

**A Letter
to
“Law & Literature” Students in Australia
(4/5/04)**

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“Law and literature” what could such a juxtaposition mean? I wonder whether its not something like the “message in the bottle”: A man or woman, solitary by nature, drawn to solitude by their sadness about the world, withdraws from the world (more or less) to write. The writing, produced with unimaginable effort is then sent out into the world where it awaits discovery by still other solitary souls adrift in the world. In “law and literature” we have the meeting of solitary souls: those who await the message and those who know something about messages and how to decode them, a meeting between author and reader. What we find in “law and literature” is a meeting place for those who, by a lifetime of reading: 1) seek relief from the world (even as they venture forth in the world); 2) seek to understand the world (even as they secure a solitary place in it); 3) puzzle over the vast reach of what it is possible for a person to know about the world.

It was, with wild and unruly thoughts of this sort in mind, that I managed to survive not one, but two law school “literature” courses in a single semester, one called “Lawyers and Literature,” and a second called “Narrative Jurisprudence.” So, it was an interesting time to receive, as I did in mid-April, 2004, a message from Max Leskiewicz, president of the *Australian Legal Philosophy Students Association*, at the TC Beirne School of Law, University of Queensland, requesting that I write a letter to “law & literature” students in Australia. Time was preciously short, too dear, Mr. Leskiewicz informed me, to think about an article or an essay. With a longer reach of time, perhaps I would have taken on something quite grand—“The Goals and Directions of a Law and Literature Movement Grown Sufficiently Grand to Attract Critics.” Or perhaps I’d have titled the essay with a more fashionable flair suggestive of the kind of academic and literary jargon required to attract the attention of the post-modernist

reader—"The Privileging of Literature & the Deconstruction of Law." You will, undoubtedly, see in these proposed titles something of a "critical" bent; the "law & literature" movement (if it is to be viewed as a movement) has attained the kind of presence that attracts a great swarm of critics. The critics argue that: 1) we don't need a "law & literature" movement; 2) what we think is a "movement" isn't really a movement at all; 3) if it is a movement it doesn't have a method; 4) if it has a method it's not being put to good use; and, 5) when the method, if it can be called a method, of the new "movement," is put to use, it doesn't have any real results (that is, the movement/method doesn't have any effect on the way people in power think and act in the world).

With the "law & literature" movement now fully arrived you might be expected to be curious about it. Conventional thinking would have you know something (maybe even a great deal) about "law & literature" before you try to respond to the critics of "law & literature." But one might imagine reading the critics first, let the critics and the critique of "law & literature" be your guide to "movement." Still another approach might have you reading either the old canonical works (Greek dramas, Shakespeare, Dickens), or contemporary lawyer fiction, and forget the critics, forget the fact that there has now been a great deal written about law and lawyers in literature.

In response to Max's invitation to write this letter, I expressed concern about my inability to speak in a knowledgeable way about the literature of Australia. We've grown familiar now, in the United States, with the idea that Australia will send us fine films and wonderful wines and having taken pleasure in both, I am aware of not having even the most cursory knowledge of the literature of Australia that might be included in a "law & literature" course in your country. While the time granted for me to write this letter is not sufficient to do any serious reading on Australia's legal fiction, I have, of late, been thinking a good deal about the world's lawyer/poets, those lawyers who have been *living* law and literature rather than treating it as an academic subject. What I find in that inquiry is that Australia has a good number of lawyers who have taken up poetry (or poets who have had some significant association with the law): Barron Field (1786-1846); William Charles Wentworth (1790-1872); Andrew Barton (Banjo) Paterson (1864-1941); Bernard Patrick O'Dowd (1866-1953); Robert Randolph Garran (1867-1957); Robert Gordon Menzies (1894-1978); Patricia Hackett (1908-1963); Joyce Eileen Shewcroft (1912-2001); John Antill Millett (1921-); Geoffrey Lehmann (1940-); Nicholas Paul

Hasluck (1942-); Hal G.P. Colebatch (1948-); David Heilpern (1951-); MTC Cronin (1963-). Perhaps the best way to honour “law & literature” in Australia is to identify its indigenous roots in your own backyard.

