

**“A ROSE BY ANY OTHER WORD
WOULD SMELL AS SWEET,”[†] BUT
WOULD IT STILL BE TREASURED:
THE MISLABELING AND
MISUNDERSTANDING OF PARENTS
AND GRANDPARENTS IN AMERICAN
POLICY**

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In any public debate, it is impossible to overstate the importance of definitions and the ability to control the terms of the argument. Throughout the twentieth century, writers such as George Orwell and Aldous Huxley have studied political language, advocating clarity over obfuscation and noting the rhetorical techniques used by political operators to sway public opinion, for good and bad. This essay considers the use of those terms in the field of elder law. Randy Lee warns of the dangers inherent in abstract language, such as the creation of the fictional monolith, the “elderly.” These dangers are particularly prevalent in the right to die debate which the author considers by viewing Justice Stevens’s concurrence in Washington v. Glucksberg, in which Justice Stevens attributes the idea of liberty to the benevolence of a Creator. The essay thus provides a thought-provoking look at the spiritual component of the ongoing debate over physician-assisted suicide.

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The author wishes to thank Paula Heider for technical assistance as well as H. Jefferson Powell, Robert Rodes, and Michael Scaperlanda for their particularly helpful comments on drafts. The author also wishes to thank his wife Brenda and their children for their zealous and loving support. This paper is dedicated to his own and Brenda’s parents, who have created such positive concrete realities in the Lee home.

[†] WILLIAM SHAKESPEARE, ROMEO AND JULIET act 2, sc. 2.

The expression is “talk is cheap.” So cheap, George Orwell felt compelled to acknowledge in his essay *Politics and the English Language* that the common conviction among those “who bother with the matter at all” is that “any struggle against the abuse of language is a sentimental archaism, like preferring candles to electric light or hansom cabs to aeroplanes.”¹ Despite such prevailing wisdom, Orwell himself insisted that people must try to rescue language from abuse; they must try to preserve the role of language as an “instrument for expressing and not for concealing or preventing thought.”² As Orwell argued, “[O]ne ought to recognize that the present political chaos is connected with the decay of language, and that one can probably bring about some improvement by starting at the verbal end.”³

If we are to take Orwell at his word, then despite the cheapness of talk, there is value in considering how we talk about particular issues. There is a need, in at least some instances, to ask ourselves whether we are using language to express thought, or to conceal or prevent it. If the latter is the case, then one such instance must be the way in which we discuss issues surrounding the people we refer to as elderly or senior citizens and the benefits to which we say those people may be entitled.

The essential nature of this confrontation can be seen in two debates I recently encountered concerning the elderly. The first involved an article that proclaimed America is “shortchanging” its children because it spends too much on “entitlement” programs for the elderly.⁴ The article also warned that this problem is only going to get worse.⁵ As the author of the article, Isabel V. Sawhill, vice president and director of Economic Studies at the Brookings Institute, put it,

A conflict between the generations is brewing. The stakes are enormous. Exploding costs for the three big entitlement programs (Medicare, Social Security and Medicaid), along with an aging population and insufficient tax revenues, portend endless deficits and rising government debt. . . .

1. The Complete Works of George Orwell, *Politics and the English Language*, http://www.george-orwell.org/Politics_and_the_English_Language/0.html (last visited Oct. 29, 2007) [hereinafter *Orwell, Politics*].

2. *Id.*

3. *Id.*

4. Isabel V. Sawhill, *How Public Spending Neglects Children*, BROOKINGS, Oct. 16, 2005, http://www.brookings.edu/opinions/2005/1016childrenfamilies_sawhill.aspx.

5. *Id.*

The impacts on children are two fold: First, if we do not rein in deficits by reforming entitlement programs and introducing new revenues, children will pay for our profligacy. Children born today, for example, would face a lifetime tax rate of about fifty percent.

Second, we are shortchanging children by not spending enough on their health, education, and care. Currently, Washington spends about four-and-one-half times more on the average elderly American than on the average child. If we include state and local governments, which pay most education costs, per capita spending on the elderly is almost twice that for children.⁶

The second incident arose when a desperate friend called me for advice about her mother, who was in the final stages of life. My friend's mother could no longer swallow and would need a feeding tube to stay alive. Legally she was not competent, so the decision whether to insert the feeding tube fell to my friend.

My friend felt that her faith called her to have the feeding tube inserted, but the attending physician and officials at her mother's nursing home were pressuring my friend not to. After all, they said, my friend's mother was "terminal," she was in "some measure of pain," and her time to be "self-sustaining, productive, [and] useful" was behind her. Thus, they insisted "heroic measures" would be "fruitless, unnatural, inhumane," and it was time to consider the "dignity" to be granted to my friend's mother.

Having received my friend's request for advice, I called another friend, Dr. William Bird,⁷ whom I trust with these issues. I explained the situation to Dr. Bird and shared the advice my friend had already received from the officials. He responded simply, "So, does she really want to starve her mom to death?"

As these two examples demonstrate, how we view the issues surrounding America's elderly depends a great deal on the level of abstraction with which we consider them. It is one thing to rein in the "exploding costs" of an entitlement program for an "aging population." It is quite another to cut the retirement payments our parents are supposed to receive from a Social Security account into which they have paid their whole lives. It is one thing to grant a terminal patient

6. *Id.*

7. Telephone Interview with Dr. William Bird, Assoc. Professor & Vice Chair Patient Care, Family & Cmty. Med., Milton S. Hershey Med. Ctr., Coll. of Med., Penn State Univ., in Harrisburg, Pa. (June 25, 2007).

the opportunity to die with “dignity.” It is quite another to give the order to starve our parents to death.

Confronted with the concrete reality of her choice, rather than the comforting abstractions of language, my friend found the answer to her dilemma to be clear: the feeding tube was inserted, and her mother’s life, with her family here on Earth, was extended a little longer. To this day, my friend remains certain she made the best choice for both her family and her mother.

Orwell maintained that this substitution of the abstract for the concrete was what most marked the current abuse and decay of the English language. He wrote “[t]he whole tendency of modern prose is away from concreteness.”⁸ He lamented that the “mixture of vagueness and sheer incompetence is the most marked characteristic of modern English prose, and especially of any kind of political writing.”⁹ Orwell offered that “[a]s soon as certain topics are raised,”¹⁰ treatment of our parents and grandparents perhaps being one such topic, “the concrete melts into the abstract and no one seems able to think of turns of speech that are not hackneyed.”¹¹

Orwell’s is not the only voice to call attention to this turn toward abstraction. In his critique of the language of modern psychiatrists,¹² Dr. Robert Coles noted the language of those professionals has slipped “into wordy and doctrinaire caricatures of life.”¹³ He observed this is true not only of their professional language, but even their “habits of talk [have] become cluttered with jargon or the trivial.”¹⁴ As examples Coles offered the expressions “[n]egative cathects, libido quanta, ‘a presymbiotic, normal-autistic phase of mother-infant unity,’ and ‘a hierarchically stratified, firmly cathected organization of self-representations.’”¹⁵

Coles acknowledged psychiatrists seek to excuse “[s]uch dross . . . as a short cut to understanding a complicated message by those versed in the trade.”¹⁶ He insisted, however, that psychiatrists can only embrace such conveniences to the extent the language of

8. Orwell, *Politics*, *supra* note 1.

9. *Id.*

10. *Id.*

11. *Id.*

12. ROBERT COLES, *THE MIND’S FATE* 5 (1975).

13. *Id.* at 9.

