terminology”<sup>23</sup>—and these developments ultimately contributed to the emergence of the common law as a particular textual and linguistic phenomenon.<sup>24</sup>

The language of the common law is bespoke. ‘Bespoke’ is a word which here means ‘a separate and technical branch of the living vernacular of social communication’ or, alternatively, ‘a particular genre of writing that sets itself up as a rhetorically separate, and thus as an authoritative arena of speech and textual articulation’. Indeed, the historical function of securing the adjudicative position of the courts through technical language can still be identified in the contemporary institution of law. For scholars such as Smejkalová, law’s technical precision reflects as it enables the successful performance of legal process: the seeming inaccessibility of legal language mediates the performative nature of the trial, with the bespoke technicalities of legal language operating as a theatrical space within which disputes are seen to be institutionally expressed and resolved, and the symbolic order of legal discourse thus diverging from the ‘real’ aspects of legal subjects.<sup>25</sup> As she explains: “The conventions and rules of legal language of the trial make the language itself a *stage* on which the routine, everyday dispute is being enacted”.<sup>26</sup> (Because explaining jokes always makes them funnier, I will point out here that my emulation of Snicket’s penchant for playful definitions is partly intended to parody something of the bespoke or artificial quality of legal meanings, suppressing or ignoring their alternatives or contingencies. This is returned to below in the context of the contingency of meaning, and Snicket’s definitional method is discussed more fully in the next part of the paper.)

This technical language, this vernacular of formal distance that characterises the bespoke language and practice of the common law, arguably first emerged with the Church as its gatekeepers. Peter Goodrich

examines how this segregation of legal language is evidenced in the early relationships between secular and religious interpretive practices, with the Church, via the technical proficiency of its scribes, controlling access to written texts and thus helping preserve the somewhat mystical character of written words as a means of administration.<sup>27</sup> Legal texts were constructed using an admixture of Latin and law French that served to protect them from the uneducated masses, enabling those few with the technical skill and capacity of working with written texts to behave as guardians of the law.<sup>28</sup>

This technicalisation of language into a restricted and specifically legal form arguably secured a certainty of meaning in these public texts that sought to govern society, but Goodrich instead unpacks the instability and permeable quality of legal communication:<sup>29</sup> “[the] unitary character of legal discourse derived from a culturally specific form of written power, a Latinate literacy and grammar which was neither incontestable in its form nor singular in its practices.”<sup>30</sup> This porous quality of legal language, as much as its closed technicality, means there is an undoubted need for literacy in order for individuals to be able to understand and work with the peculiar praxis of the common law—a calling that is of particular ethical importance for those who are unfortunate enough to occupy the office of jurist.<sup>31</sup>

### *The Horrifying Humanitas*

The scholarly humanism of the common law is something that is of widespread and profound value, a fact<sup>32</sup> that goes some way to justifying the peculiar methods of the common law as a central site in the institutional constitution of social and communal life. If you are one of these people who think that the humanities lack value when compared to disciplines with more immediately obvious practical and financial benefits—such as the natural and even the social sciences—then you should stop reading now. The following will only serve to infuriate you in its acceptance of the claim that study of the humanities enables not only the production of

practical knowledge, but also a reflexive engagement with the limitations on the positive forms of knowing that are possible within the human sphere.<sup>33</sup>

To make out the scholarly quality of the common law, I will take the unwise path of turning to an argument precisely against understanding law as part of the humanities. David Howarth is my example, specifically his case for law being akin to engineering. Whilst I am invoking someone who clearly disagrees with me, Howarth takes the more sensible option of invoking what happens in “reality”. He claims that “reality” is a word that describes the fact lawyers “design social structures and devices in a way that parallels engineers’ designs of physical structures and devices”,<sup>34</sup> as if “judges tinker with legal structures”<sup>35</sup> instead of undertaking rich scholarly endeavour involving the reflective application of a deep set of institutional legal materials to a question of individual, moral, or political importance.<sup>36</sup>

Law, for Howarth, is practical problem-solving for clients, with little or no recourse to the scholarly endeavours of the humanities—certainly not in ethical questions of a lawyer’s professional duties,<sup>37</sup> and only partially for academic lawyers who are concerned with wider social impacts, insofar as they “deal with the practical and the normative”.<sup>38</sup> What this overlooks, of course, is the insight that humanities scholarship can give not only for ethical reflection, nor even just for creative ideas for problem solving, but in terms of engaging with questions of how those structures are articulated, communicated, or have effects in society, or what interests they enable or suppress. But, despite his detailed attempt to push the humanities away from the reality of law, characterising it as “noise from the playground” that can “interfere with those who are trying to work”,<sup>39</sup> if you have read Howarth’s paper I’m sure you noticed that he eventually lets slip—however inadvertently—the unavoidably central place that humanities scholarship has for law:



But because it [law] is creative work, and practical in the broadest sense of the word, it is inevitably intertwined with moral and political thought ... To that extent, law is connected with the Humanities, but it is no more connected by those means than any other creative or practical activity.<sup>40</sup>

Which is a paragraph that here means ‘law is connected to the humanities unavoidably and fundamentally’ — just like other broadly practical and creative endeavours, such as literature, statecraft, sculpture, or running a business. This might seem to make the relevance of the humanities so ubiquitous as to be meaningless—but their ubiquity is precisely the point. As Gallucci notes, the humanities have a broad critical importance in relation to all walks of knowing:

[T]he humanities provide ... a necessary foundation for obtaining access to the real world. We have the certain knowledge that, however our world today may be defined, its realities will always exceed the realms of the empirical and the quantitative, and will always include the realities of human relations and thought.<sup>41</sup>

The humanities are of deep and clear relevance to the ways in which we understand and construct the world, through legal as well as other forms. Even Howarth’s strong attempt to quell the relevance of the humanities—in his case specifically for law—ends up with a slipped admission of their general importance across all scholarly endeavours. We should not deny their importance in legal contexts just because they are relevant elsewhere—indeed, to enforce such a denial becomes more problematic once it is acknowledged that they are important to knowing in general.

Given law's quest for fairness through objectivity, what might be problematic is not so much the general importance of the humanities in appreciating the contingency of human knowing, but the more specific concern of grounding an objective system of legal adjudication upon humanist ideals that are invested in "the idiosyncratic, the non-reproducible, the singular".<sup>42</sup> This feeling of resistance to a legal humanities was undoubtedly shared by early modern English common lawyers, who resisted invading continental humanist methods in the 16th century—the *studia humanitas*—that threatened to uncover the historical origins of English law, primarily by showing simply that it *had* historical origins, instead of being an immemorial tradition<sup>43</sup> whose authority derives from its timelessness.

The common law has solved more problems than man can comprehend, and has accumulated such knowledge that no reflecting individual, even with the aid of reason and philosophy, can fully comprehend it.<sup>44</sup>

This recourse to "a timeless reason" places the heritage of the common law beyond any linearity, seeing it as "an expression of the passage of *imperium*, of the body politic or *corpus mysticum* of the English state outside the boundaries of known chronology".<sup>45</sup> Whilst "judge-made common law embodies the wisdom of generations",<sup>46</sup> the invading humanities sought to particularise the law, to expose its pesky idiosyncrasies and singularities, thereby robbing it of its timelessness and concomitantly its authority.

Like the legal humanities of the twentieth and twenty-first centuries, when applied to law the *studia humanitas* augured a "new 'school' of jurisprudence ... [that] sought to 'humanise' legal studies by allying them with 'good letters' (grammar, dialectic and rhetoric) and 'good arts' (history, poetry and philosophy)."<sup>47</sup> And, like contemporary legal humanities, such inaugurations were resisted by those who felt that an acknowledgment of such artistry risked robbing law of its legitimacy as a practical means of governing society.

