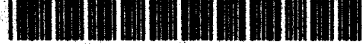


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Journal Title: Tennessee law review.

Volume: 59

Issue: 1

Month/Year: 1991

Pages:

Article Title: **Dueling Narratives in An American Tragedy and Criminal Law**

Article Author: **Vanessa Laird**

Imprint: [Knoxville, Tennessee Law Review Association, etc.]

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## DUELING NARRATIVES IN AN AMERICAN TRAGEDY AND THE CRIMINAL LAW

VANESSA LAIRD\*

The assertion of connections between law and literature has become commonplace, so commonplace, in fact, as to have provoked a critical backlash.<sup>1</sup> Two of these connections constitute my starting point: the fact that the narrative form is characteristic of both legal and literary discourse<sup>2</sup> and the fact that law and literature are social products, shaped by and shaping the ideological<sup>3</sup> context in which they are produced.<sup>4</sup> I will pursue the argument that one of the ways law and literature lead us to believe that it is natural to make sense of events in one way rather than another is through their common

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1. See, e.g., Robert Weisberg, *The Law-Literature Enterprise*, 1 YALE J.L. & HUMAN. 1 (1988); Robin L. West, *Adjudication Is Not Interpretation: Some Reservations About the Law-as-Literature Movement*, 54 TENN. L. REV. 203 (1987).

2. The prevalence of stories in the legal world has been widely, perhaps almost excessively, noted. See, e.g., DAVID R. PAPKE, *NARRATIVE AND THE LEGAL DISCOURSE* 1 (1990); James R. Elkins, *From the Symposium Editor*, 40 J. LEGAL EDUC. 1 (1990); Kim L. Scheppele, *Foreword: Telling Stories*, 87 MICH. L. REV. 2073 (1989). Examples of writings about particular forms of legal stories include Douglas W. Maynard, *Narratives and Narrative Structure in Plea Bargaining*, 22 LAW & SOC. REV. 449 (1988); William M. O'Bart and John M. Conley, *Litigant Satisfaction Versus Legal Adequacy in Small Claims Court Narratives*, 19 LAW & SOC. REV. 661 (1985); David R. Papke, *Discharge as Denouement: Appreciating the Storytelling of Appellate Opinions*, 40 J. LEGAL EDUC. 145 (1990); Kathryn H. Snedaker, *Storytelling in Opening Statements: Framing the Argument of the Trial*, 10 AM. J. TRIAL ADVOC. 15 (1986). Some useful analyses or characterizations of law based on the constitutive role played by narrative appear in BERNARD S. JACKSON, *LAW, FACT, AND NARRATIVE COHERENCE* 10-11 (1988); JAMES B. WHITE, *HERACLES' BOW* 165-75 (1985); Bernard S. Jackson, *Narrative Theories and Legal Discourse*, in *NARRATIVE IN CULTURE* 23-50 (Christopher Nash ed., 1990). A more comprehensive listing of the literature relating to narrative aspects of legal discourse is found in James R. Elkins, *A Bibliography of Narrative*, 40 J. LEGAL EDUC. 203 (1990).

3. The term "ideological" is used in a myriad of ways. See TERRY EAGLETON, *IDEOLOGY* 1-2 (1991). I use it here in one of the senses Eagleton describes to refer to "the medium in which conscious social actors make sense of their world." *Id.* at 2.

4. Brook Thomas, among others, has noted that legal and literary narratives reflect and respond to the conditions of their production and reception. See BROOK THOMAS, *CROSS-EXAMINATIONS OF LAW AND LITERATURE* 6-7 (1987).

deployment of the narrative form.<sup>5</sup> My argument will be embedded in an examination of the novel *An American Tragedy* by Theodore Dreiser.

I hope to keep the law-literature skeptics at bay by showing that study of *An American Tragedy* assists an understanding of three aspects of legal doctrine: the fact-suppressing and therefore ideological character of legal narrative; the criminal law's bias toward intentionalist stories;<sup>6</sup> and its corresponding attempt to neutralize the threat determinism—evoked as a theory either of all human action or of the actions of an unexceptional individual<sup>7</sup>—poses to the

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5. Although the narrative representations of human behavior that appear in legal contexts tend to present themselves as ideologically neutral depictions of a found world, contemporary writings in law and the humanities have disputed both the found character and the neutrality of narrative. See, e.g., JACKSON, LAW, FACT, AND NARRATIVE COHERENCE, *supra* note 2, at 10; HAYDEN WHITE, TROPICS OF DISCOURSE 82-85 (1978); WHITE, *supra* note 2, at 175; Scheppele, *supra* note 2, at 2075, 2090. The two points are intertwined, though their relationship is generally left implicit. An argument in which the two points figure might be sketched roughly as follows. Telling a story requires criteria for sorting out the relevant from the irrelevant facts and for deciding upon the language in which to describe these facts. See WHITE, *supra* note 2, at 175 (“[N]o story can include everything . . . every story is a reduction, a fiction, made from a certain point of view.”). These criteria come not from the facts themselves but from the theories or ideas about the way the world works that are available to us. See JACKSON, LAW, FACT, AND NARRATIVE COHERENCE, *supra* note 2, at 10-11 (“[I]nference from one fact to another . . . involves a relationship of plausibility. And plausibility is constructed . . . in terms of narrative models which in their structure may be universal but in their content are socially and culturally contingent, models which reflect both common experience (at least what is socially constructed and common as common experience) and the social and cultural values that inform such collective representations.”); Steven L. Winter, *The Cognitive Dimension of the Agon Between Legal Power and Narrative Meaning*, 87 MICH. L. REV. 2225, 2228 (1989) (“In narrative, we take experience and configure it in a conventional and comprehensible form.”). Any given story will thus, by defining for the reader what is relevant, privilege the theories or ideologies from which its judgments of relevance derive. See Papke, *Discharge as Denouement*, *supra* note 2, at 158 (“Narratives are never merely descriptive, or fanciful, they are also explanatory. Storytellers, whether individuals, business or government institutions, select characters and events, place the events in sequence, and imply that the sequencing is normal, comprehensible, and desirable. Stories, as a result, establish a complex normative environment.”).

6. See H.L.A. HART, PUNISHMENT AND RESPONSIBILITY 28 (1968); MARK KELMAN, A GUIDE TO CRITICAL LEGAL STUDIES 89 (1987) [hereinafter GUIDE]; Mark Kelman, *Interpretive Construction in the Substantive Criminal Law*, 33 STAN. L. REV. 591, 598 (1981).

7. For a discussion of the intentionalist and determinist models of action, see *infra* text accompanying notes 11-18. Mark Kelman has argued that we are simultaneously drawn both to intentionalist and determinist expression and that legal discourse suppresses conflict between them by creating the impression that we can “descriptively identify domains of freedom and distinguish them from domains of choicelessness . . . .” KELMAN, GUIDE, *supra* note 6, at 87 (emphasis in original).

justifiability of that bias. *An American Tragedy* illustrates the constructed character of narrative particularly well because it juxtaposes different accounts of the same crime.<sup>8</sup> The novel provides three different narrative explanations of Clyde Griffiths' role in the death of his girlfriend, Roberta Alden: the novel's own linear narrative ("Dreiser's narrative"),<sup>9</sup> which describes Clyde's life from the age of twelve until his execution for Roberta's murder, and the accounts

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Because I can be taken to be offering a literary elaboration of Kelman's argument, it is worth responding at the outset to two criticisms that have been leveled against it.

First, John Stick and Ken Kress have accused Kelman of confusing description of a particular act as involuntary with a commitment to determinist discourse in general. See John Stick, *Charting the Development of Critical Legal Studies*, 88 COLUM. L. REV. 407, 414 (1988); Ken Kress, *Legal Indeterminacy*, 77 CAL. L. REV. 283, 316 (1989). They are right to point out that an involuntary act does not establish the impossibility of free will. For us to be comfortable with the practice of blaming that has been institutionalized in the criminal law, however, we must believe free will to be the norm and not a mere possibility. To the extent that, as Kelman argues, our propensity for determinist description cannot be confined to exceptional cases, it will tend to erode our satisfaction with the intentionalist model and with the criminal law.

Second, Kress has criticized Kelman implicitly for simply accepting "the popular notion that determinism is incompatible with free will" and ignoring "most current philosophers' preference" for the compatibilist position. Kress, *supra* this note, at 316. The compatibilist stance, as traditionally conceived, reconciles free will with determinism by defining it as voluntariness rather than as voluntariness plus origination. TED HONDERICH, *A THEORY OF DETERMINISM*; 487 (1988) Contrary to Kress' suggestion, this solution, which is unsatisfactory in light of our anxiety about assigning moral responsibility when voluntariness is present without origination, see discussion *infra* note 14, continues to generate philosophical controversy. See, e.g., HONDERICH, *supra* this note; MARTHA KLEIN, *DETERMINISM, BLAMEWORTHINESS AND DEPRIVATION* (1990).

8. James Boyd White has noted that competition between or among stories can help to reveal the constructed character of narrative. See WHITE, *supra* note 2, at 175 ("In looking at competing stories, and trying to decide between them, . . . we thus naturally think in terms of inclusion and exclusion . . ."). And Richard Delgado has deployed the technique of opposing different tellings of the same event in order to illuminate their character and implications. Richard Delgado, *Storytelling for Oppositionists and Others: A Plea for Narrative*, 87 MICH. L. REV. 2411, 2418-26 (1989) (undermining the authority of a "stock story" about the rejection of a black lawyer for a law school teaching post with that lawyer's "counterstory"). See also David Luban, *Difference Made Legal: The Court and Dr. King*, 87 MICH. L. REV. 2152, 2156 (1989) (contrasting two legal stories about the same set of demonstrations in order to show how "the self-same event entails radically different legal consequences when it appears in different narratives").

