

## Making Mistakes

### Trial by Twitter and Cancel Culture

'Cancel culture' is a new variant of an old phenomenon. When Ben Jonson cautioned his playgoers each to 'exercise his owne Judgement, and not censure by Contagion',<sup>1</sup> he was alerting them to the fact that passing judgment on others can pass from person to person like a plague. If we ask why the infection starts and why it spreads so fast, we will find that the answer to both questions is the same: 'everyone's a critic'. The growth or spread that we associate with the contagion of cancellation has 'making' at its heart. The initial judgment plants the germ in Inventive mode. Causing the judgment to increase in consequence and extent makes it grow in Creative mode. Giving the judgment the air of publicity makes something new of it in Productive and co-Productive mode. Making a mistake triggers a whole series of making processes, and our language reflects this. We talk of a person *making* a mistake and of others *making* a judgment; critics *make* assumptions about the suspect's character and motive, and seek to *make* an example of them. In response to all this, the suspect might *make* an excuse, or *make* an apology, and might even seek to *make* amends. Might the dominance of 'making' language in relation to individual errors and collective responses to those errors indicate that an individual's fracture of the social fabric is made up for by the fabricating impulses of society at large? If so, the pathological metaphor of contagion might one day be supplanted by a more positive metaphor of healing in which the clustering of criticism against infractions is comparable to the cells of a body that rush to heal cuts in skin and breakages of bone – sometimes making the recreated tissue stronger than it was to begin with. If as a society we are to encourage criticism that is truly constructive in this way, we must begin by identifying and addressing some of the common errors that have given cancel culture a bad name.

#### What Is 'Cancel Culture'?

Cancel culture is a performative phenomenon characterized by collective action directed at individuals in ways that result in them being punished

<sup>1</sup> Ben Jonson, *Bartholomew Fayre: a comedie, acted in the yeare, 1614 etc.* (London: Printed by I.B. for Robert Allot, and are to be sold at the signe of the Beare, in Pauls Church-yard, 1631) Induction 86–87.

through shaming, silencing, boycotting, or banning their work, and sometimes through loss of employment and career opportunities. An example of the last of these is the no-platforming of speakers who are deemed too controversial to be heard, for example the no-platforming of academic feminists who hold views offensive to many transgender women.<sup>2</sup> In the UK, the cancellation of academic speakers risks infringing the Education Reform Act 1988, a statute which enables academics to 'question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at their institutions'.<sup>3</sup> No-platforming also risks a breach of the Education Act (No. 2) 1986, which protects the freedom of speech of visiting speakers.<sup>4</sup>

No-platforming can even strike at the public personas of the dead, as occurs for example when historic statues and memorials are literally removed from their platforms – perhaps because of an association with slavery or another colonial-era offence. Iconoclastic protests of this sort are included in this chapter as part of a broad concern with performative modes of passing judgment. Alongside cancellation by online or physical gatherings, and often as a result of it, there are numerous examples of cancellation carried out by commercial companies – frequently in the form of commercial sponsors cancelling their contracts with celebrity endorsers who have been shamed. Donald Trump is a notable celebrity casualty of corporate cancellation, having been banned from Twitter and Facebook in response to the violent storming of the Capitol Building by a mob of his supporters on 6 January 2021. Trump's Twitter account was 'permanently suspended' two days after the assault on the Capitol Building. The reasons given ranged from those that were entirely plausible (e.g. to stop Trump from denying the legitimacy of the vote to elect President Biden) to those that were far less so (e.g. Twitter's speculation that Trump's ostensibly innocuous tweet, 'I will not be going to the Inauguration on January 20th', might 'serve as encouragement to those potentially considering violent acts that the Inauguration would be a "safe" target, as he will not be attending'). Perhaps Twitter CEO Jack Dorsey felt pressured to support the ban by the prevailing mood and by the implications for the company's financial bottom line. After all, the share price of a commercial corporation is the product of the mob we call the market (for the meaning of 'mob', see the conclusion to Chapter 10). Outraged or offended shareholders have their own small-scale power to cancel a company by selling their shares in it. The corporation itself is a sort of refined legal distillation of the indirect and imperfectly expressed mood of a mass of people (the directors, shareholders,

<sup>2</sup> The 'Reindorf Review' into 'no platforming' at the University of Essex concluded that the university acted illegally when it no-platformed on the basis of advice commissioned from the LGBTQ+ pressure group Stonewall (Akua Reindorf, 21 December 2020; publication version 16 September 2021).

<sup>3</sup> Education Reform Act 1988, s.202(2)(a).      <sup>4</sup> Education Act (No. 2) 1986, s.43(1).

and customers of the company) and as such is susceptible to being caught up and carried along by the social swells and tides of cancel culture.

'Cancel culture' is, then, a broad catch-all label for modes of collective judgment and punishment. It is almost too loose a label and too wide a phenomenon to be definitionally useful – it might even encompass the imposition of economic sanctions against individuals (e.g. oligarchs) associated with pariah states (e.g. Russia). In the face of such a broad cultural phenomenon of collective judgment and punishment, my aims here must be modest. It is not my intention to cancel 'cancel culture', but to caution against the phenomenon of collective judgment when it strays into error and excess. Since our subject is the Making Sense, we will seek to make sense of the art of making judgments in the court of popular opinion by looking to the time-honoured arts of making judgments in courts of law, and to the wisdom of those who have reflected upon the difficult task of making critical judgments on works of creative art. Courts of law and professional critics of art and literature have in common a cultivated capacity for judging persons and performance, and this sort of criticism has the potential to cut to the core of the phenomenon we call 'cancel culture'. We will not go far wrong if we approach the performative art of making social judgments as a craft which, like the craft of law, demands a slow and bespoke process entailing attention to detail, respect for the material at hand, and respect for the contingencies of the relevant context.

The US-based website *Canceledpeople.org*, which maintains a database of cancelled people, employs the following elements in its definition of a cancelled person: first, they are 'targeted for behavior that falls within the boundaries of "reasonable expression"'; second, they have 'lost their job or position (this includes forced resignations)', their 'professional opportunities have been limited', or 'they have suffered financial losses from a boycott or sabotage of their company'; third, they have 'faced a coordinated effort to silence them', which 'seeks to render their person or their ideas unfit to discuss'; and fourth, they have 'faced a coordinated effort to shame them and destroy their reputation', which 'seeks to damage their self-worth and will likely target their personal or professional relationships'. These characteristics set helpful definitional parameters, but for the purposes of the present chapter I broaden the discussion to people who are accused of behaviour that goes beyond 'reasonable expression' – even to the extent of being accused of criminal acts – where the allegation has not yet been proven by a judicial or other expertly, professionally, and fairly conducted due process.

Let us consider an example, which happens to be one of the entries on *Canceledpeople.org*. In May 2019, English journalist and radio presenter Danny Baker made a much-publicized mistake on Twitter when he was at that time employed by the BBC as the presenter of his own Saturday morning radio comedy show, *The Danny Baker Show*. The mistake had racist implications and as a result he was swiftly sacked from the BBC. Mr Baker is a white

English male from a working-class background who at the time of the mistake was more than sixty years old and had been a journalist for four decades. In that long career he had apparently never been accused of racism and no historic accusations of racism came to light following his Twitter mistake. Every element of this biographical sketch is relevant to what follows. He might appear to be the very picture of social privilege where it not for those crucial words 'working-class background'. In the UK today, the young, white, working-class male, far from being a bastion of privilege and opportunity, is one of the demographic groups most deprived of educational opportunity (a recent survey found that in the UK 'Black Caribbean boys were the only group less likely to go to university than white boys')<sup>5</sup> and has been called the most derided demographic in the country.<sup>6</sup> Older white men like Danny Baker are sometimes scorned as being 'pale, stale, male' – an insult that achieves the rare distinction of being racist, ageist, and sexist in the space of just three words. (It seems remarkable that the phrase has apparently become acceptable even in mainstream news reporting.<sup>7</sup> One can only begin to imagine the furore if a journalist were to trot out equivalent language in relation to females of colour.)

In Mr Baker's case, it is also important to bear in mind that a large part of his performed persona is that of the quick-talking, cheeky, working-class 'cockney' chap – certainly not to everyone's taste, but in matters of taste there is no ground for dispute (*degustibus non est disputandum*, as a useful Latin maxim puts it). If Mr Baker's Twitter mistake had simply been in bad taste or had been outright tasteless – which it surely was (if only because he compared a newborn baby to an animal) – one might hope and expect that the consequences for him would not have ended his BBC career. Satire, after all, almost always offends somebody's idea of good taste. Unfortunately, his mistake was much more serious in its implications because it was taken to imply racism. In response to an announcement that a child had been born to a member of the British royal family, he tweeted an archive black and white picture from the early twentieth century of a well-to-do man and woman standing outside the entrance to a building either side of a young chimpanzee that was standing in a posh coat, bowler hat, white gaiters, and holding a walking cane. Accompanying the image, Mr Baker added just four words of text: 'Royal baby leaves hospital.' Regarded without context the image is comically ridiculous and Mr Baker is reported to have said subsequently that '[m]y go-to photo when any posh people have a baby is this absurd chimpanzee in a top

<sup>5</sup> Graeme Paton, 'White Working-Class Boys Becoming an Underclass', *The Telegraph*, 18 June 2008.

<sup>6</sup> Helena Horton, 'Young White Men Are the Most Derided Group in Britain', *The Telegraph*, 15 December 2015.

<sup>7</sup> Witness, for example, its appearance in a piece by Camilla Tominey, Associate Editor of *The Telegraph*: 'Unflustered Liz Truss has already shown she is captain of her own ship', *The Telegraph*, 7 September 2022.

hat leaving the hospital. I didn't know which of our royal princesses had given birth.<sup>8</sup> Having apologized and deleted the offending tweet, he wrote in a further tweet that it '[w]as supposed to be joke about Royals vs circus animals in posh clothes' (8 May 2019). If Mr Baker is to be believed, the tweet was, thus far, a tasteless gag at worst. What made it fundamentally flawed was that the baby in question had been born to Prince Harry and his wife Meghan Markle. Ms Markle is the daughter of a Black mother and a white father, and Mr Baker's choice of a chimp to depict the royal baby therefore evoked a disgusting racial slur.

