

LIFE ADDS UP

NOTES FOR A TEACHER'S MEMOIR

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. . . Life adds
up to something. It makes,
no matter what you do, an impenetrable
wood or sea or
barricade or metaphor or fact
to prove the impossibility of retrieval. Say
anything you like, say
the trees are angels, say the wind
sings songs from the hymnal of God, say
you are bleeding at the throat
over loss—you must
move on.

—Charlie Smith, *Red Roads*¹



¹ A fragment from “North Atlantic,” in Charlie Smith, *RED ROADS* 63-65, at 64-65 (New York: E.P. Dutton, 1987).

▪ Tell Me a Story ▪

[A]

Long ago, in Kentucky, I, a boy, stood

By a dirt road, in first dark, and heard
The great geese hoot northward.

I could not see them, there being no moon
And the stars sparse. I heard them.

I did not know what was happening in my heart.

It was the season before the elderberry blooms,
Therefore they were going north.

The sound was passing northward.

[B]

Tell me a story.

In this century, and moment, of mania,
Tell me a story.

Make it a story of great distances, and starlight.

The name of the story will be Time,
but you must not pronounce its name.

Tell me a story of deep delight.

—Robert Penn Warren²

² Robert Penn Warren, *THE COLLECTED POEMS OF ROBERT PENN WARREN 266-267* (Baton Rouge: Louisiana State University Press, 1998).

I am a teacher. I have, for as long as I can remember, been a student. Being a student and a teacher have been my life.

No doubt, our vocabulary must be halting when we try to get close to this central region of the self where the great transformations occur [T]he will carries in itself its own enlightenment or darkness, as the case may be; and we move within this light and darkness in the most ordinary traffic of daily life. . . . Our freedom is the way in which we are able to let the world open before us and ourselves stand open within it. Our loves and hates disclose or cancel the world in this or that way. Far from being blind “affects,” to which the intellect alone adds its light, they carry their own light within themselves.

—William Barrett, *The Illusion of Technique: A Search for Meaning in a Technological Civilization*³

³ William Barrett, *THE ILLUSION OF TECHNIQUE: A SEARCH FOR MEANING IN A TECHNOLOGICAL CIVILIZATION* 238-239 (Garden City, New York: Anchor Press/Doubleday, 1978).

It becomes more obvious by the day: I find myself thinking about the past, poking around in the graveyard of old courses I've taught, puzzling over how it is that I became the teacher I am. It's not that I became a teacher that intrigues me, rather how I got to be the teacher I turned out to be. I'm curious as to how a Kentucky farm boy becomes a teacher of literature and film, philosophy and psychology, ethics and jurisprudence. How does one end up traveling so many backroads of legal education?

We are all subject to the call of the past and the flash of memories that take us there, memories that wash over us with pleasure, and memories that we let sink to the bottom of the mind's dark ocean.

I'm left in the tide of memories that wash ashore: Who am I as a teacher? What kind of teacher have I been? Has there been anything akin to a purpose and method in the *mélange* of courses I've taught? What am I to do now with the scenes, tossed and tumbled and frayed, of my life as a teacher?

Being drawn to the past is, I suspect, associated with this notion that creeps around me now: *I'm old*. I'm not talking about ancient, decrepit, or senile. I don't, honestly, quite know what it means to say, *I'm old*. Maybe I'm taking liberties in thinking I'm something I am not. There's sometimes a touch of folly to be found in the confused and conflicted ways we devise to think of ourselves. This may be one of those times when I've put the cart ahead of the horse.

I sometimes imagine, in the deep cellular structure of my body, there can be found a biological transmitter set on a fixed loop: *aging, aging, aging*. The body encodes messages of time and memory, and to these I listen intently: *The days for your teaching dwindle*. I dare not ask the body prophet, *How many years do I have left?* I sign up for Social Security. How many years do I have left?

I'm reminded of Loren Eiseley's observation about aging: "Oncoming age is to me a vast wild autumn country strewn with broken seedpods, hurrying cloud wrack, abandoned farm machinery, and circling crows. A place where things began on too grand a scale to complete."⁴

I see around me a growing body of evidence that in the grandeur of my ambitions I have in the making much that cannot be completed.

⁴ Loren Eiseley, *ALL THE STRANGE HOURS: THE EXCAVATION OF A LIFE* 234 (New York: Charles Scribner's Sons, 1975).

A law teacher who teaches Contracts or Labor Law isn't called upon to justify his teaching. The traditionalist rests in the easy assurance that he is an insider. I am in a different situation. Over the past thirty plus years, I have taught:

- The Legal Imagination
- The Lawyer as Person
- The Lawyer as Storyteller
- Memoir and Legal Education
- Lawyers and Literature
- Lawyers, Poets, and Poetry
- Lawyers and Film
- Crime Film Documentaries
- Narrative Jurisprudence
- Law and the Humanities
- Women and the Legal Profession
- The Art of Advocacy
- Socrates and the Socratic Method
- Practical Moral Philosophy for Lawyers
- Psychology for Lawyers
- Imagination and Creativity in Lawyering.⁵

How did I con the various deans of the law school into allowing me to teach such courses? The truth of the matter may never be known. Deans go about their affairs in mysterious, sometimes devious ways. The dynamics that underlie a dean's decisions are as foreign to me as Farsi. On what may seem an odd array of courses, I can say this: Legal education is incomplete in obvious and not so obvious ways. I have taught what I think students might need to understand what it means to be a lawyer. And yes, it's true that teaching exotic courses has left me an exile among the legalists and the true believers.

How did I get to be the teacher of such courses? The answer lies rooted in a lesson I learned early: Law school is composed of two basic enterprises: *training* and *education*. Sometimes the two work in harmony, and sometimes they clash. My exotic courses are a response

⁵ "Imagination and Creativity in Lawyering" was an informal, non-credit seminar.

to the friction between the way we train lawyers and the persistent hope that in the training there is something we might call education.

Legal education ebbs and flows in the push and pull of its contradictory nature. Training leads us in one direction. The need to educate lawyers about what it means to function as a lawyer and how this meaning is embodied in a life lies in another direction. The standard law school curriculum offers few opportunities for students to see how cleverly we try to hid the *training|education* divide. There is no mention of this deep-lying structural fault-line, the depth at which it lies, and its effects on our lives as teachers, in the Faculty Handbook.

The structural tension between training and education is quite real. It gives rise to differing visions of what we do in legal education, visions that are translated into classroom practices. It is the *training|education* fault-line that has permeated my life as a teacher.

Scout Finch, in Harper Lee's *To Kill a Mockingbird*, describes with detailed precision the boundaries of the world she and her brother Jem inhabit the summer before Scout starts school: "When I was almost six and Jem was nearly ten, our summertime boundaries (within calling distance of Calpurnia) were Mrs. Henry Lafayette Dubose's house two doors to the north of us, and the Radley Place three doors to the south."⁶

The small world I inhabit is made real by my students. They stalk the halls of the law school where I teach, take what they can get, train themselves as lawyers—some of them will even manage to get an education along with their training—and then, their visit at an end, they flee. My students long to be elsewhere.

I teach in what might charitably be described as a generic American law school. It is a school, a college we like to call it, that shares the goal of other generic law schools: We train lawyers, and train them, and train them, and . . . We are unoriginal, I'm afraid, even in the grand reach of our ambitions. We honor the traditions, the long-standing conventions, and we fervently honor the claim, in a choir of colleagues across the land, to teach students to think like lawyers.

Even the small worlds we inhabit present a complex ecology, harboring mystery in the interconnectedness of place and inhabitants. There is something to be said for a person who knows where they come from, a person who inhabits a place with devotion to its particulars and peculiarities. We have not quite managed to eradicate drama and story from the small worlds we inhabit, whether they be Scout Finch's Maycomb or the homogenized world of legal education.

As for me, I dream of those summers when the world I knew best was within calling distance of Calpurnia and I spent my days thinking about baseball, fishing, and the mystery of Boo Radley.

⁶ Harper Lee, *TO KILL A MOCKINGBIRD* 12 (New York: J.B. Lippincott Co., 1960).

When I talk about teaching I see my own teachers standing before me in the classroom. When I think of teachers, I think of John Batt, how he subtly taught me that to think of myself as a lawyer, and to be a lawyer, I'd need to know something about the world beyond law, the world from which law can never disentangle itself.

