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Descent: American Individualism, American Blackness and the Trouble with Invention

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DESCENT: AMERICAN INDIVIDUALISM, AMERICAN BLACKNESS and the TROUBLE WITH INVENTION

by

SIMONE WHITE

A dissertation submitted to the Graduate Faculty in English in partial fulfillment of the requirements for the degree of Doctor of Philosophy, The City University of New York

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This manuscript has been read and accepted for the Graduate Faculty in English in satisfaction of the dissertation requirement for the degree of Doctor of Philosophy.

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THE CITY UNIVERSITY OF NEW YORK
ABSTRACT

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Adviser: Professor Jerry Gafio Watts

Descent is metacritical, ranging across disciplines to take up – as flash points or instances – failed attempts to revolutionize knowledge, considering these as descents, or movements into the deep, that remain stiff or un-poetic in their attitudes toward the American truisms “individualism,” “blackness” and “invention.” Beginning with William Carlos Williams’ formulation of descent (as a practice necessary for establishing national literary identity) in In the American Grain, the project resolves around the question, How can the critic make peace with her desire to dominate the object of critique by proposing its perpetual sameness in relation to the critic? In the context of these concerns, this dissertation offers new perspectives on the work of legal theorist Duncan Kennedy in critical legal studies – by way of Ralph Waldo Emerson – and the black music-centered theories of black aesthetics elaborated in the cultural and literary criticism of Amiri Baraka, Nathaniel Mackey and Fred Moten, proposing a turn away from music as a central trope in African American critical theory.

The first two chapters consider the work of legal theorist Duncan Kennedy in critical legal studies (CLS), which attempted an ostensibly radical critique of American law and legal ideology, together with recent assessments of Emerson’s “ideological”
commitments. I propose terms upon which to understand Kennedy’s CLS as a failed critique, lacking interest in re-thinking the inaugurating question, What does individualism mean? I argue that the Emersonian sense of personhood offers fortifying tools to contemporary critical theorists who must liberate themselves from crippling obsession with being taken up into the all-pervasive powers they describe.

The third (long) chapter, operating as a critical and poetic example of the theoretical groundwork laid in Chapters One and Two. Recognizing the crucial intellectual-historical role of black music to in theoretical elaboration of blackness, I ask whether or how black music remains vital to efforts to describe what (of) blackness is sustaining as art? This is thinking toward re-definition of kinship or communal relationship among black artists and intellectuals, toward construction of new spatial and temporal relationships within which freedom might be played out.
Acknowledgments

My friends Cheryl Jones-Walker, Imani Perry, Lorrin Thomas, Candace Major, Litia Perta and Kofi Taha reassured me, repeatedly, that this project would come to an end, and its end has come, at last. I thank them for their love, time, examples and advice. Along the way, erica kaufman and Stefania Heim became family. Thanks to Anne Donlon, Matthew Burgess, Helena Ribiero, Miciah Hussey, and Dominique Zino, writing companions, running partners, providers of snacks and tough love. The California blacks Joy Phillips and Hope Wilson somehow managed to be in New York all the time—all the times it mattered. Stacy Szymbaszek, Anna Moschovakis, Maggie Nelson, Aracelis Girmay, and Ross Gay reminded me to be a poet first. Duncan Faherty, Carrie Hintz, and Steven Kruger removed obstacles from my path on numerous occasions. I am thankful for their zeal and interest. I am grateful for the support of Herman Bennett, whose work as a professor/administrator and parent/human is genuinely inspiring. Special thanks to Robert Reid-Pharr and Zee Dempster at the Institute for Research on the African Diaspora in the Americas (IRADAC) who provided a priceless safe space. Joan Retallack, Eileen Myles and Fred Moten led the way and said yes to everything I asked.

I am grateful to my supervisory committee, Ammiel Alcalay, Eric Lott and Joan Richardson, each of whom stepped in at critical moments in this long process to direct, redirect, challenge or approve some wild gesture. Ammiel Alcalay, beyond the call of duty, has counseled me and welcomed me into the fold of poetic thinking.

Jerry Gafio Watts was my first my teacher and he will be my last. No one was more encouraging of my “unorthodox” intellectual impulses or spent more time with me talking and thinking through complex questions relating to black life. Sharing the joy and
grief of devotion to this work with him has been one of the great pleasures of my life. His passing, weeks after my dissertation defense, leaves a terrible void.

The love and generosity of my mother, Dr. Aruby Odom White, has made many magical things happen. My sister, Santi, and her family are a source of real happiness. For Naim Ali White (who grew into a young man during the writing of this dissertation), for Radek Maximillian Andrew and my son, Isaac Agrippa Freeman Leslie—all my work under impossible conditions. I thank Nancy Farma for loving Isaac and sustaining the dream of completing the dissertation before his first birthday. Finally, I thank Anthony Leslie, my husband and friend, for his many sacrifices and irrational belief in my ability to start over.
Table of Contents

Introduction 1

**Part I | When one thing is really another thing**

Chapter One | Into the wreck: Duncan Kennedy’s failed critique of adjudication 17

Chapter Two | “We are now so far from the road to truth …”: Emersonian Possibilities 65

**Part II | Dear Tom Krell**

Chapter Three | Dear Tom Krell 103

Bibliography 192
List of Figures

<table>
<thead>
<tr>
<th>Figure 1</th>
<th>Angel of / Mute Stereophonic Emanation</th>
<th>150</th>
</tr>
</thead>
<tbody>
<tr>
<td>Figure 2</td>
<td>Rick Ross</td>
<td>180</td>
</tr>
</tbody>
</table>
Introduction

What is needed is an improvisation of the transition from descent to cut, an audition of the ancient prefiguring trace of the cut in the depths, an activation of lingering by and in the cut (and of the possibility of action in lingering and the promise of freedom in action).—Fred Moten, *In the Break*

The most magnificent drama in the last thousand years of human history is the transportation of ten million human beings out of the dark beauty of their mother continent into the new-found Eldorado of the West. They descended into Hell; and in the third century they arose from the dead, in the finest effort to achieve democracy for the working millions which this world had ever seen.—W.E.B. Du Bois, *Black Reconstruction in America*

I write in secret to extend / the attention for channeling
going on without recourse / to interpretable phrases
games such as pinochle / are attention in retreat
secrecy shreds attention
makes for it unlikely perforations
so little gasps illustrate folding
one word over another / one is inside the other’s attention
or conceptual field / you bring attention inside
in the way of by way of secreting / in a dump motel
where everyone would be looking
but for the proliferation of dumps /
your key witness
It was as if, in order to get to the place where poetry could be written or spoken of, there were several other conditions of language that had to be lifted up and looked into. I am only saying “conditions of language” because I am thinking about what Raymond Williams might mean or must have meant by insisting that literature is a product of various social processes – process among processes – taking place in the realm of language only partially. Williams writes:

Formalism focuses our attention on what is evidently present and might well be overlooked in writing: the specific and definitive uses of literary forms of many kinds, from the most general to the most local … and at the same time it deflects our attention, and in so doing becomes incredible beyond certain limited circles, from the more than formal meanings and values, and in this sense the defining experiences, of almost all actual works … [W]e have to learn to look in the space between the deflection and the reaction if we are to grasp the significance of the [literary] practice as a whole … (165-66)

Considered in these terms, this dissertation might be understood (from the perspective of a formalist) as an interdisciplinary attack on formalism’s interpretive stronghold in both literature and law (in the first Part, a gesture toward what kinds of work in law and literature might be alternatively undertaken). On this view, my project would seek allies in rejecting the value of critical activities that serve as mere aids to perceiving the outline of a work, where the outline serves to establish, aesthetically, its difference from and superiority to that which is jibber-jabber, and sociohistorically, its right to continue to be read. This right, constituted by what claims the work can make upon the reader about its truth and power: the extent to which it becomes credible in the archive—the archive in its interminable totality and in the tiny space of a single reader’s intellectual history.
But please keep in mind the dual senses of power by which my project, focused as it is on the nature of the contemporary, tries to linger in the critical space that houses the remains of Emerson’s romantic (nonetheless, intricately realized and indispensable) sense of individual spirit, genius or “power” and all the questions and solutions brought to thinking about subjectivity under the sign of postmodernity. For me, and in this project, a claim about truth and power has to originate in the space between, not formalist/ideological deflection itself,¹ but beyond its essential insufficiency in the more complex next space of critique of ideological deflection, between that and the effort to fill up (with theory) the reflective space opened by Emerson’s notion of the “commanding certificate.” (This opening is also a kind of deflection in Emerson, the notion of that which “is its own evidence,” a claim or thought which I take to be impossible in contemporary life, even when we speak, as does Emerson in “Experience,” of the “soul.” Judith Butler glosses Foucault’s statement that “the soul is the prison of the body” by reading the soul as “a signification that produces on the flesh the illusion of an ineffable depth.”² When we think these powers together, we must continually account for the ways in which they do not intersect.) What I know now or have ever thought about this space passes through study of black persons in America—study of America.

¹ I admit, anyway, that I have been obsessed with form/substance distinctions for a long time. I am genuinely baffled by the idea of “substantive due process” or “the text itself.” It is true that I think these phrases circumscribe understanding in the name of disciplinary coherence or simplicity. They are jargon. We deploy these phrases so that it becomes possible to recognize forms of technical mastery, preserving, in turn, a bunch of different status quos. But that is not the gist of my complaint.

So, this project is more accurately described as an exploration of a cluster of concepts – form/substance, individualism/altruism, metaphysical/material – that exercise a disturbing degree of power (and thus cover) over conditions for innovation in language, in writing and thinking that might lead to critique of deeply entrenched versions of thinking supposed to be critical about America and about what black persons have meant and come to do and mean here. This is a project that opposes itself to thinking that would block or impede invention or innovation in language/thought about black persons. I am against and this project is also against critical turgidity, even and especially when it is exercised upon or contributes to increasing the value of innovative ways of thinking about blackness.

These are complex background conditions, but it was essential that the dissertation engage them explicitly. It is not, for me, possible to name them in a rote rhetorical gesture and proceed with formally orthodox study of literary texts—to contribute workmanlike “readings” of these. One could say that it was not possible for me (even given the professional necessity of demonstrating a certain competence in close reading and various methods of literary critical proof) to read and write at the same time, writing while maintaining and in order to obtain intellectual distance from the object; rather, I must discover a method of reading and writing that manifest the work in concert. There is, then, no study worth making that does not lead toward a new way of speaking/writing, a refreshing of poetic manners.

Nonetheless, when I found myself moving into the vast opening for thinking and writing about American life created by *Citizens United v. Federal Elections*
Commission,\textsuperscript{3} I thought, ironically, to produce a standard reading. Like many other people, I found the holding – technically, invalidation of section 441(b) of “McCain-Feingold”/Bipartisan Campaign Reform Act (BCRA), and practically, opening the door to unlimited corporate campaign contributions through “independent” political action committees ((Super)PACs) in national elections – and reasoning of Citizens United mind-boggling, and I believed it to be “wrong.” By wrong, I do not mean wrongly decided. In Chapter One, I explain that this phrase is not particularly meaningful at the level of the truth. I mean that I understood the language of the majority opinion to be nonsensical in a way that is actually quite rare. Justice Kennedy, writing for the majority:

> At the founding, speech was open, comprehensive, and vital to society’s definition of itself; there were no limits on the sources of speech and knowledge (\textit{CU}, 353).

> When government seeks to use its full power, including the criminal law, to command where a \textbf{person} may get his information or what distrusted source he or she may not \textbf{hear}, it uses censorship to \textbf{control thought}. This is unlawful. The First Amendment confirms the \textbf{freedom to think for ourselves}. (356)

Since the Court defines the corporation as an \textit{association} of individual speakers “that has taken on the corporate form” (349), the prohibition against restricting speech based on identity of the speaker, an idea that had been solid in the Court’s jurisprudence since its 1978 decision in \textit{First National Bank of Boston v. Bellotti} (435 U.S. 765), leads the \textit{Citizens United} majority to the conclusion that corporate speech has the same First Amendment status as the speech of individual persons. (“Corporations are people, my friend.”\textsuperscript{4}) Citizens United confronts readers with a cyborg corporation that hears and

\textsuperscript{3} 558 U.S. 310 (2010).
\textsuperscript{4} Mitt Romney, Iowa State Fair, Des Moines, Iowa 11 Aug 2011.
thinks, whose thoughts might be commanded and controlled, a corporate in possession of characte ristically sacred rights. Fascinated by the formulations “corporate-speech” and activated by the vigor of Justice Stevens’ push back against the fiction of corporate “personhood” in his dissenting opinion, I supposed that “Reading Citizens United,” the early title of the essay that now comprises Chapter One, would involve working through the legal logic and history that allowed for the emergence of “corporate personhood” as a form of lived social and political experience. My goal was to offer an extra-legal explanation for the bizarre marginalization of the crucial issue of political corruption in the language and reasoning of Citizens United; that is, to given reasons for the case’s oddity beyond the technical (complex and real but nonetheless technical questions about how the Court takes jurisdiction/reaches issues/reasons to decision) constraints that frame political corruption within First Amendment jurisprudence. In what other ways might we think about what other governmental and human interests are implicated by anti-corruption politics? Important commentators have suggested that a governmental interest in anti-corruption is a jurisprudentially cognizable constitutional interest that can and should be balanced against First Amendment concerns raised by the current campaign finance regime.\(^5\) This argument is too narrow. I am interested in a deep form of corruption that has to do with figuring the thinking corporation as a kind of political monster that constitutes itself as grand and perfect by opposing itself to the essentially corrupt individual. In my view, Citizens United represents a reversal in the progress of democracy with its clumsy, ideologically transparent fumbling with ideas about the

“sources of speech and knowledge,” and I wanted to celebrate certain ideas about uncorrupt modes of full participation in democratic social life, certain ideas about freedom (for example, in the work of Ralph Waldo Emerson and W.E.B. Du Bois) that legal commentators understand as “unusable.” I wanted to show how these ideas can and must remain central to American life and jurisprudence.

In Undoing the Demos: Neoliberalism’s Stealth Revolution (Brooklyn: Zone, 2015), political theorist Wendy Brown writes of Citizens United:

The many inversions of democratic meaning in Citizens United suggest that this decision does far more than permit corporate funds to transform elections in the United States. In its insistence that the corporation must share in the rights of man, its heralding of corporate speech as vital to democracy, and its jettisoning of concerns with equality in access to or effects of political speech, certainly, the court licenses and legitimates unlimited corporate power in politics. But it also does something deeper and more significant: as it submits politics, rights, representation, and speech to economization, it subverts key components of liberal democracy—popular sovereignty, free elections, political freedom, and equality. Casting every actor and activity in market terms, it vanquishes the political meaning of citizenship and erases the crucial distinction between political and economic orders essential to the most modest version of popular sovereignty. It aggressively abandons the distinctively political valence and venue of democracy and turns its back on the fragility of democratic conditions and cultures. It supplants democratic political deliberation and voices with a formulation of speech as capital as an unhindered capital right. It reduces political knowledge and political participation to practices of individual or corporate capital enhancement achieved through broadcasting one’s economic position as a political one. Rendering government regulation or limits as the enemy of freedom everywhere, the court blends flows of capital and speech into a single stream, sharing characteristics and rights against a common enemy: the regulatory state.

Each of these moves is novel in the history of democratic thought and practice. (172-173)

Her analysis of the case in Chapter 5 of Undoing the Demos, linking it to a broader transformation of the “democratic imaginary,” completes and far surpasses the never-to-be completed project on Citizens United that I originally conceived. I take up some aspects of the transformation of politics and subjectivity she explores in Part II.
This effort was a colossal failure. It was a failure because I had not yet realized that my preoccupation with the question of what it was or was not possible to think or say, what philosophers call the *unthought*, would control my reception of cases and law review articles (I spent months reading!). I read without motivation toward a particular outcome, which meant that I no longer read like a lawyer. I could find no place to enter the critical discourse about *Citizens United* except to say, *these are not the right questions*. I had had this experience with legal materials as a law student (as a practitioner, this discomfort manifested as unshakeable malaise), but I believed that I could, now, “coldly, scientifically” (as Du Bois describes the sociological discourse from which *The Souls of Black Folk* represents a retreat) use those materials in a critical project that defined itself from the outset as an investigation of epistemological breakthrough or innovation. (Descent as an ascetic practice of meditation about the inadequacy of previous practices of finding the outside. Even this, as a false clue.) *This cannot be done.*

Chapters One and Two tell the story of this discovery. My discussion of Duncan Kennedy’s work in critical legal studies is at bottom an attempt to explain why I could not get a critical hold on the pressing issues of personhood and freedom raised by *Citizens United* using the methodology and rhetoric of the most thorough critique of American law available. It is my hope that the discussion works as a very close exercise in demystifying the power of that critique and shows it as, possibly, a failure. At the same time, I *mirror* Kennedy’s rhetorical poses and moves to a certain extent. This is probably evidence, in my case on a very basic level, of exactly the investment in legal thought that is compelled by any attempt to really understand it that Kennedy is so keenly aware of
and refers to throughout his work. (I also hope that I have shown that investment in legal thought can also mean becoming negatively invested in its discourse, so that it becomes so transparent that it is no longer possible to see that you are fighting a specter).

Yet, the mirroring that begins to take place in Chapter One is significant for this project on a conceptual and poetic level beyond that chapter’s argument. As I read Kennedy, always with genuine admiration for his accomplishments as a legal philosopher and law teacher, I began to experience his work as both more invigorating and more disturbing than I could account for via an ordinary sense of what it meant to read critically, even when analysis ventures, as it does when I attempt in Chapter Two to show how Emerson’s “abstract” individualism forces thought to break free of the habits of the self, into metaphysical space. I began to ask what might cause my own deep investment in and aversion to Kennedy’s work, techniques, failures, refusals, and, again, his astonishing professional status as a legal intellectual? What was I reacting to or against? What were my habits? Why did passages those like those that follow from “The Structure of Blackstone’s Commentaries” cause me to put down my own small work in a helpless sulk? He writes:

Blackstone’s most important accomplishment was to show that it was possible to turn the liberal political slogan “rights” into a plausible account of several thousand common law rules. …

… Blackstone did not invent the idea of rights as a mediator of the fundamental contradiction [“between our need for incorporation with others into groups and our fear of domination by them” (354)] … . Nonetheless anyone who has endured the chaos of a legal education will be happy to grant him his due. Liberal theory could not be complete, the idea of rights could not be plausible, until someone had integrated it into the technical, half-forgotten, but obviously crucial domain of the common law. The common law, for its part, must remain no more than intermittently intelligible even to the most diligent political theorist so long as its peculiar vocabulary of forms, pleadings and jurisdictions was unassimilated to the discourse of educated laymen.
… What he attempted and accomplished was a quantum leap from a situation in which political theory had no grasp at all on the common law to one in which the remaining task was one of internal reorganization and refinement. Subsequent systematic writers like Kent, Story, Austin, Pollock, Holmes, Terry and Pound took for granted that it was possible to see the common law as a unity and quarreled about the nature of that unity. For all their analytic superiority, they were in his debt and always worked in his shadow. (internal citations omitted) (261-262)  

Two things. First, I would guess that Kennedy’s study of Blackstone and the eighteenth century political theory from which Blackstone’s reasoning is derived, coupled with his earlier study of the law of contracts in connection with his work on “Form and Substance in Private Law Adjudication,” where he had also conceptualized the basic mechanisms of liberal legal reasoning in private law (always about conflict over rights), condenses and populates what he calls his “intuition” about the common law’s legitimating relation to liberal power – i.e., enabling him to make broad statements like those above about the connections between Blackstone’s scheme for organizing common law rules, his reasoning about the correctness of his account and the legitimacy of extant legal rules/rule of law – at a level of informed depth that few regular human beings will ever achieve. Also, these passages suggest the tremendous scope of his theoretical ambition: he is consciously working as a “subsequent systematic writer” in the class of Kent, Story…Pound etc. and understands himself to be mano a mano with Blackstone as a figure of historical importance (this in spite of the fact that he thinks Blackstone a little stupid). The Blackstone article in all its bulk (and tedium) thus operates poetically as movement out of Blackstone’s epistemological shadow — and by extension, out of the shadow of the tradition of legitimation that systematic study of the law in the US has

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7 The punctuation of these passages is my own, as my source text was a PDF of “Blackstone” obtained from duncankennedy.net, which is not fully punctuated.
been. In other words, Kennedy descends into what he understands as an originary liberal node of juridical power as a preparation for/performance of innovation through his writing as part of the critical legal studies movement.\footnote{Both, at a very early stage in his career. According to his bio, Kennedy began was appointed to the Harvard Law School faculty as an assistant professor in 1971 (when he was barely thirty years old). He was promoted to the rank of professor in 1976, the same year “Form and Substance” was published although FS was not his tenure article. That was a long-unpublished manuscript now known as The Rise and Fall of Classical Legal Thought (Washington, DC: Beard, 2006).} This is a radical ambition of real historical significance insofar as it embodies a genealogical practice of law and legal thinking that, for lack of a better word, deconstructs law as “bailiwick” – a thought-joint with the legitimating function of generating legal decisions that are correctly sorted by doctrinal categories corresponding to the appropriate rights rationale – and hopes for something better (Blackstone, 353). I was and remain deeply curious about the diving and encyclopedic aspects of Kennedy’s thought, as well as envious of his analytical powers, and also ravaged with impatience and annoyance about what seemed to me an intolerable displacement of creative energy. In my understanding, a genealogical method must make connections between archives, must operate with disciplinary recklessness in order to move out of a certain hobbling circuit of reason.

The magnetism of Kennedy’s project, both attractive and repellent, in terms of method and scope, revealed or allowed me to name a dialectical aspect of my own thinking that remained out of focus when I proposed a dissertation that would raise questions about the metaphor of descent as a search for originary sources of creative power. Writing through my frustration with Kennedy and through the curative exercise
that is Chapter Two, I came to understand that my questions were about critical logics themselves – my project was and is metacritical – and also about the anomalous intellectual example as it comes to us in certain kind of grand and unwieldy text. I’m interested in the person who performs this kind of critical work all the time and produces an apparently endless succession of such texts, and so I am also interested in the conditions for the existence of this person. I found that I almost always had in mind an image of a certain kind of book or hover-text, as it were, that is inexplicable in terms of its own stated aims to a certain degree; a book that invents or invites another kind of innovation in (critical) response — surprises the author when it speaks beyond the boundaries of its form, appears to have its own narrative will, is its own character, seems to behave outside its own language. Good poems do this; they possess not only surplus interpretability but can be observed to demonstrate (“record,” we will see that Fred Moten says) an instance of desubjectivation.

We can name a number of canonical American (prose) texts that call forth our interest in the intellectual operations of their authors in this way. David Walker’s Appeal, Thomas Jefferson’s Notes on the State of Virginia, Emerson’s first and second series of essays, Moby Dick, Henry Adams’ The Education of Henry Adams, W.E.B. Du Bois’ The Souls of Black Folk, William Carlos Williams’ In the American Grain, Muriel Rukeyser’s Willard Gibbs. There are also many works of criticism and theory whose cogency I ascribe as much to their linguistic overrichness and/or exhortation to renew our expressive effort as to their originality. Hortense Spillers’ “Mama’s Baby, Papa’s Maybe: An American Grammar Book” is a very high example of what I am talking about. One asks, in what way does this text represent or come to be as a result of a particular sense of
innovation or invention by way of writing; how does it come to occupy a unique
epistemological position; what actions must be performed in meditation and inscription in
order for such a text to signify what it signifies/say what it says?

What if we ask these questions about W.E.B. Du Bois’ *Black Reconstruction in America*, for example? I would answer that in *Black Reconstruction* Du Bois writes a history but more than that he writes an exploration of a certain rhythm of the Du Boisian intellect. By rhythm I mean an applied logic that comes to the fore in the space between deflection and reaction as the poetics of the work; the space of its intellectual and emotional possibility. Because I have learned to anticipate objections as part of the mechanism that moves my own analytic project haltingly forward, as I write, I see that the most obvious objection might be: to receive *Black Reconstruction* in this way is to subvert Du Bois’ intent to materialize, from the perspective of the future, a failure of political and human imagination that the millions of freedmen could not themselves, by virtue of being what they were, by virtue of (black) subjectivity as it was (partly consisting, Du Bois’ concludes, of the purposeful destruction of written records and writing by blacks during Reconstruction so that black subjectivity of the period is made to go outside history), make present to “the record of human action” (714). Du Bois invents a radical black politics that operates discursively in the same space with the politics of Stevens and Sumner (again, using a methodology that condenses and populates his core argument with mind-numbing detail about the “things that actually happened in the world” (722)—Shakespeare would be bored) in retrospect/after the fact. But he also ends up with a poetic achievement that, in terms of content, roves around in the archives (Marx, government records, secondary historical sources, his own contributions) in
opposition to a “black history” that actually asserted or implied that “1. All Negroes were ignorant.” “2. All Negroes were lazy, dishonest and extravagant.” “3. Negroes were responsible for bad Government during Reconstruction” (711-712). Du Bois writes:

The editors of the fourteenth edition of the Encyclopedia Britannica asked me for an article on the history of the American Negro. From my manuscript they cut out all my references to Reconstruction. I insisted on including the following statement:

‘White historians have ascribed the faults and failures of Reconstruction to Negro ignorance and corruption. But the Negro insists that it was Negro loyalty and the Negro vote alone that restored the South to the Union; established the new democracy, both for white and black, and instituted the public schools.’

This the editor refused to print. … (713)

“What was slavery in the United States? Just what did it mean to the owner and the owned?” What was emancipation? What could a freedman be? What stakes might there be in making a “stupendous effort” to suppress and distort thinking about these questions? What can history be in this light? In terms of imagination, Du Bois, with Black Reconstruction, lights a flame in a dark place, where black folk could begin to imagine a different future, to reimagine the progress of time and to ask how black people are involved, forever, because of New World slavery, in the conceptualization of time and space. And that is the significance of the work.

I am interested in how “the good Dr. combines the material social world with and as the origins of Art. The Earth & Sky.” What makes Black Reconstruction possible?

Part II of this dissertation is my own small attempt to make a text that foregrounds the epistemological friction that makes the essay possible; that is, it cannot be inside a discipline, it cannot abide American ideologies of personhood that do not account for the presence of black people and the possibility of blackness, and it explores and embodies a search for a discourse of investigation that doubles back upon the desire to establish itself
as authoritative in place of the object it investigates. Nathaniel Mackey’s *From a Broken Bottle Traces of Perfume Still Emanate* is a conduit for – it carries, as a masterpiece – all of the problems of individualism, blackness and expressive breakthrough that I outline in Part I. It takes up these problems as questions of music, but, I argue, music is a false clue and possibly an ideological vestigial appendage in Mackey’s novel. I attempt to reorder the space in which contemporary thinking about blackness takes place, or could take place, by first, taking space for myself inside that thought as unwelcome. (Nobody invited me to do this. No one even knows I’m here.) To begin from a place of aversion by urging the reader to consider the possibility of ugliness where black music appears to dominate our imagination.

Let this work, therefore, be a suit for peace (I don’t want to fight anyone or be right) and an admission of desire to have endless lingering, the magic of beginning again all the time, be the endpoint of what blackness teaches history teaches.
Part I | When one thing is really another thing
Chapter One | Into the wreck: Duncan Kennedy’s failed critique of adjudication

By way of introduction

In my memory, there is always a cold, threatening wind blowing on Harvard Square. I am always wearing oil-black boots with thick, coal-black heels, too fine for a person of twenty-two, a penniless student. I am the well-cared-for daughter of a prosperous lawyer. The sickening clatter of my boots on the cobblestones confirms that I will never escape the Philadelphia of my childhood; that I am and always will be a person overrun by eighteenth-century haints and hopes. The fantasy of the fantastic rise dressed me this morning.

To myself, I am always repeating the first lines of The First Elegy:

Who, if I cried out, would hear me among the angels’ hierarchies? and even if one of them pressed me suddenly against his heart: I would be consumed in that overwhelming existence. For beauty is nothing but the beginning of terror, which we are still just able to endure, and we are so awed, because it serenely disdains to annihilate us. Every Angel is terrifying.9

I repeat these lines when I pass old John Harvard to fortify myself against what will happen to me once I cross the threshold of Langdell Hall. I am supposed to go into this room, so I open the door. I sit down in the seat to which I have been assigned. When the

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master, a lawyer whose brilliance is recognized throughout the English-speaking world, calls my name, I answer, tremulous and terrified.

Now this I say, brethren, that flesh and blood cannot inherit the kingdom of God; neither doth corruption inherit incorruption. Behold, I shew you a mystery; we shall not all sleep, but we shall all be changed, In a moment, in the twinkling of an eye, at the last trumpet: for the trumpet shall sound, and the dead shall be raised incorruptible, and we shall be changed. For this corruptible must put on incorruption, and this mortal must put on immortality. So when this corruptible shall have put on incorruption, and this mortal shall have put on immortality, then shall be brought to pass the saying that is written, Death is swallowed up in victory. O death, where is thy sting? O grave, where is thy victory? — I Corinthians 15:50-55 (King James)

The definition which the Scripture gives us of love is this: ‘Love is the bond of perfection.’ First, it is a bond or ligament. Secondly it makes the work perfect. — John Winthrop, A Model of Christian Charity

The law talks about rights, and duties, and malice, and intent, and negligence, and so forth, and nothing is easier, or, I may say, more common in legal reasoning, than to take these words in their moral sense, at some stage in the argument, and so to drop into fallacy. — Oliver Wendell Holmes, “The Path of the Law”
This organic byway of shared words

Since I began my legal training twenty years ago, the gap between the real and true that I encountered in works of imagination and the rules governing what can be said and “understood” by judges and lawyers has been a source of tremendous personal frustration. A mere membrane of language separates the realm of imagination, contemplation and art-making from the realm of politics, law, and power. The same membrane connects these realms, making a way-through for necessary words, as if they were a species of nutrient. The existence of this organic byway of shared words calls out for an investigation of the mode of its creation and the nature of the relations that it makes possible; it suggests that the meaning of shared words can and should be reconciled.

When I speak of the “law,” I mean an apparatus that includes laws in a larger network of governing, regulating, interpreting, making institutions and relationships. I adopt the term apparatus, of course, from Michel Foucault and use it according to the definition given by Italian literary/political philosopher Giorgio Agamben in “What is an apparatus?”—in this sense, law is constituted by relations of both power and knowledge; it is “heterogeneous,” with a “concrete strategic function” (2-3). By naming these as essential attributes, one brings all of Foucault’s alchemy of cancellation and invention into the room of Oliver Wendell Holmes, Jr.’s idea, best articulated in “The Path of the Law,” that “When we study law we are not studying a mystery but a well-known profession” (991).

I am mostly excited and awed by the ingenuity and inventiveness of the U.S. judicial system. Although I did not know it when I was a lawyer, I love the law for what
it reveals about an imagined community of aspiration, not for its technocratic service to the status quo. Love is never an embarrassment, but a form of life whose curiosity must be satisfied, no matter that what I love may prove dangerous and illusory. I am so dismayed by law’s refusal of knowledge about its own “evanescence and lubricity” \((EL, \_\_),\) as Emerson names the qualities that define the condition of being human, which would call it properly an object of human invention, worth, for precisely its delicacy and likeness to ourselves, the depth of our care.

This chapter is an experiment in writing about law as a system that acknowledges human time and human functions, meant to restore to legal language curiosity about the past, present and future of human thought as the source of its own speech. In the background, there is the problem of understanding the relation of this goal or wish with Foucault’s claims about the nature of discourse, any discourse, all of it: *discourse is not life: its time is not our time.* The project is thus threatened by an indispensable and oncoming discovery of postness: knowledge about the hardening of language and concepts into structures of power that dominate and kill. It seems to me that this knowledge, upon which our most precious wishes are made contingent, is what me must live with, a place to begin.

My narrow aim is to describe the connection between a rich history of American political personhood, a powerfully poetic and future-oriented form of being a person, and the critical reaction to that form of political personhood as ideology in the work of legal philosopher Duncan Kennedy. I am interested in releasing the conversation about the meaning of political corruption from the technical fetters of First Amendment jurisprudence, and, as several legal scholars have done since *Citizens United v. Federal*
Election Commission was decided in 2010, work to develop ideas about the political individual that I believe significantly constitute contemporary discourse about corrupt/imperfect and uncorrupt/perfect forms of citizenship. That I do this in the context of intellectual history, in the manner of literary criticism, means that “every word they say chagrins us,” as Emerson writes in “Self-Reliance”; that every word upon which the logic of US citizenship depends becomes a potential source of anxiety or revelation.

The Critique, The Critique of The Critique and a critique of that

According to Oliver Wendell Holmes, lawyers and theorists should not trouble themselves too much about what law is, or the sources of its power: what matters is that law is and that it has tremendous “public force.” Practitioners are called (and they are truly called), he says, to act as intermediaries between law’s power and a public which, simply by breathing and walking about, exposes the soft parts of its body before it. The sense, foundational to Holmes’ general theory of the common law, that acts of legal interpretation take place/create a place in-between the body of the law and the bodies of subjects of law seems to prefigure – or provide a starting place for – thick and rich contemporary descriptions of subjectification (subjectivation), such as Foucault’s and Judith Butler’s,\(^{10}\) which suggest that becoming a political subject necessarily involves becoming subjugated by the state and its allied institutions. I will elaborate on this conjunction or resonance later in this chapter. For now, suffice it to say that Holmes

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\(^{10}\) I am referring here to Butler’s account of subjectivation in *The Psychic Life of Power*. That account is revised in *Giving an Account of Oneself* where the role of punishment in subjectivation, derived from Nietzschean bad conscience, recedes somewhat to make way for her reading of a later Foucault’s view of “ethical self-making” as “a kind of poiesis” and “part of the broader operation of critique” (*GAO*, 13-19, 17).
himself does not venture very far into the thicket of power that he, to use Martin Heidegger’s aesthetic term, *unconceals*. Rather, the “master” of the law limits his business to predicting the consequences of a person’s actions in relation to “a body of dogma enclosed within definite lines” (“Path of the Law,” 993) without considering the rightness of either the actions or the “dogma.” Holmes says that failure to respect this truly essential principle of limitation and narrowness (affecting both inquiry and imagination) leads to “confusion between law and morality” (Ibid). But what he is really saying is that a distinction must be made between the law *that is* and the law *that should be* in order to avoid deep and unresolvable crisis in the ability of ordinary people to function in the social world. The law that is capable of crushing the bodies of persons with whom it comes into contact is identical with the law that protects – blessedly assures – the conditions that make future-oriented, complex social thinking possible. In other words, Holmes’ theory frankly grounds the “moral basis” of law in the characteristically liberal desire to avoid mayhem.\(^{11}\)

A few words for the story Holmes does not tell: Something mysterious happens outside the “dogma enclosed within definite lines,” something that draws the lines and produces the dogma. That *something* is violent political struggle over values, a struggle

\(^{11}\) Further, Holmes thinks in a decidedly top-down manner about what the legal historian Morton Horwitz has called, describing the development of corporate theory in the 1880s and 1890s, “conflict over whether the individual or the group [is] the appropriate unit of economic, political, and legal analysis” (103). He consistently honors “considerations of what is expedient for the community concerned” (these are the “secret root from which the law draws all the juices of life”) over scrutiny of specific “welfare” or good of the individual human/case (Holmes, *CL*, 35). “If a man is on a plank in the deep sea which will only float one and a stranger lays hold of it,” he writes, “he will thrust him off if he can. *When the state finds itself in a similar position, it does the same thing*” (*CL*, 44) (my emphasis). (If, one might ask, the law will not protect a man from the danger of being summarily thrust off a plank and into the deep sea, what is it good for?)
preceded by discursive conflict about how well-being will be constituted, measured and facilitated by power. Holmes believed that law must act as a shield against inquiry into personal conscience/consciousness because he rightly understood deep investigation of values by legal institutions to be a political operation. As such, he understood such investigation to portend the ominous invasion of the rule of law by extra-institutional violence. Holmes had himself been blown up by the chaos that ensues when a real values-fight breaks free of institutional limits: as an officer in the Twentieth Massachusetts Infantry Regiment during the Civil War, which suffered the highest number of casualties among Massachusetts regiments and the fifth highest number in the entire Union army, he was shot three times. We might say that the Civil War, so concrete a revelation of the connection between individual bodies and value-oriented thinking, destroyed Holmes’ discursive confidence.\(^\text{12}\)

In this light it comes as no surprise that his theory of jurisprudence builds out the idea that the rule of law serves the well-being of individual persons best when lawyers and judges refuse understanding of law’s relationship with forces that constitute law and its limits. It is, nonetheless, ironic and unfortunate that Holmes’ principled rejection of moral inquiry in the interest of preserving law’s independence and legitimacy tends, retrospectively, to support the contemporary view that legal argument (thus, law) is a mystifying sham. Although a bracketing “solution” must have seemed deeply necessary in a nineteenth-century world that had not yet fully come to terms with the idea that conflicts over beliefs cannot be resolved with logic or any “pure” power of reason, to our

eyes his project fails precisely because it does not develop a theory of how law ought to or actually does relate to forces and pressures that constantly reconfigure its procedures, limits, and practitioners.

