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 Jonathan Kertzer  
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## CHAPTER I

## Le mot juste

in justice is every virtue comprehended  
 (Aristotle, *Nicomachean Ethics* 108)

JUSTICE: Never worry about it

LAW (THE): Nobody knows what it is

WRITTEN: "Well written": a hall-porter's encomium, applied to the newspaper serial he finds entertaining

(Gustave Flaubert, *The Dictionary of Accepted Ideas* 55, 58, 91)

Flaubert's mockery of bourgeois indifference to justice and legality contrasts his own devotion to justice as the supreme literary value, the virtue in which all others are comprehended. The just word – *le mot juste* – is a phrase expressing his ideal of linguistic precision associated with painstaking craft seeking exactly the right word to express exactly the right idea to convey exactly the right impression to his readers. Writing well, he claimed, is more than a matter of verbal felicity, although felicity is its reward. "[T]o write well is everything," a writer's first duty, he told George Sand (Flaubert, *Letters* 2.231), but it is not an end in itself. Although he once proposed writing a book "about nothing, a book dependent on nothing external, which would be held together by the internal strength of its style" (1.154), his letters reveal that he was not satisfied with style for its own sake. It should be an avenue to illumination and "exaltation" (2.80). The wrong word is an affront not just to harmony, but to clear-sightedness and clear thinking.

For the moment a thing is True, it is good . . . When I come upon a bad assonance or a repetition in one of my sentences, I'm sure I'm floundering in the False. By dint of searching, I find the proper expression, which was always the *only* one, and which is, at the same time, harmonious. The word is never lacking when one possesses the idea. (2.231)

The right word appears when the idea is true, but only the right word will express its truth. *Le mot* is *juste* when it contributes to a justice of

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expression, thought and judgment. It permits a fusion of aesthetic and ethical values, which is the subject of this book about the “jurisdiction” of literary language – the speaking of the law in spaces that the law defines, inhabits, protects, but also, sometimes, neglects.

Following this hint from Flaubert, let me begin by introducing some key terms concerning the justice of literature and the literariness of justice. Shoshana Felman observes that “legal meaning and literary meaning necessarily inform and displace each other” (Felman 8). An underlying assumption in this study will be that literature both informs and displaces judicial thinking by rendering it vivid yet problematic, by displaying its rhetorical and fictional structures, and by engaging the reader, judiciously or injudiciously, in its operations.

## JUST WORDS

That a word can be just rather than merely harmonious suggests not only Flaubert’s devotion to craft, but an underlying faith in the nature and efficacy of language. He scorned the inaccuracy of customary speech because of the shoddy thinking it conveyed. His satirical *Dictionary of Accepted Ideas* is a compendium of complacent bourgeois clichés, which are no less fatuous for occasionally stumbling into truth. They illustrate how language not only permits but also encourages stupidity. He considered adding to his final novel *Bouvard and Pécuchet*, to which the dictionary is an appendix, the subtitle *Encyclopedia of Human Stupidity* (Flaubert, *Letters* 2.193). If, when abused, language is a vehicle of self-deception, however, it can also be illuminating, provided it is used judiciously. His contempt for bourgeois smugness reflects a mistrust of human nature generally, but it is countered by a belief that language may be not only eloquent and accurate, but just. He envisioned such a style in a letter to Louise Colet:

a style that someone will invent some day, ten years or ten centuries from now, one that would be rhythmic as verse, precise as the language of the sciences, undulant, deep-voiced as a cello, tipped with flame: a style that would pierce your idea like a dagger, and on which your thought would sail easily ahead over a smooth surface, like a skiff before a good tail wind. (1.159)

When words are beautiful in their precision and precise in their beauty, they reveal that the world, the ordering power of the mind, and the structure of language are congruent.

At its most sublime, this view asserts that the forms of reality, our perceptual and rational faculties to apprehend reality, and the power of language

