

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

Lara Duarte¹,

Universidade Católica Portuguesa

Is the letter of the law enough? Apparently not for Walt Whitman, writing at a time when the newly-fledged American democracy was facing a crisis over law because of the passage of “two morally dubious laws that defended the interests of the moneyed elite” (Reynolds 1996, 336): the Fugitive Slave Act (1850) and the Kansas-Nebraska Act (1854). Propounding that the letter of the law is only valid if and in so far as it reflects the “spirit” of the nation, Whitman urges prudence, seeking to interpose the poet, or “bard commensurate between the Executive, Legislature and Judiciary and the common people, whose “jealous and passionate instinct of American standards” (*PP* 25), firmly anchored in natural law, he believed would bring about true justice.

The very first trial lines of *Leaves of Grass* in the Poet’s earliest known notebook hold the key to the understanding of the impetus behind Whitman’s democratic free verse. “I am the poet of slaves and of the masters of slaves” (*Notebook LC #80* 68),² he proclaims. At the heart of this deceptively simple statement in verse is the guiding principle of *Leaves of Grass* –

¹ Lara Duarte teaches American Culture, Economic and Legal Translation and English at the Catholic University of Portugal (Lisbon). She has a Ph.D. in American Poetry (University of Lisbon), an M.A. in English Studies (University of Lisbon) and a Post-Graduate Degree in Conference Interpreting (Universidade Autónoma de Lisboa, sponsored by the EU Commission). She is currently a member of three research projects: “Culture and Conflict”, “Translating Europe Across the Ages” and “Epistemological Theories: Ways of Seeing the World” (Research Centre for Communication and Culture, Catholic University of Portugal). She is the author of two dissertations on American poets: “‘Life is death we’re lengthy at, death the hinge to life’: Poesia e Morte em Emily Dickinson” and “Walt Whitman - O Desafio da Dúvida: ‘I know my body will decay; ‘Wherefore unsatisfied soul? and Whither O mocking life?’”. She has published a number of papers on nineteenth-century American Poetry. In addition to lecturing, she is an EU ACI and interprets regularly in Portugal and abroad for both public and private institutions, and national, regional and international organisations. She has also been a guest interpreter trainer at Universidade Autónoma de Lisboa and Universidade do Minho.

² In 1918, Thomas Biggs Harned, one of Whitman’s literary executors, donated his Whitman manuscripts to the Library of Congress. The Thomas Biggs Harned Collection includes correspondence, poetry and prose manuscripts, and other printed matter, including twenty-four of the Poet’s personal notebooks. Following the bombing of Pearl Harbour, library staff decided to ship the precious manuscripts to more secure locations for safe-keeping, only to find, when the Collection returned to the Library in 1944, that ten of the notebooks had disappeared. The whereabouts of the notebooks remained unknown, despite efforts to locate them with the help of the FBI, until 1995, when four resurfaced at Sotheby’s in New York and were returned to the Library. The recovered notebooks are now available online. All quotes from the oldest of these notebooks, identified as “‘Earliest’ Notebook” or “‘Notebook LC #80’” by the Library of Congress and dated 1847, although Whitman may have used it up to as late as 1854, are identified in the following manner hereinafter: *Notebook LC #80* + notebook page.

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

the inalienable “uniform and inherent right of every man and woman to life and liberty,” which, according to Whitman, “no power can take away from an innocent man without outrage” (1964, 76). This vital law, the very cornerstone of American self-determination, was, Whitman believed, being undermined by those in positions of authority, whom he described in less than flattering terms in the 1855 Preface.

For Whitman, Liberty and Democracy were ideals far too lofty to be relegated exclusively to a political arena responsible for introducing the distasteful principles and postulates of slavery, which stifled people’s freedom and promoted inequality. Furthermore, instead of concentrating on the reconciliation of the One and the Many or, in Whitman’s own formulation, on the binomial “Individuality-ensemble” (*Democratic Vistas*, PP 963), these “swarms of cringers, suckers, doughfaces, lice of politics, planners of sly involutions” were busy securing their own advancement, their “own preferment to city offices or state legislatures or the judiciary or congress or the presidency” (PP 25), thus limiting the true potential of America. This constraining of possibility – allegedly for the greater good of the nation – conjures up the fear of premature death of the American ideal in the mind of the Poet, as his anti-slavery notes³ reveal:

If things go on at this rate, an amazing prospect opens before us, the Union is threatened with a destiny horrible as it is altogether a novelty, something that never happened to any nation before — it is likely to be saved to death [...] it will expire from being too affectionately preserved. (Whitman 1964, 76)

Here, subverting, not without some irony, the logic of salvation, Whitman turns his disapproving gaze to what he perceives to be the murky state of the nation following the adoption of the 1850 Compromise allowing California to be admitted to the Union a free state

³ *Walt Whitman’s Workshop* (1928), edited by Clifton Joseph Furness, is an important collection of previously unpublished Whitman manuscripts, including anti-slavery notes penned between the signing of the Missouri Compromise (1820) and the passing of the “Fugitive Slaves Act” (1850). Whitman appears to have written many of these notes for anti-slavery speeches but it is unclear if he ever used them.