I say this not to tear up, once again, the cold ground that covers Holmes and the legal realists that follow him. That work has already been done by critical legal studies (CLS). I approach CLS, key ideas and preoccupations\textsuperscript{13} of which, I would argue, ought to establish a starting point for thinking about law as rule-making apparatus, primarily through the work of Duncan Kennedy. In my opinion, Kennedy is the most provocative – by which I mean generative – CLS thinker, and, arguably, the most important living theorist of American law. In an astonishing number and range of essays published since 1973, he has developed a detailed critique of “adjudication,” the process by which judges

reason toward decision. The critique is accompanied by a description, which he sometimes calls phenomenological, of both legal materials (rules, standards, cases, theory) and legal “work,” which he explicitly means in a Marxist way. Here, I can touch on only a few of the theoretical obsessions in his body of work which also includes doctrinal investigations of affirmative action, housing law, significant works of legal history, and proposals for reform. My particular interest in him, as opposed to other major CLS theorists, partly derives from curiosity about his intense interest in doctrine. What is there in the drudgery of the reports that holds this expansive and ambitious theorist within the confines of those texts, those methods, that history of ideas? Once we break into the reports we begin to speak a language that I sometimes think of as essentially digital, a technical language inaccessible to common sense. (Unless, when we break into and begin whispering among the reports, we do not speak that language.) Many times, in various places, Kennedy has explained his interest in the “rule-making activity” of appellate courts in terms of a broader interest in the consequences – the impact on the distribution of “stakes” – of a judge’s choice to apply or make one rule over another, equally valid one. Even, it seems to me, the stakes argument bespeaks technicality in my view, expressing a disciplinary hostility to the idea of ideas as necessary and present simply as themselves to the work of practicing law. I am, thus, stupefied by the depth of Kennedy’s interest in law’s formal materials. My intense interest is in my own lack of interest in those materials. The entrenchment of this thinker whose work I greatly admire in materials I reject as intellectually unsatisfying and beside

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15 Kennedy continues to write actively, primarily on problems in comparative law. An extensive, continuously updated bibliography is available at duncankennedy.net.
the point, tells on / reveals a kind of disciplinary fury about the limits or borders of the
discipline of law, which are the reason and motivation for this essay.

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1) Movement/Project/School: “[W]e were trying to create a left legal academic intelligentsia as a new social grouping that would influence both its own workplaces and the general political culture” (Kennedy, CA, 9). From the mid-nineteen seventies through the late nineteen eighties, CLS was a self-consciously organized, ideologically affiliated group of legal academics who revived and intensified the legal realist attack on law’s autonomy and determinacy. Duncan Kennedy distinguishes between CLS as “movement” and “project” (“a continuous goal-oriented practical activity based on an analysis of some kind (with a textual and oral tradition)” [CA, 6]) and CLS as a “school.”16 As a movement/project CLS’ goals included opposing as false accounts of decision-making and of the growth and development of doctrines that served to reinforce social inequality and hierarchy, developing its own traditional intellectual and professional resources by writing, conferencing and tenuring, and training new lawyers up into the CLS project through radical reform of legal education, to include teaching and study of left legal theory, curriculum change to correct right-leaning bias, significantly increasing the number of women and people of color teaching on law school faculties, establishment of clinics to provide legal services for poor people, and increased emphasis

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16 CLS also exists in the public imagination as a “media ‘factoid’” (CA, 9). I’m not sure that all movements/projects/schools do not have this fourth status; that all things do not have it. Kennedy clearly means to gesture toward the meaning of an idea outside the space of its development, professional invocation and arena of contestation, toward the collective imagination or symbolic realm or whatever you want to call it.
on interdisciplinary work in, for example, sociology, economics, history, and philosophy.17

I cannot think of any “canonical” CLS intellectual who did not follow the traditional mode of apprenticeship to legal academia: that is, training in an elite law school, often including editorship of the school’s principal law journal, usually followed by service as clerk to a federal appellate court judge. This makes the hair on the back of my neck stand up a little. Did CLS ever do more than “act affirmatively within the channels cut for them, digging them deeper, giving the whole a patina of consent, and weaving complicity into everyone’s life story” (RH, 591)?

2) Indeterminacy: “Determinacy is a function of the words of valid norms, and of the content of other sources, and also of their interaction with the resources and strategies of whoever has the power to do legal interpretation, and also of the thingness of the materials and the facts presented” (L/P, 169). Legal realism disposed of the myth that judges engage in unbiased deductive reasoning from established rules and principles that leads to correct decisions. It attacked determinacy by arguing that decision-making is neither constrained by legal materials (principles, rules, case law), nor unbiased. Rather,

17 “To say that law school is ideological is to say that what teachers teach along with basic skills is wrong, is nonsense, about what law is and how it works; that the message about the nature of legal competence and its distribution among students is wrong, is nonsense; that the ideas about the possibilities of life as a lawyer that students pick up from are wrong, are nonsense. But all this is nonsense with a tilt; it is biased and motivated rather than random error. What it says is that it is natural, efficient and fair for law firms, the bar as a whole, and the society the bar services to be organized in their actual patterns of hierarchy and domination.” “Legal Education and the Reproduction of Hierarchy: A Polemic Against the System,” Journal of Legal Education 32 (1982), 591. For Kennedy’s reform proposals, see Parts II and III, 610-615.
judicial reasoning is a political working-out of solutions to problems of law in an atmosphere of constraint—an atmosphere constituted largely by Liberalism’s philosophical and institutional commitments to the rule-of-law. CLS extends the legal realist critique to the nature or “thingness” of rules themselves, what rules are and what they do. Duncan Kennedy has written many versions of the sentence “rules represent a compromise between two conflicting policies”; they do not have any “ontological” qualities at all (See L/P, 160-161). I think this means that rules are effects of discourse. Indeed, the CLS position is that “long-run ideological conflict over the stakes of rule definition” is legal discourse.

American legal theorists, Kennedy argues frequently, are peculiarly obsessed with figuring out how (it can’t) and when (never) adjudication can be non-ideological or objective. CLS therefore adds to its main critical project a part that calls out the bad-faith of judges who are in denial about the ideological nature of the work they do—denial that promotes their own interests as intellectuals and high-status persons and reinforces existing forms of domination. In its accounts of adjudication, CLS rejected the realists’ (Hartian) easy/hard case distinction that really represented an effort to continue to think ideological activity as extra-legal, in favor of focusing on the ideological nature of the act of choosing which rule to apply in the initial instant in which a judge apprehends the position of any given case on any given doctrinal field, and then reasoning toward or away from that rule depending on how said judge “wants to come out.”\(^{18}\) Thus, CLS has provided an invaluable account of how law does in fact relate to and participate in the

\(^{18}\) This theory of jurisprudence is developed most thoroughly in Kennedy’s *A Critique of Adjudication (fin de si\`{e}cle)* (1997). His “Freedom and Constraint in Adjudication: A Critical Phenomenology” (1986) provides an imaginary description of how a judge would decide a case under this theory. It seems right to me.
distribution of the effects of “irreconcilable visions of humanity and society, and between radically different aspirations for our common future” (FS, 1685).

3) Policy “Argument” and Ideological Legal Work:

Policy argument is “second order” in relation to rule application or argument from precedent. It presupposes conscious choice about how the structure of the field should look, as opposed to simple subsumption of the facts to a norm that I grasp non-reflexively as part of a gestalt. The arguer can pick and choose from a truly enormous repertoire of typical policy arguments and modify what he finds to fit the case at hand. The arguments come in matched contrary pairs, like certainty vs. flexibility, security vs. freedom of action, property as incentive to labor vs. property as incipient monopoly, no liability without fault vs. as between two innocents who caused the damage should pay, the supremacy clause vs. local initiative, and so on. (FC, 534) (my emphasis)

Throughout his work, Kennedy makes claims about the sameness of “policy” arguments, which are legal arguments about substantive social goods that might result from making an ideologically inflected choice to apply one rule instead of another, where it is not obvious which rule the judge should apply to the facts of a case (as if the facts were entirely blanketed by an obviously applicable rule). The quote, above, with which I begin this introduction to the CLS critique of substantive political, or stakes-oriented, “argument” is an example of the bemused mood in which Kennedy approaches questions of ideological self-awareness in American legal culture (i.e., we are either laughably ignorant or lying badly). He writes in “Form and Substance” that “arguments lawyers use are relatively few in number and highly stereotyped, although they are applied in an infinite diversity of fact situations” (1713). In Critique of Adjudication, “[once a case is identified as falling into a contest-zone with respect to choice of applicable rules], the lawyers apply the set of stereotyped argument-bites [about “one version or another of
utility, extralegal rights, or morality” (99)] and support systems for cases in this cluster” (154).

This language is queerly resonant with that of online gamers and science fiction enthusiasts, a convergence made more strange upon consideration of Kennedy’s identification and matter-of-fact acceptance of an intense degree of high-stakes ideological conflict at every point along the way of legal decision-making.\textsuperscript{19} If I were invested in the practice of law as a job or vocation, I might find this aspect of the Kennedy version of CLS very annoying. It suggests that policy arguments are the palaver that formalists sometimes say they are — ultimately meaningless interventions that cannot be solidly anchored in the fact/rule materials that structure objective decisions. This mood seems to disrespect legal work, almost to poke fun at its machinations. But that is not right.

For Kennedy, “legal work” is the most important thing. As a term of theoretical art, it refers to bringing to bear all the talent, knowledge of law, and time at the disposal of a lawyer to \textit{strategically propel the case away} from what Kennedy calls its initial “gestalt,” an immediate and original apprehension of the position of a specific case (the facts of the case and the problem of law presented by a particular dispute between actual parties) on a complex field of legal materials, ideological positions and human desires,

\textsuperscript{19} Abstractly, the judge’s attitude toward the “substantive dichotomy of individualism and altruism” fundamental to American jurisprudence and political theory positions her consequentially in an ideological battlefield (FS, 1713). It’s easier to think about rule-choice as ideological in the doctrinal context where most anyone could trace, at least partially, the distribution of stakes involved in, say, interpreting the First Amendment to allow corporations to spend unlimited amounts of money in federal election campaigns.
“Legal work” also carries the perfectionist burdens of radical legal thinking in more than one way. First of all, unlike the judge who is in “denial” about the ideological activities implicit in acts of judging, the legal worker takes moral responsibility for her ideological choices as a participant-insider: Kennedy means to provide us with an alternative to the back and forth stupidness of the “judging” vs. “legislating” dichotomy by theorizing the conditions of constraint and destigmatizing real legal thinking. By reorienting our thinking about the moral choices that must be made be in the process of adjudication, Kennedy humanizes legal thinking by pointing to the ways in which it ought to be done with “an attitude allegorical of an investment in our lives” as Stanley Cavell puts it in “Aversive Thinking,” his essay on Emerson’s view of thinking which, by the way, notes the disinterest of professional philosophy in “thinking that grows out of the provocation and agitation of the whole man” (1990, 34). I am not sure what Duncan Kennedy would say about the fact that I make a big deal about the parallelism of his and Cavell’s critiques of their respective and related professions, but more on that is to come.

4) Ethics:

…it is not impossible or futile to talk about the choice of goals, or about their nature and interrelationship. We do this constantly, we change in consequence, and these changes are neither random nor ineffable. … we will have a better understanding of issues of form if we can relate them meaningfully to substantive questions about what we should want and about the nature of humanity and society. (FS, 17)

If CLS teaches nothing else, it teaches that legal argument is a mode of ethical argument that denies its power as ethical.

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20 Detailed accounts of how ideological legal work is accomplished are given in “Freedom and Constraint in Adjudication,” in Part III of Critique of Adjudication, and in “A Left/Phenomenological Alternative…,” 158-161.
5) The Critique of Rights:

“[W]ithin legal academia, but virtually nowhere else either in the world of law or beyond it, there is a left/mpm critique” of what Kennedy identifies as a three-pronged “liberal project” to a) secure constitutional rights through legal activism, b) provide a philosophical basis for universalizing rights that have already been recognized in constitutional discourse or for an expanding repertoire of human rights that ought to be codified/brought inside constitutional discourse, and c) secure rights asserted by way of identity politics that define those rights in an equal protection context that implies a logic of “I am x and therefore an entitled to y” (an especially weak prong of the rights project insofar as it does not even insist upon a universal justification) (CA, 301, 299-303). The critique of rights pervades CLS as part of the end-game thesis that legal reasoning lacks a rational basis: like policy argument, “rights” are deployed in legal discourse as justification for desired outcomes. And that’s it: that’s all rights are. Once you have reached this conclusion, you can engage in a rights-based argument, of necessity, but you will then be self-consciously caught up in the everyday process of legal legitimation and you have to decide what to do about that. Kennedy writes: “It is not a question of proof. It is a question of mediation—of whether one gets any more from rights talk than from social welfare or morality or administrability talk” (CA, 332). I’m moved by the lengths Kennedy goes to explain that the project of demystifying legal reasoning can involve, and did for him, a species of conversion event – “loss of faith” – that makes principled “rights talk” impossible if not nonsensical. The call is for legal and political demands to be made from an alternative position that does not privilege rights as a centerpiece of the “liberal order” from which we must never depart.
Rights are not the ‘core’ or ‘centerpiece’ or ‘heart’ of Liberal legalism, either as an ideology or as a social formation generating a complex mix of happiness and unhappiness, legitimacy and oppression. The prevailing consciousness doesn’t have, to my mind, a heart or core. It is an enormously plastic, loose congeries of ideas, each of which appears from moment to moment to have the force of many army divisions and then no force at all … . The critique of rights, even when totally convincing, is a good deal less ‘effective’ than it seems from the position of threatened faith.

(CA, 338). Kennedy’s “loss of faith” language is both an “apology” to left allies who defend rights-talk as indispensable – the well-known position of Patricia Williams, for example, in “Alchemical Notes: Reconstructing Ideals from Deconstructed Rights”21 – and an exasperated, so what?, in the same direction.

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Let me insist, again, that I am not interested in developing a critical intellectual history of CLS for its own sake. Aside from, or in addition to, acknowledging a history of theorizing the relation of law to social and political institutions occurring almost entirely inside legal academia, I want to point, forcefully, to the sea-change in thinking about the development of ideas and institutions that overtook attempts to examine the significance

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21 Harvard Civil Rights and Civil Liberties Law Review 22 (1987), 401-433. Speaking directly to Peter Gabel, her friend and colleague and a principal critic of rights talk in his “A Critique of Rights: The Phenomenology of Rights-consciousness and the Pact of Withdrawn Selves” (see note 4, infra), Williams writes:

While rights may not be ends in themselves, it remains that rights rhetoric has been and continues to be an effective form of discourse for blacks. The vocabulary of rights speaks to an establishment that values the guise of stability, and from whom social change for the better must come (whether it is given, taken or smuggled). Change argued for in the sheep's clothing of stability (i.e., ‘rights’) can be effective, even as it destabilizes certain other establishment values (i.e., segregation). The subtlety of rights' real instability thus does not render unusable their persona of stability.

What is needed, therefore, is not the abandonment of rights language for all purposes, but an attempt to become multilingual in the semantics of each others' rights-valuation. (410)
and operation of major institutions as things apart (law≠morality) in the late twentieth century. These developments have occurred almost entirely “outside” the practices of law and legal theorizing, yet they have gobbled up the notion of the law, forever transforming law’s “external” social relations—or ought to have done. Certainly, Foucault’s genealogies of institutions (“the prison,” “the clinic”) and discourses (sovereignty, sex, state racism), and their astonishing yield of insight into the nature of modern power should have produced a significant “philosophical reaction” (as Holmes would have said) against the impulse to reduce the scope of legal inquiry in order to preserve the illusion of coherence. Thus, I aim to intervene at the point at which critical legal studies has arguably completed its critique, or at least reached an equilibrium vis à vis mainstream legal thought that is characterized by institutional quietude or forgetfulness about its own significant intellectual victories, in order to do two things.

First of all, I want to know why, despite the fact that the idea of an analytically constrained jurisprudence has been discredited for one hundred years and arguably ridiculous for thirty-five, the “iconology of constraint,” so-called by Duncan Kennedy (CA, 3), continues to ground demand for and belief in interpretive tightness “inside the guild of lawyers.” Why does legal theory maintain its inwardness even in its most radical postmodern forms? The continued isolation of thinking about law ought to scandalize any moderately serious contemporary intellectual, without regard to disciplinary affiliation.

Mine is both an emotional response and a version of an already-asked question about whether such inwardness has the effect of legitimating the myth of law’s autonomy and rationality at both the level of professional theory/practice, as so may others have
noted, and the level of the experience of law, the level at which one undergoes its effects as a human being caught up by its institutions. *Trained to read* an ingeniously catalogued glut of reports, the mind of a young lawyer among great lawyers acquires the ability to leap (a microscopic gazelle) from an abstract order of general rules, principles and “policy” onto the (very nearly) precise ledge of facts most likely to convince a judge that her client’s interests can be reconciled with what has already been said, or decided, by legal institutions. It does not matter one bit whether the rule and decision she unearths in her archival work is “right or wrong,” sloppily or stupidly reasoned, infected by deep and immoral forms of prejudice and malice. What matters is that the applicable case has not been overturned—it *is cited*. She is praised and lavishly rewarded for the ability to conceive and articulate infinitesimally fine distinctions between facts and sets of facts, as these distinctions, in turn, govern applicability of legal norms and the outcomes of cases. She comes to believe in a mode of thinking that pares away the detritus of social structures, human passions and local instances of ignorance/incapacity to understand law’s corporeal effects. Perhaps she is reassured by the plodding, braking movement of the judicial apparatus. Mundane rules of pleading and jurisdiction control the outcome of cases of Constitutional significance, which always involve highly abstract and inflammatory notions of human thriving. Courts strictly scrutinize affirmative government action in order to identify and eliminate intrusions upon personal liberty. There is much in the everyday practice of law—not (yet) to mention the everyday experience of coming face to face in a facilitative or confrontational way with this power

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22 Kennedy notes within the first couple of paragraphs of “The Structure of Blackstone’s Commentaries” that the legal liberalism of which Blackstone is among the first examples is characterized in part by the link between doctrinal exegesis and legitimation (*Blackstone*, 211). He also admits that Blackstone is an easy target.
– that continues to support the view that cases are decided, and law grows, under an order of limitation, constraint and skepticism which counteracts the tendency toward corruption.

“Inside the guild of lawyers.” I take this phrase, which casually acknowledges the profound divide between business inside and outside the guild, from Colin Dayan. Her book *The Law is a White Dog* collects more than a decade of research and writing that engages legal history, American literature and the philosophy of personhood to sustain an argument for law’s deep incoherence. In her view, law is “a world without demarcations such as those between past and present, primitive and civilized” (xiii). She writes:

> The law instinct, we might argue is permanently primitive, to invoke all the bias in the term. The common-law hoard of precedent in its language and iteration drags into light the myths of modernity and civilization. In its precincts anything can happen: the residues of human materials, forgotten, are dredged up when necessary. Once the doors are opened into the house of law, we find implausible metamorphoses that have the power to exploit and oppress. Once inside, we encounter historical fragments, legal fictions and spiritual beliefs. We see humans turned into things, ghosts into persons, and corpses into spirits. The intriguing thing is the thoroughly matter-of-fact way these phenomena are dealt with legally (2011, 9).

This view of law, I have no doubt, is absolutely unacceptable to most legal practitioners and would be rejected as irrelevant, or if relevant, radical and dangerous. Recall my opening claim about the drive, so evident in Holmes, to avoid approaching the insoluble.

At a 2008 lecture, the lawyer and theorist Peter Brooks, whose contributions might be said to have created the field of Law and Literature as a true blend of literary criticism and legal philosophy, stated that “a real understanding of the way people behave is *radically unusable* in the law” (my emphasis). I find this claim baffling because in my view of the truth of the world it is so plainly false. I do not mean to say that I think that
Peter Brooks is lying or in denial in a Kennedy-an sense. I think his statement reflects and reinforces confusion about the boundaries of legal discourse, highlighting by contrast the notions of “radical unusability in the law” and Dayan’s view of law’s voraciousness, its profligacy, and the (wrong) belief that inside the guild people perform operations on facts that create one thing, while outside the guild facts somehow live another life, they are free to be some other thing. Why can we not remember, open the doors into the house of the law to, power/knowledge, or, more fundamentally, to the wildly, beautifully contestable nature of facts, to a “real understanding of the way people behave” – in spite of the mystery and disturbance this entails? What are the consequences of forgetting that a thing is always itself, that, whatever the powers of the law, it cannot make one thing another thing?

I acknowledge Colin Dayan’s profound influence on my understanding of how interdisciplinary scholarship about law, or about anything, depends heavily upon deep meditation on the meaning and history of individual words. I believe that a chance encounter with her work released me from the terrifying hold of the law as practiced and thought by Holmes, by my father, by the brilliant lawyers who taught me to read and write the language of the law. But, unlike Dayan, I am a lawyer. When she writes, “My treatment of ghostly properties and human and nonhuman animal materials appeals for an understanding of legal reality, lively, ever-present, and reimagined by those outside the guild of lawyers,” I part ways with her (2011, xi). I do not accept that the acts of thinking and writing that I have come to value most – those acts which are the foundation of the poem, acts focused on creating specific impact and vibration with words and the
accompanying effect on the total imagination of the reader or listener – are forbidden (formally or informally) to professional legal intellectuals.

To say that law is an apparatus, as Foucault and Agamben do, is to allege that we are dealing with a phenomenon that is, in part, cloaked and mysterious, contradictory in its aims, in league with that which is not law. As far as I am concerned such an acknowledgment is a nod to the truth of the present conditions of contemporary life, entirely uncontroversial. Any dialogue about the current state of the law, theoretical or doctrinal, must involve some kind of engagement with the questions, What to do? How to live in light of what is true? What is real and true forbids us to forget what we know about myth, imagination, chaos, power, danger and collapse. Not to remember what we have learned about law’s multiple relations with and effects upon other realms is to ensure that it will become, if it is not already, irrelevant and corrupt.

Kennedy does not agree with Foucault’s general analysis of law’s position in a broad network of power/knowledge. In “The Stakes of Law, or Hale and Foucault!” (Legal Studies Forum 15: 4 (1991): 327-365), he claims that Foucault’s view of law is “pre-realist” in that it overemphasizes the “heterogeneity” of legal/sovereign power and disciplinary/biopower. Kennedy writes, “Foucault’s radical dichotomy rests on a typically European but utterly misconceived picture of the legal system as a domain governed by rules (as opposed to standards), by individualist (as opposed by altruist) definitions of legal rights, and by deductive (as opposed to “policy-oriented”) reasoning. A basic legal realist insight was that this picture is an ideological misrepresentation, no less false for being supremely plausible to both legal and lay publics. If one understands law as contradictory in all the areas in which Foucault thinks it is coherent, his model of conflict between legal and disciplinary power falls apart. The disciplinary is always already an element in legal power” (364, note 12) (internal citations omitted). It is both beyond the scope of my work here and beyond my modest powers to intervene in that dispute. But I think that Kennedy’s comments in “…Hale and Foucault!” implicitly support my effort to explore a potential zone of extensive interplay between power and its subjects.
In addition to insisting that legal materials must be dealt with in light of our complete knowledge, I mean to ask some critical questions about Kennedy’s conceptual framework or methodology in “Form and Substance in Private Law Adjudication.” In this 1976 article, Kennedy shows how everyday disputes over the “content of private law rules” play out in “stereotyped” and predictable forms of “policy” argument (see previous section, #3). These “typical forms or rhetorical set-pieces” (FS, 1713) are images or representations of disputants’ actual-but-unspeakable-unintelligible commitment to the ideals of INDIVIDUALISM and/or ALTRUISM (I/A). Most Americans, Kennedy would say, are committed partially to one and partially to the other of these fundamentally incompatible ideals, and, with respect to I/A, at least, fall somewhere along an ideological continuum. Kennedy’s main point is that policy as ersatz moral argument perpetuates the illusion of law’s ethical neutrality because the same “argument-bites” are used “in contradictory ways by people at all places along the ideological spectrum” as if the most foundational of moral choices (I v. A) were interchangeable, as if the difference between them mattered because of their local persuasive utility.

The I/A framework is immediately troubling because “individualism” and “altruism” seem to function as merely tolerable substitutes, metonymically (as “for the Dead Lecturer”), for familiar ways of thinking and talking about abstract priorities – “freedom,” “equality,” “justice” – to be preserved in movement toward American Liberal Democracy on the one hand and some form of collectivism on the other. Intending to materialize “a sense of conflict between two legal ideals,” Kennedy will not talk about law’s relation to the background conditions of American political ideology in terms that presume either the achievement of democracy or the triumph of liberalism in the United States.
States. To do otherwise would leave out legal realist, radical economic and postmodern
information and de-emphasize the confrontational posture of his critique, the essence of
CLS as a mode of politics. (Legal realism is a movement “interested in class conflict
within a liberal legal order composed of formally equal rights-bearers” *(HF, 342).*
Adjudication is a “mystified political activity” *(HF, 349).* “Resist authority!” is the motto
of his web home.)

In other words the I /A methodology is inseparable from Kennedy’s investment
and participation in the ongoing critique of an embattled Liberal political order and law’s
place in that order. He writes:

There are two sets of conflicting fundamental principles available when
we attempt to reason abstractly about the world, and these are linked with
the positions that are available to us on the more mundane level of
substantive and formal issues in the legal system.

Individualism is associated with the body of thought about man
and society sometimes very generally described as liberalism. It is not
necessary (in a logical or any other sense of necessity) for an individualist
to hold the liberal theory (internal footnote omitted). ...It is a fact,
however, that liberal theory has been an important component of
individualism in our political culture at least since Hobbes. The whole
enterprise of Classical individualist conceptualism was to show that a
determinate legal regime could be deduced from liberal premises, as well
as derived from individualist morality and practicality. *(FS, 1767)*

First of all, the notion that there are only “two sets of conflicting fundamental principles
available when we attempt to reason abstractly about the world” strikes me as an
overstatement of the habit of dialectic (being and nothingness come to mind as possible
alternatives to individualism and altruism, as do slavery and freedom). More important
here is that Kennedy, who always speaks of his own and the CLS projects as *in
continuation* of the realist critique of law as perpetrator of “Classical individualist”
ideology and thought (legal Orthodoxy), does not explain how liberal thought is a
“component” of individualism or how it is that all of American political thought and associated “mundane” questions of law are and must be taken up into these two concepts.

One might argue that the tight intellectual historical connection between liberalism and the realist→CLS critique of “Classical individualist conceptualism” requires the I/A framework, but that the requirement is merely historical. So, the argument would go, individualism and altruism are the best, or at least the most intelligible, concepts we have for talking about moral and ideological conflict in the liberal tradition, and that is the tradition that has provided the moral substance of American legal institutions, past and present. The conceptual dominance of I/A is contingent upon the nature of the object of critique.

But this cannot be right. Again, it is an important component of the Kennedy-an CLS critique that “legal materials” have no essential “nature”: “[d]eterminacy is a function of the words of valid norms, and of the content of other sources, and also of their interaction with the resources and strategies of whoever has the power to do legal interpretation, and also of the thingness of the materials and the facts presented.” We could take this statement, given in the context of correcting the view of some critics of CLS that the movement “believes” in the “radical” indeterminacy of legal materials (radical because language is taken to be indeterminate or because judges can justify any result they want by appealing to principles actually represented in the materials, nonetheless contradictory), to apply only to the limited question, how do legal materials affect the outcome of cases? But taking CLS’s claims about (in)determinacy-as-function seriously, and I do take those claims seriously, we have to accept that all of the subjects
and objects involved in adjudication meaningfully relate to one another in a manner characterized by feedback and flux. In particular, I am curious about how we might understand the interpretive work done by “whoever has the power” upon “the words of valid norms” and/or “the content of other sources” to be in a static relation to or controlled by concepts about the world drawn from an unaccountably stable conflict between Liberalism and the only other game in town, “collectivism.”

Let’s say that I accept I /A, methodologically, as an emblem of refusal to traffic in Liberal nonsense. If democracy is for Kennedy signaled and better represented as ongoing ideological conflict between at least two basically distinguishable major ethical tendencies in American politico-legal culture, then so be it. I concede, too, that the major theoretical thrust of “Form and Substance” is to provide an intellectual history of “the connection between the formal dimension of rules and standards and the substantive dimension of individualism and altruism” in order to show how moral argument proceeds in American private law (FS, 1738) (my emphasis). The history of ideas that circulate in moral, economic and political discourse as Kennedy says, but also elsewhere, in order to give identity to a recognizably national moral discourse is supposed to be tangential to the “substantive dimension” of American law. It is nonetheless disorienting that this otherwise trenchant and convincing critique leaves us with such a weak account of crucially important concepts, an account that refers us back to premises the critique claims to (wish to) discredit.

It’s important to keep in mind that a significant aspect of what Kennedy is trying to do in “Form and Substance” and throughout his work is to press ethics upon law as intrinsic to the vocation: to press this sense of doing work upon law and lawyers in spite
of the fact that a significant part of legal discourse is devoted to refuting this aspect by characterizing its most basic and plentiful operations as ethically neutral. That is, Kennedy’s version of CLS tries to teach the reader-in-law to aggregate|turn|examine diverse materials constitutive of legal argument so that we might, let us say intuit, the actually ordered ideological content of the materials, the actually structured moral content of argument itself. To this end, he gives a heuristic – I/A – that references familiar, indeed stereotyped, American ways of talking about acting according to our moral sense. The heuristic might increase the legibility or intelligibility (especially for lawyers) of his critique of the role of ideology, but the project as a whole is dramatically undermined by Kennedy’s failure to build out these concepts in a manner that reflects the implications of his own critique. If he believes – he says he does and I have no reason to doubt him – that I/A provide the superstructure for a vast body of common and statutory law, then why does he stop short? Is he for more, in terms of quantity and quality, ethical argument, or what?

It seems to me that “Form and Substance,” in particular, betrays deep discomfort with the necessary “substantive dimension” of itself, a discomfort that I am convinced leads Kennedy to fall upon I/A as blunt-force concepts where more subtle tools are called for. I take the rhetorical move of according these supposedly dominant moral “positions” (“ideals”? “rhetorics”? “ethics”? all of the above?) the pretty small function of conferring “an orderliness” to the universe of stereotyped legal argument to be primary evidence of this discomfort (FS, 1724). Kennedy anticipates objections to the vagueness and unrealness of these key ideas again and again, as if to winnow away their indigestible parts. “Both positions [individualism and altruism],” he writes,
have been assembled from diverse legal, moral, economic and political writings, and I can give no plausible description of the principle of selection at work. As a result, it is impossible to “prove” or “disprove” the validity of the two constructs. They are neither falsifiable empirical statements about a determinate mass of data, nor purely logical ‘models’ totally abstracted from reality.

Nonetheless, I hope that the reader will find that the bits and pieces fit together into two intuitively familiar, easily recognizable wholes. (FS, 1723)

In the work of this thinker, an attitude of apology and reverence toward orthodox forms of argument ought to raise alarms. What is going on here? Why would Kennedy appeal to the reader to accept the weird provenance of I /A by invoking a “pure” dimension of scientificity and logic when he has already explained – at length – that the concepts refer to highly abstract preferences for “conduct associated” imprecisely with either “self-reliance” and the pursuit of “self-interest” or “sharing and sacrifice” (1713, 1717)? How would it be possible to assemble materials that would describe such abstract concepts except through wide-ranging research in “diverse legal, moral, economic and political writings”?

