Excerpt from *Election*

To be a Puritan is to be in doubt. A Puritan has Faith, but he is never sure of the purity of his faith. Is he performing or believing? Every action is ordinal transgression or testimony of grace. And the most harrowing part is that it is preordained—the saved have already been saved, the damned damned, no matter the line toed. So then every action is also evidence, signification of grace.

To be a Puritan is to be under exhaustive scrutiny. Every action scrutinized as evidence of election or damnation. Most exhausting of all, of course, is personal scrutiny, some hellfire precursor to low self-esteem. Most personally destructive is communal scrutiny. The line walked is that which divides a person's faith from a community's faith in a person's salvation. Inside on the Outside. Private in Public.

To be a Puritan is to be either in communion or out of community.

✶

DEFENCE: *For clearing of such scruples as have arisen about this order, it is to be considered, first, what is the essentiall forme of a common weale or body politic such as this is, which I conceive to be this—The consent of a certaine companie of people, to cohabite together, under one government for their mutual safety and welfare.*[1]

[1] Winthrop, *Defence*.

One of George Zimmerman's neighbors, a black woman who declined to be identified, said, "Let's talk about the elephant in the room. I'm black, OK? There were black boys robbing houses in this neighborhood. That's why George was suspicious of Trayvon Martin."[2]

Zimmerman's beloved maternal grandmother, herself of Afro-Peruvian descent, lived with Zimmerman's family during his childhood, and for years cared for two African-American girls at the Zimmerman home. They ate all of their meals with the Zimmerman's, and walked to school with the Zimmerman children.

DEFENCE: *A family is a little common wealth, and a common wealth is a greate family. Now as a family is not bound to entertaine all comers, no not every good man (otherwise than by way of hospitality) no more is a common wealth.*

In the 911 tape of the call George Zimmerman made on the night he fatally shot Trayvon Martin, Zimmerman said "These assholes, they always get away."[3] After a series of brazen break-ins in The Retreat at Twin Lakes, Zimmerman's townhome complex, Zimmerman was appointed Captain of the Neighborhood Watch. He also bought a gun and a Rottweiler.

DEFENCE: *If we heere be a corporation established by free consent, if the place of our cohabitation be our owne, then no man hath right to come into us etc. without our consent.*

---

[2] http://www.reuters.com/article/2012/04/25/us-usa-florida-shooting-zimmerman-idUSBRE83O18H20120425.

[3] State of Florida v. George Zimmerman, Affadavit of Probable Cause—Second Degree Murder: http://s3.documentcloud.org/documents/336022/zimmerman-probable-cause-document.pdf, accessed June 20, 2014.

Sean Hannity claimed, "Stand Your Ground laws, interestingly, benefited black Floridians more than anybody else."[4] In a Senate hearing entitled "Civil Rights and Public Safety Implications of the Expanded Use of Deadly Force," Ted Cruz seconded the motion: "This is not about politicking, this is not about inflaming racial tensions, although some might try to use it to do that, this is about the right of everyone to protect themselves and protect their family.[5]

A report from the Congressional Research Service[6] on inter-racial shootings nationwide (SYG states and duty-to-retreat states alike) found an increase in cases of justifiable white-on-black homicides after 2005, when states began enacting Stand Your Ground laws. According to the report, white-on-black homicides were considered justified far more often than black-on-white shootings. From 2001-2005, 1.7% of black-on-white homicides were considered justified; that numbered barely moved to 1.8% from 2006-2010, after SYG laws were enacted. In contrast, from 2001-2005, 16.7% of white-on-black homicides were considered justified; that number jumped by 4 percentage points to 20.7% from 2005-2010. Rather than "benefitting" blacks more than whites, SYG states had an outsized impact on the national statistics, amplifying instead of ameliorating existing disparities.[7]

This amplifying impact has been confirmed by other studies. A Texas A&M study found that the rates of murder and non-negligent manslaughter increased by 8 percent

