

## Book Review

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

Jack L. Sammons\*

#### 1. Introduction

Although he does not express it in these terms, in approaching justice through attunement Richard Dawson is thinking of justice as a certain form of truth,<sup>1</sup> a way of thinking about it far from common for our time although it may have been common in times past. In doing this, he is trying to make our language reveal that which we have used to conceal for a very long time, and the challenge of this, if not impossible, is certainly daunting. This book then is an act of courage, and to read it well I think you must read it as such. There is no way to say in propositional terms what he wants to say. What he must do instead, if he is to be true to this form of justice, is to offer readers of this alphabetical lexicon not ordinary definitions, but performative ones: carefully chosen unsettling experiences of the words one might wish to use if propositional terms were possible, experiences that, as he puts it, can ‘transform’ these words and, in doing so, ‘transform’ his readers in their understanding of justice.

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\* Griffin B. Bell Professor of Law Emeritus, Mercer University School of Law.

<sup>1</sup> In Dawson’s hands this ancient way of understanding justice becomes the claim that justice is an attunement to situations of conflict such that we uncover who we are, in truth, in those situations. He offers no other way of describing justice (nor should he) other than as a matter of our deepest and, therefore, most truthful identity. If this puzzles you it may help to draw an analogy to poetry. Poetry, we sometimes say, is a certain form of truth. The form of truth poetry is not only requires an attunement to the poetic, but is constituted by this such that we could say that poetic truth is this attunement, and thus involves a poetic way of being. This, I think, is close to what Dawson has in mind for justice. If this way of thinking justice is unfamiliar to you, I hope that it will become clearer as the review proceeds.

In a culture wedded to ‘It is what it is!’ Dawson, with each word he explores, gently insists: ‘No, it isn’t.’

All this is to say that this is a very difficult book to review. Its form is as a lexicon of twenty-four words,<sup>2</sup> most of which are central to the work of James Boyd White, and also central for Dawson for an ‘attunement’<sup>3</sup> to justice. Analogous uses of each word are explored through carefully selected literary, legal, philosophical, political, historical, economic, and other texts in order to determine the word’s role in this attunement.<sup>4</sup> Now, doing this as a lexicon is certainly interesting and creative, but it is also straightforward enough. The way in which each entry works, the way each relates to the others, the way each works upon us, and the way all this relates to justice, however, is quite another matter.

For this reason I think it best to begin with a summary of one entry in the lexicon to give you the feel of the book, knowing well that, since Dawson wishes to provide his readers with very particular experiences through which a transformed understanding of each word can arise, this summary will be very inadequate. The one I have chosen—in part because it is so central to White who is so central to Dawson—is ‘Imagination.’

## 2. ‘Imagination’

Starting with a reference to White’s *The Legal Imagination* (1973), Dawson tells us that White’s work complicates the relationship of reality to imagination. Quoting White, he says that White’s central thesis is: ‘the activities which make up the professional life of lawyer and judge constitute an enterprise of the imagination [claiming meaning against the odds]: the translation of the imagination into reality by the power of language.’<sup>5</sup> Dawson then asks—and this move of immediately applying what has just been presented to itself is done throughout the book—‘How might we imagine the imagination?’ (Dawson 2014, 106). At this point he turns to his ‘method’ (in quotations here because it is a word he explores) to address such questions: an exploration of analogous uses of the word ‘imagination,’ in other texts. This is a method Dawson has self-consciously adapted from legal thought.<sup>6</sup> Unlike the law, however, what will serve as relevant analogous uses for Dawson’s inquiries

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2 The words he explores are: 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, and voice.

3 ‘Attunement,’ a word he borrows from Alton Becker, ‘is a way of orienting ourselves to meaning, which is not an object but an experiential process’ (Dawson 2014, 232).

4 To give you a feel for how broad the inquiry is, here is a sampling of some of the authors he relies upon: Jane Austen (of course), Edmund Burke, Bertolt Brecht, R.G. Collinwood, John Commons, Robert Frost, Hans-Georg Gadamer, Bernard Lonergan, Nelson Mandela, Michael Oakeshott, David Tracy, Mark Twain, Simon Weil, and Ludwig Wittgenstein.