Of the relation of his project to the actual and real, Kennedy writes:

One might attempt to link the substantive and formal dimensions at the level of social reality. This would involve investigating, from the point of view of altruism and individualism, the actual influence of private law decisions on economic, social, and political life. One could then ask how the form in which the judge chooses to cast his decision contributes to these effects … . This method is hopelessly difficult, given the current limited state of the art of assessing either the actual effects of decisions or their actual formal properties. Theories of the practical importance of deciding private law disputes in one way or another abound, but ways to test those theories do not. This gives most legal arguments a distinctly unreal, even fantastic quality that this essay will do nothing to dispel. Rather, my subject is that often unreal and fantastic rhetoric itself. (1738)
In this early essay Kennedy is flirting with the possibilities of theorizing individualism and altruism across disciplines while preserving his status as a legal insider. This practice and his example in “Form and Substance” are foundational to the CLS project. He invents a method as he goes for making intelligible statements about the flow of norms in and through legal discourse, about which he has powerful “intuitive” awareness, but on the subject of which legal materials are conspicuously and ferociously dumb. His work here will clear ground for the introduction of “stories” into law, and it relates back to and is influenced by realist and Marxist efforts to theorize the role of law in economic development and the distribution of wealth. Still, in “Form and Substance,” his method demands an apology. Kennedy perversely concedes that his key concepts lack verifiability in a legal sense because they cannot be accounted for using exclusively legal materials; they violate the injunction against subjectivity, the pledge of neutrality, the pretense of autonomy. As such, concepts that help to name, not to disparage or deconstruct, the unexamined surface of American ideology invite hostility and put the theorist in the position of begging lawyers to have mercy for the foreign matter he introduces into a realm where fact and logic must win the day (he has already told us that this is nonsense). Kennedy seems to prepare himself and his readers for the inevitable marginalization of his conclusions. Invocation of a realm of “actuality” and “reality” where the distribution of material consequences of the use of concepts and rules occur (i.e., if a judge/lawyer decides/argues a case in x way using n kind of language, then y will happen) that is separate from the realm of thinking, writing and speaking about

24 Or, perhaps this is false humility of the Brer Rabbit variety, a Trojan horse. The notion that Kennedy could not win a rigorous analytical contest of the sort he imagines and describes repeatedly in his accounts of adjudication is that absurd.
concepts isn’t wrong. The impulse to hold money in one hand and call it real and hold
thought in the other hand and call it unreal is perfectly understandable, especially where
one is working, as Kennedy was in the early CLS days, against the grain of one tradition
(law) that fetishized objectivity and in sympathy with another (Marxism) that fetishized
capitalism. My claim is that CLS, from its earliest days, internalized a disciplinary divide
or boundary constitutive of an obligation to conform to the constraints of legal discourse
even though that movement knew legal discourse as an order that hated critique, an order
that is anti-critical, indiscriminately legitimating of the status quo. I have a sense of
Kennedy as wily, of his concessions and apologies as attempts to make his interest in
thinking as mundane as possible, as when, for example, he claims that the FS project only
gives “an orderliness” to incoherent outbursts of policy argument in legal materials, the
truth of which cannot be verified using ordinary jurisprudential procedures. But then he
really does only do that, and, as I attempted to show in my discussion of the connection
between I/A and the critique of liberalism, continues compulsively to focus on the
relation of moral content to norm-making formal materials, especially on the outcome of
decisions, even when this focus creates problems for the developing theory. CLS never
does turn away, step back, renounce law’s disciplinary constraints. 25

25 I know that Kennedy really is opposed to “legal liberalism as denial and legal
liberalism as apology,” and that his work everywhere shows the intensity of his own
struggle with the “slogan” (as somewhat true if not a full account of how the
phenomenon works) that “opposition to the status quo does not easily survive the kind
of identification with the legal system that seems to be a psychological precondition for
really understanding it” (Blackstone, 218). I want him to quit trying to outfox the “logic
of obfuscation” by digging deeper and deeper into the foxhole (220). The justification
that “we need to understand far more than we do now about the content and the internal
structure of legal thought before we can hope to link it in any convincing way to other
aspects of social, political or economic life” looks, in retrospect, like so much biopower
(Ibid 220-21).
What do I mean by this? One way of approaching this problem is to say that Kennedy begs the question of the content of I /A in “Form and Substance” because his theory “runs out.” The questions (roughly): What is the relation between discourse and discipline, where discipline means both a professional intellectual field and the social relation most famously described in Foucault’s *Discipline and Punish?* And, What is the relation between that knowledge enveloped and dispersed by a discursive formation and the “ideological functioning” of that knowledge “among other practices” (Foucault, *AK*, 185)? These questions, to my mind, constantly clap upon and ring Kennedy’s bell. They are also, of course, asked and answered by Foucault in *The Archaeology of Knowledge*, first published in 1969 and translated into English in 1972. There, Foucault lays out the methodology already in use for his *History of Madness* (1961) and *The Order of Things* (1966), opposing archaeological description of discursive formations – which requires theorizing the structure of relations between “statements” unified in a single “discourse” – to an orthodox history of ideas. Orthodoxy presents itself as insistent focus on discovering the as-yet-undisclosed origin of some object idea; thus, Foucault intends to turn the rummaging fury of the intellectual historian from questions of origin to questions of dispersal. In this context, if I am asking about the relation between discourse and discipline, and also the relation between the knowledge enveloped and dispersed by a discursive formation and the “ideological functioning” of that knowledge “among other practices,” I am asking about the sufficiency of the CLS critique’s attention to the possibility that the anticipated unity of the system under investigation, the American

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26 I give these dates to hold a place for the question of whether Kennedy had read Foucault in the mid-1970s. “The Stakes of Law, or Hale and Foucault!” attests to his later engagement. In “…Blackstone’s Commentaries,” he writes, “We are implicated in what we would transform and it in us” (212).
system of adjudication, could break down under critique, or at least be understood as knowable and intact despite the revelation of its multiplicity and expression of unforeseeable but essential relations with activity and thought (thought activity) supposed to be external to its essentially closed system. So, CLS, law’s ostensibly final critique of itself as an autonomous entity, primarily accountable to itself and its enabling premises, finally cannot find a way to say anything about the change undergone by the object of critique by virtue of critique. I could say, in other words, that Kennedy’s CLS assumes that the “content” of I/A is fixed in order to clear ground for a perhaps revolutionary move that calls attention to norms as elements of legal discourse, but then loses touch with the state of knowledge – what of his condemnation of legal ignorance of phenomenology, which would foreground the subject’s experience of law? 27 That brings about or conditions its contribution to the possibility of making truer statements about itself? 28 That state of knowledge, call it Foucaultian or postmodern if you want, foregrounds the bind between the possibility of describing the byways that move statements about liberalism’s master moral concepts – individualism and altruism – out of the properly “philosophical” and into the problematically “legal,” the existence of this description as critique, and the change worked upon these relational avenues and concepts by virtue of their having been described. Is it by virtue of the need to remain in affiliation with some aspect of American law as-we-know-it that Kennedy imagines

27 L/P, 169.
28 “Knowledge is that of which one can speak in a discursive practice, and which is specified by that fact: the domain constituted by different objects that will or will not acquire a scientific status…; knowledge is also the space in which the subject may take up a position and speak of the objects with which he deals in his discourse…; knowledge is also the field of coordination and subordination of statements in which concepts appear and are defined, applied and transformed…; lastly, knowledge is defined by the possibilities of use and appropriation offered by discourse” (Foucault, AK, 182).
individualism and altruism as always the same? Is the disciplinary intimacy that makes the critique possible a condition of its blindness? Or, more deeply, what happens to CLS when the practitioner of critical legal theory is unwilling to risk that the critique she undertakes will result in the dispersal of the object of critique by her own hand? (In this case, the object is indeed precious. It is the idea of the legitimate rule of law.) Further, is the theorist willing or able to risk her own becoming unrecognizable or illegible in the initiating terms of the project she believed herself to have undertaken once the initiating terms are found to “disappear,” as Foucault suggests that they will do (AK, 39)? As Judith Butler reminds in Giving an Account of Oneself: “To call into a question a regime of truth, where that regime of truth governs subjectivation, is to call into question the truth of myself and, indeed, to question my ability to tell the truth about myself, to give an account of myself” (23).

And so we arrive at the fullness of the problematic governing the remainder of this discussion. In the light of Foucault’s startling, resonantly poetic claim that “Discourse is not life; its time is not your time;” Judith Butler works through the effect of dispersal – the without which nothing of discourse – upon the limits of self-knowledge, proposing “interruption and dispossession” as the activating hallmarks of a true(ish) account of oneself (GAO, 37). She is so good on the connection between self-telling, a project-in-discourse that waits upon the subject to discover and say prevailing norms in order to begin and/or continue, and the danger that the subject will come undone should she undertake to say something true about herself that is also, tracing here the circuit that Butler traces back to Foucault’s “What is Critique?,” not “like that, not for

29 Butler, GAO, 36, citing “The Politics of Discourse.” See also Foucault, AK, 241.
that, not by them,” that is, in other words, critical of the conditions of her subjectivation (44).

Let us say, then: lawyers are lawyers in relation to legal norms, norms that form a network of structural constraints, constraints that govern the intelligibility of the claims they make when they practice. Critique begins to define and express a revised and potentially original personal relation to those norms and constraints, directed toward unraveling constraint. The potent wish for an unknown and uncertain future is the call to critique. Yet, it may be that the critic who is motivated at every moment by the intention to make a self new and to say a true word about it encounters an insufferable paradox. Her capacity to describe the conditions under which she lives requires “the suspension of a critical relation to the truth regime in which one lives,” since telling the truth implies that the teller has accepted the norms she interprets as binding criteria of truth and rationality (GAO, 122). Legal critique, like all projects in self-making, will be founded or fail upon this bind between self, truth and power.

This is not what we wanted. This is not where we wanted to find ourselves. I did not expect to find the ground of my questions about the beginning place of contemporary critical legal theory in a hole whose size is proportional to the extent to which CLS was a project exactly like that, for that, by them. What I am after, have always been after, is a manner of reading legal materials and understanding legal norms that raises up – on the platform of deconstruction and de-legitimation built by legal realism and CLS – the capacity of each person to listen to the law as it speaks with all her wits about her. With all her wits, she will hear the “moral sense” of legal discourse and, perhaps, beginning to
understand what she hears, have a better sense of how legal discourse participates in a larger series of ongoing conversations about the conduct of life. Most importantly, she will be capable of disregarding the demands of the inside game represented primarily through the “iconology of constraint” that paints law’s pretend interpretive limits and helps to maintain the extraordinary power of its practitioners to govern us in ways that we do not wish to be governed.

I take the failure of CLS to provide me with these tools personally. I am offended by it as offense can only be given by a teacher in whom one has invested tremendous faith. Here is Duncan Kennedy, reflecting on the limits of his work in the final chapter of A Critique of Adjudication:

What this perhaps overly intricate theoretical model adds up to is an account of adjudication as the locus of liberal and conservative ideological projects with distributive effects, and an account of Liberal legalism as denial and bad faith with utopian and apologetic motives and legitimating effects. If it is convincing, it establishes, in [British theorist of law and sociology] Alan Hunt’s words, a ‘connection between doctrine and its historical context’ of the type that ‘critical theory promises’ (internal citation omitted).

[...] A theory of this kind may delegitimate the existing order in terms of its own theory of itself, and it may suggest ways in which the institution of adjudication plays a stabilizing role in our particular kind of capitalism. But it actually reduces our ability to “understand” the system in the traditional leftist sense of reducing its operation to laws or grand tendencies. Indeed, the critique of law, in the mode I am proposing, has the effect of making it implausible that we will be able to establish a relatively parsimonious explanatory paradigm to undergird the leftist project.

It seems to me unlikely that the left will succeed in finding a strong alternative to a weak version of this general type. I think the best we can or should hope for is the kind of chastened theory contained in this book. (294)

Kennedy is prepared, working in an atmosphere of constant confrontation and attack, to answer the charge – coming from both his Liberal and conservative right and his Marxist
left flank or wing – that CLS fails to produce a general theory of law that might found a reconstruction after its deconstructive heyday. Relatedly, he responds to the charge that his work undermines the goals of political movements to improve the lives of subjugated persons by covering them (providing them with cover) via extension and/or enforcement of established rights, in part by undermining faith in the rule of law.\textsuperscript{30} He has, also, a response to friendly ribbing about being just plain paranoid: afraid of that he will be overtaken and coopted by enemy powers and institutions, from which the above failures and problems follow.\textsuperscript{31} This last charge, part of a once-hot inside-CLS debate initiated by confusion about, but also oriented in the direction of fulfillment of notions of, proper political practice and theorizing, almost approaches the reason for my own disappointment.

Because I am in no way attached to the notion of the “left,” because I am interested in the possibility of a kind of intellectual and spiritual radicalism that leftism has normalized, because one lives in the present, the post-Marxist, the postmodern, “the element of self-conscious formal manipulation in the name of unknowable primal underforces and dangerous supplements, cut by the critiques of the subject and of


\textsuperscript{31} Duncan Kennedy and Peter Gabel, “Roll Over Beethoven,” \textit{Stanford Law Review} 36 (1984): 1-55. Gabel: “I think that your weakness, your weakness as an organizer [and a theorist], tends to be erring always, out of paranoia, in the direction of avoiding being positively explicit about what it is that you’re trying to achieve, and moving in the direction of the undercut, the joke …” (11). Kennedy: “People constantly say this about me, that I’m not serious, but it’s just not true. The only thing I refuse is a very specific classical level of political discourse about overall goals at the level of abstraction at which you want to talk. But it’s not fair to say I don’t have proposals just ’cause I won’t discuss, you know, the Rights of Man—ahem” [12].

representation” (CA, 339), I am susceptible to belief in Kennedy’s narrative about a retrospective experience of himself-in-CLS as stylemaker, a person who made artifacts that may or may not disrupt or shatter the smooth production and reproduction of legal and other norms. His works were and are disruptive, and give necessary courage to a bewildered person who recoils from legal discourse or practice because he suspects that proximity and participation in “law” drains or threatens one’s freedom or because his participation simply stimulates alertness to the petty domination of power/knowledge.

However, Kennedy’s neat, if very complex, refutation of the charge that he is too “paranoid” to field a full-blown theory of law, is intimately related to his refusal to deal in “abstract formulations” (ROB, 4) including “things” like individualism and altruism. I ignore the fact that he renounces these among other key terms in “Roll Over Beethoven” (“First of all, I renounce the fundamental contradiction. I recant it and I recant the whole idea of individualism and altruism…” [ROB, 15-16]). I renounce or do not receive that he renounces them because I am convinced that it is not possible to occupy the in-between position that Kennedy claims to occupy at the “intersection” of leftism and postmodernism where a theorist engages in “strategic behavior within the intersection,” sometimes choosing to engage in ideological struggle that will make right the existing apparatus, sometimes choosing to create excitement and disturbance in the postmodern manner that courts loss of faith in the existing apparatus, yet self-consciously achieves ecstatic vision that will, sooner or later, be caught up by the apparatus and

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32 CA, 342-344.
33 The entire Conclusion of Critique of Adjudication can be read as an apology for the CLS work, as well as a deeply considered response to the charge of paranoia, given the limited hope that anyone might “escape the oppressive force of the different reified modes of bourgeois representation” (343) as that hopelessness is described by the many possible genealogical relatives of his own theory. See CA, 356.
increase its power (CA, 364). In a very worrying way, *that strategic activity is an activity for technicians*. I am not sure that is possible to achieve the preparation for what is to come (for “nextness,” as Cavell puts this coming apart from some previousness that held us prisoner) that is implied by the “shattering,” indeed, of concepts discovered by investigating the deep insides – to the bedrock – of knowledge traditions and institutions which are, in fact, thoroughly opaque, but shattering also, of some aspect of our selves, if it is the case that once we have said something true about the conditions of our lives, we remove to the bedrock for ideological sport. This, even while acknowledging that the work has sometimes been very near or sometimes achieved a more-than-technical clarity that makes actual light, like fire, a flare that shows another way where everyone is always saying there is only one way. As if, light being what it is, outside our powers and very weird, we believed we could outthink and outsmart the impossible-to-defend-against powers illuminated by the work by disclaiming the wonders of our own thought, which is a counterpower, the only one, with the spell, “This is not my level of discourse” (*ROB*, 47). Not paranoia. Narcissism.

*Fantasy withers.* —Max Horkheimer and Theodor Adorno

I continuously return to a passage from *The Archaeology of Knowledge* in the attempt to get through to the sense of what is held tight, constrained, about critical thinking about law:

For an initial probe, I made use of certain fairly loose, but familiar groups of statement: I have no proof that I shall find them again at the end of the analysis, nor that I shall discover the principle of their delimitation and individualization; I am not sure that the discursive formations that I shall isolate will define medicine [read, law] in its overall unity….; they may even introduce unexpected boundaries and divisions. […] at the end of
such an enterprise, one may not recover those unities, that, there’s a word missing here] our of methodological rigor, one initially held in suspense: one may be compelled to dissociate certain oeuvres, ignore influences and traditions, abandon definitively the question of origin, allow the commanding presence of authors to fade into the background; and thus, everything that was thought proper to the history of ideas may disappear from view. The danger, in short, is that instead of providing a basis for what already exists, instead of going over with bold strokes lines that have already been sketched, instead of finding reassurance in this return and final confirmation, instead of completing the blessed circle that announces, after innumerable strategems and as many nights, that all is saved, one is forced to advance beyond familiar territory, far from the certainties to which one is accustomed, towards an as yet uncharted land and unforeseeable conclusion. (AK, 38)

This acid passage concludes by imagining the intellectual historian, bereft, presented “for analysis a blank, indifferent space, lacking in both interiority and promise?” (AK, 39). I understand Foucault here to articulate a romance with precisely the point of collapse that his critics understand as a flaw: the moment at which it becomes clear that a circuit of power has been described, albeit with critical gestures, and one has re-arrived at the thing, thoroughly explained, but still very much living (ah, critique: kill), very much capable of digesting the explanation one has produced. One is faced, as it were, with the prospect and inevitability of reification or cooptation, and with the possibility that it is not possible to escape the power that one has only just identified as the agent of domination. (Kennedy: How to “escape the oppressive force of the different reified modes of bourgeois representation”?). Yet, Foucault – I find this move to be devilish, but not cynical – proposes reification as a matter of choice, of willingness to risk a “blank, indifferent space.”

What is the difference between becoming dispossessed of one’s narrative and becoming dispossessed of the energy to proceed? Must the way forward require abandonment of dialogue about the already “isolated” discourse, the “stratagem” already
undertaken, all that was recognizable about the life we were living before critique? What of the conclusion that an account in the realm that is being described is indeed USELESS in the sense that it is of NO USE – cannot do anything to improve the possibility of our being “not this” – once it becomes clear that thinking about concepts might only “provide a basis for what already exists,” that ONLY “strategems” that make possible the temporary bafflement of the command of influence and origin can matter? In other words, in light of the risk of reification, is it better to refuse “reassurance [of] return” and “completing the blessed circle” by re-entering the familiar world, from which analysis momentarily held us apart, to play a conceptual game in which one does not do business with those problematic concepts with which the analysis began, to stymie and parry and muck up the effects of powers created by ideas that we now “understand,” a game it is implicitly possible to win? Or, to believe instead in the possibility of an outside, a blank place in which neither escape nor evasion are relevant to existence because power does not touch it? This place is the edge of something, like where (we have only just learned) the solar wind cannot be heard because it does not blow.

The habit of desultory reading is dishonorable even among those who talk a good game about inter- or cross-disciplinarity. It yields incommensurate hunches.\textsuperscript{34} Let us

\textsuperscript{34} I have been both moved and instructed by the description of Ralph Waldo Emerson’s reading and indexing practices in Robert D. Richardson’s \textit{Emerson: The Mind on Fire}. These model voracious curiosity and fearlessness and seem to me to demonstrate a key early principle or condition for true interdisciplinarity, which is the inclination to rearrange or disarrange existing narratives of deep knowledge. Stanley Cavell’s descriptive list of the texts that contribute to ordering his “open-ended thematics…of perfectionism” with “no closed list of features” has also made a memorable impression (1990, 4).
work toward unraveling the problems under discussion with hunches brought to light by two episodes in reading in this unmotivated manner.

**First.** “Divided-united,” the tenth section of Theodor Adorno’s *Minima Moralia* and the following section, numbered eleven, “With all my wordly goods” are short meditations on marriage – patriarchal and heteronormal Western marriage – that folds the standard-bearing name of intimacy into Adorno’s mournfully desolate elaboration of the decline into barbarism initiated by Enlightenment. These sections, read near-in-time to Duncan Kennedy’s work, startled me forward in the critique of the critique of the critique, for their reminder of the emotional power and appeal of Adorno’s “dialectic.”

*Refusal to comply with the expectation that any single idea can be separated from its presumed opposite.* — He begins: “*Divided-united.* – Marriage, living on as an abject parody in a time that has removed the basis of its human justification, usually serves today as a trick of self-preservation: the two conspirators deflect outward responsibility for their respective ill-doing to the other while in reality existing together in a murky swamp” (31). And ends “With all my worldly goods,” this way: “The universal is revealed in divorce as the particular’s mark of shame, because the particular, marriage, is in this society unable to realize the true universal” (32). These sections go to the interior of individuality, to speak of that part of the self that is supposedly cordoned-off, uninterrogated, not to be touched by the social and political as absolutely regulated and controlled by the institution of marriage. The desire to be oneself is bound up with the desire to be embraced in privacy, to be understood, to close the door on power in concert with another as a community of two. “Marriage,” the condition, the institution, the word and way of life, is the play of conspiracy, together, apart, independent, fusion, enforced,
Marriage, Adorno writes, “as a community of interests unfailingly means the degradation of the interested parties, and it is the perfidy of the world’s arrangements that no-one, even if aware of it, can escape such degradation” (31). His prose holds in abeyance the “perfidy” of concepts; once we are aware that language must fail fully to describe the state of our affairs and our desire to achieve a state that is better than our affairs, this awareness demands an effort-in-thinking and writing that refuses to participate in the illusion that words will stay still. Any single word (“divided”/“united”) actually works a suspension between partially settled states, so that the concept in use is a but/and (“a feeling of and, a feeling of if,” as William James puts a version of this thought puzzle in *Principles of Psychology*) – “divided-united,” “individual-community” – evocative and allegorical to other semi-known values.

Adorno suggests in these remarkable passages that marriage regulates a fragile detente between self and community where this hierarchical relation, dominating liberalism’s whole horizon of possibility in personhood, would otherwise tear apart even our most private erotic relations, officially presumed to be nobody’s (no person associated with and recognized by a state apparatus) business. Adorno concludes, as he tends to do, that divorce exposes the corruption of privacy by conflicts supposedly confined to the political realm, and condemns state-sanctioned love and as a practice of mutual loathing. He suggests, in other words, that in the life he is living, “damaged life” after the Nazis, there is no difference between the individual and the community. In normalized intimacy, subjectivity is overrun by its historical conditions.

35 These italicized words are Adorno’s, read in translation.
I had been puzzled by the extremity of my fixation upon the terms “individualism” and “altruism” in Kennedy’s “Form and Substance in Private Law Adjudication” partly because I work from a place where the term “individualism” is almost entirely covered over by Emersonian language and writing on the concept of “self-reliance.” I will say a great deal more about this in the next section of this essay. What is important here is that from the vantage point of my particular intellectual obsessions, “individualism” and “altruism” are not necessarily in conflict and are certainly not conceptual opposites. Liberalism and the CLS critique of liberalism presume such a conflict and highlight its intractability. For future critique, it matters a great deal that there is a “level of discourse” – highly abstract or imaginary, without technical affiliation – at which the meaning of precisely those concepts that trigger political and ideological conflict over how persons are to be governed and to live their lives (these are stakes) remains unsettled. *It matters a great deal that the meaning of concepts remain unsettled;* that ways of life deeply opposed to the status quo exist in relation to an understanding of the meaning of words that differs entirely from their technical and strategic deployment in established orders of social life. The logic that presupposes the meaningful irrelevance of concepts that “belong to” the discourse under investigation concedes whole realms of imagination to a form of life that is suspected of being an enemy of life.

*If epiphany is an experience in which the mind’s eye is instantly made clear or bright* – we were drunk and suddenly we see that we were drunk – then call the release of a conceptual grievance brought about through contact with a particular passage, *pacification* or *neutralization* of the domination of our way of thinking. To be led
forward in this way is, to my mind, a taste of freedom of the sort that entrenchment in a
discursive, post-Adorno-Foucault model of subjectivity wants to, but does not quite,
believe in. It is an instance of reckoning with powers that seem perpetually to return us to
“familiar territory” and of making a choice to go another way.

If the terms “individualism” and “community” are not in conflict, a thing we have
yet to establish and for now merely believe, they cannot meaningfully control the terms of
future or further critique. Concluding, with passion, his brief summary of the
“fundamental premises” of I /A (citing, somewhat comically, five sources—Marx,
Durkheim, Al Katz and Roberto Unger, and Laurence Tribe), Kennedy blasts
individualism’s ethic of self-interest and celebrates altruistic justice:

The ‘freedom’ of individualism is negative, alienated and arbitrary. It
consists in the absence of restraint on the individual's choice of ends, and
has no moral content whatever. When the group creates an order
consisting of spheres of autonomy separated by (property) and linked by
(contract) rules, each member declares her indifference to her neighbor's
salvation -- washes her hands of him the better to "deal" with him. The
altruist asserts that the staccato alternation of mechanical control and
obliviousness is destructive of every value that makes freedom a thing to
be desired. We can achieve real freedom only collectively, through group
self-determination. We are simply too weak to realize ourselves in
isolation. True, collective self-determination, short of utopia, implies the
use of force against the individual. But we experience and accept the use
of physical and psychic coercion every day, in family life, education and
culture. We experience it indirectly, often unconsciously, in political and
economic life. The problem is the conversion of force into moral force, in
the fact (sic) of the experience of moral indeterminacy. A definition of
freedom that ignores this problem is no more than a rationalization of
indifference, or the velvet glove for the hand of domination through rules.
(FS, 1774)

And another thing,

Individualism . . . -is not an heroically won, always precariously held
symbol of man's fingernail grip on civilized behavior. That is a liberal
myth. . . . Individualism is the structure of the status quo. (Ibid, 1775)
But no, say Horkheimer and Adorno:

The citizens whose lives are split between business and private life, their private life between ostentation and intimacy, their intimacy between the sullen community of marriage and the bitter solace of being entirely alone, at odds with themselves and with everyone, are virtually already Nazis, who are at once enthusiastic and fed up, or the city dwellers of today, who can imagine friendship only as ‘social contact’ between the inwardly unconnected. (Horkheimer and Adorno 125-126)

The distinction between individuality and community given by the powers that govern our present-day City is false. And it is precisely our incapacity to reconsider the given “nature” of individuality and community that confounds our progress. “A true praxis capable of overturning the status quo depends on theory’s refusal to yield to the oblivion in which society allows thought to ossify,” Horkheimer and Adorno write in Dialectic of Enlightenment (33).

Foucault does not say that the place where conclusions can be unforeseeable, his “blank” place, is a place where existence is freed from subjectivity and enters, perhaps only for a moment – or exits – the constraints of subject-making thought. What is beyond the reach of power that is everywhere, whose grammar can only provide a “basis for what already exists,” the power of “enlightened reason” that Adorno’s wicked sentences holds away from a body he sees, now, has been a kind of bait? The imagination that “seeks as horror to withstand horror” (89)— fantasy.

Second. So, I see that the sense of insiderness or tightness which I have found so unsatisfying in Kennedy’s CLS derives in part from my reaction to the bizarre claim that because the theorist is “aware of it” (Adorno) – aware of the way adjudication works inside and alongside a liberal political order to maintain the status quo – he is somehow

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36 See Dialectic of Enlightenment, 70.
enabled to outmaneuver power at its own game. This is an oversimplification, but I believe my basic objection to be fair. Kennedy’s strategy consists in reflexively recoiling from the “level of discourse” that founds or originates liberalism (the political philosophy of the enlightenment), while at the same time proffering “individualism” and “altruism” as essentially static, or, at least, preformulated, points from which the critique of adjudication (as ideological and corrupt according to its own principles) proceeds. He says, “I won’t talk like an adherent of liberal political philosophy, ever,” but then, he “strategically” talks like a liberal, better than any orthodox player of the game of American legal theory. You can win a political fight this way, but then you have won a political fight on the customary terms for the customary stakes. I’m not sure that you have done much more than that, and I have been saying that there must be more than that.

Let us take the perspective of a person upended by the contemporary conditions in which her thinking must take place, a perspective that is implied by the invocation of Adorno’s wartime writing. Adorno writes *Minima Moralia* and, with Horkheimer, *Dialectic of Enlightenment* stunned, having come face-to-face with the absolute lack of protection of persons by the rule of law inside the European stronghold of enlightenment and the systematic reduction by Nazis of personhood to “bare life,” later theorized by Giorgio Agamben.37

But individual freedom has always been made light through the designation and regulation of unfree zones. Not one day goes by when I do not remember David Walker’s

1829 declaration that “we Coloured People of these United States, are, the most wretched, degraded and abject set of beings that ever lived since the World began, down to the present day.” The important work of Saidiya Hartman has provided an account of “the construction of black subjectivity as will-less, abject, insatiate, and pained” (87). Crucially, Hartman’s focus is on “the persistent production of blackness as abject, threatening, servile, dangerous, dependent, irrational, and infectious” (116) (my emphasis); that is, blackness is constructed as a form of abject individuality that persists in abjection, as “burdened,” by virtue of the role it is made to play in delimiting freedom from enslavement, random, extreme and legally instituted violence, poverty and on and on even as the political background of freedom undergoes radical transformation, as in the transition from slavery to emancipation, to the guarantee of the formerly enslaved of basic civil rights and the protections of law. Hartman’s work alerts us to the possibility that blackness may be a form of personhood that is to the extent that it “remains outside the normative terms of individuality” in perpetuity (62).

Blackness is a node of information about possible ways of living in the contemporary world, allied with other ways of being with heightened awareness of the bond between free will and terror, that cautions against the invocation of free will as that which dwells peaceably and naturally inside every life. Blackness does not allow for the assumption that it is possible to refuse a level of discourse that threatens freedom. Every discourse that leads to the presence of the black in the West threatens black freedom. This is an unavoidable fact of life, on which different possible conditions of freedom must be conditioned.
What form of individuality, what kinds of freedom, are available to the kind of person who cannot believe that any strategy recognized before today as strategic and directed toward an end that we understand as political, does not spiral back toward subjugation? Is there a way to understand “individualism” so that it “can … be reversed or released from within a concrete strategic field, this concrete strategic field that induced them, starting with this decision not to be governed” (Foucault, “What is Critique?,” 60)?
Chapter Two: “We are now so far from the road to truth…”

The form of conduct associated with individualism is self-reliance. — Duncan Kennedy, “Form and Substance in Private Law Adjudication”

…our struggle is not against the enemies of blood and flesh, but against the rulers, against the authorities, against the cosmic powers of this present darkness, against the spiritual forces of evil in the heavenly places. — Ephesians 6:12

Almost everyone gets around to condescending to Emerson. — Stanley Cavell, “Aversive Thinking”

38 …that religious teachers dispute and hate one another, and speculative men are esteemed unsound and frivolous. But to a sound judgment, the most abstract truth is the most practical. Whenever a true theory appears, it will be its own evidence. Its test is, that it will explain all phenomena. Now many are thought not only unexplained but inexplicable; as language, sleep, madness dreams, beasts, sex” (EL, Nature, 7). Not forgetting that very early sentence in Nature: “Undoubtedly we have no questions to ask which are unanswerable.”
Although I have discussed my objection to the I/A binary at a conceptual level, I want to deepen (by writing out) the genealogy implied by my claim that “the term ‘individualism’ is almost entirely covered over by Emersonian language and writing on the concept of ‘self-reliance.’” Go back to the place where I confessed that the intensity of my interest in Kennedy’s idea of “individualism” (as he understands it to be opposed to altruism) might overwhelm sense. I meant that I have an unprofessional and improper reaction to the given intellectual history of individualism set forth by Kennedy in “Form and Substance,” a history that is never significantly revised by his readings in the postmodern philosophy of the citizen subject. Kennedy nods to Emerson’s “Self-Reliance” as one among other “interesting nineteenth century treatments of self-reliance,” those that provide the atmosphere or “spirit” of the legal regime against and inside which American legal realist critique was constituted (FS, 1713, note 74). It seems to me that he is not particularly interested in differentiating the ideological/spiritual and political/actional components of individualism. What matters, finally, is that these are conflated in the actual social order that emerges from the applied combination of economic individualism and liberal political philosophy. He writes, with emphasis upon the subjugating, therefore illegitimate (I prefer the term corrupt), effects of selfishness:

> Individualism provides a justification for the fundamental legal institutions of criminal law, property, tort, and contract. The function of law is the definition and enforcement of rights, of those limits on the pursuit of self-interest that distinguish and individualist from a purely egotistical regime. The great preoccupation of individualist legal philosophy is to justify these restrictions, in the face of appetites that are both boundless and postulated to be legitimate. [citing Rawls] (1715)

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From here, Kennedy goes on to build, continuing to this day, his attack against not only the “great preoccupation of individualist legal philosophy,” but all of individualist legal philosophy, and that is what I was talking about in the last chapter.

The turn I am trying to make, ever so slowly, is toward the preoccupations and solutions that underlie and drive Emerson’s “self-reliance” that have caused me to understand this conceptual matrix as a gift or grace of history, and not, as for those to whom it “does not appear,” an ideological burden that significantly threatens the possibility of free and ethical social life. The capacity for judging, making and re-making the self that I find in Emerson’s essays, led in my exploration by the work of Stanley Cavell, is startlingly unlike the excoriated and deformed self-reliance that appears in “Form and Substance.” For me, Emerson’s essays teach the way of keeping or keeping to moral thinking and to the life-sustaining aspects of culture in the light of postmodern information; they show how it is possible to break through or out of an insular version of the American self as without history or ethical responsibility, and even more importantly, they demonstrate radical and repeated acts of initiating the self in an atmosphere of complete exhaustion, which is the atmosphere of the contemporary, which is the atmosphere of being black, which Kennedy’s work both denies and obsessively, if without intent, reacts against.

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I do not mean to make a jokey or facile distinction between the “great preoccupation” and “all.” I’m acknowledging that Kennedy, although he writes about CLS as an insider critique of American law, has no interest in providing better justifications for the necessary compromises inherent to a Liberal legal regime. Rather, he claims to have withdrawn his investment in and consent to the continuity of the system, even while he engages in a critique from the inside. I’m not the first to claim that this is an impossible position; that it cannot be taken in the mind or in language in the way that Kennedy claims to take it.
Stanley Cavell speaks of “Emersonian Perfectionism” – the Emersonian system of self-making – as a “dimension or tradition of the moral life that spans the course of Western thought and concerns what used to be called the state of one’s soul” (1990, 2). Thirty years after Cavell first began to make claims for Emerson’s extraordinary philosophical fitness, writing that he “asks the philosophical mood so purely, so incessantly, giving one little other intellectual amusement or eloquence or information…save the importance of philosophy, of thinking itself” (2003, 27), it is very hard to imagine a time when Emerson “was not” a philosopher, a specifically moral philosopher, of profound importance to the study of the idea of America. I am nonetheless sensitive to the urgency of Cavell’s need to establish a link between Emersonian Perfectionism and “the criticism of democracy from within,” where, for Cavell, the work of John Rawls represents an apotheosis (1990, 3). The 1988 Carus lectures, published as *Conditions Handsome and Unhandsome*, are supposed to show how professional philosophy dramatically “condescends” to Emerson’s thought and aggressively misreads his presentation of self-reliance (the condescension and the mis- or not-reading are closely related) as irrelevant to a conversation about establishing the conditions for justice in a democratic society. *To condescend* consists, in part, in the repression of Emerson’s influence upon the Nietzschean version of perfectionism that Rawls rejects as anti-democratic (3-4). Put another way, Cavell must insert Emerson into a conversation about how to think about freedom, a conversation from which he has been totally excluded in part because *the way he thinks is not recognized as thinking, or not the kind of thinking that matters in political philosophy*, not like Nietzsche’s, which matters, and is wrong, it is implied, partly because it is influenced by *Emerson’s bad thinking*. Or
another way, Cavell objects to the refusal of Emerson by the most seriously dominant men thinking about the arrangement of justice in a political order characterized at the outset by the gesture of coming inside the embrace of that order’s “good enough justice”; Emerson makes other, bawdy gestures that bring into question or resist the orientation of “good enough” as inadequate to the business of constituting the self in democratic society. Or this, most telling, way: Emerson seems to have gotten himself outside or to the margins of the discourse of constituting liberal freedom, so as to be condescended to.