If I think of myself as a teacher, and imagine a history of teaching that extends back to Socrates, I make myself a certain kind of teacher. Some teachers are inspired by Socrates; others traffic in his name and crudely violate the spirit of his teaching. Some teachers are straight arrows, some are bent and crooked.

I'm aware of an array of constraints that limit the kind of teacher I am. These constraints mingle with the metaphors and images I've cast into the stories I tell about my teaching, and about who I am as a teacher. I'm a man. White. I speak English (and little else). I'm a Southerner, born and raised on a farm in western Kentucky, a place we did not identify as "the south." I call these biographical features an inheritance; they make a regular appearance in my story, a story built around constraint and possibility. It is a story littered with a cluster of images I carry with me into the classroom.

The images I have of my teachers, the metaphors I associate with teaching—foraging, backroads travel, journeys of discovery—link the plot-lines of my story as a teacher. These images and metaphors connect the *within* of the story to the *beyond* of it; they give my story a distinctive character. Metaphors and images work above and below the surface of our lives; they connect the surface to the depths.

My sense of how education works and what it means to be a teacher is rooted in the particulars of my own education. Teaching is never a matter fully of one's own doing. "Among other things, one hears voices, influences."⁷

John Batt was an extraordinary and imaginative teacher. He set about to convince his students (me among them) that the idea was to be *smart* and that being smart was knowing beyond the law as well as knowing the law. Batt planted the idea that I might need to read Sigmund Freud every bit as much as I would need to read the law. John Batt taught me that I needed to know more than law to know the law.

Batt taught me that a lawyer—and a teacher of law—was in a position to put everything he could learn to use. There was nothing, absolutely nothing, beyond John Batt's intellectual interest.⁸ He was an exemplar of intellectual curiosity: Freudian psychoanalysis, anthropology, sociology, existentialism, literature, science fiction, writings about sports. We knew that John Batt was engaged in cutting-edge legal scholarly work and it mattered to me, when I was a student, that I had a teacher like John Batt who was engaged in writing that was *cool* rather than *canned*.

Batt was the only teacher I've ever known who taught as if the classroom were a place to engage in intellectual forays into the unknown. Even more astounding, he seemed pleased to take students with him on his ventures.

⁷ Bruce Krajewski, *TRAVELING WITH HERMES: HERMENEUTICS AND RHETORIC* xi (Amherst: University of Massachusetts Press, 1992).

⁸ John Batt was the kind of teacher that Charles Black found in Grant Gilmore: "I cannot recall my first meeting with Grant. We both entered the Sterling Law Buildings in the autumn of 1940, members together of the freshman class. In those early weeks, I somehow became conscious of the presence in that class of a man not only of the sharpest acumen for law itself, but also of a broad and deeply informed humanistic, classical bent, with the gift somehow of bringing these things together and making them part of the same intellectual and personal university. This meant a great deal to me in those days, because, to say the least, I entered the study of law with great misgivings, in no way aware of its character as an art, or of its necessary, rather than merely accidental and sporadic, connection with all that people do and suffer, and with all the keenest and best thought on the human condition." Charles L. Black, Jr., *Grant Gilmore as a Friend*, 87 *Yale L.J.* 903 (1978),

My first course with Batt was in Criminal Law. On the first day of class he gave us a hand-out of a dozen pages that presented the common law definitions of homicide, rape, assault and battery, burglary, larceny, fraud, embezzlement, and conspiracy. He told us, “There it is, criminal law in a nutshell, all the crimes, the crimes defined. Now, with that done, we can get on to thinking about criminals.” Batt’s idea of criminal law was to introduce us—and introduction is the right word since we knew nothing—to what he called “the criminal mind.” Batt talked about Sigmund Freud. Most of us had never heard of Freud. I started reading Freud, took up with C.G. Jung, and I’ve been reading the psychologists now for over forty years. Batt introduced me to a world that I knew nothing about: The criminal world and the inner world of the psyche.

Our first case study—John Batt style—was the case of Dr. Geza De Kaplany, a 36 year old Hungarian doctor who tied his 25-year-old wife, Hajina, to a bed, drenched her body with sulfuric and nitric acid and mutilated her body with a knife. Dr. Kaplany told police he thought Hajina had been unfaithful to him. She lived, her skin tanned by the effects of the acid, for 36 days. When she died, Kaplany was charged with murder and pleaded not guilty by reason of insanity. We were shocked and appalled—speechless really—at the savage brutality of the crime. What Batt wanted us to do was to devise a defense for the doctor. A defense? Who could think of such a thing? Prosecuting the doctor for the murder of the Hajina, a former model and show girl, would be relatively easy; there was no lack of evidence against the crazy jealous doctor. That was the idea: How do we defend the doctor if he is crazy? Just how crazy is he and how is that craziness going to play out in his defense, that’s what Batt wanted us to think about. Batt probably knew that we would be stunned, and all the more so in what he was asking us to do—to push our minds against the grain of our experience and our revulsion. It wasn’t so much the idea of defending the doctor in the murder case that enthralled me, as was that first taste, that first glimpse into a hidden and forbidden world—a world where people do savage things and go to prison for doing it—the world where lawyers come up against all that is forbidden, wrong, and evil and make it their work to understand it. I had the feeling, reading that first case study in crime, that I had departed for a world that would take me far from home. As Dorothy, in *The Wizard of Oz*, having just arrived in Oz, quite in awe, says, “Toto, I’ve a feeling we’re not in Kansas any more.” It was that criminal law course—and John Batt’s teaching of it—that gave me the first inkling that I might actually want to be a lawyer.

What I see now about John Batt and what I found most amazing about him as a teacher is that he was, to put it bluntly, a wild man. He didn't do what was expected of him, and he didn't mind the heat from his students or his colleagues that came from going his own way. He was wild because he was different. We saw his brilliance in the great flash of his ideas, and in the uncontainable energy that he brought with him into the classroom. I had a good many buttoned-down, no nonsense teachers in law school. John Batt had a distinct way of being the opposite of buttoned-down. Batt was wild in the sense that he hadn't let the law beat the life out of him. He had a commanding presence without been theatrical; he had the spark of charisma. He never used notes, yet his off-the-cuff teaching was always perfectly performed; it was a welcome contrast to the tight orchestration that seemed to be the forté of so many of my other teachers. Batt taught law like a jazz musician. Some of us were drawn to that music. Batt was quite simply more alive than any teacher I've ever encountered.

Law schools of the late 1960s and early 1970s when I was a student were no more free of the law |jurisprudence and training|education fault-lines than they are today. I was active in these arguments, searching for a way to convince my colleagues that the only legal education worth having was one that focused not only on the content of the law but on jurisprudence and theory. We all knew that we needed to know how to extract rules from cases, plot the rules (and exceptions to them) into a grid-map of legal doctrine. We had teachers who focused almost exclusively on this rule extractive work. They marched us through cases. None of us had the skill to read every case and do the extractive work necessary to satisfy our teachers. Most of us did the mining for rules well enough to get by, some of us learned to do it as a matter of habit. We did so much case reading that we found ourselves doing it in our dreams. The dreams, for me, took a more ominous turn: registering for a class and learning that I would be required to take the final even though I had never attended the class; setting off to take an exam in a building that I could not locate; taking an exam that lasted so long I became exhausted and could no longer lift my arm to write. It was many years later before these dreams slipped into some deeper recess of the psyche beyond dreams.

For some of my colleagues, it was the constant diet of rules and law on which they were willing to feed. They had the legal culinary taste of my father: meat and potatoes, corn and beans if vegetables were deemed necessary. These colleagues were, like my father, most reluctant (and sometimes downright recalcitrant) when it came to green things: broccoli, asparagus, spinach, or even iceberg lettuce. (The exception was spring lettuce wilted with hot bacon grease which could be topped with white northern beans—a dish I have never seen served beyond western Kentucky.) In the lack of educational greens, my colleagues seemed most concerned about the ready ease in getting from one course to another, learning just enough legal rules and doctrines so they could head back home to be real lawyers.

My own fascination for cases, reading them, mining them, puzzling over them, equaled that of any self-pronounced practical-minded, legalist colleague, but it wasn't just rules I was learning. The cases were about people and how they deal with each other, how promises are made and broken, how deals fall apart, how in everyday life harms befall the

unaware and the innocent, and how we are surrounded by crime and criminals. In law school, I never objected to reading cases or tired in reading them as did so many of my practical-minded colleagues. Rule extractive reading is like swimming with your clothes on. It can be done for short distances but it can drown you. I found a wealth of reasons to read cases, none of them ever mentioned by my teachers. I found in the study of cases not bloodless abstractions but much that was immediate and relevant, real and alive. Law school began to feel like the place to get an education.

