

Legal Arguments

Francis Raven



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BlazeVOX [books]

Buffalo, New York

Legal Arguments by Francis Raven

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Contents

Legal Arguments.....	4
Appendix A: A Short Spirited Defense of My Poetics	11
Appendix B: An Equally Vigorous Denunciation of My Poetics.....	12
Scandal Overturned.....	13
Consolidated	14
{Rapanos v. United States <i>and</i> Carabell v. U.S. Army Corps of Engineers}	14
Mandatory Minimums.....	19
Blind Trust.....	21
Registration Against the Mark.....	22
Visiting the Supreme Court	23
Policy Briefs.....	24
Arbitrary Gavel	25
The Data Quality Act (Public Law 106-554 Section 515)	26
Misappropriation Theory.....	30
If You Were My Orphan I'd Treat You Better Than That	32
Fair Housing.....	33
Personally Identifiable Information.....	36
Judge's Order.....	37
The Sarbanes-Oxley Act of 2002	(Creative Accounting) 38
Radio Frequency Identification (RFID)	40
At the Sidebar.....	42
The History of Copyright.....	43
The Figure of the Reasonable Man	48
Are You Pleading Guilty Because You Are, In Fact, Guilty?.....	49
... for the purposes of human resources.....	50
United States v. Morris—The First Worm	52
Application (mandatory minimums // judicial discretion)	56
Truth in Government	58
Truth in Broadcasting Act of 2005 (S. 967)	59
Truth in Sentencing Act of 1993 (H.R.3584)	60
Truth in Employment Act of 2005 (S.983).....	61
Fuel Economy Truth in Labeling Act of 2005 (S.836)	62
Truth in Political Advertising Act of 1997 (H. R. 423).....	63

Legal Arguments

“... restricted *almost* to the testimony of a witness in a court of law.”¹
— Charles Reznikoff

Epitaph.

The law is for all

best and worst
not for the private man
but for his public hat.
Even the legislator and the philosopher must follow the rules
after generation.

At first, language appears arbitrary
and even is
but after origination
we must all treat it
as natural.

Dialectics:

(a) The Stranger says: “There can be no doubt that legislation is in a manner the business of a King, and yet the best thing of all is not that the law should rule, but that a man should rule, supposing him to have wisdom and royal power...Because the law cannot comprehend exactly what is noblest or most just, or at once ordain what is best for all.”

— Plato, The Statesman

(b) “We are in bondage to the law so that we might be free.”
— Cicero

¹ “Now suppose in a court of law, you are testifying in a negligence case. You cannot get up on the stand and say, “The man was negligent.” That’s a conclusion of fact. What you’d be compelled to say is how the man acted. Did he stop before he crossed the street? Did he look? The judges of whether he is negligent or not are the jury in that case and the judges of what you say as a poet are the readers. That is, there is an analogy between testimony in the courts and the testimony of a poet.” Charles Reznikoff

1.

Buenos Aires, 2005

‘You must sell dresses for the fat girls
or the fat girls
will have nothing to wear to the ball.’

They never have our sizes, never...

To remedy this market failure
all stores must now carry plus sizes
or face fines of up to \$170,000.
No raids have yet been reported,
but inspectors are prepared
to scrutinize merchants’ racks,
“tape measure in hand”²
in order to break the
“tyranny of tiny sizes”
contributing to one of the highest rates
of anorexia and bulimia in the world.

Dialectics:

(a) Approximately 7 million girls and women worldwide struggle with eating disorders.³

(b)

(i) “It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard of their own interest. We address ourselves not to their humanity, but to their self-love, and never talk to them of our own necessities, but of their advantage.”

— Adam Smith

(ii) “Many people want the government to protect the consumer. A much more urgent problem is to protect the consumer from the government.”

— Milton Friedman

² Ana Serrano, provincial director of commerce.

³ The National Association of Anorexia Nervosa and Associated Disorders, Inc. (<http://www.anad.org>)

2.

American Airlines Flt. 6903 (SEA to LAX)
10:30 am Departure⁴

A beer is removed from a ~~punk pinned~~ knapsack,
“I’m sorry you can’t open that. It’s against FAA regulations.⁵
You must purchase all alcohol from us.”

But the young ~~meathead~~ with the beer,
~~not even a microbrew,~~
~~who wore all the easiest attire for maturity to scoff at,~~
~~(bull’s ring through the septum, ugly and cheap tattoos,~~
~~stench of earlier booze, other stench, etc.)~~
was already intoxicated and was ultimately not feeling
~~what the attendant with the wobbling cart~~
~~was trying to impart to him:~~
the tab was pulled as ~~fizz~~ did flow.

Over the PA System we heard
~~(I can’t ever figure out whose voice it is):~~
Please do not get up from your seats.
Police officers will remove an individual from the airplane
before it is safe for the rest of the passengers to exit.

The attendant ~~whispered:~~
“They’re probably just going to scare him,
but it’s airline policy.
We’re required to call the authorities.”

Nevertheless, the handcuffs went on.
Those in the front of the plane
reportedly thought he was a shoe-bombing terrorist.

⁴ “Each passenger can have up to five liters of alcohol with an alcoholic content between 24 percent and 70 percent – as long as it is packaged in a sealable bottle or flask – in their carry-on or checked baggage.” The Transportation Security Administration

⁵ Senator Dianne Feinstein wrote, “In view of the 5,000 ‘air rage’ incidents each year, I believe it is time for the airline industry to set standards voluntarily, or else Congress may well step in. To that end, I am in the process of writing legislation that would limit each passenger to two drinks on domestic flights, regardless of the type of alcoholic beverage served.” Airlines are prohibited from serving alcoholic beverages to any person who appears to be intoxicated, but there is currently no drink limit.

