

only in the third version of the text? How is one to explain the fact that, some words being moved, others left out, a tense transformed, a comma added, then and only then does the one-way reading, the only reading possible in the first two versions, come to shift, to waver, henceforth without rest? and without identifiable reference? Why is it that, when one has written, without any possible ambiguity, this: "This marvelous bit of nothing, less than a thousand lines, whoever will read it as I have just done, will comprehend the eternal rules, just as though facing the stageboards, their humble depository" (1886), and then this: "This role, less than a thousand lines, whoever reads it will comprehend the rules as if placed before the stageboards, their humble depository" (1891),

one should finally write this, with all possible ambiguity: "Less than a thousand lines, the role, the one that reads, will instantly comprehend the rules as if placed before the stageboards, their humble depository" (1897)?

Perhaps he didn't know what he was doing? Perhaps he wasn't conscious of it? Perhaps, then, he wasn't completely the author of what was being written? The burst of laughter that echoes deep inside the antre, in "Mimique," is a reply to all these questions. They can have been formulated only through recourse to certain oppositions, by presupposing possibilities of decision whose pertinence was rigorously swept away by the very text they were supposed to question. Swept away by that hymn, the text always calculates and suspends some supplementary "surprise" and "delight." "Surprise, accompanying the artifice of a notation of sentiments by unproffered sentences—that, in the sole case, perhaps, with authenticity, between the sheets and the eye there reigns a silence still, the condition and delight of reading." Supplement, principle, and bounty: The baffling economy of seduction. enter . . . between . . . a silence

"Each session or play being a game, a fragmentary show, but sufficient at that unto itself . . ."  
*(Le "Livre," [The "Book"] 93 (A))*

Aldridge (ed), — Arts & Literature —

5

Jacques Derrida,

BEFORE THE LAW

20 The self-questioning question "What is literature?" is taken up again in this extended reading of Kafka's short parable *Before the Law*, which appears as part of *The Trial* but was published as a separate text in Kafka's lifetime. Derrida focuses on the institutional, ethical, and juridical implications of any such question: what is the law according to which a text can be classified as "literary" or "nonliterary," and who is entitled (and by what legal authority) to make such a decision? Literature, that is, is seen as a historical (and relatively recent) institution, brought into being and governed by laws; but the texts which come under its aegis have the peculiar attribute of being able to stage and suspend all the presuppositions upon which any such institution rests—among them the operation of laws, the property of belonging to a category, the function of proper names. Crucial to the literary text are such features as its external boundaries, its uniqueness, its authorship, its title, and its acts of reference, yet equally crucial is the way in which these features are put into question as stable properties or concepts. Kafka's text stages this simultaneous assertion and undermining of the institution of literature in a remarkably condensed and striking fashion, and Derrida is as interested in its unique qualities as a literary act as he is in the more general issues it raises. Indeed, it is this problematic relation between the singular and the general (the basis of Kafka's story) which provides one of the main motifs of Derrida's essay, and which could be reapplied to the essay itself as a unique intervention in the debate about literature and law.

The title of Derrida's text is identical to that of Kafka's fable, although—as he points out in his opening comments—this identity also necessarily involves a difference, as does the identity between the title and the opening words of Kafka's story. Neither text specifies the type

of law in question; moral law, judicial law, and natural law are all implicated in the dramatization and discussion of the condition of being "before the law," subject to an imperative to which unmediated access is impossible. The strict notion of the law is predicated upon its absolute separability from anything like fiction, narrative, history, or literature; yet, as Derrida shows in his reading of Kafka's fiction, this separation cannot be sustained. Not only does literature simultaneously depend on and interrogate laws, but the law—the continual subject of narratives—can only be understood as self-contradictory, lacking in pure essence, and structurally related to what Derrida terms *différance* or, in its nonmetaphysical sense, "literature." Being before the law is therefore not wholly distinguishable from being before the literary text; and in both cases, as Kafka's parable suggests, the intangibility of that which we confront stems not from some concealed essence but from its very accessibility.

This essay may be fruitfully read in conjunction with the following one, "The Law of Genre," which, starting from a different literary text, engages with the question of obligation to the law and its representatives, and the importance of literature in approaching that question.

☛ "Before the Law" was first given as a lecture to the Royal Philosophical Society in London in 1982. Part of the French text was published as "Devant la loi" in *Philosophy and Literature*, ed. A. Phillips Griffiths (Cambridge: Cambridge University Press, 1984). This lecture was then combined with additional material on the work of J.-F. Lyotard and presented at the 1982 Colloque de Cerisy on Lyotard; the extended text was published as "Préjugs: Devant la loi" in the conference volume (Derrida et al., *La faculté de juger* [Paris: Minuit, 1985], 87–139). An English translation by Avital Ronell of most of the original version was published as "Devant la loi" in *Kafka and the Contemporary Critical Performance: Centenary Readings*, ed. Alan Udoff (Bloomington: Indiana University Press, 1987). The following text, based on Ronell's translation, is that of the complete original version, which has not hitherto been published in French or in English. Additional material has been translated by Christine Roulston, who also assisted in the editing of the entire piece and provided the translator's footnotes.

... : science does likewise (and even our law, it is said, has legitimate fictions on which it bases the truth of its justice) . . .

—Montaigne, *Essays* II, 12

A title occasionally resonates like the citation of another title. But as soon as it names something else, it no longer simply cites, it diverts the other title under cover of a homonym. All of this could never occur without some degree of prejudice or usurpation.

I shall try to do justice to these possibilities by beginning to read—and reading here amounts to citing—Kafka's story entitled *Vor dem Gesetz* or, in English, *Before the Law*. While the translation of the title may appear problematical, in three words it sums up in advance and formalizes what is at stake.

## BEFORE THE LAW

Before the Law stands a doorkeeper. To this doorkeeper there comes a countryman and prays for admittance to the Law. But the doorkeeper says that he cannot grant admittance at the moment. The man thinks it over and then asks if he will be allowed in later. "It is possible," says the doorkeeper, "but not at the moment." Since the gate stands open, as usual, and the doorkeeper steps to one side, the man stoops to peer through the gateway into the interior. Observing that the doorkeeper laughs and says: "If you are so drawn to it, just try to go in despite my veto. But take note: I am powerful. And I am only the least of the doorkeepers. From hall to hall there is one doorkeeper after another, each more powerful than the last. The third doorkeeper is already so terrible that even I cannot bear to look at him." These are difficulties the countryman has not expected; the Law, he thinks, should surely be accessible at all times and to everyone, but as he now takes a closer look at the doorkeeper in his fur coat, with his big sharp nose and long, thin, black Tartar beard, he decides that it is better to wait until he gets permission to enter. The doorkeeper gives him a stool and lets him sit down at one side of the door. There he sits for days and years. He makes many attempts to be admitted, and wears the doorkeeper by his impertunity. The doorkeeper frequently has little interviews with him, asking him questions about his home and many other things, but the questions are put indifferently, as great lords put them, and always finish with the statement that he cannot be let in yet. The man, who has furnished himself with many

things for his journey, sacrifices all he has, however valuable, to bribe the doorkeeper. That official accepts everything, but always with the remark: "I am only taking it to keep you from thinking you have omitted anything." During these many years the man fixes his attention almost continuously on the doorkeeper. He forgets the other doorkeepers, and this first one seems to him the sole obstacle preventing access to the Law. He curses his bad luck, in his early years boldly and loudly, later, as he grows old, he only grumbles to himself. He becomes childish, and since in his years-long contemplation of the doorkeeper he has come to know even the fleas in his fur collar, he begs the fleas as well to help him and to change the doorkeeper's mind. At length his eyesight begins to fail, and he does not know whether the world is really darker or whether his eyes are only deceiving him. Yet in his darkness he is now aware of a radiance that streams inextinguishably from the gateway of the Law. Now he has not very long to live. Before he dies, all his experiences in these long years gather themselves in his head to one point, a question he has not yet asked the doorkeeper. He waves him nearer, since he can no longer raise his stiffening body. The doorkeeper has to bend low towards him, for the difference in height between them has altered much to the countryman's disadvantage. "What do you want to know now?" asks the doorkeeper. "You are insatiable." "Everyone strives to reach the Law," says the man, "so how does it happen that for all these many years no one but myself has ever begged for admittance?" The doorkeeper recognizes that the man has reached his end, and to let his failing senses catch the words roars in his ear: "No one else could ever be admitted here, since this gate was made only for you. I am now going to shut it."<sup>1</sup>

I shall underline somewhat heavily a few axiomatic trivialities or presuppositions. I have every reason to suppose that we shall readily agree upon them at first, even if I mean later to undermine the conditions of such a consensus. In appealing to this agreement among us I am referring, a little rashly perhaps, to our community of subjects participating on the whole in the same culture and subscribing, in a given context, to the same system of conventions. What are they?

The first axiomatic belief is our recognition that the text I have just read has its own identity, singularity and unity. We consider these, a priori, inviolable, however enigmatic the conditions of this self-iden-

1. TN Franz Kafka, "Before the Law" in *Wedding Preparations in the Country and Other Stories*, trans. Willa and Edwin Muir (Harmondsworth: Penguin, 1978).

tity, this singularity, and this unity actually remain. There is a beginning and an end to this story whose boundaries or limits seem guaranteed by a certain number of established *criteria*—established, that is, by positive rules and conventions. We presuppose this text, which we hold to be unique and self-identical, to exist as an original version incorporated in its birthplace within the German language. According to the most widespread beliefs in our domains, we generally allow that such a so-called original version constitutes the ultimate reference for what might be called the legal personality of the text, its identity, its unicity, its rights, and so on. All this is now guaranteed by law, by a set of legal acts which have their own history, even if the discourse that justifies them tends most often to claim that they are rooted in natural law.