When I first read Robert Pirsig's *Zen and the Art of Motorcycle Maintenance*,⁹ I had not quite settled on where, what, or how I would teach.

I don't know what might have prompted me to read a book its author describes as "a sort of Chautauqua," by which Pirsig is referring to the late 19th and early 20th century community programs that featured lectures, dramatic readings, music, theater and children's fare, all with the idea of popular education and entertainment; a program, as Pirsig puts it, "to edify and entertain." Maybe I was drawn to Pirsig's Chautauqua talks in *ZAMM* and his suggestion that he had begun to "dig deeper" into existing "channels of consciousness" that had become "silted in with the debris of thoughts grown stale and platitudes too often repeated."¹⁰

In legal education we're quite fond of stale platitudes and unexamined assumptions. We're knee-deep in what we need to fight. Maybe this is why I continue to be drawn to Pirsig's idea of the Chautauqua and the stories of his travels, his deep-lying affection for motorcycles, and his need to figure things out. Pirsig's *ZAMM* is a book about a man and a teacher who is, my students might say, philosophically-minded.

I've been listening to students since the mid-1970s voice their fear that law school channels and narrows their thinking. *Zen and the Art of Motorcycle Maintenance* is a an antidote to narrow thinking. The exotic courses I teach are an antidote to the idea that legal education is a training school. They are an effort to enlighten and entertain, an effort to confront platitudes and lazy thinking about what it means to be a lawyer. I ask students to assess their costly investment in learning to think like a lawyer.

⁹ Robert Pirsig, *ZEN AND THE ART OF MOTORCYCLE MAINTENANCE: AN INQUIRY INTO VALUES* (New York: William Morrow & Company, 1974).

¹⁰ *Id.* at 15, 16.

I acquired *Zen and the Art of Motorcycle Maintenance* a few months after it first appeared in 1975, just months before I started teaching. In law school, I had the usual run of traditional courses and traditional teachers, but I also had both feet washed in the stream of John Batt's antinomian teaching. I had a few years of law practice behind me, had worked on an LL.M. at Yale—I went to Yale to study psychoanalytic jurisprudence—and I was reading and puzzling over *ZAMM* in those days when I first tried to put my mind around the idea of being a teacher.

I can't say, with any assurance, that it was *Zen and the Art of Motorcycle Maintenance* that set me off on an exploration of the backroads of legal education, but I can't say I'm surprised, in rereading Pirsig, to find that *ZAMM* is itself a study in backroads travels. I join Pirsig when he says, "I'm happy to be riding back into this country. It is a kind of nowhere, famous for nothing at all and has an appeal because of just that."¹¹ Traveling the backroads can be an education, if we can get our thinking re-oriented.

Along the backroads everything lies much closer to the road: trees and woods, open fields and farmhouses, the surprising beauty of a scraggly old apple tree hanging full of misshapen apples, a lone cedar tree in a fence row. We find, surprised by the surprise, that there are real people who live in forgotten places along these old roads. Pirsig says, "The whole pace of life and personality of the people who live along [these backroads] are different. They're not going anywhere. They're not too busy to be courteous. The here-ness and now-ness of things is something they know all about. It's the others, the ones who moved to the cities years ago and their lost offspring, who have all but forgotten it."¹²

I am a law teacher, not a motorcyclist. I drive the fifteen minutes in slow traffic it takes to get to the little top-sheared mountain and a functional 1970s building that houses the law school where I teach. I'm slightly amused by the thought that I've spent exactly half my life working in this building. When I left Kentucky I lived in large cities—Washington,

¹¹ *Id.* at 11.

¹² *Id.* at 13.

D.C., Newark, Chicago—then landed in Morgantown, West Virginia. I teach what Pirsig called the “lost offspring,” and some who are not lost at all, some who have not forgotten where they come from and the cost of their quest to become lawyers. Many of my students grew up on their own backroads where they acquired enough commonsense to be wary of law school’s froth and frenzy, its competition and conflict, its channeled myopic perspective. It’s hard to find solace—the nowhere, famous for nothing—amidst the surface busyness and the deep-lying anxieties of a law student’s day.

The demands to learn the new dance are incessant: reading judicial opinions, learning to make legal arguments, solving legal problems, and the reshaping of the self to learn, to think, to reason, talk and write, so they can call themselves lawyers. With so much getting ready for the practice of law, my students are forever imagining themselves as future inhabitants of a Real World beyond law school.

The schooling keeps my students on the main road. It’s education found in our backroads travel that might help them to see where they’re going and what they’re trying to make of themselves. I’m not adverse to the idea of taking my students and myself off the well-worn paths and onto the backroads. I’m hopeful that in our backroads travels we’ll learn something about ourselves.

In the late '70s, I asked students in a legal ethics course to read *Zen and the Art of Motorcycle* with the idea that Pirsig's introduction to what he identifies as the romantic and classic visions of reality, and his extended discussion of Quality, might be a way to save the legal ethics course from its usual status as the most disliked course in the curriculum. I still entertain the idea of building a law school course around *Zen and the Art of Motorcycle Maintenance*. It would allow students, temporarily, to escape from their relentless training in the intricacies and the analytics of law. It would give them an opportunity to get up close to something they think they can live without: philosophy.

In my first years at West Virginia, I taught a course called Introduction to Law. I assigned William R. Bishin and Christopher D. Stone's *Law, Language, and Ethics: An Introduction to Law and Legal Method* (1972) as the text for the course.¹³ A colleague told me, bluntly, that only a fool would try to teach the Bishin & Stone book in a first year, first semester course. It was the advice of a colleague settled in the secure belief that teaching law as law—and nothing but law—was a perfectly good thing to do, and that it would be good for me and my students as well. I ignored my colleague's warning; I had no predilection to play it safe.

Law, Language, and Ethics, designed to look like all the other massive Blue Casebooks of the era, was of course nothing remotely resembling a traditional casebook. Bishin and Stone say of the book:

Law, Language, and Ethics is born of the belief that every legal problem—whether it concern the “great issues” of civil disobedience or the hum-drum matters of Offer and Acceptance and Last Clear Chance—has its roots and perhaps its analog in traditionally “philosophical” realms. Strip away the technical legal terms, plumb the debate's assumptions, and a host of implicit philosophical positions will be found. Some of these will be inarticulate conclusions about the nature of reality, of knowledge, and of language. Others will be about the requisites, of morality, the meaning of “the

¹³ William R. Bishin & Christopher D. Stone, *LAW, LANGUAGE, AND ETHICS: AN INTRODUCTION TO LAW AND LEGAL METHOD* (Mineola, New York: Foundation Press, 1972). For an account of what happened at USC following the appearance of the Law, Language and Ethics course in the mid-1960s, see Michael E. Levine, “*Law and . . .*” in *Theory and Practice: The USC Style and Its Influence*, 74 S. Calif. L. Rev. 225 (2000).

good life,” the ends of social organization, the nature of man. What is more, although the lawyer may not always be aware of it, in his day-to-day tasks of counseling, planning and contending, he is engaged in activities that philosophy—as well as such related disciplines as psychology and sociology—has long sought to analyze and illuminate.¹⁴

Teaching *Law, Language and Ethics*, I came away with the abiding conviction that a lawyer might need philosophy, indeed, that lawyers turn out more often than we would suspect to be philosophers in disguise. These days, my colleagues want to talk about something they call skills training; they don’t have much to say about how legal education might sharpen a student’s philosophical sensibilities. We need to remind ourselves that, “[t]here have always been lawyers deeply attracted to philosophical discourse,” lawyers who “view at least some legal problems as manifestations of more fundamental philosophical questions.”¹⁵ It was teaching Bishin and Stone, that reinforced my thinking that it might be alright to be philosophically-inclined.

¹⁴ Bishin and Stone, at vii.

¹⁵ Charles M. Yablon, *Law and Metaphysics* (Book Review), 96 *Yale L. J.* 613 (1987). Bishin notes that “[t]he problems lawyers must solve are not different from those that have occupied philosophers. Law is concerned with stating problems, asking questions, determining ‘facts,’ developing theories, defining values. These have always been the subject matter of philosophical dispute.” William Robert Bishin, *Law, Language and Ethics*, 38 *S. Cal. L. Rev.* 499 (1965).

