

The Stories We Tell Ourselves in Law

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When asked who I am, I say that I am a teacher, a writer, or a traveler. When asked what my life is about, I may say it is a mystery, a journey, a mess, or a failure. And when I am asked to explain what I mean by teacher or writer, journey or mystery, mess or failure, I must tell a story. I hang on myself—and have attached to me velcro-fashion—various notions about how life works and what it means to be a lawyer and law teacher. Some of these notions I embrace; others I abhor. They are metaphors,¹ accompanied, as metaphors inevitably are, by images: the lawyer as hired-gun, the lawyer as friend, the teacher as midwife, life as a journey, life as a story. The metaphors that we use in our everyday speech orient us toward a story.

Metaphors find their way into our conversations when they connect with and energize the story we are trying to tell. They connect because they fit a story I am living or a story that I hope to live or want to avoid living. When you begin to think about the practice of law and the adversarial ethic as a

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1. Narrative is a primary source of metaphors, the language with which it is possible to say one thing and imply another. "Metaphor is a manner of inferring; a manner of setting down as directly and briefly and simply as possible whatever is necessary for the inference desired" William H. Gass, *Fiction and the Figures of Life* 63 (New York, 1971). A metaphor, Gass argues, is a way of showing, or presenting. "Showing argues and showing produces acquaintance. It presents to the mind one thing in order that the mind may seem to have possession of another." *Id.* at 64. Metaphor seems to represent in the immediate world of language something of the relation between our narratives and life:

The concepts that govern our thought are not just matters of the intellect. They also govern our everyday functioning, down to the most mundane details. Our concepts structure what we perceive, how we get around in the world, and how we relate to other people. Our conceptual system thus plays a central role in defining our everyday realities. If we are right in suggesting that our conceptual system is largely metaphorical, then the way we think, what we experience, and what we do every day is very much a matter of metaphor.

George Lakoff & Mark Johnson, *Metaphors We Live By* 3 (Chicago, 1980). See generally *On Metaphor*, ed. Sheldon Sacks (Chicago, 1979).

On the use of metaphor in legal settings, see, e.g., L. H. LaRue, *What Is the Text in Constitutional Law: Does It Include Thoreau?* 20 *Geo. L. Rev.* 1137 (1986) (drawing on the metaphor of the Greek chorus); John Nivala, *Our Nature in Balance: An Essay on Eighteenth-Century Landscape Gardening and Twentieth-Century Lawyering*, 38 *J. Legal Educ.* 305 (1988) (offers a metaphor that may help modern lawyers to reconcile the intellectual and emotional aspects of lawyering); Thomas Ross, *Metaphor and Paradox*, 23 *Ga. L. Rev.* 1053 (1989) (metaphor in contemporary legal scholarship).

“contest” or a “game,”² you have found a metaphor (and an image of yourself) that can take hold of you. The images that accompany the metaphor work their way into your life and your story. Metaphors work above and below the surface; we use them without realizing the hold that they have on our imagination. But they also take hold of us so that we become more attentive. We can either ignore the metaphors we use or become conscious of how they shape our story.

To live as I do with the metaphors and images that I find congenial (and the less congenial ones that I cannot shake loose) is to adopt—consciously and willingly, quietly and unconsciously, or violently and against my will—a *particular* story. The particularity of the story that I find myself living and trying to articulate is a bundle of metaphors and images. I do not and cannot live out every possible story. Some images have more energy and power than others. If I think about myself as a lawyer with enough status and power to control situations and avoid dependency, I will not be open to the ongoing possibility that I could be a “companion” or “friend” to the client. It makes a difference whether I see myself as “problem solver,” “counselor,” “warrior,” or “friend.” And even when we adopt one or another (or some combination) of these images, we will, for example, be a “friend” to the client in different ways, because our images of what it means to be a “friend” are embodied in different stories of friendship. Being a “friend,” or being driven to interact with clients through an image of oneself as “friend,” does not insure that all will turn out well.³

There are constraints that limit the kind of character that I can create and live as a plausible story. Some constraints have been passed on to me in the form of stories that I have inherited. I inhabit a body that imposes limits. A body is one kind of story. I am a man. I am white. I speak English. I live in a world with others. Stories one and all. These constraints represent limitations, but more significantly they represent clusters of images that I conjure up in the name of necessity (often enough, as it turns out, false necessity).

The constraints on my living any story I want can be talked about in terms of repression or the tyranny of others or the belief that I could *choose* to live a different story if I had more courage, different friends, or a different profession. Constraint means that life is an undetermined mixture of choice, talent, and fate. I can work on the mixture but cannot control it or predict how a choice conjoined with fate will work out. It is the nature of this mixture of choice and fate that I am always trying to account for in my story, a story whose features are often blurred and obscured.

If you play around with your own story, telling it to different sorts of people, telling it in different versions, telling it objectively and then subjectively, telling it implicitly in the life you live as a teacher or lawyer and

2. See, e.g., Seymour Wishman, *Confessions of a Criminal Lawyer* 3–18 (New York, 1981).

3. See Charles Fried, *The Lawyer As Friend: The Moral Foundations of The Lawyer-Client Relation*, 85 *Yale L.J.* 1060, 1066 (1976). For a response to Fried’s metaphor, see Edward Dauer & Arthur Leff, *Correspondence: The Lawyer As Friend*, 86 *Yale L.J.* 573 (1977). See also Brian Barry, *And Who Is My Neighbor?* (Book Review), 88 *Yale L.J.* 629 (1979).

then as a story of your dreams and fears, you begin to develop an appreciation of stories and the power they have to awaken our imagination—to pull and push us along one path or another.

What is my story? How does it work? How did I end up with this story? Is it a story of my own making or the making of others? How does this story locate me in the world with others? If you ask these questions and play around with them and reformulate them (so they are more social, political, or theological) and tentatively, playfully start to take them as serious questions, you may come to share with the poet W. B. Yeats the notion that there is a mythical story that each of us is trying to live out. Yeats reputedly said: “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.”

I

From birth we are told stories about who we are and about the world we are to inhabit. The stories I heard and first learned to tell revolved around how the family that I was born into “claimed” me. It was this first claim and its embodiment in story that makes possible the stories I now know and tell. Our first stories are “inherited” stories because we get them from others: mothers and fathers, grandfathers and grandmothers, aunts and uncles, cousins, and friends of the family. Family stories told me who I was to become because my “people” were Thweatt and Elkins and because we lived where we did and lived as we did. We told these stories to each other so that we could figure out who we were, how the world worked for and against us, and how we could best exist and make lives for ourselves with the resources (and sense of family) that we had.

I grew up in the story of two families that had made their place in the toe-end of western Kentucky, which was still called the “Jackson Purchase.” My father had grown up in town, my mother on a farm. I am a son of the struggle to make a marriage of this union. My story is so firmly rooted in the idea of having grown up on a farm and the mythical allure of “town” (anywhere off the farm) that I cannot imagine my own story without seeing it as the journey of a farm boy who sets out to live in town.