Indeed, such a resistance can be seen even in relatively recent debates on law and literature, in some cases resulting in a radical separation of literature and law by humanities scholars because law is seen to be “a hermetic discipline protective of its rules of textual production and interpretation” rather than a form of literary scholarship in itself.<sup>48</sup>

### *The Derridean Dworkin*

There is an irony in claiming the common law is a form of scholarship, and Judge Hercules is a judicial figure that captures this well. Invented by Ronald Dworkin, Hercules J is a “judge of superhuman intellectual power and patience”,<sup>49</sup> with the ability to do what ‘no reflecting individual’ can do: to comprehend the whole history of legal decision-making in the common law. The irony is that, despite his near-infinite capacity for memory and analysis, his scholarship is blinkered—limited as it is to a single type of source. Hercules J examines only the timeless archive of the common law, synthesising it completely to produce the best law possible.<sup>50</sup> In seeking to achieve this ideal, the common law becomes an “attitude”, and one that “aims, in the interpretive spirit, to lay principle over practice to show the best route to a better future, keeping right the faith with the past”.<sup>51</sup> Which is a passage that here means avoiding the historical contingency of the common law. Like the common lawyers of the renaissance, interrogating the contingencies of the common law and the historical production of its sources is not part of Hercules’s remit. Dworkin’s idealised juridical hero ironically lacks critical prowess in his focus on timeless, institutional legal texts.

Despite Dworkin’s resistance to historicising his own work,<sup>52</sup> and Hercules’s goal of synthesising the law as a coherent whole rather than an evolving praxis, Walters traces the intellectual heritage of Dworkin’s ideas and Hercules’s method precisely to the renaissance humanism that was so resisted by early common lawyers.<sup>53</sup> Piecing out the values of the renaissance humanists’ investment in philosophy, coherence, interpretation, and

the integrity of casuistry, Walters shows that “Hercules comes from a long line of legal humanists”<sup>54</sup> (albeit with some more recent liberal ideals mixed in, such as a resistance to natural reason<sup>55</sup>). For Hercules, understood in this humanist vein, the lack of any practical access to objectivity results in a common law method that relies instead upon a method that seeks to authorise its decisions in the long term through rational reflection, representative expression, close reading, and rhetorical argumentation—in a word, scholarship. Scholarship that includes not only detailed textual reflection and praxis, but also the building of general principles from the particularities of individual cases.<sup>56</sup> Framed with so common a denominator, Dworkin’s Herculean ‘right answer’ becomes a near-infinite act of humanist scholarship.

But still, this Herculean scholarship remains a linear one—tracing the historical hermeneutic of previous decisions to gain a complete and thus correct analysis of the law. Melanie Williams, meanwhile, inspiringly indicates that it is “absolutely legitimate and justifiable” to explore “lateral as well as linear sources of discourse” when it comes to solving the practical problems of communal adjudication as much as those of reflective legal contemplation,<sup>57</sup> and moreover that “scholarly excellence need not be diluted by intellectual diversity”.<sup>58</sup> Accordingly, and despite any superficial similarities indicated by the intellectual heritage identified by Walters, Dworkin’s model signals a resistance to understanding the common law as scholarship more broadly. The irony of Hercules J is that, whilst deeply scholarly, the linear perspective he represents lacks intellectual diversity, remaining closed to the more lateral scholarly adventures of the humanities.

‘Lateral’ is a word which here means ‘Derridean’, for as Goodrich characterises it, Derrida’s method of deconstruction is nothing more than a patient and unrelenting form of scholarship:<sup>59</sup>

Deconstruction, however, is no more than a device by which terms of art are unpacked by reference to their history and the semantic context of their use. Their privilege—their claim to a

univocal or artistic meaning—is challenged, and the control that the legislator or author has over them is shown to be illusory. This patient labor of interpretation, this scholarship or philological intricacy, was misrecognized and interpreted as lack of control. Erudition in the form of an interdisciplinary play of meanings was interpreted in a hostile fashion as anarchic, hedonistic, and illicit.<sup>60</sup>

Derrida’s work was thus resisted, because it “augured scholarship, not law”.<sup>61</sup> In line with this, Ian Ward has sought to establish Derrida’s work as part of a broader connection between the so-called ‘postmodern’ turn in legal scholarship and a resurgence in the scholarly ideals of *humanitas*.<sup>62</sup> Indeed, the ludic definitions deployed throughout this text—and more profoundly in Snicket, as we will discuss at length below—play precisely into this idea. Meaning in the Derridean account is always the product of its systemic or contextual location, and is never stable or unitary. Hence, these definitions are meanings found ‘here’—but not necessarily elsewhere. These definitions—like all definitions—are contested, contingent, and problematic in various different ways. But in being definitions, they also capture this very contingency, by linking meaning to a navigation of contextual or systemic encounters (‘which here means...’) rather than a unitary or stable source or content. This is echoed more broadly by Gaakeer, who observes a retreat from or transcendence of modernist ideals of abstract universality in critical legal discourse, and instead the movement towards a rhetorical, local, and specific contextualisation of understanding and practice—an understanding that favours the intellectual navigation of values and meanings over the establishing of settled abstractions.<sup>63</sup>

This unsettled nature of meaning is also seen in the fact that the movement between Dworkin and Derrida is not simply one from linear to lateral sources. Dworkin’s legal scholarship—characterised as it is by an idealised, unattainable task, only achievable by a mythical super-being like Hercules—is one that engages with the web of judicial pronouncements, the system of legal inscriptions, in a trajectory towards complete

integration. Applied to law, Derrida's method also engages with this system of inscriptions—but as part of a much broader and outside-less sea of 'writing'.<sup>64</sup> A Derridean method reads this web not towards an integrous whole, but as an irresolvable play of differences and deferred meanings—in which meaning is found 'here', in its systemic location, only through a deferred encounter with other elements in the system of inscription.<sup>65</sup> Dworkin's particular breed of formalism reads legal inscriptions as ideally constituting an integrated and benevolent law, Derrida's re-conception of meaning indicates a law that lacks any necessary coherence or singularity. Meaning and judgment are always deferred for Derrida, until some other element in the system of meaning, some further source, has been consulted and interrogated.

Accordingly, whilst Derrida's method could be characterised as 'lateral' in its slow orbit around an object, its distinction with Hercules becomes one between seeking unitary closure and opening to ever-increasing meaning. Yet both involve a patient and potentially infinite form of scholarly reflection and interrogation, and in this sense end up in a similar place. For the complete judgment of Hercules J occurs at the end of an unattainable synthesis of the entire common law; his judgment is always 'to come'. The idealised scholarly endeavour of Hercules is thus contrasted with the contingent and cascading scholarly endeavour of Derrida—but both involve a detailed and relentless encounter with legal inscriptions, and an unending deferral. Although I imagine they would disagree on many things, arguably both Dworkin and Derrida think justice is something deferred by a need to always engage with yet another source. For both of these approaches—each emblematic of quite different ways of understanding the nature of law and its discourse—answering a practical question of law in a just way ultimately becomes a process of open-ended scholarship: of diligent study.

## **Section the Second: The Scholarly Story**

To repeat the argument yet again, this time in a reductive manner, scholarly endeavour to a large extent characterises the virtuous practices of the common law. Even if institutional exigencies limit the direction in which a judicial inquiry might delve, prioritising the linear excavation of precedent decisions over the lateral examination of other genres of discourse and legal text, there remains detectable a patient and relentless interrogation of meaning and connection, of reflexive description and praxis, that spans the vast trajectory of the common law. And this conception of the common law can be seen in *A Series of Unfortunate Events*. In its overarching message of the virtues of scholarly endeavour as much as its unflinching record of the vicissitudes of life—in its content as much as its title—Lemony Snicket’s account of the fate of the Baudelaire orphans can be seen to model the common law, inculcating in its reader not only a dense range of imagined linear experiences from which to draw normative and adjudicative lessons, but also the lateral tools required to meaningfully and judiciously navigate a dangerous and inconvenient modern world.