So, should Mr Baker have lost his job for this single hasty and ill-judged tweet? My own answer is 'yes – probably'. The qualifier 'probably' is crucial here because the word brings in a process of probation or trial. The decision to cancel a person's contract or career should not be made lightly, but ought to be based on a process in which evidence (the stuff we see) is probed deeply in search of its substance and in which both sides ought to have an opportunity to present their case. The need for a reflective process is all the more necessary when the error and the judgment in reaction to it are performed in a hasty fashion. It is precisely when the preponderance of evidence appears to point all one way that someone needs to point the other way. Someone has to play devil's advocate. After all, even the Nazis on trial at Nuremberg were afforded advocates and due process. It seems that the process by which the BBC decided to terminate Mr Baker's employment was a summary one. Whether there was anything like a fair trial, giving adequate opportunity to present and prove (probe) reasons for dismissal, seems doubtful. My conclusion that Mr Baker should probably have been dismissed by the BBC is not based on the offensiveness of his motivations in sending the offending tweet – there is no corroborating evidence to suggest that he was motivated by racism – but on the fact that a quick-talking presenter of a popular radio show ought to be better attuned to popular culture than to employ the image of a chimp in a context where racism *might* be inferred. To be that 'tone deaf' might be said to go to the root of his fitness to present a popular call-in radio show. The BBC would have been justified in sacking Mr Baker for that reason alone if they had first given him a chance to present his side of the story. If Mr Baker had produced evidence of a non-racist motivation (say, by demonstrating a past pattern of using chimps in posh clothes to depict upper-class people of all races), a case might be made for clemency on the basis that this was a one-off error causing accidental offence. Of course, and perhaps better still, Mr Baker might have voluntarily resigned when he appreciated the offending nature of his mistake.

I am not focusing on Mr Baker's case because I disagree with the decision to cancel his contract, but because the manner in which judgments were made in

<sup>8</sup> Matthew Moore, 'Danny Baker Sacked from BBC Radio 5 Live for Royal Baby Chimp Tweet', *The Times*, 10 May 2019.

response to his mistake exemplify shortcomings that a great many offences and cancellation reactions have in common. These are, first, that the judgment was made in an imprudently swift and succinct manner (so too, it must be said, was Mr Baker's offending tweet); second, that the error was judged on face value – by which I mean not only that the tweeted image was subjected to superficial scrutiny, but also that both Mr Baker and the royal baby were regarded (a seeing word) according to just one aspect (another seeing word) of their beings – namely, that Mr Baker is white and the royal baby is of mixed race; third, whereas some online respondents to Mr Baker's error were willing to imagine a disjunction between the error and Mr Baker's private character (to paraphrase, 'the tweet can be read as racist, but it doesn't mean Mr Baker is racist'), many respondents refused to admit the possibility of any gap between Mr Baker's erroneous act and his underlying attitude to race (to paraphrase, 'I think the tweet is racist, I assume it was motivated by racism, that makes Mr Baker a racist').

### On Criticism

I now turn to consider each of these three characteristics of 'trial by Twitter' leading to a cancellation verdict under the headings 'fools rush in' (dealing with the problem of speed), 'face values' (dealing with the problem of superficiality), and 'mind the gap' – (dealing with the problem of censoriousness and hypocrisy). Working outwards from the Danny Baker case, I identify principles that will assist us to make better sense of – and to make better judgments in – the court of popular opinion. Each of the three sections begins with a quotation from Alexander Pope's 1711 'Essay on Criticism', every one of which is now a well-known common-sense maxim that urges caution and ethical restraint on those who judge the expressive work of others. Thus, we have 'fools rush in where angels fear to tread' for the section on imprudent speed; 'A little learning is a dang'rous thing' for the section on superficiality; and 'To err is human; to forgive, divine' for the section on hypocritical judgment. In its original context, Pope's essay was intended primarily as a salutary treatise on the art of judging art, and was directed specifically at critics of literary art. It is a long essay, and in his manner of writing the author exemplifies the very qualities that are promoted in it. His was no rushed reaction but a deeply reflective critical analysis running to almost 800 lines – rather more than a standard tweet and considerably more sophisticated and extensive than a mere retweet, 'thumbs down' emoji, or any other cursory online gesture. As to face values, the quality of Pope's work defies any surface judgment that might be made against him on the basis of his being a young man aged only twenty-two when he wrote it. As to the third issue, hypocrisy: Pope was an author who through his own competence as an artist was well-qualified to judge art and to judge those who judge art.

### 'Fools Rush in'

[F]ools rush in where angels fear to tread.

Alexander Pope, *Essay on Criticism*

Danny Baker was foolish when he rushed to post his offending 'Royal baby leaves hospital' tweet, and many of the responses to Baker's error were as foolishly swift as the error itself. Cancel culture is characterized by a rush to judgment. Sometimes a judgment will prove to be justified in retrospect, but the instant nature of the mob reaction makes it flawed even if the ultimate judgment is shown on reflection to have been justified. In any rushed judgment, the rush is always objectionable even when the ultimate outcome is not. Haste is a feature of cancel culture that is exacerbated by the inherent high speed of the various media through which online mistakes and online judgments are made. In the past, textual methods of expressing civic outrage, such as posting a handwritten letter to the editor of a national newspaper, to one's democratic representative, or to the head of a commercial corporation, were inherently slow and as such opened space for reflective consideration, thoughtful drafting, and even for changing one's mind. In legal negotiations, the last of these is sometimes termed the 'cooling off' period. Another legal term for it is '*locus poenitentiae*', meaning 'a space for repentance'. Online communication rarely allows or encourages such a space. Before the internet, there was also a small transaction cost of time and money for the sender of a complaint (if only the cost and effort of posting a letter) which served to suppress any misguided sense that making a complaint might be cost-free. It never is. There is always a social cost to conflictual communication, and it is no bad thing that there was once a small financial price to pay at the threshold to filter out frivolous complaints and those which – to express it in economic language – aren't 'worth it'. Today, the person who joins an online mob suffers very little in the way of threshold deterrent cost, still less any sense of the price to be paid long term through increased social conflict. This is especially so where the complainant participates anonymously. Instead of having to overcome a threshold cost before making a complaint, the anonymous complainant is given an instant incentive and reward in the gratification they receive from expressing outrage and from the Making Sense that they are participating with others in the co-Production of a social performance that will 'make a difference'. The famous tagline #MeToo speaks expressly to the sense of value associated with feeling that one's voice has been heard in chorus with others. It is of course right that everyone should have a voice, especially when it comes to calling out criminal acts, and online outlets can be valuable and powerful democratic media of expression. The problem we are primarily concerned with here is not the problem of freedom of speech but the problem of speed of speech. If a technological solution cannot be found to that problem, we should at least acknowledge the cost.

The speed of online cancellation reactions is one of the problems highlighted by the group of 153 cultural and intellectual figures who wrote 'A Letter on Justice and Open Debate' to *Harper's Magazine* in 2020.<sup>9</sup> Among their number were scholars (including Francis Fukuyama, Noam Chomsky, Deirdre McCloskey, and Steven Pinker) and such household names as J. K. Rowling, Garry Kasparov, and Salman Rushdie. This is no 'mob' in the original sense of *mobile vulgus* (i.e. the moveable or malleable mass of common people), but a sophisticated caucus of scholars and expert practitioners in various fields. Some argue that the flaw in the group was not that they were members of the popular mass, but that they were members of a powerful and influential elite.<sup>10</sup> Despite this, their objection stands to be judged on its own terms. The core of their complaint was expressed as follows:

We uphold the value of robust and even caustic counter-speech from all quarters. But it is now all too common to hear calls for swift and severe retribution in response to perceived transgressions of speech and thought. More troubling still, institutional leaders, in a spirit of panicked damage control, are delivering hasty and disproportionate punishments instead of considered reforms.

The signatories place the element of speed – 'swift' social reactions and 'hasty' institutional responses – at the heart of the problem, alongside the 'severe' and 'disproportionate' extent of the response. Their sought-for alternative to excessive haste is 'considered reforms'. In a similar vein, the online *Urban Dictionary's* definition of cancel culture attributes the cultural phenomenon to 'a critical mass of people who are quick to judge and slow to question'. Sound judgment, especially in matters of performance – whether on the theatrical, legal, or social stage – ought to be slow. This is an argument that is beautifully made by Julen Etxabe in his book *The Experience of Tragic Judgment*, where he cautions against the wrongheaded notion that judgment is a single act in a single moment like the falling of an axe. He argues that judgment ought to be understood as a process which brings conflicting human interests and human relations into a sophisticated conversation. Etxabe writes that the judge in a court of law 'must tune into the complexities of the case without making interpretative decisions that would foreclose any real consideration of the issues'.<sup>11</sup> The point applies as well to judges in the court of popular opinion. A hallmark of sound judgment is that we should be swift to judge ourselves and slow to judge others. One obstacle in the way of achieving this is the troubling fact that unsophisticated and unskilled judges tend to be poor judges of their own shortcomings and vociferous judges of others. As Bertrand

<sup>9</sup> 'A Letter on Justice and Open Debate', *Harper's Magazine*, 7 July 2020, <https://harpers.org/a-letter-on-justice-and-open-debate/>.

<sup>10</sup> Hence the critical response, 'A More Specific Letter on Justice and Open Debate', *The Objective*, 10 July 2020.

<sup>11</sup> Julen Etxabe, *The Experience of Tragic Judgment* (Abingdon: Routledge, 2013) 85.



