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Marett Leiboff

“Stir Up the Australian Youth to Merriment”: *A Midsummer Night’s Dream*, Summer 1989 – 1990 (Sydney, Australia) and the Theatrical Transmutability of Law’s Texts

1 Transmuting law and the theatrical

As You Law It. A pun that plays on and invokes a title that is so well known it almost goes without saying: *As You Like It*.¹ There are jokes aplenty in the catachresis and pun – *law* and *like* – can law be liked, what is law like, what is like law? This play of words takes us to the play of law, and plays on law. This play of words transmutes – from one thing into another, a conversion into something different, an alteration, a transformation.² Transmutation also conceives of the concept of *exchange*,³ in an obsolete or archaic meaning of the word. It is also alchemical, literally and figuratively. The OED tells us that *trasmutabilità* or “transmutability” first surfaced in English in 1611,⁴ in J. Florio’s *Queen Anna’s New World of Words*,⁵ just a few years after *As You Like It*, and *A Midsummer Night’s Dream*,⁶ were first reputed to have been staged.⁷ The advent of this active, adverbial form of the word carries with it an imposition of liveness, and liveliness. For although each play was thought to have been written during the last decade of the sixteenth century (Elizabethan and Jacobean performance meth-

1 William Shakespeare, *As You Like It: Updated Edition*, ed. Michael Hattaway (Cambridge: Cambridge University Press, 2009): further references in the text.

2 “transmutation, n.” “b. *Law*. Transfer: usually transmutation of possession, transfer or change of ownership.” *OED Online* (Oxford University Press, March 2017).

3 OED, “transmutation”: *The Merchant of Venice* “exchange” denoted transmutation.

4 “transmutability, n.” *OED Online* (Oxford University Press, March 2017).

5 This source derives from an English/Italian Dictionary, dedicated to the wife of James I, Anne of Denmark, by John or Giovanni Florio, also touted as a possible Shakespeare. *John Florio*, available at: https://en.wikipedia.org/wiki/John_Florio (last access March 20, 2017).

6 William Shakespeare, *A Midsummer Night’s Dream*, ed. Burton Raffel (New Haven: Yale University Press, 2005): further references in the text, abbreviated as *Dream*.

7 *As You Like It*, in 1603, the year Elizabeth I died; *A Midsummer Night’s Dream* in the second year of James’ reign, in 1605.

ods aside),⁸ it is only at a point of exchange, when words on the page are transformed through the liveness of the theatrical encounter, that their transmutation is made truly manifest, in the same way that law, too, is only made manifest, through the act of reading, interpreting and living law.

To begin thinking about how this exchange of transmutation, through the play of law, is made manifest, I will stay with *As You Like It*, for it is through one of the most famous of Shakespearean lines that we can find an exemplary instance of transmutation *as exchange* at play. After an encounter with the outlaw lords in the forest, the hapless Duke Senior remarks:

Thou seest we are not all alone unhappy:
This wide and universal theatre
Presents more woeful pageants than the scene
Wherein we play in. (*As You Like It*, 2.7.142–145)

to which Jaques most famously responds: “All the world’s a stage And all the men and women merely players” (*As You Like It*, 2.7.145–146). Puns aplenty permeate Duke Senior’s quip, an hilarious jape as sight gag for an audience who heard these words within the walls of *The Globe* theatre, that “wide and universal theatre,” as identified through name and motto.⁹ And of course, the puns ran deeper and longer, into the thick allusion of the *theatrum mundi*, the remnant classical and medieval concept of the Divine as author, director and spectator of the lives of humans on an earthly stage.¹⁰ A commonplace divorced from its religious connotations by the sixteenth century, and so too a reference to a theatre building and a literary trope,¹¹ the world as stage, and stage as world, takes on a new significance for the early modern self, seeking to understand their place in the word.¹² Thus, as Quiring observes, Jaques’ remark functions at a “purely immanent level of existence, without any reference to transcendent au-

8 Farah Karim Cooper and Tiffany Stern eds., *Shakespeare’s Theatres and the Effects of Performance* (Bloomsbury: The Arden Shakespeare, 2013); David Bevington, *This Wide and Universal Theater: Shakespeare in Performance, Then and Now* (Chicago: University of Chicago Press, 2007).

9 *The Globe’s motto was Totus mundus agit histrionem.*

10 Lynda Gregorian Christian, *Theatrum Mundi: The History of an Idea* (New York: Garland, 1987), 7, 89, cited in Björn Quiring, “Introduction” to “*If Then the World a Theatre Present ...*”: *Revisions of the Theatrum Mundi Metaphor in Early Modern England*, ed. Björn Quiring (Berlin: de Gruyter, 2014), 1–23, 4, 5.

11 Quiring, “Introduction,” 5.

12 Quiring, “Introduction,” 5.

thorities,"¹³ and one that is deeply mired in the problems of existence in a changing world.

We lose this reading, however, when Jaques' response to Duke Senior is cut loose from its surrounding text. This untethering of the call from the response reads as lofty sentiment, rather than a mordant moan about the progress of being through the seven ages Jaques identifies. But cut adrift, a very particular complaint of and about law and lawyers, judge and judging, loses its sting entirely:

And then the justice,
 In fair round belly with good capon lined,
 With eyes severe and beard of formal cut,
 Full of wise saws and modern instances;
 And so he plays his part. (*As You Like It*, 2.7.160–164)

Of course, this is a literal and figurative judge (the middle-aged as prosperous and reproving), but read with Duke Senior's opening gambit, presents a more synchronous saw of its own.¹⁴ This is a far from flattering portrait of law and the judge, which echoes the far from flattering literal and figurative device of the theatre to demonstrate the impediments that would intrude upon clear reason and analysis by a legal figure – the lawyer philosopher Francis Bacon.¹⁵ 1603 is a very particular year in this respect. It is more than a small coincidence that Bacon was knighted by James I in 1603, the same year that the first staging of *As You Like It* can be traced,¹⁶ and it was the same year that Bacon's unpublished *Valerius Terminus: Of the Interpretation of Nature* first circulated, originally to a closed circle, though it quickly became known more widely.¹⁷

13 Quiring, "Introduction," 6.

14 Richard J. Ross, "The Memorial Culture of Early Modern English Lawyers: Memory as Keyword, Shelter, and Identity, 1560–1640," *Yale Journal of Law & the Humanities* 10:2 (1998): 229–326.

15 1561–1626; *Contra* the postulation of the Baconian cipher, the hypothesis that Francis Bacon wrote the works of Shakespeare.

