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Staging Law in William Gaddis's *A Frolic of His Own*

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One of the important questions which relevant “mappings of the present”¹ have to address undoubtedly remains the question of power. This seems even more urgent in a situation where its exercise and control seem hardly visible, where its tentacles are attenuated to the point that the human subject barely recognizes its manipulative strategies and actions. This is merely the flip-side of its all-pervasiveness. If literature seeks to reveal or put to the fore what society, relying on various tactics, works to keep under cover then it is to be expected that authors who undertake to delineate the complex workings of their world must deal with the issue of power, the way it functions within that world, the way it itself is structured and what kind of world is produced by its operation. The American “systems novel” with its “insistent focus on global cultural systems”² offers an exemplary instance of what literature is capable of producing on this interface and on the present occasion provides the background against which to read the work of William Gaddis. To be more precise, in what follows I will read his novel *A Frolic of His Own* (1994) as the final chapter of his literary project which in a powerful way traced the manner power was staged and the way it shaped the American polity during the last half century.

1.

The contribution Foucault has made to the analysis of both power and discourse cannot of course be bypassed and provides the framework within which to understand both what Gaddis was doing in his work and to recognize the position a representative text of American fiction has within its cultural matrix. Therefore, as a preliminary step certain

¹ I owe the phrase to Stuart Elden's book *Mapping the Present: Heidegger, Foucault and the Project of a Spatial History*, Continuum, London, 2001.

² Janice Carlishe and Daniel Schwartz, *Narrative and Culture*, University of Georgia Press, Athen, 1994, p. 219.



summary statements are in order. Foucault rejects the notion that power is embodied in ruling, dominating agencies but interprets it as “dispersed, indeterminate, heteromorphous, subjectless and productive, constituting individuals’ bodies and identities”.³ According to this view power is to be conceived as diffused throughout the social body rather than emanating from some designated, sanctioned superior point. The capillary nature of power enables it to permeate all aspects and manifestations of social life. Power circulates through a kind of grid which in its sweep extends over the entire population. Its very nature dictates, as David Harvey states, “close scrutiny of the micro-politics of power relations in different localities, contexts, and social situations” which leads to the insight “that there is an intimate relation between the systems of knowledge (‘discourses’) which codify techniques and practices for the exercise of social control and domination within particular localized contexts”.⁴ In the broader perspective, Foucault’s work revised the Marxist base-superstructure hierarchy substituting for it “networks, multiple nodes in social space”. To continue with Terry Threadgold, this introduced “a new set of spatial metaphors. The ‘social order’ would be flattened out, discourses and bodies would begin to ‘circulate’ in space, rather than be ‘constrained’ from above or below”.⁵

Discourses play an enormous role as tools of power and therefore of governmentality in contemporary late capitalist societies. Let me begin with a succinct formulation: “A discourse is a way of categorizing and limiting, but also producing, the objects of which it speaks”.⁶ In the Glossary which Francis Mulhern appends to his book *Culture/Metaculture* (2000) discourse is defined in the following manner: it is, most simply and generally, language in action. In its strong, contemporary sense...it asserts the priority of socially formed practices of language over the individuals who necessarily operate in and through them. A discourse is a more or less systematic set of forms, topics and procedures that regulates both the object of utterance – what is ‘seen’ and spoken of – and its subjects – the identities that ‘we’ assume, consciously or not, in practicing it.

Most of the elements which will be used to show how the notion of discourse is relevant in discussing Gaddis find their place in this definition: there is language as something having the potency of action; the priority of language practices over individuals who both work within and through them; and finally, its systematic nature.

Of course our universe is not constructed of only discourse in the singular. Rather, a plurality of discourses networks reality and it is necessary to differentiate between them. Discussing the criteria which individualize discourses Foucault mentions some of the following: the linguistic system to which they belong, the existence of a set of rules of

³ Steven Best and Douglas Kellner, *Postmodern Theory: Critical Interrogations*, The Macmillan Press, London, 1991, p. 49.

⁴ David Harvey, *The Condition of Postmodernity*, Blackwell, Oxford, 1990, p. 45.

⁵ Terry Threadgold, *Feminist Poetics: Poiesis, Performance, Histories*, Routledge, London, 1997, p. 24.

