consists in "leading the two elements of every power back to a unity . . . the principle of potentiality and the form of its exercise" (*Histoire*, p. 289). The central idea here is that "potentiality already exists before it is exercised, and that obedience precedes the institutions that make it possible" (ibid., p. 311). That this ideology truly has a mythological character is suggested by the same author: "It is a question of a real myth whose secrets we still do not know, but which constitutes, perhaps, the secret of every power." It is the structure of this mystery [*arcano*] that we have undertaken to bring to light in the figure of abandonment and the "potentiality not to." But here we run up against not a mythologeme in the strict sense but, rather, the ontological root of every political power. (Potentiality and actuality are, for Aristotle, first of all categories of being, two ways "in which Being is said.")

In modern thought, there are rare but significant attempts to conceive of being beyond the principle of sovereignty. In the *Philosophy of Revelation*, Schelling thus thinks an absolute entity that presupposes no potentiality and never exists *per transitum de potentia ad actum*. In the late Nietzsche, the eternal return of the same gives form to the impossibility of distinguishing between potentiality and actuality, even as the *Amor fati* gives shape to the impossibility of distinguishing between contingency and necessity. In the Heideggerian idea of abandonment and the *Ereignis*, it seems that Being itself is likewise discharged and divested of all sovereignty. But the strongest objection against the principle of sovereignty is contained in Melville's Bartleby, the scrivener who, with his "I would prefer not to," resists every possibility of deciding between potentiality and the potentiality not to. These figures push the aporia of sovereignty to the limit but still do not completely free themselves from its ban. They show that the dissolution of the ban, like the cutting of the Gordian knot, resembles less the solution of a logical or mathematical problem than the solution of an enigma. Here the metaphysical aporia shows its political nature.

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§ 4 Form of Law

PART 2 of 8/11/03 Reading @ Melvin

4.1. In the legend "Before the Law," Kafka represented the structure of the sovereign ban in an exemplary abbreviation.

Nothing—and certainly not the refusal of the doorkeeper—prevents the man from the country from passing through the door of the Law if not the fact that this door is already open and that the Law prescribes nothing. The two most recent interpreters of the legend, Jacques Derrida and Massimo Cacciari, have both insisted on this point, if in different ways. "The Law," Derrida writes, "keeps itself [*se garde*] without keeping itself, kept [*gardée*] by a doorkeeper who keeps nothing, the door remaining open and open onto nothing" ("Préjugés," p. 356). And Cacciari, even more decisively, underlines the fact that the power of the Law lies precisely in the impossibility of entering into what is already open, of reaching the place where one already is: "How can we hope to 'open' if the door is already open? How can we hope to enter-the-open [*entrare-l'aperto*]? In the open, there is, things are there, one does not enter there. . . . We can enter only there where we can open. The already-open [*il già-aperto*] immobilizes. The man from the country cannot enter, because entering into what is already open is ontologically impossible" (*Icone*, p. 69).

Seen from this perspective, Kafka's legend presents the pure form in which law affirms itself with the greatest force precisely at the point in which it no longer prescribes anything—which is to say, as

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pure ban. The man from the country is delivered over to the potentiality of law because law demands nothing of him and commands nothing other than its own openness. According to the schema of the sovereign exception, law applies to him in no longer applying, and holds him in its ban in abandoning him outside itself. The open door destined only for him includes him in excluding him and excludes him in including him. And this is precisely the summit and the root of every law. When the priest in *The Trial* summarizes the essence of the court in the formula "The court wants nothing from you. It receives you when you come, it lets you go when you go," it is the originary structure of the *nomos* that he states.