14. *Id.*

15. *Id.*

16. *Id.*

psychiatrists continues to accurately communicate to them the world in which they live and the realities of their work in the lives of others.¹⁷ As Coles put it, “[T]he real test is whether we best understand by this strange proliferation of language the worries, fears, or loves of individual people.”¹⁸ The language of law would benefit from the application of this test as well.

Coles maintained the language of psychiatrists failed such a standard, and he criticized psychiatrists for creating language that made their professional lives easier for them to accept while dehumanizing and abstracting the realities faced in their work.¹⁹ Coles observed “[a]s the words grow longer and the concepts more intricate and tedious, human sorrows and temptations disappear, loves move away, envies and jealousies, revenge and terror dissolve. Gone are strong, sensible words with good meaning and . . . flavor.”²⁰ While Orwell attributed the decline in the quality of language to a “mixture of vagueness and sheer incompetence,”²¹ Coles attributed the language’s inability to capture the concrete passions of human life to a death of heart among the language’s adherents.²²

While Coles noted Orwell’s loss of concreteness in the language of the psychiatrist, Aldous Huxley returned the discussion to the language of politics. In his essay, *Words and Behavior*, Huxley wrote “[a]ll current political thought is a mixture, in varying proportions, between thought in terms of concrete realities and thought in terms of de-personified symbols and personified abstractions.”²³ Huxley added that “[p]olitics can become moral only on one condition: that its problems shall be spoken of and thought about exclusively in terms of concrete reality.”²⁴

Huxley maintained politicians, including the whole of society in this term,²⁵ use language to suppress and distort the truth so that we may “with a good conscience, . . . evade unpleasant obligations and responsibilities, because ignorance is the best excuse for going on do-

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. Orwell, Politics, *supra* note 1.

22. COLES, *supra* note 12, at 9.

23. ALDOUS HUXLEY, *Words and Behavior*, in COLLECTED ESSAYS 245, 255 (1958).

24. *Id.*

25. *Id.* at 252.

ing what one likes, but ought not, to do.”²⁶ As Huxley described this process:

We protect our minds by an elaborate system of abstractions, ambiguities, metaphors and similes from the reality we do not wish to know too clearly; we lie to ourselves, in order that we may still have the excuse of ignorance, the alibi of stupidity and incomprehension, possessing which we can continue with a good conscience to commit and tolerate the most monstrous crimes[.]²⁷

Although Huxley’s most prominent example of this political self-deception was our characterization of war,²⁸ the devices used in our descriptions of war apply equally well to the way we describe the issues surrounding the concrete realities of our parents and grandparents. For example, Huxley observed how in war we depersonify the victims and instruments of war,²⁹ demonize those who might prevent us from getting what we want,³⁰ and use abstract terms like “force” and “justice” to articulate concrete realities very different from those of the words selected to describe them.³¹ All of these devices are used with equal force in the debates surrounding the legal rights of our parents and grandparents.

With respect to depersonifying our victims, Huxley pointed out,

The most shocking fact about war is that its victims and its instruments are individual human beings, and that these individual human beings are condemned by the monstrous conventions of politics to murder or be murdered in quarrels not their own. . . . The language and strategy and politics is designed, so far as it is possible, to conceal this fact.³²

Huxley quoted several examples including this description of the Battle of Marengo: “According to Victor’s report, the French retreat was orderly; it is certain, at any rate, that the regiments held together, for the six thousand Austrian sabres found no opportunity to charge

26. *Id.* at 246.

27. *Id.* at 251. Huxley was not alone in either his observation of the pervasiveness of politics or his cynical view of political discourse. With respect to the pervasiveness of politics Orwell observed, “[i]n our age there is no such thing as ‘keeping out of politics.’ All issues are political issues.” Orwell, *Politics*, *supra* note 1. With respect to the lack of candor in political discourse Orwell observed, “[p]olitics itself is a mass of lies, evasions, folly, hatred, and schizophrenia,” and “[p]olitical language—and with variations this is true of all political parties, from Conservatives to Anarchists—is designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind.” *Id.*

28. HUXLEY, *supra* note 23, at 246–51.

29. *Id.* at 246–47.

30. *Id.* at 247.

31. *Id.* at 248–51.

32. *Id.* at 246.

home.”³³ As Huxley observed, by converting the human players in this battle into regiments and sabres, the author was able to reduce the confrontation to a “mere clash of ironmongery.”³⁴ Today, this depersonification continues, and Huxley’s “sabre” is a “sortie,” and our name for human *inadvertent* victims of war is “collateral damage.”

Depersonification most certainly played a role in the two debates that opened this essay. In the first, it would be considerably harder to discuss our profligacy, or extreme wastefulness, and our excessive spending with respect to the people who raised us were we not able to reduce them to the abstract and anonymous “elderly.”³⁵ Similarly, simply re-personifying my friend’s mother as a mother contributed in a major way to making the resolution of the feeding tube issue both comprehensible and clear. A plethora of additional examples are equally accessible: our parents and grandparents are served by “offices of the aging,” they spend their days at “senior centers,” and they dwell in “retirement” or “nursing” homes. In fact, it is usually not until one’s own parents or grandparents are confronted by these entities that one even appreciates that these terms deal not with the “aging,” the “elderly,” “seniors,” or the “retired” but with people’s parents or grandparents.

Of course, one might argue referring to the elderly as our parents or grandparents seeks to cloak in sentimentality the issues surrounding them. Yet, it seems hard to imagine how discussing an issue in concrete truths makes the discussion any less reliable. These people are in fact related to us, and those relations are in fact relevant to the treatment they receive.³⁶

With respect to his second device, Huxley defined demonization as substituting “diabolical abstractions for concrete persons” so that one can “forget that certain other sets of people are human.”³⁷ To do this, one may saddle a group with a label and the traits of a single individual so “we may be able to . . . hate it more intensely than we could do if we thought of it as what it really is: a number of diverse individuals.”³⁸

33. *Id.* at 247.

34. *Id.*

35. See *supra* text accompanying note 6.

36. See, e.g., *Exodus* 20:12 (“Honor your father and your mother, that you may have a long life in the land which the Lord, your God, is giving you.”).

37. HUXLEY, *supra* note 23, at 254.

38. *Id.* at 247.

