The McGill Shakespeare Moot Project

ENGL 716; PRAC 510-002, Winter Semester 2007

SYLLABUS

http://www.mcgill.ca/shakespearemoot/

Themes and Approach

In this collaborative interdisciplinary seminar, led by Desmond Manderson (Law) and Paul Yachnin (English), students from Law and graduate students from English will team up to argue cases in the “Court of Shakespeare” (i.e., where the sole Institutes, Codex, and Digest, is comprised by the plays of William Shakespeare).

The overall aims of the project are to -

(a) provide an organic and responsive model for the ways in which resources to articulate social values can be developed;
(b) explore the ways in which traditions of legal and textual interpretation are created, grown, and modified;
(c) offer new insights into the normative implications of a body of work of supreme cultural significance;
(d) explore the particular nature of Shakespeare’s drama, and of literature generally, as an expressive register of normative social values;
(e) consider how literature and literary thinking might influence and might have already influenced law and legal thinking.

Pairing law students with graduate scholars in literature, the project is intended to allow a depth of connection between the discourses of law and the humanities that is rarely achieved. Law and English students will learn about the processes of reasoning and analysis in the other discipline, and they will come to appreciate the cultural imbrications of these forms. At the same time, students will develop their skills of argument in a new and challenging context.

The students who participate in the Shakespeare Moot Project will find themselves at a rare moment of unfettered creativity. They will not only study the emergence and nature of a legal system. They will be making one. This is especially the case because the participants will create the precedents from which the future legal system will continue to grow.

The course will have three major components. Part of your time will be spent working in two-person teams with a colleague from the other discipline. Teams will be arguing for or against a particular legal remedy in the case before the court, and you will, of course, be arguing against each other. The case will be chosen and/or created by the instructors. Each team will be responsible for the preparation of a factum, and each team will also plead their side of the argument before the court at a formal hearing. Students will also read and discuss a number of works that theorize the relationship between law and literature, the nature and social situation of literature, questions of authority and interpretation, and the relationship of secular and sacred experience in early modern and late modern society. We will study the role of Shakespeare and of literature in general as a site for public debate and for the articulation of public emotions.
and therefore as sites of informal, collective law-making. On the basis of these discussions and your own directed reading, each student will be expected to write an essay that reflects what they have learned from the moot project, and that focuses in particular on questions about Shakespeare as / and law, the question of interpretation and authority, the nature of the relationship between law and literature, or the question of the relationship of secular society and sacred belief in culture and history. Topics are due Jan 31; the essay itself will be due at the end of semester, and will be your opportunity to explore some of the more interesting questions that relate to the conjunction of law and literature. Does interpretation mean the same thing in law and literature? Does meaning? Does legitimacy? Does a secular society have any room for or comprehend religious experience? The essay will be expected to be no more than 15 pages. It is worth 33% of your marks.

**Teaching and learning**

There is one two-hour class per week scheduled for this course. It is scheduled for Wednesday, 1:30-3:30, in Arts 385.

We will not use this time slot every week; most of the learning in this course is self-directed and aimed towards the development by each team of their factum, and then in preparing for the public moot which forms the crux of this learning experience.

This course is under the joint direction of Desmond Manderson and Paul Yachnin. We are happy to talk to you about the course, and to discuss any problems or thoughts you might have, at any time.

Desmond Manderson’s office hours are Tuesday and Thursday 2–3. His office is 3690 Peel St., room 304. Tel. 398-2372. desmond.manderson@mcgill.ca

Paul Yachnin is available to meet by appointment. His office is Arts 120. Tel. 398-6559. paul.yachnin@mcgill.ca

**Assessment**

The course and its assessment are divided into several distinct parts. Please note that this course uses a unique grading system. Your collaborative work will receive a letter grade: E(xcellent), V(ery) G(ood), G(ood), F(air), U(nsatisfactory). These will be scaled differently for English and Law students in order to reflect the grading standards appropriate to each discipline.

**Weeks 1-6**

In the first few weeks, the case to be decided by the Court of Shakespeare will be issued and we will divide you into teams, allocating to each English student a Law student to work with them on the moot. At this time, we will have class meetings on the following subjects. Readings will be drawn from the course materials available on-line.