---

[4] Fox News, *Hannity*, 8/20/13]
[5] Senate Judiciary Subcommittee hearing, 10/29/13.
[6] http://www.scribd.com/doc/179956006/Inter-Racial-Justifiable-Homcides-Memo-9-16-2013-pdf (accessed Jan. 4, 2015)
[7] See Georgia East, Young and black in South Florida: 'I feel paranoid all the time.' SUN-SENTINEL (Mar. 23, 2012), http://articles.sun-sentinel. com/2012-03-23/news/fl-trayvon-martin-walkingwhile-black-20120323_1_racial-bias-police-officeramerica-s-black-upper-class.

in states with Stand Your Ground laws; in those cases with black or Hispanic victims, the killings were found justified by the Stand Your Ground law 78 percent of the time, compared to 56 percent in cases with white victims. The study, entitled "Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Expansions to Castle Doctrine," concluded:

> From 2000 to 2010, more than 20 states passed so-called "castle doctrine" or "stand your ground" laws. These laws expand the legal justification for the use of lethal force in self-defense, thereby lowering the expected cost of using lethal force and increasing the expected cost of committing violent crime. This paper exploits the within-state variation in self-defense law to examine their effect on homicides and violent crime. Results indicate the laws do not deter burglary, robbery, or aggravated assault. In contrast, they lead to a statistically significant 8 percent net increase in the number of reported murders and non-negligent manslaughters.[8]

A study conducted by John Roman, a senior fellow at the Urban Institute's Justice Policy Center, found that, nationwide, "the killings of black people by whites were more likely to be considered justified than the killings of white people by blacks." The study

[8] Cheng Cheng and Mark Hoekstra, "Does Strengthening Self-Defense Law Deter Crime or Escalate Violence? Evidence from Expansions to Castle Doctrine," Forthcoming in the *Journal of Human Resources*, http://econweb.tamu.edu/mhoekstra/castle_doctrine.pdf (accessed 1/12/15)

concluded that in non-Stand Your Ground states, whites are 250 percent more likely to be found justified in killing a black person than a white person who kills another white person; in Stand Your Ground states, that number jumps to 354 percent.[9]

Souvenir Portrait of the Lynching of Abram Smith and Thomas Shipp, Marion, IN, August 7, 1930, by studio photographer Lawrence Beitler. Courtesy of the Indiana Historical Society.

DEFENCE: *If we conceive and finde by sadd experience that his opinions are such, as by his own profession cannot stand with externall peace, may we not provide for our peace, by keeping of such as would strengthen him and infect others with such dangerous tenets? and if we finde his opinions such as will cause divisions, and make people looke at their magistrates, ministers and brethren as enemies to Christ and Antichrists etc., were it not sinne and unfaithfullness in us, to receive more of those opinions, which we already finde the evill fruite of [.]*

[9] Sarah Childress, "Is There Racial Bias in 'Stand Your Ground Laws?" PBS, 7/31/12 (http://www.pbs.org/wgbh/frontline/article/is-there-racial-bias-in-stand-your-ground-laws/)

Before retiring to Florida, George Zimmerman's father, Robert Zimmerman, served as a magistrate in Fairfax County, Virginia's 19th Judicial District.

George Zimmerman was not arrested for three weeks after Trayvon Martin's death; the city of Sanford released a statement of explanation: "Zimmerman provided a statement claiming he acted in self-defense, which at the time was supported by physical evidence and testimony." The letter, signed by Sanford City Manager Norton Bonaparte Jr., says. "By Florida Statute, law enforcement was PROHIBITED from making an arrest based on the facts and circumstances they had at the time." [caps original] [10] Simply by claiming self-defense, Zimmerman also laid claim to immunity; supported by the "probable cause" rendered by the physical evidence and testimony invoked by the Sanford City Manager, immunity was granted.[11]

DEFENCE: *I hope no man will say, that not to receive such an one were to reject Christ; for such opinions (though being maintained in simple ignorance, they might stand with a state of grace yet) they may be so dangerous to the publick weale in many respects, as it would be our sinne and unfaithfullness to receive such among us.*

[10] http://www.washingtonpost.com/blogs/worldviews/post/sanford-fla-posts-letter-about-why-zimmerman-has-not-been-arrested-in-teens-death/2012/03/21/gIQAdm1ISS_blog.html (accessed 1/24/15)

[11] For a comprehensive analysis of immunity in the Florida law, see Katheryn Russell-Brown, "Go Ahead and Shoot, The Law Might Have Your Back: History, Race, Implicit Bias, and Justice in Florida's Stand Your Ground Law," in *Deadly Injustice: Race, Criminal Justice, and the Death of Trayvon Martin,* eds. Devon Johnson, Patricia Warren & Amy Ferrell. (New York: NYU Press 2015).

