# THE VICE'S MISSING BOOK IN *A PLAY OF LOVE*

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We might initially anticipate that the work of John Heywood, such a prolific and intellectually engaged writer, would offer numerous examples of 'texts within texts'. Yet, in fact, what is striking about his frequent use of other texts is how rarely he refers to them openly or quotes them directly. So, rather than a straightforward intertextual borrowing from particular bodies of writing, as we might perhaps expect, I would suggest that Heywood's poems instead generate meaning by developing away from the authoritative nature of the forms with which he writes. To consider this in Genette's terms would be akin to architextuality — that which is to do with the reader's expectations, and thus their reception, of a work through an anticipated understanding of genre, sub-genre, or convention.[1] To give a better idea of what I mean: *A Dialogue of Proverbs* does not need to quote Erasmian adages or from a tradition of vernacular gnomic wisdom for the reader to appreciate that the status and authority of these works are being considered ironically throughout. Similarly Heywood's *Epigrams*, without referring directly to classical forbears, such as Martial, or neoclassical mediators, like More or Colet, or vernacular didacticism (the obvious contemporaneous example being the work of Robert Crowley), develop an ironic stance in relation to all of these, playfully undermining the authority with which the poetic form itself had become endowed. By apparently deciding not to make inevitably relevant texts present through quotation, Heywood actually, and ironically, draws our attention towards these absent texts even more significantly.

The theme of this volume is specifically 'texts within plays', rather than within texts more broadly, but it is a similar sense of absent or missing texts that I will consider in relation to Heywood's *Play of Love*.[2] The sense of architext involved is slightly more complicated because I am initially considering texts as material objects or properties, rather than simply as textual presences. That said, however, texts as properties are not really very present in Heywood at all: according to Canzler's admittedly slightly outdated concordance, we have just two references to letters, for example, in *The Pardoner and the Friar*, which both relate to the Pardoner's

(humorously unauthoritative) letters of indulgence.[3] We have a single instance of the word *books* in *Witty and Witless*, albeit referring in the abstract to the scholar's delight at a gilt-edged volume, a prestigious and valuable off-stage object, rather than something materially brought into the playing space. And then, perhaps most importantly, we have three occurrences of the word *book*, all of which are in *A Play of Love* and all of which, significantly, relate directly to the character of the Vice.

The first of these references might initially seem simple enough. As part of his debate with the Vice, No-Lover-nor-Loved, Lover-Loved argues that he will 'neither give nor take wrong' and is ironically flattered by his opponent, who swears 'by the book' that he believes him:

> *No-Lover-nor-Loved*: Nay in my conscyens I thynke by this boke,
> Your conscyens wyll take nothyng that cometh a croke
> *A Play of Love* 753–4

The editors of the standard edition, Richard Axton and Peter Happé, make the very sensible point that the nature of the book here is unclear, although their note continues to suggest an analogue in Folly's 'fool's bible' that we find in *Magnyfycence*. It might indeed be appropriate to have the Vice swearing an oath upon a Bible here, particularly with the chiming repetition of 'conscience'. But it is significant, I think, that we cannot be sure — as we can be in Skelton's play — just as we cannot really be sure whether the book is something that the Vice carries with him or instead something that might be located within the playing space, perhaps for the usual business that might occupy the Hall. The point that can certainly be made, however, is that the book is used as an apparently authoritative property — something upon which one might swear — or, at least, the point is made that books could (perhaps should) have the potential to be authoritative.

In the related second and third instances, the Vice declares that he has forgotten his book and therefore needs to leave the place to retrieve it:

> *No-Lover-nor-Loved*: Then shall I shewe such a thyng in this purs
> As shortly shall shewe herein your parte the wurs.
> Nowe I pray God, the devyll in hell blynde me —
> By the masse I have lefte my boke behynde me!
> I beseche our Lorde I never go hens
> If I wolde not rather have spent forty pens,
> But syns it is thus, I must go fetch it —
> *A Play of Love* 1260–66

When he later returns, however, it is without the book; he tells his audience instead how he chanced upon a house on fire, which naturally has distracted him.

