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## Introduction: Is Cultural Criticism Possible?

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# INTRODUCTION IS CULTURAL CRITICISM POSSIBLE?†

*James Boyd White\**

## I

It is by now something of a truism that the abstract and conceptual modes of discourse that have dominated our intellectual life in the past century have led to a rather reduced and schematic view of law. Moved by the desire to talk about social institutions in a neutral and scientific way, scholars beginning at least with John Austin have sought to define law as a set of rules, promulgated by a sovereign and addressed to the behavior of subject individuals, all in an attempt to isolate legal phenomena from their context for scientific study. Rules, on this view, are seen to speak in terms of classes: any person who performs act *A* is said to be exposed to consequence *B*. For the purpose of law so regarded, all that matters is the stereotyped narrative which it establishes as a condition for the legal consequence it imposes. The law takes a snapshot of the world and reduces human actors and events to the set of caricatures by which it interprets what it sees. The analyst's hope is to establish a set of classifications or categories that can be used to describe and predict legal phenomena in a scientific and value-neutral way. He preserves for other days the questions whether the law is good, whether it ought to be obeyed, what its origins are, what relation it bears to other social and cultural phenomena, and so on.

This view of law is associated with the tradition of philosophic liberalism that views society as comprised of a set of atomistic individuals, each of whom bears a set of rights, liberties, and duties, and who are related to one another through contractual relations and through the operations of the State. Such community as exists, on this theory, is formed on the principle of maximum respect for individual liberty. What ties us together is not our common values or desires or identity or sense of belonging but our respect for the other person's right to choose to do with his own what he will.

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† Copyright 1986 by James Boyd White.

\* L. Hart Wright Professor of Law and Professor of English, University of Michigan. A.B. 1960, Amherst College; LL.B. 1964, Harvard University. — Ed. What I say here about authority is much influenced by conversation with my colleague Joseph Vining and by his new book, *The Authoritative and the Authoritarian* (1986).

All this has been subject to qualification and attack for some time, and the present symposium is an important stage in that process. Each of these writers is interested in expanding his or her range of vision beyond the relationship between the lawmaker and the direct audience of the lawmaker's commands to include the society and the culture in which the lawmaker and citizen are both embedded. The heading that unites these efforts is "Law and Community."

This phrase has a wide range of possible meanings, of which I wish to focus on three. The first, and perhaps the most obvious, suggests that the relationship between law and the larger community is at heart reciprocal: the source of law is ultimately the community itself, which the law in turn serves to reinforce or reconstitute. The law is then seen as one of the ways in which the society and the culture remake themselves. This perception naturally erodes the sense that the law dominates the world — or even creates it — and hence our confidence, otherwise so natural to lawyers, that we can judge a particular world by its laws. Power can speak and act through social conventions or private arrangements as well as through law, and the surface rationality and fairness of a legal system may mask its radical injustices. For our own law to be "color blind" in its own categories, for example, would not erase but reinforce the racism that otherwise exists in our community.

This perception also blurs the distinction between those who make and those who obey the law, enabling us to see law as a means of self-regulation or self-constitution. In both respects it suggests that law can be properly understood — properly interpreted and properly criticized — only as part of a larger cultural and social matrix. It is to the community, to the society and the culture, that we must look to understand the aims of legislation, the significance of judicial decisions, the meaning of sentences or even of particular words in legal discourse, the omissions or dominations that make law unfair, and so on. All of this opens up important lines of thought.

Another meaning of law and community focuses on the fact that the law can itself be seen as a way of establishing a community of value and discourse among those who speak and act on its terms. This is a way of seeing the legal community as having its own principles of constitution and practice, its own social roles and values, its own culture. The ideals of the fair hearing, of the impartial judge, and of the trustworthy lawyer, for example, are ideals of the legal culture, and they are of first importance to the larger world as well.