How did he do it? In what follows, I take hostile reception of Emerson to be evidence that it is possible to be outside liberal discourse (even if Emerson is not outside, and if not, where is he?). That is, I am interested in thinking about hostility to the notion that Emerson belongs inside the liberal philosophical tradition as indirect evidence of the nature of that tradition’s (irregular) figurative limits. Further, I am interested in extending Cavell’s qualified claims about Emerson’s oppositional attitude – qualified by the fact that his project is essentially restorative with respect to the “democratic” tradition – in the direction of a general theory of getting outside that is indispensable to the project of thinking about freedom today. In other words, I want to use Emerson as a guide for figuring out how to get outside liberal discourse again—today.

While I wish to identify and preserve many of Cavell’s insights, I shall point out some problems exacerbated by his interpreters and extenders associated with a more recent ideology critique of Emerson, and carve out a space off to the side of that critique in the footsteps of Donald Pease, which might be considered a black reading of Emerson that offers a better account of his philosophical power.
‘The way he thinks is not thinking’

In “Aversive Thinking” Cavell discloses his view that “analytical philosophy can see what thinking is, or should be, namely reasoning, expressed in a certain style of argumentation,” such that, for study of Emerson thinking we attend to “an attitude or investment in words” that we find particular to his works (2003, 34). The claim is that:

Emerson’s sense of thinking is, generally, of a double process, or a single process with two names: transfiguration and conversion. […] ‘The new deed…remains for a time immersed in our unconscious life. In some contemplative hour…it detaches itself…to become a thought of the mind. Instantly it is raised, transfigured: the incorruptible has put on incorruption’ [quoting “American Scholar” (internal citation omitted)]. Transfiguration is to be taken as a rhetorical operation, Emerson’s figure for a figure of speech—not necessarily for what rhetoricians name a known figure of speech, but for whatever it is that he will name the conversion of words. In ‘Self-Reliance’ he calls the process that of passing from Intuition to Tuition, so it is fitting that those who find Emerson incapable of thought style him a philosopher of Intuition, occluding the teacher of Tuition. Tuition is what Emerson’s writing presents itself to be throughout; hence, of course, to be articulating intuition. It is when Emerson thinks of thinking, or conversion, as oppositional, or critical, that he calls it aversion. (36)

This blessedly transparent move to orient readers of Emerson by identifying his location in a long conversation about how critical thinking (which, for Cavell, means philosophy itself) can be done is one of Cavell’s most important contributions to study of Emerson, second only to the idea of nextness in Emersonian Perfectionism, touch on briefly here below, and to which these comments are supposed to be tangential or next or near. Cavell transfigures disciplinary norms, into “open-ended thematics” of, explicitly, perfectionism, but perhaps also of discipline and interdiscipline. The way Cavell opens a zone for holding and examining statements that “ask attention to an attitude toward or investment in words” in contravention of rules that regulate what can be said about a thing considered to be located inside a professional discipline (thinking philosophically,
abstractly, making romantic comedies) both historically and physically; the way he identifies points in the lexicon/works – where the words will be thinking, transfiguration, conversion, intuition, tuition – and those words/points taken together map “[Emerson’s] response to a general attitude toward words that is causing his all but complete sense of intellectual isolation . . . [and] is his perfectionism’s cue” (37), conducts an exercise of reason whereby sense undoes the corruption of words. As Cavell says of the work of Wittgenstein, Emerson and Cavell’s is reason that “returns words” to their “ordinariness.” This activity is absolutely related to Foucault’s genealogies of specific objects of knowledge, where, as I discussed in Chapter One, Foucault rummages among statements in order to discover meaning in the system of their dispersal. For me, the concerted action of Cavell and Foucault provide the groundwork for the question of Emerson’s belonging—whether or not he belongs to a history of American philosophy, and an arguably narrower tradition of political philosophy, whether he is inside or outside of these.

Perhaps it is even more useful to think of the return to ordinariness as an analogue to “transparency,” another enactment of fundamental “waywardness” (a term used by Donald Pease in “‘Experience,’ Antislavery, and the Crisis of Emersonianism,” an essay that convincingly shows Emerson to bear very tough scrutiny as a thinker in opposition [2007, 98]), which I take literally to mean taking words another way, taking or turning them away from where they have been kept—to steal words away as a bandit, pirate or runaway. (Who cares that words are stolen away? I get to that.) My examples will suggest that it is sufficient either to witness or experience a becoming transparent that shows down the terrible clutching at “this evanescence and lubricity of all objects,”
including the *self*, constitutive of “our condition,” and also manifests its possible attainments (*EL*, “Experience,” 473). I am thinking of three instances where Emerson writes the body as transparent, in *Nature* (1836) and in “An Address…on…the Emancipation of the Negroes in the British West Indies,” both of which affirm Cavell’s view of (aversive) thinking as transfiguration. More, they compel or invite the reader to witness the self as transmitter of “genius” (“there is victory yet for all justice; and the true romance which the world exists to realize, will be the transformation of genius into practical power” [“Experience,” 492]) and to realize that Emersonian Perfectionism is a mechanism for breaking the self’s instrument, the intellect, even as we urge it toward its most extreme capacity. The point is for “all mean egotism [to vanish]” (my emphasis). One thinks to be rid of the illusion that thought is made possible or bound by the prison house of even its own structuring limits. Here are these texts, one merciless condescended to, the other, mostly ignored:

Standing on the bare ground,—my head bathed by the blithe air, and uplifted into infinite space,—all mean egotism vanishes. I become a transparent eyeball; I am nothing; I see all, the currents of the Universal Being circulate through me; I am part or particle of God,” (*EL, Nature*, 10)

The relation between mind and matter is not fancied by some poet, but stands in the will of God, and so is free to be known by all men. It appears to men, or it does not appear. […] for the universe becomes transparent, and the light of higher laws than its own shines through it. (*Nature*, 25)

Of “Toussaint, and the Haytian heroes, or of the leaders of their race in Barbadoes and Jamaica,” Emerson writes,

here is the anti-slave: here is man: and if you have man, black or white is an insignificance. The intellect,—that is miraculous! Who has it, has the talisman: his skin and bones, though they were of the color of night, are transparent, and the everlasting stars shine through, with attractive beams. (1995, 31)
Becoming transparent, then, is akin to desubjectification: to undergo it is to glimpse, with clarity, the organs of the body as disappeared – the skin and bones and the mind’s eye – leaving the shine of current and beam to arrange our capacity to know. We cannot see the “currents of Universal Being”; nor do they cause us to be outlined in our skins, set us off as vulgar and apart from the rest of the universe, (again and again, the Pauline incantation of the natural body as a state of waiting for its passing off into incorruption). Rather, through the revelation of transparency, we perceive a relation with the outside of the self that allows for understanding the self as among those objects of desire that cannot be held. To echo an important question posed by Cavell, If this is the self that comes to know words, what can be its investment in or attitude toward them? What, also, might be the relation between this “attitude” and the capacity to think (the) inside (of) a given political tradition?

‘the kind of thinking that matters in political philosophy’

Now it is possible to say something about the consequences of the conceptual link in Emersonian Perfectionism between what is understood as thinking and the “essentially ethical” nature of this kind of thinking. I have borrowed this term from Branka Arsic’s discussion of the “political agency” of Emerson’s “impersonal” subject (211, 211-214). Arsic credits Cavell, as initiator, along with George Kateb and Sharon Cameron – especially Cameron’s essay “The Way of Life by Abandonment: Emerson’s Impersonal”41 – for describing the self-constituting work of experiences “beyond” (Cameron’s term) the personal. There are crucial differences among these writers about

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the implications of identifying the Emersonian self as impersonal. Cameron takes the most radical view. She argues that a) Emerson’s “abdication” of a self-consciousness whose limits are coincident with the mortal body, plus b) the notion that “transparency cancels being” in the ecstatic experiences of apprehension or reception upon which Emerson depends for contact with the real, lead to the conclusion that Emerson’s person is “anonymous” (9, 16). A person who is anonymous – Emerson –, she claims, lacks moral authority because he does not value either his own personal experience or that of others enough, where the measure of that value comes from “suffering” the discrepancy between what I am and what all things might be (see 28-31). Literally, Emerson attempts to speak from the position of all things, which is not an ethical position, but an act. Arsic rehabilitates Emerson (by unifying the “impersonal” and personal aspects of his self) in claiming that “the activity of responsibility is not severed from the passivity of impersonal receptivity; to the contrary it is conditioned by it, since it wouldn’t exist without being required to respond to impersonal otherness” (212). According to Kateb in Emerson and Self- Reliance, the “superior rank of mental versus active self-reliance” and “[Emerson’s] emphasis on thinking as reception, as the effort to entertain the claims of contending philosophical ideas and worldly practices. …[results in the ability] … to touch reality, and hence to feel the highest pleasure and do the greatest justice” (53): “The best moments are those when one loses sight of oneself and looks at life and the world apart from oneself. The pinnacle is impersonal” (50). Kateb’s Emerson is a figure, motivated primarily by aversion to church values (the opposite of “self” here is the historical church of Emerson’s community), who articulates a “new-Platonism, a democratized one” (52). For this Emerson, the material necessity of self-reliant action
corrupts of the condition of witness/experience of transparency through which self-reliance can be fully experienced as a kind of blow-back of the division, contradiction and flux that the idea of a fixed person who moves through the world by way of piecemeal and significant acts functions to keep at bay.

Can Emerson be any more than a deep reformer in these terms? These scholars seem to imprison him in his soul (see my discussion at the close of this section), when this thing died with his body. Branka Arsic: “a state in which one is imprisoned by the law instead of being domesticated in it, cannot be home. That is why, in Emerson, every cosmopolitics has to begin and end with the reformation of laws” (265). She is saying that Emerson came to understand law as that which "crafts ethics" and selves (quoting Colin Dayan's "Legal Terrors") as opposed to ethics being "the ethics of man that precedes the law” (268). This is another way of speaking of Emerson’s prescient recognition of the way we make ourselves of what materials we find around the order, and yet we do not find ourselves in that order, but in the materials, in and through relations with other persons and things.

And yet, again, I see this development of an “impersonal” Emerson, even where his impersonality is interpreted as “essentially ethical,” as an evasion of the question of Emerson’s will to claim the political tradition that “crafts” his thinking. It is true that for Emerson our conditions are not conditional in the way of ideology, and so it can feel wrong to make what amounts to an ideological argument about the motivation for the practice of moral perfectionism. When Emerson exclaims in the last paragraph of “Experience,” “far be from me the despair which prejudges the law with a paltry empiricism,” he seems to cast off precisely the conditions that his ethics “take place in
and are framed by.” The question is not whether Emersonian Perfectionism is anti-democratic. The question is whether or how Emerson’s is precisely a moral perfectionism that orients itself outside, beyond, U.S. democracy, which is transparent to it, and, therefore, rejects its justice as not at all good enough.

Although he is interested in the Kantian term “incentive” over questions of motivation for Emersonian Perfectionsism, Cavell makes the link to its “essentially ethical” nature very strongly in the independently powerful introduction of Conditions Handsome and Unhandsome (which I’ve already been arguing with and against). The idea of this “inflection” is Cavell’s way of thinking through Emerson’s sense of the adequacy of the present conditions for imagining a radical form of democracy. The point is crucial to the argument that Emerson works inside the democratic tradition because Cavell goes through a Kantian figure from the Groundwork – the result of excluding “any material (object) of the will in which we might take some interest” in order to find an interest for pure reason is the discovery that the interest is the desire to make the world intelligible – in order to arrive at the notion of “good enough justice” that is Perfectionism’s “cue.” Cavell lets “Utopia” stand for “intelligible world” in order to say:

You cannot bring Utopia about. Nor can you hope for it. You can only enter it (If you cannot imagine entering it, then either you think that the world you think must look very different from the world you converse with, or else you find that the world you converse with lacks good enough justice. In this way the imaginability of Utopia as modification of the present forms a criterion of the presence of good enough justice. [...]). (1990, 20)

Invocation of the Kantian procedure for locating the moral basis for action inside the action draws attention to the interiorization (I could say normalization) of Emerson’s passionate moral sense – the law – that the Kantian procedure allows to take place. Every
possible just world comes inside this world as a “no place,” as Cavell puts it, but for this world. I don’t think this makes any sense. (Even the most radical imaginings depend upon existing language and symbolic recombinations, but does this imply that my capacity to imagine reflects my consent, I do not say complicity, with the language and symbolic order that form my present?). The point is, it seems to me that the incentive of pure reason and the incentive of a utopian “democratic tradition,” as in the America of our imagination, cannot be located in the same way. We do not enter democracy like a heaven, nor does it exactly belong to “the world I think.” As George Kateb has written toward a different conclusion (“The status of Emerson is tied to the status of democracy” [202]), “[c]itizenship is enacted in a political system or in defiance of it. Emerson’s acts of citizenship as well as his reflections on the meaning of citizenship take place in and are framed by American democracy” (178). Democracy is a hybrid form that can never be self-justifying in the way Emerson speaks of that which justifies itself or is its own law. It is where he happens to be, but it is not where he is coming from. In other words, the conditions that we find adequate to the task of finding the next self are only coincident with the conditions of liberal democracy sometimes. The next self can never be made contingent upon democracy, whose moral basis can never be assumed to be immanent, but must be examined with reference to her material conditions by each person, continuously. I agree that Emersonian Perfectionism provides what Joan Richardson has termed a “template of the mind’s activity,” a script or for the challenges posed by the continuing enterprise of finding and thinking oneself in democracy. I object to the assumption that Emerson would celebrate having found oneself there in renunciation of

possibilities “apart from this state,” which would, indeed, constitute the crucial step to convert democracy as Utopia to democracy as ideological liberalism.

Thus, I don’t see how to avoid the conclusion that Cavell’s line of thinking of Emerson inside the democratic philosophical tradition (I think this is the same as calling him a liberal) leads to the claim that Emersonians need not concern themselves with ideological critique of liberal democracy. I wonder whether Cavell has not therefore provided a theoretical end-run around an ideological fight about where Emerson belongs, and to whom, by transforming “democracy” (in Cavell’s hands it feel already reconfigured and made fair or more pure) into a self-justifying trope of the social or external within which (democracy as a medium or substrate) the becoming/reforming self is always in the process of achieving its next condition. We almost forget to ask why Emerson would have any interest – in any and all sense of this word – in being inside democracy because that is precisely what Cavell is suggesting that he cannot have.

Because I am not sure that these sentences have ever been read closely by anyone, I want to quote at length two passages that seem to offer a lodge or hook for serious consideration of the question of Emerson’s outside place. Here, Cavell is addressing his remarks to his admiration of/“quarrel” with Rawls’ A Theory of Justice because as criticism “from within.” He asks:

Is there a more serious or pressing political issue than the articulation of such a criticism? What I have to say concerning the issue in these lectures builds from my sense of rightness and relief in Rawls’ having articulated a concept of justice accounting for the intuition that a democracy must know itself to maintain a state of (because human, imperfect, but), let me say, good enough justice. Apart from this state there are perfectionisms, but their role, cannot, by hypothesis, be that of criticizing democracy from within. (3)
…the mission of Perfectionism generally, in a world of false (and false calls for) democracy, is the discovery of the possibility of democracy, which to exist has recurrently to be (re)discovered (as with philosophy, and religion, and…psychoanalysis). A difference between the Emersonian and the Nietzschean versions of perfectionism is the Emersonian’s implied claim that the possibility of discovery exists, is in a certain effect, here, where there is good enough justice to work from. So the question becomes: Where is here? (17)

These passages heighten my awareness of the state (and perfectionisms) apart from the state of good enough justice—the good enough as the discovered possibility of a fulfilled democracy, which becomes its condition. I find here the initiation, immediately swept away, of a worthwhile inquiry: Has a case been made, in Cavell’s work on Emerson or elsewhere, for the claim that this state, a painstakingly elaborated here that tends to “swim and glitter” and is the situs of self-making in Emerson’s essays, expresses an interest in being or staying or becoming as if inside democracy? What is Emerson’s attitude toward the principles that draw the boundary between those perfectionisms that have a role inside our society and those that “hypothetically” cannot have a role? To leave this inquiry aside, to someone else, is very much the point of Cavell’s work with Emerson. At least, I am unconvinced that Emerson’s “partial obedience” (31-32), as I’ve said, almost fused to the question of the very nature of Emerson’s sense of how his mind works the relation of itself to any object (the body, itself, democracy), really gets to what I am worried about.

a political order characterized at the outset by the gesture of coming inside the embrace of that order’s ‘good enough justice’

My comments thus far have forced the idea of a “crisis of Emersonianism” to the background. That is, I have tried to argue with Cavell on his own terms in order to show
how his argument might simply, in an attempt to show-by-not-showing how ideology
critique of Emerson cannot get too deeply into the enfolded philosophical questions (of
the reason for thinking the way that he does) or missing them altogether, invite us to
circle back to something like ideology criticism. But the root separations – Emerson from
“church religion,” Emerson from “mother and wife and brother,” Emerson from, at least
for a time, the abolitionist and democrat – that constitute the spirit of dividing what can
and cannot organize itself around being inside are ideological.

This is what postmodernity has taught us to hold in our minds – to hold out for as
precious and desirable – the moment at which the inside is baffled or deconstituted by the
consequences of knowledge. I do not think that this is a figurative expectation or a
utopian fantasy of dematerialization. Rather, that person who emerges as suspended
outside the normalizing consequences of consent to continue in the tradition, becoming
impossible to fully integrate through rule, is a person who has for a moment achieved the
freedom about which the Enlightenment caused us to be dreaming. In the present, we
have come to an understanding of this freedom as a lubricious object that can only be a
kind of star to which we look as we find ourselves in the middle of power’s very dark
wood. If Emerson has been mistaken as such a person and Cavell’s work only corrects a
mistake, that would be a great shame. I would nonetheless admire and owe a great debt to
the chain of insights that follow from the idea that Emersonian Perfectionism describes a
practice of ecstatic sanity with respect to the immediate condition of the world and
ourselves (as in transfiguration, conversion as uses of the insights of transparency). In its
demand for attention to a “next self” – not to get beyond this world but to be next to or
“beside” ourselves in it – a beautiful craning and spinning action of the attention which
both Poe and Heidegger tell us is at the core of “poetic” knowledge, dimensionalizes thought as a reflection of the wholeness of phenomena, inclusive of being human and against the order of definition that limits meaning in technical servitude to ideology, a form that can only react or respond to human beauty, seeks to enforce. Emerson himself speaks of acknowledging the “sphericity” of things. Cavell asks "what or who the self is that commands and obeys itself and what an obedience consists in that is inseparable from mastery" (1990, 31). If one is to rely upon a self that is capable of executing this healthful twist, then we are on a new ground in the arena of “individualism.” Cavell again:

That the self is always attained, as well as to be attained, creates the problem in Emerson’s concept of self-reliance – he insists on it, though not in the following terms exactly – that unless you manage the reliance of the attained on the unattained/attainable (that is, unless you side that way), you are left in precisely the negation of the position he calls for, left in conformity. That one way or the other a side of the self is in negation – either the attainable negates the attained or vice versa – is the implication I drew. . . in saying that each state of the self is final, one we have desired, in this sense perfect, kept, however painful, in perfect place by us. (12)

Yes to all that, except that I think he has been mistaken about the radical nature of this view and remain confused about the usefulness of drawing Emerson forever inside the democratic tradition when it is so clear to me that when Emerson gets free, it is because his critique of what or who the conforming self is, is deep, intolerant and prophetically enamoured of the risk the destruction of recognizable personal and political conditions. In remarks whose context I will shortly explore more fully, Donald Pease has written, “when [Emerson] pledged himself [in “Self Reliance”] to dissolve all social and familial ties, the speaker responded to a demand from a noumenal dimension of his subjectivity that would have utterly transformed the coordinates of the existing order” (74). I follow
Pease in concluding that Emerson leads the way outside power in a prescient manner that the notion of his attachment or interiority to democracy would render impossible. His critique of the corrupted self is diminished by the notion that it is the “prize” of democracy; that it develops “character” for hopefulness in the face of the “inevitable compromise of democracy without cynicism” (28). Emerson may be engaged with the philosophical history of the “soul’s journey” that leads to the development of a theoretical individual that lives in and with democracy, but he has, also, a sense of power’s stranglehold; he knows that power has somehow got hold of his soul and he will have it off him, democracy be damned.

When Cavell locates the question of ‘who or what the self is that commands and obeys itself,’ the question of Emersonian Perfectionism as concerning “what used to be called the state of one’s soul” (1990, 2), he declares his allegiance at the root of precisely the pre-modern framework that has been unable – to my mind – to sustain a challenge from the discourse of self-making famously summarized in *Discipline in Punish*:

This real, non-corporal soul is not a substance; it is the element in which are articulated the effects of a certain type of power and the reference of a certain type of knowledge, the machinery by which the power relations give rise to a possible corpus of knowledge, and knowledge extends and reinforces the effects of this power. On this reality-reference, various concepts have been constructed and domains of analysis carved out: psyche, subjectivity, personality, consciousness, etc.; on it have been built scientific techniques and discourses, and the moral claims of humanism. But let there be no misunderstanding; it is not that a real man, the object of knowledge, philosophical reflection or technical intervention, has been substituted for the soul, the illusion of the theologians. The man described for us, whom we are invited to free, is already in himself the effect of a subjection much more profound than himself. A ‘soul’ inhabits him and brings him to existence, which is itself a factor in the mastery that power exercises over the body. The soul is the effect and instrument of a political anatomy; the soul is the prison of the body.
It is against this assessment of the soul that Cavell implicitly struggles inside the democratic tradition, in order to uphold it. It should be obvious by now that I am not adopting the “crisis” framework that has emerged from recent ideology critique of Emerson, but not because I think it insufficiently critical of its own ideology, like Stanley Cavell.43 (Indeed, I am not sure what such an objection to this critical mode can mean, given that it has positioned itself as an excavation of the present mode of domination. If we cannot see every way in which we are “inhabited and brought into existence,” thus subjugated, by ideology, at least this cognitive limitation applies to nearly everyone.)

Cornel West, Sacvan Bercovitch and John Carlos Rowe hold Emerson responsible for developing what Bercovitch names an “ideology of dissent” (Bercovitch) that legitimates and reifies the liberal status quo, including white supremacy, by innoculating it with a kind of live-virus aesthetic radicalism that does not require political engagement.44 Consequently, Rowe recommends rejecting “an Emersonianism that has been for too long fundamental to our self-definition as Americans” (41). For these “new” Americanists,

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43 “…it is a mission of Emersonian Perfectionism precisely to struggle against false or debased perfectionisms and that it is a sufficient reason to keep the name Perfectionism to mark this missing. This is part of Emersonian Perfectionism’s struggle against the moralistic, here the form of moralism that fixates on the presence of ideals in one’s culture and promotes them to distract one from the presence of otherwise intolerable injustice. (Ideological criticism is a form, accordingly, of anti-moralism; too often, in my experience, it is an unphilosophical form, one with an insufficiently ideological form of ideology, which is to say, an insufficient study of (its own) ideas. The other pressing form of moralism for Emersonianism is the enforcement of morality, or a moral code, by immoral means, represented in the theocratic state, but still present in reforming states (as at the best they are)” (1990, 15).

then, Emerson is a problematic figure with little understanding of the function of his own theory in furtherance of U.S. capitalism and racial and imperial ideology to which he is metaphysically opposed (Rowe uses both “powerless” and “useless” as adjectives in this regard). Nor, in their view, does his writing successfully explain how a “transcendentalism” that locates the impetus for moral action inside individuals might organize mass collective movements for social reform (What does he mean when he calls for the “transformation of genius into practical power”?).

It goes without saying that the crisis mode is partly born of collision between strong theoretical models for thinking about Emerson that have produced parallel and conflicting conclusions. I have identified at least three, if not in exactly these terms: the Cavellian line that seeks to establish a connection with American philosophical traditions as naturally democratic, related philosophical investigations, arguably made possible by Cavell, and therefore, implicated in his critique from within by failure to explicitly deconstruct his assumptions, and a form of ideology critique that self-consciously identifies with thought traditions and disciplines external to the U.S., including psychoanalysis and postmodern theoretical movements.

In order to shed the language of crisis, I return now to Donald Pease’s contribution to the crisis view of Emersonianism. In “‘Experience,’ Antislavery, and the Crisis of Emersonianism,” Pease weaves multiple strands – the difficult-to-overcome challenges brought to the debate by West, Bercovitch and Rowe, Sharon Cameron’s contributions to discussion of the personal in Emerson and her influential reading of “Experience,” Cavell’s “Constitutional Amending” – together with what I would called historical intelligence, a careful and self-conscious approach to questions of achieving
analytical depth from the place in the history of an idea where one stands. Here is an instructive example of thinking that proceeds somewhat allegorically, certainly in an interdisciplinary manner, toward conclusions that untangle determined thinking burdened by a legitimating function. Pease’s argument is, because it is all the things I’ve just said, immensely complicated, and, truly, secondary to the point I want to make about his method, but I need to outline its contours briefly in a way that underscores my methodological point.

This essay enacts Pease’s rejection of the premise that Emerson’s writing is divided between transcendentalist and political commitments, and that the moral demands of the transcendental (the impersonal, the mental) persona characteristically dominate those of the reformer. Looking at “Self Reliance” (in particular, where Emerson scours the commitments of both the reformer and the abolitionist by writing “Whim” on the doorpost) and “Experience,” we are invited to rethink “self-reliance” as “the structural performative that was the source and the outcome of the unending tension between” the transcendentalist and the reformer (72), a tension that drives crisis thinking insofar as it partakes of ideological assumptions about antagonism between individual and society. Along with the “structural performative” sense of self-reliance (what does the notion of stage/framework do to cause the tension between what we are required to do and what we are thinking to relent or recede?), Pease would have us keep in mind an Emerson who is in the process of writing the essay “Self Reliance” for the purpose of discovering and recording the means of self-reliance. To keep our gaze upon Emerson as he imagines and writes “I would write in the lintels of the doorpost, Whim,” is to reorganize the perspective from which we interpret the self that becomes discernible and
exemplary in the Emersonian essay without disciplinary criteria—to observe the
movement or coming to pass of the indeterminate Emersonian subject. Of the “Whim”
passage in “Self Reliance,” Pease writes, “The protocols laid out…comprise the
technology of the self whereby Emerson gained access to his primal scene of writing”
(73). The phrase “technology of the self” combines with the notion of the “structural
performative” combines with the invocation of the “primal scene” to introduce by
allusion, activate and scatter psychoanalytic and postmodern ideas about the nature of
“this real, non-corporal soul…in which are articulated the effects of a certain type of
power and the reference of a certain type of knowledge.” From the outset, we are already
in two places at once. Pease’s inquiry is grounded in intellectual tradition that has
dispensed with the metaphysical soul and replaced it with an account of a “technology”
of self-making that is parallel to the notion of the journeying soul in order to prove up the
continuing relevance of Emerson’s investment in the “noumenal dimension of his
subjectivity.” What can be gained from locking together two apparently incompatible
systems for describing what it means to be an individual person? Whereas self-reliance is
a “structural performative” made possible by a specific “technology” for making and
understanding the built individual, some whole “dimension” of existence remains that is
unperformed and untechnical—is “noumenal”? What is a dimension of existence
untouched by the technology of the built self? If such a dimension exists, could we know
anything about it? How would it be in relation to acts performed on behalf of the
dimension of the self that is material?

Precisely because his argument takes these abstract questions seriously, Pease
overcomes the transcendentalism/reform (individual/community) impasse. He writes:
both Bercovitch and Rowe...presuppose that what Emerson called self-reliance was interchangeable with the possessive individual who was the constituent subject of the discourse [liberal individualism] to which they make it conform. But what Emerson referred to as “my genius [when it] calls me” achieved effects that were independent of the processes of identification, interpellation, and internalization associated with liberal institutions. (77)

To have been called, but not to have been interpellated. Emerson’s “genius” is revealed as outlined or cloaked in transparency (transparency is its skin or boundary, its limit), that visionary capacity which befalls an individual only as a result of struggle to come out of conformity. Struggle and the perception of a nonmaterial, not-yet-me, aspect of the subjectivity figured as a feeling of power and influx of literal lucidity are fitted together in Emerson consistently. The rhetorical concert of interpellation and emergence out of the social role – a fight to the death with the fleshly, with the solid, with the petrified and corrupt structure presented to Emerson as being – lead him to invent the “performative” writing practice of self-reliance as a translation of the experience of being in-struggle with the subject forming apparatus of the powers of his time. As a vibrantly living “dimension” of the self trapped inside the (Foucaultian) “soul,” genius “calls” and stirs thought into the realized possibility of becoming enlightened, and thus “achieves effects” that manifest as intuition of possible (“next”) selves outside “social identity” or an “identifiable social role” (77, 78). Self-reliance is, rather than a position adopted by the liberal subject, a complex interplay between a “known” subjectivity and one which, Pease suggests, has “no substance” (but must be differentiated from the nonentity that is “impersonality” in Sharon Cameron’s sense of that word); it is a “structural performative” in that it gives new language to the desire to be outside, providing a surface upon which to begin an effort substantively to infill or remake what I previously
believed to be myself and evacuated through aversive thinking. This formulation appears
to solve for the problems of interpellation Judith Butler has recently addressed, raising
the specter of the natural, pre-existing or unconstructed EXISTENT body (in her critique
of Foucault’s use of the idea of history as inscription on the body in “Foucault and the
Paradox of Bodily Inscriptions”) or self (in The Psychic Life of Power, that which is
hailed, or available to be hailed in the process of interpellation). We are asked, here and
in “Experience” to consider the active force – Emerson’s word for the substanceless
noumen is, of course, POWER – of a presently unrealized array of personal possibility
that is simultaneously intellectually deconstructive and a machine element essential to the
ongoing pursuit of freedom in social and political life. Self-reliance, therefore, can be the
grounding in action and thought of a form of social life which was, before you, without
substance; however, it is not always that.

It is crucial to keep in mind that the arrival of genius is only like a visitation from
another dimension. Emerson knows that it is impossible to “jump off our planet or jump
out of our skins,” as he observes in his 1854 address on the Fugitive Slave Law. No
matter how ardently we wish for it, there will never be a time when we are actually the
transparent eyeball. The world I think does not make me transparent or pop me off the
grid of gravity. It makes me know desire for the total transformation of the conditions
under which my soul operates. Thought in the mode of self-reliance puts me in mind of
constraint and unfreedom, which we might consider as forms of pure substance or
absolute reality, enabling the formation of “a more or less luminous image” of my
subjugation as disappeared—to write that down (“Whim”) as a notch on the lintels of the
door-post in the permanent interest of human life. At this point we are not only in our
minds, we are in, as Cavell has read that writing, a human history of being enslaved. Genius forces an “advance beyond familiar territory” at a junction between real and unreal, freedom and unfreedom, life and death.

Recall that I have been interested in the question of how Emerson gets outside or to the margins of the discourse of liberal democracy, if he ever does. When he is trying to answer the charge that Emerson’s moral authority falls down on the problem of slavery in “Emerson’s Constitutional Amending: Reading ‘Fate,’” Cavell takes us to this sentence in the Emerson essay: “Thought dissolves the material universe by carrying the mind up into a sphere where all is plastic.” I want to read the colloquy between Cavell and Pease represented by “Constitutional Amending” and “‘Experience,’ Antislavery” as a very friendly ideological fight over the status of in-between states, and over the politics of a technology of “carrying the mind up,” in the specific context of developing a history of the idea of the American subject. Donald Pease maps, on behalf of Emerson, a course correction in “Experience” (which I prefer to think about as a clarification of the requirements of self-reliance for himself and others) with respect to slavery that must go over or through the questions, “What comprises the limits of the experienceable? Can the limits of experience be experienced as such? Is it possible to experience what takes place without limits? What takes their place?” If not experience, “What exactly is being undergone?” when the subject is undone, and finds himself between the known and the possible (85)? In Pease’s reasoning, the territory mapped is not shared among those sympathetic to thinking about the problem of inhumane constraint and terror and those who are inhumanely held and then inhumanely metaphorized as the predicament of being unfree in a condition that is politically like death. That is how liberalism thinks the
problem of slavery, and how Emerson approached the problem, Pease argues, in “Self-Reliance” when he “subtracts himself from the social order” to receive Genius and become the speaking-subject that we recognize as the source of Emersonian critical authority; this, by way of rhetorical play with slavery that “legitimated the condition of radical kinlessness that defined the social status of the slave community” (89,94).

The territory of the universe dissolving is made from the outside. Everyone must go there or no one can. The attitude of the subject whose soul comes under the stress of being undone is not sympathy, and I am not sure that the relevant action of the mind of can be called “recognition” of oneself or another. The “tyranny” – if that is you want to call it; it is the word Cavell uses, to my point – of the institutions of slavery and of Nazism is to produce a subject position from which to view or have knowledge of what it is to be the subject who is the object for all others. Cavell praises Whitman and John Brown: “What gives to the knowledge of American slavery the absoluteness of its pain is the knowledge that these human beings in that condition, in persisting to live, persist in taking part in every breath in interpreting and preserving what a human existence can bear” (2003, 198). What is to be our attitude toward that abjection which we bear at the center of social life? How do we convert it? What could it possibly mean to convert this? Does the move to convert constitute a carrying up of the mind into a sphere that vacates all obligation toward the subject who bears the unbearable in order to make one kind of freedom possible? Cavell concludes, in the context of thinking about the compromised positions of Emerson with respect to slavery and Heidegger with respect to Nazism that Emerson, as least, cannot be read as a consort of the slave power and thus of the tradition of American racism because he takes the position that thought “recoils” from slavery or is
its negation (insofar as it negates the use or efficacy of the moral judgment); that Emerson is redeemed in the prophetic or reconstructive mode to “amend” his/American failure to address slavery by transfiguring “my constitution”:

Emerson’s simultaneous use of the idea of “my constitution” – his transfiguration of these words – so that we know they name at once his makeup and the makeup of the nation he prophecies, is a descendant of Plato’s use of his Republic—his city of words—to form a structure of the soul and its society. [...] hence to imagine for itself the power to amend the actual city in the philosophical act of its silence, its power of what Emerson calls patience, which he seeks as the most active of intellectual conditions. (2003, 212)

But Pease is saying that the formation of a “structure of the soul and its society” that was not always already implicated with slavery and its legacy requires precisely the destruction of the intolerably constituted elements of soul, not the upbuilding of a “compromised” (Cavell’s word) subjectivity around and with tolerable aspects of that which can be constitutionally amended or converted because these remain conditionally, conditioned upon existence together with a reality of lived existence that has been negated or cut off. To “[cultivate] the desire to speak from within the world on the terms supplied by the world” (91) is, as Pease argues, to become interested in “Enlightenment’s negation of witness to the order[s] that would negate it” —speaking, then, of the Enlightenment as the continuous pursuit of freedom represented by the order of democracy in which Emerson lived and which we inherit through him that would be negated, as Cavell acknowledges and attempts to address in “Constitutional Amending,” by witness to the figures of “slaves, prisoners of war, the homeless” (Pease 82). Emerson drops into the outside of proper experience in order to have a new experience, making a self along a “counterpath back into the world that reversed the itinerary” of a “structural performative” (self) that required exploitation of the “unstated analogy between the slave
master’s absolute dominion of the slave and the speaker’s subservience to Genius” (Pease 94). In other words, Emerson in his grief comes to know the outside of what can be endured; he turns from the formulation of negation of the lived experience of the black performed in “Self-Reliance” toward the “evanescence and lubricity” of being lawless; he does not know where he can find himself and thus becomes a figure “who could not locate a difference between absolute freedom (the act of escaping into freedom) and its absolute loss (the absence from the world of any order capable of constituting their freedom” (Pease 101).