9. I refer to the central narrative as "Dreiser's narrative" only to distinguish it from the other stories in the novel. I do not mean to imply that the novel cannot be discussed without mention of Dreiser or that it is completely consistent with his expressed intent in writing it. For some of the ways in which *An American Tragedy* may undermine its dominant, Dreiser-sanctioned purpose, see *infra* text accompanying notes 36-39.

offered in the trial scene by the prosecution and the defense. Although the stories told at trial are ostensibly concerned only with Clyde's legal guilt or innocence, they seek to make the legal conclusions they justify morally palatable by affirming (in the case of the prosecution) or undermining (in the case of the defense) Clyde's general blameworthiness.<sup>10</sup> Like the defense's story, Dreiser's narrative encourages the reader to question whether Clyde can really be blamed for his behavior as a whole and for Roberta's death in particular. Its account of Roberta's death is, however, factually closer to that of the prosecution than to that of the defense. The split allegiances of Dreiser's narrative force the reader to recognize that the propriety of blame is not a simple factual judgment. The juxtaposition of the stories thus raises the question of how they manage to lead toward opposite conclusions regarding Clyde's blameworthiness.

As a general rule we feel that blame should not be assigned in the absence of responsibility.<sup>11</sup> We tend to find evidence of responsibility in the fact that someone acted, to use Hume's phrase, "according to the determinations of the will,"<sup>12</sup> or, colloquially, on purpose—a fact which we are inclined to equate with her will (and, less directly, the desire or decision that prompted it) having caused the action.<sup>13</sup> Even when someone has acted on purpose, however, we

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10. Although we might hope that law and morality always coincide, we tend to distinguish the concept of legally sanctioned blame, which can depend on "considerations of policy and purpose," from the notion of morally justified blame, which requires assessment of whether the defendant was *really* to blame. Cf. JOEL FEINBERG, *DOING AND DESERVING* 30 (1970) (distinguishing between our concepts of legal and moral responsibility in these terms).

11. See JONATHAN GLOVER, *RESPONSIBILITY* 1 (1970).

12. DAVID HUME, *ENQUIRIES CONCERNING THE HUMAN UNDERSTANDING AND CONCERNING THE PRINCIPLES OF MORALS* 95 (1963). A vast number of the English and American philosophers who have discussed the subject agree that a determining will or voluntariness is a prerequisite for responsibility. See HONDERICH, *supra* note 7, at 451-87; see also Jonathan Bennett, *Accountability*, in *PHILOSOPHICAL SUBJECTS* 16 (Zak Van Straaten ed., 1980) (describing conditions for accountability).

13. Ted Honderich provides support for the general point that we ordinarily take there to be a causal relationship between mental events and actions, and for the more specific proposition that we take an action to be caused by the "active intention which represents it." HONDERICH, *supra* note 7, at 244 (emphasis omitted). He defines the concept of active intention as the execution or carrying out of a committed desire to do something, a belief about how to do it, and a belief that one can do it. *Id.* at 216-25. To say that we often treat a mental term as the cause of action, however, is not to claim that this treatment makes sense. The correctness of the causal picture of the relationship between mental events and actions is a matter of philosophical controversy. Compare Anthony Kenny, *Freedom, Spontaneity and Indifference*, in *ESSAYS ON FREEDOM OF ACTION* 87, 91 (Ted Honderich ed., 1973) (arguing that "nowadays . . . most philosophers would regard it as incorrect to think of wants as mental acts which determine action") with HONDERICH, *supra* note 7, at 248 (laying out his "Hypothesis on the Causation of Actions": "Each action is a sequence of bodily events which is the effect of a causal sequence

tend to question her responsibility if it seems she could not have helped choosing to act as she did.<sup>14</sup> Our notions of responsibility thus dictate that a story portraying human beings as purposive actors who are free to decide on the purposes they embrace will make its reader feel confident about ascribing responsibility and blame.<sup>15</sup> On the other hand, a narrative can encourage its reader to doubt the propriety of blame by making it seem as though all acts, including mental acts, are causally necessitated.<sup>16</sup> The first picture or model of human action is known, at least in legal circles, as intentionalism,<sup>17</sup> the second as determinism.<sup>18</sup>

I will argue that Dreiser's narrative, which, for the reader, describes what really happened, erodes Clyde's blameworthiness by presenting his actions and the world in which they occur in determinist terms. By contrast, the prosecution's intentionalist story encourages the reader to believe it is just to attach criminal blame to Clyde by depicting his behavior as entirely attributable to his free will. The defense's tale follows Dreiser's narrative in portraying Clyde as more acted upon than acting, but it alters the plot of the story so that

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one of whose initial elements and some of whose subsequent elements are psycho-neural pairs which incorporate the active intention which represents the sequence of bodily events.").

14. See HONDERICH, *supra* note 7, at 451-87; ANTHONY KENNY, *FREEWILL AND RESPONSIBILITY* 29, 34 (1978); KLEIN, *supra* note 7, at 1 ("[The] anxiety which comes naturally to us when we are asked to reflect on the conditions for moral responsibility . . . can be summed up in the question: how can someone be morally responsible for his acts if he is not responsible for the desires and beliefs which motivate him?"); Bennett, *supra* note 12, at 16; Roderick W. Chisholm, *Responsibility and Avoidability*, in *DETERMINISM AND FREEDOM* 157 (Sidney Hook ed., 1958).

15. Mark Kelman has noted that this sort of account of human behavior "renders the blaming practice morally unobjectionable." KELMAN, *GUIDE*, *supra* note 6, at 89.

16. The proposition that, to borrow Richard Taylor's formulation, "everything whatever is caused, and not one single thing could ever be other than exactly what it is," has long been felt to threaten our notions of blame and responsibility. RICHARD TAYLOR, *METAPHYSICS* 35 (1963) ("There is no moral blame nor merit in any man who cannot help what he does."). See also GLOVER, *supra* note 11, at 2 (discussing view that "moral responsibility is bound up with man not being a 'mere machine', so that it would be undermined if psychologists, neurophysiologists, and others could provide mechanistic models giving adequate causal explanations of all human behavior"). Philosophical discussions of whether this proposition is an actual or merely a perceived threat to our concepts of blame and responsibility have, as Hobbes noted over three hundred years ago, filled "vast and involuble volumes," HONDERICH, *supra* note 7, at 452, and, as I noted earlier, *supra* note 7, they continue to take place.

17. See KELMAN, *GUIDE*, *supra* note 6, at 86.

18. See Gary Watson, *Introduction*, in *FREE WILL* 2 (Gary Watson ed., 1982). For similar, broad definitions of determinism, see KELMAN, *GUIDE*, *supra* note 6, at 86; TAYLOR, *supra* note 16, at 34; PERRY O. WESTBROOK, *FREE WILL AND DETERMINISM IN AMERICAN LITERATURE* ix (1979); William James, *The Dilemma of Determinism*, in *THE WILL TO BELIEVE AND OTHER ESSAYS IN POPULAR PHILOSOPHY* 114, 117 (William James ed., 1979).

Clyde clearly did nothing for which the law would punish him.

The discussion that follows will begin by describing the way in which the structure and language of *An American Tragedy* convey a determinist picture of human behavior. I will then show how Dreiser's portrayal of his central character, Clyde Griffiths, contrasts with that offered by the prosecution. Finally, I will discuss the way in which the defense lawyers find themselves constrained in constructing Clyde's story by the intentionalist predispositions of the criminal law.

## I

The plot of *An American Tragedy* is straightforward:<sup>19</sup> A young man with social and material ambitions brings about the death of his pregnant girlfriend because she stands in the way of his making a more socially desirable marriage. Dreiser was convinced that this type of murder happened "with surprising frequency" in America.<sup>20</sup> The Stuart case supports the argument that his conviction was justified.<sup>21</sup> Dreiser had become interested in similar crimes in 1892<sup>22</sup> and had attempted two novels and a short story, each based on a different murder, before publishing *An American Tragedy* in 1925.<sup>23</sup> It, too, is based on an actual murder: Chester Gillette's 1906 drowning of Grace "Billie" Brown at Big Moose Lake in the Adirondacks.<sup>24</sup> Although he altered the individuals and events of the Gillette case,<sup>25</sup> Dreiser borrowed heavily from both Grace Brown's letters, which

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19. In his 1926 review of *An American Tragedy*, H.L. Mencken described the simple plot of the novel in pejorative terms as "[h]ardly more . . . than the plot of a three page story in *True Confessions*." H.L. Mencken, *Dreiser in 840 Pages*, in AMERICAN MERCURY, March 1926, at 379-81 reprinted in THOMAS P. RIGGIO, *DREISER-MENCKEN LETTERS* 797-98 (1986).

20. ROBERT H. ELIAS ET AL., *LETTERS OF THEODORE DREISER* 457-58 (1959) [hereinafter *LETTERS*] (letter to Jack Wilgus, April 20, 1927). The American public took Dreiser's insight seriously: Ten years after publication of *An American Tragedy*, when Robert Edwards committed this sort of crime, Dreiser was asked to be a special reporter at the trial. F.O. MATTHIessen, *THEODORE DREISER* 201 (1951).