People who take the first point of view will find themselves asking, "What kind of community does the law help us to become as a whole

society?" Those who take the second point of view will ask, "What kind of community among legal actors does the law itself create, in its practices, institutions, and methods?" These are deeply related questions — one could hardly answer one without eventually addressing the other — but they do represent different points of departure. And they share a difficulty, which it will be my main object in the rest of these observations to address, namely that each approach presents us, in our science-ridden century, with the basic tension between questions of fact and those of value.

The central question I have attributed to each approach — "What kind of community does the law make?" — is ambiguous in the sense that it is not clear whether it calls for what modern discourse would call an "empirical" or a "normative" response. For us, as modern intellectuals, factual questions are the safe ones: we undertake to describe something, whether it is a social system, a series of cases, or the interaction between law and community, and in so doing we claim to make a contribution to knowledge. Even safer are questions of logic or reason, for they can remain wholly hypothetical: "If you say *X*, you must also be saying *Y*." Whether to say *X*, or not, is a wholly different question. To evaluate, judge, or what I call criticize is for us far more dangerous, for any act of criticism will be based upon values, and much of our current academic ideology — here the scientific and liberal traditions reinforce each other — claims that "values" are inherently suspect as "subjective" or "personal." On what ground can we claim the right to speak and be listened to on such subjects? The scientific model of discourse writes out value judgments on the grounds that they cannot be talked about rationally — they are mere preferences; the liberal view of the relation between the individual and the State regards them as essentially private; and much modern philosophy seeks to reduce them to a discourse that is itself conceptual and deductive, in which the speakers trace out the consequences of one position or another but do not argue about the primary commitments — often reduced to "intuitions" — upon which everything ultimately depends.

But as the writers in this symposium demonstrate, and a moment's thought would also show, to talk "purely factually" is at once undesirable and impossible, especially about law and the questions law addresses. Who could ask either of the questions listed above without at least implicitly asking also what kind of community the law *ought* to help us to become, what kind of community the law *ought* to be? The question then remains: Upon what can this process of judgment and criticism be grounded, upon what understandings can it proceed?

It is this question that I wish to discuss here. It is an especially acute one because so many people fear, or seem to fear, that under the conditions of radical relativism that are thought to dominate modern life no cultural criticism is possible, or, perhaps worse, that any old criticism is as good as any other and that no serious and responsible judgments can be made on such subjects. My hope is to address and to allay this fear in a way that will suggest a set of questions that can usefully be brought to the papers that follow this one.

## II

In many different ways, for a great many decades, it has been claimed that the great characteristic of the modern world is the collapse of order. God is dead, or so we are told, and the fixed doctrines and traditional practices of religion no longer offer truths upon which we can confidently rely for a clear sense of ourselves, of our world, and of our duties. Science was once thought to promise a firmer ground, and some still think it does, but upon examination it too proves to be culturally determined and shaped, in some cases almost a form of poetry. From Darwin we discover that the categories of nature itself — the species into which life is formed — are impermanent, constantly shifting, and that they carry us into a future we cannot possibly imagine. Our psychological experience — the first and last datum of the neo-Cartesian skeptic — is shown by Freud to be delusive, incomplete, part of a larger structure of motive and meaning of which we can grasp only the dimmest outline. Wittgenstein shows us that language, the very material of our thought and the means of our expression, is contingent and variable, laden with meanings of which we are imperfectly aware and which we cannot wholly control, while Derrida and some of his followers offer to take us a step beyond that. We have come to see that our languages construct attitudes within each of us, not so much against our will as without reference to it, and over these processes we have little or no control. For us — in contrast, we think, to our predecessors — there is thus no transparent universal language, no authoritative medium of thought or expression, whether philosophical or academic, into which statements in other languages can confidently be translated. Under these conditions, how can we have confidence in anything we see, anything we feel, anything we say, anything we do? How can we possibly judge the worth of anything?

