

Chapter Eight

Endnotes and Detours: Rewinding the Lawyers and Literature Course

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In this continued conversation about Lawyers and Literature, you draw extensively on the commentary of others. Wouldn't it be better to simply speak for yourself?

- "I use the language of others because I am desperate"

—Michael Mello, "A Letter on a Lawyer's Life of Death," 38 *So. Tex. L. Rev.* 121 125 (1997)

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We came to law school to study law and here we are studying stories. Is this really what we should be doing in law school?

- "Consider what it is that trial lawyers do We are masters of narrative, attempting to arrange complex and messy facts into a coherent story. We are masters of characterization, attempting to humanize our clients, explain their motives, and even seem mildly likeable ourselves. We're masters of human psychology, attempting to figure out judges and juries and why people do sometimes the amazing things that they do. And we are masters of drama, trying to surprise, engage, and yes, even entertain."

—Richard North Patterson, "Law & Literature," 51 *U. Kan. L. Rev.* 307, 308 (2003)

- "Some years ago I practiced law. I found that most of my time was spent telling stories. I spoke to insurance adjusters and parole officers, to domestic relations officers and social workers, and to government bureaucrats. . . . I would watch and listen to how my audience listened to me, and I would respond to their concerns, reshaping my stories to fit the shape of their imaginings.

I watched other attorneys. Litigation attorneys tended to be fact-based realists who were deeply immersed in an oral popular storytelling tradition. I remember an axiom that John Irving proposed to his creative writing classes: effective storytelling requires ruthlessness, an absolute

conformity to vision. It seemed to me that the best trial attorneys were completely at ease with the storytelling role of depicting “The World According to . . .” as they battled the war of competing stories in the courtroom.”

—Philip N. Meyer, “Convicts, Criminals, Prisoners, and Outlaws: A Course in Popular Storytelling,” 42 *J. Legal Educ.* 129 (1992)

■ “[T]he law is awash in storytelling. Clients tell stories to lawyers, who must figure out what to make of what they hear. As clients and lawyers talk, the client’s story gets recast into plights and prospects, plots and pilgrimages into possible worlds. . . . If circumstances warrant, the lawyers retell their clients’ stories in the form of pleas and arguments to judges and testimony to juries. . . . Next, judges and jurors retell the stories to themselves or to each other in the form of instructions, deliberations, a verdict, a set of findings, or an opinion. And then it is the turn of journalists, commentators, and critics. This endless telling and retelling, casting and recasting is essential to the conduct of the law. It is how law’s actors comprehend whatever series of events they make the subject of their legal actions. It is how they try to make their actions comprehensible again within some larger series of events they take to constitute the legal system and the culture that sustains it.”

—Anthony G. Amsterdam & Jerome Bruner, *Minding the Law* 110 (Cambridge, Massachusetts: Harvard University Press, 2000)

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You sometimes use the term “narrative,” but more often “story” seems to be the term you prefer. Is there any significance in the way you use these particular terms?

■ English professors sometimes attempt to distinguish stories and narratives. I subscribe to the notion that “[n]arrative’ is, after all, a fancy word for story . . .” —Mary Devereaux, “Moral Judgments and Words of Art: The Case of Narrative Literature,” 62 (1) *J. Aesthetics & Art Criticism* 3 (2004).

■ “Story is what interests me. Not this or that formula for story, not this or that genre, not factual story versus fictional, but story itself in its broadest sense. We do not know of any human community anywhere at any time that did not have and tell stories. Once we step out of the purely physical realm of birth, growth, reproduction, and death, little

else is common to all human societies, yet all without exception tell or told stories. As soon as we can define ourselves as human, we can define ourselves as storytellers. Homo sapiens is the Storytelling animal.”

—Mary Paumier Jones, “The Storytelling Animal,” 50 *Georgia Rev.* 649 (1996)

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The course is called *Lawyers and Literature*, yet we notice that you talk far more about stories than you do literature. Are you ever going to define “literature”?

■ I am reminded of a philosophy teacher’s observation and advice to his students who feel the need to define philosophy: It’s “generally best to lie down until the feeling passes.” —William E. Kennick, “Teaching Philosophy,” in *Teaching What We Do: Essays by Amherst College Faculty* 163-181, at 165 (Amherst, Massachusetts: Amherst College Press, 1991).

■ “Literature, I argue, is the product of a way of reading, of a community agreement about what will count as literature, which leads the members of the community to pay a certain kind of attention and thereby to create literature.”

—Stanley Fish, *Is There a Text in This Class? The Authority of Interpretive Communities* 97 (Cambridge, Massachusetts: Harvard University Press, 1980)

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Would it be better to ask what you see as the value or purpose in reading literature instead of what you imply is a misguided effort trying to define literature?

■ “The craft of literature: Articulates insights, sentiments in ways that sometimes the rest of us cannot—Gives voice to what is submerged and suppressed (the questions behind the questions)—Defamiliarizes the familiar.”

—Johanna Shapiro, “Can Poetry Make Better Doctors?” <website>

■ “Each of us patches together a view of life out of the diverse fragments of our own experience, filtered through and given shape by articulations

that we find in the world around us. Literature is not the only place where this can happen, but it is the place set aside in the world for such articulations to be developed.”

—Bruce E. Fleming, “What is the Value of Literary Studies?” 31
New Literary Hist. 459, 471-472 (2000)

■ “[The study of literature] is the place—there is no other in most schools—the place wherein the chief matters of concern are particulars of humanness—individual human feeling, human response, and human time, as these can be known through the written expression . . . of men living and dead, and as they can be discovered by student writers seeking through words to name and compose and grasp their own experience. [Literature] in sum is about my distinctness and the distinctness of other human beings. Its function . . . is to strive at once to know the world through art The instruments employed are the imagination, the intellect, and texts or events that rouse the former to life [T]he goal . . . is to expand the areas of the human world—areas that would not exist but for art—with which individual man can feel solidarity and coextensiveness.”

—Benjamin DeMott, *Supergrow: Essays and Reports on Imagination in America* 143 (New York: E.P. Dutton, 1969)

■ “[L]iterature is an art, and . . . as an art it is able to enlarge and refine our understanding of life.”

—Robertson Davies, *Reading and Writing* 2-3 (Salt Lake City: University of Utah Press, 1993)

■ “You look for your own story in literature; it’s one of the best mechanisms you have to convince yourself you’re not alone.”

—Glenn Schaeffer, *UNLV Magazine* <website>

■ “[Literature] returns you to otherness, whether in yourself or in friends, or in those who may become friends. Imaginative literature is otherness, and as such alleviates loneliness.”

—Harold Bloom, *How to Read and Why* 19 (New York: Scribner, 2000)

- “[Literature] expands one’s sympathy, it complicates one’s sense of oneself and the world, it humiliates the instrumentally calculating forms of reason so dominant in our culture (by demonstrating their dependence on other forms of thought and expression, and the like).”

—James Boyd White, *From Expectation to Experience: Essays on Law & Legal Education* 55 (Ann Arbor: University of Michigan Press, 1999)

- The idea that literature offers a possibility for renewal is a common theme in the teaching of literature. Mark Edmundson, in *Why Read?*, puts it this way:

“Literature is . . . our best goad toward new beginnings, our best chance for what we might call secular rebirth. . . . [I]n literature there abide major hopes for human renovation.”

Literature, Edmundson claims, can become the source of a “kind of transforming experience.” Edmundson provides a more detailed explanation of this idea of transformation when he talks about reading Proust: “Immersing herself in Proust, the reader may encounter aspects of herself that, while they have perhaps been in existence for a long time, have remained unnamed, undescribed, and therefore in a certain sense unknown. One might say that the reader learns the language of herself; or that she is humanly enhanced, enlarging the previously constricting circle that made up the border of what she’s been.”

Edmundson observes, about his own reading: “Reading woke me up. It took me from a world of harsh limits into expanded possibility.” Edmundson suggest that his book, *Why Read?* was written for students “who might dream of changing their current state through encounters with potent imaginations.”

It is undoubtedly true that in teaching Lawyers and Literature, I have in mind your being (or becoming) a particular kind of student, and in being this kind of student, I have the desire to have you become a particular kind of lawyer. I trust that this hope, this desired way of being, comports with the ideals that brought you to law school and with the dreams you hold as you set out to become a lawyer.

We deal here, in *Lawyers and Literature*, with narratives of the kind Edmundson describes, narratives that present us with “the ultimate set of terms that we use to confer value on experience.”

“[T]he function of a liberal arts education is to use major works of art and intellect to influence one’s . . . outermost circle of commitments. A liberal education uses books to rejuvenate, reaffirm, replenish, revise, overwhelm, replace, in some cases (alas) even help begin to generate the web of words that we’re defined by. But this narrative isn’t a thing of mere words. The narrative brings with it commitments and hopes. . . . A new language, whether we learn it from a historian, a poet, a painter, or composer of music, is potentially a new way of life.”

The core of a liberal arts education, according to Mark Edmundson, is directed to the questions that implicate the narratives that define our lives: “Who am I? What might I become? What is this world in which I find myself? How might it be changed for the better?” The liberal arts and the education they invite are about “the conduct of life.” Edmundson writes of his fear that the liberal arts education he describes is no longer sought and if sought not so easily found. The problem is that “[w]e are not willing to ask the questions that matter.” “We ought to value great writing . . . because it enjoins us to ask . . . questions It helps us to create and re-create ourselves, often against harsh odds.”

—Mark Edmundson, *Why Read?* 3, 6, 4, 1, 25, 31-32, 5-6 (New York: Bloomsbury, 2004)

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Can you relate these various claims about literature to the proposition that you have advanced that we take up stories in *Lawyers and Literature* for use in our education as lawyers?