I think that there are a number of points to raise here: it is perhaps interesting that the Vice swears *about* a book this time, rather than *upon* it, and we might consider whether the same text is intended for both instances, as is suggested by the editorial note. If the book here is also indeed a Bible, how might that assist the Vice in making his argument? There are obviously numerous analogues of dramatic characters from the period using biblical text to authorize their arguments, but that does not necessarily mean that Heywood is referring us to them, and indeed I would offer a more imprecise, but hopefully suggestive, possibility.

In what follows, I provide a reading of Heywood's play that, developing from the apparently minor feature of the 'Vice's missing book', seeks to explain that incident as being wholly consistent with the rest of the text, both in developing ironic significance and also in having a related legal resonance. My argument thereby identifies the book, or rather its absence, as being key to our understanding of the play and I move to suggest a more immediate and persuasive relevance for the work than has previously been proposed.

As well as being Heywood's longest dramatic work, *A Play of Love* is the most formal in its language and symmetrical design, involving four representative characters. The play begins with Lover-not-Loved bemoaning the pain of unrequited love. He is soon joined by Loved-not-Loving who claims that her situation, of being desired by one whose love she cannot return, is, in 'comparyson', more painful. The pair debate the issue and each attempts to prove the validity of his/her respective arguments. They are both ultimately unsuccessful, however, each maintaining their original claim and collectively agreeing to seek 'some man indyfferent' (237) to act as judge. Lover-Loved next occupies the place and claims that his situation is the most pleasurable available, 'For the hyest pleasure that man may obtayne | Is to be a lover beloved agayne' (300–1). His statement is immediately challenged by the Vice, No-Lover-nor-Loved, who argues that since love is essentially painful, to place oneself at a remove from it must logically provide most pleasure. Like the first pair, albeit that they debate pleasure rather than pain, these two are unable to resolve their 'mater' (380), and Lover-Loved duly leaves in search of 'some indifferent herer' to adjudicate (388). The Vice remains and passes the time by telling a tale of how he once attempted to deceive a

woman by feigning love, ultimately only to be outwitted and deceived himself. When the other three return, the audience's expectation that each pair will judge the other's arguments is confirmed. They all remain unable to prove their cases beyond doubt, although the Vice's recourse to physical demonstration is never adequately countered. The group does eventually agree, however, that the greatest pleasure derives from love of the Lord, and so the play's contention is ultimately dissolved.

It is immediately evident, even from such a brief synopsis, that *A Play of Love* is dominated by legal diction and allusion, and I think Richard Schoeck was right to argue for a legal context for the play's composition, proposing that it might have been produced as part of the Christmas Revels at Lincoln's Inn for the year 1528/9.[4] More generally, Joel Altman's account of the play's formal rhetorical composition remains, to my mind, the most astute study so far, particularly when he likens the work to 'a comic imitation of a day in court'.[5] As Altman argues, the play certainly owes a great deal to its roots in forensic rhetoric. Perhaps the most significant point to make about the Vice's missing book is that its absence doesn't hinder his case at all — indeed it ironically sustains it. And the Vice's dramatic lie, when he seeks to prove that his opponent's love is essentially painful by alleging that his lover has been burnt to death, which is occasioned by his 'missing book', has significant rhetorical sanction. Cicero considers that, 'there is no reason for not using an imaginary case for illustration in order to make the problem more intelligible',[6] whilst Quintilian praises the use of 'fictitious arguments' thus:

> Fiction here means, first, putting forward something which, if true, would either destroy the point raised or strengthen it; and secondly, making the subject of our inquiry appear parallel to our fiction.[7]

Sidney famously makes a similar connection of legal and poetic fiction in his *Defence of Poetry*, when he asks, 'And doth the lawyer lie then, when under the names of *John-a-Stiles* and *John-a-nokes* he puts his case?'[8] In fact, all three uses of fictitious 'comparison' that Cicero recommends, 'similitude, parallel, and example',[9] are exploited by Heywood's characters to invest a particular circumstance with a wider significance. Loved-not-Loving concludes her opening statement by remarking, 'I alledge for generall thys one symylytude' (134), and later challenges her hearers to hypothesise about being in her position.[10] Lover-Loved's observation of the Vice's lack of feeling, that he is pleased 'in lyke rate as a post is pleased'