21. When Charles Stuart, a former short-order cook from a poor background who had become a \$100,000 per year fur salesman, shot his wife Carol in Boston, his reported motivation for the shooting was that Carol's pregnancy interfered with his hopes of an alliance with a woman of higher social standing. See Richard Lingeman, *Another American Tragedy*, N.Y. TIMES, Jan. 22, 1990, at A15 (noting the similarity between the Stuart case and *An American Tragedy*).

22. See Theodore Dreiser, *I Find the Real American Tragedy*, reprinted in Donald Pizer ed., *Theodore Dreiser: A Selection of Uncollected Prose* 291 (1977).

23. See DONALD PIZER, *THE NOVELS OF THEODORE DREISER* 205 (1976).

24. See ROBERT P. WARREN, *HOMAGE TO THEODORE DREISER* 98 (1971).

25. See RICHARD LEHAN, *THEODORE DREISER: HIS WORLD AND HIS NOVELS* 149 (1969); PIZER, *supra* note 23, at 217-22 (discussing specific alterations).

had been published in pamphlet form, and the extensive reports of Gillette's trial and execution published by the *New York World*.<sup>26</sup>

In the years following publication of *An American Tragedy*, Dreiser wrote a number of letters and articles in which he explained his fascination with the type of murder Gillette committed and his purpose in writing the novel.<sup>27</sup> Dreiser viewed this kind of crime as the manifestation of a distinctively American pattern of cause and effect.<sup>28</sup> American society, Dreiser wrote, "bred the fortune hunter de luxe" by valuing so highly the accumulation of wealth.<sup>29</sup> Chester Gillette's attempt to connect himself with the rich and socially privileged by marrying well, the success of which was threatened by Grace Brown's pregnancy, was really "the kind of thing that Americans should and would have said was the wise and moral thing to do had he not committed a murder."<sup>30</sup> Gillette, as Dreiser saw him, was driven to murder by the conjunction of his "romantic dreams" and "those dreadful economic, social, moral, and conventional pressures about him":

Not Chester Gillette, as I said to myself at the time, planned this crime, but circumstances over which he had no control—circumstances and laws and rules and conventions which to his immature and more or less futile mind were so terrible, so oppressive, that they were destructive to his reasoning powers.<sup>31</sup>

26. PIZER, *supra* note 23, at 215-16, 226-27.

27. See, e.g., LETTERS, *supra* note 20, at 457-58 (letter to Jack Wilgus, April 20, 1927); LETTERS, *supra* note 20, at 509-10 (letter to Samuel Hoffenstein, February 26, 1931); LETTERS, *supra* note 20, at 510-12 (letter to Jesse L. Lasky, March 10, 1931); LETTERS, *supra* note 20, at 526-30 (letter to Harrison Smith, April 25, 1931). Dreiser wrote the last three of these letters during the course of his 1931 dispute with Paramount over the script for the film version of *An American Tragedy*. After Paramount failed to change the script as he wished, Dreiser sued. Although he lost the suit, Dreiser did get Paramount to add seven scenes to the film. See LETTERS, *supra* note 20, at 562.

28. In his letter to Jack Wilgus, Dreiser wrote:

I had long brooded upon the story, for it seemed to me not only to include every phase of our national life—politics, society, religion, business, sex—but it was a story so common to every boy reared in the smaller towns in America. It seemed so truly a story of what life does to the individual—and how impotent the individual was against such forces.

LETTERS, *supra* note 20, at 457-58 (letter to Jack Wilgus, April 20, 1927).

29. DREISER, *supra* note 22, at 292. See also WARREN, *supra* note 24, at 137 (quoting Dreiser's *A Hoosier Holiday*, which describes the atmosphere of American cities as filled by a "crude, sweet illusion about the importance of things material.").

30. DREISER, *supra* note 22, at 297 (emphasis in original).

31. *Id.* at 299. Dreiser, as he often proclaimed in his essays, saw the universe, and not simply this crime, in determinist terms. See, e.g., Theodore Dreiser, *The Essential Tragedy of Life*, in HEY-RUB-A-DUB-DUB 243 (Theodore Dreiser ed., 1920) (stating that man's "every move and aspiration [are] anticipated and accounted for



Dreiser intended *An American Tragedy* to set forth this determinist explanation of the Gillette genre of murders. The novel, he wrote, "is a progressive drama. . . . A certain and given chain of events leads to certain conclusions . . . ." <sup>32</sup> The reader must see Clyde as "a creature of circumstances" who is compelled to act as he does by "an inescapable web."<sup>33</sup>

I will argue that *An American Tragedy* successfully conveys the impression that the embedded values of our culture and our socio-economic, genetic, and psychological circumstances are the ultimate authors of our actions.<sup>34</sup> The novel does not, of course, address the difficult issue of when and how these different sorts of influences interact, and I do not wish to imply that its determinism is philosophically coherent. As Ted Honderich has observed: "It is one thing to declare or more likely to presuppose . . . that our choices and decisions are quite clearly effects, or that our behaviour is law-like. . . . It is another thing to set out a determinist theory which is explicit, complete, and at a proper level of specificity."<sup>35</sup> Nor do I wish to suggest that the novel describes every character and event in determinist terms. The degree to which some rich characters appear to be in charge of their lives<sup>36</sup> and the visible role of accidents in

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by a formula"). For discussions of the sources on which Dreiser drew in formulating his ideas see RONALD E. MARTIN, *AMERICAN LITERATURE AND THE UNIVERSE OF FORCE* 217-36 (1981); PIZER, *supra* note 23, at 211-13. Although Dreiser "persevered in his philosophizing as though he were on the brink of some great discovery," MARTIN, *supra* this note, at 218, he was criticized not only for the incoherence of his views but also for their seeming inconsistency with the energy he poured into social causes. See, e.g., LETTERS, *supra* note 20, at 784-85 (letter to Robert H. Elias, April 17, 1937, noting this criticism and attempting to reconcile his determinism and his desire to take part in social reforms).

32. See also LETTERS, *supra* note 20, at 510-12 (letter to Jesse L. Lasky, March 10, 1931).

33. *Id.* See also LETTERS, *supra* note 20, at 526-30 (summarizing Dreiser's "ideographic plan" for the novel).

34. That *An American Tragedy* is a determinist novel is something of a literary truism. See SUSAN L. MIZRUCHI, *THE POWER OF HISTORICAL KNOWLEDGE* 242-43 (1988). Some of the more interesting recent analyses of the novel's determinism appear in LEE C. MITCHELL, *DETERMINED FICTIONS* 55-74 (1989) (focusing on the narrative techniques by which Dreiser renders determinism real); MIZRUCHI, *supra* this note, at 242-94 (discussing the ways in which the novel reflects critically on the social uses of and undermines determinism); MICHAEL SPINDLER, *AMERICAN LITERATURE AND SOCIAL CHANGE* (1983) (extracting a strictly economic determinism from *An American Tragedy* and arguing that Clyde is trapped by the transition from a consumption-oriented to a production-oriented society).

35. HONDERICH, *supra* note 7, at 3.

36. Susan Mizruchi has argued that the novel affords the wealthy a capacity to "manipulate temporal perceptions and historical narratives" which challenges its dominant philosophy of determinism. MIZRUCHI, *supra* note 34, at 269. Mark Kelman has remarked on a similar tendency to identify privilege with responsibility and blameworthiness in the criminal law. See KELMAN, *GUIDE*, *supra* note 6, at 90.

shaping the course of Clyde's life<sup>37</sup> can both undermine the idea that everything is predetermined. And at least one critic has read the section of the novel following Clyde's trial—in which Clyde, with Reverend MacMillan's help, concludes that he was not "wholly white"<sup>38</sup> regarding Roberta's death—as revealing that Dreiser afforded Clyde a measure of personal guilt.<sup>39</sup> Yet, because the novel creates such an overwhelming sense of "causal sequence and inevitability,"<sup>40</sup> these (arguably) inconsistent moments do not prevent it from privileging the general principle that human behavior is the causal consequence of conditions the individual does not influence.

Although *An American Tragedy* contains the odd statement explaining a character's behavior as the product of a "chemism"<sup>41</sup> or a "fillip in the blood,"<sup>42</sup> it is remarkably free of the scientific and philosophical proclamations that characterize many of Dreiser's other

37. Some examples of decisive accidental events in Clyde's life are: the automobile accident that forces Clyde to run away from Kansas City; the chance meeting with his uncle that leads him to Lycurgus; and the unintentional blow he gives Roberta with his camera, pushing her into the water where she drowns. As Philip Fisher has noted, these accidents underscore the point that Clyde is not in control of his life. See Philip Fisher, *Looking Around to See Who I Am: Dreiser's Territory of the Self*, 44 *ELH* 728, 741 (1977); see also WESTBROOK, *supra* note 18, at 149. For a concise discussion of the way in which chance, like determinism, seems to undermine our control of and moral responsibility for our actions see Thomas Nagel, *Moral Luck*, in *FREE WILL*, *supra* note 18, at 174-86.

