Acquired Innocence

The Law, the Charge, and K.'s Trial: Franz Kafka and Franz Brentano

by

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<This is a slightly revised English version of "Das Gesetz, die Anklage und K..s Prozess: Franz Kafka und Franz Brentano" in *Jahrbuch der deutschen Schillergesellschaft* 24 (1980) 333-356. The approximate pagination for the German publication is given in angle brackets within the text>

To judge simply from the vast and varied bulk of critical and interpretative writings on Franz Kafka's novel *The Trial*, few works of this century have been found as stimulating as this bizarre story of a fatally ordinary human being. The variety of interpretations placed upon the work is an amazing phenomenon in its own right. Indeed, the variety of divergent interpretations creates an impression that the interpretations often enough merely express the interpreters' despair. It certainly tends to generate in some critics the conviction that Kafka's works are not comprehensible at all, and it strengthens in others the conviction that effort at comprehension is altogether misplaced in the study of literary works. In the opinion of Erich Heller, for example, "[Kafka's writings] defy all attempts at rational interpretation"[1] To Martin Walser, "It seems questionable--to judge by the multitude of theological, sociological, psychological, as well as other commentaries alien to poetry that Franz Kafka's work has stimulated--whether he is a poet at all. The commentators, with Kafka's friend Max Brod at the head of the pack, have called repeatedly upon Kafka's letters and diaries to show his philosophical, theological…relevance." But, "The more perfect poetry is, the less it refers to the poet…"[2] Working on a conviction that "[Kafka's special sort of inspiration] was nothing other than the result of his

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[1]"The World of Franz Kafka" in *Kafka. A Collection of Critical Essays*, ed. R. Gray (Englewood Cliffs, N. J.: Prentice-Hall, 1962), p. 101.

[2]Martin Walser, *Beschreibung einer Form. Versuch über Franz Kafka*. (Munich: Carl Hauser, 1961), p. 11.

having cultivated an autonomous form-faculty…"[3] Walser proceeds to the sort of pure structural analysis which he considers the sole proper business of any <333> science of poetry. The analysis leads him to conclude that deliberate meaninglessness is the only inherent meaning to be found in Kafka's works by those who are so misguided as to try comprehending them.[4]

A reader turning for assistance to recognized experts in the science of literature opens a door into an appalling maze, more formidable even than Kafka's works themselves: an experience which is at least potentially healthy, provided she is not simply seeking confirmation for a suspicion that in the interpretation of literature anything goes. Any such suspicion she might have, the reader will find expressly confirmed among those experts who see in Kafka's works a perfect instance of their general thesis that the appropriate reaction to poetry does not depend on comprehending it. This thesis is advanced most explicitly by Dieter Hasselblatt, who[5] asserts, to elaborate on the intent with which it is advanced, that it is decisive not just for the fate of research on Kafka but for the future of the science of literature as well: "Perhaps such a thesis exempts itself apodictically…[This book] uses the traditional methods of scientific analysis both in order simultaneously to place them in question as well as to enervate them if possible." "*The magic of mystery* and the *logic of evocative calling* [*beschwörenden Heissens*] harmonize," writes Hasselblatt, "in poetic texts like Kafka's during the playful duration of the text into a parabolical vacuum into whose suspensefully structured organization the reader is required to place her

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[3]*Ibid.*, p. 15.

[4]*Ibid*., p. 117.

[5]In his *Zauber und Logik. Eine Kafka-Studie* (Cologne: Verlag Wissenschaft und Politik, 1961), p. 29ff.

personal and private interpretation." But interpretation is not allowed in the science of literature which is permitted only to point out the organization and lawfulness of the text's suspense-structure [*Spannungsgefüge*].[6] Interpretations, it seems are personal and private whereas structure is lawful, inherent in the text, and scientifically ascertainable. As object for a science poetry is said to have a certain inherent obscurity since it evokes "dimensions" which cannot be grasped "rationally"; otherwise it would not be poetry at all. The science of literature must therefore reject the notion that the comprehension of poetry is its proper task. The alternative, says Hasselblatt, can only be that poetry will be regarded by the literary scientist as a bunch of "subtly concealed opinions of individual authors to be turned out by the science of literature. Poetry would be thus crucified on interpretable significance. A premise that must lead <334> to a depreciation of all poetry devoted to the experimental, the fragmentary, the obscure, the deliberately confused, mysterious, etc.,…"[7] Thus, critics an"scientists of literature" who apparently deplore philosophical, theological, sociological, and psychoanalytical uses they see being made of Kafka by his many interpreters have come to use him instead for the purposes of meta-interpretation. Kafka's works are regarded as an impenetrable shield behind which a certain interpretation of interpretation on the one hand and poetry in general on the other can be advanced triumphantly. Yet such a meta-interpretation is not *eo ipso*--because it fights in the name of "science"--innocuous. If, as Susan Sontag asserts, "The work of Kafka…has been subjected to a mass ravishment by no less than three armies of interpreters"

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[6]*Ibid.*, p. 140.

[7]Ibid., p. 30.

who read it as social or psychoanalytical or religious allegory,[8] then the meta-interpretation proposed by Walser and Hasselblatt, if violent, is likely to be still more violent and to do more extensive damage.

At least within the community of intellectuals and scholars Kafka has become what an Hegelian might call a world-figure, and he has become one in the usual way for this community, posthumously. Whether by his own intention or by the cunning of reason, his works, the divergent interpretations they have occasioned, and the meta-interpretation of these have, as Heinz Politzer remarks, placed Kafka at the head of a movement:

> Kafka has not just plundered [literary] scientific method of its unequivocalness; he has pushed into problematic twilight the interpretability of any poetry whatsoever. This problematicity of Kafka's is what constitutes his importance, even for a sort of research that still considers itself to be scientific.[9]

Because of this development, any attempt to discover a perspective for further and more powerful comprehension of the novel *The Trial* inevitably suggests that the figure armored in intentional obscurity who carries the standard against interpretation is in fact made of straw. The suggestion is confirmed to the extent the attempt succeeds. There is a perspective, as yet neglected for the most part, for approaching *The Trial* that does <335> indeed satisfy some of the requirements for sound interpretation. It involves a definite rather than a vague and confused set of concepts and problems. It can be strongly supported by purely textual evidence. It makes sense in terms of substantiated biographical data about Kafka *without requiring that the novel be regarded as a mirror for Kafka's personality*. And finally its con-

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[8]*Against Interpretation and Other Essays* (New York: Farrar, Straus & Giroux, 1966), p. 8.

