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Citation: 96 Yale L.J. 1986-1987

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Meaning and Ending

Ronald R. Garet†

*And it was thou who on the boldest heel
Stood up and flung the span on even wing
Of that great Bridge, our Myth, whereof I sing!*

—Hart Crane¹

I. NOMOS AND NATURE

In several of his last essays, Bob Cover sets out a view of human nature that is equally intended as a view of “the nature of law.”² In this view, law is not an incidental means to the realization of our desires, but a structure of our striving itself. “Law is the projection of an imagined future upon reality.”³ To capture this temporal ontology of law, this conception of existence that places law at the center of our efforts “to build future worlds,”⁴ Bob makes use of the word “*nomos*.”⁵

Nomos means life lived in a gap between desire and fulfillment, present and future: a gap which it is “the nature of law” to span. *Nomos and Narrative* develops this conception of law in terms of symbol and narrative. Law as gap-spanner is conceived in the symbol of the bridge; narrative is the stuff of which the bridge is made. “I have argued not only that the nature of law is a bridge to the future, but also that each community builds its bridges [wi]th the materials of sacred narrative. . . . The com-

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1. H. CRANE, *The Bridge*, in *THE COMPLETE POEMS AND SELECTED LETTERS AND PROSE OF HART CRANE* 94 (B. Weber ed. 1966) [hereinafter *The Bridge*].

2. Cover, *The Folktales of Justice: Tales of Jurisdiction*, 14 CAP. U.L. REV. 179, 182 (1985) [hereinafter *Folktales of Justice*].

3. Cover, *Violence and the Word*, 95 YALE L.J. 1601, 1604 (1986) [hereinafter *Violence and the Word*].

4. *Id.* at 1602 n.2.

5. The idea of *nomos* enjoys in Bob’s writing somewhat the same status as the idea of “existence” in the writings of Kierkegaard or Sartre. Both *nomos* and existence are views of human life or of the human situation; further, *nomos* and existence both view human life from the vantage point of commitment, struggle, and moral (or trans-moral) seriousness. Whether existence and *nomos* carry differences in substance and emphasis—the one stressing consciousness, personhood, and freedom, the other action, communality, and obligation—raises questions too complex to discuss here.

mitments that are the material of our bridges to the future are learned and expressed through sacred stories.”⁶

Because *nomos* is a conception both of law and of human nature, it is plausible to think of it as providing the basis for a theory of natural law.⁷ Such a theory would seek the justification of laws in their fidelity to the human situation, and the lawful situation, that *nomos* names. While Bob discussed natural law at great length in *Justice Accused*,⁸ his earlier work on the jurisprudence of slavery and antislavery, he does not make much use of the phrase in his later essays. In a key passage in *Nomos and Narrative*, however, he suggests that “[i]t is possible to conceive of a natural law of jurisdiction that might supplant the positivist version.”⁹ The latter confirms “the triumph of the hierarchical order over meaning,” while the former offers “the judge’s only hope of partially extricating himself from the violence of the state.”¹⁰

In *Nomos* and again in a later essay, *The Folktales of Justice*, Bob links this “natural law of jurisdiction” to the normative hermeneutics of storytelling: to “narratives of judicial resistance,” “sacred narratives of jurisdiction that might constitute the texts to ground judicial commitments.”¹¹ In what way do narratives ground judicial commitments? What is the relation between the ideas of *nomos*, natural law, symbol, and narrative?

For Bob, stories and symbols constitute a form of ethical naturalism. They provide a meaning for the idea of nature, and for the moral concepts—human nature, the nature of law, natural law—that depend on

6. *Folktales of Justice*, *supra* note 2, at 182.

7. By “natural law,” I understand a human-nature naturalist theory of law. Such a theory contends that there is a human nature, that this nature is knowable, and that it is the mission of law to realize this nature or to forestall the evil that inheres in it. Natural law thus defined is not coextensive with moral realism, or even with realism conceived naturalistically. Natural law is a special form of ethical naturalism for two reasons. Its naturalism consists of claims about human nature; and those claims culminate in a thesis about the purpose or function of law.

8. R. COVER, *JUSTICE ACCUSED* (1975) [hereinafter *JUSTICE ACCUSED*].

9. Cover, *The Supreme Court, 1982 Term—Foreword: Nomos and Narrative*, 97 HARV. L. REV. 4, 58 (1983) [hereinafter *Nomos and Narrative*].

10. The “natural law of jurisdiction,” as I understand it, would help judges to set reliable frontiers for their moral and legal daring. It would tell judges how greatly to dare in asserting the right and the obligation to declare the law and to enforce it upon the bodies of criminals, armies, and kings. Whether Bob meant to draw a sharp distinction between the assertion of jurisdiction and the declaration of the substantive law, and to restrict natural law justifications to the former, I do not know. *Id.* at 58, 59. While the “natural law of jurisdiction” thus defined is specially responsive to the requirements of judging, I take the idea to have a wider application to problems of commitment and forbearance. Communities and social movements might look to the natural law of jurisdiction whenever they face choices between submission and assertive intervention, obedience and disobedience. In its broadest sense—when jurisdiction becomes synonymous with authenticity—the natural law of jurisdiction becomes a body of wisdom, developed by reflection upon our shared nature or condition, to which we ought to turn when we consider how far it falls to us to shape the possibilities and limits of our common lives. To this end we recall the moods of resolve: not only Luther’s “Here I stand, I can do no other,” but also Jesus’ “My Father, if it be possible, let this cup pass from me; nevertheless, not as I will, but as thou wilt.” *Matthew 26:39* (Revised Standard Version).

11. *Folktales of Justice*, *supra* note 2, at 183.

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that idea. Nature employed in this way—as “a term of distinction,” as Leo Strauss called it¹²—is at once normative and descriptive. More precisely, to say that nature has the authority to guide our action is to root what we fundamentally ought to be and do in the ground of what we fundamentally are. Thus, ethical naturalism requires an integration of the “is” and the “ought.” Bob said:

To live in a legal world requires that one know not only the precepts, but also their connections to possible and plausible states of affairs. It requires that one integrate not only the “is” and the “ought,” but the “is,” the “ought,” and the “what might be.” Narrative so integrates these domains.¹³

In *Justice Accused*, Bob first recognized that natural law affords a way of expressing and responding to the human and legal condition of being caught between two worlds: the worlds from which and to which our desires and imaginations spring. “In the natural law tradition on slavery,” according to *Justice Accused*,

the judge inherited a device for expressing the gap between the law as it is and the law as it ought to be. The words, themselves, had been used variously over the centuries: sometimes to articulate the necessary imperfection of human institutions; sometimes as a theory of origins; often as a quest for what ought to be.¹⁴

These various words clearly mattered less, in Bob’s eyes, than the underlying belief that the judge lives and works precisely in “the gap between the law as it is and the law as it ought to be.”

This concept of the gap—the space between is and ought—was the seed that grew into what Bob later called *nomos*, “a present world constituted by a system of tension between reality and vision.”¹⁵ And it was the initial awareness of the gap that led Bob ultimately to regard law as a bridge. “Law may be viewed as a system of tension or a bridge linking a concept of a reality to an imagined alternative—that is, as a connective between two states of affairs, both of which can be represented in their normative significance only through the devices of narrative.”¹⁶

When he wrote *Justice Accused*, Bob perhaps thought that natural law could recognize and express this gap in ways that “a static and simplistic model of law,” in which the judge is caught “between the demands of role

12. L. STRAUSS, NATURAL RIGHT AND HISTORY 82 (1953).

13. *Nomos and Narrative*, *supra* note 9, at 10.

