LAWYERS AS STORYTELLERS & STORYTELLERS AS LAWYERS: An Interdisciplinary Symposium Exploring the Use of Storytelling in the Practice of Law

INTRODUCTION

*WILL YOU PLEASE BE QUIET, PLEASE?** LAWYERS LISTENING TO THE CALL OF STORIES

Philip N. Meyer**

There is a saying: "You never know what you find when you scratch the surface of an idea." The articles in this symposium scratch the surface of a simple idea: our legal culture is a storytelling culture. Practitioners and appellate judges are storytellers, and legal academics are increasingly sensitive to storytelling forms and aesthetics. Some scholars are becoming storytellers themselves.

Professor Richard K. Sherwin attempted recently to describe our legal cultural moment. He borrowed the title of Raymond Carver's book of short stories, *What We Talk About When We Talk About Love*,[1] to try to comprehend *What We Talk About When We Talk About Law*.[2] Many of us, both legal academics and practitioners, talk about stories when we talk about law. Likewise, when we discuss lawyering we are describing storytelling practice.

It has long been recognized that storytelling is at the heart of the trial. After a painstaking study of criminal trials, two prominent clinicians announced, "Our search for the underlying basis of justice and judgment in American criminal trials has produced an interesting conclusion: the criminal trial is organized

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* This title comes from Raymond Carver's book, RAYMOND CARVER, WILL YOU PLEASE BE QUIET, PLEASE? (1978).

** Associate Professor, Vermont Law School. My thanks to Professors Neal R. Feigenson and Richard K. Sherwin, colleagues and friends, for their invaluable contributions to these introductory remarks which were originally presented at the conference on November 5, 1993, and to Vincent Panella, Writing Specialist at Vermont Law School, for his editorial help.

1. RAYMOND CARVER, WHAT WE TALK ABOUT WHEN WE TALK ABOUT LOVE (1981).

2. Richard K. Sherwin, *Lawyering Theory: An Overview* What We Talk About When We Talk About Law, 37 N.Y.L. SCH. L. REV. 9 (1992).

around storytelling."[3] This was not a revelation. Practitioners, particularly trial attorneys such as the superb Jeremiah Donovan,[4] are sometimes more adept and more entertaining as popular storytellers than their counterparts in film and television. Moreover, creative practitioners are often more sophisticated about legal storytelling than many legal scholars, who are only beginning to understand and describe the nature of practice as storytelling.

Meanwhile, legal scholars have increasingly become narrative and interdisciplinary scholars. We commonly employ terms like plot, theme, story line, and story structure in our scholarship. We read judicial opinions as stories. Our critical theory is derived, often unconsciously perhaps, from other post-positivist interpretive theories.[5] Stanley Fish, the leading light of the Duke English Department with a concurrent appointment at the law school, observed that it is "now difficult to tell some numbers of the *Stanford Law Review* or *The Yale Law Journal* from [those in interdisciplinary journals such as] *Diacritics* and *Critical Inquiry*."[6] This was not surprising or even particularly controversial. In fact, at last year's American Association of Law Schools Annual Meeting, four of the five featured speakers were not traditional legal academics. They were: a black novelist, a legal historian with a feminist perspective, a critical race theorist, and a post-positivist narrative theoretician.[7] Many legal scholars now look

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3. W. LANCE BENNETT & MARTHA S. FELDMAN, RECONSTRUCTING REALITY IN THE COURTROOM: JUSTICE AND JUDGMENT IN AMERICAN CULTURE 3 (1981).

4. *See* Jeremiah Donovan, *Some Off-the-Cuff Remarks About Lawyers as Storytellers*, 18 VT. L. REV. 751 (1994).