8 In an analogous fashion, language also holds man in its ban insofar as man, as a speaking being, has always already entered into language without noticing it. Everything that is presupposed for there to be language (in the forms of something nonlinguistic, something ineffable, etc.) is nothing other than a presupposition of language that is maintained as such in relation to language precisely insofar as it is excluded from language. Stéphane Mallarmé expressed this self-presuppositional nature of language when he wrote, with a Hegelian formula, "The logos is a principle that operates through the negation of every principle." As the pure form of relation, language (like the sovereign ban) always already presupposes itself in the figure of something nonrelational, and it is not possible either to enter into relation or to move out of relation with what belongs to the form of relation itself. This means not that the nonlinguistic is inaccessible to man but simply that man can never reach it in the form of a nonrelational and ineffable presupposition, since the nonlinguistic is only ever to be found in language itself. (In the words of Benjamin, only the "crystal-pure elimination of the unsayable in language" can lead to "what withholds itself from speech" [*Briefe*, p. 127].)

4.2. But does this interpretation of the structure of law truly exhaust Kafka's intention? In a letter to Benjamin dated September 20, 1934, Gerschom Scholem defines the relation to law described in Kafka's *Trial* as "the Nothing of Revelation" (*Nichts der Offenbarung*), intending this expression to name "a stage in which revelation does not signify [*bedeutet*], yet still affirms itself by the

fact that it is in force. Where the wealth of significance is gone and what appears, reduced, so to speak, to the zero point of its own content, still does not disappear (and Revelation is something that appears), there the Nothing appears" (Benjamin and Scholem, *Briefwechsel*, p. 163). According to Scholem, a law that finds itself in such a condition is not absent but rather appears in the form of its unrealizability. "The students of whom you speak," he objects to his friend, "are not students who have lost the Scripture . . . but students who cannot decipher it" (ibid., p. 147).

Being in force without significance (*Geltung ohne Bedeutung*): nothing better describes the ban that our age cannot master than Scholem's formula for the status of law in Kafka's novel. What, after all, is the structure of the sovereign ban if not that of a law that *is in force* but does not *signify*? Everywhere on earth men live today in the ban of a law and a tradition that are maintained solely as the "zero point" of their own content, and that include men within them in the form of a pure relation of abandonment. All societies and all cultures today (it does not matter whether they are democratic or totalitarian, conservative or progressive) have entered into a legitimation crisis in which law (we mean by this term the entire text of tradition in its regulative form, whether the Jewish Torah or the Islamic Shariah, Christian dogma or the profane *nomos*) is in force as the pure "Nothing of Revelation." But this is precisely the structure of the sovereign relation, and the nihilism in which we are living is, from this perspective, nothing other than the coming to light of this relation as such.

4.3. In Kant the pure form of law as "being in force without significance" appears for the first time in modernity. What Kant calls "the simple form of law" (*die bloße Form des Gesetzes*) in the *Critique of Practical Reason* is in fact a law reduced to the zero point of its significance, which is, nevertheless, in force as such (*Kritik der praktischen Vernunft*, p. 28). "Now if we abstract every content, that is, every object of the will (as determining motive) from a law," he writes, "there is nothing left but the simple form of a universal legislation" (ibid., p. 27). A pure will, thus determined only through

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such a form of law, is "neither free nor unfree," exactly like Kafka's man from the country.

The limit and also the strength of the Kantian ethics lie precisely in having left the form of law in force as an empty principle. This being in force without significance in the sphere of ethics corresponds, in the sphere of knowledge, to the transcendental object. The transcendental object is, after all, not a real object but "merely the idea of relation" (*bloß eine Idee des Verhältnisses*) that simply expresses the fact of thinking's being in relation with an absolutely indeterminate thought (*Kants opus posthum*, p. 671).

But what is such a "form of law"? And how, first of all, is one to conduct oneself before such a "form of law," once the will is not determined by any particular content? What is the *form of life*, that is, that corresponds to the *form of law*? Does the moral law not become something like an "inscrutable faculty"? Kant gives the name "respect" (*Achtung*, reverential attention) to the condition of one who finds himself living under a law that is in force without signifying, and that thus neither prescribes nor forbids any determinate end: "The motivation that a man can have, before a certain end is proposed to him, clearly can be nothing other than the law itself through the respect that it inspires (without determining what goals it is possible to have or reach by obeying it). For once the content of free will is eliminated, the law is the only thing left in relation to the formal element of the free will" ("Über den Gemeinspruch," p. 282).

