



Judgment and Metaphysics: American Capital Punishment Jurisprudence and Friedrich Nietzsche's History of an Error

We never experience what is happening by ascertaining through historical inquiry what is "going on."

As this expression tells us very well, what is "going on" passes before us in the foreground and background of the public stage of events and varying opinions.

What happens can never be made historiologically cognizable. It can only be thoughtfully known by grasping what the metaphysics that predetermines the age has elevated to thought and word.

—Martin Heidegger, *Nietzsche Vol. III*

1. The first moment of the history: The real world, attainable to the wise, the pious, the virtuous man—he dwells in it, *he is it*.

(Oldest form of the idea, relatively sensible, simple, convincing.

Transcription of the proposition "I, Plato, *am* the truth.")

—Friedrich Nietzsche, *Twilight of the Idols*

Unbelievable as it may seem, prior to 1968, the Supreme Court rarely considered death penalty cases; as death sentences had been imposed throughout the history of the United States and were widely accepted, as far as the Court was concerned capital punishment did not violate the Constitution.¹ However, beginning in 1968, the Court started hearing cases that challenged various aspects of the capital punishment system, and since 1972 the Court has repeatedly revisited the issue. In 1972, the

Supreme Court ruled in *Furman v. Georgia* that the death penalty violated the Eighth Amendment's prohibition against cruel and unusual punishment because under existing death penalty statutes death sentences were imposed in an arbitrary manner.² In brief, the Court found that death is not an inherently cruel sentence but that the process by which it is imposed renders it so. In response to that ruling, state legislatures throughout the United States immediately started revising their death penalty statutes with an eye to rationalizing the process and making the outcome more reliable. So it was that four years after finding capital punishment violated the Eighth Amendment, the Court was able to rule that death sentences no longer violated the Constitution.³

With this ruling the question of the constitutionality of capital punishment in the United States would seem to have been settled once and for all. The contrary has been the case. Since 1976 the Supreme Court has been repeatedly challenged to legitimate the imposition of death sentences in capital cases.

It is unclear why the Court continues to take up this challenge in the United States, particularly when so many of the democratic countries with which the United States compares itself have simply given up and abolished capital punishment. Various theories of "American exceptionalism" seek to explain why the death penalty still exists in the United States today,⁴ the most compelling of which emphasize the populism of American political institutions and political culture.⁵ Franklin Zimring and Gordon Hawkins, for instance, argue that capital punishment was not abolished in the United States in the 1970s because the only political institution in a position to hold out against loudly expressed popular opinion was the Supreme Court, and the Court was not willing to stand firm the way that responsible agents and institutions were in European countries.⁶ The populism that seems to ensure the persistence of capital punishment in the United States today does not, however, explain why the Court is constantly considering new grounds for legitimating the imposition of death sentences. Despite its best efforts, over the past thirty years the Court has or has been compulsively returned to capital punishment.

Certainly, the fatal and final character of the penalty may be held partly responsible for the demand capital punishment makes of the Court's attention. As one observer suggests, capital punishment is where "the highest violence, that over life and death, occurs in the legal system."⁷

The Supreme Court has also explicitly endorsed the idea that “death is different.”⁸ Although death penalty proponent Ernest van den Haag argues that the imposition of capital punishment is unfairly subject to more scrutiny than any other punishment imposed by the criminal justice system,⁹ the Court says that given the unique severity and irrevocability of death as a penalty it is constitutionally obliged to be “particularly sensitive to insure that every safeguard is observed.”¹⁰ Nevertheless, the fact of the severity of the death penalty does not completely explain why the Court so often agrees to consider the issues raised in, by, and for capital punishment cases.¹¹

In this book, I argue that the Court constantly takes up these issues because it is constantly challenged to find a way to sanction and ultimately validate final judgments in modern society.¹² Within the limits of human fallibility, judgments about guilt and innocence, life and death, are made and carried out. The Court must sanction and validate these final judgments. Examining how it does so, we can see how absolute judgments are authorized in a modern liberal state. Following Max Weber, I take a modern state to be defined as “a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory.”¹³ This definition famously identifies the state with relations of power rather than with the pursuit of particular essential or immanent ends, and it emphasizes the significance of discourses of legitimacy and justification for the structure of domination.¹⁴ The qualification of the modern state as a liberal one stresses again the expectation that any domination or demands of obedience must be justified. This task is rendered more difficult by the fact that liberalism, broadly construed, subscribes to the view that what individuals value is a function of their personal experiences, so that there are many competing and sometimes incommensurable views of what constitutes the good or the just within society. Consequently, what may serve as an “inner justification” for domination or obedience in one instance may not serve at all in another. In such a context, what I call “the problem of judgment” emerges. Under conditions where shared criteria for determining what is good or just are lacking, we judge, and not just for ourselves but for others.¹⁵ How we understand the validity of the claims we make, and how we expect others to accept and respect these claims (particularly when these claims may lead them to harm) is the question with which this book is concerned.

