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**LITERATURE, LAW AND PSYCHOANALYSIS**

# Justice Denied: Literary, Legal and Psychoanalytic Denial in the Age of Modernism

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This article triangulates three scenes in which law, psychoanalysis and literary modernism intersect, in order to excavate differing conceptions of the idea of denial. The article begins with a consideration of the landmark censorship case against the editors of *The Little Review*, Margaret Anderson and Jane Heap, for serialising James Joyce's 'obscene' modernism; the article then shifts to the poet HD's account of psychoanalysis with Sigmund Freud; and finally reflects on how HD's poetic practice re-articulates ideas around psychoanalysis, law and denial. Drawing on thinkers across the fields of poetics, psychoanalysis and critical legal studies, this article argues that the concept of denial indexes a fundamental tension between the theoretical frameworks of psychoanalysis and the law. This article further argues that HD's poetic practice seeks a mode of writing which can both represent and resist such theoretical constraint and contradiction.

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In his article on the optics of law, the critical legal scholar Peter Goodrich makes the following statement: 'Denial is a clue' (2017: 185). This intriguing assertion is one I would like to take seriously in this article, and I will consider some of its implications for law and psychoanalysis in the context of literary modernism.<sup>1</sup> Goodrich's assertion suggests that in law, as in psychoanalysis, the act of denial signals something more profound than the denial itself; it indexes some more submerged truth that denial hints towards even in its attempts at vanquishing this deeper truth. The status of a truthful denial is made uncertain in this line of thinking: in the act of denial, the denier seems to invite more suspicion. The strangeness of denial's non-identity with itself might be read as a kind of nodal point (to invoke a Freudian term), which reveals fundamental challenges to the possibility of the articulation of truth, as well as its recognition.<sup>2</sup> Such ideas strike me as especially pertinent to modernism's complication of the assumed ability of language to transparently carry or bear testimony.

Taking these thoughts as a place of departure, I would like to trace acts of denial, and their interpretations, across three specific encounters between modernism, law and psychoanalysis. The three moments of direct collision explored in this article are: the censorship trial of *The Little Review* editors, Margaret Anderson and Jane Heap, who were found guilty of obscenity in 1921 for publishing the 'Nausicaa' section of James Joyce's *Ulysses* in America. The next occurs a decade later, in Vienna in 1933; this section considers the modernist poet HD's account of her analysis with Sigmund Freud. The final section takes HD's modernist poetry as a site of collision between the interpretive frameworks of law and psychoanalysis, and close-reads a section of HD's

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<sup>1</sup> This article has been developed from a paper given at the 'Literature, Law and Psychoanalysis 1890–1950' conference, held at the University of Sheffield in April 2019. My heartfelt thanks are due to the organisers of the conference – and editors of the ensuing special collection of essays – Dr Katherine Ebury and Dr Samraghni Bonnerjee. My thanks are also due to the two anonymous peer-reviewers whose comments have greatly improved this piece.

<sup>2</sup> Freud uses the term 'nodal point' in *The Interpretation of Dreams* (1997 [1900]: 175), to signal an especially knotty moment of symbolism in a dream, which Richard Boothby glosses as being 'poised at the juncture of imaginary and symbolic functions', where 'intertwinings of truth and fiction are knotted' (2001: 99; 296).

*Trilogy* (written in London in 1944) which invokes both the laws of Anderson, Heap and Joyce's censorship and the laws of Freud's analysis. In each of these sections, I take the term 'denial', and tease out how the term shifts under the pressures of legal, psychoanalytic and literary readings. The purpose of this article is to trace the shifts in what is implied or hinted at by denial, within differing interpretive frameworks, to argue that modernist literary experiment is fruitfully read in combination with insights drawn from critical legal studies and critical psychoanalysis. One important thread which runs through each of the sections is the gendered implications of denial, and the various ways in which gender and sexuality is denied in these scenes.

My interpretation of Anderson and Heap's trial as editors of *The Little Review* draws on a wealth of important scholarship on this legal intervention into modernist literature, and its implications. Adam Parkes' *Modernism and the Theater of Censorship* has been of particular use to me in this article, as Parkes' study carefully draws out the gendered implications of various decisions made during Anderson and Heap's trial. My readings of the gendered aspects of the denial of Anderson and Heap's perspectives in the courtroom (both by the three judges and the lawyers present) are in dialogue with many of Parkes' insightful readings. Paul Vanderham and Kevin Birmingham's studies have been valuable for their detailed accounts of Anderson and Heap's trial in the context of Joyce's writing. Books on modernism and censorship by Rachel Potter, Robert Spoo and Celia Marshik have also been helpful, as they trace the culture and argumentation around the censorship of modernist literature, offering important contextual insights into the clash of cultural conservatism and modernist unconventionality in the period. Marshik's work on what she terms the 'censorship dialectic' offers a key argument about how the legal repression of literature influenced the style and content of modernist writing, arguing that textual obscurity may have been honed to evade a censorious readership (2006: 14). What my own discussions of this well-studied encounter add is a renewed exploration of how Anderson and Heap's voices were denied a hearing, in order to argue that this courtroom denial revealed the unconscious desires of the legal men and the law involved, and which, I argue, further finds its correlative in Joyce's text.