If you have read *A Series of Unfortunate Events* then you will find the following section to be both incomplete and needlessly descriptive. For what it undertakes is primarily a summary and explanation of a regrettably limited number of examples drawn from Snicket’s work, and—predictably—a repetition of the preceding claims. In itself, such a summary and explanation defeats the object of the account of the Baudelaire, which articulates Snicket’s doctrine of virtue from diligent study rather than promoting the superficial encounters enabled by second-hand academic analysis or televised adaptations. Whether you have read Snicket’s books or not, then, you have at least one more good reason not to give the present text any more of your valuable attention.

A series of unfortunate events is indeed recounted across the cyclical narrative of *A Series of Unfortunate Events*. The bad beginning endured by the three child protagonists is the death of their parents in the fire that destroyed their mansion home. This unfortunate event begins a sequence of inconvenient happenings,

generally orchestrated or otherwise caused by the antagonistic Count Olaf. Olaf's primary goal, as I'm sure you know, is to secure for himself the Baudelaire fortune. This fortune has passed to Violet, Klaus, and Sunny upon the death of their parents, but has been somehow locked away in an imaginary conceptual structure known as a 'trust' until Violet (the eldest) comes of age. Olaf, meanwhile, wants the fortune for himself, and hatches a series of dastardly plans ('dastardly plans' is a term which here means 'unfortunate events') to try and secure this outcome.

As orphans, the three Baudelaires are sent to live with a relative. Initially Count Olaf is chosen, as he is the closest living relative, in that he is the relative living the closest (although the blood relation between them is relatively tenuous)—a problematic literal interpretation that actually opens up to much of the critical erudition that Snicket's account seeks to inculcate in its readers. (If only the adults had been as astute as the Baudelaires—they would never have sent them to live with Olaf in the first place!) This section presents a problematically limited set of examples from Snicket's work to show the key ways in which the text embodies its doctrine of virtue from diligent study, and thereby provides for its readers the critical scholarly tools to navigate life via the peculiar praxis of the common law.

### *The Dastardly Definition*

As already indicated parenthetically above, one of the most overt methods that Snicket deploys in recording the series of events survived by the Baudelaires is definition. Whilst superficially this could connect Snicket with the common law, the will to define is itself insufficient to capture the common law's scholarly praxis, nor that of the Baudelaires or their erstwhile narrator. Snicket's method requires more than just memorising definitions—it requires scholarly endeavour, primarily in the form of reading and narrative experience.



Snicket's method requires scholarly endeavour in the form of reading and narrative experience for two reasons. Firstly, Snicket gives quite lengthy and meaningful definitions of certain key principles (such as "following suit",<sup>66</sup> "jumping to conclusions",<sup>67</sup> and the differences between "nervous" and "anxious",<sup>68</sup> and "literally" and "figuratively"<sup>69</sup>). For example:

Like everyone else, scientists are wrong from time to time, and it is easy to see that they are wrong about the table of the elements. Because ... the table of the elements does not contain one of the most powerful elements that make up our world, and that is the element of surprise. ... The element of surprise is an unfair advantage, and it can be found in situations in which one person has sneaked up on another.

Although relatively didactic, Snicket's ceaseless giving of definitions—and often with some critical reflection upon them, or upon related things (for example: the limits of scientific 'elements' in constituting our understanding of the world in the above excerpt; or his critique of the phrase "quiet as mice", pointing out that "mice can often be very noisy" so "quiet as mimes" would be more appropriate<sup>70</sup>)—can be said to have the effect of subverting or disrupting the integrity of language, which might otherwise be thought to rest on settled meanings.<sup>71</sup> This is exacerbated by the speech of Sunny, the youngest Baudelaire, who talks in gibberish that is actually replete with coherent and sophisticated meanings when properly translated by her siblings or Snicket himself (for example, " 'Douth?' Sunny asked, which meant 'But how are we going to find the Surgical Ward, when the maps of this hospital are so confusing?'"<sup>72</sup>). As was indicated above, Snicket's overt definitional practice thus signals across the series as a whole an appreciation for the contingent nature of language that requires scholarly endeavour in the form of critical navigation and qualitative judgment. Moreover, these definitions require literacy—they must be read: if I were to give any more examples this

would become incredibly clear, but it would also show up how poor my emulation of Snicket's style is. I will thus avoid it, and move swiftly on to Snicket's second mode of definition.

Many of the definitions are not given in the abstract; instead, they are given in specific or bespoke instances. This is most clearly the case where Snicket defines common turns of phrase, whereby their general principle is not explained, but only its instant manifestation. For example, "'gingerly' here means 'avoiding territorial crabs'"<sup>73</sup>; "pandemonium, a phrase which here means 'filled with Elders and townspeople standing around arguing'"<sup>74</sup>; "in tow, a phrase which here means 'dragged along on the sleigh behind them, sitting on his white chair as if he were a king, with his feet still covered in hunks of clay and his woolly beard billowing in the wind'"<sup>75</sup>. This takes its most extreme form when specific words are not defined directly but instead are deployed strategically to expose the reader to their possible dominant meanings. A good example is the word 'spurious', which Snicket seeks to define for his readers in *The Hostile Hospital*.

The term is first defined as follows: "Their disguises looked spurious—a word which here means 'nothing at all like a real doctor'"<sup>76</sup>. It is then used to describe Olaf's disguises,<sup>77</sup> leading to a comparison between their methods and the legitimacy of deceit. It is then used to describe the medical disguise of Olaf's accomplice Esmé Squalor,<sup>78</sup> and later the disguise of another villainous accomplice who is dressed up as a hospital guard.<sup>79</sup> In describing the guard, the term is divorced from the description of a disguise to describe the "spurious guard" themselves.<sup>80</sup> Then, soon after, the term ventures outside the context of disguises when the Baudelaires pretend to laugh: "their laughter was as spurious as their disguises".<sup>81</sup> The Baudelaires then encounter the hook-handed man—another of Olaf's associates—who places one of his "spurious hands on Klaus's shoulder".<sup>82</sup> The term returns to its original use—enriched by its casuistic journey into other contexts—to describe the Baudelaires as "spurious doctors".<sup>83</sup>

By the end of this lexical odyssey, the word ‘spurious’ has accumulated a meaning beyond ‘nothing at all like a real doctor’. Through its application and evolution across different cases of its use, it develops a meaning that is more generalised, connoting deception or pretence in the abstract. This general meaning emerges through case-by-case usage, via narrative experience and the scholarly endeavour of the reader. And this tracks a key method of the common law: the casuistic development of definitions and meanings, of doctrines and their application, appreciable through the scholarly encounter with case by case by tedious case.

### *The Villainous Verification*

Count Olaf, by profession, is an actor. As a thespian, Olaf’s mode is thus by routine one of identity deception. His first plan is thus to marry Violet in a conceptually complex theatre production, using a ‘real’ judge and the correct linguistic staging of law to create a marriage—but his plan is foiled.<sup>84</sup> He then poses as a paleontological assistant to their scholarly yet ill-fated uncle Monty, intending to secrete the orphans off to Peru.<sup>85</sup> He then poses as a sea captain—called, quite blatantly, Captain Sham—in order to marry their aunt Josephine, whom they live with on the shores of Lake Lachrymose.<sup>86</sup> He then poses as an optician’s receptionist whilst they are living and working (‘working’ is a word which here means ‘being exploited as child slaves’) in a lumbar mill.<sup>87</sup> He then poses as a gym teacher and forces the children to run needless laps so they will fail at school,<sup>88</sup> then as an auctioneer,<sup>89</sup> a detective,<sup>90</sup> and—perhaps most terrifying of all—the head of a Human Resources department.<sup>91</sup>

In the latter half of the series, Olaf dispenses with his disguises and openly pursues the Baudelaires who have themselves become wanted by the state. But his capacity for disguise in the earlier narrative remains a ploy that always convinces adults, yet never fools the Baudelaires. Across the early books in the series, a two-stage test for Olaf’s true identity is established: he has 1) a single eyebrow, instead of two separate ones, and 2) a

tattoo of an eye on his left ankle. The Baudelaires use this repeatedly to convince adults that the current story's antagonist is Olaf in disguise. This capacity to identify Olaf later becomes a form of critical knowing, as is clear in *The Vile Village*.