This is my Emerson; the Emerson whose will to imagine the amended “city of words” (words that mean what? what does it mean to live in a city among the black who are enslaved?) comes to pieces in “Experience.” The work that is done there approaches the problem of how to live in a world where the soul has come under suspicion (we cannot keep its journey and also be free) such that justice offered to persons inhabiting such a world cannot be good enough, and the question becomes how to be “against the spiritual forces of evil in the heavenly places”— in America, which was to be a heaven upon a hill.

‘I have a new experience’

I know that the world I converse with in the city and in the farms, is not the world I think. I observe that difference and shall observe it. One day, I shall know the value and law of this discrepancy. But I have not found that much was gained by manipular attempts to realize the world of thought. Many eager persons successively make an experiment in this way, and make themselves ridiculous. They acquire democratic manners, they foam at the mouth, they hate and deny. Worse, I observe, that, in the history of mankind, there is never a solitary example of success,— taking their own tests of success. I say this polemically, or in reply to the inquiry, why not realize your world? But far be from me the despair which prejudges the
law by a paltry empiricism, — since there never was a right endeavor, but it succeeded. Patience and patience, we shall win at the last. We must be very suspicious of the deceptions of the element of time. It takes a good deal of time to eat or to sleep, or to earn a hundred dollars, and a very little time to entertain a hope and an insight which becomes the light of our life. We dress our garden, eat our dinners, discuss the household with our wives, and these things make no impression, are forgotten next week; but in the solitude to which every man is always returning, he has a sanity and revelations, which in his passage into new worlds he will carry with him. Never mind the ridicule, never mind the defeat: up again, old heart! — it seems to say, — there is victory yet for all justice; and the true romance which the world exists to realize, will be the transformation of genius into practical power. (EL, 492)

These words come at the close of “Experience.” Characteristically, Emerson lashes and retreats at the same time, as if to recapture his own ground. An instance of order in the first formulation (“the value and law of this discrepancy”), the despair he puts away from him at the last moment is that which “prejudges the law” (my emphasis). At what point (in the writing of “Experience”? ) has a foundational “value and law,” that which governs the process through which a thing which remains unproveable and also indefinitely immaterial, come to stand for all law? Have we been drawn with him to an understanding of the apparatus that turns “revelations” into hard facts whose forms the statute book weakly mimics? Perhaps the discrepant space of unthought experience is analogous to Samuel Delany’s “mathematical imaginary,” where the “structures, conflicts and displacements that occur in the unconscious, the class war, and the space of discourse” both explain and have “measurable and demonstrable effects on the real (i.e. political) materiality of science and technology” (Delany 119). “Discrepant” is also the key term in the critical work of Nathaniel Mackey who has derived, in conversation with American poetry and the cosmology of the Dogon people, an idea of “discrepant engagement” that is meant to refer to “practices that, in the interest of opening presumably closed orders of
identity and signification, accent fissure, fracture, incongruity, the rickety imperfect fit between word and world” (1993, 19).

“[T]he true romance which the world exists to realize, will be the transformation of genius into practical power”: and the secret of this transformation lies in a between-place where creative forces “too strong for us” break and re-make us again as creatures who cannot immediately be made to fit or be brought inside the presumptively closed, which their existence implicitly rebukes as, in fact, open, and therefore, by its own tests, incoherent.

I have hoped since the first time I came upon “Experience” not very long ago to be able to say something about how reading and returning to its most mystifying and attractive passages is a meditative procedure that relieves the dread that seems to drag alongside and haunt the intellectual tradition that makes all my thinking possible. I identify both spiritually and methodologically with the critical tradition that pursues the freedom of human subjects through critique of what stands for the law of their making, postmodern in the sense that it deconstructs becoming enlightened as a tribulation of and for the subject. This tradition, especially alive to me in the work of Foucault and Butler and upon which so much thinking that I admire (Duncan Kennedy’s, too) depends, is jammed against its own edge, repeating and repeating I know that freedom is also a technology of dehumanization because of what follows from what it proposes as indisputable: that the condition of being human is not the same as the condition of being a subject, which is the same as being subjectified and usually the same as being subjugated. This tradition has been unable to believe in an exit strategy from the “circuit of power” that it describes without mercy or sentimentality.
What is dreadful? Dread is on head (‘There were five persons taken in one house; the father, and the mother and suckling child, they knocked on head…; one was knocked on the head…but they would not hearken to him and knocked him in head’) against the head being knocked, so it can never be cut. Dread drags alongside like a whale or the vaporous pall that finally insults Poe’s Pym. For a time, the tradition lacked an account (forgot to think the existing accounts in writing by its blacks) of lives written in words as forms of life that cannot be undergone. When such accounts appeared in, for example, Hortense Spillers’ meditation on “‘flesh,’ that zero-degree of social conceptualization that does not escape concealment under the brush of discourse or the reflexes of iconography” (206) and in the work of Saidiya Hartman (“The construction of black subjectivity as will-less, abject, insatiate, and pained [not to mention DIRTY CORRUPT SLOTHFUL and DEGRADED] and the instrumental deployment of sexuality in the reproduction of property, subordination and racial difference [87]), they came parallel to the theorization of wartime anti-human politics carried on strangely without a thought for the manner in which the worldview that made Nazism possible practiced the constitution of bare life upon its blacks. I say this and still have and treasure the line from Adorno / Arendt (through Foucault) to Agamben.

I am opening up the background of my receptivity to Emerson in preparation for what I want to say about “Experience” as necessary – I mean that its operations cannot be substituted with anything – to any project in American Studies that wants to deal with the implications what I take as the key claim of “Experience”: “the world is all outside: it has no inside” (481).
First, to introduce Fred Moten’s influential formulation of the problem of dealing with the simultaneously experienced threats and promises of freedom in the “black radical tradition.” “This tradition,” he writes, is concerned with the opening of a new Enlightenment, one made possible by the ongoing improvisation of a given Enlightenment—improvisation being nothing other than the emergence of ‘deconstruction in its most active or intensive form’” (Moten, “Knowledge,” 275). What Moten’s work takes to be true, not to say natural, is that the critical traditions of Enlightenment and blackness are mutual bases of unexplored invention of ways of living outside the “given.” Although I would not emphasize “improvisation” in Moten’s way, his original and unsurpassed theoretical address of human movement outside braces Americanist endeavor both in terms of its capacity to energize a community of hopefulness or joy (as opposed to a capacity to energize threat or violence as the essence of critical community or radicalism) and not the false joy of “democratic manners” as a slap in the face of misery, and in terms of its persistent focus on how to “run away from the snares of recognition” (Moten, “Case,” 211). Critique as “black study,” which he names this mode of critical inquiry in his writing with Stefano Harney, runs together (like two programs running together) the discourse of freedom that has to go through American democracy to be understood in any kind of historical way and the discourse of impossibility that American democracy has always tried to negate, and thereby continuously strengthened, by bringing all the power of its law to bear on the lives of individual blacks (power cannot really negate lived experience, but it can engage in the most terrifying display of its dismantling effects; rendering some persons emblems of, yes, “absolute dominion”). These questions arise from helical inquiry:
How do we think the possibility and the law of outlawed, impossible things? And if, as Frantz Fanon suggests, the black cannot be an other for another black, if the black can only be an other for a white, then is there ever anything called black social life? Is the designation of this or that thing as lawless, and the assertion that such lawlessness is a function of an already extant flaw, something more than that trying, even neurotic, oscillation between the exposure and the replication of a regulatory maneuver whose force is held precisely in the assumption that it comes before what it would contain? What’s the relation between explanation and resistance? Who bears the responsibility of discovering an ontology of, or of discovering for ontology, the ensemble of political, aesthetic, and philosophical derangements that comprise the being that is neither for itself nor for the other? What form of life makes such discovery possible as well as necessary? Would we know it by its flaws, its impurities? What might an impurity in a worldview actually be? (Moten, “Case,” 179)

To take the deep outside critique as necessary, a perfectionism, as Cavell surely would have said (had he understood), compatible with democracy but not its possession or object, has required, at least since Emerson, some type of reckoning with blackness.

What is inadequate to blackness is already given ontologies. The lived experienced of blackness is, among other things, a constant demand for an ontology of disorder, an ontology of dehiscence, a para-ontology whose comportment will have been (toward) the ontic or existential field of things and events. That ontology will have had to have operated as a general critique of calculation even as it gathers diaspora as an open set—or as an openness disruptive of the very idea of set—of accumulative and unaccumulable differences, differings, departures without origin, leavings that continually defy the natal occasion in general even as they constantly bespeak the previous. This is a Nathaniel Mackey formulation whose full implications will have never been fully explorable. (Moten, “Case,” 187)

I am not saying this as a way of establishing a link between the rooted tradition of black pursuits of freedom in America and the possession of Emerson as an emblematic or founding philosophical figure for the democratic tradition in America as if to get America to contain its blacks inside its lawfulness or its black intellectuals inside its liberalism, or, for that matter, its Pragmatism. What should be interesting about the resonance between Emersonianism and blackness, indeed the enjoyment of moods of revelation and
prophecy common to these traditions, is the resonance or co-existence of desire to be rid of something like the objectivizing power of explanation as a signal feature of thinking liberation. Explanation, Emerson says, is what we waste the day in, but explanation is not the same as critique.

(Moten: “that trying, even neurotic, oscillation between the exposure and the replication of a regulatory maneuver whose force is held precisely in the assumption that it comes before what it would contain? What’s the relation between explanation and resistance?”)

Reading Moten, I am thrown back upon my reading of Emerson not at the root of America’s “ongoing improvisation of Enlightenment,” but precisely a wedge between further and further explanation of the series of limiting explanations and possibilities that Enlightenment requires in order to produce its own history as a history of a certain kind of individual subject. Look closely at Emerson saying in “Experience,” “The physicians say they are not materialists; but they are: —Spirit is matter reduced to an extreme thinness: O so thin! —But the definition of spiritual should be, that which is its own evidence” (475), and a little later in the essay “all just persons are satisfied with their own praise. They refuse to explain themselves” (486). I am interested in the way that Emerson strands the available sign of “materialist” in an entirely unproveable (intolerable, to the materialist) understanding of the substance “o so thin,” among punctuating marks that are (today) entirely eccentric (colon, em-dash, exclamation point, em-dash). The agency of “so-called science” is that of “theoretic kidnappers and slave-drivers [who] esteem each man the victim of another” (475). I find this passage, coming at the close of the section on temperament (Emerson’s own prisonhouse, temperament “shuts us in a prison of glass
which we cannot see” [474]) maddeningly indecipherable, and yet I begin to decipher
certain desirable relations: a relation with thinking that (a) regards the “regulatory
maneuver” (Moten), all intelligible practices of inquiry inside disciplines, as immoral
insofar as the point is to inscribe the “laws” of being as the defeat of existing signs of life
(the color of one’s beard or skin, which goes unmentioned here except in energetic
disgust with slavers) (b) codes the lawlessness of inquiry into experience with freedom
for enslaved blacks, out of “chains” and through “a door which is never closed,” thought
“[wakes us] from ineffectual struggles with this nightmare” (476).

If explanation or the giving of evidence for “virtue” is associated with “this
nightmare,” resistance in “Experience” has to do with discovering the means or capacity
of releasing explanation toward “the necessity of a succession of moods or objects”
(476). This is “how we think the possibility and the law of outlawed, impossible things”
(Moten). Moods are a kind of “preoccupied attention” to the law of individual selves
(Emerson, EL 490); to be in a mood is to become impossible by unlashing one’s
presence-in-the-world from recognition.

“I observe that, in the history of mankind, there is never a solitary example of
success,—taking their own tests of success.” This is not a lament. Because what kind of
recognizable feeling does it appeal to, insofar as it relates (back) to previously refused
possible logics of feeling that Emerson considers specifically in terms of how to receive
speech that is supposedly given to us as an emblem of common presence, socially (“every
word they say chagrins us”)? They and us cannot be together in a history of mankind
trajecting toward desire for individuality that is possessed (Emerson rejects the getting of
the self in favor of its receiving being, having it) and codified in “neurotic” (Moten)
pursuit of explanation of the law of its imprisonment; where that is success. At the end of “Experience” Emerson defends against the charge that he does not do anything by inviting others to wait alongside him, or rather, to allow a “new picture of life and duty” that has no lawful antecedent to come to them as “insight.” Thinking of Cavell again for a moment, consider what Emerson accomplishes by arriving at the question of success through praise of “succession” of moods of illusoriness, surprise and lubricity. What does it mean to say that temporary pictures of the mind must found a new likemindedness, a new social sense of “success”? What democracy populated by equal persons requires them to touch one another so lightly, and yet, to take this lightness as affirmative statement of the will to rediscover one another’s freedom?

Some final words from Emerson:

A sympathetic person is placed in the dilemma of a swimmer among drowning men, who all catch at him, and if he give so much as a leg or finger, they will drown him. They wish to be saved from the mischiefs of their vices, but not from their vices. Charity would be wasted on this poor waiting on the symptoms. A wise and hardy physician will say, *Come out of that*, as the first condition of advice. (‘Experience,” 490)

Whatever I have learned from the postmodern tradition that explains the subjectivation of persons, which is a lot, I do not think that complete immersion in that tradition can supply the intellectual resources for the plain necessity to “come out of that.” It is not only black people who “really have to use their imaginations to keep on keeping on” (Moten “Case,” 215). In Emerson, I find the cultivation of imagination outside the given or even the realizable as the “affirmative principle” that supplies “superfluity of spirit for new creation” by which we unstrand ourselves from being nowhere even as we believe ourselves to be digging, descending to ascend in the direction of the truth. I do not see this as an upward trajectory or a mode of transcendence but a circle, a complex vision of
the outside between us that is not an outside, of our connections to one another. I use the terms “ascent” and “descent” as the motivating obsession of the broader project in American Studies of which this essay is a part, although this obsession may appear in this essay to be a mere watermark or shadow.
was there no way to be genuinely broken...was there no way to be genuinely whole—Nathaniel Mackey, “Djbot Baghostus’s Run,” From a Broken Bottle Traces of Perfume Still Emanate

I don't give two splats of an old negro junkie's vomit for your politico-philosophical treatises, kiddies. I like noise. I like big-ass vicious noise that makes my head spin. I wanna feel it whipping through me like a fucking jolt. We're so dilapidated and crushed by our pathetic existence we need it like a fix.—Steve Albini

The question remains: whether and how to mark (visually, spatially, in the absence of sound, the sound in my head) digression, citation, extension, improvisation in the kind of writing that has no name other than “literary criticism.”—Fred Moten, In the Break: The Aesthetics of the Black Radical Tradition
We are casting around somewhat desperately for a near approximation of the human qualities which, for us, form the basis of true connection or near miss. We are cast about or away and must use a sense of qualities as belonging to ourselves and others to make an assay.

To have already rejected the qualities of being Mickey Mouse, feeling surpassing the armaments of liquid masculinity, and never to have had the products with which to build. Black radio leaps by decade when we go to it in terms of memory. We make culture entirely this way, in retrospect. And yet, what must be delineated is primary revulsion. To see outside the apparently open book and at the same time to read it: “As for reminiscing, this is a phenomenon more strongly marked by activity than reminding; it consists in making the past live again by evoking it together with others, each helping the other to remember shared events or knowledge, the memories of one person serving as a reminder for the memories of another” (Ricouer 38).

In reverse of rejection revulsion reversion restrospection redrawing review remind recognize reminisce remembrance recollection

stubbornly persistent contextual negativity beginning knowledge of consistently pleasing immemorial connection
staging or reconstructing the human qualities which, for us, form the basis of what has been considered the same as

“it is super R&B and you won’t like it because it is too slow and a tad boring.”

Because it is too slow, you won’t like it, and boring. You won’t like a very abbreviated list informed by a book I’d been reading on the way sounds come to stand for existence, for the commonly drawn marks that show togetherness as if we are, because we are, still required to make marks that remind us of the basic animal nature of our complex form of life.

As, up a cave without a piece of fucking charcoal.

An abbreviated list to make soft, to undo the R&B of my mind, today. A set to show what is steering clear and what’s not to like in open access to what has yet to be established as a philosophy of sortie. R&B establishes a spread for affective recon, where everybody is pressed together and recovering from pressing, as if that is the world.

Smokey Robinson, Tears of a Clown
James Brown, Get Up Offa That Thing
The Time, 777-9311
Prince, Adore, If I was Your Girlfriend, Darling Nikki, Bambi, I Wanna Be Your Lover, When You Were Mine, Do Me Baby, Anna Stesia, Ballad of Dorothy Parker
Rufus/Chaka Khan, I know you, I live you, Sweet Thing
R Kelly, Sex in the Kitchen, Your Body's Calling Me, Baby, Baby, Baby, Baby, More and More
Aaliyah, Rock the Boat, One in a Million, Come Over, Are You That Somebody?
Isley Brothers, For the Love of You, Groove with you, Footsteps in the dark, Voyage to Atlantis, Brown Eyed Girl, Summer Breeze
Rick James, Dance With Me
Teena Marie, Square Biz
Mary Jane Girls, Candy Man
Cameo, Candy
Zapp, Computer Love, Dance Floor
Patti Labelle, If Only You Knew
Luther Vandross, A House is Not A Home, Never Too Much
Madonna, Lucky Star
Kleer, Intimate Connection
Al Green, Simply Beautiful
Bobby Caldwell, Open Your Eyes
Bobby Womack, You're Welcome
Guy, I Like
702, Steelo
Total, Sitting Home
Carl Thomas, I Wish
Rell, Love For Free
LaToiya Williams, Fallen Star
Mariah Carey, Breakdown
Hall & Oates, Can't Go For That
Ike &Tina, Proud Mary
Phyllis Hyman, Living All Alone
Terrence Trent D’Arby, Wishing Well
Harold Melvin & The Blue Notes, Wake up Everybody
Teddy Pendergrass, I Don't Love You Anymore, Turn off the Lights, Love T.K.O.
Donny Hathaway, A Song for You
Spank Rock & Big Freedia, Nasty
Marvin Gaye, Here, My Dear, What's Going On, Inner City Blues
Roberta Flack, First Take
Howlin’ Wolf, Smokestack Lightening
Jimi Hendrix, Killing Floor
Al Green, Simply Beautiful
Parliament, One Nation Under a Groove
Grace Jones, Pull Up to the Bumper, Nightclubbing, Walking In the Rain, My Jamaican
Guy, La Vie en Rose
Nina Simone, House of the Rising Sun
Rose Royce, I’m Wishing on a Star
Richie Havens, Freedom
TV on the Radio, You
The Chambers Brothers, Time Has Come Today
Ann Peebles, I Can't Stand the Rain
Isaac Hayes, Hyperbolicsyllabicsesquedalymystic
Curtis Mayfield, Superfly
Deniece Williams, Silly
Joan Armatrading, Joan Armatrading
Minnie Ripperton, Perfect Angel, Adventures in Paradise
The Spinners, I’ll Be Around
Fishbone, Freddie's Dead
Cody Chestnut, Bitch, I'm Broke
Trey Songz, Put my # in Yr Phone
The Temptations, Just My Imagination
Erykah Badu, Baduizm
Sam Cooke, Cupid
Estelle, Shine
Otis Redding, Mr. Pitiful, Sitting on the Dock of the Bay
Aretha Franklin, I Never Loved a Man
John Legend, Ordinary People

What is black boredom? Out of curiosity, granting the possibility of the neurotic, the slow unwieldy and short; the being of black rejection or seeking outside the previously elaborated book of making as black; the slipshod and inelegant black, the tuneless and impotent, the smeared boot-black pooling at our pretty neck.

*Ne te quaesiveris extra.*

‘Music is a huge therapeutic vehicle for me…. Spiritually metabolizing these things, I’ve come to realize that I need to practice openness like it’s a sport. I think it would be such a shame to feel life as a burden the only time I get to live it. For me, the openness of my live show is a symbol of and a really important site of my work to fight negativity and depression and self-enclosedness, and really fight for intimacy and community.’ — Tom Krell

Doubling proposing. The characteristic slippage between human qualities as America. Characteristic slippage on memory and marks, as simultaneously an act of gauging and erotic softness or exchange and of being inside the felt pleasures of others. You don’t like it; it’s not for you; yet nothing is wrong with it—R. Kelly peeing on people. No one objects to taking up the desire of one who always feels like making love and that is making more and more blackness to sing, to shuffle and breakdown.
This is to contradict and establish some primary hatreds to head off the radicalization of black feeling by way of black music, by way, in particular, of perceived dramatic changes in the present time’s attitude toward it, and thus the absolute status of what black music is presumed to come from, to describe what cannot presently be described by going with the feeling of unwanted feeling, feeling of joining through the feeling of serious attraction to the claim that we have been weirdly loving toward “two splats of an old negro junkie’s vomit,” and that this love can come to an end, that it might be over.

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‘Throw on another goddamned Phoenician!’—LeRoi Jones (Amiri Baraka), “Hymn for Lanie Poo”

I cannot get off the first page of Amiri Baraka’s Digging. Like his “Dark Lady of the Sonnets,” this small text exemplifies the intensity of Baraka’s prose exertions over the philosophy of feeling black through the related experiences of playing and hearing (calling out through and being called to respond through) music, the poetics of which has dominated for quite some time (since it happened) the space we speak of when we speak of “the Music,” today. To trouble any aspect of feeling black, in part, because of the Music, I need to deal with this page as a graph or map of the territory.
Look at this page.

Introduction

A great song arose, the loveliest thing born this side of the seas. It was a new song. It did not come from Africa, though the dark throbs and beat of that Ancient of Days was in it and through it. It did not come from white America—never from so pale and hard and thin a thing, however deep these vulgar and surrounding tones had driven. Not the ladies nor the hot South, the cold East or heavy West made this music. It was a new song and its deep and plaintive beauty, its great cadences and wild appeal wailed, throbbed and thundered on the world’s ear with a message seldom voiced by man. It swelled and blossomed like incense, improvised and born anew out of an age long past, and weaving into its texture the old and new melodies in word and in thought.

W.E.B. DuBois

One of the most beautiful explications, as analysis and history, of “the Music” comes from Du Bois, in his grandest work, Black Reconstruction in America. So, because the good Dr. combines the material social world with and as the origins of Art. The Earth & the Sky.

So Digging means to present, perhaps arbitrarily, varied paradigms of this essentially Afro-American art. The common predicate, myself, the Digger. One who gets down, with the down, always looking above to see what is going out, and so check Digitaria, as the Dogon say, necessary if you are to dig the farthest star, Serious.

So this book is a microscope, a telescope, and being Black, a periscope. All to dig what is deeply serious. From a variety of places, reviews, liner notes, live checking, merely reflecting, the intention is to provide some theoretical and observed practice of the historical essence of what is clearly American Classical Music, no matter the various names it, and we, have been called.

The sun is what keeps this planet alive, including the Music, like we say, the Soul of which is Black.

In order to look at the page, before we begin to read the words, professionally or unprofessionally, of, first, W.E.B. Du Bois, then Baraka, what actions must we take or must we take part in? I mean this both somatically and in terms of thinking. What takes place when I do what I am invited to do by virtue of Baraka’s assertion that Du Bois’ image (all that he is) and some of his language must appear before us as a matter of establishing a point of origin and a standard of excellence? Before I read, I see a block of text, and the name, “W.E.B. Du Bois,” which functions as a picture and a mode of
transport toward a variety of ideas relating to the intellectual significance of black persons in the history of the idea of America. The picture that is made by setting the texts together, as Baraka has done here, as, I will show, Nathaniel Mackey does, as Fred Moten often does, proposes the long quotation as a visual/verbal bridge that shatters the isolation between the thinking and writing that is before us on the page (eye to eye with “the previous,” as Moten sometimes abbreviates the historical dimension of a subject’s existence) and in front of us. Such a bridge may only imply our intention to lay or throw down with the “the previous” by virtue of being given over and fully in the presence of the intensity of textual interplay proposed by the ocular and intellectual stress induced by attempting to read more than one text at a time: by the compositional assertion that the texts must be read together. In *Nature*

… wise men pierce this rotten diction and fasten words again to visible things; so that picturesque language is at once a commanding certificate that he who employs it, is a man in alliance with truth and God. The moment our discourse rises above the ground line of familiar facts, and is inflamed with passion or exalted by thought, it clothes itself in images. A man conversing in earnest, if he watch his intellectual processes, will find that a material image, more or less luminous, arises in his mind, cotemporaneous with every thought, which furnishes the vestment of the thought. Hence, good writing and brilliant discourse are perpetual allegories. This imagery is spontaneous. It is the blending of experience with the present action of the mind. It is proper creation. It is the working of the Original Cause through the instruments he has already made.

Let’s, therefore, take Baraka’s construction of the first page of the book of digging as an incantatory act or declaration of alliance with “Soul” – a remainder in persons of the Original Cause – that is also a rejection of a certain scholarly understanding of originality in general. It is also, therefore, an invitation to re-think certain questions of (black
aesthetic) history, as that which systematically explains the black original. I accept that invitation.

“One of the most beautiful explications, as analysis and history of “the Music” comes from Du Bois, in his grandest work, *Black Reconstruction in America*. So, because the good Dr. combines the material social world with and as the origins of Art. The Earth & Sky.”

The legal doctrine (also, fiction) of relation back comes to mind when I try to unfold the way Baraka touches Du Bois by way of *Black Reconstruction*. Relation back establishes a structure that moves events that occur in the present, but ought to have occurred in the past, in order to meet the requirement that the event exist as cognizable *at all*, in the Court’s view. This doctrine does not alter space-time, but it takes time under the wing of the law in an unfriendly way in order to rout its effects; to choke it out. If you re-turn to the passage Baraka wants you to relate to as a way of remembering the imaginary provenance of the *explication of* the rising “great song” – in a chapter hilariously titled, “The Coming of the Lord: How the Negro became free because the North could not win the Civil War if he remained in slavery. And how arms in his hands, and the prospect of arms in a million more black hands, brought peace and emancipation to America” – you will find Du Bois in the grip of this odd text’s haunted visitation of Emancipation as an incomplete, ever-dividing, receding-as-it-arrives, historical nonevent. (I have written elsewhere about at-least-doubled ways of hearing the honorific “Dr.”) *Reconstruction*: an epistemological disaster of proportions so great that writing its history necessarily throws
down the gauntlet of *telling history as the act of disabuse*; telling Reconstruction *is* the act of becoming disabused of some bullshit. The text Black Reconstruction is American is significant/as major work insofar as it embodies or enacts the practice of placing the mind elsewhere, *backward* in the direction of freedom, in the critical position of review, moving to the example of Reconstruction from the perspective of the black as a “case” of critical desire to re-order space-time in the interest of the future. Or, as Du Bois puts what he says up-front – “three movements, partly simultaneous and partly successive…the swarming of the slaves to meet the approaching Union armies;…slaves [being] transformed in part from laborers to soldiers fighting for their freedom…organization of free labor after the war” – somewhat later, an account of how the “black folks’ Apocalypse” had a chorus of “free, free, free”—three times, moving (Du Bois 124).

Baraka demands relation-back to the critical activity of explicating the freedom song and not the song, the grandness of the work *Black Reconstruction in America* and not the “great song,” “because” (this is Baraka positing predication or cause, not me) what is made grand comes that way as a result of Du Bois’ recognition of the fact that it is impossible to detach the problem of the origin and existence of (the art of) the Music from the problem of “How the negro became free” etc. The great song will repeatedly be “new” insofar as the Lord keeps coming and blacks are repeatedly taken up into the historical convulsions or pulsations resulting from the first, *grandest*, emancipation.

Note that the sung song itself is *imagined as heard by Du Bois*, then *imagined by Baraka as an explication of heard*, the song never actually having been in the presence of either
of these two. Whatever is great lovely and new about “it” is some third-hand information, some already ready-to-be-explained information. Not from Africa, not from America, not East, not West, “seldom heard by man.” Du Bois’ turns of phrase occupy negative rhetorical space – not this, not that, “tones” nonetheless (humanly) heard, its “incense” drawn in, its “weave” sensed intelligibly, phonemenologically, by the world – anticipating the groundwork of making the whole world Africa by way of explosive invention and dissemination of invention (of something from nothing) by way of the Music. One explosion re-compacts the dust stirred up by the unprecedented movement around the earth of bodies that initially cause the appearance of the New World Black, constituting a real physical redistribution of black presence about the world. Another explosion will be the explication of the heard, the “old and new melodies of word and thought” that Du Bois signals the presence of, the arrival of, in Black Reconstruction.

Baraka relates back to Du Bois who “combines the material social world with and as the origins of Art. The Earth & Sky.” It’s important to listen closely to that. Where the origins of art are the middle term or tertium quid that is the black personal between “material social conditions and (period) The Earth & Sky,” without a known grammatical procedure that describes relations proper to this new wild combination.

Baraka’s whole proposal of “Digging” “meaning” (intending and signifying) “to present” not only the thing/object but also oneself as “One who gets down, with the down, always looking above to see what is going out, and so check Digitaria, as the Dogon say, necessary if you are to dig the fartherest Star, Serious” is deeply disturbing. I
am stuck on why I cannot quite perceive in the discourse of digging those actions done to
the thing that has been gotten down on or gotten with, looked up and down. Ask a woman
what happens when a thing is acted upon in any of these gendered ways. (I want to get
with her. I got with her. I couldn’t get with her/that. She could get it.) The more-than-
whisper of sexual domination in the coverage of the verb “to dig” – domination that need
not be gendered male, but tends to come that way in the sense that Bob Marley means
when he says that God “come black” – seems to me to conflate the existence of the
personal “out and gone” with some variation of being in a top position.

In other words, I do not hear Baraka speaking here of the necessity of going down in
order to get down, which is not the same as “getting with the down.” When I am “with”
the down, I am always free to get up and leave, to go back to the highly preferably up.
Baraka prefers the up and out. Up and out implies the whole universe of digging.

I’m suggesting that the action of relating back, Baraka to Du Bois, and forward in time
with the infinitely off-put coming of freedom is infinitely complex and that this complex
action puts the balance of “down” “up” and “out” into crisis such that digging (and all
that is implied by what is now a traditional method of interacting with the explosive
inventions that have no name other than black music) starts to look like a lame
description of the practice of the art, the theory of the practice of the art and the theory of
its appreciation. Without doubt, I’m moved by the elements of reverence for and desire to
come into a far-out contact with actual works and the intellection of their coming to pass
that Baraka describes. I’m still suspicious of Baraka’s all-too-human inability to perceive
the ways in which “digging” valorizes and throws shade over the stylized manner of
turning toward and incorporating Du Bois’ meditations; almost as if the style, the manner
of designating the descent were more significant than its nature, or more important than
describing the (fascinating) mechanics of the (fascinating) achievement – these are
poetics – of the tertium quid that “was and is” radical black art.

What is to be made of the hypothesis that Baraka wishes to fold into Du Bois, to fit la
Baraka into a space of the past that Du Bois was once able to unlock and to occupy by
“merely reflecting”? That, now dead, Du Bois partially fills up and haunts explanation of
the poetry of the poetry of freedom; that Baraka desires this space. That the double
metaphor that is the Music and its black soul (their proposals of transcendence/purity
working at cross purposes) is nothing less than and nothing more than movement in the
direction of theorizing an embrace inside the physical space the phoneme occupies
between thought and language, between thought and its expression. That this purring
originates nowhere and registers nowhere on the scale of human vibrations (air and flesh,
all our vibrations); it doesn’t sound like anything. That the practice of black aesthetics or
black aesthetic theory, as Baraka says, “theoretical and observed practice of the historical
essence of what is clearly American Classical Music,” is not simply to tell the socio-
cultural history of the Music as a vehicle for black culture and thus to tell the story of a
people, as Baraka used to put it, nor to tell, presently, the story of the enjoyment of life
through deep and accurate transcription of structures of feeling. That what is at stake in
music-centered theories of black art/making black art is indeed, as Amiri Baraka once
asserted “a new kind of morality,” a communal/cultural practice in itself, for itself; these
men giving language to each other as its own kind of wanting to be together and wanting to be cared for; that kind of freedom, which they see represented in the togetherness fabled in the calling and the responding: music as “instructive way beyond the confines of the venues in which it takes place and the particular musical culture in which it takes place, way beyond music itself” (O’Leary 36).

Perhaps, given Baraka’s recent, and it turns out, final, fulminations against contemporary black poetry at, of all places, the weblog of The Poetry Foundation, I ought simply take for granted the extent to which he has been or should have been folded again by those seeking to look out via the black person’s periscope of which he speaks. But I want to build a total structure to explore this infolding, a word that becomes part of the vocabulary of this experiment from the work of Susan Howe, except that I recall that Moten has brought it in already via his reflections on the “spatial politics of the avant-garde” (2003, 40). I’m going to argue that the interventions of Nathaniel Mackey and Fred Moten from the 1980s up to and including today, appropriately for the present times of both, take off from the language Baraka leaves in the space he folds into with Du Bois. Baraka’s transcriptions fill up a whole other related area of the universe of digging to involve the Music only secondarily and certainly metaphorically, beyond the question of whether the Music bears a black soul or the essential blackness of soul, period. Baraka’s fulminating attests to the continuous arousal of the question of the mechanics of the fold, its agents, as Moten says, its “set,” thus of the manner in which his mode of relation back

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is both continuously practiced and acted upon by the same practitioners who consecrate Baraka’s relationship to the said, which is, again, in a complicated dance with the sound of black expression that is supposed to be unsayable, as well as the explication of that aesthetic complication. Apparently Mackey’s self-proclaimed limitless literary flow, struck open by his encounter with the Dogon cosmology, for Baraka, ain’t even worth mentioning.

Where the “fartherest Star” is a furiously local rupture inside thinking formations that are still being built by individuals whose relations to one another are subject to dispute at the fundamental level of whether or not these individuals are capable in the first place of making a thought tradition in relation solely to one another, the associated terror & refusal of terror by the individual constituted as without ties about the nature of ties; in the ruptures caused by disagreement about what must be held in a state of arrest by thinking and what can be transcribed as unthought, where the extraordinary comes about by trying to get in a different place in relation to thinking about previously Serious or cosmic historiographies of rupture.

Mackey’s insistently patterned grammar of “wouldly” ecstasy, pleasure occurring “after-the-fact” and before anybody has a chance to figure out what has happened (what is the difference that will constitute the “most ontic, un-heard of music” [Broken Bottle, 430]? can’t be disrespected; I can’t do this without it. I am also happy to be among the first to be instructed by Moten’s sense of the virtue of remaining temporally pacified in debt to
whatever “Nathaniel Mackey formulation whose full implications will never have been fully explorable” (Moten, “Case,” 187). This is about how to learn.