■ “Professions . . . encourage in-depth but narrow, divorced glimpses of certain aspects of the world. Their obvious value is in their potential for discovery and focus. Their obvious risk is in their potential for myopic vision and an obsession with one view of the world.”

—Thomas Eisele, “The Legal Imagination and Language: A Philosophical Criticism,” 47 *U. Colo. L. Rev.* 363, 380 (1976)

■ “For a while I felt a certain *deja vu* when working with what I would call the unreflective student. At length I realized that the experience

was parallel to a common clinical situation: the patient who seems likely to benefit from psychotherapy but who has no inclination for it. Not infrequently patients reject psychotherapy . . . because they simply prefer the idea of medication or because they see no value in considering their lives in a systematic way. . . .

To be sure, students . . . are not patients, nor is reading literature congruent to undergoing or providing psychotherapy, even if it is widely recognized that there is a narrative aspect to both. But the question of why either process should be valued supersedes both literary criticism and purely clinical prudence. Why read? Why discuss the intimate details of one's life with a stranger designated as a therapist? . . . [A]dvocates of both literature and psychotherapy often find themselves struggling to convey the worth of those experiences to unconvinced general audiences. In expressing their worth, I propose that literature and psychotherapy, while obviously distinct in a number of ways, share a group of core values"

—Neil Scheurich, "Reading, Listening, and Other Beleaguered Practices in General Psychiatry," 23 (2) *Literature & Med.* 304, 304-305 (2004)

■ Robert Coles, a child psychiatrist who taught literature at the Harvard Law School, as well as other venues, relates the following:

"For years I have been teaching . . . doctor stories [of William Carlos Williams] to medical students, and during each class we all seem newly awakened—encouraged to ask the important whys, consider the perplexing ifs. The stories offer medical students and their teachers an opportunity to discuss the big things, so to speak, of the physician's life—the great unmentionables that are, yet, everyday aspects of doctoring: the prejudices we feel (and feel ashamed of), the moments of spite or malice we try to overlook, the ever loaded question of money, a matter few of us like to discuss, yet one constantly stirring us to pleasure, to bedeviling disappointment in others, in ourselves [William Carlos Williams's stories gave] us a chance to examine our ambitions, our motives, our aspirations, our purposes, our worrying lapses, our grave errors, our overall worth. He gives us permission to bare our souls, to be candidly introspective, but not least, to smile at ourselves, to be grateful for the continuing opportunity we have to make recompense for our failures of omission or commission.

He extends to us, really, moments of a doctor's self-recognition—rendered in such a way that the particular becomes the universal, and the instantly recognizable: the function, the great advantage of all first-rate art. And not to be forgotten in this age of glib, overwrought formulations, of theories and more theories, of conceptualizations meant to explain (and explain away) anything and everything, he brings to us ironies, paradoxes, inconsistencies, contradictions—the small vignette which opens up a world of pleasurable, startling, or forbidden mystery.”

—Robert Coles, “Introduction,” in William Carlos Williams, *The Doctor Stories* vii-xvi, at xiv-xv (New York: New Directions Books, 1984)

■ “I urge literature upon lawyers and law students to teach how the culture of the law attracts and repels those who enter its province. Novels are profoundly useful tools to study human nature, and I teach these books as a strategy, not a panacea, to counter many of the ills attributed to legal education and lawyering today.”

—Ilene Durst, “Valuing Women Storytellers: What They Talk About When They Talk About Law,” 11 *Yale J.L. & Feminism* 245 (1999)

■ “If a literary text does something to its readers, it also simultaneously tells us something about them. Thus literature turns into a divining rod, locating our dispositions, desires, inclinations, and eventually our overall makeup.”

—Wolfgang Iser, “The Significance of Fictionalizing,” 3 (2) *Anthropoetics* (1997-1998) (Lecture, Learned Societies Luncheon, Irvine, California, February 24, 1997) <website>

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Everyone seems to speak about literature in laudatory terms. How does literature manage to attract so much praise?

■ We talk about literature in the way we do because the world and the activity it implies—reading—is an abstraction, a symbol of intellect and imagination that underscores the perennial possibility of awareness and insight that brings with it a more nuanced sense of self and of our humanity.

- We might, as a matter of curiosity, ask each other what we think we know about literature. What assumptions about literature do you bring with you to this course of reading? If asked to describe your relationship to literature, how would you try to do so? What would you say about yourself and your relation to the aspirations we associate with literature?

Now that you feast on a diet of judicial opinions, has anyone ever suggested that judicial opinions are a kind of literature? James Boyd White argues that “to read the law as if it were literature, that is to ask of this apparently nonliterary discourse questions about tone, character, form, and structure that are drawn from the reading of literature, may do much to lead us both to a clearer sense of the special resources and limits of this discourse and to a clearer sense of the possibilities of our own art. The object is not to deny what is special about the law but to understand it more clearly.” —James Boyd White, “What Can a Lawyer Learn from Literature?” (Review Essay), 102 *Harv. L. Rev.* 2014, 2023, n. 51 (1989).

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When we think of literature, we think of narrative, and we think of something called “fiction.” Can you say something about the relationship of fiction and what we think of as real and how that relation plays out in our reading of lawyer stories?

- “At one end of reality is pure fact; at the other end, pure imagination. Spanning these two poles is the infinitely varied spectrum of fiction.”

—Robert McKee, *Story: Substance, Structure, Style, and the Principles of Screenwriting* 11 (New York: ReganBooks/Harper Collins, 1997)

- “I am among those who consider artists to be the ultimate social scientists; while the worst of them are caught up in the times and suffer the same loss of perspective or professional deformity as the rest of us, the best transcend the ephemeral and speak from a vision that is both beyond time and place and grounded in the concrete. This is what is exciting about the use of literature as a vehicle for the study of law.”

—John Bonsignore, “Meta-Law Through Literature,” 1 *Am. Legal Stud. Assoc. (ALSA) Newsletter* 11 (1976)

■ “Perhaps our craving for truth can be satisfied with something other than facts, and fiction has the virtue that it seeks to create not deception, but its gentler cousin, illusion. If truth is stranger than fiction, possibly fiction is truer than truth.”

—Marianne Wesson, “Three’s a Crowd: Law, Literature, and Truth,” 34 *Tulsa L. J.* 699, 704-705 (1999)

■ “The things that happen willy-nilly in life, lawsuit, gum disease, romance . . . must be given, if not meaning, at least some context. Each has to be incorporated immediately into the story you tell yourself. And the sooner the better. In order to avoid unpleasant surprises, things should be written in before they occur. But now I’ve gotten ahead of myself, my shadow stretching out thirty feet ahead on the winter road: enormous feet, wide legs, big fat ass and a torso tapering away to a tiny, pin head. This is not a true likeness, of course, the distortion caused by my distance from the sun. But it gives you the idea. The truth, the absolute truth, is like absolute zero, more a hypothesis than an actuality. If you could experience it you wouldn’t like it. It’s cold enough as it is. The truth is an imaginary point, like the vanishing point. It’s as if there were a point to this story. As if when you got to the end you could remember what happened in the beginning.”

—Louis Jenkins, “Story,” 30 (1) *Seneca Rev.* 48 (2000) [reprinted in Louis Jenkins, *The Winter Road: Prose Poems* (Duluth, Minnesota: Holy Cow! Press, 2000)]

■ “What is happening? Well, in my view, the line between the reality of lawyering and its fictional representation on television and in books has gone well beyond blurred. It isn’t really a question anymore of how lawyers and law are portrayed on television and in books, because that depiction is merging daily with reality.

It’s a symbiotic relationship at this point between fiction and reality, not a separate relationship that can be compared and contrasted, like a law school exam. At this point, the wall between fiction and reality is as thin and porous as a cell membrane, with reality passing through it to fiction and fiction flowing backwards to reality, in constant flux.

Almost everywhere we look, right now in the popular culture, there is an almost complete merger of fiction and reality when it comes to the law. Law has become entertainment, and entertainment law.”

—Lisa Scottoline, “Get Off the Screen,” 24 *Nova L. Rev.* 655, 656 (2000)

- “The language arts have long employed and embraced fiction as a method of illuminating and revealing human truths.

. . . .

What is most remarkable about the literary fiction, though, is its ability to reveal through fiction some truth about life. Through narrative, the author exposes his mind, expresses his emotion, and persuades the reader. The author’s imagined events and characters may be sufficiently compelling to convince the audience that these fictions are both plausible and instructive. More importantly, the same fictions may lead the reader to discover some moral truth that resides beneath the surface of the story and may persuade or inspire the reader to think or act differently in the future.”

—Note, “Lessons from Abroad: Mathematical, Poetic, and Literary Fictions in the Law,” 115 *Harv. L. Rev.* 2228, 2243 (2002)

- “In literary fictions, existing worlds are overstepped, and although they are individually still recognizable, they are set in a context that defamiliarizes them. . . . [L]iterary fictions incorporate an identifiable reality that is subjected to an unforeseeable refashioning. And when we describe fictionalizing as an act of overstepping, we must bear in mind that the reality overstepped is not left behind: it remains present, thereby imbuing fiction with a duality that may be exploited for different purposes.”

—Wolfgang Iser, “The Significance of Fictionalizing,” 3 (2) *Anthropoetics* (1997-1998) <website>

Iser argues that we are compelled to move beyond the boundaries of our “existing world.” We do so because we “need this ‘ecstatic’ state of being beside, outside, and beyond ourselves, caught up in and yet detached from our own reality” This need for the ecstatic, according to Iser, “derives from our inability to be present to ourselves.”

“If we wish to have what remains impenetrable, we are driven beyond ourselves; and as we can never be both ourselves and the transcendental stance to and of ourselves necessary to predicate what it means to be, we resort to fictionalizing.”