14. *JUSTICE ACCUSED*, *supra* note 8, at 29.

15. *Nomos and Narrative*, *supra* note 9, at 9.

16. *Id.*

and the voice of conscience," could not.¹⁷ "[I]n a dynamic model, law is always becoming. And the judge has a legitimate role in determining what it is that the law will become."¹⁸

At the same time, Bob recognized that

the philosophical attacks on natural law are quite important. For, just as the new American judiciary was about to begin its struggle with slave law, the viability of the common heritage for expressing the gap between law as it is and law as it should be, was under fire. As a result, judicial recourse to "natural law," which had its legitimate though limited role, was to sound less and less like an appeal to commonly accepted sources for principle and more and more like a party slogan. For Hume and Bentham had laid the foundation for rejecting any such appeal on the ground that, meaningless in itself, nature could signify whatever the speaker wanted it to.¹⁹

If nature is "meaningless in itself," how can it "signify"? It was to the "devices of narrative," and to the symbol of the bridge, that Bob looked for an answer to this central philosophical question about natural law. To understand nature as a term of moral distinction, and to understand natural law in a way that would take seriously the difference between modern and ancient views of the philosophical role of nature, Bob called upon the categories of normative hermeneutics: narrative, symbol, folktale, myth. These categories would help us to understand our existence in the gap between is and ought, present and future; they would help us to "bridge" that gap. In the course of describing our existence, this normative hermeneutic conception of nature becomes a view of human nature. In the course of associating that view of human nature with a claim that the "bridge" is law, the narrational conception of nature becomes a view of natural law.

II. A TRANSFORMATIONAL CONCEPTION OF HUMAN NATURE

Transformation is the central term in Bob's understanding of human nature and law. In *Nomos and Narrative*, he says that "[l]aw is that which licenses in blood certain transformations while authorizing others only by unanimous consent."²⁰ Bob goes on to say that "[n]arratives are models through which we study and experience transformations that result when a given simplified state of affairs is made to pass through the

17. JUSTICE ACCUSED, *supra* note 8, at 6.

18. *Id.*

19. *Id.* at 29-30.

20. *Nomos and Narrative*, *supra* note 9, at 9.

force field of a similarly simplified set of norms.”²¹ Bob insists that we not lose sight of our readiness to back law with coercive violence that “licenses in blood certain transformations;” but he equally insists that this “imperial” aspect of legal transformation is subordinate to the “paideic” or “world-creating” aspect “in which law is predominantly a system of meaning rather than an imposition of force.”²²

World-creation is at the heart of Bob’s notion of transformation. It is embodied in his concept of “jurisgenesis” or law-creation. The creation of law by “strong” forces or “strong” communities is a kind of world-creation: a Genesis. Bob said in an unfinished essay, *Bringing the Messiah Through Law*, “I have set forth a view of law which sees the essential law-creating act as requiring creation of strong worlds by strong communities with attendant commitments to realize those worlds over time.”²³ Bob intended his conception of law as *nomos* to invite us to participate in such strong communities, and thereby to share in the cosmogony that is jurisgenesis. “We ought to stop circumscribing the *nomos*,” he concluded in *Nomos and Narrative*. “We ought to invite new worlds.”²⁴

While Bob did use the word “teleology” to describe his view of law, it did not mean for him what it has meant in classical systems of natural law. By teleology, Bob did not denote natural ends whose realization constitutes the good life. Nor did Bob mean by legal teleology an inherent principle of legal progress toward the attainment of such a life. Instead, Bob thought of law’s teleology as its inherent role in the creation and testing of new worlds:

I think I am making a strong claim here for the teleology implicit in law and for what is entailed in that teleology: namely a generative capacity through which law not only generates new law but also is at least linked to—if it is not determinative of—the generation of new concepts of the worlds we strive to realize.²⁵

21. *Id.* at 10.

22. *Id.* at 12–13. It is not clear to what extent Bob regarded the connection between violence and legal meaning as contingent upon the social organization of law. While it may be possible to associate the paideic aspect of law with relatively small communal groups, and the imperial aspect with the state, I do not understand Bob to be claiming that legal meaning would somehow be less associated with violence if the communal groups took a more active role in law-making and law-finding. The connection between violence and legal meaning is internal to “the nature of law,” not dependent upon alternative constitutional arrangements. The concept of commitment touches upon this internal relationship. Yet I do not understand Bob to be asserting that commitment in general, or commitment to legal meanings in particular, is necessarily violent in any strong sense. In this as in other respects, see *supra* note 5, the ideas of *nomos* and existence approach one another without, perhaps, finally agreeing in their estimate of human moral life.

23. Cover, *Bringing the Messiah Through Law: A Case Study*, in *NOMOS XXX: RELIGION, MORALITY, AND THE LAW* (R. Pennock & J. Chapman eds. forthcoming 1988) [hereinafter *Messiah*].

24. *Nomos and Narrative*, *supra* note 9, at 68.

25. *Messiah*, *supra* note 23.

Thus it is in the nature of law to be “generative”—jurisgenerative, cosmogonic, world-creating.

In calling law “*nomos*,” Bob associated law with cosmos, or a meaningful order.²⁶ The epigraph that opens *Nomos and Narrative*, lines from Wallace Stevens’ *Connoisseur of Chaos*,²⁷ suggests that Bob conceived of *nomos* in the light of the recurrent mythic theme that pits a cosmos of meaningful order against a chaos of meaningless violence and disorder. The inherent principle of order in law, as Bob understood it, is not the kind of order that one might find in a teleological conception of the *psyche* or *polis*, or in a well-rationalized body of rules. Instead, it is the order of a cosmos, a source and residue of creative acts: in short, an order only in the sense in which “[a] great disorder is an order.”²⁸ Cosmos suggests the kind of order appropriate to law’s involvement in transformation, conceived as the creation of and experimentation with worlds of meaning.

The opening words of *Nomos and Narrative*—“We inhabit a *nomos*—a normative universe”²⁹—situate humankind within this cosmos. They convey a view of human nature that takes our definitive characteristic to be our participation in the cosmogony: the fact that “[w]e constantly create and maintain a world of right and wrong, of lawful and unlawful, of valid and void.”³⁰ The *nomos* is “our world.”³¹ To define us in that world Bob used the words of Clifford Geertz: “[M]an is an animal suspended in webs of significance he himself has spun.”³²

This passage from Geertz, and certain others from Peter Berger, which Cover quotes with apparent approval,³³ express a view of the human life-world that is characteristic of many modern writers. According to this view, what makes us human is our capacity to create and inhabit worlds of meaning, and to transform these worlds through personal, communal, and social action. Is this rather popular account of human life a “theory of human nature”? Or is it the reverse: an account of human life that insists precisely that we *have* no nature?

In some sense, surely, we are free to characterize this vision in either of these two ways. If “human nature” means a situation or condition com-

26. *Nomos and Narrative*, *supra* note 9, at 4; *accord id.* at 4 n.2 (tracing his conception of *nomos* to ideas of “world-building” and “meaningful order” as they have been developed in sociology of knowledge, especially in work of Peter Berger).

27. “A. A violent order is disorder; and / B. A great disorder is an order. These / Two things are one.” *Id.* at 4 (quoting W. STEVENS, *Connoisseur of Chaos*, in *THE COLLECTED POEMS OF WALLACE STEVENS* 215 (1954)).