So, what is “law & literature” and why might it be supposed a good thing? I’ve surveyed, with some care, the various responses to this question over the past hundred and fifty years and find them unsatisfying (just as you will the response I present here). Yet, being an old school realist, pragmatic at heart, with a long-standing affinity for the ways of science, I’m suspicious of the idea that “law & literature” lies beyond description, that you must experience it to know it, that it must lie enshrouded in mystery of the kind that makes it undecipherable. This leaves me, I suppose, with what Robert Pirsig in *Zen and the Art of Motorcycle Maintenance* (1974) describes as a classic dilemma: I can drudge through a 150 years efforts to describe “law & literature” and lay out the most cogent descriptions of the “field” and the “movement” (and the idea of “law & literature” as a course in the law school curriculum), or I can try to convince you that no such description is *really* necessary. The alternatives, as is the case with a classic dilemma, don’t sound anymore attractive to me than perhaps they do to you.

I think it accurate to say, as does Jane Baron in a rather peculiar *Yale Law Journal* essay I happened to be reading while thinking about this letter, that “law & literature” has developed along three pathways (although Baron draws distinctions and conclusions from this development which I clearly do not want to adopt). [1] I should note that Baron’s essay is commendable for avoiding the now rather well-worn “law in literature” and “law as literature” distinction, a distinction so often mentioned in “law & literature” that it must have, at some point, become something akin to a cognitive imprint (maybe a cognitive implant). Being told that we can expect to find references to law and lawyers in literature and that some judicial opinions reflect more literary qualities (style) than others is old news, very old news. The news is so old I’m a bit embarrassed to even call attention to it here.

And if the reader will indulge still a few more observations about Jane Baron’s “peculiar” essay before I get around to dealing with these questions—what is “law & literature” and why is it supposed to be good for you?—I think one might, rightfully, be suspicious of an essay with the word “interdisciplinarity” in the title. Baron’s essay was titled, “Law, Literature, and the Problems of Interdisciplinarity.” There is, of course, much to be learned from the study of law as a discipline, and “law & literature,” as Baron observes, might well be expected to draw attention to the

“discipline” aspects of law. We assume, and rightfully so, that “law & literature” provides a basis for a critique of law and its study, and, in doing so, serves as the basis for study of the boundaries and limits of law as a discipline. Baron agrees, it seems, with the general proposition—now an obligatory footnote citation—of Richard Posner’s claim that as of the 1960s there has been a “decline of law as an autonomous discipline.” [2] If the law is no longer an “autonomous” discipline, then what kind discipline is it? (Perhaps we can think of “law & literature” as the recovered memory of that old life lived with the assumption that law was an autonomous discipline.) What part, we might ask, has “law & literature” played in the erosion of the *idea* that law is an autonomous discipline? If there is now, in many quarters, an understanding (at least by legal scholars, if not by legal educators) that law is best studied not as a single, isolated discipline, but as a locus of disciplines—as a cross-roads discipline—then law implicates and of necessity must be related to psychology and sociology, to anthropology and history, to philosophy literature. In Posner’s admission that law is no longer an “autonomous discipline” and the legal scholarship produced over the past 40 years which confirms the proposition, we find that “law & literature” over its history (its U.S. history) of some 150 years proves that law, its study, and its practice are human endeavours, and as such, can and should draw upon the social sciences, as well as the humanities. The study of law, properly conceived, is (and has always been) a liberal art.

