



Dædalus

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On the American Narrative

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Inside front cover: Clockwise from top left: Three cowboys ride the range, c. 1930–1940, © Bettmann/Corbis; a miner pans for gold in Northern California, c. 1890, © Bettmann/Corbis; women march for suffrage in New York City, c. 1915, © Bettmann/Corbis; a family watches television in the 1950s, © H. Armstrong Roberts/Corbis; two women work on an airplane in a factory during World War II, © Getty Images; immigrants arrive at Ellis Island, c. 1905, © Adoc-photos.

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The labyrinth designed by Daedalus for King Minos of Crete, on a silver tetradrachma from Cnossos, Crete, c. 350–300 B.C. (35 mm, Cabinet des Médailles, Bibliothèque Nationale, Paris). “Such was the work, so intricate the place, / That scarce the workman all its turns cou’d trace; / And Daedalus was puzzled how to find / The secret ways of what himself design’d.” – Ovid, *Metamorphoses*, Book 8

Dædalus was founded in 1955 and established as a quarterly in 1958. The journal’s namesake was renowned in ancient Greece as an inventor, scientist, and unriddler of riddles. Its emblem, a maze seen from above, symbolizes the aspiration of its founders to “lift each of us above his cell in the labyrinth of learning in order that he may see the entire structure as if from above, where each separate part loses its comfortable separateness.”

The American Academy of Arts & Sciences, like its journal, brings together distinguished individuals from every field of human endeavor. It was chartered in 1780 as a forum “to cultivate every art and science which may tend to advance the interest, honour, dignity, and happiness of a free, independent, and virtuous people.” Now in its third century, the Academy, with its nearly five thousand elected members, continues to provide intellectual leadership to meet the critical challenges facing our world.

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Another American Narrative

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Introduction

Denis Donoghue

DENIS DONOGHUE, a Fellow of the American Academy since 1983, is University Professor and Henry James Professor of English and American Letters at New York University. He has written or edited more than thirty books, including *The Practice of Reading* (1998), for which he received the Robert Penn Warren/Cleanth Brooks Prize in literary criticism. His recent publications include *On Eloquence* (2008) and *Irish Essays* (2011). He is a Fellow of the British Academy.

Some countries have a master narrative, some not. Those that do are expected to live up to its demands, or incur the shame of neglecting them. Countries too recent or too disheveled to have such a narrative generally settle for a political economy and hope to see it thrive. But even great empires decline and fall. There are countries that have a grand narrative but not the economy to sustain it: like Greece, they have fallen into the decadent phase of their story. Each member country of the European Union – twenty-seven at last count – has agreed to put aside its grand narrative, if it has one – or at least to keep quiet about it – in return for the boon of sharing a political, social, and economic entity – Europe – and, in particular, for the satisfaction of enjoying a vast commercial market and the rules, legal and civic, increasingly prescribed by Brussels. A few countries, Turkey for instance, are deemed too irregular for membership – at least for the time being. The common understanding of the EU is that the imperatives of trade, banking, regulation of borrowing and debt, and other such practices must come first: narratives may be recalled on high, innocent anniversaries.

The United States could not help having a master narrative, in view of the dramatic quality of its remote origin and its enhancement by large, diverse immigrations. Historian Gordon Wood has noted that “the founding of the nation lay not with the Declaration of Independence in 1776 but with the early explorations or, more often, with the earliest

Introduction settlements and events of the seventeenth century – with Jamestown in 1607, John Winthrop and the Puritans in 1630, and Lord Baltimore’s statute of religious toleration in 1649.”¹ Wood adds to these, as he must, the story of the simple Pilgrims of Plymouth Colony, as told by their leader William Bradford:

This was the story of a small band of English refugees, numbering only a hundred or so, driven from their homes for their religious views, journeying first to Holland and then to the New World, binding themselves together with their “Mayflower Compact” in 1620, in an apparently democratic fashion, suffering terrible losses their first year in Plymouth, and all along wanting nothing more than to be left alone to practice their “Separatist” religion.²

But even if we call these adventures a foundational story, a myth, or a master narrative, we lack a universally agreed upon form for reciting it. Rather, there are several claimants.

The most remarkable of these is *exceptionalism*, the assumption that America not only differs from other countries in this or that respect, but differs from them in principle and in practice. Being exceptional also entails being exceptionally good, worthy, virtuous. The term *Manifest Destiny* did not appear until 1845, but the sentiment or conviction in its favor long preceded the phrase. John Adams, in a revised version of the second part of *A Dissertation on the Canon and Feudal Law* (1765), wrote: “I always consider the settlement of America with reverence and wonder, as the opening of a grand scene[,] a design in Providence for the illumination of the ignorant and the emancipation of the slavish part of mankind all over the earth.”³ “All over the earth” is an immense ambition, hard to take seriously now that the United States seems to be a country much like any other but larger,

more diverse, almost ungovernable, and rampant with unemployment and debt. But a secular version of the ambition is still operative in the several American wars presented to the world as crusades: Mexico (1846–1848), Korea (1950–1953), Vietnam (1955–1973, when American involvement ended), Grenada (1983), Iraq (2003), Afghanistan (2001, and not yet over). Many Americans still regard themselves as the Chosen People, the United States “Our Israel,” as Increase Mather said in the foreword to *Elijah’s Mantle* (1722). Melville cherished the sentiment so much that, in 1850, he added it to Chapter 36 of *White-Jacket*:

Escaped from the house of bondage, Israel of old did not follow after the ways of the Egyptians. To her was given an express dispensation; to her were given new things under the sun. And we Americans are the peculiar, chosen people – the Israel of our time; we bear the ark of the liberties of the world. Seventy years ago we escaped from thrall; and, besides our first birth-right – embracing one continent of earth – God has given to us, for a future inheritance, the broad domains of the political pagans, that shall yet come and lie down under the shade of our ark, without bloody hands being lifted.⁴

Emerson, not surprisingly, presented this sentiment in its most sublime form. Literary critic Richard Poirier has remarked, in a commentary on one of Emerson’s most opaque phrases in “Experience” – “this new yet unapproachable America I have found in the West” – that “the word ‘America’ in Emerson can refer to two quite different entities”:

One is the United States of America, a nation that exists on a continent “discovered” by Columbus. Alternatively, or at the same time, America exists as a recurrent dream or myth that has inhabited the hu-

man imagination for many centuries and endures there still, free of any of the contaminations coming from its actual occupation by the United States. In Emerson, the word “America” frequently refers not to a place but to an idea, a myth that belongs to the world and that can be visited in the imagination, in what we share of “the old paternal mind,” as he called it in the *Journals* in 1845. Centuries before the United States was formed, America was already formed in literature. “A good scholar,” he wrote in 1847, “will find Aristophanes & Hafiz & Rabelais full of American history.”⁵

About America as an actual country, Emerson could be, as Poirier notes, “energetically dismissive,” as in a selection from his journal dated June 1847:

Alas for America as I must so often say . . . Eager, solicitous, hungry, rabid, busy-body America attempting many things, vain, ambitious to feel thy own existence, & convince others of thy talent, by attempting & hastily accomplishing much; yes, catch thy breath & correct thyself and failing here, prosper out there; speed & fever are never greatness; but reliance & serenity & waiting & perseverance, heed of the work & negligence of the effect.

America is formless, has no terrible & no beautiful condensation.⁶

But the myth, being timeless, has endured.

Exceptionalism is a peremptory ideology, but is vulnerable to bad news. Gordon Wood has remarked that “since the late 1960s American historians have become less and less interested in celebrating the uniqueness of the United States”:

The war in Vietnam if nothing else convinced many Americans that the moral character of the United States was not different from that of other nations and that the nation had no special transcendent role to bring liberty and democracy to the world. During the past several decades

many American historians, if not the general public, have shed whatever faith they might once have had in the traditional idea of American exceptionalism.⁷

But the claim can be retained in another form, that of covenant.

Historian J.G.A. Pocock has observed that “a conventional model of American historiography would present it as obedient to two imperatives”:

The first is the necessity of a foundational myth, felt for obvious reasons by a nation founded in experiment and sustained by immigration. . . . In the United States, whose history is so largely a history of the mutations of Protestantism into civil religion, the myth of foundation further takes the form of a myth of covenant. The nation is held to have made at its beginnings a commitment, in the face of God or history or the opinion of mankind, to the maintenance of certain principles; and it is the historian’s business to ascertain how the commitment was made, what the principles were, and whether the covenant has been upheld or allowed to lapse.

Pocock’s easy slide in “God or history or the opinion of mankind” shows that he regards these values as having about equal force: that is, not much. The covenant, such as it was, offers an apparent choice of two styles: “One is liturgical, the recital of how the covenant was kept; the other, and by far the commoner, is jeremiad, the recital of how it was not kept and of what sufferings have fallen on the nation by reason of its sins and shortcomings.”⁸ Pocock continues:

The recital of historical change, of how altering conditions of existence may have rendered the terms of the covenant obsolete or their performance impracticable, will in all probability be carried out according to the stylized rhetoric and cadences of

the jeremiad mode. It should be further noted that there are few obstacles to asking whether the covenant was worth making in the first place or whether it was not radically flawed. It is perfectly permissible to criticize the covenant, as long as you do not suggest that it was not made, or that it is or ever has been possible for America to escape from it. Notoriously, American political culture is a guilt culture, whose sins and failures are necessary to the affirmation of its uniqueness as a nation chosen, whether by God or itself, to a peculiar destiny in the fulfillment of certain promises. To suggest that there was guilt in the promises themselves is permissible; to suggest that there were no promises and no covenant would be to strike at the heart.⁹

Guilt: one thinks of Hawthorne, Poe, and Faulkner. Sins: slavery, the extermination or assimilation of the redskin. In Guy Davenport's words:

The Puritans who thought they were bringing salvation to the Indian (the gift was more like gunpowder, rum, measles, and paranoia) were bringing instead the god Progress in whose superficial goodness and single-minded jealousy of its prerogatives was concealed the plan of genocide which in fact developed as the white man's only real attitude toward the Indian for three hundred years. There are pioneer Bibles in the library of the University of Texas bound in Indian skin.¹⁰

The second conventional foundation of American historiography, according to Pocock, is "the premise of inescapable liberalism": its decisive formulation is political scientist Louis B. Hartz's *The Liberal Tradition in America* (1955) and his edited book, *The Founding of New Societies* (1964). Hartz's America "was liberal without the struggle to establish liberalism." Pocock claims that he himself has uncovered "pre-Revolutionary conditions helping to bring about that underlying

ing dissatisfaction with liberalism which characterizes the American liberal mind." The language of republicanism, he maintains, "had survived to furnish liberalism with one of its modes of self-criticism and self-doubt." He now thinks he erred in not realizing "the extent to which my propositions were destructive of the American covenantal paradigm":

If American thought was involved in a quarrel with history from a time before Independence, for reasons which Americans shared with British and European thinkers, then the Declaration, the Constitution, and the *Federalist Papers* – the sacred texts of the founding – could not be a covenant with history but must merely continue it, and the quarrel with its own history in which America has so manifestly been engaged could not be a simple pursuit of the terms of the covenant. The exceptionalist thesis would crumble, and in the act of offering to contribute to the explanation of American history, I would be guilty of denying the uniqueness of American guilt and exposing America to the terrors of a history it shared with other cultures.¹¹

Pocock, for reasons largely biographical, is pleased to find that the American conditions that apparently support the exceptionalist thesis are often found conducing to a different ideology in Europe; he makes fun of Americans who prefer "the splendid misery of uniqueness."¹² If the history of the United States is largely a history of the mutations of Protestantism into civil religion, those mutations can hardly be cited as evidence for the exceptionalist thesis: many countries have had such mutations.

How the Civil War is featured in the American narrative is still a question. It is implausible to think that it was merely a small story within the large one of excep-

tionalism or Manifest Destiny. Scholars from Charles A. Beard to Eric Foner and James M. McPherson call it “the second American revolution,” an ingenious term since it allows us to correlate this second with the first, or indeed merge the two. In *Abraham Lincoln and the Second American Revolution* (1990), McPherson says that “the events of the 1860s in the United States equally deserve the label revolution,” in company with the English Revolution of the 1640s and the French Revolution of the 1790s.¹³ The historian George Fredrickson comments:

What is likely to emerge is the conclusion that the Civil War was not so much a second (and more decisive) American revolution as the completion of the first. It strengthened – but did not create – American nationalism. It moved African-Americans a step further toward equal citizenship, extending a process that began with gradual emancipation in the northern states during the post-Revolutionary era. It assisted the forces promoting capitalist development by shifting the balance of power from a primitive capitalism of ruthless accumu-

lation and forced labor to a more progressive capitalism based on technological innovation and wage labor, although it would take almost a century for the South to overcome its legacy of social and economic backwardness. It encouraged new patterns of thought and culture but did not obliterate older ones.¹⁴

This is a fair comment, but it blurs the difference between a Union Army fighting Confederates and insurgent Americans of the Revolution fighting British soldiers. A narrative has to be masterful indeed to encompass civil war and the several smaller stories recited in this issue of *Dædalus*. William Chafe, whose essay opens the volume, doubts that we still have such a narrative.

Several other contributors to this issue write of their chosen topics in varying tones of sadness. It is difficult to be buoyant these days, when so much news is dismal and when it is so hard even to imagine the prophetic exultation of America in its beginning. But sadness and disappointment are parts of the local narrative, too.

ENDNOTES

¹ Gordon S. Wood, “The Relevance and Irrelevance of American Colonial History,” in *Imagined Histories: American Historians Interpret the Past*, ed. Anthony Molho and Gordon S. Wood (Princeton, N.J.: Princeton University Press, 1998), 145.

² *Ibid.*, 145 – 146.

³ John Adams, *Revolutionary Writings 1755 – 1775*, ed. Gordon S. Wood (New York: Library of America, 2011), 691.

⁴ Herman Melville, *White-Jacket*, quoted in Ernest Lee Tuveson, *Redeemer Nation: The Idea of America’s Millennial Role* (Chicago: University of Chicago Press, 1968), 156 – 157.

⁵ Richard Poirier, “An Approach to Unapproachable America,” *Raritan* 26 (4) (Spring 2007): 7.

⁶ Joel Porte, ed., *Emerson in His Journals* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1982), 372.

⁷ Wood, “The Relevance and Irrelevance of American Colonial History,” 157.

⁸ J.G.A. Pocock, “Between Gog and Magog: The Republican Thesis and the *Ideologia Americana*,” *Journal of the History of Ideas* 48 (2) (April – June 1987): 337 – 338.

Introduction 9 *Ibid.*, 338.

¹⁰ Guy Davenport, *The Geography of the Imagination* (San Francisco: North Point Press, 1981), 355.

¹¹ Pocock, "Between Gog and Magog," 342.

¹² *Ibid.*, 346.

¹³ James M. McPherson, *Abraham Lincoln and the Second American Revolution* (New York: Oxford University Press, 1990), 21–22.

¹⁴ George M. Fredrickson, "Nineteenth-Century American History," in *Imagined Histories*, ed. Molho and Wood, 179.

The American Narrative: Is There One & What Is It?

William H. Chafe

Abstract: Nearly four centuries of American history have witnessed the evolving conflict between two competing sets of values: a belief that acting on behalf of the common good should guide social and political behavior, and a belief that unfettered individual freedom should dominate political and social life. Tracing this conflict from Puritanism through the American Revolution, the Civil War, the rise of industrialism, the Progressive Era, the New Deal, the Great Society, and the conservative revival of the Nixon/Reagan era, the essay reveals this clash of values as pivotal to understanding the narrative of American history, with contemporary political battles crystallizing just how basic this conflict has been.

Who are we? Where have we been? Where are we going? Can we even agree on who “we” includes? At no time in our history have these questions been more relevant. The American political system seems dysfunctional, if not permanently fractured. A generational gap in technological expertise and familiarity with the social network divides the country to an even greater extent than the culture wars of the 1960s and 1970s. Soon, more “Americans” will speak Spanish as their first language than English. For some, access to health care is a universal right, for others, a privilege that must be earned. Rarely – and certainly not since the Civil War – have we been so divided on which direction we should be heading as a country. How can there be an American narrative when it is not clear what it means to talk about an American people or nation? Two overriding paradigms have long competed in defining who we are. The first imagines America as a community that places the good of the whole first; the second envisions the country as a gathering of individuals who prize individual freedom and value more than anything else each person’s ability to determine his own fate.

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When the Puritans arrived in the Massachusetts Bay Colony in 1630, their leader, John Winthrop, told his shipmates aboard the *Arabella* that their mission was to create a “city upon a hill,” a blessed society that would embody values so noble that the entire world would admire and emulate the new colony. Entitled “A Modell of Christian Charity,” Winthrop’s sermon described what it would take to create that beloved community: “We must love one another. We must bear one another’s burdens . . . make others’ conditions our own. We must rejoice together, mourn together, labor and suffer together, always having before our eyes a community [where we are all] members of the same body.”

Consistent with Winthrop’s vision, Massachusetts was governed in its early decades by a sense of communal well-being. While the colony tolerated differences of status and power, the ruling norm was that the common good took precedence. Thus, “just prices” were prescribed for goods for sale, and punishment was imposed on businesses that sought excess profits. Parents who mistreated their children were shamed; people who committed adultery were exposed and humiliated.

Soon enough, a surge of individualism challenged the reigning norms. Entrepreneurs viewed communal rules as shackles to be broken so that they could pursue individual aspirations – and profits. The ideal of a “just price” was discarded. While religion remained a powerful presence, secularism ruled everyday business life, and Christianity was restricted to a once-a-week ritual. Class distinctions proliferated, economic inequality increased, and the values of *laissez-faire individualism* displaced the once-enshrined “common wealth.” Aid to the poor became an act of individual charity rather than a communal responsibility.

Not surprisingly, the tensions between those who put the good of the community first and those who value individual freedom foremost have reverberated throughout our history. Thomas Jefferson sought to resolve the conflict in the Declaration of Independence by embracing the idea of “equal opportunity” for all. Note that he championed not equality of results, but equality of opportunity. Every citizen might have an “inalienable” right to “life, liberty and the pursuit of happiness,” but what happened to each person’s “equal opportunity” depended on the performance of that particular individual. Success was not guaranteed.

Throughout American history, the tensions between the value of the common good and the right to unbridled individual freedom have resurfaced. The federal government sought to build roads and canals across state lines to serve the general good. The nation fought a Civil War because slavery contradicted the belief in the right of equal citizenship. In the aftermath of the war, the Constitution guaranteed all males the right to vote, and its Fourteenth Amendment promised each citizen “equal protection” under the law.

But by the end of the nineteenth century, rampant economic growth had created myriad enterprises that threatened the common good. In *The Jungle*, Upton Sinclair highlighted the danger of workers falling into vats of boiling liquid at meat-packing plants. The influx of millions of immigrants brought new dangers of infectious disease. As sweatshops, germ-filled tenements, and unsafe factories blighted American cities, more and more Americans insisted on legislation that fostered the general welfare. Led by women reformers such as Jane Addams and Florence Kelley, social activists succeeded in getting laws passed that ended child labor, protected workers from injury from dangerous factory machines, and created stan-

dards for safe meat and food. The Progressive Era still left most people free to pursue their own destiny, but under President Theodore Roosevelt, the government became the ultimate arbiter of minimal standards for industry, railroads, and consumer safety.

The tensions between the two narratives continued to grow as the nation entered the Great Depression. Nearly a million mortgages were foreclosed, the stock market crashed, 25 percent of all American workers were chronically unemployed, and banks failed. When Franklin Roosevelt was elected president, he promised to use “bold, persistent experimentation” to find answers to people’s suffering. The legislation of the first hundred days of his presidency encompassed unprecedented federal intervention in the regulation of industry, agriculture, and the provision of welfare payments to the unemployed. The good of the whole reemerged as a dominant concern. By 1935, however, the American Liberty League, a political group formed by conservative Democrats to oppose New Deal legislation, was indicting FDR as a socialist and demanding a return to *laissez-faire* individualism. But the New Deal rolled on. In 1935, Congress enacted Social Security, the single greatest collective investment America had ever made, for *all* people over sixty-five, and the Wagner Labor Relations Act gave unions the right to organize. Roosevelt ran his 1936 reelection campaign on a platform emphasizing that “one third of [our] nation is ill-housed, ill-clothed and ill-fed.”

This focus on the good of the whole culminated during World War II, a time when everyone was reminded of being part of a larger battle to preserve the values that “equal opportunity” represented: the dignity of every citizen, as well as the right to freedom of religion, freedom from want, and freedom of political expression.

For the first time since Reconstruction, the government acted to prohibit discrimination against African Americans, issuing an executive order to allow blacks as well as whites to be hired in the war industries. Similarly, it supported policies of equal pay to women workers while leading a massive effort to recruit more women into the labor force to meet wartime demands. From wage and price controls to the universal draft, government action on behalf of the good of the whole reached a new height.

After the war ended, the tension between the competing value systems returned, but, significantly, even most Republicans accepted as a given the fundamental reforms achieved under the New Deal. Anyone who suggested repeal of Social Security, President Dwight Eisenhower wrote to his brother Milton midway through his term in office, was “out of his mind.” Eisenhower even created a new Cabinet department to oversee health and welfare.

The stage was set for the revolutions of the 1960s: that is, the civil rights movement, the women’s movement, the student movement, and the War on Poverty. Blacks had no intention of accepting the status quo of prewar Jim Crow segregation when they returned from serving in World War II. Building on the community institutions they had created during the era of Jim Crow, they mobilized to confront racism. When a black woman was raped by six white policemen in Montgomery, Alabama, in the late 1940s, the Women’s Political Council, organized by local black women, and the Brotherhood of Sleeping Car Porters, an all-black union, took on the police and forced a trial. That same network of black activists sought improvements in the treatment of blacks at downtown department stores and on public transport. Thus, when one of their

William H. Chafe

members, Rosa Parks, was arrested in 1955 for refusing to give up her seat on a city bus to a white person, both groups took action. By initiating a phone tree and printing four thousand leaflets, they organized a mass rally overnight. Held at a local Baptist church to consider a bus boycott, the rally featured an address by Martin Luther King, Jr., who later became the embodiment of the movement (though it should be noted that the movement created King and not vice versa). After that night, Montgomery's black community refused to ride the city buses for 381 consecutive days, until the buses were desegregated.

A few years later, four first-year students at the all-black North Carolina Agricultural and Technical College in Greensboro, North Carolina, carried the movement a step further. Although they had come of age after the Supreme Court outlawed school segregation, little had changed. Now that their generation was reaching maturity, they asked what they could do. The young men had gone to an all-black high school where their teachers had asked them to address voter registration envelopes to community residents and encouraged them to think of themselves as first-class citizens. They had participated in an NAACP youth group in which weekly discussions had centered on events such as the Montgomery Bus Boycott. They attended a Baptist church where the pastor preached the social gospel and asked for "justice now." Embittered by how little the status of black Americans had improved, they sought new ways of carrying forward what they had learned.

Their solution was simple: highlight the absurdity of segregation by going to a downtown department store and acting like regular customers. At the Woolworth's in Greensboro, they bought notebooks at one counter, purchased toothpaste at another, then sat down at the lunch count-

er and ordered a cup of coffee. "We don't serve colored people here," they were told. "But you served us over there," they responded, showing their receipts. Opening their school books, they sat for three hours until the store closed. The next day, they returned to the lunch counter with twenty-three of their classmates. The day after there were sixty-six, the next day one hundred. On the fifth day, one thousand black students and adults crowded the streets of downtown Greensboro.

The direct-action civil rights movement had begun. Within two months, sit-ins occurred in fifty-four cities in nine states. By April 1960, the Student Nonviolent Coordinating Committee (SNCC) had been founded. Soon, *The New York Times* was devoting a special section each day to civil rights demonstrations in the South. On August 28, 1963, a quarter-million people came together for the March on Washington. There, Martin Luther King, Jr., gave his "I Have a Dream" speech, a contemporary version of what John Winthrop had said 238 years earlier that celebrated the same idea of a "beloved community" where "neither Jew nor Gentile, black man or white man" could be separated from each other.

At long last, the government responded. The Civil Rights Act of 1964 ended Jim Crow. The Voting Rights Act of 1965 restored the franchise to black Americans. The War on Poverty gave hope to millions who had been left out of the American dream. Medicare offered health care to all senior citizens, and Medicaid offered it to those who could not otherwise afford to go to the doctor. Federal Aid to Education created new and better schools. The Model Cities Program offered a way for blighted neighborhoods to be revitalized.

The narrative of progress toward the common good reached a new crescendo. With the civil rights movement as an inspiration, women started their own

movement for social equality. Access to previously closed careers opened up under pressure. By 1990, half of all medical, law, and business students were women. Young girls grew up with the same aspirations as young boys. Latinos, gay Americans, and other minorities soon joined the march demanding greater equality. It seemed as though a permanent turning point had occurred.

But the counternarrative eventually rediscovered its voice. Millions of white Americans who might have supported the right of blacks to vote or eat at a lunch counter were appalled by affirmative action and demands for Black Power. When the war in Vietnam caused well-off students to take to the streets in protest against their country's military actions, thousands of ordinary workers were angered by the rebellion of the young against authority. Traditional families were outraged when feminists questioned monogamy and dared to challenge male authority.

By 1968, the nation was divided once more, and the events of that election year crystallized the issues. Incumbent Lyndon Johnson withdrew from the presidential race at the end of March. Martin Luther King, Jr., was assassinated in April, with riots spreading like wildfire across the country in response. Student protesters took over Columbia University in May, making a mockery of the idea of civil discourse and respect for authority. Robert F. Kennedy was assassinated in June, just as he seemed ready to move decisively toward the Democratic presidential nomination. And when the Democratic party met for its convention in Chicago, thousands of protestors were pummeled by police as they demonstrated against conventional politics.

At the same time, Richard Nixon was nominated by the Republican party on a

platform of "law and order" and respect for authority. Adopting a "Southern strategy," he appealed for white Southern votes by opposing forced desegregation of schools. Lambasting students who protested the war, he pleaded for a return to respect for traditional institutions. Nixon claimed to speak on behalf of "the silent majority" who remained proud to be American citizens, who celebrated the flag rather than mocked it, and who affirmed the rights of individuals to do as they wished.

Richard Nixon's election in Fall 1968 launched the resurgence of a conservative consensus in American politics. Though on issues such as the environment Nixon pursued many policies consistent with the "good of the whole" framework, on most issues he moved in the opposite direction. He opposed busing as a tool to create greater school desegregation, started to dismantle War on Poverty programs, based his 1972 reelection campaign on attacking the "collectivism" of the Democratic party, and insisted on defending the values of "traditional" Americans against attacks by the young, minorities, and women.

As social issues provided a rallying point for those set against further social change, the conservative narrative gained new proponents. Those opposed to gay rights mobilized to curtail further efforts to make sexuality a civil rights issue. Evangelical Christians joined groups such as Jerry Falwell's Moral Majority or Pat Robertson's "Praise the Lord" clubs to lobby against advances for minority rights. Direct mail campaigns and the use of cable television helped the Right galvanize new audiences of potential supporters.

Presidential politics also continued on a conservative path. Even though Richard Nixon was compelled to resign in shame over his illegal activities in the Watergate

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scandal, each of his successors – even Democrats – advanced the conservative agenda he initiated. Gerald Ford vetoed more legislation in two years than most presidents veto in eight. Jimmy Carter, though a liberal on gender equality and black civil rights, proved conservative on most economic issues. Ronald Reagan personified the conservative revival. He not only celebrated patriotism, but also revived the viewpoint that the best America was one without government intervention in the economy, and one that venerated the ideal of individualism.

Even Democrat Bill Clinton, excoriated by the Right as a demonic embodiment of counterculture values, was in practice more a Dwight Eisenhower Republican than a Lyndon Johnson Democrat. Dedicated to cultivating the political mainstream, he achieved legislative victories primarily on traditionally Republican issues: deficit reduction; the North American Free Trade Agreement; an increased police presence on the streets; welfare reform that took people off the public dole after two years; and the use of V-chips to allow parents to control their children's television viewing habits. Only his failed health care proposal acted in tune with the ideology of FDR and LBJ.

George W. Bush simply extended the conservative tradition. With massive tax cuts, he created lower rates for the wealthy than had been seen in more than a half-century. His consistent support of deregulation freed up countless companies and investment capital firms to pursue profits without restriction. He made nationalism a cherished part of his political legacy, including the pursuit of a doctrine that emphasized unilateral initiatives defined as in the best interests of the United States, and downplayed multilateral cooperation that would subject America to constraint by the wishes of its partners and allies.

From 1968 to 2008, the American political and ideological trajectory hewed to a conservative narrative that celebrates individualism over collective action and criticizes government activity on behalf of the common good.

In recent years, the tension between the two narratives has escalated to an alarming degree. Barack Obama's 2008 election appeared to revitalize a focus on the common good. More people voted, embracing the idea of change, and elected a black American who seemed to embody those values. The fact that Obama became the first president in one hundred years to successfully pass national health care reform – albeit without the provision of a public alternative to private insurance companies – appeared to validate that presumption.

But with the midterm elections of 2010, the rejection of Democratic politics – especially state intervention on behalf of the common good – resulted in the most dramatic electoral turnaround since 1946, when President Harry Truman's Democrats lost eighty-one seats in the House of Representatives. "Tea Party" Republicans not only stood for conservative positions on most social issues, but most dramatically, they insisted that all taxes should be cut, that federal expenditures for Medicare, Social Security, and other social programs must be slashed, and that it is preferable for the government to default on its financial responsibilities than to raise the national debt ceiling.

A backward glance through U.S. history would reveal no clearer example of the tension between the two competing American narratives, existing side by side, seemingly irreconcilable. The moment is historic, particularly at a time when climate change, stalled immigration reform, and a depressed global economy cry out for action. Thus, the conflict between the

good of the whole and the ascendancy of individualist freedom has reached new heights. The choice that voters make in the 2012 presidential election will define our country's political future. Which narrative will we pursue? Are health care and quality education universal rights or privileges reserved for only those with the means to pay? Do we wish to bear "one another's burdens . . . make others' conditions our own . . . mourn together [and] labor and suffer together?" Or do we wish to make each individual responsible for his or her own fate? These questions are not new. But now, more than ever, they challenge us to find an answer: Who are we? In which direction do we wish to go?

Despite the trend over the past three-and-a-half centuries toward legislation that creates a safety net to protect the larger community, millions of Americans appear committed to dismantling government, slashing federal spending, and walking away from previous commitments to the good of the whole. A number of candidates running for the Republican presidential nomination in 2012 wish to curtail federal responsibility for Social Security for senior citizens. Every Republican candidate seeks to repeal Obama's national health insurance program. Cutting taxes has become a holy mantra. While it is true that in the coming decades demographic change will dramatically increase the number of Latino voters, who historically have favored legislation on behalf of the common good, it is not inconceivable that a reversal of social welfare legislation will happen first.

The tension between these two narratives is as old as the country itself. More often than not, it has been a healthy tension, with one set of values checking and balancing the other. But the polarization of today is unparalleled. The decisions the

electorate makes in 2012 are of historic importance in determining which direction the country will take. *William H. Chafe*

America's Constitutional Narrative

Laurence H. Tribe

Abstract: America has always been a wonderfully diverse place, a country where billions of stories spanning centuries and continents converge under the rubric of a Constitution that unites them in an ongoing narrative of national self-creation. Rather than rehearse familiar debates over what our Constitution means, this essay explores what the Constitution does. It treats the Constitution as a verb – a creative and contested practice that yields a trans-generational conversation about the meaning of our past, the imperatives of our present, and the values and aspirations that should point us toward our future. And it meditates on how this practice, drawing deeply on the capacious wellsprings of text and history, simultaneously reinforces the political order and provides a language for challenging its legitimacy, thereby constituting us as “We, the People,” joined in a single project framed centuries ago that nevertheless remains inevitably our own.

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What is the Constitution? This question has puzzled many of its students and conscripted whole forests in the service of books spelling out grand theories of constitutional meaning. In their quest to resolve this enigma, scholars have powerfully illuminated both the Constitution's inescapable writtleness and its unwritten extensions, its bold enumeration of rights and its construction of structural protections lest those rights become mere “parchment barriers,” and the centuries-long dance of text, original meaning, history and tradition, judicial doctrine, social movements, and aspirational values. They have documented its grandest achievements and its most appalling failures – aspects of its story that are also, in a deep sense, *our* achievements and failures as a nation. For the Constitution is more than just a historical artifact guarded by the National Archives, or a source of legal authority invoked by the courts to adjudicate cases. True to its name, it *constitutes* us as a people – *e pluribus unum* – and draws all of our cross-generational debates into a project set in motion by, and unfolding through, its written and unwritten dimensions.

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Whatever else the Constitution may be – and I do not purport to offer a complete or final answer to that question – its unfolding interpretation and implementation through the crucible of competing stories about constitutional values thus represent elements of a *practice* essential to the creation and perpetual re-creation of “We, the People.” Efforts to pin it down or freeze its development in the historical past miss this crucial lesson: debates over constitutional meaning necessarily involve episodes in an unsettled enterprise, rather than the search for a long-lost key that unlocks the secret of some ultimate constitutional truth. Put simply, the Constitution is a *verb*, not a noun. And sometimes, as we teach our children in elementary school, distinguishing between a verb and a noun can make all the difference in the world.

On the second day of the 112th Congress, January 6, 2011, congressional leaders decided to read what they advertised as the Constitution of the United States. But they had the chutzpah to expunge provisions of that celebrated document that they believed modern developments had rendered obsolete, or even downright embarrassing – such as the infamous Three-Fifths Clause and the Fourteenth Amendment’s reference to the right of a state’s “male inhabitants” to vote.¹ Treating the Constitution as a creed to be recited in properly updated, politically correct, and perhaps theologically approved form – rather than as the inescapably flawed and invariably contested narrative of our national struggle over the fundamental commitments that define us as a people – those political leaders ignored the capacity of superseded provisions to serve as antidotes to “collective amnesia about [our] national missteps.”² They forgot the power of the deathless lines of Omar Khayyam’s *Rubaiyat*: “The moving finger writes, and having writ, moves on. Nor

all your piety nor wit shall lure it back to cancel half a line, nor all your tears wipe out a word of it.”

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It is not by participating in revisionist mutilation of the Constitution’s text, but by engaging in the unending debate over incorporating the document into our self-understanding at each moment in time, overlaid with still-potent and anachronistic echoes of a history that is not even past, that we truly engage in the task of collective interpretation and reinterpretation. This is the truest sense in which we experience our Constitution as a verb. We navigate the Constitution, its hazards, its shallows, its depths; we explore it still; we learn from our own adventures and misadventures. Otto Neurath, an Austrian writer of the Vienna Circle, evocatively offered the analogous image of “sailors who must reconstruct their ship on the open sea,” unable ever “to start afresh from the bottom” but fated to use “the old beams and driftwood” to reshape the ship while using whatever remains for support as old beams are taken away.

So too the perpetual project of fashioning and refashioning ourselves into “We, the People,” guided by our Constitution. Justice Robert Jackson once wrote of the “fixed star[s] in our constitutional constellation.”³ His metaphor seems singularly apt – though for a reason he might not have envisioned. The stars themselves may be fixed, but the task of navigating by them is one that inevitably calls for human insight. Thus, the points of light that punctuate the night sky, like the discrete provisions of the Constitution’s text, form patterns that speak to poets and philosophers perhaps more than they do to physicists and astronomers. The task of connecting the dots with stories – narratives, if you will – of our past and future ultimately rests on acts of imagination.⁴

As we have come to understand, the single tapestry of star-glittered sky that

we see above us represents not one simultaneous reality but a number of different realities, each from its own locus in time, yet all reaching us at the same moment. The Constitution, like the night sky, is composed of elements drawn from, and reflecting the concerns of, strikingly different eras in our history. Like the sky we see at night, our Constitution retains, as though still vital and unchanged, any number of features that – like supernovae that have collapsed into invisible black holes long before their light reaches our eyes – might have long since been erased or transformed. Readers of the Constitution must project patterns onto its provisions and make arguments in the name of invisible structures – structures that observers across the ideological spectrum can only describe as the “tacit postulates” of the constitutional plan.⁵

This essay is a meditation on how those postulates express themselves through competing historical narratives that draw on the terms of our Constitution to propel us as a people across time and space. That meditation is possible because the United States of America is itself less a place than a story – or, more precisely, a cluster of hundreds of millions of stories, some stretching back to before the 1700s, others unfolding at this moment, still others not yet begun – and because our Constitution provides a capacious home that is readily transformed as new stories join the practice of divining, contesting, and constructing its meaning.

While they are told in the name of a singular “We, the People,” the competing narratives that those stories weave together into so many unique patterns are really sites of fierce contest over constitutional meaning. As two of our most insightful constitutional theorists have put it, “There are stock stories about Americans as courageous pioneers who won the

West, stories about America as a nation of immigrants who came to these shores in search of liberty and equal opportunity, and stories about America as a distinctive country that has always existed free from those forms of feudalism and social hierarchy characteristic of the Old World or has self-consciously thrown them off.”⁶ Such narratives of aspiration and progress, as well as counternarratives of conquest and self-deception, exploitation and decay, “are as central to constitutional interpretation as the opinions of any jurist,”⁷ and indeed often play central roles in the most influential of those judicial opinions – opinions that not only set forth conflicting legal arguments about the meaning of America’s founding documents, but also promulgate competing narratives through and against which Americans debate the meaning of their past and the shape of their future.

We need not believe that many people actually read, much less pore over, the texts of those opinions, or even the texts they purport to interpret and elaborate, in order to recognize the deep and dynamic interplay between those overlaying texts, the stories they tell, and the themes in terms of which we conduct our most persistent national conversations.⁸

To be sure, the recent immigrant from Latin America, the third-generation American Italian, and the American Indian are not likely to agree on a single tale as they spin out their versions of the nation’s narrative. What nonetheless defines it as *one* American narrative out of many – *e pluri-bus unum* – is neither ancestry nor territory but a single trans-generational project framed by our Constitution. The U.S. Constitution is the one document, the one structure, on which all competing accounts converge and of which each account contains a vivid picture. Even for those who regard our nation’s Constitution as only partly embodied in the actual text of the

written document,⁹ it is that text that constitutes the canonical touchstone for all the narratives that define us as one People.

All those who hold public office as our representatives must take an oath to preserve and protect that one “supreme law,” or at least obey its mandates. And even those of us who need take no such oath are likely to identify the Constitution as our fundamental law. It is *fundamental* in the sense that it trumps all other sources of legal power and obligation and establishes the foundation on which those other sources must build. It is *ours* in the sense that, although we played no role in its original enactment, and though we may hold no office bearing an official responsibility for resolving disputes over constitutional construction, “We, the People” have an open, standing invitation to become involved in debating and settling its interpretation. Hence, we all have a personal stake in what it means.¹⁰

This is true *both* for those of us who believe that the Constitution always means just what it originally meant to those who wrote and ratified it – or to the entire country at the time it was enacted¹¹ – and for those of us who, like me, believe that at least its elastic phrases have an evolving meaning, one that may change with changed circumstances and understandings even though the *words* of the text itself, and the *basic principles* they enact, do not change over time.¹² It is sometimes suggested that the “originalists” among us, those who seek to interpret and apply the Constitution either in accord with the subjective intentions of its authors or, more plausibly, in accord with its original public meaning, must defend the legitimacy of being governed by the dead hand of the past and thus by a framework that gives us little or no ownership of our own constitutional destiny.¹³ The “dead hand” problem is indeed a serious one. But it need not be paralyzing if the “original

meaning” of all but the most mechanical of the Constitution’s provisions is understood at a sufficiently high level of abstraction and generality, in terms of overarching principles rather than fixed and determinate rules, so that the task of putting flesh on the Constitution’s bones of “liberty” and “equality” remains inescapably our own.

Indeed, even the responsibility for separating the “mechanical” provisions from the “abstract” ones is inevitably ours. Consider the constitutional prohibitions against federal and state “bills of attainder.” One might read these provisions as straightforward mechanical prohibitions of a particular kind of law (one whereby the legislature condemns a named person to a criminal penalty). Or one might read them as broad principles condemning practices that resemble “trial by legislature.”¹⁴ As I have written elsewhere, one cannot choose between these readings simply by “meditating about the language used” or by conducting “an exercise, however grand, in historical reconstruction.”¹⁵ Instead, one must engage in the active process of *constructing* constitutional meaning, not just in the “passive process of *discovering*” it.¹⁶

Moreover, even if we are among those who remain convinced that the Constitution’s central role is to pin matters down so as to resist the winds of disastrous or decadent change, rather than to facilitate and channel orderly transformation in pursuit of broad aspirations,¹⁷ it remains *we* who are choosing to be bound by that rigid framework. No external force, nothing beyond the Constitution’s words and principles as we come to understand them, ties us down.¹⁸ And the Constitution itself, excepting the mysterious Ninth Amendment¹⁹ and the Preamble’s announcement that the charter’s purpose is to establish a “more perfect Union,” is decisively silent on the matter of its own construction.²⁰

Although we are unlikely to agree on the meaning of all its moving parts, it remains *our* Constitution that organizes our most important national conversations and furnishes the primary language and framework in terms of which we debate our rights and our nation's history.

To say that the Constitution belongs inexorably to all of us is not to deny that some visions of the Constitution capture the robust spirit inherent in America's ongoing narrative better than others. If, for example, one imagines our Constitution to be merely a thing of levers and pulleys – a clockwork universe mechanically propelling us forward in time as if we cannot trust our own initiative and forthright spirit to guide our progress and save us from moral decline lest, like the too readily tempted Ulysses, we succumb to moral rot – one is likely to resist the notion that a dynamic interplay among culture, politics, and law properly defines the evolving application and implementation of open-ended constitutional terms.²¹ This gloomy outlook, however, arbitrarily presupposes that America's governing narrative is one of decline rather than one of growth and potential improvement. It manifests a cynical (and, I believe, misguided) distrust of "We, the People." It overlooks important features of both the original Constitution's framing and the deliberately transformative amendments adopted immediately following the Civil War, amendments whose evident purpose was to change, not to nail down, the status quo.²² And it fits uncomfortably with the Constitution's Preamble, which, far from fatalistically contemplating a future of inevitable moral regression, looks forward with fervent hope to the formation of "a more perfect Union."²³

But if instead – as I have urged ever since the late 1970s – one understands much of the Constitution as *the framework for an*

ongoing debate over how best to approximate our national ideals, then one will naturally gravitate toward what some have described as a more "aspirational" sense of what the Constitution's design mostly seeks to accomplish and of how many of its rights-declaring and power-conferring provisions were from the outset structured to operate.²⁴ For something like four decades, I have been teaching about the Constitution in largely those terms, depicting it as the scaffolding or frame for that national dialogue. In its first printing in 1978, my treatise, *American Constitutional Law*, bore the subtitle "A Structure for Liberty" and was bound in a dust jacket depicting the Statue of Liberty not yet fully liberated from the elaborate scaffolding that surrounded her as she was delivered from France.

From 1989 to 1991, I had a particularly remarkable student and collaborator – now our nation's President – who helped me more precisely articulate the notion of the Constitution as an ongoing "conversation" among generations of Americans.²⁵ And that is how I continue to describe it.²⁶ I credited President Obama with that evocative image well before a new generation of scholars breathed vital new life into this way of reading our Constitution. He foresaw how, through an ongoing sequence of narratives, the Constitution can furnish nothing less than the principal language in which we – *not just judges, but all of us* – talk with (and, unfortunately, too often *past or at*) one another about which courses of action are faithful and which unfaithful to our nation's founding ideals.²⁷

The critics of this "living Constitution" approach – and there are many – need to be taken seriously, but they must not be permitted to demand of the approach something it does not even purport to provide: namely, an algorithm for providing determinate answers to contested issues of constitutional meaning. There are cir-

cumstances when such answers are called for and when recourse to the Constitution as living conversation or narrative will not suffice. Such a determinate answer may be needed, for instance, when we ask whether the Constitution's provision forbidding default on the nation's lawfully incurred public debt means that debt may be incurred by the President beyond the limit set by Congress if no compromise leading Congress to raise that statutory limit is reached in time to avoid the disasters that a default would bring.²⁸ And there are circumstances when, despite the sirens of a postmodern relativism that from time to time still rears its unwelcome head, such answers are available.

One can, of course, insist otherwise.²⁹ But I cannot take seriously the occasional suggestions that even the Constitution's most rigidly mathematical provisions, such as its requirement that the President must be at least thirty-five years of age, necessarily have "a radical indeterminacy of meaning . . . within a liberal community." Take, for instance, the notion that a sixteen-year-old guru might be permitted to run for and win the presidency because the guru's "supporters sincerely claim that their religion includes among its tenets a belief in reincarnation" that must be respected lest, in counting electoral votes, we violate the First Amendment's bar on federal establishment of "a particular religious view about the definition of age" and traduce the supporters' "rights under the free exercise clause, as well as their right grounded in democratic theory to choose who will govern them."³⁰ Clever, but surely in jest. With all respect, the fact that the Constitution is a conversation and a living narrative does not mean that it is only a game.³¹ Like it or not, for instance, there are two United States Senators per state, however large or small the state may be.³² That is not a matter of competing narratives or

of cultural context, however strongly that hardwired rule might conflict with a deep constitutional norm of equal representation as reflected in the principle of "one person, one vote."³³

There are, of course, many circumstances in which the Constitution cannot be reduced to correct and incorrect answers independent of context and unhinged from point of view. It is precisely when the idea of the Constitution as a language or an ongoing narrative is offered up by its proponents as a potentially conversation-stopping argument for this or that "liberal," or sometimes "conservative," result in the face of genuine indeterminacy that such proponents become most vulnerable to critique; they lose sight of the fact that the value of the "living Constitution" approach is precisely that it eschews this insistence on dogmatic and definitive readings of all the document's provisions. Thus, for instance, some have sought to demonstrate that the right to end one's pregnancy by having an abortion is among the "privileges or immunities" of United States citizens in the twenty-first century even though, they argue, the right may not yet have been entitled to that status when the Supreme Court proclaimed it to be protected through the Liberty Clause of the Fourteenth Amendment in 1973.³⁴ Well, even as a proponent of the right, I must confess to remaining unconvinced, in part because such demonstrations, proceeding as they invariably do in terms of the equal citizenship of women, manage to leave out of the equation the life of the unborn. *Q.-not-E.D.*

As a way of understanding what constitutional discourse embodies and how it proceeds, the idea of the Constitution as narrative is powerful and illuminating; as a way of persuading the unconvinced that one's reading of the Constitution's more

nebulous provisions is “the” right one, the idea is akin to using the rules of syntax to prove a normative proposition. For anyone whose hope for philosophical explanation is that it should *enable* rather than *end* conversation, it is not a defect that the notion of constitutional narrative rarely, if ever, yields a conversation-stopper.³⁵

Nor does the inability of this perspective to provide decisive answers to normative questions mean that it is *silent* on the need for “We, the People” to confront fundamentally value-based choices. In this regard, it contrasts most strikingly with purely “common law” approaches to the Constitution, which focus nearly all their attention on the case-by-case elaboration of constitutional law and preach the legitimizing virtues of this incremental dynamic. The common law model is, of course, borrowed from the centuries-old and distinctly Anglo-American method of piling layer upon layer of judicial precedent using a mix of fact-specific analogical reasoning and rule-like formulations of judicial doctrines and legal standards. This approach, however, has a tendency to lose sight of the constitutional text while immersing itself in a vast sea of precedent. It thus speaks eloquently to the way in which the superstructure of constitutional doctrine properly unfolds in the interstices of basic choices of interpretive direction, but has little to say about the fundamental constitutional principles that this doctrine exists to implement. This shortcoming, in turn, points to a deeper flaw in the common law model: its inability to grapple with deep choices about which values ought to guide the evolving course of our national project.

Meaningful liberty demands committing ourselves to an intergenerational community of ends defined and circumscribed in a way that can connect our lives to a shared past while we grope toward an ever more inclusive vision of the good.³⁶

In this conception, the Constitution provides the primary thread of continuity that integrates us as a people engaged in this trans-historical project and offers a framework within which we converse about our commitments to the principles by which we feel bound – principles which themselves evolve with our changing selves.³⁷ In such a dialogue, there is no escaping the need to reckon with potentially transformative choices concerning our basic constitutional commitments. Common law constitutionalism looks away from this imperative, prioritizing instead a slow juricentric unfolding of doctrine in which the application of agreed-upon values evolves, but only one step at a time.³⁸

This limitation of common law approaches is starkly visible in a recent Supreme Court decision striking down a California law restricting the sale or rental of violent interactive video games to minors.³⁹ The majority’s opinion perfectly sounded the notes that dominate the last half-century of American First Amendment precedent, reciting the core commitments of our free speech canon in uncompromising terms. As a matter of constitutional common law, the case was unquestionably rightly decided, for the state had sought to restrict expression in terms of the message being expressed without fitting that restriction into any of the doctrinal pigeonholes, including “fighting words” and “obscenity,” defining the narrowly excepted categories plainly identified as exclusive by decades of settled precedent.

But at no point did the majority meaningfully grapple with a simple, important question: Are the excepted categories established in decades past sufficient to protect the values implicated *today* in *this* case, where the video games being marketed to minors included some that graphically depicted savage bludgeoning, dismembering, and sexual assaults on human beings,

often in stunningly realistic and sadistically precise detail, and typically in a manner that engaged the player of the game in a degree of active interplay with the sounds and images that made the result a vividly experienced version of virtual reality? Nor *could* the majority have meaningfully engaged with this question so long as it remained wedded to the common law approach. It would have required a dramatic intellectual leap to move from a rigid body of case law, defined by well-settled compartments of “protected” and “unprotected” speech, to a First Amendment vision sensitive to the unique issues raised by the marketing of violent video games to children. As an old Yiddish saying has it, you can’t leap a chasm in two jumps – let alone by the series of small steps characteristic of common law constitutionalism.

Justice Stephen Breyer vigorously disagreed with the majority, delivering a dissent that wrestled carefully with the challenges posed by technological advancements that blur the boundaries between speech and action and by the insights of modern social science that cast light on the psychological impact on children of participating in interactive violence, even if “only” in virtual form. Further, noting that judicial precedent sharply distinguishes between violent and sexual speech, giving the government little or no power to target the former but great latitude to suppress the latter, Justice Breyer posed a powerful and disturbing question: “What kind of First Amendment would permit the government to protect children by restricting sales of that extremely violent video game *only* when the woman – bound, gagged, tortured, and killed – is also topless?” Indeed, a good case can be made for the view that this divide is explicable only as a matter of historical happenstance and does not withstand critical scrutiny.

Whether we should respond by permitting minors to obtain images of topless

women without regulatory obstacles, by being more tolerant of state and local regulation of interactive video violence, or (as I am tentatively inclined to think) by doing both, here was an ideal occasion for returning to basics and treating the trans-generational Constitution itself – not simply the tower of doctrine constructed to implement it over the years⁴⁰ – as the compass with which We the People navigate our course through history. One need not agree with Justice Breyer’s conclusion to admire his willingness to confront the hard issues posed by *Brown v. Entertainment Merchants Association* rather than to hide between walls of citations that obscure the basic choices implicated by the case.⁴¹

The need for such choices is rendered apparent by even a brief tour through America’s historical traditions of free speech, which reveal sustained contest over the First Amendment’s protections and the values that give it life. This fact is best appreciated, appropriately enough, through a comparison of the best available historical accounts with the constitutional narratives regularly invoked to justify opinions like *Brown v. EMA*.

Distinguished historians tell us that when the First Amendment was ratified in 1791, it was understood by many legal thinkers to embody a view of free speech rights and the principles they protect grounded in the writings of Sir William Blackstone.⁴² The Revolution itself had triggered widespread suppression of Loyalist speech, and the Framers, notwithstanding their immersion in a social reality of biting commentary and robust debate, drew on received legal traditions to craft expressive freedoms.⁴³ On that view, freedom from prior restraint in the form of government licensing of the press constituted the main safeguard against tyranny.

However, as the Alien & Sedition Act crisis soon revealed, Americans were deeply divided over the nature of expressive lib-

erties. Those divisions were caught up in questions of federalism and national power, as well as in beliefs about the boundaries of free speech rights, that persisted through the nineteenth century.⁴⁴ For example, a string of Southern laws declaring abolitionist speech a capital offense prompted dramatic sectional strife in the 1830s,⁴⁵ and the Gilded Age witnessed a proliferation of laws designed to provide an arsenal for the mainstream assault on “abuse” of speech rights by anarchists, socialists, immigrants, free-lovers, and labor agitators.⁴⁶ Libertarian counternarratives abounded, and lived experience provided a richer scope of expressive freedom than judicial opinions suggested, but the law remained a potent vehicle for agents of suppression.⁴⁷ As one scholar reports, “If the number of avenues being used and the amount of traffic on them are the gauge, America never experienced greater government restrictions on the press than during the first quarter of the twentieth century.”⁴⁸ A string of speech-restrictive cases during World War I thus rested firmly on conventional legal wisdom.⁴⁹ It was only after the 1930s – and mainly after World War II – that mainstream thinkers and the Supreme Court as their most authoritative voice made a significant choice to craft the deeply libertarian doctrine undergirding Justice Antonin Scalia’s opinion in *Brown*.

Yet this is not the narrative one encounters in contemporary discussions of the First Amendment. If anything, it sounds positively alien to the modern ear. The following story certainly rings more familiar:

Those who won our independence by revolution were not cowards. They did not fear political change. They did not exalt order at the cost of liberty. To courageous, self-reliant men, with confidence in the power of free and fearless reasoning applied through the processes of popular government, no danger flowing from speech can

be deemed clear and present, unless the incidence of the evil apprehended is so imminent that it may befall before there is opportunity for full discussion.⁵⁰

Here we see Justice Louis D. Brandeis, writing at the peak of his powers in the 1927 case of *Whitney v. California*. In the soaring rhetoric and legend-driven history that Brandeis composed for *Whitney*, modern Americans first encounter a vision of free speech that they can readily claim as their own: a laissez-faire ideal that pictures a largely unregulated marketplace of ideas as integral to the flourishing of our democracy, and that looks with deep distrust on any professed benefits of interventions that limit expression in the pursuit of other facets, whether egalitarian or paternalistic, of the American constitutional vision.⁵¹ It is around this story, and its attendant values, that the Supreme Court and the vast majority of Americans currently organize debates over the legitimacy, meaning, and purpose of laws that touch on rights of speech and press – a narrative that mixes mythological description with normative guidance.