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.* at 5.

32. *Id.* at 5 n.7 (quoting C. GEERTZ, *THE INTERPRETATION OF CULTURES* 5 (1973)).

33. *See supra* note 26.

mon to human cultures, and if the generation and transformation of meanings is this condition, then that situation or condition is our human nature. If "human nature" means ethical ideas that are valid because universally embraced, or ends that are somehow built into our constitution and prior to our acts of inquiry and expression, then the Cover-Geertz-Berger account is not a theory of human nature, but a theory that suggests that we have no nature.

As I understand Bob's concept of *nomos*, its point is not to enlist on either side of this rather simplistic war over the existence of a human nature. Instead, its point is to help us to reshape the meaning of nature itself. To see this aspect of Bob's work, it will be necessary to recall the distinction that classical Greek philosophy drew between *nomos* and *physis*.³⁴

In Aristotle, the term "natural law" would be an oxymoron. *Nomos* meant law in the sense of the conventions or customs that prevail in the different cities and cultures, and that therefore change from place to place and from time to time. In that sense, law was not natural but conventional. What could be natural was not *nomos* but *dike* (*dikaioσύνη*, to *dikaion*): justice, righteousness, the right. To say that justice was natural, *physei*, meant that it was everywhere and at all times unchangeable, that it always served as the end that draws us to our highest and most complete flourishing. If, in calling our human law-world *nomos*, Bob meant to call up the classical distinction between *nomos* and *physis*, then it would be fair to say that Bob saw *nomos* not as a kind of nature but instead as an alternative to nature.

According to this reading, *nomos* is convention, and Bob's theory of law and of the human situation is a kind of conventionalism. The jurisgenerative groups are the various cultures that, as Aristotle knew, make their own customs and ways.³⁵ From this view, Bob's attack against the state's claim to a monopoly on law is based on a kind of logical error, the typical error of the relativist who espouses tolerance. For the conventionalist has no way of arguing that the state's seizure of the means of law-making is *really* wrong. To say that the state's imperial legal violence is wrong on a conventionalist account of meaning and truth is just to say that it violates the shared values of certain communities.

But this identification of Bob's *nomos* with conventionalism is mistaken. In calling the law-world *nomos*, as we have seen, Bob meant to oppose *nomos* not to *physis* but to chaos. Whereas *nomos*, as the opposite of

34. See L. STRAUSS, *supra* note 12, at 81-164; Von Fritz & Kapp, *The Development of Aristotle's Political Philosophy and the Idea of Nature*, in *ETHICS AND POLITICS* 117 (J. Barnes, M. Schofield & R. Sorabji eds. 1977).

35. 7 ARISTOTLE, *NICOMACHEAN ETHICS* §§ 1134b18-1135a5.

physis, is convention, *nomos*, as the opposite of chaos, is cosmos, or meaningful created order. And cosmos, as the created order, is in fact a kind of nature. Indeed, the idea of cosmos may even be said to be the definitive conception of nature for the civilizations influenced by Biblical religion. Of course, in saying this, I do not mean to underestimate the difficulties that lie in the way of a truly satisfying account of cosmos as a view of nature that supports and makes sense out of ethical naturalism.³⁶ I simply want to point out that for Bob, *nomos* as cosmos was a kind of nature, rather than an acceptance of the classical binary opposition between nature and convention. Probably the best view to take of Bob's later work is that Bob did not find the classical distinction between nature and convention to be a helpful way of thinking about the human life-world and law-world.

Once Bob's concept of *nomos* is extricated from conventionalism, his attack against statist conceptions of law no longer looks like the illogical claim that the abundance of differing conventions entails a diffusion of jurisdiction, or of jurisgenerative authority. Instead, the critique of imperial or statist law flows directly from Bob's assessment of our human condition. When the state monopolizes law, as it does in what Bob called the positivist theory of jurisdiction, it affirms precisely "the triumph of the hierarchical order over meaning."³⁷ It acts inconsistently with our actual constitution as meaning-creators and meaning-inhabitants, and thus circumscribes the *nomos*. Bob's claim is that we cannot flourish as meaning-generative beings when we surrender to the state our participation in the cosmogonic and jurisgenerative processes.

III. LAW AS A BRIDGE

To specify more precisely the contours of his transformative conception of human nature and law, Bob called upon the ancient idea that our human efforts and understandings are in some way situated within or between two worlds: between memory and desire, fall and redemption, earth and heaven, this world and "the other world." The task, then, became one of defining or describing these two worlds, and of specifying the relation between them that is characteristic of human nature and law. To help him in this task, Bob drew upon two devices that we might loosely regard as literary: the image or symbol of law as a bridge, and the notion of narrative or story. "Law may be viewed as a system of tension or a bridge linking a concept of a reality to an imagined alternative—that is, as

36. For an extended discussion, see Garett, *Natural Law and Creation Stories*, in NOMOS XXX: RELIGION, MORALITY, AND THE LAW, *supra* note 23.

37. *Nomos and Narrative*, *supra* note 9, at 58.

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a connective between two states of affairs, both of which can be represented in their normative significance only through the devices of narrative.”³⁸ “I have argued not only that the nature of law is a bridge to the future, but also that each community builds its bridges [with] the materials of sacred narrative.”³⁹ “The commitments that are the material of our bridges to the future are learned and expressed through sacred stories.”⁴⁰

But what is the nature of this link, connection, or bridge; and what is bridged?

A *nomos*, as a world of law, entails the application of human will to an extant state of affairs as well as toward our visions of alternative futures. A *nomos* is a present world constituted by a system of tension between reality and vision.

Our visions hold our reality up to us as unredeemed. By themselves the alternative worlds of our visions—the lion lying down with the lamb, the creditor forgiving debts each seventh year, the state all shriveled and withered away—dictate no particular set of transformations or efforts at transformation. But law gives a vision depth of field, by placing one part of it in the highlight of insistent and immediate demand while casting another part in the shadow of the millennium. Law is that which licenses in blood certain transformations while authorizing others only by unanimous consent. Law is a force, like gravity, through which our worlds exercise an influence upon one another, a force that affects the courses of these worlds through normative space. And law is that which holds our reality apart from our visions and rescues us from the eschatology that is the collision in this material social world of the constructions of our minds.⁴¹

In *Bringing the Messiah Through Law*, Bob retained his “two-worlds” conception and his image or symbol of the bridge as the link between those worlds that is constitutive of human nature and law.

Law is a bridge in normative space. It connects the worlds we have to a world we can imagine. But there are many possible worlds and many ways to connect them. Not all these futures—not all the bridges to them—can plausibly be called “law”. . . .

I, thus, had in mind an idea that law bridged *two* “moving worlds.” The normative world we have is a changing or moving one. Our concept of our normative selves and environment is in flux. But, as our concept of where we are (normatively) changes so does our concept of the possible world to which our law impels us to go. A

38. *Id.* at 9.

39. *Folktales of Justice*, *supra* note 2, at 182.

40. *Id.*

41. *Nomos and Narrative*, *supra* note 9, at 9–10.

world with "law" is a world in which (a) There are particular processes (bridges) for getting to the future; (b) The[r]e are particular kind[s] of futures that one can get to[;] (c) There are always [new] future worlds that are held over against our current normative world with an implicit demand that they be striven towards.⁴²

Bob's emphasis upon the "changing or moving" character of our present normative world, and of the possible futures indicated by law's aims, restates his account of human nature as a transformative process. What the "two worlds" concept, and the symbol of the bridge, add to this account is the idea that the transformative process is a "system of tension"; the future worlds are "held over against our current normative world." Law in fact "holds our reality apart from our visions"; it preserves rather than abolishes the "over-againstness" of our condition.

