This Is Not an Article, or Scholarship: The Greek Salad

Roger I. Abrams*

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[Scene: Amphitheater, barren stage. Two actors enter in masks.]
ION: Did you enjoy Clark Byse's fine paper?
MENO: [No reply]
ION: The scholarship paper — all about interdisciplinary research.
MENO: I heard it, but I did not listen. It didn't contain enough jargon.
ION: Byse was so reasonable.
MENO: Reasonable is only appropriate when you seek consensus. I seek creative chaos.
ION: You've made it to the right place.
CHORUS: [arranged in a semi-circle at the front edge of the stage, dressed in white, sing:]
   Scholarship, oh scholarship, we love to write about you.
   You're literal, so sensible, and oh so righteous, scholarship.
MENO: Byse said nothing about footnotes. How can you talk about scholarship without a long diatribe on the notes that show you care enough to send the very best?
ION: 1
MENO: Very funny, but footnotes are serious business. Did you know I once set a record for the most footnotes in a foxtrot danced by two lefthanded pitchers for the St. Louis Cardinals?
ION: Quite a distinction.
MENO: Seriously, footnotes are the mark of good research. You can show off by citing esoterica that no one has read, including yourself.
ION: Don't the law review editors check the cites?
MENO: Some second year student who could care less verifies my verities.
ION: Semper fi.
[Inquisitor enters left]

1. This is not a footnote.
INQUISITOR: The good teacher will refrain from writing because it will detract from his or her performance in class. True or False?
MENO: The question cannot be answered, because there are no good teachers, only good citizens.
ION: Thank you, HAL.
MENO: This teacher-scholar dichotomy leaves a lot of meat on the bone.
ION: Well, don't stew about it.
MENO: There you go again making light of a genuine concern. Lots of law professors say they can't do research because their primary responsibility is teaching and there are only so many hours in the day.
ION: Twenty-four, last time I checked.
MENO: Banal.
ION: Do you teach?
MENO: Yes.
ION: Do you write?
MENO: Yes.
ION: Do you also have time for other pastimes, like watching the sunset and tending your vegetable garden?
MENO: Sure.
ION: Then why can't others do both as well? It doesn't take forty hours a week to prepare for class after you've been teaching for more than a decade.
MENO: But how do you convince a good teacher that he or she should do research.
ION: The power of the purse.
MENO: Thank you, King George.
ION: The key is role-modeling. We do what we should do as academics. If scholarship should be part of what we do, then we demand it of each other.
MENO: Boy, that sounds like a bowl full of farina.
ION: Those who can, do; those who cannot, complain that what they cannot do is not important.
MENO: Puff pastry.
ION: Did you know that I became a law professor because of Clark Byse?
MENO: So he's the one we have to blame.

CHORUS: (Sings interlude of Mozart's Some Small Night Music, with the notes translated from the German. Soloist sings just a little bit of large day music, acapulco.)

MENO: Professor Byse insists on moderation and balance. That's so middle-of-the-roadish, so balanced, so reasonable. Why not be outrageous, small and nasty? Like Toulouse-LaTrekkie, an intergalatic impressionist?
ION: But would that be scholarship?
MENO: Scholarship is what we say it is, no more, no less.
ION: Iconoclasticism.
MENO: Why can't legal analysis be emotional, multimedral, profane, sacrilegious, lyrical?
ION: Nice thought. I give it a 10; it had a good beat and was fun to dance to.
MENO: Scholarship is so "planned." Why can't we be spontaneous?
ION: How would it be measured? If it is unconventional, the troglo-dyes won't know it is good.
MENO: Who cares?
ION: If you are untenured, you care.
MENO: If tenure means blandness, then who wants to be beige?
ION: I do. I am.
MENO: So sad.

WARNING: THE SURGEON GENERAL HAS DETERMINED THAT THE ABSENCE OF SCHOLARSHIP IS HAZARDOUS TO YOUR TENURE. WATCH IT BUSTER!

