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The Monarchical Republic, Constitutionality, and the Legal Profession

Paul Raffield*

Abstract

It is the purpose of this essay to analyse the theme of legal constitutionality, by reference to the republican symbolism of the Elizabethan Inns of Court revels. Relevant to this analysis is the description by Gerard Legh of his visit to the Inner Temple revels of 1561-62, at which *Gorboduc* was originally performed. In a broader theoretical context, the themes addressed by *Gorboduc* are considered in relation to Elizabethan political literature (notably Sir Thomas Smith's *De Republica Anglorum*) and with regard to a prototypical work of late medieval/early modern, English constitutional theory, *De Laudibus Legum Angliae*, written by Sir John Fortescue. Finally, *Gorboduc* is considered in the context of Renaissance theories surrounding the didactic aim of poetic drama, with allusion to the ideal articulated by Sir Philip Sidney in *The Defence of Poesie*, that poetry performed a crucial political and moral role, which was to teach as well as to delight.

Keywords

Gorboduc, Inner Temple, Gerard Legh, John Fortescue, Common Law, Poetic Drama, Monarchical Republic, Inns of Court, Polity, Poesy.

I. Introduction

First the Musicke of Violenze began to play, during which came in upon the stage sixe wilde men clothed in leaves. Of whom the first bare in his necke a fagot of small stickes, which they all both severally and together assayed with all their strengthes to breake, but it could not be broken by them. At the length one of them plucked out one of the stickes and brake it: And the rest plucking out all the other stickes one after an other did easely breake them, the same being severed: which being conioyned they had before attempted in vaine. After they had this done, they departed the stage, and the Musicke ceased. Hereby was signified, that a state knit in unitie doth continue strong against all force. But being divided, is easely destroyed. As befell upon Duke Gorboduc dividing his land to his two sonnes which he before held in Monarchie.¹

This was the dumb-show that preceded Act One of *The Tragedy of Ferrex and Porrex*, better known as *Gorboduc*, written by two student members of the Inner Temple, Thomas Norton and Thomas Sackville, and performed during the Inner Temple revels of Christmas 1561-62 in the presence of Sir Robert Dudley. Shortly afterwards, on 18 January 1562, the play was performed by the same actors (all members of the Inner Temple) before the Queen, in the Palace of Whitehall. The “fagot of small stickes” to which the stage directions refer was a replica of the Roman *fascēs lictoriae* (“bundle of the lictors”). Used as a sign of office by subordinate government officials known as lictors, the *fascēs* is more generally recognized as a symbol of the Roman Republic, representing the political ideal of strength through unity. The use of republican symbolism by Norton and Sackville is peculiar, given that the polity depicted in the play is predicated upon a monarchical model (*Gorboduc* is described in the *dramatis personae* as “King of great Brittain”).

It is the purpose of this essay to address the above peculiarity in the context of the Elizabethan monarchical republic, as reflected in the cultural, social and juridical practices of the English legal profession, and manifested especially in the mimetic rites of the Inns of Court. Especially relevant to my analysis is the description by Gerard Legh of his visit to the Inner Temple (included in *The Accedens of Armory*, published in 1562) during the revels at which *Gorboduc* was originally performed, locating the play in the institutional landscape of the legal community at the Inns of Court. In a broader theoretical context, I consider the republican themes addressed by *Gorboduc* in relation to contemporaneous political literature (notably Sir Thomas Smith's *De Republica Anglorum*) and with reference to a prototypical work of early modern, English constitutional theory, *De Laudibus Legum Angliae*, written by the late fifteenth-century, Lancastrian Chief Justice, Sir John Fortescue. Finally, I analyse the play in the context of Renaissance theories surrounding the art of poetic drama, with especial reference to the ideal articulated by Sir Philip Sidney in *The Defence of Poesie*, that poetry performed a crucial political and moral role (in conformity with the didactic purpose of its ancient Greek progenitor), which was to teach as well as to delight.²

II. The Republic of the Inner Temple, 1561-62

Patrick Collinson employed the term “monarchical republic” with which to encapsulate the idea of the “traditions of localised self-government” in early modern England and the centrality of these traditions to the quotidian governance of the Elizabethan state.³ At the outset, it is important to emphasize that in Tudor England the word “republic” was not antithetical to the institution of monarchy; rather, *Res*

Publica referred to the common-weal or state, literally the “public thing”. It was this definition that the lawyer and diplomat Sir Thomas Smith contemplated when in 1565 he wrote *De Republica Anglorum*, published in 1583. For Smith, belief in the English Republic was totally compatible with the proposition that “the kingdome of Englande is farre more absolute than either the dukedom of Venice is, or the kingdome of the Lacedemonians was.”⁴ Nor was Smith foreseeing the seventeenth-century constitutional and political conflict between Crown and Parliament when he stated that “The most high and absolute power of the realme of Englande, is in the Parliament.” The absolute power to which Smith here refers is simply the sovereign power to make laws, “whereupon justlie no man can complain, but must accommodate himself to finde it good and obey it.”⁵ In other words, as Mary Dewar notes, the stark assertion by Smith of the absolute power of Parliament is concerned not with the relationship between Crown and Parliament, but rather with “the relationship between government and the governed.”⁶ The English *Res Publica* or “Common Wealth”, which Smith envisaged, had a king at its head but its body was made up “of a multitude of free men collected together and united by common accord and covenantes among themselves”.⁷ For all its intimations of the absolute power of king and Parliament, the English commonwealth described by Smith is predicated upon an Aristotelian model, in which the bond of friendship, or alternatively what may be termed civic association, forms the basis of the ideal polis.⁸

The Inner Temple revels of 1561-62, at which *Gorboduc* was first performed, were attended on 27 December by the herald and scholar Gerard Legh. His description of these festive rites and the concomitant observations which he made, regarding the communitarian ethos of the Inner Temple, form the distinctive conclusion to his book on heraldic emblems, entitled *The Accedens of Armory*. For Legh, honourable

members of the Inner Temple were the embodiment of classical virtues; while the Inn itself was a manifestation of the utopian state, whose citizens lived and learnt together in relationships of total concord.⁹ Symbolism drawn from the classical world is a salient feature of Legh's account of the revels, in which Sir Robert Dudley played the part of Palaphilos, Constable-Marshal to the goddess Pallas Athena. According to Legh, he met Palaphilos in Temple Church, whereupon the Constable-Marshal "courteously saluted me saying, for that I was a stranger, and seeing by my demeanour a lover of honour I was his geste of right".¹⁰ The Inner Temple was honouring Dudley at the revels for his "earnest intercession to the Queen", regarding a dispute with the Middle Temple over ownership of one of the Inns of Chancery, Lyon's Inn. Sir William Dugdale records that the Middle Temple had lost valuable land when Somerset House was built and consequently had "endeavoured to take away Lyons Inn" from the Inner Temple. Dudley's intervention was successful in ensuring that Lyon's Inn maintained its affiliation to the Inner Temple. The "magnificent Christmas" of 1561 (as described by Dugdale)¹¹ was of unprecedented extravagance, in celebration of the above outcome.