5. For example, deconstructionist theory is a principle post-positivist interpretive theory.

6. STANLEY FISH, DOING WHAT COMES NATURALLY: CHANGE, RHETORIC, AND THE PRACTICE OF THEORY IN LITERARY AND LEGAL STUDIES 307 (1989). Stanley Fish goes farther than this tepid assertion:

> Not only is it now difficult to tell some numbers of the *Stanford Law Review* or *The Yale Law Journal* from *Diacritics* and *Critical Inquiry*, but the issues debated in their pages have spilled out into tenure battles, the restructuring of curricula and even of whole law schools, and produced a general sense in the legal profession of a new crisis in which its authority—internal and external—is being put into question as never before.

Id. *Diacritics* and *Critical Inquiry* differ from traditional law reviews in that these journals look at theories of interpretation, rather than looking at the law.

7. Respectively, Toni Morrison, who spoke at the plenary luncheon, and Patricia Limerick, Derrick Bell, and Stanley Fish, who spoke at the afternoon plenary session that followed the luncheon. Annual Meeting, American Association of Law Schools (Jan. 5-9, 1993).

readily to storytellers outside of the legal culture and to the power of stories of those who have never been a part of the legal or academic establishment as sources of inspiration and understanding in our scholarship.

There is more to the law-as-story movement than merely describing, "what *we* talk about when we talk about law." The title of Raymond Carver's first book of stories, *Will You Please Be Quiet, Please?*,[8] underscores the importance of storytelling in our work as scholars and practitioners. The title implies that when we are still, when we learn to silence our premature analytic judgments and listen, really *listen*, to the power of stories, we will learn something quite profound about ourselves and the world in which we live and practice.

For Carver, storytelling practice was rooted in stillness and in deep empathy, in learning how to listen. Carver believed in the power of stories; he believed that we inhabit a shared terrain. He was not merely writing fictions; he was finding clues. After retrieving these clues from a powerful image or from a seemingly broken fragment of conversation that stuck in his imagination, he began to unravel the deep mysteries in stories that were analytically irreducible. Strangely perhaps, that is what many of us are now trying to do when we use stories and storytelling, although we are lawyers rather than fiction writers.

There are now discrete schools of interpretive practice in the law-as-story movement.[9] First, there are the practitioners of hermeneutics.[10] Practitioners of hermeneutics believe that because the interpretation of texts is central to both law and literature, the study of fiction may yield rules of interpretation that may profitably be used in writing and understanding constitutions, statutes, and judicial opinions.[11] Many leading legal academics have discussed and debated the extent to which close readings of nonlegal texts and the tools of literary criticism may inform legal hermeneutics. The speakers at the symposium were *not* primarily practitioners of legal hermeneutics. Likewise,

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8. RAYMOND CARVER, WILL YOU PLEASE BE QUIET, PLEASE? (1978).

9. This categorization varies and draws upon a previous attempt to describe the law-as-story movement, then called the "law and literature movement," in Philip N. Meyer, *Convicts, Criminals, Prisoners, and Outlaws: A Course in Popular Storytelling*, 42 J. LEGAL EDUC. 129, 130-32 (1992).

10. "The art or science of interpretation." OXFORD ENGLISH DICTIONARY 169 (2d ed. 1989).

11. Meyer, *supra* note 9, at 131.

articles in this symposium do not describe this mode of practice. We no longer primarily study law *and* literature[12] or even law *as* literature exclusively.[13] These speakers have found great richness in another type of scholarship: the study and practice of *law-as-story*.

New schools of interpretive practice in the law-as-story movement have moved away from the constraints of legal hermeneutics. Followers seek deeper, more soulful interpretive practice to better understand and preserve the integrity of stories. For them it is a question of unlocking the power of stories, or discovering interdisciplinary mechanisms for understanding the world of law *as* story. Simultaneously, these new practices and scholarships attempt better to preserve the integrity of stories and create a framework for a newly emerging lawyering theory. Along the way, many of us have gone beyond merely interpreting stories and have turned into storytellers ourselves.