It is truly astounding how Kant, almost two centuries ago and under the heading of a sublime "moral feeling," was able to describe the very condition that was to become familiar to the mass societies and great totalitarian states of our time. For life under a law that is in force without signifying resembles life in the state of exception, in which the most innocent gesture or the smallest forgetfulness can have most extreme consequences. And it is exactly this kind of life that Kafka describes, in which law is all the more pervasive for its total lack of content, and in which a distracted knock on the door can mark the start of uncontrollable

trials. Just as for Kant the purely formal character of the moral law founds its claim of universal practical applicability in every circumstance, so in Kafka's village the empty potentiality of law is so much in force as to become indistinguishable from life. The existence and the very body of Joseph K. ultimately coincide with the Trial; they *become* the Trial. Benjamin sees this clearly when he writes, objecting to Scholem's notion of a being in force without significance, that a law that has lost its content ceases to exist and becomes indistinguishable from life: "Whether the students have lost the Scripture or cannot decipher it in the end amounts to the same thing, since a Scripture without its keys is not Scripture but life, the life that is lived in the village at the foot of the hill on which the castle stands" (Benjamin and Scholem, *Briefwechsel*, p. 155). And this provokes Scholem (who does not notice that his friend has grasped the difference perfectly well) to insist that he cannot agree that "it is the same thing whether the students have lost their Scripture or cannot decipher it, and it even seems to me that this is the greatest mistake that can be made. I refer to precisely the difference between these two stages when I speak of a 'Nothing of Revelation'" (ibid., p. 163).

If, following our analyses, we see in the impossibility of distinguishing law from life—that is, in the life lived in the village at the foot of the castle—the essential character of the state of exception, then two different interpretations confront each other here: on the one hand, that of Scholem, which sees in this life the maintenance of the pure form of law beyond its own content—a being in force without significance—and, on the other hand, that of Benjamin, for which the state of exception turned into rule signals law's fulfillment and its becoming indistinguishable from the life over which it ought to rule. Confronted with the imperfect nihilism that would let the Nothing subsist indefinitely in the form of a being in force without significance, Benjamin proposes a messianic nihilism that nullifies even the Nothing and lets no form of law remain in force beyond its own content.

Whatever their exact meaning and whatever their pertinence to

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the interpretation of Kafka's text, it is certain that every inquiry into the relation between life and law today must confront these two positions.

The experience of being in force without significance lies at the basis of a current of contemporary thought that is not irrelevant here. The prestige of deconstruction in our time lies precisely in its having conceived of the entire text of tradition as being in force without significance, a being in force whose strength lies essentially in its undecidability and in having shown that such a being in force is, like the door of the Law in Kafka's parable, absolutely impassable. But it is precisely concerning the sense of this being in force (and of the state of exception that it inaugurates) that our position distinguishes itself from that of deconstruction. Our age does indeed stand in front of language just as the man from the country in the parable stands in front of the door of the Law. What threatens thinking here is the possibility that thinking might find itself condemned to infinite negotiations with the doorkeeper or, even worse, that it might end by itself assuming the role of the doorkeeper who, without really blocking the entry, shelters the Nothing onto which the door opens. As the evangelical warning cited by Origen concerning the interpretation of Scripture has it: "Woe to you, men of the Law, for you have taken away the key to knowledge: you yourselves have not entered, and you have not let the others who approached enter either" (which ought to be reformulated as follows: "Woe to you, who have not wanted to enter into the door of the Law but have not permitted it to be closed either").