[9]Editor's foreword to *Franz Kafka* (*Wege der Forschung*, 322), Heinz Politzer, ed. (Darmstadt: Wissenschaftliche Buchgesellschaft, 1973), p. ix.

ceptual framework is sufficiently pregnant to acknowledge the relevance of many, if not all, of the major interpretative approaches which have been attempted by others.

1. The charge against Joseph K. Ignorance of the natural sanction of law and custom.

One curious aspect of this intricate burrow of interpretative literature is the neglect of what Kafka refers to a"the Law." That any interpreter should totally neglect the notion of the Law is out of the question. The neglect consists rather in a chronic failure to take the term both literally and seriously. If the omission is corrected, the various episodes composing *The Trial* emerge as an illustration of some very complex and closely interrelated problems in theory or philosophy of law. The nature of "the Law" is perhaps the most crucial enigma of *The Trial*. It must be shown, however, that what Kafka refers to a"the Law" is best approached from the point of view of jurisprudence. Lacking this perspective, attempts to interpret Kafka's sense of "the Law" from ethical or from religious perspectives involve a falsification. They falsify not because they are irrelevant but because they distort by virtue of misplaced emphasis. The more appropriate perspective is that which sees in the enigma of the Law the issue concerning the obligatory character of laws. More broadly speaking, the issue involved concerns the bindingness of any normative rules of conduct at all. Assuming such rules to resemble commands in some way, is obedience a requirement? To put it very briefly, the issue in question is the enduring core of the debate over the existence of natural laws as the basis for culturally formed rules. The latter, the behavioral norms that get accepted within cultural groups, are often referred to a"positive law. Positive laws may readily

be regarded as facts; the existence of some such laws is scarcely open to reasonable doubt. The existence of natural <336> law on the other hand is subject to perennial debate; while the "nature" of natural law--what sort of laws they would be if they existed--is debated with still greater heat among champions of their existence and validity. The sort of "natural" law theory Kafka is most likely to have had in mind must be weighed most carefully in any discussion of the role played by the Law in K.'s trial. The same will be true for any discussion of K.'s guilt or of the state of hi"conscience."

Textual evidence alone suggests very strongly that "the Law" if it is to be taken at all literally can scarcely refer to any system of positive law but must refer to a law of a quite different order. Moreover, Kafka--as is well known--studied law at the German university in Prague where he took his doctorate in June, 1908. In view of such considerations it is all the more remarkable that theory of law has received so little attention in literature on *The Trial*.[10] Part of the reason for this neglect may be Max Brod's assertion, "It was almost impossible to talk about anything abstract with Kafka. He

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[10]Notable exceptions are to be found in Wilhelm Emrich's *Franz Kafka, A Critical Study of his Work*, trns. S. Z. Buehne (New York: Frederick Ungar, 1968) and Joan Mellen'"Joseph K. and the Law" *Texas Studies in Literature* 12 (1970) 295-302. Mellen seems unaware of Emrich's work which had appeared in 1958. She leaves quite vague the nature of the higher moral absolute to which Kafka "gives the status of natural law" (*op. cit.*, p. 297). Moreover, her thesis that part of Joseph K. feels guilty because it senses, divines or intuits that there is such a Law and that he is violating it contradicts Emrich's correct insight that "Joseph K.'s guilt is his ignorance of the Law" (*op. cit.*, p. 316). Emrich attributes to Kafka a conception of the natural law in question as a part of each person'"inward" an"infallible" self, and he maintains that "the individual can lie…but not the natural law pervading him" (*ibid.*, pp. 319, 325). Thus Emrich attributes to Kafka an ethical theory of natural law which appears to be nativist in origin. However, it remains unclear how such a view could be reconciled with Emrich's own correct insight into the nature of K.'s guilt. Moreover, Kafka was familiar with an ethical natural law theory which is profoundly anti-nativist and which admits the possibility of persons who have no conception whatsoever of good or evil. Both these objections to Emrich's otherwise excellent and penetrating exegesis will be elaborated in detail below.

thought in images, and he spoke in images."[11] The remark carries considerable authority since Brod's friendship with Kafka appears to have been close from 1904 until Kafka's death in 1924.[12] The remark may easily be construed as a sign that abstract, theoretical problems held no interest for Kafka. Moreover, it has been well established that Kafka's study of law was, for the most part, repugnant to him. In all likelihood he would have <337> followed a quite different course of studies but for the influence of his father. All of which suggests that Kafka took little interest in law and still less interest in theory of law. For all that the suggestion is most likely false.

Klaus Wagenbach's very thorough biographical study has documented an interest in philosophy beginning as early as Kafka's fifteenth year when he appears to have read, or at least read about, Spinoza and to have advocated a pantheistic view in conversations with a classmate, Hugo Bergmann.[13] By the following year, Kafka had developed an interest in Darwinism and was reading Ernst Haeckel's *Die Welträtsel*. He read Nietzsche's *Zarathustra* during the summer vacation before his last year at the German language gymnasium in Prague/Altstadt. Wagenbach refers to him as a follower of Nietzsche in writing of Kafka's second year at the University of Prague.[14] Assuming that Kafka did indeed take an active interest in at least some philosophical issues, his distaste for the study of law would indicate not that he was indifferent to theory of law but rather that the philosophy of

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[11]Max Brod, *Franz Kafka als wegweisende Gestalt* (St. Gallen, 1951), p. 36.

[12]Klaus Wagenbach, *Franz Kafka eine Biographie seiner Jugend ,1883-1912* (Bern: Franke Verlag, 1958), pp. 102, 108.

[13]*Ibid*., p. 80.

[14] *Ibid*., p. 102.

law most likely held more interest for him than other aspects of his legal studies.

a. Brentano's conception of natural law

Wagenbach shows, in fact, that Kafka's concern for philosophical issues is most likely to have intensified during his years at the University of Prague. The development of this interest is particularly relevant since it provides important clues as to the issues in jurisprudence most likely to have drawn Kafka's attention and the positions on these issues he is most likely to have been familiar with. Wagenbach emphasizes Kafka's relationships to a group of very close followers of the philosopher Franz Brentano (1838-1917). The group, which met in the Café Louvre, included both Oskar Kraus and Alfred Kastil, who would later become editors of Brentano's works. Kraus and Kastil were then unpaid lecturers at the University of Prague. At the beginning of his second semester, Kafka enrolled in the course offered by Anton Marty, an older student of Brentano's, of "Basic Issues of Descriptive Psychology" together with some of his classmates from secondary school.[15] Sometime thereafter, most likely during the same semester, <338> Kafka began participating in private colloquia held by Marty at his home and continued to do so for three years.[16] He began attending the discussions in Café Louvre led by Kraus and Kastil at about the same time. Of

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[15]According to Wagenbach, the group's other members, all of whom became students of philosophy, included Emil Utitz as well as Oskar Pollak and Hugo Bergmann. That Utitz was studying law in Munich at this time and did not return to Prague until the summer semester of 1904 is established convincingly by Peter Neesen (*Vom Louvrezirkel zum Prozess.* Göppingen: Verlag Alfred Kümmerle, p. 20) on the basis of Utitz' "Erinnerungen an Franz Brentano," *Zeitschrift der Martin-Luther-Universität Halle-Wittenberg*, Gesellschafts-und sprachwissenschaftliche Reihe; 4 (1954/55), Heft 1, p. 73.