The dispute between the Middle Temple and the Inner Temple is relevant to the argument that the Inns of Court were constituted as discrete, microcosmic republics: they were (and they remain) self-regulating, autonomous institutions, outside the jurisdiction of the Cities of London and Westminster. Collinson has argued that in political terms, early modern England functioned within a monarchical framework as "a series of overlapping, superimposed communities which were also semi-autonomous, self-governing political cultures."¹² The Inns of Court may collectively be described as one such political culture, a feature that distinguished them from all others being their extraordinary level of independence from interference by external

agents (most notable in this context was the Crown)¹³ and the absorption of their members by the royal court. Elevation from the Inns of Court to the royal court was an obvious route to political advancement, and the revels provided a useful forum at which potential “favourites” might readily be identified.¹⁴ This pragmatic approach to royal patronage was explicitly acknowledged in the Introduction to a dramatic work entitled “The Misfortunes of Arthur” (a dramatization of the mythography surrounding the life and death of King Arthur, written by Thomas Hughes, *et al.*), which was performed for Elizabeth I by members of Gray’s Inn, on 28 February 1588. The entertainment started with five student members of Gray’s Inn being presented to the Queen. They were captives of three Muses, who offered them as a gift to Her Majesty, with the following explanation:¹⁵

A dame there is whom men Astrea terme,
 She that pronounceth oracles of lawes,
 Who to prepare fit servants for her traine,
 As by commission, takes up flowring wits...

In Book I of Ovid’s *Metamorphoses*, Astraea, Goddess of Justice, fled from mankind’s wickedness during the Iron Age, ascended to the heavens and became the constellation Virgo. As counsellors, the captive law students would of course serve the Goddess of Justice, but the classical symbolism extended beyond a simple representation of the relationship between lawyers and justice. In the iconography that surrounded Elizabeth I, the Virgin Queen of England was strongly associated with Astraea.¹⁶ The implication of the above lines from the Introduction to “The Misfortunes of Arthur” is clear: Astraea/Elizabeth takes up the “flowring wits”/law students, preparing them for a life of service to “her traine”: the student counsellors are to become counsellors to

the Queen. The relevance of the poetic muse to juridical procedure is a theme to which I shall return.

As Wilfrid R. Prest has noted, barristers of the early modern period went by the term “counselor”, a title they shared with advisers to the monarch. Prest makes the reasonable observation that the shared title may not have been entirely coincidental, given the expectation that common lawyers would be involved in all aspects of public life.¹⁷ It seems that Sir Thomas Elyot envisaged such duality of meaning when, in *The Book Named the Governor*, he asserted that the study of law equipped men with “so excellent wisdom that throughout all the worlde shulde be founden in no comune weale more noble counsaylours”.¹⁸ Godfrey Goodman, Bishop of Gloucester between 1624 and 1655, was exaggerating, but arguably only slightly, when he stated that lawyers “became more absolute governors than any legal prince in Christendom.” In the next sentence, he extended the analogy between the power of the legal profession and the absolute rule of princes: “So that to be a lawyer, which I did conceive to be ministerial, was indeed to be a governor of one’s country.” He lists some of the various aspects of national governance in which lawyers played a central and indispensable part. This included fulfilling roles as recorders, town clerks, justices of the peace, trustees (“a feoffee in trust”), and executors.¹⁹ Goodman was of course writing from the perspective of a seventeenth-century prelate; but his depiction of lawyers as pivotal and pervasive figures in the governance of the nation was not inaccurate, nor would it have been in Elizabethan England. The infiltration of the legal profession into all areas of public life was facilitated by the statutory recognition of the Bar in 1531, as an independent body of practitioners whose members were qualified for public office (the Statute of Sewers, 23 H. 8. cap. 5), thus enabling the institutional expansion of the legal profession throughout the remainder of the sixteenth century. Colin Burrow

convincingly opines that early modern England was effectively governed through an interconnected web of “‘networks and affinities’, ‘juridical structures’, and ‘projects’”,²⁰ a model of governance to which Goodman coincidentally alluded, and to which may be added the observation that common lawyers were identifiable in every area of these networks, affinities and projects. Through their presence and influence at the royal court, they were demonstrably at the centre of the web; but lawyers also expected their brethren to be integral to the governance of the common-weal at all levels: nationally, regionally, and locally.²¹

The foundational skills that enabled lawyers to fulfill their roles as magistrates of the common-weal were of course acquired at the Inns of Court,²² and (as Legh reflected on his visit to the Inner Temple) the young members of the Inn “repaire thither to learne to rule”. But the primary motivation for many of these men was not the acquisition of technical, juridical and forensic skills: these were merely the instruments that facilitated election to the magistracy of England. Indeed, in the thirty pages of *The Accedens of Armory* that constitute Legh’s description of his visit, there is no reference to the pedagogical role of the Inn; its author concentrating instead on the themes of communality and amity, all against a backdrop of antiquity in which characters from classical mythography meld into the imagistic realm of the Inner Temple (the utopian nature of which is lent emphasis by Legh’s description of it as an “Iland”). The Inner Temple as described by Legh is a *locus amoenus*, an idyllic “province...not great in quantite, but auncient in trewe nobilitie”,²³ and immune to the jurisdiction of municipal law that pertains beyond its walls and gates. As with other sixteenth-century texts of a broadly republican (although not anti-monarchical) nature, the human body serves as a symbol of the state (in this instance the symbolic state or

empire of law); each organ, tendon, and member working interdependently for the good of the whole.²⁴

That he of you, and you of him, being severall members, maye create and conioyne, one unseperable body, as the whole maye supporte the partes, eche parte serving his place to upholde the whole. For things devided, carye their onelye strength, which being together, double their enduring.

The image of the “one unseperable body” recalls the Roman *fascēs*, the bundle of sticks deployed in the dumb show before Act One of *Gorboduc*: “a state knit in unitie doth continue strong against all force. But being divided, is easely destroyed.” Whilst not intrinsically critical of the institution of monarchy *per se*, there is strong emphasis throughout *The Accedens of Armory* on the virtues of “politique government”, or *ius politicum*; which is to say, government with the assent of the populace.²⁵ In the canon of sixteenth-century humanist and neo-classical literature, republican sentiments such as those expressed by Legh (and earlier, by Elyot) were incompatible with the Imperium of the monarch. This was an issue of especial importance following the Act of Supremacy 1534 (26 H.8. cap. 1), which had the effect of arrogating to the Crown the necessary jurisdictional authority with which to enforce the Imperium.