The second element of this axiomatic consensus, essentially inseparable from the first, is that the text has an author. The existence of its signatory is not fictitious, in contrast with the characters in the story. Again, it is the law which requires and guarantees that the difference between the *presumed* reality of the author, bearing the name of Franz Kafka, whose civil status is registered by authority of the state, be one thing, while the fictitious characters within the story be another. This difference implies a system of laws and conventions without which the consensus to which I am presently referring, within a context that to a certain extent we share, would never have the chance of appearing—whether it is well founded or not. Now, we can know at least the apparent history of this system of laws, the judicial events that have articulated its evolution into the form of positive law. This history of conventions is very recent, and everything it guarantees remains essentially unstable, as fragile as an artifice. As you know, among the works we have inherited there are those in which unity, identity, and completion remain problematic because nothing can allow us to decide for certain whether the unfinished state of the work is a real accident or a pretence, a deliberately contrived simulacrum by one or several authors of our time or before. There are and have been works in which one or several authors are staged as characters without leaving us signs or strict criteria for distinguishing between their two functions or values. The *Conte du Graal* (*Story of the Grail*), for example, still raises such problems (complete or incomplete, real or feigned incomple-

tion, the inscription of authors within the story, pen names and literary rights).<sup>2</sup> Without wishing to cancel the differences and historical mutations here, one can be sure that, according to modalities which are each time original, these problems arise in every period and for every work.

Our third axiom or presupposition is that in this text, bearing the title *Before the Law*, events are related,<sup>3</sup> and the relation belongs to what we call literature. There is something of a relation or a narrative form in this text; the narration carries everything along in its train; it determines each atom of the text, even if not everything figures directly as part of the narration. Leaving aside the question of whether this narrativity is the genre, mode, or type of the text,<sup>4</sup> let me simply note in a preliminary way that this narrativity, in this particular case, belongs, in our view, to literature. To this end, I appeal once more to the same prior consensus which we share. Without yet touching upon the contextual presuppositions of our consensus, I take it that we are dealing with what seems to be a literary relation [*récit*] (the word *récit* also raises problems of translation which I shall keep in reserve). Does all this remain too obvious or trivial to merit our attention? I think not. Certain relations do not belong to literature, historical chronicles, for example, or accounts that we encounter daily. Thus, I might tell you that I have appeared before the law for a traffic violation after somebody photographed me at night while I was driving home at an excessive speed. Or that I was to appear before the law in Prague, accused of drug trafficking. It is therefore not as narrative that we define *Before the Law* as a literary phenomenon, nor is it as fictional, allegorical, mythical, symbolic, parabolic narrative, and so on. There are fictions, allegories, myths, symbols, or parables that are not specific-

2. On all these questions (truly or deceptively incomplete, multiple authorship: "literary property," a problem that seems not, or hardly, to have existed in the Middle Ages" [52]) see Roger Dragonetti, *La vie de la lettre au Moyen Age (Le conte du Graal)* (Paris: Seuil, 1980).

3. *TN Il y a du récit*, literally "there is *récit*" or "there is some *récit*." In this translation, *récit* is usually rendered as "story" or "relation," depending on context, though the former suggests fiction, and the latter non-fiction, rather too strongly. See also "The Law of Genre," note 3, below.

4. Cf. Gérard Genette, "Genres, 'types,' modes," *Poétique* 32 (November 1977): 389-421; republished with some changes as *Introduction à l'architexte* (Paris: Seuil, 1979).

cally literary. What then decides that *Before the Law* belongs to what we think we understand under the name of literature? And who decides? Who judges? To focus these two questions (what and who), I ought to stress that neither of them will be privileged and that they concern literature rather than belles-lettres, poetry or discursive art in general, although these distinctions remain highly problematical.<sup>5</sup>

The double question, then, would be as follows: "Who decides, who judges, and according to what criteria, that this relation belongs to literature?"

I shall say without further delay that I cannot give nor am I withholding an answer to such a question. Perhaps you will think that I am leading you toward a purely aporetic conclusion or in any case toward a problematic overstatement; one would thus claim that the question was badly phrased or that when it comes to literature we cannot speak of a work belonging to a field or class, that there is no such thing as a literary essence or a specifically literary domain strictly identifiable as such; or, indeed, that this name of literature perhaps is destined to remain improper, with no criteria, or assured concept or reference, so that "literature" has something to do with the drama of naming, the law of the name and the name of the law. You would doubtless not be wrong. However, I am less interested in the generality of these laws or these problematical conclusions than in the singularity of a proceeding which, in the course of a unique drama, summons them before an irreplaceable corpus, before this very text, before *Before the Law*. There is a singularity about relationship to the law, a law of singularity which must come into contact with the general or universal essence of the law without ever being able to do so. Now this text, this singular text, as you will already have noted, names or relates in its way this conflict without encounter between law and singularity, this *paradox* or *enigma* of being-before-the-law; and *ainigma*, in Greek, is often a relation, a story, the obscure words of a fable: "These are difficulties the countryman has not expected; the Law, he thinks, should surely be accessible at all times and to everyone. . . ." The answer, if we can

5. EN See Derrida's discussion of the distinction between "literature" and "poetry" in the interview above, pp. 40-41; and see also the Introduction, note 30.

still call it that, comes at the end of the story, which also marks the end of the man: "The doorkeeper recognizes that the man has reached his end, and to let his failing senses catch the words roars in his ear: 'No one else could ever be admitted here, since this gate was made only for you. I am now going to shut it.'"

My only ambition, therefore, without offering an answer, will be to focus, at the risk of deforming, this double question (who decides, who judges, and with what entitlement, what belongs to literature?) and, above all, to summon before the law the utterance [*énoncé*] itself of this double question, indeed, as is commonly said in France today, the subject of its enunciation [*énonciation*]. Such a subject would claim to read and understand the text entitled *Before the Law* as a story and would classify it conventionally as literature; *she* would believe that *she* knew what literature was and would merely wonder, being so well armed: what authorizes me to determine this relation as a literary phenomenon? Or to judge it under the category of "literature"?

It is a matter, then, of summoning this question, the subject of the question and the subject's system of axioms or conventions "before the law," before *Before the Law*. What would this mean?

We cannot reduce the singularity of the idiom. To appear before the law means in the German, French, or English idiom to come or to be brought before judges, the representatives or guardians of the law, for the purpose, in the course of a trial, of giving evidence or being judged. The trial, the judgment (*Urteil*), this is the place, the site, the setting—this is what is needed for such an event to take place: "to appear before the law."

Here, "Before the Law," an expression I put in quotation marks, is the title of a story. This is the fourth axiomatic presupposition to be added to our list. We think we know what a title is, notably the title of a work. It is placed in a specific position, highly determined and regulated by conventional laws: at the beginning of and at a set distance above the body of a text, but in any case *before* it. The title is generally chosen by the author or by his or her editorial representatives whose property it is. The title names and guarantees the identity, the unity and the boundaries of the original work which it entitles. It is self-evident that the power and import of a title have an essential relation-

ship with something like the law, regardless of whether we are dealing with titles in general or with the specific title of a work, literary or not. A sort of intrigue is already apparent in a title which names the law (*Before the Law*), a little as if the law had entitled itself or as if the word "title" had insidiously inserted itself into the title. Let us suspend this intrigue.

Let us emphasize the topology. Another intriguing aspect is that the sense of the title announces a topological indication, *before the law*. The same utterance, the same name (for the title is a name), or in any case the same group of words, would not have the value of a title were they to appear elsewhere, in places not prescribed by convention, for example in a different context or in a different place within the same context. In this case, for instance, the expression "*Vor dem Gesetz*" occurs a first or, if you like, a second time, as the beginning of the story, it is part of the first sentence, "*Vor dem Gesetz steht ein Türhüter*," "Before the Law stands a doorkeeper." Although we can assume that the same meaning underlies these two occurrences of the same expression, they are homonyms rather than synonyms, for they do not name the same thing; they do not have the same reference or the same value. On either side of the invisible line that separates title from text, the first names the text in its entirety, of which it is in sum the proper name and title, the second designates a situation, the site where the character is localized within the internal geography of the story. The former, the title, is *before* the text and remains external if not to the fiction then at least to the content of the fictional narration. The latter is also at the head of the text, before it, but already in it; this is a first internal element of the narration's fictive content. And yet, although it is outside the fictional narrative or the story that is being told, the title (*Before the Law*) remains a fiction that likewise bears the signature of the author or a representative of the author. We would say that the title belongs to literature even if its belonging has neither the structure nor the status of that which it entitles, to which it remains essentially heterogeneous. That the title belongs to literature does not prevent it from having legal authority. For example, the title of a book allows us to classify it in a library, to attribute to it rights of authorship, as well as the trials and judgments which can follow, and

the like. However, this function does not operate like the title of a nonliterary work, say a textbook of physics or law.

The reading of *Before the Law* which I shall now attempt will be colored by a seminar during which, last year, I thought I had teased out this story of Kafka's. In truth, it was Kafka's story which laid siege to my attempt at a discourse on moral law and respect for law in Kant's doctrine of practical reason, and on Heidegger's and Freud's views on moral law and respect in the Kantian sense of the term. The details of this struggle would be out of place here; but to point out the principal titles and *topoi*, let me indicate that the first question concerned the strange status of the example, the symbol, and the type in Kant's doctrine. Kant speaks of a *typology* and not a schematism of practical reason; of a *symbolic* presentation of moral good (the beautiful as a symbol of morality; *Critique of Judgment*, 59); and finally, of a respect which, though never addressed to things, is nevertheless aimed at persons only insofar as they offer an *example* of the moral law: this respect is due only to the moral law, which never shows itself but is the only cause of that respect. Further, I was concerned with the "as if" (*als ob*) in the second formulation of the categorical imperative: "Act as if the maxim of your action were by your will to turn into a universal law of nature." This "as if" enables us to reconcile practical reason with an historical teleology and with the possibility of unlimited progress. I tried to show how it almost introduces narrativity and fiction into the very core of legal thought, at the moment when the latter begins to speak and to question the moral subject. Though the authority of the law seems to exclude all historicity and empirical narrativity, and this at the moment when its rationality seems alien to all fiction and imagination—even the transcendental imagination—it still seems *a priori* to shelter these parasites.<sup>6</sup> Two other motifs among those pointing to Kafka's story caught my attention: the motif of height and the sublime that plays an essential role in it,

6. It is at this point that the seminar examined Heidegger's interpretation of "respect" as related to the transcendental imagination. Cf. *Kant and the Problem of Metaphysics*, chapter 30 in particular.

and the motif of guarding and the guardian.<sup>7</sup> This, in broad outline, served as the context in which I read *Before the Law*. A space, then, in which it is difficult to say whether Kafka's story proposes a powerful, philosophic ellipsis or whether pure, practical reason contains an element of the fantastic or of narrative fiction. One of the questions could be phrased as follows; what if the law, without being itself transfixed by literature, shared the conditions of its possibility with the literary object?