When I started teaching at DePaul, in 1975, I spent a good deal of time with students. What I heard them saying about legal education surprised me: They expressed concern about law school and its narrow, limited perspective, and about the lack of imaginative teaching. What they were telling me was that law school, all too quickly, got to be a rather boring enterprise.

I had never found law school boring. I never grew tired of reading cases and law review articles, making course outlines, and pitting myself and what I knew against a professor's attempt to insure that I prove that I knew less than I thought I did. My students at DePaul were insistent that their experience of law school was radically different than the one I described.

To continue my conversation with students, I devised an informal, non-credit seminar I called *Imagination and Creativity in Lawyering*. The idea was to meet every two weeks and to talk about legal education. A few weeks after we started meeting, some of the students suggested that we go out for dinner, and we followed that routine, conversation and dinner, for the year we worked together. This informal seminar changed my view of legal education.

After I left DePaul—I taught there only two years, 1975 to 1977—I sent my notes about the seminar to Peter d'Errico, a colleague in the Department of Legal Studies at the University of Massachusetts-Amherst. I thought Peter might find my pedagogical forays beyond the standard law school curriculum of interest.

I fell in quite early with Peter and his colleagues, John Bonsignore and Ron Pipkin, who, along with Peter, had founded the American Legal Studies Association (ALSA) in the mid-1970s and began to publish a newsletter, the *ALSA Forum*. ALSA was created to promote an interdisciplinary, critical, humanistic approach to legal studies. The organization sponsored national conferences and published the *ALSA Forum* that evolved into what is now the *Legal Studies Forum*. When Peter and his colleagues at UMass grew tired of keeping ALSA afloat, they installed me as president of the organization. I presented my first paper as a law teacher at an ALSA conference in Pittsburgh. I was the first person outside the UMass group to lead ALSA, an organization that

is now, unfortunately, defunct. The only remnant of ALSA that survives is the *Legal Studies Forum*. I have tried to keep the spirit of the organization alive as editor of the journal.

I got a call one day from a colleague who asked me about an article I'd recently published in the *ALSA Forum*. I didn't know anything about any such article so the call came as a surprise. I did a little investigating and learned that my little report on the Imagination and Creativity in Lawyering seminar that I sent off to Peter had been published.¹⁶ Peter assumed that I had sent it to him for publication, and in publishing it he saved it from being lost in the sprawl of four decades of old files.

In the report d'Errico published, I relate that the impetus for the seminar was a conversation with a first-year law student who was "articulate, intelligent and eager to begin the arduous task" he confronted in law school. I've learned a great deal in conversations with students and I've tried to put these conversations to use in my teaching and in my writing. It was talking with students that I first learned about legal education's implicit curriculum. I begin to see these conversations not only as a vital part of my day but a metaphor for what I wanted to do as a teacher: I wanted teaching itself to be a conversation.¹⁷

My resolve about the conversation metaphor was bolstered when I discovered Plato's early Socratic dialogues. I found that Socrates—the patron saint of legal education—left a philosophical legacy by posing questions of a kind his interlocutors found difficult to answer. Socrates' teaching, and his way of doing philosophy survive today, not in the form of detailed arguments and written expositions but in conversations with young men like Hippocrates, a student looking for a teacher, with Protagoras a fellow teacher, and with the infamous Athenian sophist Gorgias. In Socrates, I found a teacher unafraid to confront the conventions of his time. If legal education is not an enterprise that depends upon a powerful bundle of conventions that demands confrontation, I'd be hard pressed to find a better example of one.

¹⁶ See James R. Elkins, *Imagination and Creativity in Lawyering: A Report on a Law School Seminar*, 3 *ALSA F.* 13 (1978).

¹⁷ On teaching as conversation, see C. Roland Christensen, David A. Garvin & Ann Swett (eds.), *EDUCATION FOR JUDGMENT: THE ARTISTRY OF DISCUSSION LEADERSHIP* (Boston: Harvard Business School, 1991).

What I find in my report of the Imagination and Creativity seminar is that my goal in that seminar was to alleviate some of the tedium that results from a case-bound analytical approach to law study. As an antidote to law school's rigid analytics, I wanted to see what we could learn from the anxiety that students experience. I should note that I did not envision the seminar as a support group. The seminar focused on two goals: 1) an effort to introduce students to a body of writings drawn from psychology, sociology, anthropology, and linguistics that could serve as a bridge from their undergraduate studies to legal studies; and 2) to see how we might envision law school as a humanistic endeavor.

My report on the seminar indicates that we set out to address the following questions:

—How does it feel to begin the process of becoming a lawyer?

—What does it *mean* to be a lawyer? More specifically, what does it mean to *you* to be a lawyer? What kind of *image* do you have of yourself as a lawyer? Do you perceive a difference between the *image* of yourself as a lawyer and how you *feel* about being a lawyer?

—What are your *goals* in life as an individual apart from your professional goals? Do you think that being a lawyer will pose obstacles to achieving your personal goals that you might have?

—What kind of images do lawyers have of themselves, clients, and the law? How do these images play out in their lawyering?¹⁸

Returning to this seminar taught so many years ago, I find a host of questions that are still not addressed in traditional law school courses. The questions have served as a template that has driven much of my teaching and writing over the past 35 years: The questions expose law school's implicit curriculum, a curriculum that addresses the student's experience and the shaping of meaning that comes with the forging of a new identity. Returning to these questions, as I so often do, I'm reminded of Rainer Marie Rilke's

¹⁸ The questions as they are presented here are drawn from the published report of the seminar.

admonition: “Be patient toward all that is unresolved in your heart. Try to love the questions themselves.”¹⁹

My report on that old seminar is something akin to what Jay Oglivy, in *Many Dimensional Man* refers to as “log entries” and “scribblings.”²⁰ I didn’t have in mind for the report on the seminar to be published or that in the seminar we would reinvent legal education. I didn’t in those days have a map for where I wanted to go; my students will tell you I still do not have such a map. I suspect there can be no definitive map that points to how we can teach, honestly and boldly, the most intimate existential questions about what it means to be a student, a lawyer, a teacher.

¹⁹ Rainer Marie Rilke, quoted in Richard Quinney, *FOR THE TIME BEING: ETHNOGRAPHY OF EVERYDAY LIFE* 157 (Albany, New York: Albany State University of New York Press, 1998).

²⁰ James A. Oglivy, *MANY DIMENSIONAL MAN: DECENTRALIZING SELF, SOCIETY, AND THE SACRED* ii (New York: Oxford University Press, 1977).

In my early years as a teacher I was, according to my students, philosophically-inclined. Law students want their teachers to focus on the law and the skills they will need as lawyers. What students and I sometimes see differently is just what kind of skill it is that one might need to be a lawyer. In this, I see the lasting influence of John Batt.

One of my students, William, wrote in his evaluation of one of my courses, “this man should never have been given tenure.” William didn’t bother to try to talk with me about the course or how I chose to teach it. If he had, I would have told him something like this: “I care a great deal about teaching. I’ve given it everything I’ve got. For you my best efforts have not been enough. Or maybe I should say, they’ve been too much. I can’t say that I take pleasure in learning that you and your colleagues are frustrated by my teaching. It’s not enough, I know, to say that I put my heart and soul into it. Ultimately, you decide whether teaching in the way I do works for you. I’m saddened by the thought that my teaching has failed you.”

I might go on to say, “I know that there are different kinds of teachers and different kinds of teaching. A teacher needs to be honest with himself about his teaching, and recognize that what he does as a teacher may not be every student’s cup of tea. I don’t know exactly how you came by your assessment of my teaching. To figure out what your evaluation might tell me about my teaching, I think we’d need to learn more about how I failed. And in doing that, is it possible that we might find that you too have failed in some sense? Until we explore this matter of failure further, I’m going to cling to the possibility that I am a better teacher than your strip-him-of-tenure assessment would have me being. I think there’s a chance that the problem lies not with my teaching, but with who I am as a teacher and who you are as a student.”²¹

²¹ William might say, if given the chance, “Elkins isn’t a real teacher at all.” For William, I’m either a fraud or a ghost. “Perhaps students do not recognize that there is anyone at the front of the room to look back and see them. It is the teacher who is invisible. Of course, students see their teachers at the podium. They listen to them and watch them. But in some way they do not really believe that it is a person up there.” Robert F. Nagel, *Invisible Teachers: A Comment on Perceptions in the Classroom*, 32 *J. Legal Educ.* 357, 358 (1982).