While the orphans are living in the vile Village of Fowl Devotees (VFD), a remote town with its own set of rules and a ritualised worship of the local crow population, the village's Elders capture a villainous individual, whose identity is verified as Count Olaf himself through an application of the established two-part definition: he has a monobrow, and an eye tattoo on his left ankle. Rule #19,833 of the town states that no villains are allowed within VFD, and Rule #2 states that any breach of a rule must result in the perpetrator being burned at the stake; the Elders thus drag the unfortunate captive to be burned at the stake one morning. This is when the Baudelaires first see him for themselves.

For this scene, Snicket begins by undertaking a lengthy discourse on the definition of 'jumping'. He discusses different ways one might jump and the bad or painful things that might happen—such as bumping one's head, or being hit by a train—before concluding that jumping is best done “to a safe place”, or not at all.<sup>92</sup> He then continues:

But it is hard not to jump at all when you are jumping to conclusions, and it is impossible to make sure that you are jumping to a safe place, because all 'jumping to conclusions' means is that you are believing something is true even though you don't actually know whether it is true or not. ...

'It's true,' said one of the Elders, which didn't help things any. 'A man arrived in town this morning, with one eyebrow and a tattoo of an eye on his ankle.'

'It must be Olaf,' Violet said, jumping to conclusions.

‘Of course it is,’ the second Council member said. ‘He matched the description that Mr Poe gave us, so we arrested him immediately.’<sup>93</sup>

But while all the grown-ups rely on a mechanical application of this definition, and conclusively conclude that the man is Count Olaf, when they see the man the Baudelaire’s instantly know he is not Count Olaf.

He wasn’t wearing any shoes or socks, and as Officer Luciana marched him to the platform the children could see that he had a tattoo of an eye on his left ankle, just like Count Olaf had. And when he turned his head and gazed around the room, the children could see that he had only one eyebrow, instead of two, just like Count Olaf had. But the children could also see that he wasn’t Count Olaf ... the way you could tell that a stranger wasn’t your uncle, even if he were wearing the same polka-dot coat and curly wig that your uncle always wore.<sup>94</sup>

Their knowledge of Count Olaf is something learned through their repetitive encounters across the series of unfortunate events that make up their lives, and goes beyond what a literal or surface reading of Olaf’s defining features might indicate. The reason the man does not fit the definition escapes articulation; they apply the definition with judgment, undertaking a critical navigation of that which is encountered, with the experience of preceding similar cases. Their knowing is not an unreflective application of a memorised, set knowledge;<sup>95</sup> it becomes a judgment call instead of a static absolute; a critical rather than a descriptive knowing.

This critical-casuistic epistemology, to take one final example, is applied to a central mystery of the series: the enigmatic code VFD. Their parents are somehow affiliated with VFD, their friends the Quagmire Triplets solved the mystery but their notes were lost, and VFD becomes that which can save them from Olaf—if only

they could discover or constitute the meaning of this sequence of letters. The mystery is compounded by the multiple VFDs that the Baudelaires encounter, all but one of which are not the VFD they are seeking.<sup>96</sup> Accordingly, whilst they solve the mystery of VFD over and over again (finding multiple emanations and definitions of it), through the critical application of judgment they know that these ‘solutions’ are not correct. To solve VFD, then, is not as simple as discovering what the letters stand for—the definition of the code—but, again, requires a more deeply inhabited understanding achieved through study and experience over time.

Stretched across the archive of adjudication, the constitution of general forms and abstract principles takes place—in Snicket as much as the common law. But, importantly, Snicket’s doctrine of virtue from diligent study makes clear that these general forms are not to be applied unreflectively. Indeed, the critical navigation of language that Snicket’s doctrine promotes represents a degree of literacy that can empower its child readers.<sup>97</sup> Barton concludes that Snicket’s “argument ... seems to be that language can be difficult, or meaningless, but that does not mean it is not worth learning”.<sup>98</sup> Indeed, according to Barton, the power differential between children and adults is to a large extent “patrolled in language”.<sup>99</sup> Giving literacy to a child thus disrupts that power dynamic:

Language is then seen as a key feature which acts in the power struggle between children and adults, and through assisting the child reader with their own language acquisition, Snicket attempts to give the reader tools to either enter the adult’s world or challenge the adult’s power.<sup>100</sup>

Snicket’s play of definition robs language of its power to give knowledge,<sup>101</sup> reducing a potentially mystical system of symbols to a mundane tool of communication navigable and usable by the now-enlightened reader. Thus, through literacy, one can “enter into the power play of authority”.<sup>102</sup> As Janks frames it:

if we never interrogate texts, we allow them to position us below the level of consciousness. We never consider whether the text is producing greater equity or injustices. We neither confront the social effects of power, the construction of difference that sets us against one another, nor question the norms that govern our lives.<sup>103</sup>

Recognising this, and that the literary and scholarly methods imparted by Snicket's work are also those of the common law, this inculcation of literary prowess takes on a broader significance. It is not just giving kids the power to argue back, but enabling them to see through the veil of power, and thus letting them through the gates of law.

Since the emergence of the common law—which we traced with disappointing brevity in the first part of this paper—the gatekeepers of legality have been the literate few. Snicket does not just teach any old literacy—not just spelling and the definitions of words, nor merely the tools of creative writing and literary analysis—but the critical scholarly praxis of the common law. And by giving the distinct form of literacy that it does, Snicket's doctrine of virtue from diligent study enters its readers into the mystical and protected domain of the law, permitting them entry behind the front lines of authority—armed with some key tools of critique.

Instances of the inculcation of these scholarly, critical, and casuistic methods are legion across *A Series of Unfortunate Events*. In *The Erstaz Elevator*, for example, the principle of “the time is ripe” is examined, whereby knowledge and scholarly skills are all well and good—but need to be applied in a timely and appropriate manner if they are to solve a problem or move towards a just outcome.<sup>104</sup> In the *Austere Academy* the pure objectivity of the metric system is critiqued as a limited method of understanding the world amidst many others,<sup>105</sup> and readers are instructed in the nature of “symbolism” as a means by which objects develop

meanings beyond their literal forms.<sup>106</sup> And at numerous points, the intolerably limited nature of linguistic communication is made apparent, for instance in discussing the inability of words to convey the horror of falling down an elevator shaft,<sup>107</sup> or the meaning of “ha ha ha” in a text (which, of course, denotes laughter and not someone actually saying ‘ha’ three times).<sup>108</sup> It is sadly the case that I am not able to include more, but the limitations of space preclude such a rich endeavour—and again point you clearly towards making a better choice than reading the current text, which is, of course, to read Snicket instead.