The most consistent images of family for me lie in the web of memory and activities that I associate with the farm: tending crops, feeding animals, fishing in creeks, and hiding from summer electrical storms. I saw the end of an era in which crops were worked with horses and in which we picked our corn by hand, raised tobacco and strawberries as cash crops, and sold the hams and shoulders of the hogs we slaughtered to buy store-bought canned goods that would see us through the winter. We baled hay and hoed tobacco and fished in the creek. It was hard work, and I learned that it was honest work and nothing to be ashamed of that we lived as we did. The pleasures were simple, vacations and savings nonexistent. The only things we “saved” were what we raised in the garden and the residual hope that we would someday be free of debt.

Hard work was one of the central motifs of the story I grew into. As I learned the value of work, I was told stories of others who did not and the ill consequences that plagued their lives. The work story that my mother and father lived become an inherited story that I find myself today retelling. As I retell it, I try to figure out what it means to live such a story. It is a story that, when left unattended, literally dictates how I am to live and leads me to mistrust those who do not appreciate hard work.⁴ But my storied memory is not a singular fixation on work and the success that hard work makes possible, for it is was on the farm that I learned to live with failure⁵ and simplicity and honesty. Honest as the work may have been, however, it was not then the kind of life that captured my imagination. The farm story I inherited was not the story I was to live. Indeed, the work motif in my farm story had a twist to it: The way to avoid working the way we did on the farm was to get an education. My parents made the connection between the way they were required to work morning to night and the decision each of them had made to forgo formal education.

The work story we were living as a family centered around the future and an obsession, most often articulated by my mother, that my brother and I would be able, by hard work and education, to live our own dreams and have work that would be meaningful, work that we would do because of its intrinsic value and not because it meant a paycheck at the end of the week. It was my mother who most fervently articulated the hope that the lives of

4. For a similar story, see Wayne D. Brazil, Reflections on Community, Responsibility, and Legal Education, 9 J. Legal Prof. 93 (1984).
5. The stories we have inherited as teachers find their way into our scholarly work. Growing up with failure and acquiring the humility to live with the failure that came my way has now found its way into my work as a teacher of ethics. See, e.g., James R. Elkins, Ethics: Professionalism, Craft, and Failure, 73 Ky. L.J. 937 (1984-85). See also L. H. LaRue, Teaching Legal Ethics by Negative Example: John Dean's Blind Ambition, 10 Legal Stud. F. 315 (1986) (on the role of failure as a moral teacher).

As an antidote to the arrogance of professionalism, I have found it important to cultivate the stories of failure and to imagine how lawyers might make use of an education in failure. Two stories make a good start: Franz Kafka's parable, "Before the Law," and Mark Twain's story of how, when he learned to "read" the river as a riverboat pilot, he lost the ability to "see" the beauty in the river. Franz Kafka, *Before the Law*, in *The Penal Colony: Stories and Short Pieces* 148-50 (New York, 1961); Mark Twain, *Life on the Mississippi*, excerpted in James Boyd White, *The Legal Imagination: Studies in the Nature of Legal Thought and Expression* 10-12 (Boston, 1973). Twain's story has been used by other teachers. See Paul D. Carrington, Of Law and the River, 34 J. Legal Educ. 222 (1984); Robert M. Pirsig, *Zen and the Art of Motorcycle Maintenance* (New York, 1974). The Grimm brothers' version of *Cinderella*, a story of failure that is remembered as a story of triumph might come next. With such parables and fairy tales working up and working on our imagination, we could turn to lawyer stories, such as Charles Reich's account of his alienation as an associate with a Washington, D.C., law firm. Charles Reich, *The Sorcerer of Bolinas Reef* (New York, 1977). Tolstoy's story of the rise and fall of Ivan Ilych is a classic story of self-deception in a life that many lawyers set out with the intention of living. Leo Tolstoy, *The Death of Ivan Ilych and Other Stories* (New York, 1960). Seymour Wishman outlines the perilous ethics of prosecutors and criminal defense lawyers and how the "job" and the "game" and the "contest" and the "battle" (metaphors for litigation) lead to an adversarial ethic of unbounded zealotry that is the essence of professional failure. Wishman, *supra* note 2. For those who want their failure set on Wall Street, Louis Auchincloss's *Diary of a Yuppie* (Boston, 1986) might be the ticket. The list could be expanded—we are surrounded in the literature of lawyering with stories of failure.

my brother and I would not depend on the brute necessity of paycheck work, living day to day, one paycheck to the next.

My father was born and raised in town but took up farming when he married into the Thweatt family. With the help of my mother and the Thweatt in-laws, my father made himself into a respectable farmer (that is, he learned how to do what farmers do), but he was not, I think, ever a farmer at heart. He farmed for a living for a couple of years after he returned from the Army at the end of World War II and then worked at “public work” in a clothing factory. (In Kentucky we called regular work that earned you a weekly paycheck “public work,” in contrast to farm work and handiwork, for which you were paid by the job and the jobs were catch-as-catch-can.) He later became a carpenter, and I think it was as a carpenter rather than as a farmer that he saw himself. It was at the insistence of my father, who had been unable to forget his town upbringing, that my parents eventually bought a small country store that my mother ran, while my father brought in a “regular” check from his work as a carpenter.

It is not just the farm story that has shaped memories of my own family but also my father’s devotion to his work as a carpenter (his craft) and my mother’s willingness (against her will she always said) to be a “public” (town) person and run a country store. The idea of being in the public or working with the public (we always referred to store customers as “the public”) was not what my mother had in mind to do in life, and while she was good with customers, listening to their stories and sharing their lives, she held to the idea that she was doing something that she had not chosen for herself. It was my father’s dream to be a merchant, but it was my mother who took over the day-to-day operation of the store and kept it running. The irony is that my mother ended up living out my father’s fantasies.

The only way to make the store work financially was to have a second source of income, which turned out to be my father’s paycheck from “public work.” Necessity has a way, I learned, of deforming dreams, but I also learned that necessity does not defeat us. I watched my parents, with patience and perseverance, make a patchwork life of farming, carpentering, and managing a country store that sold everything: groceries and gasoline, cattle feed and nails, work clothes and yard implements.

As I learned and lived the family story and the farm story and the work story, I discovered still other stories. For example, I learned that we were Democrats and Christians. We were Christians, and I think that meant something to us as a family, although the meaning was more implicit than explicit. We did not say grace at the table and we did not dwell on religion (with the exception of taking time on Saturday nights to take baths and read Sunday school lessons). Religion was not treated as something other than the most ordinary thing in the world. We were Christians the way we were farmers; it was what we were given to be, and although we could have given up what had been handed down to us, I do not recall any serious talk about the possibility of doing that.