My discussions of HD and Freud have been particularly influenced by Susan Stanford Friedman and Rachel Blau DuPlessis' ground-breaking studies of HD's writing, as well as their readings of HD's relationship and analysis with Freud. In foregrounding HD's own writing in the second half, I hope to interpret her work on its own terms, paying attention to overlooked elements of her account of analysis: for example, considering what the symbolism of Freud's rug signifies in HD's text, in terms of revelation and denial. In close-reading HD's poetry in the final third of this article, I bring together the two scenes already set out. I argue that in one section of *Trilogy*, HD makes direct reference to Joyce's censored text while resisting some of Freud's interpretations in HD's own analysis. In bringing the various sections and themes of this article together in HD's poetic experimentation, I argue that her work can be read as a mode of active literary resistance that defies the interpretive frameworks of the law and psychoanalysis. In order to forge connections between these encounters of modernism, law and psychoanalysis, I trace the concept of denial through them while drawing on insights from critical legal studies, especially work in this field inflected with psychoanalytic approaches. The scholarship of Desmond Manderson is also crucial to this project, and in some sense this piece intends to answer Manderson's call for the area of law and literature studies to take modernist literary disruption more seriously.

What Goodrich's far-reaching insight on denial also suggests to me, is the critique of the workings of the law that is implicitly made by both modernism and psychoanalysis. This might be briefly encapsulated in the idea that language and the psyche do not either tell truths or falsehoods, or bear either accurate or inaccurate witness, but rather that the mediations of language and the unconscious place pressure on such distinctions. To investigate how literary modernism might represent and work around both the frameworks of the law and of psychoanalysis, I take three moments of their direct collision. Using this triangulation of material, I will argue that the work of modernist poet HD provides a moment of poetic critique and reckoning for the construction of denial in both psychoanalysis (as she encountered it in her analysis with Freud) and the law (specifically in terms of the censorship trial of *The Little Review*). The remainder of this article traces responses to denial through

three different scenes, or cases, or case-studies, using them to draw out ideas about denial in the contexts of law, psychoanalysis and literature in the era of modernist experiment and critique.

### **Case 1: *The Little Review***

To consider one instance of how the law has read modernist literature, the first scene I will sketch is one of modernism's obscenity trials. I will dwell on some of the details of this trial, in order to outline how modernism was presented to the law in this case, to demonstrate how a modernist text might reveal contradictions in legal censorship's mode of denial. The 1921 *Ulysses* censorship trial is one of literary modernism's most infamous encounters with the law; it occurred when the American state, in the guise of the New York Society for the Suppression of Vice, brought charges of obscenity against Margaret Anderson and Jane Heap, the editors of the modernist magazine, *The Little Review*. The material considered offensive in the July/August 1920 issue of the magazine was a passage from James Joyce's *Ulysses*, which *The Little Review* had been serialising; the section in question was the 'Nausicaa' episode of the book. This is the mucky, littoral scene of Joyce's text in which Leopold Bloom loiters on the Sandymount shoreline in view of a young woman seated on the ground, named Gerty MacDowell. As Bloom gazes at her lustfully and begins to masturbate, Gerty recognises his arousal and – rather than departing – she bends her knee, which lifts her long skirt to reveal her thighs, and then proceeds to lean back to ensure that Bloom has full view of her underwear.

The US anti-obscenity laws of the time were known as the Comstock laws and forbade obscene materials to be distributed via the US postal system: these laws were invoked against Anderson and Heap. Once brought to trial, what the court had to decide was whether or not Joyce's text was obscene. The Comstock laws traced their origins to an earlier British case (the Hicklin case of 1868, which was an interpretation of the British Obscene Publications Act of 1857), which set up what became known as the 'Hicklin test' of obscenity (Werbel, 2018: 128–30). This 'test' asked judges to ascertain: 'whether the tendency of the matter [...] is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall' (Green and Karolides, 2005: 232). Rachel

Potter points out that this case only provided 'a very loose definition of obscene writing', which inevitably favoured the prosecution (Potter, 2013: 2).<sup>3</sup> The second part of the Hicklin delineation of obscenity ('into whose hands a publication of this sort may fall') was easily demonstrated in *The Little Review* case, because the daughter of a prominent attorney had been sent an unsolicited copy in the post (Hutton, 2019: 109). As such, the tacit terms of the trial were set up: innocent young women of standing – even the daughters of the New York legal men – became the implied readers whose minds might be depraved and corrupted.

