
NEW YORK UNIVERSITY
JOURNAL OF LAW & LIBERTY

IF YOU COUNT IT, THEY WILL COME

Stanley Fish*

The desire to generate insight into human expression by "scientific" means is futile—but also, so it seems, perennial. Recently, two related attempts to bring certitude to the analysis of language by using computers have cropped up: one in law (called "corpus linguistics") and one in the broader study of letters (which goes by the name of the "digital humanities"). I've had reason to address both a Digital Humanities conference (in person) and the corpus linguistic phenomenon (in print).

Corpus linguistics has been embraced most strongly by a group of practitioners and academics centered around BYU Law.[1] These include Justice Thomas Lee of the Supreme Court of Utah and

* Floersheimer Distinguished Visiting Professor of Law, Cardozo School of Law.

[1] BYU has invested considerable institutional energy into this field, hosting the annual Law & Corpus Linguistics conference and employing "Law & Corpus Linguistics Fellows."

Professor James Phillips[2]; writers at other institutions include Professors Josh Blackman[3] and Jennifer Mascott, the latter of whose "corpus-linguistics like analysis" was featured heavily in *Lucia v. S.E.C.*[4] As we shall see, there are reasons why this methodology appeals most to Originalists, who hold out hope for an objective meaning to Constitutional text. The digital humanities, meanwhile, resides in a very different part of the academic universe. To (vastly) oversimplify, it involves the use of computers to digitize and analyze vast swathes of text, in hopes of performing the functions of, e.g., an English literature professor, better than mere humans can do. Ultimately, the problems with each stem from the nature of interpretation.

The relationship between interpretation and the digital humanities is a complicated one. Some digital humanists believe that the traditional task of interpretation can be better performed with the aid of powerful computer programs. Others believe that the traditional task of interpretation is tied to an epistemology and a politics the digital humanities is pledged to undo. But before exploring these two positions (and they are not the only ones), it will be good if we could specify just what interpretation is.

Debates about interpretation are found in every discipline, but the debate is most sharply focused in the discipline of law, in part because the object of legal interpretation is often the Constitution and most people agree that getting the Constitution right is an important project. There are at the present moment three accounts of

---

[2] Thomas R. Lee & James C. Phillips, *Data Driven Originalism*, 167 U. Pa. L. Rev. 261 (2019).

[3] See, for example, Josh Blackman and James C. Phillips, *Corpus Linguistics and the Second Amendment* (Harvard Law Review Blog, Aug. 7, 2018), archived at https://perma.cc/HKK3-EPZ5.

[4] *Lucia v. S.E.C.*, 138 S. Ct. 2044, 2056 (2018) (Thomas concurring), citing Jennifer Mascott, *Who Are "Officers of the United States"?*, 70 Stan. L. Rev. 443, 564 (2018).

interpretation vying for supremacy in the field, three answers to the question, how do we go about specifying what a text means? (I know some people believe that that's the wrong question.) And those three answers are related in interesting ways to the digital humanities project.

The first and most popular answer is that you figure out what a text means by attending to its language, to the meanings its words had at the moment of their production and/or reception and to the syntax within which those words are embedded. The foremost proponent of this view is the late Justice Antonin Scalia. Scalia was famous (or notorious) for insisting that interpretation should be tied to the stipulation of original meaning and for arguing that original meaning is to be found not in the intentions of an author or in the record of constitutional or legislative debate or in any other external location, but in the text itself, at least if it has been well crafted. The name of this view is "textualism" and it has a strong common-sense appeal. Isn't the text an object, like a piece of sculpture or a painting, and if we look hard enough at it shouldn't we be able to determine what it means without going elsewhere? (It is an old—if since disputed—rule of contract law that you should not go beyond the four corners of the contract, for to go further afield would be to lose the stability of the text and the agreement it encodes.)

