KAFKA AND THE CONTEMPORARY CRITICAL PERFORMANCE

Centenary Readings

EDITED BY

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Debts are best repaid under conditions of inflation. Perhaps, for this reason, the language of acknowledgment will often tend to excess and fully warrant suspicion. I trust that in this instance this will not be the case; for the appreciative remarks which follow are, in fact, but poor exchange for the wealth of benefits and kindnesses I have received.

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DEVANT LA LOI

Jacques Derrida
(translated by Avital Ronell)

> . . . science does likewise (and our law, it is said, even has legitimate fictions on which it bases the truth of its justice).
>
> Montaigne, Essays II, 12

One title occasionally resonates like the citation of another. But as soon as it names something else as well, it no longer simply cites. Rather, the one title diverts the other for the benefit 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—the account of Kafka, his *récit*, that is, which goes by the title "Vor dem Gesetz" or, in English, "Before the Law." While the translation of the title may appear problematical, in three words "Before the Law" 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 man from the country who begs for admittance to the Law. But the doorkeeper says that he cannot admit the man at the moment. The man, on reflection, asks if he will be allowed, then, to enter later. 'It is possible,' answers the doorkeeper, 'but not at this moment.' Since the door leading into the Law stands open as usual and the doorkeeper steps to one side, the man bends down to peer through the entrance. When the doorkeeper sees that, he laughs and says: 'If you are so strongly tempted, try to get in without my permission. But note that I am powerful. And I am only the lowest doorkeeper. From hall to hall, keepers stand at every door, one more powerful than the other. And the sight of the third man is already more than even I can stand.' These are difficulties which the man from the country has not expected to meet, the Law, he thinks, should be accessible to every man and at all times, but when he looks more closely at the doorkeeper in his furred robe, with his huge, pointed nose and long, thin, Tartar beard, he decides that he had better wait until he gets permission to enter. The doorkeeper gives him a stool and lets him sit down at the side of the door. There he sits waiting for days and years. He makes many attempts to be allowed in and wearies the doorkeeper with his importunity. The doorkeeper often engages him in brief conversation, asking him about his home and about other matters, but the questions

are put quite impersonally, as great men put questions, and always conclude with the statement that the man cannot be allowed to enter yet. The man, who has equipped himself with many things for his journey, parts with all he has, however valuable, in the hope of bribing the doorkeeper. The doorkeeper accepts it all, saying, however, as he takes each gift: 'I take this only to keep you from feeling that you have left something undone.' During all these long years the man watches the doorkeeper almost incessantly. He forgets about the other doorkeepers, and this one seems to him the only barrier between himself and the Law. In the first years he curses his evil fate aloud; later, as he grows old, he only mutters to himself. He grows childish, and since in his prolonged study of the doorkeeper he has learned to know even the fleas in his fur collar, he begs the very fleas to help him and to persuade the doorkeeper to change his mind. Finally his eyes grow dim and he does not know whether the world is really darkening around him or whether his eyes are only deceiving him. But in the darkness he can now perceive a radiance that streams inextinguishably from the door of the Law. Now his life is drawing to a close. Before he dies, all that he has experienced during the whole time of his sojourn condenses in his mind into one question, which he has never yet put to the doorkeeper. He beckons the doorkeeper, since he can no longer raise his stiffening body. The doorkeeper has to bend far down to hear him, for the difference in size between them has increased very much to the man's disadvantage. 'What do you want to know now?' asks the doorkeeper, 'you are insatiable.' 'Everyone strives to attain the Law,' answers the man, 'how does it come about, then, that in all these years no one has come seeking admittance but me?' The doorkeeper perceives that the man is nearing his end and his hearing is failing, so he bellows in his ear: 'No one but you could gain admittance through this door, since this door was intended for you. I am now going to shut it.' ''

A slightly heavy accent needs to be placed on certain axiomatic trivialities or on certain 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 myself a little rashly, perhaps, to our community of subjects, which assumes a participation in the same culture and subscription to the same system of values in a given context. In what, then, do these consist?

The first belief of an axiomatic bent involves our recognition that the text I have just read has its own identity, uniqueness, and unity: these we consider as inviolable, however enigmatic the conditions of this self-identity actually remain. There is a beginning and an end to this *récit* whose boundaries or limits seem assured 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

*Translator's Note. Ever since following the injunction issued by another law, in "The Law of Genre" (*Glyph 7*, The Johns Hopkins University Press, 1980, pp. 176–233), I have found it useful to retain the seemingly French designation of *récit*, although "story," "relation," "narration," and "account" all capture the basic drift of its possible meanings. In keeping with the text, its acute sense of nuance and unfolding, I have decided to preserve the *récit* until the time came to cross over to the somewhat less vulnerable English terms. As regards the potential genderizing strength of Derrida's reading of the Law, readers may be interested in comparing with the French rendering the apparently neutralized German version of "The Law of Genre" crafted by Friedrich Kittler.