Legh argued that it was through the communality of the Inn that “amitie is obtained & continued”, and that by being “norished together in one place”, honourable members might develop “such unitie of minds and manners, as lightly never after is severid, then whiche is nothings more profitable to the comon weale”.²⁶ The tone of the above passage is Aristotelian, implying the existence of an active citizenry, motivated in the best interests of the commonwealth. The reference to “amitie” may be interpreted not only in the context of relations between members of

the Inn, but also with regard to the profit that such amity might bring the “comon weale” of the nation. The ancient political arrangement of *amici principis* (friends or counsellors to the ruler) was indissolubly linked by humanist writers of the sixteenth century to the principle of limited monarchy.²⁷ Elyot, for example, wrote of the “mooste pernicious danger”, which is faced by those rulers who “refuse counsaile, or prohibite libertie of speche”. He cited the instance of Plutarch, King of Lacedaemonia, who, when asked how a realm should “be best and mooste surely kepte”, replied: ““If” (saide he) ‘the prince give to his frendes libertie to speake to hym things that be iuste, & neglecteth not the wronges that his subiecte sustaineth.’”²⁸

III. *De Laudibus Legum Angliae*: In Praise of English Law?

The originary of the political relationship between king and mediating friend or counsellor is *The Politics* of Aristotle, in Book III of which (as John Guy notes) the friends of the monarch perform the function of subverting “the legitimacy of monarchy based solely on the sovereign’s will.”²⁹ In the late fifteenth century, the role of counsellor in espousing the political and societal benefits of limited monarchy to a future king was notably represented in *De Laudibus Legum Angliae*, written by Sir John Fortescue (Lord Chief Justice in the reign of Henry VI), c. 1470. The relationship of *amicitia*, in which freedom of speech was a *sine qua non* for the relationship between prince and learned counsellor, is a defining feature of *De Laudibus*, where the rhetorical device of the dialogue between the Lord Chancellor and Edward, Prince of Wales (both of whom were exiled in France during the Wars of the Roses) serves to humanize the role of *amicus principis*, in the form of the fictionalized version of himself which Fortescue presents to the reader.³⁰ To some

extent, Fortescue's *De Laudibus* (and his later work, *De Dominio Regali et Politico*, published in 1715 as *Difference Between an Absolute and Limited Monarchy*, and in 1885 under the title *The Governance of England*) performed the function of a template or prototype for the numerous treatises of the sixteenth century on the generic subject of kingship.³¹ *De Laudibus* is distinguished from these by its exclusive and particular concern with English kingship and the relationship therein between Crown and common law. A principal theme of this work was the constitutional settlement and especially the role of common law in restricting the power of the monarch (in the early seventeenth century, principles of law as propounded in *De Laudibus* were cited as a form of precedent by Sir Edward Coke throughout *The Reports*, in order to imply the constitutional hegemony of common law; for example, in his report of *Postnati. Calvin's Case*, Coke cites Fortescue in support of his thesis that "the law of nature is part of the law of England").³² The nature of English government is accordingly "not only Regal, but Political" (*dominium politicum et regale*).³³ The apparent parity between "regal" and "political" establishes Fortescue's work as a Bractonian interpretation of limited monarchy: "*Ipse autem rex non debet esse sub homine sed sub deo et sub lege, quia lex facit regem*" ("The king must not be under man but under God and under the law, because law makes the king").³⁴ The word "political" is used by Fortescue to imply not only the consent of Parliament, but also the guidance and wise counsel of the judiciary, who perform a rabbinical or didactic role, as "*Sacerdotes, (Priests): The Import of the Latin Word (Sacerdos) being one who gives or teaches Holy Things*".³⁵

The enduring title *De Laudibus Legum Angliae* was given to Fortescue's work by John Selden, who edited the 1616 edition. It is at least arguable that Selden intended the title to be less a triumphal statement in praise of the superiority of

English law over rival jurisdictions, than a topical allusion to the capacity of English law to constrain the absolutist tendencies of the early Stuart monarchy.³⁶ Prior to this edition, the first English translation of Fortescue's work was Robert Mulcaster's, published in 1567 under the title *A Learned Commendation of the Politique Lawes of England*.³⁷ The year of publication (less than ten years after the accession of Elizabeth I) is relevant to the thesis that in the monarchical republic of Elizabethan England, moves were afoot to redress the imbalance of power, initiated by the adherence of Henry VIII (following the 1534 Act of Supremacy) to an anti-Bractonian political philosophy that rendered the king "under God but not the law, because the king makes the law".³⁸ In Henrician England, to use the language of Fortescue, "regale" had prospered at the expense of "politicum".

The theme of counselling (and where appropriate, gently chiding or rebuking) is established in the Introduction to *De Laudibus*, in which Fortescue informs the reader that the young Prince Edward "applied himself wholly to Martial Exercises", but that occasionally he would "attack and assault the Young Gentlemen his Attendants", for which abuse of his princely role the Lord Chancellor "accosts the Prince".³⁹ Instead of explicitly reprimanding the Prince for his despotic conduct, the Lord Chancellor persuades him that, while he is "right glad" to see him practise the skills of warfare, the prince is destined to be a king rather than a soldier, and that therefore "I could wish to see You Zealously affected towards the Study of the Laws".⁴⁰ In his depiction of the relationship between the Lord Chancellor and the Prince, Fortescue was presenting two archetypes: the wise and benevolent patriarch and the impressionable, impetuous prince (a relationship which Shakespeare was to dramatize to extraordinary effect in *The Second Part of King Henry Fourth*, in the scenes between the Lord Chief Justice and Prince Henry).⁴¹ No such archetypal

relationship attended the three successors (four, if the nine-day “reign” of Lady Jane Grey is included) to Henry VIII, thus complicating the nature of the bond between monarch and counsellor. Edward VI ascended the throne in his minority, rendering it the least problematic of the post-Henrician, Tudor successions: precedent existed for the creation of a council of regency, which would govern until the King achieved his majority. Regarding the accessions of Mary I and Elizabeth I, the issue of gender politics and in particular the status of an unmarried Queen regnant was thrust to the forefront (to Mary may be attributed the additional factor of her extreme devotion to the Papacy). For the purposes of this essay, I must confine myself to discussion of Elizabeth I, although it is worth noting the unusual personal circumstances surrounding the succession of her two immediate predecessors, as a cumulative effect of these was the consequent discussion both in royal court and Inns of Court circles as to the nature of kingship itself.⁴² Such was the case with the Inner Temple revels of 1561-62, as witnessed especially in the subject matter of *Gorboduc*.