5 White 1973, 758, cited in Dawson 2014, 106.

6 Notice that by using this method, the book becomes an analogy, one for exploring what we mean by legal thought, and what value it might have. This, too, is a matter of self-reflexivity, but, and this is typical of Dawson, taken one level higher than you would expect.

is very broad. We will find within ‘law, literature, economics,’ as his title says, but also, as his title adds, ‘the rest of life.’ For ‘imagination,’ the first analogous use is in *William Shakespeare’s King Richard II*. When the Duke of Lancaster encourages his son to ‘imagine his exile in a way that will make it less of a “sorrow”,’ Bolingbroke responds:

Oh, who can hold a fire in his hand  
By thinking of the frosty Caucasus?  
Or cloy the hungry edge of appetite  
By bare imagination of a feast?  
Or wallow naked in December snow  
By thinking on fantastic summer heat?  
Oh no, the apprehension of the good  
Gives but the greater feeling of the worse.<sup>7</sup>

This then will serve as the understanding of ‘imagination,’ to be reimagined through other analogous uses. Notice that he has captured our most common understanding of the word, given our tendency to use it as a substitute for ‘fantasizing.’ Telling next the familiar tale raising the question of the meaning of power in *King Richard II*, Dawson notes that Shakespeare, ‘between the lines,’ is asking his audience: ‘Have you ever really looked carefully at the Crown?’ (Dawson 2014, 108). And, in doing so, Shakespeare renders the familiar, the Crown, strange, thus ‘offering the experience of words losing their meaning and the opportunity to become a self-conscious composer of meaning’ (Ibid.). This is, of course, what Dawson is also doing in using this play, not with the word ‘Crown,’ but with the word ‘imagination’ and it too is mostly done ‘between the lines.’

Next Dawson returns to White’s *The Legal Imagination* to complete and to extend the connection, again through *King Richard II*, of imagination to authority:

It seems to be part of the notion of authority that it is unquestioned, an obvious fact, not a judgment. [...] [A]s Shakespeare’s Richard II demonstrates, when such a language is taken as open to question, it loses its peculiar force at once.<sup>8</sup>

If this is true of something like authority, that is, that its dependence upon our imagination becomes clear when it is questioned, then it is also true of law. In other words, ‘the activity of law deeply involves reality-creating symbols that can become meaningless without due exercise of bare imagination’ (Dawson 2014, 110). White concludes:

This suggests that the ethics and politics of the play is Socratic [...], for it locates us in a *position* of increased responsibility and decreased certainty, expanding

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<sup>7</sup> Shakespeare, *King Richard II*, I.iv. 293-300, cited in Dawson 2014, 106.

<sup>8</sup> White 1973, 815 and 817, cited in Dawson 2014, 109.

our knowledge of the way in which valid forms of thought and speech erode each other.<sup>9</sup>

Now this locating of responsibility in the uncertainties of our own thought is interesting and important, and we can see as well that Dawson is questioning the *questioning* of meaning as he questions the *meaning* of ‘imagination’, but to leave it at this would be to leave it with White, not Dawson, and so Dawson continues his ‘method’ with questions that have been silently raised: ‘The image of the “position” that “Shakespeare brings us to share” is helpful for thinking about the “position” that White brings us to share in *Acts of Hope* and in his other books.’ (Dawson 2014, 111.) And then goes on:

How are we to imagine the experience of being ‘brought to the limits of our imagination and understandings?’ Is this not a ‘religious’ ‘limits’-experience ...? [...] The ‘paradoxical’ image suggests to me that Shakespeare establishes a [position] that is at once outside and inside life with language, a [position] that will be of interest to theologians. There is a place for economists, too: the reality of ‘competing languages’ should be of interest [...]. Theologians and economists could get together to talk about how to ‘undo ourselves.’ With ‘many people in one person,’ the question might be: which selves? (Dawson 2014, 111.)

