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pictures which Chen took, it follows that the removal of what are arguably the most crucial parts of these images – the genitalia, the body parts which aroused the infant's curiosity in the first place – means that the readers' scopophilia and epistemophilia are not fully satisfied; the editorial work of covering parts of the images means that the readers cannot see all that can be seen, that is, the most coveted visual objects are tantalisingly hidden from their field of vision. In other words, the journalistic discourse draws on the readers' drive to see and their desire to know by showing the images, and keeps those drives in motion by refusing to show everything, thereby sustaining reader interest. Since the twin drives for visual pleasure and for knowledge are not fully satisfied, the readers keep returning to the press in an attempt to find out more about the scandal, to see more of what Chen saw, to know more about what Chen knew. In this way, the narrative strategy of the press maximises reader interest and boosts newspaper sales.

An analysis of a few newspaper articles suffices to illuminate the textual strategy at work. The coverage in *The Sun* on 7 February, 2008 reproduces the pictures in the following way: three sets of images, showing Chen with three different women, are displayed for the reader's visual pleasure. These images are arranged side by side, creating the 'comic strip' effect so that the reader whose gaze follows these images left to right is placed in a position not too different from that of the comic-book reader who follows the development of the story in a comic by moving from left to right of the boxes.²² This journalistic arrangement of the photographs thus draws on the comic-book convention of temporal narrative development: just as the story of a comic moves forward temporally as the reader follows the images from left to right, so the readers of the news article on the Chen scandal follows the progress of the sexual activity as their gaze moves from left to right (Duncan and Smith 2009). The arrangement of the images therefore invites the readers into the private domain of these celebrities and creates the impression that the reader is seeing the events that happened in the order in which they happened. The presentation of images in the press creates a parallel structure between the readers' viewing experience and Chen's own visual experience by mimicking the linear temporal development of the events in the bedroom. However, the press refuses to allow the readers to see everything because parts of the images are blacked out: we see just enough to enable us to identify the female celebrities and to pinpoint that sexual act that is being performed, but not enough to entirely satisfy our drives to witness and to know. These drives are thus kept in motion without being completely satisfied.

A similar tactic is relied upon in the *Apple Daily's* coverage of the scandal on the same day. The headline reads: 'Some of the images were taken inside a private residence'.²³ Underneath the headline are a number of images in which the women are either seductively posing for the camera or engaging in sexual activities without looking straight at the lens. Since the headline underscores that the images were taken inside a private residence – a domain normally kept outside the readers' field of vision – the images can be read as functioning as a window into this private residence, thereby

²² Net friends become real friends and thwart police efforts. *The Sun* 7 February 2008, A2.

²³ Several images taken inside private residence. *Apple Daily* 7 February 2008, A2.

providing the readers with a view of the intimate lives of the celebrities. They are almost invited into the interior space of these figures, a point emphasised by headings such as 'Edison's bedroom' above some of the images. However, once again the view is incomplete: not only are the images blacked out or cropped, they are also quite small and provide a limited vision of the interior space of which the readers seem to stand just outside. It is possible to get a glimpse of various objects inside the rooms, such as a teddy bear, posters, or various personal items, but it is impossible to work out the dimensions or the overall layout of this private space. Once again, scopophilic and epistemophilic urges are aroused, only to be incompletely satisfied.

A further variation of the journalistic strategy entails combining a small image with a long descriptive text. In one set of pictures, readers are provided with an image barely large enough to allow them to identify the female celebrity. However, accompanying these images are texts describing the images so that what the readers do not see is made up for by what they read. For example, a text next to one set of image reads: 'she is wearing nothing but white underpants with black stripes on the side. She pulls down the front of her underpants and places her hand over her breasts; in another set she is sitting on the bed wearing a pink bra'.²⁴ Even though the reprinted image is too small to provide much visual pleasure, the virtually pornographic description next to it has the effect of recreating the image verbally in the mind of the readers, therefore augmenting this visual pleasure. The readers can imagine for themselves the colour and texture of the underwear or the allure of the partially covered breasts.

A second description reads: 'The picture was taken in a hotel room. The woman in the picture is dressed in black satin underwear and gazes seductively at the photographer. She is wearing bright red nail polish, and her hairstyle is the same as Gillian Chung's hairstyle back in the first half of 2006'.²⁵ The specification that the picture was taken inside a hotel room again functions as an invitation into the private space of the celebrities. The description underscores the salacious nature of the photograph by highlighting details of the women's body which are usually associated with female sexual availability in the male mind: the black satin underwear, the red nail polish, the long flowing hair. However, such a description takes on a fetishistic quality in that it only places isolated objects or body parts within the readers' field of vision and refuses to offer a full view of the female body; the underwear, the fingers with the red nail polish, and the hair ultimately fail to add up to a coherent image of Chen's sexual partner. Finally, we are told that another woman is 'wearing white lace underpants and has pulled her bra down to reveal both of her nipples. She bites her lower lip and strikes a provocative pose' (Id, A1). Once again, the description supplements the visual pleasure elicited by the image. In both cases, however, the erotic pleasure in looking and in obtaining knowledge are stemmed by the imperfect reconstruction of the actual events: even though the words help to recreate the image in the mind of the reader, the verbal description ultimately – and

²⁴ Edison's girlfriend Vincy caught in scandal. *Apple Daily* 10 February 2008, A1.

²⁵ Edison Chen's great act. *Apple Daily* 22 February 2008, A2.

inevitably – fails to allow unmediated access to the scene of sexual activity. The words can describe in great detail, they can supplement the images, but the pleasure of reading cannot function as a perfect substitute for the pleasure of seeing.

What conclusion can we draw from analysing the visual aspects of the reportage within a psychoanalytic framework? When we think about the incident through the lens of the twin notions of scopophilia and epistemophilia, it becomes evident that while Hong Kong readers purport to be disgusted by Chen's behaviour and by his photos, they buy the newspapers and the magazines precisely because they desire to see the pictures, because they yearn to know what happened between Edison and the women. It is therefore possible to conclude that, in a sense, the readers' scopophilia parallels Chen's own scopophilia: ultimately, we are enticed by the reprinted photos because we want to see what Chen saw. Despite our vocal condemnation, we as readers want to be placed in the same *spectatorial* position as Chen.

The analysis therefore reveals the irony inherent in the scenario: the social censure which is ultimately responsible for the disruption to Chen's career and to his exile from Hong Kong can be said to be premised on the same drives as those which underpinned Chen's own interest in erotic photography. Such a conclusion does not necessarily mean that there is a collective moral hypocrisy in Hong Kong society, because this would imply that readers are merely saying one thing but consciously doing another. The situation is more complex than a simple difference between public discourse and private action. What is of significance is the way in which the journalistic discourse successfully taps into the instincts of the reading public through its editorial and narrative strategies and integrates such instincts into the capitalist logic of sales and profitability. The interaction between text and reader therefore takes place on two different levels: not only does the press shape the public's understanding of Chen's identity by subtly representing him as a pervert and a criminal, it also operates on a deeper, psychical level to generate and sustain reader interest to ensure its own commercial success.

39.3 Conclusion

This chapter is premised on the insight of semiotics that reportage is rarely, if ever, innocent: since the press functions as a linguistic mediation between readers and real-world events, the figures and incidents presented to the consumer of news will always be subject to representation. In the case of the Chen scandal, the press tapped into the collective scopophilia and epistemophilia of Hong Kong society and also actively shaped this society's view of Chen by portraying him as a sexual deviant and a criminal.

It is worth rereading Chen's open apology to Hong Kong society in light of the above analysis. When one remembers that Chen is neither a pervert, as it is currently defined in psychiatric discourse, nor a criminal as it is currently defined by the law, his apology seems curiously out of place. Chen begins by stating that he would 'apologize to all the people for the suffering that has been caused' (Id, A1).

The use of the passive voice is significant: *he* cannot be said to cause the suffering by any legal test of causation and so the exact identity of the agent remains vague. He then apologises ‘to the ladies and to their families, for any harm or hurt they have been feeling’ and to his parents for their pain and humiliation. Once again, it is necessary to remember the culprits are the person who stole the pictures and the people who uploaded them; the person who took them did not commit a criminal act. Chen himself points out that the photos ‘were never intended to be shown to anyone. These photos were stolen from me illegally and distributed without my consent’. Finally he apologises to Hong Kong society at large for failing to act as a role model to his young fans: ‘to all the young people in our community, let this be a lesson for you all. This is not an example to be set for you’. However, if there is one lesson to be learnt from the Chen incident, it is that one must vigilantly scrutinise the ways in which questions relating to sexual behaviour and identity are represented in the media, for the media directly shapes the way such questions are understood by the public. The free press for which Hong Kongers have fought hard to maintain since the handover in 1997 must not become an instrument for the policing of sexual behaviour and identities. Chen stands as a martyr to a social censure which has, to a large extent, been generated by the power of journalistic discourse.

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References

- Brooks, Peters. 1993. *Body work: Objects of desire in modern narrative*. Cambridge: Harvard University Press.
- Duncan, Randy, and Matthew J. Smith. 2009. *The power of comics: History, form and culture*. London: Continuum.
- Dyer, Richard. 2008. *Stars*, 2nd ed. London: British Film Institute.
- Foucault, Michel. 1998. *The history of sexuality, volume 1: The will to knowledge*. Trans. Robert Hurley. London: Penguin Books.
- Foucault, Michel. 2003. *Abnormal: Lectures at the College de France*, ed. Arnold I. Davidson and Trans. Graham Burchell. New York: Picador.
- Freud, Sigmund. 1905. Three essays on the theory of sexuality. In *The standard edition of the complete psychological works of Sigmund Freud*, Vol. VII (ed. and trans. James Strachey), 125–244.
- Halgin, Richard P., and Susan Krauss Whitbourne. 2003. *Abnormal psychology: Clinical perspectives on psychological disorders*, 4th ed. New York: McGraw-Hill.
- Khan, Ummn. 2009. Having your porn and condemning it too: A case study of a “Kiddie Porn” expose. *Law Culture and the Humanities* 5: 391–424.
- Lee, Edelman. 2004. *No future: Queer theory and the death drive*. Durham: Duke University Press.

- Moi, Toril. 1989. Patriarchal thought and the drive for knowledge. In *New directions in psychoanalysis and feminism*, ed. Teresa Brennan, 189–205. London/New York: Routledge.
- Pedroletti, Brice. 2008. Un scandale ébranle le cinéma de Hong Kong. *Le Monde* 20 February. *Le Monde* Archive: <http://www.lemonde.fr/cgi-bin/ACHATS/ARCHIVES/archives.cgi?ID=16fd03b36602464d93fd7e31a6873279b02e4be839bd03a2&print=1>. Accessed 14 Jan 2010.
- Watts, Jonathan. 2008. China riveted by stolen sex photos of Hong Kong stars. *Guardian* 13 February. <http://www.guardian.co.uk/world/2008/feb/13/china.news>. Accessed 14 Jan 2010.

Part VIII
Law and Popular Visual Media: In Theory

Chapter 40

Make ‘em Laugh: Images of Law in Eighteenth Century Popular Culture

Mary Hemmings

Abstract In the eighteenth century, satire was seen as a liberty and could be expressed as visual popular culture. When aimed at power, satire deflected the taint of treason and sedition through the use of public voice in the name of liberty. Law and its actors stood as juxtaposition to the newly found ideals of liberty. Visual satire was instrumental in shaping the move from exemplary punishment to defining new paradigms of justice through the use of visual metaphor.

40.1 Introduction

The lingua franca of cutting satire in the eighteenth century was indisputably the visual representation of society in popular culture. A still-nascent publishing industry was introducing novels and other books for an emerging consumer market. Although vestiges of illiteracy existed, what bridged the gap for political and social commentary were mass-produced illustrations. Offered for sale to a growing middle class with more disposable cash than ever before, the print shop windows attracted all walks of life.

The underlying themes of these satirical representations reflected society about to experience the profound changes of the industrial revolution. The dissonance between what was perceived as the “establishment” and reality of everyday life provided the inspiration for an emerging breed of commercial artist. Needling the professions was a favourite theme, and among them were the esteemed members of the legal profession.

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The eighteenth century styled itself as the “Age of Reason”. Law and lawyers were quick to adopt the sobriety of reasonableness, and popular culture was just as quick to counter reason with absurdity. This chapter examines this relationship through the satirical art of the age.

The scope of this study is limited to mass-produced prints distributed in London during the eighteenth century. London is central to this study because it uniquely represented a society moving on after the Reformation (1661), the Great Plague (1665) and the Great Fire (1666). This study is also limited to prints housed and catalogued at the British Museum. Although other fine collections are available throughout the world,¹ it is the extraordinary description and scholarship of the Stephens and George *Catalogue of Prints* that served as a basis for this study as well as the continued work that is today sustained at the British Museum through its web-based catalogue.²

40.2 Eighteenth Century Popular Culture

Popular culture is both a commodity and a form of communication. Bought, sold, traded or bartered, it provides transient entertainment and amusement. Because of its populist appeal, it quickly becomes a part of the social fabric and just as quickly is discarded like thousands of Rubik’s cubes, pet rocks and comic books. In the eighteenth century, Samuel Johnson wrote: “the true state of every nation is its common life”³ and nothing reflects everyday life better than its everyday entertainments. Life in the streets, as in the present time, was a source of endless amusement to artists, none more so than William Hogarth who is noted for his outrageously satirical interpretation of social life. When London was rebuilding after the Long Parliament, pestilence and destruction of its infrastructure, there was a strong sense of “anything goes”. Theatre came back after Cromwell with a vengeance, allowing women as playwrights and actors. By 1714, a London about one-fifth of its current size, tallied over 3,000 coffee houses (Stephen 1904). Visiting Bedlam, in London was pastime was also reflected in Hogarth’s works. When hangings at Tyburn and other public

¹ See Simon Turner (2004). Collections of British and Satirical Prints in England and America. *Journal of the History of Collection*, 16(2), 255–265.

² F.G. Stephens, (4 vols, 1870–1883). *Catalogue of Prints and Drawings in the British Museum. Division I: Political and Personal Satires*; and, M.D. George, (7 vol., 1935–1954). *Catalogue of Political and Personal Satires Preserved in the Department of Prints and Drawings...* (All 11 volumes reissued on microfilm in 1978). Prints cited BM refer to entries in this catalogue.