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

in exchange for the enforcement of legislation on fugitive slaves. This admission of slave-free California was seen by many Southerners as undoing the delicate balance of slave and non-slave state representation in the Senate which had been enacted by the Missouri Compromise of 1820. Thirty years earlier, the 1820 Compromise had allowed for the entry of Missouri into the Union as a slave state, largely in exchange for the creation of a demarcation line prohibiting the extension of slavery north of Missouri's southern border.

The Fugitive Slave Law included in the new compromise required that Federal marshals and other law officers, in non-slave states, apprehend fugitive slaves so as to return them to their "rightful" owners. Anyone aiding and abetting a runaway slave would be subject to a hefty fine and/or imprisonment. In direct violation of Article 3, Section 2 of the US Constitution – according to which "The trial of all crimes, except in cases of impeachment, shall be by jury," – fugitive slaves did not have the right to trial by jury and could be captured simply if the alleged owner swore that the fugitive belonged to him, whether or not he could produce supporting documentation backing his claim.

As David S. Reynolds points out in *Walt Whitman's America*, Whitman believed that the 1850 Compromise, much like the previous one, "Threatened the political health of the American Republic" not because it generated "conflict over principles between opposing parties" – as a matter of fact, those he felt were "essential to the nation's health" – but because "now principles and party differences were being tossed into a gray middle ground of compromise" (Reynolds 1996, 127) by corrupt party officials who, under the guise of preserving the Union, were promoting their own hidden agendas.

The Kansas-Nebraska Act, proposed by Senator Stephen Douglas in 1854 seemed to add insult to injury. The United States was now a sprawling nation, stretching from the Atlantic to the Pacific Ocean, and great plans were being drawn up to connect the two halves of the country. Senator Douglas wanted Chicago, in his home state of Illinois, to be the hub of the transcontinental railroad and in order to gain support from Southerners for a Northern crossing he proposed an Act that would effectively nullify the Missouri Compromise and leave the legality of slavery up to the citizens of the territories to be settled after the Louisiana Purchase.

In his "Anti-Slavery Notes," Whitman strongly condemns the actions of those who would preserve the Union at any cost and warns of the danger of premature death of the

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

American project, one that had been born out of a desire for freedom enshrined in two fundamental legal texts: the Declaration of Independence (1776) and the Constitution (1787). “If one compromise is not too good to be broken neither is another,” he writes, “Lay not the flattering unction to your souls that you can play at this game and not we” (Whitman 1964, 76). He then adds: “You believe, or affect to believe the Missouri bargain unconstitutional. We believe it damnable. It is forbidden and overridden by twenty other specific guarantees of the Constitution” (Whitman 1964, 76). When faced with a choice between obeying “the twenty palpable requirements of freedom, or the one inconsistent compromise for delivering fugitive slaves,” freedom will always win out (Whitman 1964, 75), warns the Poet. The words that follow issue a stark warning:

Let no one scorn this band because they are few. — A few, resolute and enthusiastic are more than a match for thousands. — The hearts of men who believe in the inalienable right of every human being to his life, his liberty and his rational pursuit of happiness. (Whitman 1964, 75)

This is Whitman’s defiant “We the people” tone, echoing the first principle laid down in the Preamble to the US Constitution: that of the supreme authority of the people. According to the Constitution, it is the people of the United States who secure their hard-earned Liberty. It is the people who establish justice. By further embedding basic tenets of the Declaration of Independence – namely, the right to life, liberty and the pursuit of happiness – in his argument, Whitman questions the very justiciability of the legal text and his message is clear: a political compromise, albeit enacted in law, violating the very principles at the heart of the foundation of America cannot create legal effects and must not be tolerated.

It is apparent that Whitman is familiar not only with the letter, but also the spirit of the law – in this case the Declaration of Independence – for his notes also make reference to a measure of last resort embodied therein, the right of the people to make use of the “iron arm of rebellion” (Whitman 1964, 78) in times of need. Whitman’s indictment of slavery is based on the letter of the law and on “every atom of the theory of state rights” — but it is also based on matters of, in his own words, the “soul”: “Every one that speaks his word for slavery, is

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

himself the worst slave — the spirit of the freeman is not light enough in him to show that all the fatness of the earth were bitter to a bondaged neck” (Whitman 1964, 74).