For lawyers the perception that our minds and sentiments, and to some degree our selves, have been formed without our knowledge by the language and practices of the legal culture, and of the larger culture beyond it, is likely to be quite disturbing. It may even lead to a

kind of rebellion — “You are not going to get control of *my* mind,” we say. But that does not quite work, at least not in such a simple way, for the “we” that is making this claim is in fact partly the product of the culture itself. That is the very fact being complained about. Another response is a kind of hatred of the culture for having marked the self — “I will be my *own* master” — irrespective of any judgments one might try to make about the merits of the particular culture. But this hatred of the culture, by virtue of the very fact that gives rise to the anguish, is also hatred of the self.

All of this is especially difficult for the kind of person attracted to law, for we are by nature and training likely to be competitive, confident in the powers of analytic reason that have served us so well, and afraid of anything that looks like weakness. For many people, including — or especially — academics, law is a field for conquest by assertion and argument, almost a form of warfare. It can be very disturbing for us to realize that we do not have control over the power that we have at such cost given ourselves. Our own greatest achievement — and who would we be without it? — is in our eyes stained. What often results is a profound conflict, perhaps externalized in the form of a monotonous railing against an oppression of the self in which one is in fact complicitous. The mind insists on making things somehow different, but has no sense of any way to do that. Small wonder that people caught in this kind of situation feel, as we are told by *The New Yorker* that some law professors do at Harvard, that their “lives have been wasted.”<sup>1</sup>

What are we to say to the side of ourselves that feels this way? One possibility would be to defend our present legal and general cultures on the merits, so that we can become reconciled to the fact that we are partly made by them — and made perhaps much better than we would be without those influences, if such a thing can be imagined. Another possibility would be to join in a kind of general and incoherent revolt against the culture and the self. The strong version of the first response is pure authoritarianism, that of the second is pure nihilism or anarchism, and for most of us neither of these is thinkable. Any other alternative requires discrimination and judgment, and thus that we face our central question: How we can have confidence in our capacity to judge the culture we inhabit?

It is as a way of addressing that question that I believe the method of the humanities, which it will be my object in the rest of this paper to describe, has much to offer us. The central idea of this method is to

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1. Trillin, *A Reporter at Large: Harvard Law*, NEW YORKER, Mar. 26, 1984, at 53, 83.

see what can be learned from the experience of others who have similarly struggled with their own versions of our common situation, especially as that experience has been preserved for us in the great texts of our own past. By reading them well, we can make them texts of our present too.<sup>2</sup>

### A

This raises the question how that learning is to proceed, but for some there may be a prior issue. The modern world is unique, one might say, and there are no relevant others to look to. The great works of philosophy and literature to which we might look for models are every one of them tainted by the dominant ideologies of their day, reproducing injustice even where they seek most to liberate. We are alone in a unique cultural situation and have nothing to learn from others: this is what it means to be a modern.

I think this is simply wrong. The people of the past inhabited worlds that were in essentials as relativistic as our own. These men and women were partly made by the languages and cultures they grew up in, by the practices of social and intellectual life that created the world they knew. Yet in their compositions they partly remade or reconstituted these languages and practices. Their struggles with their languages can thus speak to us directly as we struggle with our own, if we can only educate ourselves enough to hear them. We can learn to participate in a cross-cultural conversation about the relationship between mind and language, between self and culture, and do so with minds often vastly superior to our own. It is to maintain the possibility of such a conversation that we preserve the works of our past and seek to educate our minds to understand and respond to them.

### B

What actually marks the modern mind, I think, is not the collapse of order around it, as we are inclined to feel, but an extraordinary desire for an impossible certainty followed by an extraordinary despair when this desire is disappointed. One common response is a kind of nihilism, a claim of ultimate meaninglessness, made either in miserable despair or in the triumphant glee of an adolescent delighting in the fall

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2. This is the aim of my book, *WHEN WORDS LOSE THEIR MEANING: CONSTITUTIONS AND RECONSTITUTIONS OF LANGUAGE, CHARACTER, AND COMMUNITY* (1984), in which I try to work out a way of reading that can connect such texts with our own world. In *THE LEGAL IMAGINATION* (1973), I address the same situation from a somewhat different perspective, that of the person who is learning law, feeling the power of the language upon him or her, and seeking ways to face that situation. This is where I address most fully what I mean by the "art" of which I speak below.

of a figure of authority. A good deal of modern critical literature, in the law and elsewhere, is in fact directed against "authority" in all its forms and on behalf of the "individual," as though all authority were authoritarian and destructive of the self, as though we as individuals had nothing to gain from certain forms of authority, for our own instruction, limitation, and security.

