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Actual Minds, Possible Worlds (Book Review)

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BOOKS REVIEWED

ACTUAL MINDS, POSSIBLE WORLDS. By Jerome Bruner. Harvard University Press, 1986. Pp. xi, 201; \$7.95 (paper).

TIME, NARRATIVE, AND HISTORY, By David Carr. Indiana University Press, 1986. Pp. 190; \$22.50.

LAW, FREEDOM, AND STORY: THE ROLE OF NARRATIVE IN THERAPY, SOCIETY, AND FAITH. By John C. Hoffman. Wilfrid Laurier University Press, 1986. Pp. 189; \$22.95.

NARRATIVE AND MORALITY: A THEOLOGICAL INQUIRY. By Paul Nelson. Pennsylvania State University Press, 1987. Pp. 180; \$21.50.¹

Even law teachers are talking about stories and about using stories in teaching and scholarship. Here are four small treatises that attempt to justify the interest at levels that are deeper than technique. These books are connected only by the fact that Jim Elkins sent them to me, but they line up to offer useful breadth for any law teacher who wants to think about what we do when we tell a story.

One of these is done by a venerable humanistic psychologist (Bruner); one by a philosopher (Carr); one by a teacher of religion (Nelson); and one by a theologian (Hoffman). All are worth a lawyer's time. I will spend a few paragraphs telling why I think that is so, and will then attempt to describe two themes that may interest law teachers, themes all four of these books raise, and none of them disposes of.

Four Books, Four Agendas

Bruner is fun to read, a fact those of us who dabble in psychology will remember—and remember as almost unique—from his landmark books on learning theory.² Even the most magnanimous and attractive of modern psychologists—Maslow, Rogers, Jung—tended to be turgid, and few of them were clever. Bruner's prose beckons and comforts even when his theories seem fragile. He is agile, witty, alert; he has incredible cultural scope; it is hard to imagine that anyone can read all of the things he reads, and, beyond that, can notice so much. He moves from concern with science to a poem and back again as naturally as a good teacher picks up and uses as prop whatever

1. These are referred to in these notes as Bruner, Carr, Hoffman, and Nelson.

2. *The Process of Education* (1960); *On Knowing: Essays for the Left Hand* (1962); *Toward a Theory of Instruction* (1966); *In Search of Mind* (1983); *Child's Talk* (1983). See also essays in periodicals and anthologies, and books written with co-authors, cited at Bruner, pp. 178-180, 185, and 187.

is at hand. For example, at the beginning of a chapter on transactions, Bruner recalls an impromptu experiment he and a colleague did in a small discussion group. They wondered what happens when one person chooses another, and asked people in the group to do that sort of one-on-one choosing. They compared the dynamics of the process with incidences of the situation in which the chooser wants partnership but the chosen does not. Bruner and his colleague found that instances of non-mutuality disappear as members of the larger group become familiar to one another. (*Familiar* is, I think, the word that is best there.) And then Bruner, in the experiments, as in his recalling of them in this chapter on transactions, says, "We left it at that and went off to pursue other matters."³ Reading Bruner is like going on a hike with someone who notices ferns.

Bruner took his current title from Aristotle: "The poet's function is to describe, not the thing that has happened, but a kind of thing that might happen. . . . Some historic occurrences may very well be in the probably once possible order of things."⁴ Bruner's argument—indeed, his dogma—is that our worlds are the products of our minds. And, of course, the world made by our minds is the world of our stories. The order of things described by the mind and in the story is a provable reality, as provable as the order of things described by "paradigmatic" reasoning, that is, by logic, science, hypothesis, cause, procedure, and what he calls "top down" perception.

