

Gary Watt, “The Matter of Metaphor in Language and Law” *Pólemos* (Berlin/Boston: DeGruyter, 2012) 49-64.

I have argued elsewhere that the general mode of legal fiction is one that takes a concrete fact, such as a collision between a Ferrari and a Lamborghini, and translates it into abstract ideas such as “vehicle” and “fault”. The argument proceeds to describe the metaphorical mode of fiction as being directly opposite to the general legal mode. Whereas abstraction seeks to draw out the general from the particular, and thereby disconnect the conceptual devil from the factual detail, metaphors connect abstract ideas to tangible things in the imaginative way we call ‘poetic’.¹ The distinction between the prosaic/literal and poetic/metaphoric is a familiar one to literary scholars and it is reliable enough at one level of analysis, but it ceases to be reliable if we commit the error of assuming that the literal is more real than the poetic. On the contrary, it may be that the metaphoric is more “real” than the literal. The aim of this short paper is to test that conjecture. My experimental method is interdisciplinary in a pure sense. I will draw together hitherto unconnected statements from a range of scholarly disciplines to attempt to show that, despite the dimming effect of their own dark glasses, distinct disciplines have been reflecting on the same image of the world. It is an image in which the reality of a thing is the denomination or depiction of the thing. Of course, everything that we can conceive of has, on account of our conceiving it, a degree of reality – we think, therefore it is. My argument for the reality of metaphor is that it has the highest possible degree of reality. Even by the narrowest definition of metaphor, which lists it as a sub-set of language or rhetoric, we might admit that metaphor moves us more than so-called ‘literal’ language does, so that, at the very least, it *feels* more real than statements which are

¹ G Watt, *Equity Stirring: The Story of Justice Beyond Law* (Oxford: Hart, 2009) chapter 4.

only 'literally true'. There is something of this sentiment to be found in *Metaphors We Live By*, the groundbreaking study by Lakoff and Johnson in which they demonstrate the role played by metaphor in constructing and constituting our cognitive perception of reality, their argument being that "[o]ur ordinary conceptual system, in terms of which we both think and act, is fundamentally metaphorical in nature".² The passage I have in mind (for illuminating "material reality" in its humanly appreciable sense) is the one in which the authors remind us that "human aspects of reality, in particular the real perceptions, conceptualizations, motivations, and actions that constitute most of what we experience...are most of what matters to us".³ In a similar vein, Christopher Prendergast describes metaphor as "a distinctively human form of knowing what is in the world". For Prendergast, metaphor discovers or represents "the movements of Nature" and is a "poetic materialisation of the 'entelechiic' properties of material life itself".⁴

Metaphor is not merely a sub-set of rhetorical language, but language may be regarded as a sub-set of metaphor and all our ways of acquiring real meaning, language included, may be considered to be essentially metaphorical. Abstract reality is what it is, or is what it is not (scientists tell us that most of that which we call physical matter is actually empty space), but human perception of reality, and human communication of reality, is all metaphor. Abstract reality is unknowable or knowable; meaningless or meaningful. If it is knowable and meaningful, it is only knowable and meaningful in a metaphorical sense. Either because it is understood through language, which (as we will see) is essentially metaphorical, or because it is known through direct sense perception. The orthodox working concept of reality depends upon the notion that directly perceived reality is untranslated, but, of course, it is not. My brain has never touched anything, unless it is the inside of my skull, and yet I

² G Lakoff and M Johnson, *Metaphors We Live By* (Chicago: University of Chicago Press, 1980) 3.

³ *Ibid* at p.145.

⁴ *The Order of Mimesis: Balzac, Stendhal, Nerval, Flaubert* (Cambridge, Cambridge University Press, 1986) 21. In these qualities, Prendergast pairs metaphor with mimesis, which is a pairing I do not attempt here.

believe that I have touched all manner of things, and tasted and smelled and seen and heard all sorts of stuff. My mind, which is the part of my brain which really matters to me, has never touched a thing, not even the inside of my skull, but it is nevertheless mindful of all manner of things and remembers them and anticipates them and imagines them. The mind itself is a metaphor. No surgeon has ever isolated it. Most likely no scientist ever will. Having observed that “‘mind’ is metaphor”, Peter Blegvad notes that, “metaphors for mind have evolved in step with technology, from tabula rasa (wax tablet) via camera, radio, tape-recorder to computer”.⁵ In the same place he adds this useful assessment of the function of metaphors: that they “provide ‘object hypotheses’ for what we don’t understand and can’t explain’.” Writing on “Metaphor in Science”, the authors J Martin and R Harré suggest that “we need metaphor because in some cases it is the only way to say what we mean”.⁶ I would go further, and say that there is nothing meaningful without metaphor. The classic authors sometimes made the same point, but it was too often obscured by the idea of metaphor as a poetic improvement upon the literal or proper. Quintilian, for instance:

By a trope is meant the artistic alteration of a word or phrase from its proper meaning to another....the commonest and by far the most beautiful of tropes, namely, metaphor, the Greek term for our *translatio*.... adds to the copiousness of language by the interchange of words and by borrowing, and finally succeeds in accomplishing the supremely difficult task of providing a name for everything. A noun or a verb is transferred from the place to which it properly belongs to another where there is either no literal term or the transferred is better than the literal.⁷

⁵ P Blegvad, *Imagine, Observe, Remember* (The University of Warwick, 2009) 13 n.9. See, further, Eric B Baum, *What Is Thought* (Cambridge, Mass. : MIT Press, c2004), esp. chapter 2: “The Mind Is a Computer Program”.

⁶ J Martin and R Harré, “Metaphor in Science” in D S Miall (ed), *Metaphor: Problems and Perspectives* (Sussex, The Harvester Press, 1982) at 89–105, 95.

⁷ Quintilian, *Institutio Oratoria* (8.6) (trans. HE Butler) (Cambridge, Mass, 1921) book III, 301–0.

The metaphor of transfer or ferrying has a certain heuristic value, but Quintilian comes closer to the truth of the matter of metaphor when he acknowledges that metaphor “succeeds in accomplishing the supremely difficult task of providing a name for everything”. Metaphorical production of new names liberates us from the assumption that metaphor is simply translating words from improper place to proper or proper place to improper. Paul Ricoeur rejected the notion that metaphor names things, preferring to see metaphor as the predicate that creates things,⁸ but that rejection was at the most fundamental level unnecessary, for we can surely accept that in the metaphor of the mind, the very process of naming constitutes identity. All things have names. A thing without a name is not a thing. Naming creates things in the mind. There is some experimental support for this claim. For instance, M D Vernon reports an experiment in which a person is presented with a simple image of an ambiguous object and asked to reproduce a drawing of it. Vernon reports that the observer:

“may clinch the present perceptual experience by giving a name to the object before him. And once he has named it, he seems to be satisfied with the experience...Indeed, there is evidence to show that the naming of an object, even in rather a loose and superficial manner, may affect the way in which it is perceived”.⁹

Metaphor is the only meaningful way of appreciating certain abstract ideas, and if we allow metaphor to be a larger creature than our current confines admit, we will see that every type of meaning is conveyed by some type of metaphor. One can, of course, seek to distinguish reality from human perception of reality. One can even imagine a universe absent humanity,

⁸ “[M]etaphor is an act of predication rather than of denomination”: Paul Ricoeur, “The Metaphorical Process as Cognition, Imagination, and Feeling” *Critical Inquiry*, Vol. 5, No. 1, Special Issue on Metaphor (Autumn, 1978) 143-159, 158.

⁹ M D Vernon, *The Psychology of Perception* 2nd edn (Harmondsworth: Penguin Books, 1971) 36.

but the hypothetical project of separating humanity from reality is paradoxical, even impossible, because it is initiated by, and maintained by, the human mind. On this I agree with Nietzsche: “when it is all over with the human intellect, nothing will have happened”,¹⁰ except, I would add, “from a human perspective”. Perhaps Nietzsche would accept those additional words, for he concedes that “[w]e see all things by means of our human head, and cannot chop it off, though it remains to wonder what would be left of the world if indeed it had been cut off”.¹¹ Processes of imagination and, indeed, of all thought, depend upon the human mind. I think therefore I am. I think therefore I am of this universe. When none of us is around to have a single thought, a single sense, a single memory or imagining, then there will be no perceivable universe. In such an insensible universe there is, for instance, no sound. This, incidentally, provides the answer to the conundrum of the tree that falls in the forest in which no sensible creature lives to perceive its fall. Does the tree make a sound? No it does not. It no doubt disturbs its environment in all sorts of ways, one of which is through the production of sound waves, but sound waves do not qualify as sound in a world devoid of ears any more than radio waves qualify as music in a world devoid of radio apparatus. In short we can say that reality, so far as it matters to us, is perceived reality – that is, reality perceived through the senses or through other processes (including memory and imagination) of the mind. Sound is a metaphor because it is our mind’s translation of a material event into something sensible. If we do not hear a sound, we must be content with the abstract concept of sound and even that is nonsensical to us unless it is first translated by metaphor – in this case, by the metaphor of the “wave”.