German language. According to the most widespread beliefs in these localities, 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, unicity, 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 pertaining to an 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 narrative account. Again, it is required and guaranteed by law that the difference between the presumed reality of the author, bearing the name of Franz Kafka, and whose civil status is registered by authority of the state, be one thing, while the fictitious characters within the account another. This difference implies a system of laws and conventions without which the consensus to which I am presently referring, within a context that we to some extent share, could never have the chance of appearing—whether it is well founded or not. As regards this system of laws, we can know at least its apparent history and the judicial events that have accentuated its becoming in the form of positive law. This history of conventions is quite recent, and what 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 problematical because nothing allows a decision to be made that would tell us whether the unfinished state of the work is a real or feigned accident or, in order to deceive us, a simulacrum calculated 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 legend of the Holy Grail, for example, still raises such problems (complete or incomplete, real or feigned incompletion, the inscription of authors within the narrative account, pen names and literary rights).[1] Without wanting to void these differences and historical mutations in this respect, one can be sure that, according to modalities which are each time original, these problems arise for every work at all times.

Our third axiom and presupposition is that in this text, bearing the title "Before the Law," there is a récit or story, and the story belongs to what we call literature. There is something of a récit, a story, or a narrative form in this text; the narration carries along everything that follows upon it; 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,[2] let me simply note in a preliminary way that this narrativity, in this particular case, belongs, we think, to literature. To this end, I appeal once more to the same basic consensus which was previously established. Without yet touching upon the contextual presupositions of our consensus, I take it that we are dealing with what seems to be a literary récit—a literary account or narration (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 récits do not belong to literature, for example historical chronicles 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 "Before the Law" defines itself as a literary phenomenon for us, nor as fictional narrative, or allegorical, mythical, symbolic, parabolic, and so forth. There are fictions, allegories, myths, symbols, or parables that are not properly literary. What then decides the adherence of "Before the Law" to what we think we understand under the name of literature? And who decides? 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*, that is, poetry or discursive art in general, although these distinctions remain problematical.

The double question, then, would be as follows: "Who decides, and according to what criteria, the membership of this narrative in literature?"

So as not to deplete the temporal economy of which I have to take account, I shall say without further delay that I cannot give nor am I withholding a response to such a question. Perhaps you will suppose 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 put, 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 literary domain strictly identifiable as such; or, indeed, that this name of literature perhaps is destined to remain improper, without an 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 may be right. However, I am not so much interested in the generality of these laws or these problematical conclusions, but rather in the singularity of a process which, in the course of a unique drama, summons them before the irreplaceable body, before this very text, before "Before the Law."

Relation to the law is singular—there is a law of singularity which must enter a relation without ever coming into contact with the general or universal essence of law. However, the singular text in this case names or relates in its way this conflict of non-encounter between law and singularity, this paradox or enigma of being-before-the-law; and *ainigma*, in Greek, is often a relation, a récit, the obscure word for an apologue: "the man from the country had not expected such difficulties. Surely the law should always be open to everyone. . . ." The answer, if we can still call it that, comes at the end of the récit, which also marks the man's end: "The doorkeeper, recognizing that the man is nearing his end, shouts out to reach his failing ear: 'Nobody else could find admission here, because the gate was meant for you alone. Now I shall go and shut it.' "

Without offering a response, my sole ambition therefore will be to focus, at the risk of deforming, this double question (who decides, and with what entitlement, on what belongs to literature?) and, above all, to summon before the law the pronouncement (*l'énoncé*) itself of this double question, indeed, as is frequently said in France today, the subject of its enunciation. Such a subject would claim to read and understand the text entitled "Before the Law" as a récit and classify it conventionally as literature; s/he would believe that s/he knew what literature was and merely wonder, being so well provided: what authorizes me to determine this récit as a literary phenomenon?

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

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

In this place, the expression in quotation marks is the title of a récit. This comprises 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 in a specific place, highly determined and regulated by conventional laws: before 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 an editorial representative whose property it is. The title names and guarantees the identity, the unity and boundaries of the original work which it heads. It is self-evident that the power and import of a title have an essential rapport to something like the law, regardless of whether we are dealing with titles in general or with a specific title of a work, be it literary or not. A sort of intrigue is already apparent in a title which names the law ("Before the Law"). It is as if the law had entitled itself or as if the word "title" had insiduously presented itself in the title. But let us suspend this intrigue, if only for a moment, and stress instead the topology.

Another intriguing aspect involves the sense of the title which 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 normally proscribed 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 récit, of which it constitutes part of the first sentence, "Vor dem Gesetz steht ein Türhüter" "Before the law there stands a doorkeeper." While we can presuppose the same meaning to underlie these two occurrences of the same expression, they are homonyms rather than synonyms, for they do not name the same thing; neither do they have the same reference or the same value. On either side of the invisible trait 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, however, designates a situation, the site where the character is localized within the internal geography of the récit. The one, 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 other is also at the head of the text, before it, but also in it; this is a first internal element of the narration's fictive content. And yet, though outside the fictional narration or the story that the account tells, the title ("Before the Law") remains a fiction that likewise bears the signature of the author or a representative. We would contend that the title belongs to literature even if its belonging has not the structure nor the status of what it titles, and to which it remains essentially heterogenous. 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 and attribute to it rights of authorship and the like. However, this function does not operate like the title of a non-literary work, say a textbook of physics or law.