Although Dreiser's use of accident helps to remove Clyde from the center of his actions, it may, depending on the way in which it is interpreted, undermine *An American Tragedy's* governing determinism. Insofar as the "accidental" events in the novel are accidental from the point of view of an omniscient narrator and thus symptomatic of a random universe, they will conflict with determinism's insistence on predetermined causal chains. See JAMES, *supra* note 18, at 117-18. Insofar as the events in question are portrayed as "accidental" from a particular rather than an omniscient point of view—say, from the author's or the central character's perspective—they need not be indicative of a lack of predetermination. Critics who wish to make Dreiser a consistent determinist tend to interpret the "accidents" in Clyde's story as only appearing to be accidental. See, e.g., JOHN J. CONDER, *NATURALISM IN AMERICAN FICTION* 86-87 (1984) (quoting Dreiser's statement that the concept of chance is "in most cases only another name for our ignorance of causes" and arguing that the chance events in Dreiser's novels are not intended to challenge determinism); LEHAN, *supra* note 25, at 164-65 (claiming that the "accidents" that happen to Clyde are only accidental from Clyde's point of view).

38. THEODORE DREISER, *AN AMERICAN TRAGEDY* 807 (1981).

39. See LAWRENCE E. HUSSMAN, JR., *DREISER AND HIS FICTION* 133-35 (1983). Even if this last section of the novel does afford Clyde some measure of responsibility, my sense is that that measure is not sufficient to sustain blame.

40. LEHAN, *supra* note 25, at 164.

41. DREISER, *supra* note 38, at 13. Dreiser began to use the term "chemism" after studying the ideas of Freud and Loeb during the second decade of the twentieth century. See PIZER, *supra* note 23, at 211-12.

42. DREISER, *supra* note 38, at 196.

works.<sup>43</sup> Thus, it has in common with other stories whose authors are less consciously loyal to a particular set of ideas that it makes the views that inform it plausible through narrative technique rather than through direct assertion. *An American Tragedy* privileges determinism through concrete description, prose style, and narrative strategies such as repetition and foreshadowing. I will first summarize Dreiser's narrative in an effort to show that his descriptions lead the reader to look to the messages of American society and to Clyde's socioeconomic, genetic, and psychological circumstances, rather than to his will, for an explanation of his behavior. I will then discuss the various ways in which Dreiser reinforces the insignificance of Clyde's will in producing his actions. Finally, I will describe Dreiser's use of particular prose constructions, repetition, foreshadowing, and impersonal descriptions to make the reader feel the remorseless operation of causal laws.

The most immediately striking feature of *An American Tragedy* is its length. The novel, which contained one million words in manuscript,<sup>44</sup> finally weighed in at three hundred and eighty-five thousand.<sup>45</sup> There are, of course, many factors contributing to its "gargantuan"<sup>46</sup> size. At least two of these factors—the broad time frame<sup>47</sup> in which Dreiser chooses to set the story of the murder and the detail with which he describes scenes, characters, and events<sup>48</sup>—are important in making causal analysis of Clyde's thoughts and actions possible.

*An American Tragedy* is divided into three books, the first of which concerns Clyde's early adolescence in Kansas City. The novel opens from the perspective of a largely indifferent pedestrian strolling on a summer's evening through the commercial center of a large American city. The reader observes the Griffiths family as a visibly impoverished, unnamed family of six who preach on a street corner. She notes that the eldest son of the family looks restless and uncomfortable with his missionary role, "eyes down, and for the most part only half singing."<sup>49</sup> The reader's first response to the boy, whom she will shortly know as Clyde, is articulated by one of the strangers

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43. See MARTIN, *supra* note 31, at 253.

44. See DREISER-MENKEN LETTERS, *supra* note 19, at 506.

45. See MENCKEN, *supra* note 19, at 797.

46. *Id.* at 799.

47. Mark Kelman has observed that choosing a broad time frame in which to tell the story of the defendant's actions provides enough "background data," enough facts about events preceding the criminal incident, to make determinist explanation possible. See Kelman, *Interpretive Construction*, *supra* note 6, at 594.

48. Robert Penn Warren has noted that there is a "dawning logic" in the novel's "scrupulous accretion of detail, small indications, and trivial events." Robert P. Warren, *An American Tragedy*, LII No. 1 THE YALE REVIEW 6 (1962).

49. DREISER, *supra* note 38, at 9.

who observes him: "That oldest boy don't wanta be here. He feels outa place, I can see that. It ain't right to make a kid like that come out unless he wants to."<sup>50</sup>

From the beginning, then, the novel asks the reader to observe the effect on Clyde of circumstances forced upon him. Dreiser makes it clear that Clyde is deeply affected by the "wretched and hum drum, hand to mouth state" in which he spends his childhood.<sup>51</sup> Clyde's itinerant missionary parents do not provide their children with sufficient food, decent clothes, or even the chance to go to school on a regular basis. The only real lesson Clyde learns from his childhood is that his parents' work is "not satisfactory to others—shabby, trivial" and that he must dissociate himself from them if he wishes not to be treated with contempt.<sup>52</sup>

The novel shows the reader that Clyde's appearance and temperament join with the shame and poverty of his childhood to produce a burning ambition to get away and to better himself. The adjectives Dreiser uses to describe Clyde convey the impression that he is vain, proud, imaginative, self-absorbed, highly-sexed, and indecisive.<sup>53</sup> Clyde is good-looking, with "a straight, well-cut nose, high white forehead, wavy, glossy black hair, [and] eyes that [are] black and rather melancholy at times."<sup>54</sup> Because he is aware of his good looks, he is resentful of the financial circumstances that keep him from buying the "right" clothes.

By his sixteenth birthday Clyde is able to begin the "race" to succeed in life. Eager to begin, he quits school and accepts a job as assistant to a soda water clerk at one of the cheaper drugstores in Kansas City. He progresses from there to the post of bell-hop at the "principal hotel of the city,"<sup>55</sup> the Green-Davidson. Dreiser leads the reader to believe the exposure to this "gaudy"<sup>56</sup> hotel, which lacks "the saving grace of either simplicity or necessity"<sup>57</sup> injures Clyde's development by providing him with an exclusively material picture of success. He also shows the reader that the effect of the Green-Davidson on Clyde is not something for which Clyde himself is responsible. Clyde shares with the other bell-boys the fact that he comes from a nondescript family without social or financial advantages. The common background of the bell-boys produces in them a common response to the Green-Davidson:

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50. *Id.* at 11.

51. *Id.* at 17.

52. *Id.* at 14.

53. DREISER, *supra* note 38, at 18.

54. *Id.*

55. *Id.* at 31.

56. *Id.* at 47.

57. DREISER, *supra* note 38, at 32.

[T]here had been in the lives of most of these boys such a lack of anything that approached comfort or taste, let alone luxury, that, not unlike Clyde, they were inclined to not only exaggerate the import of all that they saw, but to see in this sudden transition an opportunity to partake of it all.<sup>58</sup>

Unfortunately, Clyde's dreams of what his connections with the Green-Davidson might mean are quashed after a year of work. One of the bell-boys borrows a car from a friend who lends it without the owner's consent. Clyde joins a group of the bell-boys in taking the car for an outing in the country. On their return to Kansas City the speeding driver of the car hits and kills a little girl who has jumped into the street. Attempting to elude the policemen who are in pursuit, the driver crashes the car into a lumber pile. The first book of the novel ends with Clyde running from the car and feeling keenly aware of his dependence on forces he cannot control: "If he were not captured, he hoped to hide—to lose himself and so escape—if the fates were only kind . . ."<sup>59</sup>

The second book of *An American Tragedy* opens with a description of dinner preparations at the home of Clyde's uncle, Samuel Griffiths, in Lycurgus, New York. Griffiths, the wealthy owner of a shirt collar factory, has met Clyde at the Union League Club in Chicago, where Clyde, after three years of wandering from city to city and job to job, has obtained a post as a bell-hop. Impressed by the "gentlemanly and reserved"<sup>60</sup> manner Clyde has acquired at the Union League Club, Samuel Griffiths grants Clyde's request for a job in the collar factory. Clyde, taken with the idea of connecting himself with the rich uncle he heard about as a child, quits his job at the Union League Club and goes to Lycurgus.

Samuel Griffiths, motivated by Clyde's resemblance to his own son, Gilbert, and by a sense of remorse at the straightened circumstances of Clyde's father, decides to teach Clyde "the collar business" "from top to bottom."<sup>61</sup> Clyde's first job at the factory is in the basement shrinking room. Unfortunately, Samuel Griffiths does not tell Clyde about his ambitions for him, and Clyde is left to guess about his status in the factory. He feels alone in Lycurgus, a "nobody"<sup>62</sup> who is isolated from the lofty Lycurgus Griffiths by his parents and his past and from the other factory workers by his ambitions and his Griffiths name.

After some months Samuel Griffiths puts Clyde in charge of a room full of young women who stamp size numbers on collars.

58. *Id.* at 48.

59. *Id.* at 145.

60. *Id.* at 169.

61. DREISER, *supra* note 38, at 175.

62. *Id.* at 189.

Despite company regulations forbidding employee relationships, Clyde becomes intimately involved with one of the employees he supervises, Roberta Alden. Like Clyde, Roberta is a stranger in Lycurgus and is from a poor background. Clyde, with his good looks and Griffiths name, embodies for Roberta the possibility of her own escape from the rural poverty of her childhood. She is attracted to him, just as Clyde is attracted to the Lycurgus Griffiths. After their relationship has continued for some months, Roberta yields to Clyde's sexual demands.

