5

DRESSAGE

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I style it very good academic fortune squared. At the Sorbonne, Pierre Legendre was my postgraduate teacher. I recall the day when he began his morning seminar by divulging how he had just spent 'a crazy night with [his] texts' ('une nuit folle avec mes textes'). Fifteen years later, at the Sorbonne still, I became Pierre Legendre's colleague. I remember many conversations, mostly at a Montparnasse café he patronized. Out of these exchanges, another of Legendre's *bons mots* comes to mind. As we were discussing over coffee the then recent election at the *Collège de France* of a blatantly underqualified jurist, someone whose intellectual achievements were evidently woefully and indeed ridiculously inadequate vis-à-vis the path-breaking work of erstwhile *Collège* appointees such as Barthes, Bourdieu, Foucault, Lévi-Strauss, or Merleau-Ponty, the kind of oh-so-usual French nomination that reeked of unalloyed favoritism, he tilted his head towards the window and, emitting a dispirited sigh, muttered to himself: 'Tous des bandits' ('All of them bandits'). When the *Seuil* released the second edition of his *L'Amour du censeur* in 2005 – in effect a facsimile of the long-out-of-print 1974 publication now featuring a second foreword by way of supplement – he kindly offered me a copy.[1] In part, his dedication reads thus: '[T]his book . . . was for me the great ordeal in the Faculties of law' ('[C]e livre . . . fut pour moi la grande épreuve dans les Facultés de droit').

* Unless I so indicate, translations are mine.

1 Pierre Legendre, *L'Amour du censeur: essai sur l'ordre dogmatique*, 2nd ed. (Editions du Seuil, 2005 [1974]).

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I find it reasonable to assume that the word 'ordeal' ('épreuve') would not have been inscribed lightly. How could Legendre's medievalist expertise not have informed his terminological choice given that, from the time of his doctoral dissertation, he was first and foremost a specialist in twelfth- and thirteenth-century French legal history? (I refer to Legendre's legal guise, for he was also a practising psychoanalyst who continued to conduct a private consultancy in his seventh *arrondissement* office in Paris for nearly 20 years after he had retired from law teaching.) How could he have mobilized the word 'épreuve' without bearing in mind its historical sense (which, in advance of empirical study, I assume is known even to jurists not professionally versed in the Middle Ages)? In medieval France, an 'épreuve' (or 'ordalie,' itself the etymological precursor of the English 'ordeal') was a physical experience – for example, by way of water or fire – straining one's endurance and to which an accused person had to submit at trial, the individual's bodily reaction being interpreted as a divine indication of guilt or innocence. Not only is Legendre's presentment to me deploying the dramatic term 'épreuve,' but it refers to this 'épreuve' as having been 'great' ('grande'), a modifier revealing an elevated and above-average extent or degree. And beyond the adjective, Legendre harnesses the definite article – '*the* great ordeal' ('*la* grande épreuve') – to operate as a further intensifier, accordingly making this event the most important moment or the pre-eminent circumstance amongst all of the 'great ordeals' that would have come his way in the course of what had been, at the moment of his gift to me, his 47-year career as a French law professor. The fact that Legendre identified *L'Amour du censeur* as having generated the strongest adversarial response from his colleagues, in effect a particularly forceful challenge on their part to his institutional legitimacy, seems to me to confer a self-assigned distinction to this text, thereby differentiating it from the three dozen other books or so that he wrote over the many years, the ascription of such especial significance well warranting, I suggest, a revisitation of the monograph's argument to coincide with the lapse of a half century since the initial issuance of the text (and, of course, to mark Legendre's death in his early nineties on 2 March 2023).

Even as I elect to circumscribe the extent of my examination of Legendre's scholarship to *L'Amour du censeur*, I hold that I must engage in further confinement. I therefore propose to dispense with Legendre's political views regarding what one might call 'current affairs' (an admittedly deficient expression) as he expresses them in the book. It so happens that his positions in this regard ranged widely. For instance, he defended a highly critical understanding of nationalism that one would spontaneously locate, I reckon, towards the left end of the ideological spectrum. To write, as did Legendre, of 'the nationalist manipulation,'[2] was to muster strong language indeed. But

2 *Ibid*., p. 254 ['la manipulation nationaliste'].

Legendre simultaneously advocated for viewpoints that one would as readily associate with a committedly rightist programme; thus his emphatic attack on what he dismissed as 'the homosexualist militancy' and its 'forcing of propagandas'[3] – the French expression 'militance homosexualiste' consisting in the assemblage of two derogatory neologisms of his (the idiomatic terms would have been 'militantisme homosexuel'), the French word 'forçage' meanwhile evoking imposition, perhaps through the application of some form of symbolic violence, and the French term 'propagandes' suggesting the dissemination of biased or misleading information on a not insignificant scale in light of the plural. The focus of Legendre's wrath was so-called 'gay' marriage, a legal development that he abhorred and variously castigated as an attempt to 'inflect culture,'[4] a 'fanatical belief,'[5] and an 'imposture.'[6] Quite apart from the vehemence of his objection (as it happens, the vociferous language that I quote stands as a milder version of the antagonism that Legendre displayed elsewhere),[7] chronological details show Legendre to have been one of homosexual marriage's earliest opponents in French print.[8] (Charitable interpretation *oblige*, I hasten to specify that the 'dogmatic anthropology'

3 *Ibid.*, p. vii ['la militance homosexualiste'/'forçage de propagandes'].
4 *Ibid.* ['infléchir la culture'].
5 *Ibid.* p. viii ['croyance fanatique'].
6 *Ibid.* ['imposture'].
7 Eg: Pierre Legendre, 'Nous assistons à une escalade de l'obscurantisme' [Interview with Antoine Spire], *Le Monde*, 23 October 2001, p. 21: '[T]o institute homosexuality with a familial status is to put the democratic principle in the service of fantasy. It is fatal to the extent that the law, founded on the genealogical principle, hands over to a hedonist logic inherited from Nazism' ['(I)nstituer l'homosexualité avec un statut familial, c'est mettre le principe démocratique au service du fantasme. C'est fatal, dans la mesure où le droit, fondé sur le principe généalogique, laisse la place à une logique hédoniste héritière du nazisme']. Legendre was then reacting to the 1999 French enactment of the 'civil solidarity pact' ('pacte civil de solidarité' [PACS]), a court-stamped and court-registered civil union contract conferring legal status to homosexual couples. While significant, the rights and responsibilities issuing from the pact fall short of those pertaining to marriage.
8 Legendre's assault on the expansion of marriage is included in *L'Amour du censeur*'s second foreword. Now, a brief entry in the book reveals that the text was printed in February 2005. Because the new preface runs to a little over seven printed pages only and does not include references, it would not have been a long-term writing endeavour, which allows one to surmise that Legendre would have produced this further preamble in the course of 2004, in all likelihood during the second half of the year, perhaps over the summer vacation. If my hypothesis is sound, his brief script (and stentorious remonstration) would therefore have followed in the immediate wake of the earliest public (and widely publicized) official demonstration of support for homosexual marriage in France. On 5 June 2004, the mayor of Bègles, a town of 30,000 people near Bordeaux, had married two men on the ground that the French civil code did not specify marrying individuals to have to be of different sexes. This controversial initiative, subsequently annulled in the courts, proved to be the precursive motion that led to the promulgation into force of a French statute recognizing homosexual marriage on 17 May 2013.

that Legendre championed comprised a symbolic law whereby the ternary system father-mother-child performed as an invariant institutional structure founding and ordering society, the keystone of all normativity.[9]) Instead of this brand of 'topical' pronouncements, then, I wish to engage with another of Legendre's political stances of a different sort: his fervent and sustained attack on French law-faculty pedagogy. As opposed to an antinationalist or anti-gender agenda and the 'voguish' colour these may carry (fashionability evidently not invalidating significance), Legendre's profound interest in French legal education addresses a traditionary dispositive that informs the *longue durée* of French legal culture. The corusticating intransigence of *L'Amour du censeur*'s demurrer to the academic tactics having insistently assumed epistemic governance within French legal education for many centuries would clearly have been instrumental – much more so than the author's views on nationalism or marriage – in provoking the antagonistic reaction from his colleagues that Legendre conjures in his dedication to me.[10]

Before proceeding, I must forthwith declare an interest inasmuch as I emphatically side with Legendre: in my view, no formulation can be too strong to chastise the utterly dire (and crudely self-congratulatory) pedagogical model obtaining in France's law faculties. I adopt this position not so much as an observer of the French academic scene but as a participant therein on the basis of more than 25 years of full-time teaching at the Sorbonne, thus as a *spectactor* (although, unlike Legendre, I do not lecture on French law except as foil in my various comparative-law courses).[11] My ambition is

9 It has been cogently observed that while Legendre repeatedly chastises homosexual marriage as a calamitous attack on the ternary structure that he regards as absolutely and uniquely fundamental to the social order from a normative standpoint, he restricts his contest to *male* homosexuality only. See Bruno Perreau, 'Faut-il brûler Legendre?,' *Vacarme*, 2003/25, pp. 62 and 67. Legendre's discriminating focus has prompted the charge that he espoused an anti-'gay' discourse: see Perreau, 'Faut-il brûler Legendre?,' p. 65.