In order to formulate this question in the briefest manner, I will speak of an *appearance*, in the legal sense, of the story and the law, which appear together and find themselves summoned one before the other: the story, as a certain type of *relation*, is linked to the law that it relates, appearing, in so doing, before that law, which appears before it. And yet, as we shall read, nothing really presents itself in this appearance; and just because this is given to us to be read does not mean that we shall have proof or experience of it.

It seems that the law as such should never give rise to any story. To be invested with its categorical authority, the law must be without history, genesis, or any possible derivation. That would be the *law of the law*. Pure morality has no history: as Kant seems at first to remind us, no intrinsic history. And when one tells stories on this subject, they can concern only circumstances, events external to the law and, at best, the modes of its revelation. Like the man from the country in Kafka's story, narrative accounts would try to approach the law and make it present, to enter into a relation with it, indeed, to enter it and become *intrinsic* to it, but none of these things can be accomplished. The story of these maneuvers would be merely an account of that which escapes the story and which remains finally inaccessible to it. However, the inaccessible incites from its place of hiding. One cannot be concerned with the law, or with the law of laws, either at close range or at a distance, without asking where it has its place and whence it comes. I say "the law of laws" because in Kafka's story one does not know

7. Among other examples: at the end of the *Critique of Practical Reason*, philosophy is presented as the guardian (*Aufbewahrerin*) of the pure science of morals; it is also the "narrow gate" (*enge Pforte*) leading to the doctrine of wisdom.

what kind of law is at issue—moral, judicial, political, natural, etc. What remains concealed and invisible in each law is thus presumably the law itself, that which makes laws of these laws, the being-law of these laws. The question and the quest are ineluctable, rendering irresistible the journey toward the place and the origin of law. The law yields by withholding itself, without imparting its provenance and its site. This silence and discontinuity constitute the phenomenon of the law. To enter into relations with the law which says “you must” and “you must not” is to act as if it had no history or at any rate as if it no longer depended on its historical presentation. At the same time, it is to let oneself be enticed, provoked, and hailed by the history of this non-history. It is to let oneself be tempted by the impossible: a theory of the origin of law, and therefore of its non-origin, for example, of moral law. Freud (whom Kafka is known to have read, although this Austro-Hungarian law of the early 1900s is not important here) invented the concept if not the word “repression” as an answer to the question of the origin of moral law. This was before Kafka wrote *Vor dem Gesetz* (1919), though this relation is of little interest to us, and more than twenty-five years before the second topography and the theory of the superego. From the time of the letters to Fliess, he gives the account of his presentiments and premonitions, with a kind of unsettled fervor, as though he were on the verge of a revelation: “Another presentiment tells me *as though I already knew* [my emphasis, J.D.]—but I know nothing at all—that I shall very soon uncover the source of morality” (May 31, 1897; 249).<sup>8</sup> There follow some accounts of dreams, and four months later another letter announces “the certain insight that there are no indications of reality in the unconscious, so that one cannot distinguish between truth and fiction that has been cathected with affect” (September 21, 1897; 264). Some weeks later still, there is another letter, from which I quote the following lines:

... after the frightful labor pains of the last few weeks, I gave birth to a new piece of knowledge. Not entirely new, to tell the truth; it had repeat-

edly shown itself and withdrawn again; but this time it stayed and looked upon the light of day. Strangely enough, I had had a presentiment of such events a good while beforehand. For instance, I wrote to you once in the summer that I was going to find the source of normal sexual repression (morality, shame, and so forth) and then for a long time failed to find it. Before the vacation trip I told you that the most important patient for me was myself; and then, after I came back from vacation, my self-analysis, of which there was at the time no sign, suddenly started. A few weeks ago came my wish that repression might be replaced by my knowledge of the essential thing *lying behind it* [my emphasis, J.D.]; and that is what I am concerned with now. (November 14, 1897; 278–79)

Freud goes on to consider the concept of repression, the hypothesis that it is organic in origin and linked with the upright position, that is, to a certain *elevation*.<sup>9</sup> The passage to the upright position raises man, thus distancing his nose from the sexual zones, anal or genital. This distance ennobles his height and leaves its traces by delaying his action. Delay, difference, ennobling elevation, diversion of the olfactory sense from the sexual stench, repression—here are the origins of morality:

To put it crudely, the memory actually stinks just as in the present the object stinks; and in the same manner as we turn away our sense organ (the head and nose) in disgust, the preconscious and the sense of consciousness turn away from the memory. This is *repression*.

What, now, does normal repression furnish us with? Something which, free, can lead to anxiety; if psychically bound, to rejection—that is to say, the affective basis for a multitude of intellectual processes of development, such as morality, shame, and the like. Thus the whole of this arises at the expense of extinct (virtual) sexuality. (November 14, 1897; 280)

Whatever the initial poverty of this notion of repression, the only example of “intellectual processes” that Freud gives of it is the moral law or sense of decency. The scheme of elevation, the upward movement, everything that is marked by the prefix *super* (*über*) is here as decisive as the schema of purification, of the turning away from impurity, from the zones of the body that are malodorous and must not be

8. TN *The Complete Letters of Sigmund Freud to Wilhelm Fliess, 1881–1904*, trans. and ed. J. M. Masson (Cambridge, Mass.: Harvard University Press, 1985).



touched. The turning away is an upward movement. The high (and therefore the great) and the pure, are what repression produces as origin of morality, they are what is *better* absolutely, they are the origin of value and of the judgment of value. This is further defined in the *Outline of a Scientific Psychology* and later in other references to the categorical imperative, the starry sky above us and so on.

From the outset, therefore, Freud, like others, wanted to write a history of the law. He was following its traces and told Fliess his own history (his auto-analysis, as he put it), the history of the trail he followed in tracking the law. He smelled out the origin of law, and for that he had to smell out the sense of smell. He thus set in motion a great narrative, an interminable auto-analysis, in order to relate, to give an account of, the origin of the law, in other words the origin of what, by breaking away from its origin, interrupts the genealogical story. The law, intolerant of its own history, intervenes as an absolutely emergent order, absolute and detached from any origin. It appears as something that does not appear as such in the course of a history. At all events, it cannot be constituted by some history that might give rise to any story. If there were any history, it would be neither presentable nor relatable: the history of that which never took place.

Freud scented it, he had a nose for this sort of thing, he even had, as he says, a "presentiment." And he told Fliess of this, with whom an incredible story of noses was unfolding, lasting until the end of their friendship, which was marked by the sending of a last postcard of two lines.<sup>10</sup> Had we pursued this track, we should also have had to speak of the shape of the nose, which is pointed and prominent. This has given rise to all manner of discussion in psychoanalytic circles, but perhaps there has not been enough attention paid to the hairs which do not always hide themselves decently inside the nostrils, to the point where they sometimes have to be cut.

10. In 1897, Fliess published a work on the *Relations Between Nose and Female Genitals*. An ear, nose, and throat specialist, he greatly valued his speculations on the nose and bisexuality, on the analogy between nasal and genital mucous membranes as much in men as in women, and on the swelling of nasal mucous membranes and the rhythm of menstruation.

If, without taking into account any relation between Freud and Kafka, you now place yourself before "Before the Law," and before the doorkeeper (the *Türhüter*), and if, settling before him, like the man from the country, you observe him, what do you see? What feature captivates you to the point that you isolate and fixate upon it? Clearly the abundance of the hair, whether natural or artificial, around pointed shapes, and to begin with the nasal protuberance. All this is very black, and the nose comes to symbolize that genital zone which is represented in these dark colors even though it is not always somber. Given his situation, the man from the country does not know the law which is always the city's law, the law of cities and edifices protected by gates and boundaries, of spaces shut by doors. He is therefore astonished by the doorkeeper of the law, a man of the town, and he stares at him. "These are difficulties the countryman has not expected; the Law, he thinks, should surely be accessible at all times and to everyone, but as he now takes a closer [genauer] look at the doorkeeper in his fur coat [in seinem Pelzmantel] [the artificial hair, that of the town and the law, which will be added to the natural hairiness], with his big sharp nose and long, thin, black Tartar beard, he decides that it is better to wait [literally: *entschliesst er sich, doch lieber zu warten, bis er die Erlaubnis zum Eintritt bekommt*, he decides to prefer to wait] until he gets permission to enter."

The sequence scans neatly. Even if it looks as though there is a simple narrative and chronological juxtaposition, the contiguity and selection of details lead to a logical inference. The grammatical structure of the sentence implies the following: as soon as (*als*, at the moment when) the man from the country sees the doorkeeper with his big, pointed nose and his abundant black hair, he decides to wait, he judges that it is better to wait. It is at the sight of this hairy promontory, before this abundance of dark forest surrounding a headland, a nasal point or protuberance, that, through a strange and at the same time a completely natural consequence (we might say uncanny, *unheimlich*), the man makes a resolution, a decision. Does he decide to renounce entry after appearing determined to enter? Not in the least: he decides to put off deciding, he decides not to decide, he delays and adjourns while he



waits. But waits for what? For "permission to enter," as it is written? But you will have noticed that such permission was refused him only in the form of an adjournment: "It's possible, but not now."