This is about a tradition of being interested in “the aesthetic genealogy” (Moten, 2003, 86) of what takes place via the performance of black music and/or what takes place via the performance of music by persons who are not black, but who know themselves to be, aspirationally, taking part in radical desire to test new arrangements of the self, desire that has been called a “freedom drive,” “this special ontic-ontological fugitivity of/in the slave” (Moten, “Case,” 187) I am interested in the ways in which this “taking place” (occupying/“they steals”) might be like the space Moten describes as that occupied by Baraka’s poetry, a space theorized through the existence of Shakespeare’s sonnets and therefore occupied stratego-historically by poets and the poetic. Here are two passages from Moten’s In the Break that, as of this writing, take up a lot of the air of the Serious in terms of a genealogy of this tradition, for which I have not yet been willing to provide a definition. (Moten offers “asymptotic, syncopated nonconvergence(s)” of “event, text and tradition,” “Africa, Europe, and America,” “outness, labor and sentiment” by way of periodization, geography, and blackness [87-88]):

I have been preparing myself to hear what is transmitted on frequencies outside and beneath the range of reading. Notes composed in the interest of that preparation: phrases:

Charles Lloyd, asked to comment on a piece of his music by a radio interviewer, answered, ‘Words don’t go there.’ (internal citation omitted)

n 29. In the absence of reading, either or both of these terms [notes and phrases] might be just as reducible as word or sentence. Part of what I’d like to relate is the way Taylor’s (work art ritual performance music poetry), the way that which is of Taylor, renders all of these terms
Don’t we have to be interested in the oscillations of space and time enacted in the theatricality of criticism’s nothing gesture, the gesture of making notes on what we have read and heard when it makes way for an otherwise impossible togetherness (of Moten, Lloyd, Taylor, then by way of Gershwin, untold plays upon the initiating standard combination)? To fold, then to crumple, to smudge, to consign to the dustbin. Moten is prepared – in the footnotes – to refrain from naming form, dealing instead with the way in which the black folks’ Apocalypse is an event that might be anything, something in between preparatory and performed sounds and words. It’s the question of how we will act or react when we find ourselves no longer able to hold steady in the nothing gesture:

What happens when the improvisation of Enlightenment or modernism or (the philosophy of) (the end of) philosophy—as predicated on the eradication of a certain obsession with differentiated, representative, and representational identity—is lost? What chance does music, the music of the poem, the music that prompts the poem, the music that is prompted by the poem, give us to arrive at such an improvisation? How is such an improvisation to be recalled if its source grows more and more remote, separated from us by the death, by the distance of Miles? (94-95)

I do not wish to be dragged into the thicket or walk along the ridge of a previously described genealogy, even when what has been described is nuanced almost to the point of “critical despair,” today, in terms of its recognition of ancestral faults (not to say foundation or origin or condition of possibility) to the extent that it emerges from that which is (in what sense?) “always on the verge of lyrical scandal” (86), black scandal, sex scandal, the scandal of having misunderstood the constitutive boundaries of our difference and our love, even while we did not know that we misunderstood and went on blamelessly, without error. What Moten adds to the territory, then, is a manner of
“description in light of its exceeding of explanation. . . not but of not but of not but of” (91). Listening thinking writing as “improvisational motion which The Music celebrates and philosophy represses” only to reignite passion for the song, its wholeness (2003, 101).

I was trying to get off this page.

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‘the letters respond to the music’s ongoing call’ — Nathaniel Mackey, Author’s Note, From a Broken Bottle Traces of Perfume Still Emanate

Nathaniel Mackey, writing on the work of Wilson Harris, describes a “mixed, middle ground that privileges betweenness” as the “realm” to which art belongs and aspires (1993, 259). (Let’s allow that echo with Baraka’s formulation of black art as tertium quid between the material social and Earth/Sky.) For Mackey (a Florida/California black), Harris (a Guyanese black), as opposed to Du Bois (a Massachusetts haint), represents the scale of grand authorship in the epistemological territory that matters: the territory is diasporic and takes the cross-cultural for granted. And that taking for granted is symptomatic of even as it constitutes a major shift in the territory upon which (black) art is given: we are between earth and sky and also “between” the World and Africa. What becomes of the spiritual duality of the black confined to America in the aesthetic sense elaborated by Du Bois (we could also look at this through the eyes/essays of Ralph Ellison) through Baraka?
A few further words on the stakes before I try to describe the shape that Mackey’s surveille imposes on a map of this epistemological territory, a shape that is not exactly, not quite, continuous with or incorporated by the historical formation that I am trying to show as an origami thing, or napkin, upon which the map is drawn, and then folded/unfolded/re-folded. (Not to mention the tangent formed by Paul Gilroy’s reach for “the Music,” belonging also to the original if insufficiently crystalline “triangle” whose center is the Caribbean Sea; not to mention Hambone, Mackey’s curation of the space within or upon which a map could be drawn: an uncharting.) Stakes have to be thought in relation to both a cartography and a discourse: what are the discursive materials that make notions of chartability/axis/point/edge, and therefore, fold, relevant in the first place?; what is required if the expression of Du Bois, Baraka, Mackey, Harris, Moten is to be understood as an order and how does this expression call for order to begin to take place or begin again? Relevant to what? What does it mean to enter a league of discussion where innovation, persistent beginning again, is impossible to dislodge, like a pit in the throat of statements regarding the nature of tradition; where the notion that invention is radical in itself is held so close, gatherings of momentum that come off the one could be considered indecent (or, maybe, (purposefully) impossible to detect, if you look very close, or, if you fail to look very close). Once I get it in my head to get up out of a place, then what happens, if the kind of straight movement that typifies the line is formally and theoretically forbidden me? How’s the map happen? What is a map of the instinct to get up out? What do I get out of author/ship?
Where the notion that invention is radical in itself, there is nothing to trace but for “insistence that constant artistic innovation is at the heart of African traditions of expressivity” (Nielsen 107). Joined are the imperative of innovation and the persistence of the diasporic African. Let me say right now that Aldon Nielsen confuses me when he says “African traditions of expressivity” like I am supposed to know what that means. Yes: speaking of black music, the Music, Baraka contributes to a strain of aesthetic theory that insists upon black poetry’s immanent modernity – its natural closeness to practicing radical critique of the foundational – as black essence, which leads to objectionable “totalizing,” plus Cultural Nationalism and Marxism as hegemonic arenas for art practice. And no: a logic that makes it possible to say “African traditions of expressivity” as if, specifically in relation to aesthetic practices that have come to be identified with local varieties of New World blackness (at any of the several levels at which such a thing might be said to exist, ranging from “styles” of hat and coat-wearing, to styles of playing a brass instrument or singing or singing/dancing, to indeed, ways of speaking/writing), as if, when straining to represent the African, modernity breaks out inside a person; the modern, the black inside a person breaks things, and that breakage becomes the signal of the necessity of breaking that expresses the tie to Africa.

It is not easy to talk about what happens to a person immersed in black culture and life, as I am, as Nielsen has been, as Baraka was (he was), to whom the reality of black difference is undeniable (where claiming that black difference is real is also a claim about orientation, and also a claim about the way things come to be known) when explanations of blackness’ overdetermination appear to come apart at the seam along which everyone
agrees the logic of blackness, which cannot be said to be any one thing except originating with the idea of the value of the “African,” shall cohere. For me, it has come apart along the seam of the Music. It has come apart because I cannot hold the idea of innovation and the idea of tradition in my mind at the same time without thinking. But, how does black writing take place if it is subject to the rigors of never resting? What would a recording of ideas, so punctilious, so exact, a writing without precedent or following, become? Is it possible to read a writing that never rests? How is it possible to get and stay between words? What other substance is there, that makes things things, that would make being between words experience, however it is possible to understand the limits of possible experience, however it is possible to be things at their limits? Does the unapproachable demand to discover what is between the elemental fall on me because of the ways in which blackness, for the sake of its own survival, has been unable to allow the notion of innovation to take an air that is both necessary if it is to remain useful and coherent, and, at the same time, taboo, what it cannot claim for itself, as black? Not to celebrate, but to see the changes.

What we talk about when we talk about Baraka is the radical “betweenness” of the black, the power of our difference as both righteously motivating essential cause and devastating essential effect. Maybe Nielsen’s complaint isn’t actually with Baraka’s totalizing. Nielsen himself is a tireless advocate for recognizing what he calls “black theory,” and it seems to me that thing, as theory, requires a variety of conceptualizing structures that, nonetheless, make way for that which cannot be captured; make space for, as it were, “innovation.” Not to say that there is no such thing as being in the tradition of
being African in the New World—a condition of culture that involves what might be called receptivity and appreciation of particular emotions or ideas recognizable in certain expressive manners. This what we mean when we refer to “black social life.” But how to describe these moves, these conditions of culture, when traditions ought not be thought as Raymond Williams cautions, so as to reinforce “a sense of predisposed continuity” (115).

Mostly, I’m concerned with the implications for contemporary black music, black writing and black life of becoming involved with a featureless “invention” or “innovation” as the sine qua non of “African traditions of expressivity”; the implications for movement beyond; the implications for the space and time occupied by contemporary blackness by virtue of the call to innovate in the tradition. And so, finally, we arrive at Mackey.

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Mackey on Harris, from Mackey’s influential “Sound and Sentiment, Sound and Symbol,” where some of the key concepts underlying his magisterial novels are written out:

*The Angel at the Gate* offers a musical conception of the world whose emphasis on animate incompleteness, “unfinished being,” recalls Zuckerlandl’s analysis of tonal motion:

A series of tunes is heard as motion not because the successive tones are of different pitches but because they have different dynamic qualities. The dynamic quality of a tone, we said, is a statement of its incompleteness, its will to completion. To hear a tone as a dynamic quality, as a direction, a pointing, means hearing at the same time beyond it, beyond it in the direction of its will, and going toward the expected next tone. Listening to music, then, we are not first in one tone, then in the next and so forth. We are rather, always between the tones, on the way from tone to tone; our hearing does not remain with the tone, it reaches through it and
beyond it . . . pure betweenness, pure passing over. (internal citation to Zuckerkandl omitted)

**A mixed, middle ground that privileges betweenness** would seem to be the realm in which Harris works. He alludes to himself as a ‘no man’s land writer’ at one point (internal citation to Harris omitted) and later has Jackson say, ‘I must learn to paint or sculpt what lies stranded between earth and heaven’ [Harris]. An ‘attunement to a gulf or divide between sky and earth’ [Harris] probes an estrangement and a stranded play in which limbs have to do with limbo, liminality lift[.] … What remains to be said is that to take that lift a bit further is to view the outsider’s lot as cosmic, stellar. Social estrangement is gnostic estrangement and the step from Satchmo’s ‘height of trumpet’ to Sun Ra’s ‘intergalactic music’ is neither a long nor an illogical one. (259) (my emphasis)

Mackey’s work, like Harris’, sets out to become stranded in “betweenness” — “no man’s land” “stranded between earth and heaven,” “between sky and earth.” I’m interested in *From a Broken Bottle Traces of Perfume Still Emanate* as a physical and intellectual practice of “pure passing over” via an attempt to suspend innovation poetically — to propose the nature in language of the relation to *this which it is near* and *that which it is near*, in its betweenness. The practice is of elevating to the status of the cosmic estrangement between what is heard in the space between one word and another. We are to understand this as a form of radicalism with respect to one’s attitude about life’s possibilities, insofar as those possibilities are brought about through the orchestration of meanings between each word and others. Fred Moten recognizes this rocking effect as one also theorized by Jacques Derrida.

*I am interested in how “the good Dr. combines the material social world with and as the origins of Art. The Earth & Sky.”*
Between the earth and sky, art occurs or originates, begins to become an order in combination with the material/social/world. Art is the work or labor of (the) living, those who are stranded between earth and sky; something that is made from an essentially space situation, getting on from nowhere to nowhere. And the question really does become, What is it called, what we do that becomes “lived experience?” The art case, The Case of Blackness, I’m saying and not saying, is not cosmically unlike any other lived experience. Of experience whereby man dwells poetically (‘in lovely blueness blooms the steeple with metal roof’), it is necessary to speak of all being in the same condition of mute powerlessness. The Earth & Sky. (“Language beckons us, at first and then again at the end, toward a thing’s nature.”) What is it called?

See, I am writing this in the sharpness of the days after Baraka’s death, after the deluge of tribute-writing, to get behind or get in front of the essential irreconcilability of our own lived experience and the loss of Baraka’s voice, which, for twenty years longer than I have been alive, named Music the poetic dwelling of blacks, how black people fill up space between earth and sky (materially, socially). The Music, for Baraka, is a manner or style of responding to the call to name the things among which we are and be, the characteristic organization of space and time as an identifiably black reality. On this view, any and all other blackness remains in dialogue with the image of the Music’s working out of the following:

Blackly, one dwells in a situation where language not only generally has the jump on you (and you better not forget it) but the jump has caused a further, material/social rift to open
up so that you might find yourself in a space that is and is not the space between earth
and sky; it is a crease, a fucked up wrinkle in the already cosmic yawn where it’s already
impossible to say what the nature of a thing is or might be because *multiplicity and
overlap condition the existence of the space*. The dynamism of the lived experience of the
black, as she turns this way and that in relation to this and that in relation to the larger
spaces in which she is materially constrained, is analogous to that which is “on the way,”
to the extent that black human being is, also, on its way.

Many thousands rise and go
many thousands crossing over

O mythic North
O star-shaped yonder Bible city

Some go weeping and some rejoicing
some in coffins and some in carriages
some in silks and some in shackles

Rise and go or fare you well

Music and poetry (music as poetry or the other way round) carry us; they “rise and go.”

Before Baraka died, somebody like me, just another stranger, could hear Kenneth
Warren’s claim that “one can no longer write African-American literature” as an
annoying (if transparently provocative) reduction of the proposition (as philosophy) that
there is a thing that is blackness, and a poetic project or tradition of identifying the
“asymptotic, syncopated nonconvergence(s)” of “event, text and tradition,” “Africa,
Europe, and America,” “outness, labor and sentiment.” Now, in part because of Baraka’s
death and the unfillable hole it opens in the communal practice of this thought, nothing
seems more important than getting some understanding about whether one can, or does
(any longer), write African-American literature, upon which depends a) the flow of future language relating to the space inside the space between earth and sky that has been called being black, b) the sense of built space around the thing, what it will be called, how language beckons toward it. Now that he is dead. He wrote:

Blues and bebop are musics. They are understandable, emotionally, as they sit: without the barest discussion of their origins. And the reason I think this is that they are origins, themselves. Blues is a beginning. Bebop, a beginning. They define other varieties of music that come after them. […]

The roots, blues and bop, are emotion. The technique, the ideas, the way of handling the emotion. And this does not leave out the consideration that certainly there is pure intellect that can come out of the emotional experience and the rawest emotions that can proceed from the ideal apprehension of any hypothesis. The point is that such displacement must exist as instinct. (Black Music, 72)

How far are we from the death of Miles, now that Baraka is dead?

[What happens when the improvisation of Enlightenment or modernism or (the philosophy of) (the end of) philosophy—as predicated on the eradication of a certain obsession with differentiated, representative, and representational identity—is lost? What chance does music, the music of the poem, the music that prompts the poem, the music that is prompted by the poem, give us to arrive at such an improvisation? How is such an improvisation to be recalled if its source grows more and more remote, separated from us by the death, by the distance of Miles? (Moten, 2003, 94-95)]

Between Earth & Sky. Mackey is a votary of betweenness as a specific condition characteristic of being on the outside – the condition, for example of the orphan(ed) – that touches off pursuit of the “most ontic, unheard-of music … ever made.”

I’m not suggesting that “African traditions of expressivity” in use today among diasporic Africans, especially in black music, have not, historically, disproportionately constituted the socio-political and aesthetic meanings of outside. (The marginality of the black is, for
me, a kind of open-ended truism that this essay isn’t about; this essay does not presuppose that and \textit{isn’t about it}.) Yet or still, I’ve been pointing to the in-between as it has been in use as a philosophical base from which 	extit{any or all} realities come to be articulated. This is the perspective, I’ve been hinting, of Heidegger in “…Poetically Man Dwells…” where

[in the realm of sheer toil] man is allowed to look up, out of it, through it, toward the divinities. The upward glance passes aloft toward the sky, and yet in remains below on the earth. The upward glance spans the between of sky and earth. This between is measured out for the dwelling of man. We now call the span thus meted out the dimension. This dimension does not arise from the fact that sky and earth are tuned toward one another. Rather, their facing each other itself depends on the dimension. Nor is the dimension a stretch of space that is ordinarily understood; for everything spatial, as something for which space is made, is already in need of the dimension, that is, that into which it is admitted.

The nature of the dimension is the meting out—which is lightened and so can be spanned—of the between: the upward to the sky as well as the downward to earth. We leave the nature of the dimension without a name. (218)

Nathaniel Mackey knows this. Baraka’s interest in Heidegger’s way of talking about being (Johnannes Koenig) is known to me because Fred Moten has written about it. Moten’s engagement with, in particular, Heidegger’s essays on poetry and aesthetics has been indispensable to me in terms of figuring out why how/black people are involved in the Western philosophical tradition of theorizing our epic staggering around in the space between dust and dust; the infinitely miraculous marvel that it is to make a single expressive grunt or moan or black mark upon a wall: to look up; to feel emotion, to be prompted to arrive at an origin of art, by turning the mind toward the dimension, which Heidegger urges us to consider as neither up nor down but the orienting presence into which thought is groping.
A lot of motherfuckers say almost exactly the same words about the philosophically oriented gesture that is willful cutting into what exists “between earth and sky” heaven and earth sky and earth. And they have been European, American, men and women, musicians, philosophers, poets. (Emerson, too: his typical prostration in awareness of the impulse to drop a pin: “Where do we find ourselves? In a series of which we do not know the extremes, and believe that is has none?”) When I ask, even if the Music has come to be understood as a powerful iconography, accumulated over hundreds of years of making, that represents awareness of necessary disjuncture and heads toward (near or almost) articulation of betweenness that is black (historical) difference/ways of life, how and why do we speak of it as indelibly marked by and always carrying an African study of the repetitive, inscriptive drive toward the center/between (digging) that is always being called “innovation”? (A possible way of life: the must of breaking away from the ordinary way of seeing/being seen. Widespread adoption of notions of fugitivity as related to ways of surviving outside the proper, as Mackey, Moten, Judith Butler and them say, attest to the continuing appeal (regardless of the passage of time and the pastness of the middle passage, slavery and Jim Crow) of/to a necessary alternative way of knowing the world, like the blacks have done, as a political heuristic that can be made radical.

I’m asking, is it possible to speak of a black musical tradition as that which alone makes and follows the way of knowledge, however circuitous, about the significance of the human practice of pointing beyond, specifically, proper freedom, however practiced (what techniques, what ideas—the “seemingly endless need for deliberate and agitated
rhythmical contrast” “endless changing of direction; stops and starts” “jaggedness”

“honking” “timbral effects” “imitation of the human voice” [Black Music, 72, 72-78])?

Beyond what is given or said in the ordinary course of black consignment to toil, deprivation and sociopolitical depression toward what is “ontic and unheard-of” and is, therefore, exactly a move to name the dimension that causes black persons to come into existence with the advent of modernity, and to come into other existences, again and after, with modernity’s ebb and flow?

Even if black music does the work a certain now-orthodox way of thinking says it does, and it does, what remains unresolved, anxiety-provoking (I complain of it as a tension, but it is a rub, an ill-fit) is that it seems to me that the set of solutions achieved or achievable musically as black music in America is inextricably linked to a more general gnosticity that has nothing whatsoever to do with blackness, nothing whatsoever to do with a set of “emotions” that are, unquestionably, linked to black life. As Fred Moten suggests in the words I am repeating and repeating (“What happens when the improvisation of Enlightenment is lost…What chance does the music give us to arrive at such an improvisation…if its source grows more and more remote, separated from us by the death, by the distance of Miles?”), we have got to reach some kind of understanding of the interdependence of the projects of general philosophical reaching – thought – and the project of black freedom or we are not going to rightly understand either one. We are not going to continue to be able to describe the mechanisms or routes by which the discovery of breakdown(s) in “the improvisation of Enlightenment” (which I value) converge and diverge in the experience of actual human beings if we cannot see how our chance to get into the posture of arrival at-edge or at possibility-inconceivable-
in the order of the orthodox is not, is no longer, initiated by the practices of thinking upon which we have relied? The contested, fraught nature of black folks’ thought and the spectacle that our thinking is, witnessed as art or buffoonery, makes it more and more crucial to continuously revisit the question of what is or has been lost in both the case of the generally gnostic drive to freedom and the terrible distance from the emotions that seemed, at one time, to justify themselves as “roots” with respect to this other project, the project of voicing a rejoinder to the captivity of the black who was thought as located in virtually another dimension. (Articulation also of the mechanisms by which these projects have been and are joined, which falls to us in consequence of our putative isolation, cause for the sense of desperate peeping (peeping that also defies the laws of light in terms of what can be sign outside an illuminated or enlightened path) that might also attend Baraka’s use of the “periscopic” to characterize the visions of black persons as both ingenious and inspired.)

Let Heidegger’s formulation of the human relation with space-in-life represent one alluring variant of the general gnosticity; let the Mackey/Harris postmodern recuperation of Dogon cosmology (taken up, too, by Baraka) represent another; Baraka’s articulation of emotion or instinct that defines “roots” expression (his recuperation of Du Bois, too, for this purpose: “How does it feel to be the problem of feeling?” (my emphasis) [Moten 2003, 77]), yet another.

We have seen fit to name the dimension, “the Music.” I refuse Heidegger the position of primary interlocutor with respect to betweenness.
I am, also, “attuned to a gulf between sky and earth.” I have understood the poem “music, the music of the poem, the music that prompts the poem, the music that is prompted by the poem” as the site of working out a general gnosticity—what Baraka is getting at when he writes of the emotional situations that non-verbal improvisation arises from, what Moten is talking about in his writing on Cecil Taylor as an unnameable combination of necessary and insufficient tools that do not quite arrive at the reality Taylor witnesses via the “(work art ritual performance music poetry),” what Mackey conceptualizes anthropologically in terms of “discrepant engagement” whereby the word that is made creaks with the effort of its being wrought/weaved, all of which seem to me to capture a demand to voice the name, first, of feeling feeling, the first feeling, which is to engage by way of the imagination with an original-type spiritual reality which speaks to a problem of being caught in the terror of between as a material archetype and workhorse of that terror, an experience which is owed black people and has, at a certain cosmic level (the level of the fold, or its unfolding) come to be “owned” by us. Is this our space for taking the measure of (“no mere gauging with ready-made measuring rods for the making of maps”)?

We are HERE.

***
When it came time for me to say something about *From a Broken Bottle Traces of Perfume Still Emanate*, I got excited about N.’s “post-explanatory” letter dated “17.VII.82,” in *Atet A.D.*, a letter in which N. ventures to explain to his pen pal the Angel of Dust what “the balloons are.” This letter is, then, a philosophical fragment: a fragment, too, of the novel’s thereafter becoming more and more meditation on the unexpected (improvised and also otherworldly) outcome that is the convergence of what is seen and what is heard by way of the thought balloons given off (emanated) by the music of “Djband,” variously/progressively called the Deconstructive Woodwind Chorus, East Bay Dread Ensemble, Mystic Horn Society, Molimo m’Atet. I thought I could frame up my exploratory tack (this is a keyword in *From a Broken Bottle*, meaning, sort of, *strategically to approach*) epigraphically (“epigraph” is a more important, perhaps the most important, keyword), by bringing the whole letter into the field of this essay as quotation. I came to this approach only after wishing for a digital, and therefore searchable, version of Mackey’s sprawling fiction that would allow for easy compilation and quasi-systematic analysis of the novel’s accumulating vocabulary. In the course of things, I had been listening to Eric Dolphy’s “The Madrig Speaks, The Panther Walks” (because N./Mackey insists upon its expository relevance) on YouTube. Imagine my disappointment when a random click on the same search term (“The Madrig Speaks”) revealed or re-emphasized my general belatedness: I forgot that Fred Moten has already written about “17.VII.82,” working it through a pretty massive formation of statements that coil around Derrida’s insight into the breakdown of philosophy’s capacity to address “the musical flourish of your own unreadable history,” which pertains to the question of
how to improvise in the presence of what has already been recorded (Moten 2003, 75).

Moten finds among the twists in the (logic of) road that leads Derrida back to Algeria the conclusion “What one receives as a result of indirect, interminable returning to what one already had is a language of feeling that is broached in an emotionally charged, personal and politico-historical insistence” (77). In the balloons,

Rigorously un/captured, captured but you can’t capture it again, heard after the fact of its disappearance, the music—organization in the improvisation of principles, nonexclusion of sound in the improvisation (through the relation and opposition of the generation and subversion) of meaning—lies before us. (81)

(That forgetfulness is so much a counterpart of reading, that forgetting exercises untold power over a text-that-is-being-written, is so obvious. Probably, forgetfulness is the wrong word because what’s actually at stake when I lament the inevitable lapse and incapacity that accompanies the work of writing is precisely denial of the repetitious tread of eternal first steps that moved me to write this essay in the first place. Let me pretend that I climb the stair though I do not know the extremes and have no unit with which to measure ascent—that there is no bridge, that there is no advance; that all I have is a beginning. I lift my leg, it breaks; I forget that it is broken and lift again. They call it dance (“adaptive dance,” as in A.D.), but it is shambles. Is this the language of feeling to which Moten refers?) I want to forget Moten’s probably definitive reading of how “the balloons are” an improvised solution to the permanent problem of being agentically present and simultaneously “uncaptured,” and forget to accept that he has recorded Cecil Taylor saying, “the player advances to … an unknown totality, made whole through self-analysis (improvisation)” so I can return to the place I wanted to go, so it becomes possible to continue thinking about how the fold or crease might be as useful a metaphor
as any other, if the object is to find some image that can hold the simultaneity of feelings experienced under force and feelings of having been led through force to make an indispensable movement toward understanding the orientation of life’s beginning-to-take-place where black people are concerned; if the object is some whole (total) understanding of the space (break) inside which individual black life (expression) can take place.

I just want to know what else might be available. What metaphor, if not the Music, will hold the pressures of being forced into “bone-deep listening” (“Sometimes you are afraid to listen to this lady”)? Do the balloons approach such a metaphorical alternative in spite of their status as tied-off musical emanations that happen because

You descend into the depths of the music and linger there, dancing in the hoped-for shadow of a bridge, unfathomable ocean song, uncrossable river suite, sentimental avant-garde, subjunctive sentimental mood[?] (84)

Is this critical approach, where (for Fred Moten) 17.VII.82 stands for a feat of imagination (Mackey’s) that succeeds in thinking the presence of an instance of having recorded a visible change in previousness that changes or moves the place at which critique begins to take place/invent itself – where the balloons stand for appearance that makes that instantaneous sense of subjectivity-realized (all that we can hope for?) more than a blip; that causes subjectivity to begin to record itself as a different thing, ontologically – therefore foreclosed? Is it closed to me? Can I, do I, get to where Moten already was, where Mackey was, by following the course/cause of the balloons? Is it possible to go there and still be said to be advancing thinking about the question of how black innovation, literary and otherwise, is unprofitably tied up (hung up) on metaphors of musical improvisation?
Let me step back. When I said that I wanted to think about the “accumulating vocabulary” of *From a Broken Bottle*, I was alluding to Ian Baucom’s phrase (closely linked to the historical poetics of Édouard Glissant) “Time does not pass, it accumulates”; I was wondering how the idea of hauntological time compares with the time of the tense of “wouldly.” I was thinking of the tense of Moten’s observation in “The Case of Blackness” which is a thought balloon in the universe of my lived reality:

[A black ontology of disorder …] *will have had to have* operated as a general critique of calculation even as it gathers diaspora as an open set—or as an openness disruptive of the very idea of set—of accumulative and unaccumulative differences, differings, departures without origin, leavings that continually defy the natal occasion in general even as they constantly bespeak the previous. This is a Nathaniel Mackey formulation whose full implications *will have never been* fully explorable.” [187] (my emphasis)

And I was thinking of the neologistic employment of “namesake” throughout *From a Broken Bottle*.

1. Readers of *From a Broken Bottle* first encounter the term “namesake” in the first of the series of discourses titled “The Creaking of the Word” where it appears to mean something like *a lengthy quote with genealogical significance*. The discourses themselves are one of several forms of writing that interrupt the primarily epistolary conceit of *From a Broken Bottle* including dreams recorded-in-writing, poems, dateless letters, “compressed accompaniments,” and of course, the balloons. (Those forms as writing should be distinguished from the various postures of musical composition, playing music and describing the playing of music even where the written forms seem to emerge from the necessities of being in the presence of musical impulses.) The “Creaking
of the Word” is described by N. as both “metalecture” and variously voiced
versions/“virgins” (fresh, unspoiled versions of the main form from the points of view of
various members of “Djband,” or, proposals of virgin authorship, after-the-fact of the
invention of the form, à la taking one’s solo) of “after-the-fact lecture/libretto.” Let the
“fact” be experience. “Namesake” consistently performs a kind of predicing function
for Epigraph, Recollection, Anecdote, Exclamation, Encyclical, serenade, ensemble,
fluidity … .

2. “Namesake,” therefore, has to be understood as a primary or orienting sign in one of
the deep logico-allusive structures of the novel; it is a concept. It begins to appear in the
novel, formally, in the context of libretto, so it is directly linked with Mackey’s
development of the idea of the operatic, which comes into play via N.’s interest in Ernst
Krenek’s “Is Opera Still Possible Today.” N. quotes Krenek (where quotation nominates
Krenek’s essay a namesake text):

    So in modern opera music is not merely a means of heightening,
ennobling verbal language—it is not there to make the words more eloquent, so to speak; it is deliberately contrasted with the words, placed
behind the words, making them transparent so that you can see their
second inner significance. … The music does not achieve this by
‘heightening’ the words but by opening an abyss of meaning and
countermeaning behind them” (BB, 175-176).

Without the idea of the operatic, or, the language-vision that is produced via the lens of
opera, that is, opera glass, we can’t fully understand or approach matters related to a
subjectivity that is both transparent and glass-like, tending to break, that figure
throughout the novel (the Broken Bottle of the title; Jarred Bottle (he of the fractious
name, “whose names were legion” (BB, 455): J.B., J&B, Flaunted Fifth, DB, Djbot
Baghostus; the I/eye "made of opera glass"; the "glass-bottom boat".

Opera stands for creative conditions under which glass-like subjectivity can articulate antithesis, "taking the ending of pretenses as the basic intention of a new style" (qtg Krenek, BB, 245).

Operatic conditions are the historical groundwork upon which improvisation of the "ontic and unheard (of)" music of the future depends. The opera of the future, for which "The Creaking of the Word" serves as libretto, is the first work of a new music-of-the-word composed against or without the necessity of wordlessness, given as a primary feature of the orthodox/traditional music and the sine qua non of its 'presumed elevation' (BB, 529). The harmony the new music proposes between music and the (written) word might declare the sound of instruments — "acousticality" (Bass Cathedral, 23) — superfluous, but only where superfluousness is attributable to the fact of having been composed in an attitude of "deep-listening," in contemplation of a vast and growing archive of music (N. is always referring to contemporary 1970s and 1980s releases of new recordings; see From a Broken Bottle’s Discography), mostly diasporic black music, mostly jazz. This music is part of the text in a way that is only partly analogous to the relation of the libretto to the acoustic element of

For now, it has to be noted that the opera for which "The Creaking of the Word" is being written is being written in an attitude of responsiveness to music beyond any layperson’s sense of the phenomenology of listening (like Jean-Luc...
Nancy’s *Listening*). The writing takes place in a DMZ of “sound and sight rolled into one,” which is the territory of *deranged subjectivity*, the magical space in which it is possible for the formation of the balloons to become lived reality.

3. Hotel Didjeridoo is a monument, although a monument/museum in the sense that even Wynton Marsalis protests against when he says that jazz is not a museum music. When, in *Atet A.D.*, N.’s wouldly opera foretells the downfall Hotel Didjeridoo, the (whore) House of Jazz & Blues, we’re to understand the downfall of that imaginary house of the traditional music as no less than a revolutionary rejection of the logic of a certain black tradition, which is a logic or theory of history (a system for arranging time in terms of value) in favor of the elaboration of namesake time, the time of *wouldly*, called also “post-expectant,” in which the new tradition must take shape alongside breakdown, as collapse, foregoing the romantic fantasy of permanent wholeness, of *permanence*. (In this case the permanent legibility of blackness, so closely linked with black creativity, via historical practices of blues and jazz.) Thus, Djamilaa expresses the whole number 4 as a “roundabout fraction” – [6 squared over 21/7 squared] – “cracking the consistency of the whole” (183), a move that is consistent with the way the definitional weight of the “operatic” on one hand controls the structure of and on the other recedes in to the background of an improvised transcript of the “opening of an abyss of meaning and countermeaning behind” the notion of the operatic.

4. 

Namesake Epigraph #1 came from a book on the Dogon:

“The word,” said the old man, “is the sound of the block and the shuttle. The name of the block means “creaking of the word.” Everybody understands what is meant by “the word” in that
connection. It is interwoven with the threads; it fills the interstices in the fabric.’ (BB, 143)

There is already anaphora to describe how epigraph works. Putative reinvention of the critical frame does not automatically require a responsive act of invention, as radical. Maybe I just repeat. Recall Baraka’s commentary on the nature of Cecil Taylor’s genius, which was at the same time traditional and magical/fresh. But I feel like I have to come again, with something new, at the problem of the epigraphic frame for From a Broken Bottle, if only because I feel pressed to do so in order to gesture toward some kind of feminine understanding of “interstices” or “cut,” sexual cut, (“‘Sexual’ comes into it only because the word ‘he’ and the word ‘she’ rummage about it in the crypt each defines for the other, reconvening as whispers at the chromosomal level as though the crypt had been a crib, a lulling mask, all along. In short, it’s apocalypse I’m talking about, not courtship.” [BB, 35]), through which rub/apocalyptic play becomes the site of the emergence or manufacture of subject-initiating word(s)-for-reality.

I’m interested in what fresh epistemological satisfactions arise when physical/spatial (which might be the absence of or the condition for primarily “material” ideologies of black personhood), as opposed to sonic/linguistic (not that this is an exposé of the “seeing-said” as just another used-to-be useful dialectic), aspects of thinking the difference between black art traditions and any other kinds of tradition come forward by way of repeating/writing-down/re-reading as a method of placing oneself in contact with or over top of the physical space that has been occupied by a previous text. This writing in order to be with is not directed toward the production of the palimpsest, which implies willed dumbness or dimness, scribbling over the substantive previousness, part limitation
part condition of possibility, that must at some level be the subject of the writing, that to which the writing becomes subject and to which the subject’s criticality comes to pass in the presence of. That is, it is the fact of the writing that is there already that matters, not the fact of its removal, illegibility, or the act of squeezing into a space of legibility that remains in order to make one’s authorship visible.

Barely, I am able to discern that Fred Moten’s critical actions with respect to the balloons double down on the anaphoric as a way of systematizing relation-back. Moten knows that the balloons exist symbolically along the way (“with but not of”) to propositions that answer the question, How does it feel to be the problem of feeling? So, he lets 17.XI.82 bring up the rear in a series of long quotations dealing with the question of what exactly Eric Dolphy was saying on record, in his performances, for example with Charles Mingus, what he said as a matter of record, which is the only way we have of knowing what problems of feeling became manifest in the sounds he made (In the Break, 74-82). The balloons double down, therefore, on the question of what namesake is—Moten reading Mackey reading innovation (what comes to pass in an instant or present, what is preserved as “remainder” in the instant) in light of previousness, in light of what has been previously written, in light of what “the balloons are,” in light of what they record of historical feeling.

