

Chapter Seven

Robert, and His Fellow Escape Artists

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The prosaic mentality is characterized by a cluster of attitudes and interests that it raises to supremacy over others, which are ignored, denied, or suppressed.

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The prosaic man is interested in . . . clear-cut boundaries. He wishes to have things sharply defined. . . . He hates what he calls blurred boundaries and sees them as a source of misunderstanding, confusion, inefficiency, and conflict. He is determined to find out where to “draw the line.”

The prosaic man stresses literalness. Whatever is to be understood and communicated he wants to see spelled out in explicit statements. He thinks that stark, literal prose is the only instrument of expression and communication

—George W. Morgan, *The Human Predicament: Dissolution and Wholeness*¹

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[L]awyers need to educate their passions and invigorate their imaginations with the same dedication that they apply to sharpening their analytical skills. They must stop over-using mental habits like objectivity . . . and become more adept at applying such specialized tools *only* when a particular job requires it. After all, few artists choose to use only two colors. Lawyers must learn to complement their professional mindset with other perspectives and find more appropriate ways of responding to the myriad opportunities and challenges of daily living.

—Benjamin Sells, *The Soul of the Law*²

¹ George W. Morgan, *THE HUMAN PREDICAMENT: DISSOLUTION AND WHOLENESS* 82, 83 (Providence, Rhode Island: Brown University Press, 1968).

² Benjamin Sells, *THE SOUL OF THE LAW* 179 (Rockport, Massachusetts: Element, 1994).

I walk into the classroom, look around the room. I see a group of students who have elected to undertake this venture into the world of stories. The students have signed-up for a course called Lawyers and Literature.

At this first meeting of the class, the room is inevitably quiet. Most of the students wear a ghost-like mask. Whether that mask disguises excitement or fear, I will never know. And yes, there is inevitably a student or two who reacts to this awkward silence with a nod of recognition, or even a smile. What I know is that I am expected to fill up this quiet space. I have no doubt that students are eager to learn what lies ahead. All I know to do is say something about the course so that we can get started.

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I don't having a planned speech, and I know better than to try to rely on notes that will help me insure that I say everything that needs to be said. I'm not confident I know what needs to be said and that if managed to say it, I would actually be bringing students any closer to thinking about the course in story terms. I may or may not confess that with all we know about stories and our familiarity with stories that actually working with stories can be difficult and perplexing. Given this situation, what I end up doing, in this first presentation in and about the course is: wing it.

I know each of you have chosen to be in the course and I know you could be elsewhere. Your friends and colleagues sign up for courses stacked wall-to-wall with judicial opinions; we know it would be difficult to find a law student who does not recognize the need to learn how the law works and to acquire the necessary skills to do the work that lawyers do. I suspect you have a legalistic-minded friend or two who has been more than willing to tell you, in no uncertain terms, that the Lawyers and Literature course is a waste of your time.

I know there are students—you undoubtedly know them too—who have no desire to take a course like Lawyers and Literature. Let me tell you about Robert, one of those students. Robert, a practical young man—practical to the core. He sees himself as a no-nonsense realist, the kind of man who is made-for-success in the legal profession. Robert admits that his law school years have been a source of frustration. He points to courses like Jurisprudence and Legal History and says, without hint of doubt, “courses like this are a great waste of time.” (Robert, in order to satisfy the “perspective” course requirement signed-up for Sports Law.) Not given to metaphorical thinking, Robert scoffs at the

idea that law school is a journey. Robert wants us to know he doesn't buy the notion that law students are travelers, that he might be on a venture into the great unknown: *Robert has come to law school to be trained*. You know the kind of person I am describing. Robert assumes that a lawyer's education takes place not in law school, but in the practical training he will receive as an associate in the law firm he will join when he graduates. What Robert really wants he makes emphatically clear: finish law school and get out into the Real World. I have come to think of Robert, and students like him, as escape artists. They imagine law school as a form of imprisonment; they harbor a desire they see no need to disguise—to *be elsewhere*.³

Odd, you may think, that in a course like *Lawyers and Literature*, I begin the course thinking about a student like Robert. I don't need to remind you that legal education has an allure for aficionados of the "practical." I know I have no argument, no potion of magic, that might bring Robert around in his thinking to see that the kind of education that a course like *Lawyers and Literature* makes possible is an education a lawyer might need. In *Lawyers and Literature*, arguing for literature—for stories—I am obviously preaching to the choir. Preaching to the choir, according to an online Phrase Finder, "refers to the pointlessness of a preacher attempting to convert those who, by their presence in church, have already demonstrated their faith." Preach as I do to the good choir I know your silence disguises, I am mindful of Robert and his deep-seated practical-mindedness. Robert, with his entrenched prosaic mentality, is secure in the assumption that he is entering a line of work that will reward him for his practical-bent.⁴ In legal education, we have all pledged allegiance to the god of practicality, and to an image of lawyers this allegiance binds us to honor. Is it possible that in taking up the Law, we have each rented Robert a room in our psyche?⁵

³ I know there is a danger in creating a caricature of the kind I conjure up here with my description of Robert. Obviously, I don't know what will happen to Robert when he leaves law school and finds himself in the Real World he so vainly seeks to inhabit.