To answer this question, to see how judgment authoritatively takes place in a modern liberal state, in the book I examine the language with which the Supreme Court simultaneously limits and defends the practice of sentencing people to death. However, I examine this language not only for the purpose of showing how the Supreme Court confronts the problem of judgment. Taking the Supreme Court's capital punishment jurisprudence as an "exemplary example" of the process by which specific events or particular people are apprehended, critically examined, and finally evaluated, I examine the language with which the process is described, prescribed, criticized, and refined in order to reflect on the practice of judgment itself. Thus, in what follows I do not simply review a number of death penalty cases with special attention to the way in which they identify and meet various challenges to the legitimacy of the practice of capital punishment. In my readings of these cases, I seek to demonstrate how a particular conception of judgment informs our practice of judgment and how, as we engage with the problem of judgment, the limits of this conception are revealed.

I frame the analysis of this language in terms drawn from Friedrich Nietzsche's brief history of metaphysics in *Twilight of the Idols*.¹⁶ I use terms drawn from Nietzsche's work for three reasons. First, the problem of judgment is a metaphysical problem. *Metaphysics* is the philosophical study of the fundamental nature of reality and being. When we look for common grounds or shared criteria to justify claims we make about, of, and for others, we search for categories or reasons that will legitimate our claims by virtue of their undeniable reality and irrefutable truth. The search for such categories or reasons reveals our speculations not only about the character of truth and the nature of knowledge, but about the essence of being itself. Nietzsche's history of metaphysics presents different "stages" or moments in that history, which correspond to different theoretical frameworks that reflect and enable specific conceptions of the truth. Nietzsche's concise summaries of these distinct frameworks are helpful in the characterization of particular moments in the evolution of the Supreme Court's capital punishment jurisprudence.

Second, the "history" of metaphysics that Nietzsche provides is presented without any indication of an original cause or catalyst. Nor does Nietzsche offer in his history any reason for the decline of one stage and the emergence of another. The history simply records the coming into be-

ing and the passing away of different stages. Thus, a succession of moments is presented, but they are not and need not necessarily be related to one another in some historically determined manner.¹⁷ Following Nietzsche's example, I do not speculate about an innate cause of the Supreme Court's 1968 decision to start hearing cases concerning the capital punishment system. Nor do I suggest or defend an argument about the historical necessity of the succession of Supreme Court opinions on the death penalty since 1972, when the Supreme Court first criticizes sentencing decisions in capital cases for failing to correspond to a single, coherent rationale or principle. Rather, I base my claims about the character of modern death penalty jurisprudence on observations of the Court's response to particular, contingent, historically circumscribed arguments.

Finally, in what follows I argue that when the Court criticizes the death penalty system for failing to reflect a stable principle, it commits an error similar to the one Nietzsche identifies with the beginning of the history of metaphysics. This is the third reason I frame my analysis of the Court's capital punishment jurisprudence in terms drawn from Nietzsche's history of metaphysics. According to Nietzsche, that history begins with a philosophical error, the positing of an eternal, absolute, immutable essence as true Being against which life, through reason, is measured and found wanting. I claim that in its reasoning, the Supreme Court likewise implies the presence of an always already existing ground according to which sentencing decisions may be evaluated. More than this, I claim that the Court forgets that to judge, as Philippe Nonet observes, is to speak or say the law (in Latin, *ju-dicare*); it remembers only that *judgment*, as defined by Kant in *The Critique of Judgment*, is the act of "subsuming under rules, that is, of distinguishing whether something falls under a given rule or not."¹⁸ I claim that the Court's selective remembering inaugurates the modern history of American death penalty jurisprudence since 1972, as the Supreme Court has tried to ascertain or establish once and for all a common sense of the good, a shared understanding of a universal law, or a general intuition about a sense of purpose in nature under which we might subsume a particular case and know we have made a valid final decision. This observation serves as the starting point not only for my discussion of U.S. death penalty jurisprudence but also for my own critique of the practice of judgment.