I shall now attempt to give a reading of "Before the Law," which is a work called literary but obviously rich in philosophic content at the point where the difference between philosophy and literature seems both most certain and least clear. A man from the countryside, I too here find myself before a law to which I shall doubtless never gain access. Perhaps I should state at the outset that my reading has been inflected by a seminar at the Ecole Normale Supérieure last year, during which I had to tease out Kafka's narration, or rather it teased 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, symbol, and type in Kant's doctrine. Kant speaks of a *typology* and not a schematism for practical reason; of a *symbolic* presentation of moral goodness (the beautiful as a symbol of morality, § 59 *Critique of Judgment*); and finally, of the 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 a teleology of history and with the possibility of unlimited progress. I tried to show how Kant almost introduced narrativity and fiction into the very core of legal thought when it 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.[3] Two other motifs arrested my attention which were among those pointing to Kafka's tale: the motif of height and the sublime that plays an essential role in it, and that, finally, of guarding and the guardian.[4] This, in broad outline, served as the context from which I read "Before the Law." A space, then, in which it is difficult to say whether Kafka's récit proposes a powerful, philosophic ellipsis or whether pure, practical reason retains an element of the fantastic or of narrative fiction. One of the questions might have been put forth as such a pronouncement: What if the law, without being transfixed by literature were possible only under the same conditions as literary works?

Let me formulate this question in the briefest manner, and therefore I will speak of an appearance, in the legal sense, of the récit and the law, which appear together and find themselves summoned each before the other: the account, a certain type of *relation*, is linked to the law that it relates, appearing, in so doing, before that law (*elle*), which appears before it (*lui*). And yet, as we read, nothing really presents itself in this appearance; and just because this is given to us as reading material 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 récit. To be invested with its categorical authority, the law should be without history, genesis, or any possible derivation. That would be the law of law. Pure morality has not history, as Kant appears to remind us. It has no intrinsic history. And when one tells stories on this subject, they can only concern circumstances, events external to the law and, at best, the modes of its revelation. Like the man from the country in Kafka's account, narrative relations would try to approach the law and make it present, to enter into a relation with it, to enter it and become *intrinsic* to it, but none of these things can be accomplished. The récit of these maneuvers merely would be an account of that which escapes the récit and which remains finally inaccessible to it. However, the inaccessible agitates from its place of severance. One cannot be closely or distantly concerned with the law, or with the law of laws, without asking where it has its place and whence it came. I say "the law of laws" because Kafka's récit does not let us know which kind of law is meant, the moral, civic, or political or any other law. 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, in other words, rendering irresistable the journey towards the place and the origin of law. The law yields while withholding, 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 no longer depended on its historical presentation. At the same time, it is to let oneself be enticed, provoked, and enjoined by the history of this non-history. It is to let oneself be tempted by the impossible: a theory of the origins of law, and therefore of its non-origin, for example of the 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 a response 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 Lectures 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 also tells me *as I knew already* (emphasis added), although I actually know nothing about it, that I shall soon discover the source of morality" (Letter 64; May 31, 1897). There follow some accounts of dreams, and four months later another letter announces "the conviction that in the unconscious there is no indication of reality, so that we cannot distinguish between truth and fiction invested with affect" (Letter 69; September 21, 1897). Some weeks later still, there is another letter, from which I quote the following lines:

> . . . after the frightful pangs of labour these last weeks, I have given birth to a new body of knowledge. Not entirely new, of course; it had repeatedly shown itself and then withdrawn again. However, this time it stayed and has seen the light of day. It is rather odd, I had a presentiment of such events a long time before. For example, I had written to you in summer that I should discover the source of normal sexual repression (morality, sense of decency, and so on) and for a long time afterwards I have failed.

> Before the holidays I had told you that my most important patient was myself; and then, suddenly, on returning from my holidays, my self-analysis, which at that time had given me no sign, began again. Some weeks ago I desired that repression be replaced by the essential thing that lies *behind* it [my italics] and that is what occupies me now.

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, a certain *elevation*.[5] The passage to the upright position raises man, thus distancing his nose from the sexual anal or genital zones. This distance ennobles his height and leaves its traces by delaying his action. Delay, difference, and ennobling elevation, removing the olfactory sense from the smell of sex, repression, these are the origin of morals:

> To put it crudely, memory reeks just as a material object does. Just as with disgust we turn our sense organ (head and nose) from reeking objects, so the pre-conscious and consciousness turn away from memory. That is what is called repression. What follows from normal repression? A transformation of liberated fear into psychically "linked" rejection; that is, repression gives the affective foundation of many intellectual processes, such as morality, decency, and so on. The whole set of these reactions occurs at the expense of (virtual) sexuality by way of extinction.

Whatever the initial poverty of this notion of repression, the only example of "intellectual process" that Freud gives of it is the moral law of 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, removal of impurity, of the zones of the body that are malodorous and must not be touched. The turning away is an upward movement. The high (and therefore great) and the pure, these produce repression as origin of morality, that which is undeniably of higher value (*vaut mieux*). 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 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 hunted down the origin of law, and for that he had to sense the scent. He thus set in motion a great narrative, an interminable auto-analysis, to tell, to give an account of the origin of law, in other words the origin of what, by cutting loose from its origin, interrupts the genealogical narrative. The law, intolerant of its own history, intervenes as an absolutely emergent order, absolute and detached from any origin. The law appears as something that does not as such appear in the course of history. At all events, the law cannot be constituted by some history that might give rise to any récit. If history there were, it could be neither presentable nor relatable: the history of that which never took place. Freud sensed it, he had a nose for this sort of thing, even a "presentiment," as he says; and he told Fliess of this—Fliess, with whom an incredible story of noses was unfolding, lasting until the end of their friendship. The end was marked by a postcard of two lines.[6] Had we followed this line, we should have had to speak of the shape of the nose, pointed and prominent. This has given

rise to all manners of discussion in psychoanalytic circles, but perhaps one has not been overly attentive to the hairs within nostrils which are sometimes indecently exposed—to the point, indeed, that they sometimes have to be trimmed.

