

Volume 8 | Issue 2

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Fall 2005

## Da Vinci versus Kafka: Looking for Answers

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### Recommended Citation

Robert Batey, *Da Vinci versus Kafka: Looking for Answers*, 8 N.Y. City L. Rev. 319 (2005).  
Available at: [10.31641/clr080204](https://academicworks.cuny.edu/clr/10.31641/clr080204)

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## Da Vinci versus Kafka: Looking for Answers

### Acknowledgements

I should begin by thanking the members of the book club with whom I read *The Da Vinci Code*: Kristen Adams, Debbie and Mike Allen, Denise and John Cooper, Darby Dickerson, Julian Kossow, Marian Moss, and Diane and Mike Swygert. Along the same lines, thanks go to every student who struggled through *The Trial* over the many semesters I have taught law and literature. I am also indebted to Tony Casoria for research assistance. Finally, thanks go to the organizers of the symposium honoring Ruthann Robson and to the editors of this journal for allowing me to participate in it.

## **DA VINCI VERSUS KAFKA: LOOKING FOR ANSWERS**

*Robert Batey\**

There are many reasons to honor Ruthann Robson. Her multifaceted career has significantly impacted gender studies, law, literature, and education. Even among polymaths, Ruthann is rare in that she integrates all of her interests: she applies gender studies to law, to literature, and to education, and vice versa, and so on down the line.

From this integrated life, I choose to emphasize two strands: literature and law. One cannot read Robson's literary output without noting the way law affects her short stories, novels, poetry, and creative nonfiction. In addition to its lawyer narrators and protagonists, her work discloses persistent attention to the ways in which law channels, and usually frustrates, human desires and potentials. Thus reading her literature can teach a great deal about the way law is lived at the beginning of the Twenty-First Century.

Nor can a reader examine Professor Robson's legal analyses—books and articles both for the law-trained and for wider audiences—without noting the literary sensibility that infuses them. This sensibility is evident not only in her quick wit and perfect allusions, not only in the mastery of pace and tone that leaves indelible memories of impassioned arguments, but also in an overarching concern for human needs, which always brings her back (no matter how high-flown her theoretical inquiry) to the impact of the law on specific human lives. Though nominally a professor of law, Ruthann Robson is, in the most profound sense of the term, a professor of the humanities.

Her work, both literary and legal, thus embodies the project of those of us who study “law and literature.” We want to use literature to illumine, in specific and deeply textured accounts, what law

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means to those subject to it, and we want to use the understanding that flows from these accounts to shape law so that it serves the goal of human flourishing, as literature and the other humanities have always sought to do.

It is in the spirit of this project that I offer the following essay. Though it bears no direct relationship to Professor Robson's work, the essay does attempt to use two literary works—one a phenomenon of contemporary popular culture<sup>1</sup> and the other a staple of the law-and-literature curriculum—to expose a set of attitudes that to my mind are an obstacle to human flourishing. I hope that the essay accomplishes this goal and thus justifies its dedication to my former student, Ruthann Robson.<sup>2</sup>

## I

How does one explain the phenomenal success of Dan Brown's *The Da Vinci Code*?<sup>3</sup> The novel has graced the bestseller lists for almost two years and has sparked such interest in Brown's previous works that his total sales have constituted a surprisingly large percentage of the publishing business in the United States since 2003.<sup>4</sup> Brown's most recent book is admittedly a reasonably diverting thriller, dividing 454 pages into 107 quick chapters, with well-spaced doses of danger and intrigue. But there is relatively little action and even less sex, and the revelation of the villain seems both a little contrived and not much of a surprise.

As a spate of commentators have suggested,<sup>5</sup> it is the novel's subject matter, rather than its plot, that has fascinated the public. The novel's protagonist, Harvard professor of "symbology" Robert Langdon, explores the theories that Christ fathered a child with Mary Magdalene, that the Catholic Church has repressed this history for two millenia, and that for almost the same period a secret society has protected the proofs of the history—both written and

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<sup>1</sup> Though popular culture is not a focus of her work, Robson is certainly sensitive to its many ironies. For example, one of the protagonists of her novel *a/k/a* parodies an old drug commercial (and sends up Ruthann's own fascination with lawyer characters) by being an actress who is "not a lawyer, but who plays one on television"—in this case, a soap opera. See RUTHANN ROBSON, *A/K/A* 161 (1997).

<sup>2</sup> In the late 1970's Ruthann was a student in my Criminal Law class, and I advised her two student law review works. Needless to say, I have learned more from her, then and now, than she ever learned from me.

<sup>3</sup> DAN BROWN, *THE DA VINCI CODE* (2003).

<sup>4</sup> Cf. Nancy Beardsley, *The Top Books of 2004* (Dec. 27, 2004), at <http://come.6to23.com/VOA/text/std/001.htm> (discussing *The Da Vinci Code*).

<sup>5</sup> See generally Carolina A. Miranda, *The Great "Code" Rush*, TIME, May 24, 2004, at 23.

human (i.e., the literal descendants of Jesus Christ)—through elaborately coded mechanisms of stealth and indirection. While fleeing a spurious charge of murder, Langdon breaks a series of codes that reveal the truth of these theories and the location of the proofs (which at the novel's close Langdon allows to remain secret).

Numerous debunkers have responded to Brown's novel,<sup>6</sup> but its popularity seems impervious to challenge. So *The Da Vinci Code* appeals to readers regardless of either its literary merit or its truth quotient. Why?

When the book club I belong to (law faculty and spouses) read the novel, I asked myself the same question. Though dubious of the theories being retailed, I enjoyed the read. On one level, besides the fun of working out the whodunnit, I liked trying to solve the puzzles and codes; they reminded me of the crosswords and cryptograms for which I never seem to find enough time. And I have always been intrigued by conspiracy theories, which look for the nefarious hands behind seemingly unrelated events—a taste the novel satisfied with a conspiracy and a counter-conspiracy, both of them nearly two thousand years old. Finally, though I am not religious, the power of belief awes me. Brown evokes that power in describing the centuries of fidelity of both the secret protectors of Christ's legacy and their more orthodox adversaries.

The theme that joins all these predilections is the desire for answers, to mysteries and puzzles, to the seemingly random events of life, and to the fundamental question of our role in the universe. From this perspective, the key to the success of *The Da Vinci Code* is that it provides answers: its puzzles are solved, its dueling conspiracies explicate centuries of history, and the religious commitment it finally celebrates gives a purpose to life. Part II of this essay explores these conclusions about the novel in some detail.

Understanding the appeal of the novel was disquieting, however. I am not religious, I do not believe in conspiracy theories, and I find puzzles diverting precisely because they can be solved definitively, unlike the problems of life. So what, I wondered, is the proper antidote to *The Da Vinci Code*, to the desire for answers? It was not long before Franz Kafka popped into my head.

For over a dozen years I have taught Kafka's *The Trial*<sup>7</sup> to up-

<sup>6</sup> See Laurie Goodstein, *Defenders of Christianity Rebut 'The Da Vinci Code'*, N.Y. TIMES, Apr. 27, 2004, at A22.

<sup>7</sup> FRANZ KAFKA, *THE TRIAL* (Willa & Edwin Muir trans., definitive ed., Schocken Books 1988) (1925) [hereinafter *THE TRIAL*].

perclass law students, who are usually bewildered by Joseph K.'s struggle to understand the charges brought against him on the first page of the novel, and for which he dies, still unenlightened, on the last page. The work depicts K.'s search for answers, and one way to understand it is as a commentary on the futility of any such quest. The fruitlessness of all K.'s endeavors suggests that the mysteries of life are just that: unknown and unknowable. Part III of this essay explicates this reading of Kafka's novel.

It is not surprising that Brown's novel is much more popular than Kafka's, for the message of *The Da Vinci Code* is far more consoling. All that Kafka can claim in opposition is that his is a more accurate description of the world in which we live.

## II

Puzzles, conspiracies, and the power of belief dominate *The Da Vinci Code* from start to finish. The novel begins with the fatal shooting of the curator of the Louvre, Jacques Saunière, within his own museum. The shooter knows that Saunière is a protector of the Holy Grail, the secret of Christ's descendants, and wants to wrest it from him. After giving the assailant a false clue, Saunière, trapped in the museum and knowing that he has no more than fifteen minutes to live, sets about to leave clues for the "only . . . person on earth to whom he could pass the torch,"<sup>8</sup> Robert Langdon.

The French police call Langdon, in Paris for a lecture and then a first meeting with Saunière, to the crime scene, where the American, accompanied by Police Captain Bezu Fache, finds that the dead man has arranged his own naked body to resemble Da Vinci's *Vitruvian Man* and has written (with a black light pen) a series of numbers—"13-3-2-21-1-1-8-5"—and two nonsense lines—"O, Draconian devil!" and "Oh, lame saint!"—near his own body.<sup>9</sup> A young French police cryptographer, Sophie Neveu (who also happens to be Saunière's estranged granddaughter), arrives and recognizes the numerical series as a random assortment of the beginning of the Fibonacci sequence: "a progression in which each term is equal to the sum of the two preceding terms."<sup>10</sup> Later, after Neveu has revealed to Langdon that the authorities think that

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<sup>8</sup> BROWN, *supra* note 3, at 5.