Of course, not even the recent hegemony of this narrative in opinions like *Brown v. EMA* means that it stands unchallenged. Although courts have struck down laws prohibiting the most virulent forms of hate speech,⁵² misogynist pornography,⁵³ or the commercial possession, production, and sale of videos depicting animal cruelty⁵⁴ – and have done so in opinions that command my assent, though with considerable regret and a belief that these restrictions furthered legitimate ends permissibly achievable through other means – the laws at issue were all animated by persistent and legitimate First Amendment counternarratives sensitive to the harm that speech can inflict on minorities and other vulnerable groups. Justice Samuel Alito recently channeled a modern incarnation of these narratives in his stir-

ring dissent in *Snyder v. Phelps*,⁵⁵ a decision upholding the rights of gay-bashing (and supposedly religiously motivated) protesters to parade with hate-filled homophobic placards within painful view of the mourners at funerals of fallen American soldiers. Forcefully articulating the heart of his position, Justice Alito argued that “[i]n order to have a society in which public issues can be openly and vigorously debated, it is not necessary to allow the brutalization of innocent victims like petitioner.”⁵⁶ His moving – if ultimately unconvincing – opinion reveals the modern vibrancy of narratives that appeal to the Constitution and its underlying values as a forceful touchstone for the proper boundaries of laws regulating speech, rather than solely to a common law form of doctrine and its laissez-faire presumptions.

Two other lines of doctrine currently constitute particularly heated battlegrounds between laissez-faire and counterstories that invoke different values in our constitutional scheme to advance a more interventionist approach. As a result, these domains helpfully exemplify the value-laden choices that lie at the core of any deep engagement with the First Amendment as it has been practiced in the recent past. They also suggest the difficulties associated with adopting a purely gradualist posture toward constitutional change.

The first involves speech that we fear and hate. These cases typically arise when the Court pits liberty against security. Its struggle to strike the right balance between these basic elements of our constitutional order has produced such landmark and laudable opinions as those in the *Pentagon Papers Case*,⁵⁷ which shielded *The New York Times* and *The Washington Post* from orders to suppress publication of crucial information about the Vietnam War, and *New York Times Co. v. Sullivan*,⁵⁸ which powerfully protected our free press and permit-

ted open reporting about the civil rights campaign in the South. But the same struggle has also produced unfortunate and avoidable defeats for the cause of liberty. Indeed, in a series of less-than-admirable cases, the Court has aggressively invoked exaggerated narratives of self-preservation in times of collective peril to uphold the blatant censorship of dissident and information-enhancing speech. These sad defeats for liberty occurred most famously when the government sought to repress the U.S. Communist Party in 1951⁵⁹ and, most recently, when it prohibited civil rights lawyers from providing terrorist groups with legal advice about nonviolent activities.⁶⁰

A second counternarrative, to which I am cautiously but decidedly sympathetic, looks to our core democratic commitments and the threats posed by private power in order to support egalitarian principles in campaign finance jurisprudence.⁶¹ We see this egalitarian streak in the four justices who dissented from the Court’s opinion in *Citizens United v. FEC*,⁶² which vastly enlarged corporate financial power to influence American political campaigns in the ostensible service of “free” speech. We see it also in the four justices who dissented from the Court’s recent invalidation of modest and clearly speech-enhancing legislative efforts to offset the power of money in politics with public funding of campaigns⁶³ – a case that prompted a masterful dissent by Justice Elena Kagan.⁶⁴ In both cases, the dissenting justices were able to draw on long-standing narratives of a more interventionist stripe that build on the same constitutional impulses as more familiar narratives rejecting commitments to a laissez-faire ideology in the context of economic regulation.⁶⁵

As this whirlwind tour suggests, counternarratives that support a relatively interventionist approach to speech regulation

stubbornly persist in modern First Amendment jurisprudence, sometimes speaking through Supreme Court majorities but often speaking through judicial dissents or legislative enactments supporting restrictions on speech. The availability of these competing narratives in many important cases renders unsatisfactory a purely common law account that looks only to the steady accretion of precedent, pointing us instead toward a Constitution whose practice invariably includes hard choices among values in tension, each resonant with constitutional meaning and each accordingly due a measure of respect in First Amendment discourse.

Justice Breyer drew in spirit upon this set of counter-traditions when he remarked:

This case is ultimately less about censorship than it is about education. Our Constitution cannot succeed in securing the liberties it seeks to protect unless we can raise future generations committed cooperatively to making our system of government work. Education, however, is about choices. Sometimes, children need to learn by making choices for themselves. Other times, choices are made for children – by their parents, by their teachers, and by the people acting democratically through their governments.⁶⁶

In this powerful conclusion to his dissenting opinion, Justice Breyer reminds us that First Amendment constitutional narratives steeped in the virtues of *laissez-faire* – however powerful they may have been in shaping our doctrine through common law development – do not enjoy sole authority over contemporary First Amendment discourse. Our Constitution, like our society, is aspirational in its broad compass and its embrace of more than just a single value as the guiding light of robust democracy. By appealing to the same principle of preserving our democracy that Justice Brandeis invoked in

Whitney, Justice Breyer thus extended an invitation to advocates of the *laissez-faire* narrative to (re)engage in conversation about how best to think about the freedom of speech in *today's* context. Justice Scalia's majority opinion declined that invitation. Instead, its brief analysis merely invoked answers to such questions arrived at in contexts long past.

These cases each represent moments at which the Court – or a concurring or dissenting Justice – offered a story of who we are and what we value, sometimes joining this vision to a retelling of our imagined past, but always linking it to the same constitutional text and speaking in the name of the same trans-generational community. The many versions of these narratives are thus all part of our nation's collective narrative, which in turn consists of an ongoing conversation about the evolving and competing principles that bind us in order to make us more free.

Although the Supreme Court is an important interpreter of the Constitution – and one of the only institutions with the capacity to transform its vision of the past into our governing law – the Justices do not stand alone in that enterprise, which has been entrusted from the start to every branch and level of government and to “We, the People.”⁶⁷ The common law method's decidedly juricentric focus, beyond its inability to cope with moments of fundamental choice and points of discontinuity, thus provides too narrow a lens on our Constitution, whose capacity to structure a trans-generational dialogue about the course of our shared destiny extends far beyond the courtroom door. Other official actors responsible for shaping constitutional meaning include the President, Congress, and the states. The interpretations adopted by these actors are particularly important in the many contexts – significantly including mili-

tary intervention, impeachment, and fiscal policy (as in the debt ceiling debate of mid-2011) – in which judicial review is unavailable or judicial involvement unlikely.

The task of interpreting and reinterpreting the Constitution is not, moreover, restricted to government officials. That practice, like the Constitution itself, belongs to us all. This point has been made forcefully and persuasively by scholars of what has come to be known as “popular constitutionalism” – which, in the words of one of its leading exponents, explores how “social movement conflict can motivate as well as discipline new claims about the Constitution’s meaning, and how responsive interpretation by public officials can transmute constitutional politics into new forms of constitutional law.”⁶⁸

The Supreme Court’s opinion in *District of Columbia v. Heller*,⁶⁹ the decision that struck down a local ban on the possession of handguns while announcing for the first time that the Second Amendment protects an individual right to bear arms (as opposed to solely a militia right, which would have permitted far more stringent gun control laws), exemplifies this dynamic. Although Justice Scalia spoke for the Court with all the eighteenth-century authority he could muster, deploying a full originalist analysis to support his conclusion and waging historiographical battle with the dissent over the meaning of preambles and commas in the 1780s and 1790s (fascinating stuff, no doubt), the power he wielded to strike down Washington, D.C.’s handgun ordinance was grounded emphatically in the late twentieth century’s constitutional politics of gun rights, personal freedom, and law-and-order society.⁷⁰ A full perspective on the opinion must therefore look beyond the courtroom to the wider national conversation in which the Court is just one of many participants and will remain only one of many actors in crafting the post-

Heller regime of gun control in the United States.

Laurence H. Tribe

Consider, too, *Lawrence v. Texas*, the 2003 decision holding that private consensual sexuality between same-sex partners cannot be outlawed.⁷¹ The conditions making both *Heller* and *Lawrence* possible included social mobilization, evolving public opinion, and shifting political alignments.⁷² Both decisions were handed down by (different) bare majorities of the Supreme Court, although one freely invoked the capacious notion of “liberty” substantively protected from unwarranted intrusion by the Fourteenth Amendment’s Due Process Clause, while the other purported to discipline itself by combing through late-eighteenth-century manuscripts⁷³ – an exercise that triggered a no less scholarly rejoinder from Justice John Paul Stevens, who read the history, and thus the provision’s original meaning, quite differently.⁷⁴ And both decisions pointed toward a future of ongoing contest about the scope, implications, and social acceptance of the formal rights they created.⁷⁵

Some prominent students of the Constitution have interpreted the Court’s response to these episodes of “popular constitutionalism” in a different light: namely, that the document’s “soft” language, while figuring prominently in many of our debates about such issues as the meaning of equality and the outer reaches of federal and state power, is ultimately meaningless to legal outcomes truly grounded in popular support.⁷⁶ These missionaries of constitutional irrelevance, often influenced by recent trends in political science, adopt a rhetoric of hard-nosed realism and deride as outmoded a belief in the importance of the language that defines the reach of federal power or that guarantees individual rights. Although few of these skeptics doubt that our Con-

stitution's hardwired provisions – for example, those that separate the federal government into three distinct branches, organize the national legislature into two houses, and divide power between the nation and the states – matter greatly to our lives and to the life of our country, some see even these structures as little more than a threadbare armature supporting the true architecture of American government: political parties.⁷⁷

There are even those who argue that constitutional amendments as seemingly fundamental as the Thirteenth (abolishing slavery) or the Fourteenth (forbidding deprivations of life, liberty, or property without due process of law, guaranteeing equal protection of the laws, and ensuring the privileges or immunities of American citizenship) have made little or no actual difference.⁷⁸ The essence of their argument is that the practices such amendments are credited with preventing are just those that would have become unacceptable to the American public anyway. Furthermore, their argument continues, to the degree various measures have had broad public approval, the Constitution's condemnation has not mattered much in practical terms. Others emphasize that constitutional interpretations are often given legal force only through judicial proclamations, and proceed to frame the Supreme Court in turn as a fundamentally majoritarian institution unwilling to land far afield from national public opinion on matters of great moment.⁷⁹

To some degree, given the way constitutional understandings shape public attitudes, as well as the other way around, this is the familiar question of what came first, the chicken or the egg. But at rock bottom, the suggestion that the Constitution and judicial decisions construing it make relatively little difference amounts to a set of empirical claims about a series of counterfactual hypotheses – claims that I be-

lieve remain unproven and that I think are belied by, for example, the recent opinions striking down popular congressional efforts to curb corporate spending on elections for public office⁸⁰ and state efforts to restrict the sale to minors of gruesomely violent video games.⁸¹

Even legal outcomes supported by passionate social movements do not call for a crude reduction of the Constitution to politics, coupled with an insistence that the Constitution's rights-protective language matters little. To frame the point with a counterfactual: If there were no Second Amendment that gun rights social movements could begin to cohere around through the late twentieth century in order to seek legitimacy in the language of our fundamental charter, the course of the gun rights movement would almost certainly have been dramatically different. The close connection of that movement to the rhetoric of originalism – an association important to many leading gun rights advocates and part of the basis for their close identification with conservative constitutional thought⁸² – would have been severed, thus changing the constitutional and political stakes of an argument for gun rights by shifting it entirely into the domain of unenumerated rights elaborated in the name of the Fourteenth Amendment's comparatively vague protection of "liberty." Given that the rhetoric of originalism as the sole legitimate interpretive methodology played an important role in raising the popular salience of certain conservative ideas, including gun rights, the absence of this relatively specific rights-protecting textual provision would likely have proven significant to the form, nature, and success of efforts to persuade politicians, the public, and ultimately five Justices to discover in the Constitution an individual right to bear arms.⁸³ The importance of such persuasion is clear for an opinion like *Heller* (as well as a follow-up

opinion that applied it to the states⁸⁴), which produced countermajoritarian results with respect to a vast swath of local and state gun control laws. Ordinary politics, though a necessary condition for the vindication of federal gun rights, was hardly a sufficient one. Text made all the difference.

The power of the Constitution's language – both its pure text and the constitutional vocabularies loosely grounded in that text – extends further than facilitating the organization and success of political causes. It shapes our national destiny, our national conversation, and even our self-understanding. One need not fully embrace some of the gauzier claims about “expressive effects” and “rights consciousness” to recognize that the Constitution speaks to us at a deeper level than the mechanistic functioning of grand Madisonian structures. This is true even for the many of our fellow citizens who do not think consciously about the Constitution's provisions, but instead treat its guarantees as part of the air they breathe and the ground beneath their feet. Words and their persuasive pull are powerful things, creating a magnetic *internal* dimension of the Constitution's power – one sounding in the realms of narrative and national self-consciousness, of historical experience, and of what some have called “constitutional faith.”

Unless we are thoroughly enthralled by a chilling cynicism, we must recognize that we as a nation have begun, however slowly, to redeem many of the promises that Abraham Lincoln⁸⁵ identified as grounded in our Declaration of Independence and later framed by the Constitution. To be sure, our public schools have yet to become racially integrated, given the demographic changes that took place between 1954 and today, and the judicial retreat from plans designed to ensure racial integration.⁸⁶ Abortions have yet to

become fully accessible, especially to those with limited resources, given the growth of political, social, and sometimes violent resistance to the 1973 decision in *Roe v. Wade*.⁸⁷ Conversely, the rights of the unborn, for those who believe such rights are part of what our founding documents promised to protect when they spoke of “life,” remain largely without constitutional protection.⁸⁸ And many indigent defendants still do not receive a fully effective defense, despite the 1963 decision in *Gideon v. Wainwright*,⁸⁹ given the notoriously inadequate funding of public defenders' offices.

But those who would argue that the constitutional rulings of the 1950s through the 1970s, for example, and the constitutional texts and principles those rulings elaborated, therefore made no difference – or little difference worth speaking of – are surely relying on an unduly recent historical baseline as the standard against which to measure change or are instead suffering from an all-too-common form of historical amnesia. They thus fail to recognize that the Constitution commits “We, the People” to traverse an evolving path along which we recognize novel rights in text whose extraordinary potential escaped even the most daring imagination of its drafters.

In any case, those who claim that a constitutional provision, or a judicial decision construing it, mattered little in the end surely take too narrow a view of textual influence. The Fourteenth Amendment's command that states not deprive any person of the “equal protection of the laws” nor deprive any person of “liberty . . . without due process of law” was interpreted in a 1967 decision, aptly named *Loving v. Virginia*, to mean that states could no longer prohibit interracial marriage.⁹⁰ Even if social pressures continued to make life difficult for interracial couples in many parts of the country, as they surely did and

perhaps still do, can we say that the legitimating effect of that 1967 pronouncement on the dignity and self-worth of such couples was unimportant?⁹¹ And, even in the years before that case was decided, can we say that the effect of the Constitution's as yet unredeemed promises of due process and equal protection – promises that could be and were held up as sources of critique aimed at the existing order of things – made no real difference to those who could at least cling to the aspirations those promises expressed? The fact that a constitutional provision or judicial order does not immediately transform social reality in its own image does not bespeak irrelevance. Rather, it suggests a complex dialogue that shapes evolving social and political experience in ways more subtle and far-reaching than some of the more popular dismissals of the Constitution's rights-protecting provisions seem willing to recognize.

By the time *Lawrence* was decided in 2003, actual prosecution of private sexual activity between same-sex partners had become exceedingly rare. It would nevertheless be a serious mistake to suppose that the decision's primary impact was simply to eliminate the few such prosecutions that remained. As the Supreme Court clearly recognized, the decision's principal effect was to end one of the justifications most often offered for denying gay men and lesbians equal treatment in a wide range of civil contexts, from immigration to housing to employment to adoption. The decision contributed to wiping away the stigma and the insult to dignity that the Court's contrary ruling in 1986, in *Bowers v. Hardwick*, had legitimated and, indeed, endorsed. By rejecting and criticizing a dominant narrative about sexuality and the law, and by crafting a powerful counternarrative that spoke in stirring terms of dignity and destiny, the Court's altered understanding of same-sex inti-

macy and same-sex relationships contributed to a major cultural movement affecting the fabric of human relations in America. The Court's shift foreshadowed and encouraged the end of the ban on openly homosexual individuals serving in the military, as well as the ongoing discussion over whether our shared commitment to equality requires legal recognition of same-sex marriages.⁹² So robust a national debate would hardly have been conceivable at a time when governments were free to brand gay men and lesbians with the stigmatizing and debilitating label: "criminal."⁹³

Thus, the promise the Constitution holds for all Americans who interact with the text is an opportunity to bolster the causes in which they believe most deeply, commit the nation to achieving distant hopes of progress, and receive vindication in knowing that the American narrative has not left them behind or ignored their story.

My reflections in this essay on the structure and role of constitutional narrative should not be confused with an effort to construct a grand theory of constitutional meaning, an effort that has come to seem (to me, at least) beside the point. In my view, the search for a unified understanding of our Constitution and its place in our unfolding history requires not so much a unified theory of what the Constitution itself, both as a text and as an invisible edifice of principles and practices surrounding that text, *says* as a coherent understanding of what the Constitution *does*. Even if competing understandings of what the Constitution *says* and *means* yield too little common ground on which to build a coherent edifice of theory and doctrine,⁹⁴ the same is not true of what the Constitution *does*: it enables government officials in every branch and at every level and, even more impor-

tant, ordinary citizens throughout the country to ground both their defense of the existing legal and political order and their critique of that order in narratives cast in terms of a text and a structure that connects us all, like it or not, with a certain set of origins, and that links our future and that of our children to a shared fate.⁹⁵ As I wrote in *American Constitutional Law*, “The Constitution provides the basic language through which [our] institutions direct and challenge one another and the society at large and through which the people in turn contest the actions of those institutions.”⁹⁶

This vision is difficult to reconcile with recent scholarship insisting that there are moments at which the Constitution fails us, times at which it does not let us move quickly enough or efficiently enough in response to national peril. On such occasions, we are told, the Constitution can and must be set aside in the name of an “unbound executive,” an “emergency constitution,” a “constitution of necessity,” or some other dramatic term invoking the familiar metaphor that our Constitution is not a suicide pact.⁹⁷ This position has echoed across crises in American history, from Lincoln’s suspension of habeas corpus during the Civil War⁹⁸ to FDR’s repudiation of gold clauses⁹⁹ and the famous debate between Justices Robert Jackson and Felix Frankfurter in *Korematsu v. United States* (the Japanese American internment case)¹⁰⁰ over a principle of necessity that “lies about like a loaded weapon ready for the hand of any authority that can bring forward a plausible claim of an urgent need.”¹⁰¹ Post-9/11 legal thought has once again gravitated (albeit haltingly) in this direction, as scholars on both the political Left and Right urge us to “grit our teeth and do what must be done in times of grave peril.”¹⁰²

Perhaps unsurprisingly, few of those who write in this vein of emergency con-

stitutionalism take the view that the Constitution does not matter. To the contrary, many of them think it matters all too much – that the rights it confers and the structures it puts in place are potent obstacles to necessity and expediency, and that it is riddled with dangerous inefficiencies that might unwisely handicap a robust executive.¹⁰³ In this domain, it turns out that the Constitution’s importance – indeed, its extraordinary inconvenience – can hardly be overstated.¹⁰⁴

Inconvenient, perhaps; crippling, not demonstrated. Moreover, I am skeptical that we could successfully cabin the black holes these theorists would create and unleash in our constitutional order, and I have elsewhere expressed at length my belief in our Constitution’s capacity to persist through times of crisis without being dangerously distorted in the process. After all, “[i]t is within this framework that we have articulated and argued for a succession of tentative resolutions of competing values, ideals, and interests ... [and] that we have found the terms to recognize and sometimes repudiate our mistakes.”¹⁰⁵

There is no shortage of resources within our constitutional vocabulary to facilitate a rich and productive dialogue about the balance between terror and security, freedom and efficiency. To the contrary, narratives of military, economic, and social imperative have long held pride of place alongside counternarratives of civil liberty, restraint, and privacy. Thus, Justice Jackson could argue in *Korematsu* that the Supreme Court should step aside in the face of military emergency rather than warp the Constitution to legitimize the internment of Japanese Americans, and could then speak in stunningly eloquent terms of the Constitution’s separation of powers while finding that President Truman had acted illegally by seizing control of steel mills to stave off a

military and economic crisis.¹⁰⁶ Nor is it any major shock that the same Justice Jackson could leap to the defense of Jehovah's Witnesses who refused to salute the flag in the midst of World War II, timelessly evoking the First Amendment as a "fixed star in our constitutional constellation," while Justice Frankfurter's "Fall of France" dissent ominously invoked the growing threat posed by Nazi Germany and the imperative of national unity.¹⁰⁷

It is hard for me to imagine what America would look like in any of the brave new worlds born of a so-called emergency constitution. The Constitution is more than just a set of sometimes inconvenient rules limiting the President's ability to detain citizens. Nor can it simply be replaced by a temporary upgrade or substitute when fire bells sound in the darkest night. Its text and invisible structure are part of the nation's beating heart – the solar plexus at which the vast diversity of American narratives inevitably converge, and the conversation through which we remain tied to past and future generations. "We, the People" cannot simply bracket our Constitution, even if we improvidently depart from particular commands, for that very notion presupposes a "we" that exists outside the Constitution's frame. Were we to lose faith altogether in the Constitution's possibilities, to set it aside as a will-o'-the-wisp guide to modernity or place it on pause while we transact short-term imperatives, "we" could never again exist in quite the same way. This lacuna in our national project would become a chasm of discontinuity from which the "we" that might emerge would be a new "we" altogether, and across which the narratives that bind us together – *e pluribus unum* – might fray, come undone, and then reconstitute into something altogether different. That something might not necessarily be worse, but who among us is

prepared to risk that existential transformation?

In my view, therefore, there are no intermissions at which we may securely decide that the Constitution is temporarily incapable of accommodating our national project. Forevermore, its footing would be precarious, its centrality unstable, the practice of which it is an integral part vulnerable. In that sense, the Constitution is either an aspirational project worthy of our commitment entirely and always, or not at all.¹⁰⁸

Some scholars have spoken of a similar notion in terms of constitutional faith, whose absence led men like William Lloyd Garrison to damn the nation as a covenant with hell and whose presence leads others to gamble with a trans-historical enterprise whose success is necessarily uncertain.¹⁰⁹ The heralds of necessity and exception partake of the Garrisonian impulse. I respectfully dissent.

In so doing, I associate myself with the wondrously diverse groups of men and women throughout our nation's history who have linked their narratives to that of the Constitution, joining the national conversation that constitutes us as a people and stretches backward and forward in time. They understood, as do I, that the Constitution truly *is* a verb – an ongoing act of creation and re-creation that we perform in courts, in the halls of Congress and in the White House, on the streets, in scholarly works, and in a dazzling array of other venues. These elements of practice are all essential to our charter's remarkable capacity to constitute us as "We, the People." In this way, the story of the Constitution truly becomes America's constitutional narrative.

ENDNOTES

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- ¹ See Dahlia Lithwick, "Constitutional Whitewash," *Slate.com*, January 6, 2011, <http://www.slate.com/id/2280249/>.
- ² Laurence H. Tribe, *The Invisible Constitution* (Oxford: Oxford University Press, 2008), 64.
- ³ *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).
- ⁴ Tribe, *The Invisible Constitution*, 72.
- ⁵ *Ibid.*, 73.
- ⁶ Jack M. Balkin and Sanford Levinson, "The Canons of Constitutional Law," *Harvard Law Review* 111 (1998): 963, 987.
- ⁷ *Ibid.*
- ⁸ On that interplay, see Lewis H. LaRue, *Constitutional Law as Fiction: Narrative in the Rhetoric of Authority* (University Park: Pennsylvania State University Press, 1995).
- ⁹ Tribe, *The Invisible Constitution*; Akhil Reed Amar, *America's Unwritten Constitution* (New Haven, Conn.: Yale University Press, forthcoming 2012).
- ¹⁰ For a powerful argument about the distinct roles of the Constitution as *fundamental* law, *higher* law, and *our* law – and about how an approach to constitutional interpretation that the argument's author describes as "framework originalism" enhances the Constitution's ability to serve those three roles – see Jack M. Balkin, *Constitutional Redemption: Political Faith in an Unjust World* (Cambridge, Mass.: Harvard University Press, 2011); and Jack M. Balkin, *Living Originalism* (Cambridge, Mass.: Harvard University Press, 2011).
- ¹¹ For a canonical statement of this position, see Antonin Scalia, "Originalism: The Lesser Evil," *University of Cincinnati Law Review* 57 (1989): 849.
- ¹² To take one example, although the Fourth Amendment's prohibition on "unreasonable searches and seizures" remains fixed as a matter of constitutional text, the doctrines through which courts have applied that prohibition have changed dramatically across time. Thus, even though the notion of a "search" had been historically tied to physical trespass, the Supreme Court recognized the implications of rapidly changing technology when it held in *Katz v. United States* that the government had breached the Fourth Amendment's protections by electronically eavesdropping on a public pay phone. See 389 U.S. 347 (1967). It thus overturned prior holdings limiting "searches" to physical intrusions and instead explained that a "search" occurs whenever there exists a "reasonable expectation of privacy." This test, which still constitutes the threshold for determining whether a "search" has occurred, permits doctrine to evolve with changing social circumstances. So, too, in *Kyllo v. United States*, the Court held that the use of a thermal imaging device to detect the amount of heat emerging from a home constituted a "search" even if the law enforcement officer using the device never entered the property being searched. See 533 U.S. 27 (2001).
- ¹³ David A. Strauss, *The Living Constitution* (Oxford: Oxford University Press, 2010), 24–25; Adam M. Samaha, "Dead Hand Arguments and Constitutional Interpretation," *Columbia Law Review* 108 (2008): 606, 613–627; Michael Klarman, "Anti-Fidelity," *Southern California Law Review* 70 (1997): 381.
- ¹⁴ *United States v. Brown*, 381 U.S. 437 (1965). See Laurence H. Tribe, *American Constitutional Law*, 2nd ed. (Mineola, N.Y.: Foundation Press, 1988), 656–658. The first edition of this treatise was published in 1978, the third edition in 2000. Subsequent citations will note the relevant edition. See John Hart Ely, Note, "Bounds of Legislative Specification: A Suggested Approach to the Bill of Attainder Clause," *Yale Law Journal* 72 (1962): 330.

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- ¹⁵ Laurence H. Tribe, "Comment," in *A Matter of Interpretation: Federal Courts and the Law*, ed. Antonin Scalia (Princeton, N.J.: Princeton University Press, 1998), 68 – 71.
- ¹⁶ *Ibid.*
- ¹⁷ For an excellent discussion, see Michael C. Dorf, "The Aspirational Constitution," *George Washington Law Review* 77 (2009): 1631.
- ¹⁸ Tribe, *American Constitutional Law*, 3rd ed., 24.
- ¹⁹ But not entirely mysterious: see Tribe, *The Invisible Constitution*, 145 – 148.
- ²⁰ See *ibid.*, 149 – 154. See also U.S. Const., amend. XI ("The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State"). I should concede that at least one scholar disagrees. See Michael Stokes Paulsen, "Does the Constitution Contain Rules for its Own Interpretation?" *Northwestern University Law Review* 103 (2009): 857.
- ²¹ I made a similar point in the first edition of my treatise. See Tribe, *American Constitutional Law*, 1st ed., xv.
- ²² Akhil Reed Amar, *The Bill of Rights: Creation and Reconstruction* (New Haven, Conn.: Yale University Press, 1998); Dorf, "The Aspirational Constitution," 1647 – 1649.
- ²³ This point was vigorously disputed in a debate between Justice Scalia and me in the mid-1990s. See Scalia, ed., *A Matter of Interpretation*, 37 – 47, 65 – 94, 133 – 143.
- ²⁴ Justice Stephen Breyer has championed a form of such "living constitutionalism" from his seat on the Supreme Court, arguing that the Constitution operates as a living instrument designed to secure American democracy through a judicial process that applies unchanging constitutional values to evolving circumstances. See Stephen Breyer, *Making Our Democracy Work: A Judge's View* (New York: Knopf, 2010).
- ²⁵ In 1991, Michael Dorf and I published a book in which we credited Barack Obama and his classmate Robert Fisher with the metaphor of "constitutional interpretation as conversation"; see Laurence H. Tribe and Michael Dorf, *On Reading the Constitution* (Cambridge, Mass.: Harvard University Press, 1991), 31 n.1. Obama continued to develop the image in his book *The Audacity of Hope: Thoughts on Reclaiming the American Dream* (New York: Crown, 2006), 92.
- ²⁶ Tribe, *American Constitutional Law*, 3rd ed., 23 – 24. I argue that the "Constitution provides the basic *language* through which [our] institutions direct and challenge one another and the society at large and through which the people in turn contest the actions of those institutions."
- ²⁷ Michael Dorf and I explored this notion in our book *On Reading the Constitution*, entitling the second chapter of that book "Structuring Constitutional Conversations." This represented a refinement of my prior work. In the years since, others have elaborated on the conversation metaphor in powerfully illuminating works of their own. See Balkin, *Constitutional Redemption*; Lawrence Lessig, "Fidelity in Translation," *Texas Law Review* 71 (1993): 1165; Akhil Reed Amar, *America's Constitution: A Biography* (New York: Random House, 2005); Jed Rubenfeld, *Revolution by Judiciary: The Structure of American Constitutional Law* (Cambridge, Mass.: Harvard University Press, 2005); Jed Rubenfeld, *Freedom and Time: A Theory of Constitutional Self-Government* (New Haven, Conn.: Yale University Press, 2001).
- ²⁸ For my negative answer to that question – an answer some certainly dispute – see Laurence H. Tribe, "A Ceiling We Can't Wish Away," *The New York Times*, July 7, 2011, <http://www.nytimes.com/2011/07/08/opinion/08tribe.html>; Laurence H. Tribe, "The Constitutionality of the Debt Ceiling and the President's Duty to Prioritize Expenditures," *Balkanization* blog, July 16, 2011, <http://balkin.blogspot.com/2011/07/constitutionality-of-debt-ceiling-and.html>.
- ²⁹ For example, in the midst of the recent debate over the constitutional legitimacy of unilateral executive action to borrow money in defiance of a statutory debt limit – legitimacy that its proponents attribute (I believe mistakenly) to the Public Debt Clause of the Fourteenth

- Amendment – legal scholar Mark Tushnet went so far as to insist that “THERE IS NO ‘FACT OF THE MATTER’ on whether a constitutional argument is good or bad, as there is about the shape of the world. Constitutional arguments are good if there’s enough political wind behind them to make them plausible/credible/winning among relevant audiences, bad if they don’t pass the plausibility threshold among those audiences”; Mark Tushnet, “Opinions on the Shape of the World Differ,” *Balkanization* blog, July 1, 2011, <http://balkin.blogspot.com/2011/07/opinions-on-shape-of-world-differ.html>.
- ³⁰ Mark Tushnet, *Red, White, and Blue: A Critical Analysis of Constitutional Law* (Cambridge, Mass.: Harvard University Press, 1988), 61 – 62.
- ³¹ Justice Kagan recently reminded us of this fact in her elegant dissenting opinion in *Arizona Free Enterprise Club v. Bennett*, 131 S. Ct. 2806, 2829 (2011) (Kagan, J., dissenting). Responding to the Chief Justice’s observation that “campaigning for office is not a game” (*ibid.*, 2826 [Roberts, C.J.]), she states, “truly, *democracy* is not a game”; *ibid.*, 2846 (Kagan, J., dissenting), emphasis added.
- ³² U.S. Const., art. I, sec. 3. Indeed, our inability to construe away or work around this provision and others like it, and its alleged consequence of sabotaging American democracy, has led legal scholar Sanford Levinson to call for a new convention at which the Constitution could be entirely rewritten. See Sanford Levinson, *Our Undemocratic Constitution: Where the Constitution Goes Wrong (And How We the People Can Correct It)* (New York: Oxford University Press, 2006).
- ³³ Tribe, *The Invisible Constitution*, 120 – 121.
- ³⁴ See, for example, Jack M. Balkin, “Abortion and Original Meaning,” *Constitutional Commentary* 24 (2007): 291.
- ³⁵ See Robert Nozick, *Invariances: The Structure of the Objective World* (Cambridge, Mass.: Harvard University Press, 2001), 3; Robert Nozick, *Philosophical Explanations* (Cambridge, Mass.: Harvard University Press, 1981), 5, 13 – 15, 19 – 21, 23 – 24. See also Hannah Arendt, *Men in Dark Times* (New York: Harcourt, Brace, 1968), 8.
- ³⁶ See Laurence H. Tribe, “Ways Not to Think About Plastic Trees: New Foundations for Environmental Law,” *Yale Law Journal* 83 (1974): 1315, 1326 – 1327; Laurence H. Tribe, “Technology Assessment and the Fourth Discontinuity: The Limits of Instrumental Rationality,” *Southern California Law Review* 46 (1973): 617; Laurence H. Tribe, “Policy Science: Analysis or Ideology?” *Philosophy & Public Affairs* 2 (1972): 66.
- ³⁷ This conception of the Constitution has been elegantly developed in new and fascinating directions by several recent commentators. See generally, sources discussed in notes 25 – 27.
- ³⁸ See, for example, Strauss, *The Living Constitution*.
- ³⁹ *Brown v. Entertainment Merchants Association*, 131 S. Ct. 2729 (2011).
- ⁴⁰ Tribe, *The Invisible Constitution*, 172 – 180 (discussing geodesic construction of the Constitution); Richard H. Fallon, *Implementing the Constitution* (Cambridge, Mass.: Harvard University Press, 2001).
- ⁴¹ Indeed, Justice Breyer has recently published a theory of constitutional and statutory interpretation that boldly tasks the Court with an ongoing mandate to “make our democracy work” by grappling pragmatically with the challenges posed by an ever-changing world; see Breyer, *Making Our Democracy Work*.
- ⁴² See generally, Leonard Levy, *Emergence of a Free Press* (New York: Oxford University Press, 1985).
- ⁴³ Constitutional historian Leonard Levy notes that the “conduct of the American revolutionists usually conformed with the maxim *inter arma silent leges* [in times of war the laws are silent]. . . . [S]peech and press, therefore, were not free during the Revolution”; *ibid.*, 173. Historian Forrest McDonald describes the Framers as “divorced from substantive reality” and notes that “no public figure in America during the 1780s expressed a view of freedom of the

- press that differed in any substantial way from the views of Blackstone and Holt"; Forrest McDonald, *Novus Ordo Seclorum: The Intellectual Origins of the Constitution* (Lawrence: University Press of Kansas, 1985), 49–50.
- 44 Keith Jenkins, "The Sedition Act of 1798 and the Incorporation of Seditious Libel into First Amendment Jurisprudence," *The American Journal of Legal History* 45 (2001): 154; Levy, *Emergence of a Free Press*, 307–338; James Morton Smith, *Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties* (Ithaca, N.Y.: Cornell University Press, 1956); John C. Miller, *Crisis in Freedom: The Alien and Sedition Acts* (Boston: Little, Brown, 1951).
- 45 See generally, Michael Kent Curtis, *Free Speech, "The People's Darling Privilege": Struggles for Freedom of Expression in American History* (Durham, N.C.: Duke University Press, 2000); Clement Eaton, "Censorship of the Southern Mails," *American Historical Review* 48 (1943): 266. See also William Lee Miller, *Arguing About Slavery: John Quincy Adams and the Great Battle in the United States Congress* (New York: Random House, 1995).
- 46 See Helen Horowitz, *Rereading Sex: Battles over Sexual Knowledge and Suppression in Nineteenth-Century America* (New York: Random House, 2002); David Rabban, *Free Speech in its Forgotten Years* (Cambridge: Cambridge University Press, 1997); Margaret A. Blanchard, *Revolutionary Sparks: Freedom of Expression in Modern America* (New York: Oxford University Press, 1992); Paul Murphy, *World War I and the Origin of Civil Liberties in the United States* (New York: Norton, 1979).
- 47 Mark Graber, *Transforming Free Speech: The Ambiguous Legacy of Civil Libertarianism* (Berkeley: University of California Press, 1991).
- 48 Harold Nelson, ed., *Freedom of the Press from Hamilton to the Warren Court* (Indianapolis: Bobbs-Merrill, 1967), xxxi.
- 49 See, for example, *Schenck v. United States*, 249 U.S. 47 (1919); and *Debs v. United States*, 249 U.S. 211 (1919).
- 50 *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring).
- 51 See also *Abrams v. United States*, 250 U.S. 616 (1919) (Holmes, J., dissenting) ("[T]he ultimate good desired is better reached by free trade in ideas. . . . [T]he best test of truth is the power of thought to get itself accepted in the competition of the market. . . . That at any rate is the theory of our Constitution"); *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964) (recognizing "a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open").
- 52 *National Socialist Party of America v. Village of Skokie*, 432 U.S. 43 (1977). See also Anthony Lewis, *Freedom for the Thought We Hate: A Biography of the First Amendment* (New York: Basic Books, 2007).
- 53 *American Booksellers v. Hudnut*, 771 F. 2nd 323 (7th Cir., 1985).
- 54 *United States v. Stevens*, 130 S. Ct. 1577 (2010).
- 55 *Snyder v. Phelps*, 131 S. Ct. 1207 (2010).
- 56 *Snyder*, 131 S. Ct. 1229 (Alito, J., dissenting).
- 57 *New York Times Co. v. United States*, 403 U.S. 713 (1971).
- 58 *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964).
- 59 *Dennis v. United States*, 341 U.S. 494 (1951).
- 60 *Holder v. Humanitarian Law Project*, 130 S. Ct. 2705 (2010).
- 61 See generally, Kathleen Sullivan, "Two Concepts of Freedom of Speech," *Harvard Law Review* 124 (2010): 143.
- 62 *Citizens United v. FEC*, 558 U.S. 08-205 (2010). In *Citizens United*, the Court reversed several precedents – and more than a century of legislative enactments reflecting a concern with the influence of corporate power in elections – to strike down provisions of the Bipartisan Cam-

paign Reform Act that prohibited unions and corporations from spending funds from their general treasuries, as opposed to more heavily regulated political action committees, on electioneering communications. The effect of this decision was to allow unions and corporations to spend substantially more on elections, which prompted widespread and high-profile concern about the resulting potential for capture and corruption and for the erosion of meaningfully democratic self-government.

⁶³ *Arizona Free Enterprise Club v. Bennett*, 131 S. Ct. 2806, 2829 (2011). In *Bennett*, the Court held that Arizona's matching-funds scheme, which provides additional funds to a publicly funded candidate when expenditures by a privately financed candidate and independent groups exceed the funding initially allotted to the publicly financed candidate, substantially burdens political speech and is not sufficiently justified by a compelling interest to survive First Amendment scrutiny.

⁶⁴ See *Bennett*, 131 S. Ct. 2830 (Kagan, J., dissenting) ("The First Amendment's core purpose is to foster a healthy, vibrant political system full of robust discussion and debate. Nothing in Arizona's anti-corruption statute, the Arizona Citizens Clean Elections Act, violates this constitutional protection. To the contrary, the Act promotes the values underlying both the First Amendment and our entire Constitution by enhancing the 'opportunity for free political discussion to the end that government may be responsive to the will of the people.' I therefore respectfully dissent" [internal quotation omitted]).

⁶⁵ Legal scholar Cass Sunstein accordingly argues that many of the Court's decisions protecting spending on speech, especially by corporations but not exclusively so, make the same mistake as did the infamous decision in *Lochner v. New York* – which struck down a New York law regulating workplace and employment conditions in bakeries, and which has since become a canonical example of the Court wielding its power of judicial review to impose libertarian economic assumptions – in treating the "free market" as though it were the product of nature rather than of law. See Cass R. Sunstein, *Democracy and the Problem of Free Speech* (New York: Free Press, 1995). Although he sometimes takes these arguments further than I would, I am sympathetic to the general point and sketched a similar argument in my 1985 book *Constitutional Choices*. See Laurence H. Tribe, *Constitutional Choices* (Cambridge, Mass.: Harvard University Press, 1985), 192 – 220.

⁶⁶ *Brown*, 131 S. Ct. 2771 (Breyer, J., dissenting).

⁶⁷ See Larry Kramer, *The People Themselves: Popular Constitutionalism and Judicial Review* (Oxford: Oxford University Press, 2004).

⁶⁸ Reva B. Siegel, "Dead or Alive: Originalism as Popular Constitutionalism in *Heller*," *Harvard Law Review* 122 (2008): 191, 201. In a sympathetic but trenchant critique, legal scholar Martha Minow has called attention to the tendency of popular constitutionalism to overemphasize social movements and to marginalize the other enormously significant constitutional interpreters within officialdom, including state governments and the executive and legislative branches of the federal government; Martha L. Minow, "Constituting our Constitution, Constituting Ourselves: Comments on Reva Siegel's Constitutional Culture, Social Movement, Conflict and Constitutional Change," *California Law Review* 94 (2006).

⁶⁹ *District of Columbia v. Heller*, 554 U.S. 570 (2008).

⁷⁰ Reva Siegel made this point in her compelling article "Dead or Alive," published almost immediately after *Heller* was decided.

⁷¹ 539 U.S. 558 (2003).

⁷² Indeed, the heightened salience of gun rights issues and emergence of debates over the nature of the Second Amendment right ultimately led me to deeper research that in turn prompted a change of view from the second to the third edition of my treatise on American constitutional law. See Tribe, *American Constitutional Law*, 3rd ed., 893 – 903. Here, I argue that the Second Amendment protects an individual right to bear arms, as opposed to a collective right – as I argue in the second edition – albeit a right subject to considerable regulation. This switch, and the resultant defense of an individual right to bear arms in the 2000

- edition of my treatise, was discussed by Judge Laurence H. Silberman in his opinion for the District of Columbia Circuit in the decision affirmed by the Supreme Court in *Heller*. See *Parker v. District of Columbia*, 478 F. 3rd 370, 380 n.7 (D.C.C., 2007).
- 73 On the methodology in *Lawrence*, see Robert Post, "Foreword: Fashioning the Legal Constitution: Culture, Courts and Law," *Harvard Law Review* 117 (2004): 1–11, 77–112; Laurence H. Tribe, "*Lawrence v. Texas*: The 'Fundamental Right' That Dare Not Speak Its Name," *Harvard Law Review* 117 (2004): 1893–1945; Pamela Karlan, "Foreword: Loving *Lawrence*," *Michigan Law Review* 102 (2004): 1447. Justice Scalia's controversial originalist methodology in *Heller* has drawn several defenders. See, for example, Randy Barnett, "News Flash: The Constitution Means What it Says," *The Wall Street Journal*, June 27, 2008; Lawrence Solum, "*Distrcit of Columbia v. Heller* and Originalism," *Northwestern University Law Review* 103 (2009): 923. However, it has also drawn numerous critics, including some prominent conservative jurists. See, for example, J. Harvie Wilkinson III, "Of Guns, Abortion, and the Unraveling Rule of Law," *Virginia Law Review* 95 (2009): 253; Nelson Lund, Lucas Powe, Jr., and Adam Winkler, "Civil Rights: The *Heller* Case – Minutes From A Convention of the Federalist Society," *New York University Journal of Law & Liberty* 4 (2009): 293, 294–305; Richard Posner, "In Defense of Looseness: The Supreme Court and Gun Control," *The New Republic*, August 27, 2008.
- 74 *Heller*, 128 S. Ct. 2783, 2822 (Stevens, J., dissenting). Justice Breyer authored an independent dissenting opinion criticizing the majority for misapplying its own standard to the gun law at issue. See *Heller*, 128 S. Ct. 2847 (Breyer, J., dissenting) ("I shall show that the District's law is consistent with the Second Amendment even if that Amendment is interpreted as protecting a wholly separate interest in individual self-defense. That is so because the District's regulation, which focuses upon the presence of handguns in high-crime urban areas, represents a permissible legislative response to a serious, indeed life-threatening, problem").
- 75 Cass Sunstein, "Second Amendment Minimalism, *Heller* as *Griswold*," *Harvard Law Review* 122 (2008): 246.
- 76 Mark Tushnet, *Why the Constitution Matters* (New Haven, Conn.: Yale University Press, 2010); Daryl J. Levinson, "Parchment and Politics: The Positive Puzzle of Constitutional Commitment," *Harvard Law Review* 124 (2011): 657; David Strauss, "The Irrelevance of Constitutional Amendments," *Harvard Law Review* 114 (2001): 1457.
- 77 See generally, Tushnet, *Why the Constitution Matters*.
- 78 Strauss, *The Living Constitution*, 115–139.
- 79 Barry Friedman, *The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution* (New York: Farrar, Straus & Giroux, 2010).
- 80 *Citizens United v. Federal Election Commission*, 130 S. Ct. 876 (2010).
- 81 *Brown v. Entertainment Merchants Association*, 131 S. Ct. 2729 (2011). For an excellent rebuttal to recent scholarship emphasizing the limited degree to which Supreme Court jurisprudence is likely to depart, on the whole, from majoritarian sentiment, see Richard H. Pildes, "Is the Supreme Court a 'Majoritarian' Institution?" *Supreme Court Review* 2010 (forthcoming).
- 82 See, for example, Jamal Greene, "Selling Originalism," *Georgetown Law Journal* 97 (2009): 657, 682–690.
- 83 *Ibid.*
- 84 *McDonald v. Chicago*, 130 S. Ct. 3020 (2010).
- 85 Abraham Lincoln, "Fragmentary Writing, c. 1858," in *The Collected Works of Abraham Lincoln*, vol. 4, ed. Roy P. Basler (New Brunswick, N.J.: Rutgers University Press, 1953), cited in Tribe, *American Constitutional Law*, 3rd ed., 73–74, and in Balkin, *Constitutional Redemption*, 19.
- 86 Gerald Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* (Chicago: University of Chicago Press, 1993); Michael Klarman, *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* (Oxford: Oxford University Press, 2004).

- ⁸⁷ 410 U.S. 113 (1973). For a fascinating revisionist discussion of struggles over abortion rights and access to abortion in the period surrounding *Roe*, see Linda Greenhouse and Reva Siegel, “Before (and After) *Roe v. Wade*, New Questions About Backlash,” *Yale Law Journal* (forthcoming).
- ⁸⁸ To be sure, the Supreme Court permits considerably more restrictive government regulation of abortion today than it did in the years immediately following *Roe v. Wade*. At least at a doctrinal level, however, this shift has been one toward *greater state power*, not one toward *greater federal protection for fetal life*. States remain entirely free, if they choose to do so, to treat even late-term abortions as nothing more than medical procedures fully within the discretion of women and their doctors and do not yet appear to be under any obligation to protect frozen embryos or fetuses awaiting possible implantation. In this sense, the pro-life position, like any number of others, can count itself among the constitutional visions that aspire toward full realization in the American constitutional narrative but have yet to achieve their goal.
- ⁸⁹ 372 U.S. 335 (1963).
- ⁹⁰ 388 U.S. 1 (1967).
- ⁹¹ Before *Loving*, the parents of the current President of the United States, Barack Obama, would have been legally barred from marrying in many states. We have come a long way since those dismal days of lawful racial discrimination. Among the many issues of the 2008 presidential election, including the ludicrous questioning of the place of Obama’s birth, the fact that his parents were of different races played no discernible role.
- ⁹² See Laurence H. Tribe, “The Constitutional Inevitability of Same-Sex Marriage,” SCOTUSblog, August 26, 2011, <http://www.scotusblog.com/2011/08/the-constitutional-inevitability-of-same-sex-marriage/>. This implication of *Lawrence* was prophesied most clearly by Justice Scalia, who recognized in his dissenting opinion, “This reasoning leaves on pretty shaky grounds state laws limiting marriage to opposite-sex couples”; 539 U.S. 601 (Scalia, J., dissenting).
- ⁹³ For example, the end of the military’s homophobic “Don’t Ask, Don’t Tell” policy on September 20, 2011, which followed aggressive action in each branch of government to end the policy, could hardly have occurred without the pro-gay rights developments in law, society, and politics turbocharged by *Lawrence*.
- ⁹⁴ On my own abandonment of the search for a unified theory of what the Constitution says, see Laurence H. Tribe, “The Treatise Power,” *The Green Bag* 8 (3) (Spring 2005): 292. On the Constitution as not just a text but also an invisible edifice of principles and practices, see Tribe, *The Invisible Constitution*.
- ⁹⁵ Scholar of constitutional law Louis Michael Seidman makes a similar point when he argues that the purpose of the Constitution is not so much to *settle* difficult political disputes as to *unsettle* them by “provid[ing] citizens with a forum and a vocabulary that they can use [to argue that] the political settlement they oppose is unjust”; Louis Michael Seidman, *Our Unsettled Constitution: A New Defense of Constitutionalism and Judicial Review* (New Haven, Conn.: Yale University Press, 2001), 8. Seidman’s analysis arguably pays insufficient attention to the many potential disputes that never erupt to the point of political salience because the Constitution all but invisibly takes them off the table of serious discourse, but his basic point is nonetheless an important one.
- ⁹⁶ Tribe, *American Constitutional Law*, 3rd ed., 26.
- ⁹⁷ See, for example, Eric Posner and Adrian Vermuele, *The Executive Unbound: After the Madisonian Republic* (Oxford: Oxford University Press, 2010); Richard A. Posner, *Not a Suicide Pact: The Constitution in a Time of National Emergency* (Oxford: Oxford University Press, 2006); Oren Gross, “Chaos and Rules: Should Responses to Violent Crises Always Be Constitutional?” *Yale Law Journal* 112 (2003): 1011; Mark Tushnet, “Defending *Korematsu*?: Reflections on Civil Liberties in Wartime,” *Wisconsin Law Review* 2003 (2003): 273; Michael Stokes Paulsen, “The Constitution of Necessity,” *Notre Dame Law Review* 79 (2004): 1257; Bruce Ackerman, “The Emergency Constitution,” *Yale Law Journal* 113 (2004): 1029.
- ⁹⁸ Some proponents of the position that a constitutional provision may be ignored during emergencies have latched on to a rhetorical question in Lincoln’s message to Congress re-

porting his suspension of habeas corpus: "Are all the laws, but one, to go unexecuted, and the government itself go to pieces, lest that one be violated?"; Abraham Lincoln, "Message to Congress in Special Session, July 4, 1861," in *The Collected Works of Abraham Lincoln*, vol. 4, ed. Basler, 430–431. See, for example, Eric Posner and Adrian Vermeule, "Obama Should Raise the Debt Ceiling on His Own," *The New York Times*, July 22, 2011, http://www.nytimes.com/2011/07/22/opinion/22posner.html?_r=1&hp. They forget what Lincoln went on to say: "it was not believed that this question was presented," as it was "not believed that any law was violated"; Lincoln, "Message to Congress in Special Session." According to Lincoln, the Suspension Clause – whose text is silent about who has the power to suspend habeas corpus – authorized him to do so, especially because Congress was not in session at the time. "[A]s the provision was plainly made for a dangerous emergency, it cannot be believed the framers of the instrument intended, that in every case, the danger should run its course until Congress could be called together, the very assembling of which might be prevented, as was intended in this case, by the rebellion"; *ibid.* Therefore, contrary to Posner and Vermeule's suggestion, not even Lincoln's wartime suspension of habeas corpus is a precedent for the proposition that the president may defy the law "in situations of extreme crisis." See Posner and Vermeule, *The Executive Unbound*, 69. See generally, Daniel Farber, *Lincoln's Constitution* (Chicago: University of Chicago Press, 2003), 157–163.

- ⁹⁹ See *Perry v. United States*, 294 U.S. 330 (1935); Jeff Shesol, *Supreme Power: Franklin Roosevelt vs. The Supreme Court* (New York: W.W. Norton, 2010), 87–106.
- ¹⁰⁰ 323 U.S. 214 (1944). However, we must not forget that *Korematsu* upheld only (although tragically) the *exclusion* of Japanese Americans from certain areas of the country. In a different and often overlooked case decided the same day as *Korematsu* – *Ex Parte Endo*, 323 U.S. 283 (1944) – the Court actually found the *internment* of Japanese Americans illegal, though without reaching the ultimate constitutional question. See Patrick O. Gudridge, "Remember Endo," *Harvard Law Review* 116 (2003): 1933.
- ¹⁰¹ 323 U.S. 246 (1944) (Jackson, J., dissenting). This concern led Justice Jackson to take the extraordinary position that the Court should step aside and let the wartime president do what he must – but should at all costs avoid blessing this action in the Constitution's name.
- ¹⁰² Laurence H. Tribe and Patrick Gudridge, "The Anti-Emergency Constitution," *Yale Law Journal* 113 (2004): 1801.
- ¹⁰³ See, for example, John Yoo, *Crisis and Command: The History of Executive Power From George Washington to George W. Bush* (New York: Kaplan, 2010); Jack Goldsmith, *The Terror Presidency: Law and Judgment inside the Bush Administration* (New York: W.W. Norton, 2007).
- ¹⁰⁴ One important exception being Posner and Vermeule's *The Executive Unbound*, which argues that political, social, and cultural forces – not the Constitution itself – have historically constituted the main restraint on executive power.
- ¹⁰⁵ Tribe and Gudridge, "The Anti-Emergency Constitution," 1868.
- ¹⁰⁶ *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 634 (1952) (Jackson, J., concurring).
- ¹⁰⁷ *West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943).
- ¹⁰⁸ This is not to deny that the Constitution's hardwired design – including those of its features, such as the equal representation of the states in the Senate, that create what Sanford Levinson has aptly called a "democratic deficit" that cannot be corrected by evolving interpretation – is so profoundly problematic as to test the constitutional faith of even its strongest proponents. See Levinson, *Our Undemocratic Constitution*. But for those of us who hesitate to permit the perfect to become the enemy of the good and who worry about what returning to the constitutional drawing board might yield, the answer, thus far at least, is to live with imperfection rather than to begin anew.
- ¹⁰⁹ See generally, Sanford Levinson, *Constitutional Faith* (Princeton, N.J.: Princeton University Press, 1988); Balkin, *Constitutional Redemption*, 46–49.

Narratives of the Constitutional Covenant

Peter Brooks

*Abstract: The constitutional narrative plays perhaps a surprisingly important role in American society. It claims to unfold present judgment from past precedent, according to the doctrine of stare decisis, given an eloquent exposition by the Supreme Court in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, where the Constitution is referred to as a “covenant” among generations. Analysis of this and other covenantal narratives spun by the Court suggests that despite the emphasis on precedent they may work according to the retrospective logic of narrative itself, in which elements become functional in terms of what follows them. Plots work from end to beginning, reinterpreting the past in terms of the present. The Supreme Court opinion, when subjected to an analysis sensitive to its narrative rhetoric, suggests something akin to the structure of prophecy and fulfillment in its composition of the covenantal narrative.*

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Any society needs myths of origins to confer meaning – possibly sacrality – on itself. Such myths can be dangerous – they probably have been more noxious than beneficial over history – and need to be seen for what they are: constructed fictions, not revealed truths. They are narratives with etiological significance, “explaining” how we got to be the way we are. Among the many such narratives that Americans regularly call on, one of the most curious is the constitutional narrative – curious because it is not obvious why a society should need such explicitly, often technically legal narratives to make sense of itself. Yet since the U.S. Constitution in many ways takes the place of the texts held to be sacred in other societies, the need to find continuing meaning in the narratives spun from it may not be so surprising. Still, our reverence for and obedience to these narratives, even when they seem counterintuitive and socially unproductive, claims attention.