Carr, a philosopher at the University of Ottawa and a student of the phenomenological philosophy of Edmund Husserl, is out to justify the narrative method in the philosophy of history, "to show that full-fledged literary story-telling arises out of life."⁵ Carr takes first the problem of justifying a narrative view of individual life—the argument that life *is* a story; in that agenda he has to deal with objections from those who say that life (reality) is chaos, that the stories we tell are structures we invent from inside, for urgent personal purposes ("narrativization"!). Stories are only what we impose on chaotic reality; for example, Frank Kermode's observation that people give a sequence of time: We say the clock goes "tick, tock," when in fact the clock makes the same noise each time it makes any noise.⁶ Carr is out to prove Kermode wrong, to demonstrate order and sequence in reality. That is also Bruner's agenda; it is an ontological agenda—a theory of being. Both Bruner and Carr do their jobs with stories. Both conclude that stories are inherent in being; they are not secondary mental constructs. "The mind," as Bruner puts it, is an "instrument for producing worlds."⁷ Carr says that narrative is "our *primary* way of organizing and giving coherence to our experience."⁸

3. Bruner, p. 59.

4. Quoted at Bruner, pp. 53-54 (from the *Poetics*).

5. Carr, p. 17.

6. Quoted and discussed, Carr, p. 19ff.

7. Bruner, p. 104.

8. Carr, p. 65.

Carr (who is working on a philosophy of history) then has to take up an anthropological agenda; he has to justify a narrative view of communities. This means he has to locate a narrative reality for *groups* of people, to account, from his philosophical categories, for the reality of the “intersubjective,” the “we-subject,” as he calls it. He has problems here that some of us, who are at worst recovering Kantians, do not have. Carr’s commitment to Husserl will not let him let go of an anthropology that describes the human person as radically alone. Many theorists of narrative—most notably those working in neo-Aristotelian philosophy and in postliberal theology—begin with the notion that the person is radically *connected* to others. Carr sees the human person as isolated and ideally autonomous, a moral agent in whom fact-finding and value-making are discrete functions. Those commitments put obstacles between narrative and community. It’s a problem that, in my view, he need not have, but it’s fun to watch him try to get around it. Even if Carr makes a trip some of us think unnecessary, he makes his way to a conclusion that seems to spare his existentialist assumptions: “[W]e may analytically dismember our experience and treat its distinguishable temporal phases as if they were distinct. But we experience them as parts of temporal wholes which get their sense from the configurations to which they belong,” he says.⁹ This experience is one that is shared through participation, participation that is, when deepest, chosen: “[C]ommunities are composed ultimately of individuals who, in a more or less explicit way, choose to belong to them and are conscious of doing so.”¹⁰

Hoffman’s project is to consider stories as a means to transcendence. He seeks, he says, the “transnomic” through the “nomic.” Creativity, freedom, inspiration, and mystical enlightenment (transnomic) are available to us, but they are achieved through culture (nomic). The transcendent is reached through the traditions and communities that our stories describe to us. This is a theological agenda, most specifically an attempt to extend Martin Luther’s affirmation that there is a religious way of life that does not depend on a burden of guilt. Hoffman seeks what Paul Tillich called the “transmoral conscience,”¹¹ a psychic quality (Bruner might call it a possible world) “that seeks to establish the individual’s right to be, prior to and apart from any moral achievement . . . apart from having become good.”¹²

Hoffman wants, as the Fathers of the Reformation did, a law that instructs but does not imprison, a law that depends on the priority of love over achievement.¹³ His argument is that our transnomic stories show us how to seek this—show us how we have managed to seek it—and that what our stories show is that transcendence is not possible outside culture: The transnomic is achieved through the nomic. Hoffman describes a creative human freedom that comes

9. Carr, pp. 65-66.

10. Carr, p. 163.

11. Hoffman, p. 106.

12. Hoffman, p. 106-107.

13. Hoffman, p. 124.

from order, not in spite of or around or under order. Transcendence is possible when order supports it. (And if that isn't forty acres and a mule for law teachers—what is?)

Nelson teaches religion at Wittenberg University. He notices an unresolved dispute among contemporary writers on religion and narrative (Hauerwas, Goldberg, May, McClendon, Yoder) on one side, and religious and ethical writers who are identified as “foundationalists” (Childress, the Niebuhrs and their heirs), on the other. But Nelson also notices in those who use narrative method in theological ethics a coherence that is nowhere to be found in modern philosophical ethics. (That is also the observation Alasdair MacIntyre makes in the first half of *After Virtue*.) These facts suggest that the theologians are doing something important for *all* of normative thought; theological disputes over foundations should be worked out so that theologians can continue to help (lawyers and) philosophers think, so that theologians don't become as babelous as (lawyers and) philosophers have become.