In 1558, prior to the death of Mary I, John Knox had written and published *The First Blast of the Trumpet Against the Monstrous Regiment of Women*. Described as “the classic of misogyny”, Knox railed therein against the perceived idolatry of rule by a woman:⁴³

And no lesse monstrous is the bodie of that comonwelth, where a woman beareth empire. For ether doth it lack a lafull heade (as in very dede it doth) or els there is an idol exalted in place of the true head.

John Aylmer (who, following his exile in Switzerland, returned to England immediately after the accession of Elizabeth I) responded to the misogynist rant of Knox in *An Harborowe for faithful Subiectes*, in which he robustly defended the

principle of female succession to the Crown and strongly rebutted the arguments of Knox. It is noteworthy of *An Harborowe* that Aylmer defended female monarchy not solely on the grounds of the right of the regnant Queen to succeed, but rather because “it is not she that ruleth but the lawes, the executors whereof be her iudges, appointed bi her, her iustices of peace and such other officers”.⁴⁴ The constitutional settlement described by Aylmer is a mixed polity, along the lines envisaged by Fortescue. Aylmer termed these constituent parts “Monarchie”, “Oligarchie” (the nobility), and “Democratie” (the gentry): “wherein ech one of these have or shoulde have like authoritie.”⁴⁵ Of far greater resonance than the triangular demarcation of power above, as sketched by Aylmer, is his statement that the realm is governed not by the Queen, but by the laws, and executed by the judiciary and other officers of the legal system.⁴⁶ Writing in 1559, Aylmer was anticipating the acephalous nature of Elizabethan rule, characterized by Collinson as “headless conciliar government.”⁴⁷

The perils of headless government are writ large in the plot of Norton and Sackville’s *Gorboduc*, in which the King

divided his realme in his life time to his sonnes, Ferrex and Porrex. The sonnes fell to discention. The yonger killed the elder. The mother that more dearely loved the elder, for revenge killed the yonger. The people moved with the crueltie of the fact, rose in rebellion and slew both father and mother...And afterwarde for want of issue of the prince whereby the succession of the crowne became uncertaine, they fell to civil warre.⁴⁸

Norton and Sackville subverted and dramatized the themes of the ideal *Res Publica*, which Legh addressed in allusive terms in *The Accedens of Armory*. The authors inverted Legh’s utopian vision of the idyllic common-weal, offering instead a

dystopian representation of a headless and fractured state. The play is noteworthy not only in an historical and literary sense, as the first Five-Act, Senecan tragedy to be written in blank verse and performed on the English stage (as well as being a source for Shakespeare's *Titus Andronicus* and *King Lear*); but also, for the audacity of its authors in devising a plot in which the royal succession provided the narrative thrust of the play.⁴⁹ In *The Accedens of Armory*, Legh does not refer directly to the performance of *Gorboduc* at the Inner Temple revels of 1561-62; but he makes a guarded reference to the Tudor royal succession at the start of his account, which testifies to his awareness of the problem, even only three years into the reign of Elizabeth I.⁵⁰

our most dread soveraigne, the Queenes maiestie that now is, of whome I pray
God, if it be his will, to send some fruite, as well to the comfort of her maiestie,
as to the greate ioye of all her subiectes, & stable suertie of this realme.

In *Gorboduc*, advice over the succession is offered to the King from a variety of sources: three of the principal roles are described in the *dramatis personae* as counsellors to King Gorboduc and his sons Ferrex and Porrex. These are Arostus, Dordan, and Philander (a fourth character, Eubulus, although described as a secretary to the King, acts *ex officio* as *amicus principis*). The advice to Gorboduc not to divide the realm between his sons was ignored, to devastating effect. Dordan prophetically foresaw the dreadful consequences to the realm: "I feare the fatall time now draweth on, / When civil hate shall end the noble line / Of famous Brute and of his royal seede."⁵¹ Insofar as Brutus was the archetype and originary of unitary English kingship, the audience would immediately have associated this reference with Elizabeth I and the Tudor dynasty. So long as a successor to the unmarried, virgin

Queen remained unknown or unnamed, the possibility on her death of descent into civil war was a prescient fear: the precedent lay in the internecine fight for dynastic supremacy between the Houses of York and Lancaster, enacted less than a hundred years before the first performance of *Gorboduc*. That a primary purpose of *Gorboduc* was to address through historical or mythical allusion the issue of the royal succession may be inferred from a report of the performance before the Queen at Whitehall, on 18 January 1562, in which the author referred to speculation concerning the possible marriage of Elizabeth to either Robert Dudley or King Eric XIV of Sweden:⁵²

The shadowes were declared by the Chor[us]. Firste to signyfie unytie, the 2.
[second] howe that men refused the certen and toocke the uncerten, wherby
was ment that yt was better for the Quene to marye with the L[ord] R[obert]
knownen then with the K[ing] of Sweden.

IV. Poet-Lawmakers of the Renaissance

In *The Defence of Poesie* (published in 1595, but written c. 1583), Sir Philip Sidney expressed great admiration for *Gorboduc*, especially its “stately speeches, and well sounding Phrases”. He appreciated also the “notable moralitie” of the play, “which it doth most delightfully teach; and so obtayne the very end of Poesie”. Sidney thus acknowledged the didactic purpose of poetry, as he did the political function of tragedy, when he asserted that the tragic form “maketh Kinges feare to be Tyrants”. Sidney was emphatic that poetry was a form of mimesis, representation, or imitation (a definition which he derived from *The Poetics* of Aristotle): “a speaking picture: with this end, to teach and delight.”⁵³ In a similar work, by Sidney’s near contemporary George Puttenham (a nephew of Sir Thomas Elyot), entitled *The arte of*

English poesie, the author reminded the reader of the foundations of western law in the mythography of ancient Greece; the strong implication being that law was originally recorded neither as imperial proclamation nor as statute, but rather as a work of art. Puttenham related the myth of Orpheus, who tamed wild beasts through the medium of harmonious sound, which emanated from his lyre. Thus was recorded through metaphor the civilizing moment when law was introduced into society.⁵⁴ Much as Fortescue attributed a sacerdotal role to lawyers, giving or teaching “Holy Things”; so Puttenham described the ancient poets as “the first Priests and ministers of the holy misteries.” It was this “holiness of life” (combined with their gravity, wisdom, and worldly experience), which qualified poets to become

the first lawmakers to the people, and the first polititiens, devising all expedient meanes for th'establishment of Common wealth, to hold and containe the people in order and duety by force and vertue of good and wholesome laws, made for the preservation of the publique peace and tranquillitie.⁵⁵

