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Some Concluding Reflections— Recovering the Political: The Problem with Our Political Conversations

by Jack L. Sammons*

“That which challenges a person to response is the mystery of his or her own being.”¹

I am going to use parts of Gene Garver’s thoughtful analysis² to frame these remarks, as it did much of the conversation at the symposium, but without much concern about the troublesome distinction between epideictic and deliberative rhetoric. As long as it is understood that epideictic rhetoric, like deliberative, is within the art of persuasion—it is in the particular form of getting an audience to see its object of praise or blame in a new light for, as Aristotle says, quoting Socrates, “it is not difficult to praise Athenians in Athens”³—I do not think I need to be very concerned with this distinction.

Garver tells us that we have created a world we think we control, and because we think we control it, we also think someone is subject to blame for everything bad that happens in it. (Our constant denials of responsibility are but the opposing side of this). This exercise of will that

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1. OREN BEN-DOR, THINKING ABOUT LAW IN SILENCE WITH HEIDEGGER 13 (2007).
2. Eugene Garver, *The Way We Live Now: Rhetorical Persuasion and Democratic Conversation*, 63 MERCER L. REV. 807 (2012).
3. ARISTOTLE, ON RHETORIC: A THEORY OF CIVIC DISCOURSE 83 (George A. Kennedy trans., Oxford Univ. Press 1991).

knows no bounds is not just an American phenomenon. Consider, for example, the fact that “[t]he Italian government is trying seven seismologists for manslaughter because they didn’t predict an earthquake in 2009 that killed over 300 people,” as reported in *First Things*.⁴ So we are, we think, in control, and yet it seems to me we are also incapable of the deliberation such control would require, for we have seen too clearly the fiduciary character of all knowledge, including scientific knowledge.⁵ Because it is in part the uncertainty of being human from which we are trying to escape through our control, we no longer trust a knowledge that rests upon the same uncertainty.⁶ We yearn to calculate, you might say, but can find few subjects that now lend themselves completely to calculation. They are all all-too-human. In this world in which we are doomed to constant condemnations, and here I just hope you will agree with me, there is a hubristically-inspired misunderstanding of who “we,” the political “we,” are—one long in the making.

The three conversations that were the subject matter of the symposium—law, religion, and politics—are in their essence about this question: who are we?⁷ Each one of the three focuses on different aspects of our identity, and each imagines the “we” of its particular conversation differently,⁸ but, in their essence, all three are about the same thing.

4. *While We're At It*, FIRST THINGS, Nov. 2011, at 65.

5. On the fiduciary character of knowledge, see, for example, MICHAEL POLANYI, PERSONAL KNOWLEDGE: TOWARDS A POST-CRITICAL PHILOSOPHY 266 (1958). For a brilliant exploration of the implications of this, and much more of interest here, see JOSEPH VINING, THE SONG SPARROW AND THE CHILD: CLAIMS OF SCIENCE AND HUMANITY (2004). I want to be clear that what I say in the text is not a complaint. It is a very good thing that we cannot deliberate in the way that control over our lives would require, for, as Robert Audi reminded us in a talk to Mercer students that preceded the symposium, a world without risk would be a world without caring. This was said in the context of lecturing on Audi’s exploration of the problem of evil, for which, see ROBERT AUDI, RATIONALITY AND RELIGIOUS COMMITMENT 205-286 (2011).

6. In the shuttle from the airport to the symposium, I heard the following from a very loud man who shared his opinions on everything with the other passengers for almost an hour and a half: “You can’t believe there is a gay gene because the scientists who say they discovered it may have been gay.” This is what “the fiduciary nature of knowledge” means at its worst.

7. The identity sought in the question, “Who are we?” is an identity found in a gathered time, a time in which past, present, and future are all present. The identity is something that is always on the way to us. On “gathered time” and how this works in regards to identity and the law, see my own, Jack L. Sammons, *The Law’s Melody*, 55 VILL. L. REV. 1143, 1154 (2010).

8. Among these three it is the law that most depends, although they all do, upon a mythical “we” of those it imagines to be its polity. To say that it does, to say that the “we” of the law is imagined, is not at all to say that it is not real. See, e.g., Alasdair MacIntyre,

They are about us. In addition, each offers its own resources for addressing the hubris that has led us astray.