10 Unsurprisingly, I should think, Legendre thus failed to get himself elected at the *Collège de France*. For an autobiographical account of his *déroute*, see Pierre Legendre, *L'Avant dernier des jours* (Ars Dogmatica, 2021), pp. 220–227. The date of Legendre's defeat remains imprecise as the only indication to be had is 'End of the 1980s': Legendre, *L'Avant dernier des jours*, p. 221 ['Fin des années 1980'].

11 A Sorbonne colleague of mine having expressed acute weariness of teaching a section of the first-year, first-semester course consisting in a general introduction to French law, I volunteered to replace her. Although my native language is French, despite the fact that I hold both an advanced degree by coursework and a doctorate in French law from the Sorbonne, notwithstanding my then ten-year directorship of a postgraduate programme at the Sorbonne, and irrespective of my then ten years of teaching experience at the Sorbonne, I was promptly told by the institutional powers that be how courses devoted to French law, not least within the all-important first-year curriculum, were 'reserved' ('réservés') for *French* law professors. Under the circumstances, such deeming of professional competence (or incompetence) by way of explicit reference to one's birth certificate had the effect of (safely) excluding me from the first-year classroom.

therefore to submit a supportive commentary on Legendre on French legal education. First, after a few preliminary and general observations on critique, I propose briefly to summarize Legendre's position. Secondly, I purport to apply his argument – to offer a case study – with a view to vindicating what I regard as Legendre's perspicuous and courageous insights. While I am concerned to produce a worthy gloss – at the very least a gloss worthy of Legendre – I am also keen to reach beyond restatement to implementation and indeed to engage in a deployment of his negative critique that Legendre himself did not conduct, certainly not to my knowledge, hence the consolidating illustration I shall harness at a later juncture.

Critique – To Sensify

At the outset, I want to emphasize how I wholly embrace the duplicating or protective inclinations that Jacques Derrida has identified as structurally concerning commentary.[12] And I endorse the idea that a commentary 'well permits to say something other than the text itself but on condition that it be that text itself that be said.'[13] I am indeed keen to convey Legendre's analysis on its own terms, which is why I propose to quote from him repeatedly. I am comfortable with the exhortation that 'the reading . . . cannot legitimately transgress the text towards something other than itself.'[14] Indeed, I accept that there is 'the law of the . . . text, . . . its injunction, . . . its signature.'[15] And '[n]ot to shirk from this law is thus to do everything not to betray, not to betray both the law and the other.'[16] As I envisage the matter, my interpretive task is 'to say yes to the work that comes before me and that will have been without me, a work that was affirmed and signed already with a "yes" from the other,' with Legendre's 'yes' – his 'yes,' in effect, a resounding 'no' to the orthodoxy – 'so much so that my own "yes" is . . . a sort of benediction and of alliance.'[17]

12 See Jacques Derrida, *De la grammatologie* (Editions de Minuit, 1967), p. 227.

13 Michel Foucault, *L'Ordre du discours* (Gallimard, 1971), p. 27 ['permet bien de dire autre chose que le texte même, mais à condition que ce soit ce texte même qui soit dit'].

14 Derrida, *De la grammatologie*, p. 227 ['la lecture . . . ne peut légitimement transgresser le texte vers autre chose que lui'].

15 Jacques Derrida, 'Fidélité à plus d'un,' *Cahiers Intersignes*, 1998/13, pp. 221 and 262 ['la loi d(u) . . . texte, . . . son injonction, . . . sa signature'].

16 Jacques Derrida, 'Contresignature' (unpublished 2000), [p. 30] (on file) ['(n)e pas se dérober à cette loi, c'est donc tout faire pour ne pas trahir, pour ne pas trahir et la loi et l'autre'] (hereinafter 'Contresignature'). As of 1 August 2026, this text remains unpublished in its original version. I am grateful to Leslie Hill for supplying me with the French essay. For a published English translation, see Jacques Derrida, 'Countersignature,' (trans. Mairéad Hanrahan), *Paragraph*, 27, no. 2, 2004, p. 7.

17 Derrida, 'Contresignature,' [p. 30] ['dire oui à l'œuvre qui vient avant moi et qui aura été sans moi, œuvre qui fut affirmée et signée déjà d'un "oui" de l'autre'/'si bien que mon propre "oui" est . . . une sorte de bénédiction et d'alliance'].

Inevitably, however, notwithstanding how duplicating or protective, how loyal I aspire my secondary text to be, it is the case that my commentary cannot but remain, well, *my* commentary. The text that I generate necessarily conveys *my* selection of Legendre's thoughts and *my* excerpts from his formulations, *my* choice of words in English translation, and *my* interpretive inflexions at whatever level of consciousness these happen to manifest themselves, in other terms, whether I am fully aware of them or succumb to the rampaging id. As it comes into contact with *L'Amour du censeur* – with the vocabulary that Legendre chose to retain against its semantic extension as he understood it in Paris in the early 1970s – my interpreting mind, intervening in the form of its 2026 instantiation, immediately impacts on the *interpretandum*: no interpretation-out is possible without interpretation-in materializing *ipso facto*. And because my interpreting mind works as an input device (it inputs meaning, it *makes* sense), it is thereby enactive – which means that, by dint of interpretation, no matter how purportedly restrained (there are Legendre's words, there), my interpreting mind constitutes the text (it fashions it), and it does so from its encultured standpoint (it angles it). In effect, if only in a 'meremost minimum' manner,[18] there is an uncircumventable sense in which my interpreting mind fabricates the text that is there, before it, through an additional text of its own. Consider Audrey Wasser's appreciation of the interpretive dynamics at play: 'Unless we perform a kind of "Pierre Menard" operation in which our critical reading of a text repeats the original word for word, our critical observations, even in their most self-effacing . . . mod[e], do not offer a mirror image of their object. Rather, they are elaborated in a new discourse.'[19] Wasser aptly specifies how '[critical] discourse produces a new [tex]t, the [tex]t of its reading.'[20] While I do not wish to pursue this epistemic issue at greater length within the framework of this contribution, one could maintain that, from the standpoint of interpretive critique, the very idea of text-as-object requires to be seriously recalibrated.

As I try to account for Legendre's engagement with French pedagogical ministrations in local law faculties, to assist progress through *L'Amour du censeur*'s foothills and mountains, especially as steep escarpments present

18 Samuel Beckett, *Worstward Ho,* in *Company/Ill Seen Ill Said/Worstward Ho/Stirrings Still*, ed. Dirk Van Hulle (Faber & Faber, 2009 [1983]), p. 82.

19 Audrey Wasser, 'Empiricism, Criticism, and the Object of Criticism,' *New Literary History*, 55, 2024, pp. 473 and 481. The allusion is to a Borges short story. See Jorge Luis Borges, 'Pierre Menard, autor del Quijote,' in *Ficciones* (Alianza Editorial, 2005 [1944]), pp. 41–55. Borges's Menard is a fictional French twentieth-century writer whose literary critique of Cervantes's masterwork is line-for-line identical to the early-seventeenth-century original.

20 Wasser, 'Empiricism, Criticism, and the Object of Criticism,' p. 481.

themselves, my signature is effectively acting as a counter-signature.[21] Without, of course, seeking to countermand Legendre, without wanting to counterfeit his thought in the least, and although I would not ascribe to him any meaning that I do not honestly perceive as being potentially there in his words and sentences, inviting elicitation – while I would not consciously embellish or deface Legendre's text – I am perforce operating contrapuntally vis-à-vis his book, the counterpoint consisting of music that is appended to accompany and supplement the principal melody. If you will, ultimately I must proffer the only Legendre that I can ever have at my disposal: Legendre as I read him, my Legendre – which is not, which cannot be, Legendre *tel quel* (as such), whatever that unimaginable Legendre might actually be – my Legendre, then, which must *differ*. Indeed, interpretation is an activity: it is something that one *does* to the text that one is engaging; hence the idea of necessary transformation.

