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2000

Linking the Visions

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Recommended Citation

White, James Boyd. "Linking the Visions." *Law Quad. Notes* 43, no. 3 (2000): 22.

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By James Boyd White •

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It is a major tendency of legal studies in our time to focus upon questions of general social policy, with argument centered on which theory or methodology ought to determine such matters. My own attention has been differently focused, on the nature and quality of legal thought itself, and of legal expression. It is to these matters that the work I do with the humanities — literature, classics, philosophy, and translation — mainly speaks.

One way to put this is to say that I am in the first instance interested in law from the point of view of the person engaging in it, as practitioner, judge, or teacher. And whether we are aware of it or not, we are all faced with the question: What does it mean to use this language and this set of institutions to address a problem that has arisen in the real world? What does it mean, that is, to think and speak as a lawyer? How can this be done well, or badly, and with what intellectual, ethical, and practical consequences?

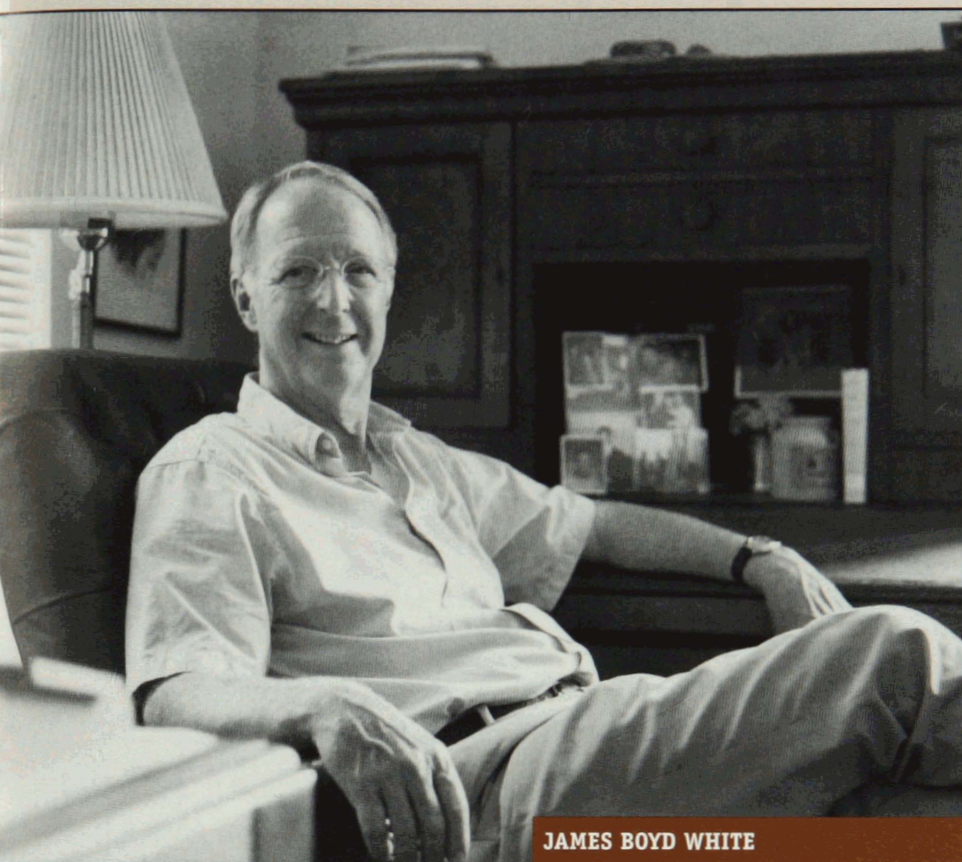
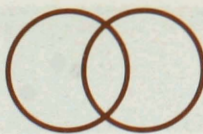
This set of questions, in one sense innocent enough, quickly leads to others, of deep difficulty. The lawyer uses legal language; this is how she thinks; indeed, it helps shape her mind and imagination; how then is she to make it the object of her own critical attention, how is she to judge it as a system of thought and expression? What is she to do about the points at which she finds it wanting: How, and with what confidence, can she become a maker, or remaker, of her language? This line of thought may involve her in thinking more generally about the relation between language — any language — and the experience it purports to describe or regulate; about the proper relations among languages, say those of law and some other field of expertise and learning, such as psychology or economics; and about the ethical and political significance of particular intellectual and rhetorical practices (such as legal argument itself).

On such questions as these I believe it is useful to bring to bear the best work we can find, in whatever field, both as a way of discovering instances by which we might measure work in the law, our own and that of others, and as a way of providing a place outside the law from which the language and practices of the law might be examined. I cannot in two paragraphs explain how I do this, but I can at least say that it is with hopes such as these that I turn, say, to Plato and Thucydides, Emily Dickinson and Robert Frost, Edmund Burke and Jane Austen, all of whom make their language the object of critical and creative thought, all of whom concern themselves with the ethical or political meaning of particular acts of expression.

The study of literature and the other humanities is helpful in large part because it trains us to focus our attention in certain ways:

- On the meaning of what is said by particular speakers in particular contexts;
- On the way in which a language or set of generic conventions — like those governing the form of the sonnet or the novel, the judicial opinion or legislation — commits us to one way of imagining the world or another, making certain claims of significance possible, others impossible;
- And on the way in which the use of language is an inherently ethical and political activity, as we define both ourselves and those we speak about in what we say.

To learn to think about these things well, if we could manage it, would not dictate particular legal rules or result in particular cases, but it would greatly improve the quality with which the law is made and practiced, and in this sense be of the largest social significance.



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"I have no doubt that the skills that I have gained in my scientific discipline will make me a better lawyer. In my mind there's quite a parallel between what you do in the two fields. There's a conceptual link between the two. Scientists approach problems, conduct research, and structure arguments very much like lawyers. At the same time, I have also learned to think about problems and issues very differently than most lawyers. I have two ways of thinking about things, not just one.

"My scientific background is not only useful in terms of an approach to the law, but it's also something that comes up as a substantive matter in cases. There is, for example, a great deal of science and scientific work in litigation. My scientific background will help me to combine the skills of a lawyer with an understanding of the substance and minutia of a case."