Obviously we do this when we lump individuals into groups based on their beliefs and impose on them labels like “secular humanists,” “liberals,” “ultra-conservatives,” or “conservative Christians” in order to invoke fear of them. We also do it, however, when we lump all people over a certain age into the category of “elderly” and then suggest they have declared war on children to subsidize their own bloated entitlements.³⁹ Of course, even momentary reflection should defang the application of this rhetorical device in this context. After all, the careful listener would be hard pressed to decide which was more absurd: the assertion that our parents and grandparents universally share common situations, motives, and interests, or the image of an army of grandparents marching off to war against their grandchildren.

Not only can we demonize people, but we can also demonize the way in which people are treated. One way of doing this is to characterize the treatment as the receipt of an “entitlement.” In an era of sudden fiscal responsibility, one can easily talk about cutting an expensive entitlement program like Social Security. However, it would be more difficult to have this discussion if we acknowledged the “entitlement” program is actually a pension program, into which our parents have paid their whole lives in the expectation that particular sums of money would be paid to them, based upon their contributions, when they reached sixty-five.⁴⁰ This discussion becomes even more difficult when we consider the reason the entitlement program now must reduce benefits is because the entity to which our parents paid their contributions has already spent their money.⁴¹

The generational conflict example with which we began⁴² illustrates the effectiveness of demonizing treatment even more clearly. By juxtaposing the negative abstraction of “entitlement” with positive abstractions like “health, education, and care,” Sawhill is able to invite a sense of moral certainty where it would not otherwise exist.⁴³ It is clear one would not give his money to an entitlement program when children are going without education or care. One might, however,

39. See *supra* text accompanying note 6.

40. U.S. GOV'T ACCOUNTABILITY OFFICE, SOCIAL SECURITY REFORM: ANSWERS TO KEY QUESTIONS 3 (2005), available at <http://www.gao.gov/new.items/d05193sp.pdf>.

41. *Id.* at 17–18.

42. See *supra* text accompanying note 6.

43. See *supra* text accompanying note 6.

willingly pay to ensure elderly people receive the medication they need to function or even to live, and one might do so even if it meant denying the local high school football team a state of the art facility,⁴⁴ or every child in the state his or her own laptop computer.⁴⁵ Neither all entitlements nor all educational needs are created equal, and policy debates should not be carried on as if they were.

One might still seek to distinguish the application of depersonification and demonization in war from their application to the rights or interests of our parents or grandparents. In his essay *Politics and the English Language*, however, Orwell criticized the use of these same devices in a range of contexts, representing for the most part any area in which we might not be able to do what we want if we spoke plainly about doing it:

In our time, political speech and writing are largely the defense of the indefensible. Things like the continuance of British rule in India, the Russian purges and deportations, the dropping of the atom bombs on Japan, can indeed be defended, but only by arguments which are too brutal for most people to face, and which do not square with the professed aims of the political parties. Thus political language has to consist largely of euphemism, question-begging and sheer cloudy vagueness. Defenseless villages are bombarded from the air, the inhabitants driven out into the countryside, the cattle machine-gunned, the huts set on fire with incendiary bullets: this is called *pacification*. Millions of peasants are robbed of their farms and sent trudging along the roads with no more than they can carry: this is called *transfer of population* or *rectification of frontiers*. People are imprisoned for years without trial, or shot in the back of the neck or sent to die of scurvy in Arctic lumber camps: this is called *elimination of unreliable elements*.

44. See, e.g., Posting of mrfootball to Houston Architecture Info Forum, <http://www.houstonarchitecture.info/haif/index.php?showtopic=5193> (Feb. 19, 2006, 18:16 CST) (discussing Cy-Fair's new \$75 million stadium, the Berry Center & Stadium Complex); see also Dave McKibben, *Mater Dei Finally Opens a Venue to Match Its Athletic Victories*, L.A. TIMES, Sept. 22, 2006, at B1.

45. See, e.g., Press Release, Office of the Governor, Commonwealth of Pa., Governor Rendell Launches "Pennsylvania Competes" Education Budget with \$517 Million Increase in Basic Education (Feb. 8, 2006), available at <http://www.pdenewsroom.state.pa.us/newsroom/cwp/view.asp?a=3&q=117904> ("Governor Rendell's budget proposes . . . \$200 million . . . to transform high school teaching by providing laptops on every desk in English, math, science and history classes over three years."); see also Laura Greifner, *Schools Spend \$600 Billion on Facilities, but Inequities Persist, Report Finds*, EDUC. WK., Oct. 26, 2006, <http://www.facilitiesnet.com/news/article.asp?id=5567&keywords=school,%20construction,%20study> (reporting most school spending, by a substantial amount, went to affluent districts "likelier to spend their money for improvements intended to directly enhance learning, such as science laboratories and computer rooms").

Such phraseology is needed if one wants to name things without calling up mental pictures of them.⁴⁶

To illustrate his final device of abstraction, Huxley used the following translation to show how abstract concepts can be used to make unpleasant concrete realities more pleasant. Huxley began with the following premise, as prevalent in our time as it was in his: "You cannot have international justice, unless you are prepared to impose it by force."⁴⁷ He then rearticulated the premise substituting the concrete reality behind the word "force" for the word itself. The premise then read, "You cannot have international justice, unless you are prepared, with a view to imposing a just settlement, to drop thermite, high explosives and vesicants upon the inhabitants of foreign cities and to have thermite, high explosives and vesicants dropped in return upon the inhabitants of your cities."⁴⁸ Both in Huxley's time and in ours, decisions which seem to follow quite easily from the first premise do not follow nearly so easily from the second.

While "force" is not a word we use regularly to discuss the legal issues of our parents and grandparents, we do use the word "justice," and "justice," like "force," is a term which can prove comforting without proving clear. Orwell observed the word "justice" can have "several different meanings which cannot be reconciled with one another,"⁴⁹ and went on to point out "[w]ords of this kind are often used in a consciously dishonest way. That is, the person who uses them has his own private definition, but allows his hearer to think he means something quite different."⁵⁰

Popular experience bears Orwell out on the potential for confusion invited by the word "justice." Although all lawyers, for example, agree they are "public citizen[s] having special responsibility for the quality of justice,"⁵¹ not all lawyers share a common meaning of justice. A similar sense of confusion extends to the general public. Thus, while everyone polled might well respond that "the elderly must be treated justly or fairly," that unanimity would not indicate people agreed on what society had to do for or to our parents and grandparents in the name of just treatment.

46. Orwell, *Politics*, *supra* note 1.

47. HUXLEY, *supra* note 23, at 249.

48. *Id.*

49. Orwell, *Politics*, *supra* note 1.

50. *Id.*

51. MODEL RULES OF PROF'L CONDUCT pmb1. ¶ [1] (2007).

In spite of this confusion, Congress has attempted to legislate “justice” for the elderly. In fact, in every session of Congress beginning with the 107th, the Elder Justice Act has been introduced in the Senate but has never managed to reach even a full vote in that chamber.⁵² An advocate for the elderly might seize upon this history and try to invite an inference of congressional hostility toward the elderly. After all, one might ask how could anyone not want to vote in favor of justice for the elderly? Yet, one could offer such an argument only after yielding to the very temptations Huxley and Orwell have called us to avoid. One should no more vote for a bill because someone has labeled it “just” than one should oppose a bill because someone has labeled it “profligate.” Thus, the most important lesson to be learned from the legislative history of the Elder Justice Act is not simply that a bill of that name cannot pass Congress. Instead, the more important lessons can come only after one has recognized the concrete reality the bill associates with justice for the elderly.