“This is the history. This is your history, my history, the history of the Negro People,” are grandiloquent words Baraka puts in the mouth of Sterling Brown, who he remembers
holding forth to him and A. B. Spellman on the cultural value of Brown’s record collection (*Blues People*, ix).

With “The Creaking of the Word” libretti and the grander logic of the operatic, Mackey invokes music and alludes to the manner in which black history is inflected by it, but leaves music in a complex relation with the worldview that comes into being through Mackey’s work. For me, Djband’s black/cross-cultural, truly cosmic, or, he says, “ontic,” music threatens the independent spiritual and professional intellectual significance of traditional notions of black music. The great fear that results from buying into an operatic/ontic namesake logic would be that “blues” as shorthand for black aesthetic difference – its condition and reason-for-being – would become dislodged from its backhanded pedestal by accurately describing its truly contemporary function as genuine only in the extent to which it demonstrates the phenomenon of *super*-cultural, corporatized erasure of the lived reality of black persons.

As Mackey puts it in an interview with Jeanne Heuving

> [The appeal of experimental or avant-garde approaches] is that they bring a critical, questioning frame of mind to bear on artistic precepts, particularly conventional or accepted practices and ideas. Their inspiration, one could say, is the undoing or dismantling of the inflated status those practices and ideas may have come to have. Samuel Beckett, at a certain moment, for example, steps in and strips the theater of a certain over investment in realist notions of dialogue and set design. These approaches nonetheless run their own risks of inflation (221).

Mackey remains the best commentator on his own work.
5. *From a Broken Bottle Traces of Perfume Still Emanate* is important to me because it enacts a thoroughly gripping examination of possible convergence and divergence between the possibilities proposed for black personhood by way of performing and listening to music (that is, of music-based theories of radical black personhood) and possibilities proposed by way of writing. All the evidence suggests that I might be reading him wrong, but I can’t shake the intuition that with these four books Nathaniel Mackey does the impossible by insisting on the correctness of the music-based theory while accessing a poetics that permanently destabilizes all its premises. With *From a Broken Bottle*, Nathaniel Mackey ruins the intention to run-on indefinitely with a poetics that is simultaneously music-based, black and radical—ruins it forever.

N. and the band play an expansive and highly experimental music in the jazz tradition (and that’s complicated), and inspired by each member’s meditations on how to advance in the music and how to make spiritual advances in freedom. Mackey allows for and then maximizes (or maxes out) the use of what I call the trope of the “up and out,” part of a familiar poetic discourse of ascent/descent – the discourse that gives us “Way Out West,” “Out to Lunch,” “Air” “Ascension” “Interstellar Space” Sun-Ra and George Clinton.

Balloons given off (Mackey’s word is “emanated”) by the music of N. and the band arguably put words in the mouth of the player, as he thinks about and makes music that communicates his reflections upon what to do/how to live, and because they are balloons, the words float away, float off and out. One of the band’s members puts it this way: “It’s not about being here anymore. I’ve gotta tighten up my concept, give it a few turns I’ve gotta go elsewhere to get.” Reading this novel, readers assent to an absolute weave
between playing to live a new life and living to play a new music, playing live and playing life: we assent to the invention of a “realm” (Mackey’s word from Bass Cathedral) in which the thought/action divide is taken to be a bunch of baloney.

Subjectivity problem #1 for black aesthetics solved: Mackey’s fictional black people don’t have to argue for the political significance of acts of art because the order of politics recedes behind the cosmic order that controls events, such as the manifestation of thought balloons. (Or, bring on a politics of this derangement.) In so far as he solves this perennial problem of feeling, this novel is a work of genius and a masterpiece.

The problem is that, for me, language that goes off doesn’t aspire to the condition of music; it aspires to itself. What’s fascinating in From a Broken Bottle is that the massive scale and complexity of the changes-in-self Mackey envisions for his fictional black persons might (and I can’t imagine that he doesn’t know this) require them to give up a sacredly held view of their central spiritual and intellectual ritual – playing music. This is why the balloons are such a HUGE PROBLEM. This is why they take over the narrative; this is why, after their first appearance, the novel becomes more and more meditation on the unexpected (improvised and also otherworldly) outcome that is the convergence of what is seen and what is heard by way of the aesthetic rupture or break that coincides with the appearance of the balloons. If the novel is actually playing out, as I think it is, a scene whereby music is decentered by an alternative thought tradition – a newfangled black gnostic poetics – then the writer of the novel and its readers are left in the awkward position of having narrowed the possibilities for relating to those who are not actually, currently participating in the poetic practices of reading/writing/listening that the novel
simultaneously invents and operates prophetically on behalf of. Again, re-newing the central problem of the avant-garde, and also undermining the orthodox principles of a given avant-garde. And who wants to be the John the Baptist of black people?

Moving self-consciously to displace the centrality of 17.VII.82 as the text that tells “what the balloons are,” then, here it is, N.’s initial take on the problem from the third book of the novel, *Atet, A.D.*

The balloons are words taken out of our mouths, an eruptive critique of predications rickety spin rewound as endowment. They subsist, if not on excision, on exhaust, abstract-extrapolative strenuousness, tenuity, technical-ecstatic duress. They advance the exponential potency of dubbed excision—plexed, parallactic articulacy, vexed elevation, vatic vacuity, giddy stilt. They speak of overblown hope, loss’s learned aspiration, the eventuality of see-said formula, filled-in equation, vocative imprint, prophylactic bluff. They raise hopes while striking an otherwise cautionary note, warnings having to do with empty authority, habitable indent, housed as well as unhoused vacuity, fecund recess.

The balloons are love’s exponential debris, “high-would’” atmospheric dispatch. Hyperbolic abade (love’s post-expectant farewell), they arise from the depth we invest in ordeal, chivalric trauma—depth charge and buoy rolled into one. They advance an exchange adumbrating the advent of optic utterance, seen-said exogamous mix of which the coupling of tryst and trial would bear the inaugural brunt. Like Djeannine’s logarithmic flute, they obey, in the most graphic imaginable fashion, ocular deficit’s oracular ricochet, seen-said remit.

The balloons are thrown-away baggage, oddly sonic survival, sound and sight rolled into one. They map even as they mourn post-appropriative precincts, chthonic or subaquatic residua come to the surface caroling world collapse. They dredge vestiges of premature post-expectancy (overblown arrival, overblown goodbye), seen-said belief’s wooed risk of inflation, synaesthetic excess, erotic-elegiac behest. The balloons augur—or, put more modestly, acknowledge—the ascendancy of videotic premises (autoerotic tube, autoerotic test pattern), automatic stigmata bruited as though of the air itself. (*BB*, 481-482)

*The balloons are one sign in a whole Mackey-an symbolic world, one small piece of one deep logico-symbolic structure of sound/sight meditation in a novel that is unbearably*
dense with deep logico-symbolic structures—no “meta” reading suggests itself because each symbolic structure vies with, informs, contradicts, another. The operatic, the post-expectant, the phoneme Dj-.

The balloons are impossible to understand, philosophically. From a Broken Bottle warns against the folly of approaching this language that is exhaust with “formula,” one character wisely concluding that “it’s hard to say” what they are—philosophy can’t say. But that doesn’t mean that “words don’t go there,” necessarily, even if you can’t read words that refuse to become singularly referential; that become, instead, writing made of air, writing that becomes matter. The balloons speak, to me, anyway, of the stakes involved in moving into the space of “Considering how exaggerated music is,” what that might mean, and precisely because I’ve been warned: THAT WAY MADNESS LIES.

The balloons emerge out of, are synaesthetically coterminous with the energetic and psychological demands (including crippling (mind-fucking) episodes of lost time, unbearable cranial pain, automatic writing, prophetic shared dreams) of composing and performing ACTING in and through unconfirmed dimensions of experience toward “the most ontic music ever heard.”

The balloons put a comic quietus on the dead serious performance of the music. The balloons’ “rough poetry” wins out over the demand to hear, as sacred sound, the most ontic music ever made. People want to pay see the magic balloons. Language that goes off doesn’t aspire to the condition of music, is unspectacular; it surpasses music’s
exaggeration by way of new specificity, specificity that highlights discovery and
enjoyment of poetic hyper-referentiality achieved via dismemberment/disaggregation of
ONE heroic consciousness. In the poem, I become one in conversation with myself and
others.

The balloons propose a potent anti-essentialism for which we are not even ready,
displacing the black genius improviser as the vector of discovery however much he goes
out. This way, this freedom to transform and go out of the body as such, as of the troubles
of the past body, is made possible by heroism but does not re-enter it by way of the new
thing it makes possible to understand as proper.

The balloons come to pass when we write with knowledge of the possibility of becoming
multiple as dreamers of the same dream, when we write a proper writing in-keeping with
the multi-layered experience of “deep listening.”

The balloons are proper writing. They are a proper cosmic response to an alignment
achieved through N.’s libretto of a non-acoustic opera, the unacknowledged scrawl that
outs. N.’s/Mackey’s powers of composition will out the alignment of
performance/listening : playing/memory : speech/playing : conversation/argument taking
place in the present by way of an archive that is heavily musical.

N. writes (he says he is “quoting a book on Stravinsky”), “In the Kingdom of the Father
there is no drama, but only dialogue, which is disguised monologue.” The balloons come
to pass at the junction of the namesake epigraph. They pass by anaphora to re-describe how epigraph works. How ancestry works. The balloons change the direction of the address of proper black writing, away from the possibility of its being received by the many, and toward the possibility of its being understood by a few.

The balloons, too, “invoke music” and come into being in a manner that alludes to the ways in which black history is inflected by music, but leaves music in an ambivalent and altered – ambivalent because altered – relation with the worldview that takes music to be at the center of an elaborated black ontology. The great fear would therefore be that “blues” as shorthand for black aesthetic difference would become dislodged from its backhanded pedestal if words were to really go off.

The balloons are an emanation of rage we do not yet know we feel upon encountering conditions of writing that would take us away from sound and into the age of the epigraph.

If there is such a thing as anaphoric history, then the logic of that history is demonstrated and tested by way of epigraphic namesake relation that restlessly rests on a “rickety, crackpot” (144) manner of witness (for Mackey, to make is to make (song), to witness is to hear, or, to listen to what has been interwoven with the fabric of the real). Whereby Namesake Epigraph #1 on the “creaking of the word” is #1 among writings selected to collectively form the aesthetic present. Whereby the similarity of these luminous images comes into play:
Paul Gilroy writes, “Thinking about music – a non-representational, non-conceptual form – raises aspects of embodied subjectivity that are not reducible to the cognitive and the ethical” (76). Through the balloons Mackey suggests the contestability (he contests) the view that music is “non-representational, non-conceptual,” refusing to perpetuate the split between the literal and the oral that links the course of the history of black aesthetic difference to the history of enlightened reason as a history of terrorizing black persons. The balloons, it seems to me, propose a new logic of black (aesthetic) history that I am

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calling anaphoric or epigraphic, predicated on the artist’s ability to develop a deranged and hyper-cognitive understanding of her location on a grid of recordings — textual, somatic, spiritual or what have you. The theoretical place of music here is, at best, indeterminate, conditional upon a person’s individual capacity to cognitively and spiritually disengage from certain apparently inescapable “material” conditions; to cause her own escape from what has previously been understood as the history of her own self; to escape from the Music and into a cracked and crackpot multiform kind of practice that, like B’loon, the anthropomorphized figure of the balloons that is the product of N.’s brain-fever induced automatic writing, is “the sign of a strain or struggle to come into being, a fraught, unfinished harbinger of something not yet fully with us, a sign of something yet to come” (Bass Cathedral, 104). B’loon is the figure of the wouldly; the Angel of Dust, a friend out of time, his only friendly witness.

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Black Wadada

We want to think about what makes New World slavery what it is in order to pursue that future anteriority which, being both within it and irreducible to it, will have unmade it, and that futurity which always already unmakes it. — Jared Sexton, “The Social Life of Social Death”

The club, our subcenobitic thing, our block chapel, is a hard row of improvisational contact, a dispossessive intimacy of rubbing, whose mystic rehearsal is against the rules or, more precisely, is apposed to rule, and is, therefore, a concrete social logic often (mis)understood as nothing but foolishness, which is, on the other hand, exactly and absolutely what it is. — Fred Moten, “Blackness and Nothingness (Mysticism in the Flesh)”
But there is another approach. Quickly, parallel to the social, spiritual and temporal re-
arrangements that the balloons “record” through/as the art practice of Djband as complete
(liberated or liberating) in its blackness, we must keep in mind or rather think at the same
time the surround or general conditions that form the boundaries of blackness; that is, we
must account for parallel developments in the discourse that provides the terms upon
which we rely to think comparatively (and “anti anti-essentially”) about what is and is not
a form of black life.

What I have said thus far raises or leaves available to be raised at least three platforms for
viewing black intellectual events. First, the question of the relation of the thinking in
question, black intellectual practice as art practice, that wants folding for itself as
representative of interiorizing the most outside, frequently characterized as the deep, to
other critical forays into the mechanics of folding, namely that of Gilles Deleuze. Then,
the related question of how the fold/crease/origami thing which certain black (male)
intellectuals have invented and theorized as a musical thing, and I’m saying is not, cannot
be permanently linked to the actual practice of music and is, rather, a poetic thing that
“flashes up” in its contemporary manifestation as the image of the balloons in From a
Broken Bottle; I’m saying furthermore, that, as such, this poetic thing is a pretty
wonderful claim about the nature of black time, black history—how black people have
been, are and will be. (The wouldly is inscription of the desire for alternative
historiographies; the obsessive interest in the future anterior tense tests this desire
tentatively …) . That is, some of what I am saying has to be dealt with in the terms of the
black critical theory of today as it moves to develop a set of concepts that deal adequately
with *post-blackness*, as it were, the discernible effects upon a black sense of the world that the process of dismantling a violently anti-black regime will continue to have. This theory sometimes asks, Is black history a blessing or a curse? When of course the question is really (which I don’t say in a way that is a petit correction, rather to say what I think these scholars mean is), How does each individual black person work the edge of inside and outside that blackness reveals? What resources and alliances for livable life are accessible to her now and (how) do we name as black the multiplicity of these practices at the edge? Finally, I’m going to have to explain how it is that the contemporary Music is true in its bewildering rejection of its own status as the star of a certain kind of radical thinking about getting out or outside. Perhaps it will become possible to think about what kinds of freedom or captivity individual acts of rejecting that apotheotic status might imply when we look at the Music as it really is today. In order to do this, we’ll have to say out loud that “the antiphonal accompaniment to gratuitous violence—the sound that can be heard as if in response to that violence, the sound that must be heard as that to which such violence responds” is a sound that includes not only the unassailable music of Miles, but also the assaultive music of Meek Mill that takes violence inside itself in a manner that no one could mistake for ironic and yet remains in conversation with the signal (gnostic) longing for whole life (Moten, *Nothingness*, 755). I love and have lived all my life with the music that is now the music of Rick Ross, Jay Z, Kanye West and Birdman (literally, it belongs to them: they own it) and it is inseparable, for me, from the archive of “black classical music” (a phrase I learned not from Baraka, but from Anthony 47

I refer to the dialogue between so-called Afro-pessimists and Afro-optimists that Fred Moten summarizes and rightly identifies as an argument between friends – an instance of internal critique – in “Blackness and Nothingness (Mysticism in the Flesh),” *South Atlantic Quarterly* 112:4 (Fall 2013): 737-780.
Braxton, as Professor of Music at Wesleyan University, so there is that) that has been allowed to define the notion of a *musical togetherness* that leans toward “having everything” (Moten, “Nothingness,” 756).

*Fold Crease Wrinkle*

What is power? What is intimacy? How do we know this at all? How to communicate it? And where or when are these questions, and their relation, posed with greater force—political force, psychic force, historical force—than within the precinct of the New World slave estate, and within the time of New World slavery? […] If the intimacy of power suggests the sheer difficulty of difference, the trouble endemic to determining where the white imagination ends and the black imagination begins, then the power of intimacy suggests, with no less tenacity and no less significance, that our grand involvement across the color line is structured like the figure of an envelope, folds folded within folds: a black letter law whose message is obscured, enveloped, turned about, reversed. Here a structure of violence is inscribed problematically in narrative, an inscription that can only struggle and fail to be something other than a writing-off, or a writing-over (Sexton 29-30).

I have proposed the image of a fold, sometimes substituting “crease” or “wrinkle,” to describe an aesthetic practice of desire that is what blackness is, and I have proposed this as an alternative to the image of blackness as a sound, an archive of sound. I’m willing to take it for granted that folding and the idea of folding is elemental in language intending to describe spaces that are brought into contact with other spaces (“rubbing”), and natural also to languages of intimacy and of eros. That is, the way folding is in the air is kind of generic – at least not proprietary – and it maybe that I am more interested in the word and action in its ordinary (as opposed to philosophical) sense, but there is a dialogue of the fold specific to the question of how blackness works as a historical relation. I want to briefly engage with that dialogue so as not to talk past or at it.
Jared Sexton, in his impassioned essay “The Social Life of Social Death: On Afro-Pessimism and Black Optimism,” quoted above, ends up thinking the fold (echoing deep out of Du Bois and probably accidentally crossing over Baraka’s encounter with Du Bois’ “grandest work,” Black Reconstruction) as “our grand involvement across the color line … structured like the figure of an envelope, folds folded within folds” (30). I am babylike in my reading practice in that I can still be startled by unfamiliar or sudden noises; I startle at the notion of the fold as an image of “our grand involvement across the color line.” Grand? What is grand here? Does Sexton mean this word to indicate the temporal scope of “our involvement” or its volume, the large space it occupies in the whole of things? Or, having a manner that is self-consciously fancy and ultimately delusional about the intimacy of the intimacy? For, if “involvement across the color line” is a special or specific form of an intimate relation of power, Sexton’s statements imply an understanding of the space of racial order as genuinely double-sided (in spite of his own questions about “an untenably strict delimitation of inside and out” that comes about through a faulty understanding of (Moten’s terms) “interdiction” and “transgression” [Sexton 9]). Rather, the crux of the color-line relation is the relation of positions that are genuinely different from each other: black and white difference is real and reified by Sexton’s folding, whose operation moves the different together in language (“in narrative”) in such a way that they lay atop one another, cover one another, cancel (“obscured, enveloped, turned about, reversed”)—the unfunny agony of the intimate power relation is the impossibility of being as one even as the different depend upon one another to differentiate themselves as racialized subjects.
Sexton and Moten are in dialogue about, let’s not forget,—I really want to say this right—the question of whether black life needs a (its own or specific) “philosophy of life” in order to fully describe its function as that modern form of life essentially “associated with a certain sense of decay” (I would add a sense of foreboding) which they undertake to study, most notably, in the work of Franz Fanon, work developed more recently in the U.S. case by Saidiya Hartman, Sexton himself, Nahum Dimitri Chandler and Frank Wilderson III among others. These theorists end up contributing to the elaboration of general philosophical principles about the ways in which persons live as objects (or, how certain categories of person outlive historical objecthood, depending on who you are reading), but they do so with the specific understanding that the “case of blackness” or “positionality” (a term I do not use but I’m nonetheless invested in the spatial connotations of) of black people emerges under slavery; that is, there is agreement about the fact that we are dealing with a form of life that does not exist but for slavery, that slavery is the condition that creates the “lived experience of the black.” The internal (critical) question becomes, “What does slavery mean for the very conception of the objective pronoun ‘us’?” (30), a question Sexton’s essay gets to in conversation with Fred Moten’s 2008 essay “The Case of Blackness.” How are black people to understand their relations with each other through time and space when being in the time and space of “the black” is undeniably to exist as the most wretched, degraded and abject set of beings that ever lived? (But David Walker has a sense of humor.) In the past in the present in the future what can black people themselves recognize as proper to themselves as survivors of successive plots to render blackness as living death, wretchedness and thingliness? What can our relatedness become?, to echo an earlier Moten formulation. How will we
know our likeness to one another if we are no longer within the slave regime? And, if we are no longer there and no longer that (I’m not sure that Hartman accepts this, and I’m not sure whether there is a sharp line of delineation at Jubilee or, say, passage of the Civil Rights Act, for Chandler, Sexton and Wilderson), then are we us no longer? These are weirdly simple questions, questions that precede and lead toward elaboration of “the regulatory metaphysics” of our art as representation of a philosophy of life that comes into being because of (let’s just say because) what becomes, because of slavery, the color line (Moten, “Case,” 178). The dialogue is also about, as Moten writes, the environment in which blackness acts and reacts: “the air of the thing that escapes enframing—an often unattended movement that accompanies largely unthought positions and appositions” (“Case,” 182). The space and spaces where blackness comes into being and can be perceived to begin and end (in the mind), as Sexton says, are not abstract.

In the context of this dialogue, basically an internal (mutual) critique of the problem of black “nothingness” – or the charge, positive or negative, of nothingness – to speak of folding is absolutely to speak of the stakes of distributing black presence and imaginings in the world. What are the effects of that distribution worth? What is being touched by the presence of/living blacks going to mean? The language of folding thus highlights the encounter between blackness and its outside. What’s delightful about the Fred Moten formulation, above, naming the surrounds and atmosphere of blackness, is that Moten remains agnostic about the delineation of a boundary; he allows the difference of outside blackness to remain faint or dimly perceived – the difference is respiratory, unnoticed,
blackness is its own place, yet always next to the place where place is thought to begin –
while insisting that blackness’ inside, practically, is the defiance of enclosure. In point:

The club, our subcenobitic thing, our block chapel, is a hard row of constant improvisational contact, a dispossessive intimacy of rubbing, whose mystical rehearsal is against the rules or, more precisely, is apposed to rule, and is, therefore, a concrete social logic often (mis)understood as nothing but foolishness, which is, on the other hand, exactly and absolutely what it is. (“Nothingness,” 754)

The human condition that defies enclosure, yet requires togetherness, and is “against the rules” Moten suggests, is discoverable, naturally, only in metaphysical/“mystical” “rehearsal” (here comes the music), another word for practice. This condition is always (never) coming to pass, becoming, even in its concrete-ness, even given the evidentiary impact of its constitutive sociality. The covenant that makes our “thing” a thing that can be apprehended is the promise to stay together in the absurd or “foolish” space of the self that accepts itself as black, surrounds itself with blacks, a promise that is made and renewed by a self in “constant improvisational contact” with other facets of the world, organic and inorganic alike: earth and sky and the human and his air. Moten hews close to Deleuze’s reading of Foucault in his assessment of the stakes of folding, closer, that is, than Sexton’s interested in getting, perhaps because lingering within Moten’s meditation on black life as “our life in the folds” is always a poet’s sense that the action of black life is not the action of “obscur[ing], envelop[ing], [turning about, reversing]” that Sexton imagines as the characteristic shape or event of racialized “involvement.” The rehearsal of which Fred Moten speaks is always going to find its highest expression beyond the explanatory capacity of the fundamentally juridical system of opposition and antagonism that the “the color line,” being folded to one side or another of the opposition that is the color line, implies. (Even if that opposition is understood to be initiated by the basest
kind of falsehood backed up by systematic violence and to some extent constituted by that violence, to say the “color line” conjures, even if I think in terms of the vastness of Du Bois’ sense of the material plus the metaphysical remainder, for me, a whole series of thoughts that unhelpfully close the circuit of thinking about oneself). “At stake,” Moten writes, “is the curve, the suppleness and subtlety, not of contemplation on social life but of contemplative social life; at stake is the force of an extra-phenomenological poetics of social life” (“Nothingness,” 756). The highest expression of elementary blackness:

Chant and kōan and moan and Sprechgesang, and babble and gobbledygook, le petit nègre, the little nigger, pidgin, baby talk, bird talk, Bird’s talk, bard talk, bar talk, our locomotive bar walk and black chant, our pallet cries and whispers, our black notes and black cant, the tenor’s irruptive habitation of the vehicle, the monastic preparation of a more than three-dimensional transcript, an imaginal manuscript we touch upon the walls and one another, so we can enter into the hold we’re in, where there is no way we were or are. (757)

This litany alerts us to a key aspect of the liveliness of Moten’s work: its theory of blackness prizes nonce description, crowding together of epithet character fucking and singing and the illogic and impossibility of being “a slave,” the being who is held “in the hold,” only to allow for the dissipation of its momentary accuracy. Maybe that is why, I’ve said, Moten’s idea of folding works sympathetically together with Deleuze’s reading of Foucault as a master thinker of the problem of how power (outside) draws down to form a subject (the most beautiful and representative of all interiors?). He aligns himself with the edge of the envelope, as it were, before it is an envelope, where it is all cutting edge and pulp and air and is held and is moving. The analogy in speech is the eruption of “babble and gobbledygook”—the poetic space. You cannot really “inscribe” anything on the surface of flux. You cannot “narrate” a “structure of violence” upon it. There is no way to prove this.
It’s unclear, as yet, whether to fold, philosophically, when it comes to the black “philosophy of life” of which Sexton and others speak, can mean anything other than to involve oneself in the history of involvement, read by Wilderson as antagonism, a state of intractable opposition, penetrating to split the ontological fields of antagonists, across the one and only color line. Why do we have to talk like this in order to describe black people’s being together? What is necessary in the discourse of folding? (What caused me to happen upon it?)

Why would something be folded, if it were not to be enveloped, wrapped or put into something else? It appears that here [the point at which ‘simple intuition’ reveals the final cause of the fold] the envelope acquires its ultimate or perhaps final meaning: it is no longer an envelope of coherence or cohesion, like an egg, in the ‘reciprocal envelopment’ of organic parts. Nor even a mathematical envelope of adherence or adhesion, where a fold still envelops other folds, as in the enveloping envelope that touches an infinity of curves in an infinity of points. It is an envelope of inherence or of unilateral ‘inhension’: inclusion or inherence is the final cause of the fold, such that we move indiscernibly from the latter to the former. Between the two, a gap is opened which makes the envelope the reason for the fold: what is folded is the included, the inherent. It can be stated that what is folded is only virtual and currently exists only in an envelope, in something that envelops it (Deleuze 22).

The color line is “something” that envelops the possibility of becoming folded in black imagination (and that folding is the subject of black critical theory), a (necessary) station on the path of an unfolding form of self, a self that is on its way. Yet, the color line is not of this world; it cannot partake of the “monastic preparation of a more than three dimensional transcript” as Moten writes of contemplative intimacy played out in the real world. Following Deleuze, the color line has no soul and cannot ever be included in the subject or inhere in a subject. That which comes inside the subject can be understood to differ from that which constitutes the subject in so far as what comes inside is
fundamentally organic: the being of which we speak is alive. Let us take the physical limits of the body under investigation somewhat literally when it is time for us to believe in its natural possibility, and not only when it is time to meditate on the various ways in which it has been harmed. The living body is not only a thing/object to which violence can be done. Imagine the “more than three dimensional transcript” of the system of thinking black imagination’s possibilities as a live system, soft. Imagine that the color line can never really touch anyone or anything. When we talk about folding, we attempt, I heard Mei-mei Burssenbrugge say, to bring together earth and sky. The discourse of folding is a discourse of relation that touches both the action of bringing together elements that are infinitely far apart and those that are infinitely close (inherent). When we talk about folding, we gain access to a language of betweenness with tremendous symbolic sweep, language appropriate to figuring blackness as that which is so far from the subject whose objecthood it names and also far, because thinking the fold involves primary attention to something “virtually” perceived, from the meta/physical notions by way of which it is ordinarily possible to organize our notions of interior and exterior (Earth/Sky/Fourfold). I’m saying I don’t think it is the case, then, that blackness, even when we take into consideration the distinction between blackness and black subjectivity sometimes made in the developing discourse of black being, can be, as Nahum Chandler proposes, “atopic in the sense that it is outside of spatiality as a given” (137). Indeed, I do not know what it would mean to locate existence outside “spatiality as a given” unless we are ultimately saying something like “the black is outside history as given,” true only in the radical sense developed by Spillers, Hartman, Chandler and others. Indeed, the logic

of Chandler’s elegant formulation of displacement as the incident that instigates or focuses a beginning of the historical in the case of African American history and in general, moves toward privileging circularity, rather than strict or sharp lines of time and space as the definitive boundaries of such an event as “middle passage” (135-137). Let us not pick the bone of “outside spatiality as a given”—only, to give the self over to a theory of that space that is without history, which is very hard, both to give over and to theorize, although absolutely necessary to maintaining a sense of that which is virtually present and nonetheless real in being.

Following Moten following through Deleuze through Foucault,

...[Foucault] writes a history, but a history of thought as such. ... Thinking makes both seeing and speaking attain their individual limits, such that the two are the common limit that both separates and links them (Deleuze 1988, 116-117),

only to arrive back at the place where Mackey has been. From a Broken Bottle is a text that concerns itself relentlessly with playing out the implications of “an extra-phenomenological poetics of (black) social life” where blackness is an intensification of all known practices of making black music collectively/socially so that the collective practice is thought, as fiction or “a name—a theoretical object—for thought” (Chandler 174), a background condition for all taking place. Inside this fictional blackness, where N. acknowledges no outside of black thought except via address to the personality of ether, The Angel of Dust/History himself (outside as anecdote and aside, outside as opera), where are the limits of the seen/said such that we are thrust into an experience of life which is proposed as “extra-phenomenological” (extra-philosophical, outside a philosophy of life) in persistently exceeding the categories given as explanatory of human
being and within which black personhood would be either confined or negated? What should we say about thinking that is the common limit that both separates and links seeing (the observable) and speaking (the communicable)? Is it possible to recognize now (about the balloons) that what has been at stake all along in the “subcenobitic thing” that is the Black Music Juggernaut is desire for the disinterment or rather the illumination of an aspect of thought that is of the devil insofar as it describes the unobservable and allows for communication only via belief in a certain attunement to how it feels to be a problem? What has been at stake all along is a practice of language and writing that formalizes the gesture of agreement to explore – in social life and in art practice – an interior that the discourse of the color line does not, cannot, tolerate. The notion of “involvement across the color line” is too much with(in), as opposed to at the limits of, seeing and speaking at the (empty) level of language, such that it cannot permit simultaneity of qualities of inherence and qualities of passage beyond that black imagination manifests as thought; thought that circulates, person to person, recognizably, beyond the difference the “color line” inculcates by way of its name. “Future anteriority”=to be free of the color line, having existed all the while by way of its motivation or envelopment.

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‘The song and the people is the same’—LeRoi Jones/Amiri Baraka

That music, which Miles Davis calls “social music,” to which Adorno and Fanon gave only severe and partial hearing, is of interdicted black social life operating on frequencies that are disavowed—though they are also amplified—in the interplay of sociopathological and phenomenological description. How can we fathom a social life that tends toward death, that enacts a kind of being-toward-death, and which, because of such tendency and enactment, maintains a terribly beautiful vitality? —Fred Moten, “The Case of Blackness” (188)

‘Ima kill you nigga / to let you know that I don’t feel you nigga’—Meek Mill

In an interview with Frank Wilderson, Saidiya Hartman paraphrases Achille Mbembe:

“the slave is the object to whom anything can be done, whose life can be squandered with impunity”: the slave is “property of enjoyment” (Wilderson and Hartman 188). What is it to live with and fall in love with investigating questions of meaning and human life implicated in knowing such a thing to be true? To spend one’s life reflecting on the truth of one’s historical objecthood? What a funny thing from which to derive enjoyment.

Perhaps I have not tended toward a scholarship or writing of the condition of being enslaved in part because I have no capacity for burrowing into the horrors of “enjoyment” to which that scholarship is dedicated. Maybe it is subironic that I have, however or instead, been called to participate in the ritual conflation of “enjoyment” with disgust as a motivated consumer and full-fledged fan of hip hop music. Love of hip hop is a wrong love and, as Wayne Koestenbaum might say, a scholarly humiliation insofar as it implicates me in the language and knowledge of the half-serious scholar who insufficiently appreciates the distinction between culture and politics. (Those who are insufficiently rigorous in their appreciation of the world-making power of the system of
New World slavery, these are hacks; these are lightweights. A further humiliation is gleeful admission of laziness this wrong love, thinking this music worthy of thought, implies. A debased standard of learning, or learning undifferentiated from the non-learning of readers of the newspaper and listeners of Hot 97, or worse, its minor city equivalent.) Nothing Adolph Reed, Jr. can say will shake me of this tacky habit, from which I have never profited in any professional way.  

Thinking of projects such as Michael Eric Dyson’s Tupac book, Holler if You Hear Me, and the bizarre Cornel West “rap” record, Sketches of My Culture, I note that even scholars who certainly appreciate the orthodox distinction between culture and politics will find themselves awkwardly positioned as observer/participants where hip hop is concerned. While hip hop as a cultural phenomenon, made object, and musical form is co-dependent upon the organs of official culture low and high (the music magazine/music television, cultural studies/the university) to simultaneously legitimate hip hop products as art worthy of commentary as Foucault speaks of “commentary” in “The Discourse on Language” and sell it as the pop culture commodity that it self-consciously is, the hip hop artist has traditionally positioned himself as the source of a new flow of statements that embody radical opposition to commentary. Metadiscourse is the form of hip hop discourse. In its warlike displacement of authorizing, legitimating and commenting


51 “The infinite rippling of commentary is agitated from within by the dream of masked repetition: in the distance, there is, perhaps, nothing other than what was there at the point of departure: simple recitation” (AK, 221).
functions, *vocalization itself* is the means of legitimation: here is a popular art where the performer’s license to maximize the possibility inherent in becoming verbally dominant and unassailable, *free to say anything whatsoever*, becomes an important measure of achievement within the boundaries of relevant forms of social life. (Where the relevant forms of social life are as highly contestable as the legibility of any given statement. On the one hand, “I am a god … hurry up with my damn croissants,”\(^{52}\) and on the other, “Free all the killers! … Free Chicago! … Up the Murder Rate!”).\(^{53}\) Here, when speech approaches the limit of the surreal and spectacular it does, indeed, appear to emerge as something like social thought, even if we cannot bring ourselves to accept its thinking, even if we believe that thought is invited, still, by the symbolic spread of the likes of *Here, My Dear* and this is mere nonsense. Over the course of hip hop’s forty-year development, its loose language, radiating without concern for permission, danger or coherence has maintained hostility to critics, criticism and critique. It will not be read. This must mean something, or rather, invites the invention of interpretation that is capable of holding hostility inside itself. “I am inside someone / who hates me,” writes Baraka.

What I will not do is offer a “valued transgressive reading” (a phrase of Aldon Nielsen’s, complaining mildly about the rise of interest in hip hop over interest in innovative black poetry in 1990s cultural studies circles [16]) of hip hop music in general or any “text” in particular. I will not read any text at all. I’ll make no distinction between the “high” musical practices represented by the recorded performances and personae of, say, John

\(^{52}\) Kanye West, “I am a God,” *Yeezus*, Def Jam, 2013.
\(^{53}\) Lil B’, “Murder Rate,” 2014.
Coltrane, Miles Davis and/or Cecil Taylor – whose special theoretical status deserves its own essay – and black popular music.