The political conversation that Garver described for us, however, has forgotten that this is the case. This forgetting is confirmed for us when the only form of deliberative rhetoric that remains possible within our political conversation, economics (which pretends the political as Arendt⁹ warned us many years ago), is the one least capable of sustaining any inquiry into our identity, premised as it is upon contested versions of reductionist views of human nature. The audience in the Florida Republican Primary Debate this year that applauded blaming the death of a person from illness on his failure to obtain adequate private health care insurance displayed for us, as well as anything could, the consequences of this forgetting. Who are we? As this audience knew, this is not what politics is about. Politics is instead just economics, and in this we have no choice about who we are. "We" are simply the prey of an economic beast, and each one of us is to be blamed for our weakness if killed and eaten by it.

Does such a politics, in almost all of its manifestations, lack civility in the way discussed at the symposium? Yes, of course it does. There should be no surprise in this. The enormous social and personal tensions created as we try to measure the river, the one that is never the same twice, spill over in understandable ways when "we" talk to those "we" think "we" must blame because we have lost the ability to inquire honestly into who we are.

If we do ask the identity question at all, who we seem to be in this, the default identity I suppose you might call it, are a people trapped in the inauthenticity of trying to identify ourselves through associations with one or more of the competing cultural groups doing battle over control of the control we think we have. Anyone who identifies himself or herself, or any important aspect of his or her identity, as a liberal,

Poetry as Political Philosophy: Notes on Burke and Yeats, in *ETHICS AND POLITICS: SELECTED ESSAYS* 159, 161 (2006) ("So nations to be real must first be imagined."); see also CHARLES TAYLOR, *A SECULAR AGE* 713 (2007) (discussing our "imagined communities"). MacIntyre, but not Taylor, is thinking in terms of a polity defined by a nation. I am not. I am thinking of a polity of law the "we" of the law as it is imagined, which is not coterminous with the nation. This "we" we call upon when we are to understand what nation (and being a nation) means, to stand in judgment of it, and to call it to its own ideals, retains the distance needed, however slight this might be, for critical judgment. Therefore, in this sense and in others, the law, like the arts, creates its own polity, and like the arts, it is always potentially an alternative to others. I have explored one polity of music and its role as an alternative to others in Jack L. Sammons, *Censoring Samba: An Aesthetic Justification for the Protection of Speech*, 37 *STETSON L. REV.* 855 (2008).

9. See generally HANNAH ARENDT, *THE HUMAN CONDITION* (1958).

conservative, independent, or none of the above, or as on one side of some social issue or another—taxation, abortion, gay rights, racial equality, fiscal policy, energy policy, environmental policy, economic fairness, Wall Street, Palestine, and so on—has this sense of being trapped, even when his or her side is in control. This is so because the associations, which provide this identity, can offer no personal satisfaction as an identity. They are not the “we” we seek.

Yet such identities are extremely hard to resist, providing as they do a certain security and stability, however false and incomplete these might be. Rather than the comfort of a truer identity, these identities produce only constant apprehension, defined as they are against others we do not understand and over whom we have no real possibility of control. A people so defined feel the constant, unrelenting tug of the impossible demands of needing to master the wills of difficult others. They feel the fear that if this tug is not acted upon, the others, who feel the same need, will master them. I believe that most people, in this country especially, sense all this intuitively. I believe that most yearn for something more without knowing what that more might be—a *saudade*¹⁰ of the public spirit as the Brazilians would say and, with that magic word, say well.

So, yes, of course, our political conversations lack civility. Our flailing attempts to provide it, however, will always fail. As a virtue of citizenship, civility requires exactly what we are no longer capable of: an attempt to understand honestly who we are. Stated boldly, civility, even the “bless his heart” civility of my dearly beloved South, requires a polity struggling in some measure towards a truth about itself. Without this, civility is always disingenuous, always dangerous, and (fortunately) always unsustainable: a “soma” of manners offered instrumentally to pacify yet another Brave New World with “[a]ll the advantages of Christianity and alcohol; none of their defects.”¹¹

But if I am right about this, it is not really our incivility that should concern us. Like some other minor headaches, it is only a symptom of a deeper contagion: one I have only hinted at thus far. This contagion we can see most clearly through noticing what is missing from the political conversation in comparison with the legal and religious ones, a comparison touched upon in many of the conversations in the symposium.

