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Readingwriting

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The world changed for me when I started reading cases. If you permit the indulgence, I remember doing so especially intensively in my final two years of law school. Finding a comfortable (or not so comfortable!) nook in the top floor of the Law Library of the TC Beirne School of Law, at the University of Queensland, and surrounded by many shelves of the CLRs (*Commonwealth Law Reports*) and the ALRs (*Australian Law Reports*), I would take a deep dive into a lengthy High Court of Australia judgment, and swim.

I was in many ways very lucky and well prepared for this task: like many Australian law students, I had pursued a joint degree – in my case, Law and Arts, specialising in Literature and Philosophy. The year previously – after three years combining law, literature and philosophy – I had taken a year out of law to write an Honours thesis, which was co-supervised by a philosopher (Aurelia Armstrong) and a literary scholar (Tony Thwaites). My thesis involved a close reading of a novel – Italo Calvino's *If On a Winter's Night a Traveller*. Steeped in both narratology and Calvino's playful narrative practice, and having been deprived of law for a year, I swam in common law cases, and their multiple narratives, with great relish and zest.

When I think back to those two years, and see them in light of more recent and current obsessions, it occurs to me that perhaps what attracted me to cases then was that they exhibited what I propose calling in this essay 'readingwriting': that is, they were written records of readers reading others, especially past cases. Common law cases can be approached as wonderful repositories of rereading and retelling – of reading, again, groups of past cases, and now regrouping them in new ways, as a result of the encounter with the new, instant case. It was, and remains, fascinating for me to see how differently judges would combine the newly made story of the present case with the newly remade stories of past cases.

I confess that I found much joy in this narrative diversity and complexity: facts were pushed and pulled in various directions, characters were created and recreated, and complex meta-stories were told about particular narratives, stitching them together into dynamic, living tapestries. In

all this narrative twisting, weaving, and braiding, law was made – a form of law that entranced and puzzled me in equal measure. This was not Herculean law – there were egos, sure, but no real heroes. Instead, this was Penelope's law,[1] a fragile form of living and breathing coherence, jewelled with incompleteness and paths not yet taken, which was unwoven and rewoven over time, made and remade by many hands, and which depended on keeping the memory of past voices alive. I became hooked on law when Penelope spoke to me and told me to enjoy swimming in a vast ocean, with endless varieties of living species, which I could never know or master in all their sparkly diversity.

In this brief reflection, I would like to return to this confluence of reading and writing that I found and still find in common law cases, and to think a little more about how writing is a form of reading, and how reading is a form of writing. I propose to explore this interdependency of reading and writing in two steps: first, to take a brief look at some of the most brilliant 'readerwriters' I know and to say something about how they saw and performed the interdependency of reading and writing; and, second, with your permission, Reader, given the indulgence, to share my experience of writing, especially my two books, particularly by showing how they were really reading projects.

READERWRITERS, PENELOPEAN TEXTS

I am writing this in the depth of winter – the dark and windy winter of Edinburgh, Scotland, a city once, and sometimes still, called the Athens of the North. It is fitting, then, that my first readerwriter, and the first Penelopean text, should be Aulus Gellius' *Attic Nights* (second century CE).[2] As he disarmingly tells us himself, Gellius composed his text by first collecting notes 'of anything worth remembering' or 'whatever took my fancy', creating a 'literary storehouse', and, second, by 'assembling these notes during the long winter nights which I spent on a country-place in the land of Attica'.[3] He did so, Gellius says, 'to amuse myself', but also in order to provide 'recreation … for my children, when they should have respite from business affairs and could unbend and divert their minds'.[4] Pleasure, taken in both collecting and then assembling the fruits of other texts, and then wandering and re-wandering through the resultant orchard, is key.

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1 See Richard Heitman, *Taking Her Seriously: Penelope and the Plot of Homer's Odyssey* (University of Michigan Press 2005).

2 Aulus Gellius, *The Attic Nights*, John C Rolfe (trans) (Loeb Classical Library/ Harvard University Press 1946).

3 Ibid 'Preface', 2–4.

4 Ibid 'Preface', 1.

Indeed, the text is woven from lightweight scraps and shards found in the works of others – anecdotes, jokes, character sketches, reflections on words – as well as from 'topics that are knotty and troublesome, either from Grammar or Dialectics, or even from Geometry and … augural or pontifical law'.[5] The short entries – 400 of them across the whole of *Attic Nights* – are not extensive and systematic inquiries; instead, they offer 'first fruits',[6] gentle forays into seemingly ephemeral questions and puzzles. They do not so much 'instruct, as … give a hint', so that those who read 'may afterwards follow up those subjects, if they so desire'.[7] They are, in short, like a little feast of small delicacies, which a reader can meander between, spotting echoes of tastes, making links across bits of text via threads of allusion and philological rhyme. It is no wonder that Gellius ends his 'Preface' with a quotation from Aristophanes' *Frogs*:

> But Ye, my comrades, awake the song,
> The night-long revels of joy and mirth
> which ever of right to our feast belong.[8]

Of course, Gellius' self-deprecating ethos, and his all-too-modest characterisation of his readingwriting process and its result, has to be read with a grain of salt. As a number of recent readings of *Attic Nights* have emphasised, Gellius crafts a very particular reading experience for his readers, inviting them to think wryly about the ways that authority is constructed and knowledge is made, and encouraging them to reflect on, while also being trained in, complex reading practices.[9] Though seemingly light, ephemeral, and trivial, and despite being presented as haphazard, Gellius' choices of selections from the texts of others, and the way he orders them, are strategic and thoughtful. This is a text carefully stitched together so as to invite playful and inventive reading both within the text itself as well as between it and the many external texts it quotes, cites or alludes to. Miscellaneous in some respects this may be, but in other respects it is a carefully choreographed library, with Gellius (and some of his heroes, such as Favorinus) figured as playfully learned librarians, taking us on a tour, sharing with us their own pleasures of reading, and training us to become, like them, playfully learned librarians.

Interestingly, especially for present purposes, Gellius is very

5 Ibid 'Preface', 13.
6 Ibid.
7 Ibid 'Preface', 18.
8 Ibid 'Preface', 24.
9 See Scott J DiGiulio, *Reading Miscellany in the Roman Empire* (Oxford University Press 2024); and Joseph Howley, *Aulus Gellius and Roman Reading Culture* (Cambridge University Press 2018).

alive to the intricacies and difficult pleasures of legal thought. Himself serving for a time as a *iudex*, or lay judge, and clearly well read in juristic texts, many of the entries in *Attic Nights* concern thorny legal puzzles.[10] In the third entry – having, in the first, told us how Plutarch tells the story of how Pythagoras measured the height of Hercules by knowing only the length of his foot (the Chancellor's Foot!) – Gellius turns to a debate over how to behave as a judge in a case in which a friend's life is at stake. Characteristically, the difficulty is approached in a multi-layered way, first involving the telling of an anecdote that illustrates the difficulty, and then by reference to treatments of the issue by Theophrastus and Cicero. What one sees in this brief discussion is less clear guidance as to how to resolve the difficulty, and more an appreciation of its many-sided normative complexity, noting with what 'care and precision' and attention to variable circumstances both Theophrastus and Cicero tackled the problem.[11] Theophrastus, for instance, on these and similar topics:

> wrote very discreetly, scrupulously and conscientiously, yet with more attention to analysis and discussion than with the intention or hope at arriving at a decision, since undoubtedly the variations in circumstances and exigencies, and the minute distinctions and differences, do not admit of a definite and universal rule that can be applied to individual cases.[12]

What one discerns here, in Gellius' treatment of a normative problem like this, is the exercise of a very cautious judgement – a mode of normative writing that surrounds itself with the views of others, that pays attention to circumstance and variety, that slowly turns the problem over and over, and that writes into it by reading around it.

Gellius' *Attic Nights* is not the only classical text in which we can witness readingwriting of this sort – with its complex pleasures taken in relating texts and in tackling difficult issues playfully and multi-perspectively. One could point, for instance, to Athenaeus' *Deipnosophists*, also a second-century CE text.[13] There is, in these texts, genuine delight taken in encounters with the texts of others,

10 See Joseph Howley, 'Why read the jurists? Aulus Gellius on reading across disciplines' in Paul du Plessis (ed), *New Frontiers: Law and Society in the Roman World* (Edinburgh University Press 2013) 9–30; and see also, albeit not on Gellius but on a possibly associated aesthetic to be found in juristic texts, Ryan Pilipow, 'The jewelled jurist: late Roman legal aesthetics' (2020) 4(2) Studies in Late Antiquity 185–202.

11 Gellius (n 2 above) para 1.3.22.

12 Ibid para 1.3.29.

13 Athenaeus, *The Learned Banqueters*, S Douglas Olson (trans) (Loeb Classical Library/Harvard University Press 2006).

which both records and invites thoughtful, playful engagement with and across texts.[14] In Athenaeus' text, reading is itself likened to the social process of eating together – sharing tastes and digesting with friends. Digestion is one – but a very powerful, evocative – metaphor that seeks to capture something of the relation between reading and writing, or, put in another theoretical register, creatively 'imitating' others.[15] At issue, always, is the exercise of one's judgement and invention, one's writing, as a form of reading: with what attitude does one read; how does one relate one's voice to the voice of others; how is one's body, with its particular gestures and ways of moving, related to the bodies of others?