For me the supposed collapse of firm cultural structures is to be celebrated in a different way, not because I am eager to see such structures destroyed, but because in my view they never existed in the first place, at least not in the form in which they are thought to be lost. What we have lost is a false hope — a hope of fixity and certitude, derived from the promises and premises of modern science — which if realized would in fact reduce human responsibility and possibility to a very low level indeed.

Surely Augustine knew that the world was not fixed and rationally knowable, and in their different ways, so did Socrates, Plato, and Milton. In fact every artist knows this, for, by the nature of his own work, he knows that the world we live in is largely constructed by us; that the culture that forms us is formed by us; that we are engaged in a constant conversation between the self and the world in which each is constantly being remade. Yet as the work of art itself repeatedly shows, life on such terms is not impossible, as we are inclined to fear, but rich with possibility.

Such is the nature of life for the artist, and it is the nature of life for every human being as well. We are all artists, both in language and in the rest of life. We live on conditions of radical uncertainty and do so with success, and sometimes with ease. Starting from our first movements in the arms of our parents, we make and manage our own social relations, as we learn about kindness and cruelty, truth and deception, about being heard and being ignored, about recognition and objectification, about real conversation and manipulation, and so on. As we construct, and reconstruct, the narratives of our lives from their beginnings we make stories and histories, and as these histories are shared — as we make collective stories with others in our families and elsewhere — we create and re-create communities and languages as well. Modern developmental psychology has taught us (if we needed to be taught it) that we do not so much learn our languages as invent them, partly out of the texts we hear, trying out new forms and seeing how they work, constantly experimenting. Invention is essential to all learning, from the very first moment of life, and it can remain a present and active part of the intellect to the very end.

At its center ours is a life of language and of art. This is the fact

that enables us to see other works of art as speaking to us, for they are made out of, and are about, our common situation.

### C

To claim for our lives the quality of art and invention is of course not to say that we are totally free and unconstrained. Quite the reverse: art in every field is a way of addressing the limits as well as the resources of one's materials — the limits of one's social and cultural situation, of one's language, of one's mind. But it may be easier to accept the fact that we are in part the product of our culture, and limited by it, when we also see that we are not wholly determined by our circumstances, but retain important freedoms and capacities to modify them. Between two nonexistent opposites — total freedom and total constraint — we inhabit a ground that we must fill up by our own activity.

To speak of art is to accept that we speak out of circumstances incompletely known and to others similarly situated. The artist knows that he or she will never have a perfect photograph of the relevant world with every detail in perfect focus, never the sort of representation science once dreamed of or aspired to. Instead, we always act in partial ignorance. In our makings we choose a subject, a direction, and a focus of attention; a starting point, a tone, and a set of terms; and we are responsible for what we choose. Some things and relations will be relatively clear, but always at the price of obscurity elsewhere. An important part of what we can teach each other is where to direct attention, how to focus it — and refocus it — in new ways.

Think of the way we work out our capacity to judge works of art. Not by inducing from the instances provided by certain masterpieces eternal laws of aesthetic excellence which we can turn around and apply to other objects, as if all art objects existed out of time and culture on an enamelled laboratory table, waiting to be classified. Each work speaks to its own world, and is made out of the materials of that world: not only the physical materials, such as this particular ochre paint or that musical instrument or this array of words, but materials in a purer sense cultural: one's knowledge of the prior works of music, or painting, or poetry, or law, that have formed the expectations of one's audience, that have formed the audience itself, and which one must therefore take as one's starting point. Music is made not only out of musical notes and silences, but out of earlier music. All art is about its culture, its context, and should be understood and judged that way.