In the Elder Justice Act’s most recent unsuccessful attempt at passage during the 109th Session of Congress, Senator Orrin Hatch indicated the purpose of the bill was “to combat the reported mistreatment of as many as 2 million Americans over the age [of] 65 by someone on whom they depend for care.”⁵³ Senator Hatch went on to observe “[o]ur right to live free from abuse and neglect does not—and should not—diminish with age,” and the “problem of elder abuse, neglect, and exploitation” has been invisible for too long.⁵⁴

No one should devalue the importance of protecting our parents and grandparents from abuse. Still, in light of the bill’s restricted purpose of addressing only “abuse and neglect,” the name, Elder Justice Act, seems more ambitious than the law it would label. Does a bill whose sphere of concern is limited to protection from abuse actually encompass all of “justice”? Would a program for children that sought only to protect them from abuse be referred to as “the Children’s Justice Program”?

52. Office of Legislative Policy and Analysis, Legislative Updates: 109th Congress: Pending Legislation: Elder Justice Act, S. 2010, <http://olpa.od.nih.gov/legislation/109/pendinglegislation/elderjustice.asp> (last visited Oct. 29, 2007).

53. Press Release, Orrin Hatch, U.S. Senator for Utah, Hatch’s Elder Justice Act Clears Committee: Bill Would Increase State, Local Ability to Combat Crimes Against Seniors (Aug. 3, 2006), available at http://www.hatch.senate.gov/index.cfm?FuseAction=PressReleases.Print&PressRelease_id=1640.

54. *Id.*

In *The Merchant of Venice*,⁵⁵ William Shakespeare used a game requiring a choice between a gold, a silver, and a lead casket to present three competing concepts of justice: justice requires we get what we want; justice requires we get what we deserve; or justice requires we put ourselves at risk in an act of hope.⁵⁶ Although these different concepts of justice are not alien to American legalism,⁵⁷ our legal system does not grant *elder Americans* a choice as to which of these should be reflected in an Elder Justice Act. In the debate over elder justice, it is irrelevant that elder Americans might want to live at home, or might want a certain level of retirement income, a certain level of health care, or certain kinds of activities. Similarly, one is unlikely to ask what our parents and grandparents deserve: what they have earned by paying other people's Social Security for years, or even for bearing the weight of raising us. Instead, legal discourse leaves our parents and grandparents to "give and hazard all"⁵⁸ in the hope we will respond with mercy,⁵⁹ or at least with the recognition that we are all at least "seniors in training."⁶⁰

In his book, *The Moral Tradition of American Constitutionalism*, Professor H. Jefferson Powell insisted that "[w]hat unites participants in a MacIntyrean tradition is as much the problems they think important as the answers they think correct."⁶¹ Thus, one may learn as much about what a democratic community values from the questions the community asks itself as from the resolutions it ultimately embraces. Placing Powell's view in our current context, our community likes to think the elderly are politically powerful because they have been able to retain their Social Security benefits in the face of regular

55. WILLIAM SHAKESPEARE, *THE MERCHANT OF VENICE*.

56. In the play, suitors of the beautiful, wise, wealthy, and noble Portia can win her hand by selecting correctly from among a gold, a silver, and a lead casket. *Id.* at act 3, sc. 2. The gold one bears the inscription, "[w]ho chooseth me, shall gain what many men desire"; the silver bears the inscription, "[w]ho chooseth me, shall get as much as he deserves"; and the lead, "[w]ho chooseth me, must give and hazard all he hath." *Id.* at act 2, sc. 9.

57. Randy Lee, *Who's Afraid of William Shakespeare: Confronting Our Concepts of Justice and Mercy in The Merchant of Venice*, 32 U. DAYTON L. REV. 1, 3 (2006) [hereinafter Lee, *Who's Afraid*].

58. WILLIAM SHAKESPEARE, *THE MERCHANT OF VENICE*, act 2, sc. 9.

59. See Lee, *Who's Afraid*, *supra* note 57, at 18–24 (discussing Shakespeare's view of the relationship of justice and mercy).

60. See *Matthew 7:12* ("Do unto others as you would have them do unto you."). The term "seniors in training" is a creation of my wife Brenda, used in reference to our children when they visit senior centers.

61. H. JEFFERSON POWELL, *THE MORAL TRADITION OF AMERICAN CONSTITUTIONALISM* 30 (1993) (referring to the work of Alysdaire MacIntyre).

debates over Social Security. From Powell's perspective, however, we would learn more about the relative political power of the elderly by observing that we dare at all to ask the question whether we, as a political community, should take from our parents and grandparents the funds into which they have been paying their whole lives explicitly for their own retirement.

In the spirit of Shakespeare's game in *Merchant*, our political community could, in the name of justice, ask our parents or grandparents what they wanted, or we could, also in the name of justice, ask ourselves what they deserve. We do neither. Instead, we ask ourselves what we can afford to give our parents and grandparents, what we are willing to let them have, and then we label that "justice." Our choice of questions does offer insight into what matters to us as a community.

Lest we think that these exercises with the abstraction of justice are limited to lawmakers and politics, and that lawyers are immune from such practices, we might do well to consider the words of Edwin Armstrong, the primary inventor of the technologies utilized in FM radio, who, in spite of that fact, was denied his patent rights by the U.S. Supreme Court.⁶² As Armstrong put it at the conclusion of his patent law case, lawyers "substitute words for realities and then talk about the words."⁶³ To the extent lawyers do as Armstrong described, we have an obligation as "public citizen[s] having special responsibility for the quality of justice"⁶⁴ to select words that make life clearer rather than just more comfortable.⁶⁵

Of course, the word "clearer" carries with it its own level of abstraction, and a lawyer might well argue that sometimes concrete realities need to be filtered out of a debate because they are too distracting and ultimately obscure the discussion. First, a single aspect of a discussion presented too concretely may prevent the participants from focusing on what really matters. Thus, in response to Huxley's criticisms of the way we discuss war, one might argue, for example, printing the names and pictures of every American soldier killed or

62. For a discussion of the tragic intersection between the law and Armstrong's life, see TOM LEWIS, *EMPIRE OF THE AIR: THE MEN WHO MADE RADIO* 28–30, 186–219 (1991); see also First Electronic Church of America, Edwin Armstrong: The Creator of FM Radio, <http://fecha.org/armstrong.htm> (last visited Oct. 29, 2007).