The attorney John Quinn led the defence and, bearing Hicklin in mind, denied the charges. One of Quinn's main lines of legal reasoning was that citizens couldn't be corrupted by the text in question because most people would not understand Joyce's writing. To illustrate his point, Quinn claimed in court: 'I myself do not understand *Ulysses* – I think Joyce has carried his method too far' (Vanderham, 1998: 49). At this point in the defence, Quinn appealed to modernist difficulty as a complex form of literary encoding which the general public could not hope to decode. Anderson and Heap lost the case, however, and *Ulysses* would only finally be published in the US over a decade later. In rejecting the argument that modernist texts were too complex to be corrupting, the judges evaluated the reading public more highly than the defence. The idea that readers – and especially young female readers – would understand the text's sexual content troubled the New York judges. The trial stages a conflicting paternalistic attitude towards women readers: on one level, women and girls are readers whose innocence of sexual practices must be actively maintained and protected – in this case by law. Simultaneously, on another level, they are cast as readers who would find sexual content plainly intelligible and identifiable – perhaps even more so than the average citizen – and who would thus be readily corrupted by it. The confusion of this conflicting paternalistic attitude was staged in a bizarre moment during the trial, which Margaret Anderson recalls in her autobiography. When it was suggested that the offending excerpt of *Ulysses* be read out in court, the judge refused to allow the obscene passage to be read aloud in front of an attractive

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<sup>3</sup> For further discussion of Hicklin's relevance to modernist obscenity trials, see Spoo, R, 2018: 61–62.

young woman in the courtroom – who was in fact Margaret Anderson. In response to it being pointed out that Anderson was one of the publishers the judge claimed that she could not have known the significance of what she was publishing (Anderson, 1969: 221).<sup>4</sup> This denial of Anderson's ability to understand the text remained at odds with the law's assertion of individual responsibility implied by the subsequent guilty verdict. What is staged in this trial is a contradictory belief in women's ability to simultaneously take blame for obscenity, while being unable to assert sexual autonomy.

Indeed, this moment of patronising assertion of the female editors' innocence was in spite of the fact that Anderson's co-editor Jane Heap had already published an alternative line of defence, in which she did not argue that Joyce's prose was too complex, but instead stated: 'Girls lean back everywhere, showing lace and silk stockings [...] and no one is corrupted' (1920: 6). This was a line of defence that John Quinn refused to follow, preferring to try to present Anderson and Heap as modest conservative women.<sup>5</sup> Quinn's at times lukewarm defence of the magazine has been blamed by various critics for the defence's defeat.<sup>6</sup> In a private letter to Ezra Pound, who was *The Little Review's* foreign editor at the time, Quinn referred to the magazine as a 'female urinal' (Birmingham, 2014: 165).<sup>7</sup> His apparent disgust at the publication focussed only on the female editors, while Pound appeared to retain Quinn's respect, despite being part of the editorial team. What the approach of Quinn's defence meant for the trial was that the critique of conservative law implied in Joyce's text, and articulated by *The Little Review's* female editors, did not get a hearing in court. The unintelligibility defence was not convincing, and the editors were left in a position where they could not actively defend their own choice to publish, but were still required to take the blame for it. The court's approach

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<sup>4</sup> For a further discussion of this episode, see Travis, M A, 1998: 34–38.

<sup>5</sup> For a detailed discussion of the editors' time in court, see Scott, B K, 1998: 78–94.

<sup>6</sup> Bonnie Kime Scott, for example, writes that Anderson and Heap's 'greatest trial over *Ulysses* was probably their own lawyer [John Quinn]'. Scott, B K 1998: 81.

<sup>7</sup> It is worth noting that Pound, not the court, was actually the first to censor Joyce's text (without Joyce's permission). See Parkes, A, 1996: 71 and Potter, R, 2013: 29; Pound wrote to Quinn: 'I did myself dry Bloom's shirt'.



balanced a denial of female understanding with an assertion that the female editors had enough autonomy to be served punishment (they were handed a one hundred dollar fine). The shift from the assertion of the women's inability to understand Joyce's writing to being found responsible for corruption occurred when the judges closely read the text under discussion. As mentioned, this reading was not done in court; instead, the judges took copies away to read in their chambers to decide for themselves how corrupting the material was. As Kevin Birmingham has pointed out, this was essentially an arousal test: the verdict hinged upon whether or not the men were aroused by what they read (2014: 170).