Textualism, at least as a general thesis, is congenial to the version of digital humanities that claims to be able to reveal more about texts than could possibly be detected by mere human readers. The idea is that there are patterns (of repetition, frequency, contrast, of *anything*) so deeply embedded or spread across so wide a space of text that no human reader could discern them or have world enough and time to search them out. The problem is double: an insufficiently microscopic vision and a life-span that severely limits what can be read. Enter the computer program and both problems are solved. The computer can uncover what is not visible to the naked eye, and it can do it in seconds. Moreover, since vast bodies of texts can be digitized and searched, the results can serve as a much firmer basis for reaching conclusions than the basis provided by the small number of

texts a reader could possibly process in his or her three score and ten. So, to refer to an example many of you will know, Dan Cohen asks, isn't it the case that our conventional scholarship "might be anecdotally correct but comprehensively wrong" if we base our conclusions on one hundred books or even a thousand? Shouldn't we work not with a sample of texts or a "few canonical texts" but with "all of it?"[5] In response to this question, Cohen and his colleague Fred Gibbs started working with the data base of the 1,681,161 books published in England in the nineteenth century, and they have been able to chart the frequency with which certain words appear in the titles of those books in different decades.[6] It turns out that books with the word "science" in the title increase as the century unfolds; the word "virtue" declines in popularity; "Christian" peaks at mid-century; "love" troughs at the same time, and so on.[7]

Unsurprisingly, given the appeal of this type to the textualists, a specifically legal analog to the digital humanities has emerged: corpus linguistics. In the legal context, corpus linguistics aims to take a vast swathe of text (e.g. from the Founding period) and by uncovering these hidden patterns, state with objectivity what the meaning of a given phrase (e.g., "officers of the United States") would have been understood to mean at the time.[8]

Now when I look at this and similar studies, my mind flashes back 40 years to the 1970's and my attempt, only partially successful alas, to kill an entire sub-discipline. The discipline was and is called "stylistics". It has many versions—computational stylistics, Neo-

---

[5] Daniel J. Cohen, *Searching for the Victorians* (Dan Cohen, Oct. 4, 2010), archived at https://perma.cc/6GR7-VE9T.
[6] See Frederick W. Gibbs and Daniel J. Cohen, *A Conversation with Data: Prospecting Victorian Words and Ideas*, 54 Victorian Studies 69 (2011).
[7] Id. at 71.
[8] See, for example, Jennifer Mascott, *Who Are "Officers of the United States"?*, 70 Stan. L. Rev. 443 (2018).

Firthian stylistics, Transformational Grammar stylistics, Speech Act stylistics, structuralist stylistics, pragmatic stylistics, psychoanalytic stylistics—but all of them are united by a single assumption, the assumption that it is possible to go from data, however collected, to interpretation ; the assumption that formal features—anything from sentence length, to image clusters, to key words, to passive constructions to you name it—carry meaning. In my critique of the stylistics project, I put forward as a naïve but revealing example a scholar who, after determining that Jonathan Swift's prose style, in comparison with the styles of Addison, Johnson, Gibbon and Macauley, is distinguished by the presence of long series of phrases, reached this conclusion: "Swift's use of series argues a fertile and well-stocked mind."[9] I observed that the movement from formal pattern to interpretation—in this case to an interpretation of mind and character—is entirely arbitrary, not to say banal. One might as well have said, and with the same lack of justification, that Swift's use of series argues an anal-retentive personality, or a nominalist rather than a realist philosophy, or a reluctance to proceed to closure, or a thousand other things. Once you have the data and just the data you can't go anywhere, or, rather, and it is the same thing, you can go anywhere at all.

Writing in the Companion to Digital Humanities, Hugh Craig acknowledges the force of my criticism but asserts that the more sophisticated techniques now available make possible a stylistics with another "motivation", the motivation to uncover "patterns of language use which because of their 'background' quality, or their emergence on a superhumanly wide scale, would otherwise not be

---

[9] Stanley Fish, *What is Stylistics and Why Are They Saying Such Terrible Things About It*, in Seymour Chatman, ed, *Approaches to Poetics: Selected Papers from the English Institute* 109, 112 (New York 1973).

noticed."[10] But if the problem with the old stylistics was that you could not generalize, except illegitimately, from the data, the problem with the new-up-to-date stylistics is that it is by no means clear why you should be interested in the data it uncovers at all. Maybe the patterns that have not been noticed—patterns like the frequency with which particular words appear in the titles of nineteenth-century books—should have remained unnoticed because they are nothing more than artifacts of a machine. Maybe the whole project is make-work, with emphasis on the make rather than the work.