Most of Nelson's book is a description of schools of thought within the unresolved theological dispute. This description—which is clear and interesting—is the main value of the book. His suggested resolution of the dispute will, I think, be largely unacceptable to the storytellers and too timid for the foundationalists. But along the way, Nelson endorses and describes George Lindbeck's cultural-linguistic account of religious thought¹⁴ and argues for its relevance in all of the humanities, including, I think, the law. Nelson makes a Lindbeck-like argument that several of us who write for law journals make; he causes us to hope that law teachers will listen:¹⁵

For theology to find a “conversable” voice does not require that it first be translated into a religious Esperanto. Nobody speaks that way, and if anyone were to try, few would care enough to listen. A postliberal approach to narrative is at no disadvantage when it comes to conversing in a culture that is, after all, less secular than sometimes imagined. Neither is postliberal theology unintelligible to the academic community. . . . [S]ocial scientists, historians, and literary critics are quite accustomed to viewing religious traditions and texts along the lines of the cultural linguistic model A conversable postliberal theology will not persuade or convert all its conversation partners, but neither will it baffle them. Comprehension does not require confession.

THEME ONE: DESCRIPTIVE VALUE

The use of stories to describe has, I think, three levels of value in thinking, teaching, and writing about law and lawyers. The value is available even to those who hold, as most contemporary jurisprudes do, that fact and value

14. G. Lindbeck, *The Nature of Doctrine: Religion and Theology in a Postliberal Age* (1984).

15. Nelson, p. 83.

are separate—who hold that normative thinking has to proceed, as an appellate opinion does, by stating the facts first and keeping perception out of consequent reasoning.

The first level is the one we have used in the law all along: We illustrate concepts with stories; we remember law by fixing it to little accounts of fact, from Mrs. Palsgraf's mishap with the scales in the Long Island Railroad station, to the fox that Post chased across the beach and then lost to Pierson. The proposition that stories have descriptive value in normative reasoning is something we law teachers have argued all along to our more abstraction-prone colleagues in psychology, religion, and philosophy. We are always telling them to use stories (examples), so that we can understand them. We also seem to realize that our law stories do more than illustrate; they are more than examples; they are routinely the way we learn how to behave. Forgive me for quoting myself, but I like the way I said this last year: "[H]ero stories . . . appeal from life to life. They appeal to us in the way influential people in our lives appeal to us, in a way that is for the most part unmediated by processes of analysis and comparison. . . . [The story] influences those who hear it in [an] immediate way. Trends in the popularity of such stories [thus] have a lot to do with rises and falls in the volume of applications to professional schools."

Stories also challenge behavior; they remind, explicate, and demand. Hoffman shows how this is particularly so in prophetic stories and parables. The parable of the Good Samaritan, for example, "is not to affirm that we should help people in need but to disrupt our assumptions concerning who are the good and the bad."¹⁷ The parable of the Workers in the Vineyard "is not about goodness but about surprise . . . God . . . shatters our understanding of graciousness . . . shatters utterly the normalcy of life."¹⁸ In each case the parable describes convention and order, but the force of the parable disrupts convention and transcends order.¹⁹

The transcendent possibilities of the parable are possible only because parables describe the nomic—the cultural and traditional—truthfully: Samaritans were regarded as bad people, but Samaritans were as likely to be virtuous as people who were regarded as good. Workers in a vineyard are paid what they earn, and they expect equal treatment so much that they cannot bear any fact—human or divine—that might set one of them apart. In this nomic way, stories, as Bruner says it, tells us about the "vicissitudes of intention."²⁰ Some stories challenge intention, disrupt, and startle; but first they show us what is going on. The first level at which stories work is a matter of being truthful: Seeing is a moral art, as Iris Murdoch says.²¹ (There is

16. *Faith and the Professions*, p. 20-21 (1987).

