

2017 SAA Seminar: Law and Poetics in Shakespeare Abstracts
Leaders: Penelope Geng, Macalester College
and Rebecca Lemon, University of Southern California
Respondent: Marissa Greenberg (marissag@unm.edu), University of New Mexico 1

Group 1: "Law and Language"

Kyle Louise DiRoberto (droberto@email.arizona.edu), "Plainness...*Lear*"
Stephanie Elsky (stephanieelsky@gmail.com), "Custom...Sidney's *Old Arcadia*"
Carla Rosell (rosell2@illinois.edu), "Banishing Slander...Shakespeare"
Carolyn Sale (sale@ualberta.ca), "Shakespeare's Sentences"
Larry Weiss (larry@lweiss.net), "Archbishop's Legal Rhetoric"

Group 2: "Transnational Law"

Jessica Apolloni (apolloni@umn.edu), "Transnational Justice...*Volpone*"
J. P. Conlan (james.conlan@gmail.com), "Shylock's Case and Ius Commune"
Rachel Holmes (reh90@cam.ac.uk), "*Romeo and Juliet*...Mimetic Adaptation"
Katharine Eisaman Maus (kem6v@virginia.edu), "Will of Caesar"

Group 3: "Law's Enclosures"

Jami Ake (jake@wustl.edu), "Prejudicial Thinking...*Othello*"
Whitney Sperrazza (wsperraz@indiana.edu), "Raped Figure...*Florinda*"
Samantha Snively (snsnively@ucdavis.edu), "Poison Narratives"
Kelly Stage (kstage2@unl.edu), "Temple Garden...*Henry VI*"
Jessica Winston (winsjess@isu.edu), "Lodge's *Scillaes Metamorphosis*"

☞ Jami Lynn Ake, Washington University

“The Performance of Prejudicial Thinking in Shakespeare’s *Othello*”

A number of scholars have highlighted important parallels between the role of Shakespearean audiences and early modern juries in understanding some of *Othello*'s most crucial scenes of judgment. This essay builds on the insights of this scholarship in examining the opening moments of *Othello*, arguing that Shakespeare strategically structures the play's first scenes to implicate his audience in the same faulty process of evidence gathering to which Othello himself succumbs. These first scenes stage the dynamics of Brabantio's prejudice—his willingness to judge and convict Othello even before collecting tangible evidence—and simultaneously sets up the audience for a similar test of judgment. Like Brabantio, we receive only (deliberately) partial information about Othello, including an unflattering and racist depiction of our as-yet-unseen protagonist. Moments later, when we *do* see and hear Othello for ourselves, he is clearly nothing like the lusty, barbarian thief that Iago has depicted. Newly equipped with direct “ocular proof” of Othello in the flesh, we are invited to examine the origins of our own pre-judgments of his character and to doubt any less-than-direct evidence to come. In first enacting and then actively correcting prejudice, the play teaches us to test evidence in ways that move beyond reliance on stereotype, insisting that we revise our unsubstantiated pre-

2017 SAA Seminar: Law and Poetics in Shakespeare Abstracts
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judgments in light of more reliable, directly witnessed proof. Interpellating *Othello*'s audience as a jury that has felt the challenges of resisting the claims of cultural "givens"—stereotypes of race, class, and gender chief among them—subtly aligns Shakespeare's audience with a protagonist who would otherwise be understood as unsympathetically 'other'.

☞ **Jessica Apolloni, Christopher Newport University**

"Transnational Justice in Jonson's *Volpone*"

I plan to discuss Jonson's representations of justice in *Volpone* within my broader work on Italian-English connections in early modern legal and literary circles. I will examine Italian influences in English understandings of the role of lawyers in legal affairs amidst the larger centralization processes occurring in English common law. Jonson's adoptions of Roman law, in addition to his portrayal of lawyers in *Volpone*, will be my central focus for the paper.