It is this set of images of family—farm family, merchant family, working family—that was bequeathed me and that I took with me into the formation

and discovery of other stories. The family story as I now tell it and try to make it meaningful is that of a family bound together in work that promised a worthwhile future and in a sense of reality (simplicity, involvement, attention, fate) that work on the land makes possible. As my story now unfolds, it means something to me—and most likely to my students—that I was born and raised a farm-boy Democrat in a fundamentalist church in the rolling farmlands of Kentucky's Jackson Purchase, where people lived modest but hopeful lives and possessed a faith (sometimes religious and sometimes not) so deeply held that it needed little everyday explicit attention. I no longer live all the stories I inherited, but they are still with me, shaping my thoughts and concerns, making richer and more meaningful the story I now live as a teacher.

After leaving Kentucky I learned of other stories and other myths besides those of white Anglo-Saxon Protestants who take as their measure of character and well-being the ability to work sunup to sundown to make a frugal living (a living rich enough to transform the lives of my brother and me and make our dreams real). I learned the stories of people who work to survive in demeaning and degrading jobs that hold no future promise and that hold them captive in poverty. And as a teacher I have learned stories of those who are disempowered in our culture, whose disempowerment is directly related to the privileged status accorded middle-class, white, English-speaking males like me.⁶ I learned, years after I had left the farm, that there are forms of alienation⁷ and suffering that transcend and exponentially compound the difficulties that I experience in trying to live a worthwhile story.

II

What happens when we take up stories as teachers? What is it that we do when we turn to narrative? Wayne Booth, one of my teachers (although I have never met him), argues that "the most important of all critical tasks is to participate in—and thus to reinforce—a critical culture, a vigorous conversation, that will nourish in return those who feed us with their narratives."⁸ Stories will nourish us only if we can see their power.

6. See, e.g., Patricia Williams, *On Being the Object of Property*, 14 *Signs* 5 (1988), and *Spirit-Murdering the Messenger: The Discourse of Fingerpointing As the Law's Response to Racism*, 42 *U. Miami L. Rev.* 127 (1987); *Worlds of Silence: Women in Law School*, ed. James R. Elkins, 8 *ALSA F.*, 1–161 (1984).
7. On the alienation in our stories, see Walter Kaufmann, *Without Guilt and Justice* 140–72 (1973); Stanley R. Rosenberg & Bernard J. Bergen, *The Cold Fire: Alienation and the Myth of Culture* (Hanover, N.H., 1976) ("One takes a part in the collective drama primed for accomplishment, primed for a transformation or birth of 'self.' Instead, the actor is rewarded with the experience of himself as shoddy, corrupt, deteriorating without moving anywhere." *Id.* at 24); Ernest G. Schachtel, *On Alienated Concepts of Identity*, in *Man Alone: Alienation in Modern Society*, ed. Eric Josephson & Mary Josephson, 73–83 (New York, 1962). For stories that explore alienation, see Reich, *supra* note 5; Alice Koller, *An Unknown Woman: A Journey of Self-Discovery* (New York, 1983).
8. Wayne Booth, *The Company We Keep: An Ethics of Fiction* 136 (Berkeley, 1988).
Booth and James Boyd White have helped me to see that the turn to narrative is a cultural activity as well as a literary one. It is law as a cultural activity that draws attention

What kind of power do stories have? What kind of power do we take from stories? How do stories empower us? What (and how) do they permit us to see, in a way we would not otherwise see ourselves and our world? What kind of perspective and what kind of life do stories make possible? Why, for instance, should anyone take Atticus Finch, the lawyer protagonist in Harper Lee's novel, *To Kill a Mockingbird*, to be of help in the real world? If you have set out to be a lawyer, how do such "fictions" provide an imaginative context for reimagining our own lives as lawyers?

Booth explains why stories have a "distinctive potential power."

[A story] has been made intentionally. Powers of a rich but determinate kind have been "packed in" by the act of the teller and by the value-packed history of the language in its intention-ridden culture. Since that is so, even the simplest story cannot be *described* without employing the language of value, the value of its realizing or failing to realize itself: minimally, to become *this story*.⁹

A story forces us, empowers us, gives us the voice to do something that is hard to do—at least hard to do thoughtfully without being moralistic, narcissistic, or an old-fashioned windbag—and that is to talk about matters of value, about the kind of character and virtue that an understanding of another intentional world makes possible.

Stories Are a Way of Seeing

Perspective, from its Latin root, *perspicere*, means to see through or into. A perspective involves the relationship of aspects of a subject to a whole or of subjects to each other. A narrative perspective is the kind of seeing that places its characters in a world that extends beyond what I, a solitary mind, can imagine.

When we read and take in a story, we honor the existence of other worlds. Some of us have difficulty seeing any world other than our own. We act as if the only world that deserves to be considered real is the immediate world of our own intentions and desires, the world of our own interests. We have difficulty hearing the "voice" of the other,¹⁰ embodied as it is in stories and worlds of experience and intention other than our own.

When we contemplate a story, we must, says Booth, take in as much as possible notions of how another world works.

When a story "works," when we like it well enough to listen to it again and to tell it over and over to ourselves and friends, as we have all done with [Aesop's "The Goose That Laid the Golden Egg"], it occupies us in a curiously intense way.¹¹

Stories take us out of the world we have made for ourselves and present us with the intentional world of some other—an author, another storyteller,

of observers from the humanities, such as Stanley Fish (literature), Richard Rorty (philosophy), and Clifford Geertz (anthropology), to our enfolded, storied vision of legal reality. See especially Local Knowledge: Fact and Law in Comparative Perspective, in Clifford Geertz, *Local Knowledge: Further Essays in Interpretative Anthropology* 167–234 (New York, 1983).

9. Booth, *supra* note 8, at 92.

10. See, e.g., Carrie Menkel-Meadow, *Excluded Voices: New Voices in the Legal Profession Making New Voices in the Law*, 42 U. Miami L. Rev. 29 (1987). See also John O. Cole, *The Socratic Method in Legal Education: Moral Discourse and Accommodation*, 35 Mercer L. Rev. 867, 872–73 (1984); Suzanne Sherry, *Civic Virtue and the Feminine Voice in Constitutional Adjudication*, 72 Va. L. Rev. 543 (1986).

11. Booth, *supra* note 8, at 139.

another life. A story is an offer of other worlds of relation and possibilities, other contexts for human action, sentiment, and feeling.

In our quest to understand law and how it works, how it is used (and abused), and how we as lawyers use it to solve the problems of our clients (and make problems for clients), we come to see law in the most instrumental and limited of ways. We become trapped in the intricate labyrinth of law that Karl Llewellyn once called a briar thicket.¹² When James Boyd White urges us to imagine the work (and life) of the lawyer as a literary activity, he suggests that we will benefit from the capacity of story to give us a perspective outside our own intentional world.