Significantly, in the same notebook in which he writes the first experimental lines later to be included in *Leaves of Grass*, Whitman also states that “true noble expanded American character” is both much more “lasting” and “universal” than that of “European and Asiatic forms of society and government” (*Notebook LC #80* 17). With a deft flick of the wrist Whitman then displaces the seat of authority from “rulers” to the average citizen by drawing attention to what he calls the “right arm of independence”:

True noble expanded American character is [...] to be illimitably proud, independent, self-possessed and generous and gentle.— It is to accept nothing except what is equally free and eligible to every body else.— It is [...] to prefer death sooner than any mean dependence.— Prudence is part of it, because prudence is the right arm of independence. Every American young man should carry himself with the finished and haughty bearing of the greatest ruler. (*Notebook LC #80* 17-18)

A key word to retain from this excerpt is “prudence.” There is no doubt that the concept of “prudence” is central to the spirit of Thomas Jefferson’s Declaration of Independence as the President was a self-confessed Epicurean. “I too am an Epicurean,” Jefferson writes in a letter to William Short, “I consider the genuine (not the imputed) doctrines of Epicurus as containing everything rational in moral philosophy which Greece and Rome have left us” (Jefferson 1994, 1430).⁴

Epicurus (341-270 A.C.) proposes a philosophy based on fortitude, minimizing pain and the pursuit of happiness, with a view to freeing people’s minds from a number of afflictions, including the fear of death. In his letter to Menecus, the philosopher links the search for

⁴ Another excerpt from the letter further attests to the great admiration Jefferson felt for the Greek philosopher: “Fortitude, you know, is one of his four cardinal virtues. That teaches us to meet and surmount difficulties; not to fly from them, like cowards; and to fly, too, in vain, for they will meet and arrest us at every turn of our road” (Jefferson 1994, 1432).

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

happiness with pleasure, considering it to be the *alpha* and the *omega* of a happy life.⁵ The direct correlation between the two opposing principles pleasure and pain is of particular interest because Epicurus, like Jefferson many years later, also speaks of how to eliminate pain from the body and free the mind from anxiety by having recourse to prudence (“*phronêsis*”), or the intellectual virtue of practical wisdom:

By pleasure we mean the state wherein the body is free from sin and the mind from anxiety. Neither continual drinking and dancing, nor sexual love, nor the enjoyment of fish and whatever else the luxurious table offers brings about the pleasant life; rather, it is produced by the reason which is sober, which examines the motive for every choice and rejection, and which drives away all those opinions through which the greatest tumult lays hold of the mind [...] Of all this the beginning and the chief good is prudence. For this reason prudence is more precious than philosophy itself. All the other virtues spring from it. It teaches that it is not possible to live pleasantly without at the same time living prudently, nobly, and justly. (Epicurus 1964, 57)⁶

⁵ “For we only feel the lack of pleasure when from its absence we suffer pain, but when we do not suffer pain, we no longer are in need of pleasure. For this reason we say that pleasure is the beginning and the end of *the blessed life*” (my italics; Epicurus 1964, 56). Two other translators of the works of Epicurus, Robert Drew Hicks and Eugene O’Connor, render the words in italics — “the blessed life” — differently, reinforcing the connection between the pursuit of happiness and pleasure. Hicks writes: “When we are pained because of the absence of pleasure, then, and then only, do we feel the need of pleasure. For this reason we call pleasure the alpha and omega of a *happy life*” (my italics; Epicurus 2011). O’Connor uses the same expression: “When we do not feel pain, it is because we no longer have need of pleasure. Therefore, we declare that pleasure is the beginning and the goal of a happy life” (Epicurus 1993, 65).

⁶ It is worth noting that Robert Drew Hicks uses the word “soul” instead of “mind”: “By pleasure we mean the absence of pain in the body and of trouble in the *soul*. It is not an unbroken succession of drinking-bouts and of merry-making, not sexual love, not the enjoyment of the fish and other delicacies of a luxurious table, which produce a pleasant life; it is sober reasoning, searching out the grounds of every choice and avoidance, and banishing those beliefs through which the greatest disturbances take possession of the *soul*” (my italics; Epicurus 2011).

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

The letter to Meneceus highlights the need for moderation and discernment, propounding the belief that each individual actively determines his own happiness by delving deep into himself and being selective in the choices he makes so as to not cause pain to himself and others. In another passage, Epicurus explains the value of moderation, or parcimony – it reduces the weight of external factors in generating happiness – so that pain will be lessened should those external factors be missing (Epicurus 1964, 57). He goes on to defend that the aim of philosophy is to equip all men with the practical armament required to lead a happy, noble and just life, and, to that end, develops a philosophy based on how to cultivate self-sufficiency and peace of mind.