The problem of appearance and reality is one of the fundamental problems of philosophy and has been since at least as far back as Plato’s conjectures on ideal forms.

¹⁰ Nietzsche, *Über Wahrheit und Lüge im außermoralischen Sinn (On Truth and Lies in a Nonmoral Sense)* 1873.

¹¹ F W Nietzsche, *Human, All Too Human* (London: Penguin, 2004) sec. 1.9, p. 17.

Approaching the problem with metaphor in mind, Nietzsche stated that: “We believe that we know something about the things themselves when we speak of trees, colors, snow, and flowers; and yet we possess nothing but metaphors for things - metaphors which correspond in no way to the original entities”.¹² “Appearance and Reality” furnished the first chapter of Bertrand’s Russell’s *The Problems of Philosophy* (1912). He contemplates a simple table to reveal the uncertain nature of stuff:

“When, in ordinary life, we speak of the colour of the table, we only mean the sort of colour which it will seem to have to a normal spectator from an ordinary point of view under usual conditions of light. But the other colours which appear under other conditions have just as good a right to be considered real; and therefore, to avoid favouritism, we are compelled to deny that, in itself, the table has any one particular colour.

The same thing applies to the texture. With the naked eye one can see the grain, but otherwise the table looks smooth and even. If we looked at it through a microscope, we should see roughnesses and hills and valleys, and all sorts of differences that are imperceptible to the naked eye. Which of these is the ‘real’ table? We are naturally tempted to say that what we see through the microscope is more real, but that in turn would be changed by a still more powerful microscope. If, then, we cannot trust what we see with the naked eye, why should we trust what we see through a microscope? Thus, again, the confidence in our senses with which we began deserts us.

...

Thus it becomes evident that the real table, if there is one, is not the same as

¹² *On Truth and Lies in a Nonmoral Sense* (1873) in K A Pearson and D Large (eds) *The Nietzsche Reader* (Blackwell Readers) (Oxford: Wiley-Blackwell, 2006) 117.

what we immediately experience by sight or touch or hearing. The real table, if there is one, is not immediately known to us at all, but must be an inference from what is immediately known.”¹³

The argument that reality is metaphorical can be expressed as an argument that reality is our name for abstract reality as we perceive it and this is similar to Russell’s argument that the table we touch is not reliably real, but is merely a notion of a table inferred from what we know through our senses. Metaphor is inference. To speak radically in an etymological sense one may observe that the root of both those words - “metaphor” and “inference” – is essentially the same. Metaphor means to “carry over”.¹⁴ Inference means to “carry in”. There is a notional distance or gap between abstract reality and reality as we perceive it, and processes of metaphor and inference (the etymology informs us) “ferry” meaning across that gap. This is why the standard modern lexicon of studies in metaphor includes the term “vehicle” to describe the device by which meaning (called “tenor”) is carried from one place to another.¹⁵ In the metaphor “love is like a red, red rose”,¹⁶ the tenor is “love” and the rose is the “vehicle”. However, I would suggest that “ferry” is not the best metaphor for metaphor, but that a better one is “bridge”.¹⁷ A metaphor does not carry meaning from one place to another. Rather, its poetic power and aesthetic appeal resides in the fact that it maintains a constant connection between the abstract and the concrete. In the case of the red rose it maintains a connection between the abstract and the concrete by joining the concept of love to sweet sensations of scent and sight. We cannot touch love and love cannot touch us, but it can be made touching through material things, and one of these things is metaphor. Love has no weight and cannot move anything, but it can move and be made moving through metaphor

¹³ B Russell, *The Problems of Philosophy* (1912) (Oxford: Oxford University Press, 1959) 11.

¹⁴ From the Greek *meta-* (“over, across”) and *pherein* (“to carry, bear”).

¹⁵ I A Richards coined these terms in *The Philosophy of Rhetoric* (Oxford, Oxford University Press, 1936).

¹⁶ Modernised from Robert Burns’ “My luvve’s like a red, red rose”.

¹⁷ See, further, G Watt, ‘The to be of and: reflections on the bridge’ (2011) 5(1) *Law and Humanities* 229 – 240.

and other matter. This dynamic is clearly at work at the level of language in a sentence such as “love is like a red, red rose”, but it is also at work at the level of psychological perception, for we are able to infer love into our sensible universe even though love is so abstract that no microscope will ever be powerful enough to discern it.