16 *As You Like It* was one of the few plays included in the *First Folio* of 1623 that had not been already been published in some other form. The text was possibly written between 1598–1600: Hattaway, in *As You Like It: Updated*: 49–53. Textual changes could come at any of seven stages up until publication: Hattaway, in *As You Like It: Updated*, 215, 216.

17 There are clues that the manuscript was finished in 1603: Richard Serjeantson, "Communication: The Philosophy of Francis Bacon in Early Jacobean Oxford, With an Edition of an Unknown Manuscript of the *Valerius Terminus*," *The Historical Journal* 56 (2013): 1087–1106, 1090–1092.

Valerius Terminus inaugurates some of the ideas that Bacon would later develop, albeit in amended form, but for now he specifically identified his concern about “the internal and profound errors and superstitions in the nature of the mind,” created through four “idols or fictions which offer themselves to the understanding in the inquisition of knowledge”:¹⁸

Of the inherent and profound errors and superstitions in the nature of the mind, and of the four sorts of Idols or false appearances that offer themselves to the understanding in the inquisition of knowledge; that is to say, the Idols of the Tribe, the Idols of the Palace, the Idols of the Cave, and the Idols of the Theatre. That these four, added to the incapacity of the mind and the vanity and malignity of the affections, leave nothing but impotency and confusion. A recital of the particular kinds of these four Idols, with some chosen examples of the opinions they have begot, such of them as have supplanted the state of knowledge most. ¹⁹

As Rossi makes plain, the Idol of the Theatre was, at this stage of Bacon’s thinking, an internal impediment to proper forms of judgment and reason.²⁰ Later, it would be reshaped as an external impediment to proper thought. With these two concepts in mind, the quip about “wise saws and modern instances” takes on a potentially potent meaning – by speaking to Bacon’s emerging philosophy, coded deep in this exchange between Jaques and Duke Senior. Contemporary figures made their way into *As You Like It*, in the form of Jaques himself,²¹ so this nudge and wink targeting this lawyer and politician, and Bencher of Gray’s Inn,²² who was now in early middle-age – could be easily decoded, a small barb as a perfect riposte in the hands of those whose profession was derided by Bacon’s device.

There was more to come. In 1605, the same year that *A Midsummer Night’s Dream* was first presented, Bacon published *Of the Proficiency and Advancement of Learning, Divine and Human*, or *The Advancement of Learning*. The Idol of the Theatre was omitted from this publication, though he maintained the other idols,

18 Francis Bacon, *Valerius Terminus: of the interpretation of Nature* (eBooks@Adelaide, 2014), Ch. 11, available at: <https://ebooks.adelaide.edu.au/b/bacon/francis/valerius/#chapter11> (last access March 20, 2017).

19 Bacon, *Valerius*, Ch. 16.

20 Paolo Rossi, *Francis Bacon: From Magic to Science* [1957], trans. Sacha Rabinovitch (London: Routledge and Kegan Paul, 1968), 157–158.

21 Jaques was identified, for instance, as a satire of the godson of the Queen (Elizabeth), Harington, mooted as one potential reason for its non-publication: Hattaway, *As You Like It: Updated*, 215.

22 Jayne Archer, Elizabeth Goldring and Sarah Knight eds., *The Intellectual and Cultural World of the Early Modern Inns of Court* (Manchester: Manchester University Press, 2013).

albeit in modified form.²³ However, theatre did not escape his attention; if anything, he added further barbs to his views of theatre, on a properly formed and functioning mind, now extended, too, to the practices of theatre-going. The literary device of poetry might be acceptable up to a point, but theatre is another thing entirely to a properly functioning mind:

In this third part of learning, which is poesy, I can report no deficiency [...] But to ascribe unto it that which is due, for the expressing of affections, passions, corruptions, and customs, *we are beholding to poets more than to the philosophers' works*; and for wit and eloquence, not much less than to orators' harangues. *But it is not good to stay too long in the theatre.* Let us now pass on to the *judicial place* or palace of the mind, *which we are to approach and view with more reverence and attention.*²⁴

Thus properly formed judgment is corrupted by theatre, to wit, Jaques' sardonic remarks about the justice's saws is enlivened – in concert with Duke Senior's quip, for Bacon, too, is ill-disposed towards the place as communal.²⁵ Moreover, Bacon's conception of judgment is *law's* method, as Shapiro has revealed,²⁶ meaning the quips in *As You Like It* are more than a little apt as a play on law. And even if not directed towards Bacon, it is not had to see, given the opprobrium theatre received at the hands of justices of the peace,²⁷ how this exchange between Jaques and Duke Senior spoke to a world of law at play beyond, as well as within, the place of theatre, and a more than little disdain for law, and that which is proper.

But there is one more small point. In the *Novum Organon* of 1620, published just three years before Shakespeare's First Folio, Bacon expands on his complaints about the Idols, with the Idol of the Theatre now reinstated. *Truth and reality, as literal accounts of being are acceptable*, but not, it seems, fancy and fantasy. Asserting now that this Idol is one of philosophy and inherited systems of knowledge, the adoption of theatre – or stage plays – as a trope is far from accidental:

²³ Rossi, *Bacon*, 161.

²⁴ Francis Bacon, *The Advancement of Learning* [1893], ed. Henry Morley (The Project Gutenberg ebook), Book 2, Aphorism V, [my emphasis].

²⁵ Allison P. Hobgood, *Passionate Playgoing in Early Modern England* (Cambridge: Cambridge University Press, 2014), 188–189.

²⁶ Barbara J. Shapiro, *A Culture of Fact England, 1550–1720* (Ithaca: Cornell University Press, 2000); compare Barbara J. Shapiro, "Law and Science in Seventeenth-Century England," *Stanford Law Review* 4 (1969): 727–766.

²⁷ Hattaway, *As You Like It: Updated*, 52–53.

Lastly, there are Idols which have immigrated into men's minds from the various dogmas of philosophies, and also from wrong laws of demonstration. These I call Idols of the Theater, because in my judgment all the received systems *are but so many stage plays, representing worlds of their own creation after an unreal and scenic fashion.* [...] which by tradition, credulity, and negligence have come to be received.²⁸ [...] And in the plays of this philosophical theater you may observe the same thing which is found in the theater of the poets, *that stories invented for the stage are more compact and elegant, and more as one would wish them to be, than true stories out of history.*²⁹

Theatre, then, represents error and mistake, as laziness, prejudice and a desire for a lack of complication and complexity. Yet what is instantiated here is a mistrust of the imagination, and the possibility of asking *how* reality is observed and processed – that is, Bacon's confidence in the possibility of the rational and scientific, "the true stories out of history" and how they are shaped and understood, are assumed to be perfectible. For he also remarks, of knowledge (science): "The human understanding is no dry light, but receives an infusion from the will and affections; whence proceed sciences *which may be called "sciences as one would."* For what a man had rather were true he more readily believes... [my emphasis].³⁰ When applied to law, rather than signalling an intellectual emancipation, Bacon's formula turns inwards, the condemnation of imagination becomes a means by which injustice could be made manifest, for a literal reading of Bacon takes us into analytically closed interpretative methods. Law closed its eyes to the narrowing of its interpretative universe, relying on this logic; law as play and the play of law and the possibilities that derive from exchange, as a mark of transmutation, as "*sciences as one would,*" represent an unacceptable break into law and rational, even in the face of injustice.