In the rest of this chapter, I show how judgment in capital cases is first framed as a problem in *Furman v. Georgia*. As I indicated above, in

Furman the Court finds that death is not an inherently cruel sentence but that it is imposed as punishment in criminal cases so arbitrarily—that is to say, so infrequently and unsystematically—that it becomes a cruel and unusual penalty. In my reading of *Furman*, the justices are unable to discern in the decision they review any evidence of a guiding rationality, and it is the absence of this rationality rather than the apparent senselessness of any particular sentencing decision that undermines the Court’s faith in the justness of the capital punishment system. As a brief glance back at the Supreme Court’s opinion in *McGautha v. California* (1971) quickly makes clear, there was a time when, in order to be authoritative, sentencing decisions in capital cases did not need to refer to principles or truths outside of those asserted by themselves.¹⁹ With *Furman*, I argue, such sentencing decisions are suddenly found to be deficient because they may not be traced back to any external or “real” source of authority or certainty.

The next part of the chapter lays out Nietzsche’s history of metaphysics. The following section turns to the cases that inaugurate the modern era of capital punishment in the United States; analyzing the jurisprudence of capital punishment in terms of Nietzsche’s history, it demonstrates how the problem of judgment “begins.” The final part of the chapter indicates how the history of this error will unfold in the chapters that follow.

I. Nietzsche’s “History of an Error”

Nietzsche’s history of metaphysics is called “How the ‘Real World’ at last Became a Myth: History of an Error.” The error alluded to in the title is the positing of an eternal, absolute, immutable essence as the actuating principle and primal element (*arché*) of philosophy, which metaphysics, through reason, seeks to discover, reveal, or reclaim.²⁰ Philosophy’s “supreme concepts”—“what is, the unconditioned, the good, the true, the perfect”—partake of this timeless and unbegotten essence.²¹ They have their basis in “the lap of Being, the intransitory, the hidden god, the thing-in-itself.”²² As Nietzsche observes, according to this philosophy, “What is, does not *become*; what becomes, *is* not.”²³ Thus, the supreme concepts are always already given. They do not grow, procreate, and die.²⁴ That which is does not change.

The narrative of Nietzsche's own history of metaphysics is characterized by the opposition of what *is*—being—and what *is* not—becoming.²⁵ According to Nietzsche, philosophers cling to the idea of what is. Or rather, philosophers try to grasp what is but fail and then look for reasons to explain their inability to comprehend the “thing-in-itself.” In *Twilight of the Idols*, Nietzsche suggests that metaphysics has been preoccupied with producing an explanation of this failure, even while it continues to affirm the quest for possession of being.²⁶

At the first stage, says Nietzsche, philosophers invent the “real world.” Blaming the senses for their inability in the actual world to perceive what is (for their senses provide evidence only of plurality and change), let alone to possess it, philosophers construct a world where they can escape “from sense-deception, from becoming, from history, from falsehood.”²⁷ This world is referred to as the “real world.” From this real world, that which relies on the senses is expelled. Thus, only those who are willing to deny the body and take up *dialectics*—the formal practice of discussion and reasoning to expose false beliefs and elicit truth—may have access to it.

Nietzsche identifies this stage with Socrates and Plato. According to Nietzsche, Socrates persuades the Greeks that “reason = virtue = happiness.”²⁸ This equation goes against everything the ancient Hellenes instinctively know; in ancient Greece, Nietzsche says, one does not articulate reasons but embodies command.²⁹ Socrates manages, however, to convince the Greeks that logical argument is superior to physical nobility, and that mastery of one's inclinations is better than acting on one's instincts. How is such a physically and instinctually *ugly* man able to seduce the Hellenes into embracing the tyranny of rationality? According to Nietzsche, Socrates is ugly but he is also a great erotic;³⁰ he appeals to the Greek *agonal* instinct and keeps his audience fascinated with a new kind of sword-play, the thrust and parry of dialectics. But the fact that Socrates can engender such fascination with his practice of challenging received wisdom and refusing to accept the truth of appearances is, for Nietzsche, also a sign that Athens is no longer what it once was. Nietzsche says the city is on the verge of chaos: “Everywhere the instincts were in anarchy; everywhere people were but five steps from excess: the *monstrum in animo* was the universal danger.”³¹ Only in such a context would Socrates' “personal art of self-preservation” be embraced. Rather than perish of their instinctual disorder,

the Greeks choose life and become “absurdly rational.” Desperate to restore health and happiness, they emulate Socrates and take the cure he prescribes: “the harshest daylight, rationality at any cost, life bright, cold, circumspect, conscious, without instinct, in opposition to the instincts.”³² Nietzsche summarizes this moment as follows:

1. The real world, attainable to the wise, the pious, the virtuous man—he dwells in it, *he is it*.

(Oldest form of the idea, relatively sensible, simple, convincing. Transcription of the proposition “I, Plato, *am* the truth.”)³³

At this stage in the history of metaphysics, the real world is imagined as within reach of those who, like Socrates, willingly renounce the satisfaction of bodily needs and desires in order to be once and for all in the world that is true.³⁴ If one is able to master one’s instincts and break one’s habits of obedience to tradition and customary authority, it is possible to see through the appearances of this world and to contemplate the being of things-in-themselves and to join them.

Several of the features of this whole history of error that are most useful to me in my discussion of the jurisprudence of capital punishment in the United States are apparent at the very first stage. Consequently, before returning to my exposition of Nietzsche’s text, let me indicate what they are. First, at the first stage it is clear that what *causes* the Greeks to take Socrates seriously, that is to say, what makes it possible for someone like Socrates, a member of “the rabble,” to capture the attention of aristocratic circles in Athens, is never identified. Nietzsche does not concern himself with what causes these circles to degenerate and the instincts to become mutually antagonistic; he is interested only in *that* they do.³⁵ Similarly, in my analysis of the stages of the U.S. Supreme Court’s death penalty jurisprudence, I do not seek to explain what causes capital punishment to become a significant issue for the Court; rather, I am interested in *how* it becomes a significant issue for the Court, and what this “how” tells us about our practice of judgment.

A second feature of Nietzsche’s history of metaphysics that is evident in the first stage is the ambivalent character of the “decline” this history charts. Nietzsche states explicitly that the great sages are “declining types,” too weak willed to impose moderation on their desires, too degenerate to

resist reacting to stimulation without the assistance of some radical prop.³⁶ In Socrates' case this radical prop is rationality. With it, Socrates is indifferent to the demands of his body and the entreaties of his friends; practicing philosophy, he is able to withdraw from the world of appearances and tranquilly contemplate things as they really are. However, Nietzsche claims, Socrates' dependency on reason betrays the fact that Socrates does not elude decadence with dialectics. On the contrary, this "expedient" is an expression of the strength of Socrates' fear of chaos and disorder, illusion and death; it is a manifestation of his degeneracy, not a means back to virtue or health or happiness.³⁷

Nevertheless, as I have already noted, Nietzsche suggests at the same time that Socrates (and his fellow Athenians) really had no other choice if they were to survive. "The fanaticism with which the whole of Greek thought throws itself at rationality betrays a state of emergency: one was in peril, one had only *one* choice: either to perish or—be *absurdly rational*."³⁸ Socrates' prescription of "permanent *daylight*—the daylight of reason" is not a formula for virtue or health or happiness, then, but it is a script for self-preservation. Nietzsche admires Socrates.³⁹ Socrates lived among men "of fatigued instincts" who had "let themselves go" and who "still mouthed the ancient pompous words to which their lives no longer gave them any right."⁴⁰ Nietzsche says that in such an age irony, "that Socratic sarcastic assurance of the old physician and plebeian who cut ruthlessly into his own flesh, as he did into the flesh and heart of the 'noble,'" may have been required for greatness of soul.⁴¹ Turning against the self in this way was, Nietzsche claims, "something so new, profound, unheard-of, puzzling, contradictory, and *momentous* on earth that the whole character of the world changed in an essential way."⁴² The spectacle that began then is "too subtle, too wonderful, too paradoxical" to take place unobserved, and its end is not yet in sight. Thus, despite the horror of Socrates' "revenge on life," Nietzsche acknowledges that man now "arouses interest, tension, hope . . . as though something were being announced through him, were being prepared, as though man were not an end but just a path."⁴³