Among the many texts that take up these questions, precisely by themselves rereading, or digesting, these classical texts, are two of my favourites: Erasmus's *Adages* and Montaigne's *Essays*. Composed within a half-century of each other – Erasmus collected, assembled, revised, and re-ordered his adages over a period of 36 years from 1500 to 1536, while Montaigne did so in similar fashion from 1570 to 1592 – one could hardly find better examples of readerwriters or Penelopean texts (though, of course, the mere mention of Rabelais and Burton will give one a sense of the competition!).[16] Both Erasmus and Montaigne offer their texts as examples of readingwriting, and, at the same time, they train us, as we read them, to become readerwriters in our own way. Like the classical texts that they themselves cherish and relate with, the texts of Erasmus and Montaigne give us a picture of active reading and rereading, and of how intertwined writing is with one's activity as a reader.[17]

For Erasmus, key to the attitude that informs both reading and writing is the practice of friendship. It is no accident that when he came to produce the 1508 version of his collection of proverbs or adages, the *Adagiorum Chiliades* (the chiliagon is a thousand-sided figure), he positioned as his very first adage: 'Amicorum communia omnia', or 'Between friends all is common'. As Kathy Eden explains, in a wonderful book that draws links between Erasmus's adages

14 See John Paulus, 'How to read Athenaeus' Deipnosophists' (2012) 133 American Journal of Philology 403–439.

15 For this and other metaphors, see Colin Burrow, *Imitating Authors: Plato to Futurity* (Oxford University Press 2019).

16 For a brilliant discussion, which I have long found inspirational, see Terence Cave, *The Cornucopian Text: Problems of Writing in the French Renaissance* (Oxford University Press 1985).

17 One could argue that both Erasmus and Montaigne recover and seek to reignite and relive the active reading practices of the classical world: see eg David Konstan, 'The active reader and the ancient novel' in Michael Paschalis, Stelios Panayotakis and Gareth Schmeling (eds), *Readers and Writers in the Ancient Novel* (Barkhuis 2009) 1–17.

and the history of intellectual property, the adages themselves began as an act of friendship.[18] Having been ill-advised by his friend, William Blount (Lord Mountjoy) that it was safe to leave England with money in foreign currency, Erasmus found, much to his dismay, that the customs officials in Dover confiscated most of it. Rather than reacting angrily, accusing his friend of bad advice, Erasmus decided to respond by sending a gift: a small collection of adages, as a sign that the friendship had not broken, but was instead very much alive. Writing, here, was an act of friendship; but so, equally, was the reading that the writing performed in the text, for the adages collected were excerpts from texts in the classical past, with Erasmus showing that, rather than being enemies (as others had argued), Christians could form a generative friendship with the pagan classics.

The text of the first entry – 'Between friends all is common' – is a mere two pages. But it packs an enormous amount in a very small space, serving as a kind of emblem of the entire collection (as Erasmus tells us, whole 'oceans of philosophy' can be opened up by 'tiny proverbs').[19] Erasmus takes us on a short tour of classical thought about friendship, quoting, amongst others, Euripides, Terence, Menander, Cicero, Aristotle, and Plato. The quotations in question often differ by the smallest of differences – slight grammatical variations, which suggest the most delicate shifts in emphasis – and which together weave a web that conveys the (thousand-sided) complexity of the adage.[20] Fittingly, for present purposes, Erasmus ends his entry with a thought from Gellius' *Attic Nights*:

> Aulus Gellius in his *Attic Nights*, book 1 chapter 9, bears witness that not only was Pythagoras the author of this saying [ie that 'Between friends all is common'], but he also instituted a kind of sharing of life and property in this way, the very thing Christ wants to happen among Christians. For all those who were admitted by Pythagoras into that well-known band who followed his instruction would give to the common fund whatever money and family property they possessed. This is called in Latin, in a word which expresses the facts, *coenobium*, clearly from community of life and fortunes.[21]

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18 Kathy Eden, *Friends Hold All Things in Common: Tradition, Intellectual Property, and the Adages of Erasmus* (Yale University Press 2001) 1.

19 Erasmus, *Adages Ii1 to Iv100*, Margaret Mann Phillips (trans), Collected Works of Erasmus volume 31 (Toronto University Press 1982) 'Introduction', vi.55.

20 For more on the classical aesthetics of variety and its epistemic importance, see William Fitzgerald, *Variety: The Life of a Roman Concept* (Chicago University Press 2016).