As human beings we live on artistic and rhetorical, not scientific,

terms. In our most important expressions we argue not from premise to conclusion, but by making whole ways of talking — ways of being and of acting in language — which we offer each other for adoption, rejection, and modification. It is the modernist habit to turn our texts into sets of propositions — of fact, value, or logic — that can be independently analyzed and judged. But little of our talk is propositional in that sense; far more often and deeply is it social and cultural. We persuade most fully by who we become in our practices of language, by who we invite others to become, by the languages we make and the experiences we offer: we persuade by performance to whole languages, not by argument to propositions. (“Here is my way: what is yours?”)

Whenever we speak to another we create a relationship with him or her, or a promise of one, and in doing this we affirm that this relationship can be analyzed and judged; likewise, whenever we speak we define a relationship with our language and affirm that this relationship, this remaking, can also be analyzed and judged. In this sense what I have called cultural criticism is not something we should call on ourselves to start doing; it is something we already do, by implication and performance, whenever we seriously engage with the texts produced by another mind or make such texts of our own.

### III

But to say this is to define a responsibility for us, in law and literature alike: How is this to be done well rather than badly? How are we to learn to engage in these processes and to judge what we make when we do so? What connection can there be between the discourse in which we engage and the community we constitute, and other worlds, constituted by other languages?

### A

It is precisely to these questions that what I call the method of the humanities speaks. It tells us that our first step should be to turn to the greatest of human intellectual achievements — each of which is composed on conditions in essentials like our own — and learn to understand, and to admire or disapprove, the way another mind has transformed his language in a composition of his own and in so doing has established community with his reader. Exactly how this is to be done is an open question, to which a proper response requires detailed engagement in the process itself. My own most complete response is to be found in my own work of that kind, but this much at least can be said here, that what one learns in such a process is not a set of repeatable rules or maxims or portable insights, not a set of theories and

arguments and conclusions, but a way of understanding and being. One learns not by what one is told, or even by what one is shown, but by the person one becomes in interaction with a text. That is its meaning. This is true not only of poetic texts but of intellectual and argumentative texts, even of judicial opinions.

To put it in a phrase, I think that the study of the humanities is the central activity by which the responsive and critical mind can best be formed and tested, that it offers the ground upon which cultural criticism can rest. In saying this I invoke, in an abbreviated way, the value of our cultural tradition, and this in two respects. In the first place, I mean to resist the modernist view that the history of culture is the history of progress, the incremental acquisition of knowledge and understanding, a history of which we stand at the momentary apex. While this may be true with respect to some, but by no means all, forms of technology — think of medieval stained-glass windows, for example, or the agricultural practices that we have lost in our own generation — it is, in my view, demonstrably not true with respect to other forms of understanding and action. One function of cultural tradition, then, is that of a collective and selective memory, the preservation of the best we have done, which can serve to set standards by which to measure contemporary achievements and attempts. The tradition not only expands those with whom we can readily converse, to include more than our own contemporaries, it can be taken as establishing a set of presumptions that can serve as a comprehensible and practical spur to our own education, individual and collective.

The process of presumption works this way. Our predecessors have found the texts of Augustine or Dante, say, to be wonderful, beautiful, transforming, worth years of attention. Yet when we first read them perhaps we are put off, bored, certainly frustrated. But we tell ourselves that the presumption runs in favor of them, and against our first responses, that in reading and judging such texts as these — as opposed to choosing toothpaste, underarm deodorant, or automobiles — consumer preference is not the whole of value; that we may need to work to put ourselves in a position to see what others have seen; and that we are in need of an education at the hands of others, from whom we have something important to learn. Such an attitude carries us into the text in a different way. Of course, the authority of tradition is only presumptive, not final, and one must not abandon the ultimate responsibility of judgment. What one should do is meditate long before exercising it against the texts that have behind them the authority of our tradition.