But how to make interpretive headway? Once again, my approach is Derrida's: 'I ask the question but I have no answer. Not only do I have no answer, but I hold that there must not be an answer in the form of a general norm, of a rule, or of a prior criterion. By definition, there must be no prior answer or method or technique. There must be each time . . . what remains and has to remain a unique event.'[22] For the interpreter, as a matter of the justice that is owed the text and its idiomaticity, on account of the debt that must be acquitted given the text's singularity and its difference from every other text, because of the imperative simultaneously to seek textual cognizance and recognizance, even as he faces 'the idiom absolute, absolutely irreducible, untranslatable' of the text,[23] the creditability of his negotiating motion is primordially a matter of *flair* (which the *Oxford English Dictionary* defines as 'sagacious perceptiveness' or 'instinctive discernment').[24] I must contend, to be sure, with the fact that, despite my intervention, irrespective of how audacious and sophisticated my interpretation, how refined my insights and intuitions, how rich my language of explanation and justification, there is what will ultimately persist as the inaccessible, hidden, encrypted remainder:

21 Derrida observes that the prefix 'contre' can signify 'opposition' (I am 'contre' her views or I am against her views) or 'proximity' (I am leaning 'contre' the wall or I am leaning against the wall). For Derrida, '[e]vidently in countersignature, the word has the sense of proximity': Derrida, 'Contresignature,' [p. 16] ('[é]videmment dans contresignature, le mot a le sens de proximité').

22 Derrida, 'Contresignature,' [p. 31] ('[J]e pose la question mais je n'ai pas de réponse. Non seulement je n'ai pas de réponse, mais je tiens qu'il ne doit pas y avoir de réponse sous la forme d'une norme générale, d'une règle ou d'un critère préalable. Par définition, il ne doit pas y avoir de réponse préalable ou de méthode ou de technique. Il faut chaque fois … ce qui reste et doit rester un événement unique').

23 *Ibid*., [p. 30] ('l'idiome absolu, absolument irréductible, intraduisible').

24 The word is in Derrida, *De la grammatologie*, p. 233 ['flair'].

Legendre's text is, properly, *unsaturable* (a secret to which it is *entitled* and that protects it from its total appropriation and from an ensuing dissolution into the narration of it).

Theorique – To Signify

What, then, is Legendre claiming, and how to iterate his theorique meaningfully – my re-presentation (my presentation anew) unavoidably a simplification and thus a fiction, arguably a tale. Perhaps I can begin by observing that *L'Amour du censeur* carries a subtitle, 'essai sur l'ordre dogmatique' ('essay on the dogmatic order'). Interestingly, I find, the first time that Legendre mentions his book in the updated foreword, as he proceeds to summarize the story of the text's publication, he actually designates his work by reference to its subtitle only – which he capitalizes as if the subtitle were the title.[25] Such substitution must suggest that Legendre's subtitle was anything but meaningless from his perspective. And there is a phantom title, too, *Les Excommuniants* ('The Excommunicants'). Legendre explains that, if he had had his way, such would have in fact been the book's title. (In idiomatic French, one who operates an excommunication is an 'excommunicateur.') However, Jacques Lacan, of psychoanalytical fame and erstwhile director of the series where Legendre was having his critique published (and whose argumentative disciple Legendre was within the *Ecole freudienne de Paris* that Lacan had founded in 1964 and purported to lead with uncompromising authority), vetoed the authorial preference. Reflecting on this interdict 30 years hence in the context of *L'Amour du censeur*'s second foreword, Legendre submits that Lacan's difficulty with the relevant substantive, which was being mobilized most strenuously indeed, was that it proved much too sensitive for him. Indeed, Lacan, behaving as a fully-fledged '[s]chool leader,'[26] was actively in the business of decreeing excommunications from his group of followers, who were effectively committed to strict obedience and not allowed to stray.[27] Legendre thus raises the matter of Lacan's 'wound,'[28] a term that, in psychoanalytical parlance ('narcissistic wound' is also common), wants to

25 Legendre, *L'Amour du censeur*, p. i.

26 *Ibid*. ['(c)hef d'école'].

27 In the second preface, Legendre specifies that what I style the phantom title was salvaged for the Italian edition: see *Ibid*. Without naming the Italian text, Legendre is referring to Pierre Legendre, *Gli scomunicanti: saggio sull'ordine dogmatico*, trans. Elena Caetani et al. (Marsilio, 1976). While I am not privy to the vagaries of Italian editorial processes – one easily imagine twists and turns, not necessarily to the author's liking – this title was eventually superseded upon publication under a new editorial imprint, and the Italian version returned to the published French caption. See Pierre Legendre, *L'amore del censore: saggio sull'ordine dogmatico*, trans. Elena Caetani et al. (Spirali, 2007).

28 Legendre, *L'Amour du censeur*, p. i ['plaie'].

foreground the disturbance both in one's sense of how one relates to oneself and to others. In the event, Legendre's book appeared in Lacan's series as *L'Amour du censeur*, the title that has long become familiar.[29]

As I read the subtitle and the phantom title, they resonate with one another. The ideas of a 'dogmatic order' and of 'excommunicants' do effectively go hand in hand as the dogmatic character of the order – the presence of a dogma (etymologically, a doctrine or tenet) – assumes gatekeepers and indeed expellers. And the presence of gatekeepers or expellers can only prove relevant if there is a dogmatic order to be preserved. One important distinction between the two formulations is that the term 'excommunicants' specifically introduces a religious dimension that the expression 'dogmatic order' does not imply. Not only is an 'excommunicant' performing an exclusion from the community, but he is also prohibiting participation in the sacraments or in religious rites generally. If discreetly, the semantic motion towards *L'Amour du censeur*, the 'softened title' that eventually placated Lacan,[30] modifies the focale as a brief analytical excursus must disclose. The 'dogmatic order' is the 'what': it is what there is, what is in place, there. For its part, the 'excommunicant' is the 'who': it concerns who ensures that what there is remains what it is. Meanwhile, the revised title moves the cursor to the 'how': as

29 Legendre seemed to value the fact that he was not releasing his work with one of the leading French law publishers. He underscored how 'this book is not being published under any label whatsoever': Legendre, *L'Amour du censeur*, p. 9 ['ce livre n'est pas publié à n'importe quelle enseigne']. *L'Amour du censeur* appeared with Editions du Seuil, one of France's principal and highly respected literature and humanities publishers, under the 'Champ freudien' ('Freudian Field') imprint. For his part, Lacan claims that, as series director, he had to 'force' the text to enter the catalogue (one assumes that Lacan is referring to pressure on the publishers rather than on Legendre himself): Jacques Lacan, *Les Non-dupes errent* <http://staferla.free.fr/S21/S21%20NON-DUPES....pdf> (23 April 1974), p. 83 ['forcer']. The reference is to one of Lacan's famous seminars that took place in Paris from 1953 until his death in 1981. The release of the transcripts began in 1975 under the editorship of Jacques-Alain Miller, Lacan's son-in-law. As of 1 August 2026, 16 out of the 25 planned volumes have seen the light of day, publication having been plagued by litigation, on one hand, and acrimonious disputes between the editor and the publishers, on the other. The 1973–1974 seminar that I mention, *Les Non-dupes errent*, remains unpublished; hence my reference to a website where a full transcript is said to be available. At the very beginning of the meeting I indicate, Lacan, apologizing for having omitted to do so on the occasion of the prior class (which had taken place on 9 April), informed his students of the appearance of Legendre's book and proceeded to 'encourage strongly' the reading of it 'with a bit of care' because 'they will learn something from it' ['incite vivement'/'avec un peu de soin'/'ils en apprendront quelque chose']. Despite Lacan's show of support, his relationship with Legendre, according to the latter's own description, was 'stormy': Legendre, *L'Avant dernier des jours*, p. 22 ['orageuse'].

30 Legendre, *L'Amour du censeur*, p. ii ['titre adouci']. Meanwhile, Lacan did not seem to be particularly fond of this revised title. The unenthusiastic words he directed at his audience were that 'it is a title, one as worthy as any other': Lacan, *Les Non-dupes errent*, p. 83 ['c'est un titre, autant celui-là vaut qu'un autre'].

the excommunicant undertakes to preserve the dogmatic order, he does so through the transmission or dissemination of a disposition consisting in the love of the censor. Otherwise said, it is through love of the censor that the excommunicant ensures the survival of the dogmatic order. Love of the censor is the apposite vehicle, the proper strategy, the apt tactic for the dogmatic order to *live on*.

Note that the phrase 'love of the censor' heralds a double entendre as it refers at once to the love expressed by the censor (love of the censor in the sense of the censor's love for his people) – technically, a 'subjective genitive' – and to the love being expressed by the people towards the censor – an 'objective genitive.' The idea for the excommunicant is therefore to show the censor's love for his people and, correlatively, to instill in the people a love for their censor – the censor that Legendre has in mind being, of course, the state, specifically, the French state. As regards the excommunicants, Legendre addresses a particular constituency, the law professors. And as concerns the people, he has in mind those being educated in the law. My summary of Legendre's thought in *L'Amour du censeur* therefore emphasizes these two groups. Moreover, it showcases the book's title in its 'objective genitive' guise. In sum, I am interested in Legendre's explanation as to how French law professors, acting as excommunicants, educate their students into a love of the French state – which entails that they institutionalize their students as docile withholders of critique of the French state.