⁶ *Ibid.*, p. 58.



formation, its operations, its concepts, the set of relation which define and situate it among other types of discourse and in the non-discursive context in which it functions.⁷

This array of discourses and their relationships imply a certain hierarchical ordering. To quote Foucault: we may suspect that there is in all societies, with great consistency, a kind of gradation among discourses: those which are said in the ordinary course of days and exchanges, and which vanish as soon as they have been pronounced; and those which give rise to a certain number of new speech acts which take them up, transform them or speak of them, in short, those discourses which, over and above their formulation, are said indefinitely, remain said, and are to be said again.⁸

The said hierarchy has both a diachronic and a synchronic aspect. Namely, the configuration of discourses undergoes transformation in history. Different historical epochs prioritize specific ways of knowing and ordering reality. The hierarchy of discourses at a particular moment of history indicates a certain configuration of power and the set of priorities circulating within a society.

2.

The work of William Gaddis can be seen as an enterprise which sought to depict and examine the implications of a number of discursive formations which have dominated the American polity during the second part of the twentieth century. Each of the four novels that he published during a forty-year career targets a particular domain of power-knowledge and displays the workings of these configurations within his fictional worlds. His fictional subject is one positioned within a series of chronologically demarcated and culturally marked discursive formations. In other words, what the reader encounters in his four novels are different stagings of the relationship between historical subjectivities and the discursive formations in which these find themselves.

Gaddis's distinguishing trademark is his reliance on dialogue, a dialogue which interweaves and flows through the pages or, as he has one of these speakers remark in *The Recognitions* (1955), the reader is exposed to "the uprooted voice".⁹ Direct discourse is not marked by identifiable tags, reporting verbs of saying which makes additional demands on the reader to keep track and attribute the unending flow of utterances. The following remark from the same novel can serve as an apt description of what the reader experiences on first encountering these texts: "Mostly talk, talk, talk"(373). In what follows I want to give a reading of his last novel *A Frolic of His Own* (1994) and discuss how a

⁷ Michel Foucault, "Politics and the study of discourse", in Graham Burchell, Colin Gordon and Peter Miller, *The Foucault Effect: Studies in Governmentality*, University of Chicago Press, Chicago, 1991, pp. 53-72.

⁸ Quoted in Sara Mills, *Discourse*, Routledge, 1997, p. 67.

⁹ William Gaddis, *The Recognitions*, Penguin Books, 1955, p. 290.



particular discursive formation functions within and structures a fictional text, whether the novel enables us to delineate the author's stand in relation to this deployment and power of the discursive formation and to pose a number of questions that pertain to the context in which the novel was written.

The issue of counterfeiting which is the dominant theme Gaddis deals with in *The Recognitions* is adumbrated in the opening sentence: "Even Camilla had enjoyed masquerades, of the safe sort where the mask may be dropped at that critical moment it presumes itself as reality".¹⁰ The same tactic is employed in *JR* (1975) which spins out a hilarious yarn about the mechanism of financial capital: "- Money....? in a voice that rustled".¹¹ The opening sentence of *A Frolic of His Own* not only introduces juridical discourse as the basic theme of the novel but juxtaposes two terms – justice/law – the discrepancy between which impels much of the workings of this novel: "Justice? - You get justice in the next world, in this world you have the law".¹² As in the earlier novels, from that point onwards the reader is entangled in a barrage of utterances, a continuous transaction between different speakers whose (cross)purposes converge in various strategies to employ the law and its institutions.

If one can speak of a plot in this novel then its mechanism hinges on the different legal cases in which the different characters are engaged. The plagiarism suit is the one which receives the most extended treatment and which spans the text as a whole. Oscar Crease, grandson of a US Supreme Court judge and son of a Virginian man of law, employed as a college history teacher has written a play, "Once at Antie-Tam", on his grandfather's Civil War experiences. Although the play has never been produced this does not prevent him from bringing a lawsuit claiming copyright infringement against the movie producer who has made a Hollywood hit movie, "The Blue in the Red hite and Blue", whose theme, characters and setting bear certain resemblances to his own invention. The only apparent link between Oscar Crease and the producer is that the latter had sometimes in the past rejected the proffered manuscript for publication. Through an often hilarious rendition of legal procedures the lawsuit is mounted, codified into juridical parlance and allowed to develop into the main framework within which the characters interact, each with his or her own interests, strengths and weaknesses. When the first decision is reached, all allegations of plagiarism are discounted. However, upon appeal, the initial decree is reversed. Crease's ensuing euphoria is short-lived and the promise of enormous fiscal compensations turns out to be a mirage which quickly dissipates as the implications of intricate judgments are borne home to him.

¹⁰ *Ibid.*, p. 3.

¹¹ William Gaddis, *JR*, Alfred A. Knopf, New York, 1975.

¹² Since the bulk of my analysis has to do with *A Frolic of His Own* I will place all further references to the book in brackets behind the citation. I am using the following edition of the novel: Scribner Paper Fiction, Simon & Schuster, 1995, p. 13.