(1243), is an example of the Ciceronian parallel, *collatio*.[11] And No-Lover-nor-Loved's autobiographical tale is an *heuristic exemplum*.[12]

Although the rhetorical basis of the characters' disputation is undeniable, and the basis of each argumentative strategy can be found in the compositional textbooks of Cicero and Quintilian, the precise nature of debate in *A Play of Love* is actually, however, rather more complicated. It is important to remember that the primary goal of classical rhetoric, at least as far as courtroom forensic is concerned, is to persuade, whether prosecuting or defending, and thereby to win. Aristotle states that a case lost through the inadequacy of the advocate is reprehensible.[13] Similarly, Leonard Cox prefaces, and markets, his 1530 rhetorical guide *The Art or Craft of Rhetoric* by remarking how 'the rude utteraunce of the Advocate greatly hindereth ... his clientes case'.[14] In *A Play of Love*, however, the judgments given are clearly inconclusive and the arguments remain emphatically 'un-won'.

I would argue that the primary goal of the speakers is not actually to win the argument at all, at least until the closing section of the play. Heywood, and a legal audience, might well have been ultimately less interested in the particular issue at hand (which lover's position is alternatively more painful or pleasurable) than in the way in which the characters argue. And if we closely examine the language with which the speakers dispute, it is clear that we are not presented simply with mediated classical oratory, but rather with a professional 'sub-species' of it, the tentative oral pleading that was central to the functioning of the common law. As John Baker explains:

> The basis of the science [of pleading] was the simple principle of logic, or rhetoric, that the essential core of a controversy lay in the contradiction of a proposition by a direct denial: a *quaestio*. The *quaestio* in common-law parlance was the issue, or *exitum*, the end and object of all pleading.[15]

As within the play, the actual subject is less important than the way in which it is developed. This was particularly evident in the 'case-putting' exercises, such as the moots and propaedeutic debates with which law students developed their pleading skills — the usual business, we might note, of the place which the play might well have occupied for its initial performance.

To identify the technical root of the argument's form within the play is immediately to alter our perception of its reception. Axton and Happé

note that a case is 'proved', and that the word *proved* appears on nine occasions; but an alternative reflection of the play text might be to state that a 'case is put', since on eleven occasions the precise phrase is adopted to introduce a hypothetical point. Furthermore, within both moots and courtroom debate, 'the main object was not to settle an abstract point of law but to frame an issue in a legally acceptable way'. As Baker concludes:

> the process of producing an issue was wholly separate from the proof or trial of the facts, which followed and determined it ... Issue was reached in the realms of hypothesis, by the parties making allegations which were assumed for the sake of argument to be true unless and until they were denied ... All the principal rules of pleading had this simple notion as their guiding star.[16]

In *A Play of Love*, the characters struggle to define their cases in precisely this manner. Loved-not-Loving seeks immediately to remove the particular details of her personal circumstances in her debate with Lover-not-Loved and instead attempts to address the hypothetical concern at issue:

> I alledge for generall thys one symylytude,
> Avoydyng rehersale of paynes partyculer,
> To abreveate the tyme and to exclude
> Surplasage of wordes in thys our mater. 134–7

And her opponent significantly accepts a degree of her argument, 'I am content to agree for a season | To graunt and enlarge your later reason' (167–8), before moving on to his own point. The mechanics of pleading also help to explain the particular function of some of the legal diction and the way in which the opponents argue and debate. In both moots and courtroom pleading, senior members of the Inns or judges controlled students and barristers respectively, and would alternatively allow or deny that any particular point stood. This is the role anticipated by Loved-not-loving, when he invites his opponent to 'Speke what and whan so ever it please you; | Tyll reason wyll me, I wyll not dysease you' (831–2). The editors glossing of *dysease* as 'to discomfort' perhaps misses its more appropriate simultaneous meaning of *disseize*, 'to dispossess someone', in this case to take away the validity of the argument. At one point the Vice, in his role as judge, rules that a point is valid, 'Yes, by saynt Mary, so the case may stande' (839). And, similarly, the opponents allow or disallow arguments that do or do not parallel, are or are not relevant to, the definition of their issue:

*Lover-not-Loved*: These cases vary in no maner a thyng 891

*Loved-not-Loving*: In this, lo, your case from our case doth vary 900

It is vital to note that their disagreement is about the nature of the point here, critical to the process of pleading, and not merely a denial of rhetorical colour or of fact.