With this Dawson has turned to themes, especially a concern with the language of economics, that will reappear throughout, but his primary interest seems to be in getting clearer about this ‘position’ from which we reimagine, for surely reimagining can be for better or worse. What then is it about the ‘position’ Shakespeare and White and, by extension, Dawson wish to share with their readers that lends itself to [...] well [...] justice?

What Dawson does at this point, what he always does at such points, is shift the analogy. Suddenly we leave the world of *King Richard II*, the world of White’s inquiries into language, inquiries that risked becoming abstract and theoretical, to turn to ‘*Maps of Sovereignty*’: *Perry Dane on the Cherokee Nation*. In suddenly abandoning White—stopping theory from developing rather than developing it as many would be tempted to do—Dawson, it seems to me, is actually extending White’s work in the way that White might be most inclined to do.

Through Dane’s analysis of Chief Justice Marshall’s opinion in *Worcester v. Georgia*,<sup>10</sup> Dawson introduces the idea that laws by a state harmful to indigenous people entirely within the state can nevertheless be considered ‘extra-territorial’ and void. Marshall’s opinion doing this, Dane says, is an act of imagination which is ‘the ability to hold, in tandem, apparently contradictory images of the relationship of self and other. It is the ability to insist on absolute dominion, and yet also recognize the dominion of others.’<sup>11</sup> For Dawson, this example of imagination offers a way

<sup>9</sup> White 1994, 79, cited in Dawson 2014, 111, emphasis added.

<sup>10</sup> 31 U.S. (6 Pet.) 515 (1832).

<sup>11</sup> Dane 1990, 990, cited in Dawson 2014, 112.

to begin thinking about not an *answer* to the ‘position’ questions he raised, but a way of going on with it. Dane, he tells us, has identified in Marshall’s opinion an act of ‘constitutional transformation’, through ‘a “transformation” of “the imagery of state exclusivism”’ (Dawson 2014, 113). Going further, he notes that Dane, as a writer, performs the same sort of act, ‘cavorting with the orientational metaphors of “inside”/ “outside”/ and “hierarchy”/ “equality”’ (Ibid.). After reading Dane, he says, ‘we may never hear the word “sovereignty” [...] in quite the same way again’ (Ibid.). But then he asks, continuing with the question of ‘position’: ‘How are we to judge Dane’s judgment?’ (Ibid.). What Dane is saying, in this essay with the odd subtitle ‘A Meditation’, sounds like a lawyer to Dawson, one ‘confidently speaking the language of sovereignty’ (Ibid.). So:

Is he not writing from inside the law? In his own sovereignty-talk, he seems to be offering the ‘contradictory images’ that are his subject. He is mixing genres, and in doing so bringing together parts of our culture that are commonly imagined to be apart. This is a constructive act of integration which could be a source of hope for those on the margins [...] (Ibid., cross-reference omitted).

Dane’s reimagining, Dawson suggests, was prompted by his asking the right questions about the legal order (perhaps as Shakespeare was doing in *King Richard II*). As Dane puts it, the question, ‘Who are these people?’ is, ‘for any legal order looking at the world, the great question of existential encounter.’<sup>12</sup> With this, what we thought was a question of ‘position’ has become a question of how one acquires the character for asking these right questions, questions which then determine the ‘position’. Quickly then, Dawson turns back to White to tell us that ‘the imagination is a facility of sympathy as well as intellect.’<sup>13</sup> In this, ‘imagination’ has moved from an opening in language for ‘imagining’ something into reality, to a question of an offered shared position made possible by these openings, to become a question of questioning which is then understood as a matter of the character needed to ask anew: Who are we? Who are we to become? And, then/finally, the ‘radical question of justice’: Who are we to be to each other?

There is more to this chapter on ‘imagination’. Dawson takes us through other writers to see that the law, in providing ‘a subculture in which two or more rival images of certain events in our culture can be placed against each other’, is a social way of ‘mak[ing] our construction and reconstruction of images conscious, [making] controlled changes of culture possible’ (Dawson 2014, 117). In this law offers a model for other discourses, he adds, including economics. But rather than exploring this interesting thought with him as our guide, let me add a thought or two.