A notable recent phenomenon in constitutional jurisprudence has been the apparent upsurge of “originalism,” even among its opponents. A couple of decades ago, for instance, Justice William Brennan, dissenting in *Michael H. v. Gerald D.*, declared

of Justice Antonin Scalia's majority opinion: "The document that the plurality construes today is unfamiliar to me. It is not the living charter that I have taken to be our Constitution; it is instead a stagnant, archaic, hidebound document steeped in the prejudices and superstitions of a time long past."¹ That "living charter" seems to be evoked less frequently at present, and the "prejudices and superstitions of a time long past" appear to command greater allegiance on the Supreme Court. In *District of Columbia v. Heller*, for instance – the 2008 case that held that the Second Amendment guarantees an individual right to bear arms – both Scalia's majority opinion and the lead dissent, by Justice John Paul Stevens, stake their claims on how that amendment should be understood in its original historical context.² That is, both Stevens and Scalia appear to sign on to what Scalia has long argued should be the underlying principle of constitutional interpretation: fidelity to the "original understanding" of the document, as evinced by the ratification debates, discussions in *The Federalist*, and similar writings, though Stevens argues that Scalia misuses those historical contexts. *Heller* led a number of commentators to declare that we all have become originalists.³ Whether or not this is true – the originalist argument can often be more polemical than truly historical, and its truth claims stand in tension with the normal respect accorded to the compiled wisdom of precedent – it does point to the extent to which debates about where our laws, our ideologies, and our social commitments come from matter in contemporary America. Strange that this should be so in a country that has always seen itself as resolutely turned to the future. But perhaps that future orientation paradoxically provides the very foundation for attention to the past, and to the narrative of how we got from past to present.

The common law tradition that the United States shares with Britain derives current legal decisions from precedent, fitting the present case to analogous cases that have come before. In constitutional adjudication, the precedents derive from and lead back to the written document that is considered the supreme law of the land. But that does not usually entail "originalist" readings: the chain of precedents deserves respect in itself, and ought not to be disregarded in a putative claim to original understandings. The respect for precedent is enshrined in the doctrine of *stare decisis*: the rule that one does not change the decisions made in the past, but builds upon them. One of the best expositions of what this means and how it works comes from Justices Sandra Day O'Connor, David Souter, and Anthony Kennedy, authors of the "joint opinion" in *Planned Parenthood of Southeastern Pennsylvania v. Casey*, the 1992 case that reaffirmed (with some modifications) the right to abortion first secured in *Roe v. Wade* (1973).⁴ The opinion is an effort to explain why it is that even if the Court would not rule as it did in *Roe* if the case were coming to it afresh, it is important to reaffirm its ruling close to a generation later. Beyond that, it is an effort to explain the source of the Court's authority to write the constitutional narrative.

The very concept of the rule of law, write O'Connor, Souter, and Kennedy, requires continuity over time, so that citizens may rely on the law. Thus, though one might rule differently were the issue at hand coming to adjudication for the first time, the fact that it was once ruled upon in a certain way, and that people have come to rely on that ruling, alters the second adjudication, giving a heavy burden of proof to those who would reverse course. As the joint opinion puts it, to both those who approve, and those who disapprove but struggle to respect a

constitutional ruling, “the Court implicitly undertakes to remain steadfast” (*Casey*, 868). “Steadfastness” is indeed not only pragmatic – assuring a uniform law that can be relied on – but also moral: “Like the character of an individual, the legitimacy of the Court must be earned over time.” Note the words “over time”: earned legitimacy depends on a history, a narrative of consistency, written by several hands but in the same spirit and purpose. The moral Court, like the moral individual, must be true to itself.

There are times when the Court can and must overrule itself: the joint opinion points to the overturning of the *laissez-faire* economics of *Lochner v. New York* (1905) by *West Coast Hotel Co. v. Parrish* (1937) and – the most famous reversal – *Plessy v. Ferguson* (1896) overruled by *Brown v. Board of Education* (1954). The Court describes these two striking rejections of *stare decisis* as “applications of constitutional principle to facts as they had not been seen by the Court before.” Such reversals must be rare if the Court is to maintain its moral authority to speak in ways that will be accepted and complied with. As the joint opinion explains:

The Court must take care to speak and act in ways that allow people to accept its decisions on the terms the Court claims for them, as grounded truly in principle, not as compromises with social and political pressures having, as such, no bearing on the principled choices that the Court is obliged to make. Thus, the Court’s legitimacy depends on making legally principled decisions under circumstances in which their principled character is sufficiently plausible to be accepted by the Nation. (*Casey*, 865 – 866)

Sequence and consecution in the constitutional narrative must not be random; the new must be logically entailed by precedent. The most apt words in the lines

quoted above may be “sufficiently plausible,” a phrase that alerts us to the *rhetoric* deployed by the Court. What is “sufficiently plausible” is that which persuades its readership, its audiences, which assures narrative conviction in its narratees. “Sufficiently plausible” is tautological – but in a way that any public argument must be: it judges the effectiveness of persuasion by its capacity to persuade in fact. The logic of the joint opinion is necessarily circular: it claims that rulings by the Court will be accepted if and when they appear to fit seamlessly with the master narrative, which in turn means that their acceptance creates the seamless narrative, the perception that the law is “steadfast.” What “suffices” for the “sufficiently plausible” is ... what suffices.

Raising the moral stakes, in conclusion to its discussion of *stare decisis* the joint opinion states:

Our Constitution is a covenant running from the first generation of Americans to us, and then to future generations. It is a coherent succession. Each generation must learn anew that the Constitution’s written terms embody ideas and aspirations that must survive more ages than one. We accept our responsibility not to retreat from interpreting the full meaning of the covenant in light of all of our precedents. We invoke it once again to define the freedom guaranteed by the Constitution’s own promise, the promise of liberty. (*Casey*, 900)

By casting the Constitution as a “covenant,” and arguing that it offers a “coherent succession” from generation to generation, the Court images itself as the author of covenantal narratives, stories that claim the sacrality of generational solidarity, and of the present (and future) as realization of that which lay latent within the past. The “promise of liberty” will unfold as foretold by the covenant, as realization of a prophecy, as completion of that promise.

The Court's logic in defense of its covenantal narrative is to a large degree the logic of narrative itself. It offers an example of what the French narrative theorist Gérard Genette calls "the determination of means by ends . . . of causes by effects." Genette writes:

This is that paradoxical logic of fiction which requires us to define every element, every unit of the narrative by its functional character, that is to say among other things by its correlation with another unit, and to account for the first (in the order of narrative temporality) by the second, and so on – from which it follows that the last [unit] is the one that governs all the others, and that is itself governed by nothing.⁵

The way events are enchained is determined by the reasoning of a discoverer standing at the end of the process, then laid out as a plot leading from beginning to discovery. Earlier events or actions make sense only as their meaning becomes clear through subsequent events, in what Genette calls a "paradoxical logic." Or, as Roland Barthes suggests, narrative is built on a generalization of the philosophical error of *post hoc, ergo propter hoc*: narrative plotting makes it seem that if B follows A it is because B is logically entailed by A, whereas in fact A becomes causal only in terms of B.⁶ This narrative logic may to some degree cover over a tension between what is called for in order to create the seamless plot and the other paths – other claims to justice – that were not taken.

The eloquent defense of *stare decisis* in *Planned Parenthood v. Casey* suggests that the narrative of constitutional interpretation depends on the retrospective interpretation of the prior narrative in light of the new episode the Court is adding to it. This must be the case because dissenters can and do argue that the new decision precisely misinterprets prior history,

which would be better served – given a more plausible plot line – by the opposite ruling. The form taken by all constitutional interpretation indeed follows this model: that the proposed interpretation realizes the true meaning of the constitutional narrative better than the alternatives. It provides the better ending, defined in terms of the ending that makes better sense of the plot leading up to it. If the present is constrained by the past, as in legal theorist Ronald Dworkin's famous analogy of the "chain novel," with different authors furthering its plot, more strikingly the past is hostage to the present, which redefines its meaning.⁷

It falls within this same logic that constitutional narratives often claim they are based on a return to the beginning – to the text and context of the Constitution itself – in order to track forward the development of text and idea. This is especially true when the Court is aware that it is propounding what will appear to be a radically new interpretation, one that will not be accepted without resistance. Thus, for instance, Chief Justice Earl Warren in the landmark case *Miranda v. Arizona* (1966) – which extended the Fifth Amendment protection against self-incrimination to police interrogation of criminal suspects – claims:

The cases before us raise questions which go to the roots of our concepts of American criminal jurisprudence. . . . We start here . . . with the premise that our holding is not an innovation in our jurisprudence, but is an application of principles long recognized . . . an explication of basic rights that are enshrined in our Constitution. . . . These precious rights were fixed in our Constitution only after centuries of persecution and struggle.⁸

The ruling in *Miranda*, Warren claims, is simply the emergence into the light of day of what was all along entailed by the Fifth

Amendment privilege against self-incrimination. *Miranda* makes good on a long history; it realizes that narrative's latent meaning. It is as if constitutional law had always contained within itself the seed that now matures into *Miranda* doctrine.

Inevitably, the dissenters in *Miranda* claim that Warren has the story wrong. To Warren's assertion that the majority's ruling is "not an innovation," Justice Byron White ripostes that "the Court has not discovered or found the law. . . . [W]hat it has done is to make new law" (*Miranda*, 531). Another dissent by Justice John Marshall Harlan refers to "the Court's new constitutional code of rules for confessions" (*Miranda*, 504). Harlan sets out to mark the point at which the Court "jumped the rails" (*Miranda*, 508) – the point at which it deviated, with dire results, from the correct narrative line. He, too, reaches back to origins, to claim that the majority's reliance on the Fifth Amendment is "a *trompe l'oeil*," a deceptive reality effect that it has taken for reality itself. Harlan brands the majority's ruling as a wholly implausible narrative: "One is entitled to feel astonished that the Constitution can be read to produce this result" (*Miranda*, 518). And in his peroration, Harlan declares, citing the words of a bygone Justice, Robert Jackson: "This Court is forever adding new stories to the temples of constitutional law, and the temples have a way of collapsing when one story too many is added" (*Miranda*, 526). There seems to be an interesting, if unintended, pun here, on storeys as features of houses and stories as narrative. In both senses of the word, Harlan implies that the new narrative episode written in *Miranda* brings the collapse of the entire narrative. It makes it the wrong story.

For all their discourse on origins, then, both majority and dissent in *Miranda* implicitly rely on the notion that the outcome of the story, the ending written

(however provisionally) by the current ruling, determines the meaning of the story's earlier episodes: the present rewrites the past.⁹ They discover here – though without explicit awareness – the logic of narrative itself. As a number of commentators on narrative, myself included, have argued, narrative is retrospective. It begins from the end, which confers meaning on beginning and middle, which indeed allows us to understand what can be identified as beginning and middle. When we read a narrative, we read toward the end, not in knowledge of what it will bring, but in anticipation that it will bring retrospective illumination to the plot leading to it. Thus Sartre's fictional spokesman Roquentin, in *La Nausée*, argues that when you tell a story – as opposed to living it – you only appear to begin at the beginning, because in reality "the end is there, transforming everything."¹⁰ That is, the knowledge that an end lies ahead confers intention and meaning on the actions recounted. This is what he means by "adventure," which in its Latin root, *ad-venire*, refers us to what is to come. Roquentin says further, "[W]e feel that the hero has lived all the details of this night as annunciations, as promises, or even that he lived only those that were promises, blind and deaf to all that did not herald adventure. We forget that the future wasn't yet there." It is in the peculiar nature of narrative as a sense-making system that clues are revealing, that prior events are prior, and that causes are causal only retrospectively, in a reading back from the end.

Historian Carlo Ginzburg has speculated that narrative originated in a society of hunters, in the tracing of signs pointing to the passage of quarry. Learning to put those clues together in a narrative chain that would lead to the quarry offers a form of reasoning that is not properly speaking

either deductive or inductive, but precisely narrative: the creation of meaningful sequences. Ginzburg compares this “hunter’s paradigm” to ancient Mesopotamian law, which worked through discussions of concrete examples rather than the collection of statutes – similar in this respect to Anglo-American “case law” – and to Mesopotamian divination, based on the minute investigation of seemingly trivial details: “animals’ innards, drops of oil on the water, stars, involuntary movements of the body.”¹¹ The same paradigm is found in the divinatory and jurisprudential texts, with this difference: that the former are directed to the future, the latter to the past. Generalizing further, Ginzburg suggests that all narrative modes of knowing (such as archaeology, paleontology, geology) make what he calls “retrospective prophecies”¹²: prophecies that work backward from outcome to that which announces and calls for the outcome.

The notion of *retrospective prophecy* perfectly characterizes the constitutional narratives written by the Supreme Court, and perhaps indeed most legal narrative. It is a prophetic narrative cast in the backward mode, implicitly arguing that the ruling in the case at hand is the fulfillment of what was called for at the beginning – somewhat in the manner that medieval Christian theologians argued that the Gospels offered a fulfillment of the prophetic narratives of the Hebrew Bible, as figure and fulfillment. For Augustine, for instance, Moses is a *figura Christi*, Noah’s Ark a *praefiguratio ecclesiae*.¹³ Past history is seen as realized, as fulfilled, in the present. It is as if the past were pregnant with the present, waiting to be delivered of the wisdom that the Court reveals in its ruling. Recall *Casey*’s use of the word *covenant* to describe the Constitution, precisely in its historical relation to the citizenry. Each new ruling by

the Supreme Court is an episode in the unfolding narrative of that covenant.

The argument from origins that you get in a Court case such as *Miranda* is doubtless sincere, and necessary, in its desire to make origins entail a certain outcome, to argue: this is not an innovation in our jurisprudence, but the present application of long-standing principle and precedent, part of that “coherent succession.” Nonetheless, we can recognize in it the structure of the retrospective prophecy, in its arguing that the stipulated outcome is the only way to realize the history of constitutional interpretation, to deliver on its immanent meaning. Narrative always has Genette’s “double logic,” telling its story from the beginning but structuring it in terms of the end that makes sense of that beginning. It is like the structure of trauma in many of Freud’s case histories, where a later event will retrospectively sexualize and thus confer traumatic force on an earlier event.

Judicial opinions are full of a rhetoric of constraint: the judge cannot rule otherwise than he is doing because he is constrained by precedent. Whatever his personal preferences in the case, the outcome is imposed on him by the history leading up to it. Furthermore, it often seems that the more the Court’s ruling might be interpreted as an innovation – a break with the past – the more the rhetoric of the opinion asserts the seamless continuity of its ruling with the past, its simple and necessary entailment.¹⁴ The rhetoric of *stare decisis* may in this manner be something of a “cover-up,” a claim that the weight of the past narrative dictates this outcome – whereas the dissent, as in *Miranda*, will claim that the Court has “jumped the rails,” lost the proper design and intention of the narrative, given the wrong plot, betrayed the “covenant.” To say this is not to argue that the narrative

traced from origin to endpoint is useless or false. The conclusion to the narrative will be acceptable to its audiences only if the construction of the narrative has been “sufficiently plausible,” to use *Casey’s* words again. As Dr. Watson says to Sherlock Holmes at the end of one of their cases, “You reasoned it out beautifully. . . . It is so long a chain, and yet every link rings true.”¹⁵ The chain composed of true links is perspicuous as a chain only at the end. The detective story is in this an exemplary form of narrative because it shows so well how this chain is constructed.

“It is so ordered,” the Supreme Court opinion typically ends. The Court has managed to make its orders, its outcomes, stick with remarkable consistency. Presidents, legislators, police, citizens accept the order however much they may disagree with it, however fervent their protests may be. Even such a paltry and embarrassing decision as *Bush v. Gore* in 2000 – devoid of legal reasoning, patently jury-rigged for the occasion – managed to make itself obeyed. There are a very few moments in American history when the Court’s narrative has seemed so implausible and so unacceptable to parts of the country that the issue has created civil unrest. The most notable was probably *Dred Scott v. Sandford* (1856), which provided a decision so contentious and unsatisfactory – and a narrative of American citizenship so starkly exclusionary – that its issues could be decided only by the Civil War. Closer to our own time, the Court’s decisions in *Brown v. Board of Education* I and II (1954 and 1955) provoked various degrees of resistance, most notably and violently the refusal of the executive branch of the state of Arkansas, in the person of Governor Orval Faubus, to execute the Court’s orders. In fact, Faubus used the power that ought to have been brought to the execution of the law to its infraction,

refusing entry by African American students to Little Rock Central High School, and mobilizing the Arkansas National Guard to bar the doors. This was followed by President Eisenhower’s sending units of the 101st Airborne Division to Little Rock to force the students’ entry.

This crisis in resistance to the Court’s order – unprecedented in U.S. history, before or since – spurred the Court to assemble in special session, in September 1958, and to issue its ruling in *Cooper v. Aaron*, affirming the Eighth Circuit Court of Appeals’ reversal of the Arkansas District Court’s grant of a stay of integration in Little Rock.¹⁶ *Cooper v. Aaron* has the distinction of offering not simply the unanimous opinion of the Court, but also the names of all nine justices spelled out at the outset of the opinion. Here, the Court reaches back to the very genesis of its power of judicial review in *Marbury v. Madison*:

In 1803, Chief Justice Marshall, speaking for a unanimous Court, referring to the Constitution as “the fundamental and paramount law of the nation,” declared in the notable case of *Marbury v. Madison*, 1 Cranch 137, 177, that “It is emphatically the province and duty of the judicial department to say what the law is.” This decision declared the basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system. It follows that the interpretation of the Fourteenth Amendment enunciated by this Court in the *Brown* case is the supreme law of the land. (*Cooper*, 18)

Like Antaeus touching ground to regain strength, the Court here touches its very beginnings as a branch of American governmental power. Note the words “it follows that”: not only the Constitution,

but the interpretive narratives spun from it are the supreme law.

Appended to the unanimous opinion in *Cooper v. Aaron* is a concurring opinion by Justice Felix Frankfurter – a narcissistic move on his part that somewhat disfigures the impressive unity of the Court’s self-presentation in the case, but a document that is full of interest. It is a tense, eloquent, strained piece of judicial rhetoric in reaction to the “profoundly subversive” use of state executive power to thwart rather than carry out the law, and a reaffirmation of “this Court’s adamant decisions in the *Brown* case” – decisions, the adjective implies, set in stone. Frankfurter reaches back even further than *Marbury v. Madison*, to quote John Adams on the need for a “government of Laws, not of Men.” Frankfurter then goes on to cite from his own concurring opinion in *United States v. United Mine Workers*¹⁷:

The conception of a government by laws dominated the thoughts of those who founded this Nation and designed its Constitution, although they knew as well as the belittlers of the conception that laws have to be made, interpreted and enforced by men. To that end, they set apart a body of men, who were to be the depositories of law, who by their disciplined training and character and by withdrawal from the usual temptations of private interest may reasonably be expected to be “as free, impartial, and independent as the lot of humanity will admit.” So strongly were the framers of the Constitution bent on securing a reign of law that they endowed the judicial office with extraordinary safeguards and prestige. (*Cooper*, 23 – 24)

So here it is that the priestly caste of the Supreme Court justices emerges from the shadows to stand in full view, its certification to interpret the law of the land reaffirmed. These interpreters are not like any others. They are “depositories of

law.” They are set aside in the temple to contemplate and to expound the law – which here sounds very much like the Law. Frankfurter has sensed that a subversive threat of disobedience to the constitutional narrative declared by the Court needs to be met with a rhetoric that at the last foregrounds the very status of the Court itself, the solemn context of its speech acts.

“It is so ordered”: the outcome so proposed writes the past history of interpretation in a rhetoric that touches back to origins and foregrounds its own constraints in reaching this end. The Court offers an arche-teleological discourse that stresses origin and constraint in order to achieve ends. Such a narrative of the covenant is no doubt simply necessary – covenantal discourse, one might say, is like that. The structure of prophecy and fulfillment is doubtless a requisite of any claim to a master narrative that governs societies. If the discourse of American constitutional interpretation turns out to be remarkably biblical, that should not come as a surprise, since it is difficult to imagine a society without some sort of providential discourse underlying it. If the Constitution is our myth of origins, we must expect it to generate mythic narrative consequences. It should perhaps be subjected to a more acute awareness of its narrative logic. Here is where *reading* – of the attentive sort practiced by literary scholars at their best – might sharpen the legal caste’s interpretive enterprise.

ENDNOTES

- ¹ *Michael H. v. Gerald D.*, 491 U.S. 110 (1989), 141.
- ² *District of Columbia v. Heller*, 554 U.S. 570 (2008).
- ³ For example, *New York Times* legal correspondent Adam Liptak writes, “The two sides in the Heller case claimed to rely on the original meaning of the Second Amendment, based on analysis of its text in light of historical materials”; Adam Liptak, “Justices’ Ruling on Guns Elicits Rebuke, From the Right,” *The New York Times*, October 21, 2008. *Slate* legal correspondent Dahlia Lithwick comments that *Heller* “revealed the absolute dominance of conservative interpretive theories at the high court . . . leading more than one commentator to enthuse that regardless of the outcome, after *Heller*, ‘we are all originalists now’”; Dahlia Lithwick, “The Dark Matter of Our Cherished Document,” *Slate*, November 17, 2008.
- ⁴ *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. (1992), 833. Subsequent citations are noted parenthetically within the text.
- ⁵ Gérard Genette, “Vraisemblance et motivation,” in *Figures II* (Paris: Éditions du Seuil, 1969), 94. Translated by David Gorman as “Vraisemblance and Motivation,” *Narrative* 9 (3) (2001).
- ⁶ Roland Barthes, “Introduction à l’analyse structurale des récits,” *Communications* 8 (1966): 10. Translated by Richard Howard in Susan Sontag, ed., *A Barthes Reader* (New York: Hill & Wang, 1982).
- ⁷ See the most recent exposition of this model of interpretation in Ronald Dworkin, *Law’s Empire* (Oxford and New York: Oxford University Press, 2006), 228 – 238.
- ⁸ *Miranda v. Arizona*, 384 U.S. 436, 439, 442 (1966). Subsequent citations are noted parenthetically within the text.
- ⁹ Literary theorist and legal scholar Stanley Fish makes a similar point in his critique of Ronald Dworkin; see Stanley Fish, “Working on the Chain Gang: Interpretation in Law and Literature,” in *Doing What Comes Naturally: Change, Rhetoric, and the Practice of Theory in Literary and Legal Studies*, ed. Stanley Fish (Durham, N.C.: Duke University Press, 1989), 94.
- ¹⁰ Jean Paul Sartre, *La Nausée* (Paris: Gallimard, 1947), 59 – 60; my translations. For an analogous argument about how legal precedent is important in terms of its future viability, see Jan Deutsch, “Procedure and Adjudication,” *Yale Law Journal* 83 (1974): 1553 – 1584. Deutsch argues, for instance: “as we create precedent, by the choice among theoretically possible grounds of decision, we must attempt to anticipate future relevance.” I am grateful to my friend Michael Seidman, Professor at Georgetown Law Center, for bringing Deutsch’s essay to my attention.
- ¹¹ Carlo Ginzburg, “Spie. Radici di un paradigma indizario,” in *Miti Emblemi Spie* (Torino, Italy: Einaudi, 1986), 158 – 159. Translated by John Tedeschi and Anne C. Tedeschi as “Clues: Roots of an Evidential Paradigm,” in *Myths, Emblems, Clues* (London: Hutchinson Radius, 1990), 96 – 125. I have modified the Tedeschi translation in places in order to give a more literal rendition, and I have noted page references to both the Italian original and the translation.
- ¹² Ginzburg, “Spie,” 183; Tedeschi, “Clues,” 117.
- ¹³ See Erich Auerbach, “Figura,” in *Scenes From the Drama of European Literature* (New York: Meridian Books, 1959), 38.
- ¹⁴ Joseph Halpern takes a similar position with regard to *Miranda*: “In contrast to the dissents, the majority opinion employs a comfortable rhetoric that denies and masks change”; Joseph Halpern, “Judicious Discretion: *Miranda* and Legal Change,” *Yale Journal of Criticism* 2 (1) (1987): 58. Halpern’s perceptive essay confirms my views of the rhetoric of *Miranda*.
- ¹⁵ Conan Doyle, “The Red-Headed League,” in *The Adventure of the Speckled Band and Other Stories of Sherlock Holmes* (New York: Signet, 1965), 83.
- ¹⁶ *Cooper v. Aaron*, 358 U.S. 1 (1958). Subsequent citations are noted parenthetically within the text.
- ¹⁷ 330 U.S. 258 (1947), 307 – 309.

The American Mythos

Jay Parini

Abstract: This essay examines the notion of an American narrative, looking at a variety of myths that have been prominent and that have, in various ways, shaped the concept of a nation devoted to Enlightenment and Anglo-Saxon ideals. These include liberty, equality, and justice, which can be traced to thinkers such as Montesquieu, as well as ideals laid out in the Magna Carta. These lofty ideals took the place of more traditional narratives and tribal alliances, and they helped establish a nation that had been formed by so many different immigrant strands. That these stories – going back to the Puritans landing on Plymouth Rock, for example – have been influential seems beyond question. Yet it remains difficult to assess their broader value in determining the course of a nation. How might these founding myths prove useful in refashioning the American stories in ways that, in the future, could be productive?

Every nation requires a story – or many stories, which taken together form a national narrative – about its origins, a self-defining mythos that says something about the character of the people and how they operate in the larger world and among each other. The strength of these stories lies in their shaping power, the ways they illumine aspects of a character or embody ideals that, in turn, affect individual or collective behavior. The stories themselves may have genuine factual content or, like the myth of George Washington cutting down the cherry tree and then refusing to lie about it, be wholly fabricated.

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Rome famously drew on the legend of Romulus and Remus, its twin founders, who were children of gods but suckled by a she-wolf who found them in the wilderness. This tale, in its Ovidian complexity and mythic resonance, involved aspects of supernatural intervention and, therefore, divine destiny; it spoke to Roman ambitions, with their brutal self-confidence, their aura of centrality and mission. The feral vitality of that suckling by a she-wolf sufficed to drive this people forward, even to explain the transformation from republic to em-

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pire. Needless to say, such foundational narratives function best when they are taken as fact, and with modern nations, such as the United States, there is often an emphasis on the literal truth of stories, however legendary in character.

Americans, having no ethnic uniformity, depend on myths, which lend an aura of destiny to our collective aspirations. We have numerous stories (true or – more typically – half true) that help create a sense of national identity; taken together, they form a narrative that posits the United States as “the land of the free and the home of the brave,” as our national anthem suggests, a nation with the best intentions in the world. Rugged individualism is part of our “can do” national character, and we have various narratives that play into this idea, although they vary in their potency. As Wendell Berry writes: “The career of rugged individualism in America has run mostly to absurdity, tragic or comic. But it also has done us a certain amount of good.”¹

One of the most potent stories in our treasure-house of tales that collectively constitute our national narrative involves the transatlantic *Mayflower* journey of the Pilgrims, those plucky English Separatists who in 1640 fled oppression in the Old World to create a sustainable community, shaping a form of independence and self-government at Plymouth Rock. This tale, however inspiring, acquired its mythic power only in the mid-nineteenth century, when the journal of William Bradford was rediscovered after having been lost for centuries. An American antiquarian called John Wingate Thornton found the manuscript in the library of a bishop in London, and he patiently copied it out by hand and brought it back across the Atlantic, where it was published in time for the Civil War. Abraham Lincoln admired Bradford’s journal and, in 1861, declared Thanksgiving a national holiday,

thus elevating to legendary status a minor incident in the Pilgrims’ story – a mythical moment with some use during a time of profound national crisis.

In fact, Bradford barely mentioned the occasion when the Pilgrims sat down with the local Indians for a meal that included turkey and sweet corn, if not pumpkin pie. (A slightly fuller account of this traditional harvest supper is found in *Mourt’s Relation* [1622], written primarily by Edward Winslow, who notes the presence of Massasoit, a local chieftain of the Wampanoag who came with others of his tribe to break bread with their neighbors.) Yet the resonance of any story with mythic potential goes beyond its literal details. The image of English Pilgrims enjoying a meal with representatives from a potentially hostile tribe was a good one, with its atmosphere of cooperation and reconciliation, and Lincoln chose exactly the right time to recall this incident and imbue it with mythic status.

The success of these English settlers had long been useful to British America, which needed stories to bolster its sense of priority. The earliest European settlers in the New World were in fact not British. The Vikings had landed in Newfoundland in the eleventh century, though they made no lasting impression. It was the Spanish who settled in this hemisphere en masse beginning in the early fifteenth century – an irony not lost on modern Hispanic immigrants, who can claim a certain priority if they choose: *We were here first!* The French were also vigorous in North America, establishing colonies in Louisiana, Newfoundland, and elsewhere. The Dutch, Danish, and Portuguese soon followed, raising their flags in the New World at an early date. So it took some doing for the British to create an atmosphere of dominance, which they certainly did. (The *Mayflower* may have been a tiny ship, but it looms large in the national memory, its

descendants capable of filling several aircraft carriers.)

The *idea* of America, however – the so-called American dream, which lies at the center of our national narrative – begins in earnest with the Declaration of Independence, the successful war of separation from Britain, and the establishment of the U.S. Constitution, which distilled America’s sense of its ideal self in legal terms that have assumed an almost religious aura. As G. K. Chesterton put it so memorably in *What I Saw in America* (1922):

America is the only nation in the world that is founded on a creed. That creed is set forth with dogmatic and even theological lucidity in the Declaration of Independence: perhaps the only piece of practical politics that is also theoretical politics and also great literature. It enunciates that all men are equal in their claim to justice, that governments exist to give them that justice, and that their authority is for that reason just.²

For all its durability and uniqueness, the U.S. Constitution was hardly original. One cannot imagine its existence without such intellectual forebears as Locke and Hume, or Adam Smith, each of whom developed ideas that were widely influential among the Founding Fathers, especially with regard to government organization and the responsibility of the *res publica* to its constituents. Montesquieu was also a key influence, as he formulated the idea of checks and balances, with a theory of mixed government that allows for contending forces to maintain a civilized and equitable balance among the various branches. The Magna Carta (1612) and common law also loom importantly in the thinking of those who attended the Constitutional Convention in Philadelphia in 1787. Exactly how American “freedom” might be constructed (in the context of political equality with “justice for all”) was very much on the minds of the

original framers, who were Enlightenment intellectuals with a working knowledge of ancient and modern political theory, as anyone who has read *The Federalist Papers* must know.

The notion of freedom was an essential part of the American founding mythos from the outset of the republic, if not before. But it was never an easy concept, or one that could not be subjected to various critiques and spun this way or that. In its original form, it referred to the rejection of “tyranny,” as represented by King George III and British levies. “Taxation without representation” became a mantra that inspired a revolution. And of course taxation remains a touchy subject, as Americans continue to argue passionately about who taxes them, at what rates, and how these funds are allocated. Liberty, in this context, refers to the freedom to control your own purse.

As they would, many different parties began to weigh in as the nation’s intellectual leaders shaped and defined the early republic, refining concepts and establishing firmer boundaries. A Bill of Rights and various amendments were added to the U.S. Constitution itself to establish limits or particularize lofty notions, often making explicit what was perhaps implicit, although the vagueness of language in many of these statements, as in the right to bear arms, with its ambiguous punctuation, has led to endless arguments about the “real intentions” of the Founding Fathers, which can never be known. (The Founding Fathers quarreled among themselves about what was meant by this or that assertion, and many wise heads, including Patrick Henry and George Mason, objected to the final document on various grounds and urged states to deny ratification.)

The meaning of freedom – or liberty, an interchangeable term – has been subject to debate for centuries by partisan inter-

ests, evolving in complicated and, often, contradictory ways. John Dewey, in *Problems of Men* (1935), argued: “There is no such thing as liberty in general; liberty, so to speak, at large. If one wants to know what the condition of liberty is at a given time, one has to examine what persons *can* do and what they *cannot* do.”³ The concept of “negative” liberty, as developed by Isaiah Berlin and elaborated by numerous philosophers, such as George C. MacCallum and Charles Taylor, refers to freedom *from* certain impositions. Government regulation, for example, might be regarded as something that hampers liberty, with taxation regarded as an imposition. Government control of land use is anathema to many who value “negative” liberty. By contrast, “positive” liberty refers (in Berlin’s discourse) to adherence to moral laws, which have their origin in communal values or divine laws (or both), depending on your political or religious orientation. It has become increasingly difficult to reconcile these ideas of liberty, especially within the context of polarized American politics of the twenty-first century.

The story of American freedom, as a component of a national narrative, can hardly be discussed in a serious way without thinking as well about slavery – such a massive elephant in the room of any argument about our shaping myths. A fair number of our Founding Fathers were slaveholders, which put them in an awkward position when it came to opining about freedom and equality as governing concepts. Yet Jefferson’s classic formulation in the Declaration of Independence of 1776 has a mythic ring: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness. That to secure these rights, Governments are

instituted among Men, deriving their just powers from the consent of the governed.” Jay Parini

Most Americans can recite these lines from memory, and this can be said about very few written lines! That Jefferson “held” these “truths” as self-evident is the key to thinking through the idea of equality in this context. As a logical move, what does it mean to hold something as self-evident? No self-respecting logician will feel comfortable with a statement not liable to proof, but that is what Jefferson puts forward, and with aplomb. He simply “holds” the idea of equality before the English monarch, who doubtless did not “hold” this idea. Indeed, the concept of the Divine Rights of Kings (which in the West can be traced back to the Sumerian dynasty of Gilgamesh) allowed for no such notion. The idea that the people – the unwashed masses – had any right to self-governance was, indeed, a radical Enlightenment notion that found its first large-scale embodiment in the American Revolution.

In other writings, Jefferson contradicted himself on the notion of equality, arguing that a natural aristocracy of virtues and talents occurs among men. But within the Declaration of Independence he created his argument in a rhetorical context (rhetoric being the art of persuasion), where he drew heavily on Locke, who spoke of “life, liberty, and property” as the things most worth having. (Perhaps Jefferson equated the bliss of property with “the pursuit of happiness,” thus accounting for the slight shift in wording.) Nonetheless, as a slave-owner, Jefferson faced criticism, including from Thomas Day, an early abolitionist who responded immediately to the Declaration with this rejoinder: “If there be an object truly ridiculous in nature, it is an American patriot, signing resolutions of independency with the one hand, and with the other brandishing a whip over his affrighted slaves.”⁴

In a similar vein, Samuel Johnson wondered how it was that “the loudest yelps for liberty” happened to come from slave-owners in the New World. (Slavery was not abolished in Britain until 1772; it was abolished throughout most of the empire in 1833.)

Perhaps we might regard hypocrisy as part of human nature and celebrate in Jefferson his felicity of phrasing and, elsewhere, his acknowledgment that slavery was not only wrong but an abomination. In his *Notes on the State of Virginia* (1781), for instance, he referred to the ownership of slaves as “the most unremitting despotism” and worried that if God were just, his nation would find itself in deep trouble. Although far from perfect himself, he understood that equality was an important ideal – if only *as* an ideal, meaning a goal, a lofty notion that one never quite achieves.

The very fact that Americans hold equality before them as a goal seems important to our governing narrative about freedom and equality – the Romulus and Remus of our national mythos. Indeed, those in America who support forms of inequality may find themselves under significant pressure to modify their views. Hence, we have seen a gradual yet unmistakable movement toward the ideal of equality, even on the racial front. I, for example, recall only too well my childhood travels in the American South with my parents, where a sign that read “Whites Only” could be found at the entrance to most good hotels. The same held for restaurants and public restrooms as well as public water fountains. (In its most egregiously overt forms, that is, under legal sanction, segregation is gone. For this, we can thank the Civil Rights Act of 1964, which put in place legal strictures against discrimination based on race, at least in some areas of American life, such as employment practices and public accommodations.)

Another example of progress toward equality relates to the rights of women. The movement, per se, began in 1848, with the Declaration of Sentiments at Seneca Falls, in New York. The National American Woman Suffrage Movement led eventually to the Nineteenth Amendment in 1920, wherein women were given the right to vote. The Equal Pay Act of 1963 and the Civil Rights Act of 1964 continued to improve the situation for women under the law. Lyndon Johnson signed Executive Order 11375 in 1967 to expand affirmative action to include gender equality. In 1972, we saw the enactment of Title IX, which made it illegal to discriminate against anyone on the basis of gender in institutions that receive federal funding. There have been countless steps backward as well as forward; but the general drift toward gender equality – like racial equality – seems inexorable. At least one hopes this is the case.

This movement suggests that the American mythos, embodied in a story that has become the essential structure of a national narrative, rests firmly on the idea that “all men are created equal.” The legend itself seeks validation in the form of realization on the ground, and this drive for actualization has helped shape the laws of the country over two-and-a-half centuries. The story of American freedom is, to a degree, what Wallace Stevens would call a “supreme fiction,” being something that occurs first in the imagination and then is produced in daily life. Indeed, as Stevens put it well: “The imagination loses vitality as it ceases to adhere to what is real.”⁵

One aspect of the American mythos that never seems to fade is the almost biblical idea that the United States is a “city upon a hill,” as John Winthrop (of the Massachusetts Bay Colony) observed in 1630; that is, the Puritans regarded

their little enclaves in Massachusetts as exemplary, being a theocratic society in which God's favor was sought and, in many cases, sustained. Freedom in this case represented a kind of positive freedom: active pursuit of God's will in the world, adherence to eternal laws, and, most vividly, a vision of self-determination that calls out to those elsewhere in the world who are not "free," whether by enslavement to sin or some dreadful monarch. This vision persisted as the republic was born, "conceived in liberty," as Abraham Lincoln said at Gettysburg. A degree of smugness attended this idea, as if nobody else in the world quite understood democracy as conceived by our Founding Fathers. But as American power grew exponentially, and our tentacles began to reach around the world (partly to sustain our economy and partly to evangelize on behalf of American democracy), the notion of American exceptionalism took hold as something like a justification for imperialism itself.

American imperialism had its roots in the early nineteenth century, when the fledgling republic more than doubled its size with the Louisiana Purchase of 1803. President Jefferson immediately sent out scouts – the Corps of Discovery, led by Lewis and Clark – on a mission to explore this territory with an eye to eventual colonization. In a very real way we acquired, and then displaced, the native population of more than eight hundred thousand square miles in the course of several decades. No justification was required for occupying this land, as the republic now "owned" it. Westward expansion had become part of our national narrative, as embodied in the idea of Manifest Destiny; we became, as Robert Frost said in "The Gift Outright" (recited at the inauguration of John F. Kennedy), "a land vaguely realizing westward . . . unstoried, artless." Well, not so vaguely. And not so unsto-

ried either: the tales would quickly follow, justifying our annexation of large tracts of Mexico and reaching as far as the Philippines and Hawaii.

Few Americans found anything wrong with this drive to annex large pieces of real estate, although Henry David Thoreau nobly refused to pay his taxes in opposition to the Mexican War. For the most part, the silent majority kept its mouth shut, as the best way to keep an economy in an expansive mode was to keep an eye on the natural resources that lay at hand, however brutal the acquisition and extraction of these might be. It was, after all, the quest for gold that drove Columbus across terrifying seas, perhaps over the edge of the world. Now there were marvelous resources: minerals and land for agricultural use, fur, timber, and so forth. Nevertheless, the republic remained largely within North American territory, excepting our colonial ventures in the Pacific.

World War II rudely shattered American insularity, and it was followed by a protracted Cold War in which we found ourselves in competition with our ideological opposite in the form of the Soviet Union, our recent ally in the war against the Axis powers. To mobilize vast resources, a great deal of public persuasion was involved; thus "Godless Communism" became our permanent enemy, an "evil empire" that required the creation of what President Eisenhower memorably called a "military-industrial complex." John T. Flynn, a right-wing journalist who opposed U.S. entry into World War II, explained the creation of enemies for propagandistic purposes in this way: "The enemy aggressor is always pursuing a course of larceny, murder, rapine and barbarism."⁶ Certainly the Soviet state had all the hallmarks of barbarism, as it had been founded on the genocidal mania of Stalin; therefore we had a solid enemy,

a useful Other to position ourselves against. As literary critic Donald Pease observes, a need arose during the Cold War to “represent the U.S. as uniquely positioned to oppose the imperialist ambitions of the Soviet Union” and other Communist states.⁷

After the fall of Communism, we needed to find new enemies to justify our exceptional status and keep the military-industrial complex alive. Islamic fundamentalists obligingly stepped in to fill the gap. Thus came the New World Order of President George H.W. Bush, a cause taken up with a vengeance by his son, George W. Bush, who in response to the tragedy of 9/11 implicitly invoked the idea of American exceptionalism as a justification for the unilateral exercise of American power in the Middle East. Bush declared it was the policy of the United States to seek to support the growth of democratic movements and institutions in every nation and culture. He referred to American-style democratic movements, which it might be difficult to establish except by force in far-flung places. Yet he was cheered on by the press, as when Robert Kagan and William Kristol declared in a 2002 article for *The Weekly Standard*: “September 11 really did change everything.... George W. Bush is now a man with a mission. As it happens, it is America’s historic mission.”⁸

Needless to say, the Left and Right—such as they exist within the confines of America’s narrow political spectrum—argue relentlessly about American exceptionalism and our imperial motives. And the argument keeps taking fresh turns. Did we invade Iraq for the oil? (If so, it was a foolish move, and has yielded few barrels from the neglected and dangerous oil fields of Iraq.) Does our wish to support independence in the Middle East, as in our response to the rebellions in Egypt, Libya, and elsewhere, accord with Amer-

ican values, or do we have ulterior motives? The larger question, perhaps, and one that must be asked, is whether our national narrative, with its assertion of American values, has any continuing power in the world.

It is worth recalling that American values, as revealed in our governing mythos, with its tropes of liberty and equality, even “justice for all,” are Enlightenment values, and they continue to have a good deal of cultural power. Perhaps we can move toward an era when these values will not be confused with imperialism or supported by hard power—the use of brute military or economic force. While anti-American sentiment rose markedly during the Bush era, achieving fresh heights with the ill-considered invasions of Iraq and Afghanistan, many distraught or oppressed people around the world continue to find something of use in the American ideal as embodied in the “city upon a hill.”

In this context, I often think of Mary Antin’s *The Promised Land* (1912), a paradigmatic immigrant memoir. Antin (1881–1949) was a young Jewish woman from the Pale of Settlement, located in Russian territory at the time. Like so many before and after her, she and her family found themselves under the boot of the law. As Jews, they were oppressed by anti-Semitic feeling that led to pogroms and lesser forms of oppression, such as forced conscription into the Russian army and limited economic opportunities. Certainly they had little in the way of liberty or equality, and justice was hardly imaginable under these circumstances. During Passover one year, the traditional pledge of “Next year in Jerusalem!” shifted to “Next year—in America!” “My father was inspired by a vision,” writes Antin.⁹

That vision was the one seen by Jefferson when he wrote the Declaration of

Independence, and it derives from the Enlightenment concept of equality before the law. For immigrants, this concept inspired the dream of assimilation, with America regarded as a melting pot. (The phrase came into wide use after Israel Zangwill's popular play by the same phrase in 1908, although the metaphor of races mixing or "smelting" in America goes all the way back to Crèvecoeur's *Letters from an American Farmer* of 1782.) The metaphor itself implied that the United States was a place that received and transmogrified all comers into democrats with a stake in the government, with access to the legal system, and with economic opportunity on an unprecedented scale. For many, this idea was hardly an illusion.

My own grandparents arrived from Italy – part of the great wave of immigration in the first decade of the twentieth century. They were poor, uneducated, hardworking people willing to undergo the process of transformation that Antin describes so movingly in *The Promised Land*. Over time, through access to public schools, their children and grandchildren moved steadily upward, with widening access to educational and financial resources. This story is hardly unusual, and to this day, immigrants arrive from all over the world with hopes of improving the material circumstances of their families. What they want, in addition to human respect, is jobs and education, a chance to improve their lives in measurable ways by working hard.

Yet – as any number of recent studies suggest – the hopes for improving the standard of living within marginalized or immigrant groups are too often dashed, especially within Hispanic families (the largest immigrant group), where upward mobility has not been as fluid as among other ethnic groups.¹⁰ Yet the dream persists. And in dreams begin possibilities.

There is no point in simply reviving the old mythos – a retooled version of the "city upon a hill," the American dream of liberty, equality, and justice for all – without a clear picture of the difficulties that immigrant groups face or a coolheaded understanding that American power is not what it was and will never regain its former luster. The United States has entered into a period of economic and political decline from its apogee at the end of World War II, and nothing will stop that decline – not even the widening of markets for our goods in China and India. (Apart from clever software, what *are* these goods?) Nevertheless, this trend might well be regarded a positive thing, as it is never easy to play the dominant role in the world while consuming more than our weight in the available resources. (A familiar statistic: we constitute only 5 percent of the world's population yet consume 24 percent of the world's energy.) The new American dream should include a large component of mindfulness, a drive to modify our blithe overconsumption of resources. The American ideal, with its twin goals of liberty and equality, should expand to include the conservation of resources.

American ingenuity, always part of the can-do mentality that was celebrated by Benjamin Franklin in his influential *Autobiography* (1793), has served us well over time; yet it needs to be harnessed again, not in the pursuit of individual wealth but in the quest for greater spiritual and moral awareness, an awareness that takes into account our true place in the world as simply one nation among many. If anything, this is the legacy of Plymouth Rock.

The Pilgrims created a community where land was held in common (with no provision for inheritance, in fact) and each member of the group was asked to contribute according to his or her talents and to consume according to his or her

needs. They learned a good deal from local tribes about sustainable agriculture, and they made a huge effort to get along in a peaceful fashion with these potentially hostile neighbors; indeed, the peace that William Bradford forged with the Wampanoag tribe lasted for a half-century – in itself a splendid achievement. As a story about our origins, this one has many useful aspects, as Abraham Lincoln realized when he seized on it to create a mythos – a story with a good deal of energy that could be captured to influence behavior on the ground.

Any number of strands in our national narrative might be harnessed, brought into play again. One could do worse than revisit the Declaration of Independence to see what the Founding Fathers had on their minds when they severed ties with

Britain. Communal values are, ultimately, American values, and they derive from Enlightenment values, with cries of liberty, equality, and justice for all. How this idealistic part of our national narrative matters at present strikes me as more obvious than opaque: we need to make sure everyone gets a fair shake, not just those with access (through wealth and connections) to the best schools and best jobs. A country is famously judged by how it treats the poorest of its poor, the most disadvantaged.¹¹ If any truth resides in that statement, we are on the road to destruction and need, rather urgently, to reacquaint ourselves with our national mythos, with its urgent cry for liberty, its belief in human equality, and its passion for justice.

ENDNOTES

¹ Wendell Berry, *The Way of Ignorance* (Berkeley, Calif.: Counterpoint, 2005), 9.

² G. K. Chesterton, *What I Saw in America* (Teddington, U.K.: Echo Library, 2009), 8.

³ John Dewey, *Problems of Men* (New York: Philosophical Library, 1946), 111.

⁴ Quoted in David Armitage, *The Declaration of Independence: A Global History* (Cambridge, Mass.: Harvard University Press, 2007), 76–77.

⁵ Wallace Stevens, *The Necessary Angel: Essays on Reality and the Imagination* (New York: Knopf, 1951), 6.

⁶ John T. Flynn, *As We Go Marching* (New York: Doubleday, Doran, 1944), 240.

⁷ Donald Pease, “Rethinking ‘American Studies after U.S. Exceptionalism,’” *American Literary History* 21 (1) (2009): 19.

⁸ Quoted in Gary J. Dorrien, *Imperial Designs: Neoconservatism and the New Pax Americana* (New York: Routledge, 2004), 147.

⁹ Mary Antin, *The Promised Land* (New York: Penguin, 1997), 114.

¹⁰ See, for example, the work of Linda Thom in *The Social Contract*; Joel Kotkin, “The End of Upward Mobility?” *Newsweek*, January 17, 2009; and Philip Kasinitz, “Becoming American, Becoming Minority, Getting Ahead: The Role of Racial and Ethnic Status in the Upward Mobility of the Children of Immigrants,” *The ANNALS of the Academy of Political and Social Science* 620 (1) (2008). These articles are easily accessible online.

¹¹ Versions of that statement are attributed to various people, including Gandhi and Churchill.

On Western Waters: Anglo-American Nonfictional Narrative in the Nineteenth Century

Rolena Adorno

Abstract: Anglo-American westward expansion provided a major impulse to the development of the young United States' narrative tradition. Early U.S. writers also looked to the South, that is, to the Spanish New World and, in some cases, to Spain itself. Washington Irving's "A History of the Life and Voyages of Christopher Columbus" (1828), the first full-length biography of the admiral in English, inaugurated the trend, and Mark Twain's "Life on the Mississippi" (1883) transformed it by focusing on the life and lives of the Mississippi River Valley and using an approach informed by Miguel de Cervantes's "Don Quijote de la Mancha." From Irving's "discovery of America" to Twain's tribute to the disappearing era of steamboat travel and commerce on the Mississippi, the tales about "western waters," told via their authors' varied engagements with Spanish history and literature, constitute a seldom acknowledged dimension in Anglo-America's nonfictional narrative literary history.

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Anglo-American expansion into the West and far West of North America provided a major impulse to the development of the young United States' narrative tradition. Travel accounts figured prominently, and most, from Washington Irving's *A Tour on the Prairies* (1835), to Francis Parkman's *The Oregon Trail* (1847–1849), to Mark Twain's *Roughing It* (1872), looked westward. In fact, U.S. nonfictional literature was born on the lands and waters of western exploration. This phenomenon inspired the internationally renowned Argentine writer and bibliophile Jorge Luis Borges to remark in 1967, while holding the Charles Eliot Norton Professorship of Poetry at Harvard, that in the United States, even the American West seemed to have been invented in New England.¹

America's early writers looked not only to the West but also to the South, that is, to the Spanish New World and, in notable cases, to Spain. Washington Irving's *A History of the Life and Voyages of*

Christopher Columbus (1828), the first full-length biography of the admiral in English, inaugurated the trend, and Mark Twain's *Life on the Mississippi* (1883) transformed it with a critical but tolerant reflection on the life and lives of the Mississippi River Valley and an approach informed by Miguel de Cervantes's *Don Quijote de la Mancha*. While Washington Irving (1783–1859) focused on the earliest Spanish exploration and settlement of American lands, Mark Twain (1835–1910) strove to give the United States its own experience, honed in the heyday of steamboat travel and riverboat commerce on the Mississippi.

For Irving, *Columbus* provided the opportunity to pursue serious history-writing on a subject of national interest.² Irving's benefactor, diplomat and editor of the *North American Review* Alexander H. Everett, lauded Irving's patriotic fervor and his "pretension to be viewed as the valorous knight, who was called, in the order of destiny . . . to achieve the great and hitherto unaccomplished adventure of establishing a purely American literary reputation of the first order."³ Twain's close friend and editor of *The Atlantic Monthly*, William Dean Howells, was of the opinion that Twain considered *Life on the Mississippi* his greatest work. Howells remarked that as a reader Twain had always been drawn to books that "had the root of the human matter in it" and "gave him life at first-hand": namely, history, autobiography, and firsthand accounts of travel or captivity.⁴ Although it is hardly remembered and seldom read today, Irving's romantic *Columbus* enjoyed immense popularity throughout most of the nineteenth century and beyond.⁵ Twain, meanwhile, was giving the lie to the idea that any account of exploration or travel by foreigners could be considered "innocent."

The bridge (to use a river metaphor) that connects Washington Irving and Mark Twain is the romantic historian Francis

Parkman (1823–1893). Parkman did not participate in the contemporary vogue for studying things Spanish; however, like Irving and Hispanist historian William Hickling Prescott (1796–1859), he made enthusiastic references to knight errantry and "ocean chivalry." Twain admired Parkman for his astute firsthand accounts of the Oglala Sioux in *The Oregon Trail*,⁶ and he was a faithful reader of Parkman's *La Salle and the Discovery of the Great West* (1869, 1879), which was of signal importance in chronicling "western waters."⁷ Twain no doubt chose Parkman because the Bostonian evoked the unfathomable, dynamic Mississippi River with great respect, while British travelers to America often expressed contempt for it. One of them called this most formidable of waterways the "great common sewer of the Western America."

Accounts of Spanish exploration and conquest, compiled during the sixteenth to nineteenth centuries and translated into other European languages, were immensely popular in the late eighteenth and early nineteenth centuries. Irving fondly recalled reading them in his youth, citing late in life one of his early favorites, a multivolume compendium prologued by Samuel Johnson and entitled *The World Displayed; or A Curious Collection of Voyages and Travels, Selected from the Writers of All Nations, in Which the Conjectures and Interpolations of Several Vain Editors and Translators are Expunged*. Inspired by this tradition and by Spanish naval historian and director of Spain's Royal Academy of History Martín Fernández de Navarrete's path-breaking publication of the corpus of Columbus documents (1825–1837), Irving inaugurated the American trend of writing on Spanish New World exploration and settlement with his *Columbus*.⁸ Prescott became the most notable of the nineteenth-century Hispanists writing narrative history, and his works from the 1830s

through the 1850s built America's basic Spanish bookshelf: *The Reign of Ferdinand and Isabella* (1837), *The Conquest of Mexico* (1843), *The Conquest of Peru* (1847), and *The Reign of Philip II* (1855, 1858) would guide Americans' thinking about Spain and its New World conquests for more than a century.⁹ Other U.S. historians, principally Parkman, John Lothrop Motley, and George Bancroft, created monumental histories of the French, the Dutch, and the English in the Americas.¹⁰

Colonial times in British North America witnessed a widening interest in Spanish history and culture through the study of the Spanish language, the collection of Spanish materials for libraries, and the presentation of Spanish themes in the literary and historical arts. After U.S. independence, Thomas Jefferson promoted the study of the Spanish language, anticipating the development of trade with Latin America and encouraging linguistic mastery because "the ancient part of American history is written chiefly in Spanish."¹¹ America's early writers took up the challenge. The period from the 1820s to the 1860s was particularly productive for the growth of Anglo-American Hispanism; in addition to Irving's and Prescott's histories, the scholarship of George Ticknor, the poetry of William Cullen Bryant, and the fiction of Herman Melville stand out.¹² Miguel de Cervantes's *El ingenioso hidalgo Don Quijote de la Mancha* (1605, 1615) had been read since the eighteenth century, and references to the novel and its protagonists can be found among Anglo-American writers from Irving onward.¹³

Often hailed as America's "first man of letters," Washington Irving wrote in the era of Jacksonian democracy, westward expansion, European immigration, and Indian removal. The demise of the Spanish empire and the recent independence of Latin American republics provided the

United States ample room for maneuver as it pursued its own "manifest" national destiny.¹⁴ In that context, the figure of a solitary genius and entrepreneur carrying European civilization over new frontiers to uncharted lands resonated well with the aspirations of a young America. Irving's Columbus dramatized, in short, the model of the North American "self-made man" who could do good for others by doing well for himself.¹⁵

As Irving portrayed him, Columbus "singularly combined the practical and the poetical": like a nautical knight-errant, his discoveries "enlightened the ignorance of the age, guided conjecture to certainty, and dispelled the very darkness with which he had been obliged to struggle." This new Columbus possessed an "ardent and enthusiastic imagination which threw a magnificence over his whole course of thought." Quixotic but not mad, his imagination "instead of exhausting itself in idle flights, lent aid to his judgment, and enabled him to form conclusions at which common minds could never have arrived, nay, which they could not perceive when pointed out."¹⁶ Irving endowed the larger Columbus story with a satisfying teleology: the immediate triumph of Columbus, his subsequent defeat, and, posthumously, his (almost) imperishable renown.¹⁷ Irving highlighted Columbus's illusions about having arrived at the threshold of Asia and locating the terrestrial paradise, and he endowed his hero with a blithe unawareness of the potential historical and human consequences of his epoch-making actions.

