Book Reviews

Scott Barclay, Editor

Dark Speech: The Performance of Law in Early Ireland. By Robin Chapman Stacey. Philadelphia: University of Pennsylvania Press, 2008. Pp. 368. $59.95 cloth.

Reviewed by Karen Crawley, McGill University

What does it mean to speak of the power of the word? In modern times we associate this idea with persuasive speech that appeals to our emotions and fears, but in *Dark Speech: The Performance of Law in Early Ireland*, Robin Chapman Stacey, Professor of history at the University of Washington, opens a window onto a different world in which "words exercised a power not dissimilar to that of the sword" (p. 8). This was the world of early medieval Ireland, where poets ruled alongside lords and clerics, public ridicule was seen as capable of causing traumatic physical injury, and the threat of being satirized could force someone to terms. The fusion of the native and Christian legal traditions that took place in Ireland between the seventh and ninth centuries led to an explosion of legal literature unparalleled anywhere else in this period, and saw the emergence of the earliest professional class of jurists in medieval Europe. In this world, authority was intimately bound up with the skill with which one spoke, and these jurists were actually poets, "conveying through their verdicts a truth validated not merely by their knowledge of the law, but also by their access as verbal artists to otherworldly insight" (p. 83).

The key insight of this excellent book is that performance is not only a worthy object of study in its own right, but a powerful lens through which to view legal processes. Its account of "law" is situated within a broad context of public speech and action, in a society where the social performance of identity, status, and moral standing was fundamental. The author locates the elaborate rhetorical performances of the jurists, the making of oral contracts, the proclaiming of satirical verse, and "the purposeful cattle driving of an aggrieved farmer" as points on "a single continuum of communicative display" (p. 16). This focus on performance serves to shift the historical analysis from visible structures and institutions to the cultural understandings sustaining them: "the hierarchies created by speech and silence, the link between aesthetics and

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authority, the power of the body in motion before an audience attuned to the significance of its movements" (p. 231). For in early Ireland, law was "an actual performance tradition: a form of verbal art with close ties to other contemporary arts like poetry and storytelling, in which success was defined by aesthetic as well as more self-evidently 'legal' considerations" (p. 54)—the eighth-century law book *Bretha Nemed Toísech* even speaks of lawsuits and prosecutions being "ruined" because of "very evident poetic faults" (p. 81). The language of the spoken judicial realm, *rosc*, was also the language of prophecy, supernatural insight, and verbal contestation: highly alliterative, rhetorical, sung or recited, archaic, inherently personal, and heavily dependent on the persuasiveness of the performer. *Dark Speech* explores the performance of law in time and space, showing how it both informs and demands something from its audience, inviting acquiescence as well as risking failure.

The success of the book's capture of the "daring and immediacy" (14) of these long-ago performances is particularly impressive when one considers that the author is working with difficult, stylized, and descriptive "lawbooks" that did not record the details of actual cases. With skillful attention to their limitations, the author demonstrates how to read these accounts as reflecting, in a general way, the linguistic, syntactic, artistic, and rhythmic character of legal events.

Using sociolinguistic methods, the author demonstrates that speech and rank were so intimately bound in early Ireland that even the number of inhalations that could be taken during a judicial performance was determined according to status: highly ranked people were thus entitled to perform (or have performed on their behalf) judicial utterances that were longer, more complex, and therefore more beautiful. The discussion of the rules governing distraint—the gradual, staged seizure of livestock to force a defendant to come to law—locates its potency in both the public nature of the performance as well as the threat of the theft that its movements precisely recapitulated, and helps explain why the most subversive performances were the most tightly rule-bound.

While parts of the discussion concerning the origin of the *Senchas Már* tracts and the extent of regional variations in judicial speech will be of great interest only to scholars of early Irish law, the implications of this work extend beyond the peculiarly performative culture of medieval Ireland. Not only is *Dark Speech* a methodological model for how to pursue an understanding of lived experiences through exclusively written sources and from the position of a cultural outsider, but its complex and perceptive insights also remind us that despite the hegemony of the written word in legal studies, modern law is also an immediate, physical, symbolic, and aesthetic experience, structured by ideas about who

can speak and in what way. The poet-jurists of early Ireland show us that the chasm we experience between law and literature is of our own making. If performances seek to "entice their audience into a particular way of seeing" (p. 213), the performance of *Dark Speech* invites us to see our own law through fresh eyes.

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Parenting after Partnering: Containing Conflict after Separation. By Mavis Maclean, ed. Oxford, United Kingdom: Hart Publishing, 2007. Pp. 229. $46.00 paper.

Reviewed by Susan Sterett, University of Denver

Western legal systems have put tremendous effort into getting it right for children in families where parents are separated. Concerns are only sometimes mutually compatible: parents have rights to their children, but it is best for children if they continue to see people who have acted like parents. Acting like a parent can encompass play, tucking into bed, and feeding and does not have to be extensive to matter. So is contact after parenting to maintain already existing relationships? Or to develop them after parents part? Because it would be better for children? Or because parents ought to act responsibly? Some states have treated child support as a substitute for public support, so getting parents engaged with the kids looks fiscally responsible too. Legal systems have images of good family relations that may not be within reach, and legal institutions may be clunky at the difficult enterprise of crafting a good family. As May and Smart argue in this collection, it is "a kind of modern folly" to think courts can settle complex relationships, yet they persist in trying (p. 79). Dewar names the heterogeneity of what we want out of family law as leading to its "normal chaos" (Dewar 1998).

This collection from the Onati Institute brings together evaluations of separation and parenting from Germany, the United Kingdom, Spain, Australia, Poland, and France. Data include interviews and comparisons across local court systems. States have implemented mediation services, therapeutic intervention, parenting classes, and transfer centers to allow continued contact between parents and children. In Australia, court-ordered use of children's contact services allows the transfer of children without parents seeing each other (Sheehan, Dewar, and Carson; Rhoades; Fehlberg and Hunter).

Legislation and judicial practice across jurisdictions often assume gender equality as a way of preserving attachments for children, and sometimes as a response to rights claims by fathers' groups. In Australia, as Rhoades explains in this volume, legislation has erased any distinction between contact and parenting. As several essays

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