"*Sciences as one would*"? Bacon is complaining about selfish or self-oriented assumptions in the place of clear, rational judgment, but this is not Bacon's turn of phrase. He wrote, as all scholars of the time did, in Latin. Translation (itself an exchange and transmutation) is far from clear-cut. Two other scholars, Derham and Stewart each translates Bacon's Latin into – "*as-you-like-it*" science.³¹ The

28 Francis Bacon, *The New Organon, or True Directions Concerning the interpretation of Nature* [1863], trans. James Spedding, Robert Leslie Ellis, and Douglas Denon Heath (eBooks@Adelaide, 2014), Book 1, Aphorism XLIV, available at: <https://ebooks.adelaide.edu.au/b/bacon/francis/organon/chapter1.html> (last access March 20, 2017).

29 Bacon, *New Organon*, Book 1, Aphorism LXII.

30 Bacon, *New Organon*, Book 1, Aphorism XLIX.

31 Stanley Stewart, *Shakespeare and Philosophy* (Abingdon: Routledge, 2010), 132; Daniel Derham, *Rhetoric and the Familiar in Francis Bacon and John Donne* (New Jersey: Fairleigh Dickinson University Press, 2013), 120.

then-contemporaneous “saws” of *As You Like It* now read as a retort of Bacon’s complaints of theatre and imagination. Jaques’ justice could well be any judge, or any self-satisfied judgmental middle-aged man, but this now starts to take on the attributes of a specific individual. This takes the text into an entirely different direction. So too law inherited into the twenty-first century, for what had been inherited into law through Bacon’s influence on its interpretative practices, loses precisely the complaint of theatre and the play of imagination within law. Law thus becomes a self-referential system, and one that instructed itself to disregard the world beyond its black letter rules and case precedents. Reason and judgment operated by closing itself off from the world for centuries to protect itself from “as you like it law.” I now turn to Australia, to the 1980s, where law as a practice began after critical agitations through legal scholarship and politics, to turn its gaze beyond the books, and back into the world, into the *theatre* of the world, as a *theatrum mundi*, seemingly rupturing the Baconian logics in law by taking on a scintilla of “*as-you-like-it*” thinking that turned to imagination as a condition precedent of justice.

2 From Bacon to 1980s Australia – from cultural cringe to a new assertiveness

Common lawyers, including Australian lawyers, are the inheritors of the Baconian approach towards legal reasoning, method and concepts, through the later seventeenth-century judge and legal scholar, Sir Matthew Hale and the eighteenth-century codifier of legal concepts, Blackstone.³² Legal doctrine was inherited through case law, containing precedents themselves sourced from the judges. Legislation was a rarity, though in the latter part of the twentieth-century, it burgeoned, including in Australia. Though law is now understood to mean legislation, law inherited through the cases remains foundational. Courts would “read down” socially progressive law in the name of doctrine and existing legal principle. Critical scholarship, particularly that which took shape in the 1960s and 1970s, charted the outdated logics and historical verities that were maintained by the courts, in entirely inappropriate circumstances, such as retaining doctrines created in England in the eighteenth-century that had been overturned in the 1930s, only to be revived in Australia in the 1970s, in entirely different social, geographic and temporal circumstances, some instances of

³² William Blackstone, *Commentaries on the Laws of England, Book II: Of the Rights of Things*, ed. Simon Stern (Oxford: Oxford University Press, 2016).

which were documented by the renowned Australian lawyer Geoffrey Robertson QC in his book *The Justice Game*.³³ Law, as a discipline and profession, was considered to be captive to a conservative political agenda, aided by the logics, reasoning and methods of analysis inherited through Bacon. Of course, there had been individuals and groups within the field whose politics and social attitudes were far from conservative, but the practices, procedures and methods of law cannot function as sites of political engagement. Challenges to conventional legal approaches required the creative redeployment of doctrine and legal principle – something that could only happen by looking outside the confines of law itself, drawing on imagination, that unacceptable “as-you-like-it” science – in part triggered by social changes themselves.

If anything typified the Australia of the 1960s and earlier, it was a concept, now largely lost, of a “cultural cringe.” This infamous Australian state of mind could be summed up in one idea – that nothing in Australia was good enough, and the rest of the world, the United Kingdom in particular as the so-called mother country, was the source of proper and appropriate culture and law. Voices and accents were to mimic, as best they could, the “received pronunciation” of BBC English. Though it had its own superior court, the High Court, the final court of appeal was located in London, largely comprised of members of the Judicial Committee of the House of Lords, though some members of the Australian courts might sit from time to time. Local culture was considered inferior, by and large. Pressure started to be exerted, however, by the late 1960s and early 1970s, where this obeisance to an external presence started to be resisted, and a reiteration of an Australian identity was actively pursued. The election of a left-wing national government in 1972, led by the Prime Minister Gough Whitlam, kick-started or instantiated change, some of which had to wait until after that government was dismissed in 1975.

By the 1980s, small symbols of change took effect, such as changing the national anthem from *God Save the Queen* to the present *Advance Australia Fair*, cutting a symbolic tie to the “mother country,” and the move to end legal links with the UK, through the eventual passing of the *Australia Acts* 1986 throughout the country, removing the final appellate function of the Privy Council for Australia, and inaugurating Australia as a sovereign independent nation, 85 years after it had been created. In 1988, the 200th year after Britain invaded the land that indigenous Australians had inhabited for at least 40,000 years, was a

33 Geoffrey Robertson, *The Justice Game* (London: Chatto & Windus, 1998).

Bicentennial celebration or a mark of shame as a result of the consequences of invasion.³⁴

Though there had been some small shifts in the 1970s, by the 1980s, arguments that sought to overcome social and political injustice started to be accepted by the courts, using law's methods. Some judges and courts slowly began to adapt and change their positions – some, but not all. Those that did looked beyond the limits of law on the page, and to read those words within time and place, as Ann Genovese and Shaun McVeigh have recently charted, of two key decisions of the Australian superior court, the High Court, in the 1980s, when it started to shift its focus and look beyond the law in its narrowest sense.³⁵ As the description of Genovese's collection, *Australian Critical Decisions*, notes:

The 1980s was a time of significant social, political and cultural change. In Australia, the law was pivotal to these changes. The two High Court cases that this book explores – *Koo-warta v Bjelke-Petersen* (1982) and the *Tasmanian Dams* case (1983) – are famous legally [...] Yet these cases also offer a significant marker of Australia in the 1980s: a shift to a different form of political engagement, nationally and internationally [...] to reflect on how Australians experience their law in time and place, and why those experiences might require more than the usual legal records.³⁶

These decisions reveal that the courts were now willing to shake off the Baconian yoke, to look beyond the limits of the law. A High Court decision of 1989 confirmed that 200 years of legal, political and social obeisance to the United Kingdom had ended with the passage of the 1986 *Australia Acts*,³⁷ regardless of the emotional or other ties Australia had to Britain. But there were changes afoot too, for Australia's indigenous people. Though it had started to take shape since 1982, and was subjected to numerous legal setbacks, in December 1988, right at the end of the Bicentennial year, in the case of *Mabo v Queensland No. 1*,³⁸ the High Court of Australia laid the groundwork for the decision in 1992 that removed the doctrine of *terra nullius* from Australian law, the famous

34 Frank Bongiorno, *The Eighties – The Decade that Transformed Australia* (Carlton: Black Inc. Books, 2015).

35 Ann Genovese and Shaun McVeigh, "Nineteen eighty three: A jurisographic report on *Commonwealth v Tasmania*," *Griffith Law Review* 24 (2015) 68–88; Ann Genovese ed., *Australian Critical Decisions: Remembering Koowarta and Tasmanian Dams* (Abingdon: Routledge, 2017)

36 Australian Critical Decisions available at: <https://www.routledge.com/Australian-Critical-Decisions-Remembering-Koowarta-and-Tasmanian-Dams/Genovese/p/book/9781138692053> (last access March 20, 2017), [my emphasis].

37 *Sue v Hill* [1999] HCA 30.

38 *Mabo v Queensland (No. 1)* [1988] HCA 69.

Mabo decision, or *Mabo v Queensland No. 2*.³⁹ This decision looked beyond doctrines that had grounded the idea that, in law, Australia had simply been settled and not conquered. The case overturned law that had supposedly been inviolable doctrine – by applying imagination to that doctrine, and looking beyond the pages of the books. Starting from the position of “as-you-like-it science,” the court looked into the world beyond the internalised assumptions of doctrine, and into the historical, social, political injustices that law had imposed upon indigenous Australians – and by looking at the evidence of their ownership and relationship to land. The decision in *Mabo* only went so far and not far enough to rectify 200 years of dispossession and harm, but to think *beyond* limits in this way takes law into the realm of theatre, looking beyond the interiority of inherited dogma and doctrine to consider the operation of law in time and place – to notice injustice and to reshape doctrine and principle.

Australian law was ripe for change at the end of the 1980s, but some of the most profound changes like *Mabo* had to wait a few more years. Australia, in the 1980s, had transformed itself, its understanding of its position in the world, and its sense of self-awareness. And as the clock ticked on the end of the 1980s, that most transmutable of Shakespearean plays, *A Midsummer Night's Dream*, was about to transmute again in Sydney, reminding us that theatre is there to insist that times and places matter, and that reason, without love, is an altogether dangerous thing. That most amusing of plays, perhaps poking a Puckean pole at Bacon (for it is to be remembered that the *Advancement of Learning* was published in 1605, the year *A Midsummer Night's Dream* was reputed to have been first staged), where Bacon warned that it “is not good to stay too long in the theatre,” preferring to “now pass on to the *judicial place*,” reminds us that law without justice is a dangerous thing. For as we know, the judicial place is overborne by real justice – “Egeus, I will overbear your will” (*Dream*, 4.1.179). Theseus admonishes, a position he came to belatedly, through the most theatrical of devices – that which is lived and experienced, in his case through that which Hippolyta experienced.⁴⁰ For *A Midsummer Night's Dream* has much more to tell us about justice than its historical frothy exterior might have led us to believe.⁴¹

³⁹ *Mabo v Queensland (No. 2)* [1992] HCA 23.

⁴⁰ A conventional legal analysis tells a fundamentally different story, taking eyes back into law and missing the consequences of action: “Theseus and Hippolyta are Royals, and they open the play; yet they are perhaps the least important figures we shall consider, and they present the least challenging legal questions. For they are basically bystanders. It is Theseus’s job as Duke to apply the law to resolve the dispute between the young lovers”: David P. Currie, “A Midsummer Night’s Dream – The Legal Issues,” *Green Bag 2* (2003): 381–387.

Compare an interdisciplinary panel held in 2010 at Texas Law School, which takes a far more

3 Transmuting *A Midsummer Night's Dream*

Of all of Shakespeare's plays, *A Midsummer Night's Dream* has a most curious history of disappearance and transformation across time, as the visuals contained in an exhibition mounted by the British Library reveals.⁴² The *Dream* has been constantly changed and transformed according to taste and social attitudes – even its words have changed from time to time, but how the play becomes theatre is another thing entirely. Whatever and however we see this play, we can take it for granted that it alters according to time and tide. Plays are meant to be seen and experienced. It needs to be remembered, too, that there is no authentic production of Shakespeare, unless we were to reincarnate his players and were prepared to have boys play the role of women characters, with bare stage and musical interlude. Even the text, now considered sacrosanct, has been subjected to variation and change, as the rule, rather than the exception. Bottom and the mechanicals have spawned offshoot productions, including the 1661 piece, *The Merry conceited Humors of Bottom the Weaver*,⁴³ (like the 1987 Australian *The Popular Mechanicals* “By Keith Robinson, William Shakespeare and Tony Taylor”).⁴⁴ Indeed, *A Midsummer Night's Dream*, in its entirety, was out of fashion less than 60 years after it was first staged. In 1662, Pepys famously remarked that he had “never seen before, nor shall ever again, for it is the most insipid ridiculous play that ever I saw in my life. I saw, I confess, some good

nuanced view of the conduct of law at the outset of the play: “‘According to our Law,’ is taken from the play’s first scene, when the harsh patriarch Egeus demands that his daughter marry the man of his choice or be executed ‘according to our law.’ The play’s actions find a way to reconcile ‘harsh Athenian law’ and the erotic desires of the young lovers.” *Shakespeare and the Law: Scenes and a Panel on Legal Issues from A Midsummer Night's Dream* (September 22, 2010), available at: <https://law.utexas.edu/news/2010/09/20/shakespeare-and-the-law-scenes-and-a-panel-on-legal-issues-from-a-midsummer-night%E2%80%99s-dream/> (last access March 3, 2017).