CHORUS: Bo-o-o-ring

[Tune: Beethoven's 5th]
[Chorus loses interest and leaves.]
MENO: But once you get tenure, then it's playtime.
ION: Except if you want to get paid.
MENO: Why do we bother?
ION: Because scholarship is valuable.
MENO: Is that why we spend so much energy stringing words together like horse-and-carriage, love-and-marriage?
ION: We do it because we must.
MENO: Like breathe?
ION: We do it because we should.
MENO: Now you're changing your tune.
[ION sings the theme from L.A. Law, patron saint t.v. show for all legal educators.]
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[ION sings the theme from L.A. Law, patron saint t.v. show for all legal educators.]
ION: Scholarship helps inform judges and lawyers.
MENO: Inform them what we think. How much welschemerz can someone bear?
ION: We help push the law along. Isn't that useful?
MENO: It depends down whose steps the baby carriage is falling.
ION: Everyone has the chance to move the law as he or she wishes.
Democratic scholarship.
MENO: And like most democracies, it is mostly crap.
ION: Not so, my friend. Certainly, some articles leave a lot to be desired, but some of it is quite good.
MENO: Who told you that? Some student editor?
ION: No, I read it once in a law review article.
MENO: And most of it is so much of the same.

ALL PURPOSE LAW REVIEW ARTICLE OUTLINE
Title
[Must contain a colon, for example,
"Section 1497 of the Code: Why the Pitter-Patter of Small Feet?"]

I. Introduction
[Why this is the most important article of the season.]
II. Nature of the Issue
[The Inevitable Split in the Circuits.]
III. How the Stupid Courts Have Screwed Up the Issue (Again)
IV. Your Brilliant Insight
V. Conclusion

ION: There is a certain predictability about legal writing.
[Meno, Ion, Inquisitor and a member of the audience perform a reasonably prudent minuet.]

MENO: This way we know how it is going to come out before we start.
ION: There really has been some innovative legal scholarship published recently — more short essays, some good interdisciplinary work, some provocative jargon-filled diatribes.
MENO: Is that like a Larry Tribe?
ION: Certainly not.

MENO: The real problem is we take ourselves too seriously.
ION: Moi?
INQUISITOR: Byse's interdisciplinary focus is good, but does it go far enough? Shouldn't we combine legal scholarship with arts, music, sports, stone crabs, and wine before its time?
MENO: I especially like the stone crab idea.
ION: You would, Joe.
MENO: Scholarship should be tangy, like a Greek Salad.

LEGAL RESEARCH COOKBOOK
RECIPE: CRITS GRITS: START WITH FRUSTRATION, ADD BRILLIANCE AND A TYPEWRITER. MIX RAPIDLY AND EAT FOR BREAKFAST.

MENO: There is just too much scholarship, and you are aiding and abetting this third degree misdemeanor.
ION: There is never enough good scholarship.
MENO: Platitudinous dribble.

PROPOSAL: LAW SCHOOLS SHOULD ENTER INTO A NON-PROLIFERATION TREATY ON LAW REVIEWS. NO NEW REVIEWS, GRADUAL DESTRUCTION OF EXISTING STACK-PILES UNTIL ALL ARE DESTROYED.
ION: Would there be on-site inspection teams?
MENO: Jim White could handle that easily.

ION: We must get organized soon and find a place to publish our play so that others may read it.
MENO: Thanks Ollie, now look at the fine mess you've gotten us into.
ION: Dangling participle. Unacceptable.
MENO: And since we are all scholars, there is no one left to read our work. If no one reads it, it doesn't matter what it says.
ION: That is very profound.

INQUISITOR: Are you making fun of scholarship?
MENO: I am just sliding down the slippery slope.
ION: Now, there must be a line drawn somewhere . . .

Professor Byse's elegant paper addresses the major currents of modern legal scholarship. This frolic, by comparison, raises issues of post-modern scholarship. Is legal scholarship forever tradition-bound, or might it reach out beyond our sister social science disciplines to other modes of expression?
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