10. There is no good translation for the word “saudade.” I have found, however, a Welch word, “hiraeth” that seems to be used in a very similar way although it is not as encompassing. With good words like these we try to live poetically, making the world our own including its most fragile and delicate parts.

11. ALDOUS HUXLEY, BRAVE NEW WORLD 36 (1932).

Law and religion remain capable of civil conversations about our identity—and I would insist that they are capable of this despite the irony of our thinking that these subjects lend themselves to arrogance—because these conversations always point beyond themselves and thus always know that they are limited. A better, although more complex, way of saying this, following Jean-Luc Marion, is that these conversations are inquiries into saturated phenomena, that is, our intuition of these phenomena is in excess of the concept and, thus, validates not only the concept, but a further something that the concept itself cannot contain.¹² In other words, these conversations rest upon some shared trusting of (and a listening for) that which is not us, but defines us, although this trusting is often concealed from us in the case of the law.¹³ Political conversation itself may have been like this in times and places past, it may have sometimes had the faith required, but not now.

Within the current political conversation then, we find a contagion of the lack of a particular form of faith in a world in which, to put it in Heidegger's terms, the gods have fled.¹⁴ This is a missing faith, not in God, or the God who is three, or some god, or the gods, but the simple faith of first trusting that the ordinary mystery¹⁵ and silence that surrounds us is not to be feared. It is this simple daily *democratic* faith, the only one the political "we" of a democracy is fully capable of, that has gone missing from our political conversation, or so it seems to me as I reflect back on the discussion we had at the symposium.

The reason such an assertion about a missing faith within our political conversation seems naïve (when it is worldly), odd (when it is familiar),

12. See JEAN-LUC MARION, *THE VISIBLE AND THE REVEALED* 120 (Christina M. Gschwandtner et al. trans., 2008).

13. The concealment of this in law is beautifully explored in Joseph Vining's magisterial and deeply moving work, *From Newton's Sleep*. JOSEPH VINING, *FROM NEWTON'S SLEEP* 21-23 (1995). For my own musical exploration of Vining's insights, see Sammons, *supra* note 7.

14. When Heidegger speaks of the gods having fled, he does not mean that there are no gods; he means that they have fled. They have done so in the sense of no longer gathering people and things unto themselves. See JAMES F. WARD, *HEIDEGGER'S POLITICAL THINKING* 236-40 (1995). As Julian Young puts it, "In modernity, then, the gods remain with us. But they are not 'appropriated' into our lives, do not 'dispose the world's history[,] . . . fail, speaking of the culture as a whole, to make a difference to what actually happens in the world." JULIAN YOUNG, *HEIDEGGER'S LATER PHILOSOPHY* 97 (2002).

15. Throughout when I use the word "mystery," I do not mean by it something we cannot explain like the "mystery of the cosmos." I do not mean, in other words, that there is something that is a mystery *to us*. I mean instead there is something that *is* mystery; something that could not be approached in the way of explanation at all without utterly destroying it.

abstract (when it is concrete), academic (when it is practical), out-of-date (when it is about the future), and so forth, is because the politics we now have conceal what the political is about—that is, the question of who we are—from us¹⁶ on claims of common sense. It does so in at least two ways, both of which we can describe as a fleeing from any “trusting of (and listening for) that which is not us, but defines us,”¹⁷ and thus, a fleeing from the fullness of human experience that any truthful inquiry into our identity would require. It flees, of course, out of fear because it has no faith.

The first way of fleeing is obvious: it is the all-pervasive claim that politics is only about prejudices and self-interests, a claim that renders questions of identity, and the judgment these require, not only hidden, but also superfluous. In fact, a politics of power, which this is, is quite incapable of imagining any identity other than the reductionist one it requires for its own purposes. Any claim about identity made within it can only be yet another matter of prejudice or interest. This is, of course, it insists, only common sense. In this, and this is the point of it, politics eliminates the need for judgment within the conversation at all.¹⁸ By doing so, it can avoid threatening questions of identity; avoid the need for faith.