George Zimmerman was acquitted of 2nd Degree murder in State of Florida vs. George Zimmerman. Claims that the outcome of Zimmerman's trial owed no debt of gratitude to the Stand Your Ground law misunderstand the law's breadth. Before Florida's Stand Your Ground law was enacted, the jury instructions would have read this way:

> "The defendant cannot justify the use of force likely to cause death or great bodily harm unless he used every reasonable means within his power and consistent with his own safety to avoid the danger before resorting to that force. The fact that the defendant was wrongfully attacked cannot justify his use of force likely to cause death or great bodily harm if by retreating he could have avoided the need to use that force."[12]

Jury Instructions in the Zimmerman trial included the following, under "Justifiable Use of Deadly Force:

> The killing of a human being is justifiable and lawful if necessarily done while resisting an attempt to murder or commit a felony upon George Zimmerman, or to commit a felony in any dwelling house in which George Zimmerman was at the time of the attempted killing […] If George Zimmerman was not engaged in an unlawful activity and was attacked in any place where he had a right to be, he had no duty to retreat and had the right to stand his ground and meet force with force, including deadly force if he reasonably believed that it was necessary to do so to prevent death or great

[12] Former State Senator Dan Gelber, an outspoken opponent of the law, parsed the changes to the "Justifiable Use of Force" section of the Florida Statute on his blog: http://www.dangelber.com/blog/view_blog.php?ID=268 (accessed 2/9/15)

> bodily harm to himself or another or to prevent the commission of a forcible felony.

The widespread misconception about the law's applicability in the Zimmerman trial is the result of an equally widespread, modern-day "Defence of an order of the Court": in immediate post-verdict discussion of the case, CNN, Bloomberg Businessweek, Politico, National Review Online, and Fox News, among others, all featured segments contending that Zimmerman's lawyers had forgone invoking Stand Your Ground, instead mounting a traditional "self-defense" defense.[13] While Zimmerman's lawyers did indeed waive a pre-trial Stand Your Ground immunity hearing, for what they admitted were largely political reasons, there is no capacity, under Florida law, to claim the use of deadly force for protection without incorporating the language introduced into the statute by the SYG revisions. Waiving the right to a pre-trial immunity hearing does not eliminate the application of SYG immunity at trial. There is only one self-defense statute, and it is SYG.[14]

DEFENCE: *As in tryall of an offender by jury; the twelve men are satisfied in their consciences, upon the evidence given, that the party deserves death: but there are 20 or 40 standers by, who conceive otherwise, yet is the jury bound to condemn him according to their owne consciences, and not to acquit him upon the different opinion of other men, except theire reasons can convince them of the errour of their consciences, and this is according to the rule of the Apostle. Rom. 14. 5. Let every man be fully persuaded in his own mynde.*

---

[13] http://mediamatters.org/research/2013/07/16/media-neglect-that-stand-your-ground-is-centerp/194916 (accessed 2/19/15)

[14] *New York Times*: **"Stand Your Ground Is Part Of The State's Overall Self-Defense Law And Thus Was Included In The Judge's Instructions To The Jury." July 14, 2013.**

"I feel like it was all God's plan," Zimmerman told Sean Hannity in his first interview after the shooting. Toward the end of the hour-long interview, however, Zimmerman backpedalled: "I do wish there was something, anything I could have done that wouldn't have put me in a position where I would have had to take a life," he said. "I do want to tell everyone I'm sorry that this happened. I hate to think that because of this incident, because of my actions, it has polarized, divided America. I'm truly sorry." As with Judge Pyncheon, Zimmerman is sorry, simply, that he "was constrained by duty and conscience, by the force of law, at my own peril, to act,"[15]—that is, he is sorry that he was incapacitated by "this incident" in the first place, and that the incident had wide-ranging effects. He is not sorry that he acted as he did, that he stood his ground. And as with Dimmesdale, "it would always be essential to his peace to feel the pressure of a faith about him."[16] This is faith in the incapacity of the elect, secular or not, faith in posterity, faith in his right-to-be immune from prosecution and moral ambiguity alike. It is God's plan—He appointed the place, making "roome by some lawfull means."