<sup>9</sup> *Id.* at 38, 39, 43, 45.

<sup>10</sup> *Id.* at 61. The proper order is "1-1-2-3-5-8-13-21." *Id.* at 60. (Though once upon a time I studied the Fibonacci numbers, I did not figure this one out.)

he is the murderer<sup>11</sup> and has helped him to decoy the now-pursuing police away from the Louvre,<sup>12</sup> the two decipher the nonsense lines as anagrams for “Leonardo da Vinci!” and “The Mona Lisa!”<sup>13</sup>

Langdon explains to Neveu that Da Vinci once headed the Priory of Sion, “‘one of the oldest surviving secret societies on earth,’” with “‘powerful members from all over Europe’” and “‘a well-documented history of reverence for the sacred feminine.’”<sup>14</sup> One of Neveu’s recollections of her childhood with Saunière seems to confirm that he too was a member of the society.<sup>15</sup> They inspect the *Mona Lisa* and find there another black light nonsense message, “So dark the con of man,”<sup>16</sup> which Neveu rearranges into the title of another Da Vinci in the Louvre, *Madonna of the Rocks*,<sup>17</sup> behind which she finds a “‘laser-cut key’” bearing the insignia of the Priory of Sion.<sup>18</sup> The key also has an address inscribed on it, written once again with a black light pen.<sup>19</sup>

Now running from Fache and his policemen, Langdon and Neveu head to the address on the key. On the way, Langdon outlines the history of the Priory of Sion, its one-time arm the Knights Templar, and its mission, the protection of a secret cache of documents that he opaquely characterizes as the Holy Grail.<sup>20</sup> He also discusses the Vatican’s initial toleration of and then murderous opposition to the Knights Templar.<sup>21</sup> Before he can reveal much about the nature and whereabouts of the secret cache or how it constitutes the Holy Grail, the two fugitives arrive at the address, the Paris branch of a Swiss bank.<sup>22</sup> The key gives them access to the building and a room where they can retrieve a safe-deposit box,

<sup>11</sup> Saunière also wrote next to his body: “P.S. Find Robert Langdon,” which the police photographed and erased before Langdon arrived. *Id.* at 66, 67.

<sup>12</sup> *Id.* at 75-80. Neveu, who had that day received an anxious telephone message from her grandfather asking her to contact him at the museum, *id.* at 75-76, decides that her grandfather wanted to bring the two of them together and translates the “P.S.” that the dead man left, *supra* note 11, as a message to “Princess Sophie,” his pet name for her, to find Robert Langdon. *See id.* at 77, 78. *See also infra* note 15.

<sup>13</sup> *Id.* at 98. (I got the first one, but not the second—which should have been easy after the first.)

<sup>14</sup> *Id.* at 113.

<sup>15</sup> *Id.* at 109-12. Young Sophie discovered a key with a fleur-de-lis and the letters “P.S.” on it, which her grandfather told her he would give her someday because it bore her name, “Princess Sophie.” *See supra* note 12.

<sup>16</sup> *Id.* at 124.

<sup>17</sup> *See id.* at 134. (This one was way beyond me.)

<sup>18</sup> *Id.* at 144 (“a stylized fleur-de-lis and the initials P.S.”; *see supra* notes 12 and 15).

<sup>19</sup> *Id.* at 154.

<sup>20</sup> *Id.* at 157-61.

<sup>21</sup> *Id.* at 159-61.

<sup>22</sup> *Id.* at 171-72.

but only if they successfully enter the proper ten-digit account number (on the first try). After some discussion, they enter the Fibonacci sequence in the correct order (rather than the random order Saunière wrote by his body), and a plastic box appears.<sup>23</sup>

Inside the plastic box is another box, made of rosewood, with an inlaid rose on the lid. The rosewood box contains a cryptex, a cylindrical Da Vinci invention copied by Saunière, that, according to Neveu, “works much like a bicycle’s combination lock. If you align the dials in the proper position, the lock slides open. This cryptex has five lettered dials. When you rotate them to their proper sequence, the tumblers inside align, and the entire cylinder slides apart,” revealing a “hollow central compartment” containing “a scroll of paper.”<sup>24</sup> The device is also rigged to destroy the paper in case of tampering: the message is written on papyrus and wrapped around a vial of vinegar, which if broken, will turn the papyrus to “a glob of meaningless pulp.”<sup>25</sup>

Fleeing from Fache again, the two decide they need “professional help,”<sup>26</sup> and so head to the French estate of Sir Leigh Teabing, “a former British Royal Historian”<sup>27</sup> and an acquaintance of Langdon, who “knows more about the Priory of Sion and the Holy Grail than anyone on earth.”<sup>28</sup> In Teabing’s drawing room, the two men further enlighten Sophie about the Holy Grail. Teabing first outlines the theory that “the early Church literally *stole* Jesus from His original followers, hijacking His human message, shrouding it in an impenetrable cloak of divinity, and using it to expand their own power,” because “establishing Christ’s divinity was critical to the further unification of the Roman empire and to the new Vatican power base.”<sup>29</sup> Also essential to that power base, according to Langdon, was a reversal of the feminist bias of ancient religion: “The power of the female and her ability to produce life was once very sacred, but it posed a threat to the rise of the predominantly male Church, and so the sacred feminine was demonized and called unclean.”<sup>30</sup> This attitude explains the suppression of

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<sup>23</sup> *Id.* at 187-91.

<sup>24</sup> *Id.* at 200.

<sup>25</sup> *Id.* at 201.

<sup>26</sup> *Id.* at 215.

<sup>27</sup> *Id.* at 216.

<sup>28</sup> *Id.* at 218.

<sup>29</sup> *Id.* at 233. Of course, contrary views abound. Said one pastor, “I think [the novel]’s out there to win people over to an incorrect and historically inaccurate view, and it’s succeeding. People are buying into the notion that Jesus is not divine, he is not the son of God.” Goodstein, *supra* note 6, at A22.

<sup>30</sup> BROWN, *supra* note 3, at 238. *Cf.* Goodstein, *supra* note 6, at A22 (quoting one

the identity of the Holy Grail, not a chalice or merely a set of documents, but a woman and her descendants as well. Making crucial inferences from Da Vinci's *The Last Supper*,<sup>31</sup> Teabing concludes that the Holy Grail refers to Mary Magdalene, the wife of Christ and the mother of his child:

“Behold . . . the greatest cover-up in human history. Not only was Jesus Christ married, but He was a father. My dear, Mary Magdalene was the Holy Vessel. She was the chalice that bore the royal bloodline of Jesus Christ. She was the womb that bore the lineage, and the vine from which the sacred fruit sprang forth!”<sup>32</sup>

According to Teabing, “[t]he modern Priory of Sion” protects the Holy Grail not only by guarding the documents that prove his theories, but also by “protect[ing] the bloodline of Christ—those few members . . . who have survived into modern times.”<sup>33</sup>

At this point, Langdon, Neveu, and Teabing encounter Saunière's murderer, a hulking albino monk named Silas. Saved from a life of wretchedness and crime by a priest, the devout Silas (he wears a thigh belt that constantly inflicts pain and flagellates himself regularly) has affiliated with Opus Dei, a conservative Catholic organization; the head of this organization, Bishop Aringarosa, has assigned Silas to work with the Teacher, a mysterious man who promises (in exchange for twenty million euros of Vatican money) to find the Holy Grail and turn it over to the church; the Teacher, who has distantly but minutely directed Silas's search for the Grail, has tipped the albino to Langdon and Neveu's whereabouts.<sup>34</sup> Silas enters Teabing's home and confronts the three, but is subdued and restrained before he can find and remove the rosewood box containing the cryptex; simultaneously, the police converge on the

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teacher: “The church has a long and documented history of really trying to crush the whole feminine side, the pagan side. I think that's really hard to debate.”).

<sup>31</sup> BROWN, *supra* note 3, at 235-36, 242-45, 248. *But see* Sharon Tubbs, *The Gospel According to Dan Brown*, ST. PETERSBURG TIMES, Jan. 25, 2004, at 1E, 3E (the supposed Magdalene figure in the painting is more likely the apostle John portrayed as a young man). *See also* Ingrid D. Rowland, *Pop Esoterica!*, THE NEW REPUBLIC, Aug. 16 & 23, 2004, at 21 (reviewing *The Da Vinci Code* among other books).