☞ **James P. Conlan, University of Puerto Rico, Rio Piedras**

"Understanding the Unconscionable Bond: Reevaluating Shylock's Case"

As an aesthetic a priori, Shakespeare scholars – including those working in the field of Shakespeare and the law -- typically disavow the importance of arriving at jurisdictionally appropriate readings of Shakespeare's plays. The 10 and 12 February 1604/1605 court performances of *The Merchant of Venice* argue such disavowals anachronistic and therefore inappropriate: on these two occasions, the Venetian ambassador was likely seated on a stool next to King James to make up for an inadvertent insult he had suffered on 12 January 1604/5 because of the inattention of the Lord Chamberlain himself at his the wedding of his brother, Sir Philip Herbert to Sir Robert Cecil's niece. Both James and the Venetian ambassador were thoroughly learned in the *ius commune*, the Law Merchant both of Venice and of Scotland (and, indeed, most of Europe outside England); neither would have had any difficulty whatsoever in citing to the appropriate section of the Institutes and the Codex to determine that Shylock's bond was void and subsequently applying the appropriate statutory penalties for Antonio's failure to repay on time. Each was also demonstrably familiar with the events of the Cyprian Wars: such familiarity would have led them both to recognize that Portia's gloss on the bond actually would have served to justify the greatest atrocity of that conflict, the flaying alive of Antonio Bragadin at the hands of a Jewish butcher after the fall of Famagusta. The failure of Shakespeareans to cite to the appropriate canons of law to challenge the unlearned Portia's interpretation of the bond is thus unwarranted. It leads to a misunderstanding of the audience dynamics operating in Shakespeare's theaters where the legally trained elite, seated in full view of everyone else, published their better informed reactions to the audience of the naïve. Worse still, however, the adoption of an aesthetic of legal ignorance as a heuristic authorized by Shakespeare has done untold damage to legal education in the United States. Review of U.S. case law indicates that Portia's erroneous gloss has actually corrupted jurisprudence issued by the federal appellate bench: judges and justices have wrongfully deemed her a second Daniel, and her patently

2017 SAA Seminar: Law and Poetics in Shakespeare Abstracts
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Respondent: Marissa Greenberg (marissag@unm.edu), University of New Mexico 3

erroneous interpretation of the bond as an exercise in equitable jurisprudence. This notion that equity allows the judge the freedom to fashion a particular remedy at his will and pleasure when confronted with an “unconscionable bond” is wholly alien to the law of civil law jurisdictions, where such bonds ought be voided. This is no abstract problem: this same notion derived from judicial approaches to Shylock’s bond has had a significant effect on the way that Congress has decided to resolve Puerto Rico’s municipal bond crisis. Rather than voiding the bonds that were issued unconstitutionally as civil law principles require, Congress has imposed a Board that has equitable discretion to see that such unlawful contracts are enforced.

✂ **Kyle Louise DiRoberto, University of Arizona, South Campus**

**“What shall Cordelia speak? Love and be True’:
Sovereignty, Plainness, and The Rhetoric of Legal Reform in *King Lear*”**

This paper explores Ramist rhetoric in the reformation of sovereignty, obedience, and the law in *King Lear* and the legal writing of Abraham Fraunce and Sir Edward Coke, locating them within a Puritan discourse of reformed sovereignty. In *King Lear*, Shakespeare represents the religious ideology of Puritanism as giving rise to what Giorgio Agamben refers to as “an economy of mercy,” in *The Kingdom and The Glory: For a Theological Genealogy of Economy and Government*. This economy in *Lear* is informed by concepts of grace, faith, and election that Shakespeare represents as underwriting a Puritan system of governance. Moreover, Shakespeare, simultaneously, ties this economy to the linguistic governance of the self. The realization of plain speech by Lear, in *King Lear*, stages what Agamben refers to in *Homo Sacer* as a possible “zone of indistinction,” a conflation of ruler and ruled that exposes the sociolinguistic space where “techniques of individualization and totalizing procedures converge” (6).” Moreover, the underlying logic of this plain speech, as reflected in the writing of Coke and Fraunce, is characteristic of Ramist rhetoric, and suggests Ramism was an effective vehicle for the theological, political, and socioeconomic developments that informed the evolution of liberal democracy and possessive individualism. In sum, although Coke claimed that he only collected and organized the laws of England in *The Reports* and *Institutes* by this Ramist process of organization, he created much of what would be the law. In fact, Coke’s work is suggestive of the religiosity behind Ramists’ logical pragmatism and its individualism and these developments, which simultaneously affected both the sovereignty of the subject and the possibility of sovereignty, are reflected in the political theology of *King Lear*.