17. Hoffman, p. 17.

18. Hoffman, p. 19-20.

19. Hoffman, p. 15-38.

20. Bruner, p. 17.

21. I. Murdoch, "On God and Good," in *The Anatomy of Knowledge* (1969).

a challenge there to the Kantian dogma that fact and value are separate, but, perhaps, Carr's account of how our perception of facts works in stories will keep the Kantians and the Aristotelians on the same boat long enough for everybody to consider other levels of narrative description.)

The second level at which stories describe is the level of community: Stories describe persons as being in communities: None of us need be alone. (I say it that way, rather than "None of us *is* alone," because I still want to keep the Kantians on the boat. The move here is the one Carr makes.) Stories describe persons as in communities: Some do that advertently, even tendentially (e.g., the novels of Anne Tyler); but all of them—even stories of isolation (e.g., Kafka's, Frost's poems)—do it. There is, the stories say, something inevitable about our being connected, something definitional. Something that doesn't love a wall.

Carr works out this connectedness with a theory he borrows from Hegel, a theory Bruner would, I think, call top-down, "logico-scientific," formal: We are connected because we *choose* to be connected. That way of accounting for community will be cordial to democratic liberals, but I think it is barren of ordinary earthy reality, and mistaken besides. The neglect of poets and storytellers, within an argument for narrative, makes Carr seem—despite his protestations to the contrary²²—unrealistic. He treats literary art as derivative from what he calls "the pre-literary structuring and shaping of real life."²³ He might, without serious violence to his theory, have been kinder to storytellers. He might have found *primary* value in the shattering insight and descriptive power that poets give to us. He creates a problem, with his talk of Hegel, that he need not have created. He speaks of "literary embodiments"²⁴ as something crafted from a procedural description of what is going on. He turns our stories into gingerbread trim on the front porch.

As Carr's neglect of the storyteller leaves his account of the personal narrative anemic, his neglect of organic groups leaves his account of communal narratives anemic. His Hegelian theory diminishes the value of groups to which we cannot help belonging—family, race, even religion. Following Kant, Hegel and Carr have to limit significant moral connections to those that are products of choice; the individual is then described as radically alone. Our obvious membership in families, clans, tribes, and neighborhoods is not significant for theory.

The alternative (and, as it seems to me, earthier and more realistic) view is that the organic group is given, not chosen; the group is prior to the choices of the individual: We are radically connected. With that in mind as anthropological data, we tend to see chosen (associative) groups as derivative from and consequential on organic groups; we account for associative groups by analogy to the organic groups we come from. The business corporation,

22. Carr, p. 17.

23. Carr, p. 72.

24. *Ibid.*

or university, or hobby club, is described as a metaphorical family. That description is a moral claim for the associative group, but not a moral claim that rests on choice.

There are two advantages to this alternative way of looking at groups: (i) It accounts for *all* of our engagements; it does not leave out or diminish the earthy ones, the ones choice cannot explain (as, again, in the novels of Anne Tyler). And (ii) it accounts for our participation with others in some terms other than contract—and that, too, seems to be a realistic way to explain our transactions, as well as one that is more commonly the stuff of good stories. Imagine a contract-based account of the connections one finds in a Jane Austen story! Carr recognizes that both of these points are problems for his theory, but he does not seem to me to work his way out of them.

In any event, as Carr says, “[W]e always stand at some particular point in a temporally unfolding event-structure; we retain whatever has gone before and project what is yet to come. In a kind of collective reflection, we act or experience in virtue of a story we tell ourselves about what we are going through or doing. It can be seen that the roles of agent (we act), narrator (we tell), and audience (to ourselves) turn up . . . in plural form.”²⁵

At a third level, stories certify their own truthfulness. What the story says is *right*; the story has it *right*. I tell myself, in my use of stories in teaching and writing about the law, that when in doubt I have to *trust the story*. Nelson argues cautiously for the principle, although, when he gets to what he calls his “final assessment” of narrative theology in ethics, he doesn’t trust his own instincts. The alternative view (which Nelson finally accepts) is that the story has to be checked against the rules, even though much of what he argues should lead him to say that you have to check the rules against the story: It is in stories that we understand ourselves and others as enduring, growing, and becoming. Theories of ethics that turn on character, virtue, and interpersonal faithfulness require continuity.