If law is a bridge, then, it is clearly a strange sort of bridge: one that does not simply remove an obstacle to movement, or permit us to move freely from one shore to another, but instead serves precisely to hold the shores apart, and to preserve "tension" between them. Here Bob departs sharply from certain common assumptions about the internal values of law. In the prevailing climate of instrumentalism, the inner rationality of law and the value that inheres in that rationality are conceived as a certain relation of means and ends. Animated by his vision of *nomos*, of meaning-creation in the gap between present and future worlds, Bob reconceived the inner rationality of law as a certain relation of meaning and ending. On the former view, law satisfies its own internal values when it achieves a tolerable degree of fit between the ends sought and the means employed.⁴³ On the latter view, law sets itself a quite different requirement. It must allow in just enough "ending" to render the acts of law-creation and law-commitment meaningful to lawyers, judges, and jurisgenerative groups, but not so much "ending" as to annul the tension between reality and vision that sustains law's work.

One purpose of the unfinished *Messiah* essay was to explore the strange tension of the law-bridge.

Elsewhere [i.e., in *Nomos and Narrative*] in trying to evoke the peculiarities of law as a bridge to the future, I wrote, with an excess of metaphoric rhetoric, that "law is that which holds our reality apart from our visions and rescues us from the eschatology that is the collision in this material world of the constructions of our minds."

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The idea that a particular "bridge" with its implicit teleologies be

42. *Messiah*, *supra* note 23.

43. See Tussman & tenBroek, *The Equal Protection of the Laws*, 37 CALIF. L. REV. 341 (1949).

a product of “law” seemed to me to be inconsistent—in a loose way—with apocalyptic eschatologies. I would have supposed—I did suppose—that Messianism in its customary apocalyptic form was the antithesis of lawful transformation. I suppose, in writing the above quoted passage, I accepted the notion that Messianism typically had an anti-nomian cast to it. Since I then chose, and continue to choose[,] to treat the juxtaposition of implicit alternative futures to current concepts of reality as central to the idea of law, the immediacy of the end of days [like Revolutionary transformations], seemed inevitably to tend to undermine the “normal” tension between present and future, that which is real and that which is to be realized. Thus, I concluded, elliptically, that law “rescues us from . . . eschatology.”⁴⁴

Bob goes on to acknowledge “the obvious fallacies in this line of reasoning,”⁴⁵ and to admit that efforts to realize the future ideal world through heroic legal action—or “lawful Messianism”⁴⁶—do *not* necessarily “tend to undermine the ‘normal’ tension between present and future.” “A lawful Messianism,” Bob concluded, “entails a special form of commitment which both holds to the immediacy of a privileged and strange transformation while insisting on a highly unusual capacity for familiar transformational institutions.”⁴⁷

Bob attempted, then, to face the question of whether the Messianic (or, more broadly, eschatological) commitment to “strange transformation” threatens or consummates the human self-transformative condition. If *nomos* is a world of meaning, does the pressure of the ending deny or distort that meaning, or in some way realize it? If law is a bridge, why should we hesitate to cross it?

When I first read *Nomos and Narrative*, the image of law as a bridge that must never be crossed (and thereby transcended) recalled for me an earlier recourse to a bridge as symbol of mythogenesis, of courageous storytelling amid doubt and despair. In his poem *The Bridge*, Hart Crane made use of the bridge as symbolic path between America’s past and future, which would “Unto us lowliest sometimes sweep, descend / And of the curviship lend a myth to God.”⁴⁸ The myth resided in a balance of cables and curves whose fragility Crane knew only too well. “Atlantis,—hold thy floating singer late!” the poet exclaimed at the end of the

44. *Messiah*, *supra* note 23.

45. *Id.*

46. *Id.*

47. *Id.*

48. *The Bridge*, *supra* note 1, at 46.

final section of *The Bridge*,⁴⁹ but this was not to be; the poet did not long survive the completion of his poem.

Like any living and effective symbol, the bridge is a sacrament, an objective correlative or point of contact between the worlds.⁵⁰ As a sacrament, the symbol is provisional: an encounter with the Kingdom of God, from which we re-emerge, changed, to the world that we left behind. Thus the bridge is not just a symbol selected from a lexicon of symbols for its special associations and meanings, but a symbol of symbolic meaning as such. Like marriage, sexual coupling, androgyny, and a few other symbols, the bridge expresses the very meeting of opposites that inheres in symbolic meaning.⁵¹

In *The Bridge*, Crane illuminates this generic symbolic meaning by dissolving it in a larger symbolism of the dreadful, hopeful contact between this world and the other. Columbus, beset by doubt, tests his faith in an interim, mutable, and threatening zone: "For here between two worlds, another, harsh, / This third, of water, tests the word."⁵² Sustaining the navigator through his temptations, through "Invisible valves of the sea,—locks, tendons / Crested and creeping, troughing corridors / That fall back yawning to another plunge,"⁵³ is "this crescent ring / Sun-cusped and zoned with modulated fire / Like pearls that whisper through the Doge's hands / —Yet no delirium of jewels!"⁵⁴ The crescent ring, archetype of all bridges, is the rainbow that God set upon the waters of the Flood as a sign to Noah.

Then God said to Noah and to his sons with him, "Behold, I establish my covenant with you and your descendents after you, and with

49. *Id.* at 116.

50. The literature on symbolism is so vast, and the nature of symbolic meaning so contested, that a separate essay (if not a separate book!) would be required to give a full and explicit account, and even a moderately perspicuous defense, of the theory of symbols that I bring to my analysis of Bob's image of law as a bridge. It must suffice here to draw a rather crude distinction between two conceptions, not of "what" symbols mean, but of "how" they mean. According to what might be called the "essentialist" view, symbols simply "have" meanings that rise up from the nature of things. This view, associated above all with Jung and Eliade, subordinates symbols to a classical naturalism; the symbols express and participate in the nature of things. I have criticized this view of symbolic meaning in Garett, *The Red Bird*, 58 S. CAL. L. REV. 237 (1985). According to the linguistic or existentialist view, which I adopt here, symbols are speech. See P. RICOEUR, *THE SYMBOLISM OF EVIL* 14 (1967). Ricoeur's maxim in carrying out the interpretation of symbols is "[t]he symbol gives rise to thought." *Id.* at 348.

There is no philosophy without presuppositions. A meditation on symbols starts from speech that has already taken place, and in which everything has already been said in some fashion; it wishes to be thought with its presuppositions. For it, the first task is not to begin but, from the midst of speech, to remember; to remember with a view to beginning.

Id. at 348-49.

51. See generally M. ELIADE, *THE TWO AND THE ONE* 78-124 (1979).

52. *The Bridge*, *supra* note 1, at 50.

53. *Id.* at 48.

54. *Id.* at 50.