It is in response to objections like mine that Tom Scheinfeldt makes an argument also made by the stylisticians in the 70's ; the argument that it is wrong to expect too much from a project that is just underway; it takes time for new techniques to pay off, and to demand results too soon is to fail to give the enterprise the breathing room it needs. Does digital humanities "have to produce new arguments now? Does it have to answer questions yet?"[11] After all, the experiments of scientists often are just that–experiments; exercises performed without a clear sense of where they are going, but exercises that in the long run take us to places we can hardly imagine. The digital humanities may not be "answering lots of questions currently",[12] but let's just keep at it and see what turns up. But the prospect of anything except the belabored or the obvious turning up depends ultimately on a faith I don't have that data mining will lead to something more than the proliferation of its own

---

[10] Hugh Craig, *Stylistic Analysis and Authorship Studies*, in Susan Schreibman, et al., eds, *A Companion to Digital Humanities* 273, 278 (Blackwell 2004).
[11] Tom Scheinfeldt, *Where's the Beef? Does Digital Humanities Have to Answer Questions?* (Found History, May 12, 2010), archived at https://perma.cc/P7ZN-QG7H.
[12] Id.

operations; instead of Edmund Spenser's "endlesse work"[13], endless noticings.

But some will reply that endless noticings are more than enough and are finally more valuable than the narrow interpretive results I'm hung up on. Those who say that have some affinities with a second school of legal interpretation, the living constitution school. That school rejects textualism and original meaning because they bind us to the dead hand of the past and render us incapable of adjusting flexibly to the ever-changing dynamics of a fluid, mobile, transformative and transforming world. Living constitution proponents also argue that the broad and general cast of the framer's language—phrase like "cruel and unusual punishment"[14]—indicate that their intention was to produce a document that would grow and evolve and be adjusted to the needs of successive generations. To the members of this school, the words of the Constitution are not constraints that limit and cabin interpretation; they are rather prompts to the performance of a creative activity that starts with some problem or urgency in the present and then stretches and bends the Constitution's language until it is responsive to those problems and urgencies. Richard Rorty provides the most succinct account both of the method and its goals when he says that in the act of interpretation what you do is beat the text into the shape that best serves your present purposes.[15]

In the digital humanities the practice Rorty decribes is termed "deformance" or tampering.[16] Rather than view the text as a fixed, stable entity whose integrity must be preserved, think of it as an assembly that can be reassembled by making what the

---

[13] Edmund Spenser, *The Faerie Queen*, Book IV, Canto XII.I (1596).
[14] U.S. Const. Amend. VIII.
[15] Richard Rorty, *Consequences of Pragmatism* 151 (Minnesota 1982).
[16] See, for example, Jerome McGann and Lisa Samuels, *Deformance and Interpretation*, 30 New Literary History 25 (1999).

poststructuralists called a "a new cut", a new angle from the perspective of which the texts components are rearranged into new patterns. In his book Reading Machines, Stephen Ramsay points out that 'deformance" is what we've always been doing whenever we offer a reading of a text: We notice something and then we set to work: "We read out of order ; we translate and we paraphrase' we look only at certain words or certain constellations" "the text hasn't changed its graphic content . . . but the text quite literally assumes a different organization from what it had before".[17] And once that different organization is in place, we do it again; we run procedures that "have the effect of creating alternative texts that for the basis of [still] further elucidations".[18] The point is not to pin down meaning, but to release it. "Our fear of breaking with the text," Ramsay says, may "need to give way to a renewed faith in the capacity of subjective engagement for liberating the potentialities of meaning."[19] The algorithmic critic, the critic who with the aid of a computer program performs the meaning-liberating procedures, "imagines the artifact of human culture as radically transformed, reordered, disassembled and reassembled."[20]

The critic who so imagines is himself an artifact of human culture; his apparent fixity is no more real than the fixity of the texts he subjects to serial reassembly. He does not preside from a position of mastery over the meanings whose potentialities he releases; he is not their "author"; he is simply one in a chain of endless re-significations. Rather than owners of those significations, we are members, says Kathleen Fitzpatrick, of "a fertile community composed of multiple intelligences, each of which is always working

---

[17] Stephen Ramsay, *Reading Machines: Toward an Algorithmic Criticism* 48 (Illinois 2011).
[18] Id. at 51.
[19] Id. at 57.
[20] Ramsey, *Reading Machines* at 85 (cited in note 17).