[Literature can] establish a way of looking at the law from outside, a way of comparing it with other forms of literary and intellectual activity, a way of defining the legal imagination by comparing it with others. The non-legal readings [from literature and the humanities] are meant to give us a common sense . . . of what legal literature leaves out, of what others do that the law does not, and to define a context out of which judgments can begin to be drawn and against which they can be tested.¹³

To see how law works, we need to combine our perspective as insiders who have the feel for law that only insiders can have with a perspective that is outside, a perspective that lawyers gain with difficulty but gain best from stories and narratives.¹⁴

12. Karl Llewellyn, *The Bramble Bush* 105–06 (New York, 1951).

13. White, *supra* note 5, at xx (Boston, 1973).

I began law teaching in 1975 with White's *The Legal Imagination* sitting on my desk. In those days, before I had ever set foot in a law school classroom as a teacher, I spent a Chicago August reading the cases in the big blue and red tomes that I would later ask students to "study." As a break from reading and briefing cases, I would pick up White's book and explore his image of the lawyer as a writer and the idea that legal education could be imagined as a literary activity. It would be years before I found a way to use what White helped me see (and is still trying to help us see)—that law is both more and less than it purports to be.

It was years before I had the courage to teach the course I brazenly called "The Legal Imagination." By then I had spent the summer of 1978 studying with White in an NEH seminar that White called "The Culture of Argument." (White's work for the seminar was later published as *When Words Lose Their Meaning: Constitutions and Reconstitutions of Language, Character, and Community* (Chicago, 1984). White provoked me into thinking about the study of law as something other than a study of judicial opinions. But White was not my only teacher that summer; the seminar was comprised of other excellent teachers, who in their interaction with White and me also became my teachers: Lewis LaRue, Craig Lawson, Judith Koffler, Peter Teachout, and Fran Olsen. See L. H. LaRue, *Political Discourse: A Case Study of the Watergate Affair* (Athens, Ga., 1988), *A Student's Guide to the Study of Law: An Introduction* (New York, 1987), and *What is the Text in Constitutional Law: Does It Include Thoreau?* 20 *Ga. L. Rev.* 1137 (1986); Craig Lawson, *The Literary Force of the Preamble*, 39 *Mercer L. Rev.* 879 (1988); Judith Koffler, *Dionysus in Bankruptcy Land*, 7 *Rut.-Cam. L.J.* 655 (1976); Peter R. Teachout, *Book Review*, 2 *Vt. L. Rev.* 229 (1977), *Book Review*, 53 *N.Y.U. L. Rev.* 241 (1978), *Book Review*, 67 *Va. L. Rev.* 815 (1981), *The Heart of the Lawyer's Craft*, 42 *Wash. & Lee L. Rev.* 39 (1985), *Worlds Beyond Theory: Toward the Expression of an Integrative Ethic for Self and Culture*, 83 *Mich. L. Rev.* 849 (1985), *The Soul of the Fugue: An Essay on Reading Fuller*, 70 *Minn. L. Rev.* 1073 (1986), *The Burden of Liberal Song* (Book Review), 62 *Ind. L. J.* 1283 (1987), and *Chicago Exposition: The New American Jurisprudential Writing As a Cultural Literature*, 39 *Mercer L. Rev.* 767 (1988).

14. See, e.g., Robert A. Burt, *Constitutional Law and the Teaching of Parables*, 93 *Yale L.J.* 455, 469–71 (1984) (suggesting that the parable of the prodigal son teaches by

White suggests that we should learn to see law from an outside perspective even as we make our way into the profession as insiders. The humanities (with their focus on narrative) teach that there is a seeing that comes from within (autobiography and personal experience) and a seeing that comes from without (the stories and experience of others). White argues that it is literature and the perspective of the humanities—not the law as literature but the commentary of literature on the matters that law takes as its focus—that gives us a perspective for seeing law from outside. Seeing from outside, says White, “give[s] us a common sense . . . of what legal literature leaves out, of what [other forms of literary and intellectual activity] do that the law does not”¹⁵

The problem is that law becomes overdetermined, boastful of powers it does not have; it usurps, as any powerful mythic vision will, the possibility that there are other ways of seeing the world, organizing experience, and making a future. The rich possibilities of other “intentions” and forms of life and experience conveyed in narrative teach us the commonsense lesson that James Boyd White has so systematically explored in his work and that Robert Cover turned to before his untimely death—the lesson that law is incomplete and that students of law must see what has been left out, passed over, ignored, and forgotten. In narrative, we may find that what we thought was central (the powerful instrumental quality of law, the metaphor of law as a tool or categorical grid for naming and resolving disputes) is a lesser quality of law and not the source of the greater vision that law holds out to us.¹⁶

Stories Reacquaint Us With How We Make a World of Value

I claim, both in an abstract and a practical way, that stories matter. The stories I have been given, the stories that I now tell, and the stories my students tell me matter because they involve us in the value we give and extract from what we see going on around us, the value of our intentions, involvements, and commitments. Wayne Booth has argued at some length,

confounding insiders and outsiders, “to unsettle those who are confident of their rectitude,” as insiders tend to be, for “no one can take for granted that he is safely inside some protected flock, that he is found”).

15. White, *supra* note 5, at xx.

Robert Cover made a similar point in calling attention to the “radical dichotomy” between the “social organization of law as power and the organization of law as meaning.” Robert M. Cover, Supreme Court 1982 Term—Foreword: *Nomos* and Narrative, 97 Harv. L. Rev. 4, 18 (1983). Law viewed as authoritative precepts and texts is subject to “rigid social control,” while “narratives that create and reveal the patterns of commitment, resistance, and understanding—patterns that constitute the dynamic between precept and material universe—are radically uncontrolled.” *Id.* at 16–17. While the law as precept is bound, the meaning of law is contested and *relatively* uncontrolled. “Precepts must ‘have meaning,’ but they necessarily borrow it from materials created by social activity that is not subject to the strictures of provenance that characterize what we call formal lawmaking.” *Id.* at 18.

The law is one way that we have devised to organize our social and political life and to talk about how we will work out the difficulties in collective existence. White and Cover ask us to see that law is only *one* way, and that it leaves out important parts of our experience that only a turn to narrative can help us recover.

16. There are many stories, fables, and parables, in particular biblical parables, that speak to the relationship of the lesser and the greater and the kind of mistakes we make in judgment in determining which is which. See, for instance, the biblical parable of the

and I think persuasively, that “values are at stake in our encounter” with any any narrative or story that has the capacity to compel our attention.¹⁷

There is good reason to be involved, to have commitments, to let ourselves be caught up by the events of our time, by our work, by our passions (and the things and people and events it is worth being passionate about). But the virtue of being caught up in work, a study of history, the practice of law, friendship, or a romance is dogged by a darker shadow. When I am “caught up” in what I am doing, I forget what is going on around me and that I could not carry through on my involvement without the support of others. Every commitment (personal and otherwise) takes place within a complex web of social relations. Stories help us see the web of interconnectedness that we are often blind to in our own lives.