Dawson implies at the end of this entry that the way imagination relates to justice is that imagination, working in the way he displayed it, allows us to become ‘other to ourselves’ (Ibid). In one sense, this is a large part of the ‘position’, he was

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<sup>12</sup> Dane 1990, 1004, cited in Dawson 2014, 113.

<sup>13</sup> White 1973, 758, cited in Dawson 2014, 114.

trying to display. And a display it must be, for there is no way to answer the ‘position’ inquiry without doing what I did above: use the word ‘justice’ and ‘justice’ is no ‘answer’ at all. For it is ‘justice’—and we can see this most clearly in his concluding thought about the law—which in Dawson’s terms determines if and which exercises of imagination are fitting. Dawson knows this—it is justice as a form of truth in its ‘fittingness’—and it is why, I think, that his performance of ‘imagination’ led directly to an inquiry into justice, not as a propositional matter, but as something also on display in his examples from which we can ‘imagine’ how to ‘imagine’ in a way that will be just.

Almost all of the other words in the lexicon end up working this way as well, *i.e.*, they all point towards ‘justice,’ while relying upon it. So ‘justice’ really is the central inquiry in the book, as the title suggests, and it is important, I think, to hold on to this as you read it.

### 3. The virtuous circle

Notice that one way of describing what Dawson did with the word ‘imagination’ is that he extended what the word concerns through comparisons<sup>14</sup> to its analogous use in various texts. In doing this, he extended the word’s ‘horizon’—as Heidegger or Ricoeur or Gadamer or Lonergan and a whole host of other writers put this. In doing this with each word, he does it for us as well, for the horizons of these words define our thoughts on justice. Since each word’s horizon is being expanded, and each word in the lexicon reappears in numerous chapters (always marked with an asterisk), this work could become impossibly complex if one tried to read the book in a linear way. Doing so would also miss the point, for the book is intentionally circular: each word circles back to itself (as ‘justice’ is required to understand ‘justice’), each chapter circles through other chapters back to itself (as ‘imagination’ and ‘justice’ reappear in each other and are interdependent); we become good readers of White by becoming good readers of Dawson by becoming good readers of White; and so on. In fact each thought is at some point reflected back upon itself in small circles of words. The point here, paraphrasing Heidegger in ‘The Origin of a Work of Art,’<sup>15</sup> is not to find a way out of these virtuous circles, but to try to stay within them.

For some this could become inordinately frustrating, and perhaps it will be so for those who might profit the most from the book. The solution, I think, is the one Dawson suggests at various points: Each entry can be profitably considered entirely on its own, and the entries need not be read in any particular order. Dawson (2014, 187) wishes his readers to be able to make the book their own creation by the way they choose to read it, and, he says with a refreshing honesty few of us can muster, in an important sense he cannot know where the book will lead them. In other words,

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14 In almost every entry, Dawson asks the following question about some thought or someone he has just affirmed: ‘Shall I compare [...]?’ Sometimes he then provides the comparison and sometimes he lets the question go begging.

15 See Heidegger 1971.

relax with it; start off not with the prologue or the introduction (those you can read later as questions arise), but with whichever word is of most interest to you at the moment, and read the entries one at a time. Over time connections between the entries will appear to you and it is likely you will wish to reread some in light of your experience of others.

#### **4. A problem and some questions**

Dawson sometimes suggests that the point of the transformations readers might experience is to render us equal to the tasks of democracy, equality, and openness to others, but notice now that none of these are goods in and of themselves. They are instead the locations of social tensions, the resolutions of which can move us towards the good. There are things prior to each of these that give to each its value for us. One of these is justice. For any of these to be good requires that there be justice in our continuing resolutions of the social tensions they provide and the conversations these tensions produce (much as any of the individual Aristotelian virtues require practical wisdom). So the book really is, as I described before, about justice, or, to put this in Dawson's terms, justice is what the book does. And it 'does' 'justice' by placing us near to it, within its own virtuous circle of thought.