Russell once said, ‘in the modern world the stupid are cocksure while the intelligent are full of doubt’.<sup>12</sup> He was describing a phenomenon that psychologists have demonstrated experimentally and labelled the Dunning–Kruger effect. David Dunning, in an article written with Erik G. Helzer, summarizes the effect by saying that ‘poor performers are not in a position to recognize the shortcomings in their performance’.<sup>13</sup>

Celebrated Australian actor Geoffrey Rush might have thought that his very name was cursed when he was the subject of a rush to judgment after incidents alleged to have occurred with a young actress on and off stage. He was playing the title role in *King Lear* and the actress was playing Lear’s daughter Cordelia. It was alleged that Rush had on more than one occasion touched the actress inappropriately after being asked by her to desist, and that he had sent her suggestive text messages. The truth of her allegations was never tested at a full trial, but there was a trial in Rush’s lawsuit against the newspaper that first published the allegations (including under the headline ‘King Leer’).<sup>14</sup> In this trial, the judge criticized the newspaper for rushing to judgment. Justice Michael Wigney accepted Mr Rush’s contention that the newspaper’s conduct was ‘unjustified and improper because they were reckless as to the truth or falsity of the defamatory imputations conveyed by the articles and had failed to make adequate inquiries before publication’.<sup>15</sup> This case can be put down to poor journalistic and editorial standards, but it prompts the question whether those standards are more likely to slip when there is a wider (including online) culture of passing knee-jerk judgments against figures in the public eye. The key argument of this section, I stress again, is that regardless of the possible validity of the complaint and the resulting cancellation, the ‘rush’ element is a procedural defect that strikes at the heart of due process.

The error of haste can also be exacerbated by insufficient attention to history. If we rush to judge a person on the basis of an isolated act there is a danger that we will pay insufficient attention to the accused’s exemplary history prior to the incident and to their efforts to reform since it occurred. The defining success of the #MeToo movement in establishing an individual’s offending behaviour is the fact that it does so by establishing a history of offending. A complainant is within her rights to come forward on the basis of a single incident, but that incident must be placed in the context of the accused’s whole history. Favourable conclusions should be drawn when their

<sup>12</sup> Bertrand Russell, ‘The Triumph of Stupidity’, in Bertrand Russell, *Mortals and Others: Bertrand Russell’s American Essays, 1931–1935*, Vol. 2 (10 May 1933) (New York: Routledge, 2009) 28.

<sup>13</sup> David Dunning and Erik G. Helzer, ‘Beyond the Correlation Coefficient in Studies of Self-assessment Accuracy: Commentary on Zell and Krizan (2014)’ (2014) 9(2) *Perspectives on Psychological Science* 126–130.

<sup>14</sup> ‘King Leer’, *Sydney Daily Telegraph*, 30 November 2017.

<sup>15</sup> *Rush v Nationwide News Pty Ltd (No 7)* [2019] FCA 496 Federal Court of Australia (file number NSD 2179 of 2017) Wigney J (11 April 2019) para. [737].

history shows no pattern of offending, just as surely as unfavourable conclusions should be drawn when a pattern of offending emerges.

### 'Face Values'

A little learning is a dang'rous thing.

Alexander Pope, *Essay on Criticism*

In the previous section we considered the 'rushing in'. Now it's time to consider the fools. It is foolish to rush to judgment on the basis of superficial knowledge of the events on which a person is being judged, and on the basis of superficial knowledge about the person who is being judged. Both aspects – knowledge of the events and knowledge of the individual – bring in the danger of judging on shallow facts, or (which is to put the same point another way) of judging on face values. As regards superficial knowledge of the person being judged, we would do well to bear in mind the point, well made by lawyer Joanne Cash, that '[e]ven the most privileged person will have gone through life with suffering of some sort', that '[e]very single individual has a private story', and that 'one of the dangers we're seeing in the dialogue at the moment is that we lump people together in a very unsympathetic way'.<sup>16</sup> As regards superficial knowledge of the issues, we need to bear in mind the danger of indiscriminate reliance on the internet. The Web has given us the most immense and extraordinary repository of facts and resources for research, but the breadth of a library is no guarantee of the depth to which it is read. One of my own methods for whittling out the rotten wood of a Google search is to prioritize resources on Google Scholar and Google Books and to click through until I find books and articles written by people whose expertise has been established through professional or practical experience. This is seemingly in contrast to the prevailing current practice in which 'many citizens no longer trust the traditionally authoritative sources of evidence (scientists, academics, nonpartisan government agencies, and the "elite" press)'.<sup>17</sup> My method of scraping down to the sound, heartwood of a subject serves, I hope, to prioritize opinions that are not only better informed but also expressed with better balance. Ideally, the author will have no personal axe to grind, but there can be no objection to a biased author who is self-critical and fairly grinds both sides of the axe even when they are seeking to show that their side has the sharpest arguments. Andrew Keen, author of *The Cult of the Amateur*, is rather one-sided in his critique of the internet and at times more polemical

<sup>16</sup> Lucy Burton, 'Ditch "Woke" Agenda and Unconscious Bias Training, Bosses Told', *The Telegraph*, 24 May 2021.

<sup>17</sup> David C. Barker and Morgan Marietta, 'Misinformation, Fake News, and Dueling Fact Perceptions in Public Opinion and Elections', in Elizabeth Suhay, Bernard Grofman, and Alexander H. Trechsel (eds), *The Oxford Handbook of Electoral Persuasion* (Oxford: Oxford University Press, 2020) 493–522, 493.

than scholarly, but – as his surname promises – he makes several points that cut to the core of the problem. The essence of the problem, as he sees it, is the superficiality of online opinion. In his opening chapter, ‘The Great Seduction’, he contends that:

The Web 2.0 revolution has peddled the promise of bringing more truth to more people – more depth of information, more global perspective, more unbiased opinion from dispassionate observers. But this is all a smokescreen. What the Web 2.0 revolution is really delivering is superficial observations of the world around us rather than deep analysis, shrill opinion rather than considered judgment.<sup>18</sup>

One of the most pernicious forms of superficial judgment is judgment based upon the racial appearance of a person’s skin. We rightly condemn the racism inherent in assuming that a person with non-white skin must have a character conforming to certain stereotypes – not least, but not only, where those stereotypes are patently negative. We should likewise condemn the racism inherent in making stereotypical assumptions about the character of a person who has white skin. In his most famous speech, the Reverend Dr Martin Luther King Jr said, ‘I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character’.<sup>19</sup> Sadly, the skin-depth persecution that he objected to has been replaced with skin-depth prejudice of other sorts. We are nowadays in danger of achieving equality only by treating people of all colours equally badly. The long walk to racial justice is in danger of becoming a race to the bottom. I’m aware that Martin Luther King’s quote has been used by conservatives as a basis for resisting affirmative action, but that is not my intention here. I am not discussing efforts to treat people more favourably on the basis of their background – that is, I think, something to be encouraged in relation to people of all races. Institutions in the USA, in light of that nation’s distinctive historic debt to African Americans, must make their own decisions on how to achieve distributive and symbolic justice without causing undue social division.<sup>20</sup> My concern here is not with passing positive judgment, but with the phenomenon of passing negative judgment on people because of surface appearances. This is precisely the sort of poor judgment that Martin Luther King Jr was determined to remedy.

Earlier in this chapter we discussed online public reactions to Danny Baker’s offending tweet about the baby born to Prince Harry and Meghan Markle. It must be obvious that if Mr Baker had been Black no racist intent would have been inferred. Mr Baker was in that sense judged by the colour of his skin. That observation may be banal, but broadly related to it is the fact

<sup>18</sup> Andrew Keen, *The Cult of the Amateur* (New York: Doubleday, 2008) 16.

<sup>19</sup> Martin Luther King Jr, ‘I Have a Dream’ (28 August 1963).

<sup>20</sup> See the section ‘The Unique Experience of African Americans’, in James Boyd White, *Keep Law Alive* (Durham, NC: Carolina Academic Press, 2019), 54–58.

that some respondents were willing to imagine a disjunction between his error and his private character whereas others were seemingly unable to imagine the possibility of any distance between Mr Baker's erroneous act and his underlying attitude to race. The former 'minds the gap', the latter doesn't. An example of the former is the anonymous online commentator (identified only as 'jcm') who wrote the following response to Mr Baker's tweet:

I don't necessarily think he's a racist. I do think he must be quite thick not to have realised this wasn't sensible. Our public discourse is better off without this stuff. I think people who think this stuff is OK once are likely to think it's OK again and are thus not well suited to jobs where they have to make jokes in real time in public. (9 May 2019)

An example of the latter is a tweet by Joseph Ejiofor, a Labour Party councillor for Haringey Council in London, who tweeted:

RACIST RACIST RACIST Danny Baker @prodnose should be given today to resign and clear his desk. If he is still there at 16.59 @bbc MUST FIRE HIM! I'm disgusted by the hate and racism inherent in his Tweet Unforgivable He's not fit to be a broadcaster employed from the public purse. (9 May 2019)

Councillor Ejiofor's tweet exhibits the standard sequence of 'making' processes by which social judgments are frequently formed and performed. The councillor made an assumption about Mr Baker's character ('hate and racism inherent'), then made a judgment ('I'm disgusted'), and then sought to make an example of him by cancelling him ('He's not fit to be a broadcaster employed from the public purse'). This is an unreasonably extreme reaction, but racism is extremely unreasonable and reactions to racism, actual or perceived, can therefore be forgiven for being emotive and at times unreasonably extreme in the way that they are expressed and performed. 'Forgiven' is the crucial word here and must be our focus if any progress in social discourse is to be achieved. Accordingly, it is the councillor's use of the word 'unforgivable' that is hardest to forgive.

Let's play along with Mr Ejiofor, and for the sake of argument assume, as he assumes, that Mr Baker's tweet was deliberately racist and that it was the product of 'hate'. What sort of world does Mr Ejiofor envisage in which a one-off error in a forty-year career is not susceptible to forgiveness? The Black cricketer Michael Carberry, who played in six Test matches for England between 2010 and 2014, was equally forthright in a radio interview with the BBC when a current England player, Ollie Robinson, was revealed to have sent racist and sexist tweets between eight and nine years earlier when he was a teenager. Carberry said that, 'if it was down to me, honestly, Ollie Robinson wouldn't be playing Test cricket, because for me ... I don't believe this is a problem where you can rehabilitate someone'.<sup>21</sup> If that were true, it would

<sup>21</sup> 'Ollie Robinson: PM Boris Johnson Supports Oliver Dowden's Comments that ECB "Has Gone Too Far"', *BBC Sport*, 7 June 2021.

make a mockery of efforts to promote education on matters of race and gender. Prince Harry, who now spends a great deal of his time seeking to educate people in matters of social justice, is living proof of the power of rehabilitation. This is a man who in his youth wore a Nazi uniform at a fancy-dress party, and during his army career was recorded casually using the racist epithet 'P\*ki' to describe a Pakistani colleague as well as saying that another colleague looked like a 'r\*ghead'.<sup>22</sup> Even the sustained systemic racism of South African apartheid was healed, or is on the way to being healed, by attempts to forgive past wrongs. Nelson Mandela did not receive the Nobel Peace Prize because he adamantly refused to forgive others, or because others refused to forgive him for his own youthful resort to violent resistance. Forgiveness is key to unlocking the riches of racial justice in South Africa. For all its practical flaws, the commission established by Mandela to record the wrongs of apartheid South Africa at least got the political performance right in so far as it defined its role in terms of seeking not only 'truth' but also 'reconciliation'.<sup>23</sup> Our society is obsessed with making judgments, when what is required, as Michele Mangini argues, is the sort of education that will refocus society's attention on 'the main goal of judging' which is 'making justice'.<sup>24</sup> Forgiveness is the attribute which more than any other enables us to move beyond making judgments to making justice.