By the time Clyde learns that Roberta is pregnant, he has fallen in love with Sondra Finchley, heir to the Finchley Vacuum Cleaner fortune. Dreiser explains that the Finchleys, like the Green-Davidson, display their wealth in a "grandiose" and "showy" manner.<sup>63</sup> Although at first Sondra is interested in Clyde only to make his cousin Gilbert jealous, she becomes genuinely attached to him and includes him in her social activities. As Sondra becomes increasingly interested in Clyde, giving Clyde reason to hope she will marry him, Clyde loses all interest in Roberta. His efforts to help Roberta abort the baby fail, and the thought of marriage, which Roberta now demands, fills him with the fear of losing his job and "all the joys that so recently in connection with Sondra had come to him."<sup>64</sup>

Prevented by his "mental and material weakness" from denying Roberta's request to marry her *and* from giving up the pleasures and dreams associated with Sondra, Clyde feels completely trapped.<sup>65</sup> At this point he happens to read about the "mysterious drowning" of a young couple at an isolated lake in Massachusetts. The couple's rented boat was found overturned with two hats floating nearby. Though the woman's body was discovered, the man's was not. In a conversation between Clyde and the "genie of his darkest and weakest side,"<sup>66</sup> the genie strives to convince Clyde to repeat the circumstances of the news story with himself and Roberta (who cannot swim) by drowning her and making it appear as though her anonymous male companion has perished as well.<sup>67</sup>

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63. *Id.* at 149.

64. *Id.* at 436.

65. See DREISER, *supra* note 38, at 466.

66. *Id.* at 464.

67. The genie supplies Clyde with the following summary of his reasons for killing Roberta:

"But a little blow—any little blow under such circumstances would be sufficient to confuse and complete her undoing. Sad, yes, but she has an opportunity to go her own way, has she not? And she will not, nor let you go yours. Well, then, is this so terribly unfair? And do not forget that afterwards there is Sondra—the beautiful—a home with her in Lycurgus—wealth, a high position such as elsewhere you may never obtain again—never—never. Love and happiness—the equal of any one here—superior even to your cousin Gilbert."

When Roberta announces that if Clyde does not marry her immediately she will reveal all to anyone in Lycurgus who cares to listen, Clyde is "finally all but numbed by the fact that now decidedly he must act."<sup>68</sup> He makes arrangements for Roberta to go to Grass Lake with him for what he tells her is a honeymoon trip after which they will be married. When Grass Lake turns out to be well-populated by the Winebrennarian Religious Group from Pennsylvania, Clyde persuades Roberta to accompany him to a more remote lake, Big Bittern. There, Clyde hires a boat and rows out onto the lake with Roberta; but once they are on the water, he is paralyzed by doubt and confusion. In a kind of "trance or spasm"<sup>69</sup> he experiences "a sudden palsy of the will"<sup>70</sup> and recognizes that he lacks the courage to drown Roberta as he had planned. Roberta, who is alarmed at the strange expression on Clyde's face, crawls forward toward him on the keel of the boat and reaches out to him. As she draws near, he flings out at her instinctively, wishing simply to prevent her touch. Clyde has forgotten that he is holding a camera in the hand he uses to reject Roberta. When he pushes her away, the camera strikes her; she screams and is thrown backward. Clyde rises and reaches across to her, "half to assist or recapture her and half to apologize for the unintended blow."<sup>71</sup> In rising he capsizes the boat. Realizing that an accident has accomplished what he sought yet lacked the will to do, he allows Roberta to drown. Book Two ends with Clyde swimming to shore, wondering whether Roberta's death was an accident or whether he has killed her.<sup>72</sup>

The first two books of *An American Tragedy* lead the reader to believe that Clyde is responsible for Roberta's death in the same direct, morally-neutral sense that the rain is responsible for the wet roof. The reader feels that Roberta would have lived were it not for Clyde's attempt to dispose of her. Yet, because Dreiser has consistently described Clyde as responding rather than originating, the reader is inclined to feel that Clyde is not the true author of Roberta's death. Dreiser's narrative teaches that Clyde becomes a murderer not

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68. *Id.* at 469.

69. *Id.* at 492.

70. *Id.* at 491.

71. *Id.* at 492.

72. *Id.* at 494.

And then Clyde, with the sound of Roberta's cries still in his ears, that last frantic, white, appealing look in her eyes, swimming heavily, gloomily and darkly to shore. And the thought that, after all, he had not really killed her. No, no, Thank God for that. He had not. And yet (stepping up on the near-by bank and shaking the water from his clothes) had he? Or, had he not? For had he not refused to go to her rescue, and when he might have saved her, and when the fault for casting her in the water, however accidentally, was so truly his? And yet—and yet—.

by choice but by the effect of the embedded values of American society on someone of Clyde's background and temperament.<sup>73</sup> Institutions like the representative Green-Davidson,<sup>74</sup> as interpreted by American culture and perceived by the deprived and unsophisticated Clyde, encourage him to equate personal worth with financial success<sup>75</sup> and to believe that wealth is within his reach.<sup>76</sup> Lacking the skills and the trained or naturally clear mind that would have allowed him to make money himself, Clyde perceives association with the affluent as his only means of achieving success. He relies successively on the Green-Davidson, the Union League Club, and the Lycurgus Griffiths to give him a positive sense of himself. Marriage to Sondra represents the possibility of cementing his connection to luxury and position, of sustaining a feeling of personal worth over time. Having observed the isolating and downtrodden circumstances of Clyde's youth, his vanity and pride, and the imaginative and confused character of his mind, the reader understands what this possibility means to him and perceives as inevitable his attempt to eliminate Roberta, whom he regards as the only obstacle to its realization.

Dreiser reinforces the impression that Clyde is not in charge of his life by making references throughout the novel to the fact that Clyde lacks a clear, directing will.<sup>77</sup> When he first considers murdering Roberta and so "solving" his dilemma, Clyde is unable to form a clear resolve to do so because of his "unstable and highly variable will."<sup>78</sup> "He could not really act on such a matter for himself and would not. It remained as usual for him to be forced either to act or to abandon this most *wild* and terrible thought."<sup>79</sup> Clyde does not choose independently to drown Roberta. He is persuaded to endorse the plan by his genie, a voice outside him.<sup>80</sup> And it is the

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73. The novel's title, of course, reinforces the point that Clyde's fate is distinctively American.

74. Dreiser makes the Green-Davidson's archetypal status clear, referring to it as "an essential hotel in a great and successful American commercial city . . . ." *Id.* at 32.

75. DREISER, *supra* note 38, at 47.

76. *Id.* at 48.

77. *See, e.g., id.* at 18, 169.

78. *Id.* at 467.

79. *Id.* (emphasis in original).

80. By using the genie to explain Clyde's attraction to the idea of drowning Roberta, Dreiser leaves intact our sense that Clyde is incapable of clear thought or resolution. Describing Clyde's state of mind when he listens to the genie, Dreiser writes:

There are moments when in connection with the sensitively imaginative or morbidly anachronistic—the mentality assailed and the same not of any great strength and the problem confronting it of sufficient force and complexity—the reason not actually toppling from its throne, still totters or is warped or shaken—the mind befuddled to the extent that for the time



"eerie unreason or physical and mental indetermination" on Clyde's face that causes Roberta to start on her ill-fated crawl across the boat.<sup>81</sup>

Dreiser describes many of Clyde's reactions in a way that suggests diminished capacity and makes it difficult to perceive Clyde as in charge of his life. When Clyde gets his first paycheck at the Green-Davidson, his salary seems "fantastic, Alladinish, really."<sup>82</sup> Similarly, when he visits a brothel with the other Green-Davidson bell-boys, it is "really quite an amazing and Aladdin-like scene to him."<sup>83</sup> These phrases encourage the reader to believe that the presence of money or sex casts a spell over Clyde and that he is bewitched by Sondra Finchley, in whose person they are united.

The prose style of Dreiser's narrative further attests to the appropriateness of picturing Clyde's actions as the result of his ideological, socioeconomic, genetic, and psychological circumstances—rather than as the product of his will—by conveying the general impression that these circumstances determine behavior. Dreiser's tendency to omit the verbs from many sentences helps to portray characters as more caused than causing.<sup>84</sup> And his habit of describing characters as the loci of social and genetic forces, rather than as distinct individuals, encourages the reader to afford these forces the primary causal role. Clyde's father, for example, is described as "one of those poorly integrated and correlated organisms, the product of an environment and a religious theory but with no guiding mental insight of his own."<sup>85</sup>

As the paragraph above suggests, Dreiser's prose style helps to extend the reach of the novel's determinism beyond Clyde and others similarly situated.<sup>86</sup> Dreiser's style leads the reader to participate in Clyde's experience of powerlessness. His extensive use of the present participle, which makes actions seem less self-contained than do other

being, at least, unreason or disorder and mistaken or erroneous counsel would appear to hold against all else. In such instances the will and the courage confronted by some great difficulty which it can neither master nor endure, appears in some to recede in precipitate flight, leaving only panic and temporary unreason in its wake.

DREISER, *supra* note 38, at 463.

81. *Id.* at 492.

82. *Id.* at 53.

83. *Id.* at 66.