Meaning and Ending

every living creature that is with you. . . . I establish my covenant with you, that never again shall all flesh be cut off by the waters of a flood, and never again shall there be a flood to destroy the earth.” And God said, “This is the sign of the covenant which I make between me and you and every living creature that is with you, for all future generations: I set my bow in the cloud, and it shall be a sign of the covenant between me and the earth.”⁵⁵

The rainbow “arc of the covenant” is a prototype of the subsequent covenants that God enters into with the people, and in that sense it is a figure for Biblical law. It is a law for God: “When the bow is in the clouds, I will look upon it and remember the everlasting covenant between God and every living creature of all flesh that is upon the earth.”⁵⁶ And it is a law for humankind, appropriate to our nature: “Whoever sheds the blood of man, by man shall his blood be shed, for God made man in his own image.”⁵⁷ It is a message to wanderers that there will come a terminus to their wanderings, and that what looks from one vantage point like destruction looks from a different perspective like a promise of peace and reunion. Thus the rainbow marries the contraries of life and death, this world and the other world, the shore of embarkation and the shore at which the navigator lands, as a true sacrament: “Te Deum laudamus, for thy teeming span!”⁵⁸

We learn from Hart Crane’s poem that the symbolic function of the bridge is not so much to represent a certain reality in a figurative or colorful way as it is to express longing in a characteristically human way. In *Upon a Dying Lady*, Yeats says “When her soul flies to the predestined dancing-place / (I have no speech but symbol, the pagan speech I made / Amid the dreams of youth)”⁵⁹ The poet has no speech but symbol when she is in the definitively human mode of contemplating death with a mixture of dread and wonder. Symbolic expression itself is a kind of dance, and therefore appropriate to the articulation of the soul’s “predestined dancing-place.” “And I must borrow every changing shape / To find expression. . . dance, dance / Like a dancing bear, / Cry like a parrot, chatter like an ape.”⁶⁰

Symbols are suited to the expression of the losses and limits that bound experience. In certain symbolist poems, for example, symbols do not so much describe or denote nature as convey a sense of regret for the loss of

55. *Genesis* 9:8–13 (Revised Standard Version).

56. *Id.* 9:16.

57. *Id.* 9:6.

58. *The Bridge*, *supra* note 1, at 51.

59. W.B. YEATS, *Upon a Dying Lady*, in *SELECTED POEMS AND TWO PLAYS OF WILLIAM BUTLER YEATS* 68 (M. Rosenthal ed. 1966).

60. T.S. ELIOT, *Portrait of a Lady*, in *SELECTED POEMS* 21 (1961).

nature, or a sense of anticipation, bounded by mystery and death, of nature regained. Thus, Yeats believed that symbols possess a special virtue or power of evoking "the memory of Nature herself" and the "borders of our mind," shifting borders that may merge into a single "great Mind."⁶¹ Symbol is a unit of meaning appropriate to a temporal being who is aware of its temporality and finds this awareness uncomfortable, trying, provoking. Hence the famous lines with which Eliot opens *The Waste Land*: "April is the cruellest month, breeding / Lilacs out of the dead land, mixing / Memory and desire, stirring / Dull roots with spring rain."⁶² April is cruel because the birth that it brings is also a reminder of death. Its cruelty is the cruelty of the symbol, which mixes memory and desire, the world we have lost with the world we hope to gain. By means of the symbol, we do not so much represent nature as lament the nature we have lost, and long for the new nature that we are promised. The cruelty of the symbol lies in the ultimate identity of the lamentation and the promise. The arc that God sets as a seal upon the greatest act of divine destruction is also a promise of new life and redemption.

In calling law a bridge between two worlds, between reality and vision, Bob deepens our sense of the "nature" in human nature, the nature of law, and natural law. We have no speech but symbol when the character of our relation to our future surpasses the semantics of natural representation. This is not to deny, of course, that images of paradise lost, or of a new and better paradise—the Kingdom of God, the New Jerusalem—may serve and have served as paradigms or archetypes of the "earthly city" that we build "here below." Such paradigms or archetypes may be flatly representational. It is common to look to a holy source, to Scripture or Constitution, for a blueprint that simply sets out the plans according to which this *civitas terrena* can be approximated to the *civitas dei*. By attaching law to a symbol, and by making the bridge an exemplar of that symbol, Bob means to displace this architectural conception of law with one that takes into account the terrors and temptations "here, between two worlds," as "another, harsh, / This third, of water, tests the word."

When employed in a straightforward representational way, the symbol of law as a bridge between two worlds conveys the idea that we are to cross from one world to the other, from the actual to the imagined, by means of law. This interpretation of law as a bridge is consistent with a familiar view of natural law. On this view, natural law is the higher law, the model on which we should always seek to build the positive law.

61. W.B. YEATS, *Magic*, in *ESSAYS AND INTRODUCTIONS* 28 (1961), quoted in E. WILSON, *AXEL'S CASTLE: A STUDY IN THE IMAGINATIVE LITERATURE OF 1870-1930*, at 47-48 (1931).

62. T.S. ELIOT, *The Waste Land*, in *SELECTED POEMS*, *supra* note 60, at 51.

But Bob does not mean that the bridge is there for the crossing. Instead, he insists that "law is that which holds our reality *apart from* our visions."⁶³ Hence he does not endorse the familiar view of natural law as the model for positive law. His use of a symbol situates law in a different "naturalism," if that is the proper word to describe what Bob means. He takes us to be wanderers, navigators in the gap. That is our nature: a nature best captured in symbolic evocations of memory and desire. Law that purports to situate us entirely in this world, so that we become so at home here that we forget our wandering, and law that purports to realize the Kingdom of God on earth, so that our diaspora is ended forever, alike distort our human condition.

IV. MEANING AND ENDING

Between the two extremes of utter worldliness and recourse to divine archetypes as patterns for action in this world, stretch whole realms of human aspiration. To guide us, we require something more than the symbol of law as a bridge, however evocative it might be, can offer. We need narrative: "sacred narratives of jurisdiction," "narratives of judicial resistance," "folktales of jurisdiction."

Indeed, for the symbol of law as a bridge to do any work at all, it must take its place among stories. In discussing the symbol of the bridge in Crane's poem, for example, I made use of two superimposed stories: the story of Columbus' discovery of the New World, and the story of the Flood. The latter, in turn, recalled other stories: God's creation of the world, God's recreation of the world after the Flood, the divine promise not to repeat the destruction of the world by water, and the chain of covenants that binds God and people with links of law. In appealing to stories as a way of making sense out of the symbol of the bridge, I have followed Bob's principle that the worlds that law bridges "can be represented in their normative significance only through the devices of narrative,"⁶⁴ and that these bridges must themselves be built with "the materials of sacred narrative."⁶⁵

Why did Bob call his essay *Nomos and Narrative*, rather than *Law as a Bridge*? First, the symbol of the bridge, no matter how embedded it may be in certain stories, does not do an adequate job of revealing the connection between law and human nature. Why is law central to our meaning-creating nature; how does "lawful transformation" differ from or preside over other transformative aspects of our existence, such as falling

63. *Nomos and Narrative*, *supra* note 9, at 10 (emphasis added).

64. *Id.* at 9.

65. *Folktales of Justice*, *supra* note 2, at 182.

in love, undergoing a religious conversion, making a promise, mounting a revolution, or becoming pregnant? The bridge symbol fails to answer these questions. It helps us to see in all of our transformative experiences an encounter with a gap that fractures our world, but it does not tell us precisely how law spans that gap.

The second feature of the bridge symbol that renders it inadequate to Bob's purposes stems from its sacramental character. Even where the symbol recognizes and insists upon temporality, as in the poems of Yeats and Eliot to which I have briefly alluded, it conveys its understanding of temporality in a curiously atemporal way. The images of temporality in symbolist poetry are, oddly enough, ecstatic, as if the truth about time could be grasped and expressed only in a compressed image that itself lies outside of time. In the poems that I have quoted, we do not witness or reenact the sequence of events in and through which one grows up and grows old, laments youth and fears death. Instead, we grasp the lamentation and the fear, as well as the joy and anticipation that memory and desire may bring, in sharp and beautiful moments of understanding. The union effected by the understanding draws temporality's sting. Hence it is tempting to say that symbolism misunderstands what it conveys, or that we misunderstand ourselves when our understanding is symbolic.