Secondly, there are discrete thrusts of the emerging law-as-story movement with different modes of practice. The first mode looks at stories as an exercise in the practice of homiletics.[14] We listen to stories to learn how to act; we listen to stories because listening "helps us understand others. [It] helps us sympathize with their pain, it helps us share their sorrow, and it helps us celebrate their joy. It makes us more moral. It makes us better people."[15]

A related mode of practice is constitutive rhetoric.[16] The premise is that we are what we say—or rather, we are *who we say*. That is, we speak through many voices and have innumerable stories to tell. Our communities are multivocal. The law, however, speaks univocally, and systematically excludes the voices and stories of those who ought to be included in the community of authoritative speech. The study of stories provides models for

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12. An example is depictions of law in fiction. The tradition of depicting legal stories in fiction is longstanding. For an excellent survey of the literature in this genre, see Elizabeth Villiers Gemmette, *Law and Literature: An Unnecessarily Suspect Class in the Liberal Arts Component of the Law School Curriculum*, 23 VAL. U. L. REV. 267 app. II at 322-40 (1989) (cumulative bibliography of works taught in various law school law and literature courses).

13. For instance, adapting tools of literary criticism to formulate critical theories that inform readings of legal texts.

14. *See* Meyer, *supra* note 9, at 130-31.

15. Robin West, *Economic Man and Literary Woman: One Contrast*, 39 MERCER L. REV. 867, 877-78 (1988).

16. Meyer, *supra* note 9, at 131.

a legal discourse that can achieve a multivocal community.[17]

This perspective of systematic exclusion defines one theme embraced in this symposium. The symposium is about scholars and practitioners learning to listen to and embody outsiders' stories in scholarship and practice. Four nationally prominent legal scholars with diverse backgrounds and interests made presentations at a conference held at Vermont Law School on November 5-6, 1993. All utilize stories and outsiders' perspectives in their scholarship.

Lastly, there is another mode of practice that is new and exciting. It marries clinical practice to the understanding of law-*as*-story and is referred to under the rubric of "Lawyering Theory."[18] Lawyering theorists are producing a nuanced and insightful legal cultural ethnography. Characteristically, lawyering theorists use an interdisciplinary approach to legal scholarship. The stories that these scholars interpret are the living embodiments of the law. They examine stories from a multitude of perspectives: cultural anthropology, cognitive theory, narrative theory, sociology, film theory, theater, semeiotics, and linguistics. The possibilities for creative scholarship under the rubric of Lawyering Theory seem unlimited. The commonality seems to be that the practitioners of this newly evolving practice view the law as the embodied stories of practice, and, concurrently, the law as embodying the power of stories in legal narratives.

There is much to be learned from this interdisciplinary and intradisciplinary approach to lawyers' work. Superb practitioners who are often creative artists, and storytellers and creative artists who are often superb legal ethnographers, have much to teach us. The presenters in the conference looked at storytelling and the trial process from the perspectives of a practitioner, a Connecticut Supreme Court Justice, a law professor, and through the vision of a creative cinematic artist. It gives me great pleasure to introduce the presenters. I cannot, in the brief space allotted to these introductions, do justice to them. Each deserves a richly textured biography of achievements, academic credentials, cases won, articles and books published. Since this is a storytelling symposium, I will widen the slivers of introduction with anecdotes.

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17. West, *supra* note 15, at 877-78.

18. Previously, I misconceived or too narrowly conceived this approach under the rubric of "legal ethnography." *See* Meyer, *supra* note 9, at 132.

Professor James R. Elkins is a hero to many scholars. He has published numerous law review articles about the law-as-story and legal storytelling.[19] His prolific and eclectic scholarship was, perhaps, the first to employ regularly first-person voices, narratives, and the analyses of literary exemplars. A recent survey of scholars who study law as narrative singled him out as "the legal scholar who . . . best exemplifies the authentically heretical humanist . . . . in the development of a narrative jurisprudence."[20] Professor Elkins has incorporated narratives into texts on legal ethics and interviewing and counseling. He is a superb editor, teacher, and mentor, adept at helping junior colleagues and law students to discover their voices and visions. Professor Elkins returned from Thailand to participate in the conference, although he stopped in West Virginia on his way to Vermont for a one-on-one basketball game with Stanley Fish.