<sup>32</sup> BROWN, *supra* note 3, at 249. One newspaper article on the book's religious claims quotes two American professors who debunk the notion of Christ's marriage, concluding, “Many historians shake their heads at *The Da Vinci Code*, saying the questions raised have little basis in fact, although the book implies they do.” Tubbs, *supra* note 31, at 3E.

<sup>33</sup> BROWN, *supra* note 3, at 258.

<sup>34</sup> *See id.* at 12-14, 28-31, 54-59, 173-75, 195-96, 240-41, 269. Opus Dei, an actual organization, has objected strenuously to its portrayal in the novel. *See* Goodstein, *supra* note 6, at A22.

estate, but Langdon and Neveu, Teabing and his manservant Rémy, and Silas (bound and gagged) escape, first in a car and then in a private jet bound for England.<sup>35</sup>

On the plane, Langdon ponders another puzzle: under the inlaid rose on the top of the rosewood box are four lines of apparently indecipherable cursive text. After a few minutes, Sophie realizes that the text is written in the “mirrored script” that Da Vinci had used in some of his notebooks,<sup>36</sup> so that when viewed in a mirror, the text reads: “An ancient word of wisdom frees this scroll . . . and helps us keep her scatter’d family whole . . . a headstone praised by templars is the key . . . and atbash will reveal the truth to thee.”<sup>37</sup> Langdon and Teabing collaborate to determine that Atbash is the name of an ancient Hebrew cipher and that the templars’ headstone refers to the pagan fertility god Baphomet (who figured in a ceremony of the Knights Templar); translating Baphomet into Hebrew, ciphering that word through Atbash, and then translating the ciphered word back into English produces “S-O-F-I-A.”<sup>38</sup>

Shocked that her grandfather used a variant of her name, Sophie uses the code to open the cryptex—only to reveal another, smaller cryptex wrapped in a vellum sheet;<sup>39</sup> the sheet has another four lines (written in non-mirrored script): “In London lies a knight a Pope interred. His labor’s fruit a Holy wrath incurred. You seek the orb that ought be on his tomb. It speaks of Rosy flesh and seeded womb.”<sup>40</sup> After landing in England and maneuvering around the combined forces of the French and English police, the entourage (with Silas still bound and gagged) head by car to the Temple Church in London, where knights templar are buried.<sup>41</sup> But the search in the church proves fruitless, and ends abruptly with Teabing’s servant Rémy and Silas (whom Rémy had freed<sup>42</sup>) forcibly taking the cryptex and vellum and kidnapping Teabing.<sup>43</sup>

Now on their own, Langdon and Neveu flee to a library, where a computer search reveals that Alexander Pope presided over the

<sup>35</sup> See BROWN, *supra* note 3, at 276-79, 283-87, 291-92.

<sup>36</sup> See *id.* at 298-301. (I got this one, but the book jacket, which includes some of the mirrored script superimposed over the Mona Lisa, was a major giveaway.)

<sup>37</sup> *Id.* at 302.

<sup>38</sup> See *id.* at 303-04, 316-21. (This was beyond my powers of reasoning, as was every other mystery in the remainder of the novel, including the identity of the Teacher.)

<sup>39</sup> See *id.* at 320-23.

<sup>40</sup> *Id.* at 337.

<sup>41</sup> See *id.* at 331-36.

<sup>42</sup> See *id.* at 348-50.

<sup>43</sup> See *id.* at 358-62.

funeral of Sir Isaac Newton, and so they travel to Westminster Abbey, where Newton is buried.<sup>44</sup> Waiting for them there is the Teacher (having sent Silas away and poisoned Rémy<sup>45</sup>), who leaves a threatening written message (“I have Teabing.”) and directs them to an isolated part of the Abbey grounds.<sup>46</sup> The succeeding encounter reveals the identity of the Teacher, who has also determined the significance of Newton’s tomb, but still needs help in deciphering the rest of the four lines. In this final confrontation, Langdon intuits the letter sequence necessary to open the cryptex—Newton’s “APPLE,” with rosy flesh and seeded womb—just in time to thwart the Teacher, whom Langdon and Neveu turn over to the soon arriving police (whose efforts have been aided by a now contrite Bishop Aringarosa).<sup>47</sup>

The cryptex contains a sheet with another four lines: “The Holy Grail ’neath ancient Roslin waits. The blade and chalice guarding o’er Her gates. Adorned in masters’ loving art, She lies. She rests at last beneath the starry skies.”<sup>48</sup> So, leaving an incapacitated but alive Teabing in London, Langdon and Neveu head to Rosslyn Chapel in Scotland, where Sophie learns, from her grandmother, that she is one of Christ’s descendants; Saunière and his wife had separated Sophie and her brother (who is also at Rosslyn) when their parents died mysteriously, in order to protect the bloodline.<sup>49</sup>

The Holy Grail is not in Scotland, however, and so leaving Sophie with her new-found family, Langdon returns to Paris and the Louvre, where he realizes that the blade and chalice might refer to I.M. Pei’s famous glass pyramid at the museum, and the inverted glass pyramid beneath it—where the Grail would be surrounded by the works of the masters, with the starry skies visible through the glass.<sup>50</sup> The novel ends: “With a sudden upwelling of reverence, Robert Langdon fell to his knees. For a moment, he thought he heard a woman’s voice . . . the wisdom of the ages . . . whispering up from the chasms of the earth.”<sup>51</sup>

So at the close of the novel its hero solves the last puzzle, confirms the existence of an ancient conspiracy, and reverently ac-

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<sup>44</sup> *See id.* at 377-82, 389-92, 395-97.

<sup>45</sup> *See id.* at 374-76, 385-87.

<sup>46</sup> *Id.* at 402.

<sup>47</sup> *See id.* at 424-26, 429.

<sup>48</sup> *Id.* at 447.

<sup>49</sup> *Id.* at 432, 438-41.

<sup>50</sup> *Id.* at 451-54.

<sup>51</sup> *Id.* at 454.

knowledges the transcendent wisdom we call religion. This final triple play summarizes for me the appeal of *The Da Vinci Code*. But how are these seemingly divergent concepts—puzzles, conspiracies, and religious belief—related?

The popularity of puzzle-solving is a rather straightforward matter: In an increasingly complex world, where there never seems to be any final correct answer to any important question, it is pleasing to be able to solve something, to apply one's skill at logic or vocabulary or arithmetic to produce a right answer,<sup>52</sup> even to something as inconsequential as a newspaper crossword.<sup>53</sup> Mystery and detective novels feed the same taste,<sup>54</sup> which Brown's novel richly satisfies with its abundance of conundra, including the ultimate mystery of the Teacher's identity.

When the desire for right answers crosses from puzzles to reality, one of its manifestations is the proliferation of conspiracy theories.<sup>55</sup> The notion that there are hidden combinations of humans that manipulate events provides an explanation for what would otherwise seem frighteningly random.<sup>56</sup> Instead of mindless histor-

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<sup>52</sup> See generally MARCEL DANESI, *THE PUZZLE INSTINCT: THE MEANING OF PUZZLES IN HUMAN LIFE* (2002).

<sup>53</sup> Brown acknowledges this appeal by making Saunière and Neveu puzzle freaks: Sophie's passion and aptitude for cryptography were a product of growing up with Jacques Saunière—a fanatic himself for codes, word games, and puzzles. *How many Sundays did we spend doing the cryptograms and crosswords in the newspaper?*

At the age of twelve, Sophie could finish the *Le Monde* crossword without any help, and her grandfather graduated her to crosswords in English, mathematical puzzles, and substitution ciphers. Sophie devoured them all.

BROWN, *supra* note 3, at 77.

<sup>54</sup> See Carlin Romano, *Why Do We Love Puzzles? Professor Fills in the Blanks*, PHILA. INQUIRER (Oct. 13, 2002) (reviewing Danesi, *supra* note 52) (According to P.D. James, mysteries "serve our desire for the 'restoration of order.'"), available at <http://www.philly.com/mld/inquirer/entertainment/books/4270024.htm?1c>. See also Laura Miller, *Smiley's People*, N.Y. TIMES BOOK REVIEW, June 6, 2004, at 39 ("The real fantasy the spy novel peddles is a dream of coherence and mastery, in which people have the power to transcend human error and the vagaries of chance and to direct the unfolding of fate itself. Even if these people are evil, at least they are people, and not the terrifyingly random forces that, we fear, may truly shape our lives.").

<sup>55</sup> On the connection between puzzles and conspiracy theories, see Michael Albert, *Conspiracy Theory*, Z MAGAZINE ONLINE at <http://www.zmag.org/parecon/conspiracy.htm> (last visited Jan. 26, 2005) ("[D]escription of the detailed entwinements become[s] addictive. One puzzle and then another and another need analysis. Conspiracy theory has the appeal of a mystery . . ."). See also Craig DiLouie, *In Defense of Conspiracy Theories*, DISINFORMATION at <http://www.disinfo.com/archive/pages/article/id1767/pg2/> (Nov. 29, 2001).