My point is not that we should think that because Shakespeare or

Sophocles said something it must be true, or even beautiful, or that we should convert our minds into empty vessels to be filled by what others have said, but rather that in our attempts to make sense of ourselves and our cultures we should take advantage of texts that afford challenges and resources beyond the ordinary. The idea is not that we should erase our capacity for judgment but that we should educate it in a certain way.

The presumption in favor of tradition is resisted not only by much science and social science (which all too often see history simply as progress), but by the strain of modern literary criticism that elevates the critic over the text and by the tendency in modern philosophy to talk as if no one even thought about philosophic problems before, or certainly not in as clear and powerful terms as we do.

There is a second dimension to the process by which we make our past our own. Some of the partial inaccessibility of earlier minds and texts is itself cultural and linguistic: to understand the text we need to learn the language, the culture, and this requires us to learn what is initially foreign. This process is obviously difficult, and we may well resist it, but it has the great merit of taking us out of our own world to another, from which our own looks very different. What seems natural to us — the only way to see the world or to talk about it — can in this way come to seem cultural, contingent, chosen, and therefore subject to change. Our conversations with our cultural past can enable us to establish, not one true platform from which to see and judge our world, but a set of them, each somewhat different, related in time and cultural space.

From this point of view anthropology of a certain kind has much to teach us about cultural criticism as well. I mean the kind of anthropology that seeks to learn the language, the sentiments, the ways of being and seeing and acting of another culture, in order to hold them in the mind at once with our own languages and our own ways of being. (There is another kind of anthropology, which seeks to classify the phenomena of other cultures in its own terms, as though its grid of description and analysis were of universal validity.) But whether one reaches out to other cultures as an anthropologist, to see what can be learned from them, or back into our own, to uncover its foreign roots, this kind of work can be done only experientially, not theoretically. One's own mind must actually engage with the text and language, as a solitary organism responsible for its own perceptions and judgments. One cannot shortcut the process by reading the reports of others or by thinking of these matters at the level of theory.

## B

Of course this way of proceeding does not lead to certainty, or universal agreement, or scientific truth; indeed, it often leads to disagreement and misunderstanding. But disagreement is something we know how to address in conversation and to tolerate where conversation fails. This kind of work teaches us that we should continue to do what we have always done, which is to engage in the kind of conversation in which disagreements and misunderstandings are addressed, always imperfectly and always incompletely but not always without accession of understanding. Of course not all conversations go equally well. Implied in what I have said is that our attention must continuously be given to the quality of the conversational process: to our openness to the views of another, to our willingness to revise our own terms, to our readiness to learn more fully the degree to which, whenever we speak, we say more than we mean or know. Who am I to you, and you to me? With what attitude toward each other and toward our languages do we speak? What are our voices? If we can get these things right, the rest of what we care about, or ought to care about, will follow.

And how do we know when we have got them right? Not by applying to the conversation, to the dialogic relation, the very kinds of conceptual categories and desires for certainty from which we are trying to escape, but by accepting the responsibilities that our actual capacities give us. We always work out of our present selves and present cultures, and there is no way for us to establish a platform from which to look at everything at once, no way to leave ourselves and attain some pure plane of unmediated knowledge. We can see or judge only one part at a time, or a few parts, and our vision and judgment alike are shaped by the rest of what we are. To the modernist mind this is all impossible, but to the humanist, to one who draws upon the experiences of the past, upon other languages and cultures and upon ordinary life, it is thoroughly familiar and secure. This is how we live and grow.

One way to put the advantage of the method of the humanities — for which I make not the faintest claim of originality, since it has been the dominant method of Western culture from the *Iliad* to a period within living memory — is to say that it provides us with a language of criticism, a language made up of the texts and languages of the past to which we have directed our collective attention. Without some such education we are stuck in the dichotomous position that characterizes

our era, either affirming or denying the authority of the moment, the language of the moment.