✂ **Stephanie Elsky, University of Wisconsin, Madison**

“Custom and *Ius Non Scriptum* in the Poetics of Sidney’s *Old Arcadia*”

My paper argues that the early modern conceptualization of English common law as custom provides Sidney with a way of constructing poetic authorship and authority. I focus on how, in the eclogues, Sidney draws upon the features of common law that made it customary –

2017 SAA Seminar: Law and Poetics in Shakespeare Abstracts
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Respondent: Marissa Greenberg (marissag@unm.edu), University of New Mexico 4

especially its status as *ius non scriptum*, or unwritten law -- in order to imagine poetry as inhabiting a space between the written and the unwritten, between practice and codification.

☞ **Rachel E. Holmes, University of Cambridge**

“Tied to the lawes of Poesie, and not of Historie?”
***Romeo and Juliet* and Mimetic Adaptation”**

My work, broadly speaking, focuses on the interface between transnational legal history and literary adaptation. By fusing a comparative literary and source-based historical approach with a methodology grounded in the cross-disciplinary conversation of law and literature, this paper, and my research more broadly, seeks to reshape our understanding of a famous literary text, Shakespeare’s *Romeo and Juliet*, by situating it, to borrow Michele Marrapodi’s term, within a “trajectory of cultural transactions”, both textual and historical. Despite its critical centrality, Shakespeare’s retelling of the story of the lovers of Verona, is but one of at least thirteen early modern European adaptations of Masuccio Salernitano’s 1476 *novela*. I contend that the seeming differences and often radical divergences between these adaptations can be explained with reference to their distinct, but related, legal concerns. Here, I show the tale’s transnational participation in prevalent sixteenth- and seventeenth-century debates about the role that parental consent should play in the marriage of children. Early modern law is, then, implicated in early modern poetics to the extent that literary adaptation is shaped by legal and historical context. Consequently, mimesis and/or imitation, the cornerstones of early modern representation, are in a sense legally determined. The broader claim of this paper is, then, that the history of the legal problem of parental consent to marriage may be found not only in the recurrence of this theme across texts, but also in the turns of plot and language that allow such texts to address this problem topically and with local force.

☞ **Katharine Eisaman Maus, University of Virginia**

“The Will of Caesar”

It starts from the scene in *Julius Caesar* in which Antony turns the crowd against Brutus and the conspirators by reading Caesar's will, pointing out differences between the Roman and English laws of testation and inheritance. Then it works its way into a more general consideration of choice-making and succession issues in the play.

☞ **Carla Beatriz Rosell, University of Illinois, Urbana-Champaign**

“All Rumors and Reports, or true, or vain’:
Banishing Slander in William Shakespeare’s Dramatic Works”

Slander is personified three times in early modern drama, each time appearing in a Ben Jonson masque, including *Hymenaei* (1606), *The Masque of Queens* (1609), and *The Golden Age*

2017 SAA Seminar: Law and Poetics in Shakespeare Abstracts
Leaders: Penelope Geng, Macalester College
and Rebecca Lemon, University of Southern California
Respondent: Marissa Greenberg (marissag@unm.edu), University of New Mexico 5

Restored (1616). In all three of these portrayals, slander is an antagonistic force, or disorderly antimasquer who must be banished along with “all Rumors and Reports, or true or vain” in order for harmony to be established. Like Jonson, William Shakespeare returned to the problem of this verbal ill repeatedly in his plays. In this paper, I focus on slander’s continual reappearances in Shakespearean drama, investigating three moments from *Much Ado about Nothing* (1598), *Measure for Measure* (1603-04, published 1623), and *The Winter’s Tale* (1610-11), which each portray an individual being sentenced, or making amends for slanderous statements. I argue that these three stagings collectively attempt to dispel slander’s troubling power, including the potential afterlives of these words. Moreover, while *Much Ado* and *Othello* (1603-04) locate the origin of slander in a particular character, *Measure* and *The Winter’s Tale* disperse calumny, intimating that this verbal ill is ultimately a social ill that various authorities may seek to contain but can never ultimately exorcise.

☞ Carolyn Sale, University of Alberta

“Shakespeare’s Sentences”

The essay returns to Foucault’s *The Archaeology of Knowledge* to consider contests over the law’s power of sentencing in the Shakespearean drama in relation to Foucault’s concept of the “statement.” Literature incurs on the law’s domain, and has the potential not simply to affect what occurs at law, but also shape perceptions of what law is and how it should work, through the capacity of its sentences to affect how the law shapes the utterances (sometimes in the form of judgments) through which it exercises its force on persons, social practices, and social institutions. Foucault’s concept of the “statement” helps us get more precise, I think, about a formulation that I believe most of us are willing to grant — that literature, as a matrix for the promulgation and dissemination of sentences about the law or its power of sentencing, has the capacity to exert an impact upon law even though it appears to be another order of discourse. Much depends on what force we are willing to attribute to a given *sentence*. Even more depends on what force we are willing to attribute to a discursive domain that is the source of *statements*. The gambit of the essay is to pursue a relation of literature and the law that may not be unique to early modern England, but for which certain literary sentences such as Isabella’s retort to Angelo’s ‘he’s sentenced,’ ‘Why, no; I that do speak a word | May call it back again,’ may serve as a vital starting-point for critical articulation. The paper’s central question: what statement do Shakespeare’s sentences, as theatrical utterances, make?

