

BETWEEN TEXT AND PERFORMANCE

Symposium on Improvisation and Originalism

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Introduction: Patina, Deposit, Penumbra

In a review of Philip Gossett's book *Divas and Scholars*, Charles Rosen found "most interesting" the author's "awareness that composers sometimes wrote passages difficult to realize with the instruments available to them":

His most striking example is a melody from Donizetti's *Don Pasquale*, originally given to the horn, that was changed to the cello by the composer after the first staging. The melody continually returns on an F in the middle register, a so-called "stopped" note—that is, a note realizable in the horns of the time, which had no valves, only by closing the bell of the horn with the hand—and Berlioz remarked in his treatise on orchestration that this particular note had a muffled sound. The mod-

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ern horn with valves can play this note easily to everyone's complete satisfaction, and Gossett suggests that the composer's final decision be set aside and the horn restored with the modern instrument. This makes for genuine fidelity to the composer's conception.¹

I have yearned to send this passage for comment to Antonin Scalia (but have thought better of it). Wearing a costume first worn onstage by Plácido Domingo in 1986, Justice Scalia appeared as an extra in a 1994 production of *Ariadne auf Naxos*, so his interest in the orchestration of opera may be presumed. I would like to consult him, however, not as an amateur of opera but as a professional interpreter of publicly consequential texts. What would Justice Scalia—an “originalist” who rejects the idea of the U.S. Constitution as “a ‘morphing’ document”²—make of Gossett's advice “that the composer's final decision be set aside”? And what would he make of Rosen's characterizing the result as one of “genuine fidelity to the composer's conception”? If today an orchestra no longer must turn to a cello to produce the sound that Donizetti had wanted a horn to play, then which of the two options should be regarded as anachronistic? Who would be the real conservative here—the opera director who leaves the melody with the cello, or the one who gives it to the horn? For if the former were the conservative, the latter would be not radical but reactionary. A radical (or do I mean antinomian?) director would assign the melody to a sitar or bagpipe.

An experiment worth enduring would bring Justice Scalia to consecutive performances of *Don Pasquale*, one with the cello playing the melody in question, and one with the horn. If the amateur's ear found the latter better—more “Donizettian”—perhaps his jurist's eye would begin to read the Constitution a bit differently. I put the point in this way, because I take seriously the arguments that Helen Vendler, Drew Gilpin Faust, Martha Nussbaum, Michael Wood, and others have made recently in support of the arts, or of the study of the arts, as a highest-order training for the mind—for the mind of a judge, as much as for the mind of an art or music or literature critic. It is one thing for a judge to be faced, at the height of his career and authority, with an argument he can instantly (to his own satisfaction) refute. It is quite another for him to spend two nights at the opera, holding a score—the conductor's equivalent of a legal statute—and listening with passionate concern. I am neither a lawyer nor a musician, so there is no point in my suggesting parallels or comparisons between the case of *Don Pasquale* and any case that has faced the Supreme Court. I can cite, however, the testimony of Elena Kagan, now Justice Scalia's most junior colleague, at her Sen-

1. Charles Rosen, “Opera: Follow the Music,” *New York Review of Books*, October 5, 2006, 37. Philip Gossett, *Divas and Scholars: Performing Italian Opera* (Chicago: University of Chicago Press, 2006).

2. See Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law* (Princeton, NJ: Princeton University Press, 1997). See also Joan Biskupic, *American Original: The Life and Constitution of Supreme Court Justice Antonin Scalia* (New York: Farrar, Straus, and Giroux, 2010).

ate confirmation hearings. In Ronald Dworkin's summary, she said that "we must distinguish between what the framers of the Constitution meant to say and what they themselves expected would be the legal consequences of their saying it." They did not, she added—and these are her own words, not Dworkin's—"mean to constitutionalize all of their [own] practices."³ Just as, one might add, Donizetti did not mean to fix eternally the orchestration of *Don Pasquale*.