In the early nineteenth century, the poet Shelley made an identical observation to that made by Puttenham: it was the participation of poets in the eternal and the infinite, together with their understanding and expression of humanity, that qualified them to be “the institutors of laws, and the founders of civil society”.⁵⁶ At the end of the twentieth century, Martha Nussbaum made the same claim: with reference to Walt Whitman’s “By Blue Ontario’s Shore”, Nussbaum cited the “poet-judge” as the embodiment of equitable justice.⁵⁷ This “equable man” was the personification of natural equity (or *epieikeia*) in law.⁵⁸

Returning to Sidney's definition of poetry as a "speaking picture", he was alluding to the capacity of this particular aesthetic form to act upon the visual imagination through the use of metaphor. As S.K. Heninger has noted regarding *The Defence of Poesie*, Sidney anticipated by nearly four hundred years the questions asked by Wittgenstein, regarding the correlation between the word and the pictorial image: "What really comes before our mind when we *understand* a word? – Isn't it something like a picture? Can't it *be* a picture?"⁵⁹ In the mimetic realm of the Inns of Court revels, the speaking picture manifested itself through the medium of poetic drama, written by members of the Inns, as in the case of *Gorboduc*.⁶⁰ Norton and Sackville were not unique among their fellow lawyers in attempting to master the poetic craft. I refer above to *Certaine Devises and shewes presented to her Maiestie by the Gentlemen of Grayes-Inne at her Highnesse Court in Greenwich*, which was a collaborative effort between junior and senior members of Gray's Inn. These included Francis Bacon, Francis Flower, William Fulbecke, Thomas Hughes, John Lancaster, Nicholas Trotte, Christopher Yelverton; and a member simply entitled "Maister Penroodocke", who (with Francis Flower and John Lancaster) "directed these proceedings at Court."⁶¹ The Introduction that precedes "The Misfortunes of Arthur" (the principal entertainment in *Certaine Devises and shewes*) articulated concern expressed by some Elizabethan lawyers over the use and purpose of legal language. The three Muses who processed before the Queen with their five captive law students complained that lawyers held poetry "in most disdaine"; that, although lawyers were "More bound to words then is the poets lore", they spoke in "A tongue that barbarisme it selfe doth use": the hybridized language of the English law courts, law-French.⁶² The Introduction or Prologue to "The Misfortunes of Arthur" was of course part of the entertainment, one of the "Certaine Devises" presented to the Queen,

which makes it even more curious that the occasion should have been used by its lawyer-poet authors as a forum for self-scrutiny and self-criticism. One of the captive law students responded defensively to the Muse, arguing: “Yet never did we banish nor reject / Those ornaments of knowledge”, and that “With Muses still we intercourse allowe, / T’enrich our state with all their forreine freight”. The same student suggested even that the practice by lawyers of the poetic craft had not been confined to this one auspicious occasion: “Not now the first time as your selves best knowe, / Ye Muses sought our services to commaund”.⁶³ If, as Nussbaum claims, “only poets are fully equipped to embody norms of judgment”; and further, that the work of poets represents “equitable judgment[s]”,⁶⁴ then the importance of poetry, or rather the importance of its ethical and didactic context to the lawyer, becomes self-evident.

In 1588, the same year in which *Certaine Devises and shewes* was performed at Greenwich, *The Lawiers Logike*, by Abraham Fraunce, was published. In it, Fraunce (poet, scholar, member of Gray’s Inn, and protégé of Sir Philip Sidney) criticized legal education at the Inns of Court for its lack of ethical, logical, and structural foundation. The inevitable consequence of such an education, he argued, was to produce legal technocrats (described pejoratively by Fraunce as “upstart *Rabulae Forenses*”), rather than juristic scholars. In a peculiar echo of the criticism levelled at lawyers by the Muse in *Certaine Devises and shewes*, Fraunce lambasted a legal system the spoken language of which was a bastardized form of Norman French (or “Hotchpot French”, as he termed it): “having in seaven years space met with six French words, home they ryde lyke brave Magnificoes, and dashe their poore neighboures children quyte out of countenance, with Villen in gros, Villen regardant, and Tenant per le curtesie”.⁶⁵ Returning briefly and finally to the Inner Temple revels

of 1561-62 and the fantastical description of these by Legh in *The Accedens of Armory*, the allusions therein to the poetic muse and the centrality of poetry to the institutional life of the Inn are striking. They suggest that the characterization by Fraunce of Elizabethan legal education as “hard, harsh, unpleasant, unsavoury, rude and barbarous” was neither fair nor entirely accurate.⁶⁶ Apart from celebrating the part played by Dudley in ensuring that the Inner Temple retained its affiliation with Lyon’s Inn, it appears that these revels served to solemnize the inauguration of Pegasus as the newly adopted emblem of the Inner Temple; replacing the original emblem of two Knights Templar, sitting astride a warhorse.⁶⁷ Legh narrates the myth of Pegasus, emphasising the correlation between the legendary winged horse and the poetic muse: Pegasus struck the peak of Mount Helicon with its hoof, thereby uncovering the waters of the Hippocrene, the source of poetic inspiration. Relating the myth to the Inner Temple and its lawyer-poets, Legh states that the inspirational waters burst their banks, reaching distant countries, and washing over foreign “Temples, dedicate to Godes, as places meete for Pallas Muses, to inhabite and make there pastance.”⁶⁸

It is noteworthy in relation to discussion of both an aesthetics of Elizabethan legal language and the poetic imagination of common lawyers, that on 29 November 1561, less than one month before Legh visited the Inner Temple, the Chief Justice of the Common Pleas (Sir James Dyer) and six of his judicial brethren, “by the queen’s command assembled at Serjeant’s Inn in Fleet-Street, to confer together in order to understand the law in a certain case”.⁶⁹ The case in question was the *Case of the Dutchy of Lancaster*, and the salient issue of law was whether the Crown was bound by the terms of a lease made by Edward VI during his minority. The decision of the court that the Queen could not avoid the terms of the lease made by her half-brother,

“by reason of his nonage”, was based upon the metaphysical phenomenon of the king’s two bodies: “what the king does in his body politic cannot be invalidated or frustrated by any disability in his natural body.”⁷⁰ Much has been written about this case since Ernst H. Kantorowicz wrote his magisterial work on the subject of medieval political theology, *The King’s Two Bodies*;⁷¹ but commentators tend to overlook the fact that Dyer and his fellow judges employed the visual imagery of the two conjoined bodies as a means of representing the principle that, like her subjects, the Queen was accountable to law, as interpreted by her judges. In *Willion v Berkley*, heard in Trinity term 1561, only a few months before the *Case of the Dutchy of Lancaster*, the argument that the body natural of the king was subsumed by the body politic was rejected by a majority of the judges; Anthony Brown, J. stating that “the person of the king shall not rule the estate in the land, but the estate in the land shall rule the person of the king.”⁷² These and other cases heard during the 1560s illustrate the manner in which the poetic imagination of the judiciary was directed towards representing the constitutional theory of limited monarchy. In the Elizabethan monarchical republic, the Crown was subject to law, the purpose of which was “to relieve the people from trouble, and to take away mischief from them”.⁷³

* School of Law, University of Warwick.