Nelson shows that the need for narrative is more fundamental than the justification of an ethical theory. Coherence itself requires narrative; we can’t make sense of our existence without narrative. (That is part of Hauerwas’ and Goldberg’s argument, and I read Nelson to have accepted that much of it.) But if that is so, then the narratives that give coherence to life contain within themselves the processes by which we decide when our principles are sound. The narrative account contains within itself the apparatus for self-criticism, determination of right and wrong, and change. (*Teshuvah*, repentance, turning to Torah, is comprehensible in Hebraic moral theology because *teshuvah* is *in* the biblical narrative: The giants of Hebrew scripture were none of them moral paragons, but they are the heroes of our faith.)

This third level of narrative description is, of course, tied to the other two. Because the story we hear or tell is true, it is possible to trust it to describe what is going on and to describe the communities in which we make our

25. Carr, p. 140.

engagements. That means, of course, that the narrative has to be *adequate*. There are untruthful stories, and untruthful stories are not to be trusted. Finally, Nelson argues, this means that stories have to be subjected to justification in (abstract) principle and to what Bruner would call logico-scientific deliberation; they have to be established on some rational ground (e.g., the Kantian universal) that is outside the narrative.

The answer to that conclusion, from the principal proponents of narrative ethics, is that the story justifies itself: Hauerwas says an adequate story is one that (i) has power to release from destructive alternatives; (ii) sees through distortions; (iii) has room to keep us from having to resort to violence; and (iv) exhibits a sense of the tragic (as he puts it, the story shows us that meaning transcends power). Hauerwas' test is a comparison of the story at hand (the one whose adequacy is at issue) with a story he accepts as adequate—the story of Israel and the Cross (which is a story sustained over time in a community). Both he and MacIntyre can be read to say as well that the adequate story is the one we *just know* to be true; our testing of stories is in any case within cultural criteria (neither thinker is worried about universals). I suppose there is quite a bit of intuitive soundness in saying that, among the stories we, in our culture, know about, we can pretty much tell which ones are true. That is so for the Wednesday-afternoon business of the law, as it is so within the aesthetic traditions of critics and reviewers who tell us, in our culture, what is worth reading.

Bruner does not point to the Bible (as Goldberg,²⁶ Hauerwas,²⁷ and McClendon²⁸ do), and he does not convey a sense of Western moral culture, as MacIntyre does. Bruner's argument is epistemological: He says (he really does) that the world imagined in our stories (the ones we tell, or hear and nod at) is irrefutably the real world; there is no system of validation that is any more reliable than they are. Even when we look at reality through a logical method, as well as in our stories, there is no way to say that what we see one way is real and what we see the other way is not. We are best advised to look in both ways, "as with the stereoscope, depth is better achieved by looking from two points at once."²⁹ The validation of the story is in the mind and heart of the person who hears it: "[T]he author's act of creating a narrative of a particular kind and in a particular form is not to evoke a standard reaction but to recruit whatever is most appropriate and emotionally lively in the reader's repertory."³⁰

"[T]he narrative mode leads to conclusions not about certainties in an aboriginal word, but about the varying perspectives that can be construed

26. M. Goldberg, *Jews and Christians: Getting Our Stories Straight* (1985).

27. S. Hauerwas, *A Community of Character* (1981).

28. J. McClendon, *Biography as Theology* (1974); *Systematic Theology: Ethics* (1986).

29. Bruner, p. 10.

30. Bruner, p. 35.

to make experience comprehensible," Bruner says.³¹ Finally (although this is not entirely clear in Bruner), narrative perception is the test for reason itself; when all else fails, he says, the economists abandon their theories and tell stories; "there is a curious anomaly here: businessmen and bankers today (like men of affairs of all ages) guide their decisions by just such stories—even when a workable theory is available . . . [S]tories create a reality of their own."³²