in relationship with others".[21] Decentered texts, decentered authors, decentered readers, everything always on the wing. It is a vision of principled instability; in the words of Franco Beradi, "no object, no existent, and no person: only aggregates, temporary atomic compositional, figures that the human eye perceives as stable but that are indeed mutational, transient, frayed and indefinable".[22]

I have described this vision as theological. Let me explain what I mean with the help of three 17th century poems. The first is Milton's "At a Solemn Musick".[23] In that poem Milton reimagines the moment when God's harmony, the music made in concert by all parts of the universe, is disrupted: Everything was fine until "disproportion'd sin/ Jarr'd against natures chime, and with harsh din/ Broke the fair musick that all creatures made".[24] "Disproportioned" is not the adjectival modifier of "sin" but its definition. It is sin to stand alone, to not be in proportion with others, to stand out, to claim to be a single voice in possession of one's own thoughts and words. It is virtue to be heard only as a member of an ensemble, to exchange the false joy of being a solitary singer for the true joy of singing along with 'all creatures" in a corporate existence that knows no "mine" and "thine". Milton's hope is for a day when nature's chime is again sounded by a universal choir in which each member finds his identity in the loss of identity: "O may we soon again renew that Song/ And keep in tune with Heav'n, till God ere long/ To his

---

[21] Kathleen Fitzpatrick, *Planned Obsolescence: Publishing, Technology, and the Future of the Academy* 74 (NYU 2011).
[22] Gary Hall, *There Are No Digital Humanities*, in Matthew K. Gold, ed., *Debates in the Digital Humanities* 133 (Minnesota 2012), citing Franco Berardi, *The Soul at Work* (Semiotext(e) 2009).
[23] John Milton, *At a Solemn Musick*, in Barbara Kiefer Lewalski and Estelle Haan, eds., *The Complete Works of John Milton, Vol. 3: The Shorter Poems* 22 (Oxford 2012).
[24] Id.

celestial consort us unite/ To live with him, and sing in endles morn of light".[25]

The difficulty for mortals of experiencing this gain in loss is highlighted by George Herbert in three short remarkable lines: "We say amisse,/ This or that is:/ Thy word is all, if we could spell".[26] We say amiss by saying at all, by predicating—here's a this and there's a that--by picking things out. The better course, if we could only follow it, would be to see the oneness in difference—"thy word is all" ; instead we keep on trying to figure things out, to spell; we will learn how truly to spell when we stop spelling, stop trying to keep separate entities that exist and are known not frontally and directly, but diacritically.

Easier said than done. Discursive language is by definition linear, confining, uni-directional, and dedicated to delivering just one insight at a time. It is resolutely thin and lean, and draws from John Donne this exasperated exclamation: "If we might put the letters but one way,/In the leane dearth of language what could wee say?"[27] Not much, and that is why Donne, like other poets, sets himself the task of bursting the bonds of predication by means of puns, double entendres, complicating allusions, bi-valent syntax, embedded acrostics, kaleidoscopic images –anything that disrupts and arrests the drive to closure and opens up the expansive vistas that language, when conventionally deployed, always narrows.

Now the reason that language is the way it is is because we are the way we are. That is, we are limited creatures, whose movements, in thought and action, are always toward a point in the future. Meaning is always elsewhere and never apprehended in its

---

[25] Id. at 22-23.
[26] George Herbert, *The Flower*, in Helen Wilcox, ed., *George Herbert: 100 Poems* 133 (Cambridge 2016).
[27] John Donne, *The Anagram*, in Charles M. Coffin, ed., *The Complete Poetry and Selected Prose of John Donne* 57 (Modern Library 2000).

immediate fullness. We are never where we want to be—fully realized and connected to everything; our activities are always bringing us to somewhere, but not to everywhere. We are, as creatures, hopelessly narrative, capable of following and enacting a story line from its beginning to its end, but incapable of following or living an infinite number of storylines simultaneously and without rank or ordering. Attempts to bypass the limitation of finitude, of mortality, are as old as humankind itself, and include (in a list that is only partial) hallucinogenic drugs, fasting, meditation and forms of art that invite us to climb the mystical ladder leading to a union with the divine.