<sup>56</sup> "[A] belief in conspiracy theories helps people to make sense out of a confusing, inhospitable reality, rationalize their present difficulties, and partially assuage their feelings of powerlessness." Jeffrey M. Bale, *'Conspiracy Theories' and Clandestine*

ical ebb and flow—with all of us as the flotsam—conspiracy theorists can cling to the idea that some group is in charge of at least part of human events.<sup>57</sup> *The Da Vinci Code* satisfies this craving for clearer explanations of history, for answers to its puzzles, by supplying both a conspiracy to suppress the “truth” of Christ’s humanity and sexuality and a counter-conspiracy, the Priory of Sion, dedicated to preserving the evidence of this truth; the conflict between these conspiracies purportedly explains a considerable chunk of Western history.<sup>58</sup>

When the need for comprehensible explanations expands from the events of life to life itself, we have entered the realm of religion. As Freud himself suggested, humans face a dangerous world, and the notion of a God with a plan for each and every one of us is highly comforting.<sup>59</sup> Teleological religion thus provides

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*Politics*, LOBSTER: THE JOURNAL OF PARAPOLITICS 29 (June 1995) at <http://www.lobster-magazine.co.uk/articles/129consp.htm> (last visited Jan. 26, 2005). Bale cites in support a number of “standard academic treatments of conspiracy theories,” leading with Richard Hofstadter’s *The Paranoid Style in American Politics*, in *THE PARANOID STYLE OF AMERICAN POLITICS AND OTHER ESSAYS* 3 (1966). Bale, *supra*, at n.4. A recent work in the Hofstadter tradition is MICHAEL BARKUN, *A CULTURE OF CONSPIRACY: APOCALYPTIC VISIONS IN CONTEMPORARY AMERICA* (2003). See Albert, *supra* note 55 (“[C]onspiracy theories have manageable implications . . . that all was well once and that it can be okay again if only the conspirators can be pushed aside.”). See also Molly Haskell, *Whatever the Public Fears Most, It’s Right Up There on the Big Screen*, N.Y. TIMES, Aug. 8, 2004, Week in Review, at 5 (“Conspiracy offers an antidote to chaos. Instead of unpredictable terrorists, true aliens in our midst, we have ‘people like us’ only more extreme: logical tacticians with scientific plans to take over the world.”). See generally Charlotte Parsons, *Why We Need Conspiracy Theories*, BBC News Online, Sept. 24, 2001, at <http://news.bbc.co.uk/1/hi/world/americas/1561199.stm> (observing that conspiracy theories help people feel safer in the face of unpredictable violence).

<sup>57</sup> In this same vein, Brown has Langdon summarize a discussion of the search for Grail clues that might be hidden in Da Vinci’s works, in a paragraph composed of a single italicized sentence: “*Everyone loves a conspiracy.*” BROWN, *supra* note 3, at 169.

<sup>58</sup> Cf. Rowland, *supra* note 31, at 24 (“Thrillers are a conservative genre. Like Greek tragedies and murder mysteries, they upset society’s balance in order to right it, and to re-affirm it in the righting. . . . A good thriller must provide comfort after the thrill. Many people have read *The Da Vinci Code* while riding on airplanes . . . . [T]he plot must obey only the logic of the jet-lagged, and no suggestion of philosophical anarchy should threaten to bring down the premises by which airline passengers continue to believe that lift plus thrust will keep them airborne to their destination.”).

<sup>59</sup> See generally SIGMUND FREUD, *THE FUTURE OF AN ILLUSION* (James Strachey ed. & trans., W. W. Norton & Co. 1975) (1927) (recognizing religion as an illusion, which although relied upon heavily by believers, is not crucial to their well-being and survival). Freud’s views on religion (contrasted with those of C.S. Lewis) were recently the subject of *The Question of God* (PBS television broadcast, Sept. 15, 2004), a four-hour miniseries. Cf. Stephen Amsa, ‘*Mass Delusion*’ or ‘*True Myth*’? *PBS Considers ‘The Question of God’*, CHRON. HIGHER EDUC., Sept. 10, 2004, at B15 (“Freud, who referred to himself as a ‘Godless Jew,’ argued that religion is a ‘mass delusion,’ which formally enshrines our ‘infantile’ longing for an all-powerful protective (but also threatening) father figure.”). For a similar analysis, see Paul Kurtz, *Why Do People Believe or Disbe-*

the ultimate response to the need for answers.<sup>60</sup>

Though Dan Brown's book has been damned as antireligious,<sup>61</sup> it in fact celebrates religion by presenting readers with two sets of believers, whose commitment to the answers that their faith provides is so total that they will lay down their lives for it. Jacques Saunière not only dies to protect the cult of the sacred feminine, but had voluntarily separated himself from his wife for decades for the same reason; other members of the Priory of Sion make similar sacrifices.<sup>62</sup> The Opus Dei members in the novel, though misguided, are shown as similarly religiously committed. Bishop Aringarosa ultimately repents of his involvement with the Teacher (who had promised the bishop there would be no killing) and assists his and Silas's capture, meanwhile suffering a life-threatening bullet wound unintentionally inflicted by the albino monk.<sup>63</sup>

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*lieve?*, Council of Secular Humanism, available at [http://www.secularhumanism.org/index.php?section=library&page=kurtz\\_19\\_3\\_1](http://www.secularhumanism.org/index.php?section=library&page=kurtz_19_3_1) (last visited Dec. 11, 2004). "[T]he temptation to believe in things unseen, because they satisfy felt needs and desires . . . can provide a source of comfort and consolation . . . . It is the most frequent salve used to calm existential fear and trembling." *Id.*

A recent work of popular science, Dean Hamer's *The God Gene: How Faith Is Hardwired Into Our Genes*, claims that the proclivity to religious belief is not merely psychological, but "hard-wired into our genes." Dean Hamer, *God In The Machine: Is Faith Programmed Into Our Genetic Code?*, STAR-LEDGER, Sept. 19, 2004, at 1; see Bill Broadway, *Is the Capacity for Spirituality Determined by Brain Chemistry?*, WASH. POST, Nov. 13, 2004, at B9 (discussing the controversy over Hamer's claims). For more nuanced presentations of a similar claim, see Pascal Boyer, *Why Is Religion Natural?*, SKEPTICAL INQUIRER (Mar. 2004), at <http://csicop.org/si/2004-03/religion.html>; Kurtz, *supra*.

<sup>60</sup> Two of Brown's characters hint at a similar understanding of the role of religion. Langdon tells Neveu:

"Sophie, every faith in the world is based on fabrication. That is the definition of *faith*—acceptance of that which we imagine to be true, that which we cannot prove. Every religion describes God through metaphor, allegory, and exaggeration, from the early Egyptians through modern Sunday school. Metaphors are a way to help our minds process the unprocessable. The problems arise when we begin to believe literally in our own metaphors."

BROWN, *supra* note 3, at 341-42. At Rosslyn chapel, Saunière's wife tells Langdon why the Grail should never be revealed:

"It is the mystery and wonderment that serve our souls, not the Grail itself. The beauty of the Grail lies in her ethereal nature." . . . "For some, the Grail is a chalice that will bring them everlasting life. For others, it is the quest for lost documents and secret history. And for most, I suspect the Holy Grail is simply a grand idea . . . a glorious unattainable treasure that somehow, even in today's world of chaos, inspires us."

*Id.* at 444 (second ellipsis in original).

<sup>61</sup> See *supra* notes 29, 32, and 34.

<sup>62</sup> See BROWN, *supra* note 3, at 4 (in addition to killing Saunière, Silas has killed three other high-ranking Priory members).

<sup>63</sup> *Id.* at 394, 414.

Silas is also shot in the same encounter, and chastened into martyrdom by Aringarosa's exhortation to forgiveness and prayer, wanders into Kensington Gardens where he allows himself to die of his less serious wound.<sup>64</sup> So even these "villains" are shown as religiously motivated.<sup>65</sup>

These portrayals invoke the power of religious belief, which begins to convince even skeptics like Langdon—who, it bears repeating, ends the novel on his knees. So in addition to providing solved puzzles and confirming conspiracy theories, Dan Brown champions the most all-encompassing set of answers possible, a faith that explains our place in the universe.<sup>66</sup> *The Da Vinci Code* thus consoles its readers on three ascending levels—no wonder millions bought it.

### III

If one believes, as I do, that the quest for answers is quixotic—that puzzles are mere diversions, that almost all of the supposed conspiracies never existed, and that religion really is the opiate of the masses—the consolation Dan Brown offers in *The Da Vinci Code* is an alluring delusion. But the allure is so strong—if not in Brown's book, then in our culture as a whole—that it requires an antidote. I found mine by revisiting Kafka's *The Trial*, which rejects the search for answers by showing its pointlessness.