The ambivalence Nietzsche expresses about the "decline" chronicled in his history of metaphysics is helpful to me when I find it necessary to clarify my own attitude toward the arguments in the Supreme Court cases on capital punishment that I single out to discuss. I analyze these arguments

in terms of the metaphysical claims that are implicitly or explicitly made so that death may be understood as a legitimate sentencing decision in a modern state.⁴⁴ I argue that these claims indicate that legitimacy has been put into question; just as Socrates' prescription indicates that the quality that distinguished authoritative statements as such in Athens may no longer be taken for granted, so the Supreme Court's intervention in the practice of capital punishment in this country indicates that sentencing decisions in death penalty cases may no longer command the respect that once distinguished them from perverse or whimsical acts of sovereign power. However, in making this argument, I do not want to suggest that it would be desirable (or possible) to return to some original state of innocence or naïveté about the power exercised in the sentencing decision in capital cases. Rather, I want to say that the Court recognizes a need to intervene, and while the terms in which it intervenes set up some sort of ideal with which to sanction actual sentencing decisions, this "expedient" may be necessary for the preservation of the system that imposes it. I will also suggest that this expedient reveals the limits of the particular conception of judgment with which we make decisions in, for, and as a modern liberal state.

Returning to Nietzsche's history of metaphysics, it is important to observe again that each stage of that history sows the seeds of its own destruction. In the first stage, the real world is attainable to the wise man. If he is virtuous, he may know the real world; through philosophy, he may practice living there. The wise man has to deny the demands of his flesh but he does not need to leave behind his family and friends to contemplate the truth.⁴⁵ If he is very good, he can behold it from this world, the apparent world. However, when others follow Socrates' example and seek to affirm or discover for themselves the real world Socrates describes, they do not find it. On the contrary, when they engage in dialectics, as Socrates would have them do to ascertain the truth, they are led to cast doubt upon Socrates' own conclusions. Asking questions and using reason to test answers and make valid claims, they arrive at the second stage of Nietzsche's history of an error:

2. The real world, unattainable for the moment, but promised to the wise, the pious, the virtuous man ("to the sinner who repents").

(Progress of the idea: it grows more refined, more enticing, more incomprehensible—it *becomes woman*, it becomes Christian.)⁴⁶

Passing through the crucible of reason, Socrates' idea of the true becomes more "refined." At the same time, it becomes more opaque to reason. The real world still exists, but it is not present exactly as the old philosopher implied. Nor is the seeker's personal virtue enough to assure success. Above all, one needs to have patience; to behold the truth one must have faith.

At the second stage of Nietzsche's history of an error, the two worlds have no connection with one another.⁴⁷ Passage from one world to the other is no longer possible, so one has to wait to behold the truth.⁴⁸ Reason is useless to the philosopher because the real world is not intelligible to men and women in the apparent world. In this world, the truth is not to be deduced; it may only be believed. It is a matter of trust. To think otherwise is blasphemous. Nietzsche claims that Christianity teaches men to feel "the supreme values of intellectuality as sinful, as misleading, as *temptations*."⁴⁹ Temptations divert one from the "right road," so they must be refused.

Nietzsche describes the repudiation he identifies with the second stage of the history of metaphysics as an expression of "a profound discontent with the actual."⁵⁰ At this stage everything to do with the actual world is denied; one hates nature, despises the body, and rejects the senses.⁵¹ As the pursuit of truth in this world is not only futile but also unholy, life in this world can no longer have any ultimate value. More precisely, in the apparent world one's life can have meaning only to the extent that it reflects its true meaninglessness: "to live that there is no longer any *meaning* in living: *that* now becomes the 'meaning' of life."⁵² Nietzsche interprets this ascription of meaninglessness to life as a signal that man is "a war," a human being who has in his body "drives and value standards that fight each other and rarely permit each other any rest."⁵³ According to Nietzsche, the most fundamental desire of man who is a war is that the war should end so that he might finally enjoy "the happiness of resting, of not being disturbed, of satiety, of finally attained unity, as a 'sabbath of sabbaths,' to speak with the holy rhetorician Augustine who was himself such a human being."⁵⁴ At this stage of the history of metaphysics, the "sinner" believes this peace will be his in the real world. While no logic can prove it, nor reason be given to believe it, "everything firm" is promised to him in the next world.⁵⁵

Christian respect for the concept of truthfulness is reflected in the insistence upon faith rather than proof. But as the Christian conscience is refined and, according to Nietzsche, "translated and sublimated in a scientific conscience," Christian faith itself comes to seem "indecent" and