If I were to read too much into Councillor Ejiofor's brief and hasty tweet on the Danny Baker affair, I would run the risk of judging him too harshly and of committing the very act of hypocrisy that in this chapter (and especially in the next section) it is my aim to caution against. Maybe, on reflection, Mr Ejiofor would remove that word 'unforgivable'. Perhaps, after more considered rumination on Mr Baker's error, he would even admit the possibility that it was just that – an error – rather than an expression of racial hate. Mr Baker says that it was an outpouring of comic contempt for the privileges of class and wealth. I wouldn't expect Mr Ejiofor to concur with that, still less to change his verdict that Mr Baker should have been sacked. What we can expect of Mr Ejiofor, and of all elected politicians, is that they should not spark up their flaming brands and rush in with the mob. They should rather perform, through the example of their own behaviour, a model of reasonable and considered judgment of the sort that they would want to see performed whenever judgments are made by people with political power. After the Danny Baker incident, and unrelated to it, Mr Ejiofor was deselected by the Labour Party and barred from standing for re-election as a party candidate. Ironically, his reported response to his own cancellation was to complain of a

<sup>22</sup> Abeni Tinubu, 'Can Meghan Markle Forgive Prince Harry for His Racist Actions?', *Showbiz CheatSheet*, 27 June 2019.

<sup>23</sup> Promotion of National Unity and Reconciliation Act, No. 34 of 1995 (establishing the South African Truth and Reconciliation Commission).

<sup>24</sup> Michele Mangini, 'Ethics of Virtues and the Education of the Reasonable Judge' (2017) 2 *International Journal of Ethics Education* 175–202, 188.

lack of due process: 'I feel I have been targeted by my own party in a Kafkaesque process resulting in an unjust ruling. After all, how can it be right that someone is asked to submit their defence before even hearing the charges?'<sup>25</sup>

So, how do official judicial institutions approach the sensitive issue of suspected racist behaviour and speech? In the UK, there is a definite effort within judicial officialdom to emphasize the possibility of a gap between an individual's particular behaviour and their underlying character. The Judicial College, which has responsibility for formal aspects of the professional training of judges in England and Wales, publishes an *Equal Treatment Bench Book* which is regularly updated and is available free online. The February 2021 edition defines racism as follows:

'Racism' is a term defined more by effects/outcomes than by motives: A racist action, or a person who acts in a racist way, is not necessarily racially prejudiced. However, the term is often used to describe a combination of conscious or unconscious prejudice and power to implement action which leads, however unintentionally, to disproportionate disadvantage for BAME [Black, Asian, and minority ethnic] people. People who use the term 'racist' to describe the actions of others may or may not mean that the other person is personally prejudiced.<sup>26</sup>

Something along the lines of this official reading of the term 'racist' was applied in a case in which a 49-year-old white cleaner at the end of his cleaning shift at a gym wrote in the handover book that 'three coloured guys were messing around (i.e. play fighting and not really training)'.<sup>27</sup> The three men he was referring to were racially South Asian. A fellow cleaner, a Black man, read the written comment and was so outraged by it that he angrily confronted the writer, who immediately apologized and said he hadn't intended to be offensive or racist. He explained that he had thought that the word 'coloured' was less offensive than 'Black' (the fact that he even thought that 'Black' might an acceptable description of people of South Asian race demonstrates the cleaner's ignorance of politically correct terminology). Despite the accused's immediate and apparently sincere apology, the aggrieved cleaner pursued a harassment claim at law. When the matter was heard, the judge dismissed it on the basis that the cleaner's mistake was a genuine one committed in a misguided effort to use sensitive language, which he did not realize was outdated. The judge noted that socially acceptable terminology changes over time and that not everybody has the educational and social opportunities to keep up to date with the latest changes. It rather bears out this point about linguistic evolution to note that one of the leading and

<sup>25</sup> Charles Thomson, 'Former Haringey Council Leader Removed as Labour Party Election Candidate', *Hampstead Highgate Express*, 21 February 2022.

<sup>26</sup> *Equal Treatment Bench Book* (2021 edition) para. [295].

<sup>27</sup> Phoebe Southworth, 'Older White People Who Use Term "Coloured" Are Not Necessarily Racist, Judge Rules', *The Telegraph*, 13 April 2021.

longest-established civil rights organizations in the USA is still called the National Association for the Advancement of Colored People, albeit usually known nowadays by the abbreviation NAACP. No doubt the term ‘colored’ was originally chosen as being preferable to many of the alternatives then employed to describe Black people. Today in the USA, an acceptable generic description of non-white people is ‘people of color’. In a world in which ‘people of color’ is politically correct and ‘colored’ is politically offensive, the judge in this case was surely right to forgive a middle-aged cleaner for not being perfectly attuned to the difference. Again, the word ‘forgive’ is key, and it unlocks another concept – hypocrisy – which is crucial to making sense of popular judgment and cancel culture.

### ‘Mind the Gap – the Hypocrisy Problem’

To err is human; to forgive, divine.

Alexander Pope, *Essay on Criticism*

There is a famous biblical anecdote about hypocrisy and mob judgment that has given us a salutary maxim. The anecdote is the quasi-canonical account of Jesus coming to the aid of a ‘woman caught in adultery’ who was about to be stoned to death on religious grounds by a gang of men.<sup>28</sup> The maxim is Jesus’ challenge to the men: ‘Let anyone among you who is without sin be the first to throw a stone’ (John 8:7). Perhaps the men in the story were condemning the woman out of a misguided sense of religious duty, or perhaps their motivation was misogynistic delight in their capacity to exert power and pass judgment. Human nature hasn’t changed. When modern stone-throwers ‘call out’ and ‘cancel’, their outrage and judgment is likely to be to some extent hypocritical. As for their motives, these will range as they always have from a sense of duty and a sense of collectively ‘making a difference’ to a sense of pleasure, and everything between. A glaring example of the glee that sometimes motivates the Twitter mob in pursuit of its prey is provided by the case of Justine Sacco, who was senior director of corporate communications for multinational internet and media company IAC. Shortly before a flight to South Africa, she tweeted to her 170 Twitter followers ‘Going to Africa. Hope I don’t get AIDS. Just kidding. I’m white!’ (20 December 2014). Sacco, a South African, explained later that she was trying to make a tongue-in-cheek allusion to prevailing ignorance about the true impact of Aids. Had the text of Sacco’s tweet been delivered as a spoken line in a comedy show, contextualized as part of a routine about Western ignorance of African realities, and delivered with a heavily sarcastic tone of voice, it would have been completely uncontroversial

<sup>28</sup> I have described the passage (John 7:53–8:11) containing the story of the woman caught in adultery as ‘quasi-canonical’ because many New Testament scholars consider it to be a later interpolation added after the inscription of the earliest gospel manuscripts.

and much funnier. Whatever Sacco meant by her tweet, what she couldn't have foreseen was the turbulence on Twitter that would brew up while she was on the flight. Even her employer chipped in with a tweet while she was still airborne: 'This is an outrageous, offensive comment. Employee in question currently unreachable on an intl flight'. By the time she landed, she had been fired. (She was subsequently, more discretely, rehired.) The employer's tweet was motivated by the desire to protect the company's brand, but a great many of the tweets launched at her had nothing to do with duty and everything to do with delight at the entertainment that was unfolding: 'All I want for Christmas is to see @JustineSacco's face when her plane lands and she checks her inbox/voicemail'; 'We are about to watch this @JustineSacco bitch get fired. In REAL time. Before she even KNOWS she's getting fired.'<sup>29</sup> The hashtag #HasJustineLandedYet trended on Twitter during the duration of her flight.

One wonders if the outrage in the case of Justine Sacco would have been quite so great in the case of a high-flying male executive. The use of the word 'bitch' in one of the tweets quoted above reeks of misogyny. In this connection, it may be significant that the biblical story of the stoning of the woman caught in adultery described religious men passing judgment on a woman. Could it be that women are especially at risk of being cast into the flames of social judgment? *Guardian* journalist Suzanne Moore thinks so. She has written that '[a]lmost every week now a different woman is put on the pyre: JK Rowling, Rosie Duffield, Selina Todd. It's always a woman who is some sort of heretic and must be punished.'<sup>30</sup> The examples alluded to in this chapter have been men for the most part – Danny Baker, Ollie Robinson, Geoffrey Rush – but Moore might have a point. After all, the women she mentions, unlike the men just listed, were hounded for expressing honestly held (albeit sometimes intemperately expressed) opinions on the transgender debate that they still hold and see no reason to apologize for. Rosie Duffield MP has tweeted that 'only women have a cervix' (1 August 2020); J.K. Rowling has tweeted "'People who menstruate.'" I'm sure there used to be a word for those people. Someone help me out. Wumben? Wimpund? Woomud?' (6 June 2020); and Selina Todd is a supporter of Woman's Place UK, which argues that transgender women should not have access to women-only spaces. When it comes to witch hunts, women have long been cast as the villains and made the victims, and usually by male authority. Without prejudice to that point, it must be said that Duffield and Rowling made the error of tackling a large and sensitive issue with an inappropriately brief form of communication: the 'tweet'. It is hard enough to handle a highly controversial issue in a long book chapter. To attempt to do so in a short tweet is doomed to failure. It might

<sup>29</sup> Jon Ronson, 'How One Stupid Tweet Blew Up Justine Sacco's Life', *New York Times Magazine*, 12 February 2015.