The problem with this humanistic, liberal arts view of the study of law is that it doesn’t square all that well with what we do, at least in the United States, in our law schools. Students don’t take up a study of law with the idea that they are continuing their general education (as citizens of the world), or that law is an academic discipline (of the kind we associate with the social sciences and the humanities). Legal education seems as remote—institutionally and in reality—from the humanities and the liberal arts as is Brisbane from Borneo. No United States law school, to my knowledge, has made “law & literature” a required course, and certainly no law school has made a place in the sacrosanct first year curriculum for the course. Even so, there is something to be said for the claim that “law & literature” is now mainstream; it can be found as a regular offering in the curriculum of a majority of American law schools and is now, evidently, being exported to the far flung corners of the Western world.

How are we to account for the widespread adoption of “law & literature” courses as part of the legal education curriculum? The cynically inclined

will tell you that “law & literature” is simply the latest in what has become an unfolding parade of academic fashions. Yet, those who seek in academic fashions a deeper meaning, may find that “law & literature” is a response to an underlying (unconscious) need to make what we find to be *isolated* and *isolating* in law, a part of some larger whole. One way we try to make whole the isolated/isolating strands of our thinking (in and about law) is to study law along with sociology, anthropology, and psychology, to study legal history, legal philosophy (jurisprudence), legal ethics, and perhaps the most integrating effort of them all, “law & literature.” (The various courses in which we study law as a cross-roads discipline, relinking law to its sister disciplines, connecting law to the larger world from which it has been abstracted, has now begun to grow quite large.) We might think of “law & literature,” and the various other efforts to contextualize law, as a curricular displacement for the demise of law as an autonomous discipline. When the history of “law & literature” is told, we’ll learn, I think, that law was never an autonomous discipline, and perhaps we’ll learn the cost of our old efforts, and our new ones, to have it be an autonomous discipline.

Jane Baron suggests, in her *Yale Law Journal* essay, that “law & literature” has turned out to be a disappointment. Her sense of disappointment lies in the fact that “law & literature” is not a single movement but a movement cobbled together of three different “strands,” each of which has a different orientation to literature, and which takes its adherents in different (competing, conflicting) directions. The three strands, or orientations, of the “law & literature” movement according to Baron are roughly described as: 1) humanistic (literature is good for you); 2) hermeneutic (focusing on interpretation and literary theory and its application in the reading of legal texts); 3) narrative-focused (emphasizing “legal storytelling,” the effort to put stories to use as a lawyer). While we need not adopt Baron’s sense of disappointment in the “law & literature” movement, or accept the conclusions she draws from the existence of these various schools or orientations within “law & literature”—e.g., that these “divisions” represent “deep problems”—the three orientations do help explain fundamental differences reflected in the growing body of legal scholarship *in and about* “law & literature.” Rather than try to describe and further explore each of Baron’s orientations within “law & literature,” perhaps the best way to proceed as a student would be to sample each of the orientations and determine which you find attractive, which you find worth pursuing, which you think might be most useful. To conduct such a sampling, you’ll do best to have before you the “texts” which reflect and embody the different orientations. For your experimental sampling, I’d

recommend (while recognizing that no text can be fully representative of an “orientation” with a discipline perspective) that you peruse the following:

— for the humanistic perspective in “law & literature”: James Boyd White, *The Legal Imagination: Studies in the Nature of Legal Thought and Expression* (1973);

— for the hermeneutic/literary theory approach to “law & literature”: Guyora Binder & Robert Weisberg, *Literary Criticisms of Law* (2000);

— on narrative and legal storytelling: David Ray Papke (ed.) *Narrative and the Legal Discourse* (1991) and Anthony G. Amsterdam & Jerome Bruner, *Minding the Law* (2000).

In reviewing these texts which draw upon or expound the humanistic, literary theory, and narrative perspectives in “law & literature,” you’ll find, hopefully, an orientation within the field which provides a place to begin, and a perspective to return to, as you undertake your inquiry and study of “law & literature.”