In the midst of the protests against Florida's Stand Your Ground law, Marion Hammer, the driving force behind the bill, dismissed calls to review the "unforeseen" consequences of the law: "So for law

[15] Hawthorne, *House*, 161.
[16] Hawthorne, *The Scarlet Letter*, 108.

enforcement to rush to judgment just because they are being stampeded by emotionalism would be a violation of law. This law is not about one incident. It's about protecting the right of law-abiding people to protect themselves when they are attacked. There is absolutely nothing wrong with the law. And if the governor wants to waste time looking at it he can knock himself out."[17]

DEFENCE: *[I]f any should be rejected that ought to be received, that is not to be imputed to the law, but to those who are betrusted with the execution of it.*

In the five years before the law's passage, Florida prosecutors declared "justifiable" an average of 12 killings by private citizens each year. (Most justifiable killings are committed by police officers; those cases, which have also tripled, are not included in these statistics.) But in the five years after the law passed, that number spiked to an average of 36 justifiable killings per year. Neither the state nor Florida's association of prosecutors have attributed the jump in justifiable homicides to be a direct result of the new law, but the state public defender's association does draw that connection, as have advocacy groups opposed to Stand Your Ground laws.[18]

---

[17] http://mediamatters.org/blog/2012/03/22/marion-hammer-the-nra-lobbyist-behind-floridas/184284 (accessed 1/27/15)

[18] Marc Fisher and Dan Eggen, "'Stand Your Ground' laws coincide with jump in justifiable-homicide cases," *Washington Post*, 4/7/12 (https://www.washingtonpost.com/national/stand-your-ground-laws-coincide-with-jump-in-justifiable-homicide-cases/2012/04/07/gIQAS2v51S_story.html)

According to the *Tampa Bay Times* database of 237 Stand Your Ground cases, beginning with the passage of the law in 2005 and extending through August 2013: 70% of the victims were unarmed; 9% of the defendants were unarmed; 72% of victims were not committing a crime when the conflict began; 70% of the incidents occurred somewhere other than the defendant's property; in only 15% of cases was it clear that the defendant could NOT have safely retreated to avoid further conflict. A total of 68% of defendants who invoked Stand Your Ground self-defense at some point after the commission of the violence were not disciplined for the use of deadly force. Of those cases, 23% of cases were granted immunity at a pre-trial hearing; 10% were acquitted at trial; 35% were dismissed before a hearing, or were never charged.[19]

DEFENCE: *And herein is to be considered, what the intent of the law is, and by consequence, by what rule they are to walke, who are betrusted with the keeping of it. The intent of the law is to preserve the wellfare of the body: and for this ende to have none received into any fellowship with it who are likely to disturbe the same, and this intent (I am sure) is lawful and good.*

In Puritan times, public shaming took place in the town square, with offenders displayed in the stocks for the other townspeople to observe and mock. Often, the Magistrates looked on from an elevated position. In the aftermath of Trayvon Martin's death, an internet meme gained traction with a disturbing rapidity. It featured photos of young, almost exclusively white men lying face down on the ground, with Skittles in one hand, and a bottle of iced tea in the other. The meme is called "Trayvoning." A kind of internet-era exercise in shaming, these images encapsulate the process by which the elect appropriate the incapacity of the victim and subsequently convert immunity from

[19] http://www.tampabay.com/stand-your-ground-law/.