[16] *Ibid*., pp. 107, 116f., 177, 243.

this "Louvre Circle" Emil Utiz has written, "We found ourselves involved in a wider circle of co-workers who often gathered in the evenings for endless discussions. Franz Brentano was, of course, not there. But his mighty shadow fell on all the talks, which were always a matter of interpreting his teachings correctly or of raising objections to them."[17] Kafka continued to attend meetings of this group as late as December, 1905.[18]

Ethics and philosophy of law were Oskar Kraus' special interest, and there can be little doubt that the only work Brentano had then published in this field, *Vom Ursprung sittlicher Erkenntnis*,[19] was often mentioned and often quoted. The book is a short one, but it has turned out to be one of the most influential works for modern theory of value. G. E. Moore wrote of it, "This is a far better discussion of the most fundamental principles of Ethics than any others with which I am acquainted."[20] The main text reproduces a lecture Brentano delivered in January, 1889 to the Vienna Society of Jurists. The lecture itself had been entitled "The Natural Sanction for Law and

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[17]Emil Utitz, "Errinerungen an Franz Brentano," *Wissenschaftliche Zeitschrift der Martin-Luther- Universität Halle-Wittenberg* IV (1954) Heft 1. Quoted by Wagenbach, *loc. cit.*

[18]Neesen, *loc. cit.*, p. 29.

[19]First edition,, Leipzig: Duncker & Humblot, 1889. Fourth edition, edited with introduction, notes and index by Oskar Kraus (Hamburg: Felix Meiner, 1955). The work has appeared in two English translations first from the original edition under the title *On the Knowledge of Right and Wrong*, C. Hague, tr. (Westminster, 1902), the second titled *The Origin of Our Knowledge of Right and Wrong*, R. Chisholm and E. Schneewind, trn. (London: Routledge & Kegan Paul) from the fourth edition by O. Kraus.

[20]Quoted by Oskar Kraus in his "Introduction" to the fourth edition, op. cit., p. vii. {Subsequent note by the author of this essay: references (G. E. Moore, *International Journal of Ethics* XIV (1903) 123 and his *Principia Ethica*, Cambridge: The University Press, 1903, pp x-xi) for this assertion by Kraus are supplied by the more recent of the English editions — *The Origin of Our Knowledge of Right and Wrong* Oskar Kraus <ed>; Roderick M. Chisholm and Elizabeth H. Schneewind <trans>; Roderick M. Chisholm <ed>; New York; London and Henley; Humanities Press; Routledge and Kegan Paul; 162 fn4.}

Custom." It was delivered in part in opposition to the positivist theory of law which had recently been advanced by Rudolph von Ihering and to a proposed reform which would have eliminated the philosophy requirement from the law curriculum.

Ihering had advocated that the science of law become a purely empirical science. Such a science would be purely descriptive. It would be concerned exclusively with *de facto* laws and would describe them purely as facts. <339>The subject matter would be the actual prescriptive rules of actual societies. These rules, taken collectively, make up the body of factual, positive law. Positive law would include all rules enacted through a process of legislation. It would also include customary rules of behavior even if these were not formulated legislatively. The ultimate test for the presence of such a rule would be the administration of any sort of reward or punishment (“sanction"). Wherever a reward or punishment--no matter how trivial--is administered there is a prescriptive rule involved. Positive laws are therefore, all of them, empirically determinable. A positive science of law would include them all in its subject matter. It would *exclude* all so-called natural laws or natural rights which might be proposed as tests for the validity of positive laws. Ihering goes on to deny that there are any natural laws which might serve as norms for positive laws. There are no universally valid principles by which the validity of positive laws could be established or disestablished. This being so, any question as to their validity or bindingness is a pseudo-question. This is the thesis which Brentano sets himself to refute.

To begin with, he distinguishes between several different senses of the word ‘natural’ in such phrases a"natural law" an"naturally right." On the one hand, “the natural" may be opposed to what is acquired through experi-

ence in historical development. In this sense, 'natural' may mean either *innate* or given by nature, i.e., derived from facts concerning what it means to be human. On the other hand, natural rules would be those which can be *known* to be correct and binding by their nature, i.e., in and for themselves. In this second sense, *natural* is the opposite not of "acquired" but of "conventional" or "arbitrary." Natural rules would be those having an inner and knowable correctness (sanction) in contrast to those established simply by factual, positive decree. Ihering denies natural law in both senses. Brentano agrees completely so far as the first sense is concerned. He disagrees totally where the second is concerned.

Brentano's rejection of authoritative decree as a valid and binding basis for obligation is particularly relevant to an understanding of the basic "error" in Joseph K.'s conduct in *The Trial*. Every command is subject to the question, "Is it a justified or an unjustified demand?"

> And this question does not ask for another command, one that might be backed up by a still greater power. For then the question would recur, and we should arrive from the first command at a command to obey the command and then at <340> a third command which would command obedience to the command to obey the command, and so forth toward infinity.[21]

"Is the demand justified?" asks not whether the demand is authoritative but whether it is just, whether what it commands is the sort of action which may be rightly commanded. In launching his lecture, Brentano had repeated an exclamation of Leibniz', "If only those who study law would get over their contempt for philosophy and see that without philosophy most of the

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[21]Brentano, *Vom Ursprung sittlicher Erkenntnis* (Leipzig: Duncker & Humblot, 1889), pp. 9-10, §10). In referring to this work, the first edition--the one available to Kafka--will be cited; section numbers will be given in parentheses to facilitate use of other editions, English and German. Quotations will be my own translations from the first edition.

issues in their jurisprudence are a labyrinth with no exit."[22] Joseph K.'s search for an authority who might help him bring his case to a successful conclusion is a journey through just such a maze.