21 Erasmus (n 19 above) 1.50 (original emphasis).

Erasmus is not trained as a lawyer,[22] but he, like Gellius, is intensely interested in legal thought, and weaves in references to juristic texts amongst all the other kinds (Justinian's *Digest*, for instance, features throughout). Here, he relates a Roman legal practice – one designed to avoid the break-up of family property, such as a farm – to the practice of friendship, and, by extension, to readingwriting. Readingwriting, it turns out, at least for Erasmus, resonates with the ideal of the commons, a form of relating with each other as friends do, and a way of paying respect to each other by sharing texts and readings of them (adages themselves are the perfect example of shared, common property). It is, again, no accident that Erasmus follows the above adage in his collection with another one that deepens the attention given to friendship: 'Amicitia aequalitas. Amicus alter ipse', or 'Friendship is equality. A friend is another self.'

If Erasmus pays tribute to friendship, connecting it to readingwriting and the composing and sharing of Penelopean texts, then so does Montaigne. It is not a stretch to say that the *Essays* are suffused with friendship; perhaps one could even say that the whole text is a sort of paean to friendship, in part to an actual person, the friend Montaigne lost in 1563, Étienne de La Boétie, but in part also to the generative attitude of friendship as a guide to readingwriting.[23] The friend, one could say, like a good book, can be a mirror to the self: they can show us who we are, warts and all, being able to say things to us that others cannot, and able to see through our various defences and pretences. Infused with the courageous honesty of friendship, Montaigne's *Essays* show us a self at its most vulnerable, intimate, and, importantly, embodied. Indeed, in his prefatory 'Address to the reader' (Asking for a friend!), Montaigne wonders why anyone else would want to read it, given it is Montaigne's exploration of his own self. Don't read this, Montaigne seems to say – 'it is not reasonable that you should employ your leisure on a topic so frivolous and so vain'[24] – which of course works wonderfully as an appetite-inducing, curiosity-generating invitation to begin reading.

Already in the prefatory 'Address', but then throughout his book, Montaigne tells us he is going to pay attention to the gestures and movements of his

22 Although he was close friends with many lawyers and jurists, including famously Thomas More.

23 For more on the links between friendship, communication, pedagogy and politics in Montaigne, see John O'Neill, *Essaying Montaigne: A Study of the Renaissance Institution of Writing and Reading* (Liverpool University Press 1982).

24 Michel de Montaigne, *The Complete Essays*, M A Screech (trans) (Penguin 2003) lxiii.

body – his 'gait',[25] as he refers to it. In 'On experience', the very last essay, he returns to the question of movement, giving us literally tens, if not hundreds, of different terms for describing the movement of a body, from 'limping' to 'stumbling' to 'ferreting', 'trotting', 'strolling', and 'galloping'.[26] 'Our life is but motion', he tells us at one point, going on to confess that he is 'sluggish about everything, including getting up, going to bed and eating', and then diving into a long description of the kind of bed he likes to sleep in (a hard one, 'without my wife, with rather too many blankets'!).[27] And, indeed, there is plenty of motion – though hardly of the sluggish kind – in the many essays, the many trials, Montaigne makes, into knotty and difficult subjects, always via and in the company of the texts and opinions of others, and always with ruthless self-scrutiny.

Montaigne's sensitivity to movement is present also in his style. He writes, in different rhythms and paces across the essays, often suddenly addressing us in the present tense, recording his reaction to a sudden event, thereby combining heavy questions with light anecdotes. One of my favourite examples of this lively, present-making, writing comes from that last essay, 'On experience', where, amongst other issues, Montaigne discusses the difficulties of judging – as he would know, having held a legal office in the Parliament at Bourdeaux for many years – especially when faced with excessively detailed and often unnecessarily cruel laws:

> Some peasants have just rushed in to tell me that they have, at this very moment, left behind in a wood of mine a man with dozens of stab wounds; he was still breathing and begged them of their mercy for some water and for help to lift him up. They say they ran away fearing that they might be caught by an officer of the law and (as does happen to those who are found near a man who has been killed) required to explain this incident; that would have ruined them, since they had neither the skill nor the money to prove their innocence. What ought I have said to them? It is certain that such an act of humanity would have got them into difficulties.[28]

Characteristically, Montaigne does not so much resolve the difficulty, as he points out the dilemma: do you not see, reader, how difficult judgment is? And he goes on to give us more examples of judgment gone wrong, including of how certain institutional conditions can make judgment even more difficult than it already is, for example, by attempting to cover every single possible circumstance, an impossible task given the

25 Ibid.

26 See Jean Starobinski, *Montaigne in Motion*, Arthur Goldhammer (trans) (University of Chicago Press 1985).

27 Montaigne (n 24 above) 1244.

28 Ibid 1214.

'ingenious medley' that 'Nature' is.[29] In case you might think Montaigne is setting himself up as a superior judge to all others, he is relentless in turning the same critique onto himself: 'I keep learning', he tells us, 'of my infirmity in general and of the treacherous ways of my intellect'; 'the slips by which my memory so often trips me up precisely when I am most sure of it'; 'I learn to distrust my trot in general and set about improving it'.[30] Once again, we are made privy to a man seeing himself in the mirror – a mirror enabled by the texts of others – motions and all.