There are, however, moments when the book fails to do justice to itself. These are most often the moments it becomes too polemical. Typically these occur when Dawson gets too close to his own initial experience of the sort of transformation he tries to offer his readers. He was a beginning economist, one who suspected that something was askew within his field, something, that is, that did not fit with the world he knew, but he lacked the words, or rather the understanding of the words, needed to think this for himself. Through an exposure to the writings of John Commons, P.E. Earl, and White, he was transformed towards a more humanistic, and therefore for him more truthful, account of the science of economics. White was central to this, not so much for his thoughts on economics for most of those thoughts can also be found within the literature of economics, but because White was directly concerned with this sort of transformative experience in reading; he, more than any of the others, was very consciously seeking to provide this experience; and he was doing this with the sort of wondrous success he had with Dawson as a reader.

When Dawson gets too close to his own initial experience, two things happen. The first is that he describes what he is doing, as White sometimes does, as offering control over our languages so that we might have a choice in the way they shape us. The second is that he then finds a gentle, but firm, way of making it clear in the context of the issue he is addressing at the moment what this choice should be. This is very different from offering to readers an experience with a word for the (trusted) transformative uncovering of meaning it can provide. For me, these more polemical moments in Dawson's book were blasts of cold air in a very warm environment. But now let me expand from this minor complaint in a way that might be helpful to other readers and potential readers—starting with an excerpt from White as Dawson would. In White's essay, 'Economics and Law: Two Cultures in Tension,' there is a

passage, one quoted by Dawson in the entry on ‘language’:

I start from the position [...] that the languages we speak, and the cultural practices they at once reflect and make possible, shape our minds by habituating them to certain forms of attention, certain ways of seeing and conceiving of oneself and of the world. This is in fact why we learn them [...]. For me [...] the major art of intellectual life is [...] to discover, and try to control, the ways in which our languages capture and drive our minds, so that we may recognize what they leave out or distort, both in ourselves and in others, and subject them to the discipline of other forms of thought and expression. Control of such a kind is most difficult, for it is at heart a species of self-control: when we speak our languages we cannot help believing them, we cannot help participating emotionally and ethically and politically, in the worlds they create and in the structures of the perception and feeling they offer us. In time the soldier wants to go to war.<sup>16</sup>

At various times in the book, this seems very close to the bedrock for Dawson’s project: ‘[we need to attend to it] lest we fail to do justice to ourselves and to others’ (Dawson 2014, 161), he says in the same entry on ‘language’. When he is too close to his own early transformation, as I mentioned before, he almost always describes what he is doing this way, *i.e.*, emphasizing control (which is to say acts of will) over our own languages. In this, as it often is with new converts, those who led him astray about his practice of economics take on the role of the enemy such that escape from their clutches and wresting control over the ‘language’ of the practice from them becomes personally important political combat.

But now notice the problem with White’s passage. In this passage, there is something called ‘languages’ set against something called ‘mind’; something called ‘self’ set against something called ‘world’; there is also an inherent internal/external spatial divide; and even a ‘they’ of languages set against a ‘we’ of something somehow outside of them. This way of thinking—a binary reification for the purpose of theory—is a serious problem in both White’s and Dawson’s own terms. It is a way of thinking that almost always works against the mystery that defines us, the very mystery which offers the understanding of humanity so central to the thoughts of both writers. In fact, what one learns from both writers is that we cannot divide the world into such ‘things,’ such nouns, such autonomous objects (especially when they are cultural ‘objects’), without doing harm to who we are and to what they are.

For example, the ‘languages’ to which White refers in this excerpt are not true ‘languages.’ They are instead extended registers, with very particular vocabularies, located within a language. We call these registers ‘languages’ only as an analogy that aids our understanding of the complex hermeneutic relationships we very often have with them. The ‘language’ of law (or of economics, science, mathematics, music, and so forth) cannot possibly be autonomous to the extent that true languages are. Each

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<sup>16</sup> White 1986, 166, cited in Dawson 2014, 161.

and every word within these ‘languages’ is located within a web of words within a true language from which it never escapes, no matter what claims may be made about it within the disciplines that rely upon certain words for their own identity. As I read them, this is what makes White’s work, and Dawson’s extension of it, both possible and powerful. Not to think that this is the case is to risk reducing the traditions of the practices in which these ‘languages’ are found to something fixed, a static status quo, and nothing, *nothing*, could be further from the thinking of White and Dawson than this.