If you had arrived as a student of law as I did in the late 1960s, you would not have been greeted with all this talk about “law & literature” as a “movement,” nor would you have been confronted with the anxiety occasioned by the agonizing displays of “movement” consciousness represented in, but not limited to, essays like that of Jane Baron. “Law & literature” in the 1960s, upon my arrival at law school, had temporarily gone underground (although the demise of law as an autonomous discipline was everywhere in sight). It was a perfectly wonderful time to begin the study of law; we could feel the jurisprudential ground shifting beneath our feet, although the labels we would later use to describe the new jurisprudence—critical legal studies, feminist jurisprudence, law & literature, narrative jurisprudence, critical race theory, law & economics—were then unavailable to us. In the late 1960s, what we saw, was renewed activity along some old fault-lines, and it was from this activity that the new schools of contemporary jurisprudence began to emerge. We had a sense, even then, that changes in legal scholarship were coming (in these years we even had something that might be called “psychoanalytic jurisprudence”) and there was an emerging hope, that legal education too, would undergo a transformation). But it was not until 1973,

several years after I graduated from law school, that had the publication of James Boyd White's *The Legal Imagination*, which marked the development of our most recent version, a modern day version of "law & literature." And what great fortune it was to have "law & literature" laid out for us, anew, by a legal scholar like James Boyd White. White did things no other legal scholar had tried to do (and few have done since). He presented "law & literature" as a teaching text about the literary nature of the study of law, the practice of law, and the work of judge's who make the law rather than a plea that the student read novels, or a description of a supposed relationship between a lawyer's professional work and the world of literature (a relationship long known and, at least in some quarters, respected). White did not argue that we should go off and read great literature (although *The Legal Imagination* was produced by just such an effort), reading which would by some magical means allow us to emerge as great legal advocates. In contrast, White simply encouraged us to be attentive to the language, the texts, and the rhetoric by which we define ourselves as lawyers. White seems to have taken seriously the proposition voiced by Michael Blumenthal, in one of his poems, "[A]nd you take on, slowly, the shape of your own longings (and their possible solutions)." [3] White presented "law & literature" as an exploration of the ways we adopt and adapt literary thinking and literary sensibilities in our work as lawyers.

Ironically, in *The Legal Imagination*, this seminal modern-day "law & literature" text, White doesn't define his endeavour in terms of "law & literature." White's unwillingness to use existing "law & literature" language serves as an on-going admonishment to those who now try to *define* and *describe* "law & literature." In the preface to *The Legal Imagination*, White acknowledges that the task of telling the reader what kind of book *The Legal Imagination* is turns out to be "unusually difficult"; it does not fit existing categories, White cautions, but proposes a "new subject, or at least a new way of addressing one." [4] White isn't, I think, trying at all to be evasive or elusive in these remarks, but is trying to say, simply, that if you want to *do* law & literature then you may as well do it without getting entangled in old definitions of a subject which is best described by performance, by practices, by a way of reading. James Boyd White followed the 1973 publication of *The Legal Imagination* with a series of essays which helped establish (if they did not define) "law & literature" as a movement. And with White opening the door and showing us the way (again), others would follow (although they typically, and often without good cause, would find a way to be critical of White's work). [5]

The pre-James Boyd White, earlier generation view of “law & literature” is represented by John H. Wigmore, a widely recognized scholar in the law of evidence, presenting in the first decade of the 20th century, an often-cited list of “legal novels” and the admonishment that lawyers should be reading them. Wigmore, like White, is credited with being still another, if earlier, founder of “law & literature.” Wigmore warned against novels of an ordinary kind, such as the “detective stories” popular in that time. [6] Wigmore’s point—that there are far more “legal novels” than any lawyer would have time to read, even in 1908—is even more obvious to the student/lawyer today. This business of choosing what we are to read from the great warehouse of literature relevant to a lawyer and his work, is every bit as important today as it was almost a hundred years ago when Wigmore published his first list of legal novels which, we might be reminded, was not a list of “legal” novels, but a list of the “literature” which Wigmore thought the educated lawyer should be reading.