If the law by which his guilt or innocence might be determined were some code of positive law, then his hiring a competent lawyer would make sense; his efforts to engage the assistance of others directly and indirectly associated with the Court would be, in some sense, appropriate. There are after all authorities on codes of law, and courts are susceptible to influence. But here there are no clear criteria for competency of lawyers. And it is by no means clear how the various intrigues suggested to K. might influence a verdict. The painter and arch intriguer Titorelli has more to say about the administration of the Court than any other character in the novel. From him we learn that "dissent by individual judges can not affect the result" and that influence can achieve only "ostensible [*scheinbare*]" acquittal, which changes nothing since "the whole dossier continues to circulate, as the official routine demands…"[23] The successful use of influence to achieve ostensible acquittal changes only the subjective feelings of the accused--he "feels supremely confident" but is not genuinely freed. Moreover, if the Law were some positive code then the authority of the warders who arrest K. as agents of the Court we would expect to be of some importance. But they brush off his demand that they identify themselves. Even K.'s own identification papers are irrelevant:

> "What are your papers to us?" cried the tall warder. "You're behaving worse than a child. What are you after? <341> Do you

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[22]*Ibid*., p. (§1).

[23]Franz Kafka, *The Trial*, tr. Willa and Edwin Muir, revised, and with additional material tran slated by E. M. Butler, with excerpts from Kafka's Diaries, drawings by Franz Kafka ("Definitive Edition"; New York: Schoken Books, 1968) 157 ff.

> think you'll bring this case of yours to a speedier end by wrangling with us, your warders, over papers and warrants?"[24]

The chapter describing K.'s arrest also contains what is perhaps the most important single clue to the nature of the Law. Warder Franz addresses Warder Willem:

> "See, Willem, he admits that he doesn't know the Law and yet he claims he's innocent." "You're quite right, but you'll never make a man like that see reason," replied the other. K. gave no further answer; "must I," he thought, "let myself be confused still worse by the gabble of those wretched hirelings?"[25]

K. can make no sense of Franz' statement; and this is not surprising given his admission that he is not acquainted with the Law to which Willem has referred for the first time. For the Law in question can scarcely be a positive law or any code of positive law. Short of outright assertion, Franz' observation suggests about as strongly as anything can that innocence *of* the Law is not compatible with innocence *under* the Law. Now ignorance of a particular positive law is notoriously consistent with guilt under that law. But the enactment of a positive law stipulating that ignorance of the enactment shall entail a violation of that law, while conceivable, would be pointless and even ridiculous under most circumstances. Normally, only those held responsible for administering and applying the enacted laws are charged with a *duty* to know them.

Franz' remark about ignorance of the Law and innocence under it might at first seem to suggest irrationality on K.'s part *without* implying guilt. He is after all asserting innocence while admitting that, not knowing the law, he is in no position to decide his guilt or innocence. On this read-

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[24]*Ibid*., p. 9.

[25]*Ibid*.

ing, however, Willem's reply would make no sense, for then getting K. to see reason would seemingly be no impossible task. One would need only to point out the law in question and show K. how his behavior had violated it. He might still claim that the law is without authority or that it is an absurd and irrational one, but he would presumably be able to tell whether he had in fact behaved in a way forbidden by the law. As it turns out K. is otherwise a perfectly law-abiding citizen; he follows all the customary and legal rules. The very first sentence of the novel tells us he has done no harm [Böses].

Moreover, if the Law were one <342> that could be pointed out to K., it would have to be communicable--capable of being stated and so capable of being written down. If this cannot be done--if what is spoken of is the sort of intrinsically right natural rule Brentano has in mind as the foundation for law and custom, Willem's reply is more than sensible. It shows what K.'s trial is all about. For there will be no way to get K. to "see reason" if he is not either already familiar with the Law (nativism) or capable of discovering it on his own. That he is not already familiar with it he states at the outset. The ensuing trial will test whether he is capable of discovering it on his own, whether he is capable of "coming up against it yet."[26]

The Law K. is accused of violating requires that every member of the community of persons be acquainted with the law. K.'s identity is a matter of indifference, so is the identity of his accusers. To have no acquaintance with the Law is "crime" of a higher order, one for which he is in the end executed. Positive laws place no such requirement--not at least in the normal course of things. From the standpoint of an ethical--as opposed to

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[26]ibid.

"naturalistic"--theory of natural law such as that of Brentano, acquaintance with the (moral) Law is morally necessary in a double sense. For, in the first place, such knowledge is good in itself so that a person who has knowledge of the good is a better person than she would be without it. And, secondly, acquaintance with the good has extrinsic value in that it provides--according to such theories--the sole basis for insight into the person's obligation to obey positive laws, for these derive their extrinsic and therefore conditional value from the manner in which they maintain social conditions necessary to prevent retrogress in and to promote progress in the actualization of goods and the elimination of evils.

b. Natural law and human need in the *Protagoras*

This, in crude outline, is the concept that Brentano had advanced of the natural sanction for positive law. Kafka was also familiar[27] with one of the earliest natural law theories of an ethical, non-naturalistic sort, viz., the one attributed by Plato to his *Protagoras*. According to Protagoras' version of the Prometheus myth, Prometheus' well meant but culpable gift of fire and wisdom in the arts to humanity--that had been left ill equipped <343>for survival by Epimetheus--proved inadequate. In order to survive, they needed civic wisdom as well since outside of social groups they could not compete successfully with other animals. They could form lasting social groups, however, because of the harm they did one another owing to their total lack of civic art and lack as well of all sense of right and respect <shame>. So, to preserve the race from destruction, Zeus sent Hermes to distribute right and respect among men and to distribute the"To all…let all

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[27]Wagenbach, op. cit., pp. 38, 125, 259.

have their share; for cities can not be formed if only a few have a share of these as of the other arts." And Zeus added to this decree a law for all humanity, one that precedes all human conventions and is obviously of a quite different order than they, that "…<anyone> who cannot partake of respect and right shall die the death as a public pest."[28] Joseph K.'s trial is a test of whether he experiences emotions of the sort that make it possible to know the good, i.e., whether he is capable of respect and right. K. is executed when the Court decides that the sentence prescribed by Zeus' law is applicable in his case. The law in question is of a higher order in part because it is decreed by Zeus in his capacity as the keeper of civic wisdom. Protagoras tells us that Prometheus had not been able to steal civic art in order to give it to humanity because civic wisdom "…was in the possession of Zeus; Prometheus could not make so free as to enter the citadel which is the dwelling-place of Zeus, and moreover, the guards of Zeus were terrible…"[29] K.'s discussion with the Court chaplain of the parable "Before the Law" is generally acknowledged to be one of the most crucial passages in the novel. This evaluation is almost certainly correct. The discussion and the parable itself are among the most important keys to the enigma posed by the Law. But they are themselves among the most enigmatic passages in Kafka's works. From the standpoint of the interpretation being attempted here, it seems most likely that Kafka had in mind the citadel of Zeus, according to Protagoras the residence and source of civic wisdom, when in the parable the Law is spoken of as a building with many halls and many

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[28]*Protagoras* 322 D. p. 135 in the trns. of W. R. M. Lamb, *Plato IV Laches, Protagoras, Meno*, Loeb Classical Library (New York: G. P. Putnam's Sons, 1924). An alternative reading for 'respect and right' is 'shame and right'.