³ “The true state of nation is the state of common life. The manners of a people are not to be found in the schools of learning, or the palaces greatness, where the national character is obscured or obliterated by travel or instruction, by philosophy or vanity, or is public happiness to be estimated by the assemblies of the gay, or the banquets of the rich. The great mass of peoples is neither rich nor gay: those whose aggregate constitutes the people, are found in the streets, and the villages, in the shops and the farms; and from them collectively considered, must he measure of prosperity be measured” Samuel Johnson, (1775). *A Journey to the Western Islands of Scotland* (London: Strahan, Cadell, 1775) at 45. Accessed 7 Dec 2009. Göttinger Digitalisierungszentrum. <http://gdz.sub.uni-goettingen.de/dms/load/img/?IDDOC=22496>

punishments drew enthusiastic spectators, courtrooms were also becoming public theatres as civil litigation became almost as exciting as criminal proceeding.

Publishing became industrialized as it relied on new sources of cheap paper and modernized printing presses. They churned out, for the first time, novels written by Daniel Defoe and Henry Fielding. The sensationalism of novels such as *Moll Flanders* and *Tom Jones* was not to be outdone by outrageous “reference” works such as *Harris’s List of Covent Garden Ladies* which enjoyed 38 annual editions.⁴ Public interest in sensational trials was fuelled by multi-volume works such as *The Bloody Register*.⁵ Literacy rates, especially in the cities were growing (Stone 1969, 101–103). The *Icon Libellorum* (1715)⁶ noted that print media and pamphlets not only sustained a growing readership, it provided income for the poor who sold them. It goes without saying that these presses were instrumental in the wide distribution of engravings and the growth of shops that dealt only in the sale of prints as well as “knock-off” paintings. Recent writers have argued that visual popular culture may not have had the impact on popular communication because of limited and unverifiable press runs, but contemporary and other historians have also argued that prints were widely sold and even more widely circulated (Nicholson 1996, 5–21). More importantly, London literacy may not have been very sophisticated, but broadsides, printed ballads and prints did indeed sell very well, particularly if they offered sensationalism.⁷ Printed images and words were the topics of communal discussions and exchange of opinions. For an increasingly commercial London, there was more coin, more print and more laughs fi.

⁴One example: *Harris’s List of Covent-Garden Ladies, or Man of Pleasure’s Kalendar for the year 1793, containing the Histories and some curious Anecdotes of the most celebrated Ladies now on the Town, or in keeping and also many of their Keepers* (London: Ranger, 1793). Eighteenth Century Collections Online. <http://find.galegroup.com.ezproxy.lib.ucalgary.ca/ecco/infomark.do?&contentSet=ECCOArticles&type=multipage&tabID=T001&prodId=ECCO&docId=CW3325762697&source=gale&userGroupName=ucalgary&version=1.0&docLevel=FASCIMILE>. Accessed December 14, 2009.

⁵(1764). *The Bloody Register: A Select and Judicious Collection of the Most Remarkable Trials for Murder, Treason, Rape, Sodomy, Highway Robbery, Pyracry, House-Breaking, Perjury, Forgery and Other High Crimes and Misdemeanors, From the Year 1700 to 1764 Inclusive* (London, Viney). Making of Modern Law, Trials, 1600–1926. <http://galenet.galegroup.com.ezproxy.lib.ucalgary.ca/servlet/MMLT?af=RN&ae=Q4201898646&srchtp=a&ste=14>. Accessed 12 January, 2010.

⁶Myles Davies, (1715), *Eikon Mikro-Biblike sive icon libellorum, or, a critical history of pamphlets. Tracing out the rise, growth and different views of all sorts of small tracts or writings, both collectively and singly, in a general and gradual Representation of the respective Authors, Collections and their several Editions, &c. Part. I.* (London, Eighteenth Century Collections Online.) at p. 3. <http://find.galegroup.com.ezproxy.lib.ucalgary.ca/ecco/infomark.do?&contentSet=ECCOArticles&type=multipage&tabID=T001&prodId=ECCO&docId=CW3304802200&source=gale&userGroupName=ucalgary&version=1.0&docLevel=FASCIMILE>.

⁷BM 9476 (1799): Part of Rowlandson’s series “Cries of London” no. 3: “*Last Dying Speech and Confession of the Unfortunate Malefactors Who Were Executed This Morning*” shows a woman selling copies of popular broadsides. This was a reminiscent print depicting the brisk trade in “dying speeches” from Tyburn gallows. In mid-eighteenth century, these were published exclusively by Thomas Parker and Charles Corbett.

40.3 Visual Representations in Popular Culture

With the commercialization of printing came the popularization of art. Cityscapes featured graphic symbols such as hanging shop signs to indicate availability of goods and services. By the second half of the eighteenth century, printers' shops became a well-established feature of urban life, and display windows attracted the literate as well as the illiterate. Pamphlets, newspapers and broadsides featuring satirical illustrations and caricatures circulated freely among coffee shops. Capable of being rapidly mass-produced, these paper products provided immediate opinions of daily and political events. Middle-class hobbyists took to building private collections of prints as they could afford them and because they offered cheap reproductions of moral tales produced by artists such as William Hogarth (Nenadic 1997, 203–222).

Early in the eighteenth century, the tension between the “high” church (Tory) and the “low” church (Whig)⁸ dominated cultural expression, as politics and religion remained interwoven in the fabric of life. Religion lost its dominant position in everyday life and so too lost its appeal in early satirical illustrations (Stephens/George, xv). Commerce and trade became a more important. Society focused on earning money rather than absolutions from purgatory. Financial blowouts rivalling today's Ponzi schemes were topics of newspapers rather than being topics of sermons.⁹

Erupting onto this scene by the mid-1730s, William Hogarth captured the mood of popular protest and opinion. He provided visual political commentary, but he also capitalized on the effects of political and legal landscape on the lives of the man in the street. In 1736, the Gin Act was introduced to curtail and to tax the sale and distribution of gin. Other illustrators besides Hogarth created satires of imaginary public funerals that were held for “Mrs. Gin” or “Mme. Geneva” (BM 2277; 2278; 2279) to mark her death on September 29, 1736. But it was Hogarth's *Gin Lane* in 1751 (BM 3136) that captures the popular imagination even to this day.

Hogarth was a master of self-marketing, purposely deflating the cost of his satirical prints to reach a broader market (Hogarth and Nochols 1833). Indeed, Hogarth's works were quickly assimilated into to consciousness of popular culture.¹⁰ Hogarth himself was prompted to exercise artists' rights by being instrumental in the first copyright laws governing illustrations.

William Hogarth spent his formative years with his family in the penal “liberties” of the Fleet Street prison where his father was imprisoned for debt. It is no coincidence that Hogarth was particularly ruthless in his depiction of the law and lawless society.

By the mid-eighteenth century, other cartoonists joined the printing surge. These included George Townshend, Matthew and Mary Darly. Mat Darly began to publish

⁸ Jonathan Swift, 24–31 May, 1711, In Rictor Norton, *Early Eighteenth-Century Newspaper Reports: A Sourcebook*, “Definition of Whig and Tory”, 24 April 2002. <http://grubstreet.rictornorton.co.uk/whigtory.htm>

⁹ Mississippi & South Seas Bubble (1717); also, National Lotteries (1730); Excise (1733).

¹⁰ Describing this phenomenon as “heritage-making”, this article describes the wide appeal as well as the reproduction of prints on consumer goods such as bowls, snuffboxes and fans: David A. Brewer, (2000) Making Hogarth Heritage, *Representations*. 72 (Autumn), 21–63. at 25.

in 1756 small postcards of original and reproduced caricatures and sold at 6d. They also introduced volumes of satire that were quickly re-edited, reissued and otherwise pirated. It was at this time that the distinction between caricature (political statement) was distinguished from caricatura (a person depicted) (George 1959). This period also saw the introduction of coloured prints (the production of the colouring remains a mystery) & were sold as “6d plain, 1s coloured”.¹¹

In the late decades of the eighteenth century, clergy were no longer satirized to the degree they had been. Instead it was politicians and other representatives of the established orders that became the focus of satire. Political figures and established institutions were clear targets, but the rise of self-regulated professions provided irresistible subjects for satire. Lawyers, the administration of justice as well as social lawlessness became a fertile field for artists' cynicism. As professions aspired to respectability, so they too became targets. Lawyers were associated with the devil in satirical prints, and the devil and the lawyer often appeared in elegant collusion.¹² Typically, the lawyers' clients were naïve country bumpkins. Lawyers continue to be associated with the devil, and the typical client remained the country bumpkin.¹³

Smarting from an unsatisfactory legal experience, Lord Abington, in a speech to the House of Lords called his lawyer as well as all other lawyers “pettifogging attornies” and “rotten limbs of the law” (Cobbett 1818). Not content to address the House of Lords, Abington paid handsomely to have his speech reprinted in newspapers. He was sued for libel by his “licensed robber”. He was fined £100 and sentenced to 3 months in prison and was charmingly portrayed by Isaac Cruikshank.¹⁴ Famous court cases became a matter of public interest as large damages and reputations were at stake. The exploits of Lady Buckinghamshire and her friends, for example, reached metaphorically absurd proportions in the late eighteenth century.¹⁵

40.4 Semiotics of Satire

In examining visual semiotics from a historical context, it is necessary to remember that a visual signal in the eighteenth century may have specific meaning to that time frame alone. Consider the modern Marlboro man, a symbol of muscular, sensual enjoyment of a good cigarette in the 1960s. Forty years later, it is that man's lungs and poisonous social behaviour that spring foremost to mind.

¹¹ George at 118. Put into perspective, a gallon of decent brandy sold at 6s in mid-eighteenth century.

¹² BM 8394: Dighton, *A Lawyer and His Agent*.

¹³ BM 8393; BM 9486.

¹⁴ BM 8520; “Diogenes alias A.B. in ton Looking for an Honest Lawyer!!!”.

¹⁵ (BM 9079: Gillray, Discipline a la Kenyon) Lady Buckinghamshire cashes in by hosting Faro parties at her home. (BM 8075: Gillray, “Modern Hospitality, or a Friendly Party in High Life”). (BM 8876: Gillray, “Exaltation of Faro's Daughters”); (BM 8879: Cruikshank, Faro's Daughters or the Kenyonian blow up to Gamblers); (BM 8880: Gillray “Dividing the Spoils”); (BM 9078: Gillray, The Loss of the Faro bank or the Rooks Pigeon's); (BM 8878: unknown, Cocking the Greeks). The affair resulted in a flurry of increasingly tasteless satires.

There is something very enduring about laughter which can transcend time. It is because laughter is a visceral human reaction. The political joke is funny because it appeals to the immediacy of everyday life. Over time politics loses resonance as it slips into history. Likewise, visual humour, be it on the stage, or in print, or in other visual media appeals to the eternal love of the slapstick. Reflecting on eighteenth century social history, Mary Dorothy George of the British Museum said: “satire was the language of the age” (George 1967).

Eighteenth century jestbooks were produced, plagiarized and reproduced for an eager market.¹⁶ The market may have been for those with disposable incomes for the consumption of popular and “high” culture, but jestbooks and prints could be resold and borrowed. Printed and even visual jokes could be memorized and retold in countless ways and in countless social situations. Jokes capitalized on physical deformities and disabilities as vehicles for humour. Other vehicles of satire included royalty, politicians, the professions or the Welsh¹⁷ as symbols of mortality, greed, lust, pomposity or naiveté. Deformity, disability, death and punishment were common sights in the eighteenth century and therefore they were not unusual vehicles for popular cultural expression.

Post-Reformation London valued its liberty and freedom of speech. By mid-eighteenth century, London boasted a police force unlike any other in Europe. Whereas Parisians were regulated by French guards and other instruments of government intervention, London’s police did not interfere in public spectacles or disturbances. Theatres were not only magnets for the staging of entertainments but also as a forum for public protest and direct appeals to the king. British freedom of the press was remarkable by European standards. An Englishman criticizing a foreign regime could be confident that his works would sell, and sell even better if anyone moved to censure his opinions.¹⁸

Although satirical caricature was not a new invention, the industrialized marketplace and post-Reformation liberty created an environment for the free exchange visual barbs. Above all, satirical prints were displayed daily for the amusement of passersby. With the use of emblematic symbols and recognizable body features, public personas were skewered just for fun. By the late eighteenth century, printers loaned, for a price, popular satirical prints for evening entertainments.¹⁹

¹⁶For an overview of jestbooks and eighteenth century humour, see Simon Dickie (2003), *Hilarity and Pitilessness in the Mid-Eighteenth Century: English Jestbook Humor*, *Eighteenth Century Studies*, 37(1), 1–22.

¹⁷Welsh = Irish, Scots, Newfies or any group that can be used for the point of a joke.

¹⁸Lord Robert Molesworth (1752) *Account of Denmark*, (Glasgow), Eighteenth Century Collections Online, published a critique of the Danish court and politics. The Danish court insisted on action by William against the author. William refused noting that government action against freedom of speech would result in a new edition of the book with a larger audience, see, Pierre Jean Grosley (1772). *A Tour to London, or, New Observations on England and Its Inhabitants*, translated from the French by Thomas Nugent, 2 v. (London, v. 1) at p. 60–61.

¹⁹“Faro’s Daughters” by Cruikshank (BM 8879) was lettered “London Pub May 16 1796 by SW Fores N 50 Piccadilly Folios of caricatures lent out for the evening”.

40.5 Law or Liberty in Popular Culture

How do we see the law in the signs around us and what do those signs represent? Is a judge, a courtroom or a lawyer a symbol of justice or a symbol of the law? Deleuze's differentiation between "la loi" and "les lois" is instructive in how we can perceive the enormous gap between what is "justice" (fairness, equity) and what is common law (judicial equity and precedence).²⁰ Other critics rely on the medium, in this case, popular culture and look for the "intertextual jurisprudence".²¹

Eighteenth century England cherished the notion of justice that could be found in the common law. Inherent in the common law were ideals of sagacity, wisdom and precedence. The essence of liberty was the judicious balance favouring the everyday man. Thus satirical illustrations as juridical instruments mocked the absurdities of imperfect laws. It has been said that "all effective humor is satirical. All satire is juridical. And all law is vulnerable to satire" (Goodrich 2005, 293–319). In the eighteenth century, liberty was a new found freedom. Law (la loi) represented justice: what everyman considered "fair". The laws (les lois) were an ass because they were politicized and therefore imperfect. This distinction resonates in the satirical illustrations of the day.

40.6 Legal Administration

Magistrates, judges and lawyers provided rich fodder for visual satire. There is a distinction between administration of justice (courts, policing) and practitioners (lawyers hired to present legal arguments). The former are appointed as instruments of the state and are held to a standards of behaviour that reflect, even if imperfectly, justice. The latter are hired by clients to press their interests through the courts or through legal argument.