4.4. This is the context in which one must read both the singular "inversion" that Benjamin, in his essay on Kafka, opposes to law's being in force without significance, and the enigmatic allusion, in his eighth "Theses on the Philosophy of History," to a "real" state of exception. A life that resolves itself completely into writing corresponds, for Benjamin, to a Torah whose key has been lost: "I consider the sense of the inversion toward which many of Kafka's allegories tend to lie in an attempt to transform life into Scripture" (Benjamin and Scholem, *Briefwechsel*, p. 155). Analogously, the eighth thesis opposes a "real" (*wirklich*) state of exception, which it is our task to bring about, to the state of exception in which we live,

which has become the rule: "The tradition of the oppressed teaches us that the 'state of exception' in which we live is the rule. We must arrive at a concept of history that corresponds to this fact. Then we will have the production of the real state of exception before us as a task" (Benjamin, "Über den Begriff," p. 697).

We have seen the sense in which law begins to coincide with life once it has become the pure form of law, law's mere being in force without significance. But insofar as law is maintained as pure form in a state of virtual exception, it lets bare life (K.'s life, or the life lived in the village at the foot of the castle) subsist before it. Law that becomes indistinguishable from life in a real state of exception is confronted by life that, in a symmetrical but inverse gesture, is entirely transformed into law. The absolute intelligibility of a life wholly resolved into writing corresponds to the impenetrability of a writing that, having become indecipherable, now appears as life. Only at this point do the two terms distinguished and kept united by the relation of ban (bare life and the form of law) abolish each other and enter into a new dimension.

4.5. Significantly, in the last analysis all the interpreters read the legend as the tale of the irremediable failure or defeat of the man from the country before the impossible task imposed upon him by the Law. Yet it is worth asking whether Kafka's text does not consent to a different reading. The interpreters seem to forget, in fact, precisely the words with which the story ends: "No one else could enter here, since this door was destined for you alone. Now I will go and shut it." If it is true the door's very openness constituted, as we saw, the invisible power and specific "force" of the Law, then we can imagine that all the behavior of the man from the country is nothing other than a complicated and patient strategy to have the door closed in order to interrupt the Law's being in force. And in the end, the man succeeds in his endeavor, since he succeeds in having the door of the Law closed forever (it was, after all, open "only for him"), even if he may have risked his life in the process (the story does not say that he is actually dead but only that he is "close to the end"). In his interpretation of the legend, Kurt

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Weinberg has suggested that one must see the figure of a "thwarted Christian Messiah" in the shy but obstinate man from the country (*Kafkas Dichtungen*, pp. 130–31). The suggestion can be taken only if it is not forgotten that the Messiah is the figure in which the great monotheistic religions sought to master the problem of law, and that in Judaism, as in Christianity or Shiite Islam, the Messiah's arrival signifies the fulfillment and the complete consummation of the Law. In monotheism, messianism thus constitutes not simply one category of religious experience among others but rather the limit concept of religious experience in general, the point in which religious experience passes beyond itself and calls itself into question insofar as it is law (hence the messianic aporias concerning the Law that are expressed in both Paul's Epistle to the Romans and the Sabbatian doctrine according to which the fulfillment of the Torah is its transgression). But if this is true, then what must a messiah do if he finds himself, like the man from the country, before a law that is in force without signifying? He will certainly not be able to fulfill a law that is already in a state of suspension, nor simply substitute another law for it (the fulfillment of law is not a new law).