I can't rule out the possibility that I've saddled myself with an illusion about my teaching, an illusion that protects me from the truth of William's judgment. The jury is still out and seems in no hurry to render a verdict.

When I walk into the classroom, I carry all my questions about what it means to be a teacher with me. I carry with me the knowledge that what I do when I teach can't possibly fit the needs and expectations of every student.

What I'm beginning to see—there's no sense of clairvoyance here—is that I have always carried questions with me: What is it that I am to teach? How am I to teach it? How does teaching *this* in *that* way define me as a teacher? I've never managed to outrun such questions, questions that don't lend themselves to ready-made answers.

The more I think about teaching the more I find I do not know. I make no claim that my ignorance brings with it any sense of bliss.

* * *

I'm sitting at a tiny table in the living room, a mild and windy summer day, trying to figure out how I got to be the kind of teacher I am. William's assessment sits like an atoll in the distant ocean.

Thinking about my teaching, I'm sometimes blanketed with a proposition that smothers inquiry: *That's just the way it turned out*. Call it fate, I want to say, and live what there's left to live of it. What is there, really, to say? It's a question I wrestle with, a question I resist.

When asked what I do, I say, I am a teacher. When asked where I teach, I say I teach at a law school. The next question is, “Are you a lawyer?” When I confess that I am, I learn quickly enough that lawyers are a suspect species.

Law is my discipline. There is a fate to be found in such a claim.

I must have seen something in law I found inviting. Maybe it was that I knew so little about law that I didn’t know that it might be something to avoid. I learned only after I became a lawyer and a teacher of law that I had taken up a discipline that constitutes its own world, a world with a language and a body of knowledge that sets the lawyer apart; law marks me as suspect.

When I took up the study of law, I had never set foot in a law office or a courtroom. My only exposure to law was the Perry Mason I saw on TV. I didn’t have the faintest idea what lawyers did except write wills and represent murderers and bank robbers.

Many of us jump into a discipline without a firm sense as to where it might land us. What we want of a discipline and what the discipline wants of us may not be congruent. The thinking that takes us into a discipline may not be the kind of thinking the discipline encourages. Disciplines offer mixed messages: A discipline holds out the promise of understanding, insight, and knowledge of the world, and in doing so, it makes demands on us that crowd out and push aside questions for which the discipline provides no answers.

We come to a discipline with hope, often of the kind we find in the high soaring phantasies of D.T. Jones, the protagonist in Stephen Greenleaf’s novel, *The Ditto List*. D.T., reflecting on his ambitions as a law student, tells us he “believed himself a fermenting mix of Perry Mason and Clarence Darrow, a nascent champion of lost causes, reviver of trampled liberties, master of the sine qua non of the trial lawyer’s art—convincing anyone of anything.”²² The question I keep coming back to is this: How do ideals, of the kind we see in the high-flying grandiosity of D.T. Jones,

²² Stephen Greenleaf, *THE DITTO LIST* 20 (New York: Ballantine Books, 1986).

and those of a more modest sort, play out in my life as a teacher? How do they play out in the lives of my students? In my preoccupation with these questions, I learn that I am not a traditionalist.

I know of no discipline, including law, that makes it a point to warn new initiates of the limits posed by the conventions of discipline-bound thinking. I find none of the following courses listed in my university's course catalogue:

Failures of Sociology
Economics: The Dismal Science
The Corporatization of Forestry
The Ruin of American Agriculture
Philosophy and Its Decline
Medicine and the Lost Art of Healing

To remedy this absence, I propose a law school course required of every student: The Legal Mind. The course would raise three questions: What does it mean to have a legal mind? How does one go about getting one? At what cost?

We are shielded, when we take up the study of law, from a realistic assessment of the discipline's limits. A course on The Legal Mind might remedy our ignorance about the limits of our thinking.

“To say that it [law] is autonomous is to say that it is self-contained, that it is not dependent on other areas of knowledge like morality or politics or sociology.”²³ Most of my colleagues know that law is no longer, if it ever was, an autonomous discipline, yet they teach as if it were what we know it cannot be. I read legal education as a battleground on which the wars about law as an autonomous discipline continue to be fought.

When a discipline sets itself apart, it draws lines, establishes boundaries. Sociology sets itself apart from anthropology. Psychology insists on the boundary with sociology. History, literature, and philosophy claim territory and zealously guard against encroachment from neighbor disciplines. The disciplines are our academic tribes; we act in tribal ways driven by a territorial imperative. The historian Patricia Nelson Limerick, describing the conquest of the American West, could as easily be talking about a history of the academic disciplines.

[T]he history of the West is a study of a place undergoing conquest and never fully escaping its consequences.

* * * *

Conquest basically involved the drawing of lines on a map, the definition and allocation of ownership . . . , and the evolution of land from matter to property. The process had two stages: the initial drawing of the lines . . . and the subsequent giving of meaning and power to those lines, which is still underway.²⁴

Disciplines involve intellectual conquest, settlement, and habitation. We put down the roots of our knowing, erect buildings to inhabit, cultivate the lands within our domain, and extract buried resources. Disciplines are homesteads, they represent settledness, intellectual home places. A discipline becomes an intellectual homeplace with all the sentimentality, loyalty, and ambivalence we have toward any place that we want to call home.

²³ Michael Corrado, *The Place of Formalism in Legal Theory*, 70 N. Car. L. Rev. 1545 (1992).

²⁴ Patricia Nelson Limerick, *THE LEGACY OF CONQUEST: THE UNBROKEN PAST OF THE AMERICAN WEST* 26, 27 (New York: Norton, 1988).

In law, I find the usual and the expected: the promoters, defenders, and popularizers; the inevitable social climbers and pretentious frauds; the able elders and those with a touch of charisma who are envied and feared; outlying loners and hermits, eccentrics and wildmen. It's quite a discipline.

We take infinite care in law to distinguish insiders and outsiders. We have the capacity to welcome strangers but we underestimate our fear of outsiders.

I am an insider. I train students to be lawyers. When I lead students away from their focused training-regime and encourage them to put their training into context, I become an outsider.

A discipline like law is a function of a history of relations based on familiar work. Discipline work is done in a community. Within this community, we often disagree about how discipline work is to be done, what it means to do the work well, and how we represent and reflect the ideals of the discipline. My disagreements with colleagues about the work of teaching has taken its toil. I'm encouraged to think the cost has not been too great by Richard Rorty's observation that "[q]uarrels between professors are never entirely disconnected from larger quarrels."²⁵

²⁵ Richard Rorty, *CONSEQUENCES OF PRAGMATISM: ESSAYS, 1972-1980* 228 (Minneapolis: University of Minnesota Press, 1982).

Interlude

The traditions and rituals we find in legal education can choke us in conventional thinking, but only if we ignore the stories in which these traditions and rituals and our performance of them are embedded.

In turning to stories I ask the student to be a forager, open to the new and the strange, open to rethinking what has become familiar and the ways we cut ourselves off from the life we most want to live. I want students to think about the fictions they've come to accept as real. I ask students to be open to the possibility that a story might change one's thinking, might change one's life.

It's late August. I've set out again to read lawyer stories with students in my *Lawyers and Literature* course. Elsewhere in the building, students are being introduced to Administrative Law and Labor Law, Tax and Antitrust, Criminal Procedure and Evidence. The texts in these courses are casebooks crammed with judicial opinions, leavened with an occasional excerpt or exercise that attempts to put the legal rule or doctrine into a broader context. In *Lawyers and Literature* we read novels and short stories. We read of lawyers who talk about the law and reflect on what it means to be a lawyer, and, what it means to have a life beyond law. It's the kind of fiction that prompts us to reflect on the kind of lives *we* try to live as lawyers.

Some of the lawyers we find in fiction learn that the paths they follow have led them to a dead-end. We find Ivan Ilych in Tolstoy's novella, "The Death of Ivan Ilych," reflecting on his life, realizing that what had appeared perfectly impossible before, namely that he had not spent

his life as he should have done, might after all be true. It occurred to him that his scarcely perceptible attempts to struggle against what was considered good by the most highly placed people, those scarcely noticeable impulses which he had immediately suppressed, might have been the real thing, and all the rest false. And his professional duties and the whole arrangement of his life and of his family, and all his social and official interests, might all have been false. He tried to defend all those things to himself and suddenly felt the weakness of what he was defending. There was nothing to defend.²⁶

Students reading "The Death of Ivan Ilych" and other stories in the lawyer disaffection genre find the troubled lives of fictional lawyers disconcerting. Inevitably, a student will ask, can't you find any happy lawyer stories? My reply, in the most convincing voice I can muster: "We can learn from the lawyers we find in literature, and we may learn best from the lawyers who have made less than perfect lives for themselves."