Although the plagiarism case plays an important role in structuring not only the different aspects of the novel but also in imposing a sort of unity, it is far from being the only legal matter in the text. Oscar Crease himself is engaged in another suit that arose out of a car accident. Questions of insurance and the liability of the auto producers would not merit comment if it was not the case that Oscar is both the owner of the car and the victim of the accident. Throughout the novel there are numerous references to a lawsuit Oscar's father has been engaged upon and which has to do with a dog trapped in a modernistic structure that had been erected in a Southern town. One of my favorites concerns "some crackpot minister who drowned a boy he was trying to baptize"(293). In the "instructions to the jury" pertaining to this case (of Reverend Elton Ude of Mississippi accused of negligence in drowning Wayne Fickert in the Pee Dee River) we read of the following "item of testimony" which is to be disregarded: "That is the heated attempt by one witness to indict Satan for meddling in this situation, drawn from the evidence of contemporary records quoting defendant's mention of 'the great deceiver Satan' causing him to doubt the Lord's purpose". The sane suggestion to disregard this lunatic indictment is however undermined a few lines below when we read that "the complaint was dismissed for its failure to discover Satan's residence within the judicial district" (377). The law has not only permeated all domains of terrestrial existence but its hubristic zeal ventures to contain the supernatural, negotiating disputes between invisible powers.

In a variety of ways the characters – if this appellation is applicable in Gaddis's fictional world – are not only enmeshed in intricate networks of legal procedures but a number of them are representatives of law firms, insurance companies or other instances of the juridical discursive formation. Relative to this discursive formation, the characters, their sayings and their behavior, as well as the fictional situations in which they speak and act, are reduced to a function of the dominant formation. Ontologically weaker than the discursive field which, in a powerful sense, delimits and produces them these contours, as I choose to call them, of characters, without psychological debt, without bodily thickness, have become its puppets and playthings. Vacuous constructions which ultimately depend on the reader's ability to group utterances together, lacking overt prompts at identification, what the characters can express and what they choose to say and do is constrained, if not regulated, by structures and protocols which are beyond their volitional options.

If one wanted to apply a cause and effect model in accounting for the dominant mode, we can say that the attenuation of plot, character, the negligible amount of descriptive passage in a text as bulky as *A Frolic of His Own* led to a burgeoning of language itself. A passage echoing the above-quoted remark on wordiness from *The Recognitions* can serve as both a meta-comment on the novel itself and on juridical discourse itself: - And it's all just more words and more words until everything gets buried under words, you said ...

- Said you wanted me to explain every step as we went along
didn't you? hoped you could find a few short cuts where
you could maybe save some money?



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- Yes but now it's probably beginning to cost more to explain it than anything I could save when these words all begin to sound the same and each cancel each other out, that's what I . . .
- Get to these depositions Oscar, you haven't seen anything yet. What I tried to tell you right from the start. Words, words, words, that's what it's all about. (160-61)

Gaddis's text is unstoppably verbal; the world he constructs is lodged into the discursive formation of the law which is repeatedly described as constituted by language. Juridical discourse permeates the text not only in the never-ending talk about legal matters but in a more direct manner when Gaddis inserts things like decisions, claims, depositions. Typographically set off from the rambling text these seem to indicate the opacity of a professional jargon which seems self-sufficient, aloof and beyond reach of the everyday drama unfolding below.

However, one would be mistaken to imagine that Gaddis is indulging himself in mere linguistic play or, to put it in other words, that he ignores the way language practices imply power relations. To illustrate this contention I quote a passage from a conversation between Christina and her lawyer husband Harry:

- Legal language, I mean who can understand legal language but another lawyer, it's like a, I mean it's all a conspiracy, think about it Harry. It's a conspiracy
- Of course it is, I don't have to think about it. Every profession is a conspiracy against the public, every profession protects itself with a language of its own, look at that psychiatrist they're sending me to, ever try to read a balance sheet? (251)

Not only in this exchange but throughout the novel Gaddis points to the way that language, professional discourses to be more precise, are implicated in the exercise of power. At this point I would like to draw attention to a question Foucault poses in the article "Politics and the study of discourse": Can one believe that such a politics has an interest in rehashing one more time the theme – from which I would have thought that the existence and practice of the revolutionary discourse in Europe for more than 200 years might by now have freed us – that words are just air, extraneous matter, a fluttering of wings scarcely audible among the earnestness of history and the silence of thought?¹³

Deploying language as a specific facet of social power Gaddis has used his literary skill to depict how it participates in a determining manner in the earnestness of history and how it inscribes itself on the silence of thought.