Let us be patient too. But don't go thinking that I am stressing this story to mislead you, or to make you wait in the anteroom of literature or fiction for a properly philosophic treatment of the question of law and the respect before it, or of the categorical imperative. Is not what holds us in check before the law, like the man from the country, also what paralyzes and detains us when confronted with a story: is it not its possibility and its impossibility, its readability and unreadability, its necessity and prohibition, and the questions of relation, of repetition and of history?

This seems at first sight to be due to the essentially inaccessible character of the law, to the fact that a "first sight" of it is always refused, as the doublet of the title and the incipit already suggest. In a certain way, *Vor dem Gesetz* is the story of this inaccessibility, of this inaccessibility to the story, the history of this impossible history, the map of this forbidden path: no itinerary, no method, no path to accede to the law, to what would happen there, to the *topos* of its occurrence. Such inaccessibility puzzles the man from the country, beginning with the moment he looks carefully at the doorkeeper, who is himself the observer, overseer, and sentry, the very figure of vigilance, or we might say of conscience. What the man from the country asks for is the way in: is not the law defined precisely in terms of its accessibility; is it not or *must* it not be so "at all times and to everyone"? This could give rise to the problem of exemplarity, particularly in Kant's notion of "respect": this is only the *effect* of the law, Kant emphasizes, it is due only to the law and appears to answer a summons only *before the law*, it addresses persons only insofar as they give the example of the fact that a law can be respected. Thus one never accedes directly either to the law or to persons, one is never *immediately before* any of these authorities; as for the detour, it may be infinite: the very universality of the law exceeds all finite boundaries and thus carries this risk. But let us leave it at that, for fear that we too might be diverted from our story.

The law, thinks the man from the country, should be accessible at

all times and to everyone. It should be universal. By the same token, no one, we maintain in French, is supposed to be ignorant of the law,<sup>11</sup> that is to say, of positive law; provided s/he is not illiterate and can read the text or delegate this task and skill to a lawyer, to the representation of a man of law. Unless being able to read makes the law less accessible still. Reading a text might indeed reveal that it is untouchable, literally intangible, *precisely because it is readable*, and for the same reason unreadable to the extent to which the presence within it of a clear and graspable sense remains as hidden as its origin. Unreadability thus no longer opposes itself to readability. Perhaps man is the man from the country as long as he cannot read; or, if knowing how to read, he is still bound up in unreadability within that very thing which appears to yield itself to be read. He wants to see or touch the law, he wants to approach and "enter" it, because perhaps he does not know that the law is not to be seen or touched but deciphered. This is perhaps the first sign of the law's inaccessibility, or of the delay it imposes upon the man from the country. The gate is not shut, it is "open as usual" (says the text), but the law remains inaccessible; and if this forbids or bars the gate to genealogical history, it also fuels desire for the origin and genealogical drive, which wear themselves out as much before the process of the law's engenderment as before parental generation. Historical research leads the *relation* toward an impossible exhibition of a site and an event, of a taking-place where law originates as prohibition.

The law as prohibition: let us abandon this formula, suspend it for a while.

When Freud goes beyond his initial schema for the origin of morality and names the categorical imperative in Kant's sense, he does so within a seemingly historical framework. A story [*récit*] refers back to the unique historicity of an event, namely the murder of the primeval father, as clearly stated at the end of *Totem and Taboo* (1912):

The earliest moral precepts and restrictions in primitive society have been explained by us as reactions to a deed which gave those who performed

11. TN *Nul n'est censé ignorer la loi*; in other words, "ignorance of the law is no excuse."

it the concept of "crime." They felt remorse [but how and why, if this is *before* morality, *before* law? J.D.] for the deed and decided that it should never be repaired and that its performance should bring no advantage. This creative sense of guilt still persists among us. We find it operating in an a-social manner in neurotics, and producing new moral precepts and persistent restrictions, as an atonement for crimes that have been committed and as a precaution against the committing of new ones.<sup>12</sup>

Speaking of the totemic meal and "mankind's earliest festival" (203) to commemorate the murder of the father and the origin of morality, Freud emphasizes the sons' ambivalence toward the father; in a movement that I shall call, precisely, repentance, he himself appends a note. This note is important for me. It explains the excess of tenderness by the increase of horror conferred upon the crime by its total uselessness: "Not one of the sons had in fact been able to put his original wish—of taking his father's place—into effect" (204). The murder fails because the dead father holds even more power. Is not the best way of killing him to keep him alive (and finite)—and is not the best way of keeping him alive to murder him? Now, failure, Freud specifies, is conducive to moral reaction. Thus morality arises from a useless crime which in fact kills nobody, which comes too soon or too late and does not put an end to any power; in fact, it inaugurates nothing since repentance and morality had to be possible *before* the crime. Freud appears to cling to the reality of an event, but this event is a sort of non-event, an event of nothing or a quasi-event which both calls for and annuls a narrative account. For this "deed" or "misdemeanor" to be effective, it must be somehow spun from fiction. Everything happens *as if*. The guilt is none the less effective and painful for all that: "The dead father became stronger than the living one had been—for events took the course we so often see them follow in human affairs to this day" (204). Since the father dead is more powerful than he was when alive, since he lives better from his death and, very logically, he would have been dead while he was alive, more dead alive than *post mortem*,

12. TN *Totem and Taboo*, trans. James Strachey, in *The Origins of Religion*, Pelican Freud Library, vol. 13 (Harmmondsworth: Penguin, 1985), 222. Further references are given in the text.

the murder of the father is not an event in the ordinary sense of the word. Nor is the origin of moral law. Nobody would have encountered it in its proper place of happening, nobody would have faced it in its taking place. Event without event, pure event where nothing happens, the eventuality of an event which both demands and annuls the relation in its fiction. Nothing new happens and yet this nothing new would instate the law, the two fundamental prohibitions of totemism, namely murder and incest. However, this pure and purely presumed event nevertheless marks an invisible rent in history. It resembles a fiction, a myth, or a fable, and its relation is so structured that all questions as to Freud's intentions are at once inevitable and pointless ("Did he believe in it or not? did he maintain that it came down to a real and historical murder?" and so on). The structure of this event is such that one is compelled neither to believe nor disbelieve it. Like the question of belief, that of the reality of its historical referent is, if not annulled, at least irremediably fissured. Demanding and denying the story, this quasi-event bears the mark of fictive narrativity (fiction of narration as well as fiction as narration: fictive narration as the simulacrum of narration and not only as the narration of an imaginary history). It is the origin of literature at the same time as the origin of law—like the dead father, a story told, a spreading rumor, without author or end, but an ineluctable and unforgettable story. Whether or not it is fantastic, whether or not it has arisen from the imagination, even the transcendental imagination, and whether it states or silences the origin of the fantasy, this in no way diminishes the imperious necessity of what it tells, its law. This law is even more frightening and fantastic, *unheimlich* or uncanny, than if it emanated from pure reason, unless precisely the latter be linked to an unconscious fantastic. As of 1897, let me repeat, Freud stated his "certain insight that there are no indications of reality in the unconscious, so that one cannot distinguish between truth and fiction that has been cathected with affect."

If the law is fantastic, if its original site and occurrence are endowed with the qualities of a fable, we can see that *das Gesetz* remains essentially inaccessible even when it, the law, presents or promises itself. In terms of a quest to reach the law, in order to stand before it,

face to face and with respect, or to introduce oneself to it and into it, the story becomes the impossible story of the impossible. The story of prohibition is a prohibited story.

Did the man from the country wish to enter the law or merely the place where law is safeguarded? We cannot tell, and perhaps there is no genuine choice, since the law figures itself as a kind of place, a *topos* and a taking place. At all events, the man from the country, who is also a man existing *before the law*,<sup>13</sup> as nature exists before the city, does not want to stay before the law, in the situation of the doorkeeper. The latter also stands *before the law*. This may mean that he respects it: to stand or appear before the law is to submit to it and respect it, the more so as respect keeps one at a distance, *on the other side*, forbidding contact or penetration. But this could mean that, standing before the law, the doorkeeper enforces respect for it. In charge of surveillance, he does guard duty *before the law* by turning his back to it, without facing up to it, as it were, and thus not "in front" of it; he is a sentry guarding the entry to the edifice and holding at a respectful distance visitors who *present themselves* before the castle. The inscription "before the law" is therefore divided once more: according to its textual place, it was in a certain sense twofold already, as title or *incipit*. It further redoubles itself in what it says or describes: namely, a division of territory and an absolute opposition in the situation with regard to the law. The two characters in the story, the doorkeeper and the man from the country, are both before the law, but since in order to speak they face each other, their position "before the law" is an opposition. One of them, the doorkeeper, turns his back on the law and yet stands before it (*Vor dem Gesetz steht ein Türhüter*). The man from the country, on the other hand, is also before the law but in a contrary position, insofar as one can suppose that, being ready to enter, he faces it. The two protagonists are both attendant before the law but in opposition to one another, being on either side of a line of inversion whose mark in the text is precisely the separation of the title from the narrative body. The double inscription of "*Vor dem Gesetz*" flanks an

13. TN The French is *un homme d'avant la loi*. The double meaning of "before" (and *vor* in German)—spatial and temporal—does not occur in French; *d'avant* refers exclusively to a spatial relationship, and *avant* is used for time.

invisible line that divides, separates and of itself renders divisible a unique expression. It splits the line.

