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Towards a Wagnerian Jurisprudence: Legal Symbolism in Richard Wagner's *Das Rheingold*

Alex Green* 

Faculty of Law, Chinese University of Hong Kong, Hong Kong, China
aggreen@cuhk.edu.hk

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Abstract

The libretto and score of Richard Wagner's famous tetralogy, *Der Ring des Nibelungen*, were influenced by various philosophers, including Ludwig Feuerbach and Arthur Schopenhauer. Several themes within these *Gesamtkunstwerke*, including authenticity, compassion, idealism, and love, have subsequently received detailed philosophical attention. Lacking, however, is a systematic philosophical interpretation of legal symbolism within *The Ring Cycle*. Providing such an interpretation helps illuminate the legal-philosophical richness of Wagner's thought, which has, perhaps understandably, been overlooked not only within Wagner studies but also within contemporary jurisprudence. Moreover, elucidating legal symbolism within the tetralogy brings to light an underappreciated form of legal-philosophical cognition: the fundamentally aesthetic exercise of finding and appreciating legal meaning through layered harmony. I begin this task by examining six such symbols within *Das Rheingold*. My interpretive method is self-consciously "creative": Although I draw extensively upon Wagner's libretto and score, I present *Rheingold* as a living cultural artefact of contemporary jurisprudential relevance. It explores, to a high level of sophistication, several issues currently debated within general jurisprudence, including the nature of law, and its relationship with authority, domination, and violence. Viewed from this perspective, *Rheingold* discloses, both on stage and within its soundworld, a discrete and troubling Wagnerian conception of legality that both challenges existing jurisprudential debates and renders them more visceral.

Keywords: Richard Wagner; *Das Rheingold*; *Der Ring des Nibelungen*; jurisprudence and legal philosophy; law and culture; creative interpretation

A. Introduction: Gold in the Depths

Sometimes terrible people create magnificent things. This was certainly the case of Richard Wagner, who despite some truly odious character flaws,¹ produced perhaps some of the finest, and certainly the most ambitious, musical works ever devised within the Western canon. *Der Ring des*

*Associate Professor, Faculty of Law, Chinese University of Hong Kong (HKSAR, PRC); Academic Associate 23 ES Chambers, London and Manchester (UK). ORCID: 0000-0001-7889-2852. Email: aggreen@cuhk.edu.hk. Postal address: Faculty of Law, 6/F, Lee Shau Kee Building, The Chinese University of Hong Kong, Shatin, New Territories, Hong Kong. The author's Chinese name is 文浩航. Thanks are due to Tobias Forsnacke, Timothy Green, Jennifer Hendry, Joshua Jowitt, Emmanouel Voyiakos, and the participants of the 2024 WG Hart Workshop: Historicising Jurisprudence. All mistakes remain my own.

¹Beyond the infamous Richard Wagner's *Das Judentum in der Musik*, see RICHARD WAGNER, ESSAY ON DAS JUDENTHUM IN DER MUSIK [JEWISHNESS IN MUSIC] (1869), which I cannot recommend to anyone not interested in Wagner's thought *per se*. See generally SIMON CALLOW, BEING WAGNER: THE STORY OF THE MOST PROVOCATIVE COMPOSER WHO EVER LIVED (2018) (providing an engaging and amusing exploration of his character).

Nibelungen (*The Ring of the Nibelung*; hereafter *The Ring Cycle*) is a tetralogy comprised of three epic *Musikdrama* (music dramas) in three acts, with a single act “preliminary evening.” It is that preliminary piece, *Das Rheingold* (*The Rhinegold*; hereafter *Rheingold*), which concerns me here. Wagner wrote the librettos for his tetralogy in reverse order, although *Rheingold* was the first he set to score.² Despite my very great love for this music, my focus in this Article is upon the legal-philosophical content of *Rheingold*, which I argue to be considerable. Indeed, as I detail in what follows, *Rheingold* contains in outline what the tetralogy as a whole goes on to develop: a discrete Wagnerian conception of legality and its troubled place within the world that merits serious philosophical attention from academic lawyers. This claim—that there is something of genuine jurisprudential depth to be found within Wagner’s *Musikdrama*—is not as strange as it may first appear. *The Ring Cycle* is an artistic triumph in part because its themes and symbols are so philosophically rich, and Wagner was unique amongst his musical contemporaries, not only insofar as he was a prolific writer on political and philosophical matters,³ but also because he read extensively and was vocal about the impact of particular philosophers upon his work.⁴ We know, for example, that the librettos for all four *Musikdrama* were heavily influenced by Ludwig Feuerbach,⁵ whereas the score of the last two, with the exception of *Siegfried* Act 1, was composed under an increasingly obsessive preoccupation with the work of Arthur Schopenhauer.⁶ These are two very different thinkers and the tensions their influences create within the libretto and score go some way towards explaining the extraordinary complexity of Wagner’s work.

Understanding the jurisprudential significance of *The Ring Cycle* amidst the resulting philosophical bifurcation is further complicated by two things. First, Wagner’s initial development of a distinctive dramatic and compositional theory, set out in detail within his *Oper und Drama* (*Opera and Drama*),⁷ as well as his views on the relation of art to both culture and politics, set out in *Die Kunst und die Revolution* (*Art and Revolution*)⁸ and *Das Kunstwerk der Zukunft* (*The Artwork of the Future*).⁹ These theories were applied strictly by Wagner to both his composition and authorship of *Rheingold*. The second complicating factor is Wagner’s later modification of his principles of composition in favor of a more symphonic approach, heavily influencing the score, but not the libretto, of both *Siegfried* and *Götterdämmerung*.¹⁰ In fact, Wagner changed his mind so drastically on these topics during the long process of creating *The Ring Cycle* that there is little point in trying to understand his creative process as unified by anything like a singular intention.¹¹ Wagner set out to create a modern myth, borrowing from old German mythological figures, but changed his mind so completely about that myth’s *meaning* that seeking definitive answers to interpretive questions from his own writing is to chase shadows.

This Article adopts a different approach. My concern is not so much with what Wagner was *trying* to do so much as with what he in fact did. I approach *Rheingold* as a living cultural artifact that is interpreted, contested, and reimagined by conductors, stage directors, and dramaturgs, and ask what this nexus of words, directions, and sounds can tell us as legal scholars when examined through jurisprudential eyes and ears. My aim in doing so is threefold. First, by teasing out the

²RUDOLPH SABOR, RICHARD WAGNER—DER RING DES NIBELUNGEN: A COMPANION 73, 212–13. (1997).

³BRYAN MAGEE, WAGNER AND PHILOSOPHY 23 (2000).

⁴*Id.*

⁵*Compare* LUDWIG FEUERBACH, PRINCIPLES OF THE PHILOSOPHY OF THE FUTURE, (Manfred Vogel trans., Hackett Publ’g Co. 1986) (1843), *with* RICHARD WAGNER, “THE ARTWORK OF THE FUTURE” AND OTHER WORKS (William Ashton Ellis trans., Univ. Neb. Press 1993). *See also* MAGEE, *supra* note 3, at 50–67.

⁶RICHARD WAGNER, MEIN LEBEN [MY LIFE] 614–17 (Tudor Publ’g Co. 1936) (1870); ERNEST NEWMAN, THE LIFE OF RICHARD WAGNER—VOLUME 2: 1848–1860 431 (Cambridge Univ. Press 2010) (1933); MAGEE, *supra* note 3, at 126–93.

⁷*See generally* RICHARD WAGNER, OPERA AND DRAMA (William Ashton Ellis trans., Univ. Neb. Press 1995) (1851).

⁸*See generally* RICHARD WAGNER, ART AND REVOLUTION (William Ashton Ellis trans., Dodo Press 2008) (1849).

⁹WAGNER, *supra* note 5.

¹⁰MAGEE, *supra* note 3, at 194–204.

¹¹GEORGE BERNARD SHAW, THE PERFECT WAGNERITE 70 (Dover Books 2010) (1898).

legal-philosophical meaning within *Rheingold*, I hope to demonstrate that Wagner was a serious jurisprudential thinker—an aspect of his intellectual and artistic contribution that has hitherto been almost completely overlooked. Second, I aim to outline the basic tenets of what might be called “Wagnerian jurisprudence” as a substantive take on the nature of law and its connection to concepts such as statehood, violence, and authority. Third, by locating this jurisprudential content within not only the libretto and dramatic visuals of *Rheingold* but also its score, I aim to illustrate by extended example the possibility of receiving complex legal-philosophical meaning through layered harmonies. This possibility enables a new form of jurisprudential cognition that is more visceral than the typical academic approach of reflecting upon concepts communicated by non-fiction prose.¹² Controversial and conflicting conceptions of law, the state, and injustice can be perceived within Wagner’s music, thereby invoking the beginnings of philosophical awareness within his listeners *before* conceptual reflection begins. The realization that such “auditory jurisprudence” is both possible and fruitful necessarily broadens our understanding of what counts as legal philosophy.

The method I employ to establish these points is “creative interpretation,”¹³ and its aim is to understand *Rheingold* in its best light as a serious artistic engagement with legal-philosophical ideas, while acknowledging that such engagement is only one small part of what it can be made to achieve. As such, I do not pretend to disclose *the* meaning of Wagner’s work: only *some* meaning that can be found within it. By this token, I also hope to excuse myself for utilizing several philosophical works that Wagner himself could not possibly have contemplated, written as they were long after his death in 1883. Section B begins my analysis by further detailing my overall approach, explaining both the artistic format that *Rheingold* takes and the role of symbolism within its score and libretto. I endorse existing arguments for why we should resist allegorical, as opposed to symbolic, interpretations and detail the desiderata for plausible jurisprudential engagements with cultural artifacts of this kind. Section C examines two concepts that feature prominently within *Rheingold*—authority and legality—and engages with them through a symbolic analysis of the libretto and score surrounding the god Wotan, his sacred spear, and the mountain fortress of Walhall. Section D does the same but in relation to the concepts of domination and violence, focusing upon the dwarf Alberich, the giant brothers Fafner and Fasolt, and the tetralogy’s titular ring of power. Section E presents a brief conclusion, arguing that a larger interpretive project along similar lines could be undertaken quite fruitfully in relation to the entire *The Ring Cycle*. In so doing, I hope to provide readers with an outline of Wagnerian jurisprudence that not only motivates further reflection but that also illustrates the potential of *Musikdrama* as such to contribute towards the philosophical study of legal phenomenon.