As subjects of satire, legal actors were depicted as immune to the suffering of others. For example, lawyers overload a carriage and are insensitive to the beating of the carriage horse.²²

²⁰ Nathan Moore (2007). Icons of Control: Deleuze, Signs, Laws, *International Journal for the Semiotics of Law*, 20(1) 33–54. Moore makes the distinction between Deleuze's "la loi" (justice) and "les lois" (the administration of justice). He characterizes the administration of justice as "jurisprudence" as a French verb, rather than "jurisprudence" as an English noun denoting the "theory of justice". In this essay, I refer to justice (as the English ideal of equity, common law, and the current philosophical flavour of "natural justice"). The administration of justice refers to the politics of law-making and enforcement: representatives of the crown (judges, magistrates, etc.), the courts and punishment. Practitioners are those who are hired by the crown or by private individuals to represent their own interests: lawyers.

²¹ See William P. MacNeill (2007) *Lex Populi: The Jurisprudence of Popular Culture*. (Stanford: Stanford University Press) for a collection of essays legal themes in popular culture.

²² 1751, BM 3153 Hogarth: Four Stages of Cruelty.

The suggestion of avarice simmered as a subtext whether the subject was dozing on the bench or drawing up a marriage contract. But these characters did not represent “the law”. They represented the established system of law. The object of satire was the potential for human weakness within the established order. Pinpricking the pomposity of representatives of the establishment, whether by the Marx brothers or by Hogarth reveals the failure of the human character to uphold the ideals of the administration of justice and of legal representation.

By the eighteenth century, the privacy of ecclesiastical courts was replaced by the public spectacle of criminal courts. There, administrators of justice emulated the clergy in dress and behaviour. Directly appointed by order of the king, judicial ministers consisted of judges, sheriffs, coroners, magistrates and constables. Judges, by virtue of lifelong tenure exercised judicial prerogative and dispensed mercy in public arenas. Judges were expected to be experts in civil and criminal law but unlike the clergy, judges could be challenged by any one in a courtroom on a point of law as *Amicus Curiae*.²³ Magistrates were required to be resident landowners in counties or city precincts and were able to hear and pass sentence on petty issues as Sessions judges. Their powers were specific to many legislated topics such as alehouses, bastards, candles, coffee, drunkenness, gaming, goals, papists, pewter, riots, swearing and other typical eighteenth century activities.

There were two types of constable: high constables and petty constables for “every hundred” and were by empowered statute. The historical relationship of constables to magistrates was murky even in 1730s. Women were permitted to serve as constables “by virtue of a custom”. Constables were required to keep the peace, apprehend robbers and rioters make a “hue and cry” to apprehend felons and ensure that laws against rogues and vagrants were applied. Like everyday police officers, they were also expected to prevent unlawful “gaming, ‘tippling’, drunkenness, bloodshed, affrays & c” (Giles, 411–421). Petty constables had the power to put into stocks peace-breakers as long as it took to get them to a magistrate or a goal. The Parliamentary Rewards Act of 1692²⁴ provided £40 to informants and, by the eighteenth century, extended to urban criminals. In addition to private grants, Henry Fielding’s Bow Street Runners benefitted from this occasional allowance.

Judges, particularly famous ones, were obliquely used as “studies” in Hogarth’s discourse on “caricature”. Slyly satirizing the boredom of four courtroom adjudicators, Hogarth used devices such as the Order of the Garter motto in the illustration. He cuts off the second part of the motto to read “shame on him”. He also reproduces a favourite Elizabethan motto “always the same”²⁵ Hogarth’s print, styled after his

²³ Jacob Giles (1791) *Every Man his own Lawyer: or, a Summary of the Laws of England in a New and Instructive Method,* Dublin: James Moore, at 393. Eighteenth Century Collections Online. Accessed 4 Dec 2012. <http://find.galegroup.com.ezproxy.lib.ucalgary.ca/ecco/infomark.do?&contentSet=ECCOArticles&type=multipage&tabID=T001&prodId=ECCO&docId=CW3325307559&source=gale&userGroupName=ucalgary&version=1.0&docLevel=FASCIMILE>

²⁴ 4&5 W&M, c. 8.

²⁵ BM Cat 3662 ; Index v. 3b, p. 1187 “The publication of this print is noticed in “Payne’s Universal Chronicle”, Sept. 2–9, 1758, p. 182, col. 3, thus, among new works”.

painting sold for 1s6d in 1758. The print was noticed by a visiting Frenchman at the time as an example of the audacity of England's popular culture. He commented that caricatures of easily recognized high court persons would not easily be tolerated by government-sponsored policing in other European countries (Grosley 1772). Overzealous judges were also satirized. Judge Elijah Impey was considered for impeachment for having single-mindedly prosecuted a Maharaja while serving as chief justice in India.²⁶

Magistrates in the latter half of the eighteenth century were often portrayed as "just ass". For example, caricaturized as a man with the long ears of an ass (BM 6120), the imagery was duplicated in other caricatures and was so popular, it features as paintings within other illustrations.²⁷



BM 6122 Judge Thumb; BM 6124 Mr. Justice Thumb in the Act of Flagellation (Rambler Magazine)

Judicial opinion forms the backbone of the common law, and when that opinion borders on the absurd, satirical cartoons were there to milk the situation for the

²⁶ BM 7265 Elijah fed by the Ravens (1787). Coincidentally tied to the impeachment proceedings brought at the same time against Warren Hastings by Edmund Burke.7 (*Description and comment from M. Dorothy George, "Catalogue of Political and Personal Satires in the British Museum", VI, 1938*) On 12 Dec. 1787 Sir Gilbert Elliot moved six charges against Impey, the first being the "deliberate murder" of Nandakumar. Impey's triumphant defence was made on 4 Feb. 1788 at the bar of the House; on 9 May the House divided against the first charge, and the impeachment was dropped. "Parl. Hist." xxvi. 1335 ff., xxvii. 35 ff., 292 ff., 416 ff. Sir G. Elliot, "Life and Letters", i. 119, 121, 199 ff. Wraxall, "Memoirs", 1884, v. 48–51, 57–63, 100–12. P. E. Roberts in "Camb. Hist. of India", v. 246–7. See BMSat 7285.

²⁷ BM 8910, 1796 The Bosky (drunk) magistrate.

benefit of popular amusement. A flurry of satirical prints emerged after Sir Francis Buller pronounced that it was permissible for a husband to beat a wife with a stick no bigger than the width of a man's thumb. The first was published on November 21, 1782, and depicted "Judge Thumb" as street merchant selling thumb-like rods "Here's amusement for a married gentleman". One week later, James Gillray produced the engraving that was reprinted both in colour and uncoloured versions for E. D'Achery, St. James Street.²⁸ This time, the judge sells his rods "Who wants a cure for a Rusty [sic] Wife? Here's you nice Family Amusement for Winter Evenings!" Finally, another version of the print appears in the *Rambler's Magazine*. This time, Judge Buller takes an active role against a woman (thereby eliminating the husband altogether and dispensing justice/punishment directly against a disobedient wife). He says, "This is no bigger than my thumb". She says, "Would I have known of this before Marriage?" The morale of the story is that beating a woman within the confines of marriage and your own home is acceptable. This time, legal context is shown because a rolled copy of legal commentary (Coke) lies as a roll on the floor: "A Husband may Chastize his wife with a Stick the Size of his thumb".²⁹ There's no evidence that Buller made the comment at trial nor that early English law commentators made such pronouncements. Public interest was captivated. The satirical aspects of these illustrations suggest that wife beating was not behaviour that was widely condoned.

The *Midnight Magistrate* (BM 3275) illustrates the role of a magistrate in everyday legal administration to negotiate peace rather than secure prosecution (Morgan and Rushton 2003, 54–77). First published in 1754, it depicts a scene in a "night court". It shows that the administration of justice could be done within minutes of apprehension. It also shows that justice isn't always what it seems. The magistrate (or "hireling constable" – "constable of the ward")³⁰ is a monkey. A lady cat with a broken bottle stands before him and coming into the room is a well-to-do monkey gentleman showing great respect for the assembly. Verses explain that the gentlemen had been accused of breaking lanterns and must pay for the property damage. The cat lady is excused but it was clear that there is some sort of conspiracy between the court and the cat to draw in unsuspecting revellers to pay for already damaged public property.

The office of judge could also represent justice for social good. An honourable judge works for the public good and protects the public interest from financial scams. Chief Justice Kenyon is portrayed by Isaac Cruikshank as a giant with a thresher subduing a rabble of profiteers.³¹

Whereas in the past, freedom of speech during wartime was sacrosanct, by the late eighteenth century, parliamentary legislation sought to limit public opinion on

²⁸ BM 6123.

²⁹ More likely attributable to Bracton, see *De Legibus et Consuetudinibus Angliae*, ed. Travers Twiss, 1878, v. 1 at 47.

³⁰ Stephens/George, vol. 3b at 922.

³¹ An artisan is shown to say "Thank God there is an upright Judge on Earth who will plead the cause of the poor and prevent rich villains from feeding luxuriously at the expense of the lives of the industrious poor" BM 9545.

the grounds that information could be transmitted too easily to the French enemy. The spectre of foreign enemies was used as a toll to erode post-Reformation freedoms. Criticism of parliament was increasingly characterized as libellous, but finding printers and publishers in order to prosecute them met with its own brand of satire.³² Nonetheless, common law traditions governing the Englishman's right to lawlessness were giving way to laws that would be implemented by the courts.

40.7 Legal Argument: Lawyers

In *In Progress of a Lawyer*, the profession of law was seen as a respectable pathway into political life and prosperity. The education and career of a lawyer was depicted as an instructional comic strip in 1795 for young men considering legal and political careers.³³ In order to become politically respected, a young man (recognizable as the former chancellor Lord Thurlow) ought to participate in a debating society, publicly declare that the law and the state are the same and become a respected and vocal member of better coffee houses. Having made an early impression, a young lawyer would debate the reasonableness of the law over the church (by shouting at a local parson). Recognizing that law must be learned, the young man is expected to read the law until he was "stupefied" and, after requisite study, be called to the bar. Once a degree of professional standing is achieved, the world of politics will beckon. The best way to achieve political recognition is to create relationships with those who are well established in the legal and political arenas. As a first step, the young lawyer should "make love to an attorney's wife" and "be sure to tell her you are an Irishman". Then he is to declare to her that her husband is the only honest man on the roll. Once acquainted with the powerful attorney, a

³² BM 9194 "Legal Mistake or Honest Men Mistaken for Cospiritors" (1798): *Description and comment from M. Dorothy George, 'Catalogue of Political and Personal Satires in the British Museum', VII, 1942*. On 4 Apr., the Attorney-General brought in a bill for the regulation of newspapers, it having been found that prosecutions failed on account of difficulty in identifying proprietor, printer or publisher, instancing the case of the "courier", whose printer was not to be found, while the registered proprietor had severed his connection with the paper. Tierney defended the editor of the paper ("courier") which, Pitt said, "was giving information and advice to the Directory of France". "Parl. Hist." xxxiii. 1415–21. Before 26 Apr., Dundas had received information from France: "The courier is regularly brought over, carried first to the Minister of Marine, ... it is then sent to the Central Bureau, and then the paragraphs allowed to be translated into French papers, which are distributed among the coffee houses". "Navy Records Soc., Spencer Papers", ii, 1915, pp. 325–6. The "anti-Jacobin Review and Magazine", Aug. 1798, published a facsimile of the "courier" (for 23 Nov. 1797) directed to the "Ministre de la Marine, à Paris", with the columns containing a report of Moira's speech (see BMSat 9184) inscribed 'à lire' (cf. BMSat 9240). Eight men were arrested in Manchester on 8 Apr. and brought to London, as part of a Committee of United Irishmen, Englishmen and Scotchmen. "Lond. Chron.", 14 Apr., 4 May. See BMSats 8500, 9227, 9240, 9345, 9370, 9434, 9522. Listed by Broadley (attributed to I. Cruikshank).

³³ British Museum. Not described in Stephens/George. 1795. Reg'n 2001,0520.24, print by Richard Newton; pub'd Wm. Holland.

young lawyer ought to be both obsequious and self-promoting to his principle benefactor. An appearance at Westminster Hall provides the opportunity to plead passionately for his first client as well as a public opportunity to support liberal causes such as freedom of the press. Modesty should prevent the young lawyer from accepting accolades for any courtroom victories; and it is important to properly thank the jury for such victories. A good lawyer must be known beyond the confines of the city and working circuit courts that provide opportunities to become acquainted with leading gentry, to plead the causes of oppressive landlords and to rely on their support to first enter Parliament. At this point, it is understood that the young politician can forget all his old friends. Parliamentary success depends on similar balances of pandering, brow beating and gracious acceptance of bribes and offices. Eventually, the prize is at hand, and the legal career is rewarded by a position on the king's bench and the opportunity to "sit down comfortably on the Woolsack".

Yet, not all lawyers could be as successful as this idealized career progression. Many lawyers were reduced to accepting dead animals and farm produce for payment.³⁴

Nonetheless the lawyer, like other professions, was subjected to countless satirical jabs. In *The First Day of Term* (BM 3764), there stands a sympathetic working man in his Sunday clothes. He is dropping coins into the gloved hand of a bewigged lawyer holding a case brief in the other hand. The case brief reads: "Gaffer vs Ralph Clodpole". On the floor between them, a lies ribboned case file "Began in 1699...". Behind them, the devil throws case files among grasping lawyers. Some are labelled: "Putting off from term to term to Increase Costs"; "So do away by Bullying ... Mr. Bother'em"; "Bring Witnesses to Prove What Never Happened"; "Proving an Entire Stranger Heir at Law, £100." One lawyer has a book tucked under his arm: "Practice of Petty Fogging".

In the earlier part of the century, criminals represented themselves at trial, but as the profession expanded, a new breed of criminal barrister appeared. Then, as now, their morality and ethics was suspect in the popular mind. Resembling Archibald Macdonald in judicial robes, he carries a bag of coins, a legal roll titles "Insinuation Against Truth" he carries a reprieved thief on his back and tramples over the prostrate form of lady justice.³⁵

Seen as co-conspirators with crooked bailiffs and gaolers, lawyers were shown as unethical participants in the administration of justice.³⁶ Eventually, crooked lawyers did get caught and were publicly punished as one G. Aylett was pilloried on November 21, 1786 (BM 7071).

³⁴ BM 3766, *A Country Lawyer and His Clients*, c. 1776.

³⁵ BM 7593 *The Old Bailey Advocate*, 1789.