“dishonest.”⁵⁶ When philosophers “second” the Church, they suggest “that the *ruling power* of the will of God, expressed as punishment and reward according to the degree of obedience, is demonstrated in the destiny of a nation, of an individual.”⁵⁷ This suggestion implies that what is impossible to know directly in the actual world may be known *indirectly*. While phenomena that appear in the actual world are not true in themselves, they may then be understood to be signs or “occasion for metaphor.”⁵⁸ If this is the case, the relative success of an individual in this world may be read as a reflection of that individual’s status in the real one. However, the severity of Christian morality, “intellectual cleanliness at any price,” forbids this kind of reading as it is a “*lie* in faith in God.”⁵⁹ “Looking at nature as if it were proof of the goodness and governance of a god; interpreting history in honor of some divine reason, as a continual testimony of a moral world order and ultimate moral purposes,” are considered “mendacious, feminism, weakness, and cowardice.”⁶⁰ Nietzsche observes, “that is *all over* now, that has man’s conscience *against* it.”⁶¹

Doubt about the validity of *any* knowledge obtained from the actual world, indeed “altogether everything that *can* be known *causaliter*,” leads one to the third stage of the history of metaphysics.⁶² Nietzsche identifies this stage with Kant:

3. The real world, unattainable, undemonstrable, cannot be promised, but even when merely thought of a consolation, a duty, an imperative.

(Fundamentally the same old sun, but shining through mist and skepticism; the idea grown sublime, pale, northerly, Königsbergian.)⁶³

According to Nietzsche, Kant discovers a “firmness” within, the voice of conscience which alone in this world can indicate to us (but not show us) the ground upon which we may base our actions and be sure to do the right thing.⁶⁴ Faith in the real world no longer suffices to assure anyone of ultimate possession of the truth or the thing in itself; on the contrary, as we have seen, it leads to the terrifying question, “*Has existence any meaning at all?*”⁶⁵ Kant’s philosophy offers an answer, suggesting as it does that the individual can seek and find what constitutes the preeminent good in his own consciousness.⁶⁶ This good is a quality of his will when he wills his action from reverence for the law—that is to say, when he wills his action from a sense of duty induced by a will that is good through its willing alone, not because of its fitness for attaining some proposed end or the sat-

isfaction of some inclination in this world.⁶⁷ Of course, situated as he is in this world, the actual world, the individual may not be able to determine that he *actually* acts out of reverence for the law. Nevertheless, he may be consoled by the fact that he can know how to determine whether his action is compatible with this good.

At the fourth stage of the history of metaphysics, such consolation falls into the background. "Scientific conscience" ultimately has little patience for what cannot be demonstrated. Hence:

4. The real world—unattainable? Unattained, at any rate. And if unattained also *unknown*. Consequently also no consolation, no redemption, no duty: how could we have a duty towards something unknown?

(The grey of dawn. First yawnings of reason. Cockcrow of positivism.)⁶⁸

At this stage man believes that what is explicable is only what can be seen and felt, and only the explicable is "real."⁶⁹ While this way of thinking represents the converse of the Platonic way of thinking, Nietzsche claims that "it follows instinctively the canon of truth of eternally popular sensualism."⁷⁰ In other words, it naturally succeeds Kant's argument that every rational being is the seat of universal law—the unconditional feeling that "here everyone must judge as I do."⁷¹ People continue to want "by all means that something should be firm."⁷² Now, however, the only interpretation of the world that will satisfy this demand for certainty is an interpretation "that permits counting, calculating, weighing, seeing, and touching, and nothing more."⁷³

When only natural phenomena, verified by the empirical sciences, can be known, how things are valued is a matter of utility. At this stage of the history of metaphysics, then, "good" refers to nothing other than a balance of sensations. When pleasure is greater than pain, the thing is good. When pain is greater than pleasure, the thing is bad. The least pain is "a very modest kind of eternal happiness in comparison with the promises of religion," Nietzsche notes, but nevertheless, with this "worldly solution" one is still able to continue referring to a "real" for a sense of value.⁷⁴ One may not know the real world, but experience in this world, the apparent world, seems to have an intrinsically moral character. Thus, one continues believing in good and evil. Indeed, one "experiences the triumph of the good and the annihilation of evil as a task."⁷⁵ In this context, Nietzsche refers to John Stuart Mill. Mill's greatest happiness principle not only

implies that “happiness” can be measured, but that one has an obligation to guide one’s actions by this measure. Thus, utility as a value does not require one to relinquish “the pre-eminence of what is un-egoistic, self-denial, negation of the will.”⁷⁶ On the contrary, it allows one to hold on to the “beyond” from which one might derive some old-fashioned metaphysical comfort.⁷⁷