⁴ I adopt the term "prosaic mentality" from George W. Morgan, *THE HUMAN PREDICAMENT: DISSOLUTION AND WHOLENESS*, *supra* note 1, at 81-93.

⁵ In mythology, we find imaginal and mythological figures that take us in a different direction than the Robert voice would take us. Consider the Navajo's mythological *do'tsoh*—sometimes referred to as Big Fly—that lands on a person's shoulder and instructs on matters of importance. Joseph Campbell, in *The Power of Myth*, describes the Navajo spirit messenger fly this way:

There is a big fly . . . that will sometimes fly down and sit on your shoulder when you are walking along in the desert. In Navajo myths he is known as Big Fly, also as Littlewind. He whispers to the young heroes the answers to all the questions

The “Robert figure” we carry around with us instructs us as to what we can and cannot imagine in our lives as lawyers. We might think of an internalized “Robert figure” as the voice of conventional thinking, a voice that makes us leery of crossing boundaries marked by long-standing social practices and venerable traditions. Robert is an introjected voice, a censor of what we are not allowed to think, the voice that puts a strangle-hold on what we can imagine.

You need not be so devotedly practical-minded as Robert to realize that every academic discipline features its own distinctive way(s) of reductive narrowing of focus. Do you have any doubt that law school prepares you to see best what Law wants and allows you to see? Do you have any doubt, having come this far in your legal education, that you are being invited to take on a *legal persona* and adopt a legal worldview?

When you study law by reading judicial opinions, you are expected to learn to think like a lawyer. In learning this way of thinking, you may put yourself at risk of giving up other ways of thinking that you will need as a lawyer and you will need in your life beyond the law. Legal education can broaden your perspective—when you gain a knowledge of the law and its uses—and at the same time leave you with a worldview that flattens and narrows and restricts your vision. Most of us don’t want to allow Law to act as a ruler of all our impulses, or, to wield a veto over those matters of life that lie beyond the law.

There is a little story Supreme Court Justice William O. Douglas told about one of his former law partners, H.A. Moore, that hints at what concerns us here:

Night after night I worked until eleven o’clock or midnight, and often until 2:00 or 4:00 A.M., returning to my desk by nine-thirty or ten in the morning, but before that, teaching an eight o’clock class. I learned in those long nights that some men preferred law practice to love, compassion, family, hiking, or sunsets. The partner for whom I worked usually took me to Savarin Restaurant in the Wall Street area for dinner. Dinner talk was always shop talk

that their fathers put to them when they are being tested. Big Fly is the voice of the holy spirit revealing hidden wisdom.

Joseph Campbell, *THE POWER OF MYTH* 116 (New York: First Anchor Books ed., 1991) (with Bill Moyers). Sam Gill, in *Native American Religious Action*, observes that Big Fly serves as a “messenger between human beings and the holy people who seldom come personally to the world of humans. Big Fly is a protector and informer.” Sam Gill, *NATIVE AMERICAN RELIGIOUS ACTION: A PERFORMANCE APPROACH TO RELIGION* 100 (Columbia: University of South Carolina Press, 1987). If you carry around with you a psychic figure like Robert, then you will appreciate a visit of the Navajo *do’tsoh*.

I had a long series of nights working with H.A. Moore, an excellent lawyer of the old school and completely dedicated to “the law.” He wore a green eyeshade and smoked cigarettes incessantly.

One night the telephone rang and he answered in an angry voice because he resented the intrusion, “What? The house is on fire?

Why in hell bother me? Call the Fire Department.”

Hanging up the phone with a bang, he said to me, “Can you imagine that? My wife calling me from Long Island to tell me our house is on fire. Hrrmmph!”

I saw him some years later. He was gaunt and gray, only a shadow of the man I once knew. He had never had the time to get to know the flight of the whistling swan or the call of the loons across northern waters. He had given his all to “the law” and it had squeezed every other interest out—even listening to the music of Mozart, which he loved.⁶

Students like Robert seem hell-bent on becoming the very caricature we all find so easy to mock. What most of us want—what I assume my students want—is to live a life not as a lawyer caricature or a stereotype, but as a person who experiences and appreciates the ebb and flow of the complex human being they know themselves to be.