[29]*Ibid*., 321 D, p. 133.

doorkeepers, each more powerful and more terrible than the next.[30] And more surely still the Law in question, under which K. is executed, <344> is not only no ordinary law. It has no human origin at all but is instead a law of a higher order, of a higher order also because it is concerned, as Protagoras indicates of Zeus' law for all humanity, mankind, with a necessary condition for any positive law at all. In Brentano's terms the Law is concerned with the good, is even identical with the good. In the same frame of reference, the offense of which K. is accused is ignorance of the good and of the highest practical principle. The offense for which he is executed is incapacity for any such knowledge and so incapacity for any decision or action that would be correct by its nature or intrinsically.

2. Correct choice: Brentano's ethical theory

The term"moral" an"immoral" apply to the will. Every act of will is directed toward some deed which the agent believes to be in her power and each has a motive. That each willing has a motive implies that each has some end or purpose that is desired for its own sake. All willings are purposings. Without such a genuine, ultimate end there would be no genuine motive for the adoption of any means whatever. Means can themselves be correct or incorrect. But whether they are correct or not is a matter of whether they are or are not genuinely appropriate for the actualization of the purposed end. The rightness or wrongness of the action, including the rightness or wrongness of any means that may be employed, is dependent upon the rightness or wrongness of the purpose. And here Brentano acknowledges that there are various possible purposes on which persons

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[30]Kafka, op. cit., pp. 267ff.

may act so that the decision to act involves a choice not just of means but of purposes, and even of ultimate purposes as well. The question as to the moral correctness of an action therefore concerns primarily the correctness of the end chosen.

> Where the choice of purposes is concerned, we shall say: choose a purpose which can reasonably be considered actually achievable. Yet this answer is not enough; much of what can be achieved is rather to be avoided than to be sought: of what is achievable choose always the best! That alone is the proper answer.[31]

This is, for Brentano, the one absolute practical commandment, the only categorical imperative. Morally right will requires a correct choice of ends. But to make a correct choice here requires that we be able to recognize the proposed end as something in <345> itself good or better than its alternatives. But how, if at all, do we come by our acquaintance with what is good and what is better? To answer these questions we must, according to Brentano, discover the origin of the concept"good" an"better," for these, like all concepts, must originate from insights, i.e., intuitions, whose objects are concrete. The concepts in question must derive from perceptions through which there is *given* the state of affairs that a certain set of objects exemplifies those concepts.

a. The empirical origin of the concept"good" an"better": analogous derivation of "true."

The concept of "the good" originates in a manner quite analogous to that of "the true." Both are derived from internal perceptions, perceptions of mental phenomena. The concept "true" originates from the *perception* of

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[31]Brentano, Vom Ursprung sittlicher Erkenntnis, p. 13 (§17)Kafka, op. cit., pp. 267ff.

evidently correct judgments, of acts of judging that evidently affirm something correctly of a subject matter. From such perceptions we get the concept of truth, whose meaning is explicated by the proposition that of two contradictory judgments--the one being affirmative, the other negative--only one can be correct and the other is incorrect. To say of something that it is *true* is to say that *to affirm* it is correct. Quite analogously, the concept "good" originates from the *perception* of evidently correct *emotions*. Of two contradictory emotions--the one being a loving, the other a hating--only one can be correct and the other is incorrect. To say of something that it is good is to say that to love it is correct. As we say of something that it is false when to deny it is correct, so we say of anything that it is bad if to hate it is correct.

b. Evident and blind judgments; evident and blind emotions

Each type of activity, judgments on the one hand and emotions on the other, is carried out blindly in some cases, evidently in others. In the case of judgments, there is a sharp distinction to be drawn between those which are true and therefore correct but blind, such as judgments made on the basis of a blind trust in sense perceptions or in habit and those which are made on the basis of evidence. Blind judgments do not provide *knowledge* in the strictest sense of the word. Not all believing, not even all correct believing, is knowing. The person who judges in a blind, non-evident way cannot know the judgment to be true, i.e., correct, <346> whether it be her own or that of another. In order to know the truth of a blind belief it is necessary "…that the judgment be known to agree with one which is evident either immediately or mediately *to me myself* in object, form, tense

and, where relevant, in mode of apodicticity…"[32] Brentano is thus led to a vaguely Platonic position; in the strict sense of the verb 'to know', a person cannot be taught to know the truth of any belief. She may be taught blindly to believe that it is true. She will not know that it is true unless it agrees with a judgment whose truth is already evident to her or with one derivable from judgments whose truth is already evident to her. Otherwise she will not be able to know the truth of the belief in question until she is able *evidently* to make a judgment which agrees with it. Ultimately, insight into truth is not teachable; Brentano writes, "That without which it would be impossible for us to judge about the truth of any assertion is surely the evidence."[33]

In a completely analogous way, Brentano speaks of blind emotions in contrast to *intrinsically* correct ones. The latter are the emotional analog of evident judgments. As a blind judgment may be true without being perceived to be true so a blind love or hate may be correct without its correctness being perceived, i.e., "evident" in a transferred sense. Some loves and hates may be purely instinctual or purely habitual without being evident at all. So there may be in persons and in other animals such a thing as an instinctual prejudice in favor of pleasure and an instinctual aversion to pain. Such blind emotions, even if universal to the species, would not by themselves indicate that pleasure is rightly loved or that pain is rightly hated. Just as the truth of a judgment can be *known* only if the judgment is expe-

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[32]Franz Brentano, *Wahrheit und Evidenz*. Erkenntnistheoretische Abhandlungen und Briefe, ausgewählt, erläutert und eingeleitet von Oskar Kraus (Leipzig: Felix Meiner, 1930), p. 94. The emphasis is my own.