<sup>30</sup> Margarette Driscoll, 'Suzanne Moore: "I Was Betrayed and Bullied for Saying that Women Should Not Be Silenced"', *The Telegraph*, 15 November 2020.



make an impact, but it has little potential to make a constructive contribution to the issues.

One very good reason why we shouldn't censor or cancel or cast stones when someone expresses an opinion that we disagree with is the basic fact that none of us is perfect. That's the point of the biblical challenge: 'Let anyone who is without sin be the first to throw a stone.' A similar maxim against lapidation advises that 'people who live in glass houses shouldn't throw stones'. The truth is that we all live in glass houses. Where an offending utterance might have been made by mistake or is susceptible to a benevolent construction, we should be especially slow to judge. We all make mistakes – to err is human. The fact that Jesus' target in the stoning story was a mob of religious leaders should serve to warn online mobs that when they pick up their virtual sticks and stones, they are acting in precisely the way that puritanical hypocrites have always acted. Indeed, a simple and sobering parallel can be drawn between puritanical religiosity and politically correct intolerance of opinions that are considered heretical to the so-called woke agenda. The passing of judgment on the ground that someone is a heretic has always gone hand in hand with hypocrisy, and so too – as the biblical anecdote tells us – has the act of passing judgment on a woman's sexual promiscuity. Shakespeare, as so often, expresses the point vividly:

Thou rascal beadle, hold thy bloody hand!  
 Why dost thou lash that whore? Strip thine own back;  
 Thou hotly lust'st to use her in that kind  
 For which thou whipp'st her

(4.6.160–163)

The point is that the person making a judgment is very often guilty of an offence similar to, if not worse than, the one that they are calling out. In such a case, judgment passed against a supposed offender is not justified by the measure of the judge's own character but according to a standard that critic and suspect both fall short of. It is precisely this disjunction between inner reality and outer pretence that defines the critic in such a case as a 'hypocrite'. The word *hypokrisis* was originally a description of masked actors in Attic Greek theatre and also a description of rhetorical performers.<sup>31</sup> Hypocrisy later came to describe the error of people who pretentiously put forward a public or social mask that is more heroic or otherwise more attractive than the underlying substance of their private character. The word 'hypocrisy' means 'under critical' or 'under separation' and indicates that the person making the judgment is under critical of themselves and has failed to acknowledge the gap that separates their personal character from their performed social persona.

<sup>31</sup> Alberto J. Quiroga Puertas, *The Dynamics of Rhetorical Performances in Late Antiquity* (Abingdon: Routledge, 2018) 21.

## Brevity Is the Soul of Folly

In the preceding three sections we have discussed the errors of speed, superficiality, and censoriousness. I have discussed these errors in association with bad judgment, but it must be acknowledged that each of them is frequently also an error associated with the original offence against which judgment is raised. If Danny Baker had not rushed to send his offending tweet about the royal baby, and if his joke hadn't been so superficial and judgmental, he would not have suffered the swift and superficial censorship that he did. Brevity is another error touched upon by Alexander Pope in his essay, where he reproaches critics who '[f]orm short ideas'. The same criticism can be levelled at offenders who form short tweets. In the world of online media, alacrity frequently goes hand in hand with brevity. The mission of a medium like Twitter is to promote fast, short-format communication and this creates the perfect breeding ground for the twin errors of speaking too swift and speaking too short. When Shakespeare had Polonius utter the adage 'brevity is the soul of wit' (*Hamlet* 2.2.92) he was being ironic, for Polonius is pompous and verbose – a full rushing stream of speech clogged with clichés. Brevity may be the soul of a quick wit, but it is seldom a hallmark of scholarly analysis, of judicial judgment, or of any species of expert critique deserving the label 'authoritative'. It is foolish to enter large debates with small texts. Despite a doubling of the original 140 characters limit on the length of tweets, single messages on Twitter are still terse to the point of being cursory. Sometimes an argument (or polemic) is stretched across the span of a series of tweets, but on Twitter one will seldom find anything resembling a developed and structured argument, still less anything approximating the classic format of a scholarly essay in which the writer sets out a thesis and tests it against the strength of an antithesis.

In Danny Baker's case, all it took to lose his job was a tweet containing four words and an image. Even more brief was a tweet by television celebrity Rachel Riley who simply wrote 'Good advice' accompanied by an egg emoji and a labour red rose emoji (3 March 2019). She was retweeting a two-month-old tweet by *Guardian* journalist Owen Jones in which he had offered this uncontroversial recommendation: 'if you don't want eggs thrown at you, don't be a Nazi' (1 January 2019). What made Ms Riley's retweet contentious was the fact that it came on the day that Jeremy Corbyn, the then leader of the Labour Party, was pelted with an egg on a visit to a mosque. Even more controversial was the tweet sent in response to Ms Riley's tweet by Labour Party activist and Corbyn supporter Laura Murray (shortly before she was appointed – with some irony – to be the Labour Party's head of complaints). Ms Murray interpreted Ms Riley's tweet as a criticism of Jeremy Corbyn's poor reputation on the issue of anti-Semitism in the Labour Party and the intemperate tweet that Murray immediately sent in response contained the lines 'Rachel Riley tweets that Corbyn deserves to be violently attacked because he is

a Nazi. This woman is as dangerous as she is stupid. Nobody should engage with her. Ever' (3 March 2019). In other words, Ms Murray went full-on 'call out and cancel'. She called out Ms Riley as 'dangerous' and 'stupid', and by decreeing that '[n]obody should engage with her. Ever', she invited the tweet-reading public to cancel Riley for life. Clearly Ms Murray was in too great a hurry to respond to Riley's tweet and she also ran the risk of error by responding so effusively to so brief and open-textured a missive as Riley's two-word tweet. Ms Riley's tweet was susceptible to several alternative constructions to the one that Murray put on it. It is foolish to rush to judgment, and especially so where the terrain is too small to afford a secure foothold. Ms Murray's mistake was not lost on Ms Riley and her legal advisors, who subsequently pursued a successful libel action against her.<sup>32</sup> Trial by Twitter in the kangaroo court of popular opinion is a perilously short hop from a real court of law.

### The 'N-Word'

Even a single word can be enough to ruin a career. Donald McNeil Jr, a distinguished newspaper reporter for more than four decades, found this to his cost. Among his many journalistic awards was the 2002 National Association of Black Journalists award for international reporting, which he and his colleague Rachel Swarns won for a series of articles on the HIV epidemic in South Africa.<sup>33</sup> He was also a leading reporter on the Covid-19 pandemic until a potentially career-limiting error came to light. On 28 January 2021, the *Daily Beast* reported accusations that he had uttered racist language in conversation with a group of high school students who were attending a *New York Times*-sponsored educational visit to Peru in 2019. Donald McNeil Jr mentions in a subsequent blog that the trip was 'arranged by Putney Student Travel in Vermont. They're expensive, and most of the students are from private schools.'<sup>34</sup> Like Mr McNeil, none of the students was Black. The worst offence alleged against McNeil is that he used the 'N-word'. It is not said that he used it as a description of Black people, but that he uttered it while discussing with the students a case in which a high school student was suspended from school for historic use of the offending word when they were twelve years old.<sup>35</sup> The students on the study trip had asked Mr McNeil whether he felt that the student in question ought to have been suspended. In an entry in his personal blog on 1 March 2021, in which he sets out the content of the explanatory email he sent to his employer, McNeil clarifies that he had responded to the

<sup>32</sup> *Riley v Murray* [2021] EWHC 3437 (QB) (20 December 2021).

<sup>33</sup> 'Death and Denial', *New York Times*, Special Series, 28 November 2001.

<sup>34</sup> Donald G. McNeil Jr, 'NYTimes Peru N-Word, Part Four: What Happened in Peru?', *Medium.com*, 1 March 2021.

<sup>35</sup> Anthony Zurcher, 'Cancel Culture: Have Any Two Words Become More Weaponised?', *BBC News*, 18 February 2021.

question by asking the student discussants whether the twelve-year old had called someone a [*at this point McNeil uttered the offending word*] or were they 'singing a rap song or quoting a book title or something?' The blog entry continues with McNeil stating that throughout the whole episode he had been willing (short of endorsing the *Daily Beast's* characterization of him) to apologize for offence caused by uttering the N-word, and with McNeil stating his belief that '[i]f the Times had not panicked' and he had been given the opportunity to clarify and apologize, the *Daily Beast* might 'have rewritten or even spiked its story', adding that '[a]lmost undoubtedly, the reaction inside the Times itself would have been different'.<sup>36</sup>

The last point is a reference to that fact that the *New York Times* peremptorily sacked McNeil because of the incident and to the fact that 150 of Mr McNeil's colleagues at the *New York Times* undersigned an indignant letter to their employer in response to the *Daily Beast* report. Their letter opened with the lines: '[l]ast week's revelations about Donald G McNeil Jr.'s reported behaviour and the company's subsequent response deeply disturbed many of us. Our community is outraged and in pain.' It ended with: '[w]e hold ourselves to a high standard. We ask you to do the same.'<sup>37</sup> One might think that high in the list of journalistic standards would be a professional commitment to checking sources in relation to what the complainants acknowledged to be merely 'reported' behaviour, but their letter was really nothing more than a hasty and sanctimonious cancellation performed in well-crafted journalistic prose. Perhaps the signatories are all faultless, as they claimed to be in their closing lines, but one suspects that in truth they are just a bunch of flawed human mistake-makers like everybody else. For many African Americans, the very sound of the 'N-word' coming from a white person's lips, however innocuous the context in which it is uttered, is understandably resonant of an appalling and long history of systemic racism. Donald McNeil Jr ought to have avoided it at all costs. The question, though, is whether his utterance, which apparently lacked abusive intent, should have been enough to generate such outrage from his colleagues or to have cost him his job.

Suppose that the word hadn't been spoken but had been written down – perhaps in the context of a scholarly discussion such as this one. Such usage wouldn't be a spoken utterance of the word, and it certainly wouldn't be to use the word as a racial slur. We might ask in such a case whether any actual harm has been caused and any offence committed. If an offence were committed, it is presumably the offence of infringing a taboo. The rule that non-Black people cannot write or say the N-word is respected in something like the way that we respect a religious article of faith. Civil society requires, as it

<sup>36</sup> Donald G. McNeil Jr, 'NYTimes Peru N-Word, Part Two: What Happened January 28?', *Medium.com*, 1 March 2021.