Today, I think, we’d want to reconsider Wigmore’s concern about the popular literature of his day, and make a place for the best popular, contemporary, literary fiction as part of what we think of as “law and literature.” If there is a tradition-bound “canon” of “law & literature”—*Antigone*, *The Book of Job*, selections from Shakespeare and Dickens, *Billy Budd*, Glaspell’s *A Jury of Her Peers*—we can, with the emergence of the study of popular culture as an academic discipline, begin to rethink “law & literature” as requiring consideration of attractive, compelling, teachable non-canonical texts. There are always teachers who teach beyond the canon, and there is a host of good reasons to do so. [7]. In teaching contemporary/literary fiction as part of “law & literature,” we need not resort to John Grisham’s legal thrillers, although Grisham is, of course, of continuing interest to legal scholars in the United States because he is a lawyer turned novelist, and because he has so successfully defined the legal thriller genre, and in doing so has become an enormously rich man. It cannot escape the interest—the academic interest—of any lawyer and legal colleague with a “sociological imagination,” that John Grisham has probably introduced more Americans to law and lawyers than any other living writer. Scott Turow, still another lawyer-novelist, whose novels are well-known in the United States, is beginning, in his more recent work to transcend the legal thriller genre with which he has been identified. Turow’s *Personal Injuries* (1999) has some strikingly drawn, finely-nuanced characters, and should in my view, be viewed as a work of popular fiction of sufficient literary merit to be included in the literature we read as students of law.

This brief discussion of contemporary popular fiction brings me around to the proposition that “law & literature” (as the “movement” is translated into “curriculum”) has missed a golden opportunity in not drawing more fully upon and exploring stories and novels in which we find lawyers. Lawyers-as-lawyers play a central role in stories like Tolstoy’s “The Death of Ivan Ilych,” Harper Lee’s *To Kill a Mockingbird*, and Pete Dexter’s *Paris Trout*, but also in stories and novels in which the narrator or central character is a lawyer, but the story doesn’t directly focus on the character as a lawyer, e.g., Melville’s “Bartleby, the Scrivener,” Albert Camus’s *The Fall*, and Walker Percy’s *The Second Coming*. And, there are still other stories like Katherine Anne Porter’s novella, “Noon Wine,” in which the central characters are not lawyers, but the law places a significant role in the narrative. Drawing on these works of contemporary and literary fiction, along with the short fiction of writers like Lowell B. Komie and John William Corrington, who have been largely ignored in “law & literature” circles, I think we have the makings of a course of reading that moves the focus away from “law & literature” to a study of what might better, and more accurately, be called “lawyers & literature.” While “law & literature” has taken center stage with legal scholars, the most enticing invitation for the young student of law (as for readers more generally, one might think), especially readers who want to put literature to practiced use in imagining a life in law. By focusing more on lawyers and less on law, I think we have a better argument for “literature” taking a central place in the education of a lawyer, for it is literature that invites us to think anew and to puzzle over what it means to be a lawyer.

The focus on “lawyers & literature” suggested here can best be described by way of a series of questions: How are the ideals associated with a life in law portrayed in lawyer fiction? How, in lawyer fiction, are these ideals called into question? In what sense are the lawyers we find in fiction a representation of a desired future, a feared future? How are we to account for the public’s seeming insatiable appetite for lawyer fiction (novels, TV dramas, films)? And how does this cultural preoccupation with lawyers (and law) affect how we view ourselves as lawyers? With these questions framing our inquiry, we might, in a course of reading lawyer fiction: (1) explore the possibilities and the obstacles to learning about ourselves as lawyers from literature, (2) puzzle over the relation of the “real” and “fictional” aspects of the lives we live as lawyers, (3) speculate about how being a lawyer opens up and closes down important aspects of our personal lives, and, (4) identify the strategies we use—and those we might learn to use—in reading and understanding lawyer stories.

