



Foreword

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EPI-REVEL

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Foreword

Law and literature marks a new departure for *Cycnos* as the domain is still fairly new to French academic circles, even among scholars of English-language writing. It has yet to garner the popularity enjoyed in the United States or Great Britain where the movement has been gathering momentum for three decades. In part, the belated awakening of interest in France is due to the differing legal systems. Common law offers more fertile ground than code law. Moreover, as Martin Kayman argued brilliantly at the 2002 ESSE conference in Strasburg, the true meat of law and literature is less concerned with justice as the application of the letter of the law than it is as respect for the spirit of equity. Many a native-speaker of English has a foggy notion of what equity is. For the French speaker, the latter is rarely a topic taken up in law school classrooms: however important a role it plays in English law, its role in civil code countries is relatively minor. Hence, it becomes evident that different ground will be covered in establishing a common frontier between French and Anglo-American critical practice. And in the interest of introducing this field of investigation to the French academic community, albeit to professors of Anglo-American literature, we rely upon a few well-turned pieces on international writers or even a few illustrious unknowns.

We hasten to add that none of the above implies that law and literature in Gaul are unnatural bedfellows. Indeed, three recent French publications prove the pertinence of blurring the lines between the two disciplines. The highly prolific Christian Biet as general editor of the autumn 2000 issue of *littératures classiques* introduces the reader to the art; he gradually initiates the scholar to little explored avenues of research primarily through close study of seventeenth-century texts. Eric Freedman picks up the gauntlet and continues over a broader literary period in the April 2002 issue of *Europe*. And Sandra Travers de Faultrier offers a book-length study published in 2001 entitled *Droit et littérature* (a review of that text appears in this issue of *Cycnos*.)

In guise of a preface, I shall use this space to plead the case for greater attention to the possibilities inherent for cultural study and narrative treatment of law and literature and to defend the order of

presentation of the volume at hand. The organization of the present volume is intended to establish thematic links between the various articles in an attempt to produce a unified work. The first essay, “*Si loin, si proche: Law’s Stories*” compares the French and American theoretical approaches, preparing the reader to anticipate the distinctions that lie ahead, as well as the battles yet to be won for legitimacy in French academics. We count on that *monstre sacré* of law and literature studies, Herman Melville, to set the tone with two pieces adopting different perspectives: thus “Literature and Moral Reform: Melville and the Discipline of Reading” is followed by “Bartleby’s Preferences: *Res Ipsa Loquitur*,” an illustration of the split between equity and law *per se* in the study of literature. Because Western culture cannot divorce itself from its classical roots nor the field of psychology, a modern analysis of a Greek masterpiece highlights the clash between conflicting laws and authority in the study entitled “Nomos and Ate: Lacan on ‘Antigone’ in Seminar VII.” The continuity between the protagonists of Sophocles and those of Melville is striking; so is the impact of Lacan, one of the darlings of literary theory in America.

The woman continues to hold center stage in the three essays that follow: “Courting Failure,” “Breach of Promise Trials in Victorian Law and Literature,” and “Real Property and Fiction.” To set the contrast with a French paradigm on a similar theme of the law *versus* the lady, we have a study of the elaborate, highly literary pleadings on the behalf of the latter in actual courtrooms. Similarly, “*Le rôle de la plaidoirie, de la technique juridique à l’œuvre littéraire*” demonstrates how literary techniques of analysis can be fruitfully applied to legal documents. Two more studies focused on the female being expand the field to opera and dystopia: “*Madama Butterfly*” brings to the fore cultural and legal inequalities while “Law, the Word of God, and Subversion in *The Handmaid’s Tale*” rests upon diverse and perverse readings of “Biblical law.” Whereas the oriental woman has little option but to obey the dictates of tradition, her occidental sister, lawyer-like, searches out the loophole in the system.

Although Margaret Atwater’s novel is fiction, the atmosphere surrounding a true life case in the Cameroon exhibits many of the same overtones as in the Canadian piece. “Literature in the Law: The Legal *Clando* in Cameroon” also rejoins the earlier article on pleadings in that it studies authentic documents from the courtroom as literature. The eminent American jurist, Richard Posner, has opened fire upon taking such liberties, leading to a long polemic between himself and the “Father of Law and Literature,” Richard Weisberg. Their disagreement merely amplifies the interest of weighing the opposing opinions and their relative interest for research and teaching. Another legal scholar enters the fray with her contribution on an African-inspired classic: “*Droit du fait et*

faits du droit, Gide au Congo.” In these days of new conscience and re-examination of the laws on censure surrounding the Algerian conflict and the true role played by French colonials in Africa, it is perhaps less surprising to discover that Gide, the son of a lawyer, should subordinate human rights to the rule of law: the person is first and foremost a legal entity, bound by governmental dictates. Back to *La Porte étroite*!

A more theoretical examination of the issues is the study of “The Prison as Colonial Space,” which inverts the theme by working around the topos of the world as prison and the frequency and importance of the carceral experience in the literature of the indigenous inhabitants of colonized territories and peoples, including Native Americans and African Americans.

“Introduced,” so to speak, by the preceding arguments, a group of papers concentrate on the African American experience and the law. That we are dealing with a minority culture “held captive” by another with which it is often at loggerheads accentuates the unique relationship between a group many identify as non-conformist and the legal authority to which it is bound. “Interrogations of Justice in Zora Neale Hurston’s *Their Eyes Were Watching God*” casts light upon the struggle against sexism and racism in courts of law. We then move from the purely fictional to the semi-historical narrative. In contrast to Hurston’s Janie, John Edgar Wideman’s protagonist solicits comparison between a real-life figure who inspired both a press persona and a literary character. Thus are the boundaries between these three domains delineated in “Resisting the Frame-Up: *Philadelphia Fire* and the Liberated Voices of Margaret Jones and Ramona Africa.” In a more documentary style, “From *Billy* to *I Can’t Wait on God: Building the Case for Victimization v. Self-Affirmation*” completes this section of the volume with the problem of the death penalty for juveniles, a question decided before the U.S. Supreme Court in July of 2002.

To cloture the issue, there must be a sentinel before the door. “Le ‘gardien de la loi’ selon Franz Kafka” combines the poetic and judicial by portraying the impossible cause of the would-be initiate to the kingdom of the law, pleading the case for entrance to this mysterious realm where words are like swords, double-edged and dangerous to the user. Orpheus-like, we critics, too, wait upon the grace of an incorruptible servant protecting the borders between the real and the imaginary, defying us to penetrate the arcane workings of the law and to relate the same to the greater experience of life. Yet, that is precisely the task set before the readers of this issue of *Cycnos*.