According to Iser, it is the “borderlines of knowledge” that “give rise to fictionalizing activity” where “we might perceive an economy principle at work: namely, what can be known need not to be staged again, and so fictionality always subsidizes the unknowable.”

“If literature permits limitless patterning of human nature, we may infer that what we call human nature is rather a featureless plasticity that lends itself to a continual culture-bound repatterning. It furthermore indicates the inveterate urge of human beings to become present to themselves; this urge, however, will never issue into a definitive shape, because self-grasping arises out of over-stepping limitations. Literature fans out human plasticity into a panoply of shapes, each of which is an enactment of self-confrontation. As a medium, it can only show all determinacy to be illusory. It even incorporates into itself the inauthenticity of all the human patterning it features, since this is the only way it can give presence to the protean character of what it is mediating. Perhaps this is the truth through which literature counters the awareness that it is an illusion, thereby resisting dismissal as mere deception.

Moreover, literature reveals that we are the possibilities of ourselves. But since we are the originators of these possibilities, we cannot actually be them—we are left dangling in-between what we have produced. To unfold ourselves as possibilities of ourselves and—instead of consuming them to meet the pragmatic demands of everyday life—displaying them for what they are in a medium created for such an exposure, literary fictions reveal a deeply entrenched disposition of the human makeup. What might this be? The following answers as to the necessity of fictionalizing suggest themselves: we can only be present to ourselves in the mirror of our own possibilities; or . . . we are determined by bearing all imaginable possibilities within ourselves; or we can only cope with the openedness of the world by means of the possibilities we derive from ourselves and project onto the world; or we are the meeting point of the manifold roles we are able to assume, in order to grasp what we make ourselves into. As none of the roles into which we can transform ourselves is representative of what is possible, humankind is driven to invent itself ever anew. If fictionalizing provides humankind with unlimited possibilities of self-extension, it also exposes the inherent deficiency of human beings—our fundamental inaccessibility to ourselves; owing to this gap within ourselves, we are bound to become creative.

But in the final analysis fictionalizing may not be equated with any of these alternative manifestations. Instead, it spotlights that the in-between state arising as an offshoot of boundary-crossing contains boundless options for human self-fashioning. Fictionalizing, then, may be considered as opening a play space between all the alternatives enumerated, thus setting off free play which militates against all determinations as untenable restrictions. . . . Henry James once said: “The success of a work of art . . . may be measured by the degree to which it produces a certain illusion; that illusion makes it appear to us for the time that we have lived another life—that we have had a miraculous enlargement of our experience.”

- “Story isn’t a flight from reality but a vehicle that carries us on our search for reality, our best effort to make sense out of the anarchy of existence.”

—Robert McKee, *Story: Substance, Structure, Style, and the Principles of Screenwriting* 12 (New York: ReganBooks/Harper Collins, 1997)

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Why is this ever so common enterprise of “reading” so present in your thinking about lawyer stories?

- “Recent commentators have touted reading at a time when visual media and passive consumption seem to monopolize our lives. . . . Harold Bloom asserts that we read ‘in order to strengthen the self, and to learn its authentic interests’ In ‘Why Literature?’ Mario Vargas Llosa, dumbfounded and alarmed by the decline of serious reading, mourns the increasingly prevalent notion that reading is a ‘luxury’ for which even educated people cannot seem to find the time. These critics see literature as . . . a mode of being in which time appears to slow down and one’s attentiveness and flexibility of perspective expand. As Kafka famously but violently put it, ‘A book must be the ax for the frozen sea within us.’ Like friendship or love, reading has a spiritual function, the ends of which are inseparable from the means. In referring to such experiences as spiritual, I mean that they help one to articulate the ultimate meanings by which one chooses to live.”

—Neil Scheurich, “Reading, Listening, and Other Beleaguered Practices in General Psychiatry,” 23 (2) *Literature & Med.* 304, 308 (2004)

Scheurich notes that “reading has a spiritual function,” a function recognized by Robert Weisberg, a legal scholar, in his observation that “[t]he advent of law-and-literature scholarship, or at least the pronouncement of Law and Literature as a major new scholarly enterprise, reflects a general tendency in our culture to look to literature as a source of spiritual renewal” Weisberg, crediting Richard Poirier, points out the irony in seeking renewal in the turn to literature: “[I]t is literature itself whose internal troubles seem to best reflect the various types of alienation, malaise, and disbelief which are said to distress modern culture. In that regard, it may be more appropriate to look to literature as a model of post-modernist confusion than as a cure for it.” —Robert Weisberg, “Reading Poetics,” 15 *Cardozo L. Rev.* 1103 (1994).

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Can you say something about what, in your view, constitutes a “good story”?

■ “We go to the storyteller with a prayer: ‘Please, let it be good. Let it give me an experience I’ve never had, insights into a fresh truth. Let me laugh at something I’ve never thought funny. Let me be moved by something that’s never touched me before. Let me see the world in a new way. Amen.’”

—Robert McKee, *Story: Substance, Structure, Style, and the Principles of Screenwriting* 355 (New York: ReganBooks/Harper Collins, 1997)

■ “Every good story begins with some sort of problem or conflict. Put another way, when the story opens, the protagonist finds himself in a state of disequilibrium. It is possible to begin a story with the character in a state of equilibrium, but he must soon find that state of affairs disturbed: there is something the protagonist wants, needs, or desires. There is something missing in his world and he must acquire it; or something has intruded upon his world and he must deal with that change in order to regain equilibrium. And this cannot be any old conflict the writer wishes to attach to his character, it must be anchored in the specificity and texture of the character’s background and biography. . . .”

—Charles Johnson, “Storytelling and the Alpha Narrative,” 41 (1) *Southern Rev.* 151, 157 (2005)

- “Every now and then one comes across some really powerful character in an out of the way place. I mean a really powerful character who writes, or paints, or walks up and down and thinks, like some overwhelming animal in a corner of the zoo. Perhaps, I feel terribly in need of encountering some such character.”

—Wallace Stevens, letter to Henry Church, dated November 20, 1945, in Holly Stevens (ed.), *Letters of Wallace Stevens* 517-518 (Berkeley: University of California Press, 1996)

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You don’t have us read any literary theory or literary criticism. Is there a reason for that?

- “If you set theory between readers and literature—if you make theory a prerequisite to discussing a piece of writing—you effectively deny the student a chance to encounter the first level of literary density, the level he’s ready to negotiate.”

—Mark Edmundson, *Why Read?* 41 (New York: Bloomsbury, 2004)

- “Since literature seemed to be about everything that there is—about the human condition—I figured that a good literary critic would have to make himself expert at that big picture. It didn’t take me long to realize that the professionalization of literary criticism has taken reductionism as its model, and that it too can lead to learning more and more about less and less until you’re in danger of knowing everything there is to know about nothing.”

—Richard Powers (interview with Jeffrey Williams), “The Last Generalist: An Interview with Richard Powers,” 2 (2) *Cultural Logic: An Electronic Journal of Marxist Theory and Practice* (1999) <website>

- “The way we read now partly depends upon our distance, inner or outer, from the universities, where reading is scarcely taught as a pleasure, in any of the deeper senses of the aesthetics of pleasure.”

—Harold Bloom, *How to Read and Why* 22 (New York: Scribner, 2000)

- “My allegiance is not to a literary theory but to the sum total of my liberating literary experiences”

—Frank Lentricchia, *The Edge of Night: A Confession* 88 (New York: Random House, 1994)

■ Interlude ■

What are you doing here, surrounding yourself with all these fragments of thinking and argument that you borrow from others? Are you not content to speak for yourself with your own thinking about these matters?

■ The reader might think of this collection of commentaries on “stories” and “literature” as a *cento*, a patchwork garment, a composition formed from the work of others. Cento, according to the *Oxford English Dictionary* (Oxford University Press, 2nd ed., 1989), is derived from the Latin, and refers to a garment of patchwork, also a poem made up of various verses; a piece of patchwork; a patched garment; a composition formed by joining scraps from other authors.

■ “A serious, major cento requires much leisure, endless patience, an eye for minute correspondences, a liking for fitting things together neatly. It has a distinct affinity with elaborate needlework.”

—David Daube, “The Influence of Interpretation on Writing,” 20 *Buff. L. Rev.* 41, 56 (1970)

■ “Declaring oneself an adopter . . . of juxtaposition or montage does help to identify one’s intention as critique. One does also, however, inherit the unresolved tension which in practical terms is between saying too much and saying too little about the import or intention of a juxtaposition or constellation.”

—George L. Dillon, “Montage/Critique: Another Way of Writing Social History,” 14 (2) *Postmodern Culture* (2004) <web version>

■ “In collage, writing is stripped of the pretense of originality, and appears as a practice of mediation, of selection and contextualization, a practice, almost, of reading.”

—Lance Olsen “Notes Toward the Musicality of Creative Disjunction, Or: Fiction by Collage,” 12 *symploke* 130, 133 (2004)

■ “[C]ollage has been a craft wherever and whenever there has been human ingenuity—from flower arrangements and quilts to cooks making something out of leftovers and children sticking scraps together”

—Alexander E. Hooke, “Alphonso Lingis’s *We*—A Collage, Not a Collective” (Review Essay), 31 (4) *diacritics* 11, 13 (2001)

■ “Laying things together is gathering, and to gather is to count and so to reckon. To gather is also to compose”

—David Hoffmann, “Logos as Composition,” 33 (3) *Rhetoric Soc’y Quart.* 27, 29 (2003)

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Can you point to any clues about how we might get started in this matter of reading stories?