First, however, a brief plot summary of *Rheingold* is in order.¹⁴ Shortly after the curtain rises on the river Rhine, the dwarf Alberich is lusting after the Rhinemaidens—three water nymphs

¹²My aim is not so grand as those sometimes espoused within the law and literature movement—that law “is” literature, and so on; see, e.g., MARÍA JOSÉ FALCÓN Y TELLA, LAW AND LITERATURE 38–50 (2016); ROBERT A. FERGUSON, LAW AND LETTERS IN AMERICAN CULTURE (1984); J.M. Balkin & Sanford Levinson, *Law as Performance*, in 2 LAW AND LITERATURE: CURRENT LEGAL ISSUES 729, 729–51 (Michael Freeman & Andrew D. E. Lewis eds., 1999); Guyora Binder, *The Law-as-Literature Trope*, 2 LAW AND LITERATURE: CURRENT LEGAL ISSUES 63, 63–90 (Michael Freeman & Andrew D. E. Lewis eds., 1999). It is beyond my ambitions to show either that melody or harmony somehow “are” either jurisprudence or law, or *vice versa*. Rather, my claim is just that one can understand jurisprudential ideas through reflecting upon the structure and aesthetics of the harmonies used by Wagner to symbolize ideas of this kind.

¹³RONALD DWORKIN, LAW’S EMPIRE 50–53 (1986).

¹⁴Throughout this Article, I rely upon Rudolph Sabor’s translation of Wagner’s libretto. RUDOLPH SABOR, RICHARD WAGNER – DAS RHEINGOLD: TRANSLATION AND COMMENTARY (1997). This dramatic summary is my own. Figures 2 to 5 also provide excerpts from the score essential to my argument. For those of my readers comfortable with reading sheet music, I hope these snippets will be sufficient to illustrate my claims. I would nonetheless strongly recommend that the relevant elements are listened to by readers unfamiliar with Wagner’s work. My preferred version of *Rheingold*, and the one I have been working from here, is the 1958 Decca recording, produced by John Culshaw, featuring the Vienna Philharmonic orchestra, conducted by Sir Georg Solti, VIENNA PHILHARMONIC & GEORG SOLTI, *Das Rheingold*, in DER RING DES NIBELUNGEN [The

charged with protecting the shimmering Rhinegold. Harshly rejected, Alberich turns his attention to this treasure, which he is warned cannot be claimed other than by one who renounces love. Embittered by rejection, Alberich does indeed renounce love and snatches the Rhinegold away with him down to the dwarven realm of Nibelheim, with the intention of forging a ring from it that will give him power over all the world. The drama then shifts to the gods high above, where Wotan their leader is being reproached by his wife Fricka for his promise to give Freia, the goddess of youth and love, to the giants Fasolt and Fafner. Wotan has made a bargain with them to hand over Freia in payment for the construction of Walhall—a mighty fortress from which he can oversee the world. Wotan has no intention of honoring this bargain, such that when the giants demand payment, he elicits the help of the primordial spirit Loge, who suggests an alternative prize: the ring forged by Alberich and the other treasures its power has enabled him to claim. The giants accept this compromise, which sees Wotan and Loge descend to Nibelheim in search of these riches. There they meet Alberich's brother Mime, who has forged a magical helmet called the Tarnhelm, which allows its wearer to adopt any shape they wish. Alberich, it appears, has used the ring to enslave the Nibelungs and force them to extract more gold from the bowels of the Earth. When Alberich appears, Loge plays upon the dwarf's pride to trick him into using the Tarnhelm to transform into a frog, which Wotan captures. Victorious, they secrete Alberich away to the surface and force him to summon his Nibelung slaves to bring up the gold. Wotan then snatches the ring from Alberich's finger, at which point the dwarf utters a terrible curse: All who possess the ring shall suffer misery and death. Returning on high, Wotan heaps up the gold and places the Tarnhelm on top but refuses to surrender the ring to the giants. At this juncture, the primal spirit Erda appears to him and warns that he must give up the ring. Wotan eventually agrees, at which point Fafner turns upon his brother Fasolt and murders him, claiming the entire bounty for his own. As Fafner departs, the god Froh creates a rainbow bridge to Walhall while Donner clears the sky of clouds. The gods enter the fortress together, as the Rhinemaidens scream outside for the return of their gold and Loge mocks the gods for their stupidity and inevitable downfall. The curtain then falls on the preliminary evening.

B. Jurisprudence and *Gesamtkunstwerke*: Allegory, Symbolism, and Creative Interpretation

My aim, as noted above, is to locate within *Rheingold* the central tenets of “Wagnerian jurisprudence” and to illustrate in so doing that Wagner was a serious jurisprudential thinker, gifted at conveying legal-philosophical meaning through various means, including layered harmony. To do this, I undertake “creative interpretation”: The fundamentally constructive exercise of interrogating meaning within an object by taking it seriously as an example of the form or genre to which it belongs.¹⁵ For instance, to interpret creatively *The Great Masturbator* by Salvador Dalí is to reason how it might be understood as both a great painting and a great example of surrealist art.¹⁶ Creative interpreters must view the painting in its best evaluative light, relying on higher order evaluative positions concerning the purpose and value of both painting and

Rheingold, in *THE RING OF THE NIBELUNG*] (Decca Rec. Co. 1958) (original issue: Decca LXT5495–97/SXL2101–3, March 1959).

¹⁵DWORKIN, *supra* note 13, at 52.

¹⁶Salvador Dalí, *The Great Masturbator*, 1929, oil on canvas, 110 x 150 cm, Museo Nacional Centro de Arte Reina Sofia [Queen Sofia National Museum Art Center], Madrid. (distinguishing creative from the interpretive mainstream within law and literature scholarship, which has traditionally been concerned more with the application techniques of literary interpretation—including those of postmodernism and post-structuralism—to legal texts, and *vice versa*. See Richard Weisberg, *Literature's Twenty-Year Crossing into the Domain of Law: Continuing Trespass or Right by Adverse Possession?*, in 2 *LAW AND LITERATURE: CURRENT LEGAL ISSUES* 48, 48–53 (Michael Freedman & Andrew D.E. Lewis eds., 1999). Creative interpretation, as the foregoing citations suggest, has its immediate genesis within the legal philosophy of Ronald Dworkin).

surrealism.¹⁷ This exercise is naturally constrained by the object itself: It would be nonsensical to argue that *The Great Masturbator* is truly a commentary upon the discovery of the Higgs boson, just as it would be implausible to contend that *Rainy Taxi* is really a portrait of Donald Trump.¹⁸ Therefore, although creative interpretation should always seek to make of its object the best that possibly can be made, it must also maintain plausible fidelity. This follows because, in normative terms, the very act of seeking meaning within an object assumes both the value of truth-seeking as such and the possibility of locating value within the object itself.¹⁹

Rheingold presents a particular challenge for creative interpretation because its form and genre are so complex. Wagner thought of his *Musikdrama* as *Gesamtkunstwerke* (total artworks), insofar as they combined several discrete art forms—music, poetry, and theater—within a unified performance.²⁰ For this reason, it would demonstrate a problematic lack of fidelity to interpret the libretto of *Rheingold* in abstraction from its score or potential visual effect: It can only be interpreted as a *musikdrama*. This being so, any search for jurisprudential meaning within *Rheingold* cannot come at the expense of divorcing it from its essence as a performance to be seen, heard, and experienced emotionally. The hope instead must be that whatever legal meaning can be located within Wagner's work will enhance these elements, rather than detract or distract from them. Moreover, insofar as *Rheingold* itself presents the opening of a modern myth, fidelity requires that its libretto, score, and potential for staging each be viewed as component mythological articulations, which means as primarily symbolic, rather than allegorical.²¹ There are also important evaluative reasons for adopting this view, concerning the relationship between symbolism and drama. To quote from Scruton:

In allegory two stories are told, one the explicit story, involving character, action, place and time, the other the implicit or esoteric story, concerning abstract ideas, cosmic forces and moral doctrines Symbolism is distinguished from allegory in that the symbol both expresses a meaning and also adds to it, so that meaning and symbol are to a measure inseparable.²²

This *additive* nature of symbolism is crucial to the dramatic value of mythology because myths are necessarily informative and pedagogical. Their dramas tell us something about the concepts symbolized within them, as in the case of Heracles: an early Western exemplification of great power bringing with it great responsibility. Allegory, by contrast, necessarily involves the replacement of one story with another insofar as the explicit story is subverted, at the level of meaning, by its implicit counterpart. For this reason, symbolic works are always *more* than they appear, whereas allegorical works are very often *less*. This is the crux of Cooke's powerful argument against Jungian interpretations of *The Ring Cycle*,²³ which is worth reproducing at length:

The fatal defect of Jungian interpretation is that it simply imposes its own categories on the work interpreted. Sieglinde and Brünnhilde have to be anima-figures, Hunding and Hagen have to be representations of the shadow, the dragon has to be the Terrible Mother, because these are the only categories available. Just so, in *Hamlet*, say, Ophelia would have to be Hamlet's anima, Claudius his shadow, and Gertrude the Terrible Mother, and the whole

¹⁷DWORKIN, *supra* note 13, at 52.