Jerome Bruner, a respected elder in the field of psychology, argues that we should “constantly be inquiring about the interaction between the powers of individual minds and the means by which the culture aids or thwarts their realization.” Bruner contends that this inquiry “will inevitably involve us in a never-ending assessment of the fit between what any particular culture deems essential for a good, or useful, or worthwhile way of life, and how individuals adapt to these demands as they impinge on their lives.” [8] The legal profession is a distinct culture, a culture which aids and thwarts the realization of individual minds and well-lived lives. A study of “lawyers & literature” makes it possible to study, in a relatively unthreatening way, how a lawyer’s life is enriched and diminished by the very culture that makes the good life possible.

In “lawyers & literature” we read lawyer fiction (and the vignettes of lawyers found in fiction more generally) to become more attentive to the “fictions” we live and the “stories” we fabricate, adopt, and adapt in the lives we lead as lawyers. The stories I’ve found most likely to prompt reflective attention to the lives we live and the work we do as lawyers has focused on the novels and novellas mentioned here, along with a selected group of short stories. The novels I ask students to read are: Albert Camus, *The Fall* (1956); Pete Dexter, *Paris Trout* (1988); Harper Lee, *To Kill a Mockingbird* (1960); Walker Percy, *The Second Coming* (1980). The course readings include three novellas: Tolstoy’s “The Death of Ivan Ilych,” Herman Melville’s “Bartleby, the Scrivener,” and Katherine Anne Porter’s “Noon Wine.” I usually begin the “lawyers & literature” course with a Kafka parable, “Before the Law,” and then move on to short stories that reintroduce the student to a way of reading (and thinking) that gets waylaid in the reading of law cases. The short stories I ask students to read, include: J.S. Marcus, “Centaurs” in *The Art of Cartography: Stories* (1991); Margaret Atwood’s “Weight,” in her collection of stories, *Wilderness Tips* (1990); “Puttermesser: Her Work History, Her Ancestry, Her Afterlife,” in Cynthia Ozick, *The Puttermesser Papers* (1997). [9] In addition to these short stories I draw heavily on the short stories of my friend, Lowell B. Komie, a Chicago lawyer, who has quietly and without fanfare, over the past fifty years, produced some rather exquisite lawyer fiction. Komie’s lawyer stories, along with his other short fiction, were first published in three collections: *The Judge’s Chambers: Stories* (1983), *The Lawyer’s Chambers and Other Stories* (1994), *The Night Swimmer: A Man in London and Other Stories* (1999). (The lawyer stories were collected for publication in an issue of the *Legal Studies Forum*, which appeared in 2001, and have now been published as a book, *The Legal Fiction of Lowell*

B. Komie (2005), for which I was honored to write the introduction.) Finally, with the discovery of the fiction of John William Corrington (1932-1988), I now make liberal use of his lawyer stories in my “lawyers & literature” course. Corrington, a prolific writer and poet, who took up the study of law at age forty, published only six short stories and two novellas involving lawyers before his untimely death in 1988. Corrington’s two novellas appear in *All My Trials* (1987); his six (long) short stories appear in several collections of stories, all now out-of-print. The *Legal Studies Forum*, a U.S. journal (which I edit), republished the Corrington lawyer fiction in 2002. [10]

In my version of “lawyers & literature,” we study both the widely known, beloved fictional lawyer, Atticus Finch, in Harper Lee’s *To Kill a Mockingbird*, as well as stories of a far darker sort, stories that suggest that lawyering, with its promise of virtue and glory, is accompanied by a substantial shadow that can deform and overwhelm the lives of those who take up the practice of law. In “The Death of Ivan Ilych,” *The Fall, Paris Trout*, and *The Second Coming*, we find lawyers who have followed conventional, well-worn paths to success, but find that their “success” does not immunize them from life’s great reversals. There is, in lawyer fiction, a hint that we lawyers live tragic lives.