In his article, *Pathologizing Professional Life: Psycho-Literary Case Stories*, Professor Elkins explores the "shadow" aspects of legal practice using case studies provided by lawyers' stories.[21] Professor Elkins looks beneath professional surfaces at darker pathologies of professional life. Like the best of this new interdisciplinary scholarship, he draws deeply and knowingly from sources traditionally beyond the domain of legal scholarship. For example, Professor Elkins looks to the depth psychology of Carl Jung and his followers.[22] Professor Elkins does not borrow terminology or misappropriate theory; rather, he is influenced by a respectful and heartfelt understanding of Jung's depiction of the process of individuation, and Jung's perceptions about how the shadow of the self may reveal far more than merely the problems and pathologies of individuals. In Professor Elkins's analysis, perhaps, pathology reveals aspects of shared professional lawyer-life and collective professional identities. Professor Elkins has also internalized psychologist James Hillman's recent innovative

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19. *See, e.g.*, James R. Elkins, *The Stories We Tell Ourselves in Law*, 40 J. LEGAL EDUC. 47 (1990); James R. Elkins, *The Quest for Meaning: Narrative Accounts of Legal Education*, 38 J. LEGAL EDUC. 577 (1988); James R. Elkins, *Rites de Passage: Law Students "Telling Their Lives"*, 35 J. LEGAL EDUC. 27 (1985).

20. David O. Friedrichs, *Narrative Jurisprudence and Other Heresies: Legal Education at the Margin*, 40 J. LEGAL EDUC. 3, 8 n.21 (1990).

21. James R. Elkins, *Pathologizing Professional Life: Psycho-Literary Case Stories*, 18 VT. L. REV. 581 (1994).

22. *Id.* at 604-05, 625 n.207, 635 n.265, 642 n.286. For an excellent introductory essay on the works of Carl Jung, see ANTHONY STORR, C.G. JUNG (Frank Kermode ed., 1973).

observation of how the modern soul is often forged in the shadow world of pathology.[23]

Simultaneously, Professor Elkins is a gifted reader of text, blessed with the ability to "be quiet" and listen. He listens to both the confessional narratives of lawyers depicted in fiction[24] and professionals in autobiographies[25] with compassion, sensitivity, and clarity. Professor Elkins avoids misreading these complex stories as delivering simplistic moral messages just as he avoids misappropriating complex psychological theory. Consequently, his article sounds a cautionary note: there are no simple lessons or easy resolves in this re-visioning of the pathology of lawyer-life through readings of these psycho-literary case stories.

Professor David R. Papke is a nationally recognized narrative theorist and interdisciplinary scholar who has written extensively on law-as-story. He incorporates two discrete academic cultures into his scholarship, publishing such leading texts as *Framing the Criminal*[26] and *Narrative and the Legal Discourse*.[27] He has also published numerous law review articles on storytelling and the law.[28] Professor Papke serves as the Editor-in-Chief of *The Legal Studies Forum*, a leading interdisciplinary journal. His scholarship often presents eloquent analyses of law and society viewed from the perspective of the outlaw, criminal, and outsider. We have heard from several of his students that Professor Papke is a superb classroom teacher, and students followed him to Vermont from Indiana to attend the conference.

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23. Elkins, *supra* note 21, at 618 n.180, 635 n.265; *see* JAMES HILLMAN, A BLUE FIRE (1989).

24. Examples of such fiction include Ivan Ilych in LEO TOLSTOY, *The Death of Ivan Ilych, in* THE DEATH OF IVAN ILYCH AND OTHER STORIES (1960), and Jean-Baptiste Clamence in ALBERT CAMUS, THE FALL (1956).