We can read this moment of the law reading literary modernism as one in which desire and arousal are mobilised but denied, and women are simultaneously both innocent and objectified, both in need of protection and able to take blame. This is what is staged in Joyce's 'Nausicaa' episode too, as the sexually innocent Gerty tempts Bloom to carnal sin: in an uncanny parallel, Joyce's text becomes a kind of unconscious counterpart to the workings of the trial. In the trial, though, the women were punished to protect other women from the temptation of drawing the male masturbatory gaze. One of the modes of denial that operates in both the trial and the text, is the denial of the women's interpretations, perspectives and voices. Through the law's censorship of Joyce's text, it denies its own reflection in it, along with its own belittling of women. Quinn's legal approach pressurised the editors and publishers of experimental modernist work into denying the material's relevance and coherence. The implications of this denial revoked modernist literature's implicit challenge to conservative law. In this obscenity trial of literary modernism, the law's denial or repression of obscene material comes to be itself represented in the workings of the trial. As such, the law's denial of the validity of the implicit critique that this material makes comes to shape the workings of the law; it finds its way out from the latent into the manifest content of the courtroom, and as such expresses its critique all the more compellingly. Joyce's writing becomes, in effect, the dream-text of the law, as the law's latent unconscious matter is made manifest in the content of the courtroom.<sup>8</sup>

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<sup>8</sup> Freud's theory of the unconscious was invoked during the trial – but was entirely lost on the judges. One of Quinn's expert witnesses, who were brought in to attest to the literary quality of Joyce's prose, 'describ[ed] the "Nausicaa" episode as "an unveiling of the subconscious mind, in the Freudian

## Recess 1: Notes on Denial

As demonstrated by the trial of *The Little Review* editors, various modes of denial – both explicit and implicit – can be mobilised in a court room. Perhaps the most obvious mode of denial deployed in court is in the not-guilty plea of a defence team. I would like to consider this more straightforward kind of legal denial, to suggest how it might be read alongside psychoanalytic theories. In the legal context, a denial of an accusation in court – in the sense of ‘a traverse in the pleading of one party of an allegation of fact set up by the other [party]’ – is taken at its word.<sup>9</sup> In this sense, the denial (or the traverse of an allegation) is considered truthful until it is ascertained to be otherwise by the workings of the court, if it is ascertained to be otherwise. This initial assumption of denial’s truth suggests an essential difference between the legal and psychoanalytic frameworks’ approaches to denial. What lies at the heart of these dissimilarities of approach might be theorised as a difference of understanding regarding autonomy and its relation to action or utterance.

One point that *The Little Review* obscenity trial tacitly raises is that of individual responsibility, and in this case criminal responsibility. One of the critiques made of positivist law by the scholarship of Critical Legal Studies is that in a legal context, the individual has been considered overly responsible. Mark Kelman has argued, for example, that legal outcomes in criminal trials ordinarily rely upon intentionalist attitudes (in which the agency of the individual is considered paramount) rather than determinist positions (in which external, social forces are emphasised).<sup>10</sup> Thus, the individual defendant is considered to have full agency in order to be able to take blame; individual punishment relies upon the concept of individual responsibility.<sup>11</sup>

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manner” [...] one of the judges remonstrated, “you might as well talk Russian. Speak plain English if you want us to understand what you’re saying” (Vanderham, 1998: 49).

<sup>9</sup> See *Black’s Law Dictionary* entry ‘What is Denial?’. Available at <https://thelawdictionary.org/denial/> [Last accessed 12 July 2019].

<sup>10</sup> See Kelman, M, 1987: 90–91; see also Tebbit, M, 2000: p. 216.

<sup>11</sup> There are exceptions to this: the diminished responsibility defence and the duress defence are examples of law accepting partial defences in which individual responsibility is shown to be compromised for specific reasons. In these cases, the burden of proof rests with the defence, who must prove that the defendant has not acted voluntarily. As such, these examples rely upon specific circumstances in which mental incapacity or coercion can be demonstrated, rather than more generalised social factors.

Critical legal scholars have, in various ways, critiqued the legal myth of the autonomous, self-possessed and self-knowing individual.

Yet in a trial that deals with obscenity, the law acknowledges that blame for an apparently autonomous action might be located within societal pressures: this trial's imagined (female) reader is corrupted by Joyce's text. The idea of full individual responsibility is implicitly destabilised here through the invocation of the pressures of the social. This confusion is evident in the obscenity trial around the apparently simultaneous innocence and corrupting influence of the editors. This too, has implications for the concept of denial, as the condition of denial in the legal context relies upon the concepts of both individual autonomy and a certain mode of self-knowledge. The question raised becomes: how can an individual deny something, if their agency to have engaged with it or not was already compromised? The implied complex interaction between the social and the individual is, of course, something psychoanalysis is profoundly interested in. In Maria Aristodemou's book, *Law, Psychoanalysis, Society*, for example, Aristodemou writes of how '[f]or psychoanalysis, attempts to understand and legislate for the individual cannot take place without understanding how the individual and the social interrelate' (2014: 3).

Aristodemou additionally argues that:

terms that the legal system has long relied on and made central to its discourse, such as 'truth' and 'lies', 'guilt' and 'innocence', 'reason' and 'reality', 'freedom' and 'responsibility' acquire new and surprising meanings [...] [w]hen we look at those concepts 'awryly', through the refracted lens of psychoanalysis. (2014: 2)

We might add 'denial' to Aristodemou's list. Reading the denials of the law (through censorship) psychoanalytically, signals a legal anxiety around the role of the social in the behaviour of the individual. I'd like to now shift my focus to psychoanalysis and its own attitudes to the structures of denial.