What, then, is Legendre claiming? In the absence of private law schools in France, French law professors are civil servants – in Legendre's language, 'acting servilities.'[31] Not only are French law professors therefore state employees, but, in order to accede to the professoriate, they must earn state accreditation through a qualifying examination wholly administered by the state known as 'aggregation' ('agrégation'). They then become 'aggregated' ('agrégés').[32] (In 1957, the year he took France's aggregation examination in legal history, Legendre ranked first in the country.) Note that this state validation process, which lasts an entire academic year and involves four stages (all of them oral), occurs in addition to the doctorate, also a non-negotiable, state-regulated prerequisite to a French academic career. Acting on behalf of the state whose institutional emanation they are, the state to which they owe their very institutional existence – whose incarnation they effectively are – law professors thus spontaneously appear before their students as state defenders and as committed upholders of the state's law-texts (that is, of

31 *Ibid*. ['servilités agissantes'].

32 The Latin 'grex,' 'gregis' evokes the herd. 'Aggregation' thus suggests the idea of adding a further entity to a mass. With law professors in mind, Legendre most provocatively refers to the 'biped herd': *Ibid*., p. 143 ['troupeau bipède'].

the state's statutes and codes), ultimately speaking in the state's interest. (Observe that law professors are actually prohibited from writing a legal opinion against the state or from suing the state.[33]) French law professors, as Legendre casts them, thus assert a weird continuation of state worship and lunatic concern with hypertextuality, a case of severe obsessional neurosis. (Importantly, in vindicating the state's law-texts, French law professors are simultaneously operating to their own advantage because, ever since Roman times, they have been the most prestigious of local legal interpreters even as their readings lack the direct normative strength enjoyed by judges, the latter nonetheless confined to professional anonymity, lacking any public profile whatsoever, and suffering from a massive social-status deficit that harks back to Revolutionary days.) Both as state and text idolaters, French law professors proceed to transmit to their students their own institutional comportment vis-à-vis the French state and its law-texts, in effect their own gratitude towards the state, their own love of the state and its law-texts – and their correlative self-repression of critique.

It is not, of course, that all critique is absent from the French law classroom or from French law reviews (although a former student frankly explained to me how she had been expressly instructed, upon assuming her law professorship, that she was henceforth to avoid any critique by name). But the institutionalization of the law teacher as an organ of the state emphatically 'dissuade[s] from the interpretive effort, held as illicit, that is, subversive, beyond a certain frontier designated as impassable.'[34] From the standpoint of the institution, the only permissible critique of the state's law-texts is therefore that pertaining to the realm of 'connivences.'[35] If you will, 'the word of a doctor' – remember how all French law professors are doctors – must be confined to the enhancement of textual logic broadly understood.[36] Specifically, the law professor is concerned 'to avoid hiatuses, . . . resorb distortions, . . . avoid contradictions.'[37] In effect, his rigorously analytical observations are designed to improve 'power's magnum opus.'[38] In Legendre's words, 'in the analytical experience a gloss introduces itself and logic parades.'[39] Otherwise said, 'academic research yes' but 'on condition not to discover anything, not

33 See *Code général de la fonction publique* (General Code of the Civil Service), art L–123.1.

34 Legendre, *L'Amour du censeur*, pp. 8–9 ['dissuad(e) de l'effort interprétatif tenu pour illicite, c'est-à-dire subversif au-delà d'une certaine frontière désignée comme infranchissable'].

35 *Ibid*., p. 8 ['connivences'].

36 *Ibid*., p. 9 ['la parole d'un docteur'].

37 Jacques Chevallier, 'L'ordre juridique,' in *Le Droit en procès* (Presses Universitaires de France, 1978), p. 11 ['éviter les hiatus, . . . résorber les distorsions, . . . éviter les contradictions'].

38 Legendre, *L'Amour du censeur*, p. 5 ['le grand œuvre du pouvoir'].

39 *Ibid*., p. 8 ['dans l'expérience analytique s'inaugure une glose et parade la logique'].

to expose anything that comes to make trouble.'[40] Given the institutional 'handling' and 'porterage' of law professors,[41] there is at their disposal 'this means, the only one, consist[ing] in operating a return to the text.'[42] Textual questions are 'the only legitimate questions,'[43] and it behooves the French jurist 'not to say more,'[44] 'not to explicate matters too much.'[45] It follows that the brand of critique that would seek to confound the text's foundations – say, an economic analysis or a patriarchal incrimination – is unsustainable (literally, it *cannot* be sustained): '[T]he doctor . . . can never be a rebel.'[46] Incessantly, 'dogmatism . . . cuts short radical deviation and the arguments *for* and *against* develop within the zone defined by the text.'[47] Anything else – a neo-Marxist objection or a decolonial refutation – would be branded an impeachable over-interpretation akin to 'playing the piano with a hammer.'[48] It would not be law; it would be *outlawed*. In sum, the French law professor's remit is rigorously analytical – or, even more accurately, *catechetical* (but more on the *professeur de droit* as 'defen[der] of the Faith' presently).[49]

Two major pieces still require to be assembled in order to complete Legendre's jigsaw depicting French law teaching: culture and Cæsaro-papism. As regards culture, Legendre shows himself determined to overcome the opposition between the individual (specifically, the law professor) and society. Indeed, he foregrounds enculturation, that is, 'the institutional beyond of the insular subject.'[50] In slightly different language, he

40 *Ibid*., p. i ['(r)echerche oui'/'à condition de ne rien découvrir, de ne rien mettre à découvert qui vienne jeter le trouble'].
41 *Ibid*., p. 7 ['maniement'/'portage'].
42 *Ibid*., pp. 7–8 ['ce moyen, le seul, consist(ant) à faire retour au texte'].
43 *Ibid*., p. 99 ['les seules questions légitimes'].
44 *Ibid*. ['ne pas en dire davantage'].
45 *Ibid*., p. 161 ['ne pas trop expliciter les choses'] (emphasis omitted).
46 *Ibid*., p. 107 ['le docteur . . . ne peut jamais être un rebelle'].
47 *Ibid*. ['(l)e dogmatisme . . . coupe court à la déviation radicale et les arguments *pour* et *contre* se développent dans la zone définie par le texte']. Cf Roland Barthes, *Critique et vérité* (Editions du Seuil, 2002 [1967]), p. 5: 'To make a second writing with the first writing of the work is indeed to open the road of unforeseeable relays, the infinite play of mirrors, and it is this escape that is suspicious' ['Faire une seconde écriture avec la première écriture de l'œuvre, c'est en effet ouvrir la voie des relais imprévisibles, le jeu infini des glaces, et c'est cette échappée qui est suspecte'].
48 Legendre, *L'Amour du censeur*, p. 8 ['jouer du piano avec un marteau'].
49 *Ibid*., p. iii ['défen(deur) de la Foi'].
50 *Ibid*., p. v ['l'au-delà institutionnel du sujet insulaire'] (emphasis omitted). The binary subject/object having been decisively obsoleted on account of Heidegger's conclusive critique of Cartesianism's devotion to the will's self-determination of reason and self-legislation of knowledge, I cannot know to what extent Legendre was committed to the term (or how he understood it). It is at least plausible that since he was writing in France in the early 1970s, at a time when Heideggerian inroads into French thought remained limited, Legendre would spontaneously have used the word 'sujet' in the absence of any plausible alternative, even though he would have entertained reservations about its agential connotations (as would

observes 'the inter-belonging of the subject and of culture.'[51] When French law professors operate, they are clearly doing so as encultured (or worldly) entities rather than as individual agents bringing to bear their unfettered will. The French law professor *is* unreservedly encultured and *is* uncontestedly a cultural product; having been springed by culture, he exists *as* cultural output. To enunciate the matter economically, culture takes the form of a normative framework, of a structure of epistemic governance (there is accordingly the significance-establishing role of culture), which means that the French law professor always-already finds himself located in a meaningful world providing him with adjudicative bearings that he incorporates or embodies. The French law professor's legal mind is always-already fashioned, shaped, constructed – it is edified – culturally: it is framed, even as one is hardly conscious of the process. Although culture need not in the least be approached as deterministic, it clearly curtails the individual's freedom – specifically, it constrains the French law professor's leeway to conceptualize his role freely. Rather, he must do as is done: he must speak as is spoken and write as is written. Ultimately, it is not this or that professor of law speaking: it is *the* professor of law. There is thus the structuring power of culture, which articulates the forcible induction into the good manners of the state's law. Effectively, the self-in-the-law belongs to culture more than culture belongs to it: in particular, the French law professor cannot mould French legal culture his or her way.