Students Persist With Their Questions
(some of which we have entertained in one guise or another)

Some of my law school friends argue that a course like Lawyers and Literature is a waste of time. They don’t want a course like this to appear on their law school transcript. What would you say to these people? Probably not much. Your friends don’t come knocking on my door. And the reason they don’t, I suspect, is that they assume I have nothing to say that they want to hear.

There are, to put it crudely, two camps of law students. Those who have an interest in or see a need for a course like Lawyers and Literature and those who don’t. This business of dividing up the world into opposing camps, crude and imprecise as it may be, can sometimes be instructive. John Ayer, a law teacher colleague, has observed that law and literature

⁶ William O. Douglas, *GO EAST YOUNG MAN: THE EARLY YEARS 150-151* (New York: Random House, 1974).

have conventionally been viewed as “two separate realms of being, companion duchies in the sovereign universe of thought.”⁷ If you divide the world into camps in this way, then anyone in law school who trades judicial opinions (and the effort to assemble a catalogue of traditional lawyering skills) for stories and poetry and is willing to claim they take on this kind of reading to further their education as a lawyer is going to seem odd to anyone who belongs to the “just teach me the law” camp.⁸

One reason that your friends keep their distance from *Lawyers and Literature* is that the course doesn’t purport to provide answers to questions they find no reason to address; the course raises questions and concerns they choose not to acknowledge or confront. I think it safe to say that for some students, fiction—stories—is the last place they might seek answers about anything they want or need to know. And the student who avoids a course like *Lawyers and Literature* has a point: stories invite uncertainty.⁹ Your friends, seduced into thinking that they will be content living within established conventions of lawyering and legal thinking have no need for stories, or so they want to think.

You might be interested to know that some students think that teaching a course like *Lawyers and Literature* makes you a bit odd. Do you ever worry about that? I can be as single-minded in the pursuit of what I set out to do as any one of my colleagues. But that’s not really the point of your question, is it? As valuable as problem-solving ways of thinking (and teaching) might be, they may not be enough. The problems lawyers confront require habits of linear reductive thinking, and they often require more than the legal thinking and legal rationality we celebrate in law school. A lawyer who prays to the god of legal rationality and allows his heart and imagination to wither is a lawyer in trouble. Lawyers need intuition and imagination, just like they need

⁷ John D. Ayer, *The Very Idea of “Law and Literature”* (Review Essay), 85 Mich. L. Rev. 895 (1987).

⁸ A *Wall Street Journal* article of some years ago draws attention to the two camps presented here. The title of the article is revealing: “Are Odd Electives a Waste? Third-Year Law-School Classes Often Delve Into Quirky Territory, Draw Criticism,” *Wall Street Journal*, Dec. 17, 2012, p. B5, c.1.

⁹ James Boyd White, praising Plato’s *Phaedrus*, makes a point that I would make about reading stories in *Lawyers and Literature*. *Lawyers and Literature* offers readers “a disorienting experience of controlled uncertainty” with the goal being “not the exposition of a certain set of propositions about the world . . . but an end of a different kind, the transformation of the mind and imagination of the reader.” James Boyd White, *LIVING SPEECH: RESISTING THE EMPIRE OF FORCE* 131 (Princeton, New Jersey: Princeton University Press, 2006).

rational thinking. Many professionals find they are far more comfortable with matters of intellect than with feeling and intuition. If intuition and imagination are valuable to lawyers—and many lawyers will argue they are—they must be studied, nourished, educated.

Part of this business of being considered odd may simply come from my unwillingness to give myself over, body and soul, to the Law. I haven't spent my life trying to look, and think, and act like a lawyer.

It would be interesting to know how you prepare to teach a course like *Lawyers and Literature*? I might begin, if there can said to be a beginning, with *my situation here at home*. With the course just weeks away, I surround myself with boxes of course files. Hundreds of pages of notes. Stories I have considered for the course and put aside. A stack of “why study literature” essays by English professors. Files of essays and articles with scholarly commentary on the “turn to narrative.” My own countless unfinished essays in which I try to organize my stray thoughts about teaching stories and what we might learn from stories that is not routinely presented in traditional law school courses. With what I have before me, I confess, I am at times overwhelmed. Is it, I wonder, something like the feeling a winner of the lottery experiences, knowing that he holds a ticket with the winning number in his hand and the confusion of exhilaration that descends upon him: you have just *won*—millions upon millions of dollars—and with the wealth you have stumbled onto, much will be *lost* when the world learns of your good fortune. That, I suspect, is what it must mean to be overwhelmed. In entertaining the possibilities and promises—and yes, obstacles—I see in reading stories with students, I play in the minor leagues of the overwhelmed.