## **Case 2: Freud's Couch, Vienna 1933–34**

The protagonist of our next case (or case-study), is the poet HD (Hilda Doolittle). HD was associated with *The Little Review* magazine, had poetry published by Anderson

and Heap, and she was also the one-time fiancé of their foreign editor, Ezra Pound. Ten years after the obscenity trial HD, an American writer, was living in Europe. Struggling with grief after the loss of her brother in the First World War, battling writers' block and hoping to discuss her bisexuality, she moved to Vienna to enter psychoanalysis with Sigmund Freud in 1933.<sup>12</sup> HD's analysis lasted around a year, and although it was interrupted, HD considered the analysis a success as it solved her writers' block. HD later wrote a lyrical memoir of the process of her psychoanalysis, *Tribute to Freud*, which blends conversations with Freud with memories of HD's childhood, alongside her own insights.<sup>13</sup> What I want to ask through focussing on this scene next, is how HD's encounters with Freud, his laws, and his various modes of denial, may have shaped the tone and methods of her later poetic practice.

While HD undoubtedly found Freud's methods both helpful and productive, there were moments where she resisted some of the tenets of the psychoanalytic frameworks he was in the process of constructing: one of these points of tension occurred around gender and female sexuality. Throughout the memoir, HD refers to Freud as 'the Professor' in a move that deferentially asserts his knowledge and skill, while emphasising the (institutional) power dynamics at play. While HD does not explicitly set out critiques of Freudian psychoanalysis in her memoir, several of the episodes she describes suggest resistance to some of Freud's methods and assertions; at one point she famously remarks that 'the Professor was not always right' (1985: 18). Just prior to this statement, and at several other places in the memoir, HD is diverted from her concentration by the rug she drapes over herself to keep warm in Freud's chilly rooms. The rug slides around and variously distracts her, HD writes; for example:

With due deliberation and the utmost savoir-faire, I re-arranged the rug which had slid to the floor [...] I smoothed the folds of the rug [...] I tucked my

<sup>12</sup> For further biographical information, see Adam Phillips' Introduction to *Tribute to Freud* (1984) and Barbara Guest's biography of HD, *Herself Defined: The Poet H.D. and Her World* (1984).

<sup>13</sup> *Tribute to Freud* had a complex publication history, and the book in its present form actually contains two separate texts: 'Writing on the Wall' and 'Advent'. 'Writing on the Wall' was written in 1944 as a literary memoir of HD's analysis with Freud, and was published as a book with the title *Tribute to Freud*. 'Advent' is a closely related text, but is less a literary work and more a testimony: it was edited and assembled in 1948 by HD from her 1933 diaries written at the time of her analysis. The quotations I use here are all drawn from 'Writing on the Wall'.

cold hands under the rug. I always found the rug carefully folded at the foot of the couch when I came in. Did the little maid Paula come in from the hall and fold the rug or did the preceding analysand fold it, as I always carefully did before leaving? I was preceded by the Flying Dutchman [a nickname for another of Freud's analysands]; he probably left the rug just anyhow – a man would. (1985: 17–18)

HD's mind wanders to the gendered labour that is at work to keep the Professor's environment as he likes it. This is a subtle gendered critique that hints towards representing all the other kinds of work that keeps the great man operating. The episode also suggests an anxiety present in the room: HD's struggles with the rug can be read as an index of her anxiety around concealment and revelation. That this is expressed in physical terms, and is imbedded within a consideration of women's work, further suggests a gendered dynamic to the problem of revelation in analysis. The exposure of the female body by the rug and the conversations with Freud about her sexuality (which HD hints at in the memoir), point towards an uncertainty in analysis around how her gender and sexuality will be viewed. HD, of course, leans back on Freud's couch to reveal the workings of her psyche, and the awkwardness that centres on the heavy fabric that alternately conceals and reveals might suggest a discomfort beneath the male psychoanalytic gaze.

A point of concern in HD's analysis is that her sexual identity will be denied by Freud's framework. In this context, Rachel Blau DuPlessis and Susan Stanford Friedman have pointed to an incident in which Freud shows HD a statuette of Pallas Athene (classical goddess of war and wisdom), which DuPlessis and Friedman consider to be especially illuminating, and troubling (1981: 421). HD writes:

*'This is my favorite,'* [Freud] said. He held the object toward me. I took it in my hand. It was a little bronze statue, helmeted, clothed to the foot in carved robe with the upper incised chiton or peplum. One hand was extended as if holding a staff or rod. *'She is perfect,'* he said, *'only she has lost her spear.'* I did not say anything. (1985: 68–69) [emphasis in original]

HD is rendered speechless by this insinuation of female deficiency. In response to Freud's denial of her sexual wholeness, HD does not counter his argument – she does not deny his assertion. While this may seem a missed opportunity, I would like to suggest that there is a complex set of reasons why her denial of Freud's sexual schema comes in the form of silence. I will return to how HD draws out this theme through her later poetry.