Cathy J Wheeler advances the thesis of metaphorical reality in extreme terms. In her paper “The Magic of Metaphor: A Perspective on Reality Construction”,¹⁸ she goes so far as to deny any real distinction between subject and object. For her, the only reality is the metaphor:

We can regard all our ideas and behavior as reflections of some metaphor, the outcome of treating the world “as if” it is a certain way, of experiencing it through a particular frame. Metaphor in this sense is not necessarily, or even usually, stated in language, but is enacted and reflected in our actions and passions, as in our patterns of thought and behavior. Furthermore, this idea of metaphor does not apply only to high-level cognitive processes, but operates at every level of our interactions with the world. Nervous systems, for example, can be regarded as a set of physically hardwired metaphors, metaphoric frames in physical form through which animals experience the world and themselves. Literary metaphor becomes here a special case of metaphor in which there is conscious experience of, and an intent to communicate an “as if” perspective, usually through language.¹⁹

I pull short of this extreme statement of the hypothesis, because it seems to me that the claim that metaphor is the highest possible form of sensible reality does not depend for its validity

¹⁸ C J Wheeler, “The Magic of Metaphor: A Perspective on Reality Construction” (1987) 2(4) *Metaphor and Symbolic Activity* 223-237.

¹⁹ *Ibid* at 224.

upon a denial of other varieties and degrees of reality. All we can say is that, from a human perspective, reality that is not metaphorical is unknowable and meaningless. Later in the same paper, Wheeler criticises the distinction between subject and object on the ground that it creates an artificial distance between human subjects and the objects of their contemplation:

Those who wish to know reality must tame this subjective wildness, letting only the objects themselves speak. So what we get are human subjects contemplating a wholly other object across a Grand Canyon of a chasm, trembling continually lest the poisonous fantasies of their subjectivity leak out and contaminate the object's pure, unsullied, and completely separate properties.²⁰

I would argue, to the contrary, that it is precisely because this chasm between the thinker and the thing is in a certain sense “real” (it must, by definition, be *as* real as any other thing) that we can say that the metaphorical bridge (that is metaphor *as* bridge) which traverses the conceptual or cognitive chasm is as concretely real as any thing.

The earliest concerted treatment of metaphor is to be found in the thought of Aristotle. In his treatise on the art of poetry, he says that metaphor gives “names to nameless things”.²¹ In *A Midsummer Night's Dream* Shakespeare summarised the poet's art in similar terms. The poet, he writes, “...gives to airy nothing / a local habitation and a name” (5.1.16–17).²² George Orwell is another who made the connection between name and object and reality and thought. He opined that if a writer is “not seeing a mental image of the objects he is naming...he is not really thinking”.²³ For Orwell, “the sole aim of a metaphor is to call up a

²⁰ *Ibid* at 236.

²¹ Aristotle, *On The Art Of Poetry* (21.15) (trans I Bywater) (Oxford, Clarendon Press, 1920).

²² J Bate and E Rasmussen (eds), *The RSC Shakespeare: Complete Works*, London, Macmillan, 2007.

²³ “Politics and the English Language” in S Orwell and I Angus (eds), *Collected Essays, Journalism, and Letters of George Orwell*, vol.4, pp.127 at 134. Quoted in Blegvad note 5 above at 20.

mental image”.²⁴ Orwell is here referring to “a metaphor” in its narrow sense, whereas “metaphor” in the largest sense may be considered equivalent to the cognitive process of naming. Metaphor in the largest sense is the very means by which we think and the very means, therefore, by which the entire cosmos is rendered comprehensible at all. Bertrand Russell’s table is not real; it is a metaphor. The idea of “a table” is metaphor; it is our name for a nameless thing. Or, if a table is real, then metaphor is real.

According to Colin Murray Turbayne, the key challenge of existing in a world constituted by metaphor is to attempt to appreciate and to master, or at least not to be mastered by, the metaphor through which the world is conceived.²⁵ For Turbayne, one way to resist the dominance of any particular metaphor, especially mechanistic metaphors, is to perceive the features of the natural world creatively in much the same way that we might appreciate the nuances of a language.

The Matter of Metaphor in Language

Many of the implications for language of the idea that metaphor, as the bridge between the abstract and tangible worlds, is, from a human point of view, the essence of material reality, are encompassed within Ralph Waldo Emerson’s famous essay on “The Poet”. To do justice to his treatment, a rather long and unedited extract is necessary. We will find several familiar themes finely woven into the fabric of his text, amongst them the thread that “words and things” are “thoughts” and the silken sense that the poet’s art is an art of “naming” through which a reality, more real than that known to natural science, is made and made known:

²⁴ Orwell *ibid.*

²⁵ C M Turbayne, *The Myth of Metaphor* (Oxford: Yale UP, 1962).