If, without entering the issue of any relation between Freud and Kafka, we now face "Before the Law" and the doorkeeper (the *Türhüter*), and settling before him like the man from the country, we observe him, what do we see? What feature captivates us to the point that we isolate and fixate upon it? Clearly the hairy setting, whether natural or artificial, around pointed shapes, and to begin with the nasal protuberance. All this is rather dark, and the nose comes to stand for that genital zone which is thought of as dimly obscure even though it may not always be so 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. "The man from the country had not expected such difficulties. Surely the law should always be open to everyone, but on looking more closely [*genauer*] at the doorkeeper with his fur coat [*in seinem Pelzmantel*] [the artificial hairy adornment, that of town and law, which will be added to the natural hairiness] and his pointed nose and the long, thin, black Tartar beard, he decides rather 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 receives 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 markings lead to a logical inference. The grammatical structure of the sentence promotes this reflection: as soon as the man from the country sees the doorkeeper with his big, pointed nose and his thick, black hairs, like a dark forest around a promontory point or nasal protuberance, a strange yet simple consequence follows quite naturally (we might say *uncannily*, *unheimlich*), namely, that the man resolves and decides. For he is a man of resolution. Will he decide to renounce entry after appearing decided to enter? Not in the least: he decides to put off deciding, he decides not to decide, he delays and adjourns in waiting. But waiting for what? For "permission to enter," as it is expressed. Surely you have noticed that such permission has never been refused him.

Let us, too, abide. But do not venture to believe that I am stressing this narration 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. What holds us in an arrested state before the law, like the man from the country, is surely also what paralyzes and detains us when confronted with a récit: is it not its possibility and impossibility, its readability and unreadability, its necessity and prohibition, and those possibilities, as of the relation, repetition, and history?

This seems at first sight to be due to the essentially inaccessible character of the law, to which always the "at first" is refused, as the title and incipit already suggest. In a certain way, "Vor dem Gesetz" is the narration of this inaccessibility to the narration: it is the story of this impossible story, the map of the forbidden path. No itinerary, no method, no path to accede to the law, to what would happen

there, to the *topos* of its occurrence. All this 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 her accessibility; is she not or *must* she not be so "always and for everyone?" Here we could mention the problem of exemplarity, for example, in Kant's notion of "respect": this is only the *effect* of the law, Kant emphasizes, it is only due 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 persons, one is never *immediately* before any of these authorities; as for the detour, it may be infinite: the universality itself 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 récit.

The law should always be accessible to everyone, the man from the country thinks. It should be universal. By the same token, no one, we maintain in French, is supposed to be ignorant of the law, 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 acting on their behalf—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, properly intangible *precisely because it can be read*, 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 to read, he is still bound up in unreadability within that very thing which appears to yield a reading. He wants to see or touch the law, approach and "enter" her, 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 she imposes upon the man from the country. The gate is not shut, it is "open as always" (thus the text), but the law remains inaccessible; and if this is interdictory, barring the gate to genealogical history, it also holds in a state of breathlessness a desire for the origin or genealogical drive. The desire is broken-winded equally before the process of the law's engenderment as before (the) parental generation. Historical research leads the *relation* towards an impossible exhibition of site and event, a taking-place where law originates as forbidding. The law as forbidden: let us abandon this formula, suspend it for the time of a delay. When Freud goes beyond his initial schema for the origin of morality and calls the imperative categorical in Kant's sense, he does so within a seemingly historical framework. A 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 first ethical precepts and restrictions of primitive societies must have been conceived by us as a reaction to a primitive act which for its perpetrators was the origin of the concept of "crime." Repenting of this act [we might well ask how and why, since this happened *before law* and morality existed. JD.], they decided that it must never happen again and that in any case if it did, it would no longer yield advantage or

> benefit to anyone. This feeling of responsibility which has brought forth creative work of all kinds, is not yet extinct amongst us. We find it in the neurotic who expresses it in an asocial manner, by setting up new moral rules, imagining new restrictions, in order to expiate past misdeeds and forestall possible future ones.

Going on to the totemic meal and the first "feast of mankind" to commemorate the murder of the father and the origin of morality, Freud emphasizes the son's ambivalence towards the father, and in a movement that I shall call indeed repentance, he appends a note that I might add is important for me. It explains the excess of tenderness induced by an increased horror that rendered the crime utterly useless. "No son was able to satisfy his primal desire to take the father's place." The murder founders because the dead father holds even more power. Is not the best way of killing him to keep him alive (and finite)—and the best way of keeping him alive to kill him? The miscarriage of the murder, Freud specifies, is even more favorable to a moral reaction. Thus morality arises from a useless crime which at bottom kills nobody, is perpertrated too soon or too late; in fact, it inauguates nothing since repentance and morality had to be possible before the crime. Freud appears to cling to the reality of the 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 "misdeed" to carry, it must be somehow spun from fiction. Everything happens *as if*. The guilt is none the less effective and painful for that: "The dead man became more powerful than he had been when alive; all this we still observe today in men's destinies." Since the father dead is more powerful than when he was alive and, very logically, he would have been dead in life—more dead alive than *post mortem*, 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. Even without event, pure event where nothing happens, the eventing of an event which both demands and annuls the narration in its fiction. Nothing new comes about, and yet this nothing new is supposed to instate the law, the two fundamental prohibitions, namely murder and incest. However, this pure event marks an invisible rent in history. It resembles a fiction, myth, or fable, and its récitation is so structured that all questions as to Freud's intentions are at once inevitable and pointless (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 historic referent is, if not annulled, at least irremediably fissured. Demanding and defying the récit-telling, 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 story/*histoire*). This is the origin of literature and of the law at once—like the dead father, a story told, a spreading rumor, without author or term, but an ineluctable and unforgettable récit. Whether or not it is fantastic, or has arisen from the imagination, even the transcendental imagination, and whether or not it reveals the origin of the fantasy, this does not diminish the imperious necessity of what it tells, its law. This law is even more frightening and fantastic, *umheimlich* or uncanny, that if it emanated from pure reason, unless precisely the