³⁶ BM 3767 *A Bailiff and Attorney*, c. 1780; BM Undescribed, Reg. 1948,0214.369, *Destruction: A Wicked Attorney's Coat of Arms*, 1794. This is an extremely large poster-size coloured print. The printer made a special note on the poster "It is not Mr. Holland's intention in publishing this print to cast a general stigma on a profession". On a musical note, there are several variations of *A Flat Between Two Sharps* and *A Sharp Between Two Flats* (BM 7259).

40.8 Liberty or Law

Once introduced, in 1715, the Riot Act³⁷ removed mob action from the sphere of treason into that of a lesser felony of civil misdemeanour. Public protest was no longer an act against the crown, and protest was permitted insofar as private property laws were observed. Thus, we witness the astonishing development of property laws in the period leading to the French Revolution when treasonous sedition became a concern again in England. It was not until after the French Revolution that street protest became severely limited.³⁸ Paul Langford observed "...one of the greatest ironies of the eighteenth century was the reluctance to impose legal restraints on liberty...The law was supposed to deter by unpredictable example rather than by certainty of detection or punishment" (Langford 1989).

The eighteenth century mob delighted in anarchy regardless of the cause. In the summer of 1749, mobs assembled over two nights in support of sailors who had been robbed in bawdy houses. The mob's fury centred on the home of Peter Wood, where it was believed some rioters were being held against their will. A series of satirical and "factual" illustrations depicts the riots that destroyed the property of Peter Wood in the Strand. Sentenced to death were Bazavern Penlez and John Wilson. Wilson was reprieved, but Penlez was hanged despite strong public condemnation of the sentence.



BM 3036 "The Tars Triumph, or Bawdy House Battery" Charles Mosley, 1749

³⁷ Act for Preventing Tumults and Riotous Assemblies, 1 Geo. I, stat 2, c. 5.

³⁸ 1795, Act for the More Effectually Preventing Seditious Meetings and Assemblies (36 Geo. III, cap. 8) see Penelope J. Corfield, (1990). Walking the City Streets: The Urban Odyssey in Eighteenth Century England, *Journal of Urban History*, 16:2, 132–174.

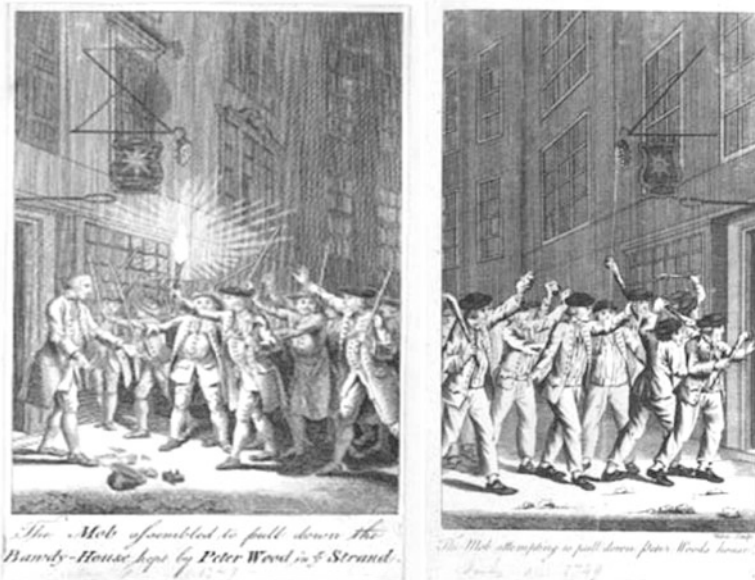
A satirical print by Mosley captures the sense of public outrage over the mistreatment of sailors at the hands of unscrupulous prostitutes. In his essay, Peter Linbaugh characterizes the riots as a public protest against bawdy houses (Linbaugh 1975). Looking at the satirized version of events, the crowd is not particularly upset by the idea of brothels in the neighbourhood. Prostitutes stand in their midst unmolested. A central figure in three of these illustrations is Peter Wood. He is a proprietor of the Star in the Strand, but not the owner. At trial, a witness testified that he and his wife were completely untrustworthy. At issue in these events was the theft from the nation’s sailors with no view of legal recourse. The inability for sailors to appeal to the law and provide justice underscored the frustration of “honest” citizens. The incident provided the opportunity to voice frustration at laws that, for the most part, was unfair and unjust. The celebratory mood of the crowd enhances the case that liberty was more fun than the law.

In the foreground, we see a young man tearing a bedsheet from a prostitute. This may be a depiction of Penlez whose trial underscored the fact that he had stolen linens from the house. To the left, we see a tall, thin gentleman skulking back into the house, presumably the owner, Peter Wood. It was Peter Wood’s questionable testimony at trial before Magistrate Henry Fielding that led to the sentencing. Lying on the ground in front of Wood is an advertisement for Dr. Rock’s venereal disease remedy. Being tossed out the window are used condoms, a birch, cosmetics, a cat, a chamber pot, furniture and other bawdy house items.



BM 3035 “The Sailor’s Revenge or the Strand in an Uproar” Louis Philippe Boitard

This satirical print shows a more elaborate scene. Several bawdy houses are being relieved of their contents. The mob, still satirized, has much more to say with the benefit of cartoon balloons: “These beds won’t wag again in haste” as pickpockets work the carnival crowd. An old woman in the forefront examines a box marked “letters” suggesting a conspiratorial aspect between the proprietor and the rightful owner of the house. The artistic representation of the Strand in this particular illustration attempts to portray the new expansive boulevard. The size of the crowd and obvious mayhem makes this the most believable of the four illustrations.



AN704591001 (not described in Stephens/George) “The Mob Assembled to Pull Down the Bawdy House Kept by Peter Wood in the Strand” Anonymous, 1749. British Museum Reg’n 1880,113.2921. (Crace Collection)

This non-satirical print depicts a more constrained and respectable scene. The mob consists of men wearing good outfits (suggesting the mark of good citizens). Peter Wood has come out of the house, hands outstretched in appeal. There is no sign of looting or burglary. In fact, it is characterized as an assembly, rather than a riot. It depicts a scene of men in liberty begging to differ. Some litter represents disorder but not at the scale of real as well as satirized and real events. There are no flying cats or wigs. There is a discourse here between aggrieved parties. This illustration represents an ideal of liberty. Citizens are capable of settling differences without the intrusion of the law.

AN704594001 (not described in Stephens/George) “A Mob Attempting to Pull Down Peter Woods House”. Anonymous. 1740. Reg’n 1880,1113.2922. (Crace Collection)

In this non-satirical print, the men wear sailors’ clothes and carrying clubs threateningly approach the bawdy house. They appear justifiably irate. There is no sign of Peter Wood, prostitutes, citizens, cats, chamber pots or bonfires. A sanitized scene, only bits of rolled up paper litter the street. From this scene, we sense that the dispute centred on the sailors’ complaints. They appeal directly to the house of the Star in the Strand. Although they menace, there is no sign of a mob or the proprietor. This illustration serves to show that the injustice was the sailors’ to carry. They appear menacing, but by virtue of their tidy and identifiable dress, they have every right to demand justice for their cause.

The Penlez riot served as a flashpoint for the discourse between the liberty of communal interests and the presumption of the law as an arbiter of public order. The conflicting images of what really happened on July 2, 1749 show the law as being inherently hostile to the expression of liberty. As magistrate, Henry Fielding found Penlez guilty. Reacting to public criticism, he published a pamphlet in support of exemplary punishment in October 1749. At first, he reiterated that the 1715 Riot Act was not “cruel and oppressive” as described in newspapers and not a danger to liberty: “...and where is the Danger to Liberty which can arise from this Statue?” (Fielding 1749, 3). Nothing in reality was ever more fallacious or wicked than this suggestion: “The Public Peace and the Safety of the Individual, are indeed much secured by this Law; but the Government itself, is their Interest must be or can be considered as distinct from, and indeed in Opposition to that of the People, acquires not by it the least Strength or Security” (Fielding 1749, 26). Fielding’s published rationalizations drew the scathing remarks of “Argus Centoculi”³⁹ in the satirical newspaper *Old England*. Centoculi accuses the dramatist-cum-legalist of using the Penlez case as a publicity stunt for his recent career move as a novelist of that “foundling” book (*Tom Jones*).⁴⁰

The anti-Papist Gordon riots shook London in 1780 gave cause to reconsider the jubilant public embrace of liberty and free expression.⁴¹

Thus, the ability to drink oneself to death or to slide into degeneracy was the subject of moralized satire. As a society incapable of self-regulating morality, satirists such as Hogarth took on the task of criticizing social excesses. Hogarth’s *Gin Lane* provides an enduring commentary on the dangers of liberty without law.

³⁹ The identity of Argus Centoculi has never been established; see, Ruthe R. Battestin, (1989). *Henry Fielding: A Life* (London: Routledge) at 429.

⁴⁰ Argus Centoculi, (1749). *Old England* (London) November 25, Issue 290.

⁴¹ See George Rude, (1956). *The Gordon Riots: A Study of the Rioters and their Victims. Transactions of the Royal Historical Society*. 6, p. 93–114; and George Rude, (1971). *Hanoverian London, 1714–1808*. (Berkeley: University of California).

40.9 Legal Consequences: Humiliation, Death or a Bit of Both

In *Discipline and Punish*, Foucault characterizes the eighteenth and nineteenth century penal reforms as a shift from the punishment of the body to the punishment of the soul or spirit.⁴² Foucault's argument relies on power relationships rather than top-down administrative power. The move to abandon the gallows in favour of disciplinary imprisonment has some resonance in the England of the eighteenth century. Writers such as Henry Fielding questioned the need for unrestrained state sanction of the death penalty favouring the judicious application of exemplary punishment. Visual satirists of the eighteenth century still enjoyed depicting the humiliation of nonlethal public punishment and used the concept of satirical punishment in their work as metaphor.

Foucault relied on French social reality. For him, the scaffold represented the power of the *Ancien Regime* to punish any crime whatsoever because any crime was seen to be an assault against the power of the crown. But in Restoration England, neither the crown nor the judiciary presumed that level of social control. By the time the Tyburn gallows were moved away in 1783, depictions of punishment had become the profitable language of eighteenth century illustration, and metaphors of punishment became the subject of satire.

According to Douglas Hay, law's purpose after the Glorious Revolution was to preserve property and not the rights of man (Hay 1975).

Public punishment was meant to deter similar crimes. It was also meant to increase moral awareness from witnessing suffering of others (Portman 2000). It was enduring entertainment value of punishment that was a subject near and dear to the eighteenth century psyche.⁴³

40.10 Public Humiliation

Like a Punch and Judy show, judicially sanctioned public discipline drew crowds for the fun of watching slapstick, discomfort, humiliation and just desserts. Judge Kenyon is once again featured as the avenging judge.⁴⁴ His pronouncement that aristocratic

⁴² See Michel Foucault, (1977). *Discipline and Punish: The Birth of the Prison*, (New York: Pantheon).

⁴³ Bernard Mandeville, *An Enquiry into the Causes of the Frequent Executions at Tyburn, and a Proposal for Some Regulations Concerning Felons in Prison, and the Good Effects That Could be Expected from Them* Eighteenth Century Collections Online (London: Roberts, 1725). <http://find.galegroup.com.ezproxy.lib.ucalgary.ca/ecco/infomark.do?&contentSet=ECCOArticles&type=multipage&tabID=T001&prodId=ECCO&docId=CW105769247&source=gale&userGroupName=ucalgary&version=1.0&docLevel=FASCIMILE>>

⁴⁴ See previous: Whereas he had been described as an "upright judge" for disciplining profiteers (BM 9545).

gambling ladies ought to be publicly flogged produced a flurry of satirical prints by James Gillray⁴⁵ and Isaac Cruikshank.⁴⁶ Even though the exhibition never occurred, the conjured satirical imagery proved to be an extremely popular metaphor.

Public punishment was not limited to petty thieves. The pillorying of MP Christopher Atkinson was not only satirized as an event (BM 7070, *Rambler's Magazine*; BM 6838), but it was also much anticipated and satirized before the event (BM 6667 "Anticipation of an Intended Exhibition" December, 1784 by Thomas Rowlandson. Atkinson was actually pilloried 25 November 1785). Both the anticipated event and the actual event depict a subdued approach to the punishment. Christopher Atkinson was indeed guilty of trying to monopolize supply contracts to the Victualling Board during the American Revolution. His actions, however, were not inconsistent with business practices at that time, nor was it inconsistent with the bribery rampant at the Board. In this case, Atkinson, although a convicted perjurer, was also seen as a scapegoat for the dishonest practices of the Board (Syrett 1996, 129–142).

Public punishment was not necessarily total humiliation of the victim. It also represented public protest by honouring the actions of the accused. John Williams, a bookseller was pilloried for distributing a banned John Wilkes publication. An affront to the liberty of free speech, Williams is surrounded by people of quality discussing freedoms as a jack boot hovers incongruously in the sky.⁴⁷

⁴⁵ BM 9079, *Discipline a la Kenyon* (1797). Gillray depicts Judge Kenyon flogging a rather fat and comical Lady Buckinghamshire towards a pillory where two other women are already confined. Following up on his threat (BM 8876) on the information of two dismissed footmen (BM 9078 & 9080). Following up on his threat.

⁴⁶ BM 8879, *Faro's Daughters*, three ladies stand in three pillories, two on small low platforms, the third resting the tips of her toes on a pair of stocks, straddling across Fox (see BMSat 8877), who sits between the legs of the prisoner which he holds firmly, his own feet projecting through the stocks, one shoeless and in a ragged stocking; his expression is melancholy. In the foreground (left), Lord Kenyon in wig and gown, seated on the ground, crouches over a bonfire of implements of gaming: a broken table, dice boxes and cards. The three pillories are marked with letters to indicate their occupants. [In another impression these letters have been scraped out] On the left "S" indicates Mrs. Sturt, a middle-aged woman, her head in profile to the right. In the centre, "A" for Lady Archer whose vulture profile is unmistakable. On the right, "C." indicates Mrs. Concannon, a pretty young woman, full face, with bare breasts, who indecorously bestraddles Fox. In the background, a fourth pilloried lady stands in back view, her petticoats looped up and attached to the pillory, exposing her bare posteriors. (Perhaps Lady Buckinghamshire, but not resembling her in figure.) A crowd of spectators is indicated. On the extreme left stands another judge; his profile suggests Loughborough. 16 May 1796 Hand-coloured etching inscription content: Lettered with title and publication line: "London Pub May 16 1796 by S W Fores N 50 Piccadilly Folios of caricatures lent out for the evening"; illegible annotation in ink on the recto at bottom right, on verso: "p: s [?or j]".