Irving, as Prescott and others would do after him, thus turned the Spanish adventure in the New World into a remarkable Anglo-American story. Irving created a nineteenth-century Columbus on the verge of discovery and opportunity. He smoothly grafted the accounts by Hernando Colón (Columbus's son) and Spanish

missionary activist and historian Bartolomé de las Casas – his principal sources on Columbus – onto a North American conceptualization of New World Columbian history based on personal entrepreneurship, private enterprise, and the “spirit of commerce.” Irving referred to Columbus’s goal – “the design of seeking a western route to India” – as his “grand project of discovery.” Irving made frequent reference to the admiral’s “enterprise,” thus underscoring, in typical nineteenth-century language, the progressive economic goals he attributed to Columbus.¹⁸

Parkman’s depiction of French explorer René-Robert Cavelier, Sieur de La Salle, was cut from the same cloth:

[W]ith feet firm planted on the hard earth, [La Salle] breathes the self-relying energies of modern practical enterprise. Nevertheless, La Salle’s enemies called him a visionary. . . . La Salle at La Chine dreamed of a western passage to China, and nursed vague schemes of western discovery. Then, when his earlier journeying revealed to him the valley of the Ohio and the fertile plains of Illinois, his imagination took wing over the boundless prairies and forests drained by the great river of the West. His ambition had found its field. . . . It was for him to call into light the latent riches of the great West.¹⁹

Twain takes a different tack. While professing in *Life on the Mississippi* the progressive economic values that link him to Irving and Parkman, he achieves a narrative transformation that turns the foregoing travel-and-exploration models inside out.

As in the works of Irving and Parkman, in Twain’s *Life on the Mississippi* competence and mastery are navigational. Columbus and La Salle have been replaced by Mr. Horace Bixby, the master pilot under whom the young Sam Clemens apprenticed and whose extraordinary navigational art as a Mississippi River pilot

Mark Twain lauds. Replacing the long-gone European explorers, Bixby is the modern-day exemplar of nautical prowess in Twain’s America. Whereas grandiose imaginings inspired the navigational achievements of Irving’s Columbus and Parkman’s La Salle, Twain attributes Bixby’s mastery of skills to clearheaded observation and experience. A harbinger of neither great empires nor nineteenth-century adventurous enterprises, Bixby is instead a great teacher, whose prideful modesty is underpinned by his sober realization that each day on the treacherous Mississippi brings new challenges.

Rather than any personage, the Mississippi River itself emerges as the book’s central figure: larger than life, it is at once terrible, inscrutable, and sublime. As pilot/author Clemens/Twain metamorphoses it:

The face of the water, in time, became a wonderful book. . . . The passenger who could not read it was charmed with a peculiar sort of dimple on its surface (on the rare occasions when he did not overlook it altogether); but to the pilot that was an *italicized* passage . . . for it meant that a wreck or a rock was buried there that could tear the life out of the strongest vessel that ever floated.²⁰

Reading the river correctly was the apprentice (“cub”) pilot’s greatest high-stakes challenge.

The country Twain portrays in *Life* is no longer that of Washington Irving. Twain’s/Clemens’s homeland is a broken one, not yet recovered from the incurable wounds wrought by the Civil War, all too painfully in evidence two decades after the war’s conclusion, especially in the Lower Mississippi River Valley. Citing the particulars of all he finds noteworthy on the river during his five-week sojourn in 1882, Twain becomes the historian and chronicler of change. The temporal depth he

achieves owes to the fact that nearly the first quarter of the book was published serially in 1875 in *The Atlantic Monthly*. Titled “Old Times on the Mississippi,” the serialized narration re-created Clemens’s riverboat days of 1857 to 1861. There and in his *Autobiography*, Twain confesses that his earliest impulse for going down the Mississippi had been to get to South America and the Amazon River Basin, where he planned to make a fortune collecting and selling coca. With regard to this ill-considered youthful folly, Twain remarks: “I never was great in matters of detail” (*Life*, 68; see Figure 1).²¹ When soon afterward he became a cub pilot, the young Clemens learned from the Mississippi and Mr. Bixby the importance of “matters of detail.”

Twain’s citations of Parkman’s *La Salle* and recent nineteenth-century European tourists’ accounts of their visits to America underscore Twain’s deep love of the Mississippi River Valley, to which he assigns the Abraham Lincoln-inspired epigraph, “Body of the Nation.”²² How Twain handles Parkman’s historical works and foreign visitors’ travel narratives reveals the steps he takes to move beyond those earlier accounts. Twain exchanges Parkman’s early modern European explorers for a long series of nineteenth-century, mostly English, tourists who visited the Mississippi, Charles Dickens included.²³

Twain treats in detail the three-volume *A Diary in America, with Remarks on its Institutions* (1839) by the English naval officer and novelist Frederick Marryat, whose “great sewer” remark enlivens *Life*’s first chapter. Twain cites at length Marryat’s catalog of the monsters dwelling in and around the Mississippi: within its waters, “the coarsest and most uneatable of fish, such as the cat-fish”; on its banks, “the fetid alligator”; and in the cane-brakes at the river’s edge, the panther, “almost impervious to man.” Twain concedes that “as a panorama of the emotions sent wel-

tering through this noted visitor’s breast by the aspect and traditions of the ‘great common sewer,’” Marryat’s account has “a value, though marred in the matter of statistics by inaccuracies; for the catfish is a plenty good enough fish for anybody, and there are no panthers that are ‘impervious to man’” (*Life*, 200–201).

With certain delight, Twain cites a passage from Mrs. (Frances Milton) Trollope’s *Domestic Manners of the Americans* (1832) in which the author, the mother of English novelist Anthony Trollope, recounts her view of the entrance to the Mississippi, with “the mighty river pouring forth its muddy mass of waters, and mingling with the deep blue of the Mexican Gulf.” Having “never beheld a scene so utterly desolate,” she assures her readers that if Dante had seen it, he might have envisioned another Bolgia: that is, one of the stone trenches where sinners are punished in the eighth circle of hell. To trump Mrs. Trollope’s Dantesque vision, Twain calls on Parkman’s *La Salle*, whom he describes as a tourist, but the “old original first and gallantest” of all of them, and a “pioneer, head of the procession,” whose “name will last as long as the river itself shall last” (*Life*, 199, 201). (Twain has a way of making double-edged his most trenchant assessments.) A far cry from Parkman’s paean to *La Salle*, Twain’s homage, quoted directly from Parkman,²⁴ is paid not to the explorer but to the river, as it merges magnificently, not hellishly, into the waters of the Gulf:

And now they neared their journey’s end. . . . As [*La Salle*] drifted down the turbid current, between the low and marshy shores, the brackish water changed to brine, and the breeze grew fresh with the salt breath of the sea. Then the broad bosom of the great Gulf opened on his sight, tossing its restless billows, limitless, voiceless, lonely as when born of chaos, without a sail, without a sign of life. (*Life*, 202)



In 1882, while gathering materials for *Life on the Mississippi*, Mark Twain traveled from New Orleans to St. Louis on the *Baton Rouge*, captained by Horace Bixby. Mark Twain, *Life on the Mississippi* (Boston: James R. Osgood & Company, 1883), frontispiece; Beinecke Rare Book and Manuscript Library, Yale University.

It is for such solemn, lyrical renderings that Twain is Parkman's fond reader, and for the narration of the journeys of Marquette and Joliet as well as La Salle, Twain follows Parkman.²⁵

Twain also admires Parkman for his occasional ironies. Of a pro-English and Protestant outlook, Parkman targets French absolutism (calling Louis XIV the "Sultan of Versailles," for example) and mocks Roman Catholic and Jesuit authority.²⁶ Twain trades Parkman's gentle jibes for his own much sharper ones. When La Salle takes formal possession of the vast lands at the confluence of the Mississippi and Arkansas Rivers, Parkman imagines the

scene in which the local Indians "entertained the strangers who, on their part, responded with a solemnity *which their hosts would have liked less if they had understood it better.*" He quietly skewers the priest's and the commandant's attempts to establish French order: "La Salle, in the King's name, took formal possession of the country. The friar, not, he flatters himself, *without success*, labored to expound by signs the mysteries of the Faith; while La Salle, *by methods equally satisfactory*, drew from the chief an acknowledgment of fealty to Louis XIV."²⁷

Twain gleefully offers his own more pointed version of the scene:

Then, to the admiration of the savages, La Salle set up a cross with the arms of France on it, and took possession of the whole country for the king – the cool fashion of the time – while the priest *piously consecrated the robbery with a hymn*. The priest explained the mysteries of the faith “by signs,” for the saving of the savages; *thus compensating them with possible possessions in Heaven for the certain ones on earth which they had just been robbed of*. And also, by signs, La Salle drew from these simple children of the forest acknowledgments of fealty to Louis the Putrid, over the water. *Nobody smiled at these colossal ironies*. (*Life*, 48, emphasis added)²⁸

Fond of evoking the ceremony of taking formal possession of foreign territories, with its requisite raising of the Christian cross, Twain calls it La Salle’s “confiscating cross” – “the first confiscation-cross [that] was raised on the banks of the great river” (*Life*, 45, 48 – 49).

But what of the Spanish, whose echoes of formal possession-taking are so clearly audible in Twain’s wickedly humorous rendering of the French ceremony? In *La Salle*, Parkman dispenses with the first European sighting of the Mississippi by the Spanish expedition of Hernando de Soto (1539 – 1543) in a single paragraph.²⁹ Twain makes only a brief reference to De Soto, but he turns it into an opportunity to sum up the high (and low) points of early modern European political and cultural history. He catalogs sixteenth-century events, from the oppressive actions of absolutist monarchs (Charles V’s “manufacturing history after his own peculiar fashion,” for example) to the appearance – in some cases, anticipation – of great artistic and literary masterpieces by Michelangelo, Rabelais, Shakespeare, and Cervantes. Twain characterizes the era as one in which “lax court morals and the absurd chivalry business were in full

feather” and when “religion was in a peculiarly blooming condition: the Council of Trent was being called; the Spanish Inquisition was roasting, and racking, and burning, with a free hand,” while “elsewhere on the continent the nations were being persuaded to holy living by the sword and fire” (*Life*, 41 – 42). Twain expands the Black Legend of Spanish history, that is, the disparagement of Spain’s Inquisition and overseas conquests by other European powers, by painting those other nations in the same dark colors.

Twain thus makes De Soto’s unheralded discovery of the Mississippi the focal point from which to consider the events that made the early modern West what it was, the legacy of which lived on in the 1880s in the American West and South. In doing so, Twain reveals the seriousness of his concern for history and change. “Mere figures,” he contends, “convey to our minds no just idea, no distinct realization, of the stretch of time which they represent.” To offer perspective on the time elapsed between De Soto’s discovery of the Mississippi in 1542 and the arrival of Marquette and Joliet in 1673, Twain compares it to the life span of Shakespeare (1564 – 1616): that is, while De Soto’s sighting occurred nearly a quarter-century before the Bard’s birth, French explorers did not arrive until well beyond fifty years after his death. “In our day,” Twain adds, reflecting on his own times, “we don’t allow a hundred and thirty years to elapse between glimpses of a marvel” (*Life*, 41, 43). The marvel, of course, is the Mississippi.

In recalling Parkman’s account of the recognition of the Mississippi by De Soto, Marquette and Joliet, and La Salle at the mouth of the Arkansas River, Twain goes a step further and identifies these early explorers with the site of the nineteenth-century town of Napoleon, Arkansas.³⁰ Napoleon registers the layers of time that

Twain seeks to make real for the reader. He also makes the Mississippi his own, weaving together narrative events germane to his personal history. He describes “one of the Mississippi’s oddest peculiarities – that of shortening its length from time to time”: that is, the river creates “cut-offs,” where the water cuts through the alluvial banks of the “deep horseshoe curves” of the winding river and straightens its course. Since his piloting years, Twain remarks, the river produced several new cut-offs. One such dramatic and disorienting event occurred at Napoleon, Arkansas (*Life*, 145 – 146).

If there is a modest, latent teleology in *Life on the Mississippi*, it is to be found in the events that unfold at Napoleon, ending with the town’s apocalyptic disappearance into the waters of the Mississippi. Twain forewarns the reader about this possibility in Chapter 2, when, referring to De Soto, Marquette and Joliet, and La Salle, he remarks:

Three out of the four memorable events connected with the discovery and exploration of the mighty river occurred, by accident, in one and the same place. . . . France stole that vast country on that spot, the future Napoleon; and by and by Napoleon himself was to give the country back again! – make restitution, not to the owners, but to their white American heirs. (*Life*, 48)

Beyond alluding to the 1803 Louisiana Purchase, Twain confides that Napoleon is the site where, in 1858, he learned of the recent explosion of the steamboat *Pennsylvania* that shortly afterward would take the life of his younger brother, Henry Clemens (*Life*, 48, 161 – 165).³¹

In the narrative time of Twain’s 1882 trip, Napoleon also becomes the anticipated site of a buried fortune that he will endeavor to retrieve and forward to the rightful party, in fulfillment of the death wish of an acquaintance made, he says, in

Munich, Bavaria, the previous November (*Life*, 233 – 243). But Twain (and his readers) then discover that Napoleon, Arkansas, heavy with history – both epoch-making and personal – has been wiped off the face of the earth:

The Arkansas River burst through it, tore it all to rags, and emptied it into the Mississippi! . . . Yes, it was an astonishing thing to see the Mississippi rolling between unpeopled shores and straight over the spot where I used to see a good big self-complacent town twenty years ago. Town that was county-seat of a great and important county; town with a big United States marine hospital . . . town where we were handed the first printed news of the *Pennsylvania*’s mournful disaster a quarter of a century ago; a town no more – swallowed up, vanished, gone to feed the fishes; nothing left but a fragment of a shanty and a crumbling brick chimney! (*Life*, 247)

Stating plainly that the town has “gone to feed the fishes,” Twain registers loss without sentimentality. Further, as Twain writes in the successive chapter, three months after this revelation he learned from the New York newspapers that the steamer *Gold Dust*, which had recently carried him and his party past the site of the former Napoleon to Vicksburg, Mississippi (also later diverted from the riverbank by a cut-off), had blown up: “Forty-seven persons were scalded and seventeen are missing” (*Life*, 274). The accident signifies, in Twain’s account, the virtual end of the steamboat era, which, in its own right, is chronicled in Twain’s references to the U.S. Civil War, the development of railroad commerce, and the related factors that at the time spelled doom to commercial and passenger riverboat travel.

Where does Twain’s well-known critique of the “sham civilization” of the South fit into the “Spanish” picture? He characterizes the South as the place where

“the genuine wholesome civilization of the nineteenth century is curiously confused and commingled with the Walter Scott Middle-Age sham civilization” (*Life*, 327). Attributing to the North American South a predilection for Scott’s imagined age of chivalry, Twain looks back in time to the Spanish South. He makes note of De Soto’s impractical underestimation of the value and usefulness of the Mississippi. “One would expect,” Twain remarks, that after De Soto’s death and burial in the Mississippi, his priests and soldiers would have conjured up extravagant reports about it, “*multiplying the river’s dimensions by ten – the Spanish custom of the day* – and thus move other adventurers to go at once and explore it” (*Life*, 42 – 43, emphasis added). But it did not happen.

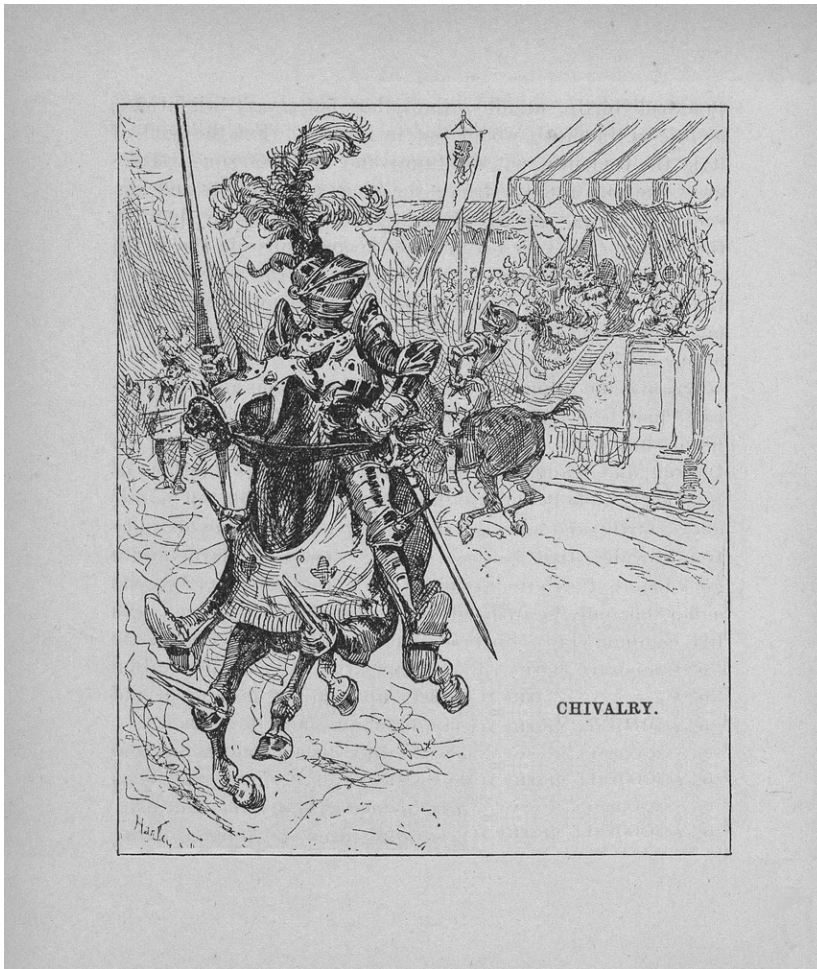
“Further south,” Twain continues, the Spanish pursued their chimerical searches for other Mexicos and Cuzcos and never-found El Dorados, all the while “robbing, slaughtering, enslaving, and converting” the native inhabitants. All this occurred, Twain points out, when the “absurd chivalry business” was in full swing (*Life*, 42 – 43). Here, Twain echoes Prescott’s characterization of the sixteenth century: “The period which we are reviewing was still the age of chivalry. . . . The Spaniard, with his nice point of honor, high romance, and proud, vainglorious vaunt, was the true representative of that age.”³² For his part, Twain expands the arena of the Prescottian “age of chivalry” to include the early modern monarchs Francis I and Henry VIII as well as Charles V.

Twain does not categorically condemn the North American South. After all, Clemens was by birth, inclination, and acknowledgment a Southerner, or a Southwesterner, whose father had owned slaves and who himself had “served” for two weeks in 1861 in the Hannibal Home Guard of Confederate leanings.³³ Howells calls him “the most desouthernized Southern-

er I ever knew,” and he does so by equating the South with the support of slavery, which Twain abhorred. In fact, Twain’s “sham civilization” target is not the South as such, but rather the pernicious effects of a certain kind of literature, historical as well as fictional. He attacks the romantic novels that at the time, he argues, were reinforcing the South’s illusions: “But for the Sir Walter disease, the character of the Southerner – or Southron, according to Sir Walter’s starchier way of phrasing it – would be wholly modern, in place of *modern and medieval mixed*, and the South would be fully a generation further advanced than it is” (*Life*, 327 – 328, emphasis added; see Figure 2).

Twain’s *Life on the Mississippi* complements and transforms, terminating – in theory if not in practice – the era of Anglo-American nonfictional narrative inaugurated by Washington Irving. Irving had found in historical novelist Sir Walter Scott the confirmation of his ideals in writing; like Scott, Irving loved “that extraordinary society of the middle ages . . . fashioned into a chivalric world that never had an actual being.”³⁴ Irving was not alone; Prescott and Parkman were among those writers who admired Scott and his penchant for the grandiloquent portraiture of historical figures.³⁵ While eternally professing ideals of Anglo-American “progress,” these authors paradoxically thrilled to the sound of heralding trumpets and “inflated speech” (Twain’s expression) in their prose.

This was the American literary heritage that Twain rejected. In the 1880s, Irving’s *Columbus* was being anthologized and sold across the nation, and Prescott’s conquest histories of Mexico and Peru were enjoying the warmth of new readers’ ardor. Twain’s complaint was more than regional; the flaws of narrative prose produced in, by, and for the United States were not confined to the South:



A common motif used by nineteenth-century North American writers on Spain, chivalry is here depicted and decried in the first edition of *Life on the Mississippi*. Mark Twain, *Life on the Mississippi* (Boston: James R. Osgood and Company, 1883), 468; Beinecke Rare Book and Manuscript Library, Yale University.

If one take[s] up a Northern or Southern literary periodical of forty or fifty years ago, he will find it filled with wordy, windy, flowery “eloquence,” romanticism, sentimentality – all imitated from Sir Walter, and sufficiently badly done, too – innocent travesties of his style and methods in fact. (*Life*, 328)

(A good example is provided by the overwrought language that Alexander Everett

used to describe Irving’s literary “pretension to be viewed as the valorous knight” in establishing an American literary reputation with his *Columbus*.) As Twain sweeps Northern writers of a half-century earlier into his critique, he has in mind Irving and Prescott and to some extent, Parkman, too. Even if, as Twain contends, “the North has thrown out that old inflated style,” these authors were still being read and admired.

So great was Scott's literary influence, Twain argues, that Sir Walter did "measureless harm; more real and lasting harm, perhaps, than any other individual that ever wrote" (*Life*, 327–328). Twain excoriates the "sham chivalry" at work in Scott's *Ivanhoe* by contrasting it with the salutary effects of Cervantes's *Don Quijote*:

A curious exemplification of the power of a single book for good or harm is shown in the effects wrought by *Don Quixote* and those wrought by *Ivanhoe*. The first swept the world's admiration for the medieval chivalry-silliness out of existence; and the other restored it. As far as our South is concerned, the good work done by Cervantes is pretty nearly a dead letter, so effectually has Scott's pernicious work undermined it. (*Life*, 329)

In acknowledging the power of Cervantes's *Don Quijote* to sweep "the medieval chivalry-silliness out of existence," Twain offers one of the ultimate nineteenth-century Anglo-American expressions of homage to Spanish literature. More broadly, he recognizes the power of Cervantes's thesis about the influence of books on readers. Following Prescott, Twain invokes the era of sixteenth-century overseas conquests as the "age of chivalry." But he makes the deliberate literary- and cultural-historical point that the world would have to wait for Cervantes's *Don Quijote* to terminate the "absurd chivalry business": "*Don Quixote* was not yet written" (*Life*, 41–42).

Literary critics have remarked on the parallels that Twain drew with Cervantes, taking into account, for example, similarities between the plots of *Don Quijote* and *The Adventures of Tom Sawyer* (1876) and *The Adventures of Huckleberry Finn* (1885), the Cervantine echoes in Tom and Huck's dialogues on books and reading, Twain's occasional imitation of an episode from

Don Quijote, and, in *A Connecticut Yankee in King Arthur's Court* (1889), his rollicking satire of chivalry and chivalric romance that was "clearly borrowed from Cervantes."³⁶ Regrettably, readers have not always recognized, as Twain did, Cervantes's deeply serious intentions and significance.

Often mistakenly identified as a Spanish picaresque novel, *Don Quijote's* episodic adventures lead – as Twain understood – beyond the lighthearted spoofing of a gentleman reader's obsessions and society's foibles to explore the inherently dialogic nature of human experience. Indeed, the larger-than-life figures of Don Quijote and Sancho Panza have walked off the pages of Cervantes's novel and perennially continue their wanderings along the highways and byways of Western culture. No Spanish *pícaro* in the literature of the time was endowed with the vitality and depth that Cervantes achieved through the creation of Don Quijote and Sancho and the remarkable conversations that have given them life and longevity.³⁷

For Twain, Cervantes was Western Europe's (and Spain's) unique literary cultural achievement, and by mentioning Cervantes in his Walter Scott critique in Chapter 46 of *Life on the Mississippi*, Twain takes the reader back to Chapter 1. There, Cervantes's masterpiece *Don Quijote* appears in the series of long-ago landmarks that "considerably mellows and modifies the shiny newness of our country, and gives her a most respectable outside-aspect of rustiness and antiquity" (*Life*, 42). The patina of antiquity and the shabbiness of rust usher out complacency and self-satisfaction as quickly as they were welcomed in. Unlike Irving, Prescott, and Parkman, Twain recoils from the habit of national self-congratulation.

Cervantes had done the same before him. Twain admired not only the Span-

iard's brilliantly wrought duo of literary protagonists but also their creator, whose clarity of vision about human failings did not prevent him from taking a critical but deeply expansive approach to Spanish society and history. Twain, like Cervantes, took the long view of his times and the world, seeing the greed, brutality, and intolerance of his age in light of all others. Twain discovered in Cervantes a kindred spirit, a guide for the expression of a sensibility that Twain, in his own time and under different circumstances, shared: a clear-eyed criticism of human weaknesses that, if not pardonable, could be understood.

Twain expressed his vision through the kind of humor that, lacking sentimentality, produces irony. Howells understood this well, observing that Twain's humor "trusts and hopes and laughs; beyond that it doubts and fears, but it does not cry."³⁸ Howells identified this brand of humor as Western, that is, as pertaining to the Western United States, but I attribute it to Twain's serious reading of Cervantes and his understanding of Cervantes's quest – and *Don Quijote's* role – in literary and cultural history. He makes his respect for Cervantes explicit when, calling out Walter Scott for the "exemplification of the power of a single book for good or harm," he lauds, as its opposite, the "good work done by Cervantes."

Full of humor and irony – the palliative humor that staves off despair and the reflection-provoking irony that cushions all falls – *Life on the Mississippi* displays a way of life and its aftermath that are singularly Anglo-American. Tied by time to U.S. history and bound by geography to North American soil (including the Mississippi's mud that, if solidified annually, Twain tells us, "would make a mass a mile square and two hundred and forty-one feet high" [*Life*, 40]), Twain's *Life* is an

American book, and in it, his much-heralded contribution to the development of Anglo-American narrative is substantial.³⁹ Nevertheless, the Irvings, Prescotts, and Parkmans are his essential predecessors, even contemporaries and springboards, thanks to their appropriation of Spanish historical and literary themes. Still, the penetrating appreciation and assimilation of Cervantes's remarkable sensibilities belong to Twain alone.

As U.S. authors retold the early modern stories of European, especially Spanish, exploration and conquest in the New World, they summoned and rejected the values (chivalric chimeras) they attributed to the Old World, besting them with America's progressive liberal solutions: Irving's Christopher Columbus became the North American self-made man, and Prescott's Pedro de la Gasca – the royally appointed peacemaker in a conquistador-torn Peru – was likened to George Washington. Parkman imagined La Salle as a model of entrepreneurial initiative who would "call into light the latent riches of the great West."

Enter Mark Twain. He tells, for the most part, the nation's own story. If the American West had been, in Borges's view, an invention of New England, the Mississippi River Valley, in Twain's hands, was not. The river's role in the destruction of the town of Napoleon, the river boat called *Gold Dust*, and the life of Clemens's young brother Henry, cut short before his twentieth birthday, was painfully real. Samuel Clemens was quintessentially American, but Mark Twain – because of his irony – was never an American essentialist. He gave a transformative twist to the U.S. narrative tradition of exploration and travel writing. Its most notable nineteenth-century "Spanish accents" are Irving's inaugural *Columbus* and Twain's clear-eyed appreciation of Cervantes's outlook and genius, inte-

grated into a critical but tolerant reflection on the life and lives of the Mississippi River Valley – the “Body of the Nation.” From Irving’s “discovery of America” to Twain’s tribute to the disappearing era of steamboat travel and commerce on the

Mississippi, the tales about “western waters,” told via their authors’ varied engagements with Spanish literature and history, constitute a major dimension in Anglo-America’s nonfictional narrative literary history.

ENDNOTES

- ¹ Jorge Luis Borges, “An Autobiographical Essay,” in *The Aleph and Other Stories, 1933 – 1969*, ed. and trans. Norman Thomas di Giovanni (New York: E.P. Dutton, 1970), 255.
- ² Washington Irving, *A History of the Life and Voyages of Christopher Columbus: Together with the Voyages of his Companions*, 3 vols. (1828, 1831; London: John Murray, 1849), vol. 1, vii.
- ³ Alexander H. Everett, “Irving’s *Life of Columbus*,” *North American Review* 28 (January 1829): 110.
- ⁴ William Dean Howells, *My Mark Twain* (1910; repr., Mineola, N.Y.: Dover, 1997), 15, 20.
- ⁵ Irving’s *Columbus* appeared in 116 editions and reprints in the eight decades following its 1828 publication. See John Harmon McElroy’s introduction to *The Life and Voyages of Christopher Columbus*, in *The Complete Works of Washington Irving*, vol. 11, ed. John Harmon McElroy (Boston: Twayne, 1981), xvii – xviii.
- ⁶ Gary Scharnhorst, ed., *Mark Twain: The Complete Interviews* (Tuscaloosa: University of Alabama Press, 2006), 519; Francis Parkman, *The Oregon Trail* (1847 – 1849; Boston: Little, Brown, 1880), vii, 198, 202, 220.
- ⁷ “Western waters” is Theodore Roosevelt’s phrase; see Theodore Roosevelt, “The Men of the Western Waters, 1798 – 1802,” in *The Winning of the West*, 4 vols. (New York: G.P. Putnam’s Sons, 1889). Roosevelt dedicated the work to Parkman, “to whom Americans who feel a pride in the pioneer history of their country are so greatly indebted.”
- ⁸ I offer a fuller examination of Irving’s *Columbus* in “Washington Irving’s Romantic Hispanism and Its Columbian Legacies,” in *Spain in America: The Origins of Hispanism in the United States*, ed. Richard L. Kagan (Urbana: University of Illinois Press, 2002), 49 – 105.
- ⁹ See Richard L. Kagan, “Prescott’s Paradigm: American Historical Scholarship and the Decline of Spain,” in *Imagined Histories: American Historians Interpret the Past*, ed. Anthony Molho and Gordon S. Wood (Princeton, N.J.: Princeton University Press, 1998), 324 – 348.
- ¹⁰ See David Levin, *History as Romantic Art: Bancroft, Prescott, Motley, and Parkman* (1959; repr., New York: AMS Press, 1967).
- ¹¹ Julian P. Boyd, ed., *The Papers of Thomas Jefferson: Volume 11: 1 January to 6 August 1787* (Princeton, N.J.: Princeton University Press, 1955), 558; “Report of the Commissioners Appointed to Fix the Site of the University of Virginia, 4 August 1818,” in *Early History of the University of Virginia*, ed. Nathaniel Francis Cabell (Richmond, Va.: J.W. Randolph, 1856), 440.
- ¹² Stanley T. Williams, *The Spanish Background of American Literature*, 2 vols. (New Haven, Conn.: Yale University Press, 1955), vol. 1, 28 – 32, 44 – 47, 224 – 227; vol. 2, 273 – 275.
- ¹³ Stanley T. Williams, *The Life of Washington Irving*, 2 vols. (New York: Oxford University Press, 1935), vol. 1, 114, 178, 298; Williams, *The Spanish Background of American Literature*, vol. 1, 35 – 36, 45. Two of the most frequently reprinted English translations of *Don Quixote* in Twain’s time were those of Charles Jarvis (1742) and Tobias Smollett (1755); Sydney J. Krause, *Mark Twain as Critic* (Baltimore, Md.: Johns Hopkins University Press, 1967), 118 n.7.
- ¹⁴ See Frederick Merk, *Manifest Destiny and Mission in American History* (1963; Cambridge, Mass.: Harvard University Press, 1995), chaps. 1 – 4. The 1995 edition includes a new foreword by John Mack Faragher.

- ¹⁵ Irving's *Columbus* anticipates the expression "self-made man," made famous in Henry Clay's U.S. Senate speech in February 1832. For the concept, see John G. Cawelti, *Apostles of the Self-Made Man* (Chicago: University of Chicago Press, 1965), 43–46.
- ¹⁶ Irving, *Columbus*, vol. 2, 484–485, 491–492.
- ¹⁷ Since the 1970s the figure of Columbus has undergone the most dramatic reworking of any major historical figure portrayed in U.S. textbooks; see Sam Dillon, "Schools Growing Harsher in Scrutiny of Columbus," *The New York Times*, October 12, 1992.
- ¹⁸ See Peter Antelyes, *Tales of Adventurous Enterprise: Washington Irving and the Poetics of Westward Expansion* (New York: Columbia University Press, 1990).
- ¹⁹ Francis Parkman, *La Salle and the Discovery of the Great West* (1869, 1879; Boston: Little, Brown, 1922), 83–84; *La Salle and the Discovery of the Great West* is Part 3 of Parkman's multi-volume *France and England in North America* (1865–1892).
- ²⁰ Mark Twain, *Life on the Mississippi*, ed. James M. Cox (1883; New York: Viking Penguin, 1984), 94. Subsequent citations are noted parenthetically within the text.
- ²¹ Mark Twain, *Autobiography of Mark Twain*, vol. 1, ed. Harriet Elinor Smith et al. (Berkeley and Los Angeles: University of California Press, 2010), vol. 1, 461. Clemens met the pilot Horace Bixby on his first trip down the Mississippi in 1857, and Bixby captained the *Baton Rouge* on Twain's final sojourn on the river in 1882.
- ²² Twain quotes from the *Harper's New Monthly Magazine* (February 1863) Editor's Table, which was based on Lincoln's Annual Message to Congress in December 1862 and "its theme of national unity for which the Mississippi Valley had begun to serve as a central symbol"; Horst H. Kruse, *Mark Twain and "Life on the Mississippi"* (Amherst: University of Massachusetts Press, 1981), 123.
- ²³ Twain cites Dickens's *American Notes* (1842) twice, once to dispute Dickens's earlier damning portrait of Cairo, Illinois, by remarking that, thanks to Cairo's current heavy railroad and river trade, "her situation at the junction of the two great rivers [Arkansas and Mississippi] is so advantageous that she cannot well help prospering" (*Life*, 190). Regarding Dickens's scoffing dismissal of the common appreciation of Mississippi steamboats as "magnificent," or as "floating palaces," Twain points out that such judgments are always based on the individual's particular experiences and points of reference, and he asserts that, for those reasons, "The people were as right as was Mr. Dickens" (*Life*, 275).
- ²⁴ See Parkman, *La Salle*, 306.
- ²⁵ In Chapter 2 of *Life*, "The River and its Explorers," Twain paraphrases and quotes passages from Chapter 5, "1672–1675, The Discovery of the Mississippi," and Chapter 20, "1681–1682, Success of La Salle," of Parkman's *La Salle*.
- ²⁶ Parkman, *La Salle*, 308; Samuel Eliot Morrison's introduction to *The Parkman Reader*, ed. Samuel Eliot Morrison (Boston: Little, Brown, 1955), 20.
- ²⁷ Parkman, *La Salle*, 299–300; emphasis added.
- ²⁸ On savagery: In *Following the Equator*, Twain signals the white man's mistaken notion "that he is less savage than the other savages" and emphasizes that "[i]n many countries we have taken the savage's land from him, and made him our slave, and lashed him every day, and broken his pride, and made death his only friend, and overworked him till he dropped in his tracks"; Mark Twain, *Following the Equator & Anti-imperialist Essays* (New York: Oxford University Press, 1996), 212–213. See also Shelley Fisher Fishkin, "Mark Twain and Race," and Jim Zwick, "Mark Twain and Imperialism," both in *A Historical Guide to Mark Twain*, ed. Shelley Fisher Fishkin (New York: Oxford University Press, 2002).
- ²⁹ Parkman, *La Salle*, vol. 3, 3.
- ³⁰ See Michael D. Hammond, "Arkansas Atlantis: The Lost Town of Napoleon," *The Arizona State Quarterly* 65 (3) (2006): 201–223.

- 31 See also Twain, *Autobiography*, 274–276, in which he recalls that Henry’s tragic death was caused by a physician’s administration of a fatal dose of morphine and had been anticipated by a dream Clemens had.
- 32 William Hickling Prescott, *History of the Conquest of Mexico* (1843; New York: Random House, 1998), 715–716.
- 33 See Twain, *Autobiography*, 205, 527–528, 651.
- 34 Williams, *The Life of Washington Irving*, vol. 1, 160–161.
- 35 See Levin, *History as Romantic Art*, 11–12, 236 n.50–51.
- 36 See Olin Harris Moore, “Mark Twain and *Don Quixote*,” *PMLA* 37 (2) (1922): 324–346; and Krause, *Mark Twain as Critic*, 118 n.7.
- 37 At the age of twenty-five, Clemens considered Oliver Goldsmith and Cervantes’s *Don Quixote* his “beau ideals of fine writing”; Krause, *Mark Twain as Critic*, 118. See *Mark Twain’s Letters*, Volume 1, 1853–1866, ed. Edgar Marquess Branch et al. (Berkeley and Los Angeles: University of California Press, 1988), 117.
- 38 Howells, *My Mark Twain*, 170.
- 39 The noted Twain scholar Shelley Fisher Fishkin writes: “Americans may have constructed a new society in the eighteenth century, but they articulate what they had done in voices that were largely interchangeable with those of Englishmen until well into the nineteenth century. Mark Twain became the voice of the new land, the leading translator of what and who the ‘American’ was”; Fishkin, foreword to *Following the Equator* by Twain, xii. Twain’s singular achievement in *Life on the Mississippi* was to define what “America” itself was, wresting one of its major “marvels,” as Twain called the Mississippi, from its European detractors, surveying American society, and assessing the role that literary culture played in it.

The Accommodation of Protestant Christianity with the Enlightenment: An Old Drama Still Being Enacted

David A. Hollinger

Abstract: Throughout its history, the United States has been a major site for the accommodation of Protestant Christianity with the Enlightenment. This accommodation has been driven by two closely related but distinct processes: the demystification of religion's cognitive claims by scientific advances, exemplified by the Higher Criticism in Biblical scholarship and the Darwinian revolution in natural history; and the demographic diversification of society, placing Protestants in the increasingly intimate company of Americans who did not share a Protestant past and thus inspiring doubts about the validity of inherited ideas and practices for the entire human species. The accommodation of Protestant Christianity with the Enlightenment will continue to hold a place among American narratives as long as "diversity" and "science" remain respected values, and as long as the population includes a substantial number of Protestants. If you think that time has passed, look around you.

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In his "Letter from Birmingham Jail," Martin Luther King, Jr., invoked the Pilgrims landing at Plymouth Rock and Jefferson writing the Declaration of Independence. In that 1963 meditation on American national destiny, fashioned as a weapon in the black struggle for civil rights, King repeatedly mobilized the sanctions of both Protestant Christianity and the Enlightenment.¹ Like the great majority of Americans of his and every generation, King believed that these two massive inventories of ideals and practices work together well enough. But not everyone who has shared this basic conviction understands the relation between the two in quite the same terms. And there are others who have depicted the relation as one of deep tension, even hostility. Protestant Christianity, the Enlightenment, and a host of claims and counterclaims about how the two interact with one another are deeply constitutive of American history. We often speak about "the religious" and "the secular," or about "the

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heart” and “the head,” but American life as actually lived beneath these abstractions has been much more particular and demands scrutiny in its historical density.

The United States, whatever else it may have been in its entire history as a subject of narration, has been a major site for the engagement of Protestant Christianity with the Enlightenment. This engagement was – and continues to be – a world-historical event, or at least one of the defining experiences of the North Atlantic West and its global cultural extensions from the eighteenth century to the present. Still, the United States has been a uniquely conspicuous arena for this engagement in part because of the sheer demographic preponderance of Protestants, especially dissenting Protestants from Great Britain, during the formative years of the society and long thereafter. Relatively recent social transformations can easily blind contemporaries to how overwhelmingly Northern European Protestant in origin the educated and empowered classes of the United States have traditionally been. The upward mobility of Catholic and Jewish populations since World War II and the massive immigration following the Hart-Cellar Act of 1965 – producing millions of non-Protestant Americans from Asia, Latin America, and the former Soviet lands – have given the leadership of American society a novel look. To be sure, there have long been large numbers of non-Protestants in the population at large, but before 1960, if you held a major leadership position and had real opportunities to influence the direction of society, you most likely grew up in a white Protestant milieu. The example of King is a reminder, moreover, that the substantial population of African Americans has long been, and remains, largely Protestant.

In the United States, the engagement of Protestant Christianity with the Enlightenment most often took the form of

accommodation. The bulk of the men and women in control of American institutions – educational, political, and social – have sought to retain the cultural capital of the Reformation while diversifying their investments in a variety of opportunities and challenges, many of which came to them under the sign of the Enlightenment. The legacy of the Enlightenment in much of Europe, by contrast, played out in the rejection of, or indifference to, the Christianity to which the Enlightenment was largely a dialectical response, even while state churches remained fixtures of the established order. In the United States, too, there were people who rejected Protestant Christianity. But here the legacy of the Enlightenment most often appeared in the liberalization of doctrine and Biblical interpretation and in the denominational system’s functioning as an expanse of voluntary associations providing vital solidarities midway between the nation, on the one hand, and the family and local community, on the other.

The sharper church-state separation in the United States liberated religiously defined affiliations to serve as intermediate solidarities, a role such affiliations could less easily perform in settings where religious authority was associated with state power. Hence in addition to orthodox, evangelical Protestants who have been more suspicious of the critical spirit of the Enlightenment, American life has included a formidable population of “liberal” or “ecumenical” Protestants building and maintaining religiously defined communities even as they absorbed and participated in many aspects of modern civilization that more conservative Protestants held at a distance. As late as the mid-1960s, membership in the classic “mainstream liberal” denominations – Methodist, Presbyterian, Episcopalian,

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and so on – reached an all-time high. Because educated, middle-class Americans maintained Protestant affiliations well into the twentieth century, the Enlightenment was extensively engaged within, rather than merely beyond, the churches. Had the educated middle class moved farther from Protestantism, the cultural capital of the Reformation would not have been preserved and renewed to the degree that made it an object of struggle for so long.

The intensity of the Enlightenment-Protestant relationship in America resulted also from the discomforts created by the very church-state separation that encouraged the flourishing of religious affiliations. The United States is the only major nation in the world that still operates under an eighteenth-century constitution, one that, anomalously in the governance cultures of even that century, makes no mention of God. The U.S. federal government is a peculiarly Enlightenment-grounded entity, and for that reason has inspired many attempts to inject Christianity into it, or to insist that God has been there, unacknowledged, all along.²

The role of liberal religion in American history is too often missed by observers who consider the consequences of the Enlightenment only outside religion and recognize religion only when found in its most obscurantist forms.³ The fundamentalists who rejected evolution and the historical study of the Bible and have lobbied for God to be written into the Constitution receive extensive attention in our textbooks, but the banner of Protestant Christianity has also been flown by defenders of Darwin and the Higher Criticism and by critics of the idea of a “Christian America.” Quarrels within American Protestantism revolve around the feeling among more orthodox, evangelical parties that mainstream liberals are actually

secularists in disguise, as well as the feeling among ecumenical parties that their evangelical co-religionists are sinking the true Christian faith with an albatross of anachronistic dogmas and alliances forged with reactionary political forces. These quarrels, shaped in part by the campaign for a “reasonable Christianity” waged by Unitarians early in the nineteenth century, continue to the present day, sharply distinguishing the United States from the historically Protestant countries of Europe. The Netherlands, the United Kingdom, and the Scandinavian nations have long been among the most de-Christianized in the world. The United States really is different. Accordingly, the copious literature on “secularization” often treats the United States as a special case.⁴

Never was the United States a more special case than it is today. Indeed, contemporary American conditions invite renewed attention to the historic accommodation of Protestant Christianity with the Enlightenment. An increasingly prominent feature of public life is the affirmation of religion in general and of Protestant Christianity in particular. Republican candidates for office especially have been loquacious in expressing their faith and firm in declaring its relevance to secular governance. Michelle Bachman, Mike Huckabee, Sarah Palin, Richard Perry, Mitt Romney, and Rick Santorum are among the most visible examples.⁵ Leaders of the Democratic Party, too, including President Barack Obama, have proclaimed their faith and have contributed to an atmosphere in which the constitutional principle of church-state separation is widely held to have been interpreted too strictly.

The Enlightenment-derived arguments of John Rawls and Jürgen Habermas, which maintain that debates over public policy should be confined to the sphere of “public reason,” are routinely criticized

as naive and doctrinaire. We are awash with confident denunciations of “the secularization thesis” (usually construed as the claim that the world becomes less religious as it becomes industrialized) and with earnest pleas to listen empathically to the testimonies – heavily Protestant in orientation – of religious yearning and experience now prevalent in popular culture. The writings of “the New Atheists” revive the rationalist-naturalist critiques of religion that had largely gone into remission during the decades when religion was widely understood to have been privatized and hence less in need of refutation by skeptics. Affirmations of a secular orientation less strident than those of the New Atheists provoke extensive attention, moreover, because debates about the nation and its future are so much more religion-saturated that at any time since the 1950s. In a country that has now elected a president from a member of a notoriously stigmatized ethnoracial group, atheism remains more anathema than blackness: almost half of all voters are still comfortable telling pollsters that they would never support an atheist for president. Observers disagree whether American piety has religious depth or is a largely symbolic structure controlled by worldly interests; either way, religious formations are indisputably part of the life of the United States today.⁶

In this contemporary setting, it is all the more important to understand how the accommodation of Protestant Christianity with the Enlightenment has taken place and how the dynamics of this accommodation continue to affect the public culture of the United States. Two processes have driven the accommodation, growing increasingly interconnected over time. One is *cognitive demystification*, or the critical assessment of truth claims in light of scientific knowledge. In this classic

dynamic of “science and religion” discourse, the specific content of religious belief is reformulated to take account of what geologists, biologists, physicists, astronomers, historians, and other naturalistically grounded communities persuade religious leaders is true about the world. Normally, the religious doctrines rejected in this process are said to have been inessential to begin with. They are cast aside as mere projections of historically particular aspects of past cultures, which can be replaced by formulations that reflect the true essentials of the faith and vindicate yet again the compatibility of faith with knowledge. Sometimes, however, cognitive demystification pushes people toward nonbelief.

The second process, *demographic diversification*, involves intimate contact with people of different backgrounds who display contrasting opinions and assumptions and thereby stimulate doubt that the ways of one’s own tribe are indeed authorized by divine authority and viable, if not imperative, for other tribes, too. The dynamic here is also classical: cosmopolitanism – a great Enlightenment ideal – challenging provincial faiths. Wider experiences, either through foreign travel or, more often, through contact with immigrants, change the context for deciding what is good and true. Living in proximity to people who do not take Protestant Christianity for granted could be unsettling. Here again, the standard response is to liberalize, to treat inherited doctrines as sufficiently flexible to enable one to abide by them while coexisting “pluralistically,” or even cooperating, with people who do not accept those doctrines. Sometimes, however, awareness of the range of human possibilities results in abandoning the faith of the natal community altogether.

Philosopher Charles Peirce understood how easily the two processes can be linked. In “The Fixation of Belief,” Peirce

argued that all efforts to stabilize belief will ultimately fail unless you adopt beliefs that can withstand exposure to the world at large. When you encounter other people who hold very different opinions than your own, and who can present striking evidence to support those opinions, it is harder to be sure that you are right. Your own experience and that of those around you may yield a particular set of certainties, but if another group of people moves into the neighborhood and obliges you to confront their foreign experience and the truth claims apparently vindicated by that experience, your old certainties become less so. Can you keep the rest of the world away from your own tribe? Perhaps, but it is not easy. Peirce made this argument in 1877, while defending the superiority of science in the specific context of the Darwinian controversy. He understood science to entail the taking of all relevant evidence into account, wherever it came from, and truth to be what all the world's inquirers could agree on if all their testimonies could be assimilated. He perceived modernity as an experience of difference in which hiding out with one's own kind was not likely to work. In this way, he integrated the Enlightenment's cosmopolitanism with its critical spirit.⁷

Hence demographic diversification and cognitive demystification can have their own force, but also reinforce one another; and they can even overlap. When Westerners brought modern medicine into locales where it was new, indigenous belief systems were put under stress by the Westerners and their novel and often highly effective means of interpreting and treating disease. When the 1893 Chicago World Parliament of Religions made Americans aware of the sophistication of many non-Christian religions and of the ways in which myths assumed to be peculiarly Christian had ready analogues in

other faiths, confidence in the uniqueness and supreme value of Christianity required a bit more energy to maintain.⁸ When Jewish intellectuals in the middle decades of the twentieth century advanced secular perspectives in a variety of academic disciplines and other arenas of culture, a common Protestant culture was more difficult to sustain. Cognitive demystification can proceed within a tribe, but commerce with neighboring tribes can diminish the predictable resistance to it.

Cognitive demystification operated most aggressively in the nineteenth century, especially in relation to the Darwinian revolution in natural history. Virtually all Americans who gave any thought to the relation of science to religion prior to the Darwinian controversy believed that reason and revelation, rightly understood, reinforced one another. Bacon and Luther, it had often been said in the years just before Darwin, were twins in the advancement of modern life. In the context of this deeply entrenched understanding of the symbiotic nature of the Protestant Reformation and the Scientific Revolution, the religious implications of natural selection were debated in the United States with more intensity, and for a longer period of time, than in the other countries of the North Atlantic West. Although some discussants concluded, then or much later, that Darwinian science was fatal to Christianity, the overwhelming majority of American commentators were "reconcilers." The copious discourse of the late nineteenth century sought mainly to establish that science and religion were not in conflict after all, no matter what the freethinking philosophers of Europe asserted. Even Andrew Dickson White, author of the monumental 1896 work, *A History of the Warfare of Science with Theology in Christendom*, insisted that

the only warfare attendant upon the advance of science was caused by the mistaken efforts of theologians to go beyond their proper sphere. Christianity itself, allowed the stolid Episcopalian president of Cornell University, was just as sound as ever. The persistence of strong creationist constituencies right down to the present shows that the greatest single instance of cognitive demystification remains contested in the United States. At the other extreme, the fact that biologists are the most atheistic of all American groups today reminds us that the Darwinian revolution has helped lead many people outside the faith. But the larger truth is that accommodation with evolution rather than rejection of it or of Christianity has been the rule for Americans who are born into Protestant communities.⁹

Many other examples of the process of accommodation in the face of cognitive demystification could be cited, including the adjustments compelled by the historical study of the Bible. But because this process and its prominent examples are well known, I will simply flag it with this supremely important instance and move on to the less-extensively discussed second process, demographic diversification, which emerged most strikingly in the twentieth century.

Demographic diversification began with some highly pertinent agents of change functioning at a geographical distance. The sympathetic study of foreign cultures by anthropologists promoted the “cultural relativism” associated above all with Margaret Mead and Ruth Benedict. This movement explicitly and relentlessly questioned the certainties of the home culture by juxtaposing them with often romanticized images of distant communities of humans.¹⁰ Another factor was the gradual effect American Protestant missionaries had on the communities that

had sent them abroad. Returning home with positive readings of foreign peoples and with jarring suggestions for changes in American churches and the surrounding society, missionaries and their children, exemplified by the writer Pearl Buck, often were potent liberalizers. But the chief agent of change, which I focus on here, was immigration compounded by upward class mobility.

The prodigious increase of Catholic and Jewish immigration starting in the 1880s positioned Protestant Christianity even more firmly on the defensive. Certainly, Protestants well before the Civil War had felt sufficiently threatened by Catholic migration from Ireland, and to some extent from Germany, to discriminate systematically against Catholics and thereby keep “popish” corruptions from disrupting their religious confidence and their control of American institutions. Public schools in many parts of the country became more secular in order to neutralize the charge that these schools were de facto Protestant institutions (which to a large extent they had been, as Catholics correctly discerned).¹¹ But well into the twentieth century, two circumstances rendered the numerous Catholics more of a political problem for Anglo-Protestant hegemonists than a religious one for believers: the extensive system of Catholic schools kept the bulk of the Catholic population something of a thing apart in local communities, and the relatively weak class position of most Catholics until after World War II diminished the frequency with which their ideas circulated in the national media and academia. A few Protestants converted to Catholicism, but the vast majority of Protestants of all persuasions felt so superior to Catholics that the latter’s opinions and practices rarely called their own into question. Demographic diversification was held at a certain distance.

Yet only temporarily. The situation changed rapidly in the early 1960s with the election of John F. Kennedy as president and the dramatic liberalization of Catholic doctrine by Pope John XXIII's Vatican II Council. These developments turned Catholics into more serious interlocutors. Catholics became sufficiently intimate neighbors to compel the sympathetic attention that helped "provincialize" American Protestantism, pushing Protestant leaders to renounce the proprietary relationship to the American nation that had so long been a foundation for their own authority. To be sure, the most theologically and politically conservative elements within Protestantism continued to espouse the idea that the United States was a Protestant nation. But in the view of the mainstream leadership, as voiced by *The Christian Century*, Kennedy's inauguration marked "the end of Protestantism as a national religion" and the fuller acceptance of the secularity of a nation grounded in the Enlightenment.¹²

In the meantime, the much smaller population of immigrant Jews and their descendants presented a sharper challenge to Protestant epistemic and social confidence. Enthusiastically immersed in public schools and seeking full participation in American institutions of virtually all sorts, the highly literate and upwardly mobile Jewish population of the post-1880 migration was concentrated in the nation's cultural capital, New York City. Jews were harder to dismiss as bearers of ideas and practices at odds with the Protestant heritage. Their witness was so compelling that it eventually forced the development of the concept of "the Judeo-Christian tradition." But long before that phrase caught on in the 1950s, Jewish intellectuals had begun to converse with John Dewey, Oliver Wendell Holmes, Jr., Randolph Bourne, Hutchins Hapgood, and other products of American Protes-

tant culture who were already stretching its boundaries in secular directions (in the context of many episodes of cognitive demystification) and were eager to explore the diversity Jews embodied.