### **Section the Third: The Petrified Pedagogy**

As a book ostensibly written for children, *A Series of Unfortunate Events* taps quite firmly into a pedagogic vein. It is hopefully clear from the previous sections that the pedagogy embodied by Snicket’s text is one that points towards critical literacy, and moreover that critical literacy is a source of virtue or justice. Snicket’s work thus connects into the literacy of the common law, but with a critical as opposed to a passive ethos, full of active concepts and judgments rather than repetition or mechanical application—and thus a literacy that enables individuals to engage with important questions of justice across society and culture,<sup>109</sup> combining textual analysis with the analysis of power,<sup>110</sup> and helping them navigate the codes of power that structure contemporary society.<sup>111</sup> In this, and in its connections to the common law, *A Series of Unfortunate Events* thus becomes a site of critical legal education, part of the circuitry of legal pedagogy that also includes legal higher education and training. Legal higher education, like most areas of higher education (and indeed life beyond), is currently embroiled in the troublesome influences of neoliberalism and market logics. And against these troublesome influences, Snicket’s doctrine of virtue from diligent study represents an important site of potential critical engagement and resistance to the damaging injustices of contemporary life. But, sadly, the televised adaptation of Snicket’s work misses a rich and potentially global opportunity to properly interpret



and apply this doctrine, thereby missing an opportunity to inculcate a critical visual literacy that would be an appropriate and important tool in the quest for justice in contemporary society and culture.

### *The Awful Acronymisation*

Acronyms are scary at the best of times, but three particular acronyms that should strike fear into the heart of any lawyer (in the UK context at least) are REF, TEF, and SQE. These are the three examples I will be focusing on in the following discussion in order to demonstrate the damaging and anti-scholarly effects in the current trend towards marketisation in legal higher education.

REF, I'm sure you know, is the UK's Research Excellence Framework; TEF the Teaching Excellence Framework; and SQE, despite having an 'E' in it, is nothing to do with 'Excellence' but is the Single Qualifying Examination supposedly set to fully replace the academic stage of legal training in England and Wales.<sup>112</sup> In each of these things can be seen an emanation of the neoliberal desire for marketisation and competition, enabled through the quantification of knowledge, expertise, and experience into measureable and trackable datasets. One might also say the televised adaptation of otherwise pleasurable literary works is also an emanation of a neoliberal desire to 'win' in the competitive marketplace of audience attention and the capital that comes with it. But the acronymic innovations in higher education, in their preponderance of singular, quantifiable measures, are anathema to the exploratory pleasures of the humanities and the wide ranging social, economic, and cultural values that comes with them—values that are heightened in the public contexts of law.

The marketisation of UK higher education institutions has been underway for decades, following the widespread adoption of neoliberal policies since the late 1970s.<sup>113</sup> 'Neoliberal' is a word that here means

‘promoting the free market as not only being self-governing, but also the best and most appropriate way to govern a society<sup>114</sup>—as if society was made up of rational, self-interested economic subjects,<sup>115</sup> rather than emotionally embodied members of a community’. Under neoliberalism, the state dreams of giving away its sovereignty and letting society run itself as a marketplace, with private commercial interests thus taking precedence over public or communal ones. However, Martel reminds us that this does not mean the death of the state, but rather its reshaping and adaptation under the persistent and hierarchical organising principle of *archism*.<sup>116</sup> The seeming erosion of the modern state under the auspices of neoliberalism is in fact the escape of the state from itself, with new sites of sovereignty arising in what was traditionally considered to be the private sphere.

Within this emerging logic, education of all kinds must have a measurable economic value for two reasons. Firstly, so that investment in educational services (by the state, by fee-paying students) can be justified. And secondly, so that education providers can compete in a market that—due to its auto-governance properties—will ensure the quality of those providers (or result in their failure). In this version of the world, higher learning exists at the whims of the capitalist economy, which in practical terms in the UK means at the whims of REF and TEF. In the marketised world of HE, academics are no longer scholars, but ‘service providers’; students are no longer scholars, but ‘clients’; courses are no longer scholarship, but ‘products’; and scholarship in the form of research is alienated from itself to become an ‘output’ to be ranked and exchanged for state funding, and to inform, alongside other measures, quantitative league tables upon which institutions compete for higher rankings.<sup>117</sup> The notion of scholarship as a good in itself, or even as a utilitarian good that promotes good citizenship and good statecraft—let alone justice, as in Snicket’s formulation—loses its footing.

This movement has come from two directions, from both policy and institutions themselves as they seek to survive within the environment those policies create. The reduction of central funding is a key factor in this

environmental shift,<sup>118</sup> and the knock-on effects within institutions include the emergence of a managerial class and a whole internal economy of ‘secondary’ or non-academic services that divert resources away from scholarly endeavour. The effects of REF and TEF upon actual academic and disciplinary practice, including the nature and production of knowledge, are concrete, and arguably undermine not only the concept of virtue from diligent study, or that good scholarship might promote good citizenship or good statecraft, but also the healthy operation of a flourishing capital-based economy—by narrowing the knowledges available for utilisation by economic actors.<sup>119</sup> It is not just the institutional structures that are changing. The measurement of scholarship, in true quantum style, is changing that which is being measured, as mainstream, superficial, disciplinary work is prioritised under a system based upon short-term outcomes and the vagaries of necessarily hasty judgments of scholarly works by a small and unrepresentative collection of individuals.<sup>120</sup>

In relation to teaching and learning, it is undergraduate students’ capacity to sell their labour that becomes a key marker in the neoliberal governance of the higher education marketplace—institutions of higher learning, ideally, live and die upon the extent and quality of their contribution to the labour market (and Marx turns in his grave). For education to be “accorded a market value ... [it] must be convertible to or exchangeable into employment”.<sup>121</sup> The life-course of a graduate following their educational experiences thus becomes a symbol of the quality of that pedagogic experience, and thus also the institution that provided it.<sup>122</sup> So under TEF, this is a key factor in measuring the ‘excellence’ of university teaching, with one of the datasets used to calculate an institution’s TEF score being the Destination of Leavers from Higher Education, which seeks to capture where graduates end up working merely 6 months after their degree studies are completed.<sup>123</sup> Destinations data is a measure that is empirically divorced from any actual teaching practice in a classroom or lecture theatre or tutorial discussion,<sup>124</sup> given that destinations can vary due to a whole host of factors beyond the control of a university lecturer (life circumstances, aptitude, the economy, student preferences and

motivations). And moreover, ‘destination’ is a disingenuous term that implies a final arrival, as if a job is a static box that people inhabit forever rather than one part of an ongoing flux of experience over time.

There is another measure used to establish the excellence of teaching for these purposes. While scholars like you or I might think that measuring the excellence of something, whilst tricky in terms of understanding what ‘excellence’ means, would involve some kind of broadly independent empirical examination of the thing in question, TEF takes a less scholarly approach. Instead of such study, it relies upon pre-existing data sets, the closest of which to actual teaching practice is the National Student Survey which asks people at the end of their degrees what they thought of their course. As Canning observes:

There is no place for scholarship(s) of learning and teaching (SoTL), whether through academic reflection on teaching, engaging with the evidence surrounding specific teaching practices in particular disciplinary contexts or conducting and publishing research into teaching and learning ... universities will not be rewarded on the quality of the teaching ... but upon the metrics (ghosts) of measurements.<sup>125</sup>

He continues: “the TEF itself is without scholarly underpinning”, and “is detached from both reality and representation, namely the practice of teaching in higher education and the evaluation/assessment of that teaching.”<sup>126</sup> Baudrillard, no doubt, would have said the TEF is thus hyperreal—removed altogether from any concrete ‘reality’ that might underpin it or that it might represent.<sup>127</sup>

The point of such quantification is thus clearly not to actually measure what is taking place, as if measurement gave it value, but something else—and something much more sinister for the Baudelaires amongst us. The ghosts of measurement in the TEF, and the limited, arbitrary, and unreflective measures in the REF, enable

state (or, if you are one of these people who agree with Martel, *archist*) oversight and management of academic work. They are tools of neoliberal governance, not scholarship, presenting an appearance of academic study in lieu of its actual undertaking.

But surely lawyers understand these problems; surely they can see that law requires scholarship in order to function—indeed, is scholarship in its very functioning as a form of textual praxis. Even though they have to get a grade and integrate themselves into the marketplace in order to survive, those who work with the common law must understand what is going on, or see how such quantifications exist at odds with the study and practice of law and the adjudication of state power through textual scholarship. In England and Wales, the solicitor’s branch of the legal profession is administered and given legitimacy by the Solicitors Regulation Authority (‘SRA’)—a body that is made up of a community of practicing lawyers, of learned individuals who spend their professional time studying and applying the law, people who on a daily basis inhabit a scholarly praxis in order to navigate the complexities of life.