☞ Samantha Snively, University of California, Davis

**“Poyson in a mess of porridge: Form, Feeling, and Legal Fictions of Detection
in Early Modern Poison Narratives”**

In Marlowe’s *The Jew of Malta*, Ithamore delights in the ironies of Barabas’ plan to poison his daughter: “with a mess of porridge” intended to nourish her. The crime is more heinous because of what porridge suggests: the trust and safety of eating within the family. In

2017 SAA Seminar: Law and Poetics in Shakespeare Abstracts
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Respondent: Marissa Greenberg (marissag@unm.edu), University of New Mexico 6

1720, Elizabeth Cranberry was tried for murdering her father by putting “poyson into a dish of milk porridge.” Poison in porridge seems a prosaic murder weapon. Why, then, does the phrase “poison in a mess of porridge” appear repeatedly throughout plays and nearly 100 years of legal records?

I examine the force of this trope in case studies from *The Jew of Malta* and Old Bailey and assize court trial records. I explore the poetic resonances of this phrase: What does the form of the phrase allow poisoners and witnesses to express? What feelings does that form evoke and manage? What does the trope’s recurrence across theater & law suggest about the relationship between the two or their shared investment in the difficulties in knowing and articulating the invisible?

By paying attention to the formal elements of legal records, I consider the ways poisoned porridge, as a trope, allowed witnesses and victims to register the betrayal of domestic, nourishing, and intimate relationships. Might this trope attempt to present to the law something legal epistemology could not often account for: feelings of betrayal and outrage? How might this trope have worked to express a fantasy of reliable perception and discovery?

☞ **Whitney Sperrazza, Indiana University**

“Deep Inscriptions: Reading the Raped Figure in Hester Pulter’s *The Unfortunate Florinda*”

My paper focuses on Hester Pulter’s prose romance, an adaptation of the story of King Roderigo, Florinda, and the overthrow of the Spanish Empire that finds its roots in William Rowley’s *All’s Lost by Lust* (1618) and William Shakespeare’s *Rape of Lucrece* (1594). Pulter’s romance, *The Unfortunate Florinda* (c. 1655-1662), is intimately concerned with the perverse relationship between sexual violence and spectacle, particularly how the female body is managed and exposed in the aftermath of rape. As scholars like Barbara Baines, Kim Solga, Amy Greenstadt, and Laura Gowing have convincingly demonstrated, rape legislation from sixteenth and seventeenth-century England displays a perverse fascination with how to make legible the violation of the body’s interior. My reading of Pulter’s *Florinda* focuses on how the text’s formal features, particularly Pulter’s use of parentheses, invite the reader to consider the problem of legibility in the aftermath of sexual violence. My paper draws on legal texts from seventeenth-century England in order to make its argument, and intervenes in critical work on early women writer’s, English Renaissance legal discourse, and the long and deep history of violence against women.

☞ **Kelly Stage, University of Nebraska**

“Barbarians at the Temple Garden: Law, Roses, and *Henry VI*”

It seems that critics’ agreement that Shakespeare’s thumbprints grace the Temple Garden scene (2.4) of *I Henry* is far more often remarked up on than the scene itself. This paper examines the choice to set the beginning of the Wars of the Roses in the garden—especially specifically in the Temple Garden of London. There is no precedent for the scene in chronicle or