25. These professionals include Alice Koller and Yale Law Professor Charles Reich. *See* ALICE KOLLER, AN UNKNOWN WOMAN: A JOURNEY TO SELF-DISCOVERY (1982); CHARLES REICH, THE SOURCERER OF BOLINAS REEF (1976).

26. DAVID R. PAPKE, FRAMING THE CRIMINAL: CRIME, CULTURAL WORK AND THE LOSS OF CRITICAL PERSPECTIVE, 1830-1900 (1987).

27. DAVID R. PAPKE, NARRATIVE AND THE LEGAL DISCOURSE: A READER IN STORYTELLING AND THE LAW (1991) [hereinafter READER].

28. *See, e.g.*, David R. Papke, *Discharge as Denouement: Appreciating the Storytelling of Appellate Opinions*, 40 J. LEGAL EDUC. 145 (1990); READER, *supra* note 27; David R. Papke, *Problems with an Uninvited Guest: Richard A. Posner and the Law and Literature Movement*, 69 B.U. L. REV. 1067 (1989); David R. Papke, *Neo-Marxist, Nietzscheans, and New Critics: The Voices of the Contemporary Law and Literature Discourse*, 1985 AM. B. FOUND. RES. J. 883 (1985).

In *The Black Panther Party's Narratives of Resistance*, Professor Papke recounts how the leaders of the Black Panther Party used the power of their stories to effectively challenge the power structure oppressing and brutalizing African-Americans.[29] Professor Papke explains how the autobiographies of the Panther leadership of Huey Newton, Bobby Seale, and Eldridge Cleaver, were at the core of the Panthers' liberationist ideology. His analysis also suggests how these autobiographies were artfully reconfigured and married to political philosophy. Stories of injustice and repression told by these men had a deep resonance within the African-American community; they were reconfigured into the visual symbols of a powerful and appealing mythology. Professor Papke observes that, alongside the Panthers' narrative sophistication, there was an underlying legalism and structure within the Panther party, and a great critical sensitivity to the law. Unlike the stories of participants in the mainstream civil rights movement, the Panthers' stories did not provide faith in the transformative power of the systemic legal processes. The Panthers' stories suggested that the power of revolutionary transformation would be dissipated and lost in the legal machinery. Consequently, the Panthers developed a "cynical legal hypersensitivity" and studied law "to protect themselves and thumb their noses at the system."[30] Professor Papke's analysis is fascinating; it suggests that heretical political outsiders, long before current legal scholars, relied on narratives as counterpoint and developed sophisticated and instrumental critical legal theory.

Professor Richard K. Sherwin is a legal philosopher who incorporates film, narrative theory, and rhetorical theory into his innovative teaching and creative interdisciplinary scholarship.[31] Professor Sherwin organized the notable Lawyering Theory Symposium[32] at New York Law School, and participated with

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29. David R. Papke, *The Black Panther Party's Narratives of Resistance*, 18 VT. L. REV. 645 (1994).

30. *Id.* at 670-71.

31. *See, e.g.*, Richard K. Sherwin, *Rhetorical Pluralism and the Discourse Ideal: Countering Division of Employment v. Smith, A Parable of Pagans, Politics, and Majoritarian Rule*, 85 NW. U. L. REV. 388 (1991); Richard K. Sherwin, *Law, Violence, and Illiberal Belief*, 78 GEO. L. J. 1785 (1990); Richard K. Sherwin, *A Matter of Voice and Plot: Belief and Suspicion in Legal Storytelling*, 87 MICH. L. REV. 543 (1988); Richard K. Sherwin, *Dialects and Dominance: A Study of Rhetorical Fields in the Law of Confessions*, 136 U. PA. L. REV. 729 (1988).