Kafka's unfinished novel tells the story of Joseph K., who is arrested (but not taken into custody) on the first page of the novel and executed (in a private ceremony, by "'old supporting actors'"<sup>67</sup>) on the last page, for a crime that he never learns and through a process he never understands. Throughout the novel, K. tries to ascertain more about the mysterious "Court" that he feels is conspiring against him, seeking assistance in this project from those who work for the court; from a lawyer, a painter, and a prison chaplain; from another defendant; and from every woman

<sup>64</sup> *Id.* at 417-18, 427.

<sup>65</sup> A previous comment by Langdon describes in general terms the genuine commitment of Aringarosa and Silas: "'[I]t's important to remember that the modern Church's desire to suppress these documents [the Grail] comes from a sincere belief in their established view of Christ. The Vatican is made up of deeply pious men who truly believe these contrary documents could only be false testimony.'" *Id.* at 234-35.

<sup>66</sup> One critic identifies the novel's religiosity as the reason for its extravagant success: "[*The Da Vinci Code*] is the popular expression of a desire for a kind of meaningfulness to life that is missing for most of us." Curtis White, *Faith Off*, VILLAGE VOICE LITERARY SUPPLEMENT (Oct. 2004), available at <http://www.villagevoice.com/vls/182/white.shtml>.

<sup>67</sup> *THE TRIAL*, *supra* note 7, at 226.

he encounters. The culmination of this project is K.'s meeting with the prison chaplain in a cathedral, where the chaplain relates Kafka's famous parable, *Before the Law*.<sup>68</sup> Yet at the end of his quest, after the chaplain's contradictory explications of the parable, Joseph K. has no more answers than he had at the beginning. *The Trial* thus stands as an unfinished and unsolvable puzzle, about a conspiracy that is never revealed and probably never existed, in which the primary religious figure can provide no more consolation about life than that it "wants nothing from you. It receives you when you come and it dismisses you when you go."<sup>69</sup>

One of the many frustrations facing readers of *The Trial* is its unfinished condition. At his death (at forty, from tuberculosis), Kafka left a mass of unfinished manuscripts with directions that they "be burned unread,"<sup>70</sup> but Max Brod, Kafka's literary executor, ignored this injunction and salvaged four volumes of material, one of which became *The Trial*.<sup>71</sup> Brod gave the work a title and guessed at the order of the chapters, including one unfinished chapter but suppressing the rest;<sup>72</sup> most later versions, however, include all the unfinished chapters,<sup>73</sup> as well as shorter passages subsequently deleted by Kafka.<sup>74</sup>

Given this provenance, *The Trial* can be considered a literary jigsaw puzzle, with several pieces missing.<sup>75</sup> There is much conjecture about the order of the completed chapters,<sup>76</sup> and even greater confusion about where the unfinished chapters are supposed to

<sup>68</sup> *Id.* at 215-17. Unlike the rest of *The Trial*, *Before the Law* was published during Kafka's lifetime. Nahum N. Glatzer, *On the Material Included in This Volume, in FRANZ KAFKA, THE COMPLETE STORIES AND PARABLES* 499 (Nahum N. Glatzer ed., 1983); *THE TRIAL*, *supra* note 7, app. IV at 279 n.\*\*.

<sup>69</sup> *THE TRIAL*, *supra* note 7, at 222.

<sup>70</sup> *Id.* app. III at 266 (quoting a note that Kafka left with his papers).

<sup>71</sup> *Id.* at 270.

<sup>72</sup> *Id.* at 270-71, 273.

<sup>73</sup> *Id.* app. I (six unfinished chapters).

<sup>74</sup> *Id.* app. II (twenty-two deleted passages). Three of the unfinished chapters also contain deleted passages. *Id.* app. I at 238-39, 248-50, 252-53. *Cf. id.* app. III at 273 (quoting the *Postscript to the Second Edition*: "[T]here is also some uncertainty about the passages deleted by him. Some of them would probably have been replaced after a further revision.").

<sup>75</sup> *Id.* app. III at 271 (quoting the *Postscript to the First Edition*: "Franz regarded the novel as unfinished. Before the final chapter . . . a few more stages of the mysterious trial were to have been described.").

<sup>76</sup> *See, e.g., id.* app. III at 274 (quoting the *Postscript to the Third Edition*: "A further scrutiny of the manuscript undertaken recently makes it appear not impossible that Kafka intended the episode now designated as the fifth chapter ['The Whipper,'] to be in fact the second." ). Similarly, a recent translation relegates one of Brod's completed chapters, "Fräulein Bürstner's Friend," to the ghetto of unfinished chapters. FRANZ KAFKA, *THE TRIAL* (Breon Mitchell trans., Schocken Books 1998) (1925).

go.<sup>77</sup> Whether or not Kafka intended this puzzle for his readers, the undeniable upshot of Brod's (and subsequent editors') treatment of Kafka's manuscripts is that we confront a work that challenges us to "solve" its organization, but frustrates us at every turn.<sup>78</sup>

Not only is the structure of the novel vexing, but its content also deeply frustrates the reader's expectations. The one question everyone has at the beginning of the novel is, what did Joseph K. do to cause himself to be arrested? Even though the first sentence of the work uses the phrase "without having done anything wrong" to describe K.,<sup>79</sup> readers relish a mystery and thus await the revelation of his (real or alleged) wrongdoing—but the novel never provides one. Instead, Kafka only hints (mostly in the unfinished chapters) at a possible answer, which is nevertheless unsatisfactory because it involves no criminal behavior.

A success in the city, K. has scorned his country roots: he has ignored his young cousin, who attends a boarding school in the city, and is embarrassed by his uncle's visits, though the man was almost a father to him.<sup>80</sup> K. seems to be searching instead for a father figure in the city, but unsuccessfully, as is suggested by his relations with his boss the Bank Manager and with his friend the prosecuting attorney.<sup>81</sup> Perhaps most significantly, K. has ignored his mother, whom he promised to visit annually but has not seen in three years.<sup>82</sup> So guilt regarding his family might explain the

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<sup>77</sup> Cf., e.g., THE TRIAL, *supra* note 7, at 239 n.\* (indicating that the unfinished chapter "Prosecuting Counsel," should appear in the second half of the novel, even though in this chapter Joseph K. is depicted before the commencement of his trial). See *id.* app. III at 270-71 (explaining Brod's decision regarding the order of the chapters). An elaborate exploration of these problems is available in Herman Uyttersprot, *The Trial: Its Structure*, in FRANZ KAFKA TODAY 127 (Angel Flores & Homer Swander eds., 1977).

<sup>78</sup> "It is the fate and perhaps the greatness of [*The Trial*] that it offers everything and confirms nothing." Albert Camus, *Hope and the Absurd in the Work of Franz Kafka*, in KAFKA: A COLLECTION OF CRITICAL ESSAYS 147, 155 n.8 (Ronald Gray ed., 1962) [hereinafter Camus, *Hope*]. There are other formalistic frustrations in the novel, most notably, its long paragraphs. In one paragraph where Kafka in large part quotes Joseph K.'s lawyer, he never uses quotation marks to separate K.'s thoughts from the attorney's remarks. See THE TRIAL, *supra* note 7, at 113-24. There are occasional long chapters where the title suggests how easy it would have been to break the chapter up. See *id.* at 113-65 ("Lawyer—Manufacturer—Painter").

<sup>79</sup> THE TRIAL, *supra* note 7, at 1.

<sup>80</sup> See *id.* at 91-94; see *id.* app. I at 256 ("A Fragment").

<sup>81</sup> See *id.* at 239-45 ("Prosecuting Counsel"). Kafka's relationship with his own father was notoriously difficult. See *id.* at 279 ("Excerpts from Kafka's Diaries"); see also FRANZ KAFKA, *The Judgment*, in THE COMPLETE STORIES AND PARABLES 77 (Nahum N. Glatzer ed., 1983) (1913) (in which a father condemns his son to suicide).

<sup>82</sup> See THE TRIAL, *supra* note 7, app. I at 235-39 ("Journey to His Mother").

charges against Joseph K.<sup>83</sup>

Even though treating your family badly is not a crime anywhere that I know of, once upon a time I was pleased with this interpretation of the novel. Now I recognize that reading the work this way was a simplistic attempt to solve *The Trial's* mysteries, to find an answer to one of its puzzles.<sup>84</sup> But Kafka provides no answers, solves none of his puzzles. *The Trial* confounds the reader—much like life itself.

Of course, the confounded reader thus finds herself in the same position as Joseph K., who is deeply perplexed by the adversary he faces in the Court.<sup>85</sup> Like the reader trying to make sense of Kafka's novel, K. tries to make sense of the Court; the explanation that seems to satisfy him most is to suppose a vast conspiracy arrayed against him, led by the "high officials," the "great judges." Yet Kafka implicitly denies the validity of this answer at every turn.