The world being thus put under the mind for verb and noun, the poet is he who can articulate it. For though life is great, and fascinates, and absorbs; and though all men are intelligent of the symbols through which it is named; yet they cannot originally use them. We are symbols and inhabit symbols; workmen, work, and tools, words and things, birth and death, all are emblems; but we sympathize with the symbols, and being infatuated with the economical uses of things, we do not know that they are thoughts. The poet, by an ulterior intellectual perception, gives them a power which makes their old use forgotten, and puts eyes and a tongue into every dumb and inanimate object. He perceives the independence of the thought on the symbol, the stability of the thought, the accidentality and fugacity of the symbol. As the eyes of Lyncaeus were said to see through the earth, so the poet turns the world to glass, and shows us all things in their right series and procession. For through that better perception he stands one step nearer to things, and sees the flowing or metamorphosis; perceives that thought is multiform; that within the form of every creature is a force impelling it to ascend into a higher form; and following with his eyes the life, uses the forms which express that life, and so his speech flows with the flowing of nature. All the facts of the animal economy, sex, nutriment, gestation, birth, growth, are symbols of the passage of the world into the soul of man, to suffer there a change and reappear a new and higher fact. He uses forms according to the life, and not according to the form. This is true science. The poet alone knows astronomy, chemistry, vegetation and animation, for he does not stop at these facts, but employs them as signs. He knows why the plain or meadow of space was strewn with these flowers we call suns and moons and stars; why the great deep is adorned with animals, with men, and gods; for in every word he speaks he rides on them as the horses of thought. By virtue

of this science the poet is the Namer or Language-maker, naming things sometimes after their appearance, sometimes after their essence, and giving to every one its own name and not another's, thereby rejoicing the intellect, which delights in detachment or boundary. The poets made all the words, and therefore language is the archives of history, and, if we must say it, a sort of tomb of the muses. For though the origin of most of our words is forgotten, each word was at first a stroke of genius, and obtained currency because for the moment it symbolized the world to the first speaker and to the hearer. The etymologist finds the deadest word to have been once a brilliant picture. Language is fossil poetry.²⁶

The passage ends with a reminder that all language is, at root, metaphor; formed, fossil-like, from the pressed produce of prehistoric worlds. “Every word was once a poem”, as Emerson put it a little earlier in the same essay.²⁷ There is a sense that the most beautiful passages of prose bloom from the black and white imprint of the page like the release of pressed flowers or the escape of prehistoric butterflies from the preserve of amber prisons. Beauty is buried in the ore of all that we call matter, beauty is the core of all meaning and the poet’s skill is to mine it, which he or she achieves by means of metaphor. I am conscious, of course, that I am straying from a more prosaic mode of expression to a more poetic mode of expression, but the clearest meaning is revealed when we cleave with the sharpest tool; and since meaning is metaphor, the sharpest tool for honing meaning is metaphor. Diamond discovers diamond. Deep answers deep. If the reader doubts this, consider the nature of light. Is light material or is it metaphorical or is it both? Light is one of the most powerful, almost certainly the most pervasive, of all the potent metaphors we have to express the mind’s comprehension of reality – thus we talk in terms of the “clear”, the “lucid”, the “enlightened”. It is ironic, then,

²⁶ R W Emerson, *Essays* 2nd series (Boston: James Munroe & Co, 1844) 21-24.

²⁷ *Ibid.* at p.20.

that the stuff of light is so marvellous that no metaphor can adequately contain it – the constituent unit of light, which is named “photon”, is both particle and wave, and neither purely one or the other. It is a mixed metaphor. The rules of physics cannot ascertain it. The rules of poetry cannot contain it. The only way to discern the real identity of light is through an illuminating metaphor.