32. Symposium, *Lawyering Theory Symposium: Thinking Through the Legal Culture*, 37 N.Y.L. SCH. L. REV. 9 (1992).

Anthony Amsterdam, Jerome Bruner, and Peggy Davis in convening the Lawyering Theory Colloquium at New York University School of Law.[33]

Professor Sherwin's extraordinary interdisciplinary essay, *The Narrative Construction of Legal Reality*, posits that we have moved into a new era in law-as-story scholarship and in legal practice.[34] His essay develops in three movements. First, Professor Sherwin documents how the shift from positivism to interpretivism and constructivism long affecting other academic disciplines and artistic forms, has become imbedded in law-as-story scholarship and legal practice. "[W]hat we believe . . . is inextricably tied to the way in which our belief is called into play. . . . [H]uman perception and cognition are never without some interpretive framework within which reality and meaning come into view."[35] Second, Professor Sherwin observes that legal scholarship and practice have simultaneously been rocked in unanticipated ways by post-modern storytelling. This post-modern trend is evident in mainstream popular culture and frequently commented upon in critical scholarship. Some legal scholars have evidently fallen into the disappearing black-hole of "hard-coreless postmodernism" where form forever subsumes content and the possibility of meaning, until there is no longer a "there out there." There is, however, a second form of "soft-core postmodernism" that has much to reveal to legal practitioners and legal scholars about how interpretivism has influenced the legal world. Third, Professor Sherwin redescribes the case of a possible homicide, and critically reviews the briefs in *Miranda v. Arizona*,[36] demonstrating the insights that the soft-core post-modernism may provide to the legal scholar and practitioner.

I am Philip N. Meyer and I am an Associate Professor of Law at Vermont Law School and Director of the Legal Writing program. I have published law review articles on law and

33. "In the Lawyering Theory Colloquium, students and faculty collaborate with renowned scholars from other disciplines in analyzing lawyering theory and practice." *Faculty of the Lawyering Theory Colloquium*, N.Y.L. SCH. MAG., Autumn 1993, at 66, 66.

34. Richard K. Sherwin, *The Narrative Construction of Legal Reality*, 18 VT. L. REV. 681 (1994).

35. *Id.* at 709.

36. Miranda v. Arizona, 384 U.S. 436 (1966).

storytelling, law and film, and law and popular culture.[37] Additionally, I have published fiction[38] and was awarded The Mary Roberts Rinehart Foundation Grant in fiction.[39]

When trial practitioners speak to juries and judges they are storytellers. My article *Desperate for Love: Cinematic Influences upon a Defendant's Closing Argument to a Jury* rests upon two observations.[40] First, trial practitioners, like storytellers, are influenced by the work of artists outside their genre, especially those stories made by popular filmmakers. Popular cinema often directly influences trial attorneys' selection of story structure, definition of story theme, and creation of recognizable stock characters, including the identity of the storyteller/attorney. These influences and choices are revealed in closing arguments.

Second, like all art forms and storytelling forms, there is a craft to film writing and film making. Principles of cinematic construction are explained clearly in basic screenwriting texts, that provide vocabulary and concepts helpful to understanding the standard conventions and techniques apparent in the construction of popular film. *Desperate for Love: Cinematic Influences upon a Defendant's Closing Argument to a Jury* applies many of these observations and cinematic theory in an aesthetic critique of Jeremiah Donovan's closing argument on behalf of a defendant in a criminal case.

Jeremiah Donovan is a practicing attorney from Connecticut and the former Chief Trial Attorney in the United States Attorney's Office in Connecticut. Currently, Donovan teaches Trial Practice at Yale Law School. Donovan is a superb trial and appellate attorney whose work has received national recognition. A professional observer in the media recently described Donovan as a lawyer who has "blend[ed] . . . Homer, the epic storyteller, and Atticus Finch, the small-town lawyer . . . [h]is tales are

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37. *See, e.g.*, Philip N. Meyer, *"Fingers Pointing at the Moon": New Perspectives on Teaching Legal Writing and Analysis*, 25 CONN. L. REV. 777 (1993); Philip N. Meyer, *Visual Literacy and the Legal Culture: Reading Film as Text in the Law School Setting*, 17 LEGAL STUD. F. 73 (1993); Meyer, *supra* note 9, at 129; Philip N. Meyer, *Law Students Go to the Movies*, 24 CONN. L. REV. 893 (1992).