Dialectics:

(a) The United States alone has to up to 15 million alcoholics, as many as 900,000 heroin addicts and 400,000 cocaine abusers. There are another estimated 15 million alcoholics and drug addicts in Europe.⁶ In addition, there are 170 million alcoholics worldwide.⁷

(b) Characteristics of a Monopoly: The Monopolist is a Single Seller; There Are No Close Substitutes for the Monopoly's Good; The Monopolist is a Price Maker; Entry to Market is Blocked; and Nonprice Competition Occurs.⁸ Dangers of a Monopoly: The Monopolist Produces Less than Is Socially Optimal and Deadweight Loss Occurs Under Monopoly Conditions.⁹

⁶ "Biotech takes aim at addictions: DrugAbuse Sciences eyes public offering in 2000," Kristen Bole, San Francisco Business Times, January 29, 1999,

<http://www.bizjournals.com/sanfrancisco/stories/1999/02/01/story8.html>

⁷<http://www.spiritrestoration.org/Church/All%20About%20Church%20Articles/Today's%20Global%20Needs.htm>

⁸ University of Witwatersrand, School of Economic and Business Sciences, <http://www.wits.ac.za/sebs/>

⁹ Sloman, John. Essentials of Economics, (Chapter 6) "Market Failures and Government Policy," Pearson Education Materials, 2003.

3.

Vienna, Austria. December, 2005.

British revisionist historian David Irving
indicted for denying the Holocaust.¹⁰
Argued exaggerated holocaust deaths.
Argued Hitler knew nothing of the genocide.

Except the obvious terror of what we are capable of
was enough to make poetry shudder
and shun its role its role in making life acceptable.

Lost defamation suit
waged
because he was called a liar.¹¹

Dialectics:

(a) “If we don't believe in freedom of expression for people we despise,
we don't believe in it at all.”

— Noam Chomsky

(b) Estimates place the total number of Holocaust victims at up to 26
million people, although the number 9 to 11 million is usually held as
more reliable.¹²

¹⁰ “Austrian law demands incisive action to protect its citizens from a repeat of the past,” said the chairman of the Holocaust Educational Trust, Stephen Smith.

¹¹ The judge in the case called him an “an active Holocaust denier; that he is anti-Semitic and racist and that he associates with right-wing extremists who promote neo-Nazism.”

¹² <http://en.wikipedia.org/wiki/Holocaust>

4.

As I have often appeared for work, disheveled from hasty dressing,
I have remembered fondly the rough shifts of consciousness
Occurring as the spoon flips the heavily sugared biscuit soaked in milk:

*The adult in me likes the wheat side.
But the kid in me likes the frosted side.*

The lightening flash of a business plan juts into bleary-eyed breakfast:
A cereal restaurant poised plainly for dorm living and rushed office drones,
Nearly infinite choice grasping nostalgia's market for forbidden fruits.

*Show'em you're a tiger, Show'em what you can do
The taste of Tony's Frosted Flaaaaakes
Brings out the tiger in you, in you!*

After the processed grains had been beautifully bracketed, dreams were quashed
As the cease and desist letter arrived from Cereality's lawyers. Another cereal
Café on first base first claimed we had violated their business methods patent.¹³

*Puff, puff Cocoa Puffs, chocolate tasting Cocoa Puffs.
Munchy crunchy chocolatey!
As the bird would famously rant¹⁴
I'm coo-coo for Cocoa Puffs!*

Their patent¹⁵ included the most basic methods and system of selling cereal
Such as "displaying and mixing competitively branded food products"
and adding "a third portion of liquid." This liquid was, in most cases, milk.

Dialectics:

¹³In 1998, in the landmark case *State Street Bank v. Signature Financial Group, Inc.*, the Third Circuit Court of Appeals ruled business methods patentable. [T]he Third Circuit ruled that as long as a given business method or software produced a 'useful, concrete, and tangible' result--in this case the numerical value of the pooled mutual funds--it was suitable for a patent. The decision came just as Internet commerce was exploding, and the USPTO, taking its marching orders from the courts, began issuing patents for everything from the hyperlink to the pop-up window to a 'method of effecting commerce in a networked computer environment in a computerized system.'" (Christopher Hayes, "Snap, Crackle ... Patents," *In These Times*, January 6 2006).

¹⁴ However, "[t]he number of business-methods patents is not overwhelming; in 1999, 600 were issued out of a total of 169,000 patents" (The Competitive Enterprise Institute, 2001).

¹⁵ The U.S. has issued over 7 million patents since 1790 when the U.S. Patent and Trademark Office (USPTO) was established.

(a) “Patent law gives pharmaceutical researchers the basic incentive to conduct research and discover new cures. This incentive is established in the U.S. Constitution, which gives Congress the power “To promote the Progress of Science and useful Arts, by securing for limited times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”

—Pharmaceutical Research & Manufacturer’s Association

(b) “The argument against business method patents tends to be made in four ways. First, the claim is made that business methods are too abstract to enable the law to limit the patent monopoly so as to properly balance rewards for innovation and the demands of free competition. Second, opponents point to the high social costs of business method patents. Third, they argue that patents are unnecessary as incentives for the development of business methods. And finally, even in the marginal case in which competitive advantage may be insufficient to spur investment in improved business methods, opponents question whether overall social welfare would be increased by patenting.”

—Oxford Intellectual Property Research Centre

Appendix A: A Short Spirited Defense of My Poetics

I've always thought of a jury as the perfect model for the artistic soul. Too much value is placed upon the subtlety of emotions. Poetry, for this reason, has been led astray. What is needed is the gavel; the judgments of individuals arriving at a consensus on the life or death of an image. This is the ultimate poem. Perhaps I think this because my father was a lawyer and we can reinsert Freud into the robe I played with as a child. I thought it was a dress. Sexy, I felt. But then I woke to find myself undeniably, yet incomprehensibly, dignified in the eyes of the law. Equally held yet exceptionally able; this is my vision of poetry for the ages.