Emerson’s essay contains a challenge for the so-called “natural” sciences, for he boldly claims “true science” for the poet. According to Emerson, “[t]he poet alone knows astronomy, chemistry, vegetation and animation, for he does not stop at these facts, but employs them as signs”. Emerson was no Luddite, he welcomed new advances as new expressions of natural beauty. He was a natural scientist in a native sense.²⁸ His claim for the “true” science of poetry is not anti-scientific, but aims, rather, to assist science to see beyond the formal fact. It is remarkable how often, if only in the popular press, that progress in quantum physics and astronomy is feted with the potential to reveal the meaning of life. The furthest massive zones of outer space and the nearest most minute zones of inner space might reveal something of the mechanics of life, but the idea that they are meaningful in and of themselves is patently absurd. What is happening at the invisible, un-visitable fringes of the material universe is utterly immaterial in a human sense, except to the extent that through human will and imagination we can conceive of it in terms that are meaningful to us. Quantum physics has demonstrated the inadequacy of Newton’s laws of physics, and yet in the real world apples still fall down. We know that we orbit the sun, and yet the sun still rises. In our understanding of what is real and what is material, human appreciation will always exceed cold calculation; and appreciation is always achieved through metaphor. Simon Singh’s book *Fermat’s Last Theorem* relates how the mathematician Andrew Wiles (now Sir Andrew Wiles) solved a mathematical puzzle which for three and a half centuries the greatest

²⁸ See, generally, L D Walls, *Emerson's Life in Science: The Culture of Truth* (Ithaca: Cornell university Press, 2003).

mathematical minds had tackled but failed to topple.²⁹ In mathematical terms, Fermat's Last Theorem was the last un-peopled pole, the last unconquered peak. Reading the story of Wiles' endeavour left me fully appreciative of his achievement even though I can say with confidence that, not being a mathematician, I cannot understand, in any meaningful way, a single page of the many pages that produced his final proof. Apparently very few mathematicians can understand it all. What is more remarkable is that the mathematicians quoted in Singh's book do not seem to claim that there is any transcendental "point" to attempting to solve Fermat's Last Theorem except for its potential to solve other mathematical problems, which makes it a rather circular "point". The mathematicians mentioned throughout Singh's account justify the attempt to solve the theorem in terms which may be fairly summarised to equate to the mountaineer's justification for tackling Everest. The mountaineer's "because it is there" becomes the mathematician's "because it is knowable". Everest and Fermat's Last Theorem are, in reality, names for things which are only incidentally related to the things themselves. Everest is not a mountain; it is a metaphor for human endeavour. The reality of Everest is not the fact of its height (most of us have been higher in jet planes), but our appreciation of the fact in a human context. The beauty of the quest to prove Fermat's Last Theorem does not lie in the mathematical matter of fact, but in its status as metaphor for those qualities - including discovery, endeavour, endurance, coherence - which are most meaningful to the human mind.

Now a certain type of critic will say that I am confusing romance with reality. Or, to rephrase an old example, it might be said that I am confusing the reality of Hamlet with the reality of Queen Elizabeth I. Suppose that, in response to that criticism, I were to concede that Hamlet and Queen Elizabeth I belong to different types, even different orders of reality, it would nevertheless prove problematic to say which is the more real. I daresay that I have

²⁹ S Singh, *Fermat's Last Theorem* (London: Fourth Estate, 1997).

been more moved by Hamlet than by Queen Elizabeth, I have seen more Hamlets in the flesh than I have seen Queen Elizabeths in the flesh. If I had ever acted Hamlet I could say that I had been Hamlet, and that my Hamlet was as real to me as any Hamlet could be, and for that matter a good deal more real to me than any Elizabeth could ever be. Emerson's claim is that the poet has the power to create something more real than so-called natural fact. He says that "[t]he poets made all the words", but in effect he also says, that the poets made all the worlds:

The poet is the sayer, the namer, and represents beauty. He is a sovereign, and stands on the centre. For the world is not painted or adorned, but is from the beginning beautiful; and God has not made some beautiful things, but Beauty is the creator of the universe. Therefore the poet is not any permissive potentate, but is emperor in his own right.³⁰

Metaphor is the material bridge between abstract reality and perceived reality – between what Emerson calls the essence and the appearance – between what Russell calls the reality and the appearance. Metaphor is poetry, so poetry makes worlds. One of the worlds it makes is the world of literature. Emerson expresses it this way:

For poetry was all written before time was, and whenever we are so finely organized that we can penetrate into that region where the air is music, we hear those primal warblings and attempt to write them down, but we lose ever and anon a word or a verse and substitute something of our own, and thus miswrite the poem. The men of more delicate ear write down these cadences more faithfully, and these transcripts,

³⁰ Note 26 above at pp.7-8.