My assumption, at all events, is that Justice Scalia, however resonant he found the case of *Horn v. Cello*, would ultimately respond to any legal parallel that one could suggest in the way that Rosen responds to Gossett's viewpoint. Gossett, Rosen confides to his audience, "has a more generous spirit and a larger tolerance than I do." But generosity and tolerance, both synonyms for *liberality*, seem almost beside the point—the point being the distinction not between liberality and authenticity, but between authenticity and integrity. As Rosen himself observes, Gossett's touchstone is "the concept of integrity":

It might seem as if integrity has here displaced the not quite totally devalued concept of authenticity. We might say that the addition of ornaments to Bellini and Verdi is authentic in the sense that we know that it was practiced during their lifetimes, but it is also clear that it was less integral to their style than to Rossini's or Handel's.

To gauge the integrity of an opera means to judge what is and is not integral to it, what may and may not be changed without damaging its "musical and harmonic," "aesthetic," "verbal," and "dramaturgical" identity.⁴ Such judgments demand responsibility (an ethical virtue) and vast learning (an intellectual attainment), but they entail something more as well. In this symposium, Roger Moseley names that something "fluency"—"improvisatory fluency in historical idioms"—and we learn the significance of fluency from Robert Levin, who instructs us that to play a Mozart piano text literally is to play it improperly. Given Mozart's assumptions about the salutary freedom of performers, a literal reading of his original text may well preserve what was never his expectation or intent.

If an interpreter has the intellectual attainments and the ethical virtues required to make a judgment of this kind, he or she still must have the capacity to improvise, fluently, in historical idioms. Otherwise the upshot of those virtues and attainments will very likely be the application of originalist and literalist principles, more or less by rote, to a problematic text. Amartya Sen, writing of constitutional interpretation, concedes "it is hard not to be an 'originalist'. . . . yet that recognition . . . leaves open important decisions about what exactly of

3. Ronald Dworkin, "The Temptation of Elena Kagan," *New York Review of Books*, August 19, 2010, 36.

4. Gossett, *Divas and Scholars*, 130 ("musical and harmonic integrity"), 204 and 246 ("aesthetic integrity"), 489 ("verbal integrity"), 513 ("dramaturgical integrity"). See, in general, 244. ("The Integrity of an Opera as a Historical Problem").

the original enterprise needs to be preserved: the language used, the intentions underlying it, or what we might call its constitutional motivation?”⁵ For several hundred years, since the humanist heyday of Bruni and Valla, originalism and literalism have aimed to edify and disillusion the consumers of texts. Even so, as Frank Kermode reflects, literalism can alienate those it is meant to improve. “We will not watch Andrew and Mark pausing in London or Chicago but Andreas and Markos walking a Greek city”: Kermode quotes these translator’s words in assessing Willis Barnstone’s *Restored New Testament* (in which, as a token of philosemitism, Jesus is called “Rabbi Yeshua”). “But that may not” —Kermode observes of Barnstone’s literalism —make the Apostles Andrew and Mark “more ‘contemporary’ with us; the effect might well be to estrange them.” Kermode’s verdict on this job of textual “cleaning and repair” is: “admirably bold though occasionally deficient in finesse.”⁶ Once again, the combination of intellectual attainment and ethical virtue falls short. Whether what it falls short of is called “finesse” or “fluency” is less consequential than our recognition that the absent quality is neither scholarly nor moral, but *musical*. The literalist has no *ear*.

It is for this reason that I would issue a second invitation to my experimental performances of Donizetti —to Stephen Breyer, though I would not seat him and Justice Scalia within eyeshot of each other. I have no idea if Justice Breyer has an ear for opera, but it does seem to me that this passage, taken from his new book, is, musically speaking, *off*:

the use of values and proportionality can help produce constitutional interpretation that allows the Constitution to adapt its permanent values to fit society’s changing needs. . . . Other, simpler approaches come with costs attached, such as the difficulty of explaining to the public why it should accept a decision that embodies eighteenth-century factual assumptions or pure judicial intuition.⁷

The difference between a “pure” intuitionist and a happily impure one like Justice Breyer appears to be that the latter can and will explain his opinion, to the public’s satisfaction. Still, the public of a Supreme Court decision is not, or presumably should not be, the general public, which elects members of Congress, but the parties to the case at hand and (continuing our parallel with music) connoisseurs. For it is only to the connoisseur that finesse and fluency matter.