Appendix B: An Equally Vigorous Denunciation of My Poetics

I mean, you're saying that poetry is the same as the law? I don't really even know how to respond. I mean, it's about spirit and emotion and emotion's relationship to language and we can't get out of that, but to the extent that we can, that's poetry. The law closes possibilities off while poetry opens them. And I need to be opened through poetry.

Scandal Overturned

The cash of flowers privately, privately
grossed revenues in the neighborhood of 'baloney'
retailed ground political pork
pressed cold cuts to the cheek
wiped grease from the lips
 with which to bake mouth melting ginger snaps
but if REPRESENTATIVE 1 wants to avoid conspiracy charges
he "better think long and hard about every conversation"
 exchanged with CONSULTANT 1¹⁶

 remember if he knew then
 reversing itself, swallowing its own head (retirement)

rose thorns set a precedent for blood
a super-precedent? you ask, perhaps a super-duper-precedent?
we've moved on to lilies
 'no stand by that which is decided'

several (white now, gaudy the, guilty always) statues are plotted
on pillows to sink impressions for petals' decision.

¹⁶ On the day of Clinton's grand jury testimony concerning his relations with Monica Lewinsky Tom DeLay's spokesman emailed a message that read, "You kick him until he passes out. Then beat him over the head with a baseball bat, then roll him up in an old rug and throw him off a cliff into the pounding surf below!!!!!" Scanlon recently pled guilty to defrauding Indian tribes of \$millions\$.

Consolidated

{Rapanos v. United States and Carabell v. U.S. Army Corps of Engineers}

*Wood ducks flush as this iron horse
gulps its commuters' coffee:
the creases in my suit
conceal coming oral arguments
concerning wetlands.*

1.

Rapanos owns three parcels of land /
in the State of Michigan /
known as the Salzburg, Hines Road, and Pine River sites. /
In the 1980's and 90's, /
he hired contractors /
to prepare these sites for development. //

The government contends the site preparations resulted /
in the unauthorized filling of jurisdictional wetlands / ...
in violation of § 404(a) of the Clean Water Act. /
Therefore, the EPA ordered Rapanos to stop all /
landclearing activities and to restore /
the sites to their original condition. /
Rapanos refused based on his belief /
that the Act does not apply to nonnavigable, intrastate wetlands /
far removed from any traditional navigable waters //

[and another similar case]. //

2.

Scalia: It's very hard to tell where the navigable water ends and the wetlands begin...and we said, we're not going to parse that. If it's adjacent to navigable water then it's a wetland.

Kennedy's hand on ears, supporting.

Roberts: That's true of the wetland that is adjacent to the wetland that is adjacent to the tributary, but the Corps has decided not to assert control over the wetland that is adjacent to the wetland that is adjacent to the tributary.

Roberts' fingers on his cheek, pointing to his glasses.

Souter: If we want to obtain the objective which is clearly constitutional then we have to accept the means of managing tributaries.

Breyer's head completely sideways on the ultimate black chair.

Scalia: ...but it's not a principle of law that if the object of a regulation is lawful that any means to that end is also lawful.

Alito's fist on his cheek (even while he speaks).

Kennedy: What if after the development a hydrologic connection is formed?

Thomas' two fingers over his lips.

Rapanos' Lawyer: The test is from the outset.

Kennedy's hand in a funnel on his forehead.

Kennedy: It sounds like you can answer the question, but don't want to.

Roberts' hand on his pen in his mouth.

Scalia: You're saying that a storm drain counts as a tributary?

Scalia's nose pinched into smooth folds.

Solicitor General Clement: What you might call a storm drain might actually be a continuously flowing deep channel.

Thomas's hand on chin.

Scalia: No, I'm talking about a real storm drain.

3.

The term “adjacent” means bordering,
contiguous, or neighboring.

with this section and
section[]
or may be susceptible to use

“from one end [of
his property] to the other”

At any point.
Any one can nullify.
Any one who is one.

The law is within me.
An organ.

Each citizen is covered, you’d be surprised,
for law to proceed; each, and you don’t have to raise your hand.

But for each nontraditional subject
a “significant nexus” to us
or our way of life, or our way of thinking,
or our way of perceiving pain, or our
way of showing love, or our method of work
must be shown, proven, argued for, defended,
and still there are gaps.

The law is adjacent to me,
A remove.

An applicational problem:

this to that;
the same procedure, by what right?
Look and feel.

Ohh that besotted old judge, hand on the book, nodding,
abutting a traditional
‘limited effect’

cannot answer

answer until the gavel

answer until half time

was “plainly of a commercial nature” and so made a citizen
included administration,
thus made, thus found
always making and then asking us to find
interstate “isolated”
humans lacking a significant nexus to traditional...
the term ‘literate’ as used in the
act is of limited import,

cannot be applied
if merely proximate

as in
*if I stand next to you
and you talk to me*

[ruling here is erroneous,
should be reversed because it impoverishes]
and if unconnected
how could we even see
to control

clay soils
as impermeable,
preventing water from seeping under,
berm segregates surface matters,
eliminating the need to regulate

“the single most immediate and most serious challenge to
America's traditional identity comes from the immense
and continuing immigration from Latin America... This
reality poses a fundamental question: Will the United
States remain a country with a single national language
and a core Anglo-Protestant culture? By ignoring this
question, Americans acquiesce to their eventual
transformation into two peoples with two cultures (Anglo
and Hispanic) and two languages (English and Spanish).”

string of the long arm

to enforce

such a liberal reading

of the framer’s intentions.

Mandatory Minimums

If you are cited for any DUI while a child under the age of fifteen (15) was a passenger...
...then you will also be charged with an Aggravated DUI (class six (6) felony),
but I didn't know how old he was; he looks older when he's trying to.