though imperfect, become the songs of the nations.³¹

Another world it makes is the world of law. Crucially, these worlds – the worlds of literature and law - do not exist in a logical or (despite Niklas Luhmann’s argument for the autopoietic closure of systems)³² a *socio*-logical vacuum. Literature is law. Law is literature. They are connected because imagination has the capacity to connect them, and specifically because metaphor and the poem connects them. They are different points of view on abstract reality, which may seem to differ as the colours of a table differ from different points of view, but we can agree that we are looking at the same table even when we agree that we are seeing completely different shapes and shades of stuff. This is a feature of our human capacity for imagining the other and an attribute of our human desire to concur and to appreciate the other’s point of view. You will recall the famous gestalt image of the rabbit-duck - the image that looks like a rabbit but, differently perceived, looks equally like a duck. Suppose that our psychology prohibits us from seeing the rabbit and the duck at the same time. Nevertheless, you and I can agree, while we look at the same image, that I am looking at a duck and that you are looking at a rabbit. We can reach a social compact to see a thing differently and by that very process of differentiation agree that, together and cooperatively we are able to appreciate simultaneously that which isolation we can only perceive sequentially.

The first line of our long extract from Emerson’s essay describes the poet as the one who can “articulate” a world that is “put under the mind for verb and noun”. Articulation describes a fundamental process of the human mind, and arguably it is a metaphorical description for a metaphorical process of the human mind and as such it is concretely real from a human cognitive and cultural perspective. Articulation is a bridge that describes bridging in widely

³¹ *Ibid.* at pp.8-9.

³² See, in relation to law for example, N Luhmann, *Das Recht der Gesellschaft* (Frankfurt: Suhrkamp, 1993); K A Ziegert (trans.), F Kastner et al (eds.) *Law as a Social System* (Oxford: Oxford University Press, 2004).

varying spheres of human expression – from law to language to the layout of towns. Articulation is one of the mind’s main metaphors for the mapping of the mind itself. The social anthropologist Edmund Leach appreciated how our linguistic naming of the world affects our mental cognition of the world, and he understood the process (what I would call a process of metaphorical realisation) to involve dependent aspects of distinction and connection. This is another reason why the bridge is such an effective metaphor for metaphor: it implies distinction between one place and another whilst expressing their connection. In *Culture and Communication*, Leach wrote:

Our internal perception of the world around us is greatly influenced by the verbal categories which we use to describe it. A modern urban street scene is wholly manmade and it is only because all the things in it carry individual names, i.e. symbolic labels, that we can recognise what they are. This is true of all human culture and of all human societies. We use language to cut up the visual continuum into meaningful objects and into persons filling distinguishable roles. But we also use language to tie the component elements together again, to put things and persons in relationship to one another.³³

Ten years after Leach, two authors hit upon a similar sense that the man-made street scene might reflect the layout of human mental processes in much the same way that speech and literature do.

In his novel *Invisible cities*, Italo Calvino described the fictional city of Zora as follows:

³³ E Leach, *Culture and Communication: The Logic by Which Symbols are Connected* (Cambridge: Cambridge University Press, 1976) 33.

This city which cannot be expunged from the mind is like an armature, a honeycomb in whose cells each of us can place the things he wants to remember: names of famous men, virtues, numbers, vegetables and mineral classifications, dates of battles, constellations, parts of speech.³⁴

And writing about *The Architecture of the Roman Empire*, William L. MacDonald pointed out that the grammatical structure of the street-scene was a reality in the Roman world:

Spread about in casual patterns, arches and way stations established articulative urban frames, marking off segments of passage, of one length here, another there. As a result the whole could be grasped cumulatively, part by part, in a sequence of manageable proportions. This was not division into discrete districts (Hadrian's arch in Athens is a passage structure, not a barrier), but a system of reference points...the net result was a cognitive system of largely functional units dividing urban texts into chapters and paragraphs.³⁵

What has law got to do with any of this? Why should law enter into our concern to appreciate the metaphorical nature of reality? In the following short section I will attempt to demonstrate that law is a context *par excellence* for proving the thesis, but to conclude the present section we can say that law as cultural ordering may be considered to be a reflection of the internal ordering of the mind, no less than the syntax of speech or the layout of the street scene. Law seems to be psychologically and culturally innate to our being human. As Desmond Manderson puts it, in fittingly poetic mode: "law matters because of death and time and our

³⁴ I Calvino *Invisible Cities* (London: Martin Secker and Warburg, 1986) 15.

³⁵ William L. MacDonald, *The Architecture of the Roman Empire II: An Urban Appraisal* (New Haven: Yale University Press, 1986) 108.

care for others. Like architecture or language, it is part of the work of cultures which seeks to reach across time, and beyond life”.³⁶

Metaphor in law

“Law is a major area where metaphor is made real” - George Lakoff³⁷

There is literally no such thing as law. No one has ever perceived law by means of any physical sense. And yet, the opposite must therefore be true. Since we know that law exists, it must be that it exists in the ways by which it is perceived. Law is the spoken edict we hear. Law is the standing stone we touch. Law is the text we see. The stuff of law is the stuff of law.