## **Recess 2: Further Notes on Denial**

In law, one party's silence in response to an accusation, or plea, put forward by another party is considered an acceptance of guilt. It is for this reason that general traversal or statements of general denial are frequently used, so as to avoid accidental tacit admittance through silence. In psychoanalysis, on the other hand, silence is not quite considered an admittance, but is considered a clue, and in some cases even a symptom. Freud elaborated his theories on denial through his case-study *Fragments of an Analysis of a Case of Hysteria* (1905 [1901]). What Freud developed in his case-study of Dora (which he considered a failed analysis as she abandoned the process), is how denial is interpreted in psychoanalysis to signal a deeper truth. Dora, for Freud, could not be genuinely repulsed by the advances of an older male friend of her father's, Herr K, precisely *because* she denied any attraction so vehemently.<sup>14</sup> In analysis, then, we might hypothesise that denial is impossible – unlike in law. Yet this is complicated by Goodrich's formulation that denial is a clue, as the law's own denials can still be read as clues, along psychoanalytic rather than legal lines. This is possible, as I have argued, in the case of *The Little Review's* censorship, and in the context of Freud's case-studies, we might also be able to read psychoanalysis' own denials (its denial of the possibility of denial, for example) against its own assertions. Dora denies Freud the fulfilment of his treatment, and her abandonment of the process has been credited with signalling Freud's denial of the problems of his own transference in the case (Edmunds, 1994: 75–77; 81). In these cases, denials are

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<sup>14</sup> Freud wrote in his case-study of Dora: 'repression is often achieved by means of excessive reinforcement of the thought contrary to the one which is to be repressed' (2001 [1901]: 55).

still functioning as clues, but in ways which work to destabilise the frameworks of their interpretation.

### Case 3: HD's Poetics

In HD's analysis, what Freud's denial of Athene's wholeness leads to, is HD's silence. If HD vehemently denies that her sexuality is fundamentally lacking, is imperfect, Freud will consider his interpretation all the more assured. HD does not wish to give him such evidence. Instead, following her initial silence in response to the episode, she writes a long poem, about her analysis, about Freud, and titles it 'The Master'.<sup>15</sup> The first half of the poem considers Freud in terms of praise – the poem opens:

He was very beautiful,  
the old man, [...]  
I found measureless truth  
in his words (1984: 451)

The second half of this poem shifts to become a celebration of female sexuality and the erotic love of women. In a direct counter to Freud's interpretation of Athene, HD writes later in 'The Master': 'I was angry with the old man|with his talk of man-strength', and goes on to assert '*woman is perfect*' – presented in the same italics as the original statement of lack in *Tribute to Freud* (1984: 455). Then later in the poem, we find this sentiment reasserted specifically in the context of female sexuality:

there is a purple flower  
between her marble, her birch-tree white  
thighs, [...]  
she needs no man, herself [...]  
herself perfect. (1984: 456)

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<sup>15</sup> HD's 'The Master' was only published posthumously (in 1981) as HD suppressed its publication, despite publishing opportunities and requests. HD's denial of this text related to her fear it would somehow spoil her analysis: for discussion of HD's suppression of the poem in the context of Freud's work, see DuPlessis, R B and Friedman, S S, 1981, and Friedman, S S, 1981: 121–22. The poem's disruptive energies, that resist some of Freud's interpretations, seem to have been a source of ambivalence for HD.

In the trajectory across this poem, we see the movement from the consideration of Freud, to a consideration of the lived experience of the female body. This mirrors the movement of thought of HD's memoir in her distraction from Freud to the rug on her knees. Here, in HD's poetic work, we find this movement expressed more definitively, and the shift from her representation of Freud to her representation of female eroticism feels more resistant. Poetry, perhaps, for HD becomes a site in which the subject, the self, can be represented in ways which, through attention to form, rhythm and movement, can generate different modes of interpretation.

One of Freud's explanations of HD's bisexuality was that HD suffered from a mother-fixation.<sup>16</sup> HD seems to write through this concept in a long poem, 'Tribute to the Angels', which was written concurrently with *Tribute to Freud* in 1944 and forms the central third of her epic anti-war sequence *Trilogy*. Early on, HD includes the following section of joyful and alchemical word play:

Now polish the crucible  
 and in the bowl distil  
  
 a word most bitter, marah,  
 a word bitterer still, mar,  
  
 sea, brine, breaker, seducer,  
 giver of life, giver of tears;  
  
 now polish the crucible  
 and set the jet of flame  
  
 under, till *marah-mar*  
 are melted, fuse and join  
  
 and change and alter,  
 mer, mere, mère, mater, Maia, Mary,

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<sup>16</sup> For an excellent summary of Freud's interpretation of HD's case, see Tolpin, M, 1991: 33–50. See also HD's own reference to Freud's diagnosis of her 'mother-fix' in her letters to Bryher in Freidman, S S, 2002: 120.