¹ Thomas Norton and Thomas Sackville, *The Tragidie of Ferrex and Porrex, set forth without addition or alteration but altogether as the same was shewed on stage before the Queenes Maiestie, about nine years past, vz. the xviii day of Ianuarie. 1561. by the gentlemen of the Inner Temple* (London: Iohn Daye, 1570), sig. A.iii.r.

² Alasdair Macintyre argues convincingly that in the classical cultures of the ‘Greek, medieval or Renaissance...the chief means of moral education is the telling of stories’, Alasdair Macintyre, *After Virtue: A Study in Moral Theory* (London: Duckworth, 1981), 114.

³ Patrick Collinson, “The Monarchical Republic of Queen Elizabeth I,” in *Elizabethans* (London: Hambledon and London, 2003) 31-58, 33. See also, John F. McDiarmid ed., *The Monarchical Republic of Early Modern England: Essays in Response to Patrick Collinson* (Aldershot: Ashgate, 2007).

⁴ Sir Thomas Smith, *De Republica Anglorum*, ed. Mary Dewar (Cambridge: Cambridge University Press, 1982), 85. On the functions of the Elizabethan Parliament, see Geoffrey R. Elton, “Parliament in the Sixteenth Century: Functions and Fortunes,” *The Historical Journal* 22 (1979): 255-278; also, Geoffrey R. Elton, *The Parliament of England, 1559-1581* (Cambridge: Cambridge University Press, 1986).

⁵ Smith, *De Republica*, 78.

⁶ Smith, *De Republica*, Introduction, 4.

⁷ Smith, *De Republica*, 57.

⁸ Aristotle, *The Nicomachean Ethics*, trans. J.A.K. Thomson (London, Penguin, 2004), 200–201, Bk VIII.I.1155a1–32. Colin Burrow observes of *De Republica Anglorum* that its author (despite his claims to the contrary) presents ‘a single, Aristotelian model of what a commonwealth suited to the English temperament should be’: Colin Burrow, “Reading Tudor Writing Politically: The Case of 2 *Henry IV*,” *The Yearbook of English Studies* 38 (2008): 234-250, 240.

⁹ Legh’s visit to the Inner Temple is discussed in Peter Goodrich, “Eating Law: Commons, Common Land, Common Law,” *The Journal of Legal History* 12 (1991): 246-267.

¹⁰ Gerard Legh, *The Accedens of Armory* (London: Richard Tottel, 1576), sig. 120r.

¹¹ Sir William Dugdale, *Origines Juridicales or Historical Memorials of the English Laws* (London: F. & T. Warren, 1666), 150.

¹² Patrick Collinson, “*De Republica Anglorum*: Or, History with the Politics Put Back,” in *Elizabethans*, 1-29, 16.

¹³ An example of such independence was the exemption of the Inns of Court from compliance with Tudor sumptuary laws; see Paul Raffield, *Images and Cultures of Law in early Modern England: Justice and Political Power, 1558-1660* (Cambridge: Cambridge University Press, 2004), 157-182.

¹⁴ At the Inner Temple revels of 1561-62, Christopher Hatton, a law student noted for his dancing skills, officiated as “Master of the Game”: as Dugdale notes in parentheses, “He was afterwards Lord Chancellour of England” (this despite his lack of experience in the legal profession), *Origines*

Juridiciales, 150. On the “Favourite” in Elizabethan and Jacobean England, see J.H. Elliott and L.W.B. Brockliss eds., *The World of the Favourite* (New Haven: Yale University Press, 1999).

¹⁵ Nicholas Trotte, “The Introduction” in Thomas Hughes (*et al.*), *Certaine Devises and shewes presented to her Maiestie by the Gentlemen of Grayes-Inne at her Highnesse Court in Greenwich* (London: Robert Robinson, 1587).

¹⁶ “All duty to gods and to men lay vanquished; and Justice the Maiden was last of the heavenly throng to abandon the blood-drenched earth,” Ovid, *Metamorphoses*, trans. David Raeburn (London: Penguin, 2004), 12, bk I, 148–150. Jonathan Bate notes that “Queen Elizabeth was mythologized as the returned Astraea of Virgil’s fourth eclogue,” *Titus Andronicus*, ed. Jonathan Bate (London: Arden Shakespeare, 1995), Introduction, 28. See also, Frances A. Yates, *Astraea: The Imperial Theme in the Sixteenth Century* (London: Routledge & Kegan Paul, 1975), 75–80.

¹⁷ Wilfrid R. Prest, *The Rise of the Barristers: A Social History of the English Bar, 1590-1640* (Oxford: Clarendon Press, 1991), 236.

¹⁸ Sir Thomas Elyot, *The boke named the Governour* (London: T. Bertheleti, 1531), sig. 55r.

¹⁹ Godfrey Goodman, *The Court of King James the First* ed. J.S. Brewer, 2 vols. (London: Richard Bentley, 1839), 1: 294. Goodman wrote this work in response to Sir Anthony Weldon’s *The Court and Character of James I* (published in 1652), but it remained unpublished until the 1839 edition, cited above.

²⁰ Burrow, “Reading Tudor Writing Politically,” 235.

²¹ Prest notes a decision in 1596 of the Benchers of Gray’s Inn not to elect a member of the Inn to the Bench, on the grounds that he was unfit “to be employed at such services of the commonwealth as are expected to be performed by men of such place,” quoted in Prest, *Rise of the Barristers*, 236.

²² On the educational exercises undertaken by law students in the early modern period, see Raffield, *Images and Cultures*, 9-42.

²³ Legh, *Accedens*, sig. 119v.

²⁴ Legh, *Accedens*, sig. 126r. In this genre of “republican” literature is included *The boke named the Governour*, at the start of which Elyot states that “A publike weal is a body lyvyng, compacte or made of sondry astates and degrees of men,” sig. 1r.

²⁵ Collinson argues that monarchy should support “a mixed polity partaking of elements both royal and political, which is to say, popular and representative,” Collinson, “*De Republica Anglorum*”, 16.

²⁶ Legh, *Accedens*, sig. 119v.