From the outset, K. wants answers, telling the three men who arrest him, "[W]ho accuses me? What authority is conducting these proceedings? Are you officers of the law? . . . I demand a clear answer to these questions."<sup>86</sup> But when the reply is unsatisfactory—"You are laboring under a great delusion," [the Inspector] said"<sup>87</sup>—K. decides not to press his questions, instead offering "to bother no more about the justice or injustice of [the arresting officers'] behavior and settle the matter amicably by shaking hands on it"; however, the Inspector ignores K's outstretched hand.<sup>88</sup>

At his appearance several days later before an examining magistrate, K. raises his questions again, this time in the form of an impassioned speech to an assembled group, which looks like "a lo-

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<sup>83</sup> Another potential explanation is that K.'s guilt derives from the abominable way he treats women, from the dancer Elsa, who "received her visitors in bed," *id.* at 17, to his fellow boarder Fraulein Burstner, the court usher's wife, and his lawyer's nurse Leni, each of whom K. leches after. *See id.* at 23-30, 49-59, 106-12. Yet another explanation arises from the fact that K. is arrested on his thirtieth birthday. *See id.* at 4. A student in my Law, Literature & Film Seminar once suggested that no one makes it to thirty without having done something criminal.

<sup>84</sup> I am afraid I still cling to a solution to one of *The Trial's* puzzles, why Kafka never finished the chapter "Block—the Tradesman—Dismissal of the Lawyer." *See id.* at 166. Though it is far too cute, I always mention to my students the possibility that Kafka, like K., could not quite bring himself to dismiss the lawyer.

<sup>85</sup> *See generally* Anthony Thorlby, *Anti-Mimesis: Kafka and Wittgenstein*, in ON KAFKA: SEMI-CENTENARY PERSPECTIVES 59 (Franz Kuna ed., 1976) (discussing the confusion that the reader experiences when reading Kafka's writing).

<sup>86</sup> THE TRIAL, *supra* note 7, at 11.

<sup>87</sup> *Id.* at 11-12.

<sup>88</sup> *Id.* at 14.

cal political meeting.”<sup>89</sup> After mentioning that two of the arresting officers stole both his breakfast and some of his clothes, K. focuses on their superior: “I asked the Inspector with the utmost calm . . . why I had been arrested. And what was the answer of this Inspector, . . . [this] embodiment of crass arrogance? Gentlemen, he answered in effect nothing at all . . . .”<sup>90</sup> Warming to his topic, K. offers to explain such official behavior:

“[T]here can be no doubt that behind all the actions of this court of justice, that is to say in my case, behind my arrest and today’s interrogation, there is a great organization at work. An organization which not only employs corrupt warders, oafish Inspectors, and Examining Magistrates of whom the best that can be said is that they recognize their own limitations, but also has at its disposal a judicial hierarchy of high, indeed of the highest rank, with an indispensable and numerous retinue of servants, clerks, police, and other assistants, perhaps even hangmen . . . .”<sup>91</sup>

So, never having gotten answers to his questions, K. provides them himself, by positing a conspiracy against him.

This explanation fails to convince the audience, which had previously been somewhat receptive, but K. sees this failure as further proof of the conspiracy: “‘So!’ cried K., flinging his arms in the air, his sudden enlightenment had to break out, ‘every man jack of you is an official, I see, you are yourselves the corrupt agents of whom I have been speaking . . . .’”<sup>92</sup> He clings to this belief even after the examining magistrate informs him that “‘today you have flung away with your own hand all the advantages which an interrogation invariably confers on the accused man.’”<sup>93</sup> The magistrate’s judgment is likely valid, as K.’s original strategy—“to observe rather than speak”<sup>94</sup>—might have forced some disclosure of the court process. But K.’s embrace of a conspiracy theory deprives him of this opportunity.

K.’s later attempts to learn more about the supposed conspiracy enmesh him in a sordid entanglement involving a court usher, his compliant wife, the overworked examining magistrate, and a randy law student who pimps for the magistrate;<sup>95</sup> then the usher

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<sup>89</sup> *Id.* at 38.

<sup>90</sup> *Id.* at 43.

<sup>91</sup> *Id.* at 45-46.

<sup>92</sup> *Id.* at 47.

<sup>93</sup> *Id.* at 48.

<sup>94</sup> *Id.* at 39. This is, of course, the conventional defense strategy at almost all preliminary hearings.

<sup>95</sup> *See id.* at 49-62.

introduces K. to some other court personnel, who appear suave and competent, but cannot breathe outside the court offices.<sup>96</sup> Though K. does not notice, these are hardly the powerful, high-ranking officials he believes are plotting against him.

Another experience that ought to shake K.'s adoption of a conspiracy theory is the dreamlike sequence<sup>97</sup> that begins when he discovers, in a "lumber-room" of the bank where he works, the two warders who stole his food and clothes and a whipper who is about to punish the policemen for these transgressions.<sup>98</sup> Responding to the warders' pleas, K. intercedes on their behalf, circumspectly offering to bribe the whipper and then explaining, "I should never have mentioned their names. For in my view they are not guilty. The guilt lies with the organization. It is the high officials who are guilty." K. is, however, keen to punish those officials: "If it was one of the high Judges you were flogging, . . . I certainly wouldn't try to keep you from laying on with a will, on the contrary I would pay you extra to encourage you in the good work."<sup>99</sup> K. is thus willing to exempt the pawns in his supposed conspiracy, but wants to transfer their punishment to the kingpins.

By offering a bribe, however, K. shows his own corruption, and the whipper's reaction to his proposal shows that two can play the game of conspiracy theory. The suspicious whipper responds, "So you want to lay a complaint against me too, . . . and get me a whipping as well? No, no!"<sup>100</sup> The whipper doubts the sincerity of K.'s offer, and so K., hoist by his own petard, must watch as the whipper commences his task. Unable to aid the warders, K.'s situation becomes worse as one of them beseechingly seizes K., who throws the man down and thus makes it easier for the whipper to strike him.<sup>101</sup> Made frantic by the warders' shrieks of pain, K. flees the lumber-room, and then lies to some other bank employees about

<sup>96</sup> See *id.* at 66-73.

<sup>97</sup> Another puzzle in *The Trial* is trying to determine whether "The Whipper" is to be read as just another part of the narrative, or as K.'s nightmare or hallucination. Cf. *id.* at 89-90 (the day after the supposed encounter with the warders and the whipper, K. opens the lumber-room door again, to find all three in their same original positions, as if the scene were beginning again).

<sup>98</sup> See *id.* at 83-84. According to the *Oxford English Dictionary*, a lumber-room is "a room for the reception of lumber or disused chattels." OXFORD ENGLISH DICTIONARY 96-97 (2d ed. 1989).

<sup>99</sup> THE TRIAL, *supra* note 7, at 86.

<sup>100</sup> *Id.* There are numerous similar ironies in "The Whipper," which is one of Kafka's tours de force. For example, the warders complain that K.'s allegations against them have ruined their chances for advancement: "[W]e . . . would certainly have been promoted to be Whippers pretty soon . . ." *Id.* at 85.

<sup>101</sup> See *id.* at 86-87.

the sounds they had heard: “‘It was only a dog howling in the courtyard.’”<sup>102</sup> So K. not only allows the physical abuse of the warders, but also participates in it and covers it up. He has become part of the Court, part of the conspiracy he rails against.

K. can still blame the higher-ups, even for his own guilty behavior, but his subsequent discussions about “the Court”—with his lawyer, a court painter, and another defendant—expose these high officials as little different from the tawdry examples of court personnel he has already encountered. At K.’s first meeting with his lawyer (an old friend of K.’s uncle), there is another guest, the Chief Clerk of the Court.<sup>103</sup> As the lawyer Huld later explains, “officials, and very high ones among them,”<sup>104</sup> seek out the lawyers because the Court’s officers need the defense attorneys:

The ranks of the officials in this judiciary system mounted endlessly, so that not even the initiated could survey the hierarchy as a whole. And the proceedings of the Courts were generally kept secret from subordinate officials . . . ; any particular case thus appeared in their circle of jurisdiction often without their knowing whence it came, and passed from it they knew not whither. . . . So in that respect, . . . they could learn much that was worth knowing from the Defense.<sup>105</sup>

Judges and clerks, even the high ones, are thus just cogs in the vast Court machinery, little different from examining magistrates, inspectors, law students, ushers, warders, and whippers. According to Huld, this existence puts the judges “in a constant state of irritation,”<sup>106</sup> and causes them to behave “like children. Often they could be so deeply offended by the merest trifle . . . . But then, suddenly, . . . without any particular reason, . . . they were your friends again.”<sup>107</sup>

This childishness is confirmed by Titorelli, the court painter to whom a bank client refers K. In his art Titorelli portrays the judges in awe-inspiring poses, but none of them is realistic. At his lawyer’s, K. first saw one of these paintings, of “a man in a Judge’s robe . . . sitting on a high thronelike seat . . . . The strange thing was

<sup>102</sup> *Id.* at 87.

