

Law in Literature

An Annotated Bibliography of Law-Related Works



“INDISPENSABLE FOR BOTH LEGAL EDUCATION AND PRACTICE.”

—Justice Jeanne Gaakeer, Appellate Court, The Hague

Edited by

Elizabeth Villiers Gemmette

LAW IN LITERATURE

*An Annotated Bibliography of
Law-Related Works*

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Introduction

Law in Literature: An Annotated Bibliography of Law-Related Works is one in a series of four law-related works. The other three are entitled *Law in Literature: Legal Themes in American Stories: 1842-1917*, *Law in Literature: Legal Themes in Drama*, and *Law in Literature: Legal Themes in Novellas*. Unlike the other three books of anthologies of short stories, plays, and novellas, this work contains two hundred and fifty annotations of law-related novellas, novels, and plays.

No claims are made that this annotated bibliography represents the law in literature "canon"; no claims are made that this annotated bibliography includes all of the important works in this genre. The only claims that are made for this work is that it is meant to be a companion piece to the three anthologies of law-related works, that it is meant to be a useful tool for those teaching law in literature, that it is meant to act as enticement to students and practitioners of the law and to lay persons to read more works dealing with legal themes and issues, and that it is meant to be an interesting book through which to browse.

First dates of publication are included with each of the annotations. Most of the annotated works are readily available, and some of the older works appear in numerous editions. As critics often cannot agree on which is the "definitive text" of a particular work, it was not presumed to make a selection among the various editions available. A few of the older works included in this bibliography might be out of print, and this may be of concern to those seeking reading materials for a law in literature course. It would not be particularly helpful, however, to include a list of those works in this book as they are very few in number and as new editions of old works are constantly appearing and some of the contemporary works disappear as quickly as they appear. Suffice it to say that works that are out of print but available in the library are still worth reading and recommending to students.

In addition to the annotations contained in this volume, an extensive index of topics found in the annotated works is included. Also, the topics found within each of the annotated works are listed at the end of each annotation. This cross-indexing is meant to provide the reader with the opportunity of scanning for works on a particular topic. A law and literature course might be suggested by some of the major topics such as Children and the Law, Discrimination and Equality, Domestic

Relations, Jurisprudential Themes, Judges, Lawyers, Politics and Government, or Trials. Or perhaps a course might be structured around sub-topics such as Feminist Issues, Law and Society, Minority Issues, Murder, Murderers, or Punishment. The book also offers the reader the opportunity to use the selections to create a course using one or more major authors—Camus, Conrad, Dickens, Eliot, Faulkner, Hawthorne and Melville, Shakespeare, Sophocles, Trollope; or to create a genre course centered around novellas, novels, or plays, or to create a course on Greek drama, on Elizabethan drama, on the modern American novel, on European literature, on British literature, or to create a course using works by, as well as about, women, Blacks, Native-Americans, Jews, or, perhaps, to select just one or two works to be taught in a traditional law school course such as property, or torts, or family law, or the Uniform Commercial Code—by which it is meant to be suggested that a "Literature Across the Law School Curriculum Movement" might be in the best interests of both students and professors.

Consider, if you will, a reading list consisting of the following works: Allison's *Bastard Out of Carolina*, Atwood's *The Handmaid's Tale*, Coetzee's *Waiting for the Barbarians*, Defoe's *Moll Flanders*, Dickens' *Oliver Twist*, Eliot's *Silas Marner*, Forster's *A Passage to India*, Gaines' *A Lesson Before Dying*, Guterson's *Snow Falling on Cedars*, Hamilton's *A Map of the World*, Hogan's *Mean Spirit*, Kingsolver's *The Bean Trees*, Percy's *The Thanatos Syndrome*, Shakespeare's *The Merchant of Venice*, Uris's *QB VII*, Wilson's *Our Nig: or, Sketches from the life of a Free Black*. These titles represent just a few of the works that might be chosen to illustrate legal issues important to women, Jews, Blacks, South Americans, Indians, Native-Americans, children, and the poor—all groups against whom both society in general, and the law in particular, have discriminated. It is hoped that teachers will find dozens of ways to combine the annotated works in order to produce exciting and innovative courses, and it is hoped that other readers will be induced by the annotations to explore further the rich and fascinating body of literary works dealing with law-related topics.