¹³ Michel Foucault, "Politics and the study of discourse" in Graham Burchell, Colin Gordon and Peter Miller, *The Foucault Effect: Studies in Governmentality*, University of Chicago Press, Chicago, 1991, p. 65.



3.

But why law? In proposing to answer this question I again start with Foucault's observation about the way the law has become all-pervasive, then move to a more concrete statement which contextualises the law within an American setting and finally return to Gaddis with a few notions which position him and his novel into the contemporary American scene. Since Foucault figures so prominently in these deliberations it seems only proper to call upon him once more in bringing them to a close. In the concluding section of *Discipline and Punish* he makes an observation which shows the urgency of asking about the law: the judges of normality are present everywhere. We are in the society of the teacher-judge, the doctor-judge, the educator-judge, the 'social worker' judge; it is on them that the universal reign of the normative is based; and each individual, wherever he may find himself, subjects to it his body, his gestures, his behaviour, his aptitudes, his achievements.¹⁴

To find another formulation and a concrete articulation of the all-pervasiveness of normalizing power and one which derives from juridical discourse I draw attention to the opening statement of Robert Cover's foreword to the Supreme Court 1982 term entitled "*Nomos and Narrative*": We inhabit a *nomos* – a normative universe. – We constantly create and maintain a world of right and wrong, of lawful and unlawful, of valid and void. The student of law may come to identify the normative world with the professional paraphernalia of social control. The rule and principle of justice, the formal institutions of the law and the conventions of a social order are, indeed, important to that world; they are, however, but a small part of the normative universe that ought to claim our attention. No set of legal institutions or prescriptions exist apart from the narratives that locate it and give it meaning. For every constitution there is an epic, for each decalogue a scripture. Once understood in the context of the narratives that give it meaning, law becomes not merely a system of rules to be observed, but a world in which we live.¹⁵

In addition to its intrinsic worth what I find particularly interesting and pertinent to Gaddis's handling of law in his novel is the admonitory note which I detect in Cover's pronouncements. Addressing the student of law the then Chancellor Kent Professor of Law and Legal History at Yale University warns them not to identify law with professional paraphernalia of social control. Cover is reminding them that rules, conventions and formal institutions are but a part of the normative world and that they cannot exist without enabling narratives, without those stories which endow existence with meaning. What Gaddis stages in his novel is precisely a normative universe which has experienced the

¹⁴ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, Vintage Books, New York, 1979, p. 304.

¹⁵ Robert M. Cover, "The Supreme Court 1982: Foreword: *Nomos and Narrative*", *Harvard Law Review*, vol.97:4, 1983, p. 4.



bankruptcy of its enabling scriptures. Instead of being embedded in narratives which assign it profundity and meaning, the discourse of law has gone off on, to use the title of the book, "a frolic of its own" and, instead of being one of the modalities of humanely ordering the world, it has become a self-serving practice, "a conspiracy against the public".

The comic-hyperbolic mode of Gaddis's novel has a strong satirical intent, denouncing a society which has simply become "law-crazy". In a newspaper review John Schwartz quotes Gaddis saying that what has gone wrong with the law has gone wrong with society: "This free enterprise society is an adversarial society, so the law emerges from that adversarial attitude. So here we are, all adversaries".¹⁶ Statistics which reveal the revenues generated by litigation in the US and pocketed by its army of lawyers ("One lawyer to every four or five hundred"/41/) are simply mind-boggling. Throughout the novel what instigates the endless law suits and what is the ultimate motivation of lawyer's action is financial gain. An unequivocal acknowledgment of pecuniary interests as the ultimate value is voiced by the lawyer Harry: "Why I went into corporate law in the first place where it's greed plain and simple. It's money from start to finish, it's I want what you've got"(42). If we now return to the opening sentence of the novel where Gaddis remarks that the law is a mundane affair while the concept of justice is an imaginary recompense it is evident that the brunt of his attack is directed at a social practice/discourse which no longer embodies a normative legitimacy but has been engulfed by entrepreneurial interests and practices. At one point in the narrative Oscar Crease explains his quest in the following words:

"Of course it is, that's why I'm suing an it's not just the money, loss of earning capacity, career in jeopardy no, it's the principle of the thing. It's the pain and suffering, mental anguish, simple justice after all, I'm just claiming my constitutional rights aren't I?"(85).

The paradox of his situation lies of course in the fact that he seeks these principles, that he seeks justice and his rights through a legal system which has seemingly become immune to these very considerations.