The second one is not as obvious, but it is very closely related. It is a version of what James Boyd White has called a lack of “living speech,”¹⁹ by which he means words without a mind behind them, or perhaps we can consider it an extreme political version of what postmodernists call the “violence of concepts.”²⁰ In either case, its manifestation is in speakers in the political conversation parroting thoughts, like bad artists

16. Could it be that our dissatisfaction with politics reveals our concealed familiarity with this political?

17. See *supra* p. 903 and note 13.

18. What I mean here is that the judgment required is beyond anything that politics could ask of us. Yes, of course, we are asked to choose between competing policies, competing politicians, and so forth, but upon which identities are we asked to make these choices?

19. JAMES BOYD WHITE, *LIVING SPEECH: RESISTING THE EMPIRE OF FORCE* 50-90 (2006).

20. See, e.g., JAMES K.A. SMITH, *SPEECH AND THEOLOGY: LANGUAGE AND THE LOGIC OF INCARNATION* 3 (2002) (discussing Jacques Derrida’s use of the concept of the “violence of concepts”). Please note that what I have said in the text about conversations that point beyond themselves and the “saturated phenomena” of Jean-Luc Marion is haunted by the potential reach of the “violence of concepts” in the sense that these ways of thinking seek that which is not conceptually mediated and yet use concepts to describe this. For an exploration of the issue of saying what cannot be said, see the excellent two-volume collection of works brilliantly edited and introduced by William Franke. *ON WHAT CANNOT BE SAID: APOPHATIC DISCOURSES IN PHILOSOPHY, RELIGION, LITERATURE, AND THE ARTS* (William Franke ed. 2007).

imitating the work of others, without ever making these thoughts their own. Concepts are simply exchanged with little effect, and little expectation of effect, for the simple reason that the exchange leaves neatly in place the “distribution of the sensible”²¹ on both sides. Therefore, no real judgment, in fact no real thinking, is ever required. Once again, hidden from us is the more serious inquiry into questions of identity that would necessarily challenge this distribution.

The combination of these two ways of fleeing from the mystery and silence that surrounds us leaves us with political conversations that are about . . . well . . . nothing. We do not recognize ourselves in these conversations for the simple reason that they are not about us—the intentional results of the two ways of fleeing from the fullness of human experience I have just described. Yet we know, I believe and believe that you do too, that in some sense our lives *are* full, that they *do* point beyond themselves, and are not our own in the way such a politics insists.

Despite our vociferous protests to the contrary, we also know that these politics do not really matter to us, as a high school student submitting an assignment copied from an online encyclopedia does not really care about the substance of the teacher’s comments and only about the grade. Because they do not matter to us, neither do our own incivilities within them.²² Since it is, as White tells us, not “us” speaking,²³ we also know not to trust these politics with questions of our identity. In knowing this, we try to separate ourselves from the polity in which we live. So, rather than identity, such a politics offers only a sense of homelessness, one we combat, if at all, with a forced, noisy, and phony patriotism.

How can we recover a politics that, at least to some measure, thinks beyond itself, which is to say, with Heidegger again, how do we recover a politics that thinks?²⁴ How can we, that is, recover a political conversation with the humility of knowing that it too, like the religious and the legal conversations is, at least to some measure, apophatic?

I think we can do this, as is often the case, by doing that which we least want to do: talk more. We need to talk, face-to-face, with those we oppose; talk about political matters far more serious than what level of

21. The term “distribution of the sensible” is from JACQUES RANCIÈRE, *THE POLITICS OF AESTHETICS: THE DISTRIBUTION OF THE SENSIBLE* 12 (2004).

22. Notice, if you will, that it is our very efforts to avoid talking about who we are that may produce the most uncivil and dogmatic forms of speech.

23. WHITE, *supra* note 19.

24. See MARTIN HEIDEGGER, *WHAT IS CALLED THINKING* 3-12 (J. Glen Gray trans., Perennial 1968).

taxation is optimal, or how to deliver health care, or more serious than abortions, gay rights, immigration, race, or what to do about various other social inequalities. Pick the issue you care most about right now, ask why anyone, you included, should care about it at all aside from self-interest; take your most thoughtful answer to that question and ask why anyone, you included again, should care about the value(s) upon which it rests; take your most thoughtful answer to that question and ask what the words you just used to describe these value(s) mean, where they come from, and why and how they prompt your caring.²⁵ Now offer this thought in as persuasive and as personal a manner as you can in a face-to-face political conversation with someone with whom you typically disagree, someone about whom you might now say you do not understand how he could hold the views he does. It sounds hopeless, I know, but please let go of this sense of hopelessness for just a few more pages before rejecting the suggestion.