This can happen only with the rise of an entitling authority, in its topical and juridical function. That explains my interest in the story entitled in this way rather than in an all but identical passage in *The Trial* that appears of course without a title. In German as in French and English, the expression "before the law" commonly describes the position of a subject who respectfully and submissively comes before the representatives or guardians of the law. *She* presents himself or herself before representatives: the law in person, so to speak, is never present, even though the expression "before the law" seems to signify "in the presence of the law." The man is therefore in front of the law without ever facing it; while he may be in front of it, he thus never confronts it. The first words of the *incipit* are snatched up by a sentence whose interrupted version might be the title ("*Vor dem Gesetz*," "*Vor dem Gesetz steht ein Türhüter*"); these words come to signify something else entirely, perhaps even the opposite of the title that nevertheless reproduces them, just as often some poems receive as their title the beginning of a first line. I repeat here that the structure and function of the two occurrences, of the two events of the same mark, are certainly heterogeneous, but as these two different yet identical events are not linked in narrative sequence or logical consequence, we cannot say that one *precedes* the other in any order. Both come first in their order, and neither of the two homonyms or perhaps synonyms cites the other. The entitling event confers upon the text its law and its name, but this is a *comp de force*, for example with respect to *The Trial*, from which the story is torn to become another institution. Without rehearsing the narrative sequence, the event opens a scene, giving rise to a topographical system of law that prescribes the two inverse and adverse positions, the antagonisms of two characters equally concerned with it. The entitling sentence describes the one who turns his back to the law (to turn one's back also means to ignore, neglect, or even transgress)—not in order that the law present itself or that one be present to it but, on the contrary, in order to prohibit all presentation. The other, who faces the law, sees no more than the one who turns his back to it. Neither is in the presence of the law. The only two characters in the story are

blind and separated from one another, and from the law. Such is the modality of this rapport, of this relation, of this narration: blindness and separation, a kind of non-rapport. For we must not forget that the doorkeeper too is separated from the law by other doorkeepers "each more powerful than the last" (*einer mächtiger als der andere*): "But take note: I am powerful. And I am only the least of the doorkeepers [the lowest in the hierarchy, *der unterste*]. From hall to hall there is one doorkeeper after another, each more powerful than the last. The third doorkeeper is already so terrible that even I cannot bear to look at him" (*den Anblick . . . ertragen*). The lowest of doorkeepers is the first to see the man from the country. The first in the order of the narration is the last in the order of the law and in the hierarchy of its representatives. And this first-last doorkeeper never sees the law: he cannot even bear the sight of the doorkeepers who are *before* him, prior to and above him. This is inscribed in his title of doorkeeper. He is in full view, observed even by the man who, *in his view*, decides not to decide or judges that he does not have to stop his judging. I use "man" here for the man from the country, as sometimes in the story which suggests that the doorkeeper is perhaps no longer just a man, and that the "man" is both Man and anybody, the anonymous subject of the law. The latter thus decides that he would "rather wait," at the very moment when his attention is caught by the pilosity and the pointed nose of the doorkeeper. His resolution of nonresolution brings the story into being and sustains it. Yet permission had never been denied him: it had merely been delayed, adjourned, deferred.<sup>14</sup> It is all a question of time, and it is the time of the story; however, time itself does not appear until this adjournment of the presentation, until the law of delay or the advance of the law, according to the anachrony of the relation.

The present prohibition of the law is not a prohibition in the sense

14. EN Compare the following fragment from Kafka's notebooks: "I ran past the first watchman. Then I was horrified, ran back again and said to the watchman: 'I ran through here while you were looking the other way.' The watchman gazed ahead of him and said nothing. 'I suppose I really oughtn't to have done it,' I said. The watchman still said nothing. 'Does your silence indicate permission to pass?' ..." (*Wedding Preparations in the Country and Other Posthumous Prose Writings*, trans. Ernst Kaiser and Eithne Wilkins [London: Secker & Warburg, 1954], 354–55).

of an imperative constraint; it is a *différance*.<sup>15</sup> For after having said to him "later," the doorkeeper specifies: "If you are so drawn to it, just try to go in despite my veto." Earlier he had said merely "not at the moment." He then simply steps aside and lets the man stoop to look inside through the door, which always remains open, making a limit without itself posing an obstacle or barrier. It is a mark, but it is nothing firm, opaque, or uncrossable. It lets the inside (*das Innere*) come into view—not the law itself, perhaps, but interior spaces that appear empty and provisionally forbidden. The door is physically open, the doorkeeper does not bar the way by force. It is his discourse, rather, that operates at the limit, not to prohibit directly, but to interrupt and defer the passage, to withhold the pass. The man has the natural, physical freedom to penetrate spaces, if not the law. We are therefore compelled to admit that he must forbid himself from entering. He must force himself, give himself an order, not to obey the law but rather to *not gain access*<sup>16</sup> to the law, which in fact tells him or lets him know: do not come to me. I order you not to come yet to me. It is there and in this that I am law and that you will accede to my demand, without gaining access to me.

For the law is prohibition/prohibited [*interdit*]. Noun and attribute. Such would be the terrifying double-bind of its own taking-place. It is prohibition: this does not mean that it prohibits, but that it is itself prohibited, a prohibited place. It forbids itself and contradicts itself by placing the man in its own contradiction:<sup>17</sup> one cannot reach the law, and in order to have a *rapport* of respect with it, *one must not*<sup>18</sup> have

15. EN See "... That Dangerous Supplement . . ." note 4, above.

16. TN The French *accéder à* means both "accede to" and "gain access to."

17. This contradiction probably is not simply that of a law, which in itself supposes and therefore produces transgression, the active or actual relationship to sin, to the fault, *before the Law* perhaps gives rise to, in a kind of movement or trembling between the Old and the New Testament, a text which is both archived and altered, such as the Epistle to the Romans 7. More time needs to be devoted to the relationship between these two texts. Paul reminds his brothers, "people who know the law" that "the law exercises its power over man as long as he lives." And the death of Christ would be the death of this old law by which we "know" sin: dead along with Christ, we are released, absolved from this law, we are dead to this law, to the great age of its "letter," in any case, and we serve it in a new "spirit." And Paul adds that when he was without law, he lived; and when, along with the law, the commandment came, he died.

18. TN The original is *il faut ne pas, il ne faut pas*, literally, "it must be that one does not, it must not be that one does."

a rapport with the law, *one must interrupt the relation*. One must *enter into relation* only with the law's representatives, its examples, its guardians. And these are interrupters as well as messengers. We must remain ignorant of who or what or where the law is, we must not know who it is or what it is, where and how it presents itself, whence it comes and whence it speaks. This is what *must* be before the *must* of the law. [*Voilà ce qu'il faut au il faut de la loi*]. *Ci fait*, as used to be written in the Middle Ages at the end of a story.<sup>19</sup>

This, then, is the trial and judgment, the process and the *Urteil*, the ordinary division of the law. The law is prohibited. But this contradictory self-prohibition allows man the freedom of self-determination, even though this freedom cancels itself through the self-prohibition of entering the law. Before the law, the man is a subject of the law in appearing before it. This is obvious, but since he is *before* it because he cannot enter it, he is also *outside the law* (an outlaw). He is neither under the law nor in the law. He is both a subject of the law and an outlaw. Since he stoops to view the inside, we are led to suppose that, for the time being, he is taller than the open door—and this question of size will have to be dealt with. On observing the doorkeeper more carefully, he decides to await a permission simultaneously given and deferred, although the first doorkeeper's hint suggests that the delay will be indefinite. After the first guardian there are an undefined number of others, perhaps they are innumerable, and progressively more powerful and therefore more prohibitive, endowed with greater power of delay. Their potency is *différance*, an interminable *différance*, since it lasts for days and "years," indeed, up to the end of (the) man. *Différance* till death, and for death, without end because ended. As the doorkeeper represents it, the discourse of the law does not say "no" but "not yet," indefinitely. That is why the story is both perfectly ended and yet brutally, one could say primarily, cut short, interrupted.

19. *Ci fait*: this terminal sign, by which the medieval writer marks the end of his work before giving its title or his own name, rightly does not occur in the *Story of the Grail*, the unfinished romance by Chrétien de Troyes. Derived from Latin *fallere*, giving *fallir* ("to fall") and "to deceive") and *fallor* ("to lack"), the verb *fall* (or *faul*), in the Old French formula *ci fait*, takes the meaning of "here ends" without losing the idea of "lack" and "failure." Thus the work ends at the point where it begins to be lacking" (Dragonetti, *op. cit.*, 9). Dragonetti's thesis in this book is that "the *Story of the Grail* was quite complete" (*ibid.*).

What is delayed is not this or that experience, the access to some enjoyment or to some supreme good, the possession or penetration of something or somebody. What is deferred forever till death is entry into the law itself, which is nothing other than that which dictates the delay. The law prohibits by interfering with and deferring the "ference" [*"ferance"*], the reference, the rapport, the relation. What *must not* and cannot be approached is the origin of *différance*: it must not be presented or represented and above all not penetrated. That is the law of the law, the process of a law of whose subject we can never say, "There it is," it is here or there. It is neither natural nor institutional; one can never reach it, and it never reaches the depths of its original and proper taking-place. It is even more "sophisticated," so to speak, than the convention of conventionalism which is conventionally attributed to the sophists. It is always cryptic; that is, it is a secret which a caste—for example, the nobility of which Kafka speaks in *Zur Frage der Gesetze*<sup>20</sup>—pretends to possess by delegation. The secret is nothing—and this is the secret that has to be kept well, nothing either present or presentable, but this nothing must be well kept. To this task of keeping, the nobility is delegated. The nobility is nothing but this, and, as *The Problem of Our Laws* suggests, the people would be taking many risks in depriving themselves of it. They would understand nothing of the essence of the law. If the nobility is necessary, it is because this essence has no essence, it can neither be nor be there. It is both obscene and unrepresentable—and the nobles must be left to take charge of it. One has to be a noble for this. Unless one is God.