Stories Are Integrative

James Boyd White has argued that reading and writing from the perspective of the humanities are best seen as broad enough “to cover the whole of one’s education.”¹⁸ White encourages us to think about law and the legal tradition not by a blind and slavish devotion to mastering the labyrinthine skills of “professionalism” but rather to regard law as one way of thinking and seeing the world that can be checked against others. Narrative, from this vantage point, provides the ground for a critical stance, and the best way to become a critic is to have a “whole” education. An education in law, read narrowly and instrumentally, can never be a whole education. White does not say that wholeness follows automatically from the turn to narrative and literature. When we make the turn, however, we discover what has been left out in the collection of metaphors and images that is reified in our study of law.¹⁹

White’s work with narrative literature is exemplary in the way he uses it to integrate law and nonlaw, reading and writing, student and teacher,²⁰

17. Booth, *supra* note 8, at 93. The broader philosophical implications of this perspective are worked out in Charles Taylor, *Sources of the Self: The Making of the Modern Identity* (Cambridge, Mass., 1989).

18. White, *supra* note 5, at xix.

19. We know what the law and economics adherents would have us leave out. See James Boyd White, *Economics and Law: Two Cultures in Tension*, 54 *Tenn. L. Rev.* 161 (1987). And we now know what “liberals” would have us leave out. See Teachout, *The Burden of the Liberal Song*, *supra* note 13. We will learn, as time goes on, what critical legal studies leaves out.

20. In *The Legal Imagination*, White speaks directly to the student and invites the student to see what kind of mind and imagination the law makes possible. It is as if White had decided to give the student the raw material out of which an education might be forged. There is no teacher’s manual for *The Legal Imagination* because the substance of the “text” is to be worked out between student and teacher. The teacher does not create and mandate the task for the student; rather, the student finds in the teacher’s questions either questions central to her own education or provocation to pose her own questions.

White chooses to address the student instead of an anonymous reader:

[I]t seems to me to be itself a way of teaching: to address someone as an ideal student, as if he were someone he is not (and you are not), is a way of expressing a view of what you are trying to do, of what you wish you both were, and it may exert some pressure in the right direction. . . . One of my purposes is to

imagination and intellect, thought and expression, common sense and theory, thinking and speaking, education and experience, literature and experience, self and other, inside and outside, success and failure, our life as a lawyer and our life as a person. White would have us compare and connect these sometimes disjunctive realms of thought and experience. According to White, we must ask our students to talk about their lives as lawyers by comparing them with their lives as persons, to connect what they are doing with what they know.²¹

For White, the element that integrates and connects the disjunctive aspects of life as a student, lawyer, teacher, and person is imagination.²² White places his hope on educating the imagination, a process that depends on an awareness of the literature of the law (that is, the kind of reading that law makes possible, and the kind of world that law envisions, if it is read as literature); an imaginative form of reading and engaging texts (an "introduction to literary criticism"²³); "intellectual activity outside the law"; and "ordinary experience of life."²⁴ The life we make in law, argues White, depends on the life we bring to law from what lies beyond law, or at least from beyond the kind of limited sense of law inspired by instrumental and positivist notions of law. If we integrate law and ordinary experience, or what we are with what we are becoming, then we can temper a life in law with common sense and good judgment.

encourage the student to make a life of his own in the law, to resist the pressures to conform to the expectations of others.

White, *supra* note 5, at xxiii.

21. *Id.* at xx. For a summary of White's ideas on the integrative work of the humanities perspective, see James Boyd White, *Intellectual Integration*, 82 Nw. U.L. Rev. 1 (1987).
22. Imagination stands at the heart of James Boyd White's conception of law and legal education as literary activities. White argues that "the lawyer speaks to experience and in doing so defines anew the limits and capacities of his own imagination, defines himself as a person and a mind." White, *supra* note 5, at xxxi. Directly addressing the student, as he does throughout *The Legal Imagination*, White says: "You are here asked to express the workings of your own imagination." *Id.* at xxxii. "Imagination" for White involves a form of understanding that is both individual and social. As Clifford Geertz puts it, law is a "species of social imagination" and is "constructive of social realities rather than merely reflective of them." Geertz, *supra* note 8, at 232. Law is, Geertz argues, a "distinctive manner of imagining the real." *Id.* at 173.

Robin West makes a similar claim and connects the work of imagination to stories:

The nature of law is . . . revealed . . . by our aspirations for and our fear of law: fantasies and nightmares revolving around power, reason, and authority. When we discuss what is, we rely quite rightly upon description and analysis. But when we discuss what is possible, what we desire and what we dread, we quite naturally turn to stories about hypothetical communities and the legal actors and forms within those communities.

Robin West, *Jurisprudence As Narrative: An Aesthetic Analysis of Modern Legal Theory*, 60 N.Y.U. L. Rev. 145, 146 (1985).

John Ayer has observed that the "scholarly project" within which the turn to narrative has taken place rests on the "conviction" that "we are what we *imagine ourselves to be*." The question for the law scholar, as for any of us, is: "How do we create, negotiate, identify, these imaginative worlds in which we live? What are the implications of different imaginative choices? How do they enrich, and how impoverish, our lives and the lives of others?" John D. Ayer, *The Very Idea of "Law and Literature"* (Book Review), 85 Mich. L. Rev. 895, 897 (1987).

23. White, *supra* note 5, at xxi.
24. *Id.*

The quest for wholeness is best exemplified in literature (or, more narrowly, in the narrative perspective). Narrative focuses on individuals, on a self that has an intellectual, rational side that is not split off from a feeling, intuitive side. The whole person is always greater than the cultural roles we adopt, because our stories are bigger than the limited confines of a role or any set of roles. Narrative attempts to represent the limits and wholeness of persons and places in the fullest multidimensional language that we have at our disposal.

Stories Bring Us Back to Our Own Experience

It is not the exotic and the strange that we seek in narrative but the reflection of what we already know or can know from our own experience. By extrapolating from the experience of others, we are able, White argues, to develop our own common sense. By "common sense," I take White to mean that we ground our experience in a sensibility that we can actually use. We need not pursue a double life (lawyer versus cultured reader); rather, we can ground our professional lives in reading and storytelling. Stories encourage the kind of attention by which we educate ourselves. White sees reading (and writing) about matters outside legal education as "a way of urging the student to bring together the various elements of his own education (however disparate they may seem to be)" and to insure that the education that one already has is connected to and made a part of what one is learning as a lawyer. White asks the student to draw on his or her own experience of the world; he uses the lens of narrative literature to focus on experience because stories compel us to contemplate both our own experience and that of others.

To learn law, the student needs a context for learning how judgment works and how it can be tested. If judgment is tested only against what judges or law teachers say, then students of law will have impoverished rather than expanded their education. White asks the student "to turn and look back on his life and talk about it, to take a position from which he can say that his whole education (including his legal education to date) lies within his ken, and ask: 'Where do I go now?' He is asked to collect himself for the moment and imagine his future."²⁵ White implicitly expresses disapproval of the quietism that takes over when we become enmeshed in the study of law.

White extends an invitation to talk about our lives and to see how our own life stories are part of what we are trying to learn. To tell our lives we need encouragement. We need to see that we do something worthwhile and valuable when we tell our lives, something that can be taken seriously, something that is practical, something that is integrative and can heal the splitting and compartmentalizing that are so common in the life of modern-day professionals.