I expect that you have questions about what lies ahead, and the insistence of these questions plague me, as I think about teaching *Lawyers and Literature*: What do you want us to do with these lawyer stories? What do you mean when you say that the purpose of the course is to help us hone the story sensibilities we need as lawyers? What does it mean to talk about “putting the story to use”? Anticipating these questions, I know how inadequate my responses must inevitably be. Regardless of how I talk about what lies ahead and what we can do in our work with stories, I cannot claim that I have fully mastered the stories we will read; I cannot promise that the stories we read will resonate for you in the way they do for me. What I do know is this: I must figure out something to say to get the course underway. Knowing

this I amend and whittle-away on these writings about the course, whittling that helps me think through—again—how I will introduce the course to you and yes, to myself.

Even students eager to take a course that features fiction, a course that sanctions an escape from the familiar gruel of judicial opinions, may be plagued with skepticism (layered beneath the skeptical fog that hovers over all of us). I may be convinced that stories have a restorative power,¹⁰ but I cannot fail to sense the low rustling of anxiety when I say, *We are going to study stories and try to learn how to put them to use*. You may want to escape the confines of traditional legal education, but you also want to be law school fish, undisturbed by the strong undercurrents in the waters in which you swim. What a good many students want most is to swim effortlessly with other lawyer fish, all the time denying that they are part of a school of fish.¹¹

The Lawyers and Literature course confronts you with a riddle: Am I willing to travel in unfamiliar territory and forego the secure feeling—and hard-won comfort—acquired in navigating traditional law school courses? In Lawyers and Literature, you must pay careful attention to what you are reading, take account of where a particular story is taking you, and then try to figure out how you will translate your encounters with the characters in the stories into still a different narrative—an accounting of one kind or another—that will help you make coherent sense of the course and the reader it has demanded that you be.

I expect you to learn a great deal from the stories, but exactly what you might learn and how you will learn it cannot, in Lawyers and Literature, be prescribed, plotted, or predicted. What I know with some certainty is

¹⁰ I have faith that the stories we read speak for themselves and that they have the power to speak directly to a serious student. Wayne Booth argues that stories can have a “distinctive potential power,” power that has been “packed in” by the author. Wayne Booth, *THE COMPANY WE KEEP: AN ETHICS OF FICTION* 92 (Berkeley: University of California Press, 1988). In reading lawyer stories, I search for this intrinsic “packed in” quality; I want to see how the hard reality—the given—of a story works, and what kind of distinctive demand the story has on its reader.

¹¹ A “lawyer fish” makes a notable appearance in one of the Lowell Komie stories we will read in the course. See, “The Interview,” in Lowell B. Komie, *THE COLLECTED LEGAL FICTION OF LOWELL B. KOMIE* 1-11 (Chicago: Swordfish Chicago, 2005).

this: I am anxious to get the course underway and to learn what the course—and you—and the stories—have in store for us.¹²

Would this be an appropriate time to ask if you would consider it an imposition to tell us one more time what this course called *Lawyers and Literature* is all about? Lawyers and Literature is an investigation of our lives as lawyers—lives in and beyond law. For this investigation, our texts are drawn from prose fiction (with a brief foray or two into poetry) that speaks to your education and your life as a lawyer.

My aspirations in reading stories are, depending on your perspective, either profoundly simple or confoundingly complex. I want to invite you to:

—think again about the way we learn to become lawyers;¹³

—puzzle over the relation of the “real” and “fictional” elements of our lives as lawyers;

—use lawyer stories to see how being a lawyer opens up and closes down important aspects of our lives, in particular, the parts we label personal (private) and professional;

—focus on the strategies we use to read, respond to, and understand the varied stories—situations and worlds—in which lawyers find themselves.

What do you—as a teacher—see us doing as we set us off to read stories and struggle to find a place for them in our education as lawyers? I want you to experience what it means to be an engaged reader of stories, to read fiction that makes demands on you, and in responding to these demands, prompts you to think in new ways about the demands Law makes on you and the demands that you, in turn, make on yourself.

¹² I sometimes talk to myself about how our work with stories in *Lawyers and Literature* will turn out. I enjoy these conversation with myself; I teach an imagined *Lawyers and Literature* course knowing that the imagined course must eventually take a backseat to the real one.

¹³ Reading lawyer stories with students, I pose this question: Is it possible that with more stories, and better stories—with a heightened sensibility about stories—that we might find an antidote to the *legal persona*, legalistic thinking, and the legal mind-set?

I am reminded of Parker Palmer's observation that "[g]ood teachers know that discomfort and pain are often signs that truth is struggling to be born among us."¹⁴ When we read stories that leave us with a feeling of discomfort, or disorientation, I want to find out what we can say about this situation. Goethe may have gotten it right: "In darkness we can, by an effort of imagination, call up the brightest images . . ."¹⁵ I trust that in dark stories we will find haunting new images.