162. Nabokov, Vladimir, *Invitation to a Beheading* (1938; translation 1959).

Vladimir Nabokov moved to Berlin in 1925 and stayed there until 1937. Franz Kafka's unfinished novel, *The Castle*, was published posthumously in 1926 shortly after Nabokov had arrived in Berlin. Adolph Hitler came to power in 1933. One year later, in 1934, Nabokov wrote in Russian the novel that would come to be known in English as *Invitation to a Beheading*. Of course, in Nabokov's Russian homeland, 1934 is remembered as the year of the assassination of Sergei Kirov under Stalin and the beginning of the nightmarish Great Purges. The ultimate consolidation of totalitarianism had occurred.

All of that information is in some sense apposite and in some sense irrelevant to the fable of Cincinnatus C., of his incarceration, and of his fate at the hands of the executioner, M'sieur Pierre. Nabokov himself disclaimed any connection to Kafka, saying that he had read neither *The Trial* nor *The Castle* when he composed *Invitation to a Beheading*. Yet the thematic associations (or "spiritual affinities" as Nabokov called them) are inevitable. Cincinnatus C. has been found guilty of "the most terrible of crimes, gnostical turpitude," and his death sentence is whispered, in accordance with the law, at the beginning of the novel. The reader is invited. As pages in the novel run down and as time runs out on Cincinnatus C., the crime is fit to the criminal. Cincinnatus C. reveals his incongruence.

Cincinnatus C. spends the entire novel, except for his last day, in prison. He's given paper and pencil, and his last wish is "the theoretical possibility of having a reader." While the cell has four walls, the prison knows no bounds that cannot be overleaped by the imagination. There may be two of Cincinnatus C. Time and space may be overcome. Special tunnels and escapes may be found. Still, Cincinnatus C. cannot liberate himself entirely without a final "lawless lucidity." The fantastical conditions of his incarceration recall the "imprisonment" of Joseph K. Yet, while Joseph K. searches obsessively for knowledge of his crime and guilt, Cincinnatus C. wants only to know the date that has been set for his execution. Life needs a destination. Does the law provide it?

TOPICS

Criminal Matters:

- Due Process
- Juvenile Delinquency
- The Mens Rea
- Punishment:

- Capital
- Theories of

Jurisprudential Themes:

Critical Legal Studies/Deconstruction

Justice:

Generally

Legal Realism

Natural Law

Obedience to Positive Law:

Civil Disobedience

Generally

Positivism

The Rule of Law

Law:

The European Perspective on

An Historical Perspective of

The Necessity of

Property:

Words as:

Generally

Law and:

Religion/Philosophy:

Divine Law:

Generally

Richard C. Schneider, Jr.

163. Nichols, John, *The Milagro Beanfield War* (1974).

Joe Mondragon didn't want to start a revolution; he just wanted to water his family's beanfield, but when the traditional rights of the Hispanic community clashed with the legal rights of Anglo developers, a kind of war broke out in the small New Mexico town of Milagro. John Nichols' *The Milagro Beanfield War*, the first novel of his "New Mexico Trilogy," is a rambling, humorous account of a dispute over water rights between Hispanic farmers and land developers. Nichols writes in exuberant prose about a diverse community of eccentrics including the unwilling hero, Joe Mondragon; Charley Bloom, a liberal lawyer and society dropout; Arante Cordova, an ancestral Hispanic who haunts the town and manipulates the plot; Bernabe Montoya, Milagro's pacifistic sheriff, and a much beloved wandering pig. The town's stumbling opposition to the machinations of water commissioners, state engineers, state troopers, the governor and real estate developers is successful in the end, if but for a moment.

Nichols' novel is loosely based on the resistance of Hispanic farmers to the expansion of a ski resort near Taos, New Mexico in the late

Sixties. Nichols' diffuse narration and plotting nicely convey the atmosphere of a community where regular losses are accompanied by occasional, ambiguous victories. While Nichols' portrait of Milagro is loving and compassionate, his conclusion is guardedly optimistic. As the much abused Sheriff reflects at the end, "To be sure, life wouldn't return to what it was yesterday, but neither could it continue to be what it is today. The people had been apart for a long time, and now he sensed a small coming together—although who knew what those who had survived could do with a future nobody had defined?"

TOPICS

Discrimination and Equality:

Minority Issues:

Mexican-American

The Poor:

Generally

Jurisprudential Themes:

Obedience to Positive Law:

Civil Disobedience

Law:

Property:

Generally

Water Rights

Kevin D. Hill

164. Norris, Frank, *The Octopus* (1901).

The Octopus tells the story of the confrontation between agricultural interests and railroads in late nineteenth century California. The novel focuses on what farmers in the San Joaquin Valley, and their battles (economically and literally) with the railroad that not only has a monopoly on transporting their crops but also owns much of the land that they are farming.