Montaigne cites Gellius three times in the *Essays*. This may not seem like much, but as others have noticed, the *Essays* are really full of Gellian-like moments. Gellius, argues Scott DiGiulio, 'served as a convenient literary model for the kind of collected work that Montaigne was composing and his underlying practice of reflecting upon chance encounters or social gathering to test his own intellectual faculties and ability to apply the literary tradition to the situation at hand'.[31] Erasmus, too, is echoed everywhere in Montaigne's *Essays*, although he is explicitly referred to only once. In the essay, 'On repenting', Montaigne reflects: 'if anyone had brought me to meet Erasmus it would have been hard for me not to take for adages and apophthegms everything he said to his manservant or to his innkeeper's wife'.[32] What a sight that would have been – Montaigne eavesdropping on Erasmus!

One could further multiply echoes – explicit and implicit – were there time and space to do so.[33] For present purposes, what is key is that Gellius, Erasmus and Montaigne are all exemplary readerwriters, producing Penelopean texts, which they weave, unweave and reweave across time, reading

29 Ibid 1213.

30 Ibid 1218–1219.

31 DiGiulio (n 9 above) 281.

32 Montaigne (n 24 above) 913.

33 Including as between classical Penelopean texts and their readingwriting practices and the activity of common law reasoning: to mention but one such echo, many generations of common lawyers were educated in an Erasmian pedagogy of rhetorical variety, and this surely informed the 'artificial reason' of the common lawyers. See eg on the meaning of 'common', which begins with Erasmus, Neil Rhodes, *Common: The Development of Literary Culture in Sixteenth-Century England* (Oxford University Press 2018). There are many connections between the form of the proverb, as well as the art of using them, and the forms of knowing and reasoning with the common law, including in the crucial period of the sixteenth century, eg via the practice of note-taking and creating commonplace books: see eg Mary Thomas Crane, *Framing Authority: Sayings, Self, and Society in Sixteenth-Century England* (Princeton University Press 1993); Ann Moss, *Printed Commonplace-Books and the Structuring of Renaissance Thought* (Clarendon Press 1996); and Eric MacPhail, *Dancing around the Well: The Circulation of Commonplaces in Renaissance Humanism* (Brill 2014).

and rereading others, delicately selecting passages, turning them round and round in their minds, encountering the worlds of others with care and curiosity, and in the process reflecting on themselves as readers, writers and readerwriters, and as persons who relate with other persons. All of them express the great pleasure of encountering the face and voice of others, of being changed by this encounter, and of reflecting deeply – and yet with such lightness and such joy – about what it means to encounter each other.

READING PROJECTS: TIME, COMMUNITY, EXPERIMENT

I am returning to the page, having run off (or, more accurately, walked briskly) to pick up some food for lunch; the stomach had called, there was food to digest … Our writing is often interrupted, and it takes enormous energy – or so I find – to hold one's thoughts, to pause the momentum of one's writing, and then to reignite it all again. It has been a pleasure, in the above section, to spend time with Gellius, Erasmus, and Montaigne, and it is with some unease and embarrassment that I turn to my own writing. In truth, I am much more comfortable speaking about my reading.

Fortunately, virtually everything I have written, including my two books, have really been reading projects. My first book, *Artefacts of Legal Inquiry*,[34] was the culmination of many years of both reading and teaching several threads of scholarship, which ended up being braided together, often in ways that surprised me. One such strand was composed of common law cases alongside scholarship on them and on common law reasoning generally. Another was the burst of activity in the philosophy of imagination in recent decades, particularly in English-language philosophy (for instance, through the efforts of Amy Kind). A third was an interest that had been bubbling away in the background for some time, and that found its way back into my reading: literary theory, including the history of literature and the language arts (especially rhetoric). Literary theory itself was of course a palace of many rooms, and I had been at the time particularly taken with cognitive readings of literary texts (such as those offered by Terence Cave, Guillemette Bolens, and Ellen Spolsky), which had many connections to the role of imagination and emotion in the experience of reading.

As I read across these strands, I kept wondering how they were related to one another: how could cognitive theories of literature speak to accounts of common law reasoning? How could work on simulation, supposition, and thought experiments in philosophy

34 Maksymilian Del Mar, *Artefacts of Legal Inquiry: The Value of Imagination in Adjudication* (Hart 2020).

converse with cognitive literary studies? How, in turn, might common law practice be illuminated by the philosophy of imagination and theories of the experience of reading? The book welled up in me as I read: at some point, the reading became so voluminous that I could not hold any more without writing. The writing was a way of holding the reading together, of braiding and weaving it into a whole that made some sense to me. Writing was also a way of reading more carefully, taking notes as I went, talking back and with the texts I was reading, and then marshalling all these notes, assembling them to form sections, chapters, and parts.