latter be linked to an unconscious fantastic. As of 1897, Freud, as said, stated his "conviction that the unconscious contains no clue of reality, so that we cannot distinguish truth from fiction charged with affect."

If the law is fantastic, if its original site and occurrence are endowed with the virtues of a fable, we can see that "das Gesetz" remains essentially inaccessible even when it, law, presents or promises itself. In terms of a quest to reach the law, in order to stand before the law, face to face and with respect, or to introduce oneself to her and into her, the récit becomes the impossible récit of what is impossible. The récit of the forbidden is a forbidden récit.

Did the man from the country wish to enter or merely to come to 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 also comes before the law as the country comes before the town, does not want to stay before the law. This may mean that he respects her: 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 upright before the law, the guardian enforces respect for it. Posed for surveillance, he does guard duty *before the law* by turning his back to it, without facing up to her, as it were, and thus not "in front" of it; he is a sentry guarding the entry to the edifice and maintaining the respect of visitors who present themselves before the castle. The inscription "before the law" therefore divides once more: according to its textual place, it was in a certain sense twofold already, as title and incipit. It further redoubles in what it says or describes: there is a division of the territory and an absolute opposition in the situation with respect to the law. The two characters in the récit, 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 other, the man from the country, is also before the law but in a contrary position, insofar as one can suppose that, being prepared to enter, he also faces her. The two protagonists are both attendant before the law but opposing 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 invisible line that divides and separates and of itself renders divisible a unique expression. It splits the trait.

This can happen only with the rise of an entitling authority, in its topical and juridical function. That explains my interest in this account 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. He presents himself 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 therefore is in front of the law without ever facing it; while he may be in front of it, he thus never affronts 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 Türhü-

ter''); these words come to signify something else entirely, perhaps even the opposite of the title that reproduces them, just as some poems receive as their title the beginning of a first verse. I repeat here that the structure and function of the two occurrences and the two events of the same mark are certainly heterogenous, 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 *coup de force*, for example with respect to *The Trial*, from which the story is torn to become another institution. Without reviving 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 two antagonisms of two characters equally concerned with her. The inaugural 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 presented to her 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 her. Neither is in the presence of the law. These only two characters in the récit are blind and severed from one another, and from the law. Hence the modality of this rapport, of this relating, of this narration: blindness and separation, a kind of rapportlessness. 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''): ''I am powerful and I am only the last of the doorkeepers [the lowest in hierarchy, *der unterste*]. From hall to hall there are other doorkeepers, each more powerful than the last. The sight of the third is already too much even for me to bear'' (''den Anblick . . . ertragen''). The last doorkeeper 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. The first-final doorkeeper never sees the law; he cannot even bear the sight of the doorkeepers who are *before* him (earlier and higher than he). This is inscribed in his title of doorkeeper. He is in full view, observed even by the man who, in his own view, decides not to decide. ''Man'' here stands for the man from the country, as sometimes in the récit which suggests that the doorkeeper is perhaps no longer just a man, while the ''man'' is, like anybody, man-in-general, the anonymous subject of the law. This one thus decides that he had better wait, at the very moment when his attention is attracted by the pilosity and the pointed nose of the doorkeeper. His resolution of non-resolution brings the narration into being and sustains it. Yet permission had never been denied him: it had merely been delayed, adjourned, deferred. All is a question of time, and it is the time of the récit; however, time itself does not appear until this adjournment of the presentation, until the law of the delay, and until this anachrony of the relating.

The present interdiction of the law is not an interdiction in the sense of an imperative constraint; it is a *différance*. For after having said ''later,'' the doorkeeper specifies: ''If you are so keen, try and enter in spite of my veto.'' Earlier he had said merely ''not now.'' He then merely steps aside and lets the man stoop to look inside through the door, which always remains open, marking a limit without itself posing an obstacle or barrier. While it is a mark, the door 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 directly forbidding but interrupting and deferring passage, withholding a pass. The man disposes of natural, physical liberty to penetrate these spaces, if not the law. He must therefore refrain from entering. This self-imposed ruling is designed not so much to obey the law but rather not to gain access to it because it somehow tells him or lets him know: do not come to me, I order you not to come as far as me. It is there, and it is in this that I am law and you will accede to my demand without gaining access to me.