63. LEWIS, *supra* note 62, at 217.

64. MODEL RULES OF PROF'L CONDUCT pmb1. ¶ [1] (2007).

65. See *supra* text accompanying note 27.

wounded in Iraq enflames antiwar sentiments unfairly. While the sacrifices suffered by these individuals can be concretely articulated, the interests and lives their sacrifices may have protected cannot be so concretely identified. In a different context, one might argue that displaying the concrete realities of Parkinson's disease or Alzheimer's disease in a discussion of public funding of fetal stem cell research diverts attention from whether fetal stem cells actually offer more medical promise than do adult stem cells, or whether private funding is sufficient, or obscures consideration of a human life presence in the embryo. The legal system has, in fact, validated the concern that too much concreteness can lead to obfuscation through Federal Rule of Evidence 403, which excludes even "relevant" evidence "if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury."⁶⁶

Both Orwell and Huxley were, like lawyers, effective storytellers, and neither author would have condemned telling a story effectively. Telling a story effectively necessarily requires decisions about which details and perspectives to emphasize and which to deemphasize.⁶⁷ Both Orwell and Huxley, however, would have defined "effective writing" as writing that more clearly presents the truth rather than more subtly clouds the issue. It is writing that uses words as a knife to cut to the truth rather than as a veil to cloak the line "between what's flesh and what's fantasy,"⁶⁸ a veil which as Huxley put it, allows both the author and the reader to with "good conscience . . . evade unpleasant obligations and responsibilities."⁶⁹ As Orwell instructed, effective writing is writing by an author with the courage and self-discipline "to let the meaning choose the word, and not the other way around."⁷⁰

Ultimately, the techniques of effective writing are neither honest nor deceptive in their own right; they take their personality from the person who uses them, a person who, Huxley insists, must remember

66. FED. R. EVID. 403.

67. For a discussion of the way in which lawyers use linguistic devices like theme, perspective, organization, and characterization for persuasive purposes, see Randy Lee, *Writing the Statement of the Case: The "Bear" Necessities*, 10 WHITTIER L. REV. 619 (1989) [hereinafter Lee, *Writing*].

68. BRUCE SPRINGSTEEN, *Jungleland*, on BORN TO RUN (Columbia Records 1975).

69. Huxley, *supra* note 23, at 246.

70. Orwell, *Politics*, *supra* note 1.

his self-interest frequently tempts him to self-deception.⁷¹ To the extent an author can transcend this temptation and seek to be honest and candid, he may be able to tell the truth, and if he does, hopefully he will tell it persuasively. To the extent an author succumbs to this temptation, he will be deceptive, and he, rather than his words, will be to blame. An author has no more right to “lie honestly” than he has a right to “tell the truth dishonestly.”⁷²

Just as there are linguistic abstractions other than the word “entitlement” that cloud our discussions about the legal rights of our parents and grandparents, there are also areas of life beyond public entitlements in which these clouded discussions occur. As my experience with my friend and her mother indicate,⁷³ the law implicated as one nears the end of one’s life is such an area.

Nations, it is said, may be judged by their treatment of their weakest members.⁷⁴ If that is the case, it should feel haunting to us that as our parents and grandparents reach the most vulnerable phase of their lives and are confronted with a justice that requires they seek mercy from us, the language with which we respond is not a language of mercy.⁷⁵ Rather, it is a language that defends their “dignity,” a dignity defined as the right to opt out of a life dependent on our mercy.⁷⁶ It is a language that insists there is more “dignity” to be had in dying than in relying on the love of those whom one has loved first.⁷⁷ It is a language that vilifies those whose compassion impels them to care for the weak with joy and champions those who see the dignity in death.⁷⁸

71. See Huxley, *supra* note 23, at 245–46.

72. Lee, *Writing*, *supra* note 67, at 635.

73. See *supra* text accompanying notes 6–7.

74. Jason Miller, *American Capitalism and the Moral Poverty of Nations*, POLITICAL AFFAIRS.NET, June 2, 2006, <http://www.politicalaffairs.net/article/view/3546/1/189> (quoting Javier Perez de Cuellar, Former Prime Minister of Peru and Secretary General to the U.N.).

75. See *supra* text accompanying notes 55–60.

76. See *infra* text accompanying notes 80–97.

77. But see 1 John 4:19 (“We love because He first loved us.”).

78. See, e.g., Michael P. Allen, *Justice O’Connor and the “Right to Die”*: *Constitutional Promises Unfulfilled*, 14 WM. & MARY BILL RTS. J. 821, 836–37 (2006) (considering the refusal of Terri Schiavo’s parents to “allow” their daughter to die); Ronald Cranford, *Facts, Lies, and Videotapes: The Permanent Vegetative State and the Sad Case of Terri Schiavo*, 33 J.L. MED. & ETHICS 363, 370 (2005) (discussing how Terri Schiavo’s family believed that “they were the last chance that Terri would ever have, and they acted according to these powerful (but terribly mistaken and ill informed beliefs)”). But see generally Robert A. Destro, *Quality-of-Life Ethics and Constitutional Jurisprudence: The Demise of Natural Rights and Equal Protection for the Disabled and Incompetent*, 2 J. CONTEMP. HEALTH L. & POL’Y 71, 99–100 (1986) (noting that if you define a “person” in regards to his inherent human nature, the basis of

In the U.S. Supreme Court's leading right to die case, *Washington v. Glucksberg*,⁷⁹ five members of the Court expressed this view of dignity in some manner.⁸⁰ It is, however, Justice John Paul Stevens's concurring opinion that articulated this view most directly, ironically, as Huxley would have anticipated⁸¹ through abstractions like liberty, community, and usefulness. It is, therefore, Justice Stevens's opinion to which we turn here.

In his *Glucksberg* opinion, Justice Stevens endorsed the need for "a continuation of the vigorous debate about the 'morality, legality, and practicality of physician-assisted suicide' in a democratic society,"⁸² and explained how that debate could lead him to recognize a right that would encompass physician-assisted suicide. Justice Stevens traced such a right to the right that protects all "matters 'central to personal dignity and autonomy,'"⁸³ "[the] liberty . . . to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life."⁸⁴ Justice Stevens observed this liberty necessarily encompassed a right to avoid "intolerable pain and the indignity of living one's final days incapacitated and in agony."⁸⁵ In expanding on the concept of such "indignity," Justice Stevens explained:

"Each of us has an interest in the kind of memories that will survive after death. To that end, individual decisions are often motivated by their impact on others. A member of the kind of family identified in the trial court's findings in this case would likely have not only a normal interest in minimizing the burden that her own illness imposes on others, but also an interest in having their

the approach is that of "natural rights/sanctity-of-life"); Clarke D. Forsythe, *Protecting Unconscious, Medically-Dependent Persons After Wendland and Schiavo*, 22 CONST. COMMENT. 475, 494 (2005) (noting the states' unqualified right to preserve human life).

79. 521 U.S. 702 (1997).