■ A course of reading that focuses on lawyer stories presents a familiar question: Where do we begin? Parker J. Palmer suggest the paradoxical nature of the endeavor: “We want a kind of knowledge that eliminates mystery and puts us in charge of an object-world. Above all, we want to avoid a knowledge that calls for our own conversion. We want to know in ways that allow us to convert the world—but we do not want to be known in ways that require us to change as well.” —Parker J. Palmer, *To Know as We Are Known: A Spirituality of Education* 39-40 (New York: Harper & Row, 1983).

■ You may not, by education, have prepared yourself for what we do in *Lawyers and Literature*. One aspect of being unprepared arises from the likelihood that you arrive in law school already a participant in a student consumer culture—a culture that makes students “devotees of spectatorship,” a devotional condition that leaves you with a “timidity, a fear of being directly confronted.” —Mark Edmundson, *Why Read?* 10 (New York: Bloomsbury, 2004).

■ ■ ■

Do you have any thoughts about how we might begin to think about putting the stories in *Lawyers and Literature* to use?

■ “By absorbing and responding to the story, we work upon ourselves, upon how we represent the world to ourselves, upon our values and our

assumptions about the things of the world, and upon the decisions we will ultimately make in response to those things”

—Charles Anderson, “Literature and Medicine: Why Should the Physician Read . . . or Write?” in Anne Hunsaker Hawkins & Marilyn Chandler McEntyre (eds.), *Teaching Literature and Medicine* 33-58, at 49-50 (New York: Modern Language Assoc., 2000)

■ “Adopting the [story’s] life-view is not the point: the narrative does not indoctrinate us into its life-view as the one true way to approach life. Instead, we see the life-view embodied, enter into it, understand how it looks and feels to construct the world in its way, and we are consequently stimulated to reflect on our own way of construing the world. We are led away from immediate actuality, to the work’s imaginative ordering of reality according to its life-view, then back to consider our own actuality. It is like looking at ourselves in an inner mirror.”

—Pamela Mitchell, “Why Care About Stories?” 86 (1) *Religious Educ.* 30, 36 (1991)

■ “Wherein does the usefulness of fiction lie for [our] imaginary self-empowerment? The answer . . . focuses on fiction’s potential for defamiliarization, boundary crossing, and cultural transgression. Fiction . . . permits the reader to cross existing boundaries, explore other worlds, and try out new identities. But why should the individual be interested in this kind of imaginary self-extension? The answer provided by modernism is that we are stifled by convention, which suffocates the authentic inner self and prevents self-realization. Why do we seek self-expression in the first place? The explanation provided by one branch of modernism is that a repressed side of the self seeks to overcome self-control by means of art. I think that this is a plausible description of one possible function of fiction”

—Wilfred Flicked, “Fiction and Justice,” 34 *New Literary Hist.* 19, 23-24 (2003)

Flicked, in an extraordinary passage, drawing on Wolfgang Iser, explains how the process of imaginary self-empowerment works:

“Wolfgang Iser provides a helpful suggestion by drawing on the example of a reading of *Hamlet*. Since we have never met Hamlet and know that he never existed, we have to come up with our own mental images of

him. Inevitably, this mental construct will draw on our own associations, feelings, and bodily sensations in order to give life to this character who never existed. In the act of reading, the literary text thus comes to represent two things at once: the world of the text and the imaginary elements added to it by the reader in the process of giving meaning to the words on the page. And it is exactly this 'doubleness' . . . [that] allows us to do two things at the same time: to articulate imaginary elements and to look at them from the outside. . . . The fictional text allows us to enter a character's perspective . . . [O]n the other hand, we cannot and do not want to completely give up our own identity. In reading, we thus create other, more expressive versions of ourselves.

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[I]ndividual empowerment goes beyond any identification with single characters or events in the text. It arises from the necessity of the individual reader to actualize a whole world along the lines of her own interiority Because of its status as a made-up world, the fictional text can employ . . . the real as host for the expression of yet unformulated dimensions of the self. But what exactly is articulated in this process? Concepts like 'the unsayable' may suggest material that violates cultural taboos. This would tie the fictional articulation effect primarily to the expression of socially repressed impulses. We could, in this case, apply categories like desire or the unconscious for that which is articulated.

One way to get around the problem of an all-too-literal understanding of the transgressive role of fiction, which ties its function to an avant-garde role of cultural subversion, is to extend the definition of what is articulated by fiction from a forbidden or repressed impulse to the broader term 'imaginary,' which Wolfgang Iser defines, from a phenomenological point of view, as an indeterminate, diffuse, and protean flow of impressions, images, feelings, and bodily sensations. These strive for articulation but, since they do not yet have a gestalt to manifest themselves, have to attach themselves to existing cultural signifiers. Seen in this context, the function of fictional texts to offer a counterperspective is no longer restricted to daring pioneer works. It is now tied to a potential which fiction possesses in principle, its ability to articulate an interiority that cannot be represented in any other way. By requiring a transfer for their actualization, fictional texts engage this interiority, thereby providing the possibility of articulating something radically subjective, while at the same time representing this dimension of interiority in a way that opens up a way for public recognition.

This ‘duplicity’ can explain fiction’s usefulness for an articulation of the imaginary: fictional texts are especially useful, because they can link the subjective and the public dimension by means of a structural analogue.”

—Wilfred Flicked, “Fiction and Justice,” 34 *New Literary Hist.* 19, 24, 25 (2003)

■ “[T]o learn from fiction students must know how, or be willing to learn how, to read well. They need to be sensitive to tone, voice, point of view, and character development, a way of reading that is unlikely to be taught or encouraged in most law school courses. The challenges to good reading are of two kinds. First, the students must be willing to have their fundamental notions of what being a lawyer is about challenged. They must be willing to explore the consequences of the choices they make when their professional responsibilities as lawyers conflict with their own individual, intellectual responsibilities. . . . The second challenge to reading lawyer fiction is to be able to make sense of what the authors and the characters in the fiction often themselves do not purport to understand. I wanted to make the students sufficiently self-aware of themselves as lawyers that they would be more attentive to the self-awareness issue as it appears so frequently in lawyer fiction and to recognize the effects of a lawyer’s failure to be attentive to his intellectual and moral life. Consequently, lawyer fiction of the kind I prescribed for students, requires an inquiry into the nature of the lawyer’s professional and individual identity. Our reading, and the exploration it demands, was informed by Orwell’s dictum in ‘Shooting an Elephant’ in which the tyrant wears a mask and his face grows to fit it. To understand how this relates to lawyers, is to understand why law students need to study literature and how they can use literature to better understand the nature of the lawyer’s life.

. . . .
We must become better readers, the kind of readers who come to text (and a story) with an open-mind, curious as to what can be learned, evolving strategies that allow us to give the text meaning, and hold open the possibility that the meaning we find in the text is one that we can (by adept strategies) incorporate into our own lives.”

—William Domnarski, “Law and Literature,” 27 *Legal Stud. F.* 109, 111, 128 (2003)

■ ■ ■

Lawyers and Literature isn't at all like other law school courses and from what I can gather, it is not like most Law and Literature courses. Can you comment on this?

■ "Law and literature courses are springing up in law schools across this country and they are not like other courses in law schools.

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These courses seem to have arrived in law school in the same way a spaceship might arrive in a backyard. It lands. We have no idea what it is. Half the faculty wants to go out and feel this strange object. It is like nothing they have seen before. They want to touch it, measure it; they want to take little pieces of it back to their laboratories where they can dissect it. The other half of the faculty wants to issue the spaceship a parking ticket."

—John Jay Osborn, Jr. "UFOs in the Law School Curriculum: The Popularity and Value of Law and Literature Courses," 14 *Legal Stud. F.* 53 (1990)

■ One significant difference between Lawyers and Literature and the traditional Law and Literature course that John Jay Osborn refers to—"this strange object"—the focus in Lawyers and Literature is on lawyers and the kind of people we end up being when we embrace the law as a way of life. Lawyers and Literature, as I envision it, is more a clinic course than a traditional law school doctrinal course. Tony Amsterdam explains the difference between clinical and doctrinal courses this way:

"The heart of clinical teaching is immersion in immediate experience and reflection on it. There you have the major difference between clinical law teachers and academic law teachers. The academic teacher seeks to enrich understanding of the general by deriving abstract principles from the particular; the clinician seeks to enrich understanding of the general by refining a capacity to discern the full context of the particular. So analysis serves the clinician as a whetstone of perceptivity—or call it 'sensibility'—or 'intuition' or 'discovery' if you wish."

—Anthony G. Amsterdam, "Telling Stories and Stories about Them," 1 *Clinical L. Rev.* 9, 39-40 (1994)

▪ Another reason that Lawyers and Literature is different is that the stories we read call into question the underlying premise of traditional law school courses that being a lawyer is an absolutely always positively wonderfully marvelous thing to be.

■ ■ ■

Can you be more specific about the difference between a Law and Literature course and this course you call Lawyers and Literature?

▪ In legal scholarly writing there is no scarcity of efforts to describe the Law and Literature movement, that evolved over the course of a decade, into a widely-recognized school of contemporary jurisprudence. When students appear in my Lawyers and Literature course they may assume that what lies ahead is a Law and Literature course. I explain that the course is called Lawyers and Literature for a reason, that the course has an entirely different focus than a traditional Law and Literature course.