[33]Franz Brentano, *Wahrheit und Evidenz*. Erkenntnistheoretische Abhandlungen und Briefe, ausgewählt, erläutert und eingeleitet von Oskar Kraus (Leipzig: Felix Meiner, 1930), p. 94. The emphasis is my own.

rienced, i.e., perceived, to be correct so the correctness of a love and thus the goodness of what is loved can be *known* only if the love is *perceived* to be correct. As our concept of truth is derived from our internal perception of the correctness of true judging acts so our concept of good is derived from <347> the internal perception of the correctness of emotional acts.

c. Virtue is unteachable: the point of K.'s trial

Pursuing the analogy, a person cannot know an emotion or an emotional attitude, whether it be her own or another's, to be correct unless she executes the act *and* does so wit"evidence" of its correctness. In order to know the correctness of a blind emotion it would be necessary that the emotion be perceived to agree with one which is evident to, i.e., internally perceived by, the person himself as correct. Our entire knowledge of the good is derived from such perceptions.[34] Accordingly, if virtuous conduct is to be conceived as conduct informed by a knowledge of good and evil then a person cannot be taught to behave virtuously any more than she can be taught to know the truth of a judgment. The issue of whether virtue is or is not teachable is central to the dialog *Protagoras*, which we have suggested as one of Kafka's sources for the motives in theory of law that are illustrated in Joseph K.'s trial. Protagoras narrates his version of the Prometheus myth in order to show that human beings all do have some acquaintance with the good, that people do in fact believe virtue to be teachable and that they do indeed try to teach it. Joseph K.'s is the limiting case proscribed by Zeus' fundamental law for human societies. K. is not accused of having violated any laws of the government under which he lives. He lives by the

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[34]Brentano, *Vom Ursprung sittlicher Erkenntnis*, p. 24, §27.

rules, following them blindly, lacking any acquaintance with the rightness or wrongness of the conduct they prescribe. To know the genuine value or disvalue of such commandments, he would have to perceive the correctness or incorrectness of loving them: he would need to know their goodness or badness. In fact he is unaware that any such acquaintance with good and bad is to be had at all, and in this consists his offense. Lacking any acquaintance with good and evil, K. is in no position to decide whether the conventional norms he has been following, at least up to the point at which *The Trial* begins, are good or bad.

But despite the affinities which have been mentioned between his theory of knowledge and that of Plato, Brentano is an empiricist, at least in so far as the origin of concepts is concerned.[35] K. might still acquire the acquaintance he lacks even though he has as yet not even an obscure and confused trace [presentation, idea, *Vorstellung*] of such acquaintance. K.'s trial is the procedure by which the Court is to test whether he is capable of acquiring a knowledge of good and evil, i.e., <348> whether he is or is not capable of perceiving any emotion at all to be correct or incorrect by its nature.

d. Guilt and definite acquittal are logically compatible

This interpretation of K.'s trial threatens to make some sense even of the notion of "definite acquittal." A defendant might be definitely acquitted even though she was guilty at the time of her arrest. If K. is accused of having no acquaintance with the Law, i.e., with good and evil, then he would cease to be guilty should the lack

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[35]*Supra*., p. 19f.

be made good during the trial itself. That K. is considered guilty from the start is indicated at his arrest.[36] This is confirmed by the painter, Titorelli, who tells K. that the Court can never be dislodged from the conviction that the accused are guilty.[37] K. can see in this only a contradiction when Titorelli tells him shortly thereafter:

> I forgot to ask you first what sort of acquittal you want. There are three possibilities, that is, definite acquittal, ostensible acquittal, and indefinite postponement. Definite acquittal is, of course, the best, but I haven't the slightest influence on that kind of verdict. As far as I know, there is no single person who could influence the verdict of definite acquittal. The only deciding factor seems to be the innocence of the accused. Since you are innocent, of course, it would be possible for you to ground your case on your innocence alone. But then you would require neither my help nor help from anyone.[38]

How can the possibility of definite acquittal be held open if the Court will remain forever convinced, that the accused was guilty in the first place? K., having no inkling of the charge against him, concludes that he is being told in indirect fashion that judges can be persuaded to render a verdict contrary to their own convictions. K. is

> willing for the time being to accept the painter's opinions, even where they seemed improbable or contradicted other reports he had heard. He had no time now to inquire into the <349> truth of all the painter said, much less contradict it, the utmost he could hope to do was to get the man to help him in some way, even should the help prove inconclusive. Accordingly he said: "Let us leave definite acquittal out of account then; you mentioned two other possibilities."[39]

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[36]*Infra* 24f.

[37]Kafka, op. cit., p. 187.

[38]*Ibid*., p. 191.

[39]*Ibid*., pp. 193ff.

If K. were accused of having, by some specific past act, violated a positive law then no one could consistently pronounce him definitely acquitted while remaining convinced that he committed the violation. On the other hand, the possibility of definite acquittal might remain open if K. is accused of lacking a knowledge of the Law, provided acquaintance with it can be acquired.

3. K.'s case on appeal: innocence can be acquired.

If K.'s execution reflects a negative decision of this question by the Court, it might then be argued that the verdict is irrational and so incorrect and unjust. If knowledge of the good could *not* be *acquired* then it would make sense to conclude that someone who has none will never have any. Brentano's view however maintains that all such knowledge is acquired. On such a view how shall we ever legitimately conclude that a person who has none is *incapable* of acquiring any? In the terms of Kafka's parable, the door leading into the Law stands open always, that is to say at all times so that neither the Court nor anyone else may ever close it.[40] Surely, we may never conclude then that a person's access to the Law has been closed to her completely. It might be suggested, therefore, that K.'s being "convicted" and executed is evidence of the inaptness of the interpretation, which has here been outlined, of the nature of K.'s offense and the Law h"violates." The suggestion is nonetheless false, The interpretation is defensible whether K.'s execution be considered just or unjust, and the defense is fruitful and revealing in either case,

If the Court is wrong and K. is unjustly executed, that serves to emphasize the absolute cleft between the Court and the Law. That the two

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[40]Kafka, op. cit., p. 275.

be completely separate is in fact a consequence of the present interpretation. The Law, as has been claimed all along, is no human convention whatsoever. If the Law were capable of being infallibly formulated and communicated or if the novel offered any positive statement whatsoever of the content of the Law, that would by <350> itself be strong evidence against this interpretation. There is not a trace of any such evidence. The Law in question is never a matter of authoritative decree. There are numerous characters, both officials and hangers-on who claim knowledge of the Court and its workings; no one claims to be an authority on the Law itself--not even the Lawyer, Dr. Huld. If the Law were, as we have maintained, one which could be violated even by someone who in her conduct *happens* to do no harm, who may even do considerable good in the sense that her actions have extrinsic value as a means to an end which is good in itself but is simply not known to be good by the agent, then one wonders how such an offender would ever be detected. And there is indeed something very mysterious about the process of detection and arrest, something so mysterious that it would have to be considered totally arbitrary when judged by normal legal standards. That is in fact the judgment K. makes when he is told at his arrest by the Warder Willem, "Our officials…never go hunting for crime in the populace but, as the Law decrees, are drawn toward the guilty and must send out us warders. That is the Law. How could there be a mistake in that ?"[41] The procedures of the Court seem so anomalous that one wonders how they should lead to anything at all, much less to a just verdict--the more so when one considers the character of the Court officials and of those who surround them. As Kafka portrays them, all are somewhat sleazy, dis-