If you're not entirely innocent...
...then you will lose the property,
but I'm not entirely guilty either and I know I'm innocent in the eyes of the lord.

If you conspire to bomb something...
...then you can actually get a sentence as severe as you would have had if
you had succeeded in carrying out the bombing,
but I don't really know how to make a bomb; I never have before; I have no training.

If you study for the exam and, as the law mandates, show an attachment to the
country...
...then you should be able to naturalize,
but I didn't study very hard and my family comes first; family always comes first.

If you are intentionally preventing or attempting to prevent law enforcement from
effecting an arrest by using or threatening physical force against the officer...
...then you will be charged with Resisting Arrest, a class six (6) felony,
*but my intentions are culturally conditioned; I didn't mean anything by it, and
further*
I have no ability to prevent anything; I am unable, inert.

If you are caught with Y amount of drug A...
...then you will be sentenced to, for example, 10 years,
but I am not an example.

If you commit a robbery with the aid of at least one accomplice...
...then you will be charged with Aggravated Robbery.
but he was really dumb, like practically retarded.

If you are found in the merchant's establishment with concealed goods...
...then that merchant may detain you on the premises for questioning or
summoning of law enforcement,
but I always put stuff I'm going to buy in my purse, how else would I hold everything?

If you recklessly cause the death of another; intentionally or knowingly commit
murder in the heat of passion from provocation by the alleged victim; aiding
another to commit suicide; or knowingly or recklessly causing the death of an
unborn child by physical injury to the mother...
...then you will be perfunctorily charged with Manslaughter,
*but I am just as much a victim as she was; everyone has always been prejudiced
against me, at every job, at every school.*

If you plead guilty...
...then it means you admit the charge and the elements to prove the
charge,
*but I just don't want a trial, I don't have anything to wear and I haven't been
sleeping very well. These bags under my eyes are atrocious.*

Convene
conveniently
a decision must be made
laws must be strictly enforced.

Blind Trust

After winning the election
After boxing derivatives
After repeating I had no vision
In taped testimony after testimony
 As proxy would control:

Information fell beneath my nose:

Sales were off or a discovery was lost or
corporate bodies would merge or our
auditor would waste away in jail or a
change in health-care policy would make
this season's product obsolete before it
would hit the shelves.

To avoid a conflict of interest's stench
I became an outsider with an insider's duty.

But being blind is like being in love
It asks you to believe it will last forever.

A politician's limited horizon
 time sensitive
 selective sight
 blind to consequences;
as the esteemed seer
accidentally saw Athena naked
she covered his eyes with her hands,
 but alas,
 he peaked,
 sold the lot
 with the current,
 could not see
 the polluted casualties
 downstream;
 we all live
 in the delta's dark
 ballot box.

Registration Against the Mark

We always wanted to say (or more practically, to write):

If on Earth, this writer's Party Ball, I might as well say I was on the Dole with both legs ready to say Stain Out to the many words caressing this Suburban Sunbeam. Though writers' Dialog will never end, each conversation is but a Diamond amongst this Game of Life. The Gap between what we are able to write and Easy Living on the other side of relaxing keeps widening. Knowing is the Luminal tissue on the thin tube of belief. Did you think I was saying Genius? I was thinking of a beer.

But if they wouldn't let us use them we could only say:

If on , this writer's , I might as well say I was on the with both legs ready to say to the many words caressing this . Though writers' will never end, each conversation is but a amongst this . The between what we are able to write and on the other side of relaxing keeps widening. is the tissue on the thin tube of belief. Did you think I was saying Genius? I was thinking of a beer.

Luckily, the duration of a trademark registration is only ten years. Unfortunately, it may be renewed indefinitely for ten-year periods, provided the trademark is still in use at the time of expiration.

And even if I didn't originally want to say it I am sick with want now.

They will find me gulping for the common things in my life, for the benchmarks, for the products.

Visiting the Supreme Court

February 21st 2006

Columnar jointing
as above the clocks
these briefs from luxurious velvet ripples;
 don't know
 what the law means
 until they say
 and they don't have to say
 until they think it's important.

“It is imperative that you remain silent throughout the entire proceedings”

Weaving secret-service agents
take this post-human
 earpiece
 to heart
a decision cracking process:
matrix of individuals
 last resort;
 sometimes I think
 their faces should be hidden
if it's not all almost impossible...
 cannot make up for that favor here,
 remand for further processing:
 “I'm satisfied she possesses the necessary qualifications.”

Policy Briefs

Zippering up the edges from the cornerstone to the sunburned tar-roof;
Access strictly prohibited between strips of apartments.
Cooking separate beef and wine, but where is the ultimate frame of reference?

On behalf of a partnership, newly formed between
Historical documents and previously inaccessible preservation research:
An advocacy center dedicated to fostering...

Shadows cover persuasions of protection: cash
And damage assessment: I will not be quoted by name.
High need to know how assets have been recruited (plans and intentions).

In espionage cases lawyers must divulge secret proportions.
No one is paying attention to your minor terrorist group.
Violation: secure and nonsecure phones must be at least 5 feet apart.

Regulations: You couldn't see the clothes in the lobby.
A very prestigious account to get
From one end of a railway-car-apartment telephone.

Arbitrary Gavel

the question is
you'll never be able
to say for sure:

asking a process

and is always correct
but questionable

{Disclaimer: None of This Should Be Construed as Legal Advice}

always an appeal
umpire in a prism
till the sentence is served

any law, the first person to be indicted
it's pretty arbitrary, all of a sudden
and one of them is the guy who gets busted for it

but the least questionable
is what we already do
however vulgar

the other motive for law
is that the founder
will not always be present

in the providential case
the person would die
if he defied regulation

The Data Quality Act (Public Law 106-554 Section 515)¹⁷

The Data Quality Act requires the Office of Management and Budget to promulgate guidance to agencies ensuring the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies.