⁴⁷ BM 4115 "The Pillory Triumphant": "A broadside on the public support of John Williams, bookseller, who was put in the pillory in Palace Yard, Westminster, for re-publishing number 45 of John Wilkes's 'North Briton'; with an etching showing a open square crowded with people, in the centre, raised on a platform, Williams in the pillory, holding a laurel branch, on the left a scaffolding with a jack boot (representing Lord Bute) and a bonnet, in the right background a coach with the number 45, in the foreground a man holding a money purse; with engraved title, inscriptions, and speech-bubbles, and with letterpress title and verses in five columns, and with four vertical segments of type ornaments". ([London], Sumpter: [1765]). Inscription Content: Price 6d plain or 1s. coloured.

40.11 Public Death

The eighteenth century witnessed a surge in street theatre. Liberty took on the dimensions of Mardi Gras as they pulled down anonymously owned bawdy houses in defence of their nation's sailors. Mobs also flocked to the spectacle of exemplary punishment. In fact, the procession from Newgate to Tyburn's hanging stage could best be characterized as the song "I love a parade". In his diary, Samuel Pepys was aggravated because he missed a particularly interesting one. Some good parades lasted 3 h. Small businesses arose to sell choice seats on elevated steps for better viewing.

Execution satire lacked the comic flair of the pillory. Whereas humiliation could be stretched into a form of ridicule, the consequences of an execution were hardly a topic of mirth. Execution for treason could be the subject of prints and illustration because they depicted a state acting to preserve itself and its citizens. Therefore, the depiction of decapitated heads at Temple Bar were more instructive than side-splitting.⁴⁸

Hogarth's use of execution enters the realm of exemplary punishment. Illustrating a moral story, the "Idle Prentice" dies, (BM 2989: *Idle Prentice Executed at Tyburn*) while the Industrious Prentice goes on to lead a promising life.

Punishment was theatre even when there was no one to hang. On April 5, 1771, a mob dragged a cart to Tower Hill with seven life-size cardboard cutouts of persons connected to a dispute between Wilkes and the City of London. The cardboard cutouts were torched and a crude drawing of the event was published as a broadside on April 10, 1771. The busy drawing depicts the persons, hands folded in supplication. Around them, the crowd shouts balloon-shaped invectives: "Remember St. George's Fields" (occasion of a mob action); "I think the lawyer becomes a Cart and Halter". Their satirized "dying speeches" were later sold in the streets.⁴⁹

40.12 Public Humiliation after Death

Seen as carnival and street theatre, elements of religious superstition remained in the forefront. The new practice of retrieving bodies for anatomy classes met with popular resentment and eventually led to riots in 1747. In a utilitarian age, dissection was not seen by the authorities as further exemplary punishment but rather as a useful way to advance scientific inquiry. By 1752, the Murder Act was passed to permit the practice of post-mortem dissection and coincided with Hogarth's *Four Stages of Cruelty*. In the dissection scene, the surgeon takes on the appearance of a magistrate overseeing proceedings. Depictions of prisoners carted to prison, or hanged at the

⁴⁸ BM 2799, *Satire on the executions of Townley and Fletcher after the Jacobite rebellion, with a view of Temple Bar seen through an arch*.

⁴⁹ Stephens/George, v. 5 at 9–11.

Tyburn tree (Hogarth's *Industry and Idleness*), or having their entrails draped over tables (Hogarth's *Four Stages of Cruelty*) were his subjects, but lacked satirical treatment. Punishment was a solemn and instructional form of entertainment and did not require the razors of a satirist to make a point.⁵⁰ Hogarth's final plate, *Four Stages of Cruelty* (1751) depicts the dissection of dead man with judge overlooking.

40.13 Conclusion

Schopenhauer defined *schadenfreude* as what people found funny about the suffering of others. This could be a pie in the face or a body dancing at the end of a rope. Portman defines this as a form of moral development because the individual takes instruction from the spectacle. In her essay on Hogarth's treatment of capital punishment, Jaffe (2003) focuses on the final two tableaux of *Industry and Idleness*. The idle apprentice is hanged, and finally the idle apprentice is eviscerated. The eighteenth century is a time when reason, scientific curiosity and utility converge. Criminal bodies can now serve two purposes: public theatre and medical advancement.

But Hogarth's overt moral lessons are restricted to only some of his production. Lacking in the moralizing prints and paintings is the overtly comic or satirical. What *Rake's Progress*; *Four Stages of Cruelty* and other morality stories produced by Hogarth did was to humanize the conditions leading to criminal behaviour. The punished body had a story. Thus, by sensitizing the audience, popular culture was used to begin the process of removing the punished body from the sphere of the public spectacle.

Where satire was most effectively instructive was in the skewering of representatives of "legality": politicians, professions and the upper class. Whereas satire could be used to report on a public event such as the pillory, it was not used for in depictions of death sentences. Instead, the gallows were used as metaphor for condemnation and punishment.

Eighteenth century satirists understood that pushing the envelope of law was a form of liberty. For themselves, they insisted on copyright laws even though they regularly and unashamedly pirated each others' work.⁵¹ They became bolder in exploiting tits and bums for better sales and wider (ahem) exposure.

England enjoyed a dichotomy between public and private law unparalleled to anything on the Continent. Public laws ruled the sphere of crimes against the state and crimes against legislated social morals. Theft and larceny were considered a branch of social morals rather than being a crime against the state. Increasingly, the

⁵⁰ See Ronald Paulson (1975). *The Art of Hogarth*. (London: Phaidon); and, F. Antal (1952), The Moral Purpose of Hogarth's Art, *Journal of the Warburg and Courtauld Institutes*, 15:3/4, p. 169–197.

⁵¹ For a description of the culture of copying, pirating or otherwise disseminating the artistic work of others, see David A. Brewer (2000), *Making Hogarth Heritage*, *Representations*, 72 p. 21–63.

state was expected to play a larger role in the protection of personal property as more Englishmen and some Englishwomen claimed more property interests in moveable and immovable's.

Administrative justice was held up to ridicule in popular culture media when it failed to serve and protect the consumers of that culture. In the eighteenth century, that cultural base had become more strident and powerful. The protest ballads of the Middle Ages did not reach far enough or fast enough, unlike the protest ballads of the 1960s. Not every citizen was a brilliant reader. But all could relate to visual images depicting real or metaphorical events. When judges stood for popular interests (Judge Kenyon and the Corn Laws, and to a lesser degree, the upper-class Faro ladies), legal administration received support. On other occasions, state-sanctioned moral laws supporting "reasonable" wife beating were held up to ridicule. Magistrates were sometimes fair, but for the most part, their human greed shone through. Their relationship with lawyers representing the interests state or the private individual were suspect as legal rituals became more complex towards the end of the century.

This was supported throughout this time by depictions of country bumpkins being fleeced by lawyers schooled in the art of pettifogging and courtroom delay tactics. A lawyer was more apt to pocket coin than to successfully represent the bumpkin.

Returning to the tools of legal administration, the rift between "law" and "justice" was a complex subject and relied on innate cultural values of "fairness" in the common law. Visual satire used the law to underscore these cultural values and to uphold the principles of liberty.

References

- Antal, F. 1952. The moral purpose of Hogarth's art. *Journal of the Warburg and Courtauld Institutes* 15(3/4): 169–197.
- Batteson, Ruthe R. 1989. *Henry fielding: A life*. London: Routledge.
- Bloody Register: A select and judicious collection of the most remarkable trials for murder, treason rape, sodomy, highway robbery, piracy, house-breaking, perjury, forgery and other high crimes and misdemeanors, from the year 1700 to 1764 inclusive*. 1764. London: Viney. Making of Modern Law, Trials, 1600–1926 Gale. <http://galenet.galegroup.com.ezproxy.tru.ca/servlet/MMLT?af=RN&ae=Q4201898646&srchtp=a&ste=14>. Accessed 3 Dec 2012.
- Bracton, Henry de. 1878. *De Legibus et Consuetudinibus Angliae volume 1*, ed. Travers Twiss. London: Longman.
- Brewer, David A. 2000. Making Hogarth Heritage. *Representations* 72(Autumn): 21–63.
- Cobbett, William. 1818. *The parliamentary history of England from the earliest period to 1803 (vol. xxxi comprising the period from the fourteenth of March 1794 to the twenty-second of May 1795)*. London: Hansard. CADAL: China-US Million Book Digital Library Project. Accessed via Hong Kong University on 7 Jan 2010. <http://ebook.lib.hku.hk/CADAL/B3364844XV31/>
- Corfield, Penelope J. 1990. Walking the city streets: The urban odyssey in eighteenth century England. *Journal of Urban History* 16(2): 132–174.
- Davies, Myles. 1715. *Eikon Mikro-Biblike sive icon libellorum, or, a critical history of pamphlets. Tracing out the rise, growth and different views of all sorts of small tracts or writings, both*

- collectively and singly, in a general and gradual representation of the respective authors, collections and their several editions, &c. Part. I. London: Making of Modern Law. Gale. <http://find.galegroup.com.ezproxy.lib.ucalgary.ca/ecco/infomark.do?&contentSet=ECCOArticles&type=multipage&tabID=T001&prodId=ECCO&docId=CW3304802200&source=gale&userGroupName=ucalgary&version=1.0&docLevel=FASCIMILE>. Accessed 4 Dec 2012.
- Dickie, Simon. 2003. Hilarity and pitilessness in the mid-eighteenth century: English jestbook humor. *Eighteenth Century Studies* 37(1): 1–22.
- Fielding, Henry. 1749. *A true state of the case of Bosavern Penlez who suffered on account of the late riot in the Strand in which the law regarding these offences and the Statute of George the first, commonly called the Riot Act are fully considered*. London: Millar. Making of Modern Law. Gale. <http://find.galegroup.com.ezproxy.lib.ucalgary.ca/ecco/infomark.do?&source=gale&prodId=ECCO&userGroupName=ucalgary&tabID=T001&docId=CW3305433562&type=multipage&contentSet=ECCOArticles&version=1.0&docLevel=FASCIMILE>. Accessed 4 Dec 2012.
- Foucault, Michel. 1977. *Discipline and punish: The birth of the prison*. New York: Pantheon.
- George, M.Dorothy. 1959. *English political caricature: A study of opinion and propaganda*, vol. 1. Oxford: Clarendon.
- George, M.Dorothy. 1967. *Hogarth to Cruikshank: Social change in graphic satire*. London: Allen Lane.
- Giles, Jacob. 1791. *Every man his own lawyer: Or, a summary of the laws of England in a new and instructive method...* Dublin: James Moore. Eighteenth Century Collections Online. Gale. <http://find.galegroup.com.ezproxy.lib.ucalgary.ca/ecco/infomark.do?&contentSet=ECCOArticles&type=multipage&tabID=T001&prodId=ECCO&docId=CW3325307559&source=gale&userGroupName=ucalgary&version=1.0&docLevel=FASCIMILE>. Accessed 4 Dec 2013.
- Goodrich, Peter. 2005. Lex Laetans: Three theses on the unbearable lightness of legal critique. *Law and Literature* 17(3): 293–319.
- Grosley, Pierre Jean. 1772. *A tour to London, or, new observations on England and its inhabitants* (trans. from the French by Thomas Nugent, 2 vol). London: Lockyer Davis. Eighteenth Century Collections Online. Gale. <http://find.galegroup.com.ezproxy.lib.ucalgary.ca/ecco/infomark.do?&source=gale&prodId=ECCO&userGroupName=ucalgary&tabID=T001&docId=CW3315073899&type=multipage&contentSet=ECCOArticles&version=1.0&docLevel=FASCIMILE>. Accessed 4 Dec 2012.
- Harris's list of Covent-Garden Ladies, or man of pleasure's Kalendar for the year 1793, containing the histories and some curious anecdotes of the most celebrated ladies now on the town, or in keeping and also many of their keepers. 1793. London: Ranger. Eighteenth Century Collections Online. Gale. <http://find.galegroup.com.ezproxy.lib.ucalgary.ca/ecco/infomark.do?&contentSet=ECCOArticles&type=multipage&tabID=T001&prodId=ECCO&docId=CW3325762697&source=gale&userGroupName=ucalgary&version=1.0&docLevel=FASCIMILE>. Accessed 14 Dec 2009.
- Hay, Douglas. 1975. *Albion's fatal tree: Crime and society in eighteenth century England*. New York: Pantheon.
- Hogarth, William, and J.B. Nichols. 1833. *Anecdotes of William Hogarth written by himself*. London: Nichols.
- Jaffe, Barbara. 2003. William Hogarth and the eighteenth century law relating to capital punishment. *Law and Literature* 15(2): 267–278.
- Johnson, Samuel. 1775. *A Journey to the Western Islands of Scotland*, London: Strahan, Cadell. Göttinger Digitalisierungszentrum. <http://gdz.sub.uni-goettingen.de/dms/load/img/?IDDOC=22496>. Accessed 7 Dec 2009
- Langford, Paul. 1989. *A polite and commercial people: England 1727–1783*. Oxford: Oxford University Press.
- Linbaugh, Peter. 1975. The Tyburn Riot against the surgeons. In *Albion's fatal tree: Crime and society in eighteenth century England*, ed. Douglas Hay. New York: Pantheon.
- MacNeil, William P. 2007. *Lex Populi: The jurisprudence of popular culture*. Stanford: Stanford University Press.