5. Amartya Sen, “Rights, Words, and Laws: Constitutions and Their Motivation,” *New Republic*, October 28, 2010, 24. The article was drawn from Sen’s H. L. A. Hart Memorial Lecture of 2010 at the Oxford University Faculty of Law.

6. Frank Kermode, “A Bold New Bible,” *New York Review of Books*, July 15, 2010, 40–42. The book under review is Willis Barnstone, *The Restored New Testament: A New Translation with Commentary, Including the Gnostic Gospels Thomas, Mary, and Judas* (New York: Norton, 2010).

7. See Stephen Breyer, *Making Our Democracy Work: A Judge’s View* (New York: Knopf, 2010).

The point that I am trying to make can be clarified by inviting a third, yet more unlikely guest to the opera: Pope Benedict XVI. His trust, like that of secular jurists, is to defend and interpret a fixed corpus of writings, but he must maintain as well a *depositum fidei* that comprises two millennia of traditions unmentioned in Holy Scripture. As the Second Vatican Council defined this “deposit of faith”:

The task of authentically interpreting the word of God, whether written or handed on, has been entrusted exclusively to the living teaching office of the Church. . . . This teaching office is not above the word of God, but . . . with the help of the Holy Spirit, it draws from this one deposit of faith everything which it presents for belief as divinely revealed. (*Dei verbum* n. 10)

However conservative the Roman Church may seem, no Catholic bishop would deny that its founding documents possess what the Supreme Court has termed, in the context of the American Constitution, a “penumbra.” Just as Vatican II held that extrascriptural traditions consist only in “explaining . . . faithfully” and “listening . . . devoutly” to what “has been handed on,” so Justice William O. Douglas, writing for the court in *Griswold v. Connecticut*, held that the First Amendment to the Constitution

has a penumbra where privacy is protected from governmental intrusion. The right of “association,” like the right of belief (*Board of Education v. Barnette*, 319 U.S. 624), is more than the right to attend a meeting; it includes the right to express one’s attitudes or philosophies by membership in a group or by affiliation with it or by other lawful means. Association in that context is a form of expression of opinion; and while it is not expressly included in the First Amendment its existence is necessary in making the express guarantees fully meaningful. The foregoing cases suggest that specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance.

The parallel between these two passages (both published, incidentally, in 1965) is unmistakable. In arguing that the Bill of Rights has no “penumbras, formed by emanations,” Justice Scalia denies with regard to the Constitution what he must affirm, as a Catholic, with respect to the *depositum fidei*. In this way, if in no other, his hermeneutic seems Protestant, a restatement in American legal terms of the Reformation principle, *sola Scriptura*.

The aim of my thought experiment—two nights at the opera—is to raise, in contexts to which the issue seems alien, the question of *taste*. What if the deposit of faith and Douglas’s penumbras are regarded as two sorts of patina? There are cultures that regard patina as dirt—which is to say, in bad taste—but

other cultures value patina as connoisseurs do a mature wine or whiskey. I have written in these pages about how an important Japanese subculture (the imperial Shinto cult) is so averse to the processes of aging and weathering that its shrines at Ise Jingū are destroyed and rebuilt identically every twenty years.⁸ But another important subculture in Japan (the aesthetic cult of *wabi-sabi*) regards weathering, cracks, repairs, discoloration, fading, stains, refinishing, and coats of moss as signs of loving use and increasing profundity. Frank Lloyd Wright, when interpreting *ukiyo-e* prints, stressed how “time has imbued [their] color with added charm. . . . Blues become beautiful yellows; purples soft brown; *beni*, or bright red, fades to luminous pink. . . . When first printed they were comparatively crude, and much of the credit formerly given by connoisseurs to the printer should be accredited to age.”⁹ Polemical treatments of such questions are famous, or infamous. There is, for example, the attack of James Beck on the Sistine Chapel restorations and Kathleen Weil-Garris Brandt’s characterization of his ire as symptomatic of “mere culture shock.”¹⁰ One wonders, however, if “culture shock” should be thought of as “mere,” especially if the person shocked is a scholar of distinction on the objects whose accretions—whether patina, deposit, or penumbra—have been purged without his advice and consent. Beck’s indignation may differ in import, but not really in kind, from the trauma entailed by, say, the stripping of the altars during the English Reformation.¹¹ In both instances, cherished accretions were destroyed so that cherished originals might be restored.