The concept of “prudence” was part of the social discourse of eighteenth and nineteenth-century America, as its use by Jefferson and Emerson, among others, attests. In 1841, Emerson published the essay “Prudence,” beginning with an epigraph clearly alluding to Epicurus’ material atomism.⁷ The essay reveals that, for Emerson, prudence is the “the art of

Eugene O’Connor finds the middle ground: “It [pleasure] is freedom from bodily pain and *mental* anguish. For it is not continuous drinking revels, nor the enjoyment of women and young boys, nor of fish and other viands that a luxurious holds, which make for a pleasant life, but sober reasoning, which examines the motives for every choice and avoidance, and which drives away those opinions resulting in the greatest disturbance to the *soul*” (Epicurus 1993, 66).

⁷ Emerson’s five-line epigraph states:

Theme no poet gladly sung,
Fair to old and foul to young,
Scorn not thou the love of parts,
And the articles of arts.
Grandeur of the perfect sphere
Thanks the atoms that cohere
(Emerson 1889, 49)

Atomists hold that all objects are aggregates of small particles known as “atoms.” One of the things that sets Epicurus apart from Democritus, the father of atomism, is his eschewal of teleological (goal-based and intentional) explanations of natural phenomena in favour of more mechanistic ones.

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

securing a present well-being” (Emerson 1889, 54) and that prudence and poetry must overlap because the poet has the central role of reconciling matter and spirit (or true meaning). It is the poet’s role, reasons Emerson, to attempt to bridge the gap between the laws that are immanent to nature and laws enacted and followed by man:⁸

We do not know the properties of plants and animals and the laws of nature through our sympathy with the same; but this remains the dream of poets. Poetry and prudence should be coincident. Poets should be lawgivers [...] But now the two things seem irreconcilably parted. We have violated law upon law, until we stand amidst ruins, and when by chance we espy a coincidence between reason and the phenomena, we are surprised. (Emerson 1889, 52)

For Emerson, prudence is “the virtue of the senses” and the “science of appearances” in an otherwise empty world: “It is the science of appearances. It is the outmost action of the inward life. It is God taking thought for oxen. It moves matter after the laws of matter” (Emerson 1889, 50). If one is prudent, one is aware of the existence of laws that govern all matter and therefore too of the symbolic nature of the material world. By conferring meaning on all human action and on all matter, Emerson holds Man accountable for his acts and seeks to reunite all particulars in a previously divided universe: “Let him learn a prudence of a higher strain. Let him learn that every thing in nature, even motes and feathers, go by law and not by luck, and that what he sows he reaps” (Emerson 1889, 53).

Emerson’s discourse, like that of Whitman, a few years later, is one of harmony because in his worldview “every fact hath its roots in the soul” (Emerson 1889, 53) and any “man of genius [...] reckless of physical laws” and “self-indulgent, becomes presently unfortunate [...] a thorn to himself and to others” (Emerson 1889, 52).

Epicurus believed that natural science should provide these mechanistic explanations, thus doing away with the fear of the gods, and that philosophy should make Man aware of the natural limits of his desires and minimize the fear of death. He considered that even the “soul” was a “body,” made up of small particles. So the “soul,” like the “body,” also disintegrates and disperses at death.

⁸ For more on the Emerson’s views on prudence, cf. Von Frank 1999, 112-13.

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

As M. Wynn Thomas rightly points out in *The Lunar Light of Whitman's Poetry*, although well-known to the nineteenth-century audience, the term "prudence" was not always used the way Epicurus had intended. Thomas sums up Whitman's rejection of the common misapplication of the word "prudence" in the mid-nineteenth-century as follows: "By then, the word 'prudent,' which once had signified the cardinal virtue of wisdom aforethought, had been abducted, removed from its original, extensive sphere of meaning, and prostituted to the pragmatic interests of the developing economic order. In this connection it was performing a currently indispensable, but also an infinitely self-demeaning (and Self-demeaning) service as Whitman noted with disapproval in the 1855 preface" (Thomas 1987, 58).

In his 1855 Preface, Whitman distances himself from the skewed meaning of the term "prudence," stating: "It has been thought that the prudent citizen was the citizen who applied himself to solid gains and did well for himself and his family and completed a lawful life without debt or crime. The greatest poet sees and admits these economies as he sees the economies of food and sleep, but has higher notions of prudence than to think he gives much when he gives a few slight attentions at the latch of the gate" (PP 20).

