



ST. MARY'S
UNIVERSITY

Digital Commons at St. Mary's University

Faculty Articles

School of Law Faculty Scholarship

2001

The Word and the Law, by Milner S. Ball (book review)

Emily A. Hartigan

Follow this and additional works at: <https://commons.stmarytx.edu/facarticles>



Part of the [Law Commons](#)

Recommended Citation

Emily Fowler Hartigan, The Word and the Law, by Milner S. Ball (book review), 16 J. L. & Religion 707 (2001).

This Book Review is brought to you for free and open access by the School of Law Faculty Scholarship at Digital Commons at St. Mary's University. It has been accepted for inclusion in Faculty Articles by an authorized administrator of Digital Commons at St. Mary's University. For more information, please contact jllloyd@stmarytx.edu.

THE WORD AND THE LAW. By Milner S. Ball. Chicago: University of Chicago Press 1995 (reprint ed.). Pp. 216. Paper. \$16.00. ISBN: 0-226-03627-8.

The author of this 1993 book has continued to write, transform, and grow. Milner Ball's *The Word and the Law* has become a widely quoted work, and has already taken its place in the continuing tale of law and religion. Thus, this review will approach it as if freshly wrought, and also in its "historical" context.

The text presents itself in typical Ball fashion: richly and eloquently written, densely noted with weighty references, alive with stories and the voices of those with whom Ball has conversed. A striking innovation is his creation of a space in his text for the stories of those who are both his peers and not his peers, giving over the "pulpit" of the University of Chicago Press and Ball's increasingly honored name, to women, edgy Jews, and Native Americans, all of whom are lower in the "pecking order" than Professor (and Presbyterian minister) Ball. This is, Ball announces, an "EXPERIMENTAL JOURNEY" into a "non scientific dynamics of law." (1) An elder in Law and Religion, Ball chooses to give voice to people we would not likely know otherwise. Some of these voices are indelible, like that of Judge Margaret Taylor, sitting in Brooklyn Civil Court, proclaiming "What's this?" at things often meant to elude her attention, and personally providing rolls of toilet paper for the bathrooms of her chaotic, overburdened and under funded New York City courthouse. (27) "What's this?" she brightly proclaims, "You really want me to proceed against this tenant without appointing a guardian for him when he is *non compis mentis*?" (27) A woman with whom any sane reader may fall in love, she presides with an amazing daily élan that brings smiles to the bailiffs' faces and "raucous" laughter among judges and attorneys in a court distinguished by its high percentage of perjured affidavits of service for eviction cases. (27)

Deliberately, Ball starts with the concrete, the contextualized, the embedded narrative. He presents seven legal persons in their settings, constructing a social reality from their tales and beliefs and, along the often-enchanting journey, coaxes from both his subjects and his readers admissions of faith.

Starting with the particular and concrete is not so radical as doing it while brazenly speaking of God. Doing both is almost as brash as the toilet-paper-wielding Judge Taylor. Ball chooses to amplify the traces of the religious that he has teased from his subjects, including the Scripture discussion at the annual Cover Conference on Public Interest Law, which Ball helped found. Perhaps more subversively, Ball has approached the issues of Indian lands, from the point of view of the Indians. For Native Americans, there is no separate word for religion because it suffuses their experience of the world. All land is sacred land, and we live in the Spirit because there is nowhere else. Yet for us non-Indians, theology is often a discipline, an area of the academy, a department in the university, and so Ball goes to those with whom he studied and to literary texts alive with God-talk, in order to weave his particular stories into the ongoing discourse of law and religion and law and literature. Along the way and despite heroic efforts on just this point, there are tinges of what we all do, locating our world as the world rather than a partial view of the world. Ball's former teacher Karl Barth moves from being "the dominant figure in modern Protestant theology" (73) to reigning as "the leading theologian of the twentieth century," (74), a claim that even folks Ball has mentioned (like Native American Vine Deloria, author of *God is Red*) would give a knowing smile.

Ball's fascination with Barth, warmed by his personal portrait and the story of being nearly speechless when it came his time to recite in Barth's seminar, affects his view of the law integrally. For example, Ball turns the affirmations of mysticism, back to suspicion with Barthian Protestant self-accusation, even as he does so with great complexity. In the both/and parabolic balance of redemption's being already-and-not-yet, there is a distinct not-yet ring in Ball's text that admirers of Barth will recognize. And here my query about reviewing a book several years old brings a partial answer: a visit to *Called by Stories* finds the tempo moving from the dominant beat of the dance on the foot of not-yet toward the more comic affirmations of already. Along the way, one of the most creative aspects of Ball's self-accusation is that he recognizes his own inherited social construct among the voices he chooses to portray. In his discussion of Toni Morrison's *Beloved*, Ball has not missed that, for example, when visiting preacher Reverend Shegog rose to preach, "he began in the level, cold voice of a white man." (83) With his strong, poetic prose, Ball has managed to avoid much of that level, cold voice himself, but he alerts the reader to the requirements of the genre, to the fact that this is, after all, a University of Chicago Press book that can only really smuggle in the story of a tribal

court judge who flunked out of his first year of (Anglo) law school. So the text is presented as a book by Milner Ball, renowned legal scholar, and “only” begins and ends with the stories of those less privileged who work daily with those less privileged still.

At the (rather small) risk of being “scientific” we might “out” Ball’s agenda and dilemma more fully by counting pages. The first 72 pages of the book present the “Seven Practices in Law” and the next 77 perform law and literature and law and theology attempting “to develop a way to understand their lives in the law.” (73) The final 15 pages of the main text return to the seven stories, as Ball promised. The particular advances, 87 to 77 (we have moved to a sports metaphor). And then we find 41 pages of Acknowledgements and Notes and Index. This is not a long book, and although Ball manages to craft the majority of the main text pages—rooted in the particular, he is forced to pay a destabilizing homage to the academic genre’s “science” and footnote-foraging that tips the balance back to the established voice. Still, he announces where his heart is, ending with Annie Dillard’s likening of the Bible to “a chink—often the only chink—through which winds howl . . .” (164) making the Bible a perilous text. There are, among Ball’s sustained songs of reflection on Faulkner and Morrison and George Steiner and more, and the root strands of seven practitioners’ to give us strength, enough small chinks to make this text of *The Word and the Law* perilous enough.

Emily Albrink Fowler Hartigan[†]

[†] Professor of Law, St. Mary’s University, San Antonio, Texas.