41 Peter C. Herman, “Equity and the Problem of Theseus in *A Midsummer Night's Dream*: Or, the Ancient Constitution in Ancient Athens,” *Journal for Early Modern Cultural Studies* 14.1 (2014): 4–31, holds to a narrow legal interpretation that asserts that the Duke reached his ultimate decision contrary to law.

42 Emma Smith, *Dream, Illusion and Doubling in A Midsummer Night's Dream*, (British Library, undated), available at: <https://www.bl.uk/shakespeare/articles/dream-illusion-and-doubling-in-a-midsummer-nights-dream> (last access March 3, 2017).

43 Published in 1661, London, Robert Cox [adaptor], available at: <https://www.bl.uk/collection-items/the-merry-conceited-humors-of-bottom-the-weaver-1661#sthash.VuX9JCIC.dpuf> (last access March 3, 2017).

44 Keith Robinson, William Shakespeare, Tony Taylor, *The Popular Mechanicals: a Funny Old (New) Play* (Paddington, N.S.W. : Currency Press in association with Belvoir Street Theatre, Sydney, 1992).

dancing and some handsome women, which was all my pleasure.”⁴⁵ The play then took an altogether different shape in the form of an opera, *The Fairy Queen*, written as a series of masques in 1692 by the English composer Henry Purcell – though it was then lost until the early twentieth-century. The actor-manager, David Garrick, created his own operatic version, *The Fairies*, in 1755, effectively an entirely different creation made up of a pastiche of material, based in and around the lovers and the fairies.

By the early nineteenth-century *A Midsummer Night's Dream* had become a burlesque, subject to fashion and whims of staging, until, at mid-century the play itself was restored, and the formula of the play in production, inherited even into the twenty-first century, took shape. Now laden with musical interludes, formularised through Mendelssohn's score, this now “standard” *Dream* was a pastiche of lush spectacle and cute fairies, of balletic interludes featuring large *corps de ballet*, and reimagined as a romantic fantasy. Attempts by the theatrical *avant-garde* to unpick the layers of tulle and forest glen began in the early twentieth century, with Harley Granville-Barker's 1914 production that attempted to return the play back to facets of Shakespearean performance styles, including the use of English folk music; and forty years later, in 1954 a production by the RSC attempted to work with the image of the production Granville-Barker began, in a production that worked with the abstract, including features such as stylised metal trees to denote the forest. Despite this, the pantomimic *Dream* remained as the expected form.

But all that changed in 1970, when Peter Brook utterly transformed *A Midsummer Night's Dream*,⁴⁶ for good. Brook's *Dream* was profoundly influenced by the work of Polish scholar, Jan Kott, whose seminal book *Shakespeare Our Contemporary*,⁴⁷ first published in Polish in 1961, and then in English in 1966,⁴⁸ stripped the play back to its text and the deep coding of the unconscious within it. Kott's return to the texts provided the insight that Brook, through the Royal Shakespeare Company, would take to the stage. It had been fundamentally

45 Samuel Pepys, *Diary: Monday 29 September 1662*, available at: <http://www.pepysdiary.com/diary/1662/09/29/> (last access March 3, 2017).

46 Royal Shakespeare Company, *A Midsummer Night's Dream: Some of our Past Productions of A Midsummer Night's Dream* available at: <https://www.rsc.org.uk/a-midsummer-nights-dream/past-productions> (last access March 3, 2017); Alan W. Bellringer, “The act of change in *A Midsummer Night's Dream*,” *English Studies* 64.3 (1983): 201–217.

47 Jan Kott, *Shakespeare our Contemporary*, 2nd ed., trans. Boleslaw Taborski (London: Routledge, 1988).

48 That is not to say that Kott was completely comfortable with all aspects of Brook's production: Jan Kott, “The Bottom Translation,” *Theater* 18.1 (1986): 74–90.

and profoundly reorientated through a theatrical reimagining that shifted the play from its imagined exterior world of fairies and revel to one grounded in the interior, the sub-conscious, and in doing so profoundly changed the play's grammar and coding. Theseus and Oberon, Hippolyta and Titania were one and the same, the woods and forest the locale of the sub-conscious, the text no longer read literally but through its time and place and encounter between actor and spectator. With nods to the conventions of the Elizabethan and Jacobean stage, the production was utterly grounded in its time and place, at the same time triggering a renewed sense of how this play ought to appear in production.

The text was now unmoored from the staging conventions that had been ossified across time, and now an explosion of *Dreams* appeared throughout the world, taking its cue from this profound shift. *Dreams* appeared in public gardens and in parks, as the Women's Institute, as punk, as the *Dream* appeared in an entirely new vernacular, literally and figuratively, stripping itself of the layers of expected theatrical presence, and doing something new and having something to say, even productions that claim to return to "Renaissance" staging.⁴⁹ That wasn't to say that the other romantic *Dream* had run its course – it is still hankered for, and produced.

But like law's interpretative limitations using the logics of Baconian reason and judgment, combined with a disdain of the imaginative ability needed to turn to justice, this play reminds us how injustice can occur – through its *text*. If *As You Like It* criticised the logics and economy of an antitheatrical reason, then this play put it into effect, from the blackest of black letter legal logic at the beginning of the play (*Dream*, 1.1.21–90) to the shift at the end, where Egeus' demands for the exercise of his rights are quashed, allowing rightness and fairness to take its course (*Dream*, 4.1.135–179).

But this literal black letter logic also results in nonsense, where the *law really is an ass* – as revealed in one of the most intensely disturbing scenes of the play. It might be imagined that this denotes the opening scene of the play, when law is dispensed harshly, resulting in the flight from Athens by the lovers. But instead it is the situation where the incredulous Bottom responds to Titania's abject declaration of love, itself perversely engineered by Oberon. The hapless

⁴⁹ Shakespeare's Globe, *A Midsummer Night's Dream* [2014], (undated), available at: <http://www.shakespearesglobe.com/discovery-space/previous-productions/a-midsummer-night-s-dream-7> (last access March 20, 2017): "This production employed Renaissance costumes and staging." The cast list includes women. The Titania/Hippolyta, Oberon/Theseus doubling was deployed. There are significant clues to indicate that this doubling was the practice at the time, however.