38. *See, e.g.*, Philip Meyer, *Gems and Oils from Europe, Money in the Market*, 1 NEW WRITERS 53 (1974).

39. Philip N. Meyer received the Mary Roberts Rinehart Foundation Grant in fiction in 1977.

40. *See* Philip N. Meyer, *"Desperate for Love": Cinematic Influences upon a Defendant's Closing Argument to a Jury*, 18 VT. L. REV. 721, 740-49 (1994).

engrossing; his cadence, enticing; his technique, irresistible."[41]

Donovan becomes so immersed in his clients' stories that, at times, he seems to embody these people and their experiences. Like a finely trained actor or performing artist, he speaks through their voices. His closing arguments are remarkable performances and several have become legendary. Another well-known trial attorney advised me that Donovan should give the last presentation at the symposium because no one should speak after him. You will soon understand why.[42]

Donovan gave a presentation on the use of storytelling in closing argument; specifically he responded to, and commented upon, my thoughts about his closing argument on behalf of Louis Failla.[43] The transcription of Donovan's remarks are reprinted in this issue.[44] This transcript is rich with the deeply thoughtful perceptions of an artist describing lovingly the aesthetics of his form. Using the closing argument on behalf of Louis Failla as an example, Donovan affirms that the masterful trial practitioner is indeed a storyteller, embodying client stories in imagistic narratives. He is, however, acutely aware of the evidence at trial and the framework of the law, as well as the needs of his client and the expectations of his audience. Beneath Donovan's humor, creativity, and sensitivity, is a deeply self-reflective awareness and analytical intelligence.

Finally there were several presenters who contributed to the conference but did not submit articles to this symposium issue. These presenters were Professor Robin D. Barnes,[45] Justice

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41. Alix Biel, *To Wit,* HARTFORD COURANT, May 16, 1993, (Magazine), at 14, 16-17.

42. *See* Donovan, *supra* note 4.

43. *See* Meyer, *supra* note 40.

44. *See* Donovan, *supra* note 4.

45. Professor Robin D. Barnes is an Associate Professor at the University of Connecticut School of Law where she teaches Constitutional Law, First Amendment Jurisprudence, Ethics, and Estates. She is a prominent legal storyteller whose essays have been published in *Harvard Law Review* and *Yale Law Journal. See, e.g.,* Robin D. Barnes, *Politics and Passion: Theoretically a Dangerous Liason,* 101 YALE L.J. 1631 (1992) (book review); Robin D. Barnes, *Race Consciousness: The Thematic Content of Racial Distinctiveness in Critical Race Scholarship,* 103 HARV. L. REV. 1864 (1990).

She often employs first-person stories in legal scholarship and writes with passion and heartfelt emotion. As an example, several years ago I attended a dedication to honor a deceased colleague, Professor Denise Carty-Bennia, at City University of New York Law School. Professor Barnes wrote a law review article as a tribute to Professor Carty-Bennia, that was distributed to the faculty. *See* Robin D. Barnes, *Black Women Law Professors and Critical Self-Consciousness: A Tribute to Professor Denise S. Carty-Bennia,* 6 BERKELEY WOMEN'S L.J. 57 (1990-1991). Before the dedication, I met another professor in the

Joette Katz,[46] and Professor Peter R. Teachout.[47]

In closing, this symposium provides a collage of approaches to the emerging law-as-story scholarship and practice. Initially, there may seem to be no common vision. We are each taking

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hallway. She seemed emotionally distraught, her face ashen. "What's wrong?" I asked. "Did you know Denise?" she asked. "No," I said. "If you knew Denise. . ., " she stopped herself, "the Barnes article . . . I read it . . . and I felt Denise's presence," she said. She spoke as if she were about to cry. Needless to say, traditional law review scholarship seldom packs the emotional wallop necessary to bring a law professor to the edge of tears. Professor Barnes's scholarship contains such an emotional wallop. At this conference Professor Barnes presented a tribute to another deceased colleague, Professor Dwight Green, who was a Professor of Law at Hofstra Law School, as well as a prominent critical race theorist. Professor Barnes's presentation suggested that storytelling may be a dangerous profession: those who tell stories with courage and conviction, attempting to change the world, may be perceived as threatening, and their voices extinguished.