In fact, here is a situation where it is never a question of trial or judgment, nor of verdict or sentence, which is all the more terrifying. There is some law, some law which is *not there but which exists*. The judgment, however, does not arrive. In this other sense, the man of nature is not only a subject of the law outside the law, he is also, in both an infinite and a finite way, the prejudged; not so much as a

20. EN *The Problem of Our Laws* (*The Great Wall of China: Stories and Reflections*, trans. Willa and Edwin Muir [New York: Schocken Books, 1946], 254–57) is a short parable describing a class-divided society in which the laws are completely unknown to the people, giving rise to two schools of thought: that the ancient laws are scrupulously, though secretly, administered by the nobles, and that there is no law, except what the nobles do.

prejudged subject but as a subject before a judgment which is always in preparation and always being deferred. Prejudged as having to be judged, arriving in advance of the law which only signifies "later."

And if this concerns the essence of the law, it is that the latter has no essence. It eludes this essence of being which would be presence. Its "truth" is this non-truth which Heidegger calls the truth of truth. As such, as truth without truth, it *guards itself*: it guards itself without doing so, guarded by a doorkeeper who guards nothing, the door remaining open—and open on nothing. Like truth, the law would be the guarding itself (*Wahrheit*), only the guarding. And this singular look between the guardian and the man.

But, beyond a look, beyond beings (the law is nothing that is present), the law calls in silence. Even before moral conscience as such, it forces an answer, it calls for responsibility and guarding. It puts into motion both the guardian and the man, this odd couple, attracting them to it and stopping them before it. It determines the being-for-death before it. Another minute displacement and the guardian of the law (*Hüter*) would resemble the shepherd of Being (*Hirt*). I believe in the need for this "*rapprochement*," as we say, but under the proximity, or perhaps the metonymy (law, another name for Being, Being, another name for law; in both cases, the "transcendent," as Heidegger says of Being), there is perhaps still hidden or guarded the abyss of a difference.

The story (of what never happens) does not tell us what kind of law manifests itself in its non-manifestation: natural, moral, judicial, political? As to gender, the German is neuter, *das Gesetz*, neither feminine nor masculine. In French, the feminine determines a semantic contragtion that we cannot forget,<sup>21</sup> any more than we can ignore language as the elementary medium of the law. In Maurice Blanchot's *The Madness of the Day*, we can speak of an apparition of the Law, and it is a feminine "silhouette," neither a man nor a woman, but a feminine silhouette come as companion to the quasi-narrator of a forbidden or impossible narration (that is the whole story of this non-story).<sup>22</sup> The narrative "I" frightens the Law. It is the Law who seems to be afraid

and to bear a retreat. As for the narrator, in another analogy without rapport to *Before the Law*, he recounts his appearance before the law's representatives (policemen, judges, doctors), men who demanded from him an account which he could not give, although it is the very one he puts forward in order to relate the impossible.

Here, we know neither *who* nor *what* is the law, *das Gesetz*. This, perhaps, is where literature begins. A text of philosophy, science, or history, a text of knowledge or information, would not abandon a name to a state of not-knowing, or at least it would do so only by accident and not in an essential or constitutive way. Here one does not know the law, one has no cognitive rapport with it; it is neither a subject nor an object *before* which one could take a position. Nothing holds before the law. It is not a woman or a feminine figure, even if man—*homo* and *vir*—wants to enter or penetrate it (that, precisely, is its trap). Nor yet is the law a man; it is neutral, beyond sexual and grammatical gender, and remains thus indifferent, impassive, little concerned to answer *yes* or *no*. It lets the man freely determine himself, it lets him wait, it abandons him. It is neuter, neither feminine nor masculine, indifferent because we do not know whether it is a (respectable) person or a thing, who or what. The law is produced (without showing itself, thus without producing itself) in the space of this non-knowledge. The doorkeeper watches over this theater of the invisible, and the man wishes to look in *by stooping*. Is the law then low, lower than he, or does he respectfully bow before what the author of *The Madness of the Day* calls the "knee" of the Law? Unless indeed the law is lying down, or as we say of justice and its representatives, "seated." The law then would not stand up, which is perhaps again why it would be difficult to place oneself *before* it. In fact, the whole scenography of the story would be a drama of standing and sitting. At the beginning, at the origin of the story, the doorkeeper and the man are up, standing, and face to face. At the end of the text, at the interminable but interrupted end of the story and of history, at the end of man, the end of this man's life, the doorkeeper is much taller than his interlocutor and has to bend down in his turn from an *overhanging* height; and the story of the law marks the looming dominance or difference in height (*Grossenunterschied*), which gradually alters itself

21. TN "The Law" is *la loi* and *elle* throughout: the English translation necessarily elides this submerged potential for genderization.

22. FN See "The Law of Genre" below.

to the man's disadvantage and seems to measure the time of the story. In the interval, in mid-text, which is also the middle of the man's life after he decides to wait, the doorkeeper gives him a footstool and makes him sit down. The man stays there, "sitting for days and years, all his life. In the end, he sinks back into childhood, as we say. The difference in height may also point to the relationship between generations. The child dies old like a small child (on four, two, and finally three legs—and take into account the footstool) before a doorkeeper who grows, standing and over-seeing.

The law is silent, and of it nothing is said to us. Nothing, only its name, its common name and nothing else. In German it is capitalized, like a proper name. We do not know what it is, who it is, where it is. Is it a thing, a person, a discourse, a voice, a document, or simply a nothing that incessantly defers access to itself, thus forbidding *itself* in order thereby to become something or someone?

The elderly child finally becomes almost blind but hardly knows; his eyes are only deceiving him. Yet in his darkness he is now aware of a radiance that streams inextinguishably from the gateway of the Law." This is the most religious moment of the writing.

There is an analogy with Judaic law here. Hegel narrates a story about Pompey, interpreting it in his own way. Curious to know what was behind the doors of the tabernacle that housed the holy of holies, the triumvir approached the innermost part of the Temple, the center (*Mittelpunkt*) of worship. There, says Hegel, he sought "a being, an essence offered to his meditation, something meaningful (*sinnvolles*) to command his respect; and when he thought he was entering into the secret (*Geheimnis*), before the ultimate spectacle, he felt mystified, disappointed, deceived (*getauscht*). He found what he sought in an empty space' and concluded from this that the genuine secret was itself entirely extraneous to them, the Jews; it was unseen and unfelt (*ungesehen und ungefühlt*)."

Guardian after guardian. This differential topology [*topique différentielle*] adjourns, guardian after guardian, within the polarity of high and low, far and near (*fortda*), now and later. The same topology without its own place, the same atopology [*atopique*], the same mad-

ness defers the law as the nothing that forbids itself and the neuter that annuls oppositions. The atopology annuls that which takes place, the event itself. This nullification gives birth to the law, before as before and before as behind. That is why there is and is not place for a story. The differential atopology pushes the repetition of the story *before the law*. It confers on it that which it takes away, its title of story. This applies both to the text signed by Kafka and entitled *Before the Law* and to the passage of *The Trial* that seems to recount almost the same story, condensing the whole of *The Trial* in the scene of *Before the Law*.

It would be tempting, beyond the limits of this reading, to reconstitute this story without story within the elliptic envelope of Kant's *Critique of Practical Reason* or Freud's *Totem and Taboo*, but however far we might go in this direction, we could never explain the parable of a relation called "literary" with the help of semantic contents originating in philosophy or psychoanalysis, or drawing on some other source of knowledge. We have seen why this must be so: the fictitious nature of this ultimate story which robs us of every event, of this pure story, or story without story, has as much to do with philosophy, science, or psychoanalysis as with literature.

I conclude. These are the doorkeeper's last words: "I am now going to shut it," I close the door, I conclude (*Ich gehe jetzt und schliesse ihn*).

In the terms of a certain medical code, the expression *ante portas* refers to the place of premature ejaculation, of which Freud claims to have given the clinical description, the symptomatology and the aetiology. In the text or before the text entitled *Vor dem Gesetz* (*vor* being the preposition inscribed, *in the first place*, in the title set in place "before the law"), what happens or does not happen, its place and non-place *ante portas*, is this not precisely the hymen with the law, the entry (*Eintritt*) into the law? The adjournment until the death of the elderly child, the *little old man*, can be interpreted as non-penetration by premature ejaculation or by non-ejaculation. The result, namely, the judgment and conclusion, is the same. The tabernacle remains empty and dissemination fatal. Relation to the law remains interrupted, a without-relation that one should not attempt to grasp too precipitously in terms of the sexual or genital paradigm of *coitus interruptus*, of impotence and the neuroses that Freud deciphers in it. Is this not



the place [*il y a-t-il pas lieu*] to question what we calmly call sexual relations in the context of the story/less story of the law? One can be quite sure that the so-called normal pleasures [*Jouissances*] would not escape this enquiry.

*N'y a-t-il pas lieu*, I said in French, in a barely translatable way. This implied: "it must" be questioned. The French idiom that established law here also pronounces the law: *il y a lieu de* means *il faut*, "it is prescribed, opportune, or necessary to . . ." It is commanded by law.

Is this not in fact what the doorkeeper says? Is it not "there is place for you here . . ." [*il y a lieu pour toi, ici*]. There is a place for you? For what, we do not know, but there is a place. You must. *Il y a lieu*. The doorkeeper is not *ante portas* but *ante portam*. Prohibiting nothing, he does not guard the doors but the door. And he insists upon the uniqueness of this singular door. The law is neither manifold nor, as some believe, a universal generality. It is always an idiom, and this is the sophistication of Kant's thought. Its door concerns only you, *dich, toi*—a door that is unique and specifically destined and determined for you (*nur für dich bestimmt*). At the moment when the man comes to his end, just before his death, the doorkeeper points out to him that he will not reach his destination, or that it will not reach him. The man comes to his end without reaching his end. The entrance is destined for and awaits him alone; he arrives there but cannot arrive at entering; he cannot arrive at arriving.<sup>23</sup> Thus runs the account of an event which arrives *at* not arriving, which manages not to happen. The doorkeeper, recognizing that the man is near the end, shouts out to reach his falling ear: "No one else could ever be admitted here, since this gate was made only for you. I am now going to shut it."