<sup>37</sup> Erik Wemple, 'Opinion: What Happened with New York Times Reporter Donald McNeil?', *Washington Post*, 9 February 2021.

requires in the toleration of religious differences, that we shouldn't wilfully offend others. Many writers, especially white writers, now use the vague code 'racial slur' as a way of referring to the 'N-word'. Dictionaries, encyclopaedias, and Wikipedia are among the few modern outlets in which the word itself is still spelled out in full. Perhaps it is permitted in that context because such outlets have no individual 'author' as such and therefore cannot be presumed to have a non-Black author. Such works as dictionaries and encyclopaedias, including Wikipedia, are repositories of communal knowledge and are therefore hopeful symbols or expressions of communal peace. If the taboo against expressing the N-word ever extends to excluding it from works such as these, we will have struck at the very root of our hope to evolve from our history and to have a racism-free social conversation.

As with any religious or mystical totem, the more the word is excluded as taboo the more mystique it garners and the more it takes centre stage. In this respect, it has some of the properties that silence imparts to an actor's speech. Silence is not empty, it is full – it is a pregnant pause. Silence fills the theatre because it captures the attention of an audience more than any spoken sound does. As we anticipate the utterance of the N-word, we see its shape delineated by the frames that are delicately placed around it. This is no bad thing, for it is appropriate that the national shame of America's racial history should be performed as a long, drawn-out, and awkward silence at the centre stage of American public life (although this begs the question where we should draw the line between public life and private life, e.g. in the case of a conversation between a journalist and a group of high school students on an educational trip to Peru). The taboo status of that ineffable word should be acknowledged for what it is – a human-made artefact which now makes humans behave in certain ways. It confronts us silently like a law inscribed on a stone which has been set up in the public square for all to look on and despair.

It is perhaps to relieve the tension that emanates from the magnetic totem of the N-word, or perhaps to experience the existential thrill of approaching a taboo artefact, that white comedians have occasionally teased white members of their audience by tempting them to within touching distance of the forbidden fruit. For example, the song 'Prejudice' by Australian songsmith Tim Minchin contains the lyric: 'In our modern free-spoken society / There is a word that we still hold taboo', 'A couple of Gs, an R and an E, an I and an N / Just six little letters all jumbled together.' The red-headed Tim Minchin delivers the punchline: 'Ginger'. Another example is the *South Park* episode 'With Apologies to Jesse Jackson', which features the white character Randy uttering the N-word in answer to a television quiz question, and consequently being shunned as an object of hate and derision. The episode received a mixed response from Black viewers. Notable and perhaps surprising supporters were Kevon and Jill Flowers who co-founded the Abolish the 'N' Word project. They said that the show, 'in its own comedic way, is helping people to educate the power of this word, and how it can feel to have hate language directed at

you'.<sup>38</sup> Comedy has become an especially fraught context for politically incorrect speech acts with consequences ranging from judgment in the court of popular opinion to litigation in courts of law. A question raised by the comedy context is whether we need to protect professional fools when they venture where the rest of us fear to tread.

### Comic Fools

The comic actor Rowan Atkinson is an outspoken critic of cancel culture, complaining that 'what we have now is the digital equivalent of the medieval mob roaming the streets looking for someone to burn'.<sup>39</sup> He is most famous for his performance in the role of Mr Bean, in which role he has attained a global popularity enhanced by the fact that Mr Bean (following in the tradition of Charlie Chaplin's Tramp) communicates for the most part in the international language of silent mime. It is therefore to Atkinson's credit that this silent performer has voiced his support for his fellow artists, including comedians, who have to speak for a living and who therefore risk the ire of censorship and of cancel culture. The BBC seems to be especially sensitive to the risk of causing offence to any social minority, as one might expect from a broadcaster that is publicly funded by a direct tax (the 'licence fee') levied on users in the UK. One does wonder, though, if it made the right decision when it refused to rebroadcast a stand-up routine because of complaints from just two viewers. This decision was reached in the case of comedian Jack Whitehall in relation to a comic bit about attending a pop concert with a female friend who has dwarfism.<sup>40</sup> A couple of years previously, the BBC had carried an article discussing a new law against hate speech in Germany and the case of the German comedian Sophie Passmann who had a tweet deleted for breaching that law.<sup>41</sup> In the tweet she had joked that '[a]s long as it's a tradition in Germany to watch "Dinner for One," refugees can totally come to Germany and destroy our culture'. *Dinner for One* is an old British film – virtually unknown in the UK – which has become a staple of German New Year festivities. Sophie Passmann objects to the film because the doddering old lady in it is also called Sophie. Passmann's reference to refugees is clearly a light-hearted and ironic sideswipe at the stereotype that depicts immigrants as destroyers of the host's indigenous culture. It is not a very funny joke, but as Passmann puts it: 'There shouldn't be a law against bad jokes, because that would mean that half the comedians in Germany wouldn't be allowed on stage.'<sup>42</sup>

<sup>38</sup> Paula Zahn Now, CNN, 8 March 2007.

<sup>39</sup> Naman Ramachandran, "Mr. Bean" Actor Rowan Atkinson Weighs in on "Cancel Culture", *Variety*, 5 January 2021.

<sup>40</sup> Jack Whitehall "Dwarf Routine Complaints Upheld", *BBC News*, 26 November 2020.

<sup>41</sup> 'Is a New Hate Speech Law Killing German Comedy?', *BBC News*, 21 April 2018. <sup>42</sup> *Ibid.*

In this section, I pose the question whether a society which is forbidden to touch taboo subjects needs comedians to touch them on society's behalf. My own view is that there is indeed a need to approach and address taboo topics and that comedy has a unique capacity to meet that need. Comedy has developed this capacity because it has always been the counterpoint to the greatest and perennial human taboo: death. Death is the essence of tragedy, and every human's inevitable, irresistible downwards trajectory towards the grave is the great universal taboo of our existence. It is against the compulsion of death that comedy has always set its face. Comedy takes us within touching distance of the tragic, helping us to laugh at things that might otherwise make us cry. Comedy reassures us that not even the finality of death can kill off the never-ending cycle of human folly. Comedy is the last laugh. Cruel mockery that laughs at individuals or vulnerable sections of society is not true comedy and is seldom funny, for true comedy mocks the universal human condition even to the extent of laughing in the face of death – it brings us together through laughing *with*, rather than by laughing *at*. That said, it is important that comedians should be permitted to run the risk of laughing *at* in their quest to bring people together in the experience of laughing *with*. The quest for true comedy is so important to our common humanity that the comedian must be permitted to take all risks and all necessary steps to undertake it. As audience members, each of us rightly has our own power to cancel a comedic experiment by switching off the television, or refusing to attend the show, or by walking out of the theatre, but to cancel comedy because of a mob reaction is seldom, if ever, justified. As social creatures we must somehow live with the darkest taboos of our shared human experience, and comedy, no less than philosophy and religion, is one of the chief means by which we cope with the human condition.

Perhaps there are topics that can never be the subject of comedy, but it's hard to imagine what they might be. The test of success depends upon the Making Sense. Comedy succeeds when it makes us smile and when it makes us laugh – even, perhaps, when it makes us cringe in recognition of our shared human foibles – for in that moment of connection it makes a community in which performer and audience participate in their common humanity. Canadian comedian Mike Ward argues that 'it shouldn't be up to a judge to decide what constitutes a joke on stage', for the crowd's laughter has 'already answered that question'.<sup>43</sup> Ward was sued by disabled celebrity Jeremy Gabriel when Ward lampooned him to make the point that Gabriel, like the singer Celine Dion, has become a sacred cow of Québécois culture. Michael Lifshitz, a Canadian stand-up comedian who jokes about his own disability in order to educate people, agrees that it sets 'a dangerous precedent when the court says what you can and can't say – that should be left to the court of public opinion'.<sup>44</sup> There is, then, a tension for the comedic performer between relying

<sup>43</sup> Jessica Murphy, 'How a Joke Ended Up before Canada's Top Court', *BBC News, Toronto*, 15 February 2021.

<sup>44</sup> *Ibid.*

upon popular feedback for critical support while rejecting popular judgment that promotes cancellation. Ward has since said that he wouldn't do the same routine today because public sensitivities have changed. It seems therefore that his aim is to touch the boundary of the taboo without entering the inner sanctum and getting blood on his hands. As he says, '[t]he thing I love most about comedy is when you go, "Oh, f-k, I can't believe he or she said that, and I can't believe I laughed at that." I like it when they [the public] judge themselves.'<sup>45</sup> This, it seems to me, is the proper mission of a wise fool – to cross the boundary of good taste just enough to show us where the boundary is. When comedy is regarded in this way – as a process of Artefaction in which a joke is made for the purpose of drawing people into a constructive relationship – it is not then unrealistic to regard comedy as in some ways equivalent to law. They both create an artefact – they make a law or make a joke – that makes society look at itself critically. Both law and comedy do their job well when they keep pace with social change and adapt to social evolution by marking the bounds of what is acceptable and necessary in making civil peace in a particular society at a particular time. It's just that law and comedy look at the boundary line from different sides. Law looks towards the limit and sets out the point beyond which we should not stray. Comedy looks back at the limit having helped us to experience, within a licenced context, what it feels like to cross the line and to live a little beyond the pale.

Sometimes a subject is too recent and too raw to work well as a topic for professional comedy. A daring or reckless comedian might try to take on a topical tragedy – and might even acknowledge the risk by teasing their audience with the rhetorical question, 'too soon?' – but the truth is that sometimes it really is too soon. When the blood is still wet, comedy is liable to taint itself by touching on the tragic. Only foolish fools rush in. Wise fools know to wait, for they know that after a sufficient lapse of time no territory is absolutely off limits to comedy. There have, for example, been no shortage of celebrated cinematic and televisual comedic engagements with wars, including World War I,<sup>46</sup> World War II,<sup>47</sup> the Vietnam War,<sup>48</sup> and the Korean War.<sup>49</sup> There have even been comedic engagements with Hitler, the Nazis, and the Holocaust. The three movies I discuss next were in each case directed by their leading actor and this perhaps indicates the intense artistic control that such projects call for. Charlie Chaplin's *The Great Dictator* (dir. Chaplin, 1940) was a satire on Hitler and the Nazi party in which Chaplin plays a parody of Hitler. Taika Waititi also plays a parody of Hitler in his film *Jojo Rabbit* (dir. Waititi,

<sup>45</sup> Marie-Danielle Smith, 'The Joke That Went to the Supreme Court', *Maclean's*, 10 February 2021.