Bottom, the captive dupe, responds to this extraordinary declaration, along the way congratulating himself on his cleverness:

Methinks, mistress, you should have little reason
for that: and yet, to say the truth, *reason and
love keep little company together now-a-days; the
more the pity that some honest neighbours will not
make them friends.* Nay, I can glee upon occasion. (*Dream*, 3.1.126–130, [my emphasis])

This ordinary man reminds us that reason and love *should keep company* and not function in different arenas, that reason on its own results in harshness. He, of course, is making sense of what seems to be Titania's nonsense and her abusive demands on him. But by the end of the play, Titania's *alter ego*, Hippolyta, seems to have learnt from him, acknowledging that reason, on its own, might lead to wrong conclusions. In speaking to Theseus of the strange experiences the lovers recount, she remarks: "Tis strange my Theseus, that these lovers speak of" (*Dream*, 5.1.1).

But this is not "strange" as in unbelievable; it is an account worthy of notice because of its singularity. Theseus, on the other hand, dismisses their story, speaking as a Baconian – and as a perpetrator (as Oberon), who, if the story of the night were to be attended to, would implicate him in its debasement. Better to blame Puck for this error than admit responsibility (*Dream*, 3.2. 88–101) and it is easy to turn attention towards a surplus of fantasy and imagination and a lack of reason (and thus judgment) on the part of the lovers:

*More strange than true: I never may believe
These antique fables, nor these fairy toys.
Lovers and madmen have such seething brains,
Such *shaping fantasies*, that apprehend
More than cool reason ever comprehends.
The lunatic, the lover and the poet
Are of imagination all compact:
One sees more devils than vast hell can hold,
That is, the madman: the lover, all as frantic
[...]
Such tricks hath strong imagination,
[...]
Or in the night, imagining some fear,
How easy is a bush supposed a bear! (*Dream*, 5.1.2–22, [my emphasis])*

This speech functions as a warning against the Idol of the Theatre and the danger of "as-you-like-it" science – but is self-serving in the extreme. It reveals, too, the danger of "cool reason" and "judgment" for justice. It is not, as Theseus,

Bacon, and generations of lawyers assumed, an unimaginative endeavour. Rather, “cool reason” that sits upon a mind grounded in prejudice or bias or self-protection, is the epitome of “as-you-like-it” law that then becomes embedded within doctrine and dogma. But if the Baconian promise of rationality and reason is to mean anything, then it might be expected that a fair judge will overcome their own prejudice through open eyes and minds – that can only come from looking out from within, from the books into action, as the American Legal Realists of the 1930s had it, and from experience. So when Hippolyta responds with logic and rational thinking, observing and analysing what the lovers say and do that niggles with her because of her own experience, she ever so cleverly countermands what his eyes presume, because, as she observes, their stories are confirmed by each other. There is corroborative evidence:

But all the story of the night told over,
And all their minds transfigured so together,
More witnesseth than fancy's images
And grows to something of great constancy;
But, howsoever, strange and admirable. (*Dream*, 5.1.23–27)

Her arguments must have had some effect, because Theseus, as we already know, overturns his earlier edict of marriage or death, overbearing Egeus. True, he might just have been in a good mood, but Hippolyta/Titania, belatedly, was able to see and respond to their story, as advocate for truth and justice. The play, in this register, speaks to justice based in experience, and encourages challenges to convention and the forms in which law takes and how it operates.

Productions of *A Midsummer Night's Dream*, too, have challenged convention at least since Brook's seminal production of 1970, now to speak better to time and place, and to respond to joys and fears, criticisms and celebrations, and to define a sense of identity – or challenge it, asking audiences to pay attention to the world around them.⁵⁰ The play, regularly in production, seems to now take the temperature of the social and political world about it, and for it to *do* something, not just entertain. Of a new 2016 production by the Sydney Theatre Company, the artistic director of the company remarked: “For us to do the umpteenth production of it in Sydney, we had to have something new to say.”⁵¹ And that production had lots to say about justice and fairness, and the harshness of law, reflecting the tenor of the times.

⁵⁰ Rob Conkie, *Writing Performative Shakespeares: New Forms for Performance Criticism* (Cambridge: Cambridge University Press, 2016).

⁵¹ Andrew Upton, “‘A Message from Andrew Upton’ Program: *A Midsummer Night's Dream*,” (Sydney: Sydney Theatre Company, 2016).

It might have been thought that a production of the play in Australia in the late 1980s would also have been politically aware. Now self-confident, aware of its history and its mainstream obtaining some idea of injustices affecting indigenous Australians through popular music, such as through the politically aware band, *Midnight Oil*, fronted by lawyer and soon to be politician Peter Garrett, who made even the most unaware Australian familiar with injustices accorded to Aboriginal people in their 1987 hit *Beds Are Burning*, demanding land rights and justice at a time that it looked like *Mabo* might not come to fruition. And by 1991, Australians were soon humming along to a song, called *Treaty*, by the band *Yothu Yindi*. In 1988, its Yolngu members,⁵² had famously handed the then prime minister of Australia a document created out of bark called the Barunga Statement, seeking a treaty between indigenous and non-indigenous Australians. The then prime minister set a date of 1990 for a treaty – which at 2018, is still unfulfilled. The song, however, had a huge success, and in 1992, a dance version became a global hit.⁵³ *Yothu Yindi* had people around the world dancing to a claim for indigenous rights – by a band comprised mostly of indigenous people and mostly sung in *language*,⁵⁴ that is the language of the Yolngu people who made up *Yothu Yindi* and embedding law and culture within it – but including parts in English that people could sing along to “Treaty yeah, treaty now,” without any awareness of this unrealised promise and continued injustice “back in 1988.”

Sitting between these two immensely powerful instances of popular culture, the still relatively new Sydney Theatre Company,⁵⁵ began work on a production of *A Midsummer Night’s Dream*. It would form part of the annual summer Sydney Festival, from December 1989 until January 1990.⁵⁶ Yet this *Dream* did not take its audience into a politics of reconciliation, or challenge convention. In its own way, it chose to celebrate an Australian vernacular and place in the world, but

52 Dhimurru Aboriginal Corporation, *Yolngu Culture*, available at: <http://www.dhimurru.com.au/yolngu-culture.html> (last access March 20, 2017).

53 *Treaty (song)*, available at: [https://en.wikipedia.org/wiki/Treaty_\(song\)](https://en.wikipedia.org/wiki/Treaty_(song)), (last access March 20, 2017), reaching a position of No. 6 on the Billboard Hot Dance Club Play singles charts.

54 Trevor Marshallsea, “Why doesn’t Australia have an indigenous treaty?” (London) *BBC News (Online)* (May 24, 2017), available at: <http://www.bbc.com/news/world-australia-40024622> (last access March 20, 2017).