²⁶ "The Death of Ivan Ilych," in Leo Tolstoy, *THE DEATH OF IVAN ILYCH AND OTHER STORIES* 95-156, at 152 (New York: New American Library, 1991).

When students ask, as they inevitably do—What can I learn about being a lawyer from lawyer stories and novels?²⁷— I pose the heretical notion that the lawyers we find in fiction may help us figure out what it means to be a lawyer, what it *really* means.

Stories guide us, capture us, and liberate us; they often perplex us. If stories set us thinking, offer an occasion to reflect on the lives we're living and the world in which we live, then I'll put my money on stories. I'm willing to bet that stories are a valuable source of knowledge and an underappreciated mode of intelligence.

Law school is more than a place to study law; it is the place where our evolving notions of what it means to be a lawyer take hold and shape our lives. When students learn to think like lawyers they take a leap of faith. Who knows—who really knows?—what it means to become a lawyer, to think like a lawyer? What legal education needs is more mindfulness of how stories, stories rich in scripts and images, can constrict and expand the lives we try to live.

Stories help us think about where Law is taking us.

I'm persuaded that legal education can be a time and a place for students to develop their story sensibilities, a time to take stock: How did I get here? What kind of lawyer am I preparing myself to be? What kind of future am I rehearsing and imagining for myself? It is with the stories we tell in response to these questions that we educate ourselves as lawyers.

²⁷ What I focus on is fiction, the kind of fiction where we find lawyers being lawyers and struggling to be human beings. For an instructive effort to distinguish the traditional law and literature course and the approach I adopt, see William Domnarski, *Law and Literature*, 27 Legal Stud. F. 109 (2003).

My students are curious: Where did I come by this idea that we need to be more reflective, that reflection and introspection are important skills for lawyers? Where do I get the notion that we might sharpen our skills of reflection by being better readers of stories? And if the need for stories is real, how are we to get story awareness into the training and the education of lawyers?

An appreciation of stories, the skill to tell them, the patience to hear them, and the cognitive ability to link one story to another, might make us better lawyers.

I have tried to find in my teaching a way to reimagine law school as a place where we excavate stories, celebrate the stories we know, and learn new stories that will enrich our lives. An awareness of how stories shape our work, and our images of ourselves as lawyers, helps us see the fiction of the real and the real of the fiction in the lives we live. I find in stories a way to rehabilitate the wastelands of legal education where we teach much in the ways of the law and little in the way of meaning.

When we take stories seriously, we find they have practical value for a lawyer. I want stories to be an integral part of the student's philosophical mind-set they take with them to the practice of law. For some students, this has made me a bit odd.²⁸

²⁸ For two student accounts of my teaching, see Ruth Knight, *Remembering*, 40 J. Legal Educ. 97 (1990); Deirdre Purdy, *Lawyers & Literature: As My Mother Lay Dying*, Spring, 1997, 22 Legal Stud. F. 292 (1993).

Since we law-trained folks are so fond of rules, I propose one here: No law school activity should be undertaken unless it is accompanied by a story that reaches beyond Law. Must every law school course, every text, every moment available for reading and reflection be law practice oriented? Do all our *relevant* texts and *substantive* courses materially contribute to a worthwhile professional life?

Every law school in the country introduces first year students to the Canon of Legal Education—contracts, property, torts, criminal law, civil procedure—but The Canon is of little help on what are basically *meaning questions*. The Canon consists of rule and legal doctrines, language and a methodology for problem-solving that excludes, discounts, or pushes to the periphery the questions my students ask: What brought me here? What do I bring to legal education that will help me understand law and what it demands of me? How will I find in my work a way to be a lawyer that honors the ideals the legal profession represents? How will I develop the sensibilities (and the courage) to resist the practices engaged in by lawyers that dishonor the profession? What kind of work, what kind of learning, can I do in law school that will make my quest to become a lawyer a story worth living?

Like my students, I took up law as a way of life without knowing where it might take me. So it is with stories: We find stories, embrace them, puzzle over them, without knowing exactly where a particular story might fit with the stock of stories we carry with us. Some of our stories and much of what we most passionately want to do must be undertaken in the shadow of uncertainty and without the use of reliable maps. Reading stories we find, beneath the ordinary affairs and immediacy of everyday law school life, parts of the self we've forgotten, repressed, or simply left unimagined. We're then confronted with a problem: "The knowing self is full of darkness, distortion, and error; it does not want to be exposed and challenged to change."²⁹

²⁹ Parker J. Palmer, *TO KNOW AS WE ARE KNOWN* 121 (New York: Harper & Row, 1983).

I don't know when I first got the idea to teach the lawyer stories found in films. My purpose, I think, was a rather simple one: I turned to lawyer films and cinema lawyers to help students better understand themselves as lawyers. I'm interested in the conversation that movies make possible about how our work affects the kind of lives we live.

When I undertook the lawyer films course, I knew that films convey powerful dramatic stories, and, having seen a good many lawyer films, I set out with one basic assumption and some questions: We can learn something about ourselves watching lawyer films. What we are to learn? How we are to go about it?

* * *

A reporter for the *National Jurist* writing an article about "unusual" law school courses contacted me about the Lawyers and Film course. I understood the premise of the article but I didn't subscribe to its implications. I don't see it at all as unusual that in legal education we might seek stories of lawyers, stories of lawyers in action, lawyers who seek justice, lawyers who are quite blind to the injustice they bring about. Why wouldn't these stories have a place in legal education? Lawyers in film, as with lawyers in fiction, become part of the rich storied world in which we try to imagine, think, act, and live a meaningful professional life, a life in which we recognize the *person* in the work we do, a life in which the work we do shapes the life we end up living. Simply put, lawyers in film teach us, those who remain curious and open, that there is much still to learn about who we are and what, without caution and reflection, we can become.

We need cinema lawyers to study ourselves.

Stories Closer to Home

From the stories told and lived when I was growing up in Kentucky, I carry with me a legacy of work, work fabricated of simplicity, attention, and fate. Our work held forth the promise of a worthwhile future. It was work, the land on which we lived, and the sense of a more promising future that kept us moving forward. It was our stories that gave us pleasure and reminded us who we were, where we lived, and what might lie ahead.

My father was a hard working man. He lived within his means and wanted little. The one thing he did want was a new car. I was six years old when my mother acquiesced and my father bought a sleek new green '51 Pontiac with an amber-colored Indian-head hood ornament. That year-of-the-new-car—1951—was memorable: I started school, my father drove the new Pontiac off a Mayfield, Kentucky, car dealer's two-car-showroom floor, and we began to frequent the local drive-in theaters. My favorite of the drive-in theater outings were the all-night shows featuring movies from dusk to dawn. I would fall asleep with the movies merging into the images of my dreams. To get through an night of movies—I'm not sure I ever managed to stay awake the entire night—required pillows and popcorn, a cooler of RC Cola, and sandwiches.

In 1951, we got a new Pontiac. Yes, yes, I know I'm repeating myself here. But my, my, that car was special. It seemed, for the first months after we got it, that we must be rich. There was more considerable excitement afoot: I started first grade. I am now, sixty years distance, still a student. I still think about that '51 Pontiac with its amber Indian-head ornament on the hood.

I saw my first film in a real movie theater in 1954. My uncle took my brother and me to the barbershop and then to a movie. I have a distinct memory of sitting in velvet darkness as we waited for the movie to start. The lush burgundy curtains were pulled aside back and we watched the unfolding of a story that left me feeling perfectly small and totally alive. I was a witness that afternoon to a world not my own, a world at once fictional and real.³⁰ In the meandering, turbulent, blessed years that followed that magical afternoon, I have never forgotten *Johnny Guitar* (starring Sterling Hayden & Joan Crawford), my first film in a real movie theater.

³⁰ It was Marshall McLuhan who reminded us that “The business of the writer or the film-maker is to transfer the reader or viewer from one world, his *own*, to another, the world created by typography and film. That is so obvious, and happens so completely, that those undergoing the experience accept it subliminally and without critical awareness.” Marshall McLuhan, *UNDERSTANDING MEDIA: THE EXTENSIONS OF MAN* 285 (New York: McGraw-Hill Paperback ed., 1965).