84. See, e.g., DREISER, *supra* note 38, at 7.

85. *Id.* at 13. For other examples of Dreiser's tendency to depict his characters as produced rather than self-fashioned see *id.* at 196, 504, 513. For a detailed discussion of the ways in which Dreiser erodes the importance of individual identity, see Fisher, *supra* note 37, at 740-41.

86. Lee Clark Mitchell has also explored the notion that Dreiser's "bad writing" is instrumental in conveying determinism. See MITCHELL, *supra* note 34, at x, 73-74.

verb forms, and of long sentences strung together with dashes and commas, traps the reader within the text and gives her the sense of being pushed along helplessly. Dreiser's style also helps to create an atmosphere of inevitability. His practice of juxtaposing sentences of parallel construction<sup>87</sup> conveys a sense that the feelings, actions, or events the sentences describe occur according to fixed patterns.

Dreiser repeats not only sentence constructions but types of characters and events.<sup>88</sup> As Lee Clark Mitchell has observed, Clyde's and Roberta's fathers are "virtual carbon copies" of each other, befuddled and incompetent younger sons.<sup>89</sup> Clyde and Roberta represent each other in important ways. Both are romantically inclined young people from isolating and deprived backgrounds and are attracted to the idea of marrying someone more privileged.<sup>90</sup> And many of the events in *Lycurgus* reflect those in *Kansas City*.<sup>91</sup> The event of unwanted pregnancy, for example, traps Clyde's sister Esta in Book One and then Roberta in Book Two.

Dreiser uses anticipation as well as repetition to reinforce the impression that our lives proceed according to a predetermined logic.<sup>92</sup> While Clyde is working at the Union League Club, he notices that this institution, which, unlike the Green-Davidson, caters to the truly "socially worldly elect," is completely without "the faintest trace of that sex element which had characterized most of the phases of life seen at the Green-Davidson."<sup>93</sup> Clyde's recognition of the absence of sex, and women, from the Club leads him to reflect: "Probably one could not attain to or retain one's place in so remarkable a world as this unless one were indifferent to sex, a disgraceful passion of course."<sup>94</sup> Dreiser then informs the reader that when Clyde "was within the precincts of the club itself, he felt himself different from what he really was—more subdued, less romantic, more practical . . ."<sup>95</sup> Clyde's perception that lasting membership in the elite class requires an ascetic temperament and Dreiser's comment that Clyde lacks such a temperament together anticipate that Clyde's sexual desires, which ultimately lead him into Roberta's bed, will

87. Donald Pizer has discussed this practice, which he interprets primarily as a means of communicating the stream of consciousness or the "swift, uncontrolled flow of interior reality." PIZER, *supra* note 23, at 287-88.

88. Fuller discussions of Dreiser's use of repetition appear in LEHAN, *supra* note 25, at 164-67; MITCHELL, *supra* note 34, at 57-70; PIZER, *supra* note 23, at 282-83.

89. MITCHELL, *supra* note 34, at 59.

90. *See id.*

91. *See* LEHAN, *supra* note 25, at 164.

92. For critical discussions of Dreiser's use of foreshadowing see LEHAN, *supra* note 25, at 165-66; MITCHELL, *supra* note 34, at 65.

93. DREISER, *supra* note 38, at 168.

94. *Id.* at 169.

95. *Id.*

prevent him from realizing his dream of success. Here, as elsewhere, one scene foreshadows another, implying that determinism is true, that "those parts of the universe already laid down absolutely appoint and decree what the other parts shall be."<sup>96</sup>

A determined universe is, of course, a universe whose character results from the operation of impersonal causal laws rather than from the sum of individual actions. A sense of impersonality pervades Dreiser's narrative. Its first sentence refers not to the particular but to the generic: "Dusk—of a summer night. And the tall walls of a commercial heart of an American city of perhaps 400,000 inhabitants. . . ."<sup>97</sup> And characters are consistently described not as individuals but as types. The actor with whom Clyde's sister runs away is "one of those vain, handsome, animal personalities, all clothes and airs but no morals."<sup>98</sup> Roberta's parents are "excellent examples of that native type of Americanism which resists facts and reveres illusion."<sup>99</sup> Roberta's roommate, Grace Marr, is "of that type that here as elsewhere find the bulk of their social satisfaction in such small matters as relate to the organization of a small home . . . ."<sup>100</sup> Dreiser thus conveys the impression that a character's individuality is not a necessary element of her role in the novel's events.<sup>101</sup>

In these ways Dreiser creates a context of "grinding impersonality"<sup>102</sup> for Clyde's story. This context or atmosphere lends plausibility to Dreiser's rhetorical attribution of Clyde's crime to the pressures of American convention and to Clyde's psychological and genetic make-up and deprived background. It also leads the reader to believe that the predetermined nature of Clyde's conduct is the norm rather than an exception.

## II

In contrast to Dreiser's narrative, which instills the feeling that Clyde is not ultimately responsible for Roberta's death, District

96. JAMES, *supra* note 18, at 117.

97. DREISER, *supra* note 38, at 7.

98. DREISER, *supra* note 38, at 21.

99. *Id.* at 244.

100. *Id.* at 247-48.

101. The large number of characters in *An American Tragedy*, the fact that each book of the novel begins with a description in general terms by a detached observer, and the shifts in perspective asking the reader to contrast Clyde's importance in his own mind with the indifference he inspires in others all serve to reinforce the reader's sense of the insignificance of individuals. For illustrations of the way in which Dreiser shifts his distance from Clyde at different points in the novel, thus showing Clyde "in his double aspect" as a "confused sufferer and victim of fate," see Howe, *Afterward*, in DREISER, *supra* note 38, at 825.

102. WARREN, *supra* note 24, at 113. Even a reviewer as negative as H.L. Mencken attested to *An American Tragedy's* atmosphere of inevitability: "What we behold is the gradual, terrible, irresistible approach of doom—the slow slipping away of hopes. The thing somehow has the effect of a tolling of bells. It is clumsy. It lacks all grace. But it is tremendously moving." Mencken, *supra* note 19, at 799.

Attorney Mason's version of Clyde's story makes it seem as though Roberta's death is the direct result of Clyde's malicious and deliberate actions. Mason, who does not have the reader's detailed knowledge of the circumstances of Roberta's death, must reconstruct them from the available evidence. Roberta's body, with bruises on the face, is dragged from the lake at Big Bittern.<sup>103</sup> Her bag is found at the lodge, but that of the companion with whom the guide and innkeeper saw her is missing.<sup>104</sup> The couple is found to have registered in one name at Grass Lake and in another at Big Bittern, and the guide who drove them to Big Bittern remembers Roberta's companion as having asked whether there were many people on the lake that day.<sup>105</sup> A letter addressed to her mother is found in Roberta's coat.<sup>106</sup> Mason contacts her parents, who suggest that Clyde Griffiths of Lycurgus could have been her companion.<sup>107</sup> Mason obtains access to Clyde's room in Lycurgus and discovers three bundles of letters: one from Roberta, one from Sondra, and one from Clyde's mother.<sup>108</sup> Roberta's letters, written from her parents' house where she had gone to "rest" for a few weeks before joining Clyde at Grass Lake, reveal her pregnancy and anxious desire to marry Clyde.<sup>109</sup> Sondra's opulent notecards and invitations contrast mightily with Roberta's letters in both tone and appearance.<sup>110</sup> On the basis of this evidence, Mason arrests Clyde.<sup>111</sup> Shortly after Clyde's arrest, divers combing the bottom of Big Bittern discover his camera.<sup>112</sup>

As the reader watches Mason attempt to derive from this evidence the "true" story of Roberta's death, she gains insight into the extent to which factors independent of the evidence shape legal narrative. Dreiser reveals that Mason's background and psychology predispose him to resent Clyde. Before reading about Mason's investigation of Roberta's death, the reader learns he is the son of a poor farmer's widow whose boyhood of "poverty and neglect" has caused him "to look on those with whom life has dealt more kindly as too favorably treated."<sup>113</sup> Although he has managed to escape the straightened circumstances of his youth, Mason remains a man of "limited social experience."<sup>114</sup> Mason's lack of sophistication leads him to impose oversimple interpretations on the character and behavior of those he

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103. DREISER, *supra* note 38, at 498.

104. *Id.* at 499.

105. *Id.*

106. *Id.* at 499-500. The letter reveals her intent to marry Clyde. *Id.*

107. See DREISER, *supra* note 38, at 509-18.

108. See *id.* at 522-26.

109. *Id.* at 524.

110. *Id.* at 525. Sondra's letters are perfumed and on monogrammed stationery, whereas Roberta's are "doleful" and "pathetic." *Id.* at 525-26.

111. *Id.* at 526, 553.

112. DREISER, *supra* note 38, at 575.

113. *Id.* at 504.