Why this? Why this insistence upon addressing annoying questions in the company of annoying people? It is because our political conversation is no longer a rhetorical one—I think this is implied in Garver's article²⁶—by which I mean that speakers in it no longer seek means of persuasion. But it needs to be rhetoric to be an art, and it needs to be an art to be an honest conversation about our identity.

Rhetoric as an art, as Aristotle taught us, requires the rhetorician to uncover the means of persuasion *in the particular conversation*,²⁷

25. There is nothing magic in this particular formulation of the questions. It is, however, essential to what I have to say here that the last question, the one requiring you to examine the language you are using, be asked at some point; for the idea is to get to the openings that language, and only language, can provide. See *infra* p. 911. This is an easy thing to do with law, of course, and with text-based religions. The attitude towards language this reliance on text and on conversations about text produces is the basis, I think, for Marianne Constable's lovely thoughts about what politics can learn from law about civil conversation. Marianne Constable, *Democratic Citizenship and Civil Political Conversation: What's Law Got to Do with It?*, 63 MERCER L. REV. 877 (2012). Addressing serious matters does not itself require seriousness, so, for example, humor as well as music can be a large part of the conversation. On how this might work with music, please see my own *Censoring Samba*. Sammons, *supra* note 8. Note that in the example in the article music, too, opens language in the way described in the text. *Id.* at 861-77. As for humor, what does humor take seriously? Is it not the group, the relationship, gathered by the joke. Sometimes, of course, this can be an imagined group as when something strikes you as very funny although nothing else is said about it. In such moments, it seems to me, you slip out of the present group in to the imagined one of the joke. This, too, then is about identity.

26. See Garver, *supra* note 2.

27. For a very thoughtful and very careful analysis of this in Aristotle's *On Rhetoric*, see EUGENE GARVER, ARISTOTLE'S RHETORIC: AN ART OF CHARACTER 34-41 (1994). Searching for means of persuasion within the particular conversation means that the

although in democratic rhetoric this becomes a search for the means of persuading toward a willing assent rather than conversion to a speaker's position.²⁸ Such an art of rhetoric, in seeking these means of persuasion *requires the same trusting of that which is beyond us, the same faith as I have described it, as do the legal and the religious conversations.* This is perhaps a very unusual thing to say about rhetoric, but I think it is true nevertheless. It does so because the means of persuasion within democratic political conversations are neither something entirely psychological or subjective, nor something entirely social or objective that could be articulated outside of the particular conversation like, for example, shared social norms or norms of rationality. Instead, what we seek to draw upon when we persuade others through rhetoric is "that which persuades" as it is revealed through language in the conversation, the "thing itself" if you do not mind the phenomenological terminology.

And if you really do not mind, then I can say that to engage in true rhetoric is not to speak to others at all, but to join a "saying" that is a "showing."²⁹ Let me pause here briefly to sketch—and it is just a

means of persuasion are never quite the same from situation to situation (including within "situation" the particularities of the people involved in the particular conversation) and, thus, not fully identifiable in any abstract way. There is a very interesting connection in this, I think, to Levinas's ontology of the other, that is, of something in relationships that are in some way prior to being. "[M]an's ethical relation to the other is ultimately prior to his ontological relation to himself . . ." RICHARD A. COHEN, *FACE TO FACE WITH LEVINAS* 21 (1986). However, we do not need to go there with him to see that there is something between and among opposing rhetoricians that is mysterious and yet can be uncovered in our experience of persuading and being persuaded.

28. For more of my take on the role of assent in a democracy, see Jack L. Sammons, *A Rhetorician's View of Religious Speech in Civic Argument*, 32 *SEATTLE U. L. REV.* 367 (2009).