the spoils of "works" to a "right" (rite) of grace. This is election's posterity, this "infinitely defractable, multipliable"[20] deflection of culpability. The appropriation of the image of Trayvon Martin's vulnerability works, first, to caricature the act of violence engendered by that vulnerability, thereby separating the body itself from the discourse about the body, from the debate about the parameters of self-defense. Then the erasure of race from the image works to neutralize any

discussion of racial disparity and, indeed, shifts the image from "black victim" to "white victim." Which is, of course, the same tactic used by those who claim "reverse racism" and "race-baiting." A post in response to a BreitbartTV segment on "Trayvoning" underscores the larger strategy: "Isn't "Trayvonning" beating someone's head against a concrete sidewalk in an attempt to murder someone?" asks "zmrcleanz," referencing Zimmerman's account of the incident; "★FALCON★" contends that "Trayvon and [sic] Martin got what they deserved. The whole skittles and Ice Tea story is nothing but cover for a marauding blax youth tearing through a neighbor [sic] looking for trouble and he found it. Thank goodness he won't be another blax career criminal. There will be no future victims for Trayvon, the menace."[21] Instead of debating racial disparities in the application of self-defense law, the images leave us with vulnerable white victims, incapacitated by the depravity of their attackers. Reinstated as victims of those who would "tend to [their] ruin or damage,"[22] the

[20] Jean Baudrillard, from "The Precession of Simulacra" in *The Norton Anthology of Theory and Criticism* (Boston: W.W. Norton, 2001), 1738.
[21] http://www.breitbart.com/video/2013/07/13/trayvoning-trend-hits-social-media/ (accessed 2/22/15)
[22] Winthrop, *Defence*.

"Trayvoners" and their advocates retain the immunity of privilege by reimagining—re-imaging—"election" as the "right to be."

DEFENCE: *If no man hath right to our lands, our government priviledges etc., but by our consent, then it is reason we should take notice of before we conferre any such upon them.*

Indeed, this repositioning goes beyond mere appropriation—they are not just taking (notice of) something for their own use, but rather participating in something on Baudrillard's spectrum of simulation. According to Baudrillard, "to dissimulate is to feign not to have what one has. To simulate is to feign to have what one hasn't."[23] Cases like George Zimmerman's straddle the line between feigning presence and feigning absence. On the one hand, they feign the absence of privilege; on the other, they feign the presence of incapacity. As the Antinomians recognized, Puritanism betrayed itself, reached the limit of its promise "[i]n a setting where saintly effects were feigned widely and well, [and] simulation has so overtaken reality that both the prestige and the evidential power of behavior were ebbing away, and deductions of a safe estate [election] from sanctified behavior seemed as fleeting as 'songs in the Night' or 'Castles in the air."[24] Successful simulation is the death of "real" election, and the emergence of election as hyperreal image—cue the infinitely multiplying images of "Trayvoners." Baudrillard notes: "Thus perhaps at stake has always been the murderous capacity of images, murderers of the real, murderers of their own model as the Byzantine icons could murder the divine identity."[25] These "Trayvoning" images mask the absence of theological election, even as they dissimulate the presence of incapacity in the secular elect. And

---

[23] Baudrillard, 1733.
[24] Theodore Dwight Bozeman, *The Precisianist Strain: Disciplinary Religion and Antinomian Backlash in Puritanism to 1638* (Chapel Hill, UNC Press Books, 2004), 250.
[25] Baudrillard, 1735.

in much the same way that Disneyland, according to Baudrillard, creates a nostalgia for the "real America," or that "prisons are there to conceal the fact that it is the social in its entirety, its banal omnipresence, that is carceral,"[26] so do Stand Your Ground laws participate in the simulation of theological election and its attendant incapacity to retreat: by simulating the persistence of a still-elect, "original" American community, they conceal the fact that the promise of the redeemer nation, the community of the elect, was always false. In the very attempt to make "real" that which was categorically immaterial, the Puritans "inaugurate[d] an age of simulacra and simulation, in which there is no longer any God to recognize his own, nor any last judgment to separate true from false, the real from its artificial resurrection, since everything is already dead and risen in advance."[27]

[26] Baudrillard, 1741.
[27] Baudrillard, 1736.