In some of its more apocalyptic moments, the digital humanities bids fair to join that list. Here is Carla Hesse in a statement that holds out the same promise whose realization Milton celebrates at the end of "At a Solemn Musick"[28] "What appears to be emerging from the digital revolution is the possibility of a new mode of temporality…, one in which public exchange through the written word can occur without deferral "[29] –that is without linearity—"in a continuously immediate present. A world in which we are all, through electronic writing, continuously present to one another".[30] Not just a new tool, but a new mode of being; not just a refurbishing of the humanities, but a total transformation of the humanities, which also augurs a transformation of its practitioners. "[W]hat is at stake", declares Dave Parry, "is not the object of study or even epistemology but rather ontology. The digital changes what it means to be human".[31]

---

[28] Milton, *At a Solemn Musick*, (cited in note 23).
[29] Kathleen Fitzpatrick, *Planned Obsolescence: Publishing, Technology, and the Future of the Academy* 69 (cited in note 21), quoting Carla Hesse.
[30] Id. at 69-70.
[31] Dave Parry, *The Digital Humanities or a Digital Humanism*, in Matthew K. Gold, ed., *Debates in the Digital Humanities* 429, 435-436 (Minnesota 2012).

The humanist, Rafael Alvarado tells us, now "has the opportunity to immerse herself in the transductive plasma of interpretation where ideas and their expressive vehicles can be mapped and remapped in a variety of forms and frameworks, a giddy play of praxis".[32]

Phrases like "transductive plasma of interpretation" and the "giddy play of praxis" will make members of the third school of legal interpretation very nervous. That school is called intentionalism, and it is fair to say that intentionalism stands against everything the more visionary version of the digital humanities is for—radical openness, de-centeredness, instability, dynamism, transformation, fecundity and multi-vocality. When Kathleen Fitzpatrick describes our texts as growing "even after they have seen the light of day"[33] and Mark Poster calls for "a rearticulation of the author from the center of a text to its margins",[34] an intentionalist will think, what are they talking about? Texts don't grow; they're not vegetables. And if authors are not at the center of texts, anchoring and given them point, what is? (The answer, offered without embarrassment, seems to be "nothing".)

Intentionalism is also against that version of the digital humanities which is an extension of textualism, for it denies textualism's basic tenet, that texts bear meanings, or as linguist Martin Joos put it many years ago, "Text signals its own structure".[35] Intentionalism asserts that there is no text apart from or prior to the assignment of intention. Absent that assignment (which may be a positive act or a default assumption) there are just black or white marks, swirling smoke signals, scribbles with crayons, the play of

---

[32] Rafael Alvarado, *The Digital Humanities Situation*, in Matthew K. Gold, ed., *Debates in the Digital Humanities* 50, 54 (Minnesota 2012).
[33] Fitzpatrick, *Planned Obsolescence* at 72 (cited in note 21).
[34] Id. at 57, citing Mark Poster, *What's Wrong with the Internet?* (Minnesota 2001).
[35] Martin Joos, *Linguistic Prospects in the United States*, in Christine Mohrmann, ed., *Trends in European and American Linguistics* 18 (Utrecht: Spectrum, 1961).

light and shadow or some other merely physical phenomenon. To see the point, imagine walking along and seeing on the sidewalk some marks that apparently spell out H E L P, help. You wonder, what does it mean? But then you find out that the pattern was produced by the random droppings of fluids from the gutters of a building. Do you continue to wonder what it means? Do you continue to interpret it? No, because unless you believe that buildings and gutters are capable of communicating, you will no longer think that somebody was sending a message. The marks don't form a word; they merely resemble one. They are physical accidents and don't mean anything because no purposive agent meant—that is, intended—them.

You can see where this is going. For an intentionalist—and I am one—the fact that data mining can uncover hidden patterns undetectable by the mere human reader is cause not for celebration but for suspicion. A pattern that is subterranean is unlikely to be a pattern that was put there by an intentional agent; and if it wasn't put there by an intentional agent, it cannot have meaning, and if it cannot have meaning, there's no reason to be interested in it. It's finally no different from random droppings that just happened to coalesce into a shape.

That reasoning holds, however, only if meaning is what you are after, and if you identify meaning with the act of intention. There are other ways to think of meaning. You might for example observe that in the late 20th and early 21st centuries, poetry is no longer considered a public resource and yet there are more and more poets, more poetry festivals, and more readers of poetry. And you might ask what does that mean? Any answer to that question would not involve identifying a conscious design; no one planned the phenomenon you're trying to understand; instead you would be inquiring into the significance of something and asking, as the unintended consequences of what forces, movements, material conditions, political revolutions, did this come about? You would be practicing not interpretation but intellectual history, as do digital humanities

polemicists when they reflect on, and complain about, the place of their project in the academy as it is presently configured.