For the law is the forbidden, a terrifying doublebind in its own operation. It is the forbidden: this does not mean that it forbids, but that it is itself forbidden, a forbidden place. It interdicts and contradicts itself by placing the man in his own contradiction: one cannot reach the law, and in order to have a rapport of respect with it, *one must not—one must not* have a rapport to the law but *must disrupt the relation.* One must *enter into relation* only with the law's representatives, its examples, its guardians. And these are the interrupters as well as the 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 law. Thus must it be, *ci falt*, as it was written at the end of a medieval account.[7]

This, then, is the trial and judgment, process and *Urteil*, the originary division of law. The law is forbidden. But in this contradictory self-prohibiting, it leaves man "free" in the matter of self-determination, although this freedom lapses in that, through self-interdiction, he cannot enter. Since he stoops to view the inside, he must tower over the open door—a question of size, yet to come. On observing the doorkeeper more carefully, he decides to await a permission given and deferred at once, although the first doorkeeper's hint suggests that the delay will be indefinite. After the first guardian there are incalculably many others, perhaps without limit, and progressively more powerful and therefore prohibitive, endowed with the power of delay. Their potency is *différance*, an interminable *différance*, since it lasts for days and "years," indeed, to the end of (the) man. *Différance* till death, and for death, without end because ended, finite. 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 finished and finite and brutally, one could say primally, cut short, interrupted.

What is delayed is not this or that experience, access to some enjoyment or to some supreme good, 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 and deferring the "ferance," the reference, rapport, and 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 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 attain to her, and she never arrives on the grounds of an original and proper taking-place.

The récit (of what never arrives) does not tell us what kind of law manifests itself in its non-manifestation: natural, moral, juridical, political? As to gender, the German is neuter, *das Gesetz*, neither feminine nor masculine. In French, the feminine determines a semantic contagion that we cannot forget, any more than we can ignore language as the elementary medium of the law. In Maurice Blanchot's novel *La folie du jour*, we can speak of an apparition of the Law, and it is a feminine "silhouette," neither man nor woman, and yet a feminine silhouette come as companion to the quasi-narrator of a forbidden or impossible narration (that is the whole story of this non-récit). The narrative "I" frightens the Law, which seems to be afraid and to retreat. As concerns the narrator, another analogy without a 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.

In our case, we know neither who nor what is the law, *das Gesetz*. This, perhaps, is where literature begins. A text of philosophy, science, or history, conveying knowledge or information, would not give up a name to a state of not-knowing, and if it did then only by accident and not in an essential or constitutive way. Here one does not know the law, we have no cognitive rapport to it; it is neither a subject nor an object *before* which one could maintain oneself. Nothing is maintained before the law; it is not a woman or feminine figure, even if man, both human and male—*homo* and *vir*—wants to enter or penetrate (that, precisely, is the trap). Nor yet is the law a man; she is neutral, beyond grammatical sex and gender, and remains thus indifferent, impassive, little concerned to answer *yes* or *no*. It lets the man freely determine himself, lets him wait, and abandons him. Neuter, neither in the masculine nor in the feminine, it is 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 *La folie du jour* calls the "knee" of the Law? Unless indeed law is lying down, or as we say of justice and its representatives, it may be "seated." The law would then not be upright, 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 having to stand/sit. At the beginning, the origin, 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 history, at the end of man, the end of this man's life, the guardian is 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 (*Grössenunterschied*), which gradually alters to the man's disadvantage and seems to measure the time of the history. 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 mean also the relationship of generations. The

child dies old as a small child (on four, two, and finally three legs, and take into account the footstool) before the doorkeeper who grows, standing and overseeing.

The law is silent, and of her nothing is said to us. Except for its common name, and nothing else. In German it is capitalized, like a proper name. We know neither what nor who this is, nor where: is it a thing, person, discourse, voice, document, or simply a nothing that incessantly defers access to itself, abstaining or interdicting itself in order thereby to become something or someone?

The elderly child finally becomes almost blind but hardly knows it: "he cannot tell whether his surroundings are growing darker or whether his eyes deceive him. However, in the dark he now sees an unquenchable brightness from the gate of the law." This is the most religious moment of the piece.

There is here an analogy with Judaic law. 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 [*sinnvoll*] to command his respect; and when he thought he was entering into the secret [*Geheimnis*] before the ultimate spectacle, he felt mystified, disappointed, deceived [*getäuscht*]. He found what he sought in "an empty space" and concluded from this that the genuine secret was itself entirely alien and extraneous to them, the Jews; it was unseen and unfelt (*ungesehen und ungefühlt*).

Guardian after guardian, this differential topic adjourns within the polarity of high to low, far to near, *fort/da*, now to later. The same placeless topic, the same madness defers the law as the abstaining nothing and neuter that annuls oppositions. The atopy 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 récit. The differential atopy pushes the repetition of the récit before the law, and thus both to bestow and take away its title of récit. This applies both to Kafka's signed text entitled "Before the Law" and to the passage in *The Trial* that seems to recount the same story, condensing the whole *Trial* in this scene of "Before the Law." It is beyond our present scope to reconstitute this storyless story or récit without récit 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 so-called "literary" narration 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 last récit robs us of every event; it is a pure narration; a narrationless narration is found to be implicated by philosophy, science, and psychoanalysis as much as by the aforesaid literature. I conclude.

These are the doorkeeper's last words: "Now I shall go and shut it," I conclude ("Ich gehe jetzt und schliesse").

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 or before the text entitled

"Vor dem Gesetz" (*vor* being the preposition inscribed in the attendant title, "Before the Law"), what does or does not happen, its place and non-place *ante portas*, is this not precisely a hymen with the law, the entry (*Eintritt*) into law? The adjournment until the death of the elderly child, the *petit vieux*, can be interpreted either as non-penetration by premature ejaculation or as non-ejaculation. The result is the same, the judgment and conclusion. The tabernacle remains empty and the dissemination inevitable. Rapport to the law remains interrupted, a without-rapport 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 to question what we unflinchingly call sexual relations, beginning with the récitless récit of the law? No doubt this applies equally to so-called normal relations.