Narrative, by contrast, always inhabits a temporal world in which things happen before and after one another, because of one another. Even narratives rich in symbols, such as fairy tales or certain legends, rely upon a sense of temporal succession or progression.⁶⁶ Upon encountering a symbol, one asks "What does the symbol mean?"; but upon hearing a story, one asks "What happens next?" Hence narrative and symbol convey different senses of ourselves. What we understand of ourselves when we tell stories about ourselves is different from what we understand of ourselves when we speak in symbols, as we do when we write or read symbolist poetry.⁶⁷ If I am correct in regarding the recourse to narrative as a re-

66. Tzvetan Todorov draws a distinction between the "narrative of contiguity" and the "narrative of substitutions." Only in stories of the first type, according to Todorov, is the reader's interest driven by the question, "What happens next?" In stories of the second type, the reader's interest is in the meaning of a central symbol. T. TODOROV, *THE POETICS OF PROSE* 135 (1977). While Todorov's presentation of this distinction is helpful, it obscures the fact that for a "narrative of substitutions" to count precisely as a *narrative*, rather than as the simple invocation of a symbol ("water," "blue," "the red bird," etc.), it must depend to some extent upon the temporal contiguity of events. Throughout this essay, I do not mean to deny that most symbols work their meanings through stories, and that most stories achieve their meanings through the use of symbols. I suggest only that as pure types of meaning, symbolic meaning does not rely upon temporal contiguity, and narrative meaning does not depend upon symbolic substitution.

67. The way in which symbols give meaning, and the weight of claims sometimes made on behalf of the normative or guiding power of symbols, no doubt depend in large measure upon the genre of expression in which the symbols do their work. Whatever may be said of the meaning and authority of symbols that appear in dreams, or in ritual, it does not seem to me that symbols in so-called "symbolist poetry" function as nature's message-bearers. Reading such poetic symbols as *logos*, not

formed naturalism, then there must be some unique and valuable way in which narrative can illuminate our human nature. More than anyone else, Paul Ricoeur, in *The Symbolism of Evil*,⁶⁸ has explored the special contributions of narrative to the understanding of human nature. Ricoeur identifies three ways in which the narratives that concern him, myths of the origin and meaning of evil, contribute to human self-understanding. Ricoeur's ideas are so helpful, and so close to the heart of what I take to be Bob's project, that they must be quoted at some length.

1. The first function of the myths of evil is to embrace mankind as a whole in one ideal history. By means of a time that represents all times, "man" is manifested as a concrete universal . . . [and] experience is put on the track of existential structures: one can now *say* man, existence, human being, because in the myth the human type is recapitulated, summed up.

2. The universality of man, manifested through the myths, gets its concrete character from the *movement* which is introduced into human experience by narration; in recounting the *Beginning* and the *End* of fault, the myth confers upon this experience an orientation, a character, a tension

3. Still more fundamentally, the myth tries to get at the enigma of human existence, namely, the discordance between the fundamental reality—state of innocence, status of a creature, essential being—and the actual modality of man, as defiled, sinful, guilty. The myth accounts for this transition by means of a narration. But it is a narration precisely because there is no deduction, no logical transition, between the fundamental reality of man and his present existence, between his ontological status as a being created good and destined for happiness and his existential or historical status, experienced under the sign of alienation. Thus the myth has an ontological bearing: it points to the relation—that is to say, both the leap and the passage, the cut and the suture—between the essential being of man and his historical existence.⁶⁹

The first two points culminate in the third, to which I will restrict my attention here. Narrative naturalism differs from other forms of ethical and philosophical naturalism in two related ways. First, there is no relation of logical entailment between nature and existence. The relation between what we are by nature, and the life-situation in which we find ourselves, can be articulated only in the form of story, and not in the form

mana, see P. RICOEUR, *supra* note 50, at 14, renders them more closely analogous to the reading of law, see White, *The Judicial Opinion and the Poem: Ways of Reading, Ways of Life*, 82 MICH. L. REV. 1669 (1984).

68. P. RICOEUR, *supra* note 50.

69. *Id.* at 162–63.

of a syllogism. Second, that relation, even as conceived and expressed in narrative, never becomes a simple identity. Narrative makes neither the essentialist assertion that we are what we are, nor the existentialist assertion that we are not what we are. Instead, the relation is "both the leap and the passage, the cut and the suture." It is, in short, the bridge that spans the gap, but is never finally crossed.⁷⁰

Nevertheless, there is nothing inherent in narrative that specifically identifies the kinds of transformations or successions that are to count as law. Like symbol, narrative is generally fungible for all transformations; it does not reveal anything that is distinctive of "the nature of law." If Bob is to ground his "natural law of jurisdiction" on narratives, then, he must have some independent criterion that identifies those stories that count as law-stories. Bob does not discuss this criterion. But the stories that he tells in his later essays are primarily about people whom we would identify as judges and lawyers. Therefore Bob must already know which stories are law-stories, so that he can tell just those stories that are to "ground judicial commitments."

Telling law-stories teaches us something important about life in the gap, and about the ethical character of our meaning-creative nature. We learn of a hard road that spans the gap; harder than mystical union, harder than pure violence. Both of the latter routes to transformation—to remaking our present lives in the image of God's Kingdom—deny the terms of the gap. Ethical life that accepts those terms—ethical life in the *nomos*—is always ready to accept, though perhaps less ready to inflict, suffering and death: tokens of the fracture that lies between the actual and the ideal.⁷¹

The only way to take the transformational conception of human nature seriously, and the only way to take law seriously, is to take them together. His study of anti-slavery jurisprudence taught Bob to be wary of professed redemptionists or utopians, such as the Garrisonians, who withdrew into the insular purity of their convictions. These insular transformationists—who exemplify Troeltsch's "sect type"⁷²—retire like a *deus*

70. To recover the image of naturalism as spanning a gap, we must look behind the recent discussions of the "naturalistic fallacy," see, e.g., Searle, *How to Derive "Ought" from "Is,"* in THEORIES OF ETHICS 101-14 (P. Foot ed. 1967) (other essays in collection also noteworthy), to the famous "ditch" that preoccupied the eighteenth-century "Wolfenbüttel fragmentist," Gotthold Lessing. Lessing asserted that "accidental truths of history can never become the proof of necessary truths of reason." G. LESSING, *On the Proof of the Spirit and of Power*, in LESSING'S THEOLOGICAL WRITINGS 53 (1956) (emphasis omitted). The historical evidence of Christ's life and teaching, no matter how abundant and reliable, can never prove the identity of Christ. "That, then, is the ugly, broad ditch which I cannot get across, however often and however earnestly I have tried to make the leap." *Id.* at 55.