55 It was formed in 1979 out of antecedent organisations. The Company is funded as the flagship state theatre of the Australian state of New South Wales. There are numerous smaller companies throughout the state, and the other Australian states.

56 Sydney Theatre Company, “Archive: STC Productions of *A Midsummer Night’s Dream*” (*Sydney Magazine* (July 28, 2016), available at: <https://www.sydneytheatre.com.au/magazine/posts/2016/july/archive-a-midsummer-night-dream> (last access March 20, 2017).

through a new version of a Victorian Romantic expectation of the play, dressed differently and with different music, some local and some from the rest of the world, but now spoken as Australians in an Australian accent – and vernacular, that tried to keep up with the kids, with too many “modern instances” that ignored its text – at its peril.

4 *A Midsummer Night's Dream*, Sydney 1989 – 1990

It is mid-summer in Sydney in 1989, and a hugely controversial production of *A Midsummer Night's Dream* opens, directed by the supreme figure of Australian and Sydney theatre, Richard Wherrett. If anyone had been paying close attention, they might have noticed that the advertisement for the new production that would run from 7 December 1989 to 20 January 1990 was a little anomalous. “Stir up the Australian Youth to Merriment,” the newspaper advertising said.⁵⁷ Purists would have realised that this might have been a play on the original text “Stir up the Athenian youth to merriments” (*Dream*, 1.1.12) and perhaps conceived as an advertising gimmick.

Wherrett's new production turned “Shakespeare's fairy festooned forest becomes a 1980s style dance club called The Wood; the funny, fond and foolish “mechanicals” performing Pyramus and Thisbe become a rather gritty group of kids.”⁵⁸ With dramaturg and “translator,” May-Brit Akerholt, Wherrett's *Dream* not only reimagined the place, locale and shape of the production of the *Dream*, but rewrote it: “So what we've done amounts, in fact, to a major change in the text. But I don't think the audience will even realise. The language just rolls off the tongue more easily than the original.”⁵⁹ But the audience – and critics – did notice, and though the production was wildly successful, it went down in Australian theatre history as a fundamentally controversial and not entirely successful production. And his hope “If I'm right in this decision, I think it will be a pointer to where Shakespeare may go in the future,”⁶⁰ was not entirely unfounded, because textual changes to this and other Shakespearean plays have

57 “Sydney Theatre Co. presents *A Midsummer Night's Dream*,” (Sydney) *The Sydney Morning Herald* (November 29, 1989), 34.

58 STC, “Archive.”

59 Pamela Payne, “Dream of the Future,” (Sydney) *The Sydney Morning Herald* (December 8, 1989): Metro.

60 Payne, “Dream Future.”

become common, but as we have seen, there was nothing new in this kind of transmutation. What was missing was the exchange – between text and time and place, as Annette Fraser of Oxford Street, Newtown said in her letter of 4 January 1990, published in Sydney’s main newspaper:

SIR: Recently, I saw the Sydney Theatre Company’s production of *A Midsummer Night’s Dream*. I sat through the performance dazzled by the set, fascinated with the concept, disappointed with the acting (except for the brilliant Helen Buday) and strangely unsatisfied with the text.

As I read through the program after the performance, I saw that the director, Richard Wherrett, had seen fit to alter many of Shakespeare’s expressions to clarify meaning and to remove ambiguous, archaic terms. The examples provided confirmed my fears. In my opinion, the changes were ugly, clumsy and completely unnecessary.

Much of the beauty and poetry of Shakespeare’s language had been removed for nothing. Richard Wherrett must assume that his audience has all the intelligence of a deranged tarantula. Shakespeare is like music – it should not have to be translated. If the actors are competent and the direction clear, then the meaning will be obvious.

When I pay \$29 to see a Shakespeare play, I expect to see a Shakespeare play, not an abridged version.⁶¹

She was perhaps too kind. It was tedious, but maybe a few weeks into the production, things had improved. I had seen the production in “preview” just before it opened and it was big on style and short on substance. Richard Wherrett watched anxiously just behind where I sat with my friends, right at the back of the theatre, and couldn’t help but have noticed our irritation and impatience. He might have been a little unhappy with us, but we were all part of that party scene at the time and some of us, me included, had theatre backgrounds. We would always be harsh critics.

But there was one really exciting feature of the production which was transfixing – and memorable. The set by Brian Thompson featured a globe on a vast blue geodesic dome (playing of course on Shakespeare’s theatre), featured a world sat upside down, with Australia on top of the world, albeit inverted. It spoke to a new antipodean self-confidence, with Australia subverting its place in the world at the bottom of the globe, right on top. But along with that Australian sense of identity was an image of the play that sat firmly in New York City, at a nightclub called Nell’s, owned by an expatriate Australian, Little Nell.⁶² This was Wherrett’s vision, a celebration of a sexual politics that challenged conven-

⁶¹ Annette Fraser, “Bastardised Bard,” (Sydney) Letter to *The Sydney Morning Herald* (January 6, 1990): 16.

⁶² Payne, “Dream Future.”

tions of conduct that released the unbuttoned self, to be revealed in its real sense at night time.⁶³ It was a *Dream* that spoke to Sydney's famed Oxford Street, via New York, drag queens included, relocated to a pub owned by Theseus, who commissions a party to celebrate this wedding. This was familiar territory for Wherrett, who also staged drag acts. He was an accomplished director who was about to turn 50, who succumbed to an HIV illness 10 years later. It was *this* politics, not the broader political agenda swirling around at the time, that imbued this *Dream*.

One of Sydney's prominent critics was kind, but firmly insisted that this was an adaption – and the much vaunted discussion of the “translation” an irrelevancy:⁶⁴

THIS is video-clip Shakespeare. It has every indication of being designed and executed – quite brilliantly – for a generation for whom sound, image, colour and movement mean virtually everything, while the text is of little account.

The result is diverting, amusing, inventive and above all energetic, but it is not Shakespeare, any more than the Nimrod's extremely successful *The Venetian Twins* a decade ago was Goldoni.

That will reassure many people. There is nothing in it to be afraid of; it does not matter in the least if the audience does not understand the text because that text is only the trigger, the springboard – even the excuse – for the action.

It is curious, therefore, that Richard Wherrett's interesting program essay concerns itself so diligently with the question of what he cleverly calls “translating” the text for our times, yet the text is of such nugatory importance in this extravaganza.