What qualifies as 'cultural,' of course, pertains to interpretation, interpretation itself being a question of culture. For Legendre-as-French-law-professor-and-historian-of-French-law, for someone thus situated and specifically attuned to French academic ways, it is ancestry that matters above all, especially how French university practice in law faculties can and must be traced to Cæsaro-papism – 'Roman' emperor Justinian was at once a political and a religious leader, the sixth-century *Digest* inscribing its existence both as political enactment and as sacred scripture[52] – such that a French law professor

indeed befit a psychoanalytically inclined jurist). Interestingly, Lacan, Legendre's *maître-à-penser*, had translated and published a text of Heidegger's as early as 1956. See Dominique Janicaud, *Heidegger en France*, vol. 1 (Albin Michel, 2001), p. 217n121. The year before this release, Lacan had in fact met Heidegger in Freiburg: *Ibid*., p. 217. Be Legendre's 'Heideggerianism' as timid as it may have been in the 1970s, express references to Heidegger appeared and indeed multiplied in his work over time. See Baptiste Rappin, 'Une "rencontre": étude de la présence de Martin Heidegger dans l'œuvre de Pierre Legendre,' *Droits*, 2020, no. 2, p. 157.

51 Legendre, *L'Amour du censeur*, p. vi ['l'entre-appartenance du sujet et de la culture'].

52 For example, Justinian's *De conceptione digestorum* – his instructions to Tribonian, the *Digest*'s chief compiler – begins with the famous words 'Deo auctore' ('By the Authority of God'): *Deo auctore*, pr, in *The Digest of Justinian*, vol. 1, ed. Theodor Mommsen, Paul Krueger, and Alan Watson (University of Pennsylvania Press, 1985 [533]), p. xlvi [hereinafter

is effectively and meaningfully acting as a 'priest' of the law,[53] his reverential attitude vis-à-vis the state and its law-texts very much 'an academic liturgy.'[54] Assessing French law teaching, contemplating the liturgical disposition at work, Legendre attests to a 'religious marking,'[55] and it is this narrative that I now purport to summarize while observing how Legendre's argument is infinitely richer than any conspectus I might offer. Without a doubt, Legendre's thesis on the sacramental character of French legal education, whereby the pedagogical and spiritual realms are not two separate spheres occasionally blending into one another but rather a single entity, repays the closest reading.

Effectively conducting a tracing exercise through an erudite compendium of scholarly characters from the thirteenth century onwards, most of whom Latinists and many of whom quoted (and translated), Legendre postulates an 'uninterrupted tradition,'[56] a continuity that he calls 'absolutely fundamental,'[57] whereby '[the] doctrines of the old theologico-canonical stock' have come to structure the whole institutional order concerning legal knowledge.[58] In this regard, Legendre refers to 'the exemplary case of French centralism.'[59] In France more than anywhere else, in Legendre's view, the state and its jurists have conducted 'the assimilation of traditional categories,'[60] that is, there is now 'the centralist state as monotheist substitute.'[61] If you

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Watson]. Consider three further revealing quotations from Justinian's *De confirmatione digestorum*, his preface to the work (I deliberately omit the Latin original): 'We, therefore, in our accustomed manner, have resorted to the aid of the Immortal One and, invoking the supreme Deity, have desired that God should become the author and patron of the whole work' (*Tanta*, pr, in Watson, vol. 1, p. lv); '[O]ur majesty . . . amended, in reliance on the Heavenly Divinity, anything that was found to be dubious or uncertain, and reduced it to a proper form' (*Ibid*.); and '[W]e gave abundant thanks to the Supreme Deity, who has vouchsafed to us . . . the giving of the best laws, not merely for our own age but for all time, both present and future' (*Tanta*, 12, in Watson, vol. 1, p. lx). Hence Ulpian: '[K]nowledge of civil law is indeed a most hallowed thing': D 50 13 1 5, in Watson, vol. 4, p. 929 ['(R)es sanctissima civilis sapientia'].

53 D 1 1 1 1, in Watson, vol. 1, p. 1 ['sacerdot(e)']. See, generally, Gilbert Dagron, *Empereur et prêtre: étude sur le 'césaropapisme' byzantin* (Gallimard, 1996). For an updated appraisal, see, also, Carlos Amunátegui Perelló, 'Deo Auctore: Power and Ideology in Late Antiquity,' *Revue internationale des droits de l'Antiquité*, 69, 2022, p. 25.

54 Legendre, *L'Amour du censeur*, p. 99 ['une liturgie universitaire'].

55 *Ibid*., p. iv ['marquage religieux'].

56 *Ibid*., p. 226n1 ['tradition ininterrompue'].

57 *Ibid*., p. 218 ['absolument fondamentale'].

58 *Ibid*., p. 226n1 ['(l)es doctrines du vieux fonds théologico-canonique'].

59 *Ibid*., p. 219 ['le cas exemplaire du centralisme francais']. Legendre also writes that in France, 'the patriotic spirit faithfully shows the closest dependencies on the ecclesiastical model': *Ibid*., p. 55 ['l'esprit patriote montre fidèlement les plus étroites dépendances du modèle ecclésiastique'].

60 *Ibid*., p. 227 ['l'assimilation des catégories traditionnelles'].

61 *Ibid*., p. 195 ['(l)'Etat centraliste comme substitut monothéiste'] (emphasis omitted).

will, 'the laic order . . . translates the Christian order,'[62] which means that 'the content of laic prescriptions is ultimately, essentially, but a redoubling of the old canonical censure.'[63] Now, such a conquest and transfer of the pontifical logic – 'this connivence of the nationalist and laic institution with its religious precedents'[64] – has been so successful that nowadays in France '[t]he sacred is . . . totally present in all that touches the [l]aw.'[65] Otherwise said, '[t]he [French] state . . . is nothing other than the pontiff-state.'[66] Arguably, the main legacy of this transmission process as it has traversed the centuries is 'the infallible pontifical figure.'[67] In effect, the pontiff-state holds 'the only possible discourse' and 'through it, it is logic that speaks.'[68] This discursive monopoly, whereby the state 'subdue[s] religiously its subjects,'[69] 'dispossesses any human [thus any jurist] of the pretence of having something to say.'[70] Specifically, the idea that any individual vocification could relevantly supplement the official speech is thereby excluded. For Legendre, infallibility is to be understood 'on the scale of the institutional order as a whole, as a benefit, that is, as gratification, the gift rendering insubmission unthinkable.'[71] The doctrine of infallibility indeed answers a 'request for tyran[ny]' that, at the very least, takes the form of a willing alienation of one's cognitive autonomy, of an abdication of one's agency, with a view to being officially made into a French professorial jurist by the state through the state-sanctioned doctorate and aggregation examination, a framing that channels the desire to think like a French jurist, to think the way *they* think.[72] In other words, the 'propag[ation] [of] obedience' meets a 'desire for obedience,'[73] 'the love of subordination.'[74]

62 *Ibid*., p. 205 ['l'ordre laïque . . . *traduit* l'ordre chrétien'] (emphasis in original).
63 *Ibid*. ['le contenu des prescriptions laïques n'est finalement, pour l'essentiel, qu'un redoublement de la vieille censure canonique'].
64 *Ibid*., p. 220 ['cette connivence de l'institution nationaliste et laïque avec ses précédents religieux'].
65 *Ibid*., p. 200 ['(l)e sacré est . . . totalement présent en tout ce qui touche à la (l)oi'].
66 *Ibid*., p. 227 ['(l)'Etat . . . n'est rien d'autre que l'Etat-pontife'].
67 *Ibid*., p. iv ['la figure pontificale infaillible'].
68 *Ibid*., p. 91 ['le seul discours possible'/'par lui c'est la logique qui parle'].
69 *Ibid*., p. 204 ['soume(t) religieusement ses sujets'].
70 *Ibid*. ['dépossède n'importe quel humain de la prétention d'avoir à dire quelque chose'].
71 *Ibid*., p. 201 ['à l'échelle de l'ordre institutionnel tout entier, comme bienfait, c'est-à-dire comme gratification, le cadeau . . . rendant impensable l'insoumission']. Cf Lucien Jaume, *L'Individu effacé* (Fayard, 1997), p. 456: 'It is very difficult, and socially risky, in France, *to speak in one's own name*' ['Il est très difficile, et socialement risqué, en France, de *parler en son nom propre*'] (emphasis in original).
72 Legendre, *L'Amour du censeur*, p. ii ['demande de tyran(nie)'].
73 *Ibid*., p. 5 ['propag(ation) (de) la soumission'/'désir de la soumission'].
74 *Ibid*., p. 197 ['l'amour de la subordination'].