71. See *Nomos and Narrative*, *supra* note 9, at 46-53; *Violence and the Word*, *supra* note 3, at 1604-09.

72. See 2 E. TROELTSCH, THE SOCIAL TEACHING OF THE CHRISTIAN CHURCHES 691-94

absconditus from jurisgenesis. “The Garrisonian move, like that of religious sectarians, was a move toward nomian insularity—the rejection of participation in the creation of a general and public *nomos*. . . . By demarcating reality, perfectionist Garrisonian norms necessarily gave up any emphasis on the process of transformation itself.”⁷³

Bob contrasted the insular Garrisonians to “radical constitutionalists” such as Frederick Douglass, who argued that

the Constitution of the United States—inaugurated to “form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty”—could not well have been designed at the same time to maintain and perpetuate a system of rapine and murder like slavery. . . .⁷⁴

Unlike the Garrisonians, Bob argued, Douglass’ radical constitutionalists took their redemptionism seriously, because they took law seriously “by embracing a vision—a vision of an alternative world in which the entire order of American slavery would be without foundation in law.”⁷⁵

Judges face the same choice that confronts redemptionist social movements. “With respect to a world of redemptive constitutionalism, the Court must either deny the redemptionists the power of the state (and thereby either truncate the growth of their law or force them into resistance) or share their interpretation.”⁷⁶ Whichever way the Court chooses, however—whether it takes or declines jurisdiction—judges “cannot avoid responsibility for applying or refusing to apply power to fulfill a redemptionist vision.”⁷⁷ Even a refusal to take jurisdiction, in fact, is transformative: “The worlds of law we create are all, in part, redemptive.”⁷⁸ Nonetheless, the world of law, or *nomos*, is starved of meaning, and loses the capacity to justify its exercise of violence, when it sharply distinguishes itself from the transformative hopes of the potentially law-making or jurisgenerative groups.⁷⁹ “Legal meaning is a challenging enrichment of

(1960).

73. *Nomos and Narrative*, *supra* note 9, at 36–37.

74. *Id.* at 38 (quoting F. DOUGLASS, *LIFE AND TIMES OF FREDERICK DOUGLASS* 261–62 (R. Logan ed. 1967)).

75. *Id.*

76. *Id.* at 60.

77. *Id.*

78. *Id.*

79. Does the “natural law of jurisdiction” *justify* law’s recourse to violence? Perhaps the term “justify” is too strong. See *Violence and the Word*, *supra* note 3, at 1610. Yet a natural law theory should do more than supply reminders of the virtues of modesty and daring that are relevant to the making of every decision about the use of violent means.

social life, a potential restraint on arbitrary power and violence. We ought to stop circumscribing the *nomos*; we ought to invite new worlds."⁸⁰

Bob's commitment to these views led him to a profound ambivalence about apocalyptic or messianic movements, especially those of the radical constitutionalist sort. On the one hand, he admired them for having the courage of their convictions: for commending their redemptive, world-transforming vision to the *nomos*, and, insofar as the *nomos* failed to accommodate that vision, for engaging in committed and serious civil disobedience. On the other hand, he regarded the belief, common to apocalyptic or messianic movements, that the Kingdom of God can be realized on earth, as a denial of the role of law in the transformative struggles definitive of human life.⁸¹

Thus, in work that he had not completed at the time of his death, Bob chose to analyze closely the attempt by the rabbis of sixteenth-century Safed to renew *semikhah*, or authoritative rabbinic ordination, and with it to renew the full criminal jurisdiction of the rabbinic courts. The rabbis who sought to renew *semikhah* hoped thereby to meet what they took to be a condition precedent to the coming of the Messiah.⁸²

It would seem that the messianic rabbis of Safed share much with the radical constitutionalists whom Bob admired. Both groups dared to try to bring about a transformation of the world; both groups offered up that enterprise to the *nomos*, preferring the more difficult road that takes law seriously to the easier road of insularity or sectarian withdrawal. Moreover, the rabbis of Safed, as judges who made bold to extend their jurisdiction in the face of a contrary orthodoxy, were heroes in the tradition of the "tales of jurisdiction," stories that remind us of the courageous acts of judges who sought to curtail the misdeeds of kings and presidents.⁸³

Yet Bob could not forgive the rabbis of Safed for crossing the bridge, for

80. *Nomos and Narrative*, *supra* note 9, at 68.

81. In this respect, Bob's views bear comparison with those of Reinhold Niebuhr. With Niebuhr, but contrary to most other thinkers who have had some faith in the idea of natural law, Bob thought that the ethics of the Kingdom of God are not a blueprint for the building of a better world, but a safeguard against the collapse of justice into something infinitely worse. The point of appealing to God and Nature, for Bob, was not to bring an earthly paradise of love and mutuality, but to prevent Captain Vere and Chief Justice Lemuel Shaw from punishing the innocent in the name of justice. Compare JUSTICE ACCUSED, *supra* note 8, at 1-7 with R. NIEBUHR, LOVE AND JUSTICE: SELECTIONS FROM THE SHORTER WRITINGS OF REINHOLD NIEBUHR 28 (1967) ("without the 'grace' of love, justice always degenerates into something less than justice"). See also R. NIEBUHR, *The Relevance of an Impossible Ethical Ideal*, in AN INTERPRETATION OF CHRISTIAN ETHICS 103-35 (1935); G. OUTKA, AGAPE: AN ETHICAL ANALYSIS 172-74 (1972) (placing Niebuhr's ethics in context of his anthropology and eschatology).

82. The account that Bob gives of the Safed events in *Messiah*, *supra* note 23, is basically the same account that he published in *Folktales of Justice*, *supra* note 2, at 190-97. Bob also made that account the basis for his essay, A Translation of Kunteres Ha's'mihah: A Dispute That Occurred Between the Sages of Safed and the Sages of Jerusalem Over the Issue of S'mihah (Sept. 23, 1985) (unpublished manuscript).

83. See *Folktales of Justice*, *supra* note 2, at 183-90.

offering to put an end once and for all to the “tension between reality and vision.”⁸⁴ The rabbis of Safed failed to understand that law is a device for warding off the Messiah, not a device for bringing him.

It is instructive to compare Bob’s commitment to law as a device for warding off the Messiah, with the Grand Inquisitor’s refusal to admit the returned Christ.⁸⁵ Dostoyevsky’s Grand Inquisitor defended church law against Christ’s return because he saw that people are too stupid, too weak, and too needy to accept Christ’s message, with the transformative demands it makes upon the totality of the spiritual life. The Grand Inquisitor condemns Christ on behalf of humanity, in the name of limited human nature. Bob, like the Grand Inquisitor, would turn away the Messiah, but for the opposite reasons. Those who would bring the Messiah through law misconceive our human nature by failing to recognize that we are beings whose nature it is to “inhabit a *nomos*.”⁸⁶ Ours is a world of tension between reality and vision, not a world in which the vision and the reality merge. Thus Bob would hold us to our definitive life of self-transformative struggle, a life which takes itself most seriously in moments of jurisgenesis that entail obedient and disobedient commitment. In short, Bob would hold off the Messiah in the name of our freedom, while the Grand Inquisitor would hold off the Messiah because we are unfit for freedom.

“Law is a resource in signification,”⁸⁷ a constituent of the meaning-creative process of life. Narrative reminds us of this tie between law and our meaning-creative nature. “In this normative world, law and narrative are inseparably related.”⁸⁸ Those who would bring the Messiah through law misunderstand law and human nature. The pressure of the ending threatens the vitality and authenticity of meaning. We may say of apocalypsts and millenarists intoxicated with a sense of the ending of all things, what Weber said of inner-worldly ascetics: They are “afflicted with a sort of happy stupidity regarding any question about the meaning of the world.”⁸⁹ Yet such a “happy stupidity toward meaning” is itself, of course, a kind of meaning, in the same way that “a great disorder is an order.”⁹⁰ In their readiness to subject the central institutions of their lives to the discipline of the Messiah, the rabbis of Safed no doubt understood themselves to be realizing, not abrogating, the meanings of their lives and of the work that filled those lives. Moreover, it is far from clear that their

84. See *supra* note 41 and accompanying text.

85. F. DOSTOEVSKY, *THE BROTHERS KARAMAZOV* 288–311 (D. Magarshack trans. 1958).

86. *Nomos and Narrative*, *supra* note 9, at 4.