Star of the Sea  
 Mother. (1984: 552)

This extract is exemplary of the driving un-rhyming couplets of 'Tribute to the Angels', as well as its alchemical word play, irregular internal assonance, shifting symbolism, classical allusion and references to Catholic iconography, all mixed in with images of Blitz-era London. This section is also an example of what Rachel Blau DuPlessis calls 'a punning metonymic chain of connections', that she argues HD mobilises in this text 'to "get over" dominant language' (1986: 91). This process is not, however, a re-assertion of a new mastery over linguistic chains, but rather engenders an 'alchemical change' generated through the work of the poetic, in which the words of the text transform in the 'crucible of the mind' (Martz, 1984: xxxiii). The word-play around 'mar' re-works linguistic associations with the maternal and feminine: DuPlessis argues that 'Mary Magdalene is called mara (bitter Mary) because she has been excluded', and that the alchemical task of HD's text is '[t]o rectify the traditional exclusion of women [...] to acknowledge her power' via a linguistic process of unfixing (1986: 95). This word-play is also a playful re-casting of HD's mother-fixation, pathologised by Freud, through a kind of declarative, incantatory resistance to what she considered patriarchal war, and we could perhaps stretch to suggesting patriarchal law.<sup>17</sup> The various, dynamically shifting Greek goddesses folded into the next section, in which 'a polished spear' appears just ahead of 'Venus, Aphrodite, Astarte', might be read as a mode of resistance to Freud's linear interpretation of his statuette of Athene (1984: 553). Indeed, DuPlessis argues that the whole of *Trilogy* can be read as a 'counter [to] the scepticism of a psychoanalyst', with the intention of generating 'a subversive, critical writing' (1986: 99).

The phrase 'Star of the Sea' is partly a play on 'mer' in connection with the mother, 'mère', and this word association then transforms into the Virgin Mary of

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<sup>17</sup> Susan Stanford Friedman considers HD's bisexuality and Freud's 'androcentric and heterocentric perspective' to have been a source of tension in the analysis, and suggests that HD's reflections on her analysis provide 'evidence that Freud's biological determinism hurt H.D.'. Friedman, S S, 1981: 134.

Catholicism. The 'sea, brine, breaker, seducer' line might also hint towards another set of referents, however. In the 'Nausicaa' episode of *Ulysses*, the scene of Bloom's masturbation while gazing up Gerty's skirts is punctuated by the sounds of the Catholic liturgy. The reason for this is that Joyce positioned Bloom and Gerty on the shoreline in the shadow of a church – which is named the Church of Mary, Star of the Sea. Imbedded in HD's playful poetic resistance to Freud's law is an invocation of a section of a modernist text that stages the male gaze, that was itself the target of the paternalistic laws of the American state. This knotty invocation of law within the poetic text brings such laws into a poetic constellation that sets in motion new modes of reading practices that are not irreducible to the logos of the law. What HD develops, I would like to argue, is a poetics which seeks to counter the very structures of denial set up by both patriarchal and paternalistic laws. This is not a poetics of denial or of assertion (HD is not in fact saying 'girls lean back everywhere') – but is rather a poetics which seeks to create a female lyric subject who must be read on different terms to that of the interpretive gaze set up by both legal and psychoanalytic frameworks, a lyric subject embedded in both the celebration of female sexuality and the dynamic sociality of the maternal. In response to the denials and counter-assertions of these practices, HD's poetry enacts an abundant, various, generous, experimental poetics which seeks an incantatory re-staging of the various ways that the female subject is denied and re-visions the construction of the autonomous, self-contained subject under law. In response to what Colin Dayan has called the 'word-magic' of law, then, HD mobilises an alchemical word-magic of poetic encounter that seeks to work through and beyond the guilt-laden entanglements of denial itself (2011: 14).

### **Summing Up: Denial and the Shore of the Self**

Through the preceding scenes, I have explored the way denial has been mobilised and conceptualised differently within the frameworks of law, psychoanalysis and literature. In concluding, I would like to bring to this the work of law and literature scholar, Desmond Manderson. Manderson argues that the modernist literary critique of the unitary, self-articulating subject must be central to any discussions of the intersections between law and literature. Manderson has called for law and literature

studies to take seriously the critiques proposed both by the literary disruptions of modernism and by the critiques of the self-possessing legal subject made by critical legal scholars.<sup>18</sup> I will invoke here specifically Manderson's conception of the littoral as a site of liminal re-readings, for its particular relevance to both HD and Joyce's work, alongside Wai Chee Dimock's concept of incompleteness, by way of concluding.