<sup>46</sup> For example, *Black Adder Goes Forth*, BBC (1989).

<sup>47</sup> For example, *Inglourious Basterds* (dir. Quentin Tarantino, 2009).

<sup>48</sup> For example, *Good Morning Vietnam* (dir. Barry Levinson, 1987), and *Tropic Thunder* (dir. Ben Stiller, 2008), which parodies the many clichéd tropes of Vietnam War films.

<sup>49</sup> The most famous example being the television series *M\*A\*S\*H*, CBS (developer, Larry Gelbart, 1972–1983).



2019), in which the chief protagonist is a member of the Hitler youth. The celebrated comic actor Roberto Benigni created and starred in a film – *La Vita e Bella* ('life is beautiful') (dir. Benigni, 1997) – set in a Nazi concentration camp, for which he won the Best Actor Oscar at the 1999 Academy Awards. The film won the Oscar for Best Foreign Language Film and won the award for Best Jewish Experience at the 1998 Jerusalem Film Festival, which is perhaps the strongest testament to the film's success in navigating the narrow path at the borderline between tragedy and comedy. When a comedy engages with tragic subject matter it is sometimes labelled a 'black comedy' or 'tragi-comedy', but the truth is that all comedy confronts us with tragic or painful aspects of life and death without allowing us to succumb to them.

### Mercy

Confronted with a world of human error, Alexander Pope said that forgiveness is 'divine'. This can sound like an abdication of human responsibility, but Pope was of course encouraging humans to aspire to higher virtues. This book began with the observation that creative making is an aspect of human identity which, according to whether one does or does not believe in the reality of the divine, humans have inherited from the nature of God or have attributed to our idea of the divine. Forgiveness is a feature of human social life in which the aspirational values of divine making can play a powerful part in improving our collective life together, because forgiveness responds to making mistakes not by making judgments but by creating an opportunity for the offender to make an apology and make amends. In the biblical anecdote of the woman caught in adultery (discussed earlier in this chapter), Jesus' last words to the woman were a prescription for an improved future: 'Go now and leave your life of sin' (John 8:11). The rock star Nick Cave, known for his thoughtful, doubt-dominated musings on the nature of the divine, has set down some provocative thoughts on the connection between creativity and forgiveness. Writing in his blog *The Red Hand Files* in response to a fan's question, 'what is mercy for you?', he expresses the fear that cancel culture stymies creative growth:

Without mercy society grows inflexible, fearful, vindictive and humourless. Frances, you've asked about cancel culture. As far as I can see, cancel culture is mercy's antithesis. Political correctness has grown to become the unhappiest religion in the world. Its once honourable attempt to reimagine our society in a more equitable way now embodies all the worst aspects that religion has to offer (and none of the beauty) – moral certainty and self-righteousness shorn even of the capacity for redemption. It has become quite literally, bad religion run amuck.<sup>50</sup>

<sup>50</sup> Nick Cave, *The Red Hand Files* (blog) Issue #109, August 2020.

## Iconoclasm

One of the regrettable features of ‘bad religion run amuck’ is iconoclasm. In recent times we have witnessed the appalling wholesale destruction of cultural artefacts in the Mosul Museum and elsewhere by members of the Islamic State of Iraq and the Levant intent on wiping out images of ‘false gods’. Puritanical religious doctrine also helps to explain widespread sacrilegious vandalism by Oliver Cromwell’s parliamentarians in the period of the English Civil War, and indeed the Greek word *Eikonoklastes* (‘iconoclast’) meaning ‘destruction of icons’ was chosen by parliamentarian John Milton as the title of the book he wrote to justify the execution of King Charles I. It was an answer to the book *Eikon Basilike* (‘the royal portrait’) which was attributed to the authorship of the king during his time awaiting trial and execution (although more likely written by cleric John Gauden, as we noted in Chapter 6). In our own time, protestors – especially those associated with the #BLM (Black Lives Matter) movement and other movements devoted to the eradication of the legacy of European colonialism – have frequently resorted to iconoclasm in various forms. In England, the most famous instance occurred in Bristol, where the statue of slave trader Edward Colston (1636–1721) was torn down and thrown into the waters of the city’s dock. In this case the action seems to have been popular with a large section of the Bristol citizenry and when four of the self-confessed statue-topplers were subject to trial by jury on charges of criminal damage, they were found not guilty. Perhaps the jury appreciated the accused’s performance positively, as being an instance of what Richard Clay calls the iconoclastic ‘transformation of signs’.<sup>51</sup> At the time of the toppling, one of the protestors, Jen Reid, took her chance to stand on the empty plinth and a resin statue of Reid by Marc Quinn was subsequently placed on the plinth where it stayed briefly until the city council removed it. Sir Tony Robinson, the actor best known for playing alongside Rowan Atkinson in the BBC’s *Blackadder* comedy series, has promoted an alternative to the iconoclastic destruction of unpopular statues. Commenting on the Bristol incident, he says, ‘I would love to see the original statue and the one they put up afterwards [to Black Lives Matter protestor Jen Reid] next to each [other] in the museum. That way they can themselves become part of our culture.’<sup>52</sup> This approach has the merit of putting conflicting standpoints in constructive opposition to each other. Applied to the case of Colston and Reid it would serve to perform the drama of ideological evolution by means of a symbolic dialogue between iconographic representations of antagonistic standpoints. Bristol-born artist Banksy proposed a solution with similar benefits (in his words, one ‘that

<sup>51</sup> Richard Clay, *Iconoclasm in Revolutionary Paris: The Transformation of Signs* (Oxford: Voltaire Foundation, 2003).

<sup>52</sup> Alex Diggins, ‘Tony Robinson on the History Wars: ‘I Wouldn’t Have Thrown Colston’s Statue in the Dock’, *The Telegraph*, 3 December 2020.

caters for both those who miss the Colston statue and those who don't'): 'We drag him out the water, put him back on the plinth, tie cable round his neck and commission some life size bronze statues of protesters in the act of pulling him down.'<sup>53</sup> Compare this call for an enlarged performance to what President Barack Obama said in an address to the UN General Assembly: 'In a diverse society, efforts to restrict speech can quickly become a tool to silence critics and oppress minorities . . . the strongest weapon against hateful speech is not repression; it is more speech'.<sup>54</sup>

The iconoclasm through which we bury or drown out the voices of history serves only to silence and subjugate the past to the prejudices of the present time. It might be said that this is well and good, for power should reside with the living rather than the dead, but simply replacing a snapshot of the past with a snapshot of the present fails to represent the dynamic of social change. A political 'movement' properly so-called will speak more powerfully to the future when it maintains connection to the past, for a movement can only be appreciated as such where it conveys a dynamic sense of its trajectory over the distance covered and the journey yet to come. In short, because there is never anything identifiable as the present point of view, sequential images will communicate social change more clearly than any single image can. Consider the range of responses that artists performed to show their support for Ukraine after the 2022 Russian invasion. On the one hand, two university ensembles in Ireland (Trinity Orchestra and UCD Symphony Orchestra) are reported to have removed all Russian music from their repertoires.<sup>55</sup> On the other hand, Lithuanian conductor Mirga Gražinytė-Tyla, the musical director of the City of Birmingham Symphony Orchestra, continued with a performance of a piano concerto by Russian composer Tchaikovsky but alongside it sang a Ukrainian folk song. Which was the more effective performance – the simplicity of cancellation or the complexity of juxtaposition?

In Washington, DC, there is a powerful example of dynamic and co-productive cooperation between opposing points of view, for in that city the memorial statue of Martin Luther King Jr looks resolutely out over the waters of the tidal basin towards the Thomas Jefferson Memorial on the opposite shore. In this way, King confronts America's complex and troubled racial history. Jefferson, as is well known, had an ambiguous relationship with slavery. He signed the Act Prohibiting Importation of Slaves and made other progressive gestures and statements in his official roles, but he personally owned hundreds of slaves who worked on his plantations. The section 'Jefferson and Slavery' on the Thomas Jefferson Foundation (TJF) website for Jefferson's former home, Monticello, summarizes Jefferson's equivocation

<sup>53</sup> Banksy, *Instagram*, 9 June 2020.

<sup>54</sup> Editorial, 'President Obama at the U.N.' *New York Times*, 25 September 2012.

<sup>55</sup> Patrick O'Donoghue, 'Trinity and UCD Orchestras Ban Russian Works in Solidarity with Ukraine', *The Times*, 15 March 2022.

by observing that he called ‘slavery a “moral depravity” and a “hideous blot,” but continued to hold human beings as property his entire adult life’.<sup>56</sup> It is generally believed that his complex relationship to slavery even extended to taking an enslaved woman as his mistress. Sarah ‘Sally’ Hemings (c. 1773–1835) was seven-eighths white and a half-sister to Jefferson’s late wife. DNA evidence commissioned by the TJF indicates that Thomas, or a close Jefferson relative, probably fathered all six of Hemings’ children mentioned in the Monticello records.<sup>57</sup> Other circumstantial evidence supports that conclusion. On the other hand, the TJF minority report in response to the DNA evidence rejects that conclusion, and the Thomas Jefferson Heritage Society, which includes in its mission statement the resolution ‘[t]o stand always in opposition to those who would seek to undermine the integrity of Thomas Jefferson’, argues that Jefferson’s younger brother Randolph (1755–1815) is a more plausible candidate to have been the father of Sally Hemings’ children.