Meanwhile, the proposed introduction by the SRA of the SQE—designed to radically reform access the profession for potential lawyers—primarily consists of extended and quantifiable multiple choice tests that can be centrally administered, and, more importantly, rest upon a binary conception of the correctness or accuracy of legal statements and applications. The scholarly quality is squeezed (dare I say, “SQEezed”<sup>128</sup>) out of law. As Mason narrates, “behind both the aggressive posturing and nuanced development of different schools of legal theory ... lies a debate about how one correctly identifies the content of the law”.<sup>129</sup> And these uncertainties are necessarily integral to practical questions of adjudication: “the question of whether a particular [law] should apply in a certain circumstance can only be answered through what one considers to be a correct way of arriving at the correct content of law in general”.<sup>130</sup> As our imaginary Hercules J might put it: “Any practical legal argument, no matter how detailed and limited, ... is itself a piece of legal

philosophy, even when the philosophy is hidden and the visible argument is dominated by citation and lists of facts”.<sup>131</sup> But it is not just that there is a scholarship behind and underpinning legal practice, but that common law practice is itself a form of scholarship: it involves the reading, construction, application, and generation of texts within practical contexts. By adopting a multiple choice format, with single best answers, the SQE denies any place for this scholarly quality—as Mason frames it, by denying any “constructed responses” to its questions in contradiction to the inherently “constructivist” and “justificatory” nature of law in which the truth of any legal statement rests upon its own framing and reasoning.<sup>132</sup>

### *The Morbid Misinterpretation*

The adaptation of Snicket’s series of textual events to a series of televisual events is faithful—the same person who pretended to be Lemony Snicket in order to write the books also wrote the teleplays. Each book is converted into two episodes of the TV series, with many of the complexities, themes, and characters being redistributed across the series as a whole—but ultimately remaining true to the spirit, and most of the detail, of the initial written record of the Baudelaires’ fate (a more resolute ending notwithstanding). And the script maintains key pedagogic dynamics of linguistic play and intertextual references present in the written books, with definitional interjections taking place at regular intervals alongside rich intertextuality that plays upon the developing literacy of the viewer. But problematically, the diligent study promoted as a virtue by the series is not required in order to appreciate the lesson from the televised adaptation. One is able to understand the value of critical knowledge and textual praxis within the Baudelaires’ narrative without opening a single volume. Rather than undertaking the laborious process of reading a book filled with distressing events, one can absorb its lesson in under two hours of relative relaxation.

The issue with this particular televised adaptation is not that it alters the meaning of the prior expression, but precisely that it remains faithful to it: one learns of the virtues of diligent study without inhabiting that virtue. The televised adaptation relies upon an indicative appearance of bookish study and scholarly endeavour instead of its actual undertaking. The opening credits are testament to this, with images of research, study, analysis, and intellectual work being presented in the form of pin boards, typewriters, documents, and research notes. It is also symbolised most ultimately in the secret library disguised as the Hotel Denouement in ‘The Penultimate Peril: Part 1’: a library populated and maintained by the true VFD as a beacon of justice and protection amidst life’s dangers and vicissitudes—“the last safe place” to keep all of the research of the VFD’s volunteer members “catalogued and secure”.<sup>133</sup> And this symbol is repeated in the final episode, in the raft of books that Kit uses to survive the stormy sea:<sup>134</sup> literacy is visually formulated as a saviour against the inconveniences of the world, yet the appreciation of this is not contingent upon the specifically bookish scholarship that the message intends to promote.

The problem, predictably, is a juridical one: misinterpretation. The doctrine of virtue from diligent study promotes the virtues of scholarly endeavour whilst concomitantly requiring that endeavour to be undertaken. Read with an awareness of Snicket’s chosen form, it promotes scholarly endeavour with respect to the form in which the doctrine is articulated. This is not an unjustified reading, given Snicket’s penchant for meta-references.<sup>135</sup> Thus, Snicket’s written volumes promote a textual literacy as a solution to the vicissitudes of life. Interpreted correctly, the application of this doctrine in a televisual context would have resulted in the Baudelaires relying upon a distinctly cinematic and televisual knowledge and praxis, alongside an emerging need for audiences to develop and inhabit a specifically televisual erudition. By watching, one would have been introduced to film theory, to the meaning-making practices of cinema, and to the critical value of these distinctly audio-visual knowledges and scholarships with respect to the complexities of modern existence. TV being used to promote critical viewing as a solution of the vicissitudes of life.

In Snicket's translation, the image—at least—of scholarly endeavour is preserved, although it is short-circuited by the non-written form of the digital screen. It is in this short circuiting—this flattening of bookish study to passive consumption, without an awakening of the critical faculties required to unpack the televisual form and thus overcome its supposed passivity—that the underlying connection between the televised adaptation of *A Series of Unfortunate Events* and the current critical problems in legal and wider higher education noted above can be detected. At a time when marketisation is encroaching upon the academic institution, and grades and league tables are running the show, increasingly undermining the capacity for the meaningful and sustained scholarship demanded by the common law, the misinterpretation of the doctrine of virtue from diligent study should not pass without concern.

At the whim of these forces, higher education continues to look like a site of scholarship and critical learning, but is increasingly unable to be one: like Snicket's televised adaptation, it becomes an indicative appearance of bookish study and scholarly endeavour, rather than their actual undertaking. And at a time when a critical ability to navigate a range of competing and complex epistemic forms becomes paramount—I won't mention the endemic racism and sexism of the colonial west, nor the creeping devastation of capital—the opportunity for a televised adaptation of Snicket's valuable doctrine to reach a global audience, and thereby to promote precisely this broad scholarly ethos to a wide section of the public, is missed.

### **Acknowledgements**

I would like to thank Luke Mason for his insights on an embryonic version of this paper, as well as the mysterious peer reviewer for their insights on a more developed draft. Earlier versions of parts of this paper were also presented at the Critical Legal Conference 2019 and the Law, Literature, and the Humanities



Association of Australasia Annual Conference 2019. Whilst feedback from these inputs was vitally important in the development of the work, I alone remain responsible for its ultimate written expression—for which I can only apologise.

## Notes

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<sup>1</sup> Lemony Snicket, *The Bad Beginning*, A Series of Unfortunate Events (Egmont, 2012), 147.

<sup>2</sup> There are lots of interjections and academically inappropriate phrasings in this paper. As I'm sure you know, these playful presentations are an integral part of Lemony Snicket's literary style and method. I am warning you now, because my attempts to emulate it across this paper are derivative and poor, and you will likely not want to read them.

<sup>3</sup> See? (I refer you to the preceding note.)

<sup>4</sup> Snicket, *The Bad Beginning*.

<sup>5</sup> Lemony Snicket, *The Reptile Room*, A Series of Unfortunate Events (Egmont, 2012).

<sup>6</sup> Lemony Snicket, *The Wide Window*, A Series of Unfortunate Events (Egmont, 2012).

<sup>7</sup> Lemony Snicket, *The Miserable Mill*, A Series of Unfortunate Events (Egmont, 2012).

<sup>8</sup> Lemony Snicket, *The Austere Academy*, A Series of Unfortunate Events (Egmont, 2012).

<sup>9</sup> Lemony Snicket, *The Ersatz Elevator*, A Series of Unfortunate Events (Egmont, 2012).

<sup>10</sup> Lemony Snicket, *The Vile Village*, A Series of Unfortunate Events (Egmont, 2012).

<sup>11</sup> Lemony Snicket, *The Hostile Hospital*, A Series of Unfortunate Events (Egmont, 2012).