²⁷ With reference to Elizabeth I, John Guy argues that “friends” of the monarch were also her “colleagues,” who “support, but also limit, her power,” John Guy, “Tudor Monarchy and its Critiques” in John Guy ed., *The Tudor Monarchy* (London: Arnold, 1997), 78-109, 81.

²⁸ Elyot, *boke*, sig. 119v.

²⁹ Guy, “Tudor Monarchy,” 81. “Monarchical rulers...appoint large numbers of men to be their eyes and ears, hands and feet; for such men are as friendly to themselves and to their rule, they make sharers in it,” Aristotle, *The Politics*, trans. T. A. Sinclair (London: Penguin, 1992), 228, bk III.xvi.1287b25.

³⁰ Fortescue described himself in *De Laudibus* as “*Cancellarius Angliae*”, although Selden states that: “It seems, being with Henry VI. driven into Scotland, he was made his Chancellor, the Memory whereof (as it could hardly be otherwise) wants in the Patent Rolls”, Sir John Fortescue, *De Laudibus Legum Angliae*, ed. John Selden (London: R. Gosling, 1737), Preface, i. For a recent discussion of *De Laudibus*, see Paul Raffield, *Shakespeare’s Imaginary Constitution: Late Elizabethan Politics and the Theatre of Law* (Oxford: Hart Publishing, 2010) 159-173.

³¹ See for example, Machiavelli’s *The Prince*; Bodin’s *Les six livres de la république*; James I’s *The Trew Law of Free Monarchies*.

³² *Postnati. Calvin’s Case*, Part 7 (1608) of *The Reports of Sir Edward Coke, Knt. In English*, George Wilson ed., 7 vols. (London: Rivington, 1777), 4: 1a, 12b. In addition to Elyot’s *Book Named the Governor* and Smith’s *De Republica Anglorum*, included in the sixteenth-century, juristic sub-genre of constitutional and political theory would be Christopher St. German’s *Doctor and Student*, published in two parts between 1528 and 1530. Like *De Laudibus*, it employs the dialogue form. Any attempt at law-making which contravened the law of reason was, according to St. German, “void and against justice,” Christopher St. German, *Dialogues Between a Doctor of Divinity and a Student in the Laws of England*, ed. William Muchall (Cincinnati: Robert Clarke, 1874), 5. On St. German and the constitutional sovereignty of the common law, see Alistair Fox and John Guy, *Reassessing the Henrician Age: Humanism, Politics and Reform, 1500–1550* (Oxford: Blackwell, 1986), 100; see also John Guy, *Christopher St. German on Chancery and Statute* (London: Selden Society, 1985).

³³ Fortescue, *De Laudibus*, 16; Sir John Fortescue, “The Governance of England,” in *On the Laws and Governance of England*, ed. Shelley Lockwood (Cambridge: Cambridge University Press, 1997), 83-123, 83.

³⁴ Henry de Bracton, *De Legibus et Consuetudinibus Angliae* (c. 1235), trans. Samuel E. Thorne, 4 vols. (Cambridge, Mass.: Belknap Press, 1968–77), 2: 33. Noting the similarity to Bracton, Alan Cromartie remarks that “What readers found in Fortescue, however, was unimpeachable authority – the word of a Chief Justice – for a range of near-republican opinions,” Alan Cromartie, *The Constitutionalist revolution: An Essay on the History of England, 1450-1642* (Cambridge: Cambridge University Press, 2006), 21.

³⁵ Fortescue, *De Laudibus*, 4-5. Cromartie notes that although Parliament made the laws, its intention was interpreted through the “judge’s conception of what was beneficial for the nation,” Alan Cromartie, “The Constitutionalist Revolution: The Transformation of Political Culture in Early Stuart England,” *Past and Present* 163 (1999): 76-120, 98.

³⁶ Thomas Garden Barnes argues that, during the reign of James I, *De Laudibus* “seemed a prescription against the infection of tyranny,” Thomas Garden Barnes, “John Fortescue,” in *Shaping the Common Law: From Glanvill to Hale, 1188-1688*, ed. Allen D. Boyer (Stanford: Stanford University Press, 2008), 46-60, 47. See Glenn Burgess, *Absolute Monarchy and the Stuart Constitution* (New Haven: Yale University Press, 1996).

³⁷ Barnes notes that in 1513, John Rastell “had referred descriptively to Fortescue’s work as ‘de laudibus legum Anglie,’” Barnes, “John Fortescue,” 243, n. 2.

³⁸ Quoted in Guy, “Tudor Monarchy,” 84.

³⁹ Fortescue, *De Laudibus*, Introduction, lxiv.

⁴⁰ Fortescue, *De Laudibus*, 1.

⁴¹ See Raffield, *Shakespeare’s Imaginary Constitution*, 173-181.

⁴² McLaren notes that the notion of the “citizen” was developed along political and spiritual lines in the reign of Edward VI, “allowing for the infusion of adult male ‘virtue’ into the body politic during the reign of a minor king.” She further notes that during the reign of Elizabeth I, “citizens” were interpreted as men, actively involved “in the service of the monarchy, to protect and defend the common weal in the absence of a (godly) king”: Anne McLaren, “Reading Sir Thomas Smith’s *De Republica Anglorum* As Protestant Apologetic,” *The Historical Journal* 42 (1999): 911-939, 912.

⁴³ John Knox, *The First Blast of the Trumpet Against the Monstrous regiment of Women* (Geneva: J. Poullain and A. Rebul, 1558), sig. D3v. On Knox and the accession of Elizabeth I, see Alice Hunt, *The*

Drama of Coronation: Medieval Ceremony in Early Modern England (Cambridge: Cambridge University Press, 2008), 147-150; also, Guy, "Tudor Monarchy," 93-94.

⁴⁴ John Aylmer, *An Harborowe for Faithfull and Trewe Subiectes, against the late blowne Blaste, concerninge the Government of Wemen* (Strasborowe, 1559), sig. H.3.v.

⁴⁵ Aylmer, *An Harborowe*, sig. H.3.r.

⁴⁶ Concerning the reference by Aylmer to justices of the peace, it is worth noting the observation of J.H. Gleason that "The justices of the peace symbolize the polity of England," John Howes Gleason, *The Justices of the Peace in England, 1558-1640: A Later Eirenarcha* (Oxford: Clarendon, 1969), 1; see also, the expansive but accurate claim made for J.P.s by G.M. Trevelyan, that they were "of the utmost significance for the future of our constitution and our law," George Macaulay Trevelyan, *English Social History: A Survey of Six Centuries from Chaucer to Queen Victoria* (London: Longman's, Green & Co, 1942), 171.

⁴⁷ Collinson, "Monarchical Republic," 42.

⁴⁸ Norton and Sackville, "The Argument of the Tragedie," in *Ferrex and Porrex*, sig. A.i.v.