Whitman's "higher notions," often enveloped in an incisive tone in his early writings, hold that the only true equitable treatment of all citizens stems from a justice dictated by reason, conscience and a natural sense of what is fair to all. "A live nation can always cut a deep mark and can have the best authority the cheapest...namely from its own soul" (PP 6), is the guarantee given in the 1855 Preface. Moreover, as of "all mankind" it is "the great poet" who understands the importance of prudence the best, accepting the challenge laid down by Emerson, Whitman declares the role of the poet to be that of "the equable man," "the arbiter of the diverse," "the equalizer of his age and land" (PP 8-9) who "speaks the spirit of peace" illuminating "federal, state or municipal government" (PP 9) alike.

Whitman's poet "is no arguer...he is judgement" and "judges not as the judge judges but as the sun falling around a helpless thing" (PP 9), for his insight is not limited to temporal matters, it is also spiritual in nature: "Whatever stagnates in the flat of custom or obedience or legislation he never stagnates" (PP 9). Why? Well, because he is an "interpreter" (PP 25) of "vital laws" (PP 16) who understands that "The spirit receives from the body just as much as it gives to the body" (PP 21).

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

The “prudent citizen” then, as supreme legislator, must balance the costs and benefits of particular laws and determine for him or herself whether to live by them, as Whitman explains in his notes:

The people [...] instead of being ruled by the old complex laws, and the involved machinery of all governments hitherto, shall be ruled mainly by individual character and conviction. — The recognized character of the citizen shall be so pervaded by the best qualities of law and power that law and power shall be superseded from the governments and transferred to the citizen. (*Notebook LC #80 110*)

Whether indirectly via the Declaration of Independence, Thomas Jefferson and/or Emerson and other authors or directly via translations of Epicurus,⁹ the concept of prudence clearly permeates Whitman’s writing, including his definition of American character. Americans are independent and “prudence,” he declares in his notes, “is the right arm of independence” (*Notebook LC #80 18*). But what exactly does the term independence mean to the Poet? The answer can be found in a later text, *Democratic Vistas*: “The old men, I remember as a boy, were always talking of American independence. What is independence? Freedom from all laws or bonds except those of one’s own being, control’d by the universal ones” (*PP 978*). Independence is both openness – “freedom from all laws or bonds except those of one’s own being” — and limitation, because it is controlled by universal laws.

⁹ Amy E. Earheart considers the indirect route more likely: “Whitman was exposed to Epicureanism primarily through the writings of Frances Wright (1795-1852) and Lucretius (94-55 B.C.). Whitman’s father attended lectures by Wright, a Scottish neo-Epicurean, and subscribed to her *Free Inquirer*. Whitman read the *Inquirer* and closely studied Wright’s *A Few Days in Athens—Being the Translation of a Greek Manuscript Discovered at Herculaneum* (1822). Also, about 1851, Whitman acquired a translation of Lucretius’s *De Rerum Natura* (On the Nature of Things), which scholars now contend was probably based on *The Major Epitome of Epicurus*” (Earhart, 1998, 209). David S. Reynolds, in his Whitman biography, shares this view, highlighting the importance of *A Few Days in Athens* (Reynolds 1996, 42).

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

In other words, as the 1855 Preface indicates, freedom is the product of a prudent balance between “pride” and “sympathy”:¹⁰

The soul has that measureless pride which consists in never acknowledging any lessons but its own. But it has sympathy as measureless as its pride and the one balances the other and neither can stretch too far while it stretches in company with the other. (*PP* 13)

This complex interweaving of the plural and the singular — “out of the many, one” (*e pluribus unum*), “the revolutionary seal of the American republic” (Erkkilä 1989, 50) —, is the central motif of *Leaves of Grass*. As Ed Folsom defends in his 1998 Presidential Lecture, “What do we Represent? Walt Whitman, Representative Democracy and Democratic Representation”, for Whitman, “the confluence of political and artistic representation seemed natural – seemed, in fact, the very essence of the “democratic poetics” that constitutes *Leaves of Grass* (Folsom 2005).

Whitman believed that artistic representations of America, American imaginative literature, held the key to solving the problem of the growing deficit of political representativeness and that Americans had to continue making history rather than becoming its victims. In Ed Folsom’s words: “imaginative literature had to take up where its politics left off: when theories of representation began to fail politically [...], then theories of imaginative representation were the only hope to save democracy” (Folsom 2005).

So he set about exercising his citizenship and began writing. Between March and June 1850 he wrote four poems denouncing the 1850 Compromise. The first of the four poems, “Dough-Face Song” (*PP* 1076-78), as its title indicates, openly criticizes the lack of moral integrity of Northerners (the popular term “doughface” refers to those who were too weak to openly oppose the pro-slavery Southerners). The poem indicates that the inability of the North to stand up to wealthy “dashing southern lords” [*PP* 1076] endangers the very survival of the Union and the principle of freedom underlying it.