It was the poet Wallace Stevens—an insurance company surety-bond-guaranty lawyer—who said, "my interest is to try to get as close to the ordinary, the commonplace and the ugly as it is possible for a poet to get. It is not a question of grim reality but of plain reality. The object is of course to purge oneself of anything false."¹⁶ We need demanding stories, discomfoting stories, to purge ourselves of the false.

Yes, the stories we read in *Lawyers and Literature* are sometimes dark. One way to deal with dark stories is to distance yourself from them. But in doing so, keep in mind Parker Palmer's observation: "The 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."¹⁷ The more basic problem, and one that the stories we read can do no more than hint at, is that "[a] man can try to act out a story that, for him, is false, inappropriate, destructive. Commonly, in fact, people try to be what they cannot be, pretend to be other than they are, overlook their own best strengths in imitation of someone else's story."¹⁸

Do you have a definitive plan for how you want the *Lawyers and Literature* course to progress? The course must, in the stories we read, unfold as it will, as you allow it to unfold. For my part, I will let the stories be my guide (and yes, I bring something to the stories that must tag-along as I pursue the stories). How, you might ask, does this work of unfolding take place?

¹⁴ Palmer, *TO KNOW AS WE ARE KNOWN*, *supra* note 9, at 73. .

¹⁵ Goethe, quoted in Christopher Cessac, *REPUBLIC SUBLIME* (Lincoln, Nebraska: Zoo Press, 2003) (Cessac is a Texas lawyer and poet).

¹⁶ Wallace Stevens, letter to Bernard Heringman (dated May 3, 1949), in Holly Stevens (ed.), *LETTERS OF WALLACE STEVENS* 635-637, at 636 (Berkeley: University of California Press, 1996).

¹⁷ Palmer, *TO KNOW AS WE ARE KNOWN*, *supra* note 9, at 121.

¹⁸ Michael Novak, *ASCENT OF THE MOUNTAIN, FLIGHT OF THE DOVE: AN INVITATION TO RELIGIOUS STUDIES* 49 (New York: Transaction Publ., 3rd rev. ed., 2009).

—With lawyer stories, we inevitably witness confinements and possibilities. Working with these stories, we learn how being a lawyer opens up and closes down different avenues of the life we think we want to live; we confront the particulars of how this opening up and closing down works.

—Reading stories, we expose the labels, rationalizations, and pathologies that we use to live in and with the compartments and categories we create for ourselves as students and as lawyers.

—Lawyer stories remind us, again, that we are already and forever immersed in stories: stories that came *before* law, stories we tell of our *first encounters* with law school, the tales we tell as law becomes a settled (or unsettling) part of our lives. What we make of ourselves as lawyers will take form and shape as a story, a story nestled along with, and within, still other stories.

—In reading stories, we are invited to pause and take stock of who we are and where we are going: How did I get here? Where, in legal education, and in law, will I find a place for myself? What kind of future am I rehearsing and imagining for myself?

—We come back, again, to this idea that a story makes a demand on us and we must figure out what that demand is and how we are to respond to it. Our response to the demand(s) that the story makes on us can be seen in the way we articulate thoughts, doubts, and fears that the story prompts, an articulation that the story makes possible.

—With stories, we begin to evaluate the reality and the fiction in the proposition that law is a vantage point from which we see the world. If the law is our vista, we might want to use stories to probe the illusion that law is a vista for *seeing everything*.

—Reading stories, we puzzle over the *real* and the *fiction* in our lives as lawyers.¹⁹ We read lawyer fiction to become more attentive to the

¹⁹ Wayne Booth makes the point this way: “Our subject . . . is the ethical value of the stories we tell each other as ‘imitations of life,’ whether or not they in fact claim to depict actual events. The borderline between such stories [literature/fiction] and the rest of life is necessarily vague. When mothers tell fairy stories, do their children experience fictions

“fictions”—the stories—we fabricate about the Real World in which we imagine that we live our lives as lawyers.²⁰ Stories, fictional and real, shape the lives we live. The stories we tell and live as lawyers are steeped in fiction; we imagine ourselves as lawyers through the prism of fictions we create about the real. Reading fictional accounts of lawyers, we ask, What is fiction and what is real in the lives of the lawyer characters we find in fiction? How is the reality of the lives we live shaped by fiction(s)? We read stories, ironically enough, to ground ourselves in the particulars of the world, to flesh out the generalizations that rattle around in our heads about reality and about fiction. Parker Palmer has it right in his observation that “[t]he generalizations on which we depend divorce us from life and from ourselves”²¹

—In setting out to find new stories, and new ways of seeing and thinking about our lives, we tell a story, and one way to tell that story is to listen to the lawyer stories we find in fiction and use these stories to reflect on our own lives.