1.

Quality

Exhibits slippery job one, trumps time to market
Forecast as accurately as possible, but nevertheless an inexact science
Under current inflow we favor keeping inherent image quality limitations
As they carefully weigh the various factors contributing to implicit dynamic
Of static abstract designs meant to appeal to those homeowners
Who receive the best combinations, but who are not currently running for office
In the upcoming Consolidated Primary Election you were not informed of
But whose movie you were planning to attend
The qualifying paper's defense with a periscope and an unraveling videocamera
Ready to sell the foreign data on scuffed pirate DVDs in the fuel of yesterday's rain.

¹⁷ Another way to refuse curbing greenhouse gas emissions.

2.

Objectivity

As a matter of fact, sets, *correlative*

Introduced (simply) by explication of

Correspondence, as agreement of “knowledge with its object.”

However, while language seems more ‘tangible’ than plain old representations

The problems with this theory do not resist our intellectual temptations.

We should not disallow inferred knowledge or logic,

Unless a possible creature in a possible world obliges us.

Often heard, we cannot ‘step outside of’ our experience,

But we can, we can speak to others; the experience of relations

Doesn’t mean we can’t compare our thoughts with the world.

3.

Utility

How we use words, the statistics to mean 'simply flooding,'
That half a loaf was better than no bread, payments excluding those for imports
Were countering slumping production levels, consumption demand remained weak,
("than was borrowed") imports were not implemented as planned,
Though this reflected delays in providing technical assistance,
Not isolation, not in custody, but it's not always the happiest arrangement,
Not the other way around, not the way we use that tool when we do the job
Of using performance data for the good of the governed community. Greatest number
Slipping beneath the agent, beneath any will; employing neutral values,
Beneath possible predicaments of rebuilding profitable floodplain developments.

4.

Integrity

Puzzling, for example, virtue term,
Though they would usually not know,
Flowing from one's character, importantly mistaken moral views:
Intactness carried over to human behavior. Uncorrupted coherence by development,
Not breached, validity. Prevention of void data additions.
Every line is accepted by epistemic community as a legitimate assumption
Or follows as an entailed conclusion, partial if not complete,
A uniquely identifiable row; now I know who to blame
If the values do not fall within a specific domain or if your
Tumultuous relationships are not synchronized by stored triggers or views.

Misappropriation Theory

evolutionary law

FROM

...if material...non-public...

disclose

or

refrain

from trading

Prohibiting: Knowledge₁ causing Action₁

institution relative
maintaining sphere control

TO

absolute duty, sphere to sphere,
regardless of relationship

Prohibiting: Knowledge_{n+1} leading to Action₁

diffuse liability

triggers implementation

disclosure is a wall
between aspects

qua husband

qua CEO

qua neighbor

qua eavesdropper

qua casual day-trader

constituting deception

“On the Titanic the captain went
down with the ship. And Enron
looks to me like the captain first

gave himself and his friends a bonus, then lowered himself and the top folks down the lifeboat and then hollered up and said, ‘By the way, everything is going to be just fine.’”¹⁸

¹⁸ Senator Byron Dorgan (D-ND).

If You Were My Orphan I'd Treat You Better Than That¹⁹

including
expeditious remedies,
easier to find, and thus would facilitate negotiation,
provides much greater additional detail,
figures into the activity of the user.

when the owner reappeared, however, proved more
divisive;
treated as
personal property,
and adaptation to the program.

situation is frustratingly difficult;
do not have wills or
otherwise do
not specify how
still exists, and

whether a record of any transfer
is found after a search prior to use,
provided the user provides proper attribution
into their own creative expressions
which might never match the photograph

to the description
involving “abandonware” described above
based on the original - differed, however, in the types
of searches they would consider adequate
would require the user to identify the work as an orphan.

¹⁹ All Text from The U.S. Copyright Office's “Report on Orphan Works.” (2006) Located online at: <http://www.copyright.gov/orphan/orphan-report.pdf>.

Fair Housing

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents of legal custodians, pregnant women, and people securing custody of children under the age of 18), and handicap (disability).

“Integration is mentioned in the Congressional Record as a reason for the Fair Housing Act of 1968,”

says Fred Underwood, spokesman for the National Association of Realtors.

INTEGRATE
ASSIMILATE
CLARIFY

If Craigslist has to monitor all of its ads, it'll surely go under.

“not just worried about its financial future,
but the service it provides.
I mean, the potential of the Internet
is not unlocked by buying a book from Amazon,
but by bringing people together...”

Gathers us through a range of literacy indicators:
Media, Cultural, Financial, Old-Style, Scientific, etc.
(but to be able to read, to understand,
is not to become the same)

Argument: Internet sites are “community-moderated commons” not newspapers.

Section 230 of the
Communications Decency
Act (1995): “No provider or
user of an interactive

computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”

...resources used to sort...

“...the newly protected classes have proven significant sources...”

over the “clash with me” ad,

but I gotta be able to decide who lives with me, who shares my bed.

There have to be limits

exemptions for both

(1) a single family home rented by the owner

or

(2) dwellings intended to be occupied by four or less families, provided the owner is also an occupant

Will present properties to CLIENT in full compliance by presenting “equal access to housing of their choice.” The beautiful counterpoised with the political.

Deconstructing the myth of the projects Through the lens and sensuous hypotheses of our own heterogeneous racial complexion.

You have to think that discriminating
By gender some is okay
Or to need the same

The knowledge of
and the knowledge *needed*
intersect in the state’s knowledge regime
citizen)

(\$100 laptop for every global

“What people have not grasped is that the Internet will change everything,” the CEO of Cisco Systems stated in 1998. “The

Internet will change how people live, work, play and learn.... And it will have every bit as much impact on society as the Industrial Revolution. It will promote globalization at an incredible pace. But instead of happening over 100 years, like the Industrial Revolution, it will happen over 7 years...”