As I also read them, however, neither is really offering *control* over such a ‘language,’ although both often say they are. Instead each is uncovering within these inherited ‘languages’ truer meanings—better, fuller, more complex, more contingent, more connected, more experiential, accounts of the horizons of these ‘worlds.’ *Such meanings are always already there within the inherited ‘languages’ of our practices, awaiting their uncovering.* Is this not the point? The work of both writers makes it seem to their readers that something these readers already knew as lawyers, as judges, as economists, as so forth, but did not know that they knew, has been uncovered through their writings. Is there anything more personally persuasive, more ‘transformative,’ than the surprising sense that you are suddenly more authentic, truer to who you are, and even perhaps to who you are ‘meant to be’?

Does this matter? Or is it a quibble, mere word play? I think it does matter, particularly so for reading Dawson well. ‘We cannot help participating [...] in the worlds [our languages] create,’ as White says in the quotation above, but this is not a problem for us, as he suggests it is in the excerpt. Our participation doesn’t render ‘control’ difficult for us, for control is not only impossible, but destructive if what one is seeking is something called ‘an attunement.’ Instead of control, the inevitable fact of our participation in the worlds of ‘languages,’ worlds that obviously would not exist without us, means that we can find within these worlds—*we can always find within these worlds*—the resources to do something called an ‘attunement’ to something called ‘justice.’ Perhaps justice is never a matter of somehow standing outside of the languages of our practices even when we are drawing analogies or making comparisons among practices or texts; never a matter of acquiring an endlessly broader perspective through ceaseless self-reflection; never a matter of either an expanded self or (even) a loss of self; never a matter of control; never a matter of will; never a matter, as both White and Dawson put it, of becoming ‘self-conscious composers of meaning,’ but is instead something to be quietly uncovered in our practices in the missing middle voice of the Greeks that so many writers in our postmodern era, including White and Dawson, seek.<sup>17</sup>

And perhaps then ‘justice’ is not something we can draw near to, either individually or socially, in any way other than through an ‘attunement’ to the words we would use for it, one similar to what Dawson offers.<sup>18</sup> And perhaps this is what makes

17 You can see this search for the middle voice in words like Dawson’s ‘attunement’ or Heidegger’s ‘*aletheia*’ or Ricoeur’s ‘appropriation,’ words which can only get them part way there as they all know all too well.

18 Perhaps this is one way of understanding what ‘the law’ does for us socially: the law as the primary form

his work so interesting and so valuable. But—and to ask the questions as Dawson would—if ‘justice’ is something to be uncovered through an ‘attunement’, what is it? How would we think ‘justice’? Is this ‘justice’ an ‘activity’ of our ‘imagination’? If so, what sort of ‘movement’ is involved in drawing near to it. Perhaps the word ‘justice’ is a ‘metaphor’ but, if so, for what? What does it mean to say we can have an ‘experience’ of justice uncovered? What is it we are ‘experiencing’? What ‘method’ would we use for this experience? In which ‘language’ would we approach justice if in language at all? And, if in language, what sort of ‘conversation’ is required? And, which ‘questions’ within this conversation are the right ones to ask?

Each of the words in quotations in that paragraph is a word explored by Dawson. ‘Playing’, another of his words, with each would be, as you can see, important to an understanding of justice as a form of truth for our time, and, as I said at the beginning, this is what I believe Dawson is trying to do. But now, if ‘justice’ is as central to the work as the title suggests and as I have argued in this review, perhaps we should turn, at least briefly, to that entry to see if there is a potential ‘integration’, yet another of his words, of these thoughts.