Although the sympathy of the novel clearly lies with the farmers, Norris does not offer an undiluted portrayal of good versus evil. The central character on the agricultural side is Magnus Derrick, whose character flaws bring himself and others to disaster. The political maneuvers with which the farming interests attempt to affect the legal regulation of the railroad include bribery in the election of Derrick's son as a railroad commissioner. The ethical waters are even more muddied when Derrick's son turns out to be beholden to the railroad, which has promised to aid his ambition to be governor. By the end of the novel,

death and ruin have come to almost all of the major characters, although Norris ends on a romanticized vision of nature renewing itself.

Norris's novel offers an opportunity to explore issues of monopoly and the regulation of business in turn of the century America. He wrote *The Octopus* as the first book in a projected trilogy of "The Epic of the Wheat," in which he intended to take up commodities trading in Chicago in the second volume (published just after his death) and famine relief in Europe in the third (never completed). This first volume fits in well with, although at a higher level of literary aspiration than, the muckraking novels of the time, such as Upton Sinclair's *The Jungle*.

The Octopus makes a good companion piece to James Fenimore Cooper's *The Pioneers*. Both novels deal with changing conditions on a frontier. While Cooper's work focuses on upstate New York in the early years of this nation, Norris advances the story across the continent and ahead a century in time. In both instances, though, the role played by the law is seen as ultimately favorable to those with arguably the weaker moral claim but with the considerably greater investment in the process of economic development.

TOPICS

- Law:
 - Agricultural
- Frontier:
 - Generally
- Property:
 - Generally
- Railroads:
 - Regulation of
- Monopoly Power:
 - Assertion of

Paul A. LeBel

165. Oates, Joyce Carol, *Because It Is Bitter, and Because It Is My Heart* (1991).

This is one of Oates's characteristic novels of decay and problematic redemption, a peculiarly Americanist update of naturalist fiction. Race, gender, sexuality and class issues are insistently, discomfortingly present, in the presentation of incidents ranging from child custody to police harassment and brutality, child abuse and sexual assault to defenses to murder. The novel is set against racial tensions in 1960's America, the Vietnam War, the deaths of King and Jack Kennedy,

making its account of law and injustice an insistently national one.

The plot turns on the death of Little Red Garlock at the hands of Jinx Fairchild. The only witness to the killing—which—were it not for Jinx's race might have been mitigated by provocation of self-defense—is Iris Courtney, who has asked for Jinx's help in the face of Little Red's harassment. The pair effectively keep their implication in the killing a secret through adolescence and into adulthood, and indeed to Jinx's grave.

The novel would make a useful addition to any course focusing on evidence or legal narrative, because of its characteristic pattern of critical things not said or disclosed, and the problems of telling "the truth." It also deals in interesting ways with issues of representation and perception, subjectivity and identity, family, community and adolescence.

TOPICS

Children and the Law:

Abuse and Neglect:

Generally

Criminal Matters:

Defenses:

Necessity

Provocation

Juvenile Delinquency

Punishment:

The Guilty Conscience as

Discrimination and Equality:

Feminist Issues:

Rape/Seduction

Sexual Harassment

Minority Issues:

Black:

Generally

Gay/Lesbian

The Poor:

Generally

Domestic Relations:

Domestic Violence

Matrimonial Matters:

Generally

Jurisprudential Themes:

Justice:

Generally

Penelope Pether

Law in Literature

An Annotated Bibliography of Law-Related Works

LAW IN LITERATURE: AN ANNOTATED BIBLIOGRAPHY OF LAW-RELATED WORKS is a collection of two hundred and fifty annotations of law-related novellas, novels and plays written by scholars with an interest in the field. This annotated bibliography is intended as a companion piece to *Law in Literature: Legal Themes in American Stories: 1842-1917*, *Law in Literature: Legal Themes in Drama*, and *Law in Literature: Legal Themes in Novellas*.

Unlike the other three books in this series, *Law in Literature: An Annotated Bibliography of Law-Related Works* is not useful as a textbook for a law in literature course. In an academic setting, it is useful to professors seeking to assign works for reading by the students. Students who are interested in the topic might want to obtain the book as a reference tool to discover works for further reading. Also, the book is intended to reach an audience of those engaged in the legal system and to anyone interested in exploring the rich stories annotated in this volume.

ABOUT THE EDITOR

Elizabeth holds a BS in Psychology from Union College, a DA in English from SUNYA, and a JD from Albany Law School. She has been a practicing attorney, an educator, and a published author. Her books on law and literature have been used as texts in both undergraduate and graduate schools. Her articles on psychology, law, literature, law/health, and law and literature have been published in legal, literary, and psychological journals.

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