...the subject is seen from *the side* of his race, class, gender, or neighborhood. That is, his silhouette is viewed through that lens so that the law-enforcement officer can prevent crimes from occurring. Profiling has the inverse relationship with knowledge that torture has. It is the use of generalized knowledge, as opposed to the acquisition of particular knowledge. To profile is to use the generalized (or schematic) knowledge in order to either prevent a future crime or to catch a criminal in the commission of a crime...

Judge's Order

Affirmed.
So ordered.
Accepted as fact.

The enforcer always has more authority meeting of the minds
statutory construction narrowly as if made
interest damages we decide
source scattering
perennial cause
proximal
weapon, when it's hard,
in the instant... choice to seek relief
consciously chose to conduct
demonstration of set alternative of
actions now in question, however
not a "territorial shield to interstate obligations"
responsibilities to each other
fall under the "note" category of instruments
already had a copy of our humanity:
same as same given.

Radio Frequency Identification (RFID)

Barred from.
Decision comes.
Again defied.
Evidence sector.
Right to defend.
Scheduled to begin.
 re: Is knowledge power?
 Greetings.

But to say, enable all participants
Within supply chain to improve efficiencies.

Dubbed as “Big Brother in small packages,”
 Attached to anything I can buy:
 Keeping tabs beyond confines
 As intrusion;
Nervous about a surveillance of things
 Might make those wary of
 “Identify objects anytime, anywhere”
No legitimate association?

But they’ll know where I keep my toothbrush
And what I do with my vacuum cleaner,
 And when I misuse
 Will they prosecute?

**[Warranty does not cover product finish,
Abused or distorted products
Or products used in commercial applications.]**

Glue misused as eyedrops.
King’s funeral misused as political platform.
Bible misused as scientific support for UFO theories.
Private cars misused as tourist taxis.
Crime database misused for civil issues.
 If product is misused,
 Explain proper use in impersonal terms.
 Will they prosecute?

Another outburst.

Against unauthorized.
Protected communication.
Right to deactivate.
What you've done.
Right to deny.
 re: Is knowledge power?
Greetings.

At the Sidebar

As if there were lawyers²⁰ we could hear
our lawyers²¹ we could hear
as if they held fake quarters we could no longer hear
documents²² that would not ripple
our lawyers²³ tried to whisper
but the remainder of the courtroom
was advised (no, forced) to wear earplugs
so these citizens²⁴ cannot hear these lawyers.

²⁰ Plato banishes the poets from the Republic because their works fail to produce good citizens. But perhaps Plato misunderstands the nature of the poet. Perhaps he fails to realize that not every chosen event or institution exists in order to make good citizens.

²¹ Make sure you understand the potential cost if a lawyer takes your case on a contingency basis.

²² The other problem is that the document keeps falling out of my hand

And into some puddle

It's not always the same puddle

But there's a puddle in every scene. It's so regular. Even I could analyze that dream.

(Sometimes it has an oilslick and it's sticky

and you can no longer read the title agreement.)

²³ "At all events we are well aware that poetry being such as we have described is not to be regarded as attaining to the truth; and he who listens to her, fearing for the safety of the city which is within him, should be on his guard against her seductions and make our words his law." Plato, The Republic, Book X.

²⁴ Art is rarely instrumental to any political cause. What it offers is possibility. Possibility must always be seen as positive, because it implies that a future is possible. Art opens up concepts while politics attempts to close them. All of the pieces in the current offering open and engage concepts in order to thwart our preconceived positions and ultimately help us see the complex political situation before us.

The History of Copyright

“Copyright in the early days protected only against literal copying, and not against a more abstract taking of a copyrighted work.”

—Edward Samuels, “The Idea-Expression Dichotomy in Copyright Law.”

1.

Motions

(expansions from the literal
to the metaphoric)

From	Copyright Poor Pirate
To	Copyright Rich Cop

2.

Initial Arguments

intellectual objects	
carry	
contradictory arguments	
(a) exclusive copyrights are necessary	(producer's conclusion)
(b) they should not exist at all	(consumer's conclusion)

A hill of motivation
pounded
out of art we come...

Incentives needed to foster innovation²⁵
Because intellectual objects are
 (relatively)
 non-rivalrous²⁶
 non-excludable²⁷
(arguably) no other way for authors to receive compensation

²⁵ Edwin Hettinger notes that the justification for copyright at this level is paradoxical, "It establishes a right to restrict the current availability and use of intellectual products for the purpose of increasing the production and thus future availability and use of new intellectual products."

²⁶ A non-rivalrous good is a good for which enjoyment of it by some agents does not diminish available opportunities for others to enjoy it as well.

²⁷ A non-excludable good, on the other hand, is a good for which it is not possible to prevent individuals (who do not own the good) from consuming it or partaking of the benefits of it (at a relatively low cost).

3.

Metaphysical Showdown

An individual book as an instantiation of the novel which is the intellectual object.
Metaphysics: The Intellectual is not equivalent with the Physical.

My reading the same book that you are reading does not decrease your enjoyment in reading that book

(“are not consumed by their use”²⁸).

Contrast Case:

Take, for instance, a bag of honey Dijon Kettle potato chips that you have just bought from your local Whole Foods grocery store. If I eat all of your chips you can no longer derive pleasure from them and if you eat the chips I cannot derive pleasure from them. Rivalrous goods are marked by this relationship. One person’s full enjoyment of such a good disallows another person’s full enjoyment of a rivalrous good...

Function (©opyright) = Public to Private

What is most mystical, this primitive

accumulation
is so intellectual...