Then someone invented television. We eventually got one, but we waited until the technology progressed sufficiently so we could actually see the picture in all the “snow.” When we got that first TV, a Hoffman consol model, we were still living in the basement of the house my father was building under the watchful supervision of my mother. When the television arrived, it was gently lowered down the steps into the basement. As I watched those first TV programs, I realized that the world might extend beyond our twenty acres and the little nearby towns where we shopped for school clothes at Penny’s, the Red Wing shoe store for farm boots, and Lookofsky’s Sporting Goods to replace lost arrows.

I got my first glimpse at the future, several years before we got that first TV, when I arrived in Mrs. Margaret Mohler’s first grade class at Brewers Elementary School. In first grade, I knew one thing with certainty: I didn’t want to be a farmer. I wasn’t afraid of hard work, and no one ever accused me of being lazy, although my reputation as a reader would sometimes raise suspicions that I might veer in that direction. My mother and father both knew farm work and factory work first-hand, and they knew it to be a hard way to make a living. My parents never complained about how hard they had to work, but they didn’t try to hide the fact that dropping out of school came at a stiff price.

I learned growing up that I wasn’t work shy. I learned, watching my mother and father, what it means to have absolutely no fear of work, the amount of it, the hardness of it, or that it is never-ending. I don’t recall every hearing either of my parents, or anyone else on the farm, bone-tired they might be, complain about work to be done. What my parents most wanted in life was to pay their debts, and to ensure that my brother and I find an easier road in life.

The work story we lived as a family centered around the future and an obsession. It was my mother who had the clearest sense of what an education might mean to us: We’d live our own dreams free of the constant worry of whether we could pay our bills. My mother schemed endlessly to ensure that I would have less to worry about in life than she had had. She was a very strong woman, and still is. At 86, I don’t see her spending much time worrying about anything.

My father was born and raised in town and took up farming after he married my mother. My mother was a Thweatt. The Thweatts had always been farmers. With the help of his new in-laws, my father learned well enough to do what farmers do—he even went to farm school—and he farmed off and on for the rest of his life. I don't think he was ever a farmer at heart. He farmed full-time for a few years and then took a job at the Merit Clothing Company where he pressed newly-made men's suits to get them ready for shipment.³¹ Factory work didn't appeal to my father and he quit the job when he found work as a laborer with some local carpenters. He continued to farm part-time, but he ended up being a carpenter.

Somewhere along the way, my father, who had been raised in a family of town merchants, got the idea to buy a small country store. The original idea was that my parents would run the store, continue to farm, and my father would give up construction work. It was a good plan but it didn't work. Early on, it became clear that to get the store loan paid off and to get out of debt, my mother would need to run the store, while my father brought in a regular pay check.

My mother always claimed that she wasn't cut-out to do public work—we always referred to store customers as the public—and that working in the store wasn't what she in mind to do in life. Still, she was good with customers and with my father helping out when he could, she built a substantial business. She listened to customers' stories and shared their lives—they were neighbors as well as customers—but she never forgot, and

³¹ Both my parents worked at one time or another at what everyone called "The Merit." *The WPA Guide to Kentucky* (1938) notes that the Merit Clothing Company and the Curlee Clothing Company together, at one time, employed 1,800 men and women in the manufacture of men's and boy's suits and overcoats. The Merit can be traced to an 1860 woolen mill that was reorganized after the Civil War, and a second textile mill, Mayfield Pants Company that began operation in 1899. The mills were later expanded to become the Merit Clothing Company and the Curlee Clothing Company. See "Graves County," in John E. Kleber (ed.), *THE KENTUCKY ENCYCLOPEDIA* 384 (Lexington: University of Kentucky Press, 1992).

The writer, Bobbie Ann Mason, grew up near Mayfield, in Graves County, and in her memoir captures in pitch-perfect tone the feel of the place and my own growing up in the gently rolling countryside of the Jackson Purchase, in Western Kentucky. See Bobbie Ann Mason, *A MEMOIR* (New York: Random House, 1999).

never tried to hide, that she was doing work she had not chosen for herself. She sometimes reminded my father that he was the one who hatched the idea to buy the old store. It was my mother who took over the day-to-day operation, and my mother who kept it running and who made the store a prosperous business.

Necessity has a way, I learned, of shaping and redirecting dreams. I watched my parents, with patience and perseverance, make a patchwork quilt life of farming, my father's carpenter work, and an old country store. By country store, I mean we sold everything: groceries and gasoline, nails and cattle feed, work clothes and yard implements, and the usual basic foodstuffs. My brother and I pumped gasoline, loaded cattle feed and fertilizer, and stocked the shelves. The store was open 7 AM to 7 PM, six days a week. We had no employees. If there was work to do, we did it.

Work—how I was raised to do it—is central to my deepest sense of who I am.

My parents were full-time farmers for a few years after my father came back from Army service in Okinawa at the end of WWII. They got the idea soon enough that they couldn't make a decent living farming twenty-acres raising tobacco and selling strawberries. The calves and hogs brought in some money, but never enough. The work was hard, and it didn't seem to provide a springboard to a secure future. My father may have been a reluctant farmer, but I never heard him complain about the work he found himself doing. Farm work was honest work, and it was hard work, sometimes grueling. The pleasures were simple. There was never enough money to accumulate any savings. The only thing we saved was what we raised in the garden. We had shelves of canned tomatoes and beans, a freezer full of food, and a smokehouse where we smoked and sugar-cured hams and bacon of the hogs we raised. The hope was that one day we'd be free of debt, that we wouldn't have to work daylight to dark, and scrape for every penny. We were not poor and never gave any thought to being so.

When I was young, I couldn't see any future in farm life. I was drawn to the mythical allure of *town*. I call it mythical because there was nothing in town, nothing to see, little to do. Benton (population, 3,000) had—at the time—no town library and the only movie theater in town closed when I was a young boy. To see a movie we had to go to the drive-in theaters. The town was little more than the town square, the court house occupying it, and the shops that lined three sides of the square. There was a drug store with a soda fountain, but we never tarried there: I don't recall ever having a fountain Coke at the drug store. We did our grocery shopping at country stores located near the farm; mostly at the old Tommy Gore store my parents later bought. When we went to town it was mostly to visit my father's family, though sometimes we had to go to Treas Lumber Company, a few blocks from the town square, to get something we needed for the farm.

My first memories are farm memories: tending crops, feeding hogs and calves, fishing in the creek, digging peanuts, hiding from lightning storms, planting the garden in the spring, being warned of tramps who sometimes walked the highway that ran past the house. Still too young to be doing a man's work, I helped put out the garden my father plowed with a horse, picked the down-rows of corn knocked down by my grandfather's 1947 Ford tractor, hoed weeds in the garden, and picked

strawberries and sweet corn to sell in town. We sold the hams and shoulders of the hogs we slaughtered, smoked and sugar-cured, to buy canned goods to see us through the winter. My grandfather knew how to build rabbit traps and in winter we'd sometimes set out three or four traps. When we could, we went fishing and frog-gigging. We fished the ponds, the creeks, and the backwaters of Kentucky Lake. We hunted rabbits and squirrels, and we ate what we killed.

Of all the stories being told and lived around me there were two that organized my existence and foretold my future: My father's town story and my mother's farm story. I am a son of a farm | town marriage.

My first stories, the ones I still carry with me are those learned as a western Kentucky farm boy. The stories came from my mother and father, grandfathers and grandmothers, great-grandfathers and great-grandmothers (on both sides of the family), aunts and uncles. I learned that I was an Elkins and a Thweatt. My father was born in Benton, a little county-seat town; his family were merchants and town people. My mother was born and raised on a farm not a half-mile from the twenty acre farm where I grew up. We were farm people. Even my town-raised father got around to being a respectable farmer.

Growing up on the farm, we told stories to pass the time, to be neighborly, to know who was who, and who could work and earn their wages. We told stories about each other and our neighbors. We told farm stories, and stories about hunting and fishing. There were stories about tramps and gypsies. We told stories because they were ours to tell.

From birth I heard stories being told, stories about who I was, who we were, and stories of the world we had inherited.

* * *

If you ask now who I am, I say, I am a teacher. I edit a journal. I write. I'm a reader. I was once a traveler. When I'm asked to say something more about being a teacher, editor, writer, reader, traveler, I take it as an invitation to tell a story. I don't know how to talk about teaching and where my travels have taken me without resorting to stories.