114. *Id.* at 525.

investigates.<sup>115</sup> Moreover, Mason is inclined to resent those who appear to have been successful with women. He broke his nose at the age of fourteen, and the resulting disfigurement "had eventually resulted in what the Freudians are accustomed to describe as a psychic sex scar."<sup>116</sup>

If Mason's history and temperament thus lead him to resent Clyde, who bears the wealthy Griffiths name and has not one but two women pursuing him, it is the hierarchy of crimes embedded in American law and culture that creates in him a need to find that Clyde has willfully murdered Roberta according to a premeditated plan. The most severe legal and moral sanctions attach to such a killer. Mason, who is prone to think the worst of Clyde, is thus likely to view his behavior in intentionalist terms. Mason's legal ambitions harden this predisposition into a desire to find Clyde guilty of first degree murder. Securing a well-publicized conviction for such a heinous crime could, Mason knows, improve his chances of success in the local judicial elections.<sup>117</sup>

The evidence Mason uncovers is consistent with the proposition that Clyde planned and willfully caused Roberta's death. The letters from Sondra and Roberta supply motive; Clyde's suspicious behavior at Grass Lake and Big Bittern suggests premeditation; and the correspondence between the measurements of Clyde's camera and those of the bruises on Roberta's face indicates he hit her with the camera before she drowned. Clyde, unaware that divers discovered his camera, insists to Mason that he did not strike Roberta and does not in any way suggest that he did strike her but unintentionally. Mason, therefore, is free to conclude that Clyde deliberately beat Roberta unconscious with the camera and then threw her in the lake to drown.

In his opening statement to the court Mason states his intention to prove that Clyde killed Roberta "with malice aforethought and in cold blood . . ." <sup>118</sup> He then proceeds to sketch Clyde's background and character so that they appear consistent with premeditated, willful killing. It is worth quoting from Mason's narrative at length in order to give a sense of its contrast with Dreiser's:

But who is the individual . . . against whom I charge all these things? . . . Is he the son of wastrel parents—a product of the slums—one who had been denied every opportunity for a proper or honorable conception of the values and duties of a decent and respectable life? Is he? On the contrary. His father is the same strain that has given Lycurgus one of its largest and most construc-

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115. *Id.*

116. *Id.* at 504.

117. See DREISER, *supra* note 38, at 508.

118. *Id.* at 640.

tive industries . . . [h]is parents . . . appear to have been unordained ministers of the proselytizing and mission-conducting type—people who, from all I can gather, are really, sincerely religious and right-principled in every sense. . . .

He is not a boy. He is a bearded man. He has more social and educational advantages than any one of you in the jury box. He has traveled. In hotels and clubs and the society with which he was so intimately connected in Lycurgus, he has been in contact with decent, respectable, and even able and distinguished people. Why, as a matter of fact, at the time of his arrest two months ago, he was part of as smart a society and summer resort group as this region boasts. Remember that! His mind is a mature, not an immature one. It is fully developed and balanced perfectly.<sup>119</sup>

Mason does not lie about Clyde's past. He does, however, omit all facts that might lead the jury to sympathize with Clyde and to see his youth as downtrodden and desperate, and he emphasizes those that link him with privilege. Mason relies on this selection of facts to substantiate his claim that Clyde's mind is "mature" and "fully developed," the sort of clear, rational mind possessed by someone who knows how to get what he wants. To follow Mason's reasoning, then, the jury need endorse only a selective intentionalism, according to which those with privilege have the capacity to control their actions. Even a selective intentionalism conflicts, however, with the thorough-going mechanism conveyed by Dreiser's narrative.<sup>120</sup>

### III

Clyde's lawyers, Alvin Belknap and Reuben Jephson, offer a portrait of Clyde's background and character which evokes a selective but unexceptional determinism that may be said to be consistent with Mason's selective intentionalism. Its contention is that Clyde is the sort of person who cannot control his actions or desires. In direct contrast to Mason's assertion that Clyde is a "bearded man" of "social and educational advantages,"<sup>121</sup> Belknap and Jephson emphasize Clyde's youth and the extent to which he has been affected by the deprivations of his childhood. Like Dreiser, Belknap, in his

119. *Id.* at 641-42.

120. It would be possible to argue that, although Dreiser and Mason clash over whether Clyde is responsible for his conduct, their underlying theories of human action do not conflict. As I noted earlier, Dreiser is open to the charge that the behavior of poor people in *An American Tragedy* is more explicitly portrayed as determined than that of the wealthy. See *supra* note 36. If, as I have argued, the dominant impression Dreiser's narrative conveys is one of a mechanical universe, then the nature of human conduct, and not simply the nature of Clyde's background and behavior, is at issue in the competition between Dreiser's story and Mason's narrative.

121. See DREISER, *supra* note 38, at 641-42.

closing statement, suggests that Clyde did not possess the power to alter his behavior toward Roberta:

[I]t became Belknap's duty to say his last word for Clyde. And to this he gave an entire day, most carefully, and in the spirit of his opening address, retracing and emphasizing every point which tended to show how, almost unconsciously, if not quite innocently, Clyde had fallen into the relationship with Roberta which had ended so disastrously for both. Mental and moral cowardice, as he now reiterated, inflamed or at least operated on by various lacks in Clyde's early life, plus new opportunities such as previously had never appeared to be within his grasp, had affected his "*perhaps too pliable and sensual and impractical and dreamy mind.*"<sup>122</sup>

Belknap's reference to Clyde's "mental and moral cowardice" is reminiscent of Dreiser's description of Clyde's "mental and material weakness before pleasures and dreams he could not bring himself to forego."<sup>123</sup> Similarly, Jephson's cross-examination of Clyde reminds the reader of Dreiser's references to Clyde's bewitchment by the "Alladinish" attributes of money and sex:

"Yes, this Miss X.<sup>124</sup> We know. You fell madly and unreasonably in love with her. Was that the way of it?" "Yes, Sir." "And then?" "Well . . . I just couldn't care for Miss Alden so much any more." A thin film of moisture covered Clyde's forehead and cheeks as he spoke. "I see! I see!" went on Jephson, oratorically and loudly. . . . "A case of the Arabian Nights, of the ensorcelled and the ensorceller." "I don't think I know what you mean," said Clyde. "A case of being bewitched, my poor boy—by beauty, love, wealth, by things that we sometimes think we want very, very much, and cannot ever have . . ." <sup>125</sup>

Belknap and Jephson thus attempt to convince the jurors that it would not be just to blame Clyde for Roberta's death by asking them to recognize that when "we" are young and deprived we often have no power to resist the lure of beauty, love, or wealth. It would be the exceptional disadvantaged youth who had the capacity to resist such things.

Although Clyde's lawyers rely on the rhetoric and selection techniques of determinist discourse to suggest that Clyde is morally

122. *Id.* at 734 (emphasis in original).

123. *Id.* at 466-67.

124. The lawyers agree not to reveal Sondra's name at trial, so she becomes "Miss X." In the novel Sondra's anonymity has a symbolic rather than a practical purpose. When he has the lawyers call Sondra "Miss X," Dreiser shows us that it is possible to understand her appeal to Clyde as long as one knows that she is a car-for-her-sixteenth-birthday type of girl. Her particular identity, like that of other characters, *see supra* text accompanying notes 98-101, is not central to understanding the events in which she has taken part.

125. DREISER, *supra* note 38, at 681.

blameless, they feel they must alter the facts of his story in order to argue for his legal innocence. If, as Belknap and Jephson believe, Clyde's plotting and subsequent failure to rescue Roberta make him just as guilty of first degree murder as if he had intended to kill her when he struck her with the camera,<sup>126</sup> then a defense and "the truth" are incompatible. The law does not allow the contention that a sane defendant who committed proscribed acts in the absence of external coercion is blameless nonetheless.<sup>127</sup> Thus, although Belknap and Jephson differ from Mason in having had Clyde tell them what "really happened,"<sup>128</sup> their obligation to provide him with a legal

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126. *Id.* at 599. Dreiser gives the reader no reason to question this belief. Indeed, he encourages her to assume it is correct by describing Jephson as having unusually shrewd "mental and legal equipment." *Id.* at 598. Donald Pizer has suggested that Dreiser's opinion, as evidenced by Jephson's comment, that Clyde is legally guilty, was based on conversations with his lawyer friend Arthur Carter Hume. See PIZER, *supra* note 23, at 271.

The question of whether Clyde is, in fact, legally guilty is complex and must involve an analysis of his actions both before and after Roberta plunges into the water. Leo Katz, who acknowledges what happens is "shrouded in ambiguity by Dreiser's deliberately garbled prose," concentrates on the events leading up to Roberta's fall from the boat. See LEO KATZ, *BAD ACTS AND GUILTY MINDS* 202, 201-09 (1987). He argues these events are susceptible to at least three plausible interpretations, none of which offers a strong case for Clyde's guilt. As to whether Clyde's failure to rescue Roberta from the water after her plunge constitutes murder, Katz states the relevant questions are whether Clyde had a legal duty to save Roberta, and, if he did, whether he could have saved her if he had tried. *Id.* at 326 n.50.

Albert Levitt, who won the 1926 competition sponsored by Dreiser's publisher for the best essay entitled "Was Clyde Griffiths Guilty of Murder in the First Degree?," argues, for reasons similar to those offered in Katz's first interpretation, that Clyde's behavior before Roberta's plunge does not make him guilty of first degree murder. His intent to kill does not coexist with the acts of his that sent Roberta into the water. Albert Levitt, *Was Clyde Griffiths Guilty of Murder in the First Degree?* 4 (pamphlet distributed by Boni and Liverwright, 1926, on file at the Library of the University of Iowa, Iowa City, Iowa). Levitt goes on, unlike Katz, to consider the question of whether Clyde's omission to save Roberta is "culpable in law." He concludes that it is not according to general principles of the criminal law and the penal law of New York as it stood in 1926, because Clyde is not Roberta's parent, guardian, or husband. *Id.* at 5.

Even if Clyde is legally innocent, however, the general point that Dreiser makes in the context of Belknap's and Jephson's story—that the law will only countenance a limited number of determinist readings of defendants' actions—remains warranted.