...public
goods are
difficult to
provide in
the free
market due
to (1) the
large
transaction

²⁸ Edwin Hettinger. “Justifying Intellectual Property,” *Philosophy and Public Affairs* 18 (1989) p. 34.

costs
involved in
organizing
the many
people who
will consume
the good and
(2) the
problem of
free-riding...

...as *authorized* fixation
comes to stand in for originality,
judges no longer forced to be literary critics
("look and feel")
abstractions test
the unpublished limit:
must be recorded
at least one copy;
but if to read is to copy
a broken
has already...

...as though monopoly²⁹
strangely becomes your back from another's perspective:

buyer will go elsewhere if the seller
sells the intellectual object at too high a price

Thus,
Mr. Wallace and Norton have a
monopoly in one sense (they
exclusively control the sales and
distribution of Everything and More)
but not in another sense (there are
close substitutes to Mr. Wallace's book,
i.e. other books on the history of
infinity)...

²⁹ "However convincing the claim that 'it's my property, and I should have it forever,' try sounding convincing when uttering, 'It's my monopoly, and I should have it forever'" (Lawrence Lessig. Free Culture. New York, NY: Penguin (2004) p. 88).

... I conclude that the appropriate amount of copyright protection protects the incentive for producers to create while also defending the public's right to a rich intellectual realm. This would be a level of protection far weaker than the current copyright regime provides (often termed "thin"). For instance, the Sonny Bono Copyright Extension Act of 1998 extended copyright protection to the life of the author plus 70 years and in the case of works created by corporate entities the act extended protection to 95 years. This is a far cry from copyright's original duration of 14 years (plus one possible renewal). It would be difficult to argue that these extensions provide any extra incentive for authors to create, while on the other hand they surely assail the public's right to a robust intellectual realm...

Are You Pleading Guilty Because You Are, In Fact, Guilty?

1.

A maze unto emptiness;
that do not let up
another language that seals:
 Hello! To that apparatus!
Kindly, the late pews
courted by a triangular excess of evidence
and is wanted within the flag
upon a sweet grid of due process
and turns the other
briefs, sanded, waking
as if to say sealed
within the lateness of precedent
always out of reach; that's its pulse.

2.

Success word; back of a suit
cordially benefited from
that stack of receipts:
 I see a shift.
 In me?
 The fact that you're saying it.
Strategy uncuffed, bleached to understanding
 as a regular human
 and then
 in front of this armful of
 this is your business
memorized in a legal stammer, footnoted.

...for the purposes of human resources...

1.

disregard

[plain regard]

as an interpretation

ignored rule

[could compare provisional employment
with complete]

2.

if everybody is eliminated
when they all

focuses

which has nothing to do with job performance

stares at

because of lack water deprivation

exchanges abuse

in order to jealously

only in their permanent title

or just create a test

and void *everybody* out

3.

should have been able to bunk

in any position

may not be unique

to the Department of Revenue

[give meaning to the most powerful interpretation
of the statement]

lend him some other title

4.

point to prove complexity

detailing supervisory responsibilities

[of course

...unless it is a revenue generating
location...]

has addressed it

by not making a distinction

[it just gets pettier

as the jobs become more menial]

5.
detailed (because he knows he'll lose the grievance)
reasonably large, but not insurmountable
pay differential

[NO DIFFERENCE BETWEEN
permanent employees awarded a provisional promotion
and
provisional employees as such]

within a special investigation context
were the same
at the time of the layoffs.

United States v. Morris—The First Worm

“There may be a virus loose on the internet.”

— Andy Sudduth of Harvard, 12:34 AM, Nov. 3, 1988

6:00 PM — The Worm is launched.

“I know him as I know you...
no intention, could not have been...
his character.”

“Just a young...
always experimenting...
took the television apart
when he was five...
meant no harm.”

8:49 PM — The Worm infects a VAX 8600 at the University of Utah.

*Although this is the beginning
(i.e. the Internet will change everything,
booms and busts to come)
here I am trying to get some work done,
finally authorized,
an entire network.*

court must decide
whether the hacker intended to damage the computers his worm
infected or whether he merely intended to access them.

Mattering distinctions? Distinctions mattering?

9:09 PM — The Worm initiates the first of its attacks to infect other computers.

*I'm sure we could get in.
Just to try.
No one's paying attention.
Rampant vulnerabilities.*

Demonstrate security inadequacies by exploiting security defects:

- (1) through an error in SEND MAIL, a program that receives and transfers email;
- (2) through a bug in the “finger demon” program, which allows a person to obtain information about another computer's users.

national attention
national attention
national attention

the worm³⁰
the bug
the virus

9:21 PM — The load average (how hard the computer system is working) on the system reaches 5, causes delays in data processing.

to mean harm
is what we think
we want to know

but often we don't care
about intentions, just
want to punish for harm

“without authorization” within the statute's meaning

10:06 PM — There are so many worms infecting the system that no new processes can be started. No users can use the system anymore.

Attack: crash or freeze
then transmit;
implanted into one,

³⁰ (99 lines, not including object files)

spread across academics
like tenure's fingers,
destroying³¹ in wake.

10:20 PM — The system administrator kills off the worms.

*Out of my control
replicating³²
faster than expected—meant no...
a solution: an anonymous message
instructing programmers
how to kill the worm.*

10:41 PM — The system is reinfected and the load average reaches 27.

Unfortunately,
the network was too congested
for the note to pass
until it was too late.

10:49 PM — The administrator shuts down the system. The system is subsequently restarted.

Morris received a jury trial where he was found guilty of violating 18 U.S.C. § 1030(a)(5)(A). He was sentenced to three years of probation, 400 hours of community service, a fine of \$10,050 and the costs of his supervision.

11:21 PM — Reinfestation causes the load average to reach 37.

