

Richard Dawson, Justice as Attunement: Transforming Constitutions in Law, Literature, Economics and the Rest of Life

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Richard Dawson, *Justice as Attunement: Transforming Constitutions in Law, Literature, Economics and the Rest of Life* (Abingdon: Routledge, 2014), 272 p.

In 1973 James Boyd White published *The Legal Imagination*. In retrospect, we can say that this was the moment when Law and Literature was born as a stream of consciousness addressing itself to the mind of the lawyer. In the fall of 2013, the event was celebrated with a special workshop at the meeting of an association of scholars devoting themselves to law and the humanities in London. Among the participants was the author of the book under consideration, Richard Dawson, a writer from New Zealand who had taken *The Legal Imagination* not only as a starting point of scholarly pursuits but as a fountain of wisdom. *Justice as Attunement* is one of the most intriguing and beautiful books about law I have read in a long time and a completely fitting tribute to White.

The Legal Imagination itself is an unusual collection of materials, looking somewhat like the traditional casebook that American universities use to teach law. It is subtly different though in aiming to shape the practices of reading and discussion current among lawyers, in such a way as to make them deal better with the authoritative materials of the law and the people they are supposed to be serving. So the emphasis is not on understanding the coherence and complexity of a body of law, but on shaping a critical and self-critical attitude through reading and debating literary texts in conjunction with legal materials. A brilliant example is White's collection of materials on how the law talks about people. He begins with a selection of passages from novels (Dickens, Tolstoy) where the character of people is evoked, confronting the rich ways this is done with the reduced way the law talks about people in a language of labels (such as in the insanity defense) or judges them without labels (in sentencing a person) where the question is how this can be done. He then moves towards the issue of the language of race and how the law deals with social labels, bringing in all kinds of materials on slavery (political speeches by Lincoln, reports from observers, memoirs written by former slaves, decisions by judges). There are assignments to set the student to work and brief reflections from the teacher himself. It is an open work, in that it urges the reader to take the materials seriously but come to their own conclusions.

Dawson turns the method White developed in *The Legal Imagination* to the legal imagination at work in White's own writings on law and justice. In White's footsteps, he wants to practice an art of intense and attentive reading that may transform readers like himself during the process. 'In brief, the activity is: constituting ourselves and others when we use our language, which we transform in our use of

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it. I will define this activity largely by directing attention to examples and by my own performance in these pages, for I am myself engaged in it' (p. 1). If this at first sounds cryptic, it is soon illuminated by bringing in long quotations from texts Dawson has selected and read for us, accompanied with meditations on what these texts may achieve when one manages to really take seriously what they seem to say. This process is compared to tuning a musical instrument, as a process of self-correction through which, for instance, a violinist adjusts the pressures on the strings in order to interpret a musical score. Attuning connects the reader to the author of the text, by creating a kind of virtual friendship, and so an atmosphere in which one can really learn something. This is also where justice comes in: as a particular quality of this kind of interaction, which in its turn is a model for just relationships in the real world.

In this way of reading a text, one moves from inspiring fragments of discourse to systematic insights and back again to glimpses of fragmentary understanding. This becomes clear not only from all those long quotations with comments, but also from the highly original composition of the book. Dawson does not give us an extended argument from research question to conclusion and it seems impossible to summarize his approach in a few sentences. Rather, he divides his subject matter over the chapters of an alphabetically organized encyclopedia. Under its headings he writes short essays discussing the topic, with references to other places in the book where related arguments may be found. A reader of Dawson who follows these reference suggestions will have a totally different reading experience than a reader who reads this book from start to finish. It is a bit like Cortazar's novel *Rayuela*, which can be read in jumps and starts and in different consecutive orders. Trying to perform these two ways of reading will reveal surprising relationships between the texts and themes approached from various angles. And in doing so, one discovers a kind of internal harmony between the short essays. The connecting melody can already be heard by just listing them in alphabetical order: *Activity, Alienation, Attention, Attunement, Character, Constitution, Conversation, Culture, Equality, Experience, Imagination, Integration, Judgment, Justice, Language, Listening, Metaphor, Method, Movement, Performance, Play, Questioning, Reading, Rhetoric, Silence, Understanding, Voice*. This is not just any selection of terms relating to law, literature, economics and the rest of life. But what is the key? A lazy reader, or one simply pressed for time, can also limit herself to just one or two of these short essays. But she then will find that they are tantalizingly open, suggesting more is to be found at other places in the encyclopedia.

Let us begin our own reading then with the term *Rhetoric*, to which as a student and teacher of rhetoric I am drawn. In four passages from Walter Ong's classic on Ramus, Dawson draws attention to a pivotal change in the meaning of the word 'rhetoric' in the 1540s when Ramus set out to reconstruct the arts and sciences of his day. Ramus had preferred thinking in visual terms over thinking in terms of dialogue and voice. Ong shows the important consequences of this conceptual move. As a result of this change of frame, the art of rhetoric was emptied of substance and was cut off from the life world where conversations and debates are going on. Rhetoric as an art was now merely a kind of surface phenomenon, showing itself in figures of speech but not affecting the content below the sur-

face. In this way the art of rhetoric was dismissed as an undertaking of quite limited significance. The rhetorical turn in the 20th century can be understood as a move back to grounding the art of rhetoric in dialogue and interaction in rhetorical situations from courtrooms to classrooms. Referring to his entries on *Attention*, *Silence* and *Voice*, Dawson next brings in Kenneth Burke, who was one of the persons who made the rhetorical turn possible. 'Rhetoric is concerned with the state of Babel after the Fall', Burke famously pronounced, and this led him to plead to re-introduce the imagination into all genres of persuasive language use. And this connects him with James Boyd White's argument for a constitutive rhetoric or 'the art of constituting character, community, and culture in language' (Dawson refers here to his entry on *Performance*). Next we read passages from writings by another rhetorician, Wayne Booth, on the way a reflective rhetorical art can contribute to the culture of today. That is for one thing by engaging in dialogue and urging participants in debates to hear the other side, recommended by White as well. End of chapter.

Taken in itself this is an abstract methodological discussion, distant from life. But when the reader then reads the essay on *Understanding*, she will find a cross reference to the piece on *Rhetoric*, strategically placed in relation to a passage from Gadamer on the kind of true conversation in which the participants take each other's viewpoints. This is juxtaposed to a short piece on the treaty of Waitangi, about which Dawson wrote another book. Western colonizers at their first meeting with them concluded a treaty with the Maori inhabitants of the land now called New Zealand. Subsequently they failed to honor the provisions of the treaty, when this was more convenient to them. This was done by rhetorical subterfuge, denying that the 'Natives' could fully understand the terms of the treaty and denying them as well their lawful voice in the legal debate over its meaning. With the slow and painful emancipation of the descendants of the original population of New Zealand and the reluctant acknowledgment of their rights, the treaty of Waitangi gains more than historical significance. It takes up its rightful place in crucial conversations about what can be done to achieve some kind of remedial justice. We have landed in today's complicated multicultural world. So there is clearly a critical edge to all those wonderful passages and meditations on the art of reading, leading us to the ultimate topic: *Justice*. And that is the key to the subtle music being played here.