Unlike the Catholic population, moreover, many Jews were resoundingly secular in their orientation and carried not an alien religion but rather the most radically Enlightenment-generated strains of European thought, including Marxist and Freudian understandings of religion itself. Secular Jews were also leaders in the exploration of modernist movements in the arts that contested the more rationalist elements in the legacy of the Enlightenment while offering precious little support to the Protestant orthodoxy against which the Enlightenment was so largely defined. As non-Christians, the Jewish intellectuals were more foreign than the Catholics, yet, paradoxically, their high degree of secularism created a common foundation with liberalizing Protestants, many of whom continued to see Catholics as superstitious dupes of a medieval establishment in Rome. Especially in literature, the arts, and social criticism, Jewish intellectuals joined ecumenical Protestants and ex-Protestants in national leadership during the middle decades of the twentieth century. Two antiprovincial revolts, one against the constraints of traditional Jewish life and another against the constraints of traditional American Protestant life, reinforced each other and accelerated the cosmopolitan aspirations of both.¹³

The role of Jewish Americans in the process of demographic diversification increased when the barriers against their inclusion in academia collapsed after World War II. The teaching and public discussion of philosophy, literature, history, sociology, and political science had remained an Anglo-Protestant reserve long after resistance to Jews had dimin-

ished in medicine, law, engineering, and natural science. The leading secular academic humanists and social scientists of the prewar generation, exemplified by lapsed Congregationalist John Dewey, had been of Protestant origin. The post-war change was rapid and extensive. By the end of the 1960s, the Carnegie Foundation reported that self-identifying Jews, while constituting only about 3 percent of the national population, accounted for 36 percent of sociologists, 22 percent of historians, and 20 percent of philosophers at the seventeen most prestigious universities. Later in the twentieth century, the increase of female and black faculty brought a different sort of demographic diversification, one that discredited sexist and racist traditions rather than religious biases. But there was also another difference: the addition of women and African Americans to the humanities and social sciences was often justified by the need for the special perspectives they could bring to scholarship and teaching. This was decidedly not the case with Jews. No one declared that there was a need for “a Jewish perspective.” It was instead the epistemic universalism of the Enlightenment that defined intellectually the coming of Jews into American academia. Hence that episode stands as a peculiarly vivid case of the overlap between demographic diversification and cognitive demystification: the Jewish academics, like their counterparts in literature and the arts, were living examples of how life’s deepest challenges could be addressed beyond the frame provided by Protestant Christianity.¹⁴

All these developments presented a striking challenge to Americans with institutionalized responsibility for the preservation and critical revision of Protestantism during the second half of the twentieth century. One of the most por-

tentous phases of the entire multicentury accommodation of Protestant Christianity with the Enlightenment, broadly construed, was the crisis experienced by the old “Protestant Establishment” during and after the 1960s. The theologically and politically liberal leaders of the National Council of Churches and its most important denominational affiliates (the United Methodists, the United Church of Christ, the Northern Presbyterians, the Northern Baptists, the Episcopalians, the Disciples of Christ, and several Lutheran bodies) were caught in the ferocious cross fire of national controversies over all the classic issues of the period, especially civil rights, Vietnam, empire, feminism, abortion, and sexual orientation. As ecumenical Protestant leaders tried to mobilize their constituencies on the leftward side of these issues, they were simultaneously attacked by evangelicals for selling out religion to social activism and abandoned by many of their own youth for moving too slowly. Membership in the historically mainstream denominations declined rapidly in the late 1960s and 1970s while evangelicals, who maintained a strong public following, moved aggressively into national political leadership during the 1970s and 1980s.

This religious crisis revolved around a particular outlook the ecumenical leadership brought to the conflicts of that era. A cosmopolitan and rationalist perspective, it was inspired by the demographic diversification that liberal Protestants observed in their social environment and by the cognitive demystification of their cosmos that modern science had achieved. Self-consciously “modern,” this viewpoint included an increasingly generous opinion of foreign peoples and their inherited religions, a revulsion toward the persistence of anti-black racism in their own country, a recognition that the American nation was as much the possession of

non-Protestants as of Protestants, a positive response to secular psychology and sociology, and a growing receptivity to theologies that rejected or downplayed the role of supernatural power. The accommodations the ecumenical Protestant leadership made with secular liberalism generated countermeasures from fundamentalist, Pentecostal, and holiness Protestants. These conservatives, deeply resenting the authority exercised by the mainstream liberals partly as a result of the latter's generally strong class position, established a formidable array of counter-institutions. The National Association of Evangelicals was founded in 1942, Fuller Theological Seminary in 1947, and *Christianity Today* in 1956. In the 1960s, evangelicals were able to offer the public a credible, highly visible alternative to the style of Protestantism promoted by the National Council of Churches, the Union Theological Seminary, and *The Christian Century*. By 1965, when the liberal theologian Harvey Cox concluded his best-selling *The Secular City* with the injunction to stop talking about God and focus simply on "liberating the captives," evangelicals had provided religious cover for Protestants dubious about the captive-liberating, diversity-welcoming, supernaturalism-questioning projects of the ecumenists.¹⁵

In a fateful dialectic, enterprising, media-savvy evangelical leaders espoused a series of perspectives that remained popular with the white public during the turmoil of the 1960s and early 1970s, just as the ecumenical leadership more firmly renounced these views. The idea of a "Christian America" is a prominent example, though there were many more such cases. While the ecumenical leadership, deciding that its missionary project was culturally imperialist, diminished its size and turned from preaching to social services, evangelicals took up and pursued with a vengeance the traditional mission-

ary function of preaching the gospel. When the ecumenical leadership finally backed away from the traditional assumption that the heterosexual, nuclear, patriarchal family is God's will, evangelical leaders seized the idea, called it "family values," and ran with it to great success. Evangelicals remained largely aloof from the civil rights movement – often declaring racism to be an individual sin rather than a civic evil to be diminished by state power – while ecumenical leaders widened the gap between themselves and their rank-and-file church members by strongly supporting the activities of Martin Luther King, Jr., and numerous kindred initiatives, including the Freedom Summer operation launched in 1964 to register blacks to vote. The departure of civil rights issues from the agenda of American politics eliminated a barrier to the Religious Right's national credibility, facilitating their triumphs in the 1980s: evangelicals gained more power during the Reagan years by merely acquiescing to civil rights measures that many of them had opposed, treating them now as a *fait accompli*. Ecumenists engaged in extensive, probing discussions of the antisupernaturalist writings of the most radical of their theologians. The buzz in the seminaries, *Time* reported in 1965, was that "it is no longer possible to think about or believe in a transcendent God who acts in human history. . . . Christianity will have to survive, if at all, without him." Evangelicals stood fast for traditional understandings of the Bible and made it clear that God really was in charge of things. These certainties played well in the average church pew.¹⁶

The accommodating ecumenical Protestants, having absorbed much of modernity, found their social base diminishing while Protestantism was increasingly associated with people who had resisted these accommodations. Ecumenists' ap-

proval of contraception and a role for sex other than reproduction had a marked effect on birth rate differentials between the two Protestant parties: during the baby boom, Presbyterian women had an average of 1.6 children while evangelical women had an average of 2.4, a birth rate considerably higher than even for Catholic women during that era. Ecumenical leaders encouraged their youth to explore the wider world of which evangelical leaders counseled their own youth to be suspicious. They also accepted perspectives on women and the family that reduced their capacity to reproduce themselves at precisely the same time they took positions on empire, race, sex, abortion, and divinity that diminished their ability to recruit new members from the Seventh Day Adventist and Church of the Nazarene, ranks which in earlier generations provided many converts to the more respectable Methodist and Episcopalian faiths. Evangelicals, by contrast, had more children and kept them.

What happened to ecumenical Protestantism during the 1960s crisis and its aftermath can be instructively compared to what happened simultaneously to the Democratic Party in national politics. “We have lost the South for a generation,” President Lyndon Johnson is widely quoted as having said in 1964 when the Democratic Party aligned itself with the cause of civil rights for African Americans. The manner in which ecumenists risked their hold on American Protestantism is similar to the way the Democratic leadership imperiled its hold on the South, and with similar consequences. At issue in the control of American Protestantism was not only race – the crucial issue for the Democrats – but also imperialism, feminism, abortion, and sexuality, in addition to critical perspectives on supernaturalism. Ecumenical leaders were

not as aware as the president was of the risks they were taking, nor were they as blunt in the moments when the truth dawned on them. But they, like Johnson, believed that the time had come to re-direct the institutions and populations they were trying to lead, and they behaved accordingly. They encouraged secular alliances that blurred the boundaries of their faith community and risked the gradual loss of their children to post-Protestant persuasions. Just as Democrats lost most of the South to the Republican Party, so, too, did ecumenists yield more and more of the cultural capital of the Reformation to the evangelicals.

But Protestantism is not America. Neither is the South. The Democrats did well enough in the national arena by paying the price of turning the states of the Old Confederacy over to white Republicans. The ecumenists, even while they lost the leadership of Protestantism, advanced many of the goals of secular liberalism that they had embraced. The United States today, even with the prominence of politically conservative evangelical Protestants, looks much more like the country ecumenical leaders of the 1960s hoped it would become than the one their evangelical rivals sought to create. Sociologist N. J. Demerath III has put this point hyperbolically: the ecumenical Protestants scored a “cultural victory” while experiencing “organizational defeat.” They campaigned for “individualism, freedom, pluralism, tolerance, democracy, and intellectual inquiry,” Demerath observes – exactly the Enlightenment values that gained rather than lost ground in American public culture in the second half of the twentieth century.¹⁷ These values were not peculiar to ecumenical Protestants, but their emphatic espousal demonstrated an accommodation with secular liberalism, especially as instantiated in specific causes such as civil rights, feminism, and the

critical reassessment of inherited religious doctrine.

To treat the ecumenical Protestant saga of the last half-century as a culmination of the accommodation of Protestant Christianity with the Enlightenment, as I do here, invites several qualifications. It will not do to suppose that the evangelical Protestants, who in my telling of the story are primarily resisters to modernity, experienced neither transformations within their own ranks nor internal diversification. An excellent guide to disagreements within American evangelical Protestantism is historian Mark Noll's well-titled *The Scandal of the Evangelical Mind*, which characterizes the fundamentalist movement of the twentieth century as "an intellectual disaster." But I believe it is fair to say that many of the loudest voices in the evangelical conversation today, exemplified by Nancy Pearcey's *Total Truth: Liberating Christianity from Its Cultural Captivity*, make Noll look like no less impassioned a defender of the Enlightenment than Harvey Cox. It is all a matter of degree and emphasis.¹⁸

Neither will it do to imagine that every novelty prompted by cognitive demystification and demographic diversification amounts to a triumph of the Enlightenment narrowly construed as a set of naturalistic and rationalist dispositions. The Enlightenment as a presence in modern history certainly was just that; indeed, much of its legacy can be traced to the power of those dispositions to explain human experience and diminish suspicion of the alternatives to Protestant orthodoxy confronted in the process of demographic diversification. But the Enlightenment provided more than an outlook to accommodate increasing diversity. It functioned as an almost infinite series of stepping-stones to many ideas and practices that eighteenth-century intel-

lectuals never contemplated. The world that American Protestants and their progeny eventually made their own, in cooperation with Americans who had no Protestant past whatsoever, is a vast expanse encompassing dispersed elements of culture from throughout the globe. The Enlightenment was destined to be a great provider of stepping-stones for European-derived American Protestants because the Enlightenment was largely a product of European Christian self-scrutiny in the first place.

Finally, we are left with the mystery of where a given historical formation such as "ecumenical Protestantism" – or even "the Enlightenment" itself – is best considered an agent and where it is best considered a vehicle. The heavily Christian foundations of modern science and of the Enlightenment are now widely acknowledged. And the Christianity of Paul the Apostle was itself as much a collection of historical results as of causes. It is easy to say that Protestants who most fully accommodate secular liberalism have turned their institutions into vehicles for agencies outside Christianity, but the trajectories that flowed into ecumenical Protestantism and helped make it what it became were not, in themselves, autochthonous: those forces were complex results of earlier conditions, like strong winds that had picked up many diverse materials from the various territories through which they had blown.

The accommodation of Protestant Christianity with the Enlightenment will find a place among American narratives so long as there are Americans whose formation was significantly Protestant and who owe a large part of their understanding of human reason to the seventeenth- and eighteenth-century savants who inspired Benjamin Franklin and Thomas Jefferson. If you think that time is passing, look around you.

ENDNOTES

- ¹ Martin Luther King, Jr., “Letter from Birmingham Jail,” *The Christian Century*, June 12, 1963, 769 – 775.
- ² There were strong movements to this effect in the middle of the nineteenth century, and they continued episodically in the twentieth. In 1947 and again in 1954, the National Association of Evangelicals attempted to amend the Constitution to include the following passage, introduced into the U.S. Senate (where it died in committee) by Vermont Republican Senator Ralph Flanders: “This nation devoutly recognizes the authority and law of Jesus Christ, Savior and Ruler of nations, through whom we are bestowed the blessings of Almighty God”; see “The Congress: Hunting Time,” *Time*, May 24, 1954, 23.
- ³ The heavily religious character of the Enlightenment as it flourished even in late-eighteenth- and early-nineteenth-century America is emphasized in what remains after more than three decades the standard account of its topic: Henry F. May, *The Enlightenment in America* (New York: Oxford University Press, 1976). The range and vitality of liberal theological endeavors throughout the nineteenth and twentieth centuries have been documented and analyzed in the massive work of Gary Dorrien, *The Making of American Liberal Theology*, 3 vols. (Louisville, Ky.: Westminster John Knox Press, 2006).
- ⁴ Prominent examples from recent years include Steve Bruce, *God is Dead: Secularization in the West* (Malden, Mass.: Blackwell Publishers, 2002); Pippa Norris and Ronald Inglehart, eds., *Sacred and Secular: Religion and Politics Worldwide* (New York: Cambridge University Press, 2004); David Scott and Charles Hirschkind, eds., *Powers of the Secular Modern: Talal Asad and His Interlocutors* (Stanford, Calif.: Stanford University Press, 2006); and Callum G. Brown and Michael Snape, eds., *Secularisation in the Christian World: Essays in Honour of Hugh McLeod* (Surrey, U.K.: Ashgate, 2010).
- ⁵ For an unusually probing exploration of this feature of American politics, see Ryan Lizza, “Leap of Faith,” *The New Yorker*, August 15 and 22, 2011, 54 – 63.
- ⁶ Three excellent collections of original academic essays exploring these current engagements are Craig Calhoun, Mark Juergensmeyer, and Jonathan Van Antwerpen, eds., *Rethinking Secularism* (New York: Oxford University Press, 2011); George Levine, ed., *The Joy of Secularism: 11 Essays for How We Live Now* (Princeton, N.J.: Princeton University Press, 2011); and Ira Katznelson and Gareth Stedman Jones, eds., *Religion and the Political Imagination* (New York: Cambridge University Press, 2011). See also the most searching and comprehensive recent contribution to the sociology of religion in the United States: Robert Putnam and David Campbell, *American Grace: How Religion Divides and Unites Us* (New York: Simon & Schuster, 2010).
- ⁷ Charles Peirce, “The Fixation of Belief,” *Popular Science Monthly* 12 (November 1877): 1 – 15.
- ⁸ An influential study of this pivotal episode in demographic diversification at a geographic distance is Grant Wacker, “A Plural World: The Protestant Awakening to World Religions,” in *Between the Times: The Travail of the Protestant Establishment in America, 1900 – 1960*, ed. William Hutchison (New York: Cambridge University Press, 1989), 253 – 277.
- ⁹ Andrew Dickson White, *A History of the Warfare of Science with Theology in Christendom* (New York: D. Appleton, 1896). Among the many excellent studies of the religious aspects of the Darwinian controversy, two have been especially influential: James R. Moore, *The Post-Darwinian Controversies: A Study of the Protestant Struggle to Come to Terms with Darwin in Great Britain and America, 1870 – 1900* (New York: Cambridge University Press, 1979); and Jon H. Roberts, *Darwinism and the Divine in America: Protestant Intellectuals and Organic Evolution, 1859 – 1900* (Madison: University of Wisconsin Press, 1988). The standard work on the persistence of creationist ideas is Ronald L. Numbers, *The Creationists: From Scientific Creationism to Intelligent Design* (Cambridge, Mass.: Harvard University Press, 2006). For the religious views of biologists, see Benjamin Beit-Hallahmi, “Atheists: A Psychological Profile,” in *The Cambridge Companion to Atheism*, ed. Michael Martin (New York: Cambridge University Press, 2007), 312. Biologists challenging a literal reading of the Bible remain in difficulty even today in some

Protestant colleges; see, for example, http://m.insidehighered.com/layout/set/popup/news/2011/08/15/a_professor_s_departure_raises_questions_about_freedom_of_scholarship_at_calvin_college.

- ¹⁰ A recent, exhaustive treatment of this movement is found in John S. Gilkeson, *Anthropologists and the Rediscovery of America, 1886 – 1965* (New York: Cambridge University Press, 2010).
- ¹¹ Fresh light on the Protestant-Catholic relationship in the middle decades of the nineteenth century is cast by Jon Gjerde, *Catholicism and the Shaping of 19th Century America* (New York: Cambridge University Press, 2012).
- ¹² Martin Marty, “Protestantism Enters Third Phase,” *The Christian Century*, January 18, 1961, 72.
- ¹³ I have discussed the coming together of these two antiprovincial revolts in “Ethnic Diversity, Cosmopolitanism, and the Emergence of the American Liberal Intelligentsia,” *American Quarterly* 27 (1975): 133 – 151. A recent and highly original contribution to the study of these developments is Daniel Greene, *The Jewish Origins of Cultural Pluralism: The Menorah Association and American Diversity* (Bloomington: Indiana University Press, 2011).
- ¹⁴ For an extended treatment with attendant documentation of the developments summarized in this paragraph, see David A. Hollinger, *Science, Jews, and Secular Culture: Studies in Mid-Twentieth Century American Intellectual History* (Princeton, N.J.: Princeton University Press, 1996), esp. chap. 2, “Jewish Intellectuals and the De-Christianization of American Public Culture in the Twentieth Century.”
- ¹⁵ Harvey Cox, *The Secular City: Secularization and Urbanization in Theological Perspective* (New York: Macmillan, 1965), 268.
- ¹⁶ “Theology: The God is Dead Movement,” *Time*, October 22, 1965. For a fuller account with attendant documentation of the developments mentioned in this paragraph and those following, see David A. Hollinger, “After Cloven Tongues of Fire: Ecumenical Protestants and the Modern American Encounter with Diversity,” *Journal of American History* 98 (June 2011): 21 – 48.
- ¹⁷ N. J. Demerath III, “Cultural Victory and Organizational Defeat in the Paradoxical Decline of Liberal Protestantism,” *Journal for the Scientific Study of Religion* 34 (1995): 458 – 469, esp. 458 – 460.
- ¹⁸ Mark Noll, *The Scandal of the Evangelical Mind* (Grand Rapids, Mich.: W.B. Eerdmans, 1994); Nancy Pearcey, *Total Truth: Liberating Christianity from Its Cultural Captivity* (Wheaton, Ill.: Crossway Books, 2004).

Why Diamonds Really are a Girl's Best Friend: Another American Narrative

Linda K. Kerber

Abstract: The old law of domestic relations and the system known as coverture have shaped marriage practices in the United States and have limited women's membership in the constitutional community. This system of law predates the Revolution, but it lingers in U.S. legal tradition even today. After describing coverture and the old law of domestic relations, this essay considers how the received narrative of women's place in U.S. history often obscures the story of women's and men's efforts to overthrow this oppressive regime, and also the story of the continuing efforts of men and some women to stabilize and protect it. The essay also questions the paradoxes built into American law: for example, how do we reconcile the strictures of coverture with the founders' care in defining rights-holders as "persons" rather than "men"? Citing a number of court cases from the early days of the republic to the present, the essay describes the 1960s and 1970s shift in legal interpretation of women's rights and obligations. However, recent developments – in abortion laws, for example – invite inquiry as to how full the change is that we have accomplished. The history of coverture and the way it affects legal, political, and cultural practice today is another American narrative that needs to be better understood.

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In the usual telling, women enter the narrative of U.S. history when they are executed: for witchcraft in Salem, for complicity in Lincoln's assassination, for treason in 1953. They appear when they have been helpful to famous men: Pocahontas, Sacagawea, presidents' wives. The general outlines of the history of women's experience in the United States are easily caricatured and superficially summarized.

Many folks know that Abigail Adams told John Adams to "remember the ladies." Then there's a gap of some seventy years. Not until after the Seneca Falls Convention of 1848 and the drafting of the Declaration of Sentiments, claiming for women the right to vote, do we encounter other familiar names like Elizabeth Cady Stanton and Susan B. Anthony. Abolitionists Sojourner Truth and Harriet Tubman, as well as the enslaved women who claimed freedom during the Civil War and struggled to make it meaningful during Reconstruction, also figure prominently in the mid-nineteenth-century narra-

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tive. Perhaps some may know that this story includes the struggles that took place over including the word *male* in the Fourteenth Amendment (1868) and not including the word *sex* in the Fifteenth Amendment (1870). Some may have heard of the sex discrimination cases brought to the U.S. Supreme Court by Myra Bradwell and Virginia Minor in the early 1870s.

Another gap opens up between 1875 and the early twentieth century, interrupted only by awareness of Jane Addams and Florence Kelley, and Hull House, the great Chicago institution that they built. There are festivities in 1920, when the Nineteenth Amendment secured women's right to vote (although in vast areas of the country neither African American men nor women would be reasonably secure in their suffrage until passage of the Voting Rights Act of 1965). Then another fifty years lurch by, inhabited in popular consciousness by two women. One is Rosie the Riveter, who, most people do not realize, bitterly complained when she was forced out of industrial work after World War II.¹ The other is Eleanor Roosevelt, the great feminist who rarely called herself a feminist because the word had been so polluted in her time. It is unclear what most people know about her, except that she was not conventionally pretty and had a warm heart.² We then leap to the 1970s and the era of women's liberation and second-wave feminism, seemingly the result of Gloria Steinem's investigative reporting (while dressed as a Playboy bunny) and of Betty Friedan's book. Now boys take home economics and girls play soccer, and we can get on to other pressing matters.

Yet there is as much meaning and significance in the parts of this chronology that we skip over as in the parts we think we know. The inherited narrative largely ignores the deep structures of law that have defined, bounded, and often dictated the choices made by men and women,

even as they have believed that they were choosing freely. There is another, unfamiliar American narrative that needs to be better understood. It lurks in the interstices of our daily lives.

Laws that purport to protect women's interests, but that in reality limit their autonomy and membership in the constitutional community, have permeated the U.S. legal tradition. These laws had their origin in the British legal regime that antedated the American Revolution and continued long after it. Throughout U.S. history, from the era of the founding to the present, men and women have chipped away at elements of this tradition—sometimes vigorously and productively, other times ineffectively and with frustration. The women's movement of our own time is the latest configuration of this attack. Many men have had a deep interest in maintaining a regime from which they benefit; some women have been lucky enough not to have endured the regime's harshest constraints, and so treasured it as the world that they had always known.

Recent campaigns in support of same-sex marriage have drawn public attention to certain practices and understandings that are now considered archaic. Against the claim that the definition of marriage is fixed and unchanging, supporters of change have argued that marriage is and always has been an evolving institution, and that marriage retains its relevance to modern society not by stasis but by change. Interracial marriage was once marked as miscegenation. In many states, for many years, marriages between whites and people of other races and ethnicities were illegal, unrecognized for purposes of child custody, property rights, or inheritance.³ The U.S. Supreme Court did not rule such practices a denial of equal protection of the laws, and therefore uncon-

stitutional, until 1967, in the aptly named case *Loving v. Virginia*. (Mildred Loving died only a few years ago, in 2008.)

But a larger, more complex, and even more pervasive system of law has shaped marriage practices in the United States since long before the Revolution and continues deep into our own time. Abigail Adams had this system in mind when she issued her famous caution to her husband. He replied, “As to your extraordinary Code of Laws, I cannot but laugh. . . . Depend upon it, We know better than to repeal our Masculine systems.” John Adams knew that the law of domestic relations (what we now call family law) was masculine, but these codes are not well known nowadays, even by otherwise well-informed historians and lawyers. They were not written into the U.S. Constitution of 1787; unlike the fugitive slave clause or the three-fifths compromise, they were not publicly debated. (White men – plantation owners, merchants, theologians, Northerners, Southerners – were differently situated in relation to slavery, so they had real reason to debate it. But all free men, rich or poor, whatever their race, benefited from the structures of family law; they had no need to debate it.) As a result, we find the details of the old law of domestic relations embedded in old state statutes, outdated treatises, and judges’ reasoning in humdrum cases from state and local courts.

The old law of domestic relations began with the principle that at marriage the husband controlled the physical body of his wife. No provision for the punishment of marital rape existed in U.S. law until feminists put it there, beginning in the 1970s. Even then, it took decades before marital rape was classified as a crime in all fifty states and the District of Columbia. (In some states where rape is a felony, marital rape is not.) Abigail Adams had perfect pitch on this point: “Do not put such

unlimited power into the hands of the Husbands. Remember all Men would be tyrants if they could. . . . [P]ut it out of the power of the vicious and the Lawless to use us with cruelty and indignity with impunity.” That power provided a husband with “absolute title” to the personal property a wife brought to marriage as well as ownership of whatever she earned during it; he gained extensive authority over the real estate she brought to the marriage or inherited (perhaps from her father) once married. To let a married woman vote would have been to give two votes to her husband, who could easily coerce her into voting for his preferred choice. Wherever one looked, the husband’s right to the body, property, and loyalty of his wife was embedded in the law; it even trumped her loyalty to the state: if an American wife sided with her loyalist husband, she was not thought of as a traitor. This system was known as *coverture*, whereby wives were understood to be “covered” under the civil identity of their husbands in much the same way as children were subject to their parents.⁴

By giving fathers responsibility for children born within marriage (that’s why fathers in the early republic had custody of children in case of divorce, which was rare), but leaving to mothers the responsibility for children born outside marriage, the old law of domestic relations excused all fathers from serious responsibility for children born out of wedlock – a principle that was largely unquestioned in American law until the twentieth century.⁵ It also ensured that children born to a free father and an enslaved mother followed the condition of the mother into slavery, not only binding enslaved men and women to labor but also making them permanently vulnerable to the sexual appetites of their masters. Thomas Jefferson’s slave Sally Hemings inherited her slave status from her mother. By contrast, her father’s

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other daughter, Martha Wayles, became Jefferson's wife. The children Jefferson fathered with his own sister-in-law grew to adulthood in slavery.⁶

In return for submitting their bodies and property to their husbands, women were assured that, if widowed, they could expect an inheritance. If a man died without a will, the probate courts would ensure that his widow received her "thirds"; he could leave her more, but not less. The widow's dower right was grudging: it allowed her to *make use of* one-third of the real estate that her husband held at the time of his death. It was generally recognized that this could well be less than the property she had brought to the marriage. She usually could not sell it (or if woodland, could not cut down the trees to sell to support herself) and was required to pass it down, unscathed, to her husband's heirs. A widow was also usually entitled to claim outright one-third of the personal property her husband had owned, after debts were paid, and to claim outright her personal "paraphernalia" – her clothing and cooking pots – *suitable to her station, as judged by probate officers*.

And finally we get to diamonds. The jewelry a woman had been given was the last asset that the probate officers could touch, the last asset vulnerable to being seized as payment for her late husband's debts. The diamonds about which Carol Channing sings are a metonym for the jewelry of the old law; in the nineteenth and early twentieth centuries, valuable jewels came to carry an additional value when given as an engagement present. The jilted fiancée no longer needed to face the humiliation of soothing her aching heart with money awarded to her in a breach of promise lawsuit: she got to keep the diamonds.

The treatise on which many lawyers relied in the years before the Civil War was

written by Tapping Reeve, founder of the nation's first law school. Published in New England in 1816, and in wide circulation until the eve of the Civil War, the treatise bears a revealing title: *The Law of Baron and Femme, of Parent and Child, Guardian and Ward, Master and Servant*. Everyone knew that these relationships were not identical, but they also knew that they were, as historian Christopher Tomlins has put it, "relations of authorized power."⁷ Note that Reeve's title begins not with "Husband and Wife" but with the old "law French" for "Lord and Woman."

Thus paradoxes were built into American law from the outset. Lawmakers in the founding period were deeply radical, creatively devising practices in which free people would be bound only by authority that they themselves had freely chosen. When they described holders of rights, they used the term *persons* more often than they did *men*, or even *citizens*, establishing the great expansive tradition of American law and practice. That tradition has repeatedly been challenged in times of national stress and fear, but it has proved to be one of the most resilient aspects of American political life.

The founders did not spend much energy explicitly excluding women from political space. Citizens could be constructed however state legislatures wished to define them. When the state of New Jersey wrote its suffrage statutes in terms of property-holding persons, and when the outcome was that women voted, no one said that New Jersey was not permitted to do so. (When the women used their votes effectively enough to shift the outcome of an election, the men of the losing party became angry and persuaded the legislature to change the statute. But no one said that they had not had the power to write it in the first place.)⁸ Instead of basing representation in the lower house of Congress on free adult men or on "taxable polls"

(that is, male household heads) or electors, as many states did, the U.S. Constitution established a ratio of one representative for every thirty thousand free *people*. Equal ratios of representation for the free population were a step toward the rule of one person, one vote – though it took nearly two centuries to fully realize this ideal.

The generous new theory of representation, however, had a dark side. “You must remember . . . that you are one of my constituents,” Senator Samuel Latham Mitchell wrote to his wife in 1804. “I am in some degree responsible to you for my public conduct. [Women] are numbered in the census of inhabitants to make up the amount of population, and the Representatives are apportioned among the people according to their numbers, reckoning the females as well as the males. Though, therefore, women do not vote, they are nevertheless represented in the national government to their full amount.” Senator Mitchell did not acknowledge the irony of this form of representation in a nation that had justified a revolution partly over the issue of representation in British Parliament. Virtual representation for women made sense to Mitchell and many others because it was nested in a familiar understanding of society, one that authorized husbands to exercise expansive arbitrary power over their wives’ bodies and property. Many of the legal infirmities of coverture extended to single women, who, though lacking a husband, were still viewed as unfit for civic responsibility. If a single woman were raped, for example, she had the best chance in a lawsuit if it were brought by her father, who could sue for damages for the loss of his daughter’s labor and services.

Because a married woman lacked a civic identity distinct from her husband’s, she was barred from acting as an indepen-

dent legal agent. That meant, as Tapping Reeve put it in his treatise, that “the wife, by the marriage is entirely deprived of the use and disposal of her property, and can acquire none by her industry.” A married woman could not make a contract because she had no property of her own by which to guarantee her word. Even after states grudgingly authorized married women to own property as individuals, nothing followed easily by implication. New York’s first Married Women’s Property Act, in 1848, authorized a married woman to hold property that had been *given* to her, but separate statutes – and separate legislative battles – were required to give married women the power to contract (1849); to hold savings deposits (1850); to vote as stockholders in elections (1851); to sue and be sued (1851); to keep their earnings from work *outside* the home (1860). For many decades after the Married Women’s Property Acts gave nineteenth-century women control over their earnings outside the home they often had no claim to work performed at home, whether that be laboring on the family farm or taking in boarders.⁹

Coverture gave husbands property rights in their wives’ “services,” and state legislatures were reluctant to erase these rights. These services included the right to “consortium” – understood as not only house-keeping but also love, affection, companionship, and sexual relations. If a married woman was injured by the negligence of another person, her husband could sue for damages, which included a monetary estimate of his loss of consortium; if he was injured, she had no claim for the loss of his companionship and sexual relations. This imbalance between the sexes in marriage was rarely tested, but when it was, as in the event of major accidents, the impact was severe. Not until the early 1950s were married women successful in making such a claim – in Washington, D.C., in 1950; in

Iowa in 1951 – yet it took until the 1990s for all states to recognize the claim.

A married woman could demand no role in deciding where her family would live; as a law from the Oklahoma Territory put it in 1893: “The husband is the head of the family. He may choose any reasonable place or mode of living and the wife must conform thereto.” That law was not repealed until 1988, and only then after six years of vigorous debate, initiated when two state legislators married and Twyla Mason faced the official transfer of her place of residence and therefore the loss of her seat. Few of the many women who hesitated to claim advanced professional training before the 1970s knew explicitly of these laws, but it was common wisdom that an overly educated wife, who might not want to move her professional practice when her husband’s job was moved, meant marital trouble. Far better for women to be trained in fields that easily allowed for relocation: a nurse could always find a hospital, a librarian a library.

A married woman could not have a nationality independent of her husband’s. That is, a foreign woman who married an American man was “deemed a citizen” at marriage, but an American woman who married a foreign man lost her U.S. citizenship – marriage to a foreign man deemed “as voluntary and distinctive as expatriation,” according to the U.S. Supreme Court during World War I.¹⁰ Once the United States entered the war, hundreds of U.S. women who had married German men were forced to register as enemy aliens. (Decisions of the U.S. Supreme Court are among the easiest historical data to find, yet this 1915 decision – and its serious impact on both lived experience and democratic theory – remains unfamiliar to all but specialists.)

Although men long served on juries whether or not they were entitled to vote, women were generally barred from juries.

Even after women claimed the right to vote, most states required new statutes specifying that the term *elector* encompassed women. After suffrage, special legislation was needed in many states to authorize women to hold office; in the state of Iowa, for example, even though women began to vote in 1920, no woman served in the legislature until 1929. Bitter struggles between men (who had the votes and the authority to make change) and women (who needed, despite their absence of voting leverage, to persuade men to make changes that were unlikely to benefit them, at least in the short run) have permeated politics and culture throughout U.S. history, but only episodically have they made their way into the narrative we have inherited.

Our textbooks often use the phrase “the era of the common man” to describe Andrew Jackson’s presidency. In 1828, the year of his election, a Massachusetts wife complained that even though her husband was living in adultery, his creditors understood themselves to be entitled to the money that *she* earned. She did not think that she should have to pay his debts, but she lost her case.¹¹ A wife whose husband was in jail did not think that he should be entitled to her money, but she, too, lost.¹² A few years before, the New York Supreme Court of Judicature comfortably observed that “no man of wisdom and reflection can doubt the propriety of the rule, which gives to the husband the control and custody of the wife.” The court never thought to ask any *woman* of wisdom and reflection about her feelings on “the propriety of the rule.”

For more than a century after the passage of the first Married Women’s Property Acts, most people continued to *think* as the rules of coverture had taught them; some perhaps even took pride (as lawyers and philosophers are trained to do) in the

complexity of adjusting old rules to new situations. A generation ago, the historian and philosopher of science Thomas Kuhn taught us how rare paradigm shifts are, and how long it can take for the evidence that undergirds one paradigm to be recognized as inadequate. “The human mind gets creased into ways of thinking,” as one observer has put it.¹³

The disempowered are not dummies. They find ways to work within the interstices of an oppressive system. When benevolent women organized societies to sustain the desperately impoverished in the years after the Revolution, they shielded their work from interfering husbands. The largest of these groups, as historian Anne Boylan has found, took care to apply for articles of incorporation, which enabled them “to sue and be sued, [to] construct and manage institutions such as orphanages,” to hold thousands of dollars in their own name, and to invest their financial resources. They ensured that their treasurers were unmarried women. When a group of men offered to act as trustees for the Boston Female Society, the women refused to trust them: “[We] could not have any legal control . . . nor prevent them transferring the property of the Society.”¹⁴

Nor did all women submit reliably to the rules of coverture. For at least forty years, fresh generations of women historians have been retrieving their narratives – from diaries and letters, manifestos and newspapers. We can sneak into the courtrooms where they displayed their restiveness, sometimes in their own depositions, sometimes in the paraphrases of judges ruling against them. From the thousands of complaints by plaintiffs who must have known they were unlikely to win, we open up a fresh narrative of men and women arguing about power and authority. We find a contentious world in which the interests of men and women diverged far more than we have generally acknowl-

edged. Slowly, painfully, and with many reversals, the common sense of one era became the harsh injustice of another. And women, most of whose names are unfamiliar to us today, were the driving force behind this change, putting their reputations and their resources on the line, insisting that familiar practices simply weren’t fair.

In Worcester, Massachusetts, one Mr. Bradford abandoned his wife. She applied to the city for support as a pauper; the city refused. Since common law regarded husband and wife as a single person, the wife’s legal residence was determined by where her husband lived. When Mr. Bradford left Worcester, Mrs. Bradford lost her claim on that city’s charity. To be entitled to public support, she would need to find him and apply to the town where he now lived. This was standard practice in the eighteenth century, but Mrs. Bradford made her complaint in 1904. Only after losing in two lower courts and carrying her appeal to the Supreme Judicial Court of Massachusetts did Mrs. Bradford succeed in having the old practice overturned as a “harsh injustice.” The city of Worcester was instructed to recognize Mrs. Bradford’s residency.¹⁵

Because husband and wife were one, it followed that they could not sue each other, a situation known as “interspousal tort immunity.” Thus, a husband could not be convicted of larceny for theft of his wife’s property; to do so, explained one New York judge (presumably with a straight face), would be to sow “the seeds of perpetual discord and broil.”

Interspousal tort immunity also meant that married women could not claim civil damages for assault and battery by their husbands or for which their husbands were at fault. Consider this example: In 1944, a wife was injured when the automobile her husband was driving, “due to [his] gross negligence,” ran into a tree.

She filed a claim against him (in effect against his insurance company); because the policy was on his behalf, she was taken to be suing him. In 1948, the Massachusetts court found for the insurance company: "That no cause of action arises in favor of either husband or wife for a tort committed by the other during coverture is too well settled to require citation of authority. Recovery is denied in such a case not merely because of the disability of one spouse to sue the other during coverture, but for the more fundamental reason that because of the marital relationship no cause of action ever came into existence."¹⁶ Not until 1976, when Blanche Lewis sued her husband (via his insurance company), would a Massachusetts appellate court reconsider the common law rule of interspousal tort immunity: "We believe this result is consistent with the general principle that if there is tortious injury there should be recovery." But the court was careful to limit its holding to motor vehicle accidents: "Conduct, tortious between two strangers, may not be tortious between spouses because of the mutual concessions implied in the marital relationship."¹⁷

The regime of coverture had long been justified as protective. "By marriage, the husband and wife are one person in law," the English jurist William Blackstone wrote in a treatise published as the American Revolution began. He continued: "[T]he very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband: under whose wing, protection, and *cover*, she performs every thing."¹⁸ Well into the twentieth century, it remained the conventional wisdom of legislatures and courts that women are too weak to act autonomously; that they need protection from the perils of public life; that women's need for pro-

tection justifies limitations on their control of their own bodies and their own lives; and that women's obligations as wives and mothers trump both their desire for autonomy and their obligations as citizens.

Just as Elizabeth Cady Stanton, Susan B. Anthony, and their many colleagues, allies, and political descendants were finding their voices, defenders of the status quo became ever more shrill. These attacks insisted on women's need for protection and emphasized women's weakness and vulnerability. The most paradoxical are the many judgments, like the one mentioned above, that refused women's suits against violent husbands because to do so would violate "the peace of the household." Anti-suffragist campaigns regularly claimed that women are too vulnerable to their husbands' coercion, and are so emotional and irrational that they need protection from civic responsibility (and the civic world needs protection from them). Not all the attacks came from men; here is Dr. Anna Moon Randolph of the Virginia Women's Constitutional League: "Some women are easily influenced by those they think have superior knowledge, instead of doing their own thinking. . . . It is an old, old story that women are used as dupes and tools for destructive work from the days of Sampson's [*sic*] Delilah." However, most of the insistence that women are incompetent came from men, including some very distinguished ones, such as the statesman Elihu Root, recipient of the 1912 Nobel Peace Prize and Secretary of State under President Theodore Roosevelt. Addressing the New York State Constitutional Convention in opposition to woman suffrage, Root said: "Put woman into the arena of [political] conflict and she . . . takes into her hands . . . weapons with which she is unfamiliar and which she is unable to wield. She becomes hard, harsh, unlovable, repulsive."¹⁹

Yet the “protections” for women were generally themselves coercive, exposing women to many grave harms. Women defendants were judged by juries on which no woman ever had a chance of serving; when, in 1961, Chief Justice Earl Warren asked just what were the “infirmities” that made it reasonable for the state of Florida to place barriers between women and responsibility for jury service, the state’s assistant attorney general blurted out, “I just meant they have to cook the dinners!”²⁰

Women rich and poor, white and black, were barred from pursuing many remunerative crafts and professions. Elizabeth Cady Stanton pointed out that discrimination in 1848: “He closes against her all the avenues to wealth and distinction which he considers most honorable to himself.” In 1873, Justice Joseph Bradley spoke for the majority in the U.S. Supreme Court decision that denied Myra Bradwell the right to practice law: “It cannot be affirmed . . . that it is one of the privileges and immunities of women as citizens to engage in any and every profession, occupation or employment in civil life.” Severe quotas for access to schools of law, engineering, and medicine were common until quashed in 1972 by Title IX of the Educational Amendments (but only when enforced by the Department of Education, whose record on this has been erratic).

Long after they had the right to vote, women faced skepticism of their ability to make responsible decisions. Even after women could run for the state legislature, the state of Oklahoma barred women from holding statewide office until 1942. After 1920, the history of most state legislatures reveals extended periods of time during which no women served; today, it is the rare legislature that is comprised of at least 20 percent women. Vestiges of coverture persist in many state law codes,

among them the old “doctrine of necessities,” which required a husband to pay debts incurred by his wife for items essential to her sustenance, but does not give wives a reciprocal obligation.²¹ The remarkable number of new barriers for women seeking abortions has recently led a *New York Times* reporter to conclude that women’s ability to exercise the right recognized in *Roe v. Wade* (1973) and *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992) is “seriously imperiled.” According to the legislators who backed these new restrictions, women would come to regret their decisions and therefore must be protected from making them. Mandatory pre-abortion sonogram laws, for example, require physicians to describe the fetus in detail; a woman’s only recourse is to shut her eyes. (She cannot, of course, shut her ears.) These sorts of new statutes fail to trust the decision-making capacity of a woman in consultation with her physician.²²

The 1960s and 1970s are distinctive for a shift in the way the law treats women’s rights and obligations. Pressed by increasing public impatience with the ascriptive dependence of adult women and with laws that disempowered women, legislatures and courts began to acknowledge that laws embodying gendered stereotypes harm not only women, but also men and society as a whole.²³ Indeed, they recognized that it is possible (something not imagined in the coverture regime) for men to be dependent on women, and therefore that it could be in men’s interest for women to be independent civic actors.

Air Force Captain Sharron Frontiero had to press her argument all the way to the U.S. Supreme Court before she was authorized to draw a dependent’s allowance for her husband in 1973. In a landmark decision, Justice William Brennan wrote in support of Frontiero: “Our nation has

had a long and unfortunate history of sex discrimination . . . rationalized by an attitude of 'romantic paternalism,' which, in practical effect, put women, not on a pedestal but in a cage." In a now classic series of opinions issued in the 1970s, the U.S. Supreme Court established the principle that laws based on gender stereotypes about the way men and women behave are unfair and unconstitutional. Ruth Bader Ginsburg dazzlingly argued these cases as an attorney for the Women's Rights Project of the ACLU. Even when stereotypes about women's or men's behavior might accurately predict what a majority of people will do, those individuals whose behavior does not conform to the stereotype ought not to be penalized. In 1975, Ginsburg argued *Weinberger v. Wiesenfeld*, leading the Supreme Court to agree unanimously that a Social Security law providing benefits to widows with small children, but not to similarly situated widowers, was based on the stereotype that imagined only bereft mothers, not bereft fathers.

Laws that were once viewed as protective of women are now viewed as discriminating against them. It often startles people to learn that the Supreme Court did not regard discrimination on the basis of sex as a denial of the equal protection guarantee of the Fourteenth Amendment until 1971, and then only very narrowly, in a case involving a teenager's cornet and a bank account worth \$200. Other decisions followed in legislatures and in state and federal courts, reshaping the rules by which men and women make life choices. It is no longer a reasonable defense against a charge of rape to claim that the victim dressed or acted provocatively (although criminal charges of rape remain notoriously hard to prosecute successfully; the old suspicion of women's word remains). Discrimination on the basis of pregnancy, sexual harassment on

the job, and exclusion from jobs on the basis that they are too harsh or dangerous: any of these actions can count as a denial of equal protection.

It is now unreasonable to claim that women do not possess fully equal legal status, or that they lack the competence to make responsible choices. Nevertheless, while the legacy of coverture has been generally repudiated, it has not been eradicated. Distrust of women's claims to autonomy, cultural beliefs about the primacy of women's domestic obligations, and opinions about women's need to be protected from certain situations all reveal the lingering effects of coverture. As recently as the year 2000, dozens of state attorneys general called for passage of a new Violence Against Women Act, arguing that long-established laws against assault and battery have proven ineffective to protect women against assault. And then there is the redefinition of abortion, as discussed above; a belief that women are incapable of making responsible decisions about abortion suffices the new statutes limiting access to it.

An antique story about how the world works, a story grounded in English legal practice and continued in the great narrative that Americans have told ourselves about how we came to be what we are, continues to lurk in American law and practice. In that story, a husband could not kill his wife – that would be murder – but the only other guarantee she had was that he could not thrust her out naked into the world; she had her paraphernalia: her petticoats and her cooking pots. And the last thing he could take from her in order to pay his debts was her jewels, the diamonds that she could keep as her best friend. Those diamonds still gleam, but few among us know quite why.

- ¹ More than thirty-five years ago, Sheila Tobias and Lisa Anderson established that Rosie was highly unhappy with her postwar fate; see Sheila Tobias and Lisa Anderson, "What Really Happened to Rosie the Riveter? Demobilization and the Female Labor Force, 1944–47," Module 9 (MSS Modular Publications, 1974), 1–36. See also Connie Field's classic documentary film, *The Life and Times of Rosie the Riveter* (1987).
- ² For an exploration of aspects of Eleanor Roosevelt's life and work that may be unfamiliar to most readers, see Blanche Wiesen Cook, *Eleanor Roosevelt*, vol. 2, *The Defining Years, 1933–1938* (New York: Viking, 1999).
- ³ See Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2009).
- ⁴ I have explored the implications of this system in *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York: Hill and Wang, 1998), chap. 1.
- ⁵ See *Miller v. Albright*, 523 U.S. 420 (1998), esp. the dissent from Justice Ruth Bader Ginsburg, and *Tuan Anh Nguyen v. INS*, 533 U.S. 53 (2001), esp. the dissent from Justice Sandra Day O'Connor. See also Kristin Collins, "When Fathers' Rights Are Mothers' Duties: The Failure of Equal Protection in *Miller v. Albright*," *Yale Law Journal* 109 (2000): 1669; and Kristin Collins and Linda K. Kerber, "Sex and Citizenship at the Court, Again," *Dissent* magazine online, July 20, 2011.
- ⁶ See Annette Gordon-Reed, *The Hemingses of Monticello: An American Family* (New York: W.W. Norton, 2008).
- ⁷ Christopher L. Tomlins, "Subordination, Authority, Law: Subjects in Labor History," *International Labor and Working-Class History* 47 (Spring 1995): 56–90.
- ⁸ The most detailed treatment of this topic remains Judith Apter Klinghoffer and Lois Elkis, "'The Petticoat Electors': Women's Suffrage in New Jersey, 1776–1807," *Journal of the Early Republic* 12 (1992): 159–193.
- ⁹ See Reva Siegel, "Home as Work: The First Women's Rights Claims Concerning Wives' Household Labor, 1850–1880," *Yale Law Journal* 103 (1994): 1073–1217.
- ¹⁰ *Mackenzie v. Hare*, 239 U.S. 299 (1915).
- ¹¹ *Russell v. Brooks*, Mass. (7 Pick.) 65 (1828); cited in *Goodridge et al. v. Department of Public Health of Massachusetts*, Amici Curiae Brief of Professors of the History of Marriage, Families and the Law, 2003 [hereafter referred to as MA brief], 13.
- ¹² *Casey v. Wiggan*, 74 Mass. (8 Gray) 231 (1857); cited in MA brief, 13.
- ¹³ See Thomas S. Kuhn, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 1962).
- ¹⁴ Anne M. Boylan, "Women and Politics in the Era before Seneca Falls," *Journal of the Early Republic* 10 (Autumn 1990): 364–366.
- ¹⁵ *Bradford v. Worcester*, 184 Mass. 557 (1904); cited in MA brief, 14.
- ¹⁶ *Callow v. Thomas*, 322 Mass. 550 (1948).
- ¹⁷ *Lewis v. Lewis*, 370 Mass. 619, 622 (1976).
- ¹⁸ Sir William Blackstone, *Commentaries on the Laws of England: In Four Books* (1770; Washington, D.C.: 1941), vol. 1, chap. 15, 443.
- ¹⁹ Quoted in Reva Siegel, "She the People: The Nineteenth Amendment, Sex Equality, Federalism, and the Family," *Harvard Law Review* 115 (2002): 978 n.81.
- ²⁰ Transcript of oral argument in *Hoyt v. Florida*, 368 U.S. 57 (1961).
- ²¹ *Account Specialists v. Jackman et al.*, 970 P.2d 202 (1998) [Oklahoma].

- Why
Diamonds
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- ²² Dorothy Samuels, "The Landscape: Where Abortion Rights are Disappearing," *The New York Times*, September 25, 2011.
- ²³ Equal Pay Act (Pub. L. 88-38) (EPA), as amended, 29 United States Code, at sec. 206(d); Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, 42 United States Code, beginning at sec. 2000(e); *Reed v. Reed*, 404 U.S. 71 (1971); *Frontiero v. Richardson*, 411 U.S. 677 (1973); *Weinberger v. Wiesenfeld*, 420 U.S. 636 (1975); *Craig v. Boren*, 429 U.S. 190 (1976).

Exceptionalism's Exceptions: The Changing American Narrative

David Levering Lewis

Abstract: Seven years after 9/11, the American way of life was again shaken to its foundation by the Great Recession of 2008. The logic of an unregulated market economy produced its predetermined result. The American middle class, the historic protagonist of the American narrative, became an endangered species. Against a bleak backdrop of indebtedness, unemployment, and rapid decline in traditional jobs and in the affordability of the essentials of health and education stands the stark wealth of the top 1 percent of Americans. With the vital center no longer holding and consensus fraying, 53 percent of the electorate wagered in 2008 that it could deny race by affirming its non-importance and thereby audaciously re-invigorate the exceptionalist narrative. The choice before us, however, is still much the same as that posited by W.E.B. Du Bois when he described two antithetical versions of the American narrative: one was based on "freedom, intelligence and power for all men; the other was industry for private profit directed by an autocracy determined at any price to amass wealth and power."

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When Ronald Reagan bade farewell from the Oval Office on January 11, 1989, the fortieth American president catechized his people with scriptural imagery of a shining City Upon a Hill, "God-blessed, and teeming with people of all kinds and living in harmony," that resonated positively with all but the most culturally and politically disaffected.¹ For reasons that have had as much to do with America's twentieth-century wealth and power as with the intrinsic uniqueness of its national experience, America's leadership presumptions were largely conceded by the rest of the world until the catastrophe of 9/11 and rarely questioned by Americans themselves before the closing years of the last century.

Twenty-two years after the Reagan presidency ended only months before the Berlin Wall crumbled, the disaffected have been joined by a growing number of Americans sobered by how suddenly the prospect of a *Pax Americana* has vanished. Dismayed by the steady immiseration of the vaunted middle class, the billions squandered on two decades of op-

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tional military adventures, and the competition from new economic powerhouses in Asia and South America, they find unmistakable signs that our exceptionalist presumptions, distilled less than two generations ago into a conceptual concentrate called *American exceptionalism*, require a twenty-first-century reset. The truth seems to be that the “redeemer nation” needs redemption and that the 350-year-old narrative of special nationhood will sustain itself only if revised to parse honestly its own history and myths, and assimilate dissonant domestic and global realities emerging from the shadows cast by the declining brilliance of its triumphal worldview.²

To be sure, before the term *American exceptionalism* emerged, a myriad of ideological precursors expressed themselves in one era of American history to the next. The predestinarian sermons of the Puritans embodied the providential dispensation of the nation and its people. The founders’ documents were impregnated with Enlightenment ideas – Montesquieu, Smith, and Rousseau Americanized. Works by Emerson and Thoreau, as well as the fiction and poetry of Hawthorne, Melville, and Whitman, channeled the democratic ethos. Lincoln enshrined the ideal at Gettysburg. Historian Frederick Jackson Turner’s 1893 “Frontier Thesis,” complemented sixteen years later by editor and public intellectual Herbert Croly’s *The Promise of American Life* (1909), were perhaps two of the ideal’s most significant post-Civil War iterations. Turner’s marching frontier and Croly’s progressive capitalism were magnets drawing Emma Lazarus’s “huddled masses” in numbers unimagined.³

Surprisingly, the term itself – *American exceptionalism* – is of relatively recent vintage. From its origins in the mid-1930s as high-flown political science theory to its appropriation during the Cold War as

ideological boilerplate, American exceptionalism became the ready cliché of politicians, public intellectuals, journalists, and media opinion-molders after Reagan’s 1980 election. As a composite of antecedents, the term sometimes displays its historical comprehensiveness with self-conscious didacticism inflected by chauvinism. Yet this most American concept derives much of its interpretive substance from the enduring observations of two French counts, Alexis de Tocqueville and Hector St. Jean de Crèvecoeur. Equally fitting is the problematically acknowledged contribution of an African American intellectual, William Edward Burghardt Du Bois, whose citizenship rights the U.S. Supreme Court had reinterpreted and diminished at the end of the nineteenth century.