Similarly when, acting as judges, No-Lover-nor-Loved and Lover-Loved disagree about which case has more merit, they come to 'a demurrer in law' (931), a phrase that might be glossed as a 'deadlock requiring judgement by another court'.[17] Whilst a *demurrer* indicates a temporary stop in a direction of procedure, stemming from the Law French verb meaning 'to stay, dwell, abide', it significantly also invites the pleaders to commence again at a different point, which is precisely what the play's characters do.[18] After some debating, or rather further tentative pleading, the pair return to 'our pryncypall mater' (986), which is to frame the issue, or mootable point at hand, and agree upon a hypothetical analogy to their case:

*Loved-not-Loving*: If ye nowe wyll all circumstance eschew,
Make this question in these cases our yssew,
And the payne of these men to abrevyate
Set all our other mater as frustrate. 1066–9

In case Heywood's witty invocation of the mechanics and vocabulary of pleading are missed by the audience, the process is carefully repeated in the case of the second pair. No-Lover-nor-Loved complains that his opponent's analogies are not allowable as they are both false and irrelevant:

These two exsamples, by ought that I se,
Be no thyng the thynges that any thynge touch me. 1124–5

And the second pair attempt various hypothetical arguments until they ultimately also frame the issue at hand, or in this case 'join issue', which was the precise terminology for when a plea was settled:

*Lover-Loved*: For indifferent ende I thinke this way best:
Of all our reasoning to debarre the rest,
And in these two cases this one question
To be the issue that we shal joyne on. 1449–52

It is important to note that, as well as reconstructing the mechanics of pleading, Heywood pokes fun at the authority, or rather the lack of authority, upon which legal doctrine was based — and this is where the missing book comes to the fore.

The audience's first response, as I have suggested, is that the book must contain some knowledge that would be helpful to the argument; there is no way of anticipating at this stage that the Vice has actually left the place to concoct a lie and to explode the fallacy of painless love with his incendiary theatrical device. The book therefore becomes an apparently authoritative stage property and one could conjecture exactly which legal text it might have been. Schoeck suggests *The Boke of the Justice of Peas*, for example, which Heywood's father-in-law, John Rastell, published in c.1527–8 and which was apparently commonly referred to in legal circles simply as 'the Boke'.[19] The point made, however, is surely again ultimately about the book's absence, rather than its presence. With this in mind, it might seem at first remarkable that the inability to quote an authority 'chapter and verse' does not diminish the character's ability to put his case at all. But if we are surprised, this is due to an anachronistic understanding of the significance of case law and judicial precedent in the period of the play.

Whilst early Tudor lawyers sometimes did refer to books during their arguments, it was almost always in the vaguest possible terms, to 'the books' or 'our books'. It makes sense then that the absence of the book is therefore ironically the point emphasized. Sir John Baker argues that neither judges nor counsel had desks or lecterns from which to read, and draws attention to occasions when opponents threatened to produce a particular text if pressed, *jeo poy monstre un liver* ('I could show you a book'), safe in the knowledge that the challenge would never be taken up.[20] And, as David Ibbetson argues, vagueness was effectively fostered within the legal community as a way of preserving a sense of tradition:

> Reference to the specific instance would have entailed some notion of authority attaching to the specific case, be it to the decision of the case or to an argument within it, whereas the generic reference to 'our books' committed the lawyers to no more than the belief that they should act in accordance with the law according to which they had acted in the past. Even if there was only one argument or decision in point in the whole of the Year Books, referring to it as 'our books' stripped it of its individuality and made it simply part of 'the law'.[21]

Ibbetson does, however, acknowledge the corollary, that 'unless the practice of law was to be seen as an elaborate hoax, then there must have been a surface assumption that judges would respond to cases in a more or

less predictable way'.[22] If such an assumption existed, however, it was not universally acknowledged. Thomas Starkey's criticism that 'the judgments of years [year books] be infinite and full of much controversy, and besides that, of small authority' is therefore as accurate as it is, if we agree with his wider argument about the lack of authority in English law, condemnatory.[23] Indeed, from a recent survey of all extant Year Books and Reports, J.W. Tubbs notes that:

> In fewer than one of twenty cases reported ... is there any mention by counsel, judge, or reporter of any earlier case. Reference to an earlier case specific enough for identification is much rarer.[24]

There was simply no overriding requirement to consider a case as being similar or different to those that had gone before, and therefore no requirement to provide authoritative references. As Starkey concludes:

> The judges are not bounden, as I understand, to follow them [reports] as a rule, but after their own liberty they have authority to judge according as they are instructed by the serjeants, and as the circumstance of the cause doth them move.[25]

For this reason, there is simply no need for the Vice to carry his book, and to refer to it during his argument, whatever it may or may not contain.

Whereas humanist learning emphasized the authority of texts, which could be printed, interpreted, discussed, and quoted, the English common law relied instead upon 'common learning' (*common erudicion*),[26] which was the essentially non-textual understanding that was fostered by the oral traditions of legal education. But how could the law therefore be explained and relied upon as rational and objective by anyone outside the tight community of legal officers? And how was it acceptable that the law could defend its own unintelligibility as a virtue — the definition essentially that 'the law is as the law does'? Heywood's answer here is surely that it could not and was not.

Heywood does not simply 'rest his case' there, however. To return to the quotation from Starkey above, it should be noted that books are ironically present *behind* legal process; whilst Starkey states that reports are ignored, he insists that they both exist and should be used. And they existed in great part thanks to Rastell, whose edition of Anthony Fitzherbert's 1514–6 *Grand Abridgement*, an indexed collection of reports, has been credited as revolutionizing the law. There is a danger of collapsing time here and in putting too much store by a single legal text. The work had clearly not been a conclusive step-change; Rastell continued

to publish legal texts throughout the 1520s, almost all explicitly seeking to provoke his legal peers into adopting reliable and accurate records of reports in establishing legal reasoning. At the time of *A Play of Love*, therefore, the materials were rapidly becoming available to lawyers, but they had yet to take the intellectual step of coming to rely upon them.

In developing legal reform as a possible intellectual context for the play, we might note similarly that Starkey was neither the first nor the only critic of the inconsistency of apparently indecipherable legal judgment. In the late fifteenth century, a now 'unknown gentleman' had petitioned the king for legal reform thus:

> Sythe noone inhabytant within this realme, ryche or pouer, may be excused by ignorance of your lawe, and as yit It was never stablyshed bot that dyverse lerned men take dyversely dyverse opynyones Aswel Juges as odre, Wherthorghe jugement in assymyable cases within few yeres hathe receyved contrary effectes and isshewes: Pleas it, youre highnesse, by the advyse of al your lordes spirituel and temporell and the comones in this parlyament assembled and by auctorite of the same for tassigne a certeyne numbre of wel lerned and wel disposed men tengrose your said lawe, by nature of certeyne tytles. Wiche effectuosely grounded and wryten It be lefull nether to Juge nether unto any odre for to vary fram the sayde wrytynges.[27]

Similarly, at the end of the decade, Richard Taverner, now remembered primarily as the translator of Erasmus' *Adagia* and the author of Reformation polemic under Cromwell, appealed in his *Institutions in the Lawes of Englande*, that:

> some experte and lerned man wolde take upon hym to set furthe playnly, sincerely and faithfully the hole course of lawes used in this realme of England, to thentent that the hole comminaltye of this lande myghte the more prudently, circumspectly, and wysely procede in al theyr prophane affayres and busynes.[28]

Taverner's impetus for a codified law was at least partly driven by humanist, rather than purely legal, concerns, but his plea seems equally sensible from a modern perspective, regardless of its motivation. Starkey similarly pleads that, 'commyn law wold ever be wryten in the commyn tong that every man that wold myght understond the better'.[29] We might note that calls for a *Corpus Juris Communis Anglicani* were, as in these instances, almost exclusively made by 'outsiders', rather than primary legal

practitioners. Or at least we might suggest that the debate was conducted largely on the margins of the common law, which, appropriately, is a location in which Heywood has often been placed by literary historians.