Finally, one of the questions that have to be addressed is from what position is Gaddis waging his satirical attack on the institution of law in present day America. One would misunderstand his intention if his text was interpreted as an outright attack on the law as such. The meticulous rendering of legal documents in his text bespeaks a respect for the possibilities of distinction and judgment which are inherent to juridical discourse. That is to say, Gaddis's powerful critique of what has happened to American law does not preclude the recognition of the great value and import it has in ordering human social existence. In her study of *A Frolic of His Own* Helle Pordsan makes a comment which is in line with my argument:

¹⁶ John Schwartz, "William Gaddis's Law-Crazy America", *International Herald Tribune*, February 9, 1994.



When Gaddis describes how his fellow Americans grasp at the machinery of law to lend their lives some dignified order, it will be argued, he puts his finger on an important contemporary phenomenon. While the country's legal system may once have been able to supply redemptive justice, it has become too wordy and bureaucratic to do so today.¹⁷

In other words, the position from which Gaddis writes neither acquiesces in the present state of things nor does it argue ameliorative measures. The constant harping on the debilitating impact of the newest media, it being the other fore-grounded discourse in the novel, could be evidenced as a feature of Gaddis's unease with latest developments within the American polity. I offer a specimen where Harry is addressing Oscar alluding to his quixotic battle against the cinematic appropriation of his play:

Don't have to tell you you know it, you know it better
than the rest of us, why you've fought it so hard while the
rest of us just swallow hard and look for another dollar so
we can be entertained and take our minds off it, why people
go to the movies isn't it? to see Anga Frika show us her
Nordic-Eurasian tits not some moral agonizing over questions
that don't have answers? (398)

Acerbic remarks on processes taking place in late twentieth century American society such as "it's a melting pot where nothing's melted" (327) or the revulsion Oscar evinces towards shopping-malls, the hostility he feels against intrusive land-developers and prospective buyers of his Long Island home all signalize Gaddis's positioning within contemporary American culture.

Let me conclude with a few remarks on a spatial node in Gaddis's fictional worlds which I think is quite significant in determining the position from which he embarks on mapping his society and culture. In an interview he gave in 1986 Gaddis mentioned that the initial story of *JR* was inspired by the devastating suburbanization which had transformed the Long Island village of Massapequa where his family had owned land since 1910.¹⁸ In my opinion it is revealing that Oscar Crease wages his legal crusades from the family home on Long Island. That home, encroached by land developments in its vicinity, coveted as a valuable piece of real estate and inundated by events both near at

¹⁷ Helle Pordsan, "American Law and the Search for Cultural Redemption: A Discussion of William Gaddis's *A Frolic of His Own*", Chapter VIII of *Legally Speaking: Contemporary American Culture and the Law*, University of Massachusetts Press, 1999. <http://www.williamgaddis.org/bibliography.shtml>

¹⁸ "An Interview with William Gaddis", *Review of Contemporary Fiction*, Summer, 1982, p. 5.



hand and far off, represents values that are receding before the encroachment of latest fads, the offerings of a consumerist culture and, to return to our topic, discursive formations which intrude upon and in manifold fashion incorporate the human habitat. Gaddis's Long Island recluse is counter-positioned to this tide of manipulative discourses and mediated spectacle sweeping his country. *A Frolic of His Own* can therefore be viewed as a diatribe on suffocating and disabling circumstances created by a regulative, self-serving practice of law which has reached saturation point. It need be stressed that Gaddis's critique is enabled by a vision of an anterior state, by the judgment that law and those who practice it have gone through a process of deterioration. In this sense Gaddis is a conservative, holding on to older verities, projecting a world that is displacing everything he cherishes. As such he disproves Foucault's contention cited above concerning breakthroughs made by revolutionary thought because although he hardly belongs to this camp he has shown in his works that words are *not* just air, that they are *not* extraneous matter, that they are *not* a fluttering of wings but that they resonate and figure prominently among the earnestness of history and that they both structure and permeate the silence of thought.

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UPRIZORENJE ZAKONA U ROMANU
A FROLIC OF HIS OWN WILLIAMA GADDISA

Autor započinje osvrt prikazom pojma diskurza kakav se razvio na tragu rada Michela Foucaulta. U nastavku raspravlja one sastavnice toga pojma koje smatra relevantnim za čitanje djela Williama Gaddisa. Usredotočujući se na diskurz prava on pokazuje kako Gaddis uprizoruje njegovu sveprožimajuću moć u svojem posljednjem romanu i kako se američki romanopisac postavlja prema fenomenu društva koje se sve više i više oslanja na pravo/zakon kao na vrhunskog arbitra zbiljnosti.