William Domnarski explains how a lawyer-focused course differs from traditional Law and Literature courses:

“In contrast to [the] conventional approaches to law and literature, I sought to explore with students the various ways a lawyer’s life might be understood from the way it is described in the fiction about lawyers written by lawyers. . . . My law and literature teaching was geared to a special audience—law students—and to the unique professional problems they would encounter as members of the legal profession. While a law student’s education may have taught them something about the state of the law, and its application to specific legal problems, I assumed that they had learned far less about lawyering and how it might affect a person’s life. . . . Lawyering is the only professional calling that is adversarial in nature. It is adversarial in that lawyers find themselves pitted not only against each other, each side zealously representing a client, but lawyers often find themselves pitted against themselves in that the position of their client (which they are paid to represent) might not be their own. The result, for any person of substance, is an ongoing conflict between the lawyer with an independent intellectual (and a regard for the truth) and his role as advocate (for clients who may not share his intellectual concerns, nor his regard for the truth). Basically, law school doesn’t help students recognize, explore, or deal with this problem of immersing oneself in an adversarial existence and being in conflict with one’s self.

. . . .

What we find, in law and literature as I conceive it, is that the relationship between the professional's personal and work life lies at the heart of our best lawyer stories, our best legal fiction. A professional commits himself, through training and dedication to the profession, to a life that will be shaped by work. Physicians, scientists, and scholars, to name three, are all shaped, personally, by committed relationships with their disciplines. Science, judging from the autobiographical literature of its practitioners, teaches a patience and respect for a world larger than that of the individual scientist, a world to be appreciated for its great beauty.

With the unique nature of the legal professional's obligations—to the client, rather than to the system of law—the lawyer often conducts his professional life as if were literally dictated by some system (as if that system had a tyrannical god). By way of lawyer fiction, the lawyer might discover himself, fully adapted to a role, adhering to the demands of clients, losing touch with his ability to relate to others and to experience the relationship of his acts to their consequences, leading a professional life that has devoured his identity as a whole person.

Paradoxically, as the lawyer, in his professional life gains control (and enjoys an ever greater level of success), he is in danger of losing control of his personal life, and finding that he faces the greatest of all failures, the lose of his own soul. With the lose of soul, the lawyer becomes Orwell's tyrant, the man who cannot remove his professional mask."

—William Domnarski, "Law and Literature," 27 *Legal Stud. F.* 109, 110, 127-128 (2003)

■ ■ ■

There are many law journal articles about Law and Literature, virtually none on Lawyers and Literature. What are your thoughts about this situation?

■ A detailed answer to your question would take us far deeper into the academic world of legal scholarship than most of you would find of interest. The Lawyers and Literature course I teach is not, I should note, a course—or a pedagogical project—inspired by the Law and Literature movement. My course on Lawyers and Literature emerged from courses on "The Legal Imagination" and "The Lawyer as Person," courses that preceded the Lawyers and Literature course. In its first appearance, Lawyers and Literature included not only fiction but memoirs (e.g.,

Richard Rodriguez, *Hunger for Memory: The Education of Richard Rodriguez—An Autobiography* (Bantam Books, 2005), Alice Koller, *An Unknown Woman: A Journey to Self-Discovery* (Bantam Books, 1991) (1981), Judy Chicago, *Through the Flower: My Struggle as a Woman Artist* (Penguin Books, 1993) (1977)). Lawyers and Literature grew out of from my interest in working with students to address this central question: what does it mean to be a lawyer? I faithfully followed the emerging literature in the field of Law and Literature over the years, but the origins of my Lawyers and Literature course lie elsewhere.

■ “The phrase ‘law and literature’ is suggestive but unilluminating. A growing cohort of legal scholars claims to be practitioners of law and literature. What activity keeps them off the streets and in the classroom?”

—Thomas Morawetz, “Ethics and Style: The Lessons of Literature for Law” (Review Essay), 45 *Stan. L. Rev.* 497 (1993)

■ In 1998, Judith Koffler, at my instigation, spent a couple of years on the faculty at West Virginia, offers an impressionistic account of the early days of the modern reemergence of the Law and Literature movement:

“Has it been this long, Lord? Close to a quarter of a century [referring to the early ’70s] since a band of young law professors, some of us in our hot twenties and nearly all of us without tenure, conspired together over cheap lunches in New York City to promote Law and Literature as a defiant, serious academic pursuit. There was the excitement of the anarchic; no one appeared as a leader, and nothing definite served as authority. There was a glow of fervent dedication; we aimed in no small way to rattle the legal academy with Dante and Dostoevsky, Camus and Homer. We vowed not to produce scholarship that tasted of sawdust. A warren of left-wing lawyers teaching undergraduates in Amherst, Massachusetts, published some of our maiden articles (sometimes immature but invariably imaginative) in the *American Legal Studies Association Forum*, a comparably anarchic publication that looked then more like a stapled mimeograph. [The *ALSA Forum* was, after its first years of publication, retitled the *Legal Studies Forum*, and since 1996 has been edited by James R. Elkins. Thankfully, *LSF* no longer looks like a “stapled mimeograph.”]

And why not? Many of us met our hormones in the Sixties and our identities in the Seventies. In our undergraduate days, we had been

disgusted and angry over civil rights; we had shut down law schools during the Vietnam crisis and marched on Washington. If our legal training had hammered some discipline into us and had not hammered out our sense of the absurd, fortune favored us with a way to use our skills while feeding our imaginations and satisfying our collective urge for intellectual recognition. . . . Adherents emerged. Serious scholars of many political hues (as well as a few hacks and opportunists) joined the ranks.

New agendas have been pushing and pulling at the project, including those of feminists, post-modernists and critical legal scholars. Foundations private and public have helped fund seminars. International scholars have descended on campuses as diverse as Brandeis, Berkeley, and Washington and Lee to give learned papers on our subject. Even in the Siberia of law and economics came a flowering of interest in (and a book about) Law and Literature. These days, law library shelves groan under the weight of new books on law and narrative, law and semiotics, and law and literary ideas, while their dusty co-tenants (traditional jurisprudence tomes) make grudging room. A recent issue of the *New York Review of Books* advertises the *Oxford Book of Short Legal Stories*, and that indisputable arbiter of authority, Westlaw, reveals 1,592 iterations of the phrase 'Law and Literature' in its legal periodicals."

—Judith Koffler, "Three Looking Glasses for Law and Literature" (Review Essay), 10 *Cardozo Stud. L. & Literature* 69, 69-70 (1998)

■ "In the 70s, in a welter of 'law and . . .' competitors, Law and Literature struggled to seek a niche in the firmament of accepted legal studies. In the process of seeking an academic appointment, I once met a curriculum committee, whose chairman defiantly asked me, 'what good is it?' In the '80s, its believers weathered attacks from both left and right: the former asked that Law and Literature be a platform to change society; the latter regarded literature as an illegitimate import into the law. In the '90s, a law school worth its reputation could no longer publish its catalogue without inclusion of such an interdisciplinary offering.

Perhaps law educators now see an opportunity to rescue the profession from creeping tedium. Does this portend a new kind of lawyer to be minted for the new millennium? For those of us who have never stopped dreaming of a civilized profession, where the word is its enduring currency, we wish it so."

—Daniel Tritter, “Lusty Voice II,” 10 *Cardozo Stud. L. & Literature* 143, 144-145 (1998)

■ “I’ve always had trouble grasping what ‘law and literature’ is about. It seems to mean a number of different things. One approach is that the study of literature helps lawyers relate to their day-to-day lives. The practice of law, like the making and the study of literature, involves reading and writing. The idea is this: you study a literary text to see how the author brings her reader into the language of the text and its values; you then study a legal text to see how the same process occurs. The intricate social and human relationships that exist between author and reader, the argument goes, are at the core of both literature and lawyering. A second approach is more substantive. The study of literature allows a lawyer to comprehend human reality more deeply. Literature teaches us about the attributes of the soul. Law and literature are human disciplines. The more a lawyer is aware of how cultural and social nuances and perspectives are expressed in works of literature, the more humane a lawyer’s imagination is, and the better off we all are. Then there are those who are more interested in interpretation. A lawyer, by understanding critical techniques used to study the meaning of literature, can better interpret the meaning of legal language. Finally, there are those—Judge Richard Posner primary among them—who maintain that law and literature are separate domains. Writing about law and literature—as a form of critical or scholarly thought—really doesn’t help one practice law or judging, because lawyering and judging, essentially, have to do with choices of government and political economy, not with literary, or for that matter, artistic, values.

. . . . There is also critical literature that probes the narrative dimensions of legal texts, analyzing them in terms of literary texts—like novels, stories, plays and poems. The best of this writing emphasizes the social character of narrative language, and of language itself; some of it creates a narrative of ‘storytelling’—that is the word used—as a means by which various dimensions of social reality might be expressed. The question, though, of what narration is, is never asked. The most precise definition I know is Gertrude Stein’s. Narration, Stein says, is ‘how to tell what one has to tell.’ The ‘law and literature’ writing about narration, including that which engages in ‘storytelling,’ centers, in Stein’s terms, around issues of ‘what one has to tell.’ [H]ow to tell it—a complex and profoundly difficult formal and aesthetic problem, especially in relation to a legal text—is ignored.”

—Lawrence Joseph, “Reflections on Law and Literature (Imaginary Interview),” 59 *Sask. L. Rev.* 417, 418-419 (1995)

- There are countless descriptive summaries of Law and Literature as a school of jurisprudence and as a pedagogical endeavor. The following description by Philip Kissam might be seen as typical:

“The law and literature movement contains several premises. The study of law in literature may provide insights or criticisms about the practice of law and law’s effects upon different individuals or social groups. This study might also enhance our moral sensitivities to social oppression and injustices by expanding our imagination, knowledge and empathy for and about others. The study of law as literature could enrich our understanding of legal interpretation, legal rhetoric and legal narratives by drawing on the theories and practice of interpretation, rhetoric and narrative in other academic disciplines and contrasting them with conventional legal theories and practice. Deploying literary forms in law or scholarship by ‘telling stories’ (fictional and non-fictional stories) may have special value in shocking our assumptions, challenging our established ways of thinking and ultimately reforming law or legal practices. More generally, the study of literature and literary aspects of law might make us better readers and writers of legal texts, for example by encouraging our careful and imaginative attention to the words and play of texts, to entire texts rather than merely their ‘holdings,’ ‘rules’ or ‘policies,’ to ensembles of texts and contexts, and to the inherent and productive ambiguities and multiple interpretations of language.”