<sup>12</sup> Lemony Snicket, *The Carnivorous Carnival*, A Series of Unfortunate Events (Egmont, 2012).

<sup>13</sup> Lemony Snicket, *The Slippery Slope*, A Series of Unfortunate Events (Egmont, 2012).

<sup>14</sup> Lemony Snicket, *The Grim Grotto*, A Series of Unfortunate Events (Egmont, 2012).

<sup>15</sup> Lemony Snicket, *The Penultimate Peril*, A Series of Unfortunate Events (Egmont, 2012).

<sup>16</sup> Lemony Snicket, *The End*, A Series of Unfortunate Events (Egmont, 2012).

<sup>17</sup> There are a number of additional publications beyond the original series that are not considered in this paper, notably: Lemony Snicket, *Lemony Snicket: The Unauthorized Autobiography* (New York: HarperCollins, 2002); Lemony Snicket, *The Beatrice Letters* (London: Egmont, 2006).

<sup>18</sup> The fact law and its study is boring is an important rhetorical aspect of the serious solemnity of the legal genre, which eschews the satirical and the playful. As Goodrich indicates: "There is a requirement of respect, of decorum or veneration of the space and

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discourse of law, a norm of earnestness that some might term boredom, that forms the aura of legal expression or marks its sites of enunciation.” Peter Goodrich, “The Importance of Being Earnest: Satire and the Criticism of Law,” *Social Semiotics* 15, no. 1 (April 2005): 45–46.

<sup>19</sup> Bruce O’Brien, “Forgery and the Literacy of the Early Common Law,” *Albion: A Quarterly Journal Concerned with British Studies* 27, no. 1 (1995): 13.

<sup>20</sup> See M.T. Clanchy, *From Memory to Written Record: England 1066-1307* (Oxford: Blackwell, 1993), 32; O’Brien, “Forgery,” 13. Cf. the textual systematisation symbolised by Domesday Book: Theodore F.T. Plucknett, *A Concise History of the Common Law* (Indianapolis: Liberty Fund, 2010), 11–14.

<sup>21</sup> O’Brien, “Forgery,” 14–15.

<sup>22</sup> O’Brien, 14.

<sup>23</sup> O’Brien, 15. Note also Vismann, who observes that the “unchanging parts” of documents within the emerging bureaucracies of the modern state come to have “authenticating force”: Cornelia Vismann, *Files: Law and Media Technology*, trans. Geoffrey Winthrop-Young (Stanford: Stanford University Press, 2008), 73.

<sup>24</sup> O’Brien, “Forgery,” 15–18.

<sup>25</sup> Terezie Smejkalová, “Legal Performance: Translating into Law and Subjectivity in Law,” *Tilburg Law Review* 22 (2017): 62–76.

<sup>26</sup> Smejkalová, 69. Emphasis in original.

<sup>27</sup> Peter Goodrich, “Literacy and the Languages of the Early Common Law,” *Journal of Law and Society* 14, no. 4 (1987): 422.

<sup>28</sup> Goodrich, 430–36.

<sup>29</sup> Goodrich, 436.

<sup>30</sup> Goodrich, 440.

<sup>31</sup> See Olivia Barr, *A Jurisprudence of Movement: Common Law, Walking, Unsettling Place* (London: Routledge, 2016), 80.

<sup>32</sup> ‘Fact’ is a word that here means ‘assertion’.

<sup>33</sup> See, for example, John A. Gallucci, “A Question of Literacy: Understanding and Renewing the Humanities in a Global World,” *Arts and Humanities in Higher Education* 11, no. 3 (July 2012): 238–49.

<sup>34</sup> David Howarth, “Is Law a Humanity (Or Is It More Like Engineering)?,” *Arts and Humanities in Higher Education* 3, no. 1 (February 1, 2004): 12.

<sup>35</sup> Howarth, 12.

<sup>36</sup> See, for example, Jeanne Gaakeer, *Judging from Experience: Law, Praxis, Humanities* (Edinburgh: Edinburgh University Press, 2019). Gaakeer is herself a sitting judge, so arguably has good access to at least one ‘reality’ of law.

<sup>37</sup> Howarth, “Is Law a Humanity?,” 21.

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<sup>38</sup> Howarth, 22.

<sup>39</sup> Howarth, 22.

<sup>40</sup> Howarth, 22–23.

<sup>41</sup> Gallucci, “A Question of Literacy,” 248.

<sup>42</sup> Howarth, “Is Law a Humanity?,” 17.

<sup>43</sup> See, for example, C.P. Rodgers, “Humanism, History and the Common Law,” *The Journal of Legal History* 6, no. 2 (September 1985): 129–56; Peter Goodrich, “Critical Legal Studies in England: Prospective Histories,” *Oxford Journal of Legal Studies* 12, no. 2 (1992): 195–236.

<sup>44</sup> Rodgers, “Humanism,” 137.

<sup>45</sup> Goodrich, “Critical Legal Studies,” 229.

<sup>46</sup> Rodgers, “Humanism,” 137.

<sup>47</sup> Rodgers, 131.

<sup>48</sup> Bradin Cormack, *A Power to Do Justice: Justice, Jurisdiction, English Literature, and the Rise of Common Law, 1509-1625* (Chicago: University of Chicago Press, 2008), 21.

<sup>49</sup> Ronald Dworkin, *Law’s Empire* (London: Fontana, 1986), 239.

<sup>50</sup> Dworkin, *Law’s Empire*. Howarth dismisses Dworkin as seeking to divine law’s function from its form—a practice best avoided by engineers: Howarth, “Is Law a Humanity?,” 20.

<sup>51</sup> Dworkin, *Law’s Empire*, 413.

<sup>52</sup> See Mark D. Walters, “Legal Humanism and Law-as-Integrity,” *The Cambridge Law Journal* 67, no. 2 (July 2008): 352.

<sup>53</sup> See Walters, “Legal Humanism.”

<sup>54</sup> Walters, 375.

<sup>55</sup> Walters, 373–75.

<sup>56</sup> Despite Howarth’s assertion that lawyers must “realize that they cannot rely on generalizations from the particular”: Howarth, “Is Law a Humanity?,” 17.

<sup>57</sup> In her own words: “In purely intellectual terms it is *absolutely legitimate and justifiable* to try to approach a problem—be it essentially a ‘practical’ (engineering) or theoretical issue—by exploring lateral as well as linear sources of discourse.” Melanie Williams, “Socio-Legal Studies and the Humanities—Law, Interdisciplinarity and Integrity,” *International Journal of Law in Context* 5 (2009): 248. Emphasis added.

<sup>58</sup> Williams, 253.

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<sup>59</sup> Peter Goodrich, "Europe in America: Grammatology, Legal Studies, and the Politics of Transmission," *Columbia Law Review* 101, no. 8 (December 2001): 2033.

<sup>60</sup> Goodrich, 2034.

<sup>61</sup> Goodrich, 2041.

<sup>62</sup> Ian Ward, "Universal Jurisprudence and the Case for Legal Humanism," *Alberta Law Review* 38 (2001): 20. As he states: "the politics of deconstruction is founded on the need to reinvest a sense of humanity", as seen in Derrida's invoking of the human capacity for judgment that lies beyond the law: Ward, 951. Daniel Matthews, meanwhile, reads this on a grander scale—as an acknowledgment of the primal community, or originary sociability, that exists before the law: Daniel Matthews, "On the Law of Originary Sociability or Writing the Law," in *Being Social: Ontology, Law, Politics*, ed. Tara Mulqueen and Daniel Matthews (Oxford: Counterpress, 2015), 114–28.

<sup>63</sup> See Gaakeer, *Judging from Experience*, 55.

<sup>64</sup> As Derrida encodes: "we say 'writing' for all that gives rise to an inscription in general, whether it is literal or not and even if what it distributes in space is alien to the order of the voice": Jacques Derrida, *Of Grammatology* (Baltimore: John Hopkins University Press, 1974), 9.