And this is the final word, the conclusion or closure of the story. The text would be the door, the entrance (*Eingang*), what the doorkeeper has just closed. And to conclude, I shall start from this judgment,<sup>24</sup> with this conclusion of the doorkeeper. As he closes the object, he closes the text. Which, however, closes on nothing. The story *Before*

23. *TN Arriver à* can mean "to arrive at," "to achieve," "to succeed in," "to happen to."

24. *TN* In the original, *je partirai de cette sentence (arrêt ou jugement): sentence* means "verdict" or "maxim"; *arrêt* means "halt" or "legal judgment."

*the Law* does not tell or describe anything but itself as text. It does only this or does also this. Not within an assured specular reflection of some self-referential transparency—and I must stress this point—but in the uncredibility of the text, if one understands by this the impossibility of acceding to its proper significance and its possibly inconsistent content, which it jealously keeps back. The text guards itself, maintains itself—like the law, speaking only of itself, that is to say, of its non-identity with itself. It neither arrives nor lets anyone arrive. It is the law, makes the law and leaves the reader before the law.

To be precise. We are *before* this text that, saying nothing definite and presenting no identifiable content beyond the story itself, except for an endless *différance*, till death, nonetheless remains strictly intangible. Intangible: by this I understand inaccessible to contact, impregnable, and ultimately ungraspable, incomprehensible—but also that which we have not the *right* to touch. This is an "original" text, as we say; it is forbidden or illicit to change or disfigure it, or to touch its form. Despite the non-identity in itself of its sense or destination, despite its essential unreadability, its "form" presents and performs itself as a kind of personal identity entitled to absolute respect. If someone were to change one word or alter a single sentence, a judge could always declare him or her to have infringed upon, violated, or disfigured the text. A bad translation will always be summoned to stand before the original, which supposedly acts as a *point of reference*, being authorized by its author or his or her legal representatives and identified by its title, which according to civil status is its proper name, and framed between its first and last word. Anyone impairing the original identity of this text may have to appear before the law. This may happen to any reader in the presence of the text, to critic, publisher, translator, heirs, or professors. All these are then at the same time doorkeepers and men from the country. On both sides of the frontier.

The title and the initial words, I said; these are "Before the Law," precisely, and again, "Before the law." The last words are "I am now going to shut it." This "I" of the doorkeeper is also that of the text or of the law, announcing the identity with itself of a bequeathed corpus, of a heritage that pronounces non-identity with itself. Neither identity

not non-identity is natural, but rather the effect of a juridical performative. This (and it is no doubt what we call the writing, the act and that lays down the law, and in the first place with respect to itself. In its very act, the text produces and pronounces the law that protects it and renders it intangible. It does and says, saying what it does by doing what it says. This possibility is implicit in any text, even if it does not take as obviously a self-referential form as in this case. At once allegorical and tautological, Kafka's story operates across the naively referential framework of its narration which leads us past a portal that it comports, an internal boundary opening on nothing, before nothing, the object of no possible experience.

*Devant la loi, dit le titre. Vor dem Gesetz, the title says.*

*Devant la loi, dit le titre. Vor dem Gesetz, says the title.*<sup>25</sup>

The text bears its title and bears upon it. Would not its proper object, if it had one, be the effect produced by the play of the title? To show and to veil in an ellipsis the powerful operation of the given title?

The door furthermore severs the title from itself. It is interposed between the expression "Before the Law" as title or proper name and the same expression as incipit, and thus splits the origin. As we saw, the incipit belongs to the text and has neither the same value nor the same referent as the title, but *qua* incipit its relationship to the body of the text is unique. It marks the boundary that guarantees the identity of the corpus. Between the two events of "Before the Law," within the repetition itself, there passes a line separating two boundaries. It splits the boundary by dividing its line. The homonymy remains impassive, however, as if nothing had happened. It is as if nothing had come to pass.

I conclude. Here I interrupt this type of analysis, which could be carried to much greater length, and return to my initial question. What would allow us to judge that this text belongs to "literature";

and, anyway, what is literature? No answer will be forthcoming. I fear; does not the question once more betray the rustic simplicity of a man

25. TN These two lines are reproduced unchanged from the original.

from the country? That in itself would not be enough to disqualify it, for (the) man's reason imperturbably claims its rights; it is indefatigable at any age.

If we subtract from this text all the elements which could belong to another register (everyday information, history, knowledge, philosophy, fiction, and so forth—anything that is not necessarily affiliated with literature), we vaguely feel that what is *at work* in this text retains an essential rapport with the play of framing and the paradoxical logic of boundaries, which introduces a kind of perturbation in the "normal" system of reference, while simultaneously *revealing* an essential structure of referentiality. It is an obscure revelation of referentiality which does not make reference, which does not refer, any more than the eventness of the event is itself an event.

That this nevertheless makes up a work is perhaps a gesture toward literature. An insufficient gesture, perhaps, but a necessary one: there is no literature without a work, without an absolutely singular performance, and this necessary irreplaceability again recalls what the man from the country asks when the singular crosses the universal, when the categorical engages the idiomatic, as a literature always must. The man from the country had difficulty in grasping that an entrance was singular or unique when it should have been universal, as in truth it was. He had difficulty with literature.

How can we check the subtraction just mentioned? *The Trial* itself proposes a counterproof. We find there the same *content* differently framed, with a different system of boundaries and above all without a proper title, except that of a volume of several hundred pages. From the point of view of literature, the same content gives rise to an entirely different work. What differs from one work to the other is not the *content*, nor is it the *form* (the signifying expression, the phenomena of language or rhetoric). It is the movements of framing and referentiality.

These two works become, along the lines of their strange filiation, a metonymic interpretation of each other, each becoming a part that is absolutely independent of the other and each time greater than the whole; the title of the other. This is not yet enough. If framing, title, and referential structure are necessary for the literary work as such to emerge, these conditions of possibility still remain too general and hold

for other texts to which we would hardly ascribe literary value. These possibilities give the text the power to *make the law*, beginning with its own. However, this is on condition that the text itself can appear *before the law* of another, more powerful text protected by more powerful guardians. Indeed, the text (for example the so-called "literary" text and particularly this story by Kafka) before which we the readers appear as before the law, this text protected by its guardians (author, publisher, critics, academics, archivists, librarians, lawyers, and so on) cannot establish law unless a more powerful system of laws ("a more powerful guardian") guarantees it, in particular the set of laws and social conventions that legitimates all these things.

If Kafka's text says all this about literature, the powerful ellipsis it gives us does not entirely belong to literature. The place from which it tells us *about* the laws of literature, the law without which no literary specificity would take shape or substance, this place cannot be simply *interior* to literature.

It is necessary to think [*il y a lieu de penser*] together, no doubt, a certain historicity of law and a certain historicity of literature. If I speak of "literature" rather than of poetry or belles-lettres, it is to emphasize the hypothesis that the relatively modern specificity of literature as such retains a close and essential rapport to a period in legal history. In a different culture, or in Europe at a different period of the history of positive law, of explicit or implied legislation on the ownership of works, for example in the Middle Ages or earlier, the identity of this text, its play with the title, with signatures, and with its boundaries or those of other texts, this whole framing system would function differently and under different conventional guarantees. Not that during the Middle Ages it would have been without institutional protection and supervision.<sup>26</sup> But that protection had quite a different way of regulating the identity of works, which were more readily delivered to the transformative initiatives of copyists or other "guardians,"<sup>27</sup> to the gratings practiced by inheritors or other "authors" (whether anonymous or not, whether masked by pseudonyms or not, or whether more-

or-less identifiable individuals or groups). But, whatever the structure of the juridical and therefore political institution that protects the work, the latter always is and remains *before the law*. Only under the conditions of law does the work have an existence and a substance, and it becomes "literature" only at a certain period of the law that regulates problems involving property rights over works, the identity of corpora, the value of signatures, the difference between creating, producing, and reproducing, and so on. Roughly speaking, this law became established between the late seventeenth and early nineteenth centuries in Europe. Still, the concept of literature that upholds this law remains vague. The positive laws here referred to pertain to other arts as well and shed no critical light on their own conceptual presuppositions. What matters here is that these obscure presuppositions are also the lot of "guardians," critics, academics, literary theorists, writers, and philosophers. They all have to appeal to a law and appear before it, at once to watch over it and be watched by it. They all interrogate it naively on the singular and the universal, and none receives an answer that does not involve *différance*: (no) more law and (no) more literature [*plus de loi et plus de littérature*].

In this sense, Kafka's text tells us perhaps of the being-before-the-law of any text. It does so by ellipsis, at once advancing and retracting it. It belongs not only to the literature of a given period, inasmuch as it is itself before the law (which it articulates), before a certain type of law. The text also points obliquely to literature, speaking of itself as a literary effect—and thereby exceeding the literature of which it speaks.

But is it not necessary for all literature to exceed literature? [*Mais n'y a-t-il pas lieu, pour toute littérature, de déborder la littérature?*] What would be a literature that would be only what it is, literature? It would no longer be itself if it were itself. This is also part of the ellipsis of "Before the Law." Surely one could not speak of "literariness" as a *belonging to literature*, as of the inclusion of a phenomenon or object, even a work, within a field, a domain, a region whose frontiers would be pure and whose titles indivisible. The work, the opus, does not belong to the field, it is the transformer of the field.

Perhaps literature has come to occupy, under historical conditions that are not merely linguistic, a position that is always open to a kind

26. Dragomir, *op. cit.*, 52ff. Cf. also the works of Ernst Kantorowicz, especially his article "Sovereignty of the Artist," republished in *Selected Studies* (Locust Valley, N.Y., J. J. Augustin, 1965).

of subversive juridicity. It would have occupied this place for some time, without itself being wholly subversive, indeed often the contrary. This subversive juridicity requires that self-identity never be assured, nor reassuring; and it supposes also a power to produce performatively the statements of the law, of the law that literature can be, and not just of the law to which literature submits. Thus literature itself makes law, emerging in that place where the law is made. Therefore, under certain determined conditions, it can exercise the legislative power of linguistic performativity to sidestep existing laws from which, however, it derives protection and receives its conditions of emergence. This is owing to the referential equivocation of certain linguistic structures. Under these conditions literature can *play the law*,<sup>27</sup> repeating it while diverting or circumventing it. These conditions, which are also the conventional conditions of any performative, are doubtless not purely linguistic, although any convention can give rise in its turn to a definition or contract of a linguistic nature. We touch here on one of the most difficult points of this whole problematic: when we must recover language without language, language beyond language, this interplay of forces which are mute but already haunted by writing, where the conditions of a performative are established, as are the rules of the game and the limits of subversion.