In his analysis of one such case—the “fury and battles” at La Scala “for a high *c*” that was not sung—Gossett demonstrates the fluency, finesse, and ear required to ease tensions of this kind.¹² The third act of *Il Trovatore* ends in practice, though not in printed editions, with a high *c* that operagoers eagerly await. Riccardo Muti, acting, as he put it, in the “cause of fidelity,” directed productions of *Il Trovatore*, in 1977 and 2000, in which the third act ends on a *g*, as Verdi intended. What followed was, again and predictably, culture shock—“fury and battles,” as *La Repubblica* reported. But “why should anyone care so much?” Gossett asks us rhetorically, and then answers:

Musical analysis, which can be invoked to support all sides of an argument, is painfully unsuited to this kind of question. But there is a rela-

8. Jeffrey M. Perl, “Regarding Change at Ise Jingū,” *Common Knowledge* 14.2 (Spring 2008): 208–20.

9. Frank Lloyd Wright, “The Japanese Print: An Interpretation” (1912), in *Frank Lloyd Wright: Essential Texts*, ed. Robert Twombly (New York: Norton, 2009), 146.

10. For the broadest context of this exchange, see James Beck and Michael Daley, *Art Restoration: The Culture, the Business, and the Scandal* (London: John Murray, 1993), and Kathleen Weil-Garris Brandt, “The Grime of the Centuries Is a Pigment of the Imagination: Michelangelo’s Sistine Ceiling,” in *Palimpsest: Editorial Theory in the Humanities*, ed. George Bornstein and Ralph G. Williams (Ann Arbor: University of Michigan Press, 1993).

11. See Eamon Duffy, *The Stripping of the Altars: Traditional Religion in England, 1400–1580* (New Haven, CT: Yale University Press, 1992).

12. For the controversy surrounding Muti’s “*Trovatore* without a high *c*,” see Gossett, *Divas and Scholars*, 124–27.

tively simple explanation—a historical explanation, not a musical one. Verdi wrote the role of Manrico for Carlo Bacardé, a tenor whose effective range it presumably reflects. . . . *A* (which recurs frequently) is the highest note that Verdi expected Manrico to sing easily. . . . The real disaster of the interpolated high *c* is its effect on the choice of an appropriate tenor to sing the role of Manrico. The sine qua non of an opera house today, as it casts the part, has become the ability of a tenor to let loose a stentorian high *c* at the end of “*Di quella pira*.” . . . To produce a high *c*, furthermore, singers generally cut the cabaletta by half and omit the notes that they should be singing with the chorus, so as to preserve breath and energy for the final pitch. At the time of Muti’s *Trovatore* in Florence, one Italian critic commented that the high *c*, even if not written by Verdi, was a gift that the people had given to Verdi. This bit of sentimentality hides the basic issue. . . . Give me a tenor who can sing Manrico as Verdi conceived the part and chooses to add a ringing high *c*, and I will join the *loggione* in applauding him.

“Failing that,” Gossett concludes, the tenor should sing Manrico’s part as Verdi demonstrably intended it.