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[41]Kafka, op. cit., p. 10.

reputable or petty; most are dishonest as well. The Priest is the only exception and there is little about him that is positively sympathetic. How could anyone trust such an institution? K. does not. But the point is not that his mistrust should be displaced by trust in the Court's authority. Part of K.'s error in the conduct of his trial is his belief that his guilt or innocence will be decided by the Court. He seeks to influence the verdict through officials' foibles as well as through official channels when neither course would establish his innocence. If the Court's verdict were unjust that would be irrelevant so far as the nature of the Law is concerned. The guilt or innocence at issue here are absolutes, not established by any human and fallible procedure. <351>

The relation between the Court and the Law is itself enigmatic. Courts which administer positive laws are themselves established by positive law. Their procedures are mandated by and may be defined by positive law. Positively decreed penal institutions are concerned with enforcing positive laws. Zeus' decree, however, is concerned with a condition for the possibility of positive laws and socio-political institutions. It mandates the execution of those who cannot partake of respect and right but does not stipulate who shall determine guilt or execute the sentence. In Kafka's novel only the mysterious procedure of arresting the guilty is ever said to be mandated by the Law itself. Willem's assertions about the arrest procedures are in fact the only statements purporting at least partially to express the content of the Law itself. And it is worth noting that these do not imply any *knowledge* of K.'s guilt on the part of the Court officials. It is said only that the officials are *drawn* by guilt. If the Law were concerned wit"the good" and if K. were "an evil"--as Brentano conceived these terms--then court officials could

"detect" K.’s guilt through a correct emotive act regardless of whether they do or do not *perceive* and *know* the act to be correct.

On this hypothesis, then, the character of the Court’s officials, whether they be nice persons or not, whether they do or do not know the Law themselves, whether the Court’s procedures be rational or irrational--all this is irrelevant to K.’s guilt or innocence, The Law is concerned with absolute values, absolute standards of good and evil. If guilty, K.’s guilt consists in his not knowing of any such values and standards. So long as a person guilty in this sense remains guilty she cannot see that the guilty *ought* to be condemned no matter what verdict the Court arrives at.

4. K.’s delusion over guilt: the legend, “Before the Law."

K.’s tendency to believe that his innocence or guilt depends entirely upon the verdict delivered by the Court develops into a conviction after he concludes that, “Above all, if he were to achieve any thing at all, it was essential that he should banish from his mind once and for all the idea of possible guilt. There was no such guilt."[42] The belief that guilt is decided by authoritative decree is the delusion against which K. is <352> warned by the Priest when he relates the legend "Before the Law." The Priest like "one who sees another fall and is startled out of <her> senses" has just shrieked at K., “Can’t you see one pace before you?" Having been told, “Your guilt is supposed, for the present, at least, to have been proved," K. had responded that he would get more help and was told, “You cast about too much for outside help…especially from women. Don’t you see that it isn’t the right kind of help?" K.’s reply was that there are some women with whose help

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[42]*Ibid*., p. 158f.

he would inevitably win in the end, "Especially before this Court, which consists almost entirely of petticoat-hunters." As the verger extinguished the candles on the high altar of the otherwise almost totally darkened cathedral, K. in order to mollify the Priest proceeds to disarm his behavior and the statements he has just made of their implications concerning the nature of the Court: "Are you angry with me…It may be that you don't know the nature of the Court you are serving…These are only my personal experiences…I wasn't trying to insult you."[43]

It now occurs to K. that he

> "...could obtain decisive and acceptable counsel from [the Priest] which might, for instance, point the way, not toward some influential manipulation of the case, but toward a circumvention of it, a breaking away from it altogether, a mode of living completely outside the jurisdiction of the court. This possibility must exist, K. had of late given much thought to it."[44]

By now, K. has forgotten about the Law altogether and thinks only of the Court and how it is to be either manipulated or circumvented. The Priest then relates the legend in order to remind K. of the Law and to exhibit the delusion under which K. is suffering.

> "You are very good to me, said K. ...."But you are an exception among those who belong to the Court. I have more trust in you than in any of the others, though I know many of them. With you I can speak openly." "Don't be deluded," said the Priest. "How am I being deluded?" asked K. "You are deluding yourself about the Court," said the Priest. "In the writings which preface the Law that particular delusion is described thus: before the Law stands a doorkeeper…"[45]

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[43]*Ibid*., p. 264f.

[44]*Ibid*., p. 266.

[45]*Ibid*., p. 267.

Neither this passage nor any other states explicitly in what the delusion consists. The two most obvious possibilities are that K. is deluded either (1) in his feeling that he can trust the Priest more than others belonging to the Court, or (2) in his *distrust* of the others. In fact, however, neither of these states the delusion precisely. <353> Rather, K. is deluded in his belief that what is at issue is the verdict of the Court and how he may influence it in his favor or avoid it altogether. He thinks that judgments of others are to be accepted on trust concerning a matter in which *no one else* may be correctly trusted. Their judgments could not be accepted *correctly* unless K. himself is either able to form the same judgments *with evidence of* their correctness or analytically to derive them from judgments whose correctness is evident to him. The matter in question is one which could be decided only by K.'s own judgment, and this judgment would have to be an *evident* one, a judgment based on a perception of *his own* loves and hates with respect to their intrinsic correctness or incorrectness. In the absence of such a perception on which the judgment might be based, K.'s case is lost.

K.'s initial reaction to the parable is to interpret it as referring to the first of the two possibilities mentioned above as the most obvious.

> "So the doorkeeper deceived the man," said K. immediately, strongly attracted by the story. "Don't be too hasty," said the Priest, "don't take over an extraneous opinion [die fremde Meinung] without testing it. I have told you the story in the very words of the scriptures. There's no mention of deception in it." "But it's clear enough," said K., "and your first interpretation of it was quite right. The doorkeeper gave the message of salvation to the man only when it could no longer help him."[46]

Now the Priest has as yet offered no interpretation at all (except that the story describes *some delusion*); he has warned K. to base his interpretation

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[46]*Ibid*., p. 269.

on the scriptures themselves, and he has pointed out that they mention no deception. Nonetheless, K. takes the parable to mean that he would be deluded if he were to trust *anyone* belonging to the Court since all officers of the Court *deceive* the Accused, and he attributes this interpretation to the Priest. Thus K. decides initially in favor of the first of the two more obvious interpretations of the "delusion." But this interpretation, in as much as it implies that persons belonging to the Court deceive the accused, makes nonsense of itself. It undermines the very evidence on which it is based, the testimony of the Priest; it presents a paradox of self-reference like the paradox involved in the statement by Epimenides the Cretan to the effect that Cretans are liars. It can not therefore consistently be construed either as true or as false.