- Mandeville, Bernard. 1725. *An enquiry into the causes of the frequent executions at Tyburn: And a proposal for some regulations concerning Felons in prison, and the good effects to be expected from them....* London: Roberts. Eighteenth Century Collections Online. Gale. <http://find.galegroup.com.ezproxy.lib.ualgary.ca/ecco/infomark.do?&source=gale&prodId=ECCO&userGroupName=ualgary&tabID=T001&docId=CW3305769248&type=multipage&contentSet=ECCOArticles&version=1.0&docLevel=FASCIMILE>. Accessed 4 Dec 2012.
- Molesworth, Lord Robert. 1752. *Account of Denmark*. Glasgow: Urie. Eighteenth Century Collections Online Gale. <http://find.galegroup.com.ezproxy.lib.ualgary.ca/ecco/infomark.do?&source=gale&prodId=ECCO&userGroupName=ualgary&tabID=T001&docId=CW3301165692&type=multipage&contentSet=ECCOArticles&version=1.0&docLevel=FASCIMILE>. Accessed 4 Dec 2012.
- Moore, Nathan. 2007. Icons of control: Deleuze, signs, laws. *International Journal for the Semiotics of Law* 20(1): 33–54.
- Morgan, Gwenda, and Peter Rushton. 2003. The magistrate, the community and maintenance of an orderly society in eighteenth-century England. *Historical Research* 76(191): 54–77.
- Nenadic, Stana. 1997. Print collecting and popular culture in eighteenth-century Scotland. *History* 82(266): 203–222.
- Nicholson, Eirwen E.C. 1996. Consumers and spectators: The public of the political print in eighteenth-century England. *History* 81(261): 5–21.
- Paulson, Ronald. 1975. *The art of Hogarth*. London: Phaidon.
- Portman, John. 2000. *When bad things happen to other people*. New York: Routledge.
- Rudé, George F.E. 1956. The Gordon Riots: A study of the rioters and their victims. *Transactions of the Royal Historical Society* 6(1956): 93–114.
- Rudé, George F.E. 1971. *Hanoverian London, 1714–1808*. Berkeley: University of California.
- Stephen, Leslie. 1904. *English literature and society in the eighteenth century*. London: Smith, Elder.
- Stephens, F.G. (4 vols.) 1870–83. *Catalogue of prints and drawings in the British museum. Division I: Political and personal satires*; and, M.D. George, (7 vol. 1935–1954). *Catalogue of political and personal satires preserved in the department of prints and drawings...* (All 11 volumes reissued on microfilm in 1978). Prints cited BM refer to entries in this catalogue.
- Stone, Lawrence. 1969. Literacy and education in England, 1640–1900. *Past and Present* 42(Feb): 69–139.
- Swift, Jonathan. 1711. In Rictor Norton. *Early eighteenth-century newspaper reports: A source-book*. “Definition of Whig and Tory”, 24 Apr 2002. <http://grubstreet.rictornorton.co.uk/whig-tory.htm>
- Syrett, David. 1996. Christopher Atkinson and the Victualling Board, 1775–1782. *Historical Research* 69: 169.
- Turner, Simon. 2004. Collections of British and satirical prints in England and America. *Journal of the History of Collection* 16(2): 255–265.

Chapter 41

Judge Dredd: Dreaming of Instant Justice

Alexander V. Kozin

Abstract This chapter explores the phenomenon of “instant justice” at the site of possible worlds. The context that accommodates this task is the English science-fiction comic *Judge Dredd 2000 AD* created by John Wagner and Carlos Ezquerra in the 1970s. The main character of the comic strip is action hero *Judge Dredd*, an officer of the law from a distant postapocalyptic future. Unlike other superheroes who act in the name of justice, *Judge Dredd* has justice in his name. His character is a singular embodiment of police officer, detective, judge, jailer, and executioner. Situated at the imaginary edge between text and image, the comic discloses the symbolic meaning of law and justice as “instant justice.” After a preliminary elaboration of this phenomenon with Gilles Deleuze, I offer two additional illustrations of instant justice with Franz Kafka and Fridrich Dürrenmatt. In the last part of this chapter, I theorize instant justice further with Plato, Sigmund Freud, and Jacques Lacan. The main objective of this theorizing is to disclose the relationship between the idea of instant justice and its semiotic phenomenality.

41.1 Introduction

I would like to begin by suggesting that the relationship between comics and dreaming serves as a form of transcendence for law. In turn, this relationship is based on aggression and manifests itself in violence. According to Kunzle, in comics, “the resolution of aggression takes place instantly, by way of symbolic representation, through the figure that embodies the Law” (2001, 8). Furthermore, with Lacan, “The symbol becomes a symbolic object when, in its evanescent being, it finds the

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permanence of the figure. Absence must give itself a name, and when this name is being given, it becomes possible to read the law in its original symbolism, that is, original violence” (Lacan 1989, 72).

As embodiment of the original symbolism, a comic superhero is necessarily an embodiment of the original violence. As such, he or she is also a servant of the law, let it be *Shadow* or *Batman* or *Superman*. Even a supervillain is but a mirror image of a lawman. The superhero chosen for this investigation is *Judge Dredd*, the protagonist of the comic strip with the same name. Before engaging with his character, however, I would like to make a short digression on the language of comics. The need for this aside is stipulated by the main theme of this study, that is, the relation between dream imagery and comic imagery. I elaborate on this relation with Gilles Deleuze.

41.2 The Language of Comics

It is traditionally assumed that comics belong to sequential art (cf. Eisner 1985). Its way of situating images encourages the viewer to read rather than view them. For the comics published as books and journals, the larger sequential order is that of pagination. Pages help organize visual narratives in terms of larger sequential frames. Thematically, these frames can be associated with complete episodes or long stretches of action. Unlike singular comic strips represented as horizontal sequences, reading a page of comics makes one attend to both horizontally and vertically situated strata, proceeding from left to right and then downward and back to the beginning of the page. In contrast to the graphic way of representing text by modern European languages, the preference of imagery over text in comics presupposes an additional narrative strategy. Due to a variety of sizes and shapes, images can be positioned in a stratified manner (see Fig. 41.1). Consider also partially framed images which blend in with the white of the background or “sticker” images which overlap with framed images (see Fig. 41.2).

The direction of reading imagery in comics is zigzag-like, with each individual image presenting a separate point of focus. This technique creates an impression of depth, an effect observable in artistic collages, for example, in those of Max Ernst and Georges Braque. Like dreams, surreal art is fragmented art. So are comics. They seek after an extra dimension and succeed in finding it in self-interruption which arranges imagery in three-dimensional visual patterns.

These surrealist patterns and portrays are reminiscent of those we encounter in dreams. Consider, for example, a particular spatiotemporal organization of dreaming that provides the condition for the rise of symbolic imagery: fragmentation (spatial category) and compression (temporal category). The former is achieved by selecting most relevant images for assembly. The selection adheres to the general principles of thematic coherence and visual cohesion. The simplest way to align selected images on a page is horizontal. More complex kinds of alignment include vertical, diagonal, as well mosaic and collage-like arrangements. In *Judge*



Fig. 41.1 *Judge Dredd*, fragment



Fig. 41.2 Judge Dredd, fragment

Dredd, John Wagner prefers to employ mixed imagery. For example, in Fig. 41.1, we can see three vertical columns and an additional insert into the second column. In turn, Fig. 41.2 shows a more complex mosaic-like pattern where the first image

is rectangular, tending downward, while the second, third, and fourth images in the upper part of the sheet do not only have different shapes but also perform different functions, providing an elaboration on the first image and then another one on each other.

In selecting an appropriate alignment strategy, essential is the main theme. The theme determines the degree of fragmentation, compression, and variability of images. Such criteria as intensity of action, interactions between and among characters, and complexity of their biographies help the viewer distinguish between dramatic action, as in pursuing an act which is meaningful in itself and pure action that does not have a clear *telos*. Superheroes in comics incline to pure action. With this emphasis, the storyline is not as important for this subgenre as the presentability of this story in action. The comparison to dreams is apparent. The more vibrant is a particular action, the greater is the degree of its fragmentation. Compression assists the artist by saturating partial images with a surplus of meaning. Likewise, the symbolic of dream imagery fills it with extra meaning. As we can see in Fig. 41.1, partiality and fragmentation are responsible for such features as temporal depth: in reading comics, one must imagine the hidden aspects of this and other images; otherwise, there is going to be little integrity between image sequences. As the smallest unit of the comics, image in comics holds a relatively independent status, especially nowadays when, due to technological advances, colored images have almost ousted black and white imagery and can be viewed separately, for a particular manner of coloration, for example.

The relationship between reading and viewing does not only expose but problematizes the relationship between text and image (cf. Varnum and Gibbons 2001). This relationship is visibly asymmetrical, with the primacy being given to pure image. Indeed, people rarely dream in text, and although when we dream we can hear voices on occasion, these voices often appear as discrete and therefore prophetic, thus carrying a symbolic meaning by and in themselves. Other less outstanding utterances fuse together with the visual imagery in a supporting capacity, giving this imagery a thematic direction. As in other action comics, the relationship between text and image in *Judge Dredd* is organized in favor of image. Here, text bears several functions: (a) representing human speech, (b) producing sound effects, and (c) providing commentary on a particular arrangement of images. From this perspective, we can distinguish among different kinds of text, beginning with the meta text that orients the reader to the spatiotemporal aspects of an unfolding story (e.g., “then,” “next morning,” “he is in his apartment,” “in the meantime,” “on the island,” “over the next two days”). These comments appear in square frames; they are marked as special text that provides images with several levels of cohesion: personality (“after that, he passed out...”), context (“Judge Dredd was on patrol, when...”), and history (“soon he will meet Draco again”). The next kind of text belongs to the characters; it appears as separate dialogical units (speech turns) delivered by the characters themselves. Dialogical speech is commonly represented by “speech balloons” (see Fig. 41.3).

Due to the scarcity of space, in contrast to the image proper, dialogical speech in comics is compact and densely figurative; the idioms it utilizes tend toward being



Fig. 41.3 Judge Dredd, fragment

trite and connotation poor, for example, “Come to papa!” or “Show me what you’ve got, you §\$(%&!)” This tendency also privileges speech not as a dialogue but as performance of basic speech acts, such as threats (“you will never see the light of day, basta!”), commands (“get off my face!”), pleas, and requests (“could you help me, please, please, officer”). Inner speech (“what if these scoundrels never show up? What if this is a trap?”) is also marked by speech balloons. With the help of this feature, the artist updates the viewer on the shifts and turns of events and states of affairs from the characters’ perspective. There are also third-person narrative accounts that expose emotional states by clarifying their relevance for the event (“angry, he drew his weapon” or “she was terrified, but decided to fight”). The final mode of speech represented by comics is transliteration of exclamations (“Wow!”, “Noooo...”, “Whaaaah”). Sound effects are widely employed and can also be of several kinds. Some represent sounds made by animals and other living entities, including aliens (“Grtzra...krkra...”). The other kind delivers ambient noise, for example,

“Whoooosh!” A sound effect can be given by way of a verbal description: “Explosion!” In depicting loud noise, a clear preference is given to homonyms: “Crash!” or “Boom!” A special category is formed to include the sounds of hitting, kicking, falling, cracking, and striking, for example, “Whap!”, “Pow!”, and “Zok!”.

All the techniques utilized for the production of action in comics emphasize the essential element of the medium itself: action. Therefore, reading comics presupposes that special attention be given to certain technical and original features of representing action. Action can be represented within one image or connect images in a series, from the instance of a specific action, such as a spit on the face, to its resolution, such as a dismembered body. The key rhetorical figure for action is synecdoche which can manifest itself in a particular facial expression, body position, or body part that appears to stand for the whole of the unrolling action. Visually, we recognize action when we see movement, that is, receive a graphic sign showing that an action, for example, a falling body or object, is going on right now before our eyes or has just been completed. Consider, for example, an image of a plane which is taking a nosedive. It can be represented by a vertical downfall—unnatural for this kind of a machine—position, as if having lost control, but also, or in conjunction and/or together, by the terrified look on the pilot’s face, or in the moment of impact and destruction. The aircraft can also be depicted in full, as if from a distance, or, more often, as an airplane cabin or salon. The background for action in comics is depicted by single and grouped lines, swirls, shades, and other retouching effects. See Fig. 41.4, for example. In this figure, the effect of explosion is depicted by showing an automobile jumping high up in the air with visible signs of destruction caused by explosion: overlapping centrifugal clouds raising up in the air together with the debris of the destroyed vehicle.

It is therefore in action that comics invite us to find the Law.¹ *How shall we understand law-in-action semiotically?* With Gilles Deleuze, I would like to consider action as a virtual object. Virtual object is a sum of the artist’s thoughts, ideas, and images that characterizes a phenomenon expressed as an essential theme, in other words, the kind of signification that does not come up to the surface to signify but shows itself in a number of oppositely vectored operations: fragmentation and uniformity, division and consolidation, expression and repression. These dialectical pairs manifest themselves on every level of consciousness, whether real, imaginary, or symbolic. The symbolic level however holds a special place in the work of art as it organizes and presents a coherent composition, a whole that, despite its self- and other-imposed delimitations, such as a frame or printed format, signifies a coherence of motive beyond the real and the imaginary. Some of these collectively assembled significations come prefigured; others emerge from a complex intertextual web that incorporates differently structured signifying elements, including the author’s psychological dispositions and personal communication patterns. Regardless of their origin, these should be approached as contributions to the

¹ It must be emphasized that not all comics privilege action to the same extent. For the “heroica” comics considered in this study, this emphasis is however indisputable.



Fig. 41.4 *Judge Dredd*, fragment

constitution of polymorphous objects of art or fiction which, to put it in Deleuze's words, "form the background for the virtual figure to appear and continue as the improbable itself" (1986, 94).

In his study of the semiotic medium of film, Deleuze argued that visual medium were a symbolic system of disclosure *par excellence*.² Indeed, it has the capacity to show fundamental structures of experience, such as the originary time, for example. The main function of a symbolic system is production of virtual objects. Here, the originary time appears as a virtual object. The horizon for the appearance of virtual objects is secured by symbolic worlds. These worlds are bound by coherent schemes that bring together different values and lifestyles, in sum, cultural modes of perception and expression. Typically, a symbolic world is a configuration that allows one to make sense of the actual world in the absence of the real. Focusing on the key mode of appearance for symbolic worlds, Deleuze suggests that it should not be manifestation but rather displacement that lets symbolic worlds be given to us. By virtue of the operation of displacement, symbolic worlds have an obscure relational structure; it is indicative: "Symbol does not refer to any present" (Deleuze 1994, 105). Displacement occurs at the intersection between two convergent series, the real and the imaginary, instigating transformations of both historical terms and imaginary relations. From this perspective, law is a quintessential symbolic world. Moreover, it always appears as incomplete and therefore unfulfilled: "Law lacks identity. It is always partial. It is always a past and a part" (Deleuze 1994, 102). In other words, it is a world that does not stop dreaming.

I would like to take the above theoretic for a focused reading of *Judge Dredd*. At the end of the analysis, I hope to be able to (a) describe "instant justice" as a semiotic phenomenon, that is, "dream of law"; (b) identify the role of image in creating this phenomenon; and (c) show the place of instant justice in a semiotic theory of law. In the next section, I would like to describe instant justice in terms of the three realms designated by Lacan: the imaginary (whole series), the symbolic (episodic series), and the real (actual series). The direction of the reading is therefore from the absent presence to the presentifying absence.

41.2.1 *Instant Justice: The Imaginary*

For almost thirty years, one man has dominated the British comic scene. He is judge, jury, and executioner, a merciless far-future lawman delivering justice with an iron fist on the mean streets of Mega-City One. He is Judge Dredd (*Judge Dredd. The Complete Case Files 01. 2000AD. Year: 2099–2100*, Back Page).