White has charted the way. He has helped us revalue and reimagine education by finding new metaphors for what we do as teachers and

25. *Id.*

students of law. We are not so much timid about talking about education as we are inept. We are embarrassed to focus on how we talk about law rather than on the grander “substantive” notions of law we set out to teach. We imagine that we can look *directly* at law, as if law could be seen without the lens of metaphor. We ignore process issues. We ignore moral issues in the process of ignoring process. We ignore the metaphors and images in our conversations. There is a conspiracy to extract as much as we can out of law talk without talking about the way we talk, without calling attention to the stories we tell when we teach or the cultural narratives within which teaching takes place.²⁶ We must turn back to stories. We must turn off the instrumental path and tell a story of where we have come from and where we are going in the world of law and lawyering.

III

With an eye to the work of Thomas Shaffer and James Boyd White and an awareness of the new-found respect that the narrative perspective is receiving in other disciplines, I use stories of one kind or another in all of the courses that I teach.²⁷ For example, in legal ethics I use Seymour Wishman’s *Confessions of a Criminal Lawyer*²⁸ and find it a useful and powerful pedagogical narrative. Students respond to Wishman because they know that he is a real lawyer, telling real stories, facing real dilemmas and that the dilemmas he confronts as a lawyer will be dilemmas that they too must face as lawyers.

I also assign *To Kill a Mockingbird*,²⁹ for I have found no better source of commonsense moral teachings than Harper Lee’s poignant story of Alabama lawyer Atticus Finch.³⁰ It is not my success in using the Atticus Finch story that I want to comment on but rather a problem that I have encountered in teaching the story. There always seems to be someone in the classroom to remind me, whenever we begin to assess what it is we might learn from Atticus’ story, that Atticus is a fictional character. The point of

26. On the difference between stories and “cultural narratives,” see Michael Novak, *Ascent of the Mountain, Flight of the Dove: An Invitation to Religious Studies*, rev. ed. (New York, 1978).

27. In addition to using narratives such as those discussed in this section, I have also asked students to keep journals. I confess that, when I first gave students in an Introduction to Law course the option of keeping journals instead of taking a final examination, I did not have a clear sense of what I would find in the journals or whether keeping a journal would help students cope better with their struggle to learn to speak and write as lawyers—a way of speaking and writing about personal problems, social relations, and politics that is beguilingly similar to knowledge that we already have, and yet which is at times absurdly alien. I had White’s idea of law as a literary activity in mind when I asked students to keep journals, but I cannot hold White responsible for my decision. White uses writing exercises in *The Legal Imagination*, but they are carefully constructed to help students see the relevance of doing the writing to becoming the kind of lawyer they have set out to be. In contrast, a journal is open-ended and its relevance is uncertain. It is the student who has full responsibility, not only for doing the writing but for making it relevant.

28. Wishman, *supra* note 2.

29. Harper Lee, *To Kill a Mockingbird* (New York, 1960).

30. For an excellent account of the moral teachings in *To Kill a Mockingbird*, see Thomas L. Shaffer, *The Moral Theology of Atticus Finch*, 42 U. Pitt. L. Rev. 181 (1981).

the reminder is that Atticus may be virtuous and may be a hero and may even have something to say about the choices we now make as lawyers, *but* Atticus is a character in a novel. Atticus is “fiction”; he is unreal.

When I hear this claim and try to respond to the message it means to convey, I puzzle over the way we compartmentalize our lives (and our stories) into those that are real (and relevant) and those that are fictional (and dismissible). When presented with this claim, I ask those who have issued their warning: And what does it mean to say that Atticus is a fictional character? Does this mean that the story is not “real”? that it is untrue? Does fiction have no bearing on our lives?³¹ Are not our own lives fictions?³² By saying that Atticus’ story is fiction, are we trying to shield ourselves from the moral critique that this story implies for lawyers who live one way “in town” and another way “at home”?

The suggestion that we should keep Atticus in his place because he is fictional requires that we think carefully about stories and how they work. If we imagine our own lives as real and stories as fictional, then our stories—the stories we are living and stories like that of Atticus—are not going to speak to our lives. The temptation, if we are not careful, is to treat stories and life, fiction and reality, law and literature, as if they were not all part of one and the same world.

When I talk with law students about Atticus Finch and someone suggests that Atticus is not to be confused with what “real” lawyers do, I feel that we are talking to each other from separate realms. For me, Atticus Finch is a friend and a mentor. The student who reminds me that Atticus is a “fictional” character—whose story does not count the way a “real” person’s struggles with “real” problems do—dismisses Atticus as a possible teacher. For me, Atticus Finch is a real way of thinking about “character”—his way of being a lawyer is compelling; his story draws my attention to the world that I try to inhabit as a law teacher, a teacher of lawyer ethics and moral professional sensibilities. He helps me understand, in a way that would be more difficult to understand without the story, what it means to be a lawyer and how lawyers get into trouble with themselves and their communities. The story provides me a ground for reflection and introspection that is more real than the “real” ways I am asked to think about myself by those who purport to be living real rather than fictional lives.³³

31. Wayne Booth, observing that the border between life and narrative fiction is fuzzy, offers some commonsense suggestions about how stories that purport to be true differ from those that are constructed from imagination. The difference between life and narrative or story, says Booth, “is not a difference between truth and falsehood . . . [fiction] stresses a making and forming by the artist, not by a ‘life’ or ‘real world’ that the artist tries to duplicate.” Booth, *supra* note 8, at 16–17. “[T]he world the novelist makes is always a metaphorical model of our own.” Gass, *supra* note 1, at 60.
32. See Erving Polster, *Every Person’s Life Is Worth a Novel* (New York, 1987); Jay Martin, *Who Am I This Time? Uncovering the Fictive Personality* (New York, 1988).
33. A fundamental thesis of modernism is that our ability to comprehend “the real world” in a direct and unmediated fashion is itself a fiction. We have found, even by the most arduous efforts of science, no means by which we can divorce human subjectivity from our description of what we take to be real. In their comprehensive essay on narrative, Scholes and Kellogg point out that

There are some things that we can be honest about only if we can tell a story; there are times when only a story will work. Consider the frustration of a witness (or anyone who is interested in telling the truth) when an attorney (looking for facts from which to construct a story) cross-examines the witness in a legal trial and demands that the witness limit himself or herself to a yes-or-no answer. The witness tries to tell a truncated story with each answer (or at least say enough so that the answers can be put together like the parts of a puzzle) but feels that the truth of the matter can only be known if the story is honestly and fully told, free from the constraint of reductive questions.

But how are we to know when a story is true?