87. *Id.* at 8.

88. *Id.* at 5.

89. M. WEBER, *THE SOCIOLOGY OF RELIGION* 173 (1963).

90. See *supra* note 27.

effort to renew *semikhah* was fated in some essential way to condemn or destroy the meaning-generative character of their legal scholarship and their adjudication of issues in Jewish law. If the attempt to renew *semikhah* had not met fatal opposition at the hands of the rabbis of Jerusalem, would the tensely equipoised bridge of law and meaning in Safed have crumbled into something inhuman, unlawful, and meaningless?

I am sure that Bob must have confronted this question. Indeed, I believe it was one of the central interests that moved him to study the Safed episode. I do not know what answer he might have given. Perhaps, in acknowledging the "obvious fallacies" in his earlier belief that "the immediacy of the end of days [like Revolutionary transformations]" must "inevitably . . . tend to undermine the 'normal' tension between present and future," Bob meant to back away from his earlier claim that the pressure of imminent ending robs the spirit of legal meaning.⁹¹

A second difficulty creeps closer to the heart of Bob's enterprise. The narrative form establishes its own relation between meaning and ending,⁹² a relation that may distinguish narrative from the logic of both life and law. The semantic world of narrative is a relation between meaning and ending such that the ending, far from threatening the meaning of what has gone before, renders that meaning possible, and thereby fulfils its promise.

Nietzsche's aphorism about "end and goal" may clarify this point. "Not every end is the goal. The end of a melody is not its goal; and yet: as long as the melody has not reached its end, it also hasn't reached its goal. A parable."⁹³ The end of the melody completes it; without the ending, the melody is incomplete. Nonetheless, the goal of the melody is not to be completed, but perhaps to delight us, or to put us into a reverie. By contrast, the ending of the story completes not only the story, but its meaning. A melody is what it is until it ends; but what a story means pivots on how the story ends. Hence, for narrative, the cruelty of the ending—the fact that the ending sets a term to the story, brings it to a close—is redeemed by the breath of life that the ending breathes into the story's meaning. In "breeding/Lilacs out of the dead land," endings achieve a kind of rebirth.

It is no accident, then, that scenes of self-transformation, of regeneration, of what Kierkegaard called "the qualitative leap,"⁹⁴ provide the end-

91. *Messiah*, *supra* note 23 (brackets in original).

92. On the endings of narratives, see F. KERMODE, *THE SENSE OF AN ENDING* (1967), and the very thoughtful comparative and typological study, M. TORGONICK, *CLOSURE IN THE NOVEL* (1981).

93. F. NIETZSCHE, *Appendix: Seventy-Five Aphorisms from Five Volumes*, in *ON THE GENEALOGY OF MORALS AND ECCE HOMO* 183 (N. Kaufman & R. Hollingdale trans. 1969).

94. See, e.g., S. KIERKEGAARD, *THE CONCEPT OF DREAD* 82 (W. Lowrie trans. 1944); S. KIERKEGAARD, *CONCLUDING UNSCIENTIFIC POSTSCRIPT*, 94, 343 (D. Swenson & W. Lowrie trans.

ing of stories which never fail to impress upon us the most serious and lasting insights into human life. So Tolstoy, in *Master and Man*, ends the story with Vasili Brekhunov's act of self-sacrificing love for his man, Nikita: The life of the master is given for the life of the man. "Nikita is alive, so I too am alive!" the dying master says to himself, in joyful triumph.

And he remembered his money, his shop, his house, the buying and selling . . . and it was hard for him to understand why that man, called Vasili Brekhunov, had troubled himself with all those things with which he had been troubled.

"Well, it was because he did not know what the real thing was," he thought, concerning that Vasili Brekhunov. "He did not know, but now I know and know for sure. Now I know!"⁹⁵

Likewise Raskolnikov, in *Crime and Punishment*, from the exile of his punishment, experiences "a full resurrection into a new life." "He did not know," Dostoyevsky concludes,

that the new life would not be given him for nothing, that he would have to pay dearly for it, that it would cost him great striving, great suffering.

But that is the beginning of a new story—the story of the gradual renewal of a man, the story of his gradual regeneration, of his passing from one world into another, of his initiation into a new unknown life. That might be the subject of a new story, but our present story is ended.⁹⁶

Thus the ending of one story is the beginning of another; the death of the master is the life of the man. This is the relation between meaning and ending in narrative: that the ending makes the meaning possible, while the meaning makes the ending no ending at all, but instead a beginning.

Given the importance we assign to stories, the role they have always played in our efforts to understand ourselves, we can say with some assurance that we will not understand human self-transformability, as opposed to buying, selling, and the other things that trouble us, if we do not listen carefully to the great stories. But our dependence upon narratives of transformation does not flow exclusively, or even primarily, from the contingent messages that literature sends. In some sense, the very intuition of self-transformation as a human possibility is a residue of storytelling, a product of the narrative relation between meaning and ending. Regenera-

1941).

95. L. TOLSTOY, *Master and Man*, in *THE DEATH OF IVAN ILYCH AND OTHER STORIES* 290 (1960).

96. F. DOSTOYEVSKY, *CRIME AND PUNISHMENT* 575–76 (C. Garnet trans. 1959).

tion or rebirth, on this view, is not just a lesson that some stories teach, but a semantic structure of stories as such, derived from the symbiosis in which meaning draws from ending its sting of finality.

We can learn from narrative, however, only what narrative is equipped to teach.⁹⁷ Lives, of course, are not stories, and the relation between meaning and ending is not the same for lives as it is for stories. No doubt it would be a mistake to declare, with the existentialists, that the relation is in fact reversed: that in life the ending negates meaning, while in story ending makes meaning possible. There is no reversal, there is only difference. Since life is not a story, its ending cannot redeem itself by completion of meaning. Hence we are caught by literature in a distinctive way. Literature bids us expect from life the redemption that is characteristic of the story form, but literature cannot make good on that expectation. Instead of disappointment, however, we find in this limitation a peculiar kind of excitement. We turn to philosophy for a conception of human nature as self-transformability, and thereby hope to answer the call that came forth from narrative.

When philosophy answers that call, it teaches us to see the redemption and regeneration of life within life. Having no ending to redeem us, we make our renewing stories for ourselves, from the transforming events of our lives: from the exchange of wedding vows, from the experience of pregnancy and childbearing, from conversion and disillusionment, from vocational and political commitment. We celebrate repentance and forgiveness, maturation and resignation. Life redeems the promise of literature when disobedient suffering transforms the conditions of war or oppression, or when a woman in the courage of her struggle breaks the limits that had been placed upon her life; or when death teaches life

Migrations that must needs void memory,
Inventions that cobblestone the heart,—
Unspeakable Thou Bridge to Thee, O Love.⁹⁸

97. For discussion of the limits upon narrative as a source of moral instruction or guidance, see Garet, *Comparative Normative Hermeneutics: Scripture, Literature, Constitution*, 58 S. CAL. L. REV. 35, 120–34 (1985).

98. *The Bridge*, *supra* note 1, at 116.