<sup>65</sup> That is, "signification is formed only within the hollow of difference: of discontinuity and of discreteness, of the diversion and the reserve of what does not appear", whereby the meaning of that which is present is contingent upon that which is absent and/or not-yet-encountered: Derrida, 69.

<sup>66</sup> Snicket, *The Austere Academy*, 69–70.

<sup>67</sup> Snicket, *The Vile Village*, 105–7.

<sup>68</sup> Snicket, *The Ersatz Elevator*, 1–3.

<sup>69</sup> Snicket, *The Bad Beginning*, 68–69.

<sup>70</sup> Snicket, *The Miserable Mill*, 81.

<sup>71</sup> Julie Anastasia Barton, "Power Play: Intertextuality in *A Series of Unfortunate Events*," in *Crossing Textual Boundaries in International Children's Literature*, ed. Lance Weldy (Cambridge Scholars Publishing, 2011), 325.

<sup>72</sup> Snicket, *The Hostile Hospital*, 164–65.

<sup>73</sup> Snicket, *The Austere Academy*, 38.

<sup>74</sup> Snicket, *The Vile Village*, 111.

<sup>75</sup> Snicket, *The End*, 131.

<sup>76</sup> Snicket, *The Hostile Hospital*, 164.

<sup>77</sup> Snicket, 164.

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<sup>78</sup> Snicket, 167.

<sup>79</sup> Snicket, 174.

<sup>80</sup> Snicket, 175.

<sup>81</sup> Snicket, 176.

<sup>82</sup> Snicket, 178.

<sup>83</sup> Snicket, 216.

<sup>84</sup> Snicket, *The Bad Beginning*.

<sup>85</sup> Snicket, *The Reptile Room*.

<sup>86</sup> Snicket, *The Wide Window*.

<sup>87</sup> Snicket, *The Miserable Mill*.

<sup>88</sup> Snicket, *The Austere Academy*.

<sup>89</sup> Snicket, *The Ersatz Elevator*.

<sup>90</sup> Snicket, *The Vile Village*.

<sup>91</sup> Snicket, *The Hostile Hospital*.

<sup>92</sup> Snicket, *The Vile Village*, 105–6.

<sup>93</sup> Snicket, 106–7.

<sup>94</sup> Snicket, 113.

<sup>95</sup> On the reflective nature of responsible judgement, see for instance Desmond Manderson, “From Hunger to Love: Myths of the Source, Interpretation, and Constitution of Law in Children’s Literature,” *Law and Literature* 15 (2003): 87–141.

<sup>96</sup> There are many, many instances. Here is a woefully limited selection: “Very Fancy Doilies” (Snicket, *The Ersatz Elevator*, 244), “Violent Frozen Dragonflies” (Snicket, *The Slippery Slope*, 81), “Voluntary Fish Domestication” (Snicket, *The Grim Grotto*, 98), and “Volunteers Fighting Disease” (Snicket, *The Hostile Hospital*, 12).

<sup>97</sup> See Barton, “Power Play.”

<sup>98</sup> Barton, 335.

<sup>99</sup> Barton, 342.

<sup>100</sup> Barton, 331.

<sup>101</sup> Barton, 330.

<sup>102</sup> Barton, 343.

<sup>103</sup> Hilary Janks, “Texts, Identities, and Ethics: Critical Literacy in a Post-Truth World,” *Journal of Adolescent & Adult Literacy* 62, no. 1 (July 2018): 98.

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- <sup>104</sup> See Snicket, *The Ersatz Elevator*.
- <sup>105</sup> See for example Snicket, *The Austere Academy*, 58–59.
- <sup>106</sup> See Snicket, 136.
- <sup>107</sup> Snicket, *The Ersatz Elevator*, 184.
- <sup>108</sup> Snicket, *The Austere Academy*, 28–29.
- <sup>109</sup> See Barbara Comber, “Critical Literacy and Social Justice,” *Journal of Adolescent and Adult Literacy* 58, no. 5 (February 2015): 362–67.
- <sup>110</sup> Janks, “Texts, Identities, and Ethics,” 96.
- <sup>111</sup> See Shannon D. Puechner, “Justice at the Gate? Negotiating Tensions Between Critical Literacy and ‘Culture of Power’ Pedagogies,” *Journal of Adolescent & Adult Literacy* 61, no. 3 (November 2017): 327–30.
- <sup>112</sup> At the time of writing, the SQE still lacks formal approval. For the latest updates, see: <https://www.sra.org.uk/sra/news/sqe-update/> (last accessed February 7, 2020).
- <sup>113</sup> John P. O’Regan and John Gray, “The Bureaucratic Distortion of Academic Work: A Transdisciplinary Analysis of the UK Research Excellence Framework in the Age of Neoliberalism,” *Language and Intercultural Communication* 18, no. 5 (September 3, 2018): 535.
- <sup>114</sup> O’Regan and Gray, 535; Morag Munro, “The Complicity of Digital Technologies in the Marketisation of UK Higher Education: Exploring the Implications of a Critical Discourse Analysis of Thirteen National Digital Teaching and Learning Strategies,” *International Journal of Educational Technology in Higher Education* 15, no. 1 (December 2018): 2.
- <sup>115</sup> Munro, “Complicity of Digital Technologies,” 2.
- <sup>116</sup> James Martel, “Why Does the State Keep Coming Back? Neoliberalism, the State and the Archeon,” *Law and Critique* 29, no. 3 (November 2018): 359–75.
- <sup>117</sup> See, for example, O’Regan and Gray, “Bureaucratic Distortion,” 535–36; Munro, “Complicity of Digital Technologies.”
- <sup>118</sup> See Munro, “Complicity of Digital Technologies,” 2.
- <sup>119</sup> See Munro, 2–3.
- <sup>120</sup> Note, for example, R. Gray, “Has the Research Excellence Framework Killed Creativity?,” *Journal of Psychiatric and Mental Health Nursing* 22, no. 3 (April 2015): 155–56.
- <sup>121</sup> Carsten Bendixen and Jens Christian Jacobsen, “Nullifying Quality: The Marketisation of Higher Education,” *Quality in Higher Education* 23, no. 1 (January 2, 2017): 21.
- <sup>122</sup> Bendixen and Jacobsen, “Nullifying Quality.”

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<sup>123</sup> For more detail on the UK Destinations data, see <http://www.hesa.ac.uk/support/definitions/destinations/> (last accessed February 7, 2020).

<sup>124</sup> See John Canning, “The UK Teaching Excellence Framework (TEF) as an Illustration of Baudrillard’s Hyperreality,” *Discourse: Studies in the Cultural Politics of Education* 40, no. 3 (May 4, 2019): 319–30.

<sup>125</sup> Canning, 322.

<sup>126</sup> Canning, 322.

<sup>127</sup> See, generally, Canning, “Teaching Excellence Framework.”

<sup>128</sup> See Luke Mason, “SQEezing the Jurisprudence out of the SRA’s Super Exam: The SQE’s Bleak Legal Realism and the Rejection of Law’s Multimodal Truth,” *The Law Teacher* 52, no. 4 (October 2, 2018): 409–24.

<sup>129</sup> Mason, 413.

<sup>130</sup> Mason, 413–14.

<sup>131</sup> Dworkin, *Law’s Empire*, 90.

<sup>132</sup> Mason, “SQEezing,” 421.

<sup>133</sup> Barry Sonnenfeld, “Penultimate Peril: Part 1,” *A Series of Unfortunate Events* (Netflix, 2019).

<sup>134</sup> Barry Sonnenfeld, “The End,” *A Series of Unfortunate Events* (Netflix, 2019).

<sup>135</sup> For discussion on Snicket’s meta- and peri-textual elements, see Barton, “Power Play,” 333–36.