The most significant exception to this statement was, of course, John Rastell. Parliamentary statutes were in English from 1485, a fact for which Rastell praised Henry VII as 'worthy to be called the second Salomon',[30] and vernacular translations of medieval statutes and student handbooks began to appear in the early sixteenth century, most often from Rastell's press. The medieval abridgement of statutes was first produced in 1519, the old and new tenures in the 1520s and a vernacular translation of the *Natura Brevium* in the 1530s, all accomplished by Rastell. Accessibility and a desire for a wider understanding of the law are recurrent themes throughout the prologues to these works; the particular benefit of having the statutes in English is given as being:

> that universally the people of the realm myght sone have the knowleg of the sayd statut[is] & ordynauncys which they were bound to observe & so by reason of that knowlege to avoid the daunger and penalties of the same statutys.[31]

In a prohemium to the 1527 reprint of the 1519 statutes, Rastell addresses the issue of law French and considers why the entirety of law was not in the vernacular, 'wryttyn in suche maner and so openly publyssed and declaryd that the people myght sone without gret difficulte have the knowledge of the same lawes'.[32] Whilst, he suggests, English was inferior to French at the time of the Norman Conquest, 'homely and rude nor had not so greate copy and haboundance of wordys as the Frenche', the vernacular was now perfectly able to convey legal, as much as any other, literature:

> our vulgare englissh tong was marvelously amendyd and augmentyd by reason that dyverse famous clerkys and lernyd men had translate and made many noble workys into our englysshe tong and wherby there was moch more plenty and haboundance of englyssh usyd than ther was in tymys past and by reason ther of our vulgar tong so amplified and sufficient of it self to expound any lawys or ordinauncis.[33]

As if to prove his point, Rastell shortly afterwards published the first vernacular English legal dictionary, a proto-glossary of law French with facing English text, albeit with a Latin title for the initial edition, *Exposiciones Terminorum Legum Anglorum*.

Alongside a perceived benefit to the commonwealth of having a wider legal understanding among the populace, and national pride, Rastell makes the point that, if the law is:

> kept secretly in the knowledge of a few persones and from the knowledge of y$^{e}$ great multytude [it] may rather be callyd a trape & a net to brynge the peple to vexacion & trobyll than a good order to bringe them to pease & quietnes.[34]

There is clearly a significant professional ambition to use print to assist and develop the way that law functions here. The inevitable consequence of printing was the provision of stable and consistent texts, and a legal lexicon, upon which a community of lawyers could agree and from which they could develop their arguments. This was particularly true if those legal texts were produced with standards of humanist rationality. In the Prologue to his edition of the *Liber Assisarum*, the first of his major legal works, Rastell therefore states that he has not merely simply collected the best available copies of texts, but also organised and indexed them, 'orderid & nomberid ... with new tables therto devysid'.[35]

Equally significantly, Rastell also uses the prologue to announce the forthcoming publication of Fitzherbert's *Graunde Abridgement*, with its similarly rigorous organisational materials:

> A grete boke of abbregementes of arguyd casis rulyd in many yeres of divers sondry kyngys conteyning .vi or vii levis of grete paper with divers grete tables longing thereto contrivid orderid & nomberid with figures of algorisme for the grete expedicion & fortheraunce of the studens of the law.[36]

For the first time, English lawyers would be able to refer to an authoritative text and therefore employ shared and common authorities. And indeed, by the 1550s, the use and impact of precedents were established; Plowden's reports cite earlier judgments as 'proof' of legal reasoning, and Sir William Staunford's *Les Plees del Coron* (1557), an important textbook on criminal law which simply expands and develops the authorities collected by Fitzherbert under the heading of *Corone*, argues from reported cases as a matter of routine. As Sir John Baker eloquently suggests, from this time onwards, 'no legal proposition can safely be advanced without chapter and verse — or rather year and folio — to support it'.[37] The argument often favoured by legal historians, that a vague and imprecise use of authorities before Rastell's publications

primarily reflects support for common tradition, seems to me to be rather at odds with the speed with which legal authority was transformed, once stable and reliable common texts became available.