This verdict is not originalist and literalist, although Gossett’s concern for the composer’s intention is always clear. Nor is Gossett an intuitionist (whether of a pure type or an impure), though crucially he does not condemn the interpolation of the crowd-pleasing *c*. His hermeneutic is not Catholic in tendency (he finds the idea of the high *c* as a “gift” to Verdi sentimental), nor is it Protestant or humanist (the accretion is allowed, if under exacting conditions). While ethical and scholastic concerns inform Gossett’s judgment, it issues ultimately from his “improvisatory fluency” in the relevant “historical idioms.” His approach is a *tertium quid* that is rare in interpretive disciplines beyond the performing arts. That approach is elaborated throughout this symposium, which Philip Gossett and Roger Moseley have organized. What follows are brief solos, taken from each contribution and selected to preview themes that, in a better world, would edify the ear of any prelate or lawyer whose respect for the arts is inadequately profound.

—Jeffrey M. Perl

Within the textual record, signs of improvisation take the form of absences (of notes that are not there); they are thus confined and disciplined by the scores that envelop and cluster around them. In other words, improvisation-shaped holes pockmark the smooth surface of Western music, its history, and its pedagogical traditions. . . . The dialogical acquisition of improvisatory fluency in historical idioms offers a way to circumvent the tautological recursiveness of written and recorded evidence.

—from Roger Moseley, “Mozart’s Harlequinade: Musical Improvisation
alla commedia dell’arte”

Chopin stopped writing the word *rubato* in his scores around 1836, but that does not mean the practice stopped; rather, he grew more subtle in the ways he shaped his notation to invite it. And the invitation here is open ended: the following voice of the canon emerges more clearly even if the pianist simply arpeggiates the three dyads, but a more radical solution might be slightly to stagger all notes of the lower voice. In other words, the text invites multiple modes of performance, all of which bend the rigor of the science of the canon to the performing practices that help define the genre. . . . No modern editor would dream of rewriting Chopin's canons; but, in curbing our access to his variants, the same modern editor does no less potential damage by radically curtailing the options available to the performer.

—from Jeffrey Kallberg, “Mechanical Chopin”

Given this state of affairs, it has been difficult if not impossible to think of notation in relation to composition: notation has become associated with reconstruction as a phenomenon of historical interest. But at the same time, the sense of the score—and hence some notion of notation—seems to remain within the body and the mind of the dancer as a danced possibility. That is to say, some form of cognitive mapping takes the place of the idea of notation and takes root in the dancer's mind and body (if not on paper). Literal notation is not just secondary but *tertiary* with respect to this sense of scoring that preexists notation in the mind and the body, making of dance a form that places particular demands on the performer.

—from Mark Franko, “Writing for the Body:
Notation, Reconstruction, and Reinvention in Dance”

Beaumont and Fletcher's *Wild-Goose Chase* contains . . . a songtext, in which the words peter out after five lines:

Mir, How sweet she kisses?
She has a Spring dwells on her lipps: a paradise
This is the Legacie.

Song.

From the honor'd dead I bring } {Take it nobly, 'tis your due
Thus his love and last offering;} {From a friendship ever true
From a faith &c.

As a music manuscript survives for this particular song, it can be seen how much text has disappeared into that “&c”: a further six lines. Those six lines, moreover, give crucial meaning to the song, for they explain what the “honor'd dead” is offering—a living “Moddell” of himself in the person of his sister:

from a faith yt had no end,
towards Heaven & to his freind,
from a gratitude as true,
as these are rich I bring to you
This little Moddell hould it deere,
and for yor Dead freind shedd a teare.

Thus the music manuscript does not preserve a longer song than the one in the play; rather, the manuscript is a source for the full play song, which is not present beyond a long cue in whatever text it was (presumably a prompter's book) that underlay the *Wild-Goose Chase*.