¹⁸Salvador Dalí, *Rainy Taxi (Mannequin Rotting in a Taxi-Cab)*, in *Teatre-Museu Dalí [Dalí Theater and Museum] Figures, Spain* (1938).

¹⁹RONALD DWORKIN, *JUSTICE FOR HEDGEHOGS* 130 (2011).

²⁰WAGNER, *supra* note 8, at 20–21, 28–29.

²¹ROGER SCRUTON, *THE RING OF TRUTH: THE WISDOM OF WAGNER'S RING OF THE NIBELUNG* 31–38 (2016).

²²*Id.* at 188; HANS-GEORG GADAMER, *THE RELEVANCE OF THE BEAUTIFUL AND OTHER ESSAYS* 32–37 (Nicholas Walker trans., Robert Bernasconi ed., Cambridge Univ. Press 1986) (1977).

²³*See generally* ROBERT DONINGTON, *WAGNER'S 'RING' AND ITS SYMBOLS: THE MUSIC AND THE MYTH* (3rd ed. 1976).

work would have to be treated as a therapeutic development of the psyche; likewise, the last stage would have to be nobody's actual death, but a general rebirth, reception for the shadow, which would disappear, leaving the psyche in one final healthful state of transformation—and the peculiar quality of the masterpiece *Hamlet* unilluminated.²⁴

The point here is not that wholly allegorical interpretations fail in terms of fidelity, although that may also be true. Rather, as Cooke's comparison with *Hamlet* shows, allegory locates meaning externally, such that the artwork itself is only a receptacle of that supposed truth rather than a contribution towards it. Symbolic works, by contrast, always claim to tell us something new about the concepts with which they engage. It is the *drama* of Heracles's labors that show us how it is through virtue and service, rather than physical might alone, that mortals obtain absolution. We learn about strength and its relationship with ethics by contemplating such tales. With allegory it is different: Once detected, allegory informs nothing more than the meaning of the particular work in question. Indeed, when faced with truly allegorical works, we cannot understand them without *already* comprehending the external matter to which their meaning is subservient. For this reason, to put matters crudely, works of symbolism are evaluatively superior, *qua* cultural contributions, to mere allegories.

When seeking to understand *Rheingold* as a work of legal philosophy, all of this means that we must be exacting in what we require from creative interpretation. Any plausible interpretation of this sort must engage with *Rheingold* as a work of symbolism that sits within a larger mythical tetralogy, which itself comprises a *gesamtkunstwerk* of unified music, poetry, and theater. Moreover, these sonic, literary, and dramatic components must be constructed in such a way that their contribution to our understanding of jurisprudential concepts is maximized, while at the same time not allowing this illuminating power to swallow whole the far broader symbolic and dramatic potential of the *Musikdrama* itself. In what follows, I attempt this by addressing my attention to four concepts—authority, legality, domination, and violence—as they arise within the libretto, score, and staging of *Rheingold*. In so doing, I focus on the representation of these four concepts through six symbols: the god Wotan, his spear, the fortress of Walhall, the dwarf Alberich, the giants Fasolt and Fafner, and the ring that Alberich creates from the stolen Rhinegold. At all points, I aim to show not only that Wagner creates significant jurisprudential content but also that, properly interpreted, *Rheingold* contains important insights of contemporary relevance to legal philosophy as a whole, delivering these insights harmonically, as well as semantically and visually. Wagnerian jurisprudence, or so I will suggest, is characterized by its pessimistic view of legality as an agent for social change and its commitment to law's essential ambiguity. It sees legality as both a social fact and an ethical ideal, and as a space within which the better impulses of humanity clash with our darker natures. For these reasons, it cannot be neatly categorized as “positivist” or “non-positivist,” nor as “critical” or “constructive.” For Wagner, as I shall attempt to illustrate, law is fundamentally a deeply tragic thing, doomed to failure in its own lights by the tensions inherent within its own moral and conceptual structure.

C. Authority and Legality: Wotan, His Spear, and the Fortress of Walhall

In this section, I begin outlining the claims of Wagnerian jurisprudence by utilizing creative interpretation to locate discrete conceptions of authority and legality within three symbols that Wagner creates within the music, poetry, and drama of *Rheingold*. The first of these is the god Wotan, who along with the Valkyrie Brünnhilde and the chaotic hero Siegfried is as close to a protagonist as we come in *The Ring Cycle* as a whole. Wotan is only very loosely based upon his cognate deity in Germanic and Norse mythology, having far more in common dramatically

²⁴DERYCK COOKE, I SAW THE WORLD END: A STUDY OF WAGNER'S RING 31–32 (1992).

speaking with the Ancient Greek Zeus.²⁵ But in addition to being a truly horrendous husband and father,²⁶ any plausible interpretation of his symbolic meaning ties Wotan closely to both authority and legality, the latter of which encompasses both the rule of law, understood as a normative ideal, and rule by law, in the sense of governance through norms. To quote Magee:

His is the first law, the beginning of law *as such* . . . It is based entirely on peaceful consent, agreements, contracts and treaties. The symbol of this power is Wotan's spear. He always carries it, not because he stabs people with it (he never does), but because the contracts and treaties that constitute the world-order that he has established are carved on its shaft, and he is their guardian . . . But of course symbolism tells us that even the most consensual and minimal order can obtain only if it is backed by the possibility and the show of force.²⁷

Magee is essentially correct here, although he must be amended on one point: Wotan's spear is a symbol of *manifested practical authority* and not of either political power or instrumental violence,²⁸ a fine yet important distinction.²⁹ A similar conflation is made by Kitcher and Schacht, who conceptualize Wotan's practical authority in their analysis as "the ability to *make things happen*—the power (of one sort or another) to impose his vision of things and his designs upon others."³⁰ The essential point, however, is that Wotan himself fulfils the role of "Mr. Law-and-Order" within Wagner's myth,³¹ symbolizing not only law itself but also elements of the modern state: a mode of political organization that developed, in Germany at least, during Wagner's lifetime.³² Indeed, many dark and sinister elements within *The Ring Cycle* can be read as reactions to contemporary statehood and economic-cum-social power that supports it. Interestingly, however, though Wotan is by his own admission deceitful and megalomaniacal,³³ his motivations are noble. To quote Kitcher and Schacht:

By the time we meet him, Wotan understands very well the force of dark instincts that motivate some of his fellows and the need for a comprehensive solution to the problems they present if things are ever to go differently. The rule of law he establishes is intended to tame them, to bind all in a covenant of light.³⁴

²⁵SABOR, *supra* note 2, at 76–107; see also ÁRNI BJÖRNSSON, WAGNER AND THE VOLSUNGS: ICELANDIC SOURCES OF DER RING DES NIBELUNGEN (2003) (giving a detailed examination of Wagner's deviation from the poetic edda).

²⁶Wotan is routinely unfaithful to his wife, allows his son to be killed, and imprisons his daughter on a mountain top. See SABOR, *supra* note 14, at 61–63. See also RUDOLPH SABOR, RICHARD WAGNER—DIE WALKÜRE: TRANSLATION AND COMMENTARY 125, 179–81 (1997).

²⁷MAGEE, *supra* note 3, at 111.

²⁸In Sabor's translation and commentary, he labels a separate leitmotif 'authority' RUDOLPH SABOR, RICHARD WAGNER—SIEGFRIED: TRANSLATION AND COMMENTARY 20, 56 (1997). However, this element of the score is absent in *Rheingold* (it first appears in Act I, Scene II of *Siegfried*) and is more appropriately seen as invoking the *existence* of the spear, rather than its *use*. Its musical form is an inversion of the spear leitmotif, representing the weapon pointed up, in rest, rather than down, in command. Cooke refers to this leitmotif simply as "spear inversion." See VIENNA PHILHARMONIC & GEORG SOLTÍ, *Wager: Der Ring des Nibelungen—An Introduction by Deryck Cooke*, in AN INTRODUCTION TO DER RING DES NIBELUNGEN (Decca Rec. Co. 1968).

²⁹Power, in the relevant sense, might either mean the capacity to affect change within the social world: See STEVEN LUKES, POWER: A RADICAL VIEW 60–72 (2nd ed. 2004); or the collective potency of the many, when compared to the individual capacity of the few: See HANNAH ARENDT, ON VIOLENCE 35–56 (1970). Wotan clearly has quite considerable power of the first sort, although it rarely seems to emanate from his spear. Violence, in the relevant sense, is the—technological—capacity of discrete groups or individuals to threaten physically or overwhelm larger groups. See ARENDT, ON VIOLENCE at 42. Were the spear a symbol of violence, Wotan would use it as a weapon, which he never does.

³⁰PHILIP KITCHER & RICHARD SCHACHT, FINDING AN ENDING: REFLECTIONS ON WAGNER'S RING 26, 135–39 (2004).

³¹*Id.* at 34–35.

³²SABOR, *supra* note 2, at 36–38; MAGEE, *supra* note 3, at 23–47.

³³SABOR, *supra* note 26, at 89.

³⁴KITCHER & SCHACHT, *supra* note 30, at 75.