¹⁰ Emerson uses both words in two texts included in *Essays – First Series*, “Prudence” and “Heroism.” In the latter, Emerson declares “pride” is the hallmark of heroes (Emerson 1889, 56) but, in the former, he uses “sympathy” as a counterweight (Emerson 1889, 54).

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

The second poem, "Blood-Money" (PP 1131-32), published on 22 March in the *New York Tribune*, was written in response to a speech made before Congress on 7 March by Massachusetts senator Daniel Webster, in support of the Compromise. The poem calls upon Christ to descend once again and "look forth" over the "Tree-tops of Paradise" so as to observe the hardness of the hearts of those whose hands are stained with the blood of the innocent, the weak and the enslaved. "And still Iscariot plies his trade" (PP 1131-32), states the very last line of the poem. Judas, recall the first few lines, was rejected by both Heaven and Earth and was left with no option but to put an end to His life: "And darkness frown'd upon the seller of the like of God, / Where, as though earth lifted her breast to throw him from her, and heaven refused him, / He hung in the air, self-slaughter'd" (PP 1131). The necessary conclusion? That the penalty for treason – and for betraying one's own inner moral compass – is spiritual and/or physical death.

Whitman had focused on this topic in an early piece of writing called "Revenge and Requital: A Tale of a Murderer Escaped," a tale published in 1845 which tells the story of a corrupt lawyer, aptly named Adam Covert, legal guardian to brother and sister orphans. Covert tricks the two young people out of their money by cunningly introducing "provisions in the will [...] giving himself an almost arbitrary control over the property," and later "presses his claims as a suitor" for the young woman's hand against her wishes (Whitman 1845, 105). When turned down, he insults the young woman. Her extremely upset brother, Philip, confronts the lawyer who throws him out of his office. One day, after having indulged in too much liquor and while waiting out a storm, the two men fight and the younger man kills Covert. Philip's frame of mind is worthy of close scrutiny: the "turmoil of the elements, the harsh roll of thunder, the vindictive beating of the rain" kindles "a strange sympathetic fury" in the young man (Whitman 1845, 106). The only eye-witness, significantly the "son of a scorned and persecuted race," possibly a Jew or a Quaker or, in the opinion of one critic, an African-American man, mercifully forbears witnessing against him when he sees "Philip's bloodless cheek" and "his sister's convulsive sobs" and Philip walks free (Whitman 1845, 109).

Although the tale was later revised by Whitman and renamed "One Wicked Impulse," in the original version, Philip is tormented by what he has done and finds peace working with cholera victims in New York, ending up saving one of Covert's orphaned children before eventually succumbing to cholera himself.

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

A number of points must be made about the story: there is no doubt that a “guilty act” (*actus reus*) was committed, but was it accompanied by a “guilty mind” (*mens rea*)? For criminal liability to be established, due process requires the presence of both elements. There appears to have been no malice aforethought in Philip’s actions, he was under the influence of intoxicating liquor and it may be argued that he was acting under duress. The fact that the only witness is “sympathetic” to Philip’s predicament – for Philip too has been “persecuted” – further strengthens his case. If doubts persist about Philip’s rectitude, the message appears to be that justice and requital will eventually overtake the wrongdoer and, sure enough, all doubts are laid to rest by Philip’s future conduct and the natural course of events.

In the midst of all this it is easy to lose sight of the central figure: none other than the “white-drapered shape” which “fills Phillip’s heart with awe” (Whitman 1845, 108), becoming his conscience. Whitman’s role reversal – giving the underdog the upper hand – must have been unsettling to the average reader, forced into recognition of a common humanity. Poetic justice if there ever was any.

The inflammatory vocabulary of anti-slavery reformers – “crawlers”, “lice”, “muck-worms” –¹¹ features prominently in the third poem, “Wounded in the House of Friends” (*PP* 1132-33), published on 14 June, 1850, in the same periodical as “Blood-Money.” Here, Whitman once again employs irony to criticize both Southern slave owners and Northern “doughfaces,” considered to be “deeper slaves” than the slaves themselves (*PP* 1132).

The last of the four poems published in 1850, “Resurgemos,” is the only one of the group of four poems to have been included in *Leaves of Grass*.¹² The poem exalts the European revolutions of 1848, but laments their ephemeral nature. For a short while, it says, “The People scorned the ferocity of kings” [Whitman 1996, 659]), turning against them and removing them from power; however, they then made the mistake of showing them too much mercy: “The sweetness of mercy brewed bitter destruction, / and frightened rulers come back.” (Whitman 1996, 659)

¹¹ For a detailed study of popular reform movements in Whitman, cf., for example, the chapter “The Transcendentalists, Whitman, and Popular Reform” in David S. Reynolds, *Beneath the American Renaissance*, 92-112.

¹² Of all the poems written before 1855, only one other, “A Boston Ballad” (1854), was incorporated in *Leaves of Grass*.