—Philip C. Kissam, “Disturbing Images: Literature in a Jurisprudence Course,” 22 *Legal Stud. F.* 329 (1998)

- “The Law and Literature Movement appeared within American legal scholarship [ca. 1985]. Yet, the inherent methodological challenge of the project continues to elicit uncertainty. The legal method of case adjudication and legislative drafting makes language an instrument to control conduct and outcomes in social life. The argumentation of the legal brief uses language as a tool to reach pragmatic results.

The imaginative use of language in literature differs. The notion of lawyers turning to literature as a source for legal studies leads some to fear for the rigor of legal reasoning and others for the integrity of literary interpretation. Each study in law and literature is an occasion for further methodological and theoretical clarification of the law and

literature project. This is true even as each study seeks to reveal new insights about law from the study of particular literary works.”

—William Joseph Wagner, “The Pursuit of the Hunt, Interrupted: Changing Literary Images of Law,” 49 *Cath. U. L. Rev.* 945 (2000)

■ “The common ground that I discovered between law and literature seems simple: Both involve issues of language, as well as issues of how language is, or ought to be, expressed. I found, however, the dissimilarities between law and literature equally critical. Terry Eagleton has spoken of what he calls the ‘true sublime’ in writing, the ‘infinite, inexhaustible, heterogeneity of . . . a sensuous, non-functional delight in concrete particularity [that flows] from the dismantling of abstract rational exchange-value.’ . . . [A] sense remains that certain forms of imaginative expression profoundly resist being completely reified by processes of commodification. . . .

Is it possible for legal language to resist commodification in the same way that the sensuous language of, let’s say, a poem by Emily Dickinson, resists it? Forms of literature do not reify; what, in fact, arguably makes a form of verbal expression literature is that literature is language that resists reification because of how it is expressed. However, unlike the language of literature, the language of those who make and practice law (the language of judges, legislators, and practicing lawyers) is, at a definite point and to a great extent, socially, economically, politically, and institutionally reified into forms of language to be known and obeyed, executed and enforced, bought and sold. Expressions of law embody, and are embodied in—integrate and are integrally a part of—the practice of violence, the allocation of power, the distribution of money, and the dispensing of privilege (which in turn bestows wealth). Law, like literature, is a language game, but, unlike literature, the object of the game is not to express forms of sensuousness or feeling. The language of law embodies violence, power, and money. It is a language game complexly unique both in its expressions and in the consequences of its expressions.”

—Lawrence Joseph, “The Subject and Object of the Law,” 67 *Brook. L. Rev.* 1023, 1026-1027 (2002)

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In selecting the stories you invite students to read in *Lawyers and Literature* are you, for some peculiar reason, drawn to what

your colleague John Bonsignore once called “disaffection narratives”?

■ If we aspire to be optimistic and hopeful about the future, as a good many of us endeavor to be, can we not also brood over what this positive outlook might disguise? Literature rips away the mask of cheerful normality that we so desperately embrace or embraces us in its own unrelenting fashion. Stories remind us, again and again: life cannot be lived without painful encounters (with ourselves and others), and that even the most successful among us are going to experience loss along the way. Literature helps us see what we must already know—life is tragic.

■ James Boyd White, in *The Legal Imagination*, a book that profoundly shaped my thinking about legal education, introduced me to Mark Twain’s account of becoming a riverboat pilot and the sense of loss Twain experienced when he gained a riverboat pilot’s knowledge of the river. The following account from Twain’s *Life on the Mississippi* appears in *The Legal Imagination*:

“It turned out to be true. The face of the water, in time, became a wonderful book—a book that was a dead language to the uneducated passenger, but which told its mind to me without reserve, delivering its most cherished secrets as clearly as if it uttered them with a voice. And it was not a book to be read once and thrown aside, for it had a new story to tell every day. Throughout the long twelve hundred miles there was never a page that was void of interest, never one that you could leave unread without loss, never one that you would want to skip, thinking you could find higher enjoyment in some other thing. There never was so wonderful a book written by man; never one whose interest was so absorbing, so unflagging, so sparkingly renewed with every re-perusal. The passenger who could not read it was charmed with a peculiar sort of faint dimple on its surface (on the rare occasions when he did not overlook it altogether); but to the pilot that was an *italicized* passage; indeed, it was more than that, it was a legend of the largest capitals, with a string of shouting exclamation points at the end of it; for it meant that a wreck or a rock was buried there that could tear the life out of the strongest vessel that ever floated. It is the faintest and simplest expression the water ever makes, and the most hideous to a pilot’s eye. In truth, the passenger who could not read this book saw nothing but all manner of pretty pictures in it painted by the sun and shaded by the clouds, whereas to the trained eye these were not pictures at all, but the grimmest and most dead-earnest of reading-matter.

Now when I had mastered the language of this water and had come to know every trifling feature that bordered the great river as familiarly as I knew the letters of the alphabet, I had made a valuable acquisition. But I had lost something, too. I had lost something which could never be restored to me while I lived. All the grace, the beauty, the poetry had gone out of the majestic river! I still keep in mind a certain wonderful sunset which I witnessed when steamboating was new to me. A broad expanse of the river was turned to blood; in the middle distance the red hue brightened into gold, through which a solitary log came floating, black and conspicuous; in one place a long, slanting mark lay sparkling upon the water; in another the surface was broken by boiling, tumbling rings, that were as many-tinted as an opal; where the ruddy flush was faintest, was a smooth spot that was covered with graceful circles and radiating lines, ever so delicately traced; the shore on our left was densely wooded, and the somber shadow that fell from this forest was broken in one place by a long, ruffled trail that shone like silver; and high above the forest wall a clean-stemmed dead tree waved a single leafy bough that glowed like a flame in the unobstructed splendor that was flowing from the sun. There were graceful curves, reflected images, woody heights, soft distances; and over the whole scene, far and near, the dissolving lights drifted steadily, enriching it, every passing moment, with new marvels of coloring.

I stood like one bewitched. I drank it in, in a speechless rapture. The world was new to me, and I had never seen anything like this at home. But as I have said, a day came when I began to cease from noting the glories and the charms which the moon and the sun and the twilight wrought upon the river's face; another day came when I ceased altogether to note them. Then, if that sunset scene had been repeated, I should have looked upon it without rapture, and should have commented upon it, inwardly, after this fashion: This sun means that we are going to have wind to-morrow; that floating log means that the river is rising, small thanks to it; that slanting mark on the water refers to a bluff reef which is going to kill somebody's steamboat one of these nights, if it keeps on stretching out like that; those tumbling 'boils' show a dissolving bar and a changing channel there; the lines and circles in the slick water over yonder are a warning that that troublesome place is shoaling up dangerously; that silver streak in the shadow of the forest is the 'break' from a new snag, and he has located himself in the very best place he could have found to fish for steamboats; that tall dead tree, with a single living branch, is not going to last long, and then how is a body ever going to get through this blind place at night without the friendly old landmark.

No, the romance and the beauty were all gone from the river. All the value any feature of it had for me now was the amount of usefulness it could furnish toward compassing the safe piloting of a steamboat. Since those days, I have pitied doctors from my heart. What does the lovely flush in a beauty's cheek mean to a doctor but a 'break' that ripples above some deadly disease. Are not all her visible charms sown thick with what are to him the signs and symbols of hidden decay? Does he ever see her beauty at all, or doesn't he simply view her professionally, and comment upon her unwholesome condition all to himself? And doesn't he sometimes wonder whether he has gained most or lost most by learning his trade?"

—Mark Twain, *Life on the Mississippi* (New York: Harper & Row, 1883) [reprinted in James Boyd White, *The Legal Imagination: Studies in the Nature of Legal Thought and Expression* 10-13 (Boston: Little, Brown & Co., 1973)]

■ "[W]e tell stories about people who have something to lose—family, careers, ideals, opportunities, reputations, realistic hopes and dreams. When such lives go out of balance, the characters are placed at jeopardy. They stand to lose what they have in their struggle to achieve a rebalancing of existence. Their battle, risking hard-won values against the forces of antagonism, generates conflict. And when the story is thick with conflict, the characters need all the ammunition they can get."

—Robert McKee, *Story: Substance, Structure, Style, and the Principles of Screenwriting* 339 (New York: ReganBooks/Harper Collins, 1997)

■ "What charm, in the strong sense of that word, which intimates a quasi-magical or medicinal effect, does storytelling have? In general, narrative forms of representation, in fiction or nonfiction, are a steady source of comfort for both author and reader . . . though 'comfort' may not be an adequate descriptive term. Homer and Virgil are not afraid to have their warriors shed tears when hearing of past adventures and tribulations, tears that satisfy deeply.

Stories about illness and loss, however, should they portray persons reduced to suffering in a passive way, [can also] furnish moral examples of endurance. Or, as in Richard Selzer's eloquent vignettes of painful and diseased bodies, they show how ugliness can become, through the doctor's eye and the writer's touch, a strange source of beauty.

Yet a conversion experience is almost needed to value a redeeming change of this kind. It is hard to believe that such consoling depictions are not a mirage. Especially since the sufferer's pain is often heightened by a specific mental anguish, a conception of fault or trespass, as in the Prometheus legend, or Dante's *Inferno*, or the testing of Job.