Sometimes I think I must be mistaken in my apprehension of a categorical boundary that separates the practice of Cecil Taylor from the practice of Jay Z. At least, I think I might be reading wrong the important passage in Baraka’s “The Changing Same,” quoted in part below, that sets the tone and conceptual framework for a music essentialism that would broker the possibility of believing in black popular music as *viscerally pleasurable, roots and yet philosophically inadequate* for thinking black life beyond the scope of its propertyhood, as opposed or in contradistinction to black art music. It’s so simple, yet so troubling, Baraka’s articulation of the distinctive expressive actions of black genius, present in the “free” music he adores, absent from “what the cat on the block digs” (188).

*The implications of content.*

[…]

But the significant difference is, again, direction, intent, sense of identification … “kind” of consciousness. And that’s what it’s about; consciousness. What are you with (the word Con-With/Scio-Know). The “new” musicians are self-conscious. Just as the boppers were. Extremely conscious of self. They are more conscious of a total self (or want to be) than the R&B people who, for the most part, are all-expression. Emotional expression. . . .

But at its best and most expressive, the New Black Music is expression, and expression of reflection as well. What is presented is a consciously proposed learning experience. … It is no wonder that many of the new Black musicians are or say they want to be “Spiritual Men” (some of the boppers embraced Islam), or else they are interested in the Wisdom Religion itself, i.e., the rise to spirit. **It is expanding the consciousness of the given that they are interested in, not merely expressing what is already there, or alluded to. They are interested in the unknown. The mystical.**

[…]
R&B is about emotion, issues purely out of emotion. New Black Music is also about emotion, but from a different place, and, finally, towards a different end. What these musicians feel is a more complete existence. That is, the digging of everything. What the wisdom religion preaches.

(But the actual New Black Music will be a larger expression. It will include the pretension of The New Music, as actuality, as summoner of Black Spirit, the evolved music of the then evolved people.)

[...]

(BM, 188-189) (my emphasis). This passage (its roving, stabbing, argument moving via a logic of feel and memory, poetic thinking) begins a discussion of the “emotionalism that seeks freedom” in collectively improvised music (195); “the freedom to exist in this” using the “Black Life Force” (197). “What is the deepest feeling in our lives?” (198) Not, Baraka would argue, “what is known as ‘love,’ requited and un,” the ostensible subject of most R&B tunes (BM, 189).

Because on some level, what is he talking about—“kind of consciousness”? Writing with the painful, highly punctuated exactness that is an example of what I meant when I referred to his *prose exertions* at the very start of this (long) essay, Baraka is also defaulting to a characteristic blindness around the action of digging and the posture of having arrived at a previously undiscovered level of so-called depth. Perhaps this blindness is characteristic of the self-consciously avant-garde (it stings, don’t it?: “corniness … and so forth right on out to lunch” [BM, 188]), but more important for the purpose of my “argument” is the arresting explicitness of the move to dissociate the expanded consciousness of the New Black Music from mundane on-the-block varieties of “emotion.” In this context, that move implies the isolation of an aspect of the content of black difference from a certain this-ness of the this in which “Ornette, Archie and Cecil”
are trying to get free. “Love,” in particular, the digging of one thing and a gross impediment, as the dominant theme of R&B, to the “digging of everything.” Let “this missed love that runs through these songs is exactly reflect (sic) of what is the term of love and loving in the Black world of America Twentieth Century” (190) – about love as a syndrome of every day life lived under the shadow of missed opportunity “how to get through it and to the other side (or maybe not) which for the most part still bees that world” (191) – stand for what the new/different thing opposes with emotional learning. I think Baraka understands the learning to be otherworldly insofar as it considers the possibility of “getting through” the every day as a process of reorganizing emotional values so that the fulfillment of individual desires as “freedom,” not love, becomes the deepest feeling in our lives. Freedom is an emotion that has to do with the desire to achieve a conscious state of living beyond the given relations, given intimacies, given order of social relations, and, crucially, this freedom is achieved in conversation and collaboration with other like-minded black people.

The move of making a big deal about a distinction between what I am saying and what others say is usually self-aggrandizing, and I don’t want to do it here: the truth is, I think like Le Roi thinks in many respects and am happy to be led by him, if not exactly in this: Baraka is so ironically condescending about that which is run-of-the-mill in R&B and by extension in black life – ironic, given his pre-occupation with the practice of collective improvisation – that I guess what is being called for, back of all this kind of music thinking, is a kind of domination by poet legislator, undesirable because it is still domination (and by a class of persons who declare themselves to be fundamentally
opposed to governance), impossible because of the general scarcity of poets. I’m saying there is only one “kind of consciousness,” like Baraka already knows when he says in the same goddamn essay: “We are moved and directed by our total response to the possibility of all effects” (181). The achievement of the individual breakthrough in thinking beyond the given circumstances and curtailments of every day life, as “love,” is made via encounter with the presence and possibility of transformation of the given. To go out or deep is, I keep trying to say, a reckoning with the regular, becoming being that paradoxically enjoys the unreconstructed or plain, that strikes me as very black.

“There is a history of the embrace of degraded pleasure.”54 (What about the ways in which the R&B of my mind, today, is one with being undermined by its own exuberant supplantation by the vulgar practice of Jay Z, becoming irrelevant to elaborating the love between us? For all our willingness to admit/admit to the occult status of the personalities of James Brown or Prince or Michael Jackson or Marvin Gaye, all in a disputed relation to the status and personalities of Billie Holiday, Nina Simone, Aretha Franklin, we do not

54 Fred Moten, “barbara lee,” B Jenkins, Durham: Duke U P, 2010, 84). In another section of the poem, “Somewhere between being one of the elect and having been elected, the unacknowledged legislator operates on the edge of things resisting that desire for inclusion that eviscerates politics-as-the-politics of escape” (86). This poem is an outbreak of one of Moten’s central concerns: the “desire for inclusion” inside an existing structure of power/subjugation, a rights claim, is going to be “pseudo-humanistic” to the extent that the claim is tied to the logic upon which that structure grants inclusion or the right not to be subjugated. Moten is always going to talk about the work of “getting together and doing stuff” in a way that tries not to buy into pre-existing hierarchies whether aesthetic, political or sexual. Whereas, I see claims that isolate the consciousness-raising practices of improvisation-centered black art music from “what the cat on the block digs” as blind to that danger. One could say this entire project is animated by bewilderment about claims about attainment of a “higher nature” as a manner of speaking, even metaphorically, about freedom, and the desire to think through the claim that “Poetry investigates new ways for people to get together and do stuff in the open, in secret.”
know what to do about Chris Brown/Rihanna. Or, Beyoncé. The way in which they
herald disrespect for/displacement of bluesy endurance, which implies love of freedom.)
Let me say again that I presume that hip hop is included in what we are talking about
when we talk about The Music in its “ontic” variation/s; that we must talk about it as a
black social and spiritual haven – it is given as haven or refuge, without any such explicit
claim about its sociopolitical relevance outside the generic claim “we.made.it.”

55 (even where, as here, specifically made by a member of Wu-Tang Clan, collectively in a
uniquely uplifted and rare pop music position of iconicity) – at the same time as we talk
about any of the phenomena associated with its growth into a massive, global cultural
commodity that has something to do with blackness as, indeed, a property of enjoyment.
If we believe that black social life is black thought as Fred Moten asserts in “Blackness
and Poetry,”

56 then the hip hop being made today is evidence of unification of ontic and
characteristically crass and troubled aspects of the contemporary thought project of
blackness, such that it remains strikingly, if accidentally, true that the song and the
people is the same (BM, 187). I’m saying, or rather, asking, isn’t it possible that the
complex knit of song and people, today, confesses a contraction in the imagination of
freedom from the status of property, plunging headlong into the terrifying convergence of
blackness with capital the likes of which we have never seen and have not begun to

56 “Black thought, which is to say black social life, remains a fruitful site for inhabiting
and soliciting the idea of the particularity of human being within the general ecology.
Black thought is the sociopoetic project that examines and enacts [the possibilities
generated by the conditioning context of awareness=flows, the dynamic relationship
between identity politics and sovereignty, post-structuralism and postmodernism and the
emergence of related principles of experiment, deep questions about subjectivity and the
status of the human] insofar as they exist over the edge of the imperium that ontology and
epistemology take to be their domain” (“Blackness and Poetry”).
understand? Not Robin Kelley’s “kamikaze capitalists,” but Kanye West’s “new slaves.” I’m asking whether the music we have, today, continues to offer up, as itself – an object deeply resistant to critique, disdainful of explanation, carrying inside itself a mind-blowing volume of symbolic information about the being of black people, including but not only, not only, a sense of blackness as carrying the epistemological burden of critique on its face, but not only, not only, on its face – something we might look to as a prophecy of a being different in blackness, some impossible writing on the air like thought balloons. I’m saying that I think the answer is no, no matter how much it hurts to think it; I’m saying that our social lives might be elsewhere; it is my claim and my hope that our thinking moves over and past this iteration of our music like a tongue, its serious and interior disturbance, its delicious threat, in order to sense the future. For this to happen, we must agree to think about the work we have asked the Music to do, whether it is still able to do that work, and where that work might be done elsewhere.

I think this claim is both fairly obvious and modest, although my focus differs somewhat from key critical efforts to theorize hip hop as a specifically black aesthetic and social phenomenon. Such studies have thoroughly documented the intimacy of good and evil,

58 “Used to only be niggas / Now everybody playin / Spendin everything on Alexander Wang / New slaves,” “New Slaves,” Yeezus.
sublime and commodity implied by hip hop’s symbolic and narrative enactment of black subjectivity. My own understanding of hip hop’s place in the cultural history of black people has been particularly enriched by Perry’s notion of hip hop as “reunion space” (4-8), a radically open space where blackness is played out and played with multiply through exploration of typical or stereotypical discursive dilemmas given to black life (so

The vast body of hip hop music journalism is equally if not more important to its study than the comprehensive cultural or sociological monograph. Music journalism was intellectually foundational for me. With genuine excitement, I followed the work of Joan Morgan, dream hampton, Anne Powers, Alan Light, and most of all Greg Tate in The Village Voice, The Source, Vibe, Spin, or Rolling Stone. Tate’s of-the-moment essays from the 1980s and early 1990s, many collected in his Flyboy in the Buttermilk: Essays on Contemporary America (New York: Simon & Schuster, 1992) were a mighty influence on my adolescent understanding of what it might mean to think about the relationship between black music and black life in a serious way—and a hint that what I wished to say on this subject did not require or come to pass by way of the expository rhetoric of professional literary criticism. At The Poetry Project’s tribute to Amiri Baraka in April 2014, I was not surprised to hear him say that Baraka’s Black Music had, in turn, been foundational for him. Tate’s voice is, like Baraka’s, singular in its critically engaged and participatory joy, sharpness, and scope, among the rock and hip hop journalism and cultural observation once found (in print! one subscribed and waited, one passed by the magazine stand, activities this world no longer requires). When I moved to New York at the adorable age of twenty-one, wherever, whenever one went to hear music, Tate was there. It was uncanny, his embeddedness. I realize now that there was never any way for me to assess his position as observer/participant of the music, so far outside I was, and am. My response was to his intellectual position—one is overtaken, always, by the beauty of the response to the music, the social life of thought.

I became stylish in part via investment in the cultural manner reported in and transmitted through this writing; that is, I learned to demonstrate that I was black and interested not only by being present but also by becoming conversant in display and boycott of hip hop’s symbols and physical language through this writing.

I also watched “high” (white) fashion and style on the street and in Elle, Vogue, Bazaar, GQ and W. These parallel universes of cultural style now converge in contemporary “music” journalism, a form, more-or-less, of racialized, aspirational lifestyle reportage, even in its most clinical and neutralized form, as in, say, the excellent work of Sasha Frere Jones for The New Yorker (excellent and also clinical), not to mention the Fader(s) (standing alone, now, as a stylemaker), the Stereogum(s), Vulture(s) (New York Magazine) and Brooklyn Vegan(s) of the current online onslaught of commentators. This is yet another example of the refrain of this essay: Something is happening here, but you don’t know what it is.
that these are, actually, ontological dilemmas), or, around which black thought tends to organize internal dialogue about itself: authenticity/performance, bad politics/good music (ideology/art), sacred or metaphysical/profane, public/interior, commodity/oppositional improvisation as object of capital, directness/imcomprehensibility, nostalgia/demand for production, neo-double consciousness (identification with poverty and black otherness in tension with hyper consumerism) / unmediated conspicuous consumption, (communitarian) ethics/nihilism. Importantly, her analysis teaches us to suspect that hip hop will not lend itself to resolution of these dilemmas, even though it may give the occasional glimpse of an individual’s capacity to abide with or alleviate suffering within them. Studies of hip hop, more generally, insist upon providing historical and sociological context for hearing/reading the narrative elements of hip hop; that is, they look at hip hop lyrics as the essence of what an artist has to say, which is made equivalent on some level to the artwork as a whole by that critical action, even though critics acknowledge hip hop as a mixed art form generally requiring creative elements of language and sound, as well as powerful elements of style that conjure space constituted by either language or sound, both or neither (that is the club, and it is also what used to be called cool or soul, and is now . . . what? about which more shortly). We know that, beyond the typical performer/composer difference, in contemporary/postmodern popular music, the total artwork frequently involves contributions from multiple artist contributors because, so often, a pop song fundamentally based on electronic rather than live music must involve a language-technology collaboration along the lines of MC/DJ (now, more accurately, producer) dynamism. The artist is rarely one. Mark Mothersbaugh
of Devo, Steve Albini, Thom Yorke and Radiohead come to mind in rock music, and in hip hop Kanye West and Pharrell Williams (including his work with co-producer Chad Hugo as The Neptunes) are exceptions that prove the rule.

Let the work of sociological description and “reading” continue elsewhere, and far be it from me. Where hip hop is concerned these are too frequently habits of criticism and thought that cannot lead to new knowledge not only because they do not sufficiently account for features of the music that resist criticism but because they do not account at all for elements of the music that have no form, no form that has been always already constitutive of black legibility. Mobb Deep’s late articulation of a known prohibition against “that crazy space shit that don’t even make no sense” is a little bit believed by extant hip hop criticism, obsessed as it is with materialist exegesis. What if we were to say, This sound is unrecognizable to me; I don’t know what this black sound is; I don’t know what it wants; I don’t know whether it is saying what it says it is saying. What if I gave it that much respect?

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60 I’m leaving aside electronic dance music (EDM), where the DJ element takes over the “song,” as I’m thinking and talking about popular music that retains the element of credible self-telling as an adjunct of attachment to the significance of feelings and emotions, which, in turn, implies belief in a “self.” I believe in a self, plus, I’m not that into EDM, except to the extent that it influences and infiltrates other kinds of popular music (Skrillex and A$AP Rocky, Daft Punk (everywhere), the larger scale examples of Björk or LCD Soundystem).

61 I don’t know what the sound is that is made by a computer that sounds like a siren but is not. I first heard this sound in the music of Public Enemy and now hear it everywhere. I don’t know what the sound is that is a combination of buzzing and thumping produced at very low frequencies that is at this moment a signature sound of the producer professionally known as No. I.D. but also conjures the signature sound of the producer professionally known as Dr. Dre, which is probably foundational to a signature sound of a certain youthfully masculine menace and thuggery. Chief Keef’s “I Don’t Like” (Glory Boys/Interscope, 2012) is a singular example.

What I’m trying to achieve, to write, here is proof of a negative—an attempt to point to the unnamable metaphysical function that contemporary black music in its strongest incarnation, hip hop, does not perform. That is, the “the club, our subcenobitic thing, our block chapel” as I experience black music today, while retaining certain characteristic of block-ness and chapel-ness, is not really against the rules or against rule in any serious way, and, instead, takes the form of something like pursuit of an absolutist phenomenology of possession. In spite of its often moving and accurate critique of racism and discourse around structural poverty, this music is weirdly entangled with and trades on blackness as permanently abject and menacing and offers an unapologetic discourse of being capital as the only mode of flight/movement away from being possessed. Its intense rehearsal (yes) of its own divestment in a future anterior blackness that does not trade on horror renders it unfit for the epistemological investment that has become discursively orthodox with respect to the Music, regardless of what it may achieve on an ontic level. That is, it may be, simultaneously, the most ontic music ever made and also fundamentally misleading if not bankrupt at the level of the blackness of its thought. Both and feelings of if and but.

Begin from Ahmir (Questlove) Thompson’s statement in the best recent essay on hip hop: “hip hop has taken over black music.”

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63 “When the People Cheer: How Hip-Hop Failed Black America” Vulture.com. 22 Apr 2014. Web. 28 June 2015. He makes this claim in part one of a four-part essay featured on Vulture over four weeks. In the other parts Thompson claims that: a) “hip-hop mainly rearranges symbolic freight on the black starliner.” Take this phrase to mean in all its possible multiplicity: hip hop does not create new symbolic information, plays no new
contemporary black popular music that doesn’t have something to do with hip hop formally, technologically, or stylistically. Not only is hip hop fully integrated into the music industrial categories of “soul” and “R&B,” it dominates those categories: its global and national popularity control the output and availability of all forms of black popular music. It is literally hard to hear (in the senses of both find and understand as black music) black music that does not speak of hip hop. When Thompson says that hip hop no longer “occupies an interesting place on the pop culture terrain” but “is much of the terrain, [and has lost interest] even in itself,” he’s speaking of the effect of hip hop’s “spread” in the age of global capital on its status as capacity to represent hyperlocal (neighborhood/region/nation) and hyperauthentic (Tupac) black sociality—it is diffuse and dilute. If we wanted to know whether hip hop has, in fact, taken over black music, or didn’t already believe this, we might ask, where is black music being made that has no relationship to hip hop’s commercial/cultural matrix? What black music does not answer to it by way of involvement or by way of making a way to be not-involved? The examples of hip hop’s power wherever black people congregate musically are too

language games; hip hop recycles images of the black past and moves them around on its own discursive field in some of the ways I try to describe in this essay; alternatively, hip hop is a sham revolutionary enterprise, a cuckoo mix of entrepreneurship and fantastical domination role-play in which masses of black people buy into a doomed transportation scheme. “Mo’ Money, Mo’ Problems: How Hip-Hop Failed Black America, Part II” 29 Apr 2015 b) black cool has ceased to be a locus of innovative tension in American racial discourse “Questlove’s How Hip-Hop Failed Black America, Part III: What Happens When Black Loses Its Cool?” 6 May 2014 c) “Hip-hop, after beginning as a site of resistance, has become, in some sense, the new disco. The signifiers are different, of course. Hip-hop has come to know itself largely via certain notions of capitalist aspiration, braggadocio, and macho posturing, which are different notes than those struck in disco. But the aesthetic ruthlessness, the streamlining of concept, is similar. What began as a music animated mainly by a spirit of innovation now has factory specifications. Hip-hop, more product than process, means something increasingly predictable, which means that it means less and less.” “Questlove: Disco and the Return of the Repressed — How Hip-Hop Failed Black America Part IV” 13 May 2014.
numerous to list—but think of Death Grips; think of Vijay Iyer’s work with Mike Ladd. Cecil Taylor is 87 years old and there is no venue for being present for or to the kind of invention for which he stands. I am talking about the future. Anything and everything in music made by black persons becomes answerable to what is generated in and by hip hop.

Compounding this problematic, looming over it, are questions about the effects of “neoliberalism” upon contemporary black subjectivity, when neoliberalism is theorized, as it was by Foucault in his 1978-79 Collège de France lectures, as a profound general shift in political rationality that gives rise to the subject who is a (human) capital: “homo oeconomicus, [man who is] an entrepreneur of himself” (Foucault, Biopolitics, 226). A discussion of so diverse a present thing as neoliberalism is beyond the scope of this essay (it has aims, if its scope is undulating) although I want to deal with the reverberations that the information of Foucault’s language produces in what Wendy Brown calls “democratic…cultures and imaginaries” (35). I want to think quite narrowly, in one sense, – moving away from the political theoretical sense of democracy and toward the notion of autonomy as it conditions aesthetic innovation – but in another sense more broadly in that this essay is a general investigation of the ways in which black people are constituted by and contribute their agentic force to a racialized imaginary whose relation with democracy is in a state of radical (historical) flux. Genius into practical power. I want to think about whether we can observe or find a black homo oeconomicus acting in culture today. What harmonization of capital/persons will be produced against or with the idea of a black life that exceeds historicity in “historiality,” as Nahum Chandler speaks of
blackness “opening toward a future that is otherwise than simply the past in the future” and of Du Bois’ “principled conceptualization of the Negro, the African American for example, as an object of thought the horizon of possibility and becoming of which would be illimitable” (37, 31)? We need these ostensibly separate lines of thought – the line along which the historical subject is elaborated and the idea of black history – and must contend with the difficulties of keeping both close in the mind if, first, we are to make sense of the proposal that there is a difference between black subjectivity and blackness as a work of the self that is future oriented, and second, to theorize the “kind of consciousness” this new black music offers in its depth.

* * *

179
Like writing trapped inside a book, writing inside, the balloons speak and cannot be spoken to, like grown-ups. It is forbidden to speak with the balloons, which are ball tongues, aphoristic principle of perfect truth.

When Ralph Waldo Emerson quit Second Church, a dispute over the role of the sacrament and Emerson’s refusal to continue its observation having proved (to his mind) intractable, he delivered the sermon that has come to be known as “The Lord’s Supper.” He gives reasons for his departure (Jesus never meant the disciples to continue to “do in remembrance of me” exactly as they did on that fateful Passover), but he is most forceful in his statement of flat unwillingness to perform “symbolical actions” that do not awaken “a pure thought, a flow of love” —

The statement of this objection leads me to say that I think this difficulty, wherever it is felt, to be entitled to the greatest weight. It is alone a sufficient objection to the ordinance. It is my own objection. This mode of commemorating Christ is not suitable to me. That is reason enough why I should abandon it.65

This mode of commemorating Christ is not suitable to me. A “religious” devotion must be “pleasing,” not “disagreeable to my own feelings.”

I quit, now, capitulation to the legend of the Music as a superior space for investigating, as digging, knowledge of freedom. I quit, also, the pretense of the divisibility of black consciousness along the lines of high and low that accompanies orthodox black music thinking as a ruse of purity. I renounce that division and embrace the hollow affect of the R&B of my mind, a hollow which I think, now, was the starting place of a bend or fold that would lead toward thinking the abrasive lure of the music that is, to me, black music in its whole brokenness, the abrasion that must be the beginning of thinking, whenever it begins.

65 “The Lord’s Supper” (Sermon CLXII), Emerson Central (Ralph Waldo Emerson Texts). Web. 23 April 2016.
I say over and over again that it’s important to listen to and write about hip hop in a way that recognizes that the genre is comprised of gestures that draw attention to, figuratively constitute and actually fortify a strong boundary with life “outside” its imaginary. It’s urgent to find a way to talk about how hip hop establishes as truth what might otherwise be little more than uneasy intuition that the black interior is territory that must be defended; that there is a black interior, there is intimacy for and among black people that maybe all there is of blackness. If rap music is “beautiful” and has “power” – oppositional or otherwise – some of its beauty and some of its power is located in the work it does to push back against notions that black music is readily consumable at the level of the popular and also at the level of philosophy. We know that Black Music has the hyper-specific and paradoxical cultural functions of 1) representing the possibility of spiritual aspiration or freedom for black persons but also for anyone who adheres to that discourse of freedom and 2) serving as an actual haven in the actual lives of black people; black people really do make and congregate around black music. A critique of, for example, a specific song, would seek to undermine the consumability of the artworks of actual black people, feel for and listen to the desires of individual makers/persons with respect to both (black) privacy and sociality, and, worst of all, it would forego the imposition of a logic of freedom and/or opposition.

In apparent violation of the terms upon which it might be possible to do any of this and thus to invent a mode of interpretation, a way of speaking, that would be capable of holding its hostility inside itself like I think a real banger can do and does (being more like out of respect for those songs), I want to talk about Emily Dickinson. The invocation
of Emily Dickinson is only movement in the wrong direction if it proposes Dickinson as the first principle of a theoretic defense of perfect poetic inner space.

There is a pain - so utter -
It swallows substance up -
Then covers the Abyss with Trance -
So Memory can step
Around - across - opon it -
As One within a Swoon -
Goes safely - where an open eye -
Would drop Him - Bone by Bone - (Franklin 515)

Dickinson works in an emotional shorthand, she develops her own affects and "cadence" around a relatively slim repertoire of words, number of words. She reforms, represses, reorganizes the meaning of those words by moving stresses around, deforming the ballad form, performing a kind of lyric screaming. She composes on a field upon which she is the only player in broad strokes, made over top the primary practice of what is called poetry and outside its game.

Dickinson is, therefore, an example of a privacy and singularity that is entirely foreclosed by the invocation of the “blackness” of any art practice ---for black music there is no inner space, no privacy, no singularity; there is, far in the future, the destruction of these conditions; there is the future. For us, Dickinson’s an example of nothing. But we hear her ripping sound in our mind’s eye as a harbinger of what could happen, yet.
“TO DROP”: lose control over digital manipulation of; lose control over the musculature of one’s body/to fall down or faint/to lose consciousness; to render another person unconscious, as to knock upside the head; to kill (“there were five persons taken in one house; the father the mother and the suckling child they knocked on head” ….)

You drop and so it hurts to hear every time ...

bitches aint shit but hoes/ I been known this ...

… finna kill a nigga/walkin to his mom’s tonight ...

...death row til they put you in the Pikachu to fry...

...coulda been a felon/ sellin nickles offa Linden/ nigga fuck that...

   all I wanted was them Jordans with the Blue Suede on em (RPT)

When I began thinking seriously and obsessively about this song and about the music of Vince Staples more generally, I struggled to materialize my thoughts about hip hop as a force that propels my own thinking away from music as a way OUT, a concept that stands for freedom and an example of how it might be achieved. I was at a loss for words to say what this song was and was not to me and for me. How to say this blows my mind, but I do not rely on it — what I learn from it is caution; I can take no strategy from this, poetic or otherwise for thinking a better social life as an artist or human being.

Enter Jace Clayton, perhaps better known as DJ /rupture. I wrote to Jace cold, and I asked him to meet me, talk about my dissertation and a vague idea I had for a dance party and reading that I wanted him to DJ. A challenging and generative correspondence ensued that transformed vague uneasiness, aversion, disgust with the continuing power of black
music (read hip hop) to determine the course of theorizing transformation of the self through black art practices.

What follows is infused with Jace’s thinking, which is the point: I am interested in the poetics of this collaborative thinking as exit route to the thing or as the thing itself.

To Jace: “[‘Blue Suede’] is perfect in its understanding and, therefore, of very limited use – I’m saying, if what you’re interested in is something like freedom. And I’m not saying this about the lyrics. I’m saying what is black music for?” Almost instantly I understood that I had no way critically to decouple my intuitions about what “Blue Suede” cannot do socially from the words that come out of Staples’ mouth, nor could I say how it came to pass that this song causes to pass through me enormous jolts of what feels like understanding. The song sounds like, and therefore it is, a passageway, a way through the surface misunderstandings it discursively rehearses. This song blows my mind.

Twenty-two year old Vince Staples “been known” “Bitches Ain’t Shit” because that’s what Dr. Dre told him before he was born. Another perfect song out of Long Beach. What is happening in that place?

The doubled aural purposiveness of “flow” is precisely the problem. Jace says its obvious, flow is the shared ground between Dickinson and Staples and so the mechanism of flow should be brought out (explained?) to explain the connection and de-fuse the explosive hierarchical possibilities that inhere in setting up a “canonical (private white)
poet beats newcomer (public black) rapper at the game” scenario. But I’m shocked when Jace brings this up. In a perfect song, lyric and sound lock together as flow so that the sensuous element, the mode of delivering the pleasure of the song, the way it enters the body and can be enjoyed, can’t be separated from lyrics which ostensibly “describe” the rapper’s “life” or “feelings” or “thoughts.”

“All I wanted was them Jordans with the Blue Suede on em.” This is so easy to hear. Jordans, the adolescent wish for special ones, blue suede ones, Elvis, love and theft.

It’s flow we have to disrupt in the effort to make sense of the love that can be found in and through this music.

Here: a song like "Blue Suede" attempts to work in Dickinsonian ways; it cannot, although it SOUNDS like it does. Vince’s dexterity, his flow, his dark dark humor, the stuttering/scratchy grind that attempt to perforate the wail that swallows up loudness (producer=Marvin “Hagler” Thomas); these language and sonic acts work in the register of command. But achieving the “commanding certificate” (as Emerson says) is a cheap hip hop trick that attempts to circumvent the grammars of race and structural poverty. There’s an emotional and ideological grid that Vince Staples has access to, but hasn’t built. That grid is structured by the axes of being / living as black and the practice of representing blackness. Vince hasn’t built it – and it’s not his fault – yet he plays or practices a black game which is also the game of repeating what we already know,

repeating facts to which it is possible to nod our heads, facts such as “the music and the people is the same”; we watch him work a terrifying manipulation of ideological and emotional materials that are fundamentally out of his control and so drop, Emily says, BONE by BONE if you look, if you look into the abyss, the organized inside space of blackness.

Which is whatever you want it to be; it is a “trap” in the same sense that “trap” -- the currently ubiquitous and often irresistible sub-genre of hip hop -- proposes as authentic black life the deadly workaday circuit of street-level drug dealing to pay the bills and, with luck, hard work and a ride-or-die trap queen, bootstrap up to the (clownish) status of rich nigga. Again.

Future’s “I Serve the Base” from 2015’s DS2:

They should've told you I was just a trap nigga
I'm in the White House shootin' craps niggas
I gave up on my conscience gotta live with it
This remind me when I had nightmares
These bitches wanna be here, they'll be right here
They should've told you I was just a trap nigga
They should've told you I was gon' lap niggas
They should've told you I was overseas
Say your last words, can't breathe
They sent the ghetto bird out to peep me
They finally did admit it, I was cloned
Because I was ambitious, now I'm on
Five in the mornin' on the corner rollin' stones
I just work for money, I count it on my own, fuck

They should've told you I was on the pill
They should've told you I was on the Lear
I serve cocaine in some Reeboks
I’m full of so much chronic, need a detox
I serve the base, I serve the base
I serve the base, I serve the base

Whatever you want. I serve that, for money, for a nihilistic, endlessly repetitive and narcotized kind of peace.

‘I just need y’all outta my business’—Vince Staples

In “Blue Suede” the sensuous element or groove alongside which vigorous language manipulation takes place as flow might work as displacement of what seems to me a spiritual and spirited engagement with the limited possibilities that inhere in given language about black human being and in particular black masculinity (comprised partly of the economization of humanity and sexuality).

I find evidence of the spirit or spiritual ambition of “Blue Suede” (I think “I Serve the Base has no spiritual ambition; it is a siren song, a soul suck) in Vince’s dance atop his grandmother’s Long Beach home.

There is not a single word in “Blue Suede” that does not “drop” listeners into a prefabricated interior understood as black life. Lyrically, Vince Staples gives black life as a “mood” or “field” in the sense that Staples means when he speaks in interviews of “the power of fear.” This is his understanding of his relation to the commercial value of the narratives of murder, comic humiliation of unsuspecting or game enough women, police stalking, in which he deals (for money) and which partially describe life among neighbors in Long Beach, California, USA (from which he has been liberated by money).
But what are the compositional possibilities what is, in the contemporary poetic terms, the field structured by a thing called Los Angeles? Los Angeles --- a field, I understand this place to be “mine,” an object onto which I project desire, an object through which the possibility of possession is refracted; Do I also belong to it? Could I see my actual self? Could I preserve and perform or represent some aspect of that multifaceted self as intact and moving around space that is completely outside?

Jace says: “Outside? you can call it white noise or the Profane, that-which-lies-outside-archive-or-consideration; literally, unordered space which is not empty but rather full of undifferentiated energy, the space between channels. white noise, the outside, useful in making snare hits and whip cracks.”

Vince Staples dances atop his grandmama’s house, in a kitschy print shirt awash -- in the otherwise B&W video -- in crip blue. Vince Staples is a delicately built man, we know because we see him dress his naked torso, I remember his underpinnings and nipples, despite the baggy clothes. For many decades the uniform of stylish young black men in cities has visited the imperative to look away upon too-close observers. I show you my Tommy Hilfiger boxers, but not my body, which is precious to me. Vince’s awkward rooftop pacing, his movements part shoulder crowding two-step -- the dance of men too cool to dance – partly a pantomime of the gun clap, the occasional grab for his nuts, constant reinforcement of flow via the pointing/counting rhythmic music of the hand

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67 Message to author, January 20, 2016.
common to both rappers and DJs—a minor concession to and affirmation of the inside feeling of having found the beat. None of this is original. Vince has wide eyes, his head bobbles atop his body when he rocks his rocks and bounces his body at the knee in what I think of as the signature gendered bounce of contemporary hip hop dance. The head bobble as opposed to the head nod, which is a cold standard non-greeting of others on the dance floor. The head bobble is a half-smile, a corny physical wink and nod. I like the way Vince seems to arrest his movement at unexpected times: at one point he covers his face in exhaustion (is it hot? too many takes?). As witness, I think I am soothed by the control it conveys over the Vince Staples present: this is my house, my body, this is my life and I am weird in it, not all of me is yours.

What I want is perspective, a shift in perspective and energy that I locate in this familiar, necessarily esoteric solo dance. I have the air rights to this here, Staples says to me when he is not speaking, and I don’t know what he could build in the space above around Los Angeles.

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Juvenile – Respect My Mind, Ha, Back Dat Azz Up (ft. Mannie Fresh, Lil’ Wayne), Rich Niggaz, Enemy Turf (w/Lil Wayne)
Ghostface Killah – Stroke of Death
Rick Ross – Hustlin’
Ace Hood – Hustle Hard, Bugatti
Juicy J (ft Lil Wayne, 2 Chainz) – Bandz a Make Her Dance
Jay Z and Kanye West – Niggas in Paris
Chief Keef – I Don’t Like
Kanye West – Yeezus, The Life of Pablo
A$AP Ferg (ft A$AP Rocky) – Shabba, Dump Dump
Jay-Z – Dirt Off Your Shoulder
Jay-Z (ft Rick Ross) – Fuckwithmeyouknowigotit
Birdman (ft Drake) – Money to Blow
Migos – Versace
Rick Ross (ft Drake) – Aston Martin Music
Lil Wayne (ft 2 Chainz) – Rich as Fuck
Lil Wayne (ft Rick Ross) – John
Meek Mill (ft Rick Ross) – Ima Boss
Meek Mill – Traumatized
Young Thug – Stoner, Danny Glover, Digits
Rae Sremmurd – No Flex Zone
Chris Brown – When a Rich Nigga Want You
Frank Ocean – Pyramids
Vince Staples – Blue Suede, Summertime ‘06
Lil B – Murder Rate
Future (ft The Wkend) – Low Life
Future – DS2
Future & Drake – Diamonds Dancing


---. *This New Yet Unapproachable America: Lectures after Emerson after Wittgenstein*.


---. Untitled message to author. 23 Jan. 2016. Email.


---.“The Lord’s Supper” (Sermon CLXII), *Emerson Central (Ralph Waldo Emerson Texts)*. Web. 23 April 2016.


Ghostface Killah. “We Made It.” *Supreme Clientele*. Epic, 2000. CD.


---.“Blackness and Poetry.” The Holloway Series/Mixed Blood Project.


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<https://www.youtube.com/watch?v=E2h8ujX6T0A>