Writing and reading were, then, accomplices, close friends, without which the book would never have emerged. This was also the case in very concrete terms: I would write early in the morning before breaking for some exercise and lunch; then write again in the afternoon before my son came home from school; and then, after playing together, eating, and putting my son to bed, I would read into the night, trying to anticipate the material I might tackle when writing the next morning. Although in gestation for many years, the actual process of writing the book was this intensive readingwriting activity over a period of about five to six months (the time I had for my sabbatical).

My second book, *Neil MacCormick*,[35] was also a self-imposed reading challenge. The process of working on this book was more spread out over time, somehow miraculously surviving many interruptions, having been begun around 2008 and only being completed in 2025. Over this period, I immersed myself, again sometimes very intensively, but then with long breaks in between, in MacCormick's texts. The experience, as I recall it, was very much that of immersion in MacCormick's textual world – including his own texts, the texts he read, and the texts that read him.

I did not find reading MacCormick easy. I struggled for many reasons: one was that I was deeply affected by his sudden illness and death in 2009, having been his last PhD student, and I thus found it difficult to take sufficient emotional distance from his writing. Paradoxically, though, I also struggled in the other direction: to get close to it, with sufficient enthusiasm and desire, for I was continually drawn to other kinds of writing, and other forms of theorising, including questions that MacCormick had not really addressed, such as the role and value of imagination in legal reasoning (the MacCormick book was supposed to arrive well before the book on imagination!). Squaring this circle for a long time felt impossible.

Covid played a role. I was very fortunate to have received a British

35 Maksymilian Del Mar, *Neil MacCormick: A Life in Politics, Philosophy, and Law* (Cambridge University Press 2025).

Academy Mid-Career Fellowship, which meant I did not teach during the Covid year, and could focus on research. Of course, in other respects, with home schooling, along with other personal issues, attempting to write in this period was shot through with difficulty. One of the things I did during this time – a typical lockdown reaction? – was to return to MacCormick's texts and to read them all again, from the beginning to the end, taking extensive notes as I did so. This effectively took me an entire year. Often, I reread the essays or chapters that I found especially interesting. That was important, but even more important – as I look back – was reading it all, every little bit, including the shortest book review, as well as all the correspondence available to me. It was, in fact, often in the little pieces, the seemingly ephemeral and less obviously significant texts, that I found the most insightful clues as to how to read MacCormick. Writing in conversation with MacCormick, as I read him, allowed me to relate in my own way to his voice, and it also allowed me to spot echoes across different stretches of time, seeing both continuity and change in the questions that moved him, in the concepts and forms of language he cherished and kept returning to, in the texts he found sustenance in, and in the styles with which he spoke and wrote. The resultant very strange set of notes – many hundreds of pages of conversation with all of MacCormick's texts – was a gold mine for me later when I was writing the book itself.

It helped me enormously in writing on MacCormick to think carefully about what he enjoyed reading and why he might have enjoyed it. Why was it, for example, that over a lifetime of scholarly activity he kept returning to the writings of David Hume? He clearly took great joy, enormous relish, in Hume's language, which itself changed so much from the *Treatise* through to the *Enquiries*, not to mention the *Essays*, *Dialogues*, and *Histories*. Which Hume, and what of Hume, did MacCormick enjoy as a reader? What was it that drew him back, again and again, to Hume as a writer? What did this say about MacCormick as a reader? What attitudes did Hume express in his writing, and how did these bubble up in MacCormick when he wrote? What proved crucial here was less what MacCormick, or indeed Hume, argued, and more the manner in which they did so, with what tone or stance, with what disposition or sensibility. It was only by reading, and rereading, including reading what MacCormick read, that I could dig my way into MacCormick's writing, and thus train myself to be MacCormick's reader.

In writing the *MacCormick* book, then, I really confronted myself as a reader: how did I read? What did it mean to read well? When faced with the world of another, how could I read in a way that would help me walk slowly

into and through this world of another person, while being aware, of course, that I could never walk in their footsteps?[36] As I explain in the introduction to that book, ultimately this question of reading was the central question of the book, and one which related closely to the ethics of relation, namely, to what it might mean to relate with another person and how one could do so well, or at least not too badly. I do not think I have discovered any key to this challenge: I only hope that I shared with honesty the difficulties that I found along the way.

As reading projects, both of the above books could not have been written without three key ingredients: time for reading, a community of readers, and spaces within which to experiment with how one read and wrote. Let me briefly explain, as this is crucial to seeing how universities can support writing.