80. *Id.* at 736 (O'Connor, J., concurring) (considering sympathetically "whether a mentally competent person who is experiencing great suffering has a constitutionally cognizable interest in controlling the circumstances of his or her imminent death"); *id.* at 781-82 (Souter, J., concurring) (recognizing importance of individual's interest in hastening death); *id.* at 789 (Ginsberg, J., concurring) (agreeing with the opinion of Justice O'Connor); *id.* at 789-90 (Breyer, J., concurring) (formulating a "right to die with dignity," which would have, "at its core . . . personal control over the manner of death, professional medical assistance, and the avoidance of unnecessary and severe physical suffering—combined").

81. See *supra* note 27 and accompanying text.

82. *Glucksberg*, 521 U.S. at 738 (Stevens, J., concurring).

83. *Id.* at 744 (quoting *Planned Parenthood v. Casey*, 505 U.S. 833, 851 (1992)).

84. *Id.* at 745 (quoting *Planned Parenthood v. Casey*, 505 U.S. 833, 851 (1992)).

85. *Id.* at 745.

memories of her filled predominantly with thoughts about her past vitality rather than her current condition.”⁸⁶

With respect to these memories one would leave behind, Justice Stevens feared if one could not choose to terminate one’s life in the face of a terminal illness, one ran the risk of writing a final life’s chapter that “demeans her values and poisons memories of her.”⁸⁷

Justice Stevens derived this right to define one’s own concept of existence not from law but from “an aspect of a far broader and more basic concept of freedom that is even older than the common law.”⁸⁸ Although Justice Stevens conceded “law is essential to the exercise and enjoyment of individual liberty in a complex society,” he denied law was the source of liberty, instead attributing liberty to the benevolence of the Creator: “I had thought it self-evident that all men were endowed by their Creator with liberty as one of the cardinal unalienable rights. It is that basic freedom which the Due Process Clause protects, rather than the particular rights or privileges conferred by specific laws or regulations.”⁸⁹

To extend this liberty to include a right to commit suicide with the aid of a physician, Justice Stevens balanced the liberty interest against relevant state interests, “[f]irst and foremost of [which] is the ‘unqualified interest in the preservation of human life.’”⁹⁰ Justice Stevens acknowledged that “[t]hat interest not only justifies—it commands—maximum protection of every individual’s interest in remaining alive, which in turn commands the same protection for decisions about whether to commence or to terminate life-support systems or to administer pain medication that may hasten death.”⁹¹

Justice Stevens hedged, however, on what “maximum protection” means when balanced against the countervailing liberty interest. He conceded the truth in Anglican Priest John Donne’s observations in *Meditation XVII* that “No man is an island,”⁹² and “any man’s

86. *Id.* at 743 n.11 (quoting *Cruzan v. Dir., Mo. Dep’t of Health*, 497 U.S. 261, 356 (1990) (Stevens, J., dissenting)).

87. *Id.* at 747.

88. *Id.* at 743.

89. *Id.* at 743 n.10 (quoting *Meachum v. Fano*, 427 U.S. 215, 230 (1976) (Stevens, J., dissenting)).

90. *Id.* at 746 (quoting majority opinion at 728).

91. *Id.*

92. *Id.* at 741 (quoting JOHN DONNE, *Meditation No. XVII*, in *DEVOTIONS UPON EMERGENT OCCASIONS* (1623), available at <http://www.luminarium.org/sevenlit/donne/meditation17.php>).

death diminishes me, because I am involved in mankind,”⁹³ and took from these that “[t]he State has an interest in preserving and fostering the benefits that every human being may provide to the community—a community that thrives on the exchange of ideas, expressions of affection, shared memories, and humorous incidents, as well as on the material contributions that its members create and support.”⁹⁴ Yet, Justice Stevens insisted “[t]he state interests supporting a general rule banning the practice of physician-assisted suicide do not have the same force in all cases.”⁹⁵ Justice Stevens maintained one should not assume from this that “the lives of terminally ill, disabled people have less value than the lives of those who are healthy.”⁹⁶ However, he went on to say that “[a]lthough as a general matter the State’s interest in the contributions each person may make to society outweighs the person’s interest in ending her life, this interest does not have the same force for a terminally ill patient faced not with the choice of whether to live, only of how to die.”⁹⁷

Huxley would demand a lawyer seeking to fulfill his responsibility to justice in defining the legality of death speak of, and think about, the problem “exclusively in terms of concrete reality.”⁹⁸ Thus, one may feel compelled to seek the concrete realities behind Justice Stevens’s articulations of the abstract concepts of dignity, liberty, and usefulness in this context. In doing so, the lawyer may well opt to embrace the invitation presented by Justice Stevens’s reliance on the law of an abstractly labeled “Creator”⁹⁹ and the meditations of an Anglican priest,¹⁰⁰ and consider Christian principles in seeking concrete meanings for his abstract terms. The embracing of that invitation, however, does not necessarily yield a meaning consistent with that employed by Justice Stevens. In fact, the search of Christian principles leads so far from the view presented by Justice Stevens that some ex-

93. *Id.* at 741 n.8 (quoting JOHN DONNE, *Meditation No. XVII, in DEVOTIONS UPON EMERGENT OCCASIONS* (1623)) (John Donne’s meditation here reflects Paul’s teaching to the church in Rome that “[t]he life and death of each of us has its influence on others.” *Romans* 14:7).

94. *Id.* at 741.

95. *Id.* at 745–46.

96. *Id.* at 746.

97. *Id.*

98. HUXLEY, *supra* note 23, at 255.

99. *Glucksberg*, 521 U.S. at 743 n.10.

100. *Id.* at 741 n.8, 743 n.10.

tended discussion of the topic is required before any abstractions can be safely left behind.

While Justice Stevens indicated the state's interest in life somehow is magnified in the strong and productive,¹⁰¹ Jesus seemed far more interested in the status and role of the poor and weak. In three of the Gospels, Jesus promised, "The poor you will always have with you,"¹⁰² but He never made any such promise concerning the rich. Instead, Jesus said the rich, and no doubt the great, strong, and powerful as well, would be hard pressed to attain the ultimate success in life:

Amen, I say to you, it will be hard for one who is rich to enter the kingdom of heaven. Again I say to you, it is easier for a camel to pass through the eye of a needle than for one who is rich to enter the kingdom of God.¹⁰³

This warning was also proclaimed by Jesus in three of the four Gospels.¹⁰⁴

One might wonder why in the mind of Christ the weak and broken have assumed a role that makes it necessarily true they will be always with us. One explanation that presents itself is those who are rich or powerful will necessarily always be so covetous, so incapable of sharing their wealth, that some will always go without. That explanation would be consistent with a population of rich people hard-pressed to enter Heaven. Yet the Gospels tell us Jesus was capable of feeding thousands with a loaf of bread and a few fishes.¹⁰⁵ Presumably, He could have sufficiently fed the poor on a regular basis throughout His public ministry. No one would accuse Jesus of being selfish,¹⁰⁶ and yet, throughout His ministry some continued to be poor. Thus, one is left to wonder whether we are always called to have the poor with us not because of some incurable flaw in the rich, but because there is some special role for the poor.