—We see, dimly at first and then with greater clarity, how the ability to read and honor stories might help us understand the lives we want to live as lawyers.

What kind of expectations do you, as a teacher, bring with you to the course? This is a course of reading that requires you to be a reader rather than a consumer of information. The course invites you to

or ‘life’?” Wayne Booth, *THE COMPANY WE KEEP: AN ETHICS OF FICTION* 15 (Berkeley: University of California Press, 1988)..

Reading literature reminds us that we do not “live simply in the physical world of action, but in the world of language and symbols as well. The reality of language and symbolic representations is often felt to be more factual, concrete and real than the facts of the sensory world.” T. Thass-Thienemann, *THE INTERPRETATION OF LANGUAGE: UNDERSTANDING THE SYMBOLIC MEANING OF LANGUAGE* 23 (New York: Jason Aronson, 1973) (Vol.1).

Jerome Bruner makes the point about the relation of fiction and our real lives more direct: “[L]et us stay a while longer with narratives of the imagination and with the question of how fiction creates realities so compelling that they shape our experience not only of the worlds the fiction portrays but of the real world.” Jerome Bruner, *MAKING STORIES: LAW, LITERATURE, LIFE* 9 (New York: Farrar, Straus & Giroux, 2002).

²⁰ I have never managed to meet anyone who does not have fiction in their life. Some of us compose fiction out of our experience of everyday life; some of us actively pursue the well-crafted fictions we find in short stories and novels. We are all knee-deep in fiction.

²¹ Palmer, *TO KNOW AS WE ARE KNOWN*, *supra* note 9, at 63.

be a traveler rather than a tourist.²² Teachers have impliedly taught you, Robert Coles contends, to become consumers, tourists rather than travelers: You “go from one scene (called a ‘course’) to another” and as you move along, you “are constantly told what to think, what to say, what is the ‘right’ answer to the ‘right’ question.”²³

There will, undoubtedly, be times when we lose our way, when we experience the bramble of discomfort and the fog of banality. Sometimes we will find we have taken a disruptive detour²⁴ and do best by just getting through a class session so we can take up another story on another day. Parker Palmer contends that “[a] learning space needs to be hospitable not to make learning painless but to make the painful things possible, things without which no learning can occur—things like exposing ignorance, testing tentative hypotheses, challenging false or partial information, and mutual criticism of thought.”²⁵ I appear in the classroom forewarned: stories are deceptively easy to read, deviously intricate and nuanced when it comes time to pull the story apart and put it back together again so it can be put to use in one’s education.

Some of us have trouble, in class, talking about the stories we read. Do you see that as a problem? There is something peculiar in a seminar when two or three students provide all the commentary and all the imaginative speculation, and others remain silent. Over the years, I have been willing, over the years, to live with this silence, and

²² In thinking of my time as a traveler, I am reminded of Robertson Davies’ observation: “In reading, as in all arts, it is the means, and not the end, which gives delight and brings the true reward. We laugh at tourists who dash through the Uffizi, to say that they have ‘done’ it: we know that if they have any serious feeling for pictures, fifteen minutes with one masterpiece would far outweigh the pleasure of such dashes.” Robertson Davies, *A VOICE FROM THE ATTIC: ESSAYS ON THE ART OF READING 9-10* (New York: Penguin Books, rev. ed., 1990).

²³ Robert Coles, *WALKER PERCY: AN AMERICAN SEARCH* 115-116 (Boston: Little, Brown & Co., 1978).

²⁴ I find in reading that I am on a journey, and, as on any journey, I inevitably face difficulties—difficulties that are compensated for when the mundane gives way to moments of wonder. For those who follow the backroads, disruptive detours can be expected. I borrow the term “disruptive detours” from Martin Kreiswirth, *Merely Telling Stories? Narrative and Knowledge in the Human Sciences*, 21 (2) *Poetics Today* 293, 297 (2000) (Kreiswirth notes that “it is not difficult to perceive that the human sciences have been engaged in reassessing the relationship between the human and the scientific and, in so doing, have left the empirical or positivistic straight and narrow to wander off into somewhat more meandering intellectual territory.” *Id.*).

²⁵ Palmer, *TO KNOW AS WE ARE KNOWN*, *supra* note 9, at 74.

to carry on the class conversation with willing participants, telling myself: *Let those who speak and those who have nothing to say or find they are unwilling to say what might be said, go their own way. Who am I to make the choice for the student.* I make no promise that this truce with the silent will continue to be observed. This treaty with the silent is subject to renegotiation.