In conclusion, while the facts of the case were relatively clear, the legal issues at hand were not. And indeed, they merited a decision in appeals court. The legal issues in a case do not necessarily map perfectly onto

³¹ Cleaning computers of the worm cost from \$200 to more than \$53,000 per computer.

³² Total number of computers infected: 6000.

either the factual or the moral issues involved. Only by understanding general legal principles can we understand how the legal, moral, and factual components of a case will likely line up in case law.

Application (mandatory minimums // judicial discretion)

Under the absolute unchanging rule of law
All laws are codified and unchangeable,
But somebody still must decide
Whether *this* law applies in *this* case.

“The principle of discourse can assume the shape of a principle of democracy through the medium of law only insofar as the discourse principle and the legal medium interpenetrate and develop into a system of rights that brings private and public autonomy into a relation of mutual presupposition”
(Juergen Habermas, Between Facts and Norms, p.128).

If you then you will...
But I only

If you then you will...
But I only

If you then you will...
But I only

If you then you will...
But I only

If you then you will...
But I only

If you then you will...
But I only

If you then you will...
But I only

convene
conveniently
a decision must be made
laws must be strictly enforced

Truth in Government

“Knowledge will Forever Govern
Ignorance And a People Who Mean to be
their Own Governors Must Arm
Themselves with the Power Which
Knowledge Gives.”

—James Madison

Truth in Broadcasting Act of 2005 (S. 967)³³

bold sound of
we have paid for it
inscribed noise of
always paid for it
even if not
packaged at home
(shrink-wrapped, indexed, scanned)
labeled box bearing any general's warning;
but the mouth keeps chattering
its gold teeth sugarcoated
never disclosed
free lips.

³³ Text from the Act: "DISCLAIMER REQUIRED - Any prepackaged news story produced by or on behalf of a Federal agency that is broadcast or distributed by a network organization, broadcast licensee or permittee, or multichannel video programming distributor in the United States shall contain an announcement supplied by the Federal agency within the prepackaged news story that conspicuously identifies the United States Government as the source for the prepackaged news story."

Truth in Sentencing Act of 1993 (H.R.3584)³⁴

victim's right to
 imposed over
criminal's right from
 cruel and unusual

but who is weakest?
 my heart goes out
 to and from
the rest is no rest
 no neutral pressure

truth in action: to bring in accord with

 to make
 not false
to see
 newly tied string
 from vouch to safe
 every waver frays
not to judge a sentence's verity
 but to write a new one

 like poetry
 that is
not balancing
 but violently
 forcing a fountain
 from a river

 a new law
 from the easiest *given*
 natural culture
 has to offer.

³⁴ The Act requires "any person convicted of a crime to serve no less than 85 percent of the sentence imposed. Also requires any person convicted of a violent crime to serve no less than 100 percent of the sentence imposed by the court."

Truth in Employment Act of 2005 (S.983)³⁵

With unprecedented growth we require salt
to sprinkle on capitalism's sheer ice.

Must we sincerely want the position we apply for?
(you mean,
I have to *actually* desire this crap job?)
Or can we jump into our first day as union proxy infiltrating,
forming left's civil society in factory's dark mist?

Worker as such,
If hired
locks compulsory unionism
If not employed
unfair labor practices lawsuit
ensues

And to measure an "honest interest"?
just by your liberal pinko hide,
questionnaire correction:
"did you really mean that?" (pointing)
No sympathizer will be hired again,
truthfully.

³⁵ "The purposes of this Act are: (1) to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining; (2) to preserve the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act ; and (3) to alleviate pressure on employers to hire individuals who seek or gain employment in order to disrupt the workplace of the employer or otherwise inflict economic harm designed to put the employer out of business.

The Act would amend the National Labor Relations Act (29 U.S.C. 158(a)) by adding after and below paragraph (5) the following: 'Nothing in this subsection shall be construed as requiring an employer to employ any person who seeks or has sought employment with the employer in furtherance of other employment or agency status.'

Fuel Economy Truth in Labeling Act of 2005 (S.836)³⁶

Assume we are perfect
and the model will predict
that we will be perfect.

To drive is to embrace the decadent emotion
of air conditioner's blare
with windows down;

to assume otherwise,
or to assume that
 we don't drive the short mile to the video store,
is not to digest the beautiful opulence,
 the required leisure,
of each hermetically sealed
doctrine of consumerism,
 embarrassing true belief.

Assumption's cycle
hits advertising's wall
until regulation aligns
our vision of life
with the sight of it.

³⁶ Introduced in April 2005 by Senator Maria Cantwell (D-Washington), the "Fuel Economy Truth In Labeling Act," directs the EPA to update the way it calculates gas mileage to reflect today's real-life driving conditions. "Car dealerships display government-approved gas mileage numbers on price stickers, but unfortunately the cars' new owners soon discover that the numbers often amount to no more than hopeful fiction. Gas mileage numbers that appear on today's new and used cars inflate vehicles' true fuel economy performance by anywhere from 10 to 30 percent. The Environmental Protection Agency wrote the formulas for gas mileage decades ago – and today, even the agency admits they provide an inaccurate estimate. Federal government laboratory tests rely on out-dated procedures and false assumptions. For example, they assume that people drive 48 miles per hour on the freeway and never use their air conditioners."

Truth in Political Advertising Act of 1997 (H. R. 423)³⁷

any false
must be falsifiable (only in material, not metaphysical)
but the truth of
 THE GREATEST
 goes unrewarded
leveling through prohibition
 for the purpose of influencing
 divinity needs no arm and no substance
 to clash grandly
 ideals
 over the heads of
 one man
 one vote
and even more crassly
 one dollar
 one vote
as if you didn't know what politics were
and if you truly didn't then
as if you could comprehend your own self deception.

³⁷ Text from the Act: "No person may disseminate or cause to be disseminated any false political advertisement by United States mails or by any means in or having an effect upon commerce."

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