In terms of legal education, the French law professor intervenes as the docile relay between state authority and student indoctrination, as 'transmitter of censure'[75] – '[t]he master [being] always in the place of another'[76] – the word 'dressage' Legendre's chosen and sonorous term to describe the coercive enlisting process. Indeed, Legendre speaks of law teachers conducting 'a pure and simple dressage,' a 'traditional dressage' of their students.[77] He analogizes law professors to 'a sort of theologians,'[78] individuals 'dressed into the caretaking and the monitoring of doctrines,'[79] persons engaged in 'a secular theology.'[80] Interestingly, the etymology of 'professor' teaches how one of the word's meanings refers to a person who professes a religion publicly. According to classical Latin, in the early third century, a professor could therefore be a person who affirmed a faith. In the thirteenth century, the word could refer to someone taking religious vows. And in the fifteenth century, the term could signify a person who openly preached the Christian faith.

As befits the fact of 'the perfection of Power,'[81] French law teachers carry 'the authority of the state' by way of 'teaching and practising the antique science of order.'[82] Legendre insists: '[H]aving the zeal and the caution of embalmers, they are there to preserve [things], not to get [one to] understand the mechanic of things.'[83] In brief, in the classroom 'the master . . . disposes of the power to provoke submission; he is the prestigious vigil who transmits the

75 *Ibid*., p. 121 ['transmetteur de la censure'].

76 *Ibid*., pp. 100–101 ['(l)e maître (étant) toujours à la place d'un autre'].

77 *Ibid*., pp. 5 and 20 ['un dressage pur et simple'/'dressage traditionnel']. The semantic extension of the term is wider in French than in English. While the *Oxford English Dictionary* restricts the word to the equine realm, French dictionaries offer '[f]act of educating, exercising a human being into certain comportments' ['(f)ait d'éduquer, d'exercer un être humain à certains comportements'] and, pejoratively, '[a]ction that consists in bringing the pupil mechanically to execute what the teacher expects of him ['(a)ction qui consiste à amener l'élève à exécuter mécaniquement ce que le maître attend de lui']: <https://www.cnrtl.fr/definition/dressage>. A felicitous remark of Peter Goodrich's impelled this comparative observation.

78 *Ibid*., p. 213 ['une espèce de théologiens'].

79 *Ibid*., p. 237 ['dressés au gardiennage et à la surveillance des doctrines'].

80 *Ibid*., p. 196 ['une théologie séculière'].

81 *Ibid*. ['la perfection du Pouvoir'].

82 *Ibid*., p. 195 ['l'autorité d(e l')Etat'/'enseignant et pratiquant l'antique science de l'ordre']. For his part, Chevallier describes French law professors as 'active . . . guarantors of order': Chevallier, 'L'ordre juridique,' p. 11 ['actifs . . . garants de l'ordre']. Cf Simone Goyard-Fabre, *Essai de critique phénoménologique du droit* (Klincksieck, 1972), p. 273: '[A]t the bottom of the legal crucible, it is the *need for order* that we notice' ['Au fond du creuset juridique, c'est . . . le *besoin d'ordre* que nous apercevons'] (emphasis in original).

83 Legendre, *L'Amour du censeur*, p. 214 ['(A)yant le zèle et la prudence des embaumeurs, ils sont là pour conserver, non pour faire comprendre (à quelqu'un) la mécanique des choses'].

essential political belief and conveys the love of the all-powerful.'[84] Legendre is adamant that, within 'the immemorial University,'[85] '[n]o one escapes such dressage,'[86] no one eschews the 'nationa[l] dressag[e].'[87]

And how is it in the interest of law students to obey? Because, quite simply, submission is traded for (potentially reputable and lucrative) co-optation. In Legendre's language, 'the first role of a bureaucracy is to produce positions, to let in, to protect, in return for submission.'[88] In this sense, too, the state is the pontiff allocating *beneficia*. The law student thus aspires to Power, and he readily turns to 'the state invested with the supreme task of Salvation,'[89] which, at the very least, means public accreditation as a law graduate, as someone whose state-awarded credentials qualify him as creditable expert in the ways of the law, that is, in the ways of the state's law.

Practique – To Specify

I find it vital to apply Legendre's interpretive model as regards French law teaching, to put it into action or operation, to specify it from a practical perspective. The example that I want to develop in order to illustrate what Legendre castigates as '[t]he tyrannies of the Sorbonne' concerns an aspect of form.[90] In the process, I confirm what I consider Legendre's intrepid interpretive sagacity as he refers to 'the dogmatics of dressage.'[91] I do not choose my specimen case lightly as, in Legendre's own words, 'the first warrantor of orthodoxy is actually respect for forms.'[92] Form, if you will, is not to be apprehended only as dogmatism's aesthetically pleasing envelope; rather, it stands as a compelling instantiation of dogmatism in its own right. In the words of Legendre, '[t]he institution holds its truth in the vice of the forms.'[93]

Imagine Imogene as a young jurist teaching at the Sorbonne and wishing to research a matter of French law for the purposes of a law-review article in French to be published in a French law journal. Earlier, during her ten years as a French law student at the Sorbonne, Imogene was thoroughly

84 *Ibid*., p. 102 ['le maître . . . dispose du pouvoir de provoquer la soumission; il est le veilleur prestigieux, qui transmet la croyance politique essentielle et véhicule l'amour de la toute-puissance'].
85 *Ibid*., p. 9 ['l'immémoriale Université'].
86 *Ibid*., p. 7 ['(p)ersonne n'échappe à pareil dressage'].
87 *Ibid*., p. 221 ['dressag(e) nationa(l)'].
88 *Ibid*., p. 217 ['la première fonction d'une bureaucratie est de produire des places, de faire entrer, de protéger, moyennant la soumission'].
89 *Ibid*., p. 198 ['l'Etat investi de la charge suprême du Salut'].
90 *Ibid*., p. 100 ['(l)es tyrannies de la Sorbonne'].
91 *Ibid*., p. 254 ['la dogmatique du dressage'].
92 *Ibid*., p. 97 ['le premier garant de l'orthodoxie, c'est bel et bien le respect des formes'].
93 *Ibid*. ['(l)'institution tient sa vérité dans l'étau des formes'].

and dogmatically socialized and epistemologized – encultured! – into French legal culture and into French law. Now, it is the case that all French law students learning law in France are taught systematically to articulate their writings into two parts of roughly equal length *inter se*, each part featuring in its turn two subparts of roughly equal length *inter se* also. I insist that all French students have to follow this structured and structuring pattern: all French law students – *all of them* – must methodically compose their texts – *all of them* – into two parts of roughly equal length *inter se*, each part featuring two subparts of roughly equal length *inter se*, a model that all French law students know simply as 'the plan' ('le plan'), the definite article being optimally appropriate as there is no alternative.[94] The model holds, whether one is at work on the briefest of case notes or a full-length doctoral dissertation, whether one is from Marseille or Brest, and whether one is addressing family law or constitutional law.

Think phyletic memory: French law students are being uniformly instructed to proceed in this uniform way by all of their teachers just as all of these teachers have themselves been uniformly instructed to operate in this uniform way by all of their own teachers just as all of those teachers had themselves been . . . (Since the matter is regarded in France as pertaining to elementariness, primary training responsibility in fact lies with first-year teaching assistants.) This practice could presumably be traced to epistemic influences having made themselves felt over the very many years that would in all likelihood include Ramism (a sixteenth-century, pre-Cartesian school of thought inviting further interpretation). Be the tracing exercise into the *longue durée* as it may, every French law student is always-already thrown into an analytical configuration that pre-exists him, an experience that 'befalls' him,[95] a framework that he must now apply in his own stead: there is no question whatsoever that he must do as *they* did (before him) and as *they* do (around him).[96] Culture, understood as comprising 'the inventory of procedures for

94 The English word 'plan' connotes '[a] design according to which elements of something are arranged; a scheme of organization; a configuration, arrangement, or type of structure' (*Oxford English Dictionary*). 'Outline' would not do by way of translation as the term evokes the ideas of brevity or roughness and suggests a summary or abstract. The key organizational or structural dimensions are missing.

95 Martin Heidegger, *Unterwegs zur Sprache* (Neske, 1959), p. 159: 'To have an experience with something, be it a thing, a human being, a god, means that it befalls us, that it strikes us, comes over us, upsets and transforms us' ['Mit etwas, sei es ein Ding, ein Mensch, ein Gott, eine Erfahrung machen heißt, daß es uns widerfährt, daß es uns trifft, über uns kommt, uns umwirft und verwandelt'].