The bewildering discussion which follows between the Priest and K. leaves the latter still arguing, quite cogently, that the man from the country is deceived. He is deceived whether the doorkeeper intended the deception or not. K. accepts the interpretation according to which the doorkeeper is either ignorant of the Law, simple minded, or a deceiver. <354> Through one or the other of these characteristics, in the doorkeeper, the man from the country gets deceived. This being so, the doorkeeper is unfit for his office. In this interpretation, K. is really taking over elements from the various commentaries the Priest has mentioned. And, in doing so, he is again ignoring the evidence, the words of the scriptures. What the *letter* of the story shows is that the doorkeeper is mistaken in his belief that he will be able to shut the door. He is mistaken unless the scriptures themselves are mistaken. But the "statement" that the scriptures are mistaken would also make nonsense of itself since it too would lead inevitably to the Liar Paradox.

Back at the beginning of the parable it is written that "…the door leading into the Law stands open as always [*offensteht wie immer*]…"[47] The story establishes that the doorkeeper is *mistaken* when he says that he is about to shut the door. No other errors are established. What the story shows is that the doorkeeper is *fallible*. It does not show that he is simpleminded or that he is a deceiver or even that he is *ignorant* of the Law. The fallibility of the doorkeeper would suffice to establish that his word is not to be taken as identical with the Law. If merely being fallible is enough to render his utterances untrustworthy then, indeed, as one set of commentators whom the Priest mentions aver, "…the story confers no right on anyone to pass judgment on the doorkeeper." If human persons are all subject to error then his fallibility does not distinguish the doorkeeper from the rest of humanity. His error would be culpable only if doorkeepers have--as K. seems to think they have--a special duty, peculiar to their office, to avoid this particular error. But such a duty is nowhere mentioned in that "scriptures." The doorkeeper is, although fallible, hardly less worthy of trust than anyone else.

The second of the two more obvious interpretations of the delusion illustrated by the legend was <355> that K. is mistaken in his distrust of

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[47]*Ibid*., p. 267. The English translation by Willa and Edwin Muir, revised by E. M. Butler, reads her"…Stands open as usual." This loose rendering would be sufficiently accurate were it not for the fact that the passage becomes crucial in the discussion between K. and the Priest. It is the textual evidence for the interpretation the Priest mentions according to which the doorkeeper himself "…is deceived in a much more important issue, affecting his very office. At the end, for example, he says regarding the entrance to the Law: 'I am now going to shut it,' but at the beginning of the story we are told that the door leading into the Law always stands open, and if it always stands open, that is to say at all times, without reference to the life or death of the man, then the doorkeeper cannot close it" (p. 275). Now, the English translation, unfortunately, has nowhere previous said that the door is always open so that the reader will, if he is careful, have to conclude that the Priest himself is not paying very close attention to the scriptures.

everyone belonging to the Court except for the Priest. As an objection to K.'s claim that the doorkeeper is unfit for his office, the Priest cites an extreme form of this interpretation when he says that

> Many aver that the story confers no right on anyone to pass judgment on the doorkeeper. Whatever he may seem to us he is yet a servant of the Law; that is, he belongs to the Law and so is beyond human judgment. In that case one must not believe that the doorkeeper is subordinate to the man. Bound as he is by his service, even only at the door of the Law, he is incomparably greater than anyone at large in the world. The man is only seeking the Law, the doorkeeper is already attached to it. It is the Law that has placed him at his post; to doubt his dignity is to doubt the law itself." "I don't agree with that point of view," said K. , shaking his head, "for if one accepts it, one must accept as true everything the doorkeeper says. But you yourself have sufficiently proved how impossible it is to do that." "No," said the Priest, "it is not necessary to accept everything as true, one must only accept it as necessary." "A melancholy conclusion," said K. "It turns lying into a universal principle."[48]

So, if one accepts the point of view that to doubt the doorkeeper's *dignity*, his authority, is to doubt the Law itself then one must also acknowledge that whatever he says is necessary, whether true or not. For this point of view, the utterances of fallible persons, in so far as they belong to the Law, must nevertheless be regarded as *necessary* though they need not be regarded as true.

Less extreme grounds--such as those developed in the preceding paragraph--for holding that Court officials *need not* be thoroughly and consistently distrusted are not discussed because K. terminates the discussion at this point. The next question which would have been in order is therefore one which K. never asks. If the utterances of persons belonging to the Court--and so ostensibly to the Law--are not bound to be regarded as true

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[48]*Ibid*., p. 276.

in spite of their being necessitated, is there some sort of obligation *to believe* these utterances even though the persons making them are clearly fallible? An affirmative answer would mean that all of the doorkeeper's and the Court's judgments must be regarded as true on the basis of faith alone. Because of their ostensible relation to the Law, the statements of Court officers would have to be accepted as being somehow for the best in all cases even if one is not able correctly, i.e., with evidence, to judge that this is so and even in a case where one was able *with evidence* to judge that it is *not* so. The doorkeeper and the Court would have to be regarded as the *ultimate authority* in matters concerning the Law. <356> This is the delusion which the legend illustrates, and K. is in fact behaving inconsistently in rejecting this point of view when the Priest spells it out for him. For the view and the delusion are K.'s own.

The text itself tells us that K. breaks off of the discussion prematurely:

> "A melancholy conclusion," said K. "It turns lying into a universal principle."
>
> K. said that with finality, but it was not his final judgment. He was too tired to survey all the conclusions arising from the story, and the trains of thought into which it was leading him were unfamiliar, dealing with impalpabilities [*unwirkliche Dinge*] better suited to a theme for discussion among Court officials than for him. The simple story had lost its clear outline, he wanted to put it out of his mind… [49]

K. could not have continued the discussion for long without exposing the actual delusion under which he acts and with it the inconsistency involved in his having just now rejected the very principle on which he is now acting. For K. himself takes the view that matters concerning the Law are to be left to the authorities; the Law is not his province. Although his returning to the

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[49] *Ibid*., p. 276f.

bank is not as urgent as he pretends and he could very well stay longer, when the Priest asks, "Do you want to leave already?" he replies, "of course, I must go, I'm the Chief Clerk of a Bank..."[50] Chief Clerks of Banks have no business discussing the Law and other abstract or non-actual entities [*unwirkliche Dinge*]; that is the province of the experts, the Court officials, who are skilled at it. Yet, according to Plato's *Protagoras* at least, cities cannot be if only a few have a share of these as of the other arts.[51]

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[50]*Ibid*., pp. 278, 277.

[51]*Supra*, p. 14.