"Judge Dredd" is an imaginary entity created by John Wagner (1949–) and Carlos Ezquerra as a science-fiction comic strip. Originally published in 1977 in an annual,

²The same can be said about comics whose modes of "graphiation" resemble those of cinema as is argued by Baetens (1996).

the comic was syndicated by the *Daily Star* (1981–1988) and then by *Metro* (2004–2005). In 1990, *Judge Dredd* appeared under the heading of *The Judge Dredd Magazine*. In 1995, the comic strip was turned into a film starring Sylvester Stallone.³ During recent years, *Judge Dredd* has experienced a revival with the first complete edition of the original series published by Gutenberg Press between 1999 and 2008. The main character of the comic strip is action hero known only as *Judge Dredd*. He lives in the distant postapocalyptic future in Mega-City One, where he polices, apprehends, judges, and executes criminals. The city of the future is depicted as a period fantasy. Its architecture is a mixture of wasteland, elevated highways, and gated residences. *Judge Dredd* has an apartment in such a residence. Surrounded by various gadgets of the future (electronic arms chair, TV wall, and food generator), Judge spends his free time studying law and contemplating cases. Even at home, he does not have much rest. Emergency dispatches find him there at all times. Perhaps, it is for that reason that he never changes his appearance, whether at home or work. The reader always sees him dressed up in the uniform of the judges of the future: a long tightly fit helmet with dark glasses attached to the radio headset and a full bullet-proof body costume. Importantly, he almost never takes his helmet off, thus remaining faceless. Just like the law itself, he symbolizes the blind hand of justice (it is quite hard not to read irony in that association). He is clad as both a knight and an athlete, and in addition to his natural abilities (strength, agility, stamina, and speed), he possesses various weaponry of mass destruction which is attached to his body (e.g., poison darts, titanium nets, and rocket launchers, as well as more conventional laser and taser guns). This uniform makes *Judge Dredd* look like a mechanicon, a cyborg of sorts. He also reminds us of an earlier superhero *Rocketeer*, the predecessor of *Superman* and *Spiderman*.⁴

When patrolling the streets on his futuristic motorcycle (which does not only possess weapons of mass destruction but is equipped with a complicated system of person identification), *Judge Dredd* spends time fighting crime, dealing with personal vendettas, bringing evil characters down, exposing conspiracies against the state, and protecting the weak and the innocent. In these responsibilities, he reminds of many similar superheroes. However, there is an irreconcilable difference between *Judge Dredd* and *Superman*, for example. Not only because one is a hero by profession, and the other is an amateur vigilante, but also because they have different powers: magic is not in *Judge Dredd*'s arsenal. Judge Dredd is an official superhero and a superhero official. His powers are not fantastic and therefore impossible; rather, they are quite probable but, at the same time, supreme. Delimited to the probable realm, his supreme powers nonetheless connote excess. *Dredd* is obsessed, impatient, creative, and intelligent. At the same time, Wagner makes it clear that his

³ It could be significant for the above argument if we trace out the intersemiotic relation between the two media; here, I would like to note only that the film functions as a simulacrum of the comic.

⁴ For a concise description of *Judge Dredd* as fictional character, his history, life, and adventures, see Baret (1995).

character is not a thinking cop but an actor. Action defines and motivates his character as the primary, defining, and only characteristic.

Unlike *Wolverine* or *Shadow* or *Batman*, *Dredd* is not called on to do someone else's job. Nor does he have a secret life. He is not torn between two or more identities. He does not have to hide his true self that would otherwise contradict if not negate his fictional personae. If anything, his one and only identity is way too obvious, too direct, and unequivocal. Moreover, he makes sure that people take him literally, albeit predominantly in a command mode. His actions do not betray ambiguity or hesitation. In comparison to the aforementioned counterparts (*Angello* or *Hellboy*), *Judge Dredd* is legitimately the Law and therefore morality. He does not need to justify his actions. He performs them for the public, not unlike at an actual trial whose efficacy is founded on explicit presence. A faithful servant of law, *Judge Dredd* is presented and presents himself as an uncompromising presence of the Law. He does not chase criminals in order to capture them and then pass them on into the hands of justice. His kind of justice is held firmly in his own hands. It is conducted amidst the ordinary, and it is carried out instantly on the spot. The badge that says "Judge" indicates an open disposition for the necessary actions, and those might include a wide range of possibilities typically united between and among other servants of law. In the comic, the idea of instant justice is pushed to the extreme, creating a possible world where the detective, the judge, and the executioner come together to deny the possibility of due process and, with it, the ground condition for justice. The decision that cuts through the legal process from the point of investigation to the point of sentencing leaves the defendant no possibility for defense and thus no justice. The dream of instant justice is the dream of no justice. Without justice, the Law reigns supreme, unhindered by meddling processuality.

Bordering upon the impossible, the world of *Judge Dredd* provides a commentary on the cultural meaning of law and justice. In the next section, I would like to draw this meaning out by turning to a specific case that illustrates instant justice in action, as it were.

41.2.2 *Instant Justice: The Symbolic*

For illustration, I suggest Case 4 from the first volume of the series. The case is remarkable for several reasons. First, it is the first mystery case (the first three episodes of the series introduce the main character and the general context, e.g., the character of the judge, the city in which he lives and works, some of his colleagues); second, Case 4 instigates a new function for *Judge Dredd*: in addition to chasing, catching, and sending dangerous and murderous criminals to the Devil's Island, which is a self-controlled prison, with Case 4, the judge gets involved in investigating, adjudicating, and executing cases. Thus, we may say that, starting from this case, the comic received a narrative, and its history begins in a proper sense. Allegedly, the story for the case was inspired by the 1976 remake of *King Kong*. This story also contains the first appearance of Maria, the judge's Italian housemaid. Although her



Fig. 41.5 Judge Dredd, fragment

official status is that of a cleaning lady, in the comic, Maria serves more as a mother figure for the Judge, nagging him about his ascetic life, complaining about his diet, and even proffering unwarranted advice on his cases.

Case 4 takes place in the year 2099. It opens when *Judge Dredd* receives a home visit from Mr. Kevin O'Neill, who presents himself as a salesman from Sensor-Round, a virtual world maker (see Fig. 41.5). At the time of the visit, *Judge Dredd*

is depicted relaxing in his high-tech armchair, leafing through a book aptly titled "LAW." Maria makes the following comment in that regard, "You never enjoy yourself, Judge. All you think of is law, law, law." There is little doubt that *Judge Dredd* is indeed obsessed about his work. Even his dreams are reflective of that obsession. Unsurprisingly, he does not care about the products offered by Sensor-Round: projections of dreams created at the company's studios. In order to control and modify these dreams, the company offers "a simple control." *Judge Dredd* detests this offer (just like he despises any control that does not have anything to do with the law) and commands the salesman to turn it off. Then he throws the pestering man out. There is irony in that rejection because Judge's major responsibility is to exert control over the order at a place that can only project one: John Wagner's future world is beyond repair; it will never be orderly. The opening of the Sensor-Round case sets up the mood for the upcoming work of justice: violence in the name of law.

This formula is definitional for *Judge Dredd* who did not have to resort to violence as a means of communication, not in this case, anyway: the salesman would have walked out by himself after having been asked to do so. The same aggressive attitude manifests itself in the discursive counterpart of action: *Judge Dredd* regularly makes sarcastic quips, stylized as police jargon. This jargon is a typical marker for certain fictional action heroes, especially those in the roles of police detectives, such as *Dick Tracy* or *Don Blech*, for example. With this behavior, *Judge Dredd* emphasizes a particular feature of his professional orientation: unceremonious arbitrary force can be enacted as both discourse and physical action. Violence is also inscribed in his fictional self as an interactional and problem-solving preference. He is designed to be forceful, to communicate force, just like the actual Law, although in reality, law never does it as nearly as quickly or as effectively. Procedural safeguards prevent law from getting out of hand. In contrast, in the face of *Judge Dredd*, law is not just forceful and crude; albeit quick thinking, it is expressly non-empathetic. As a way to relate to other human beings, empathy must be excluded by law that desires a pure signifier, a neutralizer of horrible dreams.

The second frame page introduces the actual murder case for this file. The murder is that of the president of Sensor-Round. The peculiarity of the murder is indicated in the mode of the murder: "the body is ripped apart...as if by some kind of monster" (see Fig. 41.6). The theme of violent dismemberment bodes well to dream imagery. Dreams are not just partial, as was indicated by both Freud and Lacan; their edge is jagged. Then, two more murders are committed: two other top executives of Sensor-Round are brutally killed in a similar manner and also by some "ferocious monsters." A few sequences later, the reader sees these monsters in action: they are an enormous flesh-eating plant and a gigantic octopus. Time passes by, 4 days to be exact, when Judge Dredd receives a transmission indicating a positive voiceprint recorded at all the three murder scenes: the main suspect turns out to be the curator of the Special Effects Museum, O'Neill, who allegedly programmed robotic monsters from the museum for murder. At the museum, amidst the destruction caused by the mechanics, *Judge Dredd* finds the curator. During a face-off at the museum, O'Neill reveals that he hates Sensor-Round for bringing "stupid dream



Fig. 41.6 *Judge Dredd*, fragment

worlds into stupid apartments.” His grudge is nostalgic: people must have real nightmares, no matter how violent and destructive. By reality, the perpetrator means interactive materiality of the dream, its allure by the actual world, the world of action, and therefore finitude.

In the meantime, O’Neill sends his favorite pet *Krong* onto *Judge Dredd*. Another standoff ensues. After running his motorbike into *Krong*’s mouth, thereby destroying both the monster and its master, *Judge Dredd* makes the following conclusion: “All your dreams were crushed, O’Neill, but with dreams like yours...who needs nightmares?” The meaning of this epitaph is intentionally ambiguous. *Is Dredd saying that O’Neill made the best nightmare by making the imaginary nightmare real? Or is he saying that O’Neill did not have dreams? Isn’t O’Neill simply another tragic figure who attempts murder to protest the effects of his nostalgia?* The juxtaposition between the killing monsters and the imaginary dreams made by Sensor-Round is essential for the understanding of the uncanny which can be by far more fatal than the fantastic.⁵ Dreamworlds do not break into people’s homes; if anything, they make their way into our conscious lives by offering a substitute for the everyday

⁵ “The fantastic lasts only as long as a certain hesitation,” according to Todorov (1973, 41). It includes two genre modalities, the marvelous and the uncanny. The difference between the uncanny and the marvelous is articulated by Todorov as follows: “the uncanny can be explained by rational means while the marvellous cannot be explained by any means known” (ibid.).

perceptual realities. Mechanized monsters too substitute for the reality, yet they are not supposed to act on it. When they do, however, they too, just like dreams, are being controlled by the uncanny. The literal and the metaphoric line up in a semantic juxtaposition that symbolizes a decisive victory of the dreamless law over bad dreams and their reality.

As represented by *Judge Dredd*, the Law is exceptionally narrow-minded yet superbly efficient. This combination, the simplified procedure and the effectiveness of execution, endows the law with the kind of prowess that it wishes to accomplish in its regular course. The law that makes itself accessible and at the same time announces that its main pursuit is a speedy trial follows the same dream. In this dream, *Judge Dredd* appears as a metonymic figure brought from the unconscious by the operation of condensation; as a result, all the roles of the legal apparatus coincide in a single person. In this configuration, the distance between investigation, decision, and execution is minimal as it is performed by the same actor. Such a symbol of justice cannot help but be single-minded, that is, its efficiency is not omnipresent but is contingent on the point of view. In Case 4, this point of view gives us the Law as an event and activity of destruction, where destroyed are the nightmares and their instruments in the real world. *Dredd* does not just kill O'Neill, he destroys him. Here, destruction reveals its dual meaning: literal and metaphoric. Destroyed is the murderer, his mechanized accomplices, and, with them, past memories and anticipations of a certain future. In Case 4, instant justice demonstrates that, at the time of exception (e.g., monsters attacking humans), it executes by violence (e.g., destroying the monsters and their mastermind). This point brings us to the real place of instant justice.

41.2.3 *Instant Justice: The Real*

Where can we find a place that approximates the real world of O'Neill? Is there indeed the kind of dreams that supercedes the fantastic and emerges as a symbolic reality. According to Tzvetan Todorov, we find these worlds "at the edge of the extreme" (1997, 23). And although, in his case, the justice of concentration camps can only be called the suspension of justice, it points to an essentially same phenomenon: the imaginary real becomes symbolic when the three realms no longer collaborate, but push the symbolic forward and designate it as the primary mode for interpreting existence. The juridical language defines this mode as the state of exception. Unbeknownst to ourselves, we encounter this state at all times, but tend to associate it with a particular constellation of events. An airplane that crash lands on an uninhabited island, wiping out an entire adult crew and leaving only a handful of teenage boys alive, spawns a primitive social order, as it was created and described by William Golding in *The Lord of the Flies*; this order is reflected in the dream of the Law that collects itself on the basis of the most primitive human desires. This tribal organization emerges as a state of exception, although its creation is nothing but arbitrary. The first and most natural instrument of law on that island is spear, a primordial symbol of violence.

This clearly indicates the key condition for an imaginary world to become real: there are exceptional circumstances when the previous state of order does not hold or, as is the case with Golding, does not exist yet, but it has already been dreamt as a state of exception which is declared immediately and finitely by way of force, which means suspending all the taken-for-granted rights and privileges, including the moral and ethical ones. One does not have to turn to fiction for similar examples: the history of colonialism is replete with the instances of legal exceptionalism (e.g., in the early nineteenth century, the Indian territories were officially proclaimed by President Jefferson to be the place—by that time largely explored—outside of the reach of justice as the law of the growing nation conceived of it). The horrifying scenario by Golding is not that much different from the state of exception that can be encountered in a confined space of a socially sanctioned incarceration, for example, Devil's Island (a maximum security prison) or it can be realized externally, even voluntarily, for example, at the request of a disaster-hit country, as was the case most recently with the US troops providing law and order in the wake of the January 2010 earthquake in Haiti.

Reterritorialization or remapping is another process that invites instant justice. A liminal territory, where the legal procedure does not hold, is a fertile ground for the suspended law. It is sufficient to note the armed conflicts in Yugoslavia, Moldavia, Tadzhikistan, Sudan, Abkhazia, Mozambique, Kosovo, and some other contested grounds that emerged in the post-Soviet space. All of them realized the dream of instant justice by eradicating the undesirables (a lot of times their own former neighbors) with immediate and deadly consequences. Importantly, instant justice does not have to be maintained by a super power or be conducted in an arbitrary fashion by a drug lord or a group of rebels. Martial law is a most common symbol of instant justice under extreme but still regular circumstances such as the time of a civil war or a social breakdown, as was the case of “military communism” in the postrevolutionary Russia. Importantly, instituted on temporary grounds, martial law does not replace regular legal processes; it runs its course in a parallel fashion with the so-called regular courts. In that case, the state of exception would apply only to some criminal acts. For example, similarly to the crimes listed in the infamous Major Crimes Act instituted by the US Federal Government on the Indian Territory in 1885, the first Soviet Government identified specific acts that would be administered only under the jurisdiction of Special Executive Committees. Those included murder of Soviet officials, kidnapping, sabotage, banditism, concealment of food and firearms, theft of common property, etc., all finite, decided on the spot, without any exception and without any possibility of postponement or appeal.