In the fleeting moment when it plays the law, a literature passes literature. It is on both sides of the line that separates law from the outlaw, it splits the being-before-the-law, it is at once, like the man from the country, "before the law" and "prior to the law" ["*devant la loi*" *et* "*avant la loi*"]. Prior to the being-before-the-law which is also that of the doorkeeper. But within so unlikely a site, would it have taken place? Would it have been appropriate to [*à l'aura-t-il lieu del*] name literature?

This has hardly been a scene of categorical reading. I have ventured glosses, multiplied interpretations, asked and diverted questions, abandoned decipherings in mid-course, left enigmas intact; I have accused, acquitted, defended, praised, subpoenaed. This scene of reading seemed

to be concentrated around an insular story. However, besides all the metonymical hand-to-hand engagements which it could have had with *The Problem of Our Laws* or with Paul's Epistle to the Romans 7, this exegetical dramatization is perhaps, and primarily, a piece or a moment, a fragment of *The Trial*. The latter would therefore have already set up a *mise-en-abyme* of everything you have just heard, unless *Before the Law* does the same thing through a more powerful ellipsis which itself would engulf *The Trial*, and us along with it. Chronology is of little relevance here, even if, as we know, it is only *Before the Law* that Kafka will have published, under this title, during his lifetime. The structural possibility of this *contre-abyme* opens a challenge to this order.

In *The Trial* (chap. 9, "In the Cathedral"), the text which forms the whole of *Before the Law*, with, naturally, the exception of the title, is related in *quotation marks* by a priest. This priest is not only a narrator, he is someone who cites or who tells a story. He cites a work which does not belong to the text of the law in the Scriptures, but, he says, to "the writings which preface the Law": "You are deluding yourself about the Court," said the priest [to K.]. "In the writings which preface the Law that particular delusion is described thus: before the Law stands . . .," etc.<sup>28</sup> This entire chapter is a prodigious scene of Talmudic exegesis, concerning *Before the Law*, between the priest and K. It would take hours to study the grain of it, its ins and outs. The general law of this scene is that the text (the short story in quotation marks, *Before the Law*, if you like), which seems to be the object of the hermeneutical dialogue between the priest and K., is also the program, down to its very detail, of the exegetical altercation to which it gives rise; the priest and K. being in turn the doorkeeper and the man from the country, exchanging their place before the law, miming one another, going toward one another. Not a single detail is missing, and we could verify this, if you wished, in the course of another session of patient reading. I don't want to keep you here until the end of the day or of your days, even though you are seated and seated not at the door

27. TN *Jouer la loi* implies both "playing at being the law" and "deceiving the law" as well as "playing the law."

28. TN *The Penguin Complete Novels of Franz Kafka*, trans. Willa and Edwin Muir (Harmondsworth: Penguin Books, 1983), 161. All further references will be to this edition.

but in the castle itself. I shall simply cite a few places in the chapter to conclude, a little like the white pebbles which one drops on a path, or those on the tomb of the rabbi Loew which I saw again at Prague a few months ago, just before an arrest and an investigation without trial during which the representatives of the law asked me, among other things, whether the philosopher whom I was going to visit was a "Kalkologue" (I had said that I had come to Prague *also* to follow the tracks of Kafka); my officially appointed lawyer had told me: "You must feel that you are living a story by Kafka"; and upon leaving me: "Don't take this too tragically, live it as a literary experience." And when I said that I had never seen the drugs that were supposed to have been discovered in my suitcase before the customs officers themselves saw them, the prosecutor replied: "That's what all drug traffickers say."

Here, then, are the little white pebbles. It is a question of prejudice and prejudice.

"But I am not guilty," said K.: "it's a misunderstanding. And if it comes to that, how can any man be called guilty? We are all simply men here, one as much as the other." "That is true," said the priest, "but that's how all guilty men talk." "Are you prejudiced against me too?" asked K. "I have no prejudices against you," said the priest. "I thank you," said K.; "but all the others who are concerned in these proceedings are prejudiced against me. They are influencing even outsiders. My position is becoming more and more difficult." "You are misinterpreting the facts of the case," said the priest. "The verdict is not so suddenly arrived at, the proceedings only gradually merge into the verdict." (159-60)

After the priest has told K. the story without a title—the story of "before the law" taken from the works which *precede* the law, K. concludes that "the doorkeeper deluded the man." To which the priest—to a certain extent identifying himself with the doorkeeper—takes up a defense of the latter during a long lesson in Talmudic style which begins, "You have not enough respect for the written word and you are altering the story . . ." During this lesson, among other things particularly destined to read *Before the Law* in its very unreadability, he warns, "The commentators note in this connection: 'The right

perception of any matter and a misunderstanding of the same matter do not wholly exclude each other" (164).

The second stage: he convinces K., who then identifies himself with the doorkeeper and justifies him. Immediately the priest reverses the interpretation and changes the places of identification:

"You have studied the story more exactly and for a longer time than I have," said K. They were both silent for a little while. Then K. said: "So you think the man was not deluded?" "Don't misunderstand me," said the priest, "I am only showing you the various opinions concerning that point. You must not pay too much attention to them. The scriptures are unalterable and the comments often enough merely express the commentator's bewilderment. In this case there even exists an interpretation which claims that the deluded person is really the doorkeeper." "That's a far-fetched interpretation," said K. "On what is it based?" (164)

So we get a second exegetico-Talmudic wave from the priest, who is both, in some way, an abbot and a rabbi, a kind of Saint Paul, the Paul of the Epistle to the Romans who speaks according to the law, of the law and against the law, "whose letter has aged"; he is also the one who says that "apart from the law sin lies dead": "I was once alive apart from the law, but when the commandment came, sin revived and I died . . ." (Romans 7).

"[This interpretation] is based," answered the priest, "on the simple-mindedness of the doorkeeper. The argument is that he does not know the Law from inside, he knows only the way that leads to it, where he patrols up and down. His ideas of the interior are assumed to be childish, and it is supposed that he himself is afraid of the other guardians whom he holds up as bogies before the man. Indeed, he fears them more than the man does . . ." (164-65).

I leave you to read the rest of an incredible scene, where the priest-rabbi goes on and on dissecting—or de-fleing—this story whose decipherment searches out even this little creature.<sup>29</sup>

Everything includes without including (*tout y comprend, sans comprendre*), *en abyme*, *Before the Law*, for example the quasi-tabernacu-

29. TN *Cherche jusgu'à la petite bête* is also a colloquial phrase for "splitting hairs."

lar glow ("The lamp in his hand had long since gone out. The silver image of some saint once glimmered into sight immediately before him, by the sheen of its own silver, and was instantaneously lost in the darkness again [Saint Paul, perhaps]. To keep himself from being utterly dependent on the priest, K. asked: 'Aren't we near the main doorway now?' 'No,' said the priest, 'we're a long way from it. Do you want to leave already?'" (167), or again, in the same *contte-abyrne* as *Before the Law*, it is K. who asks the abbot to wait and this same request even entails asking the priest-interpreter to ask a question himself. It is K. who asks him to ask (" 'Please wait a moment.' 'I am waiting,' said the priest. 'Don't you want anything more to do with me?' asked K. 'No,' said the priest." [167]). Let us not forget that the abbot, like the doorkeeper of the story, is a representative of the law, a doorkeeper as well, since he is the chaplain of prisons. And he reminds K., not of who he is, the doorkeeper or priest of prisons, but that K. must first understand and say himself who he, the priest, is. These are the last words of the chapter:

"You must first see that I can't help being what I am," said the priest. "You are the prison chaplain," said K., groping his way nearer to the priest again; his immediate return to the Bank was not so necessary as he had made out, he could quite well stay longer. "That means I belong to the Court," said the priest. "So why should I make any claims upon you? The court makes no claims upon you. *Das Gericht will nichts von dir. Es nimmt dich auf, wenn du kommst, und es entlässt dich, wenn du gehst.* It receives you when you come and it relinquishes you when you go." (168)

## THE LAW OF GENRE

20 The question of *genre*—literary genre but also gender, genus, and taxonomy more generally—brings with it the question of law, since it implies an institutionalized classification, an enforceable principle of non-contamination and non-contradiction. But genre always potentially exceeds the boundaries that bring it into being, for a member of a genre always signals its membership by an explicit or implicit mark: its relation to the generic field is, in the terminology of speech-act theory, a matter of *mention* as well as *use*. Derrida sees this not as an occasional and optional possibility but as a constitutive property of genre; and the crucial feature of any such mention, or possibility-of-mention, is that it cannot be said to belong to the genre it mentions. Derrida calls this re-marking, this being inside and outside at the same time, "the law of the law of genre."

The text which raises these issues for Derrida is Maurice Blanchot's short fiction *The Madness of the Day*. It's a text which stages an encounter between the narrating "I" and the law—or rather two encounters, since the law appears in a double guise, both as that which is enforced by its representatives (here medical experts) and as a mysterious, apparently female, figure. Derrida does not minimize the baffling quality of Blanchot's writing: in his introduction to *Parages* (a collection of his essays on Blanchot) he says of his relation to the works one can call "literary," as distinct from those that are more obviously critical or philosophical:

The fictions remained inaccessible to me, as if immersed in a fog from which there came to me only fascinating gleams, and occasionally, but at irregular intervals, the flare of an invisible lighthouse on the coast. I will not say that here they have now emerged from this reserve; on the