Jan 3: Introduction to the Shakespeare Moot Project: Heinrich, Same-Sex Marriage, and Bard de La Mer.
Jan 10: This year’s case—secular and sacred in the modern world. The texts 1: *Measure for Measure*

Readings by Debora Shuger, Jeffrey Knapp, and Anthony Dawson

Selected Tudor Documents in Legal History

Jan 17: Law and Literature: *Chester v Waverley City Council* (1939)

Readings by Nussbaum and Posner

Jan 24: The texts 2: *Hamlet*

Reading by Stephen Greenblatt

Jan. 31: *Antigone*

Readings by Philippe Nonet and accompanying commentary; Costas Douzinas

**Proposals for term paper topics are due on Jan 31.**

Feb. 7: The texts 3: *All’s Well That Ends Well and The Winter’s Tale*

Reading by Huston Diehl

**Weeks 7-10, (Feb. 14, 21 [reading week], 28; March 7)**

Over this period you will be expected to prepare your factum, or legal brief, on which each team will work and submit to the two professors in charge of the moot, and to their opponents, a factum for their side. Briefs will be no more than 15 pages, due Friday March 9, and must be submitted to the two professors in charge of the moot, and to your opponents. The brief is worth 33% of your marks. This self-directed research has often in past years been supplemented by informal meetings with the rest of the group at Thomson House, during which we talk over the issues and problems raised by the case, and explore possible avenues of argument.

The focus on the specific context of the moot brings our attention squarely to issues of legal interpretation, and what it means to interpret a text across time and context.

Feb. 14: Legal theory and interpretation: Hart, Fuller, Cover

Feb. 28: Law and Literature revisited: Jacques Derrida

What kinds of things are these? How do they speak to each other in this Court? How in general terms? What do they say? How have Law and Literature shaped each other as socially situated discourse? How might they inform each other in the future?

**Weeks 11-12 (March 14, 21)**

The moot will be argued before a specially commissioned Court of Shakespeare on Tuesday, March 20. Each speaker will have 15 minutes (teams may set aside five minutes of their time for rebuttal). There will be three moots in all, and we will be inviting three world-
renowned scholars from the fields of Law, Theology and English, to participate in judging the moot. They will also write judicial decisions on the case. The moot is worth 33% of your marks.

**Week 13**

March 28: Final class: Text and society: The situation of literature

Readings by Scarry, Volosinov, Cover and Constable

**Readings**

This year’s materials are on line at http://www.mcgill.ca/shakespearemoot/readings/. Start by having a good look at the cases and judgments from previous years, which are of course a precedent for this year’s; and the Rules of Court which govern the operation of the court. You ought to have a look at all these materials in preparation for your moot. You will however be expected to go beyond these readings both in preparation for the moot and in order to write the short synoptic essay due at the end of semester. To help you with your research,

- You may wish to purchase Martha Nussbaum, *Poetic Justice* (Boston: Beacon Press, 1995). It is a good introduction to one possible understanding of the contribution of literature to law.
- Several major works have been placed on Reserve in both the Law Library and the main library.
- A comprehensive bibliography of material on Shakespeare and law has been included on the Course Materials page of the website. This bibliography is intended to assist your research. You are not, of course, expected to read everything on it and you may find your research moving in other directions.

**Course Materials**

http://www.mcgill.ca/shakespearemoot/readings/

1. The jurisprudence of the court


In Re Attorney General for Canada, ex parte Heinrich [judgments of Yachnin and Bristol JJ]: located at http://www.mcgill.ca/shakespearemoot/trials/

The ‘Bard de La Mer’ [judgments of Manderson, Yachnin, Goodrich and Jordan JJ, forthcoming 2007 as a Special Issue of Law and Literature]

2. Shakespeare and the law


Karen Cunningham, “Making Shakespeare Moot: Legal Practice and the Comedy of Errors.”

3. Theories of interpretation


4. Constitutional texts

Selected Tudor Documents in Legal History (compiled from various sources)

McCulloch v. Maryland 4 Wh. 316 (1819),
http://usinfo.state.gov/usa/infousa/facts/democrac/10.htm


5. Law contra literature


6. Violence and silence: The Situation of literature and law


V.N. Volosinov, from Social Interaction and the Bridge of Words.


7. The question of religious faith

Selected Tudor Documents in Legal History (compiled from various sources)


**Rules of Practice of the Moot Court at the Law Faculty of McGill University.**

**A Bibliography on Shakespeare and the Law.**

**On reserve**

**TITLES ON RESERVE AT NAHUM GELBER**


**TITLES ON RESERVE AT MCLENNAN**


Davis, Cushman K. *The Law in Shakespeare*, 2nd ed. (St. Paul, Minn.: 1884).