to articulate that apprehension all correspond. The world is intelligible to intelligent people whose command of language is supple: being, knowing, and saying are mutually supportive. In a “perfect language,” Paul Ricoeur speculates, there would be “a complete homology between the sign and the thing with nothing arbitrary about it, therefore more broadly a complete homology between language and the world” (Ricoeur, *Reflections* 111). I will argue later that when justice aspires to a messianic sublimity it can become dangerous, but the danger already lurks in Flaubert’s ideal. There should be a natural accord of thought, speech, and their objects; or at least, they can be brought into accord through the proper disciplining of thought and language. Words are a trustworthy medium only if used tactfully. It is tempting to oversimplify the situation by praising art for rendering justice in an unjust world, but the writers I will be examining are more cautious. As Flaubert’s satire illustrates, the natural fit of mind and language to the world is not secure, because it competes with a contrary tendency, equally natural and powerful, for them to drift apart. The bourgeoisie with their “well-bred ignorance” (Barzun 8) are the latest agents of this cultural entropy; in response, artists must be vigilant. Maintaining an alignment of world, mind, and word is the function of justice understood, as Aristotle suggests in my epigraph, as the coordinating virtue of virtues, the ruling principle of balance and adequacy in human affairs. Seen in this way justice, too, appears to be “natural,” that is, inherent in the very structure of things and of humanity, either because their intrinsic composition makes them so, or through divine providence. Cicero offers a famous endorsement of the latter view:

True law is right reason in agreement with nature; it summons to duty by its commands, and averts from wrongdoing by its prohibitions . . . And there will not be different laws at Rome and at Athens, or different laws now and in the future, but one eternal and unchangeable law will be valid for all nations and all times, and there will one master and ruler, that is, God, over us all, for he is the author of this law, its promulgator, and its enforcing judge.<sup>1</sup>

Law, he proclaims with an authority evoked by his sonorous style, is a verbal summons independent of the specific language (that of Rome or Athens) in which it is framed. It commands universally because it derives from a higher source to which the law always gestures.

Gesturing in order to invoke authority, especially when both gesture and authority strike theatrical poses, is one of the functions of art, so it is not surprising that Flaubert’s cultivation of *le mot juste* reveals how a pursuit of justice pervades literary theory. Although it is a long way from the humble

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[More information](#)

4

*Poetic justice and legal fictions*

*mot juste* to the summons of universal law, there is a winding path between them, which I will be tracing in the following chapters. Literary justice is defined differently in different historical periods, but traditionally it is associated with the virtue of poetic thought to organize, interpret, and justify the chaotic misrule of experience. The source of that misrule also varies in different periods. For example, in *Essay on Criticism*, Alexander Pope offers “wit” as the faculty that renders justice, not only by discerning truth in a murky world, but by showing how truth pervades our thoughts, ennobles our lives, and delights us:

True Wit is Nature to advantage dress'd,  
What oft was *Thought*, but ne'er so well *Express*,  
*Something*, whose Truth convinc'd at Sight we find,  
That gives us back the Image of our Mind:

(Pope 153)

When the expression is just, knowledge seems to be grasped “at Sight” with the impact of direct sensation. The spontaneity of literary certitude, its ideas piercing like a dagger as Flaubert said, will be a recurring theme but also, as the sharp dagger suggests, a constant danger. One might also be stabbed by eloquent falsehood – *le mot injuste*. For Pope, when poetic form, content, and expression fall into perfect alignment, the mind and nature reflect each other through a reciprocal animation by which each enhances the other:

Those RULES of old *discover'd*, not *devis'd*,  
Are Nature still, but Nature *Methodiz'd*;  
Nature, like *Liberty*, is but restrain'd  
By the same Laws which first *herself* ordain'd.

(Pope 146)

Pope might have been recalling Shakespeare's lines in *The Winter's Tale*:

Yet nature is made better by no mean  
But nature makes that mean: so, over that art  
Which you say adds to nature, is an art  
That nature makes.  
... This is an art  
Which does mend nature – change it rather – but  
The art itself is nature. (4.4.89–92, 95–7)

Nature is governed by its own rules, which must be articulated through art, especially language, which, unfortunately, can also be deceitful. For this

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Excerpt

[More information](#)

## Le mot juste

5

reason, inept criticism – which, Pope warns, abounds “in these Flagitious Times” (Pope 160) – is all the more hazardous. When thought is not guided by “right reason,” when language is not scrupulous, they lead the mind away from nature into an illusory world of their own devising. Samuel Johnson raised the same concern when he scorned those writers who “being able to add nothing to truth, hope for eminence from the heresies of paradox” (Johnson 239). The enticement of heresy will also be a recurring theme in this study. Literature not only permits but encourages stupidity, and like Flaubert, Pope delighted in the foolishness of the dunces around him.