What we most need in “law & literature” is not a *definition* of the “movement,” but something far more basic; we need basically to simply read stories (and learn how to work with stories) as a fundamental part of an on-going project not only of professional education, but of self-education. And how, you ask, is this education to be undertaken? I don’t have a guidebook to offer you, but there are, it seems, some things of which we might be reminded: In the endless banter of daily life and in the work we undertake as students of law, we tend to forget that we are creating and telling stories, accepting and rejecting stories, praising some stories while rebelling against still others. Ernest Becker observed that “[i]t is a worthwhile lifetime adventure, this expansion of your self into new inner landscapes.” [11]. In reading stories, in and out of school, in the courses for which we receive academic credit and in the larger course of reading we do over a lifetime, we partake in this “worthwhile lifetime adventure” in which life and story are so thoroughly entwined that the one cannot be known without the other. It is, according to Becker, in this great adventure that “you can get a toe hold into the world views of strange cultures” and what stranger culture can we imagine than our own culture of lawyers?

Reading lawyer stories we are invited to become more story conscious, to become more aware of the stories we are asked to live as a lawyer, the stories offered to us as we set out to be lawyers, and see how these stories work in the context of the stories we bring with us as we undertake a study of law and the stories we hope to live out as a lawyer. (The stories we're offered, the stories we bring with us, and the stories we hope to live are all subject to question and examination, this we learn from Socrates.)

Reading literature as part of our education as lawyers reminds us that it is our stories, fictional and real, which shape the lives we live and the work we do as lawyers. The stories we tell and live as lawyers are "real" and they are "fiction." Reading fictional accounts of lawyers, we constantly confront the question—what is the relation of fiction and reality, law and literature, in our lives as lawyers?

It's easy enough to let everyday affairs keep us occupied, so busy we don't engage in the reflective, introspective work that keeps us grounded. We can become so enmeshed in the business of everyday life that when asked to start thinking about what and where our stories lie, the invitation can be seen as a great bother, an irritation. Paying the rent, getting through another class, taking another examination, finding a place in a law firm don't just happen; they are made to happen and they get priority because they demand attention. Surrounded by so many demands for attention, we tend to overlook the scripts we enact, the stories we tell and the stories we live. Indeed, we may not think of our ourselves as having a story at all, until that is, we find ourselves in an unforeseeable darkness, subject to a fate we would not have willed for ourselves, and we become a character in a story we had not imagined.

In the drive to be successful students, and to become a lawyer, we find it convenient to avoid the reflection and studied response that literature demands. Indeed, some versions of the law school story would have you believe that reading novels as part of your education as a lawyer is simple nonsense. If you've already adopted a "success script" for the plot of your story, then you may find that you don't have much need (or time) to think about anyone else's story (or so the "success" story goes). Many students find themselves on firmer ground in talking about "goals" (which they think of as objective and concrete), than they do in talking about "stories" (which they find elusive and subjective). For some, the "success" story seems the only story worth telling or thinking about; it's a story which leaves the student with unimagined parts of the self which call into question the

“success” story. In “lawyers & literature” we take as real and viable, these unimagined parts of the self, treating them as if they might well be essential to the life we most desire, the life most worthwhile to live.

Exploring the unimagined parts of the self is not at all simple or straightforward; we cannot expect literature to be magic. Parker J. Palmer reminds us that, “[t]he knowing self is full of darkness, distortion, and error; it does not want to be exposed and challenged to change. It seeks objectified knowledge in order to know without being known.” [12]. We sometimes venture into the great darkness of our lives by accident, by having had delivered at our doorsteps a need to know what cannot be known. And so it is with any course of reading; some of what we learn is taken on ever so reluctantly, we fight against it. Reading can be painful and it sometimes leaves us confused; it takes courage to read, to learn that we may know less than we thought we knew.

There are, real, significant, and sometimes unsurmountable, obstacles in the use of literature to see, in broader, deeper, more encompassing ways, who we are and what we are not, to see how we succeed and how we fail. Literature is not magic. Literature does not turn every reader into a thoughtful, reflective person. Yet, for some of us, reading and the possibilities we find in literature, are indeed magic. Unfortunately, it is not a magic that can be conjured up on demand, magic we can produce via a standard formula.