46. Associate Justice Joette Katz is the youngest person and second woman ever appointed to the Connecticut Supreme Court. Previously, she served as Chief Appellate Defender in Connecticut and for four years as a trial judge. She has written a treatise on Connecticut Criminal Appellate Practice and Procedure, and was awarded a Bar Association citation recognizing the outstanding quality of her appellate opinions. It seems like only yesterday that Justice Katz was a young public defender trying her first case. It was a rape case in which the defendant claimed that the alleged victim participated in consensual sex. Ironically, Justice Katz had been a principal drafter of the Connecticut rape shield statute that prevented her from entering the victim's prior sexual conduct into evidence.

The next time I saw Justice Katz, she had been appointed a trial judge and was covering her first sentencing calendar on the criminal side in Stamford Superior Court. The attorneys tested her strength and will. Justice Katz showed herself to be strong, fair-minded, and even-handed in dispensing justice. She now presents stories of battered and sexually abused women explaining why the law wrongly prefers the first story told by victims of sexual abuse over more reflective stories subsequently told.

47. Professor Peter R. Teachout of Vermont Law School was the conference moderator. He is a prominent legal historian, constitutional scholar, and narrative theorist. Additionally, he is a deeply thoughtful reader of legal and literary texts and has written eloquent essays on the work of Lon L. Fuller, James Boyd White, Richard Posner, and Harold J. Berman. *See* Peter R. Teachout, *"Complete Achievement": Integrity of Vision and Performance in Berman's Jurisprudence*, 42 EMORY L.J. 497 (1993); Peter R. Teachout, *Lapse of Judgment*, 77 CAL. L. REV. 1259 (1989) (review essay); Peter R. Teachout, *The Soul of the Fugue: An Essay on Reading Fuller*, 70 MINN. L. REV. 1073 (1986); Peter R. Teachout, *Worlds Beyond Theory: Toward the Expression of an Integrative Ethic for Self and Culture*, 83 MICH. L. REV. 849 (1985). In one of Professor Teachout's creative essays, schools of contemporary jurisprudence are magically transformed into pavilions at the turn-of-the-century Chicago Exposition. *See* Peter R. Teachout, *Chicago Exposition: The New American Jurisprudential Writing as a Cultural Literature*, 39 MERCER L. REV. 767 (1988).

When I travel and attend meetings on law-as-story, I am often asked about the reclusive Teachout, a Vermonter who prefers to stay in Vermont. As storytellers sometimes do, I lie; I invent identities and physical descriptions for my imagined version of Teachout. Recently, I described Teachout as a mountain man with a full white beard who hibernates in a log cabin during the winter, and occasionally comes down to teach law and culture driving a dog sled led by a wild-eyed Malamute.

different directions in our work: from observing the effects of post-modernism and popular cinema upon practitioners' storytelling, to observing the effects of legal practice upon the professional psyche; from analyzing the narrative sophistication and dangerous struggles of Panther storytellers during the 1960s and 1970s, to analyzing the storytelling practices of academic radicals during the 1990s and perceiving just how dangerous the occupation may still be today. Nevertheless, the conference and this symposium edition are guided by a shared spirit. As Professor Elkins observed, it feels "like a tribal gathering of far flung clans."[48] We are lawyers and storytellers who are belatedly taking Carver's good advice: we are learning to listen and to believe in the power of the stories that are deep within our hearts.

48. Letter from James R. Elkins, Professor of Law, West Virginia University College of Law, to Philip N. Meyer, Associate Professor of Law, Vermont Law School (Dec. 2, 1993) (on file with author).