A miniature painting in a fifteenth-century Jewish manuscript containing Haggadoth on "He who comes" shows the arrival of the Messiah in Jerusalem. The Messiah appears on horseback (in other illustrations, the mount is a donkey) at the sacred city's wide-open gates, behind which a window shows a figure who could be a doorkeeper. A youth in front of the Messiah is standing one step from the open door and pointing toward it. Whoever this figure is (it might be the prophet Elijah), he can be likened to the man from the country in Kafka's parable. His task seems to be to prepare and facilitate the entry of the Messiah—a paradoxical task, since the door is wide open. If one gives the name "provocation" to the strategy that compels the potentiality of Law to translate itself into actuality, then his is a paradoxical form of provocation, the only form adequate to a law that is in force without signifying and a door that allows no one to enter on account of being too open. The messianic task of the man from the country (and of the youth who stands before the door in the miniature) might then be precisely

that of making the virtual state of exception real, of compelling the doorkeeper to close the door of the Law (the door of Jerusalem). For the Messiah will be able to enter only after the door is closed, which is to say, after the Law's being in force without significance is at an end. This is the meaning of the enigmatic passage in Kafka's notebooks where he writes, "The Messiah will only come when he is no longer necessary, he will only come after his arrival, he will come not on the last day, but on the very last day." The final sense of the legend is thus not, as Derrida writes, that of an "event that succeeds in not happening" (or that happens in not happening: "an event that happens not to happen," *un événement qui arrive à ne pas arriver* ["Préjugés," p. 359]), but rather precisely the opposite: the story tells how something has really happened in seeming not to happen, and the messianic aporias of the man from the country express exactly the difficulties that our age must confront in attempting to master the sovereign ban.

N One of the paradoxes of the state of exception lies in the fact that in the state of exception, it is impossible to distinguish transgression of the law from execution of the law, such that what violates a rule and what conforms to it coincide without any remainder (a person who goes for a walk during the curfew is not transgressing the law any more than the soldier who kills him is executing it). This is precisely the situation that, in the Jewish tradition (and, actually, in every genuine messianic tradition), comes to pass when the Messiah arrives. The first consequence of this arrival is that the Law (according to the Kabbalists, this is the law of the Torah of Beriah, that is, the law in force from the creation of man until the messianic days) is fulfilled and consummated. But this fulfillment does not signify that the old law is simply replaced by a new law that is homologous to the old but has different prescriptions and different prohibitions (the Torah of Aziluth, the originary law that the Messiah, according to the Kabbalists, would restore, contains neither prescriptions nor prohibitions and is only a jumble of unordered letters). What is implied instead is that the fulfillment of the Torah now coincides with its transgression. This much is clearly affirmed by the most radical messianic movements, like that of Sabbatai Zevi (whose motto was "the fulfillment of the Torah is its transgression").

From the juridico-political perspective, messianism is therefore a the-

ory of the state of exception—except for the fact that in messianism there is no authority in force to proclaim the state of exception; instead, there is the Messiah to subvert its power.

ℵ One of the peculiar characteristics of Kafka's allegories is that at their very end they offer the possibility of an about-face that completely upsets their meaning. The obstinacy of the man from the country thus suggests a certain analogy with the cleverness that allows Ulysses to survive the song of the Sirens. Just as the Law in "Before the Law" is insuperable because it prescribes nothing, so the most terrible weapon in Kafka's "The Sirens" is not song but silence ("it has never happened, but it might not be altogether unimaginable that someone could save himself from their song, but certainly never from their silence." Ulysses' almost superhuman intelligence consists precisely in his having noticed that the Sirens were silent and in having opposed them with his trick "only as a shield," exactly as the man from the country does with respect to the doorkeeper of the Law. Like the "doors of India" in "The New Lawyer," the door of the Law can also be seen as a symbol of those mythic forces that man, like Bucephalus, the horse, must master at all costs.