—from Tiffany Stern, “I Have Both the Note, and the Dittie About Me’: Songs on the Early Modern Page and Stage”

Like texts (only in more obvious and extreme forms), video games are social objects. Their meanings emerge only in their playing, through improvisational performances. In a game, the scripted rules are constraints within which the player's moves are freely performed, parameters that give meaning to improvisational acts. In a game, you make moves in response to the environment, often using programs known as “editors.” You repeatedly reconfigure and reposition your character or avatar and inventoried objects (weapons, tools, vehicles) in the game world, each time invoking the procedures of the underlying code and thus altering the game world as you are experiencing it. Then you respond in turn to the new conditions of the altered environment. Although you do not edit the underlying code directly (unless you are a game “modder”—someone who creates levels or new games by doing precisely that), these higher-level reconfigurative acts can legitimately be understood as an editorial intervention, not unlike the act of imposing annotation or “markup” on a text, for example, and thus creating a mediating and interpretive layer between text and reader. Playing a video game is improvisational in precisely this sense: it is a series of performances involving adjustments and reconfigurations in response to feedback.

—from Steven E. Jones, “Performing the Social Text; or, What I Learned from Playing *Spore*”

First, we can think of the dramatic text as a set of instructions given by a writer to actors. . . . Unsurprisingly, this model has frequently been used by playwrights seeking maximal control over how their plays are being performed against the self-assertions of directors, designers, and actors. . . . Seeking to carve out a space of creative control, [twentieth-century directors] dismissed the dramatic text and the playwright and instead devised forms of spectacle unhinged from drama, which meant that directors and actors, devising their productions collectively, took over the function of the playwright. . . . In a sense, one might say that by turning a power struggle against the text-as-instructions into a rebellion against all text, directors and actors found themselves in a space of pure theatrical devising—for better or for worse. By failing to focus their critique on one particular conception of the dramatic text, these directors and theorists—as well as the critics who followed their assumptions—also failed to see that this [first] conception was actually bad for everybody. It was certainly bad for directors and actors, who carried out instructions without (much) creative freedom of their own. But it was also bad for dramatists. . . . the power of the dramatic text also constrained it, limiting it to a dictatorial role from which there was no escape. Even though this first model continues to find adherents, particularly among playwrights, it does not reign

supreme. A second model is at least as influential: the dramatic text as an incomplete artwork, a work with gaps that actors, designers, and directors must fill. . . . [A third model] presumes that the dramatic text is complete, a finished object that can be read like any other piece of literature. In this model, we can think of performing a text not as a process of carrying out instructions, nor as one of filling in gaps, but as one of transformation and adaptation. The dramatic text is taken and transposed into a different medium. . . . in this third model the text is complete, without gaps, and must be adapted in its entirety. How this adaptation is done depends on a variety of factors. There is nothing in the text, complete though it is, to give definite instructions. The agency of adaptation, in other words, resides with the adaptor, even though this adaptation occurs within a set of constraints.

—from Martin Puchner, “Drama and Performance:
Toward a Theory of Adaptation”

I have come to the conclusion that very little music written before sometime in the nineteenth century has a text that can be established definitively, either in terms of the expectations of performers or those of listeners. . . . What did [Mozart] mean by [the] directive [*Da capo sieben Tackt*: Go back to the beginning and play the first seven bars again]? Did he want the performer to play precisely those *notes* again? If Mozart had died before this piece [K. 457] was published, his publisher would have followed Mozart’s instruction to the letter, reproducing the first seven bars in both of the subsequent recurrences of the theme. Indeed, such is the case for the Piano Sonata in B flat major, K. 570, published posthumously and in which the four iterations of the principal theme are identical. Now, I submit that what Mozart means here is not that the exact notes of the beginning should be played again, because when one returns to the theme one is chastened, exhilarated, or perhaps ashamed of what happened: one is a changed person. And as this is so, even when one says the same things one will say them differently. One could, of course, simply inflect them differently while playing the same notes, but is that sufficient? Is it possible to know? In the case of this piece, it is in fact possible, because it was dedicated to one of Mozart’s pupils, Therese von Trattner. When Mozart notated a piece, he thought about his own performance needs, not those of the pupil, whose needs would be accommodated later. This is the difference between the *connoisseurs* and the *amateurs*, the *Kenner* and the *Liebhaber*: the professional musicians will improvise, the students need to be given a pony.

—from Robert Levin, “Text and the Volatility of Spontaneous Performance”