96 Cf Boris Barraud, 'L'usage du plan en deux parties dans les facultés de droit françaises,' *Revue trimestrielle de droit civil*, 2015, pp. 807, 811, and 819, where the author refers to 'a demand whose obligatoriness hardly raises any doubt' ['une exigence dont l'obligatoriété ne fait guère de doute'] and who remarks that 'the student will always have scrupulously to conform himself to it' ['l'étudiant devra toujours scrupuleusement s'y conformer'].

the formation of the self,'[97] is here on full deployment, thus leading, according to Samuel Beckett's caustic carceral-space metaphor, to the making of 'a caged beast born of caged beasts born of caged beasts born of caged beasts.'[98] Indeed, it has been aptly observed that 'the plan in two parts is to [l]aw what Marianne is to the French Republic . . . : a cultural and national symbol.'[99]

As an encultured French jurist and comparatist pursuing her academic career in France and wanting to publish in a French law journal, Imogene is not in control of this organizational situation: she must comply. There is simply no way out of the French plan for her: think of the plan as an electric wire barrier, floodlit, and dog-patrolled. And observe the normative role that power plays in the inculcation of the template I am addressing: each teaching generation is robustly mastering (and therefore maintaining) the relevant institutionalization processes – including the formative epistemic influences (the epistemologization) – to which each new generation of students finds itself frontally exposed and thoroughly subordinated. Think of a reproductive unravelling of enculturation, the fact that French law students feel the uncircumventable obligation to abide by the bipartite and quadripartite framework being empirically verifiable and the further fact that, for all intents and purposes, all of them actually follow this model being no less empirically verifiable (every student's commitment being confirmed by every other student's commitment). Meanwhile, consider the additional empirically verifiable fact that Australian, Brazilian, Chinese, Danish, English, Finnish, German, Hungarian, Italian, or . . . U.S. law students do not abide by the French framework – whose tight cultural fabric brooks no reasonable contestation.[100]

97 Peter Sloterdijk, *Nicht gerettet* (Suhrkamp, 2001), p. 201 ['das Inventar von Selbstformungsprozeduren'].

98 Samuel Beckett, *The Unnamable*, ed. Steven Connor (Faber & Faber, 2010 [1958]), p. 104.

99 Mathieu Touzeil-Divina, 'Le plan est en deux parties . . . parce que c'est comme ça,' *L'Actualité juridique droit administratif (AJDA)*, 14 March 2011, p. 473 ['(l)e plan en deux parties est au Droit ce que Marianne est à la République française . . . : un symbole culturel et national']. A Belgian academic, having declared himself 'an unconditional admirer of the plan in two parts, two subparts, with titles "well balanced" that answer to one another,' has opined that such plan is 'an expression of the French genius': Laurent Kaczmarek, 'Faut-il repenser les exercices juridiques?,' in *Quelle pédagogie pour l'étudiant juriste?*, ed. Magalie Flores-Lonjou, Céline Laronde-Clérac, and Agnès de Luget (Bruylant, 2012), p. 106 ['un admirateur inconditionnel du plan en deux parties, deux sous-parties, avec des intitulés "bien balancés" qui se répondent'/'une expression du génie français'].

100 Cf Barraud, 'L'usage du plan en deux parties dans les facultés de droit françaises,' p. 812, where the author claims 'a usage that is not to be found anywhere abroad' ['un usage qui ne se retrouve nulle part à l'étranger']. I am minded to qualify this statement by excepting the locations where France has exported the plan as one of its technologies of imperial management. While on the topic of foreign jurisdictions, it is worth mentioning that there is not the slightest shred of evidence whatsoever that French student acquaintance with foreign textual architectonics through institutional ambulation – one-semester and one-academic-year exchanges,

In France, the existence of institutional authorities, of introductory books on legal writing, and of set practice sessions with teaching assistants during the first-year programme of legal studies, not to mention the presence around one of other law students who are assumed to share an equivalent or common (that is, an 'equivalent enough' or 'common enough') understanding of how a plan is to be devised, all of these forces (and no doubt a few more) generate a convergence between the various writers of law-plans making it plausible to students that the plan is a thing-like entity, a real object, that somehow exists outside of them and to which they have to pay uncompromising allegiance. Strictly speaking, of course, the atmospherics of transmission do not involve a fully integrated collective effort but rather take the form of a very stringently and most effectively (if tacitly) co-ordinated set of individual initiatives (open to inspection) that orient personal deportment *as if* there was a real entity that somehow lived beyond one and demanded unconditional obedience.

The legal culture of the plan in French law faculties is sufficiently well implanted that if a student submitted a seven-part plan with the fifth part featuring three subparts (even fathoming such a scenario to be possible), all that the law teacher would have to do upon returning the homework (quite plausibly unmarked) is look the student in the eye and say 'Sir, your

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fully-fledged joint-degree programmes, or co-supervised doctorates involving a foreign academic and implying research *à l'étranger* – has generated the faintest challenge to the governing French scheme. This immutability is readily understandable if one recalls the acute manifestations of narcissism and arrogance for which the French are (in)famous. Indeed, French law professors readily introduce the French plan as a sign of the superiority of French legal thought. E.g.: Michel Vivant, 'Le plan en deux parties, ou de l'arpentage considéré comme un art,' in *Le Droit privé français à la fin du XXe siècle* (Litec, 2001), p. 982, where the author maintains as follows: 'The plan in two parts . . . gives . . . to speech a rigour that is also, let us not hesitate to say it, a French quality that one perceives well when, for example, during an international congress, the identical theme is treated by a French jurist who leaves nothing in the shade and a jurist come from other horizons whose discourse often loses itself into meanderings and digressions' ['Le plan en deux parties . . . donne . . . au propos une rigueur qui est aussi, n'hésitons pas à le dire, une qualité française qu'on perçoit bien quand, par exemple, lors d'un congrès international, le même thème est traité par un juriste français qui ne laisse rien dans l'ombre et un juriste venu d'autres horizons dont le discours se perd souvent en méandres et digressions']. In the words of a Sorbonne colleague of mine writing about the French doctrinal rejection of a third category that would be added to those of parliamentary regime and presidential regime so as better to fit the French constitutional model, '[t]he love of binarism is stronger than anything': Eugénie Mérieau, *Constitution* (Anamosa, 2025), p. 53 ['(l)'amour du binarisme est plus fort que tout']. For his part, Legendre refers to 'the nationalist incabining': Legendre, *L'Amour du censeur*, p. 251 ['l'encabanement nationaliste']. My neologism ('incabining') wants to account for Legendre's ('encabanement'), the derogatory slant meaning to underscore the idea of 'confine[ment] within narrow and hampering bounds' (*Oxford English Dictionary*).

plan . . .' ('Monsieur, votre plan . . .').[101] The law teacher would not be required to prove more specific since he would be speaking on the basis of a tacit assumption that the pattern of plan writing is so well-known that one can easily draw on this conusance in order to appreciate its uncompromising normativity in the most immediate terms. The teacher's admonition would also reveal his own embrace of the cultural model of plan writing and his firm determination to uphold it. Indeed, '*to defend the plan into two parts is to defend the faculties of law*,'[102] and 'its disappearance would be the sign of obscure times for the law to live through.'[103] In effect, it is hardly an exaggeration to observe that such an idiosyncratic seven-part plan as I contemplate would ultimately be regarded as a threat to the social order. (*Anecdatally* . . . As we were eating the scrambled-eggs-and-caviar breakfast that he had very kindly cooked for me in his Trinity College rooms, Tony Weir explained that he had once challenged his friend Pierre Catala, a leading French jurist, that surely not everything could be divided into two parts. Catala had encouraged Weir to offer an example of what he had in mind. Wittily, I thought, Weir had replied: 'The Holy Trinity.' Weir heartily recounted to me how Catala was unfazed and promptly proceeded to parry: 'Part One: The Holy Trinity is Three; Part Two: The Holy Trinity is One.' *Touché*.)

I am unwilling to believe that anyone (except, perhaps, *mes chers collègues*) would be seriously prepared to profess that the coerced rationalization of French students' legal writing is bereft of programmatic values – that it would be *wertfrei*, to say it like Weber – '[a] conceptual scheme [being] the first violence of all commentary.'[104] To disparage the matter as an inconsequential question of form would thus be profoundly to misunderstand the epistemic and political impact of enforced binary articulacy in the strictest accordance

101 Cf Barraud, 'L'usage du plan dans les facultés de droit françaises,' p. 820: '[A]n identical discourse held within a plan in three parts will obtain an inferior mark to the one that would be granted if the plan was bipartite' ['(U)n même discours tenu dans un plan en trois parties obtiendra une note inférieure à celle qui serait accordée si le plan était bipartite']. In the words of Legendre, 'the institution hounds its rebels': Legendre, *L'Amour du censeur*, p. 7 ['l'institution poursuit ses rebelles'].

102 Barraud, 'L'usage du plan en deux parties dans les facultés de droit françaises,' pp. 819–820 ['*défendre le plan en deux parties, c'est défendre les facultés de droit*'] (emphasis in original). Cf Marc Lemieux, 'La récente popularité du plan en deux parties,' *Revue de la recherche juridique*, 12, 1987, pp. 823 and 835, where the author reproves 'a corporatist ideology' ['une idéologie corporatiste']. Accord: Vivant, 'Le plan en deux parties, ou de l'arpentage considéré comme un art,' p. 975.