Figure 1. The top half of the original frontispiece to: Abraham Bosse, *Leviathan or The Matter, Forme and Power of a Commonwealth Ecclesiastical and Civil*.³⁵

He is akin, in this respect, to the sovereign “head” of the Hobbesian leviathan, pictured in Figure 1 below, which brings order from chaos through an authority granted by contract—the *power* to do so being concurrently created through the collective force that such authority marshals.³⁶ Like Hobbes himself, Wotan recognizes that “the state of man can never be without some incommmodity or other; and the greatest, that in any form of government can possibly happen to people in general, is scarce sensible, in respect of . . . that dissolute condition of masterless men, without subjection to laws.”³⁷

This drive towards order and authority is essential to Wotan, as he tells his daughter Brünnhilde in Act 2, Scene II of *Die Walküre*: “When youthful love began to grow old, I longed to be lord of life. By bold ambition, driven and drawn, I won myself the world.”³⁸ Wotan’s longing, which he discloses in this scene, is reflected in his dream of Walhall, during Scene II of *Rheingold*, which sees him fantasize: “These halls of heavenly bliss are guarded by gates and bolts. Manhood’s honor, measureless might: promise of peerless renown.”³⁹ The darkly carceral image of “gates and bolts” is powerfully ironic, given the eventual fate of the gods in *Götterdämmerung*,⁴⁰ but it also

³⁵Abraham Bosse, *Leviathan or The Matter, Forme and Power of a Commonwealth Ecclesiastical and Civil* (illustration), in THOMAS HOBBS, *LEVIATHAN* (1651), preceding p. 1.

³⁶THOMAS HOBBS, *LEVIATHAN* 87–97, 107–10, 114–18 (Richard E. Flathman & David Jonston eds., W.W. Norton & Co. 1997) (1651) (within the striking frontispiece to *LEVIATHAN* reproduced in Figure 1, the sovereign ruler is symbolized by head, temporal authority by the sword in the Leviathan’s right hand, spiritual authority by the miter in their left, and the collective power upon which all the above depends by the multitudes that make up their torso and arms. There is much within Wagnerian jurisprudence that is, in one way or another, fundamentally Hobbesian).

³⁷*Id.* at 122.

³⁸SABOR, *supra* note 26, at 89.

³⁹SABOR, *supra* note 14, at 59.

⁴⁰See RUDOLPH SABOR, RICHARD WAGNER – *GÖTTERDÄMMERUNG: TRANSLATION AND COMMENTARY* 193–95 (1997) (showing they burn to death within Walhall, as the Rhine floods and the world is born anew).

such occasions. For example, when in *Rheingold* Donner threatens to attack the giants with his hammer, Wotan holds forth the spear and proclaims: “Hold you hothead! Nothing by force! All bonds abide by my sacred spear. Strike not a single blow!”⁴⁹ The spear leitmotif accompanies this act, cementing the authority of Wotan within the mythological soundworld. The god’s abhorrence of violence by others signifies not only the Weberian proposition that states must claim a monopoly upon legitimate force, a point to which I return below,⁵⁰ but also that Wotan himself operates at the level of normativity alone. This is further reinforced by both his characterization of the spear as “sacred” and his reference to its physical form: upon the shaft of that weapon are carved the very treaties and contracts from which Wotan’s authority is derived. We first encounter this powerful imagery in the admonition of Fasolt that Wotan must honor “[w]hat [his] spear spells,” whereupon the giant warns: “Son of light, light of justice, listen and beware: to treaties be you true! What you are, you are only by treaties; and bound by rules, there are bounds to your reach.”⁵¹ That Fasolt is correct about Wotan is confirmed by the god himself in his later admissions to Brünnhilde.⁵² Yet perhaps more interestingly for present purposes, the giant’s remarks also track several important insights about the relationship between law, authority, and violence that can also be found in contemporary legal theory, developed long after Wagner’s own contribution.

Coercion, we now know, is only ever the law’s Plan B. Plan A is that its subjects should conform to it without further supervision.⁵³ Confirmed by Raz’s famous “society of angels” thought experiment,⁵⁴ this insight fits the mode of authority exercised by Wotan—the spear is brandished in expectation of compliance, not wielded to threaten with deadly force, and when finally met by a symbol of overwhelming force and total freedom in the form of Siegfried’s sword, it shatters. Moreover, the very idea of authority established, and so constrained, by treaty not only invokes the social contract tradition, which Wagner would have been familiar with through Kant,⁵⁵ but also reflects broader sensibilities that the acquiescence or tolerance of the governed is at least characteristically a necessary condition for the stability of political rule.⁵⁶ Furthermore, the notion of legal authority as necessarily self-limiting plays both upon Dworkin’s observation that “the most abstract and fundamental point of legal practice is to guide and constrain the power of government,”⁵⁷ as well as upon claims that *constituted* legal authority is so tied up with the *constituent* potential of multitudes coming together to form polities that it is difficult to draw sharp lines between these two things.⁵⁸

Wagner’s poetic, visual, and harmonic representation of these insights through Wotan’s use of the spear pulls them together into an accessible symbolism that is recognizable by his audience at the intuitive level. In these parts of the drama, legal philosophy is communicated viscerally, rather than conceptually, while losing none of its complexity. Indeed, the capacity of *Gesamtkunstwerke* to layer symbolic meaning within single scenes—or even within mere moments of musical expression—arguably makes it a more nuanced—if less explicit or precise—means for the communication of these ideas than philosophical prose. Given that Wagner is not burdened with the need to advance an argument, but only to suggest meaning through symbolism, he can move

⁴⁹SABOR, *supra* note 14, at 73.

⁵⁰Max Weber, *Politics as a Vocation*, in FROM MAX WEBER: ESSAYS IN SOCIOLOGY 77, 77–80 (Hans Gerth & Charles Mills eds., trans., Routledge 1991) (1919).

⁵¹SABOR, *supra* note 14, at 67–68.

⁵²SABOR, *supra* note 26, at 125.

⁵³Leslie Green, *Preface to the Third Edition of HLA HART, THE CONCEPT OF LAW*, at xi (Joseph Raz & Penelope A. Bulloch eds., 3rd ed. 2012).

⁵⁴JOSEPH RAZ, PRACTICAL REASON AND NORMS 159 (1999).

⁵⁵MAGEE, *supra* note 3, at 191.

⁵⁶ARENDT, *supra* note 29, at 51; David Hume, *Of the First Principles of Government*, in ESSAYS, MORAL, POLITICAL, AND LITERARY 22, 22–23 (Eugene Miller ed., Liberty Fund rev. ed. 1987) (1777); MARTIN LOUGHLIN, THE IDEA OF PUBLIC LAW 81–83 (2004).

⁵⁷DWORKIN, *supra* note 13, at 93.

⁵⁸LOUGHLIN, *supra* note 56, at 93–113.

faster and maintain more concurrent conceptual tensions than those engaged in straightforwardly analytical work. As such, even audience members unfamiliar with academic jurisprudence will come to recognize Wotan *as* law and thereby understand law itself more clearly through an aesthetic and experiential process of symbolic recognition. Harmonies are, as the spear itself demonstrates, essential to this process.

Turning from the legality of the spear to the precise mode of practical authority it symbolizes, we learn in the Prelude of *Götterdämmerung* that it is fundamentally artificial. Wotan ripped the shaft from the World Ash, thereby killing that tree. As a Norn recounts:

From the World Ash Ttree [sic] Wotan tore a mighty branch, and a spear he shaped, a lordly spear from the stem. As time and tide grew old, sickness tormented the grove. Dry, leafless and ruined, worn, withered the tree . . . Sacred runes of trusted treaties carved Wotan on the mighty shaft. It made him the lord all [sic].⁵⁹

Wotan's contracts are marked by this artificial genesis. Unlike the oaths of lovers, which for Wagner always possess a kind of natural purity and bear the promise of redemption,⁶⁰ there is no richness or substance to the morality of Wotan's agreements: They bind purely as a matter of form. It is agreement *as such*, rather than the intrinsic value of what is agreed, that supplies his practical authority. So it is, according to Wagner, with both law and the state: Skepticism arising from the artificiality of both supplies the first major tenet of Wagnerian jurisprudence. To put this insight in contemporary philosophical terms, we might say that Wotan obligates, and is obligated, by content-independent reasons that operate in an exclusionary manner, for both himself and others.⁶¹ Wagner's god of law, it seems, is fundamentally positivist.⁶² However, this apparent endorsement of positivism on Wagner's part is political, not analytical. Wagner is communicating a claim about the nature of law that, if true, should be of considerable ethical importance to his audience: that law is not only artificial but, as a direct result, fundamentally shallow or "thin" in terms of the moral demands that it places upon us. This attitude of suspicion towards legal authority is both illustrated and compounded by the fundamental betrayal underlying the constitution of Wotan's positivist authority, symbolized by the genesis of his spear, which itself foreshadows the themes addressed in the following section. Wotan's legal order begins in much the same way as Alberich's regime of domination: with the raping of nature by a violent removal of something precious from its original state.⁶³ This perhaps not only explains Wotan's willingness to wriggle out of his own contracts—he understands that their artificiality discloses their hollowness—but also the almost wretched naiveté with which he pursues Walhall, the symbol to which I now turn.

So far, I have concentrated largely upon rule *by* law and the practical authority that Wotan wields in order to affect its operation. But Wotan is clearly in search of something else—his quest for authority is incomplete when we first meet him—and before he learns of Alberich and the ring, this additional element is quite clearly the fortress constructed by Fasolt and Fafner. I consider the role of the giants in the creation of Walhall within the following section. For now, my focus is upon the fortress itself and what it means for Wotan, and therefore, to some extent, also to Wagner. At the physical level, Walhall provides security and a powerbase from which to rule.⁶⁴ However there is more to it than that; when asked about its name, he explains: "Audacious and

⁵⁹SABOR, *supra* note 40, at 25.

⁶⁰MAGEE, *supra* note 3, at 56–57, 60, 93–94.

⁶¹JOSEPH RAZ, PRACTICAL REASON AND NORMS 35–48, 51, 65–71 (1999).