Of the three, de Crèvecoeur’s contribution to the making of the American narrative was biographically the most interesting. Present at the creation of the United States, de Crèvecoeur introduced European society to what he limned as a “new people melted into one” in *Letters from an American Farmer* (1782). He survived the French Revolution during a visit home and died a naturalized American (known as Hector St. John) in 1813. *Democracy in America* (1835) was less romantic in its appreciation of the natives than de Crèvecoeur’s influential memoir, but Tocqueville certainly thought Jacksonian-era Americans were off to a very special future. According to him, Americans’ distinguishing characteristics were individualism, faith in popular sovereignty, mistrust of government, and, above all, their certainty of living in a land unbounded by the fetters of history. Still, he detected two viruses in the body politic whose potential for harm might be permanent: an egalitarian insistence on social conformity and a majoritarian prejudice against people from Africa.⁴

As the visiting aristocrat well knew, Benjamin Franklin and Thomas Jefferson, speaking for most of their founding peers, had deplored the African presence in their hard-won new republic as an aesthetic and cultural blemish. Blemishes were acknowledged at three-fifths per capita for taxation and representation, but the men at Philadelphia intended to preclude in perpetuity the possibility of citizenship for blemishes. Tocqueville fretted, nevertheless, that the tensions inherent in the institution of slavery would eventually tax the American political system beyond its capacity to compromise. "From whatever point one departs, one almost always arrives at this first fact," he noted.⁵ Indeed, he predicted that this "first fact" would be a permanent feature of democracy in America. Tocqueville died two years before Americans' capacity for viable compromise finally exhausted itself.

One hundred years after the publication of *Democracy in America*, Du Bois anticipated the neologism *American exceptionalism* a score of years before it entered academic usage to become a canonical metaphor of the national experience. Writing in *Black Reconstruction in America: 1860–1880* of the failure of racial democracy in the South after the Civil War, Du Bois coined the phrase "the American Assumption" to explain what he saw as the fatal downside of government at the command of unrestrained capitalism. In this 1935 howitzer of a book demolishing seventy-five years of historical consensus, Du Bois insisted that biracial accommodation based on the ballot box and the schoolhouse had prospered in the defeated Confederacy for a half-decade until unlikely success gave way to everlasting greed. As the uplift idealism of the war succumbed to the political economy of triumphant plutocracy, "two theories of the future of America" clashed, according to Du Bois.

One theory was based on "freedom, intelligence and power for all men; the other was industry for private profit directed by an autocracy determined at any price to amass wealth and power."⁶

Du Bois's American Assumption was a binary paradigm. It honored John Winthrop's providential parable, Jefferson's Arcadian nostrums, Tocqueville's exceptionalist insights, and Henry Clay's "American System" as the building blocks of the national edifice at its best, then proceeded to expose the widening cracks of class and race in the façade. The best of times had been the period from 1820 to 1860, when, according to Du Bois, the theory of compensated democracy converged more closely than ever before or since with reality of opportunity for ordinary citizens. It was during the Manifest Destiny decades of freedom from government interference, freedom of economic opportunity, and the "ever possible increase of industrial income" that the American Assumption of wealth as "mainly the result of its owner's effort and that any average worker can by thrift become a capitalist" seemed to be nearly true for white men, Du Bois conceded. Although this realization of democracy for white people was seemingly true in one half of the nation, the paradigm of equality faltered badly in the Cotton Kingdom, the nation's other half, where the racialized social order presented the American Assumption's "most sinister contradiction."⁷

The conflict between the republic's two halves resolved the institutional contradiction of slavery in a democracy, but its outcome fatally undermined private enterprise as a system uncorrupted by oligopoly and left the problem of genuine citizenship for black people to be resolved by future generations. For as Du Bois insisted in "Looking Forward," his book's trenchant seventh chapter, the incorpo-

ration of ex-slaves was the central question confronting the republic. As a good progressive historian steeped in Marx, Du Bois pronounced the captains of unregulated wealth as winners in the contest between the “two theories” of the American future. The validity of the American Assumption “ceased with the Civil War,” Du Bois declared, even though its mystique would inform a simulacrum of broadly based economic opportunity until the Great Depression, when, he said, “it died with a great wail of despair.”⁸

Du Bois’s American Assumption neologism and American exceptionalism were synonymous terms derived, ironically, from Joseph Stalin’s then-recent denunciation of the American Communist Party’s ideological heterodoxy that American capitalism’s special resiliency justified exceptional adversarial tactics. The irony was especially incongruous because its Soviet originators defined American exceptionalism as a colossal historical fallacy that imagined itself exempt from the iron laws of economic determinism, whereas most American academics and public intellectuals, with Du Bois, John Dewey, and Charles Beard being the notable exceptions, avidly embraced a phrase they regarded as an inspired encapsulation of 160 years of impeccable national history. To Du Bois and like-minded American socialists and engaged progressives determined to lift the fig leaf of liberty from exploitative wealth and power, the cant of exceptionalism served merely to keep the Moloch of laissez-faire on life support even as its vital signs failed in the wake of the Great Crash of 1929. Dewey, Du Bois’s NAACP colleague and fellow progressive, scoffed at disingenuous invocations of liberty “by the managers and beneficiaries of the existing economic system.” Questions about liberty, Dewey declared in his aptly named *Individualism Old and New* (1930), were

simply “questions about the *distribution* of power.”⁹

Marxist historians insisted that serious students of the national experience must distinguish between the persistent myth of a putatively benign private enterprise system and the present reality of a rapacious, cartelized market economy. Du Bois served up a characteristically withering indictment of unregulated capitalism in a land forgone of equal opportunity seven decades after Appomattox: “It went with ruthless indifference towards waste, death, ugliness and disaster, and yet reared the most stupendous machine for efficient organization of work which the world has ever seen.”¹⁰ Thirteen years after Du Bois’s Marxist hyperbole, the consensus historian Richard Hofstadter expressed a similar judgment even as he began distancing himself from progressive colleagues. With far less spleen, Hofstadter opined in *The American Political Tradition and the Men Who Made It* (1948) that, despite its “strong bias in favor of egalitarian democracy,” America “has been a democracy in cupidity rather than a democracy of fraternity.”¹¹

The neo-orthodox theologian Reinhold Niebuhr also lamented the loss of a simpler era when the national destiny was understood as “God’s effort to make a new beginning in the history of mankind.”¹² But where Du Bois saw unregulated wealth and race prejudice as exceptionalism’s prime corrupters, Niebuhr deplored the sin of hubris and a religion of materialism that offered “the management of history” – state-sponsored panaceas – as the antidote for human frailty. Reaction to both thinkers’ philippics has sometimes been profoundly unwelcome, as with the adverse response to Niebuhrian elements present in Jimmy Carter’s memorable “malaise” meditation or the electorate’s ultimate alienation from the Du Boisian precepts of Lyndon B. Johnson’s Great

Society. Most Americans lived their lives in ways that allowed them the luxury of high disregard for well-informed criticisms of their society. The mantra addressed to foreigners was “Love it or leave it!” Intellectual or political nonconformity by fellow citizens risked the label “un-American.” The distinctive feature of the American narrative at all times and in every iteration was a serene, even sunny, belief in a teleology of better days.

Until the most recent period in the nation’s history, that curious serenity and optimism were proof against crippling doubt, disunity, or despair. Only twice has the narrative come close to failure – nearly irreparably in 1861, traumatically after 1929. The “wail of despair” Du Bois heard with the onset of the Great Depression was sharp enough to embolden all those who decided that capitalism had fatally malfunctioned and was too serious a system to be left to the ministrations of capitalists. For the first time in history, a majority of Americans embraced the novel premise – cutting straight across the grain of *laissez-faire* self-reliance and rugged individualism – that government should guarantee its citizens a minimum of health, housing, education, and retirement income. Unions won collective bargaining rights and unemployment insurance for unskilled workers, black and white. Federal rural electrification began the radical transformation of the Deep South. Impressive as many of these accomplishments were, the New Deal’s alphabetically innovative programs to jumpstart the economy faltered badly, especially after the 1936 election.

World War II saved the New Deal, enabling it to save American capitalism, which in turn equipped America’s “greatest generation” (together with Russia’s) to defeat fascism, put the world economy on the dollar at Bretton Woods, and re-

build Western Europe on the condition that it marginalize its communist parties and join NATO. In his final address to the nation, Franklin D. Roosevelt had spoken movingly of the New Deal’s unfinished egalitarian goals, summoning Americans to make them their first order of business after the imminent restoration of peace.¹³ Four years later, their 1948 per capita incomes four times larger than those of the British, French, Germans, and Italians combined, Americans overwhelmingly, and mostly without much reflection, embraced prosperity in lieu of progressivism. The social democrats and their politically maladroit communist allies found themselves drowning in a rising tide of unprecedented prosperity that promised to lift every American into the middle class. The “wail of despair” was barely a whisper by the time the first generation of college-educated, suburbanite consumers created by the G.I. Bill voted any ticket but Henry Wallace’s Progressive Party in the pivotal 1948 presidential election.

The post-World War II land of liberty assumed global obligations with an evangelizing confidence that would have astonished Woodrow Wilson. Publisher of *Time* and *Life*, Henry Luce, had already given the world its peacetime marching orders in “The American Century,” a signature 1941 editorial in *Life*. The Truman Doctrine’s throwing down the military gauntlet to the Soviet Union in March 1947 caught most Americans by surprise. Many had still not quite assimilated the ominousness of Churchill’s “iron curtain” speech. The writ of the Monroe Doctrine, reinterpreted by George Kennan, Dean Acheson, and John Foster Dulles, ran to three continents. A new national security state (secretly authorized in April 1950) sprang from an increasingly potent post-war military-industrial-financial complex, insinuating itself into congressional independence, civil liberties, public

schools, and higher education. CIA-programmed artistic and cultural initiatives spanned much of the planet.¹⁴

The speed with which the obligation came to shape world history would have been understood by the Pilgrims as a divine commandment. Some thirty years before his turn at the helm of leadership, Ronald Reagan recognized that Americans had not been able to escape destiny, “nor should we try to do so,” he enjoined. “The leadership of the free world was thrust upon us two centuries ago in that little hall at Philadelphia.”¹⁵ Isolationists faithful to George Washington’s advice to remain unentangled by foreign commitments went almost entirely unheard.

Translated as *realpolitik*, however, making the world safe for democracy meant saving it from communism, which entailed as often as not supporting undemocratic regimes and corrupt incompetency around the world. American exceptionalism abroad professed a high-minded innocence of motives that was unique in the annals of empire-building. Nor was the profession of it explainable merely as the rank hypocrisy of power. It was not surprising that the nation’s people wished blindly “to preserve innocence [*sic*] by disavowing the responsibilities of power,” as Niebuhr insisted in *The Irony of American History* (1952).¹⁶ True, outright military seizures of territory have generally been fairly brief, with the exception of Hawaii, Haiti, and the Philippines, until the decade following 9/11. The citizenry has been inculcated with the gospel of anti-imperialism by its politicians, diplomatic historians, and columnists, not to mention generations of elementary and high school teachers. A nation conceived in revolt against the tyranny of an empire does not perpetrate imperialism, we have been taught.

Indeed, empire has been the love that dared not acknowledge itself in the more

than two hundred years since the ratification of the U.S. Constitution (*pace* Canadians in the early nineteenth century and Mexicans in Texas and California). Nearly sixty years have elapsed since the overthrow of Iran’s democracy, an act of Niebuhrian “innocency” whose ongoing consequences for the United States have been almost as dire as for Iran: Jimmy Carter’s election defeat and a decade of Reaganomics and New Deal dismantlement; compounded by a decade of Alan Greenspan’s regulatory insouciance; and the present nuclearized complexities of the Middle East. The story we have told ourselves depicts us as history’s 911 emergency rescuers, responding to distress appeals, saving lives and liberty, providing technical assistance and matériel, and departing the moment the patient’s democratic life signs are stabilized. The narrative was splendidly validated after Pearl Harbor, but sixty years later, the national leadership misappropriated the exceptionalist narrative written by its “greatest generation” in order to justify actions in the September 11 aftermath, the consequences of which have been, mostly, demonstrably lamentable. By 1980, when the revisionist diplomatic historian William Appleman Williams’s incisive summing up appeared under the title *Empire as a Way of Life*, a good many erstwhile critics virtually conceded the truth of chronic foreign adventurism.¹⁷

Looking back from the seventies, economists would speak of the “golden era of American capitalism,” a quarter-century from 1945 to 1971, the year the United States ended international convertibility of the dollar into gold and one year after the country’s domestic oil production peaked. It was the greatest story of productive and financial transformation yet told until the rise of modern China. The United States had more than one-half of

the world's manufacturing capacity, supplied a third of the world's exports, and produced the greatest amount of oil, steel, automobiles, and electronics. The GDP rose from \$294 billion in 1950 to \$526 billion by 1960, and all classes of white citizens more or less evenly benefited from this prodigious growth.¹⁸

A national narrative figuratively scripted by Midas and, literally, by Madison Avenue and Detroit inspired a qualitatively mixed run of celebratory appreciations of exceptionalism by leading academics, such as historians Arthur Schlesinger, Jr., David Potter, and Daniel Boorstin; literary scholars Henry Nash Smith and R.W.B. Lewis; and political scientist Louis Hartz. A redoubled self-consciousness about the essence of the national character informed their writings, the best of which melded admiration and perspicacity. In revisiting Turner's marching frontier, Potter enlarged its scope to embrace the full sweep of the American economy and the opportunities it was supposed to be able to bestow on everybody.¹⁹ Appropriately, writer Shepherd Mead's book *How to Succeed in Business without Really Trying* enjoyed great popularity when it was published in 1952. As a Broadway musical ten years later, it reconfirmed the sanguine upward-mobility ideology of Dale Carnegie in song and dance.²⁰

The "golden era" played predictable favorites among the intelligentsia. The traction once exercised in the profession by the progressive historians of the Beard/Beale/Du Bois/Parrington/Turner persuasion was sadly diminished in a time of self-congratulatory consensus. Not only were the progressives' themes of machinations and exploitation by the powerful called interpretive exaggerations, their implicit solutions of political activism and government oversight were deemed divisive and dangerously wrongheaded. With the Soviet Union as an obscene example

of social engineering gone awry on their far left, and Senator Joseph McCarthy's subcommittee ready with subpoena on their far right, professors and liberals huddled on the safe middle ground staked out by Americans for Democratic Action.²¹

Moreover, many wanted to know, what was so flawed about American capitalism? Many thoughtful people embraced Niebuhr's judgment that the problem with capitalism was not the system itself but the people who corrupted it.²² Arthur Schlesinger, Jr., snapped that pejorative denotations of capitalism "belonged to the vocabulary of demagoguery, not the vocabulary of analysis."²³ Skeptics of the prodigious excellence of the system were soon warned to enlighten themselves by reading *Strategy and Structure* (1962), Harvard Business School economist Alfred Chandler's authoritative demonstration that Adam Smith's invisible hand no longer ruled the marketplace. The market, Chandler posited, was now expertly and rationally guided by capitalism's new managerial class.²⁴

In contrast, Eisenhower-era novelists served up nuanced critiques of materialistic conformity and its sometimes unappealing existential outcomes. Journalist William Hollingsworth Whyte's *The Organization Man* (1953) and novelist Sloan Wilson's *The Man in the Gray Flannel Suit* (1955) toyed in mildly subversive ways with anomie, risk-aversion, and conformity in a bland decade centered on the television show *Father Knows Best* (1954–1960) and the GE kitchen commercial. Social scientists of the period kept a safe distance from Marx, but the subsisting influences of Veblen and Weber, combined with an acceptable Freud, pushed at least a few to unmask some distressful socioeconomic realities. Sociologists David Riesman and Nathan Glazer's "other-directed" Americans took their significant cues from a "Lonely Crowd,"

a mass of pliable people, respectful of corporate authority and devoid of existential gyroscopes. The outlier in the group was the neo-Marxist-Weberian sociologist C. Wright Mills, whose schematic *The Power Elite* (1956) should have alarmed its large mainstream readership.²⁵ Instead, many readers admired the elite's power and envied its lifestyles without gauging the meaning of Mills's data, which showed American society hardening into strata of self-perpetuating, interlocked privilege increasingly unaccountable to the citizenry.

To be sure, although the average American would remain innocent of the conceptual convenience of the exceptionalist tagline well into the 1970s, she or he could have offered a ready enumeration of its essential components, without needing to read Tocqueville, Bryce, Wells, Du Bois, or even Hofstadter and Schlesinger, both of whose classic interpretations of the nation's defining political and social characteristics (*The American Political Tradition* and *The Vital Center*) had appeared within months of each other at the end of the 1940s. For many, it was simply a matter of birthright that to be an American was to be exceptional.²⁶ Almost surely, Hofstadter's unsurpassed exceptionalist aphorism that "it has been our fate as a nation not to have ideologies, but to be one" would have fully satisfied the average man or woman in the 1950s.²⁷ Yet if America's ideology was being American, then Hofstadter's maxim, like any syllogism, was more clever than instructive.

From the beginning, whole categories of Americans had been excluded from the vital center or enjoyed no meaningful role in the political tradition (namely, the ethnically cleansed American Indian). It was the categories missing from the exceptionalism paradigm that finally began to break the *bien-pensant* mold: the four unacknowledged or suppressed categor-

ies of race, gender, class, and empire. Race would be at the forefront, shattering the mold for the second time and permanently altering the sociosexual shape of things as never before.

Tocqueville worried that color prejudice might become American democracy's greatest failure – even observing that the prejudice "rejecting Negroes seems to increase in proportion to their emancipation."²⁸ Du Bois certified racism's intractability more than a hundred years ago with a prophecy many Americans can still recite from memory. "The problem of the twentieth century," he stipulated in *The Souls of Black Folk* (1903), his great African American manifesto, "is the problem of the color-line – the relation of the darker and lighter races of men."²⁹ Eighty-five years later, historian Eric Foner confirmed Du Bois's once-controversial counter-narrative: that the too-brief interval of interracial reform after the Civil War was followed by Redemption, almost two decades of hard-fought political realignment ending in the defeat of the interracially promising People's Party, the final elimination of the African American franchise in the South, and the imposition of Jim Crow.³⁰

People of color all but disappeared from the American narrative in 1896 after the Supreme Court's seven-to-one decision in *Plessy v. Ferguson* dismissed, with appalling legal casuistry, the application of the Fourteenth Amendment to a Louisiana law regulating seating accommodations on trains. The enforced separation of the races imposed no badge of inferiority, Chief Justice Henry Billings Brown ruled: "But if this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it."³¹ Ten percent of the country's population was rendered "separate but equal," a condition it was enjoined not to view as a disability, even

as it saw itself legally barred from street cars, Pullmans, theaters, movie houses, parks, public schools, municipal libraries, drinking fountains, public toilets, sports stadiums, and hospitals reserved for white citizens.

With that decision, people of color lived in a world that paralleled the larger white world. Occasionally, some superstar captured the admiration of the majority, thereby reaffirming the nation's opportunity creed: Joe Louis, decking the Nazi prizefighter Max Schmelling in 1938; Marian Anderson's soaring contralto shaming bigotry from the steps of the Lincoln Memorial on Easter Sunday in 1939; Charles Drew, honored by the American Board of Surgery for organizing the Red Cross Blood Bank in 1943; Jackie Robinson joining the Dodgers in 1947; Ralph Bunche receiving the Nobel Peace Prize in 1950. To be fair to the record, there were African American leaders, such as Booker Washington and Robert R. Moton, and a considerable number of black professionals who, as Jim Crow's beneficiaries, defended *Plessy*.

Plessy's effects on the nation's melting-pot leitmotif were immense in their power simultaneously to obscure and sustain the mythos of cultural harmony, ideological conformity, and middle-class contentment. By judicial sleight of hand, *e pluri-bus unum* became *e pluribus duo*, in historian Matthew Jacobson's sardonic paraphrase. *Plessy's* elimination of blacks solved a problem of even greater complexity and exigency: the assimilation of quasi-whites. Hysteria over the insufficient "whiteness" of European immigrants peaked in the North and Northeast about a decade after the white supremacist South invented its "one drop" identity rule to solve a well-grounded fear of extensive racial admixture. The two challenges were symmetrically reinforcing: the "whitening up" of immigrants com-

plemented the Southern agenda of re-enforced "blackness," stigmatized and ostracized.³²

The color dichotomy imposed by *Plessy* and rationalized with the excision of "Mulatto" from the U.S. Census after 1920 relieved the immigrant, once he departed from Ellis Island, of confusion about the most desirable American phenotypes. People of color, now called a race, served as reverse examples of appropriate citizenship. Most newcomers quickly figured out who were the people they should take care not to imitate or respect – a mudsill population below a rising tide of generally optimistic immigrants. To be sure, the new race was a beehive with an economy supporting financial institutions, large religious establishments, newspaper and cosmetics empires, liberal arts colleges, and a fairly diversified professional class: all separate, but in a few cases equal.

Meanwhile, elites North and South succumbed to hysteria over pseudo-eugenics and supposedly well-sourced predictions of an unassimilable surge of millions immigrating after World War I on top of the twenty million who arrived between 1880 and 1910. As more southern and eastern Europeans stood poised to disembark, old-stock Americans lamented the Protestant republic vanishing in a "non-white" sea of unmeltable languages, religions, and cultures. The "menacing" influx finally ended when Congress enacted the 1924 Johnson-Reed Act.

By 1954, the covert dynamic of race, class, and economics had succeeded so well in assimilating ethnic Europeans as to make possible, even necessary, the national reconsideration of the biracial solution ordained by *Plessy v. Ferguson*. If American ideals had meaning, their guardians realized that the defeat of fascism and the containment of communism in Europe, the unfolding horrors of genocide, anti-

colonial unrest in Asia and Africa, FDR's Four Freedoms, and Eleanor Roosevelt's Universal Declaration of Human Rights demanded much more than recycled pieties. This time, the ideology of liberty and democracy had to matter. The official count of Nazi Germany's six million murdered Jews, Gypsies, and Slavs sent public avowal of genetic differences into the closet. The shameful resemblance of the Jim Crow South's laws and practices to the defeated Third Reich's Nuremberg laws put the United States at a major and growing disadvantage with the Soviet Union in winning the hearts and minds of the planet's dark-skinned majority.

Brown v. Board of Education, released on May 17, 1954, surprised the public with a unanimous decision nullifying *Plessy*. However, a Gallup poll found that while 54 percent of Americans approved, 41 percent did not.³³ Ten years after the publication of Swedish economist Gunnar Myrdal's two-volume *An American Dilemma: The Negro Problem and Modern Democracy* (1944), the nine justices reified what had become the ruling paradigm of Myrdalian liberalism. Recruited by the Carnegie Corporation in 1938 to conduct a massive social science study of the "problem," the Scandinavian became the American Negro's Tocqueville. In Myrdal's formulation, racism was an imperfection in the social order, a moral insult to the nation's founding ideals and thus a paradox in the "American Creed" that becomes ever more intolerable. Myrdal's introduction to *An American Dilemma* described the American Negro as "a problem in the heart of the American. . . . This is the central viewpoint of this treatise. Though our study includes economics, social, and political race relations, at bottom our problem is the moral dilemma of the American – the conflict between his moral valuations on various levels of consciousness and generality."³⁴

The *Brown* decision was unanimous and unambiguous – at first. In a key footnote, the decision referenced psychologists Kenneth and Mamie Clark's poignant findings that black children expressed a preference for white dolls over black. After a fifty-eight-year detour, the United States was back at the starting point for racial equality only months after Ralph Ellison's runaway best seller, *Invisible Man*, won the National Book Award for fiction. Black Americans were elated. Even Du Bois, by then a caustic Marxist critic of his country's every action, wondered how the "miracle" had happened.³⁵ A year later, elation would give way to apprehension, to be followed by a decade of presidential neutrality and organized Southern resistance to integration. Whether it was ingenuous confidence in Myrdal's American Creed or, more pragmatically, the price paid for their unanimity, the justices departed from established practice by deferring an enforcement decree by a full calendar year. When they reconvened on May 31, 1955, it was not to order an immediate end of public school segregation, but to declare *Brown* enforced "with all deliberate speed." *Brown I* restored the full force of the Fourteenth Amendment. *Brown II* accommodated the casuistry of Chief Justice Brown in the *Plessy* case.

That the American Creed has failed to resolve the American dilemma as mediated fifty-seven years ago through *Brown* is in meaningful measure due to the ironic fact that one of Europe's leading economists eschewed economics as central to the problem that he and an army of social scientists were charged to explain. Guided by the Carnegie-Myrdal findings, the Court's decision addressed the problem in terms of interracial psychology, whereas its origins and substantive amelioration were in reality economic. By logical extension to the full range of Ameri-

can public life, *Brown* was a prescription for enlightened national self-interest based on an anticipated upwelling of progress resulting from intimate and educated group contact.³⁶

Ten years after *Brown* and nearly a century after the Civil War, the third major revision of the national narrative came as African Americans' rising frustrations over non-enforcement of "all deliberate speed" boiled over.³⁷ The 1964 Civil Rights Act was enacted in a climate of ferocious racial confrontations pressed nightly on national television by Martin Luther King, Jr.'s nonviolent campaign in Birmingham, Alabama, and black student activism gone viral in the Deep South after its lunch-counter and freedom-rides phases. For better and worse, most Americans took it for granted that civil rights meant racial rights; sexual rights seemed only incidental until the black freedom struggle stimulated gender rights activism. In the interim between *Brown*'s checkered implementation and the temporary consolidation of the Great Society, the women's movement caught the high winds of social change generated by the black civil rights movement.

The familiar story of race and gender finally cohabiting the exceptionalist narrative is literally one of black humor. No federal law made it a crime to discriminate on the basis of sex. The U.S. Senate had failed to approve the Equal Rights Amendment (ERA) with the required two-thirds majority the year before *Brown*. When Howard Smith, courtly Virginia racist and chairman of the House Rules Committee, amused his male colleagues by inserting the word *sex* into the markup of Title VII of the 1964 Civil Rights Act, the maneuver panicked members of the civil rights establishment and organized labor. ERA advocates (mostly affluent white women) were immediately con-

fronted with Frederick Douglass's Fifteenth Amendment admonitions.³⁸ Still, a combination of sympathy from the civil rights establishment and sexist underestimation of the gender issue's significance led to the 1964 Civil Rights Act becoming law with discrimination prohibited on grounds of "race, color, religion, sex, or national origin."³⁹ In *When Everything Changed* (2010), one of author Gail Collins's interviewees recalls never once having seen a female professor while a student at the University of California, Berkeley. "Worse yet," she says of 1960, "I didn't even notice."⁴⁰

In 1964, the Student Nonviolent Coordinating Committee (SNCC, often referred to as Snick) organized the Mississippi Freedom Summer, recruiting student volunteers to register African Americans to vote. The ideas and experiences that a pivotal cohort of college women took away from the extraordinary interracial group catharsis they experienced that summer helped ground American feminism's so-called second wave. The Freedom Summer brought together college-age black and white women as equals in a black-run organization for the first time in the history of the women's movement. Feminism's future cadres of leading professionals, writers, academics, and journalists emerged from this experience sobered and somewhat embittered by what they saw as institutionalized hypocrisy and gendered hierarchy in a movement supposedly pledged to the broadest possible inculcation of democracy. Writer Anne Moody and the women who came of age in Mississippi admiring civil rights leader Fannie Lou Hamer and reading Betty Friedan ended their Freedom Summer committed to an "NAACP for women," a "fully equal partnership of the sexes" that became the National Organization for Women (NOW) in 1966, two years later.⁴¹

Lyndon Johnson, with his Texas populist understanding that an ideal is worth only what you can pay for it, had committed billions in seed-money to make Great Society projects economically feasible. Johnson's actions repeatedly commended themselves to an Aeschylus. Six months after his remarkable "We Shall Overcome" speech to Congress, the president signed the 1965 Voting Rights Act with King and Rosa Parks looking on, then proceeded to send 144,000 troops to Vietnam.⁴² Whether the socioeconomic momentum of the Great Society could have repositioned a sizable mass of black people and survived the genuinely experienced, but also politically instigated, egalitarian consternation of many white people is moot. The president who could have been the nation's greatest since Lincoln destroyed himself in a war against godless communism that his imperturbable defense secretary eventually discovered to have been based on a false conception. At the end of the 1960s, the country began to suffer from narrative indigestion. Myrdal's American Creed was dismissed as a liberal illusion. Martin Luther King, Jr. and Robert Kennedy's American dream went up in flames after Memphis.

As imperial and domestic events (the 1965 Watts race riots in Los Angeles appalled most Americans, black and white) eroded the solid closure in income disparities between middle-class black and white families, the national narrative sounded themes of zero-sum injustice. Conservative media broadcast the Great Society as financed by white working-class tax dollars. Catholic philosopher Michael Novak's unmeltable ethnics reappeared, mobilized against school busing, permissive lifestyles, disrespect for the flag, law and order breakdown, and an emerging gay liberation movement launched by the Stonewall riots in June 1969. Middle-class blacks and liberal Jews,

historic civil rights allies, divided over educational quotas and community control of urban public schools, black power, and Israel. Woodstock was a parallel universe of free love, pot, and protest music for the boomer generation. Women had gained their civil rights with Title VII; feminists were pushing hard for reproductive rights. Historian Allen Matusow entitled his history of a fractious decade of race, reform, and reaction *The Unraveling of America*.⁴³

When Johnson signed the Immigration and Nationality Act and the Voting Rights Act, both in 1965, he predicted, as did the legislation's congressional and pressure-group sponsors, that the societal impact of the first would be relatively small, but that the political consequences of the second civil rights legislation would be seismic. Prescient about the Voting Rights Act, Johnson would be stupefied forty-five years later to see the demographic momentum unleashed after repeal of the racialist 1924 Johnson-Reed Immigration Act and dramatically recorded in the 2010 U.S. Census. In a burst of melting-pot euphoria, LBJ and the 89th Congress enriched and complicated the original narrative of an American racial dyad of white and black. The 2030 U.S. Census is almost certain to be complexly multiracial and multicultural. Johnson's prediction, that with the 1965 Voting Rights Act he had signed away indefinitely his party's historic command of the South's white electorate, proved accurate.

African Americans remember the symbolism of Ronald Reagan kicking off his 1980 presidential campaign in Philadelphia, Mississippi, where mention was made not of Goodman, Chaney, and Schwerner, the slaughtered young civil rights workers, but of Jefferson Davis and Robert E. Lee. When Reagan captured the South in 1980 (Jimmy Carter's Georgia excepted) and again in the 1984 landslide, with George H.W. Bush following in 1988,

pollsters and pundits proclaimed a historic and fundamental realignment in national politics.⁴⁴ Still, it took much more than the GOP's winning of the South to win the hearts and minds of much of the rest of America. The beginnings of neo-conservative, or Radical Right, political success antedated the Reagan Revolution by some three decades, however; it dated back to the beginnings of the Cold War and the origins of a group of intellectuals cultivated and promoted by the CIA, back to the 1964 Goldwater presidential run. A British observer tracked its history in a book whose title is its argument: *The World Turned Right Side Up*.⁴⁵

Reagan was the smiling face and good-cheer voice of an ideology that seemed to erupt with dumbfounding suddenness to mock the narratives of Hofstadter consensus and Schlesinger vital centrism. After years of false starts around the conservative publications the *National Review* and *The American Spectator*, after years spent brooding in a handful of conservative, second-tier think tanks and foundations and the moneyed purlieus of Orange County, after devising an emotive political language (coded for race and gender) aimed at working-class whites and their struggling suburban cousins, the new neo-conservatism, or Radical Right, emerged as a powerful, vote-getting synthesis of antitheses and a major shift in the American narrative: populism bonded to plutocracy. Yet it seamlessly wove together two long threads of that narrative in order to swear by a Jeffersonian wariness of government and a Jacksonian resentment of old money and elite culture.

The Radical Right made it possible for the employees of industries that were being merged, downsized, or outsourced, or had completely disappeared, to vote for politicians beholden to the very people who were forcing these employees to work for lower wages and fewer benefits, and

increasingly not to be able to work at all. *What's the Matter with Kansas?*, indeed, asked journalist Thomas Frank of people ready to vote against their own self-interests.⁴⁶ The Radical Right tapped into those ancient underground veins of American nativism, fundamentalism, and anti-intellectualism, into paranoia, violence, and gender consternation, to produce an alloy combining, as seldom before, the politics of resentment with that of economic royalism. This squaring of political and cultural circles amounted to an epic achievement that was meant to spell the death of government in the life of the market, the end of the regulated market economy and of the social services dependent on tax revenues derived from it. The rightward shift in market deregulation, the financialization of the economy, and debt-financed consumption continued under the Democratic version of Reagan, William Jefferson Clinton.

On the morning of September 11, 2001, American exceptionalism experienced its greatest trauma since Pearl Harbor. Nineteen anonymous young Muslim men in hijacked airplanes inflicted a mortification upon the world's colossus, a nation whose military-industrial complex stood ready to fight three simultaneous campaigns, even though the implosion of the Soviet Union deprived the U.S. Pentagon of any credible menace that justified the arsenal at its disposal. Niebuhr might have invoked our besetting imperial "innocency" in helpful, partial explanation of what Americans almost universally regarded as an unjustified act of madness. Few had seen or remembered CNN reporter Peter Arnett's revealing interview with Osama bin Laden in the mountains of Jalalabad four years before 9/11. Bin Laden spoke then of his hatred for the United States with little display of passion: "It wants to occupy our countries, steal our resources,

impose on us agents to rule us . . . and wants us to agree to all these. If we refuse to do so, it will say, 'You are terrorists.'⁴⁷ A decade of imperial overreach has proved to have been a counterproductive response to a perversion of Islam.

Seven years after 9/11, the American way of life was again shaken to its foundation by the Great Recession of 2008. The logic of an unregulated market economy produced its predetermined result. Wall Street shuddered and well over \$7 trillion evaporated in the housing bubble. Homeowners lost 55 percent of their housing wealth, for many their major asset and symbol of success. The American middle class, the historic protagonist of the American narrative, became an endangered species. Against a bleak backdrop of indebtedness, unemployment, and rapid decline in traditional jobs and the affordability of the

essentials of health and education stands the stark wealth of the top 1 percent of Americans – current owners of 42 percent of the nation's financial wealth, up from 34.6 percent four years ago.⁴⁸

All else seeming to fail, the vital center no longer holding and consensus fraying, 53 percent of the electorate wagered in 2008 that it could deny race by affirming its non-importance, and thereby audaciously transform the exceptionalist narrative. The choice before us, however, is still much the same as that posited by Du Bois when he described two antithetical versions of the American narrative: one based on "freedom, intelligence and power for all men; the other was industry for private profit directed by an autocracy determined at any price to amass wealth and power."

ENDNOTES

- 1 "Farewell Speech – President Reagan's Farewell Speech from the Oval Office," January 11, 1989, Reagan Foundation; available at <http://www.youtube.com/watch?v=UKVsq2daR8Q>.
- 2 The following are but a few of the recent books conveying an end-of-days prognosis: Andrew J. Bacevich, *The Limits of Power: The End of American Exceptionalism* (New York: Metropolitan Books/Holt, 2008); Paul Kennedy, *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000* (New York: Random House, 1987); and Fareed Zakaria, *The Post-American World* (New York: W.W. Norton, 2008).
- 3 Aaron Gutfeld, *American Exceptionalism: The Effects of Plenty on the American Experience* (Brighton, U.K.: Sussex Academic Press, 2002), 26; Deborah L. Madsen, *American Exceptionalism* (Jackson: University Press of Mississippi, 1998), 2, 10, 36; Godfrey Hodgson, *The Myth of American Exceptionalism* (New Haven, Conn.: Yale University Press, 2009), chap. 1.
- 4 Hector St. John de Crèvecoeur, *Letters from an American Farmer* (1782; Mineola, N.Y.: Dover Publications, 2005); Alexis de Tocqueville, *Democracy in America*, translated, edited, and with an introduction by Harvey C. Mansfield and Delba Winthrop (1835; London: The Folio Society, 2002); David Levering Lewis, *W.E.B. Du Bois: A Biography* (New York: Holt, 2009).
- 5 Tocqueville, *Democracy in America*, 326.
- 6 W.E.B. Du Bois, *Black Reconstruction in America: 1860 – 1880*, with an introduction by David Levering Lewis (1935; New York: Atheneum, 1992), 182.
- 7 *Ibid.*, 183.
- 8 *Ibid.*
- 9 Robert B. Westbrook, *John Dewey and American Democracy* (Ithaca, N.Y.: Cornell University Press, 1991), 435.

- ¹⁰ Du Bois, *Black Reconstruction in America*, 182.
- ¹¹ Richard Hofstadter, *The American Political Tradition and the Men Who Made It* (1948; New York: Vintage, 1989), xxxvii.
- ¹² Reinhold Niebuhr, *The Irony of American History* (New York: Scribner, 1952), chap. 1.
- ¹³ Franklin Delano Roosevelt, Farewell Address to the Nation, quoted in Doris Kearns Goodwin, *No Ordinary Time: Franklin and Eleanor Roosevelt* (New York: Simon & Schuster, 1994), 484.
- ¹⁴ David Rothkopf, *Running the World: The Inside Story of the National Security Council and the Architects of American Power* (New York: PublicAffairs, 2004).
- ¹⁵ Hodgson, *The Myth of American Exceptionalism*, 176.
- ¹⁶ Niebuhr, *The Irony of American History*, quoted in Bacevich, *The Limits of Power*, 4.
- ¹⁷ See William Appleman Williams, *The Tragedy of American Diplomacy* (Cleveland: World Publishing, 1959); and William Appleman Williams, *Empire as a Way of Life: An Essay on the Causes and Character of America's Present Predicament, Also a Few Thoughts About an Alternative* (New York: Oxford University Press, 1980). By contrast, *Colossus: The Rise and Fall of the American Empire*, a Bush-era meditation by historian Niall Ferguson in the spirit of Rudyard Kipling's advice to his Atlantic cousins, would appear to settle the debate, whether or not one commends Ferguson's applause for empire. See Niall Ferguson, *Colossus: The Rise and Fall of the American Empire* (New York: Penguin, 2005).
- ¹⁸ Bacevich, *The Limits of Power*, 25.
- ¹⁹ Cf. Arthur Schlesinger, Jr.'s combative *The Vital Center*, David Potter's nuanced *People of Plenty*, Daniel Boorstin's effusive trilogy, *The Americans*, Henry Nash Smith's discerning *Virgin Land*, R.W.B. Lewis's rich *The American Adam*, and Louis Hartz's Panglossian *The Liberal Tradition in America*; Arthur Schlesinger, Jr., *The Vital Center: The Politics of Freedom* (Boston: Houghton Mifflin, 1949); David Potter, *People of Plenty: Economic Abundance and the American Character* (Chicago: University of Chicago Press, 1955); Daniel Boorstin, *The Americans*, 3 vols. (New York: Random House, 1958–1973); Henry Nash Smith, *Virgin Land: The American West as Symbol and Myth* (Cambridge, Mass.: Harvard University Press, 1950); R.W.B. Lewis, *The American Adam: Innocence, Tragedy, and Tradition in the Nineteenth Century* (Chicago: University of Chicago Press, 1955); Louis Hartz, *The Liberal Tradition in America: An Interpretation of American Political Thought Since the Revolution* (New York: Harcourt, Brace, 1955).
- ²⁰ Cf. Lizabeth Cohen, *A Consumers' Republic: The Politics of Mass Consumption in Postwar America* (New York: Knopf, 2003).
- ²¹ That Du Bois narrowly escaped federal prison in 1951 for his published opinions while Columbia University's prolific Allan Nevins absolved John D. Rockefeller of robber-baron taint in two volumes the previous year could be read only as Cold War paradox.
- ²² Niebuhr, *The Irony of American History*, ix.
- ²³ Quoted in Peter Novick, *That Noble Dream: The "Objectivity Question" and the American Historical Profession* (Cambridge: Cambridge University Press, 1988), 300.
- ²⁴ Alfred D. Chandler, Jr., *Strategy and Structure: Chapters in the History of the American Industrial Enterprise* (Cambridge, Mass.: MIT Press, 1962).
- ²⁵ David Riesman, Nathan Glazer, and Reuel Denny, *The Lonely Crowd: A Study of the Changing American Character* (Garden City, N.Y.: Doubleday, 1953); C. Wright Mills, *The Power Elite* (New York: Oxford University Press, 1956).
- ²⁶ Hofstadter, *The American Political Tradition*; Schlesinger, *The Vital Center*; Seymour Martin Lipset, *American Exceptionalism: A Double-Edged Sword* (New York: W.W. Norton, 1996), 19.
- ²⁷ Hofstadter, quoted in Byron Shafer, ed., *Is America Different? A New Look at American Exceptionalism* (New York: Oxford University Press, 1991), 16.
- ²⁸ Tocqueville, *Democracy in America*, 330.

- ²⁹ W.E.B. Du Bois, *The Souls of Black Folk* (1903; Millwood, N.Y.: Kraus-Thomson Ltd., 1973), 13.
- ³⁰ Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863–1877* (New York: Harper & Row, 1988). Howard University historian and Du Bois acolyte, Rayford W. Logan, called the period after 1890 the “nadir” for black people in his seminal book, originally titled *The Negro in American Life and Thought: The Nadir, 1877–1901*. See Rayford W. Logan, *The Betrayal of the Negro: From Rutherford B. Hayes to Woodrow Wilson* (1954; New York: Da Capo Press, 1997).
- ³¹ Quoted in Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Vintage, 1977), 80; Leon Litwack, *Been in the Storm So Long: The Aftermath of Slavery* (New York: Knopf, 1979).
- ³² Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, Mass.: Harvard University Press, 1998), 109; Matthew Guterl, *The Color of Race in America: 1900–1940* (Cambridge, Mass.: Harvard University Press, 2002).
- ³³ Gallup Poll data are taken from “Snapshots In Time: The Public in the Civil Rights Era,” <http://www.publicagenda.org/civilrights/civilrights.htm>.
- ³⁴ Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy*, 2 vols. (New York: Harper, 1944), 1, lxxi. See David Levering Lewis, *W.E.B. Du Bois: The Fight for Equality and the American Century, 1919–1963* (New York: Holt, 2000), esp. chap. 12; David W. Southern, *Gunnar Myrdal and Black-White Relations: The Use and Abuse of “An American Dilemma,” 1944–1969* (Baton Rouge: Louisiana State University Press, 1987); Walter A. Jackson, *Gunnar Myrdal and America's Conscience: Social Engineering and Racial Liberalism, 1938–1987* (Chapel Hill: University of North Carolina Press, 1990).
- ³⁵ Quoted in Lewis, *W.E.B. Du Bois*, II, 557.
- ³⁶ Legal scholar Charles J. Ogletree, Jr., found the expectation sadly wanting fifty years later; see Charles J. Ogletree, Jr., *All Deliberate Speed: Reflections on the First Half Century of Brown v. Board of Education* (New York: W.W. Norton, 2004).
- ³⁷ Eisenhower had barely concealed his antipathy for *Brown*, and the Kennedy assassination terminated tentative civil rights responses. On Eisenhower's hostility to *Brown*, see Stephen Ambrose, *Eisenhower: Soldier and President: The Renowned One-Volume Life* (New York: Simon & Schuster, 1991), 367–368.
- ³⁸ Congresswoman Edith Green lectured ERA advocates that, however badly women have been treated, “there has been ten times as much discrimination against the Negro”; quoted in Gail Collins, *When Everything Changed: The Amazing Journey of American Women from the 1960s to the Present* (New York: Little, Brown, 2009), 78.
- ³⁹ When the Equal Employment Opportunity Commission timidly took seriously Title VII's sexual nondiscrimination mandate, the arbitral *New Republic* demanded to know why “a mischievous joke perpetrated on the floor of the House [should] be treated by a responsible administrative body with this kind of seriousness?”; quoted in Ruth Rosen, *The World Split Open: How the Modern Women's Movement Changed America* (New York: Penguin, 2000), 73.
- ⁴⁰ Collins, *When Everything Changed*, 12.
- ⁴¹ Quoted in Belinda Robnett, *How Long? How Long?: African-American Women in the Struggle for Civil Rights* (New York: Oxford University Press, 1997), 131. See also Rosen, *The World Split Open*.
- ⁴² Taylor Branch, *At Canaan's Edge: America in the King Years, 1965–1978* (New York: Simon & Schuster, 2006); reviewed by David Levering Lewis, “The Mission,” *The New Yorker*, January 23 and 30, 2006, 86–91.
- ⁴³ Allen J. Matusow, *The Unraveling of America: A History of Liberalism in the 1960s* (New York: Harper & Row, 1984).
- ⁴⁴ Earl Black and Merle Black, *The Rise of Southern Republicans* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2003).

- ⁴⁵ Godfrey Hodgson, *The World Turned Right Side Up: A History of the Conservative Ascendancy in America* (Boston: Houghton Mifflin, 1996); Justin Vaisse, *Neoconservatism: The Biography of a Movement* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2010). David
Levering
Lewis
- ⁴⁶ Thomas Frank, *What's the Matter with Kansas?* (New York: Holt, 2004); Thomas Frank, *The Wrecking Crew: How Conservatives Rule* (New York: Holt, 2008).
- ⁴⁷ Quoted in Lawrence Wright, *The Looming Tower: Al-Qaeda and the Road to 9/11* (New York: Knopf, 2006), 247.
- ⁴⁸ Rex Nutting, "How the Bubble Destroyed the Middle Class," Marketwatch, July 8, 2011.

Narrative C

E. L. Doctorow

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In the seventeenth century, North America was conceived by Europeans as an escape from Europe, a New Found Land for religious separatism and the aggregation of unspoken-for wealth. It was in this era of colonial activity that the seeds of the American narrative had to have been planted. England, France, Spain, and Holland all had staked a claim, but after a hundred and fifty or so years of farming and trading and warring, somehow the English communities along the East Coast prevailed – they prevailed over the French and the Dutch, over the wilderness, over the sometimes hostile native populations, and rather late in the game, they prevailed over the English monarchy. And so the breath of Self-Determination was slapped into our country at its birth.

However we think of ourselves as a nation – call it our narrative, call it our identity myth – it is a sustaining thing insofar as it does not square with some of the grim realities of our history. Children are repositories of one version of the classic narrative, as, for example, it was invested in me and my grade school classmates in the 1930s. During our school assemblies, everything we believed about our country seemed to emanate from the American flag up on the stage. We pledged our allegiance to it.

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We looked at its field of colors, and spoke the words of the colors, red white and blue, and that's what we carried with us as our feeling, as something as free and as bright and agile as we were afterward in our games. We all knew the difference between what was fair and what was unfair, and the colors of the flag and the words for the colors meant what was fair. The assumption we made from those colors was of a real, unwavering order of justice for everyone, whether they were big or little, rich or poor. The expectation we had from those colors was of the beneficent intent of an elected American government, standing in service to all its citizens and working to ensure their well-being.

This was the naive, somewhat leftish version of the American narrative appropriately tuned to the time of the Great Depression. Our teachers, knowing how shaky things were, intoned, as in prayer, that America was exceptional. We were a little too young to take in the Constitution and the Bill of Rights, and so the colors, and the words of the colors red white and blue, are what stood in our minds for the resolved democratic presence of a nation of people who had come from all over the world to be free. They could go to whatever church they pleased. They could speak out without being punished for it. They could vote. If they were old, they could have a government pension. We knew all that. And so we carried the image of our flag and the words for the colors of our flag outside in the sun and clean air of our playgrounds.

Something like this lovely narrative may be held in the minds of schoolchildren today. Many foreigners who continue to come here from all over the world harbor a version along the same lines. The difficulty of emigrating – of escaping from despotism, from a theocracy, from an overwhelmingly corrupt class society, or from irremediable poverty – is a measure

of the fiercely held, chaste American narrative in the mind of the newly arrived immigrant. Survival may be difficult, nativist resistance to his presence may be oppressive, but if he is prepared to struggle, to live a menial life, his children will go to college. America is the diaspora of choice, a country in which the freedom to succeed or fail transfers one's fate to one's character, something not possible in the brutal, degraded class society of the abandoned country.

In this shared idealism of the child's instilled faith and the immigrant's ground-kissing gratitude, the United States of America is forever the New Found Land.

Call this version Narrative A.

There is a related narrative that, if as idealistic, is not naive. In this version, the flag, and the words of the colors red white and blue, stand for a justifiable American hegemony. It says we are a superpower with a military capacity second to none and an economy that, whatever its ups and downs, is the envy of the world. The generative sources of our historically unprecedented national wealth are a free market philosophy, technological creativity, and the limited liability corporation. Underlying all is the inarguable Social Darwinist distinction that must be made between the haves and the have-nots. There is no help for that. We are, after all, part of the natural world in which the fittest prevail. Nevertheless, everyone has the right to worship as he pleases, to write what he pleases and say what he pleases, as long as his speech does not libel, slander, or incite criminal activity. We enjoy a degree of free imaginative expression that few cultures in the world can tolerate. But the colors red white and blue and the words for the colors mean this is a country free to do business. There are those who do not appreciate the genius of commerce unhampered by government

Narrative C controls. There are always those who want to fix what does not need fixing. These elements include people in government and labor organizations. It will not do to forget we are a democratic Republic in periodic danger of becoming a socialist state.

Call this Narrative B.

That the 1930s child's (A) and the Social Darwinist's (B) are the Left's and the Right's versions of the American narrative is borne out by the nature of our political life, which oscillates between expansive periods of social inclusion and contracting periods of social triage. So the versions are competitive. (We may go further and acknowledge them as the flags carried by our contemporary Democratic and Republican parties.) But despite their differences, they are bound together by their belief in American exceptionalism. They have similarly benign views of our historic territorial expansion, either as a kind of liberation theology or as manifest destiny, and they are equally steadfast in their allegiance to the flag and to the Republic for which it stands, as delineated in the articles of the Constitution and its amendments.

Finally, the crucial differences between leftist and rightist versions of the American narrative come to be argued in their claims of constitutional authority. The Constitution is our sacred text. Like all sacred texts, it is subject to commentary, to interpretation, and to statutory application. Its operative verb, *shall*, speaks to the endless future (“*The Congress shall have Power To lay and collect Taxes . . .*”), and so its articles and amendments, while laying down the structure of the nation-state, provide also the means to deal with unimagined circumstances. Historically, the Constitution may have been marred by readings of this or that judiciary, and the difference between its proscriptions and the actual conduct of citizens who have claimed to live according to them may have

left the edges of the parchment seared, but the document is still intact, having apparently withstood all abuses but one: when it was invoked to endorse slavery, and a war had to be fought to redact it.

The Constitution is our flag written out in the penmanship of the Founding Fathers. It is the text that, given our roiling history, we do not perfectly embody. It is what we hold to as our identity despite the harsh realities of our national conduct over 235 years. It is the repository of our ideals, shimmering in ambiguity but holding in its articles all the arguments we muster in our seemingly endless leftist/rightist readings. Finally, we live in it, it is our house of many mansions. If anyone on the Left or Right were to pull it down we would have a narrative only nominally American. But that would take some doing, and it would come not from the efforts, legal or illegal, of some marginal political party; it would come from the top, which is how houses are usually pulled down.

Here, in this regard, I offer a view of the last ten years or so of our political life.

George W. Bush was installed as president in the year 2000, when the Supreme Court countermanded the Florida Supreme Court's ruling that a statewide recount be conducted, the election in Florida having shown a difference of only a few hundred votes between Mr. Bush and Vice President Al Gore. There were good reasons, including the fact that Mr. Gore won the national vote count, that Republican courthouse rallies at the time verged on thuggery, that the Florida secretary of state, a Republican, refused to grant extensions to counties that had asked for more time to recount, that the votes of three counties where many African Americans lived were never counted at all – good reasons to feel that, as in some banana republic, the legitimacy of a sitting president

was in doubt, and that some damage had been done to the Constitution.

From the moment this president chose to invade Iraq, claiming speciously that it had nuclear weapons of mass destruction, he appeared relentless in his violations of Article VI of the Constitution (“*the Constitution, and all Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the Land*”). The UN Security Council voted to reject the U.S. decision to invade Iraq pending further efforts to gain inspection of the alleged WMD caches, and though the United States is a signatory of the UN Charter, this president went ahead with his invasion. He would subsequently refuse, with sophistic reasoning supplied by his lawyers, to honor this country’s observance of the Geneva Convention regarding the treatment of prisoners of war. He would violate the Treaty Against Torture and the Eighth Amendment of the Constitution, which prohibits the infliction of cruel or unusual punishment, calling the torture he had ordered only “enhanced interrogation.” Other profound constitutional matters, such as the writ of habeas corpus, the unreasonable search and seizures amendment (IV), had to be reassessed by the courts or bypassed by congressional legislation, all under the pressure of this president’s deconstructive policies.

Is it naive, given the dangers to the nation from international terrorism, to demand strict observance of the supreme laws of the land? Hasn’t the sacred text been treated carelessly before this? Abuses occurred in the presidencies of Richard Nixon (who resigned after facing impeachment for obstruction of justice and abuse of power) and Ronald Reagan (who was not impeached or forced to resign for his administration’s secret sale of arms to Iran and diversion of the proceeds to fund

an insurgent war against Nicaragua in violation of the Intelligence Authorization Act, the Arms Export Control Act, and the Neutrality Act). But it is that nascent culture of presidential autonomy created in the forty or so years before the election of 2000 (“If the president does it, it’s not illegal,” said Richard Nixon) that floated Bush to his level of lawlessness – from his predecessors’ indifference to his irreverence, from their disrespect to his heedlessness, from their blasphemy to his subversion. He had taken an oath to preserve, protect, and defend the Constitution of the United States. His actions altogether would, as a clear moral imperative, call for criminal prosecution. The fact that a successor administration under a Democratic president has refused to bring a case against Mr. Bush and his advisers is a pragmatic but tragically wrong political decision. President Obama indicated a desire not to dwell on the past but to move the country forward. If he felt, on consideration, that everything else in the way of government business might grind to a halt were a legal case to be mounted, it is something the Republican Party has managed to achieve anyway, even in the face of Obama’s bipartisan comity. Incalculable damage is done to our sacred text when such unconstitutional precedents are put in place and left standing. If the American narrative derives from our covenant with the Constitution, to break that covenant is to redact our way to another narrative. Two years into the Obama presidency, the damage is showing up in the streets as an antigovernment Tea Party populism, a vindictive party-above-country politics of the Right in Congress itself, and with a sense overall of some malign antinomian spirit abroad on the land.

Republicans in Texas backed George Bush’s runs for governor of Texas, and for president, not because of his sterling char-

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Doctorow

Narrative C acter or his intelligence but because he had a name and had grown up drenched in the values of the oil business. Having come late to religion and sobriety, he was, for many, a true American, one who would blur the division of church and state, champion deregulation, and govern on behalf of the people who had put him in office.