## 5. Justice

The entry on ‘justice’ starts with the idea, through the *Crito* (as read by White) that the justice central to Socrates’ own identity as an Athenian, as that of Athens itself, is a ‘fictive creation partly of his own making’<sup>19</sup>—at which point Dawson reminds us that the line between the ‘imagination’ and reality is an imagined one. The entry ends with a question about bringing this ‘fictive creation’ into reality in the form of the law at its best. Along the way we encounter the primary problem: those for whom the government, in the words of the Supreme Court of New Zealand’s opinion in *Wi Parata v. Bishop of Wellington*,<sup>20</sup> can be ‘the sole arbiter of its own justice’, when a case cannot be resolved by ‘known principles’, *i.e.*, a ‘settled system of rules’, an especially distressing claim by the Court because it was being applied to the issue of the recognition of the rights of a New Zealand tribe under ‘the Treaty of Waitangi’.<sup>21</sup> In other words, the problematic understanding of justice comes from those for whom justice is not a ‘fictive creation partly of [their] own making’, but a non-fictive thing *entirely* of their own making.

At this point, Dawson shifts from law to take us to poetry—the art through which we can best know what our own language has on offer. Specifically he takes us to the poem of Gerald Manley Hopkins ‘As Kingfishers Catch Fire’<sup>22</sup> to remind us that ‘the just man justices’ and that, as in the poem, justice is not a noun, not a

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social attunement to justice takes in other words. In so many philosophers who might be linked with the postmodern, you can hear, I think, if you listen carefully enough, a yearning for something very much like the common law.

19 White 1994, 34, cited in Dawson 2014, 135.

20 *Wi Parata v. Bishop of Wellington* (1877) 3 NZ Jur. (NS).

21 *Ibid.*, 77-78, cited in Dawson 2014, 136-7.

22 Mackenzie 1981, 141, cited in Dawson 2014, 138.

‘thing’ at all, but a verb. But if it is not a ‘thing,’ but a verb, what action is this verb describing for us? As we have come to expect throughout the book, he turns to White for guidance on how we might talk about this word ‘justice.’

‘Do not look for propositions,’ White says, but for ‘movement, for shifts in the meaning of words.’ Listen to ‘the music [our] voices make,’ he says (1990, 229-231). And at this poignant point in the text, there is yet another abrupt shift in Dawson’s style. Suddenly we are faced with the text of a ‘face-to-face’ imagined conversation with White, one White had asked his students to imagine, in which all of the multiple selves of Dawson and White are in play. This, Dawson seems to say, is how ‘the just man justices.’ Notice that this is a way of speaking that we might say is more fully human, not only in the sense that it attempts to capture the multitude that each of us is, but also in the sense that within this multitude are multiple modes of reality, including ones in which ‘fictive creation[s] partly of our own making’ are real. In the very next section of this entry on justice, Dawson give us a powerful example of this ‘fictive creation’ taking on a life of its own in the life and work of Bram Fischer as Fisher, in the name of justice, defends his own struggle to free the people of South Africa (Dawson 2014, 141-146). Through Fischer’s words, we hear of law as containing within it a ‘fictive creation,’ which Fischer calls a ‘higher law.’ This ‘higher law,’ rendered real through Fischer’s life, is an idealized element of law, indistinguishable from justice, something always already there within the law, and the law’s true origin, we might say. This, Dawson tells us, is a matter of ‘belief’ for Fischer, but ‘belief’ he also says, through White again, is a form of love<sup>23</sup>: a personal commitment inherently connected with justice.

This is ‘justice’ in its most human form. In Dawson’s deft hands justice has become no more of a thing than a person is a thing. Instead it is alive, and in the way in which, through other people, we best know what ‘alive’ means: complex, contradictory, full of tensions, constantly progressing, and ultimately mysterious. ‘Justice,’ has taken on a clear experiential reality for us here, and yet it is not real in our usual sense of the word. It is not ‘out there,’ but it is, nevertheless, there. Not a ‘thing,’ but perhaps a ‘no-thing,’ as Heidegger might say. Like the ‘music of our voices’ at their most human, it exists only in its performance and our experience of it. This justice is like the other person: always ultimately unknowable, forever at a distance we can never cross, and yet it can be, in our love, closer to us at times than our own selves.