⁴⁹ In his analysis of *Gorboduc*, Michael A.R. Graves argues that "The political purpose of the drama is confirmed, not only by the occasion and venues of its only two English performances, but also by its theme and content," Michael A.R. Graves, *Thomas Norton: The Parliament Man* (Oxford: Blackwell, 1994), 92. For the argument that *Gorboduc* "was probably a source for *Titus Andronicus*," see Dympna Callaghan and Chris R. Kyle, "The Wilde Side of Justice in Early Modern England and *Titus Andronicus*," in Constance Jordan and Karen Cunningham eds., *The Law in Shakespeare* (Basingstoke: Palgrave Macmillan, 2007), 38-57, 41.

⁵⁰ Legh, *Accedens*, sig. 118r.

⁵¹ Norton and Sackville, *Ferrex and Porrex*, sig. D.i.v.

⁵² BL Add. MS 48023, fo. 359v, quoted in Alan H. Nelson and John R. Elliott, Jr. (eds.), *Inns of Court*, 3 vols. (Cambridge: D.S. Brewer, 2010), 2: 684. The report is in a collection of the papers of Robert Beale. The "shadowes" refers to the dumb-shows which preceded each Act of the play. See also, Henry James and Greg Walker, "The Politics of *Gorboduc*," *English Historical Review* 110 (1995): 109-121.

⁵³ Sir Philip Sidney, *The Defence of Poesie* (London: W. Ponsonby, 1595), sigs. I.4.v, F.3.v, C.2.v. In the opening few lines of *The Poetics*, Aristotle states that epic poetry, tragedy, comedy, dithyrambic

poetry, and music “are all (taken together) imitations,” Aristotle, *The Poetics*, trans. Malcolm Heath (London: Penguin, 1996), 3, 47a.

⁵⁴ See Horace, *Ars Poetica*, on the myths of Orpheus and Amphion: “Poets the first Instructors of Mankind, / Brought all things to their proper, native Use; / Some they appropriated to the Gods, / And some to publick, some to private ends: Promiscuous love by marriage was restrain’d / Cities were built, and usefull Laws were made,” *Horace’s Art of Poetry made English by the Right Honourable the Earl of Roscommon* (London: H. Herringman, 1680), 23.

⁵⁵ George Puttenham, *The arte of English poesie* (London: R. Field, 1589), 4, 5.

⁵⁶ Percy Bysshe Shelley, *A Defence of Poetry* in H.A. Needham ed., *Sidney, An Apology For Poetry; Shelley, A Defence of Poetry* (London: Ginn & Co., 1931), 65-109, 71.

⁵⁷ Martha Nussbaum, *Poetic Justice: the Literary Imagination and Public Life* (Boston, Mass.: Beacon Press, 1995), 80.

⁵⁸ “Of these States the poet is the equable man”: Walt Whitman, “By Blue Ontario’s Shore,” in Walt Whitman, *Leaves of Grass*, ed. Jerome Loving (Oxford: Oxford University Press, 2009), 269.

⁵⁹ Ludwig Wittgenstein, *Philosophical Investigations*, trans. G.E.M. Anscombe (Oxford: Blackwell, 1953), 54; S.K. Heninger, Jr., *Sidney and Spenser: The Poet as Maker* (University Park: Pennsylvania State University Press, 1989), 224.

⁶⁰ The building of the London playhouses from the late 1560s onwards facilitated the emergence of playwriting as a profession. In the reign of James I, elaborate dramatic masques were written by professional dramatists for performance by Inns of Court members at the royal palaces. See for example, Francis Beaumont, *The Masque of the Inner Temple and Gray’s Inn, Presented Before His Maiestie in the Banqueting House at White-hall* (1612); George Chapman, *The Memorable Maske of the two Honorable Houses or Inns of Court; the Middle Temple, and Lyncolns Inne* (1613); Thomas Middleton, *The Inner-Temple Masque or Masque of Heroes* (1619). The above masques are discussed in Raffield, *Images and Cultures*, 124-156.

⁶¹ Hughes (*et al.*), *Certaine Devises*, sig. G.2.r.

⁶² Hughes (*et al.*), *Certaine Devises*, Introduction. On law-French, see J.H. Baker, “The Three Languages of Common Law,” *McGill Law Journal* 43 (1998): 5-24; also, J.H. Baker, *Manual of law-French* (Amersham: Avebury, 1979).

⁶³ Hughes (*et al.*), *Certaine Devises*, Introduction.

⁶⁴ Nussbaum, *Poetic Justice*, 80, 81.

⁶⁵ Abraham Fraunce, *The Lawiers Logike, exemplifying the præcepts of Logike by the practise of the common Lawe* (London: T. Gubbin and .T Newman, 1588), sig, ¶.4.r–v. On Fraunce and the “failure” of common law, see Peter Goodrich, *Languages of Law: From Logics of Memory to Nomadic Masks* (London: Weidenfeld and Nicolson, 1990), 15-52.

⁶⁶ Fraunce, *Lawiers Logike*, sig, ¶.2v.

⁶⁷ Robert A. Pearce accredits Legh with the adoption by the Inner Temple of the heraldic device of Pegasus: Robert A. Pearce, *A Guide to the Inns of Court and Chancery* (London: Butterworths, 1885), 219-220. On the iconography of the Inner Temple, see Sir George Buc, *The third universitie of England. Or A treatise of the foundations of all the colledges, auncient schooles of priviledge, and of houses of learning, and liberall arts, within and above the most famous cittie of London.* (London: Thomas Adams, 1615), 971-973.

⁶⁸ Legh, *Accedens*, sig. 118v.

⁶⁹ *Case of the Dutchy of Lancaster, The Commentaries or Reports of Edmund Plowden*, 2 vols. (Dublin: H. Watts, 1792), 1: 212.

⁷⁰ Plowden, *Case of the Dutchy of Lancaster*, 1: 213.

⁷¹ Ernst H. Kantorowicz, *The King's Two Bodies: A Study in Medieval Political Theology* (New Jersey: Princeton University Press, 1957); for recent discussions of Kantorowicz, see Lorna Hutson, “Not the King's Two Bodies: Reading the ‘Body Politic’ in Shakespeare's *Henry IV, Parts 1 and 2*” in Victoria Kahn and Lorna Hutson eds., *Rhetoric and Law in Early Modern Europe* (New Haven, Conn.: Yale University Press, 2001), 166-198; Raffield, *Shakespeare's Imaginary Constitution* 88-101.

⁷² Plowden, *Willion v Berkley, Commentaries*, 1: 245.

⁷³ Plowden, *Hill v Grange, Commentaries*, 1: 178, *per* Broke, C.J.

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