Today, for the most part, we no longer assume that mortal ills reveal the (hidden) fault of individuals, or of the human as such. We also shy away from accepting Cicero's definition of the philosopher as one who studies death (not unlike the medical doctor in this), or whose entire life, like that of Socrates, is but a preparation of how to make a good end.

Heroism, nevertheless, is not always absent from scenes of extreme suffering An implicit dramatic conflict between acceptance and defiance is often sensed, not only in the suffering person but also in the vulnerable observer."

—Geoffrey Hartman, "Narrative and Beyond," 23 (2) *Literature & Med.* 334 (2004) [reprinted in Peter L. Rudrytsky & Rita Charon (eds.), *Psychoanalysis and Narrative Medicine* 277-286 (Albany: State University of New York Press, 2008)]

■ ■ ■

You seem to be more fond of the term "literary" than you are of "literature," especially when you talk about a "literary way of reading." What do you mean when you talk about a literary approach to reading?

■ "When we read a narrative, we read it in a particular way. We do not just take in the words and individual incidents. We typically find ourselves asking questions about what is going on; about why the characters and their motives are presented as they are; about the novel's point of view. . . .

When we read novels [and stories], we read them . . . to ask certain questions. The text allows us to ask certain questions. That we come to ask these questions appears to be at least part of the purpose of the novel.

. . . .

We read a narrative text as if it were written by an author who has produced the text in such a way as to prompt certain questions and provide the resources to begin to answer them."

—Mary Devereaux, “Moral Judgments and Words of Art: The Case of Narrative Literature,” 62 (1) *J. Aesthetics & Art Criticism* 3, 5-6 (2004)

And, by way of a footnote, Devereaux adds: “It is worth noting here that the novel also develops in such a way as to obscure or refuse answers to the questions it poses.”

■ ■ ■

You have suggested, on occasion, that it is possible to misread a story. And, at times, you emphasize our personal connection to the stories we read. These notions seem to pull in different directions. Is there a contradiction looming here?

■ “People cloud the issue if they begin to insist that ‘my interpretation is as good as yours.’ There is the crucial sense . . . in which that utterance is true, but all too often when I say it I really mean that I am insecure; I do not see what the work says, so I delude myself into thinking that one guess is as good as another, thereby saving a vestige of self-respect, however shabbily managed.”

—Barrett J. Mandel, “What’s at the Bottom of Literature,” 38 (3) *College Eng.* 250, 253 (1976)

■ ■ ■

There is the hint—if not the persistent implication—in *Lawyers and Literature* that there is something out of kilter in legal education. Do you see *Lawyers and Literature* as offering a critique of traditional legal education?

■ “My year in law school convinced me that legal education has a way of replacing everyday human values with what I can only call ‘legal’ values Legal training doesn’t create selfish, aggressive people—but it does provide the intellectual equipment with which recipients can justify and give force to beliefs and actions most people would wholeheartedly condemn.

I no longer doubt that such a transformation occurs among students at most law schools At Yale Law . . . the pressure to be somebody else was heavy and constant. . . . [S]tudents were supposed to leave the legal theater with a distinctly superior understanding of the world. I wasn’t alone in that feeling; it seemed impossible for anyone to go through a single day of law school without sensing that he or she didn’t measure

up—that the ability to think like a lawyer was demonstrably different, and better, than the ability to think as one once did, like an ordinary person.

. . . . [I]t was clear that only one worldview—hyperrational, adversarial, and positivistic—was acceptable in law school.”

—Chris Goodrich, *Anarchy and Elegance: Confessions of a Journalist at Yale Law School* 4 (Boston: Little, Brown & Co., 1991)

Scott Turow, in *One L*, a widely-read account of his first year at Harvard Law School, relates how his fellow students talked about being harmed by law school, how they were “forced to substitute dry reason for emotion” and “to cultivate opinions which were ‘rational’ but which had no roots in experience [and] the life they’d had before” law school. As a classmate told Turow: “They’re turning me into someone else They’re making me different.” Turow doesn’t try to fully account for this transformation, but he does consider it a serious matter. Law teachers do not know (or seem to care) who you are or what knowledge or skills or mindset you may bring with you to the classroom. Law teachers care less about what you have been, who you are now, and more about the lawyer they expect to train you to be. There is a strong sense that whatever qualities of mind you may have, these qualities must be set aside—or given up—in order to become a lawyer. For some students, the transformation that takes place is quite threatening. Colleagues tell Turow they feel they are “being cut away from themselves.” —Scott Turow, *One L* 92, 90 (New York: G.P. Putnam’s Sons, 1977).

For Scott Turow, the “cost” of legal education is the dissonance between the new legal world-view he is acquiring and his old “way of seeing things.” Confronted with an education that has destructive potential and, at the same time, is the basis for his future livelihood, Turow decides that he must learn the “legal habits of mind” and preserve a sense of self that he must wall-off from the new habits of mind he is being asked to acquire. Whatever Harvard Law School may purport to be teaching, Turow finds a need to resist the deeper transformative changes that legal education demands of him. The question for Turow, and his Harvard colleagues, is whether they can join the legal profession without taking on the *shadow* that seems to go along with being a lawyer. Turow doesn’t make clear what kind of resources, psychological or social, might be required to do what he has set out to do. I submit that one resource might be a course of reading like *Lawyers and Literature*.

Martha Kimes, writing thirty years after Scott Turow's *One L* appeared, confirms Turow's observations about law school training in cynicism: "We were being taught to become cynics. To become skeptical. To second-guess everything we were told. To peel back the layers of every statement, looking for a loophole or hidden trap. To analyze every word to death. To distrust people. To become the kind of people other people hate. Indeed, we were learning to think like lawyers." —Martha Kimes, *Ivy Briefs: True Tales of a Neurotic Law Student* 65 (New York: Atria Books, 2007).

■ "Fundamentally, our problem [a 'social malady' in legal education and in the legal profession] arises from our failure to take seriously and to ground ourselves securely on the humanistic tradition, of which literature is a chief expression and from which the profession should draw nourishment and direction."

—J. Allen Smith, "The Coming Renaissance in Law and Literature," 7 *Md. L. F.* 84 (1978)

■ "Literature seems to thrive upon empathetic emanations from the characters portrayed; lawyer's propensity is to reduce people to stock figures, jammed into the narrow confines of a legal classification system too often concerned only with those facts readily containable within pre-existing phrases, articulated by lawyers using a standard vocabulary."

—Avian Soifer, "Listening and the Voiceless," 4 *Miss. C.L. Rev.* 319, 320 (1984)

■ A footnote on legal scholarly writing: "It is very formal stuff, winding purposefully, deliberately, through abstraction upon abstraction, leaving the uninitiated reader gasping for air, or for anything resembling air. It is often writing that removes, or at least seems to remove, more of the world than it lets in, more people than it takes in. It takes the messy, disordered, chaotic, disturbing realities of people's lives and reduces them to fact patterns to be coolly sifted through for relevant details, the rest discarded. It's not life as most of us know it. It's not meant to be. But what is it meant to be?"

—Maureen McCafferty, "The Storyteller's Voice," 2 *Colum. J. Gender & L.* 154, 154-155 (1992)

■ ■ ■

You indicated in your introduction to *Lawyers and Literature* that a “turn to narrative” has taken place in legal scholarly circles, and in other academic disciplines. Could you comment on this development?

■ It would be difficult for anyone putting together a map of contemporary perspectives in our academic disciplines to miss the “turn to narrative.” One scholar describes the “turn” this way:

“Until relatively recently, formulating, or thinking about formulating, say, economic theory, jurisprudence, or medicine in terms of narrative was not an available option. The production and dissemination of knowledge in these domains . . . were governed by largely scientific or quasi-scientific modes of inquiry and discourse, by nonstoried forms of investigation and reportage. Narrative models were so far outside the disciplinary paradigms that they were literally inconceivable, at least as analytic tools. Story may have appeared in these contexts, but it would have been mobilized and thought of only as digression, example, or rhetorical ornament, something supplementary to the guiding armature of rational argument, and not worth commenting on. But, as we know, things have changed; the wheel has turned.”

—Martin Kreiswirth, “Merely Telling Stories? Narrative and Knowledge in the Human Sciences,” 21 (2) *Poetics Today* 293, 295 (2000)

■ “[T]here has recently been a virtual explosion of interest in narrative and in theorizing about narrative; and it has been detonated from a remarkable diversity of sites, both within and beyond the walls of academia. Along with progressively more sophisticated and wide-ranging studies of narrative texts—historiographic, literary, cinematic, psychoanalytic—we find a burgeoning development of disciplinary appropriations or meditations: narrative and psychology, narrative and economics, narrative and experimental science, narrative and law, narrative and education, narrative and philosophy, narrative and ethnography, and so on, as well as numerous, newly negotiated cross-disciplinary approaches.”

—Martin Kreiswirth, “Tell Me a Story: The Narrativist Turn in the Human Sciences,” in Martin Kreiswirth & Thomas Carmichael (eds.), *Constructive Criticism: The Human Sciences in the Age of Theory* 61-86, at 61 (Toronto: University of Toronto Press, 1995)

■ “There is something intrinsic in experience which demands narrative [N]arrative alone provides us with some fuller way to order and unify our actual lived experience with its tensions and surprises, its reversals and triumphs, its experience through memory of a past and, through anticipation and hope, of a future in the tensed unity of the ever-vanishing now of the present and its possibility illusory sense of sequence.”

—David Tracy, *The Analogical Imagination: Christian Theology and the Culture of Pluralism* 275 (New York: Crossroad, 1981)

■ “Today . . . some scholars working in the social sciences have become interested not only in the common ground shared by fictional and sociological writing but also in such matters as narrative structure, genre and symbolic interpretation, once considered literature’s domain

In part, the interest in literature and narrative reflects a disenchantment with the limitations imposed on social science by a method based on the natural sciences. Questions about whether the social sciences can be “hard science: are not new, but they are being asked in a new way. Two related questions are being posed. How should the social scientist write? And how should social science *read* other societies, cultures or historical periods?”