Think about our classroom conversation from the perspective of a teacher who tells his students: “I will . . . try to tell you how I look at . . . [an] aspect of life. And then maybe you will listen. . . . Because you are you, your experience will have been different from mine. . . . So we will go on talking. . . . I will try to speak clearly and well so you will see what I see, if only for as long as I am speaking. Maybe I will change your mind some, maybe not, and maybe discussion will seem fruitless. But life is like that. It is people trying to say what they most want to say, discovering that proving objectively some arguable proposition is very easy when compared to struggling to say exactly what they believe is true.”²⁶

Can you recommend other teachers who talk about the kind of literary work you have in mind for us to do? Mark Edmundson, and his book, *Why Read?*, would be my first recommendation.²⁷ Edmundson talks about using literature to confront the “standard prevailing opinions” we carry around with us as readers.²⁸ This confrontation is exactly what we try to do in *Lawyers and Literature*. Edmundson shares Ralph Waldo Emerson’s conviction that “[w]hatever gains we make in our knowledge of the self and the world, however liberating and energizing our advances may be, they will eventually become standard-ized and dull. What once was the key to life will become deadening ritual, common practice”²⁹ Edmundson goes on to point out that Emerson understood education “as a process of enlargement, in which we move from the center of our being, off into progressively more expansive ways of life.”³⁰ We want to think, don’t we,

²⁶ Roger Sale, *ON WRITING* 51 (New York: Random House, 1970).

²⁷ Mark Edmundson, *WHY READ?* (New York: Bloomsbury, 2004). For something further afield, see Michael Novak’s *Ascent of the Mountain, Flight of the Dove*, a book ostensibly about “religious studies” although much of what Novak has to say can be applied to the literary perspective reflected in *Lawyers and Literature*. Novak, *surpa* note 13.

²⁸ Edmundson, *id.* at 91.

²⁹ *Id.* at 29-30.

³⁰ *Id.* at 30.

that in becoming a lawyer, we are making a more expansive way of life possible.

As readers, we need the kind of education—a kind of legal education—that helps us embrace the knowledge of our own ignorance, an education that helps us confront what we most fear—that we do not know nearly so much about ourselves as we assume that we do. Edmundson credits Wittgenstein with the notion that we come to philosophy—as we do literature and “to serious thinking” about our lives—“out of confusion.”³¹ Edmundson, in his teaching, finds that “[t]he best beginning reader is often the one with the wherewithal to admit that, living in the midst of what appears to be a confident, energetic culture, he among all the rest is lost.”³² You may take solace in—or find disquieting and unsettling—Edmundson’s observation that literary study “often begins with a sense of dislocation; it begins with a sense that one has lost one’s way.”³³

Edmundson argues—and here he might be talking to law students—that “beneath the commitment to training and skills, there often exists this sense of confusion.”³⁴ A reader needs the courage, the willingness, and the ability, Edmundson contends, to “tell himself who he is and has been, and, possibly, why that will no longer quite do. This exercise in self-reflection, deriving often from the sense of displacement, of having lost one’s way, can start a literary education.”³⁵ What we can do in *Lawyers and Literature* is “provide a scene where not-knowing is, at least at the outset, valued more than full, worldly confidence.”³⁶ As it turns out—paradoxically—knowing what you don’t know can be a resource.³⁷

Edmundson, of his own teaching, says “I often ask [students] to find themselves, or to discover what is unknown in themselves, among the great characters in literature as well as within the imaginations that

³¹ *Id.* at 33.

³² *Id.*

³³ *Id.*

³⁴ *Id.* at 34.

³⁵ *Id.* at 33.

³⁶ *Id.* at 35.

³⁷ For an instructive discussion of “stuckness,” finding yourself in a situation where you need to know how to do something you don’t know how to do, see Robert Pirsig, *ZEN AND THE ART OF MOTORCYCLE MAINTENANCE: AN INQUIRY INTO VALUES* 278-287 (New York: William Morrow, 1974).

bring those characters to life.”³⁸ A literary education is not, according to Edmundson, therapeutic *per se*, but for some readers, literature can have a therapeutic effect.³⁹ You can be certain that reading literature is “not an exercise in cheering yourself up.”⁴⁰ Literature pushes us to evaluate where we stand: “The person who stands on the edge, between regression and progress, past and future, is the one who has made herself ripe for literary education.”⁴¹

There are times when you take on a rather puzzling countenance in class. Any idea of what might be going on when you do that? Let me be frank. I find myself in *Lawyers and Literature* observing a rather odd scene. The scene might be described like this: Philip has a glacial stare. Has the poor fellow ended up in the wrong course, having made a nightmarish course registration mistake? Is it paranoid to think Philip may be a spy from the dean’s office sent to investigate subversive pedagogy? It’s hard to ignore the way Sharon avoids looking at me and stares off into space. Sharon . . . what is her story? Is she listening for a message from some far distant part of the galaxy? Is she awaiting an invitation to a future she fears may elude her? John, who sits next to Sharon, wasted no time the first class expressing his disappointment that there are no John Grisham novels on the reading list; his disappointment seems to have had dampened his spirit. He has posed objections to virtually everything we’ve read after that first evening. Alex is impatient to express his concern (shared, undoubtedly, with some of his fellow students) about how student work in the course will be evaluated. Alex, if we could give him a lie-detector test might admit that he finds himself in a course that he finds more than a little baffling.