⁶²I rely here upon the 'LP*' formulation of legal validity from John Gardner. See John Gardner, *Legal Positivism: 5½ Myths*, 46 AM. J. JURIS. 199, 200 (2001).

⁶³SABOUR, *supra* note 14, at 67.

⁶⁴*Id.* at 59.

free, Conceived by my will, Victorious life, That is what Walhall means.”⁶⁵ The fortress is clearly an apex achievement in Wotan’s eyes, but why? Understanding the answer to this question, and the tension it creates with the artificial, archetypically positivist characterization of law just canvassed, is essential to comprehending a crucial duality presented by Wagnerian jurisprudence.

For Kitcher and Schacht, Walhall is little more than one “instrument through which the rule of law can be universally accomplished and secured.”⁶⁶ But to view it as an “instrument” underestimates its symbolic significance. Indeed, *qua* fortress, this comes close to denying that it has any further significance at all. Magee makes a similar error, viewing the fortress as nothing more than a place from which to “[rule] the world in splendor.”⁶⁷ From a jurisprudential perspective, the difficulty with both views is their location of legality *only* in Wotan’s spear—only, that is, in rule *by* law, which they then conflate with the rule of law, thereby missing the discrete value of the latter. Wotan sees that value: a point that Scruton comes close to identifying when he speaks of “all the trappings of authority symbolized by the castle of Valhalla,” with its “hymn in D flat major,” pictured in Figure 3.⁶⁸ However, this is still not quite right. True, contemporary law is often surrounded with pomp; however, Wotan is a political pragmatist.⁶⁹ He would not risk so much for the *appearance* of splendor alone. When the god invites his wife—herself a symbol for both domestic harmony and conventional morality⁷⁰—to dwell within the fortress with him, he declares: “Hail, fortress, to you! Nevermore dread and care. Follow me, wife! Let Walhall harbor us both!”⁷¹ But what could Wotan dread, having himself previously proclaimed: “When strength is called for, I need no one’s assistance?”⁷² He dreads both Alberich and the ring, certainly, for the reasons I canvass below, however his apparent need for “gates and bolts,” not to mention his desire for “honor,” predate his fear of both.⁷³ Comprehending what motivates Wotan here is key to understanding both the depth of Wagner’s legal-philosophical insight and the extent of his hitherto unrecognized contribution to our understanding of law.

I suggest that Walhall above all represents an *ideal* for Wotan, a completion of his original project of instantiating law and order within the world. This ideal is the true essence of legality—the rule *of* as opposed to *by* law—and is indispensable to Wotan because he believes that it will provide normative legitimacy to the hollowness of his treaty-based regime. Crucially for the Wagnerian conception of legality, this hope turns out to be illusionary. As Donington correctly observes, even in triumph Walhall seems somehow shabby, with the Rhinemaidens railing against injustice outside its walls;⁷⁴ and Wotan ultimately burns alive, unmoving upon its throne, smiling grimly at an end brought about by mortal beings both lesser and greater than himself.⁷⁵ But even in its shabbiness, Walhall tells us something indispensable about the relationship between law’s authority and its own normative ideal. This insight forms the second major tenet of Wagnerian jurisprudence. To understand it, we must turn from the libretto of *Rheingold* to its score, which conveys much of the meaning necessary to comprehend legality as an ideal within Wagner’s thought.

⁶⁵*Id.* at 171.

⁶⁶KITCHER & SCHACHT, *supra* note 30, at 83–84.

⁶⁷MAGEE, *supra* note 3, at 198.

⁶⁸SCRUTON, *supra* note 21, at 164.

⁶⁹SABOR, *supra* note 14, at 61.

⁷⁰KITCHER & SCHACHT, *supra* note 30, at 37–42.

⁷¹SABOR, *supra* note 14, at 169.

⁷²*Id.* at 65.

⁷³SABOR, *supra* note 14, at 59. Interestingly, the ring leitmotif plays when Wotan utters these words, suggesting even then that his need for Walhall is somehow connected to the existence of the ring within the world, even though he is not aware of this.

⁷⁴DONINGTON, *supra* note 23, at 115.

⁷⁵SABOR, *supra* note 40, at 193–95.

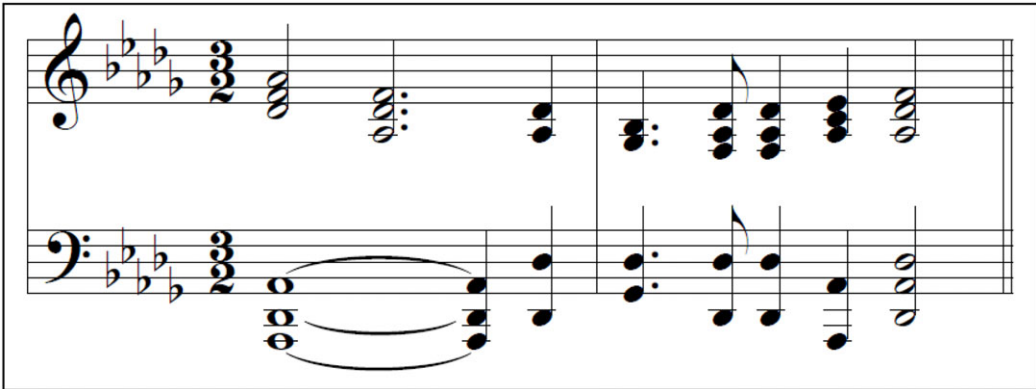


Figure 3. *Walhall* Leitmotif

The Walhall leitmotif is a sweeping D flat major progression that falls and rises, ending tantalizingly close to where it began—pictured in Figure 3 below. Wagner’s use of the major key communicates stability and light, which stands in sharp contrast to the minor key setting of the ring leitmotif—pictured in Figure 5. There is a self-sustaining impression to the phrase, akin almost to sonic autopoiesis, even though, when heard in some dramatic contexts, it might be thought to end upon a question. The rhythm is steady and even, with ties in the first bar of the bass line that create an impression of solidity. It is, above all else, a fundamentally uplifting theme, which to my ears at least is less “hymnal”—contra Scruton—and more heady, almost ecstatic. If I were to put matters crudely, I would say that this is *the sound that legality itself makes*, at least when it is viewed as something to which we should aspire. Wagner attempts to give us something akin to a glimpse of law as a Platonic Form here⁷⁶—a sonic impression of law’s most abstract noumenal reality.⁷⁷

What should we draw from this fabulous piece of composition? In my view there are three connected things. First, its major key, bass line bridge, and steady rhythm, all suggest the *form* of law, in Fuller’s sense of “the enterprise of subjecting human conduct to the governance of rules.”⁷⁸ These musical features give Walhall an impression of clarity and stability that go beyond the physical security offered by even the mightiest fortress,⁷⁹ speaking instead to the formal virtues that Raz associates with the rule of law itself: the provision of greater certainty in human affairs and a guarantee against arbitrary power.⁸⁰ These formal virtues are indispensable to Wotan, who in this dimension symbolizes law itself, because they comprise the “inner morality” that legitimizes the project of imposing order through the authoritative application of impersonal norms.⁸¹ They

⁷⁶See generally RUSSELL DANCY, *PLATO’S INTRODUCTION OF FORMS* (2024) (providing more information of Plato’s concept of the Forms).

⁷⁷MAGEE, *supra* note 3, at 126–93 (exploring how, subsequent to the writing and composition of *Rheingold*, Wagner found himself deeply drawn to Schopenhauer’s conviction that music provided one of humankind’s only means of directly engaging with noumenal reality – listening to the Walhall leitmotif, I personally find it easy to understand why).

⁷⁸LON FULLER, *THE MORALITY OF LAW* 106 (1964).

⁷⁹As Tobias Fornacke helpfully pointed out to me, the mythological Walhall/Valhalla would not have been a fortress at all but more akin to an Iron Age clan hall—a cultural, economic, political, and political meeting place with religious and military significance within the community. Such historical fidelity is absent from Wagner’s libretto; however, it is perhaps interesting to think of his Walhall in these terms. The rule of law is, above all else, a “mode of association” between members of a (legal) community. Gerald J. Postema, *Fidelity in Law’s Commonwealth*, in *PRIVATE LAW AND THE RULE OF LAW* 17, 25 (Lisa M. Austin & Dennis Klimchuck eds., 2014). That Walhall, in some iteration, might symbolize this lends an additional layer of depth to my analysis in the text.

⁸⁰JOSEPH RAZ, *THE AUTHORITY OF LAW: ESSAYS ON LAW AND MORALITY* 219–22 (1979).

⁸¹FULLER, *supra* note 78, at 33–94.

redeem his honor by justifying his enterprise and assuage whatever dread he may feel from the knowledge that he once violated the natural order. From this perspective, Walhall, and the rule of law it symbolizes, both stands in tension with the artificial nature of Wotan's positivism and operates as a salve for its moral and ethical weaknesses.

Second, the self-sustaining quality of this leitmotif perhaps recalls Luhmann's analysis of law as a uniquely self-referential social system,⁸² which speaks to the normative hegemony Wotan seeks in his attempt to wrest order from chaos. Law, to borrow once again from Raz, claims not only practical authority but *ultimate* practical authority—legal institutions claim the role of final social arbiter on the (often false) premise that they are morally justified in so doing.⁸³ Wotan's empty positivism of formal agreements needs something of this sort—some uniquely autonomous and apparently justified evaluative order—that is his and his alone, only then can he cement his position in the world as authority itself. Once again, Walhall as an ideal is both a point of tension with, and a cure for, law's artificiality. Harmonically speaking, Walhall's self-sustaining quality provides the necessary appearance of normative sufficiency and self-referentiality—an aptly haunting sonic promise that when perfect legality is achieved, no further justification for governance will be necessary. Law cohering with the spirit of legality will form an almost perfect circle, like the Walhall leitmotif itself, and need look nowhere else for normative, or harmonic, completion. Wagnerian jurisprudence is tempting us towards the idea that something like a natural law understanding of legality is *politically* essential both because of and in response to the positivist reality of law as a collection of social facts.