With this in mind, I would argue that these kinds of texts, and their motivation, are also ironically present in *A Play of Love*, or at least cited as significant, and again ironic, architextual referents. When Lover-not-Loved and Loved-not-Loving argue their case before their judges, the former character has an initial point accepted, 'This tale sheweth my tale perseyved every dell' (949), and then continues by progressing his argument to a further hypothesis:

> Then for entre to answere it as well
> Answere this: put case ye as depely nowe
> Dyd love your lover as he doth love yow ... 950–52

The accompanying editorial note, which suggests 'for entre' as simply the equivalent of 'for a start', perhaps misses the point that the reference is simultaneously, and ultimately more significantly, to the books of 'entries', or precedents, which were used to record apparently authoritative strategies of argumentation during moots. The pun is repeated shortly afterwards:

> *Lover-Loved*: The profe of my sayeng at my first entre
> That wretch bryngeth now in place in that I leyde,
> Dyssemblyng mans mynde by appearence to be
> Thyng inconvenyent, which thyng as I seyd
> Is proved nowe true. 1354–8

Similarly, when the Vice scores a significant point, he immediately asks for it to be recorded:

> And for a woodcock ye all must nowe knowe hym
> By mater of recorde that so doth shewe hym ...
> All this have I feyned to brynge abowt,
> Hymselfe to convynce hymselfe even by acte,
> As he hath done here in doyng this facte. 1342–3, 1344–6

The rhyme to relate his opponent's 'act' becoming a legal 'fact' emphasises the idea of precedent, even as the concept of precedence has been shown throughout the argument to be ultimately meaningless. We are therefore left with a brilliant metatheatrical — and metatextual — joke, of a moot being written simultaneously with the play script, which also satirises the epistemological standards of its own legal authority. A Revels play at

Lincoln's Inn might be seen as ironically turning the tables on its audience by presenting their professional business as a world already turned 'upside-down'.

That is not to claim that the play's humour is either purely festive or without its edge, however. Lover-Loved's exclamation, that fictions were a 'thyng inconvenyent' (1357), comes indeed to be seen as fiercely ironic, related as it is to the often quoted legal maxim, 'that it was better to suffer a mischief [to one man] than an inconvenience [to the law]'.[38] Whilst the Vice's missing book undoubtedly provides humour, I would therefore argue that Heywood's point about the lawyers' missing, or far worse, deliberately neglected, books should now be taken rather more seriously.

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## NOTES

1. Gérard Genette *The Architext: An Introduction* translated Jane E. Lewin (Berkeley: University of California Press, 1992).
2. John Heywood *The Plays of John Heywood* edited Richard Axton and Peter Happé (Cambridge: Brewer, 1991). Quotations from *A Play of Love* are from this edition.
3. David George Canzler *A Concordance to the Dramatic Works of John Heywood* (Unpublished PhD thesis: University of Oregon, 1961).
4. R.J. Schoeck 'Sir Thomas More and Lincoln's Inn Revels' *Philological Quarterly 29:4* (1950) 426–30.
5. Joel B. Altman *The Tudor Play of Mind: Rhetorical Inquiry and the Development of Elizabethan Drama* (Berkeley: University of California Press, 1978) 112.
6. Cicero *De Inventione* translated H.M. Hubbell (Loeb; Cambridge, Mass: Harvard UP, 1949) II xl 118, page 287.
7. Quintilian *The Orator's Education* translated Donald A. Russell, 5 vols (Loeb; Cambridge, Mass: Harvard UP, 2001) *2* 5.10.96, page 415.
8. Sir Philip Sidney *A Defence of Poetry* edited J.A. Van Dorsten (London: Oxford UP, 1966) 53.
9. Cicero *De Inventione* I xxx 49, page 89.
10. She remarks 'Put case this man loved a woman such one' (1038) and also 'And then put case that one to you love dyd bere' (1044), before finally drawing the analogy with the relative situations of her opponent and audience, 'Fyrst case of these twayne I put for your parte, | And by the last case apereth myne owne smarte' (1058–9).