Perhaps the mystery that justice is for us is the same mystery that each of us is, Dawson suggests well ‘between the lines.’ And perhaps justice then is as ‘real’ as we are. Is there really any wonder then why the form in which we have *imagined* justice throughout history is as a god (or, after the Hebrews, an angel) in human form: Dike, Justicia, Themis, Rameul, Maat, Utu, and so forth.

If you put this entry on Justice in the context of the virtuous circle of the book something very interesting occurs. Yes, we are given an understanding of justice as

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23 White 2006, 214, cited in Dawson 2014, 145.

a form of truth, a truth about ourselves, and of course there are others who have thought of it this way, but Dawson's 'justice' appears to be remarkably different. The primary issue regarding a conception of justice as truth<sup>24</sup> is whether such a conception requires us to abandon the ordinary notion of justice we depend upon: justice as a certain moral relationship to the other; justice as fairness, justice as equality, as balance, as empathy, as openness, as care, as love, and, as my mentor, Tom Shaffer, was fond of saying, as something we give to each other. In Dawson's good hands, however, this issue has somehow lost its meaning.

## 6. Concluding thoughts

The questioning of White and Dawson I did earlier—the one about the role of the will in all this—while honest was also something of a setup to show you how Dawson's book might work for you as a resource. I have gone on about his entry on 'justice' not just because I think 'justice' is central to the book, but also because I think it is important that readers hold on to a certain conception of justice throughout to do justice to Dawson's book, and that Dawson's book can teach this. He speaks so often about freeing oneself from the bonds of language, of bringing language to consciousness so that it can be a matter of our choice, and of composing our own meaning, and while there is nothing inherently wrong with starting that way, to shake a reader loose from 'it is what it is,' a reader could, nevertheless, be led astray were they not to read 'between the lines.' Dawson's purpose, I believe, is not for us to will ourselves towards something of our own choosing, or to shape our languages to suit our purposes, but to open ourselves, through the openings the words of his lexicon offers to us, to justice.

In doing this, in reviewing the book this way, I have tried to do what Dawson does throughout his text: use a text I admire to examine that very text. And by using Dawson's text this way I do mean to express my great admiration for it. Of course the quality of the entries in the lexicon is uneven as we should expect. At times the book may seem repetitious; there are moments when you will wish more had been said; some may find it frustrating, as I described before, with its frequent cross references and unending, endlessly self-reflective, circular, questioning—questions about questioning questions and so forth. In all this, it is a very human book, nothing if not sincere, heartfelt, and personal. Whatever flaws it may seem to have are flaws born of the author's courage in writing it: reflections of the complexities of a mind trying to be honest with itself. It is also *brilliant*.

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<sup>24</sup> See, e.g., Charles Bambach 2013.

## Bibliography

Bambach, Charles: *Thinking the Poetic Measure of Justice. Hölderlin, Heidegger, Celan*. State University of New York Press, Albany 2013.

Dane, Perry: 'Maps of Sovereignty: A Meditation.' 12 *Cardozo Law Review* (1990) 951-1006.

Heidegger, Martin: *Origin of a Work of Art in Poetry, Language, Thought*. Translated by Albert Hofstadter. Harper, New York 1971.

Mackenzie, Norman H.: *A Reader's Guide to Gerald Manley Hopkins*. Thames and Hudson, London 1981.

Shakespeare, William: *King Richard II*. Edited by A. Gurr. Cambridge University Press, Cambridge 1990 [1595].

White, James Boyd: *The Legal Imagination. Studies in the Nature of Legal Thought and Expression*. Little, Brown and Company, Boston 1973.

White, James Boyd: 'Economics and Law. Two Cultures in Tension.' 54 *Tennessee Law Review* (1986) 161-202.

White, James Boyd: *Justice as Translation: An Essay in Cultural and Legal Criticism*. University of Chicago Press, Chicago 1990.

White, James Boyd: *Acts of Hope. Creating Authority in Literature, Law, and Politics*. University of Chicago Press, Chicago 1994.

White, James Boyd: *Living Speech. Resisting the Empire of Force*. Princeton University Press, Princeton and Oxford 2006.