101. See *supra* text accompanying notes 89–90.

102. *Matthew* 26:11; see also *Mark* 14:7; *John* 12:8.

103. *Matthew* 19:23–24.

104. *Mark* 10:23–25; *Luke* 18:24.

105. *Matthew* 14:13–23; *Mark* 6:30–46; *Luke* 9:10–17; *John* 6:1–15 (describing the feeding of 5000); see also *Matthew* 15:32–38; *Mark* 8:1–9 (describing the feeding of 4000).

106. See, e.g., *John* 15:13 ("Greater love has no man than this: that he lay down his life for his friends.").

Support for this view comes in the Beatitudes, where Jesus said those likely to take the form of the weak, the poor, and the broken are not just inevitable but are blessed:

Blessed are the poor in spirit . . .

Blessed are they who mourn . . .

Blessed are the meek . . .

Blessed are they who hunger and thirst for righteousness . . .

Blessed are they who are persecuted for righteousness sake . . .¹⁰⁷

Further support comes when one examines the story behind the statement, “The poor you will always have with you.” Jesus said this in response to His anointing by Mary of Bethany, who anointed Jesus with expensive oil and washed His feet with her hair and tears in anticipation of His death.¹⁰⁸ For this profound act of love, Mary was rebuked by Judas Iscariot because Mary had wasted the oil on Jesus when she could have sold it “for three hundred days’ wages and given to the poor.”¹⁰⁹ In response to that rebuke, Jesus explained in defense of Mary,

Let her alone. Why do you trouble her? She has done a good thing for me. The poor you will always have with you, and whenever you wish you can do good to them, but you will not always have me. She has done what she could. She has anticipated anointing my body for burial. Amen, I say to you, wherever the gospel is proclaimed to the whole world, what she has done will be told in memory of her.¹¹⁰

The Mary who was rebuked and defended in the story can be, and has been traditionally, understood as not only the person known as Mary of Bethany, Martha’s sister, but also Mary of Magdala.¹¹¹ In

107. *Matthew* 5:3–10.

108. *Matthew* 26:6–13; *Mark* 14:3–9; *John* 12:2–8.

109. *John* 12:5.

110. *Mark* 14:6–9.

111. EDITH FILLIETTE, SAINT MARY MAGDALENE: HER LIFE AND TIMES IN THE GOSPELS, HISTORY AND TRADITION 38–40 (1983). In her work on this issue, Edith Filliette concludes that Mary Magdalene was Martha’s sister after reviewing the works of Saint Jerome, Pope Saint Gregory, Saint Boneventure, Saint Vincent Ferrer, Saint Peter Chrysologus, and the famous third-century theologian Origen. *Id.*; see also SAINT ANTHONY MARY CLARET: AUTOBIOGRAPHY 44 (Jose Maria Vinas ed., 1976), available at http://www.claret.org/en/claret/biblioteca/autobio_claret.pdf (reflecting the same view); BLESSED ANNE CATHERINE EMMERICH, MARY MAGDALEN IN THE VISIONS OF ANNE CATHERINE EMMERICH 1 (CARL E. Schmöger ed., 2005) (same).

In fact, up until roughly the fifteenth century, the Western Church seemed uniformly to accept Mary Magdalene as Martha’s sister. See FILLIETTE, *supra*, at 41. Thus, as Church history goes, it is a fairly recent development that the issue has even been open to debate. In *The Saints: A Concise Biographical Dictionary*, John

this light, Mary was not only someone who offered comfort to Jesus, but she was first someone who needed to be healed by Him.¹¹² In the Gospels, Mary begins as a woman whose greatest need is to learn that after years of brokenness she can still be loved and redeemed.¹¹³ The strong and healing Jesus teaches her that.¹¹⁴ Next, the salvation of Mary turns to her learning how to love, how to be the instrument of mercy that Jesus called us to remember her as, and necessarily only the broken Jesus, the Jesus of the Beatitudes, can teach her that.¹¹⁵ Perhaps, in the story of Mary of Bethany and the Beatitudes, Jesus tells us the poor must always be with us because in His image they are God's teachers for the rest of us to learn how to love.

Perhaps it is not, as Justice Stevens might suggest, that the rich and powerful have been created to be the salvation of the state. Perhaps, instead, it is the poor, the weak, and the broken, who have been created to be the salvation of those who find it so hard to enter the Kingdom of Heaven, who find it so hard to give everything they have to the poor¹¹⁶ and lay down their lives even for their friends.¹¹⁷ Perhaps in those last days when the reality of our parents' and grandparents' condition makes it clear to us that we will not always have them with us, when we shut down our lives and seek to do for them what we can, when the moisture of our tears "anticipates anointing [their] bodies for burial," when we act in accordance with the memory of

Coulson recognizes that the position that Mary Magdalene was Martha's sister finds expression even in the liturgy and acknowledges that this identification "is rich in significance and instruction." *Saint Mary Magdalene*, in *THE SAINTS: A CONCISE BIOGRAPHICAL DICTIONARY* 324, 324 (John Coulson ed., 1958).

Ms. Filliette acknowledges, however, that the question of the identity of Mary Magdalene is far from settled and probably will never be conclusively resolved. *FILLIETTE, supra*, at 41–43. In fact, some experts today insist that the person traditionally believed to have been Mary Magdalene was actually as many as three different people, while other experts maintain that references in the Bible to as many as four women may actually all be references to the single person Mary Magdalene. *See FILLIETTE, supra*, at 42–43.

112. *Luke* 8:2 (recognizing that Jesus cured Mary Magdalene of "seven demons").

113. *Mark* 16:9 (recognizing that Jesus cured Mary Magdalene of "seven demons").

114. *John* 20:16 (Mary Magdalene recognizes the risen Christ as "Rabboni" or master and teacher).

115. *Matthew* 5:3–11; *Mark* 14:6–9.

116. *Matthew* 19:16–29; *Mark* 10:17–31; *Luke* 18:18–30 (describing the invitation to the rich young man).

117. *John* 15:13 ("Greater love has no man than this, that he lay down his life for his friends.").

that Mary rebuked,¹¹⁸ perhaps it is then that we learn to cast off the obstructions in our hearts that make it so hard for us, the unbroken and unblessed, to enter the Kingdom of Heaven.¹¹⁹

Perhaps as one seeks to define “usefulness” and “dignity” in these final days, as one evaluates Justice Stevens’s interest “in the kind of memories that will survive after death” and the impact one’s decisions will have on others,¹²⁰ one need not worry so much about “minimizing the burden that her own illness imposes on others” or about “poisoning” one’s family’s memories of her.¹²¹ Instead, perhaps one should take comfort in knowing that in the image of the Creator of all liberty, one’s suffering and the memories of one’s struggle for life can be instruments in the classroom of love. If that is the case, who better able to teach us compassion in their brokenness and frailty than our fathers and mothers, grandfathers and grandmothers?