2017 SAA Seminar: Law and Poetics in Shakespeare Abstracts
Leaders: Penelope Geng, Macalester College
and Rebecca Lemon, University of Southern California
Respondent: Marissa Greenberg (marissag@unm.edu), University of New Mexico 7

other accounts, and it is commonly asserted that Shakespeare crafted the exchange to create an iconic moment. What I explore here is the entwining of the conflict over rule with a minor and undisclosed quarrel of law, ambiguously asserted and never clarified. Somerset and Richard Plantagenet make their squabble—which is deemed too loud to continue in the Temple Hall—the beginning of the disagreement that will divide the kingdom and unleash years of violence. The disagreement takes advantage of a privileged and protected place in London, in order to argue over, and create, a conflict of authority. Suffolk’s comment, that he has been “a truant in the law” who will “frame the law unto my will” (2.4.7, 9) underlines a current of deep skepticism of the uses and abuses of law as a tool of the powerful rather than of the just. The image of the garden and its beautiful roses, which are literally destroyed in the course of the plucking contest, resonates with the violence ascribed to law in *2 Henry VI*. I connect the Temple Garden scene to the rhetoric of *2 Henry VI*, and rather than see Cade’s rebellion as a popular revolt or mere manipulation purely by Richard, I treat the incident and its conclusion as a part of a discussion on law and its potential violence. The conclusion of the scene in a private citizen’s (Iden’s) garden—while Cade looks for cover and a snack—disputes the seeming truth that, as Fortescue instructed in *De Laudibus Legum Angliae*, the common law cultivates the natural and artificial law together in harmony.

☞ **Lawrence N. Weiss, Statesboro, GA**

“The Archbishop’s Legal Rhetoric”

The Archbishop’s lengthy argument in the second scene of *Henry V* to demonstrate the inapplicability of the Salic Law to Henry’s claim to the crown of France is structurally in the order laid down in rhetoric treatises written in the First Century BCE, which were used as school texts in Shakespeare’s time and are still followed by modern lawyers. This paper shows that the formal architecture of the presentation and the persuasive presentation of the argument both follow principles enunciated in the ancient texts and employed by good litigators today.

☞ **Jessica Winston, Idaho State University**

**“Metamorphosis without Change:
Thomas Lodge’s *Scylla’s Metamorphosis* (1589) at the Inns of Court**

One of the striking features of Thomas Lodge’s *Scylla’s Metamorphosis* (1589) is that the characters do not change. The narrator, who begins the poem dejected and alone, finds a seeming connection with Glaucus and even rides a dolphin “hand in hand” with him. Yet at the poem’s conclusion, he is just as alone and discontent as before, with a “heart full sad and sorry.” Glaucus, also discontent in his love for Scilla, recovers to become “full of glee.” Yet the verse that follows *Scylla* is “Glaucus’s Complaint,” where we find him weeping for her love again, as though the preceding narrative never took place. Scilla of course permanently changes, but her transformation results only in a more intense version of her initial state. Scilla begins by rejecting a single man, Glaucus; at the end, she is a rocky coastal hazard, poised not only to rebuff but

2017 SAA Seminar: Law and Poetics in Shakespeare Abstracts
Leaders: Penelope Geng, Macalester College
and Rebecca Lemon, University of Southern California
Respondent: Marissa Greenberg (marissag@unm.edu), University of New Mexico 8

destroy all men who come near her. These stories point to a curious aspect of Thomas Lodge's poem. Although the title would seem to be about metamorphosis, the poem itself is averse to change.

This paper reads the poem's reluctance to represent changes as an ambivalence about personal transformation, and explores this ambivalence within the context of the Inns of Court environment in which Lodge was writing. It has long been noted that the Inns existed as an environment associated with personal and professional transformation: the transition from adolescence to adulthood, the acquisition of urban and sophisticated wit, the attainment of expertise needed to become a lawyer or magistrate. Indeed, at the Inns in the late 1580s and 1590s one finds a whole literary economy devoted to presenting models – positive and negative – for these past and future selves: the dutiful son, the rakish wastrel, the lover, the urbane wit, the mercenary advocate, and the gentleman lawyer, among others. In his earlier work, *Alarum against Usurers* (1584), Lodge adopted a parental, outraged voice to criticize the rakish wastrel and to advance the model of the dutiful son. In *Scylla* he develops a different approach to transformation. Reworking Ovid's *Metamorphosis*, a poem that emphasizes change, Lodge devises a genre that toys with the need and desire to become someone new. Yet instead he creates a genre that suggests that transformation is effeminizing (it's carried out by women), even as it presents those who do not change as in themselves unfortunate and disconsolate. In my other research on the Inns, I have argued that the literary culture of the Inns is bound up with changes in the legal profession. As I continue to work on this paper, I would like to consider how this ambivalence to transformation might engage transformations in the legal profession in the late 1580s and early 1590s.