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

One of the most noteworthy messages of the poem emerges in the warning to be found in the eighth stanza, which marks the transition between images of shade and darkness and images of hope:

Not a grave of those slaughtered ones,
But is growing its seed of freedom,
In its turn to bear seed,
Which the winds carry afar and resow,
And the rains nourish.
(Whitman 1996, 660)

The law of eternal returns, in force in the universe, will not allow the “slaughtered ones” to be forgotten, for the “seed of freedom” lives on to be reborn in those who defend the same cause: “Cold and motionless as they seem / Live elsewhere with undying vitality; / [...] / They live in brothers, again ready to defy you [kings]” (Whitman 1996, 660).

“Resurgemos,” the first of two poems in which Whitman makes his transition into the cadence of free verse,¹³ ends with one of the identifying marks of Whitman’s verse — the use of the first person singular: “Liberty, let others despair of thee, / But I will never despair of thee” (Whitman 1996, 660). This “I” who swears allegiance to his slaughtered brethren and to the freedom cause, embodying plurality, places his trust in natural processes and, as indicated by the biblical echo, is confident in his role as creator of what he calls “fruits”, or norms, tallying these:

Meanwhile, corpses lie in new-made graves,
Bloody corpses of young men;
The rope of the gibbet hangs heavily,
The bullets of tyrants are flying,
The creatures of power laugh aloud:

¹³ The other poem is “A Boston Ballad.” For more on the topic, cf. Gay Wilson Allen, *A Reader’s Guide To Walt Whitman*, 161-65.

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

And all these things bear fruits, *and they are good*.¹⁴

(Whitman 1996, 659)

When the Kansas-Nebraska bill became law on 30 May, 1854, Whitman wrote yet another poem dripping with sarcasm, “A Boston Ballad,” which was also a protest against the “Anthony Burns Affair,” involving the controversial arrest and trial of a runaway slave under the Fugitive Slaves Act. In the preface to the first edition of *Leaves of Grass*, Whitman would write that the poet “drags the dead out of their coffins and stands them again on their feet,” placing himself “where the future becomes present” (PP 13), which is exactly what he does in “A Boston Ballad”, only here he places the “gentlemen of Boston” where the past becomes present once again:

But there is one thing that belongs here — shall I tell you
what it is, gentlemen of Boston?

I will whisper it to the Mayor — he shall send a committee to
England;

They shall get a grant from the Parliament, go with a cart to
the royal vault — haste!

Dig out King George’s coffin, unwrap him quick from the
grave-clothes, box up his bones for a journey,

Find a swift Yankee clipper — here is freight for you, black-
bellied clipper,

Up with your anchor! shake out your sails! steer straight
toward Boston bay.

Now call for the President’s marshal again, bring out the
government cannon,

Fetch home the roarers from Congress, make another

¹⁴ My italics.

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

procession, guard it with foot and dragoons.

This centre-piece for them;

Look! all orderly citizens — look from the windows, women!

The committee open the box, set up the regal ribs, glue

those that will not stay,

Clap the skull on top of the ribs, and clap a crown on top of
the skull.

You have got your revenge, old buster! The crown is come
to its own, and more than its own. (PP 405-6)

With the publication of the first edition of *Leaves of Grass*, a year later, Whitman hoped to show his fellow citizens that they too could contribute to the democratic and spiritual development of America and its laws by asserting their natural rights. The poet, advancing “through all interpositions and coverings and turmoils and stratagems to first principles,” was to lead by example, bringing the “spirit of any or all events and passions and scenes and persons to bear on” the “individual character” of those who heard or read his words (PP 12-13).

By focusing on the relationship between *juris* and *prudentia*, Whitman rejects formalism — as he would also in his poetic theory (“the poetic quality is not marshalled in rhyme or uniformity or abstract addresses to things nor in melancholy complaints or good precepts, but is the life of these and much else and is in the soul “[PP 11]) — in favour of a poetic/legal realism rooted in the principle of an “average Identity” governed by universal laws.

“All will come round,” even “the furtherance of fugitives and of the escape of slaves” (PP 22), guarantees the 1850 Preface, because “Liberty takes the adherence of heroes wherever men and women exist” (PP 17). “The iron necklace and anklet” may “do their work” (PP 17) and “servility by town or state or the federal government” may “be tried on without its own punishment” (PP 18), but only for so long, for the “instinct of liberty” will eventually

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

reassert itself, thus ensuring that all things find their rightful place: “little or big, learned or unlearned, white or black, legal or illegal, sick or well” (PP 22).