—Frederika Randall, “Why Scholars Become Storytellers,” *New York Times Book Review*, January 29, 1994, p. 1, cl. 1.

“The attraction of narrative is that it corresponds more closely to the manner in which the human mind makes sense of experience than does the conventional, abstracted rhetoric of law. The basic thrust of the cognitive process is to employ imagination to make meaning out of the embodied experience of the human organism in the world. In its prototypical sense as storytelling, narrative, too, proceeds from the ground up. In narrative, we take experience and configure it in a conventional and comprehensible form. This is what gives narrative its communicative power; it is what makes narrative a powerful tool of persuasion and, therefore, a potential transformative device for the disempowered.”

—Steven L. Winter, “The Cognitive Dimension of the *Agon* Between Legal Power and Narrative Meaning,” 97 *Mich. L. Rev.* 2225, 2228 (1989)

“[N]arrative, might well be considered a solution to a problem of general human concern, namely, the problem of how to translate knowing into telling. . . .

To raise the question of the nature of narrative is to invite reflection on the very nature of culture and, possibly, even on the nature of humanity itself. So natural is the impulse to narrate, so inevitable is the form of narrative for any report of the way things really happened, that narrativity could appear problematical only in a culture in which it was absent--absent or, as in some domains of contemporary Western intellectual and artistic culture, programmatically refused. As a panglobal fact of culture, narrative and narration are less problems than simply data. As the late (and already profoundly missed) Roland Barthes remarked, narrative “is simply there like life itself . . . international, transhistorical, transcultural.” Far from being a problem, then, narrative, might well be considered a solution to a problem of general human concern, namely, the problem of how to translate *knowing* into *telling*, the problem of fashioning human experience into a form assimilable to structures of meaning that are generally human rather than culture-specific. We may not be able fully to comprehend specific thought patterns of another culture, but we have relatively less difficulty *understanding* a story coming from another culture, however exotic that culture may appear to us.”

—Hayden White, “The Value of Narrativity in the Representation of Reality,” in W.J.T. Mitchell (ed.), *On Narrative* 1-23, at 1-2 (Chicago: University of Chicago, 1981)

■ ■ ■

Has this “turn to narrative” also taken place in medicine?

■ “During the decade of the 1980s, literature and medicine has become a legitimate, if modest, field of study. Its practitioners teach in and out of medical schools, present papers at national and regional conferences, publish articles in journals ranging from *Literature and Medicine* to *Annals of Internal Medicine* to *College English*, write books, and compile bibliographies and collections of teaching materials.”

—Charles Anderson, “Literature and Medicine: Why Should the Physician Read . . . or Write?” in Anne Hunsaker Hawkins & Marilyn Chandler McEntyre (eds.), *Teaching Literature and Medicine* 33-58, at 33 (New York: Modern Language Association, 2000)

- Anne Hunsaker Hawkins, co-author of *Teaching Literature and Medicine*, responds to Charles Anderson's question, "why should the physician read"?

"In their daily work physicians encounter people undergoing some of the most profound of human experiences—sickness and disability, death, birth—and the turbulent emotions that attend them. Literature that deals with fundamental aspects of human experience can help physicians negotiate those deep waters of human need, grief, and suffering; it can also help them voice their often unarticulated responses to their work. Literature can give them a vehicle, as it were, to explore all these things. A literature course offers the physician an acquaintance with another discipline that, like medicine, deals with character, relationships between characters, story, interpretation, and major life issues."

—Anne Hunsaker Hawkins, "Read Two Chapters and Call Me in the Morning": Teaching Literature to Physicians," in Anne Hunsaker Hawkins & Marilyn Chandler McEntyre (eds.), *Teaching Literature and Medicine* 353-363 (New York: Modern Language Association, 2000)

■ ■ ■

We are curious whether you created this Lawyers and Literature course for yourself or for students?

- "[L]ike most writers, I initially address an audience of one—myself. However, like most writers I live in the hope that my own preoccupations will strike answering chords in others."

—Wolfgang Iser, "Do I Write for an Audience?" 115 (3) *PMLA* 310, 314 (2000)

■ ■ ■

Any final thoughts?

- Yes, a jumbled, tangle of them!
- "[A literary education invites you to] read over the shoulders of your teachers. You are invited, if need be, to supplant them: For much of what teachers can offer, you can provide for yourself. It is simply a matter of knowing where to start. It's a matter of knowing what you might ask for and get from a literary education."

—Mark Edmundson, *Why Read?* 3 (New York: Bloomsbury, 2004)

■ Walker Percy, in *The Second Coming*, presents us with a lawyer named Will Barrett, of whom he observes: “As for Will Barrett, as for people nowadays—they were never a hundred percent themselves. They occupied a place uneasily and more or less successfully. More likely they were forty-seven percent themselves All too often these days they were two percent themselves, specters who hardly occupied a place at all.”

—Walker Percy, *The Second Coming* 271 (New York: Farrar, Straus & Giroux, 1980).

■ “A man made a long pilgrimage to a holy city. As he neared the city he saw, looming above the lower irregular shapes of other structures, the walls and roof of the great temple that was the object of his journey. Yet again and again, as he searched through dark narrow alleys and small marketplaces, he failed to find its entrance. As best he could, in a language not his own, he made inquiries of the townspeople; but all of them, taught in a newer religion, seemed neither to know nor to care. After much frustration, he was directed at last to a priest of the old faith, who told him that the great temple had in fact long ceased to possess a formal entrance, but rather could be entered in many ways, through any of a large number of the narrow houses and tiny shops which surrounded it. Yet in the end this revelation gave the pilgrim no help at all. Each house or shop he entered seemed so dark and squalid, its furniture so alien, its occupants so forbidding, that it seemed manifestly incapable of opening into the grandeur and freedom of the temple vault. The man left the city in bitterness and sought an easier faith.”

—Robert Grudin, *Time and the Art of Living* 209 (New York: Harper & Row, 1982)

■ “A story is told among Orientalists of the pious rabbi of Cracow who traveled far to find a treasure that in a dream lay buried under a distant bridge. Finding the bridge, he was told by the captain of the guard that in his dream the treasure was to be found, not under the bridge, but in Cracow, in the house of the rabbi. Returning home, the rabbi discovered the treasure in a neglected corner of his house. The treasure had been very near all the time. But it could be discovered only in a journey to a distant region and in an encounter with a stranger.”

—Richard Quinney, *Journey to a Far Place: Autobiographical Reflections* 99 (Philadelphia: Temple University Press, 1991)

■ “Tell me, Muse, of the man of many ways, who was driven far journeys, after he had sacked Troy’s sacred citadel. Many were they whose cities he saw, whose minds he learned of, many the pains he suffered in his spirit on the wide sea, struggling for his own life and the homecoming of his companions. Even so he could not save his companions, hard though he strove to; they were destroyed by their own wild recklessness, fools, who devoured the oxen of Helios, the Sun god, and he took away the day of their homecoming. From some point here, goddess, daughter of Zeus, speak, and begin our story.”

—*The Odyssey of Homer* 27 (New York: Harper & Row, 1967)
(Richard Lattimore trans.)

■ “First Nations have an intellectual tradition that teaches about ideas and principles that are partial and incomplete. The elders teach these traditions through a character known as the trickster. He has various persona in different cultures. The Anishinabe (Ojibway) of the Great Lakes call the trickster Nanabush; the First Nations people of the coastal North-west know him as Raven; he is known as Glooscap by the Mi kmaq of the Maritimes; and as Coyote, Crow, Wisakedjak, Badger, or Old Man among other First Nations people in North America. The trickster offers insights through encounters which are simultaneously altruistic and self-interested. In his adventures the trickster roams from place to place and fulfills his goals by using ostensibly contradictory behaviors such as charm and cunning, honesty and deception, kindness and mean tricks. The trickster also displays transformative power as he takes on new persona in the manipulation of these behaviors and in the achievement of his objectives. Lessons are learned as the trickster engages in actions which in some particulars are representative of the listener’s behavior, and on other points are uncharacteristic of their comportment. The trickster encourages an awakening of understanding because listeners are compelled to interpret and reconcile the notion that their ideas may be partial. As such, the trickster assists people in conceiving of the limited viewpoint they possess. The trickster is able to kindle these understandings because his actions take place in a perplexing realm that partially escapes the structures of society and the order of cultural things.

. . . .

The trickster's incongruous entry into legal discourse presents law from a perspective which is outside of the conventional structure of legal argument and exposes its hidden cultural (dis)order."

—John Borrows, "Frozen Rights in Canada: Constitutional Interpretation and the Trickster," *22 Am. Indian L. Rev.* 37, 39-40 (1997)

■ "It was some years ago that my wife and I and our friends first began to catch on to these [back] roads. We took them once in a while for variety or for a shortcut to another main highway, and each time the scenery was grand and we left the road with a feeling of relaxation and enjoyment. We did this time after time before realizing what should have been obvious: these roads are truly different from the main ones. The whole pace of life and personality of the people who live along them are different. They're not going anywhere. They're not too busy to be courteous. The hereness and nowness of things is something they know all about. . . . The discovery was a real find."

—Robert Pirsig, *Zen and the Art of Motorcycle Maintenance: An Inquiry Into Values* 13 (New York: William Morrow & Co, 1974)

■ Closer to home: I go downtown to see a parade with my daughter, who was four years old at the time. When the parade starts she turns to me and says: "Lift me up bapa, so I can see."