I cannot, obviously, predict from these wayward observations that Phillip, Sharon, John, or Alex will turn out to be poor readers. A teacher lives with the long suffering hope that these crude and unsettling sketches drawn from classroom observations and speculative thinking can be set aside when these students show up week after week and

³⁸ Edmundson, *supra* note 22, at 63.

³⁹ *Id.* at 82-83.

⁴⁰ *Id.* at 83.

⁴¹ *Id.* Edmundson argues that “[w]e’re most alive when we’re moving from one set of engagements to the next. We’re in motion then, but not fully sure where we’re going, feeling both our present ignorance and the prospect of new, vitalizing knowledge.” *Id.* at 35.

struggle to convince themselves—and their teacher—that they are serious readers.

What are your thoughts, now, as you get ready to begin the course? I sometimes entertain a pedagogical phantasy that goes something like this: What I do as a teacher is find stories; I offer the best and most instructive of these stories to my students. The stories I have found have the power, or so I want to think, to speak directly to you. The stories don't require a literary critic, or an English professor, standing by to whisper guidance while you read them. And yes, even when we know the way, a guide can be a welcome companion. What I have done is to seek out stories I think you can put to use in your education as a lawyer. What more can I do?

What I have in mind for the stories we read in the course—enlightenment, education, entertainment—reflects a trust and belief in stories, in particular, the stories I invite you to read. I realize that my trust in what can be found in—and what can be done with—stories is a trust I do not expect a legalistic-minded student to accept without argument. But, for the moment, let's put the legalistic-minded student and his thinking about legal education aside and consider this basic proposition: *You tell stories. You listen to them. You are immersed in and surrounded by stories. You know what stories are; you live in stories the way fish swim in water.* What we will try to do in *Lawyers and Literature* is better understand this storied world in which we all live.

In *Lawyers and Literature*, different kinds of stories will come your way; you must figure out what to do in your encounters with these stories. You must figure out if you have anything to say about these stories (and the lawyers you find in these stories) that have washed ashore in the course.

I am tempted to say, *I ask nothing and everything of you. You must take these stories and do something with them, but what, what exactly you will do is for you to say.*

Ultimately, you will decide—whether—how—where—the stories you read in this course belongs in your education as a lawyer, that is, what kind of place you might want to make for these stories in your newly configured lawyer-centered world. Based on what you know about legal education and what you know (or think you know) about yourself, you will decide how to make use of the stories we read in the course. My

hope is that you will come to see that the work you do as a reader of stories is the kind of work that helps you be the kind of lawyer you want to be.

What's your wildest dream of what we will do in Lawyers and Literature? If my wishes had wings to fly, I would have you imagine that your teacher is Hermes, the winged-footed Greek god of connections and boundaries, liminal spaces, crossroads. Hermes, you may know, was the god who make his presence known whenever we have lost or found something of worth; Hermes is the god of the lost and the found. In *Lawyers and Literature*, I avow allegiance to Hermes, an allegiance that prompts me to caution concern about the law school influence of Apollo and Athena— and yes, Zeus.

There is, one might see, a dustup of a “wild dream” in even my basic premise for the course: the stories we read can help us find new ways of thinking about what it means to be a lawyer. My hope is that in reading stories we can get beyond the clutter and blinding fog of conventional thinking and find in fictional lawyers and their response to the world, and in their situations and in the language they use, some awareness that leads to useful insight.

Or try this for a wild surmise: *Lawyers and Literature* is a windfall, a great riches story. You play the lottery and you win. Now what happens to your life? You are Cinderella, and you marry the prince. Now what kind of life do you lead? A young peasant from the country falls in love with the princess and finds that the Father/King poses what appears to be an insurmountable feat that must be undertaken if he is to win the hand of the princess. The young peasant survives the Father/King's test. Can the new prince, a peasant at heart, learn to be a real prince?

Do you have anything that might serve as an epilogue for these questions and answers about Lawyers and Literature? Jerome Bruner in a book suggestively titled, *Actual Minds, Possible Worlds*, provides what might be a closing meditation in a statement that Bruner makes in the book that stays with me: “[Literature] is our only hope against the long gray night.”⁴² I don't know whether the statement will ring true for you; I know it does for me.

⁴² Jerome Bruner, *ACTUAL MINDS, POSSIBLE WORLDS* 159 (Cambridge, Massachusetts: Harvard University Press, 1986).