Reading projects take time. Gellius, Erasmus, and Montaigne knew this well – they returned again and again to their materials over many decades. Reading once is never enough; one needs time to not only read, but to reread, and to do so intensively in certain periods, with breaks in between. In some ways, it is a matter of digestion: the words of others need to be broken down and transformed into new energies. I know myself how easily I become impatient and distracted as a reader. My first reading is always affected by what I have just been reading, or indeed writing, recently. In fact, I would say, my first reading is not really a reading – it is more like a first familiarisation, an initial taste, but often lost in the circumstances. I need to pick up the text on numerous occasions and force myself to slow down. I have to keep reminding myself to read anew, to be willing to be surprised, to be knocked down by the insight of the text and its otherworldliness, its difference, its strangeness from my own thought.[37] I slip so easily into lazy reading and have to constantly pinch myself: you are reading the thought of another person, you are listening to their voice, you are retracing the pat-patter of their fingers on their keyboard or the strokes of their pen on a page … slow down, pay attention. You are not reading yourself; you are reading another, and their world is different to yours. Most of the time, I fail as a reader. It is only very rarely, with supreme effort, that I read in a way I aspire to read, and even then I think I could be reading better.

All this reading and rereading, and retraining oneself constantly as a reader, takes time. Universities can support this by realising how vital to any writing are multiple periods of reading. Evidence of reading – notes, for example – could be a substitute for or could

36 Richard Holmes, *Footsteps: Adventures of a Romantic Biographer* (Vintage 1996).

37 Simone Weil, 'Essay on the concept of reading', from *Simone Weil: Late Philosophical Writings*, E O Springsted (ed) (University of Notre Dame Press 2015) 21–27.

complement the production of outputs in sabbatical reports. We need to find institutional ways to support reading time. Perhaps, too, we need to think about pedagogies of reading – less writing courses, and more reading courses. Protecting reading time is crucial for writing. If only our institutions celebrated reading, especially slow rereading.[38]

The second ingredient is that of communities of reading. This has many aspects. One is that, as a writer, one depends on the enthusiasm of readers – of persons, sometimes friends, who express a desire to read what one writes. I could not have written either of the two books I have if there were not persons who said to me that they would like to read what I write on such and such a topic. Of course, this creates pressure too, and that can be difficult to bear, but ultimately the interest, the enthusiasm, of readers is vital to the process of writing. When writing – as I am now – I often imagine a reader in front of me, and I try to create a shared space in which we – you, Reader, and I – can think about something together. Writing comes alive for me when I manage to create that space, that space of readingwriting, which is inherently dialogical, relational, and communal.

But there are other ways, too, in which community matters. One of the most precious is that of the classroom: like many academics, I could never have written either of my two books without having been able to read certain materials together with different students over many years. In the case of the *Artefacts* book, this meant reading and rereading the cases with the students in a course on 'Imagination and Common Law Reasoning': how did courts write about the Officious Bystander and how did this change over time? How did courts employ the metaphor of the constitution as a living tree and, again, how did this change over time? In the classroom, I try to create an atmosphere in which we are a community of readers, puzzling, wondering, and enjoying the difficulties of reading texts together. This nourishes me, both as a reader and a writer, but also simply as a human being. The joy of being surprised by a student, a fellow reader, in noticing something in a text that I had never seen, and to see this joy on their face, as they run with the thought and take it to new places – that is one of the greatest pleasure for me as a teacher. It is also one I really need as both a reader and a writer.

This has some important implications for universities. Scholars at all stages, but especially early career scholars, need time to develop courses where they can teach with freedom, relating their ever-deeper reading in the course to the questions that interest them

38 Michelle Boulous-Walker, *Slow Philosophy: Reading Against the Institution* (Bloomsbury 2016).

in their research. In some ways, this is research-led teaching; in other ways, it is teaching-led research, or, put differently, reading-led-writing. Again, my approach to this has been to offer courses in what I would love to read together with my students, and which I think they could benefit from reading, and then to immerse myself, over many years, in reading together with the students, opening myself up to being surprised by what the students find. These are courses that do not wear their immediate utility on their sleeve – neither for me as a researcher, nor for the students in their careers, let alone for the market; their significance is more long-term and lies in the creation of spaces in which persons can come together to let complexity sing and to confront difficult questions together.

The third essential ingredient that can support writing is that of space to experiment, and especially a space to try out readings. Here, what I would really emphasise is the importance of informal spaces – not great big conferences where one finds one needs to perform for one's reputation, but instead small gatherings, with no fully worked out agenda, in which persons can come and hear each other's reactions to texts. The most nourishing events I have been part of were afternoon gatherings of readers, responding to a text or a set of texts together, and mulling them over, raising questions about them, taking them in sometimes strange directions. As a writer I know that I need such spaces where I can read, and reread, with others: spaces in which I can develop long-term, non-utilitarian scholarly friendships – reading friendships – and try out ways of reading in the company of others and their readings.