Third, the lightness and uplifting nature of the leitmotif, and in particular its sweep down and then up again in pitch, suggests that Walhall—and the rule of law it symbolizes—is not an empty ideal, even though it may seem shabby in the shadow of Wotan's duplicities. As even Donington is prepared to admit, "we cannot give up all that Valhalla stands for and go back to the state of nature with which Rheingold began . . . we need its uncertain shelter and its overrated justice."⁸⁴ Walhall, much like Dworkin's virtue of political integrity,⁸⁵ may well be "Justice in Workclothes,"⁸⁶ but it symbolizes a genuine kind of justice nonetheless. The sense of the sublime we experience when listening to the music of Walhall is genuine, to no lesser an extent than our sense of dread is real, when we hear the leitmotif of the ring—pictured in Figure 5. On the Wagnerian conception, legality as an ideal appears to be a genuine human good, at least when experienced in isolation from the other phenomena symbolized within Wagner's score. In dramatic terms, it is only by realizing that this mirrors something true and important about the concept of law that we can make sense of Kitcher and Schacht's intuitively appealing claim that Wotan is fundamentally a noble antihero.⁸⁷ Underhanded and even abusive he might be, but his original ideal is one with which we can empathize, particularly in view of the many other, far darker beings with which the god shares his mythological corollary to our modern world.

Putting these three symbols—Wotan, the spear, and Walhall—together, and taking particular note of the complex thematic elements contained within Wager's sonic representation of legality as an abstract ideal, we can begin to trace the outline of Wagnerian jurisprudence, which takes a very particular stance on the nature of law. Like more than one contemporary legal philosopher, Wagner conceived of law itself as more closely connected to normative authority than to either political power or violence. Moreover, his treatment of law in *Rheingold* creates a clear schism

⁸²Niklas Luhmann, *Operational Closure and Structural Coupling: The Differentiation of the Legal System*, 13 CARDOZO L. REV. 1419, 1424 (1992); GUNTHER TEUBNER, *LAW AS AN AUTOPOIETIC SYSTEM* (1993).

⁸³Joseph Raz, *Hart on Moral Rights and Legal Duties*, 4 OXFORD J. LEGAL STUD. 123, 131 (1984) (reviewing HERBERT HART, *ESSAYS ON BENTHAM* (1982)).

⁸⁴DONINGTON, *supra* note 23, at 115.

⁸⁵DWORKIN, *supra* note 13, at 165–68, 176–84.

⁸⁶Gerald J. Postema, *Integrity: Justice in Workclothes*, in DWORKIN AND HIS CRITICS: WITH REPLIES BY DWORKIN 291 (Justine Burley ed., 2004).

⁸⁷KITCHER & SCHACHT, *supra* note 30, at 75.

between the reality of rule *by* law, which is styled through Wotan and the spear to be both genealogically flawed and normatively insufficient, and an idealized rule *of* law, which through the music and poetic symbolism of Walhall is constructed to promise a self-referential and legitimate state of organized justice. Wagner's insight here is that law, if understood in the first sense alone, will necessarily be incomplete: wherever the promise of Walhall is not fulfilled, legality as an ideal type is yet to be realized.⁸⁸ That this echoes conclusions within the mature thought of scholars such as Alexy,⁸⁹ Dworkin,⁹⁰ Finnis,⁹¹ and Fuller⁹² might be unremarkable, but for the fact that Wagner was writing and composing without the benefit of a legal education and at a substantially earlier point in history, when the contemporary nation state and its associated legal traditions were just emerging in what is now the Federal Republic of Germany.⁹³ Moreover, although the rule *of* law, symbolized by Walhall, appears key to the Wagnerian conception of legality, it is telling that the fortress is never presented as somehow more essential or true than the artificial and flawed rule *by* law symbolized by Wotan's spear. Rather, the two persist in uneasy coexistence with each other, in much the same manner that Wagner's apparent positivism persists in tension with his awareness of the need for something like a natural law ideal. This is a jurisprudence of ambiguity, where law is neither neatly one thing, nor the other, but both at once. When combined with the complicating elements examined in the following section, it becomes clear that Wagnerian jurisprudence not only offers a unique object of study in both historical and methodological terms—presenting complex philosophical ideas viscerally in poetic, dramatic, and harmonic form—but also a serious contribution to the philosophy of law as such, with which contemporary scholarship would benefit from closer engagement.

D. Domination and Violence: Alberich, the Giants, and the Ring

As noted above, Wotan shares his mythological world with several far darker beings. It is to some of these that I now turn. By far the most significant is the dwarf Alberich, however given the emphasis placed upon Walhall in the previous section, I want to begin by considering the giants Fafner and Fasolt, who build the fortress under contract with Wotan. The leitmotif of these brothers is one of the most recognizable within *Rheingold*, with its steady plodding rhythm and limited written range perfectly encapsulating the physicality of the giants themselves—pictured in Figure 4 below.⁹⁴

This physicality, I suggest, also captures their symbolic place within the drama. On one level, they symbolize raw strength, which, to borrow from Arendt, constitutes the singular potency of the individual human body.⁹⁵ In jurisprudential terms, it is illuminating that Walhall—the ideal of legality necessary to legitimize the practical authority that Wotan wields—was constructed, not by the god himself, but by these two brothers. Wagner reminds us here of both the artificiality of law, in the sense of its social facticity, and the need that all normative orders have to be made real by the efforts of individuals working in concert.⁹⁶ In this respect, the physicality of the giants mirrors the

⁸⁸See MAX WEBER, *THE METHODOLOGY OF THE SOCIAL SCIENCES* 42–44, 90–107 (Edward Shils & Henry A. Finch eds., trans., The Free Press 1949) (exploring the concept of ideal types).

⁸⁹ROBERT ALEXY, *THE ARGUMENT FROM INJUSTICE: A REPLY TO LEGAL POSITIVISM* 34–37 (2002).

⁹⁰DWORKIN, *supra* note 13, at 101–07.

⁹¹JOHN FINNIS, *NATURAL LAW AND NATURAL RIGHTS* 14–18 (1980).

⁹²FULLER, *supra* note 78, at 33–94.

⁹³See generally MICHAEL STOLLEIS, *PUBLIC LAW IN GERMANY: A HISTORICAL INTRODUCTION FROM THE 16TH TO THE 21ST CENTURY* (Thomas Dunlap trans., 2017).

⁹⁴DONINGTON, *supra* note 23, at 77.

⁹⁵ARENDT, *supra* note 29, at 44.

⁹⁶It is Fasolt *and* Fafner, rather than one giant alone, who construct the fortress.

Figure 4. *Giants* LeitmotifFigure 5. *The Ring* (definitive) Leitmotif

insistence of those such as Hart and Kelsen that legal orders must be made “effective” in some sense, if they are to exist at all.⁹⁷

On a more basic level, we must surely agree with Kitcher and Schacht that, within the mythos itself, these giants are “outsized creatures of elemental appetite and desire, who live by impulse and brute strength and who regard themselves—rightly—as vulnerable to those who are cleverer.”⁹⁸ They are, in this respect, not only representative of the teaming multitudes from which Hobbesian sovereigns like Wotan draw their authority and power, but also partly constitutive of the *threats* generated by the state of nature, upon which law must be imposed to avoid a life that is “solitary, poor, nasty, brutish, and short.”⁹⁹ This is confirmed when the ring passes from Wotan to the brothers: Fafner almost immediately turns upon Fasolt and murders him, in order to claim that prize for himself. Nonetheless, even this Hobbesian moment speaks to the human subtlety of Wagner’s creation. Unlike Hobbes, who famously opines—contra Shakespeare¹⁰⁰—that “the difference between men is not so considerable,”¹⁰¹ Wagner’s giants symbolize quite different aspects of humanity. Fasolt, charmless though some find him,¹⁰² labors hard in the hope of receiving happiness through love, in the shape of Freia. Indeed, his need for her seems almost childlike.¹⁰³ Fafner, by contrast, desires the goddess only for the power she offers—her golden apples, which supply the immortality of the gods. These he is only too happy to trade for the greater power of the ring. He is violent and grasping where his brother is brute and naïve. His fratricide is evocatively captured by Sabor, who notes in the margins to his translation: “Thus dies an entirely blameless and honorable character, for love.”¹⁰⁴ Whatever we may think of Fasolt,¹⁰⁵ there is poignancy to Wagner’s warning about what happens when law—Wotan—relinquishes power—the ring—to our baser natures—the giants. What is violent and selfish within us, he communicates, is liable to murder what is childlike and naïve. In this dramatic episode, *Rheingold* once again illustrates the capacity of symbolism within a *Gesamtkunstwerke* to convey complex insights concurrently, rather than consecutively, as is

⁹⁷HLA HART, *THE CONCEPT OF LAW* 104 (Joseph Raz & Penelope A. Bulloch eds., 3rd ed. 2012); HANS KELSEN, *GENERAL THEORY OF NORMS* 138–41 (Michael Hartney trans., Oxford Univ. Press 1991) (1979).

⁹⁸KITCHER & SCHACHT, *supra* note 30, at 69.

⁹⁹See HOBBS, *supra* note 35, at 222–23; see also KITCHER & SCHACHT, *supra* note 30, at 72–74.

¹⁰⁰WILLIAM SHAKESPEARE, *KING LEAR* act 4, sc. 2, l. 27.

¹⁰¹HOBBS, *supra* note 35, at 34.

¹⁰²SCRUTON, *supra* note 21, at 61.