127. *Cf.* Levitt, *supra* note 126, at 7 (affirming that "organized society" allows no defense to murder "based on weakness of the will, unless such weakness amounts to insanity").

128. Sensing Belknap's sympathy for him, Clyde has told him of his flight from Kansas City, his life in Lycurgus, all the details of his plot to drown Roberta, and how she came to die. Dreiser makes it clear that Belknap's sympathy, like Mason's resentment, is the result of his particular history and temperament. In his youth Belknap "himself had been trapped between two girls, with one of whom he was merely playing while being seriously in love with the other." DREISER, *supra*



defense leads them to fight him on his own sincere account.

Their first strategy in constructing Clyde's defense is to impose a legally excusing interpretation on it. Because the law tolerates seemingly exceptional, quasi-medical determinisms such as insanity,<sup>129</sup> they decide to relate the facts as Clyde has told them but to contend that "an illusion of grandeur aroused in Clyde by Sondra Finchley and the threatened disruption by Roberta of all his dreams and plans" caused a "brain storm," rendering Clyde temporarily insane.<sup>130</sup> They are, however, prevented from entering an insanity plea by the Lycurgus Griffiths, who are paying for Clyde's defense and who do not wish the stain of insanity to attach to "the Griffiths' blood and brain."<sup>131</sup>

Having had to reject the only legally acceptable means of arguing that Clyde should not be held responsible for plotting to kill Roberta and then letting her drown, Belknap and Jephson feel compelled to alter the plot of Clyde's story. They construct a narrative wherein Clyde does not plot to kill Roberta but, instead, takes her to the lake in order to tell her of his love for Sondra and thus convince her that he cannot marry her.<sup>132</sup> According to their story, once Clyde goes away with Roberta, spends two nights with her and sees how much she still loves him, he experiences a "change of heart" and decides to propose to her. Clyde takes Roberta out boating and offers to marry her while they are on the water. Roberta is so grateful for his proposal that she jumps up to come toward him. As she moves forward, her foot or dress catches, and she stumbles. Clyde, camera in hand, rises instinctively to try to catch her and stop her fall. As a result of their movement, the boat rocks and flips over,

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note 38, at 592. When the girlfriend for whom he cared less became pregnant, Belknap avoided having to choose between marriage and permanent flight only through the efforts of his father, who sent the pregnant girl to another town with a thousand dollars and housing expenses. This experience, in conjunction with a well-trained mind and a wide experience of the world outside Catawaqui County, leads Belknap not to judge Clyde too harshly and, accordingly, to be inclined to see his behavior in determinist terms. *Id.* at 600. When Belknap tells Jephson of his first meeting with Clyde he states:

"He could plot to kill one girl and maybe even did kill her, for all I know, after seducing her, but because he was being so sculled around by his grand ideas of this other girl, he didn't quite know what he was doing, really. Don't you see? You know how it is with some of these young fellows of his age, and especially when they've never had anything much to do with girls or money, and want to be something grand."

*Id.*

129. See KELMAN, *GUIDE*, *supra* note 6, at 91 (alluding to our preference for such determinisms over the sociological variety, which could have a more directly subversive impact on the justifiability of the criminal law).

130. DREISER, *supra* note 38, at 607.

131. *Id.*

132. *Id.* at 608-13.

and Clyde and Roberta fall into the water. Because the boat strikes Clyde as well as Roberta and makes him a little dizzy, by the time he becomes truly aware of her cries, she has drowned. At this point Clyde remembers his love for Sondra and slips away without calling any attention to the incident.<sup>133</sup>

The battle between Mason's narrative and the Belknap/Jephson account at Clyde's trial may be described as a fight within selective intentionalism as to whether Clyde fits into the category of those who have free will or those whose actions are predetermined. To cast the trial in this way is, however, to ignore its larger implications. Even a selective determinism—especially one whose primary selection mechanisms, youth and deprivation, designate a significant portion of the population—can undermine our faith in the general applicability of the intentionalist model.

Dreiser illustrates the way in which the intentionalist bias of the criminal law prevents us from recognizing the tension between unexceptional determinism and the justifiability of that bias. Legal categories ensure that the only determinist story on offer is one that does not account adequately for the evidence and that Clyde cannot testify to with force or conviction.<sup>134</sup> Moreover, by altering the plot of Clyde's story in this manner and rendering him innocent not only because he is the sort of person who cannot control his actions or desires but also because he did not do it, Belknap and Jephson obscure the subversive potential of unexceptional determinism.

*An American Tragedy* reveals not only legal suppression of the contradiction between faith in the generalizability of the intentionalist model and unexceptional determinism but its existence in American culture as a whole. As I discuss above, Dreiser illustrates the way in which our practices of blame and punishment, and the legal categories designating determinist excuses as exceptional, rest on such a faith. And he provides evidence of the pull of unexceptional determinism that outweighs the jurors' failure to endorse the determinist description of Clyde.<sup>135</sup> Mason feels the need to emphasize Clyde's social

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133. *Id.*

134. See *id.* at 692. At trial Clyde protested:

"No! No! I never did plot to kill her, or any one," . . . clutching at the arms of his chair and seeking to be as emphatic as possible, since he had been instructed to do so. At the same time he arose in his seat and sought to look stern and convincing, although in his heart and mind was the crying knowledge that he had so plotted, and this it was that most weakened him at this moment—most painfully and horribly weakened him.

*Id.*

135. It is unclear from Dreiser's description of them whether the jurors are completely confident in intentionalism or whether, as farmers, clerks, and shopkeepers resentful of Clyde's upscale connections, they are simply unconvinced that he fits into the category of those whose actions are predetermined.

advantages in arguing for his responsibility for his actions; Belknap and Jephson buttress Clyde's defense with generalizations about what "we" cannot help; and Belknap, whom Dreiser describes as an example of a well-educated, sophisticated man, thinks of Clyde as the type of man who could not help acting as he did.<sup>136</sup> In American culture as a whole, then, Dreiser shows both the presence of the contradiction between our endorsement of unexceptional determinism and our faith in the general nature of the intentionalist model and the capacity of the law to obscure it.

### CONCLUSION

The narratives of *An American Tragedy* present two different sorts of intentionalism/determinism conflicts. The overarching determinism of Dreiser's narrative conveys a picture of action that excludes the possibility of the selective intentionalism Mason evokes. Mason's selective intentionalism is not, however, inconsistent with the more limited determinism to which Belknap and Jephson are committed. The clash that occurs at trial is thus less between contradictory world views than between contradictory categorizations or descriptions of the defendant.

The conflict at trial is significant nonetheless because it illustrates how the intentionalist bias of legal discourse ensures that determinist description is only allowed in such ways as do not threaten the general practice of blaming. Clyde's lawyers cannot offer the argument that he was immature and deprived and therefore not responsible for his actions as a legal defense. The selective but unexceptional determinism implicit in such an argument would directly threaten the notion that it is justifiable for the legal system to consider free will the norm.

The space Dreiser's narrative inhabits is less severely constricted.<sup>137</sup> And the structural relationship among the stories in *An American Tragedy* privileges the full-blown determinist model of conduct embedded in the central narrative. As I noted earlier, for the reader Dreiser's narrative depicts what really happened, whereas Mason's account and the Belknap/Jephson tale are only stories told to a jury. In this way Dreiser ensures that the reader, unlike the jurors, will not be able to avoid feeling uneasy about the law's reliance on intentionalist assumptions.

Treating literary and legal narratives as cultural artifacts that have something to say about one another, as both this article and

136. See *supra* note 128 (description of Belknap's vision of Clyde).

137. Brook Thomas, among others, has noted that, although law and literature both reveal "the stories that a culture tells about itself," literature is capable of producing a wider range of narratives than is the law. See THOMAS, *supra* note 4, at 5.

*An American Tragedy* do, thus has a potentially disruptive effect. The novel's complete evocation of the determinist model of behavior can lead to uneasiness not only with the criminal law but also with the various moral frameworks on which we rely in daily life. Alan Gewirth has argued that the idea that agents "control or can control their behavior by their unforced choice while having knowledge of relevant circumstances,"<sup>138</sup> is a common feature of our various moralities.<sup>139</sup> Although Gewirth himself disposes of determinism,<sup>140</sup> the grinding ethos of *An American Tragedy* is discomfiting in part because it does not seem to give the reader that option.

The novel is also unsettling because, given our tendency to feel most comfortable when we believe our ideas rest on noncontingent foundations, it does not convince its reader that she may replace an old "truth," intentionalism, with a new one, determinism. In *An American Tragedy* Dreiser may encourage the reader to believe that human behavior is determined, but he also, perhaps unwittingly, teaches her to be suspicious of claims by narrative to describe a found, rather than created, world. By showing how the prosecution and the defense build their stories and by juxtaposing these stories with one another and with the central narrative of the novel, *An American Tragedy* illustrates the way in which a form of discourse that presents itself as the neutral depiction of facts rests on debatable theoretical perspectives. The reader's discomfort upon finishing the novel may thus increase as a result of her knowledge that *An American Tragedy* is itself a construction.

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138. Alan Gewirth, *The Epistemology of Human Rights*, I Soc. PHIL. & POL'Y 1, 9 (1984).

139. See *id.* at 8.

140. ALAN GEWIRTH, REASON AND MORALITY 36-37 (1978).