<sup>103</sup> *See id.* at 104-06; *see also id.* at 111-12.

<sup>104</sup> *Id.* at 118.

<sup>105</sup> *Id.* at 119-20. Dr. Huld also suggests that the judges and other court officials need the lawyers because “[t]heir remoteness kept the officials from being in touch with the populace.” *Id.* at 118.

<sup>106</sup> *Id.* at 120; *see also id.* at 120-21 (a story about lawyers placating an irritable judge, by allowing him to throw them down a stairway until the judge “grew tired and went back to his office”).

<sup>107</sup> *Id.* at 122.

that the Judge did not seem to be sitting in dignified composure . . . it was as if in a moment he must spring up with a violent and probably wrathful gesture . . . ”<sup>108</sup> Leni, the lawyer’s nurse, told K. that the painting is “‘all invention.’” The judge, an examining magistrate, looks nothing like the man in the portrait, and in fact “‘is sitting on a kitchen chair, with an old horse-rug doubled under him.’”<sup>109</sup>

When K. encounters a similar portrait in Titorelli’s atelier—different judge, same posture—the painter agrees with Leni that it is “‘all invention’”: K. asks, “‘It’s surely a Judge sitting on his seat of justice?’ ‘Yes,’ said the painter, ‘but it is by no means a high Judge and he has never sat on such a seat in his life.’”<sup>110</sup> Both Leni and Titorelli attribute the bogus nature of the paintings to the judges’ vanity; they want to be seen as greater than they are.<sup>111</sup> Interestingly, however, K. wants to see the judges in the same way, and must be persuaded otherwise each time, perhaps because the illusion of powerful judges allows him to continue to believe that they are conspiring against him.

Titorelli implicitly denies any such conspiracy in describing the paucity of power the judges possess. The judges he knows can only grant limited relief—“‘ostensible acquittal and indefinite postponement’”—neither of which ends the defendant’s ordeal.<sup>112</sup> The only judges who can grant a “‘definite acquittal,’” of which there are only “‘legendary accounts of ancient cases,’” are those of “‘the highest Court of all, which is inaccessible to you, to me, and to all of us. What the prospects are up there we do not know and, I may say in passing, do not even want to know.’”<sup>113</sup> So the only judges capable of granting a true acquittal are legendary, unknow-

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<sup>108</sup> *Id.* at 107.

<sup>109</sup> *Id.* at 108.

<sup>110</sup> *Id.* at 146. One difference between the two paintings is that the chair in Titorelli’s painting has a figure rising from it—commissioned by the judge—that is intended as “‘Justice and the goddess of Victory in one.’” K. observes this is “[n]ot a very good combination,” a decision confirmed when, after Titorelli works on the figure some more, it “look[s] exactly like a goddess of the Hunt in full cry.” *Id.* at 146, 147.

<sup>111</sup> *See id.* at 108, 146. As Titorelli later says, “[E]very Judge insists on being painted as the great old Judges were painted . . . .” *Id.* at 152. For a more realistic description of the judge Titorelli is painting, see *id.* at 156 (the jurist enters the atelier by climbing over Titorelli’s bed; “[y]ou would lose any respect you have for the Judges if you could hear the curses that welcome him”).

<sup>112</sup> *Id.* at 156; *see id.* at 156-62 (describing ostensible acquittal and indefinite postponement).

<sup>113</sup> *Id.* at 152, 154, 158; *see id.* at 152-55 (describing definite acquittal); *see also id.* at 245-46 (another description of the high court’s inaccessibility, in the unfinished chapter “The House”).

able, and thus probably nonexistent. The remaining judges, the only real ones, are just minor roleplayers in a bureaucracy, with only marginal powers to affect its process.

K.'s subsequent discussion with another defendant, a tradesman named Block, makes a similar point, this time about defense lawyers. K. meets Block, also a client of Huld, at the lawyer's home, where K. has gone to fire him. Before either of them is admitted to the lawyer's presence, Block reveals to K. that in addition to Huld, Block has other attorneys, which is a major transgression: "It's not allowed. And least of all is it allowed to consult pettifogging lawyers when one is the client of an official lawyer. And that's exactly what I've been doing, I have five pettifogging lawyers besides him."<sup>114</sup> Thus the defense lawyers have a hierarchy, just like the courts; most importantly, the highest echelon of lawyers—which does not include Huld—is as inaccessible as the highest court, according to Block:

"[A]ccording to the Court tradition, . . . our lawyer and his colleagues rank only among the small lawyers, while the really great lawyers, whom I have merely heard of and never seen, stand as high above the small lawyers as these above the despised pettifogging lawyers. . . . I have no idea who the great lawyers are and I don't believe they can be got at. I know of no single instance in which it could be definitely asserted that they had intervened. . . . In fact, it's better to put them out of one's mind altogether . . . ."<sup>115</sup>

Notice the similarities to Titorelli's description of the highest judges: The great lawyers are legendary at best, unattainable, and better forgotten. What is left, says Block, are the "'ordinary lawyers, [with whom interviews are] so stale and stupid, with their niggling counsels and proposals . . . that one feels like throwing the whole thing up and taking to bed with one's face to the wall. And of course that would be stupider still, for even in bed one wouldn't find peace.'<sup>116</sup>

Like the accessible judges, the attainable lawyers are impotent creatures, hardly the plotters of a grand conspiracy.<sup>117</sup> Yet K. persists in his plan to fire Huld, partly because he fears that the lawyer has joined the plot against K., that his lawyer will "pander[ ] to his

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<sup>114</sup> *Id.* at 172-73.

<sup>115</sup> *Id.* at 178-79.

<sup>116</sup> *Id.* at 179.

<sup>117</sup> Their working conditions support this conclusion. *See id.* at 116 (describing the "lawyers' room" in the law court offices, which has a hole in the floor "big enough to let a man's leg slip through").

friends in the Court” by sacrificing his client.<sup>118</sup> Though the unfinished chapter ends before K. definitively discharges the attorney,<sup>119</sup> K. still seems caught in the conspiracy theory he has spun out, unable to see that those he fears—we ordinary humans—are too vain and feckless to effectively plot against him.

In the last chapter before K.’s execution, he is drawn to a cathedral where he encounters a priest who is also the prison chaplain.<sup>120</sup> Thus explicitly invoking religion, Kafka once more suggests, on multiple levels, that the search for answers will always be fruitless.

On a cold rainy day, K. goes to the cathedral to meet a businessman, an Italian friend of the Bank Manager, who desires a tour of the historic and artistically significant building. After not understanding the visitor’s dialect when he earlier dropped in at the bank, K. is almost relieved when the man fails to appear at the church.<sup>121</sup> But a priest begins to deliver a sermon in the almost deserted cathedral, and calls out Joseph K.’s name when the latter attempts to leave.<sup>122</sup> Fearing that this is part of the plot against him,<sup>123</sup> K. nevertheless approaches the priest to hear what he has to say.

The priest identifies himself as the prison chaplain and tells K.

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<sup>118</sup> *Id.* at 187. *See also id.* at 125 (“Was it so certain that he was exploiting these connections entirely for K.’s benefit? The lawyer never forgot to mention that these officials were . . . in a very dependent position, for whose advancement certain turns in the various cases might in all probability be of some importance. Could they possibly employ the lawyer to bring about such turns in the case, turns which were bound, of course, to be unfavorable to the accused?”).

<sup>119</sup> *See supra* note 84.

<sup>120</sup> The three church scenes at the end of *The Da Vinci Code*, *see supra* text accompanying notes 39-43 and 45, made me think of the cathedral chapter in *The Trial*, which was the inkling from which this essay sprang.

<sup>121</sup> *See THE TRIAL*, *supra* note 7, at 197-205. K.’s difficulty in understanding the Italian is analogous to his difficulty in understanding the Court, making the Bank Manager’s advice all the more pertinent:

If K. found that he could not understand the man to begin with he mustn’t let that upset him, for he wouldn’t take long to catch the sense of what was said, and even if he didn’t understand very much it hardly mattered, since the Italian cared little whether he was understood or not. Besides, K.’s knowledge of Italian was surprisingly good and he would certainly acquit himself well.

*Id.* at 202.

<sup>122</sup> With masterly irony, Kafka has K. resolve to leave the cathedral if he hears his name again, but stay when the priest does not call it out a second time. *See id.* at 209. Thus, as in “The Whipper,” *see supra* text accompanying note 100, K. participates in the Court’s mechanisms, but this time he is the victim.