¹⁰³KITCHER & SCHACHT, *supra* note 30, at 69.

¹⁰⁴SABOR, *supra* note 14, at 167.

¹⁰⁵In his childishness, the giant fails to realize that one cannot labor or trade for love: one must be given it freely. Our sympathy for the giant persists, I believe, because unlike Alberich, Fasolt is never filled with resentment. Indeed, as he struggles to keep the ring, we see that this is not even for the power it bestows: “Mine is the ring! It lost me fair Freia’s glance!” His love, flawed though it may have been, was genuine. See SABOR, *supra* note 14, at 165.

necessarily the case with pure prose. Moreover, although Wagner's point is essentially Hobbesian, the visceral manner of its delivery offers us a level of intuitive emotional understanding unavailable from even the most evocatively written academic text.

Turning from the psychological to the economic, Fafner and his brother might also be thought to symbolize the power relations that exist between the state and its proletariat.¹⁰⁶ Within the Shavian allegorical-Marxist interpretation, "Godhead and Kingship," in the form of Wotan,¹⁰⁷ are complicit with capitalism, in the form of Alberich,¹⁰⁸ in using greed and the monetary economy, represented by the ring,¹⁰⁹ to alienate the proletariat—here the Nibelungs as well as the giants¹¹⁰—from the products of their labor: Walhall and the Nibelung gold.¹¹¹ Despite his celebrated insight into symbols such as the Tarnhelm,¹¹² Shaw's overall view lacks interpretive fidelity: To make his allegory work, he is forced to dismiss the majority of *Götterdämmerung* as a poetic and compositional mistake.¹¹³ There nonetheless remains an important sense in which he is correct. The material history of both positive law and Western statehood is one of class-based exploitation.¹¹⁴ Precisely because Wagner's work is *symbolic*, rather than allegorical, Wotan's exploitation of the giants is capable of admitting this additional layer of meaning, notwithstanding its Hobbesian overtones and the positive connotations that seem inseparable from the appearance in the score of symbols like Walhall. Wagner's social and political thought is, above all, *complex*.

Indeed, as noted above, it is the hallmark of legal symbolism within *Rheingold* that law has no singular essence but rather an overlapping set of different properties, many of which sit in fundamental tension with each other. This emphasis upon irreducible complexity and necessary conceptual conflict is the third distinguishing tenet of Wagnerian jurisprudence, sitting alongside the aforementioned opposition between law as social reality and justificatory ideal. In the face of such conceptual conflict, Wotan seeks coherence through global order, as all law must,¹¹⁵ through his various schemes and political exchanges. However, he finally, and inevitably, fails. His dream of Walhall as an ideal is ultimately just that, which he comes to realize before the end.¹¹⁶ With this in view, and before considering the dramatic role of Alberich, we must now consider the ring itself. Within the drama, the ring represents a potent threat to Wotan and the gods,¹¹⁷ as well as the existential rejection of love by Alberich, who creates it in order to gain mastery over the world, in much the same way that Wotan crafted his spear. It symbolizes many things, including the Shavian monetary economy, but most importantly for present purposes, the power to dominate others—obliging, rather than obligating them to obey, to borrow a distinction from Hart.¹¹⁸ Unlike the physical might of the giants, the power of the ring is an artificial one, emanating from the creation of something fundamentally wrong from the raw matter of the universe. This is symbolized by Wagner within the score, with the ring leitmotif sweeping down and then up again in the minor key, creating a sense of deep unease—pictured below in Figure 5.

¹⁰⁶SHAW, *supra* note 11, at 13–14, 23–24.

¹⁰⁷*Id.* at 30.

¹⁰⁸*Id.* at 11, 23–25, 62–64.

¹⁰⁹*Id.* at 24–25, 36, 49.

¹¹⁰*Id.* at 13–14, 16–17.

¹¹¹*Id.* at 62–63.

¹¹²*Id.* at 16 ("This helmet is a very common article in our streets, where it generally takes the form of a tall hat. It makes a man invisible as a shareholder, and changes him into various shapes, such as a pious Christian . . .").

¹¹³*Id.* at 39–40, 45–48, 56–71.

¹¹⁴*Id.* at 12–13. See generally NTINA TZOUVALA, CAPITALISM AS CIVILISATION: A HISTORY OF INTERNATIONAL LAW (2020); HUGH COLLINS, MARXISM AND LAW (reissued ed. 1984).

¹¹⁵MAGEE, *supra* note 3, at 115.

¹¹⁶KITCHER & SCHACHT, *supra* note 30, at 134.

¹¹⁷*Id.* at 36.

¹¹⁸HART, *supra* note 97, at 6–7, 82–91.

It is no accident that the chord sequence of this phrase is the same as that of the Walhall leitmotif. The ring is Walhall's sonic correlative: where the fortress inspires an ideal, the ring discloses a dark dystopian promise. It is the sound of law as it is used by the power-hungry and violent—an "anti-ideal," or antithesis,¹¹⁹ as it were. As put by Scruton, it signifies "the human disposition to see all things as means and nothing as an end in itself; it is a symbol of power and the lust for it, of exploitation, of the desire to possess."¹²⁰ The features I noted above in relation to Walhall all find themselves mirrored darkly within the sound of this ring. The minor key gives the tempo of this phrase a halting, almost revenant-like sickliness, which speaks to an irresistibility in place of Walhall's solidity. Its descending ties and upwards sweep convey a yearning covetousness where the fortress invokes self-reflexivity, and while both Walhall and the ring might be perceived as ending on a question, in the case of the ring this question is corruptingly solicitous.

The ring, in these dimensions, symbolizes domination of the Other through coercion, understood as an exploitation of our capacity to reason through alteration of our available options,¹²¹ which contemporary states typically accomplish through the threat of collective force.¹²² This power for coercion is evinced by the words of Mime, Alberich's terrified brother, when he cries "With that ring he can lord it over Nibelheim's hidden host . . . now he compels us to creep into caverns, for him alone to sweat and to slave."¹²³ That Wagner makes the ring a sonic mirror of Walhall within the minor key displays not only dramatic and harmonic accomplishment but also jurisprudential insight; the symbolism of necessary connection that this creates communicates two claims central to the Wagnerian conception of legality. First, although it may be indispensable to us, the use or misuse of law can pose an almost overwhelming threat:¹²⁴ In the hands of those like Alberich, law and the state are always weapons of tyranny and oppression. Second, this danger is no less inherent to the concept of law than is the ideal of legality itself and it cannot be plausibly claimed that the "light" of Walhall is more essential to legality than the "darkness" of the ring.¹²⁵ Wagner is not, by any stretch of the imagination, an optimist when it comes law's socially transformative potential. Indeed, he is deeply pessimistic.

It is precisely because it represents not just such a potent threat but also the dark side of legality itself that Wotan, the god of law, feels that he must possess the ring. "Mine the ring! Not yours but mine! Rant and rave as you will." Wotan cries, as he rips it from Alberich's finger.¹²⁶ But there is no sense in which we believe that Wotan seeks this prize for his own aggrandizement. True, in triumph he claims, "I hold what makes me supreme: of lords the omnipotent lord."¹²⁷ However, from one perspective this invokes merely the Weberian notion that a state established by law necessarily claims a monopoly upon legitimate force: while the ring exists in the world, Wotan must seek to have it upon his finger.¹²⁸ The ring, when viewed in this light, is something to be kept safe by the master of Walhall, for only in the hands of an authority that binds by virtue of legality

¹¹⁹See Mark Berry, *Hegel*, in *THE CAMBRIDGE WAGNER ENCYCLOPEDIA* 190 (Nicholas Vazsonyi ed., 2013) (showing that while Wagner was no great fan of Hegel, he would have been aware of that philosopher's use of the concept).

¹²⁰SCRUTON, *supra* note 21, at 188–89.

¹²¹ROBERT NOZICK, *SOCRATIC PUZZLES* 15–44 (1997).

¹²²Weber, *supra* note 50, at 77–80.

¹²³SABOR, *supra* note 2, at 111.

¹²⁴See Rober M. Cover, *Violence and the Word*, 95 *YALE L.J.* 1601, 1601 (1986); JOHN LOCKE, *SECOND TREATISE OF GOVERNMENT* 10, 42–45, 46–50 (C.B. Macpherson ed., Hackett Publ'g Co. 1980) (1689).

¹²⁵This claim, which will be familiar to many readers from various branches of critical legal theory, is what distinguishes Wagner from "natural lawyers", such as Dworkin or Fuller, whose conclusions his representation of Walhall might otherwise be thought to echo more or less completely.

¹²⁶SABOR, *supra* note 2, at 147.

¹²⁷*Id.*

¹²⁸It is perhaps this that inspired Nietzsche, who was heavily influenced by Wagner, to write of the state: "'On earth there is nothing greater than I; it is I who am the regulating finger of God,' thus roareth the monster." FRIEDRICH NIETZSCHE, *THUS SPOKE ZARATHUSTRA: A BOOK FOR EVERYONE AND NOBODY* 11. XI (Graham Parkes trans., Oxford Univ. Press 2005) (1883).

can the dominating power of the ring be held as a justifiable deterrent.¹²⁹ But this analysis, persuasive though it might be, comes close to committing the mistake of allegory. Wotan symbolizes both law and the state, however these concepts do not exhaust his meaning, nor does he exhaust theirs. To see the true nuance in Wagner's myth, we must, finally, consider Alberich.