There really was very little that was new, technology and time apart, and he also quietly remarked on its association with Wherrett's other interests – and scolded him for his lack of historical awareness of the transmutative character of the play. Adaptation, yes, Shakespeare, a firm no:

It is part-pantomime, part drag-show, part rock-opera, in other words, part of a long English tradition of flamboyant Shakespearean adaptation. The composer Henry Purcell did it in collaboration with Dryden, with Shadwell (*The Tempest*) and also with Elkanah Settle in *The Fairy Queen*, a florid adaptation of *A Midsummer-night's Dream*.⁶⁵

But it was one of the best and most scholarly of theatre critics in Sydney who picked it for what it was. Also noting its antecedents as a critical backdrop,

⁶³ Payne, “Dream Future.”

⁶⁴ John Carmody, “Dream Night for a Midsummer Sydney,” (Sydney) *Sun Herald* (December 10, 1989): 122.

⁶⁵ Carmody, “Dream Night.”

Bob Evans remarked that “Perhaps because of its emphasis on magic in an increasingly rational world, *Dream* has borne so many of the changes wrought in the theory and practice of theatre this century.”⁶⁶ This prescient remark spoke to future *Dreams*, but for now, in noting some of the key productions of that century, he tied this production to the excess of Beerbohm Tree’s extravaganza of the turn of the twentieth century (rabbits included), and then turns the screw:

There is more of Tree’s conspicuous consumption and tricky populism than Brook’s or Granville-Barker’s [noted earlier] radical sensitivity in the Sydney Theatre Company’s production [...] Wherrett’s 21st-century production echoes the excesses of a century ago. Where Tree and Irving had lashings of Mendelssohn’s *Sommernachtstraum* music, *corps de ballets* and children as fairies, Wherrett substitutes Malcolm McLaren’s vogueish Waltzing Darling and Phillip Glass with hot dance club numbers.⁶⁷

And here’s the rub. Though focussing on the Kottian elements of the play – sex, the unconscious:

What’s missing from the performances and the production is heart and soul and a sense of what’s at stake. The cast do not always manage the text, even in translation (which passes for the real thing and still may offend the purists) [...] It is the substance of the play which has been glossed over⁶⁸.

This inability to manage the text, missing what’s at stake. This was no transmutation, despite the attempt to find the play in place. But as theatre history goes, this wasn’t the end. *Dream* has now had four Sydney Theatre Company outings, and the one following Wherrett’s was altogether different. In 1997, a *Dream* that celebrated Indigenous Dreaming, “understood by their diverse Aboriginal adherents to be reality, religion, and the Law,”⁶⁹ took to the stage. Directed by Aborigi-

66 Bob Evans, “Glitter Outshines Substance,” (Sydney) *The Sydney Morning Herald* (December 11, 1989): 16.

67 Evans, “Glitter.”

68 Evans, “Glitter.”

69 Christine Judith Nicolls, “‘Dreamtime’ and ‘The Dreaming’: who dreamed up these terms?” *The Conversation* (January 29, 2014), available at: <https://theconversation.com/dreamtime-and-the-dreaming-who-dreamed-up-these-terms-20835> (last access March 20, 2017). See also Christine Black, “Maturing Australia through Australian Aboriginal Narrative Law,” *South Atlantic Quarterly* 110.2 (2011): 347–362; Christine F. Black, *The Land is the Source of the Law: A Dialogic Encounter with Indigenous Jurisprudence* (Abingdon: Routledge, 2010).

nal actor and director Noel Tovey and a stellar cast of Indigenous actors,⁷⁰ it changed the language of the *Dream* forever. It made small changes to the text,⁷¹ to remind non-Indigenous Australians of harms caused to them, but Tovey intended that the production *not* be political.⁷² Regardless, the transmutation of the production that mattered, and that is how it was read.⁷³ This new exchange, however, reminded that in the *Dream* and *Dreaming* law imbues life and justice matters, and law comes from land and place, the perfect manifestation of law grounded in life, place and justice.

However, injustice for indigenous Australians remained, in all facets of life. And the protection of law was also about to be radically confined. The last of the key judicial changes to land rights, the *Wik* case,⁷⁴ was decided just before Christmas 1996. Political disapproval followed, even though the legal principles on which the case was decided were sound.⁷⁵ In 1998, a so-called conservative judge was appointed to the High Court, and slowly the court would soon be predominantly populated by justices who would be less likely to “look beyond” the books and more likely to narrowly interpret law, as true Baconians. The promise of the 1980s seemed extinguished, but now, the court is made up, in part of judges who were only learning law in the 1970s and 1980s, and even now in the 1990s. What had changed then is now part of law. Turning back into the books now looks different, and the court is very different too. Even if eyes do not look up and out too often, it is harder now to ignore the world around.

And so too, *A Midsummer Night's Dream*. In the 2016 production mounted by the Sydney Theatre Company, the Tiwi Island actor, Rob Collins, was cast as Lysander.⁷⁶ Discussing his place as the only indigenous actor in the production he remarked:

70 Emma Cox, “‘What’s past is prologue’: Performing Shakespeare and Aboriginality in Australia,” *Multicultural Shakespeare: Translation, Appropriation and Performance* 8.23 (2011): 71–92, 80–85.

71 Emma Cox, “Negotiating Cultural Narratives: All-Aboriginal Shakespearean Dreaming,” *Southerly* 64.3 (2004–2005): 15–27.

72 Cox, “Negotiating Cultural Narratives,” 18.

73 Cox, “Negotiating Cultural Narratives”; Cox, “What’s past is prologue.”

74 *Wik Peoples v Queensland* [1996] HCA 40.

75 Maureen Tehan, “A Hope Disillusioned, an Opportunity Lost? Reflections on Common Law Native Title and Ten Years of the Native Title Act,” *Melbourne University Law Review* 27.2 (2003): 523–571.

76 *Tiwi Islands* available at: https://en.wikipedia.org/wiki/Tiwi_Islands (last access March 20, 2017).

The ideal scenario is to have an actor, regardless of race, creed or colour, picked for his ability [...] Mr Collins said he is drawing on his background to interpret *A Midsummer Night's dream*, comparing Shakespeare's fairies to similar mythologies in his own culture. "We have a wealth of stories of little men who steal children into the bushes."⁷⁷

This exchange, the transmutation of Shakespeare as part of a modern Australia, in its own way reflects the position of law now. We were left knowing that law, and the challenges to law in the absence of looking and seeing and being aware of justice was not just a problem, but a danger to a properly functioning polity. A few weeks later, Donald Trump was elected President of the United States of America.

⁷⁷ David Spicer, "Indigenous artists taking centre-stage at Sydney Opera House," (Australia) Australian Broadcasting Corporation (September 9, 2016), available at: <http://www.abc.net.au/news/2016-09-09/indigenous-artists-taking-centre-stage-at-sydney-opera-house/7832542> (last access March 20, 2017).