He had been for years something of a lout, by all accounts silver spooned as the eldest son of a political family, exempt all his life from the usual consequences of bad behavior, proudly anti-intellectual as a college student, and all his life contrarian as a matter of principle, so that holding the country's highest office, with deadly stupidity behind the guile, he made policy leaving the American middle class reeling, the wealthy relieved of their share of taxes, the Treasury burdened with enormous debt, the environment trashed, many thousands dead from his elective war, and, with apparent reasonableness after 9/11, the rights of a free American citizenry severely compromised, their phone calls and email data-mined, their business, medical, and public library records sequestered, and, in disregard of constitutional safeguards, secret warrantless searches made of their homes and businesses.

Mr. Bush also left us with a Supreme Court seeded with arch-conservatives of his own and his father's predilection that would go on, in *Citizens United v. Federal Election Commission*, to affirm the First Amendment right of free speech of corporations, declaring them equivalent to human beings, thus bringing into the American narrative something like the fervid life of a golem.

How valid is the Court's ruling that corporations are ontologically equivalent to human beings, perhaps even a new branch of human life distinguished only by its limited liability? A modern corporation is composed of officers, trustees, lawyers,

workers, and shareholders. They all are humans of human dimension, but however good and fine they are as people, they are indentured to the corporate creature to whom – for one reason or another – they have given their loyalty and, in some cases, their lives. The corporation's demands require their submission if, as workers, they are not to lose their jobs, or as shareholders they are not to lose their investment, or as executives they are not to lose their year-end bonuses and their reputations in the business magazines. Whatever seeming humanity is the corporation's, it is of an authoritarian character. And so I look at what the Court has given the First Amendment right of free speech:

If it is a corporation that sells cigarettes proven to cause lung cancer, it will continue to sell cigarettes.

If it is an oil company amassing enormous profits, it will continue to expect government subsidies.

If it is a credit card corporation, it will find a way to charge increasingly usurious interest rates.

If it is a health insurance corporation, it will insure a person until she becomes seriously ill.

If it is a pharmaceutical corporation, it will create a medicine for which it will invent a disease or condition the medicine can treat.

If it is a coal mining company, it will strip-mine a mountain, destroying the surrounding ecology and leaving the land desolate to the people who live there.

If it is a multinational corporation, it will park offshore profits in foreign tax havens to avoid paying U.S. taxes.

If it is a Wall Street bank responsible for the subprime mortgage scandal, it will reward its executives with bonuses consisting of taxpayer bailout money.

If it is an energy company with coal-fired furnaces that cause acid rain to fall over the eastern states, it will refuse to invest in equipment that would end acid rainfall over the eastern states.

If it is an ocean fishing corporation, it will use industrial technology to net a kind of fish to extinction, and then go on to another fishery and do the same with another kind of fish.

If it is an oil company, it will deny the existence of global warming in the interest of maintaining the demand for oil.

If it is a life insurance company, it will administer the death benefits given to families who have lost sons and daughters in the war, paying them 1 percent interest on their money while collecting 5 percent interest on it in their own corporate investment accounts.

If it is any corporation, no matter what its business, it will fight attempts to regulate its practices.

As inarguable as these statements are, they should not be read as a moral bill of particulars. Such huge corporations as these operate in accordance with their reason for being. It makes no more sense to condemn them for what they are than to condemn a tiger for running down a fawn for dinner. A corporation is formed to produce wealth. While the people who work for it can take pride in their work, perhaps designing and producing something that sends them home at the end of a workday feeling that they have accomplished something, the corporation itself is indifferent to the product or the means by which its wealth is produced. It will grow bigger and bigger through mergers – that is the corporate proclivity – and, as it does, the different things by which it produces wealth will have less and less relation to one another. A food corporation will produce jet engines, and a soap and toothpaste corporation will sell auto in-

urance. A corporation will advertise itself as having a human face, as being in business to serve the public, and it will display its workers, usually of many races, smiling and doing their jobs. Yet these same workers will be let go if the corporation is not meeting its projected profits, or they will be deemed superfluous when the corporation merges with another corporation. It's nothing personal, and it never is: the corporation either makes the profit per stockholder share that it needs to keep attracting investors, or it doesn't.

But if we accept corporations on their own terms, we cannot at the same time grant them human rights. They simply lack the range of feelings or values that define what it is to be human. Humans can act against their own interests, they can feel sympathy for others, they can be merciful. Corporations cannot act except in their own interest, they do not know compassion and will not act mercifully unless there is some public relations advantage to it. Corporations do not live and die, they continue to exist in one form or another apart from the life and death of their members. Corporate executives will support candidates who best serve the corporate interests, and it will not matter that they themselves or their shareholders may feel differently. There will be an overriding logic to the corporate choice that alone is indication that a powerful business entity whom human beings work in service to is not itself a human being deserving of First Amendment rights.

Corporations may be great tromping golems of clay striding the earth, or they may be robotic creatures programmed to smile and say hi, but they are not us. We humans work for these corporations, we pull the levers and sit at the computers, but we are controlled by the unyielding logic of the corporate ethos and we do things as functionaries that we would not do in our personal lives. The corporation diffuses

Narrative C responsibility, supplies rationales. The liability is limited and the rewards are great.

How is anything made different by the Supreme Court's ruling that corporations have the First Amendment right of free speech and can put up all the money they care to on behalf of their chosen candidates right up to the day of election? Doesn't the ruling confer on labor unions the same rights? And, after all, corporate lobbies have been a fixture in Washington ever since politics as an amateur calling gave way to the professionals. A politician's backers are repaid with a sensitivity to their interests. This is hardly news. It is the recurrent truth of Washington, so rhythmically repetitive as to be its heartbeat.

But the corporate sector is already so dominant in its influence as to make of this decision a release of errant energy through the corridors of Washington. The commentators and politicians who see this as a triumph of First Amendment thinking are, like the Court, supposing corporate animacy to be a kind of human life. There is such a failure of analysis in that, it is so obviously fallacious that, granting the intellectual capacity and learning of the justices who voted with the majority, their decision may reflect a point of view that is simply ideological. That they affirm the First Amendment on behalf of big business has its ironies. They overturned elements of two major campaign finance reform laws with this decision. How can anyone honestly believe it will promote democracy? Corporations are insular, their members will put forth the corporate interests regardless of the manifest needs of the country or the planet. In fact, they will do more than that, they will conflate their interests with the public good.

We have been since the end of World War II a national military state. Guardians

of a Cold War arsenal of nuclear weapons, we have fought two wars in Asia, one of which, Vietnam, was never sufficiently justified. We have had simultaneous wars in two Mideast countries, and we are occupied fending off an international terrorist movement. We have found ourselves the sponsors of torture and imprisonment without trial of presumed terrorists. We learned well after the fact that we ourselves were subject to secret illegal surveillance by our government, all of these measures claimed as wartime expedients and promoted with a propaganda of fear. We are severely alienated by gross economic inequalities, the ever-with-us malefactors of great wealth thriving at the expense of the middle class. Fourteen million of us are out of work. Almost two-and-a-half million are locked down in our prisons. It has been quietly accepted that though a former president and some members of his cabinet committed crimes against the Constitution, they are above the law. Elected know-nothings prance about in Washington ready to tear down any program that looks like it might help people. Our once glorious system of free public education is in disarray. And our Supreme Court, perhaps anticipating an unreliable democratic future for the country, has turned to the business community for leadership, granting it the power to change the composition of the Congress.

All this seems to me a process of national deformation.

It may be difficult to imagine a time when the producers of our refrigerators and washing machines, our cars and planes, computers, and high-definition TVs, the big-box marketers of our food and baby clothes and outdoor grills, the owners of our oil refineries and the producers of our pesticides and engineered food crops, the proprietors of our steel forges, chemical factories, media companies, and nuclear energy plants, the oper-

ators of our banks, and manufacturers of our arms, all of them so insistently the suppliers of the good and essential things in life, could somehow, by the relentlessness of their corporate energies, reconstitute us as a nation.

How would that work? Tocqueville proposed that tyranny might arrive here stealthily, as a kind of catatonia coming over a sheep-like population. Let us say that in our time it could arrive by degrees with the acquiescence of a propagandized population: the massive exercise of corporate First Amendment rights having methodically put in place a sitting House and Senate composed of old pols who, over the years, have been the most corporate-compliant, plus freshly groomed, suited, and coiffed professional lobbyists, and Congress comes into session as a shining example of a one-party democracy. Antitrust laws, so indifferently applied for so long, are revoked. The impersonal exactions of a ruling corporate culture begin to determine social policy. Federal regulatory agencies overseeing business and labor practices are disbanded. Unions are abolished. There is a steady progression of corporate mergers as the game players converge to compete or collude. A Darwinian principle of natural selection eventuates in megacorporations with the economic heft and working populations of fiefdoms. Collectively, they cannot be distinguished from the government. Yet with the degradation of the middle class – working people unable to buy what they are producing – the economy begins a downward spiral. Street demonstrations pop up in several cities. With the populace finally awakening, Selective Service is reinstated. The corporate CEO who has assumed the presidency relies on Homeland Security surveillance technology developed during the war on terrorism – GPS handhelds, facial recognition software, behavioral biometrics, body heat

recognition devices, unmanned aerial vehicles with the capacity to peer through windows from a great distance, and data banks of credit card and cell phone accounts and Internet social networks – to keep the citizenry under close watch.

I suppose this is a vision of what could be called corporate fascism. It seems in many ways to approximate the Chinese model of State Capitalism, though the Chinese prefer to describe what they have as “a market economy with Chinese characteristics.” Perhaps we will have a market economy with American characteristics and a Constitution still seemingly inviolate – as is the written Chinese constitution in defense of which Communist Party secretaries throw into jail anyone who asks them to live up to it.

But apart from any speculation of ours, nobody at this moment can consider the state of our nation without foreboding. The inanity of much of our political discourse is evidence of a national intellect ill equipped to respond to global emergencies. By every measure the planet is showing severe signs of stress. Yet the facts of dire climatic change are promoted as fantasy, or as a conspiracy of leftist scientists. To the extent that the megacorporations subscribe to this view, their characteristic self-interest is maladaptive. Eventually, there may have to be wars for water, for tillable land, for livable climates. The mournful facts seem to be clouding up as if some black spiritual weather is coming. A darkness. So one way or another the idea of a free citizenry of the red white and blue, along with what we think of as our exceptionalist democracy, may no longer be sustainable. If that is so, we will have written a new American narrative, though, after all, I don’t think anyone can know just how it will read.

Call it Narrative C.

Spooked

Gish Jen

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Ours is a worried America, a jittery, teetery, beetle-browed America. Have we lost our oomph, our stomach, our moxie, our way? And is that our doom we see before us, on a big red cloud with a billion people on it? Well, maybe. Certainly it's been a while since we looked up and beheld a clear blue sky. Now we see ozone depletion, smog, intruders – we parse what we used to drink in.

As we have for a while: John Updike's Rabbit Angstrom, in the last of the Rabbit books, envisioned his death as descending out of the azure, "shaped vaguely like an airplane." And by book's end, it's found him – the ex-basketball star, still trying to get some air, though he's overweight now, nothing antigravity about him, and with something – hmm, might this be a metaphor? – the matter with his heart. That was Updike's America, circa 1990 – an America that could not pass up a candy bar. Now the Japanese measure their waists and apply peer pressure to the *metabo*, while we Americans grow ever more immeasurable. Not that everyone is a whale, of course – look at the Seals! And isn't Michelle Obama getting us to move?

Still, we worry. As for the foil to the story that is young America, fit America, ready-for-all-comers America, it is Asia. The Vietnamese who tunneled

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right under our troops. The Japanese who showed us how real cars were made. (Is there a German word for relief at someone else's stagflation?) Now it's China. "The nineteenth century went to England, the twentieth, to America," goes a saying. "The twenty-first belongs to China." It's something you hear every now and then in America. In China, you hear it all the time. But is it true? Or is China the new Japan – a tiger that spooks us but will prove a paper tiger in the end? Sure, the Chinese have a railway from Chongqing to Europe now – an iron Silk Road that runs all the way to Germany. And sure, they've built the world's longest over-water bridge; and maybe they can boast some pretty fast trains, too. But what about that train crash in Wenzhou? And isn't there a case to be made that more regular trains are what's needed, not showcase trains with no passengers? And what about China's top-heavy population and its many state-sponsored enterprises, not to say the 140,000 official graft cases that were filed last year? How many unofficial cases there were, no one knows. But such is the corruption, such is the pollution, such is the lackluster innovation, not to say the discontent among the hundred million plus migrant workers, that for all the chortling about to whom the twenty-first century will belong, the reaction of many Chinese to Obama's State of the Union this past January was disbelief. Could the United States really feel threatened by China? Our perception of them is of a humongous country, with an enormous population and enormous reach: witness their buying of U.S. dollars, their buying of Brazilian farmlands; witness their cornering of the rare-earths market and more. In their minds, though, they are David and we, Goliath. Never mind what a large-ish David they seem to us. That's how they tell the story.

And, well, let them. It's the doubt in our minds that matters more. For generations we've taken our superiority for granted, after all; it's a story by which we've lived. We have taken it for granted, too, that we were the envy of the world, which we may still be: stories abound of our foes applying, if they have the chance, to come study in the United States – of their applying, even, for citizenship. These are stories of which we take note. The irony, we say. It just goes to show. Though what does it show? Some of these changelings want to become American. Others, though, just want a safety net. *China crazy place*, a man said to me once. *You never know what's going to happen there. Up, down. You never know.*

True enough. Still, look at Shanghai, people say. Look at Shenzhen. Look at Zaha Hadid's new Guangzhou Opera House. Thirty years ago, you could barely drive a car down even the avenues in Guangzhou thanks to the crowds and the animals. The people spit. They had no sense of time. Everything amazed them. Up north in Shandong, I remember impressing my colleagues at the Coal Mining Institute with my intimate acquaintance with refrigerators. They were wowed by my ability to identify that mysterious item, the egg rack, as for eggs; almost no one had seen a refrigerator before. To make a phone call, you had to ride your bike to a post office in the city; sometimes you got a connection and sometimes you didn't. And this was in Jinan – home today to the hackers who hacked their way into Google. Thirty years ago, "communist capitalism" wasn't even an oxymoron yet.

The Chinese story is a challenge to ours. It is odd to think a five-thousand-year-old civilization an upstart, but the Chinese make us look ancient. Big-time corrupt in a crony capitalist sort of way – witness the banking crisis – and, well, slow. This democratic process – is it great, after all, or is it cumbersome? Does it not take

Spooked forever? Could we Americans ever have put up a ring road the way China has around Beijing – not once, but going on six times now? We’re the “can’t do” nation, being beaten at our own game. And how universal is democracy’s appeal? People may be everywhere in chains, but how many care? Don’t a lot of them just want to live like the people they see on TV? And does that mean we’re in decline – our ideas, our ideals, our model? Or if not quite that, yet, perhaps at a pause at the top of a ferris wheel – at the “and” of “rise and fall”? The recent revolutions in the Middle East have and have not been heartening; we’re no bestseller, that’s for sure. What’s more, we’re nation building at home for good reason. Trying to do something about the economy. Trying to do something about unemployment. Trying to do something about education, the environment, everything. Though can we? When it isn’t democracy standing in the way, it’s capitalism, our style. A Houston oil exec friend told me how frustrating it was to bid against the Chinese for oil fields. Our shareholders, she said. Our short-term orientation. We need to show a profit tomorrow. Whereas the Chinese don’t, of course. The Chinese are buying everything.

We are still the “can do” country, sometimes. We got Osama bin Laden, after all. And there he was, we now know, in his hideout, trying to change Al Qaeda’s image, its name. His brand was in trouble. Which was our victory, in part, was it not, that he should think his group too violent to appeal to other Muslims? We have an African American president. We have a woman president of Harvard. We have a military that (at least theoretically) no longer discriminates against gays. China has health care for people who can pay. It has people who will stand in the hospital lines for a fee. I once saw a school for migrant children in Beijing; there

were some seventy or eighty kids in a class. They had no books; the floor was dirt. Everything turned to mud in the rain. And the kids came or didn’t, of course, or came too early; some were dropped off at 5 so their parents could go work. The kids stayed too late, too. As for who was helping them out, or trying to, that would be a bunch of Americans, who else.

It is an unfortunate feature of narrative that what gets most mental play is what our brains deem relevant to survival. Which is generally what’s most fearsome; we’re a spookable species. But before we spook ourselves silly over China, perhaps we should recall the story of Wang Labs, with its storybook rise and storybook fall. Both were in part because of Chinese-style management, the Wangs having played their cards close to the chest. They kept things in the family, including their stock; and with these things, they kept challenge at bay, too. Stockholders may be a pain when it comes to oil fields, but might stockholders have kept Wang from betting so big on word processors? Instead, Wang came to dominate an industry eventually wiped out by PCs – personal computers being able, of course, to do word processing and a lot more.

As for whether that’s a tale about centralization and its hazards – it is. Is it a story about China? We’ll see. In the meanwhile, here’s another tale from the annals of the PC: Apple v. IBM, also known to all, once, as David v. Goliath. Locked in combat for decades, both companies struggled; and both were down for the count more than once. IBM, though, reinvented and reinvented, and still survives today; and as for Apple, it, too, reinvented and reinvented and, even without Steve Jobs, more than survives today. Neither is defined by the industry over which it once battled – Apple, in fact, dropped the “Computer” from “Apple Computer” a few years ago. And neither, I think, could

have foreseen how drastically things would change. But there it is. Things changed; they adapted.

Can that be America's story? Even with China in the picture? David and Goliath (whichever is which), both on their feet for a good bit to come? I am not such a dreamer as to think the slingshot obsolete. Still, I wish we'd write our narrative this way, and believe we still can. America the Open, America the Nimble, America the Out-of-the-Box, this would go. America the Resilient, America the Free. America the Unafraid.

The Other Case

Michael Wood

Abstract: This essay explores the suggestion that many American narratives are supplementary, correcting narratives – alternatives to the main story on offer. The guiding thought is that of Henry James’s “possible other case,” and the chief example is Cormac McCarthy’s “No Country for Old Men,” in which one story after another fails to cope with the ongoing mystery it faces. The novel may imply, then, that narrative itself, rather than any individual report or fiction, is in crisis or has come to the end of its road. A coda to the essay proposes the option of nonnarrative understandings of the world in those extreme situations where storytelling is no longer the sense-making activity we so often take it to be.

“Only she dont mean that,” Quentin Compson thinks at the start of *Absalom, Absalom!* when Rosa Coldfield gives him her reasons for telling him her story: that he may become a writer someday, “as so many Southern gentlemen and gentlewomen too are doing now,” and that he will “perhaps . . . remember kindly then the old woman who . . . talked about people and events you were fortunate enough to escape yourself.” In Quentin’s intuitive understanding, Rosa is not thinking about a literature of the future, nor is she worried about her own life in his memory. “It’s because she wants it told,” he insists to himself.¹

There is a subtle critical question here. What is *it*, and what does it mean to want *it* told? What is the difference between the desired telling, on the one hand, and literature and memory, on the other? The two are not logically or conceptually opposed: literature and memory both deal in, among other matters, getting things told. So how can Rosa not mean what she says, or not mean *just* that?

Quentin may believe that she is treating him as a recording angel, a scribe who does not even have to write, only listen. *It will be told* when she has finished telling him whatever she has to say. This explanation must be a piece of the truth, but Rosa seems to have more in mind: not just a record but a filling

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out or correcting of the record – a record that will supplement or supplant other accounts. This possibility suggests a definition of *narrative* as it functions in the historical and cultural imagination: not just a story but a further story, a missing story.

National narratives of this kind would differ in what they found missing, not only in what they told but in what they wanted told. For example, what European narratives characteristically find missing (and therefore supply) is a sense of reality, while American narratives find reality itself to be missing something. This distinction is familiar in many ways – familiar enough, I think, to have become somewhat mysterious.

To remind ourselves of the first mode we have only to think of any great European novel, from *Don Quixote* to *Madame Bovary* and *Anna Karenina*, or of W. B. Yeats's response to his reading of George Eliot: "I, who had not escaped the fascination of what I loathed, doubted while the book lay open whatsoever my instinct knew of splendour."² This is his way of saying that Eliot magisterially reminded him of the inescapability of reality's verdict on human chances. The second mode is identified with extraordinary grace and care by Henry James in his *Prefaces* to the New York edition of his works. In this essay, I pursue this task of identifying the missing, only this time in contemporary fiction, where it rewrites the American romance in a rather different register.

A large part of the interest of James's American mode is its reliance on irony. There is clearly some distance between what James is saying and what we think of as Romantic irony, although it may be that a more extended and informed consideration of the relation would close the gap quite a bit. For the moment, it will be enough to consider some of the implica-

tions of James's calling *irony* what others, and indeed James himself, have usually called *romance*.

James makes his argument in two different prefaces to the New York edition, becoming bolder and bolder as he goes. His first move is an implied distinction between verisimilitude and fidelity to the historical record. It is possible, he suggests, to produce an effect of truthfulness without any identifiable documentary warrant, and if one does not produce this effect, then all one's artistic efforts are wasted. This may seem a fairly uncontentious notion, but James is answering an extremely contentious claim from "a highly critical friend," namely, that the writers and artists in James's fiction "not only *hadn't* existed in the conditions I imputed to them but...for the most part...couldn't possibly have done so." They were "absolutely unthinkable in our actual encompassing air"; there was no "past or present producible counterfoil" for them; and "none of my eminent folk were recognisable." James is not disclosing irony as his defense at this point; he reaches for "tone" and "amusement," the playful possibility that such folk at least *might* exist. He acknowledges that such a link to reality could more properly be thought of as "only a link, and flimsy enough too, with the deepest depths of the artificial," and suggests that the practical test of such imaginings is the further work that can be done on them, the "test of further development which so exposes the wrong and so consecrates the right." Meanwhile, he has rather grandly anticipated the conclusion of his own later argument:

If through our lean prime Western period no dim and charming ghost of an adventurous lyric genius might by a stretch of fancy flit, if the time was really too hard to "take," in the light form proposed, the elegant reflexion, then so much the worse for the time – it was all one could say!³

Fortunately, it was not all one could say, and James knew that such a way of winning the argument was also a way of losing it – hence his promise to return to the topic “in another hour.” In this second hour, James confesses that he cannot produce “chapter and verse” for the “super-subtle fry” of his fiction but sees, “on going over these things,” that his “postulates,” his “animating presences . . . were all . . . ironic.” And he offers his famous, far-reaching, and I want to say *American*, definition of irony:

When it’s not a campaign, of a sort, on behalf of the something better (better than the obnoxious, the provoking object) that blessedly, as is assumed, *might* be, it’s not worth speaking of. But this is exactly what we mean by operative irony. It implies and projects the possible other case, the case rich and edifying where the actuality is pretentious and vain. (*Art of the Novel*, 222)

Here, the “possible other case” is the imaginable other case; imaginable and lacking, requiring our imagination because it is lacking. For James, irony is a matter of honor, and in giving us a sense of what he calls the “whole passion” of his retort, he strikes the national note:

What does your contention of non-existent conscious *exposures*, in the midst of all the stupidity and vulgarity and hypocrisy, imply but that we have been, nationally, so to speak, graced with no instance of recorded sensibility fine enough to react against these things? – an admission too distressing. What one would accordingly fain do is to baffle any such calamity, to *create* the record, in default of any other enjoyment of it; to imagine, in a word, the honourable, the producible case. (*Art of the Novel*, 222 – 223)

In the stern (or unimaginative) European tradition, and certainly in the eyes of James’s critical American friend, the honorable, producible, but as yet unrecorded

case must look romantic in the derogatory sense, a generous but helpless flourishing of illusion. Indeed, James’s own definition (in his preface to *The American*) allows for this reading. If “the romantic stands . . . for the things that . . . we never *can* directly know; the things that can reach us only through the beautiful circuit and subterfuge of our thought and our desire,” then we cannot directly or swiftly know how availing (or unavailing) the imagined case may be, even if we grant its hypothetical moral promise (*Art of the Novel*, 31–32). There are other difficulties, as Rosa Coldfield’s story-in-waiting reminds us. From Faulkner to Saul Bellow, Philip Roth, and Toni Morrison, American writers have believed in the possible in a way their European counterparts have not; but the possible, producible case has included many different notions of what is honorable, and the honorable thing has often been to tell the truth in its darkest possible version, the honor lying in the refusal to be blinded by the darkness. In this sequence, James looks like a noble optimist, campaigning through irony for “the something better.” But the very word *irony* announces, or at least allows for, the darkness James does not name, because he knows quite well that the “possible other case” will not always be rich and edifying. He would not need the term *irony* if it were. The possible other case, by definition and in the longer term, includes all kinds of options, from the satirical guess that turns out to be the historical truth, as with Philip Roth’s *Our Gang*, to the imagined justification of child-murder in Toni Morrison’s *Beloved* and the nightmare scenario of Thomas Pynchon’s never-quite-arriving apocalypse in *Gravity’s Rainbow*.

But all these narratives are narratives, stories that are told or could be told, even if their telling is obstructed or long delayed. I now want to take the question of

American narrative to a slightly different and highly contemporary place: the place where narrative itself may give out, or become impossible. A privileged instance of such a location is Cormac McCarthy's novel *No Country for Old Men* (2005). Of course, the story that breaks down does itself reach us through a story, and McCarthy's work is not short on plot and adventures and deaths. But the worry about narrative is very visible, and urgently articulated. The question is both literary and historical, raising concerns that would have seemed strange to earlier novelists. To quote Henry James once again: "it seems probable that if we were never bewildered there would never be a story to tell about us" (*Art of the Novel*, 63). But then the story is the antidote to our bewilderment as well as the result of it, and what if the bewilderment were such that it put paid to the very idea of story? Could America's present difficulty – or one of its difficulties – be that it has somehow met the unnarratable?

The recounted story of *No Country for Old Men* involves a shoot out between drug-running gangs in the Texas desert: eight corpses, a truckload of heroin, a document case full of dollar bills. A hunter who happens on the scene makes off with the money and is pursued and murdered, as are a number of other people who get in the way of chief killer Anton Chigurh. We know both very little about Chigurh – he is "dark complected"⁴ but probably not Mexican; he works for one of the cartels – and at the same time, we know quite a lot, since he constantly philosophizes, as characters in McCarthy's novels often do. The difference here is that Chigurh's philosophy makes him eerily coherent but also impenetrable – as distinct from Judge Holden in McCarthy's *Blood Meridian* (1992), for example, who is endlessly eloquent but insane in a clinically familiar way. Is Chigurh a "psy-

chopathic killer," as one character calls him? Yes, but the description just renames the bewilderment he causes. Even the character who uses the phrase sets no store by it. "So what?" he says. "There's plenty of them around" (*No Country*, 141). Is Chigurh "a goddamned homicidal lunatic," as a man who is on his trail says? The novel's thinking man, Sheriff Ed Tom Bell, says yes to the homicidal element but hesitates about the noun: "I dont think he's a lunatic though." "Well, what would you call him?" "I dont know" (*No Country*, 192). Chigurh is twice called a ghost – "You wouldnt think it would be possible to just come and go thataway" (*No Country*, 248) – the second time only to plunge Bell into a deep philosophical quandary. Bell says, "He's pretty much a ghost," which sparks the following conversation:

Is he pretty much or is he one?

No, he's out there. I wish he wasnt. But he is.

I guess if he was a ghost you wouldnt have to worry about him.

Bell continues, "I said that was right, but ... when you've said that it's real and not just in your head I'm not all that sure what it is you have said" (*No Country*, 299). The reality of the killer is neither a consolation nor an aggravation of the threat. He is as spectral and unearthly as any ghost, as lethal as any worldly agency can be. He is the incarnation of what defeats every idea of adequacy – clinical, forensic, and moral – or as Bell puts it in his homemade but accurate way, "when you encounter certain things in the world, the evidence for certain things, you realize that you have come upon somethin that you may very well not be equal to" (*No Country*, 299). This failure to be equal to what we come upon creates, among other things, a sort of death threat to narrative. One could be equal to defeat or even disaster,

The Other Case for instance, but scarcely to sheer unraveling incomprehension.

This theme is raised at the start of the novel, in a context that only later acquires its relevance to the figure of Chigurh. Bell recalls the execution of a nineteen-year-old man and his meetings with the young man before he died:

He told me that he had been plannin to kill somebody for about as long as he could remember. Said that if they turned him out he'd do it again. Said he knew he was goin to hell. Told it to me out of his own mouth. I dont know what to make of that. I surely dont. I thought I'd never seen a person like that and it got me to wonderin if maybe he was some new kind. (*No Country*, 3)

The notion of a “new kind” of person – or event or conjuncture – recurs in the book. A colleague of Bell's says, “I just have the feeling we're looking at something we really aint never seen before” (*No Country*, 46). Another colleague says, “Who the hell are these people?” Bell replies:

I dont know. I used to say they were the same ones we've always had to deal with. . . . Back then they was rustlin cattle. Now they're runnin dope. But I dont know as that's true no more. I'm like you. I aint sure we've seen these people before. Their kind. (*No Country*, 79)

The action of the novel takes place in 1980 – we are told that a coin minted in 1958 is twenty-two years old – but the mood of these remarks seems to belong to a much later era, closer to the century's end and even after. The significance of Bell's words lies not in their historical analysis – many changes of degree feel like changes of kind – but in their pinpointing of a fear, a new shape of consciousness to go with what may be a new shape of crime. “I still keep thinking maybe it is somethin about the country,” Bell says, a reflection of America's “strange kind of

history” (*No Country*, 284) – a history that all the old narratives domesticated in one way or another, we might say, but that now seems merely strange in a raw, unmanageable sense.

Some of the old narratives are still in play in the book, but their main effect is to reveal their helplessness. The unrepentant young killer is said to have “no soul” (*No Country*, 4). Satan is said to have invented narcotics in order to “just bring the human race to its knees” (*No Country*, 218). At other times the old categories permit a stark, dry humor, as when Bell distinguishes between an execution, that is, a cold-blooded cleaning up of a mess among criminals, and death from “natural causes,” where criminals have killed each other out of greed and dissension – causes “natural to [their] line of work” (*No Country*, 76). But these are all stories about the time, about where America is “now,” responses to a whole set of instances of rising violence and unheard-of mentalities. “Here the other day,” Bell says, “they was a woman put her baby in a trash compactor. Who would think of such a thing? My wife wont read the papers no more. She's probably right” (*No Country*, 40). Chigurh, one of McCarthy's most brilliant inventions, is a phantom of reason, what the world's accidental horrors would look like if they had a mind; he is the crazed but logical theory of what resists theory.

Another killer who works for the cartel tries to explain to the hunter who took the money how dangerous Chigurh is. The hunter is full of desperate and misplaced bravado. “What is he supposed to be, the ultimate bad-ass?” The killer responds, “I dont think that's how I would describe him.” He then says, in quick succession, “I guess I'd say he doesnt have a sense of humor. . . . You cant make a deal with him. . . . He's a peculiar man. You could even say he has principles” (*No Country*, 153). This characterization is oblique and hard to fol-

low, and the doomed hunter certainly does not understand. But the reader's repeated encounters with Chigurh confirm the diagnosis in every respect: principles, peculiarity, no sense of humor, no deals. Here, for example, is Chigurh talking to a high-up in the cartel after he has killed the hunter and recovered the money:

Chigurh smiled. We have a lot to talk about, he said. We'll be dealing with new people now. There wont be any more problems.

What happened to the old people?

They've moved on to other things. Not everyone is suited to this line of work. The prospect of outsize profits leads people to exaggerate their own capabilities. . . . And it is always one's stance upon uncertain ground that invites the attentions of one's enemies. Or discourages it.

And you? What about your enemies?

I have no enemies. I dont permit such a thing. (*No Country*, 253)

We note (within the fiction) the accidental repetition of Bell's phrase "line of work" and register that Chigurh is picking up the other killer's diagnosis in another respect. "The people he meets tend to have very short futures," the man had said. "Non-existent, in fact" (*No Country*, 150).

There are two set pieces in the novel where we see Chigurh's philosophy, his travesty of reason, at work in some detail. Each case involves the toss of a coin, an impersonation of destiny in the form of absolute chance. The logical contradiction itself is part of what this man represents—we might call it the authority of the incomprehensible. The first case is a kind of game, the closest Chigurh gets to humor, and the drastic nature of the stakes makes it hard to see the fun. Mildly irritated by the owner of a gas station, Chigurh gets into a teasing conversation with the man, then asks him, "What's the

most you ever saw lost on a coin toss?" *Michael Wood*

The man says he doesn't know. Chigurh spins a quarter, slaps it onto the back of his forearm, and the man fails to grasp what we understand immediately: that Chigurh is asking this man to bet on his life. "Well, I need to know what it is we're callin here," the man says. Then, "I dont know what it is I stand to win." Chigurh says, "You stand to win everything. Everything." The man calls heads, and Chigurh says "Well done" before giving the man the coin. Chigurh leaves, and the man appears, finally, to understand something of what has happened: "He put both hands on the counter and just stood there with his head bowed" (*No Country*, 55–58).

This highly stylized, haunting episode is a portrait of something like the killer's day off: the point is not that he may not have to kill someone but that he gives himself the fifty-fifty chance of not doing it. But in this case, he does not even have to give himself the chance: there was no killing on the table or in the offing until Chigurh started the game in which he got to play God's agent. The novel's other set piece is the exact mirror image of this scene: the victim does not escape, and the toss of the coin is not a gratuitously produced threat but the sudden and surprising introduction of a chance of reprieve—only a chance, to be sure, a "possible other case"—and when the call is wrong, no longer a possible case at all. Before he kills the hunter, Chigurh asks him for the money and threatens to go after the hunter's wife if he does not hand it over. ("Otherwise she's accountable. The same as you. I dont know if you care about that" [*No Country*, 184]). The hunter offers a stupid threat in return, and very soon is killed. Chigurh sets off to get the wife because he said he would. You could even say he has principles. Before he kills her, indeed before he tosses the coin, which is his bizarre manner not so much of allowing her

The Other Case a break as permitting himself the half-option of changing his mind (“I have only one way to live. It doesn’t allow for special cases. A coin toss perhaps” [*No Country*, 259]), a strange conversation takes place:

You got no cause to hurt me, she said.

I know. But I gave my word.

Your word?

Yes. We’re at the mercy of the dead here. In this case your husband.

That dont make no sense.

I’m afraid it does.

I dont have the money. You know I aint got it.

I know.

You give your word to my husband to kill me?

Yes.

He’s dead. My husband is dead.

Yes. But I’m not.

You dont owe nothin to dead people.

Chigurh cocked his head slightly. No? he said.

How can you?

How can you not? (*No Country*, 255)

After the coin toss – it’s important we understand that if the woman had called it right she would have been spared, that for Chigurh fate can swerve but not be tampered with, and before he spins the coin he holds it up “for her to see the justice of it” (*No Country*, 258) – Chigurh says he is sorry, and the woman responds, “You make it like it was the coin. But you’re the one.” And a moment later, “You wouldnt of let me off noway.” He answers with the following ghastly sermon:

I had no say in the matter. Every moment in your life is a turning and every one a choosing. Somewhere you made a choice. All followed to this. The accounting is scrupulous. The shape is drawn. No line can be erased.

I had no belief in your ability to move a coin to your bidding. (*No Country*, 259)

This sententious argument helps us see why Bell does not want to call this man a lunatic. Only his premises are crazy. Even his indifference to human distress seems unexceptional, since lawyers, politicians, and statesmen have high arguments for the same numbness. His line of thought is impeccable in its way: not wrong, just tautologous, and applicable to too many cases. It is true that the woman could not make the coin show the face she had called, also true that Chigurh himself had no say in the result of the toss. But he had a say in whether he should toss the coin and whether he should kill the woman, whatever the coin said; everything he claims would also have remained true if he had spared her. The turning, choosing, accounting, shape, and line would all necessarily have led to a different necessary outcome: not because they had to but because they did. This is the flaw in all fatalisms: a confusion of the irrevocable with the inevitable.

But if Chigurh justifies his life by a logic that can seem to justify anything (or can seem to justify everything), then we have clearly abandoned narrative for theory or principle, inadequate as both are in this case. McCarthy has established a fading sequence of evasions: the uncontrollable madness of the contemporary world is concentrated in the figure of the enigmatic but all-too-lucid killer; the killer himself has an argument instead of a story; and the argument has no purchase on events. This progression is made desperately clear to us just after Chigurh concludes his sermon and shoots the girl. “Most people dont believe that there can be such a person,” he says, meaning a person such as himself, unremittingly faithful to the logic he has chosen. “You can see what a problem that must be for them. How to prevail over that which you

refuse to acknowledge the existence of.” “Of course things could have been another way,” he adds. “But what does that mean? They are not some other way. They are this way” (*No Country*, 260). But “this way” includes Chigurh’s getting hit by a runaway car soon after (in narrative time) and in the very next paragraph (in book space). There is a chance for a rescue of narrative here, and in the film version of the novel, directed by Joel and Ethan Coen, it hovers tangibly in the cinema air, perhaps because we expect comeuppance and closure in this medium more than we do in others. Providence will have dealt with the monster even if the law cannot: he will have been killed as he deserves to be. But in the film, as in the novel, the chance vanishes. Chigurh is badly hurt but stumbles off, never to be heard of again in this story, except as a memory; therefore, he is perpetually alive, the killer-philosopher, the incomprehensible other made worse rather than better by clarity of thought and diction, not a “new kind” of person but a person who destroys the concept of kinds.

Until recently, the “possible other case” in American narrative was always another story, the story that was lacking. It may be that this sense of narrative is still the dominant one, and I hope it is. But McCarthy’s disturbing proposition deserves our careful attention. If what is lacking is not another, untold story but the very possibility of story, a great many perspectives on the world will need to change. However, even if this were true, our condition would not be quite as desperate as it might at first seem, and by way of a coda I should like to glance at the possibility that narrative is not our only way of making sense of things, so that its loss, while dire, would not leave us entirely bereft of intelligibility.

There is a strong tradition, especially in the twentieth century, of assuming that a narrative is the only way to make sense of

a life. We all have stories, and we all need stories. Sartre says as much, and so do many other authorities in many fields. Psychoanalytic success, in one of Freud’s major versions, is the piecing together of broken narratives into a whole; stories, Walter Benjamin asserts, have counsel for us. This tradition is so forceful that responses to any questions about it are likely to be extremely radical and simple. Either it states an obvious truth, or it represents an extreme bias. My sense is that it states a partial truth, and that the missing part, the story that is not a story, is important. I want also to put in a bid for the lyric sensibility, the accretion of images, of snatches of poem and song, in our understanding of ourselves. But I shall conclude by evoking the only really fierce and sustained antinarrative argument I know. This appears in philosopher Galen Strawson’s essay “Against Narrativity,” published in 2004, a year before *No Country for Old Men*. It is an accident, but a welcome one, that Strawson at one point resorts to the tone and diction of Henry James. If Heideggerians think narrative is essential to any idea of authenticity, Strawson writes, “so much the worse for their notion of authenticity.”⁵ Citing philosophers such as Paul Ricoeur, Charles Taylor, and Alasdair MacIntyre, as well as a number of psychologists, Strawson conjures up what he calls a “psychological Narrativity thesis” (“there is widespread agreement that human beings typically see or live or experience their lives as a narrative or story of some sort, or at least as a collection of stories”) and “an ethical Narrativity thesis” (“a richly Narrative outlook is essential to a well-lived life, to true or full personhood”). The uppercase *N* indicates that Strawson uses the word to signify “a . . . property or outlook,” not just all the things it ordinarily means (“Narrativity,” 428). His quotations certainly show the extraordinary health of

the two theses. Taylor says we occupy “a space of questions, which only a coherent narrative can answer”; Ricoeur wonders how anyone “could . . . give an ethical character to his or her own life taken as a whole . . . if not . . . in the form of a narrative?” (“Narrativity,” 436).

Strawson does not think such assertions and inferences are true in the form in which they so often appear. They are true for those who feel them to be true, but not for others. There are what Strawson calls Diachronic personalities, who often go in for narrative, and there are Episodics, who usually do not. “The strongly Episodic life is one normal, non-pathological form of life for human beings, and indeed one good form of life for human beings, one way to flourish” (“Narrativity,” 432–433).

Toward the end of his essay, Strawson lets loose with a fine provocative onslaught:

The aspiration to explicit Narrative self-articulation is natural for some – for some, perhaps, it may even be helpful – but in others is it highly unnatural and ruinous. My guess is that it almost always does more harm than good – that the Narrative tendency to look for story or narrative coherence in one’s life is, in general, a gross hindrance to self-understanding. (“Narrativity,” 447)

This is not a plea for the unexamined life – although Strawson is far from convinced that “the examined life . . . is always a good thing” (“Narrativity,” 448) – but a

reminder of the many modes of examination open to us. He does not say much about these modes, but insists that “form-finding” can take place without narrative, and that “the business of living well, for many, is a completely non-Narrative project” (“Narrativity,” 443, 448).

We may still have our doubts, and my own guess, if I were guessing, would be the opposite of Strawson’s: that narrative self-articulation usually does more good than harm. But we could believe this and still allow for the virtues of the other, Episodic mode. Strawson addresses the concern directly: “Some may still think that the Episodic must be deprived in some way, but truly happy-go-lucky, see-what-comes-along lives are among the best there are, vivid, blessed, profound” (“Narrativity,” 449).

We will not find answers to McCarthy’s dark questions among the “see what comes along” crowd; we have seen what comes along, and we need to do something about it, to find a form for it, in Strawson’s terms. But what if we accept the enacted defeat of story in *No Country for Old Men*? What if we take it as an invitation to look for the “possible other case” in riddle or paradox or song, or in any mode that proposes a nonnarrative relation to historical and other time? Indeed, McCarthy’s later novel *The Road* (2006) might be read in just this way: as an American narrative where time and story have stopped.

ENDNOTES

- ¹ William Faulkner, *Absalom, Absalom!* (1936; New York: Modern Library, 1993), 4.
- ² W. B. Yeats, *Reveries Over Childhood and Youth* (1916; New York: General Books, 2010), 104.
- ³ Henry James, *The Art of the Novel: Critical Prefaces* (1934; Chicago and London: University of Chicago Press, 2011), 166–169. Subsequent citations are noted parenthetically within the text.
- ⁴ Cormac McCarthy, *No Country for Old Men* (2005; London: Picador, 2010), 210. Subsequent citations are noted parenthetically within the text.
- ⁵ Galen Strawson, “Against Narrativity,” *Ratio* (new series) 17 (4) (December 2004): 431. Subsequent citations are noted parenthetically within the text.

Southern Literature: A Blending of Oral, Visual & Musical Voices

William Ferris

Abstract: The blending of oral traditions, visual arts, and music has influenced how Southern writers shape their region's narrative voice. In the South, writing and storytelling intersect. Mark Twain introduced readers to these storytellers in "Adventures of Huckleberry Finn." Twain blends both black and white voices within Huck's consciousness and awareness – in Huck's speech and thoughts – and in his dialogues with Jim. A narrative link exists between the South's visual artists and writers; Southern writers, after all, live in the most closely seen region in America. The spiritual, gospel, and rock and roll are musical genres that Southern writers love – although jazz, blues, and ballads might have the most influence on their work. Southern poets and scholars have produced anthologies, textbooks, and literary journals that focus on the region's narrative voice and its black and white literary traditions. Southern writers have created stories that touch the heart and populate American literature with voices of the American South. Future Southern writers will continue to embrace the region as a place where oral, visual, and musical traditions are interwoven with literature.

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This essay reflects my perspective as a folklorist who for the past forty years has studied the American South and the intersection of the region's literature with oral traditions, visual arts, and music.¹ The blending of these worlds has had a significant impact on Southern writers and how they shape their region's narrative voice.² Perhaps more than any other region in America, the South is a place where writing and storytelling intersect. Nail by nail, as carpenters of the imagination, Southern writers construct their region's narrative, and the *tale* and its telling are the grist for this literary mill.

Mark Twain introduced his readers to these storytellers in *Adventures of Huckleberry Finn*, the novel that forever defined the American narrative – a narrative with its heart in the tale. As Twain reminded his readers, "The art of telling a humorous story – understand, I mean by word of mouth, not print – was created in America, and has remained at Home."³ When Huck declares he will "light out for

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the Territory ahead of the rest,” Twain himself makes a similar journey by employing such voices as “the Missouri negro dialect: the extremest form of the backwoods South-Western dialect; the ordinary ‘Pike-County’ dialect; and four modified varieties of this last.”⁴

Most important, Twain blends both black and white voices within Huck’s consciousness and awareness – in Huck’s speech and thoughts – and in his dialogues with Jim. In *Was Huck Black?*, Shelley Fisher Fishkin argues that Huck’s voice was inspired by a black child, and “this child’s speech sparked in Twain a sense of the possibilities of a vernacular narrator.” She cites Ralph Ellison’s statement that the black man was “a co-creator of the language that Mark Twain raised to the level of literary eloquence.” By going to the “territory,” Fishkin argues, Twain “helped open American literature to the multicultural polyphony that is its birthright and special strength.”⁵

These voices animate both Twain’s work and the American narrative by bringing an important aspect of Southern culture to literature⁶; for Twain, Southern whites learned to see “beyond the veil” and discovered the black experience through the black storyteller.⁷ He recalled a slave named Uncle Dan’l, who told stories to “the white and black children grouped on the hearth,”⁸ and with *Huckleberry Finn*, Twain captures a world in which black and white voices mix and interact.

In his introduction to a recent paperback edition of *Huckleberry Finn*, Robert O’Meally reflects on his attraction as a black man to Twain’s work and argues that the book is “full of the blues,” and that Huck is a “blues hero . . . a brilliant improviser in a world of trouble who optimistically faces a deadly project without a script.”⁹ O’Meally concludes, “Huck knows how to solo; and like a true bluesman, he learns to *swing*.”¹⁰ Huck and Jim,

in particular, reveal that Twain clearly understood that a true American narrative must recognize and embrace both black and white voices, and he cements their place in the American narrative by locating these voices on the Mississippi River, the iconic American waterway that itself becomes a central character in Twain’s narrative.¹¹

Yet the issue of race meant that Southern black and white writers could and did exist in parallel, as the lives of Eudora Welty and Richard Wright poignantly reveal. Their literary careers were hauntingly similar, but never intersected. Both lived simultaneously in Jackson, Mississippi, published books at the same time, and received the same national awards, but they never met or exchanged letters. Richard Brodhead suggests that their literary careers

are so symmetrically opposed as to make them seem like each other’s photographic negative: Wright, so emphatically the author as black man, Welty no less unmistakably the writer as (white) lady; his the authorship always of rage, hers of complex graces and controlled modulations of tone.¹²

Despite its enormity in the South, the dilemma of race has not been the only impetus for Southern writers who have developed love-hate relationships with their region. Perhaps they might identify with Stephen Daedalus’s sentiments in James Joyce’s *A Portrait of the Artist as a Young Man*:

When the soul of a man is born in this country there are nets flung at it to hold it back from flight. You talk to me of nationality, language, religion. I shall try to fly by those nets.¹³

Unlike Daedalus, however, in addition to the net of race, Southern writers also fled the nets of politics and sexuality – by physically fleeing the region. Just as

William Faulkner's Quentin Compson finds himself far from his Mississippi home as a student at Harvard University, expatriate writers like Willie Morris, Richard Wright, Tennessee Williams, Alice Walker, and Thomas Wolfe have written about the South from afar. Southern black and homosexual and lesbian writers have made their homes as exiles in New York, San Francisco, Chicago, and Paris – free to express their complex feelings of alienation and nostalgia from outside their region. Expatriate Southern black writers, in particular, sometimes cling together, and even pine for home. While at the American Academy in Rome, Ralph Ellison wrote Albert Murray that he was homesick for Southern food:

I'm home sick . . . and I got no way to get any corn bread and these Romans think a chitling is something to stuff a sausage into. There is very little whisky I can afford, *no* sweet potatoes or yellow yams, a biscuit is unheard of . . . and their greens don't taste like greens.¹⁴

Southern writers chronicle a third-world experience within America – extremes of poverty and wealth, illiteracy and literary genius – and they find more in common with the rest of the world than with the American dream. They broaden our understandings of the celebrated Southern sense of place, which Eudora Welty describes as “one of the lesser angels that watch over the racing hand of fiction.”¹⁵ The sense of place so important to Welty is a movable feast, as we learn when Cormac McCarthy shifts his literary terrain from East Tennessee to the Southwest border, Richard Ford from Mississippi to Montana and New Jersey, and Elizabeth Spencer from Mississippi to Italy.¹⁶

Despite the legacy of racial inequality in the South, shifting literary ground, and a wide variety of nets to flee, white and

black Southerners are intimately linked, often descended from common ancestors, inheriting and shaping contested memories of their region's history and culture. Three aspects of this history and culture have strongly influenced the South's literature and remain in continuous conversation with it: oral traditions, visual arts, and music.

Eudora Welty learned as a young child to listen for stories, a passion that foreshadowed her career as a writer:

Long before I wrote stories, I listened for stories. Listening *for* them is something more acute than listening *to* them. I suppose it's an early form of participation in what goes on. Listening, children know stories are *there*. When their elders sit and begin, children are just waiting and hoping for one to come out, like a mouse from its hole.¹⁷

Like the hunters in Faulkner's “The Bear,” Southern writers try to capture the wild, indomitable voice of their region. They listen, and the cage in which they contain the voice may be the novel, short story, poem, or play.

How to place that voice within a literary frame is a challenge Southern writers have faced for at least 175 years. Geographically, the South was considered to be America's western frontier in the early nineteenth century, the “Old Southwest.” Its “exotic” people and their speech were the focus of a group of white writers known as the Southwestern Humorists, whose regional sketches featured colorful horse traders, fighters, and gamblers. Their language, their trickery, and their violence – and an emphasis on the *oral* – influenced writers who included Twain and Faulkner.

Augustus Baldwin Longstreet, one of the Southwestern Humorists, published his *Georgia Scenes* in 1835. Born in Connecticut and educated at Yale University,

Longstreet served as president of the University of Mississippi and is buried in Oxford, Mississippi.¹⁸ *Georgia Scenes* is best known because it captured the Southern vernacular voice and humor that are so important in Southern literature. Longstreet's sketch "The Horse-Swap" develops colorful language and trickery, as two Georgians – Peter and Blossom – try to best each other in a horse trade. At the end of their trade, Peter tells Blossom that Kit – the horse he just traded for – is both blind and deaf:

"old Kit's both blind and deaf, I'll be dodrot if he eint." Peter then reassures Blossom that, "If you can only get Kit rid of them little failings, you'll find him all sorts of a horse."¹⁹

This exchange foreshadows a classic auction by Pat Stamper, the Texas trader in Faulkner's novel *The Hamlet*:

"Now, boys," the Texan said. "Who says that pony aint worth fifteen dollars? You couldn't buy that much dynamite for just fifteen dollars. There aint one of them cant do a mile in three minutes; turn them into a pasture and they will board themselves; work them like hell all day and every time you think about it, lay them over the head with a single-tree and after a couple of days every jackrabbit one of them will be so tame you will have to put them out of the house at night like a cat.... Come on, Eck," he said. "Start her off. How about ten dollars for that horse, Eck?"²⁰

Faulkner had a personal connection to horse culture. As a young child, he owned a spotted pony, and his father ran a livery stable in Oxford.²¹ Just as Faulkner taps the voice of a white horse trader in his fiction, Ralph Ellison turns to black folklore for his inspiration. Ellison argued that African American culture is best understood through its rich oral traditions.²² He considered oral tradition the

foundation of the black narrative voice and explained that black folklore and its musical traditions are key to his writing:

Negro American folk tradition became precious as a result of an act of literary discovery. Taken as a whole, its spirituals along with its blues, jazz and folk tales, it has ... much to tell us of the faith, humor and adaptability to reality necessary to live in a world which has taken on much of the insecurity and blues-like absurdity known to those who brought it into being.²³

Slave memoirs, autobiographies, ex-slave narratives, and oral history interviews reveal the horror of slavery, Reconstruction, and Jim Crow for blacks as well as the resistance, courage, and dignity of black people in the South. These narratives are richly illustrated with folktales and music, and they allow us to trace the history of African American folklore in the region.²⁴ This work was an important resource for twentieth-century black writers, who found both inspiration and succor in oral folk culture. In addition to Ellison, Zora Neale Hurston, Ernest Gaines, and Alice Walker each have used folklore in their work in distinctively different ways.

As a graduate student in anthropology at Columbia University, Hurston systematically collected and published African American oral traditions in *Mules and Men*.²⁵ She later used this lore in her fiction, and her evolution as a writer transformed her from ethnographer to author. Alice Walker, in turn, views herself as heir to the work of Hurston. Strong female characters, such as the blues singer Shug Avery in *The Color Purple*, are inspired by worlds that Walker discovered in Hurston's work. Walker was drawn to Hurston because in her writing she created characters who reflected "racial health: a sense of black people as complete, complex, *undiminished* human beings."²⁶

For his *Autobiography of Miss Jane Pittman*, Ernest Gaines recalled that he “heard the voices of not only all these ex-slave narratives I had read, but also what I knew of the voices of my Louisiana people.”²⁷ These Works Progress Administration (WPA) slave narratives particularly inspired his description of Miss Jane’s life as a slave, her emancipation by Northern troops, and the rejection of her slave name, Tycie.²⁸ Throughout his writing, Gaines draws heavily on the vernacular voices of his Louisiana people.

An important narrative link exists between the South’s visual artists and writers; Southern writers, after all, live in the most closely *seen* region in our nation. Generations of photographers, painters, folklorists, and filmmakers from the South, the nation, and the world have documented the region, capturing its people and places through a full range of media. The Great Dismal Swamp, the Mississippi Delta, and the French Quarter are but a few of the many places that attracted visual artists, including naturalist John James Audubon in the nineteenth century and French filmmaker Jean Renoir in the twentieth. In fact, legions of artists have tried to capture the beauty and untamed spirit of the South, each as though he was the first to discover its worlds.