29. MARTIN HEIDEGGER, *ON THE WAY TO LANGUAGE* 93-108 (Peter D. Hertz trans., Harper Row, 1971). It is important to note that I am not intending to describe a dialectic. Nor do I mean to be saying that participation in the political conversation requires openness to opposing positions, or that all beliefs are to be held tentatively, or that expressed beliefs be capable of a publicity of reason or, if religious, equally motivated by secular reasons before being offered in political conversation. What I am intending to describe is not a conversation in which each speaker honestly seeks to correct the other with the other wishing for the correction because both agree that such is the way towards the truth. It is, instead, a conversation in which speakers know that some aspect of that which persuades the other is something that neither speaker can articulate although it can be uncovered by language—something in fact that cannot be conceptually mediated and yet is central to the sharing of identity that the speaker seeks with the other as an act of persuasion. Imagine, for example, composers debating how to approach a musical problem, each for deep reasons committed to a particular approach that each sees as a manifestation of who they are. In this heated conversation, there is a "who are you" answered by music that is beyond either composer. The point here is that these composers enter the conversation as musicians within an art. Anticipating the argument of later text, it is this

sketch—one way of understanding this as it applies to democratic political conversations.

We are creatures who question our own being—it is unlikely you would be reading this if this were not true. Truly, we are creatures who remain mysterious to ourselves, constantly seeking as we do an identity that we know neither we nor others can completely bestow upon us.³⁰ Democracy rests upon a certain respect for this mystery, turning, as it does, upon individual assents that can be given or withheld for any reason, including having no reason at all. Rhetoric that seeks this mysterious assent engages our capacity for judging, but it does so only when the identification between speakers that persuasion seeks can be an accomplishment of the conversation itself rather than an assertion of an identity formed prior to it. In the back-and-forth of seeking assent in democratic political conversation, we are persuaded by those who uncover—*show* us in the conversation—somewhere within an understanding of our own experiences, broadly considered, some truth or some aspect of a truth about our identity. In other words, those who show us something about ourselves persuade us.³¹

In this, however, the experiences implicitly drawn upon for persuasion are themselves also always beyond us. By this, I mean that our experiences are always more than they appear to be, always more than we can articulate, always more than we can hold in our minds, and, in these ways, always more than we can know, and yet, these experiences

that is needed. We need only think of the language used in rhetoric as the composers would think of language of music. There are connections here with Cicero and his understanding of natural law, and it is possible to read his odd combination of skepticism and natural law as in harmony with what I say here, but I am not the right one to make that case nor could I do so here. See, e.g., BRYAN GARSTEN, *SAVING PERSUASION: A DEFENSE OF RHETORIC AND JUDGMENT* 142-62 (2006). Garsten does not quite make this case, but, I think, comes close enough.

30. Our identities, while grounded in our experiences, are always a projection, and so our being is always an ongoing issue for us. We take stands on identities by how we live out our lives, but the stands that we take are contingent, cultural, and, questions about them are always ongoing.

31. It is important to note again, see text accompanying *supra* note 29, that I am not intending to describe a dialectic. There is a requirement of openness in it but it is not the openness that dialectic requires. Notice that the strength with which one holds a position does not necessarily determine ones potential for being persuaded. It is often most difficult to persuade those who are very tentative, very cautious in their thinking, those, that is, who wish to consider all other views first. You could say that these are simply careful people, but this form of care, which carries with it its own set of consequences including political, legal, and religious ones, can be a form of closed mindedness. To be always open to views not before you is, in some sense, not to be present in the conversation. The point here is that we can distinguish being open to the thoughts of others to the form of being open to that which might be uncovered in the saying.

are a living out of some possibility of our identity.³² Thus, the very basis for persuasion within a democracy, the identification sought between speakers, is mysterious to us, beyond us, and, in a democracy, to be respected as such.

Thrown into a language that is not of our own choosing, thrown into words that are never our own, thrown into relationships, a social life, a culture, and a people that are the same, this questioning of identity in rhetoric is always necessarily social. It is always a questioning, as I said of our three conversations, of who we are for we know that our individual identities, assuming it is even possible to think in those terms, are necessarily entangled with a people and a place: a *polis*. When we seek assent in political conversations within this *polis*, drawing upon individual experiences that are always beyond us, we are, regardless of the issue at hand, always doing so to some extent on some claim about who we, the “we” of the *polis*, are.³³ We are always saying to others in these conversations, *even if we are not aware of it*, that perhaps your experiences match my offered claims about who we are. We are always saying that perhaps my offered claim uncovers an aspect of the truth of our identity (which is also, in great measure, your own) and, in this, that the political is our means towards recognition of a truth about ourselves. What is more, we are always saying that this truth of our identity is a matter of your experience of it within this particular conversation.³⁴

This appeal to a practical sense of identity, it seems to me, always underlies whatever other argument we might make to one another in the back-and-forth of seeking assent in a democracy. Moreover, in this conversation we are always honoring, not autonomy, but individual judgments of assent to an identity grounded in the mystery of that which is beyond us.