One of our greatest linguistic talents is lying; indeed, it is hard to imagine many non-verbal means of deception or of self-delusion. The fear that thought and language may perversely conspire to become heretical agents of injustice intensified in romantic theory, when the times were even more flagitious (criminal, scandalous) and the alienation of thought from reality seemed more intense. All the stronger, therefore, was the demand to reconcile them through perfected speech. Literary schools often begin with a call to reform language as the first step in a larger program of cultural renewal. We hear this call in Wordsworth’s rejection of poetic diction in his “Preface” to the *Lyrical Ballads*, leading to his assurance: “[The Poet] considers man and nature as essentially adapted to each other, and the mind of man as naturally the mirror of the fairest and most interesting properties of nature” (Wordsworth 17). We hear it enthusiastically in Emerson’s essay “The Poet,” which declares: “The world being thus put under the mind for verb and noun, the poet is he who can articulate it . . . so the poet turns the world to glass, and shows us all things in their right series and procession” (Emerson 230). And of course, we hear it in Flaubert’s defense of *le mot juste*:

In the precise fitting of its [a well-written book’s] parts, the rarity of its elements, the polish of its surface, the harmony of the whole, is there not an intrinsic Virtue, a kind of divine force, something eternal, like a principle? (I speak as a Platonist.) If this were not so, why should there be a relation between the right word and the musical word? (Flaubert, *Letters* 2.233)

In modernist writing, *le mot juste* is not regarded as an agent of transcendental or platonic insight, but as one of realism. It is “just” in its ability to do justice to its subject, that is, to touch the world and render the intensity of its physical presence. The sense of touch is often adduced to explain the heft of the right word. For example, one spokesman of the English imagist poets, T.E. Hulme, extolled “the luxurious torture of the finger” (Hulme, *Speculations* 237) as it grates against reality. He advocated a “concrete”

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[More information](#)

style that is “a compromise for a language of intuition which would hand over sensations bodily. It always endeavours to arrest you, and to make you continuously see a physical thing, to prevent you gliding through an abstract process” (134). Here, “touch” does the metaphorical job previously assigned to “taste,” but in an earthier way. Poetry becomes tactile rather than tasteful. By making the experience of reading feel tangible, it offers what Pope praised: the conviction that knowledge can be grasped with the immediacy of sensation, or that knowledge and the experience that gives rise to it occur simultaneously. Similarly Ford Madox Ford recalled that he and Joseph Conrad spent hours assessing the relative weights of different French and English words. What was “the desirability of the word *bleu-foncé* as an adjective to apply to cabbages in a field” (Ford Madox Ford, *Joseph* 53)? What were the merits of “blue” as opposed to “azure” (171), of “penniless” as opposed to “without a penny” (87)? By distinguishing between “penniless” and “without a penny,” Ford wanted to show not only that he was as scrupulous as Flaubert, but that words are the small currency of literary justice, which is due even to cabbages. Paradoxically, he said, the more physical a word feels, the more it operates invisibly as if to present reality directly rather than represent it verbally: “We wanted the Reader to forget the Writer – to forget that he was reading. We wished him to be hypnotized into thinking that he was living what he read” (Ford Madox Ford, *Thus* 53).

When realism becomes hypnotic, it becomes something more than real, if not quite Platonic or Ciceronian. Ford was content to be called an impressionist rather than a realist, and Flaubert denied that he was a realist writer, but both indicate that a preoccupation with literary justice, even when firmly rooted in physical sensation, aspires to some kind of transcendence. This survey shows that the justice of *le mot juste* may be formulated differently, but in each case it relates consciousness to the world by seeking higher forms of accommodation and satisfaction, both of which are implied in the notion of jurisdiction.

#### GENRE AS JURISDICTION

If Flaubert’s aim was to cure French writers of inane speech and thought, then to do so would deprive him of his wicked delight in mocking their inanities. The spectacle of failure was precious to him not only in order to correct it, but for its own sake, as a revelation of our absurdly flawed humanity. We are never more human than when we exhibit our failings, especially when we lie to ourselves. To relish the spectacle, however, one

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Excerpt

[More information](#)

## Le mot juste

7

must be keenly aware of how and why we are flawed. When Flaubert insists that a writer must find the just word, he implies that all other words are wrong, and his own scrupulous revisions, word by word, page by page, show how composition proceeds by excluding the false in order to arrive at the true. Once found, *le mot juste* stabs like a dagger, but until it is found, it must be sought. This exclusionary task illustrates a process of limitation inherent in any judicial judgment, which succeeds only by setting and policing limits, that is, by establishing a jurisdiction.