We find ourselves towards the close of this essay, back on the beach within HD's text – and perceptible here are Joyce's Gerty and Leopold, as well as the figures of Anderson and Heap. HD's poetry transposes the scene of the censorship courtroom back onto the shore: we are returned here to seek illumination, to take up the torch in this liminal place.<sup>19</sup> Manderson closes his study of modernist literary justice with a call to dwell on the shore, amongst the littoral:

The littoral [...] is that slim margin where the distinctions between sea and land break down [...] it is an ecology of the interdisciplinary: dynamic, imaginative, fertile. A "littoral reading" is interested in margins and contexts, in fertile jurisgenesis and fluid responsiveness. (2012: 182)

For Manderson, the littoral is a conceptual space in which we might discover the provisionality of the subject (a provisionality also suggested by literary modernism, critical legal studies and psychoanalysis). One difficulty of this approach is how to maintain a conceptualisation of justice and redress amongst the irregular ground of the shoreline. Manderson writes of how '[m]odernism saw steadily the perils of twilight and muddledom, but also taught us [...] to love the mucky and the marshy. It showed us how to get our feet wet while keeping our balance' (2012: 182). This too, is what we can learn in HD's text. We delve into the associative unconscious of language in order to resist the brutality of war; to resist the paternalistic laws that censored the modernist critique of subject; to resist the sexism of these laws

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<sup>18</sup> Manderson sets out this argument in two publications: his 2011 article 'Modernism and the Critique of Law and Literature' in *The Australian Feminist Law Journal*, and his 2012 book *Kangaroo Courts and the Rule of Law: The Legacy of Modernism*.

<sup>19</sup> On the page immediately prior to the 'Star of the Sea' section quoted above, HD's poem shifts out of the 'city-gate' to find itself with 'no torch to shine across the water' (1984: 551).

which muddled Anderson and Heap's guilt with projected confusion; and also to resist Freud's pathologisation of HD's sexuality. The 'palimpsest' and 'plenitude' of HD's text does not allow a passive proliferation of multiple meanings, but draws in complex unconscious linguistic aspects to create moral and political resistance (DuPlessis, R B and Friedman, S S, 1990: 261).

Denial can be figured, in this context, as a counterpart to Wai Chee Dimock's conceptualisation of incompleteness. Dimock argues that literary justice is always an incomplete form, but one that leads us nonetheless to reflect on the impossibility of the completion of justice.<sup>20</sup> Incompletion here is an active, resistant unfixing that denies the stable ground of legal positivism but also the unstable (but ultimately empty) proliferations of postmodernism. Denial becomes both active and incomplete, both a clue to something other and an assertion: it becomes an assertion of lack as resistance. In this schema, the question posed is what happens to the goddess of war and wisdom, Athene, when she loses her spear: she is left with wisdom, and for HD, this is pacifist resistance without violence.<sup>21</sup> Lack, denial, and femininity become forces of resistance in their incompleteness, and HD's littoral literature uses this to render incomplete any justice that denies the complexities of the (female) subject; any justice which keeps its spear in its hand (with both the erotic and the violent implications of this). HD's unfixing takes into view her own experiences of psychoanalysis but also the trial of Anderson and Heap, to provoke a kind of radical, resistant incompleteness that seeks to represent the deficiency of any justice that cannot account for value in lack.

This essay attempts to demonstrate how Manderson's call might be answered. By placing Manderson's conceptualisation of the littoral in dialogue with the 'word-magic' and the 'subversive, critical writing' that exemplifies HD's poetics, it is possible to read HD's invocation of the censorship of modernist texts as an implicit critique of law and its language. Taking denial as its own over-determined case-study here

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<sup>20</sup> Wai Chee Dimock writes that through literary texts 'we can encounter the idea of justice not as a formal universal, and not as an objective relation among things, but as a provisional dictate, and *incomplete* dictate'. Dimock, W C, 1996: 9.

<sup>21</sup> HD had a Moravian upbringing which included a profound emphasis on pacifism and peace. For more on this, see Anderson, E, 2013 *H.D. and Modernist Religious Imagination*.

provides a way of reading the tensions between legal, literary and psychoanalytic interpretive frameworks. The focus on denial as a concept also uncovers the gendered dynamics at play in the various revelations and concealments inherent in these moments of legal, psychoanalytic and modernist literary encounter. What I hope this work will demonstrate, more broadly, is how literary modernism can be brought into fruitful dialogue with both critiques and insights of law as well as critiques and insights of psychoanalysis. As such, my article attempts to intervene in literary modernist studies to argue that a conception of literary justice within modernism must incorporate an understanding of both critical legal studies and psychoanalysis. I argue, furthermore – and conversely – that law and psychoanalysis must take seriously the profundity of the critiques implicit and explicit in the workings of literary modernism’s experiments in language.

### Competing Interests

The author has no competing interests to declare.

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