32. For proof of this I offer: “I can’t find the words”; “words fail me”; “more than words can say”; or the very interesting, “words get the best of me.” What more proof—“I wish I had the words”; “there aren’t words enough”; “what could I possibly say,” and so on—could you possibly want?

33. This is not to say that we do not make claims about who “we” are as humans, as creatures of God, and so forth; it is to say that such claims are historical ones that cannot be separated from claims about a historically situated *polis*.

34. One way of thinking about this is that we need the equivalent of Athenian tragedies that would display for us what is at stake, which gods are displeased, in our political decisions, but because we have rendered the arts something incidental to our lives this will no longer work for us. We have a politics in which art does not matter—in not only the sense that the rhetoric of our politics is no longer an art, as I have argued here, but also that all art is irrelevant to it. Art is something you do on holiday and of no consequence to who we are.

So what this is—these means of persuasion, this “thing itself,” this “saying” that is a “showing”—seems mysterious to us because it is beyond our subjectivities and yet not an object to be found in the world. *But it is well within our experience*, as all mysteries of art are. It is, in fact, very ordinary, and requires nothing more than the simple daily faith, the one described before, that democracy itself requires.

Such an art of rhetoric is the way in which political conversations point beyond themselves, as law and religion do, as they too ask, necessarily, who we are and answer without the fear, without the lack of faith, that now dominates our politics. It is also, I think, this quality of the rhetorical art, as it is this quality of law and religion, which has the potential to bind us to one another despite our differences as we come to imagine better through this binding what it means to live together well.³⁵

It is then as the art of rhetoric that political conversation can recover what it is about. But what does it mean to say that we should treat political conversation as the art of rhetoric? It means, first, that the ordinary mystery of our lives, because we want and *need* to preserve it as mystery, can only be approached as an artist might approach the materials of any art—poetry, music, sculpture, theater, film, and so forth—through a beckoning of the muse to come, a sort of “thankful” thinking.³⁶ This more humble manner of approaching the art—a “[n]egative [c]apability,” as Keats called it,³⁷ permitting the art itself to speak—also permits the artist to be surprised by what is uncovered in

35. One way in which it binds us is by providing the motivation to listen to speech that seeks (only!) to persuade us, the listening Jeremy Waldron applauded as a central civic democratic virtue. Jeremy Waldron, *Two-way Translation: The Ethics of Engaging with Religious Contributions in Public Deliberation*, 63 MERCER L. REV. 845 (2012). Being motivated to listen to someone who seeks to persuade you of something to which you have no initial interest in being persuaded is an extraordinary thing, no? I wonder if there is any stronger commitment one can make to another person than to say to them that you will always listen to and consider what they say when those words “listen” and “consider” are taken seriously. If wedding vows included “I will always listen to you,” the wedding party would quietly snicker. So what is asked of us as citizens in a democracy is really something quite extraordinary and very personal. This is why I think it is necessary to examine with some care the motivations we might have to listen to those to whom we are strongly opposed and find in this, as I do, a form of binding.

36. HEIDEGGER, *supra* note 24, at 146.

37. Letter from John Keats to George and Tom Keats (Dec. 21, 1817), *Selections from Keats' Letters*, POETRY FOUNDATION ORG., <http://poetryfoundation.org/learning/essay/237836?page=2> (last visited Feb. 12, 2012). Keats used this expression in a letter to his brothers, George and Tom, on December 21, 1817. *Id.* See also NATHAN A. SCOTT, JR., *NEGATIVE CAPABILITIES: STUDIES IN THE NEW LITERATURE AND THE RELIGIOUS SITUATION* xi (1969).

her art. Through it something that is uncovered can suddenly appear to the artist as having been inevitable and yet not capable of being determined prior to its revelation. Such an approach to rhetoric, with artists on both sides seeking to persuade, makes it an opening to a truth about our identity.