To be effective, justice must suspend proceedings at key moments signaled, for instance, by the banging of a judge's gavel signifying that an authoritative judgment has been pronounced and must now prevail. It is necessary to impose a halt ceremonially in order to restrain a contrary judicial impulse to be comprehensive, to seek "the whole truth" from an ever greater frame of reference. In a courtroom, exclusionary acts are continually enforced, for instance when evidence or testimony is ruled inadmissible. Corresponding ceremonies appear in literature, both to frame a work as a whole and to define its jurisdiction – its area of command – as it proceeds. The final words "The End," once routinely placed at the end of a novel or film, are a clumsy example. More elegant is the formal Epilogue with which *A Midsummer Night's Dream* declares its limit by bidding farewell to the audience and soliciting its applause. Earlier in the play, when the audience enters fairyland, the fairies sing to drive away the vicious, natural forces that threaten their Queen. By singing, they draw a protective circle around their festive comedy:

You spotted snakes, with double tongue,  
Thorny hedgehogs, be not seen;  
Newts and blind-worms do no wrong;  
Come not near our Fairy Queen.

(2.2.9–12)

Note for future reference that the dangerous forces are natural; the protective force is supernatural. The latter chants a magic spell to define a comic jurisdiction, a space in which the voice of comedy can speak and rule.

The resemblance of genre to jurisdiction begins as a useful analogy, but as this book progresses, it should become something more. By "jurisdiction" I understand not just the political, social, and conceptual area within which a set of laws wields authority, but as the terms "juris-diction" suggest, the speaking of the law – the many ways in which language articulates judiciousness. In *A Power to Do Justice*, Bradin Cormack studies

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[More information](#)

jurisdictions as intersecting literary and legal categories in sixteenth- and seventeenth-century English writing. Even as they proclaim the scope of their authority and the validity of their norms, he argues, jurisdictions cannot avoid revealing their limits, not only when they confront rival authorities or unforeseen circumstances, but also when they encounter unruly kinds of experience that stubbornly defy any administrative control. Even as a jurisdiction claims sovereignty, it “allows a nonjuridical regime to issue from the juridical” (Cormack 9).<sup>2</sup> This regime is not criminal, since criminality is defined and policed by law. Rather, it baffles the definitional power of any authority, in which case even the word “regime” (the province of a ruler) is paradoxical, since no ruler and no rule could be adequate to the task. At such moments, literature is especially valuable for exposing “a governing and productive instability in the law” (5). How can instability be said to “govern” in any intelligible manner, and what can it “produce” of value other than more instability? I, too, am interested in challenges posed by this unruly rule, but my focus will be on genres as literary jurisdictions insofar as they satisfy, or fail to satisfy, a vision of justice.

I will begin with comedy because, as a form in which traditional laws apply yet can be contested, it expresses so many of the ideals, aims, and disappointments of judicial discourse. It will serve as a touchstone to which I will return periodically. Like justice, comedy is a vehicle of hope sustained by confidence in human intellectual, verbal, and moral powers (*le mot juste*); but it is suspicious of how easily those faculties grow unruly; and intolerant, even cruel, when those same faculties lead us astray, as – comedy ruefully implies – they usually will. Northrop Frye observes that the rhetoric of comedy is similar to the rhetoric of jurisprudence (Frye, *Anatomy* 166) with the advantage of being funny. Comedy offers itself as a rectifying, rewarding genre, which assures us that the earth is our home. Nature offers all the conditions necessary for human flourishing provided that we ward off its dangers, using reason when appropriate, magic when necessary, and provided that we do not abuse our intellectual and verbal powers. Comedy shows that, of course, we will abuse these powers, but only in foolish or ridiculous ways that can be remedied by act 5, when human rationality is realigned with natural abundance.

One might say that, viewed in this way, John Rawls’s *A Theory of Justice* aspires to be a philosophical comedy by defining what is fair and then clarifying procedures to make it attainable. His hypothetical starting point, “the original position of equality [which] corresponds to the state of nature in the traditional theory of the social contract” (Rawls 12), establishes a perspective to survey the requisite logical and social conditions, a discursive



space rather like the comic jurisdiction. And as in comedy, its prospect of natural bounty, fair distribution, and reasonable reward requires a calculated limitation, a setting of limits. Accurate judgments are possible only if we do not know too much; a “veil of ignorance” ensures that justice will begin by being impartial and end by being satisfactory (136 ff). The veil of ignorance that makes justice clear-sighted is like the magic circle keeping natural perils at bay.