As I learned and lived the family stories and the farm story and the work story, I discovered other stories. I learned that we were Democrats and Christians. That we were Christians meant that we attended church on Sundays with our neighbors and that we believed in the Christian virtues: cheat no man, speak ill of no person (so long as he can do a decent day's work), help a neighbor when they call, tell the truth, work for a living. We didn't say grace at the table and we didn't dwell on religion. We were more or less diligent about reading Sunday school lessons and attending Sunday morning worship. We mostly avoided Sunday night and Wednesday evening services, and could only rarely be counted on for summer revival meetings. My father was, for a few years, an elder of the church, but he never had his heart in being a church man and was clearly uncomfortable when the minister called on him to say a prayer. We certainly had no notion that in being Christians that had anything to do with our politics.

All of this means something to me. It may mean something to my students that I was born and raised a farm boy Democrat in the rolling farmlands of Kentucky's Jackson Purchase where people lived modest but hopeful lives, and possessed a faith so deeply held that it would have been viewed as odd to try to articulate it.

I now own part of the family farm and several surrounding farms, but I can no longer honestly think of myself as a farmer. My inheritance of and from this land—the farm lies a day's drive from the law school where I teach—gives rise to the myth from which I have made my teaching. I'm reminded of the poet W.B. Yeats's suggestion that the roots of a man's life are deeply embedded in myth. As Yeats mused, "I have often had the fancy that there is some one myth for every man, which, if we but knew it, would make us understand all he did and thought."³² The one myth that might reveal my life as a teacher lies not in the courses I've elected to teach but in that land, that farm, that childhood in Kentucky.

³² W. B. Yeats, *ESSAYS AND INTRODUCTIONS* 107 (New York: Macmillan, 1961).

Travels

There are travelers and there are tourists. In legal education, tourism flourishes; what we need are more travelers.

In the early years of my teaching, I began to travel. I was single in those days by way of a marriage that had no more than gotten underway when it collapsed. A summer's travel to Ecuador, Turkey, or the remote islands of Indonesia turned out to be a perfect way to escape the world of law. It was in my travels that I begin to see legal education for the small world it so hardily resists our seeing it to be. I was constantly reminded that there is a vast world beyond Law, a world beyond the ambitions and obsessions of students and colleagues. I found a way to stay sane in a world that reeked of false normality.

I met Charma on my travels to Sumba in the early 1980s. Sumba lies just east enough of the tourist haunts of Bali to feel remote. It is a captivating place. On my second trip to Sumba, I set off with Charma to Rende, the village where his family makes exquisite *ikat* (resist tie-dyed cloth). Rende is a tribal village so small, the visual art of *ikat* so striking, the complexity of its making so confounding, that I sometimes wonder whether I have not conjured it all up in a dream—Charma, Rende, the *ikat*—a dream that visits me from that far place, so far from home that it can only be reached by a flight of imagination.

Before I met Charma, I struggled to learn enough Bahasa Indonesian to get a room, negotiate mat space on the decks of the overnight ferries that carry me island to island and to the remote *ikat* villages. Charma, a fellow adventurer, blessed with the consummate skills of a con-man and remarkable English and knowledge of *ikat*, was a near perfect guide for my travels in the remote islands of Nusa Tenggara. Charma had lived with *ikat* all his life, but his own travels had taken him no further than Bali. It wasn't difficult to convince Charma that we should travel the eastern islands in search of *ikat*. It was a pleasure, free of every vestige of the law school world, to travel with Charma as far as his ingenuity and my money could take us.

No one who travels the islands of Nusa Tenggara expects the journey to be free of difficulties. Charma and I were given no free passes when it came to trouble. Fortunately, Charma was resourceful and I had the resilience of a man possessed by the conviction that he was where he was supposed to be. In Charma, I found a trusted friend, travel companion, and steadfast guide. Faced with inevitable difficulty, Charma took mischievous pleasure in

reassuring advice: “There is more than one way to the heaven.” Charma is an animist.

Charma’s dictum sounded, then and now, like the insight of a sage. He first devised this little piece of wisdom the day I questioned him about a painting on a crude slab of concrete that marks an entrance to the shabby Elim Hotel that served as my home base in Waingapu, the main town in eastern Sumba.³³ The painting—in red—featured a human hand, palm facing the viewer, fingers closed against the hand, and the index finger pointing upward. The Chinese owners of the Elim Hotel are Christian. Charma, standing before the finger pointing skyward, directing our eyes upward to the Christian heaven, told me the sign was a reminder from the island Christians that there is *one way*—and only one way—to their heaven. It was a reminder of religious arrogance and one religion thinking: There will be no animist in heaven.

Law school and the dominant theology of legal education promote one-way thinking. I live by Charma’s credo: I am an animist among the law school religionists.

³³ I haven’t taken up residence in the Elim Hotel for almost twenty years. It’s a place too shabby to forget. A surprise it is, to find, as I write about this place, that it continues to evoke such a feeling of nostalgia. I look for the Elim Hotel via Google’s big window to the world and find this: “The Elim Hotel in Sumba Timur, Indonesia situated Jalan A. Yani 22. Here it is unfortunately not yet possible to book online. This accommodation Elim Hotel would be glad to welcome you soon. The correct data depends on the update of the information through the management and cannot be guaranteed.” The sparse Elim Hotel website advises possible guests: “No photo available.”

I follow, in the teaching of exotic courses, Gary Snyder's prescription that "[t]here is nothing like stepping away from the road and heading into a new part of the watershed. Not for the sake of newness, but for the sense of coming home to our whole terrain."³⁴ Snyder calls it the "practice of the wild."

In my backroads travels in legal education, I've learned to keep an eye out for new metaphors. I need to let Snyder say what "practice of the wild" means.

Memorandum to Students

Re: Travel Off the Well-Trod Paths

To: Students of Law and Their Teachers
From: Gary Snyder
Re: *The Practice of the Wild*
Place and Date: San Francisco, 1990

— So what's *off* the path? . . . The relentless complexity of the world is off to the side of the trail. . . For a forager, the path is *not* where you walk for long. Wild herbs, camas bulbs, quail, dye plants, are away from the path. The whole range of items that fulfill our needs is out there.

— Our skills and works are but tiny reflections of the wild world that is innately and loosely orderly. There is nothing like stepping away from the road and heading into a new part of the watershed. Not for the sake of newness, but for the sense of coming home to our whole terrain. 'Off the trail' is another name for the Way, and sauntering off the trail is the practice of the wild. That is also where—paradoxically—we do our best work. But we need paths and trails and will always be maintaining them. You first must be on the path, before you can turn and walk into the wild.

³⁴ Gary Snyder, *THE PRACTICE OF THE WILD* 154 (San Francisco: North Point Press, 1990).

— The etiquette of the wild world requires not only generosity but a good-humored toughness that cheerfully tolerates discomfort, an appreciation of everyone’s fragility, and a certain modesty.

— Keeping myth alive requires a lively appreciation of the depths of metaphor, of ceremony, and the need for stories.³⁵

Gary Synder describes with unerring accuracy what I seek in teaching *Lawyers and Literature*, *Lawyers and Film*, *Practical Moral Philosophy for Lawyers*, *The Art of Advocacy*, *The Lawyer as Storyteller*: a good-humored toughness, a learned toleration for psychological discomfort, an appreciation of fragility, an awareness of our need for stories, and a sense of modesty in a legal world that abounds with arrogance.

³⁵ *Id.* at 145, 154, 22, 57.

I set out upon a journey in my teaching in search of something I find only when I leave home. I travel to reimagine what it means to be home. As a traveler I learned this lesson, and keep learning it: Home takes on the most distinct meaning after venturing into the unknown.

Those who undertake long journeys know that we don't always reach our destination. The journey gets interrupted. We abandon the path, take detours, drift from place to place. We get lost, go astray. We sometimes set off for a destination and then, for one reason or another, turn back. Even those who get to where they thought they were going are sometimes disappointed. We get to China and find that we have arrived too late.

It's the journey that brings us home. Richard Quinney tells us, "We find our true home in the search for a place in the world." The Law is an intriguing place to call home. When I say, "I teach law," I'm called upon to say more about what kind of home the Law is for me, and what kind of home I imagine it can be for my students. It is unlikely that any of us will find our way home without encountering some mysteries along the way.