Alberich is the original lord of the ring, through which he masters the dwarven realm of Nibelheim, as Wotan is the master of Walhall and the wielder of the sacred spear. However, the parallels do not end there. Indeed, in *Siegfried*, Wotan goes so far as to call himself *Licht-Alberich* (Light-Alberich) and the dwarf *Swartz-Alberich* (Dark-Alberich), acknowledging explicitly the extent of the connection between them. Magee is worth quoting from at length on this point:

Alberich and Wotan represent the two most familiar faces of political power, and are very much two sides of the same coin: on the one hand naked violence, administered with terror and the whip, the sort of brute force that treats other people as objects if not obstacles, the variables in Lenin's question, 'Who whom?'; and on the other hand civilized order founded on the rule of law, agreements, contracts, all of which embody respect for the Other. The reason they are two sides of the same coin is that even Wotan's well-intentioned, non-violent rule involves him in perpetual injustice: he gets entangled in grubby compromises, he breaks promises, he cheats people, he steals, all in the attempt to establish and maintain what are essentially civilized values.¹³⁰

Correcting again for Magee's conflation of power and authority, and further conflation of coercion and force, this argument goes to the heart of both Alberich's symbolic importance and his dramatic relation to Wotan. Alberich is distinct from Wotan insofar as, unlike the god—who grounds his authority in the formal but nonetheless egalitarian bonds created by treaties—the dwarf “does not put his will *into* the other, so as to see the other as a free being like himself: he exerts his will *over* the other, whom he treats merely as a tool.”¹³¹ He symbolizes law and the state at its worst and most unfeeling.

However, his relationship with Wotan once more teaches us something important about law as such on the Wagnerian conception. Just as the harmonic parallel between Walhall and the ring communicate a necessary tension within legality at the abstract level of ideal and antithesis, the poetic and dramatic mirroring of Wotan and Alberich imply the same at the concrete level of social instantiation. This is the fourth tenet of Wagnerian jurisprudence: law as it exists within our world is always *both* the ideal and its own betrayal; it exists nowhere as *either* one *or* the other.¹³² In *Götterdämmerung*, when Walhall burns, the Rhine also floods, claiming the ring into the depths from whence it came; as Wotan dies, the splinters of his spear clutched in his hands, so too is Alberich's son Hagen pulled into the river by the avenging Rhinemaidens.¹³³ Viewed in this codependent light, when Wotan proclaims of the stolen ring, “I hold what makes me supreme: of lords the omnipotent lord,” there is a sense in which he is literally correct—the ring *always was* what made him supreme, because it is the source of Alberich's power, and the two cannot be neatly

¹²⁹SABOR, *supra* note 2, at 83; *see also* ALEX GREEN & JENNIFER HENDRY, *LEGAL PLURALISM: NEW TRAJECTORIES IN LAW* (2024) (characterizing this legitimating power of law in terms of a solution to what they call the autonomy and equality problems).

¹³⁰MAGEE, *supra* note 3, at 115.

¹³¹SCRUTON, *supra* note 21, at 219.

¹³²*See* GREEN & HENDRY, *supra* note 129 (exploring how this dynamic poses one of the most enduring problems for non-positivist legal theory); *see also* Alex Green & Jennifer Hendry, *Ad Hominem Criminalisation and the Rule of Law: The Egalitarian Case Against Knife Crime Prevention Orders*, 42 OXFORD J. LEGAL STUD. 634 (2022).

¹³³SABOR, *supra* note 40, at 195.

separated out.¹³⁴ The war between Wotan and Alberich, fought through mortal proxies throughout the remainder of *The Ring Cycle*, is from this perspective an eternal war for the soul of legality itself, which can only end when both aspects of law vanish altogether. This being so, at least as far as *Rheingold* is concerned, the ultimate substantive contribution of Wagnerian jurisprudence to contemporary legal philosophy is to remind us that, at both the abstract and the concrete levels, law is a phenomenon in constant tension with itself and those who rely upon it to the exclusion of all else are, for better and for worse, balancing upon a tightrope between the fire and the flood.

E. Conclusion: The Beginning of the End

The drama of *The Ring Cycle* is one of terrifying dragons, uncompromising heroes, secret love potions, and magic swords. Within that tetralogy, *Rheingold* is a tale of beginnings, invoking the ancient mythological figures of dwarves, giants, and gods to construct an entangled cosmology within which the characters of *Die Walküre*, *Siegfried*, and *Götterdämmerung* grapple in a seemingly hopeless struggle for purpose and resolution. However, it is also a quintessentially modern myth, possessing a layered symbolism that permeates not only its libretto and potential staging but also the soundworld created by Wagner's score. There can most likely be no *single* meaning to any artistic work on this scale—in the doubtful event that the scale of any other art even remotely approximates it. In this Article, I have teased out just a few meanings from that broader *Gesamtkunstwerk*, utilizing creative interpretation to understand *Rheingold* as a *Musikdrama* with deep jurisprudential implications. My primary aim in so doing was to demonstrate that, notwithstanding the degree to which he has been overlooked in this respect, Richard Wagner was a profound jurisprudential thinker whose visceral portrayal of many familiar themes within contemporary legal theory merit far greater attention than they have hitherto received. Moreover, by using *Rheingold* to demonstrate that musical representation can achieve the symbolic communication of complex legal-philosophical ideas, I have sought to broaden our current understanding what might count as a serious work of legal philosophy. We should, as I have implied throughout, close our books from time to time and go to see an opera.

There is also value to be gained, or so I have argued, from the substantive content of what I called “Wagnerian jurisprudence.” This discrete perspective on the nature of law construes both statehood and legality as essentially conflicted practices and ideals, as well as sites of contestation between the darker and more noble aspects of authority and social control. Wagnerian legality is in one sense positivist, seeing law as built upon artificial and ultimately hollow foundations, but by virtue of this very weakness it necessarily longs for the kind of moral substance and deep internal justification characteristically claimed by natural law philosophies. From the heights of Walhall, Wotan points his spear tip down, dreaming of an ordered world he is forever impotent to realize. Thus, legal positivists are challenged by Wagner to accept the inescapable connection between law and the ideal. But the Wagnerian state is dangerous: it promises security but in so doing must wield the terrible power of the ring—domination and violence under the guise of order. From Nibelheim's depths, the tyrannical Alberich rages in the dark: “Beware! Beware of my legions of night! For soon the Nibelung gold shall rise and ravish the world.”¹³⁵ *Rheingold*, in combination with the tetralogy's subsequent *Musikdrama*, teaches us that we cannot have *Licht-Alberich* without opening the door to *Schwartz-Alberich* as well. In this way, those with natural law leanings are also challenged to grapple with recalcitrant social reality, which pulls our eyes away from the ideal and towards material injustice. In a letter to his friend August Röckel, Wagner wrote: “Make

¹³⁴To speculate once again, this awareness of necessary duality may well have inspired Nietzsche to declare: “The state, I call it, where all are poison-drinkers, the good and the bad: the state, where all lose themselves, the good and the bad: the state, where the slow suicide of all—is called ‘life.’” NIETZSCHE, *supra* note 128.

¹³⁵SABOR, *supra* note 14, at 121.

sure you understand Wotan, he resembles us in all respects.”¹³⁶ He was quite correct: we too have made treaties and contracts, both as lawyers and as citizens, in search of an ordered world. Faced with our plurality and vulnerability, we sign away our natural freedom to Hobbesian Leviathans,¹³⁷ and now we too dream of Walhall—a legality of which we can be proud, which rewrites this messy compromise as something noble and filled with light.¹³⁸ But the ring beckons, and all too often those in power heed its call. This is no mere mythical melodrama, but a keen dramatic rendition of the tragedies implicit in contemporary political life.

Many interpretive questions remain. The fruitfulness of pursuing the legal philosophy latent within *Rheingold* prompts us to wonder, for example, what might be the jurisprudential significance of Siegfried, the anarchic male protagonist of the tetralogy’s final two *Musikdrama*? In his wild freedom, he shatters Wotan’s spear, but what bestows upon him this potency and what meaning might we construct within that scene *vis-à-vis* the relationship between freedom and law? Perhaps more interestingly still, what might be said of Brünnhilde, in many ways the true hero of Wagner’s myth, who is otherwise a symbol of feminine power but also of compassion and love?¹³⁹ As Walhall burns, she hopes that her father Wotan will at last find some rest.¹⁴⁰ Can love, perhaps in the shape of Bell Hooks’ “love ethic,”¹⁴¹ surpass the necessary evils of law and return the ring to the depths of the Rhine? Would Wagnerian jurisprudence, when completely articulated, be fundamentally feminist in some important dimension? I do no more than speculate here. What these indicative questions show, however, is the potential for even richer jurisprudential reflection if we interpret *The Ring Cycle* as a whole, rather than as context for the more particular themes raised within its preliminary evening. *Rheingold* is the opening part of a complex drama that is in large part about *endings*, with the downfall of law and order, in the form of both Wotan and Walhall, featuring prominently amongst them. This Article does little more than look at the beginning of that end. What it does suggest, perhaps, is that at both the dramatic and conceptual level, law and the state themselves might contain both the tinder and the spark for the fire in which both notions will eventually burn.

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¹³⁶*Id.* at 65.

¹³⁷HOBBS, *supra* note 35; ALEX GREEN, STATEHOOD AS POLITICAL COMMUNITY: INTERNATIONAL LAW AND THE EMERGENCE OF NEW STATES 23–25 (2024).

¹³⁸HART, *supra* note 96, at 25–29.

¹³⁹KITCHER & SCHACHT, *supra* note 30, at 157–84; SCRUTON, *supra* note 21, at 222–31.

¹⁴⁰SABOR, *supra* note 40, at 193–95.

¹⁴¹BELL HOOKS, ALL ABOUT LOVE: NEW VISIONS 87–101 (2001); Alex Green, *The Importance of Dystopian Hypotheticals: Towards an Ethical Turn in Liberal Political Philosophy*, 4 L., TECH. & HUMANS 60, 73–74 (2022).

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