4.6. Jean-Luc Nancy is the philosopher who has most rigorously reflected upon the experience of law that is implicit in this being in force without significance. In an extremely dense text, he identifies its ontological structure as that of abandonment and, consequently, attempts to conceive not only our time but the entire history of the West as the "time of abandonment." The structure he describes nevertheless remains inside the form of law, and abandonment is conceived as abandonment to the sovereign ban, without any way out of the ban being envisaged:

> To *abandon* is to remit, entrust, or turn over to . . . a sovereign power, and to remit, entrust, or turn over to its *ban*, that is, to its proclaiming, to its convening, and to its sentencing.
>
> One always abandons to a law. The destitution of abandoned Being is measured by the limitless severity of the law to which it finds itself exposed. Abandonment does not constitute a subpoena to present oneself before this or that court of law. It is a compulsion to appear absolutely under the law, under the law as such and in its totality. In the same way—it is the same thing—to be *banished* amounts not to coming under a provision of the law but rather to coming under the entirety of the law. Turned over to the absolute of the law, the abandoned one is thereby abandoned completely outside its jurisdiction. . . . Abandonment respects the law; it cannot do otherwise. (*L'impératif catégorique*, pp. 149–50)

The task that our time imposes on thinking cannot simply consist in recognizing the extreme and insuperable form of law as being in force without significance. Every thought that limits itself to this does nothing other than repeat the ontological structure that we have defined as the paradox of sovereignty (or sovereign ban). Sovereignty is, after all, precisely this "law beyond the law to which we are abandoned," that is, the self-presuppositional power of *nomos*. Only if it is possible to think the Being of abandonment beyond every idea of law (even that of the empty form of law's being in force without significance) will we have moved out of the paradox of sovereignty toward a politics freed from every ban. A pure form of law is only the empty form of relation. Yet the empty form of relation is no longer a law but a zone of indistinguishability between law and life, which is to say, a state of exception.

Here the problem is the same one that Heidegger confronts in his *Beiträge zur Philosophie* under the heading of "Seinsverlassenheit," the abandonment of the entity by Being, which, in fact, constitutes nothing less than the problem of the unity and difference between Being and being in the age of the culmination of metaphysics. What is at issue in this abandonment is not something (Being) that dismisses and discharges something else (the being). On the contrary: *here Being is nothing other than the being's being abandoned and remitted to itself*; here Being is nothing other than the ban of the being:

> What is abandoned by whom? The being by Being, which does and does not belong to it. The being then appears *thus*, it appears as object and as available Being, as if Being were not. . . . Then this is shown: that Being abandons the being means: Being dissimulates itself in the being-manifest of the being. And Being itself becomes essentially determined as this withdrawing self-dissimulation. . . . Abandoned by

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> Being: that Being abandons the being, that Being is consigned to itself and becomes the object of calculation. This is not simply a "fall" but the first history of Being itself. (*Beiträge zur Philosophie*, p. 115)

If Being in this sense is nothing other than Being *in the ban* of the being [*l'essere* a bandono *dell'ente*], then the ontological structure of sovereignty here fully reveals its paradox. The relation of abandonment is now to be thought in a new way. To read this relation as a being in force without significance—that is, as Being's abandonment *to* and *by* a law that prescribes nothing, and not even itself—is to remain inside nihilism and not to push the experience of abandonment to the extreme. Only where the experience of abandonment is freed from every idea of law and destiny (including the Kantian form of law and law's being in force without significance) is abandonment truly experienced as such. This is why it is necessary to remain open to the idea that the relation of abandonment is not a relation, and that *the being together of the being and Being does not have the form of relation.* This does not mean that Being and the being now part ways; instead, they remain without relation. But this implies nothing less than an attempt to think the politico-social *factum* no longer in the form of a relation.

N Alexandre Kojève's idea of the end of history and the subsequent institution of a new homogenous state presents many analogies with the epochal situation we have described as law's being in force without significance (this explains the contemporary attempts to bring Kojève to life in a liberal-capitalist key). What, after all, is a State that survives history, a State sovereignty that maintains itself beyond the accomplishment of its *telos*, if not a law that is in force without signifying? To conceive of a fulfillment of history in which the empty form of sovereignty still persists is just as impossible as to conceive of an extinction of the State without the fulfillment of its historical forms, since the empty form of the State tends to generate epochal contents that, in turn, seek out a State form that has become impossible (this is what is happening in the ex–Soviet Union and in ex-Yugoslavia).