Southern photographer, sculptor, and painter William Christenberry has taught at the Corcoran Gallery in Washington, D.C., since 1968. Over the years, from his home in Hale County, Alabama, Christenberry brought boxes of red clay on which he erected miniature sculptures modeled on the churches, homes, and country stores of his home county. Christenberry grew up in the same county where Walker Evans and James Agee had carried out their classic study *Let Us Now Praise Famous Men*, the very county where Walker Evans photographed white sharecroppers.²⁹ Yet,

to Christenberry, his art owes more to *William Ferris*
another Walker:

Southern writing, and southern literature, has had a greater influence on my work than the work of other visual artists. I don’t doubt or deny that other visual artists have played a big part in what I do. In more recent years Walker Percy, along with other people and their work, has had a profound influence on what I try to express in my work. I don’t know if it’s possible to do visually what they are doing with the written work, but I feel very strongly that it’s worth a challenge. That’s what it’s all about for me.³⁰

Southern writers, however, have been influenced by photography and painting. While working for the WPA, Eudora Welty took more than a thousand photographs; Patti Carr Black suggests that “they give us a glimpse of some of the visual sources of her art.”³¹ Welty recalled that she “just took the pictures because I wanted to. Just impulse.” She acknowledged that

nothing could have been written in the way of a story without such a background, without the knowledge and the experience that I got from these things.... It provided the raw material. And more than that, it suggested things in a valid way that could never have been made up without this reality. It was the reality that I used as a background and could draw on in various ways, even though indirectly.³²

In Jackson, Mississippi, Welty was part of a circle of artists, writers, and photographers that included William Hollingsworth, a watercolor artist whose work captured scenes similar to those Welty photographed and wrote about in her fiction. In her introduction to *On William Hollingsworth, Jr.*, Welty expressed her admiration for the artist and his work:

With what knowledge, yes, but with what tenderness he painted. It was not a tender-

ness that stood in the way and blurred what his eye told him; rather it must have come of ever-increasing awareness. . . . [H]e always began with the close-at-hand; and the accuracy of his eye, turned on the home scene, is as marvelously reliable as that of another Mississippi William in another line of work. Again like Faulkner he never stops there. William Hollingsworth set off on the Old Canton Road, and the painting is where mind, spirit, and feeling carried him. There we're confronted with a territory we are not bound to recognize at all, but to which we give a response better than recognition, our own feeling about his vision of the world.³³

Ernest Gaines shares Welty's love for photography, and the people and places he photographed at his home in Louisiana inform his writing. With his camera, Gaines captured images that connect him to people and places that have disappeared. While living in San Francisco, he explained:

I always take a camera when I go back to Louisiana. I take both black and white and color photographs. . . . I keep the photographs because most of these places are gone now. The stores are gone, the houses are gone. This river is all built up and this man is dead. They are just things of past, and I don't think that anything like that will ever be there again, ever again. This man can't come back, and you'll never see these places ever again. Never again, and surely not there.³⁴

Welty's and Gaines's desire to capture, to preserve, to remember is shared by writers, photographers, and painters in the South. Faulkner also loved photography and used an old Zeiss camera that he had purchased in Europe. Jack Cofield, who developed Faulkner's negatives, recalled that they "usually turned out to be a hodgepodge of double exposures, over-timed or undertimed. . . . He finally gave

it up in disgust, even though cameras always did fascinate him."³⁵

Faulkner had greater success in his fiction, where he uses photography to summon memories of the past. Literary critic David Madden suggests that in the novel *Sanctuary*, Faulkner describes photographs similar to those included in Cofield's *William Faulkner: The Cofield Collection*. In one passage, Horace Benbow looks at Miss Jenny's wall and focuses on

A faded tintype in an oval frame. A bearded face stared haughtily across the neck-cloth of the 50s, buttoned into a frock coat. . . . "What are you doing?" Miss Jenny said. "Looking at the Rogues' Gallery?"

[...]

Next was a conventional photograph dated fifteen years ago. The man was about sixty, going bald, the mouth shaded by a thick moustache.³⁶

Gaines, Welty, and Faulkner each used photographs in their fiction and underscored the affinity of Southern writers for the visual in their lives and literature.

The spiritual, gospel, and rock and roll are musical genres that Southern writers deeply love – although jazz, the blues, and ballads might have the most influence on their work. Eudora Welty speaks directly to this influence. Her short story "Powerhouse" was inspired by a Fats Waller concert she attended in Jackson during the 1940s. When she returned home after the concert, she

tried to turn the impromptu, frantic and abandoned playing together of a jazz pianist and his musicians into an exchange in words – something with its own rhythmic beat and crazy references, in the same on-rush of performance. It was an attempt, like any other from a storyteller, to turn one sort of experience into another in order to convey it.³⁷

Welty brilliantly captures the musical call and response between Powerhouse and Valentine, his bass fiddler from Vicksburg, in her short story. As Powerhouse plays the piano,

He groans, and his fingers drag into the keys heavily, holding on to the notes, retrieving. It is a sad song.

“You know what happened to me?” says Powerhouse.

Valentine hums a response, dreaming at the bass.

“I got a telegram my wife is dead,” says Powerhouse with wandering fingers.

“Uh-huh?”

His mouth gathers and forms a barbarous O while his fingers walk up straight, unwillingly, three octaves.³⁸

“Turning one sort of experience into another” is a familiar process for the writer, and blues poetry repeatedly transformed the region’s music into the written word. W. C. Handy first heard blues sung in Tutwiler, Mississippi, in 1903 and described how

A lean, loose-jointed Negro had commenced plunking a guitar beside me while I slept. His clothes were rags; his feet peeped out of his shoes. His face had on it some of the sadness of the ages. As he played, he pressed a knife on the strings of the guitar in a manner popularized by Hawaiian guitarists who used steel bars. His song, too, struck me instantly

Goin’ where the Southern cross the Dog

The singer repeated the line three times, accompanying himself on the guitar with the weirdest music I had ever heard. The tune stayed in my mind.³⁹

Blues poetry sprang onto the literary scene with the publication of W. C. Handy’s *Blues: An Anthology* in 1926. (Handy’s blues compositions were illus-

trated by Mexican artist Miguel Covarrubias, and Abbe Niles, a white Wall Street lawyer, wrote the introduction.) In this historic volume, Handy claimed the blues as part of his “mother tongue,” and his lyrics shocked music scholars like H. E. Krehbiel, who considered blues a music “from the lips of harlots and the frequenters of low dives.”⁴⁰ Handy’s work inspired Langston Hughes to publish his own blues poetry in *Weary Blues*. Edmund Wilson praised Handy’s *Blues: An Anthology* as a model for a long overdue anthology of American folklore and literature. Wilson’s call was answered by Robert Penn Warren, Cleanth Brooks, and R.W.B. Lewis, who included Handy’s lyrics for “St. Louis Blues” in their 1973 edition of *American Literature*, along with lyrics by blues artists Robert Johnson, Leadbelly, Ma Rainey, and Blind Lemon Jefferson.⁴¹

Faulkner was moved by Handy’s blues performances when his band played for students in Oxford in 1913. The author’s biographer, Joseph Blotner, explains:

W. C. Handy would play alone, sitting at the piano and fingering the rich chords and steady rhythms that would bring him fame in compositions such as “Yellow Dog Blues,” “Aunt Hagar’s Blues,” and “Beale Street Blues.” [Faulkner] would watch, standing there, while the musicians played on until the early hours of the morning.⁴²

Later as a student at the University of Mississippi, Faulkner even drew several cartoons in which he captured Handy’s band, and Jack Cofield recalled that Faulkner “not only was the best observer and listener I ever knew . . . but he was fully capable of sketching everything he saw as well as writing about it. His drawing of W. C. Handy, ‘The Blues Master of Memphis,’ typifies exactly the Roaring Twenties at Ole Miss.”⁴³ Lothar Hönnighausen suggests that it was through such stylized drawings that Faulkner “became able to

express himself artistically for the first time.”⁴⁴ As a child, Faulkner both wrote and drew in school, and one of his classmates remembered how “he would do nothing but write and draw – drawings for his stories.”⁴⁵

Tennessee Williams also appreciated the blues and used the music to talk about race and politics. He hoped that Elvis Presley would portray the white blues musician Val in his play *Orpheus Descending*. In his production notes, Williams describes Val as “a young man, about 30, who has a kind of wild beauty about him. . . . His remarkable garment is a snakeskin jacket, mottled white, black and gray. He carries a guitar which is covered with inscriptions.”⁴⁶ After seeing the guitar, Lady asks Val, “What’s all that writing on it?” “Auto-graphs of musicians I’ve run into here and here,” he replies. “See this name? Leadbelly? . . . Greatest man ever lived on the twelve-string guitar! Played it so good he broke the stone heart of a Texas governor with it and won himself a pardon out of jail. . . . That name? That name is immortal. The name Bessie Smith is written in the stars! – Jim Crow killed her.”⁴⁷

In Elia Kazan’s production of *Cat on a Hot Tin Roof*, black field hands Brightie and Small were played by bluesmen Brownie McGee and Sonny Terry. As Big Daddy stands on the balcony of his home, “A song, ‘Pick a Bale of Cotton,’ is heard.” To which his daughter Mae replies, “Oh, Big Daddy, the field hands are singing fo’ you!”⁴⁸

In an interview with Studs Terkel, Williams acknowledged his love for blues and mentioned he had “written a few Blues lyrics, yes, which have been set to music by Paul Bowles” in *Blue Mountain Ballads*.⁴⁹ In his blues “Sugar in the Cane,” Williams wrote the lyrics

I’m red pepper in a shaker,
Bread that’s waitin’ for the baker.

I’m sweet sugar in the cane,
Never touched except by rain.
If you touched me God save you,
These summer days are hot and blue.

I’m potatoes not yet mashed,
I’m a check that ain’t been cashed.
I’m a window with a blind,
Can’t see what goes on behind.
If you did, God save your soul!
These winter nights are blue and cold!⁵⁰

African American writers adapted Southern blues verses for a full range of literary forms. More than any other genre of folklore, blues captured the imagination of writers such as Richard Wright, Langston Hughes, Zora Neale Hurston, Ralph Ellison, Sterling Brown, and Alice Walker, all of whom saw blues verses as a literary resource for their own works. For each, blues embodied fundamental truths about black experience in white America because the music plumbs the depths of despair and offers both listener and performer the strength to endure. In Ellison’s *Invisible Man*, for instance, Trueblood sings blues to cleanse his soul after he commits incest with his daughter:

I sings me some blues that night ain’t never
been sung before, and while I’m singin’
them blues I makes up my mind that I ain’t
nobody but myself and ain’t nothin’ I can
do but let whatever is gonner happen, hap-
pen.⁵¹

Sterling Brown learned blues from a musician named Big Boy, who “was broad shouldered with a scar down his cheek. He was much taller than I am and a hell of a ladies man. . . . He could play the hell out of a guitar with a bottle on his finger.”⁵² Inspired by Handy and Langston Hughes, Brown captured the blues through the rhythm, language, and subject of his poem “Ma Rainey”:

When Ma Rainey
Comes to town, Folks from anyplace

Miles aroun',
 From Cape Girardeau, Poplar Bluff, Flocks
 in to hear
 Ma do her stuff;
 Comes flivverin' in,
 Or ridin' mules,
 Or packed in trains,
 Picknikin' fools.

[...]

That's what it's like,
 Fo' miles on down,
 To New Orleans delta
 An' Mobile town,
 When Ma hits
 Anywheres aroun.⁵³

Richard Wright believed that “blues are as natural for the Black people as eating and sleeping, and they come as a rule out of their daily experience.”⁵⁴ The blues also provided opportunities for cleverness and for astute political commentary. Because of Wright's work with the Communist Party, in 1941 the FBI placed him on its Security Index, the list of individuals considered most dangerous to the nation's security.⁵⁵ Wright knew that he was under surveillance, and in his “FB Eye Blues,” he used humor to taunt the organization:

That old FB Eye
 Tied a bell to my bed stall
 Said old FB Eye
 Tied a bell to my bed stall
 Each time I love my baby, government
 knows it all.
 Woke up this morning
 FB Eye under my bed
 Said I woke up this morning
 FB Eye under my bed
 Told me all I dreamed last night, every word
 I said.⁵⁶

Wright saw a clear parallel between the language of his writing and the lyrics of the blues performer, and he felt his role as a writer was the literary equivalent of a blues singer, “who sings the blues and it

becomes a part of, an expression of, his whole predicament – his place in society.”⁵⁷ Faced with the predicament of being placed under surveillance by his own government, Wright turned to the blues to express his feelings.

While the lyrical blues inspired African American writers, the narrative ballad was an important influence on white writers in the South. Robert Penn Warren and Donald Davidson were part of the fugitive poets – also known as the agrarians – who published a small literary magazine, *The Fugitive*, from 1922 to 1925. They also contributed essays to a manifesto published in 1930, *I'll Take My Stand: The South and the Agrarian Tradition*. Warren and Davidson both used the ballad as inspiration for their poetry, and Warren composed two poems in the ballad form: “The Ballad of Billie Potts” and “Ballad of a Sweet Dream of Peace.” Davidson taught a class at Vanderbilt University in which he sometimes sang ballads that he learned as a child in Tennessee, and he also attended the Grand Ole Opry to hear country music ballads performed. In 1952, Davidson published a ballad opera, *Singin' Billy*, and his novel *The Big Ballad Jamboree* was published posthumously in 1996. The novel is filled with ballad verses such as these Mrs. Parsons sings:

Oh, when he told the grievous news, she fell
 in dark despair.
 She cried and wrung her lily-white hands,
 she tore her golden hair.
 She said, “If Johnny's drownded, thee's no
 man I will take.
 All on the Banks of Claudy I'll wander for
 his sake.”
 Oh, then he stepped up to her, no longer
 could he stand.
 He took the maid into his arms, saying,
 “Darlin', I'm the man.
 I've sailed back o'er the ocean to end your
 grief and pain,

William
 Ferris

And on the Banks of Claudy we'll never part again."⁵⁸

While Davidson focused on the ballad in his writing, novelist Lee Smith draws on fiddle music she heard as a child in Grundy, Virginia. In fact, the titles for three of her novels are inspired by fiddle tunes: *The Devil's Dream*, *Fair and Tender Ladies*, and *Black Mountain Breakdown*. In her novel *Oral History*, Smith transforms the traditional ballad "Darling Cory" into verses that Little Luther Wade sings for his Dory Cantrell:

Darlin' Dory stands by the cabin door
Standing with her Bible in her hands
Darlin' Dory stands by the cabin door
A-pinin' for her city man.

You can throw that Bible down on the floor
You can throw it out in the rain
Prayin' for him all night long won't do no good
For he ain't a-comin' back again.

Well he ain't a-comin' back to the meetin'-house

And he ain't a-comin' back to the school
City feller gone with a head full of dreams
Oh, why can't you see him for a fool?

Dory let me dry those tears away
Dory come back in and shut the door
A month or two don't add up to a life
A slip or two don't make you a whore.

Dory come back to your own true love
A month or two don't add up to life
Dory let me dry them tears away
Dory let me make you my wife.⁵⁹

Smith's ballad "Darling Dory" anchors her novel with lyrics that urge Dory to heed Little Luther Wade's call and become his wife. Ballads and blues illustrate the strong influence of the South's music on its literature.

While Southern writers defined the narrative voice through the novel, short

story, poetry, and drama, the region's literary critics also exerted a strong influence on both the South and the nation. Southern literary anthologies evolved from early black and white collections to a blending of these voices in a multimedia format that includes both a book and a CD.

In the 1930s and 1940s, teams of Southern poets and scholars produced important anthologies, textbooks, and literary journals that focused on the region's narrative voice and its black and white literary traditions. Poet Robert Penn Warren and Cleanth Brooks coauthored *Understanding Poetry* (1938) and *Understanding Fiction* (1943). For more than four decades, these texts introduced the study of literature – including Southern writers – to students in classrooms throughout America. Described as "the most important literature textbook of the twentieth century," *Understanding Poetry* was adopted by more than 250 colleges and universities around the nation.⁶⁰ In 1935, Brooks and Warren founded *The Southern Review* at Louisiana State University and published emerging white Southern writers like Eudora Welty, Randall Jarrell, and Peter Taylor.⁶¹

In contrast to Brooks and Warren's work, which focused on white writers, Sterling Brown, with literary scholars Ulysses Lee and Arthur P. Davis, edited *The Negro Caravan* (1941), a landmark anthology of black literature. In the preface, the editors declare that their volume presents "a more accurate and revealing story of the Negro writer than has ever been told before."⁶² They argue that the anthology is unique because it includes a "section of folk literature, ampler than in any similar anthology; the neglected antislavery pamphleteering and journalism; the little-known fugitive slave narratives; [and] the earliest novels (never before anthologized)."⁶³

More recently, poet Michael Harper and literary scholar Robert Stepto edited *Chant of Saints: A Gathering of Afro-American Literature, Art, and Scholarship*, which first appeared as two volumes of *The Massachusetts Review* in 1977 and later as a book in 1979. Both publications are dedicated to Sterling Brown, and in his foreword to the book, historian John Hope Franklin notes that the work is a sequel to *The Negro Caravan*:

The present volume may well be regarded as a yardstick by which to measure the evolution of Afro-American literature and culture, and as a commentary on what has happened in these areas since the appearance of *The New Negro* in 1925.... One sees it in the dedication to Sterling Brown, dean of Afro-American letters, whose early works constitute an important link between the Negro Renaissance and the present.⁶⁴

Callaloo, the nation's leading African American literary journal, was founded by Charles Rowell in 1976 and is published at Southern University in Baton Rouge, Louisiana, where its white counterpart, *The Southern Review*, is also published.

Voices of black and white Southern writers converge in *The Literature of the American South*, a Norton anthology edited by William Andrews, Minrose Gwin, Trudier Harris, and Fred Hobson. In his preface to the volume, Andrews declares his belief that because the volume is "fully cognizant of its constituent diversity of voices, cultures, and expressive traditions," it will help influence "the reconstruction of American literary history and its literary canons.... We see southern literature as constituted by a diverse constituency of writers and traditions in dialogue (and sometimes in active dispute) with each other."⁶⁵

The anthology includes a CD of sound recordings. The selection of blues, ballads, spirituals, preaching, and storytelling on

the CD underscores the influence of oral tradition on Southern writers and also allows the reader to study folk literature as part of the region's literary tradition. Andrews stresses that the editors included the CD to show the dialogue "between writing and oral artistry" that has existed throughout the history of Southern literature.⁶⁶ The CD is especially important given the ongoing dialogue that Southern writers have with visual, oral, and musical traditions.

This recent anthology of black and white literature, with voices featured in both written and recorded formats, offers an exciting new window on the Southern narrative. The volume echoes Twain's belief that no narrative can be complete unless all its voices are included side by side. While the black and white synergy is a driving force in shaping the Southern narrative, it is not the only influence. Increasingly, the rich tapestry of Native American, Asian, and Latin/Hispanic voices will influence the Southern narrative voice and will broaden our understanding of it.

For more than two centuries, Southern writers have created stories that touch the heart. Their stories populate American literature with voices of the American South. Future Southern writers will continue to embrace the region as a place where oral, visual, and musical traditions are inextricably interwoven with literature.

- ¹ Parts of this article are drawn from *The Southern Voice: Writers, Artists and Composers* by William Ferris. © 2013 by William Ferris. Forthcoming in 2013 from the University of North Carolina Press (www.uncpress.unc.edu). Used by permission of the publisher. I am indebted to my wife, Marcie Cohen Ferris, my daughter, Virginia Ferris, and my colleagues Aysel Erginer and Dave Shaw for their invaluable comments and suggestions on this workpiece.
- ² My understanding of these worlds has been influenced by Robert Farris Thompson, whose work taught me how music, dance, and art often intersect in African and African American cultures. Thompson suggests that we can “see” syncopated musical rhythms reflected in the patterns of folk quilts and in the collages of Romare Bearden. Katherine Coryton White and Robert Farris Thompson, *African Art in Motion: Icon and Act in the Collection of Katherine Coryton White* (Berkeley: University of California Press, 1979); Robert Farris Thompson, “African Influence on the Art of the United States,” in *Afro-American Folk Art and Crafts*, ed. William Ferris (Jackson: University Press of Mississippi, 1983), 27–66.
- ³ Mark Twain, *How to Tell a Story and Other Essays* (New York: Oxford University Press, 1996), 4. While Twain was not born in the South, he is considered a major influence on the region’s literary tradition. In his preface to *The Literature of the American South*, William L. Andrews describes Twain as “one of southern literature’s defining artists. Some of his greatest books – *Life on the Mississippi* (1883), *Huckleberry Finn* (1884), and *Pudd’nhead Wilson* (1894) – have southern settings, deal with people and institutions readily identifiable with the South, and are told in a style and language that carry a distinctively southern inflection. Hence, for most southerners, Mark Twain belongs to Dixie”; *The Literature of the American South*, ed. William L. Andrews (general editor), Minrose C. Gwin, Trudier Harris, and Fred Hobson (New York: W.W. Norton, 1998), xvi.
- ⁴ Mark Twain, *Adventures of Huckleberry Finn*, with an introduction by Robert O’Meally (New York: Barnes and Noble, 2003), 2.
- ⁵ Shelley Fisher Fishkin, *Was Huck Black? Mark Twain and African-American Voices* (New York: Oxford University Press, 1993), 4–5.
- ⁶ Ralph Ellison uses Huck’s phrase as the title of his book *Going to the Territory*, and in a *New Yorker* interview he argues that Huck is speaking about Ellison’s home in Oklahoma:
- “There is a blues lyric that goes” – And he sang:
I’m going to the nation,
Going to the territory.
Going to the nation, baby,
Going to the territory.
- “You never heard that? Well, did you ever read ‘Huckleberry Finn’? What does Huck say at the end of the book? He says he’s had enough of civilization, that ‘I got to light out for the territory.’ Well, it is Oklahoma he is talking about. . . . [A]fter Reconstruction had been betrayed, people – black and white – came to the territory.”
- Jervis Anderson, “Going to the Territory,” *The New Yorker*, November 22, 1976, 66–67.
- ⁷ W.E.B. Du Bois, *The Souls of Black Folk* (New York: Library of America, 1990), 405.
- ⁸ Fishkin, *Was Huck Black?*, 7.
- ⁹ O’Meally, “Introduction,” *Adventures of Huckleberry Finn*, xxx, xxxiii.
- ¹⁰ *Ibid.*, xxviii.
- ¹¹ Shelley Fisher Fishkin suggests that these voices “have shaped our sense of what is distinctively ‘American’ about American literature”; Fishkin, *Was Huck Black?*, 9.
- ¹² Richard H. Brodhead, “Two Writers’ Beginnings: Eudora Welty in the Neighborhood of Richard Wright,” *The Yale Review* 84 (2) (1996): 2.
- ¹³ James Joyce, *A Portrait of the Artist as a Young Man* (New York: Dover Publications, 2011), 148.

- ¹⁴ Albert Murray and John F. Callahan, eds., *Trading Twelves: The Selected Letters of Ralph Ellison and Albert Murray* (New York: Vintage, 2000), 118. William Ferris
- ¹⁵ Eudora Welty, "Place in Fiction," in *The Eye of the Story: Selected Essays & Reviews* (New York: Vintage, 1990), 116.
- ¹⁶ Cormac McCarthy, *Child of God* (New York: Vintage, 1993) and *All the Pretty Horses* (New York: Vintage, 1993); Richard Ford, *A Piece of My Heart* (New York: Vintage, 1985), *Rock Springs* (New York: Grove Press, 2009), and *The Lay of the Land* (New York: Vintage, 2007); Elizabeth Spencer, *The Voice at the Back Door* (Baton Rouge: Louisiana State University Press, 1994) and *The Light in the Piazza and Other Italian Tales* (Jackson: University Press of Mississippi, 1996).
- ¹⁷ Eudora Welty, *One Writer's Beginnings* (New York: Warner Books, 1984), 16.
- ¹⁸ An excellent overview of these writers is Kenneth S. Lynn, ed., *The Comic Tradition in America: An Anthology* (London: Gollancz, 1958). See also Anne E. Rowe, "Regionalism and Local Color," in *The New Encyclopedia of Southern Culture*, vol. 9, *Literature*, ed. M. Thomas Inge (Chapel Hill: University of North Carolina Press, 2008), 137–140.
- ¹⁹ A. B. Longstreet, "The Horse-Swap," in *Georgia Scenes: Characters, incidents, &c. in the First Half Century of the Republic* (Gloucester, Mass.: Peter Smith, 1970), 21.
- ²⁰ William Faulkner, *The Hamlet* (New York: Vintage, 1990), 319.
- ²¹ Jack Cofield, *William Faulkner: The Cofield Collection* (Oxford, Miss.: Yoknapatawpha Press, 1978), 23, 40–41.
- ²² Ralph Ellison, "What America Would be Like Without Blacks," in *Going to the Territory* (New York: Vintage, 1986), 109.
- ²³ Ralph Ellison, "Change the Joke and Slip the Yoke," in *Shadow and Act* (New York: Vintage, 1972), 58–59.
- ²⁴ A complete set of published slave narratives can be found on the University of North Carolina's website under North American Slave Narratives, <http://docsouth.unc.edu/neh/texts.html>; the project collects books and articles that document the individual and collective story of African Americans struggling for freedom and human rights in the eighteenth, nineteenth, and early twentieth centuries. This collection includes all existing autobiographical narratives of fugitive and former slaves that were published as broadsides, pamphlets, or books in English up to 1920. Also included are many of the biographies of fugitive and former slaves and some significant fictionalized slave narratives published in English before 1920.
- ²⁵ While doing her field research for *Mules and Men*, Hurston wrote Franz Boas, her anthropology professor at Columbia University: "May I say that all primitive music originated about the Drum, and that singing was an attenuation of the drum-beat"; Carla Kaplan, ed., *Zora Neale Hurston: A Life in Letters* (New York: Doubleday, 2002), 138.
- ²⁶ Alice Walker, "Zora Neale Hurston: A Cautionary Tale and A Partisan View," in *In Search of Our Mothers' Gardens: Womanist Prose* (New York: Harcourt Brace, 1984), 85.
- ²⁷ William Ferris, "Meeting Ernest Gaines," *Humanities* magazine, July/August 1998, 103.
- ²⁸ Oral tradition is especially important in Southern theater. Inspired by the Abbey Theatre in Dublin, Ireland, Frederick Koch founded the Carolina Playmakers at the University of North Carolina at Chapel Hill in 1918. Adapting Southern folktales for the stage, Koch was known as the father of American folk drama. Koch's successor, Paul Green, wrote *The Lost Colony*, the oldest outdoor drama in the United States. Green also worked with Zora Neale Hurston on a stage adaptation of her story "John De Conqueror." Hurston shared Green's love for folk speech and was enthusiastic about their collaboration. After she visited Green in Chapel Hill in 1940, she wrote him:

My mind is hitting on sixteen cylinders on the play now.... I can continually feed you with grist for the framework.... So I believe that we can hit the ball for a long run.... I see no rea-

son why the firm of Green and Hurston should not take charge of the Negro playwriting business in America.

Kaplan, *Zora Neale Hurston*, 450–451.

That same year, Green helped Richard Wright adapt his novel *Native Son* for the stage. Working together in Chapel Hill,

sometimes the two men worked feverishly with Green lighting one cigarette after another in the excitement of the moment and Wright buried in his armchair shored up against the wall, concentrating on the words that poured out of his mouth. At other times they conversed more calmly during the languid summer afternoons.

Michel Fabre, *The Unfinished Quest of Richard Wright* (New York: Morrow, 1973), 208.

- ²⁹ In his photographs, Evans later said that he had found “old America again, which goes so far back that some of the people still speak with something reminiscent of the Elizabethan Age. And their faces are like that, too. That sharecropper’s wife is a classic portrait of a real, old pioneering, American woman of English stock, and pure, too”; William Ferris, “A Visit with Walker Evans,” in *Images of the South: Visits with Eudora Welty and Walker Evans* (Memphis, Tenn.: Center for Southern Folklore, 1977), 43.
- ³⁰ William Ferris, “‘Those Little Color Snapshots’: William Christenberry,” *Southern Cultures* 17 (2) (Summer 2011): 64–65.
- ³¹ Patti Carr Black, “Introduction” to *Eudora* (Jackson: University Press of Mississippi, 1984), 1.
- ³² William Ferris, “A Visit with Eudora Welty,” in *Conversations with Eudora Welty*, ed. Peggy Whitman Prenshaw (Jackson: University Press of Mississippi, 1984), 156.
- ³³ Eudora Welty, *On William Hollingsworth, Jr.* (Jackson: University Press of Mississippi, 2002), 4–6. See also *Eudora Welty: Photographs* (Jackson: University Press of Mississippi, 1989); Pearl Amelia McHaney, *Eudora Welty as Photographer* (Jackson: University Press of Mississippi, 2009); and Rene Paul Barilleaux, ed., *Passionate Observer: Eudora Welty Among Artists of the Thirties* (Jackson: University Press of Mississippi, 2003).
- ³⁴ Ferris, “Meeting Ernest Gaines,” 103.
- ³⁵ J. R. Cofield, “Many Faces, Many Moods,” in *William Faulkner of Oxford*, ed. James W. Webb and A. Wigfall Green (Baton Rouge: Louisiana State University Press, 1965), 110.
- ³⁶ William Faulkner, *Sanctuary* (New York: Random House, 1931), 41–44.
- ³⁷ Eudora Welty, William E. Massey Lecture III, 6, Welty Collection, Mississippi Department of Archives and History, cited in Suzanne Marrs, *One Writer’s Imagination: The Fiction of Eudora Welty* (Baton Rouge: Louisiana State University Press, 2002), 25.
- ³⁸ Eudora Welty, “Powerhouse,” in *A Curtain of Green and Other Stories* (New York: Harcourt Brace, 1979), 205.
- ³⁹ W. C. Handy, *Father of the Blues* (New York: Collier Books, 1970), 74.
- ⁴⁰ William Ferris, “Introduction,” to W. C. Handy, *Blues: An Anthology* (New York: Da Capo, 1990), 1.
- ⁴¹ *Ibid.*, 2.
- ⁴² Joseph Blotner, *Faulkner: A Biography*, vol. 1 (New York: Random House, 1974), 155, 175.
- ⁴³ Cofield, *William Faulkner*, 65.
- ⁴⁴ Lothar Hönnighausen, *William Faulkner: The Art of Stylization in His Early Graphic and Literary Work* (London: Cambridge University Press, 2009), 3.
- ⁴⁵ Blotner, *Faulkner*, 154–155.
- ⁴⁶ Kenneth Holditch and Richard Freeman Leavitt, *Tennessee Williams and the South* (Jackson: University Press of Mississippi, 2002), 31.

- 47 Tennessee Williams, *Four Plays* (New York: Signet Classics, 1976), 50–51.
- 48 Richard F. Leavitt, ed., *The World of Tennessee Williams* (New York: G.P. Putnam's Sons, 1978), 107. Tennessee Williams, *Cat on a Hot Tin Roof*, in *The Theatre of Tennessee Williams*, vol. 3 (New York: New Directions, 1991), 127.
- 49 "Studs Terkel Talks with Tennessee Williams," in *Conversations with Tennessee Williams*, ed. Albert J. Devlin (Jackson: University Press of Mississippi, 2000), 93. The blues Williams wrote are published in Tennessee Williams and Paul Bowles, *Blue Mountain Ballads: Voice and Piano* (New York: G. Schirmer, 1986).
- 50 Tennessee Williams, *Blue Mountain Ballads* (New York: G. Schirmer, 1979), 12–14.
- 51 Ralph Ellison, *Invisible Man* (New York: Vintage, 1972), 65–66.
- 52 William Ferris, unpublished interview with Sterling Brown, Washington, D.C., 1979.
- 53 Sterling A. Brown, "Ma Rainey," in *Folk-Say, A Regional Miscellany*, ed. Benjamin Botkin (Norman: University of Oklahoma Press, 1930), 276–277.
- 54 Richard Wright, "Note Sur les Blues," *La Revue du Jazz*, April 1949, 113.
- 55 Hazel Rowley, *Richard Wright: The Life and Times* (New York: Henry Holt, 2001), 295.
- 56 Ellen Wright and Michel Fabre, eds., *Richard Wright Reader* (New York: Da Capo, 1997), 249–250.
- 57 Keneth Kinnamon and Michel Fabre, eds., *Conversations with Richard Wright* (Jackson: University Press of Mississippi, 1993), 240.
- 58 Donald Davidson, *The Big Ballad Jamboree* (Jackson: University Press of Mississippi, 1996), 70.
- 59 Lee Smith, *Oral History* (New York: Ballantine Books, 1983), 174–175. Interestingly, singer and songwriter Dolly Parton read *Oral History* and was inspired to compose her own ballad, "Mountain Angel," about Smith's character Dory Cantrell. The ballad appears on Parton's 2001 album, *Little Sparrow*.
- 60 Garrick Davis, "The Well-Wrought Textbook: A Look Back at Brooks and Warren's College Classic, *Understanding Poetry*," *Humanities* magazine, July/August 2011, 23.
- 61 Warren and Brooks maintained lifelong friendships with Ellison, Welty, and C. Vann Woodward; their work significantly shaped our understanding of both Southern and American letters in the twentieth century. Welty recalled an evening with Warren in her Jackson home and how he loved storytelling:
- [T]here were a lot of us sitting around talking. And he laughed so hard, and he stayed so late. And when he left he said, "I had a perfectly wonderful time – not a serious word was spoken all evening." (*laughs*) I thought he had something there. Oh, we had told so many tales! He had Kentucky ones, and I had some from West Virginia and Mississippi.
- Ferris, "A Visit with Eudora Welty," 165.
- 62 Sterling A. Brown, Arthur P. Davis, and Ulysses Lee, eds., *The Negro Caravan* (New York: The Dryden Press, 1941), v.
- 63 *Ibid.*, vi.
- 64 John Hope Franklin, "Foreword" to Michael S. Harper and Robert B. Stepto, eds., *Chant of Saints: A Gathering of Afro-American Literature, Art, and Scholarship* (Urbana: University of Illinois Press, 1979), x–xi.
- 65 Andrews, *The Literature of the American South*, xx–xxi.
- 66 *Ibid.*, xxii.

Death Comes to the Broadway Musical

Charlotte Greenspan

Abstract: The Broadway musical is an excellent prism for viewing the narrative of American life – as it is, has been, and perhaps should be. In the first part of the twentieth century, musicals viewed life through rose-colored glasses; musicals were equivalent to musical comedy. Starting in the 1940s, the mood of musicals darkened. One indication of the new, serious tone was that characters in musicals died in the course of the show. This essay examines several questions relating to death in the Broadway musical, such as who dies, when in the course of the drama the death occurs, and how the death is marked musically. It concludes with a look at musicals involving the deaths of historical characters and at AIDS-related musicals, works whose assumptions and ideals are very far from those of the musical comedies of the early twentieth century.

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Bertolt Brecht called the Broadway musical “the authentic expression of all that is American,”¹ but he did not mean that as a compliment. Compared to the serious, politically engaged theater pieces that Brecht preferred and wrote, the Broadway musicals he saw seemed trivial and superficial. Many authors would agree that the Broadway musical is an excellent prism for viewing the American narrative; moreover, they would not be dismayed by this idea. Indeed, several books, including literary scholar Andrea Most’s *Making Americans: Jews and the Broadway Musical* and musicologist Raymond Knapp’s *The American Musical and the Formation of National Identity*, have made the case that the Broadway musical not only reflects American mores and values but, by holding up a mirror to the nation, actively shapes the American psyche.

During the first third of the twentieth century, the Broadway musical was equivalent to musical comedy. It had much in common with the movie genre now called rom-com, or romantic comedy. Musicals of the 1920s and 1930s had happy endings – specifically, endings that, after tribulations or at least complications, united the young lovers, presumably to live happily ever after. Characters in these musical comedies were often one- or two-

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dimensional at best, what Stephen Sondheim describes as one-adjective, one-noun personalities. (In *Finishing the Hat*, Sondheim gives as examples “the conniving slave, the lecherous husband, the braggart warrior” who appear in *A Funny Thing Happened on the Way to the Forum*. Though written in 1962, *Forum* makes ample use of traditions from earlier decades.²) Consequently, the people who wrote the books for musical comedies, putting one-dimensional characters through their paces to arrive at foregone conclusions, were seldom the most respected members of the team creating musical comedies. As one theater historian explained, “Books in themselves had a function but little quality. They were either serviceable or unhelpful.”³ Thus, the songs had to carry the emotional weight of the drama. Although in some sense generalized (that is, not specifically suited to unique characters), the songs were what lived on after the musical comedies were no longer on the stage.

During World War II, death came to the Broadway musical, particularly in musicals by Richard Rodgers and Oscar Hammerstein. Jud Fry dies in *Oklahoma!* (1943); Billy Bigelow dies in *Carousel* (1945); Lieutenant Cable dies in *South Pacific* (1949); the King of Siam dies in *The King and I* (1951). This was the moment when the narrative shifted. Musical comedies now had to make room for musical theater and musical plays, works whose aspirations were greater; could take on any subject that spoken plays could; and could enrich the narrative with music as well. Some wags have noted that at this point, we began to have musical comedy without the comedy. My interest here is in one specific aspect of the American musical’s turn toward the serious: namely, how death enters the narrative.

Deaths, onstage or offstage, and songs about them had been partners in Western

music drama for centuries. The first operas for which the music has survived, Jacopo Peri’s *Euridice* and Giulio Caccini’s opera of the same name, both dealt with Orpheus’s response to the death of his bride. *Porgy and Bess* is the more immediate predecessor to Broadway musicals that feature characters’ deaths. To this day, debate continues on how to classify *Porgy and Bess*; opera, folk opera, and musical theater have all been suggested. Its New York premiere took place not in an opera house, but at the Alvin Theatre, which had housed Cole Porter’s *Anything Goes* the year before; revivals have been staged on Broadway and in opera houses in the United States and abroad. How the several deaths in *Porgy and Bess* are treated musically deserves consideration, and I return to this topic later in the essay.

Popular songs and ballads that dealt with loss and death were another contributing stream. Most of these songs were not staged, and those that were did not play a part in a greater dramatic narrative. Rather, the drama played out within the song, whose language was the popular vernacular. Barroom ballads and the blues are beyond the scope of this essay, but two songs deserve mention, if only because their authors also made major contributions to musical theater. Cole Porter wrote “Miss Otis Regrets” in 1934 in response to a bet with his friend Monty Woolley.⁴ The meaning of the first and last lines, “Miss Otis regrets she’s unable to lunch today,” become clear in the course of the song, as we learn she must miss lunch because she is about to be lynched for shooting her lover. The ironic tone, a mix of comedy and tragedy, served later theater songwriters well in certain situations. Another song about lynching, this one entirely, and painfully, serious, is Irving Berlin’s “Supertime.” Written for the newspaper-themed revue *As Thousands Cheer* (1933), it was first sung

by Ethel Waters in a scene titled “Unknown Negro Lynched by Frenzied Mob.” In a perfect embodiment of benumbing grief, the singer explains that the simple act of putting supper on the table for herself and her children has become an almost insuperable burden because “that man o’ mine ain’t comin’ home no more.”

Unlike nineteenth-century opera, in which characters, whether stabbed, suffocated, or poisoned, are allowed to comment on their own deaths – sometimes in extended scenes – before they die, the deaths of characters in Broadway musicals of the 1940s and 1950s either are noted only in the dialogue or are marked musically by the survivors. Hence, if one’s knowledge of *South Pacific* came only from a recording of the musical numbers, one would not know that Lieutenant Cable dies.

In the great operatic fountainhead of death coming to Broadway, *Porgy and Bess*, there are several deaths and various musical responses. In the first act, after Robbins is killed by Crown, his wasteful death is lamented first by the community at large (“Gone, Gone, Gone”) and then by his wife Serena in the deeply moving song “My Man’s Gone Now.” The second act features a choral lament for the people who died in a hurricane (“Clara, Clara, Don’t You Be Downhearted”). When Porgy kills the villainous Crown, the musical response is not a lament but Porgy’s triumphant exclamation to Bess: “You’ve got a man now. You’ve got Porgy.”

Jumping ahead twenty-two years, we can look to *West Side Story*, a musical work whose stature is equal to *Porgy and Bess*, for an entirely different treatment of death. Leonard Bernstein had much deeper roots in the classical music tradition than did George Gershwin. Aspiring to the status of opera, *Porgy and Bess* has no spoken dialogue except that from the alien white men who visit Catfish Row. The creators of *West Side Story* were wary

of being too operatic; Tony’s death is unsung – literally. There is a response with spoken dialogue and with instrumental music and movement, but neither Maria, who survives him, nor Tony’s fellow gang members sing a lament. Bernstein struggled with this decision, remarking, “I tried to set it very bitterly, understated, swift. I tried giving all the material to the orchestra and having her sing an obbligato throughout. I tried a version that sounded just like a Puccini aria. . . . I made a difficult, painful but surgically clean decision not to set it at all.”⁵ The gang fight between the Sharks and the Jets is set to music, but the deaths of Bernardo and Riff are also unsung. Or, more accurately, death is treated musically in the larger context of its relation to love. Anita scolds Maria for her continuing loyalty to Tony. At the height of her anger, Anita sings, “He’ll murder your love; he murdered mine.” But love overcomes both anger and grieving, as both women proclaim, “When love comes so strong, there is no right or wrong. Your love is your life.” At the end of *West Side Story*, as Tony is dying, he and Maria sing a fragment – only six measures – of “Somewhere.”

In *L’opéra, ou, La défaite des femmes*, philosopher and novelist Catherine Clément suggests that nineteenth-century opera is particularly hard on women. In contrast, when death first came to the Broadway musical, it mainly took male characters. In *West Side Story*, Tony dies but Maria lives on – a striking deviation from the source story. Indeed, in most musicals of the 1940s and 1950s, the men die and the women are left behind to mourn. An important exception is Kurt Weill’s *Street Scene* (1947), in which an unfaithful wife is murdered by her husband.

The men who are killed off do not fall into one personality type. Jud Fry in *Oklahoma!* is unsavory, but *South Pacific*’s Lieu-

tenant Cable is a war hero. *Carousel*'s Billy Bigelow dies after an attempted robbery, while Johnny Nolan in *A Tree Grows in Brooklyn* dies when the tunnel in which he is working collapses. Most die violently, in the prime of their lives, but King Mongkut in *The King and I* dies of natural causes – presumably in the fullness of years – passing on his kingdom to his son.

Death can be accommodated at different places in the narrative of the Broadway musical. If there are many deaths in the course of the musical, they may be distributed throughout the work. If there is only one death, near the end of the story is a likely, but by no means the only, place to put it. Death may be the conclusion of the action or the springboard for the action to come, and there are interesting variations on these possibilities. In *Oklahoma!*, though Jud Fry dies near the end of the final act, his death is, in a sense, celebrated, or at least musically marked, in the Act I duet “Pore Jud is Daid,” sung by Curly and Jud. In *Ragtime*, the death of Sarah at the end of the first act causes the dramatic reversal of all the action to come.

In *Les Misérables*, we see the deaths of many of the characters we have come to know by name – Fantine, Gavroche, Éponine, Javert – as well as those of an unknown number of anonymous figures. *Les Misérables* is sung through, and the deaths are treated in different ways musically. The deaths of Éponine and Javert are dealt with operatically: as she dies, Éponine sings a duet with Marius; Javert has an extended aria before he throws himself into the Seine. Marius sings a lament for his many fallen comrades after the failure of the insurrection, “Empty Chairs at Empty Tables.” The death of Jean Valjean at the very end of the work, and his ascension to heaven, is treated with the full-blown musical elaboration that puts it in company with Marguerite's death in Charles Gounod's *Faust*.

Another interesting variation is death as backstory. In musicals using this device, a death of great significance to one or several of the characters in the drama has occurred before the action of the drama begins. This situation presents the problem of how the departed characters can participate musically. In *The Secret Garden*, Lily, the dead wife, appears in flashbacks. *Next to Normal*, cunningly enough, initially hides the fact that the young man we see (Gabe, Diana's son) is a figment of Diana's unmoored mind: he died before the action of the drama begins.

In time, death in the Broadway musical assumed a variety of treatments and expressions – deserved or undeserved, sentimental or comic, individual or anonymous. *Candide*, the musical Leonard Bernstein composed the year before *West Side Story*, introduces, among other things, anonymous deaths and death treated with astringent black humor. One aspect of this new stance – death not as an individual tragedy but as something omnipresent in society – is inherent in the source material for the musical, Voltaire's satirical novella of the same name. The young Candide tries to believe that things are “all for the best, in the best of all possible worlds,” despite the natural and man-made disasters all around him; by the end, he acknowledges that the Leibnizian optimism he was taught is a pack of lies. But in the course of the show, death and dying are mocked and trivialized. Some characters are killed, then brought back to life. In the soaringly beautiful duet they sing upon being reunited, Cunegonde asks Candide, “Dearest, how can this be so? You were dead, you know. You were shot and bayoneted, too.” Candide counters, “Ah, but love will find a way.” In a shocking juxtaposition, as anonymous victims of the Inquisition are about to be burned at the stake, the

chorus jauntily sings, "What a day, what a day for an auto-da-fé." Writer Ethan Mordden has commented that "after *Candide*, anything was possible because, suddenly, nothing was unthinkable."⁶

Two later musicals, *Sweeney Todd* (1979) and *Little Shop of Horrors* (1982), are drenched in death; they provoke a complex set of emotions of which simple sorrow is not the predominant feeling. By the end of *Little Shop of Horrors*, all the principals in the cast have been devoured by a carnivorous plant, which appears to be turning its attention to tasty morsels in the audience. In *Sweeney Todd*, Sweeney's understandable desire for vengeance against Judge Turpin and the Beadle morphs into malice toward all. A large number of anonymous men are dispatched ("They went to their Maker impeccably shaved," the chorus remarks) and recycled into meat for pies. The complex, emotional tone is set at the end of the first act by the comic duet for Sweeney and Mrs. Lovett, "A Little Priest," in which they gleefully imagine the different flavors of pie the various professions of the slaughtered men will produce. There are notable points of contact between this duet and "What a Day" from *Candide*, particularly the anonymity of the victims and the black humor with which death is treated. Both *Candide* and *Sweeney Todd* suggest a broad concern with social injustice, but the message is, if not impure, certainly not unmixed.

The convergence of death and entertainment is a central feature of *Chicago* (1975). The women in jail for murder perceive that by giving a story the right spin, the media and the justice system can be manipulated. In their defense the women declare, "He had it coming." It is the Hungarian woman, whose simple defense is the declaration "Not guilty," who is hanged onstage. In all these works, whether death comes to anonymous figures or

to the central characters of the drama, the sheer number of people who die helps numb the audience's reaction to the dreadfulness of death; these shows portray the banality of death. But more important than sheer numbers is the general tone determined by the musical setting. The sense that death is all around us conditions the atmosphere of several musicals that take place in periods of war. In *The Sound of Music* (1959), set in Austria before the Anschluss, and in *Cabaret* (1966), set in Berlin in the 1930s, the main characters escape death, but the audience knows that many others "in real life" did not.

Once the ground had been prepared by finding several ways to deal musically and structurally with the subject of death, the Broadway musical was better able to handle more complex political and social issues. In particular, the AIDS epidemic elicited many theatrical and musical responses, the most important for the purposes of this discussion being *Rent* (1996) and *Falsettos* (1992). Both works explore the joys and sorrows of being part of a subculture. In *Rent*'s operatic predecessor, Puccini's *La Bohème*, Mimi dies of tuberculosis; the Mimi of *Rent* dies of the new scourge cutting people down in what should be the prime of their lives: AIDS. Whizzer, the character who dies of AIDS in *Falsettos*, is given an embittered and impassioned song to sing, "You Gotta Die Sometime." He is also allowed a deeply moving farewell duet to sing with his lover, Marvin. At the moment that Whizzer dies, the music we hear is from Marvin's son, Jason, chanting his Bar Mitzvah portion, producing a complex mixture of youth, death, and religion for the audience to contemplate at the end of the show.

The inclusion of nonfictional characters in a musical's cast helped reinforce the idea that the musical was not an escape from the world outside the theater but

rather a means to examine that world more closely. Of course, the appearance of a non-fictional character is not a sufficient condition for making a musical serious. Despite the presence of Franklin Delano Roosevelt, as played by George M. Cohan, in the satirical musical *I'd Rather Be Right* (1937), the action focuses on the problems of a young couple who wants to get married, not the economic and social problems of the Depression. But the presence of non-fictional people in a musical in which characters die demands that the audience take notice in a different way. *Ragtime* sets out a clash of different social strata, encompassing fictional characters – an all-American family, an immigrant father and daughter, and an African American couple – as well as nonfictional: Harry Houdini, Emma Goldman, Henry Ford, Booker T. Washington, and Evelyn Nesbit, among others. All of them participate, willingly or not, in the social upheavals of the time.

Four musicals that not only contain nonfictional characters but are built on historical events – *Floyd Collins* (1996), *Parade* (1998), *Assassins* (2004), and *The Scottsboro Boys* (2010) – deserve attention here. All seem to be a hard sell. In *Floyd Collins*, a young man is trapped in a cave, where he eventually perishes while a

media-frenzy carnival develops above him. In *Parade*, Leo Frank is unjustly convicted of murder and is lynched. In *The Scottsboro Boys*, the unjust sentencing of nine black men on rape charges is told in the context of a minstrel show. *Assassins* brings together the deaths of Abraham Lincoln, James Garfield, William McKinley, and John F. Kennedy, but the central characters of the musical are not the victims but the men who caused their deaths, along with several men and women who made failed assassination attempts on other American presidents. None of these musicals started out on Broadway, although all of them eventually spent some time there. Indeed, they are so far from their Broadway musical predecessors that some commentators call them anti-musicals – questioning, indicting, or redefining the mythology of the American dream.

Someone once said that there are only two worthy subjects for a drama: love and death. The Broadway musical celebrated love from its earliest days. Death, as part of the narrative or even as the central subject, arrived decades later to produce, by the end of the twentieth century, musicals showing a darker but also a richer and more sophisticated view of life.

ENDNOTES

- ¹ Quoted in Larry Stempel, *Showtime: A History of the Broadway Musical Theater* (New York: W.W. Norton, 2010), 484. The quote originally appeared in Bertolt Brecht, *Collected Plays*, vol. 7, ed. Ralph Manheim and John Willet (London: Methuen, 1976), 420.
- ² Stephen Sondheim, *Finishing the Hat: Collected Lyrics (1954 – 1981) with Attendant Comments, Principles, Heresies, Grudges, Whines and Anecdotes* (New York: Knopf, 2010), 80.
- ³ Ethan Mordden, *Broadway Babies: The People Who Made the American Musical* (New York: Oxford University Press, 1983), 72.
- ⁴ According to musical theater historian Robert Kimball, “Monty Woolley suggested the title to Porter, which he accompanied with a wager that Porter could not write a song to fit the title”; Robert Kimball, ed., *The Complete Lyrics of Cole Porter* (New York: Knopf, 1983), 274.
- ⁵ Quoted in Stempel, *Showtime*, 405.
- ⁶ Ethan Mordden, *Coming Up Roses: The Broadway Musical in the 1950s* (New York: Oxford University Press, 1998), 170.

Poems by Lavinia Greenlaw

On the Mountain

To travel the world explicit
in its fault and fold.

To enter the background
as each thought discards itself:

pine-needles to the tree-line,
scree beyond.

To move small, sleep low
and dream new depths

of emptiness and order.
To be troubled by neither.

The loosening air
concentrates your blood

and your heart has the simple grip
of speedwell or gentian.

You forget what it is
to elaborate or qualify.

You breathe
white against white sky.

Otolith

A bear waking in Siberia
breathes out the last of winter
and the wind rolls west:
pine bend, reed sway,
sea plunge, sea fray,
sluice dribble, crab snap,
a merchant's Flemish beaver hat,
tooth rattle, jet boom,
curlew splash, cathedral tone,
dog confusion, jackdaw bluff,
the passing bells, the plunge and fray,
sea bend and sea sway,
the passing birds, the Flemish bluff,
a bear's loose tooth, sea breath,
corncrake, godwit, stonechat,
– which of them is coming back? –
the last of winter, gasp of spring,
and earth, and air, and rain.

Lavinia Greenlaw is a poet and novelist based in London. Her poetry collections include "Night Photograph" (1993); "A World Where News Travelled Slowly" (1997); and "Minsk" (2003), which was shortlisted for the T.S. Eliot, Forward, and Whitbread Poetry Prizes. "On the Mountain" and "Otolith" first appeared in the collection "The Casual Perfect," published by Faber and Faber in September 2011. © 2012 by Lavinia Greenlaw.

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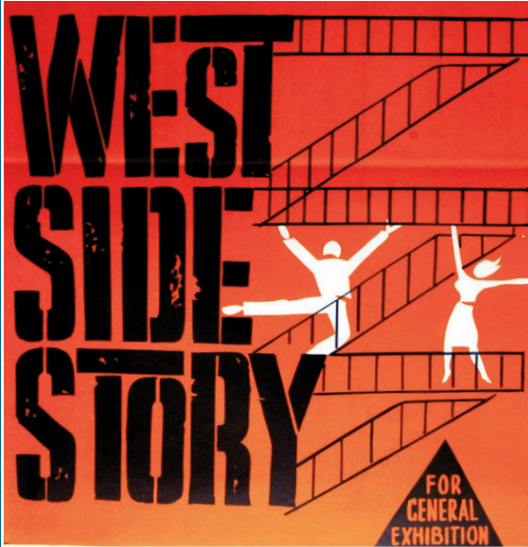
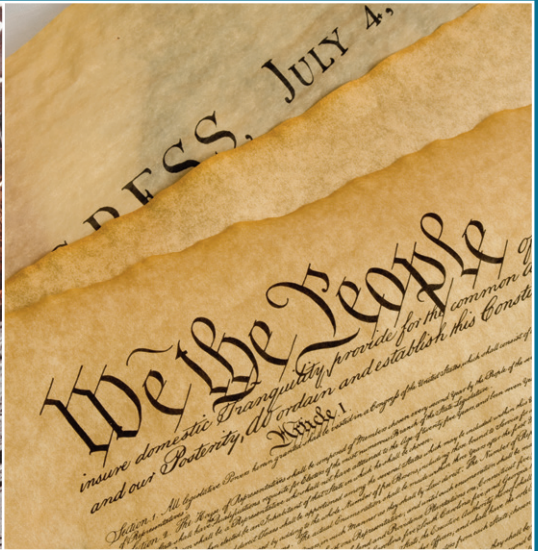
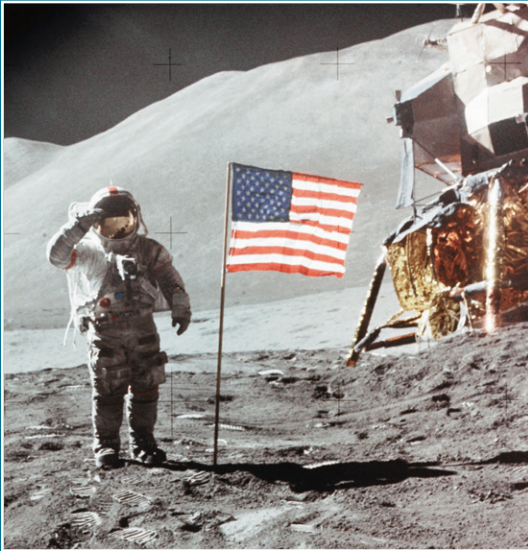
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