This kind of considered debate, based as it is upon critical readings of expert evidence, is precisely how the complex controversies of history ought to be engaged with. The solution to past ills is not to erase them but to keep them constantly in view and under critical supervision. Scholar Erich Hatala Matthes has said something similar in relation to the work of writers and artists accused or convicted of offensive behaviour or beliefs. As he says in the blurb to his book *Drawing the Line*, ‘[r]ather than shunning art made by those who have been canceled, shamed, called out, or even arrested, we should engage with it all the more thoughtfully and learn from the complexity it forces us to confront’.<sup>58</sup> I visited the Martin Luther King Jr Memorial in 2011, shortly before its official inauguration, and in all the years since then Martin Luther King Jr has had his eyes fixed on Jefferson’s memorial. He stands like a stern supervisor stonily rebuking the errors of the nation’s youthful days. As an alternative to iconoclasm, such silent confrontations between cultural icons can become a new conversation through which mistakes made in the past can contribute to making future peace. Flawed statues, like flawed statutes, are sometimes more profitably amended than repealed entirely.

As we approach our last word on this subject, it is fitting that we should turn to someone who is living out the full potential of improved racial and gender justice and understands well the complexities of the race conversation and the need for nuance. Kemi Badenoch MP was born in London to Nigerian parents and in her childhood lived in the UK, Nigeria, and the United States. She was the first woman to be elected MP of her constituency and in 2022 was

<sup>56</sup> Thomas Jefferson Foundation, ‘Jefferson and Slavery’, [www.monticello.org/thomas-jefferson/jefferson-slavery/](http://www.monticello.org/thomas-jefferson/jefferson-slavery/).

<sup>57</sup> Ibid.

<sup>58</sup> Erich Hatala Matthes, *Drawing the Line: What to Do with the Work of Immoral Artists from Museums to the Movies* (Oxford: Oxford University Press, 2022).

shortlisted in the Conservative Party's internal vote to find a party leader following the resignation of Prime Minister Boris Johnson. On 20 October 2020, in Black History Month, she made a compelling speech in the House of Commons of the UK Parliament in which she stated that 'we cannot improve history; we can only learn from it. What we can improve is the future.'<sup>59</sup> Having stressed that the 'Black History' of the USA, of Africa, and of the UK, are all very different and ought to be approached with appropriate respect for their differences, she pushed back against racially divisive claims made by so-called critical race theorists, including their claim (in Badenoch's words) that 'African history was interrupted by slavery':

As probably the only Member of this House who actually grew up and went to school in Africa, I can tell the House that that is not what we are taught. Much more is taught about the history of black slave traders who existed before and after the transatlantic slave trade.<sup>60</sup>

She adds that:

[T]he most notable statue in the city of Lagos, where I grew up, is that of Madam Tinubu. It is the biggest one in the equivalent of Trafalgar Square. She was a slave trader, but she was also a freedom fighter and a much-loved icon. Her slave trading is not celebrated, but her fight against colonisers is. In Nigeria, she is recognised as a complex character, as all historical figures are – and heaven help anyone who would try to pull her statue down. There is much that we can learn from Nigeria about how to handle the issue of statues.<sup>61</sup>

Oladipo Yemitan's book *Madame Tinubu: Merchant and King-Maker* majors on positive aspects of Tinubu's iconic status, but nevertheless acknowledges that on one occasion she was arraigned on the charge of selling a young boy into slavery and reportedly sought to justify it by saying, 'I have a large household and I must feed them well. I need money to do that.'<sup>62</sup> In the mid-nineteenth century, in the context of British efforts to abolish slavery in Nigeria (pursuant to the Slavery Abolition Act 1833, which outlawed slavery in all parts of the British Empire), Tinubu is reported to have had a conversation with fellow slave trader Domingo Martinez in which she said of twenty of her slaves that she would 'rather drown the slaves than sell them at a discount'.<sup>63</sup> Tinubu's statue is surely a candidate to follow Colston's into the water, but the decision to tear it down or to leave it standing is a decision for the Nigerian people to make in the light of all their history. For the time being they have chosen not to and have preferred to regard it, warts and all, as a testament to the complex nature of their nation's historic struggles.

<sup>59</sup> 'Black History Month', *Hansard*, Vol. 682 (20 October 2020). <sup>60</sup> *Ibid.* <sup>61</sup> *Ibid.*

<sup>62</sup> Oladipo Yemitan, *Madame Tinubu: Merchant and King-maker* (Ibadan: University Press, 1987) 28.

<sup>63</sup> *Ibid.*, 21.

The positive potential inherent in performing both sides to a controversial debate did not commend itself to the crowds of protestors who massed to protest against the statue of colonialist Cecil Rhodes which (at the time of writing) stands prominently on the facade of Oriel College in Oxford. Nor to the 150 or so academics who undersigned to withhold their teaching services from the college so long as Rhodes remains upon it. Resisting calls to tear it down, Lord Patten, the chancellor of the University of Oxford, notes that it would be hypocritical to ‘throw the statue . . . in the Thames’ while at the same time accepting the philanthropic benefits of Rhodes’ legacy (including the admission of one hundred Rhodes scholar each year, a fifth of them from Africa). He adopted the opinions expressed by Nelson Mandela at a celebration banquet for the Rhodes Trust in 2003, where Mandela acknowledged Rhodes’ controversial record in Africa but also hoped that posterity would remember him. Mandela even concluded with a toast to Rhodes. When Mandela said that the Rhodes celebration helps ‘to remind us of the dramatic changes as well as the themes of continuity in the course of the history of our beloved country’, he was alert to the positive possibilities of performing the drama of social change in contrast to the iconoclasm that would supplant a snapshot of a past historical moment with a snapshot of the present. Mindful of the same performative possibilities, British sculptor Antony Gormley proposed that the Rhodes statue at Oriel College should be left in place but turned around to face the wall.<sup>64</sup> To make peace we need to perform both sides of the debate, not as snapshots or as isolated statements, but as an ongoing dynamic discourse. As the protestors against Rhodes know well, it is in the nature of civilized human expression to make a drama out of a crisis, and many of the best dramas revolve around a villain or antagonist. A playwright might choose to kill off an evil character to make a moral point but would never dream of excising them from future performances. The irony is that the protestors calling for the removal of the Rhodes statue can only put on an effective performance for their message so long as the statue – the villain of the piece – remains in place. The ideal outcome in performative terms is that they should continue to protest the statue’s removal but never succeed. Making great play of it is the way to make peace with it.

Cecil Rhodes’ fellow Victorian, the Australian-born scholar Gilbert Murray, attributed the success of the Greek drama to the sympathetic expression of both sides to a dilemma or debate:

This power of entering vividly into the feelings of both parties in a conflict is perhaps the most characteristic gift of the Greek genius; it is the spirit in which

<sup>64</sup> Damien Gayle, ‘Oxford Rhodes Statue Should Be Turned to Face Wall, Says Antony Gormley’, *The Guardian*, 29 May 2021. At the time of writing, Oriel College authorities have voted to take the statue down subject to the permission of the relevant public authorities, and in the meantime have placed a plaque in the vicinity of the statue to contextualize Rhodes’ legacy.

Homer, Eschylus, Herodotus, Euripides, Thucydides, find their kinship, and which enabled Athens to create the drama.<sup>65</sup>

The Greek idea that truth emerges from, or is expressed in, the discourse of opposites is evident not only in their drama but also in their dialectic philosophy and rhetorical practice. In other words, it lies at the heart of their statecraft, as it did subsequently in the statecraft by which the Roman Republic was made and maintained. Ann Vasaly observes that:

The picture of the world that emerged from Ciceronian rhetoric was never simply black or white but was *both* black and white. That is, strong statements of the positive aspects of a place are often balanced at other times and in other speeches by equally strong statements in which the negative aspects of the same place are demonstrated. This was to be expected, in light of the varying exigencies of times and subjects, of the training in speaking *in utramque partem* designed to anticipate the arguments of one's opponent, and of the existence of commonplaces providing negative and positive positions on the same subject. This was also to be expected when we keep in mind that the orator was attempting to respond to his audience's prejudices about the world, and when we remember that the Roman audience of the late Republic had no single vision of reality. Like all of us, they were capable of entertaining various, often mutually inconsistent ideas about places and the people in them.<sup>66</sup>

Even today, legal advocates are trained to argue 'cross-brief' (that is, from their opponent's point of view) as a way of testing and refining the strength of their client's side of the argument. The exercise is a direct successor to the rhetorical exercise of *argumentum in utramque partem* (arguing both sides of a debate).

When the chancellor of the University of Oxford cited Mandela in defence of Rhodes' legacy, Oxford City Councillor Shaista Aziz said that Lord Patten's response was 'tone deaf'. On the contrary, he was simply advocating that we should hear both sides of the argument. It is a maxim of legal due process and an essential guarantor of a fair hearing that when an accusation is put to a judge, the judge should hear the other side (*audi alteram partem*) before passing judgment. This should equally be an indispensable feature of judgments made in the court of popular opinion. In other words, conflicts in courts of law and courts of popular opinion should be appreciated and conducted as high political drama. The first quotation in this book was from Plato, and as we near our conclusion it is fitting to recall that '[i]n the activity of maintaining the *polis*, Plato's Lawmaker is engaged in the finest tragedy –

<sup>65</sup> Gilbert Murray, *History of Ancient Greek Literature* (New York: D. Appleton and Company, 1906) 43. Discussed in Jennifer Wise, *Dionysus Writes: The Invention of Theatre in Ancient Greece* (Ithaca, NY: Cornell University Press, 1998) 13.

<sup>66</sup> Ann Vasaly, *Representations: Images of the World in Ciceronian Oratory* (Berkeley: University of California Press, 1993), 187, <http://ark.cdlib.org/ark:/13030/ft109n99zv/>.

one rivalling those of the tragic poets (*Laws* 817B).<sup>67</sup> To this Aristotle added his 'insistence throughout the *Poetics* that the tragic representation must excite fear and pity in order to fulfill its function'.<sup>68</sup> Where history is shameful the performance should be tragic. As we heard from Plato at the outset of this book, so we heard early on from Martin Luther King Jr and his 'I have a dream speech'. There he said: 'we have come here today to dramatize a shameful condition'. Instead of cancelling the performance on any side of today's most controversial debates, justice demands that the show must go on.

<sup>67</sup> Kathy Eden, *Poetic and Legal Fiction in the Aristotelian Tradition* (Princeton: Princeton University Press, 1986) 29.

<sup>68</sup> *Ibid.*, 34.