By bringing the imaginary world of *Judge Dredd* to the real state of exception, albeit in different facets, the comic discloses the sliding of the signifier under the signified. The latter emerges later at the edge of the apocalyptic extreme, that is, the end of time as we know it, on the margins of the central order. There the dream of performing justice accepts violence as the preferred tool for exercising the Law over any other legal practice, showing violence as its essence, regardless of its executor: the ordinary, the judiciary, the military, or the criminal. On the margins of legality, the law is not just a simulacrum. It still belongs to a community, and there is still the dividing decision involved. However, when shrunk to the point of instant determination of guilt or innocence,

the Law becomes another, that is to say, the primitive self. At this point we should shift our focus and inquire into the foundational status of instant justice. Two examples, Franz Kafka's *The Trial* and Friedrich Dürrenmatt's *Traps*, should solidify the notion of instant justice at the site of literature. In turn, Plato, Sigmund Freud, and Jacques Lacan should provide this phenomenon with a proper theoretic.

41.3 Dreaming of the Law

Someone must have been telling lies about Joseph K., for without having done anything wrong, he was arrested one morning (Kafka 1925, 1).

In his novel *The Trial*, Franz Kafka confronts us with a phantasmagoric experience of the Law.⁶ At first sight, it seems that this experience belongs only to the novel's protagonist, Joseph K., who becomes a subject of the Law without having committed any illegal act; he is apprehended either by mistake or by association: the exact reasons will never be known. The legal process confuses and mystifies K. Instead of the courtroom, attorney's office, or jail, he is sent to seek justice in closets, kitchens, and attics. In response to his queries, K. receives a standard explanation: "Our officials, so far as we know them, never go hunting for crime in the populace, but, as the Law decrees, are drawn toward the guilty and then must send us out as warders. That is the Law" (Kafka 1925, 6). This kind of law does not summon the would-be-guilty in order to establish the facts of their wrongdoings in the court of law; instead, the legal procedure is transferred onto the every day, abandoning the safety of its elevated privilege. There, in the midst of the ordinary, the Law seems at a loss, habitually breaking every rule of its own, sinking deeper and deeper into the mundane world of seduction and lies, dark backrooms, and dusty corners, where it hides, swarming and rustling, making itself at home "in the absence of reason" amidst "imbecility and travesty" (*ibid.*, 72).

The juxtaposition between sense (rationality) and nonsense (madness) in the novel points to another divide which is drawn between the conscious and the unconscious. It is at the border between the two regions that Kafka sets up a meeting point that brings together the delirium of the Law and the shadows of K.'s consciousness. Of course, as a normative structure, law never lurks in the shadows. Its very essence, as Plato explained it qua the myth of Prometheus, lies in escaping the darkness cast upon the natural world by reaching out to the light of day. In *Prometheus*, Plato explains how the weak and naked people, who got deceived by Epimetheus, moved Prometheus to give them the gift of fire which he stole from Athena and Hephaestus, his divine patrons. Stealing fire for the people was only half a gift—Prometheus understood that in order to become properly human, the earthlings had to possess "the ability of living together by community" (Plato 1997, 321d).

⁶When referring to law as an object of this examination, I use Kafka's capitalization, "the Law." More generally, I use either "law" or "the law," depending on the immediate context or cited material.

Yet, he failed to steal that gift for the people and, as a result, was severely punished by Zeus, who made him witness a slow demise of the humans. Although still able of hunting and cooking and surviving in caves, they did not live well: “as soon as they got together, they began to trouble each other because they did not know how to live together” (Plato 1997, 322b). Finally, Zeus himself took pity on the human race; he sent Hermes to give people what they needed most to survive and prosper: goodness (*agathon*). However, the divine goodness could not be granted to the humans in its pure form, for, once separated from its divine origin, it would be deprived of its original potency. And so Zeus gave the humans justice (*dikē*) and shame (*aidos*). Shame made men stand upright and thus distinguish themselves from animals. In order to maintain themselves in that position, however, the humans had to create a legal institution, a symbol of their newly acquired posture. As an edifice designed to uphold human dignity, law itself had to be elevated in order to exert a certain force upon the ordinary, giving it a particular structure and order, such as rules, courts, and procedures, but most importantly, the judiciary who were entrusted by the Law to shape the ordinary in its own image.

In his 1996 essay “The Force of Law: The ‘Mystical Foundation of Authority’,” Jacques Derrida attempts to deconstruct Plato by launching two claims against his “community of the just”: (a) we do not experience law as truth but as force, and (b) force is neither good nor bad, but only effective. In order to support his claims, Derrida elaborates on Kafka’s short text “Before the Law,” which originally supplemented *The Trial*. According to Derrida, the story addresses “the undecidable, the incommensurable, the incalculable [...] discourse on justice” (1996, 926). Thus, Derrida suggests that force shall not to be understood as “purposeful and unbridled destruction” but rather as “differentiation” as in differentiating between form and formation, persuasive and rhetorical forces, and acts of affirmation and disconfirmation (ibid.). He subsequently asks, *What does it mean to have force as the ground condition for law?* His answer invites us to consider the possibility that law has no foundation. The force of law is possible only under the conditions of continuous self-reconstitution that takes place by way of reenactment; therefore, law can be experienced only as a repetition of itself. This is the first premise for the concept of force; hence, Derrida’s correction to the positivist rendition of law, which tends to mistaken legal rules for the essence of law as justice. The second premise dovetails into the first one: law cannot survive in any other fashion but by reaching out for the matters that do not belong to it, invading the ordinary, creating a semblance of permanence amidst the every day. According to Derrida, it is between the right and justice as the two dialectically related concepts, orders, and practices that law attempts to present its work. The significance of the legal process lies in binding the right (*droit*) and justice (*justice*) into a judicial decision: “Justice as law is never exercised without a decision that cuts, that divides” (ibid., 963).

The uncanny peculiarity of *The Trial* implodes this scenario by refusing to deliver any judicial decision.⁷ When it finally comes, there is no need for it any

⁷ According to Freud himself, the “uncanny explores the aesthetics of anxiety” (2003, xxliii).

longer: K. has already been doomed; as a matter of fact, the decision on his case was made long before his first encounter with the Law. Potentially comical, this situation does not provoke laughter.⁸ A judicial system without a decision is neither inept nor ridiculous. Rather, in the words of Derrida, “it is more frightening and fantastic, *unheimlich* or uncanny, than if it emanated from pure reason” (1992, 199). The uncanny law does not reveal its intentions. It does not have to. In this refusal to announce itself, it resembles a work of art whose meaning exceeds both its structure and its intentions, propelling the reader to the limit where the experience of the self becomes inalienable from the experience of the other. From this perspective, literature and law are both phenomena of transcendence.

Their commonality is characterized by Maurice Blanchot as follows: “the space of literature is bottomless; it swallows whole” (1982, 99). This quote invites us to dwell a little bit longer in the realm of literature; this time, I suggest that we take time with Friedrich Dürrenmatt’s novella *Traps*. The reason for complicating this examination with yet another literary exemplar stems from the sheer complexity of the direct encounter between the Law and its subjects. According to Derrida, “the Law is neither a manifold, nor a universal generality [...] but always an idiom” (1992, 210). Decoding this idiom is a complicated matter: the Law that hides and sneaks around cannot help but appear defaced, or phenomenologically speaking defaced. I expect that with the help of our next resource, we will be able if not to give the Law a face but then at least to lift its mask somewhat more.

There is a complementary relation between *Traps* and *The Trial*, and it sits on several suppositions. First, there is a complementarity of genres: novella is not just a smaller or lesser work than a novel; it has its own being. Yuri Lotman traces the genealogy of novella to “a piece of news, or something that is considered as novel”; there is a functional similarity as well: “like a piece of news, novella always deals with abnormality and excess” (1996, 209; *translation mine*). Importantly, novella can be incorporated into a novel without having its identity dissolve. To put it in the Greimasian terms, their relation can be defined as that of *collaborative apposition*. From this perspective, the difference between the two genres turns into a benefit: “novel organizes the world of the reader, while novella adds essential details to his world” (*ibid.*, 210). A close thematic link reinforces the familial relation. Both works approach law from aside, as it were. Both demonstrate that even in that position, law executes its will with the mechanical efficiency. However, the crucial similarity between the two works lies in the mode which conditions the appearance of the Law: whether the Law walks in the slums or shows up at the dining table, it is always a guest of the ordinary. And although in *Traps* the law is not as intrusive as in *The Trial*, it is no less consequential.

The events described by Dürrenmatt take place in the Swiss Alps in a small village where a group of ex-lawmen happens to host a stranded textile salesman

⁸Todorov suggests that in *The Trial*, the supernatural event no longer provokes surprise, as a condition for laughter, for the entire world described by Kafka is utterly bizarre, “as abnormal as the very event to which it affords the background” (1973, 173).

named Traps. After the late dinner, they offer him a game of justice, a mock trial, where the guest receives the role of the defendant. In the course of the game, the salesman reveals certain biographical facts about himself (e.g., it transpires that he seemingly unintentionally set up his former boss for a heart attack by way of having an affair with the boss's wife), and, on the basis of those, he is pronounced guilty and sentenced to death. The atmosphere is still that of a game: much fine wine and food are consumed, and everyone goes to bed in great spirits: "Traps was in seventh heaven, all his desires satiated as they had never been before in all his uneventful life" (Dürrenmatt 1960, 118). The next day in the morning, he is found hanging from the window frame of his bedroom. Dürrenmatt leaves much ambiguity as to the question about what or who could kill the salesman. *Was it a suicide prompted by guilt?* Or perhaps justice caught up with Traps in an extraordinary way after his uncanny judges awakened his conscience, making him realize his utter worthlessness.

However, these questions are much less important than the idea suggested by both works, namely, that justice can strike instantly and inconspicuously, deritualizing and deformatizing criminal procedure to the extent that the line between a crime and the subsequent trial and between the defendant and his or her executioner becomes indistinguishable. The same strike of fantasy erases the taken-for-granted border between the ordinary and the extraordinary: the conscious movement of the mature law to the decision that cuts and divides and the unconscious confusion of the law that does not want to show itself and prefers to hide until it exhausts itself situate the law precisely "in-between." As important for the "in-between" is the mode of presentation: in both works, instantaneous law appears as a dreamlike fantasy. And while Kafka's novel presents us with the dreaming law, Dürrenmatt's novella enters to elaborate on the dream of law. In the novel, Joseph K. dreams about justice; in the novella, the same dream becomes Traps' reality, adding drama to an otherwise playful face of the Law. It is this phenomenon that I have defined as "instant justice." So far, it has been theorized only in a preliminary fashion. I therefore wish to theorize it further with Jacques Lacan.

41.4 The Dreaming Law

There are several reasons for turning to Lacan for an interpretation of instant justice. First, according to de Certeau and Logan, "except from Freud's writings (and especially, the most literary among them [...]) Lacan comments particularly on literary masterpieces [...] the discipline he created remains colored by the 'authority of the poet'" (1983, 25). In other words, Lacan's psychoanalytic inquiry is inclusive of the poetic mode, making his contribution particularly fitting to this examination. Second, Lacan managed to advance or meaningfully and effectively alter all the main ideas of his teacher, Sigmund Freud, particularly, the interpretation of dreams, the role of language for understanding the relation between the conscious and the unconscious, and the significance of symbols for the constitution of an individual

consciousness in both modes, normal and abnormal.⁹ The greatest advancement as far as this study is concerned lies in a successful attempt to transfer Freud's key ideas for the subsequent application from a strictly psychoanalytic treatment-oriented domain into the domain of culture at large: "for Lacan, psychoanalysis [...] is a theory and practice that confronts individuals with the most radical dimension of human existence" (Žižek 2006, 3). At the same time, Lacan's reformulations of Freud do not eliminate the original discoveries but elaborate and refine them so that they could shed light on a much more complex world than the world of the psyche, namely, the lifeworld. Finally, Lacan introduces a useful corrective to the theme of this project. Not only does he make such notions as "dream," "symbol," and "law" his main themes, he also fuses them into a coherent semiotic system (cf. Chaitin 1988, 39–40). Following the order of exposition established by Lacan in his essays gathered under the title *Écrits*, I would like to begin the recovery of this system with a discussion of dreams and dreaming. With the help of this discussion, I hope to show the symbolic place of instant justice in the social world, in general, and the world of the Law, in particular.

According to Lacan, Freud's major discovery was not the division between the conscious state and the unconscious state but rather his assertion that (a) this division does not replicate the Saussurean division between the signifier and the signified, (b) the unconscious has its own order of signification, and (c) this order is a properly symbolic one: "the symbolic is articulated nowhere better than in the structure of the unconscious itself" (Lacan 1989, 203). In order to understand the making of symbols, one must redefine the topography of the unconscious and thus reconsider the Saussurean algorithm. For the new model, Lacan suggests the traditional Freudian three-partite typology (*the Ego, the Id, and the Super Ego*); however, he does not simply recycle this classic triad but reformulates it, insisting on a different relationality between the subject and the world (cf. Thom 1981). This relationality encompasses three realms: the imaginary, the symbolic, and the real. The real is the objective correlate of consciousness or what is and can be experienced in the mode of "there is." The imaginary is what stands for the events that have not happened and are merely posited by consciousness. In other words, the imaginary is given in the mode of "could be." The symbolic realm is the world of communally bestowed meaningfulness. Ordinarily, this world is locked in the unconscious. However, when the state of consciousness manifests itself qua dreams, it also deals with symbols. Jammed between the conscious and the unconscious, dreams compress the imaginary and the real into an interpretative (symbolic) scheme of its own.¹⁰

This scheme differs from the ones that allows for two other fundamental experiences, memory and fantasy, in that it does not belong to either; yet, according to Edmund Husserl, it has the elements of both: "...memory places an absent reality

⁹ In this respect, it might be noteworthy to examine Monique David-Menard and Brian Massumi who argue that Lacan salvaged the dying legacy of Freud after World War II by "bringing it out of the psychologizing rut in which it was vegetating" (1982, 91).

¹⁰ Note in that regard the effects of digital technologies on law, which privilege the moving image to the extent of turning the actual law into a dreamlike manifold of simulated reality (cf. Sherwin 2011).