To approach rhetoric this way, however, requires that we treat language, the material of the art of rhetoric, as that which could speak to us in this way. This is to say to approach the language of rhetoric as a language that aspires to the poetic in the sense of uncovering for us what we could call poetic truths about us. But for language to work this way in rhetoric, for it to have the potential of uncovering truthful aspects of our identity in political conversation, we have to reach the point at which language itself opens and even threatens to unravel. There is nothing strange about this; it is the same for all arts, and the great artist must always reach the point at which the understanding of the art itself is challenged by her art. It is in such openings that language permits the mystery of our identity to be thought and, in the thinking, for politics to be a means towards something other than the constant confirmation of itself that it is now.

If I am right about this, then a return to civility, like a return to the conditions of a great art, is not something that we can just will to happen, for we cannot treat misunderstandings of who we are, prompted by our own hubris, with more of the same. What we can do, through repeated, long, face-to-face talks with opposing others about matters that may seem too serious (and in preparing ourselves for such talks) is start to treat the rhetoric of the political conversation as the art it is. In doing so—and again I return to language that may be off-putting, but I hope you will be willing to listen to it—we will be beckoning the conditions of civility's creation, the ones now concealed from us, to draw near so that they might be among us once again.

We are now near the end of these brief reflections. What I have argued, as you probably have noticed, is circular in at least one sense.³⁸ On one quite understandable version of it, what I have said is that we must address serious matters because only serious matters are the true

38. There are other problems with it as well of course. One is that the connection between truth as *aletheia*, or uncovering (as opposed to truth as correspondence) was never related well to judgment in political conversations. The trick required, I argued, was to get the conversation to the point at which judgment was required for it to be within the art of rhetoric, but then I needed to go on to how the art of rhetoric, as uncovering truth, provided a basis for judgment. These are, of course, difficult matters requiring much more than I could provide here—assuming I could provide them at all—but as a matter of intuition, if nothing else, I am comfortable with what I said.

subjects of political conversation. I have said that we must get to the point of asking questions that go beyond the dead language of an exchange of concepts understood as prejudices and interests to the point of judgment.³⁹ Of course, a good reader might well say, if we talked about serious matters in this way, a truer conversation, and the honest civility it would generate, would follow. And this is right, as far as it goes. This circularity, however, need not be vicious. What we were trying to do in the symposium, I think, is to break out of a form of political conversation in which matters like abortion, gay rights, the economy, the environment, the poor, and so forth *are no longer the serious matters that they should be*. They are no longer, that is, about who we are. For this breaking out, we at least have to understand the trap we are in. The most serious harm we now face in our political conversations is not incivility, not sharp divisions, not caring too much—these have been present many times before—but our extraordinary passivity in refusing to be challenged by the mysteriousness of our being.

To return to conversations that are political, and therefore about our identity, to return to an art of rhetoric, we have to be willing to risk modeling a truer political rhetoric, starting small with serious, face-to-face, conversations in which there are language-induced openings that, by being open to mystery, can think identity. We have to proceed slowly of course, step-by-step, in recovering this art in the way that one might teach an appreciation of great music.

Does this mean that political conversations must always address annoying questions with annoying people? Of course not, any more than all musical compositions must be Beethoven's Ninth. Nevertheless, we need some such conversations to serve as models for the recovery of the political. So I would ask you (and ask you to ask your students if you are a teacher) to be the needed gadflies who will prompt these political inquiries into who we are. I would ask you to join the art of rhetoric as the rhetorical artists that I know you can be if you are bothering to read this. This, I think, could be at least one important consequence of what was a truly terrific symposium (for which we have the very delightful Professor Mark Jones to thank primarily).

One of the participants in the symposium said to me in a subsequent e-mail, and after returning to uncivil political conversations within a faculty, that the symposium was a place of calm. Vigorous challenges to differing positions with academic egos at stake a place of calm! A very lively and very public discussion of a case study with an almost

39. Many others have said this. For a very fine recent version, see GARSTEN, *supra* note 29. Garsten also discusses the similar arguments of Elster, Habermas, and Mannin. *Id.* at 187-88.

intractable issue involving religion and public education a place of calm! Yes, it was; exactly right. In this calm there is hope enough that *we* can be moved to civility by remembering that we always perform our political conversations under the gaze of that which is beyond us. Call it God, or, as I would, the God who is three, or a god, or the gods, or the surrounding mystery which remains with us even when the gods have fled, but whatever it is called, know that it is real. Too much to ask? Perhaps, but trying to recover the political is surely far better than the homelessness of our culture with its accompanying incivility or the *suadade* towards ourselves that seem the only alternatives.