[Narrative truth is] the criterion we use to decide when a certain experience has been captured to our satisfaction; it depends on continuity and closure and the extent to which the fit of the pieces takes on an aesthetic finality. Narrative truth is what we have in mind when we say that such and such is a good story, that a given explanation carries conviction, that *one* solution to a mystery must be true. Once a given construction has acquired narrative truth, it becomes just as real as any other kind of truth.³⁴

We know from experience that some stories are better than others: some work, while others do not; some are more truthful than others. If you are struggling with a failing marriage and go to a marriage counselor, you can tell the counselor a self-serving story in which you place the blame for your marital difficulties squarely on your spouse. But you are likely, if you have a good counselor, to find out eventually that the story you told the counselor when you began therapy was not exactly right. The storied version of events, intentions, motivations, and feelings that we first tell the counselor is not the best or most truthful story that can be told. The initial version may involve self-deception or dishonesty. The point of marriage counseling is to bring you around to tell the most honest and truthful story

[t]he convergence of the novel with history, biography, and autobiography has resulted not so much from impatience with the story-teller's fantasy as from a modern skepticism of knowing anything about human affairs in an entirely objective (non-fictional) way. . . . All knowing and all telling are subject to the conventions of art. Because we apprehend reality through culturally determined types, we can report the most particular event only in the form of a representational fiction, assigning motives, causes, and effects according to our best lights rather than according to absolute truth.

Robert E. Scholes & Robert Kellogg, *The Nature of Narrative* 151 (New York, 1966).

When we tell stories about the world, stories that we call disciplines (history, philosophy, sociology, psychology, anthropology, economics, law), we can—and must—act within the context of what is “real” and what is subjective. When we fashion descriptions, explanations, and law, we narrate a world of conjecture, fantasy, and myth, all the while claiming that we act in the name of objectivity. Every text, philosophy, and science is a mythical recreation.

Our reality is created through our fictions; to be conscious of these fictions is to gain creative access to, and participation in, the poetics or making of our psyche or soul-life; the “sickness” of our lives has its source in our fictions; our fictions can be “healed” through willing participation, and, in this atmosphere of healing, they reclaim their intrinsic therapeutic function.

George Quasha, Publisher's Preface, in James Hillman, *Healing Fiction* at ix-x (Barrington, N.Y., 1983).

34. Donald P. Spence, *Narrative Truth and Historical Truth: Meaning and Interpretation in Psychoanalysis* 31 (New York, 1982).

you can about what is happening in your marriage. The goal of counseling and therapy is narrative truth. The task of the therapist/counselor is to help you (the patient) to be a better, more honest storyteller. As psychoanalyst Donald Spence puts it, narrative truth “is real and immediate and carries an important significance for the process of therapeutic change.”³⁵ The truth of narrative is fundamental to the healing process.

We are, it seems, in a position to tell any story we want, but as Allan Hutchinson warns, “we are not entirely free”³⁶ to exercise the freedom we assume we have. We are not free to say anything we want, to use language in any way we might choose, to tell whatever story might suit our fancy. We are not entirely free because we confront a sense of reality that appears to be separate and apart from us. The world-in-progress does not depend on us. Rather, the world is ongoing, and we are bound by what has already happened before we arrive on the scene. “We cannot,” says Hutchinson, “abandon history or dispossess ourselves of its dramatic heirlooms,”³⁷ for even our dreams and the stories they help us create are tempered by history.³⁸

Our freedom to tell or enact stories is also limited because we accept and enact “habitual stories.” (Allan Hutchinson calls them “stock tales of the community.”³⁹) We can never disentangle ourselves completely from such cultural stories—we live them out when we become students of law and practitioners of the law. Further, we are not entirely free because many of us do not use what freedom we do have to initiate and live out a story of our own. As Hutchinson puts it, we exhaust our lives “in playing out the stories of others”⁴⁰ with scripts that are not of our own making. Lawyers (more perhaps than other cultural actors) exhaust their lives in playing scripts that are provided by others.

Some stories empower and free us, while others hold us prisoner to conventions that deform our imagination. We try, sometimes almost successfully, to trade in our stories for roles, or we give over our stories to others who try, always unsuccessfully, to tell them for us.⁴¹ Some of us have become captives of stories we do not want to live. Stories abound of how the life we pursue turns on us and becomes pathological. Some stories take us along well-worn paths that others have trod. (We are told, sometimes subtly and sometimes not so subtly, to stay on the marked paths.) We are plagued by the comfortable lives that we so assiduously make for ourselves. The

35. *Id.* at 21.

36. Allan C. Hutchinson, *And Law (or Further Adventures of the Jondo)*, 36 *Buff. L. Rev.* 285, 285 (1987).

37. *Id.* at 286.

38. Wayne Booth would agree: “Each successful effort at story becomes . . . either a decisive rival to or a reinforcement of the world in which we have previously led our lives.” Booth, *supra* note 8, at 345.

39. Hutchinson, *supra* note 36, at 285.

40. *Id.*

41. When we talk about lawyers in legal education, we tend to focus on their role—the external, outer dimension of professional work. Roles—as everyday routines and patterns—embody images that produce an ethic and an ethos. These routines, systematized and taught as disciplines, have a way of nourishing some images and stories while driving others underground. (For instance, the physician who sees fifty patients a day may have difficulty imagining herself as a healer.)

roles we assume and allow to captivate us become empty. We are plagued with what we have given up along the way.⁴² Our personal stories and the pathologies they rationalize and lament tell us something about the world in which we live.

There are many ways to live with the deadening reality of the everyday work of lawyering: acceptance, resignation, futility, anger, self-deception. The most common way to deal with law and the partial vision of the world it holds out for us is to compartmentalize our life as lawyers, shutting it off from our life outside the law office. Most of the stories we have about lawyers and the practice of law are of this schizoid practice, and we know from our own experience and from the stories of colleagues that the cost is high.⁴³ Atticus Finch, the lawyer hero in *To Kill a Mockingbird*, made it clear that he could not live that way; he could not be a different man at the office from the man he was at home or treat his children, Scout and Jem, differently behind closed doors from the way he did when he knew his neighbors were watching.

Narrative is one means by which we see how our lives and our worlds have the texture they have and how fate and choice are combined and recombined into plots of stories that are both familiar and strange. We live in the crafted fictions of modern life. Our stories constitute the fictions that we live out, but even the most fictitious life story is charted from the reality of what we know and hope—and what we cannot know and thus fear. It is, Stanley Hauerwas argues, “when we do not understand [and] are afraid [that] we tell ourselves stories that protect ourselves from the unknown or foreign—indeed, stories that even deny that there is an unknown or foreign.”⁴⁴

IV

In his contribution to this symposium, David Friedrichs speaks of narratives and how they take their place at the margins of a discipline.⁴⁵ The marginalization of narrative begins with misunderstanding, with the