Suppose I were to write out a cheque for the purchase of valuable land in England. The transaction may be categorised as an exchange of metaphors. The cheque represents money at the bank, and money is a metaphor for value. It only has concrete value when it is exchanged for an asset. In this case the asset I receive in exchange for my money is said to be an item of “real” property. The irony of that description is that there is hardly any asset quite so unreal as an interest in land. Suppose I have acquired a “fee simple absolute in possession”, which, all other factors being equal, is the most valuable interest in land known to English law. It turns out that I have actually acquired another metaphor. There is no tangible reality to a “fee simple absolute in possession”; it is really nothing more than an interest in the benefits derivable from a three-dimensional plot of space. I do not own the land – the soil, the stones, the trees - but I own, rather, an abstract entitlement to enjoy the space

³⁶ “Desert Island Discs (Ten reveries on pedagogy in law and the humanities)” (2008) 2(2) *Law and Humanities* 255–270, 270.

³⁷ G Lakoff, “Contemporary Theory of Metaphor” in A Ortony (ed), *Metaphor and Thought* 2nd edn (Cambridge, Cambridge University Press, 1993) 202–51, 243.

for a time. The fee simple has no sensible reality at all, which is to say that not a single one of my physical senses can perceive it. The most I can perceive physically is to see the signs of the title (deed or register and so forth). I can also conceive of my abstract rights in the land through a material metaphor, thus it is common to talk of entitlement as being a “bundle of rights”; or we could follow the example of my university tutor who preferred to talk of property rights in land as a loaf that could be sliced up into tranches of time. At one level, the estate of “fee simple absolute in possession” is an abstraction removed from the concrete reality of the land itself, but appreciated in another way we can say that to the extent that there is any reality to human relations with land the fee simple is a perfect metaphorical expression – and constitution - of that reality. The metaphor of the fee simple absolute in possession creates the reality of human entitlement to land, such as it exists. The object in the mind’s eye is the objective reality of the thing. Likewise, the metaphor of money creates the reality of value, such as it exists, in the form of thin paper notes or even in a purely electronic balance held in an electronic account. Lakoff says that law is a major area in which metaphor is made real and so we might as well say that law is a major area in which reality is metaphorical. The reality of money and rights in land is based on communal commitment to, and public confidence in, the chosen metaphor. Belief in the reality constitutes it as real. In this sense a fee simple or financial instrument is neither more nor less real than a fairy – if you stop believing in them, they die.³⁸ What saves the fee simple and the financial instrument, as opposed to the fairy, is that grown-ups are seriously committed to faith in such things. In the world of law, commitment to constructs frequently produces something more real than mere fact. Consider the example of the corporation: its legal personality is legally constructed—some would say ‘artificial’—but in the world of law there is no person more real than the corporation, for the corporate person is wholly law – it lives and breathes

³⁸ J M Barrie, *Peter and Wendy* (London: Hodder & Stoughton, 1911).

legality.

Conclusion

The thesis of this paper is that all that matters and is meaningful about our material world is metaphor. Music is a metaphor for certain sound. Colour is a metaphor for certain light. Money is a metaphor for certain exchange value of stuff. I have sought to show some of the varieties in which the argument for metaphorical reality has been advanced across the ages and across various fields of thought. We have seen that some claims have gone too far in denying the difference between metaphorical and non-metaphorical reality, whereas the more usual mistake is to go not far enough. Consistent with all claims to metaphorical reality is the idea that metaphor constitutes a connection between the mind of the subject and the matter of the object. Even those who have denied that there can be any real difference between subject and object in a world perceived through metaphor, have not so much destroyed the difference between subject and object as connected them in metaphorical reality. Metaphor is the thing that communicates between us and between us and our environment, so I have called it a bridge. Of course, it could equally well be a door or any other architectural articulation. To conclude, then, let us mix our metaphors (we must mix them) and say that metaphor is the cement of the universe. It was said of Emerson that he “poured the universe through bits of itself, until the point was clearly to arrive at no one triumphant solvent metaphor but at the metaphorical relationship itself”.³⁹ I will be more than content if the present paper has achieved as much.

³⁹ L D Walls, *Emerson's Life in Science: The Culture of Truth* (Ithaca: Cornell university Press, 2003) 25.