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

Is this not in sum what the guardian says? Is it not "there is place for you here, there is ground for you. . . ." There is ground for you. For what, we do not know, but there is ground. Il y a lieu. He is not *ante portas* but *ante portam*, prohibiting nothing, not guarding the doors but the door. And he insists upon the unicity of this singular door. The law is neither manifold nor, as some believe, a universal generality. 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. Thus runs the account of an event that, arriving at not arriving, succeeds in not succeeding. "The doorkeeper, recognizing that the man is near the end, shouts out to reach his failing ear: 'Nobody else could find admission here, because the gate was meant for you alone. Now I shall go and shut it.' "

The French translation has him going to close the door. However, he asserts, without naming the door that I am going to close, I am closing, I conclude.

Well, this is the final word, the conclusion or closure of the récit.

The text would be the door. To conclude, let me start from this sentence (citation for arrest or the judgment) issued by the doorkeeper from this conclusion of the doorkeeper: he will have closed the text. Which nevertheless shuts on nothing. The récit "Before 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 unreadability 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, maintains itself—like the law, speaking only of itself, that is to say, of its non-identity with itself. It neither arrives or achieves nor allows anything to achieve it. It is the law; it legislates and leaves the reader before the law.

To be precise: We are before a text that, saying nothing definite and presenting no identifiable content beyond the récit itself, except for an endless *différance,* till death, nonetheless remains strictly intangible. Intangible: by this I understand inaccessible to contact, impregnable and finally not graspable, incomprehensible—but also indeed that which we have not the *right* to touch. This is an "original" text, as the saying goes; 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 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 legal representatives and identified by its title, which according to civil status is its proper name, and frames it between its first and last word. Anyone who would impair 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 guardians and men from the country. On both sides of the frontier.

The title and the initial words are, as said, "Before the Law"; precisely, and again, "Before the Law."[1] The last words are "Now I shall go and close it." This "I" of the doorkeeper is also that of the text or of the law, announcing the identity in itself of a bequeathed corpus that pronounces the non-identity in itself. Neither identity nor non-identity is natural, but rather the effect of a juridical performative. This (no doubt what we call the writing, the act and signature of the "writer") poses *before* us, preposes or proposes a text 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 claim as obvious a self-referential form as in this case. At once allegorical and tautological, Kafka's account operates along a framework that is naively referential of the narration which leads us past a portal that it *comports*, an internal boundary opening on and before nothing, the ob-ject of no possible experience.

"Devant la loi," dit le titre. "Before the Law," the title says.

"Devant la loi," dit le titre. "Before the Law" says the title.

The text carries its title and bears upon it. [Le texte porte son titre et porte sur son titre.]* Its proper object, if it had one, would be, would it not, the effect produced by the play of the title displaying and enveloping within an ellipsis the 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 membership in the corpus is unique. It marks the boundary that guarantees the identity of the

*Translator's Note. The French dimension is semantically rich, preserving the door ("porte") in the place of the title's bearings.

corpus. Between the two "Before the Law" events, within the very repetition, there is a line that passes, separating two boundaries. It splits the boundary by dividing its trait. The homonym remains impassible, however, as if nothing had been of it. It is as if nothing had come to pass (it).

Here I shall interrupt this kind of analysis, which could be carried to much greater length, and return to my initial question.

What would authorize a judgment of this text that would have it belonging to "literature"; and what is literature? No answer will be forthcoming, I fear; does not the question once more betray the rustic simplicity of a man from the country? That in itself would not suffice to disqualify the question, for the man's reason relentlessly claims its rights, being indefatigable at any age.

If we subtract from this text all the elements that might 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 to the play of framing and the paradoxical logic of boundaries, which somehow upsets the "normal" system of reference, while *revealing* an essential structure of referentiality. This obscure revelation of referentiality no more refers than the eventness of the event is an event.

That this nevertheless creates the effect of an oeuvre perhaps makes a gesture toward literature, a sign that may not be sufficient but is necessary: there is no literature without a work, without an absolutely singular performance; that this is irreplaceable again recalls what the man from the country asks when the singular crosses the universal, as any literature must. The man found it hard to grasp that an entrance was singular or unique when it should have been universal, as in truth it was. Literature troubled him.

How can we check the subtraction just mentioned? *The Trial* itself proposes a counterproof. We there find the same *content* though differently framed, with a different system of boundaries and above all without proper title, except that of a volume of a few 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, if it is not content, is also not *form* (the signifying expression, the phenomena of language or rhetoric) but the movements of framing and referentiality.

Each of these two works becomes, along the lines of their strange filiation, a metonymic interpretation of the other. Each becomes a part that is absolutely independent of the other and each time greater than the whole, and each becomes the title of the other.

This does not as yet suffice. If framing, title, and referential structure are necessary for the literary work as such to arise, these conditions of possibility still remain too general and hold for other texts to which we should hardly ascribe literary value. These general possibilities assure the text the power to establish law, its own for a start, provided 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, in a singular manner, this kind of Kafkan récit) before

which we the readers appear as before the law, this text protected by its guardians (author, publisher, critics, academic archivists, librarians, lawyers, and so on) cannot establish law unless a more powerful system of laws will sustain 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 he 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, this place cannot be simply *in* literature.