<sup>123</sup> When Leni hears of the planned trip to the cathedral, she tells K., “They’re goading you,” and K. agrees, “Yes, they’re goading me.” *Id.* at 203.

that his “case is going badly.” K. responds, “‘But I am not guilty,’ . . . ; ‘it’s a mistake. And, if it comes to that, how can any man be called guilty? We are all simply men here, one as much as the other.’ ‘That is true,’ said the priest, ‘but that’s how all guilty men talk.’”<sup>124</sup> K. immediately reverts to his conspiracy theory—“‘Are you prejudiced against me too?’ . . . . ‘[A]ll the others who are concerned in these proceedings are prejudiced against me.’”—to which the priest responds, “‘You are misinterpreting the facts of the case.’”<sup>125</sup>

Despite the prison chaplain’s austere warnings, K. still hopes to find solace in his message:

[I]t was not impossible that K. could obtain decisive and acceptable counsel from him which might, for instance, point the way, not toward some influential manipulation of the case, but toward a circumvention of it, a breaking away from it altogether, a mode of living completely outside the jurisdiction of the Court.<sup>126</sup>

K. thus seeks from the priest a way not merely to forestall his earthly problems, but to transcend them; in other words, he is looking, for the first time in the novel, for a religious answer to the problems of his life. The man of religion replies by telling K. a parable, of the doorkeeper who stands “‘before the Law’” and the “‘man from the country who begs for admittance to the Law.’”<sup>127</sup> The doorkeeper refuses, but says the man might be allowed to enter later. They discuss the wisdom of the man trying to force his way in, but he decides to wait. Over the years of waiting, the man from the country converses with the doorkeeper, bribes him, learns his slightest attributes so as to gain favor, but never gains admission.<sup>128</sup> As the man is dying, he asks the doorkeeper for the first time, “‘Everyone strives to attain the Law,’ . . . ‘how does it come about, then, that in all these years no one has come seeking admittance but me?’” The doorkeeper answers, “‘No one but you could gain admittance through this door, since this door was intended for you. I am now going to shut it.’”<sup>129</sup>

This parable is itself a puzzle,<sup>130</sup> and K. and the prison chap-

<sup>124</sup> *Id.* at 210.

<sup>125</sup> *Id.* at 210-11.

<sup>126</sup> *Id.* at 212.

<sup>127</sup> *Id.* at 213. *See supra* note 68.

<sup>128</sup> *See id.* at 213-14.

<sup>129</sup> *Id.* at 214-15.

<sup>130</sup> *See generally* Cynthia Ozick, *The Impossibility of Being Kafka*, *NEW YORKER*, Jan. 11, 1999, at 80, 84. One may think of the parable as a puzzle within the greater puzzle of

lain immediately begin a discussion of its meaning. K. argues that the doorkeeper deceived the man from the country, but the priest disagrees.<sup>131</sup> When K. eventually accepts this argument, the priest then disagrees with his former position, contending now that the doorkeeper was the deceived one.<sup>132</sup> When K. acquiesces to this argument, the prison chaplain instead asserts “‘that the story confers no right on anyone to pass judgment on the doorkeeper.’”<sup>133</sup>

This brilliant passage satirizes every form of argument, from legal wrangling to scholars fighting over the meaning of obscure literary passages, but its clearest target is priestly (or rabbinical<sup>134</sup>) contestation of the significance of sacred works. The best advice for all such disputes comes when the prison chaplain tells K., “‘I am only showing you the various opinions concerning that point. You must not pay too much attention to them. The scriptures are unalterable and the comments often enough merely express the commentators’ despair.’”<sup>135</sup>

The scriptures are unalterable, and we despair of ever knowing them; unknowable, they can have as many different meanings as they have readers.<sup>136</sup> As such they cannot provide the transcendence that K.—and all of us—desire. We are mired instead in this world, which like the Court in the priest’s last comment to K., is indifferent to us: “‘It receives you when you come and dismisses you when you go.’”<sup>137</sup>

K.’s dismissal comes in the novel’s final chapter, fittingly enough entitled “The End,” at the hands of his two executioners. Though he has hastened with them to the deserted spot, he cannot kill himself as the executioners implicitly request;<sup>138</sup> instead they

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the novel, *see supra* text accompanying notes 70-85, like the cryptex within a cryptex in *The Da Vinci Code*, *see supra* text accompanying notes 39-40.

<sup>131</sup> *See* THE TRIAL, *supra* note 7, at 215-17.

<sup>132</sup> *See id.* at 217-20.

<sup>133</sup> *Id.* at 220.

<sup>134</sup> *See* George Steiner, *Introduction* to FRANZ KAFKA, THE TRIAL at vii, xx (Willa Muir et al. trans., Schocken Books definitive ed. 1995) (1925).

<sup>135</sup> THE TRIAL, *supra* note 7, at 217.

<sup>136</sup> *See* Steiner, *supra* note 134, at xx.

<sup>137</sup> THE TRIAL, *supra* note 7, at 222. *See* Steiner, *supra* note 134, at xxi (“The formula comes deliberately close to being a definition of human life, of the freedom to be culpable which is that of fallen man.”). The priest’s comment is mirrored in the last chapter of Camus’ *The Stranger* (1989), in which his soon-to-be-executed hero Meursault feels “the gentle indifference of the world.” ALBERT CAMUS, THE STRANGER 122 (Matthew Ward trans., Random House, Inc. 1989) (1988) [hereinafter CAMUS, STRANGER].

<sup>138</sup> *See* THE TRIAL, *supra* note 7, at 225-28. Thus K. again participates in his own victimization. *See also supra* note 122.

simultaneously choke and knife him, and he dies, in his own last words, “‘Like a dog!’”<sup>139</sup>

I always ask my students what the man from the country should have done when he was before the law, which they almost always realize is the same question as what K. should have done when confronted by the Court. There are many different answers—variations on storm the doorway, lead a revolution, run away, and so on—but none of them satisfies. Kafka has posed questions with no answers, just as his novel presents puzzles with no solutions, and the answers my students give are all as mistaken as K.’s conspiracy theories.

In life (as opposed to puzzles) we look for answers at our peril. The ones we find—whether allegations of conspiracy, assertions of faith, or something in between—are either counterproductive or wrong. In an essay on Kafka’s works, Albert Camus summarized their meaning for him: “[M]an is concerned with hope. But that is not his business. His business is to turn away from subterfuge.”<sup>140</sup> We could begin this turning away by ceasing to hope for answers and recognizing the ones proffered by others as the subterfuge they are. Instead we should accept (as K. suggests to the prison chaplain) that we are all simply humans here, and (as Block suggests to K.) throw the rest of it up. Shall we (as K. should have insisted with the police inspector) shake hands on it?<sup>141</sup>

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The symposium in honor of Ruthann Robson was held in the immediate aftermath of the 2004 presidential election, in which (some believe) the forces of fundamentalist religion scored a major victory. Commentators were then sifting through the voting results and the accompanying exit polls as if they were clues to a great puzzle—though many came up with quite different solutions.<sup>142</sup> Conspiracy theories regarding the election abounded, from and about both the right and the left.<sup>143</sup> But the focus on

<sup>139</sup> *Id.* at 229. This and other echoes of the chapter entitled “The Whipper,” see *supra* text accompanying note 95, underscore their similarity. In both chapters the pointlessness of the Court’s machinations nevertheless has serious physical consequences, pain and death. Camus also makes this point in *The Stranger*. See CAMUS, *STRANGER*, *supra* note 137, at 109-10. See also Robert Cover, *Violence and the Word*, 95 *Yale L.J.* 1601 (1986).

<sup>140</sup> Camus, *Hope*, *supra* note 78, at 155.

<sup>141</sup> See *supra* text accompanying notes 87-88, 116, 124.

<sup>142</sup> See David Brooks, *The Values-Vote Myth*, *N.Y. TIMES*, Nov. 6, 2004, at A19.

<sup>143</sup> See *id.*; Manuela Roig Franzia & Dan Keating, *Latest Conspiracy Theory—Kerry Won—Hits the Ether*, *WASH. POST*, Nov. 11, 2004, at A2.

religious belief was a nearly constant theme.

The willingness of many Americans to seek answers to the country's political problems in religion separates us from other mature democracies;<sup>144</sup> George W. Bush's citation of Jesus Christ as his favorite political philosopher<sup>145</sup> would, for example, be unthinkable in any European country. But change in this attitude toward religion and politics is not impossible. While it is too much to expect the President to learn from reading Kafka, to give up on the possibility of enlightening many of Bush's supporters is to accept an unproven theory about a conspiracy of believers. And even if those supporters choose to read *The Da Vinci Code* rather than *The Trial*, life will teach them Kafka's lesson, sooner or later.

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<sup>144</sup> See Garty Wills, *Bush's Fundamentalist Constituency: The Return of the Moral Zealots*, INT'L HERALD-TRIB., Nov. 5, 2004, at 9.

<sup>145</sup> See, e.g., Marcela Sanchez, *Using Faith in Politics*, S. FLA. SUN-SENTINEL, Nov. 5, 2004, at 27A.