THEME TWO: TRANSCENDENT VALUE

Bruner reports on a series of his own experiments, and those of other research psychologists, on interpersonal transactions and when we people start making them—when we start taking other people into account. Bruner concludes that we begin to do that before we are born; he believes that much of the information and argument produced by developmental psychology is a vast, false theory of child development that reads (in his description) as though it were concocted to fit Kantian assumptions (the rules testing the story). The distinction between public and private worlds in a baby's earliest life is, Bruner says, "unmediated conceptualism"; the child perceives the world directly. The separation of psychic functions into cognition, affect, and action—the separation of mind from will, if you like—is not real in a baby's life. Babies are not inherently egocentric; they begin perceiving other people *ab ovum* (Bruner's Latin).³³

"It would seem a warranted conclusion," he says, "that our 'smooth' and easy biological readiness based on a primitive appreciation of other minds, is then reinforced and enriched by the calibrational powers that language bestows, is given a larger-scale map on which to operate by the culture in which transactions take place, and ends by being a reflection of the history of that culture as that history is contained in the culture's images, narratives, and tool kit."³⁴ The person, even when an infant, is not "a lone agent mastering the world on his own"; he is in a story, he is a story, from the beginning. Culture is then a forum, a thinking person's way of conceiving of what Hoffman calls the transnomic (the transnomic through the nomic). "That a theory of development is 'culture free' is to make not a wrong claim, but an absurd one," Bruner says.³⁵ Culture is constantly being recreated and is thus "a forum for negotiating and re-negotiating meaning and explicating action"—this more than a place where rules are learned. Theater, storytelling, and jurisprudence are techniques "for intensifying this function—ways of exploring possible worlds out of the context of immediate need." But, Bruner says, culture is

31. Bruner, p. 37.

32. Bruner, pp. 42-43.

33. Bruner, p. 60.

34. Bruner, p. 67.

35. Bruner, p. 135.

“Not a relativistic picnic.”³⁶ We receive the world, transform what we receive, accept what we have transformed, and pass it on. “In the end, it is the transaction of meaning by human beings . . . armed with reason and buttressed by the faith that sense can be made and remade, that makes human culture. . . . Literature is our only hope against the long gray night.”³⁷

That account of the way people are, from a psychologist’s wisdom, has, I think, affinity for Hoffman’s philosophy of history. Bruner’s test for a worthwhile story is a trial-and-error test: We try it on, we *entertain* it, and we decide after a while it holds the promise of transformation; if it doesn’t, we are not accounting for ourselves truthfully. Hoffman’s test is more precisely theological; he tests the story against the memory of the church. These are the questions Hoffman asks:

(1) A story holds promise for transcendence if its insights are insights from (and through) the nomic (the cultural): “No one can live without some sort of structuring, ordering reality. The issue is whether or not we are oriented by structure that is healing and creative, one that opens the way to move beyond itself to the freedom of the children of God.”³⁸

(2) Transcendence also requires that the story point beyond the nomic, something believers achieve when they tell “the old, old story” and get it right. One way to see if transcendence is a possibility is to look within the story for the parabolic, the prophetic, the element of truthfulness that calls the story out of itself: “The test of an appropriate statement of faith,” for example, “cannot be simply that it proclaims the truth . . . in a way which does not lead into . . . error. Theology must seek to lead men and women into mature and dynamic living. . . . We fail, in our endeavor to clarify and specify the structure of faith, if we only protect ourselves against a theology with a wrong effect, and do not strive for the full effect of a theology leading beyond itself.”³⁹

I wonder if such a set of tests could possibly apply to the law. Well, there is a story about that

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36. Bruner, p. 123.

37. Bruner, p. 159.

38. Hoffman, p. 145.

39. Hoffman, p. 152.

A CRITIQUE OF THE NEW NATURAL LAW THEORY. By Russell Hittinger. University of Notre Dame Press, 1987. 232 pp.

Russell Hittinger has written a valuable critique of the theory of practical reason advanced by Germain Grisez and John Finnis. The author contends that although their system claims to be a natural-law ethics, it is not derived