The only thought adequate to the task would be one capable of both thinking the end of the State and the end of history together and mobilizing the one against the other.

This is the direction in which the late Heidegger seems to move, if still insufficiently, with the idea of a final event or appropriation (*Ereignis*) in which what is appropriated is Being itself, that is, the principle that had until then determined beings in different epochs and historical figures. This means that with the *Ereignis* (as with the Hegelian Absolute in Kojève's reading), the "history of Being comes to an end" (Heidegger, *Zur Sache des Denkens*, p. 44), and the relation between Being and being consequently finds its "absolution." This is why Heidegger can write that with the *Ereignis* he is trying to think "Being without regard to the being," which amounts to nothing less than attempting to think the ontological difference no longer as a relation, and Being and being beyond every form of a connection.

This is the perspective from which we must situate the debate between Kojève and Georges Bataille. What is at play here is precisely the figure of sovereignty in the age of the fulfillment of human history. Various scenarios are possible. In the note added to the second edition of his *Introduction to the Reading of Hegel*, Kojève distances himself from the first edition's claim that the end of history simply coincides with man's becoming an animal again and the disappearance of man in the proper sense (that is, as the subject of negating action). During a trip to Japan in 1959, Kojève had maintained the possibility of a posthistorical culture in which men, while abandoning their negating action in the strict sense, continue to separate forms from their contents not in order to actively transform these contents but to practice a kind of "pure snobbism" (tea ceremonies, etc.). On the other hand, in the review of Raymond Queneau's novels he sees in the characters of *Dimanche de vie*, and particularly in the "lazy rascal" (*voyou desœuvré*), the figure of the satisfied wise man at the end of history (Kojève, "Les romans," p. 391). In opposition to the *voyou desœuvré* (who is contemptuously defined as *homo quenelleneis*) and the satisfied and self-conscious Hegelian wise man, Bataille proposes the figure of a sovereignty entirely consumed in the instant (*la seule innocence possible: celle de l'instant*) that coincides with "the forms in which man gives himself to himself: . . . laughter, eroticism, struggle, luxury."

The theme of *desœuvrement*—inoperativeness as the figure of the fullness of man at the end of history—which first appears in Kojève's review of Queneau, has been taken up by Blanchot and by Nancy, who places it at the very center of his work *The Inoperative Community*. Everything depends on what is meant by "inoperativeness." It can be

neither the simple absence of work nor (as in Bataille) a sovereign and useless form of negativity. The only coherent way to understand inoperativeness is to think of it as a generic mode of potentiality that is not exhausted (like individual action or collective action understood as the sum of individual actions) in a *transitus de potentia ad actum.*

§ Threshold

In laying bare the irreducible link uniting violence and law, Benjamin's "Critique of Violence" proves the necessary and, even today, indispensable premise of every inquiry into sovereignty. In Benjamin's analysis, this link shows itself to be a dialectical oscillation between the violence that posits law and the violence that preserves it. Hence the necessity of a third figure to break the circular dialectic of these two forms of violence:

> The law of this oscillation [between the violence that posits law and the violence that preserves it] rests on the fact that all law-preserving violence, in its duration, indirectly weakens the lawmaking violence represented by it, through the suppression of hostile counterviolence. . . . This lasts until either new forces or those earlier suppressed triumph over the violence that had posited law until now and thus found a new law destined to a new decay. In the interruption of this cycle, which is maintained by mythical forms of law, in the deposition of law and all the forces on which it depends (as they depend on it) and, therefore, finally in the deposition of State power, a new historical epoch is founded. ("Zur Kritik der Gewalt," p. 202)

The definition of this third figure, which Benjamin calls "divine violence," constitutes the central problem of every interpretation of the essay. Benjamin in fact offers no positive criterion for its identification and even denies the possibility of recognizing it in

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