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Our standards of judgment come not from *a priori* reasoning, then, or from theories, but from our own experience of life and of other people, including works of the sort I have mentioned. Of course, no one experience or work can stand as a perfect authority. We make sense of what we read as we make sense of life, by putting one tentative judgment together with another, one version of ourselves and our capacities together with another, seeing how it works out, trying it another way, and so on, continually growing and changing by progressive incorporations and discardings. We know how to do this, for we have always done it. These are the processes of reciprocal interaction with other people, with language, and with nature by which we have formed our own identities. We have no deeper knowledge.

The central image is that of autopoiesis, the organism making itself in interaction with its environment. In the process both organism and environment change. There is no one way the universe is constituted, no ultimate ontology upon which everything can be grounded. All species, all individuals, all languages and cultures and communities, are engaged alike in a process of reciprocal change. That change is not to be feared but welcomed.

#### IV

We start by learning languages and social relations in our interactions with our families. Thereafter everything that makes sense to us does so only insofar as it makes sense in terms of what has gone before. A human life is made as a poetic or musical text is made, by unfolding out of itself; it is made out of its own origins and first growth, out of the opening line, the opening measures, against which everything that follows plays. As I suggested above, then, it is not only our reading of the great texts that informs our minds but, prior to that and necessary to it, our ordinary experience of language and social relations. The center of our being is the set of social and cultural practices we have been learning and modifying since our birth. This is what connects the two sources of authority I describe, the great works of our own and other cultures, and the experience of language and of life by which we have made ourselves what we are. Both are modes of autopoietic interaction which, when made the subject of self-conscious attention, can lead to a conversational process in which we can have the right kind of confidence.

These sorts of experience can teach us to make a ground between

the two impossible extremes of authority and freedom: between granting total authority to a text or a set of texts (or to a set of people or institutions) and denying all authority external to the self. Our judgments can be firm but provisional, as we gradually put together a character and an education for which we can claim some coherence, and do so both alone, in interaction with nature and culture, and socially, in discourse and community with others. We have much to learn from the past, and from others; we have much to teach the future, and to others. Our struggle for liberation is also a struggle for self-correction.

As for law, it too partakes of the radical uncertainty of the rest of life, the want of firm external standards. But it is also a special way of living on these conditions, a way of making standards internally, out of our experience, as we make ourselves in our talk. The law is in fact a method of cultural criticism and cultural transformation, as well as cultural preservation. To turn for the moment to the realities of twentieth-century life, I think that the law with all its faults has been by far the best and most powerful method of cultural criticism American society has had. Certainly, it has proved more valuable than modern philosophy, sociology, political science, or journalism. The main reason for this, as I say elsewhere, is that the law is in structure multivoocal, always inviting new and contrastive accounts and languages.

To turn at the end from process to substance, from the way we make our standards to what they ought to be, we can ask: What do we learn when we turn to the experience of the past and the present and seek to discover ultimate standards of value? To answer that question by performance has been the object of my other work, which I can sum up by saying that for me the voice of our tradition is plain and plainly right. The object of human community, we have always known, is the recognition of the value of each person as a center of worth and meaning, as living in the kind of perpetual process of reciprocal interaction with nature, language, and other people through which each of us makes himself. In this we are at once the same and different: the same in the essentials of our situation — in our dependence on culture and our need to remake it, in the creative center of our lives — but different in what we make, for each of us is ultimately unique. It is in fact upon this double truth that our equality rests: if we were wholly the same or wholly different we could disregard one another. As it is, our deepest obligation and highest hope is to create a world in which each person is recognized, in which each may achieve as fully as possible the realization of his or her capacities for life. That is easy to say and has often been said. The major difficulty is to give it meaning not at the level of concept or theory but in literary and intel-

lectual practice, in our speech and conduct. To do so is in my view the central task of the judge and lawyer as well as the citizen, teacher, and person.

All this is a way of suggesting a third meaning of “law and community”: that our ground for criticism is the community we make when we write and speak to each other.