Institutionally, this means we need spaces in which such relations can be built; spaces that are not immediately tied to funding applications; and spaces that allow for different kinds of genres or modes of expression, for example, more ephemeral forms, such as accounts of what one has been reading lately. One also, I think, needs spaces in which one can encounter a text that one does not see the immediate relevance of – texts, for instance, far away from one's discipline, which one can then encounter and relate creatively to what one is more familiar with.[39] Perhaps another way to put it is that in order to write we need spaces in which we can be challenged and grow as readers, and to share the joys and difficulties of reading with others.

Time, community, and experiment, then; no doubt there are other ingredients needed for writing, but these are ones that I have found crucial in enabling and encouraging me to write.

39 For one such space, see the 'Encounters with Books in Other Disciplines' series in the International Journal of Law in Context.

IN CONCLUSION: *THE GREAT JURISTIC BAZAAR*

In concluding, I would like to pay tribute to a scholar, a friend, who was a most enthusiastic reader, supporting many writers, including me, over long periods of time. This was a scholar who created and nourished many communities of scholars, many gatherings of fellow readers. This was also a scholar who created and nurtured a space within which others could experiment – to try out new readings, especially of legal materials. That person is William Twining, who passed away very recently, on 9 October 2025, and who amongst many roles, was the Editor of the *Law in Context* series.

It is difficult to write about William in the past tense, not only because losing him is so recent, but also because he was such a lively presence, both in person as well as in his scholarship.

William was a fan of Italo Calvino. Indeed, Calvino was one of the first writers we discussed when William and I met, and we bonded over our affection for Calvino's experimental meta-texts, such as *Invisible Cities* and *The Castle of Crossed Destinies*. In his collection, *The Great Juristic Bazaar* – one of many great Twining-esque titles – William explained that he first encountered Calvino by reading *If On a Winter's Night a Traveller*. William went on, in that collection, to show how Calvino helped him to confront the difficulties of law's globalisation. William confessed to liking many aspects of Calvino, for example, his playful, ironic, 'multi-layered' voice, which was 'subversive of boundaries',[40] as well as his 'antipathy to consumerism, his questioning of settled assumptions, his ambivalence towards technology, his linking of complexity and historical continuity, his lightness of touch, and his capacity to maintain a sense of humour despite a pessimistic vision of the human condition'.[41] William spoke of how Calvino helped him to recognise the importance of standpoint, and indeed of multiple standpoints, to the theorisation of law; to a kind of ethic of the 'elusiveness of reality, the fallibility of what passes for established knowledge, the importance of attending to multiple perspectives and points of view, a resistance to closure, and a playful style that treats metaphor and imagination as necessary to understanding complex phenomena'.[42] Hear! Hear!

If On a Winter's Night A Traveller was also my first encounter with Calvino. In it, Calvino weaves a tale in which a Reader (soon with an Other Reader), reads the beginnings of 10 novels, but never gets to read

40 William Twining, *The Great Juristic Bazaar: Jurists' Texts and Lawyers' Stories* (Routledge 2017) 284, fn.3.

41 Ibid 299, fn1.

42 Ibid 285.

on and finish them, largely as a result of numerous accidental interruptions. The book took over a decade to write. In part, this was because of the very complex self-imposed constraints that Calvino gave himself (he was a member of Oulipo, an experimental group of writers who often wrote under seemingly impossible constraints), but also in part because in each of the 10 novels Calvino writes in a way he normally did not. In fact, each of the 10 beginnings of novels are in very different styles, markedly different voices, strikingly different grammars and rhythms. To write them, Calvino needed to immerse himself in the world of another writer, and write as they, and not he, would write; he needed, in other words, to become such a thorough reader of the work of another writer that he could reproduce, to an extent, their own style. This was, one could say, an exercise in creative imitation, or digestion. Calvino needed to become 10 non-Calvino's. It was a project, a challenge, in readingwriting, and it remains one of the greatest ever experiments in readingwriting as well as one of the most remarkable reflections on reading and writing and their interdependencies. It is, then, perhaps with no great surprise that we learn that Calvino was a deep reader of the classics,[43] including their recovery in later periods – of that world of Penelopean texts, which braided together shards and echoes, and which celebrated the wonderfully non-heroic, communal, and fragile world of readingwriting.

43 See Lisa Cordes, Marco Formisano and Janja Soldo Blaney (eds), *Calvino and the Classics: Lightness, Quickness, Multiplicity* (Brill 2025).