The veil also reveals a puzzle in defining a jurisdiction, which must be both self-limiting (the circle) and self-exceeding (the magic). This dilemma is usually analyzed as a tension between justice as an ethical ideal, the virtue of virtues, and law as a series of practical accommodations. Walter Benjamin depicts their tension as a confrontation between two violent, social urges: law-preserving (restrictive, repressive) and law-making (expansive, revolutionary) (Benjamin 284). Their rivalry appears even in Shakespeare’s lovely song, which illustrates how comedies must ceremonially acknowledge deadly forces in order to keep them away. Literature is always about making and breaking rules, establishing new rules to be challenged in turn, working within genres whose borders are permeable. This, too, is a violent process, because violence is inherent in all literary forms: in their twists of plot and obsessive characters, in the *agon* (struggle) they depict, in their power to evoke sympathy (“feeling, suffering with”). The impulses to make and break rules are staged in accordance with the presiding genre of a work, whose conventions define what I am calling its jurisdiction. In *A Midsummer Night’s Dream* the protective, law-preserving force is expressed as benevolent magic and music; the contrary, liberating, law-disrupting force is represented by Puck, the mischievous agent of misrule who lets affairs get wildly out of control until he, too, is restrained by Oberon and, in the Epilogue, domesticated by carrying a broom.

Malvolio in *Twelfth Night* is a more ambiguous figure in this contest, because his role shifts as the play proceeds until he threatens its comic rule. At first he is a puritannical agent of repressive law as he squabbles with Sir Toby, who obeys only the commands of delight and appetite: “Dost thou think, because thou art virtuous, there shall be no more cakes and ale?” (2.3.114–15). Later, however, Malvolio, yields to his own wild desires, first ridiculously by displaying his legs to Olivia, and later, when he is tormented, in baffled frustration. At the end of the play, when the conservative forces of comedy reassert their authority, he becomes a malcontent who refuses to join the festivities and stomps off swearing revenge. Depending on how the performance is staged, he can embody a bitterness so disruptive that he unsettles the comic fabric of the play. Like the snakes and hedgehogs he

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[More information](#)

must be banned from the stage, but he stills lurks outside. Every instance of literary justice has its Malvolio, and must devise a way of coping with his “ill will.”

As a puritan Malvolio imposes the law in a spirit of nasty self-satisfaction, but as an innocent if foolish victim he demands justice in a way that the rules of comedy cannot satisfy. Although he is not heroic, only absurd, he reveals – if only briefly before the festivities continue – how a thirst for justice can upset the law, and because it is a thirst or appetite, it is not entirely reasonable. On the one hand, as Cicero proclaims, justice is transcendent, a “messianic” hope beyond “calculated proportion” (Cornell 113); a “social fullness” continually expanding its scope (Laclau 184); a “structural urgency” yearning for some future event that “exceeds calculation, rules, programs, anticipations and so forth” (Derrida, “Force” 27). The messianic impulse can be highly disruptive, and I will study its appetite in the next chapter under the heading of “Life plus ninety-nine years,” a judicial sentence that pushes punishment into fantasy. For this very reason, on the other hand, justice must call a halt by declaring, “this case is closed.” It is also enclosed. In one of its meanings, “jurisdiction” refers to the political arena (city, state, nation) or conceptual space (criminal, civil, family law) within which laws have authority, and authorities impose laws. We glimpse its limiting force in English expressions forbidding further activity, doubt, or hesitation: “that’s just the way things are,” “just do it,” “just because I say so,” “just because you must.” The word “just” both announces that a limit has been reached and claims the authority to impose such a limitation. Later chapters will explore how these colloquial phrases define a jurisdiction by invoking authorities of several kinds. They may appeal to a supreme power (God, parent, king, tradition) which issues a verdict that cannot be questioned. They may appeal to a moral limit – seen most boldly in the Kantian categorical imperative – by marking duties that oblige us to choose between right and wrong, but forbid us from evaluating those choices any further. They may appeal to nature (just the way things are) by marking primary causes or sources. Rudyard Kipling’s *Just So Stories*, which tell how the tiger got its stripes and the camel its hump, are literary expressions of this mode of justification. Or they may appeal to a controlling design by marking ends or inevitable effects that conclude a story. Literary designs are always fatal, whether the verdict is marriage in comedy or death in tragedy. Death is a poetically just ending in tragedy, not because it is what the hero deserves, but because it fulfills a pattern imposed internally by the plot, and externally by the generic laws governing tragedy. Tragic heroes like Hamlet rarely deserve their catastrophic fates, which is why tragedy is