Interpretation then is best reserved for one-off acts performed at a particular time in response to the effort of a purposive being to convey a message. Perhaps the simplest case is the grocery list given to you by your spouse or partner. Your job is to figure out what he or she means, and your ability to do the job—one of the hardest I know—depends on your ability to keep in mind the kind of person he or she is. If the list says swordfish and there's no swordfish to be had, will tuna do? If it says orange juice, can you safely get the one with pulp? Intentionalists will think that, with respect to interpretation, there is no difference between the grocery list and *Paradise Lost*.[36] The task is the same –to figure out what someone meant by these words—although you might decide that the task is more difficult in one instance rather than the other; just which one it is—*Paradise Lost* or the grocery list—will be an open question for those who have been married, as I have been, for a long time.

But of course there are those who would balk at treating a grocery list and *Paradise Lost* as the same kind of objects subject to the same kind of interpretive inquiry into a single intended meaning. There is a long tradition in which literature, and especially poetry, is defined by its capacity to bear many meanings, even an infinite number. It is literature if it is polysemous and resists being reduced to an intended message; resists, that is, being interpreted. Interpretation, in this view, is a violation of what art is. It is, in the famous words of Susan Sontag, "reactionary, impertinent, cowardly, stifling."[37] "To interpret," Sontag declares, "is to impoverish, to

---

[36] John Milton, *Paradise Lost* (Oxford 2005).

[37] Susan Sontag, *Against Interpretation*, in *Against Interpretation, and Other Essays* 7 (Picador 2001).

deplete the world – in order to set up a shadow world of 'meanings'."[38] "Away with all duplicates," she cries; instead, let us "experience more immediately what we have."[39] "We must learn to see more, to hear more, to feel more.' "In place of a hermeneutics"—a theory of interpretation—"we need an erotics of art",[40] that is, an understanding of art that stresses play, proliferation, and fecundity, not as means preliminary to a discursive end, but as the end itself.

In its most lyrical moments that is what the digital humanities calls us to, an erotics of art. Indeed it might be said that the digital humanities, rather than offering itself as a handmaiden of art, aspires to be an art form, and one more inclusive and universal than any other. The obstacle to this lofty ambition is to be found, we are told, in the gate-keeping mechanisms maintained by the academy and the publishing industry, mechanisms designed to limit both the number of authors and the kind of work they do. Essays by digital humanists are full of contemptuous references to "pencil humanists", to "kneejerk humanists", to entrenched senior faculty, to artificial constraints that serve professional rather than human ends, to the poverty of a discursive field that is hung up on print and linearity and values product over process. Everything about traditional humanities practices, it is said, conspires to stifle the natural and exuberant creativity of signifying creatures.

One traditional practice that has been the target of criticism is the writing of academic papers. Cathy Davidson noticed that the same students who wrote the most turgid and unreadable papers were "elegant bloggers", and she asked herself "What if bad writing is a product of the form of writing required in school—the term paper—

---

[38] Id.
[39] Id.
[40] Sontag, *Against Interpretation* at 14 (cited in note 37).

and not necessarily intrinsic to a student's natural writing style or thought process… What if 'research paper' is a category that invites, even requires, linguistic and syntactic gobbledegook?". [41] Mark Sample is even more severe. "The student essay is a twitch in a void…that means nothing to no one …nowhere but school would we ask somebody to write something that nobody will ever read."[42]

I might put Sample's point in a different, more generous, way: a student essay is a specialized piece of work written in conformity with specialized standards and objectives. It is not written for everyone, but only for that small, sometimes tiny, population that can participate –either as a producer or a consumer—in a disciplinary transaction. It is a learned skill and not everyone need learn it, but those who do learn it are learning something. It is an artificial skill, the very opposite of natural, but so is blog writing and any other form of communication made possible by the emergence of digital tools. Digital humanists are fond of citing McCluhan, but they miss his point: there is no message without a medium and the medium does not merely convey but shapes and limits the message. The term paper is a medium for a message that is foreordained, scripted and constrained. Twitter is a medium equally, if not more, foreordained, scripted and constrained. A tweet is today's sonnet. If Davidson's students write gobbledegook, the fault lies not with the medium but with a failure to learn its protocols and the consequent inability to perform with its generative limitations. (Only the poor carpenter blames his tools.) When those same student turn to blog writing, they are not displaying a "natural style" as opposed to the cramped style