11. Cicero *De Inventione* I xxx 49, page 89.
12. Altman *Tudor Play of Mind* 114.
13. Aristotle *Art of Rhetoric* translated John Henry Freese (Loeb; Cambridge, Mass.: Harvard UP, 1967) I i 12, page 11.
14. Leonard Cox *The Arte or Crafte of Rhetoryke* (London: Robert Redman, 1532) fol. 3r.
15. John Spelman *The Reports of Sir John Spelman* edited J.H. Baker, 2 vols (Selden Society Annual Series 93 & 94; London: Selden Society, 1976–7) *1* 143.
16. *The Reports of Sir John Spelman* 143–4.
17. *The Plays of John Heywood* edited Axton and Happé 279.
18. Rastell defines *demurrer* thus: 'Demurrer is when any action is brought, and the Defendant pleadeth a plee, to which the Plaintife anwereth, That hee will not answer, for that it is not a sufficient plee in the Law, and the Defendant saith to the contrary, That it is a sufficient plee, and thereupon both parties doe submit the cause to the judgement of the Court, then it is called a Demurrer, for they that goe not forward in pleading, but abide upon the judgement of that point', in *Exposiciones Terminorum Legum Anglorum* (London: John Rastell, 1523) fol. 18r.
19. R.J. Schoeck *John Heywood and the Law* (Unpublished Ph.D. thesis: Princeton University, 1949) 258.
20. J.H. Baker *The Oxford History of the Laws of England, 1483–1558* (Oxford History of the Laws of England 6; Oxford UP, 2003) 487.
21. D.J. Ibbetson 'Case Law and Judicial Precedent in Medieval and Early Modern England' in *Auctoritates: xenia R.C. van Caenegan oblata* edited Serge Dauchy, Jos Monballyu, and Alain Wijfells (Iuris Scripta Historica 13; Brussels, 1997) 55–68 at 67.
22. Ibbetson 'Case Law and Judicial Precedent' 66.
23. Thomas Starkey *A Dialogue between Pole and Lupset* (?1529–1532) edited T.F. Mayer (Camden Series 37; London: Royal Historical Society, 1989) 128.
24. J.W. Tubbs *The Common Law Mind: Medieval and Early Modern Conceptions* (Baltimore: Johns Hopkins UP, 2000) 181.
25. Starkey *A Dialogue* 128.
26. See *The Reports of Sir John Spelman* (161) for a number of instances of the term being deployed as authoritative in and of itself.
27. Quoted in *The Reports of Sir John Spelman 1* 31.
28. Richard Taverner *The Principal lawes customes and estatutes of England* (London: Taverner, 1540), 'The Prologue of Richard Taverner to the Reader' (quoted in *The Reports of Sir John Spelman 1* 31).

29. Starkey *A Dialogue* 82.
30. John Rastell *Abridgment of Statutes* (London: Rastell, 1527) Prologue, fol. 5r.
31. Rastell *Abridgment of Statutes* fols 5r–v.
32. Rastell *Abridgment of Statutes* Prologue. See J.H. Baker 'John Rastell and the Terms of the Law' in *Language and the Law* edited Marlyn Robinson (New York: Hein, 2003) 15–30; H.J. Graham 'The Rastells and the Printed English Law Book of the Renaissance' *Law Library Journal* 47 (1954) 6–25; H.J. Graham '"Our Tong Maternall Marvellously Amendyd and Augmentyd": The First Englishing and Printing of the Medieval Statutes at Large, 1530–1533' *UCLA Law Review 13* (1965) 58–98; Richard J. Ross 'The Commoning of the Common Law & the Renaissance Debate over Printing English Law, 1520–1640', *University of Pennsylvania Law Review 146* (1998) 323–461; Anthony Taussig 'William Rastell and the Development of the Law Book for Students and Practitioners' in *Language and the Law* 31–44.
33. Rastell *Abridgment of Statutes*, Prologue, fol. 5r.
34. John Rastell *Exposiciones Terminorum Legum Anglorum* (London: Rastell, 1527) Prologue, fol. 2r.
35. John Rastell *Liber Assisarum* (London: Rastell, 1514) Prologue, fol. 3r.
36. Rastell *Liber Assisarum*, Prologue. See H.J. Graham and John W. Heckel 'The Book that "Made" the Common Law: The First Printing of Fitzherbert's *La Graunde Abridgement*, 1514–1516' *Law Library Journal 51* (1958) 100–116.
37. Baker *Oxford History of the Laws of England* 489.
38. Baker *Oxford History of the Laws of England* 41.