At the fifth stage, this comfort and whatever else might have been derived from the “beyond” is found to be quite unnecessary:

5. The “real world”—an idea no longer of any use, not even a duty any longer—an idea grown useless, superfluous, consequently a refuted idea: let us abolish it! (Broad daylight; breakfast; return of cheerfulness and *bons sens*; Plato blushes for shame; all free spirits run riot.)⁷⁸

Not right away but inevitably, utilitarians discern that the “beyond” is really good for nothing. What is good for nothing is inessential and may just as well not exist. Thus, at the fifth stage the real world may be abolished.

As lighthearted as doing away with the real world may sound, it is not simply a matter of turning our attention to tangible things in this world. Nietzsche suggests that positivism undermines not only one’s justification for having faith in the beyond but one’s ability to have faith at all. When scientific criteria of validity take precedence over all other criteria, one loses not only the will but also the way to believe. The conditions under which one would seek to prove the existence of God, for example, would be conditions under which religious conviction would be an unfamiliar or unknown mode of confidence or certainty. Success in proving the existence of God would only reinforce the strangeness, and irrelevance, of this mode and confuse those who tried to believe that way. In sum, as Nietzsche observes, “If this God of the Christians were *proved* to us to exist, we should know even less how to believe in him.”⁷⁹

In an age of strong beliefs one does not abandon a belief when one is compelled to exhibit a different belief.⁸⁰ By contrast, at the fifth stage convictions are held lightly, so that when one is compelled to entertain a different belief, one either abandons the belief one already holds, or one holds a large number of beliefs at once. This “self-tolerance” may be “honest,” but it also implies a kind of laziness, indifference, or stupefaction. According to Nietzsche, this attitude of “carelessness” indicates the demise of the

real world. Because one is incapable of having strong beliefs, one can hold several conflicting beliefs at once and not violate or compromise any of them.⁸¹ One who cheerfully holds several conflicting beliefs but who is neither insincere nor deceitful is not even a hypocrite.⁸² Because one no longer dares to posit a will, a purpose, or a meaning, no ultimate meaning is posited except the appearance of pleasure or displeasure.⁸³ Thus, “all free spirits run riot.”

Significantly, the “claim to independence, to free development, to *laissez aller*” is not, in Nietzsche’s eyes, a sign of vitality but rather a symptom of decadence. At this stage, to rely on one’s instincts is a “physiological self-contradiction,”⁸⁴ the expression of which is nihilism.⁸⁵ Having discovered of what materials one built the “true world,” one finds that all one has left is the repudiated world and the values that pass judgment. One adds this supreme disappointment to the reasons why the repudiated world deserves to be repudiated,⁸⁶ and concludes, “Nothing is worth anything—life is not worth anything.”⁸⁷

At such a point, “Nothing would be more useful and more to be encouraged than a thoroughgoing *practical nihilism*.”⁸⁸ What this means, exactly, is difficult to communicate because Christianity impedes a vital kind of self-destruction by continuing to teach and practice a “feeble, vegetable existence in expectation of a false afterlife.”⁸⁹ To prefer a certain nothing to an uncertain something is a sign of a despairing mortally weary soul, Nietzsche says.⁹⁰ Christianity cultivates and protects such a soul and thus devaluates the value of purifying nihilistic movement.

Nevertheless, some are still eager for life. These stronger and livelier thinkers do not fear to side against appearance, and do so with arrogance rather than resentment. They speak of “perspective” and “rank the credibility of their own bodies about as low as the credibility of the visual evidence that ‘the earth stands still.’”⁹¹ As they let their securest possessions go (for, as Nietzsche says, what does one believe in more firmly than in one’s own body?), their good humor also marks the sixth and final stage of the history of metaphysics:

6. We have abolished the real world: what world is left? the apparent world perhaps? . . . But no! *with the real world we have also abolished the apparent world!* (Mid-day; moment of the shortest shadow; end of the longest error; zenith of mankind; INCIPIIT ZARATHUSTRA)⁹²