103 Barraud, 'L'usage du plan en deux parties dans les facultés de droit françaises,' p. 819 ['sa disparition serait le signe de temps obscurs à vivre pour le droit'].

104 Jacques Derrida, *L'Ecriture et la différence* (Editions du Seuil, 1967), p. 124n1 ['(un) schéma conceptuel (étant) la première violence de tout commentaire'].

with only one formal model.[105] Quite simply, the formal cannot not relate to the political (with apologies for the double negative). If only because it indicates an arrangement of elements, a patterning, since it imposes control and containment, given that it shapes what it is possible to think, say, and do, the yield of form is also political. Yes. Most strikingly, I suggest, the French compulsory systematization operates as an exercise in the strong affirmation of institutional power inasmuch as it purports to restrain any meaningful expression of agency and simultaneously to foster zealous obeisance to state authority (the law professors themselves being state adjuvants in their capacity as civil *servants*). Such is also the dominant ideology; such is also the deliberate intention: to keep law students in their proper place, which is one of subjugation of the legal mind (indeed of the mind *tout court*) to the state and to the state's spokespersons (the state's *porte-parole*, literally the carriers of the state's speech).

As one is addressing a spectacular case of dressage, it is understandable that the methodical accoutrements being forcibly and censoriously nurtured through the obligatory plan should evoke the epistemology of objectivation and veridiction. Crucially, the detachment of form from individuality, from particularity, acts as a depersonalization strategy that translates into the conferment of a seemingly independent existence to the plan. After all, the plan pre-exists everyone currently working as a jurist in France, irrespective of what any French jurist wishes to say or do. And the plan is, of course, the uniquely correct or exact way, the only right or proper manner, to frame one's thought – the fact that everyone else is doing likewise, the comfort of repetition, the absence of difference, contributing to every jurist's feeling of propriety and consolidating every jurist's sense of virtue. There is therefore nothing epiphenomenal about form. Rather, one is witnessing a cultural commitment that regards the French plan as essential to the affirmation of sound legal thinking: French legal education will tolerate no other form. Given their massive investment in the unity of form, a fascinating example of the most obstinate conservative activism and exclusionism, of a totalizing formalist impulse, one could say that French jurists have allowed themselves to forget about contingency and to fall into the trap of essentialization – the formal whole absorbed into the hole of formalism. And the plan is French, which means that it reinforces the very strong sense of legal patriotism, of legal imperialism, obtaining locally. If you will, there takes place a blending of formalism and nationalism. By contrast, vitality, freshness, difference – otherness – are to be adamantly silenced *through form*. The abiding institutional significance of the plan in French law faculties can be captured through an anecdata that refers to my time as a postgraduate student at the Sorbonne in the 1980s. I then had French classmates who explained to me that they had personally experienced

105 See, generally, Caroline Levine, *Forms* (Princeton University Press, 2015), pp. 1–23.

five-hour written final examinations where the law teacher demanded that answers be submitted only in the form of a bare plan.

As it happens, there is more to *elegantia juris* French style, and one must engage in 'games complicated as far as the extraordinary.'[106] Leaving to one side the fact that the law student must steadfastly resort to the so-called 'literary I,' which means the inscription of the first-person plural (the assumption being that the depersonalization of the argument translates into heightened scientificization and enhanced creditability), I find it pertinent rapidly to mention some further structural features unswervingly characterizing the French plan. For example, the first part of the binary arrangement must be preceded by a short introduction to both parts heralding how the two parts are synchronised. This introduction is known as the 'announce of the plan' ('annonce du plan'), and it must begin with a 'phrase d'accroche,' that is, a sentence to hook the reader, a catchphrase. Also, a further brief introduction (the 'chapeau' – literally, the 'hat') must herald each pair of subparts, the goal once more being to inform the reader how each sub-binary has been constructed. And then, the headings of the parts have to resonate with one another, as must the headings within each pair of subparts. The idea of resonance refers to symmetry (both as to length and contents) and to assonance or alliteration, the antimetabole being a favourite figure of speech. By way of illustration, consider the following sequence pertaining to a hypothetical French essay in comparative law (note, in passing, the assemblage of imperative formulas having the air and the tone that befit the law – after all, '[l]aw is supposed to project a sense of gravamen').[107]

I. What Comparison Can Do for You

A. To Promote Foreignism
B. To Demote Nationalism

II. What You Can Do for Comparison

A. To Inject Culturalism
B. To Eject Positivism

Observe the principal inversion and the overall synchronicity that it carries ('What Comparison Can Do . . .'/'What You Can Do . . .'). And note the further contrareities and rhymes ('Promote'/'Demote'; 'Foreignism'/'Nationalism'; 'Inject'/'Eject'; 'Culturalism'/'Positivism'). Envisage also how the headings

106 Legendre, *L'Amour du censeur*, p. 97 ['jeux compliqués jusqu'à l'inouï'].
107 Peter Goodrich, *Judicial Uses of Images* (Oxford University Press, 2023), p. 239.

and subheadings are cadenced in order to optimize what one might name 'legal aesthetics.'

Elegance, far from being a mere ornament that would be superimposed upon legal reasoning, is *constitutive* of that reasoning itself. More accurately, it stands as the visible side of the logical rigour that French jurists invest with the implementation of legal rationality.[108] In this way, it can be seen that legal systematization does not pursue a purely instrumental function aiming for an improved efficacy and serviceability of the legal norm; it also operates at the symbolic level and promotes the *belief* in the law's reason (and reasonableness) – without which the law cannot ultimately survive.[109] Legendre aptly underlines 'the primordial fact of [such] forms . . . out of which there is room for no legal doctrine.'[110] The idea informing the formal French arrangement is 'to impose a channel to the entire logical operation';[111] it is also to overcome 'the panic fear of thinking wrongly.'[112] This organization of knowledge, this 'scholarly fabric,'[113] these 'dogmatic structures,'[114] are meant 'to dominate and to operate/to rule/to deceive.'[115]

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Reading Pierre Legendre in *L'Amour du censeur*, indeed engaging in a close reading of the argument, I find that the text convincingly establishes how in French law faculties, the future is ancestral – censorially so, liturgically so, culturally so. French legal/doctrinal writing will therefore be formally regulated according to the ancient ways, and French law students will be made to pay strict obedience to the canon that their teachers-as-credentialed-civil-servants are priestially reciting to them and under whose orthodox tutelage

108 Jacques Lenoble and François Ost, *Droit, mythe et raison: essai sur la dérive mytho-logique de la rationalité juridique* (Facultés Universitaires Saint-Louis, 1980), pp. 249–250. For general reference to the civil-law ethos, see Peter Stein, 'Elegance in Law,' *Law Quarterly Review*, 77, 1961, p. 242.

109 See Chevallier, 'L'ordre juridique,' p. 12.

110 Legendre, *L'Amour du censeur*, p. 93 ['le fait primordial de (tell)es formes . . . hors desquelles il n'y a place pour aucune doctrine juridique'].

111 *Ibid.* ['imposer un canal à l'opération logique tout entière'].

112 *Ibid.*, p. 236 ['la peur panique de mal penser']. Legendre also writes of 'the obsessional reference to good thought': *Ibid.* ['l'obsessionnelle référence à la bonne pensée'].

113 *Ibid.*, p. 214 ['facture savante'].

114 *Ibid.*, p. 251 ['structures dogmatiques'].

115 *Ibid.*, p. 6 ['dominer et faire marcher']. In French, 'faire marcher' is to make something work, to render it operational (to make the coffee grinder work is to 'faire marcher le moulin à café'). The expression also carries the idea of ruling over someone, of constraining into full submission, as in, literally, 'making one walk' or 'forcing one to walk' (to make the horse walk over 25km is to 'faire marcher le cheval sur 25km'). In addition, the identical expression also means to exploit someone's credulity in order to deceive one, 'to take for a ride,' 'to delude,' 'to mislead' (to make an individual believe that he can easily succeed in the examination is to 'faire marcher l'individu'). No English verb captures all three meanings.

they are being herded. Any production of self on the part of the French law student would be heretical and must therefore be definitely stultified: the student will be prohibited from engaging in self-expression. Like the French law teacher's institutional existence (recall the aggregation and the correlative silencing of substantive academic critique), that of the French law student is only possible through a sacrificial acceptance of the loss of self. In order to obviate the symbolic murder of the French legal economy that any meaningful assertion of selfhood would unacceptably entail, there must be dressage. And, because institutional existence is wanted, there will be love of the dressar, there will be *l'amour du censeur*. Yes.