---

[41] Cathy Davidson, *Now You See It* 101 (2011).
[42] Mark Sample, *What's Wrong with Writing Essays*, in Matthew K. Gold, ed., *Debates in the Digital Humanities* 404 (Minnesota 2012).

of the academic exercise; they have exchanged one learned and confining practice for another.

Sample declares that "I don't believe that my mission as a professor is to turn my students into miniature versions of myself".[43] Well, if that's not his mission –to impart and expand the skills that earned him his degree—then maybe he's in the wrong line of work. Sample inveighs against the academic fixation on words "Why not images, why not sound? Why not objects?" [44] No reason. If he develops, as indeed he has, alternative forms of writing in which his students become "aspiring Rauschenbergs assembling mixed media combines, all the while… developing a critical thinking practice about the process and the product,"[45] more power to him. He should know though that he is still producing, or attempting to produce, miniature versions of himself, no doubt in a mode different than the one I employ in my classes, but nevertheless in a mode that is decidedly academic. No one "naturally" goes around assembling mixed media combines. Everyone who preaches digital liberation should be required to read Wordsworth's "Nuns Fret Not at Their Convent's Narrow Room" once a day, and take note especially of these lines: "In truth, the prison, unto which we doom/Ourselves, no prison is". [46] Wordsworth means two things: first, that the very confines of the room— be it prison, study, library, or classroom—are what makes movements of a precise kind possible; boundaries do not stifle creativity, but give it definition; and second, that the choice is not between a confined and artificial space—a prison— and freedom, but between alternative prisons. Opening up the world, the text and the self in an orgy of democratic frenzy sounds good as a rallying cry,

---

[43] Id.
[44] Id.
[45] Sample, *What's Wrong with Writing Essays* at 405 (cited in note 42).
[46] William Wordsworth, *Nuns Fret Not at their Convent's Narrow Room*, in Stephen Gill, ed., *William Wordsworth* 235, 235 (Oxford 2010).

but the true hope for achievement and even transcendence is to be found in the quotidian structures in which we do our work because it is only within those structures that one can even know what the work is.

The aspirations of corpus linguistics in law, on the other hand, ironically suffers from the opposite problem: it seeks an unrealistic degree of closedness. Corpus linguistics studies in law yield not answers but a construct—a put-together set of marks that show statistically predominant correlations from a particular population of speakers at a given point in time. But correlations, in and of themselves, are no more helpful in interpreting the meaning of words than the raw data, the frequencies and distributions, from which they are built. Without knowing what a speaker intended to signify with his words, all you have is the usage and example sections of a dictionary. But just as being able to pull down the OED and see that there are 645 definitions of "run." But without a persuasive, non-textual indication of what the author had in mind, you cannot get further. You cannot know what the word *means*, without knowing what the author intended. Thus, corpus linguistics winds up right back in the trap it was created to escape.

And my conclusion after this quick and dirty survey? It comes in two parts and both have been more than hinted at by what I have already said. If the digital humanities stakes its claim on an ability to perform or perfect the task of interpretation as traditionally conceived, then it won't work because it is wrong about what texts are, wrong about what meaning is, and wrong about the possibility, not to say the desirability, of doing without intention. The same goes for corpus linguistics, vis-à-vis the law. If the claim is stronger and reaches toward the re-invention not only of humanistic commentary but of human beings, then I honor it as the latest effort to escape the limitations of mortality and ascend to a realm of full and immediate knowing. That won't work either, short of revelation or an intervention by deity, but at the very least, it is an old and noble dream. Will the dream be realized professionally? Will the outsider status so many digital humanists complain of be shed and be

succeeded by a brave new world in which all the department chairs and all the deans and some of the presidents will be digital humanists? The answer to that question lies with actuarial tables and as I look at the digital humanists and corpus linguistics advocates and compare my age with their youth, I can confidently say that, for good or ill, the future is yours.