If this is the concrete reality, then our parents and grandparents are not useless in their final days as they are left meekly and dependently to hunger and thirst for righteousness. It may well be that in those final moments, they have been called to teach us the most profound lesson we must learn from them as parents: how to love. “Death with dignity” may not so much be in preserving memories but in using one’s pain to cause others to forget their lives and their busyness and learn to respond as Mary responded to Jesus, in irrational acts of kindness; to learn to love, as Mother Teresa used to say, “until it hurts.”¹²² If in those final days this is the case, then we need to be careful how we use abstract concepts like “useless” and “death with dignity” because, if we use them poorly, we may ultimately find that poor usage has robbed us of a most important lesson.

Mother Teresa did not go into the streets of Calcutta to teach love, but to learn love. She believed that the poorest of the poor would be her best teachers, that they “continually intercede for us without knowing it,”¹²³ and that they are “great people who continu-

118. See *supra* text accompanying note 111.

119. *Matthew* 19:23–24.

120. See *supra* text accompanying note 92.

121. See *supra* text accompanying note 93.

122. Mother Teresa, Address at the National Prayer Breakfast: Whatever you did Unto one of the Least, You did Unto Me (Feb. 3, 1994), available at <http://www.columbia.edu/cu/augustine/arch/teresa94.html> (“[t]his is the meaning of true love, to give until it hurts”).

123. MOTHER TERESA, WORDS TO LOVE BY . . . 67 (1983).

ally suffer, suffer with such dignity.”¹²⁴ A similar belief drew the modern day saint Dorothy Day to live her life in the soup kitchens and tenements of New York¹²⁵ and Dr. William Carlos Williams to invest his life treating the poor of New Jersey.¹²⁶ As Williams articulated that lesson, even as cancer ravaged his body, he did not treat his patients so much as they treated him.¹²⁷ Those of us who articulate life in the language of law, particularly those laws that impact the lives of our parents and grandparents, should be open to the lessons that these three hearts encountered in the classroom of love.

This essay has not sought to resolve the issues that surround those people whom we may rightly call our parents and grandparents. Instead, it has sought only to suggest that we need to discuss these issues more concretely; to be clearer in how we label these people and to be more concrete in what we mean by words like justice, entitlement, and dignity. Yet, it would be disingenuous to insist that how we discuss an issue does not affect how we resolve it. I would not insist, for example, that the elderly be denied their dignity, but, in echoing the issue articulated by my friend and advisor Dr. William Bird,¹²⁸ I could not give the order to starve my mother to death.

Neither Orwell nor Huxley was an enemy of words; rather, both understood that words were what separated us from beasts.¹²⁹ Huxley assured us that “words give continuity to what we do and to a considerable extent determine our direction,”¹³⁰ but he also cautioned that “[i]nappropriate and badly chosen words vitiate thought and lead to wrong or foolish conduct.”¹³¹ For his part, Orwell advised that

124. *Id.* at 69.

125. See ROBERT COLES, *DOROTHY DAY: A RADICAL DEVOTION* 14, 111–12 (1987) (providing a full account of the life of Dorothy Day); see also DOROTHY DAY, *THE LONG LONELINESS* 182–83 (1952); Randy Lee, *Dorothy Day and Innovative Social Justice: A View from Inside the Box*, 12 WM. & MARY J. WOMEN & L. 187, 198–201 (2005).

126. ROBERT COLES, *William Carlos Williams: A Doctor's Faith, a Poet's Faith*, in *HARVARD DIARY* 156, 156–57 (1988).

127. *Id.* at 157.

128. See *supra* text accompanying notes 7–8.

129. HUXLEY, *supra* note 23, at 243; see also GEORGE ORWELL, *ANIMAL FARM* (Alfred A. Knopf, Inc. 1993) (1946) (where an ability to speak ultimately made pigs like people). For their parts, Dr. Williams was a poet, Dorothy Day was a journalist, and Dr. Coles is a Pulitzer Prize winning author and an award winning publisher.

130. HUXLEY, *supra* note 23, at 246.

131. *Id.*

“when you make a stupid remark,” you should make it sufficiently clearly so that “its stupidity will be obvious, even to yourself.”¹³²

Huxley also warned “[o]ur egotisms are incessantly fighting to preserve themselves, not only from external enemies, but also from the assaults of the other and better self with which they are so uncomfortably associated,” and he emphasized their principal tool in doing so was words.¹³³ Thus, it is not necessarily a criticism of lawmakers to observe, as Edwin Armstrong did, that lawyers “substitute words for realities and then talk about the words,”¹³⁴ so long as those conversations are concrete and honest and seek to make life better rather than just more convenient.

Still, Mother Teresa of Calcutta was known to become frustrated with words and extended discussions of policy. In fact, she was known to complain, “Too many words. . . . Let them just see what we do.”¹³⁵ Once she was invited to attend a great conference on hunger and became lost.¹³⁶ When she finally found the conference, there was a dying man lying in front of the place where the conference was being held.¹³⁷ Instead of going into the conference she took the man home to die of hunger.¹³⁸ Mother Teresa could never understand how hundreds of people “inside were talking about how in 15 years we will have so much food, so much this, so much that . . . [while] that man died [on their doorstep].”¹³⁹

Mother Teresa also once reported going to visit what we call a nursing “home.” The nursing home was a very beautiful place, but that did not change what Mother Teresa saw there:

I can never forget the experience I had in visiting a home where they kept all these old parents of sons and daughters who had just put them into an institution and forgotten them—maybe. I saw that in that home these old people had everything—good food, comfortable place, television, everything, but everyone was looking toward the door. And I did not see a single one with a smile on the face. I turned to Sister and I asked: “Why do these people who have every comfort here, why are they all looking toward the door? Why are they not smiling?”

132. Orwell, *Politics*, *supra* note 1.

133. HUXLEY, *supra* note 23, at 246.

134. *See supra* text accompanying note 63.

135. MOTHER TERESA, *supra* note 123, at 8.

136. *Id.* at 25.

137. *Id.*

138. *See id.*

139. *Id.*

I am so used to seeing the smiles on our people, even the dying ones smile. And Sister said: "This is the way it is nearly everyday. They are expecting, they are hoping that a son or daughter will come to visit them. They are hurt because they are forgotten."¹⁴⁰

The point of Mother Teresa's story was not to criticize nursing homes, which can provide valuable care, but to remind us that how we label things or think about things in words, even words like "home," does not change the reality of what we encounter when we do go and see. We need to remember this as we debate the realities and the futures of our parents and grandparents. We need to remember that just as "a rose by any other word would smell as sweet,"¹⁴¹ a thorn remains a thorn even when we choose to call it a rose.

140. Mother Teresa, Nobel Peace Prize Acceptance Lecture (Dec. 11, 1979).

141. WILLIAM SHAKESPEARE, *ROMEO AND JULIET* act 2, sc. 2.