Whitman’s awareness of the existence of a soul beyond the physical self (“I am always ~~think~~ ^conscious of myself as two — my soul and I” [Notebook LC #80 44]) — extensive to his constant reminders that first principles and the letter of the law must go hand in hand — is an integral part of the titanic struggle between conservative and innovative forces played out in verse over a period of almost forty years, both fuelling and celebrating the creative powers of the poet as “bard commensurate with the people” (PP 7).

The result is poetry that reflects the fundamental doctrine that all men are equal before the law regardless of appointment or official status together with the belief that the “the average man of a land at last only is important” (*Democratic Vistas*, PP 954), a doctrine underpinned by the *sub judice* problem that failure of democracy would be tantamount to the failure of the greatest source of progressive energy behind it – the creative imagination. As Whitman puts it: “Dominion strong is the body’s; dominion stronger is the mind’s [...] the idea of the pride and dignity of the common people, the life-blood of democracy” (*Democratic Vistas*, PP 955).

Bibliographical References

- Allen, Gay Wilson. 1997. *A Reader’s Guide to Walt Whitman*. Syracuse: Syracuse University P.
- Earhart, Amy E. 1998. Epicurus (341-270 B.C.). *Walt Whitman: An Encyclopedia*. Edited by J. R. LeMaster, and Donald D. Kummings, 209-10. Garland Reference Library of the Humanities, vol. 1877. New York & London: Garland Publishing, Inc.
- Emerson, Ralph Waldo. 1889. *Works of Ralph Waldo Emerson*. London: George Routledge and Sons.
- Epicurus. 1993. *The Essential Epicurus: Letters, Principal Doctrines, Vatican Sayings, and Fragments*, edited by Eugene O’Connor. New York: Prometheus Books.
- . 1964. *Letters, Principal Doctrines, and Vatican Sayings*, translated by Russell M. Geer. New York: MacMillan Publishing Company.
- . 2011. Letter to Menoeceus. Accessed 1 December 2011.
<http://classics.mit.edu/Epicurus/menoec.html>.
- Erkkila, Betsy. 1989. *Whitman the Political Poet*. New York, Oxford: Oxford University Press.
- Folsom, Ed. 2005. What do we Represent? Walt Whitman, Representative Democracy and Democratic Representation. *The University of Iowa Presidential Lectures*, 25 Sep 2005.
<http://sdrc.lib.uiowa.edu/preslectures>

Walt Whitman's Early Representations of *Juris Prudentia* and Citizenship

- Jefferson, Thomas. 1994. 'I Too Am an Epicurean': Letter to William Short, with a Syllabus, Monticello, October 31, 1819. *Thomas Jefferson: Writings*, edited by Merrill D. Peterson, 1430-1433. New York: Library of America.
- Kummings, Donald D. (Ed.) 2006. *A Companion to Walt Whitman*. Malden, MA: Blackwell.
- LeMaster, J. R. /Donald D. Kummings, (Eds.) 1998. *Walt Whitman: An Encyclopedia*. Garland Reference Library of the Humanities, vol. 1877. New York & London: Garland Publishing, Inc.
- Reynolds, David S. (Ed) 1988. *Beneath the American Renaissance: The Subversive Imagination in the Age of Emerson and Melville*. Cambridge, MA: Harvard UP.
- Reynolds, David S. 1996. *Walt Whitman's America: A Cultural Biography*. New York: Vintage Books.
- Thomas, M. Wynn. 1987. *The Lunar Light of Whitman's Poetry*. Cambridge, Mass.: Harvard University Press.
- Von Frank, Albert J. 1999. Essays: First Series (1841). *The Cambridge Companion to Ralph Waldo Emerson*, edited by Joel Porte and Sandra Morris. Cambridge: Cambridge University Press.
- Whitman, Walt. 1982. *Complete Poetry and Collected Prose*. Ed. Justin Kaplan. New York: The Library of America.
- . *Earliest and Most Important Notebook of Walt Whitman* (Holloway No. 1) [Notebook LC #80] 1847. Poet at Work: Recovered Notebooks from the Thomas Biggs Harned Walt Whitman Collection. Manuscript Division, Library of Congress.
<http://memory.loc.gov/ammem/wwhtml/wwhome.html>
- . 1984. *Notebooks and Unpublished Prose Manuscripts*. Ed. Edward F. Grier. Vol I. New York: New York UP.
- . 1845. Revenge and Requit: A Tale of a Murderer Escaped. *The United States Magazine, and Democratic Review*, vol. 17, no. 85 (July and August, 1845): 105-111.
- . 1996. *Walt Whitman: The Complete Poems*. Ed. Francis Murphy. Harmondsworth: Penguin.
- . 1964. *Walt Whitman's Workshop: A Collection of Unpublished Manuscripts*. Edited with an introduction and notes by Clifton Joseph Furness. New York: Russell & Russell.