There is place indeed to imagine as an ensemble a certain historicity of law and a certain historicity of literature. In speaking of "literature" rather than of poetry or *belles-lettres,* we indicate 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 on its title, and the play of the signatures and boundaries, or with those of other bodies, this whole framing system would function differently and under different conventional sanctions. Not that during the Middle Ages it would have failed to rely on institutional protection and supervision—surveillance—but with quite a different way of settling the identity of works, which were more readily delivered to the transformative initiatives of copyists or other "guardians" of grafts or other "authors" (anonymous or not, masked by pseudonyms or not, individuals or more or less identifiable groups).[8] Whatever the structure of the juridical and therefore political institution that protects the work, the latter always is and stays before the law. Only under the conditions of law does the work have an existence and consistency, and it becomes "literature" only at a certain period of the law that regulates problems involving property rights over works, identity of bodies, values of signatures, the difference between creating, producing, and reproducing, and so on. Roughly speaking, this law became established between the late 17th and early 19th centuries in Europe. Still, the concept of literature that upholds this law of works 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 a response that does not involve *différance: plus de loi et plus de littérature,* (no) more law and (no) more literature.

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, in as much as it is itself before the law it expounds, 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 there not place for all literature to exceed literature? What would be a literature that would be only what it is, literature? No longer would it be itself if it were itself. Likewise for the ellipsis of "Before the Law." Surely, one could not

speak of "literariness" as a *belonging to* literature, *la* littérature, as of the inclusion of a phenomenon or object, even an oeuvre, within a field, a domain, a region whose frontiers would be pure and whose titles, indivisible.

Perhaps literature has come to occupy, under historical conditions that are not merely linguistic, a position that is always open to a kind of subversive juridicity. It has occupied this place for some time, without itself being wholly subversive, indeed often the contrary. This subversive juridicity requires that the self-identity of literature never be assured, nor reassuring; and it supposes also a power to produce performatively utterances of law, a law that could be literature, not just a law to which literature submits. Thus literature legislates, arising in that place where law is established. However, under certain determined conditions, it can exercise the legislative power of linguistic performance to sidestep existing laws from which, however, it derives protection and receives its conditions of emergence. This is owing to the referential equivocity of certain linguistic structures. Under these conditions literature can play for law, repeating it while diverting or circumventing and twisting it. These conditions, which are also the conventional conditions of any performative, perhaps are not purely linguistic, although any convention can give rise in its turn to a definition or contract of language in kind. We here touch on one of the most difficult points of this whole problematic: when we must recover language without language, language beyond language, this rapport of mute forces which are however already haunted by writing, where the conditions of a performative establish themselves, as well as the rules of the game and the limits of subversion.

In the fleeting moment when it plays (off the) law, a literature passes literature. It is on both sides of the line that separates law from the above-the-law, it splits the being-before-the-law, it is at once, like the man from the country, "before the law" and before, i.e., "prior to the law," prior to being before the law. But within so unlikely a site, would she, literature, have taken place? Would there have been grounds to name literature?

This has been a scene of reading with little categorical about it. Our setting was a lecture. I have ventured to gloss and to multiply interpretations, to pose and divert some questions. I have abandoned decipherings in mid-course and left enigmas intact. This lecture-scene of an isolated and strictly bounded récit is merely an instance in *The Trial*, which from the outset produces a *mise en abîme* of everything you have just heard. Unless, indeed, the récit "Before the Law" does likewise by means of a more powerful ellipsis in which *The Trial* is engulfed in its turn and we along with it. The temporal sequence is not important here. The structural possibility of this counter-chasm or *abîme* is open, whichever of the two texts was written first.

I therefore leave you with this other récit. There, the speaker who narrates in the account is the priest, and what he says might form a quotation to head another lecture: "You do not have enough respect for what is written, you change the account," he says to K., and further on: "do not misunderstand me, I am merely showing you the views that there are on this point. You must not pay too much

attention to commentaries. The script is immutable and the commentaries often merely express the despair that this causes."

[Translator's note: Derrida's text continues; but, blind and weary, I shut the text-door here.]

NOTES

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

2. Cf. Gerard Genette, "Genres, 'types,' modes," *Poetique*, 32, November 1977, republished with some changes in *Introduction a l'architecture*, Le Seuil, Paris, 1979.

3. It is at this point that the Seminar examined Heidegger's interpretation of "respect" as related to the transcendental imagination.

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

5. This argument should be linked with what Freud later says about Kant, the categorical imperative, the moral law within us, and the starry sky above us.

6. 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 in both sexes, and on the swelling of nasal mucous membranes and the menstrual period.

7. Cf. Dragonetti, p. 9: "CI FALT: 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, unfinished romance by Chrétien de Troyes. Derived from Latin *fallere*, giving 'faillir' ('to fall' and 'to deceive') and 'falloir' ('to be short of'), the verb *falt* (or *faut*), in the Old French formula *ci falt* takes the meaning of 'here ends,' without losing the idea of 'lack' and 'failure.' Thus the work is achieved at the point where it begins to be lacking. Dragonetti's thesis in this book is that the Story of the Grail was quite complete.

8. Dragonetti, pp. 52ff. Cf. also the works of Ernst Kantorowicz, especially his article "Sovereignty of the artist," republished in *Selected Stories*, New York, 1965.