Law students are sometimes resistant to the simple notion that learning how to be a lawyer is in reality, a way of learning to be a person, and that learning to be a *real* person, living the great *adventure*, is not so intuitively a straight-forward enterprise as we might want to imagine it to be. Some students are firmly convinced, based on the lives they live and the lives they see lived around them, that being a lawyer and being a person are different enterprises and that one may engage in the one without undue concern for the other. There is, of course, in this “two worlds” approach to law and life, some solid conventional thinking that gets challenged by the lawyers we find in fiction.

The real problem, as Parker J. Palmer observes, is that “[w]e want a kind of knowledge that eliminates mystery and puts us in charge of an object-world. Above all, we want to avoid a knowledge that calls for our own conversion. We want to know in ways that allow us to convert the world—but we do not want to be known in ways that require us to change as well.”

[13]. The promise of literature is that when we see, really *see*, the life of a fictional lawyer, and his confrontation with the world and with himself, we have a slightly better chance, when confronted with our own real difficulties and obstacles, to find a way around, beneath, and beyond those difficulties. (We have a slightly better chance of living with difficulties we cannot solve or erase.) To be the kind of person we imagine ourselves to be in the stories we tell ourselves about life and about law requires a wealth of resources. I can't imagine an accounting of those resources that does not include literature.

Endnotes

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[1] Jane Baron, *Law, Literature, and the Problems of Interdisciplinarity* 108 *Yale L. J.* 1059 (1999).

[2] Richard Posner, *The Decline of Law as an Autonomous Discipline: 1962-1987*, 100 *Harv. L. Rev.* 761 (1987).

[3] Michael Blumental, "And the Deep, Shining Abraxas of the Hills Will Love You Too," in *And Poems* (unpublished manuscript).

[4] James Boyd White, *The Legal Imagination* xix (1973).

[5] Richard H. Weisberg, *The Failure of the Word: The Protagonist as Lawyer in Modern Fiction* (1984); Robert Ferguson, *Law and Letters in American Culture* (1984) (providing an interesting account of "law & literature" not as a field of study, but as an exploration of the lives, works, and conflicts of selected early lawyer/literary figures in the United States and the culture in which they lived and worked); Brook Thomas, *Cross-Examinations of Law and Literature: Cooper, Hawthorne, Stowe and Melville* (1987); Richard Posner, *Law and Literature* (2nd ed., 1998); Richard Weisberg, *Poethics and Other Strategies of Law & Literature* (1992); L.H. LaRue, *Constitutional Law as Fiction: Narrative in the Rhetoric of Authority* (1995); Peter Brooks & Paul Gewitz (eds.), *Law's Stories: Narrative and Rhetoric in the Law* (1996); Gary Bellow & Martha Minow (eds.), *Law Stories* (1996); Bruce L. Rockwood (ed.), *Law and Literature: Perspectives* (1998); Jerome Bruner, *Making Stories: Law, Literature, Life* (2002).

[6] John H. Wigmore, *A List of Legal Novels*, 2 *Ill. L. Rev.* 574 (1908).

[7] See William Domnarski, *Law and Literature*, 27 *Legal Stud. F.* 109 (2003).

[8] Jerome Bruner, *The Culture of Education* 13 (1996).

[9] I was introduced to both the Marcus and Atwood stories by way of a collection of law and lawyer stories edited by Jay Wishingrad (ed.), *Legal Fictions: Short Stories about Lawyers and the Law* (1992), which is, unfortunately, now out-of-print.

[10] The Corrington and Komie stories published in the *Legal Studies Forum* are now available on the Web and are easy enough to find with a simple Google search.

[12] Ernest Becker, *The Denial of Death* 113 (1971).

[12] Parker J. Palmer, *To Know as We Are Known* 121 (1983).

[13] *Id.* at 39-40.