42. See, e.g., Albert Camus, *The Fall* (New York, 1956). Camus's novel is a story of a man, a lawyer, and a world, all told by Jean-Baptiste Clamence in his monologues to an unnamed patron. The story/confession unfolds as Clamence talks about his efforts to discover the truth about his own character. It is a work of memory, of delving into memory, that moves from the “surface” of imagined virtue to the shadow of self-deception. *The Fall* is the story of a lawyer who lived his persona. Dawson Martin makes Clamence the subject of his essay, *The Lawyer As Friend*, 32 Rutgers L. Rev. 695 (1979).
43. The philosophical and psychological problems in the story of the schizoid lawyer have been worked out in fiction, autobiography, and in the scholarly literature. See, e.g., Auchincloss, *supra* note 5 (fiction); George V. Higgins, *Kennedy for the Defense* (New York, 1980) (fiction); Wishman, *supra* note 2 (autobiography); Reich, *supra* note 5 (autobiography); Gerald J. Postema, *Self-Image, Integrity and Professional Responsibility*, in *The Good Lawyer: Lawyers' Roles and Lawyers' Ethics*, ed. David Luban, 286–314 (Totowa, N.J., 1983) (moral psychology), and *Moral Responsibility in Professional Ethics*, 55 N.Y.U. L. Rev. 63 (1980) (moral philosophy); Richard Wasserstrom, *Roles and Morality*, in Luban, *supra*, at 25–37 (moral philosophy).
44. Stanley Hauerwas, *Truthfulness and Tragedy: Further Investigations in Christian Ethics* n. 31 (Notre Dame, Ind., 1977).
45. David Friedrichs, *Narrative Jurisprudence and Other Heresies: Legal Education at the Margin*, 40 J. Legal Educ. 3 (1990).

failure to see how our fictions are real, just as our reality is well-crafted fiction. The notion that Atticus Finch is merely a fiction is rooted in the demarcation of science and story, theory and narrative, real and fictional. The line that separates the one from the other—science from story, theory from literature, reality from fiction—is a line that we draw with our own hand. The line is not already there. We put it where it lies and thus locate “subjectivity” in stories and let science displace “fiction” into the realm of myth.

Until recently, law and literature were authoritatively assumed to be radically different kinds of intellectual activity. Lawyers, judges, and law students were assumed to occupy a cultural universe different from that occupied by poets, novelists, and even historians and philosophers. Law was thought to comprehend some aspect of social and political reality, while literature was viewed as the home of fiction, stories, narrative, fairy tales, and myth. If, as C. P. Snow once argued, the scientist and the humanist not only engage in radically different activities but also operate with different world views, then a discipline such as law could be expected to be the battleground for the competition of these “two cultures”—science and the humanities.⁴⁶ Each discipline would either imitate science or follow the culture of subjectivity—the culture of science or the culture of all that is not science.⁴⁷ The story of legal education (and of law as a discipline), like the stories of psychology, sociology, anthropology, history and, philosophy, must be told in the context of a schizoid world, a world of competing cultural myths.

John Ayer, another contributor to this symposium, observes in a recent essay that law and literature have traditionally been viewed as “two separate realms of being, companion duchies in the sovereign universe of thought.”⁴⁸ Because we see fiction as existing in a different “sovereign” realm of thought, we do not learn from our fictions the kind of lessons they might teach. (An argument ensues over whether the fictional realm of thought could ever be viewed as sovereign.) Our culture defines what is real, and we are educated to accept the split between reality and fiction, just as we are educated to accept the split between science and the humanities, and between law and the humanities.⁴⁹ It is part of our education to see that

46. C. P. Snow, *The Two Cultures and the Scientific Revolution* (New York, 1959).

47. It has been the task of those who have been marginalized by the contemporary myths of law and science to recognize the structural fault lines (and the fundamental incoherence) of the predominant “sovereign realms” of the times. It is those who are marginal, as David Friedrichs points out in his contribution to this symposium, who turn to story and narrative. Friedrichs, *supra* note 45.

48. Ayer, *supra* note 22.

49. In recent years James Boyd White has sought, more than any other contemporary legal scholar, to map out the place of law as it stands with (and against) the other humanities. See James Boyd White, *What Can a Lawyer Learn from Literature?* (Book Review), 102 *Harv. L. Rev.* 2014 (1989), Introduction: Is Cultural Criticism Possible? 84 *Mich. L. Rev.* 1373 (1986) (“I think that the study of the humanities is the central activity by which the responsive and critical mind can best be formed and tested, that it offers the ground upon which cultural criticism can rest.” *Id.* at 1382), *Intellectual Integration*, *supra* note 21, at 13 (“[L]aw can be regarded as a literary activity, and . . . so regarded it affords the composing mind, and the community more generally, a range of opportunities that

the disciplines of law and literature are *different* and that one ultimately has more power than the other.⁵⁰ We assume that objectivity will always trump subjectivity.

Unfortunately, the humanities are sometimes no more amenable to stories and narrative than are the social sciences and such professions as law and medicine. The humanities have favored complexity over simplicity, the past over the present, and established tradition over contingency and indeterminacy. The humanities have embraced theory and abstraction (witness the present state of literary criticism) and have turned away from the profound simplicity and particularity of stories, including the stories of the disciplines themselves. In the very home that we have designated for stories, they are often treated as wandering orphans. The humanities, unless we are careful, replicate the world as we already know it. However one reads the politics of the humanities (Robin West⁵¹ vs. James Boyd White, or the middle conservative wing of the law and literature movement vs. Richard Posner⁵²) and whatever turn that politics may take, it is the stories we honor and share with each other in the name of the humanities that make the humanities worth celebrating.

V

In the awesome and sordid history of human existence we have never been without stories. Our stories give meaning to the lives we learn, by way of story, to live. In our attempts to serve some purpose and give meaning to our everyday routines, we experience the need to tell stories and to hear the stories of others. The need (at times an obsession) to narrate, tell stories, or mythologize compels us to describe, explain, and ruminate on the lives we have already lived and the lives we are trying to live. We locate ourselves within (and without) the tribe—and the tribe within the cosmos—through a repertoire of stories. In stories we honor what we are as a people, what we have been, what we can remember of our tribal ways, and what we have lost in the course of time. When we tell stories, we gather within the circle of

ordinary life lacks.”), Heracles’ Bow: Essays on the Rhetoric and Poetics of the Law (Madison, 1985), When Words Lose Their Meaning, *supra* note 13, and The Legal Imagination, *supra* note 5.

50. In the history of legal education, many different claims have been made about the most appropriate metaphor or set of guiding images for thinking about law: law as a science; law as dispute resolution; law as rhetoric; law as a liberal art or as one of the humanities. Law for those who practice the craft is at once an exercise in the mastery of rules and the playing out of these rules in the situations that human beings discover and create. But law is seldom reduced to its function as a set of rules. Lawyers, like baseball players, know about rules but play the game in such a way that the rules are the “deep structure” to the endeavor itself. Regardless of the metaphor we choose for law or the story we make of law, law will be a paradox: law is the rational application of rules (often as not unruly rules) in an unruly world, and it is also a genre of narrative that is wild, unpredictable, and full of mystery.

51. See, e.g., Robin West, Communities, Texts, and Law: Reflections on the Law and Literature Movement, 1 Yale J. L. & Hum. 129 (1988).

52. See White, What Can a Lawyer Learn from Literature? *supra* note 49.

light to hear of elders and ancestors, warriors and enemies, heroes and heroines, tricksters and shamans. In the gathering of those who hear the story, in the stillness of twilight, there is evoked a deep awareness of time and place and how we have come to exist in the world as we do.