

Shakespeare Association of America 2024 – Portland, Oregon

Seminar Abstracts: “Land, Liberty, Community, and the Law”

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April 2024

Abstracts

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“Necessity Hath No Law”:

Enclosure, Justice, and Affective Communities in William Shakespeare’s *2 Henry VI*

This paper explores the ways in which early modern theatre created knowledge about justice through the emotional affects of performance. Particularly, it investigates how drama was part of a constantly shifting ecology that encompassed communities, their environments, and the period’s discourses of law and justice. Therefore, instead of considering ‘the law’ as a set of written texts, I want to focus on how its ideas were negotiated and practised in everyday life. Early modern acts of enclosure are one site where the conflicts between law and communal ideas of justice become visible. When lords and propertied farmers enclosed common pastures to increase their financial profits, communities faced not only economic harm but also the threat of having to rethink their customary ways of inhabiting the environment. Like their historical counterparts, the commoners in William Shakespeare’s *The Second Part of King Henry VI* (1592) intervene in these processes: first through a petition against the enclosure of Melford’s commons and later through the Jack Cade rebellion, which raises larger questions about the nature of justice and who has access to it. In pursuing this narrative thread, my paper will supplement the new materialist frameworks of earlier readings of the play with a methodology that draws on recent insights from affect studies. By emphasising the emotional affordances of theatre, I will claim that Shakespeare’s play utilised enclosure to create affective communities in the playhouse, which, in turn, enabled audiences to think about the enmeshment between community, land, law, and justice in an embodied capacity.

Jim Kearney

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SAA Seminar (2024) – Land, Liberty, Community, and the Law

Houseless Heads and Unfed Sides: Some Notes on *Lear* and Dispossession

When Shakespeare's *King Lear* apostrophizes "houseless poverty," the character registers an enormous societal problem. Enclosure and engrossment – classic examples of Marx's "primitive accumulation" – created significant populations of the displaced and dispossessed in early modern England. When Poor Tom enters in *King Lear*, a certain kind of history comes rushing on stage, as he indexes all those "poor naked wretches" who must face the "persecutions of the sky" with their "houseless heads" and "unfed sides." In this paper, I will use the figure of Poor Tom as a launching point to look at Elizabethan Poor Laws in relation to the unhoused and to consider the ways in which early modern cultural artifacts such as *Lear* do and do not bear witness to the historical violence done to figures like Poor Tom.

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Alienation and/at the Theatre in Shoreditch: Johanne Harrison and Sarah Allen

In 1576, James Burbage leased land in Holywell, Shoreditch, from Giles Allen and Sarah Allen on which to build a playhouse. The land Burbage leased was not empty, however, and the theatrical entrepreneur received not only land for an entertainment venue, but the leases of various houses and other tenements. The story of the Theatre seems so well-known, but it is precisely for this reason that I want to take the Holywell lease (and later litigation over the Holywell lease) as a prompt to think through legal rights and access to land in theatre-historical terms. I begin with Johanne Harrison and the existing tenants on the Holywell site, considering the clause granting 'free libertie' to 'Drawe water at the well' to tenants on the estate – in particular, I register shifts in understandings of 'liberty' in the period and point towards the significance of these shifts for early-seventeenth-century notions of English 'liberties' as "exportable" abroad. I then turn to the enrolment of a *trespass* suit brought by Giles Allen in 1599 against playhouse carpenter Peter Street, using Allen's accusations of 'trampled' and 'consumed grass'^[1] to posit fiction as a vector for deconstructing how early modern relationships to land were constructed at law. I conclude with Sarah Allen and take seriously her co-signing of the Holywell lease – with the Shoreditch property having descended to Giles Allen by survivorship, Sarah's presence in the lease cannot simply be explained away by the doctrine of coverture. The paper as a whole thus marks a first tentative step in a longer-term project, which seeks to analyse the origins of English commercial theatre through *and as* a history of alienation. Here, I suggest that our histories of the Theatre are incomplete without paying attention to the diverse range of voices interested in and affected by its development.

[1] the enrolment in Queen's Bench reads: 'herbam ... crescentem pedibus suis amulando conculcauit et consumpsit'

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The Theater of the Law in Lope de Vega's *El Nuevo Mundo*

Lope de Vega's *El Nuevo Mundo descubierto por Cristóbal Colón* is presumably the only early modern Spanish play written about Christopher Columbus. The play is ambitious in its scope, beginning with Columbus' beleaguered attempts to secure patronage for his journey and ending with his celebrated return from the "New World." The glorification of Columbus makes it difficult to read the play as anything other than imperial propaganda. However, I argue that the play is more complicated than it appears, largely due to the significant amount of stage time given to its indigenous characters. In this paper, I begin by analyzing an early scene where Columbus' embodied, allegorical Imagination appears onstage to facilitate a trial to grant him the right to the "New World." The play-within-a-play highlights the drama of the law and the conflicting ideologies towards Spain's colonial practices. Then, I analyze a curious exchange in Act II that, I argue, is rooted in legal debates about the "right of discovery," which was challenged by influential scholars such as Francisco de Vitoria. Lastly, I conclude by examining the use of the word "*huésped*," which the indigenous and Spanish characters use in pointed ways. The word, which can mean both guest *and* host, speaks to the play's preoccupation with hospitality and hostility, land and ownership, and the problems of (legal) interpretation.

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A "tenure more and more excellent than any which Littleton hath related": Purchas, Proprietorship, and the Dispossession of Indigenous Peoples

By the early seventeenth century, feudalism in England had evolved into diverse arrangements of property tenure that increasingly trended toward capitalist and mercantilist systems. Nevertheless, the discourse and terminology of feudal proprietorship continued to appear in English texts due to preceding legal custom and the works that attempted to systematize it, notably Sir Thomas de Littleton's *Treatise on Tenures* (circa 1482). In his prefatory essay to *Hakluytus Posthumus, or Purchas his Pilgrimes* (1625), a culminating edition of his compendia of European travel literature, Samuel Purchas invokes Littleton to advance the ideological interests of an emerging English capitalism and mercantilism strictly as it relates to the dispossession of Indigenous peoples. An Anglican divine, Purchas argues that Solomon's voyage to Ophir (1 Kings 9) is a legal precedent that supports English global navigation and trade. He refers to Littleton's *Tenures* to posit that the English spiritually and physically hold fee simple tenure (absolute, inheritable possession of real property) in the world in relation to God, the sovereign, but non-Christian Indigenous peoples hold mere villeinage (a state of serfdom, under obligation of labor to a landholder) in relation to God and the English. In turn, he confounds Indigenous peoples' spiritual vassalage to God with a form of unfreedom and subjection to English Christians. Purchas' argument aims to counter Spain's more extensive legal literature that bolsters its claims to possession in the Americas from the authority Alexander VI's bull *Inter caetera* (1493). Against this backdrop, Purchas' arguments gain greater significance. They offer a distinctly English legal justification for colonial possession and sovereignty in the Americas during the first few decades of what would become England's first continuous settlement in the Americas at Jamestown.